NATIONAL ADMINISTRATIVE REGISTER · APRIL 26, 2018

# RESOLUTION ADOPTING THE ERC RULES SUPPLEMENTING THE SWITCHING AND BILLING PROCESS AND ADOPTING A DISCONNECTION POLICY FOR CONTESTABLE CUSTOMERS

*RESOLUTION NO. 09, S. 2018, April 26, 2018*

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Adopted: 26 March 2018

Date Filed: 27 April 2018

WHEREAS, the Energy Regulatory Commission (ERC) is mandated to promulgate rules and regulations to ensure provision of continuous supply of electricity to contestable customers;

WHEREAS, on 22 February 2010, the Commission promulgated Resolution No. 02, Series of 2010 entitled “A Resolution Adopting the Amendments to the Distribution Services and Open Access Rules (DSOAR)” aims to provide rules on the disconnection and billing process by the distribution utility (DU) to the market participants, among others;

WHEREAS, on 9 July 2013, the Department of Energy (DOE) issued Department Circular No. DC 2013-07-0014 entitled “Promulgating the Retail Market Manuals for the Implementation of Retail Competition and Open Access” (Retail Market Manuals) and DC2013-01-0002 entitled “Promulgating the Retail Rules for the Integration of Retail Competition and Open Access in the Wholesale Electricity Spot Market (WESM)” (Retail Rules) which prescribes, among others, the procedures on market transactions of participants in the retail market and the requirements for the registration in the WESM;

WHEREAS, on 16 February 2017 and on 17 November 2017, the first and second drafts, respectively, of the “ERC Rules Supplementing the Switching and Billing Process and Adopting a Disconnection Policy for Contestable Customers” were posted on the ERC website to solicit comments from the industry participants. A public consultation was consequently conducted to discuss the comments submitted by the stakeholders regarding the same;

WHEREAS, the Commission has identified matters that need to be supplemented in the abovementioned Rules to facilitate an efficient switching process under the CREM and to address issues arising from the same including the applicable disconnection and reconnection process, the expansion of the billing scheme, among others;

NOW, THEREFORE, pursuant to its mandate to promote competition and protect customer interests, the ERC hereby RESOLVES to ADOPT the “ERC Rules Supplementing the Switching and Billing Process and Adopting a and made an integral part of this Resolution.

This Resolution shall take effect immediately following its publication in a newspaper of general circulation or in the Official Gazette.

Let copies of this Resolution be furnished all parties concerned and the University of the Philippines Law Center -



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Office of the National Administrative Register (UPLC-ONAR), all the Distribution Utilities in Luzon and Visayas.

Pasig City, 26 March 2018.

(SGD) AGNES VST DEVANADERA
Chairperson and CEO

(SGD) ALFREDO J. NON
Commissioner

(SGD) GLORIA VICTORIA C. YAP-TARUC
Commissioner

(SGD) JOSEFINA PATRICIA A.
MAGPALE-ASIRIT
Commissioner

(SGD) GERONIMO D. STA. ANA
Commissioner

Annex "A"

ERC RULES SUPPLEMENTING THE SWITCHING AND BILLING PROCESS AND ADOPTING A DISCONNECTION POLICY FOR THE CONTESTABLE CUSTOMERS

**ERC CASE NO. 2017- 004 RM**

Pursuant to Sections 29, 31, 43 and 45 of Republic Act No. 9136, hereinafter referred to as the Act, its Implementing Rules and Regulations (IRR), the Energy Regulatory Commission (ERC) hereby adopts and promulgates the ERC Rules Supplementing the Switching and Billing Process and Adopting a Disconnection Policy for Contestable Customers", referred to as "the Supplemental Switching Rules".

ARTICLE I GENERAL
PROVISIONS

Section 1. Objectives

The Supplemental Switching Rules shall have the following objectives:

a. To provide supplementary procedures on the customer switching method and ensure its effective implementation;
b. To ensure the efficient and timely exchange of information between and among competitive retail market participants; and
c. To provide applicable billing procedures and disconnection process for contestable customers.

Section 2. Scope

These Rules shall apply to the following:

a. Contestable Market;
b. Retail Electricity Suppliers (RES');


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c. Distribution Utilities (DUs);
d. Suppliers of Last Resort (SOLRs);
e. The Central Registration Body (CRB); and,
f. All other relevant industry participants.

Section 3. Definition of Terms

Act - Republic Act No. 9136, otherwise known as “Electric Power Industry Reform Act of 2001”, and its Implementing Rules and Regulations (IRR).

Business Day - A day other than a Saturday, a Sunday or an official or declared Philippine national or local public holiday.

Central Registration Body - An independent entity assigned to undertake the required processes, information technology, and other systems capable of handling customer switching and information exchange among retail electricity market participants.

Contestable Customer - An electricity End-user who meets the eligibility requirements for contestability and the threshold level set by the ERC to qualify in the Contestable Market.

Contestable Market - The electricity end-users who have a choice of a supplier of electricity, as may be determined by the ERC in accordance with the Act.

Distribution Services and Open Access Rules (DSOAR) - The set of rules promulgated by the ERC regarding the provision of regulated services by a DU to entities such as captive and contestable customers, RES, other DUs, generation companies, under the environment created by the Act.

Distribution Utility (DU) - 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 its franchise and the Act, including DUs operating in the Economic Zones.

Distribution Wheeling Service (DWS) - The conveyance of power throughout a distribution system to meet the demand of end-users.

Distribution Wheeling Service Agreement (DWSA) - An agreement between a DU and a RES, or SOLR on behalf of a Contestable Customer, or between a DU and a Contestable Customer, for the procurement of DWS.

Dual/Multiple Billing - A billing system whereby a Contestable Customer receives separate bills from its RES, WESM (if applicable) and from its Network Service Provider.

Initial Switch - The commercial transfer of a Contestable Customer from the DU as its supplier under regulated service to a RES or SOLR.

End-user - Any person or entity requiring the supply and delivery of electricity for its own use.

Energy Regulatory Commission (ERC) - The independent and quasi-judicial regulatory agency created under Section 38 of the Act.

Market Operator - The entity responsible for the operation of the Wholesale Electricity Spot Market.

National Grid Corporation of the Philippines (NGCP) - The corporation awarded the concession to operate the transmission facilities of the National Transmission Corporation pursuant to the Act and Republic Act No. 9511.

Network Service Provider - An entity which engages in the activity of owning, controlling, or operating a transmission or distribution system.

Primary RES - The RES nominated and assigned by the Contestable Customer, in writing, as the single point of contact for the CRB and all Network Service Providers. In case of Single Billing, it shall be responsible for billing and collecting from the Contestable Customer all applicable charges by the Network Service Providers. Only the Primary RES shall execute a DWSA with the DU.

Retail Electricity Supplier (RES) - Any person or entity authorized by the ERC to sell, broker, market or aggregate electricity to end-users in the Contestable Market. Unless otherwise provided, all references to the RES herein shall include the Local RES. Local RES is a competitive retail supply business segment of a DU.

Regular Switch - The commercial transfer of a Contestable Customer from one RES or SOLR to another RES or SOLR.

Retail Supply Contract - The contract for the sale of electricity entered into by and between the RES and the Contestable Customer.

Single Billing - A billing system whereby a Contestable Customer receives only one consolidated bill issued by a RES. The consolidated bill includes the Network Service Provider wheeling charges described in Section 4.2, Article III.

Supplier of Last Resort - A regulated entity designated by the ERC to serve Contestable Customer following a Last Resort Supply Event.

Switch Request - A request sent by a prospective RES for the CRB to switch a Contestable Customer from its Network Service Provider or another RES or SOLR.

Switch or Switching - The commercial transfer of a Contestable Customer from the Network Service Provider to a RES or SOLR and/or from one supplier to another, which takes effect on the regular meter reading date or on a special meter reading date following a Last Resort Supply Event.

National Transmission Corporation (TransCo) - The corporation organized pursuant to Section 8 of the Act to acquire all the transmission assets of the NPC.

Wholesale Electricity Spot Market (WESM) - The Wholesale Electricity Spot Market established by the Department of Energy (DOE) pursuant to the Act.

Words and phrases used in these Rules which are defined in the Act or the IRR have the same meaning given to them in the Act or the IRR.

ARTICLE II SWITCH
PROCESS

Section 1. Switching of a Contestable Customer to a RES of its choice shall take effect subject to the supplementary conditions and procedures provided hereunder:

> a. No Contestable Customer shall be allowed to Switch or be supplied by a new RES or SOLR should it have an outstanding balance with its Network Service Provider, in case of initial switch, or its incumbent RES. Whether under dispute or not, the Contestable Customer shall be required to settle its outstanding balance prior to Switching. For purposes of these Rules, outstanding balance shall refer to the amount due under previous unpaid bills including the amount indicated in its current bill.
>
> Should the payment of a security deposit be required as stated in the RSC, the Contestable Customer shall pay

the corresponding deposit to the new RES upon receipt of a Switch approval from the RES.

b. A Contestable Customer which is about to Switch to another RES, and which has been required to put up a cash security deposit by its incumbent RES shall be entitled to the refund of the said amount plus the applicable interest earned (interest earnings net of tax of the amount in escrow) less outstanding balance. The concerned RES shall refund the amount to the Contestable Customer within thirty (30) days from effective Switch.

c. A Contestable Customer which is about to migrate to the CREM, shall be entitled to the refund of the security or bill deposit from its DU in accordance with Section 3.4.2, Article III of the DSOAR.

Section 2. The DU shall be the default meter service provider for the retail market until such time that the ERC determines the provision of metering services at the retail level to be competitive. For purposes of these Rules, meter service shall include procurement of meter for a Contestable Customer, meter installation, maintenance, repair, calibration with the supervision of ERC, meter reading, including data dissemination to the CRB.

The NGCP shall be the default meter service provider for the directly-connected Contestable Customer. The NGCP, as the owner of the revenue meters, shall be responsible for data dissemination and metering services. However, existing agreements regarding the provision of meter data between the DU and NGCP for a directly-connected Contestable Customer will be honored; provided that the sale of subtransmission assets has been consummated in accordance with Resolution No. 15, Series of 2011 entitled “A Resolution Adopting The Amended Rules for the Approval of the Sale and Transfer of TRANSCO’s Subtransmission Assets and the Acquisition by Qualified Consortiums”.

ARTICLE III BILLING AND
PAYMENTS

Section 1. A Contestable Customer may choose from Single or Dual/Multiple Billing schemes: Provided, That said customer maintain the chosen billing option for at least one (1) year and such should be stipulated in its RSC with the RES.

Section 2. Neither the Network Service Providers nor the RES shall impose any charges on a Contestable Customer for changing its billing method.

Section 3. Bill Content

3.1 The RES’ bills shall be in clear and simple language, and shall, among others, contain the following:
a. RES’ customer service address, email and telephone number;
b. Address, telephone number and email addresses of the Consumer Affairs Service of the ERC; and
c. Network service provider's customer service and emergency telephone numbers.

3.2 The RES’ bills shall also contain sufficient information to allow Contestable Customers the ability to calculate their charges, such as but not limited to: the kWh usage for the indicated billing period, the billing date (due date), remaining balance and payments applied.

3.3 If optional services (added-value services) are provided, the associated charges shall be itemized separately on the Contestable Customer’s bill.

3.4 Should a contestable customer opt to change its billing scheme, the following provisions shall apply:

a. A Contestable Customer shall send a request for a change in billing to its incumbent RES to the chosen billing option, at least thirty (30) days prior to the start of the intended billing period covered;

b. The RES shall send the request for a change in billing to the Network Service Provider within twenty four


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(24) hours from receipt of request from the Contestable Customer. However, such request should have been received by the Network Service Provider at least thirty (30) days prior to the scheduled meter reading date;

c. The Network Service Provider shall provide a response for change in billing to the RES within forty eight (48) hours indicating acceptance thereof and the effective date of the change in billing option;

d. The RES shall notify the Contestable Customer within twenty four (24) hours from receipt of response for change in billing.

Section 4. Single Billing Scheme

4.1 The Contestable Customer shall receive one consolidated bill from the RES reflecting all charges including the approved wheeling charges, described in Section 4.2 hereof, from the Network Service Provider.

4.2 The bill by the RES to Contestable Customer shall contain the following:

RES Charges
Generation Charge
Supplier's Charge
Government Taxes
WESM Net Settlement Surplus (NSS) Allocation, if applicable

Total RES Charges

Distribution Wheeling Service (DWS) Charges

Transmission Charge
Distribution Charge
Standard Connection Charge
Supply Charge
Metering Charge System Loss Charge Local Franchise Tax Senior Citizen Discount Lifeline Rate Subsidy Value-Added Tax (VAT) Universal Charge
FIT-ALL Charge
Arrears, if any; and
Other Charges and Adjustments approved by the ERC.

Total DWS Charges

TOTAL ELECTRICITY BILL

The RES merely acts as a collecting agent for the DWS charges in behalf of the Network Service Provider and shall be responsible for settling said charges for the latter. Such DWS charges are pass-through charges by the DU, NGCP/TransCo and Power Sector Assets and Liabilities Management (PSALM) Corporation, and other government entities, based on rates previously approved by the ERC.

These charges include the transmission for NGCP, universal charge for PSALM, taxes, and other adjustments in behalf of the Network Service Providers.

4.3 Payment Processing and Remittance for Single Billing Scheme

a. The RES or multiple RES shall supply the entire requirements of the Contestable Customer subject to the pricing methodology specified in their RSCs, and the RES, or Primary RES in case of multiple RES, shall pay all amounts due to the Network Service Providers within the timeframe specified in their DWSA to avoid disconnection of service.

b. The RES may impose late payment charges on the Contestable Customer for unpaid amounts: Provided, that


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the terms of the late payment charges are stated in the RSC and previously disclosed to the Contestable Customer.

The RES shall pay wheeling service payments to the Network Service Provider within the timeframe specified in their billing agreement by use of electronic funds transfer, bank-to-bank transfers, or any other means agreed upon by both parties.

c. Should payment by the Contestable Customer be made through check and the same is returned for any reason, the RES or SOLR may charge the Contestable Customer for the return fee and any reasonable administrative fee, in addition to late payment charges.

d. Should the RES fail to pay to the Network Service Provider the DWS Charges within the timeframe specified in its billing agreement, the RES shall pay interest on the un-paid amount. The Network Service Provider shall calculate the late payment charges provided under Section 4.8.3, Article IV of the DSOAR, or based on the approved surcharge by the ERC, whichever is applicable, from the date the payment was due to be received by the Network Service Provider.

The payment of late payment charges is in addition to, and not in lieu of, the rights and remedies otherwise available to the parties.

Section 5. Dual/Multiple Billing Scheme

5.1 The Network Service Provider, RES and/or WESM, if applicable, shall render separate bills directly to the Contestable Customer. The Contestable Customer shall pay the Network Service Provider and the RES and/or WESM separately within the timeframe specified in their respective RSCs, wheeling agreement and applicable rules.

5.2 The Contestable Customer shall have the responsibility to: (1) contract with the RES/multiple RES and/or procure from WESM for its electricity requirements; (2) contract directly with the Network Service Providers for the wheeling agreement; and (3) submit the Switching requirements to the CRB.

The DWSA pro-forma contract to be adopted by the DU and the Contestable
Customer is hereto attached as Annex “B”.

5.3 A Contestable Customer under the Dual/Multiple Billing scheme shall receive a bill from the RES containing, at least the following:
RES Charges
Generation Charge
Supplier’s Charge
Government Taxes
WESM Net Settlement Surplus (NSS) Allocation, if applicable

TOTAL RES CHARGES

5.3 Payment Processing and Remittance for Dual/Multiple Billing Scheme
a. The Contestable Customer shall send wheeling service payments directly to the
Network Service Provider, and electricity payments directly to the RES, within the
timeframe specified in their billing agreement by use of electronic funds transfer, bank-to-bank transfers, or any other means agreed upon by both parties.

b. Should the Contestable Customer fail to pay the Network Service Provider, said Contestable Customer shall be liable for payment of the applicable surcharge. The Network Service Provider shall calculate the late payment charges based on the previously approved surcharge by the ERC for late payments, or calculated provided in Section 4.8.3, Article IV of the DSOAR, whichever is applicable, from the date the payment was due to be

received by the Network Service Provider.

The payment of late payment charges is in addition to, and not in lieu of, the rights and remedies otherwise available to the parties.

ARTICLE IV
DISCONNECTION/RECONNECTION PROCESS

Section 1. Deferment of Disconnection. The disconnection may be deferred should any of the following occur:

1.1 The outstanding amount due and demanded was settled prior to the scheduled disconnection date. The requesting party that filed for disconnection should have immediately informed the Network Service Provider of the settlement/payment of the outstanding amount to defer the execution of such disconnection.

If at the time the disconnection is to be made, the RES or the Contestable Customer tenders full payment of the outstanding balance to the Network Service Provider or the Contestable Customer tenders full payment to the RES, the Network Service Provider shall desist from disconnecting the service. Provided, however, That the RES or the Contestable Customer can only invoke this provision once for the same unpaid bill.

1.2 Recalled notice of disconnection by the requesting party as a result of a special payment agreement or restructuring agreement entered into by the contracting parties prior to the scheduled disconnection date. The requesting party should have immediately informed the RES of the recall for the Network Service Provider to defer the execution of such disconnection.

1.3 Recalled notice of disconnection by the requesting party for any valid reason not stated above.

Section 2. The disconnected Contestable Customer and/or RES shall continue to be liable for any and all of its outstanding obligations and liabilities under the DSOAR, OATS Rules, WESM Rules and all other existing contracts.

Section 3. A Contestable Customer shall be reconnected upon occurrence of the following:

3.1 The RES or the Primary RES requesting for a reconnection of its Contestable Customer shall submit its notice of reconnection to the Network Service Provider for the execution of the request for reconnection. In the case the Contestable Customer default from its payment obligations to the Network Service Provider or WESM, then the Network Service Provider or the WESM should' initiate reconnection once the default has been remedied.

3.2 The Network Service Provider shall execute the reconnection of service, within twenty four (24) hours from receipt of the notice of reconnection from the RES.

3.3 In the case of the disconnected Contestable Customer wherein its disconnection was requested by multiple suppliers, the reconnection will only be executed when the Primary RES has issued the notice of reconnection to the Network Service Provider.

3.4 If the electricity supply was disconnected due to non-payment of bills or security deposit, the reconnection shall be restored within twenty-four (24) hours from receipt of payment from the Contestable Customer.

3.5 Across instances, a reconnection fee shall be paid by the disconnected Contestable Customer to either the RES or to the Network Service Provider prior to reconnection.

Section 4. The procedures for disconnection, deferment of disconnection and reconnection of Contestable Customers shall also be governed by the Network Service Providers' existing rules, DOE and ERC relevant issuances.


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ARTICLE V
OTHER PROHIBITED ACTS UNDER RCOA

Section 1. No RES shall engage in any anti-competitive agreement that prevents or reduces competition in the retail market.

Section 2. No RES shall enter into a retail supply contract which refers to the supply of fixed quantities or take or pay provision.

Section 3. No RES shall apply any cancellation or termination charges should the Contestable Customer terminate its retail supply contract beyond six-month period prior to its expiry.

Section 4. No Network Service Provider shall delay the submission of metering-related requirements to the CRB.

Section 5. No DU shall engage in any act that will prevent a Contestable Customer from entering into a retail supply contract with a RES.

Section 6. No RES shall keep or be the custodian of the original copy of Certificate of Contestability. The RES shall surrender such Certificate from the Contestable Customer upon verification of its contestability.

Section 7. No changes in load shedding/dropping protocol should be made by reason of migration by captive customers to the CREM, otherwise, the said act amounts to discrimination for which the DU shall be made liable.

Section 8. The prohibited acts describe hereof, shall be considered as anti-competitive behavior and shall be subject to appropriate fines and penalties.

ARTICLE VI
DISPUTES

Section 1. B2B System or Central Registration and Settlement System (CRSS) Contingency

1.1 In case of emergencies affecting the operation of the B2B System or CRSS, the CRB shall inform the ERC, NGCP, MSP, affected DUs and RES, by email and/or through publication in the website, of the situation within one (1) hour from its occurrence.

1.2 During such situation, transactions will be done through electronic mail or other technology. The B2B System or CRSS transaction timeframes, however, shall still be complied with.

Section 2. Discrepancy on Data

2.1 In case of data discrepancies (e.g. meter reading, billing errors, customer information), data from the Network Service Provider/MSP shall be used temporarily while the discrepancy is being investigated by the ERC.

2.2 Disputes on data discrepancy shall be resolved through the dispute resolution process of the ERC.

Section 3. Dispute Resolution

3.1 Any dispute or complaint arising from the switching processes contained in these Rules, and such other procedures necessary to facilitate the Switching process, shall be resolved through the dispute resolution process of the ERC.

Section 4. B2B System or CRSS Transaction Timeframes

4.1 Requests, notices, responses to notices or requests, and data sent or received by a concerned entity before 3:00 P.M. on a Business Day shall be received on that Business Day. Otherwise, it shall be deemed to have

been received on the first working hour on the next Business Day.

ARTICLE VII
REPORTORIAL REQUIREMENTS

Section 1. The Central Registration Body or CRB shall submit to the ERC, every 15th day of the subsequent month after the quarter, a quarterly report, and without need of further notice, which provides the following information:

a. List of contestable customers' name;
b. Meter number;
c. Monthly registered demand (in kW); and d. Monthly metered quantity (in kWh).

Section 2. All DUs including NGCP shall submit a monthly report to the ERC, every 15th day following the month subject matter of the report, and without need of further notice, information on end-users with: 1) average monthly peak demand of at least 1MW for the preceding 12 months; 2) average monthly peak demand of 750kW to 999kW; and 3) average monthly peak demand of 500kW to 749kW, including but not limited to the following:

a. Customer name;
b. Billing and service addresses;
c. Customer's account number;
d. Meter number;
e. The most recent twelve (12) months of historical usage, i.e. monthly registered peak demand (in kW) and monthly total registered energy consumption (in kWh); and
f. Customer information such as telephone numbers and e-mail addresses, subject to agreement on confidentiality.

Section 3. Each RES shall submit a quarterly report every 15th day of the subsequent month after the quarter, without need of further notice, providing the following information:

a. List of contestable customers;
b. Total kilowatt-hour sales to contestable customers;
c. Total revenues from kilowatt-hour sales to contestable customers; and d. Period of contract for each contestable customer.

Section 4. Other information that the ERC deems necessary or useful in carrying out its duties and obligations.

Section 5. The ERC shall accord certain information disclosed and identified by the respective entities such level of strict confidentiality by subjecting the same to appropriate protective measures, if applicable.

ARTICLE VIII
SANCTIONS

The ERC shall impose the appropriate fines and penalties for any violation or non- compliance with these Rules, pursuant to the "Guidelines to Govern the Imposition of Administrative Sanctions in the Form of Fines and Penalties Pursuant to Section 46 of RA.
9136".

ARTICLE IX
AMENDMENTS

The ERC shall amend and expand these Rules from time to time where this may be necessary. Before making any significant revisions to the Rules, the ERC will undertake public consultation as appropriate.

Any other previous rule promulgated by the ERC that is inconsistent with this is hereby modified accordingly.

ARTICLE X
SEPARABILITY

If for any reason any provision of the ERC Rules Supplementing the Switching and Billing Process and Adopting a Disconnection Policy for Contestable Customers is declared unconstitutional or invalid by final judgment of a competent court, the other parts or provisions hereof which were not affected thereby shall continue to be in full force and effect.

ARTICLE XI
EFFECTIVITY

The ERC Rules Supplementing the Switching and Billing Process and Adopting a Disconnection Policy for Contestable Customers shall take effect on the fifteenth (15th) day following its publication in a newspaper of general circulation in the country, or in the
Official Gazette.

Pasig City, 26 March 2018.

**(SGD) AGNES VST DEVANADERA**

Chairperson and CEO

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