

**Republic of the Philippines
ENERGY REGULATORY COMMISSION
San Miguel Ave., Pasig City**

**IN THE MATTER OF THE PETITION
FOR THE AVAILMENT OF THE
ENVIRONMENTAL CHARGE/SHARE
FROM THE UNIVERSAL CHARGE
FOR THE REHABILITATION AND
MANAGEMENT OF WATERSHED
AREAS (PLAN 7), WITH PRAYER
FOR PROVISIONAL AUTHORITY,**

ERC Case No. 2010-019RC

NATIONAL POWER CORPORATION,
Petitioner.

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PETITION

PETITIONER National Power Corporation (“NPC”), through the undersigned counsel to this Honorable Commission respectfully avers:

1. Petitioner NPC is a government-owned and controlled corporation created and existing under and by virtue of Republic Act No. 6396, as amended (“NPC Charter”), with principal office address at NPC Office Building Complex, Quezon Ave. cor. BIR Road, Diliman, Quezon City, where it may be served with the process of the Honorable Commission.
2. Under the NPC Charter, petitioner is mandated and authorized, among others, to undertake the development of hydroelectric power generation and production of electricity from nuclear, geothermal and other sources of energy.
3. In the pursuit of its mandate and under Section 3(n) of its Charter, petitioner exercises complete jurisdiction and control over watersheds surrounding the reservoirs of plants and/or projects constructed or proposed to be constructed by the petitioner.

4. Section 34 of Republic Act No. 9136 (Electric Power Industry Reform Act of 2001 or EPIRA Law), and reiterated in Rule 18 Section 2(v) of its Implementing Rules and Regulations (IRR), petitioner is authorized to file a petition to avail from the Universal Charge of the environmental share of P0.0025 per kilowatt-hour sales to be used for the rehabilitation and management of watershed areas, for approval before the Honorable Commission.
5. On March 15, 2002, petitioner submitted before the Honorable Commission its Comprehensive Watershed Management Plan covering a period of five (5) years. NPC's petition for the availment of the environmental share, including the costs and standards used, are premised and anchored on this submitted five-year watershed management plan.
6. Petitioner respectfully submits its proposed watershed management program for universal levy funding for CY 2010 (Plan 7) that will serve as the basis for the utilization of the environmental charge for the rehabilitation and maintenance of its watershed areas. Plan 7 forms part of the original 5-year Comprehensive Watershed Management Plan, and aims to continue the remaining projects and programs therein. A copy of which is attached as **Annex "A" and series**, and made an integral part hereof.
7. The program for CY 2010 adopted standards and costing to conform to the costs and prices prevailing in each watershed area. It also took into consideration the submitted five-year watershed management plan and the Honorable Commission's observations in the previous petitions for CY 2003 to 2007. The proposed programs will ensure the availability of watershed resources, specifically water, not only for NPC power plants

but for other users as well. This also will redound to the best interest and welfare of the consuming public in terms of efficiency in power generation.

8. Plan 7 focuses on projects for watershed rehabilitation, watershed protection, biodiversity conservation and ecotourism, and the institutionalization of the Watershed Management Council (WMC). It is still the prime objective of Plan 7 to maintain the productive condition of NPC-managed watershed reservations for sustained power generation.

Specifically, the plan seeks to:

1. Establish reforestation projects and plantations for agroforestry, bamboo, rubber, rattan, ANR, tiger grass, coffee, and abaca;
2. Production of forest tree seedlings,
3. Establish structural control measures;
4. Law enforcement, including military assistance, aerial surveillance, patrolling and regulation, and Bantay Watershed Task Force; and
5. Biodiversity conservation and ecotourism projects;
6. Community development and watershed protection awareness campaign

9. In recognition of the above objectives, petitioner proposed to pursue and implement the following programs and strategies:

- a. Watershed Rehabilitation
- b. Watershed Protection, which includes:
 1. Watershed Law Enforcement
 2. Community Based Watershed Protection Program
 3. Watershed Community Development/Outreach Program
 4. Watershed Demonstration Farm
 5. Land and Occupancy Management
- c. Biodiversity Conservation and Ecotourism
- d. Institutionalization of Watershed Management Council (WMC)
- e. Purchase/Acquisition of Tools and Equipment
- f. Infrastructure Construction, Repair and Maintenance
- g. Project Monitoring, Evaluation, Audit and Documentation
- h. Research and Development
- i. Legal Services (Person)
- j. Consultancy Services (Person)

10. The program covers eleven (11) watershed reservations, seven of which are under petitioner's jurisdiction by virtue of Executive Order No. 224, namely (1) the Upper Agno (2) San Roque (3) Angat (4) Caliraya-Lumot (5) Makiling-Banahaw (6) Buhi-Barit and (7) Tiwi Watershed reservations; and the (8) Magat (9) Pantabangan (10) Lake Lanao-Agus and (11) Pulangui, Agusan and Talomo which are under co-management arrangement with other government instrumentalities, making up the 11 watershed reservation areas.
11. Petitioner submits that Section 2(v), rule 18 of the EPIRA IRR provides for an Environmental Charge of P0.0025 per kilowatt hour sales to be used for the rehabilitation and management of watershed areas. The total amount needed for the proposed watershed program for CY 2010 is **ONE HUNDRED FIFTY THREE MILLION TWO HUNDRED TWENTY THOUSAND SEVEN HUNDRED SEVENTY THREE PESOS AND FIFTY CENTAVOS (Php153,220,773.50)**.
12. In support of this petition, attached as **Annex "B"** is the summary of the proposed programs/activities and **Annexes "C", "D", "E", "F", "G", "H", "I", "J", "K", "L" and "M"** are petitioner's Summary of Proposed Operational Plan for Year 7 ULF Petition (CY 2010) for the 11 Watershed Reservation Areas, respectively.
13. In further support of this petition, attached herewith as annexes are the following :
 - a. Proof of Publication of the Petition in a newspaper of general circulation
 - b. Proof of service of the Petition to the Secretary of the Sangguniang Panglungsod of QuezonCity

WHEREFORE, premises considered, petitioner respectfully prays of the Honorable Commission that the proposed availment of the environmental share from the Universal Charge for CY 2010 in the amount of **ONE HUNDRED FIFTY THREE MILLION TWO HUNDRED TWENTY THOUSAND SEVEN HUNDRED SEVENTY THREE PESOS AND FIFTY CENTAVOS (Php153,220,773.50)** be **APPROVED**.

Pending the necessary public hearing, petitioner further prays that the Honorable Commission issue a PROVISIONAL AUTHORITY to petitioner to avail of the Environmental Share from the Universal Levy Fund.

Petitioner prays for other just and equitable relief.

Quezon City for Pasig, March 2, 2010.

FOR THE SOLICITOR GENERAL

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Republic of the Philippines)
Quezon City)SS.

VERIFICATION AND CERTIFICATION

I, **FROILAN A. TAMPINCO**, of legal age, Filipino, with office address at NPC Office Building Complex cor. Quezon Ave. and Agham Road, Diliman, Quezon City, after being duly sworn hereby affirm and state that:

1. I am the President of the National Power Corporation, the petitioner herein; I am one of those who caused the preparation of this Petition, I have read the same and understood the allegations contained therein, and affirm that the contents thereof are true and correct based on authentic records at my disposal and on information of my own personal knowledge;
2. I am duly authorized by the Board of Directors to certify that petitioner NPC has not heretofore commenced any other action or proceeding involving the same issues before the Supreme Court, Court of Appeals or any other judicial, quasi-judicial or administrative tribunal. A copy of Resolution No. 2001-134 is attached as required by Rule 3, Section 4 of the Rules of Practice and Procedure.
3. To the best of my knowledge and belief, no such similar action or proceeding is pending before the Supreme Court, Court of Appeals, or any other tribunal or agency.
4. If I should hereafter learn that a similar action or proceeding has been filed or is pending before the Supreme Court, the Court of Appeals, or any other tribunal or agency, I undertake to report such fact within five (5) days therefrom to the Honorable Commission.

IN WITNESS WHEREOF I have hereunto affixed my signature this ____ day of March 2010 here at Quezon City.

FROILAN A. TAMPINCO
Affiant

SUBSCRIBED AND SWORN TO before me this ____ day of March 2010 here at Quezon City, affiant exhibiting to me competent proof of his identity consisting of _____.

Doc. No. _____;
Page No. _____;
Book No. _____;
Series of 2010.