

purpose and shall not constitute an admission by the party making the offer of any violation of the laws, rules, regulation, orders and resolution of the Commission, nor as a waiver to file any warranted criminal action.

Section 6. *Cease and Desist Order.* - In appropriate cases, the Commission shall issue Cease and Desist Order after due notice and hearing.

Section 7. *Imposition of Fines and Penalties.* - The imposition of administrative fines and penalties shall be governed by the Guidelines to Govern the Imposition of Administrative Sanctions in the Form of Fines and Penalties Pursuant to Section 46 of Republic Act No. 9136, as amended.

#### *G. Compliance Filings with the Commission*

Section 1. *In General.* - When the Commission issues an order that authorizes or requires a party to make a filing to implement specific terms of the order or to comply with conditions for the issuance thereof with respect to the issues resolved in the proceeding, the filing is deemed a "compliance filing". A compliance filing is made under the docket number of the order to which it relates.

If the Commission in its order directs a party to initiate an entirely new proceeding, such filing made in compliance with said directive will be assigned a new docket number, treated as a separate application or petition, and covered by the same rules applicable to all other applications or petitions.

Section 2. *Reporting Requirement.* - The Commission may, in its order, require a party to report periodically to the Commission with respect to a subject matter stated therein. The reports must be filed under the docket number of the proceeding in which the order is entered, unless otherwise specified in the order establishing the requirement or directed by the Commission.

Section 3. *Compliance filing pursuant to certain Rules or Guidelines adopted by the Commission.* - When the Commission adopts certain rules authorizing or requiring a party to make a filing in accordance therewith, the filing is likewise deemed a "compliance filing". This compliance filing is filed with the Commission's Docket Section, which will assign it a separate number, and must include the following:



- (a) A verified cover letter that identifies the specific rules to which the filing relates, the period covered, if applicable, and the name, address and contact number of the person making the filing, and summary of the compliance; and
- (b) All the pertinent or required documents to be submitted in support of the compliance filing as provided in the applicable rules or as may be required by the Commission.

Section 4. *Commission Action on Compliance Filings under Section 3.* - Within fifteen (15) days from the filing, the Commission shall make a determination of the completeness of the submission. If it finds that there are still

documents and other data that must be submitted, it shall issue an order directing the submission of such other documents and data. In such case, the filing shall be deemed to have been made only upon the receipt by the Commission of such additional documents and data.

After consideration of all the documents submitted in support of the compliance filing, the Commission may enter an order approving the compliance filing or rejecting the same or any portion of the filing that fails to comply. However, if the rules to which the compliance filing relates provide for the automatic approval thereof upon the lapse of a specified period stated therein if no decision is reached thereon by the Commission, then the filing shall be deemed approved upon the lapse of the period or any extension thereto made by the Commission, as may be the case.



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## RULE 21 - RULE-MAKING

Section 1. *Initiation of Rule-making.* - The process of adopting a new rule or amending or repealing an existing rule may be initiated by the Commission or by interested persons upon a petition for the issuance, amendment, or repeal of any rule.

Section 2. *Petition to Initiate Rule-making.* - Interested persons may petition the Commission to adopt, amend, or repeal a rule by filing a petition to initiate rule-making. The petition must contain the name and address of the petitioner, the specific rule or action requested, the reasons for the rule or action requested, and facts showing that the petitioner has a substantial interest in the rule or action requested.

The Commission shall either deny the petition, stating its reasons in writing, or will grant the petition by initiating rule-making and issuing a Notice of Proposed Rule-making.

Section 3. *Notice of Rule-making.* - The Commission shall give Notice of Proposed Rule-making and cause the proposed rule to be published on its Website. Depending on the nature or subject matter of the proposed rule, the Commission may also cause the publication thereof in newspapers of general circulation and send copies thereof to affected parties. For proposed rules that involve the fixing or setting rates and charges, the notice shall be published in a newspaper of general circulation at least two (2) weeks before the scheduled hearing thereon.

The Notice shall set any written comment period, the manner these comments will be received by the Commission, and will specify the time, date, and place of any public hearing thereon.

Section 4. *Rule-making Proceedings.* - Before finalizing language of a proposed new rule or an amendment to, or repeal of, an existing rule, the Commission shall receive public input through written comments and/or oral submissions. The Commission shall designate in its Notice the format and timing of public comment.

Any public hearing shall provide affected persons and other members of the public a reasonable opportunity for presentation of evidence, arguments, and oral statements within reasonable conditions and limitations imposed by the Commission to avoid duplication, irrelevant comments, unnecessary delay, or disruption of the proceedings. For this purpose, the procedure set forth in Rule 19 shall be applied insofar as it is applicable.

The Chair, any Commissioner, or any person designated by the Commission may preside at the public hearing. The Commission shall ensure that the Commission staff responsible for preparing the proposed rule or amendment are available, and shall notify interested parties who petitioned for the

institution of rule-making proceedings to be present, for them to explain the proposal and to respond to questions or comments regarding the proposed rule.


The Commission shall preserve the comments made at the public hearing by a stenographer or by recording instruments.

Any person may submit written statements within the specified period of time. All timely, written statements shall be considered by the Commission and shall be made a part of the record of the rule-making proceeding.

Section 5. *Resolution to Adopt a Rule.* - Before acting on a proposed rule, the Commission will consider all of the written submissions and/or oral submissions and evidences received in the rule-making proceeding or any memorandum summarizing such submissions. The Commission will use its own experience, specialized knowledge, and judgment in the adoption of a rule. The rule adopted by resolution of the Commission shall not be the subject of a motion for reconsideration under Rule 23 and one who is adversely affected by said rule may petition the Commission to initiate rule-making under Section 2.

Section 6. *Issuance and Publication.* - After the approval and issuance of the rule, the Commission shall cause its publication in a newspaper of general circulation or the Official Gazette and shall file a certified copy thereof with the Office of the National Administrative Register (ONAR) at the University of the Philippines (UP) Law Center. The Commission shall also post the same on its Website.

Section 7. *Effectivity of Rules.* - Unless otherwise provided therein, rules issued by the Commission shall become effective fifteen (15) days after its publication in a newspaper of general circulation or the Official Gazette, whichever comes earlier.



## RULE 22 - FINAL ORDERS, RESOLUTIONS, AND DECISIONS

Section 1. *How Rendered.* - Unless otherwise stated in these rules or order of the Commission and subject to the vote requirement in Section 38 of Republic Act No. 9136, all final orders, resolutions and decisions shall be signed by the members of the Commission who concurred thereto at the time the same was deliberated upon and approved in a Commission meeting where a quorum is present.

Section 2. *Form and Contents.* - All final orders and decisions shall be in writing stating clearly and distinctly the facts and the law on which it is based. They shall be filed with the Docket Section of the Commission which shall immediately cause copies thereof to be served upon the parties and to such other persons or entities as the Commission may designate.

Section 3. *Rendition of Decision.* - Unless otherwise stated in these rules or order of the Commission, the Commission shall render its decision in all applications, petitions or complaints within thirty (30) days from the date the case is submitted to it for decision on the merits. In all its final orders, resolutions, or decisions, the Commission may grant such relief, impose such conditions or fix such terms as may be deemed necessary to promote public interest.

Section 4. *Correction of Clerical Mistakes.* - Clerical mistakes in orders or decisions arising from oversight or omission may be corrected by the Commission at any time on its own initiative, or on motion of any party.

Section 5. *Finality.* - All final orders, resolutions or decisions of the Commission shall become final and inappealable upon the expiration of fifteen (15) days from notice thereof to all parties. Any appeal shall not stay the same, unless the appellate court shall direct otherwise.

Section 6. *Appeal.* - The appeal from final orders, resolutions or decisions of the Commission shall be taken within (15) days from notice thereof or of the denial of the appellant's motion for reconsideration duly filed in accordance with Rule 23.

Section 7. *Compilation and Publication of Decisions.* The Docket Section shall compile all final orders, resolutions, and decisions of the Commission and make them available for public inspection.

RULE 23 - MOTION FOR RECONSIDERATION

Section 1. *Filing of Motion for Reconsideration.* - A party adversely affected by a final order, resolution, or decision of the Commission rendered in an adjudicative proceeding may, within fifteen (15) days from receipt of a copy thereof, file a motion for reconsideration. In its motion, the movant may also request for reopening of the proceeding for the purpose of taking additional evidence in accordance with Section 17 of Rule 18. No more than one motion for reconsideration by each party shall be entertained.

Section 2. *Opposition.* - Any party to the proceeding may object to a motion for reconsideration filed under Section 1 by filing an opposition thereto within ten (10) days from receipt thereof. After the filing of said opposition or the lapse of the period for filing the same, the motion shall be deemed submitted for resolution, unless the Commission grants the request for reopening the proceeding, in which case it shall set the case for hearing.

Section 3. *Effect of Filing of Motion for Reconsideration.* - The filing of a motion for reconsideration shall stop the running of the fifteen-(15) day period in Section 5 of Rule 22 and prevent the final order, resolution or decision of the Commission from becoming final and inappealable. However, unless otherwise ordered by the Commission, such filing shall not prevent the final order, resolution or decision from becoming effective, as the same shall be effective upon the date specified therein or upon the lapse of the fifteen-(15) day period, as the case may be.

RULE 24 - MISCELLANEOUS PROVISIONS

Section 1. *Repeal.* - All prior rules, regulations, guidelines or practices followed before the Commission which are inconsistent herewith are hereby repealed or deemed modified accordingly.

Section 2. *Separability Clause.* - If, for any reason, any provision of these rules is declared unconstitutional or contrary to law, the other parts or provisions hereof which are not affected thereby shall continue to be in full force and effect.

Section 3. *Effectivity.* - These rules shall become effective fifteen (15) days after its publication in a newspaper of general circulation or the Official Gazette, whichever comes earlier. Upon becoming effective, these rules shall be applied to pending proceedings before the Commission to the extent that they are applicable.

Pasig City, 22 June 2006

(ON LEAVE)  
RODOLFO B. ALBANO JR.  
Chairman

  
OLIVER B. BUTALID  
Commissioner

(ON LEAVE)  
JESUS N. ALCORDO  
Commissioner

  
RAUF A. TAN  
Commissioner

  
ALEJANDRO Z. BARIN  
Commissioner

ERC STANDARD FORMS

Form 1. Notice of Hearing for General Rate Applications

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

IN THE MATTER OF THE APPLICATION FOR  
 APPROVAL OF THE AVERAGE RATE  
 INCREASE (DECREASE) OF  
 \_\_\_\_\_/kWh WITH PRAYER FOR  
 PROVISIONAL AUTHORITY.

ERC CASE NO. \_\_\_\_\_-XXXRC

DISTRIBUTION UTILITY,

Applicant.

x-----x

NOTICE OF PUBLIC HEARING

TO ALL INTERESTED PARTIES:

Notice is hereby given that on *(date of filing)*, *Distribution Utility* filed with the Commission, pursuant to *(legal basis of the application)*, an application with prayer for provisional authority for approval of the average *increase (decrease)* of \_\_\_\_\_/kWh in its distribution, supply, and metering charges. In its application, *Distribution Utility* alleges that:

*(Summary of the allegations in the application)*

Summarized below is the proposed schedule of rates and the estimated impact of the rate adjustment applied for on each customer class of the *Distribution Utility*.

(Figures in the following table are mere simulations and the classification of customers is for illustration purposes only)

Customer Class		Distribution Charge		Supply Charge		Metering Charge	
		Proposed Rate	Increase (Decrease)	Proposed Rate	Increase (Decrease)	Proposed Rate	Increase (Decrease)
Residential	PhP/ kWh	1.0349	0.3765	0.4077	0.1989	0.1891	(0.0191)
	PhP/cust/mo					5.0000	-
Commercial	PhP/kWh	1.0566	0.5295	30.2800	16.0600	84.8400	65.6600
	PhP/cust/mo						
Industrial	PhP/kWh	0.8885	0.1930	30.2800	16.0600	84.8400	65.6600
	PhP/cust/mo						
	PhP/kW	19.800	-				
Public Building	PhP/kWh	0.7835	(0.0486)	30.2800	16.0600	84.8400	65.6600
	PhP/cust/mo						
Street Lights	PhP/kWh	0.8466	(0.5388)	30.2800	16.0600	84.8400	65.6600
	PhP/cust/mo						
Special Lighting	PhP/kWh	0.7621	0.07770	30.2800	16.0600	84.8400	65.6600
	PhP/cust/mo						

Sale to Resale	PhP/kWh PhP/cust/mo	0.8921	0.1089	30.2800	16.0600	84.8400	65.6600
Large Load	PhP/kWh PhP/cust/mo PhP/kW	0.7548 302.3900	0.0798 136.5700	30.2800	16.0600	84.8400	65.6600

The Commission has set the application for initial hearing and pre-trial conference on **(date) (day of the week) at (time) in (venue).**

All persons who have an interest in the subject matter of the proceeding may become a party thereto by filing, at least five (5) days prior to the date of initial hearing and subject to the other requirements in the ERC's Rules of Practice and Procedure, a verified petition with the Commission giving the docket number and title of the proceeding and stating: (1) the petitioner's name and address; (2) the nature of petitioner's interest in the subject matter of the proceeding, and the way and manner in which such interest is affected by the issues involved in the proceeding; and (3) a statement of the relief desired.

All other persons who may want their views known to the Commission with respect to the subject matter of the proceeding may file their opposition to the application or comment thereon at any stage of the proceeding before the applicant concludes the presentation of its evidence. No particular form of opposition or comment is required, but the document, letter or writing should contain the name and address of such person and a concise statement of the opposition or comment and the grounds relied upon.

All such persons who may wish to have a copy of the application may request the applicant prior to the date of the initial hearing that they be furnished with a copy of the application. The applicant is hereby directed to furnish all those making such request with copies of the application and its attachments, subject to reimbursement of reasonable photocopying costs. Likewise, any such persons may examine the application and other pertinent records filed with the Commission during the usual office hours.

WITNESS, the Honorable \_\_\_\_\_, Chairman, and the Honorable \_\_\_\_\_, \_\_\_\_\_, and \_\_\_\_\_, Commissioners, Energy Regulatory Commission, this \_\_\_\_ day of \_\_\_\_\_ at Pasig City, Metro Manila.

\_\_\_\_\_  
Executive Director III

Form 2. Rate Application

(Caption)

**PARAGRAPH 1 :** Should include a brief introduction/background about the applicant, such as its organization, office address, the General Manager, etc.

**PARAGRAPH 2 :** Should include the petition being prayed for by the applicant and the table of the comparative existing distribution rates vis-a-vis their proposed rates per customer class. *(For DUs that are still implementing the bundled rates, the distribution charge to be incorporated in their existing rate should exclude the power cost component).*

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**Table I. Comparison of Proposed & Existing rates**

Customer Class <sup>1</sup>	Proposed Rates	Existing Rates	Difference
<b>Residential:</b> Distribution Supply Metering <b>Commercial:</b> Distribution Supply Metering <b>Industrial:</b> Distribution Supply Metering <b>Public Buildings:</b> Distribution Supply Metering <b>Street Lights:</b> Distribution Supply Metering <b>Irrigation:</b> Distribution Supply Metering			

*Note: Cross-Subsidy should be part of the DU's proposed rates if the DU has not yet implemented its existing unbundled rates.*

**PARAGRAPH 3 :** Should include the explanation or the reason why they have to raise the rates provided in the previous table, that is, to achieve the proposed revenue requirement of the utility as provided in the following table. Said revenue requirement will not be achieved if the utility will continue to utilize its existing unbundled rates.

**Table II. Comparison of Revenue Requirement**

Customer Class <sup>1</sup>	Billing Determinants (Annualized kWh Sales, Number of Customers and/or kW demand)	Existing Rates (PhP/kWh, PhP/customer/mo/ PhP/kW)	Existing Revenues	Proposed Rates (PhP/kWh, PhP/customer/m or PhP/kW)	Proposed Revenues
<b>Residential:</b> Distribution Supply Metering <b>Commercial:</b> Distribution Supply Metering <b>Industrial:</b> Distribution Supply					

<sup>1</sup> The specific customer class used in all the tables are provided only for illustration.

Metering					
Public Buildings:					
Distribution					
Supply					
Metering					
Street Lights:					
Distribution					
Supply					
Metering					
Irrigation:					
Distribution					
Supply					
Metering					
<b>TOTAL</b>					
Difference in Revenues (Proposed-Existing)					

**PARAGRAPH 4 :** Should include the table of the DUs proposed Revenue Requirements and a brief explanation on the reasons why they need to increase such component/s of the same.

**Table III. Summary of Proposed Revenue Requirement per Cost Component**

PROPOSED REVENUE REQUIREMENT			
Particulars	Total Company*	Electric Adjustment	Proposed Revenue Requirement
	(PhP)	(PhP)	(PhP)
	(1)	(2)	(1) + (2)
Payroll			
Operation & Maintenance (less fuel, PP & Payroll)			
Depreciation & Amortization (for PUs only)			
Other Expenses (for PUs only)			
Return on Rate Base (For PUs only)			
ECs Debt Service (For ECs)			
Less: ORI (Other Revenue Items)			
Add: CAPEX Fund (For ECs)			
<b>TOTAL REVENUE REQUIREMENT</b>			
<b>Total Rate Base (For PUs only)</b>			

\*Per Audited Financial Statement

Reasons for the Electric Adjustment are as follows (Sample Reasons are provided to show level of detail):

- Payroll - Increase was due to Wage Order No. \_\_\_ dated \_\_\_\_\_, reorganization as approved by NEA which requires annualization of the cost provided in the audited Financial Statement
- Operation & Maint. Expenses - Adjustment was due to increase in gasoline prices, increase in prices of supplies and services

Since year 2004 up to present.

- Depreciation & Amortization - Adjustment due to additions/ retirement of assets and appraisal increase.
- Return on Rate Base - Adjustments due to increase in Rate Base
- Rate Base - Adjustments due to additions/retirement of assets and appraisal increases.
  - Movement of the cash working capital.
  - Completion of construction work in progress as of December 2005
  - Increase in cost of materials and supplies.
- Debt Service - Adjusted to reflect actual amortization consistent with the NEA loan profile ending December 2005
- Increase in CAPEX Fund - Cost of the approved CAPEX projects cannot be financed merely by the 5% reinvestment fund. Hence, the DU may propose a higher percentage of Reinvestment fund to fully cover the capital cost of the project.

**PARAGRAPH 5 :** Should include a discussion on the Functionalization and Allocation of Cost using the Uniform Filing Requirements Model to arrive at the Revenue Summary

**Table IV Revenue Summary per Customer Class & Function**

Customer Class <sup>1</sup>	Total Revenue	Distribution Related Revenue	Supply Related Revenue	Metering Related Revenue
Residential				
Commercial				
Industrial				
Public Buildings				
Street Lights				
Irrigation				
<b>TOTAL</b>				

**PARAGRAPH 6 :** This portion is applicable only for DUs that have not yet implemented their unbundled rates. The following table has to be implemented pursuant to Section 74 of R.A. 9136 and Rule 16, Section 5 of its IRR.

**Table V. Computation of Inter-Class Cross-Subsidy**

Customer Class <sup>1</sup>	Existing	Increase	Total	Proposed	Inter-Class Cross Subsidy	Cross-Subsidy/kWh
Residential						
Commercial						

Industrial						
Public Buildings						
Street Lights						
Irrigation						

However for those that have already implemented their unbundled rates but whose cross-subsidies have not yet been fully removed, said DUs should continue to implement the gradual removal of the said subsidies.

**PARAGRAPH 7 :** Should include a brief discussion on the lifeline rates (level of discount, lifeline discount/subsidy charge, No. of Lifeline customers and corresponding Percentage (%) to Total Number of Residential customers that would benefit from the Lifeline Discount, etc.) For those that have implemented the unbundled rates and are proposing a new lifeline level of computation, the reason for proposing said new level should also be included.

**Table VI. Lifeline kWh Consumption Level and Discount**

kWh Consumption	Level of Discount (Sample)
0- ___ kWh	50%
___ kWh	40%
___ kWh	30%
___ kWh	20%
___ kWh	10%
___ kWh	5%

**PARAGRAPH 8 :** Should allege that the DU will comply with the pre-filing requirements in the IRR before filing the application with the ERC

**PARAGRAPH 9 :** Should enumerate the documents included in the DU's application in compliance with the Uniform Filing Requirements

**PARAGRAPH 10 :** PRAYER by the DU should emphasize the proposed revenue requirement (in Peso) which is exclusive of the Power Cost that the DU needs in order to be continuously viable in its electricity distribution operation. It should also include the specific charges per customer class.

**Table VII. Proposed Charges per Customer Class**

Particulars	Customer Class <sup>1</sup>					
	Residential	Commercial	Industrial	Public Bldg.	Street Lights	Others
Distribution (Peso/kWh)						
Distribution Demand Charge (PhP/KW)						
Supply (PhP/kWh)						
Supply (PhP/cust./Mo.)						
Metering (Peso/kWh)						
Metering (Peso/Cust./Mo.)						

<sup>1</sup> The specific customer classes used in the above table are provided only for illustration.

ADDITIONAL INFORMATION:

In the computation of the unbundled rates using the UFR model prescribed by the ERC, the DUs should have a "zero" input on the Generation, Transmission and System Loss column. The reason for this is that Generation, Transmission and System Loss charges will no longer be part of the rate application since the Generation, Transmission and System Loss Charges are covered by the AGRA, TRAM and System Loss Recovery Guidelines, respectively.


For those DUs that have already submitted, docketed and have been set for hearing their rate applications, said DUs have to recalculate their UFR applications without the Generation, Transmission and System Loss revenue requirement leaving only the revenue requirement for the DUs distribution system operations.

For DUs that have "Sale for Resale" customers, said customer class should only be allowed a distribution charge to cover the distribution wheeling cost incurred in servicing their Sale for Resale customers.

The CAPEX Fund may not be pegged at 5% as long as it is supported by documents and computations that will justify the required proposed revenue for improvement, expansion and rehabilitation of the DU's distribution system.

 FSC/ERC Rules of Practice and Procedure



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