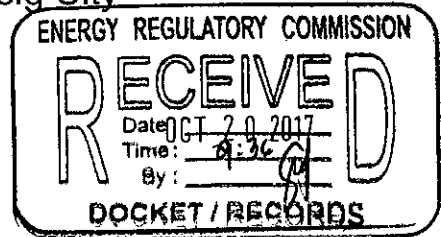


Republic of the Philippines  
**ENERGY REGULATORY COMMISSION**  
San Miguel Avenue, Pasig City

IN THE MATTER OF THE  
APPLICATION FOR THE  
APPROVAL OF THE  
STRUCTURE AND LEVEL OF  
MARKET FEES FOR THE  
CALENDAR YEAR 2018 FOR  
THE PHILIPPINE WHOLESALE  
ELECTRICITY SPOT MARKET  
(WESM)



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PASIG CITY COUNCIL

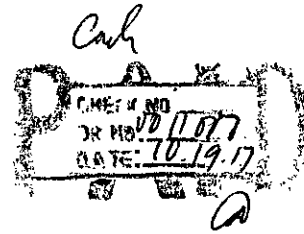
BY: *Agnes*  
DATE: *10/20/17* TIME: *2:36 pm*

**2017-095**

ERC CASE NO. \_\_\_\_\_ RC

PHILIPPINE ELECTRICITY  
MARKET CORPORATION,  
*Applicant.*

X-----X



**APPLICATION**

Applicant, **PHILIPPINE ELECTRICITY MARKET CORPORATION (PEMC)**, by counsel, respectfully states:

1. PEMC is a non-stock, non-profit corporation duly organized and existing in accordance with Philippine laws, with principal office at the 18th Floor Robinsons-Equitable Tower, ADB Avenue corner Poveda Street, Ortigas Center, Pasig City. Applicant is represented herein by its CEO and Chairman of the Transition Committee, Atty. Oscar E. Ala, who is duly authorized by PEMC's Board of Directors, as evidenced by the Secretary's Certificate attached hereto as **Annex "A"** and made an integral part of this Application.

2. This Application is filed pursuant to Section 30 of Republic Act No. 9136, also known as the "Electric Power Industry Reform Act of 2001" or "EPIRA" which reads:

*"The cost of administering and operating the wholesale electricity spot market shall be recovered by the*

*market operator through a charge imposed on all members: Provided, That such charge shall be filed with and approved by the ERC.”<sup>1</sup>*

3. In the Decision dated 30 January 2008 in PEMC’s CY 2007 Market Fees (MF) Application<sup>2</sup>, the Honorable Commission directed the filing of the market fee application “not later than the first working day of July of the current year. xxx”;

4. On 30 June 2017, PEMC filed its Motion for Extension of Time to file to file its application for market fees for the years 2018-2020, considering that it has yet to obtain approval of the same from the PEM Board. On 31 July 2017, PEMC filed its Second Motion for Extension of Time requesting for additional period within which to file its application on the ground that the PEM Board deferred discussion on, among others, the budget proposal during its 28 July 2017 meeting. Similarly, on 30 August 2017, PEMC filed another Motion for Extension of Time within which to file its application, citing the fact that during its meeting on 1 August 2017, the PEM Board agenda was limited to organizational issues;

5. On 18 September 2017, the PEM Board deliberated on and approved PEMC’s proposed budget for the calendar year 2018 and authorized the CEO and Chairman of the Transition Committee to file said application in behalf of PEMC. However, PEMC needed more time to prepare and finalize its Application, as well as comply with the pre-filing requirements. Thus on 28 September 2017, PEMC prayed for an additional period of fifteen (15) days, or until 15 October 2017 within which to file the instant Application;

6. This Application is thus filed within the reglementary period requested.

## **FACTUAL ANTECEDENTS**

7. The Applicant first filed its Application<sup>3</sup> for approval of the structure and level of the market fees in WESM in 2005.

8. In its Application, the Applicant proposed a dual structure market fees comprised of the following categories-

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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> ERC Case No. 2005-048 RC.

- a. **Market Registration Fee** to cover the expenses for registering WESM members; and,
- b. **Market Transaction Fees** to cover the budgetary requirements of PEMC in operating and governing the market.

9. Acting on the Application, the Honorable Commission approved the level and structure of the market fees in its Decision dated 22 June 2006 (hereafter the “2006 Decision”) as follows:

- a. *The Market Registration Fees to be imposed upon all the WESM participants, equivalent to a Fixed Fee Rate of Php 50,000.00 and variable costs representing the additional registration expenses of the market participants; and*
- b. *The Market Transaction Fees, to be levied upon the generators registered with the WESM in the total amount of Php433,624,276.00 to cover the budgetary requirements for CY 2006.<sup>4</sup>*

10. In the same case, the Honorable Commission ruled that the total amount of Market Transaction Fees shall be apportioned among the generators according to the volume traded by each using the following formula:

$$\begin{aligned} \text{Rate} &= \frac{\text{Total Annual Market Transaction Fees (Php)} / 12}{\text{Total Generation Metered Quantity for the Month (kWh)}} \\ &= \text{P/kWh} \end{aligned}$$

11. For the subsequent calendar year, CY 2007, the Applicant adopted the level of the previously approved Market Registration Fee (MRF) and sought approval<sup>5</sup> of the new level of Market Transaction Fee (MTF) in view of the increase in its budgetary requirement.

12. In the Decision dated 30 January 2008 and docketed on 20 February 2008 (hereafter the 2008 Decision), the Honorable Commission:

- a. suspended the yearly collection of the MRF;

<sup>4</sup>ERC Case No. 2005-048 RC, Decision dated 22 June 2006, pp. 55-56.

<sup>5</sup> ERC Case No. 2007-124 RC

- b. extended the approved 2006 budgetary requirements for the MTF for the year 2007 since there was no approval made for the year 2007;
- c. applied the approved budget for CY 2007 for the 2008 budgetary requirements of the Applicant.
- d. directed the filing of PEMC's Application every first working day of July.<sup>6</sup>

13. Thereafter, the Applicant filed its application for approval of the level of the MTF for the Calendar Years (CY) 2009-2011<sup>7</sup>, CY 2010-2011<sup>8</sup>, 2012<sup>9</sup>, 2013<sup>10</sup>, 2014<sup>11</sup>, 2015<sup>12</sup>, 2016-2017<sup>13</sup>;

### **APPLICATION PROPOSED MARKET FEE FOR THE YEAR 2018 FOR LUZON, VISAYAS, AND MINDANAO**

14. The factual allegations set forth above are re-pleaded in support of this second application;

15. The Department of Energy instructed PEMC to prepare for the operation of WESM in Mindanao in light of the projected overcapacity that Mindanao will experience in the first quarter of the year 2016;

16. In view of this, PEMC incorporated in its budget the cost of the preparations and initial operations of the WESM in Mindanao for the year 2018. Attached and made an integral part hereof is the resolution of the PEM Board approving the budget for 2018. The approved budget includes funding requirements to support WESM Mindanao preparations and initial operation;

17. The market fee applied for equals the funding requirements of PEMC for CY 2018, as approved by the PEM Board, in the amount of **EIGHT HUNDRED TWENTY TWO MILLION TWO HUNDRED EIGHT THOUSAND PESOS (P822,208,000.00)** broken down as follows:

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<sup>6</sup>Id. at p. 37, 39.

<sup>7</sup> ERC Case No. 2008-050 RC; The Honorable Commission allowed a single fixed rate of Php 0.0144/kWh as the market transaction fees for calendar year 2009.

<sup>8</sup> ERC Case No. 2010-079

<sup>9</sup> ERC Case No. 2011-111 RC

<sup>10</sup> ERC Case No. 2012-084 RC

<sup>11</sup> ERC Case No. 2013-137 RC

<sup>12</sup> ERC Case No. 2014-092 RC

<sup>13</sup> ERC Case No. 2015-160 RC

<b>Budget Component</b>	<b>Amount</b>
PS	359.508
MOOE	392.708
CAPEX	69.992
<b>TOTAL</b>	<b>822.208</b>

Table 1- CY 2018 Budgetary Requirements, in PhPM

18. *Personnel Services (PS)* pertain to the salaries and benefits of 160 employees in Luzon and Visayas;

19. *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;

20. *Capital Expenditures (CAPEX)* consist of enhancements and upgrades to the Market Management System (MMS) and corporate infrastructure, and the cost of lease improvements;

21. 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;

22. 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;

23. This Application does not include the following:

a) *Provision for the payment of the cost of the Market Management System (MMS).* PEMC filed on 14 August 2012, a separate application for the approval of additional MF for the payment of the cost of procurement of the MMS, 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 Application is pending resolution by the Honorable Commission;<sup>14</sup> and

b) *Provision for the New MMS (NMMS) Project.* On 1 July 2013, the Honorable Commission authorized collection of additional MFs to fund the cost of the NMMS. These MFs are

<sup>14</sup> ERC Case No. 2012-097 RC.

collected over a period of three (3) years in addition to the prevailing MF rate<sup>15</sup>;

24. Pursuant to the approvals of the Honorable Commission, the Market Fee Rate shall be apportioned among generators where the WESM operates, according to the volume traded by each in the WESM, as follows:

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

25. Based on initial indicative figures, the estimated Market Fee Rate is P0.0104/kWh;

26. The indicative market fee rate is based on the Luzon and Visayas energy forecast of 79,262.97GWh. The energy forecast is attached as **Annex "C"** and is made an integral part of this Application;

27. It should be noted, however, that the market fee shall be recovered from Luzon and Visayas generators pending the commencement of commercial operations of WESM in Mindanao. This is consistent with the pronouncement of the Honorable Commission in its Order dated 11 July 2017 in ERC Case No. 2015-160RC, thus:

“                    xxx                    xxx                    xxx

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

xxx                    xxx                    xxx

Furthermore, considering that the total amount sourced from the collected fines and penalties are from Luzon's and Visayas' customers, the same shall be recovered from Mindanao WESM customers upon the establishment of the commercial operations of WESM in Mindanao. Following the launch and establishment of the

<sup>15</sup> 1 July 2013 Decision, ERC Case No. 2011-127 RC.

WESM in Mindanao, PEMC shall subsequently file its budgetary requirements for the continuous administration and operation of WESM Mindanao including the cost recovery mechanism for the pre operations of WESM Mindanao.

xxx                      xxx                      xxx”

28. Should the Honorable Commission approve PEMC's Applications for the approval of the pricing and cost recovery mechanism for reserves to be traded in the WESM,<sup>16</sup> the MF shall be apportioned among generators as follows:

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

### PRAYER

WHEREFORE, premises considered, it is most respectfully prayed of this Honorable Commission to give due course to the Application and accordingly render judgment APPROVING the proposed Market Fees for CY 2018 in the amount of **EIGHT HUNDRED TWENTY TWO MILLION TWO HUNDRED EIGHT THOUSAND PESOS (P822,208,000.00)** without prejudice to the resolution of PEMC's MMS Loan Repayment Application.

PEMC prays for such other reliefs just and equitable under the premises.

Pasig City, 12 October 2017.

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<sup>16</sup>ERC Case No. 2007-004 RC, and subsequently, in ERC Case No. 2017-042, Application for Approval of the Price Determination Methodology for the Wholesale Electricity Spot Market (WESM). The latter includes application for approval of the pricing and cost recovery mechanism for reserves.



**RACHEL ANGELA P. ANOSAN**

Roll of Attorneys No. 39728

IBP No. 1066809 / 13 January 2017 / Baguio City

PTR No. 2601676 / 16 January 2017 / Pasig City

MCLE Compliance No. V-0015205 / 8 March 2016

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PTR No. 2601677 / 16 January 2017 / Makati City

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## VERIFICATION AND CERTIFICATION

I, **OSCAR E. ALA**, of legal age, Filipino and with office address at the Philippine Electricity Market Corporation, 18<sup>th</sup> Floor, Robinsons Equitable Tower, Ortigas Center, Pasig City, after having been duly sworn in accordance with law, hereby depose and state that:

1. I am the Chairperson and CEO of the Transition Committee of the Philippine Electricity Market Corporation ("PEMC"), the Applicant in this case, with full power and authority to initiate and file the instant Application;

2. I have caused the preparation and filing of the instant Application. I confirm that I have read and understood the contents thereof and attest that the allegations contained therein are true and correct based on my personal knowledge and/or based on authentic records at hand; and

3. I further certify that the PEMC has not heretofore commenced any action or filed any claim involving the same issues in any court, tribunal or quasi-judicial agency, and to the best of my knowledge, no such other action or claim is pending therein. If I should hereafter learn that the same or similar action or claim has been filed or is pending, I shall report that fact within five (5) days therefrom to the court, wherein the aforesaid complaint or initiatory pleading has been filed.

IN WITNESS WHEREOF, I have hereunto set my hand on this 12<sup>th</sup> day of October 2017 at Pasig City, Philippines.

  
**OSCAR E. ALA**  
Affiant 4

SUBSCRIBED AND SWORN to before me this 12<sup>th</sup> day of October 2017 affiant exhibiting to me his Driver's License No. N15-82-040736 bearing his photograph and signature, who is known to me to be the same person who executed the foregoing Verification and Certification.

Doc. No. 279;  
Page No. 57;  
Book No. CX;  
Series of 2017.

**ATTY. JOSHUA V. LAPUZ**  
Notary Public for Makati City  
Appointment No. M-231 until 12/31/2017  
PTR No. 5909513, Jan. 3, 2017, Makati  
Roll No. 45790, IBP Lifetime Roll No. 04697  
MCLE No. V-0019692/ 4 - 15 - 2016  
G/F Fedman Suites, 199 Salcedo Street  
Legaspi Village, Makati City

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