Market Surveillance Committee Issues Paper on the Philippine Retail Competition and Open Access (RCOA) Market

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This Report is prepared by the
Philippine Electricity Market Corporation –
Market Assessment for the
Market Surveillance Committee

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1.0 INTRODUCTION

1.1 The RCOA Market

With the implementation of the Electricity Power Industry Reform Act of 2001, also known as the EPIRA Law, the power industry had been transformed into a more competitive and transparent sector. From a monopolized set-up, Section 30 of the EPIRA allowed for the establishment of the Wholesale Electricity Spot Market (WESM) where the interplay of four sectors – Generation, Transmission, Distribution and Supply / Consumer – is envisioned to produce economically optimal outcome.

To further the competition in the market, which main goal is to achieve reasonable electricity costs in the country, Section 31 of the EPIRA mandates the establishment of the Retail Competition and Open Access (RCOA) market. This enabled Customers, from the big loads down to the household level, to choose their electricity supplier, thereby empowering end-users and, at the same time, encouraging the entry of new market players.

Figure 1 below provides the actual timeline of RCOA Implementation, which encompasses significant policy issuances by the Department of Energy (DOE) and Energy Regulatory Commission (ERC), paving the way for the implementation of the RCOA market:

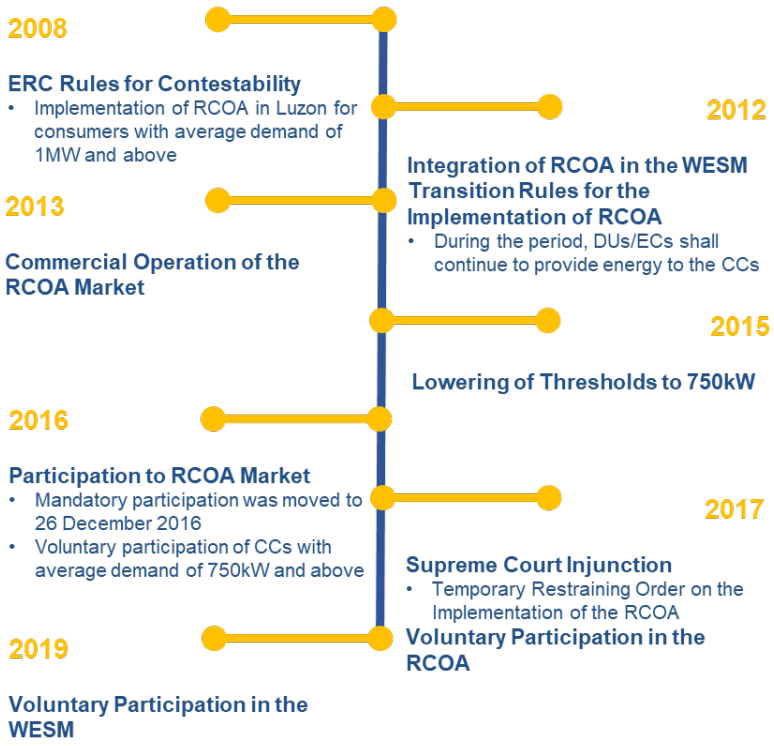


Figure 1 Timeline of RCOA Implementation

Since the issuance of a Temporary Restraining Order (TRO) by the Supreme Court on 22 February 2017[1], the vision to fully implement the RCOA market has been put on hold, effectively restraining the mandatory participation of customers with monthly average peak demand of 750kW and below. Thus far, the effective contestability thresholds set in the market are only: 1) 1MW and above; and 2) 750 – 999kW average peak demand, which participation are currently voluntary.

The major participants of the RCOA market can be categorized into two (2):

1) Contestable Customers (CCs) are end-users of electricity who have been given the power to choose their Supplier through a Certificate of Contestability issued by the ERC when their average monthly peak demand for the previous twelve (12) months reached the market thresholds of 1MW and above, and 750kW and above[2].

   CCs can further be classified under two (2) categories:

   - Industrial Customers are end-users undertaking processing, production, or assembly of goods, including such diverse industries as manufacturing, mining, agriculture, and construction.

   - Commercial Customers are end-users that are service-providing and are public and private facilities.[3]

2) Suppliers are the entities responsible to secure the energy demand of its counter-party CCs. They can further be categorized into three[4]:

   - Retail Electricity Supplier (RES)

     As required by the DOE, RESs are required to register in the WESM as Direct WESM Members. Likewise, a license to be issued by the ERC shall form part of the requirements in participating in the RCOA Market. To date, the following entities are allowed to be a RES[5]:

     a. A Generation Company or Affiliate thereof

[1] Supreme Court Notice of Temporary Restraining Order (TRO) for G.R. No. 228588 dated 22 February 2017
[2] **ERC Resolution No. 10 Series of 2016** – *A Resolution Adopting the Revised Rules for Contestability* dated 12 May 2016;
[3] United State Environmental Protection Agency. (13 March 2018). *Electricity Customers.* https://www.epa.gov/energy/electricity-customers
[4] **ERC Resolution No. 11, Series of 2011** – *Revised Rules for Issuance of Licenses to Retail Electricity Suppliers*.
[5] **DOE DC 2017-12-0014** – *Providing Policies on the Implementation of Retail Competition and Open Access (RCOA) for Retail Electricity Suppliers (RES) in the Philippines Electric Power Industry* and **ERC Resolution No. 05, Series of 2016** – *2016 Rules Governing the Issuance of Licenses to Retail Electricity Suppliers and Prescribing the Requirements and Condition Therefor*

b. An Affiliate of Distribution Utility
c. Retail Aggregators
d. An Independent Power Producer (IPP) Administrator
e. Any prospective Generation Company[6]
f. Any other Person authorized by the ERC to engage in the selling, brokering or market of electricity to the Contestable Market, consistent with EPIRA and its implementing rules and regulations.

The DOE and ERC likewise provided other requirements for participation as RES in the RCOA market, such as:

a. Compliance with the requirements of the Business Separation Unbundling Plan (BSUP)
b. Submission of projected 5-year financial statements and business plan
c. Submission of Retail Supply Contracts
d. Adherence to Credit Standards
e. Establishment of escrow accounts for cash deposits
f. Website linked to the DOE and ERC websites
g. Submission of quarterly reportorial requirements

Along with the requirements above are prohibitions for the RES, which include, among others:

a. Selling of its capacity to its affiliates, which is limited to 50% of its total capacity;
b. Sourcing of supply from its affiliate generators, which is likewise limited to 50% of its total demand.

A RES license has a current term of five (5) years and shall be subject to renewal considering the grounds for non-renewal of licenses set forth by the ERC.

- Local Retail Electricity Supplier (LRES)

  An entity that is either a Distribution Utility (DU) or an Electric Cooperative (EC) which intends to provide energy demand to a customer within its franchise area.

  The following requirements are needed to be complied with, in order to become an authorized LRES[7]:

  a. Accomplished Information Sheet
  b. List of affiliates and corresponding business addresses

[6] A **Prospective Generation Company** shall refer to any person or entity which has a power generation project that is undergoing construction or that is planned to be constructed which project is included in the DOE's Power Development Plan (PDP) as committed power project.
[7] **ERC Resolution No. 01, Series of 2011** – *Revised Rules for Issuance of Licenses to Retail Electricity Suppliers*.

c. List of directors and officers
d. Other information or documents that the ERC may require

- Supplier of Last Resort (SoLR)[8]

  An entity that provides last resort supply to Customers who suddenly find themselves without a RES/LRES. The qualifications to becoming an SoLR are as follows:

  a. Capability to participate in the WESM;
  b. Geographic proximity;
  c. Financial stability; and
  d. Willingness to provide SoLR service.

  It should however be noted that both the LRES and SoLR are exempted from securing RES license, provided that they secure authorization from the ERC to operate.

1.2 Initial Switching and Registration Procedures

In 2012, the DOE released a Department Circular requiring CCs and Directly Connected Customers (DCCs) to register in the WESM as either direct or indirect members. More commonly known as the "initial switch", this is when a customer certified by the ERC to be contestable, switches from being a captive customer by the Distribution Utility (DU) or Electric Cooperative (EC) in its area to officially participating in the RCOA market through its registration as a WESM member. This empowers the consumers to have a choice for its supply of electricity and further enables them to look for a tailor-fit offer from various Suppliers at the most economical rate. However, participation in the RCOA market has been voluntary since 22 February 2017, due to the TRO issued by the Supreme Court.

For CCs, the following requirements are needed for registration purposes:

- Certificate of Contestability
- Retail Electricity Supplier
- Retail Metering Services Providers
- WESM Membership (direct or indirect)

If a CC opts to register as a direct WESM member, the procedures set forth in Section 2.5 of the WESM Manual on Registration, Suspension and De-registration Criteria and Procedures Issue 4.0 shall be applicable. As of writing there are still three (3) CCs that are categorized as direct WESM members – these have existing contracts directly with Generator Trading Participants as permitted by the DOE[9].

[8] **ERC Resolution No. 35, Series of 2006** – *A Resolution Adopting the Rules for the Supplier of Last Resort (SoLR)*.
[9] Section 9. Directly Connected Customers. DOE Department Circular No. 2012-11-0010 dated 28 November 2012.

Figures 2 and **3** below provide the steps for a CC to become part of the RCOA Market and the corresponding timeline of procedures, respectively.

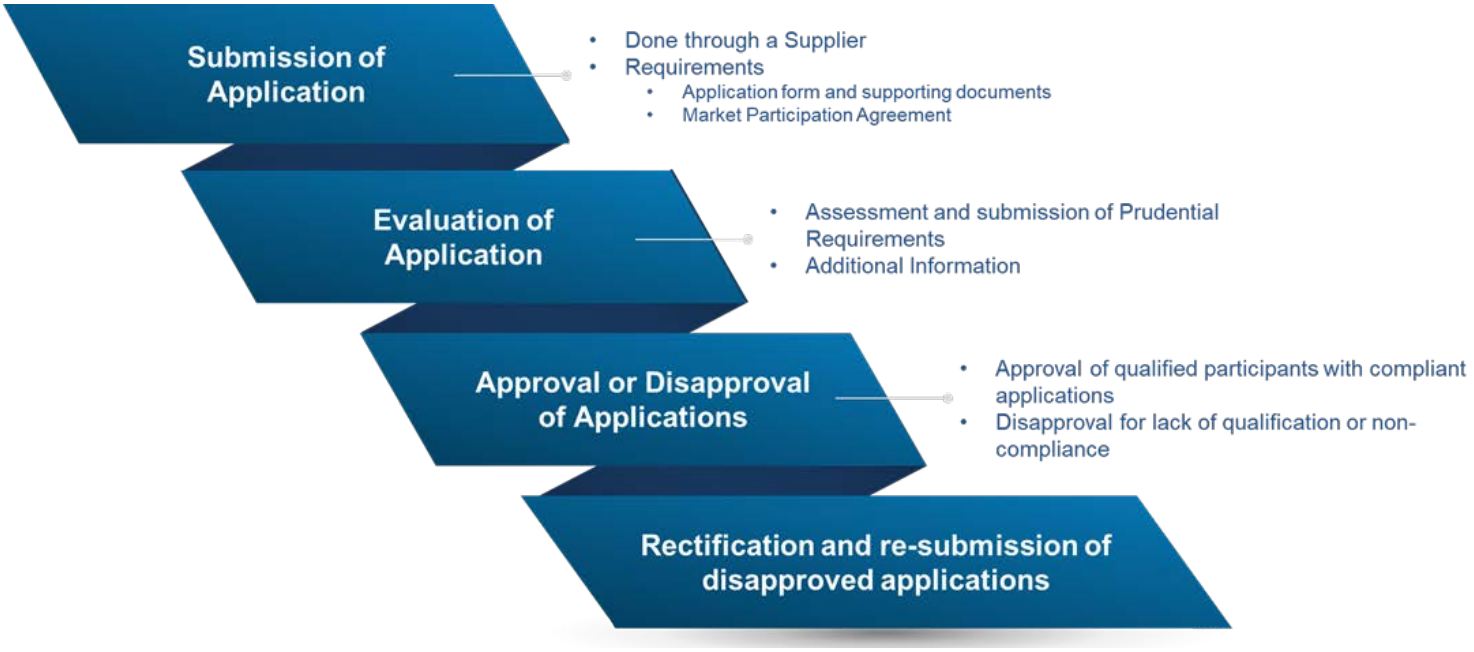


Figure 2 Registration Procedures for CCs

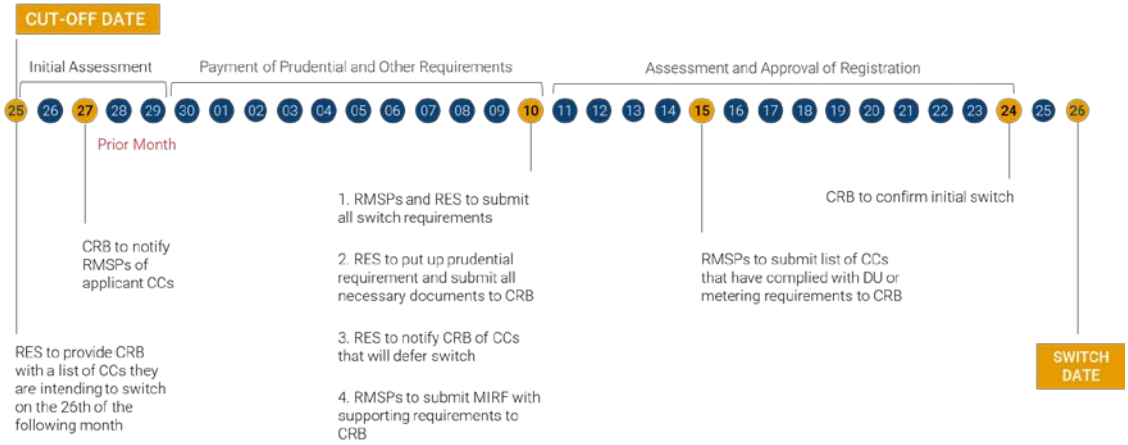


Figure 3 Timeline of Procedures for Registration and Switching[10]

Figure 4 below shows the registered CCs in terms of retail activity, location, and thresholds as of September 2020.

[10] IEMOP Presentation Material for Advance WESM Training

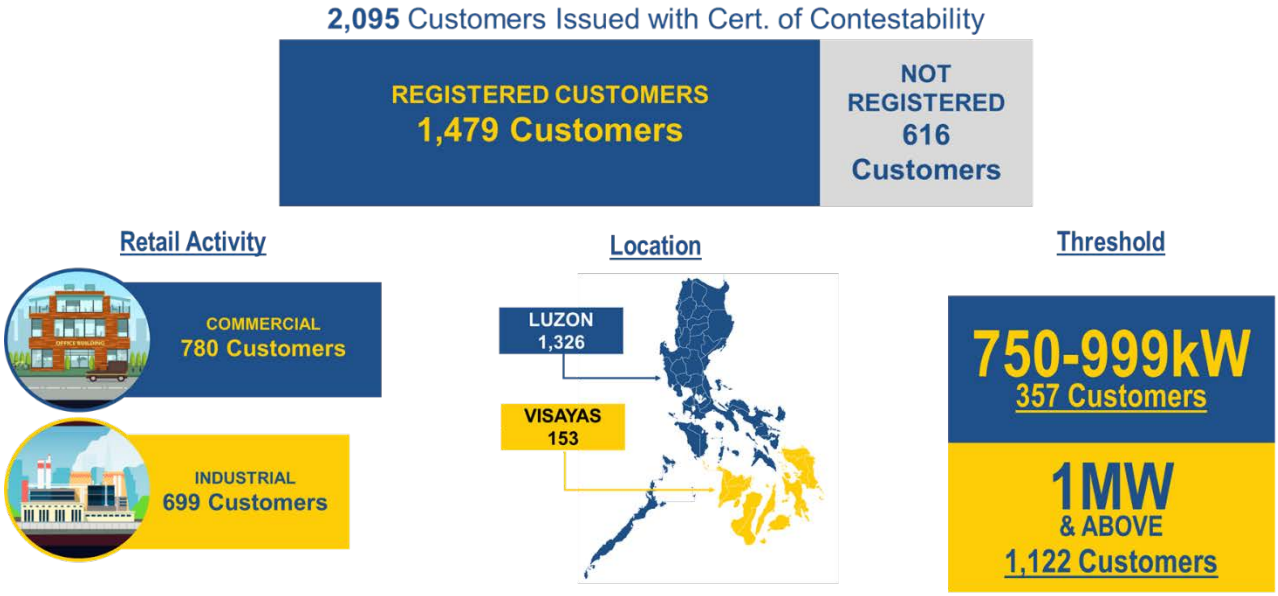


Figure 4 Registered CCs based on Retail Activity, Location and Thresholds

On the other hand, RESs are likewise required to register in the market as direct WESM members in order to deliver services to the CCs and to be their representative in market transactions for the wholesale level. The procedures for application and the requirements thereto are illustrated in **Figure 5.**

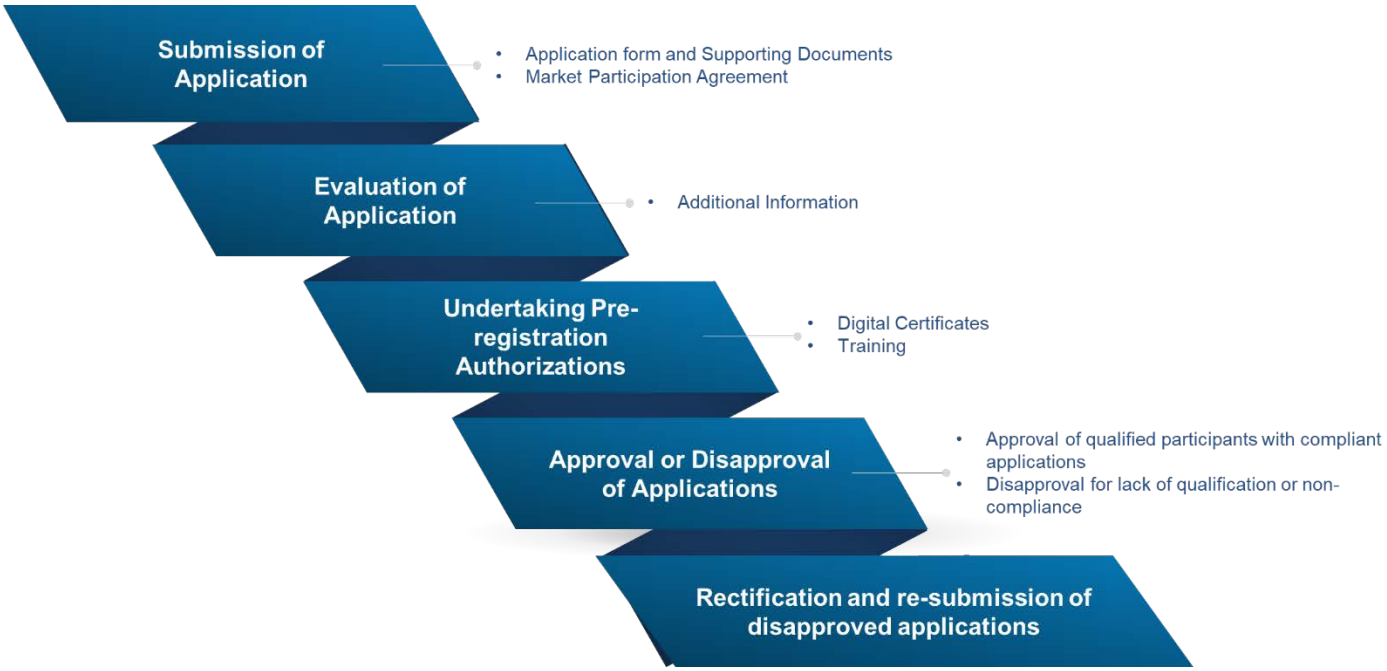


Figure 5 Registration Procedures for RES

Among others, RESs are required to submit the following general requirements in order to fully participate in the market:

- Company permits and Authorizations
- Service Agreements with the DUs/ECs, transmission services provider and metering services provider
- Supply Contracts
- Prudential Requirements
- Banking arrangements with WESM electronic fund transfer providers

Figure 6 shows the number of participants under the three (3) classification: RES, LRES, and SoLR.

Category	With license / Authority	Registered	With CCs Served
RES	42	33	30
LRES	25	14	4
SoLR	47	25	0

Figure 6 Statistics of Suppliers

1.3 Switching process[11]

In view of the procedures for the initial switch, the switching of a CC from one Supplier to another is a particular procedure that further empowers and affords CCs of having the flexibility in choosing its new Supplier once a Retail Supply Contract (RSC) between a CC and a Supplier ends. This exercise may subsequently increase the competition in the market as it will provide an avenue for Suppliers to offer low prices in order to gain consumers. The pre-requisites for switching from one Supplier to another are as follows::

- Valid new supply contract; or
- Existing and valid wheeling service agreement with the relevant Distribution Utility (DU) or Network Service Provider (NSP) and a metering services agreement with a registered Retail Metering Services Provider (RMSP); or
- Supply contract is terminated or has expired.

[11] Section 3. Switching Procedures. Retail Market Manual on Market Transactions

Upon satisfying any of the criteria above, a CC should complete following requirements on or before the 10th of the month to enable the switch:

- Signed Switch Request Form
- Retail Supply Contract
- Prudential Requirement
- Certification by DU on the coverage of Contestable Customer as Indirect WESM Member in the DWSA
- Proof of Compliance with Financial Obligation with Incumbent Supplier
- Assessment and approval of documents shall be done prior to regular switch

It is worthy to note that Section 2 of DOE Department Circular No. 2013-07-0013[12] requires for a "Customer Switching" provision in supply contracts which allows CCs to pre-terminate its Supply Contracts with the RESs, should there be a competitive contract package that is more responsive to the needs of the CC. The only way for the incumbent RES to retain the CC is to match the superior offer of the competing Supplier. However, applicable fees such as early termination fees or exit fees may apply in this instance, which may hinder the CCs from switching.

With regard to the timeline for switching, the information provided in **Figure 3** for the initial switch likewise applies for the switching of CCs to other Suppliers. So far, from 2014, there had been 476 switches from one Supplier to another, most of which occurred every February and December in relation to end of contracts. **Figure 7(a)** provides for the year-on-year comparison of total switch that occurred for each year while **Figure 7(b)** provides for the month-on-month switch rates over years of operation of the RCOA market. It may be observed that there was a surge in switching activities from 2018 which may have been brought about by the ending of contract terms for RSCs that took effect starting 2013. On another note, 2020 posed as the year with the highest switch activities that occurred in the market.

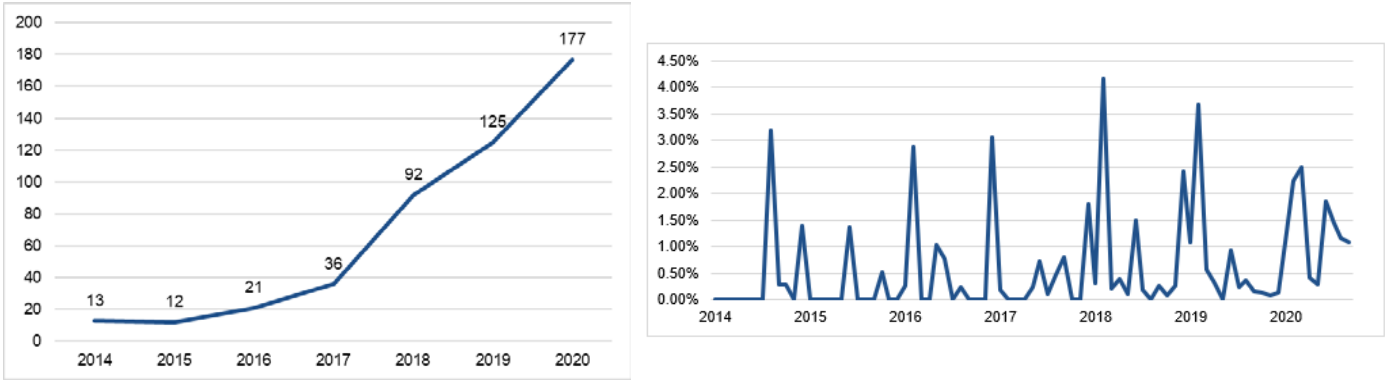


Figure 7 (a) Year-on-year Comparison of Total Switches; (b) Month-on-month Switch Rates

[12] **DOE DC 2013-07-0013** – *Providing Supplemental Policies to Empower the Contestable Customers under the Regime of Retail Competition and Open Access (RCOA) and Ensure Greater Competition in the Generation and Supply Sectors of the Philippine Electric Power Industry*

Meanwhile, **Table 1** below shows the statistics of the number of CCs which experienced 1, 2 or 3 times of switching from one Suppler to another.

Table 1 Switch Permutation

Number of Switch Experienced	1	2	3
Total Number of CCs	318	67	8
Percentage out of the Total Registered CCs	21.5%	4.53%	0.54%

Over the course of 7 years of operations of the RCOA market, the total switching activities can be interpreted to be very low, which signals low opportunity for new Suppliers. With these results, it can be construed that CCs tend to stick with its current Suppliers, thereby resulting to very low switching activities in the market. The latter portion of the study will aim to shed light on the behavior of the CCs surrounding this low switching rate, which averaged at only 0.61% for the entire operation of the RCOA market.

1.4 Statistics

This section provides for the current market situation of the RCOA. Based on ERC data, there were a total of 2,095 qualified electricity end-users issued with the ERC's Certificate of Contestability. Of these, 1,479 Contestable Customers or about 71% have registered in the market as of the September 2020 billing month. The remaining 29% are yet to participate in the market. **Figure 8** below shows the growth of participation in the market over the years since 2013.

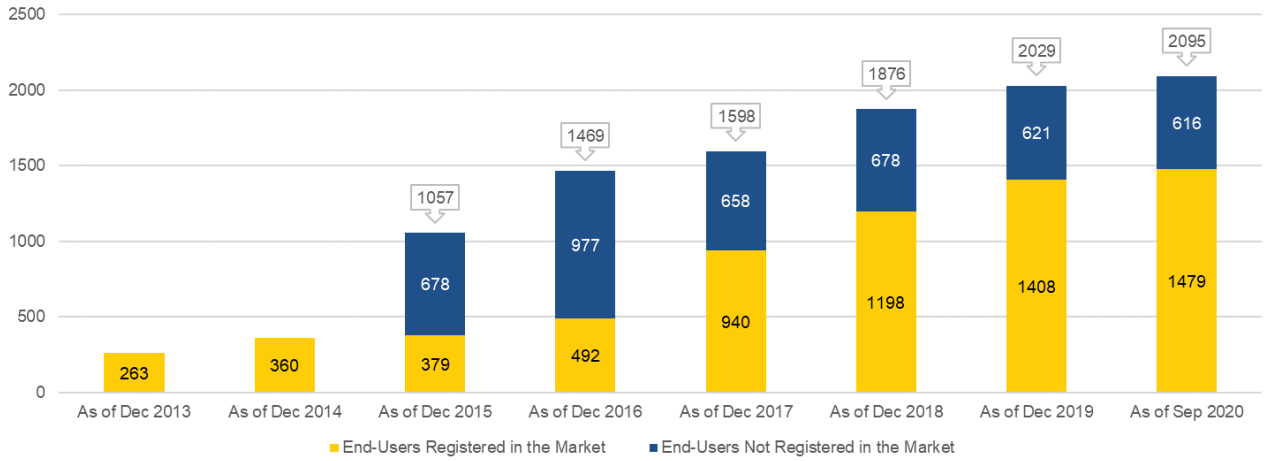


Figure 8 Growth in Market Participation

With regard the demand of the CCs and relative to the growth of CC-participation in the market, **Figure 9** below presents the energy consumption of CCs by industry type, for the past four (4) years where growth in demand is evident and is directly relatable with the increase in participation in the RCOA Market.

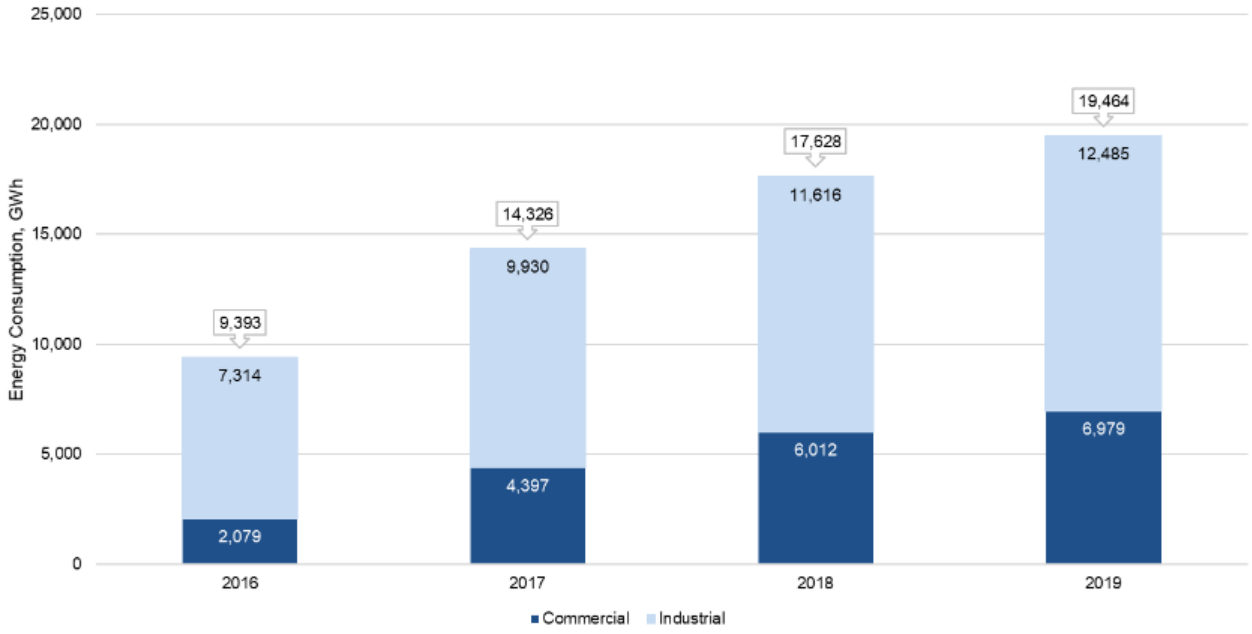


Figure 9 CC Demand Growth (2016 - 2019)

For the year 2020, the effects of the Corona Virus Disease 2019 (COVID 2019) are evident in the month-on-month total CC consumption shown in **Figure 10,** signaling that economic activities from the CCs have halted during the height of the pandemic.

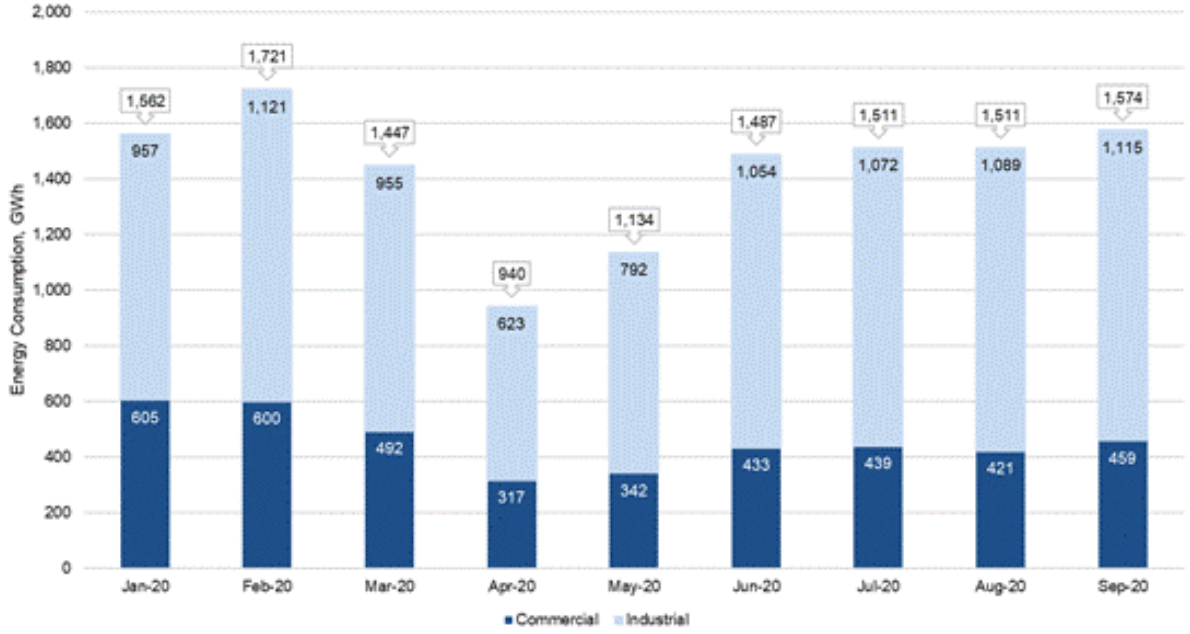


Figure 10 Month-on-month Total CC Consumption for 2020

As regards market prices, **Figure 11** provides the trend of average prices in the RCOA market, which was noted to be decreasing over time. The highest recorded average price in the market was at 4.88PHP/kWh.

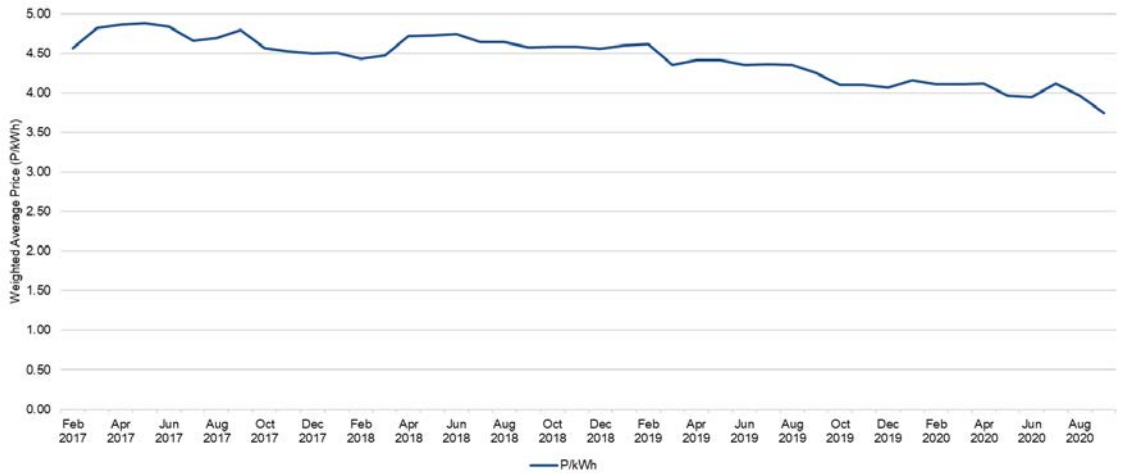


Figure 11 Average Prices in the RCOA Market

An extensive discussion on the statistics of the RCOA market can be found at the downloads section of the PEMC website (www.wesm.ph) through the MSC's Annual and Quarterly Retail Market Assessment Reports.

1.5 Issues and On-going Enhancements

In the course of monitoring market performance over the years, the MSC has noted issues encountered in the RCOA market, as provided in **Figure 12** below.

Figure 12 Issues in the RCOA Market

In order for the market to have good competition, access to information is crucial for both RESs and the CCs. In the current set up of the market, RESs have limited access to available information from ERC. In particular, the ERC information on consumers issued with Certificate of Contestability does not include basic contact information, since the same is covered by the Data Privacy Act. Meanwhile, CCs only make use of information made available on the ERC's Competitive Retail Electricity Market (CREM) Report with regard to the list of available RESs. Having a communication line between the RESs and CCs is very important to initiate the negotiations for contracting. And with this element posing challenges to the stakeholder, there is already a barrier in furthering the competition in the market.

Switching from one supplier to another is also among the considered element which lowers electricity rates and increases competition in the market. However, the current tedious and long procedures and requirements for switching as observed in **Section 1.3** may discourage participants from actively switching and opt to just remain with its current supplier. In addition, exit/pre-termination fees also pose hindrance for CCs to explore other enticing supply offers from other RESs.

These issues, among others, resulted to the low active participation of CCs in the RCOA market. To partially address the above-mentioned issues, PEMC submitted a proposal for the DOE's consideration, to reduce the barriers to entry in the RCOA Market. As of writing, the DOE has already undertaken public consultations for the said proposal and shall be subject to promulgation. The highlights of the proposal are as follows:

- Optional registration in the WESM before participation
- Require DUs to submit customer and metering information of all eligible CCs to enable easier processing of switch requests
- Reduction of timeframe for switching from 30 to 5 days

Moreover, the ERC has also taken next steps in lowering the market thresholds. The proposed new timeframe for the implementation of the RCOA timeline[13], provided in the table below, was published on 07 October 2020 for inputs of all interested parties:

	Threshold Level	Effectivity
Phase III	500 kW to 749 kW	Feb. 26, 2021
Phase IV	100 kW to 499 kW	Jan. 26, 2022
Phase V	10 kW to 99 kW	Jan. 26, 2023

2.0 OBJECTIVE OF THE STUDY

In its seven (7) years of operation, the RCOA market has undergone a number of enhancements in to provide better experience to those participating in the market. This is evidenced by the various issuances of the DOE and ERC. This Issues Paper aims to reflect on the challenges and accomplishments of the RCOA market, as this is an opportune time to assess where we are, in terms of the implementation of the EPIRA Law.

The paper also aims to review the current procedures in the market, take note of the issues and concerns of the stakeholders, and introduce and adopt the best practices and enhancements on the procedures of the market.

The recommendations provided herewith shall be submitted to the appropriate bodies and agencies for possible adoption and subsequent implementation.

3.0 REVIEW OF OTHER JURISDICTIONS

In order to adopt enhancements and seek probable solutions to the current issues in the market, this study surveyed information from other jurisdictions when it comes to the operation of their respective Retail Electricity Markets. In this section, the issues and best practices that were introduced in other markets shall also be discussed for consideration in adopting the same in the Philippine setup.

[13] ERC Call for Comments on the Proposed New RCOA Timeline. https://erc.gov.ph/ContentPage/62138.

The jurisdictions that have been considered in this study are Singapore, New Zealand, Australia and the United Kingdom. The Community Choice Aggregation (CCA) implemented in some areas of the United States of America (USA) has also been looked-into for this purpose.

Table 2 below shows an overview of the above-mentioned jurisdictions in terms of their respective Retail Market operations.

Table 2 Overview of Retail Markets in Other Jurisdictions

	 Singapore	 Australia	 New Zealand[14]	 United Kingdom[15]
Commencement	2019 (full roll out)	1998[16]	1999	1999
Integrated in the Wholesale Market	Yes	Yes	Yes	Yes
Number of Participants	Around 120,000	7,261,808[17]	Around 170,000 customer connections	21,988,745[18]

[14] Asia Pacific Economic Corporation. New Zealand: Electricity Retail Services Market Reform. May 2017. http://publications.apec.org/-/media/APEC/Publications/2017/6/New-Zealand-Electricity-Retail-Services-Market-Reform/217_PSU_NZ-Electricity-Retail-Services_Final.pdf

[15] Office of Gas and Electricity Markets (OFGEM). *The GB Electricity Retail Market*. https://www.ofgem.gov.uk/electricity/retail-market/gb-electricity-retail-market

[16] Australia Energy Market Commission. National Electricity Market: A case study in successful mircoeconmic reform. https://www.aemc.gov.au/sites/default/files/content/The-National-Electricity-Market-A-case-study-in-microeconomic-reform.PDF

[17] Australian Energy Regulator. Retail Energy Market Performance Update. https://www.aer.gov.au/retail-markets/performance-reporting/retail-energy-market-performance-update-for-quarter-3-2019-20

[18] Office of Gas and Electricity Markets (OFGEM). (July 2020). *Number of domestic electricity customer accounts by Supplier*. https://www.ofgem.gov.uk/data-portal/number-domestic-electricity-customer-accounts-supplier-excluding-pre-payment-customers-standard-variable-fixed-and-other-tariffs-gb

	 Singapore	 Australia	 New Zealand[14]	 United Kingdom[15]
Level of Concentration	Not Concentrated[19]	Moderately Concentrated[20]	Highly Concentrated[21]	Not Concentrated
Capacity of Retail Transaction	50.5TWh (annually)[22]	206TWh (annually)[23]	75TWh (annually)[24]	60TWh (annually)[25]

These jurisdictions have two (2) common practices that they employ in their respective markets:

- **Price Comparison Portal**

  Price Comparison Portals are deemed to afford consumers access to information regarding the offers from Suppliers. **Table 3** below shows the overview of Price Comparison Portals in various jurisdictions. It has been observed that vital information, such as type of consumer, number of occupants, and average consumption from the consumers are required in order to come up with a more accurate estimation of costs for electricity. From the provided information, the portal will then come up with estimates from all available Suppliers which often include:

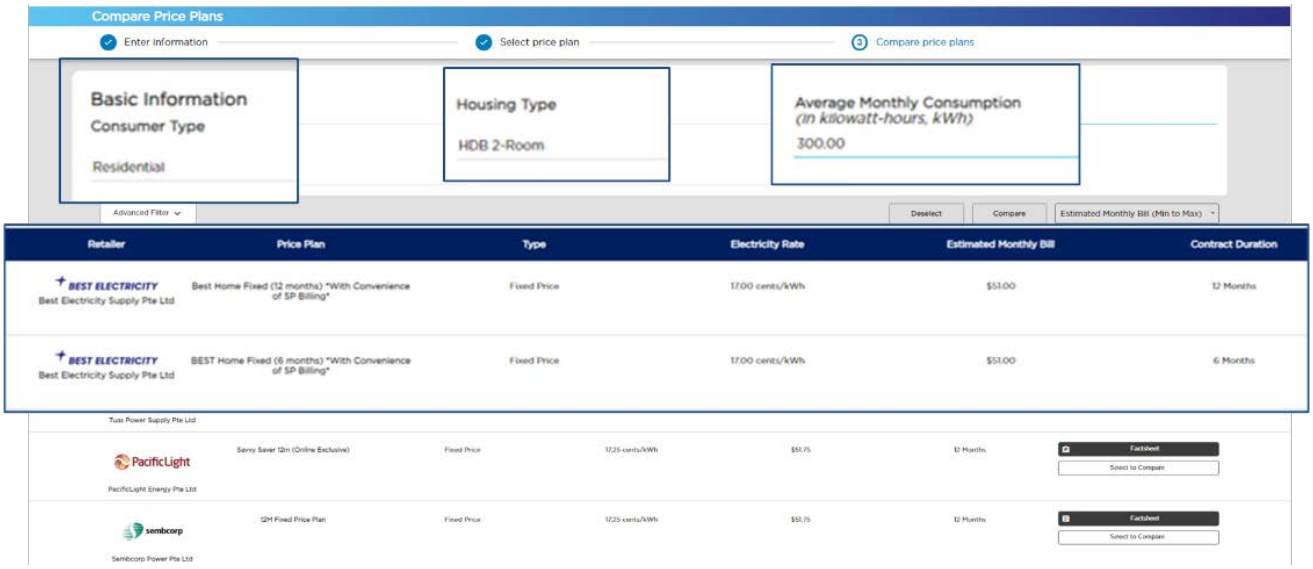
  - ✓ Name of Supplier
  - ✓ Term of Offer
  - ✓ Electricity Rate
  - ✓ Contract fine prints

  With these information made available and easily accessible, consumers are empowered to choose the tailor-fit supply of electricity from the pool of available Suppliers. There are also

[19] Energy Market Authority. (28 October 2019). *Market Share of Electricity Based on Sales*. https://www.ema.gov.sg/cmsmedia/Publications_and_Statistics/Statistics/36RSU.pdf
[20] Australian Energy Market Commission. 2020 Retail Energy Competition Review. https://www.aemc.gov.au/sites/default/files/documents/2020_retail_energy_competition_review_-_final_report.pdf
[21] Asia-Pacific Economic Cooperation. (May 2017). *New Zealand: Electricity Retail Services Market Reform.* Page 58.
[22] Statista. (25 November 2020). *Electricity Consumption in Singapore.* https://www.statista.com/statistics/627209/electricity-consumption-in-singapore/
[23] Australian Energy Regulator. (June 2020). *State of the Energy Market 2020*
[24] Asia-Pacific Economic Cooperation. (May 2017). *New Zealand: Electricity Retail Services Market Reform.* Page 15
[25] Office of Gas and Electricity Markets (OFGEM). (2019). *State of the Market*.

features in these portals where consumers can select several Suppliers and do a side-by-side comparison of them which also aids the consumers in its decision-making.

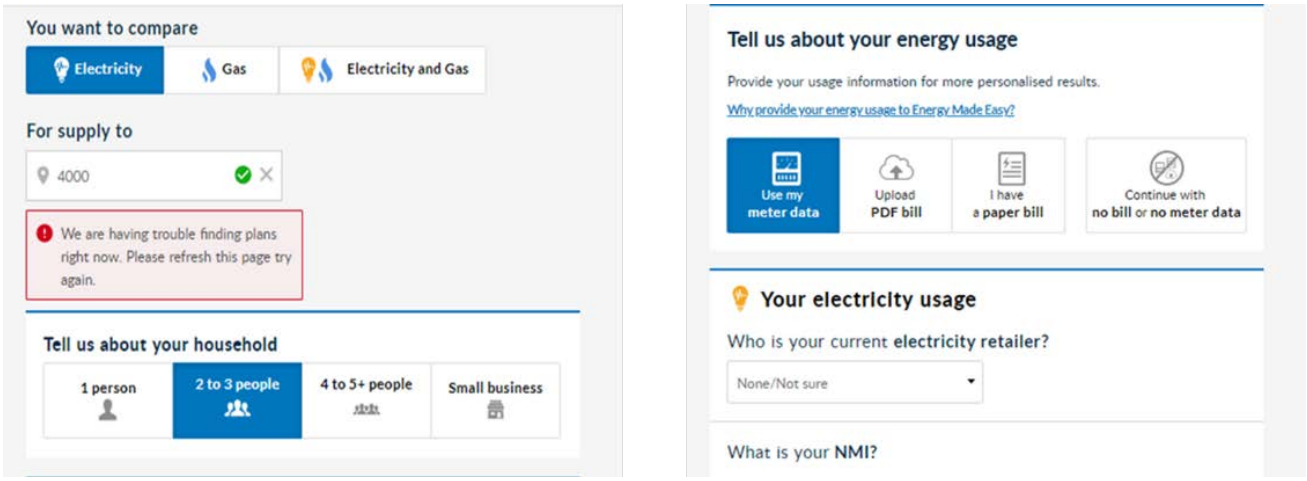
Table 3 Price Comparison Portals



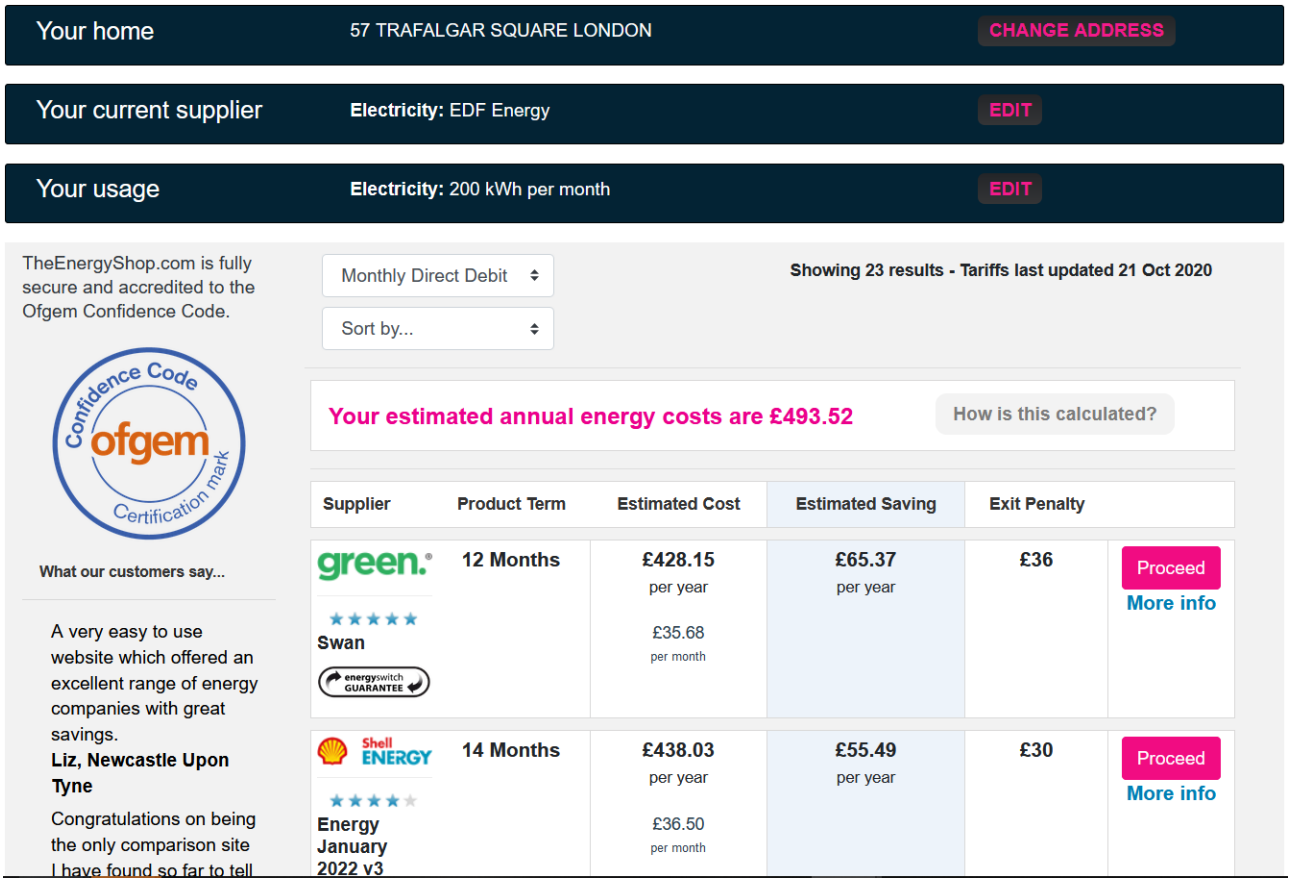
Singapore[26]

New Zealand[27]

[26] Open Electricity Market | The Power to Choose. https://compare.openelectricitymarket.sg/#/home
[27] Consumer Powerswitch. https://www.powerswitch.org.nz/



Australia[28]



United Kingdom[29]

- **Customer Survey**

[28] EnergyMadeEasy. https://www.energymadeeasy.gov.au/
[29] TheEnergyShop.com. https://www.theenergyshop.com/wayInForm#my-results

Another effective tool that is being employed in other jurisdictions is the conduct of Customer Survey. It has been observed, in the course of research for this paper, that other jurisdictions consider inputs from their consumers in their reports and even in their decision-making for enhancements of the market.

In the latter part of the study, the MSC has taken the initiative of holding a Customer Survey through a series of dialogues/consultations with stakeholders and the conduct of online survey. The inputs gathered from these initiatives are considered in the formulation of recommendations for this study.

Apparently, even if the reviewed jurisdictions have been operating their markets for more than twenty (20) years, they are still susceptible to issues in their markets. The next portion shall discuss the issues encountered/currently being encountered by the selected jurisdictions and the corresponding recommendations or ways forward for the same.

3.1. New Zealand[30]

In 2018, Sapere research group undertook an Electricity Sector Review of New Zealand which discussed, among others, the efficient operation of the retail sector. Accordingly, in 2019, the pressing issues in the New Zealand Retail Market have been reviewed by its government which resulted in the assessment of their market and the proposed recommended solutions. **Table 4** shows the summarized issues and recommendations gathered from the aforementioned references.

Table 4 New Zealand - Issues and Recommendations

Issue	Recommendation

Struggle of consumers to make their voices heard due to:
 	
• Complexity of the sector
• Lack of involvement
	• Establish a consumer advocacy council which priority is to:
	
	  • Advice the Electricity Authority on possible improvements for the market
	  • Work together with the industry participants

[30] Te Uira, Hikohiko. (21 May 2019). *Electricity Price Review*.

Issue	Recommendation
	• Ensure that regulators listen to consumers to consider their interest when making decisions or market rules that will affect them

Low Retail Competition
 	
• 23-42% have not actively participated in the market since 2002
• Hard-to-navigate price comparison portals
• Dominated market by five (5) biggest generator-retailers
• 12-19% of consumers are not aware that they have supplier choices
• Win-backs to entice back customers who intend moving retailer which discounts as a barrier to expansion. Win-backs also affords retailers to price discriminate against non-swtiching participants
	• Enhance price comparison websites
	  • Present information in more effective ways
	  • Offer easy access to data
	
	• Improve consumer awareness
	  • Require retailers to provide clear and prominent information to all consumers
	  • Identify consumers who had not switched for many years and were paying above average prices
	  • Investigate the characteristics of those who are unaware they have a choice of retailer
	
	• Streamline processes for consumers
	
	• Standardize default terms for network access as this affects the Suppliers' costs which impedes competition
	
	• Prohibit saves and win-backs
	  • Ban incumbent Suppliers to save or win-back its switching consumers within 180 days[31]

3.2. Australia

In June 2018, a Retail Electricity Pricing Inquiry was also made available to the public by the Australian Competition and Consumer Commission which went over the challenges faced by consumers and provided ways forward for the same. Also, the Australian Energy Regulator

[31] Electricity Authority. (18 February 2020). *Saves and Win-backs Code Amendment – Summary of Submissions.* https://www.ea.govt.nz/assets/dms-assets/26/26370Saves-and-Win-backs-Code-Amendment-Summary-of-Submissions.PDF

published its State of the Market Report for 2020[32] on 30 June 2020 which provided bits and pieces of current issues faced by their Retail Energy Market. **Table 5** below presents a holistic view on the issues and ways forwards for the Australia Retail Electricity Market.

Table 5 Australia - Issues and Recommendations

Issue	Recommendation
• Standing offers were no longer working as a safety net, as originally intended	• Imposition of cap on the standing offers which allowed for customers' saving between 118-181AUD for residential consumers and 457-896AUD for small business customers on annual bills.[34]
• Data currently available is of limited use to consumers and also any third party wanting to provide services to a consumer	• The application of the Consumer Data Right to the electricity sector will see opportunities for electricity usage data to be made available to consumers and, importantly, agents of consumers where consent is provided. This will then enable consumers themselves to make better use of data and present opportunities for innovation by third parties providing services to consumers in finding the best electricity offer.
• Dominated market by three (3) biggest generator-retailers which supply 63% of small electricity customers • Acquisition costs are high (Section 6.4.1 State of the Market 2020) – this is only okay for big retailers reflecting potential economies of scale in this area. • Incumbents have benefited from large parts of their customer bases being inactive or disengaged from the competitive market, often remaining on high-priced standing offers. Incumbents are able to make very attractive offers to retain customers, effectively through	• AEMO to amend its rules and procedures so that losing retailers are only given a loss notification on the actual date of transfer of financial responsibility for the customer to the new retailer. This will limit the opportunity of 'losing' retailers to conduct 'save' activity before a customer transfer has taken place. • Changes to speed up the customer transfer process, for example by enabling customers to use self-reads of their electricity meters. This will ensure

[32] Australian Energy Regulator. (June 2020). *State of the Energy Market 2020*
[34] Australian Energy Regulator. (30 April 2020). *Default Market Offer continues to protect disengaged energy customers.*

Issue	Recommendation
cross-subsidies paid by their inactive customer cohort. This has enabled incumbents to compete only selectively, and with a disproportionate focus on efforts to retain profitable customers rather than to win new ones. In that environment, new entrants and smaller retailers are competing only for the 'active' part of the market which is price sensitive and often low-margin. This model of competition has not delivered a dynamic and competitive market in which many retailers compete vigorously, driving efficiencies and providing innovative products to attract and retain a broad range of customers.	that customers move to new offers quickly and will limit the time available for 'losing' retailers to conduct 'save' activity.

• Exit fees are charges billed to consumers for leaving their contracts early which can vary depending on how much of your contract is left. This then discourages consumers to explore and shift Suppliers. [33]	• Effective last 01 January 2018 the New South Wales government moved for the removal of exit fees on most new and existing contracts with the following exemptions[35]:
	  • a solar PV system, battery system, digital meter, or any other associated equipment was installed as part of the contract
	  • the contract includes a fixed tariff or charge for energy for the term of the agreement. Although, for fixed tariffs, the NEW government provided caps on the exit fees to be: 1) 130 AUD for exits within twelve

[33] Australian Energy Regulator. *Tariffs and Fees Explained*. https://www.aer.gov.au/consumers/my-energy-bill/tariff-and-fees-explained#tariffs-explained

[35] New South Wales Government. (17 July 2019). *Choosing or switching energy providers.* https://energysaver.nsw.gov.au/households/you-and-energy-providers/choosing-or-switching-energy-providers

Issue	Recommendation
	(12) months; and 2) 45 AUD thereinafter[36]

Apart from the issues and recommendations, we also have looked at available indices being utilized in the Australian retail market. Among others, vertical integration, which relates the capacity withdrawn by the Suppliers from the capacity generated by their affiliate generator participants, has been noted to be a useful measure that can be adopted in the Philippine market. Vertical integration allows retailers and energy producers to manage price volatility in wholesale markets, with less need to hedge their positions in futures (derivatives) markets. This strategy may be efficient for the business, but can reduce liquidity in derivatives markets, posing a barrier to entry or expansion for retailers that are not vertically integrated.[37]

3.3. United Kingdom

In December 2019, the Oxford Institute for Energy Studies conducted an assessment of the retail electricity market in the United Kingdom (UK). The study dwelled on the effects of liberalizing the electricity sector in the UK. It was argued that "*the post liberalization era has not only failed to achieve its original objectives but has also proved to be unfit to keep pace with technological change, consumer preference, and the energy transition*". **Table 6** below provides for the summary of issues and recommendations from the study.

Table 6 United Kingdom - Issues and Recommendations

Issue	Recommendation
Distorted Competition • New entrants need to have customers to be profitable • Complicated and burdensome requirements for licenses • Underprepared and under-resourced Suppliers	• Identify consumers which have been on default tariff for at least three (3) years and make available to suppliers as well as new entrants • New entrants to avail of the following:

[36] Independent Price and Regulatory Tribunal. (19 July 2017). *IPART Review of Early Termination Fees.* https://www.ipart.nsw.gov.au/files/sharedassets/website/shared-files/investigation-administrative-energy-external-review-external-submissions-general-admn/ipart-letter-to-premier-review-of-early-termination-fees-july-2017.pdf

[37] Australian Energy Regulator. (June 2020). *State of the Energy Market 2020.* Section 6.7.2. Page 251. https://www.aer.gov.au/system/files/State%20of%20the%20energy%20market%202020%20-%20Full%20report%20A4.pdf

Issue	Recommendation
	• White labelling – use of partner retailer's license to operate • Supplier in a box – acquisition of infrastructure from companies setting up systems for retailers These options however bypass the regulatory tests which filters out those underprepared and under-resourced suppliers. • Introduction of tougher entry test for suppliers which required demonstration of sufficient funding, provision of customer service plan and etc.
Lack of Consumer Engagement • Consumers are usually faced with voluminous information and sees switching as a complex process • Preference on current suppliers due to uncertainty of service quality • Consumers do not see the monetary gain in switching	• Regulators and policy-makers to reduce costs in switching, improve transparency, and ease of choice for consumers • Use of price comparison websites to allow consumers to choose from all available Suppliers in a matter of seconds and make sure that all about the market is provided on the website
Low Competition • No other Suppliers have market share of greater than 5% except for the "Big 6"	• Reduce barriers to entry but with stringent rules that would filter underprepared and under-resourced suppliers

3.4. USA – Community Choice Aggregation[38]

In the US, the concept of CCA (also known as hybrid utility model) has been introduced in states such as California, Illinois, Massachusetts, New Jersey, New York, Ohio, Rhode Island, and Virginia. As of writing, the states such as Arizona, Colorado, Connecticut, Maryland, Oregon, and Washington are currently in the process of implementing the CCA in its respective jurisdictions. This allows local government municipalities to purchase electricity on behalf of the residents, business, and municipal accounts in contiguous area.

In terms of statistics, a total of 42,000GWh of electricity was the recorded consumption of CCA consumers, while about 5 million customers were served in 2017. These CCAs are

[38] United States Environmental Protection Energy. *Community Choice Aggregation*. https://www.epa.gov/greenpower/community-choice-aggregation

likewise mandated to source renewable energy which ranges from 10% to more than 50% depending on the requirement of the state.[39] Generally, CCAs procure more than the required energy level by the states. This is very similar to the renewable portfolio standards (RPS) through securing of renewable energy certificates (RECs) in the Philippine setup.

With the CCA, the municipality represents the community as an aggregate consumer. This particular set-up however requires the holding of public hearings and passing of law. The involved community shall then be notified that the local electricity service is being switched to CCA.

Table 7 below shows the legislations in the aforementioned states allowing for CCA:

Table 7 Community Choice Aggregation in the US[40]

State	Year established	Statute	Notes and Resources	Example of Renewable Offer
California	2002	Assembly Bill 117 and Senate Bill 790	Opt-out provision, joint power agencies run programs on behalf of multiple jurisdictions	33% or 100% green power options in CCAs like in Sonoma County, Marin Clean Energy has 50% and 100% options
Illinois	2009	Municipal Aggregation, House Bill 362	Opt-out provisions; for residential and small business utility customers	Many CCAs offer a 100% green option
Massachusetts	1997	Acts 1997, Chapter 164	Opt-out provision	100% green power option in CCAs like Lowell
New Jersey	2009	Government Energy	Opt-out provision for	No green power options

[39] National Conference of State Legislatures. (11 November 2020). *Standard Renewable Porfolio Standards.* https://www.ncsl.org/research/energy/renewable-portfolio-standards.aspx

[40] Local Energy Aggregation Network. *Community Choice Aggregation by State.* https://leanenergyus.org/cca-by-state/

State	Year established	Statute	Notes and Resources	Example of Renewable Offer
		Aggregation, Assembly Bill 2165	residential customers; opt-in provision for municipal and commercial customer	
New York	2014	Governor's Press Release	Opt-out provision	100% green power option in CCAs in Westchester County
Ohio	1999	Governmental Energy Aggregation, Senate Bill 3 and 221 (2007)	Opt-in or opt-out provisions	100% green power option in CCAs like Cleveland and Cincinnati
Rhode Island	2002	House Bill 7786	Opt-out provision	Some CCAs have standard green power offering 5-10%
Virginia	2018	House Bill 159-	Opt-in or opt-out provisions	Not available as of 22 September 2019

As noted in the information above, most CCAs have opt-out provisions, which affords consumers of the choice to opt-out of the CCA program and continue to receive electricity from their current supplier. Customers that do not opt-out are automatically enrolled in the program. Although less common, some CCAs have opt-in provisions requiring customers to proactively enroll in the program, which are generally less successful in terms of participation rates. CCAs can also have a leveled structure with a standard option that customers are enrolled in unless they opt-out, and an opt-in "greener" option at a price premium. These opt-in options generally have a higher percentage of green power or are sourced from local renewables.

Prices for electricity under CCAs may be lower than the residential retail price for electricity, sometimes by 15 to 20 percent, because of the collective buying power of entire communities. CCA customers continue to receive the same delivery and maintenance

services from their local utility, with a single utility bill that reflects the change in supplier. The only changes for customers are the sources and prices of electricity generation.[41]

In view of the expected lowering of threshold for participation in the RCOA market of consumers as envisioned by the EPIRA, the CCA mechanism may be a way to afford consumers of larger savings in their electricity consumption – this has been very evident in the implementation done in the US market. The opt-out provision may also be a good way to allow consumers to have flexibility in terms of selecting which Supplier it is inclined to enter into an agreement with.

Moving forward, the US Environmental Protection Agency likewise identified the following advantages and challenges upon implementation of CC as provided in **Table 8** below.

Table 8 Community Choice Aggregation Advantages and Challenges

Advantages	Challenges
• Potential retail electric rate reduction • Enables rapid shift to greener power resources • Local control of electricity generation, which can be responsive to local economic and environmental goals • Expands consumer choices • Can spur local jobs and renewable energy development	• Implementation is dependent on enabling state legislation • Requires successful navigation of various CCA regulations and passing the appropriate ordinances • Administrative costs • Opt-in versus opt-out clauses can be confusing to consumers • Potential for push-back from utilities in traditionally regulated electricity states that would face new competition under CCAs • Maintaining cost savings – if price are not low enough, consumers may opt-out / look for Suppliers • Customer awareness • Customer enrollment • Policy suspension • Regulated market challenge – CCAs are required to pay fees designed to compensate utilities for sunk

[41] United States Environmental Protection Energy. *Community Choice Aggregation*. https://www.epa.gov/greenpower/community-choice-aggregation#:~:text=Most%20CCAs%20have%20opt%2Dout,automatically%20enrolled%20in%20the%20program.

Advantages	Challenges
	investments in long-term contracts signed on behalf of CCA customers (exit fees)

Sunk investments had also been a problem in the Philippines when the RCOA market was implemented by the DOE and the ERC. These are caused by stranded contracts which are results of consumers transferring to the RCOA market. To resolve this, the DOE, in its Department Circular no. 2012-11-0010, mandated the Distribution Utilities to request for the ERC's approval if it intends to recover on stranded contracts through universal charges[42].

Aggregation of non-contiguous areas may also be explored in terms of improvements in the Retail Market. Although not yet practiced in any of the surveyed jurisdictions, this would allow market participants with multiple facilities located across certain areas which can actually be aggregated to save cost of electricity. Implementation challenges may of course pose hindrances which may affect, among others, the following:

- Different MSPs and DUs/ECs
- Taxation
- Infrastructure
- Settlement

Nevertheless, this new way of aggregating will for sure introduce another factor to lower prices and increase competition in the market.

4.0 STAKEHOLDER CONSULTATION

Customer Surveys have been an effective tool in other jurisdictions when it comes to enhancing their respective markets. Having considered this, the Market Surveillance Committee has agreed to hold a series of stakeholder consultations involving CCs, RESs and the ERC, to discuss the pressing issues in the RCOA market.

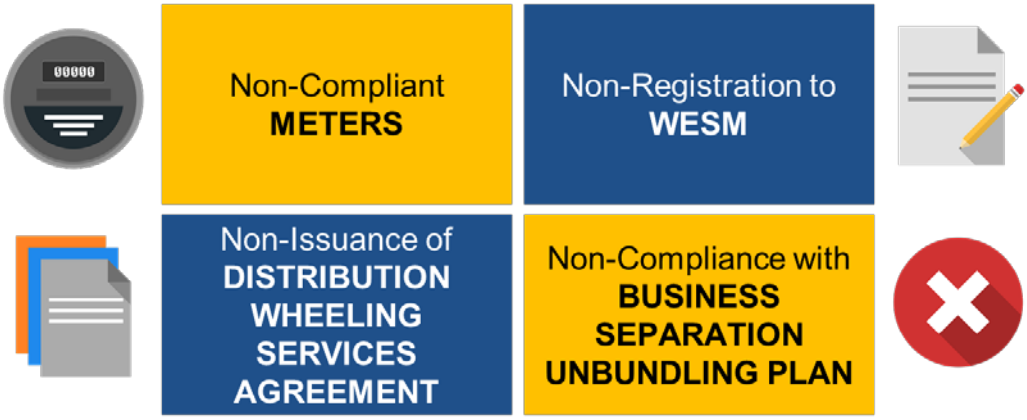
4.1. Retail Electricity Suppliers[43]

[42] Energy Regulatory Commission. *Primer on Universal Charge*s. https://www.erc.gov.ph/Files/Render/media/Primer%20on%20Universal%20Charge.pdf

[43] **Minutes of the MSC Dialogue with the Retail Electricity Suppliers' Association** dated 13 August 2020

In **Section 1.4**, it was discussed that engagement of customers is one of the notable issues faced by the RESs due to the prohibitions brought about by the Data Privacy Act. In order to overcome this gap, the RESs shared that they have three (3) main ways of reaching out to the CCs: 1) cold calls; 2) refer to the collated list of customers from the ERC; and 3) participation in the competitive selection process (CSP) or bidding. This first step into communicating with the CCs, however, poses the biggest challenge among all the RESs, as this is the only avenue to initiate contact and build relationship with the CCs. Thus, it was suggested by the RESs, if it is possible, to make the CC's main contact, phone number and email addresses available to the RESs.

On the actions of the DUs/ECs that affects the processes in participating in the RCOA market, the RESs pointed out the following:



These actions by the DUs/ECs cause the RESs to not meet the submission deadline on the initial switch for its intended CC. For these concerns/procedures that can be addressed through rules change, the RESs were encouraged to participate in the rules change process being facilitated by the Rules Change Committee. It should also be noted that the PEMC proposal which aims to reduce the barriers to entry to the RCOA market and address this concern is currently subject for the DOE's promulgation.

Consideration in setting price offers were likewise discussed during the dialogue. It was shared by the RESs that a number of considerations, such as qualitative (load factors) and quantitative (volume of demand), are looked at in setting contract prices. As the load factor goes up and the demand is much higher, the prices tend to drop. Meanwhile, in terms of value-added services, freebies, bank facilities, and energy efficiency services are among the items that were enumerated by the RESs that can be availed of by the consumers. It was also made clear that RCOA market prices are competitive enough and that the efforts of the RESs shall always benefit the consumers. Per the Competitive Retail Electricity Market (CREM) report of the ERC, the average price of electricity offered by the RESs is at about Php 4.00/kWh.

In relation to adjustments in WESM bills, it was noted during the dialogue that the RESs are the ones exposed in the WESM and therefore are shouldering the adjustments. The RESs then raised concerns as regards adjustments that are stretched out into as long as four (4) years. The four-year adjustment timeline poses problems for the RESs, especially because some of the customers which should be involved in these adjustments could have already transferred to other RESs. This same concern is likewise applicable to the refund of Incremental Currency Exchange Rate Adjustment (ICERA)[44] and Generation Rate Adjustment Mechanism (GRAM)[45] which affect the working capital of the RESs. It was noted that the ERC Resolution 16 Series of 2012[46] should be properly implemented to avoid this issue.

The COVID-19 Pandemic has likewise affected the operations of the RESs. Participants to the MSC-RES Dialogue have raised that one of their biggest problems is on their working capital, since RESs do not have Capital Expenditures (CAPEX)like DUs or ECs, which are pass-on cost to the end-consumer. This being the case, the timely payment of CCs and adjustment of distribution charges affect the operations of the RESs since they have to bear the cost first..

The RESs are likewise compliant with the ERC directive to allow installment payments. This in turn resulted to a better buyer-seller relationship between the RES and its CCs.

In addition to the concerns raised in the discussions, RESs enumerated the following issues that should be addressed in the RCOA Market:

- Licensing rules

According to the RESs, licenses of Suppliers in other jurisdiction do not have expirations. This is true for Australia market where Retail Authorizations continue to be in force until surrendered or revoked[47]. There was a suggestion that licenses should be co-terminus with the corporate life of the RES. As discussed, expiration of licenses sometimes brings dilemma to the Suppliers participating in CSPs as they get disqualified, or worst, get sued for damages for participating in CSPs while already being close to the expiration of their license, or for having an expired license during the contract term. It was also mentioned

[44] **Incremental Currency Exchange Rate Adjustment (ICERA)** is intended to allow the periodic (quarterly) adjustment to the FOREX Adjustment/CERA to reflect the changes in currency exchange after a review by the ERC before said changes are passed on to customers.
[45] **Generation Rate Adjustment Mechanism (GRAM)** is an adjustment recovery mechanism, which replaces the automatic recovery adjustment mechanisms of the National Power Corporation (NPC), which is the Fuel and Purchased Power Cost Adjustment (FPCA) and distribution utilities' Purchased Power Adjustment (PPA). It will allow the periodic (quarterly) adjustment to the Generation Rate to reflect changes in fuel and IPP Costs after review by the ERC before costs are passed on to customers.
[46] **ERC Resolution No. 16 Series of 2012.** *A Resolution Adopting the Transitory Rules for the Implementation of Open Access and Retail Competition.*
[47] **National Energy Retail Law.** Division 2 Provision 98. *Duration of Retailer Authorisation.*

that there are quarterly reports being required from the RES. Thus, for as long as they are compliant with ERC requirements, such as the submission of quarterly reports which provide detailed information on their operations and compliances, then, their license should stand. Licenses could be revoked, only if deemed necessary, triggered by the ERC's assessment of the quarterly reportorial requirements submitted by the RES.

- Implementation of lowering thresholds and Retail Aggregation in the market

  RESs commented that in other jurisdictions there were no tranches on the implementation of RCOA market. It was also opined that lowering the threshold shall increase the competition in the market.

  On the implementation of Retail Aggregation, the RESs are of the opinion that market class and demographics are among the important factors that should be looked at prior to the adoption of this scheme.

- Harmonization of rules for proper implementation
- Representation of RESA in the WESM Governance Committees

  As of writing, PEMC has already made a move to invite a representative from RESA to take part in the discussion of the Renewable Energy Market Governance Committee.

4.2. Energy Regulatory Commission[48]

Concerns that were raised by the RESs were subsequently consulted and discussed during the MSC dialogue with the ERC Contestable Market Division.

- Access to CCs Contact Information

  As regards RESs' concerns on the availability of contact information of the CCs, it was gathered from the ERC that the same are bound by confidentiality clauses but this matter is one of the things that the ERC is looking into. It was also noted that the ERC has not yet established a procedure to update its CC information, once a CC already contracted with a Supplier..

  As discussed in the section on best practices in other jurisdictions, a price comparison portal can improve the communication linkage between the CCs and the RESs. www.buyyourelectricity.com.ph was established by the ERC for this purpose (**Figure 13** below shows the home page of the ERC portal). This portal, as relayed by the ERC, shall be subject to enhancements to address the concerns of the stakeholders.

[48] **Minutes of the MSC Dialogue with the Energy Regulatory Commission** dated 14 August 2020

It may be noted in **Section 3** that this is a common tool employed in various jurisdictions to aid their consumers with a variety of choices when it comes to electricity supply. This is very relevant as well to the competition in the market and in turn affects the average price in the market.

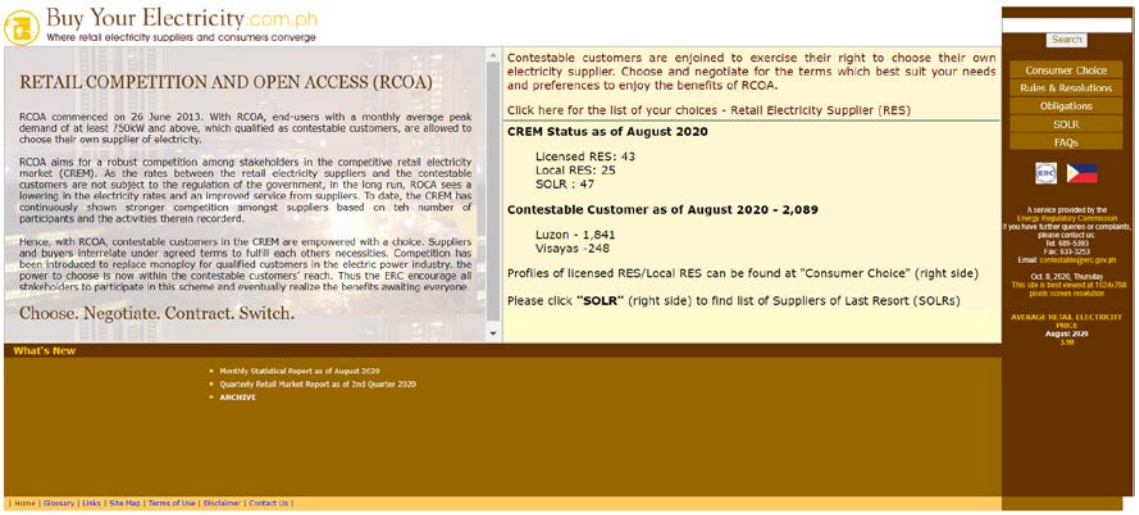


Figure 13 ERC Price Comparison Portal

- Compliance to Meter Installation and DWSA

  During the dialogue, the ERC admitted its awareness on the issues at hand. As regards metering installation, ERC Resolution No. 27 Series of 2011 requires the installation of time-of-use (TOU) meters from consumers who are eligible to participate in the market within thirty (30) days from the effectivity of the resolution. The issue arises as both non-compliances to meter installation and the DWSA will only be known by the ERC once a written complaint is made, preferably by the consumers.

  For this particular concern, PEMC may provide assistance to the RESs in identifying the non-compliant meter installation which shall be reported to the ERC.

- Implementation of BSUP

  The compliance to BSUP is a requirement by the EPIRA and is one key pre-requisite to allowing consumers from the DU's/EC's franchise area to participate in the electricity market. As provided by the ERC and as shown in **Figure 14**, it is notable that more than half of the total population for both ECs and DUs are already compliant with the BSUP. However, 11%, of the total population of both the DUs and ECshave not yet applied for the BSUP. This may not be alarming in the currently implemented eligibility requirements in the market, but with the inevitable

implementation of the RCOA market up to the household level, this may pose a disruption to what was envisioned by the law in terms of transparency.

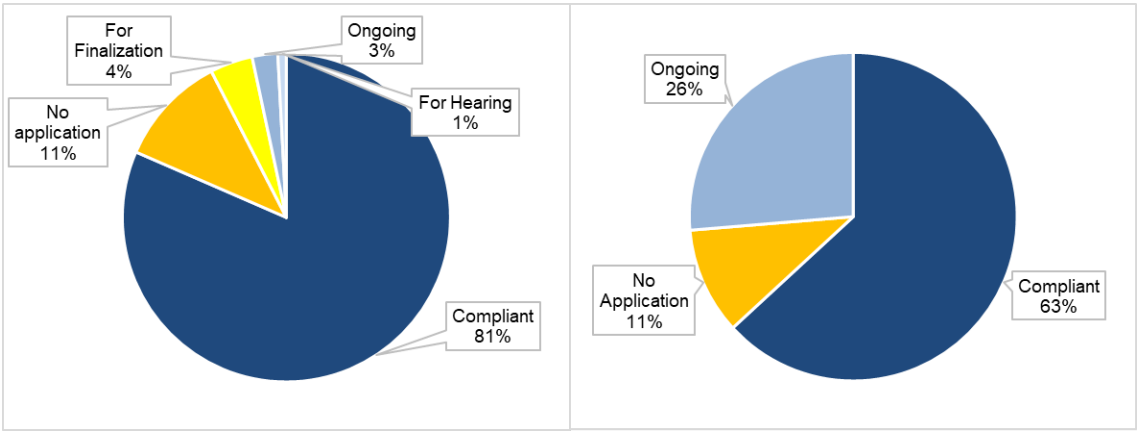


Figure 14 BSUP Compliance of DUs and ECs

- Enhancements to Licensing Rules

  The concerns of the RESs with regard licensing rules were duly noted by the ERC. But with the ongoing TRO of the Supreme Court, ERC's hands are tied in amending the rules for Licensing of RESs. The ERC, however, is undertaking a continuing study on the impact of the TRO.

- Lowering of Contestability Thresholds and Implementation of Retail Aggregation

  During the dialogue with the ERC, it was noted that there are ongoing efforts to lower the threshold to participate in the RCOA market. True to said facts, the ERC published its proposed new implementation of the RCOA timeline[49] on 07 October 2020 as follows:

	Threshold Level	Effectivity
Phase III	500 kW to 749 kW	Feb. 26, 2021
Phase IV	100 kW to 499 kW	Jan. 26, 2022
Phase V	10 kW to 99 kW	Jan. 26, 2023

Once these new thresholds are in-place, the ERC shall hold roadshows to further the information afforded to the general public. It should be noted however that necessary infrastructure and regulatory requirements to implement these thresholds may come as a challenge to the Philippine energy industry. Nevertheless, this enhancement is a bold and great step for the RCOA market. This shall likewise merit opportunities for

[49] ERC Call for Comments on the Proposed New RCOA Timeline. https://erc.gov.ph/ContentPage/62138.

entry of more Suppliers in the market which shall also increase competition and subsequently, further lower the electricity rates.

- Proper Implementation of ERC Resolution No. 16 Series of 2012 on Over and Under Recoveries, and Refund on ICERA and GRAM

  As regards the issue on the proper implementation of the subject resolution, the ERC noted that the matter shall be looked-into by the Commission.

- Non-participation of CCs

  It has been noted that the ERC held several information campaigns to all the eligible CCs to boost awareness of the RCOA market. However, instances such as management change, loss of the Certificate of Contestability and certain apprehension from CCs prohibit them from joining the market. Moving forward, the ERC plans to publish a master list of all qualified CCs.

4.3. Contestable Customers

There were two (2) activities undertaken by the MSC to get the pulse and concerns of the Contestable Customers: conduct of Dialogue and Customer Survey. These practices were adopted arising from the review of other jurisdictions as elaborated in **Section III** of this paper.

What we have observed with the CCs upon undertaking the Dialogue and the Customer Survey is that they really are eager to know more about the market and to be directly involved in the processes thereto. The next portion provides in-depth information gathered from the CCs.

- Choosing of Supplier

  When it comes to choosing their Supplier, the general notion picked-up from the CCs is that they do it via competitive selection process or bidding. The availability and reliability of resources from the RESs are of great deal though for the CCs. They also tend to be fully contracted by the RESs to avoid exposure in the WESM. Some CCs are heavily reliant on the information provided by the ERC through the Competitive Retail Electricity Market (CREM) report which aids them in their shortlisting of prospective Suppliers.

  Meanwhile, the MSC survey shows almost similar answers from the CCs. As shown in **Figure 15**, the most utilized way of choosing a Supplier is through bidding. It is also evident in the results that Suppliers are pro-active when it comes to engaging consumers even if there were noted barriers on the initial communication(s).

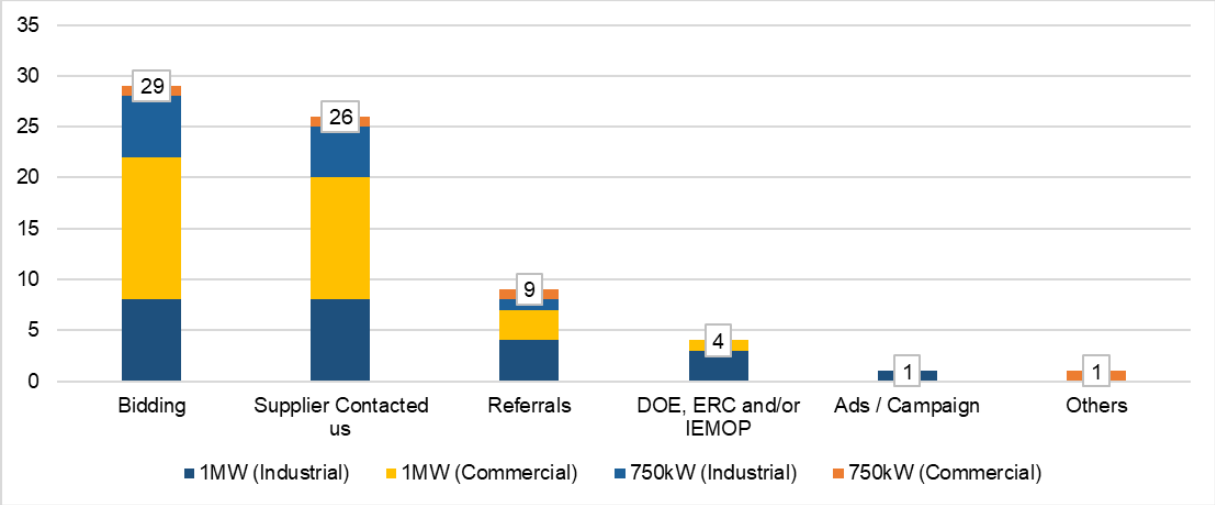


Figure 15 Survey Result - Choosing of Supplier

As of writing, it has been noted that CCs may access information[50] of Suppliers in the Independent Electricity Market Operator of the Philippines (IEMOP) website (www.iemop.ph) to aid in their search for a Supplier of electricity. Some information includes:

- ✓ Name of the Company
- ✓ Contact information
- ✓ Average contract price
- ✓ Value added services

- Contract Consideration

Price is a major consideration for CCs when it comes to entering into a contract with a Supplier. According to the CCs, contract prices vary– there are contracts that provide for fixed rates and there are those where prices are graduated (based on consumption and other economic considerations). Load factor[51] of the CCs is an important determinant of the resulting contract prices. Based on the experience shared by the CCs, a load factor of 70% is good enough for CCs to negotiate a good contract price. Anything lower than that, then the prices go up. Anything higher than that, the prices go low.

[50] Independent Electricity Market Operator of the Philippines. *Retail Supply Contract Parameter*. http://www.iemop.ph/market-reports/retail-supply-contract-parameters/

[51] Calculated as Total Consumption divided by the product of Maximum Metered Quantity and the Total No. of Consumption Hours

Coming from the CCs themselves, the rates of the Suppliers are really becoming competitive which led to their recommendation to put a cap on the duration of contracts – up to five (5) years only – so that CCs can have the flexibility to experience offers from other Suppliers. It may even be better if CCs have the liberty to transfer from one supplier to another with minimal to no cost at all, similar to what is being implemented in New South Wales, Australia.

The result of the survey as shown in **Figure 16** below shows that price is the major consideration of CCs in entering into an agreement with a Supplier. This is followed by ease of doing business and credibility or length of business operation of a Supplier. With the result of this portion of the survey, it can be established that customers are inclined to choose a Supplier based on built relationship and the credibility of the Suppliers. These criteria highly affect the competition in the market as new entrants, which are not affiliated to big Suppliers, may have hard time closing deals with consumers.

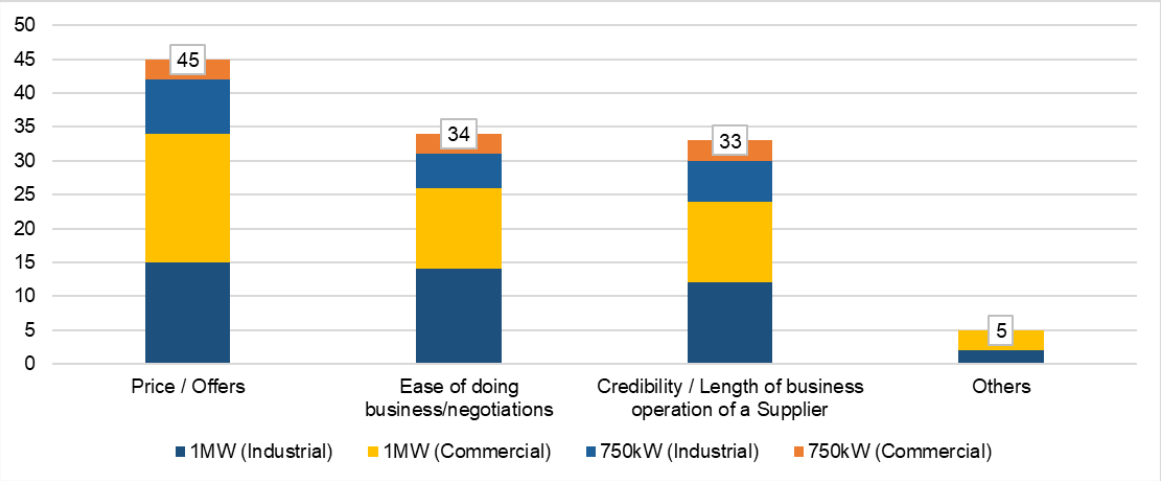


Figure 16 Survey Result - Contract Consideration

On another note, some other considerations that were shared by the CCs as their deciding factors when entering into a contract with a Supplier are as follows:

- Source (sustainable) and quality of Energy
- After sales service/support and value-added services
- Relationship

It is interesting to note that relationship, comfort, and ease of doing business remain as the most important factors being considered by the consumers.

- Promotions

In the surveyed jurisdictions, apart from the supply of electricity, Suppliers may provide bundled offers –electricity bundled with other services such as internet and phone. Cost

estimation for installation of solar photovoltaic (PV) panels are also among the services offered by the Suppliers. This has been discussed with the CCs during the dialogue wherein several information on the added services being offered by Suppliers have been discussed. Energy conservation program, installation of solar panels, and installation of smart meters for optimization of energy consumption were just some of the bundles that are currently being offered by the RESs. Some of the participants expressed that they had indeed availed of the installation of solar panels for energy conservation in line with the Energy Conservation Act while others shared that they have already established an energy management program which is still sufficient for their energy optimization.

As regards the result of the survey, discounts have been the top answer of the respondents when it comes to the promotions offered by the Suppliers. Other promotions that were shared by the respondents are as follows:

- Thermographic Scanning
- Plan tour
- Negotiation
- Fixed rates
- Trainings and seminars
- Value-added services
- Price based on TOU and load factor
- Power Quality Assessment

There were also those that shared that they did not receive any promotions/added services from their Suppliers at all.

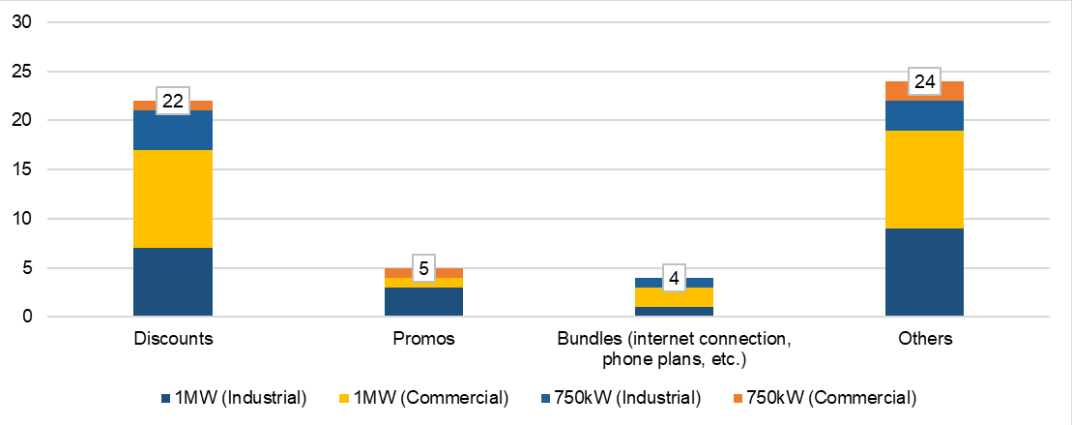


Figure 17 Survey Result - Promotions

- Near End-of-Contract Processes

The procedures undertaken by the CCs during near end-of-contract were also discussed during the dialogue. According to the participants, competitive selection process or

bidding is the most common exercise to enable them to look for better offers. However, it was noted that during bidding, CCs tend to make a pass on Suppliers with low demand. This may decrease the level of competition as the accepted Suppliers by some CCs are limited to those who have high shares in the market. If this behavior remains, market concentration will remain in its concentrated level since only established Suppliers have higher chances of closing deals with the CCs.

The behavior of the CCs to remain with their current Suppliers is likewise evident in the result of the survey. The choice to review and re-negotiate contracts with their current Supplier garnered the highest choice from the CCs. It is however notable that 10 correspondents consider contracting with other Suppliers as they come close to the end of their contract term.

Other inputs include the review of contracts and then if price goes up, CCs negotiate before undertaking re-bidding and CSP. There was also information that CCs ask for new offers from incumbent Suppliers and compare the same with other Suppliers.

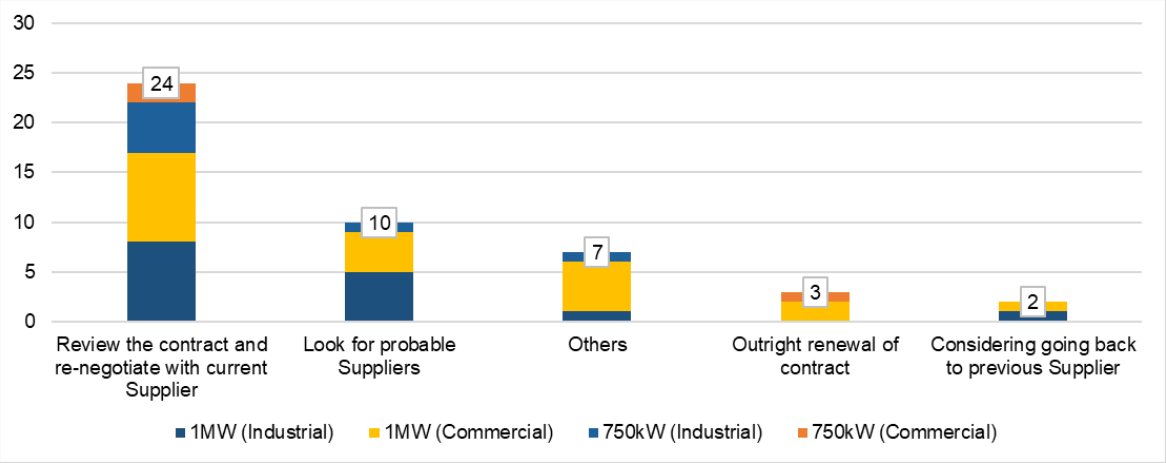


Figure 18 Survey Result - Near End-of-Contract Process

- Hindrance to RCOA Participation

As discussed in the preceding sections, participation to RCOA market can be a chore for some, as the requirements may somewhat be hard to comply due to the current mandatory requirement to be a WESM registered customer prior to participation in the RCOA market. This is likewise manifested in the answer below of the respondents which accounted for 11 votes opining that long procedures and various requirements hindered their participation in the market.

The major hindrance as evidenced in the result of the survey was lack of awareness in the program and its benefits. This particular hindrance is not unique to the Philippines as

this has been an ongoing issue in other jurisdictions which causes low competition in their respective markets. As mentioned by the ERC, the Commission has been extending its efforts to undertake information drives in order to make all certified CCs aware of the program available for them.

Meanwhile, a concern with regard DUs/ECs not allowing CCs to switch to the RCOA market pending the resolution of the Supreme Court's TRO was raised during the dialogue with the CCs. While it is true that the issuance of the DOE and ERC requiring mandatory participation of CCs in the RCOA market were placed on-hold by the TRO, the DOE promulgated DC No. 2017-12-0013 dated 29 November 2017, which allows for voluntary participation in the RCOA market. But then again, as mentioned by the ERC during the dialogue with them, non-compliances and such actions taken by the DUs/ECs hindering the participation to the market will only be made known to the ERC once reported.

Other consumers answered that they were satisfied by the services provided by the DU or their contracted generators and others shared that they did not experience any hindrance and outrightly participated in the market as soon as they their Certificate of Contestability.

Further, we also allowed the respondents to provide other reasons that hindered the participation of the consumers which were as follows:

- Market threshold
- Supreme Court TRO
- Resistance from the DU/EC
- Ramp up program provided by previous Supplier
- New company

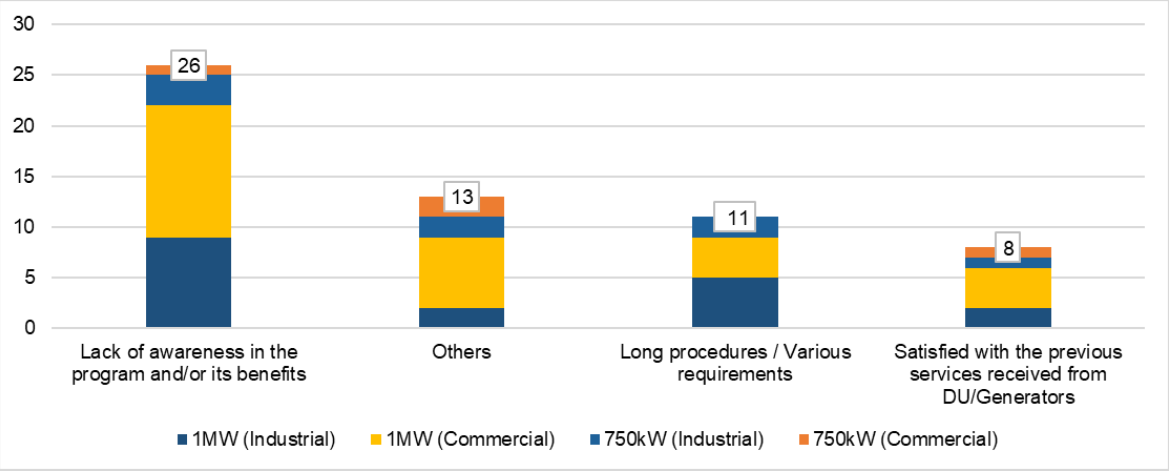


Figure 19 Survey Result - Hindrance to RCOA Participation

- Benefits in joining the RCOA Market

  The objectives of the EPIRA to lower the cost of electricity in the Philippines has been successfully achieved through its initial implementation. However, there is a lot more in store. According to the CCs, the most obvious benefit in joining the RCOA market is the reduction of electricity rates unlike previously where consumers are left with no choice but to avail of the boxed services of DUs/ECs. Although the market is a non-regulated one, CCs now have the liberty to choose the best-fit Supplier which meets their requirements.

  Consistent with the discussion on the benefits of the RCOA market, this study then gathered information on how much savings were incurred by the CCs. **Figure 20** below illustrates the information gathered from the respondents of the survey.

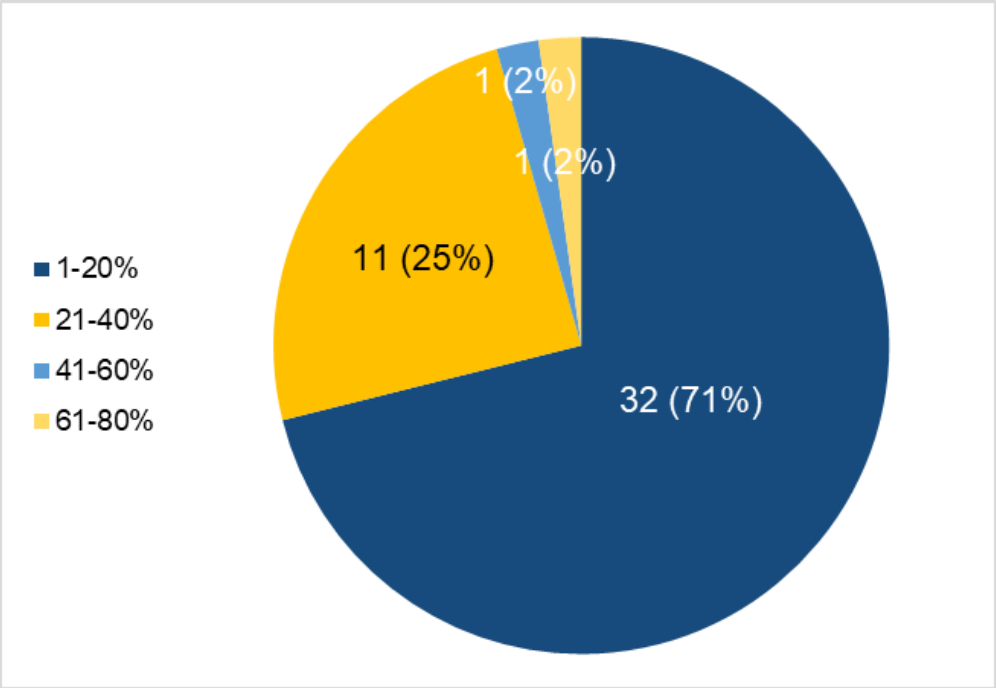


Figure 20 Survey Result – Monetary Savings

More than the monetary savings, expansion of business was easier since rates of electricity will not solely depend on the DU/EC on that area where the business will be put up. CCs are also given the liberty to know and choose which generator provides for the supply of electricity as line rental amount is a factor in the Retail Supply Contract (RSC).

Necessarily, there are also disadvantages according to the CCs such as the current threshold to be part of the market. This disincentivizes other consumers who do not meet the qualifications. On the other hand, availability of supply is a major concern which may be answered by the interconnection of Mindanao to the Luzon-Visayas grid to allow the flow of excess capacity since the capacities in Luzon and Visayas have already been contracted.

Taxation is also a disadvantage especially those CCs that are located inside economic zones. The same is also true with regard the value-added tax (VAT) collected by the Market Operator, both of which results to CCs paying an additional 12% VAT. As discussed, RESs have no other way to recover BIR VAT.

- Involvement of CC

The respondents of the survey were asked on what would make them feel more involved in the RCOA market and as presented in **Figure 21,** from among the choices that were provided in the survey form, holding of information campaigns got the most votes from the respondents. CCs are also very interested in having organizations where both the government and consumer representatives are to be members. Regular meeting of CCs is likewise an interesting activity to make them feel more involved in the market.

CCs also shared that having a portal which provides information on RESs will help them feel more involved in the market. This is very relevant to the comparison websites practiced by various jurisdictions.

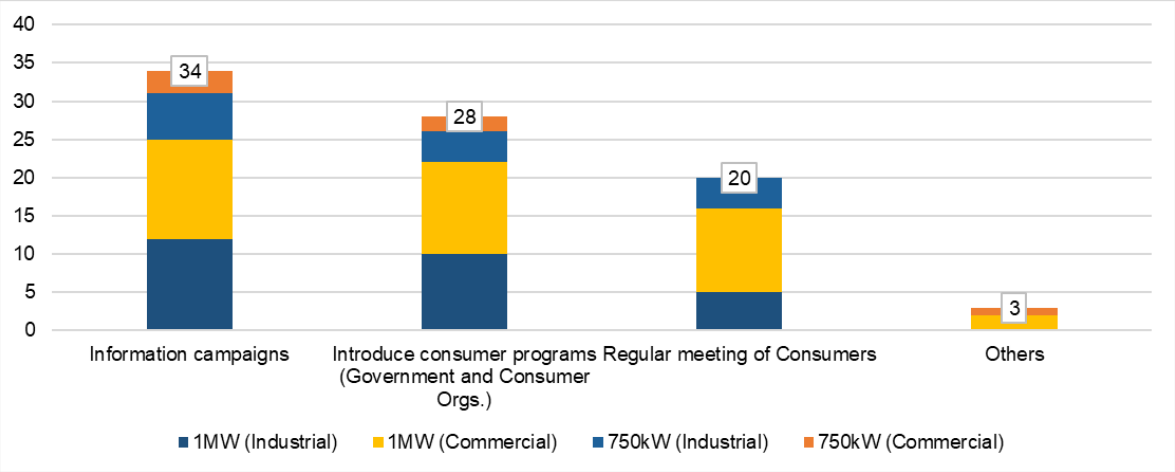


Figure 21 Survey Result - Involvement of CC

- Recommended Enhancements

Overwhelming inputs from the CCs, both via dialogue and surveys, were received particularly on what needs to be improved in the operation of the market. These can be categorized into the following:

- Market information be made available to CCs such as RESs' available capacities, active RESs and transparency in all documents
- Lowering of thresholds up to the household level as required by the EPIRA. As previously discussed, this will definitely increase the competition in the market, which may further lower the electricity rates
- Consumer-benefiting programs such as energy savings seminar, retail competition, market updates, and events for CCs
- Faster market processes
- Stricter regulation of prices
- Improve the RESs' after sales services or support to the CCs
- Implementation of RCOA market in Mindanao

The successful consultation with the RCOA market stakeholders, through the series of dialogues hosted by the MSC, affirmed the general notion that there are a lot more to be improved in the market. Furthermore, the interest of stakeholders and their willingness to participate and immerse themselves to market activities is likewise notable, as evidenced by the overwhelming inputs noted particularly in this section. This provides a good signal that they too want to be proactive in taking part on initiatives for the further improvement of the market. Judging by the turnout of the dialogues, RCOA stakeholders should be given an avenue to raise their concerns and interesting ideas for the betterment of the industry.

5.0 SUMMARY AND RECOMMENDATIONS

The Retail Competition and Open Access (RCOA) market has been operating for seven (7) years since 2013. Though the original vision of the Electricity Power Industry Reform Act for 2001 (EPIRA) has been partly fulfilled, there are a lot more to experience as regards participating in the market.

There are two major participants in the RCOA market that need to go through market procedures prior to participation:

1) Contestable Customers

Out of the 2,095 consumers which were certified by the ERC to be CCs, 1,479 or about 71% have already undertaken an initial switch from being a captive customer to being a CC. In terms of retail activity, 780 customers were engaged in commercial business while the remaining 699 were engaged in industrial businesses. Luzon is highly concentrated in terms of location with 1,326 or

about 90% CCs situated in the region; while the remaining 153 or about 10% CCs were located in the Visayas region. These statistics were all as of 25 September 2020.

2) Suppliers

There are 72 registered suppliers in the market which can be further broken down into: 1) Retail Electricity Supplier (RES) – 33; 2) Local RES – 14; and 3) Supplier of Last Resort (SoLR) – 25. These Suppliers should have been issued with a license or authority from the ERC in order to provide services to the CCs.

Another market procedure is the Switching of a CC from one Supplier to another. Based on statistics, switching rate is low, which averaged at only 0.61% for the entire operation of the RCOA market. This can be construed that CCs tend to stick with its current Suppliers thereby resulting to very low switching activities in the market and further signals low opportunity for new Suppliers. The DOE requires “Customer Switching” provisions on each RSCs to allow CCs to pre-terminate its Supply Contracts with the RESs, should there be a competitive contract package that is more responsive to the needs of the CC. However, in such an instance applicable fees such as early termination fees or exit fees may apply, that may hinder the CCs from switching.

The low switching activities in the market and its corresponding procedures are among the issues noted in the RCOA market. Others involve limited avenue of Suppliers and CCs to approach each other, and issues regarding long procedures and list of requirements to commence participation in the market. It should however be noted that PEMC had previously submitted a proposal which aims to reduce the barriers to entry into participation in the RCOA market. The highlights of the proposal are as follows:

- Optional registration in the WESM before participation
- Require DUs to submit customer and metering information of all eligible CCs to enable easier processing of switch requests
- Reduction of timeframe for switching from 30 to 5 days

Apart from the current enhancements undertaken to address the issues in the market, this paper surveyed Singapore, Australia, New Zealand and the United Kingdom in order to adopt best practices and to look for probable solutions to challenges similarly experienced in the RCOA market. There are two (2) common practices in the enumerated jurisdictions: 1) Price Comparison Portal; and 2) Customer Survey.

Although these jurisdictions have been operating their respective Retail Market for as long as twenty (20) years, challenges are still experienced, most commonly as regards low or distorted competition, concentrated or dominated market, and lack of consumer engagement/awareness. To address these issues, the following recommendations were noted from various resources from the aforementioned jurisdictions:

- Establishment of Consumer Advocacy Councils to ensure that voice of the consumers are heard
- Enhance price comparison website to effectively present information to consumer and improve consumer awareness
- Streamline market process to encourage consumer participation
- Prohibit saves or win-backs to increase competition
- Imposition of price caps on standing offers to be safety net for consumers
- Application of Consumer Right Data Act to further the competition
- Removal of exit fees, with exemptions, to allow consumers to explore other available offers
- Identification of consumers who are in default tariff and make available to Suppliers
- Permit white labelling and supplier-in-a-box schemes for intending Suppliers
- Reduce barriers to entry but with stringent rules that would filter underprepared and under-resourced Suppliers to avoid distortion of competition

The concept of aggregation was likewise surveyed in this paper. In the USA, Community Choice Aggregation (CCA) is implemented on certain states which allows the local government municipalities to purchase electricity on behalf of the residents, businesses, and municipal accounts in a contiguous area. This particular scheme allowed the price reduction of up to 15 to 20% as compared to when the consumers were in default tariff. The CCA also allows for consumers to opt-out of the scheme in any case that they decide to go back to the default tariff. The CCA also had advantages (e.g. rate reduction, greener power resources and expansion of consumer choices), but also challenges (e.g. consumer awareness, legislation issues, and maintaining low cost of electricity in order for consumers not to opt-out) in the course of its operation. Though CCA is the industry-accepted concept, aggregation of non-contiguous areas may also be explored in terms of improvements of the market. However, its implementation may have several hindrances, but will surely improve the competition in the market.

With consideration to the best practice commonly used by the surveyed jurisdictions in its enhancements of their respective markets, the Market Surveillance Committee (MSC) held a series of dialogue with the stakeholders (RESs, CCs, and the ERC) of the RCOA market. This series of dialogue allowed for the MSC to gather the concerns and inputs for consideration in this paper. The **Table XX** below provides a for highlights of inputs from the stakeholders.

RES	ERC	CC
• Limited avenue/information to initiate communication with CCs • Non-compliance of DUs and ECs with DOE and ERC Issuances • Issues on the implementation of refund	• Review of confidentiality clauses to allow access of RESs on CC's information • Enhancements to RCOA market portal (www.buyourelectricity.com.ph) • Encourage the CCs to immediately report to the	• In choosing their suppliers, CCs mostly engage in bidding and respond to contacting efforts of Suppliers • Put a cap on the duration of RSC to allow CCs to explore other offers from Suppliers

RES	ERC	CC
and adjustments to WESM bills • Concerns on expiration of RES licenses • Implementation of lower market thresholds and retail aggregation • Representation of RESA in Committees	ERC, the noted non-compliance with its issuances • Review of the licensing rules • Lowering of contestability thresholds is for approval of the ERC subject to comments of stakeholders • Publication of master list of all qualified CCs to boost awareness of consumers	• RESs are offering discounts, promos and after sales services for the benefit of the CCs • Lack of consumer awareness and long procedures / requirements are among the main reasons why CCs are not able to immediately participate in the market • Monetary savings, as much as 60-80%, is one of the best benefits of the RCOA market highlighted by the CCs • Issues on the hindrances to participation such as current thresholds and with regard taxation • Information campaigns, introduction of consumer programs, and regular meetings of consumers are among the recommended activities by the CCs to increase involvement of consumers

In conclusion, the following enhancements, procedures, and actions are hereby recommended to be adopted in the RCOA market:

1. Empower the Consumer

There are several activities and enhancements to the market which can empower the consumer. We see this recommendation as one of the most vital since consumers can be the driving forces of prices and competition in the market.

In New Zealand, it was opined that through the establishment of consumer programs, consumers will be able to properly voice-out their concerns to appropriate bodies. A consumer group/association may be formed to easily undertake periodical surveys and regular meetings for consumers, similar with the current association for RESs – the Retail Electricity Suppliers

Association (RESA). With this being established, consumers may now have an avenue to be represented in WESM committees, and other similar organizations, to enable them to formalize their participation in the policy and decision-making processes in the industry. This can also expedite the delivery of their inputs on any market matters which shall directly/indirectly affect the end-users of electricity.

Providing relevant information to the consumers is also an effective way of making them aware of the goings-on and updates of the market. To effectively address this, enhancements to reports and holding of information drives is strongly recommended to boost awareness of end-users. It is also worthy to note that the ERC has an ongoing effort to come up with a list of all eligible consumers to participate in the RCOA market.

Lastly, the provision of consumer rights to its data, as practiced in Australia, is also considered as a way to afford consumers with information that are vital in order to effectively choose an offer for supply of electricity.

2. Enhance the consumer portal – buyyourelectricity.com

As commonly practiced in other jurisdictions, a robust, full-of-information, and interactive consumer portal can assist the CCs in making well-informed decisions. With the availability of information on the competing suppliers, CCs could be encouraged to explore other available Suppliers in the market. This interactive portal can provide the CCs with the following information, at the very least:

- Type of consumer
- Average monthly consumption
- Estimated monthly cost of electricity
- Contract duration
- Suppliers available

This will enable consumers to be presented with an accurate estimate on their future bills once they enter into a contract with a Supplier.

3. Implement enhancements to Retail Rules which reduces barriers to entry in the RCOA

This proposal for enhancement is currently with the DOE for its promulgation and includes, among others:

- Optional registration in the WESM before participation
- Requirement for DUs to submit customer and metering information of all eligible CCs to enable easier processing of switch requests
- Reduction of timeframe for switching from 30 to 5 days

With its promulgation, ease in the participation and switching procedures in the market should be experienced by the CCs.

4. Implement enhancements to Rules on Retail Supply Contracts

As noted in the preceding discussions on low market competition, the application of exit/termination fees may pose hindrance to those consumers who are willing to explore other supply services from other Suppliers. To address this concern, the implementation of removal/reduction/capping of exit/termination fees, subject to exemptions, as practiced by the New South Wales government in Australia, may be an effective way to encourage consumers to continue with its switching plans without the worry of having to pay high amounts for exit fees.

The term of RSCs can also be allowed by the ERC to be as short as 6 months, as implemented in the Singapore Retail Market, which shall allow consumers to explore and experience services from other Suppliers. This may also reduce the burden to CCs in having to pay for exit/termination fees since terms of contracts are shorter.

5. Prohibit saves and win-backs

To address the very low competition in the RCOA market, introduction of the mechanisms implemented in Australia and New Zealand, such as the prohibition of saves and win-backs within 180 days is recommended to be adopted in the market. This will likewise allow consumers to engage the services of other Suppliers and may be a key activity to lower the electricity rates in the market.

6. Provision of Inactive Consumers List to Suppliers

This practice in the UK provides an avenue for Suppliers to introduce enticing offers to consumers who are not actively participating in the market. As discussed in **Section 1.3** the switching rate for entire operation of the RCOA market only averaged at 0.61%. With the list of inactive consumers being made available to the Suppliers, it can trigger negotiations between CCs and several Suppliers who are willing to provide enticing offers to CCs to make them switch to another Supplier.

7. Strict implementation and compliance with ERC and DOE Issuances

Procedures for monitoring and flagging of non-compliance with ERC and DOE issuances are recommended to be in-place in order to properly implement the vision of the EPIRA law and institutionalize the culture of compliance in the RCOA market. As mentioned in the MSC dialogue with the ERC, the only instance when the Commission can tag a non-compliance is when the same is reported to them, preferably by the consumers affected.

8. Adopt Aggregation in the RCOA Market

As practiced by several states in the US and in view of the implementation of the RCOA Market up to the household level, aggregation provides the end-users with more bargaining power with the Suppliers which may afford the consumers with lower electricity rates.

9. Adopt enhancements to licensing rules

The expiration of RES licenses, as raised in previous sections, demerits the Suppliers when participating in the competitive selection processes of CCs. At worst, they can be held legally accountable in cases when their license expired in the middle of their contract implementation. It can be recalled that in Australia, the license/authority of Suppliers continues to be in force until it is surrendered or revoked. The revocation, if deemed necessary, may be triggered by the ERC's assessment of the quarterly reportorial requirements submitted by the RES and thus, the expiration of RES licenses may already be lifted by the ERC.

10. Use of Vertical Integration as Market Index

Introduction of new market index for the RCOA market through vertical integration, which relates the capacity withdrawn by Suppliers from the capacity generated by their affiliate generator participants, is recommended to be adopted in the Catalogue of Retail Market Monitoring Indices for an additional paradigm in the analysis on the competition in the RCOA market.

Following the above recommendations and in order to effectively execute these recommendations, this paper identified the initial documents, manuals and issuances, that need revisions, as follows:

a. Rules for the Integration of Retail Competition in the Wholesale Electricity Spot Market;
b. Retail Market Manual on Market Transaction Procedures;
c. Catalogue of Retail Market Monitoring Indices; and
d. DOE Issuances and ERC Rules on Switching, RES Licensing, Retail Supply Contracts

This Issues Paper is hereby made available to the general public and is respectfully submitted for consideration of the Honorable DOE and ERC, on the enhancements to the Retail Competition and Open Access (RCOA) market.

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