



Republic of the Philippines
ENERGY REGULATORY COMMISSION
Pasig City

**IN THE MATTER OF THE
APPLICATION FOR THE
ISSUANCE OF RULES ON THE
PRICE DETERMINATION
METHODOLOGY FOR THE
IMPLEMENTATION OF THE
CO-OPTIMIZED ENERGY AND
RESERVE MARKET IN THE
WHOLESALE ELECTRICITY
SPOT MARKET (WESM)**

ERC CASE NO. 2023-002 RC

**PHILIPPINE ELECTRICITY
MARKET CORPORATION
(PEMC) AND THE
INDEPENDENT ELECTRICITY
MARKET OPERATOR OF THE
PHILIPPINES, INC. (IEMOP),**
Applicants.

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Promulgated:
August 24, 2023

ORDER

For resolution before the Commission is the *Application* jointly filed on 10 January 2023 by Philippine Electricity Market Corporation (PEMC) and Independent Electricity Market Operator of the Philippines, Inc. (IEMOP), seeking for the Commission's approval of the amended Price Determination Methodology (PDM) for the implementation of the co-optimized energy and reserve market in the Wholesale Electricity Spot Market (WESM).

FACTUAL ANTECEDENTS

On 29 December 2020, the Commission promulgated its *Decision* dated 20 August 2020 in ERC Case No. 2017-042 RC,³ approving with modification the PDM for the WESM. In the same

³ Entitled, "In the Matter of the Application for the Approval of the Price Determination Methodology for the Wholesale Electricity Market."

Decision, the Commission deferred the approval of the reserves-related procedures and methodologies proposed by PEMC, pending the promulgation by the Department of Energy (DOE) of a policy relating to ancillary services.

Subsequently, on 13 May 2021, the DOE issued DOE Department Circular No. DC2021-03-0009,⁴ providing a policy framework for the operationalization of the reserve market in the WESM. In the same DOE Circular, PEMC and IEMOP were directed to review and submit the necessary proposals for amendments to the WESM Rules and Manuals to implement DOE's policies.

In its *Letter* dated 03 February 2022, the DOE directed PEMC to file before the Commission the PDM containing the proposed amendments for the implementation of the co-optimized energy and reserve market.

Consequently, on 10 January 2023, Applicants PEMC and IEMOP jointly filed the instant *Application* dated 26 October 2022, seeking the Commission's approval of the amended PDM for the implementation of the co-optimized energy and reserve market in the WESM.

Proceedings Conducted by the Commission

On 10 February 2023, the Commission issued an *Order* and *Notice of Public Hearing*, both of even date, setting the instant *Application* for hearing on the following dates: (a) 07 March 2023 for determination of compliance with jurisdictional requirements and expository presentation for Luzon Stakeholders; (b) 16 March 2023 for the expository presentation for Visayas Stakeholders; (c) 23 March 2023 for the expository presentation for Mindanao Stakeholders; (d) 11 April 2023 for Pre-trial Conference and presentation of evidence; and (e) 18 April 2023 and 25 April 2023 for presentation of evidence.

On 07 March 2023, the Applicants presented their compliance to the Commission's posting and publication requirements. Thereafter, the Commission acquired jurisdiction over the instant *Joint Application*. The hearing then proceeded with the expository presentation for the Luzon stakeholders.

⁴ Entitled, "Adopting A General Framework Governing the Operationalization of the Reserve Market in the Wholesale Electricity Spot Market and Providing Further Policies to Supplement DC2019-12-0018."

Subsequently, various hearings⁵ for the expository presentation for Visayas and Mindanao Stakeholders, Pre-trial Conference and presentation of evidence were conducted.

In the course of the proceedings, the following parties were admitted and participated as intervenors: (1) National Grid Corporation of the Philippines (NGCP); (2) Therma Luzon, Inc. (TLI); (3) Panay Energy Development Corporation (PEDC), Panay Power Corporation (PPC), Cebu Energy Development Corporation (CEDC), Toledo Power Co. (TPC), and Global Energy Supply Corporation (GESG) [collectively referred to as PEDC, *et al.*]⁶; (4) SN Aboitiz Power – Magat, Inc. (SNAP-MI); and (5) Manila Electric Company (MERALCO).

On 27 June 2023, IEMOP and PEMC filed their *Formal Offer of Evidence* dated 26 June 2023.

THE COMMISSION’S RULING

After due deliberation, thorough evaluation of all the documents submitted, and appreciation of information gathered in the course of the proceedings thus far, the Commission resolves to **GRANT** interim relief to the Applicants authorizing them to adopt and implement the proposed Price Determination Methodology for the co-optimized energy and reserve market in the WESM, subject to conditions.

DISCUSSION

The Commission’s authority to issue interim relief

The authority of the Commission to grant interim relief is provided for in Section 8 of Executive Order No. 172,⁷ as seen below:

Sec. 8. Authority to Grant Provisional Relief. **The Board may**, upon the filing of an application, petition or complaint or at any stage thereafter and (1) without prior hearing, on the basis of supporting papers duly verified or authenticated, **grant provisional relief** on motion of a party in the case or **(2) on its own initiative, without prejudice to a final decision after**

⁵ The hearings were conducted on the following dates: (a) 16 March 2023; (b) 23 March 2023; (c) 11 April 2023; (d) 18 April 2023; and (e) 09 May 2023.

⁶ Joint Petition for Intervention filed 01 March 2023

⁷ Entitled, “Creating the Energy Regulatory Board.”

hearing, should the Board find that the pleadings, together with such affidavits, documents and other evidence which may be submitted in support of the motion, substantially support the provisional order: Provided, that the Board shall immediately schedule and conduct a hearing thereon within thirty (30) days thereafter, upon publication and notice to all affected parties.

(Emphasis supplied.)

The transfer of the Energy Regulatory Board's (ERB) authority to issue provisional authority to the Commission was upheld by the Supreme Court in the landmark case of *Freedom from Debt Coalition (FDC) v. Energy Regulatory Commission (ERC)*.⁸

The ERC is endowed with the statutory authority to approve provisional rate adjustments under the aegis of Sections 44 and 80 of the EPIRA. The sections read, thus:

SEC 44. Transfer of Powers and Functions. – The powers and function of the Energy Regulatory Board not inconsistent with the provisions of this Act are hereby transferred to the ERC. The foregoing transfer of powers and functions shall include all applicable funds and appropriations, records, equipment, property and personnel as may be necessary.

SEC 80. Applicability and Repealing Clause. – The applicability provisions of Commonwealth Act No. 146, as amended, otherwise known as the "Public Service Act"; Republic Act 6395, as amended, revising the charter of NPC; Presidential Decree 269, as amended, referred to as the National Electrification Decree; Republic Act 7638, otherwise known as the "Department of Energy Act of 1992"; Executive Order 172, as amended, creating the ERB; Republic Act 7832, otherwise known as the "Anti-Electricity and Electric Transmission Lines/Materials Pilferage Act of 1994", shall continue to have full force and effect except insofar as they are inconsistent with this Act.

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Relative thereto, the Commission's *Revised Rules of Practice and Procedure (RRPP)*, particularly Sections 2, 3, and 4 of Rule 14 thereof, provide:

Section 2. Allegations in Support of the Motion and Supporting Documents. – The motion must allege such facts and circumstances that would justify the Commission's exercise of discretion in granting provisional authority or **interim relief** prior

⁸ G.R. No. 161113, 15 June 2004.

to a final decision. Such motion shall be accompanied by affidavits and documents in support of the allegations therein.

Section 3. Action on the Motion. – The Commission shall act on the motion for provisional authority or interim relief on the basis of the allegations in the application or petition, supporting documents and other pieces of evidences that the applicant or petitioner has submitted, as well as the comments or oppositions filed by any interested persons, if there be any.

Motions for provisional authority or interim relief may be acted upon with or without hearing.

The Commission may act on the motion for provisional authority within seventy-five (75) days from the filing of the application or petition. If the Commission, through an order, acts on the motion without hearing, it shall schedule and start the hearing on the application or petition within thirty (30) days from date of issuance of the order. If such motion is included in the application or petition covered by Section 1, Rule 6 of these Rules, the Commission shall hold in abeyance its resolution on the said motion until after the lapse of thirty (30) days from the receipt of a copy of the application or petition by the Offices of the Governor, Mayor, and the Sanggunian concerned within the franchise and/or affected areas or publication of the application or petition in a newspaper of general circulation, whichever comes later.

Section 4. Effect of Final Determination. - The provisional authority or interim relief granted by the Commission shall be subject to adjustment, if upon final evaluation of the case, the Commission determines that the applicant or petitioner was not entitled to the full amount of the provisional or interim rate allowed. The Commission may likewise impose such other conditions as it may deem necessary.

(Emphasis supplied.)

Based on the foregoing, the authority to issue a provisional authority or interim relief is a discretionary act exercised by the Commission as a regulator of the electric power industry.

The legal basis of the instant Joint Application

Section 30 and Section 37 (f) of Republic Act No. 9136, otherwise known as the Electric Power Industry Reform Act of 2001 (EPIRA), mandated the DOE to establish the WESM, and jointly with the Electric Power Industry Participants,⁹ to formulate the detailed rules

⁹ As defined under Section 4 of the EPIRA, "Electric Power Industry Participants" refer to any person or entity engaged in the generation, transmission, distribution or supply of electricity.

for the WESM, including the PDM, which shall be subject to the approval of the Commission, *to wit*:

SEC. 30. *Wholesale Electricity Spot Market.* – Within one (1) year from the effectivity of this Act, **the DOE shall establish a wholesale electricity spot market composed of the wholesale electricity spot market participants. The market shall provide the mechanism for identifying and setting the price of actual variations from the quantities transacted under contracts between sellers and purchasers of electricity.**

Jointly with the electric power industry participants, the DOE shall formulate the detailed rules for the wholesale electricity spot market. Said rules shall provide the mechanism for determining the price of electricity not covered by bilateral contracts between sellers and purchasers of electricity users. **The price determination methodology contained in said rules shall be subject to the approval of ERC.** xxx

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SEC. 37. *Powers and Functions of the DOE.* – In addition to its existing powers and functions, the DOE is hereby mandated to supervise the restructuring of the electricity industry. In pursuance thereof, Section 5 of RA 7638 otherwise known as “The Department of Energy Act of 1992” is hereby amended to read as follows:

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(f) **Jointly with the electric power industry participants, establish the wholesale electricity spot market and formulate the detailed rules governing the operations thereof;**

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(Emphasis supplied.)

Pursuant to the foregoing provisions, the DOE, on 28 June 2002, promulgated the WESM Rules through Department Circular No. DC2002-06-003.¹⁰

Subsequently, with the promulgation of the WESM Rules, the DOE issued various Department Circulars, relative to the rules on PDM, one of which is Department Circular No. DC2015-10-0015¹¹ which was issued on 23 October 2015. Section 3 (b) thereof specifically directs PEMC to secure the approval of the Commission with regard to

¹⁰ Entitled, “Wholesale Electricity Spot Market Rules,” 28 June 2002.

¹¹ Entitled, “Providing Policies for Further Enhancement of the WESM Design and Operations” issued by the Department of Energy (“DOE”), 23 October 2015.

any changes to the existing PDM that was approved by the Commission in ERC Case No. 2006-007 RC.¹²

In view of the foregoing, PEMC filed its PDM *Application* under ERC Case No. 2017-042 RC¹³ on 17 May 2017. Relative thereto, the Commission issued its *Decision* dated 20 August 2020 in the foregoing case, deferring the approval of the proposed procedures and methodologies relative to the reserve market and directed PEMC to observe the status quo pending DOE's issuance of ancillary service-related policy.

Prior to the subject *Decision*, the DOE had issued Department Circular No. DC2019-12-0018 *Adopting A General Framework Governing The Provision and Utilization of Ancillary Services In the Grid* on 04 December 2019. Subsequently, on 13 May 2021, the DOE issued DOE Department Circular No. DC2021-03-0009,¹⁴ and adopted a policy framework for the operationalization of the reserve market in the WESM.

Hence, PEMC and IEMOP filed the instant *Application*.

The Commission's issuance of interim relief

As discussed above, the instant interim relief is being issued by the Commission, at its own initiative, pursuant to its authority under Section 8 of Executive Order No. 172, in relation to the transfer of the power of the ERB to the Commission, and the Commission's *Revised Rules of Practice and Procedure*.

The Commission notes that the DOE, in coordination with the IEMOP and other relevant entities, is preparing for the commercial operations of the Reserve Market pursuant to Department Circular No. DC2019-12-0018. The commercial operation of the Reserve Market is one of the priority projects of the DOE which is set to be launched on 26 September 2023. Department Circular No. DC2019-12-0018 provides the conditions for the commercial operations of the Reserve Market which include the Commission's approval of the PDM and the successful conduct of the Reserve Market-Trial Operations Program (RM-TOP) by the Market Operator (MO), System Operator (SO) and WESM Participants.

¹² Entitled, "In the Matter of the Application for the Approval of the Price Determination Methodology for the Philippine Wholesale Electric Spot Market."

¹³ *Supra*, note 1.

¹⁴ *Supra*, note 2.

In an Advisory issued by the DOE on 26 June 2023, the TOP was described as “a non-binding exercise for the RM participants to test all market systems for registration, scheduling, dispatch and pricing, metering, cost recovery, and settlement, including interfaces among the IEMOP as the MO, the NGCP as the SO, and the Ancillary Services (AS) Providers.”

Upon initial evaluation of the documents submitted by the Applicants, the Commission notes that the TOP for the Reserve Market is still on-going, and will be completed by 25 September 2023. The results of the TOP, among other matters that need to be clarified, will be vital in the final evaluation of the proposed amendments to the PDM under the instant case.

Given the foregoing, the Commission grants interim relief to the Applicants pending the final evaluation of the subject *Application*.

Relative thereto, the Commission finds it imperative to direct the Applicants to submit additional documents to aid the Commission in the final evaluation of the instant *Application*.

WHEREFORE, the foregoing premises considered, PEMC and IEMOP are hereby **GRANTED INTERIM RELIEF** to adopt and implement the proposed Price Determination Methodology (PDM) for the co-optimized energy and reserve market in the Wholesale Electricity Spot Market (WESM), subject to the following conditions:

- a) The Final PDM shall be adopted by the Commission upon completion of its evaluation of all matters pertinent to the instant case, including the report on the results of the Trial Operations Program (TOP) for the reserve market which shall be jointly submitted by PEMC and IEMOP to the Commission, incorporating therein pertinent findings and recommendations relevant to pricing, cost recovery, settlement, among other matters material to the PDM; and
- b) Should the implementation of the PDM for the co-optimized energy and reserve market in the WESM result to over-recovery, the refund should be implemented immediately upon issuance of the *Decision* in the instant case.

RELATIVE TO THE FOREGOING, PEMC and IEMOP are hereby **DIRECTED** to submit, **within ten (10) days** from receipt hereof, the following documents and information:

- a) Proposed revision for PDM Manual Section 11 Appendix A, Section 7.4, and Section 7.5;
- b) Confirmation if the objectives mentioned in the Reserve Market-Monthly Operations Program (RM-MOP) report as of 31 May 2023 have been met before the Applicants proceeded with the Reserve Market-Trial Operations Program (RM-TOP);
- c) Excel file of the simulation with the additional constraints to address the issues raised¹⁵ by Intervenor National Grid Corporation of the Philippines (NGCP);¹⁶
- d) Confirmation if the technical requirements for each generator and each registered reserve are based on the *Ancillary Services Procurement Plan* (ASPP) and the *Philippine Grid Code* (PGC);
- e) Confirmation if the technical requirements for each generator needed in the additional constraints are coordinated with the System Operator;
- f) Simulation on the Proposed Administered Price (AP) for Reserve formula;
- g) Proposed Interim Reserve AP formula;
- h) Activities/Test Cases with their corresponding step-by-step procedures and target results:

¹⁵ The issues raised by NGCP concern the following: (i) AS providers coming from shutdown should be able to provide service on the next interval, if scheduled; (ii) Since AS providers will be providing in their offers the operation mode of their units (e.g., AGC, GCM), there shall be at least two intervals lead time for the transition of the control system from local to remote and vice versa; and (iii) Due to varying sets of AS providers in 5-minute intervals, there could be issues on continuity of reserve provision by the generators such as overlapping AS response due to inertia and the ability of the next AS providers to respond to the frequency deviations spanning from the previous intervals.

¹⁶ As contained in the *Compliance with Urgent Omnibus Motion* filed by IEMOP on 28 April 2023.

1. Registration of Ancillary Services (AS) Providers;
 2. Orientation and Testing of Market Participant Interface (MPI) Enhancements for the Reserve Market;
 3. Execution of Test Cases: MPI;
 4. Execution of Test Cases: Market Projections;
 5. Execution of Test Cases: Scheduling and Dispatch – Part 1 (Capacity and Ramping Constraints);
 6. Execution of Test Cases: Scheduling and Dispatch – Part 2 (Regional Constraints and Supply Deficits);
 7. Execution of Test Cases: Scheduling and Dispatch – Part 3 (Gross Pool Scheduling with Different Scenarios on Contracted Levels);
 8. Execution of Test Cases: Scheduling and Dispatch – Part 4 (Constraint for Multiple/Single Services);
 9. Orientation and Testing of Central Registration and Settlement System (CRSS) Enhancements for Registration;
 10. Orientation and Testing of CRSS Enhancements for Settlement;
 11. Execution of Test Cases: Scheduling and Dispatch – Part 5 (Operational Pre-requisites and Re-tests of other Requirements);
- i) Report on the results of the RM-TOP after the completion of all activities and test cases, including recommendations relevant to the PDM; and
- j) Rates of: (i) energy only (current) market; and (ii) co-optimized energy and reserve market during the RM-TOP period (26 June 2023 to 25 September 2023), as shown in the example below:

Date	Current Market (PhP/MWh)	Co-optimized Energy and Reserve Market (PhP/MWh) (Based on Test Cases)
26 June 2023	5,820	5,000
27 June 2023	9,300	9,135
...
...
...
25 September 2023	8,100	7,950

NOTE: The figures herein are for illustration purposes only.

SO ORDERED.

Pasig City, 24 August 2023.


MONALISA C. DIMALANTA
Chairperson and CEO



(on-leave)
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Commissioner


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MVM/LSP/MCCG


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