

**MERALCO’S COMMENTS ON THE PROPOSED
OPEN ACCESS TRANSMISSION SERVICE**

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A2.1	19	On the date of effectivity, there should be prior publication before the rules could take effect. This is to comply with the requirements of due process.
A.2.2	19	Is it only the Transmission Provider/System Operator who could introduce changes or amendments to the OATS Rules? What about the other Participants? The rules provide that “the amended or replaced OATS Rules shall be automatically binding on each Participant”. Are the other Participants thereby prevented from questioning or challenging the amendments?
A5.1	20	Does the reference to A13.1 (d) mean that for the Participant to be exempt from liability for breach of obligation, he has to claim the benefit of one or more fortuitous event for either 14 consecutive days or for more than a total of 28 days in any 12 month period (A13.1(d))? What is basis of the number of days? What’s the difference if you claim 14 or 28 days? Further, the second sentence seems to contradict with the previous one which, as a general rule, exempts a Participant from liability on account of fortuitous event.
A7.2	22	Will it not unduly restrict the right of the indemnified party to claim damages on grounds other than those mentioned in A7?
A8.1	22	Clarification must be made on the purpose of credit support. Will Transmission Customer’s non-compliance therewith be a ground to deny connection to the grid?
A9.3	23	Last paragraph thereof states that: “xxx The final decision of the arbitrator(s) shall also be filed with the ERC if it affects jurisdictional rates, rules, terms and conditions of service or facilities.” It seems to contradict the earlier statement in A9.1 that matters relative to rate or tariff changes are not arbitrable.
A9.5	24	Are we made to understand that disputes involving the System Operator’s obligations under the WESM Rules are not be dealt with pursuant to the dispute resolution procedure mentioned in the OATS Rules?
A9.6	24	A17 explicitly states that the OATS Rules are governed by Philippine laws. A9.6 effectivity allows application of other laws, even those of foreign application hence, outside our jurisdiction.
A11.1	25	In novation, the creditor’s consent is required. But under this rule, such novation may take place by just giving the other party due notice and requiring the new party to assume the remaining liabilities of the party causing the novation.
A11.2	26	The provision insinuates that when the assignment is for security purposes, consent of the other participants is no longer needed. But such consent, as earlier said is nowhere to be found in the preceding rule. What is the meaning of “financing purposes”? This should be clarified because most assignments are made for financial reasons and therefore may be covered by

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		the preceding rule.
A11.3	26	Paragraph (c) thereof states that “the assigning party shall not be relieved of any liability that occurred before the effective date.” On the other hand, A11.1 requires, as a condition for the assignment, etc., the successor to execute a written document assuming all the obligations of the assignor. Are we now made to understand that such assumption of liability will only apply to obligations incurred after the date of effectivity of assignment? How would it be possible for the assignor to still incur liabilities under the service agreement and the OATS Rules when after the effectivity of the assignment, the successor automatically takes the place of the assigning party?
A13.1 (a)	27	Are we made to understand that when the default or error is inadvertent and not corrected within two (2) days, the same will be a ground for termination of service agreement? Is it not that under the general rule, when the error is not inadvertent and has not been remedied within six (6) business days, the service agreement may be terminated by the Transmission Provider? It seems then that the rule is harsher when the default is inadvertent than when it is deliberate.
A13.1 (d)	28	What is the basis of the 14 days and 28 days on the claim for the benefit of fortuitous event?
A13.3	28	There are no specified grounds for the transmission customer to be justified in terminating the service agreement?
A13.4	28	Is the termination of the OATS Rules the sole prerogative of the Transmission Provider? Is the termination subject to the approval of the ERC or is the approval only a ministerial duty of the ERC, thus, it can only provide for the time and manner of such termination?
A17.1	29	What is the meaning of “non-exclusive” jurisdiction? Are the parties then allowed to explore means to settle the dispute other than through court proceedings?
A18.1	29	What if delay is for unreasonable length of time and failure or forbearance unjustified, will they not operate as a waiver of the remedy?
A22	31	NPC-Gencos are assumed to have Firm PDS. What would be the basis of dispatch to be used by the TP/SO prior to WESM? Can the Transmission Customer (TC) insist on the dispatch of its own generating facilities?
A22.3	31	Are the parties required to enter into a replacement Service Agreement? Are they not free to continue with their existing agreement?
A23.1	32	The Transmission Provider/System Operator is only required to act as a reasonable and prudent operation in the discharge of its duties. This falls short of the requirement under Section 7 of the EPIRA Law which considers transmission of electric power a regulated common electricity carrier business which therefore is required to observe extraordinary diligence in the performance of duties.

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B1.1	33	Under this rule, disconnection is subject to the rules contained only in this module. What about the rules contained in the other modules, specifically A13.3?
B5	34	Some Transmission Customers such as Electric Cooperatives may not be able to put up these expensive equipment.
B5.2	34	The TP/SO should be able to justify the need to access data other than the minimum requirement to ensure monitoring, reliability and security of the system. The use of the term “economics” needs clarification.
B11.3 (a)	38	This particular provision assumes that the unit is operating within the manufacturer’s prescribed limits
B11.3 (b)	38	The Grid Code nor in the pro –forma SA presented does not mention such Power System Stabilizer performance requirements.
B12.1	38	All customers are already required to pay for frequency regulation ancillary services. Load shedding is one type of ancillary service and thus customers providing such service should be duly compensated. Every kWh shed will have an impact on the customers and the distributor’s finances
B14	40	There must be a provision to check on the discretionary authority of the Transmission Provider / System Operator. There will be no way to determine if an SIS is entirely necessary. If the transmission customer does not accept the TD/SO’s proposal, the application may be deemed withdrawn.
B14.12	41	It appears that the time limit of sixty days given to the Transmission Provider to complete the SIS is useless because if such deadline is not met, rule B14.12 provides that all the Transmission Provider has to do is just give another estimated date of completion. No penalties whatsoever. Perhaps there should be some incentive for the Transmission Provider to finish the SIS on time, such as a reduction of so many pesos per day of delay on the payment to be made by the Transmission Customer for the SIS. In this way, if the SIS takes too long to complete, the Transmission Customer would at least no longer have to pay for the cost of the study.
C5.1	47	This provision should specify how the System Operator will dispatch the plant or IPPs of Transmission Customers with Firm or Non-Firm Power Delivery Service
C11.1	48	“Material effect” should be clarified
C11.1 (b)	49	The specific section of the Grid Code should be specified
C(AI)3	50	Existing Firm Power Delivery Service Transmission Customers should be given priority in allocating the FPDS
D5.4	52	We suggest that this provision be deleted since no matter how long or how slow the service restoration took place, the System Operator can always say that it has exerted “reasonable endeavors”.

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D12.1	57	There must be a provision to check on the discretionary authority of the System Operator.
D(AI)2.2	59	The meaning of “last-out-first-in” should be clarified. It could be interpreted to mean that customer who was the last to be disconnected (last out) from the grid would be the first one to be reconnected (first in) when system conditions return to normal?
D(AI)2.3	59	The provision should clearly state how the generation ratio share will be determined if generation curtailment is necessary. We suggest that sample calculations be added
D(AI)3.1 (a), (d)	59	“Load forecast error” is not a system disturbance that should merit re-dispatch.
F3.2	66	We suggest that the “Provided ...” clause should be deleted. Metering has nothing to do with, for example, an erroneous arithmetical calculation? It implies that there are metering errors that can not be corrected. Furthermore, this clause tends to limit the remediable billing errors to metering-related errors. Which should not be. All billing errors should be rectifiable without regard to the correctability of metering data.
F4.3	67	The interest rate to be imposed on the transmission customer’s overdue account, regardless of age, shall be based on the highest non-prime lending rate for the current quarter. Check if this will not be a heavy burden of the part of the transmission customer.
F5.2	67	Reference to Rule F6.1 is misleading because there is none in the module.
F(AII)3.2 (a)	70	Using the higher of contracted kW or the schedule kW as the billing determinant will result in over-recovery of TransCo's costs of Power Delivery Service and Ancillary Services.
F(AII)8.6.2	75	When will the PDS be applied separately from the BUSC?
F(AII)9	76	<p>This whole section including its subsections do not provide conditions that generating units have to perform commissioning tests which can cause a large variation in the machines actual load compared with the scheduled load. Moreover, in Section F(AII)9.1.2, the +/- 1.5% bandwidth is quite narrow for the Philippine electric system since frequency variations can affect that plants' actual loading. For natgas-fired plant, the output of the plant varies already by 0.4%/centigrade-degree.</p> <p>We propose to use two-level energy imbalance deviation band, first at +/- 2.5% and a minimum 2 MW level that the generating units are allowed to deviate without penalty and a second band of +/- 10%. Charges for deviations between 2.5% and 10% shall be 90% of marginal cost of energy credit (payment) for positive imbalance (actual load > scheduled load) or 110% of marginal cost energy payment for negative imbalance (actual load < scheduled load). For energy imbalances more than +/- 10%, positive imbalance shall be credited for 80% of marginal cost of energy while negative imbalance shall be charged at 120% of marginal cost of energy.</p>

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		(Reference: http://www.nwoasis.org/documents/NWMT/ExhibitL10-23-02.pdf)
F(AII)9.1.2	76	What is the basis of the +/-1.5% deviation band? It seem that over-generation beyond the +1.5% deviation band is not credited, wouldn't it be a case of double charging or undue benefit for the TP/SO?
F(AII)9.1.3.1(5)	77	This computation method will result in permitted overdeliveries from not being credited to the Transmission Customer. This unduly rewards TransCo/NPC.
F(AII)9.1.3.2 (3)	78	The generator should be compensated if at the end of the billing period there is still an allowable excess (instead of allowable shortage, in which case the generator pays additional), i.e. within the +1.5% band.
F(AII)9.3.4	81	The phrase " <i>based on the prior 24-month period</i> " should be clarified? Does it mean that the frequency of the recomputation would depend on the value of the loss factor obtained in the previous 24-month period? For example, if the loss factor for the preceding 24-month period were greater than 3%, the recomputation would be done every six months, while if the loss factor were less than 3%, the recomputation would be performed every 12 months?
F(AII)11.2.2	85	This provision should consider conditions wherein IPPs are required to reduce generation due to transmission line outages.