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HON. SHARON S. GARIN

Secretary

Department of Energy

Chairperson, NEA Board of Administrators

Energy Center, Rizal Drive, 34th Street

Taguig City, Metro Manila



Subject: Request for Immediate DOE–NEA Intervention to Prevent Consumer Harm from Renewed High WESM Prices Amid Delays in EPSA Processing

Dear Secretary Garin,

Warm greetings.

We respectfully write to seek the **immediate intervention of the Department of Energy (DOE), in its supervisory capacity over the National Electrification Administration (NEA), and of the Secretary of Energy as Chairperson of the NEA Board of Administrators**, in view of the **renewed increase in Wholesale Electricity Spot Market (WESM) prices in the Visayas and Mindanao and reported procedural delays affecting both Emergency Power Supply Agreements (EPSAs) and Competitive Selection Process (CSP) Terms of Reference (TORs) of Electric Cooperatives (ECs).**

Recent reports from EC General Managers in the Visayas and Mindanao indicate that applications for **EPSAs are being delayed pending NEA evaluation of TORs, without a clearly defined or time-bound processing period.** While such review may be intended as part of internal oversight, the absence of a definite timeline has resulted in **prolonged exposure of ECs to volatile WESM purchases,** to the direct detriment of their captive consumers.

We respectfully note further that the **recurring resort to EPSAs is largely attributable to delays in the review and approval by NEA of CSP TORs**. Prolonged CSP TOR evaluation effectively **postpones the conduct of transparent and competitive procurement**, thereby leaving ECs with **no practical alternative** but to rely on interim supply arrangements through EPSAs. This outcome is particularly concerning from a consumer-protection perspective, as **EPSAs, by their nature, do not require a full competitive process and allow negotiated supply**, unlike CSPs. The **timely approval of CSP TORs is therefore critical** to reducing reliance on emergency procurement, strengthening transparency, and ensuring least-cost power supply for consumers over the long term.

At present, **WESM prices in the Visayas and Mindanao have again risen to elevated levels**, recreating the same conditions that the **Energy Regulatory Commission (ERC)** formally found in **ERC Case No. 2024-017 MC (Order dated 1 July 2024)** to be *“unusually high,” “unreasonable,” and “exorbitant,”* and to pose a **direct and material risk to electricity consumers**, particularly those served by Electric Cooperatives. Under these circumstances, **any procedural delay—whether in EPSA or CSP TOR processing—now results in immediate, measurable, and avoidable harm to captive consumers**.

We respectfully emphasize that **NEA is an attached agency of the DOE**, and that its actions and inaction necessarily fall within the Department’s **supervisory and corrective authority**, especially where **consumer protection, least-cost power supply, and reliability of electric service** are concerned. As **Chairperson of the NEA Board**, the DOE Secretary is uniquely positioned to provide **clear policy direction and immediate administrative guidance** to prevent procedural deadlock during periods of market stress.

In this light, we respectfully request the **urgent issuance of a written DOE directive or clarification**, addressing the following:

1. **The role of NEA in the review of EPSA and CSP TORs**, including whether such review is **recommendatory or mandatory** vis-à-vis ERC processing and approval;
2. **The definitive process and maximum allowable timeline** for NEA evaluation and action on:
 - a. EPSA TORs; and
 - b. CSP TORs; and
3. **Interim consumer-protective measures during periods of elevated WESM prices**, including:
 - a. allowing **parallel processing** of EPSA applications by the ERC while NEA review is ongoing; and/or
 - b. supporting **time-bound provisional or conditional authority** for EPSAs,

subject to strict safeguards and **mandatory transition to ERC-approved Power Supply Agreements procured through CSP.**

We respectfully underscore that this request **does not seek to weaken CSP requirements or regulatory discipline.** On the contrary, it seeks to **reinforce CSP as the preferred and transparent procurement mechanism,** while ensuring that **procedural delays do not inadvertently force ECs into repeated emergency procurement,** to the detriment of consumers. This approach is fully consistent with **EPIRA's least-cost and consumer-protection mandates,** as well as the **ERC's own findings on the adverse impact of WESM price volatility.**

Given the ongoing WESM price situation in the Visayas and Mindanao, we respectfully request **DOE action or a written response within five (5) to seven (7) working days,** as continued delay will directly and adversely affect the electricity bills of **millions of consumers,** particularly in EC-served areas.

In view of the **exigency of electric service** and the immediate consumer impact of renewed WESM price spikes, we are **furnishing a copy of this letter to the Office of the President,** solely for purposes of information and **possible executive intervention,** should it be deemed necessary to protect the public interest.

We trust in the Department's leadership to ensure that **procedural coordination among DOE, NEA, and ERC functions as a safeguard—rather than a bottleneck—during periods of market volatility,** and that electricity consumers are not unduly burdened by **avoidable price shocks arising from administrative delay.**

Thank you for your continued public service and commitment to consumer welfare.

Very truly yours,



PETRONILO "PETE" L. ILAGAN
President

Attachments: Annex "A" – Excerpts from ERC Order dated 1 July 2024
(ERC Case No. 2024-017 MC – Findings on WESM
Price Volatility and Consumer Har

"The fear of the LORD is the beginning of wisdom, and knowledge of the Holy One is understanding." (Proverbs 9:10)

Annex "A" (Executive Summary)

Key Excerpts from ERC Order dated 1 July 2024

ERC Case No. 2024-017 MC

(WESM Price Volatility and Consumer Harm)

1. ERC Finding: WESM Prices Were Unreasonable and Exorbitant

In its **1 July 2024 Order** in **ERC Case No. 2024-017 MC**, the Energy Regulatory Commission (ERC) formally found that Wholesale Electricity Spot Market (WESM) prices during the covered period were **unusually high, unreasonable, and exorbitant**, deviating from normal market conditions and resulting in sharp increases in electricity costs borne by consumers.

2. Direct and Material Harm to Captive Consumers

The ERC recognized that **prolonged reliance on WESM purchases** exposes distribution utilities—particularly **Electric Cooperatives (ECs)**—and their captive consumers to **severe price volatility**, over which consumers have **no control or ability to hedge**. Such exposure was found to pose a **direct and material risk to consumer welfare**.

3. Heightened Vulnerability of Visayas and Mindanao ECs

Based on data submitted to the ERC, the Order highlighted that numerous ECs in the **Visayas and Mindanao** grids exhibited **high WESM dependence**, in some cases exceeding **20% to 50% of total power requirements**, thereby amplifying consumer exposure during periods of price spikes.

4. WESM Volatility as a Proper Subject of Regulatory Intervention

The ERC categorically held that **extraordinary WESM price volatility is a lawful and proper subject of regulatory action**, consistent with its mandate under EPIRA to ensure **just and reasonable electricity rates** and to protect consumers. The Commission emphasized that **market forces alone cannot prevail where prices become unreasonable or excessive**.

5. Justification for Emergency and Interim Measures

The ERC recognized that **temporary and exceptional measures**, including **emergency power supply arrangements**, may be warranted during periods of abnormal WESM price behavior to **mitigate immediate consumer harm**, provided such measures are **time-bound, subject to safeguards, and aligned with long-term procurement through CSP**.

6. Relevance to Current Conditions

Renewed spikes in WESM prices in the **Visayas and Mindanao** recreate the **same consumer-risk conditions** already identified by the ERC in this Order, thereby warranting **prompt, coordinated, and interim regulatory action** to prevent a recurrence of documented consumer harm.

Purpose of Attachment

This Executive Annex is attached to demonstrate that current WESM price conditions fall squarely within **circumstances already recognized by the ERC as unreasonable and harmful**, and to support the request for **urgent, interim consumer-protective action** while procedural and contractual processes are being addressed.