

1                                   **MINUTES OF THE 70<sup>TH</sup> MEETING OF THE RULES CHANGE COMMITTEE**

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3           Date               :       16 January 2013  
4           Time               :       9:00 A.M.  
5           Venue             :       PEMC Office  
6                               11<sup>th</sup> Floor, Robinsons-Equitable Tower  
7                               Ortigas Center, Pasig City  
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10 **MEMBERS PRESENT:**

11 Rowena Cristina L. Guevara       -       Chairperson/Independent – UP  
12 Epictetus E. Patalinghug       -       Independent – UP  
13 Francisco L.R. Castro Jr.       -       Independent – Tensaiken Consulting  
14 Maila Lourdes G. de Castro       -       Independent – Unitel Productions, Inc.  
15 Cherry Aquino-Javier       -       Generation Sector – AES  
16 Cynthia R. Encarnacion       -       Generation Sector – NPC  
17 Liberty Z. Dumlao       -       Generation Sector – PSALM  
18 Ralph T. Crisologo       -       Generation Sector – SNAP  
19 Ciprinilo C. Meneses       -       Distribution Sector – MERALCO  
20 Jose P. Santos       -       Distribution Sector – INEC  
21 Augusto D. Sarmiento       -       Distribution Sector – DECORP  
22 Sulpicio C. Lagarde Jr.       -       Distribution Sector – CENECO  
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25 **MEMBERS NOT PRESENT:**

26 Conrado D. Pecjo       -       Supply Sector – Angeles Power, Inc.  
27 Raul Joseph G. Seludo       -       System Operator – NGCP  
28 Robinson P. Descanzo       -       Market Operator – PEMC  
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31 **ALTERNATE MEMBER PRESENT:**

32 Isidro E. Cacho       -       Market Operator – PEMC  
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35 **OBSERVER PRESENT:**

36 Jose Isabelo P. Tomas II       -       ERC  
37 Ferdinand B. Binondo       -       DOE  
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40 **SECRETARIAT**

41 Geraldine A. Rodriguez       -       PEMC – MAG  
42 Shalom Grace A. Tomas-Llamzon   -       PEMC – MAG  
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45 After determining the presence of a quorum, the 70<sup>th</sup> RCC meeting was called to order by  
46 Chairperson Dr. Rowena Cristina L. Guevara at about 9:20 A.M.  
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48 **1. Adoption of the Proposed Agenda**

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50       The Proposed Agenda for the 70<sup>th</sup> RCC Meeting was approved, as presented.  
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52 **2. Review, Correction and Approval of the Minutes of the 69<sup>th</sup> RCC Meeting**

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54       The Minutes of the 69<sup>th</sup> RCC Meeting was approved, as presented.  
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Dr. Guevara, at this juncture, reminded Mr. Meneses of the RCC's request during the 69th RCC Meeting for him to communicate with his sector and MERALCO, in particular, on the status/progress of ongoing rules change proposals.

On the RCC's request for updates from the DOE on pending rules change proposals awaiting the DOE's final approval, Mr. Binondo reiterated the content of the DOE letter dated 04 December 2012 that some of these rules changes were overtaken by the assumption into office of Secretary Carlos Jericho L. Petilla. Dr. Guevara noted the information provided and expressed that the RCC shall await the result of the DOE's review of the said proposals, specially with respect to the result of the review on the proposed amendments on the rules on Pricing Error Notice (PEN) and Must Run Units (MRUs).

On the draft RCC response to NGCP-SO regarding its comments on the reduction of the minimum bid block and the cancellation of offers, Dr. Guevara, noting that since the draft RCC response was already circulated to the RCC for review/approval, expressed that there might no longer be any objection on the same. The RCC affirmed such observation and instructed the Secretariat to proceed with the sending of the said response to SO/Mr. Seludo by email.

### **3. Business Arising from the Previous Meeting**

#### **A. Resolution on the Proposed Changes to the WESM Rules on the Reduction of the Minimum Offer Block Size from 5MW to 1MW**

The RCC approved the subject Resolution, as presented and instructed the Secretariat to submit the same to the PEM Board for approval.

#### **B. Proposed Rules Change on the Registration of Ramp Rates**

Dr. Guevara informed the RCC that as requested, Mr. Cacho/PEMC revised the Discussion Paper on the subject, consistent with the RCC-prescribed format while Ms. Javier prepared the proposed "Appendix B" in reference to the proposed amendment to Section 5.4.4 of the Registration Manual on the ramp rate data to be required from the generators.

Dr. Guevara inquired whether the mechanism being proposed can already be implemented under the existing infrastructure. Mr. Cacho clarified that the existing Market Participant Interface (MPI) will have to be modified as well as the IT management system although PEMC can already begin the process by requiring generators to submit their ramp rate information. Mr. Cacho qualified however, that the said changes are feasible under the current infrastructure.

Mr. Lagarde inquired whether the proposal has taken into account the entry of renewable energy (RE) as trading participants in the WESM. Mr. Cacho answered that the same only covers the ramp rate of existing generators. He opined that the RE market is another issue which requires another set of discussions by the RCC. Atty. Tomas supported this opinion and added that the RE market should be studied further since by law/policy, renewable energy generators are must-dispatch units in the spot market.

Mr. Cacho then presented the historical assessment of ramp rates and its implication in WESM pricing and scheduling. Dr. Guevara expressed the opinion

that the presentation can provide the post-analysis/verify whether or not dispatch instructions are in order, considering that ramp rates are being cited as basis for the NGCP-SO's dispatch instructions and considering further that there were allegations regarding its perceived "arbitrary" selection of MRUs.

Mr. Binondo informed the RCC that issues on ramp rates, Pmin and Pmax are subjects of ongoing DOE-PEMC-ERC meetings. He clarified that as explicitly provided in the Rules, the data declared in the ERC's Certificate of Compliance (COC) should be consistent with the MO and SO data.

Atty. Tomas explained that the ERC requires the annual submission of a report from the generators which are not precluded from submitting data if there is any material change in their capacity within the year. He clarified however that the ERC does not automatically effect the change in the COC but merely notes the said change, for the ERC's reference, considering that the COC's validity is for a period of five (5) years.

Mr. Binondo expounded on the risk of declaring an increase or decrease in capacity without the ERC validating the accuracy of the same, citing as example its impact on the ERC's annual computation of market share limitation. Atty. Tomas clarified that for that purpose, what the ERC does is to continue to refer to the data in the COC. He qualified however that the ERC maintains a compilation of the yearly/intra-year reports on the generators' change in capacity.

For consistency, Atty. Tomas suggested to amend the Rules by requiring the generators to also submit a copy of the data being submitted to the ERC to the DOE, PEMC and NGCP-SO. He explained that for operations purposes, the COC data cannot be accurately relied-on due to the yearly/intra-year changes in the physical condition of generating units, the data on which are regularly being submitted to the ERC.

Mr. Sarmiento expressed that similar to distribution utilities, generators should also be required to submit quarterly data. Mr. Castro opined that the same requirement may not apply since by policy, the generation sector is a liberalized segment of the power industry. Atty. Tomas emphasized that the requirement for the generators is to report annually, unless there is any material change in their capacity within the year.

Mr. Crisologo for his part proposed to amend the Rules which will grant provisional acceptance on a generator's application for change in its registered capacity due to the upgrade/increase in capacity of its generating unit/s, subject to verification/final approval of the ERC and DOE after the conduct of the required inspection, testing and commissioning, if applicable.

Ms. Javier recalled that the same proposal was previously elevated by the RCC to the PEM Board but the SO expressed apprehension over the responsibility attached to such provisional acceptance.

Dr. Guevara expressed that she sees the practicality of the generators in its proposal, considering that what is being proposed is to immediately integrate the added capacity into the grid. However, she nonetheless sees the importance of consulting the SO on this concern so that issues which may later arise at the PEM Board are already firmed-up at the RCC level.

1 Mr. Lagarde opined that the DOE and the ERC should still be the ones to grant the  
2 final approval. He added that an increase in capacity will have impact on the  
3 generation rates in their bilateral contracts and as such, it is best if generators will  
4 also be required to inform all concerned parties of their application.  
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6 Dr. Guevara then stated that the proposed amendment should satisfy the following  
7 requirements: (a) the MO/SO can grant provisional approval of a generator's  
8 application for increase in capacity for existing generating unit/s only; (b)  
9 documentary requirements under the present rules must all be complied with, within  
10 a specified timeline; (c) the generators are required to inform all interested parties  
11 of the said application. Further, it should be qualified that the provisional approval is  
12 still subject to the final approval of the DOE and the ERC which are responsible in  
13 the conduct of the corresponding inspection and testing/commissioning, as may be  
14 applicable.  
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16 Mr. Meneses opined that the proposed amendment may not fall under the WESM  
17 Rules and is therefore not within the mandate of the RCC, considering that matters  
18 relating to the COC belong to the ERC's jurisdiction. Mr. Crisologo countered that  
19 what is being proposed does not pertain to the COC since the same refers to new  
20 generating units, but only to the upgrade/increase in capacity of existing generating  
21 units. He added that the issue points more to the bureaucratic procedure involved.  
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23 Ms. Javier pointed-out that the proposed amendment to Section 5.4.4 of the  
24 Registration Manual is applicable in the discussion since it made mention that "the  
25 information provided to the Market Operator must be consistent with the information  
26 contained in the COC issued by the ERC as well as submissions made to the ERC  
27 in relation to the issuance of its COC".  
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29 Mr. Crisologo volunteered to craft the proposed amendment, for the RCC's  
30 discussion in its next meeting.  
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32 The RCC then agreed to defer approval of the proposed rules change, in  
33 consideration of the following:  
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- 35 • Result of the PEMC-NGCP-ERC Meeting on 21 January 2013 which will  
36 discuss the implementation of the provisions of the Registration Manual;  
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- 38 • Formulation of the proposed amendment to the Registration Manual to be  
39 drafted by Mr. Crisologo which will provide for the provisional  
40 approval/acceptance by the MO/SO of a generator-trading participant's (TP)  
41 application for increase in capacity of an existing generating unit, subject to  
42 the confirmation at a later time by the ERC and DOE, following current  
43 protocols and processes on the conduct of various tests and inspection. Mr.  
44 Crisologo was also requested to include in the draft proposal the required  
45 timeline for the submission of the said application and the accompanying  
46 requirement for the generator-TP to inform interested parties about its  
47 application for capacity increase; and  
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- 49 • The RCC's arrangement of a consultative meeting with the NGCP-SO, to  
50 discuss the proposed rules change.   
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**C. Proposed Rules Change on the Cancellation of Offers**

Dr. Guevara opened the RCC's discussion on the comments submitted by the Market Surveillance Committee (MSC) and the Technical Committee (TC) on the proposed amendments regarding the Cancellation of Offers.

In summary, the RCC agreed to respond to each of the points raised by the MSC, as follows:

- On fairness in market competition

The proposal was never intended for all plants but was conceptualized with only the most expensive/oil-based plants-particularly Malaya TPP and Limay CCGT, since these are the same plants which at present, are not technically capable to comply with the must-offer-rule due to their technical Pmin. The RCC has noted in several discussions that both plants have been opting to cancel their offers even at the risk of being non-compliant with the must-offer-rule, because in reality, it is not economically feasible for them to run their plants at Pmin.

It is the RCC's opinion that the proposal is consistent with the market objective to enhance competition since by curtailing the continued loss incurred by the expensive generators, the RCC is effectively assisting the market to become more efficient.

The RCC has also observed that Malaya TPP has been operational even before the WESM and it is clear that its technical specifications (12-hours of start-up) cannot respond efficiently to current market rules.

The RCC believes that in its formulation of proposed rules changes, the RCC is not precluded to differentiate when there are valid differences which can effectively address the issue, such as, in this case, when the more expensive/oil-based generators are singled out to address the issue on the forced dispatch of plants due to Pmin and the consequent event of non-compliance with the must-offer-rule.

- On supply, demand and prices

Cancellation of offers cannot be made arbitrarily at any time. The proposal is clear on the criteria which must be met before the same is allowed by the Market Operator (MO).

The RCC stands by the position that the proposed cancellation of offers will not affect market price since the supply and demand equilibrium point would have already been met and complied with, before cancellation of offers can be allowed.

- On the 10% supply threshold value

Under the proposal, the most expensive generators should be allowed to cancel their offers if the acceptable level of supply margin is already established during the DAP-run. The RCC defined the supply margin threshold level at 10% having discussed at length the result of the MO presentation on the supply margin historical data and the subsequent recommendation from the NGCP-SO. Further, the 10% requirement is not a slim margin, considering that the same is on top of the 4% mandated reserve/ancillary service.

On the other hand, the RCC agreed to respond to the TC, as follows:

- On the basis of the 10% threshold

Same as discussion in the MSC comment above.

- On impact to Market Operator (MO)

It is the RCC's opinion that the benefits of the proposal will far outweigh the cost of its implementation inclusive of the needed adjustments by the MO in its current processes and systems to operationalize the said amendment.

Among other gains for the market, the RCC has noted that the proposal can address the problem of government-owned plants (which still operates Malaya DPP through PSALM) operating at a loss with their compliance to the must offer rule and the possible issue that such loss may be passed on to consumers through additions to the Universal Charge (UC). Further, the proposal will encourage the most-expensive/oil-based generators to submit offers instead of opting not to do so, considering that it is not economically feasible for them to run their plants at Pmin.

- On the objective of the EPIRA

The RCC views that the proposed cancellation of offers is consistent with the market objective to enhance competition since by curtailing the continued loss incurred by the expensive generators, the RCC is effectively assisting the market to become more efficient.

- On ancillary services

The proposal does not preclude the generators to apply for ancillary service agreement/s with the NGCP. Further, it should be noted that the 10% supply margin threshold is a criteria on top of the 4% mandated reserve (ancillary services) requirement.

- On DAP and RTD

The RCC opines that the perceived "inaccuracies" from the DAP and RTD runs, including deficiencies or deviations arising from constraints, are answered by the System Operator (SO) in real time. Further, in terms of capacity, offers submitted in the DAP are assumed to be accurate, since these should correspond to their registration data with the WESM and their Certificate of Compliance, as issued by the ERC.

On the TC's comment that the proposal seems to "protect" the less efficient generators, the RCC clarified that the intention of the Committee is to assist in developing a more efficient market. The RCC is not precluded to differentiate when there are valid differences which can effectively address the issue, such as, in this case, when the more expensive/oil-based generators are singled out to address the issue on the forced dispatch of plants due to Pmin and the consequent event of non-compliance with the must-offer-rule.

The RCC then requested the Secretariat to draft the replies to MSC and TC, responding to each of the points they raised in their submitted comments, as discussed by the RCC.

Mr. Cacho then informed the RCC that there is no facility yet which will allow an accurate forecast of the entire system, including the constraints, to enable the MO to come-up with an accurate listing/identification of the said plants. He qualified that the mechanism being proposed will require an infrastructure which can run not only the absolute values of supply and demand but of the entire system, including the constraints.

Noting the statement of Mr. Cacho, Dr. Guevara reminded the RCC of the requirement under the WESM Rules that rules change will have to be feasible and as such, the comment of the MO will have to be considered specially in terms of feasibility. Acting on the said discussion, the RCC agreed to defer approval of the proposed rules change and further requested the MO to submit to RCC its own listing of constraints which may render the proposal impracticable/not feasible at this time. Dr. Guevara emphasized that it may be best to consider the MO's recommendation since implementation of the proposal falls upon its responsibility.

Further, the RCC requested the MO to conduct a simulation using historical data, applying the proposed mechanism on the cancellation of offers to be presented in the next RCC Meeting in March 2013.

#### 4. New Business

Issues/ Topics Discussed	Remarks	Agreement/ Action Item
<b>A. PEM Board Update</b> <ul style="list-style-type: none"> <li>Directive on the Proposed Amendments to the DRMM</li> <li>Letter from DRA Morillos</li> </ul>	<p>The Secretariat informed the RCC of the PEM Board directive on 13 December 2012, requesting the RCC to reflect the following in the DRMM:</p> <ul style="list-style-type: none"> <li>that in rendering an award or decision, the arbitral tribunal must consider prevailing rules and procedures of the ERC particularly as regards regulated entities which are parties to the dispute;</li> <li>that the arbitral tribunal will follow relevant provisions in the New Civil Code in making an award and in determining who are liable for arbitration costs.</li> </ul> <p>The RCC also discussed the merits of the comments/proposed amendments submitted by DRA Morillos in response to the above PEM Board directives, as follows:</p> <ul style="list-style-type: none"> <li>the requirement would already be wholly covered under the <i>Applicable Rules of Law</i> provision of the proposed Manual which in excerpt states: <b>'Whenever applicable or appropriate, the latest provisions of x x x the implementing rules and regulations promulgated from time to time by the Energy Regulatory Commission (the "ERC") x</b></li> </ul>	<ul style="list-style-type: none"> <li>Noted the information provided.</li> </ul>

Issues/ Topics Discussed	Remarks	Agreement/ Action Item
	<p><b>x x, shall be applied by the Arbitral Tribunal to the merits of the dispute.”<sup>1</sup></b></p> <ul style="list-style-type: none"> <li>on item 2, the DRA proposed the following: (a) to amend the Applicable Rules of Law provision by inserting therein the mention of said law; thus, the affected sub-section will read, as follows: “9.6.5.2. The Arbitral Tribunal shall take into account of the provisions of the contract, if any, between the parties, the relevant provisions of the New Civil Code, and of any relevant trade usages.”, and (b) to amend Section 9.9.2.3 on <i>Decision as to the Costs of the Arbitration</i> by inserting therein the mention of said law; thus the affected sub-section will read, as follows: “9.9.2.3. <i>The final award shall fix the costs of the arbitration and, <u>applying Article 2208 of the New Civil Code</u>, decide which of the parties shall bear them or in what proportion they shall be borne by the parties.</i>”</li> </ul>	
<p><b>B. Proposed Amendment to the DRMM Per PEM Board Directive</b></p>	<p>The RCC agreed with the response/proposed amendments of DRA Morillos and instructed the Secretariat to communicate the RCC's request for the DRA to come-up with the proposed amendments in final form and email the same to RCC within the week. However, the RCC opined that while the argument of the DRA on the first item may be valid/justifiable, it is suggested that the DRA should rephrase the pertinent provision in order to ensure compliance with the PEM Board directive.</p> <p>Mr. Meneses also sought clarification as to whether or not MERALCO will automatically shoulder the arbitration cost/award, in instances when the MERALCO is only a 3rd party to the dispute. The RCC agreed to forward this concern to the DRA for clarification.</p>	<ul style="list-style-type: none"> <li>Agreed to adopt the recommended language of the DRA, except on item number 1. Instructed the Secretariat to request the DRA to rephrase the subject provision in order to ensure compliance with the directive of the PEM Board.</li> <li>Agreed to have the same submitted to PEM Board, once final review of the RCC-approved language with additional revisions from DRA Morillos, is completed</li> </ul>

<sup>1</sup> Section 9.6.5 *Applicable Rules of Law*

9.6.5.1 Whenever applicable or appropriate, the latest provisions of Republic Act No. 9136 (otherwise known as the *EPIRA*), the WESM Rules and its Market Manuals, the Philippine Grid Code, the Philippine Distribution Code, the implementing rules and regulations promulgated from time to time by the Energy Regulatory Commission (the “ERC”) and/or the Department of Energy (the “DOE”), shall be applied by the Arbitral Tribunal to the merits of the dispute.



Issues/ Topics Discussed	Remarks	Agreement/ Action Item
C. RCC Semestral Report covering the Period July to December 2012	Noting that the subject Report was already sent in advance through email, the RCC went over the Report quickly, with minor revisions only.	by Atty. Castro. • Approved the RCC Semestral Report, as corrected, for submission to PEM Board.

## 5. Other Matters

### A. Result of the 2013 RCC Planning Session

The RCC reviewed the 2013 RCC Workplan, as discussed and finalized during the RCC Planning Session. Agreements made are as follows:

- The RCC requested if PEMC can already submit the proposed rules changes relating to the definition of Financial Year and "reasonable estimate" in time for the RCC's meeting by February. The Secretariat was requested to relay the request to Mr. Cacho who was no longer in the meeting at this time.
- Noting from the DOE reply to the RCC's request for update on pending rules change proposal for the DOE's final approval, the RCC agreed on the immediately revisit the Manual with respect to the DOE's authority to review and approve not only proposed amendments to the WESM Rules but also to the market manuals. The RCC also noted the same as the current practice being observed by PEMC. The RCC then requested Mr. Sarmiento and Mr. Meneses to lead in the RCC's review of the Manual and to present their recommendations to the RCC in its February meeting. The RCC also requested a review of the other aspects of the rules change process such as the categorization of urgent/regular amendments.
- Dr. Guevara requested Ms. Encarnacion to present the proposal on Line Rental (Segregation) in the February RCC Meeting since the same was scheduled for completion in Q1.
- GM Lagarde was requested to present the Proposed Changes to the WESM Rules on the Trading Amount and Line Rental Computation in the RCC's March 2013 Meeting.

The RCC was also reminded of their the mandate under the Rules for RCC sector representatives to regularly update their sectors on RCC activities. Dr. Guevara commended the format of the RCC update/information regularly being sent through email by Ms. Javier to the generator-sector. Copies of the various emails sent were then shown on screen by the Secretariat for the RCC's information. Dr. Guevara then reiterated her request during the RCC Planning Session for sector representatives to regularly update their respective sectors, consistent with their mandate under the WESM Rules.

Responding to the query of Mr. Meneses regarding format, Dr. Guevara clarified that it may be best for Mr. Sarmiento and himself to jointly send the said email-updates on a

regular basis. For the generator sector, Mr. Crisologo clarified that it is Ms. Javier who regularly updates the sector on RCC matters.

**6. Next Meeting**

The RCC agreed that its next meeting will be on 13 February 2013, 9:00 A.M.

**7. Adjournment**

There being no other matter to be discussed, the meeting was adjourned at 1:59 P.M.

Prepared by:

**Shalom Grace A. Tomas-Llamzon**  
Market Governance Analyst

Reviewed by:

**Geraldine A. Rodríguez**  
Assistant Manager  
Market Governance and Administration

Noted by:

**Elaine D. Gonzales**  
Manager  
Market Data and Analysis

<p>Approved by: RULES CHANGE COMMITTEE [REDACTED] <b>Rowena/Cristina L. Guevara</b> (Chairperson Independent University of the Philippines (UP))</p>	
Members:	
<p>[REDACTED] <b>Epictetus E. Patalinghug</b> Independent University of the Philippines (UP)</p>	<p>[REDACTED] <b>Francisco L.R. Castro, Jr.</b> Independent Tensaiken Consulting</p>
<p>[REDACTED] <b>Maila Lourdes G. de Castro</b> Independent Unitel Productions, Inc.</p>	<p>[REDACTED] <b>Cherry Aquino-Javier</b> Generation Sector AES Philippines (AES)</p>
<p>[REDACTED] <b>Cynthia R. Encarnacion</b> Generation Sector National Power Corporation (NAPOCOR)</p>	<p>[REDACTED] <b>Liberty Z. Dumiao</b> Generation Sector Power Sector Assets and Liabilities Management Corporation (PSALM)</p>
<p><b>Ralph T. Crisologo</b> Generation Sector SN Aboitiz Power (SNAP)</p>	<p>[REDACTED] <b>Augusto D. Sarmiento</b> Distribution Sector (PDU) Dagupan Electric Corporation (DECORP)</p>
<p><b>Ciprinilo C. Meneses</b> Distribution Sector (PDU) Manila Electric Company (MERALCO)</p>	<p>[REDACTED] <b>Jose P. Santos</b> Distribution Sector (EC) Ilocos Norte Electric Cooperative, Inc. (INEC)</p>
<p>[REDACTED] <b>Sulpicio C. Lagarde Jr.</b> Distribution Sector (EC) Central Negros Electric Cooperative, Inc. (CENECO)</p>	<p>[REDACTED] <b>Conrado D. Pecjo</b> Supply Sector Angeles Power, Inc.</p>
<p><b>Raul Joseph G. Seludo</b> Transmission Sector National Grid Corporation of the Philippines (NGCP)</p>	<p>[REDACTED] <b>Robinson P. Descanzo</b> Market Operator Philippine Electricity Market Corporation (PEMC)</p>