NATIONAL ADMINISTRATIVE REGISTER · DECEMBER 8, 2008

A RESOLUTION ADOPTING A NEW SYSTEM LOSS CAP FOR DISTRIBUTION UTILITIES

ERC RESOLUTION NO. 17, S. 2008, December 08, 2008

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WHEREAS, Republic Act No. 7832, otherwise known as the "Anti-Pilferage of Electricity and Theft of Electric Transmission Lines/Materials Acts 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 ½% at the end of the first (1st) year following the effectivity of the Act;
- 13 ¼% at the end of the second (2nd) year following the effectivity of the Act;
- 11 ¾ % 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 then ERB an application for further system loss cap reduction. However, no such application was filed. The said IRR also allowed an additional actual company use but not to exceed one (1%) percent of total kilowatt-hours (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 considerations it may promulgate.

WHEREAS, the ERC after public consultation, issued the "Guidelines for the Approval of Caps on the Recoverable 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 objective of setting a cap by type or delivery voltage and by utility.

WHEREAS, as most of the PUs and ECs encountered difficulties complying with the required segregation, the

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ERC was prompted to extend the deadline of filing the application, at least three (3) times. Despite said extensions, some DUs still failed to comply.

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

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:

- Applications of DUs for approval of system loss caps already filed with the ERC shall be dismissed. Other DUs who did not submit applications are 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 (3) 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.

WHEREFORE, be it RESOLVED, as the ERC hereby RESOLVES, to adopt the following policy declarations:

1. The actual company use (administrative loss) shall be treated as an expense of the distribution utilities in the following manner:

a. For PUs that are under PBR, it shall be treated as Operation and Maintenance expense in its next reset;

b. For PUs that are yet to enter PBR, it shall be treated as Operation and Maintenance Expense in its PBR application; and

c. For ECs, it shall be treated as Operation and Maintenance Expense in the benchmarking methodology;

2. The maximum rate of system loss (technical and non-technical) that the utility can pass on to its customers shall be the actual but not to exceed eight-and-a-half percent (8.5%) for private utilities and thirteen percent (13%) for electric cooperatives of the total kilowatt-hours (kwhr) purchased and generated.

3. The DUs are hereby directed to submit to the ERC, through a Sworn Statement, the results of their updated segregated system losses (ending June 7, 2010) by May 31, 2011 together with Annual Reports.

4. On the manner by which the DUs are to be rewarded for their efforts in system loss reduction, this shall be addressed by the ERC in the Performance Incentive Scheme (PIS) under the PBR for Private Utilities and the Benchmarking Methodology for Electric Cooperatives; and

5. The new caps shall be effective starting January 2010 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).

Adopted: 08 Dec. 2008

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