

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

**IN THE MATTER OF THE PETITION FOR
RULE CHANGES IN ERC'S RATE-MAKING
METHODOLOGIES AND THE MANNER OF
CONTRACTING BILATERAL GENERATION
CONTRACTS, SUBMITTING THE SAME TO
OPEN, COMPETITIVE BIDDING TO PROTECT
CONSUMERS**

ERC Case No. _____

**MATUWID NA SINGIL SA KURYENTE
CONSUMER ALLIANCE, INC. (MSK), OTHER
CONCERNED GROUPS under the umbrella
Php 3 MOVEMENT AND INDIVIDUALS
In METRO MANILA and the PHILIPPINES,
*Petitioners,***

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Petitioners **MATUWID NA SINGIL SA KURYENTE CONSUMER ALLIANCE, INC. (MSK)**, and concerned groups and individuals (as per attached signatures; **Annex "A"**), by counsel and to this Honorable Commission respectfully states that:

THE PARTIES

1. **MSK** is a non-stock/non-profit non-governmental organization (NGO) duly organized and existing under the laws of the Republic of the Philippines, with office address at Unit 327, Eagle Court Condominium, #26 Matalino Road, Brgy. Central, Quezon City, where it may be served with pleadings and processes of this Honorable Commission. MSK has been formed by concerned Meralco consumers who have deep knowledge of the electric power industry privatization and deregulation and the inner workings of the industry. It seeks to enlighten the public and policy makers on the specific rules and practices that have been causing abusive power costs. It is represented herein by its Executive Director, EVELYN VIRAY-JALLORINA, who is duly authorized to file this Petition. Attached is **Annex "B"** is a copy of the Secretary's Certificate authorizing MS. JALLORINA to represent MSK.

2. **CONCERNED GROUPS UNDER THE UMBRELLA Php3 MOVEMENT and INDIVIDUALS in the PHILIPPINES** are Filipino consumers who are being punished by the high costs of power and have decided to band together with MSK to speak as one voice in order to fight for consumer rights and be recognized in their call for fair and reasonable electric charges.
3. **Respondent ERC** has been created under Executive Order No. 172, as amended, as an independent, quasi-judicial regulatory body tasked to promote competition, encourage market development, ensure customer choice and penalize abuse of market power in the electricity industry. ERC may be served with pleadings at Pacific Center Building, San Miguel Avenue, Ortigas Center 1600 Pasig City, Metro Manila, Philippines.

BACKGROUND

Electricity costs to the residential and commercial consumers in the Philippines is among the highest in the world. It is an undue burden to the hardworking Filipino consumers and commercial establishments—making the country globally uncompetitive in manufacturing, call center and BPO sectors, among others. It also denies Filipinos of their gainful employment opportunities and tax generation for the Philippine government to fund public services, including education.

The Matuwid na Singil sa Kuryente Consumer Alliance, Inc. has determined in its research that Meralco rate of P12.34 per kilowatt hour can be reduced by P3 per/kwh by rationalizing each cost component including the rate-making methodologies used by the Energy Regulatory Commission (ERC), the manner of contracting for bilateral generation contracts, the rules of the Wholesale Electricity Spot Market (WESM) and government taxes. About 50% or P1.50 of this reduction can be achieved from generation charge alone.

MSK research and studies show:

1. Self-Negotiated Generation Power Supply Contracts

A major reason for this atrociously high electricity rates is the **generation charge** specially in the Meralco service area where the controlling stockholders of the public service utility has been allowed, in the absence of a regulatory rule mandating otherwise, to self-negotiate the long term power supply agreements with their own sister and affiliated generation companies. They arbitrarily determine among themselves the rates and terms that will be passed on to the captive Filipino consumers, who are denied the benefit of competition.

2. Closed and Monopolized Generation Sector

The generation market is being increasingly dominated and monopolized by the sister companies and affiliates of those who control the distribution utilities and their favored generation companies. This harmful monopoly and anti-competitive situation prevents true competition and closes the generation sector to the entry of truly independent power generation companies under genuinely competitive rules, thus denying the captive electricity consumers the benefits of competitive rates, technologies, and more investments for the power supply in the country.

3. Achievable Generation Rates in the Market

As of July 2014 the average generation rate of Meralco was P5.66 per kilowatt/hour. For the months of July to November 2014, its buying prices from non-affiliated generation companies using coal ran from P3.31 to P4.33 per kilowatt/hour. From an evidently favored coal IPP, it was P4.21 to P4.60. For natural gas plants using Malampaya Gas, the sister companies with sweetheart self-negotiated contracts ranged from P5.16 to P5.91. This reached P9.99 in December 2013. On the other hand, non-affiliated natural gas generator, the

rate only ranged from P4.54 to P4.80 per kilowatt/hour for the same months. This is a disadvantageous price differential of P13.6% to P23.1%.

It is evident that lower rates can be achieved from truly independent suppliers specially if the contracting is subjected to open competitive bidding and Meralco's average generation charge can be lowered to P4.00 per kilowatt hour instead of the P5.66 per kilowatt hour in July 2014. **(Annex "C")**

4. Meralco's Duty as a Public Service Utility Franchise Holder

Meralco as the franchise electric distribution utility in the National Capital Region that serve 62% of the energy needs of the country has an obligation to provide satisfactory service and sufficient and affordable power rates. It is required by the EPIRA Law to provide power "in the least cost manner".

It therefore has a duty to undertake all efforts to deliver these obligations to the public in its franchised area.

5. Power of the Energy Regulatory Commission to Mandate Competitive Open Bidding for Bilateral Power Supply Contracts

The applicable law, Republic Act 3156, otherwise known as the EPIRA Law of 2001, under Section 45(b) allowed distribution utilities to contract up to 50% of their power requirements to an affiliated generation company. It is silent on how the power supply will be contracted. It did not specify negotiation. It is silent on whether competitive bidding would be required.

The Energy Regulatory Commission however is mandated to promote the public interest, to assure sufficient power supply and lower rates and create a competitive market. Section 45 chastises anti-competitive behavior and market domination.

The Energy regulatory Commission therefore has the authority and the obligation to pass a Resolution, in the interest of the public, to open the power

generation market, discourage market concentration, and require competitive bidding for the award of bilateral power generation supply contracts.

PRAYER

WHEREFORE, premises considered, it is respectfully prayed that this Honorable Commission, after due notice and hearing, render judgment:

1. For ERC to urgently issue a Resolution mandating an open, competitive bidding of all bilateral generation power supply contracts of Meralco and all distribution utilities that are intended to serve the power requirements of the captive consumers, especially residential and commercial.
2. For ERC to immediately issue an order for Distribution Utilities (DU) to submit a list of their generation projects intended for delivery by June 2016 and subject these new projects to bidding for delivery after that.
3. For the ERC to subject power generation projects of affiliated generators to strict review and participation of the consumer groups.

RESPECTFULLY SUBMITTED:

Quezon City for Pasig City
December 16, 2014