

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 EVENT
REGULATED FM PASS-
THROUGH FOR TROPICAL
STORM AMANG IN VISAYAS
AND SABOTAGE
INCIDENTS IN MINDANAO,
IN ACCORDANCE WITH
THE RULES FOR SETTING
TRANSMISSION
WHEELING RATES, WITH
PRAYER FOR
PROVISIONAL
AUTHORITY**

ERC CASE NO. 2016-003 RC

**NATIONAL GRID
CORPORATION OF THE
PHILIPPINES,**

Applicant.

X -----X

DOCKETED

Date: JUL 01 2016

By: [Signature]

ORDER

On 12 January 2016, the National Grid Corp. of the Philippines (NGCP) filed an Application for the approval of its Force Majeure Event Regulated FM Pass-through for Tropical Storm *Amang* in Visayas and Sabotage Incidents in Mindanao, with prayer for the issuance of provisional authority.

In support of said Application, NGCP alleged, among others, the following:

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1. NGCP is a corporation created and existing under the laws of the Republic of the Philippines, with principal office address at NGCP Building, Quezon Avenue corner BIR Road, Diliman, Quezon City. It is the concessionaire which assumed the power transmission functions of the National Transmission Corporation (TRANSCO) pursuant to Republic Act No. (RA) 9136, otherwise known as the Electric Power Industry Reform Act of 2001 (EPIRA).¹
2. Under RA 9511,² NGCP was granted a franchise to construct, install, finance, manage, improve, expand, operate, maintain, rehabilitate, repair and refurbish the present nationwide transmission system of the Republic of the Philippines.
3. On 15 January 2009, NGCP assumed the transmission functions of TRANSCO, including the operation, management and maintenance of the nationwide electrical grid.

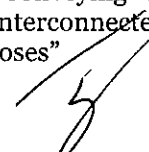
STATEMENT OF FACTS

A. Tropical Storm Amang in Visayas

4. On or about 15 to 19 January 2015, Tropical Storm Amang entered the Philippine Area of Responsibility (PAR) with maximum winds of 100 kilometers per hour (kph) and gustiness of 130 kph. Due to its intensity and heavy rainfall, NGCP's transmission assets and other related facilities in the Visayas area were damaged causing widespread power interruption over the area. A copy of the Certification dated 7 April 2015 issued by the Philippine Atmospheric, Geophysical and Astronomical Services Administration (PAGASA) is attached to the Application as **Annex "A."**

¹ Republic Act No. 9136 entitled, "An Act Ordaining Reforms in the Electric Power Industry, Amending for the Purpose Certain Laws and for Other Purposes"

² Republic Act No. 9511 entitled "An Act Granting the National Grid Corporation of the Philippines a Franchise to Engage in the Business of Conveying or Transmitting Electricity Through High Voltage Back-bone System or Interconnected Transmission Lines, Substations and Related Facilities, and for Other Purposes"

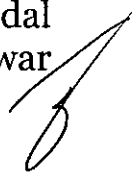


5. After the occurrence of Tropical Storm Amang, in compliance with Article X of the RTWR, NGCP filed with the Commission a Force Majeure Event (FME) Notice dated 31 March 2015, a copy of which is attached as **Annex "B"** of the Application.

B. Sabotage Incidents in Mindanao

6. On or about 13, 18, and 26 January 2015, sabotage incidents occurred in Maguindanao, Cotabato, and Sultan Kudarat, respectively, causing damage to NGCP's transmission assets and other related facilities in Mindanao. Copies of the Progress Report dated 14 January 2015 from Pagalungan Municipal Police Station, Extract Copy of Police Blotter dated 10 April 2015 issued by Pikit Municipal Police Station, and Special Report dated 30 January 2015 issued by President Quirino Police Station are attached to the Application as **Annexes "C," "D,"** and **"E."**
7. After the occurrence of the sabotage incidents, in compliance with Article X of the RTWR, NGCP filed with the Commission an FME Notice dated 10 April 2015, a copy of which is attached as **Annex "F"** of the Application.
8. Immediately after the devastation of Tropical Storm Amang in the Visayas and occurrence of sabotage incidents in Mindanao, NGCP started the repair, restoration, and rehabilitation of its damaged transmission assets and other related facilities in Visayas and Mindanao. As a result, NGCP incurred additional costs for the repair, restoration, and rehabilitation of the said damaged transmission assets.

FORCE MAJEURE EVENT CLAIM

9. Under Section 1.3(a) of the Rules for Setting Transmission Wheeling Rates (RTWR), an FME is defined as a "typhoon, **storm**, tropical depression, flood, drought, volcanic eruption, earthquake, tidal wave or landslide; or an act of public enemy, war
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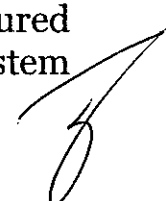
(declared or undeclared), **sabotage**, blockade, revolution, riot, insurrection, civil commotion or any violent or threatening actions.”

10. Amang was categorized by PAGASA as a “Tropical Storm” in its Certification dated 7 April 2015. On the other hand, the bombing incidents in Mindanao are clearly acts of sabotage considering that unknown perpetrators unlawfully destroyed NGCP’s transmission assets using improvised explosive devices. Therefore, Tropical Storm Amang in the Visayas and the sabotage incidents in Mindanao fall within the definition of an FME in accordance with Section 1.3 of the RTWR.
11. In relation to the occurrence of Tropical Storm Amang and sabotage incidents in Mindanao and pursuant to Section 10.1.1 of the same RTWR, NGCP is allowed to recover the cost it incurred in the repair, restoration, and rehabilitation of its transmission assets and other related facilities damaged by Tropical Storm Amang and sabotage incidents in Mindanao through an FM Pass-Through Amount.
12. Within three (3) months after the occurrence of Tropical Storm Amang and sabotage incidents in Mindanao, NGCP filed before the Commission an FME Notice dated 31 March 2015 and an FME Notice dated 10 April 2015, respectively, pursuant to Sections 10.2.1 and 10.2.2 of the RTWR.³
13. Thereafter, within twelve (12) months after the occurrence of the FMEs in Visayas and Mindanao, NGCP files the instant FME Application, in accordance with Sections 10.2.1 and 10.2.3 of the RTWR.

FM PASS-THROUGH AMOUNT COMPUTATION

14. NGCP has not recovered any amount from its Industrial All-Risk (IAR) Insurance Policy procured from the Government Service Insurance System

³ Annexes “B” and “D” of the Application



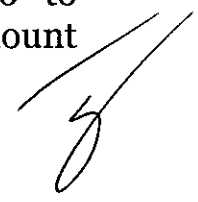
(GSIS) for the year 2015 as compensation for the damage and cost it incurred in the repair, restoration, and rehabilitation of the transmission assets and other related facilities damaged by the FME Tropical Storm Amang and sabotage incidents in Mindanao. Thus, NGCP files the instant FME Claim Application to recover the cost it incurred for the repair, restoration, and rehabilitation of its transmission assets and other related facilities damaged by the FME Tropical Storm Amang and sabotage incidents in Mindanao.

15. The total cost NGCP incurred as additional FME Capital Expenditure (CAPEX) for the repair, restoration, and rehabilitation of its transmission assets and other related facilities damaged by the Tropical Storm Amang and sabotage incidents in Mindanao is **Twenty-Three Million Six Hundred Eighty-Eight Thousand Six Hundred Seven and 80/100 Pesos (PhP23,688,607.80)**. Further, the recoverable value of the assets destroyed by Tropical Storm Amang in the Visayas (Net Fixed Asset Value) is **One Million Forty-Nine Thousand Seven Hundred Thirty-Two and 95/100 Pesos (PhP1,049,732.95)**. The breakdown of the expenses⁴ is shown in the table below:

FME/ REGION	FME CAPEX (in PhP)	NFAV	Total
Tropical Storm Amang in Visayas	20,683,181.96	1,049,732.95	21,732,914.91
Sabotage Incidents in Mindanao	3,005,425.84	-	3,005,425.84
Total	23,688,607.8	1,049,732.95	24,738,340.75

16. NGCP proposes the Force Majeure (FM) Pass-Through Amount, in PhP/kW/month, as additional network charges in the Visayas and Mindanao starting the billing period of February 2016 to December 2020, or until such time that the amount

⁴ Exclusive of Permit Fees



incurred is fully recovered, computed as shown in the table below:

Visayas	2016	2017	2018	2019	2020
PhP/kW/mo.	0.46	0.19	0.15	0.14	0.13
PhP/kWh	0.0010	0.0004	0.0003	0.0003	0.0003
Mindanao	2016	2017	2018	2019	2020
PhP/kW/mo.	0.05	0.02	0.02	0.02	0.02
PhP/kWh	0.0001	0.00005	0.00004	0.00004	0.00004

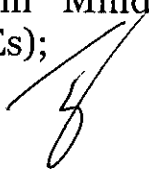
17. NGCP proposes the FM Pass-Through Amounts for the years 2016 to 2020 to allow the recovery of the CAPEX incurred relative to the FME Tropical Storm Amang and sabotage incidents in Mindanao pending the reset process for the Transmission Services for the Fourth Regulatory Period.
18. Although the instant FM Pass-Through Amounts are not included in NGCP's Third (3rd) Regulatory Reset Application, the same can be recovered pursuant to Section 10.1.1 of the RTWR where NGCP is allowed to recover the cost incurred for the repair, restoration, and rehabilitation of damage sustained by its transmission assets and other related facilities as a result of the FME. A copy of the FM Pass-Through Amount Computation is attached to the Application as **Annex "G."**
19. Further, the FM Pass-Through Amounts under this Application did not breach the Force Majeure Threshold Amount (FMTA) of PhPo.0341/kWh in accordance with the RTWR. A copy of the FMTA Computation is attached to the Application as **Annex "H."**
20. Also, NGCP considered the Net Fixed Asset Value of the transmission assets and other related facilities damaged by the FME Tropical Storm Amang and Sabotage Incidents in Mindanao, given that NGCP would have normally fully recovered the return of capital on said assets for the duration of their economic lives had these assets not been damaged or destroyed by said incidents.

**JUSTIFICATION FOR THE ISSUANCE OF
PROVISIONAL AUTHORITY**

21. NGCP moves for the issuance of a provisional approval for the immediate recovery of the FM Pass-Through Amounts pursuant to Section 3, Rule 14 of the ERC Rules of Practice and Procedure.
22. NGCP needs to immediately recover the actual expenses incurred for the repair, restoration, and rehabilitation of the damaged transmission assets and other related facilities. The occurrence of the aforementioned FMEs in Visayas and Mindanao required massive capital infusion, the recovery of which is urgent in order to avoid any financial strain in the operation of NGCP and to allow the continuous provision of transmission service to the grid customers.
23. The timely implementation of the FM Pass-Through Amount will allow the equal or even spread of the increases or decreases in tariffs from the initial implementation of the recovery of the cost.
24. A copy of the Judicial Affidavit of Agnes F. Dela Cruz, Head, Tariff Design and Billing Management Division, Revenue and Regulatory Affairs, in support of the instant Application, is attached as **Annex "I."**
25. In compliance with Rule 6 of the Commission's Rules of Practice and Procedure, NGCP's compliance with pre-filing requirements for the instant application is attached to the Application as **Annex "J"** and series.

PRAYER

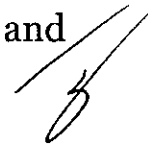
26. NGCP prays the Commission to:
 1. Declare the Tropical Storm Amang and sabotage incidents in Mindanao as Force Majeure Events (FMEs);



2. Grant Provisional Approval to implement and bill the FM Pass-Through Amounts to Visayas and Mindanao customers starting February 2016 billing month to December 2020 billing month or until such time that the amount incurred is fully recovered, as follows:

Visayas	2016	2017	2018	2019	2020
PhP/kW/mo.	0.46	0.19	0.15	0.14	0.13
PhP/kWh	0.0010	0.0004	0.0003	0.0003	0.0003
Mindanao	2016	2017	2018	2019	2020
PhP/kW/mo.	0.05	0.02	0.02	0.02	0.02
PhP/kWh	0.0001	0.00005	0.00004	0.00004	0.00004

3. Approve the Capital Expenditure (CAPEX) amounting to **PhP23,688,607.80** incurred by NGCP for the repair, restoration, and rehabilitation of the damaged transmission assets and other related facilities due to Tropical Storm Amang and sabotage incidents in Mindanao as FMEs;
4. Approve, after due notice and hearing, the proposed FM Pass-Through Amount to be collected from the Visayas and Mindanao customers starting February 2016 billing month to December 2020 billing month or until such time that the amount incurred is fully recovered;
5. Approve and Allow the recovery of the Net Fixed Asset Value of the transmission assets and other related facilities damaged by the FME Tropical Storm Amang and sabotage incidents in Mindanao amounting to **PhP1,049,732.95**, given that it would have been fully recovered by NGCP if these transmission assets and other related facilities have not been damaged or destroyed by FME Tropical Storm Amang and sabotage incidents in Mindanao;
6. Exclude the proposed Pass-Through Amount from the side constraint calculation; and

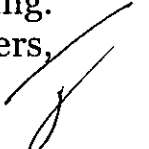


7. For other relief deemed just and equitable under the premises.

Finding the said Application sufficient in form and substance with the required fees having been paid, the same is hereby set for jurisdictional hearing, expository presentation, pre-trial conference and evidentiary hearing on the following dates and venues:

DATE	TIME	VENUE	PARTICULARS
31 August 2016 (Wednesday)	Ten o'clock in the morning (10:00 A.M.)	ERC Mindanao Field Office, Mintrade Bldg., Monteverde Ave., cor. Sales St., Davao City	Jurisdictional Hearing and Expository Presentation
01 September 2016 (Thursday)	Two o'clock in the afternoon (2:00 P.M.)	ERC Visayas Field Office, St. Mary's Drive, Banilad Cebu City	Expository Presentation for Visayas Stakeholders
05 September 2016 (Monday)	Two o'clock in the afternoon (2:00 P.M.)	ERC Hearing Room, 15th Floor, Pacific Center Building, San Miguel Avenue, Pasig City	Pre-Trial Conference and Evidentiary Hearing
06 September 2016 (Tuesday)	Ten o'clock in the morning (10:00 A.M.)		Continuation of Evidentiary Hearing

NGCP is hereby directed to cause the publication of the attached Notice of Public Hearing in two (2) newspapers of general circulation in the Philippines at their own expense, twice (2x) within two (2) successive weeks, the dates of publication not being less than seven (7) days apart, with the date of last publication made not later than ten (10) days before the date of the scheduled initial hearing. NGCP is also directed to inform its Visayas and Mindanao customers,



by any other means available and appropriate, of the filing of the Application, the 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. They are hereby requested, if they so desire, to send their duly authorized representatives at the scheduled hearing.

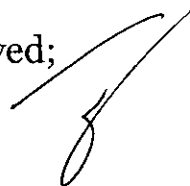
Likewise, let copies of this Order and the attached Notice of Public Hearing be furnished the Offices of Governor of the Province Lanao del Norte, as well as the Mayors and Local Government Legislative Body of Quezon City, Cebu City, and Iligan City for the appropriate posting thereof on their respective bulletin boards.

NGCP 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 and pre-trial conference, NGCP must submit to the Commission their written Compliance with the jurisdictional requirements attaching therewith, methodically arranged and duly marked, the evidence of the actual posting and publication of the Notice of Public Hearing consisting of certifications issued to that effect, signed by the aforementioned Governor, City Mayors, and Local Government Legislative Bodies, or their duly authorized representatives, bearing the seals of their offices, and the affidavits of the Editors or Business Managers of the newspapers where said Notice of Public Hearing were published, together with the complete issues of the said newspapers, and such other proofs of compliance with the requirements of the Commission.

NGCP, and all interested parties are directed to submit, at least five (5) days before the date of initial hearing and pre-trial conference, their respective Pre-trial Briefs containing, among others:

- (a) A summary of admitted facts and proposed stipulation 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 therefore; and
- (d) The number and names of the witnesses, with their written testimonies in an individual affidavit form, to be attached to the Pre-trial Brief.

Failure of NGCP to submit the required Pre-trial Brief and Judicial Affidavits of their witnesses within the prescribed period shall be a ground for cancellation of the scheduled hearing, and the resetting of which shall be six (6) months from said date of cancellation.

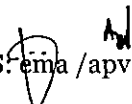
As part of the pre-trial conference, NGCP must also be prepared to make an expository presentation of their Application, aided by whatever communication medium that they may deem appropriate for the purpose, in order to put in plain words and explain, for the benefit of the consumers and other concerned parties, what the Application is all about and the reasons and justifications being cited in support thereof.

SO ORDERED.

Pasig City, 21 June 2016.

FOR AND BY AUTHORITY
OF THE COMMISSION:


JOSE VICENTE B. SALAZAR
Chairman and CEO

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Copy furnished:

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Counsel for NGCP
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2. Office of the Solicitor General
134 Amorsolo Street, Legaspi Village , Makati City
3. Commission on Audit
Commonwealth Ave., Quezon City
4. The Senate Committee on Energy
GSIS Building, Roxas Boulevard, Pasay City
5. The Committee on Energy
House of Representatives
Batasan Hills, Quezon City
6. The City Mayor
Iligan City
7. The Sangguniang Panlungsod
Iligan City
8. The City Mayor
Cebu City
9. The Sangguniang Panlungsod
Cebu City
10. The City Mayor
Quezon City
11. The Sangguniang Panlungsod
Quezon City
12. The Governor
Province of Lanao del Norte
13. The Sangguniang Panlalawigan
Province of Lanao del Norte
14. National Transmission Corp.
Quezon Avenue corner BIR Road, Diliman, Quezon City
15. Power Sector Assets and Liabilities Management Corp.
7/F, Bankmer Building
6756 Ayala Ave., Makati City

