

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

**RESOLUTION NO. \_\_\_\_\_, Series of 2008**

**A RESOLUTION MODIFYING  
RESOLUTION NO. 23, SERIES OF 2007**

**WHEREAS**, on September 19, 2007, the Commission issued Resolution No. 23, Series of 2007, entitled: "Resolution Adopting the Policy That the Grant of Preferential Rates to Qualified Customers Shall Be Considered as Management Prerogatives";

**WHEREAS**, on various dates, several energy stakeholders requested for the suspension and/or modification of the said Resolution;

**WHEREAS**, on January 9, 2008, a Draft Resolution, which seeks to modify Resolution No. 23, Series of 2007 was subjected to public consultation;

**NOW THEREFORE**, the Commission hereby **RESOLVES** to **MODIFY** the said Resolution as follows:

1. *Preferential rates* shall refer to any outright discounts or reduced amount of charges, either on a Peso per Kilowatt (PhP/kW) or Peso per Kilowatt-hour (PhP/kWh) basis, given by the Distribution Utilities (DUs), TRANSCO and NPC to their respective customers based on ERC-approved rates without violating the EPIRA;
2. *Preferential rates* shall only be offered to the following qualified customers:
  - a. Directly connected customers of NPC
    - i. Non-distribution utilities
      1. At least 1 MW of demand
  - b. Customers of Distribution Utilities
    - i. At least 1 MW of demand

For existing customers, the term "at least 1 MW of demand" shall refer to an average peak demand of one megawatt (1 MW) for the immediately preceding twelve (12) months from the date of request for grant of preferential rates. On the other hand, for new customers, the term "at least 1 MW of demand" shall refer to an average forecasted peak demand of at least one megawatt (1 MW) for the succeeding twelve (12) months from the date of said request for grant of preferential rates.

3. Any reduction of revenues on the part of the DUs, TRANSCO and NPC must not be recovered from or passed on to their other customers, and should not give rise to any form of cross-subsidy;
4. Any reduction of revenues on the part of the NPC must not be recovered through the Universal Charge for NPC stranded debt and contract cost;
5. Any reduction of revenues on the part of DUs must not be recovered through the Universal Charge for Distribution Utilities stranded contract costs;
6. All similarly-situated customers shall be treated alike and be accorded the same privilege;
7. Contracts containing preferential rates may be assignable to the NPC successor generating companies, *provided*, that there should be an express consent from the assignee; and
8. The term of any contract containing preferential rates shall not extend beyond the introduction of retail competition and open access.

Finally, all DUs, TRANSCO and NPC are hereby directed to submit, on a semestral basis, their respective lists of customers who are granted preferential rates every fifteenth (15<sup>th</sup>) day of January and July of each year.

This Resolution shall take effect immediately following its publication in a newspaper of general circulation in the Philippines.

Let copies of this Resolution be furnished the University of the Philippines Law Center-Office of the National Administrative Register (UPLC-ONAR), all DUs, TRANSCO and NPC.

**Pasig City, June 11, 2008.**

**ZENAIDA G. CRUZ-DUCUT**  
Chairperson

**RAUF A. TAN**  
Commissioner

**ALEJANDRO Z. BARIN**  
Commissioner

**MARIA TERESA A.R. CASTAÑEDA**  
Commissioner

**JOSE C. REYES**  
Commissioner