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

PETITION FOR TRUE-UP ADJUSTMENT OF THE NATIONAL POWER CORPORATION'S STRANDED DEBTS PORTION OF THE UNIVERSAL CHARGE FOR THE LUZON, VISAYAS AND MINDANAO GRIDS FOR CALENDAR YEAR 2017, WITH PRAYER FOR THE ISSUANCE OF PROVISIONAL AUTHORITY (PA)

ERC CASE NO. 2018-087 RC

POWER SECTOR ASSETS AND LIABILITIES MANAGEMENT CORPORATION (PSALM),
Petitioner.
x-----------------------------------x

DOCKETED
Date: SEP 03 2018
By: W

NOTICE OF PUBLIC HEARING

TO ALL INTERESTED PARTIES:

Notice is hereby given that on 31 July 2018, a *Petition* dated 24 July 2018 was filed by Petitioner Power Sector Assets and Liabilities Management Corporation (PSALM), seeking the Commission's approval of the True-Up Adjustment of the National Power Corporation's (NPC) Stranded Debts Portion of the Universal Charge (UC) for the Luzon, Visayas, and Mindanao Grids for calendar year 2017, with prayer for the issuance of provisional authority (PA).

In the said Petition, PSALM alleged, among others the following:

I.
NATURE OF PETITION

1. This Petition for True-Up Adjustment of the NPC's Stranded Debts Portion (SD) Portion of the Universal Charge (UC) for Calendar Year 2017 to be collected from all end-users of electricity, is being filed pursuant to Republic Act No. 9136 or the "Electric Power Industry Reform Act of 2001" (EPIRA), its Implementing Rules and Regulations (EPIRA-IRR) and the Amended Rules for Recovery of NPC Stranded Contract Costs (SCC) and SD Portion of the UC (Amended Rules for Recovery), as adopted by the Energy Regulatory Commission in its Resolution No. 02-2011 dated 7 February 2011.

II.
TIMELINESS OF PETITION

2. Article VIII of said Amended Rules for Recovery provides that true-up adjustment shall be done on an annual basis to be initiated by PSALM through submission before the Commission on or before the 15th day of March of every year of a detailed Variance Analysis Report (VAR), certified by an Independent Third-Party Auditor as well as the relevant documents to support true-up adjustments as part of the VAR. The VAR shall be the basis by which the Commission will approve inclusion of any under recovery in the current year's level of NPC SD availment of the UC or mandate a reimbursement due to over recovery by way of a reduction in the current year's level of NPC SD Portion of the UC.

3. In a letter dated 02 February 2018, PSALM requested the Honorable Commission for an extension of the deadline to file, among others, the True-up Adjustment of the NPC SD Portion of the UC for Calendar Year (CY) 2017 and the update/VAR on the implementation of the NPC's SD Portion of the UC for CYs 2011-2012, from 15 March 2018 to 31 July 2018. The extension was necessary for the following reasons: (a) to provide time in processing the data contained in the certified financial statements which was only approved by the PSALM Board last 04 April 2018; (b) to properly identify and classify the components which are eligible for recovery under the SCC and SD True-up Adjustment; (c) to secure requisite approvals from the PSALM Board ; and (d) to ensure compliance with the Amended Rules for Recovery and other relevant rules and regulations, prior to the filing of the UC petitions before the Honorable Commission.

4. Further, as the VARs corresponding to the True-up Adjustment of the NPC SD Portion of the UC for CY 2017 and implementation of the ERC-approved CYs 2011-2012 UC-SD is required to be certified by the Commission on Audit (COA), our Independent Third-Party auditor, under the Amended Rules for Recovery, it should be afforded ample time to verify and validate the SD VARs to enable it to issue separate certifications thereon.

5. The Commission, in its letter dated 13 March 2018, approved PSALM's request to extend the deadline for filing the True-up Adjustment of the NPC SD Portion of the UC for CY 2017 and submission of the update/VAR on the implementation of the NPC's SD Portion of the UC for CYs 2011-2012 until 31 July 2018.

6. Hence, the instant Petition for True-Up Adjustment is filed within the period granted by this Commission.

III.
PETITIONER

7. Petitioner PSALM is a government-owned and controlled corporation created by virtue of RA 9136 or the EPIRA, with principal office address at 3/F National Transmission Corporation (TransCo) Building, Quezon Avenue corner BIR Road, Quezon City.

8. 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 Independent Power Producer (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 the Commission in the determination of the universal charge** (emphasis supplied) 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).

9. It is PSALM's responsibility to calculate the amount of the SD of NPC that can be recovered through the UC, subject to the review and approval by the Commission.[1] The recovery of NPC SD through the UC shall be uniform to all the end-users.[2]

10. PSALM is likewise responsible for initiating true-up adjustments through the submission of the VAR certified by an Independent Third-Party Auditor as well as the calculation and collation of supporting documents for UC-SD.[3]

IV.
ANTECEDENTS

11. Stranded Debts of NPC refer to "any unpaid financial obligations which have not been liquidated by the proceeds from the sales and privatization of NPC assets".

12. On 07 February 2011, the Commission approved and adopted Resolution No. 2, Series of 2011 or the Amended Rules for Recovery which, among others, established the procedure and

[1] Article V, Amended Rules for Recovery
[2] Section 1, Article V, Amended Rules for Recovery
[3] Article VIII, Amended Rules for Recovery

manner in which PSALM shall file its petitions for availment from the UC with respect to NPC SCC and SD recovery, and defined the parameters in calculating said SCC and SD.

13. On 28 January 2013, the Commission rendered its Decision in ERC Case No. 2011-092 RC, disapproving the petition of PSALM for the recovery of NPC's SD portion of the UC and setting the recoverable SD to zero (0) "*since the allowable SD for CY 2011 can be fully covered and paid from the proceeds of NPC's operation. This is without prejudice to the filing of annual true-up adjustments for the recovery of succeeding SD*".

V.
VARIANCE ANALYSIS REPORT TO SUPPORT THE CY 2017 UC-SD TRUE-UP ADJUSTMENT

14. Under Section 3, Article VIII of the Amended Rules for Recovery, the VAR to be submitted by PSALM to the Commission shall contain, at the minimum, the following:

    a. Quantity Variance (QV), which refers to the difference between the billing determinant used pursuant to the Commission's Decision and the Actual kWh sales to end-users;

    b. Cost Variance (CV), which refers to the difference in the estimated costs considered in establishing the approved level of stranded debts and actual costs incurred covering Gross Debt Service, Privatization Proceeds, and Projected Net Cash Flow from NPC Main Grid Operations; and

    c. The over/under recovery for the stranded debts shall be equivalent to the sum of CV and QV translated in absolute peso amount (QV multiplied by the PhP/kWh stranded debt approved by the Honorable Commission).

VI.
FINANCIAL OBLIGATIONS SERVICED IN CY 2017

15. PSALM's total financial obligations serviced/paid in CY 2017 consist of (i) debt maturities of NPC, NPC-Small Power Utilities Group (NPC-SPUG), PSALM, and the TransCo due for the said period; and (ii) Build-Operate-Transfer (BOT) lease obligations pertaining to eligible (for SCC calculation purposes) and ineligible IPP contracts (relevant in calculating SD) due for the said year.

16. For CY 2017, total debts and BOT lease obligations serviced are summarized in the table below:

Total Financial Obligations	Amount (in PhP)
i) NPC's outstanding financial obligations as of effectivity of EPIRA	29,070,435,161.23
- *Debts*	*1,898,304,638.20*
- *Lease Obligation of all IPPs*	*27,172,130,523.03*

Total Financial Obligations	Amount (in PhP)
ii) New loans contracted by NPC after the effectivity of EPIRA	1,312,894,957.85
iii) Loans incurred by PSALM in behalf of NPC	43,229,100,140.47
Total Financial Obligations Serviced	**73,612,430,259.55**

Table 1: Summary of Financial Obligations Serviced in CY 2017

VII.
GROSS DEBT SERVICE (GDS)
Recoverable Financial Obligation

17. Pursuant to Section 2, Article V of the Amended Rules for Recovery, the financial obligations that shall be included as part of the GDS for purposes of the SD true-up calculations are as follows:

    i) NPC's outstanding financial obligations as of the effectivity of EPIRA;
    ii) New loans contracted by NPC after the effectivity of the EPIRA;
    iii) Loans incurred by PSALM in behalf of the NPC; and
    iv) Loans contracted by TransCo prior to its privatization.

18. On the other hand, the financial obligations that shall be excluded for purposes of the SD true-up calculations are as follows:

    i) Capacity fees and debt service related to eligible IPP contracts;
    ii) All other loans incurred by PSALM; and
    iii) All loans pertaining to NPC-SPUG.

19. Consistent with the Commission's Decision on the recovery of UC-SD, Capacity Fees/Lease Obligations of IPP contracts not eligible for recovery under SCC (Lease obligations of ineligible IPPs) shall be included as part of GDS under NPC's outstanding financial obligations as of the effectivity of the EPIRA.

Allowable GDS

20. Out of the total financial obligations serviced by PSALM in 2017, the SD share in debt service or the allowable GDS was calculated by applying to each component of debt service (principal repayment, interest, guarantee fee, and other charges) the percentage share utilization of SD in the loan proceeds. The percentage share utilization of SD is based on the extent of loan proceeds that was utilized for generation/transmission/other power assets and ineligible IPPs which are all eligible for recovery under SD (SD Percentage).

21. The allowable GDS also includes the capacity fees/lease obligations for ineligible IPP contracts, namely: San Roque, Luzon Hydro (Bakun), Ilijan, Kalayaan 3 and 4, and Mindanao Coal/STEAG. In other words, allowable GDS excludes capacity fees/lease obligations of IPP contracts for Sual and Pagbilao Coal plants which are eligible for recovery under the UC-SCC.

22. Out of the PhP73.61 Billion total financial obligations serviced in CY 2017, Allowable GDS amounts to PhP42.15 Billion, as shown below:

GDS	Amount (in PhP)
i) NPC's outstanding financial obligations as of effectivity of EPIRA	10,955,803,936.86
- *Debts*	*1,898,304,638.20*
- *Lease Obligation of non-eligible IPPs*	*9,057,499,298.66*
ii) New loans contracted by NPC after effectivity of EPIRA	816,274,059.51
iii) Loans incurred by PSALM in behalf of NPC	30,379,591,721.59
Total Allowable GDS	**42,151,669,717.96**

Table 2: Summary of Total Allowable GDS for CY 2017

23. The total allowable GDS of PhP42.15 Billion was further reduced by PhP6.42 Billion, representing principal repayment portion of loans (consisting of LBP[4] 75Bn Syndicated Term Loan, ROP[5] Relending Facility and ROP Relent-$500M Onshore Dollar Bond) that were used to service debt maturities included in the CYs 2011 and 2012 GDS and SD calculations (Loans for Refinancing), to avoid double recovery;

24. Hence, Net Allowable GDS, net of the above-mentioned principal repayment portion of Loans for Refinancing, amounts to PhP35.73 Billion, as shown below:

Net Allowable GDS	Amount (in PhP)
Gross Debt Service	42,151,669,717.96
LESS: Principal Repayment Portion of New Loans for Refinancing	6,421,982,877.73
Allowable GDS Net of Principal Repayment Portion of New Loans for Refinancing (Net Allowable GDS)	**35,729,686,840.23**

Table 3: Summary of Net Allowable GDS for CY 2017

VIII.
PRIVATIZATION PROCEEDS (PP)

25. Consistent with the EPIRA and the UC-SD formula under the Amended Rules for Recovery, the following PP components shall be used to further reduce the allowable GDS:

    i) Proceeds from the sale of assets or equity in the privatized entities;
    ii) Proceeds from the privatization of non-eligible IPP contracts; and
    iii) Proceeds from the concession of operations of the transmission system.

26. Guided by the considerations on PP in the Commission's Decision, the PP for CY 2017 is shown below:

[4] Land Bank of the Philippines
[5] Republic of the Philippines

Privatization Proceeds	Amount (in PhP)
Sale of Generation Assets	286,307,231.24
IPP Administrator Monthly Payment	11,142,474,111.36
Interest on TransCo's Concession Agreement	3,551,982,122.08
Other Priva-related Proceeds	623,930,732.00
Total Privatization Proceeds	**15,604,694,196.68**

Table 4: Details of Privatization Proceeds for CY 2017

27. The details of the privatization proceeds for CY 2017 are as follows:

    a. The proceeds from the sale of generation assets amounting to PhP0.29 Billion correspond to the sale of decommissioned Sucat Thermal Power Plant and unserviceable assets, junk and scrap materials;

    b. The IPP administrator monthly payments amounting to PhP11.14 Billion, net of Value Added Tax (VAT) shouldered by PSALM, represent the privatization proceeds from the three (3) IPP Administrators, namely, Vivant Sta. Clara Northern Renewable Generation Corp. (VSCNRGC), Strategic Power Development Corporation (SPDC), and South Premiere Power Corporation (SPPC), as a result of PSALM's privatization of IPP contracts covering Luzon Hydro (Bakun), San Roque and Ilijan, respectively.

       Proceeds from VSCNRGC represent interest on unpaid Monthly Payment covering September 2016 to March 2017 which was paid in 2017. VSCNRGC filed a petition for corporate rehabilitation with the Regional Trial Court (RTC) Branch 11, Cebu City on 16 May 2017. The RTC Branch 11 issued a Commencement/Stay Order declaring the entity under rehabilitation on 26 May 2017. Pending the court's resolution on PSALM's Opposition with prayer to lift Stay Order, Northern Renewables continues to administer the contracted capacities sans payment of Monthly Payment to PSALM;

    c. The interest on TransCo's Concession Agreement amounting to PhP3.55 Billion represents the semi-annual interest payments made by the National Grid Corporation of the Philippines (NGCP) on the balance of the concession fee under the Concession Agreement; and

    d. The proceeds from the sale of other privatization-related activities amounting to PhP0.62 Billion consist of the following: i) sale of Roto Coal; ii) forfeiture of performance bond from FDC Misamis Corporation in relation to the termination of IPP Administration Agreement of Mt. Apo 1 and 2; iii) exercise of option existence notice on assets under land lease agreement; and iv) sale of waste materials.

28. The PP are net of VAT, consistent with Bureau of Internal Revenue (BIR) Revenue Memorandum Circular No. 11-2012 which states, among others, that:

> "x x x Considering that the sale of electricity is now subject to VAT, the real properties sold by PSALM are regarded as real properties used in the trade or business. While it is clear under the Tax Code of 1997 that such sale is not subject to income tax, there is no provision under the same Code that exempts it from VAT nor subject it to VAT at zero rate. x x x"
>
> "x x x Moreover, gross receipts of PSALM from the lease of NPC transferred assets and other assets are deemed in the ordinary course of trade or business, hence, subject to VAT under the Tax Code of 1997."

29. Considering that the IPP Administrator Agreement between PSALM and the IPP Administrator provides that, "In the event that the Monthly Payments are determined with finality to be subject to value added tax, all applicable value added tax on such payments shall be for the account of PSALM...", for purposes of SD calculations, the IPP Administrator Monthly Payment received by PSALM was reduced by the VAT shouldered by PSALM.

IX.
PROCEEDS FROM NPC OPERATIONS (PO)

30. Consistent with the Amended Rules for Recovery and the Commission's Decision on the UC-SD, the PO which is composed of the following items shall be used to reduce the allowable GDS. Below is the list of generating assets and ineligible IPP contracts for CY 2017 whose operating results were considered in calculating PO:

PSALM Owned Plants	IPP Plants	IPPs under IPPA
Malaya Agus-Pulangui	Caliraya Botocan Kalayaan I and II Casecnan Mindanao Coal	Luzon Hydro (Bakun) San Roque Ilijan Mt. Apo 1 & 2

Table 5: List of Plants and IPPs

31. The PO of the remaining generating assets and IPP contracts for CY 2017 that were considered in the SD true-up calculations are shown below:

Proceeds From NPC Operations	Amount (In PhP)
REVENUES	
Net Utility Revenue (NUR)	23,314,155,484.63
Generation Payment Billings	27,486,884,145.68
Net, Other Income	306,138,604.33
Total Revenues	**51,107,178,234.64**
COSTS	
Fuel	22,950,831,223.45
Purchased Power Cost	14,609,430,662.49
Energy Purchased from PEMC (To meet TSC)	39,556,021.12

Proceeds From NPC Operations	Amount (In PhP)
Pumping Cost	3,205,769,144.62
Other OPEX	1,981,233,569.63
Total Costs	**42,786,820,621.31**
Net Cash Flow / PO	**8,320,357,613.33**

Table 6: Summary of Proceeds from NPC Operations

32. The components of the PO for CY 2017 are as follows:

a. Net Utility Revenues refer to revenues generated from the provision by the remaining generating assets and ineligible IPP plants of energy and ancillary service to customers and the spot market. These revenues were based on the Operating Results, Cash Flow or the Results of Operation (ROO) for CY 2017 broken down into Ineligible and Eligible.

b. Generation Payments represent billings made to IPP Administrators of ineligible IPP plants, namely Luzon Hydro (Bakun), San Roque, Ilijan and Mt. Apo.

Generation Payments from IPP Administrators covering ineligible IPP contracts that were privatized are considered in the PO "as billed" by PSALM. In view of the Commencement/Stay Order issued in favor of VSCNRGC for its Corporate Rehabilitation, Generation Payments billed to VSCNRGC for the Luzon Hydro IPPA covering 2017 billing period have remained unpaid. SPPC likewise has unpaid Generation Payment in relation to the Ilijan IPPA. The IPPA Agreement (IPPAA) with SPPC was terminated by PSALM on 04 September 2015 due to underpayments on its Generation Payments. SPPC thereafter filed a civil case against PSALM before the Mandaluyong RTC with prayer for writ of preliminary injunction. The trial court granted the writ in favor of SPPC and as a result, SPPC continues to administer the Ilijan contracted capacities.

For the Mt. Apo 1 and 2 IPPA, both the Monthly Payments and Generation Payments billed to FDC Misamis Power Corporation were included in the PO notwithstanding the underpaid or unpaid amounts due to PSALM. PSALM assumed administration of the contracted capacities of Mt. Apo 1 and 2 starting 22 December 2017. The IPPA of Mt. Apo 1 and 2 was terminated on 28 December 2017.

Unpaid Generation Payments by VSCNRGC, SPPC and FDC Misamis for CY 2017 amounted to PhP0.18 Billion, PhP0.28 Billion and PhP1.03 Billion, respectively, or a total of PhP1.50 Billion.

c. Net Other Income/(Expense) consists of other income less other expenses not directly attributable to the operations of existing power plants;

d. Costs include fuel and purchased power costs (PPC), energy purchased from the Philippine Electricity Market Corporation (PEMC), pumping costs and other plant operating expenses (Other OPEX). Other OPEX includes NPC's Operation and Maintenance Agreement (OMA) costs, station use, share in national wealth, Energy Regulation (ER) 1-94, real property taxes, insurance and technical and administrative expenses. For PSALM's remaining generating assets and ineligible IPP plants, the cost components are based on the CY 2017 ROO. On the other hand, cost components for IPP plants under IPPA were based on the CY 2017 Schedules of Fixed and Variable Costs of Ineligible Plants under IPPAA.

X.
NPC's STRANDED DEBTS

33. The NPC Stranded Debts shall be equivalent to the Allowable GDS net of the calculated PP and PO. The calculated Stranded Debts for CY 2017 amounts to PhP11.80 Billion as shown below.

STRANDED DEBTS	CY 2017 (In PhP)
GDS	35,729,686,840.23
Less: PP	15,604,694,196.68
PO	8,320,357,613.33
SD	**11,804,635,030.22**

Table 7: UC-SD for CY 2017

34. It should be noted that the calculated SD for CY 2017 in the amount of PhP11.80 Billion will increase to PhP13.30 Billion if we consider the unpaid Generation Payments amounting to PhP1.50 Billion due from SPPC, VSCNRGC and FDC Misamis Power Corporation.

XI.
COST VARIANCE (CV)

35. As mentioned above, Cost Variance (CV) refers to the difference in the:

i) Estimated costs covering GDS, PP and PO considered in establishing the approved level of stranded debts; and
ii) Actual costs covering GDS, PP and PO.

35. In arriving at the CV, these two (2) items need to be established. Since the Commission set the recoverable SD to zero, it follows that the value of estimated cost is also zero. As such, actual costs (GDS less PP and PO) for CY 2017 will necessarily be equivalent to the CV for the same period, amounting to PhP11.80 Billion as shown below:

Particulars	Amount (in PhP)
Gross Debt Service	35,729,686,840.23
Less: Privatization Proceeds	15,604,694,196.68
Proceeds from NPC Operation	8,320,357,613.33
CY 2017 Actual SD	11,804,635,030.22
Less: SD Approved for Recovery	0.00
Cost Variance	11,804,635,030.22

Table 8: Cost Variance

XII.
QUANTITY VARIANCE (QV)

37. Quantity Variance (QV), as stated earlier, refers to the difference between the billing determinant used pursuant to the Commission's Decision and the Actual kWh sales to end-users. This will be the QV in kWh sales.

38. To determine the QV in absolute amount, QV is multiplied by the PhP/kWh SD approved by the Commission. Since the Commission set the recoverable SD in PhP/kWh to zero, QV in absolute amount will also be zero regardless of the QV in kWh sales that will be computed.

XIII.
CY 2017 UC-SD TRUE-UP ADJUSTMENT

39. As mentioned above, the VAR to support the SD True-up Adjustment is the sum of the CV and the Peso Value of the QV. Thus, the NPC SD True-Up Adjustment is equivalent to the CV (Allowable GDS, net of the calculated PP and PO plus the zero (0) QV. The calculated SD True-Up Adjustment for CY 2017 amounts to PhP11.80 Billion, as shown below:

Particulars	Amount (PhP)
GDS	35,729,686,840.23
Less: PP	15,604,694,196.68
Less: PO	8,320,357,613.33
CY 2017 Actual SD	11,804,635,030.22
Less: SD Approved for Recovery	0.00
Cost Variance	11,804,635,030.22
Add: QV	0.00
UC-SD True-Up Adjustment for CY 2017	11,804,635,030.22

Table 9: UC-SD True-up Adjustment for CY 2017

40. The equivalent rate of the CY 2017 UC-SD True-Up Adjustment is PhP0.0152/kWh, calculated by dividing the PhP11.80 Billion by the projected energy sales from January 2019 to June 2026 based on the Department of Energy's (DOE) Electricity Sales Forecast by Grid (2016-2030) with details as follows:

UC-SDTrue-Up Adjustment for CY 2017 (in PhP)	Energy Sales Forecast (GWh)	UC-SD Rate (PhP/kWh)
11,804,635,030.22	776,056	0.0152

Table 10: UC-SD True-up Adjustment for CY 2017 in PhP/kWh

XIV.
ACTUAL OUTSTANDING DEBT SERVICE AS OF 31 DECEMBER 2017

41. Pursuant to Section 3, Article V of the ERC Amended Rules for Recovery, PSALM shall include in the petition for cost recovery under the UC for Stranded Debts, the actual outstanding Debt Service as of the current year to account for any adjustment on the Debt Service for reasons, such as, but not limited to, PSALM's refinancing of existing debts. Such recalculated Debt Service shall be used in the true-up computation as provided under Article VIII of the Amended Rules for Recovery.

42. Shown below is the actual outstanding GDS as of 31 December 2017 as compared with the outstanding GDS as of 31 December 2010, 31 December 2011 and 2012, 31 December 2013, 31 December 2014, 31 December 2015 and 31 December 2016. The GDS as of 31 December 2010 was considered by the Commission in its Decision dated 28 January 2013 under ERC Case No. 2011-092 RC. As to the GDS as of 31 December 2011 and 2012, 2013, 2014, 2015 and 2016, these were reported in PSALM's petition under ERC Case No. 2013-195 RC, submitted in PSALM's compliance to the Commission, reported in PSALM's petitions under ERC Case No. 2015-144 RC, ERC Case No. 2016-150 RC and ERC Case No. 2017-069 RC, respectively, to wit:

Particulars	As of 31 December							
	2010 (PhP B)	2011 (PhP B)	2012 (PhP B)	2013 (PhP B)	2014 (PhP B)	2015 (PhP B)	2016 (PhP B)	2017 (PhP B)
i) NPC's outstanding financial obligations as of effectivity of EPIRA (including Lease Obligations of non-eligible IPPs)	254.60	224.95	188.54	173.04	140.88	126.74	113.94	102.97
ii) New loans contracted by NPC after the effectivity of EPIRA	84.20	55.88	38.52	37.20	32.61	29.00	1.63	0.79
iii) Loans incurred by PSALM in behalf of NPC	201.12	260.67	311.41	268.36	260.49	242.57	236.71	217.38
Outstanding GDS	539.92	541.49	538.47	478.60	433.98	398.31	352.29	321.14

Table 11: Outstanding GDS as of 31 December 2010, 2011, 2012, 2013, 2014, 2015, 2016 and 2017

XV.
UPDATE ON THE IMPLEMENTATION OF THE NPC's SD PORTION OF THE UC FOR CYs 2011-2012

43. On 27 June 2017, the Commission issued a Decision on ERC Case No. 2013-195 RC: "In the Matter of the Petition for True-Up Adjustments for the NPC's SD Portion of the UC for Luzon, Visayas and Mindanao Grids for CYs 2011 and 2012, with Prayer for Provisional Authority (PA)" authorizing PSALM to recover UC-SD for CYs 2011-2012 amounting to PhP24.20

Billion at the rate of PhP0.0265/kWh for the Luzon, Visayas and Mindanao Grids until the approved amount has been fully recovered. The Commission directed all distribution utilities (DUs) and NGCP to collect from the consumers the approved UC-SD starting August 2017 billing period. Pursuant to Section 34 of Republic Act No. 9136, such collections by the DUs and TransCo (now NGCP) shall be remitted to PSALM Corporation on or before the 15th of the succeeding month.

44. Further, PSALM is directed, on a yearly basis, to include in its VAR the status of the collection of the ERC-approved CYs 2011-2012 UC-SD True-Up amount.

UC-SD Rate and Billing Determinant

45. The UC-SD rate of PhP0.0265/kWh was derived by the Commission by dividing the ERC-approved SD amount of PhP24,198,852,235.17 by the DOE's projected Philippine energy sales of 914,561 GWh covering January 2017 to June 2026.

Energy Sales Remitted for the Period 01 September 2017 to 31 December 2017

46. From 01 September 2017 to 31 December 2017, the total UC remittances made by the collecting entities to PSALM pertaining to the PhP0.0265/kWh CYs 2011-2012 UC-SD approved by the Commission amounted to PhP526,004,320.71, as follows:

Period	Amount (PhP)
September 1-15, 2017	41,270,807.86
September 16-30, 2017	393,798.86
October 1-18, 2017	146,060,288.31
October 19-31, 2017	3,658,748.87
November 1-16, 2017	166,502,488.43
November 16-30, 2017	2,280,220.41
December 1-15, 2017	161,507,032.14
December 16-30, 2017	4,330,935.83
Total	526,004,320.71

Table 12: CYs 2011-2012 UC-SD Remittances

47. The equivalent energy sales billed/remitted corresponding to the actual UC-SD remittance for the period 01 September 2017 to 31 December 2017 is 19,879.58 GWh. This was derived by dividing the remittance amounting to PhP526,004,320.71 by the ERC-approved UC-SD rate of PhP0.0265/kWh (PhP24,198,852,235.17/914,561GWh).

dividing the remittance amounting to PhP526,004,320.71 by the ERC-approved UC-SD rate of PhP0.0265/kWh (PhP24,198,852,235.17/914,561GWh).

Under-Recovery as of 31 December 2017

48. The under recovery, pursuant to the Amended Rules for Recovery, is calculated by multiplying the quantity variance (QV) of 894,681.42 GWh by the PhP0.0265/kWh SD rate approved by the Commission. The resulting under recovery for the CYs 2011-2012 UC-SD for the period 01 September 2017 to 31 December 2017 is PhP23,672,847,914.46, details of which are shown below:

PARTICULARS	QUANTITY VARIANCE (GWh*)	AMOUNT (PhP)	RATE PhP/kWh
Billing Determinant and Approved Level of CYs 2011-2012 SD pursuant to the ERC Decision	914,561.00	24,198,852,235.17	0.0265
Less: Energy Sales Billed/Remitted covering 01 September 2017 to 31 December 2017 Remittance Period (PhP526,004,320.71 / PhP0 .0265/kWh)	19,879.58	526,004,320.71	0.0265
Quantity Variance/ Under or (Over) Recovery	**894,681.42**	**23,672,847,914.46**	**0.0265**

Table 13: CYs 2011-2012 UC-SD Under-Recovery as of 31 December 2017

A copy of the COA Independent Auditor's Report on the VAR on the update on the implementation of the CYs 2011-2012 True-Up Adjustment of the NPC SD Portion of the UC covering the remittance period 01 September 2017 to 31 December 2017 is attached to the Petition as Annex "J".

49. In compliance with 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 Quezon City. A copy of the Affidavit of Service is also attached to the Petition as Annex "K". The Petition (excluding Annexes) was also published in a newspaper of general circulation.

XVI.
ALLEGATIONS IN SUPPORT FOR THE ISSUANCE OF PROVISIONAL AUTHORITY

50. The petition covers the true- up adjustment for the UC-SD for CY 2017. As PSALM has vigorously pursued its mandate of privatizing the generation assets and the power facilities, revenues from the sale of electricity of the remaining assets are not enough to cover its operations and provide funds for the payment of NPC debts and obligations. To address the funding gaps, PSALM is forced to resort to temporary solution by borrowing, which entails borrowing costs, which in turn will form part of the UC-SD, effectively increasing the UC burden of all electricity end-users.

and lease obligations would lessen. This would redound to the benefit of electricity end-users due to reduced borrowing costs, effectively reducing the UC burden.

52. Pursuant to its Rules of Practice and Procedure, the Commission may exercise its discretion by granting provisional authority or interim relief prior to a final decision. PSALM humbly seeks the Commission's indulgence to grant the PA to enable it to immediately recover the SD and accumulate sufficient funds to service its financial obligations. Early SD recovery will likewise translate to substantial savings on borrowing costs, as PSALM need not resort to refinancing to service its maturing financial obligations.

53. In support of the prayer for the issuance of PA, the Affidavit of Ms. Luisa A. Esteban, Manager of PSALM's Universal Charge and Administration Department, establishing certain facts and circumstances that would justify the Commission's exercise of discretion granting the prayer for PA or interim relief prior to a final decision was made an integral part of the Petition as Annex "**M**".

54. It is understood that the interim relief sought by Petitioner PSALM that may be granted by the Commission, shall be subject to adjustments and other conditions that the Commission may impose after hearing and final determination of the Honorable Commission.

55. PSALM prays of this Commission that, after due notice and hearing:

    1. The calculated True-Up Adjustment/Under Recovery for the NPC Stranded Debts Portion of the Universal Charge for CY 2017 amounting to **PhP11,804,635,030.22**, with an equivalent rate of **PhP 0.0152**/kWh based on a seven and one half (7 ½) years recovery period, be approved;

    2. A provisional authority allowing PSALM to charge, collect the computed UC-SD True-up Rate or such amount determined by the Commission be granted;

    3. Submission of the following documents be deemed in full compliance to the directive of the Commission's Resolution No. 02, Series of 2011:

        a.) Details of Outstanding GDS as of 31 December 2017; and

        b.) Inventory of Financial Obligations (Principal) as of 31 December 2017;

        c.) Inventory of Financial Obligations (Interest, Guarantee Fee and Other Charges) as of 31 December 2017;

        d.) Outstanding Lease Obligations of Eligible and Ineligible IPPs as of 31 December 2017;

e.) Outstanding Lease Obligations of Ineligible IPP Plants as of 31 December 2017.

4. Submission of the COA Independent Auditor's Report relative to the VAR on the update on the implementation of the CYs 2011-2012 True-Up Adjustment of the NPC SD Portion of the UC covering the remittance period 01 September 2017 to 31 December 2017 be deemed in full compliance to the directive of the Commission in its 27 June 2017 Decision under ERC Case No. 2013-195 RC and Resolution No. 02, Series of 2011.

The Commission has set the instant *Petition* for determination of compliance with the jurisdictional requirements, expository presentation, Pre-trial Conference, and presentation of evidence on the following dates and venues:

Date and Time	Venue	Particulars
	LUZON	
02 October 2018 (Monday) at ten o'clock in the morning (10:00 A.M.)	ERC Hearing Room, 15th Floor, Pacific Center Building, San Miguel Avenue, Pasig City	Jurisdictional and Expository Presentation
	VISAYAS	
09 October 2018 (Tuesday) at ten o'clock in the morning (10:00 A.M.)	ERC Visayas Field Office (VFO), St. Mary's Drive, Banilad, Cebu City	Expository Presentation and Pre-Trial Conference
	MINDANAO	
23 October 2018 (Tuesday) at ten o'clock in the morning (10:00 A.M.)	ERC Mindanao Field Office (MFO), Mezzanine Floor, Mintrade Building, Monteverde Avenue cor. Sales Street, Davao City	Expository Presentation and Pre-Trial Conference
	LUZON	
30 October 2018 (Tuesday) at ten o'clock in the morning (10:00 A.M.)	ERC Hearing Room, 15th Floor, Pacific Center Building, San Miguel Avenue, Pasig City	Pre-trial Conference and Evidentiary Hearing

(This space is intentionally left blank)

All persons who have an interest in the subject matter of the instant case may become a party by filing with the Commission a verified Petition to Intervene at least five (5) days prior to the initial hearing and subject to the requirements under Rule 9 of the 2006 ERC Rules of Practice and Procedure, indicating therein the docket number and title of the case and stating the following:

1) The petitioner's name and 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.

All other persons who may want their views known to the Commission with respect to the subject matter of the case may file their Opposition or Comment thereon at any stage of the proceeding before Petitioner rests its case, subject to the requirements under Rule 9 of the 2006 ERC Rules of Practice and Procedure. No particular form of Opposition or Comment is required, but the document, letter, or writing should contain the following:

1) The name and address of such person;

2) A concise statement of the Opposition or Comment; and

3) The grounds relied upon.

(This space is intentionally left blank.)

All such persons who wish to have a copy of the *Petition* may request from Petitioner that it be furnished with the same, prior to the date of the initial hearing. Petitioner is hereby directed to furnish all those making such request with copies of the *Petition* and its attachments, subject to the reimbursement of reasonable photocopying costs. Any such person may likewise examine the *Petition* and other pertinent records filed with the Commission during the standard office hours.

Pasig City, 23 August 2018.

FOR AND BY AUTHORITY
OF THE COMMISSION:

Maria Corazon C. Gines

MARIA CORAZON C. GINES
OIC-Office of the Chairperson and CEO

LS: SLAN/MFD/IHH/ARG/GLO

ERC
Office of the Chairperson
AVSTD-2018-8 510-0140