



RULES GOVERNING THE PROCUREMENT, EXECUTION, AND EVALUATION OF POWER SUPPLY AGREEMENTS ENTERED INTO BY DISTRIBUTION UTILITIES FOR THE SUPPLY OF ELECTRICITY TO THEIR CAPTIVE MARKET

Document	Article / Section	Discussion of Comment/s and/or Questions for Clarification	Suggestions / Proposed Change(s)
PSA Rules	Article IV Definition of Terms: Wholesale Aggregator must be re-introduced in the market	<p>Wholesale Aggregation must be re-introduced in the market as an option to Generation Companies. It is one of the modes that can allow Generation Companies to aggregate their supply in order to offer a more competitive price.</p> <p>This will ensure that all possible options will be available to Generation Companies to enable them to offer the least price, and consequently ensure least cost to End-Users.</p> <p>Wholesale Aggregation has been recognized in ERC Resolution 23, Series of 2006, entitled “A Resolution Adopting the Rules for the Registration of Wholesale Aggregators</p> <p>Further, ERC Resolution 03, Series of 2010, entitled “Rules for the Registration Wholesale Aggregators, as amended.</p> <p>Unfortunately, in ERC Resolution 12, Series of 2015, the same was discontinued with an accompanying caveat that:</p> <p>“The ERC, however, shall continue to evaluate the market conditions. If industry developments and circumstances so warrant, it may introduce a supply aggregation scheme and/or utilize other certain entities under such scheme to provide additional options to DUs and to ensure reliability of service, encourage efficiencies, and reduction in the cost of electricity.”</p>	<p>Wholesale Aggregator refers to person or entity, registered and licensed with the ERC to sell to Distribution Utilities and Other Distribution Entities by combining generation capacities of Generation Companies and/or sourcing from Wholesale Electricity Spot Market.</p> <p>The definition is consistent with the definition of “Supply Aggregator” in Senate Bill No.1653, entitled “An Act Institutionalizing Reforms in the Procurement by Distribution Utilities and other Distribution Entities of Supply for the Captive Market.”</p> <p>Rules for Supply Aggregation can be in a separate resolution to be promulgated by the ERC.</p> <p>Further, considering the RPS Rules, Whole Aggregation could facilitate an efficient and cost-effective mode of transaction for DUs and ECs to source electricity from multiple technologies and comply with RPS without having to deal with multiple entities.</p>
PSA Rules	Article IX Section 28 - Unsolicited Proposal. (a) Capacity Cap	The general rule must be Competitive Selection Process. Unsolicited Proposal should be an exception. Even Republic Act No. 7718 or the Philippine BOT Law, as amended, recognizes this.	(a) Capacity Cap. - the capacity subject of the unsolicited proposal shall not exceed the hereinbelow percentages of the DU’s uncontracted capacity for

		<p>Rule 10 of the Revised BOT Implementing Rules and Regulations provides that projects included in the “List of Priority Projects” shall not be accepted as Unsolicited Proposals.</p> <p>Procurement of Power Supply Agreement by the DUs is definitely its “priority project”. Thus, procurement through unsolicited proposal should be resorted to sparingly.</p> <p>DUs in preparation of their Power Supply Procurement Planning are in the best position to know their needs and requirements and therefore, should open their procurement to solicited transparent and competitive procurement.</p> <p>Further, under the unsolicited proposal, the fact that original proponent has the right to match the counter-proposal from third parties is deterrent in itself for third parties to even submit a counter-proposal.</p> <p>Finally, we suggest that the cap for Unsolicited Proposal should not be based on the annual peak demand but rather on the uncontracted demand of the DU for the given year.</p> <p>If the basis of the percentage is the annual peak demand of DU, it would be possible that it can accept unsolicited proposal for 100% of its uncontracted, which we believe is not the intent of this Rules.</p> <p>If the base becomes uncontracted demand of the DU, the 10% can be increased. Fully cognizant of that the industry is still in transition to the requirement of full Competitive Selection Process (CSP), we suggest that percentage be graduated allowed for Unsolicited Proposal be in a rate.</p> <p>For example:</p> <p>1st year - 50% 2nd year - 40% 3rd year - 30% 4th year - 20% 5th year - 10% 6th year and onwards - 0%</p> <p>It is important to note that open and competitive bidding is the best option to obtain the best price for electricity supply translating to the best possible price for consumers.</p>	<p>the contracting year.</p> <p>1st year - 50% 2nd year - 40% 3rd year - 30% 4th year - 20% 5th year - 10% 6th year and onwards - 0%</p>
--	--	---	---

PSA Rules	Section 13.2. Terms of Reference (d) Cooperation/Contract Period which shall not exceed (10) years	<p>Limiting the term of Power Supply Agreement (PSA) to ten (10) years will likely have a negative impact on the bid price of Generation Companies.</p> <p>Longer the PSA Contract Period translates to lower bid price.</p> <p>The length of the PSA Contract Period is inversely proportional to Generation Companies' bid prices.</p> <p>Thus, to ensure that the Generation Companies will submit the least cost the Cooperation Period must be longer. We suggest a term of 20 years.</p>	Section 13.2. Terms of Reference (d) Cooperation/Contract Period which shall not exceed twenty (20) years
-----------	--	--	--