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

*ERC RESOLUTION NO. 18, S. 2008, December 15, 2008*

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WHEREAS, Section 43(f) of Republic Act No. 9136, otherwise known as the Electric Power Industry Reform Act of 2001 (EPIRA) provides that any significant operating costs or projects investments 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 Commission to ensure that the contracting and procurement of the equipment, assets and services have been subjected to transparent and accepted industry procurement and practices to protect the public interest;

WHEREAS, on March 8, 2006, the Commission 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 applications for approval of their respective proposed capital projects.

WHEREAS, in two (2) years of its implementation, several suggestions/comments were brought to the attention of the Commission to further improve said Guidelines;

WHEREAS, on May 29, 2003, the Commission adopted Resolution No. 04, Series of 2003 entitled "Adopting an Alternative Rate Setting Methodology for the National Transmission Corporation (TRANSCO) and Any Future Concessionaire Thereof" and the annex attached thereto entitled "Guidelines on the Methodology for Setting of Transmission Wheeling Rates" (TWRG);

WHEREAS, on April 11, 2006, the Commission adopted Resolution No. 16, Series of 2006 entitled "Adopting a Policy That Entry to the Performance Based Regulation (PBR) by Private Utilities Under the Distribution Wheeling Rates Guidelines (DWRG) be Made Mandatory".

WHEREAS, on July 26, 2006 and December 13, 2006, the Commission adopted Resolution No. 39, Series of 2006 entitled "Adopting the Rules for Setting the Distribution Wheeling Rates (RDWR) for Privately Owned Distribution Utilities Entering Performance Based Regulation (First Entry Point)" and Resolution No. 54, Series of 2006 entitled "Adopting the Rules for Setting the Distribution Wheeling Rates (RDWR) for Privately Owned Distribution Utilities Entering Performance Based Regulation (Second and Later Entry Points)", respectively;

WHEREAS, the Commission is in the process of formulating a new rate-setting methodology for Electric Cooperatives (ECs) which is envisaged to be implemented by 2009.

WHEREAS, the Commission deems it necessary to adopt a new set of rules that would address the suggested improvements and to make it consistent with the provision of the TWRG, RDWR and the benchmarking methodology;

WHEREAS, on May 14, 2008, the Commission approved the first (1[st]) draft of the proposed Resolution Adopting the Rules for Approval of Regulated Entities' Capital Expenditure Projects and was posted in its

official website at www.erc.gov.ph;

WHEREAS, on May 16, 2008, the Commission issued a Notice informing the public where they can secure a copy or access said proposed Rules and set the same for public consultation on June 16, 2008 at the ERC Visayas Field Office in Cebu City for all Visayas and Mindanao stakeholders and June 17, 2008 at the ERC Main Office in Pasig City for all Luzon stakeholders;

WHEREAS, in the same Notice, interested parties were directed to file their written comments/inputs on the said proposed Rules not later than June 12, 2008;

WHEREAS, on various dates, several regulated entities submitted their respective written comments/inputs on the said proposed Rules;

WHEREAS, during the said public consultations, various stakeholders (privately owned DUs, commercial, industrial and residential consumers) were present and given opportunity to manifest their respective positions orally or in writing on the matters or issues presented in the proposed Rules;

WHEREAS, on November 10, 2008, the Commission approved the second (2[nd]) draft of the proposed Resolution Adopting the Rules for Approval of Regulated Entities' Capital Expenditure Projects and was posted in its official website;

WHEREAS, on November 11, 2008, the Commission issued a Notice directing all interested parties to file their written comments/inputs on the said 2[nd] revision of the proposed Rules not later than November 27, 2008;

WHEREAS, on various dates, the following entities filed their respective comments: Association of Mindanao Rural Electric Cooperatives Incorporated (AMRECO), Northeast Luzon Electric Cooperative Association (NELECA), Philippine Chamber of Commerce and Industry (PCCI) and Cagayan Electric Light and Power Company Incorporated (CEPALCO);

WHEREAS, the public consultations were held in preparation for issuance of the Rules for Approval of Regulated Entities' Capital Expenditure Projects;

NOW, THEREFORE, be it RESOLVED, as the Commission hereby RESOLVES to APPROVE and ADOPT the 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 fifteen (15) days 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), all DUs and TRANSCO.

Adopted: 15 Dec. 2008

(SGD.) ZENAIDA G. CRUZ-DUCUT
Chairperson

(SGD.) RAUF A. TAN
Commissioner

(SGD.) ALEJANDRO Z. BARIN
Commissioner

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


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(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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