

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

**RULES TO GOVERN THE IMPLEMENTATION 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 implement 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 new supply and metering charges for the TOU customers;
- e) To ensure recovery of allowable Generation Costs and other costs associated with System Loss Cap.

**Section 2. Scope of Application** – 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.

**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

### OFFER OF NPC-TOU RATES TO CUSTOMERS

**Section 1. Offer of NPC-TOU Rates** - DUs sourcing one hundred percent (100%) of their power requirement from NPC, shall offer to their customers the NPC TOU Rates on the next billing month following the effectivity of these Rules. Availment of said TOU rate shall be on a voluntary basis on the part of the customers.

**Section 2. Incremental Supply and Metering Charge** – The DUs shall charge an incremental supply and metering charge equivalent to 5% of their existing ERC-approved supply and metering rates to customers who availed of the NPC-TOU rates. This additional charge shall cover the incremental costs related to system enhancement and additional meter reading and other operating costs.

The DUs may file before the Commission its new supply and metering charges for the TOU customers in accordance with Article III of these Rules. The incremental supply and metering charges shall be effective until a new supply and metering charges are approved by the ERC.

**Section 3. Metering Equipment and its accessories** – The customer shall bear the costs of the metering equipment and its accessories. He may ask the DUs to provide for the required metering equipment and its accessories including the cost of installation subject to the terms of payment agreed upon between them.

The customer may opt to purchase his own metering equipment and its accessories provided they meet the specifications required by the DU.

**Section 4. System Loss Charge** - The existing manner of calculating the system loss charge shall still be applicable notwithstanding the effectivity of these Rules. All customers, whether TOU or non-TOU shall be charged the same system loss rate.

**Section 5. Change in Supply Mix** – In the event that a DU no longer source its power requirements one hundred percent (100%) from NPC, the same shall file for approval with the ERC its new TOU rates. Pending the approval of the said filing, the NPC-TOU rates shall still be charged to those customers who availed of the TOU rates.

**Section 6. Change in Customer Status** – In the event the customer, who opted to avail of the TOU rates, intends to revert back to a non-TOU customer status, he shall give notice to the DU one (1) month before the termination of the TOU arrangement. The DU, for its part, shall, within seven (7) days from receipt of such notice, furnish the customer a statement of all its outstanding payables related to the acquisition and other incidental costs of the metering equipment and its accessories, unpaid electricity bills and other fees deemed to be necessary.

The ownership of the metering equipment including its accessories is with the customer, provided that the customer has no outstanding obligations with the DU.

## ARTICLE III

### FILING OF NEW SUPPLY AND METERING CHARGES FOR THE TOU CUSTOMERS

**Section 1. 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 2. Data Requirement** - The following are the data requirements to be submitted in support of the application 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.

## ARTICLE V

### 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 VI

### 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, October 2007.

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

**RAUF A. TAN**  
Commissioner

**ALEJANDRO Z. BARIN**  
Commissioner

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

**JOSE C. REYES**  
Commissioner