

**PROPOSED
RULES, TERMS, AND CONDITIONS
for
OPEN ACCESS
DISTRIBUTION SERVICES
("OADS Rules")**

ERC Case No. [_____]

May 12, 2005

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Republic of the Philippines
Energy Regulatory Commission
Pacific Center, San Miguel Avenue, Pasig City

PROPOSED
RULES, TERMS, AND CONDITIONS
for
OPEN ACCESS DISTRIBUTION SERVICES
(“OADS Rules”)

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

PHILIPPINE ELECTRICITY INDUSTRY
PROPOSED
RULES, TERMS, AND CONDITIONS
for
OPEN ACCESS DISTRIBUTION SERVICES
(“OADS Rules”)

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**ARTICLE I
GENERAL PROVISIONS**

1.1 PURPOSE

The purpose of these OADS Rules is to set forth the terms and conditions related to the provision of Connection Assets and Services, service to the Captive Market, Supplier of Last Resort (“SoLR”) service to the Contestable Market, and unbundled Distribution Wheeling Service (DWS)DWS provided to the Contestable Market. Furthermore, these rules set forth the procedures for establishing customer segments and the procedures for establishing regulated service rates for Distribution Utilities (“DUs”) regulated pursuant to the Distribution Wheeling Rate Guidelines (“DWRG”) and DUs not regulated pursuant to the DWRG.

1.2 DEFINITION OF TERMS

In these OADS Rules, unless the contrary intention appears, the following words and phrases have the following meanings:

Ancillary Services	Those services that are necessary to support the transmission of capacity and energy from resources to loads while maintaining the reliable operation of the Grid or a Distribution System or a Subtransmission System in accordance with good utility practice, the Grid Code and the Distribution Code.
Business Day	A day other than a Saturday or a Sunday or an official or declared Philippine national or local public holiday.
Business Separation Guidelines	The Guideline promulgated by the ERC under Rule 10, Section 1 of the IRR.
Business Separation Plan	The plan submitted by a market participant pursuant to the Business Separation Guidelines.
Captive Market	Refers to electricity end-users who do not have choice of a supplier of electricity, as may be determined by the ERC in accordance with the EPIRA.
Connection Agreement	Agreement between a Connection Customer and a DU governing Distribution Connection Assets and Services.
Connection Application	An application made by a Potential Connection Customer for a Connection Agreement or modification to a Connection Agreement.
Connection Charges	DU charges for Distribution Connection Assets and Services.
Connection Customers	End-users and generators with a Connection Point on the Distribution System who purchase Distribution Connection Assets and/or Distribution Connection Services.

Connection Point In respect of a Regulated Distribution System, the Connection Point of a User System or Equipment to the Regulated Distribution System, excluding Grid Connection Points. For the purposes of this definition only, User System or Equipment does not include the service entrance up to the meter.

Contestable Market Refers to the electricity end-users who have a choice of a supplier of electricity, as may be determined by the ERC in accordance with the EPIRA.

Contribution in Aid of Construction (CIAC) Amounts paid by a Connection Customer for the construction and/or extension of Distribution Connection Assets beyond the Standard Connection Facilities as proposed by the DU and approved by ERC. The DU maintains a separate account of these amounts and the assets never appear in rate base nor in a DU asset appraisal.

Customer In respect of a Regulated Distribution System:

- (a) a person whose User System or Equipment is directly connected to the Regulated Distribution System and who purchases or receives, or who is seeking to purchase or receive, regulated distribution services in respect of that Regulated Distribution System; and
- (b) any other person who purchases or receives, or who is seeking to purchase or receive, regulated distribution services in respect of that Regulated Distribution System.

For the avoidance of doubt, this may include a person who operates an Embedded Generator, a RES or an End-user.

Customer Segment A category of End-use customers connected to the Distribution System established pursuant to the guidelines set forth in Article V of these OADS Rules. Customer Segments proposed by a DU and approved by the ERC have similar consumption characteristics for regulated distribution services in respect of that Regulated Distribution System, based on their network configuration and consumption profile, as measured by the number of connections, the energy throughput (kWh), the non-coincident peak load (kW), the co-incident peak load (kW), the time-of-day or any other physical measure as approved from time to time by the ERC. A Customer Segment of a particular DU includes all of the Customers who are charged the

same tariff.

Distribution Assets Study (DAS)	A study to determine all distribution assets and costs necessary to accommodate a proposed Connection Agreement.
Distribution Code	The Philippine Distribution Code adopted by the ERC.
DCAS	Distribution Connection Assets and Services (separately defined below).
Distribution Connection Assets	In respect of a Regulated Distribution System, the components of that Regulated Distribution System which are used to provide Distribution Connection Services in respect of that Regulated Distribution System. Meters are not part of Distribution Connection Assets.
Distribution Connection Services	<p>In respect of a Regulated Distribution System:</p> <ul style="list-style-type: none">(a) the provision of capability at a Connection Point in respect of that Regulated Distribution System to deliver electricity to or take electricity from that Connection Point;(b) the conveyance of electricity:<ul style="list-style-type: none">(i) to a Connection Point in respect of that Regulated Distribution System from any User System or Equipment which is directly connected to that Regulated Distribution System at that Connection Point; or(ii) from a Connection Point in respect of that Regulated Distribution System to any User System or Equipment which is directly connected to that Regulated Distribution System at that Connection Point;(c) the planning, installation, maintenance, augmentation, testing and operation of Distribution Connection Assets in respect of that Regulated Distribution System; and(d) the provision of services that support any of the services referred to in paragraphs (a) to (c).
Distribution Wheeling Service (DWS)	The conveyance of power throughout a Distribution System in a manner to meet the demand of End-users or Generators.
Distribution	A study performed to assess the ability of the

Impact Study (DIS)	Distribution System to accommodate a new Connection Agreement and any upgrades that may be required.
Distribution System	In respect of a Regulated Entity, a system of wires and associated facilities extending between: <ul style="list-style-type: none"> (a) the delivery points on the Grid and any Subtransmission System operated by a person other than a Regulated Entity; and (b) the points of connection of Embedded Generators, on the one hand, and the points of connection of User Systems and Equipment of End-users, on the other hand.
Distribution Utility (DU)	Refers to any electric cooperative, private corporation, government-owned utility or existing local government unit which has an exclusive franchise to operate a distribution system in accordance with the EPIRA.
Distribution Wheeling Rate Guidelines (DWRG)	Guidelines on the Methodology for Setting Distribution Wheeling Rates issued by the ERC.
Effectivity Date	The date on which these OADS Rules take effect.
Electric Plant Held for Future Use	An account that includes amounts of utility assets that were (1) acquired but held for use in the future and (2) previously used but since retired from service and being held pending reuse in the future under a definite plan.
End-user	Refers to any person or entity requiring the supply and delivery of electricity for its own use.
EPIRA	Republic Act No. 9136, otherwise known as the Electric Power Industry Reform Act of 2001.
Equipment	Equipment as defined in the Distribution Code.
ERC or Commission	The Energy Regulatory Commission created by virtue of the provisions under Section 38 of the EPIRA.

Force Majeure Event	An event, the occurrence of which could not be foreseen or which foreseen, where inevitable or beyond the control of either party such as: <ul style="list-style-type: none"> (a) typhoon, storm, tropical depression, flood or inundation, volcanic eruption, earthquake; or (b) war insurrection, riots, national emergencies, act of public enemies; (c) or changes in any law, order, regulation which makes it impossible for a party to perform its obligations.
Generator	A person or entity authorized by the ERC to operate a facility used in the generation of electricity.
Grid Connection Point	A "Connection Point" as that term is defined in the Transmission Wheeling Rate Guidelines.
IRR	The Implementing Rules and Regulations issued pursuant to the EPIRA.
Local Government	Local Government as defined in Executive Order No. 292, otherwise known as the Administrative Code of 1987.
Magna Carta	Magna Carta for Residential Electricity Consumers including the Guidelines to Implement the Magna Carta issued by the ERC.
MAP	The Maximum Average Price or Maximum Annual Price as defined in the DWRG.
National Government	The National Government as defined in Executive Order No. 292, otherwise known as the Administrative Code of 1987.
OADS Rules	The Open Access Distribution Service Rules that have been approved by the ERC.
Person	Refers to a natural or juridical person, as the case may be.
PhP	Philippine Peso.
Applicant	An End-user or Generator, depending on context, that has submitted a Connection Application.
Qualified Franchise Area	A Franchise Area that is included in Appendix A pursuant to an order of the ERC, as such area may be varied from time to time in accordance with the law.
Quarter	A period of three months from 1 January to 31 March (both dates inclusive), 1 April to 30 June (both dates

inclusive), 1 July to 30 September (both dates inclusive) or 1 October to 31 December (both dates inclusive).

Regulated Distribution System	A Distribution System which is located in a Qualified Franchise Area and that is operated under an exclusive franchise, together with such Subtransmission Systems as are connected to that Distribution System and as are operated only by the Regulated Entity that operates that Distribution System.
Regulatory Period	The First Regulatory Period, the Second Regulatory Period or a Subsequent Regulatory Period (as the case may be) of the DWRG.
Regulatory Reset Process	The process under the DWRG by which cost of service analysis establishes the new MAP and initial rates beginning a new Regulatory Period.
Retail Electricity Supplier (RES)	Any person or entity authorized by the ERC to sell, broker, market or aggregate electricity to the End-users in the Contestable Market.
Revenue Potential	<p>In respect of any Transferred Subtransmission Assets, the consideration for the transfer of those Transferred Subtransmission Assets from TRANSCO to the Regulated Entity, which consideration is required (by Section 8 of the EPIRA and Rule 22, Section 13(b) of the IRR) to be:</p> <ul style="list-style-type: none">(a) determined by TRANSCO based on the revenue potential of those Transferred Subtransmission Assets; or(b) in case of disagreement, determined by, or in accordance with directions given by, the ERC.
Settlement	The activity of producing bills and credit notes for WESM Members in accordance with the WESM rules.
Side Constraints	Limitation in the amount of annual change in the MAP as described in section 6.4 of the DWRG.
Special Customer Segments	Customer Segments specifically identified by name in these OADS Rules.
Standard Connection Charge	An unbundled connection charge on End-users that is uniform within a particular Customer Segment of a DU. The Standard Connection is based on the Standard Connection Facilities used to connect a typical End-user within the Customer Segment and is

	subject to ERC approval.
Standard Connection Facilities	The Connection Assets identified for a particular Customer Segment as proposed by a DU and approved by ERC for the purpose of calculating a Standard Connection Charge.
Supplier of Last Resort (SoLR)	A regulated entity with the obligation of serving End-users in the Contestable Market in the event the End-user does not have a contract with an RES.
System Operator	System Operator as defined in the WESM Rules.
Tax	Any tax, levy, impost, deduction, charge, rate, duty or withholding which is levied or imposed by the National Government or a Local Government or any agency, department, instrumentality or other authority of the National Government or a Local Government.
TransCo	The National Transmission Corporation or its successor.
Transferred Subtransmission Assets	Subtransmission Assets that are transferred from TRANSCO to the Regulated Entity as contemplated by Section 8 of the EPIRA and Rule 22, Section 13(b) of the IRR.
Transmission Wheeling Rate Guidelines	The Guidelines on the Methodology for Setting Transmission Wheeling Rates for 2003 to around 2027 promulgated by the ERC under Section 43(f) of the EPIRA and Rule 15, Section 5(a) of the IRR.
Uniform Rate Filing Requirements	The Uniform Rate Filing Requirements dated 13 January 2001 resulting from ERC Case No. 2001-873 docketed on 31 October 2001.
User	A person or entity that uses the Distribution System and related Distribution facilities.
User Development	The System or Equipment to be connected to the Distribution System or to be modified, including the relevant proposed new connections and/or modification within the User System that requires a Connection Agreement.
User System	Refers to a system owned or operated by the User of the Distribution System.
WESM	The Wholesale Electricity Spot Market established pursuant to the EPIRA.
Weighted Average Cost of Capital (WACC)	An average cost of all sources of financing or financial capital where each is weighted by the reasonable percentage of each in the financing of utility investment.

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

1.3 APPLICABILITY

1.3.1 These OADS Rules apply to:

- (a) Distribution Utilities (“DUs”);
- (b) End-users;
- (c) Entities controlling and operating subtransmission facilities;
- (d) Retail Electricity Suppliers (“RES”);
- (e) Transmission Provider and the System Operator;
- (f) Generators;
- (g) the Captive Market; and
- (h) the Contestable Market.

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

1.3.2 In interpreting and complying with these OADS Rules, the Participants shall take into account that:

- (a) the Distribution System conveys electricity through its contractual relations with the End-use customers, RESs, Generators, and the Supplier of Last Resort;
- (b) at such time that the ERC declares open access and retail competition, licensed RESs will be free to conduct business within the Contestable Market, and End-use customers will fall into one of two categories: the Captive Market and the Contestable Market; and
- (c) the physical characteristics of electricity necessitate a significant degree of coordination between the Participants to ensure quality and reliability.

1.4 ENERGY REGULATORY BOARD RESOLUTION NO. 95-21

Insofar as the Energy Regulatory Board (ERB) Resolution No. 95-21 conflicts with these OADS Rules, the latter shall prevail.

1.5 NONDISCRIMINATION

All DUs shall make available upon reasonable request all regulated services at rates, terms and conditions that are just and reasonable and shall not unjustly or unreasonably discriminate in the rates, terms, and conditions of service to similarly

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

1.6 GENERAL DESCRIPTION OF SERVICES

With unbundling and open access, the distribution utilities face unprecedented change with respect to service and the customers they serve. These OADS Rules are designed to cover the various service combinations in the new DU environment created by the EPIRA. The regulated DU shall be prepared to provide a variety of services to the Captive Market and the Contestable Market. DU service to the Captive Market will be similar to service provided before EPIRA but now with unbundled rates, removal of cross-subsidies, separate connections policy for End-users, and possible regulation under the Distribution Wheeling Rate Guidelines (“DWRG”). DU services in the Contestable Market shall include the possible provision of unbundled Distribution Wheeling Service (“DWS”) to Retail Electricity Suppliers (“RES”), the Supplier of Last Resort (“SoLR”), and Generators, Distribution Connection Assets and Services (“DCAS”) to End-users and Generators, and the SoLR services to Contestable End-users.

1.6.1 DISTRIBUTION CONNECTION ASSETS AND SERVICES

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

1.6.2 DU SERVICE TO THE CAPTIVE MARKET

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

1.6.3 SUPPLIER OF LAST RESORT SERVICES

Unless otherwise determined by statute or Commission order, all Distribution Utilities shall perform the duties and obligations as Suppliers of Last Resort (“SoLR”) for the Contestable Market within their respective franchise areas. SoLR service is back-up supply to the Contestable Market for the contingency that an End-user in the Contestable Market does not have supply from a competitive RES. SoLR service is not RES service by the DU.

The SOLR will provide electric energy to End-users in the Contestable Market who are not able to receive electricity energy from their retailer for any of the following reasons:

- A. The RES has voluntarily ceased to operate;
- B. The RES is no longer licensed;
- C. The arrangements for retail access services between the RES and the distribution utility have been terminated;

- D. The RES is no longer permitted to exchange electric energy through the WESM;
- E. The RES has given notice to the ERC that it will no longer provide electricity services to the customers; and/or
- F. Any reason which may be specified by the ERC.
- G. Failure of customer:
 - 1. failure of End-user to choose RES;
 - 2. failure of End-user to find willing RES;
 - 3. failure of End-user to otherwise self-procure supply.

In any of the above, the End-user will automatically be served by the DU as a SoLR customer and shall not be served as if it were part of the Captive Market. Because SoLR service is part of the Contestable Market but is not an RES function of the DU, the energy prices for SoLR service shall not be regulated based on approved purchased power agreement costs but instead the SoLR is hereby authorized and shall charge the relevant competitive market-clearing WESM energy prices for the energy consumed by a time-of-use metered SoLR customer during all hours of the monthly billing period. In the event a SoLR customer does not have time-of-use metering, the SoLR is hereby authorized and shall charge the relevant average competitive market-clearing WESM energy price for the month in accordance with WESM Settlement procedures. The SoLR shall also bill SoLR customers the last approved unbundled monthly Supply charge for the relevant customer segment and pass through all approved Distribution Wheeling Service and metering costs charged by the DU and transmission service costs charged by the transmission provider. All costs of SoLR service shall be transparently disclosed in an unbundled fashion in the billing to End-users taking SoLR service.

An End-user taking SoLR service shall make a deposit equivalent to two months total estimated billing based on historical demand and energy usage and all applicable unbundled rate elements for SoLR service. Such deposit shall be fully refundable upon termination of SoLR service with interest paid on the deposit at an annual rate determined by the ERC.

An End-user under contract with a competitive RES cannot receive SoLR service without first satisfying all terms and conditions related to their RES contract including any contract termination fees. An End-user disconnected by an RES or a DU for non-payment cannot use SoLR service until such customer pays in full all amounts due to the RES or DU.

Any DU costs related to SoLR service shall be completely borne by the DU and the Contestable Market End-users who are SoLR customers and shall not be borne by the Captive Market. Any costs related to generation capacity and energy not reasonably necessary to ensure continuous and reliable service to the Captive Market, shall not be borne by the Captive Market. That is, the DU bears all risk for costs related to Contestable Market activities including SoLR

and RES services and any costs not necessary for service to the Captive Market.

In addition to this section, SoLR service must also comply with all other applicable guidelines issued by ERC.

1.6.4 DWS PROVIDED TO RES, SOLR, AND GENERATORS

DWS is the wheeling and conveyance of electricity over a DU's distribution system. Unbundled DWS shall be made available in a non-discriminatory fashion to licensed RESs, the SoLR, and Generators. Article IV provides the rules pertaining to DWS.

1.7 LIMITS ON LIABILITY

1.7.1 LIABILITY BETWEEN THE DU AND END-USERS

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

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

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

1.7.2 LIMITATION OF DUTY AND LIABILITY OF RES

An RES has no ownership, right of control, or duty to the DU, Connection Customer or other third party, regarding the design, construction or operation of the DU's DCAS facilities and distribution system. An RES shall not be liable to any person or entity for any damages, direct, indirect or consequential, including, but without limitation, loss of business, loss of profits or revenue, or loss of production capacity, occasioned by any fluctuations or interruptions of DCAS or DWS caused, in whole or in part, by the design, construction or operation of the DU's distribution system.

1.7.3 DUTY TO AVOID OR MITIGATE DAMAGES

The DU and Connection Customer shall use extraordinary diligence to avoid or mitigate its damages or losses suffered as a result of the other's culpable behavior under subsection 2.2.1.

1.7.4 LIMITATION OF LIABILITY DUE TO FORCE MAJEURE

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

1.7.5 EMERGENCIES AND NECESSARY INTERRUPTIONS

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

The DU shall provide advance notice to the Connection Customer, if reasonably possible. Such notice shall be made at least twenty-four (24) hours prior to said curtailment, reduction, or interruption and may be made by electronic notice (such as facsimile, test messages, or e-mail) to all affected Connection Customers with specific identification of location, time and expected duration of outage. In cases where such notice is not reasonably possible, the DU shall submit a report to the Commission containing the information and an explanation why such advance notice was not reasonably possible. It shall likewise take other necessary actions to minimize the effect of such curtailment, reduction, or interruption to the Connection Customer. A notice shall also be provided to those End-users for whom an RES has provided notice to the DU that interruptions or suspensions of service will create a dangerous or life-threatening condition on the End-user's premises. The End-user should notify their RES or the DU if a condition exists on the End-user's premises such that a suspension or interruption of service will create a life-threatening or dangerous condition.

The DU shall comply with all reporting requirements of the Distribution Code, and in addition to those requirements, shall issue a written public notice published in a newspaper of general circulation in the DU's service territory stating the precise reasons causing the curtailment or interruption within 48 hours.

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

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

1.8 DESIGNATION OF DISTRIBUTION UTILITY CONTACT PERSON

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

1.9 DISPUTE RESOLUTION

A Participant may file a petition for dispute resolution with the ERC. Said petition shall specify all matters in dispute and the parties involved. After the Commission determines that the case falls within its jurisdiction, it shall forthwith issue an order directing the defendant to file his Answer/Comment within ten (10) business days from receipt of said order. Affirmative and negative defenses not pleaded therein shall be deemed waived.

Should the defendant fail to answer the complaint within the period provided above, the Commission, *motu proprio*, or on motion of the complainant, shall render judgment as may be warranted by the facts alleged in the complaint and limited to what is prayed for therein.

Not later than thirty (30) days after the last answer is filed, a preliminary conference shall be held.

Within five (5) business days after the termination of the preliminary conference, the Commission shall issue an order stating the matters taken up therein.

Within ten (10) business days from receipt of the order mentioned, the parties shall submit the affidavits of their witnesses and other evidence on the factual issues defined in the order, together with their position papers setting forth the law and the facts relied upon by them.

Within thirty (30) days after the receipt of the last affidavits and position papers, or the expiration of the period for filing the same, the Commission shall render a decision. However, should the Commission find it necessary to clarify certain material facts, it may, during said period, issue an order specifying the matters to be

clarified, and require the parties to submit affidavits or evidence including the presentation of a witness on the said matters within ten (10) days from receipt of said order. Decision shall be rendered within thirty (30) days after receipt of the last clarificatory affidavits, evidence or the expiration of the period for filing the same.

All pleadings to be filed shall be verified.

The provisions of the Rules of Practice and Procedure Governing Hearings Before the Energy Regulatory Commission and the Rules of Court on Summary Procedure shall apply in an analogous and suppletory character, whenever practicable and convenient.

1.10 GOVERNING LAWS AND REGULATIONS

These OADS Rules are governed by the laws and pertinent regulations of the Philippines and the parties submit to the non-exclusive jurisdiction of the courts of the Philippines in respect of any dispute or proceeding arising out of these OADS Rules.

1.11 SEPARABILITY

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

1.12 AMENDMENTS TO THE OADS RULES

Nothing in these OADS Rules is to be construed as precluding the ERC from issuing other rules and/or guidelines pursuant to the EPIRA and the IRR for the purpose of regulating the charges that may be made for the provision of services in respect of Distribution Systems and Subtransmission Systems that are not subject to these OADS Rules.

1.13 EFFECTIVITY

These OADS Rules shall take effect 15 days following their publication in a newspaper of general circulation.

ARTICLE II
RULES PERTAINING TO
DISTRIBUTION CONNECTION ASSETS AND SERVICES

2.1 GENERAL

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

2.1.1 SAFETY, POWER QUALITY AND RELIABILITY

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

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

2.1.2 DATA REQUIREMENTS

Each Connected Connection Customer shall provide any data, reports, forecasts, and specific information regarding the electrical characteristics of their Facilities as specifically required under these OADS Rules and the Distribution Code or as requested by the DU, acting reasonably, to enable it to meet its obligations under these OADS Rules and the Distribution Code.

2.1.3 PROTECTION ARRANGEMENTS

2.1.3.1 RESPECTIVE RESPONSIBILITY FOR PROTECTIVE DEVICES

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

2.1.3.2 NEW PROTECTIVE DEVICES

The DU and Connection Customers may install, upgrade, operate and maintain protective devices to separate the Connection Customer's equipment from the Distribution System sufficiently to avoid injury or damage, and to comply with the Distribution Code at all times. The DU and the Connection Customer shall give prior written notice to the other of all such Protective Devices that it intends to install and/or upgrade, and of the settings of such devices.

2.1.4 CONTINGENCY PROCEDURES

2.1.4.1 PROMPT NOTIFICATION OF CONTINGENCY.

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

2.1.4.2 CONTINGENCY ACTIONS.

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

2.1.4.3 ACCESS TO EACH OTHER'S CONNECTION ASSETS.

The DU and each Connection Customer may open and/or disconnect the Connection Assets of the other party in the event of, and for the duration of, any Contingency, if such opening or disconnection would reasonably be expected to mitigate or remedy the Contingency in accordance with good industry practice and the Distribution Code. A Participant exercising this right shall notify the other party of their actions prior to disconnection or as soon as possible following disconnection.

2.1.5 PROPERTY ACCESS

2.1.5.1 ACCESS RIGHTS.

Unless otherwise agreed, the DU and each Connection Customer agree to grant the other and its agents and subcontractors such access to its facilities and Connection Assets as is necessary and appropriate, both parties acting reasonably, for the construction, installation, testing, operation and maintenance of the other Participant's own facilities and Connection

Assets (including any Protective Devices), in accordance with the terms and provisions of the Distribution Code and these OADS Rules.

2.1.5.2 PROCEDURE.

When exercising the access rights outlined in Section 2.1.5.1 above, the DU and the Connection Customer shall:

- (a) Provide the other party with as much advance notice as is appropriate under the circumstances;
- (b) Not unreasonably disrupt or interfere with the normal operations of the business of the other party;
- (c) Adhere to the safety rules and procedures established by the other party;
- (d) The DU and the Connection Customer shall be responsible for the actions of their agents; and
- (e) Act consistent with good industry practice.

2.2 CONNECTION CHARGES

2.2.1 TRANSITION TO UNBUNDLED CONNECTION CHARGES

Upon the effectivity of these Rules, any future application made by a DU to adjust rates shall include a proposal to establish unbundled Connection Charges for each Customer Segment pursuant to the methods set forth herein. The proposal to establish unbundled Connection Charges shall include all relevant studies and data necessary to support a Standard Connection Charge for each Customer Segment.

2.2.2 STANDARD CONNECTION CHARGE FOR EACH CUSTOMER SEGMENT

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

2.2.3 METHODOLOGY FOR COMPUTING STANDARD CONNECTION CHARGE

The methodology used to compute the Standard Connection Charge (SCC) for each Customer Segment of a private DU shall use the following formula¹:

¹ The methodology to be applied by an Electric Cooperative will be determined later.

$$SCC = [((WACC \times INVEST) + OM + DEP) \div BD];$$

Where:

- WACC is the approved weighted average cost of capital;
- INVEST is the Connection Asset investment at current costs for a standard connection or typical End-user in the Customer Segment;
- OM is the Operation and Maintenance Expense Associated with connections as attributed to that Customer Segment;
- DEP is the annual depreciation expense associated with INVEST based on straight line methodology and a depreciation life to be approved by the ERC;
- BD is the approved annual billing determinant for that Customer Segment.

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

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

Step 2: Once the standard equipment and facilities have been identified, calculate the installed cost of the standard connection (INVEST) based on current costs. The current costs of equipment and facilities shall be supported by recent invoices and quotes from equipment vendors and a labor cost study related to installation.

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

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

Step 5: Conduct a study to determine the Operation and Maintenance (O&M) expense related to Connection Assets and Services corresponding to each Customer Segment.

2.2.4 ALTERNATIVE METHODOLOGY FOR COMPUTING STANDARD CONNECTION CHARGES

Upon full implementation of a DU's Business Separation Plan (BSP) and accounting separation between DCAS costs and other Distribution System costs, the DU may modify the methodology specified in 2.3.3 as follows.

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

Step 2: Use the values calculated in Step 2 of the methodology specified in 2.3.3 to develop Customer Segment allocation factors or ratios.

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

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

2.2.5 REVENUE REQUIREMENT OFFSET

In any future application to adjust rates where the methodology specified in 2.2.3 is applied, the unbundled distribution revenue requirement for a particular Customer Segment shall be reduced by the revenue to be collected through the Standard Connection Charges. This revenue requirement offset is not applicable when the alternative methodology specified in 2.2.4 is utilized.

2.3 NEW CONNECTION POINTS OR MODIFICATION TO EXISTING CONNECTION POINTS

2.3.1 APPLICATIONS FOR NEW CONNECTION(S) OR MODIFICATIONS TO EXISTING CONNECTION POINTS

Subject to securing the approval of the DU in the manner outlined in these OADS Rules and in accordance with the process set out in the Distribution Code, an Applicant may seek:

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

2.3.2 COMPLIANCE WITH PROCESS AND NON-DISCRIMINATION

The DU and each Applicant shall comply with the processes set out in these OADS Rules and the Distribution Code for processing of new or modified connection arrangements. The DU shall process all requests involving connections in a timely manner and shall not give preference or discriminate between different Connection Customers or Applicants. Likewise the DU shall not give preference or discriminate between Connection Customers or Applicants based on a Contestable Market End-user's choice of supply.

2.4 MODIFICATIONS AND NEW PHYSICAL CONNECTIONS: RESIDENTIAL

2.4.1 RIGHT TO EXTENSION OF LINES AND FACILITIES

In accordance with the Magna Carta, a residential End-user located within thirty (30) meters from the distribution utilities' existing secondary low voltage lines has the right to an extension of lines or installation of additional facilities, other than a service drop, at the expense of the utility. However, if a prospective customer is

beyond the said distance, the customer shall advance the amounts necessary to cover the expenditures on the facilities beyond thirty (30) meters.

2.4.2 REFUND

To recover the aforementioned advanced payment, the customer may either demand the issuance of a notes payable from the distribution utility or refund at the rate of twenty-five (25) percent of the gross distribution revenue derived for the calendar year, or, if available, the purchase of preferred shares. Revenue derived from additional customers tapped directly to the poles and facilities so extended shall be considered in determining the revenues derived from the extension of facilities.

2.4.3 ENGINEERING AND DESIGN

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

2.4.4 MINIMUM FACILITIES

The DU shall, in designing the line extension, only require the minimum facilities consistent with the Distribution Code, which are necessary to provide service to the End-user. If the End-user, or another party requests facilities in excess of that which is necessary to meet the End-user's requirements, then all costs attributable to such excess shall be at the requesting party's sole cost and expense which shall be treated as a Contribution in Aid of Construction (CIAC). If the DU requests facilities in excess of that which is necessary to meet the End-user's requirements and such request is necessary to accommodate anticipated growth of additional customers, then all costs attributable to such excess shall be treated as Electric Plant Held for Future Use.

2.4.5 NEAREST SOURCE

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

2.4.6 ALTERNATIVE ROUTES

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

2.4.7 EASEMENTS

The DU shall design line extensions along existing rights of way whenever such rights of way are available. The End-user shall procure for the DU any rights of way for a line extension across property owned or controlled by the End-user or others when such rights of way are necessary and dedicated to connect the End-user. In the event that the End-user cannot obtain the required rights of way, the DU may, by powers of eminent domain or otherwise, obtain rights of way. With the exception of residential End-users located within thirty (30) meters of the existing Distribution System, all cash amounts required to procure easements shall be advanced by the residential customer subject to the refund mechanism stated in section 2.5.2.

2.4.8 MODIFICATION TO EXISTING FACILITIES

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

Modifications to existing facilities that result in a net increase in demand or electricity usage, the associated cost of such modification shall be that of the DU unless the modification results in facilities that are in excess of the standard connection facilities defined in the calculation of the Standard Connection Charge. If the modification requires excess facilities beyond said standard, the residential End-user shall advance such amounts to be refunded later at a rate of twenty five (25) percent of the gross distribution revenue derived for the calendar year.

2.4.9 RIGHT TO PROCURE EQUIPMENT AND CONSTRUCTION

Connection Customers shall have the right to select their own contractor and/or equipment vendor for the equipment, construction and installation of Distribution Connection Assets provided that all requirements of the Distribution Code are met. Residential End-users located farther than thirty (30) meters from the DU's existing secondary voltage lines who procure services and equipment to construct their own connection shall be eligible to receive a refund at the rate of twenty-five (25) percent of the gross distribution revenue derived for the calendar year provided that all relevant invoices and proof of payment are submitted to the DU along with a sworn affidavit from the End-user that the documents are true and accurate. The DU shall immediately inform the ERC if it has reason to believe that any invoices or proof of payment have been falsified and the ERC shall investigate. Said refund shall not exceed the DU's proposed estimate for constructing the Connection Assets or the actual cost incurred by the End-user, whichever amount is lower.

2.5 MODIFICATIONS AND NEW CONNECTIONS: NON-RESIDENTIAL

2.5.1 RIGHT TO EXTENSION OF LINES AND FACILITIES

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

2.5.2 NON-STANDARD CONNECTION

A non-residential End-user has the right to an extension of lines or installation of additional facilities that exceed the standard connection definition provided that the End-user pays for any facilities in excess of the Standard Connection Facilities used to compute the Standard Connection Charge for that End-user's Customer Segment. Such payments for facilities in excess of the Standard Connection Facilities are not refundable and shall be treated as a Contribution in Aid of Construction (CIAC).

2.5.3 ENGINEERING AND DESIGN

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

2.5.4 MINIMUM FACILITIES

The DU shall, in designing the line extension, only require the minimum facilities consistent with the Distribution Code, which are necessary to provide service to the End-user. If the End-user or another party requests facilities in excess of that which is necessary to meet the End-user's requirements, then all costs attributable to such excess shall be at the requesting party's sole cost and expense which shall be treated as a Contribution in Aid of Construction (CIAC). If the DU requests facilities in excess of that which is necessary to meet the End-user's requirements and such request is necessary to accommodate anticipated growth of additional customers, then all costs attributable to such excess shall be treated as Electric Plant Held for Future Use.

2.5.5 NEAREST SOURCE

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

2.5.6 ALTERNATIVE ROUTES

The End-user may request that the line extension be constructed along a route different from the route designed by the DU, but the End-user shall be responsible

for all costs attributed to such route. Such incremental amounts paid by the End-user shall not be subject to refund, and shall be treated as a Contribution in Aid of Construction.

2.5.7 EASEMENTS

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

2.5.8 MODIFICATION TO EXISTING FACILITIES

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

Modifications to existing facilities that result in a net increase in demand or electricity usage, the associated cost of such modification shall be that of the DU unless the modification results in facilities that are in excess of the standard connection facilities defined in the calculation of the Standard Connection Charge. If the modification requires excess facilities beyond said standard, the non-residential End-user shall be solely responsible for the costs associated with the incremental additional facilities which will be treated as Contribution in Aid of Construction.

2.5.9 RIGHT TO PROCURE EQUIPMENT AND CONSTRUCTION

Connection Customers shall have the right to select their own contractor and/or equipment vendor for the equipment, construction and installation of Distribution Connection Assets provided that all requirements of the Distribution Code are met. If the facilities paid for and constructed by the non-residential End-user become the property of the DU, such facilities shall be treated as a Contribution in Aid of Construction and shall not form part of the DU's appraised value or rate base.

2.5.10 PROPORTIONATE SHARING OF LINE EXTENSION COSTS

An End-user who previously made a Contribution in Aid of Construction toward the construction of secondary, primary, or high voltage distribution line facilities shall be entitled to a refund from the DU of a portion of such contribution if other End-users later connect to those facilities. The contribution refund shall be in proportion to distance utilized by the newly connecting End-user. The newly connecting End-user shall pay the DU a Contribution in Aid of Construction equivalent to the proportional refund.

2.5.11 CONTRIBUTION IN AID OF CONSTRUCTION

Following inspection for compliance with the Distribution Code, any installed Connection Assets paid for by the End-user shall become the property and maintenance responsibility of the DU, except as provided for in the following section. Any facilities paid for by an End-user shall be deemed Contribution in Aid of Construction (“CIAC”) and shall not become part of the DU’s rate base or appraised property value.

2.5.12 OWNERSHIP OF CONNECTION ASSETS

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

- a. The End-user shall, as promptly as possible, transfer ownership of said facilities to the DU in the event that any portion of these facilities become necessary to provide service to other Connection Customers; and
- b. Facilities owned by the End-user will be restricted solely for the use of that End-user.

2.5.13 APPLICATION FOR CONNECTION

The Connection Customer shall complete a Connection Application provided by the DU in accordance with these OADS Rules and Distribution Code involving a new Connection Point, containing all necessary information for the provision of the required services.

2.6 NEW CONNECTION OR MODIFICATION OF A GENERATING FACILITY

2.6.1 INTERCONNECTION AND OPERATING AGREEMENT

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

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

DU's facilities shall be governed by the provisions of those existing agreements.

c) The agreement shall include any necessary requirements for communications and communications facilities between the DU and the Generator.

d) Where a Distribution Impact Study (DIS) and/or Distribution Assets Study (DAS) is required, the Generator shall be responsible for paying to the DU all reasonable costs incurred by the DU in performing such a study unless such operation has been requested by the DU.

2.6.2 GENERATOR COMPLIANCE

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

2.6.3 DESIGN REVIEWS AND INSPECTIONS

a) DU shall have the right to review the design of a Generator's Generating Facility and Interconnection Facilities and to inspect a Generator's Generating and/or Interconnection Facilities prior to the commencement of parallel operation with DU's Distribution System. The DU may require a Generator to make modifications as necessary to comply with the requirements of this OADS Rule and the Distribution Code. DU's review and authorization for Parallel Operation shall not be construed as confirming or endorsing the Generator's design or as warranting the Generating and/or interconnection facilities' safety, durability or reliability. The DU shall not, by reason of such review or lack of review, be responsible for the strength, adequacy, or capacity of such equipment.

b) Generators shall not begin operation with the DU's facilities for the first time until their interconnection facilities have been inspected by the DU and written approval is provided by the DU to the Generator. Such approval may be withheld for noncompliance with the requirements of this OADS Rule and the Distribution Code.

c) A Generator's generating facility and interconnection facilities shall be reasonably accessible to DU personnel as necessary for DU to perform its duties and exercise its rights under any agreement between DU and the Generator.

d) Any information pertaining to Generating and/or User Development provided to the DU by a Generator shall be treated by DU in a confidential manner.

2.6.4 PRUDENT OPERATION AND MAINTENANCE REQUIRED

A Generator shall operate and maintain its Generating Facility and its User Development in accordance with prudent electrical practices and shall maintain compliance with Commission adopted standards for the Generator. Said standards shall be those in effect at the time a Generator executes the Agreement with the DU.

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

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

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

2.7.1 APPLICATION PROCESS FOR GENERATORS

- a) Upon request, the DU will provide information and documents (such as the pro forma interconnection and operating agreement and the Application, technical requirements, specifications, listing of Certified Equipment, application fee information, applicable rate schedules and Metering requirements) in response to a Applicant's inquiry. Unless otherwise agreed upon, all such information shall be sent to a Applicant within five (5) business days following the initial request from the Applicant. The DU will establish an individual representative as the single point of contact for the Applicant, but may allocate responsibilities among its staff to best coordinate the Interconnection of a Applicant's User Development. The application form shall include the following information:
 - i. A description of the proposed connection or modification to an existing connection to the Distribution System, which shall comprise the User Development at the Connection Point;
 - ii. The relevant Standard Planning Data as specified in Section 6.4 of the Distribution Code; and
 - iii. The Completion Date of the proposed User Development.
- b) Applicant Completes an Application. All Generators shall be required to complete and file an Application and any possible Detailed Planning Data as

specified in Article 6.5 of the Distribution Code when the same is required ahead of the schedule specified in the Connection Agreement or Amended Connection Agreement. The filing must include the completed Application, a fee (if required) for processing the Application.

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

2.7.2 GENERATING FACILITY DESIGN AND OPERATING REQUIREMENTS

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

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

2.7.3.1 DETERMINATION WHETHER NEW DIS IS NECESSARY

After receiving a Connection Application, the DU shall determine on a nondiscriminatory basis whether a specific DIS is necessary to process the Generator's application, in addition to the information already available from existing DISs.

2.7.3.2 COST OF DIS

Unless otherwise agreed to by the DU, the Applicant shall be responsible for the cost of a DIS performed pursuant to these provisions on behalf of the Generator.

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

If the DU agrees with the Connection Application and considers no DIS is necessary, it shall so advise the Generator within thirty (30) days from receipt of the Connection Application. If the DU determines that a specific DIS is necessary in addition to that information already available, it shall so inform the Applicant within thirty (30) days from receipt of the Connection Application by issuing an offer of service for DIS to the Connection Customer.

2.7.3.4 REQUIREMENTS OF AN OFFER OF SERVICE FOR DIS.

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

(a) The scope of the study, including identification of whether any distribution constraints, re-dispatch options, additional dedicated Connection Assets, or Distribution System upgrades shall be required to provide the requested service.

(b) The estimated time for completion of the DIS and acknowledgement of the DU's obligations.

(c) The maximum charge, based on the DU's estimate of the actual cost, inclusive of VAT.

2.7.3.5 NOTIFICATION OF ACCEPTANCE OR NON ACCEPTANCE OF OFFER OF SERVICE FOR DIS.

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

2.7.3.6 EFFECT ON APPLICATION.

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

2.7.3.7 PAYMENT FOR UNDERTAKING DIS.

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

2.7.3.8 SUBMISSION OF DATA FOR DIS

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

2.7.3.9 TIME PERIOD FOR COMPLETION OF DIS

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

2.7.3.10 RETENTION OF DIS

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

2.7.3.11 RELIANCE ON EXISTING DIS

If performing the DIS, the DU shall rely, to the extent reasonably practicable, on its existing DIS and information supplied by the Applicant.

2.7.3.12 NOTIFICATION OF EXTENDED COMPLETION DATE FOR DIS

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

2.7.3.13 PROVISION OF DIS ISSUES AND RESULTS

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

2.7.3.14 NOTIFICATION OF ADEQUACY OF DISTRIBUTION

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

2.7.4 DISTRIBUTION ASSETS STUDY

2.7.4.1 OFFER OF SERVICE FOR DISTRIBUTION ASSETS STUDY

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

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

2.7.4.2 OPTIONS FOR APPLICANT IN UNDERTAKING DAS

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

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

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

2.7.4.3 COMPLETION OF DAS

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

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

(b) The DAS is to be completed by the DU, the DU shall use its reasonable endeavours to ensure the DAS is completed within the period of time specified in the offer of service.

2.7.4.4 COST OF DAS

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

2.7.4.5 SUBMISSION OF DATA FOR DAS

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

2.7.4.6 NOTIFICATION OF ADDITIONAL TIME TO COMPLETE DAS

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

2.7.4.7 RESULTS OF DAS

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

(a) The cost of the Connection Assets to be charged to the Applicant.

(b) The Applicant's appropriate share of the cost of any required Distribution System upgrades.

(c) The time required to complete such construction and initiate the requested service.

2.7.4.8 PROVISION OF RESULTS FROM DAS

The party that undertook or commissioned the DAS shall provide the other party with a copy of the completed Study results and related work papers as soon as is practicable after the completion of the DAS and no later than 5 days after its completion.

2.8 ARRANGEMENTS PRIOR TO COMMISSIONING FOLLOWING EXECUTION OF CONNECTION AGREEMENT

2.8.1 COMPLETION OF CONNECTION ARRANGEMENTS

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

2.8.2 SECURITY FOR NEW FACILITIES OR FACILITY UPGRADES

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

2.8.3 DESIGN AND SPECIFICATION REQUIREMENTS

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

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

2.8.4 INSTALLATION OF NECESSARY EQUIPMENT

Power DWS shall not commence until the DU and the Connection Customer have ensured that the Equipment specified under these OADS Rules (shall be included in these Rules) has been installed consistent with the Distribution Code and good industry practice, and any additional requirements consistently imposed by the DU, acting reasonably, to ensure the reliable operation of the Distribution System, as recorded in the Connection Agreement, have been met.

2.8.5 PROVISION OF REQUIRED INFORMATION AND TESTS OF EQUIPMENT

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

2.8.6 DATA REQUIREMENTS UPON EXECUTION OF CONNECTION AGREEMENT

The Connection Customer shall comply with all data requirements specified in the Distribution Code within thirty (30) days of the execution of a Connection Agreement unless otherwise agreed between the DU and the Connection Customer.

2.8.7 COSTS OF PROCESSING AND MODIFICATION

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

2.8.8 ADDITIONAL CONDITIONS FOR CONNECTIONS

2.8.8.1 CONDITIONS PERTAINING TO THIS SERVICE

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

(a) The Applicant failing to comply with its obligations under these OADS Rules, the Distribution Code or subsequent to the Spot Market Commencement Date, the WESM Rules.

(b) The Applicant providing the DU with incomplete or inaccurate information.

(c) Any other Applicant failing to comply with their obligations under these OADS Rules, the Distribution Code or, subsequent to the Spot Market Commencement Date, the WESM Rules.

2.8.8.2 CONNECTION CUSTOMER'S NON-COMPLIANCE

If the Applicant or Connection Customer fails to comply, when so required, with any of its obligations in this Article, the DU shall have the right to require the Applicant or Connection Customer to take any and all such measures, including but not limited to the installation of new or additional

equipment, as necessary to comply with such requirements. In the event that the Applicant or Connection Customer fails to take any or all of such measures within thirty (30) days after receipt of notice of noncompliance, the DU shall have the right itself to take (or cause to be taken) such measures without further notice. The Applicant or Connection Customer shall be responsible for any and all costs and expenses incurred as a result of its non-compliance.

ARTICLE III
RULES PERTAINING TO SERVICE TO THE CAPTIVE MARKET

3.1 GENERAL DESCRIPTION OF SERVICE

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

3.2 THE MAGNA CARTA FOR RESIDENTIAL CONSUMERS

The Captive Market includes both residential and non-residential End-users. Insofar as residential consumers are concerned, the OADS Rules are intended to complement the MAGNA CARTA FOR RESIDENTIAL ELECTRICITY CONSUMERS, issued on June 17, 2004, and the GUIDELINES TO IMPLEMENT ARTICLES 7, 8, 14, AND 28 OF THE MAGNA CARTA FOR RESIDENTIAL ELECTRICITY CONSUMERS, issued October 27, 2004. The Magna Carta remains in full force.

3.3 APPLICATION FOR CAPTIVE MARKET SUPPLY

Any End-user in the captive market may apply for service from the DU within their franchise area. The DU has an obligation to serve that customer subject to all terms and conditions of service and Commission rules including these OADS rules. The customer shall execute a standard form of agreement prior to the furnishing of service by the DU. The DU shall inform its customers of any changes in rates, rules and regulations, or sample forms approved by the Commission.

3.4 ESTABLISHMENT AND REESTABLISHMENT OF CREDIT

3.4.1 RESIDENTIAL ELECTRICITY CUSTOMERS

For the establishment of credit, residential electricity customers and the DU shall follow the deposit and deposit refund requirements found in the Magna Carta. A residential customer who previously established credit under the Magna Carta by receiving a refund of deposit from the DU shall not be subject to a new deposit requirement if the customer moves to a new location within the DU's franchise area.

A bill deposit previously refunded to the customer may be reimposed once the customer defaults in the payment of his monthly bill. Once the bill deposit is reimposed, he loses the right to refund the same prior to the termination of his electric service.

In cases where the customer has an existing electric service wherein the customer has established credit and was not required to pay bill deposit in his second electric service, the customer could be imposed the bill deposit for his second electric service once the bill deposit for his existing service is reimposed. However, this is without prejudice to the refund of the bill deposit of the said second and subsequent services. If his old service has been terminated, the bill deposit should be imposed once he defaults in the payment of his monthly billings.

3.4.2 NON-RESIDENTIAL ELECTRICITY CUSTOMERS

For the establishment of credit, non-residential electricity customers shall submit a bill deposit to guarantee payment of bills. The amount of the bill deposit shall be equivalent to the estimated monthly billing. Provided that after one (1) year when the actual average monthly bills are more or less than the initial bill deposit, such deposit shall be correspondingly increased/decreased to approximate said billing.

The bill deposit shall be refunded within one month from the termination of service provided all bills have been paid.

The meter deposit equivalent to one-half (1/2) of the current cost of the electric meter and other equipment appurtenant thereto shall be required.

Meter deposits shall be refunded within one month from termination of service provided that the metering facilities are returned in good condition.

Both the bill and meter deposits shall earn an interest equivalent to the interest incorporated in the calculation of their Weighted Average Cost of Capital (WACC); otherwise the deposit shall earn an interest per annum in accordance with the prevailing interest rate for savings deposit as approved by the Bangko Sentral ng Pilipinas (BSP). The interests shall be credited yearly to the bills of the customer. Provided, however, that the interest earned by said deposit shall be credited to the next billing period of the customer.

3.4.3 RE-ESTABLISHMENT OF CREDIT FOR ALL CAPTIVE CUSTOMERS

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

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

3.5 BILLING

3.5.1 MONTHLY BILLING

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

3.5.2 METERED SERVICE

Each bill for service issued by the DU shall be based on the reading of the meter for each account of the customer and any applicable monthly charge(s).

3.5.3 CONTENTS OF BILL

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

- a. Any previous balance.
- b. The amount due for service provided during the current billing period with the date upon which this amount is past due.
- c. All unbundled amounts.
- d. All relevant meter readings for the first and last day of the billing period.
- e. The total quantities of applicable billing determinants.
- f. The date the meter was read.
- g. The telephone number and address of the DU office where a customer may obtain information concerning their bill or the service provided.
- h. An emergency contact number.
- i. The ERC contact number and email address for the Consumer Affairs Service.

3.5.4 ESTIMATED BILLS

- a. Except as otherwise provided, if the DU is unable to read the meter of a customer on the date scheduled **due to a Force Majeure event**, the DU may bill the customer based upon their estimated usage for the billing period. **Estimated billing should only be allowed in case the meter fails to register the consumption of the customer for an entire billing period or a portion thereof. Otherwise, the meter reading must be done immediately after the said fortuitous event ceases to exist.**
- b. Any of the following methods shall be used in calculating a bill based on estimated usage. These methods are listed in order of priority.

1. The average daily usage of the customer during the portion of the billing period registered by the meter applied to the remaining days in the billing period;
 2. The average usage of the customer during the preceding three (3) months; or
 3. The usage of the customer during the same month of the preceding year.
 - 4.
- c. A DU shall not issue more than two consecutive bills to a customer based upon estimated usage.
 - d. The DU shall adjust the estimated usage upon the first reading of a meter after an estimated reading.
 - e. Print the word “Estimate” on each bill which is based on estimated usage.

3.5.5 PRORATION OF BILLS

For bills rendered for periods less than 28 days, any fixed monthly customer charges in the bill shall be prorated based on the ratio of number of days in the billing period to the number of days in an average billing period.

3.5.6 ADJUSTMENT FOR BILLING ERRORS

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

Billing errors resulting from a defective/stop meter without any evidence of tampering shall be governed by the provisions of ERB Resolution 95-21, as amended and the Magna Carta for Residential Electricity Consumers.

In cases of other billing errors, the following principles shall apply:

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

3.6 BILLING DISPUTES

If a customer disputes any bill, charge or service, the DU shall promptly investigate the matter and report its determination to the customer. At the request of the customer, the report must be made in writing. **Reporting to the concerned customer shall be made within fifteen (15) days from receipt of such complaint.** The DU shall inform the customer of their right to file a complaint with the ERC.

3.7 REGULATED RATES FOR THE CAPTIVE MARKET

A DU may only charge rates to the Captive Market that have been approved or otherwise authorized by the ERC. The DU shall maintain copies of all approved rate schedules at each of its office locations and provide access and copies to such rate schedules to any person making such request at no charge to the person.

ARTICLE IV
RULES PERTAINING TO DISTRIBUTION WHEELING SERVICE

4.1 GENERAL

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

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

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

4.2 ELIGIBILITY REQUIREMENTS FOR DWS

An RES is eligible for DWS when:

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

during an interim period by filing the unexecuted agreement with the Commission for investigation into the reasons for non-execution by the DU.

4.3 GROUNDS FOR REJECTING DWS AGREEMENT

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

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

4.3.1 REJECTION OF DWS AGREEMENT

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

4.3.2 ACCEPTANCE OF DWS AGREEMENT

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

DWS

DWS

4.4 RELATIONSHIP WITH RES'S END-USE CUSTOMERS

The RES is responsible for all contractual and service matters related to their End-use customers including those pertaining to DWS, and the DU shall not be responsible for monitoring, reviewing or enforcing such contracts or arrangements. This does not, however, prohibit End-users from contacting and contracting directly with the DU for Connection Assets and Services pursuant to Article II of these OADS Rules. DWS

The foregoing notwithstanding, an RES may opt to have one or more of their End-use customers contract directly with the DU for DWS.

4.5 METERING

4.5.1 OWNERSHIP OF METERS

The person procuring the meter shall have the first option of owning and maintaining the meters subject to any applicable rules and regulations of ERC.

4.5.2 METER READING AND DATA DISSEMINATION SERVICE

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

4.5.3 REQUEST FOR ADVANCED METERING TECHNOLOGY

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

4.5.4 RIGHT TO PROCURE AND INSTALL ADVANCED METER EQUIPMENT

End-users in the contestable market and/or an RES contracted with the End-user shall have the right to own advanced metering equipment and select their own contractor and/or equipment vendor provided that all requirements of the Distribution Code are met.

4.5.5 ACCESS AND METER READING

The RES contracted with an End-user shall have access for purposes of reading a meter of that End-user. When mutually agreed to by the DU and RES, if End-use customer takes DWS at primary distribution or transmission voltage, the DU may meter DWS on the low side of retail customer's transformers and adjust measurements to account for losses. The DU is responsible for reading the meter. If an actual meter reading is not obtained, the DU shall estimate the meter reading for invoicing purposes as prescribed in Article 3.5.4. The DU shall report measurement data for a point of delivery as required by the ERC.

4.5.6 METER DATA EXCHANGE

The DU shall provide all data collected from a meter read to the RES serving that customer within three (3) business days following the scheduled meter read.

4.6 SUBTRANSMISSION

4.6.1 DELIVERY SERVICE PROVIDED BY OWNER OF SUBTRANSMISSION

Any owner of subtransmission facilities shall ensure provision of unbundled delivery service over subtransmission to any customer connected to subtransmission in a nondiscriminatory manner in accordance with the terms and conditions of Article V in its entirety. Customers connected to subtransmission may include DUs, Generators, End-users, or an RES providing retail service to a connected End-user.

4.6.2 NON-IMPAIRMENT OF GENERATION CONTRACTS

The obligation to provide DWS per 4.7.1 shall not in any way impair an existing purchase power agreement legally executed between an End-user and a Generation Company, nor a future purchase power agreement between an End-user and an RES in the contestable market.

4.6.3 SUBTRANSMISSION COSTS AND RATES

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

4.6.4 END-USER IN THE CAPTIVE MARKET WITHOUT SUFFICIENT GENERATION

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

4.7 TRANSMISSION

4.7.1 CONTRACTING FOR TRANSMISSION SERVICES

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

4.7.2 ANCILLARY SERVICES

An RES shall obtain all required ancillary services from TransCo or through the WESM and shall not be required to take ancillary services from the DU except as may be selected as an option by the RES per 4.8.1. In the event a DU provides ancillary services which benefit the Distribution System, compensation or credit to the DU for providing ancillary services shall be determined pursuant to the WESM Rules.

4.8 BILLING AND RELATED CUSTOMER SERVICE

4.8.1 RES RIGHTS AND RESPONSIBILITIES

An RES is fully responsible for determining the billing methods for their customers and payment of all obligations to other market participants. As an option to the RES, the End-use customer of the RES may be billed directly by the DU for DWS. An End-user in the contestable market is responsible for paying their RES all amounts legitimately billed by the RES but shall not be held responsible for any amount not paid by the RES to other market participants.

4.8.2 CONTESTABLE END-USER COMPLAINTS AND DISPUTES

Any End-user in the contestable market with a complaint or dispute related to service and billing shall be the responsibility of the RES serving that End-user.

4.9 GENERATOR WHEELING IN THE DISTRIBUTION SYSTEM

4.9.1 DU RESPONSIBILITIES

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

4.9.2 GENERATOR RESPONSIBILITIES

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

ARTICLE V
GUIDELINES FOR ESTABLISHING REGULATED SERVICE RATES

5.1 GENERAL

The Commission issued its Uniform Rate Filing Requirements (UFR) on October 31, 2001. Since that time, ERC policy regarding the setting of rates by DUs has evolved, most notably with the implementation of the removal of cross-subsidies and the adoption of the Distribution Wheeling Rate Guidelines (DWRG). To further promote nationwide consistency in rate design for OADS, the Commission sets forth these guidelines herein. These guidelines are intended to complement, not substitute, the UFR. The UFR remains in full force until such time as the UFR itself may be revised by the Commission.

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

5.2 UNIFORM RATE FILING REQUIREMENTS

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

5.3 DISTRIBUTION UTILITIES OPERATING UNDER THE DWRG

5.3.1 GENERAL

The DWRG provides flexibility to expeditiously adjust rates between Regulatory Resets subject to a maximum average price (“MAP”). The MAP is a company-wide measure without much constraint on individual rate elements.² The intent in granting such flexibility is to promote efficient DU operations; however, the Commission also intends to ensure that use of such flexibility adheres to the policies set forth in the EPIRA. Specifically, all DUs shall only charge rates that reflect the cost-based unbundled structure set forth in the UFR. At no time may costs or revenues that should be recovered from one unbundled function be shifted onto other unbundled functions. Unbundled functions include generation, transmission, distribution, supply, and metering.

Furthermore, the rate design shall be free of inter-class subsidies. That is, costs or revenues that should be recovered from one customer segment shall not

² The DWRG, Section 6.4, sets forth Side Constraints for average prices charged to Customer Segments that must be adhered to by DUs. The Commission aDWS to that provision with rules pertaining to rate elements.

intentionally be shifted onto other customer segments. The Side Constraints set forth in Section 6.4 of the DWRG shall not be used to justify the shifting of revenues from one customer segment to other customer segments.

5.3.2 GENERAL METHODOLOGY FOR CONVERTING AN ANNUALLY ADJUSTED MAP INTO RATES

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

The general formula for a MAP is similar to that found in Article 3.5 of the DWRG: $MAP = (CR - RBR) / CQ$

Where:

- CR = The amount (expressed in PhP) billed to Customers of that Regulated Distribution System, or other persons, for the provision of either regulated services, or unregulated services which utilize assets that form part of the regulatory asset base for that Regulated Distribution System, by the Regulated Entity that operates that Regulated Distribution System, during the 12 month period ending on 31 December.;
- RBR = Such portion (expressed in PhP) of the net income derived, during the 12 month period ending on 31 December, from each related business undertaking which is engaged in directly or indirectly by the Regulated Entity that operates the relevant Regulated Distribution System and which utilizes assets that form part of the regulatory asset base for that Regulated Distribution System (see Section 4.8.8), being a portion that is determined by the ERC pursuant to Section 26 of the EPIRA and that may vary as between such business undertakings but which, for each such business undertaking, does not exceed 50% of the net income that is so derived from that business undertaking; and
- CQ = The total amount of energy (expressed in kWh) delivered through the relevant Regulated Distribution System, during the 12 month period ending on 31 December, to Connection Points in respect of that Regulated Distribution System, such amount of energy:
- (a) being determined in a manner that is approved for this purpose by the ERC; and
 - (b) as so determined being audited to the satisfaction of the ERC by a person that is approved for this purpose by the ERC.

Denote the total company revenue implied by a newly adjusted MAP as TR. That is, $TR = MAP \times CQ = (CR - RBR)$.

Denote the historical amount collected from a particular customer segment as CR_i or the collected revenue from the ith customer segment over a particular 12-month period. Each customer segment is also charged multiple unbundled rate elements and we denote each of these as the tth unbundled rate element. So now we have CR_{it} or the tth rate element for the ith customer segment, where $i=1,\dots,N$ and $t=1,\dots,K$, and N is the number of customer segments and K is the number of unbundled rate elements for a particular customer segment.

For a particular historical calendar year (20YR), the sum of CR_{it} across all customer segments and rate elements equals CR_{20YR} or the total revenue collected by the company during the historical year 20YR.

Use the ratio (CR_{it} / CR_{20YR}) based on the historical year as an allocation ratio applied to the new TR from the newly adjusted MAP. Multiplying this ratio times the value TR (related to the newly adjusted MAP) gives the amount to be collected from the ith customer segment and tth rate element for the new MAP. We can denote this amount as $TR_{it} = TR * (CR_{it} / CR_{20YR})$. TR_{it} is the new revenue requirement for a particular rate element of a particular customer segment.

The final step is to apply the same rate design and billing determinants approved during the last Reset Process, but now updated to the year used to compute the MAP. Effectively, this methodology implies that the new rate elements shall be in proportion to the old rate elements.

5.3.3 RATE DESIGN AND BILLING DETERMINANTS

The billing determinants to be used for calculating the rates related to a newly adjusted MAP shall be updated based on the most recent data available and shall be the same rate design approved in the last rate case or Reset Process. For example, if all distribution function costs for the residential customer segment were previously approved for recovery through a kWh charge, the same design shall be followed in the adjusted rates. That is, the DU cannot now change the rate design to recover such distribution-related revenue through a customer-month charge. The DWRG regulated DU may only propose rate design changes during the Regulatory Reset Process, unless otherwise ordered by the ERC.³

5.3.4 REGULATORY RESET PROCESS AND RATE DESIGN

As part of the Regulatory Reset Process, the applicant shall include a cost of service study in which the total amount to be collected (revenue requirement) is functionalized and allocated to customer segments (this is the UFR methodology). The company also must submit its proposed rate design for each customer

³ This is consistent with Section 5.17 of the DWRG.

segment. This will establish the new charges paid by customers until the next annual adjustment at which time the methodology described above in 6.3.2 and 6.3.3 shall be applied.

5.3.5 MONITORING BY ERC

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

5.4 DISTRIBUTION SYSTEM LOSSES

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

5.5 TRANSMISSION COSTS

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

ARTICLE VI
PROFORMA RATE SCHEDULES

(to be added later)

8.1 SERVICE TO THE CAPTIVE MARKET

8.2 SUPPLIER OF LAST RESORT (“SOLR”) SERVICE

8.3 DWS TO RES

ARTICLE VII
PROFORMA AGREEMENTS AND FORMS

(to be added later)

NOTE: INTERESTED PARTIES ARE ENCOURAGED TO MAKE SUGGESTIONS AND SUBMIT SAMPLE AGREEMENTS AND/FORMS THAT MAY ESTABLISH PROFORMA VERSIONS.