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Republic of the Philippines  
**ENERGY REGULATORY COMMISSION**  
San Miguel Avenue, Pasig City

FEB -4 P1:21

Received By: \_\_\_\_\_

IN THE MATTER OF THE 6<sup>TH</sup>  
APPLICATION FOR THE  
RECOVERY OF THE  
INCREMENTAL COSTS ON  
FOREIGN CURRENCY  
EXCHANGE RATE  
FLUCTUATIONS UNDER THE  
INCREMENTAL CURRENCY  
EXCHANGE RATE ADJUSTMENT  
(6<sup>TH</sup> ICERA), WITH PRAYER FOR  
PROVISIONAL AUTHORITY

ERC CASE NO. 2011-007 RC

NATIONAL POWER  
CORPORATION – SMALL POWER  
UTILITIES GROUP (NPC-SPUG)  
Applicant.

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**D O C K E T E D**  
Date: FEB 07 2011  
By: *[Signature]*

**ORDER**

On January 20, 2011, the National Power Corporation – Small Power Utilities Group (NPC-SPUG) filed an application for recovery of the Incremental Costs on Foreign Currency Exchange Rate Fluctuations under the Incremental Currency Exchange Rate Adjustment (6<sup>TH</sup> ICERA), with prayer for provisional authority.

In the said application, NPC-SPUG alleged, among others, that:

1. Pursuant to Section 70 of Republic Act No. 9136, otherwise known as the Electric Power Industry Reform Act of 2001 or the EPIRA, it is responsible for providing power generation and its associated power delivery systems in areas that are not connected to the transmission system;

2. In the performance of its missionary electrification function, it incurs additional operating costs as a result of the fluctuation of the foreign exchange which affects the costs of servicing foreign currency debts (excluding interest) and/or foreign exchange-related expenses such as insurance and imported power plant/transmission parts;
3. In the Order dated February 24, 2003, the Commission issued and adopted the Implementing Rules for the Incremental Currency Exchange Rate Adjustment (ICERA) providing for, among others, the mechanisms for the recovery/(refund) of the deferred incremental costs/(savings) on foreign currency exchange rate fluctuations and carrying charges;
4. The instant application is being filed consistent with Section 4 (e) Rule 3 of the Implementing Rules and Regulations (IRR), as amended of Republic Act No. 9136, otherwise known as the "Electric Power Industry Reform Act of 2001 or the EPIRA";
5. The Commission subsequently approved NPC-SPUG's 1<sup>st</sup> ICERA application under ERC Case No. 2004-421 on 17 January 2005 for the period 26 December 2003 to 25 July 2004; and 2<sup>nd</sup> ICERA application under ERC Case No. 2005-037RC on 19 December 2005 for the period 26 July 2004 to 25 December 2004;
6. On June 5, 2006, NPC-SPUG filed its 3<sup>rd</sup> ICERA application under ERC Case No. 2006-021 RC covering the twelve (12) month period from December 26, 2004 to December 25, 2005;
7. NPC-SPUG likewise filed on May 26, 2009 its 4<sup>th</sup> ICERA application under ERC Case No. 2009-033RC covering the twenty four (24) month period from December 26, 2005 to December 25, 2007;
8. On August 18, 2009, NPC-SPUG filed its 5<sup>th</sup> ICERA application under ERC Case No. 2009-059 RC covering the twelve (12)-month period from December 26, 2007 to December 25, 2008;
9. NPC-SPUG is now submitting before the Commission its 6<sup>th</sup> ICERA petition covering the period from December 26, 2008 to December 25, 2009;
10. It has fully complied with the ICERA's monthly reportorial requirements, to support the calculated allowable costs covering the billing period, as evidenced by the submitted reports/compliances duly received by the Commission;
11. It proposes to recover/(refund) the Deferred Accounting Adjustments (DAAs), corresponding to additional costs or savings from foreign exchange fluctuations in the settlement of Debt Service (principal repayment portion) and Operating Expenses (OPEX), as well as the corresponding carrying charges for the billing period January to December 2009 for Luzon, Visayas and Mindanao grids;

12. The application does not include any un-recovered or un-refunded balance from the previous ICERA applications pending resolution by the Commission;
13. Considering the foregoing, and pursuant to all the relevant Decisions and Orders issued by the Commission, it has calculated total deferred costs for recovery under the application, comprising of deferred debt service and OPEX, and the corresponding carrying charges for the Luzon, Visayas and Mindanao grids covering the billing period from January to December 2009 only:

**Total Deferred FOREX Costs, in PhP**

Deferred Costs (PhP)	Carrying Charges (PhP)	TOTAL DAA (PhP)
147,006,190	6,966,004	153,972,194

14. The application seeks the Commission's approval for the recovery/refund of the above-stated total current deferred FOREX costs for the billing period January 2009 to December 2009, through the imposition of the following proposed DAA charges:

**Total Deferred FOREX Costs, in PhP/kWh**

Deferred Costs (PhP)	Recovery Period	Projected Energy Sales (MWh)	CERA DAA Rate (Php/kWh)
153,972,194	12 months	776,834	0.1982

15. It proposes the adoption of the one (1) year recovery period to allow relatively even DAA across the regions;
16. As authorized under the Implementing Rules of the ICERA, it utilized the carrying charge interest rates, to wit:

**Allowable Carrying Charge Interest Rates**

Billing Months	Prevailing 91-day T-Bill Rate <sup>1/</sup>	Authorized Allowance <sup>2/</sup>	Allowable Rate
January 2009	4.647%	3.00%	7.647%
February	4.647%	3.00%	7.647%
March	4.408%	3.00%	7.408%
April	4.320%	3.00%	7.320%
May	4.294%	3.00%	7.294%
June	4.437%	3.00%	7.437%
July	4.173%	3.00%	7.173%
August	3.948%	3.00%	6.948%
September	3.992%	3.00%	6.992%
October	3.873%	3.00%	6.873%
November	3.809%	3.00%	6.809%
December	3.850%	3.00%	6.850%

- 1- Source: *Bangko Sentral ng Pilipinas*
- 2- As authorized in the *ICERA Implementing Rules*

- 17. The proposed ICERA DAA is fair and reasonable as it allows the recovery of deferred costs under the ICERA Guidelines and consistent with the principles of free and competitive electricity market as provided under R.A. 9136;
- 18. It further prays for the issuance of a provisional authority covering the deferred cost under the 3<sup>rd</sup>, 4<sup>th</sup> and 5<sup>th</sup> ICERA for Luzon, Visayas and Mindanao grids, in order to mitigate the accumulated DAA to customers and improve NPC-SPUG financial standing;
- 19. The proposed ICERA was approved for filing by the National Power Board in Resolution No. 2010-44 dated December 7, 2010; and
- 20. It prays that the Commission to:
  - 20.1 Approve the deferred cost of **PhP153,972,194** and the corresponding proposed ICERA DAA of **P0.1982/kWh** for NPC-SPUG areas;
  - 20.2 Charge the ICERA directly to consumers in NPC-SPUG areas, as intended in the ICERA guidelines, and NOT to the Universal Charge for Missionary Electrification (UC-ME). This shall prevent the ICERA from "competing" with the legitimate claims from the UC-ME under the Department of Energy's Missionary Electrification Development Plan;
  - 20.3 Allow the continued collection of the ICERA even with the entry of private sector players in a specific NPC-SPUG area; and

20.4 Issue a provisional authority for the implementation of the proposed rates and DAAs for the immediate recovery of deferred FOREX adjustments within the above indicated 12-month recovery period.

Finding the said application to be sufficient in form and substance with the required fees having been paid, the same is hereby set for jurisdictional hearing, expository presentation, pre-trial conference and evidentiary hearing on the following dates and venues:

<b>Date and Time</b>	<b>Venue</b>	<b>Particulars</b>
<b>Luzon</b>		
<b>February 28, 2011</b> – One thirty in the afternoon (1:30 P.M.)	ERC Hearing Room, 15 <sup>th</sup> Floor, Pacific Center Building, San Miguel Avenue, Pasig City	Jurisdictional, Expository Presentation and Pre-Trial Hearing
<b>March 24, 2011</b> – Ten o'clock in the morning (10:00 A.M.)	Sikatuna Beach Resort, San Jose, Mindoro	Evidentiary Hearing
<b>March 31, 2011</b> – Ten o'clock in the morning (9:00 A.M.)	Legend Palawan Hotel, Malvar Street, Puerto Princesa, Palawan	Evidentiary Hearing
<b>Visayas</b>		
<b>April 7, 2011</b> – Ten o'clock in the morning (10:00 A.M.)	Savin Resort Hotel, Bantique, Ormoc City	Jurisdictional, Expository Presentation, Pre-Trial and Evidentiary Hearing
<b>Mindanao</b>		
<b>March 3, 2011</b> – Three o'clock in the afternoon (3:00 P.M.)	Astoria Hotel, Jaldon Street, Zamboanga City	Jurisdictional, Expository Presentation, Pre-Trial and Evidentiary Hearing
<b>March 4, 2011</b> – Ten o'clock in the morning (10:00 A.M.)	Astoria Hotel, Jaldon Street, Zamboanga City	Continuation of Evidentiary Hearing, If Necessary

NPC-SPUG is hereby directed to cause the publication of the attached Notice of Public Hearing, at its own expense, twice (2x) for two (2) successive weeks in two (2) newspapers of general circulation in the Philippines, with the date of the last publication to be made not later than ten (10) days before the scheduled date of initial hearing. NPC-SPUG is also directed to inform the consumers within the SPUG areas, by any other means available and appropriate, of the filing of the instant application, its reasons therefor, and of the scheduled hearing thereon.

Let copies of the application, this Order, and the attached Notice of Public Hearing be furnished the Office of the Solicitor General (OSG), the Commission on Audit (COA), and the Committees on Energy of both Houses of Congress. They are hereby requested, if they so desire, to send their duly authorized representatives at the scheduled hearing.

Likewise, let copies of this Order and the attached Notice of Public Hearing be furnished the Offices of the Mayors of Quezon City, the Municipalities/Cities where NPC-SPUG principally operates and the Provincial Governors subject of the instant application for the appropriate posting thereof on their respective bulletin boards.

NPC-SPUG is hereby directed to furnish all those making requests therefor with copies of the application and its attachments, subject to reimbursement of reasonable photocopying costs.

On the date of the initial hearing and pre-trial conference, NPC-SPUG must submit to the Commission their written Compliance with the jurisdictional requirements attaching therewith, methodically arranged and duly marked, the evidences on the actual posting and publication of the Notice of Public Hearing consisting of certifications issued to that effect, signed by the afore-mentioned Mayors and Governors or their duly authorized representatives, bearing the seals of their offices, and the affidavits of the Editors or Business Managers of the newspapers where the said Notice of Public Hearing were published together with the complete issue of the said newspaper, and such other proofs of compliance with the requirements of the Commission.

NPC-SPUG and all interested parties are directed to submit, at least five (5) days before the date of initial hearing and pre-trial conference, their respective Pre-Trial Briefs containing, among others:

- (a) A summary of admitted facts and proposed stipulation of facts;
- (b) The issues to be tried or resolved;
- (c) The documents or exhibits to be presented, stating the purposes thereof and proposed markings therefore; and
- (d) The number and names of the witnesses, with their written testimonies in an individual affidavit form, to be attached to the Pre-Trial Brief.

Failure of NPC-SPUG to submit the required Pre-Trial Brief and Judicial Affidavits of its witnesses within the prescribed period shall be a ground for cancellation of the scheduled hearing, and the resetting of which shall be six (6) months from said date of cancellation.

As part of the pre-trial conference, NPC-SPUG must also be prepared to make an expository presentation of its application, aided by whatever communication medium that they may deem appropriate for the purpose, in order to put in plain words and explain, for the benefit of the consumers and other concerned parties, what the application is all about and the reasons and justifications being cited in support of the approval prayed for.

**SO ORDERED.**

Pasig City, January 31, 2011.

FOR AND BY AUTHORITY  
OF THE COMMISSION:

  
**ZENAIDA G. CRUZ-DUCUT**  
Chairperson *14*

**Copy Furnished:**

1. **Attys. MELCHOR P. RIDULME, COMIE P. DOROMAL, JULIETA S. BACCUTAN-ESTAMO, and GORDON SY MONTOJO**  
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2. **Commission on Audit**  
Commonwealth Avenue  
Quezon City 1121
3. **Senate Committee on Energy**  
GSIS Building, Roxas Boulevard  
Pasay City 1307
4. **House Committee on Energy**  
Batasan Hills, Quezon City 1126
5. **National Electrification Administration (NEA)**  
Quezon Avenue, Quezon City  
Metro Manila
6. **The General Manager**  
Philippine Rural Electric Cooperatives Association (PHILRECA)  
4<sup>TH</sup> Floor, Casman Building  
372 Quezon Avenue, Quezon City  
Metro Manila
7. **Ms. Edith Bueno**  
Administrator  
National Electrification Administration  
ODFC Building, 1050 Quezon Avenue  
Quezon City, Metro Manila
8. **All Electric Cooperatives**
9. **The Provincial Governor**  
Province of Ilocos Sur
10. **The Provincial Governor**  
Province of Ilocos Norte
11. **The Provincial Governor**  
Province of Cagayan
12. **The Provincial Governor**  
Province of Isabela
13. **The Provincial Governor**  
Province of Nueva Viscaya
14. **The Provincial Governor**  
Province of Abra
15. **The Provincial Governor**  
Province of Benguet

16. **The Provincial Governor**  
Province of Ifugao
17. **The Provincial Governor**  
Province of Kalinga Apayao
18. **The Provincial Governor**  
Mountain Province
19. **The Provincial Governor**  
Province of Aurora
20. **The Provincial Governor**  
Province of Tarlac
21. **The Provincial Governor**  
Province of Nueva Ecija
22. **The Provincial Governor**  
Province of Pampanga
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Province of Bataan
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Province of Zambales
25. **The Provincial Governor**  
Province of Laguna
26. **The Provincial Governor**  
Province of Batangas
27. **The Provincial Governor**  
Province of Quezon
28. **The Provincial Governor**  
Province of Occidental Mindoro
29. **The Provincial Governor**  
Province of Oriental Mindoro
30. **The Provincial Governor**  
Province of Marinduque
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Province of Romblon
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Province of Palawan
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Province of Camarines Sur
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Province of Sorsogon

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Province of Negros Oriental
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Province of Samar
47. The Provincial Governor  
Province of Zamboanga del Norte
48. The Provincial Governor  
Province of Zamboanga del Sur
49. The Provincial Governor  
Province of Davao Oriental
50. The Provincial Governor  
Province of Davao del Sur
51. The Provincial Governor  
Province of Davao del Norte
52. The Provincial Governor  
Province of Misamis Occidental
53. The Provincial Governor  
Province of Misamis Oriental
54. The Provincial Governor  
Province of Bukidnon
55. The Provincial Governor  
Province of Lanao del Norte
56. The Provincial Governor  
Province of North Cotabato
57. The Provincial Governor  
Province of South Cotabato

58. The Provincial Governor  
Province of Sultan Kudarat
59. The Provincial Governor  
Province of Agusan del Norte
60. The Provincial Governor  
Province of Agusan del Sur
61. The Provincial Governor  
Province of Surigao del Norte
62. The Provincial Governor  
Province of Surigao del Sur