

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, WITH PRAYER FOR  
PROVISIONAL AUTHORITY,

ERC Case No. 2009-016RC

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, as well as under Executive Order No. 224, NPC 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), NPC 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. Under the said five-year plan, NPC filed the following applications before the Honorable Commission which, after notice and hearing, allowed NPC to avail of certain amounts from environmental share of the Universal Fund, to wit:

Plan #	CY Petition	ERC Case #	Date Approved	Amount Approved
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Plan 1	CY 2002	2002-194	April 2, 2003	P69,921,041.32
Plan 2	CY 2003 CY 2004 CY 2005	2003-186 2004-78 2005-017	Consolidated Decision dated April 11, 2006	P182,000,000.00
Plan 3	CY 2006	2006-008RC	January 16, 2007	P87,007,451.00
Plan 4	CY 2007	2007-098RC	Pending	
Plan 5	CY 2008	2008-	Pending	

Comment [I1]: Caren, please check the details. Pati case number ha. Thanks!

7. In order to complete the approved 5-year plan, petitioner respectfully submits its proposed watershed management program for universal levy funding for CY 2009 (Plan 6) that will serve as the basis for the utilization of the environmental charge for the rehabilitation and maintenance of its watershed areas, a copy of which is attached as **Annex “A” and series**, and made an integral part hereof. Plan 6 aims to complete the targets contained in the 5-year comprehensive plan which have not yet been completed.
8. The program for CY 2008 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 comprehensive watershed management plan and the Honorable Commission’s observation in the petition for the availment for CY 2003 and 2004 under ERC Case Nos. 2003-186 and 2004-74, respectively.
9. It is still the prime objective of this program for CY 2008 to maintain the productive condition of NPC-managed watershed reservations for sustained power generation. Specifically, the plan seeks to:

1. Maintain and increase the forest cover of all watershed areas under petitioner's jurisdiction and watershed areas within its generating plants;
2. Stop/prevent if not reduce or minimize sedimentation and/or siltation in NPC reservoirs;
3. Rehabilitate eroded areas and stabile slopes along waterways and reservoirs; and
4. Protection of the remaining resources of the watersheds.

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

#### 10.1 Watershed Rehabilitation

Rehabilitation, stabilization and maintenance of open areas, sparsely vegetated areas and critically degraded areas of the watershed including buffer zones, using vegetative and structural measures:

##### 10.1.1 Vegetative Measures

- a. Reforestation
- b. Agroforestry
- c. Non-timber forest resources management
- d. Silvicultural Treatment

##### 10.1.2 Structural Measures

- a. Rip-raps
- b. Gabions

#### 10.2 Watershed Protection

Protection of watersheds through enforcement of watershed laws, rules and regulations, cooperation and coordination between NPC, DENR Field personnel, LGUs and other agencies, such as:

10.2.1 Watershed law enforcement through:

- a. Military assistance
- b. Aerial surveillance
- c. Patrolling and regulation
- d. Formation of Watershed Protection and Development Council

10.2.2 Community based watershed protection program through:

- a. Operation of a Bantay Watershed Task Force
- b. Watershed Protection Awareness Campaign

10.2.3 Watershed Information and collaboration activities

10.2.4 Watershed community development/outreach program

10.2.5 Forage farm development

10.2.6 Aquaculture development

10.3 Biodiversity Conservation and Eco-tourism

10.4 Acquisition of Tools and Equipment

10.5 Infrastructure, Construction, Repair and Maintenance

10.6 Sustainability Mechanism

Measures will be implemented to ensure the sustainability of the proposed programs and projects, such as:

- a. Partnership or networking with private organizations
- b. Linkages with LUGs
- c. Livelihood projects
- d. Community direct participation
- e. Strengthening the "Watershed Protection Council"

10.7 Contingency Plan

Strategies for each implementing unit to avoid delays and non-implementation of the programs and projects.

11. 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 which are under co-management arrangement with other government instrumentalities, making up the 11 watershed reservation areas.
12. The proposed projects will increase and protect the receding forest cover, stabilize slopes and minimize soil erosion, protect biodiversity, increase protection over old growth areas and encourage participation of the community in watershed management.
13. 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 2009 is **TWO HUNDRED TWENTY-SIX MILLION THREE HUNDRED FIFTY ONE THOUSAND THREE HUNDRED FIFTY-FOUR PESOS AND TWENTY FIVE CENTAVOS (P226,351,354.25) Philippine Currency.**
14. 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", "M" and "N"** are petitioner's Summary of

Proposed Operational Plan for Plan 6 ULF Petition (CY 2009) for the Watershed Reservation Areas and the Head Office, respectively.

15. The identified projects are priority programs to complete the remaining uncompleted targets and project of the approved 5-year comprehensive watershed management plan. 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.

**WHEREFORE**, premises considered, petitioner respectfully prays that the Honorable Commission **APPROVE** the proposed availment of the environmental share from the Universal Charge for CY 2009 in the amount of **TWO HUNDRED TWENTY-SIX MILLION THREE HUNDRED FIFTY ONE THOUSAND THREE HUNDRED FIFTY-FOUR PESOS AND TWENTY FIVE CENTAVOS (P226,351,354.25) Philippine Currency.**

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, February 20, 2009.

**FOR THE SOLICITOR GENERAL**

**MELCHOR P. RIDULME**

VP-General Counsel  
Special Attorney-OSG  
IBP No. 01748/Lifetime/Ilocos Sur  
PTR No. 1196560/1-09-2009/Q.C.  
Roll No. 37784

**COMIE P. DOROMAL**

Department Manager-LITBID  
Special Attorney-OSG  
IBP OR No. 594567/Lifetime/Q.C.  
MCLE Compliance No. II-0003913/07-10-2008  
Roll No. 24988

**JULIETA S. BACCUTAN ESTAMO**

Corporate Attorney A  
Special Attorney-OSG  
IBP NO. 776084 / 1-15-2009 / Bulacan  
PTR No. 1238824 / 1-16-2009 / Q.C.  
MCLE Compliance No. II-0003914/7-10-2008  
Roll No. 39024

**EUFRACIO R. RARA, JR.**

Special Attorney-OSG  
IBP No. 737736/1-08-2008/Quezon City  
PTR No. 9811050/1-08-2008/ Quezon City  
Roll No. 14938

Counsels for National Power Corporation  
Office of the General Counsel  
National Power Corporation  
BIR Road cor. Quezon Avenue  
Diliman, Quezon City  
Tel. No. 02-921-9670

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 applicant herein; I caused the preparation of this Application, 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 Applicant 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 February 2009 here at Quezon City.

**FROILAN A. TAMPINCO**  
Affiant

SUBSCRIBED AND SWORN TO before me this \_\_\_\_ day of January 2009 here at Quezon City, affiant exhibiting to me his CTC No. \_\_\_\_\_ issued on \_\_\_\_\_ at \_\_\_\_\_.

Doc. No. \_\_\_\_\_;  
Page No. \_\_\_\_\_;  
Book No. \_\_\_\_\_;  
Series of 2009.