

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
LUZON, INC. (TLI), WITH
PRAYER FOR THE ISSUANCE
OF PROVISIONAL
AUTHORITY**

ERC CASE NO. 2023-049 RC

**NATIONAL GRID
CORPORATION OF THE
PHILIPPINES (NGCP) AND
THERMA LUZON, INC. (TLI)**
Applicants.

Promulgated:
August 17, 2023

X- - - - - X

ORDER

On 25 May 2023, National Grid Corporation of the Philippines (NGCP) and Therma Luzon, Inc. (TLI) filed a *Joint Application* dated 11 May 2023, seeking the Commission's approval of their Ancillary Services Procurement Agreement, with prayer for the issuance of provisional authority.

On 27 June 2023, the Commission issued an *Order* and a *Notice of Virtual Hearing*, both of even date, setting the instant case for hearing on the following dates: (a) 16 August 2023 for determination of compliance with the jurisdictional requirements and expository presentation; and (b) 23 August 2023 for Pre-trial conference and presentation of evidence.

Subsequently, on 03 August 2023, NGCP and TLI filed a *Joint Omnibus Motion to Amend the Application (and Issue New Order and Notice of Virtual Hearing)* (Joint Omnibus Motion) of even date with

amended *Application* dated 11 May 2021 attached as Annex “A-Motion”.

In the said *Joint Omnibus Motion*, NGCP and TLI alleged that they noticed an error on paragraph 15 of their *Application* dated 11 May 2023, particularly on the non-inclusion of the due dates for bid submissions by the eligible bidders as stated on its Bid Bulletin, as follows:

15. Under Bid 2023-02 issued by the TPBAC, eligible bidders may submit their bids on or before **(due dates of bid submission)**.

Relative thereto, NGCP and TLI sought to amend the foregoing allegations, as follows:

15. Under Bid 2023-02 issued by the TPBAC, eligible bidders may submit their bids on or before **13 March 2023**.

In view thereof, NGCP and TLI prayed for the Commission to amend the *Application* dated 11 May 2023 and issue a new *Order* and *Notice of Virtual Hearing*, setting the amended *Application* for hearing.

The Commission notes that the foregoing amendments in the *Application* filed by NGCP and TLI merely clarified the due date of the submission of bids by eligible bidders and would not substantially modify the instant *Application*. In view thereof, the Commission hereby **GRANTS** the *Joint Omnibus Motion* and **ADMITS** the *Amended Application* of NGCP and TLI.

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 TLI, 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.

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

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 TLI is a private corporation duly organized and existing under and by virtue of the laws of the Republic of the Philippines, with principal place of business at NAC Tower, 32nd Street, Bonifacio Global City, Taguig City.
 - 3.1 TLI is the Independent Power Producer Administrator (IPPA) of a power plant composed of Pagbilao Coal Fired Thermal Power Plants Units 1 and 2, with a rated capacity of 700MW continuous output at 60Hz, including required ancillaries and spare parts, located in Pagbilao, Quezon (the "Generation Facility"), which was certified and accredited by the NGCP as capable of providing Contingency Reserve.
4. NGCP and TLI 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 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

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.

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 Contingency Reserve. A copy of NGCP Accreditation Certificate No. 2021-LO11 in favor of Therma Luzon, Inc. (TLI), and valid from 1 December 2021 to 30 November 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.
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

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

⁷ Copy of NGCP Accreditation Certificate No. 2021-LO11 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”.

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. TLI 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 TLI's bid/offer¹⁶ for the provision of Contingency Reserve by its Generation Facility was considered for award after sufficiently complying with the post-qualification requirements.
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 TLI 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 April 18, 2023, the TPBAC issued a Notice of Award in favor of TLI,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	Capacity Payment Rate (P/kWh)	Duration
Contingency Reserve	Pagbilao Unit 1 and 2	2.25	Five (5) years Hours 10 to 21)

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 TLI's bid/ offer is attached herein as Annex "H".

¹⁷ The TPBAC Resolution and Evaluation Report dated 12 April 2023 indicating (Name of AS Provider)'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 TLI is attached as Annex "K".

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

**CONTRACTED CAPACITY RATES
AND IMPACT SIMULATION**

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

Contracted Capacities:

Contingency Reserve:

CR	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24
D3PAGSH_G01	0	0	0	0	0	0	0	0	0	330	330	330	330	330	330	330	330	330	330	330	330	330	330	330
1	0	0	0	0	0	0	0	0	0	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30
2	0	0	0	0	0	0	0	0	0	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30
3	0	0	0	0	0	0	0	0	0	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30
4	0	0	0	0	0	0	0	0	0	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30
6	0	0	0	0	0	0	0	0	0	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30
7	0	0	0	0	0	0	0	0	0	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30
8	0	0	0	0	0	0	0	0	0	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30
9	0	0	0	0	0	0	0	0	0	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30
10	0	0	0	0	0	0	0	0	0	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30
11	0	0	0	0	0	0	0	0	0	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30
12	0	0	0	0	0	0	0	0	0	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30
D3PAGSH_G02	0	0	0	0	0	0	0	0	0	330	330	330	330	330	330	330	330	330	330	330	330	330	330	330
1	0	0	0	0	0	0	0	0	0	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30
2	0	0	0	0	0	0	0	0	0	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30
3	0	0	0	0	0	0	0	0	0	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30
4	0	0	0	0	0	0	0	0	0	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30
5	0	0	0	0	0	0	0	0	0	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30
7	0	0	0	0	0	0	0	0	0	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30
8	0	0	0	0	0	0	0	0	0	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30
9	0	0	0	0	0	0	0	0	0	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30
10	0	0	0	0	0	0	0	0	0	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30
11	0	0	0	0	0	0	0	0	0	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30
12	0	0	0	0	0	0	0	0	0	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30

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

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

B. Applicable Rates for Capacity Payment:

1. Contingency Reserve: PhP 2.25/kW/h

$$\text{Formula for Capacity Payment} = \text{Undispatched Scheduled Capacity} \times \text{Applicable Rate per AS Type}$$

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:

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

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
$$= \text{Base Fuel Price} * (86.04\% * (\text{NewCm}/\text{NewCo}) + 6.06\% * (\text{ICI4m}/\text{ICI40}) + 0.81\% * (\text{BKRm}/\text{BKRo}) + 7.09\%) * \text{FXm}/\text{FXo}$$

Where:

$$\text{Base Fuel Price} = 7.7219 \text{ PhP/kWh}$$

NewCm = the average NewCastle index (USD/MT) for the last three calendar months prior to the Billing Period for which the Invoice is being prepared

$$\text{NewCo} = 404.15 \text{ USD/MT, as of December 2022}$$

ICI4m = the average ICI4 index (USD/MT) for the last three calendar months prior to the Billing Period for which the Invoice is being prepared

$$\text{ICI40} = 91.39 \text{ USD/MT, as of December 2022}$$

BKRm = the average Very Low Sulfur Fuel Oil "VLSFO" index (USD/MT) for the last three calendar months prior to the Billing Period for which the Invoice is being prepared

$$\text{BKRo} = 611.35 \text{ USD/MT, as of December 2022}$$

FXm = the average PhP/USD exchange rate for the last three calendar months prior to the Billing Period for which the Invoice is being prepared

$$\text{FXo} = 55.684 \text{ PhP/USD, as of December 2022}$$

- Variable O&M Cost, in PhP/kWh
$$= \text{VOM} * (60\% * (\text{RPCPIi}/\text{RPCPIo}) + 40\% * (\text{USCPIi}/\text{USCPIo}) * (\text{USFXi}/\text{USFXo}))$$

Where:

$$\text{VOM} = 0.1800794248 \text{ PhP/kWh}$$

RPCPIi = Philippine CPI of the current billing month

RPCPIo = Philippine CPI of 119.40 as of December 2022

USCPIi = US CPI of the current billing month

USCPIo = US CPI of 296.797 as of December 2022

USFXi = Php to US dollar exchange rate at the end of the current billing month
 USFXo = Php to US dollar exchange rate of 55.684 PhP/USD as of December 31, 2022

- 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.

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"
Locational Map of TLI	"O"
Certification from NGCP as required under item D of the ERC Checklist	"P"

**Subject to a Motion for Confidential Treatment of Information*

23. AS Provider 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 (TLI)	6.2249	0.0123

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

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. TLI, as a generation company, falls within the ambit of Section 6 of the EPIRA. Attached are copies of relevant documents proving (AS Provider)'s due registration as a generation company, relevant

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

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"
Certificate of Compliance issued by ERC including Annexes A & B	"U"*
Audited Financial Statements	"V"* and "V-1"*
WESM Registration	"W"
Computation of True Cost of Generation (PhP/kW & PhP/kWh) with Summary of computed Consumer Price Index (CPI) indexation as part of the monthly Variable Operation and Maintenance (O&M) Cost, including their computations.	"X"*
Single-Line Diagram Connection	"Y"*
Write-up on Non-Applicability of Documents	"Z"

**Subject to a Motion for Confidential Treatment of Information*

27. While TLI 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 as Annexes "L", "U", "V", "V-1", "W", "X", and "Y" contain commercially valuable and sensitive information and data that reflect TLI's investments, business operations, calculations, and other trade secrets.
30. TLI 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, TLI 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.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

²¹ Section 2(b), EPIRA.

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,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 Annexes "L", "U", "V", "V-1" "W", "X", and "Y" 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 *Amended 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 2020²³ and Resolution No. 01, Series of 2021²⁴ (ERC Revised Rules of Practice and Procedure):

(This space is intentionally left blank.)

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

²³ A Resolution Adopting the Guidelines Governing Electronic Applications, Filings and Virtual Hearings Before the Energy Regulatory Commission.

²⁴ A Resolution Adopting the Revised Rules of Practice and Procedure of the Energy Regulatory Commission.

Date	Platform	Activity
15 September 2023 (Friday) at two o'clock in the afternoon (2:00 P.M)	Microsoft Teams or Zoom Application	Determination of compliance with jurisdictional requirements and expository presentation
22 September 2023 (Friday) at two o'clock in the afternoon (2:00 P.M)		Pre-Trial Conference and Presentation of Evidence

RELATIVE THERETO, NGCP and TLI 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 TLI 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 *Amended 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 *Amended 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 TLI 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 TLI to inform the consumers within the affected area of the filing of the *Amended 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 *Amended 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 TLI 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 TLI 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 TLI 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 TLI 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 TLI must also be prepared to make an expository presentation of the instant *Amended 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 *Amended Application* must be cited in support thereof.

Applicants NGCP and TLI 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 TLI 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 TLI is 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 TLI, including their 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, 17 August 2023.

FOR AND BY AUTHORITY
OF THE COMMISSION:


MONALISA C. DIMALANTA
Chairperson and CEO

ERC

Office of the Chairperson and CEO



MCD2023-008043

LS: BBB/LSP/MCCG

ERC CASE NO. 2023-049 RC
ORDER/ 17 August 2023
PAGE 15 OF 16

Copy Furnished:

1. **National Grid Corporation of the Philippines (NGCP)**
NGCP Building, Quezon Avenue corner,
BIR Road, Diliman, Quezon City
2. **Office of The General Counsel**
Counsel for NGCP
NGCP Building, Quezon Avenue corner
BIR Road, Diliman, Quezon City
Email: lubugayong@ngcp.ph; msactub@ngcp.ph;
rlalmario@ngcp.ph; baque@ngcp.ph;
jcverzosa@ngcp.ph; pmdizon@ngcp.ph;
3. **National Grid Corporation of the Philippines**
City of Cebu, Province of Cebu
4. **National Grid Corporation of the Philippines**
City of Binan, Province of Laguna
5. **National Grid Corporation of the Philippines**
City of Iligan, Province of Lanao Del Norte
6. **Therma Luzon, Inc. (TLI)**
16th Floor, NAC Tower
32nd St., Bonifacio Global City,
Taguig City
7. **Atty. Paul B. Sorino**
Atty. Celeni Kristine G. Guinto
Atty. Leo Angelo E. Fornesa
Counsel for TLI
16th Floor, NAC Tower
32nd St., Bonifacio Global City,
Taguig City
Email: regulatory.legal@aboitiz.com
8. **Office of the Mayor**
City of Taguig, Metro Manila
9. **Office of the Sangguniang Panlungsod ng Taguig**
City of Taguig, Metro Manila
10. **Office of the Office of the Governor**
Province of Quezon
11. **Office of the Sangguniang Panlalawigan ng Quezon**
Province of Quezon
12. **Office of the Mayor**
Pagbilao, Province of Quezon
13. **Office of the Sangguniang Bayan ng Pagbilao**
Pagbilao, Province of Quezon
14. **Office of the Mayor**
Quezon City, Metro Manila
15. **Office of the Solicitor General**
134 Amorsolo Street, Legaspi Village, Makati City
Email: docket@osg.gov.ph
16. **Commission on Audit**
Commonwealth Avenue, Quezon City
Email: citizensdesk@coa.gov.ph
17. **Senate Committee on Energy**
GSIS Bldg. Roxas Blvd., Pasay City
Email: senateenergycommittee@gmail.com

18. House Committee on Energy

Batasan Hills, Quezon City

Email: committees@house.gov.ph

19. Regulatory Operations Service

Energy Regulatory Commission

14th Floor Exquadra Building, Jade Drive, Pasig City

Email: ros@erc.ph