

EPIRA IRR Proposed Revisions

We would like to highlight that the proposals listed are premised to our position that the EPIRA is working and there is no need to amend it. However, perhaps some IRR provisions can be updated to reflect the current environment.

Original EPIRA IRR Provisions	Proposed Revisions EPIRA IRR Provisions	Justification
<p>Rule 3. Responsibilities of the DOE, ERC, NPC, NEA and PSALM</p> <p>Section 4. Responsibilities of the ERC</p> <p>(e) . . . The ERC may grant provisionally or deny the relief prayed for not later than seventy five (75) calendar days from the filing of the application or petition, based on the same and the supporting documents attached thereto and such comments or pleadings the consumers or the LGU concerned may have filed within thirty (30) calendar days from receipt of a copy of the application or petition or from the publication thereof as the case may be.</p> <p>Thereafter, the ERC shall conduct a formal hearing on the application or petition, giving proper notices to all parties concerned, with at least one public hearing in the affected locality and shall decide the matter on the merits not later than twelve (12) months from the issuance</p>	<p>Rule 3. Responsibilities of the DOE, ERC, NPC, NEA and PSALM</p> <p>Section 4. Responsibilities of the ERC</p> <p>(e) . . . The ERC may grant provisionally or deny the relief prayed for not later than seventy five (75) calendar days from the filing of the application or petition, based on the same and the supporting documents attached thereto and such comments or pleadings the consumers or the LGU concerned may have filed within thirty (30) calendar days from receipt of a copy of the application or petition or from the publication thereof as the case may be.</p> <p>Thereafter, the ERC shall conduct a formal hearing on the application or petition, giving proper notices to all parties concerned, with at least one public hearing in the affected locality, and shall decide the matter on the merits not later than twelve (12) months from the issuance</p>	<p>The proposed revision is intended to address delays in deciding cases and applications filed with the ERC.</p>

<p>of the aforementioned provisional order.</p>	<p>of the aforementioned provisional order.</p> <p><u>If no provisional approval is applied for or issued, the ERC shall decide on the merits not later than fifteen (15) months from the filing of the application or petition. If no decision is issued within the 15-month period, the application or petition shall be deemed approved.</u></p>	
<p>Section 4. Obligations of a Generation Company.</p> <p>(e) Prior to the implementation of Open Access and Retail Competition, the prices charged by a Generation Company for the Supply of Electricity shall be subject to ERC regulation on the Retail Rates charged by Distribution Utilities and transition supply contracts (TSCs) as specified in Section 67 of the Act. Upon introduction of Open Access and Retail Competition or establishment of WESM, whichever comes first, the rates of a Generation Company shall not be subject to regulation by the ERC except as otherwise provided by the Act. However, for a Generation Company operating a facility in SPUG areas and isolated areas, the generation rates for such facility shall be fixed and determined by ERC as set forth in Rule 13 on Missionary Electrification.</p>	<p>Section 4. Obligations of a Generation Company</p> <p>(e) Prior to the <u>initial</u> implementation of Open Access and Retail Competition, the prices charged by a Generation Company for the Supply of Electricity shall be subject to ERC regulation on the Retail Rates charged by Distribution Utilities and transition supply contracts (TSCs) as specified in Section 67 of the Act.</p> <p>Upon <u>initial</u> introduction of Open Access and Retail Competition or establishment of WESM, whichever comes first, the rates of a Generation Company shall not be subject to regulation by the ERC except as otherwise provided by the Act.</p>	<p>The initial implementation of Open Access and Retail Competition is June 2013. There are other reckoning dates in the implementation of Open Access depending on whether mandatory or voluntary and depending on the different thresholds. So we suggest to clarify this provision to refer to the INITIAL implementation of Open Access and Retail Competition, to be clear that it is referring to June 2013, and that from said date, the prices charged by a generation company should already be competitive and not subject to regulation. With the implementation of a competitive selection process requirement for distribution utilities, what should only be regulated is the process by which the distribution utility procures power for its captive market.</p>

<p>Section 5. Dedicated Point-to-Point Limited Transmission Facility of a Generation Company.</p> <p>(a) Subject to prior authorization from ERC, TRANSCO or its Buyer or Concessionaire may allow a Generation Company to develop, own and/or operate dedicated point-to-point limited transmission facilities: Provided, That:</p> <p>(i) Such dedicated point-to-point limited transmission facilities are required only for the purpose of connecting to the Grid which will be used solely by the Generation Facility, and are not used to serve End-users or Suppliers directly;</p> <p>(ii) The facilities are included and consistent with the TDP as certified by TRANSCO or its Buyer or Concessionaire; and</p> <p>(iii) Any other documents that may be required by the ERC.</p>	<p>Section 5 Dedicated Point-to-Point Limited Transmission Facility of a Generation Company.</p> <p>(a) Subject to prior authorization from ERC, TRANSCO or its Buyer or Concessionaire may allow a Generation Company to develop, own and/or operate dedicated point-to-point limited transmission facilities: Provided, That:</p> <p>(i) Such dedicated point-to-point limited transmission facilities are required only for the purpose of connecting to the Grid which will be used solely by the Generation Facility, and are not used to serve End-users or Suppliers directly;</p> <p>(ii) The facilities are included and consistent with the TDP as certified by TRANSCO or its Buyer or Concessionaire; and</p> <p>(iii) Any other documents that may be required by the ERC.</p> <p><u>This notwithstanding, the primary responsibility and obligation to connect the generator to the grid should be borne by TRANSCO or its Buyer or Concessionaire, or in case of embedded generators, by the host Distribution Utility.</u></p>	<p>We propose the insertion to make it clear that it is the transmission sector’s obligation to connect a generator to the grid.</p>
<p>Rule 6. Transmission Sector</p> <p>Section 7. Functions and Responsibilities of TRANSCO or its Buyer or Concessionaire.</p> <p>(c) Ensure and maintain the reliability, adequacy, security, stability and integrity of the Grid in accordance with the performance</p>	<p>Rule 6. Transmission Sector</p> <p>Section 7. Functions and Responsibilities of TRANSCO or its Buyer or Concessionaire.</p> <p>(c) Ensure and maintain the reliability, adequacy, security, stability and integrity of the Grid in accordance with the performance standards for</p>	<p>The proposed addition is intended to ensure the procurement of ancillary services by the SO.</p>

<p>standards for the operation and maintenance of the Grid, as set forth in the Grid Code and the Distribution Code.</p>	<p>the operation and maintenance of the Grid, as set forth in the Grid Code and the Distribution Code. <u>TRANSCO or its Buyer or Concessionaire shall procure the necessary Ancillary Services for this purpose.</u></p>	
<p>Rule 7. Distribution Sector</p> <p>Section 4. Obligations of a Distribution Utility</p> <p>x x x</p> <p>(q) A Distribution Utility shall pay a franchise tax only on its distribution wheeling and Captive Market supply revenues. To this end, the DOF shall issue the necessary guidelines.</p> <p>x x x</p>	<p>Rule 7. Distribution Sector</p> <p>Section 4. Obligations of a Distribution Utility</p> <p>x x x</p> <p>(q) A Distribution Utility shall pay a franchise tax only on its distribution wheeling and Captive Market supply revenues. To this end, the DOF shall issue the necessary guidelines.</p> <p>x x x</p>	<p>We suggest to delete the requirement for a DOF issuance of guidelines. To date, the DOF has not issued guidelines for private distribution utilities, notwithstanding the EPIRA IRR requirement.</p>
<p>Rule 8. Supply Sector</p> <p>Section 5. Licensing of Suppliers.</p> <p>x x x x</p> <p>(b) Qualification Criteria</p> <p>(i) Compliance with Section 3 of this Rule 8.</p> <p>(ii) Technical and Financial Standards, Creditworthiness Criteria and such financial security to secure proper performance as a Supplier as may be determined by the ERC to</p>	<p>Rule 8. Supply Sector</p> <p>Section 5 Licensing of Suppliers</p> <p>x x x x</p> <p>(b) Qualification Criteria</p> <p>(i) Compliance with Section 3 of this Rule 8.</p> <p>(ii) Technical and Financial Standards, Creditworthiness Criteria and such financial security to secure proper performance as a Supplier as may be determined by the ERC to protect the interests of End-users in Contestable</p>	<p>We propose these revisions to align the IRR's requirements for RES licensing with the EPIRA requirements. We suggest that for purposes of licensing of a RES, ERC issue regulations only in relation to the technical and financial capability of a RES.</p>

<p>protect the interests of End-users in Contestable Markets. (iii) Such other qualification or criteria as may be determined by the ERC to protect the public interest.</p>	<p>Markets. (iii) Such other qualification or criteria as may be determined by the ERC to protect the public interest.</p> <p>(i) <u>Compliance with EPIRA provisions.</u> (ii) <u>Technical and Financial Standards, Creditworthiness Criteria as set in the EPIRA.</u></p>	
<p>Rule 9. Wholesale Electricity Spot Market (WESM)</p> <p>Section 6. The Market Operator.</p> <p>(a) x x x x (b) x x x x (c) x x x x</p>	<p>Rule 9. Wholesale Electricity Spot Market (WESM)</p> <p>Section 6. The Market Operator.</p> <p>(a) x x x x (b) x x x x (c) x x x x <u>(d) Governance Body of the IMO</u></p> <p><u>A governance body of the Independent Market Operator shall be established. As such, it may appoint an entity or corporation herein after the market operator to perform the day to day operation of the WESM, including software management and settlements of transactions to coordinate with the System Operator, and to perform such other functions as may be delegated by the board of directors from time to time. The governance body shall have the governance committees and the Board.</u></p>	<p>We propose the additional portion because the IMO is just the operator. The governance body is the board. The governance body can appoint an independent third party operator, consistent with the PEMC by-laws. The current EPIRA IRR has no discussion on the governance body of IMO unlike the AGMO, which has an AGMO board provision.</p>

<p>Rule 11. Cross Ownership, Market Abuse and Anti-Competitive Behavior</p> <p>Section 5. Limits on Bilateral Supply Contracts by a Distribution Utility.</p> <p>(a) A Distribution Utility may enter into bilateral power supply contracts subject to the provisions of Section 5 of Rule 30 on NPC Offer of Transition Supply Contracts and a review by the ERC; <i>Provided</i>, That such review shall only be required for a Distribution Utility whose level of Open Access has not reached household demand level.</p> <p>x x x x</p>	<p>Rule 11. Cross Ownership, Market Abuse and Anti-Competitive Behavior</p> <p>Section 5. Limits on Bilateral Supply Contracts by a Distribution Utility.</p> <p>(a) A Distribution Utility may enter into bilateral power supply contracts subject to the provisions of Section 5 of Rule 30 on NPC Offer of Transition Supply Contracts and a review by the ERC; <i>Provided</i>, <u>That the ERC's review shall only be limited to ensuring that the bilateral power supply contracts of a Distribution Utility are obtained in a transparent and competitive manner, and <i>Provided, further</i></u>, That such review shall only be required for a Distribution Utility whose level of Open Access has not reached household demand level.</p> <p>x x x x</p>	<p>We suggest to delete reference to NPC transition supply contracts as these have already expired. Further, considering that a competitive selection process (CSP) is already incorporated in the process of procuring a bilateral power supply contract by a Distribution Utility, and the ERC has already issued resolutions defining the CSP process and requirements, we suggest that the ERC's review be limited to ensuring that the Distribution Utility has complied with the said process and requirements.</p>
<p>Rule 12. Retail Competition and Open Access</p> <p>Section 3. Conditions for Declaring Initial Implementation of Open Access</p> <p>The ERC shall, after due notice and public hearing, declare initial implementation of Open Access not later than three (3) years from the effectivity of the Act, subject to the following</p>	<p>Rule 12. Retail Competition and Open Access</p> <p>Section 3. Conditions for Declaring Initial Implementation of Open Access</p> <p>The ERC shall, after due notice and public hearing, declare initial implementation of Open Access not later than three (3) years from the effectivity of the Act, subject to the following</p>	<p>We propose the additional portion to have a clearer policy on RCOA implementation in Mindanao.</p>

<p>conditions:</p> <p>x x x x</p> <p>(d) Privatization of at least seventy (70%) percent of the total capacity of generating assets of NPC in Luzon and Visayas.</p>	<p>conditions:</p> <p>x x x x</p> <p>(d) Privatization of at least seventy (70%) percent of the total capacity of generating assets of NPC in Luzon and Visayas.</p> <p><u>Retail Competition in Mindanao can only occur when 70% of the total capacity of generation assets of NPC in Mindanao are privatized</u></p>	
<p>Rule 30. NPC Offer of Transition Supply Contracts</p>		<p>We suggest that this entire section be deleted since all transition supply contracts have already expired.</p>