

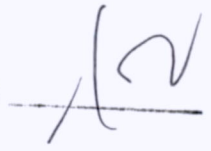
SEVENTEENTH CONGRESS OF THE  
REPUBLIC OF THE PHILIPPINES  
Second Regular Session

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SENATE

P.S. Res. No. 698

RECEIVED BY: 

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Introduced by SEN. WIN GATCHALIAN

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**A RESOLUTION DIRECTING THE APPROPRIATE SENATE COMMITTEE TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE IMPLEMENTATION OF THE POLICY OF COMPETITIVE SELECTION PROCESS IN THE PROCUREMENT BY DISTRIBUTION UTILITIES OF POWER SUPPLY AND ITS EFFECTIVITY IN LOWERING THE GENERATION COST CHARGED TO CONSUMERS**

**WHEREAS**, Section 23 of Republic Act No. 9136, otherwise known as the “Electric Power Industry Reform Act of 2001” (EPIRA) mandate Distribution Utilities (DUs) to supply electricity to their captive market in the least cost manner;

**WHEREAS**, on 11 June 2015, the Department of Energy (DOE) issued Department Circular No. DC 2015-06-008, entitled “*Mandating all Distribution Utilities to Undergo Competitive Selection Process (CSP) in Securing Power Supply Agreements (PSA)*” which emphasized the mandate of DUs to procure power in the least cost manner, and recognized the importance of requiring DUs to undergo a Competitive Selection Process (CSP) to encourage transparency in the power procurement process;

**WHEREAS**, on 20 October 2015, the Energy Regulatory Commission (ERC) issued Resolution No. 13, Series of 2015, entitled “*A Resolution Directing all Distribution Utilities (DUs) to Conduct a Competitive Selection Process (CSP) in the Procurement of their Supply to the Captive Market*”, which directed DUs to comply with the CSP Requirement as a pre-requisite for the acceptance of their application for approval of PSA with the ERC. This Resolution, however, did not specify a particular form of CSP;

**WHEREAS**, as a result of the foregoing, DUs undertook different forms of CSP. To this effect, some DUs such as MERALCO employed Price Challenge<sup>1</sup>, other Electric Cooperatives conducted bidding akin to the Government Procurement Reform Act, and the rest, through the assistance of a third party, aggregated their demand and bid it out<sup>2</sup>;

**WHEREAS**, on 19 January 2017, the National Electrification Administration (NEA) issued Memorandum No. 2017-003, with the following subject: “*Policy in the Conduct of Competitive Selection Process (CSP) of the ECs’ Power Supply Agreement (PSA)*”. This required all

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<sup>1</sup> MERALCO conducted a Price Challenge for the supply of 200 MW Peaking Capacity power requirements covering two (2) separate periods ending on 25 July 2017, and 25 February 2018, respectively.

<sup>2</sup> Twelve (12) Electric Cooperatives that are based in Central Luzon formed a group known as Central Luzon Electric Cooperatives Association – First Luzon Aggregation Group (CLECAFLAG) and bid out an aggregated demand of 300 MW.

Electric Cooperatives (ECs) to submit to NEA, for its review, the Terms of Reference to be used in the conduct of their respective CSP as well as the unsigned PSA to be executed with the relevant generation company;

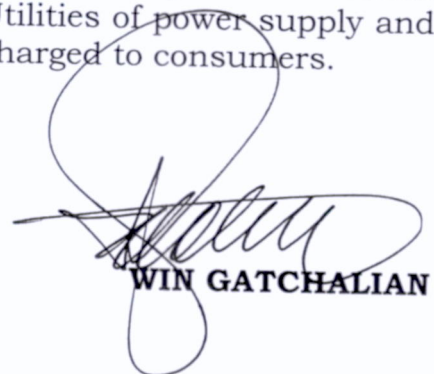
**WHEREAS**, the implementing rules and regulations of NEA Memorandum No. 2017-003 laid down *first*, a prescribed process flow for the conduct of a CSP; *second*, the conduct of a public bidding except in cases of failed biddings and unsolicited proposals; and *third*, disciplinary action for acts or omission of any or all members of the Board of Directors, General Manager and EC officers relative to the conduct of CSP;

**WHEREAS**, on 1 February 2018, the DOE issued Department Circular No. DC 2018-02-0003, entitled "*Adopting and Prescribing the Policy for the Competitive Selection Process in the Procurement by the Distribution Utilities of Power Supply Agreement for the Captive Market*", which provided the most comprehensive procedure that DUs are required to follow in the conduct of their CSP, allowed the use either of a Third Party Bids and Awards Committee or a Third Party Auctioneer, authorized demand aggregation, and repealed particular provisions of DOE Department Circular No. DC 2015-06-008 and NEA Memorandum No. 2017-003;

**WHEREAS**, it has been almost three (3) years since the first issuance of the DOE mandating that DUs comply with the CSP Requirement, and as such there is a need for Congress to examine if the existing issuances by various agencies from the Executive branch are properly harmonized so as not to cause confusion among industry stakeholders, to evaluate the effectivity of the various modes of CSPs employed by DUs, to determine the effect of the CSP Requirement on the generation cost incurred by DUs and passed-on to their captive customers, and to scrutinize if further legislation is needed to institutionalize the mandate enunciated under the EPIRA for DUs to procure power in the least cost;

**NOW THEREFORE BE IT RESOLVED**, as it is hereby resolved, to direct the appropriate Senate Committee to conduct an inquiry, in aid of legislation, on the implementation of the policy of Competitive Selection Process in the procurement by Distribution Utilities of power supply and its effectivity in lowering the generation cost charged to consumers.

*Adopted,*



**WIN GATCHALIAN**