

Title: ****Alyansa para sa Bagong Pilipinas, Inc. vs. Energy Regulatory Commission, et al.****

Facts:

This case originates from the issuance of several Power Supply Agreements (PSAs) between various Distribution Utilities (DUs), notably Meralco, and different power generating companies, which were submitted for approval to the Energy Regulatory Commission (ERC) without undergoing Competitive Selection Process (CSP) as mandated by the Department of Energy (DOE) Circular No. DC2015-06-0008. The DOE Circular, effective on June 30, 2015, required DUs to secure power supply agreements through CSP to ensure transparency, competition, and least-cost electricity to consumers. However, ERC issued Resolution No. 1, Series of 2016 (ERC Clarificatory Resolution), restating the effective compliance date of CSP from November 7, 2015, to April 30, 2016. This action allowed 90 PSAs, including seven involving Meralco and several power suppliers, to bypass the CSP requirement. Alyansa para sa Bagong Pilipinas, Inc. (ABP) challenged the ERC's resolution and the PSAs' validity for failing to adhere to the mandated CSP.

Issues:

1. Whether the ERC possesses the statutory authority to postpone the CSP's effective compliance date and thereby amend the DOE Circular requiring immediate implementation of the CSP.
2. Whether the PSAs executed and submitted for ERC approval without undergoing the CSP are valid.
3. Whether the ERC committed grave abuse of discretion in issuing the ERC Clarificatory Resolution.

Court's Decision:

The Supreme Court granted ABP's petition, ruling that the ERC lacks statutory authority to postpone the CSP's effective date, making the ERC Clarificatory Resolution void ab initio. Consequently, all PSAs submitted to the ERC after the CSP became effective on June 30, 2015, should comply with the competitive bidding process as outlined in the 2018 DOE Circular and its Annex "A." The Court clarified that the ERC's imposition of postponing the CSP's implementation was arbitrary and an abuse of discretion. It mandates that for PSAs to pass the power cost to consumers, compliance with the CSP is essential.

Doctrine:

The decision reiterates the principle that regulatory bodies, such as the ERC, cannot amend, postpone, or deviate from policies and circulars established by the DOE without explicit

statutory authority. The CSP requirement ensures transparency, competition, and that electricity consumers are charged reasonable, least-cost rates. Regulatory bodies must operate strictly within the bounds of their statutory authority to alter or amend policy implementations that have a direct impact on public interest, such as electricity rates.

Class Notes:

- Statutory provisions involved include Section 43 of Republic Act No. 9136 (EPIRA), which outlines the ERC's functions, emphasizing its role in promoting competition and preventing market power abuse.
- Doctrine of Statutory Authority: Governmental bodies cannot assume powers beyond what is granted to them by law.
- Principle of Competitive Selection Process (CSP): Aimed at ensuring transparency and least-cost electricity, the CSP is fundamental in procurement processes for public utilities to protect consumer welfare.

Historical Background:

The case embodies the tension between regulatory flexibility and adherence to policies designed to protect the public interest in the context of the Philippine electricity market. It emphasizes the critical balance required in regulatory oversight to ensure fair competition, transparency, and consumer protection in utility services, reflecting ongoing reforms and challenges in the Philippine electricity sector under the EPIRA.