

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

**IN THE MATTER OF THE 13th
APPLICATION FOR THE RECOVERY
OF INCREMENTAL FUEL AND
INDEPENDENT POWER PRODUCER
(IPP) COSTS UNDER THE
GENERATION RATE ADJUSTMENT
MECHANISM (GRAM) WITH PRAYER
FOR PROVISIONAL AUTHORITY (PA)**

ERC CASE NO. 2009-_____

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

Applicants

X-----X

APPLICATION

Applicants **NATIONAL POWER CORPORATION (“NPC”) and POWER SECTOR ASSETS AND LIABILITIES MANAGEMENT (“PSALM”)**, through the 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, corner Quezon Avenue and BIR Road, Diliman, Quezon City.

2. Applicant PSALM is a government-owned and controlled corporation, created and existing 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 undisposed generating assets and IPP contracts of PSALM Corp.

4. The 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 the recovery of the Provisionally Approved Deferred charges in ERC Order dated December 15, 2008 under ERC Cases No. 2008-042RC, 053RC and the Order dated January 19, 2009 under ERC Case No. 2008-063RC. 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 deferred charges were all consistent with the Order dated February 24, 2003 in ERC Case No. 2003-44 providing, among others, the required mechanism for the recovery of the deferred Fuel and Independent Power Producer (IPP) Costs.

6. This Application is being filed consistent with Section 4(e) Rule 3 of the Implementing Rules and Regulations (IRR), as amended, of Republic Act

(RA) No. 9136 or otherwise known as Electric Power Industry Reform Act of 2001 (EPIRA) dated June 08, 2001.

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

8. The Applicants propose to recover/(refund) as Deferred Accounting Adjustment (DAA), the difference between the allowable fuel and purchased power costs and the amounts recovered through the basic generation rate during the above-stated test/billing period and the balance of previously approved GRAM applications.

9. Consistent with the previous GRAM applications, the allowable IPP costs in this Application excludes the costs of purchased power from four (4) IPP contracts under Rehabilitation-Operation-Maintenance and Management (ROMM), Build-Rehabilitation-Operation and Transfer (BROT) and Build-Operate-Transfer (BOT) arrangements covering the Malaya, Naga (Salcon), Caliraya-Botocan-Kalayaan (CBK) and Mindanao Coal (STEAG) power plants. The allowable costs for recovery for these IPP plants are to be included in the next GRAM applications that shall cover the test periods when these IPP contracts were duly approved by the Honorable Commission.

10. Applicant NPC already utilized the new heat rate caps on a per power plant basis including the allowance for heat rate degradation approved by this Honorable Commission in its Decision dated June 30, 2008 in ERC Case No. 2004-111. NPC however, included a reasonable recovery of cost of fuel consumed without generation considering that its exclusion would mean an

additional loss for NPC amounting to almost ₱90million for the 3-month test period.

11. Applicant NPC believes that there is always an occasion for a power plant to shut down (scheduled and unscheduled) during a year, and once a plant shuts down and starts-up, it would necessarily consume fuel without generation. However, unlike the main fuel of thermal power plants, efficient use of start-up fuel is difficult to determine. For one, the start-up fuel consumption of the plant must not be limited to scheduled shutdowns or those instructed by the System Operations (SO) or at the instance of the Market Operator (MO). The plant would rather stay online at all times to ensure its revenues and maintain the reliability, security and stability of the system. To monitor and classify start-ups will be cumbersome, notwithstanding that such will require exchange of information between NPC and PSALM, which may be inappropriate under Wholesale Electricity Spot Market (WESM) Rules. Moreover, coordination with System Operations (SO) of the National Transmission Corporation or TransCo (and now with the National Grid Corporation of the Philippines or NGCP) and/or Market Operations (MO) of WESM will likewise require the consent from PSALM.

12. In view of the above circumstances, Applicant NPC utilized its proposed methodology of determining the allowable cost of fuel without generation under ERC Case No. 2009-003RC which is basically the average monthly amount of the lowest yearly costs of fuel without generation during CYs 2005 to 2007 or the actual cost of fuel without generation during each of the test month covered by this application, whichever is lower plus any savings from previous test months.

13. 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 fuel and IPP costs 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 GRAM applications as follows:
 - a.1) Balance of the 12th GRAM DAA as of April 26, 2009 for Luzon grid;
 - a.2) Balance of the 9th GRAM DAA as of April 26, 2009 for Visayas and Mindanao grids;
 - a.3) Total DAA amounts applied under the 10th, 11th and 12th GRAM applications for Visayas and Mindanao grids considering that as of April 25, 2009, Applicant NPC continues to implement the approved 9th GRAM charges in the Visayas and Mindanao grids pursuant to ERC Decision dated December 15, 2008 in ERC Case No. 2008-031RC.
- b) Total amount of DAAs covering the 9th GRAM to the 12th GRAM applications actually refunded to Successor Generating Companies (SGCs) in the Luzon grid.

14. Considering the foregoing and pursuant to all the relevant Decisions and Orders previously issued by the Honorable Commission, the Applicants have calculated the total deferred costs for recovery under this instant Application comprising of all the deferred fuel and IPP costs stated above and the corresponding carrying charges for the Luzon, Visayas and Mindanao grids covering the test period from October 2008 to December 2008. Table 1 below contains the summary of the total deferred fuel and IPP costs as follows:

Table 1.
Total Deferred Fuel and IPP Costs for Recovery/(Refund), in Pesos

GRID	DAA, P
LUZON	10,242,338,156
VISAYAS	7,030,282,609
MINDANAO	(388,628,024)
PHILIPPINES	16,883,992,741

15. 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 GRAM 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 10th, 11th and 12th GRAM 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 DAA Charges, P/kWh

	LUZON	VISAYAS	MINDANAO
Total	1.6150	1.9993	0.0892
Current Portion	1.4183	1.5872	0.1264
Balance Portion	0.1967	0.4120	(0.0371)
Recovery/(Refund) Period, No. of months			
Current Portion	3	3	3
Balance Portion	3	24	24

16. As authorized under the Implementing Rules of the GRAM, Applicants utilized the following carrying charge interest rates which apply to both deferred costs for recovery and (refund):

Table 3. Allowable Carrying Charge Rates, %

Test/Billing Months	Prevailing 91-day T-Bill Rate 1/	Authorized Allowance 2/	Allowable Rate
October 2008 3/	5.6990%	3%	8.6990%
November 2008 3/	5.6990%	3%	8.6990%
December 2008	6.1220%	3%	9.1220%

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

2- **Pursuant to the GRAM Implementing Rules**

3- **There was No Issue (NI) of a 91-day T-Bill Rate for the months of October 2008 and November 2008, hence, rate utilized for these months was based on the average 91-day T-Bill Rates for the 3rd Quarter of 2008**

17. The proposed GRAM DAA is fair and reasonable as it allows the recovery/(refund) of deferred costs consistent with the principles of a free and competitive electricity market as provided under R. A. No. 9136 and all pertinent Orders/Decisions issued by the Honorable Commission.

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 impact of the accumulated DAA to customers and improve NPC financials.

19. In support of the amounts comprising all the deferred fuel and IPP costs proposed for recovery/(refund) in this instant Application, attached hereto are the various computations and information on the following:

BSP's 91-day Treasury Bill Rates	Annex "B"
Net Generation per plant covering the period from September 2008 to November 2008	Annex "C" & Series
Generation Mix per fuel type per grid covering the period from September 2008 to November 2008	Annex "D"
Approved Net Heat Rate under ERC Decision dated June 30, 2008 (ERC Case No. 2004-111)	Annex "E"
Actual Heat Rate Per Plant for September 2008 to November 2008	Annex "F"
2005-2007 Fuel Consumption Without Generation per Grid	Annex "G"
2008 Guaranteed Heat Rate of NPC-IPP Plants	Annex "H"
Projected regular energy sales from the proposed CY2007 to CY2010 budget	Annex "I"
Energy Sales (kWh) for October 2008 to January 2009	Annex "J"

PRAYER

WHEREFORE, applicants respectfully pray of this Honorable Commission that consistent with ERC Case No. 2003-44 adopting the Implementing Rules for the Recovery of Fuel and Independent Power Producer Costs: Generation Rate Adjustment Mechanism (GRAM) 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**.

	LUZON	VISAYAS	MINDANAO
Total Charges	1.6150	1.9993	0.0892
Current Portion	1.4183	1.5872	0.1264
Balance Portion	0.1967	0.4120	(0.0371)
Recovery/(Refund) Period, No. of months			
Current Portion	3	3	3
Balance Portion	3	24	24

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, **PIO J. BENAVIDEZ**, 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 Officer-In-Charge 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.

PIO J. BENAVIDEZ
Affiant

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

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**), 7th 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.