

A RESOLUTION ADOPTING THE RULES GOVERNING THE TARIFF GLIDE PATH PURSUANT TO ARTICLE VII OF THE RULES FOR SETTING THE ELECTRIC COOPERATIVES' WHEELING RATES

ERC RESOLUTION NO. 08, S. 2011, May 02, 2011

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WHEREAS, Section 25 of Republic Act No. 9136, otherwise known as the Electric Power Industry Reform Act of 2001 (EPIRA), provides that the retail rates charged by Distribution Utilities (DUs) for the supply of their electricity in their captive market shall be subject to regulation by the Energy Regulatory Commission (ERC) based on the principle of full recovery of prudent and reasonable economic costs incurred or such other principles that will promote efficiency as may be determined by the ERC;

WHEREAS, Section 43 (f) of the EPIRA and its Implementing Rules and Regulations (IRR) authorize the ERC to adopt alternative forms of internationally accepted rate-setting methodology it may deem appropriate;

WHEREAS, on September 23, 2009, the ERC promulgated Resolution No. 20, s. Series of 2009, entitled “A Resolution Adopting the Rules for Setting the Electric Cooperatives’ Wheeling Rates (RSEC-WR)”;

WHEREAS, said RSEC-WR embodies the new regulatory framework for the on-grid Electric Cooperatives (ECs) which is designed to achieve the following:

- Develop a tariff setting methodology that would be more responsive to the needs of the ECs given the objectives of the EPIRA;
- Encourage reforms in the structure and operations of the ECs for greater efficiency and lower costs; and
- Introduce the framework that will allow efficiency gains to be shared between the EC and the end-users.

WHEREAS, Article VII of the RSEC-WR provides for the Tariff Glide Path (TGP) whereby during the Regulatory Period, the rate of the EC per group shall be adjusted using the following formula:

$$\text{Tariff} \times [1 + \text{Index “I”} - \text{Efficiency Factor “X”} + \text{Performance Incentive “S”}]$$

The Index, “I” shall be an escalation factor to be used in adjusting the rates to reflect the combined impact of inflation and load growth. There shall be an efficiency factor “X” to account for the operational efficiency of the ECs in setting their rates. There shall be a performance incentive “S” which shall reward or penalize the EC for above or below standard performance, respectively.

The TGP is intended as a cap and the EC may move up to the cap, if it is a positive adjustment. If the cap is lower than the current average tariff, a reduction must be implemented.

WHEREAS, on April 19, 2010, the Philippine Rural Electric Cooperatives Association, Inc. (PHILRECA) filed a “Petition to Initiate Rule-Making on the Tariff Glide Path Pursuant to Article VII of the Rules for Setting Electric Cooperatives’ Wheeling Rates (TGIP Rules)” which was docketed as ERC Case No. 2010-005 RM;

WHEREAS, on May 6, 2010, the ERC issued an Order and a Notice of Proposed Rule-Making setting the said petition for expository presentation and public consultation on various dates and venues;

WHEREAS, from May 2010 until October 2010, the ERC conducted expository presentations and public consultations in the respective franchise areas of the ECs;

WHEREAS, on December 1, 2010, after considering the comments received from interested parties, the proposed TGP Rules was posted on the ERC website to solicit another round of comments;

WHEREAS, the ERC conducted a series of public consultations on the proposed TGP Rules on December 6, 2010 for the ECs in Luzon at the ERC's Main Office in Pasig City, and on December 7 and 8, 2010 for the ECs in Visayas and Mindanao, respectively, both held in Cebu City;

WHEREAS, on January 21, 2011, another consultation on the proposed TGP Rules was held at the ERC's Main Office in Pasig City;

WHEREAS, on March 9, 2011, the Proposed TGP Rules was posted again on the ERC website to solicit comments from interested parties, not later than April 1, 2011;

WHEREAS, in accordance with its mandate and after careful consideration of the various views and comments submitted by interested parties, the ERC adopts and promulgates the TGP Rules;

WHEREAS, the TGP Rules shall prescribe the methodology, the regulatory process and the timeline that the ERC shall undertake in the full implementation of Article VII of RSEC-WR. In particular, said TGP Rules shall set out the following:

- The economic and statistical parameters that the ERC will consider in determining the indices, the efficiency factors and the rewards/penalties scheme that would define the adjustment of the initial tariff caps within the first Regulatory Period;
- The technical and performance standards that the ECs must comply with in consonance with the provisions of the Philippine Distribution Code (PDC) and other ERC Rules and Regulations which will be the basis for the calculation of the Performance Incentive Scheme (PIS);
- The statistical analysis that shall be undertaken by the ERC in determining the variables affecting the TGP;
- The consultative and collaborative process and the timelines which both the ECs and the ERC must adhere to in order for the Rules to be applied as intended;
- The relevant period that the ERC will use in determining the nominal values for the Index and the efficiency factors;
- The reportorial requirements that the ECs must comply with as part of the process of defining the values for the "I", "X" and "S"; and
- The circumstances that would justify exception from the provisions thereof and the RSEC-WR.

NOW, THEREFORE, be it RESOLVED, as the Energy Regulatory Commission (ERC) hereby RESOLVES, to ADOPT the "Rules Governing the Tariff Glide Path Pursuant to Article VII of the Rules for Setting the Electric Cooperatives' Wheeling Rates (RSEC- WR)", hereto attached as Annex "A"[*] and made an integral part of this Resolution.

The Philippine Rural Electric Cooperatives Association, Inc. (PHILRECA) is hereby directed to publish the said TGP Rules in a newspaper of general circulation in the Philippines.

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

Let copies of this Resolution be furnished the University of the Philippines Law Center-Office of the National Administrative Register (UPLC-ONAR), PHILRECA and all on-grid electric cooperatives (ECs).

Adopted: 02 May 2011

(SGD.) ZENAIDA G. CRUZ-DUCUT

Chairperson

(SGD.) RAUF A. TAN (SGD.) ALEJANDRO Z. BARIN

Commissioner Commissioner

(SGD.) MARIA TERESA A.R. CASTANEDA (SGD.) JOSE C. REYES

Commissioner Commissioner

[*] Text Available at Office of the National Administrative Register, U.P. Law Complex, Diliman, Quezon City.

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