

Draft

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

**RESOLUTION NO. \_\_\_\_\_, Series of 2006**

**A RESOLUTION PRESCRIBING the  
TIMELINE for FULL RETAIL COMPETITION and OPEN ACCESS**

**WHEREAS**, Section 31 of Republic Act No. 9136, otherwise known as the Electric Power Industry Reform Act of 2001 (EPIRA) and Rule 12, Section 1 of its Implementing Rules and Regulations, mandate the implementation of Retail Competition and Open Access not later than three (3) years upon the effectivity thereof, subject to the fulfillment of the five (5) conditions prescribed in the EPIRA;

**WHEREAS**, of the five (5) conditions, only the privatization of at least seventy percent (70%) of the total capacity of generating assets of the National Power Corporation (NPC) in Luzon and Visayas and the transfer of the management and control of at least seventy percent (70%) of the total energy output of power plants under contract with NPC to the Independent Power Producer (IPP) Administrators, have not been met;

**WHEREAS**, the Power Sector Assets and Liabilities Management Corporation (PSALM) submitted to the Energy Regulatory Commission (ERC) two (2) timeline scenarios on the privatization of at least 70% of the total capacity of generating assets of NPC in Luzon and Visayas;

**WHEREAS**, under the optimistic scenario, PSALM projects that 70-75% of NPC's generating assets in Luzon and Visayas will be privatized by end of 2007;

**WHEREAS**, under the conservative scenario, the privatization of 70-75% of NPC's generating assets in Luzon and Visayas is yet to be realized by end of 2008;

**WHEREAS**, the ERC must issue a timeline to provide guidance to Electric Power Industry Participants, to enable them to make strategic decisions, more particularly, to enable Distribution Utilities to plan for their future energy requirements.

**WHEREAS**, the ERC is constrained from issuing a definitive timeline in view of the lack of a specific timeline from PSALM for the privatization of at least 70% of the total capacity of the generating assets of NPC in Luzon and Visayas and the transfer of the management and control of at least 70% of the total energy output of power plants under contract with NPC to the IPP Administrators;

**NOW THEREFORE**, pursuant to its mandate to promote competition, the ERC hereby **RESOLVES**, as it is hereby **RESOLVED**, to **APPROVE** and **ADOPT**, the “**Resolution Prescribing the Timeline for Full Retail Competition and Open Access**”, as follows:

1. Retail Competition and Open Access shall commence upon the privatization of at least 70% of the total capacity of the generating assets of NPC in Luzon and Visayas as defined herein, the transfer of the management and control of at least 70% of the total energy output of power plants under contract with NPC to the Independent Power Producer (IPP) Administrators, the adequacy and establishment of all necessary infrastructures, and the promulgation by ERC of all pertinent rules and regulations governing Retail Competition and Open Access.

Retail Competition and Open Access shall initially be implemented in the franchise areas of both the private distribution utilities and electric cooperatives, and the economic zones in the Luzon main grid. The contestable market shall consist initially of electricity end-users with a monthly average peak demand of at least one megawatt (1 MW) for the twelve month period immediately preceding the open access date.

In determining compliance with these conditions and consistent with ERC Resolution No. 26, Series of 2005, the capacity referred to shall be the gross capacity that a unit can sustain over a specified period of time as established during formal demonstration through testing based on manufacturers' approved procedures or any internationally-accepted testing such as, but not limited to, the American Society of Mechanical Engineers (ASME) and American National Standards Institute (ANSI).

2. The ERC shall conduct public hearing upon the completion of the two (2) above-cited conditions, the establishment of all necessary

infrastructures, and the promulgation by ERC of all pertinent rules and regulations. As a result of said public hearing, ERC shall declare the actual commencement date for Retail Competition and Open Access which shall be six (6) months from date of declaration.

3. Two (2) years after the implementation of Retail Competition and Open Access, the threshold level for the contestable market in the Luzon grid shall be reduced to seven hundred fifty kilowatts (750 kW). At this level, aggregators shall be allowed to supply electricity to end-users whose aggregate demand within a contiguous area is at least 750 kW.
4. The ERC shall gradually reduce the threshold level until it reaches the household demand level within an eight (8) year period. Thus, eight (8) years after the second phase, the contestable market shall cover end-users at the household level.
5. The ERC shall separately determine the timetable for Retail Competition and Open Access in the Visayas and Mindanao grids.

Let copies of this resolution be furnished all parties concerned.

Pasig City, 13 December 2006.

**RODOLFO B. ALBANO, JR.**  
Chairman

**RAUF A. TAN**  
Commissioner

**ALEJANDRO Z. BARIN**  
Commissioner

**MARIA TERESA A.R. CASTAÑEDA**  
Commissioner

**JOSE C. REYES**  
Commissioner