NATIONAL ADMINISTRATIVE REGISTER · FEBRUARY 7, 2011

A RESOLUTION ADOPTING THE AMENDED RULES FOR THE RECOVERY OF NPC STRANDED CONTRACT COSTS AND STRANDED DEBTS PORTION OF THE UNIVERSAL CHARGE

ERC RESOLUTION NO. 02, S. 2011, February 07, 2011

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WHEREAS, Sections 32 and 34 of Republic Act No. 9136, otherwise known as the “Electric Power Industry Reform Act of 2001” (the “Act” or “EPIRA”) and its Implementing Rules and Regulations (IRR), provide that a Universal Charge (UC) to be determined, fixed and approved by the Energy Regulatory Commission (ERC) shall be imposed on all End-Users for purposes that include, among others, recovery of Stranded Contract Costs and Stranded Debts of the National Power Corporation (NPC);

WHEREAS, pursuant to Section 4 (vv) and Section 32 of the Act and Rule 4 (gggg) of the IRR, the Stranded Contract Costs of NPC shall refer to the excess of the contracted cost of electricity under its eligible contracts with Independent Power Producers (IPP) over the actual selling price of the contracted energy output of such contracts in the market, which contracts shall have been approved by the then Energy Regulatory Board (ERB) as of December 31, 2000;

WHEREAS, pursuant to Section 4 (vv) and Section 32 of the Act and Rule 4 (hhhh) of the IRR, the Stranded Debts of NPC shall refer to any of its unpaid financial obligations which have not been liquidated by the proceeds from the sales and privatization of its assets;

WHEREAS, Section 4 (b)(ii) Rule 17 of the IRR provides that the ERc shall verify the reasonable amounts of claims petitioned by the Power Sector Assets and Liabilities Management (PSALM) Corporation and determine the manner and duration by which full recovery of Stranded Debt and Stranded Contract Costs of NPC is attained: Provided, That the duration for such recovery shall not be shorter than fifteen (15) years nor longer than twenty-five (25) years;

WHEREAS, Section 5 Rule 18 of the IRR mandates that the UC shall be a non bypassable charge, which shall be collected from all End-Users including self-generating entities pursuant to the provisions of the Rules Governing the Collection of the Universal Charge;

WHEREAS, Section 7 Rule 18 of the IRR provides that Self-Generating Facilities, registered with the ERC and PSALM shall not be covered by the imposition of the UC for a period of four (4) years from its imposition;

WHEREAS, Section 34 of the Act mandates PSALM to create a Special Trust Fund, which shall be disbursed only for the purposes specified in an open and transparent manner pursuant to the provisions of the Revised Guidelines and Procedures Governing Remittances and Disbursements of the Universal Charge promulgated by the ERC on January 5, 2006;

WHEREAS, the ERC issued on February 6, 2007 ERC Resolution No. 4, Series of 2007 entitled “A Resolution Adopting Rules for Recovery of NPC Stranded Contract Costs (SCC) and Stranded Debts (SD) Portion of the Universal Charge” (Rules for Recovery);

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WHEREAS, on November 23, 2010, the proposed amendments to the Rules for the Recovery of NPC Stranded Contract Cost and Stranded Debts Portion of the Universal Charge were posted at the ERC Website to provide NPC and PSALM guidance in their future filing of the SCC and SD. The deadline for submission of comments was set on December 24, 2010;

WHEREAS, on December 23 and 29, 2010, Manila Electric Company (MERALCO) and PSALM submitted their respective comments;

NOW, THEREFORE, the ERC, after thorough and due deliberation, RESOLVED, as it hereby RESOLVES, to APPROVE and ADOPT, the Amended Rules for Recovery of NPC Stranded Contract Costs and Stranded Debts Portion of the Universal Charge attached as "ANNEX 1[*]" and made an integral part of this Resolution.

This Resolution shall take effect on the fifteenth (15th) day following its publication in a newspaper of general 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 entities engaged in the generation, transmission, distribution and supply of electricity.

Adopted: 07 February 2011

(SGD.) ZENAIDA G. CRUZ-DUCUT

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(SGD.) RAUF A. TAN

(SGD.) ALEJANDRO Z. BARIN

Commissioner

Commissioner

(SGD.) MARIA TERESA A.R. CASTANEDA

(SGD.) JOSE C. REYES

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

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