

AMENDED RULES FOR THE AUTOMATIC ADJUSTMENT OF GENERATION RATES AND SYSTEM LOSS RATES BY DISTRIBUTION UTILITIES

Pursuant to Sections 23 and 43 (f) of Republic Act No. 9136, otherwise known as Electric Power Industry Reform Act of 2001 or the EPIRA, Rule 7 of its Implementing Rules and Regulations (IRR) and Section 10 of Republic Act No. 7832, the Energy Regulatory Commission (ERC) hereby adopts and promulgates these Rules to establish a process for the automatic adjustment of Generation Rates and System Loss Rates by Distribution Utilities and to establish an incentive mechanism to promote the least cost procurement of supplies of power for the captive market.

ARTICLE I

GENERAL PROVISIONS

These Rules shall have the following objectives:

- a) To ensure and maintain the quality, reliability, security and affordability of the supply of electric power;
- b) To ensure transparent and reasonable prices of electric power service in a regime of free and fair competition and to achieve greater operational and economic efficiency;
- c) To ensure full recovery of all allowable Generation Costs and other costs associated with the System Loss Caps in an efficient and timely manner;
- d) To protect the public interest as it is affected by the rates and services of Distribution Utilities;
- e) To ensure that Distribution Utilities shall comply with their obligations to supply power in a least cost manner to their captive markets; and
- f) To encourage Distribution Utilities to participate in the Wholesale Energy Aggregation Groups.

ARTICLE II

SCOPE AND DEFINITION OF TERMS

Section 1. Scope - These Rules shall apply to all Distribution Utilities.

Section 2. Definition of Terms – When used in these Rules, the following terms:

- a) **“Act”** unless otherwise stated, shall refer to Republic Act No. 9136, otherwise known as the “Electric Power Industry Reform Act of 2001”.
- b) **“Average Transmission Rate (ATR)”** shall mean the average transmission rate computed based on the Unbundling Decision of the DU or the Transmission Rate Adjustment Mechanism (TRAM), whichever is applicable.
- c) **“Deferred Accounting Adjustment (DAA)”** shall mean the component of the generation rate, calculated in accordance with the Generation Rate Adjustment Mechanism (GRAM), intended to recover the deferred accounting balance.
- d) **“Distribution Utility (DU)”** shall refer 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 Act.
- e) **“Energy Regulatory Commission” or “ERC”** shall refer to the regulatory agency created by Section 38 of R.A. 9136.
- f) **“Generation Cost”** shall mean costs associated with the acquisition of purchased power. Generation costs include only those costs that are reasonable, prudently incurred, and are eligible for recovery in accordance with the current practice of the ERC.
- g) **“Generation Rate”** shall mean the cost of power generated and sold to the distribution utility by the National Power Corporation (NPC) as well as the Independent Power Producers (IPPs), which shall be passed on to the Distribution Utilities’ customers, as calculated in the formula prescribed in these Rules.
- h) **“Ineligible Supply Contracts”** shall mean power supply agreements entered into by and between Distribution Utilities and IPPs, which were not approved by the then Energy Regulatory Board or the ERC.
- i) **“Other Generation Rate Adjustments (OGA)”** shall refer to under(over)-recoveries in generation costs, recoveries from violation of contracts and other pilferages, as well as other adjustments deemed necessary by the ERC, subject to the provisions of these Rules. The OGA shall not be subject to any carrying charge.
- j) **“Prompt Payment Discount (PPD)”** shall mean the discount extended by power supplier/s to Distribution Utilities for the payment of power bills on or before the tenth (10th) day of the month following the billing period.
- k) **“System Loss”** shall mean the difference between (kilowatt-hour) kWh purchased and/or generated and kWh sold by a Distribution Utility expressed as a percentage of kWh purchased and/or generated.

l) **“System Loss Cap”** shall mean the level of System Loss recoverable from customers as established by the ERC in accordance with Section 43 (f) of R.A. 9136.

m) **“System Loss Rate”** shall mean the rate determined in accordance with the formula set forth in Article IV hereof. Individual System Loss Rates may be calculated based on different customer classes if the Distribution Utility maintains records on the individual customer class System Loss.

n) **“Wholesale Energy Aggregation Group”** shall mean a group of Distribution Utilities whose loads are aggregated for the purpose of procuring power supply for its captive market in accordance with Section 23 of R.A. 9136.

ARTICLE III

MONTHLY ADJUSTMENT OF THE GENERATION RATE

Section 1. Adjustment Formula – On or before the tenth (10th) day of each calendar month, Distribution Utilities shall calculate new Generation Rates based on the following formula:

$$GR = AGC + OGA$$

Where:

GR = Generation Rate to be charged per kWh

AGC = Adjusted Generation Cost, automatically computed without the need of prior ERC verification and confirmation, as follows:

$$= \frac{[(GC_i + GC_{ii} + \dots + GC_n) - (PPD * 50\%)]}{TP}$$

GC_{i to n} = The Generation Cost in Pesos from source of power 1 through source of power n for the previous month, excluding power sourced from self-generating facilities, unless the ERC determines that such generating facility is operating as a base load facility, adjusted for any least cost procurement reward or penalty in accordance with Article VII of these Rules.

PPD = Prompt Payment Discounts (PPD) availed by the Distribution Utility, net of the PPD extended to the end customers. The discount passed on to customers can not be higher than the discount availed from the power supplier/s, relative to the previous month's generation cost.

TP = Total Purchases in kWh for the previous month

OGA = Other Generation Rate Adjustments refer to adjustments deemed necessary by the Commission, which shall include under(over)-recoveries in generation costs and recoveries from violation of contracts and other pilferages. The OGA shall not be subject to any carrying charge.

In the case of ineligible supply contracts, generation costs from such contracts shall include the kilowatt-hours pertaining to ineligible contracts but the costs shall be pegged at the NPC's applicable average grid rate level or the actual rate, whichever is lower, without prejudice to the imposition of appropriate penalties.

Section 2. Billing of New Generation Rate – The Distribution Utilities shall bill their customers with Generation Rates calculated in accordance with the immediately preceding Section effective on or before the tenth (10th) day of each month.

ARTICLE IV

MONTHLY ADJUSTMENT OF THE SYSTEM LOSS RATE

Section 1. Adjustment Formula – On or before the tenth (10th) day of each month, Distribution Utilities shall calculate new System Loss Rates based on the following formula:

$$SLR = (GR * U) + (ATR * U)$$

Where:

SLR = System Loss Rate

GR = Generation Rate calculated in accordance with Article III

ATR = Average Transmission Rate (ATR) in Peso per kWh, computed as: Transmission Costs per unbundling divided by the Annualized Sales in kWh or the new transmission rates computed based on TRAM

U = Gross Up Factor = (% System Loss / [1- %System Loss])

The % System Loss is based on the actual System Loss or the System Loss cap, whichever is lower, plus actual company use or the company use cap of 1%, whichever is lower. The actual System Loss and company use are based on the average of the most recent twelve (12) month figures for which information is available. Actual System Loss can be calculated on an individual customer class level if the Distribution Utility has the required information to support individual System Loss Rates.

Section 2. Billing of System Loss Rate – The Distribution Utilities shall bill their customers on or before the tenth (10th) day of each month with System Loss Rates calculated in accordance with the immediately preceding Section.

ARTICLE V

VERIFICATION PROCESS

Section 1. Monthly Reporting Requirements – On or before the twentieth (20th) day of each month, the Distribution Utilities shall provide the ERC with all calculations related to Articles III and IV together with supporting documents, which shall include, but not limited to, the following:

- a) Invoices from power suppliers;
- b) Sample bills to end-users;
- c) Official receipts of payment of power supplier invoices
- d) ERC Forms DU-M-01 & DU-M-02; and
- e) Other documents deemed relevant by the ERC.

Section 2. Post Verification – At least every six (6) months, the ERC shall verify the recovery of Generation Costs by comparing the actual allowable costs incurred for the period with the actual revenues for the same period generated by the Generation Rates and the portion of the Systems Loss Rates attributable to Generation Costs.

Should the ERC failed to verify the Generation Rate (including the OGA) and System Loss Rate within six (6) months from the issuance of a Notice of Complete Submission (NCS), the rates shall be deemed final and confirmed.

Upon completion of the semi-annual verification process, the ERC shall issue an Order establishing the adjustments to be included in the OGA resulting from said semi-annual verification. These adjustments shall be implemented in the succeeding six (6) month period to reflect any over or under recovery.

Section 3. Prior Verification of Other Generation Rate Adjustments (OGA) – The OGA, other than those included in Section 2 of Article V, shall be verified and confirmed by the ERC within forty five (45) days from the date of its filing and only thereafter the same shall be recoverable.

ARTICLE VI

FINAL FILING UNDER THE GENERATION RATE ADJUSTMENT MECHANISM

Section 1. Effectivity of the Generation Rate Adjustment Mechanism (GRAM) – Upon the effectivity of these Rules, the GRAM shall no longer be applicable to Distribution Utilities.

Section 2. Final filing under GRAM – Distribution Utilities that are using the GRAM to recover Generation Costs shall file their final GRAM applications within sixty (60) days from the effectivity of these Rules. The final GRAM filing shall include the period from their last approved GRAM filing to the effectivity of these Rules for purposes of calculating the final Deferred Accounting Adjustment (DAA).

ARTICLE VII

LEAST COST PROCUREMENT INCENTIVE MECHANISM

Section 1. Least Cost Procurement Reward Eligibility – Upon the establishment of the Wholesale Electricity Spot Market (WESM), a Distribution Utility which procures power supply for its captive market from mix sources which include at least ninety percent (90%) bilateral contracts is eligible for a least cost procurement reward.

Section 2. Least Cost Procurement Reward Level – An eligible Distribution Utility which procures power supply for its captive market at a weighted average rate less than the applicable average grid rate set by the ERC for NPC shall be allowed to retain twenty percent (20%) of any savings. Eighty percent (80%) of such savings shall be passed through to its captive market.

An eligible Distribution Utility which participates in a Wholesale Energy Aggregation Group with an aggregated load of at least 100 MW shall be allowed to retain an additional five percent (5%) of any savings.

Upon the operation of the WESM, NPC rate shall be the benchmark until the ERC established a new benchmark rate.

Section 3. Least Cost Procurement Penalty – Any Distribution Utility which procures power supply for its captive market at a weighted average rate in excess of the applicable average grid rate set by the ERC for NPC shall not be allowed to pass through to its captive market any costs in excess of such rate unless the excess costs are the result of purchases from a bi-lateral contract approved by the ERC prior to the effectivity of these Rules.

Section 4. Impact of Rewards and/or Penalties – Any reward or penalty calculated in accordance with this Article shall not be included as an adjustment to the Adjusted Generation Cost calculated in accordance with Section 1 of Article III.

ARTICLE VIII

Section 1. Fines and Penalties – Violation of any provision of these Rules shall be subject to the imposition of fines and penalties in accordance with the Rules to Govern the Imposition of Administrative Sanctions in the Form of Fines and Penalties Pursuant to Section 46 of Republic Act No. 9136 promulgated by the ERC on May 17, 2002.

ARTICLE IX

FINAL PROVISIONS

Section 1. Exception Clause – Where good cause appears, the ERC may allow an exception from any provisions of these Rules, if such exception is found to be in the public interest and is not contrary to law or any other related rules and regulations.

Section 2. Separability Clause – If for any reason, any part or section of these Rules is declared unconstitutional or invalid, the other parts or sections hereof which are not affected thereby shall continue to be in full force and effect.

Section 3. Effectivity – These Rules shall take effect on the fifteenth (15th) day following its publication in two (2) newspapers of general circulation.

Pasig City, July __, 2006

RODOLFO B. ALBANO, JR.
Chairman

OLIVER B. BUTALID
Commissioner

JESUS N. ALCORDO
Commissioner

RAUF A. TAN
Commissioner

ALEJANDRO Z. BARIN
Commissioner