RESOLUTION AMENDING THE RULES FOR APPROVAL OF REGULATED ENTITIES' CAPITAL EXPENDITURE PROJECTS

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WHEREAS, Section 43(f) of Republic No. 9136, otherwise known as the Electric Power Industry Reform Act of 2001 or the EPIRA provides that any significant operating costs or projects investment of the National Transmission Corporation (TRANSCO) and Distribution Utilities (DUs) which shall become part of the rate base shall be subject to verification by the Energy Regulatory Commission (ERC) to ensure that the contracting and procurement of the equipment, assets and services have been subjected to transparent and accepted industry procurement and purchasing practices to protect the public interest;

WHEREAS, on March 8, 2006, the ERC adopted Resolution No. 13, Series of 2006, entitled "A Resolution Adopting the Guidelines to Govern the Submission, Evaluation and Approval of Electric Distribution Capital Projects", which provided the DUs with a uniform system of filing application for approval of their respective proposed capital projects;

WHEREAS, on December 15, 2008, the ERC adopted Resolution No. 18, Series of 2008, entitled "Resolution Adopting the Rules for Approval of Regulated Entities' Capital Expenditure Projects";

WHEREAS, on various dates, the ERC received several requests from Electric Cooperatives (ECs) in Mindanao requesting for extension of time within which to file their respective multiyear capital expenditure applications pursuant to the Transitory Provision of the abovementioned Resolution in view of their needs for capacity building and modification of their existing system technologies;

WHEREAS, on April 20, 2009, the ERC issued an Order suspending the filing of ECs' multiyear capital expenditure applications until further notice;

WHEREAS, pursuant to its mandate under Section 58 of the EPIRA, the National Electrification Administration (NEA) required all (ECs) to formulated their Integrated Computerized Planning Model (ICPM) in preparation for their annual capital expenditure (CAPEX) projects and programs, and structural and/or institutional development;

WHEREAS, Section 23 of the EPIRA provides, among others, that DUs shall prepare and submit to the Department of Energy (DOE) their annual Distribution Development Plans (DDP). In the case of ECs, such plans shall be submitted through the NEA;

WHEREAS, the ERC recognizes the significance and importance of having a comprehensive and integrated development plan for all ECs and the necessity to adopt the same for the preparation of CAPEX projects and programs and structural and/or institutional planning and development that are consistent with the Philippine Distribution Code (PDC) and the safety standards set by the Philippine Electrical Code (PEC);

WHEREAS, a Technical Working Group (TWG), composed of representatives from the ERC, NEA, International Finance Corporation (IFC), Philippine Rural Electric Cooperatives Association, Incorporated (PHILRECA), National Association of General Managers of Electric Cooperatives, Incorporated (NAGMEC) and the Association of Mindanao Rural Electric Cooperatives, Incorporated (AMRECO), was created to formulate and promulgate a template of procedures denominated as "Electric Cooperative Distribution Utility Planning

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Manual";

WHEREAS, the said manual provides guidance for the systematic and economic expansion and rehabilitation of distribution facilities and the acquisition of assets necessary to respond to the needs of consumers and enable the ECs to meet safety, performance standards and regulatory requirements as well as their respective structural and/or institutional planning and development;

WHEREAS, on August 5, 2009, a Memorandum of Agreement (MOA) adopting the "Electric Cooperative Distribution Utility Planning Manual" was executed among the ERC, NEA, PHILRECA, NAGMEC and AMRECO;

WHEREAS, on November 16, 2009, the ERC posted the proposed amendments to the said Rules in its official website at www.erc.gov.ph;

WHEREAS, on various dates, several regulated entities submitted their respective comments/inputs on the said proposed amendments which were considered in preparation for the issuance of the Amended Rules for Approval of Regulated Entities' Capital Expenditure Projects;

NOW, THEREFORE, be it RESOLVED, as the ERC hereby RESOLVES to APPROVE and ADOPT the Amended Rules for Approval of Regulated Entities' Capital Expenditure Projects, hereto attached and made an integral part of this Resolution as Annex "A"[*].

This Resolution shall take effect immediately upon its publication in a newspaper of nationwide circulation.

Let copies of this Resolution be furnished the University of the Philippines Law Center-Office of the National Administrative Register (UPLC-ONAR) and all DUs.

Adopted: 09 Dec. 2009

(SGD.) ZENAIDA G. CRUZ-DUCUT
Chairperson

(SGD.) RAUF A. TAN
Commissioner

(SGD.) ALEJANDRO Z. BARIN
Commissioner

(SGD.) MARIA TERESA A.R. CASTANEDA
Commissioner

(SGD.) JOSE C. REYES
Commissioner

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

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