



Market Surveillance Committee Research Paper on Possible Improvements to the Retail Market

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1.0 INTRODUCTION

The Retail Competition and Open Access (RCOA) is among the enhancements to the energy industry contemplated by the Electric Power Industry Reform Act of 2001, or more commonly known as EPIRA, to enable all eligible end-users that fall within the threshold set by the ERC on the determination of contestability of an electricity end-user, currently at 500kW and above, have the ability to choose their Retail Electricity Supplier (RES) for their electricity demand. This provides empowerment to the consumers and liberalizes their participation in the energy industry.

After a decade of effectivity, there were 1,984 Contestable Customers (CC) that switched to their respective chosen suppliers and were already registered in the market. This is equivalent to 61% of all eligible end-users who met the RCOA thresholds. In terms of threshold level per participants, a total of 1,256 registered CCs were under the 1MW and above, 426 registered CCs under the 750-999kW, and 302 registered CC under the 500-749kW threshold – this is a new threshold implemented in February 2022 which allows further participation to the market.

On the other hand, the Green Energy Option Program (GEOP) provides end-users with a lower threshold of 100kW and above to choose a Renewable Energy Supplier (RE Supplier) who will provide 100% Renewable Energy (RE) generation as their source for electricity. As of November 2023, there were 271 total registered GEOP end-users in the market.

Both the RCOA and the GEOP offer significant benefits to electricity consumers. These programs introduce competition among Suppliers, creating an environment where suppliers endeavor to provide competitive rates and additional services as opposed to the regulated or captive rates of the respective distribution utilities, ultimately leading to potential cost savings for the consumers. One of the key benefits in participating in these programs is the freedom of consumer choice, allowing them to select their preferred electricity supplier based on various factors such as pricing plans, service quality, and environmental considerations. These allow consumers to align their energy consumption with available array of suppliers, as well as encourage a more consumer-centric and sustainable retail electricity market.

Following the successful commencement of commercial operations of the Wholesale Electricity Spot Market (WESM) in the Mindanao region, the Department of Energy (DOE) together with the Energy Regulatory Commission (ERC) are actively working towards further enhancing the energy landscape by introducing the Retail Market in the region. This endeavor encompasses the implementation of the RCOA and the GEOP. The establishment of a Retail Market represents the next significant step in the evolution of the energy sector in Mindanao. Unlike the WESM, which primarily serves as a platform for bulk electricity transactions among power generators, the Retail Market focuses on bringing competition and choice to end-users where WESM is operational.

Overall, the introduction of the Retail Market, along with the RCOA and GEOP, signifies a pivotal moment in Mindanao's energy landscape. It reflects the DOE and ERC's commitment in creating a more dynamic and diverse energy market, where consumers are not just passive recipients of electricity but active participants in shaping the future of the region's energy generation and consumption. This shift towards a competitive, sustainable, and consumer-centric energy sector holds the potential to drive economic growth, increase energy efficiency, and reduce the environmental impact of electricity production in Mindanao.

An initial study was conducted by the Market Surveillance Committee in 2021 to look at status of implementation of the RCOA in the Philippines vis-à-vis the objectives of the EPIRA. This paper further looks into other areas of improvement which may be introduced in the market to enable the full implementation of the legislation.

2.0 OBJECTIVE OF THE STUDY

This research aims to gather information on how other retail electricity markets are being operated and highlight these best practices which may be adopted as improvements in the Philippine retail market.

Similarly, this research paper aims to serve as a point of reference to address similar issues which were experienced in other jurisdictions in the course of the operation of their respective retail markets.

Furthermore, the paper likewise aims to address and resolve the outstanding concerns outlined in the Market Surveillance Committee (MSC) Issues Paper regarding the Retail Competition and Open Access (RCOA) Market published in 2021.

3.0 REVIEW OF OTHER JURISDICTION

In line with the objectives set for this study, it is helpful to look at the ways that various jurisdictions run their retail electricity markets to find insights into the best practices and legislative frameworks for the sector. This research will explore a variety of market aspects including competition, consumer choices, pricing structures, and sustainability. Singapore, New Zealand, Australia, and the United Kingdom are the nations that have been taken into consideration in this study, similar with the 2021 RCOA issues paper¹. The following are the important aspects that were considered in this research paper:

3.1 Market Structure and Deregulation

The implementation of wholesale electricity markets served as a crucial step in achieving a fundamental goal, which is the establishment of a fully deregulated electricity market. A fully deregulated market represents a significant departure from the traditional, highly regulated structure of the energy sector. This transition involves significant changes in the way electricity is generated, transmitted, and distributed, ultimately aimed at enhancing competition, improving efficiency, and delivering benefits to both industry participants and end-users.

A full deregulated market opens the door to a greater consumer choice. End-users, whether they are residential, commercial, or industrial consumers, have the freedom to select their electricity supplier from a range of options. This freedom empowers consumers to choose energy plans that align with their preferences and objectives, such as green energy or cost-effective pricing.

¹ MSC Issues Paper on RCOA Market:
<https://www.wesm.ph/downloads/download/TWFya2V0IFJlcG9ydHM=/MTMxMw==>

As of writing, both Singapore and the United Kingdom (UK) have successfully implemented a full deregulated electricity market, which represents a significant milestone in the evolution of their energy sectors, allowing all electricity consumers to choose and enter a supply contract with an electricity retail supplier. This transition from regulated or partially regulated electricity markets to fully deregulated ones signify a fundamental shift in the way electricity is generated, traded, and consumed, with notable implications for market participants and consumers.

Focusing more on the Singapore market, the achievement of full electricity market deregulation was fulfilled with the implementation of retail market that initially allowed businesses with high electricity demand or consumption to choose their retailer to supply electricity. Said privilege was likewise afforded to residential consumers which completed the transition to full deregulation.

With the implementation of the open electricity market (OEM) in 2018, it helped Singapore in fulfilling the full implementation of retail market. The OEM is an initiative aimed at liberalizing and enhancing the retail electricity market in Singapore. It introduced competition amongst the suppliers and choice for consumers in having the options to select their electricity retailer and pricing plans. Below is the timeline of implementation of the OEM:



Figure 1: Singapore Open Electricity Market Timeline²

There were two (2) major notable action plans that contributed to the successful implementation of OEM:

- a) **Phased Rollout:** The OEM was implemented in phases to ensure a smooth transition. The market was opened to businesses, followed by the extension to residential consumers. The phased approach allowed regulators and consumers to adapt gradually to the new market structure. Phases were based on the zonal locations of the consumers.
- b) **Consumer Education and Awareness:** Education and outreach programs were essential components of the OEM. These programs aimed to help consumers understand their choices, navigate the market, and optimize their electricity consumption. On the first

² Solar AI Technologies: 7 Top Benefits of the Singapore Open Electricity Market (OEM): <https://getsolar.ai/blog/introduction-to-open-electricity-market-oem-singapore/>

year of implementation, 96%³ of Singapore residents knew about the OEM initiative and 75% have responded after hearing about OEM. Based on latest survey results, as of April 2021⁴, majority (93%) were satisfied with the services provided by their retailer. Moreover, historical survey⁵ results provide that retailers were also published for ease of comparison and easier access to the consumers.

3.2 Consumer Choice

All jurisdictions considered in this research provided high regards on consumers' choice to participate in the retail market. This means that consumers have the option to select their preferred electricity retailer depending on the pricing plan and service arrangements.

Another form of consumer choice in the context of retail electricity market is going back to the regulated market. After initially selecting an alternative retail electricity plan or pricing structure, customers are freely given the choice to switch back to regulated/standard pricing arrangements. One that is not contemplated in the Philippine jurisdiction as of this writing since a certain reduction in load is set to be allowed to switch back to the regulated services.

Reversion or switch back to the regulated market is a feature that offers consumers flexibility and freedom in their energy choices. It acknowledges that consumer preferences and circumstances can change over time. By having the option to revert/switch back to regulated pricing, consumers can adapt to new situations or energy needs.

In Singapore⁶, the ability to switch back to purchasing electricity at the regulated rate is a unique provision that primarily benefits small businesses with less than a monthly average demand of 4,000 kWh and residential household customers. This specific policy reflects a carefully crafted approach to offer consumer flexibility and protection in the context of Singapore's OEM.

The Singaporean strategy considers the fact that various consumer segments have varying energy consumption needs. Small businesses that use less energy are more susceptible to changes in price on the open market. Giving them the option to go back to regulated pricing offers a safety net, ensuring that they will not have to pay excessively high electricity prices since returning to the regulated pricing is an option for those who prefer the consistency of regulated rates or may be in circumstances where it is more appropriate, rather than limiting choice.

³ Ibid.

⁴ Energy Market Authority: Consumer Satisfaction Survey ("CSS") Results: <https://www.openelectricitymarket.sg/dam/oem/wcm/pdf/about/EMA-OEM-CSS-Report-April2021.pdf?MOD=AJPERES&CVID=nB4-VgW&CVID=nB4-VgW&CVID=nB4-VgW&CVID=nB4-VgW>

⁵ The lead time of at least three months is to ensure consumers have sufficient experience with their retailer post-contracting to provide a fair rating.

⁶ Open Electricity Market: Switch Back to SP Group: <https://www.openelectricitymarket.sg/business/consumer-safeguards/switch-back-to-sp-group>

3.3 Pricing Mechanism

Among the four jurisdictions under review, it is worth noting that UK and Australian retail electricity markets have implemented price cap mechanisms as a means of regulating electricity prices. For UK, the Office of Gas and Electricity Markets (Ofgem) as their regulatory oversight has implemented energy price cap⁷ mechanism which is designed to protect consumers by limiting the maximum price that energy suppliers can charge for their standard variable costs or default tariff⁸ electricity plans. This mechanism was introduced to ensure that consumers are not subjected to unreasonably high electricity prices, especially when they are on these default tariffs.

When establishing the cap with the intention of safeguarding customers on default tariffs, Section 1(6) of UK's Domestic Gas and Electricity Act of 2018 mandates the participants to consider the following:

- a) the need to create incentives for suppliers to improve their efficiency;
- b) the need to set the cap at a level that enables suppliers to compete effectively for domestic supply contracts;
- c) the need to maintain incentives for domestic customers to switch to different supply contracts; and
- d) the need to ensure suppliers who operate efficiently are able to finance their license activities.

The price cap is reviewed every three months to account for changes in both inflation and the underlying costs. It should however be noted that the only eligible consumers to this mechanism are those who pay by Direct Debit, standard credit, prepayment meter, or who have Economy 7 (time-of-use) meter.

For the Australian retail market, the default market offer (DMO) as a price cap mechanism was set by the Australian Energy Regulator (AER) and became effective on 1 July 2019. The DMO serves as a benchmark or reference price for retail rates, and it is designed to ensure that consumers who do not actively shop around for electricity plans are not charged with unreasonably high prices. The DMO sets a maximum price that electricity retailers can charge customers on standing offers. These standing offers are often the default or basic electricity plans that consumers are placed on if they do not actively choose a specific electricity retailer or plan.

Retailers must offer DMO contracts to eligible customers. These contracts have price and contract terms set in accordance with the DMO price cap. Residential customers and small business customers with annual electricity consumption below a specified threshold are eligible for the DMO. Below is the DMO 4 (2023-2024) per customer annual price determination.

⁷ Ofgem, Energy Price Cap: <https://www.ofgem.gov.uk/energy-price-cap>

⁸ Ofgem Decision: Default tariff cap: https://www.ofgem.gov.uk/sites/default/files/docs/2018/11/decision_-_default_tariff_cap_-_overview_document_0.pdf

Table 1: DMO 4 Per-customer Annual Price Determination (all prices GST-inclusive)

Distribution Region	Annual Residential Price without Controlled Load	Annual Residential Price with Controlled Load	Small Business Annual Price
Ausgrid	\$1,512	\$2,122	\$4,360
Endeavour Energy	\$1,836	\$2,383	\$3,782
Energex	\$1,620	\$1,961	\$3,782
Essential Energy	\$2,092	\$2,490	\$4,901
SA Provider Networks	\$1,840	\$2,275	\$4,539

Household customers transitioning from the DMO 4⁹ rate to the median market offer could benefit savings ranging from \$294 to \$443, depending on their network region. Similarly, small business customers could potentially save between \$733 and \$1,308. The AER determines and annually calculates the DMO price to reflect changes in market conditions of the wholesale electricity prices, network costs, and retail costs.

The price cap mechanism is implemented as safeguard to both residential and small business customers especially to those who did not actively switch to a different tariff or supplier. The price cap prevents energy suppliers from charging these customers excessively high prices. Thus, it serves as a reference point for comparing electricity prices, provides transparency, and enables consumers to assess the competitiveness of electricity plans in the market.

On the other hand, in Singapore, customers may also purchase electricity from a retailer of their choosing at a rate schedule that best meets their electricity requirements. Customers can choose between standard and non-standard pricing plans¹⁰. Under the standard plan, a contract length of either 6 months, 12 months, or 24 months, price plans provide all-inclusive electricity rates. Standard price plans' electricity rates are flat for the duration of the contract and do not include any additional fees or recurring charges. On the other hand, in a non-standard price plan, the electricity rates might not be all-inclusive and might change over the course of the contract in accordance with its terms and conditions. Retailers are free to choose the pricing structure and length of the contract, and they may also include recurring charges or fees.

Lastly, in New Zealand, they do not implement a price cap or directly regulate prices under their retail electricity markets in the same manner as Australia and UK. Instead, New Zealand's retail electricity market rely on different regulatory mechanisms, such as the availability of dispute resolution procedures for the participants, and market structures to ensure fair competition, protect consumers, and maintain the integrity of their electricity market.

⁹ Australian Energy Regulator: Default Market Offer (DMO) Prices 2022–23 Final determination: <https://www.aer.gov.au/system/files/AER%20-%20Default%20Market%20Offer-%20Price%20determination%202022-23%20-%20Final%20Determination%20-%2026%20May%202022.pdf>

¹⁰ Energy Market Authority: Buying from a Retailer: <https://www.ema.gov.sg/consumer-information/electricity/buying-electricity/buying-from-a-retailer>

3.4 Consumer Safeguard

Prescribing the minimum contract terms and conditions¹¹ are put in place to safeguard the interests of consumers in the New Zealand retail electricity market. These terms ensure that consumers are treated fairly and transparently by electricity suppliers to enhance consumer protection. This means that regulators or authorities establish and enforce specific requirements that retail electricity suppliers must adhere to when offering contracts to their customers. In accordance with New Zealand's regulation these minimum terms would cover the following:

1. Meaningful Choice
2. Supply Connections and Disconnections, and Contract Termination
3. Electricity Supply and Related Services
4. Contractual Terms and Conditions

In Singapore, it is important to note that, “[a]ll retailers are required to conduct fair marketing and contracting practices, in accordance with the Code of Conduct for Retail Electricity Licensees (“the Code”).¹² Prior to switching with a retail electricity supplier, consumers are advised to consider the following points:

- a) Purchase electricity exclusively from authorized OEM retail participants;
- b) Thoroughly review contract terms and conditions;
- c) Household consumers have the option to switch back to the regulated tariff;
- d) Register in the Do Not Call Registry for non-receive of unsolicited call and offers;
- e) In the event of an unresolved dispute with the retailer, seek assistance from the Consumers Association of Singapore (CASE); and
- f) In the case of a retailer exit, there will be no disruption to the supply of electricity.

To fortify the current power market structure in Singapore, the Energy Market Authority (EMA) is set to bolster the regulatory framework for electricity retail licenses. The emphasis is on elevating consumer protection measures and ensuring that retailers are resilient in the face of significant market fluctuations. The improvements encompass:

- a) Ensuring retailers have a Tangible Net Worth of at least S\$1 million at the time of license application or renewal, to ensure that they are credible and have sufficient financial standing.
- b) Getting retailers to seek EMA's approval to appoint key appointment holders, to ensure that the individuals leading and managing the companies are fit and proper.
- c) Requiring retailers to hedge at least 80% of their retail contract position and provide a performance bond for any unhedged position, to increase resilience against market volatility.
- d) Protecting consumers against premature termination of retail contracts.

¹¹ New Zealand Minimum Terms and Conditions for Domestic Contracts: https://www.ea.govt.nz/documents/2023/Principles_and_minimum_terms_and_conditions_for_domestic_contracts.PDF

¹² Open Electricity Market, Consumer Safeguards, <https://www.openelectricitymarket.sg/residential/consumer-safeguards>

4.0 RETAIL MARKET UPDATES

4.1 Enhancement to Consumer Portal

On 20 April 2023, the Energy Regulatory Commission (ERC) introduced the Competitive Retail Electricity Market (CREM) Monitoring Platform as part of its effort to digitalize the CREM operations. The platform is a web-based link from the ERC's website under ERC LINKod systems which form as a Report System and Scorecard for Retail Electricity Supplier (RES).

With the monitoring platform, all licensed/authorized RES by the ERC can now easily be compared based on the latest available prices and survey scores, based on customers' feedback.

4.2 Enhancements to Retail Rules

On November 15, 2023, the ERC published a notice on their website for the public consultation of the draft Omnibus Rules for Customer Choice Programs in the Retail Electricity Market. The objective of draft omnibus rules is to streamline the regulations governing the retail market, incorporating the RCOA and GEOP.

On another note, in the Supreme Court decision dated March 2, 2021, the Court granted the petitions seeking to void DOE Circular 2015-06-0110¹³ and ERC Resolutions 5¹⁴, 10¹⁵, 11¹⁶, and 28¹⁷, all issued in 2016 which were related to the implementation of the RCOA.

Among these nullified ERC resolutions, Resolution No. 11 played a significant role in market competition. It previously imposed restrictions on RES, limiting them to holding no more than 30% of the total monthly average demand of CCs in the CREM. Additionally, the resolution restricted RES from transacting more than 50% of the total energy with their affiliates. The nullification of this resolution has implications for market competition, potentially leading to an oligopoly, as continuously noted in the retail market assessment reports by the Market Surveillance Committee.

4.3 Enhancements to Retail Supply Contracts

With the harmonization of the retail rules through the omnibus rules, it is important to highlight that proforma contracts issued by the ERC will be affected and will likewise undergo changes/enhancements. Taking into consideration the minimum terms and conditions for domestic contracts in New Zealand, as discussed in Subsection 3.3, the approach shifted from providing proforma contracts to presenting minimum terms and conditions. This alternative method ensures a mutual agreement between both parties regarding their contractual

¹³ Providing Policies to Facilitate the Full Implementation of Retail Competition and Open Access (RCOA) in the Philippine Power Industry

¹⁴ A Resolution Adopting the 2016 Rules Governing the Issuance of Licenses to Retail Electricity Suppliers (RES) and Prescribing the Requirements and Conditions Therefor

¹⁵ A Resolution Adopting The Revised Rules For Contestability

¹⁶ A Resolution Imposing Restrictions on the Operations of Distribution Utilities and Retail Electricity Suppliers in the Competitive Retail Electricity Market

¹⁷ Revised Timeframe for Mandatory Contestability, Amending Resolution No. 10, Series ff 2016 Entitled Revised Rules for Contestability

obligations, thereby establishing the minimum terms and conditions as a form of consumer protection.

5.0 SUMMARY AND RECOMMENDATIONS

RCOA has been operational for ten (10) years since 2013. Though the original vision of the Electricity Power Industry Reform Act for 2001 (EPIRA) has been partly fulfilled, there are a lot more to experience as regards participating in the market. Extending the customer's choice to the household demand level is a progressive step in achieving the full deregulation to enhancing the retail electricity market. In the course of surveying other jurisdictions, as well as the ongoing activities to enhance the market, the following are deemed to be most applicable to the Philippines.

5.1 Market Deregulation

With the commencement of WESM in the Mindanao region, the full implementation of Retail Market in the Philippines is slowly being adhered to. This allows electricity consumers within the threshold levels to choose their electricity supplier, empowering them to align with their electricity demands with a more competitive electricity rate.

While the current threshold for RCOA is set at 500kW and above, and 100kW and above for GEOP (exclusively for renewable energy sources), the strategy employed in Singapore for the potential implementation down to the household level is worth considering which utilized a phased roll out and consumer education campaign. The phased roll out is quite similar with RCOA being implemented on a threshold basis starting with customers with huge demand and then followed by the lowering of thresholds, allowing more participation in the market.

A consumer education campaign is also beneficial for the full deregulated implementation. In 2023, the ERC, DOE, PEMC, and IEMOP formed a technical working group which, among others, aims to extend the knowledge of RCOA operation to the Mindanao participants with the end view of providing options for electricity supplies in the Philippines. PEMC, as the WESM Governance Arm, has provided assistance to expand the knowledge of participants by joining a series of Information and Education Campaigns and Public Consultations.

5.2 Consumer Choice

The implementation of consumer choice in the retail electricity market is a common theme among the jurisdictions in review. It is a strategic move to place consumers at the center of the market, ensuring that they have the freedom to make choices that align with their preferences and values. This shift from regulated to competitive markets encourages innovation, price competition, and a focus on consumer satisfaction, ultimately delivering benefits to consumers in the form of lower prices, diverse options, and better services.

Reversion to the regulated market is an essential component of consumer choice within liberalized retail electricity markets. It acknowledges that consumer preferences and circumstances can change, and it provides consumers with the flexibility to adapt to these changes while ensuring they have access to pricing options that align with their needs and priorities. This flexibility is a key feature of competitive markets, where consumer choice is highly valued.

Reversion based on a minimum level of demand or consumption to trigger reversion, rather than on lowering demand by a certain percentage, is a specific approach within retail electricity markets that allows consumers to switch back to regulated or default pricing when their energy consumption falls below a predetermined threshold. This approach will form part as safeguard to consumers and allowing their option to exercise to return to the regulated market. Moreover, this mechanism/option is consistent with one of the proposed amendments¹⁸ to the Electric Power Industry Reform Act of 2001 (EPIRA).

5.3 Price Mechanism

The regulatory landscape of electricity markets can evolve over time, and new mechanisms or policies may be introduced to address changing market dynamics and consumer needs. The absence of a price cap does not necessarily imply that these markets lack regulatory safeguards; rather, they use different methods to ensure compliance and competition.

In summary, Singapore, and New Zealand rely on various regulatory and market mechanisms to promote competition and protect consumers, rather than implementing a specific price cap. These approaches aim to ensure fair pricing, encourage innovation, and provide consumers with a range of pricing options in their retail electricity markets. The choice of regulatory tools and mechanisms can vary based on the specific market dynamics and regulatory objectives in each jurisdiction.

Moreover, section 29 of EPIRA which states that prices to be charged by the supplier for the supply of electricity to the contestable market shall not be subject to regulations by the Energy Regulatory Commission.

5.4 Consumer Safeguard

In the rapidly evolving landscape of rule changes, it is essential to highlight that establishing a set of minimum terms and conditions for supply contracts proves to be more effective than relying on a proforma contract. By doing so, any alterations to the rules may not necessarily demand an amendment to the proforma template. This approach in the New Zealand retail electricity market, could be considered for adoption by regulatory bodies.

It is also worth considering the Singapore enhancement to their regulatory framework for electricity retail license. On their enhanced electricity retail license, EMA required electricity retailers to hedge at least 80% of their retail contract position, providing a performance bond for any unhedged position, to increase resilience against market volatility.

This research paper for the possible improvement to the retail market is hereby made available to the general public and is respectfully submitted consideration of the Honorable DOE and ERC for the possible enhancement to the Philippine retail market.

¹⁸ Proposed Amendments to the EPIRA Law (RA9136): <https://www.doe.gov.ph/proposed-amendments-epira-law-ra9136>

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