

Republic of the Philippines
ENERGY REGULATORY COMMISSION
San Miguel Avenue, Pasig City



**IN RE: RULES FOR APPROVAL OF
REGULATED ENTITIES'
CAPITAL EXPENDITURE PROJECTS**

ERC CASE No. 2008-007 RM

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D O C K E T E D
Date: **MAY 19 2008**
By: *[Signature]*

NOTICE

Notice is hereby given that the Commission is conducting a public consultation for the proposed "**Rules for Approval of Regulated Entities' Capital Expenditure Projects**" on June 16 and 17, 2008.

Relative thereto, all interested parties may submit their comments (both hard and soft copies) on or before **June 12, 2008**. Electronic copies may be sent to **standards@erc.gov.ph**. The said Rules may be downloaded at our website **www.erc.gov.ph** or photocopied at cost, during the regular office hours at the ERC Main Office at the above-mentioned address.

Pasig City, May 16, 2008.

**FOR AND BY THE AUTHORITY
OF THE COMMISSION:**

[Signature]
ALEJANDRO Z. BARIN
Officer-In-Charge

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RULES FOR APPROVAL OF REGULATED ENTITIES' CAPITAL EXPENDITURE PROJECTS

Pursuant to Section 43 (f) of Republic Act No. 9136, otherwise known as the Electric Power Industry Reform Act of 2001 (EPIRA), Rule 6 Section 7 (d), Rule 7 and Rule 15 Section 5(a) of its Implementing Rules and Regulations (IRR), the Distribution Services and Open Access Rules (DSOAR) and Section 20 (b) of Commonwealth Act No. 146, as amended, the Energy Regulatory Commission (ERC) hereby promulgates the following Rules for Approval of Regulated Entities' Capital Expenditure Projects.

ARTICLE I GENERAL PROVISIONS

1.1 Objectives

- 1.1.1 To provide the Regulated Entities with a uniform system for filing applications for the approval of capital expenditure projects;
- 1.1.2 To ensure that projects are timely, appropriate, necessary and cost-efficient;
- 1.1.3 To ensure that proposed capital projects are consistent with the Transmission Development Plan (TDP), Distribution Development Plan (DDP), the Philippine Grid Code (PGC), the Philippine Distribution Code (PDC), and other relevant government issuances; and
- 1.1.4 To ensure that the procurement of equipment, materials and services are transparent, competitive and compliant with the applicable laws and regulations.

1.2 Scope of Application

These Rules shall apply to all Regulated Entities, including but not limited to the following:

- 1.2.1 National Transmission Corporation (TransCo)/ Buyer/Concessionaire, provided, however, that these Rules shall not apply to those utilities which have already entered and thus, to be governed by the Performance-Based Regulation rate-setting regime;
- 1.2.2 Privately-Owned Distribution Utilities, provided, however, that these Rules shall not apply to those utilities which have already entered and thus, to be governed by the Performance-Based Regulation rate-setting regime;
- 1.2.3 Electric Cooperatives;
- 1.2.4 Local Government Unit Owned-and-Operated Distribution Systems;
- 1.2.5 Entities duly authorized to operate within the Economic Zones;
- 1.2.6 Qualified Third Parties (QTPs) operating in waived areas of a franchised Distribution Utility; and
- 1.2.7 Other duly regulated entities including Consortium of Distribution Utilities (Consortium)

1.3 Definition of Terms

Ancillary Services

Those services that are necessary to support the transmission of capacity and energy from resources to loads while maintaining the reliable operation of the Transmission System in accordance with good utility practice and the Grid Code.

Capital Projects

These are projects needed to serve forecasted future loads and to maintain good electric service to existing and future customers satisfying the utility's technical criteria for capacity, reliability, quality and safety.

Connection Assets

In respect of a Regulated System, the components of that Regulated System which

are used to provide Connection Services in respect of that Regulated System.

Department of Energy (DOE) The government agency created pursuant to Republic Act No. 7638, the Department of Energy Act of 1992, whose expanded functions are provided in the Act.

Distribution Development Plan (DDP) The five-year development plan submitted by the Distribution Utilities to the DOE not later than the fifteenth (15th) of March of every year, pursuant to Section 23 of R.A. No. 9136 and Rule 7, Section 4(p) of its IRR. In the case of Electric Cooperatives, such plans submitted through the National Electrification Administration for review and consolidation.

DSOAR The Distribution Service and Open Access Rules as promulgated by the ERC under *Resolution No.1, Series of 2006*, dated January 18, 2006.

Distribution System The system of wires and associated facilities belonging to a franchised distribution utility, extending between the delivery points on the transmission, subtransmission system, or generating plant connection and the point of connection to the premises of the end-user.

Economic Zone (EZ) The selected areas which are being developed into agri-industrial, industrial, tourist, recreational, commercial, banking, investment and financial centers. An EZ may refer to any of the following: Industrial Estates, Export Processing Zones, Free Trade Zones, Information Technology Parks and Tourist/Recreational Centers, such as but not limited to, those managed, administered and operated by the Bases Conversion Development Authority (BCDA), Cagayan Economic Zone Authority (CEZA), Clark Development Corporation (CDC), Subic Energy Zone (SEZ), Philippine Economic Zone Authority (PEZA), Phividec Industrial Authority (PIA), and Zamboanga City Economic Zone Authority (ZCEZA).

Electric Cooperative (EC)	A Distribution Utility organized pursuant to Presidential Decree No. 269, as amended or as otherwise provided in the EPIRA.
Equipment	All apparatus, machines, conductors, etc. used as part of, or in connection with, an electrical installation.
Force Majeure	A typhoon, storm, tropical depression, flood, drought, volcanic eruption, earthquake, tidal wave or landslide which results or is likely to result in an increase in the costs incurred by a Regulated Entity in the transmission or distribution of electricity to Connection Points in respect of a Regulated System that is operated by it, or in complying with the provisions of any legislation, or of rules, regulations or guidelines made under EPIRA, including the IRR, the Grid Code and Distribution Code, which must be complied with in relation to the transmission or distribution of such electricity.
Fortuitous Event	An act of public enemy, war (declared or undeclared), sabotage, blockade, revolution, riot, insurrection, civil commotion or any violent or threatening actions which results or is likely to result in an increase in the costs incurred by a Regulated Entity in the transmission or distribution of electricity to Connection Points in respect of a Regulated System that is operated by it, or in complying with the provisions of any legislation, or of rules, regulations or guidelines made under EPIRA, including the IRR, the Grid Code and the Distribution Code, which must be complied with in relation to the transmission or distribution of such electricity.
Non-system Assets	Those assets forming part of the Regulatory Asset Base that are required to provide Regulated Services, but are not System Assets or Connection Assets.
Performance Based Regulation (PBR)	The rate setting methodology as approved by the ERC under <i>Rule 39, Series of 2006</i> , dated August 1, 2006.

Philippine Distribution Code (PDC)	The set of basic rules, requirements, procedures, and standards governing Distribution Utilities and Users in the operation, maintenance, and development of their Distribution Systems. It also defines and establishes the relationship of the Distribution Systems with the facilities or installations of the parties connected thereto.
Philippine Grid Code (PGC)	The set of basic rules, requirements, procedures, and standards to ensure the safe, reliable, secured and efficient operation, maintenance, and development of the high-voltage backbone Transmission System and its related facilities.
Power Development Program (PDP)	The indicative plan for managing electricity demand through energy-efficient programs and for the upgrading, expansion, rehabilitation, repair, and maintenance of power generation and transmission facilities, formulated and updated yearly by the DOE in coordination with the generation, transmission, and Distribution Utility companies.
Qualified Third Party	The alternative electric service provider authorized to serve remote and unviable areas pursuant to Section 59 of the EPIRA and Rule 14 of its IRR. It shall refer to persons who meet the qualifications set by the DOE and who obtained the necessary permits from the ERC and any other agency as may be required to be an indirect beneficiary of a person of the Universal Charge for Missionary Electrification.
Regulated Services	In respect of a Regulated System: a) the conveyance of electricity through the Regulated System and the control and monitoring of electricity as it is conveyed through the Regulated System (including any service that supports such conveyance, control or monitoring or the safe operation of the Regulated Transmission or Distribution System);

- b) the planning, maintenance, augmentation and operation of the Regulated System;
- c) the provision, installation, commissioning, testing, repair, maintenance and reading both of meters that are used to measure the delivery of electricity to persons whose User Systems or Equipment are directly connected to the Regulated System and of other meters that are used (for the purposes of the Wholesale Electricity Spot Market) to measure the flow of electricity into or through the Regulated System;
- d) Transmission or Distribution Connection Services in respect of the Regulated System except to the extent that such Connection Services have been determined by the ERC to be Excluded;
- e) the provision of Ancillary Services that are provided using assets which form part of the Regulated System (excluding any such Ancillary Services to the extent they are provided to the System Operator under contract or through a spot market established under the WESM Rules); and
- f) billing, collection and customer services that are directly related to the delivery of electricity through the Regulated System to Connection Points in respect of the Regulated System and billing, collection and customer services for persons purchasing or receiving (or seeking to purchase or receive) any Connection Service in respect of the Regulated System.

These services, however, do not include such services as are determined by the ERC to be contestable.

Regulated System

A System which is located in a Qualified Franchise Area and operated under an exclusive franchise and operated only by the Regulated Entity that operates that System.

Regulated Entity

Any entity or entities who provide any Regulated Transmission or Distribution Service in respect of a Regulated System, but excluding such persons as the ERC from time to time determines. The Regulated Entities include the National Transmission Corporation (TransCo)/Buyer/Concessionaire, Privately-owned DUs, Electric Cooperatives, Local Government Unit Owned-and-Operated Distribution Utilities, Qualified Third Parties (QTPs) operating in waived areas of a franchised Distribution Utility; Entities duly authorized to operate within the Economic Zones; and Other duly regulated entities including Consortium of Distribution Utilities (Consortium).

Regulatory Asset Base

Those assets employed by a Regulated Entity to provide efficient Regulated Transmission or Distribution Services. It covers the Regulated System Assets as well as the Non-system Assets required to support the delivery of Regulated Services.

System Assets

Those assets forming part of the Regulatory Asset Base that are required to provide Regulated Services, i.e., transmission or distribution Connection Assets.

Transmission Development Plan (TDP)

The program for managing the transmission system through efficient planning for its expansion, upgrading, rehabilitation, repair and maintenance, to be formulated by DOE and implemented by the TransCo or its Buyer or Concessionaire pursuant to the EPIRA.

Transmission System

The high voltage backbone system of interconnected transmission lines, substations and related facilities (*same as the Grid*).

ARTICLE II CLASSIFICATION OF CAPITAL EXPENDITURE PROJECTS

2.1 Capital Asset Categories

Regulated Entities' assets are divided into two (2) categories, namely: (1) plant assets or system assets; and (2) general plant assets or non-system assets.

2.1.1 The following constitute the plant assets:

- land and land rights (dedicated to transmission or distribution and subtransmission purposes)
- structures and improvements (dedicated to transmission or distribution and subtransmission purposes)
- station equipment – switchyards, power transformers, switchgear, protective equipment, metering, control, communications equipment, Supervisory Control and Data Acquisition equipment (SCADA)
- other station equipment
- poles, towers and fixtures/hardwares
- overhead conductors and devices
- underground conduits/raceways
- underground conductors and devices
- distribution line transformers and circuit reclosers
- power conditioning equipment¹
- meters, metering instruments & metering transformers²
- information technology equipment (dedicated to transmission or distribution purposes)
- regulated entity property on consumers' premises
- signal systems; and
- sub-marine cable system.

2.1.2 The general plant (non-system assets) assets are:

- land and land rights (non-system related)
- structures and improvements (non-system related)
- office furniture and equipment

¹ This refers to capacitor banks for power factor correction, voltage regulators, generators used for spinning reserve or voltage stability, VAR compensators etc.

² Demand and energy flow metering on the distribution network is separate from customer consumption metering.

- transportation equipment (utility boom trucks)
- stores equipment
- tools, shop, safety gadgets and garage equipment
- laboratory equipment
- information systems equipment (billing system, GIS/CIS system)
- power-operated equipment
- communication plant and equipment
- miscellaneous equipment (hardware & software)
- materials and supplies, including spares, and
- any other asset specified by the ERC.

2.2 Optimization of Capital Assets

Proposed capital projects of Regulated Entities must be economically efficient and therefore must be planned and studied thoroughly. While it is prudent to install assets with some surplus capacity to cater to future growth in demand, it is not economically efficient to install assets where the capacity is so large that it would not be fully-utilized at the end of the assets' economic life.

In assessing the optimal capacity, a capital expenditure project of a Regulated Entity must be designed using the suggested optimization planning periods:

- Twenty (20) years for transmission lines or transmission network including high voltage switchyards;
- Fifteen (15) years for subtransmission lines, substations (excluding power transformers), primary distribution circuits and points of connection to a transmission network;
- Ten (10) years for substation power transformers; and
- Five (5) years for high and low voltage distribution and other network assets.

Alternative **optimization** planning periods may be adopted depending on the appropriate concentration of business districts, density of urbanized areas or geographic locations and conditions. Such planning periods must be properly justified.

2.3 Classification and Prioritization of Capital Expenditures

2.3.1 Required Capital Expenditure Project Priorities

- a) **Rank:** The project ranking should be indicated, based on the assessment of the Regulated Entity. This ranking can be in one of two tiers, as described below. By definition, capital expenditure should only be proposed when it is of high importance to maintain effective delivery standards, so projects of lesser importance should not be considered.

1st priority : Projects deemed essential:

- for the ongoing effective, reliable and safe operation of the distribution network;
- to provide the minimum delivery capacity and reliability levels to meet required service delivery standards; or
- those that they would provide very significant economic or technical benefits if implemented.

Failing to execute these projects at the time indicated would have a substantial impact on the ability of the Regulated Entity to provide efficient service in the short-term future or would lead to substantial potential economic or technical benefits not being realized.

2nd priority: Projects deemed important (but not critical):

- for maintaining the effective, reliable and safe operation of the network;
- to provide the delivery capacity and reliability levels to meet required service delivery standards; or
- to provide significant economic or technical benefits.

Failing to execute these projects at the time indicated would not have a major direct impact in the short-term but would compromise the ability of the Regulated Entity in the medium term to provide efficient services, or could lead to potential economic or technical benefits not being achieved.

- b) **Project Driver:** The project driver should indicate the main driver for the project. (Where a project has more than one driver, the dominant one should be indicated). Five categories of project drivers are considered :

- Load Growth: These are projects required to meet the growing energy demand by consumers.
- Network non-growth: These are projects required to maintain or improve network service delivery standards where not directly dictated by demand growth.
- Network Control/Safety Metering: These are projects required to improve network safety or the control or management capability of the network (including the ability to measure performance).
- Non-network: These are projects for developing administrative and support facilities and capabilities, which are not directly network-related.
- Statutory: These are projects imposed by other parties, by regulation or by law. It includes requirements by others to shift existing assets.

c) **Project Type**: The project type classification indicates the type of project, classed in one of three categories.

- Renewal (replacement):Renewing assets where existing assets have become non-functional or obsolete, or where the continued refurbishment or maintenance of assets would have a higher economic cost than renewing them.
- Refurbishment: Projects to extend the useful lives of existing assets, normally to beyond their standard lives.
- Growth: Installing new assets to meet growing demand or higher service level requirements.

2.3.2 Expenditure on the Acquisition of Subtransmission Assets

If applicable, any capital expenditure for the acquisition of TransCo's subtransmission assets included in the planned three (3) year capital expenditure program should also be included in the capitalized forecast. The capitalized cost of the assets should be the price agreed upon by TransCo and the concerned Regulated Entity.

2.3.3 Operating and Maintenance Expenditures

Expenses to be incurred for logistics, operations and maintenance involving general plant or non-system assets enumerated in Section 2.1.2 shall not be capitalized in the case of Distribution Utilities. These expenses shall be covered by the allowed Operations and Maintenance (O&M) expenditures which are accounted separately in its unbundled rate filing application.

For the Transmission Utility, operating and maintenance expenditures may require a considerable amount of funding and may be capitalized. Such expenditures shall be filed for review and approval by the ERC and shall be treated as part of the submitted capital expenditure program.

For purposes of account uniformity, operating and maintenance expenditures for distribution utilities shall include the following:

Distribution Expenditure – Operations

- Supervision and Engineering
- Station Expense
- Meter Expenses
- Consumer Installation Expenses

Distribution Expenditure – Maintenance

- Distribution Lines Expense
- Supervision and Engineering
- Line Equipment and Ancillaries Expenses (transformers, capacitors, reclosers, regulators)
- Street Lighting and Signal System
- Meters

ARTICLE III FILING OF THE APPLICATION

3.1 Time of Filing of Capital Expenditure Program

A Regulated Entity shall submit its proposed three (3) year capital expenditure program in accordance with the following groupings and schedule:

The following are the groupings of the Distributors:

Year 1

Group 1 – First Semester

- Regulated Entities not yet under Performance-Based Regulation³
- Batangas II Electric Cooperative, Inc. (BATELEC II)
- Albay Electric Cooperative, Inc. (ALECO)
- Central Pangasinan Electric Cooperative, Inc. (CENPELCO)
- Isabela I Electric Cooperative, Inc. (ISELCO I)
- Central Negros Electric Cooperative, Inc. (CENECO)
- Davao Norte Electric Cooperative, Inc. (DANECO)
- Benguet Electric Cooperative, Inc. (BENECO)
- Ilocos Sur Electric Cooperative, Inc. (ISECO)
- Peninsula Electric Cooperative, Inc. (PENELCO)
- Pangasinan III Electric Cooperative, Inc. (PANELCO III)
- Ilocos Norte Electric Cooperative, Inc. (INEC)
- Quezon I Electric Cooperative, Inc. (QUEZELCO I)
- Tarlac I Electric Cooperative, Inc. (TARELCO I)
- South Cotabato II Electric Cooperative, Inc. (SOCOTECO II)
- Batangas I Electric Cooperative, Inc. (BATELEC I)
- Negros Occidental Electric Cooperative, Inc. (NOCECO)
- Zamboanga City Electric Cooperative, Inc. (ZAMCELCO)
- Pampanga II Electric Cooperative, Inc. (PELCO II)
- La Union Electric Cooperative, Inc. (LUELCO)

Group 2 – Second Semester

- Luzon Economic Zones
- Oriental Mindoro Electric Cooperative, Inc. (ORMECO)
- Agusan del Norte Electric Cooperative, Inc. (ANECO)
- Bohol I Electric Cooperative, Inc. (BOHECO I)
- Capiz Electric Cooperative, Inc. (CAPELCO)
- Cebu II Electric Cooperative, Inc. (CEBECO II)
- Iloilo I Electric Cooperative, Inc. (ILECO I)
- Isabela II Electric Cooperative, Inc. (ISELCO II)
- Negros Oriental II Electric Cooperative, Inc. (NORECO II)
- Cagayan I Electric Cooperative, Inc. (CAGELCO I)

³ Utilities entering their PBR Regulatory Periods shall be excluded from these Rules.

- Davao Sur Electric Cooperative, Inc. (DASURECO)
- First Bukidnon I Electric Cooperative, Inc.(FIBECO)
- Dinagat Electric Cooperative, Inc. (DIELCO)
- Camotes Electric Cooperative, Inc. (CELCO)
- Romblon Electric Cooperative, Inc. (ROMELCO)
- Tawi-Tawi Electric Cooperative, Inc. (TAWELCO)
- Busuanga Electric Cooperative, Inc. (BISELCO)
- Lubang Electric Cooperative, Inc. (LUBELCO)
- Ticao Is Electric Cooperative, Inc. (TISELCO)
- Batanes Electric Cooperative, Inc. (BATANELCO)
- Siasi Island Electric Cooperative, Inc. (SIASELCO)
- Cagayan de Sulu Electric Cooperative, Inc. (CASELCO)

Year 2

Group 1 – First Semester

- Regulated Entities not under Performance-Based Regulation with specific projects for the Visayas Grid
- North Cotabato Electric Cooperative, Inc. (COTELCO)
- Aklan Electric Cooperative, Inc. (AKELCO)
- Victoria Rural Electric Service Cooperative, Inc. (VRESCO)
- Leyte V Electric Cooperative, Inc. (LEYECO V)
- Nueva Ecija II (Area 1) Electric Cooperative, Inc. (NEECO II)
- Cagayan II Electric Cooperative, Inc. (CAGELCO II)
- Camarines Sur II Electric Cooperative, Inc. (CASURECO II)
- Bohol II Electric Cooperative, Inc. (BOHECO II)
- Palawan Electric Cooperative, Inc. (PALECO)
- Cebu I Electric Cooperative, Inc. (CEBECO I)
- Camarines Norte Electric Cooperative, Inc. (CANORECO)
- Zamboanga Sur I Electric Cooperative, Inc. (ZAMSURECO I)
- Pampanga I Electric Cooperative, Inc. (PELCO I)
- Iloilo II Electric Cooperative, Inc. (ILECO II)
- Zamboanga Sur II Electric Cooperative, Inc. (ZAMSURECO II)
- South Cotabato I Electric Cooperative, Inc. (SOCOTECO I)
- Sorsogon II Electric Cooperative, Inc. (SORECO I)
- Nueva Ecija II (Area 2) Electric Cooperative, Inc. (NEECO II)
- Agusan Sur Electric Cooperative, Inc. (ASELCO)
- Davao Oriental Electric Cooperative, Inc. (DORECO)

Group 2 – Second Semester

- Visayas Economic Zones
- Zamboanga Norte Electric Cooperative, Inc. (ZANECO)
- Tarlac II Electric Cooperative, Inc. (TARELCO II)
- Nueva Ecija I Electric Cooperative, Inc. (NEECO I)
- Misamis Occidental II Electric Cooperative, Inc. (MOELCI II)
- Surigao Sur I Electric Cooperative, Inc. (SURSECO I)
- Lanao del Norte Electric Cooperative, Inc. (LANECO)
- Nueva Vizcaya Electric Cooperative, Inc. (NUVELCO)
- Southern Leyte Electric Cooperative, Inc. (SOLECO)
- Camarines Sur III Electric Cooperative, Inc. (CASURECO III)
- Antique Electric Cooperative, Inc. (ANTECO)
- Cebu III Electric Cooperative, Inc. (CEBECO III)
- Zambales II Electric Cooperative, Inc. (ZAMECO II)
- Bukidnon II Electric Cooperative, Inc. (BUSECO)
- Pangasinan I Electric Cooperative, Inc. (PANELCO I)
- Leyte I Electric Cooperative, Inc. (LEYECO I)
- Camarines Sur I Electric Cooperative, Inc. (CASURECO I)
- Sultan Kudarat Electric Cooperative, Inc. (SUKELCO)
- Pampanga III Electric Cooperative, Inc. (PELCO III)
- Surigao Norte Electric Cooperative, Inc. (SURNECO)
- Leyte IV Electric Cooperative, Inc. (LEYECO IV)

Year 3

Group 1 – First Semester

- Regulated Entities not under Performance-Based Regulation with specific projects for the Mindanao Grid
- First Laguna Electric Cooperative, Inc. (FLECO)
- Occidental Mindoro Electric Cooperative, Inc. (OMECO)
- Leyte II Electric Cooperative, Inc. (LEYECO II)
- Misamis Oriental I Electric Cooperative, Inc. (MORESCO I)
- Lanao del Sur Electric Cooperative, Inc. (LASURECO)
- Sorsogon I Electric Cooperative, Inc. (SORECO I)
- Misamis Oriental II Electric Cooperative, Inc. (MORESCO II)
- Zambales I Electric Cooperative, Inc. (ZAMAECO I)
- Samar II Electric Cooperative, Inc. (SAMELCO II)
- Northern Samar Electric Cooperative, Inc. (NORSAMELCO)
- Negros Oriental I Electric Cooperative, Inc. (NORECO I)

- Iloilo III Electric Cooperative, Inc. (ILECO III)
- Surigao del Sur II Electric Cooperative, Inc. (SURSECO II)
- Maguindanao Electric Cooperative, Inc. (MAGELCO)
- Camarines Sur IV Electric Cooperative, Inc. (CASURECO IV)
- First Catanduanes Electric Cooperative, Inc. (FICELCO)
- Marinduque Electric Cooperative, Inc. (MARELCO)
- Abra Electric Cooperative, Inc. (ABRECO)
- Misamis Occidental I Electric Cooperative, Inc. (MOELCI I)
- Samar I Electric Cooperative, Inc. (SAMELCO I)

Group 2 – Second Semester

- Mindanao Economic Zones
- Eastern Samar Electric Cooperative, Inc. (ESAMELCO)
- Aurora Electric Cooperative, Inc. (AURELCO)
- Masbate Electric Cooperative, Inc. (MASELCO)
- Quirino Electric Cooperative, Inc. (QUIRELCO)
- Leyte III Electric Cooperative, Inc. (LEYECO III)
- Basilan Electric Cooperative, Inc. (BASELCO)
- San Jose City Electric Cooperative, Inc. (SAJELCO)
- Kalinga Apayao Electric Cooperative, Inc. (KAELCO)
- Mt. Province Electric Cooperative, Inc. (MOPRECO)
- Quezon II Electric Cooperative, Inc. (QUEZELCO II)
- Tablas Island Electric Cooperative, Inc. (TIELCO)
- Biliran Electric Cooperative, Inc. (BILECO)
- Sulu Electric Cooperative, Inc. (SULECO)
- Siargao Island Electric Cooperative, Inc. (SIARELCO)
- Guimaras Electric Cooperative, Inc. (GUIMELCO)
- Ifugao Electric Cooperative, Inc. (IFELCO)
- Bantayan Island Electric Cooperative, Inc. (BANELCO)
- Pampanga Rural Service Electric Cooperative, Inc. (PRESCO)
- Province of Siquijor Electric Cooperative, Inc. (PROSIELCO)
- Camiguin Island Electric Cooperative, Inc. (CAMELCO)

3.2 Requirements for Filing the Application of Capital Expenditure Program

3.2.1 Filing Requirements

A Regulated Entity shall submit to the ERC a capital expenditure program for a period of three (3) years. The periodic filing of these proposed capital expenditure projects involving the acquisition, improvement and installation of **plant assets** enumerated in Section 2.1.1 shall be made for review and approval of the ERC. Proposed capital projects must be classified in accordance with Section 2.3.1. This expenditure program also includes capital projects that form part of the system loss reduction program.

The three (3) year capital expenditure program shall be consistent with the ten (10) year rolling TDP or five (5) year rolling DDP submitted by the Regulated Entity to the DOE.

The application for the approval of the three (3) year capital expenditure program shall be verified by an authorized representative of the Regulated Entity, which has to present either a Board Resolution or Secretary's Certificate to show proof of his / her designation as a representative of the Board of Directors and shall be filed with the ERC together with properly labeled three (3) hard copies and three (3) electronic copies. The capital expenditure program shall be accompanied by the following documents:

- 3.2.1.1 Description of each capital project;
- 3.2.1.2 Classification of the projects in accordance with Section 2.3.1;
- 3.2.1.3 Project Justifications (include the adverse effects of the non-implementation of the proposed Project(s) and Impact or benefits of the proposed Project(s) on the system);
- 3.2.1.4 Options / Alternatives considered in lieu of the proposed Project(s)
- 3.2.1.5 Regulated Entity's Transmission or Distribution Development Plan;
- 3.2.1.6 Technical Analysis⁴ (commercial software load flow simulation and interpretation of results showing the electrical

⁴ Updated System Loss segregation data shall be included together with other parameters deemed relevant in the conduct of the technical analysis.

effects of the proposed project/s such as voltage drop, power quality, power factor, system loss, frequency, harmonics, load / phase balancing etc.);

- 3.2.1.7 Projected Financial & Economic Cost Analysis;
- i. Rate impact study of the proposed Projects (include the monetary benefits that can be delivered or derived upon pursuing the proposed projects);
 - ii. Net Present Value, Internal Rate of Return and Benefit/Cost Ratio analysis (include analysis for the alternatives);
 - iii. 5 – year Projected Financial Ratios:
 - (a) Liquidity
 - (b) Efficiency
 - (c) Profitability
 - (d) Leverage, and
 - (e) Other ratios as determined by the ERC.
- 3.2.1.8 Conceptual Engineering Design and Drawings;
- 3.2.1.9 Project Cost Estimates which have to be in reference to the submitted engineering design and bill of materials;
- 3.2.1.10 Project Financing Plan⁵ (the CAPEX fund, in the case of Electric Cooperatives, shall be utilized to finance the proposed capital expenditure projects and also for the payment of amortization in the case of project financing loans);
- 3.2.1.11 Gantt Chart Schedule of the proposed capital expenditure projects;
- 3.2.1.12 Board Resolution or Secretary's Certificate approving the proposed Projects;
- 3.2.1.13 Sworn Statement from the authorized representative of the Regulated Entity that an application for approval from the concerned agencies that may have interest in the proposed project has been filed / or shall be filed by the Regulated Entity (specify date of filing and furnish ERC a copy within five (5) days upon filing);

⁵ In the case of project financing loans, the cost of money should not be greater than the prevailing market rate.

3.2.1.14 Proof/s that public information dissemination of the proposed capital expenditure program was conducted by the Regulated Entity. At the minimum, the Regulated Entity should show proof of posting in at least three conspicuous places within its franchise area, of a notice containing the following: 1. the proposed projects; 2. the reasons for proposing said projects; 3. the source of fund for the said projects; and 4. rate impact of the approval of said project, if any; and

3.2.1.15 Proof that a separate application for authority to secure loan has been filed with the ERC in the case of projects to be funded by loan/standby credit.

Subsequent filing of capital expenditure applications shall be based on the capital expenditure projects as indicated in the rolling TDP and DDP submitted by the Regulated Entity.

Any petition, application or action to be filed herein shall be governed by the existing Rules of Practice and Procedure Governing Hearings before the ERC, the pertinent provisions of the Act or its IRR and other related laws.

3.2.2 Project Justification Templates⁶

For purposes of uniformity, a project justification form or template is provided herewith and shall be accomplished upon filing of the proposed capital projects. Content of this template is discussed below.

- a) Name and Code: A unique project code and project name must be provided for each project. These details will be used in all future consideration of or communication about a particular project.
- b) Description: A short description of the project must be provided, which will allow the ERC to understand the scope and location of the project.
- c) Commissioning Date: The required commissioning date for the project should be indicated (month, year). Where projects are to be commissioned in phases, these dates are to be separately indicated.

⁶ See Annex A – Justification for Capital Project.

3.3 Force Majeure or Fortuitous Event Capital Expenditure

If a Force Majeure or Fortuitous event, as the case may be, occurs, the affected Regulated Entity shall seek the ERC's confirmation of the implementation of capital expenditure projects arising from such event.

To seek the ERC's confirmation, the affected Regulated Entity must give the ERC a Force Majeure or Fortuitous Event Notice within three (3) months from the occurrence of the Force Majeure or Fortuitous Event and must specify the following:

- (a) details of the Force Majeure or Fortuitous Event concerned;
- (b) the details of capital expenditures (increase in costs) that the affected Regulated Entity has actually incurred on the date of the Force Majeure or Fortuitous Event :
 - (i) in the transmission or distribution of electricity to Connection Points in respect of the relevant Regulated System; and
 - (ii) in connection with the provisions of any legislation, or of rules, regulations or guidelines made under the EPIRA, including the IRR, the Grid Code and the Distribution Code, which must be complied with in relation to the transmission or distribution of such electricity.

The Force Majeure or Fortuitous Event Notice must be accompanied by evidence of the increase in costs referred to in paragraph (c) and justification that such costs are reasonable and occur as a sole consequence of the FM or FE.

The affected Regulated Entity shall file a formal application within thirty (30) days from the submission of the Force Majeure or Fortuitous Event Notice and shall be decided by the ERC within sixty (60) days from the time the applicant formally offers its evidence.

3.4 Emergency Capital Expenditure

These are capital expenditure projects that require immediate implementation during an event other than those enumerated and covered in the definition of a *force majeure*, or fortuitous event in order to maintain safe, reliable, secure and efficient operation of the power system. These projects shall be filed with ERC for approval within sixty (60) days after the start of construction and shall be supported by documents indicating the following:

- a) Project Description;
- b) Justifications or Benefits to be delivered;
- c) Estimated Project Costs;

- d) Project Financing Plan; and
- e) Project Schedule.

3.5 Contingency Expenditure

Unplanned expenditures may occur at any given period which may be influenced by national government policies and initiatives, political interventions and/or sudden implementation of local government development programs. A Regulated Entity shall file a formal application sixty (60) days prior to the start of implementation of such projects and shall be supported by documents indicating the following:

- a) Project Description;
- b) Justifications or Benefits to be delivered;
- c) Estimated Project Costs;
- d) Project Financing Plan; and
- e) Project Schedule.

ARTICLE IV EVALUATION AND APPROVAL OF THE APPLICATION

4.1 Evaluation of Capital Expenditure Program

Before accepting the application for filing, the ERC's Docket Section may first refer applicant or its representative to the appropriate Service of the ERC for a pre-filing conference to inquire into the completeness of the supporting documents attached to the application.

The application may be rejected due to non-payment of the required filing fee as docketing requirement. Rejection of such application is not a bar to the re-filing of the same with the ERC.

The ERC shall conduct an ocular inspection before the hearing without prejudice to the conduct of additional inspection, if necessary, to verify/clarify any issue or information pertaining to the proposed capital projects.

During the review and evaluation, the ERC may request additional information from the Regulated Entity on issues that it deems require more clarification pertaining to their capital expenditure program.

Failure on the part of the Regulated Entity to submit any of the required detail/information within thirty (30) days from receipt of an *Order* shall be a ground for the denial of the application.

Any application for the approval of any capital expenditure project shall be decided by the ERC within ninety (90) days from the time the applicant formally offers its evidence.

The ERC may refer to the GMC or DMC or engage the services of a consultant at a reasonable cost, in the evaluation of any Capital Projects application submitted to it for approval. The concerned Regulated Entity shall be charged an amount equivalent to the expenses incurred by the ERC in engaging the services of the consultant, and said expenses shall be recovered by the concerned Regulated Entity as part of the capital expenditure of the project being evaluated.

4.2 Payment of Fees

For the authorization and approval of capital expenditure projects, a Regulated Entity shall be required to pay a permit fee based on the existing schedule of ERC Fees and Charges.

Payment of permit fee shall be on an annual basis. The first of the three (3) payments shall be made fifteen (15) days from receipt of the *Decision* approving the application. The amount to be paid shall correspond to the permit fee for the approved projects to be implemented for the first year. The second and third payments shall be paid every 15th day of January of the pertinent year.

4.3 Asset Valuation

Capital assets and components of the proposed three (3) year capital expenditure program submitted by a Regulated Entity for the evaluation and approval of the ERC may be reviewed by valuation methods specified below:

- (a) **Indexation** - this is applied to assets where there has been little technological change and most, if not all, direct costs that have been incurred and capitalized in respect of those assets would have to be incurred if they were replaced. This valuation method is directly linked to the historical value of the relevant assets, thereby ensuring that all relevant costs are included in the valuation.
- (b) **Valuation by replacement cost analysis** - the method of valuing the relevant assets at their current unit prices multiplied by their volumes. Such prices may be verified by reference to the purchase price of like assets within the last twelve (12) months or by reference to recent documented arm's length quotations for the sale of those (or similar) assets. These prices include the discounts available from purchasing in

the volumes which have been used in the normal course of business and must be increased to cover relevant costs arising from design, procurement, mobilization, construction and commissioning. This approach may be used in valuing an asset where there has not been significant technological change and where it has not been possible to develop an appropriate index for the valuation of that asset for the purposes of the valuation method referred to in paragraph (a).

- (c) **Valuation using modern equivalent asset analysis** – this involves valuing the relevant assets at the cost of a modern equivalent asset with similar service potential (for example, an asset which replicates at least their current capacity and functionality). It may be used when it is not possible to determine the current replacement cost for an asset, e.g. because that asset is no longer manufactured.

4.4 Treatment of Economically Inefficient Capital Expenditure

The capital expenditure program submitted by a Regulated Entity shall be evaluated to establish that the proposed capital projects satisfy the following:

- a) Related to the provision of regulated services in accordance with the Philippine Grid Code and the Philippine Distribution Code;
- b) Economically efficient given the project requirements or its objective;
- c) The projects are worth pursuing justified by a convincing cost benefit analyses;
- d) Costs of project components and materials are reasonable and reflect true market price, assuming an effective project design; and
- e) Beneficial to the customers.

When the ERC determines and identifies an expenditure that is not reasonably efficient during the review and evaluation of the capital expenditure program of a Regulated Entity, it may decide either of the following: (1) disallow any of the expenditures for a particular capital project, or (2) allow only a reasonably efficient level of expenditure for the said capital project.

When expenditures are disallowed, the decision issued by the ERC shall include the amount and a detailed explanation of the justification for such a disallowance.

4.5 Deferred Expenditure on Capital Projects

A Regulated Entity must promptly notify the ERC, in writing, if any expenditure for a Capital Project forecasted to be undertaken in the three (3) year capital expenditure program as approved by the ERC, has not been substantially undertaken within eighteen (18) months from the time it was so forecasted to be undertaken.

If at any time the ERC determines that any expenditure for a Capital Project, forecasted to be undertaken in the approved capital expenditure program has not been substantially undertaken, it shall direct the Regulated Entity to submit a written report, together with substantial justifications, for the deferment of such capital projects. The ERC shall promptly notify the Regulated Entity in writing of its determination.

ARTICLE V MONITORING OF CAPITAL EXPENDITURE IMPLEMENTATION

5.1 Reportorial Requirements

A Regulated Entity shall submit the results of the competitive bidding which include proposals and purchase orders, the *as-built* drawings and bill of materials and the actual cost incurred in the implementation of the planned capital expenditure projects not later than the 1st working week of January of the succeeding year.

The current TDP or DDP shall also be submitted annually not later than the last week of April for monitoring of the planned capital expenditure projects of a Regulated Entity.

5.2 Regulatory Inspection

The ERC shall conduct regular annual site inspections to verify and monitor the progress of the proposed capital projects being implemented. The Regulated Entity shall provide the ERC inspection team of the project records, documents, any variation order and relevant reports necessary in the assessment of the capital expenditure programs undertaken, in accordance with the prescribed format.

5.3 Variation Order

Any significant or substantial change in the conceptual engineering design, specifications and/or increase/decrease in the bill of materials that will result in a cumulative variation order beyond 10% on top of the allocated contingency due to extraordinary inflation and currency exchange rate of the original project cost, shall be reported to the ERC in writing, thirty (30) days before implementing the variation order. The ERC shall render its decision within thirty (30) days from receipt of the report; otherwise, the revision/s shall be deemed approved. Failure to submit a report within the said period shall constitute a waiver by the Regulated Entity for any claim.

ARTICLE VI FINAL PROVISIONS

6.1 Administrative Sanctions

Violations 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 Republic Act 9136.

6.2 Transitory Provisions

Capital projects for immediate implementation, or those that are in the implementation process or those projects which were recently completed and have not been covered by any application filed before the ERC, shall be submitted to the ERC for approval within twelve (12) months from the date of effectivity of these Rules.

Thereafter, the proposed three (3) year capital expenditure projects as indicated in the latest TDP or DDP of the Regulated Entity shall be filed for approval in accordance with Section 3.1.

Capital projects which have already been included in the applicant's rate base, as approved by the ERC, or those that were already filed for evaluation, or those that were already filed for inclusion in the rate base and presently being evaluated by the ERC, shall be excluded from the application of these Rules.

6.3 Separability Clause

If for any reason, any provision of these Rules is declared unconstitutional or invalid by final judgment of a competent court, the other parts or provisions hereof which were not affected thereby shall continue to be in full force and effect.

6.4 Repealing Clause

Any rule or regulation inconsistent with the provisions of these Rules is hereby repealed and modified accordingly.

6.5 Effectivity

These Rules shall take effect fifteen (15) days upon its publication in a newspaper of nationwide circulation.

Annex A

JUSTIFICATION FOR CAPITAL PROJECTS

<p><u>X Power Utility</u> CY 2008 – CY 2010 Capital Projects Project Information Summary</p>	<p>Company Logo</p>
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Project Details:	
Name / Project	
Project Code	
Description	
Commissioning date	

Project Classification:			
Rank		(1 st Priority; 2 nd Priority)	
Project Driver Classification		(Load Growth; Network non-growth; Network control / safety / metering; Non-network; Statutory)	
Project Type Classification		(Renewal; Refurbishment; Growth)	
Expenditure for the Period CY2008- CY2010 (in Millions)	Forex:	Local:	TOTAL:

Project Need:	
Project Purpose	
Impact if Project Not Implemented	
Reason for ranking project commissioning date relative to other projects	

