

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



**RULES TO GOVERN THE APPLICATION AND APPROVAL OF THE  
TIME OF USE (TOU) RETAIL RATES OF DISTRIBUTION UTILITIES (DUs)  
SOURCING 100% OF THEIR POWER REQUIREMENTS FROM THE NATIONAL  
POWER CORPORATION (NPC)**

Pursuant to Section 43 (f) of Republic Act No. 9136, Rule 3, Section 4 of its Implementing Rules and Regulations (IRR) and the Distribution Services and Open Access Rules (DSOAR), the Energy Regulatory Commission (ERC) hereby adopts and promulgates these Rules to establish a process for the application and approval of the Time of Use (TOU) retail rates of Distribution Utilities (DUs) sourcing 100% of their power requirements from the National Power Corporation (NPC)

**ARTICLE I**

**GENERAL PROVISIONS**

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

- a) To ensure and maintain the quality, reliability, security and affordability of the supply of electric power;
- b) To ensure transparent and reasonable prices of electric power service in a regime of free and fair competition and to achieve greater operational and economic efficiency;
- c) To protect the public interest as it is affected by the rates and services of DUs;
- d) To provide the DUs with a process for filing applications for the approval of their TOU Retail Rates; and
- e) To ensure recovery of allowable Generation Costs and other costs associated with the System Loss Cap.

**Section 2. Scope** - These Rules shall apply to DUs sourcing 100% of their power requirements from the National Power Corporation (NPC) that have not yet filed their application for TOU Retail Rates; and DUs sourcing from both NPC main grid and NPC-SPUG but only with respect to their customers in the main grid. DUs sourcing 100% from NPC-SPUG shall be exempted from filing TOU Retail Rates application.

**Section 3. Definition of Terms** - As used in these Rules, the following terms shall have the following respective meanings:

**Act** - unless otherwise stated, refers to Republic Act No. 9136, otherwise known as the "Electric Power Industry Reform Act of 2001";

**AGRA Rules** - refer to the Guidelines for the Automatic Adjustment of Generation Rates and System Loss Rates by Distribution Utilities under ERC Case No. 2004-322, or any amendments thereto;

**Distribution Utility or DU** - refers to any electric cooperative, private corporation, government-owned utility or existing local government unit which has exclusive franchise to operate a distribution system in accordance with its franchise and the Act;

**Distribution System** - refers to the system of wires and associated facilities belonging to a franchised DU, extending between the delivery points on the transmission or sub-transmission system or generator connection and the point of connection to the premises of the End-User;

**DSOAR** - refers to the Distribution Service and Open Access Rules as promulgated by the ERC on January 18, 2006;

**End-User** - refers to any person or entity requiring the supply and delivery of electricity for its own use;

**Energy Regulatory Commission or ERC** - refers to the regulatory agency created under Section 38 of the Act;

**ERC Rules of Practice and Procedures** - refers to the Rules promulgated by the ERC on June 22, 2006 governing proceedings before it;

**Generation Cost** - refers to the cost associated with purchased power. Generation costs include only those costs that are reasonable, prudently incurred, and are eligible for recovery in accordance with the established policies of the ERC;

**Generation Rate** - refers to the cost of power generated and sold to the distribution utility by NPC as well as the Independent Power Producers (IPPs), which shall be passed on to the DUs customers;

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

**NPC - Small Power Utilities Group or NPC - SPUG** - refers to the functional unit of NPC created to pursue Missionary Electrification function;

**Other Generation Rate Adjustments or OGA** – refers to under(over) recoveries in generation costs and recoveries from violation of contracts and other pilferages, as well as other adjustments deemed necessary by the ERC, subject to the provisions of the AGRA Rules.

**System Loss** - refers to the difference between kilowatt-hour (kWh) purchased and/or generated and kWh sold by a DU expressed as a percentage of kWh purchased and/or generated; and

**Time of Use or TOU** - refers to the cost of power billed based on hourly generation rates.

## ARTICLE II

### FILING and DATA REQUIREMENTS

**Section 1. Application for Time of Use (TOU) Retail Rates** - DUs sourcing one hundred percent (100%) of their power requirement from NPC, may offer their customers opting to be billed based on TOU rates, the NPC-TOU rates approved by the ERC on April 13, 2005 under ERC Case No. 2004-178, plus other adjustments approved for NPC, i.e., Franchise and Benefits to Host Communities (FBHC), GRAM and ICERA.

Generation Rates for Non-TOU customers shall be calculated in accordance with the AGRA Rules.

**Section 2. Customer-based metering cost** - The cost of the TOU metering equipment and its accessories, including incidental cost related to its implementation shall be for the account of the customer who opts to be billed with TOU rates.

The DU may supply the customer with the TOU metering equipment and accessories, acquired through a competitive bidding process. The cost to be charged to TOU customers shall be indicated in the DU's TOU application.

Relevant provisions of the Magna Carta for Residential Electricity Consumers and the DSOAR regarding meter upkeep and safety shall apply to said metering equipment.

**Section 3. Incremental Supply and Metering Charge** - The DUs shall be allowed to charge TOU customers an incremental supply and metering charge of 5% over the existing ERC-approved supply and metering charges. This shall cover additional cost related to system enhancement and additional meter reading and customer costs. Should the DU find the 5% insufficient to cover additional cost, the DU may propose for a different rate (based on its calculation/s and justification/s), which should likewise be indicated in its TOU application.

**Section 4. TOU Retail Rates Implementation to End-Users** - The TOU Retail Rates of the DU shall be implemented on a voluntary basis to its end-users. Once a customer opted to be billed under the TOU retail rates, it can no longer revert back to a non-TOU customer status.

**Section 5. System Loss Charge and OGA** - An average system loss and OGA shall be charged to all customers regardless of their class.

**Section 6. Data Requirement** - The following are the data requirements to be submitted in support of the application:

1. Daily load profile for the year 2006 per customer class showing the daily load curve for each month coinciding with the peak load, if available;
2. Schedule of monthly NPC hourly billings (support to the main invoice) for the year 2006;
3. Rate impact study (existing vs. proposed rates) on TOU customers and non-TOU customers; and
4. Result/s of the competitive bidding for the TOU capable metering device that will be sold to its customers.

Additional requirements for DUs proposing a different incremental supply and metering charges other than the 5% set by the ERC:

1. Supporting data (time and motion studies) on the activity of the office and the time required by specific personnel to complete each task;
2. Supporting data (plantilla position or contract service) on the salary rate of personnel and service contractor involved in the process;
3. Supporting data on materials, equipment cost and overhead rates; and
4. Soft copy of all calculations and rate derivations.

**Section 7. Filing** - The DUs shall file with the ERC their petitions for the approval of their TOU retail rates in accordance with the following schedule:

1. DUs with industrial customers consuming at least thirty percent (30%) of their total energy requirements shall file within three (3) months from the date of effectivity of these Rules;
2. LUZON DUs, four (4) months from the date of effectivity of these Rules;
3. VISAYAS DUs, six (6) months from the date of effectivity of these Rules; and
4. MINDANAO DUs, eight (8) months from the date of effectivity of these Rules.

**Section 8. Pre - Filing Requirement** - The applicant/s shall comply with Section 4 (e) Rule 3 of the IRR of the Act and Rule 6 of the ERC Rules of Practice and Procedure.

**Section 9. Provisional Approval** - Upon filing of the petition, the ERC may, issue a Provisional Authority (PA) based on the allegations in the application, and supporting documents submitted, within seventy five (75) days from receipt of the application.

### ARTICLE III

#### FINES AND PENALTIES

**Section 1. Fines and Penalties.** Violation of any provisions 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 the Act promulgated by the ERC on May 17, 2002.

### ARTICLE IV

#### FINAL PROVISIONS

**Section 1. Exception Clause** - Where good cause appears, the ERC may allow an exception from any provisions of these Rules, if such exception is found to be in the public interest and is not contrary to the law or any other related rules and regulations.

**Section 2. Separability Clause** - If for any reason, any part or section of these Rules is declared unconstitutional or invalid, the other parts or sections hereof which are not affected thereby shall continue to be in full force and effect.

**Section 3. Repealing Clause** - All rules and guidelines, or portions thereof, issued by the ERC, inconsistent with these Rules are hereby repealed or modified accordingly.

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

Pasig City, September - 2007.

**RODOLFO B. ALBANO, JR.**  
Chairman

**RAUF A. TAN**  
Commissioner

**ALEJANDRO Z. BARIN**  
Commissioner

**MARIA TERESA A.R. CASTAÑEDA**  
Commissioner

**JOSE C. REYES**  
Commissioner

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