

Republic of the Philippines
ENERGY REGULATORY COMMISSION
Pasig City

**IN THE MATTER OF THE 23RD
APPLICATION FOR THE
RECOVERY OF THE
INCREMENTAL COSTS ON
FOREIGN CURRENCY
EXCHANGE RATE
FLUCTUATIONS UNDER THE
INCREMENTAL CURRENCY
EXCHANGE RATE
ADJUSTMENT (23RD ICERA)**

ERC CASE NO. 2023-007 RC

**NATIONAL POWER
CORPORATION,**

Applicant.

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Promulgated:
March 03, 2023

NOTICE OF PUBLIC/VIRTUAL HEARING

TO ALL INTERESTED PARTIES:

Notice is hereby given that on 24 January 2023, the National Power Corporation (NPC) filed an *Application* dated 01 December 2022, seeking the Commission's approval of the recovery of the incremental costs on foreign currency exchange rate fluctuations under the Incremental Currency Exchange Rate Adjustment (23rd ICERA).

The pertinent allegations of the *Application* are hereunder quoted:

1. Applicant NPC is a government-owned and controlled corporation, created and existing under and by virtue of Republic Act No. 6395, as amended, with principal office address at NPC-Office Building Complex, corner Quezon Avenue and BIR Road, East Triangle, Diliman, Quezon City.
2. Pursuant to Section 70 of R.A. 9136, otherwise known as the Electric Power Industry Reform Act (EPIRA) of 2001, NPC through its Small Power Utilities Group (NPC-SPUG), with the same principal office address stated above, is responsible for

providing power generation and its associated power delivery systems in areas that are not connected to the transmission system.

- 3. In the performance of its missionary electrification function, NPC-SPUG incurs additional operating costs/savings as a result of the fluctuation of 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.
- 4. In the Order dated 24 February 2003, this Honorable 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.
- 5. This Application is being filed consistent with Section 4(e) Rule 3 of the Implementing Rules and Regulations (IRR), as amended, of EPIRA dated June 8, 2001.
- 6. The Application covers the billing period from July 2020 to December 2020. Further, Applicant has fully complied with the ICERA’s monthly reportorial requirements¹ in support of the calculated allowable costs covering the billing period.
- 7. Applicant proposes to recover the Deferred Accounting Adjustments (“DAAs”) corresponding to additional costs 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 July 2020 to December 2020 for Luzon, Visayas, and Mindanao
- 8. Considering the foregoing, and pursuant to all the relevant Decisions and Orders issued by the Honorable Commission, Applicant calculated the total deferred costs for recovery under this instant Application comprising of the deferred debt service, OPEX and the corresponding carrying charges for Luzon, Visayas and Mindanao covering the billing period from July 2020 to December 2020, as shown below:

Table 1. Total Deferred FOREX Costs, in PhP

	Principal	Carrying Charges	Total DAA
TOTAL	8,651,655.70	88,411.88	8,740,067.58

- 9. This application seeks the Honorable Commission’s approval for the recovery of the above-stated total deferred FOREX costs for the billing period July 2020 to December 2020 through the imposition of the following proposed DAA charges:

¹ Attached to the Judicial Affidavit as “Exhibits A to A-85.”

Table 2. Total Deferred FOREX Costs, in PhP/kWh

Deferred Cost (PhP)	Recovery Period	Projected Energy Sales (MWh)	ICERA DAA Rate (PhP/kWh)
8,740,067.58	12 months	550,518.32	0.0159

10. Applicant NPC proposes a recovery period of twelve (12) months as approved by its Board of Directors. If this application is approved as filed, the proposed rate above shall be billed to island grid customers for twelve months.
11. As authorized under the Implementing Rules of the ICERA, Applicant utilized the carrying charge interest rates, as shown in Table 3:

Table 3. Allowable Carrying Charge Interest Rates

Test/Billing Months	Prevailing 91-day T-Bill Rate ^{1/}	Authorized Allowance ^{2/}	Allowable Rate
JULY 2020	1.519	3.00	4.519
AUGUST 2020	1.146	3.00	4.146
SEPTEMBER 2020	1.152	3.00	4.152
OCTOBER 2020	1.094	3.00	4.094
NOVEMBER 2020	1.022	3.00	4.022
DECEMBER 2020	1.014	3.00	4.014

- 1- Source: Bangko Sentral ng Pilipinas (www.bsp.gov.ph/statistics/sdds/tbillsdds.htm)
2- As authorized in the ICERA Implementing Rules

12. The proposed ICERA DAA is fair and reasonable as it is computed in line with the ICERA Guidelines.
13. In support of the proposed 23rd ICERA DAA, Applicant has used the following documents in the process of the calculation of the proposed 23rd ICERA:
- a. Summary of Deferred Cost and Proposed Charges
 - b. Calculation of Deferred Debt Service/OPEX and corresponding carrying charges
 - c. Projected Energy Sales, in kWh
 - d. 91-Day Treasury Bill Rates
14. The Judicial Affidavit of Ms. Margarita M. Egnisaban, Applicant NPC’s witness is likewise attached herein as Annex “A” to further support this application. The witness’ testimony shall prove that this application, and the computations made herein are all in accordance with the applicable rules and guidelines. Attached to the said Judicial Affidavit, which shall form part of this Application, are the following documents previously enumerated and/or mentioned by Applicant as basis in the calculations. These documents are identified by the witness in her Judicial Affidavit and pre-marked in accordance with the Judicial Affidavit rule.

Monthly Reportorial Compliances
submitted to this Honorable
Commission

Exhibits “A to A-
85”

Summary of Deferred Cost and
Proposed Charges

Exhibit "B"

Calculation of Deferred Debt
Service/OPEX and corresponding
carrying charges

Exhibits "C to C-
2"

The Projected Energy Sales (in kWh)
used to calculate the proposed DAA
charges in P/kWh

Exhibit "D"

91-day Treasury Bill Rates

Exhibit "E"

15. The National Power Board approved the filing of this instant application as evidenced by the NP Board Resolution No. 2022-44 dated 16 September 2022, which was identified by the witness in her Judicial Affidavit and pre-marked, is attached thereto as Exhibit "F to F-1" and made an integral part hereof.
16. 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 NPC-SPUG operations, i.e. excluding those associated with NPC's operation in the main grids.
17. The existing approved based foreign exchange rates used in the calculation are based on the 1993 levels of P27.40 to US1.00 and P0.2329 to Japanese ¥1.
18. With due respect, the proposed 23rd ICERA DAA adjustment, once approved, should be implemented or applied on top of the Subsidized Approved Generation Rate ("SAGR") in both NPC-SPUG and delegated NPC-SPUG areas, or upon entry of NPPs thereof to level the rates in the said areas and consistent with Resolution 21, series of 2011 and with the clarification letter of ERC dated 05 March 2012 issued to NPC during the implementation of the 4th to 6th GRAM and ICERA DAA. A copy of the said ERC letter dated 05 March 2012, which was identified by the witness in her Judicial Affidavit and pre-marked, is thereto attached as Exhibits "G to G-3", forming an integral part of this Application.

PRAYER

WHEREFORE, [p]remises considered, it is most respectfully prayed that this Honorable Commission issue an Order:

1. Approving the deferred cost of PhP8,740,067.58 and the corresponding proposed ICERA DAA of [PhP]0.0159/kWh for NPC-SPUG areas;
2. Imposing/charging the ICERA directly to consumers in NPC-SPUG areas as per the ICERA rules, subject to the discretion of the Honorable Commission in line with ERC Resolution No. 21, series of 2011;

3. Allowing the continued collection of the ICERA even with the entry of private sector players in a specific NPC-SPUG area;
4. Approving the implementation of the proposed rates on top of the existing SAGR of NPC-SPUG and SAGR of Delegated NPC-SPUG Areas where NPs operate for the purpose of determining the level of subsidy; and
5. Granting the implementation of the proposed rates and deferred FOREX adjustments within the proposed twelve (12) months recovery period.

Other reliefs, just and equitable, are likewise prayed for.

On 14 February 2023, the Commission issued an *Order* and a *Notice of Public/Virtual Hearing* setting the instant *Application* for hearing on the following dates: (1) 10 March 2023 for the determination of compliance with jurisdictional requirements and expository presentation for Luzon stakeholders; (2) 17 March 2023 for the expository presentation for Visayas stakeholders; (3) 24 March 2023 for the expository presentation for Mindanao stakeholders; (4) 13 April 2023 for the Pre-trial Conference and presentation of evidence; and (5) 20 April 2023 for the continuation of the presentation of evidence.

On 21 February 2023, NPC filed an *Urgent Motion to Reset* dated 16 February 2023, wherein it alleged that given the proximity of the scheduled hearing dates, the requisite periods to be observed in the jurisdictional requirements for the publication and furnishing of copies of the *Order* and *Notice of Public/Virtual Hearing* is unachievable. In view thereof, NPC prayed that the Commission issue an *Order* cancelling the original hearing dates and resetting the same.

Finding NPC's *Urgent Motion* in order, the Commission granted the same. In view thereof, the hearings set on 10, 17 and 24 March 2023 as well as 13 and 20 April 2023 pursuant to the *Order* dated 14 February 2023 were cancelled.

The Commission sets anew the instant *Application* for determination of compliance with the jurisdictional requirements, expository presentation, Pre-trial Conference, and presentation of evidence on the following dates and venues, or online platform for the conduct thereof, pursuant to Resolution No. 09, Series of 2020² and

² A Resolution Adopting the Guidelines Governing Electronic Applications, Filings and Virtual Hearings Before the Energy Regulatory Commission.

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Resolution No. 01, Series of 2021³ (ERC Revised Rules of Practice and Procedure):

Date	Platform	Activity
12 May 2023 (Friday) at two o'clock in the afternoon (2:00 P.M.)	Energy Regulatory Commission Hearing Room, 11th Floor, Exquadra Tower, 1 Jade Drive, Ortigas Center, Brgy. San Antonio, Pasig City	Determination of compliance with the jurisdictional requirements and Expository Presentation for Luzon Stakeholders
19 May 2023 (Friday) at two o'clock in the afternoon (2:00 P.M.)	Energy Regulatory Commission, Visayas Area Operations Division (VAOD), 7th Floor, Kepwealth Building, Samar Loop, Cebu Business Park	Expository Presentation for Visayas Stakeholders
26 May 2023 (Friday) at two o'clock in the afternoon (2:00 P.M.)	Energy Regulatory Commission, Mindanao Area Operations Division (MAOD), 6th Floor, BIZ Bldg., c/o BORMAHECO, Inc., 209 J.P. Laurel Avenue, Bajada, Davao City	Expository Presentation for Mindanao Stakeholders
01 June 2023 (Thursday) at two o'clock in the afternoon (2:00 P.M.)	Microsoft Teams	Pre-trial Conference and Presentation of evidence
08 June 2023 (Thursday) at two o'clock in the afternoon (2:00 P.M.)	Microsoft Teams	Presentation of evidence

Any interested stakeholder may submit its **comments and/or clarifications** at least one (1) calendar day prior to the scheduled initial hearing, via electronic mail (e-mail) at docket@erc.ph, copy furnish the Legal Service through legal@erc.ph. The Commission shall give priority to the stakeholders who have duly submitted their respective comments and/or clarifications, to discuss the same and propound questions during the course of the expository presentation.

³ A Resolution Adopting the Revised Rules of Practice and Procedure of the Energy Regulatory Commission.

Moreover, any person who has an interest in the subject matter of the instant case may become a party by filing with the Commission via e-mail at docket@erc.ph, copy furnish the Legal Service through legal@erc.ph, a verified **Petition to Intervene** at least five (5) calendar days prior to the date of the initial hearing and subject to the requirements under Rule 9 of the ERC Revised Rules of Practice and Procedure, indicating therein the docket number and title of the case and stating the following:

- 1) The petitioner's name, mailing address, and e-mail 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.

Likewise, all other persons who may want their views known to the Commission with respect to the subject matter of the case may file through e-mail at docket@erc.ph, copy furnish the Legal Service through legal@erc.ph, their **Opposition or Comment** at least five (5) calendar days prior to the initial hearing and subject to the requirements under Rule 9 of the ERC Revised Rules of Practice and Procedure. No particular form of Opposition or Comment is required, but the document, letter, or writing should contain the following:

- 1) The name, mailing address, and e-mail address of such person;
- 2) A concise statement of the Opposition or Comment; and
- 3) The grounds relied upon.


All interested parties filing their **Petition to Intervene**, **Opposition or Comment** are required to submit the hard/printed copy/ies thereof either through personal service, registered or ordinary mail/private courier, within five (5) working days from the date that the same were electronically submitted as reflected in the acknowledgement receipt e-mail sent by the Commission.


Any of the persons mentioned in the preceding paragraphs may access the copy of the *Application* on the Commission's official website at www.erc.gov.ph.

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Finally, all interested persons may be allowed to join the scheduled initial hearings by providing the Commission, thru legal.virtualhearings@erc.ph, with their respective e-mail addresses and indicating therein the case number of the instant *Application*. The Commission will send the access link/s to the aforementioned hearing platform within five (5) working days prior to the scheduled hearings.

WITNESS, the Honorable Chairperson and CEO **MONALISA C. DIMALANTA**, and the Honorable Commissioners **ALEXIS M. LUMBATAN**, **CATHERINE P. MACEDA**, and **MARKO ROMEO L. FUENTES**, Energy Regulatory Commission, this 3rd day of March 2023 in Pasig City.


FLORESINDA G. BALDO-DIGAL
Commissioner 


LS: VMA/LSP/MCCG