



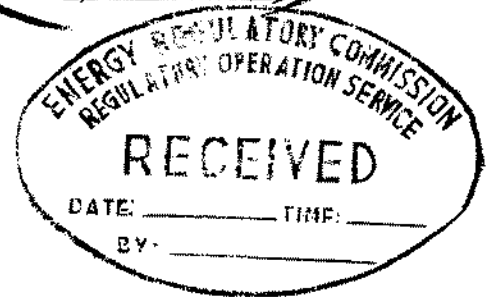
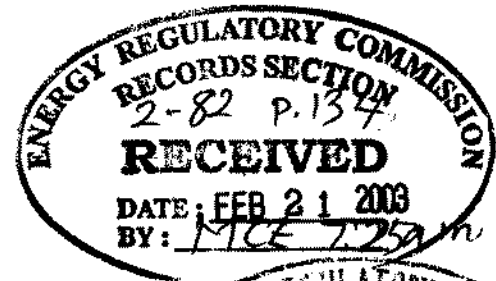
First Gas
HOLDINGS CORPORATION

20 February 2003

The Energy Regulatory Commission
Pacific Center Building
San Miguel Avenue, Ortigas Center
Pasig City
Facsimile No. 634-8641, 631-7287, 631-5879
And through regulatory@erc.gov.ph

Attention: **Atty. Marina C. Bugayong**
Ms. Alma C. Clemente
Regulatory Operations Service

Re: **Comments on Draft**
Business Separation Guidelines (BSUP)



Gentlemen:

We thank you for giving us the opportunity to comment on the draft “Business Separation Guidelines providing for the Framework and Rules for the Structural Unbundling of the Business Activities of Electric Industry Participants” (BSUP Rules) and appreciate the opportunity to participate in the public consultations thereon.

Set forth below are the comments and proposals of First Gas Holdings Corporation (“FGHC”).

General Comments

1. ***Cumbersome Process.*** The BSUP Rules unnecessarily complicates the accounting and financial reporting of industry participants without regard to the current state of affairs between the privately-owned distribution utilities, on the one hand, which follow the Federal Uniform System of Accounts, and the numerous electric cooperatives (“ECs”), on the other hand, which follow the model of United States cooperatives. These utilities and ECs are in various stages of automating their information systems. Requiring them to transform their accounting systems into six (6) business segments while leaving them the discretion to allocate joint costs will just result in voluminous sets of information which must be analyzed and approved by the ERC staff and periodically monitored. The ERC is urged to think of the

unbundling exercise and the ensuing delays multiplied seven-fold. The objectives of the unbundling process should be clear – to ensure that there will be no cross-subsidization between the regulated business segments and the unregulated business segments and to ease the consumer’s decision process when they choose their own supplier.

We recommend that, unless the rates are determined separately, unbundling be limited to four business sectors – generation, transmission, distribution, and supply as stipulated in Rule 15 of the IRR of RA 9136.

2. ***Varied treatment of Regulated and Competitive Industries.*** The unregulated business segments of the industry must enjoy some form of confidentiality as to choice of technology, operational efficiencies and similar information which are competitive in nature and be left to the discipline of market forces to be robust and dynamic. Swamping the industry with forms and periodic reporting will just serve to stifle this dynamism and clog the industry’s information system.

The ERC should consider limiting the information included in the accounting separation reporting for generation and supply companies that shown in Appendix B.

Specific Comments

1. ***Inter-segmental Transactions and Transfer Pricing Principles.*** The need to divulge this information for transactions between two (or more) Business Segments both operating under a competitive environment is unclear. Understandably for regulated entities, there is a need to ensure that the regulated business does not subsidize the competitive business. We recommend that this requirement be confined only to Distribution Utilities and Transco.

The definition of ***Significant Inter-segmental Transaction*** may be biased against bigger firms. The test of significance is relative to the size of the firm, and hence should be tied up to the amount of its assets or revenues. We recommend that the definition be changed to “a collective value amounting to 1% of the revenues”.

2. ***Allocation of Income Tax (Article 3.4.14).*** Unless otherwise decided, if income tax remains in the return on rate base (RORB) formula, then at least for regulated entities, this should be clearly allocated to such business segment to assure that the returns are prescribed properly.

3. ***Disclosure of Information.*** Articles 5.2.2 and 5.2.3 prescribes that information be disclosed to all participants. To assure a level playing field, we recommend that the timing is also prescribed—that no one entity be given any such



information in advance and that disclosure of such information to all Industry Participants be simultaneous.

Article 5.2.4 prescribes that generation companies disclose their operational status and availability. We recommend that this provision be deleted since such information are sensitive/confidential considering that competitive nature of the generation business.

4. ***Bilateral Contracts with Affiliated Utility.*** The BSUP Rules should clarify that this clause shall not prejudice contracts entered into prior to RA 913, and correct the cross referencing to Section 45 (b) not Section 45 (a).

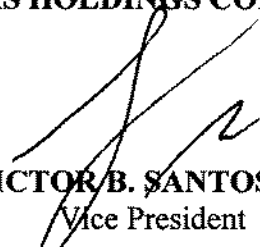
5. ***Common directors, officers and employees.*** The BSUP Rules should clarify the meaning and intent of Article 5.6.

FGHC trusts in the ERC's appreciation of the foregoing concerns and looks forward to participating in the scheduled public consultation on the Rules on February 17, 2003 and to continuing its involvement as the process moves forward.

Very truly yours,

FIRST GAS HOLDINGS CORPORATION

By:


VICTOR B. SANTOS, JR.
Vice President