

Republic of the Philippines
ENERGY REGULATORY COMMISSION
Pasig City

**IN THE MATTER OF
APPLICATION FOR THE
APPROVAL OF THE 24TH
GENERATION RATE
ADJUSTMENT MECHANISM
(24TH GRAM) WITH PRAYER
FOR PROVISIONAL
AUTHORITY (PA) OR
INTERIM RELIEF**

ERC CASE NO. 2023-130 RC

**NATIONAL POWER
CORPORATION,**
Applicant.
X-----X

Promulgated:
December 02, 2023

NOTICE OF PUBLIC/VIRTUAL HEARING

TO ALL INTERESTED PARTIES:

Notice is hereby given that, on 23 November 2023, National Power Corporation (NPC) filed an *Application* dated 17 October 2023, seeking the Commission's approval of the 24th Generation Rate Adjustment Mechanism (24th GRAM), with prayer for provisional authority or interim relief.

The pertinent allegations of the *Application* are hereunder quoted, as follows:

1. Applicant NPC is a government-owned and controlled corporation, created and existing by virtue of Republic Act No. 6395, as amended, (the "NPC Charter") 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, Applicant through its Small Power Utilities Group ("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.

ERC CASE NO. 2023-130 RC
NOTICE OF PUBLIC/VIRTUAL HEARING /02 DECEMBER 2023
PAGE 2 OF 10

3. In the performance of its missionary electrification function, NPC through its SPUG, incurs additional operating costs as a result of the fluctuation/increase of fuel prices used in power generation. As such, NPC is allowed by the rules to recover through the Generation Rate Adjustment Mechanism (“GRAM”) the said additional costs incurred in the operation that are beyond the approved rate.
4. In the Order dated 24 February 2003 issued for ERC Case No. 2003-44¹, this Honorable Commission issued and adopted the Implementing Rules for the GRAM providing for, among others, the mechanisms for the recovery or refund of the deferred fuel costs and purchased power costs.
5. This application is being filed pursuant to the said GRAM Implementing Rules vis-à-vis Section 4(e) Rule 3 of the Implementing Rules and Regulations (“IRR”), as amended, of the EPIRA.
6. The Application covers the billing period from January to December 2021. Applicant has fully complied with GRAM’s monthly reportorial requirements² in support of the calculated allowable costs covering the billing period.
7. Under this application, NPC through its SPUG operation, has incurred total actual fuel costs during the afore-said test period based on the monthly validated Fuel Oil Consumption and Inventory Report³ (“FOCIR”) as follows:

Table 1. Total Actual Fuel Costs, in PhP

	Actual Fuel Costs, PhP
LUZON	2,232,993,020.41
VISAYAS	398,993,525.51
MINDANAO	2,080,394,229.49
PHILIPPINES	<u>4,712,380,775.41</u>

8. The costs of fuel consumed without generation (start-up) were not subjected to ERC – approved Heat Rate Cap as the fuel was used during start-up operations. Said costs are included in the Allowable Fuel Costs calculated together with the costs for the fuel consumed with generation that were subjected to ERC – approved Heat Rate cap for Luzon, Visayas and Mindanao. The said Allowable Fuel Costs are provided, as follows:

¹ In the Matter of the Adoption of the Generation Rate Adjustment Mechanism and Incremental Currency Exchange Recovery Adjustment.
² Attached to the Judicial Affidavit as Exhibits “A to A-98”.
³ Attached to the Judicial Affidavit as Exhibit “C”.

ERC CASE NO. 2023-130 RC
NOTICE OF PUBLIC/VIRTUAL HEARING /02 DECEMBER 2023
PAGE 3 OF 10

Table 2. Allowable Fuel Costs, in PhP

	Allowable Fuel Costs, PhP
LUZON	2,232,608,716.84
VISAYAS	398,508,952.40
MINDANAO	2,080,322,828.67
PHILIPPINES	4,711,440,497.91

9. The Applicant accounted the corresponding fuel cost recovered through the Subsidized Approved Generation Rate⁴ (“SAGR”) using the breakdown in the unbundled SAGR approval by the Honorable Commission under ERC Case No. 2002-01⁵ as follows:

Table 3. Fuel Recovery under SAGR, in PhP

	Fuel Recovery under the SAGR	
	(PhP/kWh)	Amount
LUZON	2.0282	446,825,254.35
VISAYAS	3.8942	124,458,764.18
MINDANAO	3.2787	633,343,380.57
PHILIPPINES		1,204,627,399.10

10. As authorized under the implementing rules of the GRAM, the following carrying interest charges were utilized by the Applicant:

Table 4. Allowable Carrying Charge Interest Rates

Test/Billing Mos.	Prevailing 91-day T-Bill Rate^{1/}	Authorized Allowance^{2/}	Allowable Rate
January 2021	0.980	3.000	3.9800
February 2021	0.870	3.000	3.8700
March 2021	1.208	3.000	4.2080
April 2021	1.335	3.000	4.3350
May 2021	1.270	3.000	4.2700
June 2021	1.108	3.000	4.1080
July 2021	1.061	3.000	4.0610
August 2021	1.067	3.000	4.0670
September 2021	1.072	3.000	4.0720
October 2021	1.103	3.000	4.1030
November 2021	1.152	3.000	4.1520
December 2021	1.140	3.000	4.1400

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

11. The table below shows the calculated deferred fuel costs and the corresponding deferred accounting adjustment (“DAA”) for Luzon, Visayas and Mindanao under the subject 24th GRAM Application covering the billing period January to December 2021 and the corresponding proposed rates in P/kWh calculated for recovery for a period of four (4) years:

⁴ Attached to the Judicial Affidavit as Exhibit “B”.

⁵ In the Matter of the Application for the Approval of Unbundled Power Rates and Basic Rate Increase in the Small Island Grid

ERC CASE NO. 2023-130 RC
NOTICE OF PUBLIC/VIRTUAL HEARING /02 DECEMBER 2023
PAGE 4 OF 10

Table 5. Twenty-fourth (24th) GRAM DAA Summary

	LUZON	VISAYAS	MINDANAO	PHILIPPINES
Principal	1,785,783,462.49	274,050,188.22	1,446,979,448.10	3,506,813,098.81
Carrying Charge	36,994,669.16	6,443,626.48	29,365,507.77	72,803,803.41
TOTAL, PhP	1,822,778,131.65	280,493,814.70	1,476,344,955.86	3,579,616,902.22
Four (4) Years Projected Energy Sales (kWh)	982,314,869.88	163,590,318.21	963,146,352.87	2,109,051,540.96
24th GRAM DAA, PhP/kWh	1.8556	1.7146	1.5328	1.6973

12. The Applicant proposes to recover the above calculated DAA within four (4) years to mitigate the impact thereof to customers in the missionary areas.
13. In support of the proposed 24th GRAM DAA, Applicant has used the following documents in the process of calculation of the proposed 24th GRAM DAA:
 - a. Fuel Costs recovered through the Subsidized Approved Generation Rate (“SAGR”)
 - b. E-copy of NPC-SPUG Plants Fuel Oil Consumption and Inventory Report (“FOCIR”)
 - c. List of Plants
 - d. Summary of the DAA
 - e. Summary of Net Generation, kWh
 - f. 91-day Treasury Bill Rates
 - g. Actual Energy Sales, kWh
 - h. Projected Energy Sales, kWh
14. The Judicial Affidavit of Ms. Margarita M. Egnisaban, Applicant NPC’s witness is attached herein as Annex “A” to support this application. The witness’ testimony shall prove that this application, and the computation made herein, are all in accordance with the applicable rules and guidelines.
15. Likewise attached thereto to form part of this Application are the following documents previously enumerated and/or mentioned above as basis and documents used by the Applicant in the calculations. The following documents are identified by the witness in her Judicial Affidavit, attached thereto, and pre-marked in accordance with the Judicial Affidavit [R]ule.

Monthly Compliances duly received by this Honorable Commission

Exhibit “A to A-97”

E-Copy of the attachments of the monthly compliances

Exhibit “A-98”

ERC CASE NO. 2023-130 RC
NOTICE OF PUBLIC/VIRTUAL HEARING /02 DECEMBER 2023
PAGE 5 OF 10

Fuel Costs recovered through the Subsidized Approved Generation Rate ("SAGR")	Exhibit "B"
E-Copy of NPC-SPUG Plants Fuel Oil Consumption and Inventory Report ("FOCIR")	Exhibit "C"
List of Plants	Exhibit "D" to "D-2"
Summary of DAA	Exhibit "E" to "E-1"
Summary of Net Generation, kWh	Exhibit "F" to "F-1"
91-day Treasury Bill Rates	Exhibit "G"
Actual Energy Sale, kWh	Exhibit "H" to "H-11"
Projected Energy Sales, kWh	Exhibit "I"

16. The National Power ("NP") Board approved the filing of this instant application, with the Prayer for Provisional Authority or Provisional Relief, as evidenced by the NP Board Resolution No. 2023-38 dated 25 July 2023, and Corporate Secretary's Certificate No. NPB-OCS-23-238 dated 05 October 2023 which were identified by the witness in her Judicial Affidavit and pre-marked as Exhibits "J" and "J-1" respectively, and made as integral parts hereof.
17. With due respect, the proposed GRAM DAA adjustment, once approved, should be implemented or applied on top of the SAGR in both NPC-SPUG and delegated NPC-SPUG areas, or upon entry of New Power Providers ("NPPs") thereof to levelized the rates in the said areas and consistent with ERC letter dated 05 March 2012 issued to NPC during the implementation of the 4th to 6th GRAM⁶ and ICERA⁷ 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 hereto attached as Exhibit "K to K-3", forming an integral part of this Application.
18. The proposed 24th GRAM DAA is fair and reasonable as it is computed in line with the GRAM rules as approved by the Honorable Commission.

⁶ ERC Case Nos. 2009-021 RC, 2009-058 RC, and 2011-008 RC

⁷ ERC Case Nos. 2009-033 RC, 2009-059 RC, and 2011-007 RC

ALLEGATIONS IN SUPPORT OF THE PRAYER FOR
PROVISIONAL AUTHORITY OR INTERIM RELIEF

19. The proposed deferred accounting adjustment will reflect the recent costs authorized under the GRAM rules/mechanism and NPC would increase its funding commensurate with its cost and ultimately reduce the burden of the UC-ME on all electricity end-users.
20. Since these expenses were already incurred in the year 2021, immediate recovery of the needed adjustment would help alleviate the operational funding of Applicant NPC. This operational funding of NPC is actually insufficient even if the SAGR and the UCME were adjusted in 2019, and 2023 due to the persistent rise of the price of fuel in the market.
21. For context, the SAGR was adjusted to an average of PhP/kWh 6.6660 in 2023, and PhP/kWh 7.1549 in 2019⁸ or to an equivalent annual amount of PhP 3.1 billion, and 3.4 billion respectively. On the other hand, the UCME was adjusted in 2023⁹ to the rate of PhP 0.1805 or to an equivalent annual amount of around PhP 18 billion.

With the foregoing, the projected collection from both the SAGR and the UCME will only be around PhP 24 billion. The projected UCME requirement for 2024 for the entire missionary electrification including NPC, NPPs, and Qualified Third Parties (“QTPs”), however, is set at PhP 30 billion. Clearly, the current rates of SAGR and the UCME is not sufficient to meet the funding requirements for missionary electrification.

22. The issuance of the Provisional Authority or Interim Relief is without prejudice on the authority of the Honorable Commission to approve the recovery of this adjustment as part of the True Cost Generation Rate (“TCGR”).
23. Pursuant to Rule 14, Section 3 of the Commission’s Rules of Practice and Procedure, the Honorable Commission has the authority to grant a provisional authority pending final approval of the instant petition, it states, as follows:

“Section 3. Action on the Motion. – The Commission shall act on the motion for provisional authority or interim relief on the basis of the allegations in the application or petition, supporting documents and other pieces of evidence that the applicant or petitioner has submitted, as well as the comments or oppositions filed by interested persons, if there be any.

⁸ ERC Case No. 2018-048 RC

⁹ ERC Case No. 2022-014 RC

ERC CASE NO. 2023-130 RC
NOTICE OF PUBLIC/VIRTUAL HEARING /02 DECEMBER 2023
PAGE 7 OF 10

Motions for provisional authority or interim relief may be acted upon with or without hearing. xxx” (Emphasis supplied)

24. Likewise, the authority of the Honorable Commission to issue a provisional authority is confirmed by the Supreme Court in the case of *Freedom from Debt Coalition, et al. vs. ERC, et. Al.*,¹⁰ when it held that “the power to approve provisional rate increases is included among the powers transferred to the ERC by virtue of Section 44 since the grant of that authority is not inconsistent with the EPIRA; rather, it is in full harmony with the thrust of the law which is to strengthen the ERC as the new regulatory body.”
25. Based on the foregoing justifications, Applicant respectfully request the Honorable Commission to issue a provisional authority or interim relief pending the hearing on the merits and the final approval of the proposed GRAM DAA.

PRAYER

WHEREFORE, premises considered, it is most respectfully prayed that this Honorable Commission issues an Order:

1. Approving the Recovery of the proposed Deferred Accounting Adjustments covering the test period from January to December 2021 for the deferred fuel costs in the amount of PhP 3,579,616,902.22 recoverable for a period of four (4) years through the imposition of the following proposed rates in P/kWh:

LUZON	VISAYAS	MINDANAO	PHILIPPINES (Average)
1.8556	1.7146	1.5328	1.6973

2. Imposing/charging the GRAM directly to consumers in NPC-SPUG areas as per applicable GRAM 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 GRAM adjustments 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 Subsidized Approved Generation Rates (SAGR) of NPC-SPUG and SAGR of Delegated NPC-SPUG areas where NPPs operate for the purpose of determining the level of subsidy; and
5. Granting Applicant NPC Provisional Authority or Interim Relief for the implementation of the proposed rates and DAA for the immediate recovery of deferred GRAM

¹⁰ G.R. No. 161113, 15 June 2004.

ERC CASE NO. 2023-130 RC
NOTICE OF PUBLIC/VIRTUAL HEARING /02 DECEMBER 2023
PAGE 8 OF 10

adjustments within the above proposed four (4) years recovery period.

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

The Commission hereby sets 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 venue, or online platform for the conduct thereof, pursuant to Resolution No. 09, Series of 2020¹¹ and Resolution No. 01, Series of 2021¹² (ERC Revised Rules of Practice and Procedure):

Date and Time	Venue/ Platform	Activity
20 February 2024 (Tuesday) at nine o'clock in the morning (9:00 A.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
27 February 2024 (Tuesday) at nine o'clock in the morning (9:00 A.M.)	Energy Regulatory Commission, Visayas Area Operations Division (VAOD), 7th Floor, Kepwealh Building, Samar Loop, Cebu Business Park	Expository Presentation for Visayas Stakeholders
05 March 2024 (Tuesday) at nine o'clock in the morning (9:00 A.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

¹¹ A Resolution Adopting the Guidelines Governing Electronic Applications, Filings and Virtual Hearings Before the Energy Regulatory Commission.

¹² A Resolution Adopting the Revised Rules of Practice and Procedure of the Energy Regulatory Commission.

ERC CASE NO. 2023-130 RC
NOTICE OF PUBLIC/VIRTUAL HEARING /02 DECEMBER 2023
PAGE 9 OF 10

Date and Time	Venue/ Platform	Activity
12 March 2024 (Tuesday) at nine o'clock in the morning (9:00 A.M.)	Microsoft Teams	Pre-Trial Conference and Presentation of Evidence
19 March 2024 (Tuesday) at nine o'clock in the morning (9:00 A.M.)		Presentation of Evidence
26 March 2024 (Tuesday) at nine o'clock in the morning (9:00 A.M.)		Presentation of Evidence

NPC is directed to attend the said hearings at the designated venues.

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, and 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.

Moreover, any persons who have 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, and 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. The verified Petition to Intervene must follow 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.

ERC CASE NO. 2023-130 RC
NOTICE OF PUBLIC/VIRTUAL HEARING /02 DECEMBER 2023
PAGE 10 OF 10

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, and copy furnish the Legal Service through legal@erc.ph, their Opposition or Comment thereon **at least five (5) calendar days** prior to the initial hearing. Rule 9 of the ERC Revised Rules of Practice and Procedure shall govern. 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 copies thereof through personal service, registered mail or ordinary mail/private courier, **within five (5) working days** from the date that the same were electronically submitted, as reflected in the acknowledgment 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.

Finally, all interested persons may be allowed to join the scheduled initial hearings by providing the Commission, thru legal.virtualhearings@erc.ph, 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 Commissioners **ALEXIS M. LUMBATAN, CATHERINE P. MACEDA, FLORESINDA G. BALDO-DIGAL**, and **MARKO ROMEO L. FUENTES**, Energy Regulatory Commission, this 2nd day of December 2023 in Pasig City.


MONALISA C. DIMALANTA
Chairperson and CEO

LS: /MCCG

ERC
Office of the Chairperson and CEO

MCD 2023-011773