



National Association of Electricity Consumers for Reforms
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HON. ZENAIDA CRUZ-DUCUT
Chairperson, Energy Regulatory Commission
16th Floor Pacific Center Bldg.
San Miguel Avenue, Pasig City

Dear Chairperson Ducut,

This refers to the Public Consultation held last Monday, Nov.16, 2009 posted at the ERC website which I read this morning. Part of the first page states:

"Pursuant to Section 43(f) of Republic Act No. 9136, otherwise known as the Electric Power Industry Reform Act of 2001, and Rule 15, Section 5(a) of the Implementing Rules and Regulations issued pursuant to that Act, the Energy Regulatory Commission (ERC) promulgated the Guidelines on the Methodology for Setting Distribution Wheeling Rates (ERC Resolution No. 12-02, Series of 2004, dated December 20, 2004). The DWRG has subsequently been revised and re-issued as the Rules for Setting Distribution Wheeling Rates for Privately-Owned Distribution Utilities Entering Performance Based Regulation [Second and Later Entry Points] [ERC Resolution No. 54, Series of 2006, dated December 13, 2006, hereafter referred to as the 'RDWR'], with a further subsequent revision on December 8, 2008 for the Third Entry Point and June 22, 2009 for the Fourth Entry Point. In terms of Section 1.9 of the RDWR, these rules may from time to time be changed by the ERC.

Since the next Regulatory Reset is for the First Entry Group on entering the Third Regulatory Period, the ERC has determined that further changes are now required to the RDWR to reflect the next Regulatory Period. The proposed changes are reflected in the attached draft version of the RDWR, titled Rules for Setting Distribution Wheeling Rates for Privately-Owned Distribution Utilities Operating under Performance Based Regulation (First Entry Group : Third Regulatory Period), dated

October 6, 2009 and are also described in this Discussion Paper. Submissions from interested parties are sought on the proposed changes of the RDWR, as described in the Discussion Paper. Interested parties are also invited to suggest further changes to the RDWR, for consideration by the ERC. Details of the required format and time of submissions are provided in Section 1.4 of the paper.”

The last paragraph on page 6 also states:

“Although this consultation is open to public viewing, only parties of record who have filed written comments will be allowed to participate in the discussions. Should there be time before the end of the public consultation; the Commission shall allow verbal comments from other persons who have an interest in the proceedings. Parties of record are not required to have a lawyer present but are strongly encouraged to have technical experts present with knowledge of accounting, finance, engineering, energy-economics or pricing issues.”

Section 2 (f) of the Electric Power Industry Reform Act (EPIRA) also states:

“To protect the public interests as it is affected by the rates and services of electric utilities and other providers of electric power.”

The EPIRA in Section 41 further states that:

“The ERC shall handle consumer complaints and ensure the adequate promotion of consumer interests.”

A cursory reading of the above posting readily reveals that the subject is highly technical and that interested parties who may desire to comment on the draft revision and participate in the consultation should have the technical background as strongly advised by the Commission. Page 5 of the posting says: “Parties of record are not required to have a lawyer present but are strongly encouraged to have technical experts present with knowledge of accounting, finance, engineering, energy-economics or pricing issues ”

Clearly, the subject is highly technical that only competent people on the subject enumerated by the Commission can submit comments and intelligently participate in the consultation. Apparently also, only power utilities who have the manpower and financial resources can possibly participate in this consultation.

This brings us to the question: How can ordinary consumers like us participate in the discussion of a highly technical subject, which is used as the basis of the Performance Based Regulation (PBR) Method for Rates Setting, and which has become the entry point of the application of private distribution utilities for rate increases?

The recent ERC decision approving MERALCO application for rate increase under ERC Case No. 2008-004RC has been met with serious opposition, which we can only attribute to ERC's failure to comply with its mandate under Section 41 of the EPIRA. Indeed, under this new methodology consumers can only expect the persistent trend of rate increases which we find as patently contrary to the professed objective of the EPIRA to ensure a reasonable price of electricity.

In this regard and in accordance with Sections 2(f) and 41 of the EPIRA, may we request for an orientation on the "Rules Setting of the Distribution Wheeling Rate for PDUs" on December 9, 2009 at the ERC Board Room in the morning and a separate consultation in January 2010, so that consumers like us may be able to intelligently give their own inputs regarding this Rule Setting on the RDWR?

We trust the Honorable Commission will act favourably on this request.

Very truly yours,

PETE L. ILAGAN
President