

Republic of the Philippines
ENERGY REGULATORY COMMISSION
San Miguel Avenue, Pasig City

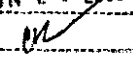
**IN THE MATTER OF THE APPLICATION
FOR THE RECOVERY OF THE
INCREMENTAL COSTS ON FOREIGN
CURRENCY EXCHANGE RATE
FLUCTUATIONS UNDER THE
INCREMENTAL CURRENCY EXCHANGE
RATE ADJUSTMENT (ICERA), WITH
PRAYER FOR PROVISIONAL
AUTHORITY**

ERC CASE NO. 2008-032 RC

**NATIONAL POWER CORPORATION
(NPC),**

Applicant.

x ----- x

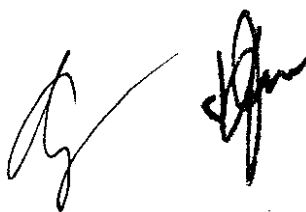
DOCKETED
Date: JUN 25 2008
By: 

ORDER

On June 3, 2008, the National Power Corporation (NPC) filed an 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.

In the said application, NPC alleged, among others, that:

1. In its Order dated February 24, 2003 in ERC Case No. 2003-44, the Commission issued and adopted the Implementing Rules for the 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;
2. The instant application covers the billing period July 2006 to December 2006. It has complied with the ICERA's monthly reportorial requirements in support of the calculated allowable costs covering the test period;
3. It seeks to recover/(refund) the Deferred Accounting Adjustments (DAAs), the gain/(loss) from the foreign exchange fluctuations in the settlement of Debt Service and Operation Expenses (OPEX) and the difference in the actual and billed, through the generation charge, amortization of Capacity and Infrastructure Fees for Build-Operate-Transfer (BOT) Plants, and corresponding carrying charges for the billing period from July 2006 to December 2006 for the Luzon, Visayas and Mindanao grids, including the estimated balance and carrying charges;



4. Pursuant to the Commission's directive in its Order dated November 23, 2005 (approval of 4th ICERA DAA), the proposed 8th ICERA DAA charge are calculated on a per grid basis;
5. Consistent with its previous ICERA applications, the Base Exchange Rates used in the calculation of the 8th ICERA DAA for OPEX is adjusted to the average figures of CY 2002 as compared with those from CY 2000 or from PhP44.0494/US\$1 to PhP51.6036/US\$1 and PhP0.4096/JP¥ 1 to PhP0.4128/JP¥1. However, Base Exchange Rates for Debt Service are maintained at the CY 2000 level, pending resolution on its "Supplemental Motion for Clarification" filed 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 it with a better understanding of the Commission's intention particularly on the appropriate Base Exchange rate/price of Debt Service;
6. The calculation of DAA balances and carrying charges are broken down into: a) not subject to Reformed Value Added Tax (RVAT); and b) subject to RVAT due to the implementation of RVAT from November 1, 2005 consistent with Republic Act No. 9337 and ERC Resolution No. 20;
7. The calculation for the recovery/refund of costs on Actual Capacity and Infrastructure Fees for Bakun Hydroelectric Power Plant and San Roque Multi-purpose Project is up to the authorized recoverable rate of PhP3.8299/kWh contained in the Commission's Order on the 5th ICERA;
8. To align the nature of the adjustment to the appropriate mechanism, it also proposes to the Commission to transfer the recovery/refund of DAAs under the Capacity and Infrastructure Fee component, which is based on the Commission's Order dated April 14, 2004 and June 9, 2004 under ERC Case Nos. 2003-574 and 2004-122, respectively, from the ICERA adjustment to the GRAM adjustment mechanism;
9. The proposed 8th ICERA DAA charges shall be billed on top of the existing RORB-TOU-based generation charge. Pursuant to the Implementing Rules of the ICERA, it proposes to recover the following deferred FOREX adjustments and the corresponding carrying charges based on the BSP-established 91-day Treasury Bill rates plus 3%, through the proposed 8th ICERA DAA charges for Luzon, Visayas and Mindanao grids for the period from July 2006 to December 2006. The table below shows the summary of the total deferred cost on ICERA and its breakdown as to not subject to RVAT and subject to RVAT while the other table shows the allowable carrying charge interest rates under the instant application:

Total Deferred Cost on ICERA, in PhP

	Luzon	Visayas	Mindanao	Phils.
TOTAL	<u>(2,531,198,240)</u>	<u>389,098,251</u>	<u>(14,018,872)</u>	<u>(2,156,118,861)</u>
Subject to RVAT	(2,437,348,976)	410,726	(199,617,860)	(2,636,556,111)
Not Subject to RVAT	(93,849,264)	388,687,525	185,598,988	480,437,249

Allowable Carrying Charge Interest Rates

Test/Billing Months	Prevailing 91-day T-Bill Rate 1/	Authorized Allowance 2/	Allowable Rate
July 2006	6.076%	3.00%	9.076%
August 2006	5.403%	3.00%	8.403%
September 2006	5.444%	3.00%	8.444%
October 2006	5.469%	3.00%	8.469%
November 2006	4.837%	3.00%	7.837%
December 2006	5.153%	3.00%	8.153%

10. The application seeks to obtain the approval for the recovery/refund of the total deferred FOREX fluctuation costs and the balance of previously approved ICERA DAAs through the imposition of the proposed ICERA DAA charges in PhP/kWh as follows:

	Luzon	Visayas	Mindanao
ICERA DAA Charges, PhP/kWh	(0.0207)	0.0279	0.0165

11. 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;
12. It seeks the approval to recover the above-mentioned deferred costs over the following recovery periods:

	LUZON	VISAYAS	MINDANAO
Recovery Period, in months			
Debt Service & OPEX	60	10	24
Capacity Fees	60	30	10

13. It prays that the proposed DAA charges of (PhP0.0207/kWh) for Luzon grid, PhP0.0279/kWh for Visayas grid and PhP0.0165/kWh for Mindanao grid be approved or provisionally approved by the Commission.

Finding said application sufficient in form and in substance, with the required fees having been paid, the same is hereby set for hearing on July 17, 2008 at two o'clock in the afternoon (2:00 P.M.) at the ERC Hearing Room, 15th Floor, Pacific Center Building, San Miguel Avenue, Pasig City.

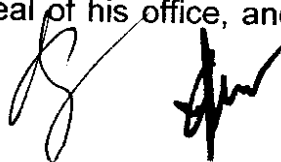
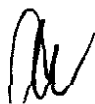
NPC is hereby directed to cause the publication of the attached Notice of Public Hearing, at its own expense, twice (2x) for two (2) successive weeks in two (2) newspapers of general circulation in the Philippines, with the date of the last publication to be made not later than ten (10) days before the date of the scheduled initial hearing. It is also directed to inform the consumers, by any other means available and appropriate, of the filing of the instant application, its reasons therefor, and of the scheduled hearing thereon.

Let copies of the application, this Order and the attached Notice of Public Hearing be furnished the Office of the Solicitor General (OSG), the Commission on Audit (COA) and the Committees on Energy of both Houses of Congress who are hereby requested, if they so desire, to send their duly authorized representatives at the scheduled hearing.

Likewise, let copies of this Order and the attached Notice of Public Hearing be furnished the Office of the Mayor of Quezon City for the appropriate posting thereof on its bulletin board.

NPC is hereby directed to furnish all those making requests therefor with copies of the application and its attachments, subject to reimbursement of reasonable photocopying costs.

On the date of the initial hearing, NPC must submit to the Commission its written compliance with the jurisdictional requirements attaching therewith, methodically arranged and duly marked, the evidence on the actual posting and publication of the Notice of Public Hearing consisting of a certification issued to that effect, signed by the afore-mentioned Mayor or his duly authorized representative, bearing the seal of his office, and the affidavits of the Editors or



Business Managers of the newspapers where the said Notice of Public Hearing was published together with the complete issues of the said newspapers, and such other proofs of compliance with the requirements of the Commission.

NPC is further directed to submit, at least five (5) days before the date of initial hearing, its Pre-trial Brief containing, among others, the following:

- a) a summary of admitted facts and proposed stipulations of facts;
- b) the issues to be tried or resolved;
- c) the documents or exhibits to be presented, stating the purposes thereof and proposed markings therefor; and
- d) the number and names of witnesses, with their written testimonies in affidavit form to be attached to the Pre-trial Brief.

As part of the pre-trial conference, NPC must also be prepared to make an expository presentation on its application, aided by whatever communication medium that it may deem appropriate for the purpose, in order to put in plain words and explain, for the benefit of the consumers and other concerned parties, what the application is all about and the reasons and justifications being cited in support of the rate adjustments prayed for.

DISCUSSION

To determine the propriety of NPC's prayer for the issuance of a provisional authority, the Commission considered the following factors: a) Relevant Test Period; b) Base FOREX Rates for the Debts Service and OPEX; and c) Calculation of the total ICERA DAA.

A. Relevant Test Period

In calculating the proposed ICERA DAA, the Commission adopted July 2006 to December 2006 as the test period.

The bottom of the page features several handwritten signatures and initials. From left to right, there is a signature that appears to be 'A', followed by a signature that looks like 'G', a signature that looks like 'J', a signature that looks like 'R', and a signature that looks like 'M'. These are likely the signatures of the Commission members or staff involved in the decision.

B. Base Foreign Exchange (FOREX) Rates

In the calculation of the DAA for OPEX, the Commission used the average exchange rates for 2002 of the Bangko Sentral ng Pilipinas (BSP) Base Exchange FOREX Rates. The US Dollar to Peso rate was at PhP51.6036/US\$1.00 while the Yen to Peso rate was at PhP0.4128/JP¥1.00.

On the other hand, in the calculation of the DAA for Debt Service, the Commission used the Base Exchange FOREX Rates at CY 2000 levels where the US Dollar to Peso rate was at PhP44.0494/US\$1.00 while the Yen to Peso rate was at PhP0.4096/JP¥1.00.

C. Calculation of the Total ICERA DAA

ICERA is a cost recovery mechanism that should have a zero impact on the utility's income and any under or (over) recovery on the actual deferred costs should be carried forward in the next ICERA filing. On the other hand, the DAA is a component of the ICERA which is intended to recover/(refund) the deferred cost from currency exchange adjustment.

Based on the submitted documents, the Commission extended the recovery period which includes the amount collected/refunded until April 2008.

Shown below is the computation of NPC's ICERA DAA for Luzon, Visayas and Mindanao grids:

	LUZON	VISAYAS	MINDANAO
VARIABLE (12%)	(2,141,646,900.76)	490,140.03	(212,813,438.86)
NON-VARIABLE	160,006,784.61	427,311,547.43	195,893,345.85
TOTAL	(1,981,640,116.15)	427,801,687.46	(16,920,093.01)

The Commission noted that the instant application did not cover the entire period of July 2006 to March 2008. Thus, the Commission deems it proper to extend the carrying charge to April 2008 recovery period due to NPC's failure to file the instant application within the period prescribed in the ICERA Guidelines.

Based on the foregoing, the Commission computed the total ICERA DAA including the recovery period and the breakdown of the deferred costs which are subject and not subject to RVAT pursuant to Republic Act No. 9337 and ERC Resolution No. 20, Series of 2005, to wit:

GRIDS	DAA (PhP/kWh)		Total DAA (PhP/kWh)	RECOVERY PERIOD (in Months)	
	VATable (12%)	NONVATable		VATable	NONVATable
Luzon	(0.1967)	0.0147	(0.1820)	6	6
Visayas	0.0001	0.0278	0.0279	10	30
Mindanao	(0.0522)	0.0480	(0.0042)	6	6

Anent the DAA of Visayas, the Commission finds it reasonable to provisionally approve the rates as proposed by NPC considering that the application of the same recovery period as that used for Luzon and Mindanao will result to DAAs which are higher than the rates applied for.

WHEREFORE, the foregoing premises considered, the Commission hereby **PROVISIONALLY APPROVES** the application filed by the National Power Corporation (NPC) for the recovery of the incremental costs on foreign currency exchange rate fluctuations under the Incremental Currency Exchange Rate Adjustment (ICERA) as modified.

Accordingly, NPC is authorized to recover/(refund) the ICERA for the Luzon, Visayas and Mindanao grids within the corresponding recovery periods as shown in the table below, starting from its May 26, 2008 to June 25, 2008 billing period and until such time that the full amount shall have been recovered/(refunded) or until the next application for the recovery of the incremental costs on foreign currency exchange rate fluctuations under the ICERA, whichever comes earlier:

GRIDS	DAA (PhP/kWh)		Total DAA (PhP/kWh)	RECOVERY PERIOD (in Months)	
	VATable (12%)	NONVATable		VATable	NONVATable
Luzon	(0.1967)	0.0147	(0.1820)	6	6
Visayas	0.0001	0.0278	0.0279	10	30
Mindanao	(0.0522)	0.0480	(0.0042)	6	6

Further, NPC shall be responsible for: a) the recovery/(refund) of the DAA for the Transition Supply Contracts (TSCs) assigned to the buyers of its assets within the period prescribed in this Order; and b) making the necessary adjustments on its Value Added Tax (VAT) charges.

SO ORDERED.

Pasig City, June 11, 2008.


RODOLFO B. ALBANO, JR.
 Chairman


RAUF A. TAN
 Commissioner


MARIA TERESA A. R. CASTAÑEDA
 Commissioner


ALEJANDRO Z. BARIN
 Commissioner


JOSE C. REYES
 Commissioner

Copy furnished:

1. **Atty. Melchor P. Ridulme**
Atty. Gordon SY Montojo
Atty. Julieta S. Baccutan-Estamo
Atty. Mark Anthony S. Actub
National Power Corporation
Agham Road, Diliman
Quezon City
2. **The Office of the Solicitor General**
234 Amorsolo Street, Legaspi Village, Makati City
Metro Manila
3. **The Commission On Audit**
Don Mariano Marcos Avenue
Diliman, Quezon City, Metro Manila
4. **The Committee On Energy**
Senate of the Philippines
GSIS Building, Roxas Blvd., Pasay City, Metro Manila
5. **The Committee On Energy**
House of Representatives
Batasan Hills, Quezon City, Metro Manila
6. **Atty. Ranulfo Ocampo**
President
Philippine Electric Plant Owners Association (PEPOA)
8th Floor, Strata 100 Building
Emerald Avenue, Ortigas Center, Pasig City
7. **The General Manager**
Philippine Rural Electric Cooperatives Association (PHILRECA)
4th Floor, Casman Building
372 Quezon Avenue, Quezon City
Metro Manila
8. **Ms. Edith Bueno**
Administrator
NATIONAL ELECTRIFICATION ADMINISTRATION
ODFC Building, 1050 Quezon Avenue
Quezon City, Metro Manila
9. **All Distribution Utilities**

corresponding carrying charges for the billing period from July 2006 to December 2006 for the Luzon, Visayas and Mindanao grids, including the estimated balance and carrying charges;

4. Pursuant to the Commission's directive in its Order dated November 23, 2005 (approval of 4th ICERA DAA), the proposed 8th ICERA DAA charge are calculated on a per grid basis;
5. Consistent with its previous ICERA applications, the Base Exchange Rates used in the calculation of the 8th ICERA DAA for OPEX is adjusted to the average figures of CY 2002 as compared with those from CY 2000 or from PhP44.0494/US\$1 to PhP51.6036/US\$1 and PhP0.4096/JP¥ 1 to PhP0.4128/JP¥1. However, Base Exchange Rates for Debt Service are maintained at the CY 2000 level, pending resolution on its "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 it with a better understanding of the Commission's intention particularly on the appropriate Base Exchange rate/price of Debt Service;
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9. The proposed 8th ICERA DAA charges shall be billed on top of the existing RORB-TOU-based generation charge. Pursuant to the Implementing Rules of the ICERA, it proposes to recover the following deferred FOREX adjustments and the corresponding carrying charges based on the BSP-established 91-day Treasury Bill rates plus 3%, through the proposed 8th ICERA DAA charges for Luzon, Visayas and Mindanao grids for the period from July 2006 to December 2006. The table below shows the summary of the total deferred cost on ICERA and its breakdown as to not subject to RVAT and subject to RVAT while the other table shows the allowable carrying charge interest rates under the instant application:

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10. The application seeks to obtain the approval for the recovery/refund of the total deferred FOREX fluctuation costs and the balance of previously approved ICERA DAAs through the imposition of the proposed ICERA DAA charges in PhP/kWh as follows:

ICERA DAA Charges, PhP/kWh

	Luzon	Visayas	Mindanao
ICERA DAA charge	(0.0207)	0.0279	0.0165

11. 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;
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	LUZON	VISAYAS	MINDANAO
Recovery Period, in months			
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Capacity Fees	60	30	10

13. It prays that the proposed DAA charges of (PhP0.0207/kWh) for Luzon grid, PhP0.0279/kWh for Visayas grid and PhP0.0165/kWh for Mindanao grid be approved or provisionally approved by the Commission.

The Commission has set the application for hearing July 17, 2008 at two o'clock in the afternoon (2:00 P.M.) at the ERC Hearing Room, 15th Floor, Pacific Center Building, San Miguel Avenue, Pasig City.

All persons who have an interest in the subject matter of the proceeding may become a party by filing, at least five (5) days prior to the initial hearing and subject to the requirements in the ERC's Rules of Practice and Procedure, a verified petition with the Commission giving the docket number and title of the proceeding and stating: (1) the petitioner's name and address; (2) the nature of petitioner's interest in the subject matter of the proceeding, and the way and manner in which such interest is affected by the issues involved in the proceeding; and (3) a statement of the relief desired.

All other persons who may want their views known to the Commission with respect to the subject matter of the proceeding may file their opposition to the application or comment thereon at any stage of the proceeding before the applicant concludes the presentation of its evidence. No particular form of opposition or comment is required, but the document, letter or writing should contain the name and address of such person and a concise statement of the opposition or comment and the grounds relied upon.

All such persons who may wish to have a copy of the application may request the applicant, prior to the date of the initial hearing, that they be furnished with a copy of the application. The applicant is hereby directed to furnish all those making such request with copies of the application and its attachments, subject to reimbursement of reasonable photocopying costs. Likewise, any such person may examine the application and other pertinent records filed with the Commission during the usual office hours.

WITNESS, the Honorable **RODOLFO B. ALBANO, JR.**, Chairman, the Honorable Commissioners, **RAUF A. TAN, ALEJANDRO Z. BARIN, MARIA TERESA A.R. CASTAÑEDA** and **JOSE C. REYES**, Energy Regulatory Commission, this 11th day of June 2008 at Pasig City.


ATTY. FRANCIS SATURNINO C. JUAN
Executive Director

EO/08-032 RC noph