

**RULES TO GOVERN THE FILING OF CONSOLIDATED,
MONTHLY/ANNUAL APPLICATIONS FOR ADJUSTMENT OF RATES
UNDER ADJUSTMENT OR TRUE UP MECHANISMS
APPROVED BY THE ENERGY REGULATORY COMMISSION**

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

a) 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;

b) To ensure full recovery of all allowable costs in an efficient and timely manner;

c) To protect the public interest as it is affected by the rates and services of National Power Corporation, National Transmission Corporation, and Distribution Utilities; and,

d) To ensure compliance with the jurisdictional and procedural requirements under Republic Act No. 9136 and its Implementing Rules and Regulations for applications for rate adjustments and for other relief affecting the consumers filed with the Energy Regulatory Commission.

Section 2. Scope. These Rules shall govern the applications of the National Power Corporation (NPC), the National Transmission Corporation (TRANSCO), and the Distribution Utilities (DUs) for rate adjustments to recover certain allowable costs and under recoveries pursuant to recovery and true up mechanisms approved by the Energy Regulatory Commission (ERC) as contained in the following rules and guidelines: Implementing Rules for the Generation Rate Adjustment Mechanism (GRAM); Implementing Rules for the Incremental Currency Exchange Rate Adjustment (ICERA); Guidelines for the Automatic Adjustment of Generation Rates and System Loss Rates by Distribution Utilities, as amended; Guidelines Prescribing the Tax Recovery Adjustment Mechanism in the Rates of Electric Cooperatives; Guidelines for the Adjustment of Transmission Rates by Distribution Utilities; Rules for the Calculation of the Over or Under Recovery in the Implementation of Transmission Rates and the Corresponding Transmission System Loss Rates by Distribution Utilities; Guidelines for the Calculation of the Over or Under Recovery in the Implementation of Lifeline Rates by Distribution Utilities; Guidelines on the Implementation of Expanded Value Added Tax (E-VAT); the Annual Rate Verification under the Transmission Wheeling Rates Guidelines (TWRG) and the Rules for Setting Distribution Wheeling Rates (RDWR); and such other rules and guidelines that may hereafter be issued.

Section 3. Filing. On or before the fifth (5th) day of every month, all DUs, NPC, and NPC-Small Power Utilities Group (SPUG) shall each file a

consolidated application for adjustment of rates to recover certain allowable costs and under recoveries pursuant to recovery and true up mechanisms approved by the ERC. The consolidated application shall cover the applicant's additional costs and under recoveries for the immediately preceding billing month, except the under recoveries of the DUs in the transmission charges, which shall be trued up annually in accordance with the Rules for the Calculation of the Over or Under Recovery in the Implementation of Transmission Rates and the Corresponding Transmission System Loss Rates by DUs, and included in the DUs' consolidated application to be filed in the first month of the calendar year.

Applications for annual rate verification of DUs and TRANSCO under the Rules on Setting Distribution Wheeling Rates (RDWR) and Transmission Wheeling Rate Guidelines (TWRG), respectively, shall be filed within the period prescribed under said rules and guidelines.

Failure to file the application within the prescribed period shall be a ground for its dismissal.

Section 4. Initial applications to be filed under these Rules. All DUs, NPC, and NPC-SPUG shall file their initial applications under these Rules on or before the fifth (5th) day of the month following its effectivity. In the case of the DU's application, it should contain a prayer for confirmation of the adjustments made on any of the components of the retail rates as approved by the ERC in its last general rate adjustment application or the inclusion of other charges therein pursuant to the rules and guidelines issued by the ERC authorizing the implementation of such adjustments or inclusion of such charges. In the case of NPC and NPC-SPUG's application, it should contain a prayer for confirmation of past adjustments made under the Implementing Rules for GRAM and ICERA.

Section 5. Computation of Allowable Costs and Under Recoveries. In computing the rate adjustments to be applied for with the ERC, the applicant shall make use of the formulae and methodologies provided in the rules and guidelines mentioned in Section 2 hereof and to such other applicable issuances of the ERC. For this purpose, said rules and guidelines are hereby deemed modified accordingly insofar as they authorize automatic adjustments in the rates and the imposition of carrying charges as a result of the deferment of the cost recovery.

Section 6. Form. The application referred to in the immediately preceding Section shall conform to the application format attached as Annex "A" hereof and comply with the other formal requirements under Rule 3 of the ERC Rules of Practice and Procedure. The caption of the application shall reflect the total PhP/kWh adjustment prayed for, while the body of the application shall separately identify and discuss the different components thereof and the corresponding PhP/kWh adjustment sought for each.

Section 7. Supporting Documents.

The following are the Reportorial/Data Requirements that should be submitted as annex to the applications/filings mentioned under Section 2 hereof.

1. Generation Rate Adjustment Mechanism (GRAM)

- A report containing all transactions and calculations affecting the deferred accounts which should include any other information or data required by the Commission to expedite and facilitate the application and/or necessary to clear the balances of deferred accounts;
- Monthly cost of all energy purchased, indicating the number of kilowatt-hours purchased and the cost for each supplier;
- Monthly cost of all fuel consumed, indicating:
 - a) the number of kilowatt-hours generated and the cost of fuel consumed
 - b) allowable cost of fuel consumed based on the heat rate caps approved by the Commission;
- Other information as may be required by the Commission.

2. Incremental Currency Exchange Rate Adjustment (ICERA)

- A report showing actual computation of currency exchange related adjustments;
- Data pertaining to:
 - a) amount to be recovered through currency exchange related adjustments, actual sales for the billing period
 - b) revenue derived from said adjustment per grid
 - c) total revenue derived per grid;
- Supporting documents to be attached to all submissions;
- List of foreign related operating expenses;
- Debt service payments segregating principal and interest portion; and,
- Other information as may be required by the Commission.

3. Automatic Generation Rate Adjustment (AGRA)

- Invoices and/vouchers from power suppliers;
- Photocopy of actual consumer bills;
- Official receipts of payment of power supplier invoices;
- ERC forms DU- M01 and DU-M02;
- DU's payment vouchers to power suppliers;
- Photocopy of debit/credit memo, if there is any
- Generation report for DU-owned generation facility stating its Capacity and purpose;
- Other documents deemed relevant by the ERC

4. Transmission Rate Adjustment Mechanism (TRAM)

- Photocopies of invoices from TRANSCO certified by the DU's Finance Manager;
- Photocopies of Official Receipts (ORs) of payment to TRANSCO certified by the DU's Finance Manager; and,
- Other documents deemed relevant by the ERC

5. True-up Mechanism of the Over or Under Recovery in the Implementation of Inter-Class Cross Subsidy Removal by Distribution Utilities

- Calculations related to the Adjustment formula

6. Calculation of the Over or Under Recovery in the Implementation of Lifeline Rates by Distribution Utilities

For DUs that will be using Formula A

- Frequency distribution by kWh Consumption and Number of Customers for the DU's lifeline customers;
- Sample bills to end-users;
- Official receipts of payment of NPC Genco, other generation sources and TRANSCO's invoices;
- Monthly Financial and Statistical Report (MFSR) for ECs and M001 and M002 for PUs (or DU-M01 and DU-M02 for both EC and PU starting June 2006)
- Other documents deemed relevant by the ERC

For DUs that will be using Formula B

- In addition to all the items above, the DU shall include the Total Amount Actually Billed to Lifeline Customers

7. Calculation of the Over or Under Recovery in the Implementation of System Loss Rate by Distribution Utilities

- **Official receipts of payment of NPC Genco's Invoices;**
- Monthly Financial and Statistical Report (MFSR) for ECs and M001 and M002 for PUs (or DU-M01 and DU-M02 for both EC and PU starting June 2006)
- Other documents deemed relevant by the ERC

8. Tax Recovery Adjustment Mechanisms in the Rates of Electric Cooperatives

For Franchise and Business Taxes imposed in accordance with Section 2.1.1 (Franchise Tax and Business Tax Formula)

- **Certified true copy of the local tax ordinance;**
- **Other relevant documents as may be required by the ERC**

For Franchise and Business taxes computed in accordance with Section 2.1.2 (Tax Recovery Adjustment Charge (TRAC) Formula)

- Certified true copy of prior years Tax Assessment Issued by the local government units;
- Certified true copies of Local Tax Ordinances;
- Certified true copies of Official Receipts;
- Projected kilowatt-hour sales for the particular proposed recovery period; and
- Other relevant documents as may be required by the ERC

9. Expanded Value Added Tax (EVAT)

For Generation Companies

- Certification under oath of the Monthly Generation Mix (Non-Renewable to Total Mix) per Grid, supported by the Monthly kWh generation sales per plant type;
- Certification under oath of the Summary of Monthly Invoices and official receipts issued to DUs supported by a copy of the invoices and official receipts per DU; and,
- Certificate of VAT Remittance from BIR
- Other documents that may be needed by the Commission in the course of confirmation.

For TRANSCO, its Buyer or Concessionaire

- Certificate of VAT remittance from BIR.
- Other documents that may be needed by the Commission in the course of confirmation.

For Distribution Utilities

In addition to the reportorial requirements enumerated in the Guideline for the Automatic Adjustment of Generation Rate and System Loss Rates by Distribution Utilities (AGRA) and Guidelines for the Adjustment of Transmission Rates by distribution Utilities (TRAM)

- Certification of VAT remittance from BIR
- Certification under oath of the Monthly Generation Mix (Non-Renewable to Total Mix) of the power source/s for DUs sourcing electricity requirements from NPC and/or IPPs and/or own generation supported by the monthly kWh generation sales per plant type;
- Other documents that may be needed by the Commission in the course of confirmation.

10. Calculation of the Over or Under Recovery in the Implementation of Transmission Rates and Corresponding System Loss Rate by Distribution Utilities

- Invoices from TRANSCO;
- Vouchers and Official Receipts of payment of TRANSCO's invoices;
- ERC Forms DU-M01 and DU-M02; and,
- Other documents deemed relevant by the ERC

11. Transmission Wheeling Rates Guidelines (TWRG)

- Historical financial and operational data
 - Customer Revenue Services during the Historical Period
 - Net payments payable during the Historical Period pursuant to the WESM Rules in its capacity as either a Network Service Provider or the System Operator and which are referable to the Historical Period
 - Total qualifying revenue for the Historical Period
 - Simple average of the monthly 180 day weighted-average Manila Reference Rate in nominal percent per annum terms published by the Bangko Sentral ng Pilipinas for the Historical Period
 - Correction Factor under the over/under recovery formula for the Regulatory Year immediately following the Calculation Year
 - Net income derived, during the Historical Period, from each related business which is engaged in by the Regulated Entity or (if the Regulated Entity does not include TRANSCO) by TRANSCO, and which utilizes assets that form part of the regulatory asset base
 - Change in Weighted Index for the Application Year
 - Maximum allowed revenue (MAR_t) for the Application Year
 - Proposed maximum transmission wheeling rates and the estimated amount that will be billed to all Customers for the provision by the Regulated Entity, during the Application Year

- Calculations which demonstrate, for each Customer Segment, whether or not the proposed maximum transmission wheeling rates comply with the Side Constraints requirements of the TWRG
 - Amount billed to all Customers in each Customer Segment for the provision by the Regulated Entity, during the Historical Period,
 - Maximum transmission wheeling rates it has applied to each Customer Segment during the Historical Period
 - Actual transmission wheeling rates it has applied to each Customer Segment during the Historical Period
 - The sum of the monthly non-coincident peak demands (expressed in MW) at each Connection Point of each of the Customers in each Customer Segment for the Historical Period
- Forecast financial and operational data
 - Total amount forecast to be billed to all Customers, and to all Customers in each Customer Segment, for the provision by the Regulated Entity, during the Application Year
 - Sum of the forecast monthly non-coincident peak demands (expressed in MW) at each Connection Point of all Customers, and of all Customers in each Customer Segment, for the Application Year
 - Total amount forecast to be billed to all Customers in each Customer Segment for the provision by the Regulated Entity, during the 12 month period ending on 30 September in the Application Year (the Forecast Period)
 - Sum of the forecast monthly non-coincident peak demands (expressed in MW) at each Connection Point of each of the Customers in each Customer Segment for the Forecast Period

Note: 12-month period ending on 30 September in the Calculation Year (such period being referred to as the Historical Period)

12. Rules for Setting Distribution Wheeling Rates (RDWR)

- Regulatory Asset Base
 - Summary of the optimized depreciated replacement cost (ODRC) and the depreciated historical cost of the Regulatory Asset Base as at the initial valuation date (the Regulatory Asset Base).
 - Summary of the optimized depreciated replacement cost and the depreciated historical cost of the Original Regulatory Asset Base as at the start of the Second Regulatory Period, with supporting calculations for indexing applied.
 - Assets forecast to be acquired during the period between the initial valuation date and the start of the Second Regulatory Period.
 - Schedule of assets to be acquired
 - Value of the assets to be acquired
 - Justification for assets to be acquired
 - Forecast asset disposal during the period between the initial valuation date and the start of the Second Regulatory Period.

- Schedule of assets to be disposed of
 - Value of the assets to be disposed of
 - Forecast income from the sale of disposed assets
 - ODRC depreciation schedules for the Regulatory Asset Base for the period between the initial valuation date and the start of the Second Regulatory Period.
 - Assets included in the Original Regulatory Asset Base
 - Assets acquired in the lead-up to the Second Regulatory Period
 - Historical cost depreciation schedules for the Regulatory Asset Base for the period between the initial valuation date and the start of the Second Regulatory Period.
 - Assets included in the Original Regulatory Asset Base
 - Assets acquired in the lead-up to the Second Regulatory Period
 - Application of the construction work in progress (CWIP) factor to the Regulatory Asset Base as at the start of the Second Regulatory Period.
 - Summary of the optimized depreciated replacement cost (ODRC) and the depreciated historical cost of the full Regulatory Asset Base as at the start of the Second Regulatory Period (the opening value of the rolled-forward Regulatory Asset Base).
- Forecast financial indices for the Second Regulatory Period
 - Philippine quarterly CPI
 - United States quarterly CPI
 - PhP/US\$ quarterly exchange rate
 - 180-Day Manila Reference Rate
 - Forecast Capital Expenditure for the Second Regulatory Period
 - Summary of capital expenditure forecasts for each year of the Second Regulatory Period
 - Real values, divided in PhP and US\$ components
 - Nominal values, divided in PhP and US\$ components
 - Total nominal values, in PhP
 - Justification for capital expenditure (major and minor projects)
 - Broken down historical capital expenditure
 - Forecast Disposals during the Second Regulatory Period
 - Value of assets to be disposed of (based on ODRC register)
 - Forecast income from the sale of disposed assets
 - Forecast Depreciation during the Second Regulatory Period
 - Depreciation of the opening asset base
 - ODRC basis
 - Historical cost basis
 - Depreciation of the assets forecast to be acquired during the Second Regulatory Period
 - ODRC basis
 - Historical cost basis

- Forecast assets used beyond standard lives
 - Forecast addition to assets used beyond standard lives
 - Forecast removal from assets used beyond standard lives
- Forecast operating & maintenance expenditure
 - Summary of forecast operating & maintenance expenditure
 - Annual expenditure, divided in real PhP and US\$ components
 - Annual expenditure, divided in nominal PhP and US\$ components
 - Total annual expenditure, in nominal PhP
 - Justification for operating & maintenance expenditure forecasts
 - Historical operating & maintenance expenditure
 - Summary of expenditure on taxes (other than corporate income tax), duties and levies
 - Annual expenditure, in real PhP
 - Annual expenditure, in nominal PhP
 - Justification for expenditure
 - Historical taxes, levies & duties
- Forecast energy consumption and demand
 - Forecast energy consumption figures (kWh)
 - Breakdown of consumption figures
 - Supporting evidence
 - Forecast energy demand figures (kW)
 - Breakdown of demand figures
 - Supporting evidence
- Regulatory Financial Statements
- Performance incentive scheme details
 - Price-linked incentive scheme
 - Details of scheme proposed
 - Proposed target levels
 - Supporting information & calculations
 - Guaranteed service level scheme
 - Details of scheme proposed
 - Proposed target levels
 - Proposed penalty levels
 - Supporting information & calculations
- Calculation of Weighted Average Cost of Capital
- Additional information for price-cap model
 - Contact details for input sheets
 - 2006 Billing & consumption data
 - Related business revenue for 2006
 - Maximum annual price for 2006 and 2007 (initial entrants)
 - Tax losses carried forward from 2007 regulatory year

- Detailed calculations for Second Regulatory Period
 - Rolled forward regulatory asset base
 - Annual revenue requirement
 - Corporate income tax forecasts
 - Forecast price-caps for the opening and subsequent years of the Second Regulatory Period
- Calculation of demonstrative unbundled rates

Section 8. Pre-filing Requirements. Prior to the filing with the ERC of the application referred to in Section 3 hereof, the applicant shall comply with Section 4(e), Rule 3 of the IRR of the EPIRA and Rule 6 of the ERC Rules of Practice and Procedure.

Section 9. Issuance of Provisional Authority. Upon filing of the application, the ERC may, on its own or upon motion, issue a Provisional Authority (PA) based on the allegations in the application and the supporting documents attached thereto and on such comments or pleadings filed within thirty (30) days from receipt of a copy of the application by the local legislative body of the local government unit where applicant principally operates or from the publication thereof, as the case may be.

Section 10. Uncontested Applications. In applications where there are no intervenors or are not contested, Section 1, Rule 17 (Summary Proceedings) of the ERC Rules of Practice shall apply.

Section 11. Abbreviated Proceedings. As far as practicable, the application shall be resolved through submission of the witnesses' affidavits and position papers by the parties at the hearing thereof set by the ERC. If upon motion of a party and/or at its discretion, the ERC or its designated hearing officer allows oral examination of witnesses, the same shall be completed in one hearing date and for this purpose, the ERC or the designated hearing officer may limit the number of witnesses to be examined, the scope of the examination, the number of parties who may examine the witnesses, and the time allotted for each party to examine the witnesses. Failure of any party to appear at the said hearing shall be deemed a waiver of its right to examine the witnesses.

Section 12. Trial by ERC-Accredited Hearing Officer. Considering that applications under Section 3 hereof require an examination of long accounts, the ERC may direct a reference to an accredited hearing officer similar to a reference to a commissioner under Rule 32 of the Revised Rules of Court.

Section 13. Order of reference; powers of the Accredited Hearing Officer. When a reference is made, the ERC shall forthwith furnish the Accredited Hearing Officer (AHO) with a copy of the order of reference. The

order may specify or limit the powers of the AHO, and may direct him to report only upon particular issues, or to do or perform particular acts, or to receive and report evidence only, and may fix the date for beginning and closing the hearings and for the filing of his report. Subject to the specifications and limitations stated in the order, the AHO has and shall exercise the power to regulate the proceedings in every hearing before him and to do all acts and take all measures necessary or proper for the efficient performance of his duties under the order. He may issue subpoenas and subpoenas *duces tecum*, swear witnesses, and unless otherwise provided in the order of reference, rule upon the admissibility of evidence. The trial or hearing before him shall proceed in all respects as if held before the ERC.

Section 14. Oath of the Accredited Hearing Officer. Upon receipt of the order of reference and before entering upon his duties, the AHO shall transmit to the ERC his oath to faithfully and honestly perform his duties as AHO.

Section 15. Proceedings before the Accredited Hearing Officer. The AHO shall forthwith conduct the hearing of the application on the date, time, and at the place fixed by the ERC in its order and notice and on such other date, time, and place that he may thereafter set with notice to the parties or their counsel.

Section 16. Failure of parties to appear before the Accredited Hearing Officer. If a party fails to appear at the time and place appointed, the AHO may proceed *ex parte* or, in his discretion, adjourn the proceedings to a future day, giving notice to the absent party or his counsel of the adjournment.

Section 17. Refusal of witness. The refusal of a witness to obey a subpoena issued by the AHO, or to give evidence before him, shall be deemed a contempt of the ERC.

Section 18. Duty to avoid delays. It is the duty of the AHO to proceed with all reasonable diligence. Either party, on notice to the parties and AHO, may apply to the ERC for an order requiring the AHO to expedite the proceedings and to make his report.

Section 19. Report of the Accredited Hearing Officer. Upon the completion of the hearing or proceedings before the AHO, he shall file with the ERC his report in writing upon the matters submitted to him by the order of reference, copy furnished all the parties or their counsel. He shall set forth his findings of fact and conclusions of law in his report. He shall attach thereto all exhibits, affidavits, depositions, and papers submitted to him and the transcripts of the proceedings before him.

Section 20. Objections and Disposition. The parties shall be allowed ten (10) days from receipt of the AHO's report, within which to manifest their objections to the report, if they so desire. Objections to the report based upon grounds which were already known to but were not raised by the parties

during the proceedings before the AHO, shall no longer be considered by the ERC.

Upon the expiration of the period of ten (10) days referred to in the preceding paragraph, the ERC shall issue an order adopting, modifying, or rejecting the report in whole or in part, or recommitting it with instructions, or requiring the parties to present further evidence before the ERC.

Section 21. Compensation of the Accredited Hearing Officer. The AHO shall be allowed such reasonable compensation as the circumstances of the case warrant, including reimbursement of his expenses, subject to the rules of the ERC governing the accreditation and selection of AHOs. For this purpose, the AHO shall attach to his report an itemized list of his expenses, together with all supporting documents to justify the same. The compensation of the AHO and reimbursement of his expenses shall be borne by the applicant and shall be recovered as allowable costs in the same application.

Section 22. Decision. An application filed under these Rules shall be decided by the ERC within thirty (30) days from the time the same is submitted for decision. In cases where a Provisional Authority (PA) was granted, the application shall be decided within twelve (12) months from the grant of such PA. Before rendering its decision, the ERC may, at the expense of the applicant, refer the findings in the AHO's report to an accredited auditor for validation or confirmation.

Section 23. 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 24. Repealing Clause. All previous ERC issuances not consistent with these Rules are hereby accordingly repealed or deemed modified.

Section 25. Effectivity. These Rules shall take effect fifteen (15) days following its publication in a newspaper of general circulation. Upon effectivity of these Rules, the implementation of all automatic adjustments authorized under the rules and guidelines cited in Section 2 hereof shall be discontinued.

Pasig City, October __, 2006.

RODOLFO B. ALBANO, JR.
Chairman

RAUF A. TAN
Commissioner

ALEJANDRO Z. BARIN
Commissioner

MARIA TERESA A.R. CASTANEDA
Commissioner

JOSE C. REYES
Commissioner