

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

ERC Case No. [_____]

July 20, 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”) provided to the Contestable Market. Furthermore, these rules set forth 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 Applicant	An End-user, DU, or Generator seeking to connect to the Distribution System, including an RES applying on behalf of an End-user in the Contestable Market.
Connection Application	An application made by a Connection Applicant for a Connection Agreement or modification to a Connection Agreement.
Connection	DU charges for Distribution Connection Assets and

Charges	Services.
Connection Customers	End-users, DUs, and Generators with a Connection Point on the Distribution System who purchase Distribution Connection Assets and/or Distribution Connection Services.
Connection Point	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	<p>In respect of a Regulated Distribution System:</p> <ul style="list-style-type: none"> (a) a person whose User System or Equipment is directly connected to the Regulated Distribution System and who purchases or receives regulated distribution services in respect of that Regulated Distribution System; and (b) any other person who purchases or receives regulated distribution services in respect of that Regulated Distribution System. <p>For the avoidance of doubt, this may include a person who operates an Embedded Generator, an RES, an End-user, another DU, or Generator wheeling power through the Regulated Distribution System.</p>
Customer Segment	A category of End-use customers connected to the Distribution System established pursuant to the guidelines promulgated by ERC. Customer Segments proposed by a DU and approved by the ERC have similar consumption characteristics for regulated distribution services in respect of that Regulated Distribution System, based on their network configuration and consumption profile, as measured by the number of connections, the energy throughput (kWh), the non-coincident peak load (kW), the co-

incident peak load (kW), the time-of-day or any other physical measure as approved from time to time by the ERC. A Customer Segment of a particular DU includes all of the Customers who are charged the same tariff.

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

In respect of a Regulated Distribution System:

- (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) Deleted: (b) . the conveyance of electricity;¶
- (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).

Deleted: (b) . the conveyance of electricity;¶
(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;

Distribution Wheeling Service (DWS)

The conveyance of power throughout a Distribution System in a manner to meet the demand of End-users or Generators.

Distribution Impact Study (DIS)

A study performed to assess the ability of the Distribution System to accommodate a 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, including DUs operating in the economic zones.
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 unreasonable or impossible for a party to perform its obligations.
Franchise Area	Geographical area designated within the legal franchise of a DU.
Generator	A person or entity authorized by the ERC to operate a facility used in the generation of electricity.
Grid Connection Point	A "Connection Point" as that term is defined in the Transmission Wheeling Rate Guidelines.
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.
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).

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.
Side Constraints	Limitation in the amount of annual change in the MAP as described in section 6.4 of the DWRG.
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.
Subtransmission Assets	Assets that are transferred from TransCo to a qualified DU or consortium of qualified DUs pursuant to Section 8 of the EPIRA.
Supplier of Last Resort (SoLR)	A regulated entity with the obligation of serving End-users in the Contestable Market pursuant to the provisions set forth in the OADS Rules and other guidelines promulgated by ERC.
System Operator	System Operator as defined in the WESM Rules.
Tax	Any tax, levy, impost, deduction, charge, rate, duty or withholding which is levied or imposed by the National Government or a Local Government or any agency, department, instrumentality or other authority of the National Government or a Local Government.
TransCo	The National Transmission Corporation or its successor.
Transmission Wheeling Rate Guidelines	The Guidelines on the Methodology for Setting Transmission Wheeling Rates promulgated by the ERC on May ?, 2003.
Uniform Rate	The Uniform Rate Filing Requirements promulgated

Filing Requirements	by ERC on October 31, 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. The WACC shall be that value determined pursuant to the DWRG.

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”), including DUs in the economic zones;
- (b) End-users;
- (c) Qualified DUs and franchised consortiums of qualified DUs controlling and operating Subtransmission Assets;
- (d) Retail Electricity Suppliers (“RES”);
- (e) The Transmission Provider;
- (f) The System Operator;
- (g) Generators;
- (h) the Captive Market; and
- (i) 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, as amended by ERB Order, Case No. 95-368, dated April 10, 2000, 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 from the 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”), other DUs, and Generators, as well as Distribution Connection Assets and Services (“DCAS”) to End-users and Generators, and 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 regulated by ERC as back-up supply to the Contestable Market for the contingency that an End-user in the Contestable Market does not have supply from a competitive RES. SoLR service is not service to the Captive Market and is not RES service by the DU.

The 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. Failure of the End-user to choose RES;
- B. Inability of the End-user to find or retain a willing and capable licensed RES;
- C. Inability of the End-user to otherwise self-procure supply.
- D. The RES has ceased to operate;
- E. The RES is no longer licensed;
- F. The arrangements for DWS between the RES and the DU have been terminated;
- G. The RES is no longer permitted to exchange power through the WESM; and/or
- H. The RES has given notice to the ERC that it will no longer provide supply services.

In A through C of the above, except as specified otherwise herein, the End-user will automatically be served by the DU as a SoLR customer but 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 method of regulating energy prices for SoLR service shall not be based on approved purchased power agreement costs, but instead the SoLR shall charge the relevant competitive market-clearing WESM energy prices for the energy consumed by a SoLR customer during all hours of the monthly billing period.

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The SoLR shall also bill SoLR customers the last approved unbundled monthly Supply charge for the relevant Customer Segment and pass through all approved Distribution Wheeling Service, system loss charges, and metering costs charged by the DU and transmission service costs charged by the transmission provider. System loss charges shall be computed using the same methodology used for the Captive Market and based on the energy costs of the SoLR customer. All costs of SoLR service shall be transparently disclosed in an unbundled fashion in the billing to End-users taking SoLR service. The DU may file an application with ERC at any time for approval of reasonable unbundled Supply charges and system loss charges applicable to SoLR service.

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

An End-user taking SoLR service shall make a deposit equivalent to two months total estimated billing based on historical demand and energy usage and all applicable unbundled rate elements for SoLR service. Said deposit may be applied to past due bills, except when such amounts are restrained under legal contest. Such deposit shall be fully refundable upon termination of SoLR service with interest paid on the deposit at an annual rate determined by the ERC, less any arrears that have accrued in the customer's account.

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 any and all amounts including any applicable interest 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. ▼

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

SoLR service is only designed to be a safety net for instances when End-users in the Contestable Market temporarily do not have a contract with an RES. The power costs paid by an End-user using SoLR service are expected to exceed those possible from an RES with a balanced purchased power strategy. With this in mind, End-users who will become part of the contestable market are strongly encouraged to seek out supply contracts well in advance of the opening of retail competition.

1.6.4 DISTRIBUTION WHEELING SERVICE (DWS)

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

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

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

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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. The foregoing notwithstanding, an RES may be held liable for non-technical system losses when found to condone, collude, conspire, or engage in the pilferage of electricity or tampering with any meters or DU facilities.

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 1.7.1.

1.7.4 LIMITATION OF LIABILITY DUE TO FORCE MAJEURE

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

1.7.5 EMERGENCIES AND NECESSARY INTERRUPTIONS

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

The DU shall provide advance notice to the Connection Customer, if reasonably possible. Such notice shall be made at least two (2) days prior to said curtailment, reduction, or interruption and may be made by electronic notice (such as facsimile, text messages, or e-mail) to all affected Connection Customers or through radio broadcast, television broadcast, and local newspaper 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.

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

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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.

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

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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. 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.

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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 setting the date of the preliminary conference and directing the defendant to file his answer/comment within ten (10) business days from receipt of said order or the date of said conference, whichever comes earlier. Affirmative and negative defenses not pleaded therein shall be deemed waived.

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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.

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

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

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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.

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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 ~~any dispute or proceeding arising out of these OADS Rules shall fall under the original and exclusive jurisdiction of the ERC.~~

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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, Generators, and other DUs, collectively “Connection Customers”. This Article also applies to End-users receiving a Connection unlawfully or pursuant to unauthorized use. A DU shall provide DCAS pursuant to the terms and conditions herein to any potential Connection Customer within the DU’s franchise service area requiring such service. An RES is not a Connection Customer but may assist its RES customers in matters pertaining to DCAS.

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2.2 ENGINEERING STANDARDS FOR EQUIPMENT AND CONSTRUCTION

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

2.3 STANDARD CONNECTION FACILITIES

For the dual purpose of establishing unbundled connection charges and implementation of ERC policies regarding new connections for End-users, the DU shall identify Standard Connection Facilities for each Customer Segment. In identifying the Standard Connection Facilities, the DU shall include the minimum facilities necessary to establish a connection for a typical customer within the Customer Segment. The DU shall include its proposed Standard Connection Facilities as part of its application for approval of Standard Connection Charges.

2.4 STANDARD CONNECTION CHARGES

2.4.1 TRANSITION TO UNBUNDLED CONNECTION CHARGES

Within 180 days following the effectivity of these OADS Rules, every privately-owned DU shall submit an application for the approval of unbundled Standard Connection Charges (SCCs) for each Customer Segment, and any future general application to adjust rates made by a privately-owned DU shall likewise include proposed unbundled Standard Connection Charges pursuant to the methods set

forth herein. Any general application to adjust rates filed within 180 days following the effectivity of these OADS Rules shall include the required application for the establishment of unbundled SCCs. A DU shall not implement or adjust SCCs without ERC approval to do so.

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

ERC's policy regarding the establishment of Standard Connection Charges for Electric Cooperatives will be prescribed in another set of guidelines.

2.4.2 STANDARD CONNECTION CHARGE FOR EACH CUSTOMER SEGMENT

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

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

2.4.3 METHODOLOGY FOR COMPUTING STANDARD CONNECTION CHARGE

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

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

Where:

WACC is the ERC-approved weighted average cost of capital for the DU;

INVEST is the Connection Asset investment at current costs for a standard connection or typical End-user in the Customer Segment. The DU may propose the inclusion of working capital in INVEST provided that such proposal clearly identifies the recurring expenses involved and the timing of such cash flow;

OM is the current Operation and Maintenance Expense associated with connections as attributed to that Customer Segment;

DEP is the depreciation expense associated with INVEST based on straight line methodology and a depreciation life to be approved by the ERC;

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BD is the billing determinant for that Customer Segment as proposed by the DU subject to ERC approval.

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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. ERC approval of SCC will include the distinct approval of the stand-alone O&M charge for each Customer Segment.

2.4.4 ALTERNATIVE METHODOLOGY FOR COMPUTING STANDARD CONNECTION CHARGES

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

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

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

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

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

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2.4.5 SUMMARY OF OPTIONS FOR ESTABLISHING STANDARD CONNECTION CHARGES AND ADJUSTMENT OF DISTRIBUTION RATES

At present, Distribution Connection Assets form part of the rate base used to compute unbundled distribution rates. Therefore, in establishing Standard Connection

Charges, there must be a corresponding adjustment to the unbundled distribution rates. The method used for making such rate adjustment will depend on the approach followed in establishing the Standard Connection Charges.

Option 1: The DU makes its initial application pursuant to section 2.4.1 for approval of Standard Connection Charges prior to a general rate case. In such a case, the Standard Connection Charges, once approved by ERC, shall be credited against the unbundled distribution charges on each individual customer's bill.

Option 2: The DU makes its proposal for approval of Standard Connection Charges within a general rate case and follows the methodology specified in 2.4.3. In such a case, the unbundled distribution revenue requirement for a particular Customer Segment shall be reduced by the revenue to be collected through the Standard Connection Charges.

Option 3: The DU makes its proposal for approval of Standard Connection Charges within a general rate case and follows the methodology specified in 2.4.4. Under this methodology, the Distribution Connection Assets and related expenses have been properly separated from the unbundled distribution rate base and revenue requirement. In such a case, a revenue requirement offset or adjustment to the unbundled distribution rates is not required.

2.5 NEW CONNECTION POINTS OR MODIFICATION TO EXISTING CONNECTION POINTS

2.5.1 GENERAL

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

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

2.5.2 APPLICATION FOR CONNECTION

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

2.5.3 COMPLIANCE WITH PROCESS AND NON-DISCRIMINATION

The DU and each Connection Applicant shall comply with the processes set out in 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 Connection Applicants, subject to any reasonable or justifiable exceptions as may be approved by ERC. Likewise the DU shall not give preference or discriminate between Connection Customers or Connection Applicants based on a Contestable Market End-user's choice of supply.

2.6 MODIFICATIONS AND NEW PHYSICAL CONNECTIONS: RESIDENTIAL

2.6.1 RIGHT TO EXTENSION OF LINES AND FACILITIES

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

2.6.2 REFUND

To recover the aforementioned advanced payment, the customer may either demand the issuance of a notes payable from the distribution utility or a refund at the rate of twenty-five (25) percent of the gross distribution revenue derived from all customers connected to the line extension for the calendar year until such amounts are fully refunded or for five (5) years whichever period is shorter, 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. After five (5) years the advanced amount shall be deemed fully reimbursed,

Distribution Connection Assets paid for through advances from residential End-users shall be deemed plant in service in the accounts of the DU. Unpaid advances shall be a reduction to rate base. If replacement becomes necessary at any time for any Distribution Connection Assets paid for by residential End-users, the DU shall be solely responsible for the cost of such replacement which shall become part of rate base consideration, and shall not require another advanced payment from the connected residential End-users unless the replacement is due to End-user fault.

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2.6.3 DEDICATED TRANSFORMER

If it is necessary to dedicate a transformer to the service of a single residential End-user due to the non-standard, large load of that customer, the End-user shall pay the actual cost of the transformer and such payment shall not be subject to refund and will be treated as a Contribution in Aid of Construction (CIAC). This provision does not apply if a dedicated transformer is part of the Standard Connection Facilities for the End-user's Customer Segment or in the case of transformers which are dedicated to a single residential customer because of the isolated nature of that customer. In cases where the line extension is greater than

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30 meters, the transformer dedicated because of the isolated nature of the customer shall be subject to the refund process in section 2.6.2.

2.6.4 ENGINEERING AND DESIGN

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

2.6.5 MINIMUM FACILITIES

In designing the connection, whether it be standard or non-standard, the DU shall 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 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 paid for by the DU and treated as Electric Plant Held for Future Use.

2.6.6 NEAREST SOURCE

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

2.6.7 ALTERNATIVE ROUTES

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

2.6.8 EASEMENTS

The DU shall design line extensions along existing rights of way whenever such rights of way are available. With the exception of residential End-users located within thirty (30) meters of the existing Distribution System, the End-user shall provide to the DU at no cost any rights of way for a line extension across property owned or controlled by the End-user, or procure from other property owners, when such rights of way are necessary and dedicated to connect the End-user. In the event that the End-user cannot obtain the required rights of way, the DU may,

by powers of eminent domain or otherwise, obtain rights of way. With the exception of residential End-users located within thirty (30) meters of the existing Distribution System, all cash amounts required to procure easements shall be advanced by the residential customer subject to the refund mechanism stated in section 2.6.2.

2.6.9 MODIFICATION TO EXISTING FACILITIES

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

~~For modifications to existing facilities that result in a net increase in demand or electricity usage and are within the defined Standard Connection Facilities for the End-user's Customer Segment, the associated cost of such modification shall be that of the DU. If the modification results in facilities that are in excess of the Standard Connection Facilities, the 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 for five years or until such amounts are fully refunded, which ever period is shorter.~~

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2.6.10 RIGHT TO PROCURE EQUIPMENT AND CONSTRUCTION

Connection Customers/Applicants shall have the right to select their own contractor and/or equipment vendor for the equipment, construction and installation of Distribution Connection Assets provided that the same adhere to all requirements of the Distribution Code and any other standards approved by ERC. A Connection Customer/Applicant wanting to self-procure equipment and construction shall only select from contractors that have been accredited pursuant to guidelines issued by ERC. Residential End-users located farther than thirty (30) meters from the DU's existing secondary voltage lines who procure and pay for services and equipment to construct their own connection shall be eligible to receive a refund at the rate of twenty-five (25) percent of the gross distribution revenue derived for the calendar year for five (5) years or until such amount is fully refunded, whichever period is shorter. The End-user shall submit to the DU all relevant invoices and proof of payment along with a sworn affidavit from the End-user that the documents are true and accurate. The DU shall immediately inform the ERC if it has reason to believe that any invoices or proof of payment have been falsified and the ERC shall investigate. Said refund shall not exceed the DU's proposed estimate for constructing the Connection Assets or the actual cost incurred by the End-user, whichever amount is lower. Because the amounts paid for the construction of a connection for a residential End-user are subject to refund, a residential customer utilizing the option to construct their own connection shall pay the relevant Standard Connection Charge approved by ERC.

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2.7 MODIFICATIONS AND NEW CONNECTIONS: NON-RESIDENTIAL

2.7.1 RIGHT TO EXTENSION OF LINES AND FACILITIES

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

2.7.2 NON-STANDARD CONNECTION

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

2.7.3 ENGINEERING AND DESIGN

The DU shall be responsible for the engineering, design, and inspection of all line extensions required to provide electric service to a non-residential End-user. The DU shall prepare the design and cost estimate attributable to a line extension within thirty (30) business days following the request of a non-residential End-user or prospective non-residential End-user and submission of all necessary load data by the End-user. 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.

A non-residential End-user has the right to procure engineering and design services related to the development of a new or modified connection. The DU shall provide all data necessary for the completion of any studies related to construction of a new or modified connection. An End-user self-procuring engineering and design services shall be solely responsible for any related costs.

2.7.4 MINIMUM FACILITIES

In designing a connection, whether it be standard or non-standard, the DU shall 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 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.

2.7.5 NEAREST SOURCE

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

2.7.6 ALTERNATIVE ROUTES

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

2.7.7 EASEMENTS

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

2.7.8 MODIFICATION TO EXISTING FACILITIES

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

For modifications to existing facilities that result in a net increase in demand or electricity usage and are within the defined Standard Connection Facilities for the End-user's Customer Segment, the associated cost of such modification shall be that of the DU. If the modification results in facilities that are in excess of the Standard Connection Facilities, the non-residential End-user shall be solely responsible for the costs associated with the incremental additional facilities which will be treated as Contribution in Aid of Construction.

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2.7.9 RIGHT TO PROCURE EQUIPMENT AND CONSTRUCTION

Connection Customers shall have the right to select their own contractor and/or equipment vendor for the equipment, construction and installation of Distribution Connection Assets provided that the same adhere to all requirements of the Distribution Code and any other standards approved by ERC. A Connection Customer/Applicant wanting to self-procure equipment and construction shall only select from contractors that have been accredited pursuant to guidelines issued by ERC. . If the facilities paid for and constructed by the non-residential End-user become the property of the DU, such facilities shall be treated as a Contribution in Aid of Construction and shall not form part of the DU's appraised

value or rate base. The non-residential End-user opting to avail of the right under this section shall only pay the approved operation and maintenance component of the relevant Standard Connection Charge of section 2.4.3.

2.7.10 PROPORTIONATE SHARING OF LINE EXTENSION COSTS

Any End-user shall be allowed to connect to facilities treated as CIAC paid by another End-user. An End-user connecting to facilities previously treated as CIAC paid by another End-user within five (5) years shall pay the DU a CIAC equivalent to one-half of the CIAC paid by the previous End-user times the proportionate ratio of the distance utilized by the newly connecting End-user plus any added facilities necessary to connect the End-user that are in excess of the Standard Connection Facilities. For new connections in which two or more End-users previously paid CIAC, the newly connecting End-user shall pay $(1/(n+1))$ of the CIAC paid by the previous End-users times the proportionate ratio of the distance utilized by the newly connecting End-user, where n equals the number of End-users making the previous CIAC.

The DU shall return the CIAC paid by the newly connecting End-user to the End-user or End-users who originally made the CIAC in proportion to the relative amounts originally paid by each.

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2.7.11 CONTRIBUTION IN AID OF CONSTRUCTION

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

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2.7.12 OWNERSHIP OF CONNECTION ASSETS

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

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

2.8 CONNECTION OF A GENERATING FACILITY

2.8.1 INTERCONNECTION AND OPERATING AGREEMENT

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

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

2.8.2 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.

2.8.3 DESIGN REVIEWS AND INSPECTIONS

- a) For the purpose of understanding the connection requirements of the Connection Applicant and to ensure that planned Connection Assets are adequate, DU shall have the right to review the design of a Generator's Generating Facility and Interconnection Facilities and to inspect a Generator's Generating and/or Interconnection Facilities prior to the commencement of parallel operation with DU's Distribution System. The DU may request a Generator to make modifications as necessary to comply with the requirements of this OADS Rule and the Distribution Code. The DU's review and authorization for Parallel Operation shall not be construed as confirming or endorsing the Generator's design or as warranting the Generating and/or interconnection facilities' safety, durability or reliability. The DU shall not, by reason of such review or lack of review, be responsible for the strength, adequacy, or capacity of such equipment.
- b) Generators shall not begin operation with the DU's facilities for the first time until their interconnection facilities have been inspected by the DU and written approval is provided by the DU to the Generator. Such approval may be withheld for noncompliance with the requirements of 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.

2.8.4 PRUDENT OPERATION AND MAINTENANCE REQUIRED

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

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

2.9.1 APPLICATION PROCESS FOR GENERATORS

- a) Upon request, the DU will provide information and documents (such as the pro forma interconnection and operating agreement and the Application, technical requirements, specifications, listing of Certified Equipment, application fee information, applicable rate schedules and Metering requirements) in response to a Connection Applicant's inquiry. Unless otherwise agreed upon, all such information shall be sent to a Connection Applicant within five (5) business days following the initial request from the Connection Applicant. The DU will establish an individual representative as the single point of contact for the Connection Applicant, but may allocate responsibilities among its staff to best coordinate the Interconnection of a Connection Applicant's User Development. The application form shall include the following information:
 - 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) Connection Applicant Completes an Application. All Generators shall be required to complete and file an Application and any possible Detailed Planning Data as specified in Article 6.5 of the Distribution Code when the same is required ahead of the schedule specified in the Connection Agreement or Amended Connection Agreement. The filing must include the completed Application, a fee (if required) for processing the Application.
- c) The Connection Applicant may propose, and DU may negotiate specific costs for processing non-standard installations such as multi-units, multi-sites, or otherwise as conditions warrant. Within ten (10) business days of receiving the Application, the DU shall acknowledge its receipt and state whether the Application has been completed adequately. If defects are noted, the DU and Connection Applicant shall cooperate in a timely manner to establish a satisfactory Application.

2.9.2 GENERATING FACILITY DESIGN AND OPERATING REQUIREMENTS

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

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

2.9.3.1 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.

2.9.3.2 COST OF DIS

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

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2.9.3.3 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 Connection Applicant within thirty (30) days from receipt of the Connection Application by issuing an offer of service for DIS to the Connection Customer.

2.9.3.4 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.

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

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2.9.3.5 EFFECT ON APPLICATION.

If the Connection Applicant accepts the DU's offer of service, it shall agree to pay for the DU to conduct the required study. If the Connection Applicant rejects the offer of service, does not file a complaint with the

ERC, or does not reply to the offer of service within thirty (30) days of receipt of the Offer, its application shall be deemed withdrawn.

2.9.3.6 PAYMENT FOR UNDERTAKING DIS AND DATA SUBMISSION

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

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

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2.9.3.7 TIME PERIOD FOR COMPLETION OF DIS

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

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

2.9.3.8 RETENTION OF DIS

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

2.9.3.9 RELIANCE ON EXISTING DIS

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

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2.9.3.10 PROVISION OF DIS ISSUES AND RESULTS

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

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

2.9.3.11 NOTIFICATION OF ADEQUACY OF DISTRIBUTION

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

2.9.4 DISTRIBUTION ASSETS STUDY FOR GENERATORS

2.9.4.1 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 Connection Applicant an offer of service for a Distribution Assets Study ("DAS") within thirty (30) days of completing the DIS.

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

2.9.4.2 OPTIONS FOR CONNECTION APPLICANT IN UNDERTAKING DAS

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

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

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

2.9.4.3 COMPLETION OF DAS

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

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

2.9.4.4 COST OF DAS

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

2.9.4.5 SUBMISSION OF DATA FOR DAS

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

2.9.4.6 NOTIFICATION OF ADDITIONAL TIME TO COMPLETE DAS

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

2.9.4.7 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 Connection Applicant.
- (b) The Connection 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.

2.9.4.8 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.

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

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2.10 ARRANGEMENTS FOLLOWING EXECUTION OF CONNECTION AGREEMENT

2.10.1 COMPLETION OF CONNECTION ARRANGEMENTS

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

2.10.2 SECURITY FOR NEW FACILITIES OR FACILITY UPGRADES

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

2.10.3 DESIGN AND SPECIFICATION REQUIREMENTS

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

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

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2.10.4 INSTALLATION OF NECESSARY EQUIPMENT

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

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2.10.5 PROVISION OF REQUIRED INFORMATION AND TESTS OF EQUIPMENT

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

2.10.6 COSTS OF PROCESSING AND MODIFICATION

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

2.10.7 SAFETY, POWER QUALITY AND RELIABILITY

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

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

2.10.8 DATA REQUIREMENTS

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

2.10.9 CONFIDENTIAL TREATMENT OF DATA

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

2.10.10 PROTECTION ARRANGEMENTS

2.10.10.1 RESPECTIVE RESPONSIBILITY FOR PROTECTIVE DEVICES

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

2.10.10.2 NEW PROTECTIVE DEVICES

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

2.10.11 CONTINGENCY PROCEDURES

2.10.11.1 PROMPT NOTIFICATION OF CONTINGENCY.

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

2.10.11.2 CONTINGENCY ACTIONS.

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

2.10.11.3 ACCESS TO EACH OTHER'S CONNECTION ASSETS.

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.

2.10.12 PROPERTY ACCESS

2.10.12.1 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.

2.10.12.2 PROCEDURE.

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

- (a) In cases of maintenance, provide the other party with as much advance notice as is appropriate under the circumstances. Pilferage inspections shall be in accordance with the procedures set forth pursuant to RA 7832;

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 If the parties do not agree to give each other access, the party who refuses to give access shall be solely responsible for the maintenance of the Connection Assets of the other party located within the former's property and will be solely liable for all damages or losses arising from improper maintenance of such assets.¶

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

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

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2.10.14 CONNECTION CUSTOMER’S NON-COMPLIANCE

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

2.11 INTERCONNECTION BETWEEN DISTRIBUTION UTILITIES

2.11.1 GENERAL

Consistent with Section 23 (paragraph 4) of the EPIRA, DUs may interconnect in instances where such interconnection helps achieve economies of scale in operations, reliability of service, reduction in costs, and other efficiencies. The

terms and conditions of said interconnection shall be incorporated into an interconnection and operating agreement which is subject to approval by ERC.

2.11.2 INTERCONNECTION AND OPERATING AGREEMENT

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

ARTICLE III
RULES PERTAINING TO SERVICE TO THE CAPTIVE MARKET

3.1 GENERAL DESCRIPTION OF SERVICE

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

3.2 THE MAGNA CARTA FOR RESIDENTIAL CONSUMERS

The Captive Market includes both residential and non-residential End-users. Insofar as residential consumers are concerned, the 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 approved by the Commission that specifically affect the Captive Market service. Such information shall be included as an insert in the billing envelop or on the bill itself of all customers who are directly affected by the change.

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 discontinues one service location and establishes a new service location within the DU's franchise area. This provision does not apply to additional service locations established by the residential customer. In the event a customer establishes a new service location in addition to existing service(s), a bill deposit shall be required on that new service.

A bill deposit previously refunded to the customer may be reimposed if the customer defaults in the payment of his monthly bill. Once the bill deposit is

reimposed, he loses the right to refund the same prior to the termination of his electric service. This provision also holds for a residential customer who was not required to pay a deposit on a new service contract.

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. DUs shall pay interest on bill deposits equivalent to 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 on the anniversary of the commencement of service.

The bill deposit shall be refunded within one month from the termination of service provided all bills have been paid. A customer that has paid its electric bills on or before its due date for three (3) consecutive years may, however, demand for the full refund of the deposit prior to the termination of his service. An application for deposit refund shall be filed with the DU and the DU shall refund the deposit within one month from receipt of such application.

All customers shall be exempt from the payment of meter deposits. In cases of loss and/or damage to the electric meter due to the fault of the customer, the customer shall bear the full replacement cost of the meter. Within 90 days following the effectivity of these OADS Rules, all DUs shall submit a proposal to ERC on the methodology and timeline for the refund of all existing meter deposits.

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3.4.3 RE-ESTABLISHMENT OF CREDIT FOR ALL CAPTIVE CUSTOMERS

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

A customer who is subject to disconnection/termination and who requests continuation of service shall be required to first pay 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

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

3.5.3 CONTENTS OF BILL

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

- a. Any previous balance.
- b. The amount due for service provided during the current billing period with the date upon which this amount is past due.
- c. All unbundled rate elements in the specific sequence prescribed by ERC. Any additional rate elements or changes in the name of rate elements shall first be approved by ERC.
- 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. All disputes that cannot be settled by the DU to the satisfaction of the customer can be elevated to the ERC. The ERC contact number and email address for the Consumer Affairs Service as provided by the ERC.
- j. Any notices, advisories, or announcements required by the ERC to be placed on the bill.

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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. If time of use rates and metering are applicable, then the estimated bill shall rely on the relevant time of use load profile data during the previous month.
- c. The DU shall print the word “Estimate” on each bill which is based on estimated usage, and shall not issue more than two consecutive bills to a customer based upon estimated usage. Following two consecutive bills based on estimated usage, the DU shall either read the meter during the next billing cycle and adjust the estimated bills accordingly or take an initial meter read following the next billing cycle as if service was starting anew and no charges will be levied on the customer for the skipped billing cycle.
- d. The DU shall adjust the estimated usage upon the first reading of a meter after an estimated reading. Differential billing following estimated usage shall be spread out symmetrically by the number of months it was estimated without interest charges.

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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, if it is a market participant;
- (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.

4.4 RELATIONSHIP WITH RES'S END-USE CUSTOMERS

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

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 TIME OF USE METERING

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

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4.5.2 OWNERSHIP OF METERS

The person procuring the meter for a customer in the Contestable Market shall have the first option of owning and maintaining the meters subject to any applicable rules and regulations of ERC including but not limited to the Distribution Code. In the event a meter is not owned by the DU, the End-user shall execute an Agreement for Meter Ownership and/or Access for Non-Company Owned Meters similar to that included in Article VI of these OADS Rules. The DU remains responsible for testing, sealing, and maintenance of all meters, subject to ERC procedures, regardless of ownership. Immediate access by the DU to any meter within its franchise area shall not be denied.

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4.5.3 METER READING AND DATA DISSEMINATION SERVICE

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

4.5.4 REQUEST FOR ADVANCED METERING TECHNOLOGY

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.

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4.5.5 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 herein are met.

4.5.6 ACCESS AND METER READING

The RES contracted with an End-user shall have access for purposes of reading a meter of that End-user. If End-use customer takes DWS at primary distribution or transmission voltage, the DU shall meter DWS at that voltage

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level. 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. In the case of meter malfunction, the historical load profile from the previous month shall be reported and noted as such. The DU shall report measurement data for a point of delivery as required by the ERC.

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4.5.7 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

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

4.6.2 NON-IMPAIRMENT OF GENERATION CONTRACTS WITH END-USERS

The obligation to provide DWS per 4.6.1 shall not in any way impair an existing purchase power agreement or generation contract legally executed between an End-user and a Generation Company, nor a future purchase power agreement between an End-user and 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 and that End-user is not part of the Contestable Market, the End-user shall be considered to be part of the Captive Market and shall be served as such by the relevant franchised entity. Similarly, in the case of a legitimate contract that has expired and that End-user is not part of the contestable market, the End-user shall be considered to be

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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 including any deposits to the RES. Alternatively, an RES may execute a contract for transmission services directly with the TransCo. If the latter option is selected, the RES shall properly inform the DU providing DWS of this selection. This provision does not pertain to transmission connection services.

4.7.2 APPLICABLE TRANSMISSION RATES

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

4.7.3 ANCILLARY SERVICES

When the DU is connected to the transmission grid, 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 4.7.1. In the event a DU connected to the transmission grid provides ancillary services which benefit the Distribution System, compensation or credit to the DU and the Captive Market for providing ancillary services shall be determined pursuant to the WESM Rules when applicable.

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

4.7.4 WESM REQUIREMENTS

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

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 DEPOSIT FOR DWS

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

4.8.3 PAYMENTS

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

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

In the event an RES fails to pay for DWS by the due date prescribed for the service, the DU shall notify the RES that service under the DWS agreement will be terminated in seven (7) days. If the RES fails to pay within 48 hours following said notice, the DU shall send a copy of the notice of disconnection to the RES's affected End-use customers. Prior to termination of service under the RES DWS agreement, the End-use customer must either acquire supply from another licensed RES or temporarily establish service as a SoLR customer to avoid disconnection. If upon termination of service under the RES DWS agreement the End-use customer has not acquired service from another RES or the SoLR, the DU shall have the right to physically disconnect the End-use customer.

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In the event that an RES customer billed by the DU for DWS fails to pay by the due date, a 48-hour notice of disconnection shall be sent to the customer and the RES shall be informed of such notice. If the customer fails to pay the amount

within the 48-hour period, the DU shall have the right to physically disconnect such RES customer.

In the event that an RES customer fails to pay the RES for services rendered by the due date, the RES may send a 48-hour notice of disconnection to the customer and the DU shall be informed of such notice. If the customer fails to pay the amount within the 48-hour period, the RES shall have the right to request that the DU disconnect the RES customer, and the DU shall execute such request within 24 hours.

In any of the above disconnections, payment may be made to the agent or employee of the DU at the time of disconnection and the agent or employee shall desist from disconnecting service.

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

4.8.5 CONTESTABLE END-USER COMPLAINTS AND DISPUTES

Any 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.

4.10 WHEELING FOR ANOTHER DISTRIBUTION UTILITY

4.10.1 DU RESPONSIBILITIES

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

4.10.2 CUSTOMER RESPONSIBILITIES

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

ARTICLE V
GUIDELINES FOR ESTABLISHING REGULATED SERVICE RATES

5.1 GENERAL

The Commission issued its Uniform Rate Filing Requirements (UFR) on October 31, 2001. Since that time, ERC policy regarding the setting of rates by DUs has evolved, most notably with the implementation of the removal of cross-subsidies and the adoption of the Distribution Wheeling Rate Guidelines (DWRG). 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.

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

The 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.¹ The intent in granting such flexibility is to promote efficient DU operations; however, the Commission also intends to ensure that use of such flexibility adheres to the policies set forth in the EPIRA. Specifically, all DUs shall only charge rates that reflect the cost-based unbundled structure set forth in the UFR. At no time may costs or revenues that should be recovered from one unbundled function be shifted onto other unbundled functions. The rate design shall be free of inter-class subsidies. That is, costs or revenues that should be recovered from one customer segment shall not intentionally be shifted onto other customer segments. The Side Constraints set forth in Section 6.4

¹ 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 adds to that provision here with rules pertaining to rate elements.

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 i^{th} 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 t^{th} unbundled rate element. So now we have CR_{it} or the t^{th} rate element for the i^{th} 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 CR20YR or the total revenue collected by the company during the historical year 20YR.

Use the ratio $(CR_{it} / CR20YR)$ 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 i^{th} customer segment and t^{th} rate element for the new MAP. We can denote this amount as $TR_{it} = TR * (CR_{it} / CR20YR)$. 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.²

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 segment. This will establish the new charges paid by customers until the next

² This is consistent with Section 5.17 of the DWRG.

annual adjustment at which time the methodology described above in 5.3.2 and 5.3.3 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 PURCHASED POWER COSTS

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

5.6 TRANSMISSION COSTS

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

ARTICLE VI
PROFORMA AGREEMENTS AND FORMS

(Separately posted)

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

The agreements and forms provided herein only serve as guidance as to what the ERC may find acceptable. The parties to any agreement may as appropriate deviate from these pro forma agreements. Any deviations from the pro forma agreements shall be filed with ERC.

List of pro forma agreements and forms posted separately:

- 6.1 Connection Agreement
- 6.2 Application for Interconnection and Parallel Operation of Generation with the Utility System
- 6.3 Agreement for Interconnection and Parallel Operation of Generation
- 6.4 Easement and Right of Way Form
- 6.5 Agreement for Meter Ownership and/or Access for Non-Company Owned Meters
- 6.6 Distribution Wheeling Service Agreement

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