

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



RESOLUTION NO. 16, Series of 2009

**A RESOLUTION ADOPTING THE RULES GOVERNING
THE AUTOMATIC COST ADJUSTMENT AND TRUE-UP MECHANISMS
AND
CORRESPONDING CONFIRMATION PROCESS FOR DISTRIBUTION
UTILITIES**

WHEREAS, pursuant to Section 43 (t) of Republic Act No. 9136, the Energy Regulatory Commission (ERC) is mandated to promulgate rules and regulations and perform such other regulatory functions as are appropriate and necessary in order to ensure the successful restructuring and modernization of the electric power industry;

WHEREAS, the ERC has adopted several automatic cost adjustment mechanisms in separate issuances and it is deemed ideal to consolidate, update, and rationalize the requirements under all these separate issuances;

WHEREAS, the ERC finds it necessary to establish a systematized confirmation process that conforms to the due process requirement of the law for the following automatic cost adjustment and true-up mechanisms:

1. Automatic Generation Rate and System Loss Adjustment Mechanism;
2. Transmission Rate Adjustment Mechanism;
3. Lifeline Rate Recovery Mechanism;
4. Local Franchise Tax Recovery Mechanism;
5. Local Business Tax Recovery Mechanism;
6. Guidelines for the Calculation of the Over or Under Recovery in the Implementation of Lifeline Rates by Distribution Utilities;
7. Guidelines for a True-Up Mechanism of the Over or Under Recovery in the Implementation of Inter-Class Cross Subsidy Removal by Distribution Utilities;
8. ERC Resolution No. 12, Series of 2005, "A Resolution Approving a New Policy on the Treatment of Prompt Payment Discount (PPD)";
9. Guidelines for the Calculation of the Over or Under Recovery in the Implementation of System Loss Rate by Distribution Utilities; and
10. Rules for the Calculation of the Over or Under Recovery in the Implementation of Transmission Rates.


Four handwritten signatures in black ink, arranged horizontally. The signatures are stylized and appear to be of different individuals.

WHEREAS, on November 22 and 25, 2008, the ERC conducted public consultations for the adoption of the proposed Rules Governing the Automatic Cost Adjustment and True-up Mechanisms and Corresponding Confirmation Process for Distribution Utilities;

NOW THEREFORE, the ERC, after considering the various views and comments submitted by all interested parties, hereby **RESOLVES**, as it is hereby **RESOLVED**, to **APPROVE** and **ADOPT**, the *Rules Governing the Automatic Cost Adjustment and True-up Mechanisms and Corresponding Confirmation Process for Distribution Utilities* herein attached as Annex "A" and made an integral part of this Resolution.

This Resolution shall take effect fifteen (15) days following its publication in a newspaper of general circulation in the country.

Pasig City, July 13, 2009.


ZENAIDA G. CRUZ-DUCUT
Chairperson


RAUF A. TAN
Commissioner


ALEJANDRO Z. BARIN
Commissioner


MARIA TERESA A.R. CASTAÑEDA
Commissioner


JOSE C. REYES
Commissioner

MP MP

RULES GOVERNING THE AUTOMATIC COST ADJUSTMENT AND TRUE-UP MECHANISMS AND CORRESPONDING CONFIRMATION PROCESS FOR DISTRIBUTION UTILITIES

Pursuant to Section 43 (f) and (t) 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 procedure for the automatic recovery or refund of pass through costs and the confirmation process that would govern the automatic cost adjustment and true-up mechanisms approved by the ERC.

ARTICLE 1

GENERAL PROVISIONS

Section 1. Objectives

These Rules shall have the following objectives:

- 1.1** To ensure appropriate recovery of various pass through costs in an efficient manner;
- 1.2** To put in place a fair and transparent process for the confirmation of the automatic cost adjustments implemented by the Distribution Utilities (DUs) and the true-up of other pass-through charges as approved by the ERC;
- 1.3** To ensure and maintain the quality, reliability, security and affordability of the supply of electric power; and
- 1.4** To protect the public interest as it is affected by the rates and services of the DUs.

Section 2. Scope

These Rules shall apply to all DUs, and shall govern the recovery of the following pass through costs:

- 2.1** Generation;
- 2.2** Transmission;
- 2.3** System Loss;

- 2.4 Lifeline Subsidy; and
- 2.5 Local Franchise and Business Taxes.

Section 3. Definition of Terms

Unless the context otherwise provides, the following words and terms used herein shall have the following meanings:

- 3.1 **“Act”** unless otherwise stated, shall refer to Republic Act No. 9136, otherwise known as the “Electric Power Industry Reform Act of 2001”.
- 3.2 **“Business Tax”** shall refer to the tax levied by the cities and municipalities pursuant to Sections 143 and 151 of the Local Government Code of 1991.
- 3.3 **“Captive Market”** shall refer to electricity end-users who do not have the choice of a Supplier of electricity, as may be determined by the ERC in accordance with the Act.
- 3.4 **“Commission”** shall refer to the Energy Regulatory Commission created under Section 38 of Republic Act No. 9136.
- 3.5 **“Company Use”** shall refer to the Energy used by the Distribution Utility in the proper operation of the Distribution System (e.g. substation service and Distribution Utility’s offices, warehouses, workshops and other essential electrical Loads).
- 3.6 **“Distribution Charges”** shall refer to the distribution, supply, metering and other related charges/adjustments.
- 3.7 **“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.
- 3.8 **“Electric Cooperative (EC)”** shall refer to a Distribution Utility organized and incorporated pursuant to Presidential Decree No. 269, as amended by Presidential Decree No. 1645 and Republic Act No. 6938, otherwise known as the Cooperative Code of the Philippines.
- 3.9 **“Franchise Tax”** shall refer to the tax levied by the province and cities on businesses enjoying a franchise pursuant to Sections 137 and 151 of Republic Act No. 7160, otherwise known as the Local Government Code of 1991.

- 3.10 “Generation Rate (GR)”** shall refer to the rate associated with the purchase of power from power supplier/s and distribution utility-owned generation facility as incorporated in the approved unbundled rates or as subsequently authorized by the Commission.
- 3.11 “Gross Sales or Receipts”** shall, as defined in Section 131(n) of the Local Government Code of 1991, include the total amount of money or its equivalent representing the contract price, compensation or service fee, including the amount charged or materials supplied with the services and deposits or advance payments actually or constructively received during the taxable quarter for the services performed or to be performed for another person excluding discounts if determinable at the time of sales, sales return, excise tax, and value-added tax (VAT).
- 3.12 “Ineligible Supply Contracts”** shall refer to power supply agreements entered into by the DUs with the IPPs or other DUs, which were not approved by the then Energy Regulatory Board or by the Commission.
- 3.13 “Lifeline Subsidy Rate (LSR)”** shall refer to the rate charged to non-lifeline customers to cover the lifeline discount provided to marginalized/low income captive market end-users.
- 3.14 “Marginalized End-Users”** shall refer to low-income captive, household electricity consumers who cannot afford to pay at full cost and have levels of electricity consumption below a threshold level as determined by the Commission.
- 3.15 “National Grid Corporation of the Philippines (NGCP)”** shall refer to the private consortium which had been awarded the concession to assume the power transmission functions of the National Transmission Corporation (TRANSCO).
- 3.16 “National Power Corporation (NPC)”** shall refer to the government corporation created under Republic Act No. 6395, as amended.
- 3.17 “National Transmission Corporation (TRANSCO)”** shall refer to Corporation organized pursuant to the Act which assumed the electrical transmission function of the NPC.
- 3.18 “Net Settlement Surplus (NSS)”** shall refer to the settlement surplus remaining after all market transactions have been accounted for, including the assignment of transmission line rentals to Network Service Providers. This remainder is assumed to be attributed to economic rentals arising from other binding constraints, and accounted for in accordance with clause 3.13.16 of the WESM Rules.

- 3.19 “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.
- 3.20 “Pilferage Cost Recoveries (PCR)”** shall refer to costs recovered from illegal tapping, tampering of meter, use of jumper, and other means of illicit usage of electricity.
- 3.21 “Power Factor Discount (PFD)”** shall refer to the discount extended to DUs having maintained their power factor above the set threshold which maximizes the capacity of TRANSCO’s facilities thereby resulting to real savings in power costs, improvement of voltage regulation and release in system capacity.
- 3.22 “Prompt Payment Discount (PPD)”** shall refer to the discount that DUs get from power supplier/s for paying their bills within the discount period.
- 3.23 “Power Supplier/s”** shall refer to an entity/ies selling power to a DU which may include the following: a) National Power Corporation (NPC); b) Independent Power Producers (IPPs), either through bilateral power supply contracts or through the Wholesale Electricity Spot Market; and c) Other DUs.
- 3.24 “Recovery Period”** shall generally refer to the period when the cost adjustments are implemented.
- 3.25 “System Loss”** shall refer to the difference between kilowatt-hour (kWh) purchased and/or generated and kWh sold plus company use.
- 3.26 “System Loss Cap”** shall refer to 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 Commission in accordance with Section 43 (f) of the Act.
- 3.27 “System Loss Rate (SLR)”** shall refer to the rate determined in accordance with the formula set forth in Article II hereof. For DUs where different system loss charges were granted for each of their respective customer classes in the Unbundling Decisions, SLR shall be calculated based on an individual customer class level with the requisite reliable information to support individual System Loss Rates.
- 3.28 “Transmission Rate (TR)”** shall refer to the rate associated with the cost incurred in the transmission of electricity from the generators to the distribution utilities’ system.

- 3.29 “Wholesale Electricity Spot Market (WESM)”** shall refer to the market where trading of electricity is made, established pursuant to Section 30 of R.A. 9136.

ARTICLE 2

CALCULATION OF THE ADJUSTED RETAIL RATES

Section 1. Generation Rate. The Generation Rate (GR) of the DU shall be determined as follows:

- 1.1.** For a DU sourcing 100% of its power requirement from NPC:
 - 1.1.1. For TOU customers, the GR shall be the NPC TOU rates plus adjustments on GRAM, ICERA and Franchise and Benefits to Host Communities as approved by the Commission;
 - 1.1.2. For customers under special programs of the DU, the GR shall be based on their contracts; and
 - 1.1.3. For other customers, the GR shall be computed using the formula provided under Section 2 hereof.
- 1.2.** For a DU sourcing its power requirement from sources other than NPC:
 - 1.2.1. For TOU customers, the GR shall be the DU's TOU rates as approved by the Commission;
 - 1.2.2. For customers under special programs of the DU, the GR shall be based on their contracts;
 - 1.2.3. For customers of a Buying DU under a Sale for Resale Agreement, if the customers being supplied are not connected with the main distribution grid and the cost is different from those for other regular customers, the GR shall include the Generation, Transmission, System Loss, Distribution, Supply and Metering Charges of the Selling DU; and
 - 1.2.4. For other customers, the GR shall be computed using the formula provided under Section 2 hereof.

Section 2. Generation Rate Formula. The GR applicable to customers referred to in Sections 1.1.3 and 1.2.4 shall be calculated and billed each calendar month by the DU using the following formula:

FORMULA 1

$$GR = AGR + OGA$$

Where:

GR = Generation Rate expressed in Peso/kWh;

AGR = Adjusted Generation Rate calculated, as follows:

$$AGR = \frac{TGC}{TPG_{GR}}$$

Where:

$$TGC = [(GC_i + GC_{ii} + \dots + GC_n) - 50\% (PPD_i + PPD_{ii} + \dots + PPD_n) - PCR]$$

Where:

GC_{i to n} = The Generation Costs in Pesos from source of power i through source of power n for the previous month coming from Transition Supply Contracts (excluding Mandated Rate Reduction and penalties), Power Supply Agreements, WESM purchases, and distribution utility-owned generation facility, as incorporated in the approved unbundled rates or as subsequently authorized by the Commission, less the following:

- a. Generation revenues from TOU customers;
- b. Cost of power distributed to customers under DU's special programs;
- c. Cost of power distributed to customers under a Sale for Resale Agreement, if the customers being supplied are not connected with the main distribution grid and the cost is different from those for other regular customers; and

- d. Net Settlement Surplus amount as determined in Article 5, Section 5.4 of the *Rules for the Distribution of Net Settlement Surplus*, if any.

$PPD_{i\ to\ n}$ = Prompt Payment Discounts availed by the DU from source of power i through source of power n for the previous month, net of the Prompt Payment Discounts passed on to the end customers, where discount 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;

PCR = Pilferage cost recoveries during the previous month; and

TPG_{GR} = Total kWh Purchased and Generated for the previous month net of kWh sold to customers under TOU, and kWh distributed to special programs and Sale for Resale Agreements, if the customers being supplied are not connected with the main distribution grid and the cost is different from those for other regular customers.

OGA = Other Generation Rate Adjustments, refer to adjustments deemed necessary by the Commission after prior verification and confirmation, and the GOUR determined using the formula provided in Article 4, Section 2 hereof. The OGA shall not be subject to any carrying charge.

In the case of ineligible supply contracts, generation costs from such contracts shall include the kilowatt-hours pertaining to ineligible contracts pegged at the DU's load weighted average NPC TOU rates or the actual rate as billed by the IPP, whichever is lower.

Section 3. Transmission Rate. The Transmission Rate (TR) shall be calculated and billed each calendar month by the DUs using the following formulae:

- 3.1. For Customer classes with TR expressed in Peso/kWh:

FORMULA 2.A

$$TR_N = \left(\frac{t_N}{TPG_{TR_N}} \right) + OTCA_N$$

Where:

TR_N = Transmission Rate expressed in Peso/kWh;

t_N = $PTC \times CP_N$;

Where:

PTC = Refers to the previous month's actual transmission cost, net of fifty percent (50%) of PFD availed;

Where:

PFD = Power Factor Discounts availed by the DU, net of the Power Factor Discounts given to customers and Third Parties for the month, *where*: Discount passed on to customers and Third Parties \leq discount availed from TRANSCO/NGCP for the month; and

CP_N = Actual or computed Coincident Peak Demand Allocation Factor for customer class N corresponding to the previous month's period or the CP demand allocation factor as reflected in the last approved unbundled rates of the DU.

TPG_{TR_N} = Total kWh Purchased and Generated for the previous month;

$OTCA_N$ = Other Transmission Cost Adjustments, refer to adjustments deemed necessary by the Commission after prior verification and confirmation, and the TOUR determined using the formula provided in Article 4, Section 3 hereof; and

N = Refers to a specific customer class (ex. $N=1,2,\dots$, where 1= Residential, 2= Commercial, etc.).

3.2. Customer classes with TR expressed in Peso/kW:

FORMULA 2.B

$$TR_N = \left(\frac{t_N}{D_N} \right) + OTCA_N$$

Where:

TR_N = Transmission rate expressed in Peso/kW;

t_N = $PTC \times CP_N$;

Where:

PTC = Refers to the previous month's actual transmission cost, net of fifty percent (50%) of PFD availed;

Where:

PFD = Power Factor Discounts availed by the DU, net of the Power Factor Discounts given to customers and

Third Parties for the month, where: Discount passed on to customers and Third Parties \leq discount availed from TRANSCO/NGCP for the month; and

CP_N = Actual or computed Coincident Peak Demand Allocation Factor for customer class N corresponding to the previous month's period or the CP demand allocation factor as reflected in the last approved unbundled rates of the DU.

$OTCA_N$ = Other Transmission Cost Adjustments, refer to adjustments deemed necessary by the Commission after prior verification and confirmation, and the TOUR determined using the formula provided in Article 4, Section 3 hereof

D_N = kW billing demand for the previous month for customer class N;
and

N = Refers to a specific customer class (ex. $N=1,2,\dots$, where
1= Residential, 2= Commercial, etc.).

3.3 Customer classes with TR expressed in both Peso/kWh and Peso/kW.

The component expressed in Peso/kWh shall remain constant.
The component expressed in Peso/kW shall be adjusted using the
following formula:

FORMULA 2.C

$$TR_N = \left(\frac{t_N - (S_{TR_N} \times TKR_N)}{D_N} \right) + OTCA_N$$

Where:

TR_N = Transmission rate expressed in Peso/kW;

t_N = $PTC \times CP_N$;

Where:

PTC = Refers to the previous month's actual transmission cost,
net of fifty percent (50%) of PFD availed, by the
corresponding kWh purchased;

Where:

PFD = Power Factor Discounts availed by the
DU, net of the Power Factor Discounts
given to customers and Third
Parties for the month, where: Discount
passed on to customers and Third
Parties \leq discount availed from
TRANSCO/NGCP for the month; and

CP_N = Actual or computed Coincident Peak Demand Allocation Factor for customer class N corresponding to the previous month's period or the CP demand allocation factor as reflected in the last approved unbundled rates of the DU.

S_{TR_N} = kWh sales for the previous month for customer class N;

TKR_N = Current TR component expressed in Peso/kWh for customer class N;

$OTCA_N$ = Other Transmission Cost Adjustments, refer to adjustments deemed necessary by the Commission after prior verification and confirmation, and the TOUR determined using the formula provided in Article 4, Section 3 hereof;

D_N = kW billing demand for the previous month for customer class N;
and

N = Refers to a specific customer class (ex. $N=1,2,\dots$, where 1= Residential, 2= Commercial, etc.).

Section 4. System Loss Rate. The System Loss Rate (SLR) shall be calculated and billed each calendar month by the DUs using the following formula:

FORMULA 3

$$SLR = (TGR + ATR) U + OSLA$$

Where:

SLR = System Loss Rate expressed in Peso/kWh;

TGR = Total Generation Rate including customers under the DU's TOU program calculated as follows:

$$TGR = \frac{GTGC}{TPG_{SLR}}$$

Where:

$$GTGC = [(GC_i + GC_{ii} + \dots + GC_n) - 50\%(PPD_i + PPD_{ii} + \dots + PPD_n) - PCR]$$

Where:

$GC_{i\ to\ n}$ = The Generation Costs in Pesos from source of power i through source of power n for the previous month coming from Transition Supply Contracts (excluding Mandated Rate Reduction and penalties), Power Supply Agreements, WESM purchases, and distribution utility-owned generation facility, as incorporated in the approved unbundled rates or as subsequently authorized by the Commission, less the following:

- a. Cost of power distributed to customers under DU's special programs;
- b. Cost of power distributed to customers under a Sale for Resale Agreement, if the customers being supplied are not connected with the main distribution grid and the cost is different from those for other regular customers; and
- c. Net Settlement Surplus amount as determined in Article 5, Section 5.4 of the Rules for the Distribution of Net Settlement Surplus, if any;

$PPD_{i\ to\ n}$ = Prompt Payment Discounts availed by the Distribution Utility from source of power i through source of power n for the previous month, net of the Prompt Payment Discounts passed on to the end customers, where discount passed on to customers cannot be higher than the discount availed from the power supplier/s, relative to the previous month's generation cost; and

PCR = Pilferage cost recoveries during the previous month.

TPG_{SLR} = Total kWh Purchased and Generated for the previous month net kWh distributed to special programs and Sale for Resale Agreements, if such sales have different system loss charge rates from regular customers.

ATR = Average Transmission Rate expressed in Peso/kWh, computed as follows:

$$ATR = \frac{t_N}{TPG_{SLR}}$$

Where:

t_N = Total Transmission Cost for the previous month;

Where:

If SLR is a uniform charge to all customer classes:

t_N = PTC as defined in Article 2, Section 3 hereof;

If SLR varies per each customer class:

t_N = PTC x CP_N ;

Where:

PTC = As defined in Article 2, Section 3 hereof;

and

CP_N = As defined in Article 2, Section 3 hereof.

TPG_{SLR} = Total kWh Purchased and Generated for the previous month net of kWh distributed to special programs and Sale for Resale Agreements, if such sales have different system loss charge rates from regular customers.

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

The %SL is based on:

- a) the Actual Systems Loss for the most recent 12-month period or the Systems Loss Cap, whichever is lower; plus

- b) the Actual Company Use for the most recent 12-month period or 1%, whichever is lower.

The Actual % System Loss, on the other hand, is based on:

- a) the Actual System Loss for the most recent 12-month period; plus
- b) the Actual Company Use for the most recent 12-month period.

The kWh Sales to be used in determining the System Loss shall be net of kWh distributed to special programs and Sale for Resale Agreements, if such sales have different system loss charge rates from regular customers.

If SLR varies per customer class, the DU shall compute the applicable Gross Up Factor per customer class.

Pursuant to ERC Resolution No. 17, Series of 2008, upon the Commission's approval of the DU's Operation and Maintenance Expenses, wherein the Company Use shall have been included, the same shall no longer form part of the %SL and Actual % SL as defined above; and

OSLA = Other System Loss Cost Adjustments, refer to adjustments deemed necessary by the Commission after prior verification and confirmation, and the SLOUR determined using the formula provided in Article 4, Section 4 hereof.

Section 5. Lifeline Subsidy Rate Formula. The Lifeline Subsidy Rate (LSR) shall be calculated and billed each calendar month by the DU using the following formula:

FORMULA 4

$$LSR = \left(\frac{TD}{S_{NL_{LSR}}} \right) + OLRA$$

Where:

LSR = Lifeline Subsidy Rate expressed in Peso/kWh

TD = Total Discount amount given to Lifeline customers in the previous month computed as follows:

$$\sum_{j=1 \dots n} [(S_{LSR} \times TRate) + [NCust \times Fixed / Cust]]D$$

Where:

j = Lifeline level bracket 1 to lifeline bracket n ;

S_{LSR} = Total kWh for the previous month of lifeline bracket j ;

$TRate$ = Total PhP/kWh rate subject to lifeline discount which include generation, transmission, system loss, distribution, supply, metering and loan condonation;

$NCust$ = Total number of customers for the previous month for lifeline bracket j ;

D = Discount rate for lifeline bracket j ; and

$Fixed/Cust$ = Fixed metering charge for residential customers.

S_{NLISR} = Total kWh of non-lifeline customers for the previous month; and

$OLRA$ = Other Lifeline Rate Cost Adjustments, refer to adjustments deemed necessary by the Commission after prior verification and confirmation, and LSOUR determined using the formula provided in Article 4, Section 5 hereof.

Section 6. The Franchise and Business Taxes Rates shall be calculated using the following formulae:

6.1. For Franchise Taxes that a DU is required to pay the LGU/s that shall be included in its customers' bills, recovery shall be based on the tax rate multiplied against the total distribution charges in Peso (Distribution, Supply, Metering

and other charges/adjustments, i.e. subsidy on lifeline charge, lifeline subsidy discount and inter-class cross subsidy charge, excluding Reinvestment Fund collections in the case of an EC). For transparency, the EC shall reflect as a separate line item in its monthly billings to its customers the approved Reinvestment Fund rate/kWh and corresponding revenues.

- 6.2. For Business Taxes that a DU is required to pay the LGU/s that shall be included in its customers' bills, recovery shall be based on the following formula:

FORMULA 5.A

$$BT = \left(\frac{Bt_a}{S_{FBT}} \right) + OBTA$$

Where:

- BT = Business Taxes Charge expressed in Peso/kWh representing business taxes that a DU is required to pay the LGU/s ;
- Bt_a = Business Tax (**excluding penalty and surcharge**) other than those already considered in the distribution rates, paid for the preceding calendar year;
- S_{FBT} = Actual kWh Sales for the preceding calendar year; and
- $OBTA$ = Other Business Taxes Cost Adjustments, refer to adjustments deemed necessary by the Commission after prior verification and confirmation, and the BTOUR determined using the formula provided in Article 4, Section 6.1 hereof.

The computation of local business taxes shall be based on the DU's total distribution charges, excluding the penalties and surcharges paid by the DU. For an EC, Reinvestment Fund shall be excluded from the total distribution charges. For transparency, the EC shall reflect as a separate line item in its monthly billings to its customers the approved Reinvestment Fund rate/kWh and corresponding revenues.

A DU that intends to include in its retail rates the franchise and business taxes imposed on it by the LGU/s where it operates must first submit to the ERC the certified true copies of the valid

tax ordinance/s subjecting it to such taxes. In the case of Business Taxes, submissions shall include tax receipts for the payments made for the preceding year, data on its kWh sales for the previous year, and other relevant data. The DU shall await the ERC's clearance before the inclusion and imposition of such taxes in its customers' retail rates.

- 6.3. For Franchise and Business Taxes that a DU had already paid to the concerned LGU/s prior to the implementation of recovery of current Franchise and Business Taxes shall be allowed recovery based on the following formula:

FORMULA 5.B

$$TRAC = \left(\frac{Lft_a + Bt_a}{S_{TRAC}} \right) + OFBA$$

Where:

- TRAC* = Tax Recovery Adjustment Charge expressed in Peso/kWh applied to the customer's monthly billing until such time the total franchise and business taxes paid to the local government shall have been fully recovered;
- Lft_a* = Local franchise tax (**excluding penalty and surcharge**) paid prior to the implementation of the approved franchise tax rate;
- Bt_a* = Business Tax (**excluding penalty and surcharges**) paid prior to the implementation of the approved business tax formula;
- S_{TRAC}* = Projected kWh sales for a particular proposed recovery period or as determined by ERC; and
- OFBA* = Other Franchise and Business Taxes Cost Adjustments, refer to adjustments deemed necessary by the Commission after prior verification and confirmation, and the TROUR determined using the formula provided in Article 4, Section 6.2 hereof.

Before including the TRAC in its customers' bill, the DU shall submit to the ERC its calculation thereof using the TRAC formula provided above, together with the following information and supporting documents:

- a. Proposed recovery period;
- b. Certified true copy of prior years Tax Assessments issued by the concerned LGU/s;
- c. Certified true copies of Local Tax Ordinance/s;
- d. Certified true copies of Official Receipts;
- e. Projected kilowatt-hours sales for the particular proposed recovery; and
- f. Other relevant documents as may be required by the ERC.

Upon receipt of the complete documents, the ERC shall verify and determine from the submissions the appropriate TRAC that the DU shall be allowed to impose on its customers.

The DU shall await the ERC's clearance before the inclusion and imposition of such taxes in its customers' retail rates and shall impose the TRAC allowed until such time that its franchise and business tax payments, as may be adjusted by the ERC during its prior verification, have been fully recovered.

ARTICLE 3

REPORTORIAL REQUIREMENTS

Section 1. Submission of Reportorial Requirements. Starting on the month following the inclusion in the customers' bills, the DU shall provide the ERC with all calculations and information relative to the adjustment mechanisms provided for herein through the prescribed Uniform Reportorial Requirements along with supporting documentations, which shall include, but not limited to, the following:

1.1 Basic Supporting Documents

- 1.1.1 Invoices from Power Supplier/s and National Transmission Corporation (TRANSCO)/National Grid Corporation of the Philippines (NGCP);
- 1.1.2 Debit/Credit Memos from Power Supplier/s and TRANSCO/NGCP, if any;
- 1.1.3 Official Receipts of payments to Power Supplier/s and TRANSCO/NGCP; and
- 1.1.4 Actual consumer bills per class (3 bills per class).

1.2 For Generation Rates and System Loss Rates

- 1.2.1 Sworn statement of DU if it has its own generation facility (one-time submission only, if applicable);
- 1.2.2 Monthly Generation Report for DU-Owned generation facility, if applicable; and
- 1.2.3 Sworn and notarized statement on PPD availed from power supplier/s, PPD extended to end-users and pilferage recoveries enjoyed by the DU.

1.3 For Transmission Rates

- 1.3.1 Sworn and notarized statement on PFD availed from TRANSCO/NGCP and PFD extended to end-users and Third Parties by the DU.

1.4 For Franchise Tax and Business Tax (FTBT) Rates

- 1.4.1 Actual consumer bills per class (3 bills per class) in the area where FTBT rate/s is/are levied; and
- 1.4.2 Summary of the tax imposition and collection for every locality within its franchise area relative to taxes computed in accordance with Article 2, Section 7 of these Rules.

1.5 For Tax Recovery Adjustment Charge (TRAC)

- 1.5.1 Actual collections from the implementation of TRAC; and
- 1.5.2 Actual consumer bills per class (3 bills per class) in the area where TRAC rate/s is/are levied; and

ARTICLE 4

CALCULATION OF THE OVER OR UNDER RECOVERY IN THE IMPLEMENTATION OF ADJUSTMENT MECHANISMS

Section 1. Calculation of Over/Under Recoveries. The DU shall calculate the over or under recoveries on the Generation Rate, Transmission Rate, System Loss Rate, Lifeline Subsidy Rate and Franchise and Business Taxes Rate brought about by the variance between the allowable cost and the revenues billed using the applicable formulae.

Section 2. Generation Rate Over/Under Recovery. The Generation Rate Over/Under Recovery (GOUR) applicable to customers being referred to in Article 2, Sub-sections 1.1.3 and 1.2.4 shall be calculated based on the following formula:

FORMULA 6

$$GOUR = \frac{[(AGC - GRR) + rGOUR]}{S_{GOUR\ Total}}$$

Where:

GOUR = Refers to under/over-recoveries in generation costs during the recovery period expressed in Peso/kWh;

AGC = Total Allowable Generation Cost, computed as follows:

$$AGC = \sum_{i=1}^m \left[\left(\frac{(GC_i + GC_u + \dots GC_n) - 50\%(PPD_i + PPD_u + \dots PPD_n) - PCR_{GOUR}}{TPG_{GOUR}} \right) S_{GOUR} \right]$$

Where:

- $GC_{i\ to\ n}$ = The Generation Costs in Pesos from source of power i through source of power n for month 1 to m coming from Transition Supply Contracts (excluding Mandated Rate Reduction and penalties), Power Supply Agreements, WESM purchases, and distribution utility-owned generation facility, as incorporated in the approved unbundled rates or as subsequently authorized by the Commission, less the following:
- a. Generation revenues from TOU customers;
 - b. Cost of power distributed to customers under DU's special programs;
 - c. Cost of power distributed to customers under a Sale for Resale Agreement, if the customers being supplied are not connected with the main distribution grid and the cost is different from those for other regular customers; and
 - d. Net Settlement Surplus amount as determined in Article 5, Section 5.4 of the Rules for the Distribution of Net Settlement Surplus, if any;
- $PPD_{i\ to\ n}$ = Prompt Payment Discount availed by the DU, net of the Prompt Payment Discounts passed on to the end customers for month 1 to m , where discounts passed on to customers cannot be higher than the discount availed from the power supplier/s, relative to generation cost;
- PCR_{GOUR} = Pilferage recoveries for month 1 to m ;
- TPG_{GOUR} = Total kWh Purchased and Generated for month 1 to m net of kWh sold to customers under TOU, kWh distributed to special programs and Sale for Resale Agreements, if the customers being supplied are not connected with the main distribution grid and the cost is different from those for other regular customers; and
- S_{GOUR} = Actual kWh Sales for month 1 to m net of kWh sold to customers under TOU, kWh distributed to special

programs and Sale for Resale Agreements, if the customers being supplied are not connected with the main distribution grid and the cost is different from those for other regular customers.

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 DU's load weighted average NPC TOU rates or the actual rate as billed by the IPP, whichever is lower.

GRR = Total generation revenues billed to customers except those associated with TOU, special programs and Sale for Resale Agreements, if the area is not connected with the main distribution grid and the cost is different from those for other regular customers, computed as follows:

Where:

AGR_{GR} = As defined in Section 2, Article 2 hereof ;and

S_{GOUR} = Actual kWh Sales for month 1 to m, net of kWh sold to customers under TOU, and kWh distributed to special programs and Sale for Resale Agreements, if the customers being supplied are not connected with the main distribution grid and the cost is different from those for other regular customers.

$rGOUR$ = The total running balance of the refund/collect as a result of any prior confirmation/s; and

$S_{GOUR_{total}}$ = Total actual kWh Sales for the recovery period net of kWh sold to customers under TOU, and kWh distributed to special programs and Sale for Resale Agreements, if the customers being supplied are not connected with the main distribution grid and the cost is different from those for other regular customers.

Section 3. Transmission Rate Over/Under Recovery. The Transmission Rate Over/Under Recovery (TOUR) shall be calculated per customer class based on the following formula:

3.1. For Customer classes with TR expressed in Peso/kWh:

FORMULA 7

$$TOUR_N = \frac{[(ATC_N - TRR_N) + rTOUR_N]}{S_{TOUR_N}}$$

3.2. Customer classes with TR expressed in Peso/kW and Customer classes with TR expressed in both Peso/kWh and Peso/kW.

FORMULA 8

$$TOUR_N = \frac{[(ATC_N - TRR_N) + rTOUR_N]}{BD_{TOUR_N}}$$

Where:

$TOUR_N$ = Refers to over/under recoveries in transmission cost during the recovery period expressed in Peso/kWh for class N;

ATC_N = Refers to the actual transmission cost during the recovery period computed as follows:

$$ATC_N = \sum_{1...m} \left[\left(\frac{TC - 50\% PFD}{TPG_{TOUR}} \right) S_{TOUR} \right] CP_N$$

Where:

TC = The actual transmission cost in Peso for month 1 to m;

PFD = Power Factor Discounts availed by the DU, net of the Power Factor Discounts given to customers and Third Parties for month 1 to m, where: Discount passed on to customers and Third Parties \leq discount availed from TRANSCO/NGCP for month 1 to m;

TPG_{TOUR} = Total Purchased and Generated in kWh for month 1 to m corresponding to the transmission cost;

S_{TOUR} = Actual kWh Sales for month 1 to m corresponding to the transmission cost;

CP_N = Actual or computed Coincident Peak Demand Allocation Factor for customer class N corresponding to the recovery period or the CP demand allocation factor as reflected in the last approved unbundled rates of the DU; and

N = Refers to a specific customer class (ex. N=1,2,..., where 1= Residential, 2= Commercial, etc.).

TRR_N = Transmission Cost Recoveries during the recovery period, to be computed as follows:

$$TRR_N = \sum_{1..m} [(TR_N \text{ in PhP/kWh} \times S_N) + (TR_N \text{ in PhP/kW} \times BD_N)]$$

Where:

TR_N = Transmission Rate in PhP/kWh and/or PhP/kW as applicable to customer class N as implemented by the DU for month 1 to m. If the transmission rate for customer N is expressed in PhP/kWh only, then the Transmission Charge in PhP/kW in the formula should be equal to zero (0) and vice-versa;

S_N = Total kWh sales for customer class N for month 1 to m;

BD_N = Total kW billing demand for customer class N for month 1 to m; and

N = Refers to a specific customer class (ex. N=1,2,..., where 1= Residential, 2= Commercial, etc.).

$rTOUR$ = The total running balance of the refund/collect as a result of prior confirmation/s.

S_{TOUR_N} = Total kWh Sales for the recovery period for customer class N.

BD_{TOUR_N} = Total kW billing demand the recovery period for customer class N.

Section 4. System Loss Rate Over/Under Recovery. The System Loss Rate Over/Under Recovery (SLOUR) shall be calculated based on the following formula:

FORMULA 9

$$SLOUR = \frac{[(ASLC - ASLR) + rSLOUR]}{TPG_{SLOUR}}$$

Where:

SLOUR = Refers to over/under recoveries in system loss during the recovery period expressed in Peso/kWh;

ASLC = Allowable System Loss Cost incurred during the recovery period computed as follows:

$$ASLC = \sum_{1..m} [(GTGC + TC - 50\%PFD)U]$$

Where:

GTGC = As defined in Section 4, Article 2 hereof;

TC = The actual transmission cost in Peso for month 1 to m;

PFD = Power Factor Discounts availed by the DU, net of the Power Factor Discounts given to customers and Third Parties for month 1 to m, *where:* Discount passed on to customers and Third Parties ≤ discount availed from TRANSCO/NGCP for month 1 to m; and

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

The %SL is based on:

- a) the Actual Systems Loss for month 1 to m or the Systems Loss Cap, whichever is lower; plus

- b) the Actual Company use for month 1 to m or 1%, whichever is lower.

The Actual % System Loss, on the other hand, is based on:

- a) the Actual System Loss for month 1 to m; plus
- b) the Actual Company Use for month 1 to m.

The kWh Sales to be used in determining the System Loss shall be net of kWh distributed to special programs and Sale for Resale Agreements, if such sales have different system loss charge rates from regular customers.

If SLR varies per customer class, the DU shall compute the applicable Gross Up Factor per customer class.

Pursuant to ERC Resolution No. 17, Series of 2008, upon the Commission's approval of the DU's Operation and Maintenance Expenses, wherein the Company Use shall have been included, the same shall no longer form part of the %SL and Actual % SL as defined above.

ASLR = Total actual system loss revenues for generation and transmission billed to customers except those associated with special programs and Sale for Resale Agreements, if such sales have different system loss charge rates from regular customers, computed as follows:

$$ASLR = \sum_{1...m} [SLR \times S_{SLOUR}]$$

Where:

SLR = As defined in Section 4, Article 2 hereof; and

S_{SLOUR} = Actual kWh Sales for month 1 to m, net of kWh distributed to special programs and Sale for Resale Agreements, if such sales have different system loss charge rates from regular customers;

$rSLOUR$ = The total running balance of the refund/collect as a result of prior confirmation/s; and

TPG_{SLOUR} = Total kWh Purchased and Generated for the recovery period net kWh distributed to customers under special programs and Sale for Resale Agreements, if such sales have different system loss charge rates from regular customers.

Section 5. Lifeline Subsidy Over/Under Recovery. The Lifeline Subsidy Over/Under Recovery (LSOUR) to be charged to non-lifeline customers shall be calculated based on the following:

FORMULA 10

$$LSOUR = \frac{LD}{S_{LSOUR_{NL-TOTAL}}}$$

Where:

$LSOUR$ = Refers to over/under recoveries on lifeline subsidy during the recovery period expressed in Peso/kWh;

LD = Difference between the Total Discounts given to lifeline customers and Total Subsidy collected from non-lifeline customers, computed as follows:

$$LD = \sum_{1 \dots m} (TS - TD)$$

Where:

TS = Lifeline subsidy amount collected from non-lifeline customers for month 1 to m, computed as follows:

$$TS = S_{LSOUR_{NL}} \times LSR$$

Where:

$S_{LSOUR_{NL}}$ = total kWh consumption of non-lifeline customers for the month; and

LSR = lifeline subsidy rate per kWh collected from non-lifeline customers for the month.

TD = total discount amount given to lifeline customers for month 1 to m, computed as follows:

$$TD_i = \sum_{j=1}^n [(S_{LSOUR_{LL}} \times TRate) + (NCust_{LL} \times Fixed / Cust)] \times D$$

Where:

j = Lifeline level bracket 1 to lifeline bracket n;

$S_{LSOUR_{LL}}$ = Total kWh consumption of lifeline customers for the month of lifeline bracket j;

$TRate$ = Total PhP/kWh rate subject to lifeline discount which include generation, transmission, system loss, distribution, supply, metering and loan condonation;

$NCust_{LL}$ = Total number of customers for the month for lifeline bracket j;

$Fixed/Cust$ = Fixed metering charge for residential customers; and

D = Discount rate for lifeline bracket j.

$S_{LSOUR_{NL\ TOTAL}}$ = Total kWh consumption of non-lifeline customers for the recovery period.

Section 6. Franchise and Business Taxes Over/Under Recovery. The Franchise and Business Taxes Over/Under Recovery to be charged to customers shall be calculated based on the following formulae:

- 6.1. For BT Over/Under Recovery (BTOUR) to be charged to customers shall be calculated based on the following formula:

FORMULA 11

$$BTOUR = \left[\frac{(BTR_i + BTR_{ii} + \dots BTR_n) - (BTA_i + BTA_{ii} + \dots BTA_n)}{S_{BTOUR_{Total,Actual}}} \right]$$

Where:

BTOUR = Refers to over/under recoveries business taxes during the recovery period expressed in Peso/kWh;

BTR_{i to n} = Business tax revenue for the recovery period i to n computed as follows:

$$BTR = (BT \times \sum_{i=1 \dots m} S_{BTOUR_{ACTUAL}})$$

Where:

BT = ERC Approved Annual Business Tax Rate; and

S_{BTOUR_{ACTUAL}} = Actual kWh Sales for month i to month m during the recovery period.

BTA_{i to n} = ERC verified business taxes paid by the DU for the recovery period I to n; and

S_{BTOUR_{Total,Actual}} = Total actual kWh Sales for the recovery period.

- 6.2. For TRAC Over/Under Recovery (TROUR) to be charged to customers shall be calculated based on the following formula:

FORMULA 12

$$TROUR = \left(\frac{(TRAC \times \sum_{i=1 \dots m} S_{TROUR_{Actual}}) - FBTA}{S_{TROUR_{Actual}}} \right)$$

Where:

$TROUR$ = Refers to over/under recoveries franchise and business taxes during the recovery period expressed in Peso/kWh for class N;

$TRAC$ = Tax Recovery Adjustment Charge implemented by the DU;

$S_{TROUR_{Actual}}$ = Actual kWh Sales for month i to month m during the recovery period;

$FBTA$ = ERC verified Franchise and Business Tax payments paid by the DU; and

ARTICLE 5

FILING AND RESOLUTION OF THE APPLICATIONS

Section 1. Filing. The DUs shall file their respective consolidated applications within the period as prescribed hereunder:

Distribution Utilities	Period of Filing	Covered Adjustments
Luzon DUs	October 30, 2009	Adjustments implemented until the billing month of December 2008
Visayas DUs	October 30, 2010	Adjustments implemented until the billing month of December 2009
Mindanao DUs	October 30, 2011	Adjustments implemented until the billing month of December 2010

Thereafter, the DUs shall file their respective consolidated applications within the period as prescribed hereunder:

Distribution Utilities	Period of Filing	Covered Adjustments
Luzon DUs	October 30, 2012	Jan. 2009 – Dec. 2011
Visayas DUs	October 30, 2013	Jan. 2010 – Dec. 2012
Mindanao DUs	October 30, 2014	Jan. 2011 – Dec. 2013

Subsequently, the DUs shall file their respective consolidated applications every three (3) years following the sequence of period of filing prescribed above.

Section 2. True Up Mechanisms Approved by the ERC. The filing of calculations of over or under recoveries from adjustments implemented by the DUs referred to in the preceding Section shall include the Lifeline Rate Recovery Mechanism, Inter-class Cross Subsidy Recovery Mechanism, Recovery Mechanism of Under Recoveries in the Reinstatement of Prompt Payment Discounts, Recovery Mechanism in the Implementation of System Loss Rates, Recovery Mechanism in the Implementation of Transmission Rates and such other mechanisms that the ERC may adopt.

Section 3. Applicability of Rules Governing the True-Up Mechanisms. The specific rules for the calculation of over and under recoveries and such other pertinent provisions as provided in the following:

- 3.1 Guidelines for the Calculation of the Over or Under Recovery in the Implementation of Lifeline Rates by Distribution Utilities;
- 3.2 Guidelines for a True-Up Mechanism of the Over or Under Recovery in the Implementation of Inter-Class Cross Subsidy removal by Distribution Utilities;
- 3.3 ERC Resolution No. 12, Series of 2005, A Resolution Approving a New Policy on the Treatment of Prompt Payment Discount (PPD);

- 3.4 Guidelines for the Calculation of the Over or Under Recovery in the Implementation of System Loss Rate by Distribution Utilities; and
- 3.5 Rules for the Calculation of the Over or Under Recovery in the Implementation of Transmission Rates.

shall continue to be in force and shall be used in the verification of any over and under recoveries of the DUs and the determination and implementation of the rates for recovery or refund of such over or under recoveries as may be ordered by the ERC.

Section 4. Form of Application and Supporting Documents. The applications and supporting documents therewith shall adopt the templates to be prescribed by the ERC.

Section 5. Referral to External Auditors. At its discretion, the ERC may refer the application to an accredited external auditor for audit. The cost of hiring such accredited auditor as stipulated in the contract for the services of such accredited auditor approved by the ERC shall be borne by the concerned DU. Such cost shall be treated, upon proof of actual payment thereof as a recoverable expense and shall be considered in the calculation of over or under recoveries for the test period covered.

Section 6. Applicability of the ERC Rules of Practice and Procedure. - The ERC Rules of Practice and Procedure shall apply suppletorily to the verification process outlined in these Rules insofar as they are not inconsistent herewith.

ARTICLE 6

VIOLATION OF THE 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, as amended.

ARTICLE 7

FINAL PROVISIONS

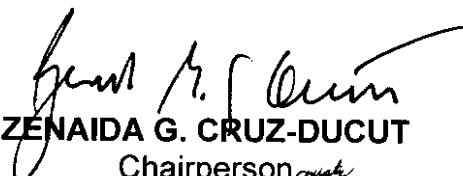
Section 1. Exception Clause – Where good cause appears, the Commission may allow an exemption from any provision of these Rules, if such is found to be in the public interest and is not contrary to law or any other related rules and regulations.

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. Repealing Clause – All previous Commission issuances not consistent with these Rules are hereby accordingly repealed or deemed modified.

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

Pasig City, July 13, 2009.


ZENAIDA G. CRUZ-DUCUT
Chairperson *quats*


RAUF A. TAN
Commissioner


MARIA TERESA A.R. CASTAÑEDA
Commissioner


ALEJANDRO Z. BARIN
Commissioner


JOSE C. REYES
Commissioner

of me