

PROPOSED AMENDMENTS TO THE EPIRA LAW (RA 9136)
DISTRIBUTION UTILITIES
 January 30, 2014 Legend Hotel Villas

PROPONENT/SUMMARY OF PROPOSED AMENDMENTS	RATIONALE/DISCUSSION	SPECIFIC PROVISION(S) AFFECTED	PROPOSED REWORDINGS OF PROVISION
<p>VINCENT PAUL HIDALGO, OIC – Energy Trading/RCO CASURECO II</p> <p>The said conditions would reduce technical losses of the displaced utility and would actually serve the purpose of nearing the load center to the displaced area.</p>	<p>Wendell Ballesteros (PHIRECA): It does not provide any peak difference when we provide collatilla because the role as we were deliberating it in Congress that's the role that's why ERC is subject to the approval of ERC. That's the part they have to look into na Hindi tatas ang presyo makikita nil ang viability and hope that area will be serviced by another distribution utility.</p> <p>I don't think that is very important one. Tingnan natin.</p>	<p>EPIRA Chapter II Organization and Operation of the electric Power Industry Section 34. Universal Charge</p> <p>Section 23, 2nd to the last paragraph</p> <p>Distribution utilities shall provide universal service within their franchise, over a reasonable time from the requirement thereof, including unviable areas, as part of their social obligations, in a manner that shall sustain the economic viability of the utility, subject to the approval by the ERC in the case of private or government-owned utilities. To this end, distribution utilities shall submit to the DOE their plans for serving such areas as part of their distribution development plans. Areas which a franchised distribution utility cannot or does not find viable may be transferred to another distribution utility, if any is available, who will provide the service, subject approval by ERC.</p>	<p>Distribution utilities shall provide universal service within their franchise, over a reasonable time from the requirement thereof, including unviable areas, as part of their social obligations, in a manner that shall sustain the economic viability of the utility, subject to the approval by the ERC in the case of private or government-owned utilities. To this end, distribution utilities shall submit to the DOE their plans for serving such areas as part of their distribution development plans. Areas which a franchised distribution utility cannot or does not find viable may be transferred to another distribution utility, if any is available, who will provide the service, subject approval by ERC. <i>This transfer should consider the proximity of the said nearest distribution utility and the financial viability of the utility that will be the beneficiary of such transfer.(Proposed to be added)</i></p>

<p>VINCENT PAUL HIDALGO, OIC – Energy Trading/RCO CASURECO II</p> <p>Given that Open Access is already in effect upon the expiration of the contracts of already Directly connected customers, they should revert back to the distribution utilities which have eminent domain over them.</p> <p>Prospective customers who will apply for direct connection to NGCP facilities should no longer be entertained and will be part of the captive market.</p> <p>VINCENT PAUL HIDALGO, OIC – Energy Trading/RCO CASURECO II</p> <p>Sir, we had not specifically studied the disconnection. Rules on the disconnection is proper since there is time period for settlement of obligations. We already contested to WESM the posting of the prudential which is also connected to disconnection kasi WESM is demanding for 63 days but we are only allowed to collect power bill deposits from our consumers in 30 days so it would not be sufficient to cover a 63-day period so since disconnection is also being implemented on posting of power bill deposits that's connected to the said issue. But in the manner of the implementation of the disconnection we have no</p>	<p>Wendell Ballesteros (PHIRECA): This is already provided in the last paragraph of Section 23, exercise of eminent domain.</p> <p>Ed Fernandez (DOE): Don't you have any recommendation when it comes to disconnection?</p>	<p>NPC Charter Direct Connection of Industrial Customers to NGCP Facilities</p> <p>None</p>	<p>Distribution utilities may exercise the power of eminent domain subject to the requirements of the Constitution and existing laws.</p>
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<p>comments.</p>			
<p>VINCENT PAUL HIDALGO, OIC – Energy Trading/RCO CASURECO II</p> <p>It has been observed that the 25% cap for controlling share has converted our market to a three headed race between three groups (Lopez, Aboitiz and San Miguel). Lowering the caps would invite better investment and enfuse healthy competition which EPIRA envisions will be the drive the prices of electricity at reasonable costs.</p>	<p>Wendell Ballesteros (PHIRECA): I think it is also legitimate, the 25% voting of shares. There’ s another thing that we should look into it but how it will totally affect the law itself. When we start offering this law, I know how hard it was being passed, I know it will go through an uphill battle again. SO let us try to look at what is the important thing to be addressed.</p>	<p>EPIRA Chapter II Organization and operation of the Electric Power Industry Section 28. De-Monopolization and shareholdings Shareholding Dispersal</p> <p>Section 28</p> <p>In compliance with the constitutional mandate for dispersal of ownership and de-monopolization of public utilities, the holdings of persons, natural or juridical, including directors, officers, stockholders and related interests, in a distribution utility and their respective holding companies shall not exceed twenty-five (25%) percent of the voting shares of stock unless the utility or the company holding the shares or its controlling stockholders are already listed in the Philippine Stock Exchange (PSE): Provided, That controlling stockholders of small distribution utilities are hereby required to list in the PSE within five (5) years from the enactment of this Act if they</p>	<p>In compliance with the constitutional mandate for dispersal of ownership and de-monopolization of public utilities, the holdings of persons, natural or juridical, including directors, officers, stockholders and related interests, in a distribution utility and their respective holding companies shall not exceed fifteen (15%) percent of the voting shares of stock unless the utility or the company holding the shares or its controlling stockholders are already listed in the Philippine Stock Exchange (PSE): Provided, That controlling stockholders of small distribution utilities are hereby required to list in the PSE within five (5) years from the enactment of this Act if they already own the stocks.</p>

RANULFO OCAMPO (PEPOA)

We have yet to analyze the provisions of the EPIRA before we can make a comprehensive recommendation of the proposed amendments.

When a company is listed in the PSE the motivation becomes different. If you were just a closed corporation operating a public utility like a DU the purpose is primarily public service, to serve the public by providing electricity/ power supply. But once you become listed in the PSE the motivation of operating a utility there enters a different dimension. The holder as a listed company you have your responsibility to your shareholders to increase the profit. Because by increasing the profit the share prices as listed in the PSE goes up and that would attract investors. So there is an example of conflict of interest because you are motivated to increase the profit and you do that

already own the stocks. A small distribution company is one whose peak demand is equal to or less than Ten megawatts (10 MW).

But in addition to the comment regarding Section 28 and also 43(t), requiring the holders of private utilities to sell their shares except when their holding companies are listed in the PSE.

<p>by increasing prices of your service. If you were not listed you would not be pressured to do that. Maybe the DOE could survey the rates of the DU listed and there maybe DOE can get some insights there. So we will be making some proposed amendments along those lines.</p>			
<p>VINCENT PAUL HIDALGO, OIC – Energy Trading/RCO CASURECO II</p> <p>The implementation of the hand-over of the operations of the market operations to an independent group has long been overdue and must be enforced.</p>	<p>Wendell Ballesteros (PHIRECA): This is more on the implementation, the transfer of the autonomous market operators na andoon sa WESM rules iyon. It's not an amendment of the law.</p>	<p>EPIRA Chapter II Organization and operation of the Electric Power Industry</p> <p>Section 30 (e) WESM Market Operations</p> <p>The wholesale electricity spot market shall be implemented by a market operator in accordance with the wholesale electricity spot market rules. The market operator shall be an autonomous group, to be constituted by DOE, with equitable representation from electric power industry participants, initially under the administrative supervision of the TRANSCO. The market operator shall undertake the preparatory work and initial operation of the wholesale electricity spot market. Not later than one (1) year after the implementation of the wholesale electricity spot market, an independent entity shall be formed and the functions, assets and liabilities of the market operator shall be transferred to such entity with the joint endorsement of the</p>	<p>None</p>

		DOE and the electric power industry participants. Thereafter, the administrative supervision of the TRANSCO over such entity shall cease.	
<p>VINCENT PAUL HIDALGO, OIC – Energy Trading/RCO CASURECO II</p> <p>It has been observed that the 1 MW threshold which produced around 800+ contestable customers were not yet capable of availing of the perks of an Open Access scenario given that we have a supply challenge. Raising the threshold for the initial implementation phase would ensure a gradual transition and the volume of customers opting for Open Access would be manageable.</p>		<p>EPIRA Chapter II Organization and operation of the Electric Power Industry Section 31. RCOA</p> <p>Threshold for Open Access</p> <p>Upon the initial implementation of open access, the ERC shall allow all electricity end-users with a monthly average peak demand of at least one megawatt (1MW) for the preceding twelve (12) months to be the contestable market. Two (2) years thereafter, the threshold level for the contestable market shall be reduced to seven hundred fifty kilowatts (750kW). At this level, aggregators shall be allowed to supply electricity to end-users whose aggregate demand within a contiguous area is at least seven hundred fifty kilowatts (750kW). Subsequently and every year thereafter, the ERC shall evaluate the performance of the market. On the basis of such evaluation, it shall gradually reduce threshold level until it reaches the household</p>	<p>The threshold should be reviewed and considered as follows:</p> <ol style="list-style-type: none"> 1. Initial implementation – 4 MW and up 2. After two years – 2 MW and up 3. Every year thereafter – the ERC shall review the performance of the market and set the lowest threshold level.

		demand level. In the case of electric cooperatives, retail competition and open access shall be implemented not earlier than five (5) years upon the effectivity of this Act.	
<p>VINCENT PAUL HIDALGO, OIC – Energy Trading/RCO CASURECO II</p> <p>It would be beneficial for investors and consumers alike if the national government can study the exemption of Value added Tax on generation costs given the high costs of electricity.</p> <p>DEON JAMES DECORP</p> <p>I will try and keep my comments at</p>		<p>EPIRA Chapter II Organization and operation of the Electric Power Industry Section 35 Royalties, Tax Returns and Tax Rates for Indigenous Energy Resources</p> <p>The provisions of Section 79 of Commonwealth Act No. 137 (C.A. No. 137) and any law to the contrary notwithstanding, the President of the Philippines shall reduce the royalties, returns and taxes collected for the exploitation of all indigenous sources of energy, including but not limited to, natural gas and geothermal steam, so as to effect parity of tax treatment with the existing rates for imported coal, crude oil, bunker fuel and other imported fuels.</p> <p>General Comment</p>	None

the high level and will not go into the detail. Revising EPIRA is always a big issue. It's a good law. The intentions are good and in terms of the way the country has moved in terms of trying to make a model of electricity it is a good way of doing it. It is always a question mark of whether the market for electricity is better or sometimes provided a monopoly. That's an issue that's been discussed around the world so long. Of course, the economists would say to have a market. I think the engineers prefer having it as a monopoly because that makes somebody easier than economies of scale being efficient.

The intentions of EPIRA are good, it's clear and well worded. If we decide to go to the market mechanism it follows the general rule of competition in generation and supply. The Government of the Philippines was able to reduce its debt in terms of selling all NPC generation assets which is still doing. There was an issue of NPC kept increasing its debt. The effect of market design is a worldwide issue and depends on the various industry issues. No matter what you write into the law the players will play around that law to make it suit themselves so we have a challenge there. And it depends on the attitude behaviour there's no matter how you write it there's a way around it. I think you must come to the reality that's really been an

issue. One of the big issue is the behaviour and I think decision of the regulators has brought the problem as well. And I don't get into the details of that. The biggest issue we got here is the shortage of generation capacity. If there was sufficient capacity, we will not be here today. We would be talking about the issue of high prices because that's what caused the big issue of what we should do about it.

One of the issues that befallen DUS and keep on worrying us is watching our back because of big players. Because for some, these decent people become they want to expand as business interests that companies want to expand and one way of expanding is by going up to smaller DUs.

DEON JAMES
DECORP

This is not an industry where "normal" competition rules work well. Forced disposal of especially smaller utility shares result in bigger players taking advantage of the situation

EPIRA
Chapter I. Title and Declaration Policy
Section 2(d) (Declaration of Policy)

Does broadening the ownership base result in better electricity rates?

To enhance the inflow of private capital and broaden the ownership base of the power generation, transmission and distribution sector

Section 28 (De-Monopolization and Shareholding Dispersal)

To be removed

		<p>In compliance with the constitutional mandate for dispersal of ownership and de-monopolization of public utilities, the holdings of persons, natural or juridical, including directors, officers, stockholders and related interests, in a distribution utility and their respective holding companies shall not exceed twenty-five (25%) percent of the voting shares of stock unless the utility or the company holding the shares or its controlling stockholders are already listed in the Philippine Stock Exchange (PSE): Provided, That controlling stockholders of small distribution utilities are hereby required to list in the PSE within five (5) years from the enactment of this Act if they already own the stocks.</p> <p>Chapter IV Regulation of the Electric Power Industry Section 43(t) (Functions of the ERC)</p> <p>Perform such other regulatory functions as are appropriate and necessary in order to ensure the successful restructuring and modernization of the electric power industry, such as, but not limited to, the rules and guidelines under which generation companies, distribution utilities which are</p>	
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		<p>not publicly listed shall offer and sell to the public a portion not less than fifteen percent (15%) of their common shares of stocks: <i>Provided, however,</i> That generation companies, distribution utilities or their respective holding companies that are already listed in the PSE are deemed in compliance. For existing companies, such public offering shall be implemented not later five (5) years from the effectivity of this Act. New companies shall implement their respective public offerings not later than five(5) years from the issuance of their certificate of compliance; and</p>	
<p>DEON JAMES DECORP</p> <p>People are trying to become aggregator and that is not good. Why add another layer of cost when we could do without them. If DUs come together and form a way of improving its buying power as a group then they can do that on their own without becoming aggregator.</p>		<p>EPIRA Chapter I. Title and Declaration Policy Section 4(a) Practicality of including an Aggregator</p> <p>“Aggregator” refers to a person or entity, engaged in consolidating electric power demand of end-users in the contestable market, for the purpose of purchasing and reselling electricity on a group basis</p>	<p>To be removed</p>
<p>DEON JAMES DECORP</p> <p>Why was this ignored and VAT on electricity introduced?</p> <p>It’s something I am opposed at since it was introduced. It’s bad idea. WE</p>		<p>EPIRA IRR Part V. Other Provisions Rule 27. Royalties, Returns, and Tax Rates for Indigenous energy Resources</p> <p>VAT on Electricity (Generation)</p>	<p>No revision</p>

don't put taxes on the essential need of the country. And EPIRA has said that. So I'm surprised somebody some DOF someone found out the local and they could use that and it should come out.

ROMEO N. CUASAY, General Manager, ORMECO

Sa Section 6 ng EPIRA Law, zero-rated ang VAT status ng DUS with regard to power generation. Hindi na-implement . Eto po ang original. But I think ang apektado lamang ng zero-VAT status ay sa renewable energy hindi sa fossil-fueled power plants. SO if only we reduce this as what GM Wendell said at 3% this is a very good objective for the sake of the ECs because it is our obligation to lower the cost of electricity in the least cost manner. Kung ibababa ang VAT napakalaki ng benepisyo para sa mga member-consumers.

RANULFO OCAMPO (PEPOA)

Before EPIRA, utilities were only subjected to a 2% franchise tax in lieu of all taxes including income tax. But sometime during the term of Pres. Cory Aquino, they have to raise revenues, utilities were subjected to income tax in addition to the 2% franchise tax. With the enactment of EVAT law, the franchise tax was abolished and in its place was

Chapter II. Organization and Operation of the Electric Power Industry
Section 6 Generation Sector, 2nd to the last paragraph

Pursuant to the objective of lowering electricity rates to end-users, sales of generated power by generation companies shall be value added tax-zero rated.

VAT

imposed the 12% VAT. So we now have to pay the 12% VAT plus the income tax. We understand that if we revisit the EVAT law by lowering the or lowering the rate from 12% to 0 and some other rate but lower than 12% we are open to that we can negotiate what should be the ideal rate for the VAT.

On the local taxes, the LGUs are now very creative in imposing aside from the local franchise and business tax, they are now finding other sources of revenue. So they are now also imposing the real property tax on electric posts, transformers, even the lines that are connected to the poles are imposed assessed property tax. Utilities have no way in contesting that because as you know if they do not pay or contest the assessment the LGUs garnish the funds of the utilities whether they be in private or ECs. So they are constrained to pay the tax to avoid garnishment. Maybe we can review the tax provisions of LGUs. Right now the franchise tax ranges from 50 to ½ to ¾ of a percent. Maybe we can consider the highest is ¾ of 1% why not make it 1% in lieu of all other local taxes including property tax. That could be one way. We have proposed this before but it never got off the ground at the Committee level.

**RIC B. ZAMBALES, TSD Manager
(PALECO)**

Taxes

VAT on distribution of electricity be removed (if not to include the generation) to further lower down the cost of power.

Kami pong nasa CDA wala po kaming VAT sa distribution. So nakabawas po kami ng about P0.30/KWH. Ang gaming recommendation ay baka po puede rin pong isama doon sa addendum pati po sa generation.

Kanina po narinig ko ang justification ni GM Wendell na of course baka mahirap pong pumasa sa both houses of Congress dahil ito po ay revenue ng ating gobyerno. But then kung titingnan po natin tumataas po iyong rate, siguro it's about time na mabigyan po ng pagkakataong mpababa natin ang rate. Alam po nating pagdating sa power generation marami pong taxes ang inemploy ng government simula pos a pag-import. Sa pagdating po sa mga consumers sa DUs puede naman po sigurong maalis na opo ang EVAT law sa power rates natin.

WENDELL BALLESTEROS (PHILRECA)

I would like to be informed about the generators position on the taxes if they have prepared draft revenue memorandum circular (RMC) because f they are talking on the discussion that we had this was an issue before December 2012 that

the BIR amended the IRR of RA 937. RA 9337 is the VAT law wherein they treated the power industry similar to an ordinary business industry that everything that is being collected should be assessed of the VAT. We have a difficulty trying to convince the Commission, the BIR. That's why they came up with RMC 62. Then before the year ended we were able to convince them together with the private utilities, the ECs represented by PHILRECA, talking and initiating moves with the BIR. They came up with RMC 72 wherein they reverted to the previous IRR of the 9337 with some modifications of the guidelines. The problem that BIR had then they have difficulty of consolidating these taxes from generators down to the distribution. Di nila mabalanse because with the kind of complexity of the electricity when it goes down to the DU to the costumers they are customers who are authorized to withhold. So hindi mag-tally iyong assessed generation ng VAT at saka iyong remitted distribution VAT ng ECs. With the issuance of RMC 72 still the power industry is still VATable. But we have to address the VAT computation based on the process and the flow of revenue from the generation to the end-users. So if that's the thing they are

VAT

As additional Section 75. Value Added Tax Payment Exemption under Chapter VIII General Provisions

talking still we did not address the issue on power generation but is resolving some problem in terms of trying to consolidate or to simplify the process of the collection of the BIR. So if possible, DOE could give a copy to DUs we will appreciate it .

On the part of ECs, we have initiated a bill just the same way Rannie has said, it did not even get to an initial deliberation of the Committee because as I said a while ago when it comes to lessening the revenue of the government it's really very difficult to have that kind of legislation be enacted into law. Natatamaan iyong budgetary requirements ng government.

ROMEO N. CUASAY, General Manager, ORMECO

Sa SPUG areas, napapansin ko po na very stringent requirement, nagkakaroon pa ng CSP ang mga IPPs na mas mababa sa SAGR. Kung mabibigyan natin ng leeway ang mga IPPs na ma-exempt sa CSP to remove these stringent requirements of CSP, kung ang kanilang offer ay mas mababa sa SAGR. SAGR is 5.64 as approved by ERC. SO we will entice ang mga IPPs to look for the renewable source of energy na mas mababa sa 5.64 why subject them to SAGR and to CSP. Iyon po ang isang move to entice IPPs/NPPs to go in SPUG areas to promote renewable energy spagkat

EMMANUEL TALAG (DOE):

Kasi iyong kanina na pinag-uusapan natin tax. Correct me if I'm wrong kasi, ito ang naririnig namin one of the major reasons kung bakit iyong mga ECs that are now non-stock are converting to stock ECs is to be exempted sa mga local taxes, tama ba iyon o iyon ang one of the major reasons? Kasi kung ioy n baka dapat na talagang tingnan ang mga taxes kasi hindi siya malalim na dahilan for an EC to convert from non-stock to stock.

On ECT's Comment: Wendell

We are to submit a few comments on that. We tried to look at that because it has been a political agenda of trying to convert to a CDA ECs for purposes of tax. But the bigger picture to it as we see they are a lot of ECs that register with CDA. So CDA sila there is a tax benefits and privileges therein but if you are going to compare the rate of those not registered with CDA there is no difference. Ang nakikita lang nila dyan is they are already independent from ano ang gusto nilang gawin. So there aiming for a strong move for the amendment of PD 269 kasi pag registered ka s CDA under PD 269 wala nang magawa ang NEA. That's why some of these ECs within problematic situations ay sila sila na lang. That was a big issue noon. And what is common to everyone it becomes an entity of public interest.

VAT

imposible po na bumaba ang presyo ng kuryente kung nakadepende tayo sa fossil fuel. Imposible iyan. The only way is to introduce renewable source of energy para bumaba ang kuryente natin.

In response to Emman's comment:

It's true na intermittent ang mga renewable energy like hydros. Around 38 MW sa Mindoro naka-contract ang ORMECO. You cannot remove really the fuel-driven because they are used for peaking so at least iyong blended generation rate niyan bababa kasi iyong generation charge pag na-average mo iyan towards the formula of the ERC it will drastically be lowered. Hindi naman natin maiiwasan na maging baseload an gating renewable like hydro pero merong lean months iyan during summer nagiging 30% efficiency. But during rainy season nagiging 65-90% iyan katulad n gaming mga hydros. Pero di mo rin aalisin dyan ang ating mga fuel driven sapagkat kailangan mo iyan pag wala ang hydro but the impact is very big in terms of blended generation rate.

Government has something to do with it. Kaya sinabi doon RA 10531 na whether were you are registered the supervision and control of NEA remains. Kasi napapakawalan sila as if they just do what they wanted to do.

Wendell to send a copy to DOE of the draft bill filed at the last Congress to the House in terms of how to resolve the taxation. We are not saying that it should be tax exempt dahil nga nakikita na naman in a distribution sector per se millions of pesos flow in and out. So nakikikta yan ng government. So hindi naman natin sinasabi na totally dapat free. We have been there for quite a long period of time and we know that we should also to be part in terms of development and improvement of the country but not at that level of 12% because everybody suffers for this. So meron kaming proposed to Congress. It was filed but unfortunately di tinawag for initial hearing. Maybe in consolidating all the issues and concerns from the different sectors in the power industry this could be looked into and maybe we could agree on how to better present a situation that is acceptable to everyone.

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	<p>EMMANUEL TALAG (DOE) : Iyong CSP, the purpose is not only for least cost , nakalagay sa circular there should be 3 conditions for the design of the CSP. One it should be least cost, another is environmentally compatible to the area and 3rd is the most advantageous implementation schedule. Ang importante sa power supply contracting is not only least cost but reliable ang kuryente to be produced, 24/7 available siya. In short, it should be able to respond to the needs of the ECs to improve its service in the ECs. Maaring least cost siya pero intermittent naman siya for renewable or din aman siya gagana during the summer months for hydro. Dapat ibalanse natin all the conditions that will meet the needs of he member-consumers.</p> <p>VINCENT PAUL HIDALGO (CASURECO II):</p> <p>Before the NPC scenario and contracting, our main problem is supply. Truth of the matter is we are leaving in a supply-driven market as as a DU na pag nakikipag-kontrata sa amin laging kami iong nagso-solicit pero walang nagsasabing may capacity sila to offer. SO I think DOE should look into encouraging more investments into our supply sector. And looking into the implementation of the privatization kasi nakita nga natin sa generation we have 3 major players lang eh paano pag nawala ang 1 iyong sister company din ang makikinabang. PAg halimbawa nag-outage tapos tumaas ang WESM prices, kaya legitimate iyong mga accusations na may cartel and collusion within the generators.</p> <p>SAMUEL LEYNES, General Manager (FICELCO): In collaboration with the issue on supplier, there are 119 ECs , kung tutulungan ng gobyerno, etong mga DUs na magkaroon ng generators or power generation we have already the distribution hawak na ng ECs bigyan lang on what terms , a grant na humawak ng sarili nilang planta, 119 natin major players na iyan. DO you think it will be logical ? Bakit maghahanap pa tayo? We have already this capacity, already the ECs andoon na iyon, you have the structure, planta lang iyang ilalagay dyan. IF we have to wait for that kung kalian. SO in any case ang sinabi ni GM Cuasay, huwag nang daanin sa CSP, palitan natin. Kung ilalagay natin sa CSP iyong green energy or the renewable eh bakit pa natin binibigyan ng preferential treatment. Or a guaranteed price for that. SO kung papasok sila sa CSP huwag na nating bigyan ng preferential treatment because GM Cuasay is asking na tanggalin na iyon. It is also logical kasi mas mababa siya sa SAGR.</p>	<p>CSP/Power Supply Contract</p>	
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	<p>WENDELL BALLESTEROS (PHILRECA): I agree to the comment of CASURECO II na ang isang major problem natin ngayon is the availability of generation. Lyon ang nakakatrigger ng unwanted behaviour of the industry dahil hindi sufficient technically as per standard n terms of the available capacity in a certain grid particularly ang nangyari sa Luzon. Second issue there is another thing is that it might not be an amendment to EPIRA if there is so but on the monitoring and strengthening of the maintenance of plants . Ang nag-cause ng malaking spike dito is assuming that Malampaya pipeline was scheduled for maintenance so dapat may tumitingin na kung mawala ang Malampaya sino ang puedeng tumakbo in order to respond to the capacity requirement of the grid. Pero at that point in time may mga nag-off din na mga planta who are not scheduled. There are a thousand reasons to say na nag-off lang kasi merong nasirang ganito, kasi di kami pinag-off ng elections. Palagay ko iyong isang bagay sa implementation that we need to focus in order to mitigate or arrest possible repetition of this scenario. Dahil sinasabi nga the market driven is okey ang sinasabi ngayon is may price manipulation. Those things are difficult to prove, business driven na nga. There is another mandate of every industry player , ikaw kung may prankisa ka, there are conditions for you when you were issued a franchise. So titingnan natin as a rule, and at the same time in the WESM rules , siguro i-review when do they declare a market failure. Baka kulang nag ibang conditions para mag-issue sila ng price ng administrative price hindi magdidictate iyong market kasi sa laki noon. What other things siguro isang concern niya ay price cap. We know na reduce ng P32. Given ang P32 di namin alam kung saan nanggaling and calculation nagging P32 ang cap and yet malaking issue na ang P62. Ngayon na-experience natin ang spike na iyon because somebody bidded at P62. SO siguro titingnas sa implementation well of course market driven there is somehow a role supposed to be at the government pero nandito or nadelegate somewhere else halimbawa sa spot market there are rules self-governing iyan because the PEMC Board are players in the industry. But again siguro titingnan natin on how we are able to mitigate those others unwanted behaviour of the industry.</p>		
<p>DEON JAMES DECORP</p> <p>Effective monitoring and actions by ERC, or any other body?</p> <p>As part of the PEMC, myself, we wanted it but we do not have the teeth to do anything about it, it's ERC. But if ERC don't monitor so we monitor and ERC and the power do</p>		<p>EPIRA Chapter IV Regulation of the Electric Power Industry</p> <p>Chapter II. Organization and operation of the Electric Power Industry Section 6. Generation Sector ERC to determine market abuse</p> <p>Section 6, last paragraph</p>	<p>Only requires submission of financial statements?</p>

<p>it together and also letting on the market mechanism of checking it then nothing happens. And part of the problem is even if market abuse is determined, it is difficult to prove it , fix it is difficult to change it takes years. At the time, people forget about the issue and moves on. So it's not really an issue but the management of market abuse.</p>		<p>The ERC shall, in determining the existence of market power abuse or anti-competitive behaviour, require from generation companies the submission of their financial statements.</p>	
<p>DEON JAMES DECORP</p> <p>DOE has to look at it in terms of percentages, 30%-30%, and even in the DUs side, it shouldn't be a huge monopoly DU that dictates or causes an issue and pass to smaller DUs. Most of these smaller DUs cannot find generation capacity because the biggest one gobble them up so we started to find competitive protest. So someone has to be done about to make it a democratic in terms of level playing field.</p>		<p>EPIRA Chapter IV. Regulation of the Electric Power Industry Market power abuse Section 45 (Cross Ownership, Market Power Abuse and Anti-competitive Behavior)</p>	<p>Are levels of ownership in all sectors appropriate to prevent monopoly behavior?</p> <p>To be revised</p>
<p>RIC B. ZAMBALES, TSD Manager (PALECO)</p> <p>The 10-year period (now going 14 years) of giving subsidy to those consumers belonging to lifeliners is more than enough as they should now pay what they actually used in fairness to the DU/ECs and its consumers.</p> <p>Nasa EPIRA po na dapat iyan ay 10 years ang implementation. Noong 2011 it was extended.</p>	<p>WENDELL BALLESTEROS (PHILRECA): I am not saying I agree or disagree, I just want to apprise the body how that extension transpired in 2011. It was really a concern because it was Congress that extended it. There are a lot of concerns that have been raised that with the present economic situation of the country the less privileged should be continued to be given some sort of assistance. And that is in terms of subsidy and lifeline rate. When we tried to look at it particularly at the House we tried to somehow to amend how the ERC has promulgated the mechanism that could allow in terms of cross-subsidies. It is there that we found there are some problems in terms of implementing that because they just implement it in terms of percentages level of consumption. We were proposing that we have to involve or take into consideration the assessment of the DSWD into the determination of who are really qualified to be lifeliners. But because of the nitty-gritty complexity of the determining that and the need of a good database nahirapan gawin iyon. We were able to come up with a proposal but when it reached the Senate nagkaroon ng problema doon. There are more issues.</p>	<p>EPIRA Chapter VIII General Provisions Section 73. Lifeline Rate</p> <p>Section 73. Lifeline Rate Under Chapter VIII General Provisions</p> <p>A socialized pricing mechanism called a lifeline rate for the marginalized end-users shall be set by the ERC, which shall be exempted from the cross subsidy phase-out under this Act for a period of ten (10) years, unless extended by law. The</p>	<p>Strict compliance with said provisions to finally stop its implementation</p>

	<p>Then a resolution that was being raised in terms of the calculation of the computation to address really those who are really in need to be subsidized and at the end of the day they just okay, extend na lang natin muna. Because the bigger picture is that there are some Filipinos that needed to be subsidized by the others. SO siguro sa process na iyan para ma-address ang mga issues kanina it's more on the review of ERC mechanism in terms of the application of the lifeline subsidy kasi dito tinatamaan pa rin pati ang VAT component. So it became so complex na mukhang mali iyong proseso dahil sinubsidized mo na siya pati VAT component na dapat sasagutin niya, sasagutin mo pa rin. Maybe it's not an amendment of the law itself but somehow on the implementation of the rules or the regulations that have been approved by the ERC on how we are going to apply the lifeline subsidy.</p>	<p>level of consumption and the rate shall be determined by the ERC after due notice and hearing.</p>	
<p>SAMUEL LEYNES, General Manager, FICELCO</p> <p>We have already a structure napuedengtumulongsa power problem ng Pilipinas. The generation rate mataas because the contract was abused or not studied carefully. In case sa probinsiya naming masyadong mataas and the generation rate they are charging on the DUs so siguro we have to start from the bottom and come up with a standard form of a contract . Halimbawa nag-usap kami ng mga general managers, we cannot even start where we will start. We cannot even define the force majeure, its definition is different in other contracts. So I think we should make some in depth study of this IPP contract</p> <p>I understood but halimbawaang DPWH, may standard contract sila. Magkakaibaang contract ng IPPs sa DUs. Can we have a comprehensive</p>		<p>Issue on Contract</p>	<p>Suggest to have a comprehensive contract or template for all ECs. DOE (ECT</p>

contract template for solar, for hydro, the same standard terms.

SAMUEL LEYNES, General Manager (FICELCO)

After EPIRA implementation, how come the rate being charged in the Philippines is one of the highest in Asia. But if you ask Vietnam, they are charging about 1/3, and Singapore and Indonesia, just only a half of the rate that is being charged in the Philippines. So are we moving forward or backward. Because this is the problem on rate, masyadong mataas.

ED FERNANDEZ (DOE):

I think we should go back doon sa financial standing ng NPC. Before EPIRA, sinasabi kasi natin hinid sinasubsidize ng government ang rate. IF you are going to review the performance of NPC lots of times tumatakbo siya ng patalo. So meaning di siya gaining. What we are experiencing now was what has been experienced by NPC before. Now naka-peg, regulated siya. And then blended ang kanyang computation. During summertime di tumatakbo ang hydro but then ganoon pa rin ang rate. IF only we were able to provide a certain leeway to NPC to operate at a certain rate na may konti siyang gain hindi natin na-privatize. But then we were always asking for a lower rate. And so what happened NPC did not sustain its operation.

Now other issues, collection of bills , maraming di nagbabayad. And they wanted to disconnect but they could not do it. So if you have a certain power generating business you are not earning and you are not being paid, nagiging sacrificial lamb ang NPC. SO we have to look back in the operation of NPC before.

WENDELL BALLESTEROS (PHILRECA):

Parang addendum lang ito. Actually ang nagiging cost nating ng power before the EPIRA, hard to admit but it is the reality, politicized. Kaya marami tayo that will affect in the winning position of any leader or any politician talgang kasama sa hindi mo itataas. SO there are a series of deferment of costs of real costs. Eto nga iyong paluygi na ang NPC. Tama ang sinabi ni Dr. Ed. One other thing, to compare rate with other neighboring countries, we have to take a look at the cost they have. Makikita natin ang laki ng subsidy ng government. Dito tayo heavily taxed. Iyong tax gusto sana nating tanggalin yan pero may problema natin ay ang government major source of revenue. Kaya imagine if they lose P30.0 billion a year from the 12% VAT. We have these proposals in Congress but pagdaitng sa maapektuhan ang revenue ng government there is a very tight room for a certain right of legislation to Congress. Hindi naman natin sinasabi na lagi na lang tayong exempt but we are trying to rationalize iyong heavy tax on electricity. We were proposing a uniform 3% with some presentation at the basis. Para lang masabi natin na we don't just want to be recipient of dole outs of the government. We want also to share on the development of the country but not at that level na 12%

<p>RENE FAJILAGUTAN, General Manager (ROMELCO)</p> <p>With regard to the issue on power supply, we observed that in this discussion we should have to focus on the cost of power. Siya ang kabuuan ng, the effective rate DUs in small island grids.. Mostly the power cost accounts for about between 65 in some area to almost 80% , in ORMECO is almost 90%. That's the component of the power cost. So, it means we have to address this rate component. So dapat ito ang if you have to amend the EPIRA we should have to address this issue. If we can reduce the cost of power the generation cost to at least 50% or 55% in the isolated grids it is a lot of savings to the consumers. SO iyon ang dapat. We found out that the SPUG area</p>	<p>kasi tanggalin mo lang ang 12% na VAT sa generation and there is a VAT on distribution. Sa transmission nawala ang VAT but it was replaced in lieu of franchise tax at 2% . Kung tanggalin ang VAT automatic bababa ang rate. Iyong trigger point nito is because of what happened last December sa main grid. It's not only MERALCO that was affected because we were called by the ERC commissioners together with Rannie of PEPOA an pinag-usapan ito. Ang hardly hit as MERALCO because a lot of contract ay supplied ng fuel to the Malampaya . May impact sa ECs to those that are participating directly with the market because of the clearing price sa market., epekto iyon ng bidding ng P62.00 /kwh. So ito ang siguro tinitingnan nila because there are some case so that some of the provisions of the EPIRA should be declared unconstitutional. SO I think that's the direction tinitingnan natin. There are things that need to be reviewed or amended by Congress or in the implementation as to the further dine tune there are some loopholes in terms of implementation of the EPIRA.</p>		
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will be able to reduce the cost to as much as P3.00/KWH. Nabanggit ng kanina na by using renewable energy you can effectively reduce the cost of power. But however in isolated grid, in those areas for big investor to put up their power plants for renewable energy it's not so attractive because of the economies of scale. SO we are trying to solicit the help of the government to at least provide financing to the ECs in the areas to the satisfaction of this renewable energy. SO iyan po ang nakikita naming solusyon sa mataas na kuryente sa isolated grids.

Wendell Ballesteros (PHILRECA)

As we went through the implementation of EPIRA, the EPIRA is a good one. For the information of everyone, this has passed through different congresses , I think 3 congresses before it was passed into law. But of course, at that point in time we were not yet at the implementation stage. We find it as a good law however it seems that the problem that we are encountering now is more of the implementation and some rules which were provided might be needed to be reviewed in order to arrest whatever unwanted movement of the industry. As for the overall of the law, the more

critical point I see as needs to be looked into by congress in terms of amendment is that it might not be EPIRA but may be some other laws more particularly on the VAT issue. Because as you look at it, the VAT right now is at 12% added to the bill of each and every customer of electricity ay malaking bagay. But again we encounter a strong opposition on this on the side of the government because as what we read in the newspapers , they're claiming that if the VAT on electricity is being removed they will be losing about P30.0 billion a year. So iyon an isang problem natin dito and if you look at the Philippines compared to other Asian countries, marami silang subsidies sa electricity. Because they know that electricity is a very important component in terms of development .

Second thing is that maybe you have to take a look at not necessarily at amendment of the EPIRA as mentioned by the previous speaker, but tingnan natin how ERC exercises its power. In terms of approval of all filings, natatambakan sila dyan. Hindi naaaprobahan nagiging historical na ang information field sometime bago ma-aprobahan, In terms ditto, it's not the law as I see

General Comment: So generally, we have to take a look on it in a way that it might not be an amendment of the itself but somehow a review of the rules and regulations and the different agencies that are empowered to implement this law.

it. That need to be amended but on the implementation.

Even the WESM rules , it was mentioned earlier the prudential requirements of 63 days. There was an approved PEMC Board lowering to 35 but na-ipark doon because there was a requirement to revise first the WESM rule in terms of the prudential requirement. So as of now it not yet implemented, what is being implemented is the 63 days. WE cannot contest that even at the very start of propagating these rules.

**RODOLFO A. PLOPINIO, BOD
Director (OMECO)**

RANULFO OCAMPO (PEPOA)

Another item is that I would like to discuss, this is somewhat connected to direct connection and this is on the repealing clause of the EPIRA particularly Section 80 of the EPIRA, this the Applicability and Repealing Clause. These Republic Acts pertain to the PEZA law, the PEZA Charter and its amendment. What these

repealing clause is referring to is the franchising power of the PEZA. As you know in the EPIRA, the franchising power now deemed reverted back to Congress. So all franchises are now should be legislative. But there was a typographical error in this repealing clause instead of 11 (c) that should be repealed that was provided it should be 11 (d) because 11(d) refers to the franchising power law of the PEZA. Because of this typographical error PEZA is still issuing franchises. They are capitalizing on this typographical error. I don't know what is the stand of DOE on this.

EMMANUEL TALAG(DOE): Sa kaso ng OMECO, iyong kontrata was consummated prior to EPIRA. Di ko alam ang background ng contract with 3I. ETo ngayong kaso sa MARELCO, this is like a test ground on how firm is the government particularly the DOE in its implementing the role on ensuring reliability of power in the off-grid areas particularly in Marinduque. So tingnan natin kung ano kasi forMarinduque we asserted na ang sabi namin is we can no longer allow the member-consumers of Marinduque to suffer. The DOE is asserting na and approving the intention of MARELCO to proceed with a new CSP to have a new NPP.

EMMANUEL TALAG (DOE):

Nasa power supply agreement ho ninyo. There should be certain provision, like doon sa nagging problema ng Marinduque, Tablas at Romblon, part kasi there should be performance bond. Pero di lang ako familiar bakit di nagamit ang performance bond saluhin iyong the inability of 3I to deliver power. Kasi iyong performance bond should have been used to rent temporary generator sets or just provide power na hindi ma-ideliver ng NPP.

What's the role of the DOE regarding assurance of power supply in off-grid areas, especially the winning bidders in CSP, the IPPS. Several off-grid areas experienced the winning bidder na hindi po nagtutuloy ng performance nila. Sa amin po sa

		<p>OMECCO, meron klaming IPP for the last 8 years , walang supply pero buhay pa an gaming kontrata. SO umabot na kami sa kaso. What is the specific provision ng DOE to penalize this IPP? Can we appeal that this IPP na di nag-perform nana lo sa CSP, 8 taong di nagbibigay ng kuryente mananatili bang buhay ang kontrata. Puede bang i-ammend iyon ng specific penalties ng mga IPPs na ganoon na?</p> <p>Follow-up po: Specifically if nanalo ulit ang isang IPP and they will not perform what is in the CSP, anong specific penalty na, sa court na ba iyon Ma'am?</p> <p>Franchising power of PEZA</p> <p>Section 80, 2nd paragraph (Applicability and Repealing Clause)</p> <p>The provision with respect to electric power of Section 11(c) of Republic Act 7916, as amended, and Section 5(f) of Republic Act 7227, are hereby repealed or modified accordingly.</p>	
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