



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

RESOLUTION NO. 05, Series of 2013

**A RESOLUTION ON DISCLOSURES OF
CAPACITY AND ENERGY ALLOCATIONS BY DISTRIBUTION
UTILITIES IN THE LUZON AND VISAYAS GRIDS AND RETAIL
ELECTRICITY SUPPLIERS**

WHEREAS, pursuant to Sections 43 (k) of Republic Act 9136, otherwise known as the Electric Power Industry Act (EPIRA), mandates the Energy Regulatory Commission (ERC) to monitor and take measures to penalize abuse of market power, cartelization and anti-competitive or discriminatory behavior by any electric power industry participant;

WHEREAS, on June 7, 2006, the ERC promulgated the "Code of Conduct for Competitive Retail Market Participants" to promote consumer confidence in the retail electricity industry and to protect consumers against discriminatory acts of other electricity stakeholders;

WHEREAS, the Code of Conduct for Competitive Retail Market Participants prescribes the responsibilities and conduct of retail market participants in a competitive environment;

WHEREAS, on December 17, 2012, the ERC promulgated the "Transitory Rules for the Initial Implementation of Open Access and Retail Competition (OARC)" to provide the additional regulatory framework in the commercial operations of retail competition including the initial transactions to ensure the effective implementation of the competitive retail electricity market;

WHEREAS, from December 2012 to January 2013, the ERC noted several issues and concerns raised by contestable customers (CCs) regarding OARC, foremost of which is the inaction of several Retail Electricity Suppliers (RES) to their requests for proposal;

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WHEREAS, the CCs complained that several RES are not making any offers to them because these RES have already allocated their capacities and energy volumes to either their affiliate companies or other target customers;

WHEREAS, these acts are prejudicial to the CCs as they may end up being served by Suppliers of Last Resort (SOLR) for failing to find a willing RES due to circumstances beyond their control;

WHEREAS, in the interest of transparency, the ERC finds the need to require compulsory disclosures of Distribution Utilities (DUs) and RES of their capacity and energy allocations;

WHEREAS, on February 20, 2013, the ERC posted on the two ERC-administered websites, the draft "Resolution on Disclosures of Capacity Allocations for Distribution Utilities and Retail Electricity Suppliers" to solicit comments from the industry stakeholders;

WHEREAS, on March 7, 2013, a public consultation was conducted by the ERC to discuss the comments submitted by the concerned stakeholders;

WHEREAS, to determine that there is enough supply for the demand of the CC and that no participant demonstrates any anti-competitive behavior, the ERC deems it appropriate to finalize this Resolution;

NOW THEREFORE, the ERC, after a thorough and due deliberation, hereby **RESOLVES** to **DIRECT** all Distribution Utilities (DUs) in the Luzon and Visayas grids and the licensed Retail Electricity Suppliers (RES) to comply with the following disclosure requirements in the form of affidavits hereto attached as "Form No. CMD-CapAlloc-01" and "Form No. CMD-CapAlloc-02" and made integral parts of this Resolution:

1. All DUs in the Luzon and Visayas grids shall submit to the ERC of data pertaining to the amount of capacity and energy (in MW and MWH) that they have contracted with the generators as well as the capacity and energy that they are

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RETAIL ELECTRICITY SUPPLIERS**

intending to allocate for their captive market, their supply business segment as Local Retail Electricity Supplier (LRES) or otherwise, and their SOLR business segment, if any;

2. All RES shall submit to the ERC of the amount of capacity and energy (in MW and MWH) that they have contracted with the generators, the number of their contestable customers and the capacity and energy that they have allocated for the latter, and their available capacity and energy (in MW and MWH);
3. The deadline for the initial submissions shall not be later than fifteen (15) days upon the effectivity of this Resolution; and
4. The above requirements shall be updated and submitted to the ERC every subsequent three (3) months, without need of further notice.

Failure to submit accurate information and comply with the above requirements shall be subject to the appropriate ERC fines and penalties.

This Resolution shall take effect immediately upon its publication in a newspaper of general circulation in the Philippines.

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RETAIL ELECTRICITY SUPPLIERS**

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

Pasig City, March 22, 2013.


ZENAIDA G. CRUZ-DUCUT
Chairperson *jsj*

(On Leave)
MARIA TERESA A.R. CASTAÑEDA
Commissioner


JOSE C. REYES
Commissioner


ALFREDO J. NON
Commissioner


GLORIA VICTORIA C. YAP-TARUC
Commissioner

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**A RESOLUTION ON DISCLOSURES OF CAPACITY ALLOCATIONS FOR DISTRIBUTION UTILITIES AND
RETAIL ELECTRICITY SUPPLIERS**

Copy furnished:

ALL DUs

ALL licensed RES

MANILA ELECTRIC COMPANY (MERALCO)
Ortigas Avenue, Pasig City 1600

PHILIPPINE RURAL ELECTRIC COOPERATIVES
ASSOCIATION (PHILRECA)
Quezon City

PRIVATE ELECTRIC POWER OPERATOR
ASSOCIATION (PEPOA)
Pasig City

RETAIL ELECTRICITY SUPPLIERS ASSOCIATION
OF THE PHILIPPINES
Unit 2-B Cluster 5, San Francisco Gardens
Bonifacio Ave. corner Sacrepente St., Mandaluyong City

**AFFIDAVIT OF CAPACITY AND ENERGY ALLOCATIONS
FOR DISTRIBUTION UTILITY (DU)**

REPUBLIC OF THE PHILIPPINES }
CITY OF _____ } SS

I, _____, of legal age, single/married, residing at _____, for and in behalf of _____, after being sworn in accordance with law,
(Name of DU)
depose and say:

That I am the General Manager of _____;
(Name of DU)

That I attest to the fact that our company is complying and will continue to comply with the provisions and requirements for a DU as embodied in Resolution No. ____, Series of 2013 entitled "A Resolution on Disclosures of Capacity and Energy Allocations for Distribution Utilities and Retail Electricity Suppliers."

A. That the following are the capacity and energy (in MW and MWH) that our company has contracted with generator companies, purchased from the WESM, or generated:

	DU Contracted Capacity	DU Contracted Energy
From Bilateral Contracts		
Name of Generator Company A		
Name of Generator Company B		
Name of Generation Company C		
WESM Purchases		
Embedded Generation, if any		
Total		

B. That the following are the capacity and energy (in MW and MWH) that our company has allocated to our electricity business segments:

CAPTIVE MARKET CUSTOMERS		LOCAL ELECTRICITY SUPPLIER (LRES) CUSTOMERS ; if applicable		SUPPLIER OF LAST RESORT (SOLR) CUSTOMERS; if applicable	
Capacity	Energy	Capacity	Energy	Capacity	Energy

I further swear or affirm that all statements made in this affidavit are true, correct and complete and that any changes in such information will be provided to the Energy Regulatory Commission in a timely manner.

IN WITNESS WHEREOF, I have hereunto set my hand this ____ day of _____, 201__, in the City of _____, Philippines.

(Signature of affiant)

SUBSCRIBED and sworn to before me, in the City of _____,
this _____ day of _____, 201__ by _____ with Community Tax
Certificate No. _____ issued at _____ on
_____, 201__.

NOTARY PUBLIC
Until December 31, 201__

Doc. No. _____;
Page No. _____;
Book No. _____;
Series of 201__

jsj/lmj/wgb/ijpt/fscj

**AFFIDAVIT OF CAPACITY AND ENERGY ALLOCATIONS
FOR LICENSED RETAIL ELECTRICITY SUPPLIERS (RES)**

REPUBLIC OF THE PHILIPPINES }
CITY OF _____ } SS

I, _____, of legal age, single/married, residing at _____, for and in behalf of _____, after being sworn in accordance with law,
(Name of RES)
depose and say:

That I am the General Manager of _____;
(Name of RES)

That I attest to the fact that our company is complying and will continue to comply with the provisions and requirements for a RES as embodied in Resolution No. ____, Series of 2013 entitled "A Resolution on Disclosures of Capacity and Energy Allocations for Distribution Utilities and Retail Electricity Suppliers."

A. That the following are the capacity and energy (in MW and MWH) that our company has contracted with generator companies, purchased from the WESM, or generated:

	RES Contracted Capacity	RES Contracted Energy
From Bilateral Contracts		
Name of Generator Company A		
Name of Generator Company B		
Name of Generation Company C		
Name of Generation Company D		
WESM Purchases		
Generation, if any		
Total		

B. That the following are the information regarding capacity and energy allocations of our company:

	Capacity Allocations (as of March 15, 2013)	Energy Allocations (as of March 15, 2013)
Name of Customer A		
Name of Customer B		
Name of Customer C		
Name of Customer D		
Total Allocated		
Total Available		

I further swear or affirm that all statements made in this affidavit are true, correct and complete and that any changes in such information will be provided to the Energy Regulatory Commission in a timely manner.

IN WITNESS WHEREOF, I have hereunto set my hand this ____ day of _____, 201__, in the City of _____, Philippines.

(Signature of affiant)

SUBSCRIBED and sworn to before me, in the City of _____,
this _____ day of _____, 201__ by _____ with Community Tax
Certificate No. _____ issued at _____ on
_____, 201__.

NOTARY PUBLIC
Until December 31, 201__

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Book No. _____;
Series of 201__

jsj/lmj/wgb/ijpt/fscj