

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



IN THE MATTER OF THE
APPLICATION FOR THE
APPROVAL OF THE LEVEL OF
MARKET TRANSACTION FEES
FOR CALENDAR YEAR 2015
FOR THE PHILIPPINE
WHOLESALE ELECTRICITY
SPOT MARKET (WESM)

ERC CASE NO. 2014-092 RC

PHILIPPINE ELECTRICITY
MARKET CORPORATION
(PEMC),

Applicant.

X-----X

DOCKETS
Date: JUL 21 2014
By: _____

ORDER

On June 24, 2014, the Philippine Electricity Market Corporation (PEMC) filed an application for the approval of the level of Market Transaction Fees (MTFs) for calendar year (CY) 2015 for the Philippine Wholesale Electricity Spot Market (WESM).

In the said application, PEMC alleged, among others, the following:

1. It is a non-stock, non-profit corporation duly organized and existing in accordance with Philippine laws, with principal office at the 9th Floor, Robinsons-Equitable Tower, ADB Avenue corner Poveda Street, Ortigas Center, Pasig City. It is represented by its President, Ms. Melinda L. Ocampo, who is duly authorized by its Board of Directors as evidenced by the Secretary's Certificate attached to the application as Annex "A" and made an integral part thereof;

2. The instant application is filed pursuant to Section 30 of Republic Act No. 9136, otherwise known as the “Electric Power Industry Reform Act of 2001 (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.”¹

3. The instant application is filed within the period provided by the Commission in its Decision dated January 30, 2008 in its CY 2007 Market Fees (MFs) Application²;
4. The Market Fee (MF) applied for equals its funding requirements for CY 2015 in the amount of Eight Hundred Ninety-Six Million Four Hundred Ten Thousand Pesos (PhP896, 410,000.00) broken down as follows:

Budget Components	Amount
Personnel Services	415.846
Maintenance and Other Operating Expenses (MOOE)	333.264
Capital Expenditures (CAPEX)	129.724
Provision for the Department of Energy (DOE)/Energy Regulatory Commission (ERC) Monitoring Facilities	17.577
Total	896.410

Table 1 – CY 2015 Budgetary Requirements, in PhP Million

5. The PS pertains to the salaries and benefits of one hundred sixty (160) employees in Luzon and Visayas;
6. The MOOE includes, among others, honorarium, rent, utilities, repairs and maintenance, contracted services,

¹ See also Rule 9, Section 9 (a) of the Implementing Rules and Regulations (IRR) of the EPIRA

² Docketed as ERC Case No. 2007-124 RC

insurance, training, travel and transportation, participant development costs and the costs of the market audit required under the WESM Rules;

7. The CAPEX consists of enhancements and upgrades to the Market Management System (MMS) and corporate infrastructure and the cost of lease improvements;
8. The Provision for the DOE/ERC Monitoring Facilities equals two percent (2%) of the proposed PS, MOOE and CAPEX budget for CY 2015 to support the monitoring functions of the DOE and the Commission pursuant to its Decisions in its previous MF Applications³;
9. In preparing its budgetary requirements, it adjusted its proposed PS budget for CY 2014 by seven percent (7%) to account for the projected Consumer Price Index (CPI) in CY 2015 at two percent (2%) and five percent (5%) - the rate approved by its Board of Directors to cover reasonable annual performance increases of its employees. For MOOE, the proposed amounts are based on the budget it proposed in CY 2014⁴, adjusted by the projected CPI for CY 2015 (2%). Some amounts covered by contracts, such as those for Rent and Market Audits, were escalated by ten percent (10%). Proposed CAPEX costs are based on estimates and quotations from suppliers;
10. 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 thereof;
11. The amounts proposed 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;

³ See January 30, 2008 and June 22, 2006 Decisions of the Commission in PEMC's CY 2007 and CY 2006 MF Applications, docketed as ERC Case Nos. 2007-124 RC and 2005-048 RC, respectively

⁴ PEMC's Application for the Approval of the Level of Market Fees for CY 2014, docketed as ERC Case No. 2013-137 RC, is pending resolution.

12. The following are not included in the instant application:

- a) The Provisions for the Repayment of the MMS Loan – On August 14, 2012, it filed a separate application for the approval of additional MTF for the repayment of the MMS Loan pursuant to the terms of the Memorandum of Agreement (MOA) among the National Power Corporation (NPC), National Transmission Corporation (TRANSCO), Power Sector Assets and Liabilities Management Corporation (PSALM) and PEMC. The MMS Loan Repayment Application is pending resolution by the Commission⁵; and
- b) New MMS (NMMS) Project – On July 1, 2013, the Commission authorized the collection of additional MFs to fund the cost of the NMMS. These MFs are collected over a period of three (3) years in addition to the prevailing MF rate⁶;

13. The MTF shall be apportioned among generators where the WESM operates according to the volume traded by each in the WESM pursuant to the approvals of the Commission, as follows:

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

14. Should the Commission approve its application for the approval of the pricing and Cost Recovery Mechanism for Reserves to be traded in the WESM⁷, the MF shall be apportioned among generators, as follows:

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

⁵ ERC Case No. 2012-097 RC

⁶ Decision dated July 1, 2013 in ERC Case No. 2011-127 RC

⁷ Docketed as ERC Case No. 2007-004 RC

15. Based on initial indicative figures, the estimated MF Rate is PhP0.0137/kWh for CY 2015;
16. The indicative MF rate is based on the Luzon and Visayas energy forecast of 65,464 GWh for CY 2015. The energy forecast is attached to the application as Annex "C" and is made an integral part thereof;
17. The prevailing market fee rate or MTF level approved by the Commission shall continue to be implemented in CY 2015 pending the approval of the instant application; and
18. It prays that after due hearing, its proposed MF for CY 2015 in the amount of PhP896.410 Million be approved, without prejudice to the resolution of its MMS Loan Repayment Application.

Finding the said application to be sufficient in form and in substance with the required fees having been paid, the same is hereby set for jurisdictional hearing, pre-trial conference, expository presentation and evidentiary hearing on the following dates and venues:

DATE	TIME	VENUE	PARTICULARS
August 14, 2014 (Thursday)	Nine Thirty in the Morning (9:30 A.M.)	ERC Hearing Room, 15th Floor, Pacific Center Building, San Miguel Avenue, Pasig City	Jurisdictional Hearing, Expository Presentation, Pre-trial Conference and Evidentiary Hearing
August 26, 2014 (Tuesday)		ERC Visayas Field Office, Regus, 11/F, AppleOne-Equicom Tower, Mindanao Avenue Corner Biliran Road, Cebu City	Expository Presentation, Pre-trial Conference and Evidentiary Hearing

PEMC is hereby directed to cause the publication of the attached Notice of Public Hearing, at its own expense, twice (2x) for two (2) successive weeks in two (2) newspapers of general circulation in the Philippines, with the date of the last publication to be made not later than ten (10) days before the date of the scheduled initial hearing.

Let copies of the application, this Order and the attached Notice of Public Hearing be furnished 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 hearings.

Likewise, let copies of this Order and the attached Notice of Public Hearing be furnished the Office of the City Mayor of Pasig for appropriate posting thereof on its bulletin board.

PEMC is hereby directed to furnish all those making requests therefor with copies of the application and its attachments, subject to reimbursement of reasonable photocopying costs.

On the date of the initial hearing, PEMC must submit to the Commission its written Compliance with the jurisdictional requirements attaching therewith, methodically arranged and duly marked, the evidences on the actual posting and publication of the Notice of Public Hearing consisting of a certification issued to that effect, signed by the aforementioned Mayor or his duly authorized representative, bearing the seal of his office, and the affidavits of the Editors or Business Managers of the newspapers where the said Notice of Public Hearing were published together with the complete issues of the said newspapers, and such other proofs of compliance with the requirements of the Commission.

PEMC and all other interested parties are directed 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:

- (a) a summary of admitted facts and proposed stipulation of facts;
- (b) the issues to be tried or resolved;

- (c) the documents or exhibits to be presented, stating the purposes thereof and proposed markings therefore; and
- (d) the number and names of the witnesses, with their written testimonies in an individual affidavit form, to be attached to the Pre-trial Brief.


Failure of PEMC to submit the required Pre-Trial Brief and Judicial Affidavits of its witnesses within the prescribed period shall be a ground for cancellation of the scheduled hearings, and the resetting of which shall be six (6) months from said date of cancellation.

As part of the pre-trial conference, PEMC must also be prepared to make an expository presentation of its 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, July 21, 2014.

FOR AND BY AUTHORITY
OF THE COMMISSION:


ZENAIDA G. CRUZ-DUCUT
Chairperson 4

Copy Furnished:

1. **Attys. Criselda S. Martin-Funelas, Celina R. Encarnacion and Gladys Evette G. Nebab**
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2. **Office of the Solicitor General (OSG)**
134 Amorsolo Street, Legaspi Village,
City of Makati 1229
3. **Commission on Audit (COA)**
Commonwealth Avenue,
Quezon City 1121
4. **Senate Committee on Energy**
GSIS Building, Roxas Boulevard,
Pasay City 1300
5. **House of Representatives Committee on Energy**
Batasan Hills, Quezon City 1126
6. **The Office of the City Mayor**
Pasig City
7. **President**
Philippine Chamber of Commerce and Industry (PCCI)
3rd Floor, ECC Building,
Sen. Gil Puyat Ave., Makati City