

Republic of the Philippines
ENERGY REGULATORY COMMISSION
Pasig City

**IN THE MATTER OF THE 20th
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
(PA)**

ERC CASE NO. 2021-042 RC

**NATIONAL POWER
CORPORATION (NPC),**
Applicant.

Promulgated:
July 26, 2021

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NOTICE OF VIRTUAL HEARING

TO ALL INTERESTED PARTIES:

Notice is hereby given that on 03 June 2021, National Power Corporation (NPC) filed an *Application* dated 30 April 2021, 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 (ICERA).

The pertinent provisions of the said *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, 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 2019 to June 2019. 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 January 2019 to June 2019 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 2019 to June 2019, as shown below:

Table 1. Total Deferred FOREX Costs, in PhP

	Principal	Carrying Charges	Total DAA
TOTAL	18,347,706	237,127	18,584,833

9. This application seeks the Honorable Commission's approval for the recovery of the above-stated total deferred FOREX

¹ Attached to the Judicial Affidavit as Exhibits "A" to "A-55".

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costs for the billing period January 2019 to June 2019 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)
18,584,833	12 months	566,640.66	0.0328

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
JAN 2019	5.444	3.00	8.444
FEB	5.575	3.00	8.575
MAR	5.754	3.00	8.754
APR	5.606	3.00	8.606
MAY	5.309	3.00	8.309
JUN	4.596	3.00	7.596

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 20th ICERA DAA, Applicant has used the following documents in the process of the calculation of the proposed 20th 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 Honorable Commission's 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-55”
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Summary of Deferred Cost and Proposed Charges	Exhibit “B”
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Calculation of Deferred Debt Service/OPEX and corresponding carrying charges for January 2019 to June 2019	Exhibits “C” to “C-2”
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The Projected Energy Sales (in kWh) used to calculate the proposed DAA charges in P/kWh	Exhibit “D”
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91-day Treasury Bill Rates	Exhibit “E”
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15. The proposed ICERA was approved and confirmed by the Board of Directors of Applicant during its Meeting on 30 June 2020. A copy of NP Board Resolution No. 2020-25, which was identified by the witness in her Judicial Affidavit, pre-marked, and attached thereto Exhibit “F” to “F-3” and made an integral part hereof.

ALLEGATIONS IN SUPPORT OF THE PRAYER FOR PROVISIONAL AUTHORITY

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 base foreign exchange rates used in the calculation are based on the 1993 levels of P27.40 to US1.00 and P0.2329 to Japanese Y1.
18. Since these expenses were incurred in the 1st semester of 2019, immediate recovery of the adjustment through a provisional authority would help alleviate the operational funding of applicant, without prejudice to the authority of the Honorable Commission to approve the recovery of this adjustment as part of the applicant’s True Cost Generation Rate (“TCGR”). Thus, the grant of provisional authority will ensure the unimpeded service of Applicant NPC to the missionary areas.
19. Moreover, 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 and 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 is any.

Motions for provisional authority or interim relief may be acted upon with or without hearing.”

20. With due respect, the proposed 20th 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, Premises considered, it is most respectfully prayed that this Honorable Commission issue an Order:

1. Approving the deferred cost of PhP18,584,833 and the corresponding proposed ICERA DAA of Po.0328/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 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.

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In the *Order* dated 15 June 2021, the Commission has set the instant *Petition* for the determination of compliance with the jurisdictional requirements, expository presentation, Pre-trial Conference, and presentation of evidence on the following dates: 04 August 2021, for determination of jurisdictional compliance and expository presentation for Luzon, Visayas and Mindanao stakeholders; 11 August 2021 for Pre-Trial Conference; and 18 August 2021, 25 August 2021 and 08 September 2021 for presentation of evidence.

However, on 07 July 2021, NPC filed an *Urgent Motion to Reset* dated 01 July 2021 (Motion). Finding the said *Motion* in order, the Commission granted the same and cancelled the above-mentioned hearings.

IN VIEW OF THE FOREGOING, 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 online platform for the conduct thereof pursuant to Resolution No. 09, Series of 2020² dated 24 September 2020 and Resolution No. 01, Series of 2021, dated 17 December 2020 (ERC Revised Rules of Practice and Procedure)³:

Date	Platform	Activity
03 November 2021 (Wednesday) at nine o'clock in the morning (9:00 A.M.)	Microsoft Teams	Determination of compliance with jurisdictional requirements and Expository Presentation for Luzon, Visayas and Mindanao Stakeholders
10 November 2021 (Wednesday) at nine o'clock in the morning (9:00 A.M.)	Microsoft Teams	Pre-trial Conference and Presentation of Evidence
17 November 2021 (Wednesday) at nine o'clock in the morning (9:00 A.M.)	Microsoft Teams	Presentation of Evidence

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

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

24 November 2021 (Wednesday) at nine o'clock in the morning (9:00 A.M.)	Microsoft Teams	Presentation of Evidence
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Any interested stakeholder may submit its comments and/or clarifications at least one (1) calendar day prior to the scheduled virtual 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.

Moreover, all 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, 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 virtual 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 thereon at least five (5) calendar days prior to the initial virtual 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;

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- 2) A concise statement of the Opposition or Comment; and
- 3) The grounds relied upon.

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 virtual 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 Commissioners **ALEXIS M. LUMBATAN, CATHERINE P. MACEDA, FLORESINDA G. BALDO-DIGAL** and **MARKO ROMEO L. FUENTES**, Energy Regulatory Commission, this 8th day of July 2021 in Pasig City.


AGNES YST DEVANADERA
Chairperson and CEO


LS: RCP/LSP/MCCG

