

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



IN THE MATTER OF THE APPLICATION OF THE NATIONAL GRID CORPORATION OF THE PHILIPPINES FOR THE APPROVAL OF FORCE MAJEURE (FM) EVENT REGULATED FM PASS THROUGH FOR SEVERE TROPICAL STORM URDUJA IN THE VISAYAS, TYPHOON VINTA IN MINDANAO, TROPICAL STORM BASYANG IN THE VISAYAS AND MINDANAO, AND FLASH FLOOD IN MINDANAO IN ACCORDANCE WITH THE RULES FOR SETTING TRANSMISSION WHEELING RATES, WITH PRAYER FOR PROVISIONAL AUTHORITY

ERC CASE NO. 2018-117 RC

NATIONAL GRID CORPORATION OF THE PHILIPPINES,

DOCKETED
Date: JAN 24 2019
By: [Signature]

Applicant.

X ----- X

ORDER

On 11 December 2018, the National Grid Corporation of the Philippines (NGCP) filed an *Application* dated 28 November 2018 seeking the approval of its Force Majeure (FM) event regulated FM pass through for severe tropical storm Urduja in the Visayas, typhoon Vinta in the Mindanao and flash flood in Mindanao in accordance with the Rules for the Setting the Transmission Wheeling Rates (RSTWR), with prayer for provisional authority.

In its *Application*, NGCP alleged, among others, the following:

1. Applicant NGCP is a corporation created and existing under the laws of the Republic of the Philippines, with principal office address at NGCP Building, Quezon Avenue corner B.I.R. Road, Diliman, Quezon City. It is the concessionaire that operates and maintains the nationwide transmission system pursuant to Section 21 of Republic Act No. 9136, otherwise known as the Electric Power Industry Reform Act of 2001 (“EPIRA”).¹
2. Under Republic Act No. 9511,² NGCP was granted a franchise to construct, install, finance, manage, improve, expand, operate, maintain, rehabilitate, repair and refurbish the present nationwide transmission system of the Republic of the Philippines.
3. Pursuant to Section 10.1.1 of the Rules for Setting Transmission Wheeling Rates (“RTWR”), NGCP is allowed to recover the cost incurred for the repair, restoration, rehabilitation of its transmission assets and other related facilities damaged as a result of a force majeure event (“FME”), as defined in Article I of RTWR.

STATEMENT OF FACTS

- A. Severe Tropical Storm Urduja
 4. Severe Tropical Storm (STS) Urduja was inside the Philippine Area of Responsibility (PAR) during the period 12 to 19 December 2017, with maximum winds of 95 kph and gustiness of 120 kph. It made landfall six times and traversed the Samar Provinces, Masbate, Sibuyan Island, Romblon, Aklan, Cuyo Island, and Palawan. As a result, NGCP’s transmission assets and other related facilities particularly in the Visayas were damaged. A copy of the Certification dated 23 January 2018, issued by the Philippine Atmospheric, Geophysical and Astronomical Services Administration (PAGASA) is attached in the said Application.
 5. After the occurrence of STS Urduja and in compliance with Article X of the RTWR, NGCP filed with this Honorable Commission a Force Majeure Event Notice (FME Notice) regarding STS Urduja dated 3 January 2018. A copy of the FME Notice regarding STS Urduja dated 3 January 2018 is attached in the said Application.
- B. Typhoon Vinta

¹ Republic Act No. 9136 entitled, “An Act Ordaining Reforms in the Electric Power Industry, Amending for the Purpose Certain Laws and for Other Purposes.”

² Republic Act No. 9511 entitled “An Act Granting the National Grid Corporation of the Philippines a Franchise to Engage in the Business of Conveying or Transmitting Electricity Through High Voltage Back-bone System or Interconnected Transmission Lines, Substations and Related Facilities, and for Other Purposes”

6. Typhoon Vinta was inside the PAR during the period 20 to 24 December 2017, with maximum winds of 120 kph and gustiness of 145 kph. It made landfall in Cateel, Davao Oriental and traversed several provinces in Mindanao, causing damage to NGCP's transmission assets and other related facilities therein. A copy of the Certification dated 12 February 2018 issued by the PAGASA is attached in the said Application.
 7. After the occurrence of Typhoon Vinta and in compliance with Article X of the RTWR, NGCP filed with this Honorable Commission an FME Notice regarding Typhoon Vinta dated 6 February 2018. A copy of the FME Notice regarding Typhoon Vinta dated 6 February 2018 is attached in the said Application.
- C. Tropical Storm Basyang
8. Tropical Storm (TS) Basyang was in the PAR from 11 to 14 February 2018, with maximum winds of 65 kph and gustiness of 80 kph. It made landfall in Cortes, Surigao del Sur, traversed the Surigao Provinces, and again made landfall over Dumaguete City, causing damage to NGCP's transmission assets and other related facilities in the Visayas and Mindanao. A copy of the Certification dated 27 March 2018 issued by the PAGASA is attached in the said Application.
 9. After the occurrence of TS Basyang and in compliance with Article X of the RTWR, NGCP filed with this Honorable Commission an FME Notice regarding TS Basyang dated 7 March 2018. A copy of the FME Notice regarding TS Basyang dated 7 March 2018 is attached in the Application.
- D. FLASH FLOOD IN MINDANAO
10. On 25 February 2018, a flash flood occurred within the jurisdiction of Barangay Sianib, Polanco, Zamboanga del Norte, causing damage to NGCP's transmission assets and other related facilities in Mindanao. A copy of the Certification dated 1 March 2018 issued by Barangay Chairman Marcelo C. Sumagang, Sr. is attached in the Application.
 11. The Certification dated 3 October 2018, issued by PAGASA attached in the Application, states that continuous rain and occasional thunderstorm were observed from 25 to 26 February 2018 at the Dipolog City Weather Station, the PAGASA observing station closest to Zamboanga del Norte.
 12. After the occurrence of the flash flood and in compliance with Article X of the RTWR, NGCP filed with this Honorable Commission an FME Notice regarding the flash flood dated 30 April 2018. A copy of the FME Notice regarding the flash flood dated 30 April 2018 is attached in the Application.

FME CLAIM

13. Immediately after the devastation caused by the foregoing incidents, NGCP started the repair, restoration and rehabilitation of its damaged transmission assets and other related facilities in order to restore transmission service to its customers and the public. As a result, NGCP incurred additional costs for the repair, restoration and rehabilitation of the said damaged transmission assets and other related facilities.
14. Under Section 1.3(a) of the RTWR, an FME is defined as a “typhoon, storm, tropical depression, flood, drought, volcanic eruption, earthquake, tidal wave or landslide; or an act of public enemy, war (declared or undeclared), sabotage, blockade, revolution, riot, insurrection, civil commotion or any violent or threatening actions.”
15. Pursuant to Section 10.1.1 of the RTWR, NGCP is allowed to recover the cost it incurred in the repair, restoration, and rehabilitation of its transmission assets and other related facilities damaged by STS Urduja in the Visayas, Typhoon Vinta in Mindanao, TS Basyang in the Visayas and Mindanao, and the flash flood in Mindanao, (the “Subject Force Majeure Events”) through an FM Pass-Through Amount.
16. Pursuant to Sections 10.2.1 and 10.2.2 of the RTWR, within three (3) months after the occurrence of the Subject Force Majeure Events, NGCP filed before the Commission the required FME Notices. The Commission acknowledged receipt of the FME Notices for STS Urduja, Typhoon Vinta, and TS Basyang, in its letters respectively dated 5 February, 21 February, and 5 April 2018, attached in the Application.
17. Thereafter, within twelve (12) months after the occurrence of the Subject Force Majeure Events, NGCP hereby files the instant FME Application, in accordance with Sections 10.2.1 and 10.2.3 of the RTWR.

FM PASS-THROUGH AMOUNT COMPUTATION

18. NGCP has not recovered from its Industrial All-Risk (IAR) Insurance Policy procured from the Government Service Insurance System (GSIS) for the years 2017 and 2018, the cost that it incurred in the repair, restoration, and rehabilitation of the transmission assets and other related facilities damaged by the Subject Force Majeure Events. The affected assets are located beyond a one (1) kilometer radius from the nearest substation (except for Babatngon Substation and Kananga-Tabango 230 kV line), and are therefore not covered by the IAR. With regard to the Babatngon Substation and Kananga-Tabango 230 kV line, the total cost of damage is below the One (1) Million US Dollars deductible amount. Thus, it is but proper for NGCP to file the instant FME Application to recover the cost it

incurred for the repair, restoration and rehabilitation of its transmission assets and other related facilities damaged by the Subject Force Majeure Events pursuant to the RTWR.

19. The total cost NGCP incurred for the repair, restoration and rehabilitation of its transmission assets and other related facilities damaged by the Subject Force Majeure Events is Sixty-Three Million Eight Hundred Seventy Thousand Seven Hundred Eighty-Six Pesos and 10/100 (PhP63,870,786.10). Further, the recoverable values of the assets destroyed (Net Fixed Asset Value or NFAV) is Two Million Fourteen Thousand Five Hundred Sixty-Five and 43/100 (PhP2,014,565.43). The breakdown of the expenses is shown in the table below:

| FME | CAPEX/OPEX* | NFAV | Total |
|-------------------------|----------------------|---------------------|----------------------|
| Tropical Storm Urduja | 40,936,343.46 | 260,182.36 | 41,196,525.82 |
| Typhoon Vinta | 399,610.27 | 883,711.95 | 1,283,322.22 |
| Tropical Storm Basyang | 22,402,140.29 | 657,676.72 | 23,059,817.01 |
| Flash flood in Mindanao | 132,692.08 | 212,994.40 | 345,686.48 |
| Total | 63,870,786.10 | 2,014,565.43 | 65,885,351.53 |

* Capital Expenditures/Operating Expenditures, exclusive of VAT (pursuant to the TRAIN law) and Permit Fees

20. NGCP proposes the FM Pass-Through Amounts, in P/kW-month, as additional network charges starting January 2019 until 2020 to Visayas and Mindanao, or until such time that the amounts incurred are fully recovered, computed as shown in the tables below:

| Visayas | 2019 | 2020 |
|-----------------|----------------|----------------|
| P/kW-mo. | 2.95 | 0.02 |
| P/kWh | 0.00587 | 0.00005 |

| Mindanao | 2019 | 2020 |
|-----------------|----------------|----------------|
| P/kW-mo. | 0.06 | 0.003 |
| P/kWh | 0.00012 | 0.00001 |

Note: P/kWh in this table are only the equivalent P/kWh of the FME Pass-Through amounts

21. NGCP proposes the FM Pass-Through Amounts for the years 2019 to 2020 to allow the recovery of the expenditures incurred by NGCP relative to the Subject Force Majeure Events, pending the reset process for the Transmission Services.
22. The proposed FM Pass-Through Amounts can be recovered pursuant to Section 10.1.1 of the RTWR, wherein NGCP is allowed to recover the cost incurred for the repair, restoration, and rehabilitation of damage sustained by its transmission assets and other related facilities as a result of a force majeure event. A copy of the FM Pass-Through Amount Computation is attached in the Application.

23. Further, the FM Pass-Through Amounts in this Application do not breach the Force Majeure Threshold Amount (FMTA) of PhPo.0366/kWh in accordance with the RTWR. A copy of the FMTA Computation is attached in the said Application.
24. Also, NGCP considered the NFAV of the transmission assets and other related facilities damaged by the Subject Force Majeure Events given that NGCP would have normally fully recovered the return of capital on said assets for the duration of their economic lives had these assets not been damaged or destroyed by the Subject Force Majeure Events.

**JUSTIFICATION FOR THE ISSUANCE OF
PROVISIONAL AUTHORITY**

25. NGCP respectfully moves for the issuance of provisional approval for the immediate recovery of the FM Pass-Through Amounts pursuant to Section 3, Rule 14 of the ERC Rules of Practice and Procedure.
26. NGCP needs to immediately recover the actual expenses incurred for the repair, restoration and rehabilitation of the damaged transmission assets and other related facilities. It must be emphasized that the rehabilitation of the assets damaged by the Subject Force Majeure Events required capital infusion, the recovery of which should be allowed immediately in order to avoid any financial strain in the operation of NGCP and to allow the continuous provision of transmission service to the grid customers.
27. In addition, the timely implementation of the FM Pass-Through Amounts will allow the equal or even spread of the increases or decreases in tariffs from the initial implementation of the recovery of the cost.
28. A copy of the Judicial Affidavit of Agnes F. Dela Cruz, Manager, Tariff Design and Billing Management Division, Revenue and Regulatory Affairs, in support of the instant Application, is attached in the Application.

PRAYER

WHEREFORE, it is most respectfully prayed of this Honorable Commission to:

1. DECLARE Severe Tropical Storm Urduja in the Visayas, Typhoon Vinta in Mindanao, Tropical Storm Basyang in the Visayas and Mindanao, and flash flood in Mindanao as Force Majeure Events (FME);
2. Immediately GRANT PROVISIONAL APPROVAL to implement and bill the following FM Pass-Through Amounts to Visayas and Mindanao customers starting January 2019 billing month to December 2020 billing month or until such time that the amount incurred is

fully recovered;

| Visayas | 2019 | 2020 |
|-----------------|----------------|----------------|
| P/kW-mo. | 2.95 | 0.02 |
| P/kWh | 0.00587 | 0.00005 |

| Mindanao | 2019 | 2020 |
|-----------------|----------------|----------------|
| P/kW-mo. | 0.06 | 0.003 |
| P/kWh | 0.00012 | 0.00001 |

3. Approve the FME CAPEX/OPEX amounting to Sixty-Three Million Eight Hundred Seventy Thousand Seven Hundred Eighty-Six Pesos and 10/100 (PhP63,870,786.10) incurred by NGCP for the repair, restoration, and rehabilitation of the damaged transmission assets and other related facilities due to Severe Tropical Storm Urduja in the Visayas, Typhoon Vinta in Mindanao, Tropical Storm Basyang in the Visayas and Mindanao, and flash flood in Mindanao;
4. Approve, after due notice and hearing, the proposed FM Pass Through Amount to be collected from the Visayas and Mindanao customers starting January 2019 billing month to December 2020 billing month or until such time that the amount incurred is fully recovered, as follows:

| Visayas | 2019 | 2020 |
|-----------------|----------------|----------------|
| P/kW-mo. | 2.95 | 0.02 |
| P/kWh | 0.00587 | 0.00005 |

| Mindanao | 2019 | 2020 |
|-----------------|----------------|----------------|
| P/kW-mo. | 0.06 | 0.003 |
| P/kWh | 0.00012 | 0.00001 |

5. Approve and allow the recovery of the Net Fixed Asset Value of the transmission assets and other related facilities damaged by Severe Tropical Storm Urduja in the Visayas, Typhoon Vinta in Mindanao, Tropical Storm Basyang in the Visayas and Mindanao, and flash flood in Mindanao, amounting to Two Million Fourteen Thousand Five Hundred Sixty-Five and 43/100 (PhP2,014,565.43). given that it would have been fully recovered by NGCP if these transmission assets and other related facilities have not been damaged or destroyed by the Subject Force Majeure Events; and

6. Exclude the proposed Pass-Through Amounts from the side constraint calculation.

NGCP prays for other relief deemed just and equitable under the premises.

Finding the said *Application* to be sufficient in form and in substance with the required fees having been paid, the same is hereby set for determination of compliance with the jurisdictional requirements, expository presentation, Pre-trial Conference, and presentation of evidence on the following dates:

| Date and Time | Venue | Hearing Coverage |
|---|--|--|
| 21 February 2019 at ten o'clock in the morning (10:00 A.M.) | ERC Hearing Room 15th Floor, Pacific Center Bldg. San Miguel Ave. Pasig City | Jurisdictional and Expository Presentation |
| 28 February 2019 at two o'clock in the afternoon (2:00 P.M.) | ERC Visayas Field Office St. Mary's Drive Banilad, Cebu City | Expository Presentation Pre-trial Conference and Presentation of Evidence |
| 07 March 2019 at nine o'clock in the morning (9:00 A.M.) | ERC Mindanao Field Office Mintrade Bldg. Monteverde Ave. cor. Sales St. Davao City | Expository Presentation Pre-trial Conference and Presentation of Evidence |

Accordingly, NGCP is hereby directed to:

- 1) Cause the publication of the attached Notice of Public Hearing in two (2) newspapers of nationwide circulation in the Philippines at its own expense, twice (2x) within two (2) successive weeks, the dates of publication not being less than seven (7) days apart and the date of the last publication to be made not later than ten (10) days before the date of the scheduled initial hearing;

- 2) Furnish with copies of this Order and the attached Notice of Public Hearing the Offices of the Provincial Governors, City Mayors and the Local Government Unit (LGU) legislative bodies where NGCP principally operates, including its regional offices, for the appropriate posting thereof on their respective bulletin boards;
- 3) Inform of the filing of the *Application*, its reasons therefor, and of the scheduled hearings thereon, the consumers within the affected franchise area, by any other means available and appropriate;
- 4) Furnish with copies of this Order and the attached Notice of Public Hearing, 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 hearings; and
- 5) Furnish with copies of the *Application* and its attachments all those making requests therefor, subject to reimbursement of reasonable photocopying costs.

On the date of the initial hearing, NGCP must submit to the Commission its written compliance with the aforementioned jurisdictional requirements attaching therewith, methodically arranged and duly marked the following:

- 1) The evidence of publication of the attached Notice of Public Hearing consisting of affidavits of the Editor or Business Manager of the newspapers where the said Notice of Public Hearing was published, and the complete issue of the said newspapers;
- 2) The evidence of actual posting of this Order and the attached Notice of Public Hearing consisting of certifications issued to that effect, signed by the aforementioned Mayors and LGU legislative bodies or their duly authorized representatives, bearing the seals of their offices;

- 3) The evidence of other means employed by NGCP to inform of the filing of the *Application*, the reasons therefore, and of the scheduled hearing thereon, the consumers within the affected franchise area;
- 4) The evidence of receipt of copies of this Order and the attached Notice of Public Hearing by the Office of the Solicitor General (OSG), the Commission on Audit (COA), and the Committees on Energy of both Houses of Congress;
- 5) The evidence of receipt of copies of the *Application* and its attachments by all those making requests therefor, if any; and
- 6) Such other proofs of compliance with the requirements of the Commission.

NGCP and all interested parties are also required 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:

- 1) A summary of admitted facts and proposed stipulation of facts;
- 2) The issues to be tried or resolved;
- 3) The documents or exhibits to be presented, stating the purposes and proposed markings therefore; and
- 4) The number and names of the witnesses, with their written testimonies in a Judicial Affidavit form attached to the Pre-trial Brief.

Failure of NGCP to comply with the above requirements 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 the said date of cancellation.

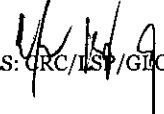
NGCP must also be prepared to make an expository presentation of the instant *Application*, aided by whatever communication medium that it may deem appropriate for the purpose, in order to put in plain words and explain, for the benefit of the consumers and other concerned parties, the nature of the *Application* with relevant information and pertinent details substantiating the reasons and justification being cited in support thereof.

SO ORDERED.

Pasig City, 16 January 2019.

FOR AND BY AUTHORITY
OF THE COMMISSION:


JOSEFINA PATRICIA A. MAGPALE-ASIRIT
Commissioner


LS: CRC/LS/GIO ord.2018-117 RC NGCP FM

Copy Furnished:

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4. NGCP South Luzon Regional Office
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5. NGCP Visayas Regional Office
Tamaban, Cebu City
6. NGCP Mindanao Field Office
Iligan City, Lanao Del Norte
7. Office of the Solicitor General
134 Amorsolo Street, Legaspi Village, Makati City
8. Commission on Audit
Commonwealth Avenue, Quezon City
9. Committee on Energy
House of the Senate
GSIS Building, Roxas Blvd.
Pasay City
10. Committee on Energy
House of Representatives
Batasan Hills, Quezon City
11. Office of the City Mayor
Quezon City
12. Office of the Sangguniang Panglungsod
Quezon City
13. Office of the Provincial Governor
Province of La Union
14. Office of the Sangguniang Panlalawigan
Province of La Union
15. Office of the City Mayor
San Fernando City, La Union
16. Office of the Sangguniang Panglungsod
San Fernando City, La Union
17. Office of the Provincial Governor
Province of Cebu
18. Office of the Sangguniang Panlalawigan
Province of Cebu
19. Office of the City Mayor
Cebu City
20. Office of the Sangguniang Panglungsod
Cebu City
21. Office of the Provincial Governor
Province of Lanao del Norte

22. Office of the Sangguniang Panlalawigan
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23. Office of the City Mayor
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