

Republic of the Philippines
ENERGY REGULATORY COMMISSION
Pasig City



**IN THE MATTER OF THE
APPLICATION FOR
APPROVAL OF THE
ANCILLARY SERVICES
PROCUREMENT
AGREEMENT BETWEEN THE
NATIONAL GRID
CORPORATION OF THE
PHILIPPINES AND KING
ENERGY GENERATION, INC.
(SURIGAO DEL SUR POWER
PLANT), WITH PRAYER FOR
THE ISSUANCE OF
PROVISIONAL AUTHORITY**

ERC CASE NO. 2021-058 RC

**NATIONAL GRID
CORPORATION OF THE
PHILIPPINES (NGCP) AND
KING ENERGY
GENERATION, INC. (KEGI),
*Applicants.***

Promulgated:
September 02, 2021

X-----X

ORDER

On 23 July 2021, National Grid Corporation of the Philippines (NGCP) and King Energy Generation, Inc. (KEGI) filed an *Application* dated 18 June 2021, seeking the Commission's approval of their Ancillary Services Procurement Agreement (ASPA) through the Surigao del Sur Power Plant, with prayer for the issuance of provisional authority.

On 10 August 2021, the Commission issued an *Order* and a *Notice of Virtual Hearing*, both dated 05 August 2021, setting the instant *Application* for determination of compliance with the jurisdictional requirements, expository presentation, pre-trial conference and presentation of evidence on 22 and 29 September 2021.

However, on 19 August 2021, the Applicants sent through electronic mail (e-mail) a *Joint Manifestation with Motion (for the*

Issuance of a Revised Order, Notice of Virtual Hearing with alternative Motion to Reset) [Motion] dated 18 August 2021, seeking for the summary correction of the typographical and clerical errors in the document descriptions of some of the Annexes attached to the *Application*, pursuant to Section 3, Rule 7¹ of the Commission’s Revised Rules of Practice and Procedure (RRPP). According to the Applicants, the correct descriptions of Annexes “F,” “G,” and “I” are consistent with the MS Word copy of the *Application* as published in The Manila Times newspaper issue dated 30 June 2021, submitted to the Commission during the pre-filing process. Thus, the Applicants prayed for the issuance of a new Order and Notice of Virtual Hearing reflecting the corrected document descriptions under the same schedule; or for the initial hearing scheduled on 22 September 2021 to be cancelled and reset to 29 September 2021 for the determination of compliance with jurisdictional requirements and conduct of Expository Presentation, while the Pre-trial Conference and presentation of evidence be reset to 06 October 2021, or such other schedule as the calendar of the Commission permits.

Upon perusal of the PDF copy of the *Application* bearing the official docket number and filing date stamped by the Commission as well as the MS Word copy thereof published by the Applicants and submitted during the pre-filing process, it was observed that there were discrepancies between some of the document dates indicated in Annexes “F,” “G,” and “I.” The discrepancies observed are provided in the table below:

Annex	PDF Copy of the Application (Quoted in the Notice of Virtual Hearing dated 05 August 2021)	MS Word Copy of the Application (Reflected in the Annexes)
“D”	Summary of Existing Power Supply Agreement	
“E” series	Amended Article of Incorporation (Company Registration No. CS201019693)	
“F”	2020 General Information	2021 General Information Sheet
“G”	Audited Financial Statement (for the year ended 31 December 2019)	Audited Financial Statement (for the year ended 31 December 2020)
“H”	Certificate of Compliance	

¹ Section 3. Formal Amendments. – A defect in the designation of the parties and other **clerical or typographical errors may be summarily corrected by the Commission at any stage of the proceedings**, motu proprio or upon motion of any party, provided no prejudice is caused thereby to the adverse party.

“I”	Certification issued by Independent Electricity Market Operator of the Philippines, Inc., dated 13 August 2019	Certification issued by Independent Electricity Market Operator of the Philippines, Inc., dated 31st of May 2021
“J”	Surigao Sur Power Plant (SSPP) True Cost	
“K” and series	Single Line Diagram	

Thus, in its *Notice of Virtual Hearing* dated 05 August 2021, it may be noted that the Commission adopted the document descriptions as provided in the PDF copy of the *Application* considering that the same is the official docketed copy of the *Application*, as evidenced by the official docket number and filing date stamped thereon. However, upon confirmation that the years and date as indicated in Annexes “F,” “G,” and “I” are clearly those as alleged in the *Motion*, the Commission deemed it appropriate to summarily correct the same pursuant to Section 3, Rule 7 of its RRPP.

IN VIEW OF THE FOREGOING, the prayer for the issuance of a new Order and Notice of Virtual Hearing in the *Motion* filed by the Applicants is hereby granted and the virtual hearing scheduled on 22 September 2021 is cancelled.

ACCORDINGLY, the Commission hereby sets anew the instant *Application* for determination of compliance with the jurisdictional requirements, expository presentation, pre-trial conference and presentation of evidence on the following dates and online platform for the conduct thereof, pursuant to Resolution No. 09, Series of 2020,² dated 24 September 2020 and Resolution No. 01, Series of 2021, dated 17 December 2020 (ERC Revised Rules of Practice and Procedure)³:

Date	Platform	Activity
29 September 2021 (Wednesday) at nine o'clock in the morning (9:00 A.M.)	Microsoft Teams Application	Determination of compliance with jurisdictional requirements and Expository Presentation
06 October 2021 (Wednesday) at nine o'clock in the morning (9:00 A.M.)		Pre-trial Conference and Presentation of Evidence

² A Resolution Adopting the Guidelines Governing Electronic Applications, Filings and Virtual Hearings Before the Energy Regulatory Commission.

³ A Resolution Adopting the Revised Rules of Practice and Procedure of the Energy Regulatory Commission.

RELATIVE THERETO, NGCP and KEGI are hereby directed to:

- 1) Cause the publication of the attached *Notice of Virtual Hearing* in two (2) newspapers of nationwide 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, and the date of the last publication to be made not later than ten (10) days before the date of the scheduled initial hearing;
- 2) Furnish with copies of this *Order* and the attached *Notice of Virtual Hearing* the Offices of the Provincial Governors, the Mayors, and the Local Government Unit (LGU) legislative bodies within the affected areas for the appropriate posting thereof on their respective bulletin boards;
- 3) Inform the consumers within the affected areas, by any other means available and appropriate, of the filing of the *Application*, the reasons therefor, and of the scheduled virtual hearings thereon;
- 4) Furnish with copies of this *Order* and the attached *Notice of Virtual Hearing*, 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 and attend the scheduled hearings; and
- 5) Furnish with copies of the *Application* and its attachments all those making request therefor, subject to the resolution of the prayer for confidential treatment of information, if any, and reimbursement of reasonable photocopying costs.⁴

Within five (5) calendar days prior to the date of the scheduled initial virtual hearing, NGCP and KEGI must submit to the Commission via e-mail at docket@erc.ph, copy furnish the Legal Service through legal@erc.ph, their written compliance to the aforementioned directives by attaching therewith, methodically arranged and duly marked, the following:

⁴ For the e-mail addresses of the Applicants, please see page 8.

- 1) The evidence of publication of the attached *Notice of Virtual Hearing* consisting of affidavit of the Editors or Business Managers of the newspapers where the said *Notice of Virtual Hearing* were published, and the complete issues of the said newspapers;
- 2) The evidence of actual posting of this *Order* and the attached *Notice of Virtual Hearing* consisting of certifications issued to that effect, signed by the aforementioned Governors, Mayors, and LGU legislative bodies or their duly authorized representatives, bearing the seals of their offices;
- 3) The evidence of other means employed by NGCP and KEGI to inform the consumers affected of the filing of the *Application*, the reasons therefor, and of the scheduled hearings thereon;
- 4) The evidence of receipt of copies of this *Order* and the attached *Notice of Virtual Hearing* by the OSG, COA, and the Committees on Energy of both Houses of Congress;
- 5) The evidence of receipt of copies of the *Application* and its attachments, except those covered by motion for confidential treatment of information, by all those making requests therefor, if any; and
- 6) Such other proofs of compliance with the requirements of the Commission.

Moreover, NGCP and KEGI are hereby required to post on their bulletin boards, the scanned copies of the jurisdictional requirements, together with the newspaper publications and certifications issued by the concerned Office of the Mayors, Provincial Governors and Local Legislative Bodies and to submit proof of posting thereof.

NGCP and KEGI, and all interested parties are also required to submit to the Commission via e-mail at docket@erc.ph, copy furnish the Legal Service through legal@erc.ph, at least five (5) calendar days before the date of the scheduled initial virtual hearing and Pre-trial Conference, their respective Pre-Trial Briefs containing, among others:

- 1) A summary of admitted facts and proposed stipulation of facts;
- 2) The issues to be tried or resolved;

- 3) The documents or exhibits to be presented, stating the purposes and proposed markings therefor, which should also be attached to the Pre-trial Brief; and
- 4) The number and names of the witnesses, with their written testimonies in a Judicial Affidavit form attached to the Pre-trial Brief.

NGCP and KEGI must ensure that all the documents or exhibits proposed to be presented have already been duly submitted to the Commission at least five (5) calendar days before the date of the scheduled initial virtual hearing and Pre-trial Conference pursuant to the preceding paragraph.

Failure of NGCP and KEGI to comply with the above requirements within the prescribed period shall be a ground for cancellation of the scheduled hearings, and the resetting of which shall be six (6) months from the said date of cancellation.

NGCP and KEGI must also be prepared to make an expository presentation of the instant *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, the nature of the *Application* with relevant information and pertinent details substantiating the reasons and justifications being cited in support thereof.

NGCP and KEGI are hereby directed to file a copy of their Expository Presentations via e-mail at doCKET@erc.ph, copy furnish the Legal Service through legal@erc.ph, at least five (5) calendar days prior to the scheduled virtual hearing. NGCP and KEGI shall also be required, upon the request of any stakeholder, to provide an advance copy of their expository presentations, at least five (5) calendar days prior to the scheduled virtual hearing.

Any interested stakeholder may submit its comments and/or clarifications at least one (1) calendar day prior to the scheduled virtual hearing, via e-mail at doCKET@erc.ph, copy furnish the Legal Service through legal@erc.ph. The Commission shall give priority to the stakeholders who have duly submitted their respective comments and/or clarifications, to discuss the same and propound questions during the course of the expository presentation.

NGCP and KEGI are hereby directed to submit, either through personal service, registered or ordinary mail/private courier, one (1) set of the original or certified true hard/printed copy/ies of their Jurisdictional Compliance, Expository Presentations, Pre-trial Brief, and Judicial Affidavit/s of witness/es, within five (5) working days from the date that the same were electronically submitted, as reflected in the acknowledgment receipt e-mail sent by the Commission. Similarly, all interested parties who filed their Petition for Intervention or Opposition are required to submit the hard/printed copy thereof within the same period through any of the available modes of service.

Finally, NGCP and KEGI, including their authorized representative/s and witness/es, are hereby directed to provide the Commission, thru legal.virtualhearings@erc.ph, with their respective e-mail addresses upon receipt of this *Order*. The Commission will send the access link/s to the aforementioned hearing platform within five (5) working days prior to the scheduled hearings.

SO ORDERED.

Pasig City, 24 August 2021.

FOR AND BY AUTHORITY
OF THE COMMISSION:


AGNES VST DEVANADERA
Chairperson and CEO


LS: RSPV/ARG/MCCG



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Copy Furnished:

1. National Grid Corporation of the Philippines (NGCP)
Applicant
NGCP Building, Quezon Ave. cor. BIR Road, Diliman, Quezon City
corpcom@ngcp.com
2. Attys. Luis Manuel U. Bugayong, Lally C. Ortila-Mallari, Mark Anthony S. Actub,
Rich L. Almario and Bienz Reiner Draeion A. Que
Counsels for NGCP
Office of the General Counsel
NGCP Building, Quezon Ave. cor. BIR Road, Diliman, Quezon City
lubugayong@ngcp.ph; lomallari@ngcp.ph; msactub@ngcp.ph; rlalmario@nggcp.ph;
baque@ngcp.ph
3. King Energy Generation, Inc. (KEGI)
Co-Applicant
Barangay San Luis, Gingoog, Misamis Oriental
4. Atty. Eleuterio F. Diao IV
Counsel for KEGI
Tomasaco St. Nazareth, Cagayan de Oro
earldiao@gmail.com
5. Office of the Solicitor General (OSG)
134 Amorsolo Street, Legaspi Village, Makati City
docket@osg.gov.ph
6. Commission on Audit (COA)
Commonwealth Avenue, Quezon City 1121
citizensdesk@coa.gov.ph
7. Senate Committee on Energy
GSIS Building, Roxas Boulevard, Pasay City 1307
senateenergycommittee@gmail.com
8. House Committee on Energy
Batasan Hills, Quezon City 1126
committee.energy@house.gov.ph
9. Philippine Chamber of Commerce and Industry (PCCI)
3rd Floor, Chamber and Industry Plaza (CIP), 1030 Campus Avenue corner
Park Avenue McKinley Town Center, Fort Bonifacio, Taguig City
secretariat@philippinechamber.com
10. Power Sector Assets and Liabilities Management Corporation (PSALM)
24th Floor Vertis North Corporate Center 1, Astra corner Lux Drives
Vertis North, Mindanao Avenue, Quezon City
infos@psalm.gov.ph
11. National Transmission Corporation (TransCo)
TransCo Main Building, Quezon Avenue corner BIR Road, Diliman, Quezon City
OVP-Legal@transco.ph
12. Office of the Mayor
Quezon City
13. Office of the Local Government (LGU) legislative body
Quezon City
14. Office of the Mayor
Cebu City
15. Office of the Local Government (LGU) legislative body
Cebu City

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16. Office of the Mayor
Iligan City, Lanao del Norte
17. Office of the Local Government (LGU) legislative body
Iligan City, Lanao del Norte
18. Office of the Mayor
Davao City, Davao del Sur
19. Office of the Local Government (LGU) legislative body
Davao City, Davao del Sur
20. Office of the Mayor
San Fernando City, La Union
21. Office of the Local Government (LGU) legislative body
San Fernando City, La Union
22. Office of the Mayor
Biñan City, Laguna
23. Office of the Local Government (LGU) legislative body
Biñan City, Laguna
24. Office of the Provincial Governor
La Union
25. Office of the Local Government (LGU) legislative body
La Union
26. Office of the Provincial Governor
Laguna
27. Office of the Local Government (LGU) legislative body
Laguna
28. Office of the Provincial Governor
Cebu
29. Office of the Local Government (LGU) legislative body
Cebu
30. Office of the Provincial Governor
Davao del Sur
31. Office of the Local Government (LGU) legislative body
Davao del Sur
32. Office of the Provincial Governor
Lanao Del Norte
33. Office of the Local Government (LGU) legislative body
Lanao Del Norte
34. Office of the Provincial Governor
Misamis Oriental
35. Office of the Local Government (LGU) legislative body
Misamis Oriental
36. Office of the Mayor
Gingoog, Misamis Oriental
37. Office of the Local Government (LGU) legislative body
Gingoog, Misamis Oriental

38. Office of the Provincial Governor
Surigao del Sur
39. Office of the Local Government (LGU) legislative body
Surigao del Sur
40. Office of the Mayor
Tandag City, Surigao del Sur
41. Office of the Local Government (LGU) legislative body
Tandag City, Surigao del Sur
42. Regulatory Operations Service
17th Floor, Pacific Center Building, San Miguel Avenue,
Ortigas Center 1600, Pasig City
ros@erc.ph