

RULES FOR THE RECOVERY OF DEFERRED ACCOUNTING ADJUSTMENT FOR FUEL AND PURCHASED POWER COSTS BY NATIONAL POWER CORPORATION (NPC) AND NPC SMALL POWER UTILITIES GROUP (NPC-SPUG)

Pursuant to Section 43 (f) of the Republic Act No. 9136, the Energy Regulatory Commission (ERC) hereby adopts and promulgates these Rules to establish a process for the Recovery of Deferred Accounting Adjustment for Fuel and Purchased Power Costs by the National Power Corporation (NPC) and NPC Small Power Utilities Group (NPC-SPUG).

ARTICLE I

GENERAL PROVISIONS

These Rules shall have the following objectives:

- a) To ensure and maintain 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 the full recovery of all allowable fuel and purchased power costs; and
- d) To protect the public interest as it is affected by the rates and services of NPC and NPC-SPUG.

ARTICLE II

SCOPE AND DEFINITION OF TERMS

Section 1. Scope - These Rules shall apply to:

- a) National Power Corporation (NPC);
- b) Power Sector Assets and Liabilities Management Corporation (PSALM);and
- c) NPC Small Power Utilities Group (NPC-SPUG).

Section 2. Definition of Terms. As used in these Rules, the following terms shall have the following respective meanings:

“Act” unless otherwise stated, shall refer to Republic Act No. 9136, otherwise known as the “Electric Power Industry Reform Act of 2001”.

“Deferred Accounting Adjustment” or “DAA” shall mean the component of generation rate calculated in accordance with Section 2, Article III of these Rules, intended to recover the deferred allowable fuel and purchased power costs.

“Allowable Fuel Cost” shall mean the absolute amount in pesos of fuel cost for the billing month subject to heat rate caps approved by the ERC. This includes Bunker, Diesel, Coal, Natural Gas and other fuel types. Steam cost shall form part of the allowable fuel cost but shall not be subjected to any heat rate cap.

“Allowable Purchased Power Cost” shall mean the absolute amount in pesos of purchased power cost for eligible Independent Power Producer (IPP) Supply Contracts during the test month.

“Heat Rate Caps” shall mean the latest heat rate caps approved by the ERC.

“Eligible Independent Power Producers (IPP) Supply Contracts” shall mean power supply agreements entered into by NPC with IPPs under the Build-Operate-Own (BOO), Build-Operate-Transfer (BOT), Build-Rehabilitate-Operate-Transfer (BROT), Build-Transfer-Operate (BTO), Power Purchase (PPA), Energy Conversion (ECA), Rehabilitate-Operate-Lease (ROL) and Rehabilitate-Operate-Maintain-Manage (ROMM) Agreements prior to the enactment of RA No. 7638 or the Department of Energy Law and those agreements entered into after the enactment of RA No. 7638 but were duly approved by the then Energy Regulatory Board (ERB) or the ERC for inclusion in rate calculations.

“Ineligible Independent Power Producers (IPP) Supply Contracts” shall mean power supply agreements entered into by the NPC with the IPPs, which were not duly approved by the then Energy Regulatory Board or by the ERC^[CT12].

“National Power Corporation or NPC” shall refer to the government corporation created under Republic Act No. 6395, as amended.

“Energy Regulatory Commission” or “ERC” shall refer to the regulatory agency created by Section 38 of the Act.

“Power Sector Assets and Liabilities Management Corporation or PSALM” shall refer to the corporation created pursuant to Section 49 of the Act.

“Small Power Utilities Group or SPUG” shall refer to the functional unit of NPC created to pursue Missionary Electrification function.

“Stranded Contract Cost of NPC” refers to the excess of the contracted cost of electricity under eligible contracts of NPC over the actual selling price of the contracted energy output of such contracts in the market. Such contracts shall have been approved by the ERB as of December 31, 2000.

“Wholesale Electricity Market” or “WESM” shall refer to the market where trading of electricity will be made, established pursuant to Section 30 of R.A. 9136.

ARTICLE III

DEFERRED ACCOUNTING ADJUSTMENT

Section 1. Allowable Deferred Fuel and Purchased Power Costs. The Allowable Deferred Fuel and Purchased Power Costs shall be calculated based on the following formula:

$$\text{ADFPPC} = \text{DFC} + \text{DPPC}$$

Where:

ADFPPC = Allowable Deferred Fuel and Purchased Power Cost which may be over or under recovery;

DFC = Deferred Fuel Costs calculated as follows:

$$\text{AFC} - \text{FCC}$$

AFC = Allowable Fuel Costs incurred by NPC/PSALM_[CTB] or NPC SPUG. However, for grids where WESM is operational, the AFC excludes fuel costs incurred which output is sold for Spot Sales, ODPS, Ancillary Services and DWS arrangement and fuel costs incurred that are eligible for stranded contract costs recovery; and

FCC = Fuel Cost Collected from TSC sales, excluding TSC Sales coming from power plants whose costs are eligible for stranded contract costs recovery.

DPPC = Deferred Purchased Power Costs calculated as follows:

APPC - PPCC

APPC = Allowable Purchased Power Costs incurred by NPC/PSALM_[CT14] or NPC SPUG excluding payments for Capacity and Infrastructure Fees for Build-Operate-Transfer (BOT) contracts. However, for grids where WESM is operational, excluded also are costs corresponding to output that is sold under Spot Sales, ODPS, Ancillary Services and DWS arrangements, ineligible power supply contracts and purchased power costs incurred that are eligible for stranded contract costs recovery; and

PPCC = Purchased Power Costs Collected from TSC Sales, excluding TSC Sales coming from power plants whose costs are eligible for stranded contract costs recovery.

Section 2. Deferred Accounting Adjustment. The Deferred Accounting Adjustment shall be calculated based on the following formula:

$$\text{DAA}_t = \frac{\text{ADFPPC} + \text{DAA}_{t-1}}{\text{T}}$$

Where:

DAA_t = New Deferred Accounting Adjustment;

ADFPPC = Allowable Deferred Fuel and Purchased Power Costs computed in accordance with the previous Section of these Rules;

DAA_{t-1} = Remaining Balance of DAA coming from the previous applications excluding the DAA prior to the effectivity of these rules; and

T = For NPC/PSALM, the projected TSC kWh sales for the immediately succeeding quarter excluding output coming from plants whose costs are eligible for stranded contract costs recovery.

For NPC SPUG, this represents the projected kWh sales for the immediately succeeding quarter.

Section 3. Billing - The DAA_t shall be billed by NPC and PSALM only to sales corresponding to TSC transactions and contracts with directly connected customers excluding output coming from power plants whose costs are eligible for stranded contract costs recovery^[CT15].

ARTICLE IV

FILING AND APPROVAL

Section 1. Filing - The filing shall be done in accordance with Section 3 and 8 of the Rules to Govern the Filing of Quarterly/Yearly Consolidated Applications for Adjustment of Rates Under Adjustments or True-Up Mechanisms Approved by the ERC subject to the following:

- a) For major grids, the application shall be filed jointly by NPC and PSALM, and for the SPUG-Areas the application shall be filed by NPC-SPUG;
- b) The applications shall be grid specific, although they need not be filed simultaneously;
- c) The test period for every application shall cover the allowable deferred fuel and purchased power costs incurred by NPC, PSALM and NPC-SPUG in the previous quarter;
- d) Failure to file within the prescribed period may be a ground for the dismissal if proven that said omission was deliberate or without justifiable cause;
- e) The dismissal shall not be applicable if the DAA_t proposed or computed in accordance with Article III Section 2 is equivalent to a refund to end-users; and
- f) The dismissal shall be without prejudice to other administrative sanctions that may be imposed by the ERC.

Section 2. Filing Requirements - The filing of the DAA_t shall be supported with the documents enumerated under Section 7 of the Rules to Govern the Filing of Consolidated Quarterly/Yearly Applications for Adjustment of Rates Under Adjustment or True-Up Mechanisms approved by the ERC.

Section 3. Approval - The approval of the application shall be done in accordance with Section 9 and 22 of the Rules to Govern the Filing of Consolidated Quarterly/Yearly Applications for Adjustment of Rates Under Adjustment or True-Up Mechanisms approved by the ERC.

ARTICLE V

Final Provision

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. Repealing Clause. All previous ERC issuances not consistent with these Rules are hereby accordingly repealed or deemed modified.

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

Pasig City, January ____, 2007.

RODOLFO B. ALBANO, JR.
Chairman

RAUF A. TAN
Commissioner

ALEJANDRO Z. BARIN
Commissioner

MARIA TERESA A.R. CASTAÑEDA
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