

Republic of the Philippines
ENERGY REGULATORY COMMISSION
San Miguel Avenue, Pasig City

**IN THE MATTER OF THE
APPLICATION FOR THE
APPROVAL OF THE
STRUCTURE AND LEVEL OF
MARKET FEES FOR
CALENDAR YEARS 2019
AND 2020 FOR THE
PHILIPPINE WHOLESALE
ELECTRICITY SPOT
MARKET (WESM), WITH
PRAYER FOR PROVISIONAL
AUTHORITY**

ERC CASE NO. 2019-088 RC

**PHILIPPINE ELECTRICITY
MARKET CORPORATION
(PEMC),**

Applicant.

X-----X

Promulgated:
JAN 07 2020

ORDER

On 20 November 2019, Applicant Philippine Electricity Market Corporation (PEMC) filed an *Application* dated 11 November 2019, seeking the Commission's approval of the structure and level of Market Fees for Calendar Years 2019 and 2020 for the Philippine Wholesale Electricity Spot Market (WESM), with prayer for provisional authority.

The pertinent allegations of the said *Application* are hereunder quoted as follows:

1. Applicant is a non-stock, non-profit corporation duly organized and existing in accordance with Philippine laws, with principal office at 18th floor Robinsons-Equitable Tower, ADB Avenue, Ortigas Center, Pasig City. Applicant is herein represented by its President, Oscar E. Ala, as evidenced by the Secretary's Certificate certifying PEM Board Resolution No. 2019-17-01 that has been attached to the Application as Annex "A" and made integral part thereof.

2. The instant Application has been filed pursuant to Section 30 of Republic Act No. 9136, also known as the Electric Power Industry Reform Act of 2001, ("EPIRA") which states that:

"The cost of administering and operating the wholesale electricity spot market shall be recovered by the market operator through a charge imposed to all market members: Provided, that such charge shall be filed with and approved by the ERC."

3. Also, under its Articles of Incorporation (AOI), Applicant's primary purpose for incorporation is to manage, govern and administer an efficient, competitive, transparent and reliable market for the wholesale and purchase of electricity and ancillary services in the Philippines (the Wholesale Electricity Spot Market or ("WESM") in accordance with EPIRA and such other laws, rules and regulations which may be enacted to govern the WESM. A copy of PEMC's AOI is attached as Annex "B" of the Application and made an integral part thereof.
4. Further, the secondary purposes for Applicant's incorporation under said AOI, include, among other things, to impose and collect fees and charges that may be required or necessary for the maintenance of the Corporation and its activities, including, without limitation, the market fees.
5. The Honorable Commission in the Decision dated 30 January 2008 in ERC Case No. 2007-124 RC¹ ruled that:²
- "For the succeeding Calendar Years (CY), any application for Approval shall be filed and submitted to the Commission not later than the first working day of July of the current year. Should there be no application filed by PEMC for approval of the Market Fees for the succeeding year or should there be delay in the filing of the said application, the MTF shall be automatically be applied in the succeeding year."
6. PEMC requested for an additional period to file the Application for Approval of Market Fee for Calendar Year (CY) 2019 from the Honorable Commission due to the transition to the Independent Market Operator³ and the preparation of the budgetary requirements.⁴

¹ In the Matter of the Application for the Approval of the Level of Market Transaction Fees for the Year 2007 for the Philippine Wholesale Electricity Spot Market (WESM). Decision in ERC case 2007-124 RC, page 39;

² Decision in ERC Case 2007-124 RC, page 39;

³ The transition to the Independent Market Operator is pursuant to Department of Energy (DOE) Department; Circular No. 2018-01-0002 dated 18 January 2018 entitled "Adopting Policies for the Effective and Efficient Transition to the Independent Market Operator for the Wholesale Electricity Spot Market";

⁴ PEMC's Motion for Extension dated 03 July 2017; PEMC's Motion for Additional Time dated 31 July 2018; and PEMC's Motion for Additional Time dated 30 August 2018;

7. The Honorable Commission, in its letters dated 2 August 2018 and 3 September 2018, acknowledged receipt of PEMC's request for extension of time to file the said Application.
8. On 26 September 2018, the PEM Board issued Resolution No. 2018-040⁵ directing the Independent Electricity Market Operator of the Philippines, Inc. (IEMOP) to cause the filing of the application for approval of the market fee for CY2019 with the Honorable Commission based on the approved budget in the total amount Php 1.11 Billion.
9. On 28 September 2018, IEMOP filed its Omnibus Motion (For Substitution of Parties and For Additional Time) praying for the substitution by IEMOP of PEMC as the Applicant, and additional period, or until 29 October 2018 within which to file the Application.
10. On 30 October 2018, IEMOP filed an application entitled, "In the Matter of the Application for the Approval of the Level of Market Fees for the Philippine WESM," docketed as ERC case No. 2018-105 RC.
11. On 10 December 2018, the Honorable Commission issued an Order setting the said case for initial hearing on 12 February 2019.
12. On 27 February 2019, the PEM Board issued Resolution No. 2019-09-05 directing IEMOP to withdraw the 2019 Market Fee Application filed before the Honorable Commission. Thus, IEMOP filed a Motion to Withdraw the Application on 01 March 2019.
13. On 18 June 2019, the Honorable Commission issued an Order approving IEMOP's Motion to Withdraw the Application.
14. On 31 July 2019, the PEM Board also issued Resolution No. 2019-14-06 approving, among other things, the following: (a) The proposed revision of the CY 2019 Budget of PEMC & IEMOP to keep the same within the one (1) centavo Market Fee Rate per kWh; and (b) The amendment of Board Resolution No. 2018-04-06 to reflect the proposed revised budget of Php835 Million.

A Copy of the Secretary's Certificate relative to said Board Resolution is attached as Annex "C" of the Application and made an integral part thereof.

15. Thereafter, the PEM Board, through its Resolution No. 2019-16-02, approved, among other things, the Market Fee for CY 2020.

⁵ This PEM Board Resolution has been superseded by the PEM Board Resolution No 2019-14-06 insofar as the budget is revised to Php835 Million;

A Copy of the Secretary's Certificate relative to said Board Resolution is attached as Annex "D" of the Application and made an integral part thereof.

16. Considering the short interval between the approval by the PEM Board of the MF for CY 2019 and the MF for CY 2020, Applicant has opted to file the instant Consolidated Application. This will expedite the process of filing of the instant application and hearing of the instant case and even lessen the publication costs. The filing of the Consolidated Application has been approved by the PEM Board in its Resolution No. 2019-17-01.⁶
17. Applicant also advised the Honorable Commission regarding the filing of Consolidated Application as shown in the former's letter dated 20 September 2019 and latter's acknowledgment receipt dated 24 September 2019. Thereafter, Applicant in its Letter dated 28 October 2019 requested for additional period to file the said Application with the Honorable Commission.

MARKET FEE FOR CY 2019

18. The Honorable Commission in its Decision dated 16 March 2009 in ERC Case No. 2008-050 RC⁷ approved a single fixed rate market transaction fee for CY 2009 to cover the annual budgetary requirements of PEMC, thus:⁸

“In the meantime and transitory thereto, the Commission allows a single fixed rate market transaction fee for calendar year 2009.”

19. Accordingly, Applicant seeks the approval of a Fixed Market Fee Charge for CY2019 equivalent to PhP0.01/kWh under the instant Application.
20. The above-proposed Fixed Market Fee Charge for CY2019 of PhP0.01/kWh has been computed based on the formula for market transaction fee rate that has been previously approved by the Honorable Commission in its Decision dated 22 June 2006⁹ in ERC case No. 2005-048 RC,¹⁰ thus:

| | | | | |
|-----------------------------------|---|--|--------------|------|
| | | Total | CY | 2019 |
| | | Budgetary | Requirements | |
| Fixed Market Fee Charge (PhP/kWh) | = | <div style="border-top: 1px solid black; display: inline-block; width: 100%;"></div> | | |
| | | Total Projected Generation Metered Quantity | | |

⁶ Please see Annex A of the instant Application.
⁷ In the Matter of the Application of the Level of Market Transaction Fees for Calendar Year 2009 to 2011 for the Philippine Wholesale Electricity Spot Market;
⁸ ERC Decision in ERC Case No. 2008-050 RC, page 24;
⁹ ERC Decision in ERC Case No. 2005-048 RC, page 56;
¹⁰ In the Matter of the Application for the Approval of the Structure and Level of Market Fees for the Philippine Wholesale Electricity Spot Market (WESM);

21. Applicant has used the following parameters in computing for the Fixed Market Fee Charge for CY 2019.

21.1 The Total Projected Generation Metered Quantity equivalents to 83,675 GWh which has been based on the Luzon and Visayas Energy Forecasts for CY 2019.¹¹ A copy of the said Luzon and Visayas Energy Forecasts is attached as Annex "E" of the Application and made an integral part thereof.

21.2 The Total Budgetary Requirements in the amount of Eight Hundred Thirty-Five Million Pesos, (PhP835,000,000.00), with the following breakdown:

| Budget Component | MARKET ADMINISTRATION/ GOVERNANCE PhPM | MARKET OPERATIONS PhPM | Total, PhPM |
|---|---|------------------------------|---------------|
| Personnel Services | 139.90 | 247.49 | 387.39 |
| Maintenance and Other Operating Ex enses MOOE | 102.79 | 249.99 | 352.78 |
| Capital Expenditures CAPEX | 49.56 | 45.27 | 94.83 |
| TOTAL | 292.25 | 542.75 | 835.00 |

| | |
|---|---------------|
| Total Budgetary Requirement for CY 2019 (in millions) | 835.00 |
| Projected Generation, GWH | 83,675 |
| Fixed Market Fee Charge PhP/kWh | 0.0100 |

22. The above-stated amounts are net of applicable taxes, such as corporate income and value added taxes. These also do not cover possible changes in expenses due to changes in law, rules or regulations, compliance with other regulatory requirements and other external factors.

23. It is further proposed that the amount of market fees that would be collected monthly from the generation companies registered in the WESM be calculated by multiplying the Fixed Market Fee Charge by the actual generation metered quantities, in kWh, for the month.

¹¹ The Total Metered Quantity was based from the Actual Generation Metered Quantity for January to June 2019 and Projected Generation Metered Quantity for July to December 2019;

24. The Budget Components are as follows:

| Budget Component | Particulars |
|--|---|
| 1. Personnel Services | This budget component shall pertain to the salaries and benefits of personnel who shall perform market administration/governance functions for CY2019, such as those in the Enforcement and Compliance Office and Market Assessment Group, and personnel who shall perform market operation functions, such as those in the Trading Operations Department and Information Systems and Technology Department. |
| 2. Maintenance and Other Operating Expenses (MOOE) | <p>This budget component refers to MOOE that shall inevitably be incurred for market administration/governance and market operations for CY 2019.</p> <p>The expenses include, among other things, honoraria, rentals, utilities, repairs and maintenance, contracted services, conferences, insurances, advertising and promotion, taxes, dues, trainings, travel and transportation, materials and other supplies, and/or subscriptions.</p> |
| 3.Capital Expenditures (CAPEX) | <p>CAPEX pertain to capital projects for market administration/governance and market operations for CY2019.</p> <p>The capital projects for market administration/governance for CY2019 consist of the following major components: (a) Market Governance Systems and Enhancements; (b) Corporate Systems; and c) Integrated Management System Support.</p> <p>The capital projects for market operations include those for, Market Systems, Corporate Systems, and Replacement of Service Vehicles.</p> |

A Detailed Description of the Budget Components for Market Administration/Governance for CY2019 for Personnel Services and MOOE, including their justifications and cost basis are attached as Annexes "F" to "F-14" of the Application and are made integral parts thereof. Also, a Detailed Description of the Budget for Components for Market Operations for CY2019, including their justifications and cost basis are attached as Annexes "G" to "G-7" of the Application and are made integral parts thereof.

25. The Budgetary Requirements for CY 2019 have also taken into account the cost for the operation of the New Market Management System (NMMS), the Central Registration and

Settlement System, Electricity Market Database and Reporting Platform (EMDRP) and other market systems developed or enhanced to implement the changes to the market design, as embodied in the revised Price Determination Methodology currently being applied for approval with the Honorable Commission in a separate application.

26. However, the proposed Market Fee for CY 2019 does not include the proposed budgetary requirements for the operations of the WESM in the Mindanao grid since at the time of its preparation the WESM has not yet been in commercial operations in Mindanao. This is aligned with the Honorable Commission's Order dated 11 July 2017 in ERC case No. 2015-160 RC¹² which provides that:

x x x

“As the above discussed expenses are to be incurred in the upcoming establishment of the WESM in Mindanao, the Commission recognizes that the pre-operating expenses should not be charged to Luzon & Visayas customers. The separate apportionment of expenses between Luzon-Visayas WESM and Mindanao WESM is significant considering that in the absence of interconnection by the Mindanao grid, the WESM Mindanao will be a market separate from the Luzon and Visayas WESM.”

27. The same is true with the Reserve Market which has yet to be launched. Further, Applicant shall subsequently file separate application for the adjusted Fixed Market Fee Charge prior to the commencement thereof. Said Application for the Reserve Market shall consider the additional budgetary requirements, if any, in operating and governing the trading of reserves as well as the inclusion of scheduled reserves for the purpose of determining the Fixed Market Fee Charge.

MARKET FEE FOR 2020

28. In addition, Applicant seeks the approval of a Fixed Market Fee Charge amounting to a total of PhP0.01/kWh for CY 2020 under the instant Application. In the computation of the said Fixed Market Fee Charge, the same formula that has been previously approved by the Honorable Commission in its Decision dated 22 June 2006 in ERC Case No. 2005-048 RC and the following specific parameters have been used:

- 28.1 The Total Projected Generation Metered Quantity equivalent to 103,241 GWh which has been based on the Luzon, Visayas and Mindanao Energy Forecasts for CY 2020. A copy of the said Energy Forecasts is

¹² In the Matter of the Application for the Approval of the Structure and Level of Market Fees for Calendar Years 2016-2017 for the Philippine Wholesale Electricity Spot Market (WESM);

attached as Annex "H" of the Application and made an integral part thereof.

28.2 The Total CY 2020 Budgetary Requirements in the amount of One Billion Thirty-Three Million and Four Hundred Eighty Thousand, (PhP1,033,480,000.00), with the following breakdown:¹³

| Budget Component | MARKET ADMINISTRATION/ GOVERNANCE PhPM | MARKET OPERATIONS PhPM | Total, PhPM |
|---|--|------------------------|-------------|
| Personnel Services | 145.36 | 265.63 | 410.99 |
| Maintenance and Other Operating Expenses MOOE | 201.26 | 285.17 | 486.43 |
| Capital Expenditures (CAPEX) | 30.10 | 105.96 | 136.06 |
| Total | 376.72 | 656.76 | 1,033.48 |

| | |
|---|----------|
| Total Budgetary Requirement for CY 2020 (in millions) | 1,033.48 |
| Projected Generation, GWH | 103,241 |
| Fixed Market Fee Charge, PhP/kWh | 0.0100 |

29. The above-stated amounts are also net of applicable taxes, Such as corporate income and value added taxes. These also do not cover possible Changes in expenses due to changes in law, rules or regulations, compliance with other regulatory requirements and other external factors.
30. The same method of computation of monthly market fees (for collection from the generation companies registered in the WESM) shall be adopted that is by multiplying the Fixed Market Fee Charge to the actual generation metered quantities, in kWh, for the month.
31. The Budget Components are as follows:

| Budget Component | Particulars |
|-----------------------|--|
| a. Personnel Services | This budget component shall pertain to the salaries and benefits of personnel who shall perform market administration/governance functions for CY2020 such as those in the Enforcement and Compliance Office and Market Assessment Group, and personnel who shall perform market |

¹³ As approved under PEM Board Resolution No. 2019-16-02;

| | | |
|----|---|---|
| | | operation functions, such as those in the Trading Operations Department and Information Systems and Technology Department. |
| b. | Maintenance and Other Operating Expenses (MOOE) | <p>This budget component refers to MOOE that shall inevitably be incurred for market administration/governance and market operations for CY2020.</p> <p>The expenses include, among other things, honoraria, rentals, utilities, repairs and maintenance, contracted services, conferences, insurances, advertising and promotion, taxes and dues, trainings, travel and transportation, materials and supplies and/or subscriptions.</p> |
| c. | Capital Expenditures (CAPEX) | <p>The capital projects for market administration/governance for CY 2020 consist of the following major components: (a) Market Governance Systems and Enhancements; (b) Corporate Systems; and (c) Leasehold Improvements.</p> <p>The capital projects for market operations for CY 2020 include the following: (a) Market Systems Projects, (b) Corporate Systems Projects, and (c) Network Rehabilitation Project.</p> |

A Detailed Description of the Budget Components for Market Administration/Governance for CY 2020, including their justifications and cost basis are attached as Annexes "I" to "I-16" of the Application and are made integral parts thereof, Please also refer to the Detailed Description of the Budget for Components for Market Operations for CY 2020, including their justifications and cost basis are also provided in Annexes "G" to "G-7" of the Application.

32. In anticipation of the start of commercial operations of the WESM in Mindanao by year 2020, the minimal budgetary requirements for WESM Mindanao and the projected increase in generation volumes arising from the integration of the Mindanao grid in the WESM have already been included/considered in determining the Fixed Market Charge for CY 2020. This is aligned with Rule 9, Section 9 (a) of the Implementing Rules and Regulations of the Electric Power Industry Reform Act, (IRR-EPIRA), which states that:

“The cost of administering and operating the WESM shall be recovered by the IMO through a charge

the under/over recoveries for market fees in the succeeding regulatory years.

40. Prescinding from the foregoing, only the 2014 MTF level and its corresponding budget allocations that have been approved by the Honorable Commission can be utilized for the purpose of financing PEMC's succeeding annual budgetary requirements, including that of CY2019 and CY2020.
41. However, it is no longer prudent to peg or limit the expenditures for the WESM at the previously approved 2014 Market Fee Level. This is due to, among other things, necessary and urgent expenses such as, the maintenance service support for the NMMS and Central Registration and Settlement System (CRSS) that have already been incurred for CY 2019. Thus, Applicant is constrained to seek the issuance of a provisional authority by the Honorable Commission under the instant Application.
42. The prayer for provisional authority under the instant Application has been authorized also by the PEM Board in its Resolution No. 2019-17-01 or Annex "A" of the Application.

ALLOCATION OF UNUTILIZED MARKET FEES

43. Applicant also seeks the simultaneous approval of the use/allocation of the unutilized portion of the MTF for CY 2017 in the amount of Ninety Six Million Eight Hundred Ninety Five Thousand Six Hundred Fifty-Eight Pesos(PhP96,895,658) or any remaining portion thereof to fund for a portion of the MF for CY2019.¹⁹ The said allocation of the unutilized portion Of the MTF for CY 2017 has also been authorized by the PEM Board in its Resolution No. 2019-17-01 or Annex "A" of the Application.
44. The above-mentioned proposal for allocation of the unutilized MTF for CY 2017 to fund a portion of the MF for CY2019 is consistent with the previous pronouncements of the Honorable Commission, particularly the Decision dated October 15, 2014²⁰ in ERC case No. 2013-137 RC²¹, Decision dated 5 December 2011²² in ERC Case No. 2011-085 RC²³ and Decision dated 6 June 2011²⁴ in ERC Case No. 2010-079 RC²⁵ and Decision dated 1 April 2013²⁶ in ERC Case No.

¹⁹ Note: PEMC may also propose for the use/allocation of the unutilized MTF for CY 2017 to fund for its Budgetary Requirements for the Establishment of RE Registrar under a separate Application;

²⁰ Decision in ERC Case No. 2013-137 RC, page 32;

²¹ In the Matter of the Application for Approval of the Level of the Market Transaction Fees for Calendar Year 2014 for the Philippine Wholesale Electricity Spot Market (WESM);

²² Decision in ERC Case No. 2010-079 RC, page 25;

²³ In the Matter of the Application for Approval of the Level of the Market Transaction Fees for Calendar Year 2010-2011 for the Philippine Wholesale Electricity Spot Market (WESM);

²⁴ Decision in ERC Case No. 2013-079 RC, page 25;

²⁵ In the Matter of the Application for Approval of the Level of the Market Transaction Fees for Calendar Year 2010-2011 for the Philippine Wholesale Electricity Spot Market (WESM);

2013-011 RC,²⁷ authorizing the unutilized funds to be carried over in the next year as a reduction to the approved total budget by the Honorable Commission.

An excerpt of the Audited Financial Statement of PEMC for CY 2017 showing the unutilized market fees for that year is attached as Annex "J" of the Application and made an integral part thereof.

45. In support of this Application and the prayer for provisional approval thereof, attached are the Judicial Affidavit of Mr. Herbie C. Ngringir, Finance Assistant Manager of PEMC, Judicial Affidavit of Mr. Patrick S. Fernandez, Head of the Information Systems and Technology Department of PEMC, Judicial Affidavit of Ms. Ma. Rene Ann Lourdes Garcia-Matibag, Head of Corporate Services Department of PEMC, Judicial Affidavit of Ms. Mary Anne T. Santiago, Controllershship Manager of the Corporate Services Department of IEMOP, and Judicial Affidavit of Mr. Salvador D. Subaran, Chief Information Systems and Technology Officer of IEMOP as Annexes "K", "L", "M", "N" and "O" of the Application and made integral parts thereof.

PRAYER

WHEREFORE, premises considered, Applicant respectfully prays to the Honorable Commission that:

1. Pending hearing, a provisional authority for the following be granted:
 - a. APPROVING the budgetary requirements for CY 2019 in the amount of Eight Hundred Thirty-Five Million Pesos, (PhP835,000,000.00) and the Fixed Market Fee Rate for CY2019 equivalent to PhPo.01/kWh;
 - b. APPROVING, the budgetary requirements for CY 2020 in the amount of One Billion Thirty Three Million and Four Hundred Eighty Thousand Pesos, (PhP 1,033,480,000.00) and the Fixed Market Fee Rate for CY 2020 equivalent to PhPo.01/kWh;
 - c. APPROVING the collection of the amount of market fees for CYs 2019 and 2020 from the generation companies registered in the WESM calculated by multiplying the Fixed Market Fee Charge by the actual generation metered quantities, in kWh; and

²⁶ Decision in ERC Case No. 2013-011 RC; pages 15 to 16;

²⁷ In the Matter of the Application for Approval of the Level of the Market Transaction Fees for the Establishment of an Interim Mindanao Energy Market (IMEM) for the Philippine Wholesale Electricity Spot Market (WESM);

- d. APPROVING the allocation of the unutilized Market Fee from CY 2017 in the amount of Ninety Six Million Eight Hundred Ninety Five Thousand Six Hundred Fifty-Eight Pesos (PhP96,895,658) or any remaining portion thereof to fund a portion of the Budgetary Requirements for CY 2019, subject to accounting and submission of proposed rate adjustment mechanism by the Applicant.
2. After hearing, a Decision be rendered permanently approving the following:
- a. The Market Fee for CY 2019 in the amount of Eight Hundred Thirty-Five Million Pesos, (PhP835,000,000.00) and the Fixed Market Fee Rate for CY 2020 equivalent to PhPo.01/kWh;
 - b. The Market Fee for CY 2020 in the amount of One Billion Thirty-Three Million and Four Hundred Eighty Thousand Pesos, (PhP1,033,480,000.00) and the Fixed Market Fee Rate for CY 2020 equivalent to PhPo.01/kWh;
 - c. APPROVING the collection of the amount of market fees for CYs 2019 and 2020 from the generation companies registered in the WESM calculated by multiplying the Fixed Market Fee Charge by the actual generation metered quantities, in kWh; and
 - d. The allocation of the unutilized Market Fee from CY 2017 in the amount of Ninety Six Million Eight Hundred Ninety-Five Thousand Six Hundred Fifty-Eight Pesos (PhP96,895,658) or any remaining portion thereof to fund a portion of the Budgetary Requirements for CY 2019, subject to accounting and submission of proposed rate adjustment mechanism by the Applicant.

Applicant likewise prays for such other reliefs which are just and equitable under the premises.

Finding the said *Application* to be sufficient in form and substance, with the required fees having been paid, the same is hereby set for determination of compliance with the jurisdictional requirements, expository presentation, pre-trial conference, and presentation of evidence on the following dates and venues:

| Date and Time | Venue | Particulars |
|---|---|--|
| | LUZON | |
| 06 February 2020 (Thursday) at ten o'clock in the | ERC Hearing Room, 15 th Floor, Pacific Center Building, San Miguel | Jurisdictional and Expository Presentation |

| Date and Time | Venue | Particulars |
|--|---|---|
| morning (10:00 A.M.) | Avenue, Pasig City | |
| | VISAYAS | |
| 12 February 2020 (Wednesday) at ten o'clock in the morning (10:00 A.M.) | ERC Visayas Area Operations Division (ERC-VAOD), St. Mary's Drive, Banilad, Cebu City | Expository Presentation |
| | MINDANAO | |
| 14 February 2020 (Friday) at ten o'clock in the morning (10:00 A.M.) | ERC Mindanao Area Operations Division (ERC-MAOD), Mezzanine Floor, Mintrade Building, Monteverde Avenue cor. Sales Street, Davao City | Expository Presentation |
| | LUZON | |
| 19 February 2020 (Wednesday) at ten o'clock in the morning (10:00 A.M.) | ERC Hearing Room, 15 th Floor, Pacific Center Building, San Miguel Avenue, Pasig City | Pre-trial Conference and Presentation of Evidence |

Accordingly, PEMC is hereby directed to:

- 1) Cause the publication of the attached *Notice of Public Hearing* in two (2) newspapers of nationwide circulation in the Philippines at its own expense, twice (2x) within two (2) successive weeks, the dates of publication not being less than seven (7) days apart and the date of the last publication to be made not later than ten (10) days before the date of the scheduled initial hearing;
- 2) Furnish with copies of this *Order* and the attached *Notice of Public Hearing* the Offices of the City Mayor and the Local Government Unit (LGU) legislative body of Pasig City for the appropriate posting thereof on their respective bulletin boards;
- 3) Inform of the consumers within the affected areas of the filing of the *Application*, its reasons thereof, and of the scheduled hearings thereon, by any other means available and appropriate;
- 4) Furnish with copies of this *Order* and the attached *Notice of Public Hearing*, the Office of the Solicitor General

(OSG), the Commission on Audit (COA), and the Committees on Energy of both Houses of Congress. They are hereby requested, if they so desire to send their duly authorized representatives at the scheduled hearings; and

- 5) Furnish with copies of the *Application* and its attachments all those making requests therefor, subject to reimbursement of reasonable photocopying costs.

On the date of the initial hearing, PEMC must submit to the Commission its written compliance with the aforementioned jurisdictional requirements attaching therewith, methodically arranged and duly marked the following:

- 1) The evidence of publication of the attached *Notice of Public Hearing* consisting of affidavits of the Editors or Business Managers of the newspapers where the said Notice of Public Hearing were published, and the complete issues of the said newspapers;
- 2) The evidence of actual posting of this *Order* and the attached *Notice of Public Hearing*, consisting of certifications issued to that effect, signed by the aforementioned Mayor and LGU legislative body or their duly authorized representatives, bearing the seals of their offices;
- 3) The evidence of other means employed by PEMC to inform the consumers within the affected areas of the filing of the *Application*, its reasons therefor, and of the scheduled hearings thereon;
- 4) The evidence of receipt of copies of this *Order* and the attached *Notice of Public Hearing* by the Office of the Solicitor General (OSG), the Commission on Audit (COA), and the Committees on Energy of both Houses of Congress;
- 5) The evidence of receipt of copies of the *Application* and its attachments by all those making requests therefor, if any; and
- 6) Such other proofs of compliance with the requirements of the Commission.

Applicant and all interested parties are also required to submit, at least five (5) days before the date of initial hearing and Pre-trial

Conference, their respective Pre-trial Briefs containing, among others:

- 1) A summary of admitted facts and proposed stipulation of facts;
- 2) The issues to be tried or resolved;
- 3) The documents or exhibits to be presented, stating the purposes and proposed markings therefore; and
- 4) The number and names of the witnesses, with their written testimonies in a Judicial Affidavit form attached to the Pre-trial Brief.

Failure of Applicant to comply with the above requirements within the prescribed period shall be a ground for cancellation of the scheduled hearing, and the resetting of which shall be six (6) months from the said date of cancellation.

PEMC must also be prepared to make an expository presentation of the instant *Application*, aided by whatever communication medium that it may deem appropriate for the purpose, in order to put in plain words and explain, for the benefit of the consumers and other concerned parties, the nature of the *Application* with relevant information and pertinent details substantiating the reasons and justifications being cited in support thereof.

SO ORDERED.

Pasig City, 03 December 2019.

FOR AND BY AUTHORITY
OF THE COMMISSION:

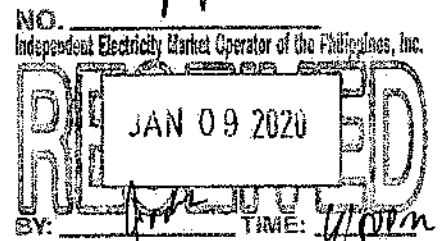
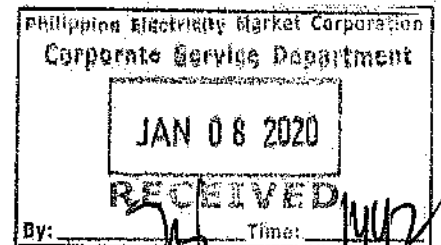

JOSEFINA PATRICIA A. MAGPALE-ASIRIT
Commissioner 


LS: MHD/ARG/OLO

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COPY FURNISHED:

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5. Senate Committee on Energy
GSIS Bldg. Roxas Blvd., Pasay City
Metro Manila
6. House of Representatives Committee on Energy
Batasan Hills, Quezon City, Metro Manila
7. Office of the President
Philippine Chamber of Commerce and Industry (PCCI)
3rd Floor, Chamber and Industry Plaza (CIP)
1030 Campus Avenue corner Park Avenue
McKinley Town Center, Fort Bonifacio, Taguig City
8. Office of the City Mayor
Pasig City
9. Sangguniang Panglungsod
Pasig City
10. MOS-SMD
Energy Regulatory Commission
12/F Pacific Center, San Miguel Avenue
Ortigas Center, Pasig City



Republic of the Philippines
ENERGY REGULATORY COMMISSION
San Miguel Avenue, Pasig City

**IN THE MATTER OF THE
APPLICATION FOR THE
APPROVAL OF THE
STRUCTURE AND LEVEL OF
MARKET FEES FOR
CALENDAR YEARS 2019 AND
2020 FOR THE PHILIPPINE
WHOLESALE ELECTRICITY
SPOT MARKET (WESM),
WITH PRAYER FOR
PROVISIONAL AUTHORITY**

ERC CASE NO. 2019-088 RC

**PHILIPPINE ELECTRICITY
MARKET CORPORATION
(PEMC),**

Applicant.

X-----X

Transmitted:
JAN 07 2020

NOTICE OF PUBLIC HEARING

TO ALL INTERESTED PARTIES:

Notice is hereby given that on 20 November 2019, Applicant Philippine Electricity Market Corporation (PEMC) filed an *Application* dated 11 November 2019, seeking the Commission's approval of the structure and level of Market Fees for Calendar Years 2019 and 2020 for the Philippine Wholesale Electricity Spot Market (WESM), with prayer for provisional authority.

The pertinent allegations of the said *Application* are hereunder quoted as follows:

1. Applicant is a non-stock, non-profit corporation duly organized and existing in accordance with Philippine laws, with principal office at 18th floor Robinsons-Equitable Tower, ADB Avenue, Ortigas Center, Pasig City. Applicant is herein represented by its President, Oscar E. Ala, as evidenced by the Secretary's Certificate certifying PEM Board Resolution No. 2019-17-01 that has been attached to the Application as Annex "A" and made integral part thereof.

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2. The instant Application has been filed pursuant to Section 30 of Republic Act No. 9136, also known as the Electric Power Industry Reform Act of 2001, ("EPIRA") which states that:

"The cost of administering and operating the wholesale electricity spot market shall be recovered by the market operator through a charge imposed to all market members: Provided, that such charge shall be filed with and approved by the ERC."

3. Also, under its Articles of Incorporation (AOI), Applicant's primary purpose for incorporation is to manage, govern and administer an efficient, competitive, transparent and reliable market for the wholesale and purchase of electricity and ancillary services in the Philippines (the Wholesale Electricity Spot Market or ("WESM") in accordance with EPIRA and such other laws, rules and regulations which may be enacted to govern the WESM. A copy of PEMC's AOI is attached as Annex "B" of the Application and made an integral part thereof.

4. Further, the secondary purposes for Applicant's incorporation under said AOI, include, among other things, to impose and collect fees and charges that may be required or necessary for the maintenance of the Corporation and its activities, including, without limitation, the market fees.

5. The Honorable Commission in the Decision dated 30 January 2008 in ERC Case No. 2007-124 RC¹ ruled that:²

"For the succeeding Calendar Years (CY), any application for Approval shall be filed and submitted to the Commission not later than the first working day of July of the current year. Should there be no application filed by PEMC for approval of the Market Fees for the succeeding year or should there be delay in the filing of the said application, the MTF shall be automatically be applied in the succeeding year."

6. PEMC requested for an additional period to file the Application for Approval of Market Fee for Calendar Year (CY) 2019 from the Honorable Commission due to the transition to the Independent Market Operator³ and the preparation of the budgetary requirements.⁴

¹ In the Matter of the Application for the Approval of the Level of Market Transaction Fees for the Year 2007 for the Philippine Wholesale Electricity Spot Market (WESM). Decision in ERC case 2007-124 RC, page 39;

² Decision in ERC Case 2007-124 RC, page 39;

³ The transition to the Independent Market Operator is pursuant to Department of Energy (DOE) Department; Circular No. 2018-01-0002 dated 18 January 2018 entitled "Adopting Policies for the Effective and Efficient Transition to the Independent Market Operator for the Wholesale Electricity Spot Market";

⁴ PEMC's Motion for Extension dated 03 July 2017; PEMC's Motion for Additional Time dated 31 July 2018; and PEMC's Motion for Additional Time dated 30 August 2018;

7. The Honorable Commission, in its letters dated 2 August 2018 and 3 September 2018, acknowledged receipt of PEMC's request for extension of time to file the said Application.
8. On 26 September 2018, the PEM Board issued Resolution No. 2018-040⁵ directing the Independent Electricity Market Operator of the Philippines, Inc. (IEMOP) to cause the filing of the application for approval of the market fee for CY2019 with the Honorable Commission based on the approved budget in the total amount Php 1.11 Billion.
9. On 28 September 2018, IEMOP filed its Omnibus Motion (For Substitution of Parties and For Additional Time) praying for the substitution by IEMOP of PEMC as the Applicant, and additional period, or until 29 October 2018 within which to file the Application.
10. On 30 October 2018, IEMOP filed an application entitled, "In the Matter of the Application for the Approval of the Level of Market Fees for the Philippine WESM," docketed as ERC case No. 2018-105 RC.
11. On 10 December 2018, the Honorable Commission issued an Order setting the said case for initial hearing on 12 February 2019.
12. On 27 February 2019, the PEM Board issued Resolution No. 2019-09-05 directing IEMOP to withdraw the 2019 Market Fee Application filed before the Honorable Commission. Thus, IEMOP filed a Motion to Withdraw the Application on 01 March 2019.
13. On 18 June 2019, the Honorable Commission issued an Order approving IEMOP's Motion to Withdraw the Application.
14. On 31 July 2019, the PEM Board also issued Resolution No. 2019-14-06 approving, among other things, the following: (a) The proposed revision of the CY 2019 Budget of PEMC & IEMOP to keep the same within the one (1) centavo Market Fee Rate per kWh; and (b) The amendment of Board Resolution No. 2018-04-06 to reflect the proposed revised budget of Php835 Million.

A Copy of the Secretary's Certificate relative to said Board Resolution is attached as Annex "C" of the Application and made an integral part thereof.

15. Thereafter, the PEM Board, through its Resolution No. 2019-16-02, approved, among other things, the Market Fee for CY 2020.

⁵ This PEM Board Resolution has been superseded by the PEM Board Resolution No 2019-14-06 insofar as the budget is revised to Php835 Million;

A Copy of the Secretary's Certificate relative to said Board Resolution is attached as Annex "D" of the Application and made an integral part thereof.

16. Considering the short interval between the approval by the PEM Board of the MF for CY 2019 and the MF for CY 2020, Applicant has opted to file the instant Consolidated Application. This will expedite the process of filing of the instant application and hearing of the instant case and even lessen the publication costs. The filing of the Consolidated Application has been approved by the PEM Board in its Resolution No. 2019-17-01.⁶
17. Applicant also advised the Honorable Commission regarding the filing of Consolidated Application as shown in the former's letter dated 20 September 2019 and latter's acknowledgment receipt dated 24 September 2019. Thereafter, Applicant in its Letter dated 28 October 2019 requested for additional period to file the said Application with the Honorable Commission.

MARKET FEE FOR CY 2019

18. The Honorable Commission in its Decision dated 16 March 2009 in ERC Case No. 2008-050 RC⁷ approved a single fixed rate market transaction fee for CY 2009 to cover the annual budgetary requirements of PEMC, thus:⁸

“In the meantime and transitory thereto, the Commission allows a single fixed rate market transaction fee for calendar year 2009.”

19. Accordingly, Applicant seeks the approval of a Fixed Market Fee Charge for CY2019 equivalent to PhP0.01/kWh under the instant Application.
20. The above-proposed Fixed Market Fee Charge for CY2019 of PhP0.01/kWh has been computed based on the formula for market transaction fee rate that has been previously approved by the Honorable Commission in its Decision dated 22 June 2006⁹ in ERC case No. 2005-048 RC,¹⁰ thus:

| | | | | | |
|-----------------------------------|---|--|---|--------------|------|
| | | | Total | CY | 2019 |
| | | | Budgetary | Requirements | |
| Fixed Market Fee Charge (PhP/kWh) | = | | <hr/> | | |
| | | | Total Projected Generation Metered Quantity | | |

⁶ Please see Annex A of the instant Application.

⁷ In the Matter of the Application of the Level of Market Transaction Fees for Calendar Year 2009 to 2011 for the Philippine Wholesale Electricity Spot Market;

⁸ ERC Decision in ERC Case No. 2008-050 RC, page 24;

⁹ ERC Decision in ERC Case No. 2005-048 RC, page 56;

¹⁰ In the Matter of the Application for the Approval of the Structure and Level of Market Fees for the Philippine Wholesale Electricity Spot Market (WESM);

21. Applicant has used the following parameters in computing for the Fixed Market Fee Charge for CY 2019.
- 21.1 The Total Projected Generation Metered Quantity equivalents to 83,675 GWh which has been based on the Luzon and Visayas Energy Forecasts for CY 2019.¹¹ A copy of the said Luzon and Visayas Energy Forecasts is attached as Annex "E" of the Application and made an integral part thereof.
- 21.2 The Total Budgetary Requirements in the amount of Eight Hundred Thirty-Five Million Pesos, (PhP835,000,000.00), with the following breakdown:

| Budget Component | MARKET ADMINISTRATION/ GOVERNANCE PhPM | MARKET OPERATIONS PhPM | Total, PhPM |
|---|---|------------------------------|---------------|
| Personnel Services | 139.90 | 247.49 | 387.39 |
| Maintenance and Other Operating Ex enses MOOE | 102.79 | 249.99 | 352.78 |
| Capital Expenditures CAPEX | 49.56 | 45.27 | 94.83 |
| TOTAL | 292.25 | 542.75 | 835.00 |

| | |
|---|---------------|
| Total Budgetary Requirement for CY 2019 (in millions) | 835.00 |
| Projected Generation, GWH | 83,675 |
| Fixed Market Fee Charge PhP/kWh | 0.0100 |

22. The above-stated amounts are net of applicable taxes, such as corporate income and value added taxes. These also do not cover possible changes in expenses due to changes in law, rules or regulations, compliance with other regulatory requirements and other external factors.
23. It is further proposed that the amount of market fees that would be collected monthly from the generation companies registered in the WESM be calculated by multiplying the Fixed Market Fee Charge by the actual generation metered quantities, in kWh, for the month.

¹¹ The Total Metered Quantity was based from the Actual Generation Metered Quantity for January to June 2019 and Projected Generation Metered Quantity for July to December 2019;

24. The Budget Components are as follows:

| Budget Component | Particulars |
|--|---|
| 1. Personnel Services | This budget component shall pertain to the salaries and benefits of personnel who shall perform market administration/governance functions for CY2019, such as those in the Enforcement and Compliance Office and Market Assessment Group, and personnel who shall perform market operation functions, such as those in the Trading Operations Department and Information Systems and Technology Department. |
| 2. Maintenance and Other Operating Expenses (MOOE) | <p>This budget component refers to MOOE that shall inevitably be incurred for market administration/governance and market operations for CY 2019.</p> <p>The expenses include, among other things, honoraria, rentals, utilities, repairs and maintenance, contracted services, conferences, insurances, advertising and promotion, taxes, dues, trainings, travel and transportation, materials and other supplies, and/or subscriptions.</p> |
| 3.Capital Expenditures (CAPEX) | <p>CAPEX pertain to capital projects for market administration/governance and market operations for CY2019.</p> <p>The capital projects for market administration/governance for CY2019 consist of the following major components: (a) Market Governance Systems and Enhancements; (b) Corporate Systems; and c) Integrated Management System Support.</p> <p>The capital projects for market operations include those for, Market Systems, Corporate Systems, and Replacement of Service Vehicles.</p> |

A Detailed Description of the Budget Components for Market Administration/Governance for CY2019 for Personnel Services and MOOE, including their justifications and cost basis are attached as Annexes "F" to "F-14" of the Application and are made integral parts thereof. Also, a Detailed Description of the Budget for Components for Market Operations for CY2019, including their justifications and cost basis are attached as Annexes "G" to "G-7" of the Application and are made integral parts thereof.

25. The Budgetary Requirements for CY 2019 have also taken into account the cost for the operation of the New Market

Management System (NMMS), the Central Registration and Settlement System, Electricity Market Database and Reporting Platform (EMDRP) and other market systems developed or enhanced to implement the changes to the market design, as embodied in the revised Price Determination Methodology currently being applied for approval with the Honorable Commission in a separate application.

26. However, the proposed Market Fee for CY 2019 does not include the proposed budgetary requirements for the operations of the WESM in the Mindanao grid since at the time of its preparation the WESM has not yet been in commercial operations in Mindanao. This is aligned with the Honorable Commission's Order dated 11 July 2017 in ERC case No. 2015-160 RC¹² which provides that:

X X X

"As the above discussed expenses are to be incurred in the upcoming establishment of the WESM in Mindanao, the Commission recognizes that the pre-operating expenses should not be charged to Luzon & Visayas customers. The separate apportionment of expenses between Luzon-Visayas WESM and Mindanao WESM is significant considering that in the absence of interconnection by the Mindanao grid, the WESM Mindanao will be a market separate from the Luzon and Visayas WESM."

27. The same is true with the Reserve Market which has yet to be launched. Further, Applicant shall subsequently file separate application for the adjusted Fixed Market Fee Charge prior to the commencement thereof. Said Application for the Reserve Market shall consider the additional budgetary requirements, if any, in operating and governing the trading of reserves as well as the inclusion of scheduled reserves for the purpose of determining the Fixed Market Fee Charge.

MARKET FEE FOR 2020

28. In addition, Applicant seeks the approval of a Fixed Market Fee Charge amounting to a total of PhP0.01/kWh for CY 2020 under the instant Application. In the computation of the said Fixed Market Fee Charge, the same formula that has been previously approved by the Honorable Commission in its Decision dated 22 June 2006 in ERC Case No. 2005-048 RC and the following specific parameters have been used:

- 28.1 The Total Projected Generation Metered Quantity equivalent to 103,241 GWh which has been based on the Luzon, Visayas and Mindanao Energy Forecasts

¹² In the Matter of the Application for the Approval of the Structure and Level of Market Fees for Calendar Years 2016-2017 for the Philippine Wholesale Electricity Spot Market (WESM);

for CY 2020. A copy of the said Energy Forecasts is attached as Annex "H" of the Application and made an integral part thereof.

28.2 The Total CY 2020 Budgetary Requirements in the amount of One Billion Thirty-Three Million and Four Hundred Eighty Thousand, (PhP1,033,480,000.00), with the following breakdown:¹³

| Budget Component | MARKET ADMINISTRATION/ GOVERNANCE PhPM | MARKET OPERATIONS PhPM | Total, PhPM |
|---|--|------------------------|-------------|
| Personnel Services | 145.36 | 265.63 | 410.99 |
| Maintenance and Other Operating Expenses MOOE | 201.26 | 285.17 | 486.43 |
| Capital Expenditures (CAPEX) | 30.10 | 105.96 | 136.06 |
| Total | 376.72 | 656.76 | 1,033.48 |

| | |
|---|----------|
| Total Budgetary Requirement for CY 2020 (in millions) | 1,033.48 |
| Projected Generation, GWH | 103,241 |
| Fixed Market Fee Charge, PhP/kWh | 0.0100 |

29. The above-stated amounts are also net of applicable taxes, Such as corporate income and value added taxes. These also do not cover possible Changes in expenses due to changes in law, rules or regulations, compliance with other regulatory requirements and other external factors.
30. The same method of computation of monthly market fees (for collection from the generation companies registered in the WESM) shall be adopted that is by multiplying the Fixed Market Fee Charge to the actual generation metered quantities, in kWh, for the month.
31. The Budget Components are as follows:

| Budget Component | Particulars |
|-----------------------|--|
| a. Personnel Services | This budget component shall pertain to the salaries and benefits of personnel who shall perform market administration/governance functions for CY2020 such as those in the Enforcement and Compliance Office |

¹³ As approved under PEM Board Resolution No. 2019-16-02;

| | |
|--|---|
| | and Market Assessment Group, and personnel who shall perform market operation functions, such as those in the Trading Operations Department and Information Systems and Technology Department. |
| b. Maintenance and Other Operating Expenses (MOOE) | <p>This budget component refers to MOOE that shall inevitably be incurred for market administration/governance and market operations for CY2020.</p> <p>The expenses include, among other things, honoraria, rentals, utilities, repairs and maintenance, contracted services, conferences, insurances, advertising and promotion, taxes and dues, trainings, travel and transportation, materials and supplies and/or subscriptions.</p> |
| c. Capital Expenditures (CAPEX) | <p>The capital projects for market administration/governance for CY 2020 consists of the following major components: (a) Market Governance Systems and Enhancements; (b) Corporate Systems; and (c) Leasehold Improvements.</p> <p>The capital projects for market operations for CY 2020 include the following: (a) Market Systems Projects, (b) Corporate Systems Projects, and (c) Network Rehabilitation Project.</p> |

A Detailed Description of the Budget Components for Market Administration/Governance for CY 2020, including their justifications and cost basis are attached as Annexes "I" to "I-16" of the Application and are made integral parts thereof, Please also refer to the Detailed Description of the Budget for Components for Market Operations for CY 2020, including their justifications and cost basis are also provided in Annexes "G" to "G-7" of the Application.

32. In anticipation of the start of commercial operations of the WESM in Mindanao by year 2020, the minimal budgetary requirements for WESM Mindanao and the projected increase in generation volumes arising from the integration of the Mindanao grid in the WESM have already been included/considered in determining the Fixed Market Charge for CY 2020. This is aligned with Rule 9, Section 9 (a) of the Implementing Rules and Regulations of the Electric Power Industry Reform Act, (IRR-EPIRA), which states that:

"The cost of administering and operating the WESM shall be recovered by the IMO through a charge imposed on all WESM Participants or WESM transactions."

33. Such inclusion of the proposed budgetary requirements and energy forecasts for WESM Mindanao in the computation of the Market Fee for 2020 is consistent with the directives of the Honorable Commission in ERC Case 2015-160 RC,¹⁴ thus:

"Following the launch and establishment of the WESM in Mindanao, PFMC shall subsequently file its budgetary requirements for the continuous administration and operation of WESM Mindanao including the cost recovery mechanism for the pre-operations of WESM Mindanao."

34. Nonetheless, the costs for the Reserve Market have been excluded in the proposed budgetary requirements for CY 2020.
35. For transparency, the breakdown of the budgetary requirements for market administration/governance and market operations have been separately provided. Considering the difference in the purposes of the budget allocations, no double costs shall be incurred under the instant Application.
36. It is most respectfully submitted that the instant Application should be approved since expenses necessarily have to be incurred for the purpose of governing, administering and operating the WESM in CYs 2019 and 2020.

ISSUANCE OF PROVISIONAL AUTHORITY

37. The sources of funds for PEMCs annual budgetary requirements, including that of CYs 2019 and 2020, depend on what has been approved by the Honorable Commission.
38. The Honorable Commission in its Decision dated 15 October 2014 in ERC case No. 2013-07 RC¹⁵ has approved the Market Fees for CY 2014. The other applications for Market Fees, docketed as ERC Case Nos. 2014-092 RC¹⁶, 2015-160 RC¹⁷ and 2017-095 RC¹⁸ have yet to be finally resolved by the Honorable Commission.

¹⁴ *Ibid*;

¹⁵ In the Matter of the Application for the Approval of the Level of Market Transaction Fees for Calendar Year 2014 for the Philippine Wholesale Electricity Spot Market (WESM);

¹⁶ In the Matter of the Application for the Approval of the Level of Market Transaction Fees for Calendar Year 2015 for the Philippine Wholesale Electricity Spot Market (WESM);

¹⁷ In the Matter of the Application for the Approval of the Level of Market Transaction Fees for Calendar Year 2016-2017 for the Philippine Wholesale Electricity Spot Market (WESM);

¹⁸ In the Matter of the Application for the Approval of the Level of Market Transaction Fees for Calendar Year 2018 for the Philippine Wholesale Electricity Spot Market (WESM);

39. Also, there is no specific rule providing for a true-up mechanism that may be applied by PEMC to recover/refund the under/over recoveries for market fees in the succeeding regulatory years.
40. Prescinding from the foregoing, only the 2014 MTF level and its corresponding budget allocations that have been approved by the Honorable Commission can be utilized for the purpose of financing PEMC's succeeding annual budgetary requirements, including that of CY2019 and CY2020.
41. However, it is no longer prudent to peg or limit the expenditures for the WESM at the previously approved 2014 Market Fee Level. This is due to, among other things, necessary and urgent expenses such as, the maintenance service support for the NMMS and Central Registration and Settlement System (CRSS) that have already been incurred for CY 2019. Thus, Applicant is constrained to seek the issuance of a provisional authority by the Honorable Commission under the instant Application.
42. The prayer for provisional authority under the instant Application has been authorized also by the PEM Board in its Resolution No. 2019-17-01 or Annex "A" of the Application.

ALLOCATION OF UNUTILIZED MARKET FEES

43. Applicant also seeks the simultaneous approval of the use/allocation of the unutilized portion of the MTF for CY 2017 in the amount of Ninety Six Million Eight Hundred Ninety Five Thousand Six Hundred Fifty-Eight Pesos(PhP96,895,658) or any remaining portion thereof to fund for a portion of the MF for CY2019.¹⁹ The said allocation of the unutilized portion Of the MTF for CY 2017 has also been authorized by the PEM Board in its Resolution No. 2019-17-01 or Annex "A" of the Application.
44. The above-mentioned proposal for allocation of the unutilized MTF for CY 2017 to fund a portion of the MF for CY2019 is consistent with the previous pronouncements of the Honorable Commission, particularly the Decision dated October 15, 2014²⁰ in ERC case No. 2013-137 RC²¹, Decision dated 5 December 2011²² in ERC Case No. 2011-085 RC²³ and Decision dated 6 June 2011²⁴ in ERC Case No. 2010-079

¹⁹ Note: PEMC may also propose for the use/allocation of the unutilized MTF for CY 2017 to fund for its Budgetary Requirements for the Establishment of RE Registrar under a separate Application;

²⁰ Decision in ERC Case No. 2013-137 RC, page 32;

²¹ In the Matter of the Application for Approval of the Level of the Market Transaction Fees for Calendar Year 2014 for the Philippine Wholesale Electricity Spot Market (WESM);

²² Decision in ERC Case No. 2010-079 RC, page 25;

²³ In the Matter of the Application for Approval of the Level of the Market Transaction Fees for Calendar Year 2010-2011 for the Philippine Wholesale Electricity Spot Market (WESM);

²⁴ Decision in ERC Case No. 2013-079 RC, page 25;

RC²⁵ and Decision dated 1 April 2013²⁶ in ERC Case No. 2013-011 RC,²⁷ authorizing the unutilized funds to be carried over in the next year as a reduction to the approved total budget by the Honorable Commission.

An excerpt of the Audited Financial Statement of PEMC for CY 2017 showing the unutilized market fees for that year is attached as Annex "J" of the Application and made an integral part thereof.

45. In support of this Application and the prayer for provisional approval thereof, attached are the Judicial Affidavit of Mr. Herbie C. Ngringir, Finance Assistant Manager of PEMC, Judicial Affidavit of Mr. Patrick S. Fernandez, Head of the Information Systems and Technology Department of PEMC, Judicial Affidavit of Ms. Ma. Rene Ann Lourdes Garcia-Matibag, Head of Corporate Services Department of PEMC, Judicial Affidavit of Ms. Mary Anne T. Santiago, Controllershship Manager of the Corporate Services Department of IEMOP, and Judicial Affidavit of Mr. Salvador D. Subaran, Chief Information Systems and Technology Officer of IEMOP as Annexes "K", "L", "M", "N" and "O" of the Application and made integral parts thereof.

PRAYER

WHEREFORE, premises considered, Applicant respectfully prays to the Honorable Commission that:

1. Pending hearing, a provisional authority for the following be granted:
 - a. APPROVING the budgetary requirements for CY 2019 in the amount of Eight Hundred Thirty-Five Million Pesos, (PhP835,000,000.00) and the Fixed Market Fee Rate for CY2019 equivalent to PhPo.01/kWh;
 - b. APPROVING, the budgetary requirements for CY 2020 in the amount of One Billion Thirty Three Million and Four Hundred Eighty Thousand Pesos, (PhP 1,033,480,000.00) and the Fixed Market Fee Rate for CY 2020 equivalent to PhPo.01/kWh;
 - c. APPROVING the collection of the amount of market fees for CYs 2019 and 2020 from the generation companies registered in the WESM calculated by multiplying the Fixed Market Fee

²⁵ In the Matter of the Application for Approval of the Level of the Market Transaction Fees for Calendar Year 2010-2011 for the Philippine Wholesale Electricity Spot Market (WESM);

²⁶ Decision in ERC Case No. 2013-011 RC; pages 15 to 16;

²⁷ In the Matter of the Application for Approval of the Level of the Market Transaction Fees for the Establishment of an Interim Mindanao Energy Market (IMEM) for the Philippine Wholesale Electricity Spot Market (WESM);

Charge by the actual generation metered quantities, in kWh; and

- d. APPROVING the allocation of the unutilized Market Fee from CY 2017 in the amount of Ninety Six Million Eight Hundred Ninety Five Thousand Six Hundred Fifty-Eight Pesos (PhP96,895,658) or any remaining portion thereof to fund a portion of the Budgetary Requirements for CY 2019, subject to accounting and submission of proposed rate adjustment mechanism by the Applicant.
2. After hearing, a Decision be rendered permanently approving the following:
 - a. The Market Fee for CY 2019 in the amount of Eight Hundred Thirty-Five Million Pesos, (PhP835,000,000.00) and the Fixed Market Fee Rate for CY 2020 equivalent to PhPo.01/kWh;
 - b. The Market Fee for CY 2020 in the amount of One Billion Thirty-Three Million and Four Hundred Eighty Thousand Pesos, (PhP1,033,480,000.00) and the Fixed Market Fee Rate for CY 2020 equivalent to PhPo.01/kWh;
 - c. APPROVING the collection of the amount of market fees for CYs 2019 and 2020 from the generation companies registered in the WESM calculated by multiplying the Fixed Market Fee Charge by the actual generation metered quantities, in kWh; and
 - d. The allocation of the unutilized Market Fee from CY 2017 in the amount of Ninety Six Million Eight Hundred Ninety-Five Thousand Six Hundred Fifty-Eight Pesos (PhP96,895,658) or any remaining portion thereof to fund a portion of the Budgetary Requirements for CY 2019, subject to accounting and submission of proposed rate adjustment mechanism by the Applicant.

Applicant likewise prays for such other reliefs which are just and equitable under the premises.

The Commission has set the *Application* for determination of compliance with the jurisdictional requirements, expository presentation, pre-trial conference, and presentation of evidence on the following dates and venues:

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| Date and Time | Venue | Particulars |
|--|---|---|
| LUZON | | |
| 06 February 2020 (Thursday) at ten o'clock in the morning (10:00 A.M.) | ERC Hearing Room, 15 th Floor, Pacific Center Building, San Miguel Avenue, Pasig City | Jurisdictional and Expository Presentation |
| VISAYAS | | |
| 12 February 2020 (Wednesday) at ten o'clock in the morning (10:00 A.M.) | ERC Visayas Area Operations Division (ERC-VAOD), St. Mary's Drive, Banilad, Cebu City | Expository Presentation |
| MINDANAO | | |
| 14 February 2020 (Friday) at ten o'clock in the morning (10:00 A.M.) | ERC Mindanao Area Operations Division (ERC-MAOD), Mezzanine Floor, Mintrade Building, Monteverde Avenue cor. Sales Street, Davao City | Expository Presentation |
| LUZON | | |
| 19 February 2020 (Wednesday) at ten o'clock in the morning (10:00 A.M.) | ERC Hearing Room, 15 th Floor, Pacific Center Building, San Miguel Avenue, Pasig City | Pre-trial Conference and Presentation of Evidence |

All persons who have an interest in the subject matter of the instant case may become a party by filing with the Commission a verified Petition to Intervene at least five (5) days prior to the initial hearing and subject to the requirements under Rule 9 of the 2006 Rules of Practice and Procedure, indicating therein the docket number and title of the case and stating the following:

- 1) The petitioner's name and address;
- 2) The nature of petitioner's interest in the subject matter of the proceeding and the way and manner in which such interest is affected by the issues involved in the proceeding; and
- 3) A statement of the relief desired.

All other persons who may want their views known to the Commission with respect to the subject matter of the case may file

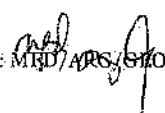
their Opposition or Comment thereon at any stage of the proceeding before Applicant rests its case, subject to the requirements under Rule 9 of the 2006 Rules of Practice and Procedure. No particular form of Opposition or Comment is required, but the document, letter, or writing should contain the following:

- 1) The name and address of such person;
- 2) A concise statement of the Opposition or Comment; and
- 3) The grounds relied upon.

All such persons who wish to have a copy of the *Application* may request from Applicant that they be furnished with the same, prior to the date of the initial hearing. Applicant is hereby directed to furnish all those making such request with copies of the *Application* and its attachments, subject to the reimbursement of reasonable photocopying costs. Any such person may likewise examine the *Application* and other pertinent records filed with the Commission during the standard office hours.

WITNESS, the Honorable Chairperson and CEO **AGNES VST DEVANADERA** and the Honorable Commissioners **ALEXIS M. LUMBATAN**, **CATHERINE P. MACEDA** and **PAUL CHRISTIAN M. CERVANTES**, Energy Regulatory Commission, this 3rd day of December 2019 in Pasig City.


JOSEFINA PATRICIA A. MAGPALE- ASIRIT
Commissioner


LS: MRD/ARCS/STO