

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



**IN THE MATTER OF THE
PETITION FOR THE APPROVAL
OF THE RECOVERY FROM THE
UNIVERSAL CHARGE OF THE
SHORTFALL IN THE
MISSIONARY ELECTRIFICATION
SUBSIDY FOR CY 2013 AND
THE CORRESPONDING
ADJUSTMENT OF THE
UNIVERSAL CHARGE FOR
MISSIONARY ELECTRIFICATION
(UCME), WITH PRAYER FOR A
PROVISIONAL AUTHORITY**

ERC CASE NO. 2014-089 RC

**NATIONAL POWER
CORPORATION (NPC),
Petitioner.
X-----X**

DOCKETED
Date: JUL 11 2014
By: *[Signature]*

NOTICE OF PUBLIC HEARING

TO ALL INTERESTED PARTIES:

Notice is hereby given that on June 20, 2014, the National Power Corporation (NPC) filed a petition for the approval of the recovery from the Universal Charge (UC) of the shortfall in the Missionary Electrification Subsidy (ME Subsidy) for Calendar Year (CY) 2013 and the corresponding adjustment of the Universal Charge for Missionary Electrification (UCME), with prayer for the issuance of a provisional authority.

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

1. Pursuant to Section 70 of Republic Act No. 9136 (R.A. 9136), otherwise known as the Electric Power Industry Reform Act (EPIRA) of 2001, it shall remain as a National Government owned and controlled corporation to perform the missionary electrification function through its Small Power Utilities Group (SPUG) and shall be responsible for

- providing power generation and its associated power delivery systems in areas that are not connected to the transmission system;
2. It filed the instant petition in its capacity as the implementing agency for missionary electrification which function shall be funded from the revenue from sales in missionary areas and from the UC to be collected from all electricity end-users as determined by the Commission and in line with Section 2 (a) of the Implementing Rules and Regulations (IRR) of Republic Act No. 9136 (R.A. 9136);
 3. Pursuant to Section 4 of Republic Act No. 6395 (R.A. 6395), as amended, and Executive Order No. 86¹, issued by virtue of the authority granted to the President of the Republic of the Philippines under Republic Act No. 7684 (R.A. 7684)², it is duly authorized to charge twelve percent (12%) return on its rate base composed of the sum of its net assets in operation plus two (2) months operating capital;
 4. The Commission approved and issued Resolution No. 21 Series of 2011, entitled "Amended Guidelines for the Setting and Approval of Electricity Generation Rates and Subsidies for Missionary Electrification Areas", which provides the guidelines for the setting and approval of electricity generation rates and subsidies for missionary electrification areas and for the fixing of and availment of subsidies for missionary electrification areas as well as the cash incentives for the Renewable Energy (RE) Developers for missionary electrification from the UCME;
 5. The said Resolution allows it and the New Power Providers (NPPs) to recover the NPP True Cost of Generation Rate (TCGR) as approved by the Commission. In cases where the NPP TCGR is higher than the Subsidized Approved Generation Rate (SAGR), they shall be allowed to recover the difference between the NPP TCGR and the SAGR from the UCME³. Further, in the same Resolution, it is provided that if the reconciliation results in a deficiency, as confirmed by the Commission, it shall be entitled to an increase in the UCME to cover the shortfall caused by several factors as therein specified (*i.e.* adjustments due to Generation Rate Adjustment Mechanism [GRAM] and Incremental Currency

¹ "Fixing the Rate of Return on Rate Base of the National Power Corporation at twelve percent (12%) of the Rate Base as Defined in Section 4 of Republic Act No. 6395, as Amended"

² "Electric Power Crises Act of 1993"

³ Article II Section 4

Exchange Rate Adjustment [ICERA], adjustments in the NPP TCGR and other analogous cases)⁴;

6. The Commission likewise issued Resolution No. 22, Series of 2006⁵ on May 3, 2006 which mandates NPC to file a quarterly application, if necessary, to recover any shortfall in the UCME caused by factors such as collection shortfall, adjustments in the Full Cost Recovery Rate (FCRR) and other analogous cases⁶. Also, it is provided therein that "if the reconciliation results in the deficiency, it shall be entitled to file an application with the Commission for an increase in the UCME to cover the shortfall⁷;

ABSTRACT OF THE PROPOSED RECOVERY OF THE SHORTFALL IN THE UCME SUBSIDY

7. **Reconciliation of Actual UCME.** Based on CY 2013 test period, it utilized in its calculation the following documents:
 - a. Certified CY 2013 Financial Statements;
 - b. Actual Results of Operation; and
 - c. The actual disbursements of UCME to NPPs and Qualified Third Party (QTP);
8. **Total UC-ME Shortfall.** Based on the foregoing documents and as a result of the calculations made, the total shortfall that it proposes to recover from the UCME is equivalent to monthly rate of **PhP0.0769/kWh** based on the twelve (12) - month recovery period as summarized below:

| Particulars | NPC (a) | NPP (b) | Total (a+b) |
|--------------------------------------------------------|-------------------------|-------------------------|--------------------------|
| Actual Expenses | 6,760,536,461.83 | 2,456,904,266.25 | 9,217,440,728.08 |
| RORB | 1,111,463,701.21 | - | 1,111,463,701.21 |
| Total Revenue Requirement | 7,872,000,163.04 | 2,456,904,266.25 | 10,328,904,429.29 |
| Less: Revenue from Sales | 2,103,132,830.75 | - | 2,103,132,830.75 |
| Required Revenue from UCME | 5,768,867,332.29 | 2,456,904,266.25 | 8,225,771,598.54 |
| CY 2013 Actual UCME Revenue (Basic) | 2,403,699,750.00 | 359,316,910.00 | 2,763,016,660.00 |
| UCME SHORTFALL, in PhP | 3,365,167,582.29 | 2,097,587,356.25 | 5,462,754,938.54 |
| Rate Impact, PhP/kWh | 0.0474 | 0.0295 | 0.0769 |
| Projected Energy Sales, MWh (August 2014 to July 2015) | | | 71,038,394.12 |

9. In the reconciliation, the resulting shortfall in the revenue from UCME was calculated based on the following formula:

⁴ Article V, Section 2 (c)

⁵ Rules for the Regulation of the Qualified Third Parties Performing Missionary Electrification in Areas Declared Unviable by the Department of Energy

⁶ Article IV, Section 3 (b)

⁷ Article IV Section 3 (d)

**UCME True-Up Shortfall/(Surplus) = Total UC-ME Requirement –
Approved UC-ME**

Where:

**Total UCME Requirement = (NPC Revenue Requirement –
Revenue from Sales) + (NPP
Subsidy and QTP Subsidy)**

10. The total revenue considered was based on the amount granted and accrued from the UCME as well as from the revenue from sales based on approved SAGR. All the allowable expenses incurred by it as well as total subsidy paid to NPPs and QTP were likewise considered;
11. In the calculation of its revenue requirement, the following accounts and actual costs were considered:
 - a. Actual Fuel Costs;
 - b. Other Operating Expenses, which includes Personal Services and Maintenance and Other Operating Expense;
 - c. Depreciation;
 - d. The foreign exchange fluctuation on debt servicing;
 - d. Rate Base as of December 2013; and
 - e. Revenues from SAGR;
12. The amount of NPPs and QTP subsidies considered were based on the actual disbursements and payment made consistent with the UC-Settlement Agreement (SA) between NPC and respective power providers taking into account their respective Commission-approved Power Supply Agreements (PSAs);
13. The Average Energy Sales Forecast under the Department of Energy's (DOE) Power Development Plan (PDP) from August 2014 to July 2015 was utilized to determine the proposed UCME true-up charges in PhP/kWh;
14. The following documents were submitted in support of the proposed recovery of shortfall in the UCME:
 - a. NPC Board Secretary's Certificate issued on June 13, 2014;
 - b. Summary of shortfall and adjustment calculation;

- c. NPC Results of Operations (ROO);
- d. Discussion on revenue requirement and rate base components;
- e. Summary of UCME Subsidy Fees paid to NPPs and QTP;
- f. Summary of actual UCME received from PSALM; and
- g. Projected Philippines energy sales;

**RATE IMPLICATIONS OF THE
PROPOSED RECOVERY OF UC-ME SHORTFALL**

- 15. Under the foregoing premises, the recovery of PhP5,462,754,938.54 or an equivalent monthly rate impact of PhP0.0769/kWh is proposed to be collected from the nationwide electricity end-consumers within the period of twelve (12) months and be charged over and above the existing UCME rate;
- 16. The recovery of shortfall within one (1) year or twelve months would be reasonable and timely in order for it to augment its financial requirements and to provide up to date recovery and adjustment of the ensuing years' subsidy requirements;
- 17. The costs proposed for recovery are merely reimbursement of actual expenses made for CY 2013 and though recovery scheme is deferred in nature, there are no carrying charges calculated and proposed thereon;

**ALLEGATIONS IN SUPPORT OF THE PRAYER FOR
PROVISIONAL AUTHORITY**

- 18. The recovery of only portion of its costs of generation from the SAGR, which is being charged to its off-grid customers, is not reflective of its revenue requirement. This revenue from the said sales represents only 47% if compared to actual fuel costs incurred in 2013, to wit:

| Particulars | Amount | Percentage |
|----------------------------------|-------------------------|-----------------------|
| Actual Fuel Costs | 4,469,595,265.68 | 100% |
| Average, PhP/kWh | 11.1783 | |
| Actual Revenue from Sales | 2,103,132,830.75 | 47% |
| Average, PhP/kWh | 5.2599 | |
| Difference | 2,366,462,434.93 | 53% |
| PhP/kWh | 5.9184 | |
| <i>Actual Energy Sales, kWh</i> | | <i>399,846,204.35</i> |

19. The amount proposed for recovery is already an incurred cost of it and within the reasonable cost of servicing the consumers in the missionary areas considering the nature of operation and the level of demand in the off-grid areas;

20. An additional funding through the approval of the instant petition will ensure an uninterrupted electricity supply as this would fully augment its funding requirements, NPPs and QTP. Given the increasing demand for energy and in line with the government thrust of economic development in the off-grid areas, availability of funding thru the UCME especially for fuel requirements will enable it and NPPs/QTP to optimize the use of available plant capacity;

21. Further, based on the projected requirements for CY 2015, it is expected to incur deficit in its funding source if there will be no additional revenue that can be sourced and recovered from the UCME thru the instant petition and from the pending true-up petitions for CY 2012. The following scenarios are expected to happen affecting its financial and operational capability:
 - a. Deficit of PhP6.364 Billion by the end of December 2014;
 - b. The required volume of fuel contracted based on the Certified Budget Inclusion (CBI) issued by it which will not be drawn from supplier due to lack of guaranteed funds and fuel suppliers will likely stop delivery;
 - c. Its inability to pay NPPs and QTP up to end of CY 2014 will result to the payment of interest charges considering the delay in the payment of subsidy that will in turn be charged to the UCME;
 - d. Reduction in operating hours of power plants for the remaining months or plant shutdown; and

- e. NPPs may stop operation due to non-payment of subsidy, which not only pose negative impact specifically to prospective NPP/QTP as well as RE Developers but would also create an impression against NPC in particular and that of the government's thrust of encouraging private sector participation in the off-grid areas in general;
22. It was allowed by the Department of Budget and Management (DBM) to augment only its Corporate Budget if it can source guaranteed funding through the approval of additional rates. The approval therefore of the instant petition will enable it to support and meet its projected budgetary requirements for CY 2014 and CY 2015 especially its funding requirement for fuel and subsidy to NPP/QTP;
23. Despite the approved CY 2010 UCME true-up under ERC Case No. 2012-046 RC of the PhP2,2565,750,319.78 of which half is supposed to be recovered in 2014 including the approved CY 2011 UCME True-Up under ERC Case No. 2012-085 of PhP4,650,702,389.76, it will incur bigger cash deficit in 2015 if a replacement source of funds would not be guaranteed. Thus, the immediate approval by the Commission is vital, as this will ensure sustainability of NPC's operation in missionary areas;
24. It already paid more than the allocated amount of PhP359 Million in the approved UCME for CY 2013 to NPPs and QTP and thus, it is just prudent that it be allowed to immediately recover these incurred costs to support its requirements for other missionary areas;
25. To enable it to continue its mandate, operate viably and support its present operations in the off-grid areas, as well to prevent the repeat of shortage of fuel and the consequent reduction of operating hours, there is an urgent need for the issuance of a provisional authority to ensure sufficient funding for its operation and that of NPPs and QTP;
26. The issuance of a provisional authority is allowed under Section 3 Rule 14 of the Rules of Practice and Procedure. Likewise, the authority of the Commission to issue a provisional authority is confirmed by the Supreme Court in the case of Freedom from Debt Coalition, et. al. vs. ERC, et. al., G.R. No. 161113 (June 15, 2004), when it held that

“the power to approve provisional rate increases is included among the powers transferred to the ERC by virtue of Section 44 since the grant of that authority is not inconsistent with the EPIRA; rather, it is in full harmony with the thrust of the law which is to strengthen the ERC as the new regulatory body.”

27. It is thus imploring the kind consideration of the Commission and prays that a provisional authority be granted for the implementation of the proposed UCME adjustment and allows to recover the shortfalls in the UCME pursuant to Resolution No. 21, Series of 2011 and Resolution No. 22, Series of 2006, with the corresponding adjustment in the UC-ME, pending the hearing on the merits;

COMPLIANCE WITH PRE-FILING REQUIREMENTS

28. In compliance with Rule 6 of the Commission Rules of Practice and Procedure, it has furnished the legislative bodies of each of the local government units where it principally operates, a copy of the instant petition including all its annexes and accompanying documents;
29. It caused the publication of the petition in its entirety in the newspaper of general circulation and copies of the newspaper and corresponding affidavit of publication were attached to the instant petition as annexes;

PRAYER

30. It prays that pending the hearing on the merits, an Order be issued: (a) granting provisional authority for the recovery from the UCME of the CY 2013 shortfall in the UCME of PhP5,462,754,938.54 based on the equivalent rate of PhP0.0769/kWh; and (b) thereafter, directing PSALM to remit monthly to NPC the actual UCME collected from all electricity end-consumers; and
31. After hearing on the merits, a Decision be rendered: (a) approving the recovery from the UCME of the CY 2012 shortfall in the UCME of PhP5,462,754,938.54 based on equivalent rate of PhP0.0769/kWh; and (b) directing PSALM to remit monthly to NPC the actual UCME collected from all electricity end-consumers.

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Notice of Public Hearing/July 7, 2014

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The Commission has set the instant petition for jurisdictional hearing, expository presentation, pre-trial conference and evidentiary hearing on the following dates and venues:

| Date and Time | Venue | Particulars |
|-------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------|
| Luzon | | |
| August 14, 2014 (Thursday) at 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, Expository Presentation, Pre-Trial Conference and Evidentiary Hearing |
| Visayas | | |
| August 20, 2014 (Wednesday) at nine o'clock in the morning (9:00 A.M.) | Holiday Plaza Hotel, F. Ramos Street, Cebu City | Expository Presentation, Pre-Trial Conference and Evidentiary Hearing |
| Mindanao | | |
| August 29, 2014 (Friday) at nine o'clock in the morning (9:00 A.M.) | Energy Regulatory Commission – Mindanao Field Office (ERC-MFO), Mezzanine Floor, Mintrade Building, Monteverde Avenue corner Sales Street, Davao City | Expository Presentation, Pre-Trial Conference and Evidentiary Hearing |

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 petition or comment thereon at any stage of the proceeding before the petitioner 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 petition may request the petitioner, prior to the date of the initial hearing, that they be furnished with a copy of the petition. The petitioner is hereby directed to furnish all those making such request with copies of the petition and its attachments, subject to reimbursement of reasonable photocopying costs. Likewise, any such person may examine the petition and other pertinent records filed with the Commission during the usual office hours.

WITNESS, the Honorable Chairperson, **ZENAIDA G. CRUZ-DUCUT**, and the Honorable Commissioners, **ALFREDO J. NON**, **GLORIA VICTORIA C. YAP-TARUC**, and **JOSEFINA PATRICIA A. MAGPALE-ASIRIT**, Energy Regulatory Commission, this 7th day of July, 2014 at Pasig City.


ATTY. FRANCIS SATURNINO C. JUAN
Executive Director III