

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

**IN THE MATTER OF THE  
APPLICATION FOR THE  
APPROVAL OF MARKET  
TRANSACTION FEES FOR  
THE CALENDAR YEAR 2015  
FOR THE PHILIPPINE  
WHOLESALE ELECTRICITY  
SPOT MARKET (WESM)**

**ERC CASE NO. 2014-092 RC**

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

*Applicant.*

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**DECISION**

Before the Commission for resolution is the *Application* dated 18 June 2014 (Application) filed on 24 June 2014 by the Philippine Electricity Market Corporation (PEMC) for approval of the level of Market Transaction Fees (MTFs) for Calendar Year (CY) 2015 for the Philippine Wholesale Electricity Spot Market (WESM).

**FACTUAL ANTECEDENTS**

In its *Application*, PEMC alleged the following pertinent provisions:

1. PEMC is a non-stock, non-profit corporation duly organized and existing in accordance with Philippine laws, with principal office at the 9<sup>th</sup> Floor, Robinsons-Equitable Tower, ADB Avenue corner Poveda Street, Ortigas Center, Pasig City. Applicant is represented by its President, Ms. Melinda L. Ocampo, who is duly authorized by PEMC's Board of Directors as evidenced by the Secretary's Certificate attached as Annex "A" and made an integral part of this Application.
2. The Application is filed pursuant to Section 30 of Republic Act No. 9136, otherwise known as the "Electric Power Industry Reform Act of 2001 (EPIRA)", which reads:

“The market operator shall recover the cost of administering and operating the wholesale electricity spot market through a charge imposed on all members; Provided, That such charge shall be filed with and approved by the ERC.”<sup>1</sup>

- 3. This Application is filed within the period provided by the Honorable Commission in its 30 January 2008 Decision in PEMC’s CY 2007 Market Fees (MFs) Application<sup>2</sup>.
- 4. The MF applied for equals the funding requirements of PEMC for CY 2015 in the amount of Eight Hundred Ninety-Six Million Four Hundred Ten Thousand Pesos (PhP896,410,000.00) broken down as follows:

Budget Components	Amount
Personnel Services	415.846
Maintenance and Other Operating Expenses	333.264
Capital Expenditures	129.724
Provision for DOE/ERC Monitoring Facilities	17.577
Total	896.410

Table 1 – CY 2015 Budgetary Requirements, in PhPM

- 5. *Personnel Services (PS)* pertain to the salaries and benefits of 160 employees in Luzon and Visayas.
- 6. *Maintenance and Other Operating Expenses (MOOE)* include, among others, honorarium, rent, utilities, repairs and maintenance, contracted services, insurance, training, travel and transportation participant development costs and the costs of the market audit required under the WESM Rules;
- 7. *Capital Expenditures (CAPEX)* consist of enhancements and upgrades to the Market Management System (MMS) and corporate infrastructure, and the cost of lease improvements.
- 8. *Provision for the DOE/ERC Monitoring Facilities* equals 2% of the proposed PS, MOOE and CAPEX budget of PEMC for CY 2015, to support the monitoring functions of the Department of Energy (DOE ) and the Honorable Commission pursuant to the Decisions of the Honorable Commission in PEMC’s previous MF Applications<sup>3</sup>.
- 9. In preparing its budgetary requirements, PEMC adjusted its proposed PS budget for CY 2014 by seven percent (7%) to account for the projected CPI in CY 2015 at two percent (2%) and five percent (5%) – the rate approved by PEMC’s Board of Directors to cover reasonable annual performance increases of PEMC employees. For MOOE, the proposed amounts are

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<sup>1</sup> See also Rule 9 (a) of the Implementing Rules and Regulations of the EPIRA (EPIRA-IRR);  
<sup>2</sup> ERC Case No. 2007-124 RC;  
<sup>3</sup> See 30 January 2008 and 22 June 2006 Decisions of the honorable Commission in PEMC’s CY 2007 and CY 2006 MF Applications, ERC Case Nos. 2007-124 RC and 2005-048 RC, respectively;

based on the budget proposed by PEMC in CY 2014<sup>4</sup> adjusted by the projected CPI for CY 2015 (2%). Some amounts covered by contracts, such as those Rent and Market Audits, were escalated by ten percent (10%). Proposed CAPEX costs are based on estimates and quotations from suppliers;

10. A discussion of the specific budgetary allocations falling within the foregoing cost components and their justifications is attached as Annex “B” and is made an integral part of this Application.
11. The amounts proposed by PEMC 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;
12. This Application does not include the following:
  - a. *Provision for the repayment of the MMS Loan.* PEMC filed on 14 August 2012, a separate application for the approval of additional MTF for the repayment of the MMS Loan, pursuant to the terms of the Memorandum of Agreement among the National Power Corporation (NPC), National Transmission Corporation (TRANSCO), Power Sector Assets and Liabilities Management Corporation (PSALM) and PEMC. The MMS Load Repayment Application is pending resolution by the Honorable Commission<sup>5</sup>; and
  - b. *New MMS (NMMS) Project* – On 1 July 2013, the Honorable Commission authorized the collection of additional MFs to fund the cost of the NMMS. These MFs are collected over a period of three (3) years in addition to the prevailing MF rate<sup>6</sup>;
13. The MTF shall be apportioned among generators where the WESM operates according to the volume traded by each in the WESM pursuant to the approvals of the Honorable Commission, as follows:

$$\text{Market Transaction Fee Rate (PhP/kWh)} = \frac{\text{Total Annual Market Transaction Fee/12}}{\text{Total Generated Metered Quantity}}$$

14. Should the Honorable Commission approve PEMC’s Application for the approval of the Pricing and Cost Recovery Mechanism for Reserves to be traded in the WESM<sup>7</sup>, the MF shall be apportioned among generators as follows:

$$\text{Market Transaction Fee Rate (PhP/kWh)} = \frac{\text{Total Annual Market Transaction Fee/12}}{\text{Total Generated Metered Quantities+Total Scheduled Reserves}}$$

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<sup>4</sup> PEMC’s Application for the approval of the level of Market Fees for CY 2014, docketed as ERC Case No. 2013-137 RC, is pending resolution;

<sup>5</sup> ERC Case No. 2012-097 RC;

<sup>6</sup> 1 July 2013 Decision, ERC Case No. 2011-127 RC;

<sup>7</sup> ERC Case No. 2007-004 RC;

- 15. Based on initial indicative figures, the estimated Market Fee Rate is PhPo.0137/kWh for CY 2015.
- 16. The indicative MF rate is based on the Luzon and Visayas energy forecast of 65,464 GWh for CY 2015. The energy forecast is attached as Annex “C” and is made an integral part of this Application.
- 17. The prevailing market fee rate or market transaction fee level approved by the Honorable Commission shall continue to be implemented in CY 2015 pending the resolution of this Application.

**PRAYER**

WHEREFORE, premises considered, it is respectfully prayed of the Honorable Commission to, after due hearing, APPROVE the proposed Market Fees for CY 2015 in the amount of PhP896.419 Million without prejudice to the resolution of PEMC’s MMS Loan Repayment Application.

Other just and equitable reliefs are also prayed for.

On 21 July 2014, the Commission issued an *Order* and a *Notice of Public Hearing*, setting the case for the 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
14 August 2014 (Thursday) at nine-thirty in the morning (9:30 A.M.)	ERC Hearing Room, 15 <sup>th</sup> Floor, Pacific Center Building, San Miguel Avenue, Pasig City	Jurisdictional Hearing, Expository Presentation, Pre-trial Conference and Evidentiary Hearing
26 August 2014 (Tuesday) at nine-thirty in the morning (9:30 A.M.)	ERC Visayas Field Office, Regus, 11/F, AppleOne-Equicom Tower, Mindanao Avenue corner Biliran Road, Cebu City	Expository Presentation, Pre-trial Conference and Evidentiary Hearing

On 07 August 2014, the Manila Electric Company (MERALCO) filed a *Petition for Intervention (With Entry of Appearance)* dated 06 August 2014.

On 08 August 2014, PEMC filed its *Pre-trial Brief* with the attached *Judicial Affidavit* of Marissa P. Gandia, both of even date.

Likewise, on even date, MERALCO filed its *Pre-trial Brief* dated 07 August 2014.

During the 14 August 2014 hearing, PEMC presented the following documents in compliance with the *Order* dated 21 July 2014:

1. Complete copies of *The Philippine Star* newspapers dated 25 July 2014<sup>8</sup> and 01 August 2014<sup>9</sup> where the *Notice of Public Hearing* was published, and the corresponding *Affidavits of Publication*<sup>10</sup> dated 01 August 2014 executed by Ms. Perlita de Lara of *The Philippine Star* newspaper;
2. Complete copies of the *Malaya Business Insight* newspapers dated 25 July 2014<sup>11</sup> and 01 August 2014<sup>12</sup>, where the *Notice of Public Hearing* was published; and the corresponding *Affidavits of Publication*<sup>13</sup> dated 01 August 2014 executed by Ms. Luzviminda T. Bugaoisan of *Malaya Business Insight* newspaper;
3. *Certificate of Posting*<sup>14</sup> dated 25 July 2014 issued by the Office of the Mayor of Pasig City to show proof that the Commission's *Order* and *Notice of Public Hearing* were posted in the bulletin board of the Office of the Mayor of Pasig City;
4. Proofs of receipt by the Office of the Solicitor General<sup>15</sup>, Commission on Audit<sup>16</sup>, Senate Committee on Energy<sup>17</sup>, and the House Committee on Energy<sup>18</sup> of the Commission's *Order* dated 21 July 2014; and
5. Proofs of receipt by the Office of the Solicitor General<sup>19</sup>, Commission on Audit<sup>20</sup>, Senate Committee on Energy<sup>21</sup>, and the House Committee

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<sup>8</sup> Exhibit "C-1";

<sup>9</sup> Exhibit "D-1";

<sup>10</sup> Exhibits "C" and "D";

<sup>11</sup> Exhibit "E-1";

<sup>12</sup> Exhibit "F-1";

<sup>13</sup> Exhibits E" and "F"

<sup>14</sup> Exhibit "H";

<sup>15</sup> Exhibit "I-1";

<sup>16</sup> Exhibit "I-2";

<sup>17</sup> Exhibit "I-3";

<sup>18</sup> Exhibit "I-4";

<sup>19</sup> Exhibit "J-1";

<sup>20</sup> Exhibit "J-2";

<sup>21</sup> Exhibit "J-3";

on Energy<sup>22</sup> of the Commission's *Notice of Public Hearing* dated 21 July 2014;

Upon perusal of the foregoing submissions of PEMC, the Commission verified that PEMC had complied with the publication and notice requirements according to the Commission's *Order* dated 21 July 2014. Accordingly, the Commission declared that it acquired jurisdiction over the instant case.

Thereafter, the hearing proceeded with PEMC's expository presentation, wherein it discussed its *Application* through Ms. Marissa Gandia (Ms. Gandia), Manager of the Finance Department of PEMC.

At the end of the expository presentation, the Commission propounded clarificatory questions. Thereafter, the Commission terminated the expository presentation and proceeded with the Pre-trial Conference.

In the course of the Pre-trial Conference, the Commission noted all the allegations and issues raised by PEMC and MERALCO in their respective *Pre-trial Briefs*. Thereafter, PEMC moved that an *Order* of general default be issued against those who failed to appear and intervene in the said hearing. Finding the said motion in order, the Commission granted the same. The Commission then terminated the Pre-trial Conference and proceeded with the presentation of evidence by PEMC.

PEMC presented its witness, Ms. Gandia, whose testimony was offered to show and prove the following matters stated in her *Judicial Affidavit*<sup>23</sup>:

1. The personal participation of the witness in the preparation of the *Application*;
2. The approvals secured from PEMC's Board of Directors in connection with the filing of the *Application*;
3. The justifications and details of the budget applied for;
4. The assumptions used by PEMC in the preparation of the budget;
5. The costs not included in the *Application*;

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<sup>22</sup> Exhibit "J-4";

<sup>23</sup> The enumeration is directly quoted from Ms. Gandia's Judicial Affidavit;

6. The impact of the Market Fee level prayed for on the estimated Market Fee rate for CY 2015; and
7. Such other matters as may be pertinent to the *Application*.

In the course of Ms. Gandia's direct examination, she identified her *Judicial Affidavit* and her signature thereon, which were duly marked as Exhibits "K" and "K-1", respectively, as well as various documents attached to the *Application*. Thereafter, the Commission propounded questions on the witness and directed PEMC to submit the following documents:

1. Write-up and supporting documents for:
  - a. Repairs and maintenance – Market Management System (MMS) and Non-MMS;
  - b. Conference;
  - c. Insurance;
  - d. Participant Development Fund;
  - e. Advertising and Promotion;
  - f. Capital Expenditure (CAPEX); and
  - g. Business Continuity Plan.
2. PEMC Auditor's recommendation for application for a budget for Research and Development Costs.

During the 26 August 2014 hearing in Visayas, PEMC again presented its witness, Ms. Gandia. She testified on the same matters stated in her *Judicial Affidavit* as presented during the 14 August 2014 hearing in Luzon. Thereafter, the Commission directed PEMC to submit its Information Systems Strategic Plan (ISSP) for calendar years 2015 to 2017. The Commission then set another hearing on 04 September 2014 for the cross-examination of PEMC's witness by MERALCO.

On 27 August 2014, PEMC filed its *Compliance* and submitted the following documents pursuant to the directive of the Commission during the 14 August 2014 hearing:

1. Documents that will support the following cost items:
  - a. Repairs and maintenance – MMS and Non-MMS;
  - b. Conference;
  - c. Insurance;
  - d. Participant Development Fund;
  - e. Advertising and Promotion;
  - f. CAPEX; and

- g. Business Continuity Plan.
- 2. PEMC Auditor’s recommendation on the Research and Development Budget.

Likewise, on 01 September 2014, PEMC filed its *Compliance* and submitted its ISSP for calendar years 2015 to 2017 pursuant to the directive of the Commission during the 26 August 2014 hearing.

On 02 September 2014, Engr. Robert Mallillin (Engr. Mallillin) filed a *Motion to Participate as Intervenor* dated 01 September 2014.

During the 04 September 2014 hearing, PEMC, MERALCO and Engr. Mallillin appeared. Ms. Gandia was then recalled to the witness stand and was subjected to the cross-examination by MERALCO. Thereafter, MERALCO manifested that it would not present any witness. The Commission noted the same. Engr. Mallillin, on the other hand, moved to withdraw his intervention. The Commission granted the same.

Thereafter, the Commission directed PEMC to submit its *Formal Offer of Evidence* (FOE) within fifteen (15) days from the date of hearing. MERALCO was likewise given the same period of fifteen (15) days to file its *Comments/Memorandum* from receipt of PEMC’s *FOE*. PEMC was also given fifteen (15) days from receipt of MERALCO’s *Comments/Memorandum* to file its *Reply* thereon.

On 15 September 2014, PEMC filed its *Compliance with Request for Confidential Treatment of Information*.

On 22 September 2014, PEMC filed its *FOE* dated 19 February 2014 and offered the following documents as part of its documentary evidence:

EXHIBIT	DOCUMENT	PURPOSE
A	<i>Acknowledgment</i> dated 23 June 2014 by Ms. Loida U. Villanueva, Acting City Council Secretary, Sangguniang Panlungsod of Pasig City	To prove that a complete copy of the <i>Application</i> , with all its annexes and accompanying documents, was received by the Sangguniang Panlungsod of Pasig City, where Applicant principally operates, in compliance with Rule 6, Sec. 2(a) of the ERC Rules of
A-1	<i>Affidavit of Service</i> dated 24 June 2014 executed by Mr. Clemente T. Perez, Jr., PEMC	



EXHIBIT	DOCUMENT	PURPOSE
A-1-a	First page of the Application bearing the stamp “received” by the Sangguniang Panlungsod of Pasig City	Practice and Procedure (the “ERC Rules”)
B	<i>Affidavit of Publication</i> dated 23 June 2014 executed by Ms. Perlita de Lara, <i>The Philippine Star</i>	To prove that the <i>Application</i> was published on 23 June 2014 in <i>The Philippine Star</i> , a newspaper of general circulation, in compliance with Rule 6, Sec. 2(b) of the ERC Rules
B-1	Complete copy of <i>The Philippine Star</i> issue dated 23 June 2014	
B-1-a	Page A-23 of <i>The Philippine Star</i> issue dated 23 June 2014	
C	<i>Affidavit of Publication</i> dated 01 August 2014 executed by Ms. Perlita de Lara, <i>The Philippine Star</i>	To prove that the <i>Notice of Public Hearing</i> was published on 25 July 2014 in the <i>Philippine Star</i> , a newspaper of general circulation, in compliance with 21 July 2014 <i>Order</i> of the Commission (the “ <i>Order</i> ”)
C-1	Complete copy of <i>The Philippine Star</i> issue dated 25 July 2014	
C-1-a	Page A-23 of <i>The Philippine Star</i> issue dated 25 July 2014	
D	<i>Affidavit of Publication</i> dated 01 August 2014 executed by Ms. Perlita de Lara, <i>The Philippine Star</i>	To prove that the <i>Notice of Public Hearing</i> was published on 01 August 2014 in the <i>Philippine Star</i> , a newspaper of general circulation, in compliance with the <i>Order</i>
D-1	Complete copy of <i>The Philippine Star</i> issue dated 01 August 2014	
D-1-a	Page 4 of <i>The Philippine Star</i> issue dated 01 August 2014	
E	<i>Affidavit of Publication</i> dated 01 August 2014 executed by Ms, Luzminida T. Bugaoisan, <i>Malaya Business Insight</i>	To prove that the <i>Notice of Public Hearing</i> was published on 25 July 2014 in the <i>Malaya Business Insight</i> , a newspaper of general circulation, in compliance with the <i>Order</i>
E-1	Complete copy of <i>Malaya Business Insight</i> issue dated 25 July 2014	
E-1-a	Page A3 of <i>The Philippine Star</i> issue dated 25 July 2014	
F	<i>Affidavit of Publication</i> dated 01 August 2014 executed by Ms, Luzminida T. Bugaoisan, <i>Malaya Business Insight</i>	To prove that the <i>Notice of Public Hearing</i> was published on 01 August 2014 in the <i>Malaya Business Insight</i> , a newspaper of general circulation, in compliance with the <i>Order</i>
F-1	Complete copy of <i>Malaya Business Insight</i> dated 01 August 2014	

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EXHIBIT	DOCUMENT	PURPOSE
F-1-a	Page A5 of <i>Malaya Business Insight</i> issue dated 01 August 2014	
G	Receiving Copy of <i>Application</i> , bearing the stamp “received” of the following recipients -	To prove that a copy of the <i>Application</i> was duly served upon the government offices specified in the <i>Order</i>
G-1	Office of the Solicitor General – stamp “received”	To prove that a copy of the <i>Application</i> was duly served upon the Office of the Solicitor General
G-2	Commission on Audit – stamp “received”	To prove that a copy of the <i>Application</i> was duly served upon the Commission on Audit
G-3	Committee on Energy of Senate– stamp “received”	To prove that a copy of the <i>Application</i> was duly served upon the Committee on Energy of Senate
G-4	Committee on Energy of the House of Representatives – stamp “received”	To prove that a copy of the <i>Application</i> was duly served upon the Committee on Energy of the House of Representatives
H	Certificate of Posting dated 25 July 2014 issued by Atty. Reynaldo P. Dionisio, Office of the Mayor, Pasig City	To prove that a copy of the <i>Order</i> and a copy of the <i>Notice of Public Hearing</i> were posted on the bulletin board of the Office of the Mayor of Pasig City in compliance with the <i>Order</i>
I	Receiving Copy of <i>Order</i> , bearing the stamp “received” of the following recipients -	To prove that a copy of the <i>Order</i> was duly served upon the government offices specified in the <i>Order</i>
I-1	Office of the Solicitor General – stamp “received”	To prove that a copy of the <i>Order</i> was duly served upon the Office of the Solicitor General
I-2	Commission on Audit – stamp “received”	To prove that a copy of the <i>Order</i> was duly served upon the Commission on Audit
I-3	Committee on Energy of Senate– stamp “received”	To prove that a copy of the <i>Order</i> was duly served upon the Committee on Energy of Senate
I-4	Committee on Energy of the House of Representatives – stamp “received”	To prove that a copy of the <i>Order</i> was duly served upon the Committee on Energy of the House of Representatives
J	Receiving Copy of <i>Notice of Public Hearing</i> , bearing the stamp “received” of the following recipients -	To prove that a copy of the <i>Notice of Public Hearing</i> was duly served upon the

EXHIBIT	DOCUMENT	PURPOSE
		government offices specified in the <i>Order</i>
J-1	Office of the Solicitor General – stamp “received”	To prove that a copy of the Notice of Public Hearing was duly served upon the Office of the Solicitor General
J-2	Commission on Audit – stamp “received”	To prove that a copy of the Notice of Public Hearing was duly served upon the Commission on Audit
J-3	Committee on Energy of Senate– stamp “received”	To prove that a copy of the <i>Notice of Public Hearing</i> was duly served upon the Committee on Energy of Senate
J-4	Committee on Energy of the House of Representatives – stamp “received”	To prove that a copy of the <i>Notice of Public Hearing</i> was duly served upon the Committee on Energy of the House of Representatives
K	<i>Judicial Affidavit</i> of Ms. Marissa P. Gandia dated 08 August 2014	To prove – a. Personal participation of the witness in the preparation of the <i>Application</i> ; b. Approvals secured from PEMC’s Board of Directors in connection with the filing of the <i>Application</i> ; c. Justifications and details of the budget applied for; d. Assumptions used by PEMC in the preparation of the budget; e. Costs not included in the <i>Application</i> ; f. Impact of the Market Fee level prayed for on the estimated Market Fee rate for CY 2015; and g. Such other matters as may be pertinent to the <i>Application</i> .
K-1	Signature of Ms. Gandia	To prove that Ms. Gandia duly signed the document
L	Secretary’s Certificate dated 20 June 2014 covering PEM Board Resolution No. 2014-31	To prove that the PEM Board approved the budget for CY 2015 and the filing of the <i>Application</i>
L-1	Signature of Ms. Claudette U. Dema	To prove that Ms. Dema duly signed the document
M	Discussion Paper	To prove the specific budgetary allocations

EXHIBIT	DOCUMENT	PURPOSE
		covered by the major cost components of the budget and their justifications
N	2015-2017 Forecast Summary	To prove the impact of the proposed level of MF on the estimated MF rate for CY 2015
N-1	Signature of James Rene S. Manimtim	To prove that Mr. Manimtim prepared the document
N-2	Signature of Marcial Brummel J. Jimenez	To prove that Mr. Jimenez prepared the document
N-3	Signature of Isidro E. Cacho	To prove that Mr. Cacho prepared the document
N-4	Signature of Carlito C. Claudio	To prove that Mr. Claudio prepared the document
O	Expository Presentation of Ms. Marissa P. Gandia	To prove the following matters relative to the <i>Application</i> – a. Overview of PEMC’s MF applications; b. Methodology; c. Basis of the proposed budget; d. Proposed level of MF  Indicative MF rate for CY 2015
P	Cost Items for Repairs and Maintenance – MMS and Non-MMS	To prove – a. Compliance with the <i>Order</i> of the Commission dated 14 August 2013 b. The basis for PEMC’s budgetary requirements for Repairs and Maintenance for both the Market Management System (MMS) and Non-MMS
Q	Cost Items for Conference Cost	To prove – a. Compliance with the <i>Order</i> of the Commission dated 14 August 2013 b. The basis for PEMC’s budgetary requirements for conference costs
R	Cost Items for Insurance	To prove – a. Compliance with the <i>Order</i> of the Commission dated 14 August 2013 b. The basis for PEMC’s budgetary requirements for insurance

EXHIBIT	DOCUMENT	PURPOSE
S	Cost Items for Participant Development Fund	To prove – a. Compliance with the <i>Order</i> of the Commission dated 14 August 2013 b. The basis for PEMC’s budgetary requirements for Participant Development Fund
T	Cost Items for Advertising and Promotion	To prove – a. Compliance with the <i>Order</i> of the Commission dated 14 August 2013 b. The basis for PEMC’s budgetary requirements for advertising and promotions
U	Cost Items for CAPEX budget	To prove – a. Compliance with the <i>Order</i> of the Commission dated 14 August 2013 b. The basis for PEMC’s budgetary requirements for CAPEX expenditures
V	Write-up on Business Continuity Plan	To prove – a. Compliance with the <i>Order</i> of the Commission dated 14 August 2013 b. The basis for PEMC’s budget inclusion for CAPEX for its Business Continuity Plan
W	Excerpt MO Auditor’s report for market development allowance	To prove – a. Compliance with the <i>Order</i> of the Commission dated 14 August 2013 b. The basis for PEMC’s budgetary requirements for an allowance for market development
X	Information Systems and Strategic Plan	To prove – a. Compliance with the <i>Order</i> of the Commission dated 14 August 2013 b. The basis for PEMC’s budgetary requirements for various projects undertaken by PEMC

EXHIBIT	DOCUMENT	PURPOSE
Y	Explanation of the increase in the budget for corporate infrastructure	To prove – a. Compliance with the <i>Order</i> of the Commission dated 14 August 2013 b. The various procurements to be undertaken in CY 2015 c. The reasons for the increase in budget for corporate infrastructure
Z	Contracts for Budget Item on Contracted Services	To prove – a. Compliance with the <i>Order</i> of the Commission dated 14 August 2013 b. the basis for PEMC’s budgetary requirements for contracted services for CY 2015
Z-1	Letter Proposal PJS Law Contract dated 15 December 2008 <sup>24</sup>	To prove – a. Compliance with the <i>Order</i> of the Commission dated 14 August 2013 b. the basis for PEMC’s budgetary requirements for contracted services for CY 2015
Z-2	Letter Proposal Siguion Reyna Montecillo and Ongsiako Law Offices dated 23 September 2009 <sup>25</sup>	To prove – a. Compliance with the <i>Order</i> of the Commission dated 14 August 2013 b. the basis for PEMC’s budgetary requirements for contracted services for CY 2015
Z-3	Letter Proposal BGEPAL dated 12 March 2014 <sup>26</sup>	To prove – a. Compliance with the <i>Order</i> of the Commission dated 14 August 2013 b. the basis for PEMC’s budgetary requirements for contracted services for CY 2015
Z-4	Letter Proposal Caveat Law dated 18 August 2014 <sup>27</sup>	To prove – a. Compliance with the <i>Order</i> of the the

<sup>24</sup> With request for confidential treatment;  
<sup>25</sup> With request for confidential treatment;  
<sup>26</sup> With request for confidential treatment;  
<sup>27</sup> With request for confidential treatment;

EXHIBIT	DOCUMENT	PURPOSE
		Commission dated 14 August 2013 b. the basis for PEMC’s budgetary requirements for contracted services for CY 2015
Z-5	Letter Proposal Salvador and Associates dated 14 November 2013 <sup>28</sup>	To prove – a. Compliance with the <i>Order</i> of the Commission dated 14 August 2013 b. the basis for PEMC’s budgetary requirements for contracted services for CY 2015
Z-6	Letter Proposal Salvador and Associates dated 30 April 2014 <sup>29</sup>	To prove – a. Compliance with the <i>Order</i> of the Commission dated 14 August 2013 b. the basis for PEMC’s budgetary requirements for contracted services for CY 2015
Z-7	Letter Proposal Salvador and Associates dated 28 Ma6 2014 <sup>30</sup>	To prove – a. Compliance with the <i>Order</i> of the Commission dated 14 August 2013 b. the basis for PEMC’s budgetary requirements for contracted services for CY 2015
Z-8	Contract for Consultancy Services with IES dated 02 April 2013 <sup>31</sup>	To prove – a. Compliance with the <i>Order</i> of the Commission dated 14 August 2013 b. the basis for PEMC’s budgetary requirements for contracted services for CY 2015
Z-9	Consultancy Agreement Alisdair MacDonald dated 26 August 2013 <sup>32</sup>	To prove – a. Compliance with the <i>Order</i> of the Commission dated 14 August 2013 b. the basis for PEMC’s budgetary requirements

<sup>28</sup> With request for confidential treatment;  
<sup>29</sup> With request for confidential treatment;  
<sup>30</sup> With request for confidential treatment;  
<sup>31</sup> With request for confidential treatment;  
<sup>32</sup> With request for confidential treatment;

EXHIBIT	DOCUMENT	PURPOSE
		for contracted services for CY 2015
Z-10	Consultancy Agreement Alisdair MacDonald dated 10 December 2013 <sup>33</sup>	To prove – a. Compliance with the <i>Order</i> of the Commission dated 14 August 2013 b. the basis for PEMC’s budgetary requirements for contracted services for CY 2015
Z-11	Letter Proposal SGV & Co. – Financial Statements dated 16 September 2013 <sup>34</sup>	To prove – a. Compliance with the <i>Order</i> of the Commission dated 14 August 2013 b. the basis for PEMC’s budgetary requirements for contracted services for CY 2015
Z-12	Letter Proposal SGV & Co. – Budget Variance dated 16 September 2013 <sup>35</sup>	To prove – a. Compliance with the <i>Order</i> of the Commission dated 14 August 2013 b. the basis for PEMC’s budgetary requirements for contracted services for CY 2015
Z-13	Letter Proposal SGV & Co. – NSS Audit dated 16 September 2013 <sup>36</sup>	To prove – a. Compliance with the <i>Order</i> of the Commission dated 14 August 2013 b. the basis for PEMC’s budgetary requirements for contracted services for CY 2015
Z-14	E.M. Zalamea Actuarial Service dated 21 November 2013 <sup>37</sup>	To prove – a. Compliance with the <i>Order</i> of the Commission dated 14 August 2013 b. the basis for PEMC’s budgetary requirements for contracted services for CY 2015

<sup>33</sup> With request for confidential treatment;  
<sup>34</sup> With request for confidential treatment;  
<sup>35</sup> With request for confidential treatment;  
<sup>36</sup> With request for confidential treatment;  
<sup>37</sup> With request for confidential treatment;



EXHIBIT	DOCUMENT	PURPOSE
Z-15	Rosehall Management Consultant dated 04 December 2013 <sup>38</sup>	To prove – a. Compliance with the <i>Order</i> of the Commission dated 14 August 2013 b. the basis for PEMC’s budgetary requirements for contracted services for CY 2015
Z-16	TUV SUD PSB Philippines dated 03 September 2014 <sup>39</sup>	To prove – a. Compliance with the <i>Order</i> of the Commission dated 14 August 2013 b. the basis for PEMC’s budgetary requirements for contracted services for CY 2015
Z-17	Cougar Integrated Services dated 29 November 2013 <sup>40</sup>	To prove – a. Compliance with the <i>Order</i> of the Commission dated 14 August 2013 b. the basis for PEMC’s budgetary requirements for contracted services for CY 2015
Z-18	Citybest Janitorial and General Services Inc. dated 12 September 2013 <sup>41</sup>	To prove – a. Compliance with the <i>Order</i> of the Commission dated 14 August 2013 b. the basis for PEMC’s budgetary requirements for contracted services for CY 2015
AA	Justification for the Difference between the IT Budget for 2014 to 2015	To prove – a. Compliance with the <i>Order</i> of the Commission dated 14 August 2013 b. the various procurements to be undertaken in CY 2015 c. The reasons for the increase in budget for IT infrastructure

*\*All the allegations stated above are directly quoted from the FOE of the Applicant.*

<sup>38</sup> With request for confidential treatment;  
<sup>39</sup> With request for confidential treatment;  
<sup>40</sup> With request for confidential treatment;  
<sup>41</sup> With request for confidential treatment;

Likewise, on 22 September 2014, MERALCO filed a *Motion for Additional Time to File Memorandum/ Position Paper*.

On 29 September 2014, MERALCO filed its *Memorandum*.

On 14 October 2014, PEMC filed its *Reply to MERALCO's Memorandum*.

On 12 November 2014, the Commission issued an *Order* dated 07 November 2014, directing PEMC to submit the following documents:

1. A detailed breakdown and actual schedule of expenditures for calendar years 2008 to 2013 for all cost items included in the Market Registration Fees (MRF) as approved by the Commission in its *Decision* dated 22 June 2006 in ERC Case No. 2005-048 RC;
2. A detailed breakdown of the cost components under personnel services, such as basic pay, Social Security System (SSS), Philippine Health Insurance (Philhealth), uniform allowance, sick and vacation leaves and other expenses included in the proposed amount for the said budget items;
3. Actual contracts that PEMC entered into in relation to the following cost items: (a) rentals; (b) repairs and maintenance; and (c) market audit;
4. An updated list of the members of the PEM Board, its Committees and Sub-committees as of calendar year 2014; and
5. Cost breakdown for the proposed items, to wit: (a) materials and supplies; (b) trainings; and (c) research and development.

On 24 November 2014, PEMC filed its *Compliance with Request for Confidential Treatment* and submitted the foregoing documents pursuant to the Commission's *Order* dated 07 November 2014.

On 13 January 2015, the Commission issued an *Order* dated 06 January 2015, directing PEMC to submit a write-up containing the following information:

1. Status of the issue with the Bureau of Internal Revenue (BIR) on the deficiency tax assessment;
2. Excess of the MRF actually collected over the expenses for calendar years 2008 to 2013; and
3. Detailed breakdown/computation of the cost components under personal services, such as basic pay, SSS, Philhealth, uniform allowance, sick and vacation leaves and other expenses included in the proposed amount for the said budget item, since the data or information that PEMC previously submitted in its *Compliance* dated 24 November 2014 did not include such cost breakdown, thus information was not sufficient to aid the Commission in the evaluation of the *Application*.

On 04 February 2015, PEMC filed a *Manifestation, Compliance and Reiterative Request for Confidential Treatment of Information* and submitted the foregoing documents pursuant to the Commission's *Order* dated 06 January 2015.

On 16 February 2015, the Commission issued an *Order* dated 26 January 2015, authorizing PEMC to continue imposing the approved MTF of CY 2014 on the market participants in the Luzon and Visayas WESM, as embodied in the Commission's *Decision* dated 15 October 2014 in ERC Case No. 2013-137 RC<sup>42</sup>, pending the final resolution of the proposed MTF for CY 2015. The dispositive portion of the said *Order* is hereunder quoted as follows:

WHEREFORE, the foregoing premises considered, the Commission hereby authorizes the Philippine Electricity Market Corporation (PEMC) to continue imposing the approved Market Transaction Fee (MTF) for CY 2014, as embodied in the *Decision* dated October 15, 2014, in ERC Case No. 2013-137 RC, in the amount of Seven Hundred Two Million Nine Hundred Eighty-Four Thousand Seven Hundred Twenty-Eight Pesos (PhP702,984,728.00) on the market participants in the Luzon and Visayas Wholesale Electricity Spot Market (WESM), pending the final resolution of the proposed MTF for CY 2015.

On 26 February 2015, PEMC filed a *Compliance and Reiterative Request for Confidential Treatment of Information*.

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<sup>42</sup> Entitled "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)";

On 24 June 2015, PEMC filed its *Compliance* with the attached *Statement of Market Fees and Expenditures for the 1<sup>st</sup> Quarter ending on 31 March 2015*.

On 12 August 2015, PEMC filed its *Compliance (Re: 2<sup>nd</sup> Quarter Statement of Market Fees and Expenditures)*.

On 30 September 2015, PEMC filed an *Urgent Motion to Resolve*.

On 24 November 2015, PEMC filed its *Compliance (Re: 3<sup>rd</sup> Quarter Statement of Market Fees and Expenditures)*.

On 07 March 2016, the Commission issued an *Order* dated 09 February 2016, authorizing PEMC to continue imposing the approved MTF of CY 2014.

On 26 April 2016, the Commission issued a *Protective Order* dated 19 February 2016, granting the motion for confidential treatment of information of PEMC.

On 02 May 2016, PEMC filed its *Compliance (Re: 4<sup>th</sup> Quarter Statement of Market Fees and Expenditures)* dated 29 April 2016.

On 06 March 2020, the Commission issued an *Order* dated 04 March 2020, directing PEMC to submit a detailed breakdown of its actual utilization for the expenses incurred for CYs 2015 to 2017.

On 16 March 2020, PEMC filed its *Compliance* and submitted the required information pursuant to the Commission's *Order* dated 04 March 2020.

The Commission found the exhibits contained in PEMC's *FOE* relevant and material in the evaluation of this case. Thus, the Commission admits the same and submits the instant case for resolution.

## **ISSUE**

The sole issue to be resolved in the instant case is whether or not the Commission should approve PEMC's proposed level of MTF for

Calendar Year 2015 in the amount of Eight Hundred Ninety-Six Million Four Hundred Ten Million Pesos (PhP896,410,000.00).

### **COMMISSION’S RULING**

After due deliberation and thorough evaluation of all evidence submitted, and all information gathered by the Commission pursuant to its regulatory powers, the Commission **APPROVES** PEMC’s proposed level of MTF for Calendar Year 2015 **WITH MODIFICATIONS**.

### **DISCUSSION**

Section 30<sup>43</sup> of the EPIRA mandated the Department of Energy (DOE) to establish the Wholesale Electricity Spot Market (WESM) to be composed of generation companies, distribution utilities, suppliers, aggregators, end-users, the National Transmission Corporation (TRANSCO) or its Concessionaire, IPP Administrators, and other entities authorized by the ERC.

Under the EPIRA and its IRR, the WESM shall be implemented by a market operator in accordance with the WESM Rules. Its transition to an Independent Market Operator (IMO), with pertinent qualifications, shall be as follows:

- a) Initially, this market operator shall be an autonomous group, to be “constituted by the DOE, with equitable representation from electric power industry participants, and under the administrative supervision of TRANSCO.”
- b) Not later than (1) year after the implementation of WESM, an independent entity (IMO) shall be formed. The functions, assets and liabilities of this autonomous group, known as the Autonomous Group Market Operation or AGMO per Rule 9 of the IRR, shall be transferred to the IMO thru a joint endorsement by the DOE and electric power industry participants. Upon such transfer, TRANSCO’s administrative supervision over the market operator ceases.
- c) In order to qualify as an IMO, Rule 9, Section 6(a) of the IRR of the EPIRA provides that the IMO shall be financially and technically capable, with proven experience and expertise of no

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<sup>43</sup> Section 30. xxx 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;

less than two (2) years as a leading independent market operator of similar or larger size electricity market.

Prior to the creation of the PEMC, a Memorandum of Agreement (MOA) was entered into between then DOE Secretary Vincent S. Perez and then National Power Corporation (NPC) President Jesus N. Alcorido whereby it was agreed that NPC shall provide the appropriate funding, resources and personnel necessary to develop the WESM rules and to set up the infrastructure including the software and hardware for the establishment, implementation and operation of the WESM.<sup>44</sup>

In accordance with the MOA, the Market Operations Unit (MO Unit) was created as a functional unit under the NPC, and which then assisted the DOE in the preparatory work for the initial operation of the WESM.<sup>45</sup>

To comply with the EPIRA provision requiring the MO to be under the administrative supervision of TRANSCO, NPC transferred the MO Unit to TRANSCO (TRANSCO-MO).

On 9 June 2003, the DOE issued Department Order No. DO 2003-06-006 designating TRANSCO-MO as the Market Operator authorized to operate the WESM, under the direction of the DOE, until substituted by the Independent Market Operator (IMO) in accordance with the EPIRA.

The same Department Order explicitly stated that the designation of the TRANSCO-MO as the MO shall continue until such time that the functions, assets and liabilities of the Market Operator are transferred to the IMO, pursuant to the joint endorsement by the DOE and electric power industry participants under the EPIRA.

On 18 November 2003, through the initiative of the DOE, the Philippine Electricity Market Corporation (PEMC) was incorporated under the Securities and Exchange Commission (SEC) as a non-stock, non-profit corporation with the primary purpose of managing, governing, and administering an efficient, competitive, transparent, and reliable market for the wholesale and purchase of electricity and ancillary services in the Philippines, in accordance with EPIRA.

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<sup>44</sup> DOE Department Order No. DO2003-06-006

<sup>45</sup> *id*

In April 2004, the DOE, TRANSCO, and PEMC entered into an Operating Agreement delineating among others, the functions between PEMC and TRANSCO-MO.

On 22 October 2004, TRANSCO and PEMC entered into an MOA providing for the transfer of personnel, assets, contracts, and liabilities from TRANSCO-MO to PEMC. **It is at this point that PEMC was established as the AGMO.**

Hence, PEMC, as the AGMO, and in the exercise of its legal mandate to administer and operate the WESM and the corresponding right to recover a charge from the market participants to cover the cost of the WESM administration and operation, filed the instant *Application* for the approval of the level of MTFs for CY 2015 for the WESM.

In determining the merits of the instant *Application*, the Commission evaluated the following subject matters: (1) the nature of PEMC as a Government-Owned and Controlled Corporation (GOCC); (2) the relevance and reasonableness of the actual utilization of each cost component as reflected in the 2015 Variance Report submitted by PEMC; (3) the use of actual proof of expenditures submitted by PEMC to verify its utilization; and (4) comparison of the expenditures of each cost item with industry standards, as well as existing rules and regulations provided for Government-Owned-or-Controlled Corporations (GOCCs).

The Commission finds it necessary to discuss, first and foremost, PEMC's nature as a GOCC, considering that pertinent laws and rules governing GOCCs will need to be considered in the evaluation of the instant *Application*.

**I. PEMC is a Government-Owned and Controlled Corporation (GOCC) covered by the regulatory oversight function of the Commission.**

As mentioned above, PEMC was incorporated as a non-stock, non-profit corporation registered with the SEC on 18 November 2003. PEMC's primary purpose 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 in accordance with EPIRA.

Upon review of the relevant laws and jurisprudence, the Commission is of the view that PEMC, by nature, is a GOCC as defined by law.

**A. PEMC is classified as a GOCC within the purview of the 1987 Constitution.**

Section 16, Article XII of the 1987 Constitution provides for the authority of Congress to create GOCCs, *to wit*:

Section 16. The Congress shall not, except by general law, provide for the formation, organization, or regulation of private corporations. **Government-owned or controlled corporations may be created or established by special charters in the interest of the common good and subject to the test of economic viability.** (*Emphasis supplied*)

Based on the abovementioned constitutional provision, Congress is granted the power to enact special charters to create GOCCs. However, to exercise this power, two requisites have to be complied with. First, the creation of a GOCC should be in furtherance of the common good. Second, the GOCC must meet the test of economic viability.

The first condition means that the GOCC will promote benefits that the society as a whole will enjoy, in contrast to the private good of individuals and sections of society. On the other hand, the test of economic viability focuses on the idea that the creation of a GOCC is for economic or commercial activities.

The Supreme Court, in the case of *Republic v. City of Parañaque*<sup>46</sup>, enunciates that with the economic viability test, a GOCC shows a capacity to function efficiently in business and that it should not go into activities which the private sector can do better. Moreover, economic viability is more than financial viability, and also includes the capability to make a profit and generate benefits not quantifiable in financial terms.<sup>47</sup>

Applying these conditions to PEMC, the Commission found that the twin requirements of the common good and economic viability test are satisfied.

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<sup>46</sup> G.R. No. 191109, 18 July 2012;

<sup>47</sup> Lifted by the Supreme Court from the textbook “The 1987 Constitution of the Republic of the Philippines: A Commentary” by Father Joaquin G. Bernas, a leading member of the Constitutional Commission;



Firstly, PEMC was created to operate the WESM and promote competition in the energy sector, following the policy and regulatory oversight of the DOE and the Commission, respectively. Secondly, the economic viability test is met with PEMC's capability to generate revenues, fully-capable to support its existence financially.

**B. PEMC is considered as a GOCC within the definitions provided under Executive Order No. 292 (E.O. No. 292) and Republic Act (R.A.) No. 10149.**

Under E.O. No. 292, otherwise known as the "Administrative Code of 1987", a GOCC refers to a stock or non-stock corporation vested with functions relating to public needs whether governmental or proprietary in nature, and owned by the Government directly or through its instrumentalities either wholly, or, where applicable as in the case of stock corporations to the extent of at least fifty-one percent (51%) of its capital stock.<sup>48</sup>

This definition was later on adopted by the Congress when it enacted R.A. No. 10149, otherwise known as the "GOCC Governance Act of 2011", *to wit*:

(o) Government-Owned or Controlled Corporation (GOCC) refers to **any agency organized as a stock or non-stock corporation, vested with functions relating to public needs whether governmental or proprietary in nature, and owned by the Government of the Republic of the Philippines directly or through its instrumentalities** either wholly or, where applicable as in the case of stock corporations, to the extent of at least a majority of its outstanding capital stock: *Provided, however*, That for purposes of this Act, the term "GOCC"- shall include GICP/GCE and GFI as defined herein. (*Emphasis Supplied*).

In the case of *Boy Scouts of the Philippines (BSP) vs. National Labor Relations Commission (NLRC)*<sup>49</sup>, the Supreme Court considered the following attributes in arriving at the appropriate legal characterization of the BSP: (1) BSP's functions

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<sup>48</sup> Section 2(13) of the Introductory Provisions of EO No. 292;

<sup>49</sup> G.R. No. 80767, 22 April 1991

as set out in its charter; (2) governance of the BSP *vis a vis* substantial governmental participation and intervention in the choice of the members of its National Executive Board; and (3) character of the assets and funds of the BSP.

Meanwhile, in the case of *Funa vs. Manila Economic and Cultural Office (MECO)*<sup>50</sup>, the Supreme Court, in dissecting the definition of a GOCC under RA 10149 as provided above, held that: “By definition, three attributes thus make an entity a GOCC: first, its organization as stock or non-stock corporation; second, the public character of its function; and third, government ownership of the same. Possession of all three attributes is necessary to deem an entity a GOCC.”

The foregoing pronouncements are now applied to PEMC’s case.

**1. PEMC is a non-stock corporation.**

As previously mentioned, PEMC was incorporated as a non-stock, non-profit corporation on 18 November 2003 under the Corporation Code of the Philippines<sup>51</sup> and registered before the SEC.

**2. PEMC’s functions are impressed with public interest.**

Under Section 6 (c), Rule 9 of the Implementing Rules and Regulations (IRR) of the EPIRA, the following are the powers and duties of PEMC as the market operator:

- (i) Operate and administer the WESM and allocate resources to enable it to operate and administer the market, in accordance with the WESM Rules;
- (ii) Determine the dispatch schedule of all facilities in accordance with the WESM Rules. Such schedule shall be submitted to the grid operator of the TRANSCO or its Buyer or Concessionaire;
- (iii) Monitor daily trading activities in the market;

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<sup>50</sup> G.R. No. 193462, 4 February 2014

<sup>51</sup> Batas Pambansa Blg. 68;

- (iv) Oversee transaction billing and settlement procedures; and
- (v) Maintain and publish a register of all WESM Participants and must update and publish the register whenever a Person becomes or ceases to be a WESM Participant.

The following are the powers and duties<sup>52</sup> of PEMC as the Autonomous Governing Market Operator (AGMO) governing body:

- (i) Govern the operation of the WESM until the formation or the selection of an IMO;
- (ii) Develop and adopt guidelines for the efficient, competitive, transparent and reliable management and operation of the market in accordance with WESM Rules;
- (iii) Adopt and set internal procedures for the conduct of meetings and determination of a quorum; and
- (iv) Perform the preparatory work (information technology system development testing, and trial operation) and initial operation of the WESM with support from the DOE.

It must be emphasized that PEMC's performance of its functions is public in nature. Being WESM's market operator and governing body, PEMC is required to operate and administer the wholesale spot market system in accordance with the EPIRA, the WESM Rules and other pertinent rules and regulations.

Given the nature and scope of the operations and functions of PEMC in facilitating the sale of electricity in WESM, and being the only spot market operator, its operations have significant impact on the consumers.

**3. The government exercises ownership and extensive and significant participation over PEMC.**

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<sup>52</sup> Section 7 (d) of the Rules and Regulations to Implement R.A. 9136 (EPIRA);

PEMC is considered to be owned by the government because there is extensive and significant participation of the government in the selection of members to its PEM board.

It is also worthy to emphasize that PEMC’s original incorporators included the DOE Secretary and GOCC personnel who were members of the WESM-Technical Working Group (WESM-TWG), as shown in Table 1:

Table 1. PEMC’s Incorporators

Vincent S. Perez	(DOE Secretary)	<i><b>Ex-officio Member</b></i>
Maria P. Garcia	Member WESM-TWG	National Power Corporation (NPC) – <b>GOCC</b>
Rizalino G. Santos	Member WESM-TWG	National Transmission Corporation (TransCo-MO) – <b>GOCC</b>
Rolando T. Bacani	Member WESM-TWG	National Transmission Corporation (TransCo-SO) – <b>GOCC</b>
Tomas B. Vivero	Member WESM-TWG	National Electrification Administration (NEA) – <b>Government Agency</b>
Wilhelm G. Ortaliz	Member WESM-TWG	Philippine Economic Zone Authority (PEZA) – <b>GOCC</b>
Samson P. Javellana	Member WESM-TWG	PNOC (Philippine National Oil Company)-Energy Development Corporation (EDC) – <b>GOCC</b>
Wendell V. Ballesteros	Member WESM-TWG	Philippine Rural Electric Cooperatives Association (PHILRECA)
Crisanto R. Laset, Jr.	Member WESM-TWG	Philippine Electric Plant Owners Association (PEPOA)
Dennis P. Gonzales	Member WESM-TWG	Philippine Independent Power Producers Association (PIPPA)
Jesus P. Francisco		Member of the private sector
Froilan A. Tampinco		Member of the private sector

PEMC, as the AGMO of WESM, exercises its powers and functions through the PEM Board. Correlatively, Section 6(a) of Rule 9 of the EPIRA-IRR requires that the AGMO governing body should comprise of equitable representation from the electric power industry participants. In the same provision, representatives of the AGMO governing body are selected in accordance with the WESM Rules, and the DOE Secretary is the chairman of the Board.

Furthermore, the government, through the DOE, exercises control over the appointment of the directors of the PEM Board

pursuant to Rule 1.4.3.1 of the WESM Rules, which provides as follows:

**1.4.3.1 The directors of the PEM Board shall be appointed by the DOE in accordance with the required composition of the PEM Board** as set out in clause 1.4.2, having regard to the expertise necessary for the PEM Board to carry out its functions and any relevant provisions of the Corporation Codes of the Philippines in relation to the appointment of directors.

The composition of the board and the manner of their appointment, as provided under the WESM Rules, were also adopted in PEMC's By-Laws.

**C. PEMC has been categorically classified by the Governance Commission for GOCC (GCG) as a GOCC.**

The Commission also notes that the GCG, which is the oversight body for all GOCCs, has categorically listed PEMC as a GOCC. Moreover, under R.A. No. 10149, PEMC can be further classified as non-chartered GOCC<sup>53</sup> which refers to a GOCC organized and operating under the Corporation Code of the Philippines<sup>54</sup>.

In view of the foregoing discussions, it is established that PEMC is a GOCC. Therefore, the Commission shall evaluate the instant *Application* based on its classification as a GOCC.

## **II. Components of PEMC's Budgetary Requirements for CY 2015**

Section 9 of the EPIRA-IRR requires that the structure of market fees should be transparent and should not discriminate against a category or categories of WESM members.

Relative thereto, Section 2.10.3 of the WESM Rules lays down the guiding principles for the structure of market fees, *to wit*:

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<sup>53</sup> Section 3 (p) of R.A. 10149 or the GOCC Governance Act of 2011;

<sup>54</sup> *Supra*, Note 48;

1. The structure of market fees should be transparent;
2. Market fees shall consider the budgeted revenue requirements for the MO and PEM Board; and
3. The structure and level of market fees should not favor or discriminate against a category or categories of WESM member.

In the instant *Application*, PEMC sought for the approval of its MTF for CY 2015 based its proposed budget, as shown in Table 2:

**Table 2. PEMC’s Proposed Budget for CY 2015**

Particulars	Proposed Amount (PhP)
Personnel Services (PS)	415,846,000
Maintenance and Other Operating Expenses (MOOE)	333,264,000
Capital Expenditures (CAPEX)	129,724,000
2% Provision for DOE and the Commission	17,577,000
<b>Total</b>	<b>896,411,000</b>

As shown in Table 2, the components of PEMC’s budgetary requirements for CY 2015 are as follows: (1) Personnel Services (PS); (2) Maintenance and Other Operating Expenses (MOOE); (3) Capital Expenditures (CAPEX); and (4) Two Percent (2%) provision for the DOE and the Commission.

In determining the level of PEMC’s budgetary requirements for CY 2015, the Commission utilized the actual expenditure of PEMC for each component for CY 2015, as reflected in the 2015 Variance Report.

The detailed evaluation and resolution of each component of PEMC’s proposed budget are discussed below:

**A. Personnel Services (PS)**

The PS budget of PEMC comprises the salaries of its employees, 13<sup>th</sup>-month pay and bonus, *de minimis* benefits, employee’s uniform allowance, life insurance, other allowances, retirement and severance pay, overtime pay, SSS, Home Mutual Development Fund or Pag-IBIG, Philhealth contributions, Vacation Leave (VL) and Sick Leave (SL).

Based on its *Application*, PEMC’s proposed PS budget amounts to Four Hundred Fifteen Million Eight Hundred Forty-Six Thousand Pesos (PhP415,846,000.00), equivalent to forty-six percent (46%) of PEMC’s total proposed budget for CY 2015.

Likewise, the proposed PS budget of PEMC for CY 2015 is 9.3% higher than its approved PS Budget for CY 2014 in the amount of Three Hundred Eighty Million Four Hundred Fifty Thousand Seven Hundred Thirty-Six Pesos (PhP380,450,736.00) as embodied in the Commission’s *Decision* dated 15 October 2014 in ERC Case No. 2013-137 RC<sup>55</sup>.

Further, based on its 2015 Variance Report, PEMC’s actual utilization for PS amounted to Three Hundred Eighty Million Four Hundred Fifty-One Thousand Pesos (PhP380,451,000.00), which is 91% of the proposed 2015 budget. Table 3 shows the breakdown of PEMC’s actual PS expenditure for CY 2015.

**Table 3. PEMC’s Actual PS Expenditure for CY 2015**

Particulars	Actual	%
Basic Pay	165,126,780.42	43.4
13 <sup>th</sup> Month Pay and Bonus	100,308,460.29	26.4
De Minimis Benefits	2,858,375.00	0.8
Employee’s Uniform	2,332,000.00	0.6
Life Insurance	315,178.63	0.1
Other Allowances	19,611,292.90	5.2
Retirement and Severance Pay	69,246,237.65	18.2
Overtime	5,768,484.34	1.5
SSS/Philhealth/Pag-ibig Contribution	3,074,857.70	0.8
VL and SL	11,809,333.07	3.1
<b>Total</b>	<b>380,451,000.00</b>	<b>100.0</b>

As shown in Table 3, 43% of actual PS expenditures was utilized for the Basic Pay of its employees; 26.4% for the 13th-month pay and bonus; 18.2% for the retirement and severance pay; 5.2% for other allowance; 3.1% for VL and SL; 1.5% for overtime; 0.8% for *de minimis* benefit; 0.8% for SSS, Pag-IBIG, and Philhealth contributions; 0.6% for uniform allowance; and 0.1% for life insurance.

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<sup>55</sup> *Supra*, Note 42;

Each of the PS budget components is discussed below:

**A.1. Basic Pay**

The basic pay covers the salaries of PEMC’s one hundred sixty (160) personnel holding approved plantilla positions. Table 4 shows the breakdown of the approved plantilla positions, *to wit*:

**Table 4. PEMC’s Approved Plantilla Position**

Position	No. of Personnel
President	1
Vice-President	8
Manager	13
Assistant Manager	26
Rank and File	112
Total	160

PEMC’s actual expenses for the basic pay of its employees amounted to One Hundred Sixty-Five Million One Hundred Twenty-Six Thousand Seven Hundred Eighty Pesos and 42/100 (PhP165,126,780.42).

As an overview, the approved salary structure of PEMC was based on the Watson Wyatt Study of 2006 using the midpoint level scale<sup>56</sup>. Since 2008, the salaries of PEMC have been subjected to an annual across-the-board increase based on the Consumer Price Index (CPI), and an additional 5% increase for employees’ performance bonuses, in accordance with PEM Board Circular No. 2007-003 issued on 01 February 2007.

The subject amounts have already been disbursed for the employees’ salaries; however, the Commission notes that PEMC failed to submit a detailed list of its employees’ positions and their corresponding salaries. Nonetheless, as previously discussed, the Commission has approved the salary structure of PEMC based on the Watson Wyatt Study

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<sup>56</sup> ERC Case No. 2005-048 RC Decision dated 22 June 2006, page 41 which provides: “x x x The Commission however, finds said parameter unreasonable as the PEMC is considered to be a relatively new entity. In its nascent stage, it is reasonable to assume that the salaries of these employees are being paid at, or close to midpoint levels as indicated under the Watson Wyatt study. Hence, the said cost component should be correspondingly reduced to reflect salary scales at midpoint level. x x x



of 2006. In view thereof, the Commission determined that the basic salaries of PEMC's employees are based on industry standards. Therefore, the Commission approves PEMC's actual expense for its employees' salaries in the amount of **One Hundred Sixty-Five Million One Hundred Twenty-Six Thousand Seven Hundred Eighty Pesos and 42/100 (PhP165,126,780.42)**.

**A.2. 13th Month Pay and Year-End Performance Bonus**

This component of PEMC's PS budget includes the expenses for the employees' 13<sup>th</sup>-month pay, mid-year bonus equivalent to one (1) month salary, and the year-end performance bonus equivalent to a maximum of four (4) months basic pay, as approved by the PEM Board per Resolution Nos. 2015-21 and 2015-040 dated 28 April 2015 and 03 November 2015, respectively.

For CY 2015, the actual expense incurred by PEMC for its employees' 13<sup>th</sup>-Month Pay and other bonuses amounted to One Hundred Million Three Hundred Eight Thousand Four Hundred Sixty Pesos and 29/100 (PhP100,308,460.29).

Upon evaluation of these expenses, the Commission finds that the year-end performance bonus given to its employees, equivalent to a maximum of four (4) months basic pay, is beyond what is deemed reasonable.

The Commission finds that the reasonable amount of bonuses should be equivalent to two (2) months of basic salary only, *that is*, one-month for mid-year bonus or 13th-month pay, and another one month for a year-end performance bonus. Hence, the Commission, utilizing the annual gross basic pay as basis, calculated or derived the allowable amount for bonus, equivalent to two months.

Therefore, the Commission only approves the amount of **Twenty-Seven Million Five Hundred Twenty-One Thousand One Hundred Three Pesos and 7/100 (PhP27,521,103.07)** representing the 13th-month pay and year-end performance bonus.

**A.3. De Minimis Benefits**

PEMC’s *de minimis* benefits comprise of its provision for rice allowance amounting to One Thousand Six Hundred Seventy-Five Pesos (PhP1,675.00) per employee per month.

For CY 2015, the actual expense incurred by PEMC for its *de minimis* benefits amounted to Two Million Eight Hundred Fifty-Eight Thousand Three Hundred Seventy-Five Pesos (PhP2,858,375.00).

Considering that entitlement to rice subsidy allowance is also given by other GOCCs, the Commission approves the amount of **Two Million Eight Hundred Fifty-Eight Thousand Three Hundred Seventy-Five Pesos (PhP2,858,375.00)**, representing the actual amount utilized by PEMC for this purpose.

**A.4. Employee’s Uniform Allowance**

For CY 2015, PEMC incurred an actual expense of Two Million Three Hundred Thirty-Two Thousand Pesos (PhP2,332,000.00) for the uniform allowance of its employees.

Using the PEMC Board’s approved Uniform Allowance based on positions, the Commission calculated the indicative budget for this, assuming that all 160 employees were granted such, *to wit*:

**Table 5. Indicative Computation of Employee’s Uniform Allowance**

Position	No. of Personnel	Uniform Allowance	Total (PhP)
President	1	20,000.00	20,000.00
Vice President	8	20,000.00	160,000.00
Manager	13	17,000.00	221,000.00
Assistant Manager	26	15,000.00	390,000.00
Rank and File	112	15,000.00	1,680,000.00
Total	160		<b>2,471,000.00</b>

Table 5 shows an indicative amount of Two Million Four Hundred Seventy-One Thousand Pesos (PhP2,471,000.00), which is One Hundred Thirty-Nine Thousand Pesos (PhP139,000.00) higher than the actual utilization of PEMC in 2015. The variance is due to the following reasons: (1) resignation of employee; (2) the vacancy in the plantilla positions; and (3) the pro-rating of the uniform allowance granted based on the employees' actual assumption of duty.

Further, the provision of uniform allowance for employees is a standard benefit granted to all employees, whether in the government or the private sector.

Thus, the Commission, finding the expenses reasonable, approves **Two Million Three Hundred Thirty-Two Thousand Pesos (PhP2,332,000.00)**, representing the actual expense incurred by PEMC for its uniform allowance.

#### **A.5. Life Insurance**

In CY 2015, PEMC incurred a total of Three Hundred Fifteen Thousand One Hundred Seventy-Eight Pesos and 63/100 (PhP315,178.63) as actual expenses for the life insurance coverage of its rank and file employees.

The Commission disapproves the said amount for life insurance for its rank and file employees.

It bears stressing that the salaries of PEMC's rank and file personnel are already competitive enough for them to avail, at their own expense, life insurance policies. Moreover, the Commission is mindful of the fact that such expense, if allowed, will ultimately be shouldered by the consumers, thus further increasing the burden they have to shoulder.

#### **A.6. Other Allowances**

PEMC's Other Allowances include expenses for the transportation, car, and representation allowances of its employees.

For CY 2015, PEMC incurred an actual expense of Nineteen Million Six Hundred Eleven Thousand Two Hundred Ninety-Two Pesos and 90/100 (PhP19,611,292.90) for the payment of these Other Allowances.

The Commission computed PEMC’s indicative, annual utilization of these “Other Allowances” based on the number of its employees as shown in Table 6:

**Table 6. Indicative Breakdown of PEMC’s Transportation, Car and Representation Allowances**

Transportation Allowance				
Position	No. of Personnel	Monthly Allowance	No. of Months	Total (PhP)
Rank and File	112	4,000.00	12	<b>5,376,000.00</b>
Car Allowance				
President	1	58,333.33	12	700,000.00
Vice President	8	33,333.33	12	3,200,000.00
Manager	13	20,833.33	12	3,250,000.00
Total	22			<b>7,150,000.00</b>
Representation Allowances				
President	1	50,000.00	12	600,000.00
Vice Pres	8	25,000.00	12	2,400,000.00
Manager	13	15,000.00	12	2,340,000.00
Asst. Manager	26	10,000.00	12	3,120,000.00
Total	48			<b>8,460,000.00</b>
<b>GRAND TOTAL</b>				<b>20,986,000.00</b>

Based on Table 6, the indicative “Other Allowances” of PEMC for CY 2015 is Twenty Million Nine Hundred Eighty-Six Thousand Pesos (PhP20,986,000.00). Actual utilization by PEMC for CY 2015, however, amounted to Nineteen Million Six Hundred Eleven Thousand Two Hundred Ninety-Two Pesos and 90/100 (PhP19,611,292.90); thus a variance of One Million Three Hundred Seventy-Four Thousand Seven Hundred Seven Pesos and 10/100 (PhP1,374,707.10) is produced.

Upon evaluation, the Commission notes that similar to the uniform allowance granted by PEMC to its employees, the variance resulted from the following reasons: (1) the resignation of the employee; (2) the vacancy in the plantilla positions; and (3) the pro-rating of

the “Other Allowances” granted based on the employees’ actual assumption of duty.

Of the three (3) components of “Other Allowances,” the Commission only approves the budget for the representation allowance amounting to **Seven Million Six Hundred Forty-Eight Thousand Four Hundred Four Pesos and 23/100 (PhP7,648,404.23)** since the same is an allowable expense for managerial plantilla positions. This amount was derived by getting the percentage share of the representation allowance from the indicative budget and applied vis-a-vis the actual utilization for “Other Allowance.”

However, for the car allowance and the transportation allowance, the Commission disapproves the same considering that salaries of PEMC’s employees are already competitive. Likewise, the Commission is mindful that if these amounts are approved, these costs shall be passed on to all electricity consumers.

#### **A.7. Retirement and Severance Pay**

For CY 2015, PEMC’s actual incurred expense for retirement and severance pay amounted to Sixty-Nine Million Two Hundred Forty-Six Thousand Two Hundred Thirty-Seven Pesos and 65/100 (PhP69,246,237.65).

Upon evaluation, the Commission finds that there was a huge increase in the utilization of the instant budget component in December 2015, which amounted to Fifty Million Two Hundred Three Thousand Seven Hundred Thirty Pesos and 65/100 (PhP50,203,730.65), in contrast with the monthly incurred expenses for January to November 2015, which amounted to One Million Seven Hundred Thirty-One Thousand One Hundred Thirty-Seven Pesos (PhP1,731,137.00).

The significant increase in December 2015, based on the actuarial valuation report, was due to the adjustment of the total retirement benefit expenses, including the unfunded portion of PEMC’s Retirement Plan. It must be noted that the actuarial valuations are done annually to update the retirement benefit cost and the amount of contributions.

Table 7 shows PEMC’s actual PS utilization based on the CY 2015 Variance Report:

**Table 7. Actual PS Utilization Based on CY 2015 Variance Report**

Particulars	Amount
Salaries and Benefits	311,205,000
Retirement Benefit (RB)	29,106,000
Sub-Total Actual PS	340,311,000
Committed Expense (RB)	40,140,000
<b>Total Budget</b>	<b>380,451,000</b>

Based on Table 7, the employees’ salaries and benefits for CY 2015 amounted to only Three Hundred Eleven Million Two Hundred Five Thousand Pesos (Php311,205,000.00). This means that all remaining PS budget at the end of the year (RB amounting to Php29,106,000.00 and Php40,140,000.00) was allocated as “Committed Expense”<sup>57</sup> for the unfunded portion of the retirement fund.

Moreover, it can be gleaned from Table 7, that the actual utilized Retirement Benefit (RB) amounted to a total of Sixty-Nine Million Two Hundred Forty-Six Thousand Pesos (Php69,246,000.00), which represents PEMC’s Retirement Benefit Expense (RBE) amounting to Twenty-Nine Million, One Hundred Six Thousand Pesos (Php29,106,000.00), and “Committed Expense (RB)” in the amount of Forty Million One Hundred Forty Thousand Pesos (Php40,140,00.00), which was set aside for PEMC’s Retirement Plan.

The Commission notes that PEMC first introduced the inclusion of the RBE in its CY 2007 MTF *Application* under ERC Case No. 2007-124RC<sup>58</sup>. In the said *Application*, PEMC included under its PS budget the establishment of retirement and severance pay. Consequently, in its *Decision* dated 30 January 2008, the

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<sup>57</sup> “Committed Expenses” refer to PEMC’s budget approved by the Commission but have not been expended during the subject year but reported as part of the actual expense;  
<sup>58</sup> In the Matter of the Application for the Approval of the level of Market Transaction Fees for the Year 2007 for the Philippine WESM;

Commission observed that the retirement and severance pay provided by PEMC was excessive in comparison to what is provided under the retirement law, *to wit*:

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Based on its observations, the Commission found the following items as **excessive and disallowed** the same:

- The **retirement and severance pay should be limited to that mandated by Republic Act No. 7641** otherwise known as “An Act Amending Article 287 of Presidential Decree No. 442, As Amended, otherwise known as the Labor Code of the Philippines, by Providing for Retirement Pay to Qualified Private Sector Employees in the Absence of Any Retirement Plan in the Establishment; xxx

*(Emphasis supplied).*

The Commission also notes that PEMC maintains a funded, tax-qualified, non-contributory post-employment benefit plan covering all regular full-time employees. This is being administered by a trustee. Likewise, PEMC’s annual retirement requirement consists of a current and unfunded portion that had accumulated from the time PEMC was organized in CY 2003 until CY 2008, when the retirement fund was put in place.

In view of the foregoing, the Commission finds the RBE of PEMC to be beyond and inconsistent with those prescribed under Republic Act No. 7641<sup>59</sup> and other pertinent rules and regulations. Therefore, the Commission disallows PEMC’s total RBE amounting to Sixty-Nine Million Two Hundred Forty-Six Thousand Two Hundred Thirty-Seven Pesos and 65/100 (PhP69,246,237.65).

#### **A.8. Overtime Pay, SSS/Philhealth/Pag-IBIG Contribution and Vacation Leave (VL) and Sick Leave (SL)**

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<sup>59</sup> Entitled, “An Act Amending Article 287 of Presidential Decree No. 442, As Amended, Otherwise Known as the Labor Code of the Philippines, By Providing for Retirement Pay to Qualified Private Sector Employees in the Absence of Any Retirement Plan in the Establishment”;

Table 8 shows the actual expense incurred by PEMC in CY 2015 for the payment of the following mandatory contributions and benefits, *to wit*:

**Table 8. PEMC’s Actual Expense for the Payment of Overtime Pay, SSS/Philhealth/Pag-ibig Contribution and VL and SL for CY 2015**

Particulars	Amount
Overtime Pay	5,768,484.34
SSS/Philhealth/Pag-ibig Contribution	3,074,857.70
VL and SL	11,809,333.07
<b>Total</b>	<b>20,652,675.11</b>

Table 8 shows that for CY 2015, the total actual expenses of PEMC for the overtime pay of its employees, mandatory contributions for SSS, Philhealth, Pag-IBIG, and VL and SL monetization amounted to Twenty Million Six Hundred Fifty-Two Thousand Six Hundred Seventy-Five Pesos and 11/100 (PhP20,652,675.11).

The Commission finds that contributions for SSS, Philhealth and Pag-IBIG are mandatory contributions, while overtime pay and monetization of unused VL and SL are mandatory payments provided under the law.

Therefore, the Commission approves the actual expenses of PEMC for CY 2015 for the overtime pay of its employees, mandatory contributions for SSS, Philhealth and Pag-IBIG, and VL and SL monetization in the amount of **Twenty Million Six Hundred Fifty-Two Thousand Six Hundred Seventy-Five Pesos and 11/100 (PhP20,652,675.11)**.

**B. Maintenance and Other  
Operating Expenses  
(MOOE)**

The MOOE budget of PEMC covers the following expenses, namely: (1) Honorarium; (2) Rental; (3) Utilities; (4) Repairs and Maintenance; (5) Contracted Services; (6) Conference; (7) Insurance; (8) Participants Development Cost; (9) Advertising and Promotions; (10) Taxes and Dues; (11) Travel and Transportation; (12) Trainings; (13) Materials and Supplies; (14)



Subscriptions; (15) Research and Development; and (16) Market Audit.

PEMC’s proposed MOOE budget for CY 2015 amounts to Three Hundred Thirty-Three Million Two Hundred Sixty-Four Thousand Pesos (PhP333,264,000.00), which is thirty-seven percent (37%) of PEMC’s total CY 2015 proposed budget.

Table 9 shows a comparison of PEMC’s approved CY 2014 MOOE budget according to the Commission’s *Decision* dated 15 October 2014 in ERC Case No. 2013-137 RC<sup>60</sup>, its proposed CY 2015 MOOE budget, and its CY 2015 actual utilization, *to wit*:

**Table 9. Comparison of PEMC’s Approved CY 2014 MOOE Budget, Proposed CY 2015 MOOE Budget, and CY 2015 Actual Utilization**

Particulars	Approved CY 2014 MOOE Budget (PhP)	CY 2015 Proposed MOOE Budget (PhP)	CY 2015 Actual Utilization (PhP) of MOOE Budget
Honorarium	28,065,250	34,900,000	26,404,040.40
Rental	34,107,400	42,693,000	35,020,973.11
Utilities	26,965,400	33,485,000	26,995,505.99
Repairs and Maintenance	29,533,900	34,305,000	35,663,153.74
Contracted Services	32,505,000	35,756,000	25,873,450.27
Conference	9,709,000	9,903,000	8,724,754.07
Insurance	9,731,440	11,453,000	12,443,322.03
Participants Development Cost	5,000,000	5,100,000	5,000,000.00
Advertising and Promotions	0	7,040,000	1,378,033.00
Taxes and Dues	6,403,510	10,032,000	7,845,551.85
Travel and Transportation	14,438,540	16,015,000	12,730,437.50
Trainings	5,017,100	10,164,000	3,222,129.11
Materials and Supplies	8,824,000	9,000,000	8,472,783.15
Subscriptions	1,063,990	6,143,000	1,590,832.40
Research and Development	0	6,187,000	0.00
Market Audit	37,653,000	61,088,000	37,653,000.00
<b>Total</b>	<b>249,017,530</b>	<b>333,264,000</b>	<b>249,017,966.62</b>

It may be observed from Table 9 that PEMC’s actual utilization of its MOOE budget for CY 2015 in the amount of Two Hundred Forty-Nine Million Seventeen Thousand Nine Hundred Sixty-Six Pesos and 62/100 (PhP249,017,966.62) is lower by Four Hundred Thirty-Six Pesos and 62/100

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<sup>60</sup> *Supra*, Note 42;

(PhP436.62) from the approved CY 2014 MOOE budget in the amount of Two Hundred Forty-Nine Million Seventeen Thousand Five Hundred Thirty Pesos (PhP249, 017,530.00). Likewise, Table 9 shows that PEMC’s actual MOOE utilization for CY 2015 is 25% lower than its CY 2015 proposed MOOE budget.

The details of each component of the MOOE budget are discussed hereunder:

**B.1. Honorarium**

The budget for honorarium covers the allowances of the PEM Board and its five (5) committees created according to the WESM Rules, namely: (1) PEM Audit Committee; (2) Market Surveillance Committee; (3) Rules Change Committee; (4) Technical Committee; and (5) Dispute Resolution Administrator.

In its *Application*, PEMC proposed the amount of Thirty-Four Million Nine Hundred Thousand Pesos (PhP34,900,000.00) for the payment of honoraria based on the PEMC’s approved honorarium budget for CY 2014, escalated by two percent (2%) to account for CPI adjustments.

The amount of honorarium granted to each member of the committees mentioned above was initially fixed pursuant to PEM Board Resolution No. 2005-22<sup>61</sup> dated 27 September 2005. Subsequent increases in the honoraria were done through PEM Board approval.

Shown in Table 10 is the Commission’s calculation of PEMC’s annual indicative expense for the honoraria granted to the PEM Board and its committees:

**Table 10. PEMC’s Calculated Annual Indicative Expense for the Payment of Honoraria**

Particulars	Per Meeting	No. of Members	No. of Meetings	Commission’s Calculated Amount (PhP)
PEM Board Chairman	100,000.00	1	12	1,200,000.00
PEM Board Member	65,000.00	14	12	10,920,000.00

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<sup>61</sup> Entitled, “Grant of Honoraria for Committee Members”;

Particulars	Per Meeting	No. of Members	No. of Meetings	Commission's Calculated Amount (PhP)
PEM Board Adviser	20,000.00	3	12	720,000.00
PEM Board Review	20,000.00	3	12	720,000.00
Dispute Resolution Group (DRG)	50,000.00	3	12	1,800,000.00
Market Surveillance Committee (MSC)	50,000.00	5	12	3,000,000.00
PEMC Audit Committee (PAC)	50,000.00	3	12	1,800,000.00
Rules Change Committee (RCC)				
Independent	50,000.00	4	12	2,400,000.00
Sectoral	20,000.00	11	12	2,640,000.00
Observer	10,000.00	2	12	240,000.00
Technical Committee (TC)	50,000.00	5	12	3,000,000.00
Total				28,440,000.00

Based on Table 10, the calculated annual budget requirement for the payment of honoraria to PEM Board and its committees is Twenty-Eight Million Four Hundred Forty Thousand Pesos (PhP28,440,000.00).

In contrast, Table 11 shows PEMC’s actual utilization of its budget for honoraria in CY 2015:

Table 11. Actual Honoraria Utilization  
 For CY 2015

Particulars	Actual Utilization (PhP)
PEM Board	13,070,000.00
Dispute Resolution Administrator (DRA)	600,000.00
Market Surveillance Committee (MSC)	2,950,000.00
PEMC Audit Committee (PAC)	1,860,000.00
Rules Change Committee (RCC)	4,120,000.00
Technical Committee (TC)	2,400,000.00
Corporate Giveaways to PEM Board	1,404,040.40
Total	26,404,040.40

PEMC’s actual utilization of its budget for honoraria in CY 2015 amounted to Twenty-Six Million Four Hundred Four Thousand Forty Pesos and 40/100 (PhP26,404,040.40).

The Commission notes that in 2015, PEMC granted additional “Corporate Giveaways” to the PEM Board amounting to One Million Four Hundred Four Thousand Forty Pesos and 40/100 (PhP1,404,040.40) in the form of gift certificates, charged against the budget for honoraria. This grant of corporate giveaways does not conform with existing rules or laws.

Likewise, the Commission finds a huge disparity between the honoraria granted by PEMC to the members of the PEM Board and its committees, vis-a-vis the allowable maximum *per diem* rates applicable to GOCCs when referenced to Executive Order No. 24, Series of 2011<sup>62</sup>. While the Commission takes cognizance of the responsibilities of the PEM Board and its Committees, and the very technical nature of the functions of PEMC, the Commission cannot just dismiss the prescribed levels of honoraria and per diem accorded to GOCCs under existing executive issuances and rules.

It is the Commission’s view that the honoraria granted by PEMC to the members of the PEM Board and its committees are beyond the allowable rates for GOCCs.

Accordingly, the Commission, finding the amount of honoraria given to the members of the PEM Board and its Committees to be beyond the allowable rates for GOCCs, deems it reasonable to approve only the amount of **Nine Million Two Hundred Sixteen Thousand Pesos (PhP9,216,000.00)** as PEMC’s expenses for the payment of honoraria. The cost of the corporate giveaways in the amount of One Million Four Hundred Four Thousand Forty Pesos and 40/100 (PhP1,404,040.40) is disapproved.

## **B.2. Rental**

The budget component for rental covers the payment for the rental space for PEMC’s Luzon and Visayas offices, back-up site, storage warehouse, vehicle parking, and lease of office equipment.

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<sup>62</sup> Prescribing Rules to Govern the Compensation of Members of the Board of Directors/Trustees in Government-Owned or Controlled Corporations including Government Financial Institutions

Based on its *Application*, PEMC's proposed rental budget for CY 2015 amounts to Forty-Two Million Six Hundred Ninety-Three Thousand Pesos (PhP42,693,000.00).

In contrast, PEMC's actual expenses amounted only to Thirty-Five Million Twenty Thousand Nine Hundred Seventy-Three Pesos and 11/100 (PhP35,020,973.11).

Table 12 shows the breakdown of PEMC's actual expenses for rental of office space and parking lots; while Table 13 shows the breakdown of actual expenses for the rental of office equipment and other services.

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**Table 12. Actual Rental of Office Space and Parking Slots**

<b>Vendor</b>	<b>Particulars</b>	<b>Contract Term</b>	<b>Floor Area (sq.m.)</b>	<b>PhP/ sq.m.</b>	<b>2015 Actual Rent Expense (PhP)</b>	<b>Place</b>
ALCCO Realty Corporation	Office Space and 1- Parking Slot	Jan.15, 2013 - Jan. 14, 2016	135.84	673.2	1,116,598.87	Unit 1807 - Robinsons Equitable Tower, ADB Ave. Ortigas Center
A-Port Corporation	10 - Parking Slots	renewable every six (6) mos.	n/a	n/a	318,626.76	Between Podium and ADB
Atlas Resources Inc.	Office Space with dedicated parking slot	July 1, 2015 - Sep. 30, 2020	567	629.63	998,461.73	Unit 1907 to 1910 - Robinsons Equitable Tower, ADB Ave. Ortigas Center
BDO Unibank, Inc.	Office Space and 29 Parking Slot	Sep. 21, 2012 - Sep. 20, 2015	1167	2224.44	13,368,675.74	Unit 901 to 910 - Robinsons Equitable Tower, ADB Ave. Ortigas Center
GBW Holding Corporation	Office Space and 2 Parking Slot	Nov. 15, 2012 - Jan. 14, 2016	120	641	7,017,506.47	Unit 1801 - 1803, 1808 to 1810 - Robinsons Equitable Tower, ADB Ave. Ortigas Center
HYATT Industrial Manufacturing Corp.	Office Space	Dec. 01, 2012 - Nov. 30, 2015	119	861	1,216,641.37	Unit 1805 - Robinsons Equitable Tower, ADB Ave. Ortigas Center
Robinsons Land Corporation	Office Space	Sep. 1, 2013 - Oct. 31, 2016	280.17	682.5	899,296.41	Unit 1606 and 1607 -Robinsons Equitable Tower, ADB Ave. Ortigas Center
Skyrise Realty and Dev. Corporation	Office Space	Oct. 1, 2015 - Sep. 30, 2018	439	491.39	2,478,778.51	6th Floor Skyrise I.T. Building, Lahug City, Cebu
Squizens, Inc.	Office Space	July 1, 2015 - June 30, 2016	144	833	3,133,511.76	Unit 1101 - Robinsons Equitable Tower, ADB Ave. Ortigas Center
Sr. Sto. Nino De Cebu Resources & Dev. Corp	Office Space	Feb. 7, 2013 – Feb. 6, 2016	112	544.5	1,292,126.95	Unit 1804 - Robinsons Equitable Tower, ADB Ave. Ortigas Center
National Grid Corp. of the Philippines	offsite support operations of IMEM/utilities - tapping to UPS & Power Consumption	Aug. 1, 2013 - July 31, 2018	13.75	343.47	945,744.54	One (1) Room at NGCP - SO Mindanao at Cagayan de Oro City
<b>TOTAL</b>					<b>32,785,969.11</b>	

Tables 12 shows that PEMC’s actual rental for its office space and parking lots amounted to Thirty-Two Million Seven Hundred Eighty-Five Thousand Nine Hundred Sixty-Nine Pesos and 11/100 (PhP32,785,969.11).

**Table 13. Actual Rental of Office Equipment and Other Services**

Vendor	2015 Actual Rent Expense (PhP)	Contract Term	Particulars
Lane Archive Technologies Corporation	118,044.02	Oct. 16, 2014 – Oct. 15, 2019	Preservation, Safekeeping and Security of Various Records
N.P. Libalib Landscape Contractor, Inc.	228,000.00	June 27, 2013 - June 27, 2016	Supply and Maintenance of Indoor Plants
Pure Clean Hygiene Solutions, Inc.	67,800.00	Renewable every 3 years starting May 15, 2013	Service and Maintenance for Hygienic Equipment and Supply of Consumables (all Comfort Room at 18th, 11th and 9th floor)
Safehouse Storage Facility	92,736.42	Dec. 13, 2013 - Nov. 30, 2015	Preservation, Safekeeping and Security of Various Records
Storage Development, Inc.	44,049.78	May 1, 2015 - Oct 31, 2015	Preservation, Safekeeping and Security of Various Records
UBIX Corporation	1,684,373.78	Dec. 1, 2012 - Nov. 30, 2015	Rental of Photocopying Machine for Ortigas and Cebu Office and Key Operator
<b>TOTAL</b>	<b>2,235,004.00</b>		

Meanwhile, Table 13 shows that PEMC’s actual rental for its office equipment and other services amounted to Two Million Two Hundred Thirty-Five Thousand Four Pesos (PhP2,235,004.00).

The Commission notes that the subject expenses for the rental of office space and parking lots, office equipment and expenses for other services, as reflected in Tables 12 and 13, were fully substantiated by submitted documentations.

In view thereof, the Commission approves PEMC’s budget utilization for its rental expenses in the amount of **Thirty-Five Million Twenty Thousand Nine Hundred Seventy-Three Pesos and 11/100 (PhP35,020,973.11)**. The said amount is broken down as follows: (a) actual rental expense for the office space and parking lots amounting to Thirty-Two Million Seven Hundred Eighty-Five Thousand Nine Hundred Sixty-Nine

Pesos and 11/100 (PhP32,785,969.11), and (b) actual rental expense for the office equipment and other services amounting to Two Million Two Hundred Thirty-Five Thousand Four Pesos (PhP2,235,004.00).

**B.3. Utilities**

The budget for utilities covers the costs for electricity and water at PEMC’s offices, as well as communication costs, including leased lines, telephone networks, and cellphone charges.

Based on its *Application*, PEMC’s proposed budget for utilities is Thirty-Three Million Four Hundred Eighty-Five Thousand Pesos (PhP33,485,000.00). This proposed budget for CY 2015 is 24% higher than the approved CY 2014 budget for utilities, which amounted to Twenty-Six Million Nine Hundred Sixty-Five Thousand Four Hundred Pesos (PhP26,965,400.00).

Shown in Table 14 is a breakdown of actual expenses incurred by PEMC for the payment of its utilities:

**Table 14. Breakdown of Utilities Expenditures**

Particulars	Actual Utilization			
	Luzon	Visayas	Mindanao	Total
<b>Light and Water</b>	9,746,662.86	841,757.55		10,588,420.41
<b>Communication</b>				
Leased line	8,853,910.73	1,484,878.33	238,032.98	10,576,822.04
Direct Line	1,061,992.53	28,409.88		1,090,402.41
Courier/Mailing Charges	402,401.96	7,415.00		409,816.96
Cellphones for communication	4,254,865.38	75,178.79		4,330,044.17
<b>Total</b>				<b>26,995,505.99</b>

Based on Table 14, PEMC’s actual utility expenses amounted to Twenty-Six Million Nine Hundred Ninety-Five Thousand Five Hundred Five Pesos and 99/100 (PhP26,995.505.99).

The Commission notes that a total of Four Million Three Hundred Thirty Thousand Forty-Four Pesos and 17/100 (PhP4,330,044.17) accounts for the cost of PEMC’s charges for mobile communication services. Upon



evaluation, the Commission finds that the PEM Board approved, in favor of PEMC’s employees, a communication allowance, with Globe Telecom, Inc. (Globe, Inc.) as the network provider.

Table 15 shows the breakdown of the Globe postpaid plans availed by PEMC for its employees based on their position, *to wit*:

**Table 15. PEMC’s Globe Postpaid Plans for its Employees**

Position	Postpaid Plan Monthly Allocation
Rank and File	Plan 1800
Assistant Manager	Plan 2500
Manager and up	Plan 3500

The Commission notes that the communication allowance for its rank and file employees worth One Thousand Eight Hundred Pesos (PhP1,800.00) is beyond what is deemed reasonable; hence, it should not be passed on to the end-consumers through the market fees.

In view thereof, the Commission disapproves the amount of Two Hundred One Thousand Six Hundred Pesos (PhP201,600.00), representing the amount for the subscription of mobile services for PEMC’s rank and file employees.

Accordingly, the Commission approves only the amount of Twenty-Six Million **Seven Hundred Ninety-Three Thousand Nine Hundred Five Pesos and 99/100 (PhP26,793,905.99)** for PEMC’s utility expenditures in 2015.

**B.4. Repairs and Maintenance (R&M)**

R&M is classified into two (2), namely: the Market Management System (MMS) R&M and non-MMS R&M. MMS R&M pertains to the cost of the annual contracts with various vendors for the maintenance of the MMS and its components. On the other hand, non-MMS R&M refers to repairs and maintenance of office equipment, vehicles, and

improvement, as well as carpet cleaning, pest control, and air-conditioning cleaning.

Table 16 shows a breakdown of the actual expenses incurred by PEMC for the R&M services it contracted in CY 2015:

**Table 16. PEMC’s Actual Expense for its R&M Services Contracted on CY 2015**

Service Provider	Particulars	Amount (PhP)
<b>MMS hardware support</b>		<b>25,349,360.32</b>
ABB, Inc.	WESM-MMS-MI and MA/Oracle	
IBM Philippine, Inc.	Maintenance and Service for Servers and Storage	
Itraverse Solutions, Inc.	Fortinet and NETASQ repair and maintenance	
Microbase Inc,	Fortigate Firewall License Renewal	
Itraverse Solutions, Inc.	Juniper SSG-520 Firewall	
Microgenesis Business Systems	Netvault License for Corporate and MMS Production Servers	
Nexus Technologies, Inc.	Hardware Support Services Agreement for HP Servers Maintenance	
Oracle Philippines Corp.	Four (4) Service Contracts	
Redlink Broadband Wireless Access, Inc.	Preventive Maintenance and Technical Support of RedConnex An8oi	
Think Server Products (Phils), Inc.	Maintenance and Service for Servers and Storage	
TRT Global Solutions Philippines, Inc.	Supply of Maintenance and Support IBM SAN16B-2, Supply of Maintenance and Support HP Servers	
Next Generation Technologies Global, Inc.	MMS Firewall- upgrades Sonic Wall	
<b>Non-MMS services</b>		<b>10,313,793.42</b>
Powercraft Solutions and Data Infrastructure, Inc.	Preventive Maintenance of ACU and UPS	
Active Safety Interface and Systems, Inc.	FM-200 Fire Suppression Refill	
ALVI Cleaning Services	Carpet Cleaning	
Supermax Janitorial and General Services, Inc.	Carpet Cleaning	
Bio-tech Environmental Services Philippines, Inc.	Pest Control Service	
Cebu Termite Control System	Pest Control Service -Cebu	
Eraysida Refrigeration and Airconditioning Services	VRV Daikin and Mitsubishi Aircon Maintenance	
Laniba Refrigeration Air Conditioning and Food Service Equipment	Maintenance of 15 HP Aircon – Cebu	
Telecommunications and Computer Services	PABX -repairs and maintenance	
Productivity Technologies	ESET Endpoint Protection Advanced -231 License	
Itraverse Solutions, Inc.	Splunk Enterprise perpetual License, 1-unit PRTG Network	

Service Provider	Particulars	Amount (PhP)
	Monitoring and Professional Services	
Total		35,663,153.74

Based on Table 16, the total actual expenses incurred by PEMC for its R&M contracts amounted to Thirty-Five Million Six Hundred Sixty-Three Thousand One Hundred Fifty-Three and 74/100 (PhP35,663,153.74). This is broken down as follows: (a) Twenty-Five Million Three Hundred Forty-Nine Thousand Three Hundred Sixty Pesos and 32/100 (PhP25,349,360.32) for MMS R&M; and (b) Ten Million Three Hundred Thirteen Thousand Seven Hundred Ninety-Three Pesos and 42/100 (PhP10,313,793.42) for Non-MMS R&M.

Upon evaluation, the Commission finds that the R&M services contracted by PEMC are necessary for its day-to-day operations. Likewise, PEMC has fully substantiated, with documentations, the actual expenses incurred for the said R&M services.

Accordingly, the Commission approves the actual expenses incurred by PEMC for its R&M contracts amounting to **Thirty-Five Million Six Hundred Sixty-Three Thousand One Hundred Fifty-Three and 74/100 (PhP35,663,153.74)**.

**B.5. Contracted Services**

The proposed budget for contracted services covers PEMC’s payment for the following outsourced services: (1) legal representation; (2) financial, net settlement surplus and variance audits; (3) actuarial valuation and retirement plan; (4) ISO certification; (5) consultancy on the WESM design; (6) transition to independent MO and PEMC’s enforcement and compliance processes; and (7) security and janitorial services.

Based on its *Application*, PEMC’s proposed budget for contracted services is Thirty-Five Million Seven Hundred Fifty-Six Thousand Pesos (PhP35,756,000.00).

PEMC’s actual expenses for its contracted services, however, amounted to Twenty-Five Million Eight Hundred Seventy-Three Thousand Four Hundred Fifty Pesos and 27/100 (PhP25,873,450.27) which is 38% lower than its proposed budget for contracted services.

The detailed breakdown of PEMC’s actual expenses for its contracted services is shown in Table 17:

**Table 17. Breakdown of PEMC’s Expenses for its Contracted Services**

Provider	Particulars	Particulars (PhP)
Strategic Research and Dev. Center, Inc.	3rd WESM Part Survey Market Research	435,000.00
Consult Asia Business Solutions Advisory Service, Inc.	Admin/Legal-Absorption Fee	47,000.00
SGV & Co	Compensation Review	206,941.50
Consult Asia (Employment agency)	Contractual Employee	4,663,207.21
SWA Pty Ltd	New MMS Consultancy	1,289,179.22
Environmental Compliance Consultant Int'l. Corp.	Enterprise Risk Management Consultancy	87,000.00
SGV & Co	Financial Audit	1,838,488.15
Neville-Clarke Philippines, Inc.	IMS: Risk Management Harmonization Project	217,000.00
TUV SUD PSB Philippines, Inc.	ISO Onsite Audit	224,150.00
CityBest Janitorial	Janitorial Services	5,097,087.80
Software Laboratories, Inc.	Manage Computer Services	818,269.02
SGV & Co	Manpower Rationalization	831,000.00
SGV & Co	Prof Fee-Rehiring Retirees	87,272.20
Belo Gozon Elma Parel Asuncion and Lucila	Professional fees - Legal	858,387.05
E.M. Zalamea Actuarial Services	Retirement Plan Valuation	39,000.00
Cougar Integrated Services, Inc.	Security Services	6,585,130.77
Enrico G. Cruz	Stenographer	245,244.00
PowerWrangler Ltd.	Study Dev&Rev- Mitigating Measure	2,304,093.35
<b>Total</b>		<b>25,873,450.27</b>

The Commission recognizes the importance of the aforementioned contracted services in PEMC’s operations. These expenses were fully substantiated by PEMC, through the submission of documentations, indicating actual expenses incurred for the said contracted services.

Accordingly, the Commission approves PEMC’s actual expenses for payment of its contracted services

amounting to **Twenty-Five Million Eight Hundred Seventy-Three Thousand Four Hundred Fifty Pesos and 27/100 (PhP25,873,450.27)**.

**B.6. Conference**

The budget for conferences is intended to support the conduct of meetings and conferences of the PEM Board, its committees and sub-committees, as well as meetings of PEMC personnel with stakeholders and other third-party participants. Likewise, this budget covers the cost for media conferences and strategic planning of the PEM Board and PEMC employees.

In its *Application*, PEMC proposed a budget of Nine Million Nine Hundred Three Thousand Pesos (PhP9,903,000.00) for conferences.

Based on its submitted documents, PEMC’s actual expenses incurred for conferences amounted to Eight Million Seven Hundred Twenty-Four Thousand Seven Hundred Fifty-Four Pesos and 7/100 (PhP8,724,754.07).

The breakdown of PEMC’s actual expenses for conferences is shown in Table 18:

**Table 18. Breakdown of PEMC’s Actual Expenses for Conferences**

Particulars	Amount (PhP)
PEM Board Meetings	1,371,539.39
Quarterly Stakeholders' Meeting	336,111.18
Committee meetings (MSC, RCC, DRG, TC, PAC)	505,364.24
Various Meetings (Internal and External Meetings)	3,663,274.58
CSR Projects	10,154.57
Strategic Planning	596,043.01
9th WESM Anniversary	1,503,101.53
ISMS	132,307.38
Philippine Energy Summit	597,471.64
IMEM	9,386.55
<b>Total</b>	<b>8,724,754.07</b>

The Commission deems the actual expenses incurred by PEMC for the conferences, as enumerated in Table 19, as allowable expenses.

Accordingly, the Commission approves PEMC’s actual expenses for conferences in the amount of **Eight Million Seven Hundred Twenty-Four Thousand Seven Hundred Fifty-Four Pesos and 7/100 (PhP8,724,754.07)**.

**B.7. Insurance**

PEMC’s proposed budget for insurance covers the annual premium of PEMC’s property and car insurance, as well as Liability Indemnity Insurance for its directors and officers, and Keyman Insurance. This budgetary item also covers payments for premium for travel insurance coverage of PEMC’s directors and officers.

Based on its *Application*, PEMC’s proposed budget for insurance amounts to Eleven Million Four Hundred Fifty-Three Thousand Pesos (PhP11,453,000.00).

PEMC’s actual expenses for insurance amounted to Twelve Million Four Hundred Forty-Three Thousand Three Hundred Twenty-Two Pesos and 3/100 (PhP12,443,322.03), as shown in Table 19:

**Table 19. Breakdown of PEMC’s Actual Expenses for Insurance**

Particulars	Amount (PhP)
Health Insurance	8,463,040.02
Directors and Officers Liability Indemnity Insurance	2,201,440.41
Life insurance (Keyman Insurance and PhilAm Life Insurance)	1,073,297.65
Property Insurance	493,030.75
Car Insurance	212,513.20
<b>Total</b>	<b>12,443,322.03</b>

Based on Table 19, PEMC incurred an actual expense of Eight Million Four Hundred Sixty Three Thousand Forty Pesos and 02/100 (PhP8,463,040.02) for Health Insurance; Two Million Two Hundred One Thousand Four

Hundred Forty Pesos and 41/100 (PhP2,201,440.41) for the Liability Indemnity Insurance of its directors and officers; One Million Seventy-Three Thousand Two Hundred Ninety-Seven Pesos and 65/100 (PhP1,073,297.65) for Keyman Insurance and PhilAm Life Insurance; Four Hundred Ninety-Three Thousand Thirty Pesos and 75/100 (PhP493,030.75) for property insurance; and Two Hundred Twelve Thousand Five Hundred Thirteen Pesos and 20/100 (PhP212,513.20) for car insurance.

The Commission finds that the costs for the health insurance, liability indemnity insurance of its directors and officers, property insurance, and vehicle insurance are reasonable expenses.

On the other hand, the Keyman insurance from Sun Life of Canada (Philippines), Inc. (Sun Life), and Philippine American Life and General Insurance Company, Inc. (PhilAm Life) are considered unnecessary and unreasonable.

The Commission reiterates that the salaries of PEMC's key officers are already competitive with industry standards. As such, these Officers should be able to procure their life insurance policies on their own account, without charging the same against the funds of PEMC.

In view thereof, the Commission disallows the expenses incurred by PEMC for the payment of premiums of Keyman Insurance with Sun Life and PhilAm Life, amounting to One Million Seventy-Three Thousand Two Hundred Ninety-Seven Pesos and 65/100 (PhP1,073,297.65).

Accordingly, the Commission approves only the amount of **Eleven Million Three Hundred Seventy Thousand Twenty-Four Pesos and 38/100 (PhP11,370,024.38)** for Insurance, representing the actual expenses incurred for health insurance; Liability Indemnity Insurance for its directors and officers; property insurance; and car insurance.

### **B.8. Participants Development Fund**

PEMC's proposed budget for its Participant Development Fund (PDF) is allocated for educating electricity consumers and other stakeholders about the WESM and other market development. It covers activities such as the WESM lecture series, media training, WESM study consultation meeting, WESM governance, training on the Retail Competition and Open Access (RCOA) and information education campaign on the reserve market.

Based on its *Application*, PEMC's proposed budget for its PDF amounts to Five Million One Hundred Thousand Pesos (PhP5,100,000.00).

The Commission views the activities which the PDF is supposed to fund, such as WESM lectures and trainings, as activities already funded out of fees from the participants. It is also of the view that the activities under this budget item can be covered by the budget under Conferences.

The Commission also observed that the budget for the PDF was not utilized in 2015 as was classified as a committed expense. As such, the Commission disapproves PEMC's entire budget for PDF in 2015 considering that no actual utilization was made in CY 2015.

### **B.9. Advertising and Promotions**

The Advertising and Promotions budget is intended to fund advertisements being run by PEMC for job opening announcements, advertisements, the publication of the annual WESM Report, and professional fees for public relations consultants. Likewise, the Advertising and Promotion budget covers expenses for tri-media monitoring of industry-related news, using on-line platforms.

Based on its *Application*, PEMC's proposed budget for Advertising and Promotions amounts to Seven Million Forty Thousand Pesos (PhP7,040,000.00).



Table 20 shows the actual expenses incurred by PEMC out of its Advertising and Promotion budget:

**Table 20. PEMC’s Actual Expenses for Advertising and Promotions**

Particulars	Amount (PhP)
Tri-Media Monitoring	396,429.00
Annual Report	709,821.00
Print Ads (Sponsorship)	53,571.00
Foreign Exhibit	46,582.00
Job Ads	121,893.00
Publication	49,737.00
<b>Total</b>	<b>1,378,033.00</b>

Based on Table 20, PEMC’s actual expenses for its Advertising and Promotion amounted to One Million Three Hundred Seventy-Eight Thousand Thirty-Three Pesos (PhP1,378,033.00).

Notably, the Commission, in its *Decision* dated 15 October 2014 in ERC Case No. 2013-137 RC<sup>63</sup>, disapproved the CY 2014 budget of PEMC for its Advertising and Promotions due to PEMC’s failure to provide supporting documents to justify the reasonableness of the same.

The Commission, in the instant *Application*, gave due consideration to the proposed budget considering that the expenses were substantiated with documentations. Furthermore, the Commission recognizes the importance of making the WESM understandable to the electric power industry participants and the general public as well.

Accordingly, the Commission approves the actual expenses incurred by PEMC for its Advertising and Promotions amounting to **One Million Three Hundred Seventy-Eight Thousand Thirty-Three Pesos (PhP1,378,033.00)**.

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<sup>63</sup> *Supra*, Note 42;

**B.10. Taxes and Dues**

In its *Application*, PEMC’s proposed CY 2015 budget for payment of taxes and dues amounts to Ten Million Thirty-Two Thousand Pesos (PhP10,032,000.00).

PEMC’s actual expenses incurred for taxes and dues in CY 2015 amounted to Seven Million Eight Hundred Forty-Five Thousand Five Hundred Fifty-One Pesos and 85/100 (PhP7,845,551.85), as shown in Table 21:

**Table 21. Breakdown of PEMC’s Actual Expenses for Taxes and Dues**

Particulars	Amount (PhP)
Association Dues	3,251,497.16
Business Tax	291,830.55
Fringe Benefit Tax	3,824,161.34
Membership Fees	36,210.96
Tax Deficiency BIR	399,311.42
Vehicle Registration	42,540.42
<b>Total</b>	<b>7,845,551.85</b>

The Commission finds the actual expenses incurred by PEMC for its taxes and dues in order, considering that the same are statutory and mandatory in nature. Further, the Commission notes that PEMC included, as part of the expenses for its taxes and dues, the membership fees covering the renewal of the Professional Regulatory Commission (PRC) licenses of its engineers and certified public accountants.

Accordingly, the Commission approves the actual expenses incurred by PEMC amounting to **Seven Million Eight Hundred Forty-Five Thousand Five Hundred Fifty-One Pesos and 85/100 (PhP7,845,551.85)**.

**B.11. Training**

The budgetary item for training covers the costs related to local and foreign training programs of PEMC employees for the enhancement of their technical skills and know-how, as well as for boosting staff development.

The training programs are categorized into function-specific programs, general and intermediate trainings, orientation programs, and integrated management system programs.

In its *Application*, PEMC proposed the amount of Ten Million One Hundred Sixty-Four Thousand Pesos (PhP10,164,000.00) for its training budget for CY 2015.

PEMC’s actual expenses for training amounted to Three Million Two Hundred Twenty-Two Thousand One Hundred Twenty-Nine Pesos and 11/100 (PhP3,222,129.11), as shown in Table 22:

**Table 22. Actual Expenses for the Foreign and Local Training**

Particulars	Amount (PhP)
<b>Employees Training - Foreign</b>	
CSR in Action Training	159,212.87
Advance Collection Training	122,721.89
Global Workshop on Renewable Energy Integration in Asia	161,460.07
<b>Employees Training - Local</b>	
ERM Awareness	12,562.50
Basic Record and Archive Management	25,656.75
'7th ECOP MGM Reg	2,400.00
Compensation Review	85,950.00
Project Management Professional Training	48,595.00
Flu Vaccination Program	4,140.25
Building Global Competitiveness	2,678.57
Training for Researchers and Advance Statistical Analysis using IBM-SPSS	24,107.14
Earthquake Preparedness Orientation	34,051.65
Earthquake Orientation - PHIVOLCS	19,291.96
SSS PESO Orientation-Aug20	10,000.00
Strategic Planning for Competitive Advantage	15,495.00
Image & Skills Enhance Workshop	153,750.00
Philhealth/Pag-Ibig-Sep	13,594.86
PSME Convention	8,500.00
EPDP Conference	6,000.00
Market Development Awareness	20,251.00
MCLE	7,000.00
<b>Employees Engagement and Corporate Events</b>	
Christmas Party / Corporate Social Responsibility	307,252.89
Teambuilding	930,674.95
Basketball Clinic	56,794.00
Sportsfest/bowling	412,875.04
Anniversary	138,485.05
Wellness Program	249,347.44
Kids' Party	55,141.11

Particulars	Amount (PhP)
ISMS	134,139.12
<b>Total</b>	<b>3,222,129.11</b>

The Commission recognizes that the expenses related to training were necessary for staff development, as well as capacity building.

Accordingly, the Commission approves PEMC’s actual expenses for training in the amount of **Three Million Two Hundred Twenty-Two Thousand One Hundred Twenty-Nine Pesos and 11/100 (PhP3,222,129.11).**

**B.12. Travel and Transportation**

PEMC’s travel and transportation budget cover expenses for local and foreign travels. These travels included attendance to meetings and conferences of the Energy Intermarket Surveillance Group (EISG), the Association of Power Exchanges (APEX) Global, ASEAN Energy Business Forum, and official meetings with other energy markets. The budget also covers the cost of airfare, *per diem*, accommodation, meal allowances. Other travel-related expenses, such as those for gasoline and oil for PEMC’s service vehicles, are also covered under this budget item.

In its *Application*, PEMC’s proposed travel and transportation budget is Sixteen Million Fifteen Thousand Pesos (PhP16,015,000.00).

PEMC’s actual expenses for travel and transportation amounted to Twelve Million Seven Hundred Thirty Thousand Four Hundred Thirty-Seven Pesos and 50/100 (PhP12,730.437.50), as shown in Table 23:

**Table 23. Breakdown of PEMC’s Actual Expenses for Travel and Transportation**

Particulars	Amount (PhP)
<b>Foreign</b>	
Asian Power Exchange (APEX) Global	996,580.28
Energy Intermarket Surveillance Group (EISG) / Coordination Meeting	2,712,767.95

Particulars	Amount (PhP)
Electricity Roundtable	490,351.48
Singapore Roundtable Meeting	287,683.19
<b>Local</b>	
Visayas Participants meeting	137,108.67
Staff travel	4,296,546.50
Local Conferences	29,990.63
ISMS	110,212.93
IIEE Annual National Convention	38,823.40
Allowance - OJT/Executive Assistant	91,054.09
Gasoline	3,539,318.38
<b>Total</b>	<b>12,730,437.50</b>

The Commission recognizes the need for PEMC to attend foreign meetings and gatherings to keep its workforce abreast of developments and innovation in the energy industry, particularly on electricity markets. Moreover, being the sole energy market operator in the Philippines, PEMC is expected to perform at par with its counterparts in other jurisdictions.

In view thereof, the Commission approves PEMC’s actual expenses for travel and transportation in the amount of **Twelve Million Seven Hundred Thirty Thousand Four Hundred Thirty-Seven Pesos and 50/100 (PhP12,730.437.50).**

**B.13. Materials and Supplies**

PEMC’s proposed budget for materials and supplies covers the procurement of office materials, small office equipment, and pantry and washroom supplies.

In its *Application*, PEMC’s proposed budget for materials and supplies is Nine Million Pesos (PhP9,000,000.00).

The Commission notes that PEMC failed to submit documents to support and justify its expenses amounting to Eight Million Four Hundred Seventy-Two Thousand Seven Hundred Eighty-Three Pesos and 15/100 (PhP8,472,783.15) in 2015. The Commission likewise notes that PEMC did not submit an inventory of its materials and supplies.

PEMC, in justifying the proposed budget, informed the Commission that consistent with the previous year’s utilization, it procured the materials and supplies in bulk, and that the actual utilization by each department is consolidated to register the total expenses of PEMC for this budget item.

Table 24 shows the comparison of PEMC’s actual utilization for CY 2015 and its actual utilization for the previous three (3) years, CY 2012, CY 2013, and CY 2014:

**Table 24. PEMC’s 2015 Actual Utilization vs. Past Three (3) Years of Utilization**

Year	Proposed	Commission-Approved Budget	Actual Utilization
2015	9,000,000.00		8,472,783.15
2014	8,824,000.00	8,824,000.00	As proposed
2013	7,898,000.00	7,898,000.00	No data
2012	6,047,000.00	6,047,000.00	8,317,000.00

Based on Table 24, the Commission’s approved budget for materials and supplies for CYs 2012, 2013, and 2014 were all based on the budget as proposed by PEMC.

The materials and supplies are deemed indispensable to the day-to-day operations of PEMC, and while documentations in support of the proposed budget are wanting, it can be presumed that these materials, on the basis of historical records, have been utilized.

It may also be noted that the amount that was reported to have been actually utilized is lower than the budget approved for 2014.

The Commission, therefore, approves the actual expenses for the procurement of PEMC’s Materials and Supplies in the amount of **Eight Million Four Hundred Seventy-Two Thousand Seven Hundred Eighty-Three Pesos and 15/100 (PhP8,472,783.15)**.

**B.14.Subscriptions**

PEMC’s subscription budget covers expenses for publications required by the Commission and the DOE, in

relation to applications for the approval of market fees and revisions in the WESM Rules, among others.

In its *Application*, PEMC’s proposed budget for its subscriptions is Six Million One Hundred Forty-Three Thousand Pesos (PhP6,143,000.00).

On the other hand, PEMC’s actual utilization only amounted to One Million Five Hundred Ninety Thousand Eight Hundred Thirty-Two Pesos and 40/100 (PhP1,590,832.40), as shown in Table 25:

**Table 25. Breakdown of PEMC’s Actual Expenses for its Subscriptions**

Particulars	Amount (PhP)
Legal Filings	189,951.00
Market Fee Publication	133,560.00
APDM Application	150,255.00
Publication ERC Cases	895,980.00
<b>Subscription</b>	
Newspapers & Magazines	65,016.00
Sky Cable Subscription	52,793.39
Weather Data Subscriptions	79,742.29
<b>Bank charges/Miscellaneous</b>	23,534.72
<b>Total</b>	<b>1,590,832.40</b>

The Commission finds that the expenses of PEMC for its subscriptions are necessary and have been fully substantiated with various receipts.

In view thereof, the Commission approves PEMC’s actual utilization of its budget for Subscriptions in the amount of **One Million Five Hundred Ninety Thousand Eight Hundred Thirty-Two Pesos and 40/100 (PhP1,590,832.40)**.

**B.15. Research and Development**

This proposed budgetary item covers the costs for redevelopment programs on the Market Dispatch Optimization Model (MDOM) to include the reserve markets, improvements in forecasting, development of the



Financial Transmission Rights Regime, and shortening of dispatch interval.

In its *Application*, PEMC's proposed a budget of Six Million One Hundred Eighty-Seven Thousand Pesos (PhP6,187,000.00) for research and development.

The Commission, on the basis of the justifications submitted, finds that the expenses for the redevelopment programs on the Market Dispatch Optimization Model (MDOM), under this budget, are redundant. The costs for redevelopment programs of the MDOM have already been sufficiently financed in the past with the development of the New MMS. The objective of the said project is similar to the objectives of the redevelopment programs of the MDOM.

Hence, the Commission disallows the inclusion of the budget on research and development in PEMC's CY 2015 MTF.

#### **B.16. Market Audit**

Under the WESM Rules, the PEM Board is mandated to establish the PEM Audit Committee to conduct, coordinate and supervise, on its own or through engagement of external auditors, effective and independent audits on the operations of the spot market and the market operator to reinforce trading participants' confidence in the transparency and adequacy of the operation of the WESM.

Additionally, Section 7.2.2 of the PEM Audit Market Manual provides the general objectives of the annual audit of the spot market which include the assessment of the procedures, working processes, and the appropriateness of the WESM settlement system, data management and other systems used by PEMC to administer the WESM. Hence, the allocation of budget for market audit is necessary for PEMC to undertake its mandate.

PEMC's proposed 2015 budget for market audit is Sixty-One Million Eighty-Eight Thousand Pesos (PhP61,088,000.00). The said amount is 62% higher than



the approved CY 2014 budget of Thirty-Seven Million Six Hundred Fifty-Three Thousand Pesos (PhP37,653,000.00).

Based on the 2015 Variance Report, the Commission finds that the entire budget allocated for market audit was classified as a “Committed Expense.” In its explanation, PEMC informed the Commission that the Sixteen Million Nine Hundred Ninety-Two Thousand Eight Hundred Eighty-Six Pesos and 65/100 (PhP16,992,886.65) was utilized for the 6<sup>th</sup> Independent Operational Audit of the Systems and Procedures on Market Operations (6<sup>th</sup> MO Audit) and 3<sup>rd</sup> Metering Review, thus leaving an unutilized balance of Twenty Million Six Hundred Sixty Thousand One Hundred Thirteen Pesos and 35/100 (PhP20,660,113.35).

Further coordination with PEMC revealed that the contract entered between PEMC and IES Pty Ltd. for the 6<sup>th</sup> MO Audit and 3<sup>rd</sup> Metering Review was executed on 02 December 2016. Upon further clarification, it was established that the utilization of the said amount started in CY 2017. Thus, the expenses for the 6<sup>th</sup> Independent Operational Audit of the Systems and Procedures on Market Operations (6<sup>th</sup> MO Audit) and 3<sup>rd</sup> Metering Review, cannot be considered for the 2015 budget.

In the *Order* dated 30 October 2018 concerning ERC Case No. 2012-097 RC<sup>64</sup>, the Commission approved and authorized PEMC to use its “Other Income and Unutilized Budget,” which includes its unutilized budget from MO Audit, to be applied for the payment of the MMS Loan. The dispositive portion of the said *Order* is hereunder quoted as follows:

X X X

WHEREFORE, the foregoing premises considered, the *Motion for Partial Reconsideration* filed on 21 March 2018 by Philippine Electricity Market Corp. (PEMC) is PARTIALLY GRANTED. Accordingly, the Decision dated 31 August 2017, is hereby MODIFIED, as follows:

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<sup>64</sup> In the Matter of the Application for the Approval of the Level of Market Transaction Fees for the Repayment of the Market Management System (MMS) Loan for The Philippine Electricity Spot Market (WESM);

X X X

2. **PEMC is authorized to use the “Other Income”** and “Unutilized Budget” in the amount of PhP510,138,981.00, to partially pay PSALM for its advances on the MMS Project. The balance thereof shall be collected from Luzon and Visayas participants for a period of one (1) year, broken down as follows:

PARTICULARS	
Approved MMS Loan Amount	816,858,077.95
Other Income & Unutilized Budget	(510,138,981.00)
Remaining Balance	306,719,096.95
At 5.6323% interest to be recovered in one (1) year	17,275,339.70
Total Balance for Additional Market Fees	323,994,436.65

*(Emphasis supplied).*

Furthermore, the Commission notes that a total of Twenty Million Six Hundred Sixty Thousand One Hundred Thirteen Pesos and 35/100 (PhP20,660,113.35) from the “Other Income and Unutilized Budget” was used to partially pay the MMS loan in CY 2015.

Hence, the Commission approves the budget for market audit to the extent of **Twenty Million Six Hundred Sixty Thousand One Hundred Thirteen Pesos and 35/100 (PhP20,660,113.35) only**, considering that the same was part of the “Other Income and Unutilized Budget” used to partially pay the MMS Loan.

**C. Capital Expenditures (CAPEX)**

PEMC’s proposed CAPEX budget covers the following components, namely: (1) Leasehold improvement; (2) MMS upgrades; (3) Corporate infrastructure; and (4) Business Continuity Plan.

For CY 2015, PEMC’s proposed CAPEX budget is One Hundred Twenty-Nine Million Seven Hundred Twenty-Four Thousand Pesos (PhP129,724,000.00).

The breakdown of the CAPEX budget is shown in Table 26:

**Table 26. Breakdown of PEMC’s Proposed  
CY2015 CAPEX Budget**

Budget Component	Proposed Amount
Leasehold Improvement	5,000,000.00
MMS Upgrades	22,202,000.00
Corporate Infrastructure	62,653,000.00
Business Continuity Plan	39,869,000.00
<b>Total</b>	<b>129,724,000.00</b>

PEMC’s proposed CAPEX budget for CY 2015 is 117% higher than the CY 2014 approved CAPEX budget in the amount of Fifty-Nine Million Six Hundred Thirty-Nine Thousand Three Hundred Ten Pesos (PhP59,639,310.00).

To justify its budget proposal for 2015, PEMC submitted documents in line with its CAPEX expenditures, as outlined in Table 27.

**Table 27. Breakdown of CAPEX Expenses Based on Documents  
Submitted by PEMC**

Budget Component	Remarks	Actual Amount (PhP)
Leasehold Improvement	Cover replacement of cubicles and partitions and refurbishment of additional office space in Luzon of the PEMC office	3,718,977.20
MMS Upgrades	Includes the purchase of hardware and software to address market operational audit findings, improvements and replacements of defective and deteriorating equipment of the existing MMS. The budget allows PEMC to undertake the necessary activities needed for the enhancement and upgrade of the MMS, which included among others, revision of some of the MMS functionality and acquisition of IT service management software.	14,775,420.24
Corporate Infrastructure	This item includes the acquisition of equipment for the improvement and automation of business processes. This budgetary item also includes the purchase of licenses for power system simulation and analysis, electronic mail security, network logs, and Microsoft office. The upgrades of conference phones,	29,745,800.71

	PABX, and purchase of time display, heavy-duty warehouse rack, corporate desktops, and laptops are also included under this budget item.	
Business Continuity Plan (BCP)	The BCP provides a program of preparedness and a guide for emergency management that shall ensure the operational continuity of PEMC. This was adopted to mitigate risks that may seriously disrupt or fully disable PEMC operations due to natural or man-made emergencies. The BCP contains risk assessment, communication protocols, activation, and deactivation of BCP and recovery and restoration activities. The amount covers the renovation of the back-up site, subscription to a network service provider, and acquisition of various site equipment such as IP radio, racks, room partition, uninterruptible power supply, and air-conditioning units.	2,223,455.37
<b>Total</b>		<b>50,463,653.52</b>

Upon evaluation of the submitted documents, the Commission finds that only Twelve Million Seven Hundred Sixty-Eight Thousand Five Hundred Nineteen Pesos and 31/100 (PhP12,768,519.31) was actually utilized in CY 2015, while the balance of Thirty-Seven Million Six Hundred Ninety-Five One Hundred Thirty-Four and 21/100 was used over the periods CY 2016 to CY 2018.

Table 28 shows the breakdown of actual CAPEX expenses of PEMC in CY 2015, based on the Commission’s evaluation.

**Table 28. Breakdown of PEMC’s Actual CAPEX Utilization for CY 2015 Based on Supporting Documents**

Particulars	Amount (PhP)
Leasehold Improvements/ Furniture and Fixture	398,836.61
MMS Equipment Upgrade	3,741,401.78
Corporate Infrastructure	8,628,280.92
<b>Total</b>	<b>12,768,519.31</b>

In view thereof, the Commission approves the amount of **Twelve Million Seven Hundred Sixty-Eight Thousand Five Hundred Nineteen Pesos and 31/100**

(PhP12,768,519.31) considering that the same represents PEMC's actual CAPEX utilization in CY 2015.

**D. Provision for  
Department of Energy  
(DOE) / Energy  
Regulatory Commission  
(ERC) Monitoring  
Facilities**

Section 5.2.2.7 of the WESM Rules requires the MO to provide the Commission and the DOE all the necessary facilities to effectively monitor the operation of the WESM, in real-time and for review purposes.

In its *Decision* dated 30 January 2008 in ERC Case No. 2007-124RC<sup>65</sup>, the Commission approved PEMC's CY 2007 MTF, which included the provision of two percent (2%) of the total approved MTF for DOE/ERC monitoring facilities and functions. The pertinent portion of the said *Decision* is hereunder quoted as follows:

xxx

Recognizing the need to continually support the monitoring functions of the Commission and the Department of Energy (DOE), PEMC is hereby directed to set aside two percent (2%) of its total annual MTF for the Commission's and DOE's monitoring facilities. xxx  
(*Emphasis supplied.*)

PEMC's proposed budget for the provision of DOE/ERC monitoring facilities amounts to Seventeen Million Five Hundred Seventy-Seven Thousand Pesos (PhP17,577,000.00). This amount is 27% higher than the approved CY 2014 provision for DOE/ERC monitoring facilities amounting to Thirteen Million Eight Hundred Seventy-Seven Thousand One Hundred Fifty-Two Pesos (PhP13,877,152.00).

For CY 2015, PEMC's actual expenses in support of the DOE/ERC monitoring facilities amounted to Eight Million Ninety-Six Thousand Nine Hundred Ninety Pesos and 44/100 (PhP8,096,990.44). Table 30 shows the breakdown of actual expenses incurred by PEMC for this budget item.

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<sup>65</sup> *Supra*, Note 54;

**Table 29. Breakdown of PEMC’s Actual Expenses for the Provisions for DOE/ERC Monitoring Facilities**

Summary	ERC (PhP)	DOE (PhP)	Total (PhP)
Utilities	424,391.18	484,095.04	908,486.22
Repairs and Maintenance	239,392.85	99,125.00	338,517.85
Contracted Services	620,798.34	547,231.49	1,168,029.83
Conference	-	61,616.97	61,616.97
Advertising and Promotion	3,360.00	-	3,360.00
Travel and Transportation	1,752,418.18	2,429,933.72	4,182,351.90
Materials and Supplies	45,636.59	1,388,991.08	1,434,627.67
Total	3,085,997.14	5,010,993.30	8,096,990.44

The Commission deems it necessary to disallow PEMC’s allocations and expenses in this regard, as it is the standing policy of the Commission that the cost of regulation shall be borne by the government and not by the regulated entities. Moreover, the Commission takes cognizance of the previous audit query of the Commission on Audit (COA) about the earmarking of two percent (2%) of the MTF for the DOE and Commission’s monitoring functions.

**III. MERALCO’s Petition for Intervention**

In its *Petition for Intervention*, MERALCO raised as issues the justness and reasonableness of PEMC’s proposed MTF for CY 2015. The Commission finds that MERALCO’s concerns have been fully addressed in the foregoing discussions on the resolution of each of the components of PEMC’s proposed budget for CY 2015.

**IV. MTF Refund and Adjustment**

After ascertaining the reasonableness of PEMC’s actual expenditures for CY 2015, the Commission hereby approves the amount of Four Hundred Forty-Seven Million Four Hundred Seventy Thousand Twenty-Six Pesos and 6/100 (PhP447,470,026.06) as MTF for CY 2015.

Table 30 shows the adjustment that resulted from the difference between the MTF collected by PEMC in CY 2015 and the 2015 MTF level approved by the Commission in the instant *Application*:

**Table 30. Breakdown of the MTF Adjustment**

Component	Proposed (PhP)	MTF Collected in CY 2015 <sup>66</sup> (PhP)	Approved CY 2015 MTF Level (PhP)	CY 2015 MTF Adjustment (PhP)
Personnel Services (PS)	415,846,000.00	380,450,736.00	226,139,364.83	154,311,371.17
Maintenance and Other Operating Expenses (MOOE)	333,264,000.00	249,017,530.00	208,562,141.92	40,455,388.08
Capital Expenditure (CAPEX)	129,724,000.00	59,639,310.00	12,768,519.31	46,870,790.69
2% Provision for DOE / ERC	17,577,000.00	13,877,152.00	0.00	13,877,152.00
<b>Total</b>	<b>896,411,000.00</b>	<b>702,984,728.00</b>	<b>447,470,026.06</b>	<b>255,514,701.94</b>

Based on Table 30, the total MTF collected by PEMC for CY 2015 amounted to Seven Hundred Two Million Nine Hundred Eighty-Four Thousand Seven Hundred Twenty-Eight Pesos (PhP702,984,728.00), while the Commission’s total approved MTF level for 2015 is only Four Hundred Forty-Seven Million Four Hundred Seventy Thousand Twenty-Six Pesos and 06/100 (PhP447,470,026.06).

In view thereof, PEMC has an excess collection of Two Hundred Fifty-Five Million Five Hundred Fourteen Thousand Seven Hundred One Pesos and 94/100 (PhP255,514,701.94) for CY 2015.

Accordingly, PEMC is directed to implement a refund of its over collection in the MTF for CY 2015, to be apportioned among all the Luzon and Visayas participants. The said refund shall be implemented over twelve (12) months beginning in the next billing month upon receipt of this *Decision*.

Moreover, the amount to be refunded shall be reflected as a separate line item in the WESM monthly billing statement based on the following formula:

$$MTF\ Refund, PhP/kWh = \frac{Php255,514,701.94/12}{Total\ Actual\ Generated\ Metered\ Quantity\ for\ 2015}$$

Considering the abovementioned formula, and the actual generated metered quantity in CY 2015, the MTF over collection to be

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<sup>66</sup> Approved CY 2014 MTF Level; and

refunded has an indicative rate of PhPo.0039/kWh as shown in Table 31:

Table 31. Indicative Rate

Budget Component	CY 2015
MTF Collections <sup>67</sup> (PhP)	702,984,728.00
Approved 2015 MTF Level (PhP)	447,470,026.06
MTF Adjustment (PhP)	255,514,701.94
Actual Generated Volume, kWh	65,769,861,398
Indicative Average MTF Rate, PhP/kWh	0.0039

In view thereof, PEMC is directed to submit its Plan of Action for the implementation of the refund scheme, and the adjustments to the MTF, within ten (10) days from receipt of this *Decision*.

**WHEREFORE**, the foregoing premises considered, the *Application* filed by the Philippine Electricity Market Corporation (PEMC) for the approval of the level of Market Transaction Fees (MTFs) for Calendar Year (CY) 2015 for the Philippine Wholesale Electricity Spot Market (WESM) is hereby **APPROVED WITH MODIFICATION**, subject to the following conditions:

1. PEMC is **AUTHORIZED** to impose the Market Transaction Fee (MTF) for Calendar Year (CY) 2015 in the amount of **Four Hundred Forty-Seven Million Four Hundred Seventy Thousand Twenty-Six Pesos and Six Centavos (Php447,470,026.06)** on WESM participants in the Luzon and Visayas Grids.
2. The following components of PEMC’s CY 2015 MTF are hereby **APPROVED** with **MODIFICATION**:

Table 32. Approved MTF Components

Particulars	Approved MTF Level (PhP)
<b>Personnel Services (PS)</b>	<b>226,139,364.83</b>
Basic Pay	165,126,780.42
13 <sup>th</sup> Month Pay and Bonus	27,521,130.07
De Minimis Benefits	2,858,375.00
Employee’s Uniform	2,332,000.00
Other Allowances (Representation Allowance)	7,648,404.23

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<sup>67</sup> *Id.*;



Particulars	Approved MTF Level (PhP)
Overtime	5,768,484.34
SSS/Philhealth/Pag-ibig Contribution	3,074,857.70
VL and SL	11,809,333.07
<b>Maintenance and Other Operating Expenses (MOOE)</b>	<b>208,562,141.92</b>
Honorarium	9,216,000.00
Rental	35,020,973.11
Utilities	26,793,905.99
Repairs and Maintenance	35,663,153.74
Contracted Services	25,873,450.27
Conference	8,724,754.07
Insurance	11,370,024.38
Advertising and Promotions	1,378,033.00
Taxes and Dues	7,845,551.85
Travel and Transportation	12,730,437.50
Trainings	3,222,129.11
Materials and Supplies	8,472,783.15
Subscriptions	1,590,832.40
Market Audit	20,660,113.35
<b>Capital Expenditure (CAPEX)</b>	<b>12,768,519.31</b>
Leasehold Improvement	398,836.61
MMS Upgrades	3,741,401.78
Corporate Infrastructure	8,628,280.92
<b>Grand Total</b>	<b>447,470,026.06</b>

3. The following components of PEMC’s CY 2015 MTF are hereby **DISALLOWED**:

**Table 33. Disallowed MTF Components**

Particulars	Remarks
<b>Personnel Services</b>	
Bonus	Partial disallowance
Life Insurance	Full disallowance
Other Allowances (Transportation and Car Allowances)	Full disallowance
Retirement and Severance Pay	Full disallowance
<b>MOOE</b>	
Honoraria	Partial disallowance
Utilities	Partial disallowance
Participants Development Cost	Full disallowance
Insurance	Partial disallowance
Research and Development	Full disallowance
Market Audit	Partial disallowance
<b>CAPEX</b>	Partial disallowance

Provision for DOE/ERC Monitoring Facilities	Full disallowance
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- PEMC is hereby **DIRECTED** to implement a refund of its over collection in the MTF for CY 2015, to be apportioned among all the Luzon and Visayas participants. The said adjustment shall be implemented over twelve (12) months beginning in the next billing month upon receipt of this *Decision*
- PEMC is hereby **DIRECTED** to reflect the CY 2015 MTF refund as a separate line item in the WESM monthly billing statement, and to correspondingly implement the adjusted MTF which should be net of the amount to be refunded .
- PEMC is hereby **DIRECTED** to submit its Plan of Action for the implementation of the refund scheme, and the corresponding adjustment to the MTF, within **ten (10) days** upon receipt hereof.

**ACCORDINGLY**, PEMC is hereby **DIRECTED** to observe the following guidelines for its future MTF applications with the Commission, *to wit*:

**A. General Guidelines**

- Mandatory expenditure items affected by changes in the prices of commodities shall be adjusted based on the Bangko Sentral ng Pilipinas (BSP) price index. Non-indexed items are not subject to inflation, which include, but are not limited to, rents, contracted services, subscription expenses, taxes and dues, labor and wages, claims and other expenses based contract/rate or with fixed amount; and
- The foreign exchange rate based on the BSP forecast shall be used for the computation of the peso equivalent of dollar-denominated requirements.

**B. Personnel Services**

- PEMC shall submit a detailed list of filled-up positions with the corresponding salary as of June 30 of the year of filing;

2. Any additional request for positions to be filled-up (due to implementation of a new program or activity, abolition/expansion, a major change in organizational structure and transfer of functions) shall be justified and the corresponding timeline shall be provided.
3. Proposed upward adjustment of PEMC's salaries shall be justified with a market and industry study.
4. Allowances given to PEMC employees and its officers shall be at a reasonable level and supported by market/industry study. Below are the allowable benefits and other allowances:
  - i. Mid-year bonus equivalent to one (1) month basic salary;
  - ii. Year-end performance bonus equivalent to one (1) month basic salary;
  - iii. Representation Allowance and Transportation Allowance for officials;
  - iv. Uniform/Clothing Allowance;
  - v. Rice Allowance;
  - vi. Communication Allowance; and
  - vii. Other Allowances as may be approved by the Commission.
5. Overtime shall be paid on Compensatory Time Off (CTO) arrangements. PEMC may submit an Overtime Policy should it propose to pay in cash, subject to review and approval by the Commission; and
6. All other benefits of PEMC shall be endorsed by the PEM Board for approval by the Commission before implementation.

**C. Maintenance and Other Operating Expenses**

1. Honoraria rates shall be reviewed by PEMC. PEMC shall ensure that no honoraria shall be paid to PEMC employees;
2. Rental expenses for the lease of office spaces and the like shall be inclusive of condominium dues and payment of common areas;
3. PEMC shall attach the latest contract for the rental and contracted services as the basis of the proposed rental budget, and market study for any new rental/contracted services;
4. PEMC shall submit details of the proposed amount for the hiring of contractual employees, including the justification;
5. Mobile phone allocation of concerned officers shall not form part of the budgetary item under utilities, instead, it shall be covered under the communication allowance under Personnel Services, and shall be at a reasonable level;
6. Taxes and dues shall cover the regular taxes and fees paid to the government for the continuous operation of PEMC. It shall not include association dues, which must be under the budgetary item for rental expenses, and membership dues of its personnel.
7. Corporate Social Responsibility (CSR) activities shall not form part of the budget of the PEMC;
8. In support of its budget proposal for materials and supplies, PEMC shall submit its inventory and annual historical usage for the past three (3) years;
9. For any proposed budget item under MOOE, PEMC shall ensure that these are fully justified, all details are provided and market studies are attached; and
10. Mandatory yearly submission of expenses, copies of the contract, and board resolutions shall be promptly filed on or before 30<sup>th</sup> day of May every year.

**D. Capital Expenditure**

1. Upward adjustment to the CAPEX shall be based on the estimated project cost, market studies and suppliers' quotations;
2. All CAPEX projects that cost from One Million Pesos (PhP1,000,000.00) and above shall be subjected to bidding. PEMC shall develop its Procurement Guidelines;
3. The inventory and aging of equipment should be submitted in support of PEMC's application;
4. Mandatory yearly submission of expenses, copies of contract and board resolutions shall be promptly filed; and
5. Infrastructure projects and improvements shall adopt the most recent standard cost from the Department of Public Works and Highway (DPWH) for infrastructure.

**SO ORDERED.**

Pasig City, 20 May 2020.

  
**AGNES VST DEVANADERA**  
*Chairperson and CEO*


  
**JOSEFINA PATRICIA A. MAGPALE-ASIRIT**  
*Commissioner*

  
**ALEXIS M. LUMBATAN**  
*Commissioner*

  
**CATHERINE P. MACEDA**  
*Commissioner*

  
**PAUL CHRISTIAN M. CERVANTES**  
*Commissioner*

  
LS: MVM/LSP/MCCG

  
MOS: ADV/JLM/SOM

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