A RESOLUTION DIRECTING DISTRIBUTION UTILITIES AND GENERATION COMPANIES TO JOINTLY FILE WITH THE COMMISSION THEIR RESPECTIVE APPLICATIONS FOR THE APPROVAL OF THEIR POWER SUPPLY A...

ERC Resolution No. 02, s. 2015, February 16, 2015

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Adopted: 16 February 2015
Date Filed: 07 May 2015
WHEREAS, on February 19, 2013, the Commission issued a Notice in ERC Case No. 2013-005 RM, entitled "In the Matter of the Promulgation of the Rules Governing the Execution, Review and Evaluation of Power Supply Agreements Entered Into by Distribution Utilities for the Supply of Electricity to their Captive Market" (PSA Rules), which was posted at the Commission's website, directing all interested parties to submit their respective comments on the first draft of the PSA Rules, not later than March 22, 2013;

WHEREAS, one of the salient provisions of the draft PSA Rules requires the DU and GenCos to file with the Commission a joint application for the approval of their PSA and for the determination of the reasonable costs that the distribution utility can recover from its captive market[1] as part of its retail rate;

WHEREAS, on various dates, the Commission received comments on the first draft of the PSA Rules from interested parties; name, a) Cagayan Electric Power and Light Co., Inc. (CEPALCO); b) Visayan Electric Company, Inc., (VECO); c) Quezon Power (Philippines) Ltd. Co., (QPPL); d) Power Source Philippines, Inc. (PSPI); e) National Grid Corporation of the Philippines (NGCP); f) Philippine Independent Power Producers Association, Inc. (PIPPA); g) Next Power Consortium, Inc., h) SN Aboitiz Power Group (SNAP); i) Aboitiz Power Corporation (APC); j) Philippine Electricity Market Corporation (PEMC); k) Manila Electric Company (MERALCO); I) Department of Energy (DOE); m) Philippine Rural Electric Cooperative Association, Inc. (PHILRECA); and n) National Rural Electric Cooperative Association (NRECA);

WHEREAS, on October 16, 2013, the Commission issued a Notice of Posting and Publication in the aforementioned case, which was posted at the Commission's website, directing all interested parties to submit their respective comments on the second draft of the PSA Rules and setting the same for public consultations on December 2, 2013 in Pasig City for the Luzon stakeholders and on December 5, 2013 in Cebu City for the Visayas and Mindanao stakeholders;

WHEREAS, on various dates, the Commission received comments on the second draft of the PSA Rules from interested parties, namely: a) PHILRECA; b) CEPALCO; c) VECO; d) QPPL; e) PSPI; f) NGCP; g) PIPPA; h) Next Power Consortium. Inc., i) SNAP; j) APC; k) PEMC; I) MERALCO; m) DOE; and n) NRECA;

WHEREAS, on November 21, 2013, the Commission issued an Order cancelling the scheduled public consultations on December 2 and 5, 2013 until further notice from the Commission due to the earthquake that struck the Visayas Region on October 15, 2013 and the continuing aftershocks therein as well as the devastation of Super Typhoon Yolanda on November 7 and 8, 2013 in the said area;

WHEREAS, on January 27, 2014, the Commission issued Notice of Posting and Public Consultation setting the second draft of the PSA Rules for public consultations on February 18, 20 and 24, 2014 in Davao City, Cebu City and Pasig City for the Mindanao, Visayas and Luzon stakeholders, respectively;

WHEREAS, on February 18, 20 and 24, 2014, the Commission conducted public consultations wherein the comments of the interested parties were discussed;

WHEREAS, the Commission, likewise conducted Focus Group Discussions (FGDs) with the stakeholders on April 22 to 24, 2014 in Pasig City, May 6 to 8, 2014 in Cebu City, May 13 to 14, 2014 in Cagayan De Oro City and May 20 to 22, 2014 in Pasig City, to thoroughly discuss major issues in relation to the draft PSA Rules, such as: a) the requirement of Competitive Selection Process (CSP); b) the proposed PSA template; c) the joint filing of PSA applications by the DUs and generation companies (GenCos); and the "walk-away" provision in the PSA, and the Commission also set the deadline for the submission of additional comments or position papers on May 30,2014;

WHEREAS, on various dates, the Commission received position papers/additional comments from interested parties, namely: a) PIPPA; b) SPC; c) Mindanao Coalition of Power Consumers; and d) Association of Mindanao Rural Electric Cooperatives, Inc. (AMRECO);

WHEREAS, the Commission has been receiving inquiries from various DUs and GenCos regarding the requirement of joint filing of PSA applications as contained in the draft PSA Rules;

WHEREAS, in order to guide the DUs and GenCos accordingly in the filing of their present PSA applications while the completion of the entire PSA Rules is still pending, the Commission reiterates its stand requiring the joint filing by the DUs and GenCos of PSA applications consistent with its authority to review the PSAs entered into by the DUs with GenCos whose markets have not reached household demand level, to regulate the retail rates[2] charged by distribution utilities for the supply of electricity in their captive market shall be subject to regulation by the ERC based on the principle of full recovery of prudent and reasonable economic costs incurred, or such other principles that will promote efficiency as may be determined by the ERC, and ensure the adequate promotion of consumer interest as provided by Sections 45 (b), 25, and 41 of Republic Act No. 3196, otherwise known as the "Electric Power Industry Reform Act of 2001" (EPIRA), respectively;

NOW THEREFORE, on the foregoing premises, the ERC, after thorough and due deliberation hereby RESOLVES to direct the DUs and GenCos to jointly file with the Commission their respective applications for the approval of their PSAs.

This Resolution shall take effect immediately following its publication in a newspaper of general circulation in the Philippines.

Let copies of this Resolution be furnished the University of the Philippines Law Center-Office of the National Administrative Register (UPLC-ONAR), Private Electric Power Operators Association, Inc. (PEPOA), Philippine Rural Electric Cooperatives Association, Inc. (PHILRECA) and all DUs and GenCos.

Pasig City, February 16, 2015.

(SGD) ZENAIDA G. CRUZ-DUCUT
Chairperson

(SGD) ALFREDO J. NON
Commissioner

(SGD) GLORIA VICTORIA C. YAP-TARUC

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Commissioner

(SGD) JOSEFINA PATRICIA A. MAGPALE-ASIRIT
Commissioner

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[1] Section 4 (c) – Captive Market – refers to electricity end-users who do not have the choice of a supplier of electricity, as may be determined by the Energy Regulatory Commission (ERC) in accordance with this Act.

[2] Section 4 (ss) Retail Rates – refers to the total price paid by end-user consisting of the charges for generation, transmission and related ancillary services, distribution, supply and other related charges for electric service;

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