

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
MARINE, INC. (FOR MOBILE
1), WITH PRAYER FOR THE
ISSUANCE OF PROVISIONAL
AUTHORITY**

ERC CASE NO. 2023-052 RC

**NATIONAL GRID
CORPORATION OF THE
PHILIPPINES AND THERMA
MARINE, INC.,**

Applicants.

X-----X

Promulgated:
June 07, 2023

ORDER

On 30 May 2023, the National Grid Corporation of the Philippines (NGCP) and Therma Marine, Inc. (TMI) filed an *Application* dated 11 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 2023,¹ entered into by the NGCP and TMI, 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 TMI 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 Barangay Sta. Ana, Nasipit, Agusan del Norte.
 - 3.1. TMI is the owner and operator of a power plant composed of the Bunker C-Fired Diesel Power Plant, with a rated capacity of 100.337MW continuous output at 60Hz, including required ancillaries and spare parts, located in Brgy. San Roque, Maco, Davao de Oro (Mobile 1) (the "Generation Facility"), which was certified and accredited by the NGCP as capable of providing Contingency Reserve, Reactive Power Support, and Black Start Service.
4. NGCP and TMI may be served with orders, notices, pleadings and other legal processes through their respective counsels at the addresses indicated below.

ANTECEDENT FACTS

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

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

² An Act Granting the National Grid Corporation of the Philippines a Franchise to Engage in the Business of Conveying or Transmitting Electricity Through High Voltage Back-Bone System of Interconnected Transmission Lines, Substations and Related Facilities, and for other Purposes.

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

6. Similarly, the PGC provides that NGCP is responsible for determining, acquiring, and dispatching the capacity needed to supply the required Grid AS and for developing and proposing Wheeling Charges and AS tariffs of the ERC.⁶
7. Ancillary Services is defined in Section 4 (b) of the EPIRA as referring “*to those services that are necessary to support the transmission of capacity and energy from resources to loads while maintaining reliable operation of the transmission system in accordance with good utility practice and the Grid Code to be adopted in accordance with this Act.*” These services are essential in ensuring reliability in the operation of the transmission system and consequently, in the reliability of the electricity supply in the Luzon, Visayas and Mindanao grids.
8. In order to implement and regulate the procurement of AS, the Honorable Commission approved the Ancillary Services Procurement Plan (“ASPP”) through its Order dated 9 March 2006 in ERC Case No. 2002-253 and the Ancillary Services-Cost Recovery Mechanism (“AS-CRM”) through its Decision dated 3 October 2007 in ERC Case No. 2006-049RC.
9. The NGCP certified that the units of the Generation Facility have met and complied with the Standard Ancillary Services Technical Requirements of the ASPP as capable of providing Contingency Reserve, Reactive Power Support, and Black Start Service. A copy of (1) NGCP Accreditation Certificate No. AS- 2021-M014 in favor of TMI for Mobile 1 Units 1 and 2 (Contingency Reserve, Dispatchable and Reactive Power Support Service), valid from 22 November 2021 to 21 November 2023, (2) NGCP Accreditation Certificate No. AS-2022-M005 in favor of TMI for Mobile 1 Hybrid Unit 1 (Contingency Reserve), valid from 22 June 2022 to 21 June 2024, and (3) NGCP Accreditation Certificate No. AS- 2022-M014 in favor of TMI for Mobile 1 Unit 2 (Black Start Service), valid from 6 December 2022 to 5 December 2024, are 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-2021-M014, 2022-M005, and 2022-M014 with corresponding test report/s, are attached as Annexes “B” to “B-2”.

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 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. TMI 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.

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

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

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

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

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

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

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

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

16. Thereafter, pursuant to Bid Bulletin 2023-02, the TPBAC conducted the opening of bids timely submitted by all the eligible bidders whereby the TMI's bid/offer¹⁶ for the provision of Contingency Reserve, Dispatchable Reserve, Reactive Power Support, and Black Start Service 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 TMI as one of the winning bidders. The TPBAC's Evaluation Report was thereafter confirmed by the NGCP's Board of Directors through a resolution dated 18 April 2023.¹⁸
18. On 18 April 2023, the TPBAC issued a Notice of Award in favor of TMI,¹⁹ informing the latter that it is to be awarded with a contract for the Provision of Ancillary Services in the Mindanao Grid. The details of the award for TMI's Mobile 1 are as follows:

Type of AS to be provided	Unit	Capacity Payment Rate (P/kWh)	Duration
Contingency Reserve	TMI- Mobile 1	1.60 PhP/kW/h	Five (5) years
Reactive Power Support	TMI- Mobile 1	4.00 PhP/ kVARh	Five (5) years
Black Start Service	TMI- Mobile 1	Refer to the Schedule 3 of ASPA	Five (5) years

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

CONTRACTED CAPACITY RATES
AND IMPACT SIMULATION

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

Contracted Capacities:

- A. Contingency Reserve - based on Annex A of the Notice of Award

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

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
TMI M1-U1	330	330	330	330	330	330	330	330	330	360	360	360	360	360	360	360	360	360	360	360	330	330	330	330
January	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30
February	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
March	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30
April	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30
May	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30
June	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30
July	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30
August	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30
September	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30
October	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30
November	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30
December	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30
TMI M1-U2	200	200	200	200	200	200	200	200	200	228	228	228	228	228	228	228	228	228	228	228	200	200	200	200
January	0	0	0	0	0	0	0	0	0	19	19	19	19	19	19	19	19	19	19	19	0	0	0	0
February	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19
March	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19
April	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19
May	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19
June	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19
July	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19
August	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19
September	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19
October	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19
November	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19
December	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19

It is the intention of TMI to provide the 19MW from the TMI M1-U2 via the TMI M1-U1 to maximize the fast-response capacity of the Battery Energy Storage System “BESS”.

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C. Reactive Power Support: (attach the reactive power capability curve)

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

D. Black Start Service

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

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

A. Ancillary Service Payment

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

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

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

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

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

Incidental kVARh Rate: Php 4.00 / kVARh

Compensable kVARh = Actual kVARh – Base kVARh

Where:

Actual kVARh = actual reactive power provided within each interval

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

3. For Black Start Service, Ancillary Service Payment is the total kWh generated for BSS, multiplied by the Per Occurrence Applicable Rate for BSS.

B. Applicable Rates for Capacity Payment:

1. Contingency Reserve: PhP 1.6 /kW/h
Formula for Capacity Payment = Undispatched Scheduled Capacity x Applicable Rate per AS type

C. Per Occurrence Applicable Rates:

1. Reactive Power Support (RPS): PhP 4.00 /kVAR/hr
2. Black Start Service (BSS): PhP/kWh of providing BSS, please see details of the rate in Schedule 3 (Section D) of ASPA.

D. Incidental Energy Payment

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

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

$$\text{Incidental Energy Payment}_{\text{Contingency Reserve}} = \{G_{\text{CR}} \times (\text{Capacity Payment Rate}_{\text{CR}} + \text{Energy Fees}_{\text{CR}})\} - (\text{WESM Revenue}_{\text{CR}} - \text{WESM Payment}_{\text{CR}})$$

Where:

- G_{CR} = summation of actual energy generated or dispatched from the Scheduled Contingency Reserve Capacity, in kWh
- $\text{Energy Fees}_{\text{CR}}$, in PhP/kWh = $\text{Fuel Cost}_{\text{CR}} + \text{Variable O\&M Cost}_{\text{CR}}$, in PhP/kWh
- $\text{Fuel Cost}_{\text{CR}}$, in PhP/kWh = fuel cost based on prevailing price with relevant fuel index based on published data
$$= (\text{Oil Fuel Mix (\%)} \times (\text{HFR} + \text{LR})) + (\text{Back-Up Fuel Mix (\%)} \times (\text{BCPS}))$$

Where:

Oil Fuel Mix (%) means the percentage of energy generated by the Diesel Engine to provide the CR Service for the concerned billing month.

Back-Up Fuel Mix (%) means the energy sourced from WESM or other fuel sources to charge the Battery Energy Storage System "BESS" for the concerned billing month.

$$\text{HFR (in PhP/kWh)} = \text{HFCR} * \text{PHFO}$$

Where:

HFR = Heavy Fuel Oil "HFO" Rate in PhP/kWh

HFCR = HFO consumption rate in Li/kWh; the lower of actual consumption rate or 0.2358 Li/kWh

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

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

Where:

LR = Lube Oil "LO" Rate in PhP/kWh

LCR = LO consumption rate in Li/kWh; the lower of actual consumption rate or 0.0025 Li/kWh

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

$$\text{BCPS (in PhP/kWh)} = \text{WESM Price or other Back-Up Charging Power Source}$$

- Variable O&M Cost, in PhP/kWh = VOM rate x (RPCPI_i / RPCPI_o)

Where:

VOM rate = 0.3582 PhP/kWh

RPCPI_i = Philippine CPI of the current billing month

RPCPI_o = Philippine CPI of 119.40 as of December 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.

$$\text{Incidental Energy Payment}_{\text{Reactive Power Support}} = G_{\text{RPS}} \times (\text{Variable O\&M Cost}_{\text{RPS}} + \text{Fuel Cost}_{\text{RPS}})$$

Where:

- G_{RPS} = summation of actual energy generated or dispatched to provide Reactive Power Support, in kWh
- $\text{Variable O\&M Cost}_{\text{RPS}} = \text{VOM rate} \times (\text{RPCPI}_i / \text{RPCPI}_o)$

Where:

VOM rate = 0.3582 PhP/kWh

RPCPI_i = Philippine CPI of the current billing month

RPCPI_o = Philippine CPI of 119.40 as of December 2022

- $\text{Fuel Cost}_{\text{RPS}}$, in PhP/kWh = fuel cost based on prevailing price with relevant fuel index based on published data

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

Where:

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

Where:

HFR = Heavy Fuel Oil “HFO” Rate in PhP/kWh

HFCR = HFO consumption rate in Li/kWh; the lower of actual consumption rate or 0.2358 Li/kWh

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

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

Where:

LR = Lube Oil “LO” Rate in PhP/kWh

LCR = LO consumption rate in Li/kWh; the lower of actual consumption rate or 0.0025 Li/kWh

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

$$\text{Incidental Energy Payment}_{\text{Black Start Service}} = G_{\text{BSS}} \times (\text{Fixed O\&M Cost}_{\text{BSS}} + \text{Variable O\&M Cost}_{\text{BSS}} + \text{Fuel Cost}_{\text{BSS}})$$

Where:

- G_{BSS} = summation of actual energy generated or dispatched to provide Black Start Service, in kWh
- Fixed O&M Cost_{BSS} = FOM rate x (RPCPI_i / RPCPI_o)

Where:

FOM rate = 3.00 PhP/kWh

RPCPI_i = Philippine CPI of the current billing month

RPCPI_o = Philippine CPI of 119.40 as of December 2022

- Variable O&M Cost_{BSS} = VOM rate x (RPCPI_i / RPCPI_o)

Where:

VOM rate = 0.3582 PhP/kWh

RPCPI_i = Philippine CPI of the current billing month

RPCPI_o = Philippine CPI of 119.40 as of December 2022

- Fuel Cost_{BSS}, in PhP/kWh = fuel cost based on prevailing price with relevant fuel index based on published data
= HFR + LR

Where:

HFR (in PhP/kWh) = HFCR * PHFO

Where:

HFR = Heavy Fuel Oil "HFO" Rate in PhP/kWh

HFCR = HFO consumption rate in Li/kWh; the lower of actual consumption rate or 0.2358 Li/kWh

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

LR (in PhP/kWh) = LCR * PLO

Where:

LR = Lube Oil "LO" Rate in PhP/kWh

LCR = LO consumption rate in Li/kWh; the lower of actual consumption rate or 0.0025 Li/kWh

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

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

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

23. TMI 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	46.3071	0.0982
RPS	6.3731	0.0135
BSS	0.3222	0.0007

A copy of the Rate Impact Simulation for TMI 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 Mindanao 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. TMI, as a generation company, falls within the ambit of Section 6 of the EPIRA. Attached are copies of relevant documents proving TMI’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:

²⁰ Rate Impact Simulation is attached as Annex “Q”.

Document	Annex
Amended Articles of Incorporation	"S"
Latest SEC GIS/Proof of Business Registration	"T"
Write-up on the Status of Certificate of Compliance issued by ERC; and ERC Certification dated 3 April 2023	"U"* and "U-1"*
Latest Audited Financial Statements	"V"*
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 TMI's Mobile 1 Auxiliary Battery Energy Storage System Operations	"Z"
TMI's Mobile 1 Generator Capability Curve	"AA"
Write-up on Non-applicability of Documents	"BB"

**Subject to the Prayer for Confidential Treatment of Information*

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

ALLEGATIONS IN SUPPORT OF THE PRAYER FOR
CONFIDENTIAL TREATMENT OF INFORMATION

28. Under Rule 4 of the ERC Rules of Practice and Procedure, the Honorable Commission may, upon request of a party and determination of existence of conditions that would warrant such remedy, treat certain information submitted to it as confidential.
29. Documents attached to this Application particularly, Annexes "L", "U", "U-1", "V", "W", "X", and "Y" contain commercially valuable and sensitive information and data that reflect TMI's investments, business operations, calculations, and other trade secrets.
30. TMI 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, TMI 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 Honorable Commission must first approve the contract before the same can be implemented.
32. As the demand for power in Mindanao increases, the requirements of the system likewise increase. 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", "U-1", "V", "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.

²¹Section 2(b), EPIRA.

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

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 platform 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):

Date	Platform	Activity
19 July 2023 (Wednesday) at nine o'clock in the morning (9:00 A.M.)	Microsoft Teams or Zoom Application	Determination of compliance with jurisdictional requirements and expository presentation
26 July 2023 (Wednesday) at nine o'clock in the morning (9:00 A.M.)		Pre-Trial Conference and presentation of evidence

RELATIVE THERETO, NGCP and TMI 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 TMI 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

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.

Application, its reasons therefor, and of the scheduled 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 prior to the date of the initial virtual hearing, NGCP and TMI 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 the affidavits of the Editor or Business Manager 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 TMI to inform the consumers within the affected area of 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 proofs of compliance with the requirements of the Commission.

Moreover, NGCP and TMI 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, Mayor and Local Legislative Bodies, and to submit proof of posting thereof.

Applicants NGCP and TMI, 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 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 TMI 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 NGCP and TMI 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 TMI 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 TMI 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 TMI 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 TMI are hereby 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 TMI, 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 hearings.

SO ORDERED.

Pasig City, 07 June 2023.

FOR AND BY AUTHORITY
OF THE COMMISSION:


MONALISA C. DIMALANTA
Chairperson and CEO_M


LS: NMK/ARG/MCCG



Copy Furnished:

1. National Grid Corporation of the Philippines (NGCP)
Applicant
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2. Attys. Luis Manuel U. Bugayong, Mark Anthony S. Actub, Rich L. Almario, Jerome C. Verzosa, Pamela Dominique M. Dizon
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jcverzosa@ngcp.ph
pmdizon@ngcp.ph
3. Therma Marine, Inc. (TMI)
Applicant
Barangay Sta. Ana, Nasipit, Agusan del Norte
4. Attys. Paul B. Sorino, Celeni Kristine G. Guinto, Leo Angelo E. Fornesa, Rosanne Jeli G. Magtagñob, Niña Dianne R. Santiago
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5. Office of the Mayor
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6. Office of the Local Government Unit (LGU) legislative body
Taguig City
7. Office of the Mayor
Quezon City
8. Office of the LGU legislative body
Quezon City
9. Office of the Governor
Province of Agusan del Norte
10. Office of the LGU legislative body
Province of Agusan del Norte
11. Office of the Mayor
Municipality of Nasipit
12. Office of the LGU legislative body
Municipality of Nasipit
13. Office of the Governor
Province of Davao de Oro
14. Office of the LGU legislative body
Province of Davao de Oro
15. Office of the Mayor
Municipality of Maco
16. Office of the LGU legislative body
Municipality of Maco

17. Office of the Governor
Province of Cebu
18. Office of the LGU legislative body
Province of Cebu
19. Office of the Mayor
Cebu City
20. Office of the LGU legislative body
Cebu City
21. Office of the Governor
Province of Laguna
22. Office of the LGU legislative body
Province of Laguna
23. Office of the Mayor
Biñan City
24. Office of the LGU legislative body
Biñan City
25. Office of the Governor
Province of Lanao del Norte
26. Office of the LGU legislative body
Province of Lanao del Norte
27. Office of the Mayor
Iligan City
28. Office of the LGU legislative body
Iligan City
29. Office of the Solicitor General
Amorsolo Street, Legaspi Village, Makati City
Email: docket@osg.gov.ph
30. Commission on Audit
Don Mariano Marcos Avenue, Diliman, Quezon City, Metro Manila
Email: citizensdesk@coa.gov.ph
31. Senate Committee on Energy
Senate of the Philippines
GSIS Building, Roxas Blvd., Pasay City, Metro Manila
Email: senateenergycommittee@gmail.com
32. House of Representatives Committee on Energy
House of Representatives
Batasan Hills, Quezon City, Metro Manila
Email: committee.energy@house.gov.ph
33. National Transmission Corporation (TRANSCO)
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34. Power Sector Assets and Liabilities Management Corporation (PSALM)
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35. Regulatory Operations Service (ROS)
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