

Republic of the Philippines
ENERGY REGULATORY COMMISSION
San Miguel Avenue, Pasig City



RESOLUTION NO. 02, Series of 2007

A RESOLUTION TO CLARIFY ERC'S OPERATIONAL SEPARATION REQUIREMENT

WHEREAS, Section 43 of Republic Act No. 9136, otherwise known as the Electric Power Industry Reform Act of 2001 (EPIRA) and Rule 3, Section 4 of its Implementing Rules and Regulations (IRR), mandate the Energy Regulatory Commission (ERC) to promote competition, encourage market development and ensure customer choice.

WHEREAS, to strengthen the framework for Retail Competition and Open Access, the ERC promulgated in 2006, the Business Separation Guidelines, As Amended (BSG) and the Code of Conduct for Competitive Retail Market Participants (Code of Conduct).

WHEREAS, the BSG and the Code of Conduct include provisions prescribing operational separation between regulated and non-regulated business segments of a distribution utility. Specifically, said provisions state that "the distribution utility must ensure that there is no sharing of facilities, office, assets, employees (except for top management), equipment and computer hardware/software between its regulated and non-regulated business segments."

WHEREAS, the policy on operational separation or ring-fencing between regulated and non-regulated business segments is in line with ERC's mandate to promote competition in the retail supply of electricity, and accordingly to ensure a level playing field and avoid cross subsidies between regulated and non-regulated activities of said distribution utilities.

WHEREAS, relative to this, the Manila Electric Company (MERALCO) requested clarification on the above-said policy and inquired whether or not ERC would sanction the sharing of assets, equipment and computer hardware/software by its regulated and non-regulated segments, particularly in the following instances:

1. the affected assets/procedures do not affect operations such as HR-related systems;
2. regulated and non-regulated segments use/share common Information and Communication Technology (ICT) infrastructure, e.g. the data and voice network backbone; and
3. front and back-end application systems for both segments are physically installed in the same machine/server but with logically separated databases, such as:
 - a. front-end application systems like Customer Management System and Energy Trading System; and
 - b. back-end Enterprise Resource Planning (ERP) application systems such as HR System, Finance System, E-mail System.

WHEREAS, the ERC recognizes the substantial amount of capital put in by MERALCO in setting up the said systems, and replicating said investment in establishing its other business segments (particularly the non-regulated business segments) may not be economically logical and may eventually translate to additional costs to the end-users.

WHEREAS, the ERC is likewise cognizant of its mandate to ensure the affordability of the supply of electric power and the economic viability of electricity providers.

NOW THEREFORE, the ERC, after thorough and due deliberation, hereby **RESOLVES**, as it is hereby **RESOLVED**, to allow MERALCO and other similarly situated distribution utilities to share assets, equipment and computer hardware/software **only** in the situations similar to the above-cited instances.

RESOLVED, FURTHER, that in sharing assets, MERALCO and other similarly situated distribution utilities must demonstrate that solutions are adopted to ensure that databases remain separate, as the ERC shall not allow sharing of databases, information and costs between regulated and non-regulated business segments.

RESOLVED FINALLY, that as clarified above, MERALCO and other distribution utilities are enjoined to fully comply with the operational separation requirements of the ERC.

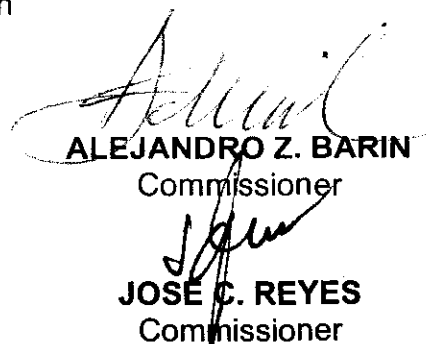
This resolution shall take effect fifteen (15) days following its publication on a newspaper of general circulation in the country.

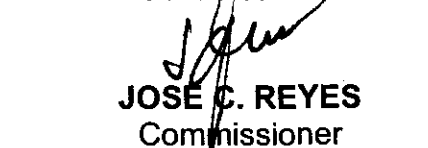
Pasig City, January 24, 2007.


RODOLFO B. ALBANO, JR.
Chairman


RAUF A. TAN
Commissioner


MARIA TERESA A.R. CASTAÑEDA
Commissioner


ALEJANDRO Z. BARIN
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