

**Republic of the Philippines**  
**ENERGY REGULATORY COMMISSION**  
**San Miguel Ave., Pasig City**



11

**RESOLUTION NO. \_\_\_\_\_, Series of 2016**

**A RESOLUTION IMPOSING RESTRICTIONS ON THE  
OPERATIONS OF DISTRIBUTION UTILITIES AND  
RETAIL ELECTRICITY SUPPLIERS IN THE  
COMPETITIVE RETAIL ELECTRICITY MARKET**

**WHEREAS**, as part of its regulatory powers under Republic Act No. 9136 (RA 9136) otherwise known as the Electric Power Industry Reform Act of 2001 (EPIRA), the Energy Regulatory Commission (ERC) is mandated to promote true market competition and prevent harmful monopoly and market power abuse in the electric power industry;

**WHEREAS**, under the above mandate, the ERC also has an obligation to monitor and prevent any market power abuse or anti-competitive or discriminatory act or behavior by any participant in the electric power industry and, if deemed necessary, impose restrictions, sanctions or penalties;

**WHEREAS**, the ERC sees the cogent need to provide safeguards in order to promote competition and prevent harmful monopoly and market power abuse in light of the high level of concentration in the market based on data culled from its operations;

**WHEREAS**, in light of the foregoing market assessment, the ERC proposed draft versions of the "Rules Governing the Issuance of Licenses to Retail Electricity Suppliers (RES) and Prescribing the Requirements and Conditions Therefor" (RES Licensing Rules) and of the "Revised Rules for Contestability" which were posted on the two (2) ERC-administered websites to solicit comments from the industry participants. The draft RES Licensing Rules contained restrictions on the transactions of stakeholders in the retail market. The public consultation and Focus Group Discussion (FGD) were consequently conducted to discuss the comments submitted by the stakeholders;

**WHEREAS**, after deliberations of the first round of comments submitted by stakeholders, the draft of the instant "Resolution Imposing Restrictions on Distribution Utilities and Retail Electricity Suppliers in the Competitive Retail Electricity Market (CREM)" was posted on the Commission website on 8 April 2016, to, again, solicit comments from concerned stakeholders;

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**WHEREAS**, after a careful consideration of the various views and comments submitted by interested parties and of the electric power industry participants, the ERC deems it appropriate to adopt modified restrictions on the operations of certain industry participants in the CREM;

**NOW THEREFORE**, pursuant to its mandate to promote competition and protect customer interests and to establish the ultimate goal of achieving a robust and competitive retail electricity market, the ERC hereby **RESOLVES** to **ADOPT** the following:

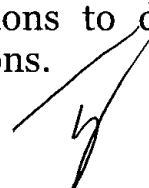
1. No Distribution Utility (DU) shall engage in the Supply of Electricity to End-users in the Contestable Market unless such supply is made in its capacity as a Supplier of Last Resort (SOLR).
2. All Local Retail Electricity Suppliers (Local RES') shall wind down their business within three (3) years from effectivity the instant Resolution. Existing Retail Supply Contracts (RSCs) entered into with their respective Contestable Customers shall remain valid until the expiration of the said contracts subject to the winding down period. Accordingly, no new RSCs shall be signed and executed after the effectivity of this Resolution.

During the said winding down period, the Local RES shall continue to comply with all reportorial requirements prescribed by the Commission.

3. No RES shall be allowed to supply more than thirty percent (30%) of the total average monthly peak demand of all contestable customers in the CREM. The level of demand shall be determined by the ERC on a quarterly basis which should be posted on the website every 30<sup>th</sup> of the month following the quarter.
4. No RES shall be allowed to transact more than fifty percent (50%) of the total energy transactions of its Supply business, with its affiliate Contestable Customers.

Any RES not in compliance with this safeguard shall be given a period of two (2) years from 26 December 2016 to comply therewith: *Provided further*, That in no case shall it be allowed to execute any RSCs with Affiliates, nor renew its RSCs with the said affiliates unless such execution or renewal no longer amounts to a breach of the aforementioned safeguard.

The ERC shall, within eighteen (18) months from implementation of the first phase of mandatory contestability, conduct a continuous review and monitoring of the market conditions to determine relevance and applicability of any of the above restrictions.




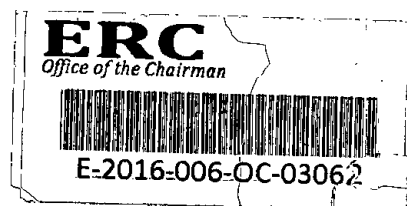
In view of the above, Resolution No. 22, Series of 2013 entitled “Resolution Adopting Amendments to Article I, II and III of the Revised Rules for the Issuance of Licenses to Retail Electricity Suppliers” is hereby repealed.

Let copies of this Resolution be furnished all parties concerned and the University of the Philippines Law Center – Office of the National Administrative Register (UPLC-ONAR), all the licensed Retail Electricity Suppliers and Distribution Utilities.

This Resolution shall take effect immediately following its publication in a newspaper of general circulation.

Pasig City, 12 May 2016.

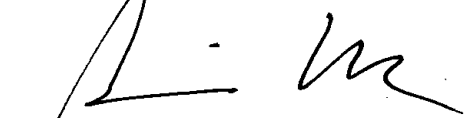
  
**JOSE VICENTE B. SALAZAR**  
Chairman and CEO



  
**ALFREDO J. NON**  
Commissioner

  
**GLORIA VICTORIA C. YAP-TARUC**  
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Commissioner

  
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