

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

**RULES FOR THE POWER SUPPLY OPTION PROGRAM**  
**(previously referred to as Interim Open Access)**

**ERC CASE NO. 2008-013 RM**

Pursuant to Section (43) of Republic Act No. 9136, its Implementing Rules and Regulations (IRR), the Energy Regulatory Commission (ERC) hereby promulgates the following Rules for the Implementation of Power Supply Option Program in Luzon.

**ARTICLE I**  
**GENERAL PROVISIONS**

**Section 1. Objectives**

- 1.1 To provide the regulatory framework for the implementation of the Power Supply Option Program ; and
- 1.2 To ensure the effective implementation of the Power Supply Option Program in that an additional choice of supply is made available to qualified customers, while ensuring that the quality of service to the rest of the electricity consumers is maintained.

**Section 2. Scope**

These Rules shall apply to:

1. Power Supply Option Program Customers;
2. Retail Electricity Suppliers;
3. Eligible Distribution Utilities;
4. Generation Companies or Affiliate thereof;
5. National Transmission Corporation (TransCo);
6. Independent Power Producer (IPP) Administrators;
7. Market Operator;
8. Other relevant industry participants.

### **Section 3. Definition of Terms**

As used in these Rules, the following terms shall have the following respective meanings:

<b>Act</b>	Republic Act No. 9136, otherwise known as “Electric Power Industry Reform Act of 2001”.
<b>Business Day</b>	A day other than a Saturday, a Sunday or an official or declared Philippine national or local public holiday.
<b>Code of Conduct for Competitive Retail Market Participants</b>	The set of rules promulgated by ERC to govern the conduct of RES’, Distribution Utilities (DUs), as well as their stockholders, directors, officers and employees, within the boundaries of fair competition.
<b>Connection Agreement</b>	Agreement between a connection customer and a DU governing distribution connection assets and services.
<b>Distribution Utility (DU)</b>	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 its franchise and the Act.
<b>Distribution Wheeling Service</b>	The conveyance of power throughout a distribution system in a manner to meet the demand of End-users or generators.
<b>Distribution Wheeling Service (DWS) Agreement</b>	An agreement between an eligible DU and a Retail Electricity Supplier on behalf of a Power Supply Option Program Customer for the procurement of Distribution Wheeling Service. For the purpose of Power Supply Option Program, the Distribution Wheeling Service Agreement shall include the procurement of transmission services.
<b>Eligible Customer</b> (previously Eligible IOA Customer)	For purposes of these Rules, an End-user who is qualified to participate in the Power Supply Option Program according to the eligibility requirements in Section 3, Article II of these Rules, and as certified by the

	ERC.
<b>Eligible Distribution Utility</b>	A DU which expresses its willingness to voluntarily implement Power Supply Option Program through the mechanism provided under Section 2, Article II hereof.
<b>Eligible Supplier</b>	A generating company or a RES that is qualified to participate in the Power Supply Option Program, as determined by the ERC.
<b>End-user</b>	Any person or entity requiring the supply and delivery of electricity for its own use.
<b>Energy Imbalance</b>	The difference between actual energy consumed and bilateral contract quantity at a specific metering point.
<b>Energy Regulatory Commission (ERC)</b>	The independent and quasi-judicial regulatory agency created under Section 38 of the Act.
<b>Independent Power Producer (IPP)</b>	An existing power generating entity which is not owned by the National Power Corporation.
<b>Market Operator (MO)</b>	The entity responsible for the operation of the Wholesale Electricity Spot Market.
<b>National Power Corporation (NPC)</b>	The government corporation created under Republic Act No. 6395, as amended.
<b>National Transmission Corporation (TransCo)</b>	The corporation organized pursuant to the Act to acquire all the transmission assets of NPC.
<b>Open Access</b>	The system of allowing any qualified person the use of transmission, and/or distribution system and associated facilities subject to the payment of transmission and/or distribution retail wheeling rates duly approved by the ERC.
<b>Open Access Date</b>	The commencement date of Open Access and Retail Competition in a grid, as determined by ERC, in accordance with the Act.
<b>Petition for the Implementation of</b>	Petition docketed as ERC Case No. 2008-

**Interim Open Access in the Luzon and Visayas Grids**

026 RC, filed by Petitioners composed of Philippine Independent Power Producers Association (PIPPA), Manila Electric Company (MERALCO), Visayan Electric Company (VECO), Davao Light and Power Co., Inc. (DLPC), Clark Electric Distribution Corp., Cagayan Electric Power and Light Company (CEPALCO), San Fernando Electric Light and Power Co. (SFELAPCO), and Panay Electric Company, Inc. (PECO).

**Power Sector Assets and Liabilities Management Corporation (PSALM)**

The corporation created pursuant to Section 49 of the Act.

**Power Supply Option Program (PSOP)**

The Interim Open Access scheme proposed by the Petitioners, as modified by the Commission.

**Power Supply Option Program Contract (PSOP Contract)**  
(previously Retail Supply Contract)

The contract entered into by and between the Eligible Customer and the Eligible Supplier.

**Retail Competition**

The provision of electricity to End-users in the Contestable Market by Retail Electricity Suppliers through Open Access.

**Retail Electricity Supplier (RES)**

Any person or entity authorized by the ERC to sell, broker, market or aggregate electricity to End-users in the Contestable Market.

**Standardized Customer Classification**

Customer segments proposed by a DU and approved by the ERC, wherein End-users are classified according to their 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. Customers that are charged with the same tariff are classified into a customer segment. *(based on Sec 1.2 of DSOAR)*

<b>Terms of Reference (TOR)</b>	The terms of reference attached to the Petition for the Implementation of Interim Open Access in the Luzon and Visayas Grids, signed by the Petitioners, except for SFELAPCO, and several business groups.
<b>Transition Supply Contract (TSC)</b>	A contract for electricity supply filed with the ERC by NPC in accordance with Section 67 of the Act.
<b>Wholesale Electricity Spot Market (WESM)</b>	The Wholesale Electricity Spot Market established by the Department of Energy (DOE) pursuant to the Act.

Terms, not otherwise defined herein, which are defined in the Act or its Implementing Rules and Regulation (IRR) shall have the meaning ascribed to them in the Act or its IRR, as the case may be.

#### **Section 4. Guiding Principles**

To ensure the effective implementation of Power Supply Option Program, the following policies shall be adhered to:

- 4.1 The Rules for Power Supply Option Program (the "Rules") shall be effective only for the period prior to the Open Access Date. Once the ERC declares the establishment of actual Open Access and Retail Competition, the Power Supply Option Program and all contracts and transactions related thereto shall automatically terminate upon Open Access Date.
- 4.2 The PSOP is another supply option to customers in addition to the existing programs such as the Customer Choice Program of the Manila Electric Company (MERALCO) and the One Day Power Sale (ODPS) of the National Power Corporation (NPC). The implementation of Power Supply Option Program in a franchise area shall be a voluntary act on the part of a DU, therefore, only particular End-users within the franchise areas of Eligible DUs shall be allowed to participate in the program.
- 4.3 A single billing policy shall be adopted. The Eligible Supplier shall contract with other service providers (i.e. Eligible DU for transmission and distribution wheeling and ancillary services) on behalf of its Eligible Customers, except for the Connection Agreement, which shall be subsequently entered into by a Eligible Customer with its Eligible DU.
- 4.4 The Eligible DU shall be the sole metering service provider for the Eligible Customers.

**ARTICLE II  
ELIGIBILITY REQUIREMENTS**

**Section 1. Eligibility of Generating Companies and Retail Supply Companies as Suppliers in the Power Supply Option Program**

- 1.1 Only Eligible Suppliers shall be allowed to sell their uncontracted capacity within the PSOP. Eligible Suppliers include:
  - 1.1.1 All generation companies, including NPC-Successor Generating Companies, or their related groups, that are within the mandated market cap, i.e. owning, operating or controlling 30% or less of the installed generating capacity in a grid and/or 25% or less of the national installed capacity pursuant to Section 45 of the Act;
  - 1.1.2 NPC-IPPs with respect to capacity which is not covered by contracts;
  - 1.1.3 IPP Administrators with respect to the uncontracted energy output of NPC-IPP contracts;
  - 1.1.4 NPC, upon compliance with the market share limitation as provided in Section 45 of the Act; and
  - 1.1.5 Licensed RES.
- 1.2 NPC shall continue selling its capacity at the wholesale level either through the Wholesale Electricity Spot Market (WESM) or through its Transition Supply Contracts (TSCs).
- 1.3 Only a licensed RES which has an ERC-approved Business Separation and Unbundling Plan (BSUP) shall be allowed to participate in the Power Supply Option Program as Eligible Suppliers.
- 1.4 Eligible Suppliers shall be required to be direct WESM members.

**Section 2. Eligibility of Distribution Utilities**

- 2.1 No DU shall be allowed to implement the PSOP within its franchise area without the appropriate authorization granted by the ERC conferring upon it the status of an Eligible DU.
- 2.2 All DUs who intend to participate in the PSOP shall notify the ERC in writing of such intent, with proof that the following requirements have been met:
  - 2.2.1 The relevant DU must have eligible Eligible Customers within its franchise area;
  - 2.2.2 The relevant DU must have ERC-approved unbundled rates;

- 2.2.3 The relevant DU must have filed its Business Separation and Unbundling Plan (BSUP);
  - 2.2.4 The DU must have initially implemented its inter-class cross subsidy removal scheme;
  - 2.2.5 The DU must have submitted a complete list of its eligible Customers with their respective information, as provided in Section 1.1, Article III of these Rules; and
  - 2.2.6 The DU must have manifested that it shall abide by all the rules and guidelines of ERC.
- 2.3 DUs, which took part in the Petition and are signatories to its Terms of Reference (TOR), are deemed to have volunteered their participation in the PSOP and shall not be subject to Section 2.2 hereof.

### **Section 3. Eligibility of Power Supply Option Program Customers**

- 3.1 The implementation of the PSOP shall be a voluntary act on the part of a DU, therefore, only End-users within the franchise areas of Eligible DUs shall be allowed to implement the same.
- 3.2 Upon implementation of the PSOP, only End-users with a monthly average peak demand of at least one megawatt (1 MW) for the preceding twelve (12) months shall be eligible to participate.
- 3.3 The eligibility of an End-user shall be based on the peak demand as indicated by a single utility meter.
- 3.4 The demand requirements of non-eligible End-users cannot be aggregated into a single End-user to become a single eligible Eligible Customer.
- 3.5 ERC reserves the right to refuse certification of a particular customer should the latter be found to have not complied with the eligibility requirements.
- 3.6 The threshold level for End-users to be eligible to participate will remain at one (1) MW throughout the duration of the implementation of the PSOP.

## **ARTICLE III PROCEDURES ON INFORMING END-USERS OF THEIR ELIGIBILITY**

### **Section 1. Notification Process Prior to the Commencement of the PSOP**

- 1.1 The ERC shall determine which End-users shall be eligible to participate in PSOP based on the most recent customer information submitted by Eligible Distribution Utilities to the ERC in compliance with the Rules on Customer Switching.

- 1.2 The ERC shall issue certifications for Eligible Customers within fifteen (15) Business Days from the effectivity of these Rules. Such certification shall be coursed through the Eligible DU. **The form in Annex A shall be used.**
- 1.3 The Eligible DUs shall send the certification to the End-user, containing the details of its eligibility, within five (5) days of receipt from the ERC.
- 1.4 An End-user that wishes to participate in the PSOP shall send a written notice to the Eligible DU and the ERC of its participation, for it to be included in the program.
- 1.5 Such notification from the End-user shall constitute a waiver of confidentiality relative to the information provided in Section 1.1 (a), (b) and (j), Article III of these Rules and shall be posted by the ERC in its website.
- 1.6 End-users that meet the eligibility requirements but have not been informed thereof may directly request the ERC to evaluate their eligibility.
- 1.7 A PSOP Contract shall only commence on the first day of the eligible End-user's next billing cycle (as determined by the DU).

## **Section 2. Notification Process for the Duration of the PSOP**

- 2.1 Where the PSOP has already commenced and is ongoing, Eligible DUs shall submit an updated list of Customers to ERC for certification. The ERC shall issue certifications for new Customers within five (5) Business Days from receipt of information from the Eligible DU.
- 2.2 The Eligible DU shall notify the End-user of its eligibility, as provided in Section 1.3 hereof.

## **ARTICLE IV OBLIGATIONS OF PSOP PARTICIPANTS**

### **Section 1. Obligations of Eligible Suppliers**

- 1.1 Eligible Suppliers that are generation companies shall comply with the ownership limitation as provided in Section 45 of the Act.
- 1.2 An Eligible Supplier who is engaged in other electricity-related business activities as defined in the Business Separation Guidelines, As Amended, shall ensure that its business activities are functionally and structurally unbundled. In said unbundling, the Eligible Supplier shall ensure that there is no cross subsidization between and among its business activities, in accordance with the ERC-approved Business Separation and Unbundling Plan.

- 1.3 A RES that is not a generation company shall procure its power requirements only from Eligible Suppliers under Sections 1.1.1 – 1.1.3 hereof, or through the WESM.
- 1.4 Eligible Suppliers shall provide all power requirements of its Eligible Customers and ensure continuous supply at all times.
- 1.5 Prior to entering into a PSOP Contract with a Eligible Customer, the Eligible Supplier shall conduct an orientation regarding the nature and provisions of the PSOP Contract.
- 1.6 In cases of non-payment by the Eligible Customer, an eligible Supplier may send a 48-hour written notice of disconnection to such customer. The Eligible Supplier shall inform the Eligible DU of such notice at the same time it sends notice of disconnection to the Eligible Customer.
- 1.7 The Eligible DU shall reconnect the Eligible Customer upon the settlement of all obligations owed by the Eligible Customer to the Eligible Supplier.

## **Section 2. Obligations of Eligible Distribution Utilities**

- 2.1 Eligible DUs shall provide non-discriminatory access to its distribution system, and shall provide all regulated services at rates approved by the ERC and at non-discriminatory terms and conditions.

### Metering and Data Dissemination Services

- 2.2 Eligible DUs shall provide metering related services to Eligible Customers within its franchise area. WESM compliant interval metering facilities for Eligible Customers participating in the PSOP shall be completely installed by the Eligible DU at the start of the same as declared by the ERC. The DU shall be allowed to recover the additional charges that cover the incremental costs related to enhancement of metering facilities subject to ERC approval
- 2.3 Eligible DUs shall continue to own, operate, maintain and access the meters used by Customers participating in the PSOP.
- 2.4 Eligible DUs shall continue with the regular meter reading schedules for the Eligible Customers, and provide the meter reading data of each Eligible Customer to its respective Eligible Supplier, within three (3) Business Days from the meter reading date.
- 2.5 Eligible DUs shall only disseminate meter reading data to a Eligible Customer's current Eligible Supplier. It shall not release meter reading data and other details to other Eligible Supplier or any other entity without the Customer's authorization.

## Energy Wheeling and System Losses

- 2.6 An Eligible DU shall continue contracting with TransCo for transmission wheeling service on behalf of its Eligible Customers. The Eligible DU shall bill the Eligible Supplier for both transmission and distribution wheeling and other regulated services of each Eligible Customer.
- 2.7 An Eligible DU shall be responsible for procuring all energy related to distribution system losses, as provided for under Section 5.4 of the Distribution Services and Open Access Rules. The system loss charges should be based on blended purchased power costs of the Eligible DU and shall be based on the ERC-approved rates.
- 2.8 In cases of non-payment by the Eligible Customer, the Eligible DU may disconnect the Eligible Customer within 24 hours upon receipt of request for disconnection from the Eligible Supplier.

Should the Eligible Customer settle its obligations to the Eligible Supplier prior to the time of disconnection, the Eligible Supplier must send an advice to the Eligible DU to desist from disconnecting service, or immediately reconnect the service, should the same be disconnected. Such advice shall be time-stamped and recordable, and shall take effect upon receipt of the Eligible DU of a time-stamped notice. Otherwise, the Eligible DU shall not be responsible for verifying the validity of the Eligible Supplier's request for disconnection.

## Default Supply

- 2.9 An Eligible DU shall provide supply services to its Eligible Customers in the event an Eligible Supplier fails to provide such services for the following reasons:
  - 2.9.1 The RES has ceased to operate;
  - 2.9.2 The RES' license has been revoked by ERC;
  - 2.9.3 The Distribution Wheeling Service Agreement between the Eligible Supplier and the Eligible DU had been terminated;
  - 2.9.4 The Eligible Supplier is no longer permitted to trade electric energy through the WESM;
  - 2.9.5 The RES has given notice to the ERC that it will no longer provide supply services.
- 2.10 Should any of the events under Section 2.9 hereof occur, the rate to be charged shall be the ex-post WESM nodal energy price for the energy consumed by a Eligible Customer during all hours that it has been supplied by the Eligible DU. No additional costs shall be charged by Eligible DUs to Customers for this service. In no case shall default service be longer than

three (3) months. The Eligible Customer should contract with an Eligible Supplier within that period.

- 2.11 In the event that a Eligible Customer avails of default supply, it shall enter into a new PSOP Contract with an Eligible Supplier. The new contract shall be effective on the next billing cycle.

### **Section 3. Rights and Responsibilities of Eligible Customers**

- 3.1 Upon receipt of ERC certification from the Eligible DU, the Eligible Customer shall send a written notice thirty (30) days before its meter reading date to its Eligible DU expressing its intention to participate in the PSOP. Qualified Eligible Customers who do not opt to participate need not send notices to their DU.
- 3.2 The qualified Eligible Customer shall provide a written authorization to the Eligible DU to provide an Eligible Supplier with information on its historical consumption and other details only if such Customer wishes to negotiate with such Eligible Supplier. The Eligible DU shall not release such information to any Eligible Supplier without the Eligible Customer's authorization. Only information stated in the Eligible Customer's authorization will be released by the Eligible DU.
- 3.3 Customers shall be provided with a copy of the PSOP Contract upon its signing.
- 3.4 A Eligible Customer may file a complaint with the ERC regarding its transactions with the Eligible Supplier, provided that a complaint concerning the same issue was previously filed with the respective Eligible Supplier, and such Customer was adversely affected by the Eligible Supplier' resolution of the complaint.

## **ARTICLE V ACCOUNTING AND SETTLEMENT OF ENERGY IMBALANCE, LINE RENTALS AND NET SETTLEMENT SURPLUS**

### **Section 1. Responsibilities of Eligible DU and Eligible Supplier**

- 1.1 The Philippine Electricity Market Corporation (PEMC), as Market Operator (MO), shall undertake the settlement and accounting of line rental charges.
- 1.2 The Eligible DU shall undertake the retail settlement and accounting of energy imbalances and the Net Settlement Surplus (NSS).
- 1.3 To compute the attributable costs, the Eligible DU must be provided with the following information:
  - 1.3.1 From the Eligible Supplier:

- a. The list of Eligible Customers of the Eligible Supplier;
- b. The Generating Companies with whom the Eligible Supplier has a supply contract, if any;
- c. The Eligible Customer's energy consumption that is covered by the Bilateral Contract Quantity (BCQ) of the contract between a Eligible Customer and its Eligible Supplier;

1.3.2 From the Eligible DU's metering data:

- a. The Eligible Customer's actual hourly consumption which is the actual energy registered by the DU metering facility; the sum of the Eligible Customers' consumption as gathered from the meter data shall be taken to be the total consumption of the Eligible Supplier;

1.3.3 From the MO:

- a. Total energy at the delivery points of the DU system as measured by the WESM meters;
- b. Amount of NSS associated with imbalance energy, if any.

1.4 All proprietary data received by the Eligible DU necessary for the accounting and settlement of the imbalances and NSS under this process shall be treated as confidential and shall not be disclosed to any other third party without prior written consent of the party to which the data is proprietary. In this regard, the provisions of the WESM rules on confidentiality shall apply.

1.5 The Eligible DU shall continue to charge all other applicable pass-through charges.

- a. Among the applicable charges that will be billed by the Eligible DU are the lifeline subsidy rate, universal charges, other taxes and fees and the applicable distribution and system loss charges.
- b. Transmission Charges – The current system of collection of TransCo's revenue requirement for each distribution system will be maintained.

## **Section 2. Settlement Process for Energy Imbalances and Line Losses**

### Nomination and BCQ Declaration

- 2.1 The Eligible Supplier shall provide the Eligible DU with information on its Eligible Customers. All Eligible Customers of an Eligible Supplier shall be assigned to a specific Market Trading Node (MTN).
- 2.2 The Eligible Supplier shall submit its aggregated Eligible Customer nomination per hour for each MTN to its respective Generating Companies and the Eligible DU.
- 2.3 The Generating Companies shall be responsible for providing the BCQ nominations and declarations to the WESM.

- a. Should an Eligible Supplier and/or a Generating Company have a dispute regarding the BCQ quantity reported by the MO to the Eligible DU, the RES or Generating Company shall be responsible for correcting its BCQ declaration.
  - b. Should there be a dispute between/among the Eligible Supplier, its Generating Company and/or MO, the same shall be settled among themselves and should not affect any payments due the Eligible DU.
  - c. Notwithstanding the pendency of a dispute, the Eligible Supplier shall settle its obligation to the Eligible DU without deductions or offset and the dispute shall not be a ground for delay or non-payment of succeeding billings. The Eligible DU shall have the right to refuse partial payment of bills.
  - d. Regardless of the outcome of the dispute, the Eligible DU shall not be liable to pay interest on any amount.
- 2.4 Pursuant to Clause 3.13.1.1 (b) of the WESM Rules, the Generating Company shall be billed the line rental trading amount associated with its declared BCQ which shall then be carved out from the total line rental fee to be charged to the DU by MO.

#### Measurement of Actual Consumption

- 2.5 For each Customer, the Eligible DU shall install metering facilities capable of measuring energy use and demand in a fashion consistent with WESM energy settlement intervals. The DU shall be allowed to charge incremental metering charges for said arrangement.
- 2.6 The amount of energy purchased by an Eligible Supplier is equivalent to the sum of the energy consumptions of its Eligible Customers measured through their meters. The amount of energy recorded at the Eligible Customer's meter is assumed to be the total amount of the energy it purchased and was delivered for its consumption.

### **Section 3. Determination of Energy Imbalance Volume and Line Rental Fees**

- 3.1 Imbalance volume will be determined for each Eligible Supplier as the difference of the BCQ per Eligible Supplier per MTN and the summation of the actual consumption of the Eligible Customers of the Eligible Supplier per MTN. The imbalance charge per Eligible Supplier is the product of imbalance hourly volume per MTN and the hourly ex-post price for the particular MTN.
- 3.2 Line rental fee for each Eligible Supplier is the summation of the product of the hourly ex-ante price per MTN per Eligible Supplier multiplied by the hourly BCQ of the Eligible Supplier per MTN.

- 3.3 Subject to a new methodology approved by the ERC for the distribution of NSS, the NSS per Eligible Supplier shall be in proportion to the current spot market purchases amount.

#### **Section 4. Accounting and Settlement**

- 4.1 The MO shall forward information regarding imbalances in the DU system to the Eligible DU. Total imbalance in the DU system is the difference of the measurement taken at the meters located in the MTN and the sum of all relevant BCQ for delivery into the DU system over the same period of time.
- 4.2 The Eligible DU shall be responsible for allocating the imbalances between the Eligible DU and Eligible Supplier.
- 4.3 The imbalance volume for the Eligible Supplier shall be the difference between the summation of the consumptions of its Eligible Customers (as determined by the meter data from the DU) and the summation of all applicable BCQ submitted by the Eligible Supplier.
- 4.4 The imbalance volume for the Eligible DU shall be the difference between the summation of the consumptions of its Eligible Customers (as determined by the meter data from the DU) and the summation of all applicable BCQ. In the absence of meter data for all the End-users of the Eligible DU, the difference between the consumption measured at the meter located in the MTN and the summation of the consumptions of all Eligible Customers shall be used.
- 4.5 The Eligible DU shall charge the Eligible Supplier the hourly price for imbalances as determined by the MO.
- 4.6 The Eligible DU shall be allowed to charge a fee for the provision of the service of accounting and settlement of imbalances, and NSS. This shall be for the recovery of expenses incurred in the provision of this service which includes billing, collection, and settlement. The fee to be charged by the Eligible DU shall be subject to ERC approval.

#### **Section 5. Eligible Supplier's Responsibility for Energy Imbalance and Line Rental Fees of its Eligible Customers**

- 5.1 All risks of imbalances shall be account for the Eligible Supplier. Any unaccounted imbalance shall be assumed to be attributable to the Eligible Supplier.
- 5.2 The Eligible Supplier shall be responsible for all contractual, service, and billing matters related to their Eligible Customers, including any customer service and billing complaint and dispute. Enforcing payment for billing adjustments, rebilling and differential bills shall form part of the responsibilities of the Eligible Supplier. Hence, billing and payment risks resulting from billing adjustments, rebilling and differential bills disputed by the Eligible Customer shall be carried out by the Eligible Supplier in the course of their normal business operations and not by the Eligible DU. The non-payment of the

Eligible Customers shall not be sufficient reason for the non-payment of an Eligible Suppliers' obligations to the Eligible DU.

## **Section 6. Dispute Resolution**

- 6.1 The parties to any dispute arising from the interpretation or implementation of this settlement process shall act in good faith and use all reasonable endeavors to resolve the dispute in an amicable manner. Should the matter not be settled within thirty (30) days from the written notice of dispute by the disputing party, the matter may be referred to the ERC for proper resolution in accordance with applicable rules and regulations.

## **ARTICLE VI**

### **CONTRACTS BETWEEN POWER SUPPLY OPTION PROGRAM PARTICIPANTS**

#### **Section 1. Supply Contract between Generation Company and Retail Electricity Supplier**

- 1.1 The supply contracts between generation companies and RES' during the Power Supply Option Program shall have a term that will commence on the effective date of implementation of the PSOP, or as otherwise agreed upon by the parties, and shall automatically terminate upon Open Access Date.

#### **Section 2. Provision of PSOP Contract to the Customer**

- 2.1 A PSOP Contract between an Eligible Supplier and a Eligible Customer shall have a minimum term of twelve (12) months, after which the parties shall be allowed to renew their contract, or the Customer shall elect another Eligible Supplier, subject to the provisions of these Rules.
- 2.2 An Eligible Supplier shall ensure that upon signing of the PSOP Contract, the Customer is provided with a copy of said contract.
- 2.3 The PSOP Contracts shall provide for the supply of electricity to commence on the first day of the next billing cycle, as agreed upon by both RES and Customer.
- 2.4 The rates and any terms and conditions of a PSOP Contract between a Customer and an Eligible Supplier may only be modified by agreement in writing between the Customer and the Eligible Supplier.
- 2.5 For the avoidance of doubt, if the amount of the contract price is allowed to vary in accordance with some term or condition of a PSOP Contract previously agreed between the Customer and the Eligible Supplier, no further agreement shall be required.
- 2.6 In relation to Section 2.5 hereof, should a Customer elect switching to another Eligible Supplier, the former shall submit a 30-day notice to its incumbent supplier and ERC.

- 2.7 All PSOP Contracts executed pursuant to Power Supply Option Program shall automatically expire upon Open Access Date.

**Section 3. Distribution Wheeling Service Agreement Between Distribution Utility and Retail Electricity Supplier**

- 3.1 A DWS Agreement shall be entered into between the Eligible Supplier and the Eligible DU on behalf of the Eligible Customer. Said DWS Agreement shall commence only on the effective date of the PSOP Contract between the Eligible Supplier and the Eligible Customer.
- 3.2 Aside from the transmission and distribution wheeling services, the DWS Agreement between an Eligible Supplier and Eligible DU shall include the following items:
- 3.2.1 Pass-through costs related to systems loss, deferred costs and other charges incurred by such Eligible DU prior to the commencement of PSOP Contracts entered into by Customers within its franchise area, subject to ERC-approved rules;
- 3.2.2 Lifeline subsidies;
- 3.2.3 Bill deposits equivalent to forecasted monthly consumption on DUs charges to the Eligible Supplier, including but not limited to DWS, transmission charge, systems loss charge , etc., subject to yearly adjustment as provided in the Distribution Service and Open Access Rules (DSOAR); and
- 3.2.4 Service fee for the accounting and settlement of Energy Imbalances and net settlement surplus.
- 3.3 The term of the DWS Agreement shall end upon the commencement of Open Access and Retail Competition as prescribed in the Act.

**ARTICLE VII  
REDUCTION OF CONTRACTED VOLUME BETWEEN  
GENERATION COMPANY AND ELIGIBLE DISTRIBUTION UTILITY**

- 1.1 All existing TSCs will remain valid. Where the Eligible DU's energy requirement is reduced due to the transfer of an End-user to an Eligible Supplier, such DU may reduce its Transition Supply Contract (TSC) volume in accordance with the provisions of the TSC.
- 1.2 If an Eligible DU has an existing mix of contracted supply from NPC Successor Generating Company and other IPPs, the TSC volumes will be subject to reduction first. In case that the reduction is more than the total TSC volume, the Eligible DU's supply contract volume with generation companies that are participating in the Program shall be reduced next.

- 1.3 The Eligible DU shall provide the NPC Successor Generating Company with the corresponding monthly energy requirement of a Customer intending to transfer to an Eligible Supplier, and the energy that will be reduced under the TSC, at least ten (10) days prior to the billing date of NPC Successor Generating Company.
- 1.4 In relation to Section 1.3 hereof, an Eligible Supplier shall notify the Eligible DU of the effectivity date of the PSOP Contract and Distribution Wheeling Service Agreement for a Customer, at least thirty (30) days prior to such effectivity date, to ensure that NPC or NPC Successor Generating Company is provided sufficient notice in reducing the Eligible DU's TSC volume.

## **ARTICLE VIII REPORTORIAL REQUIREMENTS**

**Section 1.** Once Power Supply Option Program commences, Eligible DUs shall submit the following information to the ERC:

- a. Names of Eligible Customers within its franchise area;
- b. Names of Eligible Customers that have opted to participate in Power Supply Option Program; and
- c. Name of Eligible Supplier serving each participating Eligible Customer.

Eligible DUs shall submit an updated list of Eligible Customers to the ERC on a monthly basis.

**Section 2.** Each Eligible Supplier shall file a monthly report to the ERC containing the following information:

- a. **Average prices.** Average retail sale price broken down by transmission and distribution service territories; for each category, the average retail sale price is the total revenue divided by the total kilowatt-hour sales;
- b. **Revenues.** Total revenues from kilowatt-hour sales to Eligible Customers;
- c. **Customers.** Name of Eligible Customers served, and amount of deposits collected from each.
- d. **Bank certification.** Certification from reputable bank, stating the amount deposited in escrow.
- e. **Other information.** Other information that the ERC deems necessary or useful in carrying out its duties and obligations.

**Section 3.** All Eligible Suppliers and NPC/PSALM, NPC-IPPS, NPC-Successor Generating Companies shall submit a monthly report to the ERC containing monthly sales to TSC holders (in kW, kWh and peso sales), and the RES' which it has contracts with.

**ARTICLE IX  
EFFECTIVITY OF POWER SUPPLY OPTION PROGRAM**

Power Supply Option Program shall commence upon declaration by the ERC pursuant to a Decision issued resolving the Petition docketed as ERC Case No. 2008-026 RC filed by the industry players. In no case shall Power Supply Option Program commence earlier than the date of transfer of the operation of Calaca privatized NPC generation assets to the private generation companies concerned. Power Supply Option Program shall be implemented only in Luzon and shall end upon Open Access Date.

All contracts entered into by entities participating in the Power Supply Option Program shall be deemed terminated upon Open Access Date. Electric power industry participants shall then enter into new contracts under the Open Access regime, in accordance with the rules and policies for Open Access and Retail Competition.

**ARTICLE XI  
AMENDMENTS**

The ERC shall amend and/or expand the coverage of these Rules from time to time where this may be necessary to meet the needs of the electric power industry participants and End-users. Before making any significant revisions of these Rules, the ERC will undertake public consultation as appropriate.

**ARTICLE XI  
SANCTIONS**

The ERC shall impose the appropriate fines and penalties for any violation or non-compliance with these Rules, pursuant to the "Guidelines to Govern the Imposition of Administrative Sanctions in the Form of Fines and Penalties Pursuant to Section 46 of R.A. 9136".

**ARTICLE XII  
SEPARABILITY**

If for any reason, any provision of these Rules is declared unconstitutional or invalid by final judgment of a competent court, the other parts or provisions hereof which were not affected thereby shall continue to be in full force and effect.

**ARTICLE XIII  
EFFECTIVITY**

These Rules shall take effect on the fifteenth (15<sup>th</sup>) day following its publication in a newspaper of general circulation in the country.

Pasig City, \_\_\_\_(date)\_\_\_\_.

**ZENAIDA G. CRUZ-DUCUT**  
Chairperson

**RAUF A. TAN**  
Commissioner

**ALEJANDRO Z. BARIN**  
Commissioner

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

**JOSE C. REYES**  
Commissioner