

Republic of the Philippines
ENERGY REGULATORY COMMISSION
Pasig City

**IN THE MATTER OF THE
APPLICATION FOR
APPROVAL OF THE
ANCILLARY SERVICES
PROCUREMENT AGREEMENT
(MISAMIS OCCIDENTAL
POWER PLANT 2) BETWEEN
THE NATIONAL GRID
CORPORATION OF THE
PHILIPPINES AND KING
ENERGY GENERATION, INC.,
WITH PRAYER FOR THE
ISSUANCE OF PROVISIONAL
AUTHORITY**

ERC CASE NO. 2023-083 RC

**NATIONAL GRID
CORPORATION OF THE
PHILIPPINES AND KING
ENERGY GENERATION, INC.,
*Applicants.***

Promulgated:
July 03, 2023

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NOTICE OF VIRTUAL HEARING

TO ALL INTERESTED PARTIES:

Notice is hereby given that on 23 June 2023, the National Grid Corporation of the Philippines (NGCP) and King Energy Generation, Inc. (KEGI) filed their *Application* dated 23 May 2023, seeking the Commission's approval of their Ancillary Services Procurement Agreement (ASPA) for the Misamis Occidental Power Plant 2 - Panaon, 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 KEGI, 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 KEGI is a corporation duly organized and existing under and by virtue of the laws of the Republic of the Philippines, with principal place of business at Misamis Oriental Power Plant (MOPP), Brgy. San Luis, Gingoog City, Misamis Oriental.
 - 3.1. KEGI is the owner and operator of the **MISAMIS OCCIDENTAL POWER PLANT 2**, a diesel bunker power plant with a rated capacity of 15.684MW continuous output at 60Hz, including required ancillaries and spare parts, located in Brgy. Map-An, Panaoan, Misamis Occidental (the “**Generation Facility**”), which was certified and accredited by the NGCP as capable of providing Dispatchable Reserved and Reactive Support AS.
4. NGCP and KEGI 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

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.

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

6. Similarly, the PGC provides that NGCP is responsible for determining, acquiring, and dispatching the capacity needed to supply the required Grid AS and for developing and proposing Wheeling Charges and AS tariffs of the ERC.⁶
7. Ancillary Services is defined in Section 4 (b) of the EPIRA as referring “*to those services that are necessary to support the transmission of capacity and energy from resources to loads while maintaining reliable operation of the transmission system in accordance with good utility practice and the Grid Code to be adopted in accordance with this Act.*” These services are essential in ensuring reliability in the operation of the transmission system and consequently, in the reliability of the electricity supply in the Luzon, Visayas and Mindanao grids.
8. In order to implement and regulate the procurement of AS, the Honorable Commission approved the Ancillary Services Procurement Plan (“ASPP”) through its Order dated 9 March 2006 in ERC Case No. 2002-253 and the Ancillary Services-Cost Recovery Mechanism (“AS-CRM”) through its Decision dated 3 October 2007 in ERC Case No. 2006-049RC.
9. The NGCP certified that the units of the Generation Facility have met and complied with the Standard Ancillary Services Technical Requirements of the ASPP as capable of providing Dispatchable Reserve (DR) and Reactive Power Support (RPS). A copy of NGCP Accreditation Certificate No. 2021-M012, valid from 14 November 2021 to 13 November 2023 issued in favor of KEGI, is attached to this Application.⁷

Competitive Selection Process

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

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

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

⁵ Section 9(d), EPIRA.

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

⁷ Copies of NGCP Accreditation Certificate No. 2021-M012, with corresponding test report/s, are attached as Annex “B”.

11. In its Letter dated 22 November 2022,⁸ the DOE approved the Terms of Reference (TOR)⁹ and Instruction to Bidders¹⁰, and instructed NGCP to proceed with the publication and posting of the same pursuant to Sec. 7.4 and 7.5 of the AS-CSP Circular.
12. On 26 January 2023, the TPBAC approved its Notice of Invitation to Bid¹¹ informing the public of the pending AS-CSP for Regulating Reserve (RR), Contingency Reserve (CR), Dispatchable Reserve (DR), Reactive Power Support (RPS), and Black Start Service (BSS); and inviting all interested grid-connected merchant plants and Independent Power Producers to apply for eligibility and participate in the competitive bidding for the procurement of AS. The Notice of Invitation to Bid likewise provided any interested grid-connected merchant plants a copy of the DOE approved TOR and Instruction to Bidders.
13. Subsequently, the Notice of Invitation to Bid was published on 31 January 2023 with the *Malaya Business Insight*¹² and the *Philippine Star*.¹³ The same Notice was also published on 07 February 2023 with the *Business Mirror*¹⁴ and the *Manila Bulletin*.¹⁵
14. KEGI 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 15 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 KEGI's bid/offer¹⁶ for the provision of DR and RPS 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

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

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

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

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

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

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

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

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

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

Report on the conduct of the CSP¹⁷ indicating KEGI 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 KEGI-MOPP2¹⁹ 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 are as follows:

Type of AS to be provided	Unit	Capacity Payment Rate (P/kWh)	Duration
Dispatchable Reserve	MOPP2U1	0.78958593/ KWHR	Five (5) years
	MOPP2U2	0.78958593 /KWHR	
REACTIVE POWER SUPPORT	MOPP2U1	4.00 /kVaRh	5 years
	MOPP2U2	4.00 /kVaRh	

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

**CONTRACTED CAPACITY RATES
AND IMPACT SIMULATION**

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

Contracted Capacities:

- A. Dispatchable Reserve ("DR"):

15 MW – MOPP2

- B. Reactive Power Support:

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

2 x 11.2 MVAR

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

A. Ancillary Service Payment

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

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 (As Provider) is attached as Annex "K"

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

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

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

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

Incidental kVARh Rate: PhP 4.00 / kVARh

Compensable kVARh = Actual kVARh - Base kVARh

Where:

Actual kVARh = actual reactive power provided within each interval

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

B. Applicable Rates for Capacity Payment:

1. Dispatchable Reserve: PhP 0.6452/kW/h - MOPP2

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

C. Per Occurrence Applicable Rates:

1. Reactive Power Support (RPS): PhP4.00/kVAR/hr - MOPP2

D. Incidental Energy Payment

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

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

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

Where:

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

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- Capacity Payment Rate
 - Applicable Rates for Dispatchable Reserve (DR): PhP0.6452/kWh – MOPP2
- Energy Fees, in Php/kWh = Fuel Cost + Variable O&M Cost, in PhP/kWh
- Fuel Cost, in Php/kWh = fuel cost based in prevailing price with relevant fuel index based on published data
 - Where:
 - HFO Payment = HFO Price*HFO Consumption Rate*G;
 - HFO Price = actual Heavy Fuel Oil net delivered price, in PhP/liter, based on “first in first out” inventory price;
 - HFO Consumption Rate = 0.2429 L/kWh or actual consumption rate, whichever is lower
 - LFO Payment = LFO Price*LFO Consumption Rate*n*TEU
 - LFO Price = actual Light Fuel Oil net delivered price, in PhP/liter, based on “first in first out” inventory price;
 - LFO Consumption Rate = 200L per engine per instance of start-up and shutdown
 - TEU = Total engine used;
 - n = number of start-up and shutdown
 - LO Payment = LO Price*LO consumption rate*G
 - LO Price = actual Lube Oil net delivered price, in PhP/liter, based on “first in first out” inventory price;
 - LO Consumption rate = 0.0022 liter/kWh or the actual consumption rate, whichever is lower;
- Variable O&M Cost, in PhP/kWh = VOM rate (No indexation)
 - Where VOM = PHP 0.5/KWH (As approved by ERC)
- 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 KEGI 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 KEGI	“O”
Certification from NGCP as required under item D of the ERC Checklist	“P”

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

AS Type	Indicative Rate Impact	
	P/kW – month	P/kwh
DR	2.8099	0.0060
RPS	6.3731	0.0135

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A copy of the Rate Impact Simulation for KEGI 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. KEGI, as a generation company, falls within the ambit of Section 6 of the EPIRA. Attached are copies of relevant documents proving KEGI's due registration as a generation company, relevant permits to operate the Generation Facility and audited financial statements, as well as other documents required by the Honorable Commission:

Document	Annex
Articles of Incorporation	"S"
Latest SEC GIS/Proof of Business Registration	"S"
Certificate of Compliance issued by ERC including Annexes A & B	"T"
Latest Audited Financial Statement	"U"
WESM Registration	"V"
Computation of True Cost of Generation (PhP/kW & PhP/kWh)	"W"
Summary of computed Consumer Price Index (CPI) indexation and Start-Up and Shut-Down Costs (SSC) as part of the monthly Variable Operation and Maintenance (O&M) Cost, including their computations.	"X"
Distribution Wheeling Service (DWS) Agreement (for embedded generators, if applicable)	"Y"
Summary of Distribution Wheeling Service Charges from MERALCO, if any, including copy of the Statement of Accounts	"Y"
Single-Line Diagram Connection	"Z"
Certification of Endorsement from the Department of Energy that the Generation Facility is included in the Power Development Plan and Transmission Development Plan	"AA"
Certification of No Power Supply Agreement	"AA"

27. While KEGI 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.

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

29. The *Computation of True Cost of Generation (Annex “W”)* attached to this Application contains commercially valuable and sensitive information and data that reflect KEGI’s investments, business operations, calculations, and other trade secrets.
30. KEGI thus respectfully moves that this document is not to be disclosed and treated as confidential documents in accordance with Section 1, Rule 4 of the Honorable Commission’s Rules of Practice and Procedure. Accordingly, KEGI 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 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:

1. Immediately **ISSUE** a provisional authority to implement the subject ASPA executed on 02 May 2023;
2. **APPROVE**, after notice and hearing, the subject ASPA;
3. **ISSUE** an Order declaring *Computation of True Cost of Generation (Annex “W”)* attached to this Application as confidential information pursuant to Section 1, Rule 4 of the

²¹ Section 2(b), EPIRA.

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

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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 2020²³ and Resolution No. 01, Series of 2021²⁴ (ERC Revised Rules of Practice and Procedure):

Date	Platform	Activity
03 August 2023 (Thursday) at two thirty in the afternoon (2:30 PM)	Microsoft Teams or Zoom Application	Determination of compliance with the jurisdictional requirements and expository presentation
10 August 2023 (Thursday) at two thirty in the afternoon (2:30 PM)		Pre-Trial Conference and presentation of evidence

Any interested stakeholder may submit its comments and/or clarifications **at least one (1) calendar day** prior to the scheduled initial virtual hearing, via electronic mail (e-mail) at doCKET@erc.ph and copy furnish the Legal Service through legal@erc.ph. The Commission shall give priority to the stakeholders who have duly submitted their respective comments and/or clarifications, to discuss the same and propound questions during the course of the expository presentation.

Moreover, any person who has an interest in the subject matter of the instant case may become a party by filing with the Commission via e-mail at doCKET@erc.ph, and copy furnishing the Legal Service through legal@erc.ph, a verified Petition to Intervene **at least five (5) calendar days** prior to the date of the initial virtual hearing. The verified Petition to Intervene must follow the requirements under Rule 9 of the ERC Revised Rules of Practice and Procedure, indicate therein the docket number and title of the case, and state the following:

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.

- 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.

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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 3rd day of July 2023 in Pasig City.


MONALISA C. DIMALANTA
Chairperson and CEO


LS: NMK/ARG/MCCG

