



January 28, 2016

**MS. JANET ENCARNACION**

Head, Disclosure Department  
Philippine Stock Exchange, Inc.  
3<sup>rd</sup> Floor, Philippine Stock Exchange Plaza  
Ayala Triangle, Ayala Avenue  
Makati City

Re: Clarification to the January 27, 2016 Business World Online News Article

Dear Ms. Encarnacion:

This refers to your letter requesting us to confirm the veracity of the information reflected in the Business World Online news article dated January 27, 2016 entitled "CA Denies PEMC bid to impose Php235-M fine on AboitizPower unit", the relevant portion of which is quoted hereunder:

*"THE COURT of Appeals (CA) has denied the petition by the Wholesale Electricity Spot Market's (WESM) administrator to collect a P234.9-million fine imposed on Therma Mobile Inc. (TMO) for violating market rules, causing a spike in spot prices in late 2013.*

*In a 22-page decision dated Dec. 14, the CA Special Fifth Division affirmed the Pasig Regional Trial Court's (RTC) April 1, 2015 writ of preliminary injunction, which prevented the Philippine Electricity Market Corp. (PEMC) from slapping the fine on Aboitiz Power Corp.'s (AboitizPower) subsidiary.*

*The appellate court gave weight to TMO's claim that its operations would be jeopardized by the hefty penalty.*

*'TMO, in its comment to PEMC's petition for review, mentioned that it is not financially capable to settle the financial penalty. As such payment of the enormous penalty amounting to P234,900,000 would be a threat to its very existence,' read the decision.*

*The court added that the damage to TMO might as well be incalculable. '[N]o device can measure and calculate the injury that TMO would suffer if the [PEMC order] would be executed and implemented,' the decision read.*

*The CA also described as 'utterly misplaced' PEMC's contention that the Pasig RTC erred in subjecting the issue to WESM dispute resolution rules.*

*...."*

We confirm that the Court of Appeals issued a decision dated December 14, 2015 in CA-G.R. SP. No. 140177 entitled "**Philippine Electricity Market Corporation (PEMC) represented by The Philippine Electricity Market Board v. Therma Mobile, Inc**" denying PEMC's Petition for Review assailing the April 1, 2015 decision of Branch 157 of the Pasig Regional Trial Court in SP Proc. No. 12790. The Court of Appeals upheld the decision of the Regional Trial Court which:

- (1) Granted TMO's application for a writ of preliminary injunction to prevent PEMC from (a) demanding or collecting the Php234.9 M in financial penalties (b) from charging interest on the financial penalties and having them accrue (c) from transmitting PEMC-ECO's investigation report to the ERC until the dispute between TMO and PEMC is finally resolved.
- (2) Made a prima facie determination that an arbitration agreement exists between TMO and PEMC based on and in accordance with Rules 2.4, 3.8 and 3.11 of the Special ADR Rules.
- (3) Directed the parties to continue with the dispute resolution process under the WESM Rules and WESM DRMM which had already been commenced with the negotiation meetings conducted by the parties.

We trust the foregoing is to your satisfaction.

Very truly yours,

**ABOITIZ POWER CORPORATION**

By



**M. JASMINE S. OPORTO**

Corporate Secretary

Cc:

**MS. VINA VANESSA S. SALONGA**

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