

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

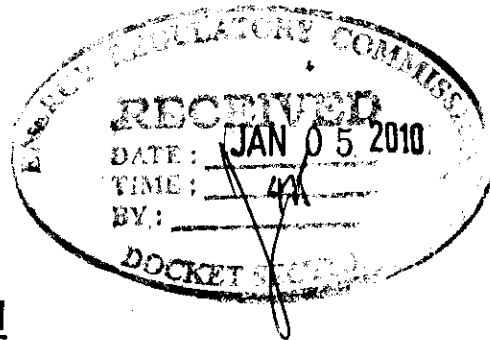
IN THE MATTER OF THE 14th
APPLICATION FOR THE
RECOVERY OF THE
INCREMENTAL COSTS ON
FOREIGN CURRENCY EXCHANGE
RATE FLUCTUATIONS UNDER
THE INCREMENTAL CURRENCY
EXCHANGE RATE ADJUSTMENT
(ICERA) WITH PRAYER FOR
PROVISIONAL AUTHORITY (PA)

ERC CASE NO. 2010 - 002 RC

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

Applicants.

x-----x



APPLICATION

Applicants **NATIONAL POWER CORPORATION (NPC)** and **POWER SECTOR ASSETS AND LIABILITIES MANAGEMENT (PSALM) CORPORATION** 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 undisposed generating assets and IPP contracts of PSALM Corp.

4. Applicant NPC is filing this Application in its capacity as the 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, provisionally approved generation charges in the Orders dated February 16, 2009 and March 23, 2009 for the Luzon/Mindanao and Visayas Grid, respectively, under ERC Case No. 2009-004-RC, and the provisionally approved deferred 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. In the Order dated February 24, 2003, the Honorable Commission issued and adopted the Implementing Rules for the Incremental Currency Exchange Rate Adjustment (ICERA) 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 Section 4(e) Rule 3 of the Implementing Rules and Regulations (IRR), as amended of Republic Act (RA) 9136 (Electric Power Industry Reform Act or EPIRA) dated June 8, 2001.

7. The Application covers the billing period from April 2009 to June 2009. Applicants have fully complied with the ICERA's monthly reportorial requirements, to support the calculated allowable costs covering the billing period, as evidenced by the submitted reports/compliances duly received by this Honorable Commission and hereto attached as **Annex "A" and series**.

8. 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 (principal repayment portion) and Operating 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 billing period April 2009 to June 2009 for the Luzon, Visayas and Mindanao grids.

9. Pursuant to the Honorable Commission's directive in ERC Order dated November 23, 2005 (approval of 4th ICERA DAA), the proposed 14th ICERA DAA charge is calculated on a per grid basis.

10. On February 16, 2009 and March 23, 2009, the Honorable Commission issued an Order granting NPC/PSALM provisional authority (PA) to implement new basic generation rates of **PhP4.3648/kWh** for Luzon, **PhP3.7255/kWh** for the Visayas grid, and **PhP2.8177/kWh** for the Mindanao grid. The PA authorized NPC/PSALM to implement the new base rates corresponding to the revised revenue requirement starting the billing month of March 2009.

11. Based on the components of the new revenue requirement and energy sales in the February 16, 2009 Order, the new base rates for capacity fees were deduced, which then served as the basis in the DAA calculations for the Luzon and Mindanao grids. However, said Order, as well as the March 23, 2009 Order modifying the new basic generation charge for the Visayas grid, was silent as to the foreign exchange rates to use for both the foreign-denominated operating expenses and the principal repayment portion of debt service. Accordingly, Applicants manifest a need to establish the level of the base rates, in order to determine the new base foreign exchange rates in US Dollar and Japanese Yen for Forex I (debt service) and Forex II (insurance and spare parts).

12. The last asset appraisal conducted by Resource Management International (RMI) Inc. was in CY 1996. This means that no asset revaluation was provided/allowed in the afore-mentioned Order, effectively

pegging the rate base to CY 1996 level. Hence, in the absence of a base rate, we are proposing that the base rate for the principal repayment portion of debt service be based on the CY 1996 weighted average foreign exchange rate, to coincide with the last asset revaluation conducted by NPC. This is consistent with the PA issued by the ERC which did not consider the proposed revaluation of assets, pending approval of the asset valuation guidelines.

13. For foreign-denominated operating expenses however, the DAA calculations considered a new base rate based on CY 2007 weighted average foreign exchange rate, consistent with the basic generation charge application which utilized test year 2007.

14. In view of the foregoing, Applicants hereby propose that the Honorable Commission consider a new base rate based on CY 2007 December weighted average foreign exchange rate of **PhP41.7430** for foreign-denominated operating expenses (OPEX), to coincide with the test year used in the PA granted by the Honorable Commission. For the principal repayment portion of debt service however, pending approval of the asset valuation guidelines, the weighted average CY 1996 foreign exchange rate amounting to **PhP26.2320** for the US Dollar, and **PhP0.2409** for the Japanese Yen, is hereby proposed to coincide with the last asset revaluation/appraisal conducted in CY 1996.

15. The calculation for the recovery/refund of Capacity and Infrastructure Fees for Bakun Hydroelectric Power Plant and San Roque Multi-purpose Project were pegged at P3.8299/kWh as follows:

a. Bakun Hydro Electric Power Plant:

For the billing period April 2009, covering the billing month January 26, 2009 to February 25, 2009, capacity fee was calculated based on the Honorable Commission's Decision on ERC Case No. 2001-813 dated August 24, 2006 which provides that any amount in excess of the PhP3.8299/kWh, which is the rate considered by NPC as capacity fee for Bakun in ERC Case No. 2004-178, shall be part of the energy charge and shall be considered as allowable cost under the GRAM.

The calculation of the capacity fees for the billing period May 2009 and June 2009, covering the billing months February 26, 2009 to April 25, 2009, were pegged at P3.8299/kwh or actual capacity fee whichever is lower. It should be noted that the capacity fee component of Bakun in the provisionally approved basic generation charge under ERC Case No. 2009-004, excludes the O & M costs. Any amount in excess of the Php3.8299 plus the O & M costs, were recovered under the GRAM.

b. San Roque Multipurpose Project

The capacity fee for San Roque was calculated based on ERC Case No. 2001-816 which pegged the purchased power cost of San Roque Multipurpose Project at the effective rate of the Luzon Grid or the purchased power cost under the agreement whichever is lower. Any amount in excess of the P3.8299/kwh plus the PPC variable and fixed O & M costs, were considered for recovery under the GRAM.

16. The Application likewise includes the recovery/(refund) of the allowable capacity and infrastructure fees for Kalayaan Unit No. 3 & 4 and Mindanao Coal (STEAG), based on the Honorable Commission's Decision in ERC Case No. 2007-159 dated November 17, 2008 and ERC Case No. 2001-811 dated February 2, 2009, respectively.

17. The DAA for capacity fees was calculated as follows:

- a. For the billing period April 2009, covering the billing month January 26, 2009 to February 25, 2009, DAA refers to the difference between the allowable capacity fees and the amounts recovered through the basic generation rates per ERC Case No. 2004-178;
- b. For the billing period May and June 2009, covering the billing months February 26, 2009 to April 25, 2009, DAA refers to the difference between allowable capacity fees and the amounts recovered through the basic generation rates per ERC Case No. 2009-004 RC.

18. This instant Application does not include any un-recovered or un-refunded balance from the previous ICERA applications, considering that the same are still pending resolution by the Commission.

19. Considering the foregoing, and pursuant to all the relevant Decisions and Orders issued by the Honorable Commission, the Applicants have

calculated total deferred costs for 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 billing period from April to June 2009 only. Table 1 contains the summary of the total deferred FOREX costs as follows:

Table 1. Total Deferred FOREX Costs, in Pesos

	LUZON	VISAYAS	MINDANAO
Zero % VAT	1,973,322,541	1,240,930,933	155,075,613
12% VAT	4,617,527,492	380,775,159	88,677,010
TOTAL DAA, Pesos	6,590,850,033	1,621,706,093	243,752,623

20. This application seeks the Honorable Commission's approval for the recovery/refund of the above-stated total current deferred FOREX costs for the billing period April 2009 to June 2009, through the imposition of the following proposed DAA charges:

Table 2. Proposed 14th ICERA DAA Charges, P/kWh

	LUZON	VISAYAS	MINDANAO
0% VAT	0.3421	0.9213	0.0715
12% VAT	0.8004	0.2827	0.0409
TOTAL DAA, P/kWh	1.1425	1.2039	0.1124

In accordance with ERC Resolution No. 20, Series of 2005, the VAT to be imposed to consumers will be based on gross receipts or the total amount paid for electricity sold from non-renewable energy portion of the generation mix corresponding to the billing period under recovery/(refund).

21. Applicants likewise seek the approval of the Honorable Commission to recover the above-stated deferred costs over the following recovery periods:

Table 3. Proposed Spread (No. of Months)

Luzon	Visayas	Mindanao
3	3	3

22. As authorized under the Implementing Rules of the ICERA, Applicants utilized the carrying charge interest rates, as shown in Table 4 below:

Table 4. Allowable Carrying Charge Interest Rates

Billing Period	Prevailing 91-day T-Bill Rate ^{1/}	Authorized Allowance ^{2/}	Allowable Rate
April	4.3200%	3.00%	7.3200%
May	4.2940%	3.00%	7.2940%
June	4.4370%	3.00%	7.4370%

1- Source: *Bangko Sentral ng Pilipinas*

2- As authorized in the *ICERA Implementing Rules*

23. 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.

24. As of today, Applicants are implementing the 11th ICERA charges in Luzon, pending resolution of the 12th and 13th ICERA applications. For the Visayas, Applicants are implementing the 8th ICERA charges, pending resolution by the Honorable Commission of the 9th to 13th ICERA Applications. The 8th ICERA DAA for the Mindanao grid was fully recovered/(refunded), hence starting

the billing month July 25 to August 26, 2009, no ICERA charges are being imposed to electricity consumers in the Mindanao grid.

25. Applicants further pray for the issuance of a provisional authority covering the deferred costs under the 14th ICERA, as well as the estimated DAA balances under the 12th and 13th ICERA for Luzon and the 9th to 13th ICERA for the Visayas and Mindanao grids, in order to mitigate the accumulated DAA to customers and improve NPC's financial standing.

26. In support of the proposed recovery/refund calculated for the 14th ICERA, attached hereto are the various computations and information on the following:

Calculation of Deferred Cost and Proposed Charges From April 2009 to June 2009	Annex "B" and series
The Projected Energy Sales (in GWh) per NPC's Proposed CY 2007 Budget used to calculate the proposed DAA charges in P/kWh	Annex "C"
91-day Treasury Bill Rates	Annex "D"
Actual energy sales from April 2009 to June 2009	Annex "E"

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 Rate Adjustment (ICERA) and Section 4(e) Rule 3 of the IRR, as amended, of RA

9136 or EPIRA, the following deferred costs/(refund), recovery period, and proposed Deferred Accounting Adjustment (DAA) charges covering the current DAA be **APPROVED**:

Particulars	Luzon	Visayas	Mindanao
Total Deferred Costs/(Refund)	6,590,850,033	1,621,706,093	243,752,623
Total DAA Charge	1.1425	1.2039	0.1124
Proposed Recovery Period (in number of months)	3	3	3

Applicants further pray for the issuance of a Provisional Authority for the immediate implementation of the above proposed rates for Luzon, Visayas and Mindanao Grids, as well as the early resolution of the 12th & 13th ICERA applications for Luzon and the 9th to 13th ICERA Applications for the Visayas and Mindanao grids.

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

Quezon City for Pasig City, 28 December 2009

-signatories next page



MARIA LUZ L. CAMINERO

General Counsel

IBP No. 735359 (01-08-08, Quezon City)
MCLE Compliance No. II-0008910 (01-09-08)
Roll of Attorney No. 35714



CECILIO B. GELLADA, JR.

Corporate Legal Counsel

IBP No. 767027 (01-12-09, Quezon City)
MCLE Compliance No. II-0006804 (08-10-07)
Roll of Attorney No. 30354



LIBERTY Z. Dumlao

Corporate Legal Counsel

MCLE Compliance No. II-0000903 (01-26-07)
IBP No. 775411 (01-12-09, Makati City)
Roll of Attorney No. 41588



DAVID I.B. Ocampo

Corporate Attorney

IBP No. 775409 (01-12-09, Cam. Sur)
MCLE Compliance No. I-0012451 (06-14-07)
Roll of Attorney No. 37759



ARLENE B. EVANGELIO

Corporate Attorney

IBP No. 775408 (01-12-09, Batangas)
MCLE Compliance No. II-0001049 (01-26-07)
Roll of Attorney No. 48430



CAROLINE V. BALÓ-ATENCIA

Corporate Attorney

IBP No. 775413 (01-012-09, Quezon City)
MCLE Compliance No. II-0009018 (12-13-07)
Roll of Attorney No. 47133



PIA ZOBEL Z. RUIZ-SAN DIEGO

Corporate Attorney

IBP No. 775410 (01-12-09, Manila)

MCLE Compliance No. II-0001583 (01-08-07)

Roll of Attorney No. 49458

RENATO R. VEHEMENTE

Corporate Attorney

IBP No. 787688 (04-08-09, Makati City)

Roll of Attorney No. 56568

**POWER SECTOR ASSETS AND LIABILITIES
MANAGEMENT CORPORATION**

7th Floor, Bankmer Building

6756 Ayala Avenue, Makati City

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.

MCLE Compliance No. II-0003935

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



MAY ROSE C. PINTOR

Corporate Attorney A

Special Attorney-OSG

IBP Lifetime No. 03387

MCLE Compliance No. II-0003932

Roll No. 47811



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

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