

Republic of the Philippines
ENERGY REGULATORY COMMISSION
San Miguel Avenue, Pasig City

IN THE MATTER OF THE APPLICATION
FOR THE RECOVERY OF THE
INCREMENTAL COSTS ON FOREIGN
CURRENCY EXCHANGE RATE
FLUCTUATIONS UNDER THE 10TH
INCREMENTAL CURRENCY EXCHANGE
RATE ADJUSTMENT (ICERA), WITH
PRAYER FOR PROVISIONAL
AUTHORITY

PSALM CORP.	
OFFICE OF THE GENERAL COUNSEL	
RECEIVED	
BY: <u> <i>DM</i> </u>	
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ERC CASE NO. 2008-054 RC

COG/L20 / DIBO / PZR / HOC / Jan

NATIONAL POWER CORPORATION
(NPC) AND POWER SECTOR ASSETS
AND LIABILITIES MANAGEMENT
CORPORATION (PSALM),

Applicants.

x ----- x

DOCKETED
Date: NOV. 13 2008
By: *W*

ORDER

On September 26, 2008, the National Power Corporation (NPC) and the Power Sector Assets and Liabilities Management Corporation (PSALM) filed an application for the recovery of the incremental costs on foreign currency exchange rate fluctuations under the 10th Incremental Currency Exchange Rate Adjustment (ICERA), with prayer for provisional authority.

In the said application, NPC and PSALM alleged, among others, the following:

1. In its Order dated February 24, 2003 in ERC Case No. 2003-44, the Commission issued and adopted the Implementing Rules for the ICERA providing, among others, the required mechanisms for the recovery/(refund) of the deferred incremental costs/(savings) on

2. The instant application covers the billing period May 2008 to June 2008. Applicants have fully complied with the ICERA's monthly reportorial requirements in support of the calculated allowable costs covering the test period;
3. Their ICERA compliance has been modified which excluded principal payments whose foreign exchange rates were below the base rate approved by the Commission in its Order dated September 20, 2002. It will be recalled that the said Order rebased the FOREX to test year levels using CY 2000 average US Dollar and Japanese Yen exchange rates amounting to PhP44.0494 and PhP0.4096, respectively. Applicants deemed it prudent to exclude principal repayments whose FOREX rates were below the CY 2000 approved average FOREX level, which translates to a refund, for the following reasons:
 - a) Under the return on rate base (RORB) methodology, the principal repayment portion of Debt Service corresponds to Depreciation expense, which in turn is related to the rate base;
 - b) The Commission disallowed in the rate base the trending factor up to CY 1998, effectively pegging depreciation expense at the 1996 FOREX rate of PhP26.2881:US\$1, instead of at the 2000 level, which the Commission used in the September 20, 2002 Order;
 - c. Allowing applicants to reflect a principal repayment showing a FOREX rate between the 1996 and 2000 FOREX levels effectively translates to a FOREX gain or a refund to customers, when in fact NPC has not actually realized a gain. This would mean that NPC will absorb the cost of the refund.
4. The applicants propose to recover/(refund) the Deferred Accounting Adjustments (DAAs), the additional cost or savings from foreign exchange fluctuations in settlement of Debt Service and Operation Expenses (OPEX) and the difference in the actual and billed, through the generation charge, amortization of Capacity and Infrastructure Fees for Build-Operate-Transfer (BOT) Plants, and corresponding carrying charges for the billing/test period from May 2008 to June 2008 for the Luzon, Visayas and Mindanao Grids;
5. Pursuant to the Commission's directive in its Order dated November 23, 2005 (approval of 4th ICERA DAA), the proposed 8th ICERA DAA charge are calculated on a per grid basis;
6. Consistent with its previous ICERA applications, the Base Exchange Rates used in the calculation of the 10th ICERA DAA for OPEX is adjusted to the average figures of CY 2002 as compared with those from CY 2000 or from PhP44.0494/US\$1 to PhP51.6036/US\$1 and PhP0.4096/JP¥ 1 to PhP0.4128/JP¥1. However, Base Exchange Rates for Debt Service are maintained at the CY 2000 level, pending resolution on its "Supplemental Motion for Clarification" filed on May 31, 2006 seeking clarification on the disallowance of the Loss on

better understanding of the Commission's intention particularly on the appropriate Base Exchange rate/price of Debt Service;

7. The instant application does not include any un-recovered or un-refunded balance from the 9th ICERA application considering that the same is still pending resolution by the Commission since its filing last July 29, 2008;
8. The calculation for the recovery/refund of costs on Actual Capacity and Infrastructure Fees for Bakun Hydroelectric Power Plant and San Roque Multi-purpose Project is up to the authorized recoverable rate of PhP3.8299/kWh contained in the Commission's Order on the 5th ICERA;
9. Considering the foregoing and pursuant to all the relevant Decisions and Orders previously issued by the Commission, they calculated the total deferred costs for recovery under the instant application comprising of deferred Debt Service, OPEX and Capacity Fees for BOT plants and the corresponding carrying charges for the Luzon, Visayas and Mindanao Grids covering the test period from May 2008 to June 2008. The table below shows the summary of the total deferred FOREX costs, as follows:

GRID	DAA, PhP
LUZON	(1,698,236,983)
VISAYAS	11,508,839
MINDANAO	(57,494,009)
PHILIPPINES	(1,744,222,153)

10. The proposed 10th ICERA DAA charges shall be billed on top of the existing RORB-TOU-based generation charge. Pursuant to the Implementing Rules of the ICERA, they propose to recover/refund the following deferred FOREX adjustments and the corresponding carrying charges based on the BSP-established 91-day Treasury Bill rates plus 3%, through the proposed 10th ICERA DAA charges for Luzon, Visayas and Mindanao Grids for the period from May 2008 to June 2008. The table below shows the allowable carrying charge interest rates utilized under this application and strictly pursuant to the ICERA IRR:

Total Deferred FOREX Costs, in PhP

Luzon	Visayas	Mindanao	Phils.
(1,698,236,983)	11,508,839	(57,494,008)	(1,744,222,153)

Allowable Carrying Charge Interest Rates

Test/Billing Months	Prevailing 91-day T-Bill Rate ¹	Authorized Allowance ²	Allowable Rate
May 2008 ³	3.673%	3%	6.673%
June 2008 ³	3.673%	3%	6.673%

1. Source: *Bangko Sentral ng Pilipinas*
2. As authorized in the *ICERA Implementing Rules*
3. There was No Issue (NI) T-Bill Rate for the month of May 2008 and June 2008, hence, the rate was computed based on the average T-Bill Rates for the preceding of the said months.

11. The application seeks to obtain the approval for the recovery/refund of the total deferred FOREX cost for the test/billing period May 2008 and June 2008 only, through the imposition of the following proposed DAA charges:

	Luzon	Visayas	Mindanao
ICERA DAA Charges, PhP/kWh	(0.4772)	0.0127	(0.0424)

The remaining balance from the implementation of the 9th ICERA application depending on the Commission's resolution of the said case shall be added to this rate;

12. The proposed ICERA DAA is fair and reasonable as it allows the recovery of deferred costs consistent with the principles of a free and competitive electricity market as provided under R.A. No. 9136;
13. They seek the approval to recover the above-mentioned deferred costs over following recovery periods:

Proposed Spread (No. of Months)		
LUZON	VISAYAS	MINDANAO
2	2	2

14. They would like to emphasize that the above proposed recovery period is only for the test period of May 2008 and June. 2008. The resulting balance of the 9th ICERA, which is yet to be resolved by the Commission, should be recovered/(refunded) over the same number of months remaining for implementation. For clarity, if the proposed 9th ICERA is implemented for one (1) month only, the remaining balance shall be implemented for the remaining fifteen (15) months while the DAA for May 2008 and June 2008 test period under this instant Application shall be spread for two (2) months; and

15. They pray that consistent with ERC Case No. 2003-44 adopting the Implementing Rules for the Recovery of ICERA and Section 4(e) Rule 3 of the IRR, as amended, of RA 9136 or EPIRA, the proposed DAA charges of (P0.4772)/kWh for Luzon Grid, P0.0127/kWh for

which is currently pending resolution, be integrated on top of the said charges. Applicants further pray for the approval of the proposed determination of the appropriate DAA Charges for the balances as stated in the instant application.

Finding said application sufficient in form and in substance, with the required fees having been paid, the same is hereby set for hearing on December 3, 2008 at ten o'clock in the morning (10:00 A.M.) at the ERC Hearing Room, 15th Floor, Pacific Center Building, San Miguel Avenue, Pasig City.

NPC and PSALM are hereby directed to cause the publication of the attached Notice of Public Hearing, at their own expense, twice (2x) for two (2) successive weeks in two (2) newspapers of general circulation in the Philippines, with the date of the last publication to be made not later than ten (10) days before the date of the scheduled initial hearing. They are also directed to inform the consumers, by any other means available and appropriate, of the filing of the instant application, their reasons therefor, and of the scheduled hearing thereon.

Let copies of the application, this Order and the attached Notice of Public Hearing be furnished the Office of the Solicitor General (OSG), the Commission on Audit (COA) and the Committees on Energy of both Houses of Congress who are hereby requested, if they so desire, to send their duly authorized representatives at the scheduled hearing.

Likewise, let copies of this Order and the attached Notice of Public Hearing be furnished the Office of the Mayor of Quezon City for the appropriate posting thereof on its bulletin board.

NPC and PSALM are hereby directed to furnish all those making requests

On the date of the initial hearing, NPC and PSALM must submit to the Commission their written compliance with the jurisdictional requirements attaching therewith, methodically arranged and duly marked, the evidence on the actual posting and publication of the Notice of Public Hearing consisting of a certification issued to that effect, signed by the afore-mentioned Mayor or his duly authorized representative, bearing the seal of his office, and the affidavits of the Editors or Business Managers of the newspapers where the said Notice of Public Hearing were published together with the complete issues of the said newspapers, and such other proofs of compliance with the requirements of the Commission.

NPC and PSALM are further directed to submit, at least five (5) days before the date of initial hearing, their Pre-trial Brief containing, among others, the following:

- a) A summary of admitted facts and proposed stipulations of facts;
- b) The issues to be tried or resolved;
- c) The documents or exhibits to be presented, stating the purposes thereof and proposed markings therefor; and
- d) The number and names of witnesses, with their written testimonies in affidavit form to be attached to the Pre-trial Brief.

Failure of NPC and PSALM to submit the required Pre-trial Brief and Judicial Affidavits of their witnesses 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 said date of cancellation.

As part of the pre-trial conference, NPC and PSALM must also be prepared to make an expository presentation on their 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, what the application is all about and the reasons and justifications being cited in support of the rate adjustments prayed for.

SO ORDERED.

Pasig City, November 7, 2008.

FOR AND BY AUTHORITY
OF THE COMMISSION:


ALEJANDRO Z. BARIN
Commissioner

Copy furnished:

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