

THE ACTORS OF EPIRA:
INTERPLAY, IMPACT, &
IMPLICATIONS FOR THE
POWER REFORM PROCESS

OUTLINE OF DISCUSSION

The Legislature

The Executive

DOE, ERC, PSALM, Transco, NPC,

Other Actors

Transmission Concessionaire, Generating
Companies, Distribution Utilities, Electricity
Market

Conclusion

The Legislature

- Shift from state rowing to steering: clipping the Executive's wings
- Legislative distrust for the previous administration
- Legislative distrust for the DOE/NPC

- Outcomes:
 - Review of IPP contracts
 - Renegotiation of PNOC-EC Power Agreements with NPC
 - Higher stranded contract costs arising from disqualified IPPs

- Legislative encroachment on executive functions
 - Creation of oversight committee: Joint Congressional Power Commission (JCPC)
 - JCPC approval of IRR; extended to amendments to IRR
 - JCPC endorsement of Privatization Plan; extended to Priva Plan changes
 - JCPC approval of amended PNOC-EC agreements with NPC

- Expansion of scope of legislative approval
 - Approval of franchise of Transmission grid operator
 - Transco transferable franchise withheld
 - Implications for Transmission grid privatization; withheld transferable franchise assured failure of bidding and had to be negotiated
 - Approval of franchises of electric cooperatives

- Department of Energy: “responsibility without powers”?
 - Formulate such rules and regulations as may be necessary to implement the objectives of this Act
 - Exercise such other powers as may be necessary or incidental to attain the objectives of this Act
 - Recall that IRR amendments subject to JCPC approval
 - Removed as chair of the boards of NPC, Transco, PSALM
- Energy Regulatory Commission: “powers without accountability”?

CONSOLIDATED EXECUTIVE POSITION:

DOE to promulgate policy-related rules and regulations including those on:

Structural and functional unbundling of
DUs

Compliance standards for DUs

Qualification of electricity suppliers

Administration, collection, payment of
Universal Charge

Promotion of competition, encouragement of market development and customer choice and discourage/penalize abuse of market power, cartelization and any anti-competitive behavior

Open access and retail competition

Performance standards for generation companies, TRANSCO/concessionaire, DUs, suppliers

ALTERNATIVELY, PROVIDE THESE IN THE IRR

- ERC to enforce the above rules and regulations and prescribe core regulatory and procedural rules, including rates, WESM price determination methodology, eligibility for WESM, administrative and operating charge of Market Operator, suspension of WESM in case of emergencies/calamities
- Congress denied the Executive's request and authorized ERC to "Impose fines or penalties for any non-compliance with or breach of this Act, the IRR..." and rules it promulgates or administers.

ERC

Fix and regulate retail distribution rates, distribution wheeling charges and connection fees, and transmission charges

Approve application for/ issue, revoke, review and modify CPCNs, licenses to suppliers of electricity and certificates of compliance to the generating companies/facilities.

Implement pertinent provisions of R. A. No. 7832

Review renegotiated power purchase contracts and energy conversion agreements between PNOC-EDC and NPC.

Fix and regulate prices of piped gas and other energy resources

Test and calibrate electric watt-hour meters of all electric distribution utilities

Promulgate and enforce a National Grid and Distribution Code

Promulgate and enforce competition rules that will ensure and promote competition, encourage market development and customer choice, and monitor and take measures to discourage/penalize abuse of market power, cartelization and any anti-competitive or discriminatory behavior by any electric power industry participant

Promulgate and enforce the rules on the qualifications of electricity suppliers

Ensure that the industry participants and NPC functionally and structurally unbundle their respective activities and rates

Handle consumer complaints and ensure promotion of consumer interests

Enforce the rules and regulations governing the operations of the electricity spot market and the activities of the spot market operator and other participants in the spot market

Set lifeline rates for the marginalized end-users

Promulgate and implement the rules and regulations on de-monopolization and shareholding dispersal

Enforce the rules and regulations governing the operations of the electricity spot market and the activities of the spot market operator and other participants in the spot market

Promulgate and enforce the rules on complaint procedures

Promulgate guidelines on the methodology for setting Transmission Wheeling Rates

Promulgate and enforce the guidelines to govern the imposition of administrative sanctions in the form of fines and penalties

Promulgate and enforce the guidelines for the issuance of COC to generation companies/facilities

Fix user fees to be charged by the TRANSCO for ancillary services to all electric power industry participants or self-generating entities connected to the grid

- PSALM plays a strategic role in the restructuring and reform process as owner of NPC's generation assets particularly in Mindanao today
- Role of Malaya in Nov/Dec price spike highlights this
- Residual Transco is also wholly owned by PSALM
- Function is not only liability management

NATIONAL ELECTRIFICATION

ADMINISTRATION AND ELECTRIC COOPS

- As a next stage of the power sector reforms, a Comprehensive Electric Cooperative Reform measure was to be pursued after EPIRA
- The Executive wanted the condonation of EC's debts to be part of the separate reform measure contingent on the implementation of EC reforms
- RA 10531 was passed in 2013 providing NEA with step-in rights over ailing cooperatives, impose standards, but jury still out on effectiveness in resolving issues relating to the financial viability of a number of ECs

- NATIONAL POWER CORP.
- Debt-free, its principal mandate is to carry out missionary electrification.
- Delayed privatization of PSALM/NPC assets particularly in Mindanao still gives a large role for NPC in the generation sector which can hinder it from focusing on missionary electrification

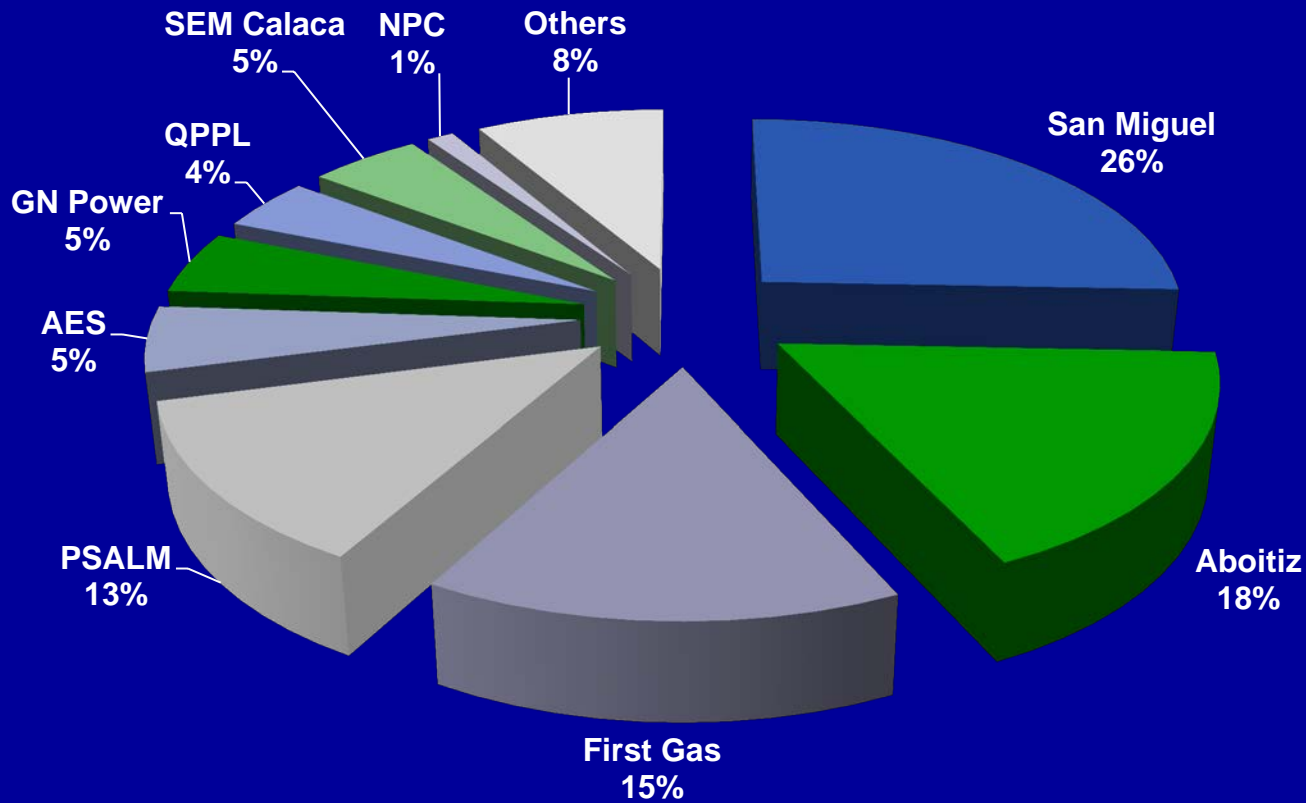
Market Share Luzon

Based on ERC Resolution No. 3, Series of 2014

Market Share Luzon (MW) Per ERC Resolution No. 3, Series of 2014		
COMPANIES	Nameplate Rating	Installed Generating Capacity
San Miguel	3,631.54	3,085.00
Aboitiz	2,419.00	2,111.96
First Gas	1,879.27	1,796.82
PSALM	1,641.61	1,546.05
AES	660.00	625.00
GN Power	651.61	604.00
QPPL	511.00	511.00
SEM Calaca	600.00	600.00
NPC	556.00	145.95
Others	620.98	1,015.63
TOTAL	13,171.00	12,041.417
Market Share Luzon (%) Per ERC Resolution No. 3, Series of 2014		
COMPANIES	Nameplate Rating	Installed Generating Capacity
San Miguel	27.57%	25.62%
Aboitiz	18.37%	17.54%
First Gas	14.27%	14.92%
PSALM	12.46%	12.84%
AES	5.01%	5.19%
GN Power	4.95%	5.02%
QPPL	3.88%	4.24%
SEM Calaca	4.56%	4.98%
NPC	4.22%	1.21%
Others	4.71%	8.43%
TOTAL	100%	100%

Market Share Luzon

Based on ERC Resolution No. 3, Series of 2014



Market Share Visayas

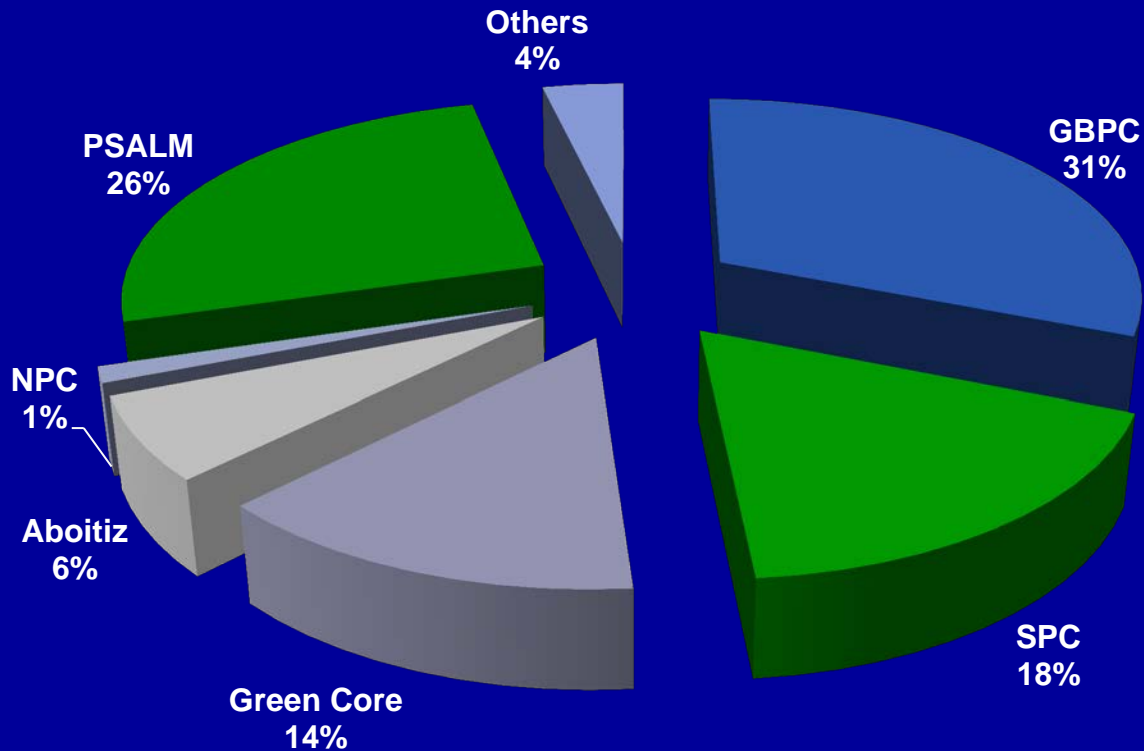
Based on ERC Resolution No. 3, Series of 2014

Market Share Luzon (MW) Per ERC Resolution No. 3, Series of 2014		
Companies	Nameplate Rating	Installed Generating Capacity
GBPC	665.63	567.40
SPC	370.92	321.40
Green Core	354.37	254.03
Aboitiz	120.25	119.60
NPC	96.00	23.50
PSALM	745.42	474.20
Others	70.29	67.17
TOTAL	2,422.88	1,827.29

Market Share Luzon (MW) Per ERC Resolution No. 3, Series of 2014		
Companies	Nameplate Rating	Installed Generating Capacity
Global Business Power Corp	27.47%	31.05%
Salcon Phils./Atlas	15.31%	17.59%
Panay Electric/EDC/Gree Core/First Gen.	14.63%	13.90%
Aboitiz Power	4.96%	6.55%
NPC	3.96%	1.29%
PSALM	30.77%	25.95%
Others	2.90%	3.68%
TOTAL	100.00%	100.00%

Market Share Visayas

Based on ERC Resolution No. 3, Series of 2014



Market Share Mindanao

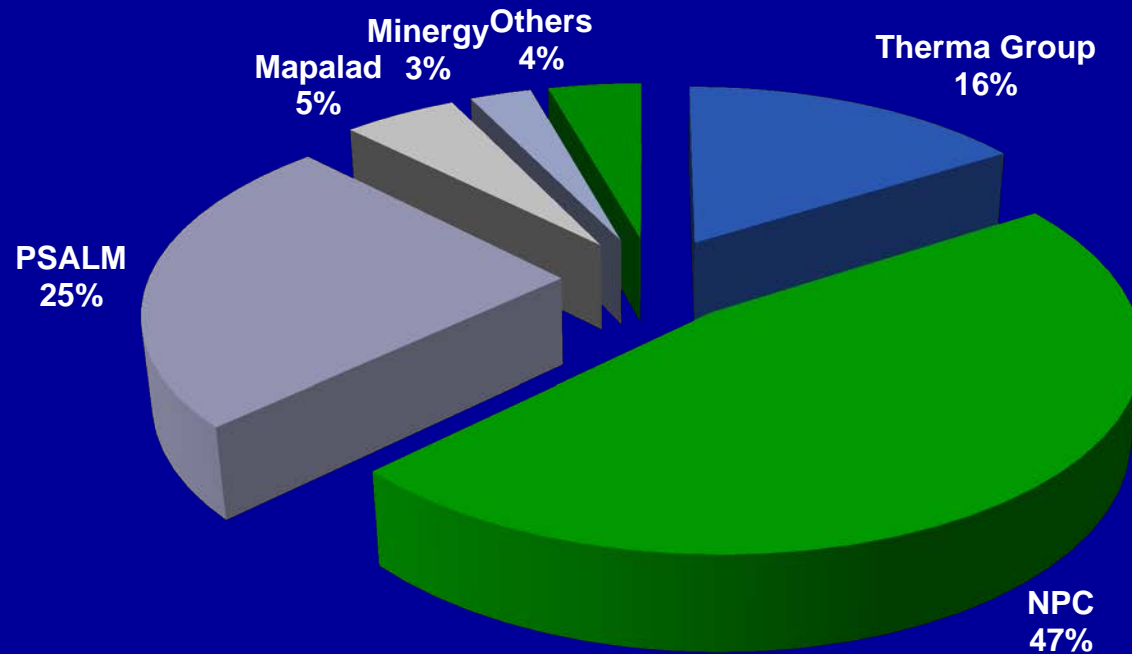
Based on ERC Resolution No. 3, Series of 2014

Market Share Luzon (MW) Per ERC Resolution No. 3, Series of 2014		
Companies	Nameplate Rating	Installed Generating Capacity
Therma Group	315.78	313.76
NPC	1,077.51	920.01
PSALM	514.20	484.87
Mapalad	108.60	103.20
Minergy	56.46	56.46
Others	85.54	85.34
TOTAL	2,158.09	1,963.64

Market Share Luzon (MW) Per ERC Resolution No. 3, Series of 2014		
Companies	Nameplate Rating	Installed Generating Capacity
Therma Group	14.63%	15.98%
NPC	49.93%	46.85%
PSALM	23.83%	24.69%
Mapalad	5.03%	5.26%
Minergy	2.62%	2.88%
Others	3.96%	4.35%
TOTAL	100.00%	100.00%

Market Share Mindanao

Based on ERC Resolution No. 3, Series of 2014



Market Share Mindanao

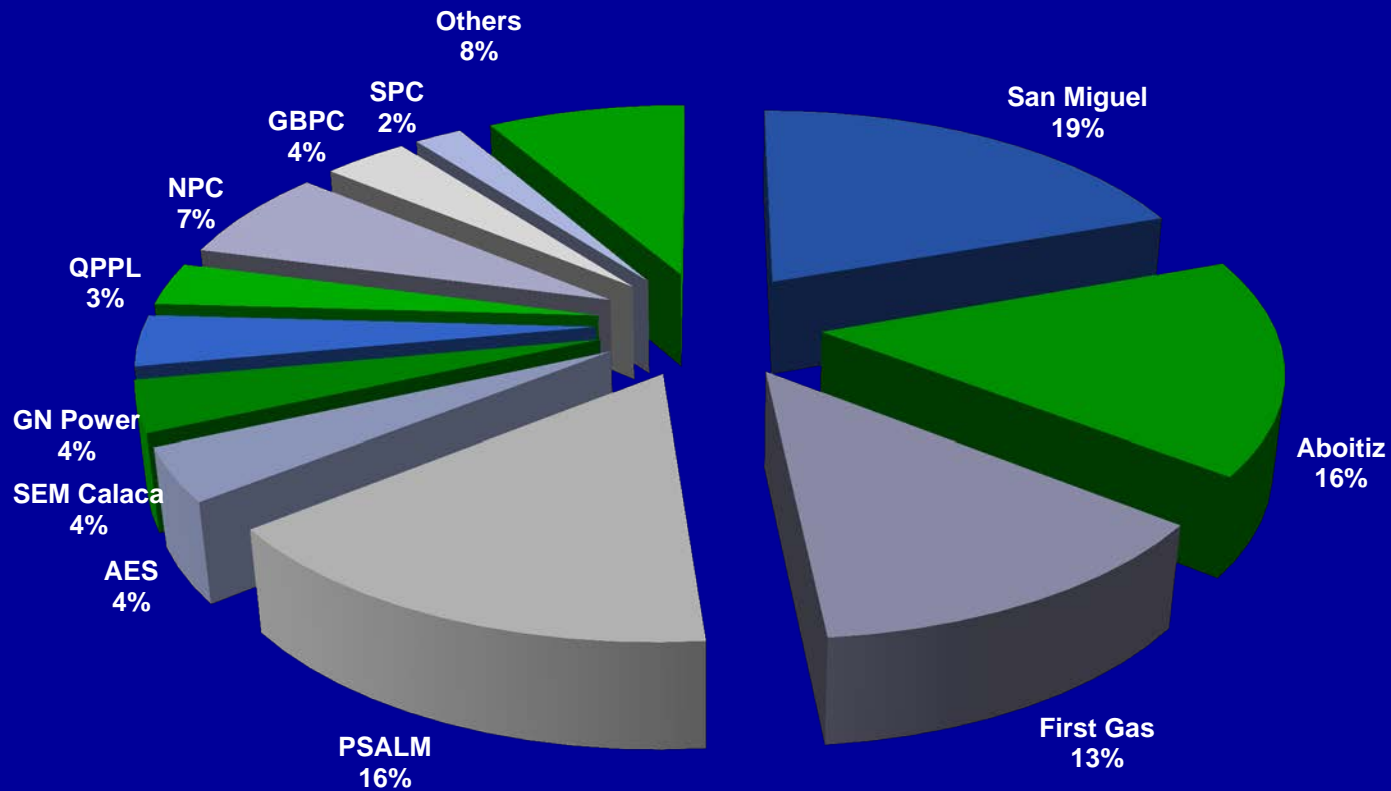
Based on ERC Resolution No. 3, Series of 2014

Market Share Luzon (MW) Per ERC Resolution No. 3, Series of 2014				
Companies	Luzon	Visayas	Mindanao	Philippines
San Miguel	3,085			3,085
Aboitiz	2,112	120	314	2,545
First Gas	1,797	254		2,051
PSALM	1,546	474	485	2,505
AES	625			625
SEM Calaca	600			600
GN Power	604			604
QPPL	511			511
NPC	146	24	920	1,089
GBPC		567		567
SPC		321		321
Others	1,016	67	244	1,327
TOTAL	12,041	1,827	1,963	15,831

Market Share Luzon (%) Per ERC Resolution No. 3, Series of 2014				
Companies	Luzon	Visayas	Mindanao	Philippines
San Miguel	25.6%			19.5%
Aboitiz	17.5%	6.5%	16.0%	16.1%
First Gas	14.9%	13.9%		13.0%
PSALM	12.8%	26.0%	24.7%	15.8%
AES	5.2%			3.9%
SEM Calaca	5.0%			3.8%
GN Power	5.0%			3.8%
QPPL	4.2%			3.2%
NPC	1.2%	1.3%	46.9%	6.9%
GBPC		31.1%		3.6%
SPC		17.6%		2.0%
Others	8.4%	3.7%	12.4%	8.4%
TOTAL	100%	100%	100%	100%

Market Share Philippines

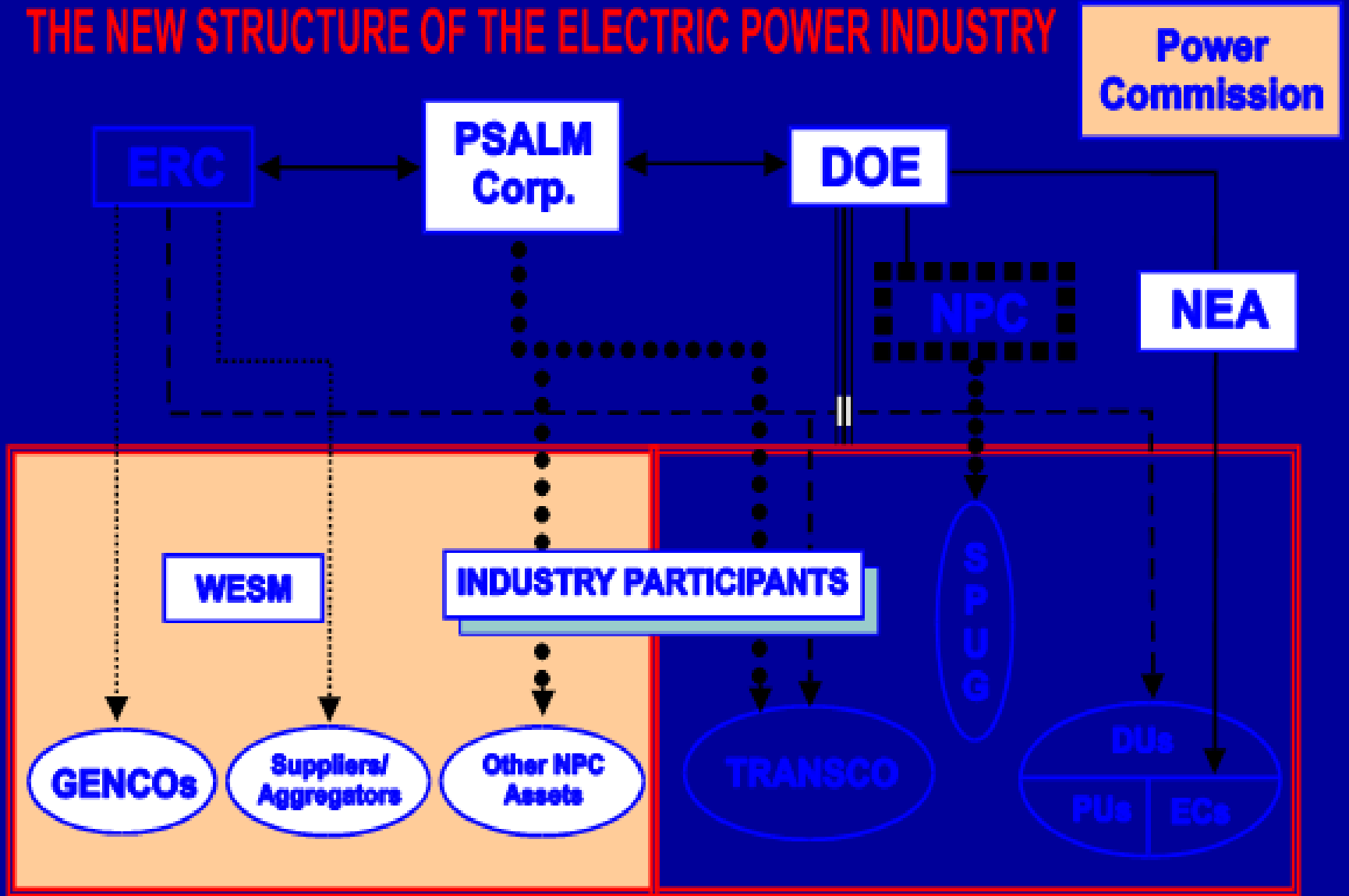
Based on ERC Resolution No. 3, Series of 2014



TRANSMISSION GRID CONCESSIONAIRE

- Nation-wide monopoly in all grids
- Regulated by ERC
- But Concession Contract signed with PSALM and Transco which can provide additional contract management functions
- For any violation of the EPIRA, upon recommendation by DOE and/or ERC, Congress may revoke such franchise or privilege
- Under the Constitution, any franchise subject to amendment, alteration or repeal by Congress when the common good so requires

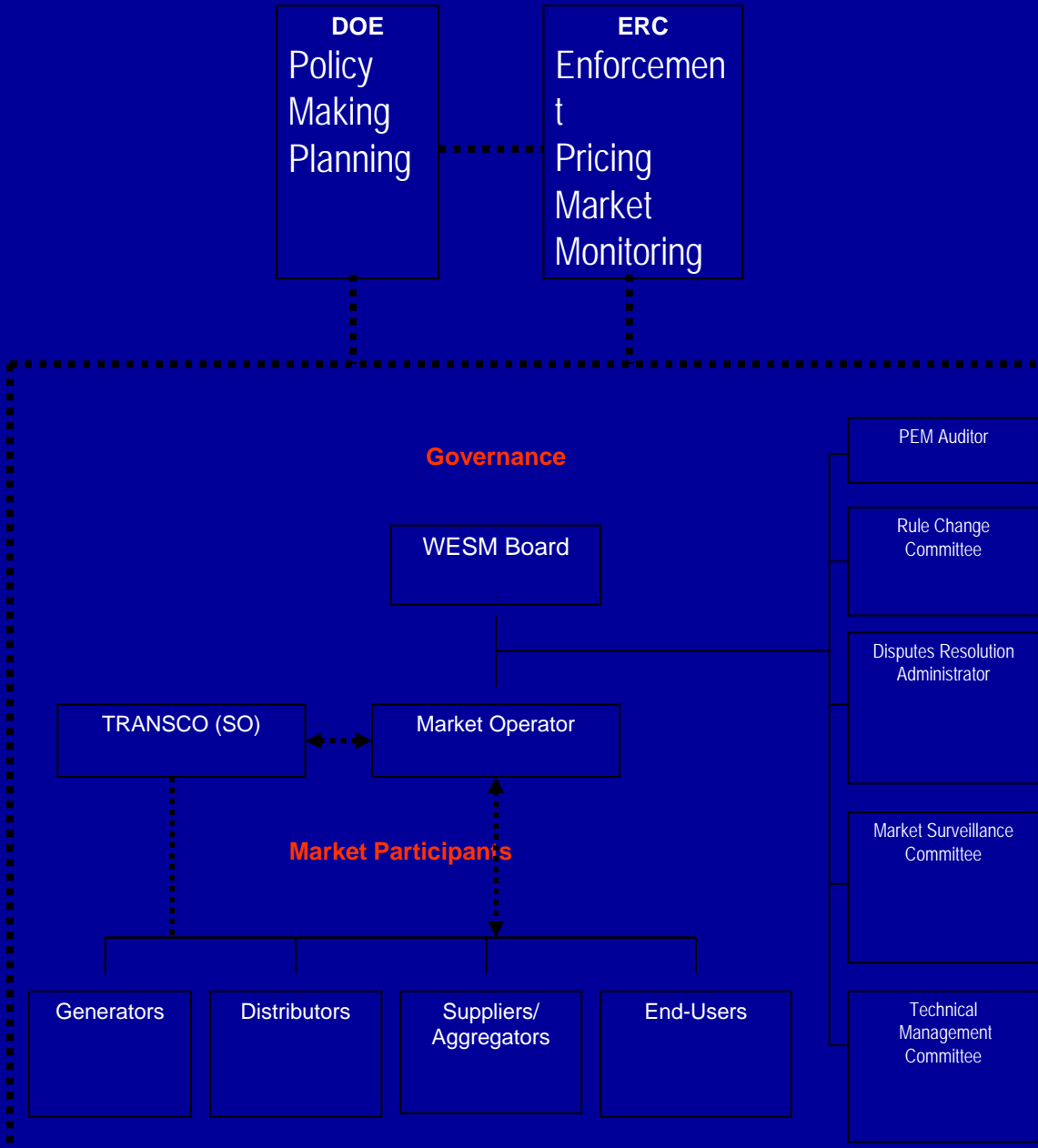
THE NEW STRUCTURE OF THE ELECTRIC POWER INDUSTRY



LEGEND:



GOVERNANCE AND REGULATORY STRUCTURE FOR THE WESM



DEPARTMENT OF ENERGY ROLE IN ELECTRICITY MARKET

- Establish the WESM
- Formulate jointly with industry participants detailed rules for the WESM
- Constitute members of the Autonomous Group Market Operator
- Secretary of Energy chairs AGMO until transfer to independent entity
- Endorse the transfer to an Independent Market Operator

ERC ROLE IN ELECTRICITY MARKET

- Enforce rules governing the electricity spot market
- Approve WESM price determination methodology
- Authorize members eligible for WESM,
- Approve administrative and operating charge of Market Operator
- Suspend operation of WESM in case of emergencies/calamities

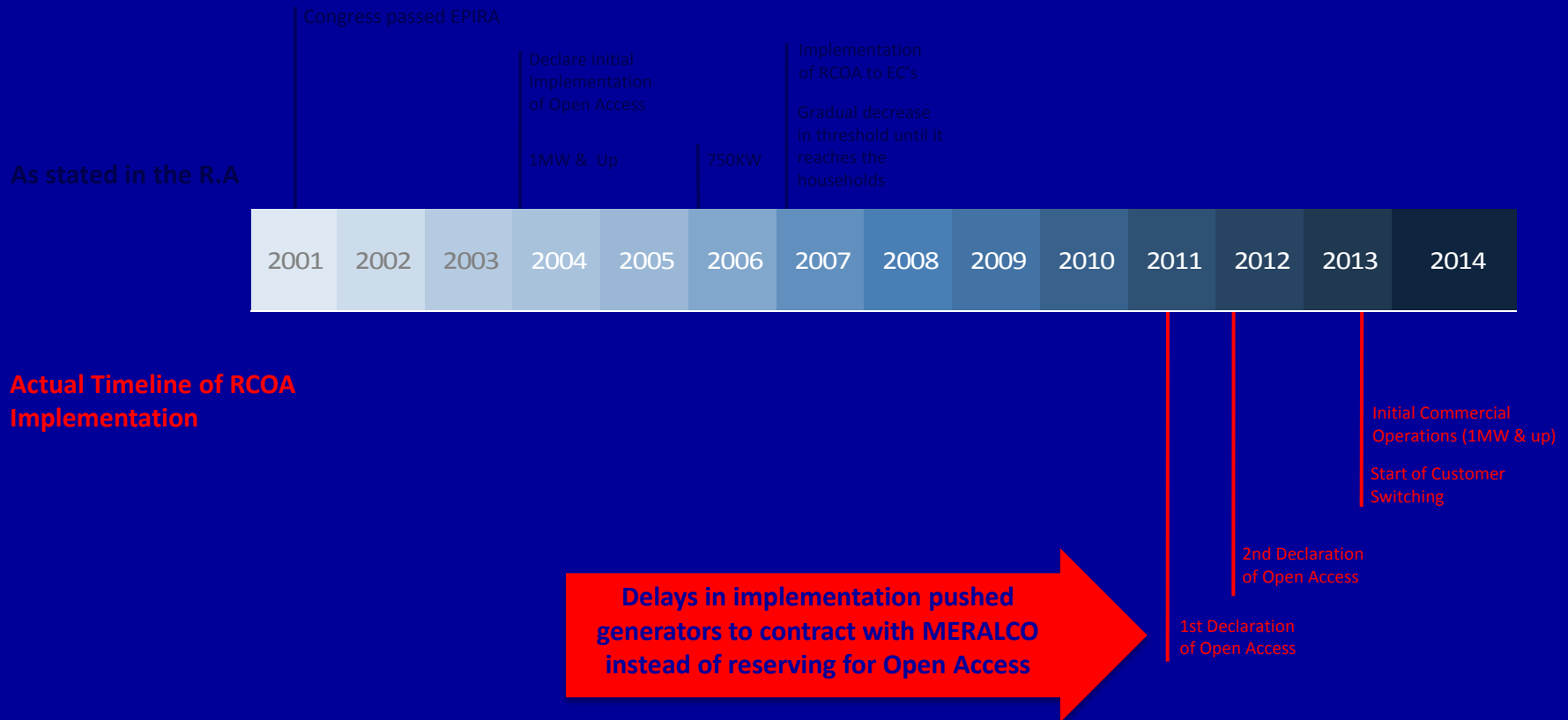
DISTRIBUTION UTILITIES AND GENERATORS

- Executive's position was for prohibition of cross-ownership and this was rejected by Congress
- Retail competition and open access from a date certain
- Distribution utilities with IPP contracts and private generators feared unfair competition from NPC plants due to artificially low regulated rates

- Congress provided for RCOA subject to conditions
 - Establishment of WESM
 - Approval of unbundled transmission and distribution wheeling charges
 - Initial implementation of the cross subsidy removal scheme
 - Privatization of at least 70% of NPC generating assets in Luzon & Visayas
 - Transfer of control of at least 70% of energy output to IPP Administrators

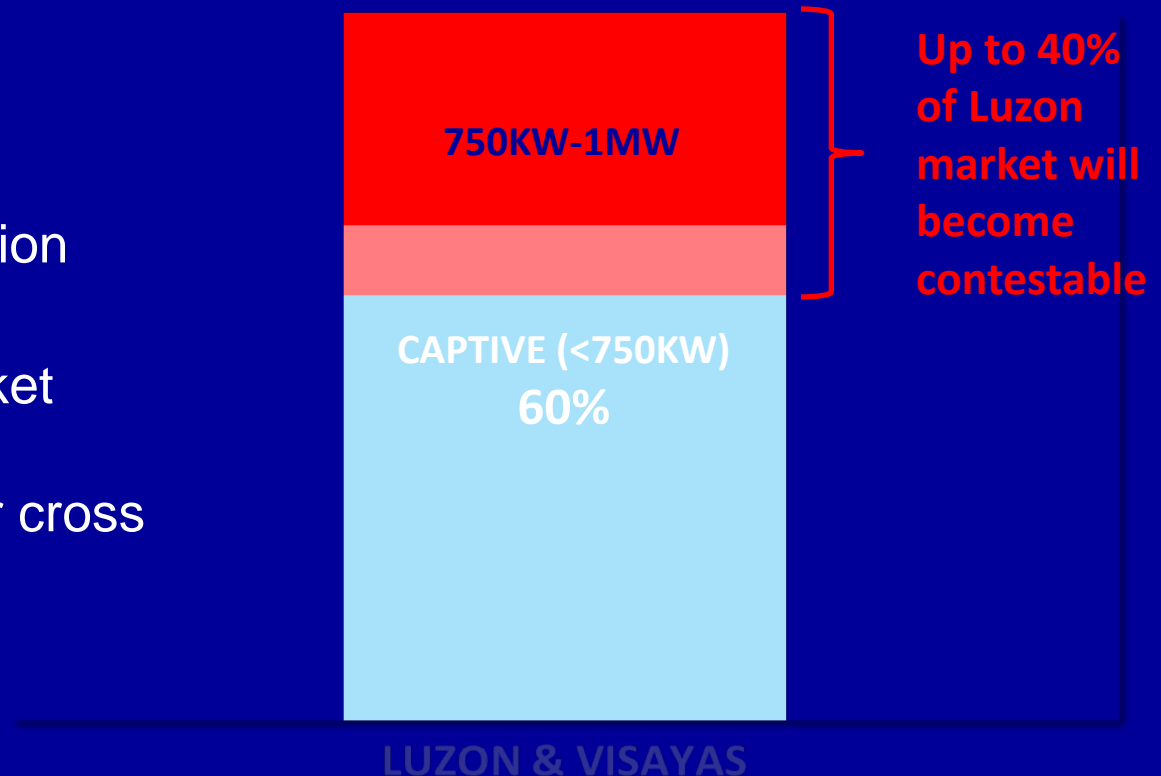
- Two years after the initial implementation of open access, threshold level for the contestable market shall be reduced to 750kW from 1 MW monthly average peak demand for the preceeding 12 months
- At this level, aggregators shall be allowed to supply electricity to end-users whose aggregate demand within a contiguous area is at least 750kW
- Subsequently and every year thereafter, ERC shall evaluate the market

Retail Competition and Open Access



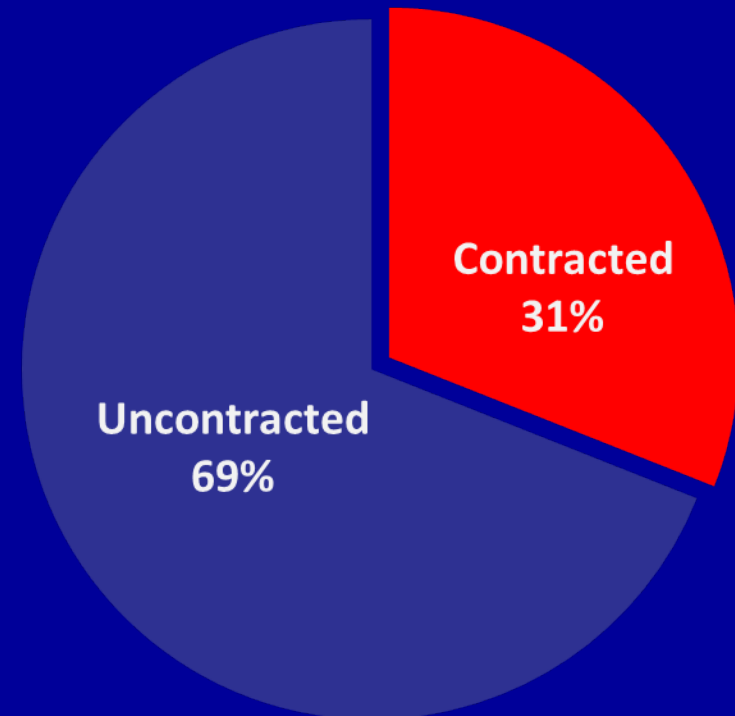
Retail Competition and Open Access

- Creates a market for generators that is not controlled by distribution utilities
- The reduction in market power of utilities can minimize the need for cross ownership limitations



Customer choice

- Only 31% of 1MW contestable market exercised their choice. This is partially driven by limited capacity.
- New capacity can be built to capitalize on contestable market.



1MW Contestable Market

- Addressing the DOE's ability to enhance coordination
- DOE was made Vice-Chair of PSALM, Transco and NPC
- PSALM, Transco and NPC were administratively attached to DOE using the power of the President to transfer offices
- ERC continued to be attached to the Office of the President, but its Chair participated in DOE Mancom meetings for policy coordination
- Facilitative role

- Addressing ERC's need for enhanced regulatory capacities
- Focused reorganization still possible using the powers of the President although initial opportunity was missed
- Exempt from Salary Standardization Law under EPIRA
- Retention of income possible
- Outsourcing of services

- Decentralized set-up requires better coordination among the agencies concerned
- Pooling of resources and personnel should be pursued
- Outsourcing of services, particularly those requiring highly technical skills
- Elements of the reform, including retail competition and open access, still have to be realized
- The next generation of reforms, including those of ECs should be carried out