

**PROPOSED DISTRIBUTION
SERVICES
AND OPEN ACCESS RULES
(DSOAR)
AS AMENDED**

December _____, 2009

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Republic of the Philippines
Energy Regulatory Commission

Pacific Center, San Miguel Avenue, Pasig City

DISTRIBUTION SERVICES
AND OPEN ACCESS RULES
(DSOAR)

Pursuant to Republic Act No. 9136, otherwise known as the Electric Power Industry Reform Act (EPIRA) of 2001, and the Implementing Rules and Regulations issued pursuant to that Act, the Energy Regulatory Commission hereby promulgates the following rules, terms, and conditions for distribution services and open access.

**DISTRIBUTION SERVICES AND OPEN ACCESS RULES
(DSOAR)**

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ARTICLE I
GENERAL PROVISIONS

1.1. PURPOSE

The purpose of the DSOAR is to set forth the terms and conditions related to the provision of Connection Assets and Services, service to the Captive Market, Supplier of Last Resort (“SOLR”) service to the Contestable Market, unbundled Distribution Wheeling Service (“DWS”) provided to the Contestable Market, and redistributors’ service to sub-meter users. Furthermore, these rules set forth the procedures for establishing regulated service rates for Distribution Utilities (“DUs”).

1.2. DEFINITION OF TERMS

In the DSOAR, unless the contrary intention appears, the following words and phrases have the following meanings:

Ancillary Services	Those services that are necessary to support the transmission of capacity and energy from resources to loads while maintaining the reliable operation of the Grid or a Distribution System or a Subtransmission System in accordance with standard utility practice, the Grid Code and the Distribution Code.
Applicant	An End-user or Generator, depending on context, that has submitted a Connection Application.
BAPA	Barangay Power Association. It is an organization of EC’s member-consumers residing in a bounded cluster of not less than 30 households within a given barangay or locality with a set of officers for the purpose of managing the distribution of power in their own locality.
Billing Adjustment	Refer to the amount to be charged to the person concerned for the unbilled electricity due to inaccurate meters and other billing errors that are not billing differential.
Billing Differential	Refer to the amount to be charged to the person concerned for the unbilled electricity illegally consumed as determined through the use of methodologies outlined in the IRR of R.A. 7832.
Building	A structure that stands alone or that is cut off from adjoining structures by fire walls and openings therein protected by approved fire doors ¹ .
Business Day	A day other than a Saturday or a Sunday or an official or declared Philippine national or local public holiday.

¹ Philippine Electrical Code, Part I, Volume I, 2000 Edition

Business Separation Guidelines	The rules and principles for the clear separation of accounts between regulated and non-regulated business activities; and, the structural and functional unbundling requirements that must be implemented and observed by electric power industry participants.
Business Separation Plan	The plan submitted by a market participant pursuant to the Business Separation Guidelines.
Captive Market	Refers to electricity end-users who do not have choice of a supplier of electricity, as may be determined by the ERC in accordance with the EPIRA.
Central Registration Body (CRB).	The entity designated by the ERC to develop and manage the B2B system which facilitates Customer Switching and keeps track of the movement of End-users in the Contestable Market. The ERC, through Resolution NO. 15, Series of 2006, designated the Philippine Electricity Market Corporation (PEMC) as the Central Registration Body.
Common Areas²	The entire project or building excepting all units separately granted or held or reserved.
Connection Agreement	Agreement between a Connection Customer and a DU governing Distribution Connection Assets and Services.
Connection Applicant	An End-user, DU, or Generator seeking to connect to the Distribution System, including a RES applying on behalf of an End-user in the Contestable Market.
Connection Application	An application made by a Connection Applicant for a Connection Agreement or modification to a Connection Agreement.
Connection Charges	DU charges for Distribution Connection Assets and Services.
Connection Customers	End-users, DUs, and Generators with a Connection Point on the Distribution System who purchase Distribution Connection Assets and/or Distribution Connection Services.
Connection Point	The point of connection of the User System or Equipment to the Grid (for Users of the Grid) or to the Distribution System (for Users of the Distribution System). For the purposes of this definition herein, User System or Equipment does not include the service entrance up to the meter.

² Based on RA 4726, otherwise known as the Condominium Law

Contestable Customer	An electricity End-user that belongs to the Contestable Market. An aggregate of Contestable Customers organized under the second phase of retail competition and open access shall be considered as a single Contestable Customer, unless otherwise provided by the ERC.
Contestable Market	The electricity end-users who have a choice of a supplier of electricity, as may be determined by the ERC in accordance with the EPIRA.
Contribution in Aid of Construction (CIAC)	<p>Amounts paid by a Connection Customer for the construction and/or extension of Distribution Connection Assets beyond the Standard Connection Facilities. The DU maintains a separate account of these amounts and the assets never appear in rate base nor in a DU asset appraisal.</p> <p>It includes Amounts paid by a Connection Customer who requested modifications, rearrangement, relocation, or removal of any DU's existing facilities for any purpose that does not result in a net increase in demand or electricity usage,</p>
Customer	<p>In respect of a Regulated Distribution System:</p> <p>(a) a person whose User System or Equipment is directly connected to the Regulated Distribution System and who purchases or receives regulated distribution services in respect of that Regulated Distribution System; and</p> <p>(b) any other person who purchases or receives regulated distribution services in respect of that Regulated Distribution System.</p> <p>For the avoidance of doubt, this may include a person who operates an Embedded Generator, a RES, an End-user, another DU, or Generator wheeling power through the Regulated Distribution System.</p>
Customer Segment	A category of End-use customers connected to the Distribution System established pursuant to the guidelines promulgated by ERC. Customer Segments proposed by a DU and approved by the ERC have similar consumption characteristics for regulated distribution services in respect of that Regulated Distribution System, based on their network configuration and consumption profile, as measured by the number of connections, the energy throughput (kWh), the non-coincident peak load (kW), the co-incident peak load (kW), the time-of-day or any other physical measure as approved from time to time by the ERC. A Customer Segment of a particular DU includes all of the Customers who are charged the same tariff.

Dedicated Transformer	A transformer serving a single end-user.
Developer	A realtor or contractor in-charge in the development of a subdivision or condominium project who may apply for connection with the DU either in its name or on behalf of the buyers of the project who will ultimately be the customers.
Distribution Assets Study (DAS)	A study to determine all distribution assets and costs necessary to accommodate a proposed Connection Agreement.
Distribution Code	The Philippine Distribution Code adopted by the ERC.
DCAS	Distribution Connection Assets and Services (separately defined below).
Distribution Connection Assets	<p>Those assets that are put primarily to connect an End-User to the Distribution System for purposes of Distribution Connection Services for the conveyance of electricity.</p> <p>Those are facilities which may be bypassed or removed from the network without affecting any customer except those that are directly connected to it.</p>
Distribution Connection Services	<p>In respect of a Regulated Distribution System:</p> <p>(a) the provision of capability at a Connection Point in respect of that Regulated Distribution System to deliver electricity to or take electricity from that Connection Point;</p> <p>(b) the planning, installation, maintenance, augmentation, testing and operation of Distribution Connection Assets in respect of that Regulated Distribution System; and</p> <p>(c) the provision of services that support any of the services referred to in paragraphs (a) to (b).</p>
Distribution Wheeling Service (DWS)	The conveyance of power throughout a Distribution System in a manner to meet the demand of End-users or Generators.
Distribution Impact Study (DIS)	A study performed to assess the ability of the Distribution System to accommodate a proposed Connection Agreement and any upgrades that may be required.
Distribution System	<p>In respect of a Regulated Entity, a system of wires and associated facilities extending between:</p> <p>(a) the delivery points on the Grid and any Subtransmission System; and</p> <p>(b) the points of connection of Embedded Generators, on the one hand, and the points of connection of User Systems and Equipment of End-users, on the other hand.</p>

Distribution Utility (DU)	Refers to any electric cooperative, private corporation, government-owned utility or existing local government unit which has an exclusive franchise to operate a distribution system in accordance with the EPIRA, including DUs operating in the economic zones.
DU Billing Meter	The billing meter provided by the DU to the redistributor that registers the sum of the energy measured by the sub-meters of the redistributor including the redistribution loss.
Electric Plant Held for Future Use	An account that includes amounts of utility assets that were (1) acquired but held for use in the future and (2) previously used but since retired from service and being held pending reuse in the future under a definite plan.
End-user	Refers to any person or entity requiring the supply and delivery of electricity for its own use.
EPIRA	Republic Act No. 9136, otherwise known as the Electric Power Industry Reform Act of 2001.
Equipment	Equipment as defined in the Distribution Code.
ERC or Commission	The Energy Regulatory Commission created by virtue of the provisions under Section 38 of the EPIRA.
Force Majeure Event	<p>An event, the occurrence of which could not be foreseen or which foreseen, where inevitable or beyond the control of either party such as:</p> <ul style="list-style-type: none"> (a) typhoon, storm, tropical depression, flood or inundation, volcanic eruption, earthquake; or (b) war insurrection, riots, national emergencies, act of public enemies; (c) or changes in any law, order, regulation which makes it unreasonable or impossible for a party to perform its obligations.
Franchise Area	Geographical area designated within the legal franchise of a DU.
Generator	A person or entity authorized by the ERC to operate a facility used in the generation of electricity.
Grid Connection Point	A "Connection Point" as that term is defined in the Transmission Wheeling Rate Guidelines.
Industrial or Commercial Complex	For the purpose of this Rules, shall mean any cluster of buildings which are used in the production of goods or intended for commercial use, including buildings or houses that serve as residences of the buildings' workers, located within the vicinity or in a contiguous land area that is fenced off from the surrounding properties; and such cluster of buildings, houses and the land where the said buildings are located, are owned or leased by a single person or entity.

IRR	The Implementing Rules and Regulations issued pursuant to the EPIRA.
Local Government	Local Government as defined in Executive Order No. 292, otherwise known as the Administrative Code of 1987.
Local RES	The non-regulated business segment of the DU catering to the Contestable Market only within its franchise area. As such, a license is not required.
Magna Carta	Magna Carta for Residential Electricity Consumers including the Guidelines to Implement the Magna Carta issued by the ERC.
MAP	The Maximum Average Price or Maximum Annual Price as defined in the RDWR.
Metering Equipment	The electrical measurement devices including instrument transformers, wiring, communications, and other auxiliary devices associated with metering.
Metering Service Provider	A person or entity authorized by the ERC to provide Metering Services. The DU shall be the sole metering service provider for the retail market until such time that the ERC determines the provision of metering services at the retail level as competitive.
National Government	The National Government as defined in Executive Order No. 292, otherwise known as the Administrative Code of 1987.
Nominal Service Voltage	For the purpose of this DSOAR, it is the nominal value assigned for the purpose of monitoring the voltage at the point where the electric system of the distribution utility and the electric system of the user are connected.
One-way Sweep or Pole Sweep	The measure of deviation from straightness along the length of the pole.
Person	Refers to a natural or juridical person, as the case may be.
PhP	Philippine Peso.
Quarter	A period of three months from 1 January to 31 March (both dates inclusive), 1 April to 30 June (both dates inclusive), 1 July to 30 September (both dates inclusive) or 1 October to 31 December (both dates inclusive).
Redistribution	The act of redistributing electricity to other persons or entities by a person or entity which has an electric service contract with a distribution utility.
Redistributor	A person or entity which has an electric service contract with a DU and who re-distributes electricity to other person/s or entity/ies. This may include a building owner, building administrator or homeowners' association charged with the responsibility of redistributing electricity to the individual unit-

	owners of the same building or the owner of the Load-End Power Substation charged with the responsibility of redistributing electricity to the individual building owners within an Industrial or Commercial Complex.
Redistribution Loss	The difference between the total registered consumption in the redistributor's DU billing meter and the accumulated energy consumption registered by all of the sub-meters. Redistribution loss shall include technical (including line loss) and non-technical losses (pilferages).
Regulatory Period	The First Regulatory Period, the Second Regulatory Period or a Subsequent Regulatory Period (as the case may be) of the RDWR.
Regulatory Reset Process	Pertains to the actions prior to the start of any Regulatory Period, through which the price control arrangements are established that will apply to a Regulated Entity with regard to the provision of Regulated Distribution Services in each Regulated Distribution System for the next Regulatory Period.
Renewable Energy Act or RA 9513	The Act passed by the Philippines Congress promoting the development, utilization and commercialization of renewable energy resources and for other purposes.
Retail Electricity Supplier (RES)	Any person or entity authorized by the ERC to sell, broker, market or aggregate electricity to the End-users in the Contestable Market.
Rules for Setting Distribution Wheeling Rates (RDWR)	Refers to the rules promulgated by the ERC to govern the entry of private distribution utilities into performance based regulation and any amendments thereto.
Side Constraints	Limitation in the amount of annual change in the MAP as described in section 6.4 of the RDWR.
Standard Connection Charge	An unbundled connection charge on End-users that is uniform within a particular Customer Segment of a DU. The Standard Connection is based on the Standard Connection Facilities used to connect a typical End-user within the Customer Segment and is subject to ERC approval.
Standard Connection Facilities	The Connection Assets identified for a particular Customer Segment for the purpose of calculating a Standard Connection Charge.
Sub-Meter	The billing meter provided by the redistributor to each unit-owner which registers only the energy consumption of the unit or end-user.
Sub-transmission Assets	The facilities classified as such based on functional standards established in Article III of the Guidelines to the Sale and Transfer of Transco's Sub-transmission Assets

	and the Franchising of Qualified Consortiums. These include Transco assets linking the transmission system and the distribution system, which are neither classified as generation nor transmission.
Supplier of Last Resort (SOLR)	A regulated entity with the obligation of serving End-users in the Contestable Market pursuant to the provisions set forth in the DSOAR and other guidelines promulgated by ERC.
System Operator	System Operator as defined in the WESM Rules.
Tax	Any tax, levy, impost, deduction, charge, rate, duty or withholding which is levied or imposed by the National Government or a Local Government or any agency, department, instrumentality or other authority of the National Government or a Local Government.
TransCo	The National Transmission Corporation or its successor.
Transmission Wheeling Rate Guidelines	The Guidelines on the Methodology for Setting Transmission Wheeling Rates promulgated by the ERC on May 29, 2003.
Uniform Rate Filing Requirements	The Uniform Rate Filing Requirements promulgated by ERC on October 31, 2001.
Unit	<p>A part of a building or condominium project intended for any type of independent use of ownership, including one or more rooms or spaces located in one or more floors (or part or parts of floors) in a building or buildings and such accessories as may be appended thereto.</p> <p>For purposes of this Rule, it will also refer to the dwelling of a BAPA member</p>
Unit-owner	<p>A person or entity owning or leasing a unit inside the same building being served by the redistributor, and service is done through sub-meter.</p> <p>For purposes of this Rule, a BAPA member shall be considered as a unit-owner.</p>
User	A person or entity that uses the Distribution System and related Distribution facilities.
User Development	The System or Equipment to be connected to the Distribution System or to be modified, including the relevant proposed new connections and/or modification within the User System that requires a Connection Agreement.
User System	Refers to a system owned or operated by the User of the Distribution System.
WESM	The Wholesale Electricity Spot Market established pursuant to the EPIRA.

Weighted Average Cost of Capital (WACC) An average cost of all sources of financing or financial capital where each is weighted by the reasonable percentage of each in the financing of utility investment. The WACC shall be that value determined pursuant to the RDWR.

In addition, words and phrases used in these Guidelines which are defined in the EPIRA or the IRR have the meaning given to them in the EPIRA or the IRR (as the case may be).

1.3. APPLICABILITY

The DSOAR apply to:

- (a) Distribution Utilities (“DUs”), including DUs in the economic zones;
- (b) End-users;
- (c) Qualified DUs and franchised consortiums of qualified DUs controlling and operating Subtransmission Assets;
- (d) Retail Electricity Suppliers (“RES”);
- (e) The Transmission Provider;
- (f) The System Operator;
- (g) Generators;
- (h) The Captive Market;
- (i) The Contestable Market.
- (j) Supplier of Last Resort (SOLR);
- (k) Local Retail Electricity Supplier (Local RES); and
- (l) Redistributors.

(Together, the above-mentioned parties are collectively referred hereto as “the Participants”).

In interpreting and complying with the DSOAR, the participants shall take into account that:

- (a) the Distribution System conveys electricity through its contractual relations with the End-use customers, RESs, Generators, and the Supplier of Last Resort;
- (b) RES that have been licensed by the ERC and the Local RES operating within the DU’s franchise area will be free to market or broker their services to potential contestable customers, and at such time that the ERC declares open access and retail competition, licensed RES and local RES will be free to conduct business within the Contestable Market. Further, End-use customers will fall into one of two categories: the Captive Market and the Contestable Market; and

(c) the physical characteristics of electricity necessitate a significant degree of coordination between the Participants to ensure quality and reliability.

1.4. ENERGY REGULATORY BOARD RESOLUTION NO. 95-21 SUPERSEDED

The Energy Regulatory Board's (ERB's) Standard Rules and Regulations Governing the Operation of Electrical Power Services, Resolution No. 95-21, as amended by ERB Order, Case No. 95-368, dated April 10, 2000, are hereby superseded in their entirety by the DSOAR.

1.5. NONDISCRIMINATION

All DUs shall make available upon reasonable request all regulated services at rates, terms and conditions that are duly approved by the ERC and shall not unjustly or unreasonably discriminate in the rates, terms, and conditions of service to similarly situated customers.

A DU shall provide regulated services to non-affiliated persons at rates, terms, and conditions that are in no way different from the provision of such services for its own purposes.

A DU shall comply with the rules on nondiscrimination under this Section and Section 2.5.3 hereof.

1.6. GENERAL DESCRIPTION OF SERVICES

With unbundling and open access, the distribution utilities face unprecedented change with respect to service and the customers they serve. The DSOAR is designed to cover the various service combinations in the new DU environment created by the EPIRA. The regulated DU shall be prepared to provide a variety of services to the Captive Market and the Contestable Market. DU service to the Captive Market will be similar to service provided before EPIRA but now with unbundled rates, removal of cross-subsidies, separate connections policy for End-users, and possible regulation under the RDWR to End-users and Generators, and SOLR services to Contestable End-users. With the implementation of open access and retail competition, the list of possible DU customers now includes Contestable Customers, Captive Customers, RES, the Local RES, the SOLR, Generators, and other DUs. Every DU under the supervision, control, and jurisdiction of the ERC shall operate, maintain, and provide safe, reliable, adequate, efficient and continuous electric service. Every DU shall, upon request, give its customers as identified above, copy furnished ERC, all information and assistance pertaining to its service in order to provide said customers reliable, efficient and economical service.

1.6.1. DISTRIBUTION CONNECTION ASSETS AND SERVICES

DCAS relates to those facilities and related services dedicated to completing the Connection Point of an End-user or Generator. DCAS is the responsibility of the DU for End-users in both the Captive Market and the Contestable Market. Article II provides the rules pertaining to DCAS.

1.6.2. DU SERVICE TO THE CAPTIVE MARKET

The DU continues to provide all aspects of service to the Captive Market. Article III provides the rules pertaining to service to the Captive Market.

1.6.3. SUPPLIER OF LAST RESORT SERVICES

Unless otherwise determined by law or the ERC, all Distribution Utilities shall perform the duties and obligations as Suppliers of Last Resort ("SOLR") for the Contestable Market within their respective franchise area as more fully set forth in The Rules for the Supplier of Last Resort and other separate guidelines related to SOLR service to be adopted by the ERC. SOLR service is regulated by ERC as back-up supply to the Contestable Market for the contingency that an End-user in the Contestable Market does not have supply from a competitive RES. SOLR service is not service to the Captive Market and is not RES service by the DU.

The Contestable Customer shall be served by the SOLR in the event the such customer:

- (a) Fails to exercise its option to choose its supplier of electricity upon the implementation of retail competition and open access; or
- (b) Fails to find a willing RES.

At least thirty (30) days prior to the commencement of retail competition and open access, contestable customers shall enter into a contract with a RES, a Local RES, or SOLR.

A Contestable Customer that has ceased to receive service from its RES or Local RES, arising from the occurrence of any last resort supply event, and who has not selected a new RES or Local RES yet shall be served by the SOLR upon compliance with the approved SOLR terms and conditions of service. A last resort supply event shall be triggered by any of the following conditions:

- a) The RES or Local RES has ceased to operate;
- b) The RES' license has been revoked by ERC;
- c) The arrangements for DWS between the RES and the DU have been terminated;
- d) The RES or Local RES is no longer permitted to trade electric energy through the WESM;
- e) The RES or Local RES has given notice to the ERC that it will no longer provide supply services; or
- f) Any other analogous event which the ERC may deem as a last resort supply event.

The Contestable Customer will immediately be served by SOLR after meeting certain requirements as established or approved by the ERC. SOLR customers shall not be served as if it were part of the Captive Market.

Because SOLR service is part of the Contestable Market but is not a RES function of the DU, the method of regulating energy prices for

SOLR service shall not be based on approved purchased power agreement costs, but instead the SOLR shall charge the applicable Ex-Post WESM Nodal Energy Price or the Bilateral Contract Price, whichever is higher, plus incremental administrative and overhead expenses, reasonable return on investment and the applicable Premium, approved by the ERC for the energy consumed by a SOLR customer during all hours of the monthly billing period. The SOLR shall also bill SOLR customers the last approved unbundled monthly Supply charge for the relevant Customer Segment and pass through all approved Distribution Wheeling Service, system loss charges, and metering costs charged by the DU and transmission service costs charged by the transmission provider. System loss charges shall be computed using the same methodology used for the Captive Market and based on the energy costs of the SOLR customer. All costs of SOLR service shall be transparently disclosed in an unbundled fashion in the billing to End-users taking SOLR service in the same manner as billings to the Captive Market. The DU may file an application with ERC at any time for approval of reasonable unbundled Supply charges and system loss charges applicable to SOLR service.

In the event of a power shortage, the Participants shall follow WESM procedures for such a contingency. The Supplier of Last Resort is not intended to be a generator of last resort during such a contingency.

An End-user taking SOLR service shall make a deposit equivalent to two months total estimated billing based on the average of previous six (6) months' demand and energy usage. Said deposit may be applied to past due bills of the SOLR, except when such amounts are restrained under legal contest. Such deposit shall be fully refundable upon termination of SOLR service, with interest paid on the deposit equivalent to the Peso Savings Account Interest Rate of Land Bank of the Philippines on the first working day of the year, (or other government banks subject to the approval of the ERC) less any arrears that have accrued in the customer's account, except when such arrears are restrained under legal contest. (SOLR Art. IV, Sec. 1.5)

An end-user under contract with a competitive RES cannot receive SOLR service without first satisfying all terms and conditions related to their RES contract including any contract termination fees. An end-user disconnected for non-payment of bills and/or pilferage cannot avail SOLR service unless such customer pays in full any and all amounts, including any applicable charges due to the RES/ Local RES or DU.

Any DU costs related to SOLR service shall be completely borne by the SOLR customers and shall not be borne by the Captive Market. Any costs related to generation capacity and energy not reasonably necessary to ensure continuous and reliable service to the Captive Market, shall not be borne by the Captive Market.

SOLR service is only designed to be a safety net for instances when End-users in the Contestable Market temporarily do not have a contract with a RES. The power costs paid by an End-user using SOLR service are expected to exceed those possible from a RES with a balanced

purchased power strategy. With this in mind, Contestable Customers shall enter into a contract with a RES or Local RES at least thirty (30) days prior to the commencement of retail competition and open access (SOLR Art. II, Sec.1)

1.6.4. DISTRIBUTION WHEELING SERVICE (DWS)

DWS is the wheeling and conveyance of electricity over a DU's distribution system. Unbundled DWS shall be made available in a non-discriminatory fashion to licensed RESs, End-users in the Contestable Market, the SOLR, other DUs, and Generators. To be clear, the DU shall provide DWS to its SOLR function under the non-discriminatory terms and conditions of Article IV and subject to the Business Separation Guidelines. Article IV provides the rules pertaining to DWS.

1.7. DU EQUIPMENT AND ELECTRIC PLANT

1.7.1. AUTHORIZED EQUIPMENT

Every DU shall install in its plant only the generating or producing unit(s) and/or distribution equipment authorized in its Certificate of Public Convenience & Necessity (CPCN) or those that may be subsequently authorized by the ERC.

The DU may increase, substitute or withdraw from service its authorized equipment and machinery in accordance with the Rules for Approval of Regulated Entities' Capital Expenditure Projects, RDWR, and other ERC Rules.

1.7.2. FICTITIOUS REGISTRATION OF EQUIPMENT

It shall be unlawful for any DU to cause, allow or in any other manner help or consent to the registration in its name, fictitiously, surreptitiously or otherwise of any equipment belonging to another person and/or to cause, allow or in any other manner, help or consent to the operation of said equipment under its CPCN.

1.7.3. CONSTRUCTION, OPERATION AND MAINTENANCE OF ELECTRIC PLANT

The electric plant which includes:

- (a) Power Plant
- (b) Distribution Lines
- (c) Substations
- (d) Overhead system, poles, lines, transformers, etc.
- (e) Underground systems, including power and communication cable manholes, conduits, etc.
- (f) Street Lighting System
- (g) Service wires and attachments
- (h) Meters and instruments; and

- (i) Control and communication facilities (Supervisory Control and Data Acquisition or SCADA),

shall be constructed, installed, operated and maintained in accordance with the provisions of the Philippine Electrical Code and the rules and regulations that may be issued by the ERC in relation thereto. In the absence of applicable provisions in the Philippine Electrical Code, the provisions of other internationally-accepted standards shall apply.”

1.7.4. WATT-HOUR METER STANDARD

Every DU furnishing metered electric service shall maintain, to check customer’s watt-hour meter, at least one watt-hour meter standard which shall be calibrated by the ERC at least once a year.

1.7.5. PORTABLE INDICATING AND RECORDING VOLTMETERS

Every DU shall provide itself with at least one portable indicating voltmeter. Utilities are further required to have at least one recording voltmeter which shall be placed in continuous service at its power plant or office.

1.7.6. NOMINAL SERVICE VOLTAGE

For monitoring purposes, every DU shall adopt 230 volts as its nominal service voltage which is usually measured across the meter socket or main service entrance switch installed for each customer or group of customers. The voltage variation shall be maintained in accordance with the Philippine Distribution Code. It is an under-voltage if the RMS value of the voltage is less than or equal to 90 percent of the nominal value (207 volts at 230v nominal). It is an overvoltage if the RMS value of the voltage is greater than or equal to 110 percent of the nominal value (253 volts at 230v nominal).

Standard voltage other than the abovementioned as nominal shall be filed with the ERC.

1.7.7. STANDARD FREQUENCY AND ALLOWABLE VARIATION

The nominal fundamental frequency shall be 60 Hz. The DU shall design and operate its system to assist the System Operator in maintaining the fundamental Frequency in accordance with the Philippine Distribution Codes.

1.7.8. RECORDS

Every DU shall keep a log book or any recording system that would serve as basis in generating reports in the ERC prescribed format.

1.7.9. POLES, SAG OF WIRES

No pole located on or near a public place shall have a one-way sweep exceeding three percent (3%) of its total length and all horizontal wires attached to it shall be pulled up so that their sag shall not be greater than three percent (3%) of the distance between poles.

1.7.10. IDENTIFICATION OF POLES, TOWER, ETC.

Poles, towers, structures, and transformers shall be marked and numbered by the DU to facilitate identification by the public.

1.7.11. REGISTER OF ASSETS

Every DU shall keep a comprehensive register of assets, indicating installation date, condition and refurbishment.

1.8. LIMITS ON LIABILITY

1.8.1. LIABILITY BETWEEN THE DU AND END-USERS

These rules are not intended to limit the liability of a DU or Connection Customer for damages except as expressly provided in these rules.

The DU shall make reasonable provisions to provide steady and continuous DWS, but does not guarantee the DWS against fluctuations or interruptions. The DU will not be liable for any damages, whether direct or consequential, including, without limitation, loss of profits, loss of revenue, or loss of production capacity, occasioned by fluctuations or interruptions unless it be shown that the DU has not made reasonable provision to supply steady and continuous DWS, consistent with the Connection Customer's class of service. In the event of a failure to make such reasonable provisions, the DU's liability shall be limited to the cost of necessary repairs of physical damage proximately caused by the service failure to those electrical delivery facilities of the Connection Customer which were then equipped with the protective safeguards recommended or required by the Distribution Code.

The preceding notwithstanding, the DU or the Connection Customer may be held liable for failure to conform to the rules and standards set forth in the Distribution Code and other applicable electrical codes adopted in the Philippines. Furthermore, if damages result from fluctuations or interruptions in DWS that are caused by the DU's or Connection Customer's gross negligence or intentional misconduct, this section shall not preclude recovery of appropriate damages when legally due.

1.8.2. LIMITATION OF DUTY AND LIABILITY OF RES

A RES has no ownership, right of control, or duty to the DU, Connection Customer or other third party, regarding the design, construction or operation of the DU's DCAS facilities and distribution system. A RES shall not be liable to any person or entity for any damages, direct, indirect or consequential, including, but without limitation, loss of business, loss of profits or revenue, or loss of production capacity, occasioned by any fluctuations or interruptions of DCAS or DWS caused, in whole or in part, by the design, construction or operation of the DU's distribution system. The foregoing notwithstanding, a RES may be held liable for non-technical system losses when found to condone, collude, conspire, or engage in the pilferage of electricity or tampering

with any meters or DU facilities. Condonation, collusion, and conspiracy shall include, but not be limited to, the following instances:

- (a) When a RES has knowledge of pilferage of electricity committed or being committed by the End-User and refuses or fails to report such fact to the DU; and
- (b) When a RES or any of its employees or representatives assists or participates in the commission of pilferage of electricity by any End-User.

1.8.3. DUTY TO AVOID OR MITIGATE DAMAGES

The DU and Connection Customer shall use extraordinary diligence to avoid or mitigate its damages or losses suffered as a result of the other's culpable behavior under subsection 1.8.1.

1.8.4. LIMITATION OF LIABILITY DUE TO FORCE MAJEURE

Neither the DU nor the Connection Customer shall be liable for damages or losses resulting or arising from any Force Majeure Event.

1.8.5. EMERGENCIES AND NECESSARY INTERRUPTIONS

The DU may curtail or interrupt a Connection and/or DWS in the event of an emergency arising anywhere on the distribution system or the interconnected systems of which it is a part, which emergency poses a threat to the integrity of its system or the systems to which it is directly or indirectly connected if, in its judgment, such action may prevent or alleviate the emergency condition. The DU may interrupt service when necessary, in DU's prudent judgment, for inspection, test, repair, or changes in DU's Distribution System, or when such interruption will lessen or remove possible danger to life or property, or will aid in the restoration of DCAS and/or DWS.

The DU shall provide advance notice to the Connection Customer, if reasonably possible. Such notice shall be made at least two (2) days prior to said curtailment, reduction, or interruption and may be made by electronic notice (such as facsimile, text messages, or e-mail) to all affected Connection Customers or through radio broadcast, television broadcast, or local newspaper with specific identification of location, time and expected duration of outage. Such information shall also be posted on the Customer Bulletin Board. In cases where such notice is not reasonably possible, the DU shall submit a report to the ERC containing the information and an explanation why such advance notice was not reasonably possible. It shall likewise take other necessary actions to minimize the effect of such curtailment, reduction, or interruption to the Connection Customer.

A notice shall also be provided to those End-users for whom a RES has provided notice to the DU that interruptions or suspensions of service will create a dangerous or life-threatening condition on the End-user's premises. The End-user should notify their RES or the DU if a condition

exists on the End-user's premises such that a suspension or interruption of service will create a life-threatening or dangerous condition.

The DU shall comply with all reporting requirements of the Distribution Code, and in addition to those requirements, shall either issue a written public notice published in a newspaper of general circulation in the DU's service territory and file with ERC stating the precise reasons causing the curtailment or interruption within seven (7) days, or deliver a report through electronic media or any other means all affected customers, any respective RES, and the ERC within seven (7) days. The public notice or report may cover more than one curtailment or interruption if there were multiple occurrences prior to the seven-day deadline for the first occurrence.

Nothing herein shall prevent the DU from being liable if found to be grossly negligent or to have committed intentional misconduct with respect to its exercise of its authority in this rule.

All the Participants shall cooperate with each other, the ERC and any other affected entities in the event of an emergency situation affecting the delivery of electric power and energy or the safety and security of persons and property. The Participants shall comply with the instructions of the DU and provide all necessary information prior to, during, and following an emergency declared by the DU in accordance with the Distribution Code.

1.9. DESIGNATION OF DISTRIBUTION UTILITY CONTACT PERSON

For the purpose of establishing immediate and direct contact with the DUs, the DU shall submit the name(s), contact number(s) and address(es) of responsible official/s. The said contact person/s must have the authority to decide on matters concerning all the activities mandated by the DSOAR. The DUs must notify the ERC in writing should there be any change in their submitted information.

1.10. DISPUTE RESOLUTION

A Participant may file a petition for dispute resolution with the ERC. Said petition shall specify all matters in dispute and the parties involved.

Any customer of a DU may file a complaint with the ERC's Consumer Affairs Service or with its Visayas or Mindanao Field Offices whenever the customer has an unresolved dispute with the DU regarding the electric service that is subject to the ERC's regulation. The complaint shall be communicated in writing. The complaint shall include the name of the DU against which the complaint is made, the name of the customer and the customer's service address, and a description of the complaint.

The ERC staff handling the complaint will determine if the customer has earlier contacted the DU and referred the complaint to the DU's Consumer Welfare Desk (CWD) officer for resolution. If the customer has not yet contacted the DU, the ERC staff will advise the customer to refer the complaint first to the DU's CWD officer.

If the complaint has already been referred to the DU's CWD officer and no resolution has been reached, the ERC staff shall notify the DU of the complaint and request a written response from the DU within five (5) days from receipt of the notice, copy furnished the customer. The notification to the DU by the ERC staff will be addressed to the DU's CWD officer or any other responsible officer.

The DU's response to the ERC staff shall explain the likely cause of the problem, all actions taken by the DU to resolve the customer's complaint at the CWD level, and the DU's proposed resolution of the complaint and shall answer every specific question raised by the ERC staff in the notification. The DU's response shall also include communications sent to the customer that contain the DU's proposed resolution of the complaint or statement of position in addressing or resolving the complaint.

If a customer objects to the DU's response to the complaint or rejects the DU's proposed resolution thereof, the customer may request further review of the complaint by ERC staff. ERC staff will then propose a resolution of the complaint. Before coming up with a proposed resolution of the complaint, the ERC staff may conduct informal conference between the parties and direct the submission of copies of bills, billing statements, field reports, photographs, documents, or other information in the participants' possession that may be necessary.

If the proposed resolution is acceptable, the customer and the DU shall manifest their acquiescence thereto in writing. If the customer or the DU is not in agreement with ERC staff's proposed resolution and no other resolution is agreed upon by the parties, the complaint shall be endorsed for hearing and dispute resolution by the ERC.

While these are pending with ERC, the status quo of cases involving violation of contract shall be maintained. The maintenance of the status quo shall only be applicable to the subject matter of the case and will not extend to any other right/s and obligation/s between the parties.

In cases of regular electric bills with an increase of less than or equal to one-hundred percent (100%) energy consumption of the previous bill, the consumer shall have the right to pay the full amount of such electric bill under protest for purposes of continuous supply of electricity by the utility without prejudice to a complaint to be filed by such customer against the imposition of the bill. To stay disconnection of service in cases of regular electric bills with an increase of more than one-hundred percent (100%) energy consumption of the previous bill, such customer shall pay the amount equivalent to his last month bill subject to adjustment upon resolution of the complaint.

The provisions of the Energy Regulatory Commission's Rules of Practice and Procedure and the Rules of Court on Summary Procedure shall apply in an analogous and supplementary character, whenever practicable and convenient.

1.11. INVESTIGATION, INSPECTION, EXAMINATION AND TEST

The ERC or its authorized representative may at any time, conduct an inspection and investigation of the operation of any DU or an examination and test of any equipment operated for electric service. The refusal, obstruction

or hindrance by the DU or any of its employees to the investigation or inspection of its service or examination or test of any of its equipment shall constitute a violation hereof.

1.12. ACCOUNTS

Every DU operator shall keep such accounts, books and other records as necessary to afford an intelligent understanding of its business. If a uniform system of accounting is prescribed by the ERC for the electric industry, the said system shall be observed. Every DU shall keep its books of accounts by the double entry method.

1.13. SUBMISSION OF STATISTICS AND ANNUAL REPORT

Every DU shall as prescribed by the ERC submit the statistics on electric power operations together with the supporting documents in accordance with the prescribed form.

Likewise, the DU shall file with the ERC on or before May 31st of every year a detailed report of its finances and operations corresponding to the previous year, in accordance with the form prescribed by the ERC. Said annual report shall be based on audited financial statement.

1.14. COPY OF DSOAR

Every DU under the jurisdiction and control of the ERC must keep on file in its offices a copy of the DSOAR.

1.15. VIOLATION

Violation of any provision of the DSOAR shall be subject to the penalty which the ERC, after giving the concerned parties opportunity to be heard, may impose in accordance with law.

1.16. GOVERNING LAWS AND REGULATIONS

The DSOAR is governed by the laws and pertinent regulations of the Philippines and any dispute or proceeding arising out of the DSOAR shall fall under the original and exclusive jurisdiction of the ERC.

1.17. SEPARABILITY

If, for any reason, any provision or part of a provision of the DSOAR is declared unconstitutional or invalid, those provisions which are not thereby affected will continue to be in full force and effect.

1.18. AMENDMENTS TO THE DSOAR

Nothing in the DSOAR is to be construed as precluding the ERC from issuing other rules and/or guidelines pursuant to the EPIRA and the IRR for the purpose of regulating the provision of services in respect of Distribution Systems.

1.19. EFFECTIVITY

The DSOAR as amended shall take effect 15 days following its publication in a newspaper of general circulation.

ARTICLE II

RULES PERTAINING TO DISTRIBUTION CONNECTION ASSETS AND SERVICES

2.1 GENERAL

This Article governs the terms of access and provision of Distribution Connection Assets and Services (collectively referred to hereafter as, "DCAS") by a DU to End-users, Generators, and other DUs, collectively "Connection Customers". This Article also applies to End-users receiving a Connection unlawfully or pursuant to unauthorized use. A DU shall provide DCAS pursuant to the terms and conditions herein to any potential Connection Customer within the DU's franchise service area requiring such service. A RES is not a Connection Customer but may assist its RES customers in matters pertaining to DCAS.

2.2 ENGINEERING STANDARDS FOR EQUIPMENT AND CONSTRUCTION

The standards for Distribution Connection Assets and the construction of connections shall be consistent with the Distribution Code. However, a Participant may petition the ERC for the approval of standards related to DCAS that may exceed those set forth in the Distribution Code. Standards exceeding those in the Distribution Code shall not be enforced by the DU on others unless specifically approved by ERC. In the event the DU believes it is necessary in a particular case to make investments that exceed minimum standards, the DU is allowed to do so but may only recover any additional costs after approval from ERC.

The minimum standard for distribution facilities shall be the over-head type, unless prescribed by law or ordinances.

2.3 STANDARD CONNECTION FACILITIES

Standard Connection Facilities (SCF) shall be the minimum facilities necessary to establish a connection for a typical customer within the Customer Segment. The DU shall include its Standard Connection Facilities as part of its application for approval of Standard Connection Charges.

The SCF for residential customers shall be the service drop. The SCF for non residential customers shall be the service drop, and distribution/power transformer (if any).

2.4 STANDARD CONNECTION CHARGES

2.4.1 TRANSITION TO UNBUNDLED CONNECTION CHARGES

The application for approval of unbundled Standard Connection Charges (SCCs) for each Customer Segment shall be included in the reset application of DUs under PBR and in the benchmarking for ECs. Any future general application to adjust rates made shall likewise include proposed unbundled Standard Connection Charges. A DU shall not implement or adjust SCCs without ERC approval to do so.

The unbundling of Standard Connection Charges is intended to be revenue neutral in the sense that the costs or revenues related to SCCs shall be removed from the unbundled distribution rates or revenue requirement.

2.4.2 STANDARD CONNECTION CHARGE FOR EACH CUSTOMER SEGMENT

Each Customer Segment shall have a Standard Connection Charge based on the Standard Connection Facilities for that Customer Segment. A Standard Connection Charge shall be uniform across all End-users within the Customer Segment of the same load and voltage level. The DU shall bill for the Standard Connection Charge to the same person or entity responsible for payment of unbundled distribution service or DWS.

Applications for the approval of Standard Connection Charges shall include all relevant studies and data necessary to support a Standard Connection Charge for each Customer Segment.

2.4.3 METHODOLOGY FOR COMPUTING STANDARD CONNECTION CHARGE

The methodology used to compute the Standard Connection Charge (SCC) for each Customer Segment of a private DU shall be in accordance with the RDWR and its amendments.

The methodology used to compute the Standard Connection Charge (SSC) for each Customer Segment of an EC shall use the following formula:

$$\text{SCC} = \frac{\text{OPEX} + \text{MC} + \text{Ri}}{12}$$

Where:

$$\text{OPEX} = \text{Payroll} + \text{O\&M}$$

$$\text{MC} = \text{Member's Contribution for CAPEX}$$

$$\text{OPEX \& CAPEX} = \text{expenses associated with connections as attributed to that customer segment}$$

R_i = is the shortfall, or surplus, in the Connection Charge collected for that Connection Asset in the previous year, increased by an amount to reflect the time value of money calculated using the CPI or WPI. If R_i is a surplus, it shall be expressed as a negative.

In coming up with the values in the above formulas, the methodology to be used is not an accounting-based unbundling approach. Instead this is a bottom-up approach with the following steps:

Step 1: Conduct an engineering study to identify the standard equipment and facilities required for connecting a typical End-user within that Customer Segment.

Step 2: Once the standard equipment and facilities have been identified, calculate the installed cost of the standard connection (INVEST/CAPEX) based on optimized depreciated replacement cost.

Step 3: Calculate the monthly depreciation expense (D_i) based on an ERC-approved depreciation life applied to the installed cost (INVEST) of the standard connection.

Step 4: Calculate a reasonable return using the DU's proposed weighted average cost of capital (WACC) applied to the installed cost (INVEST) of the standard connection.

Step 5: Conduct a study to determine the Operation and Maintenance (O&M) expense related to Connection Assets and Services corresponding to each Customer Segment. ERC approval of SCC will include the distinct approval of the stand-alone O&M charge for each Customer Segment.

2.4.4 ALTERNATIVE METHODOLOGY FOR COMPUTING STANDARD CONNECTION CHARGES

Upon full implementation of a DU's Business Separation Plan (BSP) and accounting separation between DCAS costs and other Distribution System costs, the DU may modify the methodology specified in 2.4.3 as follows.

Step 1: Compute a total DCAS revenue requirement based on the separated DCAS accounting costs.

Step 2: Use the INVEST values for each Customer Segment calculated in Step 2 of the methodology specified in 2.4.3, weighted by the number of customers in each Customer Segment, to develop Customer Segment allocation factors (or ratios).

Step 3: Multiply the allocation factors from the previous step by the total DCAS revenue requirement to arrive at Customer Segment specific DCAS revenue requirements.

Step 4: Compute the SCC for each Customer Segment by dividing DCAS revenue requirement by the approved annual billing determinant for the Customer Segment.

2.5 NEW CONNECTION POINTS OR MODIFICATION TO EXISTING CONNECTION POINTS

2.5.1 GENERAL

Subject to securing the approval of the DU in the manner outlined in the DSOAR and in accordance with the process set out in the Distribution Code, a Connection Applicant may seek:

- (a) A new Connection Agreement for a first Connection Point; or
- (b) A modification to an existing Connection Agreement for a change in an existing Connection Point or addition of a Connection Point, in either case by submitting a Connection Application to the DU.

2.5.2 APPLICATION FOR CONNECTION

The Connection Applicant shall complete a Connection Application provided by the DU in accordance with the DSOAR and Distribution Code involving a new Connection Point or modification to an existing Connection Point, containing all necessary information for the provision of the required services.

2.5.3 COMPLIANCE WITH PROCESS AND NON-DISCRIMINATION

The DU and each Connection Applicant shall comply with the processes set out in the DSOAR, Distribution Code and other applicable laws, rules and regulations for processing of new or modified connection arrangements. The DU shall process all requests involving connections in a timely manner and shall not give preference or discriminate between different Connection Customers or Connection Applicants, subject to any reasonable or justifiable exceptions as may be approved by ERC. Likewise the DU shall not give preference or discriminate between Connection Customers or Connection Applicants based on a Contestable Market End-user's choice of supply.

A DU shall not refuse or discontinue service to an applicant or customer, who is not in arrears to the DU, even though there are unpaid bills or charges due from the premises occupied by the applicant, or customer, on account of an unpaid bill of a prior tenant, unless there is evidence of conspiracy to defraud the DU.

If the said consumer is not the owner of the premises sought to be energized, he shall be required to submit an undertaking from the owner of the premises that the said owner shall be jointly and severally liable with the applicant for any unpaid regular monthly bills incurred by the applicant, but not to exceed two (2) months. This is in the absence of or insufficiency of the bill deposit.

2.5.4 LOCATION AND MAINTENANCE OF DU'S EQUIPMENT

The DU shall have the right, if necessary to construct its poles, lines and circuits and to place its transformers and other apparatus on the property or within the buildings of the customer, at a point or points convenient for such purpose, and the customer shall further grant the right to the

use of suitable space for the installation of necessary metering equipment in order that such equipment will be protected from damage by the elements, or through the negligence or deliberate acts of any person(s). When the delivery of energy for separate buildings or premises is desired/necessary, a separate contract between customers and utility shall be required for each point of delivery.

In case the distribution utility, pursuant to this section, erects poles and lines on the property of a customer in order to be able to service him, it shall, upon payment of just compensation to the latter, also have the right to connect to said poles and lines any neighbour or neighbours of said customer, who may thereafter also apply for service connections and who cannot otherwise be connected or reached.

2.5.5 SERVICE DROP

An electric service drop is defined as the wires with the necessary supporting structure between the distribution lines of the DU and the service entrance.

All connections and disconnections of service shall be made by the DU.

Only one service drop shall be installed for each individual building, except as allowed in the Philippine Electrical Code, duly certified by a government authority.

Service conductors supplying a building or other structure shall not pass through the interior of another building or other structure.

Service Drops shall meet the requirements of the Philippine Electrical Code (PEC), local and national government ordinances.

For elevated metering centers (EMCs), it includes wires between the EMC installation and the customer's old metering point or to the point where the metering location would have been placed had the customer not been an EMC area.

2.5.6 SERVICE ENTRANCE

Service entrance is defined as that portion of the customer's wiring including all necessary conduits, cable and accessories which extends from the customer's main entrance switch and/or DU's metering equipment to and including the point of attachment to the DU's service drop on the outside of the building/property line visible and accessible to authorized personnel of the utility. The outside terminal of the customer's service entrance must be located so as to enable connection to the service drop at a point nearest to the DU's existing or proposed electric service facilities.

All conduits or pipes, including fittings, which contain wires in the service entrance in the portion before electric meter must be surface mounted and clearly visible and not embedded, or free from any holes or cracks, to prevent any bypass connection or other acts of electricity pilferage. In the event the conduits, pipes or fittings do not comply with this rule, the electric utility shall be entitled to require correction of said service

entrance portion. All cost shall be borne by the utility if (1) the service connection was before the effectivity of this amended DSOAR; while (2) all cost shall be borne by customer if the service connection was after the effectivity, otherwise failure on the part of the customer shall entitle the electric utility to disconnect electric service connection after a thirty (30) day notice.

Service entrance shall meet the requirements of the Philippine Electrical Code (PEC).

2.5.7 UNDERGROUND SERVICE

Installation of any underground facilities shall be subject to the prior agreement between the customer and the DU in accordance with 2.2, 2.6.5 and 2.7.4; and shall be installed and maintained in accordance with the specification(s) prescribed by the PEC.

2.5.8 GROUNDING

The method of grounding at the User system shall comply with the Grounding Standards and specifications of the Philippine Electrical Code

2.6 MODIFICATIONS AND NEW PHYSICAL CONNECTIONS: RESIDENTIAL

2.6.1 RIGHT TO EXTENSION OF LINES AND FACILITIES

In accordance with the Magna Carta, a residential End-user located within thirty (30) meters from the distribution utilities' existing secondary low voltage lines has the right to an extension of lines or installation of additional facilities, other than a standard connection facilities, at the expense of the utility. However, if a prospective customer is beyond the said distance, the customer or developer may advance the amounts necessary to cover the expenditures on the connection assets beyond the standard connection facilities.

2.6.2 REFUND

To recover the aforementioned advanced payment, the customer or developer may either demand the issuance of a notes payable from the DU or a refund at the rate of seventy-five (75) percent of the gross distribution revenue derived from all customers connected to the line extension for the calendar year until such amounts are fully refunded or, for fifteen (15) years whichever period is shorter or, if the DU is a private corporation, the purchase of preferred shares, if available, subject to the approval of Securities and Exchange Commission (SEC) on the issuance of such share or, other financial instruments mutually acceptable to the parties. For the option of notes payable, the DU shall issue a promissory note to the Customer or Developer indicating therein the amount of advances, mode and terms of payment depending on the revenue to be derived from all customers expected to tap directly to the poles and facilities so extended. The preferred shares shall be redeemable by the DU within a period of fifteen (15) years. Revenue derived from additional customers tapped directly to the poles and facilities so extended shall be considered in determining the revenues

derived from the extension of facilities. During the period of refund, the facilities must not form part of the assets of the DU entitled to a return, otherwise, the DU shall refund the full amount within one (1) year from the effectivity of the new asset base.

Line extensions paid for through advances from residential End-users and developers shall be deemed plant in service in the accounts of the DU. Unrefunded or unpaid advances at the end of fifteen (15) years shall be a reduction to plant in service. If replacement becomes necessary at any time for any Distribution Connection Assets paid for by residential End-users or developer, the DU shall be solely responsible for the cost of such replacement which shall become plant in service in the accounts of the DU, and shall not require another advanced payment from the connected residential End-users unless the replacement is due to End-user fault.

When a developer initially paid the cost of the extension of lines to provide electric service to a specific property and incorporated these expenses in the cost thereof, and that property was purchased and transferred in the name of the registered customer, the latter shall be entitled to the refund of the cost of the extension of lines, and exercise the options for refund provided in this article.

If the cost of the extension of lines or installation of additional facilities was funded gratuitously by other persons for the benefit of the customer, this provision shall not apply.

2.6.3 DEDICATED TRANSFORMER

If it is necessary to dedicate a transformer to the service of a single residential End-user due to the non-standard, large load of that customer, the End-user shall purchase the transformer including replacements and shall not be subject to refund. This provision does not apply if a dedicated transformer is part of the Standard Connection Facilities for the End-user's Customer Segment or in the case of transformers which are dedicated to a single residential customer because of the customer is in a geographic location where the transformer capacity cannot be shared with other customers. In cases where the transformer dedicated because of the isolated nature of the customer shall be subject to the refund process in section 2.6.2.

2.6.4 ENGINEERING AND DESIGN

The DU shall be responsible for the engineering, design, and inspection of all line extensions required to provide electric service to a residential End-user. The DU shall prepare the design and cost estimate attributable to a line extension within thirty (30) business days following the request of a residential End-user or prospective residential End-user and submission of all necessary load data by the End-user. In making the request, the End-user shall provide all information pertaining to load characteristics required to develop the design or cost estimate. This service shall be provided by the DU at no charge to the End-user but

instead will become part of the DU's operation and maintenance expense accounts for DCAS.

2.6.5 MINIMUM FACILITIES

In designing a connection, the DU shall only require the minimum facilities that are commercially available and consistent with current ERC-approved standards, which are necessary to provide service to the End-user. This provision applies to both Standard Connection Facilities as described in section 2.3, and connections requiring facilities in excess of the Standard Connection Facilities. If the End-user, or another party requests facilities in excess of that which is necessary to meet the End-user's power requirements, then all costs attributable to such excess shall be at the requesting party's sole cost and expense which shall be treated as a CIAC. If the DU installs facilities in excess of that which is necessary to meet the End-user's power requirements and such installations are necessary to accommodate anticipated growth of additional customers, then all costs attributable to such excess shall be paid for by the DU and treated as Electric Plant Held for Future Use.

In requesting for facilities in excess of what is necessary to meet power requirements, said request of the end-user should be subject to a Distribution Impact Study in accordance with the Philippine Distribution Code. The Distribution Impact Study of the DU should be the basis for the approval/disapproval of the customer's request for facilities in excess of what is required.

2.6.6 NEAREST SOURCE

The DU shall design the line extension from the nearest existing source of available capacity to the End-user's delivery point along the shortest practical route. The DU may, however, design the line extension along an alternative route in anticipation of additional customers; and in such situations, all additional costs attributed specifically to the alternative route shall be at the DU's sole cost and expense, and treated as Electric Plant Held for Future Use.

2.6.7 ALTERNATIVE ROUTES

Subject to the agreement of the DU, the End-user may request that the line extension be constructed along a route different from the route designed by the DU, but the End-user shall be responsible for all costs attributed to such route. Such incremental amounts paid by the End-user shall not be subject to refund, and shall be treated as a Contribution in Aid of Construction.

2.6.8 EASEMENTS

The DU shall design line extensions along existing rights of way whenever such rights of way are available. With the exception of residential End-users located within thirty (30) meters of the existing Distribution System, the End-user shall provide to the DU at no cost any rights of way for a line extension across property owned or controlled by

the End-user, or procure from other property owners, when such rights of way are necessary and dedicated to connect the End-user. In the event that the End-user cannot obtain the required rights of way, the DU may, by powers of eminent domain or otherwise, obtain rights of way. With the exception of residential End-users located within thirty (30) meters of the existing Distribution System, all cash amounts required to procure easements shall be advanced by the residential customer subject to the refund mechanism stated in section 2.6.2. The End-user shall submit to the DU all relevant invoices and proof of payment along with a sworn affidavit from the End-user that the documents are true and accurate. The DU shall immediately inform the ERC if it has reason to believe that any invoices or proof of payment have been falsified and the ERC shall investigate.

2.6.9 MODIFICATION TO EXISTING FACILITIES

If an End-user submits a request to have the DU modify, rearrange, relocate, or remove any of the DU's legally sited facilities for any purpose that does not result in a net increase in demand or electricity usage, the End-user shall be responsible for all costs attributed to such work. Such amounts shall be treated as a CIAC not subject to refund.

For modifications to existing facilities in response to a potential or impending capacity, reliability or safety concerns and are within the defined Standard Connection Facilities for the End-user's Customer Segment, the associated cost of such modification shall be that of the DU.

2.6.10 RIGHT TO PROCURE EQUIPMENT AND CONSTRUCTION

Connection Customers/Applicants shall have the right to select their own contractor and/or equipment vendor for the equipment, construction and installation of Distribution Connection Assets provided that the same adhere to all requirements of the Distribution Code, the DU's standards and any other standards approved by ERC. A Connection Customer/Applicant wanting to self-procure equipment and construction shall only select from contractors that have been accredited by the DU and government authorities. Residential End-users located farther than thirty (30) meters from the DU's existing secondary voltage lines who procure and pay for services and equipment to construct their own connection shall be eligible to receive a refund in accordance with 2.6.2. The End-user shall submit to the DU all relevant invoices and proof of payment along with a sworn affidavit from the End-user that the documents are true and accurate. The DU shall immediately inform the ERC if it has reason to believe that any invoices or proof of payment have been falsified and the ERC shall investigate. Said refund shall not exceed the DU's proposed estimate for constructing the Connection Assets or the actual cost incurred by the End-user, whichever amount is lower. Because the amounts paid for the construction of a connection for a residential End-user are subject to refund, a residential customer utilizing the option to construct their own connection shall pay the relevant Standard Connection Charge approved by ERC.

2.7 MODIFICATIONS AND NEW PHYSICAL CONNECTIONS: NON-RESIDENTIAL

2.7.1 RIGHT TO EXTENSION OF LINES AND FACILITIES

A non-residential End-user has the right to an extension of lines or installation of additional facilities at the expense of the utility insofar as the equipment and facilities to be installed are within the levels found in the Standard Connection Facilities definition used to compute the Standard Connection Charge for that End-user's Customer Segment.

2.7.2 NON-STANDARD CONNECTION

A non-residential End-user has the right to an extension of lines or installation of additional facilities that exceed the Standard Connection Facilities provided that the End-user pays for any facilities in excess of the Standard Connection Facilities used to compute the Standard Connection Charge for that End-user's Customer Segment. Specifically, the amount to be paid by the End-user shall equal the cost of the connection less the cost of the Standard Connection Facilities. Such payments for facilities in excess of the Standard Connection Facilities are not refundable and shall be treated as a CIAC. The End-user only paying CIAC on the amounts in excess of the Standard Connection Facilities shall still pay the ERC-approved Standard Connection Charges.

2.7.3 ENGINEERING AND DESIGN

The DU shall be responsible for the engineering, design, and inspection of all line extensions required to provide electric service to a non-residential End-user at the voltage level so desired by the End-user. The DU shall prepare the design and cost estimate attributable to a line extension within thirty (30) business days following the request of a non-residential End-user or prospective non-residential End-user and submission of all necessary load data by the End-user. In making the request, the End-user shall provide all information pertaining to load characteristics required to develop the design or cost estimate. This service shall be provided by the DU at no charge to the End-user but instead will become part of the DU's operation and maintenance expense accounts for DCAS.

2.7.4 MINIMUM FACILITIES

In designing a connection, the DU shall only require the minimum facilities that are commercially available and consistent with current ERC-approved standards, which are necessary to provide service to the End-user. This provision applies to both Standard Connection Facilities as described in section 2.3, and connections requiring facilities in excess of the Standard Connection Facilities. If the End-user or another party requests facilities in excess of that which is necessary to meet the End-user's power requirements, then all costs attributable to such excess shall be at the requesting party's sole cost and expense which shall be treated as a CIAC. If the DU requests facilities in excess of that which is

necessary to meet the End-user's power requirements and such request is necessary to accommodate anticipated growth of additional customers, then all costs attributable to such excess shall be treated as Electric Plant Held for Future Use.

In requesting for facilities in excess of what is necessary to meet power requirements, said request of the end-user should be subject to a Distribution Impact Study in accordance with the Philippine Distribution Code. The study will establish if the excess facilities have no negative impact on the operation of the system.

2.7.5 NEAREST SOURCE

The DU shall design the line extension from the nearest existing source of available capacity to the End-user's delivery point along the shortest practical route. The DU may, however, design the line extension along an alternative route when such route best serves the interests of the DU; and in such situations, all additional costs attributed specifically to the alternative route shall be at the DU's sole cost and expense, and treated as Electric Plant Held for Future Use.

2.7.6 ALTERNATIVE ROUTES

Subject to the agreement of the DU, the End-user may request that the line extension be constructed along a route different from the route designed by the DU, but the End-user shall be responsible for all costs attributed to such route. Such incremental amounts paid by the End-user shall not be subject to refund, and shall be treated as a Contribution in Aid of Construction.

2.7.7 EASEMENTS

The DU shall design line extensions along existing rights of way whenever such rights of way are available. The End-user shall, without reimbursement, procure for the DU any rights of way for a line extension across property owned or controlled by the End-user or others when such rights of way are necessary to connect the End-user. In the event that the End-user cannot obtain the required rights of way, the DU may, by powers of eminent domain or otherwise, obtain rights of way at the sole expense of the End-user.

2.7.8 MODIFICATION TO EXISTING FACILITIES

If an End-user submits a request to have the DU modify, rearrange, relocate, or remove any of the DU's existing facilities for any purpose that does not result in a net increase in demand or electricity usage, the End-user shall be responsible for all costs attributed to such work. Such amounts shall be treated as a CIAC not subject to refund.

For modifications to existing facilities that result in a net increase in demand or electricity usage and are within the defined Standard Connection Facilities for the End-user's Customer Segment, the associated cost of such modification shall be that of the DU. If the modification results in facilities that are in excess of the Standard

Connection Facilities, the non-residential End-user shall be solely responsible for the costs associated with the incremental additional facilities which will be treated as Contribution in Aid of Construction. This provision shall not apply to government projects.

2.7.9 RIGHT TO PROCURE EQUIPMENT AND CONSTRUCTION

Connection Customers shall have the right to select their own contractor and/or equipment vendor for the equipment, construction and installation of Distribution Connection Assets provided that the same adhere to all requirements of the Distribution Code and any other standards approved by ERC and of the DU. A Connection Customer/Applicant wanting to self-procure equipment and construction shall only select from contractors that have been accredited by the DU and government authorities. If the facilities paid for and constructed by the non-residential End-user become the property of the DU, such facilities shall be treated as a Contribution in Aid of Construction and shall not form part of the DU's appraised value or rate base. The non-residential End-user opting to avail of the right under this section shall only pay the approved operation and maintenance component of the relevant Standard Connection Charge of section 2.4.3.

2.7.10 PROPORTIONATE SHARING OF LINE EXTENSION COSTS

Any End-user shall be allowed to connect to facilities treated as CIAC paid by another End-user. An End-user connecting to facilities previously treated as CIAC paid by another End-user within fifteen (15) years shall pay the DU a CIAC equivalent to one-half of the CIAC paid by the previous End-user times the proportionate ratio of the distance utilized by the newly connecting End-user plus any added facilities necessary to connect the End-user that are in excess of the Standard Connection Facilities. For new connections in which two or more End-users previously paid CIAC, the newly connecting End-user shall pay $(1/(n+1))$ of the CIAC paid by the previous End-users times the proportionate ratio of the distance utilized by the newly connecting End-user, where n equals the number of End-users making the previous CIAC.

The DU shall return the CIAC paid by the newly connecting End-user, less any added amounts for facilities necessary to connect the End-user that are in excess of the Standard Connection Facilities, to the End-user or End-users who originally made the CIAC in proportion to the relative amounts originally paid by each.

2.7.11 CONTRIBUTION IN AID OF CONSTRUCTION

Following inspection for compliance with the Distribution Code, any installed Connection Assets paid for by the End-user and treated as CIAC shall become the property and maintenance responsibility of the DU, except as provided for in the following section. Any facilities treated as CIAC shall not be subject to refund by the DU and shall not become part of the DU's rate base or appraised property value. If replacement of a connection paid for through a CIAC becomes necessary, the DU shall

be responsible for the costs of such replacement which shall become part of rate base consideration. This provision will also apply to modifications of existing facilities paid for by the End-user and treated as CIAC.

2.7.12 OWNERSHIP OF CONNECTION ASSETS

Upon acceptance by the DU, all Connection Assets on the DU side of the agreed-upon Connection Point shall be and remain the sole property of the DU. Notwithstanding the foregoing, at the request of the End-user and if the End-user paid for the connection facilities, the DU and the End-user will identify those facilities, if any, that are not likely to be used to serve others and where ownership of such assets by the End-user will not compromise the DU's continuing obligation to serve customers. Upon identification of such assets, the DU and the End-user may, by mutual agreement, designate an alternate Connection Point to accommodate the End-user's interest in owning the identified facilities. Consideration of End-user ownership of said Connection Assets hereunder will be given only if the End-user agrees to meet the following conditions:

- (a) The End-user shall, as promptly as possible, transfer ownership of said facilities to the DU in the event that any portion of these facilities become necessary to provide service to other Connection Customers. Such facilities, however, shall then be subject to the proportionate sharing provision of section 2.7.10;
- (b) Facilities owned by the End-user will be restricted solely for the use of that End-user;
- (c) The End-user agrees to procure and pay for all necessary maintenance services for the owned facilities; and
- (d) Only those facilities that pass through private property may be owned by the end-user.

2.8 CONNECTION OF A GENERATING FACILITY

2.8.1 INTERCONNECTION AND OPERATING AGREEMENT

A Generator shall execute an appropriate agreement with the DU governing the interconnection and operation of generating facilities.

- (a) Pro-forma agreements establishing the terms and conditions for interconnections and operation with the DU's facilities for each applicable class will be provided to the Generator by the DU. Such agreements may be modified by mutual agreement as necessary to address specific interconnection requirements existing at the time of the execution of the agreement.
- (b) Generators having agreements executed prior to the effective date of the DSOAR that govern interconnection and parallel operation with the DU's facilities shall be governed by the provisions of those existing agreements.

- (c) The agreement shall include any necessary requirements for communications and communications facilities between the DU and the Generator.
- (d) Where a Distribution Impact Study (DIS) and/or Distribution Assets Study (DAS) is required, the Generator shall be responsible for paying to the DU all reasonable costs incurred by the DU in performing such a study unless such operation has been requested by the DU.

2.8.2 GENERATOR COMPLIANCE

A Generator shall ascertain and comply with all applicable ERC issuances, ERC-approved requirements of the DU, and any local, national law, that applies to the design, siting, construction, installation, operation, or any other aspect of the Generating Facilities.

2.8.3 DESIGN REVIEWS AND INSPECTIONS

- (a) For the purpose of understanding the connection requirements of the Connection Applicant and to ensure that planned Connection Assets are adequate, DU shall have the right to review the design of a Generator's Generating Facility and Interconnection Facilities and to inspect a Generator's Generating and/or Interconnection Facilities prior to the commencement of parallel operation with DU's Distribution System. The DU may request a Generator to make modifications as necessary to comply with the requirements of the DSOAR and the Distribution Code. The DU's review and authorization for Parallel Operation shall not be construed as confirming or endorsing the Generator's design or as warranting the Generating and/or interconnection facilities' safety, durability or reliability. The DU shall not, by reason of such review or lack of review, be responsible for the strength, adequacy, or capacity of such equipment.
- (b) Generators shall not begin operation with the DU's facilities for the first time until their interconnection facilities have been inspected by the DU and written approval is provided by the DU to the Generator. Such approval may be withheld for noncompliance with the requirements of the DSOAR and the Distribution Code.
- (c) A Generator's generating facility and interconnection facilities shall be reasonably accessible to DU personnel as necessary for DU to perform its duties and exercise its rights under any agreement between DU and the Generator.
- (d) Any information pertaining to Generating and/or User Development provided to the DU by a Generator shall be treated by DU in a confidential manner.

2.8.4 PRUDENT OPERATION AND MAINTENANCE REQUIRED

A Generator shall operate and maintain its Generating Facility and its User Development in accordance with prudent electrical practices and

shall maintain compliance with ERC adopted standards for the Generator. Said standards shall be those in effect at the time a Generator executes the Agreement with the DU.

The DU may limit the operation and/or disconnect or require the disconnection of a Generator's Generating Facility from the DU's Distribution System at any time, with or without notice, in the event of an emergency or to correct unsafe operating conditions. The DU may also limit the operation and/or disconnect or require the disconnection of a Generator's Generating facility from the DU's Distribution System upon the provision of reasonable notice: 1) to allow for routine maintenance, repairs or modifications to the DU's Distribution System, 2) upon the DU's determination that a Generator's Generating facility is not in compliance with the DSOAR and the Distribution Code, or 3) upon termination of the Agreement.

When operating in parallel, the Generator shall comply with all operational direction of the DU at the time given with such direction subject to any conditions that the Generator and the DU may mutually agree to incorporate in the connection and operating agreement.

2.9 REQUIREMENTS FOR A NEW CONNECTION OR CONNECTION MODIFICATION OF A GENERATING FACILITY

2.9.1 APPLICATION PROCESS FOR GENERATORS

(a) Upon request, the DU will provide information and documents (such as the pro forma interconnection and operating agreement and the Application, technical requirements, specifications, listing of Certified Equipment, application fee information, applicable rate schedules and Metering requirements) in response to a Connection Applicant's inquiry. Unless otherwise agreed upon, all such information shall be sent to a Connection Applicant within five (5) business days following the initial request from the Connection Applicant. The DU will establish an individual representative as the single point of contact for the Connection Applicant, but may allocate responsibilities among its staff to best coordinate the Interconnection of a Connection Applicant's User Development. The application form shall include the following information:

1. A description of the proposed connection or modification to an existing connection to the Distribution System, which shall comprise the User Development at the Connection Point;
2. The relevant Standard Planning Data as specified in Section 6.4 of the Distribution Code; and
3. The Completion Date of the proposed User Development.

(b) Connection Applicant Completes an Application. All Generators shall be required to complete and file an Application and any possible Detailed Planning Data as specified in Article 6.5 of the Distribution Code when the same is required ahead of the schedule specified in the Connection Agreement or Amended Connection Agreement. The

filing must include the completed Application, a fee (if required) for processing the Application.

- (c) The Connection Applicant may propose, and DU may negotiate specific costs for processing non-standard installations such as multi-units, multi-sites, or otherwise as conditions warrant. Within ten (10) business days of receiving the Application, the DU shall acknowledge its receipt and state whether the Application has been completed adequately. If defects are noted, the DU and Connection Applicant shall cooperate in a timely manner to establish a satisfactory Application.

2.9.2 CONNECTION ASSETS AND FACILITIES

A generation company may develop and own or operate dedicated point-to-point limited facilities provided, that such facilities are required only for the purpose of connecting to the distribution system, and are used solely by the generating facility, subject to prior authorization by the ERC.

The DU may likewise provide the connection facilities provided, that the generator pays the facilities and such payments are not refundable and shall be treated as a CIAC, unless otherwise provided for in the Renewable Energy Act and its IRR.

2.9.3 GENERATING FACILITY DESIGN AND OPERATING REQUIREMENTS

The Connection Applicant's Generating Facilities and User Development shall be designed and operated in accordance with the DSOAR and the Distribution Code.

2.9.4 EVALUATION OF CONNECTION APPLICATIONS AND DISTRIBUTION IMPACT STUDIES (DIS) FOR GENERATORS

2.9.4.1 DETERMINATION WHETHER NEW DIS IS NECESSARY

After receiving a Connection Application, the DU shall determine on a non-discriminatory basis whether a specific DIS is necessary to process the Generator's application, in addition to the information already available from existing DIS. Technical requirements used by a DU for a DIS shall be proposed by the DU for ERC approval.

2.9.4.2 COST OF DIS

The Connection Applicant shall be responsible for the cost of a DIS performed pursuant to these provisions on behalf of the Generator.

2.9.4.3 AGREEMENT ON CONNECTION APPLICATION OR OFFER OF SERVICE FOR DIS.

If the DU agrees with the Connection Application and considers no DIS is necessary, it shall so advise the Generator within thirty (30) days from receipt of the Connection Application. If the

DU determines that a specific DIS is necessary in addition to that information already available, it shall so inform the Connection Applicant within thirty (30) days from receipt of the Connection Application by issuing an offer of service for DIS to the Connection Customer.

2.9.4.4 REQUIREMENTS OF AN OFFER OF SERVICE FOR DIS.

The DU shall specify clearly in the offer of service for DIS:

- (a) The scope of the study, including identification of whether any distribution constraints, re-dispatch options, additional dedicated Connection Assets, or Distribution System upgrades shall be required to provide the requested service.
- (b) The estimated time for completion of the DIS and acknowledgement of the DU's obligations.
- (c) The maximum charge, based on the DU's estimate of the actual cost, inclusive of VAT.

The Connection Applicant shall reply to the DU's offer of service outlining its decision within thirty (30) days from receipt of any such offer.

2.9.4.5 EFFECT ON APPLICATION.

If the Connection Applicant accepts the DU's offer of service, it shall agree to pay for the DU to conduct the required study. If the Connection Applicant rejects the offer of service, does not file a complaint with the ERC, or does not reply to the offer of service within thirty (30) days of receipt of the Offer, its application shall be deemed withdrawn.

2.9.4.6 PAYMENT FOR UNDERTAKING DIS AND DATA SUBMISSION

Should the Connection Applicant agree to the DU's offer of service for DIS, the Connection Applicant shall make full payment cost of the DIS prior to commencement of the study.

The Connection Applicant shall submit the required data needed for the DIS as specified in the Connection Application before the DIS is conducted.

2.9.4.7 TIME PERIOD FOR COMPLETION OF DIS

The DU shall exert best effort to complete the required DIS within a sixty (60) day period of the agreement to an offer of service for a DIS unless otherwise agreed between the parties.

In the event that the DU is unable to complete the DIS within the time period specified or agreed, it shall notify the Connection Applicant and provide an estimated completion date along with an explanation of the reasons why additional time is required to complete the required DIS.

2.9.4.8 RETENTION OF DIS

The DU shall develop and maintain a set of any Distribution Impact Studies (“DISs”) conducted that may be used for evaluating future Connection Applications in accordance with the Distribution Code.

2.9.4.9 RELIANCE ON EXISTING DIS

In performing the DIS, the DU shall rely as much as possible on all existing DISs as applicable to the information supplied by the Connection Applicant.

2.9.4.10 PROVISION OF DIS ISSUES AND RESULTS

In undertaking or taking responsibility for the provision of the DIS, the DU shall inform the Connection Applicant of key issues arising from the DIS as they arise. Following the completion of the DIS, the DU shall provide the Connection Applicant with a copy of the completed DIS results and related work papers not later than five (5) business days after its completion.

2.9.4.11 NOTIFICATION OF ADEQUACY OF DISTRIBUTION

The DU shall notify the Connection Applicant not later than five (5) business days following the completion of the DIS if the Distribution System shall be adequate to accommodate all or part of the Connection Application.

2.9.5 DISTRIBUTION ASSETS STUDY FOR GENERATORS

2.9.5.1 OFFER OF SERVICE FOR DISTRIBUTION ASSETS STUDY

If the DU’s DIS indicates that new Connection Assets or Distribution System upgrades are needed to provide the requested services, the DU shall tender to the Connection Applicant an offer of service for a Distribution Assets Study (“DAS”) within thirty (30) days of completing the DIS.

The Connection Applicant has fifteen (15) days to respond from the date of its receipt of the offer of service.

2.9.5.2 OPTIONS FOR CONNECTION APPLICANT IN UNDERTAKING DAS

In responding to the offer of service provided by the DU within the timeframe provided herein, the Connection Applicant may decide to:

- (a) Undertake the DAS itself and advise the DU accordingly;
- (b) Contract with a third party, accredited pursuant to ERC guidelines, and advise the DU accordingly; or
- (c) Agree to the offer of service for DAS from the DU.

The DU shall be bound by the Connection Applicant Distribution Customer's decision in relation to (a), (b) or (c).

2.9.5.3 COMPLETION OF DAS

In the event that the Connection Applicant agrees to proceed with a DAS and:

- (a) The DAS is to be completed by the Connection Applicant, or by a third party contracted by the Connection Applicant, the Connection Applicant shall use its reasonable endeavours to ensure the DAS is completed within the period of time specified in the offer of service.
- (b) The DAS is to be completed by the DU, the DU shall use its reasonable endeavours to ensure the DAS is completed within the period of time specified in the offer of service.

2.9.5.4 COST OF DAS

The Connection Applicant shall be responsible for the cost of any DAS.

2.9.5.5 SUBMISSION OF DATA FOR DAS

Where the DU is undertaking the DAS, the Connection Applicant shall submit the data needed for the DAS including the Detailed Planning Data, as specified in the Connection Application and the Distribution Code, before the DAS is conducted.

2.9.5.6 NOTIFICATION OF ADDITIONAL TIME TO COMPLETE DAS

Where the DU is undertaking the DAS and requires additional time, the DU shall notify the Connection Applicant and provide an estimate of the time needed to reach a final determination along with an explanation of the reasons why additional time is required to complete the DAS.

2.9.5.7 RESULTS OF DAS

When completed, the DAS shall include a good faith estimate of:

- (a) The cost of the Connection Assets to be charged to the Connection Applicant;
- (b) The Connection Applicant's appropriate share of the cost of any required Distribution System upgrades; and
- (c) The time required to complete such construction and initiate the requested service.

2.9.5.8 PROVISION OF RESULTS FROM DAS

The party that undertook or commissioned the DAS shall provide the other party with a copy of the completed Study

results and related work papers as soon as is practicable after the completion of the DAS and no later than 5 days after its completion.

The parties shall confirm acceptance of the DAS to each other within 10 business days, or shall specify any areas the party feels requires modification. If the parties are unable to reconcile any differences, the dispute may be filed for ERC resolution pursuant to section 1.9 of the DSOAR.

2.10 ARRANGEMENTS FOLLOWING EXECUTION OF CONNECTION AGREEMENT

2.10.1 COMPLETION OF CONNECTION ARRANGEMENTS

The DU and Connection Customer, taking into consideration the agreed target completion date, shall use their reasonable endeavours, in coordination with each other, to complete their respective connection arrangements as agreed in the Connection Agreement.

2.10.2 SECURITY FOR NEW FACILITIES OR FACILITY UPGRADES

In the event that the DU is required to invest in new facilities or distribution upgrades to meet its obligations under the new or modified Connection Agreement, and the Connection Customer is to shoulder these costs, the Connection Customer shall provide the DU with a letter of credit in the form specified in the DSOAR, if requested to do so by the DU, before the DU commences the necessary work.

2.10.3 DESIGN AND SPECIFICATION REQUIREMENTS

The design and specifications of any additional Facilities required for Connection shall:

- (a) Conform to the Distribution Code;
- (b) Conform to reasonable engineering standards specified by the DU;
and
- (c) Be approved by the DU.

2.10.4 INSTALLATION OF NECESSARY EQUIPMENT

Power DWS shall not commence until the DU and the Connection Customer have ensured that the Equipment has been installed consistent with the Distribution Code and good industry practice, and any additional reasonable requirements to ensure the reliable operation of the Distribution System, as recorded in the Connection Agreement, have been met.

2.10.5 PROVISION OF REQUIRED INFORMATION AND TESTS OF EQUIPMENT

The Connection Customer shall provide the required information set out in the Distribution Code to the DU prior to the Commissioning Date and shall test the Equipment required at the Connection Point to connect the

Connection Customer's Facilities to the Distribution in accordance with the Distribution Code.

2.10.6 COSTS OF PROCESSING AND MODIFICATION

In the event the Connection Customer wishes to cancel or amend its Connection Application or its Connection Agreement, said Connection Customer shall be liable for any costs reasonably incurred by the DU in processing and, if agreed, implementing a modification in the Connection Agreement.

2.10.7 SAFETY, POWER QUALITY AND RELIABILITY

The DU and each Connected Connection Customer shall ensure that all Equipment that each Participant provides at a Connection Point shall comply with Good Industry Practices, the Distribution Code and the Philippine Electrical Code.

The DU and each Connected Connection Customer shall operate and maintain their Connection Assets and other Facilities in a safe and efficient manner and in accordance with Good Industry Practice and the Distribution Code (including but not limited to the voltage performance and harmonics standards).

2.10.8 DATA REQUIREMENTS

Each Connection Customer shall provide any data, reports, forecasts, and specific information regarding the electrical characteristics of their Facilities as specifically required under the DSOAR and the Distribution Code or as requested by the DU, acting reasonably, to enable it to meet its obligations under the DSOAR and the Distribution Code. The DU shall not be held liable for any loss or damage arising from the failure of the Connection Customer to provide the necessary data, reports, forecasts and other specific information necessary for the DU to perform its obligations under these rules.

2.10.9 CONFIDENTIAL TREATMENT OF DATA

All proprietary data exchanged between a Connection Customer or a Connection Applicant and a DU necessary for establishment and/or maintenance of a connection shall be treated as confidential and not disclosed to any third party without prior consent of the party to which the data is proprietary.

2.10.10 PROTECTION ARRANGEMENTS

2.10.10.1 RESPECTIVE RESPONSIBILITY FOR PROTECTIVE DEVICES

The DU and each Connection Customer shall be responsible for their respective assets and shall ensure that such assets are protected in accordance with the Distribution Code and that their Protective Devices meet the standards set out in the Distribution Code. If the DU must install protective devices that are in

excess of the Standard Connection Facilities due to the nature of the Connection Customer's equipment and/or load, payment for said protective devices shall be the sole responsibility of the Connection Customer and shall be treated as CIAC.

2.10.10.2 NEW PROTECTIVE DEVICES

The DU and Connection Customers may install, upgrade, operate and maintain protective devices to separate the Connection Customer's equipment from the Distribution System sufficiently to avoid injury or damage, and to comply with the Distribution Code at all times. The DU and the Connection Customer shall give prior written notice to the other of all such Protective Devices that it intends to install and/or upgrade, and of the settings of such devices. If the DU must install protective devices that are in excess of the Standard Connection Facilities due to the nature of the Connection Customer's equipment and/or load, payment for said protective devices shall be the sole responsibility of the Connection Customer and shall be treated as CIAC.

2.10.11 CONTINGENCY PROCEDURES

2.10.11.1 PROMPT NOTIFICATION OF CONTINGENCY.

The DU and each Connection Customer shall provide the other with prompt verbal notification by telephone of any contingency involving their equipment or Connection Assets that may reasonably be expected to affect the other's operation of its equipment or Connection Assets. This notification shall indicate the reasons for the contingency, the contingency's expected effect on the operation of the other party's Facilities and operations, the contingency's expected duration, and the corrective action to be taken. Telephone notification shall be followed by written notification by the close of business hours the next day and retain such written notification for three (3) years.

2.10.11.2 CONTINGENCY ACTIONS.

The DU and the Connection Customer shall agree to take the actions specified in the Connection Agreement in response to any contingency.

2.10.11.3 ACCESS TO EACH OTHER'S CONNECTION ASSETS.

Unless otherwise agreed, the DU and each Connection Customer may open and/or disconnect the Connection Assets of the other party in the event of, and for the duration of, any contingency, if such opening or disconnection would reasonably be expected to mitigate or remedy the contingency in accordance with good industry practice and the Distribution Code. A party exercising this right shall notify the other party of

their actions prior to disconnection or as soon as possible following disconnection. The foregoing notwithstanding, a DU may require an End-user to obtain prior approval before accessing and operating connection assets. A DU shall respond as quickly as possible to any connection concern of the End-user and the DU shall be responsible for any damage that otherwise could have been avoided if the customer would have been free to act immediately.

2.10.12 PROPERTY ACCESS

2.10.12.1 ACCESS RIGHTS.

Unless otherwise agreed, the DU and each Connection Customer shall grant the other and its agents and subcontractors such access to its own facilities and/or Connection Assets as is necessary and appropriate, both parties acting reasonably, for the construction, installation, testing, operation and maintenance of the other Participant's own facilities and/or Connection Assets (including any Protective Devices), in accordance with the terms and provisions of the Distribution Code and the DSOAR. No party may attempt to limit access by a Participant to the Participant's own facilities and/or Connection Assets regardless of the location of those facilities and/or Connection Assets.

2.10.12.2 PROCEDURE.

When exercising the access rights outlined in Section 2.10.12.1 above, the DU and the Connection Customer shall:

- (a) In cases of maintenance, provide the other party with as much advance notice as is appropriate under the circumstances. Pilferage inspections shall be in accordance with the procedures set forth pursuant to RA 7832;
- (b) Not unreasonably disrupt or interfere with the normal operations of the business of the other party;
- (c) Adhere to the safety rules and procedures established by the other party;
- (d) The DU and the Connection Customer shall be responsible for the actions of their agents; and
- (e) Act consistent with good industry practice.

2.10.12.3 CONDITIONS PERTAINING TO THIS SERVICE

The DU shall not be held liable for a failure to deliver the services in this article where the following events have had a material effect on its ability to deliver the service and the DU has used its reasonable endeavours to mitigate their impact on the service:

- (a) The Connection Applicant failing to comply with its obligations under any of the following: the DSOAR, the Distribution Code and the WESM Rules.
- (b) The Connection Applicant providing the DU with incomplete or inaccurate information.
- (c) Any other Connection Applicant failing to comply with their obligations under any of the following: the DSOAR, the Distribution Code and, the WESM Rules.

2.10.12.4 CONNECTION CUSTOMER'S NON-COMPLIANCE

If the Connection Applicant or Connection Customer fails to comply, when so required, with any of its obligations in this Article, the DU shall have the right to require the Connection Applicant or Connection Customer to take any and all such measures, including but not limited to the installation of new or additional equipment, as necessary to comply with such requirements. In the event that the Connection Applicant or Connection Customer fails to take any or all of such measures within thirty (30) days after receipt of notice of non-compliance, the DU shall have the right itself to take (or cause to be taken) such measures without further notice. The Connection Applicant or Connection Customer shall be responsible for any and all costs and expenses incurred as a result of its non-compliance.

2.11 METERING EQUIPMENT

2.11.1 METER INSTALLATIONS

Billing meters shall be provided for each User at each Connection Point or at the primary side of a dedicated transformer and shall be accessible for inspection and reading. If the meter cannot be installed at the Connection Point or at the primary side of a dedicated transformer due to the Distribution System's design construction or for other reasons, the meter shall be installed as close as possible to the Connection Point. In this case, a procedure shall be established to account for the Energy loss between the Connection Point and point of metering.

All metering equipment shall be furnished and installed by the Metering Service Provider (MSP). Instrument transformers cabinets and gang mounting channels where required will be furnished by the MSP and installed by the applicant end user at a location specified by the DU. The applicant shall furnish and install meter boards, where required.

Under no condition should meters be located behind doors or where they can be easily broken or jarred by moving furniture or equipment. Meters shall be located on the outside wall of the building or private pole and shall not be more than three (3) meters nor less than 1.52 meters mounting height from the surface on which one would stand to repair or inspect the meter.

Generally, meters shall be installed on the ground floor in suitable space and on a suitable mounting for large commercial and apartment buildings. However, upon request by the customer, the DU/MSP may allow location of meter(s) other than the ground floor provided meter(s) are to be installed and located at a common place accessible to DU's/MSP's personnel for inspection, reading and maintenance purposes at anytime and a main check meter is to be installed at a location where the billing meters should have been installed to measure the total electric consumption of the building. Any excess in the consumption registered in the check meter over the total consumption of all the individual billing meters shall be to the account of the building administrator and shall be paid to the DU. All service entrance and other electrical facilities after the billing meters shall be owned and maintained by the customer. Space and mounting shall be adequate to accommodate all metering facilities. Individual cut-outs and/or switches shall be at least one (1) meter of clear space in front of the meter(s).

Meters may be located in other areas based on justifiable reasons, however, the proponent shall pay any additional cost except if provided for in a guidelines as may be promulgated by the ERC.

A customer shall bear the cost of relocation of his electric watt-hour meter under the following circumstances:

1. The customer requests for the relocation of his electric watt-hour meter, for reasons other than those provided for in the third paragraph; or
2. The meter installation fails to meet the conditions under the first paragraph resulting from improvements done on the customer's premises, or when the meter installation and other facilities has been found/proven tampered, thereby necessitating such relocation. In the event that the Customer fails to take any or all of such measures within thirty (30) days after receipt of notice of non-compliance, the DU shall have the right itself to take (or cause to be taken) such measures without further notice. The Customer shall be responsible for any and all costs and expenses incurred as a result of its non-compliance. Failure to pay the cost shall be considered grounds for disconnection after a thirty (30) day due notice.

All other relocations of the meter shall be borne by the electric utility,

2.11.2 GENERAL INFORMATION ON METERING

Every DU/MSP shall inform its customers of the manner in which meters are read, either by printing on its bills for each service, a description of the method used in reading meters, by distributing booklets describing such method or in any other suitable manner.

Each service meter shall indicate clearly the units of service for which charge is made to the customer. In case the dial reading of a meter must be multiplied by a constant to obtain the units of service, the constant to be applied shall be clearly marked on the face or dial of the meter. Where the quantity of service is determined by calculation from the

reading of the meter, the MSP shall upon request supply the customer with such information as will show clearly the method of determining the units of service rendered.

Every MSP shall instruct its meter reader when reading periodically the meter installed in the premises of a customer, to leave in such premises a record or any other means of information showing the date of the reading, the reading made, the previous reading and the total consumption expressed in units of service used, as read by the meter reader, and the signature over the printed name of the meter reader, if a customer demands for it.

Except as otherwise permitted for the Contestable Market in Article IV of the DSOAR, the meter and the metering equipment are the sole property of the MSP and any changes in their location or arrangements shall be made by the MSP.

2.11.3 TESTING AND SEALING OF METER

No meter shall be placed in service unless it has been tested, certified and sealed by the ERC.

The seal attached to the meter by the ERC is a warranty (1) that the meter is an acceptable or accepted type and (2) that it operates within the allowable limits of tolerance.

The Rules and Procedures for the Test and Maintenance of Electric Meters of Distribution Utilities shall apply.

2.11.4 TEST OF CUSTOMER'S METER BY THE DU

A customer has the right to require the DU to test free of charge, the accuracy of the meter installed in his premises making use of a meter standard duly tested and sealed by the ERC.

If the customer requests for meter testing more than what is required in the Rules and Procedures for the Test and Maintenance of Electric Meters of Distribution Utilities and the meter being tested is found to be within the tolerable limit as provided for in 2.11.6, the utility may assess the customer a testing fee based on the testing fee charged by ERC. A written report showing the result of such test shall be furnished the customer.

The customer may also request the ERC to conduct a meter test, subject to the payment of a fee prescribed under the approved ERC Schedule of Fees and Charges.

In case the meter is found to be inaccurate, the customer may demand the replacement of the said meter or have the ERC calibrate the said meter to restore its accuracy closest to the condition of zero (0) error. The provision on refund or billing adjustment due to inaccurate meters shall apply as appropriate.

2.11.5 WATTHOUR METER ACCURACY REQUIREMENTS

- (a) No mechanical watt-hour meter that has an incorrect register multiplier, watthour constant, gear ratio, register ratio or dial train, or that registers on no load ("creeps") shall be placed in service or be allowed to remain in service without adjustment and correction.
- (b) All watt-hour meters regardless of make and type before being placed in service, must be adjusted as closely as possible to the condition of zero error in accordance with the Rules and Procedures for the Test and Maintenance of Electric Meters of Distribution Utilities. The tolerance limit of plus or minus five-tenths percent ($\pm 0.5\%$) is hereby fixed to allow the necessary variations.
- (c) The average error of plus or minus two percent ($\pm 2\%$) is hereby fixed as the allowable tolerance for meters in service. Provided, that the error at any test load points (Light load and Full load) does not exceed plus or minus three percent ($\pm 3\%$).

2.11.6 DETERMINATION OF AVERAGE ERROR

In tests made by the ERC or the DU, the average error of a meter shall be determined by the following method:

$$E_a = 0.3E_{LL} + 0.7E_{FL}$$

Where E_a is the average error, E_{LL} is the error at light load.

E_{FL} is the error at full load.

Provided, however, that at the request of the customer or in mediation cases, this method may be modified by admitting tests at a third load. If, and when in the opinion of the ERC, such load is more representative of the ordinary use of the meter, in which case, the average error shall be determined as follows:

Take one-fifth (1/5) of the algebraic sum of (1) error at light load, (2) three times the error at normal load, (3) the error of full load.

In both methods, light load shall be taken from five (5) to ten (10) percent of the rated test amperes of the meter, and full load, not less than sixty percent (60%) nor more than one hundred percent (100%) of the rated test amperes of the meter.

For normal load the following percentages of the several classes of full connected installations may be used:

	<u>Percent</u>
Residence and apartment building	25
Elevator service.....	40
Factories (individual drive).theaters, club, hallways, entrance, and general store lighting	60
Restaurants, pumps, air compressors, ice machines, and moving picture theaters	70

2.11.7 RECORD OF METER

Every DU shall keep an adequate record of each meter showing (1) make, type and identification marks and/or number of meter, (2) names and addresses of customers, dates when meter installed or removed, (3) adjustment or repair made, and (4) ERC certification dates. The said records shall be maintained for at least five (5) years.

2.12 INTERCONNECTION BETWEEN DISTRIBUTION UTILITIES

2.12.1 GENERAL

Consistent with Section 23 (paragraph 4) of the EPIRA, DUs may interconnect in instances where such interconnection helps achieve economies of scale in operations, reliability of service, reduction in costs, and other efficiencies. The terms and conditions of said interconnection shall be incorporated into an interconnection and operating agreement which is subject to approval by ERC.

2.12.2 INTERCONNECTION AND OPERATING AGREEMENT

Interconnecting DUs shall execute an appropriate agreement governing the interconnection and operation of their respective Distribution Systems. DUs having ERC-approved agreements executed prior to the effective date of the DSOAR that govern interconnection and operation shall be governed by the provisions of those existing agreements. The agreement shall include any necessary requirements for communications and communications facilities between the DUs. The interconnection/operating agreement shall be mutually beneficial. The interconnection and operating agreement is separate and distinct from any DWS arrangements.

ARTICLE III

RULES PERTAINING TO SERVICE TO THE CAPTIVE MARKET

3.1 GENERAL DESCRIPTION OF SERVICE

Service to the captive market shall include all unbundled services necessary to maintain a regular supply of alternating current of approximately 60 hertz. Supply to the Captive Market shall be provided by the DU throughout its franchise service area.

3.2 THE MAGNA CARTA FOR RESIDENTIAL CONSUMERS

The Captive Market includes both residential and non-residential End-users. Insofar as residential consumers are concerned, the DSOAR are intended to complement the Magna Carta for Residential Electricity Consumers, issued

on June 17, 2004, and the Guidelines to Implement Articles 7, 8, 14, and 28 of the Magna Carta for Residential Electricity Consumers, issued October 27, 2004. The Magna Carta remains in full force.

3.3 APPLICATION FOR CAPTIVE MARKET SUPPLY

Any End-user in the Captive Market may apply for service from the DU within their franchise area. The DU has an obligation to serve that customer subject to all terms and conditions of service and ERC rules including the DSOAR. The customer shall execute a standard form of agreement prior to the furnishing of service by the DU. A copy of the rate schedule and the terms and conditions of service shall be furnished to the new consumers. The DU shall inform its customers of any changes in rates, rules and regulations approved by the ERC that specifically affect the Captive Market service. Such information shall be included as an insert in the billing envelope or on the bill itself of all customers who are directly affected by the change. Furthermore any adjustment clause previously approved by the ERC shall be clearly indicated on the monthly bill.

3.4 ESTABLISHMENT AND REESTABLISHMENT OF CREDIT

3.4.1 RESIDENTIAL ELECTRICITY CUSTOMERS

For the establishment of credit, residential electricity customers and the DU shall follow the deposit and deposit refund requirements found in the Magna Carta. The amount of the bill deposit shall be equivalent to the estimated monthly billing. Provided that after one (1) year and every year thereafter, when the actual average monthly bill's increase/decrease is more than ten (10%) percent of the bill deposit, such deposit shall be correspondingly increased/decreased to approximate said billing. DUs are allowed to provide options other than cash deposits as a guarantee of customers' payment.

Distribution utilities shall pay interest on cash bill deposits equivalent to the Peso Savings Account Interest Rate of Land Bank of the Philippines on the first working day of the year, or other government banks subject to the approval of the ERC. The interests shall be credited yearly to the bills of the registered customer.

A residential customer who previously established credit under the Magna Carta by receiving a refund of deposit from the DU shall not be subject to a new deposit requirement if the customer discontinues one service location and establishes a new service location within the DU's franchise area. This applies solely to the original account holder and is non-transferable. This provision does not apply to additional service locations established by the residential customer. In the event a customer establishes a new service location in addition to existing service(s), a bill deposit shall be required on that new service.

A bill deposit previously refunded to the customer may be reimposed if the customer defaults in the payment of his monthly bill. Once the bill deposit is reimposed, he loses the right to refund the same prior to the termination of his electric service. This provision also holds for a

residential customer who was not required to pay a deposit on a new service location.

Non-payment of the re-imposed or adjusted bill deposit shall be a ground for disconnection.

3.4.2 NON-RESIDENTIAL ELECTRICITY CUSTOMERS

For the establishment of credit, non-residential electricity customers shall submit a bill deposit to guarantee payment of bills. The amount of the bill deposit shall be equivalent to the estimated monthly billing. Provided that after one (1) year and every year thereafter, when the actual average monthly bill's increase/decrease is more than ten (10%) percent of the bill deposit, such deposit shall be correspondingly increased/decreased to approximate said billing. DUs be allowed to provide options other than cash deposits as a guarantee of customers' payment.

Distribution utilities shall pay interest on cash bill deposits equivalent to the Peso Savings Account Interest Rate of Land Bank of the Philippines on the first working day of the year, or other government banks subject to the approval of the ERC. The interests shall be credited yearly to the bills of the registered customer.

The bill deposit shall be refunded within one month from the termination of service provided all bills have been paid and identification requirements have been complied with. A customer that has paid its electric bills on or before its due date for three (3) consecutive years may, however, demand for the full refund of the deposit prior to the termination of his service. An application for deposit refund shall be filed with the DU and the DU shall refund the deposit within one month from receipt of such application. A bill deposit previously refunded to the customer may be reimposed if the customer defaults in the payment of his monthly bill. Once the bill deposit is reimposed, he loses the right to refund the same prior to the termination of his electric service.

Non-payment of the re-imposed or adjusted bill deposit shall be a ground for disconnection

All customers shall be exempt from the payment of meter deposits. In cases of loss and/or damage to the electric meter due to the fault of the customer, the customer shall bear the full replacement cost of the meter.

3.4.3 RE-ESTABLISHMENT OF CREDIT FOR ALL CAPTIVE CUSTOMERS

An applicant, who previously has been a customer of the DU and had lost satisfactory credit, must first pay any unpaid billed amounts from previous service plus the relevant deposit requirement to re-establish credit.

A customer who is subject to disconnection/termination and who requests continuation of service shall be required to first pay the re-imposed bill deposit and any unpaid billed amounts. The customer's bill deposit shall be re-imposed and/or adjusted in accordance with his average monthly bill for the preceding year.

Customers without bill deposits and are seeking reconnection must first pay any unpaid billed amounts from previous service plus the relevant deposit requirement to be reconnected.

3.5 BILLING

3.5.1 MONTHLY BILLING

Bills for service shall be rendered to each customer in the captive market on a monthly basis, unless otherwise approved by the ERC.

3.5.2 METERED SERVICE

Except for unmetered streetlight or other flat rate service customers, each bill for service issued by the DU shall be based on the reading of the meter for each account of the customer and any applicable monthly charge(s).

3.5.3 CONTENTS OF BILL

Bills to service customers shall conform with the format approved by ERC. Each bill for service shall include the following:

- (a) Any previous balance.
- (b) The period covered by the current billing.
- (c) Meter serial and company number.
- (d) The date the bill was issued.
- (e) The amount due for service provided during the current billing period with the date upon which this amount is past due.
- (f) All unbundled rate elements including any adjustment clause listed in the specific sequence prescribed by ERC. Any additional rate elements or changes in the name of rate elements shall first be approved by ERC.
- (g) All relevant meter readings for the first and last day of the billing period.
- (h) The total quantities of applicable billing determinants.
- (i) The date the meter was read.
- (j) The telephone number and address of the DU office where a customer may obtain information concerning their bill or the service provided.
- (k) An emergency contact number.
- (l) A notice stating that all disputes that cannot be settled by the DU to the satisfaction of the customer can be elevated to the ERC. The ERC contact number and email address for the Consumer Affairs Service as provided by the ERC.
- (m) Any notices, advisories, announcements or any information that would be beneficial to the customer or as required by the ERC to be placed on the bill.

There shall be shown on the bill such additional factors other than those contained in the schedule of rates, as may be necessary in computing the bill. It shall be indicated on each bill that copies of the schedules of rates applicable will be furnished by the DU upon request.

Bills to flat rate service customers shall be rendered at reasonably regular intervals and shall show the period for which the bills rendered, reference to the schedule of rates applicable and the amount of the bill. The number and kinds of units for which a flat rate bill is rendered shall also be shown on the bill.

Any future modification to the contents of the bill is subject to prior approval by ERC.

3.5.4 ESTIMATED BILLS

- (a) Except as otherwise provided, if (1) the DU is unable to obtain useable meter data from a customer or to read the meter of a customer on the date scheduled due to a Force Majeure event or any event beyond the control of the DU, (2) the meter fails to register the consumption of the customer for an entire billing period or a portion thereof, the DU may bill the customer based upon their estimated usage for the billing period.
- (b) Any of the following methods shall be used in calculating a bill based on estimated usage, whichever is applicable and equitable to all concerned parties.
 - 1. The average daily usage of the customer during the portion of the billing period registered by the new meter for at least seven (7) days shall be applied to the remaining portion in the billing period; or
 - 2. The average usage of the customer during the preceding three (3) months; or
 - 3. The usage of the customer during the same month of the preceding year where the monthly consumption level has persisted for the past three (3) years; or
 - 4. If time of use rates and metering are applicable, then the estimated bill shall rely on the relevant time of use load profile data during the previous month.
- (c) The DU shall print the word "Estimate" on each bill which is based on estimated usage, and shall not issue more than two consecutive bills to a customer based upon estimated usage. Following two consecutive bills based on estimated usage under 3.5.4(b) 2 to 4, the DU shall either read the meter during the next billing cycle and adjust the estimated bills accordingly or take an initial meter read following the next billing cycle as if service was starting anew and no charges, penalties, arrears, or reconnection fees will be levied on the customer for the skipped billing cycle.
- (d) The DU shall adjust the estimated usage upon the first reading of a meter after an estimated reading. Billing adjustment following

estimated usage shall be spread out symmetrically by the number of months it was estimated without interest charges.

In case of disagreement with all of the above, the ERC shall resolve the same.

3.5.5 PRORATION OF BILLS

For bills rendered for periods less than 28 days and more than 31 days, any fixed monthly customer charges in the bill shall be prorated based on the ratio of number of days in the billing period to the number of days in an average billing period. The DU shall nevertheless provide the applicable subsidy for that consumption level due to the customer as if the meter had been read within the maximum allowable period

3.5.6 PAYMENT OF BILLS

Bills will be rendered by the DU to the customer monthly in accordance with the applicable rate schedule. Said bills are payable to collectors, collection office of the area where the customer resides or at its authorized banks and other bills payment systems, within nine (9) days after the customer's receipt of the said bills, unless a longer period is allowed. The word "month" as used herein and in the rate schedule is hereby defined to be the elapsed time between two succeeding meter readings but not exceeding thirty-one (31) days but not less than 28 days apart.

For disconnections due to non-payment of electric bills, a written notice must have been served to the customer forty eight (48)-hours before such disconnection. The DU may discontinue the service notwithstanding the existence of the customer's bill deposit with the DU which will serve as guarantee for the payment of future bill(s) after service is reconnected.

If at the time the disconnection is to be made, the customer tenders payment of the unpaid bill to the agent or employee of the DU who is to effect the disconnection, the said agent, or employee of the DU shall desist from disconnecting the service to allow the customer to pay his bills within twenty-four (24) hours; Provided however, That the customer can only invoke this provision once for the same unpaid bill.

Every DU operator shall issue to its customers receipts which shall be in the form or model prescribed by the ERC. However, for those receipts issued by third party collection agents, forms and systems generated confirmation receipts should be approved by respective regulating agencies.

It shall safely keep the duplicate or office stub of the receipts used and shall not destroy them within five (5) years without authority from the ERC.

3.5.7 ADJUSTMENT FOR BILLING

Billing errors resulting from a defective/stop meter without any evidence of tampering shall be governed by the provisions of these guidelines and the Magna Carta for Residential Electricity Consumers.

Billing errors resulting from pilferages committed by the customer shall be governed by the provisions of RA 7832 or the Anti-Electricity Pilferage Act and its Implementing Rules and Regulations.

In the event that a meter in service is found to have an average error of more than the tolerance of minus two percent (2%) without any evidence of tampering by the customer, the utility may ask for payment of a billing adjustment from its customers of the unregistered consumption. If the said electric meter was merely found to be defective and has not completely stopped, and such defect could not be easily detected by the concerned customer, the DU may only be allowed to recover the unregistered consumption for a maximum period of six (6) months prior to the discovery of the defect. In cases where there is actual stoppage or any conspicuous defect of the said meter, the DU may only be allowed to recover the unregistered consumption for a maximum period of three (3) months prior to such discovery of the stoppage.

The DU must enter into an agreement with the customer for a staggered payment scheme within a period equivalent to the number of months covering the billing adjustment.

The refund or billing adjustment should be based on the rate prevailing during the period sought to be recovered, and the estimated consumption shall be based upon the result of the ERC test on the affected meter during the time of discovery. If there is no ERC test result, the estimated consumption shall be based on the average use of energy for the immediately preceding six-month period of like use, or the lowest monthly consumption within three (3) months after the time of discovery.

In case of disagreement on such bill, the ERC shall resolve the same. In cases of other billing errors, the following principles shall apply:

- (a) Refunds for overpayment shall be computed back to but not beyond the date on which the error or omission commenced and be immediately effected and ERC confirmation be secured immediately.
- (b) Payments for undercharge shall be computed back to the date on which the error commenced, however, in no case where the error or omission is due to the fault of the DU, shall a bill for undercharge be computed for a period exceeding three (3) months.

3.6 BILLING DISPUTES

If a customer disputes any bill, charge or service, the DU shall record and promptly investigate the matter and provide a written report to the customer. Reporting to the concerned customer shall be made within fifteen (15) days from receipt of such complaint. The DU shall inform the customer of their right to file a complaint with the ERC.

3.7 REGULATED RATES FOR THE CAPTIVE MARKET

Every DU shall be strictly governed in its charges by the schedule of rates prescribed by the ERC and shall not change, alter, or in any manner modify the same without prior authority of the ERC and shall post a copy thereof in a conspicuous place at its office. A DU may only charge rates or service charges to the Captive Market that have been approved or otherwise authorized by the ERC. The DU shall maintain copies of all approved rate schedules at each of its office locations and provide access and copies to such rate schedules to any person making such request at no charge to the person.

ARTICLE IV

RULES PERTAINING TO DISTRIBUTION WHEELING SERVICE

4.1 GENERAL

This Article governs the terms and conditions of the provision of Distribution Wheeling Service (“DWS”) by the DU to Retail Electricity Suppliers (“RES”) and Generators. Unless otherwise noted, references to RES shall be read to include the SOLR. DWSs pertain to those services performed by the distribution utilities (DUs) for the conveyance of electricity through the regulated distribution system as well as the control and monitoring of electricity as it is conveyed throughout the DU system from the points of receipt to the points of delivery. DWS also includes discretionary services, which are customer-specific services for which costs are recovered through separately priced rate schedules, with the recoverable discretionary charges duly approved and authorized by the ERC.

The DUs shall provide DWS for delivery of electricity of the standard characteristics available in the franchise area. The DU shall provide DWS at its standard voltages. Applicants of DWS must obtain from the DU the phase and voltage of the service available before committing to the purchase of motors or other equipment, and the DU is not responsible if the requested phase and voltage of service are not available. The standard Distribution System service offered by the DU may be provided at the voltage level specified under the appropriate service agreement.

The provision of DWS by the DU is subject to the terms of any service agreements, terms and conditions of the tariffs and applicable legal authorities. All charges associated with a DWS provided by the DU must be authorized by the ERC and included as a tariff charge, as provided in the rate schedules.

4.2 ELIGIBILITY REQUIREMENTS FOR DWS

A RES is eligible for DWS when the following have been met:

- (a) the RES has been licensed by the ERC and/or otherwise has been designated and authorized by the ERC to provide service to End-users;
- (b) the RES has executed any applicable agreements required by TransCo;
- (c) the RES has executed any applicable agreements required by the WESM, if it is a market participant;
- (d) the RES has paid any application fee set as approved by the ERC;
- (e) the RES has demonstrated the ability to operate within the system approved by ERC for data exchange, interruption reporting, and service requests; and
- (f) the RES has executed a DWS Agreement with the DU; or
- (g) following all of the above, if the DU has failed to execute the DWS Agreement although the RES has signed such agreement, the RES shall be deemed eligible for DWS, and the DU shall commence DWS for the RES, during an interim period by filing the unexecuted agreement with the ERC for investigation into the reasons for non-execution by the DU.

4.3 GROUNDS FOR REJECTING DWS AGREEMENT

The DU may refuse to execute a DWS Agreement with a RES for only but any of the following reasons:

- (a) the RES has undisputed outstanding debts with the DU, the transmission provider, or the WESM, as attested in a sworn affidavit from an authorized agent of the entity to which the RES is indebted and such amounts are not currently part of a formal dispute;
- (b) the RES has failed to comply with credit requirements approved by the ERC; or
- (c) the RES has failed to meet any of the eligibility requirements set forth in 4.2.

4.3.1 REJECTION OF DWS AGREEMENT

Upon rejection of any DWS Agreement, the DU shall provide the affected RES with written notice of rejection and shall state the grounds for rejection.

For disputed outstanding debts by a RES, a bond representing ninety percent (90%) of the bill in dispute has to be posted with the DU; otherwise, the DU may refuse to execute a DWS agreement with a RES.

4.3.2 ACCEPTANCE OF DWS AGREEMENT

Upon its acceptance of a DWS Agreement, or pursuant to an order of the ERC approving a DWS Agreement, the DU shall execute the DWS Agreement and shall file an original copy with the ERC, shall provide one original copy to the RES, and shall maintain one original copy for its own records.

4.4 RELATIONSHIP WITH RES' END-USE CUSTOMERS

A RES is responsible for all contractual, service, and billing matters related to their End-use customers including those pertaining to DWS, and the DU shall

not be responsible for monitoring, reviewing or enforcing such contracts or arrangements. This does not, however, prohibit End-users from contacting and contracting directly with the DU for Connection Assets and Services pursuant to Article II of the DSOAR.

Subject to the adoption by the ERC of the dual billing policy for contestable customers, a RES may opt to have one or more of their end-use contestable customers contract directly with the DU for DWS,

4.5 METERING

4.5.1 TIME OF USE METERING FACILITIES

All DWS customers in the initial phase of the Contestable Market shall have installed time of use metering facilities capable of measuring energy use and demand in a fashion consistent with WESM energy settlement intervals, and distribution and transmission demand charge intervals. Any exceptions to this rule require specific ERC approval.

4.5.2 OWNERSHIP OF METERS

The person procuring the meter for a customer in the Contestable Market shall have the first option of owning the meters subject to any applicable rules and regulations of ERC including but not limited to the Distribution Code. In the event a meter is not owned by the MSP, the End-user shall execute an Agreement for Meter Ownership and/or Access for Non-Company Owned Meters similar to that included in Article VI of the DSOAR. The MSP remains responsible for testing, sealing, and maintenance of all meters, subject to ERC procedures, regardless of ownership. All billing meters shall be located at the exterior of the End-user's premises in a place that ensures easy access by the DU, MSP and RES. Immediate access by the DU, RES and MSP to any meter within its area of responsibility shall not be denied.

4.5.3 METER READING AND DATA DISSEMINATION SERVICE

The DU shall conduct meter reading and data dissemination as a regulated service until such time as competitive metering services may be approved by the ERC. Upon establishment of competitive metering services, an End-user may select any person authorized by the ERC to perform meter reading and data dissemination service.

4.5.4 REQUEST FOR ADVANCED METERING TECHNOLOGY

An End-user in the Contestable Market or a RES serving the End-user may request a new meter or meter upgrades with advanced technical capabilities to be provided by the MSP provided that all costs related to the new meter including upgrades are borne by the RES or End-user. Similarly, a RES or an End-user can request an upgrade to the meter. Should there be a request for a new meter or a communication device be attached to the existing meter, the MSP shall provide, install, test, and maintain the requested metering or communication device in accordance with ERC approved Other Charges of DU. All advanced metering technology shall comply with applicable ERC standards.

4.5.5 RIGHT TO PROCURE AND INSTALL ADVANCED METER EQUIPMENT

End-users in the contestable market and/or a RES contracted with the End-user shall have the right to own advanced metering equipment and select their own contractor and/or equipment vendor provided that all requirements are met. All advanced metering technology shall comply with applicable ERC standards.

4.5.6 ACCESS AND METER READING

The RES contracted with an End-user shall have read-only access for purposes of reading a meter of that End-user. If End-user takes DWS at primary distribution or transmission voltage, the MSP shall meter DWS at that voltage level. The MSP is responsible for reading the meter. If an actual meter reading is not obtained, the DU/MSP shall estimate the meter reading for invoicing purposes as prescribed in Article 3.5.4. In the case of meter malfunction, the historical load profile from the previous month shall be reported and noted as such. The MSP shall report measurement data for a point of delivery as required by the ERC.

4.5.7 METER DATA EXCHANGE

The Meter Service Provider shall regularly submit to the Central Registration Body (CRB) the meter reading data of each contestable customer within three (3) Business Days from meter reading date.

4.6 SUBTRANSMISSION

4.6.1 DELIVERY SERVICE PROVIDED BY OWNER OF SUBTRANSMISSION

A qualified DU or consortium of qualified DUs that own subtransmission facilities shall ensure nondiscriminatory provision of unbundled delivery service over subtransmission to any user, whether that user is connected or not connected to subtransmission, who wants to wheel power over subtransmission. Subtransmission wheeling service shall be in accordance with the terms and conditions of DWS covered by this Article IV in its entirety and Article II on connections. Customers connected to subtransmission may include DUs, Generators, End-users, or a RES providing retail service to a connected End-user.

4.6.2 NON-IMPAIRMENT OF GENERATION CONTRACTS WITH END-USERS

The obligation to provide DWS per 4.6.1 shall not in any way impair an existing purchase power agreement or generation contract legally executed between an End-user and a Generation Company, nor a future purchase power agreement between an End-user and a RES in the contestable market.

4.6.3 SUBTRANSMISSION COSTS AND RATES

The rates charged for DWS over subtransmission facilities shall be in accordance with the rates approved by ERC.

4.6.4 END-USER IN THE CAPTIVE MARKET WITHOUT SUFFICIENT GENERATION

Any End-user connected to subtransmission without a legitimate purchased power contract sufficient to provide all energy requirements and that End-user is not part of the Contestable Market, the End-user shall be considered to be part of the Captive Market and shall be served as such by the relevant franchised entity. Similarly, in the case of a legitimate contract that has expired and that End-user is not part of the contestable market, the End-user shall be considered to be part of the Captive Market and shall be served as such by the relevant franchised entity.

4.7 TRANSMISSION

4.7.1 CONTRACTING FOR TRANSMISSION SERVICES

A RES shall obtain required transmission services in one of two ways as part of its service to a particular End-user connected to a distribution system or subtransmission. The RES may opt to have the DU contract with the Transmission Provider for the demand of the RES' customers, and the DU shall pass-through the related costs including any deposits to the RES. Alternatively, a RES may execute a contract for transmission services directly with the TransCo. If the latter option is selected, the RES shall properly inform the DU providing DWS of this selection. This provision does not pertain to transmission connection services.

4.7.2 APPLICABLE TRANSMISSION RATES

Regardless of which option is selected under 4.7.1, the amount paid for transmission service by a RES or a Contestable Market customer shall be based on approved TransCo rates and the billing determinants metered for the individual customer's Connection Point. In other words, the transmission costs borne by the Contestable Market customer should not be an allocation of the DU system-wide load.

4.7.3 ANCILLARY SERVICES

When the DU is connected to the transmission grid, a RES shall obtain all required ancillary services from TransCo or through the WESM and shall not be required to take ancillary services from the DU except as may be selected as an option by the RES per 4.7.1. In the event a DU connected to the transmission grid provides ancillary services which benefit the Distribution System, compensation or credit to the DU and the Captive Market for providing ancillary services shall be determined pursuant to the WESM Rules when applicable.

For a DU that is not connected to the transmission grid, the DU shall seek approval of unbundled ancillary service charges to ensure that both the Captive Market and the Contestable Market share in ancillary service costs in a nondiscriminatory manner. Such application for the approval of unbundled ancillary service charges shall be filed with ERC no later than 180 days from the effectivity of the DSOAR.

4.7.4 WESM REQUIREMENTS

A RES is solely responsible for meeting any applicable WESM requirements. The DU shall not be responsible for any WESM requirements pertaining to a RES or a Contestable Market customer served by a RES.

4.8 BILLING AND RELATED CUSTOMER SERVICE

4.8.1 RES RIGHTS AND RESPONSIBILITIES

A RES is fully responsible for determining the billing methods for their customers and payment of all obligations to other market participants. As an option to the RES, the contestable customer of the RES may be billed directly by the DU for DWS, subject to the adoption by the ERC of the dual billing policy.

An End-user in the contestable market is responsible for paying their RES all amounts legitimately billed by the RES but shall not be held responsible for any amount not paid by the RES to other market participants.

4.8.2 DEPOSIT FOR DWS

The RES or Contestable Customer shall remit a deposit to the DU equivalent to one month estimated billing for DWS based on the historical demand and/or energy of such customer, or in the case of a newly connected Contestable Customer, based on projected demand and/or energy and subsequently adjusted after one year of historical usage. Such deposit may be used toward unpaid bills.

4.8.3 PAYMENTS

With the exception of payments that are the responsibility of the End-user, the RES shall pay all amounts due to the DU, TransCo, WESM, Generators, or other Participants within the timeframe specified in its respective agreements or requirements. Failure to do so may be grounds for license revocation pursuant to the RES licensing guidelines and possible disconnection of the RES's customers. Failure of the End-user in the Contestable Market to make payments to a RES or the DU, when such customer contracts directly with the DU, may be grounds for disconnection.

Upon failure of the RES or Local RES to pay the DU its proper share of Contestable Customer payments within the timeframe specified in its billing agreement, the RES or Local RES shall pay interest on the unremitted amount. The RES or Local RES shall calculate the interest at

the rate of 12% per annum from the date the payment was due to be received by DU or its bank. The payment of interest is in addition to, and not in lieu of, the rights and remedies otherwise available to the parties.

4.8.4 FAILURE TO PAY AND DISCONNECTION RIGHTS OF THE DU AND THE RES

4.8.4.1 RES FAILURE TO PAY DU

In the event a RES fails to pay for DWS by the due date prescribed for the service, the DU shall notify the CRB that service under the DWS agreement will be terminated in seven (7) days.

The CRB shall forward the notice to the RES as soon as practicable upon receipt of notice.

If the RES fails to pay within 48 hours following said notice, the DU shall send a copy of the notice of disconnection to the RES's affected Contestable customers.

Prior to termination of service under the DWS agreement, the contestable customer must either acquire supply from another licensed RES or temporarily acquire service as a SOLR customer to avoid disconnection.

If upon termination of service under the RES DWS agreement, the contestable customer has not acquired service from another RES or the SOLR, the DU shall have the right to physically disconnect such customer.

If at the time the disconnection is to be made, the RES tenders full payment of the unpaid bill to the agent or employee of the DU who is to effect the disconnection, the said agent or employee of the DU shall desist from disconnecting the service to allow the RES to pay his bills within twenty-four (24) hours and the CRB shall be informed of such developments. Provided however, that the RES can only invoke this provision once for the same unpaid bill.

4.8.4.2. RES CUSTOMER FAILURE TO PAY DU

Subject to the adoption by the ERC of the dual billing policy, in the event that a RES customer billed by the DU for DWS fails to pay by the due date, a 48-hour notice of disconnection shall be sent to the customer and the CRB shall be informed of such notice.

The CRB shall forward the notice to the RES as soon as practicable upon receipt from the DU. If the customer fails to pay the amount within the 48-hour period, the DU shall have the right to physically disconnect such RES customer.

The DU shall inform the CRB if such customer has been disconnected and the CRB shall inform the RES of the disconnection as soon as practicable.

If at the time the disconnection is to be made, the RES customer tenders payment of the unpaid bill to the agent or employee of the DU who is to effect the disconnection, the said agent, or employee of the DU shall desist from disconnecting the service to allow the RES customer to pay his bills within twenty-four (24) hours and the CRB shall be informed of such developments. Provided however, that the RES customer can only invoke this provision once for the same unpaid bill.

4.8.4.3. RES CUSTOMER FAILURE TO PAY THE RES

In the event that the Contestable Customer fails to pay the RES or Local RES for service rendered by due date, the RES or Local RES may send a 48-hour written notice of disconnection to the Contestable Customer.

The RES and Local RES shall inform the CRB of such notice at the same time it sends the notice of disconnection to the Contestable Customer.

The CRB shall forward the notice of disconnection to the DU as soon as the practicable upon its receipt of said notice.

If the Contestable Customer fails to pay within the 48-hours period, the RES or Local RES may send a request for disconnection to the CRB. The latter shall then forward the request for disconnection to the DU as soon as practicable upon its receipt of said request.

The DU shall disconnect the Contestable Customer within 24 hours upon receipt of request for disconnection, and notify the CRB that the Contestable Customer has been disconnected. The DU shall not be responsible for verifying the validity of RES' request for disconnection.

The Contestable Customer may pay the RES or Local RES at the time of disconnection and the RES or Local RES shall advise the DU to desist from disconnecting service.

The RES or Local RES shall be held liable in case where the Contestable Customer is protesting the disconnection made by the DU.

Any disconnection performed pursuant to this section is without prejudice to any charges, interest, or penalties legally imposed.

4.8.5 CONTESTABLE END-USER COMPLAINTS AND DISPUTES

Any complaint by a contestable customer concerning the service or lack thereof by all power industry participants shall be governed by a separate guideline on dispute resolution for the contestable market to be promulgated by the ERC.

4.9 GENERATOR WHEELING IN THE DISTRIBUTION SYSTEM

4.9.1 DU RESPONSIBILITIES

A DU shall make available at non-discriminatory terms and conditions unbundled DWS to generators that seek to wheel power into, out of, or through the distribution system.

4.9.2 GENERATOR RESPONSIBILITIES

A generator connected to the distribution system that seeks to wheel power out of the distribution system shall pay all applicable DWS charges. A generator wheeling power into or through the distribution system shall likewise pay the applicable DWS charges unless those charges are paid to the DU by load-serving entities such as a RES or another DU.

4.10 WHEELING FOR ANOTHER DISTRIBUTION UTILITY

4.10.1 THE RESPONSIBILITIES OF DU AS CUSTOMER

A DU shall make available at non-discriminatory terms and conditions unbundled DWS to other DUs that seek to wheel power out of or through the distribution system.

4.10.2 CUSTOMER RESPONSIBILITIES

A DU that seeks to wheel power out of or through the distribution system shall pay all applicable DWS charges unless those charges are paid to the DU by a generator or other load-serving entities such as a RES.

ARTICLE V

GUIDELINES FOR ESTABLISHING REGULATED SERVICE RATES

5.1 GENERAL

The Commission issued its Uniform Rate Filing Requirements (UFR) on October 31, 2001. Since that time, ERC policy regarding the setting of rates by DUs has evolved, most notably with the implementation of the removal of cross-subsidies and the adoption of the Distribution Wheeling Rate Guidelines (DWRG). Annex B of ERC Resolution No. 12-02, Series of 2004 "Adopting a Methodology for Setting Distribution Wheeling Rates", dated December 10, 2004 and later amended to four Entry Points under ERC resolution 24, series of 2007, dated October 24, 2007. These Rules are an updated version of the original Distribution Wheeling Rate Guidelines issued by the ERC on December 10, 2004, which were subsequently amended on July 26, 2006 to the Rules for Setting Distribution Wheeling Rates (First Entry Point) (RDWR) and the Rules for Setting Distribution Wheeling Rates (Second and Later Entry Points) on December 13, 2006. An additional RDWR

will be issued for each Entry Point, to reflect only the dates relevant to that particular Entry Point

To further promote nationwide consistency in rate design for distribution service, the Commission sets forth these guidelines herein. These guidelines are intended to complement, not substitute, the UFR. The UFR remains in full force until such time as the UFR itself may be revised by the Commission.

5.2 UNIFORM RATE FILING REQUIREMENTS

The ERC hereby incorporates the UFR as part of the DSOAR. All DUs shall adhere to the principles and methods set forth in the UFR, as may be revised by the ERC, as well as any principles set forth by the ERC in Decisions and Orders issued as part of UFR cases.

5.3 DISTRIBUTION UTILITIES OPERATING UNDER THE RDWR

5.3.1 GENERAL

The focus of these provisions is primarily rate design under the RDWR; that is, the allocation of revenue requirements to Customer Segments and the conversion of the revenue requirement for a particular Customer Segment into the various rate elements paid monthly by the customers within that customer segment.

The RDWR provides flexibility to expeditiously adjust rates between Regulatory Resets subject to a maximum average price (“MAP”). The MAP is a company-wide measure without much constraint on individual rate elements. The intent in granting such flexibility is to promote efficient DU operations; however, the Commission also intends to ensure that use of such flexibility adheres to the policies set forth in the EPIRA. Specifically, all DUs shall only charge rates that reflect the cost-based unbundled structure set forth in the UFR. At no time may costs or revenues that should be recovered from one unbundled function be shifted onto other unbundled functions. The rate design shall be free of inter-class subsidies. That is, costs or revenues that should be recovered from one customer segment shall not intentionally be shifted onto other customer segments. The Side Constraints set forth in Section 5.17 of the RDWR shall not be used to justify the shifting of revenues from one customer segment to other customer segments.

The RDWR applies only to privately owned Distribution Utilities that have commenced the Regulatory Reset Process and are therefore defined as Regulated Entities in terms of the RDWR. It determines the manner in which the maximum electricity distribution wheeling rates for providing Regulated Distribution Services may be charged by Regulated Entities and the Performance Incentive Scheme to be implemented under PBR.

The RDWR describes a form of Performance Based Regulation (PBR) for Regulated Distribution Services. Fundamentally, it sets a cap on the maximum average rates for providing distribution wheeling services. This price cap is set for each Regulated Entity to allow them to recover efficient expenditure only and provide an appropriate return to investors in the Regulated Distribution Systems. In addition, built-in incentives

exist to further improve the efficiency of operating and capital expenditures, as well as network and service performance levels.

Regulation occurs in four-year periods and the annual average price-caps are set in accordance with the actual Philippines consumer price index (CPI) and Philippine Peso/US dollar exchange rate experienced over the Regulatory Period, modified by an efficiency factor (X-factor) that is determined in terms of the RDWR. This is a variant of the “CPI-X” form of regulation.

5.3.2 GENERAL METHODOLOGY FOR CONVERTING AN ANNUALLY ADJUSTED MAP INTO RATES

Adjustments made to a MAP during a Regulatory Period must be converted by the DU into new rate elements. This section sets forth a general methodology by which these calculations are to be made.

The general formula for a MAP is similar to that found in Article 4.5.5 of the RDWR: $MAP_{bs} = (CR_{bs} - RBR_{bs}) / CQ_{bs}$

Where:

CR_{bs} = The amount (expressed in PhP) billed to Customers of that Regulated Distribution System, or other persons, for the provision of either regulated services, or unregulated services which utilize assets that form part of the regulatory asset base for that Regulated Distribution System, by the Regulated Entity that operates that Regulated Distribution System, during the 12 month period ending on 31 December;

RBR_{bs} = Such portion (expressed in PhP) of the net income derived, during the 12 month period ending on 31 December, from each related business undertaking which is engaged in directly or indirectly by the Regulated Entity that operates the relevant Regulated Distribution System and which utilizes assets that form part of the regulatory asset base for that Regulated Distribution System (see Section 4.8.8), being a portion that is determined by the ERC pursuant to Section 26 of the EPIRA and that may vary as between such business undertakings but which, for each such business undertaking, does not exceed 50% of the net income that is so derived from that business undertaking; and

CQ_{bs} = The total amount of energy (expressed in kWh) delivered through the relevant Regulated Distribution System, during the 12 month period ending on 31 December, to Connection Points in respect of that Regulated Distribution System, such amount of energy:

a.) being determined in a manner that is approved for this purpose by the ERC; and

- b.) as so determined being audited to the satisfaction of the ERC by a person that is approved for this purpose by the ERC.

The maximum average price cap is a company-wide measure and does not address individual rate elements. It is therefore necessary to convert this into rate elements. The general methodology for this conversion is consistent with the RDWR Position Paper dated December 8, 2008, the steps to calculate the rates for an Application Year are as follows:

- a) Calculate the historical revenue earned from each Customer Segment i for the historical year t ($CR_{i,t}$).
- b) Calculate the average historical rate for each customer segment over the previous 12 months ($CS_{i,t} = \frac{CR_{i,t}}{CQ_{i,t}}$), where $CQ_{i,t}$ is the energy consumed by each customer segment i (kWh), during historical year t .
- c) Compute the projected revenue for the next year per customer segment based on the historical rate and forecast consumption ($CR_{i,t+1} = CS_{i,t} \times FQ_{i,t}$).
- d) By adding the projected revenue for each Customer Segment, the total projected revenue for the Application Year, based on historical rates, is calculated. ($CR20YR = \sum CR_{i,t+1}$)
- e) Determine the proportion of revenue to be recovered for each customer segment based on the projected revenue. ($\frac{CR_{i,t+1}}{CR20YR}$)
- f) Compute the total revenue (TR) for the Application year by multiplying the maximum average price cap (MAP_t) with the forecast energy consumption for the Application Year. ($TR = MAP_t \times FQ_t$)
- g) Allocate the total revenue requirement (TR) for the Application Year to each Customer Segment ($TR_{i,t}$) based on the proportion of projected revenue from each Segment to the total revenue projected as computed under item (e) above.

$$(TR_{i,t} = TR \times \frac{CR_{i,t}}{CR20YR})$$

- h) The new rate element for a Customer Segment is then based on the revenue requirement allocation to that segment for the Application Year, using the same rate design as before for that Customer Segment, as approved at the time of the regulatory reset.

The historical period to be used for determining the proportional revenue allocation is 12-month period ending on December 31 before the Application Year.

Implicit to this methodology is the fact that a new rate structure or Customer Segment cannot be introduced during a Regulatory Period. Such changes or the introduction of a new rate structure can therefore only be made as part of the regulatory reset process.

Changes in the rates, to account for new required revenue allocations to a Customer Segment, can therefore only be introduced by changing the quantum of those rate elements that already exist for each particular rate structure.

5.3.3 REGULATORY RESET PROCESS – TIMELINES

Prior to the commencement of each regulatory period the ERC will undertake a regulatory reset process consistent with the provisions of the RDWR. This process will entail consultation in respect of the ERC's proposals for the price control arrangements that are to apply for that regulatory period.

The ERC shall publish a Regulatory Reset Issues Paper not less than 21 months prior to the end of each Regulatory Period. The Regulatory Reset Issues Paper shall:

- provide the ERC's initial views on the issues raised by the pending Regulatory Reset Process;
- specify the information to be provided by each Regulated Entity for the purposes of the Regulatory Reset Process and the time by which that information must be provided; and
- the time by which each Regulated Entity must file an application with the ERC to commence the Regulatory Reset Process consistent with the provisions of the RDWR.

The ERC shall call for written submissions on the issues raised in the Regulatory Reset Issues Paper and shall require that such submissions be delivered not later than two months after the publication of the Regulatory Reset Issues Paper. When all such written submissions have been received, the ERC shall, within two weeks of the closing date for written submissions, publish all such submissions on its web site or through such other electronic medium.

Where a written submission identifies information in it which is confidential, the ERC may only publish or otherwise disclose that information if the ERC has given written notification to the person who has made that submission of the ERC's intention to publish or otherwise disclose that information and either:

- that person has not made a written submission to the ERC objecting to the publication or disclosure of that information (including reasons as to why publication or disclosure of the information would cause substantial commercial damage or harm to it) within two weeks of receiving the written notification; or

- that person has made a written submission to the ERC objecting to the publication or disclosure of that information (including reasons as to why publication or disclosure of the information would cause substantial commercial damage or harm to it) but the ERC, after considering that submission, nevertheless decides that publication or disclosure of the information will not cause substantial commercial damage or harm to that person (in which case the ERC must not publish or otherwise disclose that information unless it has first given the person not less than one week's notice of its decision).

Following the publication of the Regulatory Reset Issues Paper, the ERC could retain a Regulatory Reset Expert or Regulatory Reset Experts consistent with the provision of the RDWR for the purpose of undertaking and preparing a written report in respect of each of the following:

- the asset re-valuation in relation to each Regulated Distribution System that is operated by a Regulated Entity;
- for the purposes of the Regulatory Reset Process for the Second Regulatory Period, the condition of certain assets that are used to provide Regulated Distribution Services and the regulatory life which should be attributed to such assets;
- the determination of the weighted average cost of capital;
- the review of each Regulated Entity's proposed capital expenditure in relation to each Regulated Distribution System that is operated by it;
- the review of each Regulated Entity's proposed operating and maintenance expenditure in relation to each Regulated Distribution System that is operated by it; and
- the review of each Regulated Entity's energy delivery forecasts.

Alternatively the ERC could conduct one or more of these reviews internally, or in conjunction with Regulatory Reset Experts.

The reviews must commence at least 18 months prior to the start of the next relevant Regulatory Period, and be substantially concluded seven months prior to the start of that Regulatory Period.

Not later than six months prior to the commencement of the relevant Regulatory Period the ERC shall publish a draft determination on the price control arrangements that are to apply for the relevant Regulatory Period on the ERC's website or through such other electronic medium.

The ERC must invite submissions on the draft determination, such submissions to be provided in writing or at public hearings convened for that purpose.

All written submissions must be made within 30 days of the publication of the draft determination and only those persons who make written submissions may participate in the relevant public hearings. Participation will be in accordance with the ERC Rules of Practice and Procedure.

The relevant public hearings must be held during the period of five to four months prior to the commencement of the relevant Regulatory Period.

After considering all the submissions made, the ERC shall publish a final determination on the price control arrangements that are to apply for the relevant Regulatory Period. Such final determination must be published not later than three-and-a-half months prior to the commencement of the relevant Regulatory Period on the ERC's website or through such other electronic medium.

5.3.4 REGULATORY RESET PROCESS - RATE APPLICATION PRIOR TO START OF THE REGULATORY PERIOD

After the ERC had made its final determination on the price control arrangements that are to apply for the relevant Regulatory Period, the Regulated Entity has to convert the decision on the initial maximum average price into distribution tariffs that will reflect the tariff applicable to each Customer Segment for providing Regulated Distribution Services during the first Regulatory Year.

The Regulated Entity has to file a rate application with the ERC by not later than three months prior to the start of the relevant Regulatory Period in which it indicates how it proposes to convert the initial maximum average price determined by the ERC into distribution tariffs for each Customer Segment in its Regulated Distribution System. This application has to be filed in accordance with the ERC Rules of Practice and Procedure and will constitute a formal rate case which will be subject to public hearings. The rate application has to be published in a local newspaper of substantial general circulation.

As part of the rate application, the Regulated Entity has to provide full details of how the maximum average distribution wheeling rate will be translated into distribution tariffs for each Customer Segment for the provision of Regulated Distribution Services in respect of the relevant Regulated Distribution System during the first Regulatory Year. This proposal must clearly describe the basis on which the distribution tariffs were determined for each Customer Segment, the allocation of costs to each Customer Segment, the functionalization factors used and the calculations and supporting material for the proposal. A statement must be provided to confirm the absence of interclass cross-subsidies between Customer Segments (with the exception of customers on a

lifeline rate, who may be subsidized). The rate application must also clearly indicate the data used in calculating the proposed distribution tariffs, the source of all data used, and must provide an explanation of each calculation and its outcome, so that there is no ambiguity for the ERC in interpreting how the Regulated Entity calculated the proposed distribution tariffs.

Public hearings on the rate application will be held prior to the start of the relevant Regulatory Period. At these hearings the ERC will have the opportunity to question the Regulated Entity on its proposed distribution tariffs and parties of record to the rate case will have opportunity to cross-examine witnesses put forward by the Regulated Entity to defend its application.³

Where the ERC requires such by notice in writing or by instruction issued during the public hearings, the Regulated Entity must file with the ERC, in accordance with the ERC Rules of Practice and Procedure, further information on the proposed distribution tariffs set out in its submission, and such further information must be also provided before the commencement of the first Regulatory Year.

The ERC must immediately precedes the commencement of the first Regulatory Year, determine whether or not the distribution tariffs proposed by the Regulated Entity in its submission (as such submission may be amended with the approval of the ERC) is consistent with the final determination on the price control arrangements for the relevant Regulatory Period. If:

- the ERC is satisfied that such tariffs are consistent and do comply, an order will be issued in this regard to the Regulated Entity and the Regulated Entity must, after advertising this intention four weeks in advance in a local newspaper of general circulation, implement those tariffs with effect from the first Regulatory Year;
- the ERC is not satisfied that tariffs are consistent and comply:
 - a) the Regulated Entity must amend its proposed distribution tariffs in accordance with such directions as the ERC (after consulting with the Regulated Entity) may give for the purposes of ensuring that these tariffs are consistent with the requirements of the RDWR; and
 - b) on receiving an order from the ERC approving the amended tariffs, the Regulated Entity must implement those amended tariffs, after advertising this intention four weeks in advance in a local newspaper of general circulation, but not earlier than the first Regulatory Year.

³ Note that questions and cross-examination will only be allowed on aspects relevant to the rate application and not on earlier regulatory decisions or the basis on which these were made. For example, cross-examination on aspects decided by the ERC in its final determination on the price control arrangements for the relevant Regulatory Period will not be accepted at these hearings.

5.3.5 MONITORING BY ERC

Between Regulatory Resets under the RDWR, the ERC shall periodically monitor the rate design employed by the DU to ensure consistency with these guidelines.

5.4 DISTRIBUTION SYSTEM LOSSES

Connection Customers and the DU shall handle system losses in accordance with the ERC's rules and regulations. A RES shall also pay any applicable distribution System Loss Charge and shall not be responsible for procuring energy to cover distribution system losses. The DU is responsible for procuring all energy related to distribution system losses and will be allowed to recover such costs through ERC approved System Loss Charges, subject to a System Loss Cap.

5.5 PURCHASED POWER COSTS

Pass through of purchased power costs of the DU shall be done in accordance to ERC orders and rules.

5.6 TRANSMISSION COSTS

Pass through of transmission costs billed by the transmission provider to the DU shall be done in accordance to ERC orders and rules.

ARTICLE VI

REDISTRIBUTION OF ELECTRICITY

6.1. GUIDING PRINCIPLES

- a) As a general rule, occupants, whether, owners or tenants of units within buildings or single structures must be connected / served directly by the DU which has an existing franchise over the concerned area, unless it is impractical for the DU to provide electric service and/or occupants are not able to satisfy the DU's standard requirements for electric service, or DU waives the right to serve those customers.
- b) DUs must install separate meters to individual unit-owners of buildings, unless not allowed by the building design pursuant to the Philippine Electrical Code.
- c) All users, whether deriving electricity from DUs or redistributors, must have equal rights and obligations as embodied in the rules and regulations promulgated by the ERC to protect consumer interest, including but not limited to the Magna Carta for Residential Electricity Consumers, the Distribution Services and Open Access Rules and Republic Act No. 7832 (Anti-Electricity Pilferage Law).
- d) In cases of sub-metering, the individual unit-owners shall pay their electric bills to the building owners or administrators as if they are actually being

billed by the DU based on the same customer classification. Thus, the unit owners shall only pay for their actual consumption reflected in their respective sub-meters and the rate to be charged shall not be higher than those imposed by the DU on the redistributor. This is without prejudice to the recovery of reasonable expenses in sub-metering of electricity by the building owner or administrator from their respective unit-owners as provided for in 6.3.1(j). However, no profit shall be derived from such recovery.

- e) Redistributors are prohibited to charge service fees to the Lessee or Unit Owner.
- f) Reasonable expenses, including redistribution loss, may be recovered by redistributors. Non-technical losses may be recovered pursuant to the provisions of Republic Act No. 7832, the Revised Penal Code and other related laws, rules and regulations.
- g) Administrative expenses, connection or network assets investments and all other electrical equipment shall be recovered separately from the electricity bills.
- h) Redistributors are required to bill individually their unit-owners in a transparent manner as if they are being billed directly by the DU.

6.2. COVERAGE

- a) An End-user building that is singly connected to the DU. The building may be connected to the DU through a few billing meters, in accordance with the Philippine Electrical Code; and
- b) An Industrial or commercial complex redistributing power within the complex;
- c) Barangay Power Association (BAPA)

6.3. POLICIES ON REDISTRIBUTION

6.3.1. GENERAL CONDITIONS FOR REDISTRIBUTION.

An end-user may be allowed to redistribute electric service subject to the following conditions:

- a) A redistributor shall provide and install individual sub-meters to the units of the individual unit-owners to ascertain the latter's energy consumption.
- b) All electric watt-hour meters must be tested and sealed by ERC prior to installation.
- c) All sub-meters' reading multiplier should both be testified and documented by the redistributor and the Lessee /Customer/unit owner and should be clearly indicated on the face of the meter.
- d) All sub-meters shall be installed in a clean place free of vibration and easily accessible for reading and testing by both the redistributors and the individual unit-owners.

- e) Common areas shall be metered separately from the unit-owners' premises. In cases when this would not be possible because of the design of the building, the consumption of the common areas may be estimated using a computation method agreed upon by the redistributors and the unit-owners.
- f) Every redistributor shall instruct its meter reader when reading periodically the meter installed in the premises of a customer, to leave in such premises a record or any other means of information showing the date of the reading, the reading made, the previous reading and the total consumption expressed in units of service used, as read by the meter reader, and the signature over the printed name of the meter reader.
- g) The energy consumption of unit-owners whose leased premises are not permanent divisions in a building shall be deemed included in the rentals for such premises.
- h) A redistributor shall bill its individual unit-owners monthly. The billing statement, duly receipted by the unit-owner, must contain the same detailed information, as shown in the ERC approved unbundled customer bill format.
- i) Individual unit-owners shall pay the redistributor their energy consumption based on the actual consumption reflected in their individual sub-meters.
- j) In accordance with the provisions of their contract or established policies of the homeowner's association or industrial or commercial complex, the redistributor shall be allowed to recover from the unit-owners a fixed amount for other expenses, through monthly dues/rental which should be proportionate to utility allocation namely:
 - i. Electrical consumption of the common areas;
 - ii. Redistribution loss arising from technical losses, and not from non-technical losses or pilferages;
 - iii. Billing and collection;
 - iv. Cost of transformers/substations owned by the building if these were installed to provide electric service;
 - v. Cost of meters; and
 - vi. Other expenses reasonably incurred by the redistributor in redistributing electricity.
- k) For the establishment of credit, unit owner and the redistributor shall follow the deposit and deposit refund requirements found in the Magna Carta and DSOAR. The amount of the bill deposit shall be equivalent to the estimated monthly billing. Provided that after one (1) year and every year thereafter, when the actual average monthly bills increased/decreased more than ten (10%) percent of the bill deposit, such deposit shall be correspondingly increased/decreased to approximate said billing. Redistributor shall

pay interest on bill deposits equivalent to the Peso Savings Account Interest Rate of Land Bank of the Philippines on the first working day of the year, or other government banks subject to the approval of the ERC. The interests shall be credited yearly to the bills of the registered sub-meter user.

6.3.2. ADDITIONAL CONDITIONS FOR REDISTRIBUTORS WITH SUBSTATIONS.

A redistributor with a substation allowed to redistribute electric service before the effectivity of the Distribution Services and Open Access Rules (DSOAR) shall likewise comply with the following conditions:

- a) The redistributor must own the substation and the buildings connected thereto in order to validly redistribute electricity thereon.
- b) The substation and buildings must be located within a single industrial or commercial complex situated in a contiguous area fenced off from the surrounding properties. The requirement of the contiguous area being fenced off from the surrounding properties shall only apply to this Rules.
- c) In cases where other buildings owned by other persons/entities are located inside the industrial or commercial complex, the DU must give their consent prior to the connection thereof to the substation. Otherwise, these buildings must be served by the DU which has franchise rights over the area.
- d) The redistributor must have a valid contract with the DU wherein the maximum load capacity of the substation is determined. Unless otherwise provided for in its contract with the DU, future buildings owned and constructed by the redistributor shall be automatically connected to the substation as long as the allowable maximum load of the substation is not exceeded, after due notice to the DU and compliance with all technical rules and regulations provided for by law.
- e) The redistributor must install a billing meter in each building connected to the substation to determine the consumption of such building.
- f) In accordance with the provisions of their contract or established policies of the homeowner's association or industrial or commercial complex, the redistributors shall be allowed to recover from the unit-owners a fixed amount for other expenses, through monthly dues/rental which should be proportionate to utilization namely:
 - i. Electrical consumption of the common areas limited to that of the building where the unit-owners are occupying;
 - ii. Redistribution loss arising from technical losses and not from non-technical losses or pilferages;
 - iii. Billing and collection;

- iv. Cost of transformers/substations owned by the building if these were installed to provide electric service;
- v. Cost of meters; and
- vi. Other expenses reasonably incurred by the redistributor in redistributing electricity.

6.4. RIGHTS AND OBLIGATIONS OF UNIT-OWNERS

6.4.1. RIGHTS OF UNIT-OWNERS

Each unit-owner shall be entitled to the rights provided to residential customers in the Magna Carta for Residential Electricity Consumers under Articles 7 (Right to a Refund of Bill Deposit), 10 (Right to a Refund of Overbillings), 12 (Right to a Meter Testing by ERC), 18 (Right to Due Process Prior to Disconnection of Electric Service), 19 (Right to a Notice Prior to Disconnection), 21 (Right to Tender Payment at the Point of Disconnection; Deposit Representing the Differential Billing), 22 (Right to Electric Service Despite Arrearages of Previous Tenant), 23 (Right to Reconnection of Electric Service), 24 (Right to Witness Apprehension), 25 (Right to ERC Testing of Apprehended Meter), 26 (Right to Payment Under Protest) and 27 (Right to File Complaints before ERC).

Further, Items 3.5.4 (*Estimated Bills*) and 3.5.7 (*Adjustment for Billing*) of the Distribution Services and Open Access Rules (DSOAR) shall apply.

Furthermore, the unit owners or lessees shall have a right to inspect the billing of the redistributor at reasonable business hours.

References made to the DU in the Magna Carta and the DSOAR shall be construed as referring to redistributors identified in these Rules.

6.4.2. OBLIGATIONS OF UNIT-OWNERS

Unit-owners shall have the following obligations

- a) Payment of bill deposits – A bill deposit from all unit-owners to guarantee payment of bills may be imposed by redistributors in accordance with 6.3.1.
- b) Payment of bills within the period specified under their contract or the existing policies of the Homeowner's Association;
- c) Payment of late charges and penalties specified under their contract or the existing policies of the Homeowner's Association; and
- d) To allow the faithful and accurate recording of consumption to be reflected in his sub-meter.

6.5. COMPLIANCE WITH LAWS, RULES AND REGULATIONS

Redistributors and Unit-owners must comply with all other laws, rules, regulations, guidelines, orders and resolutions promulgated by the ERC.

ARTICLE VII

PROFORMA AGREEMENTS AND FORMS

The agreements and forms provided herein only serve as guidance as to what the ERC may find acceptable. The parties to any agreement may as appropriate deviate from these pro forma agreements. Any deviations from the pro-forma agreements which amount to amendment of a DU's ERC-approved terms and conditions of service shall be filed with the ERC. Nothing herein shall prevent the parties from implementing the same immediately upon execution, subject to whatever modifications that may be subsequently approved by the ERC.

List of pro forma agreements and forms posted separately:

- 7.1 Connection Agreement
- 7.2 Application for interconnection and Parallel Operation of Generation with the Utility System
- 7.3 Agreement for interconnection and Parallel Operation of Generation
- 7.4 Easement and Right of Way Form
- 7.5 Agreement for Meter Ownership and/or Access for Non-Company Owned Meters
- 7.6 Distribution Wheeling Service Agreement

Pasig City, _____.

ZENAIDA G. CRUZ-DUCUT.
Chairperson

RAUF A. TAN
Commissioner

ALEJANDRO Z. BARIN
Commissioner

JOSE R. REYES
Commissioner

MARIA TERESA A. RAMIREZ-CASTAÑEDA
Commissioner