

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



**IN THE MATTER OF THE
APPLICATION FOR
APPROVAL OF
ADDITIONAL
COMPENSATION FOR
ENERGY DELIVERED TO
THE WHOLESALE
ELECTRICITY SPOT
MARKET FROM 25 JUNE
2016 - 25 JUNE 2017**

ERC CASE NO. 2018-005 MC

**[PHILIPPINE ELECTRICITY
MARKET CORPORATION
(PEMC)]**

**PANAY ENERGY
DEVELOPMENT
CORPORATION (PEDC),
Applicant.**

DOCKETED
Date: AUG 01 2018
By: W

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ORDER

On 03 June 2018, the Applicant Panay Energy Development Corporation (PEDC) filed an *Application* dated 19 March 2018 for the approval of additional compensation for the energy delivered to the Wholesale Electricity Spot Market (WESM).

PEDC alleged the following in its *Application*:

Applicant, **PANAY ENERGY DEVELOPMENT CORPORATION (PEDC)**, through the undersigned counsels, respectfully states:

I. THE APPLICANT

1. Panay Energy Development Corporation (PEDC) is a domestic corporation duly organized and existing under the laws of the Republic of the Philippines with principal office address at Brgy. Ingore, La Paz, Iloilo City. PEDC owns and operates clean coal-fired power plants located at Brgy. Ingore, La Paz, Iloilo City.

2. Philippine Electricity Market Corporation (PEMC) is a non-stock, non-profit corporation, duly organized and existing in accordance with Philippine Laws, with principal office at the 9th/18th Floor, Robinsons-Equitable Tower, ADB Ave., corner Poveda St., Ortigas Center, Pasig City.

Statement of Facts and of the Case

3. On various dates from June 2016 to June 2017, the National Grid Corporation of the Philippines (NGCP), as the System Operator (SO), identified and instructed PEDC to reduce its generation of energy on particular trading intervals due to: (i) line constraints affecting the Cebu, Negros, and Panay areas, and; (ii) issues on frequency control and real power balancing.
4. Based on those instructions, PEDC was constrained to reduce its generation of energy which resulted in the displacement of a portion of its capacity which were scheduled for dispatch.

4.1 During some trading intervals, the displaced capacity affected the quantity of energy scheduled for dispatch for PEDC's bilateral customers under its Power Supply Agreements. PEDC's obligation to deliver the bilateral contract quantities (BCQ) to its customers prompted PEDC to purchase the displaced capacity from WESM instead of generating the same.

4.1.1 As a result of having to purchase power for its bilateral customers, PEDC incurred additional costs for those trading intervals when the Ex-Post Price was higher than its generating cost totaling **Php 36,671,060.65** for the period June 2016-June 2017.

4.2 Aside from the failure to deliver BCQ, PEDC also suffered losses in sales in the WESM.

4.2.1 Within several intervals, PEDC's real time dispatch (RTD) for the relevant trading intervals were disregarded as PEDC was asked to ramp down due to congestion. In addition, this resulted in unrealized WESM sales amounting to **Php11,333,816.56**.

5. Due to these losses, PEDC sought for remedies to recover the (i) actual losses under its bilateral contracts; and (ii) unrealized profits from WESM sales as a consequence of its compliance to the SO's instructions.
6. PEDC submitted claims¹ with supporting documents to the Philippine Electricity Market Corporation (PEMC) as the Market Operator (MO), for the payment of additional compensation, summarized as follows:

¹ PEDC's Letter-requests to PEMC filed on 15 and 22 November 2016, 23 December 2016, 19 January 2017, 02 May 2017, 25 May 2017, 20 June 2017, and 27 July 2017 are hereto attached as Annex "A" and series

ERC CASE NO. 2018-005 MC
ORDER/23 JULY 2018
PAGE 3 OF 9

Date of Request	Basis of Claim	Billing Period	Amount for Recovery
15-Nov-16	MSU Compensation	June 26-July 25, 2016	1,191,334.12
15-Nov-16	PSM Compensation-capacity displacement**	July 26-Aug 25, 2016	22,986,517.50
15-Nov-16	MSU Compensation	July 26- Aug 25, 2016	6,506,676.00
15-Nov-16	MSU Compensation	Aug 26 – Sep 25, 2016	6,369,315.00
22-Nov-16	MSU Compensation	Sep 26 – Oct 25, 2016	1,623,019.00
23-Dec-16	MSU Compensation	Oct 26 – Nov 25, 2016	546,071.14
19-Jan-17	MSU Compensation	Nov 26 – Dec 25, 2016	742,775.58
02-May-17	MSU Compensation	Dec 26 – Jan 25, 2017	14,447.67
02-May-17	MSU Compensation/ 8PEDC_U01&2	Jan 26 – Feb 25, 2017	1,783,928.11
02-May-17	MSU Compensation/ 8PEDC_U03	Jan 26 – Feb 25, 2017	953,295.99
25-May-17	MSU Compensation/ 8PEDC_U01&2	Feb 26 – Mar 25, 2017	1,020,124.85
25-May-17	MSU Compensation/ 8PEDC_U03	Feb 26 – Mar 25, 2017	1,246,503.60
27-Jul-17	MSU Compensation/ 8PEDC_U01&2	Mar 26 – Apr 25, 2017	1,774,373.35
27-Jul-17	MSU Compensation/ 8PEDC_U03	Mar 26 – Apr 25, 2017	328,274.35
20-Jun-17	MSU Compensation	Apr 26 – May 25, 2017	162,921.27
20 Jun-17	MSU Compensation	Apr 26 – May 25, 2017	104,380.64
27-Jul-17	MSU Compensation/ 8PEDC_U01&2	May 26 – June 25, 2017	354,178.44
27-Jul-17	MSU Compensation/ 8PEDC_U03	May 26 – June 25, 2017	296,740.44.
Total			P48,004,877.05

** As instructed by the Market Operator

7. For the above claims, PEDC attached detailed computations for the relevant trading hours, attached hereto as Annex "B" and series.
8. PEMC, in its Letter-reply to PEDC dated 18 August 2017², deferred the resolution of the request for payment of additional compensation pending the approval of this Commission of the proposed methodology for compensation of Must Stop and Displaced Generators in the WESM Manual.
9. Notably, the WESM Manual on the Management of Must-Run and Must-Stop Units (Issue 7.0), particularly Sec 10.0 on Settlement of Displaced Generators, only describes settlement of displaced generators due to a failure of another generator to follow its RTD.
10. In PEDC's case, however, it received real time ramp down instructions from the SO due to frequency control and line limitations. In this scenario, although PEDC was constrained to ramp down and as a consequence incurred capacity displacement, there is no erring generator to speak of. Thus,

² Copy of PEMC Letter is hereto attached as Annex "C".

while PEDC would appear to be the “displaced Generator”, there is no generator to compensate PEDC.

11. Neither does the WESM Manual on Price Determination Methodology contemplate a situation in which a scheduled generating unit is instructed by the SO to lower its energy output to address congestion or frequency control issues nor does it provide for compensation for the displaced generator. Hence, PEDC appears before this Honorable Commission to seek redress. The lack of applicable provisions in the WESM Rules and Manuals should not deprive PEDC from recovering its reasonable costs in view of its compliance with the SO’s instructions.
12. To compute for the proposed recovery for the losses under its bilateral contracts, PEDC considered the total cost of purchased power less the variable costs that were charged to the bilateral customers.
13. In computing the loss of revenue from WESM Sales, PEDC multiplied the total kilowatt hours it was prevented from selling to the market with the Ex Post Price. A breakdown of the computation is attached as Annex “D” to this Application.
14. In those trading intervals where PEDC is claiming for additional compensation, PEDC was constrained to purchase from WESM the shortfall in generation even if it could have generated the same amount of energy from its own capacity without incurring additional cost.
15. It should be emphasized that when PEDC was instructed by the SO to ramp down its capacity, it was left without a choice but to purchase the shortfall in energy from WESM regardless of the market-clearing price.
16. As such, PEDC’s right to recover the amount it expended during those trading intervals where the resulting Ex-Post Price is higher than the variable cost is warranted.
17. The opportunity loss on trading, on the other hand, represents the amount PEDC could have earned from the displaced capacity if traded in WESM were it not for the SO’s ramp down instructions.
18. The displaced capacity multiplied by the applicable market clearing price became a foregone gain for PEDC when it followed the instructions of the SO to reduce its load.
19. Equity and fairness dictate that PEDC should be allowed to recover these losses considering that it conducts its activities in faithful compliance of the rules and instructions in the electricity market.
20. Similar to the rule under 9.3.2 (Additional Compensation) of the WESM Manual on Management of Must-Run and Must Stop

Units (Issue 7.0) that a Trading Participant in the WESM which has complied with dispatch instructions as Must Run Unit should be entitled to additional compensation to recover reasonable costs, so must a Trading Participant, which has complied with the dispatch instructions to ramp down be allowed to recover losses from doing so.

21. Based on the foregoing, PEDC respectfully seeks the Honorable Commission's approval to recognize and allow its request for additional compensation set forth in the attached Letters to PEMC for the billing periods 25 June 2016 to 25 June 2017 when PEDC was instructed by the SO to reduce its provision of energy due to frequency control and line limitation issues.

PRAYER

WHEREFORE, in view of the foregoing, it is respectfully prayed that the Honorable Commission grant the instant Application and direct PEMC to allow PEDC to recover additional compensation for the periods 25 June 2016 – 25 June 2017 amounting to a total **P48,004,877.05** by reason of PEDC's compliance with the System Operator's instructions to ramp down its capacity.

Other reliefs just and equitable under the premises are likewise prayed for.

Finding the said *Application* sufficient in substance with the required fees having been paid, the same is hereby set for determination of compliance with the jurisdictional requirements, expository presentation, Pre-trial Conference, and presentation of evidence on **30 August 2018 (Thursday) at two o'clock in the afternoon (2:00 P.M.), at the ERC Hearing Room, 15th Floor, Pacific Center Building, San Miguel Avenue, Pasig City.**

Accordingly, PEDC is hereby directed to:

- 1) Cause the publication of the attached Notice of Public Hearing once (1x) in a newspaper of nationwide circulation in the Philippines at its own expense, with the date of publication to be made not later than ten (10) days before the date of the scheduled initial hearing;
- 2) Furnish with copies of this Order and the attached Notice of Public Hearing the Offices of the Provincial Governors, the City and Municipal Mayors, and the Local Government Unit (LGU) legislative bodies within the affected area for the appropriate posting thereof on their respective bulletin boards;

- 3) Inform the filing of the *Application*, its reasons therefor, and of the scheduled hearing thereon, the consumers within the affected area, by any other means available and appropriate;
- 4) Furnish with copies of this Order and the attached Notice of Public Hearing, the Office of the Solicitor General (OSG), the Commission on Audit (COA), and the Committees on Energy of both Houses of Congress. They are hereby requested, if they so desire to send their duly authorized representatives at the scheduled hearing; and
- 5) Furnish with copies of the *Application* and its attachments all those making requests therefor, subject to reimbursement of reasonable photocopying costs.

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

- 1) The evidence of publication of the attached Notice of Public Hearing consisting of affidavit of the Editors or Business Managers of the newspapers where the said Notice of Public Hearing was published, and the complete issues of the said newspapers;
- 2) The evidence of actual posting of this Order and the attached Notice of Public Hearing consisting of certifications issued to that effect, signed by the aforementioned Governors, Mayors, and LGU legislative bodies or their duly authorized representatives, bearing the seals of their offices;
- 3) The evidence of other means employed by Applicant to inform of the filing of the *Application*, its reasons therefore, and of the scheduled hearing thereon, the consumers within the affected franchise area;
- 4) The evidence of receipt of copies of this Order and the attached Notice of Public Hearing by the Office of the Solicitor General (OSG), the Commission on Audit (COA), and the Committees on Energy of both Houses of Congress;

- 5) The evidence of receipt of copies of the *Application* and its attachments by all those making requests therefor, if any; and
- 6) Such other proofs of compliance with the requirements of the Commission.

Applicant and all interested parties are also required to submit, at least five (5) days before the date of initial hearing and Pre-Trial Conference, their respective Pre-Trial Briefs containing, among others:

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

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

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PEDC must also be prepared to make an expository presentation of the instant *Application*, aided by whatever communication medium that it may deem appropriate for the purpose, in order to put in plain words and explain, for the benefit of the consumers and other concerned parties, what the *Application* is all about and the reasons and justifications being cited in support thereof.

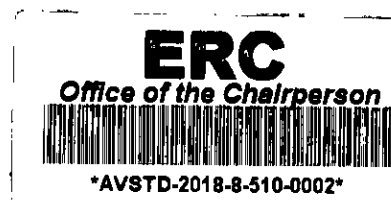
SO ORDERED.

Pasig City, 23 July 2018.

FOR AND BY AUTHORITY
OF THE COMMISSION:

AGNES VST DEVANADERA
Chairperson and CEO

LS: JMS/LSE/APV



Copy Furnished:

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Applicant
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3. Philippine Electricity Market Corporation
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4. Office of the Solicitor General
134 Amorsolo Street, Legaspi Village, Makati City
5. Commission on Audit
Commonwealth Avenue, Quezon City
6. Senate Committee on Energy
GSIS Bldg. Roxas Blvd., Pasay City
7. House Committee on Energy
Batasan Hills, Quezon City
8. Philippine Chamber of Commerce and Industry (PCCI)
3rd Floor, Chamber and Industry Plaza (CIP), 1030 Campus Avenue corner Park Avenue,
McKinley Town Center, Fort Bonifacio, Taguig City
9. Office of the Governor
Province of Iloilo

10. Office of the LGU legislative body
Province of Iloilo
11. Office of the City Mayor
Iloilo City
12. Local Government Unit (LGU) legislative body
Iloilo City
13. National Grid Corporation of the Philippines
Quezon Avenue corner BIR Road, Diliman, Quezon City
14. Market Operations Service (MOS)
Energy Regulatory Commission
12th Floor, Pacific Center Bldg., San Miguel Avenue, Pasig City