



DAGUPAN ELECTRIC CORP.

DECORP

We energize your vision.

March 7, 2003

Energy Regulatory Commission
Pacific Center Building
San Miguel Avenue
Ortigas Center, Pasig City
Facsimile No: 634-8641, 631-7287, and 631-5879
E-mail Address: regulatory@erc.gov.ph



Attention: **Atty. Marina C. Bugayong**
Director, Regulatory Operations Service

Subject: **Draft Competition Rules, Competition Guidelines
and Complaint Procedure Rules**

Gentlemen:

We thank the Commission for giving us the opportunity to comment on the draft "Competition Rules, Competition Guidelines and Complaint Procedure Rules" and to participate in the public consultation scheduled thereon. Hereunder are the comments of the Dagupan Electric Corporation (DECORP):

1. As provided for in Sec. 23 of R.A. 9136 (Electric Power Industry Reform Act, "EPIRA"), to achieve economics of scale in utility operations, distribution utilities may pursue structural and operational reforms such as but not limited to joint actions between or among the distribution utilities. Furthermore, in Rule 7 Sec. 7 (a) of the Implementing Rules and Regulation ("IRR"), such reforms shall include, but not limited, to merger, consolidation, integration, bulk procurement and joint ventures.

Can this provision of the EPIRA be reconciled with the provisions on anti-competitive agreements and merger prohibitions of the draft Competition Guidelines?
2. Is it possible to put the Competition Rules, Competition Guidelines and Complaint Procedure Rules in just one document, say "Competition Rules and Regulation", as provided for in Sec. 45 of R.A. 9136 and Rule 11 Sec. 7 (c) of the IRR. Such will limit cross-referencing between documents, will improve the readability of the document and will avoid provisions like in 1.1.4 and 1.1.5 of the draft Competition Guidelines.
3. Delete "traders" in 1.2.2 of the draft Competition Guidelines. "Traders" is not defined in R.A. 9136 nor in its IRR. The IRR specifically defined those who can qualify in the 4 sectors of the Philippine Electric Power Industry (Rule 5 Sec. 2 (a) to (d), Rule 6 Sec. 2, Rule 7 Sec. 2, and Rule 8 Sec. 2 (b)).

4. Delete "their advisers" in 1.1.3 of the draft Competition Guidelines. "Advisers" may have no legal personality and may not be authorized to transact in behalf of the Electric Power Industry Participant.

DECORP hopes that the Commission will consider the foregoing concerns and we look forward to actively participating in the public consultation scheduled on March 19, 2003.

Very truly yours,

Dagupan Electric Corporation



Dave Andrew F. Opiso
Corporate Staff Engineer