

Republic of the Philippines  
**ENERGY REGULATORY COMMISSION**  
Pacific Center Building, San Miguel Avenue  
Ortigas Center, Pasig City

**IN THE MATTER OF THE 12<sup>th</sup>  
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. 2009 - \_\_\_\_\_**

**NATIONAL POWER CORPORATION  
(NPC) and POWER SECTOR ASSETS  
AND LIABILITIES MANAGEMENT  
CORPORATION (PSALM)**

*Applicants.*

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**APPLICATION**

Applicants **NATIONAL POWER CORPORATION (NPC)** and **POWER SECTOR ASSETS AND LIABILITIES MANAGEMENT CORPORATION (PSALM)** by undersigned counsels and to this Honorable Commission, most respectfully state that:

1. Applicant NPC is a government-owned and controlled corporation, created and existing under and by virtue of Republic Act No. 6395, as amended, (the NPC Charter) with principal office address at NPC-Office Building Complex (NPC-OBC), corner Quezon Avenue and BIR Road, Diliman, Quezon City.

2. Applicant PSALM is a government-owned and controlled corporation created by virtue of Republic Act No. 9136 or the “Electric Power Industry Reform Act of 2001” (EPIRA), with principal office address at 7/F Bankmer Building, 6756 Ayala Avenue, Makati City.

3. Under Section 3(g) of the NPC Charter, NPC has the authority to sell electric power in bulk to electric cooperatives, private distribution utilities, government owned distribution utilities or local government units which have exclusive franchise to operate a distribution system. Under Section 47(j) of Republic Act No. 9136 (“Electric Power Industry Reform Act or EPIRA), NPC may continue to generate and sell electricity from the un-disposed generating assets and IPP contracts of PSALM Corp.

4 This application is filed jointly by NPC and PSALM. Applicant NPC is filing this Application in its capacity as the owner of record of all existing generation assets and energy, and also as implementing agency for the unbundled generation rates as stated in the Orders of this Commission dated September 6 & 20, 2002 in ERC Case No. 2001-901, revised generation charges in the Orders dated Sept. 3, 2004 and April 13, 2005 in ERC Case No. 2004-178 and for the recovery of the Provisionally Approved charges in ERC Order dated December 15, 2008 under ERC Cases No. 2008-043RC, 054RC and the Order Dated January 19, 2009 under ERC Case No. 2008-064RC. Applicant PSALM is filing this Application in its capacity as transferee, owner and administrator of the generating assets of NPC pursuant to Section 49 of the EPIRA.

5. Applications for the recovery of the deferred charges were all consistent with the Order dated February 24, 2003, the in ERC Case No. 2003-44 providing, among others, the required mechanisms for the recovery/ (refund)

of the deferred incremental costs/(savings) on foreign currency exchange rate fluctuations and carrying charges.

6. This Application is being filed consistent with the Section 4(e) Rule 3 of the Implementing Rules and Regulations (IRR) as amended of Republic Act (RA) 9136 or otherwise known as EPIRA dated June 08, 2001.

7. The Application covers the test period from October 2008 to December 2008. Applicant has fully complied with the ICERA's monthly reportorial requirements, in support of the calculated allowable costs covering the test period, as evidenced by the submitted reports/compliances duly received by this Honorable Commission and hereto attached as **Annex "A" and series**.

8. The Applicants propose to recover/(refund) the Deferred Accounting Adjustments (DAAs), corresponding to additional costs or savings from foreign exchange fluctuations in the settlement of Debt Service and Operation Expenses (OPEX), and pertaining to the difference between actual or allowable Capacity and Infrastructure Fees for Build-Operate-Transfer (BOT) Plants and the billed amounts under the basic generation charge, as well as the corresponding carrying charges for the test period October 2008 to December 2008 for the Luzon, Visayas and Mindanao grids.

9. Pursuant to the Honorable Commission's directive in ERC Order dated November 23, 2005 (approval of 4<sup>th</sup> ICERA DAA), the proposed 12<sup>th</sup> ICERA DAA charge is calculated on a per grid basis.

10. Consistent with previous ICERA applications, the Base Exchange Rates used in the calculation of the 12<sup>th</sup> ICERA DAA for OPEX is adjusted from CY 2000 level to the average figures of CY 2002, or from P44.0494/US\$1 to P51.6036/US\$1 and from P0.4096/JPY1 to P0.4128/JPY1. However, Base

Exchange Rates for Debt Service are maintained at the CY 2000 level, pending resolution of the Supplemental Motion for Clarification filed by NPC on May 31, 2006, seeking clarification on the disallowance of the Loss on FOREX fluctuations in the Decision on RORB-TOU application (ERC Case No. 2004-178). Resolution of said motion shall provide applicant with a better understanding of the Honorable Commission's intention, particularly on the appropriate Base Exchange rate/price of Debt Service.

11. The calculation for the recovery/refund of Capacity and Infrastructure Fees for Bakun Hydroelectric Power Plant and San Roque Multi-purpose Project is up to the authorized recoverable rate of P3.8299/kWh, as contained in the Honorable Commissions' Order on the 5<sup>th</sup> ICERA.

12. The total deferred accounting adjustments under this instant Application are broken down in two (2) portions, current and balance. The current portion comprises of the deferred cost from foreign exchange fluctuations in the settlement of Debt Service and Operation Expenses (OPEX), and pertaining to the difference between actual or allowable Capacity and Infrastructure Fees for Build-Operate-Transfer (BOT) and the corresponding carrying charges for the test period October 2008 to December 2008 for Luzon, Visayas and Mindanao grids. The balance portion on the other hand, comprises the following:

- a. DAA balances of previous ICERA applications as follows:
  - a.1) Balance of the 11<sup>th</sup> ICERA DAA as of April 26, 2009 for Luzon grid;
  - a.2) Balance of the 8<sup>th</sup> ICERA DAA as of April 26, 2009 for Visayas and Mindanao grids;
  - a.3) Total DAA amounts applied under the 9<sup>th</sup>, 10<sup>th</sup> and 11<sup>th</sup> ICERA applications for Visayas and Mindanao grids considering that as

of April 25, 2009, Applicant NPC continues to implement the approved 8<sup>th</sup> ICERA charges in the Visayas and Mindanao grids pursuant to ERC Decision dated December 15, 2008 in ERC Case No. 2008-032RC.

- b) Total amount of DAAs covering the 8<sup>th</sup> ICERA to the 11<sup>th</sup> ICERA applications actually refunded to Successor Generating Companies (SGCs) in the Luzon grid.

13. Considering the foregoing, and pursuant to all the relevant Decisions and Orders previously issued by the Honorable Commission, the Applicants have calculated total deferred costs for the recovery under this instant Application, comprising of deferred debt service, OPEX and capacity fees for BOT plants, and the corresponding carrying charges for the Luzon, Visayas and Mindanao grids covering the test period from October 2008 to December 2008 and the DAA balance from previously approved and pending approval applications. Table 1 contains the summary of the total deferred FOREX costs as follows:

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

| GRID        | DAA, PhP         |
|-------------|------------------|
| LUZON       | (11,448,832,222) |
| VISAYAS     | 431,698,286      |
| MINDANAO    | (747,582,097)    |
| PHILIPPINES | (11,764,716,034) |

14. To recover/(refund) the above-stated deferred costs, Applicants are proposing the approval of separate charges in P/kWh for the current and balance portions of the DAA. An approval of separate charges for these DAA components would allow a more reasonable basis for the recovery(refund) of

deferred costs to Successor Generation Companies (SGCs) and for a systematic and orderly monitoring of the implementation of the same. Table 2 below shows the proposed DAA Charges in P/kWh for each grid and the proposed recovery/(refund) period in number of months.

The proposed (three) 3 months recovery period for the current DAA in all the grids corresponds to the three (3) months test period (October 2008 to December 2008). The proposed recovery period of three (3) months for DAA balance for Luzon grid is consistent with an approval of the Honorable Commission in a previous ICERA application. On the other hand, the proposed twenty four (24) months recovery/(refund) period for Visayas and Mindanao grids corresponds to the number of months covering the test periods of the 9<sup>th</sup>, 10<sup>th</sup> and 11<sup>th</sup> ICERA applications or from January 2007 to September 2008, which are all pending resolution by the Honorable Commission. The proposed DAA charges in P/kWh were derived using the projected energy sales under the Applicant NPC's proposed CY2007-2010 Budget.

**Table 2. Proposed 12<sup>th</sup> ICERA DAA Charges, P/kWh**

|   | <b>Luzon</b>    | <b>Visayas</b> | <b>Mindanao</b> |
|---|-----------------|----------------|-----------------|
| <b>Total DAA Charge</b>                   | <b>(1.8052)</b> | <b>0.1092</b>  | <b>(0.0639)</b> |
| <b>Current DAA Charge</b>                 | <b>0.1901</b>   | <b>0.0820</b>  | <b>(0.0246)</b> |
| <b>Balance DAA Charge</b>                 | <b>(1.9954)</b> | <b>0.0272</b>  | <b>(0.0639)</b> |
| <b>Proposed Recovery Period In Months</b> |                 |                |                 |
| <b>Current</b>                            | <b>3</b>        | <b>3</b>       | <b>3</b>        |
| <b>Balance</b>                            | <b>3</b>        | <b>24</b>      | <b>24</b>       |

15. As authorized under the Implementing Rules of the ICERA, Applicant utilized the carrying charge interest rates, as shown in Table 3 below:

**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 |
|------------------------|---|------------------------------------|----------------|
| October <sup>3/</sup>  | 5.699%                                      | 3.00%                              | 8.699%         |
| November <sup>3/</sup> | 5.699%                                      | 3.00%                              | 8.699%         |
| December               | 6.122%                                      | 3.00%                              | 9.122%         |

1- **Source: *Bangko Sentral ng Pilipinas***

2- ***As authorized in the ICERA Implementing Rules***

3- ***There was No Issue (NI) T-Bill Rate for the month of October and November 2008, hence, the rate was computed based on the average T-Bill Rates for the 3<sup>rd</sup> quarter of 2008.***

16. The total deferred accounting adjustments under this instant Application represent the deferred cost from forex fluctuations for the test period October 2008 to December 2008 for Luzon, Visayas and Mindanao. This application likewise includes the DAA balances of previous ICERA Applications as follows: for Luzon grid the balance of 11<sup>th</sup> ICERA DAA; for Visayas and Mindanao grids, the balance of the 8<sup>th</sup> ICERA and the total DAA amounts applied under 9<sup>th</sup>, 10<sup>th</sup> and 11<sup>th</sup> ICERA applications which are being evaluated by the Honorable Commission. As of April 25, 2009, Applicant NPC remains to implement the 8<sup>th</sup> ICERA charges in Visayas and Mindanao grids in the absence of an Order from ERC for the 9<sup>th</sup>, 10<sup>th</sup> and 11<sup>th</sup> ICERA Applications.

17. The proposed ICERA DAA is fair and reasonable as it allows the recovery of deferred costs consistent with the principles of a free and competitive electricity market as provided under R. A. No. 9136.

18. Applicants further pray for the issuance of a provisional authority to enable the applicants to immediately implement the recovery or (refund) of the deferred costs particularly in the Visayas and Mindanao grids to mitigate the accumulated DAA to customers and improve NPC's financials.

19. In support of the proposed recovery/refund calculated for the 12<sup>th</sup> ICERA, attached hereto are the various computations and information on the following:

|   |                             |
|---|-----------------------------|
| Calculation of Deferred Cost and Proposed Charges From October 2008 to December 2008                                      | <b>Annex "B" and series</b> |
| The Projected Energy Sales (in gWh) per NPC's Proposed CY 2007 Budget used to calculate the proposed DAA charges in P/kWh | <b>Annex C and Series</b>   |
| Calculation of Deferred Debt Service /OPEX and corresponding carrying charges, October 2008 to December 2008              | <b>Annex "D" and series</b> |
| Calculation of Deferred Over/(Under) Recovered Actual Payments of Capacity Fees for IPPs under BOT Agreement              | <b>Annex "E" and series</b> |
| 91-day Treasury Bill Rates  | <b>Annex "F" and Series</b> |
| Actual energy sales from October 2008 to December 2008  | <b>Annex "G"</b>            |

**PRAYER**

**WHEREFORE**, Applicants NPC and PSALM respectfully pray before this Honorable Commission that consistent with ERC Case No. 2003-44 Adopting the Implementing Rules for the Recovery of Incremental Currency Exchange Recovery Adjustment (ICERA) and Section 4(e) Rule 3 of the IRR, as amended, of RA 9136 or EPIRA, the amounts of deferred costs and the proposed separate Deferred Accounting Adjustment (DAA) charges and recovery periods for current DAA and the DAA balances as follows be **APPROVED**.

|                           | <b>Luzon</b>    | <b>Visayas</b> | <b>Mindanao</b> |
|---------------------------|-----------------|----------------|-----------------|
| <b>Total DAA Charge</b>   | <b>(1.8052)</b> | <b>0.1092</b>  | <b>(0.0639)</b> |
| <b>Current DAA Charge</b> | <b>0.1901</b>   | <b>0.0820</b>  | <b>(0.0246)</b> |
| <b>Balance DAA Charge</b> | <b>(1.9954)</b> | <b>0.0272</b>  | <b>(0.0639)</b> |

| <b>Proposed Recovery Period<br/>In Months</b> |          |           |           |
|---|----------|-----------|-----------|
| <b>Current</b>                                | <b>3</b> | <b>3</b>  | <b>3</b>  |
| <b>Balance</b>                                | <b>3</b> | <b>24</b> | <b>24</b> |

**Applicants further pray for the issuance of a Provisional Authority for immediate implementation of the proposed rates for Luzon, Visayas and Mindanao Grids.**

Applicants pray for other just and equitable relief, from the Honorable Commission.

Quezon City for Pasig City, 14 May 2009

-signatories next page

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**POWER SECTOR ASSETS AND LIABILITIES  
MANAGEMENT CORPORATION**

7th Floor, Bankmer Building  
6756 Ayala Avenue, Makati City

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, one of the applicants herein; I am one of those who caused the preparation of this Joint Application, I have read the same and understood the allegations contained therein, and affirm that the contents thereof are true and correct, as far as NPC is concerned, 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 \_\_\_\_\_ 2009 here at Quezon City.

**FROILAN A. TAMPINCO**  
Affiant

SUBSCRIBED AND SWORN TO before me this \_\_\_\_ day of \_\_\_\_\_ 2009 here at Quezon City, affiant exhibiting to me his CTC No. 16797358 issued on 30 January 2009 at Quezon City.

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

(Republic of the Philippines)  
(Makati City ) s.s.

**VERIFICATION AND CERTIFICATION**

I, **JOSE C. IBAZETA**, of legal age, married, with office address at the Power Sector Assets and Liabilities Management Corporation (**PSALM**), 7<sup>th</sup> Floor, Bankmer Building, 6756 Ayala Avenue, Makati City, after having been duly sworn to in accordance with law, do hereby depose and state for myself and for PSALM, that:

- (1) I am the President and Chief Executive Officer of the Power Sector Assets and Liabilities Management Corporation (**PSALM**) with authority to commence, initiate and file the foregoing Application pursuant to PSALM Board Resolution No. 2008-0923-001, a copy of which is hereto attached as Annex "I";
- (2) I have read the Application and the allegations therein are true and correct based on my personal knowledge or the authentic records available to PSALM;
- (3) I or PSALM have not commenced any other action or proceeding involving the same issues in the Supreme Court, the Court of Appeals or any court, tribunal, or quasi-judicial agency and, to the best of my knowledge, no such other action or claim is pending therein; and
- (4) If I or PSALM should hereinafter learn that the same or a similar action or claim has been filed or is pending in the Supreme Court, the Court of Appeals or any court, tribunal, or quasi-judicial agency, I shall report the said fact within five (5) days from discovery thereof to the Honorable Court.

\_\_ May 2009, Makati City, Philippines.

**JOSE C. IBAZETA**  
Affiant

**SUBSCRIBED and SWORN TO** before me this \_\_ day of September, 2008, with affiant **JOSE C. IBAZETA** presenting to me his Community Tax Certificate No. 19496183 issued on January 22, 2008 at Makati City, Philippines and Passport No. ZZ149721 issued on August 10, 2005 at DFA, Manila, Philippines, known to me and to me known to be the same person who executed the foregoing Verification and Certification.

Notary Public

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