

Republic of the Philippines
ENERGY REGULATORY COMMISSION
Pasig City

**IN THE MATTER OF THE
APPLICATION FOR
APPROVAL OF FORCE
MAJEURE EVENT
REGULATED FM PASS-
THROUGH FOR TYPHOON
ODETTE IN VISAYAS AND
MINDANAO IN ACCORDANCE
WITH THE AMENDED RULES
FOR SETTING
TRANSMISSION WHEELING
RATES, WITH PRAYER FOR
PROVISIONAL AUTHORITY**

ERC CASE NO. 2022-088 RC

**NATIONAL GRID
CORPORATION OF THE
PHILIPPINES,**

Applicant.

Promulgated:
January 04, 2023

X-----X

ORDER

On 21 December 2022, the National Grid Corporation of the Philippines (NGCP) filed an *Application* dated 09 December 2022, seeking the approval of its Force Majeure Event Regulated FM Pass-Through for Typhoon Odette in Visayas and Mindanao, in accordance with the Amended Rules for Setting Transmission Wheeling Rates, with prayer for provisional authority.

The pertinent allegations in the said *Application* are hereunder quoted:

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 that operates and maintains the nationwide transmission system pursuant to Republic Act No. (RA) 9136, otherwise known as the Electric Power Industry Reform Act of 2001 (EPIRA).¹

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. Under RA 9511², 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. Pursuant to Section 11.1.1 of the Amended Rules for Setting Transmission Wheeling Rates (Amended RTWR), NGCP is allowed to recover the costs incurred for the repair and restoration of its transmission assets and other related facilities damaged as a result of a Force Majeure Event (FME), as defined in Article I, Section 1.3 of the Amended RTWR.

STATEMENT OF FACTS

4. On 14 to 18 December 2021, a Typhoon with local name “Odette” was prevailing in Visayas and Mindanao regions. Some of the provinces within the scope of operations of NGCP Visayas and Mindanao Operations and Maintenance were affected by Typhoon Odette.
5. The Philippine Atmospheric Geophysical and Astronomical Services Administration (PAGASA) confirmed, among others, the following: Typhoon Odette entered the Philippine Area of Responsibility (PAR) on 14 December 2021 and exited on 18 December 2021; the affected transmission lines and facilities located in Visayas and Mindanao, particularly in the provinces of Leyte, Bohol, Cebu, Negros Oriental, Negros Occidental, Antique, Iloilo, Surigao del Norte, Agusan del Norte, Agusan del Sur, Misamis Oriental, and Misamis Occidental were among those where PAGASA raised the highest tropical cyclone wind signal during the same period; and that Typhoon “Odette” recorded maximum winds of 195km/hr and gustiness of 270km/h which affected the islands of Visayas and Mindanao. A copy of the PAGASA letter dated 16 February 2022 with the attached 2021 Tropical Cyclone Summary of Typhoon Odette, is attached hereto as **Annex “A”**.
6. Due to the intensity of Typhoon Odette and the tail-end effects even upon its exit from PAR, NGCP’s transmission assets and other related facilities in Visayas and Mindanao regions were severely damaged causing massive and widespread power interruption.

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”.

7. Consequentially, NGCP issued significant incident reports for Visayas and Mindanao on 16 December 2021 in compliance with the Philippine Grid Code to support that the occurrence of Typhoon Odette is an event that threatens the Reliability of the Power System. A copy of the Significant Incident Report is hereto attached as **Annex A-1 and Annex A-2**, respectively.
8. Immediately after the devastation of Typhoon Odette and when safety and security of NGCP personnel were assured, NGCP started the repair and restoration of its damaged transmission assets and other related facilities in order to fully restore transmission service in the Visayas and Mindanao regions. As a result, NGCP incurred additional costs for the repair and restoration of the said transmission assets and other related facilities damaged by Typhoon Odette.

FME CLAIM

9. In support of its claim for the additional costs incurred for the repair and restoration of transmission assets and other related facilities, NGCP hereby submits the following:

VISAYAS REGION

<i>Annex</i>	<i>District</i>	<i>Document</i>
<i>B</i>	<i>VOM D1</i>	Consolidated Details of Activities and Expenditures for FME Typhoon Odette-VOM District 1
<i>B-1</i>	<i>VOM D1</i>	Documentary References referred to in the Consolidated Details of Activities and Expenditures
<i>B-2</i>	<i>VOM D1</i>	Report of Damaged and Restored Assets, FME Typhoon Odette -VOM District 1
<i>C</i>	<i>VOM D2</i>	Consolidated Details of Activities and Expenditures for FME Typhoon Odette-VOM District 2
<i>C-1</i>	<i>VOM D2</i>	Documentary References referred to in the Consolidated Details of Activities and Expenditures
<i>C-2</i>	<i>VOM D2</i>	Report of Damaged and Restored Assets, FME Typhoon Odette -VOM District 2
<i>D</i>	<i>VOM D3</i>	Consolidated Details of Activities and Expenditures for FME Typhoon Odette-VOM District 3

D-1	VOM D3	Documentary References referred to in the Consolidated Details of Activities and Expenditures
D-2	VOM D3	Report of Damaged and Restored Assets, FME Typhoon Odette -VOM District 3
E	VSO	Consolidated Details of Activities and Expenditures, FME Typhoon Odette–Network Telecom Division (NTD)-Visayas System Operation (VSO)
E-1	VSO	Documentary References referred to in the Consolidated Details of Activities and Expenditures
E-2	VSO	Report of Damaged and Restored Assets, FME Typhoon Odette – NTD-VSO

MINDANAO REGION

Annex	District	Document
F	MOM D4	Consolidated Details of Activities and Expenditures for FME Typhoon Odette-MOM District 4
F-1	MOM D4	Documentary References referred to in the Consolidated Details of Activities and Expenditures
F-2	MOM D4	Report of Damaged and Restored Assets, FME Typhoon Odette -MOM District 4

10. The total cost incurred by NGCP for the repair and restoration of the transmission assets and related facilities damaged by Typhoon “Odette” in Visayas and Mindanao region, including the accelerated depreciation for the damaged and retired assets (Net Fixed Asset Value) is One Hundred Seventy-Seven Million Two Hundred Seventy-Four Thousand Two Hundred Eighty-Seven and 93/100 Pesos (**Php177,274,287.93**), breakdown of which is shown in the table below:

	AMOUNT
Capital Expenditure (CAPEX)* ³	83,368,402.99
Operating Expenditure (OPEX)* ⁴	48,514,284.35
NFAV	45,391,600.59
Total	177,274,287.93

**Inclusive of Permit Fees*

³ Exclusive of VAT.

⁴ Exclusive of VAT.

11. Section 11.1.1 of the Amended RTWR allows NGCP to recover the cost for such repair and restoration. In compliance with Article XI, 11.2.2 of the Amended RTWR which requires the regulated entity to file before the Honorable Commission **an FME Notice specifying (a) the details of the Force Majeure Event concerned; and (b) the date the Force Majeure Event occurred**, NGCP filed the FME Notice dated 3 March 2022 with the Honorable Commission on 9 March 2022 or within three (3) months from the occurrence of FME Typhoon Odette and is attached hereto as **Annex G**.
12. Receipt of the said Notice was acknowledged by the Honorable Commission in its Letter dated 9 March 2022 and is hereto attached as **Annex G-1**.
13. Consequently, within twelve (12) months after the occurrence of Typhoon “Odette” which caused the destruction and damage of NGCP’s transmission assets and related facilities in Visayas and Mindanao region, NGCP hereby files the instant FME Application, in accordance with Article XI, Sections 11.2.1 and 11.2.3 of the Amended RTWR.

FM PASS-THROUGH AMOUNT COMPUTATION

14. NGCP has not recovered the costs incurred in the repair and restoration of its affected transmission assets and related facilities from its Industrial All-Risk (IAR) Insurance Policy procured from a reputable insurance company because (i) most of the affected assets are beyond 1,000 meters from any substation perimeter fence of NGCP, and/or (ii) the total repair and restoration cost is still within the policy's deductible amount of One (1) Million US Dollars (\$1,000,000.00) for FME Typhoon Odette. A copy of NGCP’s Notice of Claim, Denial Letter from insurance adjuster BA Insight, and the Certification issued by the insurance company, is attached hereto as **Annexes “H to H-2”**, respectively.
15. Thus, it is but proper for NGCP to file the instant FME Application to recover the costs it incurred for the repair and restoration of the transmission assets and related facilities in Visayas and Mindanao region which were damaged by the FME Typhoon “Odette”, pursuant to the Amended RTWR.
16. NGCP proposes the FM Pass-Through Amounts⁵, in P/kW-month and P/kWh, as additional network charges for Visayas and Mindanao, starting the billing month of January 2023 until December 2027, or until

⁵ Excluding accelerated depreciation or NFAV

such time that the amounts incurred are fully recovered, computed in the table below:

Visayas	2023	2024	2025	2026	2027
P/kW-mo.	2.5119	0.4249	0.3780	0.3466	0.3214
P/kWh	0.0049	0.0008	0.0008	0.0007	0.0007

Mindanao	2023	2024	2025	2026	2027
P/kW-mo.	0.2512	0.0000	0.0000	0.0000	0.0000
P/kWh	0.0005	0.0000	0.0000	0.0000	0.0000

17. NGCP also proposes the FM Pass-Through Amounts for the years 2023 to 2027 to allow the recovery of the expenditures incurred by NGCP relative to the FME Typhoon “Odette”, pending the reset process for the next Regulatory Period. A copy of the proposed FM Pass-Through Amounts computation is attached hereto as **Annex “I”**.

18. Further, the FM Pass-Through Amounts in this Application do not breach the Force Majeure Threshold Amount (FMTA) of PhPo.0190/kWh, as computed in accordance with the relevant formula prescribed by the Amended RTWR. A copy of the FMTA Computation is hereto attached as **Annex “J”**.

19. Also, NGCP considered the accelerated depreciation for the damaged and retired transmission assets and related facilities (Net Fixed Asset Values) by FME Typhoon “Odette” in the FME claim, 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 FME. Copies of the Details of the accelerated depreciation for the damaged and retired transmission assets and related facilities (Net Fixed Asset Values) affected by the FME Typhoon “Odette” is attached hereto as **Annex “K and Series”**.

**JUSTIFICATION FOR THE ISSUANCE OF
PROVISIONAL AUTHORITY**

20. NGCP respectfully moves for the immediate issuance of provisional approval for the immediate recovery of the FM Pass-Through Amounts pursuant to Section 3, Rule 14 of the ERC Revised Rules of Practice and Procedure.

21. NGCP seeks to immediately recover the actual expenses incurred for the repair and restoration of the damaged transmission assets and related facilities. It must be emphasized that the repair and restoration of the assets damaged by FME Typhoon “Odette” required significant capital infusion, 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 services to the grid customers.

22. In addition, the timely implementation of the FM Pass-Through Amounts will allow the equal or even spread of the increases or decreases in tariffs from the initial implementation of the recovery of the costs.

23. A copy of the Judicial Affidavit of Engr. Julius Ryan D. Datingaling, OIC-Head of the Revenue Management Department (RevMD) of the Revenue and Regulatory Affairs of NGCP, in support of the prayer for the immediate issuance of provisional authority, is hereto attached as **Annex “L”**.

PRAYER

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

1. **DECLARE** the occurrence of Typhoon “Odette” in Visayas and Mindanao which resulted in an increase in costs incurred by the NGCP to repair and restore various affected transmission assets and related facilities of the NGCP, as a Force Majeure Event (FME);
2. Immediately **GRANT Provisional Authority** to implement and bill the following FM Pass-Through Amounts to Visayas and Mindanao customers starting the billing month of January 2023 to December 2027, or until such time that the amounts incurred are fully recovered:

Visayas	2023	2024	2025	2026	2027
P/kW-mo.	2.5119	0.4249	0.3780	0.3466	0.3214

Mindanao	2023	2024	2025	2026	2027
P/kW-mo.	0.2512	0.0000	0.0000	0.0000	0.0000

3. **APPROVE** the FME CAPEX and OPEX amounting to One Hundred Thirty-One Million Eight Hundred Eighty-Two Thousand Six Hundred Eighty-Seven and 34/100 Pesos (**Php131,882,687.34**) incurred by NGCP for the repair and restoration of the damaged transmission assets and related facilities due to Typhoon “Odette”, exclusive of VAT;
4. **APPROVE** the accelerated depreciation for the damaged and retired asset (Net Fixed Asset Value) of the transmission assets and related facilities damaged due to Typhoon “Odette” amounting to Forty-Five Million Three Hundred Ninety-One Thousand Six Hundred and 59/100 Pesos (**Php45,391,600.59**)

and the accelerated depreciation (Net Fixed Asset Value) of other assets and facilities affected by the said FME which are yet to be retired, and **ALLOW** the same, including the applicable time cost of money, to be included in the Annual Revenue Requirement (ARR) for the 5th Regulatory Period (2023 to 2027) given that it would have been fully recovered by NGCP if these transmission assets and facilities have not been damaged or destroyed by FME Typhoon Odette;

5. **APPROVE**, after due notice and hearing, the proposed FM Pass-Through Amounts to be collected from the Visayas and Mindanao customers starting January 2023 billing month to December 2027 or until such time that the amounts incurred are fully recovered, as follows:

Visayas	2023	2024	2025	2026	2027
P/kW-mo.	2.5119	0.4249	0.3780	0.3466	0.3214

Mindanao	2023	2024	2025	2026	2027
P/kW-mo.	0.2512	0.0000	0.0000	0.0000	0.0000

6. **EXCLUDE** the proposed Pass-Through Amounts from the side constraint calculation.
7. **ALLOW** NGCP to recover in the next Regulatory Reset Process the respective costs and those costs to be incurred of the ongoing activities as a result of Typhoon Odette.

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

Finding the said *Application* to be sufficient in form with the required fees having been paid, the Commission hereby sets the hearings for the determination of compliance with the jurisdictional requirements, expository presentation, Pre-trial Conference, and presentation of evidence on the following dates and online platforms for the conduct thereof, pursuant to Resolution No. 09, Series of 2020⁶ and Resolution No. 01, Series of 2021⁷ (ERC Revised Rules of Practice and Procedure):

⁶ A Resolution Adopting the Guidelines Governing Electronic Applications, Filings and Virtual Hearings Before the Energy Regulatory Commission.

⁷ A Resolution Adopting the Revised Rules of Practice and Procedure of the Energy Regulatory Commission.

Date	Platform	Activity
22 February 2023 (Wednesday) at nine o'clock in the morning (9:00 A.M.)	Microsoft Teams or Zoom Application	Determination of compliance with jurisdictional requirements and Expository Presentation
01 March 2023 (Wednesday) at nine o'clock in the morning (9:00 A.M.)		Pre-trial Conference and Presentation of Evidence

RELATIVE THERETO, NGCP is 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 its 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 Governor, the Mayors and the Local Government Unit (LGU) legislative bodies within NGCP's regional offices for the appropriate posting thereof on their respective bulletin boards;
- 3) Inform the consumers within NGCP's regional offices, by any other means available and appropriate, of the filing of the *Application*, its 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 requests therefor, subject to reimbursement of reasonable photocopying costs.

Within five (5) calendar days prior to the date of the initial virtual hearing, NGCP must submit to the Commission via electronic

mail (e-mail) at doCKET@erc.ph, copy furnish the Legal Service through legal@erc.ph, the scanned copies of its written compliance with the aforementioned jurisdictional requirements attaching therewith, methodically arranged and duly marked, the following:

- 1) The evidence of publication of the attached *Notice of Virtual Hearing* consisting of affidavits of the Editors or Business Managers of the newspapers where the said *Notice of Virtual Hearing* was 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 to inform the consumers affected by the filing of the *Application*, its 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, the COA, and the Committees on Energy of both Houses of Congress;
- 5) The evidence of receipt of copies of the *Application* and its attachments by all those making requests therefor; and
- 6) Such other proof of compliance with the requirements of the Commission.

Moreover, NGCP is hereby required to post on its bulletin boards, the scanned copies of the foregoing 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 its posting thereof.

NGCP and all interested parties are also required to submit 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 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 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 virtual hearing and Pre-trial Conference pursuant to the preceding paragraph.

Failure of NGCP 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 must also be prepared to make an expository presentation of the instant *Application*, aided by whatever communication medium that it 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 is hereby directed to file a copy of its Expository Presentation 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 shall also be required, upon the request of any stakeholder, to provide an advance copy of its Expository Presentation, **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 is 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 its Jurisdictional Compliance, Expository Presentation, 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, including its authorized representative/s and witness/es, are hereby directed to provide the Commission, through 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, 4 January 2023.

FOR AND BY AUTHORITY
OF THE COMMISSION:


FLORESINDA G. BALDO-DIGAL
Oversight Commissioner
For the Legal Service 


LS: JJP/ARG/MCCG

ERC CASE NO. 2022-088 RC
ORDER / 4 January 2023
PAGE 13 OF 14

COPY FURNISHED:

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5. Senate Committee on Energy
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8. Office of the City Mayor
Quezon City
9. Office of the Sangguniang Panlungsod
Quezon City
10. Office of the Governor
Province of La Union
11. Office of the Sangguniang Panlalawigan
Province of La Union
12. Office of the City Mayor
San Fernando, La Union
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16. Office of the City Mayor
Binan, Laguna
17. Office of the Sangguniang Panlungsod
Binan, Laguna
18. Office of the Governor
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19. Office of the Sangguniang Panlalawigan
Province of Lanao del Norte
20. Office of the City Mayor
Iligan City
21. Office of the Sangguniang Panlungsod
Iligan City
22. Office of the City Mayor
Davao City
23. Office of the Sangguniang Panlungsod
Davao City
24. Office of the City Mayor
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ENERGY REGULATORY COMMISSION
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NOTICE OF VIRTUAL HEARING

TO ALL INTERESTED PARTIES:

Notice is hereby given that on 21 December 2022, the National Grid Corporation of the Philippines (NGCP) filed an *Application* dated 09 December 2022, seeking the approval of its Force Majeure Event Regulated FM Pass-Through for Typhoon Odette in Visayas and Mindanao, in accordance with the Amended Rules for Setting Transmission Wheeling Rates, with prayer for provisional authority.

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FME CLAIM

9. In support of its claim for the additional costs incurred for the repair and restoration of transmission assets and other related facilities, NGCP hereby submits the following:

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<i>B-1</i>	<i>VOM D1</i>	Documentary References referred to in the Consolidated Details of Activities and Expenditures
<i>B-2</i>	<i>VOM D1</i>	Report of Damaged and Restored Assets, FME Typhoon Odette -VOM District 1
<i>C</i>	<i>VOM D2</i>	Consolidated Details of Activities and Expenditures for FME Typhoon Odette-VOM District 2
<i>C-1</i>	<i>VOM D2</i>	Documentary References referred to in the Consolidated Details of Activities and Expenditures
<i>C-2</i>	<i>VOM D2</i>	Report of Damaged and Restored Assets, FME Typhoon Odette -VOM District 2

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<i>D</i>	<i>VOM D3</i>	Consolidated Details of Activities and Expenditures for FME Typhoon Odette-VOM District 3
<i>D-1</i>	<i>VOM D3</i>	Documentary References referred to in the Consolidated Details of Activities and Expenditures
<i>D-2</i>	<i>VOM D3</i>	Report of Damaged and Restored Assets, FME Typhoon Odette -VOM District 3
<i>E</i>	<i>VSO</i>	Consolidated Details of Activities and Expenditures, FME Typhoon Odette–Network Telecom Division (NTD)-Visayas System Operation (VSO)
<i>E-1</i>	<i>VSO</i>	Documentary References referred to in the Consolidated Details of Activities and Expenditures
<i>E-2</i>	<i>VSO</i>	Report of Damaged and Restored Assets, FME Typhoon Odette – NTD-VSO

MINDANAO REGION

<i>Annex</i>	<i>District</i>	<i>Document</i>
<i>F</i>	<i>MOM D4</i>	Consolidated Details of Activities and Expenditures for FME Typhoon Odette-MOM District 4
<i>F-1</i>	<i>MOM D4</i>	Documentary References referred to in the Consolidated Details of Activities and Expenditures
<i>F-2</i>	<i>MOM D4</i>	Report of Damaged and Restored Assets, FME Typhoon Odette -MOM District 4

10. The total cost incurred by NGCP for the repair and restoration of the transmission assets and related facilities damaged by Typhoon “Odette” in Visayas and Mindanao region, including the accelerated depreciation for the damaged and retired assets (Net Fixed Asset Value) is One Hundred Seventy-Seven Million Two Hundred Seventy-Four Thousand Two Hundred Eighty-Seven and 93/100 Pesos (**Php177,274,287.93**), breakdown of which is shown in the table below:

	AMOUNT
Capital Expenditure (CAPEX)* ³	83,368,402.99
Operating Expenditure (OPEX)* ⁴	48,514,284.35
NFAV	45,391,600.59
Total	177,274,287.93

**Inclusive of Permit Fees*

11. Section 11.1.1 of the Amended RTWR allows NGCP to recover the cost for such repair and restoration. In compliance with Article XI, 11.2.2 of the Amended RTWR which requires the regulated entity to file before the Honorable Commission **an FME Notice specifying (a) the details of the Force Majeure Event concerned; and (b) the date the Force Majeure Event occurred**, NGCP filed the FME Notice dated 3 March 2022 with the Honorable Commission on 9 March 2022 or within three (3) months from the occurrence of FME Typhoon Odette and is attached hereto as **Annex G**.
12. Receipt of the said Notice was acknowledged by the Honorable Commission in its Letter dated 9 March 2022 and is hereto attached as **Annex G-1**.
13. Consequently, within twelve (12) months after the occurrence of Typhoon “Odette” which caused the destruction and damage of NGCP’s transmission assets and related facilities in Visayas and Mindanao region, NGCP hereby files the instant FME Application, in accordance with Article XI, Sections 11.2.1 and 11.2.3 of the Amended RTWR.

**FM PASS-THROUGH AMOUNT
COMPUTATION**

14. NGCP has not recovered the costs incurred in the repair and restoration of its affected transmission assets and related facilities from its Industrial All-Risk (IAR) Insurance Policy procured from a reputable insurance company because (i) most of the affected assets are beyond 1,000 meters from any substation perimeter fence of NGCP, and/or (ii) the total repair and restoration cost is still within the policy's deductible amount of One (1) Million US Dollars (\$1,000,000.00) for FME Typhoon Odette. A copy of NGCP’s Notice of Claim, Denial Letter from insurance adjuster BA Insight, and the Certification issued by the insurance company, is attached hereto as **Annexes “H to H-2”**, respectively.
15. Thus, it is but proper for NGCP to file the instant FME Application to recover the costs it incurred for the repair and restoration of the transmission assets and

³ Exclusive of VAT.

⁴ Exclusive of VAT.

related facilities in Visayas and Mindanao region which were damaged by the FME Typhoon “Odette”, pursuant to the Amended RTWR.

16. NGCP proposes the FM Pass-Through Amounts⁵, in P/kW-month and P/kWh, as additional network charges for Visayas and Mindanao, starting the billing month of January 2023 until December 2027, or until such time that the amounts incurred are fully recovered, computed in the table below:

Visayas	2023	2024	2025	2026	2027
P/kW-mo.	2.5119	0.4249	0.3780	0.3466	0.3214
P/kWh	0.0049	0.0008	0.0008	0.0007	0.0007

Mindanao	2023	2024	2025	2026	2027
P/kW-mo.	0.2512	0.0000	0.0000	0.0000	0.0000
P/kWh	0.0005	0.0000	0.0000	0.0000	0.0000

17. NGCP also proposes the FM Pass-Through Amounts for the years 2023 to 2027 to allow the recovery of the expenditures incurred by NGCP relative to the FME Typhoon “Odette”, pending the reset process for the next Regulatory Period. A copy of the proposed FM Pass-Through Amounts computation is attached hereto as **Annex “I”**.
18. Further, the FM Pass-Through Amounts in this Application do not breach the Force Majeure Threshold Amount (FMTA) of PhPo.0190/kWh, as computed in accordance with the relevant formula prescribed by the Amended RTWR. A copy of the FMTA Computation is hereto attached as **Annex “J”**.
19. Also, NGCP considered the accelerated depreciation for the damaged and retired transmission assets and related facilities (Net Fixed Asset Values) by FME Typhoon “Odette” in the FME claim, 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 FME. Copies of the Details of the accelerated depreciation for the damaged and retired transmission assets and related facilities (Net Fixed Asset Values) affected by the FME Typhoon “Odette” is attached hereto as **Annex “K and Series”**.

**JUSTIFICATION FOR THE ISSUANCE OF
PROVISIONAL AUTHORITY**

20. NGCP respectfully moves for the immediate issuance of provisional approval for the immediate recovery of the FM Pass-Through Amounts pursuant to Section 3,

⁵ Excluding accelerated depreciation or NFAV

Rule 14 of the ERC Revised Rules of Practice and Procedure.

21. NGCP seeks to immediately recover the actual expenses incurred for the repair and restoration of the damaged transmission assets and related facilities. It must be emphasized that the repair and restoration of the assets damaged by FME Typhoon “Odette” required significant capital infusion, 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 services to the grid customers.
22. In addition, the timely implementation of the FM Pass-Through Amounts will allow the equal or even spread of the increases or decreases in tariffs from the initial implementation of the recovery of the costs.
23. A copy of the Judicial Affidavit of Engr. Julius Ryan D. Datingaling, OIC-Head of the Revenue Management Department (RevMD) of the Revenue and Regulatory Affairs of NGCP, in support of the prayer for the immediate issuance of provisional authority, is hereto attached as **Annex “L”**.

PRAYER

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

1. **DECLARE** the occurrence of Typhoon “Odette” in Visayas and Mindanao which resulted in an increase in costs incurred by the NGCP to repair and restore various affected transmission assets and related facilities of the NGCP, as a Force Majeure Event (FME);
2. Immediately **GRANT Provisional Authority** to implement and bill the following FM Pass-Through Amounts to Visayas and Mindanao customers starting the billing month of January 2023 to December 2027, or until such time that the amounts incurred are fully recovered:

Visayas	2023	2024	2025	2026	2027
P/kW-mo.	2.5119	0.4249	0.3780	0.3466	0.3214

Mindanao	2023	2024	2025	2026	2027
P/kW-mo.	0.2512	0.0000	0.0000	0.0000	0.0000

3. **APPROVE** the FME CAPEX and OPEX amounting to One Hundred Thirty-One Million Eight Hundred Eighty-Two Thousand Six Hundred Eighty-Seven and 34/100 Pesos (**Php131,882,687.34**) incurred by

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NGCP for the repair and restoration of the damaged transmission assets and related facilities due to Typhoon “Odette”, exclusive of VAT;

4. **APPROVE** the accelerated depreciation for the damaged and retired asset (Net Fixed Asset Value) of the transmission assets and related facilities damaged due to Typhoon “Odette” amounting to Forty-Five Million Three Hundred Ninety-One Thousand Six Hundred and 59/100 Pesos (**Php45,391,600.59**) and the accelerated depreciation (Net Fixed Asset Value) of other assets and facilities affected by the said FME which are yet to be retired, and **ALLOW** the same, including the applicable time cost of money, to be included in the Annual Revenue Requirement (ARR) for the 5th Regulatory Period (2023 to 2027) given that it would have been fully recovered by NGCP if these transmission assets and facilities have not been damaged or destroyed by FME Typhoon Odette;
5. **APPROVE**, after due notice and hearing, the proposed FM Pass-Through Amounts to be collected from the Visayas and Mindanao customers starting January 2023 billing month to December 2027 or until such time that the amounts incurred are fully recovered, as follows:

Visayas	2023	2024	2025	2026	2027
P/kW-mo.	2.5119	0.4249	0.3780	0.3466	0.3214

Mindanao	2023	2024	2025	2026	2027
P/kW-mo.	0.2512	0.0000	0.0000	0.0000	0.0000

6. **EXCLUDE** the proposed Pass-Through Amounts from the side constraint calculation.
7. **ALLOW** NGCP to recover in the next Regulatory Reset Process the respective costs and those costs to be incurred of the ongoing activities as a result of Typhoon Odette.

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 and online platforms for the conduct thereof, pursuant

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to Resolution No. 09, Series of 2020⁶ and Resolution No. 01, Series of 2021⁷ (ERC Revised Rules of Practice and Procedure):

Date	Platform	Activity
22 February 2023 (Wednesday) at nine o'clock in the morning (9:00 A.M.)	Microsoft Teams or Zoom Application	Determination of compliance with jurisdictional requirements and Expository Presentation
01 March 2023 (Wednesday) at nine o'clock in the morning (9:00 A.M.)		Pre-trial Conference and Presentation of Evidence

Any interested stakeholder may submit its comments and/or clarifications **at least one (1) calendar day** prior to the scheduled virtual hearing, via electronic mail (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.

Moreover, any person who has an interest in the subject matter of the instant case may become a party by filing with the Commission via e-mail at doCKET@erc.ph, copy furnish the Legal Service through legal@erc.ph, a verified Petition to Intervene **at least five (5) calendar days** prior to the date of the initial virtual hearing and subject to the requirements under Rule 9 of the ERC Revised Rules of Practice and Procedure, indicating therein the docket number and title of the case and stating the following:

- 1) The petitioner's name, mailing address, and e-mail 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.

Likewise, all other persons who may want their views known to the Commission with respect to the subject matter of the case may file through e-mail at doCKET@erc.ph, copy furnish the Legal Service

⁶ A Resolution Adopting the Guidelines Governing Electronic Applications, Filings and Virtual Hearings Before the Energy Regulatory Commission.

⁷ A Resolution Adopting the Revised Rules of Practice and Procedure of the Energy Regulatory Commission.

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through legal@erc.ph, their Opposition or Comment thereon **at least five (5) calendar days** prior to the initial virtual hearing and subject to the requirements under Rule 9 of the ERC Revised 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, mailing address, and e-mail address of such person;
- 2) A concise statement of the Opposition or Comment; and
- 3) The grounds relied upon.

Any of the persons mentioned in the preceding paragraphs may access the copy of the *Application* on the Commission's official website at www.erc.gov.ph.

Finally, all interested persons may be allowed to join the scheduled virtual hearings by providing the Commission, thru legal.virtualhearings@erc.ph, with their respective e-mail addresses and indicating therein the case number of the instant *Application*. The Commission will send the access link/s to the aforementioned hearing platform within five (5) working days prior to the scheduled hearings.

WITNESS, the Honorable Chairperson and CEO **MONALISA C. DIMALANTA**, and the Honorable Commissioners **ALEXIS M. LUMBATAN**, **CATHERINE P. MACEDA** and **MARKO ROMEO L. FUENTES**, Energy Regulatory Commission, this 4th day of January 2023 in Pasig City.


FLORESINDA G. BALDO-DIGAL
Oversight Commissioner
For the Legal Service 


LS: JJP/ARG/MCCG



NOTICE

Sirs/Mesdames:

Please take notice that on **04 January 2023**, the Commission issued an **Order** and a **Notice of Virtual Hearing** in the following case, the original documents were received by this Office on 04 January 2023:

ERC CASE NO. 2022-088 RC, IN THE MATTER OF THE APPLICATION FOR APPROVAL OF FORCE MAJEURE EVENT REGULATED FM PASS-THROUGH FOR TYPHOON ODETTE IN VISAYAS AND MINDANAO IN ACCORDANCE WITH THE AMENDED RULES FOR SETTING TRANSMISSION WHEELING RATES, WITH PRAYER FOR PROVISIONAL AUTHORITY – NATIONAL GRID CORPORATION OF THE PHILIPPINES, Applicant.

Attached are electronic copies.

Please be reminded of the Commission's existing rules on electronic service of orders and decisions provided under **Rule VI of Resolution No. 9, Series of 2020¹**, which became effective on 17 November 2020.

Thank you.

Very truly yours,

MARIA LUCILA M. GIRON
Administrative Officer V
OGCS-Central Records Division


/jdc

¹ A Resolution Adopting the Guidelines Governing Electronic Applications, Filings and Virtual Hearings Before the Energy Regulatory Commission