

Republic of the Philippines  
**ENERGY REGULATORY COMMISSION**  
Pacific Center Building, San Miguel Avenue  
Ortigas Center, Pasig City

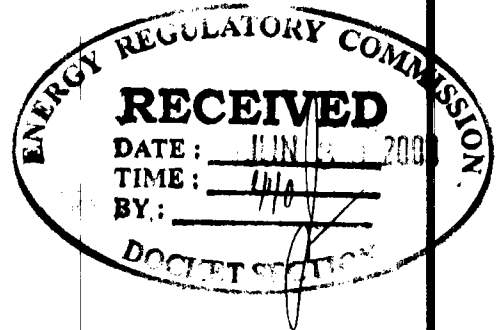
PETITION FOR THE RECOVERY OF  
NATIONAL POWER  
CORPORATION'S STRANDED  
DEBTS PORTION OF THE  
UNIVERSAL CHARGE FOR THE  
LUZON, VISAYAS AND MINDANAO  
GRIDS,

ERC CASE NO. 2009 - 047 RC

POWER SECTOR ASSETS AND  
LIABILITIES MANAGEMENT  
CORPORATION (PSALM)

*Petitioner.*

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PETITION

Petitioner **POWER SECTOR ASSETS AND LIABILITIES  
MANAGEMENT CORPORATION (PSALM)**, through counsel, respectfully  
states:

1. This is a Petition for the Recovery of National Power Corporation's Stranded Debts Portion of the Universal Charge for the Luzon, Visayas, and Mindanao Grids pursuant to R. A. No. 9136 or the "Electric Power Industry Reform Act of 2001" (EPIRA), its Implementing Rules and Regulations (EPIRA-IRR) and the Rules for Recovery of NPC Stranded Contract Costs and Stranded Debts Portion of the Universal Charge (**Rules for Recovery**) as adopted by ERC Resolution No. 04-2007.

PSALM DEC- 09-0968

2. Petitioner PSALM is a government-owned and controlled corporation created by virtue of Republic Act No. 9136 or the "Electric Power Industry Reform Act of 2001" (EPIRA), with principal office address at 7/F Bankmer Building, 6756 Ayala Avenue, Makati City.

3. The principal mandate of PSALM is to manage the orderly sale, disposition, and privatization of NPC generation assets, real estate and other disposable assets, and IPP contracts with the objective of liquidating all NPC financial obligations and stranded contract costs in an optimal manner (Sec. 50, EPIRA). To attain its objectives, PSALM shall, among others, [i] calculate the amount of the stranded debts and stranded contract costs of NPC which shall form the basis for ERC in the determination of the universal charge and [ii] liquidate the NPC stranded contract costs, utilizing the proceeds from sales and other property contributed to it, including the proceeds from the universal charge (Sec. 51, EPIRA).

4. Stranded Debts (**SD**) refer to "any unpaid financial obligations of NPC which have not been liquidated by the proceeds from the sales and privatization of NPC assets" (Sec. 4 (vv), EPIRA). Financial obligations pertain to net obligations of NPC after deducting the P200 billion debt assumed by the national government (Section 32, EPIRA).

5. Although the Rules for Recovery was issued in 2007, petitioner informed the Honorable Commission of its non-filing for the UC-SD for CYs 2007 and 2008, considering that the calculations showed that the projected cash flows from NPC's operations as well as the proceeds from the privatization of

generating assets were more than enough to finance NPC's debt service and other financial obligations.

6. In order to stabilize and mitigate the level of the NPC's UC-SD, a leveled UC-SD for CYs 2009-2029 was simulated. The assumptions used in CY 2009 to 2029 projected cash flows, which exclude SPUG, are summarized below:

- a. Revenues for CYs 2009-2029 will merely cover variable and fixed operating costs, excluding capacity fees. This is based on the 2008 Results of Operations where capacity fees are not fully covered by revenues generated from operations;
- b. Privatization proceeds include the complete privatization of Agus and Pulangui in 2012;
- c. Debt service is based on the amortization schedule with various creditors;
- d. Includes the capacity fees of all IPPs, including plants which are eligible for recovery under UC-SCC; and
- e. Assumes a fixed foreign exchange rate of Php48 to \$1, considering that any foreign exchange rate fluctuations may be recovered through the ICERA cost recovery mechanism.

7. The resulting figures showed an estimated UC-SD amounting to Php Php470,865 million (Annex "A"), net of the positive cash flow that are expected to occur during the period 2025 to 2029 due to excess privatization proceeds over debt service. This positive cash flow will offset the shortfall during the period 2009-2024, due to inadequacy of privatization proceeds to cover capacity fees and debt service requirements.

8. Based on a 17-year recovery period which ends in 2025, six [6] months prior to the expiration of the life of PSALM on June 26, 2026, and a 21-

year recovery period ending 2029, the UC-SD of Php 470,865 million will translate to the following UC rates for the Luzon, Visayas, and Mindanao grids:

| Proposed Recovery Period | Projected Sales (GWh) | \$D Amount, PMillion | Estimated P/kWh |
|--------------------------|-----------------------|----------------------|-----------------|
| 17-Year Recovery         | 1,544,200             | 470,865              | 0.3049          |
| 25-Year Recovery         | 2,090,631             | 470,865              | 0.2252          |

9. Pursuant to the Rules for Recovery, true-up adjustments shall be done on an annual basis. The Rules further provide that "[i]n the event that the total amount collected for the NPC Stranded Contract Cost and Stranded Debt recovery fall short of the approved appropriated share of PSALM in the UC, the shortfall shall be programmed for the ensuing year's respective petitions". (Sec. 4, Article VII, Rules for Recovery)

10. Pursuant to Section 4(e) of Rule 3 of the EPIRA-IRR and ERC Resolution No. 38- 2006, a copy of the instant Petition (including Annexes) was furnished the Sangguniang Panlungsod of Makati City (Annex "B"). The Petition was also published in a newspaper of general circulation (Annex "C").

11. Also attached are the following documents in support of the instant Petition.

### LIST OF ATTACHMENTS

| Document  | Annex |
|---|-------|
| Schedule of Projected Debt Service                                    | D     |
| Schedule of Projected Privatization Proceeds                          | E     |
| Inventory of Financial Instruments Assumed by the National Government | F     |
| Inventory of Financial Obligations (Bundled) as of December 31, 2008  | G     |

### PRAYER

**WHEREFORE**, premises considered, petitioner respectfully prays that, after due notice and hearing, the Honorable Commission APPROVE:

1. The proposed levelized UC-SD charge for Luzon, Visayas and Mindanao grids, for CYs 2009-2025 under the proposed recovery period as shown in the table below:

| Proposed Recovery Period | Projected Sales (GWh) | SD Amount, PMillion | Estimated P/kWh |
|--------------------------|-----------------------|---------------------|-----------------|
| 17-Year Recovery         | 1,544,200             | 470,865             | 0.3049          |

2. The adoption of a true-up mechanism on an annual basis based on the approved Rules.

Petitioner prays for other reliefs just and equitable under the circumstances.

Makati City, June 26, 2009.

- signatories on following pages -



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Corporate Legal Counsel

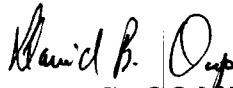
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Roll of Attorney No. 47133

*Petition for Recovery-UCSD*  
PSALM, Petitioner

*Ruiz San Diego*  
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Corporate Attorney

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*Renato R. Vehemente*

**RENATO R. VEHEMENTE**

Corporate Attorney

IBP No. 787688

Roll of Attorney No. 56568

**POWER SECTOR ASSETS AND LIABILITIES  
MANAGEMENT CORPORATION**

7th Floor, Bankmer Building  
6756 Ayala Avenue, Makati City

(Republic of the Philippines)  
(Makati City ) s.s.

**VERIFICATION AND CERTIFICATION**

I, **JOSE C. IBAZETA**, of legal age, married, with office address at the Power Sector Assets and Liabilities Management Corporation (**PSALM**), 7<sup>th</sup> Floor, Bankmer Building, 6756 Ayala Avenue, Makati City, after having been duly sworn to in accordance with law, do hereby depose and state for myself, and for PSALM, that:

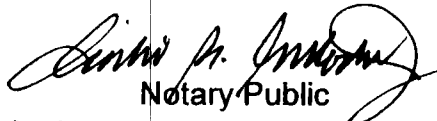
- (1) I am the President and Chief Executive Officer of the Power Sector Assets and Liabilities Management Corporation (**PSALM**) with authority to commence, initiate and file the foregoing Petition pursuant to PSALM Board Resolution No. 2009-0626-001, a copy of which is hereto attached as Annex "H";
- (2) I have read the Petition and the allegations therein are true and correct based on my personal knowledge or the authentic records available to PSALM;
- (3) I or PSALM have not commenced any other action or proceeding involving the same issues in the Supreme Court, the Court of Appeals or any court, tribunal, or quasi-judicial agency and, to the best of my knowledge, no such other action or claim is pending therein; and
- (4) If I or PSALM should hereinafter learn that the same or a similar action or claim has been filed or is pending in the Supreme Court, the Court of Appeals or any court, tribunal, or quasi-judicial agency, I shall report the said fact within five (5) days from discovery thereof to the Honorable Commission.

JUN 29 2009  
June 29, 2009, Makati City, Philippines.

  
**JOSE C. IBAZETA**  
Affiant

JUN 29 2009  
**SUBSCRIBED and SWORN TO** before me this 29 day of June 2009, with affiant **JOSE C. IBAZETA** presenting to me his Passport No. ZZ149721 issued on August 10, 2005 at DFA, Manila, Philippines, known to me and to me known to be the same person who executed the foregoing Verification and Certification.

Doc. No. 204;  
Page No. 42;  
Book No. VI;  
Series of 2009.

  
Notary Public  
**CECILIO B. GELLADA, JR.**  
Notary Public Appt No. M-186  
Until December 31, 2010  
Roll of Attorney No. 30354  
IBP No. 767027 (1-5-09) Q.C.  
PTR No. 1567844 (1-5-09) Makati  
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