

Do We Need to Amend EPIRA to Lower Power Rates?

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Why Amend?

- No law is perfect. Everything can stand some improvement.
- The circumstances may have changed.
- To correct some oversight.

Why Not Amend?

- It may open a new “can of worms”
- Might be hostaged by a political process
- It may consume a great deal of political capital

Revisit: NPC's Dominance

- Preconditions for Retail Open Access
 - Privatize 70% of NPC's generation assets
- Does not make sense anymore because:
 1. NPC does not own majority of the generation assets (22%) in the Luzon Grid.
 2. The benchmark is inconsistent with the 30% market share cap on capacity of each grid for the private sector.

EPIRA Amendment: NPC Privatization

NPC's Dominant Position

	INSTALLED CAPACITY (MW)				GRID AND NATIONAL SHARE			
	LUZ	VIS	MIN	PHIL	LUZ	VIS	MIN	PHIL
NPC	2,381	484	1,110	3,976	21.9%	32.2%	59.4%	27.9%
NPC-IPP	6,305	756	674	7,734	58.0%	50.2%	36.1%	54.3%
NON-NPC	2,180	266	84	2,530	20.1%	17.7%	4.5%	17.8%
TOTAL	10,867	1,507	1,867	14,241	100.0%	100.0%	100.0%	100.0%

Table above computed using ERC's Guidelines on allocating capacities for purposes of assessing market share restrictions per Sec. 45 of EPIRA.

Revisit: IPP Administrator

- IPP Administrator to handle 70% of the IPP contracts now under PSALM.
 - Philippine condition is unique
 - the geographically, politically & structurally fragmented markets and sub-sectors,
 - Proportion of capacity under take-or-pay
 - High levels of historical costs being recovered from consumers

IPP Administrator

- The establishment of an economically efficient and transparent IPP Administrator is not as simple as everybody believes it to be.
- Even if the privatization program reaches the 70% benchmark, the IPP Administrator may be the bottleneck to open access.

Possible Remedies

- The market power of the government from the IPP contracts should be pared down. But the IPP Administrator (IPPA) issue should not deter retail open access
- Remove the IPPA from the conditions precedent and make it a transitory provision, giving PSALM a deadline for establishing the IPPA or an alternative way of reducing its market power

Revisit: PEZA

- In line with the government's initiative, retail open access within the PEZA ecozones should be enshrined in the law in order to avoid any ambiguity or forestall any legal challenges.

Policy: Exercise PEZA's Power

Memorandum, Office of the President

“Thus unless the legislature amends the provision to rectify the manifest error or the Supreme Court rules otherwise, the PEZA board may continue to regulate the operations of electric power within the ecozones.” *February 16, 2007*

Assigning Market Power

- The assignment of market power should follow the language in EPIRA “OWN, OPERATE **OR** CONTROL”
- “OR” is the Boolean “OR”
- There is no requirement that the capacities thus determined equal the actual capacity of the system

Assigning Market Power

- As we are seeing, market power derives not only from the entity selling electricity into the system.
- Market power also emanates from entities owning and operating these capacities since they have the capability to dictate what may or may not be offered.

Qualifications of Bidders

- Parties interested in the auction of NPC assets should not have any outstanding liabilities to the government, either in the form of receivables or unpaid taxes.
- Parties and their affiliates, who owe the government should settle the liabilities first. Else, government is financing these acquisitions to the detriment of other bidders.

Immediate Rate Relief

- Industrial customers are pushing for the use of government's royalties from Malampaya NatGas to bring down generation costs to P2.50/kWh for 460 large industries (Seipi estimates).
 - Government contends that these amounts are already pledged as guarantees and legal restrictions prevent other uses.
 - The DOE & DOF will sit down with Seipi on the matter.
- Industrial Rate from NPC

Thank you