

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



**IN THE MATTER OF THE PETITION
FOR APPROVAL OF INTERIM OPEN
ACCESS IN THE LUZON AND
VISAYAS GRIDS**

ERC CASE NO. 2008 - 026 RC

**PHILIPPINE INDEPENDENT POWER
PRODUCERS ASSOCIATION
(PIPPA), MANILA ELECTRIC
COMPANY (MERALCO), VISAYAN
ELECTRIC COMPANY (VECO),
CLARK ELECTRIC DISTRIBUTION
CORP. (CEDC), DAVAO LIGHT and
POWER CO. INC. (DLPC),
CAGAYAN ELECTRIC POWER AND
LIGHT COMPANY (CEPALCO), SAN
FERNANDO ELECTRIC LIGHT and
POWER CO. (SFELAPCO) and
PANAY ELECTRIC COMPANY, INC.
(PECO),**

Petitioners.

X-----X

DOCKETED
Date: MAY 15 2008
By: [Signature]

ORDER

On May 23, 2008, the Philippine Independent Power Producers Association (PIPPA), Manila Electric Company (MERALCO), Visayan Electric Company (VECO), Clark Electric Distribution Corp. (CEDC), Davao Light and Power Co. Inc. (DLPC), Cagayan Electric Power and Light Company (CEPALCO), San Fernando Electric Light and Power Co. (SFELAPCO) and Panay Electric Company, Inc. (PECO) filed a joint petition for the approval of the interim open access in the Luzon and Visayas Grids and its implementation in accordance with their approved Terms of Reference (TOR), as well as other reliefs that the Commission may deem appropriate under the circumstances.

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Having found said petition to be sufficient in form and in substance with the required fees having been paid, an Order and a Notice of Public Hearing, both dated May 26, 2008, were issued setting the same for jurisdictional hearing, expository presentation, pre-trial conference and evidentiary hearings on various dates.

Petitioners were directed to cause the publication of the Notice of Public Hearing, at their 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 scheduled date of the initial hearing. They were also directed to inform the consumers within their respective franchise areas, by any other means available and appropriate, of the filing of the instant petition, their reasons therefor, and of the scheduled hearings thereon.

On various dates, the Commission conducted separate and independent hearings on the petition for Luzon Grid and Visayas Grid.

A review of the petition disclosed that several issues need to be addressed before a final determination can be had. As the resolution of the issues may take time, drawing parallelisms from the timeline for Open Access and Retail Competition, the Commission has deemed it necessary to allow at this point in time the execution of certain preparatory acts by the concerned parties to ensure an orderly transition. The Commission believes that all prospective participants should be given sufficient time and leeway to prepare for the actual implementation of the Interim Open Access. The Commission has also found it crucial to the execution of such preparatory acts that certain clarifications be made on the parameters provided in the petitioners' TOR.

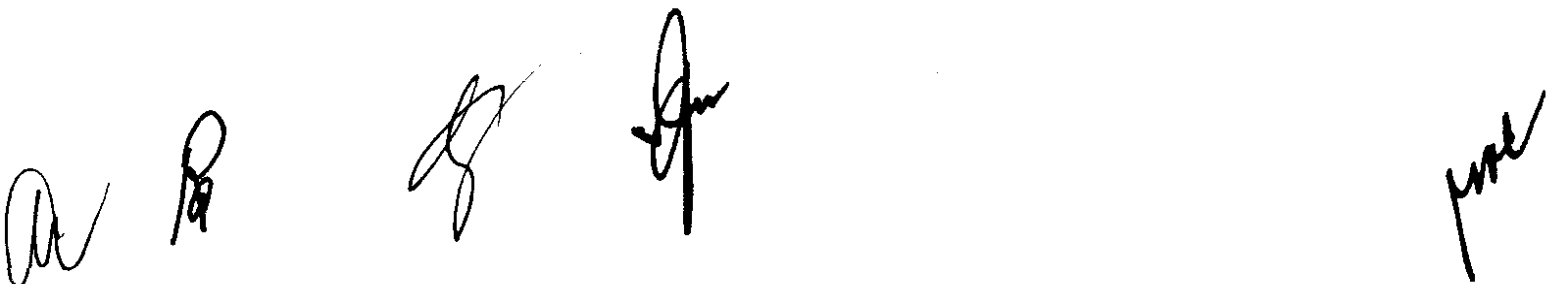


The Commission takes note of the following relevant proposals appearing in the petition:

1. The definition of "Eligible Customers" in the TOR is similar to the one adopted in the Commission's Rules on Open Access and Retail Competition;
2. "Qualified Suppliers" of electricity refer only to the Generation Companies who have acquired ownership of the privatized generating assets of the National Power Corporation (NPC); and
3. Participation in the proposed interim open access is voluntary.

All Suppliers duly licensed by the Commission will be allowed to market their supply business. This is without prejudice to the "Rules on Interim Open Access" that may be subsequently issued by the Commission if it finds that the Interim Open Access is in order. With the exclusion of NPC as an eligible Generation Company, the licensed Suppliers must contract only with eligible companies as defined under the TOR.

The Commission likewise notes that there are only two (2) petitioning Distribution Utilities (DUs) in the Luzon Grid, namely, MERALCO and SFELAPCO. However, SFELAPCO is not a signatory to the TOR. Thus, only the customers of MERALCO may be allowed to participate in the Interim Open Access for the Luzon Grid.

The bottom of the page features several handwritten signatures and initials. From left to right, there is a large, stylized signature, a smaller signature, a signature with a long horizontal stroke, a signature with a vertical stroke, and a signature on the far right that appears to be 'MRC'.

WHEREFORE, the foregoing premises considered and without prejudice to the final resolution of the Petition, the Commission hereby provisionally allows the performance of the following acts:

1. All Suppliers, duly licensed by the Commission, may market their business, provided that the sourcing of supply is limited to the eligible companies defined and identified under the proposed Terms of Reference (TOR); and
2. MERALCO may put up the necessary metering facilities pursuant to the provisions of the Commission's Rules for Contestability but only within its franchise area.

SO ORDERED.

Pasig City, July 8, 2008.


RODOLFO B. ALBANO, JR.
Chairman


RAUF A. TAN
Commissioner


ALEJANDRO Z. BARIN
Commissioner


MARIA TERESA A. R. CASTAÑEDA
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JOSE C. REYES
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