RESOLUTION ADOPTING THE POLICY THAT GRANT OF PREFERENTIAL RATES TO QUALIFIED CUSTOMERS SHALL BE CONSIDERED AS MANAGEMENT PREROGATIVES

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WHEREAS, Section 25 of Republic Act No. 9136, otherwise known as the Electric Power Industry Reform Act of 2001 (EPIRA), states that: “The retail rates charged by distribution utilities for the supply of electricity in their captive market shall be subject to regulation by the ERC x x x.”;

WHEREAS, Section 7 of the same Act provides that the transmission of electric power shall be a regulated common electricity carrier business, subject to the ratemaking powers of the ERC;

WHEREAS, Section 18 of Republic Act No. 7638, otherwise known as an Act creating the Department of Energy, Rationalizing the Organization and Functions of Government Agencies Related to Energy, and for other Purposes, transferred to the then Energy Regulatory Board (now Energy Regulatory Commission) the power of the National Power Corporation (NPC) to determine, fix, and prescribe the rates being charged to its customers;

WHEREAS, in its previous Decisions, the ERC has resolved that the grant of preferential rates to qualified consumers shall be considered as a business decision.

NOW, THEREFORE, be it RESOLVED, as the ERC hereby RESOLVES to ADOPT the policy that the grant of preferential rates to qualified customers shall be considered as a management prerogative, hence, shall not require the ERC’s prior approval, subject to the following conditions:

1. Any reduction of revenues on the part of the Distribution Utilities (DUs), the National Transmission Corporation (TRANSCO) and the NPC must not be recovered from or passed on to their other customers;

2. Any losses that may be incurred by the DUs, TRANSCO and NPC should not give rise to any form of cross-subsidy; and

3. All similarly-situated customer shall be treated alike and be accorded the same privilege.

Finally, all DUs, TRANSCO and NPC are hereby directed to submit, on a semestral basis, their respective lists of customers who are granted preferential rates every fifteenth (15th) day of January and July of each year.

This Resolution shall take effect immediately following 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), all DUs, TRANSCO and NPC.

Adopted: 19 Sept. 2007

(SGD.) RODOLFO B. ALBANO, JR.
Chairman

(SGD.) RAUF A. TAN

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