

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 TYPHOONS
“COSME” AND “FRANK,” AND FOR
SABOTAGE OF TRANSMISSION
TOWERS IN MINDANAO IN
ACCORDANCE WITH THE
TRANSMISSION WHEELING RATE
GUIDELINES, WITH PRAYER FOR
PROVISIONAL AUTHORITY,**

ERC CASE NO. 2009- _____

**NATIONAL GRID CORPORATION OF
THE PHILIPPINES (NGCP),**

Applicant.

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APPLICATION

Applicant **NATIONAL GRID CORPORATION OF THE PHILIPPINES**
(NGCP), by counsel, respectfully states:

NATURE OF THE APPLICATION

1. The present Application is filed by NGCP pursuant to and by virtue of Section 10.1.1, Article X of the Transmission Wheeling Rate Guidelines (TWRG), for purpose of seeking this Honorable Commission’s approval to charge its customers for expenditures incurred (FM Pass Through Amount) in relation to damage to transmission assets brought about by Typhoons “Cosme” and “Frank” and sabotage by lawless elements of transmission assets in Mindanao.

APPLICANT

2. Applicant NGCP is a corporation created and existing under the laws of the Philippines, with principal office address at Quezon Avenue corner

BIR Road, Diliman, Quezon City. It is the corporate vehicle of the consortium which was awarded the concession to assume the power transmission functions of the National Transmission Corporation (TRANSCO) through public bidding pursuant to Republic Act No. 9136. It may be served with orders, notices and other legal processes through the undersigned counsel.

3. NGCP holds a franchise under Republic Act No. 9511 to construct, install, finance, manage, improve, expand, operate, maintain, rehabilitate, repair and refurbish the present nationwide transmission system of the Republic of the Philippines.

4. Under the Concession Agreement between NGCP, the Power Sector Assets and Liabilities Management Corporation (PSALM) and TRANSCO, which took effect 15 January 2009, PSALM granted NGCP, on exclusive basis, the rights and responsibilities (1) to construct, install, finance, manage, improve, expand, operate, maintain, rehabilitate, repair, refurbish and replace the Transmission Assets; and (2) to bill and collect from Transmission Customers for its own account such charges as the Regulated Entity may lawfully demand; and shall take over and operate the whole of TRANSCO's regulated transmission business as a going concern and shall, as between TRANSCO and itself, be the sole representative of the Regulated Entity before the ERC.

5. Under the Concession Agreement, NGCP is mandated to provide open and non-discriminatory access to its transmission system to all electricity users and accordingly, assesses and collects transmission charges subject to the approval of this Honorable Commission.

STATEMENT OF FACTS

I. Typhoon "Cosme"

6. On 14 May 2008, tropical depression "Cosme" entered Philippine Area of Responsibility as an active low pressure area west of Southern Luzon,

and later intensified into a tropical storm, making landfall over Western Pangasinan late afternoon of 17 May 2008, and causing damage to transmission assets of TRANSCO.

7. On 9 July 2008, TRANSCO filed a verified Notice of Force Majeure Event within the period prescribed in the TWRG, as condition precedent for a claim of Force Majeure Pass Through Amount. The pertinent portions of the said Notice state:

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On May 16, 2008, tropical storm "Cosme" intensified further and gained more strength as it passed. It has maximum sustained winds at 105 kph and gustiness of up to 135 kph. Attached as Annex "A" is a copy of the Certification issued by the Philippine Atmospheric Geophysical and Astronomical Service Administration (PAG-ASA).

Typhoon "Cosme" caused damaged to Transco's facilities in the Luzon, particularly in Districts 1, 3 and 5 in North Luzon and District 1 in South Luzon. Attached hereto as Annex "B" is the report of Transco Vice President for Luzon Operation and Maintenance regarding the damages brought about by the typhoon in the said areas.

As of June 10, 2008 most of the areas affected by the typhoon have been restored to their respective normal operations. Attached as Annex "C" is the Final Report on the Restoration of Loads in Areas affected by typhoon Cosme.

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A copy of the said Notice, sans annexes, is hereto attached as **Annex "A."**

8. As a result of the severe damage to power transmission and subtransmission lines of North Luzon and South Luzon, Emergency Restoration Systems (ERS) were used to temporarily restore power to some major substations. ERS are segmented steel structures that can be easily hauled and assembled to enable the transmission of power while the transmission operator and distribution utilities construct permanent structures.

9. As of 10 June 2008, most of the areas affected by Typhoon “Cosme” were restored to normal operations. Attached hereto as **Annex “B”** is the Final Report on the Restoration of Loads in Areas Affected by Typhoon “Cosme.”

II. Typhoon “Frank”

10. On 18 June 2008, Typhoon “Frank” entered the Philippine Area of Responsibility and caused damage to TRANSCO’s facilities in Districts 3, 5, 6 and 7 in North Luzon, Districts 1 and 2 in South Luzon, and Districts 1, 2, 3, and 4 in Visayas.

11. Thus, on 13 August 2008, TRANSCO filed the corresponding verified Notice of Force Majeure Event for Typhoon “Frank.” The Notice states:

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On June 18, 2008, tropical storm “Frank” intensified further and gained more strength with maximum sustained winds at 140 kph and gustiness of up to 195 kph as it traversed the provinces of Masbate, Roxas City, Aklan, Romblon, Batangas City, Quezon, Tarlac and Dagupan City. Attached as “Annex A” is a copy of the Certification issued by the Philippine Atmospheric Geophysical and Astronomical Service Administration (PAG-ASA).

Typhoon “Frank” caused damage to Transco’s facilities in Districts 3, 5, 6, and 7 in North Luzon, Districts 1 and 2 in South Luzon and Districts 1, 2, 3 and 4 in the Visayas Region. Attached hereto as Annexes “B” and “C” are the reports on the damages brought about by the typhoon in the said areas, including the estimated cost of damage and restoration.

The submission of estimated costs of damages in this notice is preliminary in nature. Transco reserves the right to make the statement of actual costs incurred by TransCo in the emergency and/or full restoration of its damaged facilities and equipment in its Force Majeure Event Claim to be filed within the period allowed by the TWRG.

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Attached as **Annex “C”** hereof is a copy of the said Notice, sans annexes.

12. As an emergency response to Typhoon “Frank” to temporarily restore transmission service, TRANSCO made use of Emergency Restoration System (ERS).

II. Sabotage of Transmission Assets

13. In a series of incidents from September to November 2008, several transmission towers in Mindanao were damaged due to sabotage by lawless elements.

14. On 16 December 2008, TRANSCO filed a Notice of Force Majeure Event pertaining to the said incidents. The Notice states, thus:

Several transmission towers of Transco have been sabotaged by unidentified group of people starting September 19, 2008 when Tower No. 24 of Abaga-Aurora 138 kv Line in Tingin-Tingin, Kauswagan, Lanao del Norte was damaged. One of its legs was broken when an 81MM mortar attached to the tower exploded. The three other bombs did not explode which spared the three legs of the tower from being damaged. Fortunately, no line outage occurred. The tower was repaired on September 21, 2008.

The same tower was again damaged on October 25, 2008 as two of its legs were cut-off when the IEDs attached to the tower legs exploded. Repairs were done October 27, 2008.

On or about September 21, 2008, Tower No. 41 of Abaga-Tagoloan/Lugait 138 kv line located at Brgy. Lanipao, Iligan City toppled down when its legs exploded due to bombs planted thereon. Emergency Restoration Systems (ERS) were installed and that by September 30, 2008, the said line was energized.

On Oct 27, 2008, Tower Nos. 46 to 48 of Agus 2-Kibawe 138KV Line located in Pantar, Bubong, Lanao del Sur toppled down due to the removal of bolts and lattices by lawless elements. The incident caused Agus2-Kibawe 138kv Lines 1 & 2 on permanent fault.

On November 1, 2008, Tower No. 222 of Tagoloan-Pulangi 4 138 kV Lines 1 and 2 was bombed causing it to topple down while the legs of Tower No. 231 of the same lines were cut-off but remained in upright position. ERS were installed to restore the said lines.

Attached, as Annex A, is the Status of Restoration/Rehabilitation of Sabotaged Towers which includes the description of the extent of damage to each tower.

15. To date, all the damaged structures bomb towers are repaired and fully functional.

16. In view of the aforementioned Force Majeure Events, there arose the need to immediately program capital expenditure projects that will bring back the necessary service and permanently restore the damaged transmission lines. Thus, TRANSCO implemented infrastructure projects that would replace the

ERS with permanent structures. NGCP shall also implement restoration and rehabilitation activities.

17. The extent of damage on TRANSCO's transmission and sub-transmission facilities, operated and maintained by NGCP, are shown in Table A below from Typhoons "Cosme" and "Frank," and in Table B below for the sabotage.

Table A Structures Damaged by Typhoon Cosme/Frank

FD		FD	
Luzon	Classification	Visayas	Classification
Tayabas-San Jose 500kV	Transmission	Panit-an – Sara/Balasan 69 kV	Transmission
Kalayaan-Gumaca 230kV	Transmission	Dingle – Calinog 69 kV	Transmission
Labrador Bauang 230 kV	– Transmission		
Olongapo Botolan 230 kV	– Transmission		
Olongapo Labrador 230 kV	– Transmission		
Botolan Labrador 230 kV	– Transmission		

Table B Sabotage Structures in Mindanao

Mindanao	FD Classification	Tower Number
Abaga – Auroro 138 kV	Transmission	22, 49, and 63
Agus2 – Kibawe 138 kV	Transmission	50, 18
Tagoloan – Pulangi 4 138 kV	Transmission	127
Kibawe – Kabacan 138 kV	Transmission	110

COMPUTATION OF FORCE MAJEURE EVENT PASS-THROUGH COST FORTYPHOONS "COSME" AND "FRANK" IN LUZON AND VISAYAS, AND SABOTAGE OF TOWERSIN MINDANAO

18. This Application includes actual expenditures as of December 2008 and programmed disbursement at year ending 2009. Tables C and D below provide for the actual and programmed expenditures to restore and rehabilitate the transmission facilities damaged by Typhoons "Cosme" and "Frank," and the sabotage in Mindanao.

Table C Schedule of Capital Expenditures, Real PhP, Thousand

<i>FM Event</i>	<i>ACTUAL AS OF December 2008</i>	<i>ESTIMATED AS OF DEC. 2009</i>	<i>ESTIMATED EXPENDITURES IN 2009</i>	<i>TOTAL EXPENTURES 2008 + 2009</i>
COSME	21,750.0	27,288.0	5,538.0	27,288.0
FRANK Luzon	16,888.0	33,776.6	16,888.5	33,776.6
FRANK VIS	6,067.7	6,067.7	0	6,067.7
SABOTAGE	7,572.4	9,001.2	1,428.8	9,001.2
TOTAL	52,278.3	76,113.6	23,855.3	76,113.6

The schedule of projects and disbursement is attached hereto as **Annex “D”**.

Table D Schedule of Capital Expenditures, Nominal PhP, Thousands

<i>FME</i>	<i>ACTUAL AS OF December 2008</i>	<i>ESTIMATED AS OF DEC. 2009</i>	<i>ESTIMATED EXPENDITURES IN 2009</i>	<i>TOTAL EXPENDITURES 2008 + 2009</i>
COSME	25,778.2	32,597.6	6,819.4	32,597.6
FRANK Luzon	20,015.7	40,812.2	20,796.5	40,812.2
FRANK VIS	7,191.5	7,191.5	0	7,191.5
SABOTAGE	8,974.8	10,734.2	1,759.4	10,734.2
TOTAL	61,960.2	91,335.8	29,375.4	91,335.8

19. The above nominal values were computed using the inflation indexation factors¹ provided in the Final Determination dated June 13, 2006 of 1.1852, 1.2314 and 1.2844 for 2008, 2009 and 2010, respectively.

20. The above capital expenditures (CAPEX) exclude all expenditures incurred and to be incurred to rehabilitate the subtransmission facilities. Following the Revised OATS Rules, costs of rehabilitation for the subtransmission facilities shall be included as part of the annual revenue requirement (under the building block approach) computation for the connection and residual subtransmission charges.

21. The costs that NGCP has incurred and is programmed to incur as a consequence of the aforementioned typhoons and sabotage are additional capital expenditures. None of these expenditures were included or incorporated

¹ Inflation indexation factors adopted by the ERC in determining the nominal values of TRANSCO’s CAPEX, Final Determination – MODEL on 2nd Regulatory Period Application

in the cost building blocks used in the computation of regulated revenue for the Second Regulatory Period (2006-2010).

22. NGCP estimates that the amount of PhP76.1M, in real values, is material and necessary and should be allowed recovery during the current regulatory period. These un-programmed expenditures may have already put a strain on the capital expenditure budget for the whole Second Regulatory Period.

23. NGCP proposes to recover the return on capital, in terms of the ERC-approved WACC of 15.8739%², and the return of capital (depreciation) on the programmed CAPEX

24. Using the building block approach of determining the annual revenue requirement (ARR), NGCP proposes to pass-through the following as additional network charges in Luzon, Visayas and in Mindanao for the starting regulatory year 2009, to 2010, or until such time that the amount incurred are fully recovered. The following tables are the cost of CAPEX that NGCP has actually spent and programmed to spend to complete the rehabilitation this CY 2009:

Table E. COSME – In Thousand PhP , unless otherwise stated, Nominal

Particulars	2008	2009	2010	2011
Return on Capital	2,025.5	4,544.4	4,982.1	4,870.8
Return of Capital	257.7	603.8	700.9	700.9
ARR	2,283.3	5,148.2	5,683.1	5,571.8
Forecast MW	81,169.32	84,230.06	86,983.6	90,604.13
P/kW – Pass Through	0.0281	0.0611	0.0653	0.0615
Forecast GWh	40,278.21	42,465.65	44,097.07	45,727.68
P/kWh	0.0001	0.0001	0.0001	0.0001

Table F. Frank - Luzon – In Thousand PhP unless otherwise stated, Nominal

Particulars	2008	2009	2010	2011
Return on Capital	1,572.7	4,746.6	6,278.8	6,141.1
Return of Capital	200.1	623.8	864.6	867.6
ARR	1,772.9	5,370.4	7,146.4	7,008.7

² ERC-approved WACC, Final Determination on 2nd Regulatory Period Application

Particulars	2008	2009	2010	2011
Forecast MW	81,169.32	84,230.06	86,983.64	90,604.13
P/kW – Pass Through	0.0218	0.0638	0.0822	0.0774
Forecast GWh	40,278.21	42,465.65	44,097.07	45,727.68
P/kWh	0.0000	0.0001	0.0002	0.0002

Table G. Frank, Visayas - In Thousand PhP, unless otherwise stated, Nominal

Particulars	2008	2009	2010	2011
Return on Capital	559.3	1,099.4	1,060.9	1,022.4
Return of Capital	143.8	242.7	242.7	242.7
ARR	703.2	1,342.2	1,303.6	1,265.1
Forecast MW	12,339.39	13,407.37	13,907.36	14,300.96
P/kW – Pass Through	0.0570	0.1001	0.0937	0.0885
Forecast GWh	5,666.48	6,003.84	6,236.31	6,479.48
P/kWh	0.0001	0.0002	0.0002	0.0002

Table H. Mindanao Sabotage-In Thousand PhP, unless otherwise stated, Nominal

Particulars	2008	2009	2010	2011
Return on Capital	705.2	1,532.4	1,636.1	1,599.4
Return of Capital	89.7	221.6	231.2	231.2
ARR	759.9	1,754.1	1,867.3	1,830.6
Forecast MW	15,480.19	16,016.27	16,539.17	17,027.72
P/kW – Pass Through	0.0514	0.1095	0.1129	0.1075
Forecast GWh	7,325.17	7,601.37	7,721.85	8,004.63
P/kWh	0.0001	0.0002	0.0002	0.0002

25. Notably, Typhoon “Frank” brought damage to transmission facilities in Luzon and Visayas. Consequently, on the basic principle that there should be no cross-subsidy, the actual and programmed cost incurred for Typhoon “Frank” are specifically identified for those for Luzon and Visayas.

26. The following assumptions were used in the computation of the ARR:

- A. WACC recovery on the 50% of the 2008 CAPEX, i.e. the opening regulatory asset base for 2007 is equal to zero (0) and on the rolled forward asset base for the remainder of the regulatory period;
- B. As to the Return of Capital, the depreciation was calculated using the ERC’s approved assets’ lives in the Final Determination for the Second Regulatory Period;
- C. Depreciation for 2008 is equivalent to 50% of the annual

- depreciation on actual CAPEX, then rolled forward asset base for the remainder of the regulatory period; and
- D. P/kW and P/kWh were determined using the demand and energy data used in the application for the 2009 Maximum Allowable Revenue.

27. NGCP respectfully informs the Honorable Commission that several of the facilities damaged by the aforementioned force majeure events were totally destroyed, and have been rendered unusable for their intended purpose. Thus, these facilities should be retired for accounting and regulatory purposes. Hence, NGCP should be allowed to recover the foregone depreciation on the damaged facilities that it would have recovered had the assets not been destroyed by the said force majeure events.

28. In ERC Case No. 2007-148RC, entitled *In The Matter Of The Application Of The National Transmission Corporation Or Its Concessionaire For The Approval Of Force Majeure Event Regulated FM Pass Through For Typhoons Milenyo, Reming, Seniang And Paeng In Accordance With The Transmission Wheeling Rate Guidelines*, this Honorable Commission stated that “the damaged assets were already included in the computation of the ARR for the 2nd Regulatory Period which has been predetermined until 2010 and the ‘accelerated depreciation’ cost should not be included in the computation of FM pass through amount. Instead, it should be considered in the computation of its ARR for the 3rd Regulatory Period.” In view thereof, NGCP proposes no accelerated depreciation at this time for damaged facilities, but will include said depreciation in its application for the 3rd Regulatory Period (2011-2015).

29. NGCP, in accordance with Section 10. 2.1 of the TWRG, computed for the Force Majeure Threshold Amount (FMTA) as follows:

Formula :

$$\text{FMTAt} = 0.02\text{Php/kWh} \times (\text{CPI}_{t-1}/\text{CPI}_{2002})$$

Where: CPI_{t-1} has the same meaning as in Section 3.3.2 of the TWRG

CPI_{2002} is the sum of the CPIs for the quarters ending on 31 December 2001, March 2002, June 2002, and September 2002.

30. In accordance with Section 10.2.5 of the TWRG, the applicable CPI values are as follows:

<i>CPI_{t-1}</i>			<i>CPI₂₀₀₂</i>			
Dec 2007	CPI Q4, 2007	145.1		Dec 2001	CPI Q4, 2001	108.5
Mar 2008	CPI Q1, 2008	148.6		Mar 2002	CPI Q1, 2002	109.1
June 2008	CPI Q2, 2008	157.4		June 2002	CPI Q2, 2002	109.8
Sept 2008	CPI Q3, 2008	159.8		Sept 2002	CPI Q3, 2002	110.7

31. Using the formula in the TWRG, the FMTA is computed at **P0.02788/kWh**. The details of the computation are indicated in **Annex “E”** hereof.

32. The Force Majeure Claims are summarized in **Table I** below.

Table I. FME Claim within the FMTA

<i>In Pesos/kilowatthour equivalent</i>						
Typhoon	FM Event Claim			FMTA	Remark	
Cosme	2008	2009	20010	0.027889	did not breach the FMTA	
	0.0001	0.0001	0.0001			
	0.0003					
Frank Combined (Luzon & Visayas)	2008	2009	20010			
	0.0004	0.0008	0.0008			
	0.002					
Mindanao Sabotage	2008	2009	20010			
	0.0001	0.0002	0.0002			
	0.0005					

33. In summary, NGCP proposes to recover the following combined FME Claims for 2008 and 2009 during the twelve (12) month billing period starting 26 September 2009 to 25 October 2010, while the FME Claim for 2010 is to be billed for the CY 2010, commencing on the January 2010 billing month;

34. All these FME Claims, which are in their peso/kilowatt-hour equivalent, did not breach the FMTA:

FME Event	2008 Pesos/kW	2009 Pesos/kW	Peso/kW (combined 2008 & 2009)	2010 Pesos/kW
Cosme-Luzon	0.0281	0.0611	0.0892	0.0653

Frank - Luzon	0.0218	0.0638	0.0856	0.0822
Frank - Visayas	0.0570	0.1001	0.1571	0.09370
Sabotage-Mindanao	0.0514	0.1095	0.1609	0.1129

35. The assets being maintained and operated by the NGCP are owned by TRANSCO, who is co-assured with the National Power Corporation's (NPC) Industrial All Risk (IAR) insurance policy with the Government Service Insurance System (GSIS). It must be noted, however, that the damaged towers are not covered by the said policy.

36. The FME Claims proposed herein were designed and developed in accordance with the provisions of the TWRG, its Reset Issues Paper and the pertinent issuances of this Honorable Commission, and sets forth fair and reasonable transmission rates that will serve the public interest and convenience, and are geared towards the efficient utilization of transmission facilities. The cost to rehabilitate the damage facilities will ultimately redound to the best interest and benefit of the consuming public in terms of continuous, reliable and efficient power supply as mandated by Republic Act No. 9136.

ALLEGATIONS IN SUPPORT OF THE APPLICATION FOR PROVISIONAL AUTHORITY

37. The timely implementation of the rate changes will allow the equal or even spread of the increases or decreases in tariffs from the initial implementation of the recovery of the cost. Should the rates increase, a delay in the proposed implementation will bring about the significant and equal delay in the recovery of cost.

38. Furthermore, the timely implementation of the rate changes will reduce, if not eliminate, the risk of spending legitimate cost, which if had been foreseen would have been considered in the previous Regulatory Reset Application.

39. The occurrence of the aforementioned force majeure events required or require substantial capital infusion, the recovery of which should be allowed in order not to put a financial strain in the transmission system operator,

and to allow it to continuously provide the necessary transmission service to the grid customers.

P R A Y E R

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

1. **Declare** that Typhoons “Cosme” (for Luzon) and “Frank” (for Luzon and Visayas), and the incidents of sabotage damaging towers in Mindanao are force majeure events in the purview of the TWRG;

2. **Approve** the expenditures incurred and are estimated/programmed to incurred for the rehabilitation of the damaged transmission facilities and to declare that the same are prudent and documented;

3. **Approve** the proposed pass-through amount representing return on and of capital expenditure associated with the emergency responses and the repair and rehabilitation of facilities damaged due to the said events;

4. **Approve** the following proposed FME Pass-Through Amount to be passed through to customers in Luzon, Visayas and Mindanao in CY 2009 and 2010, the combined FME Claim for 2008 and 2009 to be billed for the 12 month period of 26 September 2009 to 25 October 2010, and FME Claim for 2010 to billed for the year 2010;

<i>FME Event</i>	<i>2008 Pesos/kW</i>	<i>2009 Pesos/kW</i>	<i>Peso/kW (combined 2008 & 2009)</i>	<i>2010 Pesos/kW</i>
Cosme-Luzon	0.0281	0.0611	0.0892	0.0653
Frank - Luzon	0.0218	0.0638	0.0856	0.0822
Frank - Visayas	0.0570	0.1001	0.1571	0.09370
Sabotage-Mindanao	0.0514	0.1095	0.1609	0.1129

5. **Grant** a provisional authority to implement and bill the FME Pass-Through Amount effective the billing month of October 2009 (26 September – 25 October 2009 Billing Period); and

6. **Exclude** the proposed Pass-Through Amount from the side constraint calculation in the years 2009 and 2010.

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

Quezon City for Pasig City, 10 July 2009.

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