NATIONAL ADMINISTRATIVE REGISTER · MAY 6, 2013

ENJOINING ALL GENERATION COMPANIES, DISTRIBUTION UTILITIES, SUPPLIERS AND LOCAL SUPPLIERS TO ENSURE AN EFFECTIVE AND SUCCESSFUL TRANSITION TOWARDS THE IMPLEMENTATION OF RETAIL C...

DOE DEPARTMENT CIRCULAR NO. DC2013-05-0006, May 06, 2013

Read online (full-text search, related cases, audio case brief): https://batas.org/library/79c55fb7af28/

WHEREAS, Section 37 of the Republic Act No. 9136, otherwise known as the “Electric Power Industry Reform Act of 2001” (EPIRA), the Department of Energy (DOE) is mandated to, among other things to:

(a)

Supervise the restructuring of the electric power industry;

(b)

Formulate rules and regulations as may be necessary to implement the objectives of EPIRA; and

(c)

Exercise such other powers, as may be necessary or incidental to attain the objectives of EPIRA.

WHEREAS, to properly guide the implementation of Retail Competition and Open Access (RCOA), the DOE promulgated Department Circular No. DC2012- 05-0005, which prescribes the general policies for the implementation of RCOA and Department Circular No. DC2012-11-0010, which provides for additional guidelines and implementing policies for RCOA and amending certain provisions of Department Circular No. DC2012-05-0005;

WHEREAS, the said Circulars uphold the objectives of EPIRA to: (i) promote customer choice; (ii) ensure fair and non-discriminatory treatment of public and private sector entities in the process of restructuring the electric power industry; and (iii) to ensure transparent and reasonable prices of electricity in a regime of free and fair competition and full public accountability;

WHEREAS, during the series of public consultations conducted prior to the promulgation of the said Circulars, the Contestable Customers (CCs) expressed their concerns on the alleged non-responsiveness of most, if not all, licensed Suppliers and Local Suppliers on the requests of CCs for offers of terms and conditions for possible negotiation for Retail Supply Contracts (RSCs);

WHEREAS, the CCs further reported that Suppliers and Local Suppliers are not making any offers allegedly because their capacities have already been allocated to either their affiliate CCs and/ or other target CCs;

WHEREAS, the aforementioned concern was again reiterated and emphasized by the CCs during the DOE-initiated Suppliers’ and Contestable Customers’ Get-Together for RCOA held last 20 March 2013 at the Asian Institute of Management (AIM), in the presence of the Energy Regulatory Commission (ERC) and the Philippine Electricity Market Corporation (PEMC), and other stakeholders in the industry:

Turn this case into an audio lecture - facts, issues, ruling and doctrine - at batas.org

WHEREAS, the EPIRA provides that electricity Suppliers shall demonstrate their technical capability, financial capability, and creditworthiness, which are requisites to ensure their ability to secure sufficient generation capacity to continuously supply electricity service to the CCs;

WHEREAS, the ERC issued Resolution No. 05, Series of 2013 dated 22 March 2013, entitled "A Resolution on the Disclosures of Capacity and Energy Allocations by Distribution Utilities in the Luzon and Visayas Grids and Retail Electricity Suppliers," which mandates among others, for the Suppliers and Local Suppliers to disclose, in affidavit-form, the amount of capacity in megawatts (MW) and energy in megawatt-hours (MWH) that they have contracted with the power generation companies as well as disclose information on the number of CCs they have contracted for retail supply, and the capacity (in MW) and energy (in MWH) that they have allocated to their contracted CCs, and their remaining available capacity (in MW) and energy (in MWH);

WHEREAS, the DOE supports transparency, good governance and greater competition in the generation and supply sectors;

NOW, THEREFORE, for and in consideration of the foregoing premises, the DOE, in pursuit of its supervisory functions vested to it by the EPIRA, and consistent with ERC Resolution No. 5, Series of 2013 dated 22 March 2013, hereby promulgates the following:

Section 1. Obligations of Electric Power Industry Participants in the Implementation of RCOA. Pursuant to the provisions of the EPIRA, its Implementing Rules and Regulations (EPIRA-IRR), and other applicable rules and regulations, the following are hereby enjoined to fully comply with their obligations to include, but not limited to, the following:

(a) For all Generation Companies, Distribution Utilities, Suppliers, and Local Suppliers:

(i)

Identify focal and contact person/s duly authorized to interface and communicate with DOE, ERC and PEMC on matters relating to the implementation of RCOA. For purposes of this provision, the WESM Compliance Officers (WCOs) duly designated by each WESM member under DOE Department Circular No. DC 2010-07-0008 may be submitted as the focal person.

(ii)

In the case of power generation companies, submit to the DOE, on a regular basis, all power supply contracts entered into with Distribution Utilities, Suppliers, and Local Suppliers, including Directly-Connected Customers. The report shall, among others, indicate the contract price, contract levels and duration, and any value-added services.

(iii)

Comply with the intent of the EPIRA and the rules to prevent any player from exercising abuse of market power and engage in any anti-competitive behaviour. For this purpose, the above participants are prohibited from exercising abuse of market power and engaging in any anti-competitive behaviour.

For purposes of uniformity and guidance in the submission of compliance reports, refer to "Annexes A-1" (Power Generation Companies) and "A-2" (Suppliers and Local Suppliers) of this Circular.

(b) For Suppliers and Local Suppliers:

(i)

Submit pertinent information for the monitoring and evaluation of the progress of RCOA implementation,

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

including but not limited to, supply portfolio, list of CCs, contract levels and duration, price ranges and other documentary requirements as may be required by DOE, ERC and PEMC.

(ii)

Conduct business in a fair and transparent manner by providing the CCs the reasons for any refusal to provide retail supply services. This shall be done in writing by the WCO or the duly designated focal person identified under Section 1(a)(i) hereof. A declaration of insufficient capacity shall not be considered a valid reason for refusal to provide retail electricity services unless the DOE certifies that the Supplier or Local Supplier concerned is deemed no longer capable, at the time of such declaration was made, to serve the current and any additional requirements of the CCs;

(iii)

Engage in negotiations with CCs to ensure customer choice and protection; and

(iv)

Provide the CCs pertinent and truthful information including but not limited to contact details, coverage of the services offered, duration of the RSC, the manner by which the prices are determined and the actual or price ranges in Philippine Peso per kWh. Such information shall likewise be submitted to the DOE and published in their respective websites.

(c) For Distribution Utilities:

(i) Provide services and perform its obligations in a non-discriminative manner over its franchise area.

(ii) Submit quarterly report to the DOE on the development of contestability within its franchise area.

(iii) Submit to DOE, a quarterly operational report, detailing among others, the segregated sales to Captive and CCs within each franchise area, and activities undertaken as the default Suppliers of Last Resort (SOLR).

For purposes of uniformity and guidance in the submission of compliance reports, refer to “Annex B” of this Circular.

Section 2. Additional Responsibilities of the Philippine Electricity Market Corporation. In addition to its responsibilities provided for under DOE Circular No. 2012-02-0002 and in pursuit of its role as Central Registration Body, the PEMC shall undertake the following, but not limited to:

(a)

Monitor and submit a monthly report to the DOE and the ERC detailing the registration status including a list of Suppliers with their counter-party CCs.

(b)

Submit Issues Paper to the DOE on a quarterly basis, to include among others, proposed policy actions necessary to enhance implementation of a truly competitive and efficient integrated wholesale and retail supply.

(c)

Undertake a training program for the focal persons identified in Section 1(a)(i) above.

Section 3. Regulatory Intervention. As mandated under Sections 43 (k) and 45 of the EPIRA, the ERC shall enforce all policies and determine regulatory actions necessary to facilitate provision of a competitive electricity industry environment and to mitigate any potential abuse of market power and anticompetitive behaviour between

Study hands-free: podcast-style lessons with read-along highlighting - batas.org

and among market participants, including but not limited to, any contingency measures to ensure sufficient protection of the Captive and CCs.

Section 4. Compliance Monitoring. To ensure that all the information requirements and all other reportorial requirements prescribed in this Circular is complied with, the DOE, through the Electric Power Industry Management Bureau (EPIMB), shall submit a quarterly report to the DOE Secretary, copy furnish the ERC Chairperson for proper courses of action on the needed policies and regulatory actions including any remedial or punitive or disciplinary actions for non-compliances of any electric power industry participant.

Section 5. Penalty Clause. Failure of any Generation Company, Supplier or Local Supplier to comply with their obligations set forth in this Circular shall be subject to the imposition of fines and penalties by the ERC and, as so required to protect the public interest, may result in suspension, or revocation of licenses and authorizations.

Section 6. Repealing Clause. Except insofar as may be manifestly inconsistent herewith, nothing in this Circular shall be construed as to repeal any of the mechanisms already existing or responsibilities already provided for under existing rules.

Section 7. Separability Clause. If for any reason, any section or provision of this Circular is declared unconstitutional or invalid, such parts not affected shall remain in full force and effect.

Section 8. Effectivity. This Circular shall take effect fifteen (15) days following its publication in at least two (2) newspapers of general circulation and shall remain in effect until otherwise revoked.

(SGD.) CARLOS JERICHO L. PETILLA
Secretary

Turn this case into an audio lecture - facts, issues, ruling and doctrine - at batas.org

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at https://batas.org

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.