

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 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.

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.

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 2023, 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, 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.

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"), 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") through the transmission system.

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.

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.

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, the DOE approved the Terms of Reference (TOR) and Instruction to Bidders, 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 Bid¹ 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*² and the *Philippine Star*.³ The same Notice was also published on 07 February 2023 with the *Business Mirror*⁴ and the *Manila Bulletin*.⁵

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/offer⁶ 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 CSP⁷ 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 2023.⁸

19. On 18 April 2023, the TPBAC issued a Notice of Award in favor of UPSI⁹ 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:

Table with 4 columns: Type of AS to be provided, AS Facility/Unit, Capacity Payment Rate (P/kWh), Duration. Row 1: 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

Table with 24 columns representing months from 2023 to 2025, showing capacity rates for Contingency Reserve.

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

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

B. Applicable Rates for Capacity Payment:

Ormoc BESS (Contingency reserve): 1.25 PhP/kWh

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:

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 = 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:

Table with 2 columns: Document, Annex. Rows include AS Rates Offered, Actual AS Data, Implementing Guidelines, Locational Map, and Certification from NGCP.

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

Table with 3 columns: AS Type, Indicative Rate Impact (P/kWh - month, P/kWh). Row 1: 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:

Table with 2 columns: Document, Annex. Rows include Articles of Incorporation, Latest SEC GIS/ Proof of Business Registration, Certification issued by ERC, Latest Audited Financial Statement, WESM Registration, and Computation of True Cost of Generation.

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.
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"
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 "G" and "G-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 Notice of Award in favor of UPSI is attached as Annex "K"
20 Rate Impact Simulation is attached as Annex "Q".

Table with 2 columns: Description, Code. Rows include Summary of computed Consumer Price Index (CPI) indexation, Written Explanation on Inapplicability of Distribution Wheeling Service (DWS) Agreement, Single-Line Diagram Connection, Written Explanation on Certification of Endorsement, and Certification of No Power Supply Agreement.

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. 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. Lisafior B. Kater,²¹ 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 Generation²² 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):

Table with 3 columns: Date, Platform, Activity. Rows for 01 August 2023 and 08 August 2023.

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.

Medialante
MONALISA C. DIMALANTA
Chairperson and CEO



LS: JPM/dggw/MCCO

21 Section 2(b), EPIRA.
22 Judicial Affidavit of Ms. Lisafior 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.
B.W. July 5 & 12, 2023