

GUIDELINES AND PROCEDURES GOVERNING REMITTANCES AND DISBURSEMENTS OF THE UNIVERSAL CHARGE

WHEREAS, Section 34 of Republic Act No. 9136 otherwise known as the “Electric Power Industry Reform Act of 2001” (the “Act” or “EPIRA”) provides that a Universal Charge to be determined, fixed and approved by the Energy Regulatory Commission (“ERC”) shall be imposed on all End-Users for the following purposes:

1. Stranded Debts and Stranded Contract Costs of National Power Corporation (“NPC”) in excess of the amount to be assumed by the Government of the Philippines;
2. Stranded Contract Costs of Distribution Utilities;
3. Missionary Electrification;
4. The equalization of the taxes and royalties applied to indigenous or renewable sources of energy vis-à-vis imported energy fuels;
5. An environmental charge equivalent to one-fourth of one centavo per kilowatt-hour (P0.0025/kWh), which shall accrue to an environmental fund to be used solely for watershed rehabilitation and management and shall be managed by NPC under existing arrangements; and
6. A charge to account for all forms of cross-subsidies for a period not exceeding three (3) years.

WHEREAS, Section 5 of Rule 18 of the Implementing Rules and Regulations of EPIRA (“IRR”) mandates that the Universal Charge shall be a non-by passable charge which shall be (1) collected from all End-Users on a monthly basis by the Distribution Utilities or Suppliers in case of a Contestable Market; or (2) remitted directly to the National Transmission Corporation (“Transco”) or its Concessionaire by any End-Users or Self Generation Entities not connected to a Distribution Utility.

WHEREAS, Section 7 of Rule 18 of the IRR provides that Self-Generation Facilities which have registered with the ERC and PSALM shall not be covered by the imposition of the universal charge for a period of four (4) years from its imposition.

WHEREAS, Section 34 of the Act mandates PSALM to be the administrator of the Universal Charge funds and requires PSALM to establish Special Trust Funds (“STFs”) for this purpose.

WHEREAS, there is a need to establish procedures for the remittance and disbursement of the Universal Charge and for the timely provision of accurate information in relation

thereto, to ensure that the objectives of the Universal Charge are achieved and to enable PSALM to fulfil its obligations under the Act.

WHEREAS, Section 6 (b) of Rule 18 of the IRR requires PSALM, in consultation with the DOF and with the approval of the ERC, to promulgate procedures and guidelines to govern all remittances to and disbursements from the Special Trust Funds.

NOW, THEREFORE, in consideration of the foregoing, PSALM promulgates these “Guidelines and Procedures Governing the Remittances and Disbursements of the Universal Charge” as follows.

Section 1: GUIDING PRINCIPLES

In compliance with the EPIRA and its IRR, these Guidelines are being issued by PSALM for:

- (a) the remittance to the Special Trust Funds of the Universal Charge amounts collected or received by Distribution Utilities, Suppliers, and TRANSCO or its Concessionaire;
- (b) the administration by PSALM of the STFs;
- (c) the provision of information to PSALM so that it may comply with its obligations for the management of Universal Charge funds; and
- (d) the disbursement of the Universal Charge by PSALM to the Beneficiaries in accordance with their entitlements as determined and approved by the ERC.

Section 2: DEFINITION OF TERMS

2.01 Defined Terms: The following terms and expressions shall have the meanings set forth below:

“*Act*” or “*EPIRA*” refers to Republic Act No. 9136, otherwise known as the “Electric Power Industry Reform Act of 2001”;

“*Beneficiaries*” means the entities eligible or authorized by the ERC to avail of the Universal Charge pursuant to EPIRA and its IRR as enumerated in Section 3.02 (*STFs and their Beneficiaries*);

“*BTr*” refers to the Bureau of Treasury;

“*Collecting Entities*” refers to (1) Distribution Utilities or Suppliers in case of Contestable Markets; and (2) TRANSCO or its Concessionaire in respect of End-Users and Self-Generation Entities not connected to a Distribution Utility;

“*Concessionaire*” has the meaning as defined in the EPIRA and its IRR and, for the avoidance of doubt, references herein to TRANSCO shall apply equally to the Concessionaire once the Concessionaire has been appointed to assume TRANSCO’s responsibilities;

“*Contestable Market*” has the meaning as defined in the EPIRA and its IRR;

“*Demand Draft*” refers to a check issued by a bank with guaranteed funding. This is negotiable only within provincial branches. This instrument is usually coded for security purposes;

“*Distribution Utility*” has the meaning as defined in the EPIRA and its IRR;

“*DOE*” refers to the Department of Energy, the government agency created pursuant to Republic Act No. 7638 whose expanded functions are provided in the Act;

“*DOF*” refers to the Department of Finance, the government agency created pursuant to Executive Order No. 127;

“*End-User*” has the meaning as defined in the EPIRA and its IRR;

“*Energy Regulatory Commission*” or “*ERC*” refers to the regulatory agency created by Section 38 of the Act;

“*ERC Rules*” refers to the “ERC Rules Governing the Collection of the Universal Charge”;

“*Government Financial Institution*” or “*GFI*” refers to financial institutions or corporations wholly owned and controlled by the National Government. For purposes of these Guidelines, the GFI must be acceptable to the DOF;

“*Guidelines*” refers to these “Guidelines and Procedures Governing the Remittances and Disbursements of the Universal Charge”;

“*IRR*” refers to the Implementing Rules and Regulations of the EPIRA;

“*Main Trust Account – Universal Charge*” means the bank account established by PSALM either with the BTr or a GFI acceptable by the DOF, purposely and exclusively for receiving the remittance of the Universal Charge collections from the Collecting Entities;

“*Manager’s/Cashier’s Check*” refers to a check issued by a bank with guaranteed funding. This instrument must be negotiable within Metro Manila only;

“*Market Operator*” shall have the same meaning as defined in the EPIRA and its IRR;

“*Missionary Electrification*” has the meaning as defined in the EPIRA and its IRR;

“*National Power Corporation*” or “*NPC*” refers to the government corporation created pursuant to Republic Act No. 6395, as amended;

“*National Transmission Corporation*” or “*TRANSCO*” refers to the government corporation created pursuant to Section 8 of the EPIRA. References to TRANSCO in these Guidelines shall also be deemed as references to its Concessionaire;

“*Person*” refers to a natural or juridical person, as the case may be;

“*Petitioners*” refers to the Persons entitled to petition the ERC for availment of the Universal Charge as provided in Section 3.01 (Petitioners for Availment);

“*Power Sector Assets and Liabilities Management Corporation*” or “*PSALM*” refers to the government owned and controlled corporation created pursuant to Section 49 of the EPIRA;

“*Qualified Third Parties*” or “*QTPs*” refers to persons who meet the qualifications set by the DOE and who obtain the necessary permits from the ERC and any other agency as may be required to be an indirect beneficiary of a portion of the Universal Charge for Missionary Electrification;

“*Self-Generation Entity*” or “*Self-Generation Facility*” has the meaning as defined in the EPIRA and its IRR;

“*Small Power Utilities Group*” or “*SPUG*” refers to the functional unit of NPC created to pursue missionary electrification function;

“*Special Trust Fund*” or “*STF*” refers to a trust fund established by PSALM for each intended purpose of the Universal Charge and its corresponding Beneficiary or Beneficiaries as enumerated in Section 3.02 (*STFs and their Beneficiaries*);

“*STF Account*” means an account opened by PSALM either with the BTr or a GFI acceptable to the DOF, purposely and exclusively for remittances to or disbursements of the Universal Charge;

“*Stranded Contract Costs of Distribution Utilities*” has the same meaning as “Stranded Contract Costs of Eligible Contracts of Distribution Utilities” as defined in the IRR;

“*Stranded Contract Costs of NPC*” has the meaning as defined in the EPIRA and its IRR;

“*Stranded Debts of NPC*” or “*Stranded Debts*” has the meaning as defined in the EPIRA and its IRR;

“*Supplier*” has the meaning as defined in the EPIRA and its IRR;

“*Universal Charge*” has the meaning as defined in the EPIRA and its IRR.

“*WESM Rules*” shall refer to the rules governing the Wholesale Electricity Spot Market (“WESM”), promulgated by the DOE in its Department Circular No. 2002-06-003, dated 28 June 2002;

“*Wholesale Electricity Spot Market*” or “*WESM*” refers to the Wholesale Electricity Spot Market to be created in accordance with RA 9136.

2.02 Rules of Construction: Unless the context otherwise requires:

- (a) Words singular and plural in number shall be deemed to include the other;
- (b) Section headings are for convenience of reference only, do not form part of these Guidelines, and shall not be deemed to limit or otherwise affect any of the provisions hereof. References to Sections, unless otherwise indicated, are references to sections of these Guidelines;
- (c) In the event that any of the capitalized terms above are defined through reference to the EPIRA and its IRR, in the event of a conflict, the EPIRA definition shall govern; and
- (d) In the event that any of the capitalized terms above are defined through reference to the EPIRA and its IRR and such definition appears only in the EPIRA or the IRR, the term is deemed to have been defined by the document wherein the definition of such term appears.

The applicable laws, including the EPIRA, its IRR and other applicable government regulations, are incorporated herein by reference.

Section 3: COVERAGE

3.01 Petitioners for Availment: The following are entitled to petition the ERC for availment of the Universal Charge for each of the intended purposes:

- (1) PSALM for Stranded Debt and Stranded Contract Costs of NPC;
- (2) Distribution Utilities with respect to their respective Stranded Contract Costs;
- (3) SPUG, in its own right or on behalf of QTPs, for Missionary Electrification;
- (4) Generation companies with respect to the equalization of taxes and royalties between indigenous or renewable energy resources and imported fuels;
- (5) NPC with respect to the environmental charge of one-fourth of one centavo per kilowatt-hour (P 0.0025/kWh) of sales; and
- (6) NPC/PSALM and Distribution Utilities with respect to the mitigation of the removal of cross subsidies.

3.02 STFs and their Beneficiaries: These Guidelines cover the following STFs to be established by PSALM, as provided in Section 4.02 (The STFs), for each intended purpose identified in Section 3.01 (Petitioners for Availment), and their respective beneficiaries:

- (1) Stranded Debts and Stranded Contract Costs of NPC for PSALM;
- (2) Stranded Contract Costs for Distribution Utilities as authorized by the ERC;
- (3) Missionary Electrification for SPUG and QTPs;
- (4) Equalization of taxes and royalties between indigenous or renewable energy resources and imported fuels for generation companies so authorized by the ERC;

- (5) Environmental charge of one-fourth of one centavo per kilowatt-hour (P 0.0025/kWh) of sales for NPC; and
- (6) Mitigation of the removal of cross-subsidies for NPC/PSALM and Distribution Utilities.

The Petitioners shall be deemed the Beneficiaries with respect to their corresponding STFs only upon and to the extent of the approval by the ERC of their petition for availment of the Universal Charge.

3.03 Collecting Entities: These Guidelines apply to the following entities mandated by the Act to collect or receive the Universal Charge, as set out in the ERC Rules Governing the Collection of the Universal Charge:

- (1) Distribution Utilities collecting from End-Users in the captive market;
- (2) Suppliers collecting from End-Users in a contestable market;
- (3) TRANSCO or its Concessionaire collecting the amounts remitted by End-Users and Self-Generation Entities which are not connected to a Distribution System.

Section 4: CREATION AND MAINTENANCE OF THE SPECIAL TRUST FUNDS

4.01 The Main Trust Account - Universal Charge

- (a) PSALM shall open one (1) Trust Account, referred to as the “Main Trust Account - Universal Charge”, with the BTr or a GFI acceptable to the DOF. Collecting Entities shall deposit their collections of the Universal Charge in the Main Trust Account - Universal Charge.
- (b) Within ten (10) business days of the approval of these Guidelines by the ERC, PSALM shall provide the Collecting Entities with the bank details and account number of the Main Trust Account - Universal Charge.
- (c) If there are any amendments to the bank details and account number of the Main Trust Account - Universal Charge, PSALM shall notify all of the Collecting Entities as soon as possible but in any case within ten (10) business days from the effectivity of such amendments.

4.02 The STFs

- (a) Pursuant to Section 6 (a) of Rule 18 of the IRR, PSALM shall create one (1) separate STF for each of the six (6) intended purposes enumerated in Section 3.01 (Petitioners for Availment). These STFs shall be established with the BTr or a GFI acceptable to the DOF.
- (b) PSALM will make disbursements of the Universal Charge to the respective Beneficiaries from these six (6) STFs.
- (c) PSALM will enter into an appropriate agreement with the BTr or GFI detailing the terms for the maintenance of the STFs and the transfers of funds to and from the STFs.

The terms of the agreement shall be consistent with the specific purposes for which the STFs were created in accordance with existing laws, government rules and regulations.

- (d) Amounts remitted to the Main Trust Account - Universal Charge will be allocated to the six (6) STFs pursuant to Section 7(c).
- (e) Any interest earned on monies in an STF Account shall form part of such STF and shall be used for the same specified purpose.
- (f) The charges, expenses, fees and other costs imposed by the GFI or BTr for the administration of the STFs shall be monitored and accounted for by PSALM. The charges, expenses, fees and other costs shall be debited to each of the STFs *pro rata* to the amount of money passing through each STF.

Section 5: REMITTANCE OF UNIVERSAL CHARGE BY COLLECTING ENTITIES

5.01 Remittance Procedures: To avoid the penalties and unnecessary costs brought about by a delay in the remittance of the Universal Charge, the Collecting Entities shall faithfully comply with the procedures set forth below:

- (a) Subject to Section 5.03 (“*Allowed Withholding of Universal Charge*”), each Collecting Entity shall remit its total actual collections of the Universal Charge to the Main Trust Account - Universal Charge without need of prior demand from PSALM.
- (b) The Universal Charge amounts collected during each calendar month shall be remitted to the Main Trust Account - Universal Charge on or before the last banking hour of the fifteenth (15th) day of the succeeding month. In the event that the fifteenth (15th) day of the succeeding month falls on a non-banking day or holiday, all Universal Charge collections shall be remitted to the Main Trust Account - Universal Charge on or before the last banking hour on the immediately succeeding banking day.
- (c) For proper control and recording, each Collecting Entity shall submit all the necessary information to PSALM as required under Section 6 (“*Provision of Information*”) at the same time as making its remittance to the Main Trust Account - Universal Charge.
- (d) All remittances of the Universal Charge shall be in Philippines Pesos and shall be made through any one of the following forms, in each case clearly identifying the Collecting Entity and the billing and collection month to which the remittance pertains:
 - (1) Cash
 - (2) Manager’s/Cashier’s Check
 - (3) Demand Draft
 - (4) Fund Transfer
- (e) PSALM shall confirm with the BTr or GFI the amount of the Universal Charge remitted to the Main Trust Account - Universal Charge by each Collecting Entity in each month. PSALM shall issue a confirmation notice to each Collecting Entity within

five (5) business days confirming the receipt of its funds in the Main Trust Account - Universal Charge.

5.02 Late Remittances: Subject to Section 5.03 (“*Allowed Withholding of Universal Charge*”), failure of a Collecting Entity to remit its total actual collections of the Universal Charge in each calendar month in accordance with Section 5.01 (“*Remittance Procedures*”) shall subject such Collecting Entity to a late remittance interest charge and the fines and penalties provided in Section 8 of Rule 18 of the IRR. The procedures for late remittances are as follows:

- (a) In the event that any Collecting Entity collects amounts from End-Users in respect of the Universal Charge in any calendar month but fails to remit the same to the Main Trust Account - Universal Charge on or before the last banking hour of the fifteenth (15th) day of the next calendar month, said Collecting Entity shall pay a late remittance interest charge on the amount collected and due but not remitted. The late remittance interest charge shall be applied to the difference between total actual collections of the Universal Charge for any calendar month and total actual remittances for said month, and will be calculated at the rate of five percent (5%) per month from the date upon which the remittance amount was due until the date when such amount is received in the Main Trust Account - Universal Charge. A sample calculation is provided in Annex A.
- (b) The late remittance interest charge shall be in addition to whatever amount of fine or penalty may be imposed by the ERC under Section 8 of Rule 18 of the IRR.
- (c) Any late remittance interest charges shall be remitted to the Main Trust Account - Universal Charge for disbursement to the STFs pro rata to the allocation of other remittances between the STFs.
- (d) PSALM reserves the right to withhold any due disbursements of the Universal Charge to a Collecting Entity which has failed to remit its collections to the Main Trust Account - Universal Charge or to pay the late remittance interest charges in accordance with the procedures described herein.
- (e) In the event that any Collecting Entity consistently delays in or fails to remit its Universal Charge collections for more than two (2) months, PSALM shall request the ERC to take appropriate action under Rule 18 of the IRR.

5.03 Allowed Withholding of Universal Charge: A Collecting Entity which is a Distribution Utility authorized by the ERC to avail of the Universal Charge for Stranded Contract Costs of Distribution Utilities in any calendar month is entitled to withhold from its remittance to the Main Trust Account - Universal Charge an amount reflecting the Universal Charge approved by the ERC for such purpose for the relevant month, in accordance with the procedure provided in this Section:

- (a) In determining the amount which it can withhold from its remittance of the Universal Charge to the Main Trust Account - Universal Charge for the relevant month, said Distribution Utility shall not discriminate in its own favor at the expense of other beneficiaries in the event that actual kilowatt-hour sales and collections fall short of expected kilowatt-hour sales and collections assumed by the ERC in setting the

Universal Charge per kilowatt-hour (kWh). In the event of any shortfall, said Distribution Utility shall withhold only its proportionate share of the actual collections. Sample calculations are set forth in Annex B.

- (b) For the avoidance of doubt, a Distribution Utility must remit to the Main Trust Account - Universal Charge the amounts of Universal Charge collected from its End-Users in respect of other categories of Universal Charge. The balance of a Distribution Utility's entitlement to Universal Charge for Stranded Contract Costs of Distribution Utilities for any month will be disbursed to said Distribution Utility by PSALM from the Universal Charge amounts collected for that purpose by other Collecting Entities, in accordance with Section 7 ("*Disbursements from the STFs*").
- (c) Under no circumstances may a Distribution Utility withhold from its remittances to the Main Trust Account - Universal Charge in respect of any month such amount in excess of that which the ERC has authorized said Distribution Utility to recover from the Universal Charge for its Stranded Contract Costs for that month.

Section 6: PROVISION OF INFORMATION

6.01 Reporting Requirements and Procedures

- (a) In order for PSALM to monitor the proper remittance of Universal Charge collections by Collecting Entities for the protection of all End-Users, each Collecting Entity must furnish PSALM with relevant information on its billings and collections in each calendar month. The Market Operator is also required to submit information as set out in Section 6.04 so that PSALM may verify the information provided by Collecting Entities.
- (b) The statements or information described in Sections 6.02 through 6.03 in respect of each calendar month should be submitted to PSALM (by electronic mail or facsimile transmission) by each Collecting Entity to arrive on or before the fifteenth (15th) day of the succeeding month or in any case no later than the date on which the Collecting Entity remits its collections of the Universal Charge to the Main Trust Account - Universal Charge. For documents sent by electronic mail or facsimile transmission, the original of said statement or report must be provided to PSALM within ten (10) business days from the remittance of the Universal Charge.

6.02 Reports by Distribution Utilities and Suppliers: In respect of each calendar month, each Collecting Entity that is a Distribution Utility or Supplier shall submit to PSALM:

- (a) A certified statement of its total actual billings of electricity separately identifying the total amount billed in respect of each Universal Charge component. Such statement shall include the total actual sales of electricity in kWh. The form for the Universal Charge Total Actual Billings Statement and sample calculations are attached hereto as Annex C1 and C2, respectively.
- (b) A certified statement of its total actual collections separately identifying the amount collected for each Universal Charge component. The form for the Universal Charge

Total Actual Collections and sample calculations are attached hereto as Annex D1 and D2 respectively.

- (c) The statements identified in Sections 6.02(a) and 6.02(b) must be signed by the Chief Financial Officer or his equivalent or any authorized representative of such Collecting Entity.
- (d) A Collecting Entity which is a Distribution Utility authorized by the ERC to collect an amount of Universal Charge in respect of its own Stranded Contract Cost must identify in its statement under Section 6.02(a) the amount which it is authorized by the ERC to avail from the Universal Charge for this purpose in the relevant calendar month and the amount which it has billed to its End-Users for this purpose in the relevant calendar month. In its statement under Section 6.02(b), said Distribution Utility shall identify separately the amount collected from its End-Users for this purpose and the amount withheld from its remittance to the Main Trust Account - Universal Charge under Section 5.03 (“*Allowed Withholding of Universal Charge*”).

6.03 Reports by TRANSCO

- (a) TRANSCO shall submit the statements described in Section 6.02 (“*Reports by Distribution Utilities and Suppliers*”) in respect of its invoices to and collections from End-Users which are connected to the transmission system and not connected to a distribution system. In case TRANSCO does not meter and/or invoice any such End-Users on the basis of kilowatt hours of sales, TRANSCO will include in its statement under Section 6.02(a) the basis on which it has estimated the kilowatt hours consumed by such End-Users in determining the Universal Charge amounts which it has invoiced.
- (b) In respect of amounts remitted to TRANSCO (or its Concessionaire, as the case may be) by Self-Generation Entities not connected to a Distribution Utility, TRANSCO shall submit to PSALM a copy of the information which has been provided to TRANSCO by the Self-Generation Entities in support of their remittances. TRANSCO may summarize such information in the event that it is voluminous.

6.04 Reports by Market Operator: No later than the fifteenth (15th) day of each calendar month, the Market Operator shall submit to PSALM a summary of its actual meter readings in kilowatt hours for the immediately preceding calendar month separately identifying each metering point and the corresponding Distribution Utility, Supplier or End-User connected to the transmission system.

Section 7: DISBURSEMENTS FROM THE STFs

- (a) The STFs shall be disbursed only for the specific purposes for which the same were created in accordance with existing laws, government rules and regulations.
- (b) The STFs shall be disbursed and accounted for in accordance with the fundamental requirements for disbursement of trust funds as provided for under applicable law, including the Government Auditing Code of the Philippines (Presidential Decree 1445) and the Government Accounting and Auditing Manual promulgated by the Commission on Audit.

- (c) The BTr or GFI shall distribute all the funds received in the Main Trust Account - Universal Charge to the STFs based on instructions issued by PSALM no later than the 19th day of each calendar month (or, if this is a non-banking day or holiday, the next succeeding business day) reflecting the Beneficiaries' proportionate entitlements to avail of the Universal Charge. Sample calculations are set forth in Annex E.
- (d) To facilitate close monitoring of disbursements from the STFs and their use for the intended purpose:
 - (1) Each Beneficiary shall promptly furnish PSALM with a certified true copy of the order (or other relevant ruling) issued by the ERC setting out the Beneficiary's entitlement to the Universal Charge in respect of each year or each calendar month, as the case may be.
 - (2) In respect of each calendar month and consistent with the information provided under Section 7(d)(1), each Beneficiary shall properly complete and certify the Universal Charge Disbursement Request Form as found in Annex E and submit the same to PSALM on or before the seventeenth (17th) day of the next calendar month.
 - (3) PSALM will make no disbursement to any Beneficiary from any of the STF Accounts unless the Universal Charge Disbursement Request Form is accomplished in all respects and has been presented to the satisfaction of PSALM on or before the seventeenth (17th) day of the next calendar month.
 - (4) Subject to Section 7(d)(4) and Section 7(f), PSALM shall instruct the BTr or GFI to disburse funds from the relevant STF Account to the Beneficiary on the twentieth (20th) day of each month (or, if this is a non-banking day or holiday, the next succeeding business day), either through funds transfer or Manager's Check. In case of payment by Manager's Check, the Beneficiary's authorized representative shall have to appear at the PSALM offices with all relevant documents to demonstrate such authority to claim the Manager's Check.
 - (5) Within five (5) calendar days from its receipt of the funds so disbursed, each Beneficiary must issue an official receipt in favor of PSALM. PSALM reserves the right to make no further disbursements to any Beneficiary until it has issued such official receipt for the disbursement.
- (e) In the event that the balance in any STF Account for any calendar month exceeds the amount of the availment request or requests submitted by the Beneficiary or Beneficiaries of such account for such month, PSALM shall retain the balance within the STF Accounts to pay for periods where a shortfall occurs.
- (f) In the event that the balance in any STF Account for any calendar month falls short of the Universal Charge availment request submitted by the Beneficiary of such account for such month, PSALM shall instruct the BTr or GFI to disburse only such amount not exceeding that which is in the STF Account. In the event that there are multiple Beneficiaries of any such STF Account, PSALM shall instruct the BTr or GFI to disburse the balance available in the account between the Beneficiaries *pro rata* to the

Beneficiaries' availment requests for that month. The Beneficiary or Beneficiaries shall be entitled to recover any such shortfall in a later month in accordance with the true-up mechanism approved by the ERC for the relevant Universal Charge purpose.

- (g) Nothing in these Guidelines shall restrict the right of NPC (SPUG) to disburse a portion of the Missionary Electrification component of the Universal Charge to QTPs provided such disbursement is in accordance with law and with the approval of the DOE and ERC.

Section 8: AUDIT AND REPORTING

- (a) Acting in its capacity as administrator of the STF Accounts, PSALM shall:
 - (1) Maintain monthly records of each component of Universal Charge billings, collections, remittances and disbursements.
 - (2) Reconcile each component of Universal Charge billings, collections, and remittances with the books of accounts of Collecting Entities.
 - (3) Maintain records of Universal Charge availments due and paid to each of the Beneficiaries in each month, including separate books of accounts for over-recovery of the Distribution Utility stranded cost component.
 - (4) Reconcile Universal Charge availments due and paid to each of the Beneficiaries with the books of accounts of Beneficiaries on a monthly basis.
 - (5) Whenever requested by the ERC, inform the ERC of the outstanding balance of each of the STF.
- (b) As required by Section 6 (d) of Rule 18 of the IRR, PSALM shall submit to the DOF and ERC on a quarterly basis a report on the remittances and disbursements of the STFs.
- (c) As required by Section 3 (f) of Rule 13 of the IRR, PSALM shall ensure that SPUG conducts proper monitoring, accounting and control of expenditures and efficient utilization of the Missionary Electrification funds from the Universal Charge. SPUG shall submit to PSALM a detailed yearly report containing:
 - (1) Historical actual Operating Costs separately identifying expenditures on fuel, lubricants, purchased power, personal services and other operating and maintenance expenses for the prior year and projected Operating Costs for the same categories for the current year and the next succeeding two years.
 - (2) Historical actual Capital Expenditures for expansion, rehabilitation and installation of facilities for new areas of development based on the approved MEDP for the prior year and projected Capital Expenditures for the same categories for the current year and the next succeeding two years.
 - (3) Historical actual amounts disbursed to QTPs for the prior year and projected disbursements to QTPs for the current year and the next succeeding two years.

The projected operating costs and capital expenditure program shall be submitted to PSALM on or before May 20, 2003. Succeeding submission of detailed yearly reports shall occur no later than the end of the first quarter of the following year.

- (d) As required by Section 5 (b) of Rule 18 of the IRR, each Collecting Entity shall maintain separate books of accounts for the collections and remittances to PSALM of the Universal Charge. Such books of accounts must be made available to the ERC and PSALM during business hours upon two (2) days prior written notice.
- (e) As required by Section 6 (e) of Rule 18 of the IRR, PSALM shall maintain separate books of accounts for the disbursements to Distribution Utilities of the Universal Charge for Stranded Contract Costs of Distribution Utilities and shall use the same to determine whether there has been any over-recovery by any Distribution Utility. PSALM will make such books of accounts available to the ERC for purposes of monitoring and accounting for sums collected from the Universal Charge.
- (f) Each Collecting Entity shall submit to PSALM a yearly audited report of total actual collections and total actual remittances of the Universal Charge.
- (g) In the event that PSALM discovers any discrepancy between expected and actual collections, or between actual collections and actual remittances, or any other indication that a Collecting Entity is failing to comply with these Guidelines, PSALM shall have the right to seek an explanation from such Collecting Entity or to refer the matter to the ERC for investigation.

Section 9: LIABILITY

- (a) PSALM shall not be held liable by any third party, including the beneficiaries of the STFs, for any non-remittance or partial remittance should the same be attributable to the fault or negligence of any of the Collecting Entities or any of its officers, employees, agents or assigns or any other party. Any Collecting Entity at fault shall immediately reimburse PSALM within five (5) days from demand of any amount expended by PSALM as payment for damages, expenses and other costs, incurred and paid pursuant to any settlement or legal proceedings, whether in the nature of administrative, civil or criminal, whenever PSALM is included as a party to any proceeding due to the fault or negligence of any Collecting Entity, its officers, employees, agents or assigns.
- (b) In accordance with the EPIRA, the IRR and the ERC Rules Governing the Collection of the Universal Charge, the ERC may impose sanctions on any Collecting Entity for its failure to comply with these Guidelines or any portion thereof.

Section 10: AMENDMENTS

Any amendment to, or revision of these Guidelines may be proposed by PSALM, in consultation with the DOF and subject to the approval of the ERC.

Section 11: SEPARABILITY CLAUSE

Should any provision or section of these Guidelines be declared unconstitutional or contrary to law, the parts not so declared shall remain in full force and effect.

Done in the City of Makati this 23rd day of April 2003.

Edgardo M. del Fonso
President and CEO
PSALM

Approved by: Energy Regulatory Commission