NATIONAL ADMINISTRATIVE REGISTER · DECEMBER 15, 2014

A RESOLUTION ADOPTING AND ESTABLISHING A PRE-EMPTIVE MITIGATION MEASURE IN THE WHOLESALE ELECTRICITY SPOT MARKET (WESM)

ERC Resolution No. 20, s. 2014, December 15, 2014

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Adopted: 15 December 2014
Date Filed: 08 January 2015

WHEREAS, Republic Act No. 9136, otherwise known as the Electric Power Industry Reform Act of 2001 (EPIRA), declares it as a policy of the state to ensure the quality, reliability, security and affordability of the supply of electric power, as well transparent and reasonable prices of electricity in a regime of free and fair competition;

WHEREAS, it has also been declared as a policy of the state to protect the public interest as it is affected by the rates and services of electric utilities in the process of restructuring the electric power industry;

WHEREAS, under the EPIRA[1], the Energy Regulatory Commission (ERC) has been specifically tasked to promote competition, encourage market development, ensure customer choice and discourage/penalize abuse of market power in the restructured electric industry;

WHEREAS, the EPIRA has likewise mandated the ERC to ensure the adequate promotion of consumer interest[2] and has vested it with the authority[3] to monitor and take measures to penalize abuse of market power, cartelization, and anti-competitive or discriminatory behaviour by any electric power industry participant;

WHEREAS, on May 5, 2014, the ERC issued Resolution No. 8, Series of 2014 setting an interim pre-emptive mitigation measure in the Wholesale Electricity Spot Market (WESM) to mitigate sustained high prices during the May and June 2014 supply months;

WHEREAS, the said Resolution has established a price threshold in the WESM applied over a seventy-two (72) hour period, which is determined through rolling average Generator Weighted Average Price (GWAP) and a secondary cap to be imposed upon a breach of the above defined threshold;

WHEREAS, on June 16, 2014, the ERC issued Resolution No. 13, Series of 2014 extending the effectivity of the pre-emptive mitigation measure for forty-five (45) days from its expiration or until August 9, 2014;

WHEREAS, on August 5, 2014, the ERC issued Resolution No. 14, Series of 2014, extending further the effectivity of the mechanism for a period of one hundred twenty (120) days from August 10, 2014 or until the establishment of a permanent pre-emptive mitigation measure in the WESM whichever comes earlier;

WHEREAS, under the said Resolution, the ERC has determined the need to adopt a permanent pre-emptive mitigation measure for the WESM and thus, directed all interested stakeholders to submit their proposed measures;

WHEREAS, mindful of the need to establish a pre-emptive mitigation measure to limit the impact of extreme price volatilities and excessive levels of prices in the WESM, the ERC conducted a public consultation and focus

group discussions on the proposals submitted by the industry stakeholders;

NOW, THEREFORE, for and in consideration of the foregoing, the ERC hereby ISSUES and ADOPTS the following:

- A Cumulative Price Threshold (CPT) amounting to PhP1,512,028.00 equivalent to the Generator Weighted Average Prices (GWAP) over a rolling 7-day period or one hundred sixty eight (168)-hour trading interval, is hereby set in the WESM. This is equivalent to an average spot price of PhP9,000/MWh over the period,

Table 1. Formulation of the rolling average price threshold

Period

No. of Hours in a day

Average LWAP (PhP/MWh)

Price Threshold PhP/MWh

1 st Off-peak

8

2,756

22,048

Peak

10

8,166

81,660

Price Spike

3

32,000

96,000

2 nd Off-peak

3

5,432

16,296

Total

24

216,004

7-day Cumulative Price Threshold

1,512,028

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Average CPT Per Hour

9,000

A breach of the CPT for the said period triggers tile imposition of a price cap amounting to PhP6,245/MWh. The market clearing price for the immediate trading interval following the breach will be pegged at the value of the price cap and shall be imposed until after a determination that the succeeding GWAP rolling average is already below the CPT.

However, during the period where the price cap is imposed, if there are intervals where the market clearing price is lower than the price cap, the market clearing price will be applied for settlement purposes.

A copy of the Discussion Paper on the Pre-emptive Mitigation Measure is hereto attached as Annex “A”[*].

- During the period where the CPT has been breached and the price cap is in effect, the oil-based plants will be entitled to recover additional compensation equivalent to the remainder of the total cost of fuel and variable Operations & Maintenance (O&M) costs, upon submission of sufficient proof that the application of the pre-emptive mitigation measure is not sufficient to cover the fuel cost and variable O&M costs of the plant, to be evaluated and confirmed by the Philippine Electricity Market Corporation (PEMC); and

- The claim for additional compensation by oil-based plants shall be processed by PEMC within thirty (30) days from receipt of the supporting documents.

This Resolution shall take effect fifteen (15) days after its publication in a newspaper of general circulation in the country.

Let copies of this resolution be furnished the University of the Philippines Law Center-Office of the National Administrative Register.

Pasig City, December 15, 2014.

(SGD) ZENAIDA G. CRUZ-DUCUT

Chairperson and CEO

(SGD) GLORIA VICTORIA C. YAP-TARUC

(SGD) ALFREDO J. NON

Commissioner

Commissioner

(SGD) JOSEFINA PATRICIA A. MAGPALE-ASIRIT

Commissioner

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[1] Section 43, EPIRA

[2] Section 41, EPIRA

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[3] Sections 43 (k) and 45, EPIRA

[*] Text Available at the Office of the National Administrative Register, U.P. Law Complex, Diliman, Quezon City.

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