

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

RESOLUTION NO. _____, Series of 2008

**A RESOLUTION ADOPTING A NEW SYSTEM LOSS CAP
FOR DISTRIBUTION UTILITIES**

WHEREAS, Republic Act No. 7832, otherwise known as the “*Anti-Pilferage of Electricity and Theft of Electric Transmission Lines/Materials Act of 1994*” was signed into law on December 8, 1994 and took effect on January 17, 1995.

WHEREAS, Section 10 of the said Act sets the caps of recoverable systems loss as follows:

For Private Utilities (PU):

- 14^{1/2}% at the end of the first (1st) year following the effectivity of the Act;
- 13^{1/4}% at the end of the second (2nd) year following the effectivity of the Act;
- 11^{3/4}% at the end of the third (3rd) year following the effectivity of the Act; and
- 9^{1/2}% at the end of the fourth (4th) year following the effectivity of the Act;

For Electric Cooperatives(EC):

- 22% at the end of the first (1st) year following the effectivity of the Act;
- 20% at the end of the second (2nd) year following the effectivity of the Act;
- 18% at the end of the third (3rd) year following the effectivity of the Act;
- 16% at the end of the fourth (4th) year following the effectivity of the Act; and
- 14% at the end of the fifth (5th) year following the effectivity of the Act;

WHEREAS, the same Act authorized the then Energy regulatory board (ERB) to determine at the end of the fourth(4th) year for PUs and fifth(5th) year for ECs whether the above caps shall be reduced further, but in no case, be lower than 9%.

WHEREAS, the Implementing Rules and Regulations (IRR) of RA 7832 required PUs before the end of the fourth(4th) year and ECs before the end of the fifth (5th) year to file with the ERB an application for further system loss cap reduction, but no utility filed an application. That the said IRR allowed an additional actual company use, but not to exceed one (1%) percent of total kilowatthours (kwhr) purchased and generated .

WHEREAS, Republic Act No. 9136, otherwise known as the "*Electric Power Industry Reform Act of 2001*" amended Section 10 of RA 7832 and authorized the Energy Regulatory Commission (ERC) to determine the new cap on the recoverable rate of system loss based on load density, sales mix, cost of service, delivery voltage and other technical considerations it may promulgate.

WHEREAS, the ERC, after public consultation, issued the "*Guidelines for the Approval of Caps on the Recoverable Rate of Distribution System Losses*" on September 29, 2004. The Guidelines established the methodology for the segregation and calculation of distribution system losses into technical, non-technical and administrative, with the envision of setting a cap by type or delivery voltage and by utility.

WHEREAS, most of the utilities encountered difficulties complying with the required segregation, prompting the Commission to extend the deadline of filing the application, at least three (3) times. Despite said three extensions, some DUs still failed to comply.

WHEREAS, preliminary evaluation of applications submitted disclosed that the data contained therein are insufficient to enable the ERC to make a reasonable determination of a new system loss caps for DUs.

WHEREAS, on June 7, 2007, the Commission issued Resolution No. 19, series of 2007, "*A Resolution Embodying the ERC's Policy for Replacing Existing System Loss Caps of Distribution Utilities*", adopting the following policy declarations:

- DUs applications for approval of system loss caps already filed with the ERC shall be dismissed. Other DU who did not submit application is not required to file and no sanction will be imposed in the future.
- All ECs are required to file their respective applications using updated data after three years from effectivity of the said Resolution or on June 7, 2010. Hence, ECs are directed to utilize the 3-year deferment to build up pertinent data bases in preparation for the filing of their applications.
- ERC's new policies on the treatment of system loss and the setting of new caps for private DUs shall be incorporated in the ERC's evaluation of their respective applications as entrants to the Performance-Based Regulation (PBR).
- Treatment of system loss and the setting of new caps for ECs shall be considered in the new rate-making methodology for adoption.

WHEREAS, be it **RESOLVED**, as the Commission hereby **RESOLVES**, to adopt the following policy declarations:

1. The actual company use shall be treated as an expense of the distribution utilities in the following manner:
 - a. For PUs that are yet to enter PBR, it shall be treated as Operation and Maintenance in its PBR application;
 - b. For PUs that have been under PBR, it shall be treated as Operation and Maintenance in its next reset;
 - c. For ECs, it shall be treated as Operation and Maintenance in the benchmarking methodology;
2. The maximum recoverable rate of system loss shall be the actual but not to exceed eight (8%) for private utilities and eleven percent (11%) for electric cooperatives of the total kwhr purchased and generated;
3. The segregation of system loss shall be the utilities tool of managing its system loss; and
4. The new caps shall be effective January 2009 billing

This Resolution shall take effect thirty (30) days after its publication in a newspaper of general circulation in the country. This Resolution is hereby ordered to be posted on the ERC website and filed with the University of the Philippines Law Center Office of the National Administrative Register (ONAR).

Pasig City, August -----, 2008.

ZENAIDA G. CRUZ-DUCUT
Chairperson

RAUF A. TAN
Commissioner

ALEJANDRO Z. BARIN
Commissioner

MARIA TERESA R. CASTAÑEDA
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