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Republic of the Philippines ENERGY REGULATORY COMMISSION San Miguel Avenue Ortigas Center

San Miguel Avenue, Ortigas Center Pasig City OFFICE FILE

IN THE MATTER OF THE APPLICATION FOR APPROVAL OF THE ANCILLARY SERVICES **PROCUREMENT AGREEMENT** BETWEEN THE NATIONAL GRID CORPORATION OF THE PHILIPPINES AND SN ABOITIZ POWER-BENGUET, INC., WITH PRAYER FOR THE ISSUANCE OF PROVISIONAL AUTHORITY.

ERC CASE NO. 2016-0__RC

NATIONAL GRID CORPORATION OF THE PHILIPPINES AND SN ABOITIZ POWER-BENGUET, INC., Applicants.

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APPLICATION

(With Prayer for the Immediate Issuance of a Provisional Authority)

Applicants NATIONAL GRID CORPORATION OF THE PHILIPPINES (NGCP) and SN ABOITIZ POWER-BENGUET, INC. (SNAP-BI), by counsels, respectfully state:

NATURE OF THE CASE

1. This Application is for the approval of the subject Ancillary Services Procurement Agreement (ASPA) between the NGCP and SNAP-BI, pursuant to the Decision dated 3 October 2007 in ERC Case No. 2006-049RC, entitled: "In the Matter of the Application for the Approval of Ancillary Services – Cost Recovery Mechanism (AS-CRM) of the Ancillary Services Procurement Plan, with Prayer for Provisional Authority."

PARTIES

- 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 is the concessionaire which assumed the power transmission functions of the National Transmission Corporation (TRANSCO) pursuant to Republic Act No. 91361 (EPIRA). It holds a franchise under Republic Act No. 9511² 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 franchise also includes the conduct of activities necessary to support the safe and reliable operation of the transmission system.
- 3. Applicant SNAP-BI is a corporation organized and existing under and by virtue of the Philippine laws with principal office address at Binga Hydroelectric Power Plant, Brgy. Tinongdan, Itogon, Benguet. It may be served with orders, notices, and other legal processes through its undersigned counsel. It is the owner and operator of Ambuklao Hydro-Electric Power Plant (Ambuklao HEPP) located at Bokod, Benguet which was certified and accredited by NGCP to be capable of providing Regulating Reserve (RR), Contingency Reserve (CR), Dispatchable Reserve (DR) and Black Start Capability.

ANTECEDENT FACTS

4. Republic Act No. 9136 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), adopted and promulgated by the Honorable Commission, and to adequately serve generation companies,

¹ Republic Act No. 9136 entitled, "An Act Ordaining Reforms in the Electric Power Industry, Amending for the Purpose Certain Laws and for other Purposes":

²An 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;

distribution utilities and suppliers requiring transmission service and/or ancillary services through the transmission system³.

- 5. Similarly, the PGC provides that NGCP is responsible for determining, acquiring, and dispatching the capacity needed to supply the required Grid Ancillary Services and for developing and proposing Wheeling Charges and Ancillary Service tariffs to the ERC⁴.
- 6. Ancillary services (AS) as defined in Section 4b of the EPIRA "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." 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.
- 7. 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.
- 8. Pursuant to its mandate, NGCP invited and negotiated with all prospective generation companies capable of providing ancillary services, one of which is SNAP-BI.
- 9. On 8 March 2013, NGCP and the SNAP-BI entered into another ASPA (2013 ASPA) for a period of 3 years. On 27 March 2013, the parties filed an application docketed as ERC Case No. 2013-054RC before the Honorable Commission for the approval of the 2013 ASPA, which was provisionally approved through an Order dated 3 June 2013. The Honorable Commission in page 12 of the Order stated that: "The Commission believes that the contracted ancillary services capacity is needed to augment the deficiency of ancillary reserve capacity and maintain the reliability of the operation of the transmission system and electricity supply in the Luzon Grid".

³Section 9 (c) and (d);

⁴Section 6.3.1.2;

- 10. Due to the necessity of extending the services of providing the same ancillary services, the Applicants again entered into another ASPA under the same rates, terms and conditions⁵. In the latest accreditation tests conducted in 2015 on the Ambuklao HEPP, the plant demonstrated capability of providing RR, CR and DR. The copy of the Accreditation Certificate is attached as **Annex** "A".
- 11. Similar to the existing ASPA, NGCP agreed to procure and SNAP-BI agreed to continuously provide, under the new ASPA, the following AS for a period of a period five (5) years:

Capacity	Type of Ancillary Services	
Firm	Regulating Reserve	
	Contingency Reserve	
Non-firm	Regulating Reserve	
	Contingency Reserve	
	Dispatchable reserve	
	Black Start Capability ⁶	

A copy of ASPA is attached as Annex "B."

CONTRACTED CAPACITY RATES AND IMPACT SIMULATION

12. Also, the Applicants used the following rates for the capacity fees as provided in the previous ASPA:

Firm:

Ancillary Service	Applicable Rates (Maximum Hourly Rate)	
Regulating Reserve	Php2.50/kW/Hr	
Contingency Reserve	Php1.50/kW/Hr	

⁵ The proposed schedules are: 22MW RR firm capacity for 24 hours a day, and 7 days a week for the months of July to November; and 22MW RR firm capacity during peak hours for the month of December; 30MW CR firm capacity during peak hours of January to June (Mondays to Saturdays except holidays); and 60MW firm capacity during off-peak hours for the months of July to November; and 30MW CR firm capacity for December during off-peak;

⁶ The actual testing of the Ambuklao HEPP for Black Start Capability is scheduled in September 2016.

Non-Firm:

Ancillary Service	Applicable Rates (Maximum Hourly Rate)	
Regulating Reserve	Php3.00/kW/Hr	
Contingency Reserve	Php2.25/kW/Hr	
Dispatchable Reserve	Php1.25/kW/Hr	
Black Start Capability	Php2.14/kW/Hr	

- 13. SNAP-BI respectfully submits that the proposed rates represent a reasonable recovery of the opportunity cost in making available generation capacity to provide the procured AS.
- 14. The rates under ASPA were subjected to a simulation with the following results:

Ancillary Services	Indicative Rate Impact		
Ancillary Services	P/kW-month	P/kWh	
Regulating Reserve	6.1501	0.0331	
Contingency Reserve	3.9701	0.0214	
Dispatchable Reserve	2.3189	0.0125	

A copy of the said rate impact simulation is attached as **Annex** "C".

15. 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.

ALLEGATIONS IN SUPPORT OF THE PRAYER FOR PROVISIONAL AUTHORITY

16. It is a declared policy of the State to ensure the quality, reliability, security and affordability of the supply of electric power (*Section 2b, EPIRA*). With this end in view, there is a need to comply with the system requirements for AS to ensure grid system 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 could be implemented.

- 17. As mentioned above, the Honorable Commission has already declared that there is a necessity for NGCP to procure the contracted ancillary services capacity of SNAP BI to maintain the reliability of the operation of the transmission system and electricity supply in the Luzon Grid.
- 18. SNAP-BI must continue to provide the current contracted ancillary services beyond the 2013 ASPA to maintain the reliability of the power grid. Based on the current levels of available contracted AS in the Luzon Grid, the firm contracted AS have not yet met the required levels of the ASPP. The copies of the relevant actual data and its corresponding graphical presentations showing the required and available levels of AS in the Luzon Grid are attached as **Annex "D."**
- 19. NGCP must be guaranteed that there are available AS on a daily basis to assure reliability of the grid. There is no assurance that the non-firm capacities would be available when needed. NGCP cannot gamble on this chance. As the grid operator, the contracted capacity of SNAP, especially its firm capacities, are greatly needed.
- 20. Thus, NGCP and SNAP BI agreed to execute another ASPA for a period of another five years. With this ASPA, the Luzon Grid is assured of AS until 2021.
- 21. Also, as the demand for power in the Luzon increases, the requirements of the system to ensure stability, reliability and security 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.
- 22. 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 Engr. Lizaflor Bacani-Kater which is attached as **Annex "E."**

PRAYER

WHEREFORE, premises considered, Applicants respectfully pray that the Honorable Commission to:

- a) **ISSUE** a provisional authority to implement the subject ASPA;
- b) After notice and hearing, **APPROVE** the subject ASPA.

Applicants pray for other just and equitable relief under the premises.

Quezon City and Taguig City for Pasig City, 11 August 2016.

OFFICE OF THE GENERAL COUNSEL NATIONAL GRID CORPORATION OF THE PHILIPPINES

NGCP Building, Quezon Avenue corner BIR Road, Diliman, Quezon City Tel. No. 981-2100 (Trunk Line)

By:

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-and-

OFFICE OF THE LEGAL AND COMPLIANCE COUNSEL

10th Floor, NAC Tower 32nd Street, Bonifacio Global City Taguig City

By:

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PTR NO. No. 4752525 (01-19-16 / Pasay City)
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Roll of Attorneys No. 37759

Email address: david.ocampo@snaboitiz.com

Courtesy Copy:

NATIONAL TRANSMISSION CORPORATION

c/o Office of the President Quezon Avenue corner BIR Road Diliman, Quezon City

NATIONAL TRANSMISSION CORPORATION

c/o Office of the General Counsel Quezon Avenue corner BIR Road Diliman, Quezon City

POWER SECTOR ASSETS AND LIABILITIES MANAGEMENT

c/o Office of the President 7th Floor, Bankmer Building, 6756 Ayala Avenue 1226 Makati City

REPUBLIC OF THE PHILIPPINES) QUEZON CITY

) S.S.

VERIFICATION AND CERTIFICATION OF NON-FORUM SHOPPING

- I, MA. CYNTHIA Y. MANRIQUE, Filipino, of legal age, single, after having been duly sworn to in accordance with law, hereby depose and say that:
- 1. I am presently the Head of the Revenue Regulatory Affairs Group of the National Grid Corporation of the Philippines (NGCP);
- 2. I am duly authorized to sign the Verification and Certification of Non-Forum Shopping in this case for and in behalf of NGCP as evidenced by the Secretary's Certificate hereto attached as **Annex "A-Verification**;"
- 3. I have caused the preparation of the foregoing Application and I have read it. I attest that the allegations therein are true and correct of my personal knowledge and based on authentic records;
- 4. I further attest that NGCP has not filed any similar case or action before any court, tribunal or quasi-judicial agency involving the properties subject of this case and, to the best of my knowledge, no such other case or action is pending therein; and
- 5. If I should thereafter learn that a similar case, action or claim other than those mentioned above, is filed or pending before any court, tribunal or quasijudicial agency, I shall report that fact to this Honorable Office within five (5) days therefrom;

IN WITNESS WHEREOF, I have hereunto affixed my signature this 11 August 2016, in Quezon City, Philippines.

MÁ. CYNTHIA Y. MANRIQUE

Affiant

SUBSCRIBED AND SWORN to before me this 11 August 2016, affiant exhibited to me her Driver's License No. D09-94-048075 valid until 13 June 1018 issued at Quezon City.

Doc. No.

Page No.

Book No.

Series of 2016.

Atty. RICO R. CAGARA

Notary Public, Appoinment No.038 Commission until 31 December 2017

Commission until 31 December 2017 PTR No. 2131577; 01-04-16; Quezon City IBP Lifetime No. 08600; Bulacan

Roll Of Attorney's No. 53664 MC No. Compliance No. V-0005736, until 4-14-19

Unit 305, J. Rosa Condominium

44 Matimisman St., Teacher's Village East
Diliman, Quezon City

REPUBLIC OF THE PHILIPPINES) CITY OF QUEZON) S.S.

SECRETARY'S CERTIFICATE

- I, KAREN S. ONG, of legal age, Filipino, and with office address at Power Center, Quezon Avenue corner BIR Road, Diliman, Quezon City, Metro Manila, after having been duly sworn in accordance with law, hereby certify that:
- I am the Corporate Secretary of NATIONAL GRID CORPORATION OF THE PHILIPPINES (the "Corporation"), a corporation duly organized and existing under the laws of the Republic of the Philippines, with office address at Power Center, Quezon Avenue corner BIR Road, Diliman, Quezon City.
- In the meeting of the Board of Directors of the Corporation held on 27 June 2011, at which meeting a quorum was present, the following resolution was unanimously approved and adopted:

"NOW THEREFORE, BE IT RESOLVED, AS IT IS HEREBY

RESOLVED, that the request for authority is hereby approved and adopted for the President & CEO, Chief Administrative Officer, General Counsel, Revenue And Regulatory Affairs Department Head, Engineering Construction Department Head and concerned Project Division Heads, or their appointed and designated officers of NGCP to:

- Represent NGCP in any claim, complaint, petition, application, protest, suit, or any case for or against NGCP before any judicial court, prosecutor's office, regulatory body, quasi-judicial or administrative body, agency or office of the government;
- Execute, sign and obtain any document, including verification and certification of non-forum shopping or any other document which may be required or in connection with the preceding paragraph;
- Appoint, name or designate a representative of NGCP during inquest, preliminary investigation, preliminary conference, pre-trial, mediation, conciliation, arbitration, trial, execution, and all proceeding or action; and
- Do and perform on behalf of NGCP any act and deed necessary to be done in the premises;

IN WITNESS WHEREOF, I have hereunto set my hand this 28th day of June, 2011 in Quezon City, Metro Manila.

CERTIFIED TRUE

SUBSCRIBED AND SWORN TO before me this 28th day of June 2011 in Quezon City, Metro Manila, affiant exhibiting to me her Passport No. TT0665884 issued on 16 August 2006 in Manila.

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Series of 2011.

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VERIFICATION AND CERTIFICATION

I, Joseph S. Yu, of legal age, married, with office addresses at Binga Hydro-Electric Power Plant, Bgy. Tinongdan, Itogon, Benguet and/or 10th Flr., NAC Tower, 32nd Street, Bonifacio Global City, Taguig City, after having been duly sworn to in accordance with law, do hereby depose and state for myself and for SN ABOITIZ POWER-BENGUET, INC., that:

- I am the Executive Vice President and Chief Operating Officer of SN ABOITIZ POWER-BENGUET, INC. with authority to commence, initiate and file the foregoing Application pursuant to Board Resolution dated 16 June 2016 a copy of which is hereto attached;
- 2. I have read the Application and the allegations therein are true and correct based on my personal knowledge or the authentic records available;
- 3. I or **SN ABOITIZ POWER-BENGUET, INC.** 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 **SN ABOITIZ POWER-BENGUET, INC.** 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 and/or Court.

Taguig City, Philippines.

Affiant

SUBSCRIBED and SWORN TO before me this

, with affiant Joseph S.

Yu presenting to me his <u>Passport No. EC 503921</u> issued on <u>15 August 2015</u> at <u>DFA, Manila,</u> known to me and to me known to be the same person who executed the foregoing Verification

and Certification.

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Atty. Doris Sharry P. Salazar

Notary Public for Taguig City Notarial Commission No. 44 Until December 31, 2017

NAC Tower, 32nd Street, Bonifacio Global City, Taguig City PTR No. A-2626651; Taguig City; January 04, 2016 IBP No. 1017213; January 04, 2016

Roll No. 57153 MCLE No. V-0014314



REPUBLIC OF THE PHILIPPINES)
CITY OF TAGUIG) S.S.

SECRETARY'S CERTIFICATE

- I, **CATHERINE R. ATAY,** Filipino, of legal age, with office address at NAC Tower, 32nd Street, Bonifacio Global City, Taguig City, after having been duly sworn in accordance with law, hereby depose and state that:
- I am the duly elected Corporate Secretary of SN ABOITIZ POWER-BENGUET, INC. (Formerly: SN Aboitiz Power Hydro, Inc.) (the "Company"), a company duly organized and existing under Philippine law, with principal office address at Binga Hydroelectric Power Plant, Barangay Tinongdan, Itogon, Benguet Province, Philippines.
- At the regular meeting of the Board of Directors of the Company held on June 16, 2016, at which
 meeting a quorum was present and acting throughout, the following resolutions were unanimously
 passed and approved:

"RESOLVED, that the Board of Directors of SN ABOITIZ POWER-BENGUET, INC. (the "Company") be authorized, as it is hereby authorized to file an Application with Energy Regulatory Commission ("ERC") for the approval of the Ancillary Services Procurement Agreement ("ASPA") with the National Grid Corporation of the Philippines (the "Application") for the Ambuklao Hydro-Electric Power Plant;

RESOLVED FURTHER, that Attorney's **Michael Bon C. Hosillos** and/or **David I.B. Ocampo**, the Company's Legal Counsel, be authorized to perform the following actions:

- 1. File said Application, represent the Company, and appear for and on its behalf in all proceedings, meetings, discussions before the ERC and to perform any and all acts and deeds and to submit and sign such documents and pleadings necessary to implement this authority;
- 2. Act as agent of and appear in behalf of the Company in the Pre-trial and all proceedings in relation to the said Application, with full power to make commitments and take positions, and to consider [i] the possibility of an amicable settlement or a submission to arbitration, mediation or other modes of alternative dispute resolution; [ii] the simplification of the issues; [iii] the necessity or desirability of amendments to the pleadings; [iv] the possibility of obtaining stipulations or admissions of facts and of documents totally or partially to avoid unnecessary proof; [v] the limitation of the number of witnesses or time allocated to particular witnesses and issues; [vi] the advisability of a preliminary reference of issues to a commissioner; [vii] the necessity or desirability of having an expository hearing or consumer forum; [viii] procedures at the hearing and hearing schedule; [ix] the submission of written testimony and exhibits to be offered and the marking thereof; $\left[x\right]$ agreements regarding service of documents; and [xi] such other matters as may aid in the prompt disposition of the proceedings;



RESOLVED FINALLY, that Mr. Emmanuel V. Rubio and/or Mr. Joseph S. Yu, the President & Chief Executive Officer and Executive Vice President and Chief Operating Officer, respectively of the Company be appointed, as they are hereby appointed, as the attorney-in-fact of the Company, with authority to:

- Represent the Company in the filing of the Application with the ERC;
- Execute, sign and obtain any document, including the verification and certification of non-forum shopping, that may be required in the filing and prosecution of the said Application, as well as any further necessary petitions or appeals; and
- Do and perform on behalf of the company any act and deed relating to the case, which the Company could legally do and perform, including the filing of any further necessary petitions or appeals."

RESOLVED FINALLY, that the Board of Directors of the Company, approve, ratify and confirm, as it hereby approves, ratifies and confirms any and all acts done by the foregoing authorized representative in relation to the foregoing resolutions."

- 3. These resolutions have not been revoked, amended or modified and remain valid and binding on the Company as of the date hereof.
- 4. The foregoing statements are in accordance with the records of the Company.

CATHERINE R. ATAY Corporate Secretary

Mile 2 7 2016

SUBSCRIBED AND SWORN to before me this ______ at Taguig City, Philippines. Affiant, who is personally known to me, exhibited to me her Passport No. EB9583833 issued on November 14, 2013 in DFA Manila and Community Tax Certificate No. 6442770 issued on February 15, 2016 in Taguig City.

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ROLL NO. 55885

NOTARY PUBLIC

Mailene M. de la Torre

Notary Public for Taguig City Notarial Commission No. 22

Until December 31, 2017 NAC Tower, 32nd Street, Bonifacio Global City, Taguig City PTR No. A-2626647; Taguig City; January 04, 2016

IBP Lifetime Member Roll No. 010379; Pasig City; January 06, 2012

Roll No. 55885 MCLE No. V-0012500