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5th Floor C5 Office Bldg. Complex, 100 E. Rodriguez Jr. Ave., C5 Road, Ugong, Pasig City, 1604

Universal Power Solutions, Inc.

Item No.: 23
Date: JUL 18 2023
(02) 5317 1000

05 July 2023

THE SANGGUNIANG PANLALAWIGAN
Province of Leyte

Thru: HON. LEONARDO MORALES JAVIER JR.
Vice Governor & Presiding Officer
Province of Leyte

Subject : ENERGY REGULATION COMMISSION'S INSTRUCTION TO FURNISH COPIES OF THE ORDER AND NOTICE OF VIRTUAL HEARING FOR ERC CASE NO. 2023-069 RC AND POSTING ON BULLETIN BOARD

Dear Vice Governor Javier Jr.:

In compliance with the directives of the Energy Regulatory Commission (ERC) in its "Order" and "Notice of Virtual Hearing" both dated 27 June 2023, the undersigned is respectfully furnishing your good office with copies of the same setting the aforementioned case for determination of compliance with the jurisdictional requirements, expository presentation on **01 August 2023 (Tuesday)** and pre-trial conference, and presentation of evidence on **08 August 2023 (Tuesday)**.

In this regard, may we request your office to post the attached "Order" and "Notice of Public Hearing" on your Bulletin Board and issue a Certification confirming the date/s of actual posting of said "Order" and "Notice of Virtual Hearing".

We are hoping for your prompt and positive response to this request. For any concerns, please do not hesitate to reach our point-person Ms. Ma. Rianne S. Sarangay, Compliance Assistant, through regulatorycompliance@smcgph.sanmiguel.com.ph and 5317-1000.

Thank you very much and we hope all the best in your endeavors.

Very truly yours,

WARREN PATRICK G. BELVIS
Manager, Regulatory Compliance Department
and Regulatory Compliance Officer

SANGGUNIANG PANLALAWIGAN
PROVINCE OF LEYTE
JUL 10 2023
Divine

CERTIFICATION

This is to certify that on _____ 2023, the *Office of the Sangguniang Panlalawigan of Leyte* posted on its Bulletin Board the Energy Regulatory Commission's (ERC) "Order" and "Notice of Public Hearing" both dated 27 June 2023, subject of ERC Case No. 2023-069 RC [In the Matter of the Joint Application for Approval of the Ancillary Services Procurement Agreement Between the National Grid Corporation of the Philippines and Universal Power Solutions, Inc. (Ormoc BESS), with Prayer for the Issuance of Provisional Authority].

Issued on _____ 2023 in Leyte, Philippines.

Leonardo Morales Javier Jr.
Vice Governor
Province of Leyte

Republic of the Philippines
ENERGY REGULATORY COMMISSION
Pasig City

**IN THE MATTER OF THE
APPLICATION FOR
APPROVAL OF THE
ANCILLIARY SERVICES
PROCUREMENT
AGREEMENT BETWEEN THE
NATIONAL GRID
CORPORATION OF THE
PHILIPPINES AND
UNIVERSAL POWER
SOLUTIONS, INC. (ORMOC
BESS), WITH PRAYER FOR
THE ISSUANCE OF
PROVISIONAL AUTHORITY**

ERC CASE NO. 2023-069 RC

**NATIONAL GRID
CORPORATION OF THE
PHILIPPINES AND
UNIVERSAL POWER
SOLUTIONS, INC. (ORMOC
BESS),**

Applicants.

X-----X

Promulgated:
June 27, 2023

ORDER

On 20 June 2023, the National Grid Corporation of the Philippines (NGCP) and Universal Power Solutions, Inc. (Ormoc BESS) filed their *Application (With Prayer for Immediate Issuance of Provisional Authority)* dated 16 May 2023, seeking the Commission's approval of their Ancillary Services Procurement Agreement (ASPA), with prayer for the issuance of provisional authority.

The pertinent allegations in the said *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 2023¹, entered into by the NGCP and UPSI, 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 UPSI 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 5th Floor, #100, Eulogio Rodriguez Jr. Avenue, C5 Road Bo. Ugong, Pasig City, 1604 Metro Manila, Philippines.
4. UPSI is the owner and operator of a power plant composed of a Battery Energy Storage System (BESS), with a rated capacity of 40 MW continuous output at 60Hz, including required ancillaries and spare parts, located in Brgy. Milagro, Ormoc City, Leyte (the “**Generation Facility**”), which was certified and accredited by the NGCP as capable of providing Contingency Reserve (CR).
5. NGCP and UPSI may be served with orders, notices, pleadings and other legal processes through their respective counsels at the addresses indicated below.

ANTECEDENT FACTS

6. 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 Philippine Grid Code (“**PGC**”),³ adopted and promulgated by the Honorable Commission, and to adequately serve generation companies,

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.

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.

distribution utilities and suppliers requiring transmission service and/or ancillary services (“AS” or “Ancillary Services”)⁴ through the transmission system.⁵

7. 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
8. 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.
9. 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.
10. 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 Contingency Reserve. A copy of NGCP Accreditation Certificate No. AS-2023-V006 and AS-2023-V007 in favor of UPSI, and valid from March 16, 2023 to March 15, 2025 is attached to this Application.⁷

Competitive Selection Process

11. 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.
12. In its Letter dated 22 November 2022,⁸ the DOE approved the Terms of Reference (“TOR”)⁹ and Instruction to Bidders¹⁰, and

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. AS-2023-V006 and AS-2023-V007 with corresponding test report/s, is attached as Annex “B”.

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”

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.

13. 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.
14. 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
15. UPSI was declared by the TPBAC as eligible to participate in the AS-CSP and submit its bid for the provision of both Regulating Reserve and Contingency Reserve.
16. Under Bid Bulletin 2023-02 issued by the TPBAC, eligible bidders may submit their bids on or before 14 March 2023.
17. Thereafter, pursuant to Bid Bulletin 2023-02, the TPBAC conducted the opening of bids timely submitted by all the eligible bidders whereby UPSI's bid/offer¹⁶ for the provision of CR by its Generation Facility was considered for award after sufficiently complying with the post-qualification requirements.
18. 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 UPSI 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

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 Ormoc BESS's bid offer is attached herein as Annex "H".

¹⁷ The TPBAC Resolution and Evaluation Report dated 12 April 2023 indicating UPSI'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. On 18 April 2023, the TPBAC issued a Notice of Award in favor of UPSI¹⁹ 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	AS Facility/Unit	Capacity Payment Rate (P/kW/h)	Duration
Contingency Reserve	Ormoc BESS	1.25	Five (5) years

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

**CONTRACTED CAPACITY RATES
AND IMPACT SIMULATION**

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

Contracted Capacities:

Contingency Reserve (“CR”):

Ormoc BESS – 40 MW

04ORMOC BAT1	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24
1	27	19	17	16	16	24	24	33	40	40	40	40	40	40	40	40	40	40	40	40	40	40	39	30
2	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40
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7	40	40	37	36	35	36	35	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40
8	40	40	40	40	40	39	37	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40
9	40	39	29	26	26	32	34	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40
10	39	37	37	31	29	29	29	39	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40
11	40	40	40	37	36	36	37	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40
12	14				10	14	8	11	31	40	40	40	40	40	40	40	40	40	40	40	40	39	24	10

22. 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 CR, Ancillary Service Payment is the total of the Capacity Payment and the Incidental Energy Payment in B and C below

$$\text{Ancillary Service Payment}_{CR} = \text{Capacity Payment} + \text{Incidental Energy Payment}$$

B. Applicable Rates for Capacity Payment:

Ormoc BESS (Contingency reserve): 1.25 PhP/kW/h

¹⁹ Notice of Award in favor of UPSI is attached as Annex “K”

Formula for Capacity Payment = Undispatched Scheduled Capacity x Capacity Payment Rate

Where:

- Undispatched Scheduled Capacity = Scheduled Capacity – G
- Capacity Payment Rate = Applicable Rate per AS type

C. 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:

$$\begin{aligned} & \text{Incidental Energy Payment} \\ & = \{G \times (\text{Capacity Payment Rate} + \text{Energy Fees})\} \\ & - (\text{WESM Revenue} - \text{WESM Payment}) \end{aligned}$$

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 = 0.0000
 - Fixed O&M Cost, in PhP/kWh = 0.0000
 - Variable O&M Cost, in PhP/kWh = 1.7071
- 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.

23. 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”
Locational Map of the Generation Facility	“O”
Certification from NGCP as required under item D of the ERC Checklist	“P”

24. UPSI 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

CR	32.1875	0.0633
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A copy of the Rate Impact Simulation for UPSI is attached to this Application.²⁰

25. 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 Visayas Grid.
26. 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.
27. UPSI, as a generation company, falls within the ambit of Section 6 of the EPIRA. Attached are copies of relevant documents proving UPSI'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:

Document	Annex
Articles of Incorporation	"S"
Latest SEC GIS/ Proof of Business Registration	"T"
Certification issued by ERC on the filing of application for Certificate of Compliance	"U"
Latest Audited Financial Statement	"V"
WESM Registration	"W"
Computation of True Cost of Generation (PhP/kW & PhP/kWh)	"X"
Summary of computed Consumer Price Index (CPI) indexation for Variable Operation and Maintenance (VOM) Cost, including their computations.	"Y"
Written Explanation on Inapplicability of Distribution Wheeling Service (DWS) Agreement and Summary of DWS Charges	"Z"
Single-Line Diagram Connection	"AA"
Written Explanation on Certification of Endorsement from the Department of Energy that the Generation Facility is included in the Power Development Plan and Transmission Development Plan	"BB"
Certification of No Power Supply Agreement	"CC"

28. While UPSI 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.

²⁰ Rate Impact Simulation is attached as Annex "Q".

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

29. 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.
30. The Computation of True Cost of Generation and the Summary of computed Consumer Price Index for Variable Operation and Maintenance (VOM) Cost, attached to this Application as Annex "X" and Annex "Y", contain commercially valuable and sensitive information and data that reflect UPSI's investments, business operations, calculations, and other trade secrets.
31. UPSI 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, UPSI 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**

32. It is a declared policy of the State to ensure the quality, reliability, security and affordability of the supply of electric power.²¹ To this end, there is a need to comply with the system requirements for AS to ensure grid system security and 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.
33. As the demand for power in Visayas 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.
34. 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,²² 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

²¹ Section 2(b), EPIRA.

²² Judicial Affidavit of Ms. Lisaflor B. Kater is attached as Annex "R"

2. **APPROVE**, after notice and hearing, the subject ASPA.
3. **ISSUE** an Order treating the Computation of True Cost of Generation²³ and the Summary of computed Consumer Price Index for Variable Operation and Maintenance (VOM) Cost²⁴ 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.

Finding the said *Application* to be sufficient in form and with the required fees having been paid, the Commission hereby sets the same 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 to Resolution No. 09, Series of 2020²⁵ and Resolution No. 01, Series of 2021²⁶ (ERC Revised Rules of Practice and Procedure):

Date	Platform	Activity
01 August 2023 (Tuesday) at ten thirty in the morning (10:30 AM)	Microsoft Teams or Zoom Application	Determination of compliance with the jurisdictional requirements and expository presentation
08 August 2023 (Tuesday) at ten thirty in the morning (10:30 AM)		Pre-Trial Conference and presentation of evidence

RELATIVE THERETO, NGCP and UPSI 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

²³ See Annex "X".

²⁴ See Annex "Y".

²⁵ A Resolution Adopting the Guidelines Governing Electronic Applications, Filings and Virtual Hearings Before the Energy Regulatory Commission.

²⁶ A Resolution Adopting the Revised Rules of Practice and Procedure of the Energy Regulatory Commission.

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 UPSI 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*, their 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, except those subject of a motion for confidential treatment of information, all those making requests therefor, subject to reimbursement of reasonable photocopying costs.

Within five (5) calendar days before the date of the initial virtual hearing, Applicants 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 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 and UPSI to inform the consumers affected by the filing of the *Application*, their 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, by all those making requests therefor, if any; and
- 6) Such other proof of compliance with the requirements of the Commission.

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

Applicants NGCP and UPSI, 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 UPSI 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 and UPSI 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.

Applicants NGCP and UPSI must also be prepared to make an expository presentation of the instant *Application*, aided by whatever communication medium that they 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*. Relevant information and pertinent details substantiating the reasons and justifications for the *Application* must be cited in support thereof.

Applicants NGCP and UPSI 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 UPSI 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 UPSI 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.

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Finally, NGCP and UPSI, including their authorized representatives and witnesses, are hereby directed to provide the Commission, through 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 hearings.

SO ORDERED.

Pasig City, 27 June 2023.

FOR AND BY AUTHORITY
OF THE COMMISSION:

Medimalanta

MONALISA C. DIMALANTA
Chairperson and CEO

ERC

Office of the Chairperson and CEO



MCD2023-005117

JPM
✓
LS: JPM/JGGW/MCCG

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ORDER/ 27 June 2023
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Copy Furnished:

1. National Grid Corporation of the Philippines (NGCP)
Co-Applicant
NGCP Building, Quezon Ave. cor. BIR Road, Diliman, Quezon City
corpcom@ngcp.com
2. Attys. Luis Manuel U. Bugayong, Mark Anthony S. Actub, Rich L. Almario, Bienz Reiner Draeion A. Que, Jerome C. Versoza, Pamela Domenique M. Dizon, and Joy B. Ferrer-Javier
Counsels for Applicant NGCP
Office of the General Counsel
NGCP Building, Quezon Ave. cor. BIR Road, Diliman, Quezon City
Email: lubugayong@ngcp.ph; msactub@ngcp.ph; rlalmario@ngcp.ph; baque@ngcp.ph; jcversoza@ngcp.ph; and pmdizon@ngcp.ph
3. Universal Power Solutions, Inc. (Ormoc BESS)
Co-Applicant
5th Floor, #100, Eulogio Rodriguez Jr. Avenue, C5 Road Bo. Ugong, Pasig City
1604 Metro Manila, Philippines
Telephone No. (02) 5317 1000
4. Attys. Jupiter M. Cabaguio, Avelino G. Cedo III, and Julieta B. Estamo
Counsels for Co-Applicant UPSI (Ormoc BESS)
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docket@osg.gov.ph
6. Commission on Audit (COA)
Commonwealth Avenue, Quezon City
citizensdesk@coa.gov.ph
7. Senate Committee on Energy
GSIS Building, Roxas Boulevard, Pasay City
senateenergycommittee@gmail.com
8. House Committee on Energy
Batasan Hills, Quezon City
committee.energy@house.gov.ph
9. Philippine Chamber of Commerce and Industry (PCCI)
3rd Floor, Chamber and Industry Plaza (CIP), 1030 Campus Avenue corner
Park Avenue McKinley Town Center, Fort Bonifacio, Taguig City
secretariat@philippinechamber.com
10. Office of the City Mayor
Quezon City
11. Office of the Sangguniang Panlungsod
Quezon City
12. Office of the Governor
Province of La Union
13. Office of the Sangguniang Panlalawigan
Province of La Union
14. Office of the City Mayor
San Fernando, La Union
15. Office of the Sangguniang Panlungsod
San Fernando, La Union
16. Office of the Governor

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Province of Laguna

17. Office of the Sangguniang Panlalawigan
Province of Laguna
18. Office of the City Mayor
Binan, Laguna
19. Office of the Sangguniang Panlungsod
Binan, Laguna
20. Office of the Governor
Province of Lanao del Norte
21. Office of the Sangguniang Panlalawigan
Province of Lanao del Norte
22. Office of the City Mayor
Iligan City
23. Office of the Sangguniang Panlungsod
Iligan City
24. Office of the City Mayor
Davao City
25. Office of the Sangguniang Panlungsod
Davao City
26. Office of the City Mayor
Cebu City
27. Office of the Sangguniang Panlungsod
Cebu City
28. Office of the City Mayor
Pasig City
29. Office of the Sangguniang Panlungsod
Pasig City
30. Office of the City Mayor
Ormoc, Leyte
31. Office of the Sangguniang Bayan
Ormoc, Leyte
32. Office of the Governor
Province of Leyte
33. Office of the Sangguniang Panlalawigan
Province of Leyte
34. National Transmission Corporation (TRANSCO)
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35. Power Sector Assets and Liabilities Management Corporation (PSALM)
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Vertis North, Mindanao Avenue, Quezon City
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36. Regulatory Operations Service
14th Floor, Exquadra Tower, Jade Drive,
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ros@erc.ph

Republic of the Philippines
ENERGY REGULATORY COMMISSION
Pasig City

**IN THE MATTER OF THE
APPLICATION FOR
APPROVAL OF THE
ANCILLIARY SERVICES
PROCUREMENT AGREEMENT
BETWEEN THE NATIONAL
GRID CORPORATION OF THE
PHILIPPINES AND
UNIVERSAL POWER
SOLUTIONS, INC. (ORMOC
BESS), WITH PRAYER FOR
THE ISSUANCE OF
PROVISIONAL AUTHORITY**

ERC CASE NO. 2023-069 RC

**NATIONAL GRID
CORPORATION OF THE
PHILIPPINES AND
UNIVERSAL POWER
SOLUTIONS, INC. (ORMOC
BESS),**

Applicants.

X-----X

Promulgated:

June 27, 2023

NOTICE OF VIRTUAL HEARING

TO ALL INTERESTED PARTIES:

Notice is hereby given that on 20 June 2023, the National Grid Corporation of the Philippines (NGCP) and Universal Power Solutions, Inc. (Ormoc BESS) filed their *Application (With Prayer for Immediate Issuance of Provisional Authority)* dated 16 May 2023, seeking the Commission's approval of their Ancillary Services Procurement Agreement (ASPA), with prayer for the issuance of provisional authority.

(This space is intentionally left blank.)

The pertinent allegations in the said *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 2023¹, entered into by the NGCP and UPSI, 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 UPSI 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 5th Floor, #100, Eulogio Rodriguez Jr. Avenue, C5 Road Bo. Ugong, Pasig City, 1604 Metro Manila, Philippines.
4. UPSI is the owner and operator of a power plant composed of a Battery Energy Storage System (BESS), with a rated capacity of 40 MW continuous output at 60Hz, including required ancillaries and spare parts, located in Brgy. Milagro, Ormoc City, Leyte (the “**Generation Facility**”), which was certified and accredited by the NGCP as capable of providing Contingency Reserve (CR).
5. NGCP and UPSI may be served with orders, notices, pleadings and other legal processes through their respective counsels at the addresses indicated below.

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.

ANTECEDENT FACTS

6. 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 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
7. 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
8. 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.
9. 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.
10. 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 Contingency Reserve. A copy of NGCP Accreditation Certificate No. AS-2023-V006 and AS-2023-V007 in favor of UPSI, and valid from March 16, 2023 to March 15, 2025 is attached to this Application.⁷

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. AS-2023-V006 and AS-2023-V007 with corresponding test report/s, is attached as Annex “B”.

Competitive Selection Process

11. 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.
12. 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.
13. 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.
14. 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
15. UPSI was declared by the TPBAC as eligible to participate in the AS-CSP and submit its bid for the provision of both Regulating Reserve and Contingency Reserve.
16. Under Bid Bulletin 2023-02 issued by the TPBAC, eligible bidders may submit their bids on or before 14 March 2023.

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”.

17. Thereafter, pursuant to Bid Bulletin 2023-02, the TPBAC conducted the opening of bids timely submitted by all the eligible bidders whereby UPSI's bid/offer¹⁶ for the provision of RR and CR by its Generation Facility was considered for award after sufficiently complying with the post-qualification requirements.
18. 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 UPSI 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
19. On 18 April 2023, the TPBAC issued a Notice of Award in favor of UPSI¹⁹ 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	AS Facility/Unit	Capacity Payment Rate (P/kW/h)	Duration
Contingency Reserve	Ormoc BESS	1.25	Five (5) years

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

CONTRACTED CAPACITY RATES AND IMPACT SIMULATION

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

Contracted Capacities:

Contingency Reserve ("CR"):

Ormoc BESS – 40 MW

04ORMOC BAT1	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24
1	27	19	17	16	16	24	24	33	40	40	40	40	40	40	40	40	40	40	40	40	40	40	39	30
2	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40
3	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40
4	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40
5	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40
6	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40
7	40	40	37	36	35	35	35	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40
8	40	40	40	40	40	39	37	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40
9	40	38	29	26	26	32	34	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40
10	38	37	37	31	28	29	29	38	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40
11	40	40	40	37	38	36	37	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40
12	14				10	14	9	11	31	40	40	40	40	40	40	40	40	40	40	40	40	99	24	10

¹⁶ Copy of Ormoc BESS's bid offer is attached herein as Annex "H".
¹⁷ The TPBAC Resolution and Evaluation Report dated 12 April 2023 indicating UPSI'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 UPSI is attached as Annex "K"

22. 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 CR, Ancillary Service Payment is the total of the Capacity Payment and the Incidental Energy Payment in B and C below

$$\text{Ancillary Service Payment}_{CR} = \text{Capacity Payment} + \text{Incidental Energy Payment}$$

B. Applicable Rates for Capacity Payment:

Ormoc BESS (Contingency reserve): 1.25 PhP/kW/h

Formula for Capacity Payment = Undispatched Scheduled Capacity x Capacity Payment Rate

Where:

- Undispatched Scheduled Capacity = Scheduled Capacity – G
- Capacity Payment Rate = Applicable Rate per AS type

C. 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:

$$\begin{aligned} & \text{Incidental Energy Payment} \\ & = \{G \times (\text{Capacity Payment Rate} + \text{Energy Fees})\} \\ & - (\text{WESM Revenue} - \text{WESM Payment}) \end{aligned}$$

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 = 0.0000
 - Fixed O&M Cost, in PhP/kWh = 0.0000
 - Variable O&M Cost, in PhP/kWh = 1.7071
- 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

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23. 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"
Locational Map of the Generation Facility	"O"
Certification from NGCP as required under item D of the ERC Checklist	"P"

24. UPSI 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
CR	32.1875	0.0633

A copy of the Rate Impact Simulation for UPSI is attached to this Application.²⁰

25. 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 Visayas Grid.

26. 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 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.

27. UPSI, as a generation company, falls within the ambit of Section 6 of the EPIRA. Attached are copies of relevant documents proving UPSI'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:

Document	Annex
Articles of Incorporation	"S"
Latest SEC GIS/ Proof of Business Registration	"T"
Certification issued by ERC on the filing of application for Certificate of Compliance	"U"
Latest Audited Financial Statement	"V"
WESM Registration	"W"
Computation of True Cost of Generation (PhP/kW & PhP/kWh)	"X"

²⁰ Rate Impact Simulation is attached as Annex "Q".

Summary of computed Consumer Price Index (CPI) indexation for Variable Operation and Maintenance (VOM) Cost, including their computations.	“Y”
Written Explanation on Inapplicability of Distribution Wheeling Service (DWS) Agreement and Summary of DWS Charges	“Z”
Single-Line Diagram Connection	“AA”
Written Explanation on Certification of Endorsement from the Department of Energy that the Generation Facility is included in the Power Development Plan and Transmission Development Plan	“BB”
Certification of No Power Supply Agreement	“CC”

28. While UPSI 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

29. 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.
30. The Computation of True Cost of Generation and the Summary of computed Consumer Price Index for Variable Operation and Maintenance (VOM) Cost, attached to this Application as Annex “X” and Annex “Y”, contain commercially valuable and sensitive information and data that reflect UPSI’s investments, business operations, calculations, and other trade secrets.
31. UPSI 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 Revised Rules of Practice and Procedure. Accordingly, UPSI 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

32. It is a declared policy of the State to ensure the quality, reliability, security and affordability of the supply of electric power.²¹ To this end, there is a need to comply with the system requirements for AS to ensure grid system security and 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.
33. As the demand for power in Visayas increases, the requirements of the system likewise increases. Ensuring the integrity of the system is essential to protect the interests of the public. The

²¹ Section 2(b), EPIRA.

absence of system reliability and stability will certainly discourage investments and growth.

34. 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,²² 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 the Computation of True Cost of Generation²³ and the Summary of computed Consumer Price Index for Variable Operation and Maintenance (VOM) Cost²⁴ 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.

The Commission sets the instant *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 to Resolution No. 09, Series of 2020²⁵ and Resolution No. 01, Series of 2021²⁶ (ERC Revised Rules of Practice and Procedure):

Date	Platform	Activity
01 August 2023 (Tuesday) at ten thirty in the morning (10:30 AM)	Microsoft Teams or Zoom Application	Determination of compliance with the jurisdictional requirements and expository presentation

²² Judicial Affidavit of Ms. Lisaflor B. Kater is attached as Annex "R"

²³ See Annex "X".

²⁴ See Annex "Y"

²⁵ A Resolution Adopting the Guidelines Governing Electronic Applications, Filings and Virtual Hearings Before the Energy Regulatory Commission.

²⁶ A Resolution Adopting the Revised Rules of Practice and Procedure of the Energy Regulatory Commission.

Date	Platform	Activity
08 August 2023 (Tuesday) at ten thirty in the morning (10:30 AM)		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 initial virtual hearing, via electronic mail (e-mail) at doCKET@erc.ph and 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, and copy furnishing 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. The verified Petition to Intervene must follow the requirements under Rule 9 of the ERC Revised Rules of Practice and Procedure, indicate therein the docket number and title of the case, and state 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, and copy furnish the Legal Service through legal@erc.ph, their Opposition or Comment **at least five (5) calendar days** prior to the initial virtual hearing. Rule 9 of the ERC Revised Rules of Practice and Procedure shall govern. 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.

All interested parties filing their Petition to Intervene, Opposition or Comment are required to submit the hard copies thereof through personal service, registered mail or ordinary mail/private courier, **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.

Any of the persons mentioned in the preceding paragraphs may access the copy of the *Application* through 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, through legal.virtualhearings@erc.ph, 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 Commissioners **ALEXIS M. LUMBATAN, CATHERINE P. MACEDA, FLORESINDA G. BALDO-DIGAL** and **MARKO ROMEO L. FUENTES**, Energy Regulatory Commission, this 27th day of June 2023 in Pasig City.

mdimalanta

MONALISA C. DIMALANTA
Chairperson and CEO


LS: JPM/JGGW/MCCG

ERC

Office of the Chairperson and CEO



MCD2023-005117