

RESOLUTION NO. 12 - 02
SERIES OF 2004

**ADOPTING A METHODOLOGY FOR SETTING
DISTRIBUTION WHEELING RATES**

WHEREAS, Section 43 (f) of Republic Act No. 9136, otherwise known as the Electric Power Industry Reform Act of 2001 (EPIRA), authorizes the Energy Regulatory Commission (ERC) to adopt alternative forms of internationally-accepted rate-setting methodology it may deem appropriate;

WHEREAS, the rate setting methodology so adopted and applied must ensure a reasonable price of electricity;

WHEREAS, on various dates, the ERC rendered its Decisions on the respective unbundling applications of the private distribution utilities using the Return on Rate Base (RORB) Methodology;

WHEREAS, the ERC has developed a new methodology for setting the distribution wheeling rates of private distribution utilities embodied in a document denominated as the "Distribution Wheeling Rates Guidelines" (DWRG);

WHEREAS, on August 9, 2004, the ERC issued a Notice setting the DWRG for public consultation and directing interested parties to submit their comments thereon;

WHEREAS, interested parties submitted their written comments and public consultations were conducted on August 31, 2004 and October 19, 2004 on the proposed DWRG;

WHEREAS, after conducting public consultations on the DWRG, the Commission posted the second (2nd) draft of the proposed DWRG on November 17, 2004 at the ERC Website;

WHEREAS, after said posting, a number of additional written comments were received and thereby considered by the Commission in its final deliberation of the DWRG;

WHEREAS, in accordance with the aforesaid mandate and after a careful consideration of the various views and comments submitted by interested parties, the ERC finds it appropriate to adopt a new methodology for setting distribution wheeling rates for private distribution utilities;

NOW, THEREFORE, be it **RESOLVED**, as the ERC hereby **RESOLVES**, to **APPROVE** and **ADOPT**, as it hereby **APPROVES** and **ADOPTS**, the “**Distribution Wheeling Rates Guidelines (DWRG)**” for private distribution utilities hereto attached as ANNEX “A” together with the significant timelines for its implementation hereto attached as ANNEX “B” and made an integral part of this Resolution;

This Resolution shall take effect fifteen (15) days following its publication in a newspaper of general circulation in the country.

Pasig City, December 20, 2004.

RODOLFO B. ALBANO, JR.
Chairman

OLIVER B. BUTALID
Commissioner

JESUS N. ALCORDO
Commissioner

RAUF A. TAN
Commissioner

ALEJANDRO Z. BARIN
Commissioner

ANNEX “B”

To ensure the orderly implementation of the DWRG, the Commission hereby **ADOPTS** the following timelines:

Entry Point	Max. No. (*)	Letter	1 st Regulatory Period
A	Opt 1	Q1 2005	Jul 1, 2005 – Jun 30, 2007
A	Opt 2	Q1 2005	Unbundled or New Rate Application
B	5	Q2 2006	N/A
C	5	Q1 2007	N/A
D	5	Q2 2008	N/A
E	5	Q1 2009	N/A

* Note sum of Opt 1 and Opt 2 is 5 DUs maximum

	Max. No. (*)	Letter	1 st Reset	2 nd Regulatory Period
A	Opt 1	Q1 2005	Jan 1, 2006 – Jun 30, 2007	Jul 1, 2007 – Jun 30, 2011
A	Opt 2	Q1 2005	Jan 1, 2006 – Jun 30, 2007	Jul 1, 2007 – Jun 30, 2011
B	5	Q2 2006	Apr 1, 2007 – Sep 30, 2008	Oct 1, 2008 – Sep 30, 2012
C	5	Q1 2007	Jan 1, 2008 – Jun 30, 2009	Jul 1, 2009 – Jun 30, 2013
D	5	Q2 2008	Apr 1, 2009 – Sep 30, 2010	Oct 1, 2010 – Sep 30, 2014
E	5	Q1 2009	Jan 1, 2010 – June30, 2011	Jul 1, 2011 – Jun 30, 2015

	Max. No. (*)	Letter	2 nd Reset	3 rd Regulatory Period
A	Opt 1	Q1 2005	Jan 1, 2010 – Jun 30, 2011	Jul 1, 2011 – June 30, 2015
A	Opt 2	Q1 2005	Jan 1, 2010 – Jun 30, 2011	Jul 1, 2011 – June 30, 2015
B	5	Q2 2006	Apr 1, 2011 – Sep 30, 2012	Oct 1, 2012 – Sep 30, 2016
C	5	Q1 2007	Jan 1, 2012 – Jun 30, 2013	Jul 1, 2013 – Jun 30, 2017
D	5	Q2 2008	Apr 1, 2013 – Sep 30, 2014	Oct 1, 2014 – Sep 30, 2018
E	5	Q1 2009	Jan 1, 2014 – Jun 30, 2015	Jul 1, 2016 – Jun 30, 2019

Details of the above prescribed timelines are as follows:

- I. Distribution Utilities (DUs) will be allowed to enter the Performance Based Regulation (PBR) through the DWRG on a first-come, first-in basis.

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- II. There are five (5) entry points (A,B,C,D and E in the table) for DUs to adopt the PBR. It must be noted however that the DWRG is worded for entry point A. Another DWRG worded for other entry points shall be issued.
- III. A maximum of five (5) DUs will be entertained by the Commission per entry point.
- IV. The first entrants (Group A) have two (2) options for entry to PBR namely:
 - a) Option 1 – For “Initial Regulated Entities (IRE)” through a CPI Adjustment; and,
 - b) Option 2 – For “Subsequent Regulated Entities (SRE)” through an application for rate adjustment prior to the Second (2nd) Regulatory Period.
- V. The IRE enters the price cap over an initial two (2) then four (4) year regulatory periods commencing July 1, 2005.
- VI. The price cap for the IREs for the First Regulatory Period of two (2) years will be the average actual prices determined using the calendar-year ending December 31, 2004 as the reference period. The ERC approved unbundled rates shall be used to define the revenues received and the delivered volumes (in kWh) in determining the average price.

- VII. The price cap for the Second Regulatory Period shall be based on a regulatory reset which shall conclude prior to the commencement of the first regulatory year for the said period. This will apply to both IRE and SRE. This reset shall put in place the prime regulatory parameters for the remainder of the Second (2nd) Regulatory Period (SRP).
- VIII. The first entrants (Group A) who choose Option 1 must:
- 1) file letters of intent to enter PBR not later than March 31, 2005;
 - 2) submit data related to justification of alternative W1 and W2 under Section 3.3.1 not later than April 30, 2005 (such approved amendment to W1 and W2 to occur using Section 1.9.1 [b] and [c]);
 - 3) submit the prescribed data under Section 3.5 of the DWRG not later than April 30, 2005 (such data may include information on customer segment spend profile); and
 - 4) complete public consultation on opening of the MAP_{t-1} not later than May 31, 2005.
- IX. The first entrants (Group A) who choose Option 2 must:
- 1) file a letter of intent to enter PBR not later than March 31, 2005;
 - 2) file an application subject to the requirements set forth by applicable laws for a normalized unbundled rates not later than May 31, 2005;
 - 3) secure a Decision from the Commission on the said application not later than December 31, 2005;

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- 4) file a letter of reconfirmation of the intent to enter PBR not later than March 31, 2007;
- 5) submit data related to justification of alternative W1 and W2 under Section 3.3.1 not later than April 30, 2007 (such approved amendment to W1 and W2 to occur using Section 1.9.1 [b] and [c]);
- 6) submit the required data under Section 4.5 of the DWRG not later than April 30, 2007 (such data may include information on customer segment spend profile);
- 7) complete a public consultation on the opening MAP_{t-1} not later than May 31, 2007.

X. Where a first entrant DU fails to provide the filing information by the end of April 2005 for Option 1 or end of May 2005 for Option 2, its position is forfeited in favor of a later-entering DU outside the initial five (5) first-entrant DUs.

XI. DUs who would fall under Group B must:

- 1) file a letter of intent to enter PBR not later than June 30, 2006;
- 2) file an application subject to the requirements set forth by applicable laws for a normalized unbundled rates not later than August 31, 2006;
- 3) secure a Decision from the Commission on the said application not later than December 31, 2006;
- 4) file a letter of reconfirmation of the intent to enter PBR not later than March 31, 2008;

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- 5) submit data related to justification of alternative W1 and W2 under Section 3.3.1 not later than April 30, 2008 (such approved amendment to W1 and W2 to occur using Section 1.9.1 [b] and [c]);
- 6) submit the required data under Section 4.5 of the DWRG not later than April 30, 2008 (such data may include information on customer segment spend profile);
- 7) complete a public consultation on the opening MAP_{t-1} not later than June 30, 2008.

XII. DUs who would fall under Group C must:

- 1) file a letter of intent to enter PBR not later than March 31, 2007;
- 2) file an application subject to the requirements set forth by applicable laws for a normalized unbundled rates not later than May 31, 2007;
- 3) secure a Decision from the Commission on the said application not later than December 31, 2007;
- 4) file a letter of reconfirmation of the intent to enter PBR not later than March 31, 2008;
- 5) submit data related to justification of alternative W1 and W2 under Section 3.3.1 not later than April 30, 2008 (such approved amendment to W1 and W2 to occur using Section 1.9.1 [b] and [c]);
- 6) submit the required data under Section 4.5 of the DWRG not later than April 30, 2008 (such data may include information on customer segment spend profile);
- 7) complete a public consultation on the opening MAP_{t-1} not later than May 31, 2008.

XIII. DUs who would fall under Group D must:

- 1) file a letter of intent to enter PBR not later than June 30, 2008;
- 2) file an application subject to the requirements set forth by applicable laws for a normalized unbundled rates not later than August 31, 2008;
- 3) secure a Decision from the Commission on the said application not later than December 31, 2008;
- 4) file a letter of reconfirmation of the intent to enter PBR not later than March 31, 2010;
- 5) submit data related to justification of alternative W1 and W2 under Section 3.3.1 not later than April 30, 2010 (such approved amendment to W1 and W2 to occur using Section 1.9.1 [b] and [c]);
- 6) submit the required data under Section 4.5 of the DWRG not later than April 30, 2010 (such data may include information on customer segment spend profile);
- 7) complete a public consultation on the opening MAP_{t-1} not later than May 31, 2010.

XIV. DUs who would fall under Group E must:

- 1) file a letter of intent to enter PBR not later than March 31, 2009;
- 2) file an application subject to the requirements set forth by applicable laws for a normalized unbundled rates not later than May 31, 2009;
- 3) secure a Decision from the Commission on the said application not later than December 31, 2009;

- 4) file a letter of reconfirmation of the intent to enter PBR not later than March 31, 2010;
- 5) submit data related to justification of alternative W1 and W2 under Section 3.3.1 not later than April 30, 2010 (such approved amendment to W1 and W2 to occur using Section 1.9.1[b] and [c]);
- 6) submit the required data under Section 4.5 of the DWRG not later than April 30, 2010 (such data may include information on customer segment spend profile);
- 7) complete a public consultation on the opening MAPt-1 not later than May 31, 2010.

XV. Where entrant DUs for Groups B through D fail to provide the filing information to determine the starting MAP by the end of April of the relevant year, their positions are forfeited in favor of the next qualified DU outside the five (5) entrant DUs.

XVI. Sanctions in the form of fines and penalties prescribed in the *Guidelines to Govern the Imposition of Administrative Sanctions in the Form of Fines and Penalties Pursuant to Section 46 of Republic Act No. 9136* shall apply whenever DUs unreasonably fail to meet filing or other deadlines in the DWRG.