

REPUBLIC OF THE PHILIPPINES
REGIONAL DEVELOPMENT COUNCIL
 Central Visayas Region

INFRASTRUCTURE DEVELOPMENT COMMITTEE
RDC Sub-Committee on Power

SUBJECT: Comments and Alternatives to the Proposals of Atty. Joel Bontuyan (ERC) on the proposed amendment to the EPIRA on the Reorganization of the ERC

Proposal of Atty. Joel Bontuyan (ERC 7 Field Office)	Alternative Proposal by Atty. Michael P. Enriquez [FDC Cebu]	Comments
<i>These discussions seek to amend Sec. 38 of EPIRA (RA 9136) on the subject of the Creation [i.e. Composition, etc. of the Energy Regulatory Commission [ERC]</i>		
<p>1) Commission shall be composed of 1 Chairperson and 15 members</p> <ul style="list-style-type: none"> ➤ Divided into 5 divisions having 3 members each ➤ Divisions established in: NCR, North Luzon, Visayas and Mindanao ➤ At least 1 Commissioner member of the Bar ➤ Over-all Chairperson presides <i>en banc</i> sessions ➤ <i>En Banc</i> – cases of national concern or involving national policy and on issues of first instance or in the absence of prior established rules or jurisprudence 	<p>Commission shall be composed of 1 Chairperson and 5 members</p> <ul style="list-style-type: none"> ➤ Divided into 2 divisions having 3 members each ➤ The Commission may decide how they convene the Division who may hear and decide the cases [Chairperson presides the 1st Division] ➤ The Chairperson presides <i>en banc</i> sessions ➤ The Commission shall promulgate rules on what cases may be heard through a Division or those directly cognizable by the Commission sitting <i>en banc</i> 	<p><i>You can NOT compare the organizational structure of the ERC to the Court of Appeals and the NLRC which have area or regional divisions.</i></p> <p><i>ERC is an administrative regulatory body which exercises administrative and quasi-judicial functions.</i></p> <p><i>The routine administrative functions are directly supervised by the Executive Director of the Commission.</i></p> <p><i>The Commission sits in Division or en banc only when it exercises its quasi-judicial functions.</i></p> <p><i>Declogging of cases may be addressed by enhancing the efficiency of the ERC in hearing and deciding cases.</i></p> <p><i>The Commission may promulgate rules of procedure that would govern the disposition of cases.</i></p>
	<p>Reception of evidence and expository hearings may be delegated by the Commission but always in the presence of at least 1 Commissioner who will take note of objections and make rulings on such objections.</p> <p>However, the resolution of the case shall always be done in a Division or <i>en banc</i> as the case may be.</p>	
<p><i>FDC Cebu agrees with Atty. Bontuyan that there is a need to strengthen the ERC personnel doing the administrative functions. There is a necessity to increase the number of field personnel as well as skilled professionals in the following essential services: legal operations [lawyers], market operations [WESM-related operations, etc.] and regulatory operations [accountants, economists]</i></p>		
<p><i>FDC Cebu also shared the suggestions of some members present during the previous RDC Sub-Committee on Power meeting that some cases [not involving rate fixing functions] may be referred to a Conciliator [similar to that in the construction business] who may make recommendations for adoption by the Commission – which in a way could effectively help in fast-tracking resolution of cases.</i></p>		

Respectfully submitted:

ATTY. MICHAEL P. ENRIQUEZ
 FDC Cebu Chapter President