

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 THERMA
MOBILE, INC., WITH
PRAYER FOR THE ISSUANCE
OF PROVISIONAL
AUTHORITY**

ERC CASE NO. 2023-065 RC

**NATIONAL GRID
CORPORATION OF THE
PHILIPPINES (NGCP) AND
THERMA MOBILE, INC.
(TMO),**

Applicants.

X- -----X

Promulgated:
September 26, 2023

ORDER

On 16 June 2023, the National Grid Corporation of the Philippines (NGCP) and Therma Mobile, Inc. (TMO) filed an *Application*, dated 23 May 2023, seeking the Commission's approval of NGCP and TMO's Ancillary Services Procurement Agreement (ASPA), with prayer for issuance of provisional authority.

However, on 20 July 2023, TMO filed an *Urgent Motion to Amend the Application* with attached *Amended Application*, dated 19 July 2023 (Amended Application).

The pertinent allegations of the *Amended Application* are hereunder quoted as follows:

NATURE OF THE CASE

1. This Application is for the approval of the Ancillary Services Procurement Agreement ("**ASPA**" or "**Agreement**") dated

02 May 2023,¹ entered into by the NGCP and TMO, pursuant to Department of Energy (DOE) Department Circular No. DC 2021-10-0031 (the "AS-CSP Circular") prescribing the conduct of Ancillary Services Competitive Selection Process (AS-CSP); in relation to the Ancillary Services – Cost Recovery Mechanism (AS-CRM) promulgated by the Energy Regulatory Commission in its Decision dated 3 October 2007 in ERC Case No. 2006-049RC.

THE PARTIES

2. Applicant NGCP is a corporation created and existing under the laws of the Philippines, with office address at NGCP Building, Quezon Avenue corner BIR Road, Diliman, Quezon City. It holds a congressional franchise granted under Republic Act No. 9511,² and is authorized to engage in the business of conveying or transmitting electricity through high-voltage back-bone systems of interconnected transmission lines, substations and related facilities, and for other purposes. The NGCP is authorized to conduct activities necessary to support the safe and reliable operation of the transmission system.
3. Applicant TMO is a corporation duly organized and existing under and by virtue of the laws of the Republic of the Philippines, with principal place of business at Old VECO Compound, Ermita, Cebu City.
 - 3.1. TMO is the owner and operator of a power plant composed of a Bunker C-Fired Diesel Power Plant, with a rated capacity of 239.20MW continuous output at 60Hz, including required ancillaries and spare parts, located in Navotas Fish Port Complex, Baradero St., North Bay Blvd., Navotas City (the "Generation Facility"), which was certified and accredited by the NGCP as capable of providing Dispatchable Reserve and Reactive Power Support.
4. NGCP and TMO may be served with orders, notices, pleadings and other legal processes through their respective counsels at the addresses indicated below.

ANTECEDENT FACTS

5. Republic Act No. 9136, also known as the Electric Power Industry Reform Act ("EPIRA"), provides that it is the responsibility of NGCP to ensure and maintain the reliability, adequacy, security, stability and integrity of the nationwide electrical grid in accordance with the performance standards for its operations and maintenance, as set forth in the

¹ A copy of the Ancillary Services Procurement Agreement (ASPA) dated 02 May 2023 is attached as Annex "A".

² 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 of Interconnected Transmission Lines, Substations and Related Facilities, and for other Purposes.

Philippine Grid Code (“PGC”),³ adopted and promulgated by the Honorable Commission, and to adequately serve generation companies, distribution utilities and suppliers requiring transmission service and/or ancillary services (“AS” or “Ancillary **Services**”)⁴ through the transmission system.⁵

6. Similarly, the PGC provides that NGCP is responsible for determining, acquiring, and dispatching the capacity needed to supply the required Grid AS and for developing and proposing Wheeling Charges and AS tariffs of the ERC.⁶
7. Ancillary Services is defined in Section 4 (b) of the EPIRA as referring “*to those services that are necessary to support the transmission of capacity and energy from resources to loads while maintaining reliable operation of the transmission system in accordance with good utility practice and the Grid Code to be adopted in accordance with this Act.*” These services are essential in ensuring reliability in the operation of the transmission system and consequently, in the reliability of the electricity supply in the Luzon, Visayas and Mindanao grids.
8. In order to implement and regulate the procurement of AS, the Honorable Commission approved the Ancillary Services Procurement Plan (“ASPP”) through its Order dated 9 March 2006 in ERC Case No. 2002-253 and the Ancillary Services-Cost Recovery Mechanism (“AS-CRM”) through its Decision dated 3 October 2007 in ERC Case No. 2006-049RC.
9. The NGCP certified that the units of the Generation Facility have met and complied with the Standard Ancillary Services Technical Requirements of the ASPP as capable of providing Dispatchable Reserve Service and Reactive Power Support Service. A copy of NGCP Accreditation Certificate No. 2022-L029 to 2022-L032, in favor of TMO, and valid from 1 January 2023 to 31 December 2023 is attached to this Application.⁷

Competitive Selection Process

10. On 04 October 2021, the DOE issued the AS-CSP Circular providing the policy for the conduct of the Competitive Selection Process (CSP) for the procurement of Ancillary Services by the System Operator (NGCP). Among the policies set by the AS-CSP Circular was the creation of an independent Third-Party Bids and Awards Committee (TPBAC) to spearhead and manage the CSP.

³ ERC Resolution No. 22, series of 2016, entitled “A Resolution Approving the Publication of the Approved Philippine Grid Code 2016 Edition”. See also Section 9(c), EPIRA.

⁴ Section 4(b), EPIRA. “Ancillary Services” refer to those services that are necessary to support the transmission of capacity and energy from resources to loads while maintaining reliable operation of the transmission system in accordance with good utility practice and the Grid code to be adopted in accordance with this Act.

⁵ Section 9(d), EPIRA.

⁶ Chapter 6, Grid Operations (“GO”), GO Section 6.3.1.2, PGC.

⁷ Copy of NGCP Accreditation Certificate No. 2022-L029 to 2022-L032 with corresponding test report/s, is attached as Annex “B”.

11. In its Letter dated 22 November 2022,⁸ the DOE approved the Terms of Reference (TOR)⁹ and Instruction to Bidders¹⁰, and instructed NGCP to proceed with the publication and posting of the same pursuant to Sec. 7.4 and 7.5 of the AS-CSP Circular.
12. On 26 January 2023, the TPBAC approved its Notice of Invitation to Bid¹¹ informing the public of the pending AS-CSP for Regulating Reserve (RR), Contingency Reserve (CR), Dispatchable Reserve (DR), Reactive Power Support (RPS), and Black Start Service (BSS); and inviting all interested grid-connected merchant plants and Independent Power Producers to apply for eligibility and participate in the competitive bidding for the procurement of AS. The Notice of Invitation to Bid likewise provided any interested grid-connected merchant plants a copy of the DOE approved TOR and Instruction to Bidders.
13. Subsequently, the Notice of Invitation to Bid was published on 31 January 2023 with the *Malaya Business Insight*¹² and the *Philippine Star*.¹³ The same Notice was also published on 07 February 2023 with the *Business Mirror*¹⁴ and the *Manila Bulletin*.¹⁵
14. TMO was declared by the TPBAC as eligible to participate in the AS-CSP and submit its bid for the provision of AS to be provided by the Generation Facility.
15. Under Bid Bulletin 2023-02 issued by the TPBAC, eligible bidders may submit their bids on or before 13 March 2023.
16. Thereafter, pursuant to Bid Bulletin 2023-02, the TPBAC conducted the opening of bids timely submitted by all the eligible bidders whereby the (TMO)'s bid/offer¹⁶ for the provision of Dispatchable Reserve and Reactive Power Support by its Generation Facility was considered for award after sufficiently complying with the post-qualification requirements.

⁸ DOE Letter dated 22 November 2022 approving the Terms of Reference and Instruction to Bidders is attached as Annex "C".

⁹ DOE Approved Terms of Reference is attached as Annex "C-1".

¹⁰ DOE Approved Instruction to Bidders is attached as Annex "C-2".

¹¹ Notice of Invitation to Bid is attached as Annex "C-3".

¹² The 31 January 2023 edition of the *Malaya Business Insight* and the page on which the Notice of Invitation to Bid appears are attached as Annexes "D" and "D-1", respectively. The Affidavit of Publication issued by the *Malaya Business Insight* is likewise attached as Annex "D-2".

¹³ The 31 January 2023 edition of the *Philippine Star* and the page on which the Notice of Invitation to Bid appears are attached as Annexes "E" and "E-1", respectively. The Affidavit of Publication issued by the *Philippine Star* is likewise attached as Annex "E-2".

¹⁴ The 07 February 2023 edition of the *Business Mirror* and the page on which the Notice of Invitation to Bid appears are attached as Annexes "F" and "F-1", respectively. The Affidavit of Publication issued by the *Business Mirror* is likewise attached as Annex "F-2".

¹⁵ The 07 February 2023 edition of the *Manila Bulletin* and the page on which the Notice of Invitation to Bid appears are attached as Annexes "G" and "G-1", respectively. The Affidavit of Publication issued by the *Manila Bulletin* is likewise attached as Annex "G-2".

¹⁶ Copy of TMO's bid/ offer is attached herein as Annex "H".

17. On 12 April 2023, the TPBAC issued and submitted to the NGCP's Board of Directors its Resolution and Evaluation Report on the conduct of the CSP¹⁷ indicating TMO as one of the winning bidders. The TPBAC's Evaluation Report was thereafter confirmed by the NGCP's Board of Directors through a resolution dated 18 April 2023.¹⁸
18. On 18 April 2023, the TPBAC issued a Notice of Award in favor of TMO,¹⁹ informing the latter that it is to be awarded with a contract for the Provision of Ancillary Services in the Luzon Grid. The details of the award are as follows:

Type of AS to be provided	Unit	Rate ²⁰ (Php)	Duration
Dispatchable Reserve	02TMOBIL-G01	1.171948525/kWh	Five (5) years
	02TMOBIL-G02	1.171948525/kWh	
	02TMOBIL-G03	1.171948525/kWh	
	02TMOBIL-G04	1.171948525/kWh	
Reactive Power Support	02TMOBIL-G01	4.00/kVARh	Five (5) years
	02TMOBIL-G02	4.00/kVARh	
	02TMOBIL-G03	4.00/kVARh	
	02TMOBIL-G04	4.00/kVARh	

19. On 02 May 2023, NGCP and TMO executed an ASPA pursuant to the AS-CSP Circular.

**CONTRACTED CAPACITY RATES
AND IMPACT SIMULATION**

20. Section 3 of the ASPA states that TMO shall provide the AS in accordance with Schedule 1 of the ASPA, as follows:

Contracted Capacities:

- A. Dispatchable Reserve:

(This space is intentionally left blank.)

¹⁷ The TPBAC Resolution and Evaluation Report dated 12 April 2023 indicating TMO's bid/offer for its Generation Facility as one of the winning bids is attached as Annex "I".

¹⁸ NGCP Secretary's Certificate certifying the BOD's Resolution confirming the TPBAC's Evaluation Report is attached as Annex "J"

¹⁹ Notice of Award in favor of TMO is attached as Annex "K"

²⁰ Rates indicated in the table were derived using the suggested template during the Bid Evaluation. Details leading to the rate offer took into consideration the Capacity Payment Rate (for the MW or MVAR offer, whichever is applicable), and the FOM, VOM, and Fuel Cost of the Incidental Energy fees (if applicable), which is detailed in Schedule 3 of the ASPA attached as Annex "A".

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DR	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24
02TMOBIL_G01	106	110	95	76	78	73	28	62	129	143	167	185	189	204	198	204	197	190	192	204	204	187	183	133
1	0	0	0	0	0	0	0	0	0	0	5	17	17	17	17	17	17	17	17	17	17	17	0	0
2	0	0	0	0	0	0	0	0	17	17	17	17	7	17	17	17	17	17	17	17	17	17	17	15
3	0	0	0	0	0	0	0	0	0	11	17	17	17	17	17	17	17	17	17	17	17	17	17	0
4	0	0	0	0	0	0	0	0	17	0	11	4	17	17	11	17	10	14	17	17	17	17	17	0
5	12	8	3	0	0	0	0	0	17	17	0	17	17	17	17	17	17	17	17	17	17	17	17	17
6	9	17	11	6	0	0	0	0	6	17	17	17	17	17	17	17	17	17	17	17	17	17	17	17
7	17	17	17	17	17	9	0	8	17	17	17	17	17	17	17	17	17	17	17	17	17	17	17	17
8	17	17	13	5	10	13	0	9	17	17	17	17	17	17	17	17	17	17	17	17	17	17	17	17
9	17	17	17	17	17	17	5	17	17	17	17	17	17	17	17	17	17	17	17	17	17	17	17	17
10	17	17	17	17	17	17	15	17	17	17	17	17	17	17	17	17	17	17	17	17	17	17	17	17
11	17	17	17	14	17	17	8	11	0	0	15	13	17	17	17	17	17	17	17	17	17	17	17	17
12	0	0	0	0	0	0	0	0	4	13	17	15	12	17	17	17	17	17	17	17	17	17	17	0
02TMOBIL_G02	79	65	26	15	38	37	0	20	72	84	128	135	165	169	175	178	167	170	187	198	188	170	164	87
1	0	0	0	0	0	0	0	0	0	0	0	12	13	14	17	17	17	17	17	17	17	17	17	17
2	0	0	0	0	0	0	0	0	0	3	13	5	0	16	16	16	12	17	17	17	17	17	0	0
3	0	0	0	0	0	0	0	0	0	0	17	17	17	17	17	17	17	17	17	17	17	17	0	0
4	0	0	0	0	0	0	0	0	9	0	0	0	17	3	0	4	0	0	17	17	17	17	11	0
5	0	0	0	0	0	0	0	0	2	11	0	17	17	17	17	17	17	17	17	17	17	17	17	5
6	0	2	0	0	0	0	0	0	2	17	16	17	17	17	17	17	17	17	17	17	17	17	17	1
7	17	11	0	0	1	0	0	0	10	17	17	17	17	17	17	17	17	17	17	17	17	17	17	0
8	11	5	0	0	0	0	0	0	17	17	17	17	17	17	17	17	17	17	17	17	17	17	17	15
9	17	13	9	6	3	3	0	7	17	17	17	17	17	17	17	17	17	17	17	17	17	17	17	17
10	17	17	10	9	17	17	0	13	17	17	17	17	17	17	17	17	17	17	17	17	17	17	17	10
11	17	17	7	0	17	17	0	0	0	0	0	0	17	17	17	17	17	17	17	17	17	17	17	17
12	0	0	0	0	0	0	0	0	0	0	13	0	0	0	6	5	2	0	0	11	1	17	17	17
02TMOBIL_G03	20	14	0	0	9	2	0	0	14	23	41	42	59	55	54	55	59	61	76	77	77	63	55	14
1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2	1	3	7	7	7	7	7	0	0
2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
3	0	0	0	0	0	0	0	0	0	0	7	7	7	7	7	7	7	5	7	7	7	7	0	0
4	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	7	5	7	7	0	0
5	0	0	0	0	0	0	0	0	0	0	0	7	7	7	7	7	7	7	7	7	7	7	1	2
6	0	0	0	0	0	0	0	0	0	0	6	0	3	6	3	5	7	7	7	7	7	6	7	0
7	3	0	0	0	0	0	0	0	2	7	7	7	7	7	7	7	7	7	7	7	7	7	7	0
8	0	0	0	0	0	0	0	0	0	7	7	7	7	7	7	7	7	7	7	7	7	7	7	0
9	5	0	0	0	0	0	0	0	7	7	7	7	7	7	7	7	7	7	7	7	7	7	7	7
10	5	7	0	0	2	0	0	0	7	7	7	7	7	7	7	7	7	7	7	7	7	7	7	0
11	7	7	0	0	7	2	0	0	0	0	0	0	7	7	7	7	7	7	7	7	7	7	7	7
12	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
02TMOBIL_G04	1	3	0	0	2	0	0	0	3	17	99	116	135	137	148	143	143	139	166	166	177	142	117	23
1	0	0	0	0	0	0	0	0	0	0	0	8	0	0	0	0	4	6	3	1	19	32	7	
3	0	0	0	0	0	0	0	0	0	12	13	12	17	21	16	6	13	9	14	0	0	0	0	0
4	0	0	0	0	0	0	0	0	0	0	0	0	22	0	0	0	0	2	0	8	8	0	0	0
5	0	0	0	0	0	0	0	0	0	19	22	21	22	22	22	22	22	18	22	22	22	0	0	0
6	0	0	0	0	0	0	0	0	0	0	8	0	0	0	0	0	22	22	22	22	22	0	1	0
7	0	0	0	0	0	0	0	0	0	0	21	17	11	17	17	17	18	16	22	22	22	29	15	0
8	0	0	0	0	0	0	0	0	0	0	22	22	16	22	22	22	22	22	22	22	22	21	22	0
9	0	0	0	0	0	0	0	0	0	33	22	22	22	22	22	22	22	22	22	22	22	22	22	10
10	0	2	0	0	0	0	0	0	3	4	22	22	22	22	22	22	22	22	22	22	22	22	22	0
11	1	1	0	0	2	0	0	0	0	0	0	0	9	15	22	22	7	13	13	22	22	22	22	11
12	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	9	1	0

B. Reactive Power Support:

Available capacity of Reactive Power outside the range of 85% lagging and 90% leading power factor.

Note that the capacities in the hourly profile are the maximum ancillary service capacities that can be provided by each unit. However, declaration and schedule shall be based on the latest AS Accreditation Certificate, which shall not exceed the Firm capacities in the hourly profile.

21. Schedule 3 of the ASPA provides for the formula for the computation of the Ancillary Service Payment, and the applicable rates for Capacity Payment:

A. Ancillary Service Payment

1. For DR, Ancillary Service Payment is the total of the Capacity Payment and the Incidental Energy Payment in B and D below.

Ancillary Service Payment_{DR} = Capacity Payment + Incidental Energy Payment

2. For Reactive Power Support, Ancillary Service Payment is as follows:

kVAR Payment = (Incidental kVARh Rate x Compensable kVARh) + Incidental Energy Payment (if applicable)

Real Time Incidental kVARh Utilization while Providing Contingency or Dispatchable Reserves. This shall be paid based on the total recorded kVARh delivered/absorbed beyond 0.85 power factor lagging or 0.9 power factor leading from the time when the dispatch of RPS was instructed. The compensable kVARh shall be paid at:

Incidental kVARh Rate: PhP 4.00 / kVARh

Compensable kVARh = Actual kVARh - Base kVARh

Where:

Actual kVARh = actual reactive power provided within each interval

Base kVARh = corresponding kVARh at 0.85 power factor lagging or 0.9 power factor leading, for the unit's MW loading. For clarity, the MW loading is the unit's Pmin, or RTD schedule, whichever is greater.

B. Applicable Rates for Capacity Payment:

Dispatchable Reserve (DR): PhP 0.85/kW/h

Formula for Capacity Payment = Undispatched Scheduled Capacity x Applicable Rate per AS Type

C. Per Occurrence Applicable Rates:

Reactive Power Support (RPS): PhP 4.00/kVAR/hr

D. Incidental Energy Payment

The Cost of Incidental Energy ("IE") is the cost of actual energy generated for the firm Scheduled Capacity which shall be paid and computed using the formula below:

Payment of Cost of Incidental Energy (IE) computed as follows:

Incidental Energy Payment
= {G X (Capacity Payment Rate + Energy Fees)}
- (WESM Revenue - WESM Payment)

Where:

- G = summation of actual energy generated or dispatched from the Scheduled Capacity, in kWh

- **Energy Fees, in PhP/kWh = Fuel Cost + Fixed and Variable O&M Cost, in PhP/kWh**
- Fuel Cost, in PhP/kWh = fuel cost based on prevailing price with relevant fuel index based on published data

$$= \text{HFR} + \text{LR}$$

Where:

$$\text{HFR (in PhP/kWh)} = \text{HF CR} \times \text{PHFO}$$

Where:

HFR = Heavy Fuel Oil (HFO) rate in PhP/kWh
HF CR = HFO consumption rate in Li/kWh; the lower of actual consumption rate or 0.245 Li/kWh

PHFO = actual HFO price, PhP/Liter.
Determination of the actual price shall be based on "weighted average" inventory method

$$\text{LR (in PhP/kWh)} = \text{LCR} \times \text{PLO}$$

Where:

LR = Lube Oil (LO) rate in PhP/kWh
LCR = LO consumption rate in Li/kWh; the lower of actual consumption rate or 0.003044 Li/kWh

PLO = actual LO price, PhP/Liter.
Determination of the actual price shall be based on "weighted average" inventory method

- Variable O&M Cost, in PhP/kWh

$$= \text{VOM} * (75\% * (\text{RPCPI}_i / \text{RPCPI}_o) + 25\% * (\text{USCPI}_i / \text{USCPI}_o) * (\text{USFX}_i / \text{USFX}_o))$$

Where:

VOM = 0.654997 PhP/kWh

RPCPI_i = Philippine CPI of the current billing month

RPCPI_o = Philippine CPI of 119.40 as of December 2022

USCPI_i = US CPI of the current billing month

USCPI_o = US CPI of 296.797 as of December 2022

USFX_i = Php to US dollar exchange rate at the end of the current billing month

USFX_o = Php to US dollar exchange rate of 55.684 PhP/USD as of December 31, 2022

Variable Cost will include Distribution Wheeling System Charge and Start-Up/Shutdown Cost (SSC) based on actual, subject to ERC approval.

- WESM Revenue = summation of WESM revenue based on market clearing price at the generator's trading node, arising from G.

- WESM Payment = summation of WESM purchases based on market clearing price at the generator's trading node, for generator's feedback power if applicable.

Incidental Energy Payment Reactive Power Support =
G x (Variable O&M Cost + Fuel)

Where:

- G = summation of actual energy generated or dispatched to provide Reactive Power Support, in kWh
- Variable O&M Cost, in PhP/kWh

$$= \text{VOM} * (75\% * (\text{RPCPI}_i / \text{RPCPI}_o) + 25\% * (\text{USCPI}_i / \text{USCPI}_o) * (\text{USFX}_i / \text{USFX}_o))$$

Where:

VOM = 0.654997 PhP/kWh

RPCPI_i = Philippine CPI of the current billing month

RPCPI_o = Philippine CPI of 119.40 as of December 2022

USCPI_i = US CPI of the current billing month

USCPI_o = US CPI of 296.797 as of December 2022

USFX_i = Php to US dollar exchange rate at the end of the current billing month

USFX_o = Php to US dollar exchange rate of 55.684 PhP/USD as of December 31, 2022

Variable Cost will include Distribution Wheeling System Charge and Start-Up/Shutdown Cost (SSC) based on actual, subject to ERC approval.

- Fuel Cost, in PhP/kWh = fuel cost based on prevailing price with relevant fuel index based on published data

$$= \text{HFR} + \text{LR}$$

Where:

$$\text{HFR (in PhP/kWh)} = \text{HF CR} \times \text{PHFO}$$

Where:

HFR = Heavy Fuel Oil (HFO) rate in PhP/kWh

HF CR = HFO consumption rate in Li/kWh; the lower of actual consumption rate or 0.245 Li/kWh

PHFO = actual HFO price, PhP/Liter. Determination of the actual price shall be based on "weighted average" inventory method

$$\text{LR (in PhP/kWh)} = \text{LCR} \times \text{PLO}$$

Where:

LR = Lube Oil (LO) rate in PhP/kWh

LCR = LO consumption rate in Li/kWh; the lower of actual consumption rate or 0.003044 Li/kWh

PLO = actual LO price, Php/Liter. Determination of the actual price shall be based on "weighted average" inventory method

22. In compliance with the Honorable Commission’s document checklist, NGCP submits the following:

Document	Annex
AS Rates Offered by the AS Provider during the AS-CSP	“L”
Actual AS Data on Required, Scheduled, and Dispatched (MW) for the Grid for the previous year	“M”
Implementing Guidelines of the ASPA	“N”
Dispatch Protocol Approval from DOE (Applicable to Embedded Generators)	“N-1”
Locational Map of TMO	“O”
Certification from NGCP as required under item D of the ERC Checklist	“P”

23. TMO submits that the rates represent a reasonable recovery of its opportunity cost in making available generation capacity to provide the procured AS.

AS Type	Indicative Rate Impact	
	P/kW – month	P/kwh
DR	2.3782	0.0047
RPS	1.8405	0.0036

A copy of the Rate Impact Simulation for TMO is attached to this Application.²¹

24. Consistent with the AS-CRM, all the related and incidental expenses which NGCP will incur as a result of the procurement and operation of the ancillary services shall be recovered from all the load customers in the Luzon Grid.
25. As provided under Section 2.1 of the ASPA, the same shall become effective upon the approval by the ERC, either through a Provisional Authority (PA), or Interim Relief (IR), or final Decision, whichever comes first, unless if a different effective date is provided by the ERC in its Order or Decision, and shall remain effective for a period of five (5) years, subject to Section 13 (Termination) of the ASPA.
26. TMO, as a generation company, falls within the ambit of Section 6 of the EPIRA. Attached are copies of relevant documents proving TMO’s due registration as a generation company, relevant permits to operate the Generation Facility and audited financial statements, as well as other documents required by the Honorable Commission:

²¹ Rate Impact Simulation is attached as Annex “Q”.

Document	Annex
TMO's Articles of Incorporation	"S"
TMO's Latest SEC GIS	"T"
TMO's Provisional Authorities to Operate	"U"
TMO's Latest Audited Financial Statement	"V"
TMO's WESM Registration	"W"
TMO's Computation of True Cost of Generation (PhP/kW & PhP/kWh) with the computed Consumer Price Index (CPI) indexation as part of the monthly Variable Operation and Maintenance (O&M) Cost, including their computations	"X"
TMO's Distribution Wheeling Service (DWS) Agreement with Manila Electric Company (MERALCO)	"Y"
TMO's Summary of Distribution Wheeling Service Charges from MERALCO, including copy of the Statement of Accounts	"Z"
TMO's Single-Line Diagram Connection	"AA"
TMO's Reactive Power Capability Curve	"BB"
TMO's Write Up on Non-Applicability of Documents	"CC"

27. While TMO is a co-applicant, it manifests that the instant Application shall neither modify, diminish nor constitute a waiver of its rights nor expand its obligations and responsibilities as a generation company under the EPIRA.

**ALLEGATIONS IN SUPPORT OF THE PRAYER FOR
CONFIDENTIAL TREATMENT OF INFORMATION**

28. Under Rule 4 of the ERC Rules of Practice and Procedure, the Honorable Commission may, upon request of a party and determination of existence of conditions that would warrant such remedy, treat certain information submitted to it as confidential.
29. Documents attached to this Application, particularly, Annexes "L", "T", "U", "V", "W", "X", "Y", "Z", "AA", and "BB", contain commercially valuable and sensitive information and data that reflect TMO's investments, business operations, calculations, and other trade secrets.
30. TMO thus respectfully moves that these documents are not disclosed and treated as confidential documents in accordance with Section 1, Rule 4 of the Honorable Commission's Rules of Practice and Procedure. Accordingly, TMO submits one (1) copy of said documents in a sealed envelope, with the envelope and each page of the document stamped with the word "Confidential".

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

31. It is a declared policy of the State to ensure the quality, reliability, security and affordability of the supply of electric power.²² To this end, there is a need to comply with the system requirements for AS to ensure grid system security and

²² Section 2(b), EPIRA.

reliability. As mentioned above, NGCP has the mandate to procure the required AS. However, the Honorable Commission must first approve the contract before the same can be implemented.

32. As the demand for power in Luzon increases, the requirements of the system likewise increases. Ensuring the integrity of the system is essential to protect the interests of the public. The absence of system reliability and stability will certainly discourage investments and growth.
33. Applicants respectfully submit that the immediate approval of the ASPA by this Honorable Commission is a necessity to maintain the present reliability and security of the Grid. In support of these allegations, NGCP submits a copy of the Judicial Affidavit of Ms. Lisaflor B. Kater,²³ which is attached to this Application.

PRAYER

WHEREFORE, premises considered, Applicants respectfully pray that the Honorable Commission:

1. Immediately ISSUE a provisional authority to implement the subject ASPA executed on 02 May 2023; and
2. APPROVE, after notice and hearing, the subject ASPA.
3. ISSUE an Order treating Annexes "L", "T", "U", "V", "W", "X", "Y", "Z", "AA", and "BB" as confidential information pursuant to Section 1, Rule 4 of the ERC Rules of Practice and Procedure and prescribing the guidelines for the protection thereof.

Other just and equitable reliefs are likewise prayed for.

Consequently, on 03 July 2022, the Commission issued an *Order* and a *Notice of Virtual Hearing*, setting the original *Application* for hearing on the following dates: (1) 30 August 2023 for the determination of compliance with the jurisdictional requirements and expository presentation; and (2) 06 September 2023 for the conduct of Pre-trial Conference and presentation of evidence.

However, on 20 July 2023, TMO filed an *Urgent Motion to Amend the Application*, with attached *Amended Application*, dated 19 July 2023, alleging that TMO found an error in the originally filed *Application* dated 23 May 2023, particularly on the formula for "Energy Fees" of the Incidental Energy Payment, which was not included in the original *Application*. In view thereof, TMO prayed for

²³ *Judicial Affidavit* of Ms. Lisaflor B. Kater is attached as Annex "R".

the amendment of the original *Application*, dated 23 May 2023, to reflect the correct formula.

In an *Order*, dated 15 August 2023, the Commission directed the Applicants to undergo anew with the pre-filing requirements considering that the amendments sought will substantially modify the original *Application*. In the same *Order*, the Commission directed the Applicants to furnish a copy of the *Amended Application* to the Local Government Units (LGUs) where the parties principally operate and to cause the publication of the *Amended Application* in the newspaper of general circulation.

In compliance with the said *Order*, on 12 September 2023, Applicants filed their *Joint Compliance (with the Honorable Commission's Order dated 15 August 2023)*.

ACCORDINGLY, the Commission hereby sets anew the instant *Amended 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 2020²⁴ dated 24 September 2020 and Resolution No. 01, Series of 2021, dated 17 December 2020 (ERC Revised Rules of Practice and Procedure):²⁵

Date	Platform	Activity
18 October 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
25 October 2023 (Wednesday) at nine o'clock in the morning (9:00 A.M)		Pre-Trial Conference and Presentation of Evidence

²⁴ Entitled: A Resolution Adopting the Guidelines Governing Electronic Applications, Filings and Virtual Hearings Before the Energy Regulatory Commission, promulgated on 17 November 2020.

²⁵ A Resolution Adopting the Revised Rules of Practice and Procedure of the Energy Regulatory Commission.

RELATIVE THERETO, NGCP and TMO 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, where NGCP and TMO principally operate, including NGCP's regional offices, for the appropriate posting thereof on their respective bulletin boards;
- 3) Inform the consumers within the affected area, by any other means available and appropriate, of the filing of the *Application*, its reasons therefor, and of the scheduled hearing 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 hearing; and
- 5) Furnish with copies of the *Application* and its attachments, except those subject of a motion for confidential treatment of information, all those making requests therefor, subject reimbursement of reasonable photocopying costs.

Within five (5) calendar days prior to the date of the virtual hearings, Applicants NGCP and TMO must submit to the Commission via electronic mail (e-mail) at docket@erc.ph, and copy furnish the Legal Service through legal@erc.ph, the scanned copies of their written compliance with the aforementioned jurisdictional requirements, attaching the following methodically arranged and duly marked documents:

- 1) The evidence of publication of the attached *Notice of Virtual Hearing* consisting of affidavit of the Editor or Business Manager of the newspaper where the said *Notice*

of Virtual Hearing was published, and the complete issue of the said newspaper;

- 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 Governor, Mayors and LGU legislative bodies or their duly authorized representatives, bearing the seals of their offices;
- 3) The evidence of other means employed by Applicants NGCP and TMO to inform the consumers within the affected area of 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, except those subject of a motion for confidential treatment of information, if any, by all those making requests therefor; and
- 6) Such other proofs of compliance with the requirements of the Commission.

Moreover, Applicants NGCP and TMO are hereby required to post on their bulletin boards, the scanned copies of the foregoing jurisdictional requirements, together with the newspaper publication and certifications issued by the concerned Offices of the Governor, Mayors and Local Legislative Bodies, and to submit proof of posting thereof.

Applicants NGCP and TMO and all interested parties are also required to submit via e-mail at doCKET@erc.ph, and 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.

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

Applicants NGCP and TMO must also be prepared to make an expository presentation of the instant *Amended 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 *Joint Application*. Relevant information and pertinent details substantiating the reasons and justifications for the *Amended Application* must be cited in support thereof.

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


Applicants NGCP and TMO are further directed to submit, through personal service, registered mail or ordinary mail/private courier, one (1) set of the original or certified true hard copies of their Jurisdictional Compliance, Expository Presentation, Pre-trial Brief, and Judicial Affidavits of witnesses, **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.

Finally, Applicants NGCP and TMO, including its authorized representatives and witnesses, are hereby directed to provide the Commission, thru legal.virtualhearings@erc.ph, 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 hearing.

SO ORDERED.

Pasig City, 26 September 2023.

FOR AND BY AUTHORITY
OF THE COMMISSION:


MONALISA C. DIMALANTA
Chairperson and CEO

ERC

Office of the Chairperson and CEO



MCD2023-009269


LS: BBB/BSVG/MCCG

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ORDER/26 SEPTEMBER 2023
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Copy Furnished:

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