

## **REPORT ON THE DISPUTE RESOLUTION: DRG CASE NO. 10-001**

In compliance with Clause 7.3.11.2 of the WESM Rules, the DRA shall publish in the WESM website the details and results of each dispute as soon as practicable after the resolution of the dispute by the dispute resolution panel.

### **DESCRIPTION OF THE DISPUTE**

The DRG Case No. 10-001 is the first WESM dispute initiated through the filing by the Philippine Electricity Market Corporation (PEMC) of its Statement of Claim before the Dispute Resolution Administrator (DRA) last 6 August 2010. Said claim was lodged against the Albay Electric Cooperative, Inc. (ALECO) which sought the full payment by ALECO of its outstanding obligations with the PEMC.

### **NATURE OF THE DISPUTE**

Settlement dispute covering the period February 2010 to July 2010

### **PARTIES TO THE DISPUTE**

The following are the parties to the dispute:

<b>Claimant</b>	:	PEMC
<b>Co-Claimants</b>	:	Therma Luzon, Inc. (TLI) Masinloc Power Partners Co. Ltd. (MPPCL) San Miguel Energy Corp. (SMEC) PANASIA Energy Holdings, Inc. (PEHI) Strategic Power Devt. Corp. (SPDC)
<b>Respondent</b>	:	ALECO

It should be noted, however, that there were three (3) other parties who initially signified interest in participating in the proceedings but subsequently withdrew from the case.

### **COMPOSITION OF THE DISPUTE RESOLUTION PANEL (DRP)**

The following are the composition of the DRP:

**Chairman** : Prof. Alfredo F. Tadiar, Esq.

**Members** : Mr. Alfredo J. Non  
Atty. Romulo R. Maristaza, Sr.

The appointment of the DRP was based upon the result of the selection process conducted by all the parties on 7 January 2011 which was facilitated by the then DRA, Atty. Salvador S. Panga, Jr. At the time of selection, only four (4) arbitrators were available/qualified, out of the five (5) members of the Dispute Resolution Group (DRG). The fifth member of the DRG being the mediator of the same case could not anymore serve as an arbitrator and, therefore, was excluded from the list of candidates.

### **COMPLIANCE WITH THE DISPUTE RESOLUTION PROCESS**

In accordance with the Dispute Resolution Market Manual, all disputes shall first undergo negotiation and mediation before arbitration. Dean Rogelio M. Avenido was appointed by the then DRA as mediator to facilitate the resolution of the dispute through mediation. The compromise agreement reached in mediation, however, was not able to resolve all the issues, hence, the arbitration proceedings was triggered.

As agreed by the parties and the DRP in the terms of reference, the rules of procedures for arbitration shall be governed by the WESM Rules and the Dispute Resolution Market Manual with the Construction Industry Arbitration Commission (CIAC) Revised Rules of Procedures Governing Arbitration of Construction Disputes having a suppletory effect thereto, in case of omission or absence of any applicable provision as may be relevant to the WESM.

### **DRP DECISION AND RESULTS OF THE RESOLUTION**

Finding nothing in the terms and conditions agreed upon by the parties in their Compromise Agreement dated 5 October 2011 together with the Special Payment Arrangement (SPA) contrary to law, morals, good customs, public order or public policy, the same was approved and incorporated in the final award issued by the DRP on 1 December 2011.

In summary, the following are the general obligations of ALECO under the SPA:

#### **A. Restructured Indebtedness**

1. Monthly payment of the total outstanding indebtedness ("Restructured Indebtedness"), inclusive of interest and penalties as of 4 August 2011, over a period of three years at an interest rate of 2.7% per annum commencing on 30 October 2011.

2. Execution of two post-dated checks for the first two monthly payments of the Restructured Indebtedness to be delivered to PEMC on 28 September 2011 and for the succeeding months at least two months before the next payment date.

**B. Prudential Guarantee**

1. Issuance of a letter of credit for an initial amount as prudential guarantee for the current WESM bills on 15 November 2011.
2. In addition to the letter of credit, payment for additional prudential guarantee at an estimated amount to be divided into 12 equal monthly installments commencing on 30 September 2011;

**C. Monthly WESM Bills paid on a weekly basis**

Advanced payment of the energy bill on a weekly basis immediately after the end of the billing month with an initial amount set for the first week. The second and third week would be based on the Preliminary Statement while the last week and any balances would be computed using the Final Statement.



Note: This signature has been redacted pursuant to PEMC's Documented Information Management Policy. The full version of the file is available with the DRA Secretariat of PEMC.

**ATTY. JESUSITO G. MORALLOS**  
Dispute Resolution Administrator