

Comments on the Proposed Timeline for Full Retail Competition

Paragraph / Concerns	Proponent	Comment/s and/or Question for Clarification	ERC Remarks
General Comment	NASECORE	In light of the well-publicized MERALCO letter to Pres. Gloria Macapagal-Arroyo declaring their customers with at least 1 MW and above power requirement as open to any electricity supplier, may we request the Honorable Commission to officially accept this declaration of MERALCO, and make available the names and addresses of these customers in the ERC website? We believe the EPIRA condition on NPC privatization will be duly hastened if the Honorable Commission will consider our request.	May be considered

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	SOLID Cement Corp	<p>SOLID is deeply interested in the proposed timeline for Full Retail Competition for the following reasons:</p> <ol style="list-style-type: none"> 1. SOLID seeks to reduce energy bills and ensure uninterrupted supply for such a large consumption, and one way in this direction is to source more of its energy requirements from external sources, but only if these sources are more cost-effective than if it were to generate its own power, and if SOLID is given the flexibility to seek out and designate these external cost-effective plants. With the delay of Open Access, which presents SOLID with the ability to choose its power sources, SOLID will not be able to take appropriate steps in this direction. SOLID is thus very keen on being clarified as to the status of Full Retail Competition so that it can properly plan for the coming years. 2. It cannot be denied that SOLID, and other heavy power consumers, were encouraged when MERALCO volunteered to allow partial Open Access for 1 MW and up consumers to seek out alternative power generators within MERALCO's franchise, as could be gleaned from the very public and headline-grabbing declaration of MERALCO to this effect. SOLID is thus keen to know if the proposed timeline will take this into consideration, or what the Honorable Commission will do to facilitate and put into operation MERALCO's offer, or what impact will the delay on Open Access have on such offer. 	<ul style="list-style-type: none"> - ERC to set a more definitive timeline after hearing reports of agencies during the public consultation - ERC is awaiting submission of MERALCO

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PEMC as central registry body for retail competition	PEMC	We suggest the formation of a technical working group with representation from the industry to facilitate and provide guidance on the development and implementation of full retail competition.	<p>ERC to just reconvene the UBP TWG <i>Who are the members? What are the tasks of this TWG.</i></p> <p>The members of the TWG are:</p> <ol style="list-style-type: none"> 1. PEPOA 2. PIPPA 3. DMC 4. Meralco 5. Philreca 6. PEMC 7. NPC
		We seek clarification as to whether PEMC as central registry agent will also facilitate settlements in addition to managing enrollment and switching of end-users in the contestable market.	<p><i>Is my understanding correct that the Suppliers will be responsible for settlements? If not, who does this?</i></p> <p>Yes, suppliers will be responsible for settlements with their customers. PEMC, however, shall make sure that there would be no problem with settlements resulting from customer switching.</p>

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		<p>We seek the Commission’s guidance on the development of the proposed enrollment and switching facility through the provision of the following:</p> <ol style="list-style-type: none"> a. Preparation of terms of reference. This includes the scope of the infrastructure to be developed, project timeline, design details, technical proposals, commercial and financial conditions and other pre-requisites. b. Establishing project coordination mechanisms between PEMC and the Commission for purposes of coordinating all related activities leading to the establishment of the infrastructures. c. On the basis of the terms of reference, PEMC will submit a detailed implementation plan for approval of the Commission. 	<p>- TOR being drafted <i>What is our timeline for this TOR?</i></p> <p>We met with PEMC last week re their new role as central registration body. As a result of that meeting, they asked for a TOR. We expect to finish the draft TOR by June. I intend to get technical advice though from consultants like our Texas and Victoria counterparts for the scope and details.</p>
Contractual Relationships	TransCo	<p>Energy supply of the Customer should be through the WESM or a bilateral contract with Generators or Energy Supply Aggregators.</p> <p>As in the WESM, the provision of metering equipment and services to the Retail Open Access Customer should be a contestable business among TransCo and other ERC-authorized MSP’s. The DU should be dis-allowed to be the MSP for the Retail Open Access Customer within its Distribution System.</p> <p>Also as in the WESM, TransCo may likewise be designated by ERC as the default MSP for the Retail Open Access.</p> <p>Will the Retail Open Access Customers likewise become direct TransCo customers, or will the present practice with the DU’s be maintained?</p>	<p>- not in TransCo’s charter. As per policy of the Commission, the DU shall still provide the metering services in the initial stage of retail competition</p> <p>- not direct customer of TransCo</p>

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		<p>With multiple suppliers and service providers serving the same customer, the Retail Open Access Rules should define which entity will perform Billing, Settlements, and Collection for the various deliverables and services such as Energy Supply, Transmission Service, Ancillary Service, System Operations, Distribution Service, Metering Supply and Services, etc.</p>	<p><i>This is suppliers' role, right? For those not through supplier, then the customer pays directly based on the DU's meter?</i></p> <p>Yes, this is suppliers' role. Contestable customers will either be with a RES or Local RES.</p>
<p>Revenue Metering Equipment and Services for Retail Open Access</p>	<p>TransCo</p>	<p>For the customers to maximize the benefits under the Retail Open Access, the revenue metering facilities of these customers must be able to support the type of TOU Billing Scheme of NPC. Minimum requirements:</p> <ol style="list-style-type: none"> 1. Electronic meters that have the capability to store time-tagged meter data of delivered energy (kWh and kVARh). 2. Use of the time-tagged meter data to derive the billing determinants for energy delivered. Though not absolutely necessary for Retail Open Access as in the WESM, an AMR System is the most efficient and cost-effective way to retrieve the time-tagged meter data from a large number of metering points to be covered by the Retail Open Access. <p>With these meters and the AMR System, the revenue metering requirements of the Retail Open Access can be more than adequately satisfied.</p>	<p><i>Noted</i></p>
<p>Request for clarification on the Requirement for Due Notice and Public Hearing</p>	<p>MERALCO</p>	<p>We would like to seek clarification from the Commission on the manner by which it intends to comply with the requirement of the Implementing Rules and Regulations (IRR) of the EPIRA that ERC shall declare the initial implementation of open access only after due notice and public hearing. ("The ERC shall, after due notice and public hearing, declare initial implementation of Open Access...", Implementing Rules</p>	<p>- ERC shall hold public hearing prior to the set date - <i>What will the hearing determine?</i></p> <p>Just to put everyone on the same</p>

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		<p>and Regulations of RA 9136, Rule 12. <i>Retail Competition and Open Access</i>, Section 3. <i>Conditions for Declaring Initial Implementation of Open Access.</i>)</p> <p>From the proposed timeline, Retail Competition and Open Access shall commence by July 1, 2007 and the Commission shall promulgate all the remaining Rules necessary for the implementation of retail competition on or before December 15, 2006. We would like to clarify if this would mean that the public hearing would be conducted during the six-month period from December 31, 2006 to July 1, 2007. In addition, we would like to inquire as to how this process will be carried out and what will the hearing seek to determine.</p>	<p>page regarding the final schedule for the commencement of retail competition and open access.</p> <p>Yes</p>
<p>Background paragraph 4</p> <p>The privatization of at least seventy percent (70%) of the total capacity of NPC's generating assets in Luzon and Visayas, was projected to be completed by PSALM by the end of year 2005.</p>	<p>NASECORE</p>	<p>We believe the bigger obstacle that will hinder the initial implementation of retail competition is the privatization of at least 70% of the total capacity of NPC's generating assets in Luzon and Visayas.</p> <p>The success in the privatization of NPC's generating assets in Luzon and Visayas are greatly dependent on the entry of prospective buyers of these assets. These prospective buyers are perceived as hesitant in submitting their respective bids because of the absence of a market that they can target. Unless this problem is resolved, the privatization of at least 70% of NPC's generating assets in Luzon and Visayas will not happen as positively projected.</p>	

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	SOLID Cement Corp	SOLID has observed that the lack of progress on the sale of NPC assets is due to the positioning of the various interested players in the power sector, namely, NPC, private investors, off-takers, distributors and utilities. Significantly therefore, SOLID is keen to know what this Honorable Commission and the power sector players for that matter will do in order to break this deadlock.	ERC is facilitating the signing of TSCs
<p>Background paragraph 6</p> <ul style="list-style-type: none"> The transfer of the remaining NPC - IPP contracts to IPP administrators was scheduled to commence through public bidding once WESM commences its commercial operation; 	NASECORE	We believe this may be accomplished before July 2007 for as long as the bidding rules are fair and the bidding process transparent.	c/o PSALM
<p>1. Retail Competition and Open Access shall commence by July 1, 2007 in the Luzon main grid with the contestable market to consist initially of electricity end-users with a monthly average peak demand of at least one megawatt (1MW) for the twelve month period immediately preceding the open access date;</p>	NPC	<p>No clear mention when WESM shall commence considering that this is the first condition set in the EPIRA as precedent to the commencement of Open Access.</p> <p>If Retail Competition and Open Access are to commence by July 1, 2007, then it should be a MUST that the WESM should likewise commence by July 1, 2006, at least 1 year before open access to provide all concerned with ample time for preparation for everything needed to ensure smooth transition to open access.</p>	<p>- not turf of ERC; DOE's - regulatory filings only w/ ERC</p>

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<p>3. Beginning July 1, 2011, if the ERC determines as realistic, the contestable market shall cover end-users at the household level. Aggregation of demand shall be allowed, regardless of whether end-users are within a contiguous area or not.</p>	<p>First Gen</p>	<p>The proposed Timeline authorizes the ERC to reduce the threshold for the contestable market to household levels by July 1, 2011, if it determines the same to be “realistic”. This means that from July 1, 2009 when the threshold is reduced to 750kW from 1 MW, 2 years will have elapsed before households will be deemed to be contestable. The 2-year period is inordinately short to bring down the contestable market to household levels.</p> <p>In addition, the EPIRA mandates a yearly evaluation by the ERC of “the performance of the market” to enable it to “<u>gradually</u> reduce the threshold level until it reaches the household demand level.” [Underscoring supplied]</p> <p>Further, the standard used in the proposed timeline, i.e., “realistic”, seems overly broad and, we believe, is not an objective criterion.</p> <p>Finally, the last sentence of this section allows aggregation of non-contiguous end-users but is unclear whether such aggregation can only be made when the contestable market threshold reaches household levels or immediately on July 1, 2011 regardless of market conditions.</p> <p>We suggest that, consistent with EPIRA’s mandate, the reduction in threshold levels for the contestable market be gradual. Every 2 years, the threshold can be reduced by 250 kW until household levels are reached.</p> <p>To ensure, however, that the reduction matches the development of the market, the ERC should perform a yearly evaluation to determine whether the scheduled reduction is warranted.</p> <p>We suggest, further, that the determination by ERC of the appropriate reduction in threshold levels be made on the basis of clearly identifiable or objective standards. Such standards can include availability of metering service providers and retail electricity suppliers to households to fully reap the benefits of retail competition.</p> <p>Finally, we suggest a clarification of the language of the last sentence</p>	<p>The phrase “if it determines as realistic” includes evaluation of the performance of the market. If performance is not indicative of an effectively functioning market, then the 3rd threshold will be suspended or delayed.</p> <p>Standards shall be developed by ERC prior to open access <i>What is our timeline for this?</i></p> <p>8</p> <p>We shall target the establishment of these standards within the first semester of 2007</p>

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	NPC	<p>EPIRA stated that 2 years after initial implementation of Open Access, the threshold level for the contestable market shall be reduced to 750 kW. Subsequently and every year thereafter, the ERC shall evaluate the performance of the market. On the basis of such evaluation, it shall gradually reduce the threshold level until it reaches the household demand level.</p> <p>The proposed Timeline provides that after 2 years, from July 1, 2009 to July 1, 2011, if ERC determines as realistic, the contestable market shall cover end-consumers at the household level.</p> <p>The two provisions seem to contradict.</p> <p>Should the proposed Timeline be supported with a Congressional approval considering the proposed changes therein not consistent with the EPIRA timeline provisions for WESM and Open Access?</p>	Not inconsistent – “realistic” based on evaluation to be made annually
4. The ERC shall separately determine the timetable for Retail Competition and Open Access in the Visayas and Mindanao grids.	KEPCO	<p>Why is there a separate timetable for Luzon and Visayas when Section 31(d) of EPIRA refers to privatization of at least 70% of the total capacity of NPC’s generating assets <u>in both Luzon and Visayas</u>? Moreover, the EPIRA requirement in Section 31(e) regarding transfer of the management and control of at least 70% of the total energy output of power plants under contract with <u>NPC to IPP Administrators</u> refers to IPP contracts in all of Luzon, Visayas and Mindanao.</p>	Because generation capacity in Visayas is tight; competition will not be made effective if there is limited supply

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<p>5. The ERC shall promulgate all the remaining Rules necessary for the effective implementation of retail competition on or before December 15, 2006, to wit: Business Separation Guidelines, as amended, Code of Conduct for Competitive Retail Market Participants, Uniform Business Practices, Guidelines for the Supplier of Last Resort, Competition Rules, and Guidelines on Metering. Further, the ERC shall complete evaluation of all pending BSUP applications in Luzon on or before December 31, 2006.</p>	<p>MERALCO</p>	<p>We recognize and appreciate the ERC's efforts to provide a reasonable amount of time for electric industry participants to understand and to comply with all the rules necessary for the successful implementation of retail competition. However, we would like to reiterate the concern, which we expressed during the August 2004 consultation on the retail competition guideline, that some guidelines that should come with the initial implementation of open access have not been considered in the new proposed timeline.</p> <p>Aside from the Commission's 'seven pillars' and metering guidelines, we are recommending that the promulgation of rules on the following matters should be included in the timeline to retail competition:</p> <ul style="list-style-type: none"> • Rules for Contestability. Presently, we have only the law to guide us in terms of who may participate <i>initially</i> in the contestable market. However, EPIRA does not adequately cover other possible scenarios for 1MW and larger customers to gain (or maybe even lose) contestability. • Aggregation Guidelines. Because EPIRA mandates that aggregated loads may be part of the contestable market two years after the initial opening of retail competition, it will be necessary to ensure that any regulations promulgated for the initial opening of the market will also be workable within an aggregated environment. • Stranded Cost Filing and Recovery Guidelines. As we had indicated last August 2004, because DU's must file for stranded cost recovery within one year from the start of open access (and the ERC must act on the filings within three months of their submission), the promulgation of such guidelines as soon as practicable will allow all concerned parties sufficient time to comply with the deadlines set by law. <p>The ERC may also need to address possible changes in DU's regulated tariffs to contestable customers. For example, the amortized recovery of some pass-through costs of DU's, e.g., transmission charges, system loss charges, true-up of the inter-class subsidies, franchise taxes, etc. may overlap with the initial</p>	<p>On going <i>What is our timeline?</i></p> <p>Aggregation will be allowed only 2 years after commencement of initial phase. Said Guidelines is expected to be promulgated within the first year of retail competition and open access.</p> <p>ROS to do this <i>What is our timeline?</i></p> <p>ROS must start drafting this so it will be ready for promulgation by first semester next year, prior to start of open access.</p> <p style="text-align: right;">10</p>

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	NPC	All the remaining Rules mentioned under this item should be subjected to a public consultation so that comments/inputs from concerned and interested parties may be considered before finalization of the same.	Definitely
7. The ERC resolves to construe that the seventy percent (70%) of the total capacity of generation capacities in Luzon and Visayas shall refer to rated capacities as of date of this resolution.	KEPCO	What is the rationale behind the Commission’s resolution to construe that the EPIRA requirement to privatize at least “70% of total capacity of generation facilities in Luzon and Visayas” shall refer to “rated capacity” instead of “dependable”?	<p><i>Please provide reason. Difference between installed, rated and dependable definitions.</i></p> <p><i>Rated capacity is synonymous with name-plate or gross capacity; Dependable capacity is contingent on operating conditions within a certain period; Installed is the sum total of the rated capacities of all generating units in a given area or as owned by a company.</i></p> <p><i>In our 2004 Resolution, we stated that the 70% shall refer to name-plate ratings. However, there is now confusion as to basis since Com. Butalid said one time that relative to the Guidelines on Installed Capacity, the basis for the 70% is the dependable capacity, subject to the annual submission of generating plants.</i></p>

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	MERALCO	We would like to seek clarification on the Commission’s decision to use “rated capacities” as the metric for determining the capacity of NPC's assets in Luzon and Visayas. We would like to inquire as to the rationale for the use of rated capacities, instead of installed capacities, for instance, in the measurement of <i>total generating capacity of generating assets</i> as stated in the EPIRA. (Republic Act 9136, Section 31. <i>Retail Competition and Open Access</i> , paragraph 1, item d)	
	NPC	<p>Who is the agency authorized to provide the appropriate interpretation on whether the 70% of the total NPC generation capacities for privatization pertains to “rated capacity” or “dependable capacity”?</p> <p>Clarification should be provided as to the proper basis for the determination of the 70% total capacity (rated or dependable). Should it be based on the existing capacities upon passage of the EPIRA or any point in time after its passage? Does Congress have a definite interpretation of the above issues being the author of the EPIRA?</p>	<p>ERC</p> <p>Guidelines on Installed Capacity – does it address this issue?</p>
8. The ERC enjoins all distribution utilities in Luzon to prepare for retail competition and open access, and for their full participation in the WESM.	NPC	Again there is mention of the WESM however, the Timeline is not clear about its target and fixed schedule of commencement.	
9. The ERC likewise enjoins NEA to develop and implement programs to prepare electric cooperatives for operating and competing under the deregulated electricity market in an	NPC	<p>Secton 31 of the EPIRA provides that “in the case of electric cooperatives, retail competition and open access shall be implemented not earlier than 5 years upon effectivity of the Act”. This specific timeline is likewise contained in Section 58 (Additional Mandate of the NEA)</p> <p>Given the fact that Open Access for market participants other than electric cooperatives (ECs) has slide by almost 3 years, the</p>	<p>- 2007 is 6 years upon effectivity of the Act</p> <p>- NPC is not the proper party to move; should be ECs</p>

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environment of Retail Competition and Open Access, pursuant to Section 58 of EPIRA and Section 3, Rule 3 of the EPIRA-IRR.		commencement of retail competition and open access covering the ECs should likewise moved by at least the same period of delay or at least 2 years.	
10. ERC further enjoins the TransCo and/or the authorized Metering Service Provider/s (MSP) in the Luzon main grid to install appropriate meters to comply with the WESM Rules on or before June 30, 2006.	TransCo	<p>Status of TransCo’s WESM Revenue Metering Project</p> <p>TransCo is designated by the WESM Rules as the default MSP for the initial operation of the WESM, but an ERC legal opinion says TransCo still has to obtain an ERC Certificate of Authority as WESM MSP. However, ERC has yet to issue the Guidelines for the issuance of such Certificate of Authority. Nevertheless, TransCo, in compliance with its mandate, has undertaken the following:</p> <ol style="list-style-type: none"> 1. Installation of complete revenue metering facilities, inclusive of instrument transformers, electronic meters, meter boxes, test blocks, and the telephone links for AMR connectivity for all NPC-owned power plants nationwide. 2. Upgrading of the revenue metering facilities of all directly-connected customers and IPP power plants to comply with WESM requirements by installing new, WESM-compliant, and AMR-ready electronic meters and the telephone links for AMR System connectivity. 3. Installation of an AMR System that can retrieve meter data from all metering sites of directly-connected Generators and Customers in Luzon, Visayas, and Mindanao for daily delivery to the Market Operator. <p>As of 02 May 2006, TransCo’s accomplishments in terms of installing the WESM-compliant meters and telephone links at the metering points of directly-connected customers are as follows:</p>	

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		<ol style="list-style-type: none"> 1. In Luzon, all 373 metering points for directly-connected customers with 3-Phase supply and with 1MW and higher capacities are already equipped with WESM-compliant electronic meters. Of this number, 341 have been provided with telephone links to the TransCo AMR System. The telephone links for the remaining 32 metering points will be installed by the end of May 2006. 2. In Visayas, of the 151 metering points for directly-connected customers with 3-Phase supply and with 1MW and above capacities, 149 are now equipped with WESM-compliant electronic meters, of which 55 are already provided with telephone links to the TransCo AMR System. 3. In Mindanao, of the 162 metering sites of directly-connected customers with 3-Phase supply and with 1MW and above capacities, 55 are now equipped with WESM-compliant electronic meters, for which the telephone links to the TransCo AMR System will be installed starting July 2006. 	
<p>11. The ERC hereby strictly enjoins the DOE, PSALM, Transco, PEMC, NEA, and concerned distribution utilities to submit a report to the ERC on a quarterly basis, as to the status of their preparations for the implementation of retail competition and open access.</p>	<p>NPC</p>	<p>It is suggested that “NPC” should likewise be specifically included in the list of agencies that needs to be enjoined by ERC. Though TransCo and NEA are both under the DOE umbrella, still the Timeline separately identified them as among the agencies that are being strictly enjoined by the ERC to submit a report. Should the Timeline do not specifically identify NPC as one of the agencies being strictly enjoined by the ERC to submit a report, then NPC should not be cited for non-compliance in case it would not be able to submit a quarterly report.</p> <p>The Timeline did not specifically indicate exactly when should DOE, PSALM, TransCo, PEMC, NEA and the concerned DUs submit the quarterly report. (commencement date)</p>	<p>PSALM is the one required to submit report to ERC</p> <p>- Because this requirement was already made in an ERC Resolution in 2004; this is just a reiteration</p>

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<p>Notes No. 1</p> <p>The commencement date of July 1, 2007 is still subject to the completion of the 70% privatization target for NPC.</p>	<p>NPC</p>	<p>One of the pre-conditions for Retail Competition and Open Access as provided for in Section 31 of the EPIRA is the approval of unbundled transmission and distribution wheeling charges.</p> <p>What is the status of the filing and approval of the proposed unbundled rates of all the distribution utilities in the Luzon grid? How about Visayas and Mindanao?</p>	<p>- to be reported during the pubcon</p> <p><i>Please obtain from ROS those that have not yet unbundled</i></p> <p>For evaluation: Bauan Electric Light System, Bohol Light Co., Inc. and DIELCO (Dinagat Island)</p>