

ERC

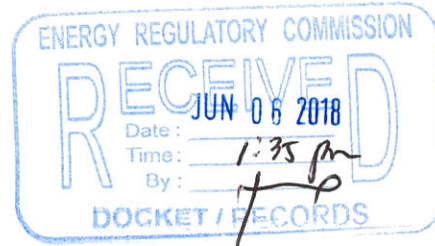


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04 June 2018

AGNES VICENTA S. TORRES-DEVANADERA
Chairman
Energy Regulatory Commission
Pacific Center Building, San Miguel
Avenue, Ortigas Center, Pasig City 1600



SUBJECT: Vivant Comments/Suggestions to the Energy Regulatory Commission's Draft Rules governing the Execution, Review and Evaluation of Power Supply Agreements entered into by Distribution Utilities for the Supply of Electricity to their Captive Market

Dear Chairman Torres-Devanadera:

Vivant Corporation (the "Corporation") supports the efforts of the Energy Regulatory Commission in promulgating rules governing the execution, review and evaluation of Power Supply Agreements entered into by Distribution Utilities for the Supply of Electricity to their Captive Market.

Pursuant to the given opportunity to comment on the proposed rules, the Corporation hereby submits its comments and suggestions, a copy of which is attached to this letter as Annex "A."

We trust that you will find the document in order and that this matter shall merit your usual consideration.

Thank you.

Very truly yours,

ATTY. CATHERINE S. BRINGAS
AVP-Legal

Provision	Comment	Suggestion
Overall	Transparency on the evaluation of bids - EC/DU currently can issue a notice announcing the winner of the bidding without detailed evaluation results accompanied. Hence, the rest of the bidders are not informed of how they came up with the results. This lenient process may be abused.	EC/DU should be required to provide the process flow of the evaluation, criteria and detailed results.
Article IV, Section 2	CSP TOR - Is this technology neutral?	Instead of giving the EC/DU an option in specifying the generation sources, better if they are required to indicate the technical requirements in the documents.
Article IV, Section 3	Pre bid conference is conducted to give venue for clarifications, comments, concerns and other matters after receiving the bidding documents.	Should be reckoned from the date of issuance of bidding documents
Article IV, Section 3	Pre qualification should be before the bid submission.	Should be reckoned from the date of issuance of bidding documents
Article IV, Section 3.1	The EC/DU will be hard-pressed for supply if the process required will take at least 6 months. In such case, at least a year of delay will be incurred.	Instead of 2 failed CSPs, better if only 1 is required before direct negotiation.
Article IV, Section 7	Kindly explain why the Government Procurement Reform Act is being used as basis for some of the provisions in this draft which will apply to private entities.	Revisit the applicability of GPPRA to this draft
Article IV, Section 11	Independence from any electric power industry players is expressed. However, more specific connections such as familial relationships and consultancy engagement are not indicated.	Issue a more detailed list of qualifications for TPA
Article IV, Section 12	Documentation such as records, unedited videos of the proceedings are required when NO observer is present. However, there is no specific mention that this should also be done even when there are observers.	Should be consistently done regardless of the attendance of observers
Article IV, Section 14	The EC/DU is given liberty in setting up their own protest fee which may be abused to ensure/avoid protests from participants.	There has to be a maximum amount of protest fee that the EC/DU is allowed to impose.
Article V, Section 2	Thirty days from the execution of the PSA is too lean for filing especially for new power plants. Since ERC requires documentary requirements such as permits, new power plants may not be able to make it within the 30-day period.	Extend the duration to at least 1 year
Article VI, Section 1	Only PSAs pending with ERC are not affected by the rules. How about the PSAs that were not accepted yet by ERC due to lacking requirements?	Expand the transitory clause also covering these PSAs