

## PROPOSALS FOR THE EPIRA LAW (RA 9136) REVIEW

Business Sector

February 7, 2014 Parklane Hotel, Cebu City

PROPONENT/SUMMARY OF PROPOSED AMENDMENTS	RATIONALE/DISCUSSION	SPECIFIC PROVISION(S) AFFECTED	PROPOSED REWORDINGS OF PROVISION
WESM	<p><b>Carlos Co, Cebu Chamber of Commerce</b></p> <p>Under the current WESM Rule, when there is lack of supply, from a low of P6.0 to a high of P60.00, when all these power are taken up, the bidding is based on the highest rate being taken up. The system charged everybody at the highest price. This proposal will avoid collusion of generators.</p> <p><b>Irma Exconde, DOE</b></p> <p>Currently, the design of WESM is bid-based (all bids are stocked) and a gross pool whether bilateral contract or merchant capacity which is stocked and the market clearing price is the price of all those exposed in the market.</p> <p>Those with bilateral contracts enough for their requirements are not exposed to the market but will be settled outside of the market at a cost approved by ERC based on the PSA. This is the current design of WESM.</p> <p>And your suggestion actually forms part of the current discussion because of MERALCO issue in Luzon, the proposal is pay as bid. What is bid by generators in the market will be the price of whoever got from the capacity they produced.</p> <p>This has to be explained further maybe in the Consultative Dialogue or even a wider venue with all the stakeholders present to explain design and the options. Prior to EPIRA or setting of the cap or the design, there were discussions on whether it's bid based (which is we have right now), cost-based (actual cost) or pay as bid.</p>		<p>Should reduce the maximum price allowed from PhP62 to PhP32.</p> <p>The price to be charged should not be the peak price for all for the day or for the hour but on actual price bid.</p> <p>Pay the generator based on their actual price</p>
Open Access Implementing Rules and Regulations	<p><b>Carlos Co, Cebu Chamber of Commerce</b></p> <p>Under the open access, we are mandated to open access, leave the utility and get own supply. Currently in the Visayas area, has no supply since most all are contracted out. Should not be mandatory but voluntary.</p>		<p>Should not be mandatory but voluntary</p>

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	<p>For industries using power for 24 hrs like cement this is not a problem because their load factor is very high. But there are very few industries operating 24 hours. Generators like these end users. But most industries operate at 12 or 10 hours, their load are low and some generators do not want to supply power. If they provide power they charge a higher rate. So if we go with the system the generator charge us with a higher rate than what we are enjoying right now.</p> <p><b>Irma Exconde, DOE</b></p> <p>As I mentioned, when we started the commercial operation on June 2013 we've already seen it. There had various meetings to hear from contestable customers because the intention of RCOA is to have a choice for contestable customers. That's what we emphasized in the meetings to hear feedback from the contestable customers. That's why DOE and ERC issued a decision that the requirement for all contestable customers to enter into a retail electricity supply contract was relaxed. Continuously, we are assessing the demand and supply and asking feedback from stakeholders to determine the most efficient for the industry and also balancing the interest of both the consumers and investors in the power generation. What is difficult to balance is the perspective of the consumer which is to have a lowest price to the extent possible, on the other hand, the businessman is to have a higher profit. This is the balancing act done by DOE and ERC. Among the businesses, those using electricity they want a lower rate but those producing want a higher rate. So there should be a meeting somewhere, it's difficult but we are trying our best.</p>		
<p>Allow contestable customers to source power directly from generators or IPPS not just from RES or local RES</p>	<p><b>Jojo Soleng, Jr. (Taiheiyo), representing a contestable customer in Cebu</b></p> <p>We all know that the purpose of the EPIRA is to bring down the cost of electricity. And I heard a while ago that the purpose of opening of the RCOA is to give the contestable market a power of choice. However, it has come to our attention that the power of choice is limited only to RES or local RES. Why not allow contestable customers to source their power directly from generators or IPPS? We've come to know that the RES or local RES are just like middlemen, they don't really produce their own power but source their power from generators and try to sell it to</p>		

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	<p>contestable customers. If the purpose of the law is to give the contestable customers the power choice, our suggestion is that DOE must see to it that contestable customer should be allowed to source power directly from generators or IPPS not just from RES or local RES.</p> <p><b>Irma Exconde, DOE</b></p> <p>If you have a copy of DOE’s issuances on RCOA, in DOE’s last issuance on RCOA, because we also heard that already in one of the discussions with the stakeholders, the contestable customers can already negotiate directly with power generators, this is more prospective. If there are generators that are not yet part of the RES and have a better offer with you, the policy is that you can enter into negotiation with these generators. But to clarify, directly enter or negotiate with the generators does not mean directly connected customers so it’s different because when you say directly connected this refer to the line. What is referred to is power generation, on the power supply. Based on the policy that we issued, that’s okey. It’s acceptable.</p> <p><b>Jojo Soleng, Jr. (Taiheiyo), representing a contestable customer in Cebu</b></p> <p>I just want to bring out to the attention of the DOE that there is Department Circular No. 2012-7-13, that says that contestable customers may enter into an RSC or retail a supply contract with a prospective generation company provided that the generation company has been issued a Certificate of Compliance from ERC and successfully registered as a trading participant in the WESM. Provided further that before the effective date of the RSC, the generating company has secured a suppliers’ licence from ERC. Meaning we can negotiate with an IPP or generation company however, the generation company in order for the contract to be effective must secure a licence, must be a RES also. Must be given that certificate or licence by ERC.</p> <p><b>Irma Exconde, DOE</b></p> <p>There was a discussion even early on whether generators will have an option on the</p>		

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	<p>contestable customers. ERC stated that there should be a framework or regulation within the particular sector and the supply sector is a separate sector now. The governing regulation for the supplier and generator may not be the same. The flexibility given, is that the contestable market, may only negotiate for now with the RES. If there are generators coming in and can't get any customers, they could start negotiating. Prior to the implementation of the contract, there should be governing regulation on the supplier or generator making the business off supply.</p> <p>There is a COC for generators which is for 5 years and for the supplier there is licenses given by ERC. For ERC it would be difficult to regulate different framework. What we are saying is that we do not do it unilaterally but in coordination with ERC so that there will be no dispute in the policy and regulation. That's the rationale on the decision in coming up with those additional provisions. There should be a regulatory framework to be followed for a particular sector.</p> <p><b>Atty. Joel Bontuyan, ERC Visayas</b></p> <p>It has something to do with the structural reform of the industry. In EPIRA, we have the sectors - generation, transmission, distribution and supply. All these sectors are enshrined in the EPIRA. In reference to that, those sectors that there should be a segregation between generation and supply. What would happen to the supply sector, which we are also encouraging to blossom, if the contestable customer will directly go to a generator and negotiate. This requires policy and the comment will be considered in the future.</p> <p><b>Jojo Soleng, Jr. (Taiheiyu), representing a contestable customer in Cebu</b>  - When we tried to examine the persons behind RES and local RES, for us they are just middlemen. They source power from generators which is another added cost to contestable customers. In fact, in the case of our client, we tried to negotiate with an IPP, a power generator, and we know for a fact that the charges coming from a generator is lower than offered by a RES or local RES. We could not enter into a contract with a power generator. Don't know the rules and regulations to forge IPPs or generator to convert into a power supplier. I don't know the rationale</p>		

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	<p>why it's so hard for them to get the licence or certification from ERC to guarantee supply to contestable customers. If the rationale of the law is to bring down the cost of electricity and help businessmen grow their businesses, then DOE and ERC should craft laws and regulations to allow businessmen to directly source power from generators.</p> <p><b>Dodon Montesclaros, (PhilExport and some companies in Mactan Ecozone)</b></p> <p>Comment on the feedback on the proposal of Jojo Soleng why it's hard from some generators to get supplier's license.</p> <p>I have asked some generating companies why they are not converting to RES. Its because of financial reason since to become a RES, will have to pay documentary stamps which is a percentage of the capitalization. Most companies have high capitalization in billions and will have a big amount to pay documentary stamps and added taxes. So what they do is to form another company with lower capitalization and registered this as the RES. Since this is already another company, then this is another layer.</p> <p><b>Atty Bontuyan, ERC</b></p> <p>There is now an on-going discussion with DOE and ERC regarding on the nature of the generators (eg. requirement not to sell 100% of generating capacity) and relevant matters.</p>		
<p>Giving the contestable customers the right or option to remain within the present DU</p>	<p><b>Jojo Soleng, Jr. (Taiheiyo), representing a contestable customer in Cebu</b></p> <p>Another issue is on giving the contestable customers the right or option to remain within the present distribution utility. As previously discussed by the representative from the Cebu Chamber that if load factor is very low, then the RES or local RES will charge very high cost of electricity. However, if opt to remain within the DU, the same amount shall be required.</p>		

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	<p>To optimize the rationale of the law which is to give the customers the power of choice, then DOE to give this particular option to the contestable customers.</p> <p>One of the regulations coming from the DOE or ERC states that if the contestable customer has entered into a contract with the RES or local RES, such contestable customer can never be allowed to go back to its previous status meaning having a contract with DU or being part of the captive market.</p> <p>DOE and ERC should craft measures or polices which should give leeway to businessmen and contestable customers.</p> <p><b>Atty Bontuyan, ERC</b></p> <p>We don't have to change certain provisions of the EPIRA but would only require some rule change which is easier and faster.</p>		
Implementing Guidelines to support free market and free access	<p><b>Antonio Chiu, Cebu Chamber of Commerce</b></p> <p>No issue against the EPIRA Law. The Chamber fully supports the EPIRA on the free market and free access. What we don't like are the Implementing Guidelines. We want to see implementing guidelines that really support free market and free access.</p> <p>A lot of discussions have already been made on these.</p>		
Reasonable cost in preparation for the Asian integration in 2015	<p><b>Antonio Chiu, Cebu Chamber of Commerce</b></p> <p>Call the attention when the Philippines will join the Asian integration in 2015. A lot of studies have been made on the cost of power in the Philippines in relation to our neighbors. Most of the studies point that the Philippines has one of the highest power rates in the region. Some countries are subsidising power and some are not. The Government should make our power reasonable with no subsidy but with a free market.</p>		

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	<p>For a free market, implement rules more efficiently, take away unnecessary layers.</p> <p>On areas where there are monopolies, ERC has to come in to regulate it in such a way that reasonable charges are passed on to customers.</p> <p>Happy that DOE came to Cebu to hear from us and we all have to do our work.</p> <p>The only way to lower the cost is to encourage more production of power. If there are very limited sources of power then the Law of Supply and Demand will dictate that we will pay more for the power. DOE should look into how to encourage more investments.</p> <p><b>Irma Exconde, DOE</b></p> <p>Encouraging more capacities is also our concern and our objective. Request to include in your recommendation on how the Government (not only DOE but other agencies) could encourage more investments in generation.</p> <p>As business partners in the government, provide inputs on how to be able to encourage investments in the generation.</p>		
DOE to do a One-Stop Shop Clearing House	<p><b>Antonio Chiu, Cebu Chamber of Commerce</b></p> <p>In any business in general, there are too many government regulating agencies. If you want to set up a business, you have to apply permits from 5, 6 or 7 agencies.</p> <p>In so far as power is concerned, it would be good if DOE can do a One-Stop Shop Clearing House to include environmental concerns, pollution, everything. If you ask an investor, one of the bottlenecks is the time it takes to get such kinds of clearance. There is no single clearing house. How could you promote investments if it would take more than a year to secure such permits? It turns off a lot of businessmen to put up investments.</p>		

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	<p><b>Atty. Gladys Nalda, DOE- OSEC</b></p> <p>DOE has explored so many options and was discussed with Sec. Petilla the one stop shop. We are in the initial stage in talking with other agencies like DENR, BOI. As of now, for RE , we have existing MOA or negotiations to come up with MOA with the different agencies. I understand that to be able to put up a power plant you need 162 signatures, including LGUs and other agencies. We have started developing options, talking with LGUs, DENR. We have existing MOA with BOI for incentives for developers under the RE Law. WE also have existing MOA with PEZA but with DENR, NWRB, ECC, these are still under talks.</p> <p>DOE has reduce the processing time from 120 days to more than half to 45 days for RE service contracts. DOE is also aggressive in endorsing the projects. Should there be problem in LGUs, DOE can endorse this to the province, municipal or barangay level. DOE is actively engaging the RE committee to push through with RE developer projects. DOE is also coordinating with other agencies on the permits required for power plants.</p> <p>Sec. Petilla is really envisioning the one stop shop. DOE is pushing its IPO to establish a stop shop.</p>		
WESM	<p><b>Antonio Chiu, Cebu Chamber of Commerce</b></p> <p>We are all aware of what is happening in Luzon, most of our colleagues are complaining about high power rates that some are implemented and some are about to be implemented. Is that also going to be applied in the Visayas or are we shielded?</p> <p>Free market trading in the Visayas has been suspended ever since Typhoon Yolanda hit the Visayas. Are we going to be hit of that kind of situation?</p> <p><b>Irma Exconde, DOE</b></p>		



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	<p>As mentioned with Typhoon Yolanda, ERC issued market suspension. Currently, ERC with NGCP, PEMC and DOE, has on-going assessment on the situation.</p> <p>Respond after confirming with PEMC regarding the exposure to the market.</p> <p><b>Atty Bontuyan, ERC</b></p> <p>If you are a generator then support the lifting of the market suspension because it could mean more power to the grid. Whether it would affect the rates it remains to be seen.</p> <p>With respect to VECO, its exposure to the market is only about 7% of its power requirement. VECO also committed in a prior meeting that it will not buy power when prices reach P62.00. Thus, the situation in Luzon would not likely happen in the Visayas.</p> <p><b>Director Antonio Labios, DOE-VFO</b></p> <p>There was a discussion on the suspension of WESM and because as of now there is no clear guideline on when to suspend and when to resume so there suggestions to formulate clear guidelines when to suspend and lift suspension of WESM operation and parameters.</p> <p><b>Antonio Chiu, Cebu Chamber of Commerce</b></p> <p>Cebu Chamber is definitely for the free market. I was in that meeting with you with the Governor. I was the only private sector and objected to going back to the free market because that was abnormal times, there was shortage of power when we were having that discussion.</p> <p>We in Cebu Chamber has passed a Resolution recommending to go back to free market which we are going to submit to the office of the Governor to ERC very</p>		

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	<p>soon.</p> <p>If you look at the reports which NGCP is showing, there is excess supply of power. While we are also free market we do not like to have the problems experienced of Luzon.</p>		
<p>Allow economic zones and industrial estates to directly connect to the grid</p>	<p><b>Dodon Montesclaros, PhilExport</b></p> <p>Proposal that the complex estates like economic zones and industrial estates could directly connect to the grid especially those serve by 1 substation to reduce cost.</p> <p><b>Jojo Soleng, Jr. (Taiheiyō), representing a contestable customer in Cebu</b></p> <p>The rules are quite rigid, contestable customers cannot simply ask for direct connection they have to prove that the DUs are not reliable, have no capacity to directly supply them.</p> <p>Request the ERC and DOE to revisit the rigid rules and craft some rules which would relax the present rules and allow contestable customers to directly connect to the grid. It will help the businessmen to lower down not only the cost of electricity but also the cost of distribution.</p>		
	<p><b>Antonio Chiu, Cebu Chamber of Commerce</b></p> <p>As far as the business group is concerned, the clock is ticking as 2015 is around the corner and high power cost has always been an issue.</p> <p>Especially with the coming ASEAN integration, if the business sector is to be competitive within the ASEAN region we need reasonable rate of power.</p> <p>We are aware that the problem is complex. We are also businessmen here and one solution is to encourage more investments in power to bring down the cost.</p>		

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	Government should simplify the rules t to encourage free market in power. This is a situation where a private sector and a government sector should look closely together to lower power cost. We all have the same objectives		