NATIONAL ADMINISTRATIVE REGISTER · MARCH 16, 2009

RESOLUTION ADOPTING THE RULES FOR THE CALCULATION OF THE OVER OR UNDER RECOVERY IN THE IMPLEMENTATION OF TRANSMISSION RATES BY DISTRIBUTION UTILITIES (DUS)

ERC RESOLUTION NO. 09, S. 2009, March 16, 2009

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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), and its Implementing Rules and Regulations (IRR), provide that the Energy Regulatory Commission (ERC) shall determine, fix and approve, among others, the retail rates to be imposed by Distribution Utilities (DUs) through an established and enforced methodologies;

WHEREAS, to facilitate the evaluation and resolution of all applications for refund of over recoveries or collection of under recoveries, the Commission formulated a draft “Rules for the Calculation of the Over or Under Recovery in the Implementation of Transmission Rates by Distribution Utilities (DUs)”, which was subjected to public consultations on various dates;

WHEREAS, after a thorough evaluation of the comments and views submitted by the participants, the Commission deems it necessary to formulate and adopt a set of rules that would govern the calculation of the over or under recovery in the implementation of transmission rates by DUs;

NOW, THEREFORE, be it RESOLVED, as the Commission hereby RESOLVES to ADOPT the “Rules for the Calculation of the Over or Under Recovery in the Implementation of Transmission Rates by Distribution Utilities (DUs)”.

This Resolution shall take effect after fifteen (15) days following the completion of 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) and all Distribution Utilities (DUs).

Adopted: 16 March 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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Attachment

Rules for the Calculation of the Over or Under Recovery in the Implementation of Transmission Rates by Distribution Utilities

Pursuant to Section 43(f) of Republic Act No. 9136, otherwise known as the "Electric Power Industry Reform Act of 2001 (EPIRA)", the Energy Regulatory Commission (ERC) hereby adopts and promulgates these Rules to establish a process for the calculation of the over or under recovery in the Transmission Rates by Distribution Utilities (DUs).

ARTICLE I
GENERAL PROVISIONS

1.1 Objectives

1.1.1 To ensure transparent and reasonable prices of electric power service in a regime of free and fair competition and to achieve greater operational and economic efficiency;

1.1.2 To ensure full recovery of the allowable cost of Transmission;

1.1.3 To protect the public interest as it is affected by the rates and services of DUs; and

1.1.4 To ensure and maintain the quality, reliability, security and affordability of the supply of electric power.

1.2 Scope

1.2.1 These Rules shall apply to all DUs that are connected to the Grid.

1.3 Definition of Terms

Act - unless otherwise stated, shall refer to Republic Act No. 9136, otherwise known as the "Electric Power Industry Reform Act of 2001;

Distribution Utility - shall refer to any electric cooperative (EC), private corporation, government-owned utility or existing local government unit which has an exclusive franchise to operate a distribution system in accordance with the Act;

Energy Regulatory Commission or ERC - shall refer to the independent, quasi-judicial regulatory agency created under Section 38 of the Act;

Net Transmission Cost- shall refer to the total charges of National Transmission Corporation (TRANSCO), or its buyer or concessionaire, including, but not limited to, transmission and sub-transmission costs, ancilliary service, connection service and power cost delivery service net of any imbalance charges, cost associated with the availment of the One-Day Power Sales (ODPS), and value added tax associated with the transmission service. Net transmission costs shall include only those costs that are prudently incurred, actually paid for, verifiable, reasonable, and are eligible for recovery in accordance with the ERC's Rules and Regulations.

Transmission Rates - for the purpose of these Rules, shall refer to the charges associated with the transmission cost incurred by the DU which have been determined by the ERC in the DU's Unbundling of Rates Application.

ARTICLE II
CALCULATION OF OVER OR UNDER RECOVERY IN TRANSMISSION

2.1 One- Time Determination

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The transmission rates paid by the DUs prior to the effectivity of these Rules were fixed annually for four (4) years which incorporated the removal of the intra-grid cross subsidies of TRANSCO as provided in the approved unbundled rates of the DUs. The Commission shall allow the one-time determination of the over or under recovery on the DU's transmission charges from the time the DUs implemented their unbundled rates up to the effectivity of the "Guidelines for the Adjustment of the Transmission Rates by Distribution Utilities" (TRAM Guidelines).

2.2 Adjustment Formula

The calculation of the over or under recovery in the implementation of the transmission rates to effect the "refund" or "collect" thereof from the time the DUs first implemented their unbundled rates up to April 2006 or the month before the DUs were able to implement new transmission rates in accordance with the TRAM Guidelines, shall be based on the following formula per customer class:

Transmission Over or Under RecoveryN (PhP/kWh) =

Total Over or Under RecoveryN
? KWh Sales Ni
i = 1...n

where: Total Over or Under RecoveryN (PhP) =

? i [(Allowable Transmission Cost -Ni
i=1...n Transmission Recovery Ni)]

Allowable Transmission CostNi =

Allowable Transmission Cost of SalesNi

Allowable Transmission Cost of SalesNi=

(Transmission Cost – NPFD x 50%)
Total Purchased kWhi

X Total kWh Salesi x CPN

I =

refers to month 1, month 2 until month n, where month 1 refers to the month the DU implemented its unbundled rates and month n refers to the month prior to the implementation of the TRAM Guidelines

N =

refers to a specific customer class (ex. N=1,2,...., where 1= Residential, 2= Commercial, etc.)

Transmission RecoveryNi = (Transmission Charge in PhP/kWh x kWh SalesNi) +

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(Transmission Charge in PhP/KW billing demandNi)

Transmission Costi = the actual net transmission cost in PhP for the month i

NPFD = Where:

Gross Power Factor Discount availed by the DU from TransCo

PhP XXX

Less: (1) Power Factor Discount Granted by the DU

XXX

(2) The amount paid by the DU under a business agreement with a third party for the improvement of its power factor*

XXX

Net Power Factor Discount (NPFD) Multiplied by (Percentage share)

XXX
__50% __

NPFD to be passed on by the DUs to its customers

Php XXX

Note:* shall not exceed 50% of Gross PFD

Total Purchased kWH = kWh purchases from all suppliers that correspond to the kWh sales billed the transmission charge for the month less ODPS

Total KWh Salesi = Total kWh sales of the DU for the month i

CPN = Coincident Peak allocation factor for customer class N as reflected in the last approved unbundled rates of the DU

Transmission Charge in PhP/kWh and PhP/kW = Transmission charge in PhP/kWh and or PhP/kW as applicable to customer class N and provided in the Unbundling Decision of the DU. If the transmission charge for customer N is expressed in PhP/kWh only, then the Transmission Charge in PhP/kW in the formula should be equal to zero (0)

KWh SalesNi = Total kWh sales for customer class N for the month i

KW SalesNi = Total kW billing demand for customer class N for the month i

The calculation of the over or under recovery in the Transmission Rate per customer class shall be expressed in PhP/kWh for customer billed on a per kWh basis or a combination of per kWh and per kW and PhP/kW for customer billed on a per kW basis in accordance with the formula provided in 2.3 hereof.

2.3 Billing of the Over or Under Recovery in Transmission Rates

Any over or under recovery as may be approved by the ERC shall be implemented by the DU by incorporating the rate in the existing transmission rates component (in PhP/kWh) of the DU's customer bills. However, if the existing transmission rate component of a DU to its specific customer class is in PhP/kW, the calculated PhP/kWh can be converted to PhP/kW using the following formula:

PhP/kW =

_____Calculated PhP/kWh_____
1/[load factor x {(365 days/yr x 24 hrs/day)/12 mos/yr}]

ARTICLE III
FILING REQUIREMENTS

3.1 Filing

The filing for any over or under recovery in the implementation of Transmission Rates shall be made in accordance with Section 1 of Article 6 of the Rules Governing the Automatic Cost Adjustment and True-Up Mechanisms for Distribution Utilities.

3.2 Supporting Documents

The application referred to in 3.1 shall be accompanied by the following documents:

3.2.1 Invoices from TRANSCO;
3.2.2 Vouchers and Official receipts of payment of TRANSCO's invoices;
3.2.3 ERC Forms DU-M-01 and DU-M-02;
3.2.4 Monthly Financial and Statistical Report (MFSR) for ECs and M-001 and M-002 for PUs (Prior to the effectivity of the above forms);
3.2.5 Summary of Monthly Purchased KWh from all suppliers that corresponds to the monthly kWh sales billed the transmission charge by the DU; and
3.2.6 Other documents deemed relevant by the ERC.

3.3 Provisional Authority

Upon filing of the application, the ERC may, upon motion, issue a Provisional Authority (PA) based on the allegations in the application, the supporting documents attached thereto as well as the submission in compliance with the reportorial requirements and on such comments or pleadings filed by any interested party within thirty (30) days from receipt of a copy of the application by the local legislative body of the local government unit where applicant principally operates or from the publication thereof, as the case may be.

ARTICLE IV
MONITORING OF THE IMPLEMENTATION OF THE OVER OR UNDER RECOVERY

Upon evaluation and approval by the ERC of any over or under recovery in the implementation of the transmission and corresponding system loss charges filed by the DUs, the DUs shall be required to submit to the ERC, after six (6) months from their implementation, and every six (6) months thereafter, a report on the status of their monthly implementation of the approved rate and the corresponding balance of the over or under recovery until such time that the total amount of the said over or under recovery shall have been fully refunded or collected.

ARTICLE V
FINES AND PENALTIES

Violation of any provision of these Rules shall be subject to the imposition of fines and penalties in accordance with the Guidelines to Govern the Imposition of Administrative Sanctions in the Form of Fines and Penalties Pursuant to Section 46 of Republic Act No. 9136

ARTICLE VI
EXCEPTION

Where good cause appears, the ERC may allow an exception from any provision of these Rules, if such exception is found to be in the public interest and is not contrary to any law, rules and regulations.

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ARTICLE VII
SEPARABILITY

If, for any reason, any part or section of these Rules is declared unconstitutional or invalid, the other parts or sections hereof which are not affected thereby shall continue to be in full force and effect.

ARTICLE VIII
EFFECTIVITY

These Rules shall take effect fifteen (15) days following its publication in a newspaper of general circulation.

Adopted: 16 March 2009

(SGD.) ZENAIDA G. CRUZ-DUCUT
Chairperson

(SGD). RAUF A. TAN
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