

RULES FOR THE ADJUSTMENT OF GENERATION RATES AND SYSTEM LOSS RATES BY DISTRIBUTION UTILITIES

Pursuant to Section 23, 25 and 43 (f) of Republic Act No. 9136 or the Act, Rule 7 of its Implementing Rules and Regulations (IRR) and Section 10 of Republic Act No. 7832, the Energy Regulatory Commission (ERC) hereby adopts and promulgates these Rules to establish a process for the adjustment of Generation Rates and System Loss Rates by Distribution Utilities (DUs) and to establish an incentive mechanism to promote the least cost procurement of supplies of power for the captive market.

ARTICLE I

GENERAL PROVISIONS

These Rules shall 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 ensure full recovery of all allowable Generation Costs and other costs associated with the System Loss Caps in an efficient and timely manner;
- d) To protect the public interest as it is affected by the rates and services of DUs;
- e) To ensure that DUs meet their obligation to supply power in a least cost manner to its captive market; and
- f) To encourage DUs to participate in Wholesale Energy Aggregation Groups.

ARTICLE II

SCOPE AND DEFINITION OF TERMS

Section 1. Scope These Rules shall apply to all DUs.

Section 2. Definition of Terms As used in these Rules, the following terms shall have the following respective meanings:

a) “**Act**” unless otherwise stated, shall refer to Republic Act No. 9136, otherwise known as the “Electric Power Industry Reform Act of 2001”.

b) “**Annualized Sales**” shall refer to the kWh Sales used in the approved unbundled rates of a DU calculated by multiplying the average kWh consumption of a specific customer class by the year-end number of customers in that customer class.

c) “**Average Transmission Rate (ATR)**” shall mean the average transmission rate computed based on the Unbundling Decision of the DU as adjusted under the Transmission Rate Adjustment Mechanism (TRAM).

d) “**Distribution Utility (DU)**” shall refer to any electric cooperative, private corporation, government-owned utility or existing local government unit which has an exclusive franchise to operate a distribution system in accordance with the Act.

e) “**Distribution Utility-Owned Generation Facility**” shall refer to power generation facility owned by DU for the purpose of supplying its consumption or as a support to its total energy requirement.

f) “**Energy Regulatory Commission**” or “**ERC**” shall refer to the regulatory agency created by Section 38 of the Act.

g) “**Generation Costs**” shall mean costs associated with the production and/or purchase of electric power. Generation costs include only those costs that are reasonable, prudently incurred, and are eligible for recovery in accordance with the pertinent regulations issued by the ERC.

h) “**Generation Rate**” shall mean the cost of power from: a) National Power Corporation (NPC); b) Independent Power Producers (IPPs); c) Wholesale Electricity Spot Market (WESM); and d) Self-generation, which shall be passed on to the DU’s customers, as calculated in accordance with the formula set forth in Article III hereof.

i) “**Ineligible Supply Contracts**” shall mean power supply agreements entered into by the DUs with the IPPs, which were not duly approved by the then Energy Regulatory Board or by the ERC.

j) “**National Power Corporation**” or “**NPC**” shall refer to the government corporation created under Republic Act No. 6395, as amended.

k) “**Net Settlement Surplus**” shall refer to the excess of total payments of customers in the WESM over the total payments to generators arising as a result of congestion and losses in the transmission system, which bring about price differences between generators and consumer nodes. This also includes the bilateral contract transactions in which a line rental amount is calculated and imposed based on the bilateral contract quantities and the difference in energy price at the receiving and sending nodes.

- l) **“Other Generation Rate Adjustments (OGA)”** shall refer to under/(over)-recoveries in generation costs, recoveries from violation of contracts and other pilferages, as well as other adjustments deemed necessary by the ERC, subject to the provisions of these Rules. The OGA shall not be subject to any carrying charge.
- m) **“Prompt Payment Discount (PPD)”** shall mean the discount that DUs get from power supplier/s for paying their power bills within the discount period.
- n) **“Philippine Electricity Market Corporation (PEMC)”** shall refer to the entity responsible for the operations of the spot market, governed by the Philippine Electricity Market (PEM) Board in accordance with clause 1.4 of the WESM Rules.
- o) **“System Loss”** shall mean 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.
- p) **“System Loss Cap”** shall mean the level of System Loss recoverable from customers, as provided for under Republic Act No. 7832 or the Anti-electricity and Electric Transmission Lines/Materials Pilferage Act of 1994, until a different cap is determined, as established by the ERC in accordance with Section 43 (f) of the Act.
- q) **“System Loss Rate”** shall mean the rate determined in accordance with the formula set forth in Article IV hereof. System Loss Rates, for DUs where different system loss charges were granted for each of their respective customer classes in the Unbundling Decisions, shall be calculated based on an individual customer class level with the requisite reliable information to support individual System Loss Rates.
- r) **“Violations of Contracts (VOC) Cost Recoveries”** shall refer to costs recovered from direct connection, use of jumper, and other means of illicit usage of electricity.
- s) **“Wholesale Energy Aggregation Group”** shall mean a group of DUs whose loads are aggregated for the purpose of procuring a supply of power for its captive market in accordance with Section 23 of the Act.
- t) **“Wholesale Electricity Market (WESM)”** shall refer to the market where trading of electricity will be made, established pursuant to Section 30 of R.A. 9136.

ARTICLE III

ADJUSTMENT OF THE GENERATION RATE

Section 1. Adjustment Formula – The New Generation Rate shall comprise of three components, namely: Adjusted Generation Costs, Other Generation Adjustments, and Net Settlement Surplus which are to be reflected separately in

the billing statement of the customers. The New Generation Rate shall be calculated based on the following formula:

$$\mathbf{GR = AGC + OGA - NSS}$$

Where:

GR = Generation Rate to be charged per kWh

AGC = Adjusted Generation Costs calculated, as follows:

$$\frac{[(GC_i + GC_{ii} + \dots + GC_n) - (PPD * 50\%) \pm I]}{TPG}$$

$GC_{i \text{ to } n}$ = The Generation Costs in Pesos from source of power 1 through source of power n for the previous month coming from TSC, bilateral contracts, WESM purchases, and distribution utility-owned generation facility excluding:

- a) power distributed to customers under Customer Choice Program of NPC; and
- b) power sourced from distribution utility-owned generation facility, unless the ERC determines that such generation facility runs on a more or less continuous basis to meet the normal power demand of the DUs' system.

PPD = Prompt Payment Discount availed by the DU, net of the Prompt Payment Discounts passed on to the end customers, where discounts passed on to customers can not be higher than the discount availed from the power supplier/s, relative to the previous month's generation cost.

I = Least Cost Procurement Reward or Penalty calculated in accordance with Article VI, Section 3 of these Rules.

TPG = Total Purchases and Generated in kWh for the previous month net of kWh distributed to customers under the Customer Choice Program of NPC.

OGA = Other Generation Rate Adjustments, refer to adjustments deemed necessary by the Commission after prior verification and confirmation, which shall include, but shall not be limited to, under/(over)-recoveries in generation costs and recoveries from VOC. The OGA shall not be subject to any carrying charge.

NSS = Net Settlement Surplus that are flowed back to DUs, either through offsetting in its power bills or refund, shall be computed as follows:

$$\text{NSS in PhP/kWh} = \frac{\text{NSS in absolute amount}}{\text{Billing Determinant}}$$

Where:

NSS in absolute amount = The amount of NSS flowed back to DUs; and

$$\text{Billing Determinant} = \frac{\text{TPG}}{(1+U)}$$

TPG = As calculated above

U = Gross Up factor calculated under Article IV.

In the case of ineligible supply contracts, generation costs from such contracts shall include the kilowatt-hours pertaining to ineligible contracts but the costs shall be pegged at the NPC's Time-Of-Use (TOU), TSC rates or the Average TSC rate, whichever is applicable, or the actual rate as billed by the IPP, whichever is lower.

The pegging of the generation costs to TSC rate shall be without prejudice to other imposition of penalties on ineligible contracts deemed appropriate by the ERC. Any penalty imposed shall not be recovered from the customers.

Section 2. Billing of New Generation Rate – DUs shall carry out the billing of the new Generation Rate in accordance with the Rules to Govern the Filing of the Consolidated Monthly/Annual Applications for Adjustment of Rates Under Adjustment of True Up Mechanisms approved by the ERC.

ARTICLE IV

ADJUSTMENT OF THE SYSTEM LOSS RATE

Section 1. Adjustment Formula – DUs shall calculate the new System Loss Rates based on the following formula:

$$\text{SLR} = (\text{AGC} * \text{U}) + (\text{ATR} * \text{U})$$

Where:

SLR = System Loss Rate

AGC = Adjusted Generation Cost calculated in accordance with Article III

ATR = Average Transmission Rate (ATR) in Peso per kWh, computed as Transmission Costs per Unbundling Decision divided by the Annualized Sales in kWh or the new transmission rates computed based on TRAM.

U = Gross Up Factor = (% SL / [1- Actual%System Loss])

The %SL is based on:

- a) the actual Systems Loss or the Systems Loss cap, whichever is lower, plus
- b) actual company use or the company use cap of 1%, whichever is lower.

The actual System Loss and company use are based on the average of the most recent twelve (12) month figures for which information is available. Actual System Loss, for DUs where different system loss charges were granted for each of their respective customer classes in the Unbundling Decision, shall be calculated on an individual customer class level with the requisite reliable information to support individual System Loss Rates.

Section 2. Billing of System Loss Rate – DUs shall carry out the billing of the new Generation Rate in accordance with the Rules to Govern the Filing of the Consolidated Monthly/Annual Applications for Adjustment of Rates Under Adjustment of True Up Mechanisms approved by the ERC.

ARTICLE V

FILING AND APPROVAL

Section 1. Filing and Approval – the filing and approval of DUs new generation rates shall be done in accordance with the Rules to Govern the Filing of Consolidated, Monthly/Annual Applications for Adjustment of Rates Under Adjustment of True Up Mechanisms approved by the ERC.

Section 2. Filing Requirements – the filing of new generation rates shall be supported with the documents enumerated under Section 7 of the Rules to Govern the Filing of Consolidated, Monthly/Annual Applications for Adjustment of Rates Under Adjustment of True Up Mechanisms approved by the ERC.

ARTICLE VI

LEAST COST PROCUREMENT INCENTIVE MECHANISM

Section 1. Least Cost Procurement Incentive Eligibility – The reward/penalty shall only apply to DUs which procure power supply for its captive market from various sources.

Section 2. Least Cost Procurement Incentive Determination - For DUs in the Luzon Grid where the Wholesale Electricity Spot Market (WESM) operates, if there is an equivalent quality and quantity of electricity still available to the DU under the applicable regional TSC as demonstrated by the Regional TSC Availability Record, the incentive (i.e., reward or penalty), shall be calculated in accordance with Rule 30 Section 3 (g) and (h) and Section 5 of the IRR and Article IV Section 2 of the Guidelines for the Recovery of Costs for the Generation Component of the DUs Rates. The Least Cost Procurement shall be calculated based on the following formula:

$$\text{LCP} = [(\text{AEP} - \text{CE}) \times (\text{BR} - \text{WAR}_c)] + [(\text{APW} - \text{MPW}) \times (\text{BR} - \text{WAR}_s)]$$

Where:

LCP = Least Cost Procurement, expressed in absolute peso amount, refers to the reward or penalty which DUs shall earn or incur .

AEP = Actual Energy Purchases from eligible supply contracts, excluding TSCs and energy purchased under Customer Choice Program, expressed in kWh .

CE = Contracted Energy of eligible supply contracts, excluding TSCs and energy purchased under Customer Choice Program, expressed in kWh .

BR = Benchmark Rate which is equivalent to the Average TSC rate.

WAR_c = Weighted Average Rate paid by DU pertaining to the energy purchased in excess of the CE.

APW = Actual Purchases from WESM

MPW = Mandated Purchases from WESM which is equivalent to 10% of DU's total energy requirement.

WAR_s = Weighted Average rate paid by DU to PEMC.

The equation $[(\text{APW} - \text{MPW}) \times (\text{BR} - \text{WAR}_s)]$ shall be applicable to DUs directly participating in the WESM.

However, for the other grids where the WESM is not yet operational, the said incentive mechanism shall not be available until such time the ERC establishes an appropriate determination methodology.

Section 3. Sharing Mechanism of the Reward/Penalty – Any cost efficiency saved by the DU, as determined in accordance with the previous Section, shall be shared equally by the captive market and the DU. However, any cost inefficiency incurred by the DU due to non-prudent procurement of electricity shall be fully absorbed by the DU and shall not be allowed as pass through cost to its captive market as prescribed under Section 25 of the EPIRA with reference to Rule 30 Section 5 of the IRR and the Guidelines for the Recovery of Costs for the Generation Component of the DUs Rates.

The reward or penalty (\pm) shall be calculated based on the following formula:

a) If **LCP > Zero (0)**, then

$$I = \text{LCP} \times 50\%$$

b) If **LCP < Zero (0)**, then

$$I = \text{LCP}$$

Section 4. Participation in Wholesale Aggregation – An eligible DU which participates in a Wholesale Aggregation with an aggregated load of at least 100 MW shall be allowed to retain an additional five percent (5%) of any savings.

Section 5. Default Wholesale Supplier (DWS) Premium—Any premium paid by a DU with regard to its DWS arrangement with NPC shall not be allowed to pass through to its captive market.

ARTICLE VII

VIOLATION OF THESE RULES

Section 1. Fines and Penalties – Violation of any provision of these Rules shall be subject to the imposition of fines and penalties in accordance with the Rules to Govern the Imposition of Administrative Sanctions in the Form of Fines and Penalties Pursuant to Section 46 of Republic Act No. 9136 promulgated by the ERC on May 17, 2002.

ARTICLE VIII

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 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. Effectivity – These Rules shall take effect on the fifteenth (15th) day following its publication in two (2) newspapers of general circulation.

Pasig City, January __, 2007

RODOLFO B. ALBANO, JR.
Chairman

RAUF A. TAN
Commissioner

ALEJANDRO Z. BARIN
Commissioner

MARIA TERESA A.R. CASTAÑEDA
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