

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

OFFICE OF THE GENERAL COUNSEL
NATIONAL POWER CORPORATION

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NATIONAL POWER CORPORATION

IN THE MATTER OF THE 10TH
APPLICATION FOR THE
RECOVERY OF THE
INCREMENTAL COSTS ON
FOREIGN CURRENCY
EXCHANGE RATE
FLUCTUATIONS UNDER THE
INCREMENTAL CURRENCY
EXCHANGE RATE
ADJUSTMENT (ICERA), WITH
PRAYER FOR PROVISIONAL
AUTHORITY

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ERC CASE NO. 2013-185 RC

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

Applicant.

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DOCKETED
Date: JAN 14 2014
By: *W*

ORDER

On September 10, 2013, 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 (10TH 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 (R.A. 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 was filed consistent with Section 4 (e) Rule 3 of the EPIRA Implementing Rules and Regulations (IRR), as amended. It covers the billing period January 2012 to December 2012;
5. 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;
6. It proposes to recover 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 2012 to December 2012 for Luzon, Visayas and Mindanao Grids;
7. 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, OPEX and the corresponding carrying charges for the Luzon, Visayas and Mindanao Grids covering the billing period from January 2012 to December 2012:

Total Deferred FOREX Costs, in PhP

Principal (PhP)	Carrying Charges (PhP)	TOTAL DAA (PhP)
14,287,977	193,531	14,481,508

8. The instant application seeks the Commission’s approval for the recovery of the above-stated total current deferred FOREX costs for the billing period January 2012 to December 2012, 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)
14,481,508	12 Months	598.082	0.0242

9. It proposes a recovery period of twelve (12) months to the end-consumers in NPC-SPUG areas;
10. As authorized under the Implementing Rules of the ICERA, it utilized the carrying charge interest rates, to wit:

Allowable Carrying Charge Interest Rates

Test/Billing Months	Prevailing 91-day T-Bill Rate ^{1/}	Authorized Allowance ^{2/}	Allowable Rate
January 2012	1.536	3.000	4.536
February 2012	1.840	3.000	4.840
March 2012	2.282	3.000	5.282
April 2012	2.494	3.000	5.494
May 2012	2.174	3.000	5.174
June 2012	2.334	3.000	5.334
July 2012	1.904	3.000	4.904
August 2012	1.474	3.000	4.474
September 2012	0.997	3.000	3.997
October 2012	0.588	3.000	3.588
November 2012	0.175	3.000	3.175
December 2012	0.198	3.000	3.198

1- Source: *Bangko Sentral ng Pilipinas*

2- As authorized in the *ICERA Implementing Rules*

Allegations in Support of the Prayer for Provisional Authority

11. Consistent with the principle of structural and functional unbundling of the electric power industry participants, the proposed ICERA is based on foreign exchange-related adjustments attributable only to its operations, i.e., excluding those associated with its operation in the main grids;
12. The existing approved based foreign exchange rates used in the calculation were based on the 1993 levels of PhP27.40 to US\$1.00 and PhP0.2329 to Japanese Y1 which is way below the foreign exchange rate for CY 2012 of PhP42.2288 to US\$1.00 and PhP0.5299 to Japanese Y1;
13. Since these expenses were incurred in the year 2012, the immediate recovery of this adjustment through a provisional authority, without prejudice on the authority of the Commission to approve the recovery of this adjustment as part of the True Cost of Generation Rate (TCGR), would help alleviate its operational funding;
14. Pursuant to Rule 15, Section 3 of the Commission's Rules of Practice and Procedure, it has the authority to grant provisional authority pending final approval of the instant application;
15. It prays that the Commission approves the following:
 - a. The deferred cost of PhP14,481,508.00 and the corresponding proposed ICERA DAA of PhP0.0242/kWh for NPC-SPUG areas;
 - b. Charge the ICERA directly to consumers in NPC-SPUG areas, as intended in the ICERA guidelines, subject to the discretion of the Commission;
 - c. Allow the continued collection of the ICERA even with the entry of private sector players in a specific NPC-SPUG area;
 - d. Approve the implementation of the proposed rates on top of its existing Subsidized Approved Generation Rates (SAGR) and SAGR of delegated NPC-SPUG

Areas where New Power Providers (NPPs) operate for the purpose of determining the level of subsidy; and

- e. Issue a provisional authority for the implementation of the proposed rates and DAAs for the immediate recovery of deferred FOREX adjustments within the above proposed twelve (12) months 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:

Date and Time	Venue	Particulars
Luzon		
February 11, 2014 (Tuesday) at two o'clock in the afternoon (2:00 P.M.)	ERC Hearing Room, 15 th Floor, Pacific Center Building, San Miguel Avenue, Pasig City	Jurisdictional, Expository Presentation, Pre-Trial Conference and Evidentiary Hearing
Visayas		
February 18, 2014 (Tuesday) at two o'clock in the afternoon (2:00 P.M.)	Holiday Plaza Hotel, F. Ramos Street, Cebu City	Expository Presentation, Pre-Trial Conference and Evidentiary Hearing
Mindanao		
February 25, 2014 (Tuesday) at two o'clock in the afternoon (2:00 P.M.)	Energy Regulatory Commission – Mindanao Field Office (ERC-MFO), Mezzanine Floor, Mintrade Building, Monteverde Avenue corner Sales Street, Davao City	Expository Presentation, Pre-Trial Conference and Evidentiary Hearings

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. It 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 and the Provincial Governors where NPC-SPUG principally operates 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 aforementioned Governors and Mayors 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.

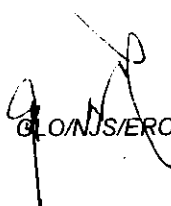
As part of the pre-trial conference, NPC-SPUG must also be prepared to make an expository presentation of its application, aided by whatever communication medium that it may deem appropriate for the purpose, in order to put in plain words and explain, for the benefit of the consumers and other concerned 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 7, 2014.

**FOR AND BY AUTHORITY
OF THE COMMISSION:**


ZENAIDA G. CRUZ-DUCUT
Chairperson



Copy Furnished:

1. **ATTYS. MELCHOR P. RIDULME, WILFREDO J. COLLADO, FRITZ BON-BON A. SOMYDEN and MAY ROSE C. PINTOR**
Counsels for Applicant NPC-SPUG
Office of the General Counsel
National Power Corporation
Quezon Avenue cor. BIR Road
Diliman, Quezon City, Metro Manila
Tel. No. 02-921-9670
2. **The Office of the Solicitor General**
134 Amorsolo Street, Legaspi Village, Makati City
Metro Manila
3. **The Commission on Audit**
Commonwealth Avenue
Quezon City 1121
4. **The Senate Committee on Energy**
GSIS Building, Roxas Boulevard
Pasay City 1307
5. **The House Committee on Energy**
Batasan Hills, Quezon City 1126
6. **National Electrification Administration (NEA)**
Quezon Avenue, Quezon City
Metro Manila
7. **The General Manager**
Philippine Rural Electric Cooperatives Association (PHILRECA)
4TH Floor, Casman Building
372 Quezon Avenue, Quezon City
Metro Manila
8. **Ms. Edith Bueno**
Administrator
National Electrification Administration
ODFC Building, 1050 Quezon Avenue
Quezon City, Metro Manila
9. **All Electric Cooperatives**
10. **The Provincial Governor**
Province of Ilocos Sur
11. **The Provincial Governor**
Province of Ilocos Norte
12. **The Provincial Governor**
Province of Cagayan
13. **The Provincial Governor**
Province of Isabela
14. **The Provincial Governor**
Province of Nueva Viscaya

15. **The Provincial Governor**
Province of Abra
16. **The Provincial Governor**
Province of Benguet
17. **The Provincial Governor**
Province of Ifugao
18. **The Provincial Governor**
Province of Kalinga Apayao
19. **The Provincial Governor**
Mountain Province
20. **The Provincial Governor**
Province of Aurora
21. **The Provincial Governor**
Province of Tarlac
22. **The Provincial Governor**
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23. **The Provincial Governor**
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28. **The Provincial Governor**
Province of Quezon
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Province of Occidental Mindoro
30. **The Provincial Governor**
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31. **The Provincial Governor**
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32. **The Provincial Governor**
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- 35. The Provincial Governor**
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- 36. The Provincial Governor**
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- 46. The Provincial Governor**
Province of Leyte
- 47. The Provincial Governor**
Province of Samar
- 48. The Provincial Governor**
Province of Zamboanga del Norte
- 49. The Provincial Governor**
Province of Zamboanga del Sur
- 50. The Provincial Governor**
Province of Davao Oriental
- 51. The Provincial Governor**
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- 52. The Provincial Governor**
Province of Davao del Norte
- 53. The Provincial Governor**
Province of Misamis Occidental
- 54. The Provincial Governor**
Province of Misamis Oriental

- 55. The Provincial Governor**
Province of Bukidnon
- 56. The Provincial Governor**
Province of Lanao del Norte
- 57. The Provincial Governor**
Province of North Cotabato
- 58. The Provincial Governor**
Province of South Cotabato
- 59. The Provincial Governor**
Province of Sultan Kudarat
- 60. The Provincial Governor**
Province of Agusan del Norte
- 61. The Provincial Governor**
Province of Agusan del Sur
- 62. The Provincial Governor**
Province of Surigao del Norte
- 63. The Provincial Governor**
Province of Surigao del Sur

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x-----x

D O C K E T E D
Date: JAN 14 2014
By: [Signature]

NOTICE OF PUBLIC HEARING

TO ALL INTERESTED PARTIES:

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- e. Issue a provisional authority for the implementation of the proposed rates and DAAs for the immediate recovery of deferred FOREX adjustments within the above proposed twelve (12) months recovery period.

The Commission has set the instant application for jurisdictional hearing, expository presentation, pre-trial conference and evidentiary hearing on the following dates and venues:

Date and Time	Venue	Particulars
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February 25, 2014 (Tuesday) at two o'clock in the afternoon (2:00 P.M.)	Energy Regulatory Commission – Mindanao Field Office (ERC-MFO), Mezzanine Floor, Mintrade Building, Monteverde Avenue corner Sales Street, Davao City	Expository Presentation, Pre-Trial Conference and Evidentiary Hearings

All persons who have an interest in the subject matter of the proceeding may become a party by filing, at least five (5) days prior to the initial hearing and subject to the requirements in the ERC's Rules of Practice and Procedure, a verified petition with the Commission giving the docket number and title of the proceeding and stating: (1) the petitioner's name and address; (2) the nature of petitioner's interest in the subject matter of the proceeding, and the way and manner in which such interest is affected by the issues involved in the proceeding; and (3) a statement of the relief desired.

All other persons who may want their views known to the Commission with respect to the subject matter of the proceeding may file their opposition to the application or comment thereon at any stage of the proceeding before the applicant concludes the presentation of its evidence. No particular form of opposition or comment is required, but the document, letter or writing should contain the name and address of such person and a concise statement of the opposition or comment and the grounds relied upon.

All such persons who may wish to have a copy of the application may request the applicant, prior to the date of the initial hearing, that they be furnished with a copy of the application. The applicant is hereby directed to furnish all those making such request with copies of the application and its attachments, subject to reimbursement of reasonable photocopying costs. Likewise, any such person may examine the application and other pertinent records filed with the Commission during the usual office hours.

WITNESS, the Honorable Chairperson, **ZENAIDA G. CRUZ-DUCUT**, and the Honorable Commissioners, **ALFREDO J. NON**, **GLORIA VICTORIA C. YAP-TARUC** and **JOSEFINA PATRICIA A. MAGPALE-ASIRIT**, Energy Regulatory Commission, this 7th day of January, 2014 at Pasig City.


ATTY. FRANCIS SATURNINO C. JUAN
Executive Director III