

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: \_\_\_\_\_

### NOTICE OF PUBLIC HEARING

#### TO ALL INTERESTED PARTIES:

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:

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).<sup>1</sup>
2. Under RA 9511,<sup>2</sup> 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 20015 issued by the Philippine Atmospheric, Geophysical and Astronomical Services Administration (PAGASA) is attached to the Application as **Annex "A."**

---

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

<sup>2</sup> 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

(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.<sup>3</sup>
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

---

<sup>3</sup> 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 expenses<sup>4</sup> is shown in the table below:

<b>FME/ REGION</b>	<b>FME CAPEX (in PhP)</b>	<b>NFAV</b>	<b>Total</b>
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
<b>Total</b>	<b>23,688,607.8</b>	<b>1,049,732.95</b>	<b>24,738,340.75</b>

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

<sup>4</sup> Exclusive of Permit Fees

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

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

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 (3<sup>rd</sup>) 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:

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

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.

The Commission has set the Application for initial hearing, expository presentation, pre-trial conference, and presentation of evidence on the following dates and venues:

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

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 wish to have a copy of the Application may request from the 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 Chairman, **JOSE VICENTE B. SALAZAR**, and the Honorable Commissioners, **ALFREDO J. NON**, **GLORIA VICTORIA C. YAP-TARUC**, **JOSEFINA PATRICIA A. MAGPALE-ASIRIT**, and **GERONIMO D. STA. ANA**, Energy Regulatory Commission, this 21st day of June 2016 in Pasig City.

  
**ATTY. NATHAN J. MARASIGAN**  
*Chief of Staff*

Office of the Chairman and CEO