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PIPPA

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DEPARTMENT OF ENERGY
Office of the Secretary
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20 November 2013

HONORABLE CARLOS JERICHO L. PETILLA
Secretary
Department of Energy (DOE)
Energy Center , Rizal Drive
Bonifacio Global City, Taguig City

Attention: **Director Mylene C. Capongcol**
Electric Power Industry Management Bureau

Re: **Proposals for Amendments to the Rules in the Interim Mindanao Electricity Market (IMEM)**

Dear Hon. Petilla:

We write regarding the Interim Mindanao Electricity Market (IMEM), which will start commercial operations on 26 November 2014. We understand the importance of the IMEM to improve the power situation in Mindanao. However, there are still some issues that need to be addressed for a smooth commercial operation.

We therefore submit to your good office the attached PIPPA position paper for your consideration. This includes the discussion of the remaining issues and some recommendations, which may need IMEM Rules Changes.

We hope for your kind consideration.

Sincerely,

Philippine Independent Power Producers Association

Luis Miguel O. Aboitiz
President and Board Member

cc: President Melinda Ocampo, PEMC

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PIPPA POSITION PAPER ON THE INTERIM MINDANAO ELECTRICITY MARKET (IMEM)

I. Background

The Interim Mindanao Electricity Market (IMEM) was implemented by the Department of Energy (DOE) not only as a short-term remedy to the power supply crisis in the Mindanao Grid, but was also intended for the long-term goal of laying the ground work for the transition towards the Wholesale Electricity Spot Market (WESM) of Mindanao.

The Interim Mindanao Electricity Market (IMEM) will start commercial operations on 26 November 2013. However, there are still important issues that the Department of Energy (DOE), the Energy Regulatory Commission (ERC) and the Philippine Electricity Market (PEMC) should consider and resolve before the IMEM commercial operation.

This paper outlines those issues and some recommendations to address them. We believe that the issues presented herein are material and, if not resolved, will potentially impinge upon the fundamental rights of IMEM participnats. As such, if these are not resolved before 26 November 2013, we are of the position that the IMEM should be deferred until the same are resolved and addressed.

Moreover, with respect to this ultimate goal of laying the ground work for transition towards WESM, we believe that the wealth of experience and knowledge from the Luzon and Visayas WESM experiences should be harnessed for the benefit of the IMEM. It is only prudent for IMEM to draw from existing Luzon and Visayas WESM policies for inspiration and guidance on its implementation, especially in matters where the IMEM rules are lacking.

II. Issues

The issues are as follows:

A. Line loss determination
B. Renewable energy or intermittent generation
C. Contract impairment
D. Load-to-maintain determination (load curtailment)
E. Market fees
F. Exposure of resources

III. Discussion

A. Line Loss Treatment

There is currently no line loss calculation included in the IMEM Rules and Manuals. The line loss determination is important so that subsidies will be avoided. Line losses which were not attributed to contracted quantities will be included in the IMEM demand. If incorrect line losses were declared as contracted quantities, the IMEM quantity will either be more than or less than its actual quantity.

The issue on line losses is further complicated by the inclusion of embedded generators in the IMEM. Since line losses in the distribution utility are also undetermined, the total line loss of an embedded generator from inside the DU to the customer will be harder to calculate. Thus, the subsidies from incorrect line loss estimate will be aggravated.

B. Renewable Energy or Intermittent Generation

In the current IMEM methodology, if generating units deviate from their day-ahead schedule, they will be liable for penalties. This will be an issue for run-of-river generating units, wherein they cannot control the flow of water and consequently their power output. This will be a disincentive for renewable energy resources and runs counter to the RE Law.

Section 5.4.1.2 of the IMEM Rules determines the Resource Energy Settlement Amount where penalties for over and under-generation are incorporated under the Upwards Resource Variation Penalty Amount and the Upwards Resource Variation Penalty Amount. On top of that, Section 8.1.3 of the IMEM Rules allows the imposition of non-financial and financial penalties of PhP 10,000.00 for every breach committed. Without a special consideration for intermittent energy resources, the penalty may come out as a significant reduction in the revenues of small intermittent generators.

For example, the 1.6MW Run-of-River Hydro Plant in Bukidnon may deviate from its forecasted dispatch of around 100kWh to 200kWh. The deviation may not even be felt by the Grid, but the 6% to 12% deviation in its schedule will be penalized by the IMEM. Furthermore, it must be noted that the 1.6MW Run-of-River Hydro in Bukidnon is fully contracted and does not even have any IMEM sales. Thus, the penalty per kWh could also significantly reduce the contracted tariff per kWh, which should have been kept whole.

C. Contract Impairment

In contracting capacities for the supply of the electricity requirements in their respective franchise areas, certain distribution utilities simply exercised the foresight and diligence necessary to effectively perform their supply responsibility to their end-users. As a consideration for the allocation of these capacities, these DUs have undertaken obligations to their suppliers which, under the fundamental principle of non-impairment of the obligation of contracts, should remain subsisting even with the implementation of the IMEM. Thus, it will be to their detriment that, despite justly and prudently ensuring the supply of electricity requirements in their franchise through bilateral contracts, they are forced, yet again, under

the IMEM regime, to face the possibility of brownouts. These brownouts are precisely the events sought to be avoided by distribution utilities in binding themselves to obligations under power supply contracts. It is unfortunate, therefore, that, under recent IMEM rules and regulations, these distribution utilities will be deprived the full benefit of contracted capacities paid for and, moving forward, disincentivized from diligently ensuring the reliability of supply to their end-users.

Under the present IMEM rules and regulations, it may happen that a distribution utility, even as it has contracted and paid for capacity, will suffer a brownout in-day where the same capacity has been committed day-ahead for IMEM trading. Ideally, pre-IMEM, this capacity would have protected the DU from, or, at least, minimized, the power interruption, which may be suffered by the DU. Come the IMEM, however, this assurance of reliable power supply is lost as the DU must suffer along with others which may have been remiss in their supply obligations to their end-users.

Considering the loss of the guarantee afforded by their supply contracts, the rights of DUs under their supply agreements may be impaired, resulting in potential, serious disputes with counterparty-suppliers. These counterparty-suppliers, in turn, face the possibility of breach of their supply obligations under bilateral contracts inasmuch as these obligations to DU-customers may be in conflict with their obligations under the IMEM rules and regulations. Primarily, it has been the observation on the IMEM rules and regulations that, aggravated by the very minimal stakeholder consultations conducted thereon, no evaluation was at all made of existing contractual relationships, including the causes, considerations and obligations in these relationships.

D. Load-to-Maintain Determination

Mindanao is currently experiencing insufficient supply condition. It will take another 3 years for a base load plant to start commercial operations. With this in mind, some DUs have contracted enough capacity from diesel plants to cover its demand in cases of insufficient supply conditions. Since fuel costs of diesel plants are very high, the DUs usually only pay capacity fees for the contracted capacity and energy fee if capacity is dispatched. Thus, unless needed, the DUs will keep the operation of these diesel plants to a minimum so as to control their costs.

Without the IMEM, the DU will call upon the diesel generator to run if its demand increases or supply decreases. Thus, the DU will have minimal exposure to high diesel prices. However, with the IMEM, the DUs need to provide the schedule of the diesel generators day-ahead. The day-ahead schedules of the DUs will more likely be conservative so as not to dispatch expensive contracted generators. However, if demand increases, the DUs cannot call on the diesel plants since their capacity will be in the IMEM. The load of each DU will be curtailed proportionately.

DU may not have forecasted the demand and may need additional capacity intra-day. If they will schedule the plant to be dispatched day-ahead and the load did not reach that level, they will pay the generator its energy fee. In this case, those generators are diesel/bunker fuelled generators, which are very expensive to dispatch. If the DU will not schedule the dispatch of its expensive plants day-ahead, it may be exposed to load dropping if supply is insufficient.

Thus, we would like to come up with a feasible solution on how distribution utilities can utilize their contacted capacities in conditions of insufficient supply in Mindanao with minimal distortion to the

current system/processes of IMEM; and no load dropping if contracted capacity is sufficient to cover DU load.

E. Market Fees

Under ERC Case No. 2013-177 RC,[1] which is an application of PEMC for approval of the IMEM market fees for 2014, among others, it is the generators which shall be shouldering the market fees on the reasoning that "this is because the IMEM enables the centralized scheduling of all capacities, including those that are contracted."[2]

While the IMEM may allow the centralized scheduling of Mindanao capacities, it is incongruous that generators should be compelled to participate in the IMEM and, at the same time, be charged for such a participation on the basis of the perceived benefit of a centralized scheduling. These market fees are sought to be charged even upon contracted capacities, notwithstanding that, pre-IMEM, these capacities were scheduled and dispatched without the necessity of a "centralized scheduling".

This unfairness may further be aggravated if the exemption from the payment of market fees, presently applied for by PSALM in the same ERC case, is approved. PSALM's basis for seeking exemption, that its capacity is fully contracted, is tenuous in light of other generators being similarly situated – unless the same generators are likewise given exemption – and in light of the fact that the bulk of Mindanao capacity belongs to PSALM. Unless there are substantial distinctions which make real differences between the situation of PSALM, on the one hand, and that of the other generators, on the other hand, the IMEM framework may be perceived to run counter to the equal protection clause of the Constitution.

F. Exposure of Resources

The IMEM rules on the safeguards and the remedies available to generators against customer defaults and collection inefficiencies do not adequately protect these generators against losses. These supposed safeguards and remedies are mostly discretionary upon the IMEM operator or are insignificant and ineffective as deterrent against customer default and collection inefficiency.

Among others,

1. Under Section 5.5.5 of the IMEM Rules, generators are forced to absorb the cost of default or collection in efficiency, thus:

> The *IMEM Operator* shall not be liable for any delays in the remittances to *IMEM Trading Participants* due to shortfall or delay in the payments from the defaulting *IMEM Trading Participants*.

---

1 Docketed as "In the Matter of the Application for the Approval of the Structure and Level of the Market Fees for the Interim Mindanao Electricity Market (IMEM) for Calendar Year 2014 and the Cost Recovery Mechanism of the PhP34.252M Used for the Establishment and Initial Operation of the IMEM."

2 ERC Case No. 2013-177RC, p. 4 of PEMC Application dated 26 August 2013.

With the foregoing, generators may be left holding the bag since they are compelled to continue participation in the IMEM notwithstanding that they may be accumulating losses from shortfalls or delays in payments. Practically, it is the generators which must likewise suffer the collection inefficiencies of utilities and of the IMEM Operator. This is unreasonable, oppressive and confiscatory as it puts the viability of the generator at risk and, more important, results in the generator being deprived of property without just compensation.

2. The prudential requirement is set to cover only the average exposure of a customer-utility for thirty-five (35) days. Given this limited period, resources such as generators are likely not to be paid for electricity supplied in excess of 35 days since the defaulting customer may still be able to draw from the grid beyond this 35-day period.

The risk of non-payment of the generator is aggravated by the enforcement of certain remedies under the IMEM Rules being merely discretionary, thus:

> Sec. 5.5.6.7 When the *IMEM Operator* believes that the *IMEM participant* is incapable to comply with the requirements under this Section 5.5 or the requirements of Section 5.6, the *IMEM Operator* may exercise its right to immediately demand payment for the settlement amounts, even prior to the deadline of payment by the *IMEM participant* under Clause 5.5.4.4.
>
> (underscoring supplied)
>
> Sec. 5.6.4.1 In the event that an IMEM Trading Participant fails to pay its obligations by the due date, the IMEM Operator may immediately draw on the prudential security provided by the *IMEM Trading Participant*, without need of prior consent.
>
> (underscoring supplied)
>
> Sec. 2.6.2.8 After serving a Suspension Notice in accordance with Clause 2.6.2.6, the IMEM Operator may send a written request for disconnection to the Mindanao System Operator for the disconnection of the Mindanao Grid-connected IMEM Member, together with a copy of the Suspension Notice provided under Clause 2.6.2.7. A copy of the written request shall be furnished to the DOE.
>
> (underscoring supplied)

It is grossly unfair to resources which must ultimately shoulder the cost of any shortfall and/or delay in the payments of trading participants. Considerng that it is the resources which stand to lose from any shortfall or deficiency in IMEM payments, the enforcement of remedies cannot merely be discretionary.

IV. Recommendations

A. Line Loss Treatment

PEMC should provide for the estimate of line losses on the average per interval, for grid connected generation to DUs and line loss for each DU for embedded generation.

B. Renewable Energy or Intermittent Generation

The current IMEM Rules must be fortified to address several matters concerning intermittent energy resources: (a) inconsistencies between Luzon-Visayas WESM Rules and IMEM Rules (b) Technical Constraints peculiar to the different kinds of intermittent energy resources and (c) the resulting commercial implications of not giving special consideration to intermittent energy resources. Given these points, in the spirit of non-discrimination, and in view of encouraging renewable energy utilization across the country, we would like to suggest for the adoption of the following:

a.) Treatment for Intermittent Energy Resources in the IMEM should be consistent with the RE Law:

The IMEM Rules do not make special distinctions for the unpredictable and erratic nature of certain energy resource technologies. This runs counter to the RE Law, which provides special incentives for RE resources.

Section 2.2.1 of the the IMEM Rules identify the different IMEM Resources: (1) IMEM Grid Generators (2) IMEM Embedded Generators and (3) IMEM Load Curtailment Resources. The current IMEM Rules does not contain sub-classification particular to intermittent energy resources.

The problem with this oversight arises with Section 2.4.2 (a):

Section 2.4.2 (a) and (b) of the IMEM Rules provide:

> *"In addition to the responsibilities in Section 2.4.1, an IMEM Resource shall be responsible for:*
> *(a) Dispatching its facilities according to their Day-Ahead Schedule generated by the IMEM Operator;*
> *(b) Informing the IMEM Operator and Mindanao System Operator immediately of any event that would result or have resulted in its non-compliance with their Day-Ahead Schedule generated by the IMEM Operator;"*

This provision requires all IMEM Resources to comply with the dispatch scheduling generated by the IMEM Optimization Model. The IMEM Rules only provide a Variation Tolerance of 3% from its Dispatched Quantity (Section 5.2.5.2 (a)). This largely fails to consider that certain technologies of IMEM Resources, such as Renewable Energy Generators, are intermittent, unpredictable, and uncontrollable in nature.

The IMEM Rules should provide for a definition and special provision for intermittent energy sources, like run-of-river power plants. Intermittent energy sources may be defined as follows:

"A generating unit or group of generating units connected at a common connection point whose energy resource is location specific and has a natural variability which renders the output unpredictable and the availability of the resource inherently uncontrollable shall be classified as an NRE generating unit with intermittent energy resource, but may at its option be classified as a scheduled generating unit."

The IMEM Rules should exempt these Intermittent Energy Sources from the penalties if their actual dispatch deviates from their day-ahead forecast.

Moreover, if a generator cannot offer all its capacity due to technical reasons or unavailability of resources, or is penalized to an extent that it incurs losses or is not paid due to non-payment of IMEM customers for previous IMEM transactions, the generator should have an option to withdraw any offers of capacity in the IMEM, without any penalty.

b.) Treatment for NPC/PSALM should also be an option for other generators:

The DOE and PEMC have given NPC/PSALM a special participation in the IMEM. Though all generators, including embedded generators, are mandatory participants in the IMEM, NPC/PSALM generators will not be part of the registered participants. All their output will be considered contract quantities. Their justification is that almost all NPC/PSALM generating units in Mindanao are hydro generation.

PEMC should consider the treatment for NPC/PSALM to be an option for other generators as well. As per the Dispatch Protocol Manual of the IMEM, NPC/PSALM may re-submit two (2) hours prior to the IMEM interval the revision to its schedule provided that the total NPC/PSALM generation is equal to its day-ahead schedule. Moreover, the excess capacity of NPC/PSALM (beyond its total Ex-ante Contract Allocation) shall be treated as an unscheduled capacity in the IMEM Merit Order Table as follows:

2.5.8 Should there be excess capacity beyond NPC/PSALM's total Ex-Ante Contract Allocation and Week Ahead Ancillary Services Nomination, it shall be included in the IMEM Merit Order Table as unscheduled capacity. Clause 5.4.2 of this Manual describes how this capacity is ranked in the IMEM Merit Order Table.

Section 2.5 and 6.4 of the Dispatch Protocol Manual should also be an option for intermittent resources, as the criteria follows that of an unscheduled generator.

C. Contract Impairment

To ensure that the rights of DUs to contractually allocated capacities are kept intact, it is respectfully recommended that, before any such contracted capacity is traded in the IMEM, the consent of the customer-DU should first be secured and any offer of capacity in the IMEM, albeit with customer-DU's consent, shall be subject to any intra-day adjustments allowed under the relevant contracts. This will prevent disputes arising under relevant supply contracts and will ensure that the DU's expectations, which are the consideration for the DU entering into the contract, are reasonably protected. With

consent, any obligation under the supply contract remains sacrosanct since any waiver or concession of contractual rights, to comply with obligations in the IMEM, comes directly and expressly from the customer-DU.

D. Load-to-Maintain

The Current IMEM Rule states that:

> **3.6.2 Load-To-Maintain**
>
> 3.6.2.1 In any *IMEM Trading Interval* for which an *Insufficient Supply Condition* has been declared, the *IMEM Operator* shall calculate a *Load-To-Maintain* (*LTM*) level for each *IMEM Customer*, which it shall submit to the *Mindanao System Operator* together with the *Day-Ahead Schedule* and *Day-Ahead IMEM Schedule* of all *IMEM Resources*.
>
> 3.6.2.2 The *Load-To-Maintain* values shall be in megawatts (MW) expressed to a precision of one decimal place (0.1MW, or 100kW).
>
> 3.6.2.3 If an *IMEM Customer's* nominated *Customer IMEM Demand* is zero (0) then **its *Load-To- Maintain* shall equal its total *Ex-Ante Contract Allocation***.
>
> 3.6.2.4 The *IMEM Operator* shall calculate each *IMEM Customer's Load-To-Maintain* by distributing the total *Offered Capacity* of all *IMEM Offers* across all *IMEM Customers* **on a pro-rata basis based on their *Customer IMEM Demand*** and adding the same to the total *Ex-Ante Contract Allocation* of each *IMEM Customer*.
>
> [emphasis provided]

Recommended revisions:

> **3.6.2 Load-To-Maintain**
>
> 3.6.2.1 In any *IMEM Trading Interval* for which an *Insufficient Supply Condition* has been declared, the *IMEM Operator* shall calculate a *Load-To-Maintain* (*LTM*) level for each *IMEM Customer*, which it shall submit to the *Mindanao System Operator* together with the *Day- Ahead Schedule* and *Day-Ahead IMEM Schedule* of all *IMEM Resources*.
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> 3.6.2.2 The *Load-To-Maintain* values shall be in megawatts (MW) expressed to a precision of one decimal place (0.1MW, or 100kW).
>
> 3.6.2.3 ~~**If an *IMEM Customer's* nominated *Customer IMEM Demand* is zero (0) then its *Load-To- Maintain* shall equal its total *Ex-Ante Contract Allocation*.**~~ **The IMEM Customer shall submit to the Market Operator its corresponding Contracted Capacity for the Load-To-Maintain Matrix.**
>
> 3.6.2.4 The *IMEM Operator* shall **provide the Mindanao System Operator the Load-To-Maintain Matrix. The Load-To-Maintain Matrix shall include the list of IMEM Customers and their corresponding Contracted Capacities as basis for the Load-To-Maintain. Customer IMEM Demand in excess of Contracted Capacities shall be subject to pro-rata load dropping in conditions of insufficient supply.** ~~**calculate each *IMEM Customer's Load-To-Maintain* by distributing the total *Offered Capacity* of all *IMEM Offers* across all *IMEM Customers* on a pro-rata basis based on their *Customer IMEM Demand* and adding the same to the total *Ex-Ante Contract Allocation* of each *IMEM Customer*.**~~

The Current Dispatch Protocol states that:

5.5.4 In an IMEM Trading Interval for which an Insufficient Supply Condition has been declared, the IMEM Operator shall calculate a Load-To-Maintain (LTM)level for each IMEM Customer, which it shall submit to the Mindanao System Operator together with the Day-Ahead Schedule and Day-Ahead IMEM Schedule of all IMEM Resources and the IMEM Merit Order Table.

5.5.5 The Load-To-Maintain values shall be in megawatts (MW) expressed to a precision of one decimal place (0.1MW or 100kW).

5.5.6 If an IMEM Customer's nominated Customer IMEM Demand is zero (0) then its Load-To-Maintain shall equal its total Ex-Ante Contract Allocation.

5.5.7 The IMEM Operator shall calculate each IMEM Customer's Load-To-Maintain by distributing the total Offered Capacity of all IMEM Offers across all IMEM Customers on a pro-rata basis based on their Customer IMEM Demand and adding the same to the total Ex-Ante Contract Allocation of each IMEM Customer.

5.5.8 The IMEM Operator shall transmit the Load-To-Maintain pertaining to each IMEM Customer together with its Day-Ahead Schedule submitted under SECTION 5 of this Manual.

5.5.9 The IMEM Operator shall submit the Load-To-Maintain of all IMEM Customers to the Mindanao System Operator together with the Day-Ahead Schedules, Day-Ahead IMEM Schedules, and the IMEM Merit Order Table submitted under SECTION 5 of this Manual.

5..6 IMEM Load-To-Maintain Matrices

5.6.1 For each IMEM Interval, the IMEM Operator shall prepare an IMEM Load-To-Maintain matrix for each IMEM Customer. The IMEM Load-To-Maintain matrix of each IMEM Customer shall provide the maximum MW quantity that an IMEM Customer may source from the IMEM at different levels of deficiency in the IMEM. Appendix M provides the prescribed format of the IMEM Load-To-Maintain matrix.

5.6.2 The IMEM Operator shall calculate each IMEM Customer's IMEM Load-To-Maintain at each level of deficiency by distributing the total Offered Capacity of all IMEM Offers across all IMEM Customers on a pro-rata basis based on their Customer IMEM Demand.

5.6.3 The IMEM Operator shall submit the IMEM Load-to-Maintain matrices of each IMEM Customer to the Mindanao System Operator together with the Day-Ahead Schedules, the Day-Ahead IMEM Schedules and the IMEM Merit Order Tables.

5.6.4 the IMEM Operator shall submit to each IMEM Customer its IMEM Load-to-Maintain matrix upon submission of the same to the Mindanao System Operator

5.6.5 For clarity, the IMEM Load-to-Maintain matrix shall only provide the Mindanao System Operator and the IMEM Customers information on the maximum load that the IMEM Customer may operate at with respect to Offered Capacities in the IMEM. Information on the maximum load that IMEM Customers may operate at with respect to their contracted capacities will not be prepared by the IMEM Operator.

Recommended revisions:

5.5.4 In an IMEM Trading Interval for which an Insufficient Supply Condition has been declared, the IMEM Operator shall calculate a Load-To-Maintain (LTM)level for each IMEM Customer, which it shall submit to the Mindanao System Operator together with the Day-Ahead Schedule and Day-Ahead IMEM Schedule of all IMEM Resources and the IMEM Merit Order Table.

5.5.5 The Load-To-Maintain values shall be in megawatts (MW) expressed to a precision of one decimal place (0.1MW or 100kW).

5.5.6 ~~If an IMEM Customer's nominated Customer IMEM Demand is zero (0) then its Load-To-Maintain shall equal its total Ex-Ante Contract Allocation.~~ The IMEM Customer shall submit to the Market Operator its corresponding Contracted Capacity for the Load-To-Maintain Matrix.

5.5.7 The IMEM Operator shall calculate each IMEM Customer's Load-To-Maintain by distributing the total Offered Capacity of all IMEM Offers across all IMEM Customers on a pro-rata basis based on ~~their~~ the excess of the Customer IMEM Demand to the Customer's Contracted Quantity submitted corresponding to Clause 5.5.6. ~~and adding the same to the total Ex-Ante Contract Allocation of each IMEM Customer.~~

5.5.8 The IMEM Operator shall transmit the Load-To-Maintain pertaining to each IMEM Customer together with its Day-Ahead Schedule submitted under SECTION 5 of this Manual.

5.5.9 The IMEM Operator shall submit the Load-To-Maintain of all IMEM Customers to the Mindanao System Operator together with the Day-Ahead Schedules, Day-Ahead IMEM Schedules, and the IMEM Merit Order Table submitted under SECTION 5 of this Manual.

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5.6.2 The IMEM Operator shall calculate each IMEM Customer's IMEM Load-To-Maintain at each level of deficiency by distributing the total Offered Capacity of all IMEM Offers across all IMEM Customers on a pro-rata basis based on ~~their~~ the excess of their Customer IMEM Demand to the corresponding Customer's Contract Quantity.

5.6.3 The IMEM Operator shall submit the IMEM Load-to-Maintain matrices of each IMEM Customer to the Mindanao System Operator together with the Day-Ahead Schedules, the Day-Ahead IMEM Schedules and the IMEM Merit Order Tables.

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~~5.6.5 For clarity, the IMEM Load-to-Maintain matrix shall only provide the Mindanao System Operator and the IMEM Customers information on the maximum load that the IMEM Customer may operate at with respect to Offered Capacities in the IMEM. Information on the maximum load that IMEM Customers may operate at with respect to their contracted capacities will not be prepared by the IMEM Operator.~~

E. Market Fees

Only entities that actually trade, whether to buy or sell, in the IMEM should be liable for market fees. In the same vein, only traded, not contracted, volumes should be considered in determining these market fees so that, if market fees are intended to be imposed upon generators, then it should only be with respect to electricity that is traded in the IMEM. This addresses the unfairness of charging market fees upon generators which are already fully contracted, even as they do not trade in the IMEM and which do not exact any real benefit under a centralized scheduling. If the prayer of PSALM to be exempted is to be later granted, this]will also allow generators to be treated similarly as PSALM.

Notwithstanding, in the imposition of the market fees, PSALM should be treated in the same way as other resources. If these other resources are to be made liable for market fees, PSALM should similarly be liable especially considering that the bulk of the capacity which shall be scheduled and dispatched through the IMEM belongs to PSALM.

F. Exposure of Resources

In forcing generators to offer their capacity in the IMEM, the government should at least guarantee generators against losses for customers' non-payment or collection inefficiency. Whether through the National Electrification Administration or some other agency, the government should bound itself solidarily liable for all obligations of customers and payments due to resources, lest it unjustly forces the hand of the generator to sell its capacity in the IMEM even at great risk of not being compensated therefor. Hence, upon commencement of the commercial operations of the IMEM, there should already be a viable and firm security available to generators considering that the risk of non-payment likewise commences upon the trading of electricity in the IMEM.

At this time, the possibility of unrecoverable losses on the part of mandatory resources such as generators is real. Whatever remedy that is available to these resources under the IMEM Rules may even be rendered nugatory or weak as a result of their enforcement being merely discretionary or inadequate. In this regard, it is further recommended that (1) the prudential requirement be increased to cover the full period when a customer-utility is actually able to draw electricity from the grid, until it is disconnected therefrom; (2) exposure monitoring of customer-utilities should be conducted more frequently than once a year to prevent the exposure of any trading participant from ballooning to unreasonable levels; (3) the enforcement of remedies under the IMEM Rules should be automatic and mandatory upon the occurrence of default conditions; and (4) resources should be allowed to de-register from the IMEM when it has receivables outstanding up to a certain amount. Moreover, more stringent measures should be in place to guard against customer-utilities which have significant potential of breaching their payment obligations in the IMEM. These measures should realistically consider the present credit standing of Mindanao customer-utilities whose willingness and capability to pay can already be reasonably known at this time. On the basis of these credit standing, customer-utilities that have outstanding financial obligations at the time of commercial operations of the IMEM should be disqualified from participating in the IMEM.

If registration and trading in the IMEM is to be forced upon generators, there should be reliable security against losses which, it cannot be denied, are reasonably likely to happen. Forcing generators to offer capacity in the IMEM deprives them of the freedom to choose customers to supply, a choice which they would ordinarily have under bilateral contracts. In light of this compulsory participation, it is only fair that adequate security is afforded resources so that no blind eye is turned on the significant risks and difficulties that mandatory resources such as generators shall be forced to face.

V. Conclusion

We believe that the issues raised herein materially affect the rights, fundamental and otherwise, of certain persons, including generators and significantly bear upon the validity of implementing the IMEM as it is presently formulated under existing rules and regulations. Accordingly, before the IMEM commences commercial operations, we respectfully request your Honorable Office to consider the issues raised herein as they have a grave impact upon the viability of some parties and upon the success of the IMEM itself. We believe that the objectives of the IMEM, notwithstanding that they are in the nature of public welfare, cannot be achieved by passing on all burden and risk to private entities. Thus, we hope that the issues as well as the recommendations herein put forth are taken into consideration in

your determination as to the prudence of commencing commercial operations as scheduled on 26 November 2013.