Republic of the Philippines
Energy Regulatory Commission
Pacific Center, San Miguel Avenue, Pasig City

REQUEST FOR PROPOSALS

for the

APPOINTMENT OF A REGULATORY RESET EXPERT FOR THE REVIEW OF THE EXPENDITURE FORECASTS OF THE SECOND ENTRY GROUP OF PRIVATELY OWNED ELECTRICITY DISTRIBUTION UTILITIES UNDER PERFORMANCE-BASED REGULATION

APRIL 28, 2008

Republic of the Philippines

Energy Regulatory Commission

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1. INTRODUCTION

1.1 Background

The Energy Regulatory Commission (ERC) is the independent regulatory body for the Philippines electric power industry. It is in the process of promulgating a performance-based form of regulation (PBR) for all privately owned electricity Distribution Utilities (DUs) in the Philippines, in terms of which participating utilities will be subject to a price-cap for the delivery of distribution wheeling services. The reset process is underway for the setting of the price cap that will apply for the second entry group of DUs in PBR for the period October 1, 2008 to September 30, 2012 (the Second Regulatory Period).

The mechanism for the calculation of the price cap and the procedure and timelines for the introduction of this cap, are described in the Rules for Setting Distribution Wheeling Rates for Privately Owned DUs Entering Performance Based Regulation [Second & Later Entry Points] (RDWR), which was released by the ERC on December 13, 2006.[1] More recently the ERC's interpretation of the RDWR and its intention with regard to the reset process for the Second Regulatory Period for the second entry group was described in a Regulatory Reset Issues Paper, dated January 10, 2007.[2] [3]

Following its publication, the ERC requested submissions on the Issues Paper and conducted a round of public consultations. After considering these submissions and the consultations, the ERC formulated its preliminary position on the reset process – as set out in a Position Paper, dated March 16, 2007.[4]

An important requirement of the reset process going forward is the review of the expenditure forecasts submitted by Distribution Utilities as part of the rate-setting process under PBR. These expenditure components are critical to the determination of the revenue to which Distribution Utilities are entitled on which the price-caps will be based.

The ERC is inviting proposals from suitably qualified and experienced Regulatory Reset Experts to assist its project management with the expenditure review. For the purposes of this proposal, the Expert could be an established consulting company or a team of individual operators.

Proposals are requested for the review of the forecasts for the following categories :

a) capital expenditure;
b) disposal of fixed assets[5];
c) operating and maintenance expenditure; and
d) taxes (other than corporate income tax), levies and duties expenditure.

Three Distribution Utilities have to date opted to take part in the PBR, and the expenditure forecasts for each of these will be reviewed:

- COTABATO LIGHT & POWER COMPANY (CLPC)
- ILIGAN LIGHT & POWER, INCORPORATED (ILPI)
- MACTAN ELECTRIC COMPANY (MECO)

[1] This is available on the ERC website, (http://www.erc.gov.ph)

[2] This document is also available on the ERC website

[3] Note that capitalized terms are defined in the RDWR, the Issues Paper or the Position Paper.

[4] ERC report titled "Regulatory Reset for the October 2008 to September 2012 Regulatory Period for Privately Owned Distribution Utilities subject to Performance Based Regulation : Position Paper"

[5] While not strictly an expenditure category, the disposal of fixed assets is closely linked with utilities' capital development programs and the ERC requires a review of the forecast extent of disposals for each regulatory year as well as the forecast income that would be derived from the sale of disposed assets.

1.2 Services required

The key outputs from the assignment will be as follows :

a) analyses of the expenditure forecasts for each Distribution Utility;

b) assessment of the reasonableness of these expenditure forecasts and recommendations about how they should be modified, if required;

c) attendance of explanatory meeting and public hearings where the forecasts are further explained and defended;

d) preparation and presentation to the ERC of a detailed report in which the Expert's findings are presented;

e) assistance in explaining and defending the approved expenditure forecasts during the public hearing process that will follow rate applications by Distribution Utilities under the Regulatory Reset Process;

f) review of submissions received from utilities on the expenditure review reports and the extent to which these were used by the ERC in formulating its draft determination of the price control arrangements for the Second Regulatory Period, and attending public consultations on these submissions;

g) documentation of all the functions performed in evaluating the data provided and of the reasons for coming up with the recommendations, including full details of the changes recommended to specific expenditure items;

h) use and further development of the spreadsheet-based model developed by the ERC to collect expenditure information and analyze the impact on the total expenditure that will arise from modifications to the forecast expenditure programs and to capture all information related to such modifications; and

i) close cooperation with the ERC project team and conveyance of practical and theoretical knowledge in the reviewing of expenditure forecasts to the team.

The scope of the work is described in section 3 of this request for proposals (RfP).

1.3 Delivery schedule

In terms of the reset process, the ERC has to make its draft determination on the price-caps for distribution wheeling rates September 26, 2008. To achieve this, the following program will be implemented :

ACTIVITY	REQUIRED DATE
Submission of proposals	May 23, 2008
Notification of successful party	June 5, 2008
Kick-off meeting	June 10, 2008
Presentation of project work-plan	June 13, 2008
Evidentiary hearings on the utility revenue applications	July 10 & 11 2008 – ILPI July 14 & 15 – CLPC July 24 & 25 - MECO
Draft expenditure review report provided to ERC	August 6, 2008
Final expenditure review report presented to ERC	August 13, 2008
Draft determination published by ERC	September 26, 2008
Submissions on draft determination due	October 24, 2008
Public hearings on submissions	Nov 4 – CLPC Nov 7 – MECO Nov 11 - ILPI
Final determination published by the ERC	Dec 12, 2008

1.4 Composition of project team

Given the range and volume of work involved in reviewing the expenditure forecasts for the three Distribution Utilities, it is likely that the Expert will provide a team of specialists. The composition of this team should be adequate to ensure that all the prerequisite skills are present to provide all the outputs required from the project within the timeframe allowed.

Close cooperation with and knowledge transfer to the ERC team members are key outputs from this project. The project team should therefore include people that are effective in communicating and teaching others in the theoretical and practical aspects of expenditure reviews. In addition, the Expert is to make provision to have ERC team members work alongside the project team members for extended periods, if necessary at the home office of the Expert.

2. GENERAL INFORMATION AND CONDITIONS

In submitting a proposal, it is assumed that the Expert has examined the RDWR, the Issues Paper and the Position Paper. There is therefore no attempt in this RFP to explain the form of regulation being implemented, its methodology or the processes and timelines that will apply. Understanding this is a prerequisite for the successful execution of the assignment.

2.1 Issuing of the RFP

This RFP has been issued to parties after some research on the part of the ERC but without prior enquiries about the parties' interest. Experts who intend to submit a proposal should notify the ERC of their interest and ensure that the ERC is in receipt of the name and contact details, including an email address, of an individual to whom further communication with regard to the RFP can be sent.

2.2 Format of proposals

The ERC does not require a specific document layout, proposal format or tender forms – part of the evaluation process will be to ascertain how effective the Expert convey the required information in their proposals.

Proposals longer than 15 pages[6] (excluding the proposed contract) will be marked down. The ERC is especially not interested in excessive descriptions of company history and structures, marketing material, extensive company profiles and curriculum vitae or experience sheets that are dated or not directly relevant to this assignment.

2.3 Content of proposals

The following minimum information must be provided in the proposals.

2.3.1 Details of the Expert

Full contact details of the Expert submitting the proposal should be provided, as well as details of the person that can be contacted regarding the proposal.

The legal status and jurisdiction of the Expert making the proposal should also be indicated.

2.3.2 Scope of service

A description must be provided of the full scope of services offered by the Expert. This should demonstrate clear understanding of the requirements of the ERC and the Regulatory Reset Process.

2.3.3 Work methodology

A clear description must be provided of the methodology proposed by the Expert for the review process and other requirements listed in the scope of work (section 3). This should conform to the requirements described in the RDWR, the Issues Paper and the Position Paper and should indicate how the required deliverables will be achieved.

All assumptions made by the Expert in developing this methodology should be explained. That includes the assumptions made about the support that will be provided by the ERC, utilities or other parties.

The data-sources that the Expert intends to use for the reviews must be described, as well as the proposed methodology whereby expenditure-efficiency will be assessed. The ERC is also interested to understand how the Expert will manage situations where

[6] using reasonable font sizes and spacing

Distribution Utility information records are incomplete, or where information has to be gathered or verified from inspections of existing installations or project records.

2.3.4 Team offered

Proposals must identify the individuals that will be working in the team, the roles they will play and the skills they will contribute. The reporting lines and responsibilities of each team member must be identified, as well as the team leader and the primary parties that will liaise with the ERC and the utilities.

2.3.5 Demonstration of relevant experience

Demonstrating the relevant qualifications, expertise and experience of the individuals who will make of the Expert's team is a critical component of the proposal. It is also very important that the Expert demonstrates good understanding of the local Philippine environment and how this impacts on expenditure patterns by Distribution Utilities.

Where the Expert is a company, the ERC is also interested in the relevant experience of the company and the further back-up it can provide (over and above the team offered for the proposal).

2.3.6 Form of contract

A pro forma of the contract that will be used for the project is attached (see discussion in section 2.10). Proposals are to indicate the name and nature of the Expert, as well as the individual(s) authorised to enter into the contract on behalf of the Expert.

2.3.7 Commercial details

The commercial terms and conditions, including the payment terms required by the Expert should be described. Any discounts or penalties that may apply and the conditions giving rise to these should be described. The required currency of payment should also be indicated.

2.3.8 Price

Full details of the offer price for the service must be provided. For consistency of evaluation, this price is to be indicated in US dollar terms. This must be a fixed price, set for the duration of the contract and based on the scope of work described in the proposal.

The ERC accepts that there are uncertainties related to the quality of the expenditure forecast information that will be provide by the utilities. Proposals should therefore provide full details of how these uncertainties will be dealt with and the project cost implications this may have. It is however noted that scope changes will only be considered for situations that could not have reasonably been foreseen by Expert at the time of making the proposal.

The offer price should include all disbursements, including costs for travel (local and international), accommodation, meals, consumables, printing, communication, computer support, per diems and other allowances, security, support staff, safety clothing, visa and passport arrangements, and the like.

2.3.9 Confirmation of commitment to timelines

The timeline for the reset process is in accordance with the Electric Power Industry Reform Act, no 9136 (EPIRA) and has been set after substantial consultation processes. It is therefore essential that the work will meet the required deadlines as described in section 1.3 above.

Proposals are to contain detailed timelines, indicating the proposed work-flow and how the target dates will be met, as well as a stated commitment from the Expert in this regard.

2.3.10 Proposed set-up structure in the Philippines

While it is not a requirement that the Expert should have a permanent office or presence in the Philippines, the nature of the assignment is such that an extended local presence will be required, especially in Manila, but also at times in the centres where the other utilities are seated (Cotabato City, Iligan City & Lapu-Lapu City). Continual close interaction with the ERC will also be essential.

Proposals are therefore to contain details of the proposed set-up structures that Experts will implement while working on this assignment. This should include details of where they propose to locate, what back-office support will be provided, proposed communication channels, computer systems and security arrangements. (The cost for these structures should be included in the offer price.)

2.3.11 Transfer of knowledge

As noted before, it is a key prerequisite of this project that the ERC project team members are deeply involved in the execution of the work and obtain a high measure of knowledge transfer[7]. Proposals are to explain how the Expert intends to manage a formal knowledge transfer process to staff of the ERC.

On-the-job training as well as formal workshops and training sessions will be required. This will by necessity require ERC staff to spend extended periods working with the project team. Depending on the proposed working arrangement of the Expert, it may require ERC staff members to travel to the office of the Expert to spend working time there. If this is the case, the full transport, accommodation and subsistence costs associated with this are to be included in the proposal. (The ERC has two staff members responsible for Capex reviews, and two for Opex reviews.)

2.3.12 Quality assurance

Proposals are to include details of the quality assurance procedures that will apply during the execution of this project. It should also be indicated if the Expert has any formal quality control procedures in place and whether he/she (or the company) has any registration in this regard.

2.4 Submission of proposals

Proposals are required to be delivered electronically (via email or fax) to the ERC or as hard copies along with an electronic version on diskette or compact disk. MS-Word or Adobe PDF format should be used. Proposals should be delivered not later than 12:00 noon (Philippines time) on May 30, 2006.

Proposals should be sent to :

Commissioner Rauf A. Tan

Energy Regulatory Commission
16th Floor, Pacific Centre
San Miguel Ave
Pasig City, Philippines

Email : ratan@erc.gov.ph

Phone : +63-2-6315997

Receipt of electronically delivered proposals will be acknowledged by email.

[7] It is a goal of the ERC to reduce its reliance on external consultants in future and also to promote the development of a local knowledge base on regulatory reset related issues.

2.5 Enquiries

Prior to the closing date, enquiries about the proposal or the work involved can be directed to:

Rey Ernesto G. Reyes

Email : regreyes@erc.gov.ph

Phone : +63-2-6348641 or +63-2-9145000 loc. 116 or 118

Please note that such enquiries should be limited to aspects not already described in the RDWR, Issues Paper or the Preliminary Position Paper.

Answers provided on such queries will be distributed by email to all parties who acknowledged an intention to submit a proposal and for who the ERC has contact details.

2.6 Validity period

Proposals are to remain valid for a period of 60 days after the submission date.

2.7 Communication after the closing date

After the closing date, the proposals submitted are binding and changes will only be made on request of the ERC after discussion with the Expert and mutual agreement by both parties. Proposals may not be withdrawn after the closing date.

The ERC may approach Experts to obtain more details about their proposals, or to clarify certain points. It may also request verification of information provided, including reputable referees that can be contacted to vouch for such information.

Experts are discouraged from unilaterally contacting the ERC regarding the proposals, unless there are compelling grounds to do so. Such attempts may be construed as interfering with the award process and could lead to the rejection of a proposal.

2.8 Advice to successful party

After evaluation, the ERC will advise the successful party by means of email or fax, followed by a confirmation letter. The Expert is required to acknowledge receipt of this advice within 24 hours of it having been sent, reconfirming their availability and commitment to the project. Failure to do so may result in the contract being awarded to another party.

It is intended to have a kick-off meeting in Manila, at the ERC offices on the date indicated in section 1.3. Besides the ERC oversight commissioner, staff and the ERC project manager, representatives of the three utilities will also be present at this meeting. The Expert's attendance of this meeting is essential.

2.9 Advise to unsuccessful parties

Unsuccessful Experts will be notified of this by email or fax. The ERC will disclose only whether the proposal was accepted through the initial screening process and, if that was the case, the total score that it has awarded to the party's proposal, broken down by main category, as well as the score of the winning proposal. No further correspondence with regard to the award or this project will be entered into.

2.10 Form of Contract

2.10.1 Contract Parties

The ERC advises all interested parties that while it is issuing this request for proposal and while the Expert will report to the ERC, it will not be the counterparty to the contract with the Expert. Under the current regulatory arrangement for DUs entering PBR,

funding for the regulatory reset processes is provided directly by all the privately owned DUs, who are regulated in this regard by the ERC. This includes those utilities not forming part of the second entry group into PBR.

The agreed funding mechanism requires separate contracts with:

- The Private Electric Power Operators Association Inc (PEPOA) and Manila Electric Company (Meralco)
- Bohol Light Company Inc. (BLCI)

In terms of the regulatory funding arrangements for the regulatory reset process in the Philippines, PEPOA represents its member utilities by virtue of a Special Power of Attorney. These member utilities are:

ANGELES ELECTRIC CORPORATION (AEC);

CABANATUAN ELECTRIC CORPORATION (CELCOR);

CAGAYAN ELECTRIC POWER AND LIGHT COMPANY (CEPALCO);

COTABATO LIGHT AND POWER COMPANY (CLPC);

DAGUPAN ELECTRIC CORPORATION (DECORP);

DAVAO LIGHT AND POWER COMPANY (DLPC);

IBAAN ELECTRIC AND ENGINEERING CORPORATION (IEEC);

ILIGAN LIGHT AND POWER COMPANY, INCORPORATED (ILPI);

LA UNION ELECTRIC COMPANY (LUECO);

MACTAN ELECTRIC COMPANY (MECO);

PANAY ELECTRIC COMPANY (PECO);

SAN FERNANDO ELECTRIC LIGHT AND POWER COMPANY (SFELAPCO);

SUBIC ENERZONE CORPORATION (SEZC);

TARLAC ELECTRIC INCORPORATED (TEI); and

VISAYAN ELECTRIC COMPANY (VECO)

While PEPOA will be the contract party, payments in terms of the contract will be made individually by each of the member utilities. The method for submission of invoices and the payment procedure is described in section 2.10.4 below.

The regulatory funding mechanism have been formalised in terms of a Memorandum of Agreement between the ERC, PEPOA, Meralco and BLCI.

2.10.2 Pro forma contract

Given the nature of the contracts to be entered into and the difficulties associated with negotiating a different contract for each transaction, the ERC has drawn up a pro forma of the contract that will be used for this project. The pro forma contract has been previously agreed with all contract parties. A copy of this is attached.

The Expert is entitled to suggest changes to this contract as part of his/her proposal. However, such changes will only be considered by the ERC if the concerns pointed out are material. Delays associated with having to negotiate changes to the pro forma contract will not constitute grounds for extending the project duration.

If, in the ERC's opinion the changes suggested to the pro forma contract are not sufficiently justified, this will be discussed with the Expert and, if no satisfactory agreement can be reached, will result in disqualification of the proposal and its award to the next-best qualified party.

2.10.3 Contract negotiations

After being informed that its proposal has been accepted, the Expert will be required to prepare the contracts for the work, in accordance with the attached pro-forma contract, the terms and scope of work offered in its proposal and the allocated contract values. The details of the contract parties, as well as the proportional allocation of the contract value for each contract are indicated in the pro-forma contract.

The completed contracts are to be submitted to the ERC by the date of the kick-off meeting noted in section 1.3, who will in turn distribute these to the contract parties for their validation. Assuming no changes to the pro-forma contract are required by the Expert (and approved by the ERC), the contract parties will be given four working days to return the signed contracts to the ERC, who will then hand these to the Expert for its signature.

In case changes are made to the pro forma contract by the Expert, these will have to be negotiated with the contract parties, who will have four working days to provide their comments to the proposed changes. If, as a result, further negotiations are required to finalize the contracts, the ERC will not be party to the negotiations. Such negotiations must be concluded within ten working days after the kick-off meeting.

Failure to resolve the contract in this time may result in the cancellation of the award and awarding it to the next approved Expert. If this should arise as a result of material changes to the pro forma contract proposed by the Expert, the Expert will not be entitled to recover any costs incurred up to that stage.

2.10.4 Managing payment claims under the contracts

While the ERC will not be party to the contracts between the Expert and the other contract parties, all payment claims must be submitted to the ERC for prior approval, before these will be forwarded to the contract parties. Original, signed invoices must be submitted, providing sufficient detail of the progress for which payment is claimed to allow the ERC to reasonably assess the invoice. The ERC will consider the validity and reasonableness of these claims and, if satisfied that they are in accordance with the contracts and for work that has been completed to the satisfaction of the ERC at that stage, will approve and forward the invoices to the contract parties for payment.

If the ERC is not satisfied with the reasonableness of a claim, the Expert will be notified of this within five working days of receipt of the claim by the ERC, in which case a revised claim will have to be submitted.

Three separate invoices must be submitted – one made out to PEPOA, one to Meralco and one to BLCI. The values of each invoice should be in accordance with the proportional contribution of the three parties (as per the pro-forma contract). Furthermore, the invoices to PEPOA shall include a breakdown of the relative contribution required from each of its member utilities, as per the pro-forma contract.

Upon receipt of payment from any party, the Expert is required to submit proof of receipt to that party. That includes individual receipts to all 15 PEPOA member utilities.

The ERC will not become party to any contractual or payment dispute between the Expert and any of the contract parties. It will however assist the Expert in following up on overdue payments from the contract parties. If due to non-performance by a contract party in terms of its contract, it becomes necessary to take further steps, the ERC will assist in this regard by first informing the contract party of its intention to apply penalties for the non-performance, and then by applying these penalties.[8]

[8] Under its regulatory powers, the ERC can apply penalties to DUs that do not conform to their regulatory obligations.

2.10.5 Contract language

The language for the contract will be English and all documentation, workshops, meetings and correspondence will be in English. That also applies to the proposal.

2.10.6 Governing law

The governing law for the contract will be that of the Republic of the Philippines.

2.10.7 Right to instruct utilities to award contract

The ERC reserves the right to instruct the DUs to enter into a contract with any Expert and, beyond providing the information described in section 2.9, is not obliged to explain its decision.

The ERC also reserves the right not to instruct the award of the contract, or to alter the scope of work of the contract that will be awarded, after renegotiating this with the successful Expert. This situation may typically arise following instruction from government or the courts, or from significant changes to the reset process.

2.11 Confidentiality

Under no circumstance will the Expert be allowed to divulge any information obtained from any Distribution Utility or the ERC for the purposes of this assignment to any outside party, other than with the express, written permission of the ERC or the utility involved.

2.12 Conflicts of interest

Experts are to confirm that there are no existing or potential conflicts of interest that will arise out of this assignment. Details of assignments done in the past year for the Distribution Utilities in question, or expected over the next year, should be provided.[9]

2.13 Insurance

The Expert is required to provide the following minimum insurance policies that must remain current for the duration of the contract, and for which proof must be provided on request:

a) Professional indemnity insurance to a value of not less than US$ 500,000.

b) Workplace, third party and other insurance as required under the jurisdiction of the Expert's home country

2.14 Replacing key personnel

Experts are not allowed to replace key personnel identified in their proposal, unless compelling reasons exist for this and it is agreed to in writing by the ERC and the Distribution Utilities (which agreement will not be unreasonably withheld).

2.15 Prior use of Regulatory Experts

The ERC notifies all parties that it has employed the services of a project manager for the Regulatory Reset, including for the preparation of the Issues Paper and the Preliminary Position Paper. In addition, it has relied on inputs from the project manager in the preparation of this RFP. To date, these project management services have been contracted from PB Associates (but may be provided by another party in future, should the ERC so desire).

[9] These assignments would not necessarily be considered to be conflicts of interest, but the ERC needs to understand where the potential for conflicts, or the potential for perceptions of conflicts of interest exist.

The ERC wishes to state that this does not preclude PB Associates (or any PB company) from submitting a proposal for the assignment if it should wish to do so, as has been agreed with them prior to requesting them for assistance with this RFP. A proposal from PB Associates will therefore be considered along with all others received. It will be subject to exactly the same evaluation criteria described in section 5, and will be impartially evaluated without showing any preference. The project manager will not take any part in, or have any insight into, the evaluation process.

2.16 Cooperation with the ERC project manager

The expenditure review Expert's contract will be managed by its project manager on behalf of the ERC, and the project management duties will include leading regular progress meetings, the assessment and recommendation of progress payments, recommendation of intervention by the ERC when deemed necessary if progress is not satisfactory and regular liaison with the Distribution Utilities. The Expert will be expected to cooperate closely with the project manager.

3. SCOPE OF WORK

The scope of work for the Regulatory Reset Expert involved with the review of the Distribution Utility expenditure forecasts is described in the DWRG, the Issues Paper and the Preliminary Position Paper. It is therefore essential that all parties are familiar with these documents before submitting their proposals.

A summary of the work required is described below. It should be noted that this description provides an indication of the work required under this project, but is not intended to be exhaustive. Experts have to consider the required outputs and include all further activities that may be required to successfully deliver these.

3.1 Outline description of the Distribution Utilities

In order to gain a general understanding of the likely scope of the work involved, Experts may wish to consider the following statistics related to the Distribution Utilities for which the expenditure forecasts are to be reviewed. If further information is required, it is the responsibility of the Expert to collect that prior to submitting their proposals.

3.1.1 CLPC

Franchise area	:	Cotabato City & Portions of the Municipalities of Sultan Kudarat & Dinaig in Mindanao
Customers served	:	26,911 (December 31, 2006)
Size of franchise area	:	191.20 sq.km.
Energy sold	:	114,302.35 MWh (2005)
Maximum demand	:	21.384 MW (2005)
Bulk supply points	:	TransCo Nuling Substation located at Pinaring, Sultan Kudarat
Major substations	:	2 Substations - 12 MVA located at CLP Compound, Sinsuat Ave., Cotabato City & 15 MVA located at Salimbao, Sultan Kudarat
Subtransmission line length	:	4 km. (December 31, 2006)
Distribution line length	:	217.82 circuit km. (December 31, 2006)
Appraised value of asset base at last filing	:	*January 11, 2002*
Cost of Reproduction New	:	PhP1,073,734,200
Sound Value	:	PhP427,785,700
Capital expenditure (2007)	:	PhP ***(to be provided by utility)***
Operating & maintenance expenditure (2007)	:	PhP ***(to be provided by utility)***

3.1.2 ILPI

Franchise area	:	Iligan City in Mindanao
Customers served	:	44,203 (January 2007)
Size of franchise area	:	no less than 813.37 sq.km.
Energy sold	:	169,797.11 MWh (2005)
Maximum demand	:	33.248 MW (2005)

Bulk supply points	:	Pala-o Metering Point in Pala-o, Iligan City, Kiwalan Metering Point in Kiwalan, Iligan City, & Overton Metering point in Ma. Cristina, Iligan City, all in the Island of Mindanao
Major substations	:	2 Substations located in Pala-o & Kiwalan
Subtransmission line length	:	12.1 km.
Distribution line length	:	434 circuit km.
Appraised value of asset base at last filing	:	(figures from appraisal report as of June 30, 2003 under the recently filed Rate Case docketed as ERC Case No. 2007–034 RC)
Cost of Reproduction New	:	PhP557,057,400
Sound Value	:	PhP296,938,300
Capital expenditure (2007)	:	PhP ***(to be provided by utility)***
Operating & maintenance expenditure (2007):		PhP ***(to be provided by utility)***

3.1.3 MECO

Franchise area	:	Lapulapu City and Municipality of Cordova
Customers served	:	54, 516
Size of franchise area	:	7, 693.46 hectares
Energy sold in 2003	:	169,543,456 kWh
Maximum demand (2003)	:	35,522 MW
Bulk supply points	:	4
Substations	:	3
Subtransmission line length	:	2.461 circuit km
Distribution line length	:	172 circuit km
Appraised value of asset base at last filing	:	1999
Cost of Reproduction New	:	PhP 372,445,000
Sound Value	:	PhP 295,303,000
Capital expenditure (2007)	:	PhP ***(to be provided by utility)***
Operating & maintenance expenditure (2007):		PhP ***(to be provided by utility)***

3.2 Technical component

The technical scope of the work required for this project is as follows :

a) An analysis by the Regulatory Reset Expert of the capital expenditure forecasts of the three distribution utilities for each year of the Second Regulatory Period[10] as well as

[10] This is a four-year period commencing on April 1, 2009 and ending on March 31, 2013

the period April 1, 2008 to the start of the Second Regulatory Period, to determine whether the capital expenditure programme:

- has been fairly represented and that projects are realistically grouped together such that projects exceeding the individual reporting threshold[11] are reported as such;
- is based upon the best available prices (adjusted to PhP) obtainable from comparable international markets;
- is reasonably efficient from a design and implementation point of view;
- is likely to support the forecast growth in connections, co-incident peak demand and energy delivered, over the planning periods[12] envisaged for an optimised network configuration, providing reasonable but not excessive reliability levels;
- is sufficient to allow the Distribution Utility to achieve appropriate service performance levels;
- excludes expenditure that is not strictly necessary for the efficient provision of distribution services at appropriate reliability and service performance levels; and
- provides sufficient levels of detail to allow the above analysis to be effectively carried out, or where additional information is required from Distribution Utilities;

and a recommendation on the capital expenditure forecast for each Distribution Utility that should be approved by the ERC for the Second Regulatory Period.

b) An analysis by the Regulatory Reset Expert of the forecast asset disposal programs of the three Distribution Utilities, to determine whether:

- assets are generally only retired at appropriate stages in their life-span, after it has been ascertained that the further retention of such assets cannot be economically justified;
- where assets are prematurely retired, sufficient justification exists for this;
- the disposal value of assets are correctly forecast (based on the ODRC value of the assets);
- the forecast income from the sale of disposed assets, after accounting for the cost associated with the disposal of the asset, is realistic; and
- sufficient levels of details were provided to allow the above analysis to be effectively carried out, or whether additional information is required from Distribution Utilities;

and a recommendation on the disposal programme and income forecasts for each Distribution Utility that should be approved by the ERC for the Second Regulatory Period.

c) An analysis by the Regulatory Reset Expert of the operating and maintenance expenditure forecasts in relation to each Regulated Distribution System for each

[11] In terms of the DWRG, as revised in the Position Paper, any capital expenditure project exceeding a value of PhP 50 million or 30% of the total capital expenditure forecasted by a Distribution Utility for a regulatory year, should be individually described and justified.

[12] These planning periods are described in the Position Paper, as part of the guidelines for network optimization.

year of the Second Regulatory Period[13] as well as the period January 1, 2008 to the start of the Second Regulatory Period, to determine whether the forecast operating and maintenance expenditure:

- is reasonable and efficient;
- is likely to support the forecast growth in connections, co-incident peak demand and energy delivered;
- is likely to support Distribution Utilities to achieve appropriate service performance level targets;
- excludes expenditure that is not strictly necessary for the efficient provision of distribution services at appropriate reliability and service performance levels; and
- is provided in sufficient detail to allow the above analysis to be effectively carried out, or whether additional information is required from Distribution Utilities;

and a recommendation on the operating and maintenance expenditure forecasts for each Distribution Utility that should be approved by the ERC for the Second Regulatory Period.

In addition, forecasts for bad debts are to be analysed to determine whether these reflect a responsible approach to collections, consistent with a reasonable strategy for improving collections.

d) An analysis by the Regulatory Reset Expert of the taxes (other than corporate income tax), duties and levies expenditure forecasts in relation to each Regulated Distribution System for each year of the Second Regulatory Period[14] as well as the period January 1, 2008 to the start of the Second Regulatory Period, to determine whether:

- these forecasts are well-founded, based on past experience, or on well-justified expectations of future expenditure;
- only include expenditure that is strictly associated with the provision of Regulated Distribution Services; and
- sufficient information has been provided to allow the above analysis to be effectively carried out, or whether additional information is required from Distribution Utilities;

and a recommendation on the taxes, duties and levies expenditure forecasts for each Distribution Utility that should be approved by the ERC for the Second Regulatory Period.

e) Preparation and presentation to the ERC of a detailed work-plan and review guideline document in advance of the submission of expenditure forecasts by the Distribution Utilities. This review guideline document will be the subject of public consultation, to allow interested parties the opportunity to understand and to provide inputs into the expenditure review process.

f) Use and further development of the Microsoft Excel spreadsheet model prepared by the ERC to capture expenditure information, to allow the ERC to easily analyze the impact of changes to expenditure forecasts and to retain full records of the changes made. Potential changes to expenditure forecasts that will be explored by the ERC will include :

[13] This is a four-year period commencing on April 1, 2009 and ending on March 31, 2013

[14] This is a four-year period commencing on April 1, 2009 and ending on March 31, 2013

- increasing or decreasing operating and maintenance expenditure forecasts (in total or per specific item) by a set percentage;
- increasing or decreasing taxes (other than corporate income tax), levies and duties expenditure forecasts (in total or per specific item) by a set percentage;
- excluding parts or all of specific capital expenditure projects from the forecast expenditure; and
- modifying disposal forecasts.

g) Preparation and presentation to the ERC of a detailed report in which the findings of the Regulatory Reset Expert with regard to his/her analyses of the expenditure forecasts are presented. The report must also highlight any recommended amendments to the expenditure forecasts submitted by the Distribution Utilities, with the reasons for these recommendations.

h) Attendance of clarification meetings and explanatory public consultation sessions, at which time more information on the expenditure applications will be provided.[15]

i) Review of submissions received from utilities on the ERC's draft determination, to the extent to which these relate to the ERC's use of the expenditure review reports prepared by the Expert, and assistance in explaining and defending the recommended expenditure forecasts during the public hearing process that will follow rate applications and submissions by Distribution Utilities under the Regulatory Reset Process.

j) Maintenance of detailed documentation of the review process followed, utility data used, modifications made to utility data, the justification for these modifications, the benchmarking or alternative methodologies used to assess expenditures, data used in expenditure comparisons, and the justification for the final recommendations.

k) Conveyance of knowledge and skills in the reviewing of expenditure forecasts to ERC staff.

Eight paper copies of the review reports must be delivered to the ERC, as well as an electronic copy on compact diskette (in MS Word and MS Excel format). The ERC is also to be provided with the detailed spreadsheets containing the Expert's analyses. After final approval of the report by the ERC, three further copies of its report must be delivered to each Distribution Utility (paper and electronic format)

3.3 Non-technical component

PBR is being newly introduced to Distribution Utilities in the Philippines. This has some unique implications for the project, requiring further inputs and outputs as described below.

3.3.1 Understanding of the Distribution Utilities

a) Since the utilities have not submitted similar expenditure reviews in the past, the Expert will have to make allowance for the fact that they may still be on a learning curve and that some required information may not be immediately evident or available.

[15] It should be noted that in terms of the legal provisions under which the expenditure reviews are to be analyzed, there is no opportunity to conduct one-on-one discussions with the utilities. Any meeting with the utilities can be witnessed by Oppositors and the outcomes have to be formally recorded as evidence for the hearing process. The same applies to written enquiries and responses.

b) Historical expenditure forecasts were not prepared with optimised, efficient networks in mind. It may involve some additional effort in ascertaining whether the projects or programs applied for are in fact efficient.

c) It is essential to understand how the optimisation principles adopted by the ERC influences the capital expenditure programme.

Cooperating and coordinating with the Distribution Utilities forms part of the scope of work, within the constraints of the legal process associated with the hearing process. (See footnote 15.)

3.3.2 Close cooperation with the ERC and their project manager

Close coordination and regular liaison with the ERC Commissioners, project manager and staff will be an integral part of the scope of work. The Expert will also be required to prepare two-weekly progress reports, attend regular progress monitoring meetings and, from time to time, present progress reports directly to the Commissioners. Any important issues arising from the work should be brought to the attention of the ERC straight away, with suggestions for appropriate actions to address these. This may also require presentations to the Commissioners.

Meetings with ERC staff and presentations to Commissioners will adhere to the ERC schedules and procedures. Only in exceptional cases will requests for extraordinary Commission meetings be considered.

The ERC project manager or project staff should have full access to the working records of the Expert during the course of the project, and may also from time to time sit in on project meetings of the Expert and accompany the Expert on site inspections or meetings with the Distribution Utilities.

3.3.3 Conveying knowledge

As noted before, it is a key requirement of this project that knowledge about the assessment of expenditure forecasts is transferred to ERC personnel and that they get extensive hands-on experience in working with the Expert on this project. All activities related to this, including preparations, arranging and conducting of workshops or training sessions and providing training material, form part of the scope of work. (This includes possible travel, accommodation and subsistence to allow staff members to work at the Expert's office.)

3.3.4 Presentation and discussion of results

The ERC will in part base its draft and final determinations of the price control arrangements for distribution wheeling services on Expert's recommendations on reasonable expenditure forecasts. It is anticipated that the Distribution Utilities will wish to discuss these findings and they may also have queries about aspects thereof. As part of the scope of work, the Expert will have to be available to present the reports to the utilities and for follow-up discussions. The Expert should also be available for answering queries that may arise at a later stage (which could be answered from a remote location).

3.3.5 Public hearings after the price applications

The Distribution Utilities are scheduled to submit their rate applications for the Second Regulatory Period by May 26, 2008. Following this, there will be a series of expository hearings in the three franchise areas during June 2008, as well as a series of evidentiary hearings in the same areas during the July.[16] The evidentiary hearings provide opportunity for Oppositors and the ERC to cross-examine the utilities on their applications

[16] At this stage, the evidentiary hearings are scheduled for July 10 & 11 in Iligan City, July 14 and 15 in Cotabato City and July 24 & 25 in Lapu Lapu City. These dates are preliminary only and may be changed during the course of the reset process

and to obtain further information as required. The Experts are required to be present at the evidentiary hearings to obtain additional information about the revenue applications and to assist the ERC with the preparation of questions for the hearings.

Prior to (and possibly after) the evidentiary hearings, provision will be made for clarification meetings between the Expert and the utilities, to allow the Expert opportunity to discuss the applications directly with utility staff in a less formal setting. Oppositors and intervenors have the right to attend these meetings (although not to ask questions), and any information submitted during the meetings that have a bearing on the Expert's findings, have to be formally placed on record. These meetings will be arranged at the request of the Expert and will be held at the ERC offices in Manila.

3.3.6 Public hearings after the publication of the draft determination

Following the release of the ERC's draft determination on the price caps on September 26, 2008, submissions will be invited on these determinations. The closing date for submissions will be Octoberf 24, 2008. This will be followed by a next series of public hearings where the submissions will be discussed and further information may be collected. The Expert is required to be present for these hearings, as well as to assist the ERC in preparing for the hearings by commenting on the submissions received.[17]

3.3.7 Final updates of the expenditure review reports

Following the submissions on the draft determinations and the public hearings, the Expert will be required to update the expenditure review reports to take into account new information received (as deemed appropriate by the Expert). Final updated reports are to be provided to the ERC not later than

3.3.8 Travel, accommodation and security

The Expert is expected to provide all their own travel, visa (or entry permit) and accommodation arrangements. This will include travel to public consultation sessions which will be held in Iligan City, Cotobato City and Lapu Lapu City.

Due care should always be taken when visiting and travelling in the Philippines, and travelling around the outskirts and rural areas of Cotabato City especially is not advised. While the DUs will provide personnel to accompany the Expert(s) during visits to these three centres, any additional security arrangements required will be to the account of the Expert.[18] (Note that the ERC does not accept any responsibility for the security or wellbeing of the Expert(s) during or after the execution of this project.)

3.3.9 Preparation of contract documents

It will be the responsibility of the successful Expert to prepare the contract for the project (which will be in accordance with that described in the RfP and offered in the proposal).

[17] The hearings are currently scheduled for November 4 (CLPC), November 7 (MECO) and November 11 (ILPI) 2008 and the three centers of the utilities. These dates are provisional.

[18] For the hearings, it is foreseen that the Expert will fly into and out of Cotabato City and that accommodation will be provided inside CLPC's compound.

4. EXPERTISE REQUIRED

In this section, the required expertise and experience of the Expert and the proposed project team is described.

All this expertise and experience does not necessary have to revolve in a single party, but could be offered by the combined team. It is however essential that each team member is experienced and capable in the segment of the work with which he/she will be involved.

4.1 Technical expertise

In terms of the RDWR, as amended in the Issues Paper and the Preliminary Position Paper, the following minimum technical requirements must be met by the Expert.

Distribution system design, construction, maintenance and operation, load flow modelling and distribution network benchmark service performance

Have experience in:

a) Electricity network load flow modelling;

b) Design, construction and maintenance of electricity distribution networks, including project cost estimation, project planning, cost control and network constraint elimination;

c) Measuring and monitoring electricity network performance;

d) Design and/or augmentation of electricity networks for reduced line losses; and

e) Electricity network performance monitoring and benchmarking against overseas distribution entities.

Have:

f) Qualifications in Engineering; or

g) Other qualifications relevant to the matters referred to above.

Professional qualifications

Where a person is required to have qualifications in Accounting, that person must be registered as a certified public accountant under the Revised Accountancy Law (Presidential Decree No.692) who possesses the independence as defined in Part II Section 14 of the Code of Professional Ethics for Certified Public Accountants as promulgated by the Board of Accountancy and approved by the Professional Regulation Commission.

Where a person is required to have qualifications in Engineering, Economics or Business or Commerce, or as an Actuary, that person must have:

a) have graduate or post graduate qualifications in that discipline from a reputable Philippines or overseas university, with demonstrable experience of having worked in that field for three years or longer; or

b) be a member of a professional institute in the Philippines or an overseas jurisdiction which represents that discipline, with a grading according to the rules of that institute that is higher than entry or training level.

Notwithstanding the above, the ERC may decide to appoint a Regulatory Reset Expert who does not comply with these requirements for professional qualifications, where it has been proven to the satisfaction of the ERC that the Reset Expert has more than 10 years demonstrable professional experience in the relevant discipline that is directly relevant to the service to be rendered.

4.2 Understanding of the physical and the regulatory environment

For the success of the assignment and the ability to complete it within the required timeframes, the ERC considers that some of the RDWR criteria above have to be further strengthened. It therefore requires Experts to demonstrate :

a) understanding of the role that expenditure forecasts plays in this regulatory environment;

b) extensive experience in analysing Distribution Utility expenditure forecasts for regulatory purposes;

c) good understanding of the environment in which the private Distribution Utilities in the Philippines operate, the level of skills and quality of information likely to be encountered and the operational and cash-flow restrictions that these utilities face;

d) the trade-offs that exist in developing economies like that of the Philippines with regard to capital and operating expenditure and the impact this has on expenditure patterns; and

e) the physical environment in which distribution networks are erected and the use that they are subjected to.

4.3 Communication skills

Close cooperation with the Distribution Utilities and the ERC, the ability to communicate well, and the ability to effectively convey information are cornerstones of this assignment. As such it is imperative that the Expert demonstrates experience of:

a) having worked extensively and successfully in environments where English is a secondary language, and an ability to ensure understanding and effective communication in such environments also in the manner in which reports are written;

b) having worked extensively and successfully in developing countries, and an understanding of how that impacts on the working environment, understanding of the concepts involved, decision-making and communication; and

c) the ability to present information effectively at Commission or Board level, and during public hearings.

5. EVALUATION CRITERIA

5.1 The process

In evaluating the proposals received, the ERC will consider the factors noted below, with the weightings indicted attached to each. The evaluation process that will be followed will be as follows :

1) The experience and reputation factors will be considered on its own. Proposals not sufficiently demonstrating such experience, will not be further evaluated.
2) The experience and reputation factors will be rated and scored for each qualifying proposal, as described below. The scores will be summed to give a total for this section and the top eight proposals will be selected for further evaluation.
3) The technical factors for the eight remaining proposals will be rated and the scores calculated (in the same manner). From this process, the four top ranking proposals will be selected (based on adding the scores for the technical and experience factors).
4) For these last remaining proposals, the ranking against all remaining factors will be done. The total score per proposal will then be calculated.
5) The highest scoring proposal will be the preferred option for the project.

Since electronic submissions will be acceptable and the format of the proposals is not prescriptive, the ERC will not require the experience, technical and price parts of proposals to be submitted separately.

5.2 The evaluation factors and weighting

Experience and reputation factors (total weight 35%)

Factor considered	Weighting
Experience of reviewing expenditure forecasts in a PBR setting and demonstrated success at this	10%
Experience of working for regulators and/or regulated entities in similar regulatory environments	10%
Composition and technical expertise of team offered	5%
Understanding of the physical and social environment and demonstrated communication ability	5%
Acceptability to the regulated Distribution Utilities (see note 1 below)	5%

Technical factors (total weight 25%)

Factor considered	Weighting
Methodology proposed (also demonstrating understanding of the RDWR and subsequent papers)	15%
Ability to meet required timeline and offer back-up	7.5%
Comprehensiveness of offer	2.5%

Price and commercial factors (total weight 25%)

Factor considered	Weighting
Offer price	20%
Commercial terms and form of contract offered	5%
Terms and cost for scope changes	5%

Other factors (total weight 10%)

Factor considered	Weighting
Proposed working set-up in the Philippines	5%
Knowledge transfer	5%

Note : (1) As effective cooperation with the Distribution Utilities will be essential for the success of the project, the ERC intends to seek and acknowledge their inputs and preferences for an Expert and in particular past experience they have had working with the Expert.

In situations where the top proposals are ranked very closely (within 2.5% apart), the ERC may consider the following additional criteria :

d) Reputation or company brand

e) Responsiveness of the Expert

f) Quality of the proposal (thoroughness, care in presentation and clarity)

5.3 Calculating the scores

To score an evaluation factor, a rating of 0 to 5 will be allocated to it, based on the judgement of the ERC after considering the requirements discussed in the earlier sections of this Request for Proposals. A higher value will indicate better performance. Where allocations have to be made for a factor that is not suitable for a qualitative rating, for example the price offered, the allocation will be based on a ranking of the proposals received for that factor.

A score will be determined for each factor, based on the product of its weighting and the rating (as a percentage out of 5) allocated by the ERC. The total score for a proposal will be the sum of the scores for the factors.

5.4 Non-involvement of the project manager in the evaluation

The ERC notes that their (external) project manager may help the ERC to prepare evaluation spreadsheets and to clearly define what would be considered in rating each evaluation factors. However, once the framework is in place, the project manager will not be involved in the evaluation of the proposals or in any correspondence with Experts until the preferred Expert has been identified by the ERC, and will also not in any way advise or influence the ratings applied by the ERC. The evaluation and identification of the preferred Expert will be handled by Commissioners and internal ERC staff only.

5.5 Grounds for rejecting proposals

The ERC notes that, despite its total score, the following factors will be considered grounds for out-of-hand rejection of a proposal:

a) omitting to describe any one of the required aspects of the proposal listed in section 2.3 above;

b) attempts by an Expert or any party engaged by or related to an Expert to bribe or influence any official of the ERC or the regulated Distribution Utilities with regard to the award of this contract;

c) evidence of untruths or unjustified embellishments in a proposal;

d) evidence of collusion between any Expert and an ERC staff member with regard to this project;[19]

e) failing to offer a fixed price;

f) commercial terms that are unacceptable to the ERC; and

g) failure to adhere to the conditions of this RFP.

[19] Please note section 2.15. To avoid any doubt, the ERC notes that the existing professional relationship between the ERC and PB Associates is not considered to constitute collusion.