

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 TYPHOON RUBY AND TROPICAL STORM SENIANG IN VISAYAS AND MINDANAO, IN ACCORDANCE WITH THE RULES FOR SETTING TRANSMISSION WHEELING RATES, WITH PRAYER FOR PROVISIONAL AUTHORITY,

ERC CASE NO. 2015-205 RC

NATIONAL GRID CORPORATION OF THE PHILIPPINES,
Applicant.

D O C K E T E D
Date: JUN 11 2018
By: [Signature]

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NOTICE OF PUBLIC HEARING

TO ALL INTERESTED PARTIES:

Notice is hereby given that on 04 December 2015, the National Grid Corporation of the Philippines (NGCP) filed an *Application* dated 02 December 2015 for the approval of its force majeure event regulated Force Majeure (FM) Pass-Through for Typhoon Ruby and tropical storm Seniang in Visayas and Mindanao, in accordance with the Rules for Setting the Transmission Wheeling Rates (RSTWR), with prayer for provisional authority.

NGCP alleged the following in its *Application*:

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 transmission functions of TRANSCO including the operation, management and maintenance of the nationwide electrical grid.

STATEMENT OF FACTS

A. Typhoon Ruby

4. On or about 6 December 2014, Typhoon Ruby entered the Philippine Area of Responsibility with maximum winds of 215 kph and gustiness of 250 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 26 January 2015 issued by the Philippine Atmospheric, Geophysical and Astronomical Services Administration (PAGASA) is attached herewith as Annex "A."
5. After the occurrence of Typhoon Ruby, in compliance with Article X of the RTWR, NGCP filed with this Honorable Commission a Force Majeure Event (FME) Notice regarding Typhoon Ruby dated 20 January 2015. A copy of the FME Notice regarding Typhoon Ruby dated 20 January 2015 is attached herewith as Annex "B."

B. Tropical Storm Seniang

6. On or about 28 December 2014, Tropical Storm Seniang entered the Philippine Area of Responsibility with maximum winds of 65 kph and gustiness of 80 kph. The occurrence of Tropical Storm Seniang caused damage to NGCP's

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"

transmission assets and other related facilities in the Visayas and Mindanao. A copy of the Certification dated 1 March 2015 issued by the PAGASA is attached herewith as Annex "C."

7. After the occurrence of Tropical Storm Seniang, in compliance with Article X of the RTWR, NGCP filed with this Honorable Commission an FME Notice regarding Typhoon Seniang dated 12 March 2015. A copy of the FME Notice regarding Typhoon Seniang dated 12 March 2015 is attached herewith as Annex "D."
8. Immediately after the devastation of Typhoon Ruby and Tropical Storm Seniang, NGCP started the repair, restoration and rehabilitation of its damaged transmission assets and other related facilities to restore the transmission of electricity in the Visayas and Mindanao areas. As a result, NGCP incurred additional cost for the repair, restoration and rehabilitation of the said transmission assets damaged by Typhoons Ruby and Seniang.

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."
10. Ruby and Seniang were categorized by PAGASA as "Typhoon" and "Storm" in its Certifications dated 26 January 2015 and 1 March 2015, respectively. Therefore, Typhoon Ruby and Tropical Storm Seniang fall within the definition of an FME in accordance with Section 1.3 of the RTWR.
11. In relation to the occurrence of the FME Ruby and Seniang 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 the FME Ruby and Seniang through an FM Pass-Through Amount.
12. Within three (3) months after the occurrence of the FME Ruby and Seniang, NGCP filed before the Energy Regulatory Commission (ERC) FME Notice Regarding Typhoon Ruby dated 20 January 2015 and FME Notice Regarding Typhoon Seniang dated 12 March 2015, 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 FME Ruby and Seniang, NGCP hereby files the instant FME Claim Application, in accordance with Sections 10.2.1 and 10.2.3 of the RTWR.

³ Please see Annexes "B" and "D".

FM PASS-THROUGH AMOUNT COMPUTATION

14. It must be noted that NGCP has not recovered any amount from its Industrial All-Risk (IAR) Insurance Policy procured from the Government Service Insurance System (GSIS) for the year 2014 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 Ruby and Seniang. Thus, it is but proper for NGCP to file 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 Ruby and Seniang.
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 FME Ruby and Seniang is Thirty-Seven Million Eight Hundred Nine Thousand Six Hundred Thirty-Nine and 76/100 (Php 37,809,639.76). Further, the recoverable values of the assets destroyed (Net Fixed Asset Value) is Sixteen Million Five Hundred Fifty-Six Thousand Five Hundred Ninety-Seven and 57/100 (Php16,556,597.57). The breakdown of the expenses⁴ is shown in the table below:

FME	FME CAPEX		NFAV		TOTAL
	VISAYAS	MINDANAO	VISAYAS	MINDANAO	
RUBY	27,113,681.07	-	13,544,183.30	-	40,657,864.37
SENIANG	491,923.11	10,204,035.58	161,269.31	2,851,144.96	13,708,372.96
Total	27,605,604.18	10,204,035.58	13,705,452.61	2,851,144.96	54,366,237.33

16. NGCP proposes the Force Majeure (FM) Pass-Through Amount, in P/kW-month, as additional network charges in the Visayas and Mindanao starting the billing period of January 2016 to December 2020, or until such time that the amount incurred is fully recovered, computed as shown in the table below:

Visayas	2016	2017	2018	2019	2020
P/kW-mo.	0.76	0.59	0.22	0.21	0.20
P/kWh	0.0016	0.0013	0.0005	0.0005	0.0004
Mindanao	2016	2017	2018	2019	2020
P/kW-mo.	0.30	0.08	0.07	0.07	0.06
P/kWh	0.0006	0.0002	0.0002	0.0001	0.0001

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 Ruby and Seniang pending the reset process for the Transmission Services for the Fourth Regulatory Period.

⁴ Exclusive of Permit Fees

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 hereto attached as Annex "E."
19. Further, the FM Pass-Through Amounts under this Application did not breach the Force Majeure Threshold Amount (FMTA) of PhPo.0336/kWh in accordance with the RTWR. A copy of the FMTA Computation is hereto attached as Annex "F."
20. Also, NGCP considered the Net Fixed Asset Value of the transmission assets and other related facilities damaged by the FME Ruby and Seniang 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 the FME Ruby and Seniang.

**JUSTIFICATION FOR THE ISSUANCE OF
PROVISIONAL AUTHORITY**

21. NGCP respectfully 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. It must be emphasized that the occurrence of the aforementioned FME Ruby and Seniang required massive capital infusion, thus, the recovery of which should be allowed immediately 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. In addition, 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 hereto attached as Annex "G."
25. Lastly, in compliance with Rule 6 of this Honorable Commission's Rules of Practice and Procedure, the pre-filing requirements of the instant application are attached herewith as Annex "H" and series.

PRAYER

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

1. DECLARE the Typhoon Ruby and Tropical Storm Seniang as Force Majeure Events (FMEs);
2. GRANT Provisional Approval to implement and bill the FM Pass-Through Amounts to Visayas and Mindanao customers starting January 2016 billing month to December 2020 billing month or until such time that the amount incurred is fully recovered;

Visayas	2016	2017	2018	2019	2020
P/kW-mo.	0.76	0.59	0.22	0.21	0.20
P/kWh	0.0016	0.0013	0.0005	0.0005	0.0004

Mindanao	2016	2017	2018	2019	2020
P/kW-mo.	0.30	0.08	0.07	0.07	0.06
P/kWh	0.0006	0.0002	0.0002	0.0001	0.0001

3. APPROVE the Capital Expenditure (CAPEX) amounting to Php 37,809,639.76 incurred by NGCP for the repair, restoration and rehabilitation of the damaged transmission assets and other related facilities due to the Typhoon Ruby and Tropical Storm Seniang 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 January 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
P/kW-mo.	0.76	0.59	0.22	0.21	0.20
P/kWh	0.0016	0.0013	0.0005	0.0005	0.0004

Mindanao	2016	2017	2018	2019	2020
P/kW-mo.	0.30	0.08	0.07	0.07	0.06
P/kWh	0.0006	0.0002	0.0002	0.0001	0.0001

5. APPROVE and ALLOW the recovery of the Net Fixed Asset Value of the transmission assets and other related facilities damaged by the FME Ruby and Seniang amounting to Php16,556,597.57, 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 Ruby and Seniang; and

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6. EXCLUDE the proposed Pass-Through Amount from the side constraint calculation.

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

The Commission has set the *Application* for determination of compliance with the jurisdictional requirements, expository presentation, Pre-trial Conference, and presentation of evidence on the following dates:

DATE	TIME	VENUE	PARTICULARS
16 July 2018 (Monday)	Ten o'clock in the morning (10:00 A.M.)	ERC Hearing Room, 15 th Floor, Pacific Center Building, San Miguel Avenue, Pasig City	Jurisdictional and Expository Hearing
18 July 2018 (Wednesday)	Nine o'clock in the morning (9:00 A.M.)	ERC Visayas Field Office, St. Mary's Drive, Banilad, Cebu City	Expository Presentation for Visayas Stakeholders
25 July 2018 (Wednesday)	Nine o'clock in the morning (9:00 A.M.)	ERC Mindanao Field Office, Mintrade Bldg., Monteverde Ave., cor. Sales St., Davao City	Expository Presentation for Mindanao Stakeholders
30 July 2018 (Monday)	Two o'clock in the afternoon (2:00 P.M.)	ERC Hearing Room, 15 th Floor, Pacific Center Building, San Miguel Avenue, Pasig City	Pre-Trial Conference and Evidentiary Hearing

All persons who have an interest in the subject matter of the instant case may become a party by filing with the Commission a verified Petition to Intervene at least five (5) days prior to the initial hearing and subject to the requirements under Rule 9 of the 2006 Rules of Practice and Procedure, indicating therein the docket number and title of the case and stating the following:

- i. The petitioner's name and address;
- ii. 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
- iii. 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 case may file their Opposition or Comment thereon at any stage of the proceeding before Applicant rests its case, subject to the requirements under Rule 9 of the 2006 Rules of Practice and Procedure. No particular form of Opposition or Comment is required, but the document, letter, or writing should contain the following:

- 1) The name and address of such person;
- 2) A concise statement of the Opposition or Comment; and
- 3) The grounds relied upon.

All such persons who wish to have a copy of the *Application* may request from Applicant that they be furnished with the same, prior to the date of the initial hearing. Applicant is hereby directed to furnish all those making such request with copies of the *Application* and its attachments, subject to the reimbursement of reasonable photocopying costs. Any such person may likewise examine the *Application* and other pertinent records filed with the Commission during the standard office hours.

WITNESS, the Honorable Chairperson and CEO, **AGNES VST DEVANADERA**, and the Honorable Commissioners, **ALFREDO J. NON**, **GLORIA VICTORIA C. YAP-TARUC**, and **GERONIMO D. STA. ANA**, Energy Regulatory Commission, this 6th day of June 2018 in Pasig City.


JOSEFINA PATRICIA A. MAGPALE-ASIRIT
Oversight Commissioner for Legal


LS: MLMG/ESP (APV)
NPH_2015-205 RC ngcp