

RESOLUTION NO. 08, Series of 2008

**A RESOLUTION ADOPTING THE RULES TO GOVERN THE
REFUND OF METER DEPOSITS TO RESIDENTIAL AND
NON-RESIDENTIAL CUSTOMERS**

WHEREAS, the Commission promulgated the Magna Carta for Residential Electricity Consumers and the Distribution Services and Open Access Rules (DSOAR) on June 17, 2004 and January 18, 2006, respectively;

WHEREAS, Article 8 of the Magna Carta provides that "all consumers shall be exempt from payment of meter deposits x x x.";

WHEREAS, Article 3.4.2 of DSOAR provides that "all customers shall be exempt from the payment of meter deposits x x x.";

WHEREAS, Chapter III of the Guidelines to Implement Articles 7, 8, 14 and 28 of the Magna Carta for Residential Electricity Consumers adopted by the Commission on October 27, 2004 outlines the guidelines and procedures to implement Article 8 on meter deposits;

WHEREAS, on March 26, 2008, the Commission conducted a public consultation for the adoption of the "Rules to Govern the Refund of Meter Deposits to Residential and Non-Residential Customers" which was attended by several distribution utilities (DUs) and various consumer groups such as the National Association of Electricity Consumers for Reforms, Inc. (NASECORE) and the Federation of Las Pinas Village Association (FOLPVA), among others;

WHEREAS, the draft Rules were revised to incorporate all the comments raised during the said public consultation;

WHEREAS, said revised draft Rules were posted in the Commission's website from May 7, 2008 to May 23, 2008 for second round of comment by the public;

WHEREAS, the Rules seek to establish the terms and conditions for the implementation of the refund of Meter Deposits of both residential and non-residential customers of DUs;

NOW THEREFORE, the Commission, after thorough and due deliberation, **RESOLVED**, as it hereby **RESOLVES**, to **APPROVE** and **ADOPT** the "Rules to Govern the Refund of Meter Deposits to Residential and Non-Residential Customers" herein attached as "ANNEX A" and made an integral part of this Resolution.

All DUs are directed to submit within fifteen (15) days from the effectivity of these Rules the total principal amount of meter deposit for refund.

This Resolution shall take effect fifteen (15) days following its publication in a newspaper of general circulation in the Philippines.



Let copies of this Resolution be furnished the University of the Philippines Law Center-Office of the National Administrative Register (UPLC-ONAR) and all DUs.

Pasig City, June 4, 2008.


RODOLFO B. ALBANO, JR.
Chairman


RAUF A. TAN
Commissioner


ALEJANDRO Z. BARIN
Commissioner


MARIA TERESA A. R. CASTANEDA
Commissioner


JOSE C. REYES
Commissioner



**RULES TO GOVERN THE REFUND OF METER DEPOSITS TO RESIDENTIAL
AND NON-RESIDENTIAL CUSTOMERS**

Pursuant to the provisions of Section 41 of Republic Act No. 9136, otherwise known as the Electric Power Industry Reform Act, Article 8 of the Magna Carta for Residential Electricity Consumers and Article 3.4.2 of the Distribution Services and Open Access Rules (DSOAR), the Energy Regulatory Commission (ERC) hereby promulgates the following rules, terms and conditions for the implementation of the refund of Meter Deposits of customers of distribution utilities.

ARTICLE I

GENERAL PROVISION

Section 1. Objectives. - These Rules shall have the following objectives:

- a) To provide distribution utilities with parameters for the refund of Meter Deposits and interests thereon; and
- b) To provide the applicable interest rates on the Meter Deposits arising from the promulgation of various rules and regulations by the Energy Regulatory Commission and its predecessor agencies.

Section 2. Scope of Application. - These Rules shall govern the refund of Meter Deposits of all distribution utilities.

Section 3. Definition of Terms. - As used in these Rules, the following terms shall have the following respective meanings:

- a) **Act or R.A. No. 9136.** Refers to Republic Act No. 9136, otherwise known as the "Electric Power Industry Reform Act of 2001".
- b) **Consumer or Customer or End-user.** Refers to any person/entity who is the registered customer of the DU and has paid the Meter Deposit as

required by the DU. This also refers to registered customer's heirs, successors-in-interest or their duly authorized representative.

- c) **Distribution Services and Open Access Rules or DSOAR.** Refers to the Rules promulgated by the ERC under ERC Case No. 2005-10RM which became effective on February 2, 2006.
- d) **Distribution Utility or DU.** Refers to any electric cooperative, private corporation, government-owned utility or existing local government unit which has exclusive franchise to operate a distribution system in accordance with its franchise and Republic Act No. 9136.
- e) **Electric Cooperative (EC).** Refers to any distribution utility organized and incorporated pursuant to Presidential Decree No. 269, as amended by Presidential Decree No. 1645 and Republic Act No. 6938, otherwise known as the Cooperative Code of the Philippines.
- f) **Energy Regulatory Commission or ERC.** Refers to the regulatory agency created under Republic Act No. 9136.
- g) **Magna Carta for Residential Electricity Consumers or Magna Carta.** Refers to the Magna Carta adopted by the ERC on June 9, 2004.
- h) **Meter Deposit.** Refers to deposits made by customers to ensure the return of the DU's metering facilities.
- i) **Privately Owned Distribution Utility (PU).** Refers to any private distribution utility which has an exclusive franchise to operate a distribution system in accordance with its franchise and Republic Act No. 9136.

Capitalized terms not otherwise defined herein shall have the meaning ascribed to them under Republic Act No. 9136.

ARTICLE II

METER DEPOSIT REFUND FOR ELECTRIC COOPERATIVES

Section 1. Start of the Period for Refund. - The refund of Meter Deposits shall commence not later than twenty-four (24) months from the effectivity of these Rules.

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Section 2. Mode of Refund. - The mode of refund of the Meter Deposit shall either be a credit to customers' future monthly billings or as offset to other due and demandable claims the ECs may have against the Customer.

If the refund is to be made in the form of credit to the customers' future monthly billings, the amount of monthly refund must be shown in the ECs' bill as a separate item. However, if the meter deposit was applied as an offset to the due and demandable obligations of the Customer to the ECs, an official receipt must be issued in the name of the Customer.

The ECs may convert the amount of Meter Deposit to be refunded as contribution from member-consumers with the consent of its member-consumers which shall be recorded in the books of the ECs accordingly.

Section 3. Amount of Refund. - The amount of refund shall be equivalent to the meter deposit received by the ECs from its residential and non-residential customers and the same shall not bear any interest.

For ECs who opt to refund the Meter Deposit as a credit to the customers' monthly billing, the amount of refund is computed as follows:

$$MR = MD / T_k$$

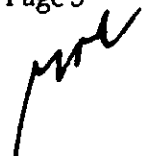
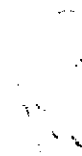
Where:

- MR = Monthly refund in Pesos.
- MD = Amount of Meter Deposit paid by the residential and non-residential customers of the ECs.
- T_k = Number of months to refund the Meter Deposit.

ARTICLE III

REFUND OF METER DEPOSIT FOR PRIVATELY OWNED DISTRIBUTION UTILITIES

Section 1. Start of the Period for Refund. - The refund of Meter Deposits and accrued interests shall commence not later than six (6) months from the effectivity of these Rules.



Section 2. Mode of Refund. - At the option of the customers, the mode of refund of the Meter deposit and its applicable interest as computed under Section 3 of this Article shall either be in cash, check, credit to customers' future monthly billings, or as offset to other due and demandable claims the PUs may have against the Customer.

In the event a customer shall decide to such refund of the Meter deposit and its applicable accrued interest in cash or check, the same shall be made in a single payment.

If the refund is to be made in the form of credit to the customers' future monthly billings, the amount of monthly refund must be shown in the PUs' bill as a separate item.

If the meter deposit is applied as an offset to the due and demandable obligations of the customer to the PUs, an official receipt must be issued in the name of the customer.

Section 3. Amount of Refund. - The amount of refund shall be computed as follows:

3.1 For customers of PUs who opt to receive the refund in the form of cash, check or an offset to their obligations to the PUs, the amount of refund shall be computed as follows:

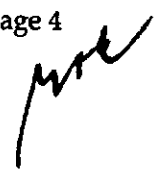
$$TR = MD + MDAI$$

3.2 For customers of PUs who opt to receive the refund in the form of credit to their future periodic billings, the amount of periodic refund shall be computed as follows:

$$PR = TR \times \{ [i_d \times (1 + i_d)^n] / [(1 + i_d)^n - 1] \}$$

Where:

TR = Total amount of Refund in Pesos or the Amount of Meter Deposit paid by the residential and non-residential customers of the PUs plus the total accrued interest earned on the meter deposit from the time the customers paid the meter



deposit until the day prior to the start of the refund.

PR = Periodic refund in Pesos.

I_d = For Residential Customers and Non- Residential Customers under category 3.3.1 and 3.3.3, the interest rate is 6% divided by the number of payments per year and for other residential customers and non-residential customers the interest rate is 10% divided by the number of payments per year.

n = Number of payments to refund the Meter Deposit and its corresponding interest equivalent.

3.3 The **MDAI** shall vary depending on the type of Customer and on the time of the receipt of the meter deposits.

A sample computation of **MDAI**, particularly using the formula provided under **Section 3.3.1** hereof is attached hereto as Annex A.

3.3.1 For **Residential Customers** who paid the Meter Deposit prior to the effectivity of Resolution No. 95-21 on September 22, 1995.

$$\text{MDAI} = \text{Al}_{11} + \text{Al}_{21} + \text{Al}_{31}$$

Where :

Al₁₁ = Accrued interest for the period starting from the day the customer paid the Meter Deposit until the day prior to the effectivity of Resolution No. 95-21, calculated as follows:

$$\text{Al}_{11} = \text{MD} \times I_{11} \times (T_{11} / 365)$$

Al₂₁ = Accrued interest for the period starting from the effectivity of Resolution No. 95-21 until the day prior to the effectivity of the Guidelines to Implement Articles 7,8,14 and 28 of the Magna Carta for Residential Electricity Consumers, calculated as follows:

$$\text{Al}_{21} = \text{MD} \times I_{21} \times (T_{21} / 365)$$

AI_{3i} = Accrued interest for the period starting from the effectivity of the Guidelines to Implement Articles 7,8,14 and 28 of the Magna Carta for Residential Electricity Consumers until the day prior to the start of the refund, calculated as follows:

$$AI_{3i} = MD \times I_{3i} \times (T_{3i} / 365)$$

Where:

I_{1i} = Interest rate equivalent to six percent (6%) per annum

T_{1i} = Total number of days from the day the customer paid the Meter Deposit until the day prior to the effectivity of Resolution No. 95-21.

I_{2i} = Interest rate equivalent to ten percent (10%) per annum

T_{2i} = Total number of days from the effectivity of Resolution No. 95-21 until the day prior to the effectivity of the Guidelines to Implement Articles 7,8,14 and 28 of the Magna Carta for Residential Electricity Consumers.

I_{3i} = Interest rate equivalent to six percent (6%) per annum

T_{3i} = Total number of days from the effectivity of the Guidelines to Implement Articles 7,8,14 and 28 of the Magna Carta for Residential Electricity Consumers until the day prior to the start of the refund.

3.3.2 For Residential Customers who paid the Meter Deposit on or after the effectivity of Resolution No. 95-21.

$$MDAI = MD \times I_{2p} \times (T_{2p} / 365)$$



Where:

$I_{2\beta}$ = Interest rate equivalent to ten percent (10%) per annum.

$T_{2\beta}$ = Total number of days from the day the customer paid the Meter Deposit until the day prior to the start of the refund.

3.3.3 For Non-Residential Customers who paid the Meter Deposit prior to the effectivity of Resolution No. 95-21 on September 22, 1995.

$$MDAI = AI_1 + AI_2 + AI_3$$

Where:

AI_1 = Accrued interest for the period starting from the day the customer paid the Meter Deposit until the day prior to the effectivity of Resolution No. 95-21, calculated as follows:

$$AI_1 = MD \times I_1 \times (T_1/365)$$

AI_2 = Accrued interest for the period starting from the effectivity of Resolution No. 95-21 until the day prior to the DSOAR, calculated as follows:

$$AI_2 = MD \times I_2 \times (T_2/365)$$

AI_3 = Accrued interest for the period starting from the effectivity of the DSOAR until the day prior to the start of the refund, calculated as follows:

$$AI_3 = MD \times I_3 \times (T_3/365)$$

Where:

I_1 = Interest rate equivalent to six percent (6%) per annum

T_1 = Total number of days from the day

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the customer paid the Meter Deposit until the day prior to the effectivity of Resolution No. 95-21.

I_2 = Interest rate equivalent to ten percent (10%) per annum.

T_2 = Total number of days from the effectivity of Resolution No. 95-21 until the day prior to the DSOAR.

I_3 = Interest rate equivalent to six percent (6%) per annum

T_3 = Total number of days from the DSOAR until the day prior to the start of the refund.

3.3.4 For Non-Residential Customers who paid the Meter Deposit on and after the effectivity of Resolution No. 95-21.

$$MDAI = MD \times I_{2\Delta} \times (T_{2\Delta}/365)$$

Where:

$I_{2\Delta}$ = Interest rate equivalent to ten percent (10%) per annum

$T_{2\Delta}$ = Total number of days from the day the customer paid the Meter Deposit until the day prior to the start of the refund.

ARTICLE IV

MISCELLANEOUS PROVISIONS

Section 1. Duration of Refund Period. The refund of Meter Deposits and its applicable accrued interest must be completed by the DUs not longer than sixty-six (66) months from the effectivity of these Rules.



Section 2. Phase of Refund. - The DUs may opt to implement the refund in phases provided the refund must be completed by the DUs not longer than sixty-six (66) months from the effectivity of these Rules.

Section 3. Notification. - At least one (1) month prior to the start of the implementation of the refund, the DUs shall cause the publication of the notice of the refund including the schedule, mechanics and other pertinent information regarding the refund once in a newspaper of general circulation in the locality in which the DUs principally operate.

Likewise, DUs are required to inform the consumers within their respective franchise areas, by any other means available and appropriate, of the refund and the method thereof. Further, DUs are required to furnish the Offices of the Municipalities/Cities within their respective franchise areas with copies of the Notice of Refund for the appropriate posting thereof on their respective bulletin boards.

Section 4. Amount of Refund for DUs who have partially implemented the refund of the Meter Deposits. - For those DUs who have partially implemented the refund of Meter Deposit, an accounting of under or (over) refund shall be made as follows:

$$\text{Under/(Over) Refund} = \text{TR} - \text{AR}$$

Where:

TR = Total amount of Refund calculated under Section 3 of Articles II and III hereof.

AR = Amount refunded by the distribution utilities.

If the resulting figure is an under refund, the same is to be refunded by the PUs in the mode preferred by the customer.

If the preferred mode of refund by the customer is in the form of credit to his/her future monthly billings, the amount of monthly refund is computed as follows:

$$\text{MR} = \text{Under Refund} / T_k$$

Where:

T_k = Number of months to refund the Meter Deposit.

If the resulting figure is an over refund, the same shall be debited to the account of the customer after due notice is given to the ERC.

Section 5. Requirements for Residential Customers. - When applying for a refund, the residential customers, shall submit the following supporting documents:

5.1. For applicants who are the registered Customers:

5.1.1. Any valid identification card, including but not limited to the following:

- Driver's license;
- Passport;
- Professional Regulatory License;
- SSS/GSIS/TIN ID;
- Phil-Health ID;
- Senior's Citizen IC;
- Postal ID;
- Original NBI Clearance; and
- Credit Card.

5.2. For applicants who are the heirs or successors-in-interest of the registered Customers:

5.2.1. Any valid identification card, including but not limited to the following:

- Driver's license;
- Passport;
- Professional Regulatory License;
- SSS/GSIS/TIN ID;
- Phil-Health ID;
- Senior's Citizen IC;
- Postal ID;
- Original NBI Clearance; and
- Credit Card.

5.2.2. Death certificate or proof of death of the registered customer.

5.2.3. The heir/s of the Customer must present proof of filiations or any pertinent document that will prove the successional right to the registered customer, such as but not limited to the birth certificates of the heir/s and their ascendants, or marriage certificate.

5.2.4. The successors-in-interest to the registered Customer must present proof of transfer of rights and obligations over the property, including the meter deposit, from the registered customer who was



the previous owner of the property, such as but not limited to the Deed of Sale.

5.2.5. Undertaking that there are no other legal heirs of the registered Customer.

5.3. For the duly authorized representative of the registered Customers:

5.3.1. Any valid identification card, including but not limited to the following:

- o Driver's license;
- o Passport;
- o Professional Regulatory License;
- o SSS/GSIS/TIN ID;
- o PhilHealth ID;
- o Senior's Citizen IC;
- o Postal ID;
- o Original NBI Clearance; and
- o Credit Card.

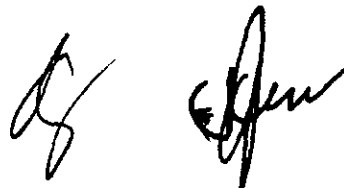
5.3.2. The duly authorized representative of the registered Customers must submit a Special Power of Attorney from the registered Customer stating that he/she is authorized to receive the refund in behalf of the registered customer.

Section 6. Requirements for Non-Residential Customers. - When applying for the Meter Deposit refund, non-residential customers shall submit such documents that the DU may reasonably require.

Section 7. Requirements for DUs. - DUs must establish the necessary mechanics to ensure that the refund of the Meter Deposits shall be made in a timely manner and to the Customer entitled thereto.

Section 8. Reportorial Requirements. - DUs shall give notice to the ERC of the start of the implementation of the refund not later than one (1) month after said implementation together with the proof of publication of the notice as required under Section 3, Article IV hereof.

For audit purposes, the DUs must ensure that all pertinent documents related to the refund of meter deposit are maintained.



If the ECs have obtained the consent of its member-consumers that the meter deposit shall no longer be refunded, a duly notarized document evidencing such consent must be submitted to the ERC not later than one (1) month after such consent has been obtained.

Section 9. Audit of Refund. - The refund of the Meter Deposit including its implementation shall be subject to audit by the ERC or such person or entity the ERC may authorize.

Section 10. Exception to the Refund of Meter Deposits. - In the event the meter facilities of the Customer were replaced by the DU due to damage or destruction attributable to the Customer, the DU may claim or offset the cost of the replaced meter against the amount of refund due said Customer: Provided, that the DU gave notice to the affected Customer of its claim against the Meter Deposit within thirty (30) days from the replacement of the meter facilities or that the Customer had issued an acknowledgement of his accountability for the replaced meter facilities.

Destruction or damage of meter facilities due to wear and tear or such other causes not attributable to the customer are not grounds for any claim by the DU against the Meter Deposit of the Customer.

Section 11. Unclaimed Meter Deposit. - Upon the prescription of the period of refund, all unclaimed Meter Deposits including all appropriate accrued interests, shall be deposited in an escrow account in a bank and the State, through the Office of the Solicitor General (OSG), shall be notified of such deposit, copy furnished the ERC.

If the unclaimed Meter Deposit has been placed in escrow, the concerned customer shall, within ten (10) years from the deposit thereof, claim the same from the bank where the escrow account is maintained. Otherwise, the State, through the OSG, shall initiate escheat proceedings in the Regional Trial Court (RTC) where the bank is located, and thereafter, declare the unclaimed Meter Deposit, after due notice and hearing, escheated in favor of the State.

ARTICLE V

FINES AND PENALTIES

Section 1. Administrative Sanctions. - Violation of any provisions of these Rules shall be subject to the imposition of fines and penalties in accordance with the



Guidelines to Govern the Imposition of Administrative Sanctions in the Form of Fines and Penalties pursuant to Section 46 of the Act promulgated by the ERC on May 17, 2002.

ARTICLE VI

FINAL PROVISIONS

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

Section 2. Separability Clause. - If for any reason, any part or section of these Rules is declared unconstitutional or invalid, the parts or section hereof which are not affected thereby shall continue to be in full force and effect, unless such declaration would render the whole rules unenforceable or non-implementable.

Section 3. Repealing Clause. - All Rules and Guidelines, or portions thereof, issued by the ERC, which are inconsistent with these Rules are hereby repealed or modified accordingly.

Section 4. Effectivity. - These Rules shall take effect fifteen (15) days following its publication in a newspaper of general circulation.

Pasig City. June 4, 2008.


RODOLFO B. ALBANO, JR.
Chairman


RAUL A. TAN
Commissioner


ALEJANDRO Z. BARIN
Commissioner


MARIA TERESA A.R. CASTAÑEDA
Commissioner


JOSE C. REYES
Commissioner

Annex A

Assumptions:

Amount of Meter Deposit (MD):	:	Php 1,000.00
Date of Deposit	:	September 22, 1994
Date of Start of refund	:	September 22, 2008
Type of Customer	:	Residential

A. To determine the accrued interest for the meter deposit we use the formula
 $MDAI = AI_{1i} + AI_{2i} + AI_{3i}$

Where:

1. AI_{1i} is computed as follows:

$$Php1000 \times 6\% \times 365/365 = Php 60.00$$

2. AI_{2i} is computed as follows:

$$Php1000 \times 10\% \times 3,291/365 = Php 901.64$$

3. AI_{3i} is computed as follows:

$$Php1000 \times 6\% \times 1,455/365 = Php 239.98$$

Accordingly, MDAI is equal to Php1,200.82

B. On the other hand, the total amount for refund is computed using the formula $MD+MDAI$, thus:

$$Php1000.00 + Php1,200.82 = Php2,200.82$$

