

Republic of the Philippines  
**ENERGY REGULATORY COMMISSION**  
Pasig City

**IN THE MATTER OF THE 24<sup>TH</sup>  
APPLICATION FOR THE  
RECOVERY OF THE  
INCREMENTAL COSTS ON  
FOREIGN CURRENCY  
EXCHANGE RATE  
FLUCTUATIONS UNDER THE  
INCREMENTAL CURRENCY  
EXCHANGE RATE  
ADJUSTMENT WITH PRAYER  
FOR PROVISIONAL  
AUTHORITY OR INTERIM  
RELIEF**

**ERC CASE NO. 2023-131 RC**

**NATIONAL POWER  
CORPORATION,**  
*Applicant.*

**Promulgated:**  
December 02, 2023

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**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 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 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 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

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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 issued for ERC Case No. 2003-44<sup>1</sup>, 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 January 2021 to December 2021. Further, Applicant has fully complied with the ICERA’s monthly reportorial requirements<sup>2</sup> in support of the calculated allowable costs covering the billing period.
7. Applicant proposes to recover the Deferred Accounting Adjustments (“DAA”) 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 January 2021 to December 2021 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 January 2021 to December 2021, as shown below:

**Table 1. Total Deferred FOREX Costs, in PhP**

	<b>Principal</b>	<b>Carrying Charges</b>	<b>Total DAA</b>
<b>TOTAL</b>	<b>18,195,352.55</b>	<b>371,843.35</b>	<b>18,567,195.90</b>

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<sup>1</sup> In the Matter of the Adoption of the Generation Rate Adjustment Mechanism and Incremental Currency Exchange Recovery Adjustment.

<sup>2</sup> Attached to the Judicial Affidavit as “Exhibits A to A-153”.

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9. This application seeks the Honorable Commission’s approval for the recovery of the above-stated total deferred FOREX costs for the billing period January 2021 to December 2021 through the imposition of the following proposed DAA charges:

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

Deferred Cost (PhP)	Recovery Period	Projected Energy Sales (MWh)	ICERA DAA Rate (PhP/kWh)
18,567,195.90	12 months	489,762.73	0.0379

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 <sup>1/</sup>	Authorized Allowance <sup>2/</sup>	Allowable Rate
JANUARY 2021	0.980	3.00	3.980
FEBRUARY 2021	0.870	3.00	3.870
MARCH 2021	1.335	3.00	4.335
APRIL 2021	1.335	3.00	4.335
MAY 2021	1.270	3.00	4.270
JUNE 2021	1.108	3.00	4.108
JULY 2021	1.061	3.00	4.061
AUGUST 2021	1.067	3.00	4.067
SEPTEMBER 2021	1.072	3.00	4.072
OCTOBER 2021	1.103	3.00	4.103
NOVEMBER 2021	1.152	3.00	4.152
DECEMBER 2021	1.140	3.00	4.140

<sup>1-</sup> Source: Bangko Sentral ng Pilipinas ([www.bsp.gov.ph/statistics/sdds/tbillsdds.htm](http://www.bsp.gov.ph/statistics/sdds/tbillsdds.htm))  
<sup>2-</sup> 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 24<sup>th</sup> ICERA DAA, Applicant has used the following documents in the process of the calculation of the proposed 24<sup>th</sup> 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

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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 [R]ule.

Monthly Reportorial Exhibits "A to A-153"  
Compliances submitted to  
this Honorable  
Commission

Summary of Deferred Exhibit "B"  
Cost and Proposed  
Charges

Calculation of Deferred Exhibits "C to C-2"  
Debt Service/OPEX and  
corresponding carrying  
charges

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

91-day Treasury Bill Rates Exhibit "E"

15. The proposed ICERA, with the corresponding Prayer for Provisional Authority or Interim Relief, was approved for filing by the National Power ("NP") Board of Directors of Applicant NPC as evidenced by NP Board Resolution No. 2023-39 dated 25 July 2023, and Corporate Secretary's Certificate No. NPB-OCS-23-238 dated 05 October 2023.

Certified true copies of the NP Board Resolution No. 2023-39 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, is attached thereto as Exhibit "F" and "F-1" respectively.

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

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 based foreign exchange rates, as approved by the Energy Regulatory Board ("ERB") in its Decision dated 18

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August 1994 for ERB Case No. 93-108<sup>3</sup>, used in the calculation are based on the 1993 levels of P27.40 to US1.00 and P0.2329 to Japanese ¥1.

18. Since these expenses were already incurred in the year 2021, immediate recovery of the needed adjustment would help alleviate the operational funding gap 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.
19. For context, the SAGR was adjusted to an average of PhP/kWh 6.6660 in 2023, and PhP/kWh 7.1549 in 2019<sup>4</sup> 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 2023<sup>5</sup> 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.

20. 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”).
21. 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 or interim relief 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.

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

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<sup>3</sup> In the Matter of the Application for Approval of Foreign Exchange Adjustment Clause for Debt Service and/or Foreign Expenses.

<sup>4</sup> ERC Case No. 2019-048 RC

<sup>5</sup> ERC Case No. 2022-014 RC

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22. 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.,<sup>6</sup> 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.”
23. 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 ICERA DAA.
24. Lastly, with due respect, the proposed 24<sup>th</sup> 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 4<sup>th</sup> to 6<sup>th</sup> GRAM<sup>7</sup> and ICERA<sup>8</sup> 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, premises considered, it is most respectfully prayed that this Honorable Commission issue an Order:

1. Approving the deferred cost of PhP18,567,195.90 and the corresponding proposed ICERA DAA of 0.0379/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

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<sup>6</sup> G.R. No. 161113, 15 June 2004.

<sup>7</sup> ERC Case Nos. 2009-021 RC, 2009-058 RC, and 2011-008 RC

<sup>8</sup> ERC Case Nos. 2009-033 RC, 2009-059 RC, and 2011-007 RC

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of Delegated NPC-SPUG Areas where NPPs operate for the purpose of determining the level of subsidy; and

5. Granting NPC 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.

Other 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 2020<sup>9</sup> and Resolution No. 01, Series of 2021<sup>10</sup> (ERC Revised Rules of Practice and Procedure):

<b>Date and Time</b>	<b>Venue/ Platform</b>	<b>Activity</b>
<b>20 February 2024</b> (Tuesday) at two o'clock in the afternoon (2:00 P.M.)	<b>Energy Regulatory Commission, Hearing Room, 11<sup>th</sup> Floor, Exquadra Tower, 1 Jade Drive, Ortigas Center, Brgy. San Antonio, Pasig City</b>	Determination of compliance with the jurisdictional requirements, and Expository Presentation for Luzon Stakeholders
<b>27 February 2024</b> (Tuesday) at two o'clock in the afternoon (2:00 P.M.)	<b>Energy Regulatory Commission, Visayas Area Operations Division (VAOD), 7<sup>th</sup> Floor, Kepwealth Building, Samar Loop, Cebu Business Park</b>	Expository Presentation for Visayas Stakeholders
<b>05 March 2024</b> (Tuesday) at two o'clock in the afternoon (2:00 P.M.)	<b>Energy Regulatory Commission, Mindanao Area Operations Division (MAOD), 6<sup>th</sup> Floor, BIZ Bldg., c/o BORMAHECO, Inc.,</b>	Expository Presentation for Mindanao Stakeholders

<sup>9</sup> A Resolution Adopting the Guidelines Governing Electronic Applications, Filings and Virtual Hearings Before the Energy Regulatory Commission.

<sup>10</sup> A Resolution Adopting the Revised Rules of Practice and Procedure of the Energy Regulatory Commission.

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<b>Date and Time</b>	<b>Venue/ Platform</b>	<b>Activity</b>
	<b>209 J.P. Laurel Avenue, Bajada, Davao City</b>	
<b>12 March 2024</b> (Tuesday) at two o'clock in the afternoon (2:00 P.M.)	<b>Microsoft Teams</b>	Pre-Trial Conference and Presentation of Evidence
<b>19 March 2024</b> (Tuesday) at two o'clock in the afternoon (2:00 P.M.)		Presentation of Evidence
<b>26 March 2024</b> (Tuesday) at two o'clock in the afternoon (2:00 P.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](mailto:doCKET@erc.ph), and copy furnish the Legal Service through [legal@erc.ph](mailto: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](mailto:doCKET@erc.ph), and copy furnish the Legal Service through [legal@erc.ph](mailto: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.

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](mailto:docket@erc.ph), and copy furnish the Legal Service through [legal@erc.ph](mailto: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](http://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](mailto: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 2<sup>nd</sup> day of December 2023 in Pasig City.

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**MONALISA C. DIMALANTA**  
*Chairperson and CEO*

**ERC**

*Office of the Chairperson and CEO*



MCD 2023-011772

*LS: ECI/VMA/LSP/MCCG*