

**PROPOSED AMENDMENTS TO THE RULES AND REGULATIONS IMPLEMENTING REPUBLIC ACT NO 7832
MATRIX OF COMMENTS**

Page/Section/Article	Concerned Party/ies	Discussion of Comment/s and/or Questions for Clarification	Recommendations/ Suggestions / Proposed Change(s)
<p>AMENDMENTS TO THE RULES AND REGULATIONS IMPLEMENTING REPUBLIC ACT NO. 7832 Pursuant to the provisions of Section n 14 of Republic Act No 7832, otherwise known as the “Anti-Electricity and Electric Transmission Lines/Materials Pilferage Act of 1994” and Section 41 of Republic Act No. 9136, otherwise known as the Electric Power Industry Reform Act of 2001, the Energy Regulatory Commission (ERC) hereby promulgates the amendments to the Rules and Regulations Implementing Republic Act No. 7832.</p>	<p>ZAMSURECO II</p>	<p>Distribution Utility</p>	<ol style="list-style-type: none"> 1. Define situations calling for public safety. 2. Determine when high incidence of pilferage occurs. 3. Specify officers of Law, who can be sought to witness pilferage apprehension 4. Add: that VAT charges shall be included on the determination of the differential billing
<p>Section 1. The following provisions of the Implementing Rules and Regulations of RA 7832 are hereby amended to read as follows:</p>	<p>NATIONAL GRID CORPORATION OF THE PHILS. (NGCP)</p>	<p>1.We note that the proposed implementing rules and regulations amendments limit their application to the Distribution Utilities. Considering that R.A. No. 7832 on which the proposed amendments are based applies to private electric utility and rural electric cooperatives or, electric utilities, we recommend to replace the use of the term “Distribution Utilities” with the term “Electric Utilities” in all the proposed amendments, as may be applicable. With such suggested replacement, NGCP, as privately owned</p>	

		<p>electric utility and as the successor-in-interest of the National Transmission Corporation (Transco), will accordingly be included in the scope of the application of the proposed amendments.</p> <p>For consistency, Electric Utility may have to be defined under Section 3 of the IRR to include the term "Concessionaire of TransCo" or "Transmission Utility" without necessarily mentioning NGCP.</p>	
<p>RULE III PRIMA FACIE EVIDENCE</p> <p>Section 1. Prima Facie Evidence of illegal use of electricity.</p>	<p>ANECO</p>	<p>The evidence of illegal use of electricity is now strengthened with modern technology. State-of-the-art solid state meter has genie service monitoring information system capable of storing/recording events in the user's system, and displays diagnoses on errors in the system such as meter wrong wiring, voltage and current displacement, reverse polarity and reverse power flows."</p>	<p>The presence of diagnostic events of illegal use of electricity shall constitute prima facie evidence.</p>
<p>RULE IV (NEW PROVISIONS) GENERAL PRINCIPLES</p> <p>SECTION 1.</p>			

<p>ALL APPREHENSIONS FOR ALLEGED VIOLATIONS OF R.A. 7832 MUST BE MADE IN THE PRESENCE OF THE REGISTERED CUSTOMER, ACTUAL USER OR THEIR AUTHORIZED REPRESENTATIVES. THE SAID REPRESENTATIVE MUST BE A RESIDENT OF THE PREMISES AND OF LEGAL AGE WITH SUFFICIENT DISCRETION AND DISCERNMENT. ONLY THE AFOREMENTIONED PERSONS WHO WITNESSED THE APPREHENSION AND THE OFFICER OF THE LAW PRESENT DURING THE ACTUAL APPREHENSION SHALL SIGN THE INSPECTION REPORT PREPARED BY THE APPREHENDING OFFICER.</p>	<p>CEPALCO</p>	<p><i>Comment 1:</i></p> <p>RA 7832 does not require the presence of the registered customer, actual user or their representatives in the apprehension. Their presence is also not among the circumstances constituting <i>prima facie</i> evidence of illegal use of electricity. For the constitution of <i>prima facie</i> evidence, it is enough that the inspection is witnessed by officer of the law, a disinterested witness representing the government.</p> <p>The most that can be done is to require the DUs to inform the registered customer, actual user or their representatives that an inspection will be conducted and that they have the right to witness said inspection. But their presence should not be required for the completeness or validity of the inspection. Otherwise, the customer can easily defeat the purpose of the inspection by (unjustly) refusing to witness the inspection. For the same reason, the signature of the customer or his/her authorized representative, while desirable, should not be required for the completeness or validity of the inspection</p>	<p><i>Recommendations:</i></p> <ol style="list-style-type: none"> 1. Omit the portion which requires the presence of the registered customer, actual user or their representatives. 2. Require the DU's personnel to inform the customer that an inspection will be conducted and that the customer has the right witness said inspection. <p>As such, the section may be modified as follows:</p> <p><i>In all apprehensions for alleged violation of RA 7832, the DU's personnel who are conducting the apprehension should inform the registered customer, actual user or their representatives that an inspection will be conducted in the service entrance and/or metering facilities and that the customer has the right to witness said inspection</i></p>
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		<p>report.</p> <p><i>Comment 2:</i></p> <p>The proposed amendment does not find support in Jeffrey Go vs. LEYECO II¹, the case cited in the Expository Presentation as the legal basis for the proposal. The Supreme Court did not rule in said case that the presence of the registered customer is necessary for the legality of the inspection/apprehension. The presence of Mr. Go became relevant only because LEYECO II immediately disconnected the electric service of the customer on the ground that the customer was apprehended <i>en flagrante delicto</i>.</p> <p>It should be emphasized that the Supreme Court declared that the inspection conducted by LEYECO II was made in accordance with Section 4 of RA 7832. However, since the customer was not caught in the very act of committing the offense, as he was in fact not in the vicinity when the inspection was connected, there was no legal basis for immediate disconnection of electric</p>	
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¹ G.R. No. 176909, 18 February 2008

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	DLPC	x.x.x	<p>"If there are no authorized representatives, or that the customer is unwilling to cooperate, then two (2) members of the barangay where the residence is located, may be allowed to witness further the inspection in lieu of the uncooperative customer."</p> <p>Rationale: Since there would be a deadlock in the area, we lose valuable time. Worse, once we leave the area, the concerned customer could easily manipulate whatever illegal devise he has put in.</p>
	MERALCO	<p><i>Clarification on the following Provision:</i></p> <p>"Section 1. All apprehensions for alleged violations of R.A. 7832 must be made in the presence of the registered customer, actual user or their authorized representatives. The said representative must be a resident of the premises and of legal age with sufficient discretion and discernment. <u>Only the aforementioned persons who witnessed the apprehension and the officer of the law present during the actual apprehension shall sign the inspection report prepared by the apprehending officer.</u>"</p>	<p>We would like to clarify if the intent of this section is for an <i>officer of the law to be present in all apprehensions for alleged violations of RA 7832.</i> Given the afore-quoted provision, it also follows that even routine inspection of meters, which may or may not result to a discovery of an illegal connection or service irregularity, will require the presence of the officer of the law.</p> <p>Should this be the case, we believe that the same is not feasible, if not impossible to comply considering that (1) there are more services to inspect (<i>around 4.5M customers in the case of MERALCO alone</i>) compared to the number of available police officers in an area covered by the DU; and (2) in most apprehensions, specially</p>

			<p>those wherein the offender is caught in flagrante delicto, the DU is not able to alert the police right away or before the actual apprehension is made.</p> <p>Thus, we respectfully submit that the presence of the officer of the law during the actual apprehension and his attestation to the incident report made by the DU personnel shall be required only for the purposes of constituting prima facie evidence for violations of RA 7832, similar to Rule III of the IRR on prima facie evidence, as basis for immediate disconnection. This is already provided for under Section</p>
	PHILRECA	<p>It seems that the requirement for an authorized representative limits the apprehension process in which the DU will notify the consumer of the plan to apprehend so that it could issue an authorization to its representative. It would be impractical for the registered consumer to issue an authorization for the possibility of being apprehended for a violation.</p> <p>What do we mean by legal age? Is this not very limiting?</p> <p>A person with suitable age and sufficient discretion would adequately qualify the one present during the apprehension</p>	<p>We recommend for the deletion of the word AUTHORIZED.</p> <p>THE SAID REPRESENTATIVE MUST BE A RESIDENT OF THE PREMISES AND OF LEGAL SUITABLE AGE WITH SUFFICIENT DISCRETION AND DISCRETION. ONLY THE AFOREMENTIONED PERSONS WHO WITNESSED THE APPREHENSION AND THE OFFICER OF THE LAW PRESENT DURING THE ACTUAL APPREHENSION SHALL SIGN THE INSPECTION REPORT PREPARED BY THE APPREHENDING OFFICER/DU PERSONNEL.</p>
SECTION 2.		Does this provision mean that the DU	Proposal:

<p>AN APPREHENSION FOR ALLEGED VIOLATION OF RA 7832 MAY BE DONE ANYTIME AND THE APPREHENDING OFFICER SHALL BE ALLOWED TO CONFISCATE ALL IMPLEMENTS OF THE ALLEGED VIOLATION. THE APPREHENDING OFFICER MUST DETERMINE WITH REASONABLE CERTAINTY WHICH PREMISES ACTUALLY BENEFITTED FROM SUCH ILLEGAL USE OF ELECTRICITY AND ONLY RESIDENTS THEREOF MAY BE HELD LIABLE FOR THE PAYMENT OF THE DIFFERENTIAL BILLING.</p>	<p>PHILRECA</p>	<p>could only collect the differential billing from the person occupying the premises by filing a case in court? What if the person is willing to settle the account?</p> <p>Enumerate also possible substantial evidence. Who determines the presence of substantial evidence?</p>	<p>WHEN THE PERSON APPREHENDED IS NOT A REGISTERED CUSTOMER OF THE CONCERNED DISTRIBUTION UTILITY OR THE PERSON'S HAS BEEN DISCONNECTED OR TERMINATED, THE LATTER SHALL BE ALLOWED TO COLLECT THE DIFFERENTIAL BILLING FROM SUCH PERSON.</p> <p>IF SUCH PERSON APPLIES FOR ELECTRIC SERVICE, THE DU MAY RECOVER THE DIFFERENTIAL BILLING FROM THE SAID APPLICANT BASED ON SUBSTANTIAL EVIDENCE BEFORE THE APPLICATION FOR ELECTRIC SERVICE CAN BE GIVEN DUE COURSE.</p>
<p>SECTION 3. WHEN THE PERSON APPREHENDED IS NOT A REGISTERED CUSTOMER OF THE CONCERNED DISTRIBUTION UTILITY (DU) OR THE PERSON'S ACCOUNT HAS BEEN DISCONNECTED OR TERMINATED, THE DU SHALL BE ALLOWED TO COLLECT THE DIFFERENTIAL BILLING FROM SUCH PERSON BY FILING THE APPROPRIATE COMPLAINT BEFORE THE REGULAR COURTS. IF NO CASE HAS BEEN FILED AND SUCH PERSON APPLIES FOR ELECTRIC SERVICE, THE DU MAY RECOVER THE DIFFERENTIAL BILLING FROM THE SAID PERSON</p>	<p>CEPALCO</p>	<p><i>Comment 1:</i></p> <p>The method for the collection of differential billing from those who are not registered customers of the DU or from those whose service connections had been disconnected should not be limited to the filing of the appropriate complaint before the regular courts. These customers often settle the differential billing sent to them by the DU, without the need of filing a complaint in court. If these customers fail or refuse to pay,</p>	<p><i>Recommendation:</i></p> <ol style="list-style-type: none"> 1. Omit the phrase "by filing the appropriate complaint before the regular courts" in the first paragraph. 2. Omit the phrase "no case has been filed and" in the second paragraph.

<p>BASED ON SUBSTANTIAL EVIDENCE BEFORE THE APPLICATION FOR ELECTRIC SERVICE CAN BE GIVEN DUE COURSE.</p>		<p>then the DU may file the appropriate complaint, criminal or civil, before the regular courts. It should be noted in this connection that "customers who are not registered" include actual users.</p> <p><i>Comment 2:</i> Whether or not a case has been filed in court, and said customer applies for electric service, the DU should be able to recover the differential billing from said person before his/her application for electric service connection may be given due course by the DU.</p>	
<p>SECTION 4. THE OFFICER OF THE LAW MUST WITNESS THE ENTIRE PROCESS OF APPREHENSION.</p>	<p>CEPALCO</p>	<p><i>Comments:</i></p> <p>The presence of the officer of the law is required by Section 4 of RA 7832 for the constitution into <i>prima facie</i> evidence of any of the circumstances enumerated in said section. If the apprehension is made without the officer of the law, prosecution for electricity pilferage is still possible, but without the benefit of the <i>prima facie</i> presumption created by law. In other words, the presence of the officer of the law is a requirement for the constitution of prima facie evidence, but not necessarily for the prosecution of electricity pilferage.</p>	<p><i>Recommendation:</i></p> <ol style="list-style-type: none"> 1. Add the phrase "In order to constitute prima facie evidence of illegal use of electricity" at the beginning of the sentence. 2. Omit the phrase "entire process of". <p>As such, the provision would read: <i>In order to constitute prima facie evidence of illegal use of electricity, the officer of the law must witness the apprehension</i></p>

		<p>Most inspections begin with the DU's personnel first conducting a visual examination of the service entrance and metering facilities. The irregularities observed, if any, will form the basis for inviting officers of the law to witness the inspection. As such, the officers of the law may not yet be present at the site of inspection when the initial discovery is made. Requiring the officers of the law to also witness the initial discovery of the circumstances enumerated in Section 4 would necessitate that the DU's personnel bring with them officers of the law all the time.</p> <p>If the DU wishes the findings of the apprehension to become <i>prima facie</i> evidence, its personnel should limit the inspection prior to the arrival of the officers of the law to <i>visual</i> examination. The actual examination of the service entrance and/or metering facilities will be made when the officers of the law shall have arrived to witness the inspection.</p>	
<p>SECTION 5. THE REGISTERED CUSTOMER, ACTUAL USER OR</p>	<p>CEPALCO</p>	<p><i>Comments 1:</i></p>	<p><i>Recommendation:</i></p>

<p>HIS DULY AUTHORIZED REPRESENTATIVE MUST BE FURNISHED A COPY OF THE INSPECTION REPORT IMMEDIATELY AFTER SIGNING THE SAME.</p>		<p>A provision should be added in cases where the customer or his authorized representative refuses to receive a copy of the Inspection Report. The apprehending officer may leave a copy of the inspection report in a conspicuous place in the premises of the registered customer or actual user.</p> <p><i>Comment 2:</i></p> <p>The signature of the registered customer or actual user in the inspection report is not a requirement for the validity or completeness of the inspection report. As such, there is no need for the representative to be "duly authorized".</p>	<p>1. Add the following statement to the provision:</p> <p><i>If the registered customer, actual user or representative refuses to receive a copy of the inspection report, the DUs personnel may leave a copy of the inspection report in a conspicuous place in the premises of the registered customer or actual user.</i></p> <p>2. Omit the phrase "duly authorized" before the word representative.</p>
	<p>BLCI</p>	<p>THE REGISTERED CUSTOMER, ACTUAL USER OR HIS DULY AUTHORIZED REPRESENTATIVE MUST BE FRUNISHED A COPY OF THE INSPECTION REPORT IMMEDIATELY AFTER SIGNING THE SAME.</p>	<p>We suggest that -THE REGISTERED CUSTOMER, ACTUAL USER OR HIS DULY AUTHORIZED REPRESENTATIVE MUST BE FRUNISHED A COPY OF THE INSPECTION REPORT IMMEDIATELY AFTER SIGNING THE SAME. <i>IF REFUSE TO SIGN THE REPORT, THE NAME OF THE USER OR HIS DULY AUTHORIZED REPRESENTTIVE PRESENT SHALL BE WRITTEN IN THE</i></p>

			<i>SPACE PROVIDED WITH REMARKS "REFUSE TO SIGN"</i>
<p>SECTION 6. THE CUSTOMER OR ACTUAL USER MUST BE IN RECEIPT OF A COPY OF THE INSPECTION REPORT BEFORE THE DIFFERENTIAL BILLING, IF APPLICABLE, CAN BE DEMANDED. BEFORE ANY ACTUAL DISCONNECTION OF ELECTRIC SERVICE, A DEMAND LETTER PREPARED IN ACCORDANCE WITH THESE RULES AND SIGNED BY THE DULY AUTHORIZED REPRESENTATIVE OF THE CONCERNED DISTRIBUTION UTILITY MUST BE SERVED ON THE REGISTERED CUSTOMER OR ACTUAL USER.</p>	<p>CEPALCO</p>	<p><i>Comments:</i></p> <p>The demandability of the differential billing should not be made to depend on the receipt of inspection report. Otherwise, the customers will evade receipt of the inspection report to avoid payment of the differential billing.</p>	<p><i>Recommendation:</i></p> <p>Delete the first paragraph (sentence) of Section 6.</p>
	<p>DLPC</p>	<p>x.x.x</p>	<p>"If the purported violation concerns the tampering of the meter and there is still a need for an ERC testing of tolerance levels and a confirmation that indeed the meter had been tampered as shown by the test, BEFORE ANY ACTUAL DISCONNECTION..."</p> <p>Rationale: In direct connection/jumper/switching,</p>

			there is an undeniable act of pilfering which does not differ from an individual caught in the simple act of stealing. As such, disconnection should be done there and then
<p>SECTION 7. THE CUSTOMER OR ACTUAL USER IS GIVEN TWENTY FOUR (24) HOURS FROM RECEIPT OF THE DEMAND LETTER TO SETTLE THE DIFFERENTIAL BILLING. IF THE DEMAND LETTER IS SERVED OR RECEIVED DURING WEEKENDS OR HOLIDAYS, THE CUSTOMER OR ACTUAL USER SHALL BE ALLOWED TO SETTLE THE DIFFERENTIAL BILLING AT THE NEXT WORKING DAY.</p>			
<p>SECTION 8. ANY VIOLATION OF SECTIONS 1 TO 5 OF RULE IV MAY BE A GROUND FOR ABSOLVING THE CUSTOMER OR ACTUAL USER/OCCUPANT FROM ANY LIABILITY.</p>	CEPALCO	<p><i>Comments:</i></p> <p>The law does NOT provide that the following are grounds for extinction of liability:</p> <ul style="list-style-type: none"> a. the absence of the customer during the inspection (Section 1), b. the absence of the officer of the law (Section 4) 	<p><i>Recommendation:</i></p> <p>Delete this provision.</p>

		<p>c. the failure to provide a copy of inspection report (Section 5)</p> <p>The items discussed in the following sections are not even related to extinction of liability:</p> <p>a. the time of the conduct of the apprehension and the confiscation of the implements of pilferage (Section 2)</p> <p>b. the methods for the collection of the differential billing (Section 3) are not even grounds for the extinction of liability.</p>	
<p>SECTION 9. IF A CUSTOMER HAS SEVERAL ACCOUNTS, THE APPREHENSION OF ONE ACCOUNT SHALL NOT PREJUDICE THE OTHER UNRELATED ACCOUNTS</p>			
<p>SECTION 10. DISCONNECTION OF ELECTRIC SERVICE SHALL MEAN DISCONNECTION OF THE LEGITIMATE ELECTRIC SERVICE OF THE CONSUMER OR ACTUAL USER WHO WAS APPREHENDED, EFFECTED IN THE SUBJECT PREMISES WHERE THE VIOLATION WAS DISCOVERED. THE DISCONNECTION SHALL NOT BE</p>			

<p>EXTENDED TO OTHER ELECTRIC SERVICE/S OF THE CONSUMER NOT INVOLVED IN THE VIOLATION</p>			
<p>SECTION 11. NO CUSTOMER SHALL BE ALLOWED TO PROVIDE ELECTRICITY TO PREMISES OTHER THAN THOSE COVERED UNDER THE CUSTOMER'S SERVICE CONTRACT WITH THE DISTRIBUTION UTILITY. IN SUCH CASES, THE DISTRIBUTION UTILITY SHALL HAVE THE RIGHT TO DISCONNECT THE CUSTOMER'S ELECTRIC SERVICE FOR CONTINUOUS VIOLATION HEREOF. THE CUSTOMER MAY BE ASSESSED A SURCHARGE FOR SUCH VIOLATION. AS THERE IS NO UNREGISTERED CONSUMPTION, THE DISTRIBUTION UTILITY SHALL NOT BE ALLOWED TO ASSESS A DIFFERENTIAL BILLING FROM SUCH CUSTOMER.</p>	<p>DLPC</p>	<p>X.X.X</p>	<p>There is a need to define "continuous violation"? Should there be a previous violation whereupon the customer was notified and he fixed the problem but later violated again this provision?</p>
<p>SECTION 12. NO SURCHARGE SHALL BE IMPOSED UNLESS THERE IS ACTUAL ADMISSION BY THE CONCERNED CUSTOMER OR THERE IS A FINAL JUDGMENT OF VIOLATION RENDERED BY THE REGULAR COURTS OR THE ERC</p>	<p>DLPC</p>	<p>X.X.X</p>	<p>Can final judgment of violation "by the regular Courts" be deleted? It is better to leave this to ERC's quasi-judicial function</p>

	ESAMELCO	Actual Admission by the concerned customer is of no moment because customer(s) who committed an infraction against the DU will go through heaven and hell to deny any acts or Omission committed. Simply put, that, mere substantial proofs/evidences that a particular customer indeed committed an infraction which pause danger to operation of the DU is enough to effect or impose upon customer surcharge or surcharges. Likewise, DU should not wait for a final judgment from the regular courts before effecting any surcharge or surcharges.	
RULE IV Section 13 (New Provisions) General Principles	DLPC	X.X.X	We suggest to add a Section 13: "If a customer provides electricity to premises other than those covered under the customer's service contract with the distribution utility, and the latter knows about this but does not act on it even for a long period of time, this failure to act for a long period of time does not mean that the utility is waiving its right to take action in the future. The utility can still invoke its right under these rules."
RULE (V) VI			

<p>DISCONNECTION OF ELECTRIC SERVICE</p> <p>Section 1. Right to disconnect and its requirements. x x x The written notice or warning being referred to herein shall be served prior to such disconnection and shall indicate the x x x a) Computation of the unbilled consumption in kilowatthour INCLUDING THE METHODOLOGY USED IN COMPUTING THE SAME b) The period to be used in computing the differential billing c) The latest Inspection Report prior to apprehension.</p>	<p>CEPALCO</p>	<p>Additional Ground for Disconnection of Electric Service [As Rule VI Section 1 (c)]</p> <p><i>Comment:</i> When it is found during the apprehension that the wirings of the building occupied by the registered customer or actual user shall have been revised/alterd as a means or result of pilfering electricity, such that the integrity of the wirings becomes a safety issue, the utility should be allowed to disconnect the service for public safety. Reconnection should only be made after the appropriate government office shall have found that the revised/alterd wirings comply with electricity safety standards, per Philippine Electrical Code. (PEC)</p>	<p><i>Recommendation:</i></p> <p>1. Add the following to the enumeration in Section 1</p> <p>c) when the electrical wirings of the building occupied by the registered customer/actual user shall have been revised/alterd as a means or result of pilfering electricity, provided that electric service shall be restored upon certification by the building official that the electrical wirings of said premises passed electricity safety standards.</p>
	<p>DLPC</p>	<p>4/Section 1/Rule (V) VI Disconnection of Electric Service</p> <p>4/Section 2/Rule (V) VI Disconnection of Electric Service</p>	<p>Section 1(C): "The latest Inspection Report showing the details of what had been discovered during the apprehension."</p> <p>Section 2 (d): "Detailed sketch or verbal description of the alleged violation"</p>

		<p>5/Section 2/Rule (V) VI Disconnection of Electric Service</p> <p>5/Section "3"/Rule (V) VI Disconnection of Electric Service</p>	<p>Section 2 (g): Add two (2) barangay representatives. Please see comment on Section 1.</p> <p>We suggest to add a Section 3:</p> <p>"This section shall only be applicable to violations concerning meter tampering that would need further ERC testing and confirmation. For illegal tapings and illegal connections, jumpers and switchings, disconnection could be made as a matter of course..."</p> <p>Rationale: In direct connection/jumper/switching, there is an undeniable act of pilfering which does not differ from an individual caught in the simple act of stealing. As such, disconnection should be done there and then.</p>
<p>Section 2. Inspection Report. – An Inspection Report must be accomplished by the DISTRIBUTION utility or cooperative concerned after every inspection, monitoring of meter installation or apprehension, indicating the following: a) Date and time of the inspection; b) Condition of the meters, SEALS, instrument transformers and metering installations;</p>	<p>ANECO</p>	<p>Inspection report shall include altered wirings, reversed power flow/reversed polarity as indicated in the meter diagnosis, in the case of a solid state meter with genie service monitoring information system</p>	

<p>c) Changes made with the connections during the time of inspection; d) DETAILED SKETCH OF THE ALLEGED VIOLATION; e) Replacement made on the metering installations, if any; f) Signature over the printed name of the Inspector; and g) Signature over the printed name of the consumer CUSTOMER/ACTUAL USER or his THEIR duly authorized representatives. The accomplished Inspection Report shall be attested to by the authorized ERC (ERB) representative or by the Officer of the law, as the case may be. The original copy of the Inspection Report shall be kept by the electric DISTRIBUTION utility or electric cooperative concerned and shall not be destroyed without prior approval from the ERC (ERB). A duplicate of the said report shall likewise be furnished to the owner/occupant of the establishment concerned or THE CUSTOMER'S OR ACTUAL USER'S DULY AUTHORIZED REPRESENTATIVE (someone of suitable age and discretion residing therein and acting in behalf of the owner/occupant).</p>			
	<p>CEPALCO Rule VI Section 2 (d) and (g)</p>	<p><i>Comment 1:</i> Taking pictures or videos are more objective and accurate ways of documenting alleged violations of RA 7832. Aside from the fact that sketching is time consuming, it is also difficult to</p>	<p><i>Recommendation:</i></p> <ol style="list-style-type: none"> 1. Omit letter (d) in the enumeration 2. Add the following statement as the last paragraph of the section:

	<p>sketch deformities and mutilations on the meter seals, not to mention "erratic" disc rotation and the like.</p> <p><i>Comment 2:</i></p> <p>As discussed above, the signature of the registered customer, actual user or representative in the inspection report should not be a requirement for the report's completeness or validity. A provision should also be added governing instances where the customer refuses to receive a copy inspection report.</p> <p><i>Comment 3:</i></p> <p>In the event that the registered customer or actual user is not present in the premises, a person of suitable age and discretion residing in the premises may receive a copy of said report. It should be noted that the customer's or representative's signature on the report merely signifies receipt of a copy, not necessarily agreement to the findings contained therein. As such, the receipt of such report need not be delivered through a DULY AUTHORIZED REPRESENTATIVE</p>	<p><i>Pictures or videos of the alleged violation, including the conduct of the apprehension should be taken for reference and evidence purposes. The registered customer or actual user may obtain copies of said pictures or videos, at the customer's own expense.</i></p> <p>3. Add the following phrase in letter (g):</p> <p><i>provided that if the customer or representative refuses to receive a copy of the inspection report, the DU's personnel should indicate such fact in the report, including a statement that a copy of said report is left in a conspicuous place in the premises</i></p> <p>Delete the phrase "duly authorized" or retain the wordings of the present IRR.</p> <p><i>Recommendation:</i></p> <p>Add the following as Section 3 of Rule VI:</p> <p>The Inspection Report to be prepared by distribution utilities shall substantially comply with the prescribed form, hereto annexed as Form 1.</p> <p>(The CEPALCO and ERC Inspection Report forms are hereto attached as sample and/or</p>
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			reference.) Section 2 (g): Add two (2) barangay representatives. Please see comment on Section 1.
	DLPC	<p>Rule VI Section 3 (Proposed Section) - Use of prescribed forms for inspection reports</p> <p><i>Comment:</i></p> <p>Uniform implementation of RA 7832 and its IRR will be facilitated by the use of distribution utilities of a prescribed form.</p> <p>5/Section 2/Rule (V) VI Disconnection of Electric Service</p> <p>5/Section "3"/Rule (V) VI Disconnection of Electric Service</p>	<p>We suggest to add a Section 3:</p> <p>"This section shall only be applicable to violations concerning meter tampering that would need further ERC testing and confirmation. For illegal tapings and illegal connections, jumpers and switchings, disconnection could be made as a matter of course..."</p> <p>Rationale: In direct connection/jumper/switching, there is an undeniable act of pilfering which does not differ from an individual caught in the simple act of stealing. As such, disconnection should be done there and then</p>

<p>RULE (VII) VIII BILLINGS AND SURCHARGES</p> <p>Section 1. Testing of Watthour Meter Standard Equipment. - . - The NPC, THE NATIONAL TRANSMISSION CORPORATION, THE NATIONAL GRID CORPORATION OF THE PHILIPPINES (NGCP) (the NEA) and all x x x (The NEA shall likewise furnish the ERB, within the same period above prescribed, with copies of the test reports on the calibration of the watthour meter standard equipment of all the electric cooperatives.)</p>			
<p>Section 2. (Existing IRR) Testing of Meters. All electric utilities and cooperatives as the case may be, shall cause the calibration of the meters of their respective customers at least once every two (2) years.</p>	<p>CEPALCO</p>	<p><i>Comment:</i> Requiring the calibration of the meters at least once every two (2) years is expensive and will result to an increase in the Distribution Charges. There is also no basis for requiring calibration every two (2) years. The law does not require such calibration and the meters remain accurate far beyond that period.</p>	<p><i>Recommendation:</i> Delete the provision.</p>
<p>Section 3. Computation of the Differential Billing. - A PERSON</p>			

<p>SHALL ONLY BE LIABLE FOR THE PAYMENT OF DIFFERENTIAL BILLING EQUIVALENT TO THE BENEFIT DERIVED FROM THE SAID VIOLATION USING ANY OF THE METHODOLOGIES PROVIDED HEREIN.</p> <p>The differential billing shall be determined by multiplying the unbilled consumption in kilowatthour, the period covered by the differential billing and the current rate of electricity at the time of apprehension.</p>			
<p>Section 4. Computation of the Unbilled Consumption in Kilowatthour. – The unbilled consumption in kilowatthour may be computed by using the following methodologies:</p>	<p>DLPC</p>	<p>6-7/Sections 4.1, 4.2, 4.3 & 4.4/ Rule (VII) VIII Billings and Surcharges</p>	<p>We noticed that the terms "drastic drop", "abnormal drop" and "abrupt drop" are used interchangeably, but all seem to have one meaning. We suggest if we can only use one term.</p>
	<p>RAMON DE VERA</p>	<p>X.X.X</p>	<p>Please consider as additional methodology in computing the unbilled kWhr consumption (actual kWhr stolen) the <u>READING</u> as registered in the "clamp ammeters" being used on or during actual apprehension procedures</p>
<p>4.1. FOR CASES FALLING UNDER SECTION 2(A) OF THE ACT</p>			

<p>TO BE REFERRED TO AS LINESIDE CONNECTIONS AND THE CONCERNED PREMISES IS COVERED BY AN EXISTING ACTIVE SERVICE CONTRACT WITH THE CONCERNED DISTRIBUTION UTILITY, THE FOLLOWING METHODOLOGIES SHALL BE USED PREFERABLY IN THE FOLLOWING ORDER OF PRIORITY:</p> <p>i. THE HIGHER CONSUMPTION BETWEEN THE AVERAGE CONSUMPTIONS BEFORE OR AFTER THE HIGHEST DRASTIC DROP IN CONSUMPTION WITHIN THE FIVE-YEAR BILLING PERIOD PRECEDING THE DISCOVERY. FOR PURPOSES OF THESE RULES, THERE IS AN ABNORMAL DROP IN CONSUMPTION WHEN THERE IS A DECREASE IN THE CUSTOMER'S KILOWATTHOUR OF AT LEAST FIFTY PERCENT OF THE AVERAGE KILOWATTHOUR CONSUMPTION FOR THE LAST SIX (6) MONTHS PRIOR THERETO;</p> <p>ii. THE ESTIMATED CONSUMPTION AS PER REPORT OF LOAD INSPECTION CONDUCTED AT THE TIME OF DISCOVERY. THE COMPUTATION OF THE ESTIMATED CONSUMPTION SHALL BE BASED ON THE ERC APPROVED ESTIMATIONS ATTACHED HERETO AS ANNEX "A";</p> <p>iii. THE HIGHEST RECORDED CONSUMPTION WITHIN THE FIVE-YEAR PERIOD PRECEDING THE TIME OF THE DISCOVERY; AND</p>			
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<p>iv. THE HIGHEST RECORDED MONTHLY CONSUMPTION WITHIN THE FOUR (4) MONTHS AFTER THE TIME OF THE DISCOVERY. IF THE PREMISES IS NOT COVERED BY AN EXISTING SERVICE CONTRACT WITH THE CONCERNED DISTRIBUTION UTILITY, THE COMPUTATION OF THE DIFFERENTIAL BILLING SHALL BE BASED ON THE ESTIMATED CONSUMPTION AS PER REPORT OF LOAD INSPECTION CONDUCTED AT THE TIME OF DISCOVERY.</p>			
<p>4.2. FOR CASES FALLING UNDER SECTION 2(B) OF THE ACT TO BE REFERRED TO AS UNAUTHORIZED LOADSIDE CONNECTIONS, NO DIFFERENTIAL BILLING SHALL BE ASSESSED AS THERE IS NO UNREGISTERED CONSUMPTION. HOWEVER, THE CONCERNED DISTRIBUTION UTILITY MAY IMPOSE A SURCHARGE ON THE CUSTOMER OR ACTUAL USER COMPUTED IN ACCORDANCE WITH THESE RULES AND REGULATIONS</p>			
<p>4.3 FOR CASES FALLING UNDER SECTION 2(C) OF THE ACT TO BE REFERRED TO AS ALTERED SERVICE FACILITIES, THE FOLLOWING METHODOLOGIES SHALL BE USED PREFERABLY IN THE FOLLOWING</p>	<p>DLPC</p>	<p>7/Section 4.3/Rule (VII) VIII Billings and Surcharges</p>	<p>On item ii, last sentence: 1. What is the basis for defining that an abnormal drop in consumption is when there is a decrease in the customer's kWh of at least 50%</p>

<p>ORDER OF PRIORITY:</p> <p>i. THE ERC TEST REPORT RESULTS;</p> <p>ii. THE HIGHER CONSUMPTION BETWEEN THE AVERAGE CONSUMPTIONS BEFORE OR AFTER THE HIGHEST DRASTIC DROP IN CONSUMPTION WITHIN THE FIVE-YEAR BILLING PERIOD PRECEDING THE DISCOVERY. FOR PURPOSES OF THESE RULES, THERE IS AN ABNORMAL DROP IN CONSUMPTION WHEN THERE IS A DECREASE IN THE CUSTOMER'S KILOWATTHOUR OF AT LEAST FIFTY PERCENT OF THE AVERAGE KILOWATTHOUR CONSUMPTION FOR THE LAST SIX MONTHS PRIOR THERETO;</p> <p>iii. THE HIGHEST RECORDED MONTHLY CONSUMPTION WITHIN FOUR (4) MONTHS AFTER THE TIME OF THE DISCOVERY; AND</p> <p>iv. THE ESTIMATED CONSUMPTION AS PER REPORT OF LOAD INSPECTION CONDUCTED AT THE TIME OF DISCOVERY. THE COMPUTATION OF THE ESTIMATED CONSUMPTION SHALL BE BASED ON THE ERC APPROVED ESTIMATIONS ATTACHED HERETO AS ANNEX"A"</p>			<p>for the last six months? We think 50% is HIGH!</p> <p>2. This provision is not clear. It could be interpreted this way: "a 50% decrease monthly for six months", though this 50% is the decrease in kWh of the average usage for six months prior to the drop-off. The language should be more specific to erase any doubts. We suggest the provision to be reconstructed because under criminal law, if there is doubt, this doubt should always favor the perpetrator.</p>
<p>4.4 FOR CASES FALLING UNDER SECTION 2(D) OF THE ACT TO BE REFERRED TO AS DAMAGED OR</p>			

<p>DESTROYED SERVICE FACILITIES, THE FOLLOWING METHODOLOGIES SHALL BE USED PREFERABLY IN THE FOLLOWING ORDER OF PRIORITY:</p> <p>i. THE ERC TEST REPORT RESULTS;</p> <p>ii. THE HIGHER CONSUMPTION BETWEEN THE AVERAGE CONSUMPTIONS BEFORE OR AFTER THE HIGHEST DRASTIC DROP IN CONSUMPTION WITHIN THE FIVE-YEAR BILLING PERIOD PRECEDING THE DISCOVERY. FOR PURPOSES OF THESE RULES, THERE IS AN ABNORMAL DROP IN CONSUMPTION WHEN THERE IS A DECREASE IN THE CUSTOMER'S KILOWATTHOUR OF AT LEAST FIFTY PERCENT OF THE AVERAGE KILOWATTHOUR CONSUMPTION FOR THE LAST SIX MONTHS PRIOR THERETO;</p> <p>iii. THE HIGHEST RECORDED MONTHLY CONSUMPTION WITHIN FOUR (4) MONTHS AFTER THE TIME OF THE DISCOVERY.</p>			
<p>Section 5. Period to be Recovered. In determining the period to be recovered under the differential billing, the following shall be considered: IF PRIOR TO THE DATE OF DISCOVERY, (When) there was a change in the customer's service connection, such as change of meter, change of seal or reconnection, or replacement of parts, OR THERE WAS AN ABNORMAL OR ABRUPT DROP IN CONSUMPTION, the period to be recovered under</p>	<p>RAMON DE VERA</p>		<p><u>NO</u> reduction in the <u>maximum period</u> of recovery.</p> <p>2. Let the present/original version of the provision in Section 19 of the Magna Carta prevail over Section 7 Rule 4 as proposed which reads...the implementation of immediate disconnection rightafter serving the completed</p>

the differential billing shall be reckoned from the time OF THE OCCURRENCE OF THE SAID CHANGES, RECONNECTION, (of the last) inspection OR ABNORMAL OR ABRUPT DROP IN CONSUMPTION. In the absence thereof, the period to be recovered under the differential billing shall start from the time the electric service of the person concerned recorded an abrupt or abnormal drop in consumption; or In the absence of both, THE DISTRIBUTION UTILITY MAY BE ALLOWED TO RECOVER THE DIFFERENTIAL BILLING UP TO a maximum of sixty (60) billing months, up to the time of the discovery. May be used as basis for the computation; provided however that if the person concerned presents adequate and indubitable proof showing that the period to be recovered by the differential billing is less than sixty (60) billing months, the utility or cooperative may recomputed the amount of the differential billing based on the established period for recovery. The period to be used shall, in no case, be less than one (1) year preceding the date of discovery of the illegal use of electricity, UNLESS ANY OF THE CIRCUMSTANCES IN THE FIRST PARAGRAPH HEREOF IS PRESENT, OR THE CONCERNED CONSUMER PRESENTS INDUBITABLE AND ADEQUATE PROOF THAT THE OCCURRENCE OF THE ILLEGAL USE OF ELECTRICITY IS FOR A PERIOD WHICH COULD BE LESS THAN A YEAR. THUS, FOR PURPOSES OF CALCULATING THE DIFFERENTIAL BILLING, THE RECOVERABLE PERIOD SHALL START FROM THE TIME OF THE OCCURRENCE OF THE CHANGES, RECONNECTION, INSPECTION, ABNORMAL OR

notice.

<p>ABRUPT DROP IN CONSUMPTION In cases where the affected period is less than one (1) year, the utility or cooperative may be allowed to compute for the differential billing using one (1) year as the minimum basis for computation</p>			
<p>Section 6. Discovery of Prima Facie Evidence. – x x x THE AFOREMENTIONED METER SHALL BE REPLACED BY AN ACCURATE ONE AND THE ELECTRIC SERVICE OF THE CUSTOMER SHALL CONTINUE UNTIL CONFIRMATION OF THE METER TAMPERING AND NON-PAYMENT OF THE DIFFERENTIAL BILLING WITHIN THE PERIOD ALLOWED IN THESE RULES. METER TAMPERING CAN ONLY BE CONFIRMED BY AN ERC REPRESENTATIVE. NON-OMPLIANCE MAY BAR THE DISTRIBUTION UTILITY FROM COLLECTING A DIFFERENTIAL BILLING FROM THE CUSTOMER OR ACTUAL USER</p>			
<p>Section 7. Inspection Report. – x x x Rule IX is hereby modified to read as follows: RULE IX. RATIONALIZATION OF SYSTEM LOSS Section 1. Caps on Recoverable System Loss allowed to Private Electric Distribution Utilities. - The maximum rate of system loss that the DISTRIBUTION utility can pass</p>		<p>The proposed change in the system loss charge computation will result in fixed system loss charge rate/s for a given year subject to true up after completion of the one year period. This assumes that the cost of system loss is more or less stable. However, there may be occasions when purchased power cost will increase significantly. The DUs will have to</p>	<p>We therefore respectfully recommend that the provision be modified as follows: "Section 2. Determination and Imposition of the System Loss Charge. – A system loss charge shall be determined annually based on the previous year's costs and revenues average system loss percentage of the concerned</p>

<p>on to its customers shall be PERIODICALLY SET BY THE COMMISSION. THE CURRENT SYSTEM LOSS CAP HAS BEEN SET BY THE ERC IN RESOLUTION NO. 17, SERIES OF 2008 ENTITLED "A RESOLUTION ADOPTING A NEW SYSTEM LOSS CAP" FOR DISTRIBUTION UTILITIES" PURSUANT TO THE PROVISIONS OF SECTION 43(F) OF REPUBLIC ACT NO. 9136, OTHERWISE KNOWN AS THE ELECTRIC POWER INDUSTRY REFORM ACT OF 2001. THE SAID RESOLUTION SHALL REMAIN IN FORCE AND EFFECT UNTIL MODIFIED OR REPEALED BY THE ERC.</p>		<p>shoulder the increased costs for the meantime that they are not allowed to increase the system loss charge. On the other hand, when purchased power cost decreases significantly, the DUs will have a windfall collection. To address this, there should be a bandwidth that will allow a change in the system loss charge within the one year period when the increase or decrease in the purchased power cost is more than a certain level. Such provision should be included in the separate guidelines to be promulgated by the ERC.</p> <p>Furthermore, system loss charge rates are never based on the revenues of the DUs. However, the system loss charge revenues will be used in determining whether the DU over or under-recovered within the one year period in the confirmation and true up.</p> <p>Lastly, we reiterate our position on the confirmation and true-up of system loss charges that an annual reckoning of the system loss cap should be considered in determining whether the DU over or under-recovered in the system loss year period.</p>	<p>distribution utility. The same shall be subject to confirmation and true-up to ensure that only legitimate costs are borne by the consumers. <i>The true up shall be based on an annual reckoning of the system loss cap.</i></p> <p>The said determination and imposition shall be governed by a separate <i>set of</i> guidelines to be promulgated by the ERC."</p>
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	<p>In MERALCO's Petition filed with the ERC last 8 October 2009 (<i>for the amendment of Resolution No. 16, Series of 2009, which governs the recovery of pass-through costs, including system loss costs, of all DUs</i>), it was averred that the reckoning of the system loss cap should be annual instead of the monthly reckoning provided under the afore-mentioned ERC Resolution. The following reasons are also respectfully submitted to the Honorable Commission:</p> <p>1. The Proposed Amendment will ensure the fair and reasonable recovery of system losses and at the same time maintain a fair and transparent confirmation process under the Resolution. The Proposed Amendment will address the mismatch between the meter reading periods at the wholesale and retail levels. It should be noted that since at the wholesale level, generators' billing period is from 26th of the previous to 25th of the current month, while at the retail level, it is not operationally efficient to read all the meters of retail customers simultaneously, there results a disparity between the kWh purchased from the generators ("input energy") and the kWh sold plus company use ("output energy").</p>	
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		<p>This mismatch is aggravated by effects of end of month falling on a weekend and/or holiday, transition months leading to the wet and dry seasons, and difference of number of billing days per period for wholesale and retail levels.</p> <p>Such misalignment of input and output energy causes spikes and dips in computed monthly system loss, so that such computed values would not fairly reflect the actual system loss performance of DUs.</p> <p>2. The Proposed Amendment is in accordance with the objectives of the EPIRA, Republic Act No. 7832 and their implementing rules and regulations, to encourage the operational efficiency of the DUs, allow them the recovery of just and reasonable costs and enable them to operate viably. The proposed Amendment is also consistent with the aims of promoting system efficiency of the electric utilities and reducing the rates to end-users. At the same time, it is in line with the primary objective of RA 7832, which is to prosecute and punish the pilferers of electricity and thereby protect the public interest. On the other hand, the monthly reckoning</p>	
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		<p>of system losses will not achieve these objectives, in that:</p> <p>(a) The obvious intent of RA 7832 in gradually reducing the system loss cap from 14.5% to 9.5% for private DUs and 22% to 14% for ECs, over a period of four (4) years for private DUs and five (5) years for electric cooperatives from 1996 is to force or encourage said utilities to be more efficient. Thus, if the DUs' system losses exceed the allowable cap, this is treated as inefficiency. In such a case, the over-the-cap system losses are absorbed by the DUs and cannot be passed on to end-users.</p> <p>(b) Most, if not all DUs, naturally would have apparently low levels of system losses in some months of the year due to seasonality, driven by lower consumption of some customers resulting in lower technical losses. Thus, if the system loss cap is reckoned on a monthly basis, there will be no motivation or incentive on the part of the DUs to reduce their system losses on those months when the apparent system loss levels are low. The reason for this is</p>	
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		<p>obvious—such DUs are allowed to fully recover their actual system losses, which actual losses could increase up to, and as long as, these losses do not exceed the cap. Hence, a monthly reckoning of the system loss cap would encourage the DUs to become inefficient in some months of the year when the apparent system loss levels are low and force them to be efficient only in other months when the apparent system loss levels are high.</p> <p>(c) Moreover, the DUs would, in some months of the year when their system losses are above the cap, be penalized, not due to inefficiency but because of inherent misalignment of billing periods which is beyond their reasonable control, even when their average system loss for the year is below the cap.</p> <p>(d) In contrast, in a yearly reckoning of system loss cap, the DUs would have the natural tendency to exert their best efforts to try not to exceed the cap. And, since normally, it will not be known if the system loss cap will be exceeded</p>	
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		<p>until after the year ends or close to that, the DUs would certainly have compelling reason to vigorously reduce their system losses every month if they want to be assured of a low or below-the-cap system loss at the end of the year. This effectively forces the DUs to be efficient for the whole year.</p> <p>3. The Proposed Amendment will align the Resolution with internationally-accepted practices in other jurisdictions and with other rules and regulations of the ERC, such as the amended AGRA Guidelines and the OATS Rules.</p>	
<p>Section 2. DETERMINATION AND IMPOSITION OF THE SYSTEM LOSS CHARGE. – A SYSTEM LOSS CHARGE SHALL BE DETERMINED ANNUALLY BASED ON THE PREVIOUS YEAR’S COSTS AND REVENUES OF THE CONCERNED DISTRIBUTION UTILITY. THE SAME SHALL BE SUBJECT TO CONFIRMATION AND TRUE-UP TO ENSURE THAT ONLY LEGITIMATE COSTS ARE BORNE BY THE CONSUMERS. THE SAID DETERMINATION AND</p>			

IMPOSITION SHALL BE GOVERNED BY A SEPARATE GUIDELINE TO BE PROMULGATED BY THE ERC.			
<p>Section 2. All references to ERB are hereby changed to ERC. All other Rules and provisions of the Rules and Regulations Implementing Republic Act No. 7832 are hereby renumbered accordingly.</p>			
<p>Section 3. If any of the foregoing amendments is declared unconstitutional or invalid, the other provisions not affected thereby shall remain in force and effect.</p>			
<p>Section 4. All rules, regulations, guidelines and other issuances not expressly revised herein shall remain in force and effect</p>			
<p>Section 5. These amendments shall take effect fifteen (15) days after its publication in a newspaper of general circulation in the country.</p>			
<p>Rule IX Additional section and Rule X, Section 2</p> <p>PROPOSED SYSTEM LOSS INCENTIVES</p> <p>A. Proposed new section under Rule IX</p> <p>- Proposed incentive for both the DUs and its customers through the equitable sharing of the amount equivalent to the difference between the system loss cap and the</p>	<p>MERALCO</p>	<p>The primary purpose of the RA 7832 is to eradicate, if not, to substantially lessen pilferage of electricity. We believe that the current system does not provide enough motivation on the part of the DUs to achieve this objective. For example, if the systems loss falls above the cap, the DUs are penalized by shouldering the total amount in excess of the cap through the</p>	<p>We respectfully propose an incentive mechanism for DUs that will ensure the exertion of all possible efforts to bring system loss that combines the following:</p> <ul style="list-style-type: none"> a) an incentive that is equitable for both the DU and its customers for system loss below the cap; b) an incentive that allows DUs to recover system losses in excess of the cap

<p>actual performance (<i>system loss below the cap</i>)</p>		<p>Purchased Power Cost (PPC), which constitutes majority of the DUs' cost. On the other hand, if the system loss falls below the cap, the DUs are only allowed to adjust the distribution revenues (through PBR's Performance Incentive Scheme) by an amount equivalent to a fraction of the PPC, which is not even sufficient to cover the DUs CAPEX and OPEX related to system loss activities. To promote efficiency by encouraging the distribution utilities to be more aggressive in bringing down system loss by investing in necessary CAPEX and undertaking vital activities such as going after pilferers and in recovering losses, they should be accorded more reasonable and better incentives. Specifically, we respectfully propose that the amount equivalent to the difference between the system loss cap and the actual performance (system loss below the cap) shall be equitably shared by the customer and the DU.</p> <p>With the current set-up of having a system loss computation equivalent to "<i>the actual system loss but not to exceed the maximum recoverable rate of system loss in kWh,</i>" the natural response of the DUs is to meet or hover within the system loss cap. With our proposal of giving the DUs an equitable share from the system</p>	<p>against the amount recovered under the law; and</p> <p>c) increasing the weight of the System Loss component under the PIS Price-Linked incentive scheme from 5% to 10%.</p> <p>For item (a) above, we respectfully propose that the amount equivalent to the difference between the system loss cap and the actual performance (system loss below the cap) shall be equitably shared by the customer and the DU, provided the latter shall be allowed to collect as system loss charge the equitable share of the DU as incentive.</p>
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		<p>loss below the cap, DUs would then have the incentive to really push for lowering system loss to a level way below the cap because a portion of the pilferage recoveries will be retained by the DU, which will also be used to fund the DUs CAPEX and OPEX related to system loss activities. As a result, the customers will benefit both from the lowering of system loss charges to a level that the DU can best reduce it and from the DUs savings on CAPEX and OPEX. To illustrate, with the current rates in place, the private DUs will target on having an 8.5% system loss (or the current SL cap). But, with our proposal, DUs, will be encouraged to lower it to say, 7.5%, and the difference of 1% (8.5%-7.5%) will be equitably shared between the DU and the customers. However, the share of the DU, by way of incentive, will also be used to reduce its CAPEX and OPEX necessary to fund its system loss operations.</p> <p>With our proposal, new investments and additional OPEX that are needed to further bring down system loss below the cap will be taken from the incentive mechanism. Hence, these additional costs will not be charged to customers through the PBR.</p>	
	<p>MERALCO</p>	<p>In addition to the above proposal, another</p>	<p>We respectfully recommend that Section 2, Rule</p>

<p>B. Recovery of Pilferage Losses</p> <p>- System Loss Above the Cap</p> <p>“Section 2. – The full amount recovered by the utility or cooperative under the preceding section shall be reflected as a reduction in the customer’s electric bill through the automatic cost adjustment formula abovementioned, the application of which shall be verified and confirmed by the Board through an Order.”</p>		<p>incentive to DUs to be more aggressive in pursuing pilferers (i.e. increasing pilferage recoveries), is allowing them to recover their system losses in excess of the cap against the amount recovered under the Act (RA 7832). To illustrate, given an actual system loss of 9.5% (above the 8.5% SL cap), which for example is equivalent to P1B, as a current procedure, will be borne by the DU. However, with our proposal, given an amount of pilferage recoveries equivalent to P2B, for instance, the portion of the said total amount recovered will instead be used to cover the P1B amount equivalent to the system loss above the cap. This amount recovered will be used by the DUs to finance the necessary expenses in its system loss operations without asking for additional budget for performing such activities Furthermore, the remaining amount (P1B in our example) will be used as a reduction to the customer’s electric bill</p>	<p>X of the IRR, be amended as follows:</p> <p>“Section 2. Any private electric utility or rural electric cooperative shall be allowed to deduct from the amount recovered the portion equivalent to the excess of the system loss caps. The remaining portion of the recovered amount under the preceding section shall be reflected as a reduction in the customer’s electric bill.”</p>
<p>C. PBR – PIS (<i>general incentive</i>)</p>		<p>Lastly, we respectfully submit to the Honorable Commission that another form of incentive that may be given to the DUs is through the expansion of the available incentives provided under the S-Factor of the PBR-PIS.</p>	<p>We respectfully recommend for the weight of the System Loss Component under the PIS Price-Linked Incentive Scheme be increased from 5% to 10%. This will also encourage DUs in lowering system loss levels.</p>
<p>Rule X, Section 2</p>	<p>MERALCO</p>	<p>The recovery of pilferage losses, subject to</p>	<p>We respectfully recommend that the portion of</p>

<p>Recovery of Pilferage Losses</p> <p>“Section 2. – The full amount recovered by the utility or cooperative under the preceding section shall be reflected as a <u>reduction in the customer’s electric bill through the automatic cost adjustment formula</u> above mentioned, the application of which shall be verified and confirmed by the Board through an Order.”</p>		<p>an automatic cost adjustment formula provided under Rule IX of the IRR of RA 7832, is reflected as a reduction in the Generation Charge or Power Cost Adjustment formula. However, upon the commencement of the Open Access and Retail Competition where the Generation Sector will become contestable, we believe that it would be more appropriate if the pass thru charges from the pilferage recovery be returned to the customer through a "recoverable system loss charge or a charge similar to universal charge (UC)" instead of through the current Generation Charge. This is for the reason that the if the pilferage recoveries are maintained in the Generation Charge, the contestable customers may no longer be a recipient of this rate reduction through the Purchased Power Adjustment. By our recommendation, it will allow all connected customers to have equitable sharing of the pilferage recoveries during Open Access and Retail Competition.</p>	<p>the pilferage recoveries due for return to the customers be reflected as a charge similar to the Universal Charge (UC), instead of a rate reduction to their electric bills through the Generation Charge or Purchased Power Cost Adjustment.</p>
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