

**REPUBLIC OF THE PHILIPPINES
ENERGY REGULATORY COMMISSION
PASIG CITY**

**IN THE MATTER OF THE PETITION TO
INITIATE RULE-MAKING FOR THE
SUSPENSION OF ERC RESOLUTION NO. 10,
SERIES OF 2020**

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**PHILIPPINE INDEPENDENT POWER
PRODUCERS ASSOCIATION, INC.,**
Petitioner.

ERC Case No. 2023-001-RM

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**AMENDED PETITION TO INITIATE RULE-MAKING
(with Proposed Draft of Benchmark for Reliability Indices and Equivalent
Outage Days Per Year of Generating Unit)**

Petitioner, **PHILIPPINE INDEPENDENT POWER PRODUCERS ASSOCIATION, INC.**, ("Petitioner"), by counsel, most respectfully files the instant Petition to Initiate Rule-Making and in support thereof states:¹

PREFATORY STATEMENT

1. Through Energy Regulatory Commission Resolution No. 10, Series of 2020 dated 16 November 2020 ("ERC Resolution No. 10"), this Honorable Commission approved and adopted the Rules for the Interim Reliability Performance Indices and Equivalent Outage Days Per Year of Generating Units (the "Interim Outage Rules"), with the objective of setting a reliability performance benchmark per technology for all generating units to lessen outages and ensure predictable power supply and rate.²

2. Under the Interim Outage Rules, all generation companies ("GenCos") are required to monitor the actual planned and unplanned outage days of their generating units. Article V of the Interim Outage Rules sets out the allowable planned and unplanned outage days depending on

¹ An original copy of the Secretary's Certificate authorizing the undersigned counsel to file the instant Petition on behalf of Petitioner, certified true copies of Petitioner's Amended Articles of Incorporation and By-Laws are attached hereto as Annex "A", "A-1", and Annex "A-2", respectively.

² Article I(a) of the Interim Outage Rules.

the generating plant's technology, while Article VII thereof allows the imposition of sanctions, fines, and penalties for violations of the said rules.

3. While the Interim Outage Rules were promulgated to promote the accountability of generation companies and to achieve greater operations and economic efficiency, the current Interim Outage Rules is flawed insofar as its provisions fail to take into account the technical and economic realities faced by the generation sector. As it stands, the said Rules, aside from being interim in nature, are found wanting in several key areas on its interpretation as well as its process of implementation.

4. Petitioner respectfully submits that there is a need to: (a) repeal the provisions of the Interim Outage Rules insofar as it sets a limit for planned outages of power plants; (b) amend the definition of planned outage to include outages reflected in the revisions of the Grid Operating and Maintenance Program ("GOMP") or those approved by the System Operator ("SO"); (c) amend the prescribed unplanned outage allowance; (d) amend the scope of the Interim Outage Rules to clearly exclude run-of-river type of facilities which are considered as variable renewable energy; (e) amend the provisions on administrative sanctions; and (f) rescind all show cause orders and penalties previously issued and imposed pursuant to ERC Resolution No. 10.

5. Hence, in support of the instant Petition, Petitioner further submits its proposed Rules for Reliability Performance and Equivalent Forced Outage Days per Year of Generating Units, for the consideration of this Honorable Commission.³

NATURE OF THE PETITION

6. This is a Petition to Initiate Rule-Making under Rule 21 of the Revised Rules of Practice and Procedure of the Energy Regulatory Commission (the "ERC Procedural Rules") for the amendment of the Interim Outage Rules.

7. Pursuant to Section 2, Rule 21 of the ERC Procedural Rules, interested persons may petition the Honorable Commission to adopt, amend, or repeal a rule, to wit:

Section 2. Petition to Initiate Rule-making. - Interested persons may petition the Commission to adopt, amend, or repeal a rule by filing a petition to initiate rule-making. The petition must contain the name, address, and e-mail address of the

³ A copy of the proposed Rules for Reliability Performance and Equivalent Forced Outage Days per Year of Generating Units is hereto attached as Annex "B" and made an integral part hereof.

petitioner, the specific rule or action requested, the reasons for the rule or action requested, and facts showing that the petitioner has a substantial interest in the rule or action requested. (Underscoring supplied)

PARTY TO THE PETITION

8. Petitioner is a domestic corporation duly organized and existing under and by virtue of Philippine laws, with principal office at Unit 2408, 24/F, Prestige Tower, F. Ortigas Jr. Avenue, Ortigas Center, Pasig City, Metro Manila, Philippines. It may be served pleadings, orders, and other legal process through the undersigned counsel at SYMECS Law, 3109 One Corporate Center, Julia Vargas corner Meralco Avenue, Ortigas Center, Pasig City; or through e-mail address at *pleadings@symecslaw.com*.⁴

9. Petitioner is a non-stock, non-profit corporation composed of twenty-eight (28) generator members. The members have a combined grided installed capacity of around eighteen thousand one hundred thirty two megawatts (18,132 MW). It represents its members that are engaged in power generation and are covered by the outage limitations provided in the Interim Outage Rules. Thus, Petitioner has substantial interest in initiating this Petition, pursuant to Rule 21 of the ERC Procedure Rules.

10. At the onset, it must be stated that prior to the effectivity of the Interim Outage Rules, Petitioner had raised its comments and concerns before this Honorable Commission, through public consultations and written communications, regarding the draft resolution on reliability standards.

11. In a Letter dated 17 December 2020, the Petitioner sought clarifications from the Honorable Commission on the following matters involving the implementation of ERC Resolution No. 10 whether: (a) planned outages beyond the prescribed limit shall be allowed in cases where power plants require longer outage days due to factors justified by the generator or identified by the SO in its report; (b) the reglementary period provided to non-compliant parties to comply and explain shall be adjusted in case circumstances exist which prevent immediate compliance; (c) outages due to major maintenance and overhauls which are conducted every four (4) to five (5) years be excluded in the accounting of the planned outage allowance; (d) outages outside management control shall be excluded in determining the outage allowance; and (d) the terms

⁴ Please see Annexes "A" and "A-2".

“Conventional” and “Non-Variable Renewable Energy Generating Power Plants” used in ERC Resolution No. 10 shall be defined.⁵

12. The Petitioner thereafter sent a Letter dated 20 January 2021 to follow-up on its clarification and to request for deferment in the implementation of ERC Resolution No. 10 pending clarification of the raised concerns which were unheeded.⁶

13. Through a Letter dated 17 May 2021, the Petitioner highlighted its concern on the applicability of the Interim Outage Rules to Conventional and Non-Variable Renewable Energy Generating Plants, which should exclude Run-Off-River (“ROR”) since the latter is considered as variable renewable energy in the Philippine Grid Code and the Wholesale Electricity Spot Market.⁷

14. In *ERC Case No. 2022-003 RM*, Petitioner also submitted a Letter dated 11 April 2022 to further expound its position that reliability indices are already subsumed under the PSA of the GenCos with the DU and reliability indices should serve only as a guide; seek clarification on the 50th percentile methodology and, in lieu of the methodology, adopt a uniform outage allowance of thirty (30) days for planned outages and fifteen (15) days for unplanned outages; and to request for the suspension of the implementation of ERC Resolution No. 10.⁸

ARGUMENTS AND DISCUSSION

The Interim Outage Rules should be repealed and amended to pave way for a clear, definite, and permanent set of rules that will reflect the reliability standard of Philippine generation companies. The said Rules should likewise be modified to refer its applicability to “Forced Outage”, in lieu of “Unplanned Outages”, and provide a comprehensive definition of the term “Planned Outage”.

⁵ A copy of the Letter dated 17 December 2020 is attached hereto as **Annex “C”** and made an integral part hereof.

⁶ A copy of the Letter dated 20 January 2021 is attached hereto as **Annex “D”** and made an integral part hereof.

⁷ A copy of the Letter dated 17 May 2021 is attached hereto as **Annex “E”** and made an integral part hereof.

⁸ A copy of the Letter dated 11 April 2022 is attached hereto as **Annex “F”** and made an integral part hereof.

15. Recognizing this Honorable Commission's objective of setting a reliability performance benchmark per technology for all generating units, Petitioner submits that the Interim Outage Rules, after adopting the proposed amendments hereinafter discussed, be repealed and entitled, as: *Rules for the Reliability Performance and Equivalent Forced Outage Days Per Year of Generating Units*.

16. As stated in its Objectives in Article I, the Interim Outage Rules aim, among others, to monitor the actual planned and unplanned outage days of generating units.

17. While the Interim Outage Rules provides a definition of the term "unplanned outage", Petitioner respectfully submits that the term "forced outages" as defined in ERC Resolution No. 21, Series of 2016, should be adopted, in lieu of "unplanned outage", to capture the other classifications of forced outages as enumerated under Section 1.1.2.2.1 of the said resolution. Thus, Petitioner respectfully submits that Article IV on Definition of Terms be amended to remove the definition of the term "unplanned outage" and include the following terms:

Extended Outage GOMP. This is an outage state that is the extension of the planned outage (GOMP) beyond its predetermined duration. Extended GOMP applies only in instances where the original scope of work requires more time to complete than originally scheduled.

Forced Outage. An outage that requires immediate removal of a unit from service, another outage state, or a reserve shutdown state:

Class 0 Forced Outage. (Starting Failure) An outage, aside from outside management control (OMC), that results from unsuccessful attempt to place the unit in-service.

Class 1 Forced Outage. (Immediate) An outage, aside from OMC, that requires immediate removal from the existing state. It can be measured within five (5) minutes of time of removal.

Class 2 Forced Outage. (Delayed) An outage, aside from OMC, that does not require immediate removal from the in-service state but requires removal beyond five (5) minutes but not exceeding six (6) hours. This type of outage can only occur while the unit is in-service.

Class 3 Forced Outage. (Postponed) An outage, aside from OMC, that can be postponed beyond six (6) hours but not exceeding seven (7) days. This type of outage can only occur while the unit is in-service.

Outside Management Control (OMC) Outage. An outage wherein the cause is beyond the control of the generation company and has not resulted from planning error or negligence. The following are considered under this classification:

1. **force majeure event;**
2. **grid connection or substation failure. This reason relates to problems with transmission lines, substation, and switchyard equipment outside the responsibilities of the generating plant;**
3. **lack of fuel (water from rivers or lakes, coal mines, gas lines, etc.) where the generation company is not in control of contracts, supply lines, or delivery of fuels;**
4. **special environmental limitations such as low cooling pond level, or water intake restrictions that could not be prevented by operator action; and**
5. **labor strike; and**
6. **change in annual planned maintenance schedules due to O&M of government facilities and/or system operator (i.e., NGCP, NCP, NIA).**

18. Consequently, the provisions of the Interim Outage Rules, in so far as it refers to “unplanned outages”, be modified to refer to “forced outages”. Article I of the said rules is, thus, proposed to be amended as follows:

ARTICLE I - OBJECTIVES

These Rules aim to:

- (a) Set a reliability performance benchmark per technology for all generating units to lessen **forced** outages and ensure predictable power supply and rate;
- (b) Promote accountability of Generation Companies, the System Operator, and the Transmission Network Provider to achieve greater operations and economic efficiency; and

- (c) Monitor the actual forced outage days of generating units.

19. Petitioner additionally proposes that the definition of the term “Planned Outage”, as stated in the Interim Outage Rules, be revised to include planned outages stated in approved revisions in the GOMP and to clearly exclude major maintenance and overhauls from the prescribed outage allowance.

20. Article IV of the Interim Outage Rules defines the term *planned outages* as “the state in which a Unit is unavailable due to inspection, testing, preventive maintenance or overhaul. A Planned Outage is scheduled with a pre-determined duration and is coordinated with the System Operator. The Planned Outage of a Unit shall be reflected in the Grid Operating and Maintenance Program (GOMP).”

21. Notably, the said definition embraces preventive maintenance or overhaul which are distinct from major maintenance and overhauls.

22. Major maintenance and overhauls are crucial activities routinely done every three (3) to five (5) years, or based on running hours (for diesel and oil-fired power plants) by generation companies to ensure the reliability of the power plants.

23. It must be stated that these activities require a longer period of time to conduct and could not have been contemplated in the prescribed planned outage allowance.

24. Petitioner is, thus, of the position that any outage on account of major maintenance and overhaul should not be counted against the numbers of days allowed for planned outages.

25. Maintenance schedules are important and should not be shortened. In the Honorable Commission’s draft Proposed Interim Benchmark of Reliability Performance Indices and Equivalent Outage Days per Year of Generating Units,⁹ the Honorable Commission considered “the use of the 50th percentile of reliability performance indices of generating units as an interim Benchmark for Reliability Performance indices for all technologies except for Oil-fired thermal”, and ultimately became the basis and governing principle that resulted in the allowances set in ERC Resolution No. 10, series of 2020.¹⁰ By using the 50th percentile in calculating the reliability performance indices, the Honorable Commission

⁹ ERC Case No. 2019-006 RM

¹⁰ The whereas clauses in ERC Resolution No. 10, series of 2020 cites the rule-making procedure in ERC Case No. 2019-006 RM, and the initial Reliability Performance Indices were updated and re-computed in May 2020, to include the June to December 2019 Outage Data.

may have inadvertently ignored the major maintenance schedules of base load plants. The current benchmark schedule is then biased at a higher standard, which may not be sustainable for the plants.

26. PSAs between GenCos and their customers take into account the outage requirements of the OEMs in order for the GenCo to reliably deliver the agreed energy quantities. Shortening the required outages below the OEM prescribed durations, as the effect of the Indices provided in the Resolution, will prevent GenCos from complying with OEM Good Utility Practices. This exposes GenCos to operational and financial risks which significantly affect the overall reliability and availability of the Plant. In turn, this would pose more threat to the energy security of the grid.

27. For such considerations, Petitioner respectfully submits that the term “Planned Outage” be revised, as follows:

Planned Outage. The state in which a Unit is unavailable due to inspection, testing, preventive maintenance or overhaul. A Planned Outage is scheduled with a pre-determined duration and is coordinated with the System Operator. The Planned Outage of a Unit shall be reflected in the Grid Operating and Maintenance Program (GOMP) or any of its revisions as approved by the SO seven (7) days before the outage schedule. Any outage on account of major maintenance and overhaul shall not be counted against the number of days allowed for planned outages.”

The provisions of the Interim Outage Rules, in so far as it limits the number of days allowed for planned outages, should be repealed to allow all planned outages.

28. Table 1, Article V of the Interim Outage Rules prescribes the maximum number of planned and unplanned outage days allowed for the following generating plant technologies, *i.e.*, pulverized coal, circulating fluidized bed, combined cycle, gas turbine, diesel, geothermal, hydroelectric, oil-fired thermal, and biomass.¹¹

29. Article VI of the said Rules, which pertain to Outage Allowance Application, states that prescribed planned outage allowance shall be utilized by SO and transmission network providers (“TNP”) as ***indices or guide*** in the preparation and implementation of the GOMP. Moreover, the

¹¹ Article V of the Interim Outage Rules.

said planned and unplanned outage allowances may also be used as *guide* by the Honorable Commission for its evaluation of cases and monitoring purposes.

30. The afore-cited provisions describe the nature of the prescribed planned outage allowance as “indices” or “guide”, which is of recommendatory nature.

31. In case, however, that the SO and the TNP utilizes planned outages beyond the prescribed allowance, the rules require the SO and the TNP to provide a report to the Honorable Commission as to the reason for such consideration.¹²

32. Arguably, the requirement of submitting a report to the Honorable Commission, in case actual planned outages exceed the prescribed allowance, suggests that the outage allowance stated in Table 1, Article V of the subject rules is of mandatory nature.

33. It must be emphasized that planned outages are dependent on various factors including but not limited to plant age, technology type, and manufacturer specifications or requirements, availability of spares for pre-EPIRA plants.

34. Moreover, generators submit their GOMP with the National Grid of the Philippines (NGCP), also the SO, which should be the basis of planned outages.

35. Generators cannot change their planned outages, if only to comply with the Interim Outage Rules. Changing planned outages to a shorter period is unsafe and a health risk for the maintenance crew. The nuances of the size of the plants shall also be considered in planned outages as large coal plants will require a longer number of days to cool down as compared to smaller capacity plants. It also entails working on the units for twenty-four (24) hours and effectively yields higher forced outages.

36. Thus, Petitioner proposes the removal of the planned outages under Article V, Table 1 of Annex A of the Interim Outage Rules, and instead, puts forward that all planned outages even beyond the allowance prescribed by the Interim Outage Rules, should be permitted without any threat of incurring administrative sanctions, as long as a report identifying the factors requiring such prolonged planned outages is provided to the Honorable Commission.

¹² *Ibid.*

37. Likewise, the Interim Outage Rules should serve as a guide for the terms of reference, in the competitive selection process (“CSP”) on allowable outages.

38. Petitioner respectfully submits that and Article VI of the Interim Outage Rules be revised, as follows:

ARTICLE VI – OUTAGE ALLOWANCE APPLICATION

The planned outage allowance in days per year, as submitted by the generating plants, shall be used by the SO and TNP TO guide their preparation and implementation of the GOMP. All planned outages reflected in the GOMP, any of its revisions, or as approved by the so seven (7) days before the outage schedule shall be allowed. If the so approves the extended or revised planned outage schedule in less than seven (7) days before the outage schedule, such approval shall be immediately communicated to the ERC.

On the other hand, the forced outage allowance in days per year, as determined under Article V, will serve as the maximum or cap for forced outages per power plant technology.

The said planned and forced outage allowances may also be used as guide in the competitive selection process and by the Commission for its evaluation of cases and monitoring purposes.

The prescribed unplanned outage or forced outage allowance must be amended to reflect accurate data.

39. It must be stated that the Interim Outage Rules imposes a stricter rule on **unplanned outages** where generating plants cannot exceed the limits therein determined.¹³ Any unplanned outage beyond the outage allowance is considered a violation that may warrant the imposition of administrative penalties.¹⁴

40. Considering that the provisions on unplanned outages or forced outages can be deemed punitive in nature, insofar as it allows the Honorable Commission to impose sanctions on non-compliant parties, there is all the more reason to revisit the data and methodology in prescribing the unplanned outage allowance. The resolution, being interim in nature, should serve as a guide and should not be punitive.

¹³ *Id.*, Article VI.

¹⁴ *Id.*, Article VII, Section 1.

41. Based on a review on the five (5) major jurisdictions globally, it does not appear to be a standard practice to impose outage or reliability indices common to all generating units within a jurisdiction. These five (5) jurisdictions are (1) the Federal Energy Regulatory Commission (FERC) of the United States, (2) The Office of Gas and Electricity Markets (Ofgem) of the United Kingdom, (3) Federal network Agency (Bundesnetzagentur (BNetzA) of Germany), (4) the Electricity Authority of New Zealand, and (5) the Australian Energy Market Commission (AEMC) of Australia. **Notably, all of these jurisdictions have not imposed allowable outage days to GenCos.**

42. All of the five (5) jurisdictions have similarities in managing electricity supply and demand with that of the Philippine through a systems operator, the electricity spot market. However, the only delimiting aspect in the Philippine jurisdiction is the setting of the interim outage caps / indices for all power plant technologies operating in the country.

43. As stated in ERC Resolution No. 10, the Interim Outage Rules is based on data generated from power plant operation and outages for the period of January 2015 to May 2019. The period, however, may be too short and there is also a limited number of power plant technologies operating in the Philippines to gather accurate data for the purpose of setting benchmarks or standards.

44. Generally, generators conduct their major overhaul maintenance every five (5) years while other technologies (*e.g.*, diesel and oil-fired power plants) are based on running hours. As the data only covers one (1) major maintenance cycle, the said data are likely incorrect and inaccurate, and cannot be made to be representative of maintenance and reliability of plants. More cycles are needed to properly reference the data with regard to the study of reliability. In running data to be used as a statistical reference, there is always a need to analyze the distribution curve first, if normal or skewed. The objective should be the identification of outliers, as these are those to be subjected outside the reliability standard. The reliability standard should be within a confidence interval. Those outside the confidence interval are the outliers.

45. The 50th percentile is not a good statistical reference to base performance standards or targets. The 50th percentile already assures that fifty percent (50%) of the population will not be compliant with said targets. It is calculated by ranking all the values, including the frequency for each value. The 50th percentile is determined by dividing the frequency into two (2), then picking its value.

46. Setting the bar at 50th percentile of the performance of the existing power plants depending on the technology, poses high risk of non-

conformance for the power plants and even revocation of permits/licenses in case the maximum number of violations as defined in the Resolution have been reached. This could be an inevitable reality since it is expected that fifty percent (50%) of the time of the GenCos for the next five (5) years will exceed the interim planned and unplanned outage indices.

47. The 50th percentile is similar to the median, which is also a measure of central tendencies in statistical terms. The other measures of central tendencies are the mean and mode. The mean, median and mode may have different values depending on the characteristic of the population curve.

48. Petitioner requested its member generators to provide the forced outage data (in days) from 2014 to 2022. The mean and standard deviation of the forced outage data were calculated with the following results:¹⁵

	Mean (days)	Standard Deviation (days)
Coal (CFB)	25.8	35.7
Diesel	20.2	52.3
Nat Gas	18.19	29.74
Geothermal	50.1	88.7
Hydro	7.3	22.0
Hydro (Pump-Storage)	13.5	19.6
Coal (Pulverized)	38.9	57.0

49. The measure of standard deviation is a very important statistical tool to determine the dispersion of data. In employing the standard deviation, the range of regular outages and those values which are considered as outliers can be determined. A high standard deviation means the outages of the outliers are far from the mean, while a lower value means that they are more clustered to the mean. In the table above, Geothermal power plants tend to have a more variable number of outage days required, than that of coal.

50. It is well-established that the mean and standard deviations are used in the determination of performance. Note that in the Performance Based Regulation process of the regulated entities, transmission and distribution, the performance indicators are determined by the range of one (1) standard deviation from the mean. The penalties and rewards of these entities are hinged on these statistical methods. It is

¹⁵ A copy of the Consolidated Forced Outages from 2014 to 2022 and a copy of the Summary of Consolidated Forced Outages from 2014 to 2022 are hereto attached as Annexes "G" and "G-1", respectively.

very erroneous that the reliability standards of generators were determined by the median of the population, while the standards of the regulated entities are determined by the one (1) standard deviation from the mean.

51. It can be observed in the results that the data on forced outages are dispersed. This explains the reason that generators are not willing to set one value for forced outages. The dispersion may come from different reasons, which cannot be readily determined; part of which may be due to the quarantine restrictions imposed from 2020 to 2022.

52. The use of one (1) standard deviation in the calculation of performance standards is hinged to the concept of confidence intervals. Confidence interval in statistics *“refers to the probability that a population parameter will fall between a set of values for a certain proportion of times”*. *“Statisticians and other analysts use confidence intervals to understand the statistical significance of their estimations, inferences, or predictions.”*¹⁶

53. Alternative to the use of one (1) standard deviation is to calculate for confidence interval. The confidence interval is calculated by using the formula below:

$$CI = (\text{mean} - t (s/\text{sqrt}(n)), \text{mean} + t (s/\text{sqrt}(n)))$$

where,

t = assumed t distribution (tables shows the confidence level vs sample size, to determine value of t)

n = number of samples

s = standard deviation

54. Depending on the confidence level and the sample size, the values of the confidence interval may vary. Usually, ninety-nine percent (99%) or ninety-five percent (95%) confidence level is used in studies. The same may be used by the Honorable Commission.

55. **For simplicity of calculation, Petitioner proposes that the upper limit of the forced outage reliability targets should be set at mean plus one (1) standard deviation, as follows:**

¹⁶

Investopedia. <https://www.investopedia.com/terms/c/confidenceinterval.asp>

	Mean (days)	Standard Deviation (days)	Proposed Allowable Unplanned Outage (days)
Coal (CFB)	25.8	35.7	61.5
Diesel	20.2	52.3	72.6
Nat Gas	18.19	29.74	47.93
Geothermal	50.1	88.7	138.8
Hydro	7.3	22.0	29.3
Hydro (Pump-Storage)	13.5	19.6	33.1
Coal (Pulverized)	38.9	57.0	95.9

56. With regard to the reliability standards, standard deviation is found in the Rules for Setting Distribution Wheeling Rates for Privately-owned Electricity Distribution Utilities Operating under Performance Based Regulation (“RDWR”)¹⁷ and the Rules for Setting Transmission Wheeling Rates (“RTWR”).¹⁸

57. In the example cited, regulated entities are required to collect information about the performance levels of each Grid against these indices over the Previous Regulatory Period. The data to be collected shall then be used to determine the final performance bands.

58. For each performance index, five (5) performance bands will be used. The resulting performance in each band would result in the allocation of a simple performance assessment value to the index being assessed which shall be referred as “Perf”- values.

59. The five (5) performance bands to be used for each index and their corresponding values are as follow:

- a. “Band 1” is greatly below target; with Perf-value of -1;
- b. “Band 2” is target is not achieved; with Perf-value of -0.5.
- c. “Band 3” is performance as per expectation; with Perf-value of 0.
- d. “Band 4” is target exceed; with Perf-value of 0.5.
- e. “Band 5” is target greatly exceeded; it will have a value of 1.

60. The ERC shall set the expected performance target for each performance index for the Subsequent Regulatory Period. It may set the

¹⁷ A copy of the Rules for Setting Distribution Wheeling Rates for Privately-owned Electricity Distribution Utilities Operating Under Performance Based Regulation is hereby attached as **Annex “H”** and made an integral part hereof.

¹⁸ A copy of the Rules for Setting Transmission Wheeling Rates is hereby attached as **Annex “I”** and made an integral part hereof.

target at either (1) the historical performance level of a Regulated Entity against that index, based on the average annual performance against this index for the five-year period; or (2) an improvement over the historical performance level of a Regulated Entity against that index, as determined by the ERC based on benchmarking against the performance of the other similar international utilities. Such benchmarking will allow for the normalization of physical, economic and regulatory differences, and the results will be subject to public consultation prior to setting performance targets.

61. Since the ERC has already set a precedent in using standard deviation for its regulated entities, this means for the sake of uniformity, the use of standard deviation is acceptable as well to deregulated entities such as the generation sector in developing a performance index.

62. Petitioner, thus, respectfully submits that the Article II and Article V of the Interim Outage Rules be repealed and modified, as follows:

ARTICLE II - GOVERNING PRINCIPLES

Republic Act No. 9136, otherwise known as the “Electric Power Industry Reform Act of 2001” (The Act) declares that the State shall: 1) ensure quality, reliability, security, and affordability of the supply of electric power; 2) ensure transparency in a regime of free and fair competition, with full public accountability to achieve greater operational and economic efficiency; and 3) protect the public’s interest as it is affected by the rates and services of electric utilities and other providers of electric power.

The Rules for the Reliability Performance and Equivalent **Forced** Outage Days Per Year of Generating Units are among the rules promulgated by ERC to drive generating plants to perform better and instill discipline by setting outage allowance in days per year that will serve as the standard per technology for all generating units.

The Number of **Forced** Outage Days per year **was based** by utilizing information from Actual Events Reports from **2014 TO 2022** as submitted by generation companies in compliance with *ERC Resolution No. 21, Series of 2016*.

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ARTICLE V – FORCED OUTAGE DAYS

TABLE 1. ALLOWABLE FORCED OUTAGE IN DAYS

<u>TECHNOLOGY</u>	<u>ALLOWABLE FORCED OUTAGE</u>
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	<u>(DAYS)</u>
<u>COAL (CFB)</u>	<u>64.0</u>
<u>DIESEL</u>	<u>75.1</u>
<u>NAT GAS</u>	<u>47.93</u>
<u>GEOHERMAL</u>	<u>138.8</u>
<u>HYDRO</u>	<u>29.3</u>
<u>HYDRO (PUMP-STORAGE)</u>	<u>33.1</u>
<u>COAL (PULVERIZED)</u>	<u>95.9</u>

ERC recognizes the technical capabilities of the SO and the TNP, being the primary entities in maintaining and ensuring the security and reliability of the grid, in so far as the determination of the reasonable Planned outages are concerned and shall be determined through the application procedure outlined in Article VI.

Likewise, ERC sets the standard Forced outages for the generating plants to strictly observe. Not only shall this ensure that the generating plants will be properly maintained, consequently resulting to lesser incidents and occurrences of forced outages. Forced outages that are classified as outside management control outages shall not be counted against a generating unit's forced outage allowance.

The definition of "Force Majeure Event" should be modified to include outages caused by matters outside the control of management.

63. Outages that are outside the control of the management of the power plants must not be included in the counting of outage allowances, planned or forced. Of particular note are *force majeure* events which are unforeseeable or nonetheless inevitable, as well as those similar in nature, such as the lack of water for hydro based facilities.

64. For such purpose, the definition of a force majeure event, as provided in Article IV of the Interim Outage Rules, be modified, as follows:

Force Majeure Event. An event beyond the reasonable control of the Participant claiming force majeure which, through the exercise of due foresight and Good Industry Practice, the Participant could not have avoided and which, by exercise of due diligence, the Participant is unable to overcome. Such events include, but are not limited to the following, to the extent that such event prevents performance of a Participant of an obligation: typhoon; storm; tropical depression; flood or inundation; lightning strikes; earthquake; volcanic eruption; fire; epidemic; war;

invasion; riot; national emergencies, civil disturbance; sabotage; explosion; insurrection; military or usurped power; action of any court or governmental authority; or any civil or military authority de facto or de jure; natural calamity or act of public enemy; or any other event or cause of a similar nature beyond the reasonable control of the Participant claiming force majeure. A strike or labor dispute is not a Force Majeure Event. Outages that are outside the control of management such as events that are unforeseeable or nonetheless inevitable, as well as those similar in nature such as lack of water for hydro based facilities, and other similar cases shall be considered under this section.

65. A more stratified classification shall be adopted to consider other factors affecting outages such as: (i) the older the facility, the more likely it will experience outages, thus degradation factor shall be considered; (ii) depending of the unit size, availability of spare parts become more challenging during forced outage; (iii) resource constraints affects outages including fuel availability; (iv) plant location affects availability of equipment and experts/manpower especially during major typhoons; and (v) network configuration plays critical considerations specifically when the power plant has no 1:1 generating unit/step-up transformers. The above classifications were considered in ERC Resolution No. 21, Series of 2016 in identifying the types of forced outages.

Non-compliant parties should be provided a reasonable time to comply with the joint requirement of compliance and explanation.

66. Under Article VII, Section 1 of the Interim Outage Rules, a non-compliant party shall be given a Notice of Non-Compliance and shall be required to comply with the Rules and to explain the reason or reasons for its infraction, within seven (7) days from receipt of said notice.

67. Notably, the Interim Outage Rules do not consider situations where circumstances, *i.e.*, technical difficulties, logistical problems, may prevent the SOs and the TNPs to fulfil the joint requirement of compliance and explanation within the time prescribed of seven (7) days.

68. While the joint requirement of compliance and explanation can be treated as the non-compliant party's administrative remedy, the same is rendered nugatory due to the short period of time allowed for its compliance.

69. In this regard, the Rules should be amended to take into account circumstances where both compliance and explanation are

impossible to be fulfilled within seven (7) days. Thus, Petitioner submits the following change to Section 1, Article VII of the Interim Outage Rules:

ARTICLE VII – TRANSITORY AND FINAL PROVISIONS

Section 1. Administrative Sanctions. In case of non-compliance by any person or entity with any of the provisions of these Rules, ERC shall review such non-compliance and issue a Notice of Non-Compliance with an Order to comply and to explain, within **fifteen (15) days** from receipt of the same, the reason or reasons therefor. After the Notice and Order shall have been issued by ERC and the person or entity still refuses and fails to comply within the reglementary period of what is incumbent upon the person or entity, ERC shall impose the necessary fines and penalties.

Violations of these Rules shall be subject to the imposition of appropriate sanctions, fines, and penalties in accordance with SECTION 5 OF ERC Resolution No. 3, Series of 2009, entitled a “*Resolution Amending 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,*” or any other issuances that may be adopted by ERC in the future. **For the avoidance of doubt, one day (24 hours) of outage involving one hundred percent (100%) of the dependable capacity of the generating unit in excess of the allowable forced outage shall be treated as one incident subject to penalty.** *Violations of these Rules shall be without prejudice to sanctions or penalties for violations of other applicable laws or rules.*

The Scope of Interim Outage Rules should be amended to clearly exclude variable renewable energy, such as run-of-river.

70. The Interim Outage Rules provide for an interim benchmark to generation companies with conventional and non-variable renewable energy plants that are connected to the grid, including embedded generating plants with an aggregated capacity of five (5) MW and above.

71. Worthy to note is that the terms (a) Conventional, (b) Non-variable and (c) Variable Renewable Energy are not defined by the Rules as to restrict the interpretation of the terms and embody the intent behind the Rule.

72. Variable renewable energy is one that is non-dispatchable such as solar and wind.¹⁹ This renewable energy source is fluctuating and can only produce energy under right weather conditions.²⁰

73. A "run-of-the-river" system relies on natural flowrates of rivers as it uses the force of the river's current to apply pressure on turbines,²¹ and is thus considered as variable renewable energy

74. Despite the fact that the run-of-river in accordance with the 2016 PGC, as a variable renewable energy, is outside the scope and application of the Interim Outage Rules, the Honorable Commission issued a Notice of Non-Compliance against generators which utilize run-of-river facilities.

75. In issuing the Notice of Non-Compliance, the Honorable Commission effectively treats run-of-river as non-variable renewable energy without any factual or legal basis.

76. To cast all doubt as to the applicability of the Rules to non-variable renewable energy, such as run-of-river generating units, Petitioner submits the following changes to Article III of the Interim Outage Rules:

ARTICLE III - SCOPE AND APPLICATION

The **forced outage days** shall apply to Generation Companies with Conventional and Non-Variable Renewable Energy Generating Plants connected to the Grid, including Embedded Generating Plants, which have an aggregate capacity of 5 MW and above. **These rules shall not apply to variable renewable energy such as run-of river generating units.**

The Honorable Commission is limited to impose penalties in accordance with ERC Resolution No. 3, Series of 2009.

77. Under of Section 43 (I) RA 9316 or the Electric Power Industry Reform Act of 2001" (EPIRA), the ERC was delegated with authority to impose fines, to wit:

¹⁹ Variable renewable energy in Central America, available at <https://www.irena.org/-/media/Files/IRENA/Agency/Events/2018/May/IRENA-presentation---VRE-grid-integration---23-May.pdf?la=en&hash=1928E2467EEBB0ED8CA58F8BF940A397CAB4E4F7> last accessed on 4 December 2022.

²⁰ Variable Renewable Energy: An Introduction, available at <https://crsreports.congress.gov/product/pdf/IF/IF11257> last accessed on 4 December 2022

²¹ *Id.*

(l) Impose fines or penalties for any non-compliance with or breach of this Act, the IRR of this Act and the rules and regulations which it promulgates or administers;

78. The Interim Outage Rule anchored its imposable penalty to ERC Resolution No. 3, Series of 2009, to wit:

Section 5. Non-compliance with the Provisions of the Act and its IRR, Grid and Distribution Codes, Rules, Regulation Orders, Resolutions and Other Laws of the ERC. – xxx xxx xxx

No. of Violation	Basic Amount of Penalty	Additional Penalty shall be Imposed for Any Willful Delay in the Implementation
<i>1st and 2nd violation</i>	<i>Php 100,000.00</i>	<i>a) 10% of the basic amount of penalty if the compliance was made after one (1) month from notice.</i> <i>b) 50% of the basic amount of penalty if the compliance was made after two (2) months from notice.</i> <i>c) 100% of the basic amount of penalty if the compliance was made after three (3) months from notice</i>
<i>3rd and 4th violation</i>	<i>Php 300,000.00</i>	
<i>5th and subsequent violations</i>	<i>Php 500,000.00 and Cancellation of the Certificate of Public Convenience and Necessity (CPCN), License and the Franchise for Consortium</i>	

79. However, the ERC imposed a different penalty formula in its 2021 decisions, to wit:

$$\text{Total Penalty} = \text{Base Penalty} + (\text{Duration} \times \text{PhP } 100,000 \times 40\%) + (\text{Magnitude} \times \text{PhP } 100,000 \times 60\%)$$

Base Penalty = PhP100,000 for 1st-2nd violation, PhP300,000 for 3rd-4th violation, PhP500,000 for >4th violation

Duration = outage days in excess of allowed

Magnitude = rated capacity of the unit divided by highest rated capacity in the grid where the unit is located

80. The inconsistencies between penalties imposed is detrimental to the interest of the stakeholders as there is no clear basis on what penalty is to be imposed for violation thereof.

81. Thus, the penalty imposed by the Honorable Commission in its 2021 decisions must be abandoned for lack of sufficient basis even in its own rules. The rescission of show cause orders and penalties and withdrawal of pending cases for violations of the Interim Outage Rules may be included through an addition of the following provisions:

ARTICLE VII – TRANSITORY AND FINAL PROVISIONS

Section 1. Administrative Sanctions. In case of non-compliance by any person or entity with any of the provisions of these Rules, ERC shall review such non-compliance and issue a Notice of Non-Compliance with an Order to comply and to explain, within **fifteen (15) days** from receipt of the same, the reason or reasons therefor. After the Notice and Order shall have been issued by ERC and the person or entity still refuses and fails to comply within the reglementary period of what is incumbent upon the person or entity, ERC shall impose the necessary fines and penalties.

Violations of these Rules shall be subject to the imposition of appropriate sanctions, fines, and penalties in accordance with SECTION 5 OF ERC Resolution No. 3, Series of 2009, entitled a “*Resolution Amending 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,*” or any other issuances that may be adopted by ERC in the future. **For the avoidance of doubt, one day (24 hours) of outage involving one hundred percent (100%) of the dependable capacity of the generating unit in excess of the allowable forced outage shall be treated as one incident subject to penalty.** *Violations of these Rules shall be without prejudice to sanctions or penalties for violations of other applicable laws or rules.*

Section 2. Disposition of Show Cause Orders, Cases, and Penalties. **All previously issued show cause orders, pending cases, and penalties imposed for violations of the interim reliability performance indices and equivalent outage days per year of generating units under Resolution 10 Series of 2020, prior to the effectivity of these Rules, are hereby withdrawn and rescinded.**

X X X

Section 4. Repealing Clause. The Interim Reliability Performance Indices and Equivalent Outage Days Per Year of Generating Units under Resolution 10, Series of 2020 and any rule or regulation inconsistent with the provisions of these Rules is hereby repealed and modified accordingly.

82. While the Interim Outage Rules aims to promote accountability of generation companies and achieve greater operations and economic efficiency, its continuous application, however, may very well defeat its objectives.

83. In view of the foregoing and the temporary nature of the contested Interim Outage Rule, the Petitioner respectfully submits that there is a need to amend the Interim Outage Rules to pave way for a clear and definite set of rules that will truly reflect the reliability standard of Philippine generation companies.

PRAYER

WHEREFORE, Petitioner respectfully prays that this Honorable Commission to:

- a. SUSPEND the implementation of the Interim Reliability Performance Indices and Equivalent Outage Days Per Year of Generating Units until the resolution of this petition for rules change or at the very least, until end of 2023;
- b. REPEAL, AMEND, and MODIFY the Interim Reliability Performance Indices and Equivalent Outage Days Per Year of Generating Units and ADOPT a revised Interim Reliability Performance Indices with clearer and more defined mandate;
- c. RESCIND any previously issued show cause orders by the ERC; and
- d. RESCIND any penalty imposed for violation of the interim rules until the ERC decides on this Petition to Initiate Rule-making.


Other just and equitable relief are likewise prayed for.

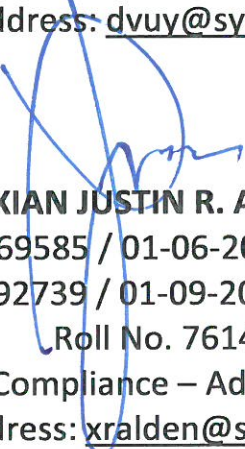
Pasig City for Pasig City, April 3, 2023.

SYMECS Law
Counsel for Petitioner
3109 One Corporate Center
Julia Vargas corner Meralco Avenues
Ortigas Center, Pasig City
Telephone Numbers: (632) 8470-38-77/ (632) 8531-5332

By:

ALBERT G. CUKINGNAN, JR.
PTR No. 0173124 / 01-11-23/ Pasig City
IBP Lifetime Member No. 010772 / O.R. No. 892677 / Calmana
Roll No. 61125
MCLE Compliance No. VI – 0017163 valid until 04/14/2022
Email address: agcukingnan@symecslaw.com


DIANE MARGRET V. UY
PTR No. 9569587 / 01-06-2023 / Makati City
IBP No. 292743/01-09-2023/PPLM
Roll No. 72748
MCLE Compliance No. VII-0017140 valid until 4/14/2025
Email address: dvuy@symecslaw.com


XIAN JUSTIN R. ALDEN
PTR No. 9569585 / 01-06-2023 / Makati City
IBP No. 292739 / 01-09-2023 /Tarlac City
Roll No. 76147
MCLE Compliance – Admitted 2022
Email address: xralden@symecslaw.com

**VERIFICATION AND
CERTIFICATION OF NON-FORUM SHOPPING**

I, ANNE ROSE ESTORCO-MONTELIBANO, of legal age, Filipino, and with office address at Unit 3109, One Corporate Center, Julia Vargas Avenue, corner Meralco Ave, Ortigas Center, Pasig City after having been duly sworn in accordance with law, hereby depose and state:

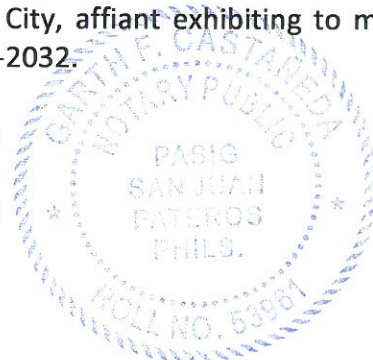
1. I am the authorized representative of Philippine Independent Power Producers Association, Inc. ("Petitioner"), with full power and authority to cause the preparation and the filing of this petition and to execute this Verification and Certification of Non-Forum Shopping, as shown by the attached Secretary's Certificate dated 19 January 2023.
2. Pursuant to the authority granted to me, I have caused the preparation and filing of this petition.
3. I have read this petition and the facts alleged therein are true and correct based on my personal knowledge and/or based on authentic records.
4. This petition is not filed to harass, cause unnecessary delay, or needlessly increase the cost of litigation. The factual allegations in this petition have evidentiary support at present, which may also be supplemented after a reasonable opportunity of discovery. I also attest to the authenticity of the annexes to this petition.
5. I hereby certify that neither I nor Petitioner have commenced any action or claim involving the same issues in this petition before any court, tribunal, or quasi-judicial agency, and, to the best of my knowledge, no such other action or claim is pending therein.
6. If I or Petitioner should learn that the same or a similar action or claim has been filed or is pending in any court, tribunal, or quasi-judicial agency, I shall report that fact to this Honorable Commission within five days from notice.


IN WITNESS WHEREOF, I have signed this Verification and Certification of Non-Forum Shopping this 05 APR 2023 2023 in Pasig City.


ANNE ROSE ESTORCO-MONTELIBANO

SUBSCRIBED AND SWORN, before me this ___ day of 05 APR 2023 2023 at PASIG CITY City, affiant exhibiting to me her Driver's License No. N02-12-011719 valid until 11-16-2032.

Doc. No. 04 ;
Page No. 33 ;
Book No. I ;
Series of 2023.




GARTH F. CASTAÑEDA
Appointment No. 128 (2023-2024)
Notary Public for Pasig City, San Juan and Pateros
Until December 31, 2024
PTP No. 0173122/01.11.23/Pasig City
IBP Lifetime No. 012255/01.07.2014/RSM
Roll No. 53981
MCLE Compliance No. VII-0016812/04.14.2025
3109 One Corporate Center, Julia Vargas cor. Meralco Ave.
Ortigas, Pasig City

REPUBLIC OF THE PHILIPPINES)
CITY OF Makati) S.S.

SECRETARY'S CERTIFICATE

I, **EDWARD ALBERT E. EVIOTA**, Filipino, of legal age, with office address at 3/F Patriarch Building, 2224 Chino Roces Ave. cor. Don Bosco Road, Makati City, 1223, Metro Manila, Philippines, after having been duly sworn in accordance with the law, hereby depose and state that:

1. I am the appointed and qualified Corporate Secretary of **PHILIPPINE INDEPENDENT POWER PRODUCERS ASSOCIATION** (the "Corporation"), a corporation duly organized and existing under the Philippine Laws with principal office at Unit 2408, 24th Floor, Prestige Tower, F. Ortigas Jr. Road (formerly Emerald Avenue), Ortigas, Pasig;
2. At the Special Meeting of the Board of Directors of the Company held on 16 January 2023, at which meeting a quorum was present and acting throughout, the following resolutions were unanimously passed and approved:

"RESOLVED, that the Corporation is authorized to file a Petition to Initiate Rule-Making with the Energy Regulatory Commission ("ERC");

RESOLVED FURTHER, that the Corporation hereby authorizes Anne Rose Estorco-Montelibano to sign the verification, certificate against forum-shopping, and similar affidavits in relation to the Petition to be filed with the ERC.

RESOLVED FURTHER, that the Board of Directors hereby authorizes **SYMECS Law** and any of its attorneys namely: Atty. Garth F. Castañeda, Atty. Albert G. Cukingnan, Jr., Atty. Miguel Antonio S. Regal, Atty. Jonelyn Jan B. Aton, Atty. Kent Harold S. Modio, Atty. Diane Margret V. Uy, Atty. Xian Justin R. Alden, and Atty. Karlo Francisco H. Marcilla, or ANY of the said law firm's staff or employees namely: Jerick S. Antiola, Gilbert F. Cruz, Eugenio Bautista, Ryan Royong, Jobert Caryll Gutierrez (the "Counsels"), to;

1. appear for and represent the Corporation in its Petition to Initiate Rule-Making with the ERC and to file, fill out, facilitate, negotiate, process and transact with the ERC and any other government and private entities relative to the Corporation's abovementioned petition;
2. appear and represent the Corporation during all stages of trial and pre-trial, if any, as well as public hearings and consultations thereof, and thereby granting the power to negotiate or to propose rules and terms as allowed by the law, under such terms and conditions as the Firm or any of its lawyers may deem just and reasonable; to agree on the simplification of the issues, if necessary; to amend the pleadings based on the Corporation or its representatives' true and authentic knowledge; to obtain and enter into stipulations or admissions of facts and of documents to avoid unnecessary proof; to limit the number of the witnesses; to undertake a preliminary reference of the issues or facts to a commissioner, if need be; as well to avail of discovery procedures;
3. file, fill out, request for, secure, receive and claim any contract, instrument, certificate, letter and any other document from any person, officer, employee of the above-cited government or private entities requisite for the above purposes;
4. pay any required fees and/or penalties, if necessary;
5. file any appeal or represent the Corporation in further proceedings relative to the Petition; and
6. do and perform on behalf of the Corporation any act and deed relating to the Case which the Corporation could legally do and perform, including causing of the publication of requirements, and attendance in consultations and forums.

h

RESOLVED FINALLY, that the Corporation hereby approves, confirms and ratifies all acts performed and documents executed by each of the foregoing authorized representatives and Counsels, in relation to the case"


3. These resolutions have not been revoked, amended, or modified and shall remain to be valid and binding on the Corporation as of date hereof.
4. The foregoing statements are in accordance with the records of the Corporation.

IN WITNESS WHEREOF, I have hereunto set my hand this JAN 19 2023 in CITY OF MAKATI City, Philippines.


EDWARD ALBERT E. EVIOTA
Corporate Secretary

SUBSCRIBED AND SWORN to before me, this JAN 19 2023, in CITY OF MAKATI City, Philippines who is personally known to me, personally appeared before me and exhibited his Driver's License No. K07-88-005457 valid until 11/15/2024.

Doc. No. 312;
Page No. 38;
Book No. 17;
Series of 2023.


ATTY. ROMEO M. MONFORT
Notary Public City of Makati
Until December 31, 2023
Appointment No. M-172
PTR No. 9563521 / Jan. 3, 2023
JBF No. 178089 / 2-14-2022-Pasig City
MCLE No. VI-0023417 Roll No. 27932
136 Amoroso St., Lagaspi, Village, Makati City



REPUBLIC OF THE PHILIPPINES
SECURITIES AND EXCHANGE COMMISSION
Ground Floor, Secretariat Building, PICC
City Of Pasay, Metro Manila

COMPANY REG. NO. AN95004246

CERTIFICATE OF FILING
OF
AMENDED ARTICLES OF INCORPORATION

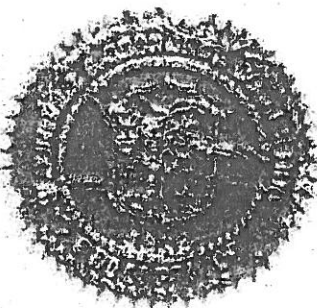
KNOW ALL PERSONS BY THESE PRESENTS:

This is to certify that the amended articles of incorporation of the


**PHILIPPINE INDEPENDENT POWER PRODUCERS
ASSOCIATION, INC.**
(Amending Article II Purpose & VI thereof.)

copy annexed, adopted on November 15, 2016 by majority vote of the Board of Trustees and by the vote of two-thirds of the members of the corporation, and certified under oath by the Corporate Secretary and a majority of the said board was approved by the Commission on this date pursuant to the provisions of Section 16 of the Corporation Code of the Philippines, Batas Pambansa Blg. 68, approved on May 1, 1980, and copies thereof are filed with the Commission.

IN WITNESS WHEREOF, I have set my hand and caused the seal of this Commission to be affixed to this Certificate at Pasay City, Metro Manila, Philippines, this 7th day of July, Twenty Seventeen.




FERDINAND B. SALES
Director
Company Registration and Monitoring Department


CERTIFIED
TRUE COPY

COVER SHEET
for Applications at
COMPANY REGISTRATION AND MONITORING DEPARTMENT

Nature of Application: **AMENDMENT** SEC Registration Number: **AN095-04246**

Company Name:
PHILIPPINE INDEPENDENT POWER PRODUCERS ASSOCIATION, INC.

AMENDED TO:
New Company Name

Principal Office (No./Street/Barangay/City/Town/Province):
UNIT 2408, 24TH FLOOR, PRESTIGE TOWER F. ORTIGAS JR. ROAD, ORTIGAS CENTER PASIG 1605

Company Email Address: **N/A** COMPANY INFORMATION Company's Telephone Number: **6351722 / 633-8844** Mobile Number: **N/A**

CONTACT PERSON INFORMATION
Name of Contact Person: **EDWARD ALBERT E. EVIDTA** Email Address: **edwardevidta@oldclaw.com** Telephone Number: **727-6556** Mobile Number: **0917-8274299**

Contact Person's Address: **UNIT 201 MIDWAY COURT BUILDING, 241 EDSA, MANDALUYONG CITY**

To be accomplished by CRMD Personnel

Assigned Processor	Date	Signature
_____	_____	_____
_____	_____	_____

Document I.D. _____

Received by Corporate Filing and Records Division (CFRD)

Forwarded to:

<input type="checkbox"/>	Corporate and Partnership Registration Division	_____	_____
<input type="checkbox"/>	Green Lane Unit	_____	_____
<input type="checkbox"/>	Financial Analysis and Audit Division	_____	_____
<input type="checkbox"/>	Licensing Unit	_____	_____
<input type="checkbox"/>	Compliance Monitoring Division	_____	_____

Asunto
CERTIFIED TRUE COPY

AMENDED ARTICLES OF INCORPORATION
Of

PHILIPPINE INDEPENDENT POWER PRODUCERS ASSOCIATION, INC.
Name of Corporation

KNOW ALL MEN BY THESE PRESENTS:

The undersigned incorporators, all of legal age and majority of whom are residents of the Philippines, have this day voluntarily agreed to form a non-stock corporation under the laws of the Republic of the Philippines.

AND WE HEREBY CERTIFY:

FIRST: That the name of the corporation shall be:

"PHILIPPINE INDEPENDENT POWER PRODUCERS ASSOCIATION, INC."

SECOND: That the purpose or purposes for which the corporation is incorporated are:

1. To promote the common interests and growth of the independent power production industry as well as those of the related and support industries.
2. To provide a forum for its individual and corporate members to share and discuss common concerns and other issues so the same can be addressed from the sectorial viewpoint. (as amended on 15 November 2016)
3. To develop a constructive and closer relationship between the membership of the Association and pertinent government institutions, in particular the Department of Energy, the Energy Regulatory Commission, the Philippine Electricity Market Corporation, the National Grid Corporation of the Philippines, the National Transmission Corporation, and the National Power Corporation. (as amended on 15 November 2016)

THIRD: That the principal office of the association is located in Unit 2408, 24/F, Prestige Tower, F. Ortigas Jr. Avenue, Ortigas Center, Pasig City, Metro Manila, Philippines. (as amended on 09 May 2014)


CERTIFIED
TRUE COPY


FOURTH: That the term for which said association is to exist is fifty (50) years from and after the date of incorporation.

FIFTH: That the names and nationalities and residences of the incorporators of said association are as follows:

Name	Nationality	Address
1. William J.K Leong	Malaysian	#27 Tolentino St., San Lazaro Village Makati City
2. Edgardo A. Bautista	Filipino	1434 Calumpang St., Dasmarinas Village., Makati City
3. Manuel P. Gallego	Filipino	#6 Jacaranda Road, North Forbes, Makati City
4. David Tan	American	c/o Edison Energy Corp., Unit 202 A, 25/F Philippine Stock Exchange Road, Pasig, Metro Manila
5. Rolf A. Hellstorm	Swedish	#7 Tamarind Road, South Forbes, Makati City
6. Denis T. Carpio	Filipino	Apt. 701 Residencia 8888, Pearl Drive Metro Manila

SIXTH: That the number of trustees of the association shall be Twelve (12) and that the names and residences of the first Trustees of the association are as follows: (as amended on 15 November 2017)

Name	Nationality	Address
William J.K Leong	Malaysian	#27 Tolentino St., San Lazaro Village Makati City
Edgardo A. Bautista	Filipino	1434 Calumpang St., Dasmarinas Village., Makati City
Manuel P. Gallego	Filipino	#6 Jacaranda Road, North Forbes, Makati City
David Tan	American	c/o Edison Energy Corp., Unit 202 A, 25/F Philippine Stock Exchange Road, Pasig, Metro Manila


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Rolf A. Hellstrom Swedish #7 Tamarind Road, South Forbes, Makati City
 Denis T. Carpio Filipino Apt. 701 Residencia 8888, Pearl Drive Metro Manila

SEVENTH: That the present members of the association with their contributors are the following:

(List of additional members, should be submitted to the Securities & Exchange Commission.)

	Name	Contribution
1.	Denis T. Carpio	P10,000.00
2.	Jesus N. Alcordo	10,000.00
3.	David Tan	10,000.00
4.	Rolf A. Hellstrom	10,000.00
5.	Manuel P. Gallego	10,000.00
6.	William J.K Leong	10,000.00
7.	Edgardo A. Bautista	10,000.00
8.	Nicasio Alcantara	10,000.00
9.	Tommy Sam	10,000.00

EIGHT: Manuel P. Gallego has been elected by the members as Treasurer of the association to act as such until his/her successor is duly elected and qualified in accordance with the by-laws, and that as such Treasurer, he/she has been authorized to receive for and in the name and for the benefit of the association, all contributors or donations paid or given by the members.

IN WITNESS WHEREOF, we have hereunto signed this Articles of Incorporation, this _____ day of Oct. 20, 1995, in the City/Municipality of Pasig City, Province of _____, Republic of the Philippines.

<p><i>(ORIGINAL SIGNED)</i> WILLIAM J.K. LEONG</p>	<p><i>(ORIGINAL SIGNED)</i> EDGARDO A. BAUTISTA</p>
--	---

Signature
 CERTIFIED
 TRUE COPY

(ORIGINAL SIGNED) MANUEL P. GALLEGO	(ORIGINAL SIGNED) DAVID TAN
(ORIGINAL SIGNED) ROLF A. HELLSTROM	(ORIGINAL SIGNED) DENIS T. CARPIO

Signed in the presence of:

(ORIGINAL SIGNED)

(ORIGINAL SIGNED)

Sumale
CERTIFIED
TRUE COPY

ACKNOWLEDGEMENT

REPUBLIC OF THE PHILIPPINES }
Quezon City, M. Mla. City } S.S.

BEFORE ME, a Notary Public in and for Quezon City, M. Mla., Philippines, this _____ day of October 20, 1995, 19 _____, personally appeared the following persons with their corresponding Residence Certificate Nos.:

	Name	Passport No./ Res. Cert. No.	Date/Place Issued
1.	William J.K Leong	2885825	02/27/95-Manila
2.	Edgardo A. Bautista	2885826	02/27/95-Manila
3.	Manuel P. Gallego	9523823	04/27/95-Pasig City
4.	David Tan	054233687	08/01/95-San Francisco CA
5.	Rolf A. Hellstorm	3629835	02/24/95-Pasig City
6.	Denis T. Carpio	3672718c	04/27/95-Pasig City

known to me and to me known to be the same persons who executed the foregoing Articles of Incorporation constituting of five (5) pages, including this page where the acknowledgement is written, and they acknowledged to me that the same is their free act and voluntary deed.

WITNESS MY HAND AND SEAL, on the day first above written.

(ORIGINAL SIGNED)

NOTARY PUBLIC
 Until December 31, 1995

Doc. No. 456;
 Page No. 42;
 Book No. 84;
 Series of 1995.

[Signature]
 CERTIFIED
 TRUE COPY

**TRUSTEES' CERTIFICATE OF AMENDMENT
OF THE ARTICLES AND BY-LAWS OF THE
PHILIPPINE INDEPENDENT POWER PRODUCERS ASSOCIATION, INC.**

28
2017
[Signature]

KNOW ALL MEN BY THESE PRESENTS:

We, the undersigned, consisting of the entire membership of the Board of Trustees of the Philippine Independent Power Producers Association, Inc. (the "Association"), a corporation duly organized and existing under Philippine laws, with the Corporate Secretary countersigning, do hereby certify that:

1. At a Special Meeting of the Members of the Association held on November 15, 2016, in Makati City, the Board of Trustees, by majority vote, and the Members, representing at least 2/3 of the Association's membership, approved the amendment of the Articles of Incorporation of the Association, as follows:

- a. SECOND ARTICLE - to expand the purposes of the Association to cover both Individual and Corporate Members; and to expand relationships to additional agencies; and
- b. SIXTH ARTICLE - to increase the number of Trustees to Twelve (12);

2. At the same meeting, the Board of Trustees, by majority vote, and the Members, representing at least 2/3 of the Association's membership, approved the amendment of the By-Laws of the Association, as follows:

- a. Article I, Sections 2 and 7 - to provide for Monthly and Special meetings of the Members; and provide voting rights to Corporate Members;
- b. Article II, Sections 2, 4, 5, 6, 7, 8 and 9 - to provide for qualifications for election to the Board of Trustees; the new composition of the Board of Trustees and a Transitory Provision; holding of Monthly and Special Meetings of the Board; Notices and Quorum for Meetings; and Terms of Offices of Trustees;
- c. Article III, Section 1 - to provide for new Officers of the Association including Chairman, Vice Chairman and Executive Director; and removing the positions of Vice President, Group Representatives and Managing Director;
- d. Article IV, Sections 1, 2, 3 and 7 - to provide for the functions of the Chairman, the Vice Chairman, the President and the Executive Director;
- e. Article V, Sections 1 and 2 - to provide for the qualifications and rights of Individual and Corporate Members; and
- f. Article VII, Section 2 - to provide for payment of Fees and Dues.

2. Written notices and of the time and place of said meeting were made upon each member of the Association and each member of the Board of Trustees, respectively, at his/her place of residence, as shown in the books of the Association.

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3. Pursuant to said notices, a majority of the members of the Board of Trustees and at least a majority of the members of the Association appeared in person or by proxy.

4. At such meeting, upon motion duly made and seconded, the following resolutions were adopted by the affirmative vote of majority of the members of the Board of Trustees and at least 2/3 of the members of the Association:

"RESOLVED, that the SECOND Article of the Articles of the Association be amended to read as follows:

"SECOND: That the purpose or purposes for which the corporation is incorporated are:

1. To promote the common interests and growth of the independent power production industry as well as those of the related and support industries.
2. To provide a forum for its individual and corporate members to share and discuss common concerns and other issues so the same can be addressed from the sectorial viewpoint.
3. To develop a constructive and closer relationship between the membership of the Association and pertinent government institutions, in particular the Department of Energy, the Energy Regulatory Commission, the Philippine Electricity Market Corporation, the National Grid Corporation of the Philippines, the National Transmission Corporation, and the National Power Corporation.

x x x

"RESOLVED, FURTHER, that the SIXTH Article of the Articles of the Association be amended to read as follows:"

"SIXTH: That the number of trustees of the association shall be Twelve (12) and that the names and residences of the first Trustees of the association are as follows:

Name	Nationality	Address
William J.K Leong	Malaysian	#27 Tolentino St., San Lazaro Village Makati City
Edgardo A. Bautista	Filipino	1434 Calumpang St., Dasmarinas Village.. Makati City
Manuel P. Gallego	Filipino	#6 Jacaranda Road, North Forbes, Makati City
David Tan	American	c/o Edison Energy Corp., Unit 202 A. 25/F


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		Philippine	Stock
		Exchange Road,	Pasig.
		Metro Manila	
Rolf A. Hellstrom	Swedish	#7 Tamarind Road, South	
		Forbes, Makati City	
Denis T. Carpio	Filipino	Apt. 701 Residencia 8888,	
		Pearl Drive Metro	
		Manila"	

X X X

"RESOLVED, FURTHER, that Article I Sections 2 and 7 of the By-Laws of the Association be amended to read as follows:

"Section 2. Quarterly/Special Meetings – Quarterly meetings of the members shall be called by the Chairman or the President of the association. During such meetings, the President shall render his report to the members regarding the activities of the association.

"Special meetings may be called as the need thereof arises, by a majority of the Board of Trustees or the Chairman or the President or upon petition of 1/3 of the general membership."

X X X

"Section 7. Voting Proxy – Unless otherwise provided in the By-laws, corporate members shall be entitled to vote, and they may vote either in person or by proxy, which shall be in writing and filed with the Secretary of the Association before the scheduled meeting."

X X X

"RESOLVED, FURTHER, that Article II Sections 2, 4, 5, 6, 7, 8 and 9 of the By-Laws of the Association be amended to read as follows:

"Section 2. Qualifications – Except for individual member[s] of the association, no person representing a corporate member shall be eligible for election to the Board of Trustees unless he has the following qualifications:

1. *Duly appointed representative by authorized officer of the corporate member in good standing; and*
2. *Supported by a duly issued Board Resolution of the corporate member. (As amended on 09 May 2014)"*

X X X

"Section 4. Composition of the Board of Trustees – Beginning May 2020, the Board of Trustees shall be

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composed of the following: (a) an independent and non-voting Trustee; and (b) eleven (11) voting Trustees who shall be elected by the members at the annual meeting held for the purpose. The independent and non-voting Trustee shall be elected by a majority vote of the voting members. The eleven (11) voting Trustees shall be the nominees receiving the highest number of votes from the voting members.

"The votes shall be based on the installed capacities of the voting members in accordance with the Certificate of Compliance (COC) issued by the Energy Regulatory Commission (ERC) for the voting members' generation facilities. A member is entitled to nominate and vote for one (1) independent and non-voting Trustee and one voting (1) Trustee.

"Allocation of capacity for joint ventures is on a 30/70 basis - 30% for the owner-operator and 70% for the WESM member."

"Section 5. Transitory Provision - Prior to May 2020, the Board of Trustees shall be composed of one (1) independent and non-voting Trustee and eleven (11) voting Trustees consisting of (a) at least three (3) representatives from the Build-Operate-Transfer/Build-Operate-Own Contractors (the "BOT/BOO Contractors Group"); (b) at least three (3) representatives from the Independent Power Producer Administrators (the "IPPA Group"); and (c) at least five (5) representatives from the Merchant Plants/ Privatized Plants (the "Merchant Plants Group"). The Board of Trustees may institute other group/s or sector/s in lieu of existing ones and allocate the eleven (11) seats of the voting Trustees among all groups.

"A member is entitled to nominate and vote for one (1) independent and non-voting Trustee and one voting (1) Trustee in the group where the member belongs. A member belonging to two or more groups shall, for the purpose of nominating and voting for a Trustee, signify only one (1) chosen group at such date as may be indicated in the notice of meeting which date shall not be later than one (1) week prior to the general membership meeting.

"The independent and non-voting Trustee shall be elected by a majority vote of the voting members. The eleven (11) voting Trustees shall be the nominees, in such number as allocated to each of the BOT/BOO Contractors Group, the IPPA Group, the Merchant Plants Group and such other groups as may be instituted by the Board of Trustees, receiving the highest number of votes from the voting members of each group.

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"The votes shall be based on the installed capacities of the voting members in accordance with the COC issued by the ERC for the voting members' generation facilities. In no case shall any member or its Affiliates have concurrent representatives in two or more groups.

"For purposes of computing the installed capacities, the combined installed capacities of a member and its Affiliates within the same group shall be considered. For purposes of this Article, an Affiliate refers to any person which, alone or together with any other person, directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with another person, and includes a subsidiary company and parent company and subsidiaries, directly or indirectly, of a common parent. The term "Control", when used in the context of the definition of "Affiliate" refers to the power to direct or cause the direction of the management policies of a person by contract, by agency, or otherwise."

"Section 6. Monthly/Special Meetings - The Board of Trustees shall hold monthly meetings regarding the activities of the association. Special meetings may be called, as the need thereof arises, by a majority of the Board or the President. Meetings of the Board shall be held at the principal office of the association or at such other places as may be designated in the notice. Said meetings may be attended by the Trustees either in person or through video/teleconference in accordance with existing rules and regulations of the Securities and Exchange Commission.

"Section 7. Notices - Notices of the date, time and place of monthly and special meetings of the Trustees shall be given either personally, by special delivery mail, by courier, by electronic mail, or by facsimile, at least one week before the date set for such meeting. In urgent cases, the notice may be communicated at least two days before the meeting personally, by telephone, by telegram, by electronic mail, or by facsimile, if contact is not possible. The notice of every special meeting shall state briefly the purpose or purposes of the meeting. No other business shall be considered at such meeting, except with the unanimous consent of all Trustees present thereat, and provided further that no resolutions may be passed without the required quorum. Notice of meeting may be waived verbally by any Trustee attending it.

"Section 8. Quorum - A quorum for any meeting of the Board of Trustees shall consist of a majority of the

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Board and a majority of such quorum may decide any question at the meeting, except those matters where the Corporation Code requires the affirmative vote of a greater proportion of the members of the association.

"Section 9. Term of Office of Trustees - Trustees of the association shall hold office for one (1) year and until their successor are duly elected and qualified. In the event a Trustee resigns during his term, the new Trustee should be from the same member-company, and shall serve the remaining portion of the term only.

"The Chairman may hold office for a maximum of three (3) consecutive 1-year terms and until his successor is duly elected and qualified. This limitation shall apply to a corporate member such that none of its representatives, regardless of the change in the person of any such representative, may hold office for more than the maximum of three (3) consecutive 1-year terms and until the successor of the Chairman is duly elected and qualified."

x x x

"RESOLVED, FURTHER, that Article III Section 1 of the By-Laws of the Association be amended to read as follows:

"Section 1. Officers - The officers of the association shall be a Chairman, Vice Chairman, President, an Executive Director, a Treasurer, an Auditor, and a Secretary. The Chairman, the Vice Chairman, and the President shall be Trustees of the association.

"The Board of Trustees shall elect the officers. The Board may combine compatible officers in a single person, except that no one shall act as Chairman and President, President and Secretary or as President and Treasurer at the same time."

x x x

"RESOLVED, FURTHER, that Article IV Sections 1, 2, 3 and 7, of the By-Laws of the Association be amended to read as follows:

"Section 1. Chairman - The Chairman shall preside at all meetings of the members and the Board of Trustees at which he may be present."

"Section 2. Vice-Chairman - In the absence of the Chairman, the Vice Chairman shall perform the duties of the Chairman."

"Section 3. President - There shall be an independent President elected by the Board of Trustees and who shall act as the Chief Executive Officer of the association. He shall serve as the primary spokesperson

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for the association. He shall represent the association in all business transactions, official and business functions and all statutory affairs with full power and representation.

"He shall execute all resolutions and/or decisions of the Board of Trustees. He shall be charged with directing and overseeing the activities of the association.

"He shall appoint and have control over all employees of the association, review and approve expense vouchers. Together with the Secretary of the association, he shall present to the Board of Trustees and the members an annual budget and, from time to time as may be necessary, supplementary budgets. He shall submit to the Board as soon as possible after the close of each fiscal year, and to the members of each annual meeting, a complete report of the activities and operations of the association for the fiscal year under his term.

"He shall receive such salary, allowances or other emoluments as the Board may authorize."

X X X

"Section 7. Executive Director - The Executive Director shall be appointed by the Board of Trustees and (a) be in charge of the day-to-day internal affairs of the association, (b) supervise and be responsible for the active management of the affairs, business, and activities of the association and its staff; (c) coordinate and monitor the activities of the committees and their chairmen and members, and provide administrative support thereto and such other bodies or agencies created by PIPPA; (d) shall exercise all powers and perform all duties of the President in the absence of a President; and (e) perform such other duties as may be assigned by the Board of Trustees.

"The Executive Director shall be independent of any members of the association."

X X X

"RESOLVED, FURTHER, that Article V Sections 1 and 2 of the By-Laws of the Association be amended to read as follows:

"Section 1. Qualifications for Membership - The association shall have corporate and individual members:

- a. Corporate Member(s) - composed of generators who shall have at least 50 megawatt (MW) installed/controlled capacity; and
- b. Individual Members - composed of qualified individuals duly approved by the Board. The Board

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shall determine when to open membership to qualified individuals."

"Section 2. Rights of Members - A member shall have the following rights:

"For Corporate Members:

- a. To exercise the rights to vote on all matters relating to the affairs of the association;
- b. To be eligible to any elective or appointive office of the association through its duly authorized representatives; and
- c. To examine all the records or books of the association during business hours.

"For Individual Members:

"The membership of Individual Members shall only be for the purpose of qualifying them as members of the Board of Trustees or for any elective or appointive office of the association. Individual Members shall not have any voting rights."

X X X

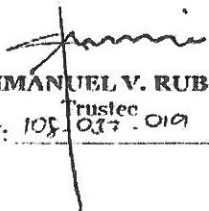
"RESOLVED, FINALLY, that Article VII Section 2 of the By-Laws of the Association be amended to read as follows:


"Section 2. Fees and Dues - Except for individual member(s), every member of the association shall pay a membership fee and other dues and/or assessments that may be imposed by the association from time to time, as approved by the Board of Trustees."

X X X

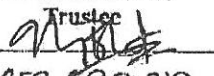
5. The requirements of Section 48 of the Corporation Code have been complied with.
6. The attached Articles and By-Laws is a true and correct copy of the Association's Articles and By-Laws, as amended.

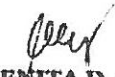
MAY 03 2017
IN WITNESS WHEREOF, we have hereunto set our hands on this _____ in **PASAY CITY**


EMMANUEL V. RUBIO
Trustee
TIN: 105-037-019


JAMIE T. AZURIN
Trustee
TIN: 102-116-530


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NEERAJ BHAT
Trustee
TIN: 
452 890 310


ELENTA D. GO
Trustee
TIN: 123-077-200


TRISTAN A. TAGHOY
Trustee
TIN: 155-360-710


GUILLERMO P. DABBAY, JR.
Trustee
TIN: 125-673-250


JUAN EUGENIO L. ROXAS
Trustee
TIN: 154-828-909


MIGUEL JOSE C. VALENCIA
Trustee
TIN: 144-090-509

Countersigned:


VICTOR B. SANTOS, JR.
Chairman
TIN: 123-6105-320



EDWARD A. E. EVIOTA
Corporate Secretary
TIN: 125-010-885

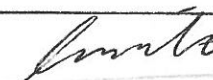

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SUBSCRIBED AND SWORN TO BEFORE ME, this
 MAY 03 2017 at PASAY CITY, affiants
 exhibiting to me the following:

Name	Govt. Issued ID / Passport Number	Date/Place of Issue
Emmanuel V. Rubio	PCG52883A	Dec 17, 2016 / DFA Manila
Jaime T. Azurin	EC3480707	April 09, 2015 / DFA Manila South
Neeraj Bhat	J46349085	Nov 09, 2016 / DFA USA
Guillermo P. Dabhay, Jr.	NO2-27-060550/ EC 26 23456	OCT 14, 2016 / LTD / GC March 10, 2014 / DFA Manila
Elenita D. Go	NO2-20-410361	Dec 12, 2014 / LTD GC
Juan Eugenio L. Roxas	EA0011744	Dec 10, 2014 / DFA Manila
Victor B. Santos, Jr.	EE9666201	Nov 23, 2013 / DFA Manila
Miguel Jose C. Valencia	ECG815053	Feb 20, 2016 / DFA NCR EAST
Edward A. E. Eviota	ECG871641	Feb 27, 2016 / DFA Manila
Tristan A. Taghoy	EC0072926	Jan 22, 2014 / DFA Manila

TITLE NO. 244
 INDEX NO. 48
 BOOK NO. 11
 SERIES NO. 217


 ATTY. JOVINO R. ANGEL
 NOTARY PUBLIC
 UNTIL DEC. 31, 2018
 PTR NO. 5766148-1/3/2017 PASAY CITY
 IBP NO. 1052058-1/3/2017 PASAY CITY
 COMPLIANCE NO. U-0024151-10/25/2016
 ROLL NO. 26751


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SECRETARY'S CERTIFICATE

I, EDWARD ALBERT E. EVIOTA, of legal age, Filipino citizen, with office address at Unit 201 Midway Court Building, 241 EDSA, Mandaluyong City, after having been duly sworn in accordance with law depose and say:

1. I am the duly appointed and incumbent Corporate Secretary of PHILIPPINE INDEPENDENT POWER PRODUCERS ASSOCIATION, INC., an association duly organized and existing under the laws of the Philippines, with principal business address at Unit 2408, 24/F, Prestige Tower, F. Ortigas Jr. Avenue, Ortigas Center, Pasig City, Metro Manila, Philippines, herein referred to as the "Association".

2. As such Corporate Secretary, I am the custodian of the corporate records of the Association, including the minutes of the meeting of its Members and Board of Trustees.

3. At a special meeting of the Members and the Board of Trustees of the Association held in 15 November 2016 in Makati City, the following resolutions were approved and adopted:

"RESOLVED, that the SECOND Article of the Articles of the Association be amended to read as follows:

"SECOND: That the purpose or purposes for which the corporation is incorporated are:

- 1. To promote the common interests and growth of the independent power production industry as well as those of the related and support industries.
2. To provide a forum for its individual and corporate members to share and discuss common concerns and other issues so the same can be addressed from the sectorial viewpoint.
3. To develop a constructive and closer relationship between the membership of the Association and pertinent government institutions, in particular the Department of Energy, the Energy Regulatory Commission, the Philippine Electricity Market Corporation, the National Grid Corporation of the Philippines, the National Transmission Corporation, and the National Power Corporation.

x x x

"RESOLVED, FURTHER, that the SIXTH Article of the Articles of the Association be amended to read as follows:"

"SIXTH: That the number of trustees of the association shall be Twelve (12) and that the names and residences of the first Trustees of the association are as follows:

Table with 3 columns: Name, Nationality, Address. Rows include William J.K Leong (Malaysian) and Edgardo A. Bautista (Filipino).

Handwritten signature and a stamp that reads 'CERTIFIED TRUE COPY'.

Manuel P. Gallego	Filipino	#6 Jacaranda Road, North Forbes, Makati City
David Tan	American	c/o Edison Energy Corp., Unit 202 A, 25/F Philippine Stock Exchange Road, Pasig, Metro Manila
Rolf A. Hellstrom	Swedish	#7 Tamarind Road, South Forbes, Makati City
Denis T. Carpio	Filipino	Apt. 701 Residencia 8888, Pearl Drive Metro Manila

x x x

"RESOLVED, FURTHER, that Article I Sections 2 and 7 of the By-Laws of the Association be amended to read as follows:

"Section 2. Quarterly/Special Meetings – Quarterly meetings of the members shall be called by the Chairman or the President of the association. During such meetings, the President shall render his report to the members regarding the activities of the association.

"Special meetings may be called as the need thereof arises, by a majority of the Board of Trustees or the Chairman or the President or upon petition of 1/3 of the general membership."

x x x

"Section 7. Voting Proxy – Unless otherwise provided in the By-laws, corporate members shall be entitled to vote, and they may vote either in person or by proxy, which shall be in writing and filed with the Secretary of the Association before the scheduled meeting."

x x x

"RESOLVED, FURTHER, that Article II Sections 2, 4, 5, 6, 7, 8 and 9 of the By-Laws of the Association be amended to read as follows:

"Section 2. Qualifications – Except for individual member[s] of the association, no person representing a corporate member shall be eligible for election to the Board of Trustees unless he has the following qualifications:

1. Duly appointed representative by authorized officer of the corporate member in good standing; and
2. Supported by a duly issued Board Resolution of the corporate member. (As amended on 09 May 2014)"

x x x

"Section 4. Composition of the Board of Trustees – Beginning May 2020, the Board of Trustees shall be composed of the following: (a) an independent and non-voting Trustee; and (b) eleven (11) voting Trustees who shall be elected by the members at the annual meeting held for the purpose. The independent and non-voting Trustee shall be elected by a majority vote of the voting members. The eleven (11) voting


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Trustees shall be the nominees receiving the highest number of votes from the voting members.

"The votes shall be based on the installed capacities of the voting members in accordance with the Certificate of Compliance (COC) issued by the Energy Regulatory Commission (ERC) for the voting members' generation facilities. A member is entitled to nominate and vote for one (1) independent and non-voting Trustee and one voting (1) Trustee.

"Allocation of capacity for joint ventures is on a 30/70 basis -- 30% for the owner-operator and 70% for the WFSM member."

"Section 5. Transitory Provision - Prior to May 2020, the Board of Trustees shall be composed of one (1) independent and non-voting Trustee and eleven (11) voting Trustees consisting of (a) at least three (3) representatives from the Build-Operate-Transfer/Build-Operate-Own Contractors (the "BOT/BOO Contractors Group"); (b) at least three (3) representatives from the Independent Power Producer Administrators (the "IPPA Group"); and (c) at least five (5) representatives from the Merchant Plants/ Privatized Plants (the "Merchant Plants Group"). The Board of Trustees may institute other group/s or sector/s in lieu of existing ones and allocate the eleven (11) seats of the voting Trustees among all groups.

"A member is entitled to nominate and vote for one (1) independent and non-voting Trustee and one voting (1) Trustee in the group where the member belongs. A member belonging to two or more groups shall, for the purpose of nominating and voting for a Trustee, signify only one (1) chosen group at such date as may be indicated in the notice of meeting which date shall not be later than one (1) week prior to the general membership meeting.

"The independent and non-voting Trustee shall be elected by a majority vote of the voting members. The eleven (11) voting Trustees shall be the nominees, in such number as allocated to each of the BOT/BOO Contractors Group, the IPPA Group, the Merchant Plants Group and such other groups as may be instituted by the Board of Trustees, receiving the highest number of votes from the voting members of each group.

"The votes shall be based on the installed capacities of the voting members in accordance with the COC issued by the ERC for the voting members' generation facilities. In no case shall any member or its Affiliates have concurrent representatives in two or more groups.

"For purposes of computing the installed capacities, the combined installed capacities of a member and its Affiliates within the same group shall be considered. For purposes of this Article, an Affiliate refers to any person which, alone or together with any other person, directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with another person, and includes a subsidiary company and parent company and subsidiaries, directly or indirectly, of a common parent. The term "Control", when used in the context of the definition of "Affiliate" refers to the power to direct or

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cause the direction of the management policies of a person by contract, by agency, or otherwise."

"Section 6. Monthly/Special Meetings - The Board of Trustees shall hold monthly meetings regarding the activities of the association. Special meetings may be called, as the need thereof arises, by a majority of the Board or the President. Meetings of the Board shall be held at the principal office of the association or at such other places as may be designated in the notice. Said meetings may be attended by the Trustees either in person or through video/teleconference in accordance with existing rules and regulations of the Securities and Exchange Commission.

"Section 7. Notices - Notices of the date, time and place of monthly and special meetings of the Trustees shall be given either personally, by special delivery mail, by courier, by electronic mail, or by facsimile, at least one week before the date set for such meeting. In urgent cases, the notice may be communicated at least two days before the meeting personally, by telephone, by telegram, by electronic mail, or by facsimile, if contact is not possible. The notice of every special meeting shall state briefly the purpose or purposes of the meeting. No other business shall be considered at such meeting, except with the unanimous consent of all Trustees present thereat, and provided further that no resolutions may be passed without the required quorum. Notice of meeting may be waived verbally by any Trustee attending it.

"Section 8. Quorum - A quorum for any meeting of the Board of Trustees shall consist of a majority of the Board and a majority of such quorum may decide any question at the meeting, except those matters where the Corporation Code requires the affirmative vote of a greater proportion of the members of the association.


"Section 9. Term of Office of Trustees - Trustees of the association shall hold office for one (1) year and until their successor are duly elected and qualified. In the event a Trustee resigns during his term, the new Trustee should be from the same member-company, and shall serve the remaining portion of the term only.

"The Chairman may hold office for a maximum of three (3) consecutive 1-year terms and until his successor is duly elected and qualified. This limitation shall apply to a corporate member such that none of its representatives, regardless of the change in the person of any such representative, may hold office for more than the maximum of three (3) consecutive 1-year terms and until the successor of the Chairman is duly elected and qualified."

x x x

"RESOLVED, FURTHER, that Article III Section 1 of the By-Laws of the Association be amended to read as follows:

"Section 1. Officers - The officers of the association shall be a Chairman, Vice Chairman, President, an Executive Director, a Treasurer, an Auditor, and a Secretary. The Chairman, the Vice Chairman, and the President shall be Trustees of the association.


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"The Board of Trustees shall elect the officers. The Board may combine compatible officers in a single person, except that no one shall act as Chairman and President, President and Secretary or as President and Treasurer at the same time."

X X X

"RESOLVED, FURTHER, that Article IV Sections 1, 2, 3 and 7. of the By-Laws of the Association be amended to read as follows:

"Section 1. Chairman - The Chairman shall preside at all meetings of the members and the Board of Trustees at which he may be present."

"Section 2. Vice-Chairman - In the absence of the Chairman, the Vice Chairman shall perform the duties of the Chairman."

"Section 3. President - There shall be an independent President elected by the Board of Trustees and who shall act as the Chief Executive Officer of the association. He shall serve as the primary spokesperson for the association. He shall represent the association in all business transactions, official and business functions and all statutory affairs with full power and representation.

"He shall execute all resolutions and/or decisions of the Board of Trustees. He shall be charged with directing and overseeing the activities of the association."

"He shall appoint and have control over all employees of the association, review and approve expense vouchers. Together with the Secretary of the association, he shall present to the Board of Trustees and the members an annual budget and, from time to time as may be necessary, supplementary budgets. He shall submit to the Board as soon as possible after the close of each fiscal year, and to the members of each annual meeting, a complete report of the activities and operations of the association for the fiscal year under his term.

"He shall receive such salary, allowances or other emoluments as the Board may authorize."

X X X

"Section 7. Executive Director - The Executive Director shall be appointed by the Board of Trustees and (a) be in charge of the day-to-day internal affairs of the association, (b) supervise and be responsible for the active management of the affairs, business, and activities of the association and its staff; (c) coordinate and monitor the activities of the committees and their chairmen and members, and provide administrative support thereto and such other bodies or agencies created by PIPPA; (d) shall exercise all powers and perform all duties of the President in the absence of a President; and (e) perform such other duties as may be assigned by the Board of Trustees.

"The Executive Director shall be independent of any members of the association."

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x x x

"RESOLVED, FURTHER, that Article V Sections 1 and 2 of the By-Laws of the Association be amended to read as follows:

"Section 1. Qualifications for Membership - The association shall have corporate and individual members:

- a. Corporate Member(s) - composed of generators who shall have at least 50 megawatt (MW) installed/controlled capacity; and
- b. Individual Members - composed of qualified individuals duly approved by the Board. The Board shall determine when to open membership to qualified individuals."

"Section 2. Rights of Members - A member shall have the following rights:

"For Corporate Members:

- a. To exercise the rights to vote on all matters relating to the affairs of the association;
- b. To be eligible to any elective or appointive office of the association through its duly authorized representatives; and
- c. To examine all the records or books of the association during business hours.

"For Individual Members:

"The membership of Individual Members shall only be for the purpose of qualifying them as members of the Board of Trustees or for any elective or appointive office of the association. Individual Members shall not have any voting rights."

x x x

"RESOLVED, FINALLY, that Article VII Section 2 of the By-Laws of the Association be amended to read as follows:

"Section 2. Fees and Dues - Except for individual member(s), every member of the association shall pay a membership fee and other dues and/or assessments that may be imposed by the association from time to time, as approved by the Board of Trustees."

x x x

"RESOLVED, to appoint the Corporate Secretary, Edward Albert E. Eviota, as the Corporation's authorized representatives, to represent and act for and in behalf of the Association, to file the necessary application for approval of the amendments with the Securities and Exchange Commission (SEC), to do and perform any and all acts and resolve any and all matters to be taken in connection with the transaction. Further thereto, said representative shall have the authority to submit, receive, enter into, accept, sign, deliver and perform all communications, filings of notices and any other documents necessary or incidental to the transaction."


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4. That the above resolutions have not been altered, modified or revoke, and as of this date of certification, is in full force and effect.
5. I further certify that from time of such Members and Trustees' approval of the foregoing amendments up to the filing to the Commission of the application for the amendment of the Articles of Incorporation and By-laws of the Association, to the best of my knowledge, no action or proceeding has been filed or is pending before any court involving an intra-corporate dispute and/or claim by any person or group against the Board of Trustees, individual Trustees and/or major officers of the Association as its duly elected and/or appointed officers or vice versa.

In witness whereof, I have hereunto set my hand this MAY 03 2017 at PASAY CITY.

Edward Albert E. Eviota
EDWARD ALBERT E. EVIOTA
 Corporate Secretary

MAY 03 2017
 SUBSCRIBED AND SWORN to before me this 03 day of April 2017 in PASAY CITY the affiant exhibited to me his TIN NO 135 - 910 - 885 - 000

Doc. No. 243
 Page No. 48
 Book No. 11
 Series of 2017.

Atty. Jonnie R. Angell
 ATTY. JONNIE R. ANGELL
 PUBLIC NOTARY PUBLIC
 PTR NO. 5265148-11/3/2017 PASAY CITY
 IBP NO. 1052058-11/3/2017 PASAY CITY
 COMPLIANCE NO. U-0024151-10/25/2016
 ROLL NO. 28761

Edward Albert E. Eviota
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TRUSTEES' CERTIFICATE OF AMENDMENT OF THE ARTICLES AND BY-LAWS OF THE PHILIPPINE INDEPENDENT POWER PRODUCERS ASSOCIATION INC. 2017

KNOW ALL MEN BY THESE PRESENTS

We, the undersigned, consisting of the entire membership of the Board of Trustees of the Philippine Independent Power Producers Association, Inc. (the "Association"), a corporation duly organized and existing under Philippine laws, with the Corporate Secretary countersigning, do hereby certify that:

1. At a Special Meeting of the Members of the Association held on November 15, 2016, in Makati City, the Board of Trustees, by majority vote, and the Members, representing at least 2/3 of the Association's membership, approved the amendment of the Articles of Incorporation of the Association, as follows:

- a. SECOND ARTICLE - to expand the purposes of the Association to cover both Individual and Corporate Members; and to expand relationships to additional agencies; and
b. SIXTH ARTICLE - to increase the number of Trustees to Twelve (12);

2. At the same meeting, the Board of Trustees, by majority vote, and the Members, representing at least 2/3 of the Association's membership, approved the amendment of the By-Laws of the Association, as follows:

- a. Article I, Sections 2 and 7 - to provide for Monthly and Special meetings of the Members; and provide voting rights to Corporate Members;
b. Article II, Sections 2, 4, 5, 6, 7, 8 and 9 - to provide for qualifications for election to the Board of Trustees; the new composition of the Board of Trustees and a Transitory Provision; holding of Monthly and Special Meetings of the Board; Notices and Quorum for Meetings; and Terms of Offices of Trustees;
c. Article III, Section 1 - to provide for new Officers of the Association including Chairman, Vice Chairman and Executive Director; and removing the positions of Vice President, Group Representatives and Managing Director;
d. Article IV, Sections 1, 2, 3 and 7 - to provide for the functions of the Chairman, the Vice Chairman, the President and the Executive Director;
e. Article V, Sections 1 and 2 - to provide for the qualifications and rights of Individual and Corporate Members; and
f. Article VII, Section 2 - to provide for payment of Fees and Dues.

2. Written notices and of the time and place of said meeting were made upon each member of the Association and each member of the Board of Trustees, respectively, at his/her place of residence, as shown in the books of the Association.

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3. Pursuant to said notices, a majority of the members of the Board of Trustees and at least a majority of the members of the Association appeared in person or by proxy.

4. At such meeting, upon motion duly made and seconded, the following resolutions were adopted by the affirmative vote of majority of the members of the Board of Trustees and at least 2/3 of the members of the Association:

"RESOLVED, that the SECOND Article of the Articles of the Association be amended to read as follows:

"SECOND: That the purpose or purposes for which the corporation is incorporated are:

1. To promote the common interests and growth of the independent power production industry as well as those of the related and support industries.
2. To provide a forum for its individual and corporate members to share and discuss common concerns and other issues so the same can be addressed from the sectorial viewpoint.
3. To develop a constructive and closer relationship between the membership of the Association and pertinent government institutions, in particular the Department of Energy, the Energy Regulatory Commission, the Philippine Electricity Market Corporation, the National Grid Corporation of the Philippines, the National Transmission Corporation, and the National Power Corporation.

X X X

"RESOLVED, FURTHER, that the SIXTH Article of the Articles of the Association be amended to read as follows:"

"SIXTH: That the number of trustees of the association shall be Twelve (12) and that the names and residences of the first Trustees of the association are as follows:

Name	Nationality	Address
William J.K Leong	Malaysian	#27 Tolentino St., San Lazaro Village Makati City
Edgardo A. Bautista	Filipino	1434 Calumpang St., Dasmaringas Village., Makati City
Manuel P. Gallego	Filipino	#6 Jacaranda Road, North Forbes, Makati City
David Tan	American	c/o Edison Energy Corp.,

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Rolf A. Hellstrom

Swedish

Philippine Stock Exchange Road, Pasig, Metro Manila

Denis T. Carpio

Filipino

#7 Tamarind Road, South Forbes, Makati City
Apt. 701 Residencia 8888, Pearl Drive Metro Manila

xxx

"RESOLVED, FURTHER, that Article I Sections 2 and 7 of the By-Laws of the Association be amended to read as follows:

"Section 2. Quarterly/Special Meetings - Quarterly meetings of the members shall be called by the Chairman or the President of the association. During such meetings, the President shall render his report to the members regarding the activities of the association.

"Special meetings may be called as the need thereof arises, by a majority of the Board of Trustees or the Chairman or the President or upon petition of 1/3 of the general membership."

xxx

"Section 7. Voting Proxy - Unless otherwise provided in the By-laws, corporate members shall be entitled to vote, and they may vote either in person or by proxy, which shall be in writing and filed with the Secretary of the Association before the scheduled meeting."

xxx

"RESOLVED, FURTHER, that Article II Sections 2, 4, 5, 6, 7, 8 and 9 of the By-Laws of the Association be amended to read as follows:

"Section 2. Qualifications - Except for individual member[s] of the association, no person representing a corporate member shall be eligible for election to the Board of Trustees unless he has the following qualifications:

1. Duly appointed representative by authorized officer of the corporate member in good standing; and
2. Supported by a duly issued Board Resolution of the corporate member. (As amended on 09 May 2014)"

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"Section 4. Composition of the Board of Trustees - Beginning May 2020, the Board of Trustees shall be

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composed of the following: (a) an independent and non-voting Trustee; and (b) eleven (11) voting Trustees who shall be elected by the members at the annual meeting held for the purpose. The independent and non-voting Trustee shall be elected by a majority vote of the voting members. The eleven (11) voting Trustees shall be the nominees receiving the highest number of votes from the voting members.

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"The votes shall be based on the installed capacities of the voting members in accordance with the Certificate of Compliance (COC) issued by the Energy Regulatory Commission (ERC) for the voting members' generation facilities. A member is entitled to nominate and vote for one (1) independent and non-voting Trustee and one voting (1) Trustee.

"Allocation of capacity for joint ventures is on a 30/70 basis - 30% for the owner-operator and 70% for the WESM member."

"Section 5. Transitory Provision - Prior to May 2020, the Board of Trustees shall be composed of one (1) independent and non-voting Trustee and eleven (11) voting Trustees consisting of (a) at least three (3) representatives from the Build-Operate-Transfer/Build-Operate-Own Contractors (the "BOT/BOO Contractors Group"); (b) at least three (3) representatives from the Independent Power Producer Administrators (the "IPPA Group"); and (c) at least five (5) representatives from the Merchant Plants/ Privatized Plants (the "Merchant Plants Group"). The Board of Trustees may institute other group/s or sector/s in lieu of existing ones and allocate the eleven (11) seats of the voting Trustees among all groups.

"A member is entitled to nominate and vote for one (1) independent and non-voting Trustee and one voting (1) Trustee in the group where the member belongs. A member belonging to two or more groups shall, for the purpose of nominating and voting for a Trustee, signify only one (1) chosen group at such date as may be indicated in the notice of meeting which date shall not be later than one (1) week prior to the general membership meeting.

"The independent and non-voting Trustee shall be elected by a majority vote of the voting members. The eleven (11) voting Trustees shall be the nominees, in such number as allocated to each of the BOT/BOO Contractors Group, the IPPA Group, the Merchant Plants Group and such other groups as may be instituted by the Board of Trustees, receiving the highest number of votes from the voting members of each group.

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"The votes shall be based on the installed capacities of the voting members in accordance with the COC issued by the ERC for the voting members and generation facilities. In no case shall any member or its Affiliates have concurrent representatives in two or more groups.

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"For purposes of computing the installed capacities, the combined installed capacities of a member and its Affiliates within the same group shall be considered. For purposes of this Article, an Affiliate refers to any person which, alone or together with any other person, directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with another person, and includes a subsidiary company and parent company and subsidiaries, directly or indirectly, of a common parent. The term "Control", when used in the context of the definition of "Affiliate" refers to the power to direct or cause the direction of the management policies of a person by contract, by agency, or otherwise."

"Section 6. Monthly/Special Meetings - The Board of Trustees shall hold monthly meetings regarding the activities of the association. Special meetings may be called, as the need thereof arises, by a majority of the Board or the President. Meetings of the Board shall be held at the principal office of the association or at such other places as may be designated in the notice. Said meetings may be attended by the Trustees either in person or through video/teleconference in accordance with existing rules and regulations of the Securities and Exchange Commission.

"Section 7. Notices - Notices of the date, time and place of monthly and special meetings of the Trustees shall be given either personally, by special delivery mail, by courier, by electronic mail, or by facsimile, at least one week before the date set for such meeting. In urgent cases, the notice may be communicated at least two days before the meeting personally, by telephone, by telegram, by electronic mail, or by facsimile, if contact is not possible. The notice of every special meeting shall state briefly the purpose or purposes of the meeting. No other business shall be considered at such meeting, except with the unanimous consent of all Trustees present thereat, and provided further that no resolutions may be passed without the required quorum. Notice of meeting may be waived verbally by any Trustee attending it.

"Section 8. Quorum - A quorum for any meeting of the Board of Trustees shall consist of a majority of the

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Board and a majority of such quorum may decide any question at the meeting, except those matters where the Corporation Code requires the affirmative vote of a greater proportion of the members of the association.

"Section 9. Term of Office of Trustees - Trustees of the association shall hold office for one (1) year and until their successor are duly elected and qualified. In the event a Trustee resigns during his term, the new Trustee should be from the same member-company, and shall serve the remaining portion of the term only.

"The Chairman may hold office for a maximum of three (3) consecutive 1-year terms and until his successor is duly elected and qualified. This limitation shall apply to a corporate member such that none of its representatives, regardless of the change in the person of any such representative, may hold office for more than the maximum of three (3) consecutive 1-year terms and until the successor of the Chairman is duly elected and qualified."

x x x

"RESOLVED, FURTHER, that Article III Section 1 of the By-Laws of the Association be amended to read as follows:

"Section 1. Officers - The officers of the association shall be a Chairman, Vice Chairman, President, an Executive Director, a Treasurer, an Auditor, and a Secretary. The Chairman, the Vice Chairman, and the President shall be Trustees of the association.

"The Board of Trustees shall elect the officers. The Board may combine compatible officers in a single person, except that no one shall act as Chairman and President, President and Secretary or as President and Treasurer at the same time."

x x x

"RESOLVED, FURTHER, that Article IV Sections 1, 2, 3 and 7, of the By-Laws of the Association be amended to read as follows:

"Section 1. Chairman - The Chairman shall preside at all meetings of the members and the Board of Trustees at which he may be present."

"Section 2. Vice-Chairman - In the absence of the Chairman, the Vice Chairman shall perform the duties of the Chairman."

"Section 3. President - There shall be an independent President elected by the Board of Trustees and who shall act as the Chief Executive Officer of the association. He shall serve as the primary spokesperson

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for the association. He shall represent the association in all business transactions, official and business functions and all statutory affairs with full power and representation.

"He shall execute all resolutions and/or decisions of the Board of Trustees. He shall be charged with directing and overseeing the activities of the association.

"He shall appoint and have control over all employees of the association, review and approve expense vouchers. Together with the Secretary of the association, he shall present to the Board of Trustees and the members an annual budget and, from time to time as may be necessary, supplementary budgets. He shall submit to the Board as soon as possible after the close of each fiscal year, and to the members of each annual meeting, a complete report of the activities and operations of the association for the fiscal year under his term.

"He shall receive such salary, allowances or other emoluments as the Board may authorize."

X X X

"Section 7. Executive Director - The Executive Director shall be appointed by the Board of Trustees and (a) be in charge of the day-to-day internal affairs of the association, (b) supervise and be responsible for the active management of the affairs, business, and activities of the association and its staff; (c) coordinate and monitor the activities of the committees and their chairmen and members, and provide administrative support thereto and such other bodies or agencies created by PIPPA; (d) shall exercise all powers and perform all duties of the President in the absence of a President; and (e) perform such other duties as may be assigned by the Board of Trustees.

"The Executive Director shall be independent of any members of the association."

X X X

"RESOLVED, FURTHER, that Article V, Sections 1 and 2 of the By-Laws of the Association be amended to read as follows:

"Section 1. Qualifications for Membership - The association shall have corporate and individual members:

- a. Corporate Member(s) - composed of generators who shall have at least 50 megawatt (MW) installed/controlled capacity; and
- b. Individual Members - composed of qualified individuals duly approved by the Board. The Board

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shall determine when to open membership to qualified individuals."

"Section 2. Rights of Members - A member shall have the following rights:

"For Corporate Members:

- a. To exercise the rights to vote on all matters relating to the affairs of the association;
- b. To be eligible to any elective or appointive office of the association through its duly authorized representatives; and
- c. To examine all the records or books of the association during business hours.

"For Individual Members:

"The membership of Individual Members shall only be for the purpose of qualifying them as members of the Board of Trustees or for any elective or appointive office of the association. Individual Members shall not have any voting rights."

xxx

"RESOLVED, FINALLY, that Article VII Section 2 of the By-Laws of the Association be amended to read as follows:

"Section 2. Fees and Dues - Except for individual member(s), every member of the association shall pay a membership fee and other dues and/or assessments that may be imposed by the association from time to time, as approved by the Board of Trustees."

xxx

5. The requirements of Section 48 of the Corporation Code have been complied with.

6. The attached Articles and By-Laws is a true and correct copy of the Association's Articles and By-Laws, as amended.

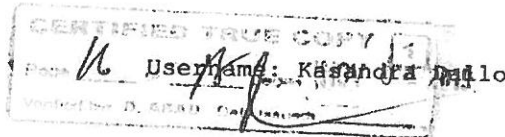
IN WITNESS WHEREOF, we have hereunto set our hands on this MAY 03 2017 in PASAY CITY

[Signature]
EMMANUEL V. RUBIO
Trustee
TIN: 108-037-019

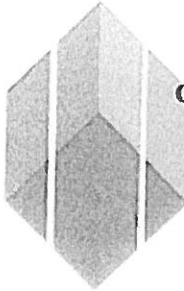
[Signature]
JAIME T. AZURIN
Trustee
TIN: 102-116-570

Date: 2019-10-31 Time: 11:54:37 AM

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NEERAJ BHAT
Trustee
TIN: 9176 452 895 319

[Signature]
ELENITA D. GO
Trustee
TIN: 127 070 200

[Signature]
GUILLERMO P. DABBAY, JR.
Trustee
TIN: 125 072 256
Exchange Commission
PHILIPPINES

[Signature]
JUAN EUGENIO L. ROXAS
Trustee
TIN: 184 828 409

[Signature]
TRISTAN A. TAGHOY
Trustee
TIN: 155 860 710

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MIGUEL JOSE G. VALENCIA
Trustee
TIN: 144 040 529

Countersigned:

[Signature]
VICTOR B. SANTOS, JR.
Chairman
TIN: 123 865 320

[Signature]
EDWARD A. E. EVIOTA
Corporate Secretary
TIN: 135 010 845

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By: *[Signature]*

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SUBSCRIBED AND SWORN TO BEFORE ME, this
exhibiting to me the ~~11/16/2017~~ **2017** at **PASAY CITY**, affiants

Securities and
Exchange
Commission

Name	Govt. Issued ID / Passport Number	Date/Place of Issue
Emmanuel V. Rubio	PO6528334	Oct 17, 2016 / DFA Manila
Jaime T. Azurin	EC3680709	April 08, 2015 / DFA NCR SOUTH
Neeraj Bhat	546349085	NOV 9, 2016 / USA
Guillermo F. Dabbay, Jr.	NO2 - 37 - 060550/ EC8523454	OCT 14, 2016 / LTO / QC March 10, 2014 / DFA Manila
Elenita D. Go	NO2 - 89 - 410861	DEC. 14, 2014 / LTO QC
Juan Eugenio L. Roxas	EA0011744	Dec 10, 2014 / DFA Manila
Victor B. Santos, Jr.	EB9666201	NOV 23, 2013 / DFA Manila
Miguel Jose C. Valencia	ECG815053	Feb 20, 2016 / DFA NCR East
Edward A. E. Eviota	ECG871441	Feb 27, 2016 / DFA Manila
Triston A. Toghoy	EC0072926	Jan. 22, 2014 / DFA Manila

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 AGE NO. 5
 BOOK NO. 11
 SERIES OF 117

J. Angel
 ATTY. JOVINO R. ANGEL
 NOTARY PUBLIC
 UNTIL DEC. 31, 2018
 PTR NO. 5286148-1/3/2017 PASAY CITY
 IBP NO. 1052058-1/3/2017 PASAY CITY
 COMPLIANCE NO. U-0024151-10/25/2016
 ROLL NO. 28761

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**RULES FOR THE ~~INTERIM~~ RELIABILITY PERFORMANCE ~~INDICES~~ AND
EQUIVALENT FORCED OUTAGE DAYS PER YEAR OF GENERATING UNITS****ARTICLE I - OBJECTIVES**

These Rules aim to:

- (a) Set a reliability performance benchmark per technology for all generating units to lessen **FORCED** outages and ensure predictable power supply and rate;
- (b) Promote accountability of Generation Companies, the System Operator, and the Transmission Network Provider to achieve greater operations and economic efficiency; and
- (c) Monitor the actual ~~planned and unplanned~~ **FORCED** outage days of generating units.

ARTICLE II - GOVERNING PRINCIPLES

Republic Act No. 9136, otherwise known as the "Electric Power Industry Reform Act of 2001" (The Act) declares that the State shall: 1) ensure quality, reliability, security, and affordability of the supply of electric power; 2) ensure transparency in a regime of free and fair competition, with full public accountability to achieve greater operational and economic efficiency; and 3) protect the public's interest as it is affected by the rates and services of electric utilities and other providers of electric power.

The Rules for the ~~Interim~~ Reliability Performance ~~Indices~~ and Equivalent **FORCED** Outage Days Per Year of Generating Units are among the rules promulgated by ERC to drive generating plants to perform better and instill discipline by setting outage allowance in days per year that will serve as the standard per technology for all generating units.

The ~~indices being prescribed are determined based on the computed Reliability Performance per Technology, as well as the Number of FORCED Outage Days per year WAS BASED~~ by utilizing information from Actual Events Reports from **2014 TO 2022** ~~2015 to 2019~~ as submitted by generation companies in compliance with *ERC Resolution No. 21, Series of 2016*.

ARTICLE III - SCOPE AND APPLICATION

The ~~interim~~ benchmark **FORCED OUTAGE DAYS** shall apply to Generation Companies with Conventional and Non-Variable Renewable Energy Generating Plants connected to the Grid, including Embedded Generating Plants, which have an aggregate capacity of 5 MW and above. **THESE RULES SHALL NOT APPLY TO VARIABLE RENEWABLE ENERGY INCLUDING RUN-OF RIVER HYDROELECTRIC GENERATING PLANTS.**

ARTICLE IV - DEFINITION OF TERMS

As used in these Rules, the following terms shall have the following respective meanings:

Availability Factor. The ratio of Available Hours to the Period Hours of a Unit and/or Component, expressed in percent.

$$\text{Availability Factor} = \frac{\text{Available Hours}}{\text{Period Hours}} \times 100\%$$

Available Hours. The number of hours a Unit is in the available state, in which a Unit is capable of providing service, whether or not it is actually in service and regardless of the capacity level that can be provided.

Embedded Generators. Refer to Generating Units that are indirectly connected to the Grid through the Distribution Utilities' lines or Industrial Generation Facilities that are synchronized with the Grid and supply power to their host Distribution Utility or the Grid.

EXTENDED OUTAGE GOMP. THIS IS AN OUTAGE STATE THAT IS THE EXTENSION OF THE PLANNED OUTAGE (GOMP) BEYOND ITS PREDETERMINED DURATION. EXTENDED GOMP APPLIES ONLY IN INSTANCES WHERE THE ORIGINAL SCOPE OF WORK REQUIRES MORE TIME TO COMPLETE THAN ORIGINALLY SCHEDULED.

FORCED OUTAGE. AN OUTAGE THAT REQUIRES IMMEDIATE REMOVAL OF A UNIT FROM SERVICE, ANOTHER OUTAGE STATE, OR A RESERVE SHUTDOWN STATE:

CLASS 0 FORCED OUTAGE. (STARTING FAILURE) AN OUTAGE, ASIDE FROM OUTSIDE MANAGEMENT CONTROL (OMC), THAT RESULTS FROM UNSUCCESSFUL ATTEMPT TO PLACE THE UNIT IN-SERVICE.

CLASS 1 FORCED OUTAGE. (IMMEDIATE) AN OUTAGE, ASIDE FROM OMC, THAT REQUIRES IMMEDIATE REMOVAL FROM THE EXISTING STATE. IT CAN BE MEASURED WITHIN FIVE (5) MINUTES OF TIME OF REMOVAL.

CLASS 2 FORCED OUTAGE. (DELAYED) AN OUTAGE, ASIDE FROM OMC, THAT DOES NOT REQUIRE IMMEDIATE REMOVAL FROM THE IN-SERVICE STATE BUT REQUIRES REMOVAL BEYOND FIVE (5) MINUTES BUT NOT EXCEEDING SIX (6) HOURS. THIS TYPE OF OUTAGE CAN ONLY OCCUR WHILE THE UNIT IS IN-SERVICE.

CLASS 3 FORCED OUTAGE. (POSTPONED) AN OUTAGE, ASIDE FROM OMC, THAT CAN BE POSTPONED BEYOND SIX (6) HOURS BUT NOT EXCEEDING SEVEN (7) DAYS. THIS TYPE OF OUTAGE CAN ONLY OCCUR WHILE THE UNIT IS IN-SERVICE.

Force Majeure Event. An event beyond the reasonable control of the Participant claiming force majeure which, through the exercise of due foresight and Good Industry Practice, the Participant could not have avoided and which, by exercise of due diligence, the Participant is unable to overcome. Such events include, but are

not limited to the following, to the extent that such event prevents performance of a Participant of an obligation: typhoon; storm; tropical depression; flood or inundation; lightning strikes; earthquake; volcanic eruption; fire; epidemic; war; invasion; riot; national emergencies, civil disturbance; sabotage; explosion; insurrection; military or usurped power; action of any court or governmental authority; or any civil or military authority de facto or de jure; natural calamity or act of public enemy; or any other event or cause of a similar nature beyond the reasonable control of the Participant claiming force majeure. A strike or labor dispute is not a Force Majeure Event. **OUTAGES THAT ARE OUTSIDE THE CONTROL OF MANAGEMENT SUCH AS EVENTS THAT ARE UNFORSEEABLE OR NONETHELESS INEVITABLE, AS WELL AS THOSE SIMILAR IN NATURE SUCH AS LACK OF WATER FOR HYDRO BASED FACILITIES, AND OTHER SIMILAR CASES SHALL BE CONSIDERED UNDER THIS SECTION.**

Generating Plant. A facility, consisting of one or more Generating Units, where electric energy is produced from some other form of energy by means of suitable apparatus.

Generating Unit. A unit conversion apparatus, including auxiliaries and associated equipment functioning as a single unit, which is used to produce electric energy from some other form of energy.

Generation Company. Any person or entity authorized by the ERC to operate a facility used in the generation of electricity.

Grid. The High Voltage backbone system of interconnected transmission lines, substations and related facilities, each located in Luzon, Visayas, and Mindanao, or as may be determined by ERC in accordance with Section 45 of the Act.

Grid Operating and Maintenance Program (GOMP). The Operating Program of the Grid prepared by the System Operator that contains the Scheduled Maintenance of grid components and/or facilities, its duration, estimated date and time of start and completion.

Outage. The state of a Unit and/or Component when it is not available to perform its intended function due to some event directly associated with that Unit and/or Component. An Outage may or may not cause an interruption of service to customers.

OUTSIDE MANAGEMENT CONTROL (OMC). AN OUTAGE WHEREIN THE CAUSE IS BEYOND THE CONTROL OF THE GENERATION COMPANY AND HAS NOT RESULTED FROM PLANNING ERROR OR NEGLIGENCE. THE FOLLOWING ARE CONSIDERED UNDER THIS CLASSIFICATION:

1. FORCE MAJEURE EVENT;
2. GRID CONNECTION OR SUBSTATION FAILURE. THIS REASON RELATES TO PROBLEMS WITH TRANSMISSION LINES, SUBSTATION, AND SWITCHYARD EQUIPMENT OUTSIDE THE RESPONSIBILITIES OF THE GENERATING PLANT;
3. LACK OF FUEL (WATER FROM RIVERS OR LAKES, COAL MINES, GAS LINES, ETC.) WHERE THE GENERATION COMPANY IS NOT IN CONTROL OF CONTRACTS, SUPPLY LINES, OR DELIVERY FUELS;

4. SPECIAL ENVIRONMENT LIMITATIONS SUCH AS LOW COOLING POND LEVEL, OR WATER INTAKE RESTRICTIONS THAT COULD NOT BE PREVENTED BY OPERATOR ACTION
5. LABOR STRIKE; AND
6. CHANGE IN ANNUAL PLANNED MAINTENANCE SCHEDULES DUE TO O&M OF GOVERNMENT FACILITIES AND/OR SYSTEM OPERATOR (I.E., NGCP, NPC, NIA).

Period Hours - number of hours a Unit was in the active state. A unit generally enters the active state on its service date which is the date of the actual commercial operation of the plant, after testing and commissioning.

Planned Outage. The state in which a Unit is unavailable due to inspection, testing, preventive maintenance or overhaul. A Planned Outage is scheduled with a pre-determined duration and is coordinated with the System Operator. The Planned Outage of a Unit shall be reflected in the Grid Operating and Maintenance Program (GOMP)- **OR ANY OF ITS REVISIONS AS APPROVED BY THE SO SEVEN (7) DAYS BEFORE THE OUTAGE SCHEDULE. ANY OUTAGE ON ACCOUNT OF MAJOR MAINTENANCE AND OVERHAUL SHALL NOT BE COUNTED AGAINST THE NUMBER OF DAYS ALLOWED FOR PLANNED OUTAGES.**

RUN-OF-RIVER (ROR) HYDROELECTRIC GENERATING PLANT. A WATER-BASED ENERGY SYSTEM WHICH PRODUCES ELECTRICITY BY UTILIZING THE KINETIC ENERGY OF RUNNING WATER TO TURN A TURBINE GENERATOR, HAS NO OR VERY LITTLE STORAGE CAPACITY, AND WHOSE GENERATION IS DEPENDENT ON THE TIMING AND SIZE OF RIVER FLOWS.

System Operator (SO). The party responsible for generation dispatch, or the implementation of the generation dispatch schedule of the Market Operator, the provisions of ancillary services, and operation to ensure the safety, power quality, stability, reliability and security of the Grid.

Transmission Network Provider (TNP). The party responsible for maintaining adequate Grid capacity in accordance with the provisions of the Philippine Grid Code.

~~**Unplanned Outage.** The state in which a Unit is unavailable but is not in the Planned Outage state. Also, Unplanned Outage starts when Planned Outage ends but is extended due to unplanned work.~~

VARIABLE RENEWABLE ENERGY GENERATING FACILITY. A FACILITY CONSISTING OF ONE OR MORE GENERATING UNITS, WHERE ELECTRIC ENERGY IS PRODUCED FROM A SOURCE THAT IS RENEWABLE, CANNOT BE STORED BY THE FACILITY OWNER OR OPERATOR AND HAS INHERENT INTERMITTENCY THAT IS BEYOND THE CONTROL OF THE FACILITY OWNER OR OPERATOR.

ARTICLE V – ~~RELIABILITY PERFORMANCE INDICES AND EQUIVALENT FORCED ALLOWABLE OUTAGE DAYS~~

~~Shown in Table 1 are the Standard Planned and Unplanned Outages determined by ERC for the different generating plant technologies:~~

Table 1. Allowable Planned and Unplanned Outage Days

	Pulverize dCoal	Circulating Fluidize dBed	Combine dCycle	Gas Turbin e	Diesel	Geo- therma l	Hydro - electri c	Oil- Fired Therma l	Biomass
Days of Day available	44.7	32.3	20.2	29.2	19.0	19.7	29.9	58.6	39.7
Days of Days Planned Outage	27.9	15.4	12.5	6.5	5.0	6.0	23.1	30.8	32.7
Days of Days Unplanned Outages	16.8	16.9	7.7	22.7	14.0	13.7	6.8	27.8	7.0

TABLE 1. ALLOWABLE FORCED OUTAGE IN DAYS

TECHNOLOGY	ALLOWABLE FORCED OUTAGE (DAYS)
COAL (CFB)	64.0
DIESEL	75.1
NAT GAS	47.93
GEOTHERMAL	138.8
HYDRO	29.3
HYDRO (PUMP-STORAGE)	33.1
COAL (PULVERIZED)	95.9

ERC recognizes the technical capabilities of the SO and the TNP, being the primary entities in maintaining and ensuring the security and reliability of the grid, in so far as the determination of the reasonable **PLANNED** outages are concerned **AND SHALL BE DETERMINED THROUGH THE APPLICATION PROCEDURE OUTLINED IN ARTICLE VI.** For this reason, the SO and the TNP shall utilize the allowable planned outage days in Table 1 as guide in preparing the GOMP. However, if the SO and the TNP shall utilize planned outages beyond what is allowable in Table 1 hereof, the same shall provide a report as to the reason for such consideration. This report shall be incorporated in the Quarterly Submission of the GOMP by the SO to the ERC.

The ERC sets the standard **unplanned FORCED** outages for the generating plants to strictly observe. Not only shall this ensure that the generating plants will be properly maintained, consequently resulting to lesser incidents and occurrences of **unplanned FORCED** outages. **FORCED OUTAGES THAT ARE CLASSIFIED AS OUTSIDE MANAGEMENT CONTROL OUTAGES SHALL NOT BE COUNTED AGAINST A GENERATING UNIT'S FORCED OUTAGE ALLOWANCE.**

Further, as part of the operational responsibilities stated in 6.3.1 and 6.3.2 of the PGC Grid Operations (GO), the SO and the TNP shall ensure security and

~~reliability of the Grid in the preparation and implementation of the Grid Maintenance Program.~~

ARTICLE VI – OUTAGE ALLOWANCE APPLICATION

The planned outage allowance in days per year, **AS SUBMITTED BY THE GENERATING PLANTS**, ~~as determined herein~~, shall be used by the SO and TNP TO guide their preparation and implementation of the GOMP. **ALL PLANNED OUTAGES REFLECTED IN THE GOMP, ANY OF ITS REVISIONS, OR AS APPROVED BY THE SO SEVEN (7) DAYS BEFORE THE OUTAGE SCHEDULE SHALL BE ALLOWED. IF THE SO APPROVES THE EXTENDED OR REVISED PLANNED OUTAGE SCHEDULE IN LESS THAN SEVEN (7) DAYS BEFORE THE OUTAGE SCHEDULE, SUCH APPROVAL SHALL BE IMMEDIATELY COMMUNICATED TO THE ERC.**

On the other hand, the **FORCED ~~unplanned~~** outage allowance in days per year, **AS DETERMINED UNDER ARTICLE V**, will serve as the maximum or cap for **FORCED ~~unplanned~~** outages per power plant technology.

The said planned and **FORCED ~~unplanned~~** outage allowances may also be used as guide **IN THE COMPETITIVE SELECTION PROCESS AND** by the Commission for its evaluation of cases and monitoring purposes.

ARTICLE VII – TRANSITORY AND FINAL PROVISIONS

Section 1. Administrative Sanctions. In case of non-compliance by any person or entity with any of the provisions of these Rules, ERC shall review such non-compliance and issue a Notice of Non-Compliance with an Order ~~to comply and to explain~~, within **FIFTEEN (15) DAYS** ~~seven (7) days~~ from receipt of the same, the reason or reasons therefor. After the Notice and Order shall have been issued by ERC and the person or entity still refuses and fails to ~~comply~~. **EXPLAIN** within the reglementary period of what is incumbent upon the person or entity, ERC shall impose the necessary fines and penalties.

Violations of these Rules shall be subject to the imposition of appropriate sanctions, fines, and penalties in accordance with SECTION 5 OF ERC Resolution No. 3, Series of 2009, entitled a *“Resolution Amending 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,”* or any other issuances that may be adopted by ERC in the future. **FOR THE AVOIDANCE OF DOUBT, ONE DAY (24 HOURS) OF OUTAGE INVOLVING ONE HUNDRED PERCENT (100%) OF THE DEPENDABLE CAPACITY OF THE GENERATING UNIT IN EXCESS OF THE ALLOWABLE FORCED OUTAGE SHALL BE TREATED AS ONE INCIDENT SUBJECT TO PENALTY.** *Violations of these Rules shall be without prejudice to sanctions or penalties for violations of other applicable laws or rules.*

Section 2. DISPOSITION OF SHOW CAUSE ORDERS, CASES, AND PENALTIES. **ALL PREVIOUSLY ISSUED SHOW CAUSE ORDERS, PENDING CASES, AND PENALTIES IMPOSED FOR VIOLATIONS OF THE INTERIM RELIABILITY PERFORMANCE INDICES AND EQUIVALENT OUTAGE DAYS PER YEAR OF GENERATING UNITS UNDER RESOLUTION 10 SERIES OF 2020, PRIOR TO THE**

EFFECTIVITY OF THESE RULES, ARE HEREBY WITHDRAWN AND RESCINDED.

SECTION 3. Separability Clause. If, for any reason, any provision of these Rules is declared unconstitutional or invalid by final judgment of a competent court, the other parts or provisions hereof which are not affected thereby shall continue to be in full force and effect.

SECTION 4. Repealing Clause. **THE INTERIM RELIABILITY PERFORMANCE INDICES AND EQUIVALENT OUTAGE DAYS PER YEAR OF GENERATING UNITS UNDER RESOLUTION 10, SERIES OF 2020 AND** any rule or regulation inconsistent with the provisions of these Rules is hereby repealed and modified accordingly.

SECTION 5. Exception Clause. Where good cause appears, the ERC may allow an exception from any provisions of these Rules if such exception is found to be for the interest of the public and is not contrary to law or any other related rules and regulations.

SECTION 6. Effectivity. These Rules shall take effect fifteen (15) days after its publication in a newspaper of general circulation.



ANNEX **C**

PHILIPPINE INDEPENDENT POWER PRODUCERS ASSOCIATION, INC.

Unit 2408, 24th Floor, Prestige Tower, F. Ortigas Jr. Road (formerly Emerald Avenue),
Ortigas Center, Pasig City 1605
Telefax: (632) 8633-3844

PIPPA 2020-024

December 17, 2020

Energy Regulatory Commission
12th Floor, Pacific Center Building,
San Miguel Avenue, Pasig City

Attention: **Agnes VST Devanadera**
Chairperson and CEO

Subject: **PIPPA Clarification**
ERC Resolution Number 10, Series of 2020
***"A resolution adopting the interim reliability performance indices and equivalent
outage days per year of generating units"***

Dear Chairperson Devanadera,

The Philippine Independent Power Producers Association, Inc. (PIPPA), thanks the Commission for the opportunity extended to our members to participate in the discussion during the drafting of ERC Resolution No. 10 Series of 2020 ("Resolution 10").

On 17 December 2020, we received a copy of Resolution 10 which is set to become effective 15 days after its publication. We have reviewed the contents thereof and respectfully raise the following for clarification to the Honorable Commission, namely:

- i. We noticed that the resolution referred to the tabular matrix as a ***guide*** on the days for planned and unplanned outages. Particularly in the second paragraph of Article V, where it states that the ***"ERC recognizes the technical capabilities of the SO and TNP... in so far as the determination of reasonable planned outages are concerned. For this reason, the SO and the TNP shall utilize the allowable planned outage days in Table 1 as a guide in preparing the GOMP. However, if the SO and TNP shall utilize planned outages beyond what is allowable in table 1 hereof, the same shall provide a report as to the reason for such consideration. This report shall be incorporated in the Quarterly Submission of the GOMP by the SO to the ERC."***

Article VI likewise specifically states that the planned outage allowance in days per year shall be used as ***indices or guide***.

PIPPA previously manifested that planned outages are dependent on various factors such as plant age, technology type, and manufacturer specifications/requirements, etc. We seek to clarify that should our plants require longer planned outage days due to the factors mentioned above, as long as it is included in the report of the SO and or justified by the generator, such planned outage days above the tabular guide is allowed.

- ii. For unplanned outage days, we note the ERC has prescribed the days set in the tabular matrix as the maximum per technology.

Given this mandate, Article VII, Section 1 mandates compliance *and* explanation within 7 days from receipt of notice by the non-complying party. We seek clarification on situations where circumstances (i.e., technical difficulties, logistical problems) prevent the immediate compliance within the time prescribed by the ERC. Considering the joint requirement of explanation and compliance, it may be impossible for some to comply on such a short span of time. As such, will the prescribed reglementary period of compliance vary on a case-to-case basis given that there will be situations that render it impossible to comply within 7 days?

- iii. Treatment of major maintenance and overhauls that are conducted every 4 to 5 year intervals.

May we seek clarification on treatment of major maintenance and overhauls as these activities are crucial to ensure reliability of the power plants. We hope that we can clarify that any major maintenance and overhauls should not be counted against the numbers indicated for planned outages.

- iv. Outages outside of management control

We would like to clarify that outages outside management control are not included in accounting for the outage allowance. The allowable outages as per Table 1 should **exclude** force majeure events, and those of similar nature (i.e., lack of water for hydro facilities).

- v. Definition of Conventional, Non-Variable and Variable Renewable Energy

We would like to refer to Article III of Resolution 10, to wit:

"The interim benchmark shall apply to Generation Companies with Conventional and Non-Variable Renewable Energy Generating Plants connected to the Grid, including Embedded Generating Plants, which have an aggregate capacity of 5MW and above. "

The terms used under the scope is not defined in the Resolution. We respectfully would like to clarify the definitions of Conventional, Non-Variable RE Generating Plants. Lastly, PIPPA requests clarification to the definition of Variable RE Generating Plants.

Due to the upcoming holiday period, we respectfully request the Honorable Commission to defer the implementation of Resolution 10 pending clarification on the issues discussed above. Our

generator members are deeply concerned with the interpretation and application of Resolution 10 and as such, we will be seeking continuous discussion on these issues with the Honorable Commission.

Thank you in advance for your kind consideration and we look forward to receiving clarification on our queries.

We wish you and the members of the Commission a blessed Christmas. Stay healthy and safe during this holiday season.

Very truly yours,

A handwritten signature in black ink, appearing to read "Anne Estorco Montelibano". The signature is written in a cursive style with a large initial "A".

Anne Estorco Montelibano
President and Executive Director



ANNEX "D"

PHILIPPINE INDEPENDENT POWER PRODUCERS ASSOCIATION, INC.

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PIPPA 2021-004

20 January 2021

Energy Regulatory Commission
12th Floor, Pacific Center Building,
San Miguel Avenue, Pasig City

Attention: **Agnes VST Devanadera**
Chairperson and CEO

Subject: **PIPPA Clarification**
ERC Resolution Number 10, Series of 2020
"A resolution adopting the interim reliability performance indices and equivalent outage days per year of generating units"

Dear Chairperson Devanadera,

On 3 January 2021, Resolution No. 10, Series of 2020 became effective after its publication dated 19 December 2020. The Philippine Independent Power Producers Association, Inc. (PIPPA), would like to respectfully follow up on our query sent last December 2020 regarding a few issues that are a source of concern for our member generators.

To recap, our members are deeply concerned with the interpretation and application of Resolution 10 and as such, we will be seeking continuous discussion on these issues with the Honorable Commission. Particularly the following:

- i. We noticed that the resolution referred to the tabular matrix as a ***guide*** on the days for planned and unplanned outages. Particularly in the second paragraph of Article V, where it states that the ***"ERC recognizes the technical capabilities of the SO and TNP... in so far as the determination of reasonable planned outages are concerned. For this reason, the SO and the TNP shall utilize the allowable planned outage days in Table 1 as a guide in preparing the GOMP. However, if the SO and TNP shall utilize planned outages beyond what is allowable in table 1 hereof, the same shall provide a report as to the reason for such consideration. This report shall be incorporated in the Quarterly Submission of the GOMP by the SO to the ERC."***

Article VI likewise specifically states that the planned outage allowance in days per year shall be used as ***indices or guide***.

PIPPA previously manifested that planned outages are dependent on various factors such as plant age, technology type, and manufacturer specifications/requirements, etc. We seek to clarify that should our plants require longer planned outage days due to the factors mentioned above, as long as it is included in the report of the SO and or justified by the generator, such planned outage days above the tabular guide is allowed.

- ii. For unplanned outage days, we note the ERC has prescribed the days set in the tabular matrix as the maximum per technology.

Given this mandate, Article VII, Section 1 mandates compliance *and* explanation within 7 days from receipt of notice by the non-complying party. We seek clarification on situations where circumstances (i.e., technical difficulties, logistical problems) prevent the immediate compliance within the time prescribed by the ERC. Considering the joint requirement of explanation and compliance, it may be impossible for some to comply on such a short span of time. As such, will the prescribed reglementary period of compliance vary on a case-to-case basis given that there will be situations that render it impossible to comply within 7 days?

- iii. Treatment of major maintenance and overhauls that are conducted every 4 to 5 year intervals.

May we seek clarification on treatment of major maintenance and overhauls as these activities are crucial to ensure reliability of the power plants. We hope that we can clarify that any major maintenance and overhauls should not be counted against the numbers indicated for planned outages.

- iv. Outages outside of management control

We would like to clarify that outages outside management control are not included in accounting for the outage allowance. The allowable outages as per Table 1 should **exclude** force majeure events, and those of similar nature (i.e., lack of water for hydro facilities).

- v. Definition of Conventional, Non-Variable and Variable Renewable Energy

We would like to refer to Article III of Resolution 10, to wit:

"The interim benchmark shall apply to Generation Companies with Conventional and Non-Variable Renewable Energy Generating Plants connected to the Grid, including Embedded Generating Plants, which have an aggregate capacity of 5MW and above. "

The terms used under the scope is not defined in the Resolution. We respectfully would like to clarify the definitions of Conventional, Non-Variable RE Generating Plants. Lastly, PIPPA requests clarification to the definition of Variable RE Generating Plants.

Pending a definitive guidance regarding the matters raised to this Honorable Commission for clarification, may we request for deferment in the implementation of Resolution 10. Our members will be available to participate in any meeting that the Honorable Commission will set for purposes of expounding the points raised above.

Thank you in advance for your kind consideration and we look forward to receiving clarification on our queries.

Very truly yours,

A handwritten signature in black ink, appearing to read "Anne Estorco Montelibano". The signature is fluid and cursive, with a prominent initial "A" and "M".

Anne Estorco Montelibano
President and Executive Director



PHILIPPINE INDEPENDENT POWER PRODUCERS ASSOCIATION, INC.
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ANNEX "E"

PIPPA 2021-019

17 May 2021

ENERGY REGULATORY COMMISSION
Pacific Center Building, San Miguel
Avenue Ortigas Center, Pasig City

ATTENTION: **Hon. Agnes VST Devanadera**
Chairperson of Energy Regulatory Commission

Re: **Further Clarification on Resolution 10, Series of 2020 "A Resolution Adopting the Interim Reliability Performance Indices and Equivalent Outage Days per Year of Generating Units"**

Dear Chairperson Devanadera,

We would like to express our appreciation to the Honorable Commission for the meeting held on 5 February 2021 to discuss clarification on the above subject matter.

Aside from the meeting, we would like to kindly follow-up with the Honorable Commission for the official response on the followings clarifications as we have indicated our letters in January and February 2021:

1. For Planned Outages, we seek to confirm our interpretation that should our plants require longer planned outage days due to identified factors, included in the report of the SO and or justified by the generator, such planned outage days beyond the tabular guide is allowed.
2. For unplanned outage days, we seek clarification on situations where circumstances (i.e., technical difficulties, logistical problems) prevent the immediate compliance within the time prescribed by the ERC. As such, will the prescribed reglementary period of compliance vary on a case-to-case basis given that there will be situations that render it impossible to comply within 7 days.
3. Regarding the treatment of major maintenance and overhauls that are conducted every 4 to 5 year intervals, we hope to clarify that any major maintenance and overhauls will not be counted against the number of days indicated for planned outages.
4. For outages outside of management control, we would like to clarify that outages outside management control are not included in accounting for the outage allowance (exclude force majeure events, and those of similar nature(i.e., lack of water for hydro facilities).

5. The terms Conventional and Non-Variable Renewable Energy Generating Plants under the scope are not defined in the Resolution. We respectfully would like to clarify the definitions of Conventional, Non-Variable RE Generating Plants.

We would also like to take this opportunity to highlight one concern raised during our meeting on whether Run-of-River Hydro (ROR) is considered Variable Renewable Energy (VRE), and if it is covered by reliability standards set under Article III- Scope and Application, to wit:

"The interim benchmark shall apply to Generation Companies with Conventional and Non-Variable Renewable Energy Generating Plants connected to the Grid, including embedded Generating Plants, which have an aggregate capacity of 5MW and above."

The Honorable Commission clarified in the said meeting that under the Philippine Grid Code, the ROR is considered VRE. Therefore, the interim benchmark is not applicable to ROR generating plants. However, it was brought to our attention that one of PIPPA's members with an ROR facility received a notice of non-compliance and an order to explain for having a cumulative unplanned outage beyond the maximum allowable unplanned outage days. May we know the reason for this considering that RORs are classified as VREs both in PGC and in the WESM?

Thank you, we look forward to receiving clarification on our queries, so we can aptly cascade this to our members.

Very truly yours,



Anne Estorco Montelibano
President and Executive Director



PHILIPPINE INDEPENDENT POWER PRODUCERS ASSOCIATION, INC.
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PIPPA 2022-016

11 April 2022

ENERGY REGULATORY COMMISSION
17th Floor, Pacific Building
San Miguel Avenue, Ortigas

Subject: PIPPA Comments on ERC Case No. 2022-003RM - "In the Matter of the Petition for Rule-Making for the Amendment of the Rules for the Interim Reliability Performance Indices and Equivalent Outage Days Per Year of Generating Units"

Dear Chair Agnes Devanadera,

In compliance with the above Petition for Rule-Making, we are respectfully submitting our position on the Reliability Indices and Equivalent Outage Days per Year of Generating Units.

While we support the position of CBK for the adoption of a new category for Pump Storage, which is different from hydro-electric power plants, our comments are submitted for your consideration taking into account the peculiarities in technology and operation explained in the petition, without prejudice to PIPPA's submitted position and letters to the Honorable Commission from July 2019 to Feb 2022.

**Reliability Indices are already
subsumed under the PSA of the
Genco with the DU**

It must be noted that PIPPA, at the onset, has advocated a position that the reliability indices are included under the PSAs of the Genco with the DU. To recap, the said outage allowance was already considered in the pricing of the tariff in the off take agreement specifically for those PSAs that have undergone competitive selection process (CSP) under the DOE Department Circular No. DC2018-02-0003 and as amended by Department Circular No. DC2021-09-0030. The CSP process has subjected the tariff, including pricing for the outage allowance to competitive market pressure resulting from rates that are much lower than the pre-CSP era. Further, the market pressures brought by the CSP regime drove GenCos to significantly improve their reliability to be

competitive in various rounds of CSP. Commercial incentives, as well as penalties, associated with outage allowances and replacement power obligations are already incorporated in the PSAs. A separate layer of penalties will be a superfluous and onerous layer when the CSP has guaranteed the most competitive arrangement for the DU.

Reliability standards are only as a guide

With the CSP framework in mind, we respectfully submit that the methodology on a cost-based evaluation of PSA, including the outages allowance is already moot. The Reliability Performance Indices under ERC Resolution No. 10 s 2020, thus should only serve as a guide for the DUs as part of their evaluation criteria in the CSP process. Admittedly, Gencos that go beyond the outage allowance in the said resolution will price their tariff higher and will make them less competitive than more efficient Gencos with less outage allowances. However, a Genco that is less efficient may bid at a lower price in order to secure an offtaker, with a lower return. This now creates a situation wherein a Genco, aside from taking a lower return, which is by choice, also must contend with the prospect of being penalized due to its non-compliance on the said reliability indices.

While PIPPA understands that the Honorable Commission's mandate is to provide efficient services to the consumers, we suggest that the Reliability Indices should not be punitive in nature but should be taken as a reward for efficient Gencos.

Proposal on the methodology

Lastly, as PIPPA raised some concern on the methodology on the selection of the data, i.e. 50th percentile, may we suggest that the Honorable Commission adopt a uniform allowance outage of ***30 days planned and 15 days for unplanned for each unit*** with additional outage allowance for major maintenance cycle which is every 4 years. We are willing to have a technical working group dialogue to refine the above proposal once the methodology is established and other data points are considered in the crafting of the new standards.

Request to suspend ERC Resolution No. 10, Series 2020

We would also like to request that the Honorable Commission suspend the said resolution, being interim in nature, until December 2023, when the situation in the country normalizes as the restrictions on foreign travel, sourcing of equipment, among others, ease due to the COVID-19 Pandemic.

We thank you for the opportunity to provide our inputs to the Draft Rules and likewise express our appreciation to the Honorable Commission's initiatives to continuously revisit and refine its existing rules and regulations to improve the energy industry.

Very truly yours,



Anne Estorco Montelibano
President and Executive Director

	2017	2018	2019	2020	2021	2022	Remarks
P1							
Coal (CFB)	77.29	31.07	81.87	28.90	14.31	52.23	Commercial Operations 24 Apr 2015
P2							
Coal (CFB)		191.10	130.09	31.32	50.54	41.03	Commercial Operations 21 Feb 2016
U1							
Coal (CFB)			26.08	9.17	0.31	12.11	
U2							
Coal (CFB)			34.43	0.14	0.43	0.08	
U3							
Coal (CFB)			1.83	0.20	18.14	0.86	
U4							
Coal (CFB)			0.00	14.85	3.51	1.72	
CFB-1							
Coal (CFB)		5.06	1.36	20.35	23.44	26.25	Non-Legacy Plant
CFB-2							
Coal (CFB)		1.29	7.73	19.77	8.41	0.68	Non-Legacy Plant
CFB-3							
Coal (CFB)		5.07	2.30	8.40	15.20	7.32	Non-Legacy Plant
CFB-4							
Coal (CFB)		4.31	10.34	9.58	15.44	15.63	Non-Legacy Plant
CFB-5							
Coal (CFB)		19.51	5.78	7.64	9.26	0.82	Non-Legacy Plant
CFB-6							
Coal (CFB)		11.79	4.58	4.88	12.68	6.06	Non-Legacy Plant
CFB-7							
Coal (CFB)		10.81	3.63	2.66	7.54	12.09	Non-Legacy Plant
Unit 1							
Coal (CFB)		5.81	6.04	4.75	4.27	13.50	Non-Legacy Plant
Unit 2							
Coal (CFB)			51.26	25.86	5.65	15.82	● Data without OMC; 2022 updated as of Oct; COD: April 15, 2019
Coal (Pulverized)							● Data without OMC; 2022 updated as of Oct; COD: August 15, 2019
Unit 1							● Data without OMC; 2022 updated as of Oct; COD: June 13, 1996
Coal (Pulverized)							● Data without OMC; 2022 updated as of Oct; COD: August 14, 1996
Unit 2							● Updated as of Oct 2022; COD: Sept 18, 2015
Coal (CFB)							● Updated as of Oct 2022; COD: Feb 02, 2016
Unit 1							
Coal (CFB)		3.10	15.08	70.54	17.62	39.73	
Unit 2							
Coal (CFB)		11.40	29.00	38.20	6.00	5.00	
Unit 1							
Coal (CFB)		21.80	0.20	17.90	30.80	4.30	
Unit 2							
Coal (CFB)		17.10	27.40	47.30	20.72	15.60	
P1 S1							
Diesel			192.90	137.00	21.90	56.76	
P1 S2							
Diesel					1.00	40.00	
P1 S3							
Diesel					1.00	40.00	
P1 S4							
Diesel					1.00	40.00	
P1 S5							
Diesel					1.00	42.00	
P1 S6							
Diesel					1.00	40.00	
P2 U1							
Diesel					1.00	40.00	
P2 U2							
Diesel				0.12	1.42	10.36	
P2 U3							
Diesel				1.84	1.48	7.52	
P2 U4							
Diesel				0.01	2.03	13.99	
P3 U1							
Diesel				0.37	1.83	29.04	
P3 U2							
Diesel				2.92	6.13	26.37	
P3 U3							
Diesel				24.63	9.21	11.73	
P3 U4							
Diesel				0.17	8.46	5.48	
P3 U5							
Diesel				3.46	13.63	98.20	
P3 U6							
Diesel				6.38	30.04	113.33	
P3 U7							
Diesel				0.23	38.55	127.85	
P3 U8							
Diesel				2.63	106.83	9.87	
P4 U1							
Diesel				1.17	23.42	8.75	
P4 U2							
Diesel				3.37	3.94	3.65	
P4 U3							
Diesel				3.23	3.95	5.30	
P4 U4							
Diesel				3.56	3.01	3.32	
P4 U5							
Diesel				3.59	3.98	3.99	
DGP-1							
Diesel				3.17	6.95	14.16	
				29.45	204.02	10.71	Legacy Plant

Diesel	DG 4	5.7	0.00	0.00	28.75	39.96	27.88	11.54	0.62	0.46
Diesel	DG 5	5.7	0.00	0.00	30.46	34.54	3.02	11.77	1.36	0.63
Diesel	DG 6	5.7	0.00	0.00	29.46	31.29	6.67	12.89	0.63	0.33
Diesel	DG 7	3.8	0.00	0.00	31.29	9.75	27.84	11.83	0.63	1.48
Diesel	DG 8	3.8	0.00	0.00	29.13	4.83	42.62	11.98	0.63	0.54
Diesel	DG 9	3.8	0.00	0.00	29.16	4.75	33.85	11.40	0.63	3.82
Diesel	DG 10	5.7	0.00	0.00	29.37	8.23	27.14	11.47	3.58	0.32
Diesel	DG 11	5.7	0.00	0.00	45.01	7.97	45.49	11.63	1.14	4.86
Diesel	DG 12	5.7	0.00	0.00	29.16	32.96	59.06	11.73	1.57	0.47
Diesel	DG 1	4	0.00	0.00	64.30	358.13	287.00	12.94	7.14	1.40
Diesel	DG 2	4	0.00	0.00	132.26	20.36	78.30	366.00	365.00	187.29
Diesel	DG 3	4	0.00	0.00	35.81	22.24	99.53	41.26	0.41	2.70
Diesel	DG 4	4	0.00	0.00	39.19	304.50	287.00	50.22	0.41	9.57
Diesel	DG 5	4	0.00	0.00	282.88	22.69	79.87	365.00	249.09	7.84
Diesel	DG 6	4	0.00	0.00	44.38	89.65	44.58	50.26	1.66	0.80
Diesel	DG 7	4	0.00	0.00	87.29	55.39	60.03	46.18	3.02	11.88
Diesel	DG 8	4	0.00	0.00	173.17	19.96	47.48	69.82	0.49	79.66
Diesel	DG 9	4	0.00	0.00	186.29	358.13	287.00	35.35	0.95	6.21
Diesel	DG 10	4	0.00	0.00	130.08	20.95	59.85	366.00	365.00	186.89
Diesel	DG 11	4	0.00	0.00	97.93	237.29	165.54	39.14	0.41	13.75
Diesel	DG 12	4	0.00	0.00	53.99	60.68	189.51	48.53	0.41	1.69
Diesel	DG 13	4	0.00	0.00	125.48	117.27	67.87	366.00	365.00	195.57
Diesel	DG 1		8.84	8.84	8.83	3.50	3.75	54.88	5.46	16.18
Diesel	DG 2		6.76	6.76	6.04	4.00	2.21	2.56	26.75	41.67
Diesel	DG 3		8.44	8.44	6.42	2.50	24.46	1.59	1.79	5.10
Diesel	DG 4		6.10	6.10	5.63	5.17	1.92	6.16	3.58	4.75
Diesel	DG 5		8.47	8.47	30.29	2.50	1.63	3.05	4.42	9.64
Diesel	DG 6		7.41	7.41	13.25	3.08	1.92	1.50	4.17	4.75
Diesel	DG 7		5.78	5.78	6.50	3.67	1.96	4.37	2.92	25.35
Diesel	DG 8		6.65	6.65	2.42	1.71	1.58	4.96	2.92	3.57
Diesel	DG 9		2.91	2.91	4.58	2.71	2.38	4.19	6.83	3.25
Diesel	DG 10		5.36	5.36	2.88	2.08	5.79	4.00	2.75	6.40
Diesel	DG 1	7.71			1.79	1.25	5.46	8.99	4.42	3.99
Diesel	DG 2	70.01			1.46	1.29	3.08	0.38	8.00	8.62
Diesel	DG 3	5.64			0.50	4.38	17.67	1.42	28.17	13.18
Diesel	DG 4	12.46			1.83	1.96	5.04	1.58	7.58	25.49
Diesel	DG 1							0.67	8.46	9.19
Diesel	DG 2							27.33	58.96	16.53
Diesel	DG 3							33.54	49.71	98.52
Diesel	DG 4							18.17	36.75	65.19
Diesel	DG 5							16.92	46.83	41.39
Diesel	DG 6							17.08	3.04	51.39
Diesel	DG 1				0.00	0.42	0.21	26.25	82.96	36.24
Diesel	DG 2				0.04	0.00	0.33	0.05	0.17	179.34
								0.30	0.25	1.35

Diesel	Unit#12	10	8.33	3.50	8.42	4.71	8.71	1.08	0.00	0.00	1.08	8.75
Diesel	Unit#13	10	235.42	200.08	9.96	4.00	0.00	134.33	0.00	0.00	2.00	11.88
Diesel	Unit#14	10	4.63	42.79	12.21	3.63	1.21	2.88	0.29	0.29	2.83	13.17
Diesel	Unit#15	10	365.00	267.71	9.17	4.17	2.04	2.50	1.08	1.08	14.50	7.33
Diesel	Unit#16	10	4.04	36.00	7.92	5.88	1.71	1.42	0.00	0.00	1.38	9.21
Diesel	Unit#17	10	8.21	3.29	7.42	3.46	3.25	1.25	0.88	0.88	1.13	8.71
Diesel	Unit#21	10	1.50	5.21	0.96	3.33	0.00	0.79	0.00	0.00	1.00	1.67
Diesel	Unit#22	10	10.63	4.17	0.50	3.50	0.00	1.54	1.13	1.13	0.17	2.42
Diesel	Unit#23	10	210.42	2.13	353.58	194.88	365.00	98.46	2.50	2.50	1.79	4.63
Diesel	Unit#24	10	7.33	59.25	2.04	52.71	0.92	1.08	1.00	1.00	1.13	5.96
Diesel	Unit#25	10	365.00	240.96	3.13	6.75	2.54	2.71	1.92	1.92	5.04	18.04
Diesel	Unit#26	10	10.29	19.79	4.46	30.50	1.50	4.04	4.29	4.29	0.63	4.33
Diesel	Unit#27	10	1.17	2.00	1.50	5.58	0.71	8.46	1.42	1.42	3.50	5.75
Diesel	Unit#31	10	1.42	1.54	3.67	3.08	0.00	0.42	1.04	1.04	1.29	2.88
Diesel	Unit#32	10	8.88	1.96	0.00	5.42	0.00	0.71	1.25	1.25	82.58	10.96
Diesel	Unit#33	10	165.79	2.63	3.21	3.38	0.75	1.46	0.79	0.79	5.83	8.67
Diesel	Unit#34	10	4.00	55.33	5.58	2.67	1.25	93.38	3.13	3.13	4.96	7.83
Diesel	Unit#35	10	4.33	201.46	179.71	7.21	1.38	3.04	2.42	2.42	5.92	12.04
Diesel	Unit#36	10	8.50	2.67	2.96	39.88	1.13	12.50	80.54	80.54	4.42	102.42
Diesel	Unit#37	10	2.67	0.83	0.46	3.04	1.75	4.71	0.50	0.50	4.58	10.63
Nat Gas	Unit 10		2.81	1.23	1.45	3.33	1.08	2.21	0.00	0.00	4.13	9.67
Nat Gas	Unit 20		5.76	6.27	35.81	13.36	2.37	4.39	5.89	5.89	14.53	1.55
Nat Gas	Unit 30		3.11	1.13	5.21	5.63	12.22	2.16	16.43	16.43	6.15	0.86
Nat Gas	Unit 40		142.52	2.63	1.82	2.14	2.58	4.99	5.50	5.50	17.28	1.35
Nat Gas	Unit 50		6.01	8.70	1.37	1.15	2.65	4.43	4.93	4.93	16.63	14.30
Nat Gas	Unit 60		6.48	6.29	3.76	16.06	5.19	5.15	15.02	15.02	14.60	6.84
Nat Gas	Unit 70					14.30	13.82	8.21	12.16	12.16	3.76	7.01
Nat Gas	Unit 1					67.00	19.19	37.14	90.81	90.81	112.79	8.46
Nat Gas	Unit 2					7.64	31.29	72.13	2.93	2.93	23.82	69.43
Geothermal	Unit 1		4.81	2.08		17.71	10.75	132.37	6.58	6.58	66.63	5.25
Geothermal	Unit 2		65.50	1.14		2.08	0.00	1.02	4.31	4.31	13.73	1.20
Geothermal	Unit 3		11.99	1.16		1.14	1.73	0.74	5.41	5.41	14.45	3.15
Geothermal	Unit 4		0.00	2.08		1.16	0.24	2.18	0.47	0.47	15.61	9.56
Geothermal	Unit 1		14.00	18.51		2.08	2.75	1.54	4.71	4.71	14.88	3.11
Geothermal	Unit 2		9.36	12.29		18.51	238.29	4.75	6.60	6.60	57.31	18.45
Geothermal	Unit 3		287.50	75.41		12.29	124.90	345.86	11.55	11.55	15.24	1.09
Geothermal	Unit 4		9.42	33.76		75.41	20.50	13.43	233.65	233.65	365.00	214.06
Geothermal	Unit 1		19.45	4.45		33.76	41.37	5.25	7.87	7.87	27.71	160.04
Geothermal	Unit 2		103.58	1.84		4.45	15.24	0.59	3.27	3.27	6.85	15.60
Geothermal	Unit 3		37.36	44.77		1.84	6.86	4.40	2.09	2.09	8.34	1.53
Geothermal	OEC 1					44.77	134.05	20.74	35.06	35.06	29.56	17.30
Geothermal	OEC 2		3.26	20.39				0.00	174.07	174.07	199.94	97.37
Geothermal	OEC 3		97.54	350.33				0.00	23.60	23.60	4.22	8.87
Geothermal	OEC 4		0.00	365.00				0.93	6.47	6.47	10.90	33.10
									0.00	0.00	0.00	0.00

Geothermal	Unit 1	16.07	37.34	11.51	1.03	4.06	6.57	1.42
Geothermal	Unit 2	18.23	12.86	1.64	0.08	0.00	2.29	5.95
Geothermal	Unit 3	63.47	16.03	0.00	0.12	0.71	9.10	42.48
Geothermal	Unit 1	4.04	1.80	1.77	2.58	94.13	21.51	11.89
Geothermal	Unit 2	1.46	7.56	4.91	8.59	30.18	11.15	18.34
Geothermal	Unit 3	1.60	3.00	6.92	3.41	33.24	15.69	30.10
Geothermal	UNIT 1	8.21	11.70	0.62	2.15	0.72	13.21	4.81
Geothermal	UNIT 2	0.51	3.03	1.64	1.00	0.84	4.68	30.00
Geothermal	UNIT 3	49.59	1.40	2.70	1.51	1.67	4.90	9.63
Geothermal	UNIT 4							
Geothermal	UNIT 1	0.00	1.22	1.75	3.28	0.89	55.63	2.71
Geothermal	UNIT 1	0.63	11.41	1.78	13.60	0.87	1.12	1.12
Geothermal	UNIT 1	1.09	17.01	1.78	1.05	2.47	0.05	8.73
Geothermal	UNIT 1					0.00	0.00	0.00
Geothermal	UNIT 1	4.92	9.43	8.51	3.85	36.41	18.35	16.44
Geothermal	UNIT 1	8.20	13.24	2.46	2.50	13.57	13.56	16.36
Geothermal	UNIT 1	8.29	12.63	12.44	0.03	35.87	12.85	10.59
Geothermal	U1	332.00	316.00	300.00	355.00	304.00	262.00	366.00
Geothermal	U2	17.00	18.00	43.00	58.00	1.00	49.00	46.00
Geothermal	U5	3.00	35.00	4.00	20.00	0.00	20.00	60.00
Geothermal	U6	6.00	71.00	3.00	68.00	4.00	4.00	37.00
Geothermal	U1	5.41	2.76	59.16	95.82	117.54	134.67	0.62
Geothermal	U2	1.75	7.58	11.46	37.12	65.90	54.97	1.99
Geothermal	U3	2.33	51.69	19.51	3.85	14.78	6.00	2.53
Geothermal	U4	7.03	10.85	10.47	19.84	8.92	7.59	1.40
Geothermal	U5	18.19	8.34	327.90	246.43	330.61	350.60	76.27
Geothermal	U6	14.81	342.00	364.46	31.00	0.00	0.00	0.00
Geothermal	U7	17.07	129.93	42.35	113.42	163.40	82.18	88.03
Geothermal	U8	18.51	82.85	215.09	76.67	160.80	45.37	15.58
Geothermal	U9	76.60	130.23	189.13	155.88	128.61	188.77	110.06
Geothermal	U10	0.65	10.76	25.36	120.67	189.81	142.57	206.99
Geothermal	U11	0.00	20.85	148.00	263.58	166.19	70.17	25.89
Geothermal	U12	0.00	26.21	220.69	249.69	203.12	47.73	16.43
Hydro	Unit 1	0.04	4.28	0.03	0.67	0.24		0.64
Hydro	Unit 2	0.35	0.75	0.02	0.17	0.09		5.40
Hydro	Unit 1	0.27	0.12	0.09	0.15	0.10	0.06	0.36
Hydro	Unit 2	0.39	0.01	0.45	0.01	0.02	0.00	0.23
Hydro	Unit 3	0.06	0.16	1.42	7.86	3.67	0.82	0.45
Hydro	Unit 4	0.06	0.15	0.04	7.69	0.31	2.73	0.81
Hydro	Unit 1	5.75	0.26	0.26	0.82	0.25	0.99	0.21
Hydro	Unit 2		1.56	2.14	0.41	0.26	0.59	0.26
Hydro	Unit 1		0.06	1.98	0.26	0.41	0.39	0.11
Hydro	Unit 2	6.14	14.22	124.84	19.43	13.73	24.35	20.95
Hydro	Unit 2	5.71	20.27	15.67	18.23	7.92	21.09	25.54
Hydro	Unit 2	2.50						

Single Unit

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8.5
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Sum	2014	2015	2016	2017	2018	2019	2020	2021	2022	2014-2022
Coal (CFB)	114.51	279.77	490.44	239.19	535.60	678.44	647.52	360.61	370.52	3,716.61
Diesel	1,856.75	2,403.33	1,868.68	4,093.43	4,006.66	4,581.57	2,699.98	2,889.85	3,181.15	27,581.39
Nat Gas	166.69	26.25	49.42	144.99	100.06	270.97	160.25	276.19	115.05	1,309.87
Geothermal	195.35	33.80	2,110.97	2,878.87	3,510.26	2,725.82	2,633.44	2,440.02	1,849.79	18,378.32
Hydro	218.74	38.05	105.23	97.36	418.22	148.76	92.42	130.27	73.72	1,322.76
Hydro (Pump-Storage)	21.68	35.70	137.39	52.83	22.72	17.07	115.49	29.47	0.00	432.35
Coal (Pulverized)	116.80	146.90	79.00	124.90	68.50	204.20	126.10	375.80	158.30	1,400.50
Average (Mean)	2014	2015	2016	2017	2018	2019	2020	2021	2022	2014-2022
Coal (CFB)	19.09	39.97	37.73	15.95	35.71	30.84	29.43	16.39	16.84	25.81
Diesel	15.35	16.35	13.16	25.74	24.73	29.37	16.56	18.41	20.26	20.22
Nat Gas	27.78	4.38	8.24	16.11	11.12	30.11	17.81	30.69	12.78	18.19
Geothermal	12.21	2.11	44.91	61.25	74.69	58.00	53.74	49.80	37.75	50.08
Hydro	12.15	2.00	6.19	4.23	22.01	6.47	4.02	6.20	3.88	7.27
Hydro (Pump-Storage)	5.42	8.93	34.35	13.21	5.68	4.27	28.87	7.37	0.00	13.51
Coal (Pulverized)	29.20	36.73	19.75	31.23	17.13	51.05	31.53	93.95	39.58	38.90
Standard Deviation	2014	2015	2016	2017	2018	2019	2020	2021	2022	2014-2022
Coal (CFB)	11.07	23.43	39.61	15.41	62.49	47.88	38.56	15.58	17.05	35.71
Diesel	55.94	39.71	37.76	46.50	65.43	57.88	57.18	59.13	41.30	52.34
Nat Gas	56.23	3.14	13.59	20.01	9.60	44.87	27.79	35.89	21.66	29.74
Geothermal	18.51	2.90	83.39	104.03	112.51	97.10	85.81	85.46	69.07	88.68
Hydro	35.02	2.46	11.78	6.78	53.93	9.68	5.96	8.40	7.29	22.00
Hydro (Pump-Storage)	4.57	5.81	42.39	12.38	6.30	3.10	24.91	5.49	0.00	19.58
Coal (Pulverized)	24.49	54.74	20.89	31.83	13.98	45.07	26.17	141.26	65.69	56.97
Minimum	2014	2015	2016	2017	2018	2019	2020	2021	2022	2014-2022
Coal (CFB)	16.77	0.64	5.81	0.99	1.29	0.56	0.14	0.31	0.08	0.08
Diesel	0.07	0.05	0.01	0.01	0.09	0.13	0.01	0.01	0.07	0.01
Nat Gas	2.81	1.13	1.37	1.15	2.37	2.16	2.93	3.76	0.86	0.86
Geothermal	0.65	0.10	0.51	1.14	0.24	0.03	0.47	0.05	0.62	0.03
Hydro	0.02	0.02	0.01	0.01	0.02	0.01	0.02	0.02	0.11	0.01
Hydro (Pump-Storage)	0.15	0.76	3.84	4.12	0.76	0.72	8.85	1.25	0.00	0.15
Coal (Pulverized)	0.60	9.90	4.00	4.60	3.10	0.20	5.00	6.00	4.30	0.20
Maximum	2014	2015	2016	2017	2018	2019	2020	2021	2022	2014-2022
Coal (CFB)	30.89	77.29	128.00	60.00	191.10	192.90	137.00	52.00	56.76	192.90
Diesel	365.00	267.71	353.58	282.88	365.00	356.90	366.00	365.00	272.70	366.00
Nat Gas	142.52	8.70	35.81	67.00	31.29	132.37	90.81	112.79	69.43	142.52
Geothermal	150.43	366.00	366.00	365.00	365.00	355.00	330.61	365.00	366.00	366.00
Hydro	11.30	8.34	41.22	22.78	210.70	37.69	22.43	24.35	25.54	210.70
Hydro (Pump-Storage)	52.00	118.00	94.77	31.09	14.43	8.23	63.51	14.52	0.00	94.77
Coal (Pulverized)	52.00	118.00	42.00	72.00	36.00	101.00	65.00	305.00	138.00	305.00

	Mean	Standard Deviation	Unplanned Outage
Coal (CFB)	25.8	35.7	61.5
Diesel	20.2	52.3	72.6
Nat Gas	18.2	29.7	47.9
Geothermal	50.1	88.7	138.8
Hydro	7.3	22.0	29.3
Hydro (Pump-Storage)	13.5	19.6	33.1
Coal (Pulverized)	38.9	57.0	95.9



ANNEX "H"

Annex "A"

**RULES FOR SETTING DISTRIBUTION
WHEELING RATES
for
PRIVATELY OWNED ELECTRICITY
DISTRIBUTION UTILITIES
OPERATING UNDER PERFORMANCE
BASED REGULATION**

[December 2021]

**Republic of the Philippines
Energy Regulatory Commission
Pacific Center, San Miguel Avenue, Pasig City**

**RULES FOR SETTING
DISTRIBUTION WHEELING RATES**

for

**PRIVATELY OWNED ELECTRICITY DISTRIBUTION UTILITIES
OPERATING UNDER PERFORMANCE BASED REGULATION**

Pursuant to Section 43(f) of Republic Act No. 9136, otherwise known as the Electric Power Industry Reform Act of 2001, and Rule 15, Section 5(a) of the Implementing Rules and Regulations issued pursuant to that Act, the Energy Regulatory Commission (ERC) hereby promulgates the following Rules for the setting of distribution wheeling rates for privately owned distribution utilities operating under performance based regulation. This set of Rules is an amendment to the initial Guidelines on the Methodology for Setting Distribution Wheeling Rates, published by the ERC on December 10, 2004.

This document applies to all privately owned distribution utilities operating under Performance Based Regulation. A set of Rules for Setting Distribution Wheeling Rates will be issued for privately owned electricity distribution utilities entering performance based regulation, following any subsequent amendment by the ERC.

**RULES FOR SETTING
DISTRIBUTION WHEELING RATES
for
PRIVATELY OWNED ELECTRICITY DISTRIBUTION
UTILITIES
OPERATING UNDER PERFORMANCE BASED REGULATION**

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Rules for Setting Distribution Wheeling Rates

ARTICLE I GENERAL PROVISIONS

1.1 Purpose

- 1.1.1 The purpose of these Rules is to prescribe the methodology in setting the maximum distribution wheeling rates that may be charged for the provision of Regulated Distribution Services by privately owned electricity distribution utilities operating under performance based regulation, where the Entry Points were originally defined in Annex B of ERC Resolution No. 12-02, Series of 2004 "Adopting a Methodology for Setting Distribution Wheeling Rates", dated December 10, 2004 and later amended to four Entry Points under ERC Resolution No. 24, series of 2007, dated October 24, 2007 and subsequently further amended under ERC Resolution No. 20, dated December 8, 2008. The entry groups are noted in Appendix D to these Rules.

1.2 Content of the Rules

This set of Rules is a revised version of the original Distribution Wheeling Rate Guidelines issued by the ERC on December 10, 2004, as subsequently amended in the Rules for Distribution Wheeling Rates (RDWR), re-issued at several dates.

1.2.1 These Rules set out:

(a) the methodology in setting the maximum distribution wheeling rates that may be charged for the provision of Regulated Distribution Services by Regulated Entities during the Subsequent Regulatory Period;

(b) the pricing principles for regulating the maximum distribution wheeling rates that may be charged for the provision of Regulated Distribution Services by Regulated Entities during Subsequent Regulatory Period;

(c) the annual rate verification and adjustment process to be undertaken in relation to the maximum distribution wheeling rates allowed to be charged by the Regulated Entities during a Regulatory Period;

(d) the regulatory processes and timelines by which the methodology as established by these Rules are to be administered and applied; and

(e) the performance indicators, performance targets and reporting arrangements, which must be complied with by the Regulated Entities during the Subsequent Regulatory Periods, and which shall be monitored by the ERC to ensure effective and efficient delivery of Regulated Distribution Services to consumers.

Rules for Setting Distribution Wheeling Rates

1.3 Definitions

In these Rules, unless the contrary intention appears, the following words and phrases have the following meanings:

Affected Regulated Entity	(a) In relation to a Force Majeure Event, a Regulated Entity which incurs, or is likely to incur, an increase in costs as referred to in the definition of "Force Majeure Event"; and (b) in relation to a Tax Change Event, a Regulated Entity which incurs substantially higher or lower costs as referred to in the definition of "Tax Change Event".
Ancillary Services	Those services that are necessary to support the transmission of capacity and energy from resources to loads while maintaining the reliable operation of the Grid or a Distribution System or a Subtransmission System in accordance with good utility practice, the Grid Code and the Distribution Code. These include the services rendered by generation facilities that are dedicated to providing emergency standby power during emergency situations, such as when the normal operating conditions of a Distribution System are compromised due to bulk supply factors beyond the control of a Regulated Entity.
Application Year	Refers to the year denoted by the Regulatory Year in Section 6.2.1 hereof.
Approved Force Majeure Pass Through Amount	This is the lesser amount between a Force Majeure Pass Through Amount proposed by an Affected Regulated Entity in relation to a Force Majeure Event and the Eligible Force Majeure Pass Through Amount as referred to in Section 10.3.1(b) hereof.
Approved Tax Pass Through Amount	This is the lesser amount between a Positive Tax Pass Through Amount proposed by an Affected Regulated Entity in relation to a Tax Change Event, and the Eligible Tax Pass Through Amount as referred to in Section 11.2.2(b) hereof.
Business Day	Any day other than a Saturday, or a Sunday, or a non-working holiday (or a public holiday).
Business Separation Guideline	This is the ERC promulgated Guideline promulgated under Rule 10, Section 1 of the IRR under ERC Case No. 2003-46, Resolution No. 49, Series of 2006 as amended, which aims to provide the framework and rules for the structural unbundling of the business activities of electric power industry participants.

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Captive Market	Electricity end-users connected to the Regulated Distribution System of a Regulated Entity, who receive their electricity Retail Services from such Regulated Entity in a non-competitive environment, there being no other economically competitive option of sourcing these services from alternative suppliers;
CPI	Refers to the “The All Items Consumer Price Index” published by the Philippine Statistics Authority (PSA).
Customer	<p>(a) a person whose User System or Equipment is directly connected to the Regulated Distribution System and who purchases or receives, or who is seeking to purchase or receive, Regulated Distribution Services in respect of that Regulated Distribution System; and</p> <p>(b) any other person who purchases or receives, or who is seeking to purchase or receive, Regulated Distribution Services in respect of that Regulated Distribution System.</p> <p>This term may likewise refer to a person who operates an Embedded Generator, a Retail Electricity Supplier (RES) or an End-user.</p>
Customer Segment	A group of customers who are charged the same tariff as approved by the ERC. For these purposes, a group of Customers will be categorized on the basis of similar consumption characteristics, based on their geographical location and consumption profile, as measured by the number of connections, the energy throughput (kWh), the non-coincident peak load (kW), the co-incident peak load (kW), the time-of-day or any other physical measure as approved from time to time by the ERC.
Decision Period	The period within which the ERC must give a notice to the relevant Affected Regulated Entity under Section 10.3.1 (Force Majeure Event) and Section 11.2.1 (Tax Change Event).
Distribution Connection Assets	The components of that Regulated Distribution System which are used to provide Distribution Connection Services in respect of that Regulated Distribution System.
Distribution Connection Point	The point of connection of a User System or Equipment to the Regulated Distribution System, excluding Grid Connection Points.
Distribution Connection Services	<p>(a) the provision of capability at a Distribution Connection Point to deliver electricity to or take electricity from that Distribution Connection Point;</p> <p>(b) the conveyance of electricity:</p> <p>(i) to a Distribution Connection Point from any User System or Equipment which is directly connected to</p>

Rules for Setting Distribution Wheeling Rates

that Regulated Distribution System at that Distribution Connection Point; or

(ii) from a Distribution Connection Point to any User System or Equipment which is directly connected to that Distribution Connection Point; or

(iii) from an embedded generator to a Regulated Distribution System, also where the generation plant is installed outside the franchise area of the Regulated Entity operating the Regulated Distribution System.

(c) the planning, installation, maintenance, augmentation, testing and operation of Distribution Connection Assets; and

(d) the provision of services that support any of the services referred to in paragraphs (a) to (c).

Distribution System

A system of wires and associated facilities extending between the delivery points on the Grid and any Subtransmission System operated by a person other than a Regulated Entity on one hand, and the points of connection of User Systems and Equipment of End-users, on the other hand.

Distribution Services and Open Access Rules (DSOAR)

Distribution Services and Open Access Rules, as promulgated by the ERC under Resolution No. 1, Series of 2006, dated January 18, 2006 and later amended under Resolution No. 02, series of 2010, dated February 22, 2010.

Distribution Utility

An electric cooperative, private corporation, government-owned utility, or existing local government unit, that has an exclusive franchise to operate a Distribution System in accordance with the EPIRA.

Easements

It refers to a regulated entity's right to access and control the portion of another person/entity's property that is located near utility facilities and structures (i.e. utility poles, transformers, overhead or underground electrical lines).

Eligible Force Majeure Pass Through Amount

The increase in costs that the relevant Affected Regulated Entity has allegedly incurred at that time (as calculated under Section 10.2.1 or determined by the ERC under Section 10.3.1):

(a) in the distribution of electricity to Distribution Connection Points; and

(b) in complying with the provisions of any legislation, or of any rules, regulations or guidelines made under the EPIRA, including the IRR and the Distribution Code, which must be complied with in relation to the distribution of such electricity,

Rules for Setting Distribution Wheeling Rates

Eligible Tax Pass Through Amount	The increase in costs in the distribution of electricity to Distribution Connection Points that the relevant Affected Regulated Entity has incurred and is likely to incur, until the end of the Regulatory Period in which the Tax Change Event occurs, as a result of that Tax Change Event (as calculated by the Affected Regulated Entity under Section 11.2.1(c) or determined by the ERC under Section 11.2.2(a), as appropriate).
Entry Group	A group of Regulated Entities entering the performance-based regulation program at the same Entry Point. There are four Entry Groups, as described in Appendix C.
Entry Point	The date at which an Entry Group become subject to performance-based regulation. There are four Entry Points into this program, as described in Appendix C
EPIRA	Republic Act No. 9136, otherwise known as the Electric Power Industry Reform Act of 2001.
Equipment	All apparatus, machines, conductors, among others and used as a part of, or in connection with, an electrical installation, as defined in the Distribution Code.
ERC	The Energy Regulatory Commission created under Section 38 of the EPIRA.
Excluded Service	A service that is provided in a Qualified Franchise Area in the ordinary course of an electricity distribution business that is neither a Regulated Distribution Service nor a service that is contestable (whether or not a service is contestable will be determined by the ERC).
Force Majeure Threshold Amount	The amount calculated in accordance with Section 10.2.6.
Force Majeure Event	(a) A typhoon, storm, tropical depression, flood, drought, volcanic eruption, earthquake, tidal wave or landslide; or (b) an act of public enemy, war (declared or undeclared), sabotage, blockade, revolution, riot, insurrection, civil commotion or any violent or threatening actions,
Force Majeure Event Claim	A written claim that satisfies the requirements set out in Section 10.2.3.
Force Majeure Event Notice	A written notice that satisfies the requirements set out in Section 10.2.2.
Forecast Period	A twelve month period ending on December 31 in an Application Year (see Section 6.3.3(a)).

Rules for Setting Distribution Wheeling Rates

Grid Connection Point	A grid connection point is the point of connection of a user system or equipment to the grid, as defined in the Transmission Wheeling Rate Guidelines.
Historical Period	A twelve month period ending on December 31 (see Section 6.2.1(a)).
IRR	The Implementing Rules and Regulations issued pursuant to the EPIRA.
Issues Paper	The Regulatory Reset Issues Paper published by the ERC to invite consultation on the ERC's views on the issues pertinent to the Regulatory Reset Process for the Applicable Regulatory Period.
Last Resort Supply Event	<p>Any of the following situations where a contestable customer is served by the Supplier of Last Resort:</p> <ul style="list-style-type: none">(a) the customer's Retail Energy Supplier has ceased to operate;(b) the license of the customer's Retail Energy Supplier has been revoked or not renewed by ERC;(c) the arrangements for distribution wheeling service between the customer's Retail Energy Supplier and the distribution utility have been terminated;(d) the customer's Retail Energy Supplier is no longer permitted to trade electric energy through the wholesale electricity spot market (WESM), if a WESM member; or(e) other circumstances as determined by the ERC. <p>Refers to the political subdivisions established by or in accordance with the Constitution as defined in Executive Order No. 292, otherwise known as the Administrative Code of 1987.</p>
Local Government	
Major Project	<p>A capital expenditure project:</p> <ul style="list-style-type: none">(a) which is contained in the capital expenditure program that is approved by the ERC under Section 4.12.5 for a Regulated Distribution System; and(b) for which the capital expenditure forecasted in any Regulatory Year for that project (as contained in that program) is greater than PhP30 million or 20% of the total capital expenditure forecasted for that Regulatory Year under that program, whichever is lower.
Negative Tax Change Event	A Tax Change Event which results in a Regulated Entity incurring materially lower costs than that it would have

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incurred if not for that event in the distribution of electricity to Distribution Connection Points that is operated by it.

Negative Tax Pass Through Amount	An amount that is less than a Required Tax Pass Through Amount as referred to in Section 11.1.2.
Non-system Assets	Those assets forming part of the Regulatory Asset Base that are required to provide Regulated Distribution Services, but are not Distribution System assets or Distribution Connection Assets.
Person	Refers to a natural or juridical person, as the case may be.
PhP	Philippine Peso.
Position Paper	The regulatory document which will be prepared following consultation on the Issues Paper, to state the ERC's final position on the Regulatory Reset Process for the Subsequent Regulatory Period.
Positive Tax Change Event	A Tax Change Event which results in a Regulated Entity incurring substantially higher costs than it would have incurred but for that event in the distribution of electricity to Distribution Connection Points that is operated by it.
Qualified Franchise Area	A Franchise Area that is included in Appendix A, as such area may be varied from time to time in accordance with the law.
Quarter	A period of three months from January 1 to March 31 (both dates inclusive), April 1 to June 30 (both dates inclusive), July 1 to September 30 (both dates inclusive) or October 1 to December 31 (both dates inclusive), only for the purpose of determining the quarter.
Regulated Distribution Services	<ul style="list-style-type: none">(a) the conveyance of electricity through the Regulated Distribution System and the control and monitoring of electricity as it is conveyed through the Regulated Distribution System (including any services that support such conveyance, control or monitoring or the safe operation of the Regulated Distribution System);(b) the planning, maintenance, augmentation and operation of the Regulated Distribution System;(c) the provision, installation, commissioning, testing, repair, maintenance and reading both of meters that are 1) used to measure the delivery of electricity to persons whose User Systems or Equipment is directly connected to the Regulated Distribution System and 2) used to measure the flow of electricity into or through the Regulated Distribution System for the purposes of the Wholesale Electricity Spot Market;

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- (d) Distribution Connection Services in respect of the Regulated Distribution System except to the extent that such Distribution Connection Services have been determined by the ERC to be Excluded Services (in which case, for the purposes of these Rules, such Distribution Connection Services will be deemed not to be Regulated Distribution Services in respect of that Regulated Distribution System with effect from the commencement of the Regulatory Period first occurring after the making of that determination);
- (e) the provision of Ancillary Services that are provided using assets which form part of the Regulated Distribution System¹ (excluding any such Ancillary Services to the extent they are provided to the System Operator under contract, or through a spot market established under the WESM Rules); and
- (f) billing, collection and customer services that are directly related to the delivery of electricity through the Regulated Distribution System to Distribution Connection Points in respect of the Regulated Distribution System and billing, collection and customer services for persons purchasing or receiving (or seeking to purchase or receive) any Distribution Connection Services in respect of the Regulated Distribution System,

This excludes services determined by ERC to be contestable.

Note: These Rules do not extend to inset networks, i.e. networks operated by third parties that are connected to a distribution system and that serve, for example, free port areas (see the definition of Distribution Connection Point).

Regulated Distribution System

A Distribution System which is located in a Qualified Franchise Area and that is operated under an exclusive franchise, together with Subtransmission Systems connected to that Distribution System and operated only by the Regulated Entity that operates that Distribution System.

Regulated Entity

Any entity or entities who provide any Regulated Distribution Services but excluding such persons as the ERC determines (such exclusion may identify the relevant persons specifically or by description and may be made subject to such conditions as the ERC considers appropriate). Regulated Entities for the purposes are entities included in Appendix A.

¹ An example of such Ancillary Services is services provided by a series reactor or a static VAR compensator.

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Regulated Retail Services	The distribution business segment defined in the Business Separation Guidelines that relates to the provision of Retail Services on the sale of electricity to end-users who are included in the Captive Market.
Regulatory Asset Base	Those assets employed by a Regulated Entity to provide efficient Regulated Distribution Services. It covers the Regulated Distribution System assets as well as the Non-system Assets required to support the delivery of Regulated Distribution Services.
Regulatory Asset Base (RAB) Handbook	A set of guidelines prepared by the ERC in terms of which the roll-forward for the Regulatory Asset Base of Regulated Entities will be conducted for the Subsequent Regulatory Period, as described in Section 4.8.5.
Regulatory Depreciation	The depreciation based on the Regulatory Asset Base as described in Section 4.10, being one of the building blocks which forms the basis for calculating the annual revenue requirement for a Regulated Distribution System.
Regulatory Reset Process	A regulatory reset process refers to the actions prior to the start of any Regulatory Period, through which the price control arrangements are established that will apply to a Regulated Entity with regard to the provision of Regulated Distribution Services for the next Regulatory Period. This process relies on submissions by Regulated Entities, decisions by the ERC, consultation with the Regulated Entities and the public in general, as described in these rules.
Regulatory Year	Any 12 month period that occurs during a Regulatory Period applicable to each entry group under Appendix C of these rules.
Regulatory WACC	The weighted average cost of capital established for the purposes of the performance-based regulation of Regulated Entities in accordance with section 4.11.
Relevant Tax	Any Tax payable by a Regulated Entity other than: <ul style="list-style-type: none">(a) corporate income tax or other income tax; or(b) any tax on fringe benefits or capital gains; or(c) any franchise tax or donor's tax; or(e) any Tax that replaces or is the equivalent of any of the Taxes referred to in paragraphs (a) to (d); or(f) any franchise fee, or other amount payable under an instrument granting a franchise, in relation to the operation of a Regulated Distribution System; or(g) Real Property taxes and business taxes covered under ERC Resolution No. 2, series of 2021 on the Rules for

Rules for Setting Distribution Wheeling Rates

	Recovery of Pass-through Taxes (Real Property, Local Franchise and Business Taxes) of Distribution Utilities.
Required Tax Pass Through Amount	The costs in the distribution of electricity to Distribution Connection Points that the relevant Affected Regulated Entity has saved and is likely to save, until the end of the Regulatory Period in which the Tax Change Event occurs, as a result of that Tax Change Event (as determined by the ERC under Section 11.1.2).
Retail Services	Services provided to end-users pertaining to the sale of electricity, which includes: (a) billing, collection, customer service, energy trading and electricity sales; and (b) provision, installation, commissioning, testing, repair, maintenance and reading of meters that are used to measure the delivery of electricity to customers; but excludes the cost of generation or actual energy consumed.
Re-valuation	An asset re-valuation as may be required by ERC.
Re-valuation Date	A cut-off date determined by the ERC during the Regulatory Reset Process for which the Re-valuation is prepared.
Re-valuation Report	A report containing the value of the Regulatory Asset Base at the Re-valuation Date.
Revenue Potential	The revenue consideration for the transfer of those Transferred Subtransmission Assets from National Transmission Corporation (TRANSCO) or the National Grid Corporation of the Philippines (NGCP) to the Regulated Entity, which consideration is required (by Section 8 of the EPIRA and Rule 22, Section 13(b) of the IRR) to be: (a) determined by TRANSCO or NGCP based on the revenue potential of those Transferred Subtransmission Assets; or (b) in case of disagreement, determined by, or in accordance with directions given by, the ERC.
Rolled-forward Depreciated Regulatory Asset Base	The regulatory asset base for a Regulated Distribution System as determined by the ERC or as calculated in accordance with Sections 4.9.1 and 4.9.2.
Rules of Practice and Procedure	Set of rules published by the ERC that guides participation in the ERC's proceedings, including the proceedings described in these Rules for Setting Distribution Wheeling Rates.

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Subsequent Regulatory Period	The period set out in Section 2.2.
Supplier of Last Resort	A Regulated Entity designated by the ERC to serve end-users in the contestable market following a Last Resort Supply Event.
System Operator	The party responsible for generation dispatch; the provision of ancillary Services, and operation and control to ensure safety, power quality, stability, reliability and the security of the grid.
Tax	Any tax, levy, impost, deduction, charge, rate, duty or withholding which is levied or imposed by the National Government or a Local Government or any agency, department and instrumentality.
Tax Change Event	<p>(a) A change in (or a change in the application or official interpretation of) a Relevant Tax or the way in which a Relevant Tax is calculated; or</p> <p>(b) the removal of a Relevant Tax; or</p> <p>(c) the imposition of a Relevant Tax,</p> <p>which results in a Regulated Entity incurring substantially higher or lower costs than it would have incurred but for that event in the distribution of electricity to Distribution Connection Points in respect of a Regulated Distribution System that is operated by it. For these purposes, a Regulated Entity will only be deemed to incur materially higher or lower costs where the change in the relevant costs that the Regulated Entity has incurred and is likely to incur until the end of that Regulatory Period, as a result of that Tax Change Event (or combination of tax change events), exceeds 1% of the total forecast operating and maintenance expenditure in relation to the relevant Regulated Distribution System (expressed in nominal terms and excluding forecast taxes, levies and duties) as is used for the purposes of the Regulatory Reset Process under Article VII for that Regulatory Period and as pertains to the period from the occurrence of that Tax Change Event to the end of that Regulatory Period.</p>
Transferred Subtransmission Assets	Subtransmission Assets that are transferred from the National Transmission Corporation (TransCo) or the National Grid Corporation of the Philippines (NGCP) to the Regulated Entity as contemplated by Section 8 of the EPIRA and Rule 22, Section 13(b) of the IRR.
Transition Regulatory Period	The Regulatory Period first occurring after that determination of ERC of excluded services (see Section 1.6.5).

Rules for Setting Distribution Wheeling Rates

Uniform Rate Filing Requirements	The Uniform Rate Filing Requirements dated January 13, 2001 resulting from ERC Case No. 2001-873 docketed on October 31, 2001.
User System	A system owned or operated by a user of the grid or distribution system, as defined in the Distribution Code.

In addition, words and phrases used in these Rules which are defined in the EPIRA or the IRR refers to the same.

1.4 Interpretation

1.4.1 In these Rules, unless the contrary intention appears:

(a) a reference to any law or is taken to include any modification, consolidation, amendment, re-enactment, replacement or codification of the law, rules and regulations, or provision; and

(b) a reference to any period includes both the day on which that period commences and the day on which it expires.

1.4.2 All calculations made under or for the purposes of these Rules must be rounded to four significant digits, except that any amount which is calculated solely in PhP (as opposed to, for example, PhP/kWh) must be rounded to the nearest peso. For these purposes, significant digits are all the non-zero digits of a number and the zeros that are included between them or that are final zeros and signify accuracy (e.g. the significant digits of 0.01230 are 1, 2, 3 and the final 0, which signifies accuracy to five places).²

1.4.3 When a calculation is required under these Rules:

(a) Regulatory Year “t” or year “t” is the Regulatory Year or 12-month period ending on applicable regulatory year in respect of which the calculation is being made;

(b) Regulatory Year “t-1” or year “t-1” is the Regulatory Year or 12-month period ending on applicable regulatory year immediately preceding Regulatory Year “t” or year “t”;

(c) Regulatory Year “t-2” or year “t-2” is the Regulatory Year or 12-month period ending on applicable regulatory year immediately preceding Regulatory Year “t-1” or year “t-1”; and

(d) Regulatory Year “t-3” or year “t-3” is the Regulatory Year or 12-month period ending on applicable regulatory year immediately preceding Regulatory Year “t-2” or year “t-2”.

1.5 Rights and Obligations of Regulated Entity

1.5.1 Where more than one entity provides any Regulated Distribution Services in respect of a Regulated Distribution System, with the result that the relevant Regulated Entity comprises more than one entity, the rights of that

² Webster's College Dictionary, Random House, New York, 1991.

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Regulated Entity under these Rules may be exercised by any of those entities and such exercise of those rights by such an entity will be deemed, for the purposes of these Rules, to irrevocably and unconditionally bind each of those entities.

- 1.5.2 Where more than one entity provides any Regulated Distribution Services in respect of a Regulated Distribution System, with the result that the relevant Regulated Entity comprises more than one entity, each of those entities will be jointly and severally liable for the performance of the obligations of the relevant Regulated Entity under these Rules and the performance of such obligations by any of those entities will be deemed, for the purposes of these Rules, to be the performance of those obligations by each of those entities.
- 1.5.3 Where more than one entity provides any Regulated Distribution Services in respect of a Regulated Distribution System, with the result that the relevant Regulated Entity comprises more than one entity, the performance by the ERC of its obligations under these Rules in respect of any one of those entities will be deemed, for the purposes of these Rules, to be the performance of those obligations in respect of all of those entities.
- 1.5.4 Where more than one entity provides any Regulated Distribution Services in respect of a Regulated Distribution System, with the result that the relevant Regulated Entity comprises more than one entity, these Rules must be construed and applied in such a manner that, as far as is reasonably practicable, results in all of those entities being treated (in the aggregate) in the same manner as a single entity would have been treated in those circumstances if that single entity alone had comprised that Regulated Entity.
- 1.5.5 It is acknowledged that a range of ownership, operating, corporate and other structures may be implemented in relation to the provision of Regulated Distribution Services in respect of a Regulated Distribution System. Accordingly, these Rules must be construed and applied by the ERC in such a manner that accommodates such structures but that does not permit the use of such structures to avoid the tenor of the obligations imposed by these Rules (even if this means a departure from a literal interpretation of these Rules).

1.6 Services other than Regulated Distribution Services

- 1.6.1 This Section 1.6 only applies to Excluded Services that are provided on or after the commencement of the Subsequent Regulatory Period.
- 1.6.2 Except as otherwise provided in the DSOAR, a person may only be charged a fair and reasonable charge for an Excluded Service.
- 1.6.3 In the event of a dispute in respect of the amount of a charge for an Excluded Service, what is a fair and reasonable charge will be determined by the ERC.
- 1.6.4 For the purposes of determining what is a fair and reasonable charge for an Excluded Service, both where a charge for an Excluded Service is being negotiated and where a dispute in respect of such a charge is being determined by the ERC:

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(a) the reasonable costs incurred in efficiently providing the Excluded Service, including:

- an allowance appropriately attributable operating and maintenance and overhead costs;
- an allowance for the depreciation of the assets used to provide the Excluded Service over the economic life of those assets;
- a reasonable return on the depreciated value of the assets used to provide the Excluded Service (such reasonable return might, for example, be an appropriate weighted average cost of capital as calculated pursuant to Section 4.11 or Section 5.8); and
- an allowance for taxes paid in connection with the provision of the Excluded Service or the income derived from the provision of the Excluded Service;

(b) the charge that would have been likely to be negotiated for the provision of the Excluded Service in an arm's length commercial negotiation between a willing seller and a willing buyer if the market for the Excluded Service were competitive;

(c) whether any assets used to provide the Excluded Service to the person purchasing or receiving or seeking to purchase or receive the Excluded Service will be specifically constructed for that purpose;

(d) any special value of the Excluded Service to the person purchasing or receiving or seeking to purchase or receive) the Excluded Service (for example, as a result of any assets used to provide the Excluded Service being dedicated to the provision of that Excluded Service to that person); and

(e) whether any costs incurred in providing the Excluded Service (including any return on assets used to provide the Excluded Service) have been or are likely to be recovered from other persons (for example, as a result of any assets used to provide the Excluded Service subsequently being used to provide that Excluded Service to such other persons).

1.6.5 Without in any way limiting the services that may constitute an Excluded Service, any Distribution Connection Services which may have been determined by the ERC to be Excluded Services will, with effect from the commencement of the Regulatory Period first occurring after the making of that determination (the **Transition Regulatory Period**), be treated as Excluded Services (except to the extent they are determined by the ERC to be contestable). For the purposes of determining what is a fair and reasonable charge for such Distribution Connection Services, where a charge for such Distribution Connection Services is being negotiated and where a dispute in respect of such a charge is being determined by the ERC:

(a) the matters referred to in Section 1.6.4; and

(b) to the extent any assets used to provide such Distribution Connection Services, immediately prior to the commencement of the Transition Regulatory Period, included in the regulatory asset base for the relevant Regulated

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Distribution System, as part of that regulatory asset base will cease to form part of the regulatory asset base for that Regulated Distribution System.

1.7 Subtransmission Assets

- 1.7.1 Each Regulated Entity must maintain an asset register which clearly identifies each asset owned by it that is a Subtransmission Asset and which separately identifies those assets which are Transferred Subtransmission Assets.

1.8 Provision of Information

- 1.8.1 A Regulated Entity must, on the written request of the ERC or as specified in these Rules, provide the ERC with such information, calculations, forecasts and other data as the ERC requires from time to time for the purposes of these Rules and/or for the purposes of assisting the ERC to perform its functions under these Rules. All submissions are to be made in accordance with the terms of the ERC's Rules of Practice and Procedure.

- 1.8.2 All information requested by the ERC shall be submitted within ten (10) working days.

1.9 Amendment

- 1.9.1 Subject to Sections 1.9.2 and 1.9.3, these Rules may from time to time be amended by the ERC:

(a) in respect of their application in relation to all Regulated Entities and all Regulated Distribution Systems; or

(b) in respect of their application in relation to particular Regulated Entities and particular Regulated Distribution Systems,

(c) effect to a decision made by the ERC in accordance with these Rules; or

(d) agreement of the affected Regulated Entity or Regulated Entities; or

(e) required pursuant to an order that is made by a court with appropriate jurisdiction.

- 1.9.2 The ERC may amend a Qualified Franchise Area where:

(a) with the result that the charges that may be made for the provision of services in respect of the relevant Distribution System that is located in that Qualified Franchise Area, or in respect of any Subtransmission System that is connected to it and that is operated only by the Regulated Entity that operates the Distribution System, cease to be regulated under these Rules;

(b) charges that may be made for the provision of services on the Distribution System, and Subtransmission System that is connected to it and that is operated only by the Regulated Entity that operates the Distribution System, become regulated under other guidelines promulgated for that purpose by the ERC pursuant to Section 43(f) of the EPIRA and Rule 15, Section 5(a) of the IRR; and

(c) Regulated Entity that operates that Distribution System agrees to that amendment.

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Such an amendment may be made where the Regulated Entity and the ERC agree that the form of price control for such charges is to be a hybrid cap.

1.9.3 The ERC may amend these Rules on charges that may be made for the provision of services a Subtransmission System that is operated by more than one Distribution Utility in the following instances:

(a) When at least one of those Distribution Utilities is a Regulated Entity and operates a Regulated Distribution System that is connected to that Subtransmission System;

(b) the amendments are necessary to enable these Rules to apply to those charges in substantially the same way as they apply to the charges that may be made for the provision of Regulated Distribution Services; and

(c) when the amendments will not materially cause adverse impact on the rights or obligations of any other Regulated Entity under these Rules.

1.9.4 Nothing in these Rules shall be construed to prevent the ERC from promulgating other guidelines pursuant to Section 43(f) of the EPIRA and Rule 15, Section 5(a) of its IRR for the purpose of regulating the charges that may be made for the provision of services by the Distribution Systems and Subtransmission Systems that are not subject to these Rules.

1.10 Costs of Suit

1.10.1 The Regulated Entities shall bear the regulatory implementation costs or the costs associated with the implementation of these Rules, including but not limited to, costs associated with the public hearings in the regulated entity's localities.

1.11 Separability

1.11.1 If, for any reason, any provision or part of a provision of these Rules is declared unconstitutional or invalid, those provisions which are not thereby affected will continue to be in full force and effect.

1.12 Effectivity

1.12.1 These Rules shall take effect immediately upon its publication in a newspaper of general circulation in the Philippines or in the Official Gazette.

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ARTICLE II TIMING FOR REGULATORY PERIODS

2.1 Steps to Incentive Based Rate Regulation

- 2.1.1 Subject to Articles VIII, X, XI and XII of these Rules, the Maximum Annual Price cap for a Regulated Distribution System (MAP_t) as calculated in accordance with the formula set out in Section 4.2.1 shall be applied to regulate the maximum average price that a Regulated Entity is permitted to charge, during the Subsequent Regulatory Period.
- 2.1.2 Subject to Articles V, X and XI of these Rules, the price cap that is calculated in a manner determined by the ERC in accordance with the provisions of Article V shall be applied to regulate the maximum average price that a Regulated Entity is permitted to charge for the provision by it, during the Subsequent Regulatory Period.

2.2 Subsequent Regulatory Periods

- 2.2.1 Each Subsequent Regulatory Period shall:
 - (a) commence on the day immediately following the end a preceding Regulatory Period; and
 - (b) have a period of four (4) years from the end of the immediately preceding Regulatory Period; and
 - (c) both dates inclusive.

**ARTICLE III
PREVIOUS REGULATORY PERIODS**

3.1 General Principle

- 3.1.1 The amounts earned during the Previous Regulatory Period in terms of the Maximum Annual Price Cap (MAP) determined by the ERC under these Rules, as well as any amounts over- or under-recovered by a Regulated Entity during the Previous Regulatory Period shall form part of the calculation of the MAP for the Subsequent Regulatory Period. This includes the recovery of amounts disallowed by the ERC as a regulatory intervention during the previous regulatory periods. The mechanism by which these amounts are accounted for is described in Section 4 of these Rules.
- 3.1.2 The service and quality performance levels achieved by a Regulated Entity during the Previous Regulatory Period shall be considered under the performance incentive scheme (PIS) for the Subsequent Regulatory Period. These historical performance levels shall be used in setting performance targets for the Subsequent Regulatory Period described in Section 4.15.4, and also in determining the S-factor that will apply during year 1 of the Subsequent Regulatory Years (as per Section 4.2.1)

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ARTICLE IV SUBSEQUENT REGULATORY PERIOD

4.1 General Price Control Principles

- 4.1.1 Subject to Section 6.2.1(f) and (g), the maximum distribution wheeling rates that a Regulated Entity is permitted to charge, during each Regulatory Year will be set under a Maximum Annual Price cap for that Regulated Distribution System determined in accordance with this Article IV and the Regulatory Reset Process for the Subsequent Regulatory Period under Article VII.
- 4.1.2 A Regulated Entity must ensure that the maximum average price that it charges, during a Regulatory Year t does not exceed the Maximum Annual Price cap for that Regulated Distribution System for Regulatory Year t as calculated in accordance with Section 4.2.1. (Any revenue that is derived as a result of that Maximum Annual Price cap being exceeded will effectively be returned to Customers of that Regulated Distribution System by way of a reduction in the Maximum Annual Price cap for that Regulated Distribution System for the following Regulatory Year $t+1$ to an amount that is lower than that which would otherwise have applied. This correction is carried over between Regulatory Periods as well.)

4.2 Price Control Formula

- 4.2.1 Subject to Articles VIII, X, XI and XII of these Rules, the maximum average price (expressed in PhP/kWh) that a Regulated Entity is permitted to charge, during a Regulatory Year t shall be calculated in accordance with the following formula:

- (a) Where Regulatory Year t is the First Regulatory Year of the Regulatory Period,

$$MAP_t = SMAP_{t-1} + S_t - K_t + ITA_t \quad ; \text{ and}$$

- (b) Where Regulatory Year t is a Regulatory Year (other than the first Regulatory Year) in the Subsequent Regulatory Period,

$$MAP_t = [MAP_{t-1} \times \{1 + CWI_t - X\}] + S_t - K_t + ITA_t$$

Where:

$SMAP_{t-1}$ is as calculated under Section 4.15.4;

MAP_{t-1} = Previous year's MAP excluding incentive and correction factor;

CWI_t = Change in Weighted Index for Regulatory Year t as calculated in accordance with Section 4.5;

X = An Efficiency Factor in respect of that Regulated Distribution System for Regulatory Year t . The value calculated by the ERC for the Subsequent Regulatory Period under Section 4.15.3, or

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recalculated under Sections 12.2.2 or 12.4.6 (as the case may be) (subject to any recalculation under Sections 12.2.2 or 12.4.6, it is constant for the whole of the Subsequent Regulatory Period). For the avoidance of doubt, X may be a positive or negative value or may be zero;

- S_t = A performance incentive factor calculated in accordance with Section 4.18.2 to reward each Regulated Entity for achieving specified target levels of performance or penalize each Regulated Entity for failing to achieve specified target levels of performance during the twelve-month period ending on December 31 of Regulatory Year t-1). For the avoidance of doubt, S_t may be a positive or negative value or may be zero;
- K_t = Correction Factor to adjust for over or under recovery of revenue in Regulatory Year t-1. K_t is calculated in accordance with Sections 4.3.1 and 4.3.2; and
- ITA_t = Tax Adjustment to adjust for over or under recovery of corporate income tax in Regulatory Year t-1. Where Regulatory Year t is any Regulatory Year in the Subsequent Regulatory Period, ITA_t equals 0 (zero). Where Regulatory Year t is a Regulatory Year in a later Regulatory Period, ITA_t is calculated in accordance with Section 4.4.

4.2.2 All the provisions in this Article IV apply for the Subsequent Regulatory Period only, except to the extent Article V specifically carries forward all or a part of those provisions for the purposes of their application in a Subsequent Regulatory Period.

4.3 Over / Under Recovery Formula

4.3.1 Except as otherwise provided in Section 4.2.1, the Correction Factor for Regulatory Year t (K_t), where Regulatory Year t is a Regulatory Year that occurs in the Subsequent Regulatory Period, is calculated in accordance with Section 4.3.2. For the purposes of this Section 4.3:

(a) The actual weighted average tariff (expressed in PhP/kWh) for Regulatory Year t ($AWAT_t$) is calculated as follows:

$$\frac{CR_{t-1} + RBR_{t-1} + AISDA_{t-1} - FISDA_{t-1}}{CQ_{t-1}}$$

Where:

- CR_{t-1} = The amount (expressed in PhP) billed to Customers of the relevant Regulated Distribution System for the provision of Regulated Distribution Services by the Regulated Entity that operates that Regulated Distribution System, during the 12 month period ending on December 31 in Regulatory Year t-1, the amount:
- so billed being determined in a manner that is approved for this purpose by the ERC and adjusted to:

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(A) exclude any amounts by which the Regulated Entity's revenue is increased due to the application of Articles X or XI and any surcharges of the kind referred to in Section 8.2.2(b);

(B) include any amounts by which that revenue is decreased due to the application of Article XI or the payment of any rebates of the kind referred to in Section 8.2.2(b);

(C) reflect the impact of re-opening or adjustment events due to the application of Article XII; and

- as so determined and adjusted being audited to the satisfaction of the ERC by a person that is approved for this purpose by the ERC;

RBR_{t-1} = Such portion (expressed in PhP) of the net income derived, during the 12 month period ending on December 31 in Regulatory Year t-1, from each related business undertaking, examples of which are provided in Section 4.3.4, which is engaged in directly or indirectly by the Regulated Entity that operates the relevant Regulated Distribution System and which utilizes assets that form part of the regulatory asset base for that Regulated Distribution System (see Section 4.8.6), being a portion that is determined by the ERC pursuant to Section 26 of the EPIRA and that may vary as between such business undertakings but which, for each such business undertaking, will be set at 50% of the net income that is so derived from that business undertaking;

AISDA_{t-1} = The actual income (expressed in PhP) derived by a Regulated Entity from the sale of disposed assets that were previously part of the rolled forward regulatory asset base for a Regulated Distribution System during the 12-month period ending on December 31 in Regulatory Year t-1, after deducting any expenses associated with the sale but excluding the value at which the disposed assets were removed from the rolled forward regulatory asset base. This includes any income derived from the disposal of assets that were previously used beyond their Regulatory Lives, as described in Section 4.8.12;

FISDA_{t-1} = The estimated income (expressed in PhP) to a Regulated Entity that would arise from the sale of disposed assets that were previously part of the rolled forward regulatory asset base for a Regulated Distribution System during the 12-month period ending on December 31 in Regulatory Year t-1, calculated as:

$$FISDA_{t-1} = \frac{\sum FISDA_{j,t-1} + \sum FISDA_{j,t-2}}{2}$$

Where

$\sum FISDA_{j,t-1}$ = The sum of the estimated income (expressed in PhP) to a Regulated Entity that would arise during Regulatory Year t-1 from the sale of disposed assets in each asset category j (see Section 4.10.1 (a)), that were previously part of the rolled forward

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regulatory asset base for a Regulated Distribution System, as determined by the ERC as part of the Regulatory Reset Process for the Previous or Subsequent Regulatory Period under Article VII, after deducting any forecast expenses associated with the sale but excluding the value at which the disposed assets were forecast to be removed from the rolled forward regulatory asset base;

$\sum FISDA_{j,t-2}$ = The sum of the estimated income (expressed in PhP) to a Regulated Entity that would arise during Regulatory Year t-2 from the sale of disposed assets in each asset category j (see Section 4.10.1(a)), that were previously part of the rolled forward regulatory asset base for a Regulated Distribution System, as determined by the ERC as part of the Regulatory Reset Process for the Previous or Subsequent Regulatory Period under Article VII, after deducting any forecast expenses associated with the sale but excluding the value at which the disposed assets were forecast to be removed from the rolled forward regulatory asset base; and

CQ_{t-1} = The total amount of energy (expressed in kWh) delivered through the relevant Regulated Distribution System, during the 12-month period ending on December 31 in Regulatory Year t-1, to Distribution Connection Points in respect of that Regulated Distribution System, such amount of energy:

- being determined in a manner that is approved for this purpose by the ERC; and
- as so determined being audited to the satisfaction of the ERC by a person that is approved for this purpose by the ERC.

(b) The differential amount (expressed in PhP/kWh) for Regulatory Year t (DA_t) is calculated as follows:

$$DA_t = AWAT_t - [(P_{t-2} \times MAP_{t-2}) + (P_{t-1} \times MAP_{t-1})]$$

Where:

MAP_{t-1} = The maximum average price (expressed in PhP/kWh) that the Regulated Entity is permitted to charge for the provision by it, during Regulatory Year t-1, of Regulated Distribution Services in respect of the relevant Regulated Distribution System, as calculated in accordance with Section 4.2.1;

P_{t-1} = The percentage share in the period covered by the MAP_{t-1} in the computation of the AWAT determined by the no. of months covered divided by 12 months;

MAP_{t-2} = The maximum average price (expressed in PhP/kWh) that the Regulated Entity is permitted to charge for the provision by it,

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during Regulatory Year t-2, of Regulated Distribution Services in respect of the relevant Regulated Distribution System, as calculated in accordance with Section 4.2.1; and

P_{t-2} = The percentage share in the period covered by the MAP_{t-2} in the computation of the AWAT determined by the no. of months covered divided by 12 months.

4.3.2 The Correction Factor for each of the Regulatory Years in the Subsequent Regulatory Period (K_t) is calculated as follows:

(a) if DA_t < 0, then

$K_t = DA_t \times (1 + i_t/100)$ (in such a case K_t will be a negative amount because DA_t is a negative amount);

(b) if DA_t > 0

and $[AWAT_t - (RBR_{t-1}/CQ_{t-1})] / [(P_{t-1} \times MAP_{t-1}) + (P_{t-2} \times MAP_{t-2})] < 1.07$

then

$K_t = DA_t [(1 + (i_t)/100)]$;

(c) if DA_t > 0

and $[AWAT_t - (RBR_{t-1}/CQ_{t-1})] / [(P_{t-1} \times MAP_{t-1}) + (P_{t-2} \times MAP_{t-2})] \geq 1.07$

(where \geq means greater than or equal to)

then

$K_t = DA_t [(1 + (i_t + 4)/100)] - 0.04 [(RBR_{t-1}/CQ_{t-1}) + 0.07 (P_{t-1} \times MAP_{t-1} + P_{t-2} \times MAP_{t-2})]$;

and

(b) (d) if DA_t = 0, then

K_t = 0

Where:

MAP_{t-2} = Except as provided below, the maximum average price (expressed in PhP/kWh) that the Regulated Entity is permitted to charge for the provision by it, during Regulatory Year t-2, of Regulated Distribution Services in respect of the relevant Regulated Distribution System, as calculated in accordance with Section 4.2.1. (MAP_{t-2} may fall in the Previous Regulatory Period);

P_{t-2} = The percentage share in the period covered by the MAP_{t-2} in the computation of the AWAT;

MAP_{t-1} = The maximum average price (expressed in PhP/kWh) that the Regulated Entity is permitted to charge for the provision by it, during Regulatory Year t-1, of Regulated Distribution Services in respect of the relevant Regulated Distribution System, as calculated in accordance with Section 4.2.1. (MAP_{t-2} may fall in the Previous Regulatory Period);

P_{t-1} = The percentage share in the period covered by the MAP_{t-1} in the computation of the AWAT; and

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i_t = The simple average of the monthly 364-days T-bill rate as published by the Bangko Sentral ng Pilipinas (BSP), for the period from January 1 of Regulatory Year t-2 to December 31 of Regulatory Year t-1.

4.3.3 Related business undertakings that utilize Regulated Distribution System assets may include, but are not limited to, the following:

- (a) service fees (for service connection or re-connection);
- (b) rental for distribution transformers;
- (c) rental for poles, boom and truck crane;
- (d) testing and calibration fees;
- (e) relocation and transfer fees;
- (f) inspection and installation fees;
- (g) illegal connection surcharge;
- (h) jobbing and contract fees;
- (i) engineering design on special projects;
- (j) rental of other utility property;
- (k) revenue from miscellaneous operations;
- (l) dividend income from investments made by Regulated Entities related to or using assets of the Regulated Distribution System; and
- (m) bad debts recovery.

4.4 Tax Adjustment

4.4.1 Except as otherwise provided in Section 4.2.1, the Tax Adjustment for Regulatory Year t (ITA_t) is calculated as follows:

$$\frac{(\text{ActTax}_{p,t-2} - \text{Tax}_{p,t-2}) \times (1 + \text{WACC}_t)^2}{\text{CQ}_{t-1}}$$

Where:

$\text{ActTax}_{p,t-2}$ = The amount of corporate income tax (expressed in PhP) that is actually paid, by the Regulated Entity that operates the relevant Regulated Distribution System, for Regulatory Year t-2 to the extent such tax relates to taxable income of that Regulated Entity (net of any related accumulated tax losses) which arises from the provision of Regulated Distribution Services in respect of that Regulated Distribution System by the Regulated Entity (whether or not such taxable income arises in Regulatory Year t-2);

$\text{Tax}_{p,t-2}$ = The estimated corporate income tax payable by that Regulated Entity in respect of the relevant Regulated Distribution System in Regulatory Year t-2 as calculated by the ERC in accordance with Sections 4.14.1 to 4.14.3;

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WACC_t = The weighted average cost of capital as determined by the ERC which applies for the purposes of these Rules in respect of Regulatory Year t; and

CQ_{t-1} = The total amount of energy (expressed in kWh) delivered through the relevant Regulated Distribution System, during the 12-month period ending on December 31 in Regulatory Year t-1, to Distribution Connection Points in respect of that Regulated Distribution System, such amount of energy:

(a) being determined in a manner that is approved for this purpose by the ERC; and

(b) as so determined being audited to the satisfaction of the ERC by a person that is approved for this purpose by the ERC.

4.4.2 For the purposes of Section 4.4.1:

(a) the amount of corporate income tax that is actually paid by a Regulated Entity for a Regulatory Year must be verified by returns received by the Bureau of Internal Revenue and evidence of payment by Authorized Agent Banks; and

(b) the extent to which the tax referred to in paragraph (a) relates to taxable income of a Regulated Entity (net of any related accumulated tax losses) which arises from the provision of Regulated Distribution Services in respect of a Regulated Distribution System by the Regulated Entity must be certified by an auditor who:

- is a certified public accountant under the Revised Accountancy Law (Presidential Decree No.692);
- possesses the independence as defined in Part II Section 14 of the Code of Professional Ethics for Certified Public Accountants as promulgated by the Board of Accountancy and approved by the Professional Regulation Commission; and
- is one of the five largest auditing firms in the Philippines (as measured by annual revenue derived in the Philippines) or is approved by the ERC for the purposes of giving the certification referred to in this paragraph (b).

4.4.3 In accordance with Sections 4.7.7 and 4.14.4, the corporate income tax allowance for the Previous Regulatory Period is set to zero. As a result, there will be no tax adjustment applied for the Subsequent Regulatory Period.

4.5 Change in Weighted Index

4.5.1 The Change in Weighted Index for Regulatory Year t (CWI_t) is calculated as follows:

$$CWI_t = \{(W_1 \times \Delta CPI_t) + (W_2 \times \Delta USER_t)\}$$

Where:

Subject to Section 4.20:

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- (a) if Section 12.5.1 applies in respect of Regulatory Year t , $W_1 = 0.80$; or
 - (b) if Section 12.5.1 does not apply in respect of Regulatory Year t , $W_1 = 1$;
- Subject to Section 4.19:

- (a) if Section 12.5.1 applies in respect of Regulatory Year t , $W_2 = 0.20$; or
 - (b) if Section 12.5.1 does not apply in respect of Regulatory Year t , $W_2 = 0$;
- DeltaCPI $_t$ is the change in CPI for Regulatory Year t and is calculated in accordance with Section 4.5.2; and

DeltaUSER $_t$ is the change in the PhP/\$US exchange rate for Regulatory Year t and is calculated in accordance with Section 4.5.3.

- 4.5.2 Assuming all index data is derived from, or adjusted to, the same base year³, the change in CPI for Regulatory Year t (DeltaCPI $_t$) is calculated as follows:

$$\text{DeltaCPI}_t = (\text{CPI}_{t-1} / \text{CPI}_{t-2}) - 1$$

Where:

$$\text{CPI}_{t-1} = \{\text{CPI}_{(Q4, t-2)} + \text{CPI}_{(Q1, t-1)} + \text{CPI}_{(Q2, t-1)} + \text{CPI}_{(Q3, t-1)}\}; \text{ and}$$

$$\text{CPI}_{t-2} = \{\text{CPI}_{(Q4, t-3)} + \text{CPI}_{(Q1, t-2)} + \text{CPI}_{(Q2, t-2)} + \text{CPI}_{(Q3, t-2)}\}$$

where:

CPI $_{(Q4, t-2)}$ is the CPI for the Fourth Quarter ending in year $t-2$;

CPI $_{(Q1, t-1)}$ is the CPI for the First Quarter ending in year $t-1$; ⁴

CPI $_{(Q2, t-1)}$ is the CPI for the Second Quarter ending in year $t-1$;

CPI $_{(Q3, t-1)}$ is the CPI for the Third Quarter ending in year $t-1$;

CPI $_{(Q4, t-3)}$ is the CPI for the Fourth Quarter ending in year $t-3$;

CPI $_{(Q1, t-2)}$ is the CPI for the First Quarter ending in year $t-2$;

CPI $_{(Q2, t-2)}$ is the CPI for the Second Quarter ending in year $t-2$; and

CPI $_{(Q3, t-2)}$ is the CPI for the Third Quarter ending in year $t-2$.

- 4.5.3 The change in the PhP/\$US exchange rate for Regulatory Year t (DeltaUSER $_t$) is calculated as follows (assuming all US consumer price index data is derived from, or adjusted to, the same base year⁵):

$$\text{DeltaUSER}_t = \{(\text{USER}_{t-1} / \text{USER}_{t-2}) \times (\text{USCPI}_{t-1} / \text{USCPI}_{t-2})\} - 1$$

Where:

³ CPI information from the Philippine Statistics Authority (PSA) currently uses an index base of "2000 = 100". In the future, should the PSA change the base year for its reported CPI, the CPI values used in Section 4.5.2 must all be adjusted to use the same base year (see Section 4.5.4).

⁴ Note that the reference to year refers to Regulatory Year. For example, if the Regulatory Year is 2014 and ends on June 30, 2014, the term CPI $_{(Q1, t-1)}$ refers to the CPI index for the first quarter in the previous Regulatory Year, or the end of the September Quarter of Regulatory Year 2013. That is the Quarter ending on September 30, 2012.

⁵ If the base year for any such US consumer price index data should change, the values used in Section 4.5.3 must all be adjusted to use the same base year (see Section 4.5.4).

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$USER_{t-1} = \{USER_{(Q4, t-2)} + USER_{(Q1, t-1)} + USER_{(Q2, t-1)} + USER_{(Q3, t-1)}\}$; and

$USER_{t-2} = \{USER_{(Q4, t-3)} + USER_{(Q1, t-2)} + USER_{(Q2, t-2)} + USER_{(Q3, t-2)}\}$

where:

USER for a Quarter (Q) is the average of the Philippine Peso/United States Dollar inter-bank mid-rates prevailing on each of the last 5 Business Days of that Quarter, as published by the Bangko Sentral ng Pilipinas, expressed as PhP/US\$1 (for example, if PhP50 can purchase US\$1, then USER is 50);

$USER_{(Q4, t-2)}$ is the USER for the Fourth Quarter ending in year t-2;

$USER_{(Q1, t-1)}$ is the USER for the First Quarter ending in year t-1;

$USER_{(Q2, t-1)}$ is the USER for the Second Quarter ending in year t-1;

$USER_{(Q3, t-1)}$ is the USER for the Third Quarter ending in year t-1;

$USER_{(Q4, t-3)}$ is the USER for the Fourth Quarter ending in year t-3;

$USER_{(Q1, t-2)}$ is the USER for the First Quarter ending in year t-2;

$USER_{(Q2, t-2)}$ is the USER for the Second Quarter ending in year t-2; and

$USER_{(Q3, t-2)}$ is the USER for the Third Quarter ending in year t-2; and

$USCPI_{t-1} = \{USCPI_{(Q4, t-2)} + USCPI_{(Q1, t-1)} + USCPI_{(Q2, t-1)} + USCPI_{(Q3, t-1)}\}$; and

$USCPI_{t-2} = \{USCPI_{(Q4, t-3)} + USCPI_{(Q1, t-2)} + USCPI_{(Q2, t-2)} + USCPI_{(Q3, t-2)}\}$

where:

USCPI for a Quarter (Q) is the Consumer Price Index for all urban customers, US city average published by the US Bureau of Labour Statistics for the last month of that Quarter in series CUUR 0000SAO;

$USCPI_{(Q4, t-2)}$ is the USCPI for the Fourth Quarter ending in year t-2;

$USCPI_{(Q1, t-1)}$ is the USCPI for the First Quarter ending in year t-1;

$USCPI_{(Q2, t-1)}$ is the USCPI for the Second Quarter ending in year t-1;

$USCPI_{(Q3, t-1)}$ is the USCPI for the Third Quarter ending in year t-1;

$USCPI_{(Q4, t-3)}$ is the USCPI for the Fourth Quarter ending in year t-3;

$USCPI_{(Q1, t-2)}$ is the USCPI for the First Quarter ending in year t-2;

$USCPI_{(Q2, t-2)}$ is the USCPI for the Second Quarter ending in year t-2; and

$USCPI_{(Q3, t-2)}$ is the USCPI for the Third Quarter ending in year t-2.

- 4.5.4 If a source of data described in this Section 4.5 is no longer published, or if any other change occurs in relation to such data which result in inaccurate comparisons between data calculated using the source prior to the change and data calculated using the source after the change, then such alternative source as the ERC may reasonably determine, after consultation with each Regulated Entity, will be substituted.

4.6 General Building Block Principles

- 4.6.1 As part of the Regulatory Reset Process for the Subsequent Regulatory Period under Article VII, the ERC must determine the Annual Revenue

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Requirement for each Regulated Distribution System for each Regulatory Year t in the Subsequent Regulatory Period (ARR_t). The ARR_t must be based on a forward-looking analysis of forecast cash flow requirements and must represent the optimal forecast revenue requirement of the Regulated Entity that operates that Regulated Distribution System. The ARR_t must reasonably compensate the Regulated Entity for the economically efficient costs and risks it incurs in providing Regulated Distribution Services in order to encourage:

(a) a commercial environment which is transparent and stable, and which does not discriminate between the users of those Regulated Distribution Services;

(b) the same outcomes in the market for those Regulated Distribution Services as would be achieved if that market were competitive;

(c) competition in the provision of those Regulated Distribution Services wherever practicable;

(d) the commercial viability of the Regulated Entity by allowing it to recover its efficient costs associated with the provision of those Regulated Distribution Services, together with a reasonable return on the Regulated Entity's approved capital invested in that Regulated Distribution System, as determined by the ERC;

(e) competition in upstream and downstream markets;

(f) stability in the distribution wheeling rates charged for those Regulated Distribution Services;

(g) recovery of those costs related to the provision of those Regulated Distribution Services;

(h) fairness in the charges made for those Regulated Distribution Services, including the progressive removal of cross-subsidies;

(i) as a minimum, maintenance of service delivery levels subsisting at the beginning of the Subsequent Regulatory Period and an improvement of service delivery levels during that period as contemplated by Article VIII; and

(j) maintenance of that Regulated Distribution System such that, at the end of the term of the Subsequent Regulatory Period, that Regulated Distribution System is able to continue to provide sustainable electricity distribution service delivery into the future without above average expenditure on upgrades or critical maintenance, and with the ability of continuing the service delivery levels previously achieved.

4.6.2 The ARR_t for a Regulated Distribution System must result from an economic and financial analysis of the forecast cash flow requirements of the Regulated Entity that operates that Regulated Distribution System. Such forecast cash flow requirements shall be based on a Building Block analysis pursuant to Section 4.7 which uses a 'classical' weighted average cost of capital as defined in Section 4.11.

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- 4.6.3 Any taxes, other than corporate income tax, must be included as a specific line item in the Building Blocks alongside the operating and maintenance expenditures to which they are related⁶.
- 4.6.4 When undertaking the economic and financial analysis to determine the ARR_t for a Regulated Distribution System, the ERC shall adequately compensate the relevant Regulated Entity for all identified and justifiable risks inherent in an electricity distribution business in the Philippines, the ERC recognizes that the over compensation for such risks will be to the disadvantage of Customers of that Regulated Distribution System because it will permit unjustifiably high tariffs while on the other hand that the under compensation for such risks will be to the disadvantage of the Regulated Entity and the Customers of that Regulated Distribution System) because it will adversely affect the viability of the Regulated Entity.
- 4.7 Primary Building Blocks**
- 4.7.1 The financial Building Blocks which will form the basis of calculating the ARR_t for a Regulated Distribution System are as follows:
- operating and maintenance expenditure;
 - taxes other than corporate income tax;
 - regulatory depreciation;
 - return 'on' capital; and
 - corporate income tax
- 4.7.2 The operating and maintenance expenditure for Regulatory Year t is constituted by the forecasts of such expenditure in relation to the relevant Regulated Distribution System for that Regulatory Year, as approved by the ERC in accordance with Section 4.13.
- 4.7.3 The taxes, other than corporate income tax, for Regulatory Year t are constituted by the forecasts of payments of such taxes as are expected to be incurred in relation to the relevant Regulated Distribution System for that Regulatory Year, as approved by the ERC in accordance with Section 4.13.
- 4.7.4 The Regulatory Depreciation for Regulatory Year t is that which is determined by the ERC on the basis of the methodology for its determination set out in Section 4.10.2.
- 4.7.5 The return 'on' capital for Regulatory Year t is the Regulatory Asset Base for the relevant Regulated Distribution System for that Regulatory Year (RAB_t), as determined by the ERC on the basis of the methodology for its determination under Section 4.9, increased by an allowance for working capital in accordance with Section 4.7.7, multiplied by the classical weighted

⁶ Other Taxes that are not covered under ERC Resolution No. 2, Series of 2021 of the Rules on the Recovery of Pass-Through Taxes of Distribution Utilities (DUs) which specifically include Real Property, Local franchise and business taxes. This may include business permits, communication registration & licenses, community tax, documentary stamp tax, fringe benefits tax, registration and filing fees (with the Bureau of Internal Revenue and Securities and Exchange Commission) and gross receipts tax.

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average cost of capital (WACC), as determined by the ERC in accordance with Section 4.11.

- 4.7.6 The corporate income tax for Regulatory Year t is the estimated corporate income tax payable by the Regulated Entity in respect of the relevant Regulated Distribution System in that Regulatory Year as determined by the ERC in accordance with Sections 4.14.1 to 4.14.3. For the Subsequent Regulatory Period, this may be set to zero.
- 4.7.7 The Building Block formula to be used in calculating the ARR_t for a Regulated Distribution System is as follows:

$$ARR_t = Opex_t + Tax_{m,t} + RegDepn_t + [(RAB_t + WC_t) \times WACC] + Tax_{p,t}$$

Where:

- $Opex_t$ = The nominal⁷ operating and maintenance expenditure in relation to the relevant Regulated Distribution System which is forecasted for that Regulatory Year t and approved by the ERC in accordance with Section 4.13;
- $Tax_{m,t}$ = The payment of taxes, other than corporate income tax, for Regulatory Year t in nominal terms which are forecasted to be incurred in relation to the relevant Regulated Distribution System for that Regulatory Year and which are approved by the ERC in accordance with Section 4.13;
- $RegDepn_t$ = The Regulatory Depreciation for Regulatory Year t in real⁸ terms as determined by the ERC in respect of the relevant Regulated Distribution System on the basis of the methodology for its determination set out in Section 4.10.2;
- RAB_t = The Regulatory Asset Base for the relevant Regulated Distribution System for Regulatory Year t in real terms as determined by the ERC on the basis of the methodology for its determination set out in Section 4.9;
- WC_t = The working capital allowance for Regulatory Year t , which is set at a proportion of the difference between:
- (a) the real operating and maintenance expenditure in relation to the relevant Regulated Distribution System which is forecasted for that Regulatory Year and approved by the ERC in accordance with Section 4.13; and

⁷ In these Rules the word 'nominal' is used with its financial meaning, such that nominal peso numbers are represented with inflation applied, and are in pesos of the day.

⁸ In these Rules the word 'real' is used with its financial meaning, such that real peso numbers are represented without inflation applied.

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- (b) the real amount of the bad debts in relation to the relevant Regulated Distribution System which are forecasted for that Regulatory Year and approved by the ERC in accordance with Section 4.13,

such proportion being determined by the ERC, as part of the Regulatory Reset Process for the Subsequent Regulatory Period under Article VII, after an analysis of the relevant payables and receivables (which analysis could take the form of a lead/lag study, a benchmark study, or an industry average study focused on private utilities) or the latest actual working capital requirement of the regulated entities verifiable from its Audited Financial Statements such that it should reflect its lead/lag analysis for the past three (3) years;

WACC = The weighted average cost of capital calculated using a 'classical' formula and as determined by the ERC in accordance with Section 4.11. This value is determined by the ERC as part of the Regulatory Reset Process for the Subsequent Regulatory Period under Article VII and remains constant for each Regulatory Year in the Subsequent Regulatory Period unless a re-opening event occurs as described in Section 12.6; and

Tax_{p,t} = The estimated corporate income tax payable by the relevant Regulated Entity in Regulatory Year *t* in nominal terms as determined by the ERC in accordance with Sections 4.14.1 to 4.14.3. For the Subsequent Regulatory Period, this value may be set to zero.

4.8 Asset Valuation

4.8.1 As part of the Regulatory Reset Process under Article VII for Subsequent Regulatory Periods, the ERC must require that either one of the following be adopted:

(a) the regulatory asset base for a Regulated Distribution System is re-valued. The re-valuation must value the material items of plant and equipment either:

- at their optimized deprival value (i.e. at the lesser of their optimized depreciated replacement cost and their recoverable amount (their recoverable amount being the greater of their economic value and net realizable value)); or
- using some other method of internationally-accepted valuation methodology as determined by the ERC; or

(b) the previous value of the regulatory asset base for a Regulated Distribution System is rolled-forward.

In this regard, the ERC shall issue the required documents to advise the Regulated Entities of which valuation methodology to apply in the relevant Subsequent Regulatory Period.

However, any assets previously optimized out of the regulatory asset base for a Regulated Distribution System will be included in that regulatory asset base if the ERC is satisfied that those assets are required to support the provision

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of Regulated Distribution Services, in which case the principles set out in Section 4.8.2 must be employed in relation to the treatment of those assets.

4.8.2 Where the valuation undertaken pursuant to Section 4.8.1 shows that an asset that has previously been optimized out of the regulatory asset base for a Regulated Distribution System should be included in the regulatory asset base for that Regulated Distribution System for the Subsequent Regulatory Period, the following principles relating to the treatment of that asset must be employed:

(a) the value at which that asset must be included in that regulatory asset base is its regulatory asset base value as of the date of its exclusion from the regulatory asset base; and

(b) that asset must be included in that regulatory asset base in the Regulatory Year during the Subsequent Regulatory Period in which the asset is forecasted to be required to support the provision of Regulated Distribution Services and the asset must be depreciated (in an accelerated manner) over its remaining economic life as if it had never been optimized out of the regulatory asset base.

4.8.3 Notwithstanding Section 4.8.2(a), the value of any Transferred Subtransmission Assets must be determined in accordance with Section 4.8.11.

4.8.4 ODRC valuation allows for network optimization disallowing any over-design and unnecessary assets and matches the economic value of the asset when inflation is high, which was adopted during the previous regulatory period; unless otherwise specified in subsequent issuances, the Commission shall adopt a rolled-forward approach in determining the value of the regulatory asset base for the Subsequent Regulatory Period. This will require a roll forward based on an actual efficient capital expenditure and an actual depreciation of the previous Regulatory Period. It incentivized the DUs to become efficient in its CAPEX spending.

4.8.5 In determining the value of the regulatory asset base for a Regulated Distribution System using a rolled-forward approach, the ERC shall develop a Regulatory Asset Base (RAB) Handbook that will specify the following:

- Review of the existing Asset Register template;
- Revisit the replacement costs of distribution assets, both network and non-network assets, including power transformers and switchgears;
- Provide a review and audit information and process to assess the actual existence and condition (use and usefulness/idle/retired) and actual costing (historical/acquisition cost) of all distribution assets;
- Details and process of the rolled forward approach in accordance with the ERC requirements;
- Criteria on the selection of reasonable actual CAPEX projects and the role of optimization process in the rolled-forward approach;
- The treatment of any difference on the forecast and actual depreciation;

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- Treatment of any difference between the replacement costs of assets procured after the valuation date and the same asset included in a Regulated Entity's financial accounting base.

4.8.6 The details of the valuation must be validated to the relevant Regulated Entity's asset register or general ledger (as required), and such reconciliation must be fully documented in the submission of the relevant Valuation Report to the ERC. The Valuation Report must specify the reported asset values for the following Asset Categories j:

(a) Regulated Distribution Services Assets

i. Distribution services

- Land and Land Rights (dedicated to distribution purposes)
- Structures and Improvements (dedicated to distribution purposes)
- Substation Equipment
 - Power transformers
 - Switchgear
 - Protective equipment
 - Metering and control equipment
 - Communications equipment
 - Other station equipment
- Poles, Towers and Fixtures
- Overhead Conductors and Devices
- Underground Conduits
- Underground Conductors and Devices
- Distribution transformers
- Power conditioning equipment⁹
- Meters, Metering Instruments & Metering Transformers (dedicated to distribution purposes)
- Information technology equipment including Cybersecurity (dedicated to distribution purposes)
- Regulated Entity property on Consumers' Premises (not forming part of Distribution Connection Assets)
- Street Lights and Signal Systems
- Submarine Cables

ii. General Plant (Non-network Assets)

- Land and Land Rights (non-network related)
- Structures and Improvements (non-network related)
- Office Furniture and Equipment

⁹ This refers to equipment such as capacitor banks for power factor correction, voltage regulators, generators used for spinning reserve or voltage stability, VAR compensators etc.

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- Transportation Equipment
 - Stores Equipment
 - Tools, Shop and Garage Equipment
 - Laboratory Equipment
 - Information systems equipment including Cybersecurity (non-network related)
 - Power-operated Equipment
 - Communication Plant and Equipment
 - Miscellaneous Equipment
- iii. Materials and Supplies, including spares
- iv. Transferred Sub-transmission Assets
- v. Innovation
- b) Distribution Connection Services Assets
- i. Distribution services
- Poles, Towers and Fixtures
 - Overhead Conductors and Devices
 - Underground Conduits
 - Underground Conductors and Devices
 - Distribution Transformers
 - Information technology equipment including Cybersecurity (dedicated to Distribution Connection Services)
 - Streetlights and Signal Systems
- ii. General Plant (Non-network Assets)
- Land and Land Rights (non-network related)
 - Structures and Improvements (non-network related)
 - Office Furniture and Equipment
 - Transportation Equipment
 - Stores Equipment
 - Tools, Shop and Garage Equipment
 - Laboratory Equipment
 - Information systems equipment including Cybersecurity (non-network related)
 - Power-operated Equipment
 - Communication Plant and Equipment
 - Miscellaneous Equipment
- iii. Materials and Supplies, including spares

c) Regulated Retail Services Assets

- Meters, Metering Instruments & Metering Transformers – Consumer Import and Export metering
- Land and Land Rights
- Structures and Improvements
- Office Furniture and Equipment
- Transportation Equipment
- Stores Equipment
- Tools, Shop and Garage Equipment
- Laboratory Equipment
- Information systems equipment including Cybersecurity
- Communication Plant and Equipment
- Miscellaneous Equipment

d) any other Asset Categories specified by the ERC such as Assets for Regulatory and Governmental Requirements Compliance

Where construction projects have commenced before the valuation date but will only be completed after this date, assets fully completed and commissioned before the date of the valuation will be included in the Valuation Report (unless optimized out in terms of the RAB Handbook). In addition, capital expenditure incurred on completed and commissioned assets added to the Regulatory Asset Base in the period between the valuation date and the start of the Subsequent Regulatory Period, will also be included in the Valuation Report, unless optimized out in terms of the RAB Handbook. Such assets will be included in the Regulatory Asset Base and valued in terms of the RAB Handbook.

A Construction Work in Progress (CWIP) factor as described in Section 4.8.9 will be applied by the ERC to the assets included in the valuation when determining the value of the Rolled-forward Depreciated Regulatory Asset Base.

4.8.7 The optimization principles will be described in the RAB Handbook. Further optimization principles, as long as these do not contradict the RAB Handbook, may be used as approved by the ERC. Such principles must include the manner in which any windfall gains and losses arising from the valuation are to be treated. It is given that changes in the RDWR, including the aforementioned further optimization principles, are subjected to full public consultations.

4.8.8 The Valuation Report for a Regulated Distribution System must differentiate between those assets which are to be included in the Regulatory Asset Base for that Regulated Distribution System and those assets which are to be excluded from the Regulatory Asset Base for the reason that the Regulatory Asset Base must only include assets to the extent that such assets:

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(a) are necessary to meet Customer requirements for Regulated Distribution Services within the electricity distribution network planning horizon referred to in the optimization principles described in RAB Handbook;

(b) except in the case of spares, are in service (i.e. have been commissioned and are providing a service);

(c) in the case of spares, are in reasonable quantities as determined by the ERC (pursuant to Section 7.1.2(b)); and

(d) in the case of easements, are clearly documented as being owned by the Regulated Entity.

4.8.9 For purposes of the Construction Work in Progress (CWIP) Factor as it applies in respect of all assets or an Asset Category is intended to compensate for the investment cost (i.e. the time value of money), calculated using a typical spend profile for assets of the relevant type (at the weighted average cost of capital determined by the ERC), over the typical period from the commencement of the construction of such assets to the commissioning of those assets (excluding any periods of unjustified delay). For these purposes, the "spend profile" is to be determined as the average expenditure on those types of assets in relation to past projects undertaken, calculated on a project and monthly basis over the whole life of each project from budget approval to commissioning.¹⁰ The CWIP Factor must be derived from a calculation method approved by the ERC which could take the form of:

(a) uniformly escalating the optimized depreciated replacement cost of the assets by a constant factor; or

(b) directly estimating the investment cost for specific past projects and adding said cost to the optimized replacement cost of the assets; or

(c) any other method approved by the ERC.

The CWIP Factor may be the same for all valued assets or may differ as between Asset Categories.

4.8.10 The ERC must estimate, in respect of that Regulated Distribution System, the value of the Rolled-forward Depreciated Regulatory Asset Base for each Asset Category j as at the commencement of the first Regulatory Year (t) in the Subsequent Regulatory Period ($RAB_{oj,t}$). For these purposes, $RAB_{oj,t}$ is equal to $RAB_{cj,t-1}$ as calculated in accordance with the formula specified in Section 4.9.2 except that, for the purposes of applying that formula:

(a) $RAB_{oj,t-1}$ shall be deemed to be the value of each asset in Asset Category j that shall be included in the regulatory asset base for that Regulated Distribution System (as defined in Section 4.8.6) and which is existing as of the date of the valuation in relation to that Regulated Distribution System, such value being:

¹⁰ This average can be calculated on the basis of two or more projects of similar size and complexity, but should be reasonably representative of capital expenditure projects undertaken in respect of the relevant Regulated Distribution System in the normal course of business.

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- where Asset Category j does not comprise Transferred Subtransmission Assets – the rolled forward value of those assets as of the valuation date increased by the application of the relevant CWIP Factor (except that the CWIP Factor must not be applied to the extent an asset is categorised as part of spares, easements, buildings, civil works and establishment, or non-system assets); and
- where Asset Category j comprises Transferred Subtransmission Assets – the value of those assets as at the valuation date.

(b) $Capex_{j,t-1}$ shall be deemed as the actual or budgeted capital expenditure of the relevant Regulated Entity on assets in Asset Category j for the period commencing on the date of that valuation up to the date of commencement of the Subsequent Regulatory Period to the extent such expenditure is reasonable and attributable to assets which would be included in the regulatory asset base for that Regulated Distribution System, increased by the application of the relevant CWIP Factor, except that the CWIP Factor must not be applied to the extent the relevant capital expenditure is:

- on an asset that is categorised as part of spares, easements, buildings, civil works and establishment, or non-system assets; or
- on a Transferred Subtransmission Asset;

(c) $RegDepn_{oj,t-1}$ shall be deemed to be the Regulatory Depreciation of those assets in Asset Category j that are to be included in the Regulatory Asset Base for that Regulated Distribution System, and that are in existence as at valuation date in relation to that Regulated Distribution System, excluding spares, easements and land, such Regulatory Depreciation being calculated in accordance with Section 4.10.1 (but as if the reference to Regulatory Year t in that Section were instead a reference to the period from the valuation date to the date of commencement of the Subsequent Regulatory Period);

(d) $RegDepn_{cj,t-1}$ will be deemed to be the Regulatory Depreciation of the capital expenditure on assets in Asset Category j, excluding spares, easements and land, such Regulatory Depreciation being calculated consistently with the methodology set out in Section 4.10.1 (but as if the reference to Regulatory Year t in that Section were instead a reference to the period:

- from (in the case of an asset that is not a Transferred Subtransmission Asset) the actual or budgeted date of commissioning of the asset or (in the case of an asset that is a Transferred Subtransmission Asset) the actual or budgeted date of the transfer of the asset from TransCo or NGCP to the relevant Regulated Entity;
- to the date of commencement of the Subsequent Regulatory Period); and

(c) $Disposals_{j,t-1}$ will be deemed to be the actual or budgeted net receipts from the disposal, during the period from the valuation date in relation to that Regulated Distribution System to the date of commencement of the Subsequent Regulatory Period, of assets in Asset Category j that are to be included in the regulatory asset base for that Regulated Distribution System to the extent such net receipts are reasonable. The net receipts from the disposal of such an asset will be determined as the receipts from the disposal of that asset, minus the value of that asset at the

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actual or budgeted date of its disposal. The value of that asset at the actual or budgeted date of its disposal will be determined as the rolled-forward depreciation regulatory asset base value of that asset at that time.

4.8.11 Notwithstanding the foregoing, any Transferred Subtransmission Assets must be valued at their Revenue Potential adjusted for the effect of inflation, capital expenditure on them and depreciation between:

(a) the date of the transfer of those assets from TransCo or NGCP to the relevant Regulated Entity;

(b) the date of the valuation; and

(c) such adjustment to be made in such manner as is specified for that purpose in these Rules or (in the absence of such specification) as is approved for that purpose by the ERC.

4.8.12 Assets remaining in service beyond their regulatory life as described in Section 4.10.1(a), will remain part of the regulatory asset base subject to review by the ERC. Such assets and their residual value must be separately identified in the Valuation Report. Since the Regulatory Depreciation on these assets would have been completely recovered, the ERC shall determine the reasonable residual value to be used for the purposes of calculating a return on the regulatory asset base only (in accordance with Sections 4.7.7 and 4.9.1). There will be no further depreciation on these assets and at such time that they are finally removed from service, there will be no further disposal value in terms of Section 4.10.1. Any revenue derived from the sale of assets thus disposed will however be taken into account for the purposes of Section 4.3.1.

4.9 Regulatory Asset Base

4.9.1 The Regulatory Asset Base for a Regulated Distribution System for any Regulatory Year t (RAB_t) is derived from a roll-forward calculation of the value of each Asset Category j and is calculated as follows:

$$RAB_t = \frac{[(RAB_{o,t} + AORL_{o,t}) + (RAB_{c,t} + AORL_{c,t})]}{2}$$

Where:

$RAB_{o,t}$ = In the case where Regulatory Year t is the first Regulatory Year in the Subsequent Regulatory Period, the sum across the Asset Categories j of the Rolled-forward Depreciated Regulatory Asset Base for each Asset Category j as of the commencement of the first Regulatory Year in the Subsequent Regulatory Period ($RAB_{oj,t-1}$) as determined by the ERC under Section 4.8.1; or

= In the case where Regulatory Year t (other than the first Regulatory Year) in the Subsequent Regulatory Period, the sum across the Asset Categories j of the opening Rolled-forward Depreciated Regulatory Asset Base for each Asset Category j for that Regulatory Year t ($RAB_{oj,t} = RAB_{cj,t-1}$), as defined in Section 4.9.2;

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$RAB_{c,t}$ = The sum across the Asset Categories j of the closing Rolled-forward Depreciated Regulatory Asset Base for each Asset Category j for Regulatory Year t ($RAB_{cj,t}$), as defined in Section 4.9.2;

$AORL_{o,t}$ = In the case where Regulatory Year t is the first Regulatory Year in the Subsequent Regulatory Period, the sum across the Asset Categories j of the residual value of assets that are remaining in service beyond their regulatory lives for each Asset Category j as of the commencement of the first Regulatory Year in the Subsequent Regulatory Period ($RAB_{oj,t-1}$), as determined by the ERC under Section 4.8.12; or

= In the case where Regulatory Year t (other than the first Regulatory Year) in the Subsequent Regulatory Period, the sum across the Asset Categories j of the opening residual value of assets remaining in service beyond their regulatory lives for each Asset Category j for that Regulatory Year t ($AORL_{oj,t} = AORL_{cj,t-1}$) as determined by the ERC under Section 4.8.12;

$AORL_{cj,t}$ = The sum across the Asset Categories j of the closing residual value of assets that are remaining in service beyond their regulatory lives for each Asset Category j for Regulatory Year t as determined by the ERC under Section 4.8.12; and

$$AORL_{cj,t} = AORL_{oj,t} + (AORLA_{j,t} - AORLR_{j,t})$$

Where:

$AORLA_{j,t}$ = The residual value of assets in category j reaching the end of their regulatory lives during Regulatory Year t ; and

$AORLR_{j,t}$ = The residual value previously recorded as part of RAB_t for assets in category j that were previously used beyond their regulatory lives but have been disposed of during Regulatory Year t .

(This value should not be included as part of the disposals described in Section 4.9.2.)

4.9.2 The closing Rolled-forward Depreciated Regulatory Asset Base, in respect of a Regulated Distribution System, for Asset Category j for Regulatory Year t ($RAB_{cj,t}$) is calculated as follows:

$$RAB_{cj,t} = RAB_{oj,t} - \text{RegDepn}_{oj,t} + \text{Capex}_{j,t} - \text{RegDepn}_{cj,t}$$

Where:

$RAB_{oj,t}$ = The opening Rolled-forward Depreciated Regulatory Asset Base for Asset Category j for Regulatory Year t , which is numerically equal to $RAB_{cj,t-1}$ except that, where Regulatory Year t is the first Regulatory Year in the Subsequent

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Regulatory Period, $RAB_{oj,t}$ is the Rolled-forward Depreciated Regulatory Asset Base for Asset Category j as of the commencement of the first Regulatory Year in the Subsequent Regulatory Period as determined by the ERC under Section 4.8.10;

$RegDepn_{oj,t}$ = The Regulatory Depreciation, for Regulatory Year t , of those assets in Asset Category j (excluding spares, land and easements) that were included in the Rolled-forward Depreciated Regulatory Asset Base for Asset Category j as of the commencement of the first Regulatory Year in the Subsequent Regulatory Period as determined by the ERC consistently with its determination under Section 4.8.10 and with the method for calculating the Regulatory Depreciation for that Asset Category as set out in Section 4.10.1;

$Capex_{j,t}$ = The forecast capital expenditure of the Regulated Entity on assets in Asset Category j for Regulatory Year t as approved by the ERC for that Regulated Distribution System under Section 4.12.5 after applying the CWIP factor described in Section 4.8.9;

$RegDepn_{cj,t}$ = The Regulatory Depreciation, for Regulatory Year t , of the forecast capital expenditure of the Regulated Entity on assets (excluding spares, land and easements) in Asset Category j (as approved by the ERC under Section 4.12.5 for that Regulated Distribution System) to the extent that such forecast capital expenditure relates to a Regulatory Year in the Subsequent Regulatory Period which precedes Regulatory Year t , such Regulatory Depreciation being calculated consistently with the methodology set out in Section 4.10.1.

4.9.3 For the purposes of this Section 4.9 and Section 4.10, assets are to be included in the same categories as specified in, or in accordance with, Section 4.8.6 or in smaller categories (Asset Categories $j = 1...n$) such that each category includes similar assets with similar economic lives (such lives being calculated in accordance with Section 4.10.1).

4.10 Regulatory Depreciation

4.10.1 The Regulatory Depreciation, for Regulatory Year t , with respect to the assets that are in an Asset Category j ($RegDepn_{j,t}$) is calculated on a straight line basis as follows:

(a) where Asset Category j does not comprise Transferred Subtransmission Assets - using either of the following methods depending on the available data:

$$\begin{aligned} RegDepn_{j,t} &= (ORC_{j,t} / RegL_{j,t}) + Disposal_{j,t} - FISDA_{j,t} \\ &\text{or } (ODRC_{j,t} / RemL_{j,t}) + Disposal_{j,t} - FISDA_{j,t} \\ &\text{or } (RFV_{j,t} / RemL_{j,t}) + Disposal_{j,t} - FISDA_{j,t} \end{aligned}$$

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Where:

$ORC_{j,t}$ = the optimized replacement cost, as of the commencement of Regulatory Year t , for the assets that are in Asset Category j ;

$RegL_{j,t}$ = the Regulatory Life of Asset Category j as of the commencement of Regulatory Year t and is equal to the weighted average¹¹ economic life of the relevant assets as of the commencement of Regulatory Year t , where the economic life of an asset is taken to expire when the costs of maintenance and repair of that asset exceed the efficient replacement cost of it on a project comparison basis, using a forward looking discounted cash flow analysis, or as otherwise determined by the ERC. As a result of the report referred to in Section 4.10.3, $RegL_{j,t}$ may differ from the asset life used for financial reporting or taxation purposes;

$Disposals_{j,t}$ = the forecast receipts from the disposal, during Regulatory Year t , of assets in Asset Category j that are included in the regulatory asset base for that Regulated Distribution System (as defined in Section 4.8.6), as determined by the ERC as part of the Regulatory Reset Process for the Subsequent Regulatory Period under Article VII. Such forecast receipts will be at the rolled-forward depreciated regulatory asset value for the relevant assets. These receipts should not include the residual value allocated to disposed assets previously used beyond their Regulatory Lives under Section 4.8.12.

$FISDA_{j,t}$ = the forecast income (expressed in PhP) to a Regulated Entity that would arise during Regulatory Year t from the sale of disposed assets in Asset Category j , that were previously part of the rolled forward regulatory asset base for a Regulated Distribution System, as determined by the ERC as part of the Regulatory Reset Process for the Subsequent Regulatory Period under Article VII, after deducting any forecast expenses associated with the sale but excluding the value at which the disposed assets were forecast to be removed from the rolled forward regulatory asset base;

$ODRC_{j,t}$ = the optimized depreciated replacement cost for the relevant assets as at the commencement of

¹¹ Weighted by optimized replacement cost, optimized depreciated replacement cost or by the rolled-forward value, depending on the information availability for asset age in the relevant Regulated Entity's asset register systems.

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		Regulatory Year t, calculated (on the basis of the application of straight line depreciation of the optimized replacement cost for those assets) by multiplying their optimized replacement cost by the weighted average Remaining Life of Asset Category j ($RemL_{j,t}$) and dividing that product by the Regulatory Life of Asset Category j ($RegL_{j,t}$);
$RFV_{j,t}$	=	the rolled forward value for the relevant assets as of the commencement of Regulatory Year t, calculated (on the basis of the application of straight line depreciation of the those assets);
$RemL_{j,t}$	=	the difference between $RegL_{j,t}$ and $Age_{j,t}$; and
$Age_{j,t}$	=	the weighted average age of the relevant assets as of the commencement of Regulatory Year t; and

(b) where Asset Category j comprises Transferred Subtransmission Assets – using the following method:

$$RegDepn_{j,t} = RP_{j,t} / RemL_{j,t} + Disposal_{j,t} - FISDA_{j,t}$$

Where:

$RP_{j,t}$	=	the value of those assets, as of the commencement of Regulatory Year t, as determined in accordance with Section 4.8.10;
$RemL_{j,t}$	=	$(RegL_{j,t} - Age_{j,t})$;
$RegL_{j,t}$	=	the Regulatory Life of Asset Category j as of the commencement of Regulatory Year t and is equal to the weighted average ¹² economic life of those assets as of the commencement of Regulatory Year t, where the economic life of an asset is taken to expire when the costs of maintenance and repair of that asset exceed the efficient replacement cost of it on a project comparison basis, using a forward looking discounted cash flow analysis, or as otherwise determined by the ERC. As a result of the report referred to in Section 4.10.3, $RegL_{j,t}$ may differ from the asset life used for financial reporting or taxation purposes;
$Age_{j,t}$	=	the weighted average of the relevant assets as at the commencement of Regulatory Year t;
$Disposal_{j,t}$	=	the forecast receipts from the disposal, during Regulatory Year t, of assets in Asset Category j that are included as part of the Transferred

¹² Weighted by the value of the assets in Asset Category j, as determined in accordance with Section 4.8.9.

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Subtransmission Assets for a Regulated Distribution System, as determined by the ERC as part of the Regulatory Reset Process for the Subsequent Regulatory Period under Article VII. Such forecast receipts will be at the rolled-forward depreciated regulatory asset value for the relevant assets. These receipts should not include residual value allocated to disposed assets previously used beyond their Regulatory Lives in terms of Section 4.8.12; and

$FISDA_{j,t}$ = the forecast income (expressed in PhP) to a Regulated Entity that would arise during Regulatory Year t from the sale of disposed assets in Asset Category j , that were previously part of the Transferred Subtransmission Assets for a Regulated Distribution System, as determined by the ERC as part of the Regulatory Reset Process for the Subsequent Regulatory Period under Article VII, after deducting any forecast expenses associated with the sale but excluding the value at which the disposed assets were forecast to be removed from the rolled forward regulatory asset base.

4.10.2 The Regulatory Depreciation in respect of a Regulated Distribution System for Regulatory Year t in real terms ($RegDepn_t$) is calculated as follows:

$$RegDepn_t = (RegDepn_{o,t} + RegDepn_{c,t})$$

Where:

$RegDepn_{o,t}$ = Sum of $RegDepn_{oj,t}$ for Regulatory Year t for each Asset Category j , as defined in Section 4.9.2; and

$RegDepn_{c,t}$ = Sum of $RegDepn_{cj,t}$ for Regulatory Year t for each Asset Category j , as defined in Section 4.9.2.

4.10.3 For the purposes of this Section 4.10, the regulatory life that is attributable to an Asset Category j will be set in accordance with the schedules in the RAB Handbook described in Section 4.8.5, and such regulatory life must be the same for the same Asset Category for each Regulated Distribution System.

4.10.4 Assets remaining in use after reaching the end of their Regulatory Lives as described in Section 4.8.12 will not be subject to further depreciation.

4.11 Weighted Average Cost of Capital Determination

4.11.1 The purpose of calculating the weighted average cost of capital is to provide a cost of capital for regulatory purposes which can be applied to a Building Block cash flow model that generates a regulated revenue stream over a defined regulatory period for a Regulated Entity that provides Regulated Distribution Services in respect of a Regulated Distribution System.

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4.11.2 For this purpose, a classical weighted average cost of capital (WACC) is to be used as in ERC's view, it best balances the financial Building Blocks in Section 4.7.7 and the principles in Section 4.6.1. The WACC as so determined must be the same for all Regulated Entities and all Regulated Distribution Systems in an Entry Group. However, since the WACC will be determined for each Entry Group, subject to Section 4.11.13, there may be differences in the figures used for different Entry Groups.

4.11.3 The WACC (expressed in decimal, as opposed to percentage, terms) is to be calculated as follows:

$$\text{WACC} = [r_e \times E / V] + [r_d \times D / V]$$

Where:

r_e = the cost of equity and is calculated in accordance with Section 4.11.4;

r_d = the cost of debt and is calculated in accordance with Section 4.11.10;

E = the amount of equity funding assumed for regulatory purposes in the capital structure of a Regulated Entity, being 60% of V for the Subsequent Regulatory Period;

D = the amount of debt funding assumed for regulatory purposes in the capital structure of a Regulated Entity, being 40% of V for the Subsequent Regulatory Period; and

V = $E + D$.

4.11.4 The cost of equity (r_e), expressed in decimal terms, is calculated as follows:

$$r_e = r_f + \text{Beta}_e \times (r_m - r_f)$$

Where:

r_f = the risk-free rate within the Philippines, expressed in decimal terms, as determined in accordance with Section 4.11.5;

Beta_e = the industry average Equity Beta for electricity distribution businesses in the Philippines (excluding electricity distribution businesses conducted by Electric Cooperatives) as determined by the ERC for regulatory purposes in accordance with Sections 4.11.6 to 4.11.8; and

$(r_m - r_f)$ = the Market Risk Premium (MRP), expressed in decimal terms, adopted by the ERC as specified in Section 4.11.12.

4.11.5 The best approximation of a risk-free rate is generally the yield on the longest dated government borrowing instrument, usually a Treasury Bill or equivalent¹³. Unless otherwise specified in subsequent issuances of the ERC,

¹³ In the USA this is either the 10-year government bond or the 30 year government bond. Some regulators in overseas jurisdictions prefer to use the yield for a government bond with the same duration as the relevant regulatory period.

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the ERC shall adopt the direct approach which is deemed appropriate and reasonable considering the availability of Philippine (local) data which reflects sufficient liquidity.

- 4.11.6 The ERC recognizes that determining the underlying parameters on which the WACC is based, is subject to a significant degree of uncertainty. To address this, the ERC may consider a varying rate of WACC for each of the regulated entities based on a range of possible risks a regulated entity will be exposed to in a project. Given the developing nature of the regulatory environment, especially performance-based regulation, in the Philippines and the fact that many of the regulatory decisions may still be subject to challenges and delays while the processes are embedded, Regulated Entities face an unusual degree of regulatory uncertainty. Further, the regulated entities' investments are also exposed to the environmental, climate, geographical and other physical risks when compared to other investments to which it has limited exposure. This affects the risk profile of these Regulated Entities and the commensurate rate of return to investors in electricity distribution infrastructure. To compensate for these uncertainties, the ERC may incorporate a risk-based evaluation methodology in computing for the WACC.
- 4.11.7 The Commission may use the Risk Adjustment Factor (RAf) instead of the traditional Equity Beta. The RAf is the average risk factor determined for a specific Regulated Entity to be used as a multiplier of the MRP in Section 4.11.9 to obtain an estimated overall risk exposure for the Regulated Entity. This RAf will be used instead of the traditional Equity Beta, unless otherwise specified by ERC in a subsequent Position Paper, to arrive at individually determined risk-based compensation for the use of the investor's equity.

For the Subsequent Regulatory Period, the ERC will determine the Average Risk Adjustment Factor (RAf) for regulated entities which shall be calculated similar to the illustration below:

Risk Category	Preliminary Adjustment Factor	Weighting	Final Adjustment Factor
Environmental ¹⁴	1.4	10	0.14
Peace and Order ¹⁵	1.5	20	0.30
Local Government ¹⁶	1.2	10	0.12

In the Philippines, the average 10-year PDST-R2 is available and being monitored and published by the Philippine Dealing and Exchange Corporation (PDEX) and it is more reflective of the regulatory cycle for distribution business.

¹⁴ Environmental risk category refers to the Entity exposures to unusual climate or weather changes including calamities.

¹⁵ Peace and order refers to the susceptibility of the entity to civil disturbances resulting from the presence of recognized local rebel groups.

¹⁶ Local Government refers to unusual experiences with certain local governments that impact the entity operations (Rights-of-Way Issues, conflicting claims on properties and changing local government laws/policies).

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Susceptibility to losses – written off bad debts, Systems Loss and Other Physical losses	1.3	20	0.26
Geographical ¹⁷	1.4	10	0.11
Management ¹⁸	1.3	10	0.13
Governance ¹⁹	1.4	20	0.28
TOTAL		100	1.34

4.11.8 The Preliminary Adjustment factor represents a preliminary assessment of how much the average Risk Premium should be adjusted to compensate the regulated entity for any exposure in addition to what is perceived to be included in the Average Risk Premium.

4.11.9 The Market Risk Premium (MRP) is a measure of the risk associated with holding a portfolio of equity market assets rather than a portfolio of long-dated government bonds. The premium effectively measures the difference between the long-term average return to investors in the equity market of the Philippines (r_m) and the risk-free rate within the Philippines (r_f). Due to the smaller size, and potential lower liquidity, of the publicly traded equity market in the Philippines, the absence of history on long-term government bonds with reasonable liquidity and the absence of a reasonably long time-series of market data, unless otherwise specified thru subsequent issuance of the ERC, the ERC will adopt, for the Subsequent Regulatory Period, an MRP of 0.06.

4.11.10 The cost of debt (r_d), expressed in decimal terms, is calculated as follows:

$$r_d = r_f + DM$$

Where:

r_f = the risk-free rate within the Philippines, expressed in decimal and nominal terms, as determined in accordance with Section 4.11.5; and

DM = the industry average debt margin (or premium) within the Philippines (expressed in decimal and nominal terms) as determined by the ERC, which conceptually represents the margin above the risk-free rate within the Philippines that is requested by debt providers for providing funds to electricity

¹⁷ Geographical refers to any unusual circumstances in customer servicing (like customer density, length of installed lines, urban vs. rural and residential vs. commercial).

¹⁸ Management refers to the maturity and capability of management and may take into consideration management's risk awareness or risk averseness, including ability to identify and enter into any other alternative investment (Opportunity cost of alternative investment)

¹⁹ Governance refers to the evaluation of the maturity of the entity with respect to Corporate Governance (with approved manual on governance, use of written policies and procedures, internal audit involvement, practice of risk management, with corporate social responsibility policies in place and observed, no major records of non-compliance to regulatory matters., financial and management reports in place, etc.)

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distribution businesses in the Philippines (other than electricity distribution businesses conducted by Electric Cooperatives) to the extent such debt arrangements are representative of arms-length negotiated rates in liquid markets and are financially efficient.

In the Philippines, there may be an expectation that the debt margin for a regulated electricity distribution business will be higher than in more developed countries. The size and availability of debt funding sources from within the Philippines may be limited due to either bond market size or bank lending covenants. As a result, access to the required debt levels may require the inclusion of a "guarantee" premium of one form or another in the cost of debt, which is above the debt margin seen in overseas markets. This margin might be for either a peso guaranteed (where debt funds are sought in the Philippines and are guaranteed by an offshore bank) or a partial risk guarantee from the World Bank or similar international funding agency (where debt funds are sought outside the Philippines). The ERC must not allow the risks associated with the provision of debt finance to be double counted or over compensated within the industry average debt margin, but the industry average debt margin must reflect a realistic market outcome at the time it is determined. The ERC will determine the industry average debt margin for the purposes of calculating the cost of debt only after considering alternative sources of debt funds which may be appropriate in the context of funding an electricity distribution business within the Philippines, such consideration to occur during the Regulatory Reset Process for the Subsequent Regulatory Period under Article VII.

- 4.11.11 During the Regulatory Reset Process for the Subsequent Regulatory Period under Article VII, the ERC will give each Regulated Entity and other interested parties the opportunity to make written submissions to the ERC on the method and data sources which the ERC should rely upon in its determination of the risk-free rate within the Philippines, the average Risk Adjustment Factor, the cost of debt and gearing ratio for the purposes of calculating WACC.
- 4.11.12 Once these Rules have come into effect, the formula for calculating WACC and its components as set out in this Section 4.11 must not be altered by the ERC during the Regulatory Period. The ERC may however from time to time amend the manner in which it determines the underlying parameters on which its calculation of the WACC is based and shall issue the corresponding document in the form of an amendment to these Rules or subsequent Position Paper, and shall apply the same in Subsequent Regulatory Period.
- 4.11.13 If the ERC decides to adopt a similar WACC applicable to each Entry Group, the ERC will determine an updated value for the WACC that will apply to the new Entry Group. If this WACC differs by more or less than 10% from the WACC currently applied to a previous Entry Group, the WACC for this previous Entry Group will be amended in accordance with the latest determination of the ERC. That will give rise to a re-opening event as described in Article XII, Section 12.6.

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4.11.14 The difference between the actual return on capital earned by a Regulated Entity over the Subsequent Regulatory Period, and the value which would have resulted had the newly derived equivalent WACC Period applied for the Subsequent Regulatory Period, will be calculated. The said difference, unadjusted for the time value of money, will be added to or subtracted from the allowed revenue requirement for that Regulated Entity for the Subsequent Regulatory Period. The ERC will explore the possibility of categorizing what are short and long-lived assets in setting the WACC. It is worthy to note that for regulated entities where regulation is inherently long-lived considerations should be made on the rate of return (WACC) because most of the investments are long-term and the regulated entities need some assurance that it be allowed to lock-in the regulatory WACC. The primary objective is to ensure that the regulated entities would be entitled to a full investment recovery of its regulated assets at an appropriate rate of return. It is recognized that using current data for short-lived assets provides efficient investment signals. However, it is also recognized that there are advantages in using long-term average data, which provide greater stability, reduce re-financing risks for long-lived assets.

4.12 Capital Expenditure Forecast

4.12.1 During the Regulatory Reset Process for the Subsequent Regulatory Period under Article VII, each Regulated Entity must provide the ERC with its forward forecasts of its proposed annual capital expenditure, for each Regulated Distribution System that is operated by it, for each Regulatory Year in the Subsequent Regulatory Period. This capital expenditure program must separately identify each capital expenditure project in respect of which the forecast capital expenditure in any Regulatory Year or subsequent Years during or after the Subsequent Regulatory Period which is greater than PHP 30 million or 20% of total capital expenditure forecasted for that Regulatory Year, whichever is lower. For both these separately identified projects and the remaining forecasted capital expenditure, the forecasts must each be broken down into the asset categories specified in, or in accordance with, Section 4.8.6.

4.12.2 For each of the capital expenditure projects which are separately identified in accordance with Section 4.12.1, the capital expenditure program must be accompanied by:

- (a) a description of the project;
- (b) the reason for the ranking of the project relative to other projects in terms of its proposed commissioning date;
- (c) the impact the project is expected to have on those measures of the performance of the relevant Regulated Distribution System which are determined by the ERC under Article VIII;
- (d) a classification of the project into the following categories:

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- renewal related (identifying why the assets need replacing, what remaining asset value is sought to be written off, if any, and the potential disposal value of the replaced assets); or
- refurbishment related (identifying the increase in operational life expected from the refurbishment, if any); or
- growth-related or new assets (identifying which assets are for shared network infrastructure and which are for new connections); and

(c) a division of the forecast capital expenditure for that project into the past annual capital expenditure on that project, with a further division into fully attributable expenditures and allocated overheads.

To avoid confusion over what constitutes load growth, renewal or refurbishment related projects, the following should be noted:

-) Projects undertaken to provide Regulated Distribution Services to new Customers or to increase the capacity of Regulated Distribution Systems in order to meet growing demands for Regulated Distribution Services from existing Customers, should be classed as load growth projects.
-) Projects undertaken to renew assets because they can no longer meet growing demands should be classed as load growth projects.
- i) Renewal projects are those that replace existing assets due to their deteriorating condition, when the anticipated economic cost of operating, refurbishing and maintaining these assets exceed that to renew them.
-) Renewal projects can also be to replace assets due to technological obsolescence.
-) There is often a significant degree of overlap between maintenance and refurbishment projects. In general, maintenance works are defined as those works required to ensure that an asset performs its designated function for its full standard asset life. Refurbishment projects on the other hand, are those that are used to increase the serviceability of assets to beyond their normal standard asset lives. Expenses incurred for maintenance activities should not be capitalized.
-) Refurbishment projects often involve at least a degree of asset replacement, which may give rise to some ambiguity. Such projects should be classed in accordance with their underlying activities that constitute the largest part of the project value.
-) Projects undertaken to comply with regulatory and government requirements.

For the remaining forecast capital expenditure which is not allocated to separately identified capital expenditure projects in accordance with Section 4.12.1, the capital expenditure program must be accompanied by a justification, against each of the asset categories specified in, or in

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accordance with, Section 4.8.6, as to why the forecasted expenditures are necessary and are of reasonable magnitude, and must be categorized as follows:

- (a) renewal-related;
- (b) refurbishment-related; or
- (c) growth-related or new assets;

as defined in Section 4.12.2(d).

The ERC must review both the capital expenditure program for a Regulated Distribution System and the accompanying documentation to determine:

(a) whether the capital expenditure program has been represented fairly such all related capital expenditure is grouped together into the one project and has been sub-divided to place it below the individual project reporting threshold in Section 4.12.1, is based upon the best available prices (adjusted to PhP) obtainable from international markets, conform with the trending patterns established from the historical expenditure records, is reasonably efficient from a design implementation point of view, is likely to support the forecast growth in connections, co-incident peak demand and energy delivered and is sufficient to allow the relevant Regulated Entity to achieve or exceed the applicable target levels of performance specified under Article VIII, are required to meet regulatory and/or statutory requirements and make reasonable allowance for forecast changes in CPI change rate levels; and

(b) whether the PhP/\$US exchange rate and CPI forecasts referred to in Section 4.12.6 are reasonable.

The ERC must decide on the following:

(a) whether the relevant capital expenditure program is based upon the best available prices (adjusted to PhP) obtainable from international markets, is reasonably efficient, is likely to support the forecast growth in connections, co-incident peak demand and energy delivered and is sufficient to allow the relevant Regulated Entity to achieve or exceed the applicable target levels of performance specified under Article VIII; and

(b) whether the PhP/\$US exchange rate and CPI forecasts referred to in Section 4.12.6 are reasonable.

If the ERC decides these conditions have not been met it must, it shall approve such program or forecasts with such amendments as it considers necessary for those conditions to be met. Towards this end, public hearings and consultation can be conducted through inviting submissions on the ERC's initial review reports/draft determination on the price control arrangements for the Subsequent Regulatory Period. These submissions will be considered in preparing the final determination on the price control arrangements.

The capital expenditure forecasts provided by a Regulated Entity as part of a capital expenditure program referred to in Section 4.12.1 must be provided in real and nominal terms and must be supported by detailed documentation which clearly and comprehensively substantiates those forecasts, including

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details of the PhP/\$US exchange rate and CPI forecasts, for each Regulatory Year, which have been used by the Regulated Entity to generate those forecasts. These exchange rate and CPI forecasts must be consistent with those used for forecasting operating and maintenance expenditure, as described in Section 4.13.6.

The ERC must determine the capital expenditure forecast to be included in the Building Block analysis based on consideration of the information available to it including any relevant reports. Unless contradictory evidence exists for particular projects, expenditure forecasts must be based on the standard replacement rates contained in the RAB Handbook, adapted by the multiplier ranges provided, as appropriate.

During the Regulatory Reset Process for the Subsequent Regulatory Period under Article VII, each Regulated Entity has to provide historical records of capital expenditure on Distribution System Assets and Non-system Assets related to the Distribution System for each of the four Regulatory Years, the actual expenditure for Regulatory Year t-2 and the budgeted expenditure for Regulatory Year t-1. These expenditure records and budgets have to be broken down into the categories described in Section 4.8.6. Projects completed over this period, with individual items with values exceeding PhP30 million or 20% of the total annual capital expenditure separately identified.

Operating and Maintenance Expenditure

During the Regulatory Reset Process for the Subsequent Regulatory Period under Article VII, each Regulated Entity must provide the ERC with:

- (a) its historical operating and maintenance expenditure, in relation to each Regulated Distribution System that is operated by it, for each year of the previous Regulatory Period; and
- b) its forward forecasts of its proposed annual operating and maintenance expenditure, in relation to each such Regulated Distribution System, for each Regulatory Year in the Subsequent Regulatory Period.

Such annual historical and forecast operating and maintenance expenditure must separately identify operating and maintenance expenditure grouped into the following categories and sub-categories in relation to the relevant Regulated Distribution System:

- i) Regulated Distribution Services expenses - operation
 - (i) Operation supervision and engineering
 - (ii) Contractor services
 - (iii) Load Dispatching
 - (iv) Structures
 - (v) Substations
 - (vi) Overhead lines & devices
 - (vii) Underground cables & devices
 - (viii) Street Lighting and Signal System (non-roadway and roadways)

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(ix) Metering (distribution network related including metering related to monitoring and managing system losses)

(x) Rents

(xi) Information technology including Cybersecurity (distribution network related)

(xii) Net Metering (distribution network related)

(xiii) Miscellaneous

(d) Regulated Distribution Services expenses – maintenance

(i) Maintenance supervision & engineering

(ii) Contractor services

(iii) Structures

(iv) Substation equipment

(v) Overhead lines & devices

(vi) Underground cables & devices

(vii) Street Lighting and Signal System (non-roadway and roadways)

(viii) Distribution transformers

(ix) Information technology including Cybersecurity (distribution network related)

(x) Metering (distribution network related including metering related to monitoring and managing system losses)

(xi) Net Metering (distribution network related)

(xii) Miscellaneous

c) Regulated Distribution Services expenses – Administrative & general

(ii) Company management costs

(iii) Administrative and General Salaries

(iv) Office Supplies and Expenses

(v) Information technology including Cybersecurity (admin & general)

(vi) Outside Services Employed

(vii) Property Insurance

(viii) Injuries and Damages

(ix) Employee Pension and Benefits

(x) Regulatory liaison and compliance

(xi) Rents

(xii) Maintenance of Office and General Plant

(xiii) Officers Allowances and Benefits

(xiv) Travel

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- (xv) Training
- (xvi) Water and electricity
- (xvii) Miscellaneous
- (xviii) WESM compliance – market fees²⁰
 - Registration fees
 - Metering fees
 - Billing and settlement fees
 - Administration fees
 - Costs for the PEM Board, committees & working groups
 - Market Management Software and upgrades costs recovery
 - WESM – provision and maintenance of security

(f) Distribution Connection Services - Operation

- (i) Operation supervision and engineering
- (ii) Contractor services
- (iii) Structures
- (iv) Substations
- (v) Overhead lines & devices
- (vi) Underground cables & devices
- (vii) Street Lighting and Signal System (non-roadway and roadways)
- (viii) Consumer installations
- (ix) Information technology including Cybersecurity (distribution connection services related)
- (x) Miscellaneous

g) Distribution Connection Services – Maintenance

- (i) Maintenance supervision & engineering
- (ii) Contractor services
- (iii) Structures
- (iv) Substations
- (v) Overhead conductors & devices
- (vi) Underground cables & devices
- (vii) Street Lighting and Signal Systems System (non-roadway and roadways)
- (viii) Consumer Installations

ent that these costs apply to Regulated Distribution Services

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- (ix) Distribution transformers
- (x) Information technology including Cybersecurity (distribution network related)
- (xi) Miscellaneous

(h) Distribution Connection Services – Administrative & general

- (i) Administrative and General Salaries
- (ii) Office Supplies and Expenses
- (iii) Information technology including Cybersecurity (admin & general)
- (iv) Outside Services Employed
- (v) Property Insurance
- (vi) Injuries and Damages
- (vii) Employee Pension and Benefits
- (viii) Regulatory liaison and compliance
- (ix) Rents
- (x) Maintenance of Office and General Plant
- (xi) Officers Allowances and Benefits
- (xii) Travel
- (xiii) Training
- (xiv) Water and electricity

i) Regulated Retail Services

- (i) Administration and management of the provision of regulated retail services
- (ii) Planning, installation and maintenance of consumer metering installations
- (iii) Consumer Meter Reading Expenses
- (iv) Information technology including Cybersecurity (retail related)
- (v) Consumer Records, Billing and Collection Expenses
- (vi) Bad debts
- (vii) Informational and Instructional Advertising Expenses
- (viii) Energy trading expenses (excluding energy purchases)
- (ix) Contractor Services
- (x) Rents

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- (xi) Water and electricity²¹
- (xii) Miscellaneous Consumer Services Expenses
- (xiii) Regulatory liaison and Compliance

Any other categories or sub-categories specified by the ERC.

The regulatory liaison and compliance cost category included above is for all reasonable costs associated with complying with applicable government agency rules and regulations.

Where Regulated Entities engage in alternative business activities outside the operation of their Regulated Distribution Systems and incur operating and maintenance expenditure for services that are shared between these alternative business activities and the Regulated Distribution Services, Regulated Entities must provide full details of the magnitude of these costs and the manner in which these costs are allocated between the alternative business activities and the Regulated Distribution Services. Such alternative business activities can include related business activities as noted in Section 4.3.4.

During the Regulatory Reset Process for the Subsequent Regulatory Period under Article VII, each Regulated Entity must also provide the ERC with:

- (a) a summary of its historical payments of taxes, levies and duties (other than corporate income tax), incurred in relation to each Regulated Distribution System that is operated by it, for each year of the previous Regulatory Period; and
- (b) its forward forecasts of its expected payments of taxes, levies and duties (other than corporate income tax), to be incurred in relation to each such Regulated Distribution System, for each Regulatory Year in the Subsequent Regulatory Period.

The annual operating and maintenance expenditure forecasts referred to in Section 4.13.1 must be accompanied by a justification against each of the expenditure categories referred to in Section 4.13.1 as to why the forecast expenditures are necessary and are of reasonable magnitude (such forecasts could, for example, be supported by benchmarks against overseas electricity distribution businesses). The written justification must also demonstrate improvements in operational efficiency and productivity over the Subsequent Regulatory Period. For these purposes, benchmarks against operational parameters such as staff numbers, energy throughput, service performance or other measures may be used to justify the relevant expenditures.

The ERC must review both the operating and maintenance expenditure forecasts as well as the forecast expenditure for taxes, levies and duties (other than corporate income taxes) in relation to a Regulated Distribution System and the accompanying documentation to determine:

- (a) whether the forecast expenditure is reasonably efficient, is likely to meet the forecast growth in connections, co-incident peak demand and energy

²¹ Electricity consumption incurred in providing Regulated Retail Services, not bulk energy purchases.

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ered and is sufficient to allow the relevant Regulated Entity to achieve or exceed the applicable target levels of performance specified under Article VIII;

(b) whether the forecasts for bad debts reflect a responsible approach to conditions and are consistent with a reasonable strategy for improving collections;

(c) whether the PhP/\$US exchange rate and CPI forecasts referred to in Section 4.13.6 are reasonable.

The ERC must decide on the following:

(a) whether the relevant forecast operating and maintenance expenditure is reasonably efficient, is likely to support the forecast growth in connections, content peak demand and energy delivered and is sufficient to allow the relevant Regulated Entity to achieve or exceed the applicable target levels of performance specified under Article VIII;

(b) whether the forecasts for bad debts reflect a responsible approach to conditions and are consistent with a reasonable strategy for improving collections;

(c) whether the PhP/\$US exchange rate and CPI forecasts referred to in Section 4.13.6 are reasonable.

If the ERC decides these conditions have not been met it shall approve such forecasts with such amendments as it considers necessary for those conditions to be met.

The operating and maintenance expenditure forecasts, and forecast payments of taxes, levies and duties referred to in Section 4.13.2 (b), provided by a Regulated Entity must be provided in real and nominal terms and must be supported by detailed documentation which clearly and comprehensively substantiates those forecasts, including details of the PhP/\$US exchange rate and CPI forecasts, for each Regulatory Year, which have been used by the Regulated Entity to generate those forecasts. These exchange rate and CPI forecasts must be consistent with those used for forecasting capital expenditure, as described in Section 4.12.6.

The ERC must determine the operating and maintenance expenditure forecasts to be included in the Building Block analysis based on consideration of the information available to it including any relevant reports.

Calculation of Corporate Income Tax

The estimated corporate income tax payable by a Regulated Entity in respect of a Regulated Distribution System in Regulatory Year t ($Tax_{p,t}$) must be calculated by the ERC in accordance with the following formula:

$$Tax_{p,t} = NTIncome_{t-1} \times T_c$$

where:

$NTIncome_{t-1}$ = the Net Taxable Income of the Regulated Entity for Regulatory Year $t-1$ as determined by the ERC on the

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basis of the methodology for its determination as set out in Section 4.14.2; and

T_c = the corporate tax rate applicable in respect of the Regulated Entity pursuant to the laws of the Philippines.

For the purposes of Section 4.14.1, $NTIncome_{t-1}$ is calculated as the greater of zero and:

$$TIncome_{t-1} + AT_{t-2}$$

Where:

$TIncome_{t-1}$ = the taxable income of the Regulated Entity for Regulatory Year t-1 as calculated on the basis of the methodology for its determination set out in Section 4.14.3; and

AT_{t-2} = the net tax losses carried forward at the end of the Regulatory Year in the Previous Regulatory Period which precedes Regulatory Year t-1,

where the net tax losses:

- arise from the provision of Regulated Distribution Services in respect of the relevant Regulated Distribution System by the Regulated Entity;
- are calculated from the start of the last year of the First Regulatory Period to the end of the Regulatory Year in the Subsequent Regulatory Period which precedes Regulatory Year t-1;
- carried forward at the end of any Regulatory Year in the period covered are calculated as the sum of the tax losses carried forward into that Regulatory Year and the taxable income or tax loss for that Regulatory Year; and
- only exist where it is a negative amount, with positive amounts resulting in a zero net tax loss carried forward.

For these purposes, taxable income will be treated as a positive amount and tax losses will be treated as a negative amount.

For the purposes of Section 4.14.2, $TIncome_{t-1}$ is calculated as:

$$TIncome_{t-1} = (SMAP_{t-1} \times Q_{t-1}) - Opex_{t-1} - HCDepn_{t-1} - RegInt_{t-1}$$

Where:

n the First Regulatory Year,

MAP_{t-1} = MAP_{t-1} as determined during the last Regulatory Year of the Previous Regulatory Period;

n the subsequent Regulatory Years,

MAP_{t-1} = the Smoothed Maximum Annual Price cap (expressed in PHP/kWh) that the Regulated Entity is permitted to charge for the provision by it, during Regulatory Year t-1, of Regulated

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Distribution Services in respect of that Regulated Distribution System, as calculated in accordance with Section 4.15.4;

Q_{t-1} = the total amount of energy (expressed in kWh) that is forecasted to be delivered through the relevant Regulated Distribution System, during Regulatory Year t-1, to Connection Points in respect of that Regulated Distribution System, such amount of energy being forecasted in a manner that is approved for this purpose by the ERC;

$Opex_{t-1}$ = the nominal operating and maintenance expenditure, (other than corporate income taxes), which are forecasted to be incurred in relation to the relevant Regulated Distribution System for Regulatory Year t-1 and which are approved by the ERC in accordance with Section 4.13;

$HCDepn_{t-1}$ = the regulatory historical cost depreciation of the Regulatory Asset Base for the relevant Regulated Distribution System for Regulatory Year t-1 (see Sections 4.9) in real terms as determined by the ERC on the basis of the methodology for the determination of $RegDepn_{t-1}$ as set out in Sections 4.10.1 and 4.10.2, with the substitution, in the depreciation calculation, of historical cost valuations (as per Philippine accounting practice) for replacement cost valuations or valuations in accordance with Section 4.8 (as the case may be); and

$RegInt_{t-1}$ = the interest payments on outstanding debt for Regulatory Year t-1 as determined by the ERC in accordance with the following formula:

$$RegInt_{t-1} = (RAB_{t-1} - AORL_{t-1}) \times D / V \times r_d$$

Where:

RAB_{t-1} = the Regulatory Asset Base for the relevant Regulated Distribution System for Regulatory Year t-1 in real terms as determined under Section 4.9.1;

$$AORL_{t-1} = (AORL_{o,t-1} + AORL_{c,t-1}) / 2$$

Where:

$AORL_{o,t-1}$ = the opening residual value of assets that are remaining in service beyond their regulatory lives for Regulatory Year t-1 in real terms as determined under Section 4.9.1; and

$AORL_{c,t-1}$ = the closing residual value of assets that are remaining in service beyond their regulatory lives for Regulatory Year t-1 in real terms as determined under Section 4.9.1;

D and V are as defined in Section 4.11.3; and

r_d = the cost of debt as calculated in accordance with Section 4.11.10.

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Notwithstanding the actual corporate income tax payable by Regulated Entities, for the Subsequent Regulatory Period, the value of the corporate income tax ($Tax_{p,t}$ as defined in Section 4.14.1) may be set to zero for the purposes of determining the allowed revenue requirement in Section 4.7.7.

thing

As a result of the Building Block approach, it is unlikely that there will be a linear increase, for each Regulatory Year in the Subsequent Regulatory Period, in the allowed annual revenue requirement for a Regulated Distribution System. Accordingly, so as to reduce the likelihood of price shocks to Customers of that Regulated Distribution System and of revenue shocks to the Regulated Entity that operates that Regulated Distribution System, subject to the proposal of the Regulated Entity, the ERC will smooth the Maximum Annual Price caps for that Regulated Distribution System for each Regulatory Year in the Subsequent Regulatory Period in accordance with this Section 4.15. Such smoothed Maximum Annual Price caps will incorporate a recovery of efficiency savings in costs calculated in accordance with Article IX. It may also include under- or over-recoveries carried over from the Previous Regulatory Period. In addition, the smoothed Maximum Annual Price caps may also include a recovery of regulatory interventions made by the ERC in the Allowed Revenue Requirement of a Regulated Entity during earlier Regulatory Periods.

The first step is to calculate the present value of the allowed annual revenue resulting from the maximum average prices that the relevant Regulated Entity is permitted to charge for the provision by it, during each of the Regulatory Years in the Subsequent Regulatory Period, of Regulated Distribution Services in respect of the relevant Regulated Distribution System (PVR_{t-1}), such amount being calculated as follows:

$$PVR_{t-1} = (ARR_{t1}) / (1 + WACC) + \\ (ARR_{t2}) / (1 + WACC)^2 + \\ (ARR_{t3}) / (1 + WACC)^3 + \\ (ARR_{t4}) / (1 + WACC)^4$$

where:

ARR_t = the allowed annual revenue requirement for that Regulated Distribution System for Regulatory Year t ($t = t1$ to $t4$) as calculated in accordance with Section 4.7.7; and

$WACC$ = the classical weighted average cost of capital as determined by the ERC in accordance with Section 4.11.

The second step is to calculate the Efficiency Factor (X) in respect of the relevant Regulated Distribution System for the Subsequent Regulatory Period from the solution of the following equation (where only X is unknown) using the results of the calculation in Section 4.15.2:

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$$\begin{aligned}
 PVR_{t-1} &= [MAP_{t-1} - P_o] \times \\
 &\{ (1 + Inflation_{t1} - X) \times FQ_{t1} / (1 + WACC) \} + \\
 &\{ (1 + Inflation_{t2} - X) \times (1 + Inflation_{t2} - X) \times FQ_{t2} / (1 + WACC)^2 \} + \\
 &\{ (1 + Inflation_{t3} - X) \times (1 + Inflation_{t3} - X) \times (1 + Inflation_{t3} - X) \times FQ_{t3} / (1 + \\
 &WACC)^3 \} + \\
 &\{ (1 + Inflation_{t1} - X) \times (1 + Inflation_{t2} - X) \times (1 + Inflation_{t3} - X) \times (1 + \\
 &Inflation_{t4} - X) \times FQ_{t4} / (1 + WACC)^4 \}
 \end{aligned}$$

where:

PVR_{t-1} is as calculated pursuant to Section 4.15.2;

MAP_{t-1} = The MAP determined by the ERC for the last year of the Previous Regulatory Period;

FQ_t = The total amount of energy (expressed in kWh) that is forecasted to be delivered through the relevant Regulated Distribution System, during Regulatory Year t ($t = t_1$ to t_4), to Distribution Connection Points in respect of that Regulated Distribution System, such amount of energy being forecasted in a manner that is approved for this purpose by the ERC;

P_o is such amount (expressed in PhP/kWh) as the ERC determines in respect of that Regulated Distribution System to take into account a balance between windfall gains and windfall losses in revenue resulting from exogenous factors, and to assist with the reduction of price shocks during the transition from the previous Regulatory Period distribution prices to the Subsequent Regulatory Period, provided only that such amount must be:

- less than or equal to $MAP_{t-1} - [(ARR_{t1} / FQ_{t1}) / (1 + WACC)]$ (but must not be a negative amount)

where $MAP_{t-1} \geq [(ARR_{t1} / FQ_{t1}) / (1 + WACC)]$

(\geq meaning greater than or equal to); or

- greater than or equal to $MAP_{t-1} - [(ARR_{t1} / FQ_{t1}) / (1 + WACC)]$ (but must not be a positive amount)

where $MAP_{t-1} \leq [(ARR_{t1} / FQ_{t1}) / (1 + WACC)]$

(\leq meaning less than or equal to);

$WACC$ = the classical weighted average cost of capital as determined by the ERC in accordance with Section 4.11; and

$Inflation_t$ is the forecast inflation for Regulatory Year t ($t = t_1$ to t_4), expressed in decimal (as opposed to percentage) terms, which is used by the ERC for the purpose of the Regulatory Reset Process for the Subsequent Regulatory period under Article VII. The inflation calculation is based on the Philippines PI index and annual inflation is determined in accordance with the DeltaCPI calculation described in section 4.5.2.

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The Smoothed Maximum Annual Price cap (SMAP) for each Regulatory Year in the Subsequent Regulatory Period is calculated as follows:

(a) where the relevant Regulatory Year is the first Regulatory Year in the subsequent Regulatory Period, the Smoothed Maximum Annual Price cap for that Regulatory Year (SMAP_t) is:

$$\text{SMAP}_t = (\text{MAP}_{t-1} - P_0) \times (1 + \text{Inflation}_t - X); \text{ and}$$

(b) where the relevant Regulatory Year is any Regulatory Year in the subsequent Regulatory Period after the first Regulatory Year, the Smoothed Maximum Annual Price cap for that Regulatory Year (SMAP_t) is:

$$\text{SMAP}_t = \text{SMAP}_{t-1} \times (1 + \text{Inflation}_t - X),$$

Where:

MAP_{t-1} = The MAP determined by the ERC for the last year of the Previous Regulatory Period;

Inflation_t = the forecast inflation for Regulatory Year t, expressed in decimal (as opposed to percentage) terms, which is used by the ERC for the purpose of the Regulatory Reset Process for the Subsequent Regulatory Period under Article VII;

P₀ is the amount determined by the ERC as described in Section 4.15.3;

and

X is as calculated pursuant to Section 4.15.3.

Where the ERC in terms of Section 4.15.1 decides that earlier under- or over-recoveries are to be recovered as part of the smoothed price path during the Subsequent Regulatory Period (rather than be fully recovered in terms of Section 4.3), the outstanding recovery amount will be split and added (if it is an under-recovery) or subtracted (if it is an over-recovery) from the annual revenue requirement for two or more Regulatory Years during the Subsequent Regulatory Period. The annual revenue requirements thus adapted will be applied for the calculation of PVR_{t-1} described in section 4.15.2. For the purposes of this calculation, with the exception of the allowance made in Section 4.15.2 and 4.15.3, no interest or any other compensation to reflect the time-value of money under- or over-recovered will be applied.

Earlier regulatory interventions by the ERC, that affected the price control arrangements for the Previous Regulatory Period for any Regulated Entity, will be recovered during the Subsequent Regulatory Period. The total regulatory intervention amount will be evenly split and added to the annual revenue requirement for each Regulatory Years during the Subsequent Regulatory Period. The annual revenue requirements thus adapted will be applied for the calculation of PVR_{t-1} described in section 4.15.2. For the purposes of this calculation, with the exception of the allowance made in Section 4.15.2 and 4.15.3, no interest or any other compensation to reflect the time-value of money involved in a regulatory intervention will be applied.

Rules for Setting Distribution Wheeling Rates

Force Majeure and Tax Event Pass Throughs

Cost recovery arising from an approved Force Majeure Pass Through Amount, an Approved Tax Pass Through Amount or a Negative Tax Pass Through Amount as determined under Article X or XI (as the case may be), that has not been fully recovered at the end of the Previous Regulatory Period may form part of the Building Block analysis for the Subsequent Regulatory Period. Similarly, cost recoveries that has not been resolved at the end of the Subsequent Regulatory Period, may be carried forward to the next Regulatory Period at the discretion of the ERC.

Quality Measures and Targets

The ERC must implement a performance incentive scheme that rewards each Regulated Entity for achieving specified target levels of performance, and penalizes each Regulated Entity for failing to achieve specified target levels of performance, during the Previous Regulatory Period in accordance with Article VIII.

The performance incentive scheme for the Subsequent Regulatory Period will include a price-linked incentive component which will be used to determine the S_t factor described in 4.2.1 for each Regulatory Year t .

The performance incentive scheme for the Subsequent Regulatory Period will include a guaranteed service level scheme in terms of which Regulated Entities will compensate a Customer directly if certain service delivery performance thresholds are not met.

The performance targets used for the Subsequent Regulatory Period may be based on historical service performance levels achieved by a Regulated Entity, or may reflect a measure of improvement as determined by the ERC, based on benchmarking performance levels against other Philippines and international electricity distribution utilities. Such benchmarking and subsequent performance improvements will be subjected to public consultation before being adopted into a performance incentive scheme for the Subsequent Regulatory Period.

Efficiency Adjustments

The ERC must comply with Article IX in respect of the treatment of Net Efficiency Adjustments (as defined in Article IX) which arise during the Subsequent Regulatory Period.

Efficiency Adjustments will also be made to reflect efficiency gains achieved by Regulated Entities during the Previous Regulatory Period.

Weighted Index

During the Regulatory Reset Process for the Subsequent Regulatory Period under Article VII, the ERC must review the values of W_1 and W_2 as set out in Section 3.3 to determine whether they appropriately reflect those proportions of the capital expenditure forecasts, and the operating and maintenance expenditure forecasts, for that Regulatory Period which are approved by the ERC in relation to a Regulated Distribution System under

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Sections 4.12.5 and 4.13.5 and which are to be undertaken in or are otherwise referable to a foreign currency.

If, as a result of its review under Section 4.20.1, the ERC determines that the values of any of W1 or W2 as set out in Section 4.5 should be altered to more appropriately reflect those proportions of the capital expenditure forecasts, and the operating and maintenance expenditure forecasts, referred to in Section 4.20.1, then the ERC must determine the altered values and those altered values must be used in applying the formula for the calculation of MAP_t for the relevant Regulated Distribution System as set out in Section 4.2.1. Without limiting the way in which the ERC may determine to alter the values of W1 or W2 for the purposes of this Section 4.20.2, the ERC may determine values which are constant for the whole of the Subsequent Regulatory Period or that are different for each Regulatory Year in the Subsequent Regulatory Period. The values of W1 and W2 as determined pursuant to this Section 4.20.2 must not be changed during the Subsequent Regulatory Period.

For the avoidance of doubt, the values of W1 and W2 that are used in applying the formula for the calculation of MAP_t for a Regulated Distribution System as set out in Section 4.2.1 may vary as between Regulated Distribution Systems.

Constraint

During the Regulatory Reset Process for the Subsequent Regulatory Period under Article VII, the ERC must determine, in respect of each Regulated Distribution System, the amount of the Side Constraint referred to in Section 6.4.1, which amount must be the same for each Regulatory Year in the Subsequent Regulatory Period (but may vary as between Regulated Distribution Systems).

Financial Ratio Analysis

During the Regulatory Reset Process for the Subsequent Regulatory Period under Article VII, each Regulated Entity must provide the ERC with a forecast financial ratio analysis for each Regulatory Year of the Fifth Regulatory Period. The financial ratios must be derived from the forecasts of the following financial accounting statements:

- Profit and Loss Statements;
- Balance Sheet; and
- Statement of Cash Flows.

The forecast financial ratios which must be provided by each Regulated Entity to the ERC are as follows:

- i) Interest Cover Ratios:
 - i. EBIT/Interest Expense; and
 - ii. EBITDA/Interest Expense.
- ii) Cash Flow Adequacy Ratios:
 - i. Funds from Operations/Total Debt; and
 - ii. Free Operating Cash Flow/Total Debt.
- iii) Profitability Ratio:
 - i. EBITDA/Sales

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- d) Capital Structure and Leverage Ratios:
 - i. Long-term Debt/Total Capital;
 - ii. Total Debt/Total Capital; and
 - iii. Debt/Equity
- e) Other ratios determined by the ERC.

In each case calculated in a manner that is approved by the ERC (which manner must, to the extent reasonably possible, be consistent with the manner of calculation adopted by the Distribution Code or reputable financial institutions in respect of such financial ratios).

The ERC will review, remodel or recalculate the forecast financial accounting statements and forecast financial ratios referred to in this Section 4.21.

In determining the Annual Revenue Requirement for a Regulated Distribution System for each Regulatory Year in the Subsequent Regulatory Period for the purpose of the Regulatory Reset Process under Article VII, the ERC must take into account the estimated credit rating of the relevant regulated entity which results from the forecast financial ratios referred to in this Section 4.21 so as to achieve the general Building Block principles in Section 4.6.1.

Entity Forecasts

During the Regulatory Reset Process for the Subsequent Regulatory Period under Article VII, each Regulated Entity must provide the ERC with its forecasts, for each Regulatory Year in the Subsequent Regulatory Period, of the total amount of energy (expressed in kWh) forecasted to be delivered through each Regulated Distribution System operated by it, during that Regulatory Year, to Distribution Connection Points in respect of that Regulated Distribution System, such amount of energy being forecasted in a manner that is approved for this purpose by the ERC.

During the Regulatory Reset Process for the Subsequent Regulatory Period under Article VII, each Regulated Entity must provide the ERC with its forecasts, for each Regulatory Year in the Subsequent Regulatory Period, of the total maximum demand²² (expressed in MW²³) forecasted of each Regulated Distribution System operated by it, during that Regulatory Year. These demand forecasts should be broken down into the following level of detail for each Regulatory Year:

- a) co-incident maximum demand for the Regulated Distribution System, as read at all Grid Connection Points and connection points to generators, including embedded generation;

²² demand at any point is defined as the highest peak demand experienced there (or forecast to be) in any half-hour period (or other period as approved) during a Regulatory Year. Half-hourly demand is measured by integrating (numerically or otherwise) the instantaneous demand experienced at that point for the period.

²³ is measured in apparent power terms (MVA), an appropriate conversion should be made to real power based on historical evidence of the power factor experienced during peak demand times.

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(b) maximum demand at each Grid Connection Point and connection points generators, including embedded generation;

(c) maximum demand at each major substation forming part of a Regulated Distribution System;

(d) maximum demand on each sub-transmission feeder (or combination of feeders where redundancy is built into the system); and

(e) maximum demand on each major distribution feeder (or combination of feeders where redundancy is built into the system).

During the Regulatory Reset Process for the Subsequent Regulatory Period under Article VII, each Regulated Entity must also provide the ERC with its historical energy consumption and maximum demand figures, in relation to each Regulated Distribution System that is operated by it, for each of the Regulatory Years of the Previous Regulatory Period.

The ERC must review the forecasts and historical figures referred to in Sections 4.22.1, 4.22.2 and 4.22.3 to determine whether they are reasonable.

The ERC must decide on whether the relevant forecasts are reasonable. If:

(a) the ERC decides that those forecasts are reasonable, it must approve them;

(b) the ERC decides that those forecasts are not reasonable, it must, after consulting with the relevant Regulated Entity, approve those forecasts with such modifications as the ERC considers necessary to make them reasonable.

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ARTICLE V RULE CHANGES

General Principles

A revised version of the RDWR will be issued for any changes to the rules as deemed necessary by the ERC for the next Regulatory Period. (This current version is an update of the RDWR)

Each revision of the RDWR will initially be issued in draft format and will be subjected to public consultation. Following this consultation, a final version of the RDWR will be issued. If further rule changes during a Regulatory Period are contemplated by the ERC, any such changes will only be effected after full further public consultation and after consideration of all valid submissions received on such rule changes.

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ARTICLE VI

VERIFICATION AND ADJUSTMENT OF DISTRIBUTION TARIFFS

Annual Distribution Rate Setting

This Article VI applies to the maximum average distribution wheeling rate that may be charged by a Regulated Entity for the provision of Regulated Distribution Services in respect of a Regulated Distribution System during a Regulatory Year, as well as to the translation of this maximum average distribution wheeling rate into a distribution rate structure, describing the distribution tariffs for each Customer Segment served by a Regulated Distribution System.

The maximum average distribution wheeling rate and the distribution tariffs that may be charged by a Regulated Entity for the provision of Regulated Distribution Services in respect of a Regulated Distribution System during a Regulatory Year may only be set and changed in accordance with this Article VI and the DSOAR²⁴, following an annual rate application and review that is conducted in accordance with this Article VI and the DSOAR.

Annual Rate Setting Timetable

Subject to the requirements of any applicable law and relevant Position Paper, the annual review of the maximum average distribution wheeling rate and the distribution tariffs that may be charged by a Regulated Entity for the provision of Regulated Distribution Services during a Regulatory Year (such Regulatory Year being referred to for the purposes of this Article VI as the Application Year) must proceed according to the following timetable and process:

(a) Five months prior to the commencement of the Application Year, the Regulated Entity must gather the data and information referred to in Section 6.3.2 of the 12-month period ending on the immediately preceding December 31st (such period being referred to as the Historical Period), this being:

- the amount billed to Customers of that Regulated Distribution System for the provision by the Regulated Entity of Regulated Distribution Services during the Historical Period (as determined, adjusted and audited in accordance with Sections 4.3.1 or 4.5, as applicable) (see Sections 4.3, 4.5 and 5.1);
- the net income derived, during the Historical Period, from each related business undertaking which is engaged in directly or indirectly by the Regulated Entity and which utilizes assets that form part of the regulatory asset base for that Regulated Distribution System (see Sections 4.3, 4.5 and 5.1);
- the total amount of energy (expressed in kWh) delivered through that Regulated Distribution System, during the Historical Period, to

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Distribution Connection Points (as determined and audited in accordance with Sections 4.3.1 or 4.5, as applicable) (see Sections 4.3, 4.5 and 5.1);

- the simple average of the monthly 364-days T-bill rate in nominal percent per annum terms published by the Bangko Sentral ng Pilipinas for the Historical Period (see Sections 4.3 and 5.1);
- the Correction Factor under the over/under recovery formula for the Application Year (K_t) (see Sections 4.3 and 5.1);
- the performance incentive factor for the Application Year (S_t) (see Sections 4.2.1 and 4.18.2);
- the change in Weighted Index for the Application Year (CWI_t) (see Sections 4.2, 4.5, 5.1 and 5.2);
- to the extent it applies, the Tax Adjustment for the Application Year (ITA_t) (see Sections 4.4 and 5.1);
- the maximum average price (expressed in PhP/kWh) that the Regulated Entity is permitted to charge for the provision by it, during the Application Year, of Regulated Distribution Services in respect of that Regulated Distribution System (MAP_t) (see Sections 4.2, 5.1 and 5.2); and
- such other items as the ERC may specify from time to time for the purposes of these Rules (for this purpose the ERC may also specify that the Regulated Entity need not calculate one or more of the items referred to above).

(b) Four months prior to the commencement of the Application Year, and in accordance with the requirement under the relevant Position Paper, the Regulated Entity must calculate the maximum average distribution wheeling rate for each Regulatory Year (MAP_t as described in Section 4.2.1) and for an adjustment of its distribution tariffs for each Customer Segment for each Regulatory Year resulting from the translation of this maximum average distribution wheeling rate into distribution tariffs. The application for the maximum average distribution wheeling rate that the Regulated Entity may be permitted to charge and the translation into distribution tariffs per customer segment may be filed annually or every two years, in accordance with the requirement under the relevant Position Paper, in accordance with the Rules of Practice and Procedure.

(c) As part of this rate application Regulated Entities must submit to the ERC in both written and soft copy form, all information used in its calculation of the maximum average distribution wheeling rate, together with a statement that demonstrates the compliance of this proposed maximum average distribution wheeling rate with the requirements of these Rules (including, in particular, Sections 4.1.2, 6.4 and 6.5 (as applicable)) and the DSOAR.

(d) The Regulated Entity must also submit its proposal for translating the maximum average distribution wheeling rate into distribution tariffs for each Customer Segment for the provision of Regulated Distribution Services in respect of that relevant Regulated Distribution System during the Application Year. This proposal must clearly describe the basis on which the distribution tariffs were

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determined for each Customer Segment, the allocation of costs to each Customer Segment, functionalization factors used and the calculations and supporting material for the proposal. A statement must be provided to confirm the absence of class cross-subsidies between Customer Segments (with the exception of owners on a lifeline rate, who may be cross-subsidized) and a demonstration that the side constraints discussed in Section 6.4 will not be breached for any Customer Segment.

(c) The rate application by the Regulated Entity must clearly indicate the data used in calculating the proposed maximum distribution wheeling rate and the distribution tariffs, and the source of all data used, and must provide an explanation of each calculation and its outcome, so that there is no ambiguity for the ERC in interpreting how the Regulated Entity has calculated the proposed maximum distribution wheeling rates and distribution tariffs.

(d) In accordance with the Rules of Practice and Procedure, the rate applications must be published to allow interested parties the opportunities to register as parties of record to the rate case and to appear and contribute to the public hearings that will be held on the rate applications.

(g) Public hearings on the rate applications will be held at venues to be designated by the ERC. At such hearings, the ERC will put questions to the Regulated Entities about their rate applications and parties of record to the case will be permitted to cross-examine the witnesses put forward by Regulated Entities to support their rate applications.²⁵

(h) Where the ERC requires such by notice in writing or by Order issued regarding the public hearings, the Regulated Entity must file with the ERC, in accordance with the Rules of Practice and Procedure, further information on the proposed maximum distribution wheeling rate or distribution tariffs set out in its submission, and such further information must be so provided a month before the commencement of the Application Year.

(i) The ERC must determine whether or not the maximum distribution wheeling rate and distribution tariffs proposed by the Regulated Entity in its submission (as such submission may be amended with the approval of the ERC) comply with the requirements of these Rules (including, in particular, Sections 5.1.3, 6.4 and 6.5 (as applicable)) and the DSOAR. If:

- the ERC is satisfied that such rate and tariffs do comply with the requirements of these Rules and the DSOAR, an Order will be issued in this regard to the Regulated Entity and the Regulated Entity must, after advertising these intention four weeks in advance in a local newspaper of general circulation, implement those tariffs with effect from the start of the Application Year;

noted that the questions and cross-examinations will be limited to aspects pertaining to the rate information accepted as part of earlier processes by the ERC, or earlier regulatory decisions will not include questions or cross-examination – including decisions made during the Regulatory Reset Process leading to the determination of the initial maximum average distribution wheeling rate for a Regulatory Period.

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- the ERC is not satisfied that such rate or tariffs comply (or are likely to comply) with the requirements of these Rules and the DSOAR:

(A) the Regulated Entity must amend its proposed maximum distribution wheeling rate and/or distribution tariffs in accordance with such directions as the ERC may give for the purposes of ensuring that this rate and/or tariffs comply (or are likely to comply) with the requirements of these Rules and the DSOAR; and

(B) on receiving an order from the ERC approving the amended rate and/or tariffs, the Regulated Entity must implement those amended tariffs, after advertising these intention four weeks in advance in a local newspaper of general circulation, but not earlier than the start of the Application Year (pending which the Regulated Entity must continue to apply its existing rate and tariffs).

(j) If the Regulated Entity fails to file its submission on its proposed maximum distribution wheeling rate and distribution tariffs three months prior to commencement of the Application Year (as required under Section 6.2.1 (b)), maximum distribution wheeling rate that may be charged by it for the provision of Regulated Distribution Services in respect of the relevant Regulated Distribution System during the Application Year will be such rates as are determined by the ERC. The ERC rates that the ERC is satisfied comply (or are likely to comply) with the requirements of these Rules and the DSOAR), pending which the Regulated Entity must continue to apply its existing rate and distribution tariffs.

(k) A failure by the Regulated Entity to file a submission or any further submission as required under Section 6.2.1 (b) or (e) is a breach of these Rules and the ERC may impose a fine or penalty under Section 43 (l) of the EPIRA for such a breach.

Actual and Forecast Data Requirements

The data required for the purposes of the calculations referred to in Section 6.2.1 includes financial and operational data on actual outcomes and forecasts of that data.

The historical financial and operational data that must be provided to the ERC will depend on the components of the price control formula which is determined by the ERC to apply for the Application Year. However, until the ERC determines otherwise, each Regulated Entity must provide the ERC, as part of its rate application as described in Section 6.2.1(a), with at least the following historical financial and operational data (such data being provided in both written and soft copy form):

(i) the total amount (expressed in PhP) billed to all Customers of the relevant Regulated Distribution System in each Customer Segment for the provision by the Regulated Entity, during the Historical Period, of Regulated Distribution Services in respect of that Regulated Distribution System, the amount:

- so billed being determined in a manner that is approved for this purpose by the ERC; and

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- as so determined being audited to the satisfaction of the ERC by a person that is approved for this purpose by the ERC ($CR_{k, t-1}$) (see Section 6.4);

(b) the maximum distribution wheeling rates it has applied to each Customer Segment in respect of the relevant Regulated Distribution System during the Historical Period; and

(c) the actual distribution wheeling rates it has applied to each Customer Segment in respect of the relevant Regulated Distribution System during the Historical Period; and

(d) the total amount of energy (expressed in kWh) delivered through the relevant Regulated Distribution System, during the Historical Period, to all Customers of that Regulated Distribution System in each Customer Segment, the amount of energy so delivered:

- being determined in a manner that is approved for this purpose by the ERC; and
- as so determined being audited to the satisfaction of the ERC by a person that is approved for this purpose by the ERC ($AQ_{k, t-1}$) (see Section 6.4).

The forecast financial and operational data that must be provided to the ERC will depend on the components of the price control formula which is determined by the ERC to apply for the Application Year. However, until the ERC determines otherwise, each Regulated Entity must provide the ERC, as part of its rate application as described in Section 6.2.1(a), with at least the following forecast financial and operational data (such data being provided in both written and soft copy form):

a) the total amount (expressed in PhP) forecasted to be billed to all Customers of the relevant Regulated Distribution System in each Customer Segment for the provision by the Regulated Entity, during the 12 month period ending on December 31 in the Application Year (the Forecast Period), of Regulated Distribution Services in respect of that Regulated Distribution System, the amount forecasted being determined in a manner that is approved for this purpose by the ERC ($FCR_{k,t}$) (see Section 6.4); and

b) the total amount of energy (expressed in kWh) forecasted to be delivered through the relevant Regulated Distribution System, during the Forecast Period, to Customers of that Regulated Distribution System in each Customer Segment, the amount so forecasted being determined in a manner that is approved for this purpose by the ERC ($FQ_{k,t}$) (see Section 6.4).

Constraints on Proposed Maximum Distribution Wheeling Rates

Subject to Section 6.5, the maximum distribution wheeling rates that may be charged by a Regulated Entity for the provision of Regulated Distribution Services in respect of a Regulated Distribution System during an Application Year to a Customer Segment in respect of that Regulated Distribution System (k) must comply with the following condition:

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$$\frac{((FCR_{k,t} / FQ_{k,t}) - S_t) - ((CR_{k,t-1} / AQ_{k,t-1}) - S_{t-1})}{((CR_{k,t-1} / AQ_{k,t-1}) - S_{t-1})} \leq (CWI_t + SC_t)$$

Where:

$FCR_{k,t}$ = the total amount (expressed in PhP) forecasted to be billed to all Customers of the Regulated Distribution System in Customer Segment k for the provision by the Regulated Entity, during the Forecast Period, of Regulated Distribution Services in respect of the Regulated Distribution System, as provided under Section 6.3.3(a);

$CR_{k,t-1}$ = the total amount (expressed in PhP) billed to all Customers of the Regulated Distribution System in Customer Segment k for the provision by the Regulated Entity, during the Historical Period, of Regulated Distribution Services in respect of the Regulated Distribution System, as provided under Section 6.3.2(a);

“ \leq ” = less than or equal to;

SC_t = the Side Constraint in respect of the Regulated Distribution System for Regulatory Year t, which is such amount as the ERC determines for that Regulatory Period, during the Regulatory Reset Process for the Subsequent Regulatory Period under Article VII, having regard to the needs of End-users (for the avoidance of doubt, such amount may vary as between Regulated Distribution Systems);

CWI_t = the change in Weighted Index for Regulatory Year t as calculated in accordance with Section 4.5.1;

$FQ_{k,t}$ = the total amount of energy (expressed in kWh) forecasted to be delivered through the Regulated Distribution System, during the Forecast Period, to all Customers of that Regulated Distribution System in Customer Segment k, as provided under Section 6.3.3(b); and

$AQ_{k,t-1}$ = the total amount of energy (expressed in kWh) delivered through the Regulated Distribution System, during the Historical Period, to all Customers of that Regulated Distribution System in Customer Segment k, as provided under Section 6.3.2(d).

h_t = the performance incentive factor calculated for the application year, Regulatory Year t (see Sections 4.2.1, 4.18.2 and 6.2.1)

h_{t-1} = the performance incentive factor calculated for Regulatory Year t-1 (see Sections 4.2.1 and 4.18.2)

For the sake of clarity, it should be noted that the computation of the side constraints does not include any amounts that may be earned in terms of Article X (Force Majeure pass through events) or Article XI (Tax Event pass

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through). Revenue earned for such pass through events will be excluded from the calculation above.

In situations where a Regulated Entity has experienced major under-recovery of revenue during the Historical Period, the side-constraints could prevent the correction factor (K_1 as described in Sections 4.2.1 and 4.3) from being fully incorporated in the adjusted rates for the Application Year. Hence, Regulated Entities would not be able to fully recover the said under-recoveries. Similarly, following a re-opening event as described in Article XII, the side constraints could prevent the adjusted rates from being fully implemented. In such an event, the Regulated Entity after considering the impact to the consumers, may opt to propose to apply the side constraints or relax the side constraints for one or more Customer Segments during the Application Year. The Regulated entity may also opt to carry over all or part of such under-recoveries into the next Regulatory Period, where it will be considered in the calculation of the Smoothed Price Path for the next Regulatory Period, in accordance with Sections 4.15.1 and 4.15.5.

Rate parameters

The maximum distribution wheeling rates that may be charged by a Regulated Entity for the provision of Regulated Distribution Services in respect of a Regulated Distribution System must:

- (a) comply with the requirements of any applicable law (including the EPIRA and the IRR);
- (b) comply with applicable requirements that apply to such rates as set out in any applicable ERC order;
- (c) be such as to result in the removal of cross subsidies in accordance with any applicable requirements of any law or of any order by the ERC; and
- (d) comply with the applicable requirements of any law or order made by the Commission relating to the treatment of system losses.

ARTICLE VII

REGULATORY RESET PROCESS

Regulatory Reset Process Timelines

Prior to the commencement of each Regulatory Period the ERC will undertake a Regulatory Reset Process pursuant to this Article VII. This process will, in accordance with this Article VII, entail consultation in respect of the ERC's proposals for the price control arrangements that are to apply for that Regulatory Period.

The ERC shall publish a Regulatory Reset Issues Paper which will:

- (a) provide the ERC's initial views on the issues raised by the pending Regulatory Reset Process;
- (b) specify the information to be provided by each Regulated Entity for the purposes of the Regulatory Reset Process and the time by which that information is to be provided; and
- (c) the time by which each Regulated Entity must file an application with the ERC to commence the Regulatory Reset Process pursuant to this Article VII.

Each Regulated Entity must provide the information specified pursuant to paragraph (b) within the time specified under that paragraph.

The ERC shall call for written submissions on the issues raised in the Regulatory Reset Issues Paper and must require that such submissions be delivered not later than two months after the publication of the Regulatory Reset Issues Paper. When all such written submissions have been received, the ERC must, within two weeks of the closing date for written submissions and subject to Section 7.1.4, publish all such submissions on its web site (subject to normal internet service provider performance), or through such other electronic medium as is generally accepted and in use at that time, and have hard copies of them available for purchase from its offices.

Where a written submission identifies information in it which is confidential, the ERC may only publish or otherwise disclose that information if the ERC has given written notification to the person who has made that submission of the ERC's intention to publish or otherwise disclose that information and either:

- a) that person has not made a written submission to the ERC objecting to the publication or disclosure of that information (including reasons as to why publication or disclosure of the information would cause substantial commercial damage or harm to it) within two weeks of receiving the written notification; or
- b) that person has made a written submission to the ERC objecting to the publication or disclosure of that information (including reasons as to why publication or disclosure of the information would cause substantial commercial damage or harm to it) but the ERC, after considering that submission, nevertheless determines that publication or disclosure of the information will not cause substantial commercial damage or harm to that person (in which case the ERC must not

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lish or otherwise disclose that information unless it has first given the person less than one week's notice of its decision).

Following the publication of the Regulatory Reset Issues Paper, the ERC will provide guidance on how to undertake the report in respect of each of the following:

(a) the asset valuation in relation to each Regulated Distribution System that operated by a Regulated Entity, as referred to in Section 4.8 or Section 5.5 (as applicable);

(b) for the purposes of the Regulatory Reset Process for the Subsequent Regulatory Period, the condition of certain assets that are used to provide Regulated Distribution Services and the regulatory life which should be attributed to such assets (see Section 4.10.3);

(c) the determination of the weighted average cost of capital as referred to in Section 4.11;

(d) the review of each Regulated Entity's proposed capital expenditure in relation to each Regulated Distribution System that is operated by it, as referred to in Section 4.12;

(e) the review of each Regulated Entity's proposed operating and maintenance expenditure in relation to each Regulated Distribution System that is operated by it, as referred to in Section 4.13; and

(f) the review of each Regulated Entity's energy delivery forecasts as referred to in Section 4.22.

The ERC shall publish its initial review reports/draft determination on the price control arrangements that are to apply for the relevant Regulatory Period on the ERC's website (subject to normal internet service provider performance) or through such other electronic medium as is generally accepted and in use at that time. Copies of the draft determination must also be available for purchase at the offices of the ERC.

The ERC shall invite submissions on the initial review reports/draft determination, such submissions to be provided in writing or at public hearings convened for that purpose.

The ERC may conduct further Public Hearing / Consultations for the purpose of discussing the submissions received. Participation will be in accordance with the Rules of Practice and Procedure.

After considering all the submissions made to it in accordance with Sections 7.1.9 and 7.1.10, the ERC shall publish a final determination on the price control arrangements that are to apply for the relevant Regulatory Period. Such final determination must be published in the ERC's website (subject to normal internet service provider performance) or through such other electronic medium as is generally accepted and in use at that time. Copies of the final determination must also be available for purchase at the offices of the ERC.

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e Application prior to start of the Regulatory Period

In its Revenue and Reset Application, the Regulated Entity has to convert the decision on the initial maximum average price into distribution tariffs that will reflect the tariff applicable to each Customer Segment for providing Regulated Distribution Services during the first Regulatory Year.

The Regulated Entity has to indicate how it proposes to convert the Revenue contained in its Application into the initial maximum average price (MAP_{t-1} as determined in accordance with Section 4.2.1(a)) and into distribution tariffs for each Customer Segment in its Regulated Distribution System.

The Regulated Entity has to provide full details of how the maximum average distribution wheeling rate will be translated into distribution tariffs for each Customer Segment for the provision of Regulated Distribution Services in respect of the relevant Regulated Distribution System during the first Regulatory Year. This proposal must clearly describe the basis on which the distribution tariffs were determined for each Customer Segment, the allocation of costs to each Customer Segment, the functionalization factors used and the calculations and supporting material for the proposal. A statement must be provided to confirm the absence of interclass cross-subsidies between Customer Segments (with the exception of customers on a lifeline rate, who may be subsidized). The rate application must also clearly indicate the data used in calculating the proposed distribution tariffs, the source of all data used, and must provide an explanation of each calculation and its outcome, so that there is no ambiguity for the ERC in interpreting how the Regulated Entity calculated the proposed distribution tariffs.

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ARTICLE VIII

SERVICE QUALITY MEASURES AND TARGETS

Establishment of Distribution Performance Standards

As part of its final determination of the price control arrangements for the Subsequent Regulatory Period, the ERC must, subject to Section 8.1.3, determine:

- (a) the indices that are to be used to measure:
 - the performance of each Regulated Distribution System; and
 - the service performance of the Regulated Entity that operates that Regulated Distribution System;and which for the subsequent Regulatory Periods will be in accordance with those indices specified as part of the performance incentive scheme described in Appendix B;
- (b) for each of the indices referred to in paragraph (a), the target level of performance of the relevant Regulated Distribution System or the target level of service performance of the relevant Regulated Entity whichever is applicable for Regulatory Year occurring during the Subsequent Regulatory Period;
- (c) the manner in which each Regulated Entity must record the actual performance of each Regulated Distribution System that is operated by it, and the actual service performance of that Regulated Entity, as measured by each of the indices referred to in paragraph (a);
- (d) the manner, form, and time by which each Regulated Entity must report to the ERC on the actual performance of each Regulated Distribution System that is operated by it, and the actual service performance of that Regulated Entity, for each Regulatory Year occurring during the Previous Regulatory Period; and
- (e) the circumstances wherein the ERC may grant permission for a period of performance to be excluded for the purposes of measuring the performance of a Regulated Distribution System, or the service performance of a Regulated Entity in providing Regulated Distribution Services in respect of a Regulated Distribution System following the outage of a component of that Regulated Distribution System, the indices referred to in paragraph (a) (as a minimum such circumstances include the events provided in clause 3.3.3.2(b), (d) and (e) of the Philippine Distribution Code).

The target levels of performance determined under Section 8.1.1(b) may vary as between Regulatory Years, different Regulated Entities, different Regulated Distribution Systems, and as between the location of different parts of the same Regulated Distribution System.

The ERC must determine the matters referred to in Section 8.1.1 after consultation with stakeholders as it thinks appropriate and after taking into account:

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- (a) accepted international practices, or accepted Philippines electricity industry practices;
- (b) the measures which a Regulated Entity can reasonably be required to implement for the purposes of meeting the target levels of performance referred to in Section 8.1.1(b) and complying with the obligations regarding recording and reporting referred to in Sections 8.1.1(c) and (d);
- (c) the capital expenditure program for a Regulated Distribution System that is approved by the ERC under Section 4.12;
- (d) the relevant provisions of the Distribution Code and any relevant guidelines promulgated pursuant to the Distribution Code; and
- (e) any other factors the ERC considers relevant.

Performance Incentive Scheme

As part of the Regulatory Reset Process for the Subsequent Regulatory Period under Article VII, the ERC must develop a performance incentive scheme that:

- (a) rewards each Regulated Entity to the extent that the actual level of performance of a Regulated Distribution System or the actual level of service performance of that Regulated Entity (as the case may be) for a Regulatory Year, as measured by the indices referred to in Section 8.1.1(a), exceeds the target level of performance of that Regulated Distribution System or the target level of service performance of that Regulated Entity (as the case may be) for that Regulatory Year, as determined under Section 8.1.1(b);
- (b) penalizes each Regulated Entity to the extent that the actual level of performance of a Regulated Distribution System that is operated by that Regulated Entity or the actual level of service performance of that Regulated Entity (as the case may be) for a Regulatory Year, as measured by the indices referred to in Section 8.1.1(a), is below the target level of performance of that Regulated Distribution System or the target level of service performance of that Regulated Entity (as the case may be) for that Regulatory Year, as determined under Section 8.1.1(b); and
- (c) complies with the principles set out in Section 8.2.3.

Without limiting the nature of the scheme referred to in Section 8.2.1, such scheme may take the form of:

- a) a scheme under which each Regulated Entity:
 - is entitled to an increase in the maximum average price that Regulated Entity is permitted to charge for the provision by it, during a Regulatory Year, of Regulated Distribution Services in respect of the relevant Regulated Distribution System (where Section 8.2.1(a) applies); or
 - suffers a decrease in the maximum average price that Regulated Entity is permitted to charge for the provision by it, during a Regulatory Year, of Regulated Distribution Services in respect of the relevant Regulated Distribution System (where Section 8.2.1(b) applies); or

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(b) a scheme under which each Regulated Entity:

- is entitled to levy a surcharge on some or all of the Customers of the relevant Regulated Distribution System (where Section 8.2.1(a) applies); or
- is required to pay a rebate to some or all of the Customers of the relevant Regulated Distribution System (where Section 8.2.1(b) applies).

The levels of reward referred to in Section 8.2.1(a), and the levels of penalty referred to in Section 8.2.1(b), must conform with the following principles:

(a) the levels of reward should be reasonable, and should be set so as to provide an incentive to improve the performance of each Regulated Distribution System, and of the Regulated Entity that operates that Regulated Distribution System, over time but not so as to encourage excessive investment in capacity, expansion or interconnectivity of that Regulated Distribution System;

(b) the levels of penalty should be reasonable, and should be set so as to be proportional to the levels of reward (with a larger penalty being payable the greater the differential between the actual and target levels of performance); and

(c) the levels of reward and penalty must be set such that:

- if the scheme is a scheme described in Section 8.2.2(a), the rewards and penalties applying in respect of any Regulatory Year do not exceed 3% of the allowed annual revenue requirement for the relevant Regulated Distribution System for that Regulatory Year, as determined for the purposes of the Regulatory Reset Process undertaken under Article VII in respect of the Previous Regulatory Period;
- if the scheme is a scheme described in Section 8.2.2(b), the rewards and penalties applying in respect of any Regulatory Year:
 - (i) (A) do not exceed 10% of the average monthly distribution wheeling rate tariff applicable to affected connections of the relevant Customers; and
 - (ii) (B) do not exceed 3% of the allowed annual revenue requirement for the relevant Regulated Distribution System for that Regulatory Year, as determined for the purposes of the Regulatory Reset Process undertaken under Article VII in respect of the Previous Regulatory Period; and
- if the scheme is a combination of the above schemes, the scheme must be such that the rewards and penalties applying in respect of any Regulatory Year do not exceed the above limits.

In Appendix B, the performance incentive that will apply to all Regulated Entities for the Subsequent Regulatory Periods is described.

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ARTICLE IX

OPEX AND CAPEX EFFICIENCY ADJUSTMENTS

General Efficiency Adjustment Principles

The Net Efficiency Adjustment is designed to ensure that the Regulated Entity that operates that Regulated Distribution System has an incentive to achieve cost reductions in controllable costs above those contained in forecasts approved by the ERC as part of the Regulatory Reset Process for a Regulatory Period under Article VII of these Rules.

If, during the Regulatory Reset Process for the Subsequent Regulatory Period under Article VII of these Rules, the ERC determines that the historical service delivery levels existing prior to the Previous Regulatory Period in respect of a Regulated Distribution System have not been maintained on average during the Previous Regulatory Period, or

the ERC may elect not to apply, or to adjust the Net Efficiency Adjustment in respect of that Regulated Distribution System.

Calculation of Net Efficiency Adjustment

The Net Efficiency Adjustment in respect of a Regulated Distribution System for a Regulatory Year t in the Subsequent Regulatory Period (EA_t) is calculated as follows:

$$EA_t = CEA_t + OEA_t$$

Where:

CEA_t is the Net Capital Efficiency Adjustment for Regulatory Year t , as defined in Section 9.2.2; and

OEA_t is the Net Operating and Maintenance Efficiency Adjustment for Regulatory Year t , as defined in Section 9.2.3.

The Net Capital Efficiency Adjustment for Regulatory Year t (CEA_t) is calculated as follows:

$$CEA_t = WACC \times (\text{Capex Forecast}_t - \text{Capex Actual}_t)$$

Where:

$WACC$ = the classical weighted average cost of capital determined by the ERC in accordance with Section 4.11; and

Capex Forecast_t = the real capital expenditure forecasted for Regulatory Year t in relation to that Regulated Distribution System, determined by deflating the nominal capital expenditure forecasted in relation to that Regulated Distribution System as approved by the ERC for Regulatory Year t pursuant to Section 4.12.5 (as such forecast is adjusted in

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accordance with Section 9.2.4) to accommodate actual changes in CPI over Regulatory Year t; and

Capex Actual_t = the actual real level of capital expenditure incurred in Regulatory Year t determined by deflating that actual capital expenditure to accommodate actual changes in CPI over Regulatory Year t.

The Net Operating and Maintenance Efficiency Adjustment for Regulatory Year t (OEA_t), where t is not the first Regulatory Year of the Regulatory Period, is calculated as follows:

$$\text{OEA}_t = (\text{Opex Forecast}_t - \text{Opex Forecast}_{t-1}) - (\text{Opex Actual}_t - \text{Opex Actual}_{t-1})$$

For the first Regulatory Year of a Regulatory Period, OEA_t is calculated as follows:

$$\text{OEA}_t = \text{Opex Forecast}_t - \text{Opex Actual}_t$$

Opex Forecast_t = the nominal operating and maintenance expenditure forecasted that is approved by the ERC for Regulatory Year t pursuant to Section 4.13, as adjusted in accordance with Section 9.2.4;

Opex Forecast_{t-1} = the nominal operating and maintenance expenditure forecasted that is approved by the ERC for Regulatory Year t-1 pursuant to Section 4.13, as adjusted in accordance with Section 9.2.4;

Opex Actual_t = the actual nominal level of operating and maintenance expenditure incurred in Regulatory Year t; and

Opex Actual_{t-1} = the actual nominal level of operating and maintenance expenditure incurred in Regulatory Year t-1.

For the purpose of calculating the Net Capital Efficiency Adjustment, or the Net Operating and Maintenance Efficiency Adjustment, for a Regulatory Year t the ERC may, at its discretion but after taking into account any submissions made by the Regulated Entity that operates that Regulated Distribution System, adjust the capital expenditure forecast that is approved by the ERC for Regulatory Year t pursuant to Section 4.12.5 or the operating and maintenance expenditure forecast that is approved by the ERC for Regulatory Year t-1 or Regulatory Year t pursuant to Section 4.13.5 (as the case may be) so as to reflect:

a) changes in the scope of services provided and activities undertaken by the Regulated Entity from those which formed the basis of the forecasts (for example as a result of an acquisition of any Subtransmission Assets);

b) material differences between the forecast level of output of that Regulated Distribution System for a Regulatory Year (as accepted by the ERC) and the level of actual output for that Regulatory Year, in each case as measured by the system's maximum demand (for these purposes there will only be deemed to be

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with a material difference where the system co-incident maximum demand for the relevant Regulatory Year is greater than 105%, or is less than 95%, of the forecast term coincident maximum demand for that Regulatory Year (as accepted by the ERC);

(c) material differences between the actual Philippine CPI as compared with Philippine CPI figures used for the capital expenditure forecasts approved by the ERC pursuant to section 4.12.5 and operating and maintenance expenditure forecasts approved by the ERC pursuant to section 4.13.5 (for these purposes there will only be deemed to be such a material difference where the actual ΔCPI_t for Regulatory Year t as calculated in section 4.5.2, varies by more than 10% from the annual change in the CPI forecast by a Regulated Entity for Regulatory Year t , as calculated by using the ΔCPI_t formula in section 4.5.2 but substituting actual quarterly CPI figures with the Regulated Entity's approved quarterly forecast figures for the same period); and

(d) material differences between the actual PhP/US\$ exchange rate and the actual CPI as compared with the exchange rate and USA CPI figures used for the capital expenditure forecasts approved by the ERC pursuant to section 4.12.5 and operating and maintenance expenditure forecasts approved by the ERC pursuant to section 4.13.5 (for these purposes there will only be deemed to be such a material difference where the actual ΔUSER_t for a Regulatory Year, as calculated in section 4.5.3, varies by more than 10% from the annual change in the exchange and rates forecast by a Regulated Entity for Regulatory Year t , as calculated by using the ΔUSER_t formula in section 4.5.3 but substituting actual quarterly exchange rate and USA CPI figures with the Regulated Entity's approved quarterly exchange rate and USA CPI forecast figures for the same period).

(c) In the absence of these circumstances, the forecast shall remain unchanged for the purposes of this Article. The adjustment of any forecasts pursuant to this Section 9.2.4 is only for the purposes of this Article IX and will not apply for the purposes of any other Article.

At the time of the Regulatory Reset Process for the Subsequent Regulatory Period under Article VII, the actual levels of capital expenditure, operating and maintenance expenditure incurred by a Regulated Entity in the previous regulatory year will not be known. To address this:

(a) each Regulated Entity must, during the Regulatory Reset Process, provide the ERC its actual levels of capital expenditure and actual levels of operating and maintenance expenditure, in respect of that Regulated Distribution System for the previous regulatory year; and

(b) the ERC must determine the estimates of such amounts which are to be used for the purpose of calculating the Net Efficiency Adjustment in respect of the Regulated Distribution System for the previous regulatory year.

(c) The difference between the estimate applied by the ERC for this purpose and the actual expenditure for the previous regulatory year will be assessed by the ERC during the annual rate reset, when the actual expenditure levels will be known. The difference between the estimate applied by the ERC for previous regulatory year and the actual expenditure for the same period will be corrected for. In the event that this difference is sufficiently large to have a material impact on

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smoothing factor determined through Section 4.15, the ERC may decide to treat as cause for a re-opening event, which will be managed in terms of Article XII. Otherwise, any correction required will be handled during the Regulatory Reset process for the next Regulatory Period, by adjusting the Net Efficiency Adjustment for that next period.

Mechanism for Carrying Over Net Efficiency Adjustments

The Net Efficiency Adjustment for a Regulatory Year *t* will be retained for a period of 4 years (where such Net Efficiency Adjustment for that Regulatory Year is a positive amount) and will be borne by that Regulated Entity for a period of 4 years (where such Net Efficiency Adjustment for that Regulatory Year is a negative amount). Accordingly, the Net Efficiency Adjustment in respect of a Regulated Distribution System for Regulatory Year *t* must be:

- (a) where such Net Efficiency Adjustment for Regulatory Year *t* is a positive amount - added to; or
- (b) where such Net Efficiency Adjustment for Regulatory Year *t* is a negative amount - subtracted from,

the allowed annual revenue requirement (calculated in accordance with Article V) for that Regulated Distribution System for each of the Regulatory Years in the next Regulatory Period up to and including that Regulatory Year which is the fourth Regulatory Year after Regulatory Year *t*.²⁶

This means that the allowed annual revenue requirement will be increased or decreased by the net sum of the Net Efficiency Adjustments in respect of that Regulated Distribution System for each of the Regulatory Years in the later Regulatory Periods that are to be added to or subtracted from the allowed annual revenue requirement for that Regulated Distribution System for that Regulatory Year in accordance with this Section 9.3.1.

²⁶ If Regulatory Year *t* is 2021, then the fourth Regulatory Year after Regulatory Year *t* is Regulatory

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ARTICLE X

FORCE MAJEURE EVENT REGULATED PASS THROUGH

Force Majeure Event Pass Through

If a Force Majeure Event occurs, the Affected Regulated Entity may seek the ERC's approval to charge Customers of the relevant Regulated Distribution System, in addition to the maximum amounts that the Affected Regulated Entity is otherwise permitted to charge those Customers for Regulated Distribution Services in respect of that Regulated Distribution System pursuant to Articles III, IV or V (as applicable), an amount (Force Majeure Pass Through Amount) that is not greater than the Eligible Force Majeure Pass Through Amount (as calculated by the Affected Regulated Entity) in respect of that Force Majeure Event as at the date of the Force Majeure Event Claim (if any) given to the ERC pursuant to Section 10.2 in respect of that Force Majeure Event.

Notice for a Force Majeure Event

To seek the ERC's approval to pass through a Force Majeure Pass Through Amount under Section 10.1.1, the Affected Regulated Entity must give the ERC:

- (a) a Force Majeure Event Notice pursuant to Section 10.2.2 within 3 months of the relevant Force Majeure Event occurring; and
- (b) a Force Majeure Event Claim pursuant to Section 10.2.3 within 12 months of the relevant Force Majeure Event occurring.

A Force Majeure Event Notice must specify:

- (a) details of the Force Majeure Event concerned; and
- (b) the date the Force Majeure Event occurred.

A Force Majeure Event Claim must specify:

- (a) details of the Force Majeure Event concerned;
- (b) the date the Force Majeure Event occurred;
- (c) the increase in costs that the Affected Regulated Entity has actually incurred as at the date of the Force Majeure Event Claim:
 - (i) as a result of the occurrence of the Force Majeure Event;
 - (ii) the extent (if any) to which the Affected Regulated Entity has the benefit of insurance against the consequences of the Force Majeure Event;
- (d) the Force Majeure Pass Through Amount the Affected Regulated Entity proposes in relation to the Force Majeure Event;
- (e) the basis on which the Affected Regulated Entity proposes to apply the Force Majeure Pass Through Amount to Customers of the relevant Regulated Distribution System, including the amount the Affected Regulated Entity proposes to charge to such Customers in each Regulatory Year; and

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(g) the date from, and the period over, which the Affected Regulated Entity proposes to apply the Force Majeure Pass Through Amount to Customers of the relevant Regulated Distribution System,

and must be accompanied by evidence of the increase in costs referred to in paragraph (c), and justification that such costs are reasonable and occur as a sole consequence of the Force Majeure Event.

If the amount which the Affected Regulated Entity proposes to apply to any Customer of the relevant Regulated Distribution System in any Regulatory Year, as specified in a Force Majeure Event Claim pursuant to Section 10.2.3(f), might result in the price for electricity paid by any End-user increasing in that Regulatory Year by more than the Force Majeure Threshold Amount (as defined in Section 10.2.6) in respect of that Regulatory Year, the ERC must publish a notice in a newspaper of general circulation in the area in which such End-users are located which:

(a) sets out the details of the claimed Force Majeure Event and the date that the Force Majeure Event was claimed to have occurred;

(b) specifies the Force Majeure Pass Through Amount the Affected Regulated Entity proposes in relation to that Force Majeure Event and the basis on, date from and period over which the Affected Regulated Entity proposes to apply that Force Majeure Pass Through Amount to Customers of that Regulated Distribution System (including the amount the Affected Regulated Entity proposes to apply to Customers in each Regulatory Year), in each case as set out in the Force Majeure Event Claim;

(c) states that, if the Affected Regulated Entity's proposal is approved by the ERC, it might result in an increase in the price of electricity; and

(d) invites interested persons to make submissions in relation to:

- whether the claimed Force Majeure Event has occurred;
- the amount that the ERC should determine as the Eligible Force Majeure Pass Through Amount in respect of the claimed Force Majeure Event;
- the basis on, date from and period over which any Approved Force Majeure Pass Through Amount should be applied to Customers of that Regulated Distribution System; and
- the effect of the claimed Force Majeure Event on the delivery of electricity to End-users.

The submissions referred to in Section 10.2.4 must be provided in writing or at such public hearing or consultations as the ERC may decide to convene for that purpose.

The Force Majeure Threshold Amount shall be set at the minimum of the following amounts:

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lesser amount as is proposed by the Affected Regulated Entity), taking into account:

- the relative amounts of electricity distributed by the Affected Regulated Entity to each Customer of the relevant Regulated Distribution System;
- the time cost of money based on the weighted average cost of capital (if any) determined by the ERC which applies for the purposes of these Rules in respect of the period over which the Approved Force Majeure Pass Through Amount is to be applied;
- the basis on and period over which the Approved Force Majeure Pass Through Amount is to be applied;
- any previous application of this Article X which has resulted in the Affected Regulated Entity recovering an amount either more or less than the amount required to fully (but not over) compensate it in respect of a previous Force Majeure Event in accordance with this Article X; and
- any other factors the ERC considers relevant.

Application of Approved Force Majeure Pass Through Amount

The Affected Regulated Entity may, after:

- (a) receipt or deemed receipt of a notice under Section 10.3.1 allowing the Affected Regulated Entity to pass through an Approved Force Majeure Pass Through Amount; and
- (b) publishing a notice in a newspaper of general circulation that sets out:
 - the Approved Force Majeure Pass Through Amount which the ERC has approved or is deemed to have approved;
 - the circumstances giving rise to the Approved Force Majeure Pass Through Amount; and
 - the basis on, date from and period over which the Affected Regulated Entity will apply the Approved Force Majeure Pass Through Amount to Customers of the relevant Regulated Distribution System,

apply the Approved Force Majeure Pass Through Amount on the basis, from the date and over the period specified or deemed to be specified in the notice from the ERC.

The effect of an Approved Force Majeure Pass Through Amount must be:

- (a) shown on the bills of each affected Customer which are rendered in respect of any part of the period until the next Regulatory Period commences; or
- (b) otherwise notified to such Customers in a manner approved by the ERC.

Application of Approved Force Majeure Pass Through Amount

Subject to Section 4.16, an Approved Force Majeure Pass Through Amount that may be applied by an Affected Regulated Entity under this Article is not

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to be taken into account in the calculation of the maximum average price that the Affected Regulated Entity is permitted to charge, or in determining whether that price has been exceeded.

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ARTICLE XI

TAX EVENT REGULATED PASS THROUGH

Event Pass Through

If a Positive Tax Change Event occurs, the Affected Regulated Entity may seek the ERC's approval to charge Customers, in addition to the maximum amounts that the Affected Regulated Entity is otherwise permitted to charge those Customers pursuant to Articles III, IV or V (as applicable), an amount (Positive Tax Pass Through Amount) that is not greater than the Eligible Tax Pass Through Amount (as calculated by the Affected Regulated Entity) in respect of that Tax Change Event.

If a Negative Tax Change Event occurs, the ERC may allow an Affected Regulated Entity to pass through to Customers, as a reduction in the maximum amounts that the Regulated Entity is otherwise permitted to charge those Customers pursuant to Articles III, IV or V (as applicable), an amount (Negative Tax Pass Through Amount) that is not greater than the Required Tax Pass Through Amount (as determined by the ERC) in respect of that Tax Change Event.

Application for a Positive Tax Pass Through

To seek the ERC's approval for a Positive Tax Pass Through Amount under Section 11.1.1, the Affected Regulated Entity must give the ERC, within 3 months of the relevant Tax Change Event occurring, a written statement which specifies:

- (a) details of the Tax Change Event concerned;
- (b) the date the Tax Change Event took effect;
- (c) the increase in costs in the distribution of electricity to Distribution Section Points that the Affected Regulated Entity has incurred and is likely to incur, until the end of the Regulatory Period, as a result of the Tax Change Event;
- (d) the Positive Tax Pass Through Amount;
- (e) the basis on which the Affected Regulated Entity proposes to apply the Positive Tax Pass Through Amount including the amount the Affected Regulated Entity proposes to apply to such Customers in each Regulatory Year; and
- (f) the period over, which the Affected Regulated Entity proposes to apply the Positive Tax Pass Through Amount,

and which is accompanied by evidence of the actual and likely increase in costs referred to in paragraph (c).

If the ERC receives a statement under Section 11.2.1 in relation to a Positive Tax Change Event, the ERC must determine:

- a) Whether the Tax Change event occurred;
- b) the Eligible Tax Pass Through Amount in respect of that Tax Change Event;

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(c) the basis of the Positive Tax Pass Through Amount proposed or the eligible Tax Pass Through Amount as determined by the ERC (whichever is the lesser) (the Approved Tax Pass Through Amount), may be applied to Customers of the relevant Regulated Distribution System; and

(d) the period over, which the Approved Tax Pass Through Amount may be applied to such Customers,

and notify the Affected Regulated Entity in writing of the ERC's decision and the reasons for the ERC's decision.

Required Negative Tax Pass Through

If a Negative Tax Change Event occurs and the ERC decides to impose a requirement on an Affected Regulated Entity in relation to that Negative Tax Change Event as described in Section 11.1.2, the ERC must decide:

(a) the Negative Tax Pass Through Amount in respect of that Tax Change Event;

(b) the basis on which that Negative Tax Pass Through Amount must be applied to Customers of the relevant Regulated Distribution System; and

(c) the date from, and period over, which the Negative Tax Pass Through Amount in respect of that Tax Change Event must be applied to such Customers,

and notify the Affected Regulated Entity in writing of the ERC's decision and the reasons for the ERC's decision.

A Regulated Entity must provide the ERC with such information as the ERC requires for the purpose of making a decision under Section 11.3.1 within the time specified by the ERC in a notice provided to the Regulated Entity by the ERC for that purpose.

Relevant Factors

In making a decision under Sections 11.2.2 or 11.3.1, the ERC must (in the case of a decision under Section 11.2.2) take into account the matters and proposals set out in the Affected Regulated Entity's statement and:

(a) in the case of a decision under Section 11.2.2 - the ERC must ensure that the Affected Regulated Entity is allowed a reasonable compensation for the actual net increase in costs referred to in Section 11.2.1(c) (or for such lesser amount proposed by the Affected Regulated Entity); and

(b) in the case of a decision under Section 11.3.1 - the ERC must ensure that the aggregate amount that the Affected Regulated Entity is required to pass through to Customers of the relevant Regulated Distribution System is an amount not more than the costs that the Affected Regulated Entity has saved and is to save, until the end of the Regulatory Period in which the Negative Tax Change Event occurs, in the distribution of electricity to Distribution Connection Points in respect of that Regulated Distribution System as a result of the Negative Tax Change Event,

taking into account:

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(c) the relative amounts of electricity distributed by the Regulated Entity to each Customer of the relevant Regulated Distribution System;

(d) the time cost of money based on the weighted average cost of capital (if any) determined by the ERC which applies for the purposes of these Rules in respect of the period over which the Approved Tax Pass Through Amount or the Negative Tax Pass Through Amount (as the case may be) is to be applied;

(e) the basis on and period over which the Approved Tax Pass Through Amount or the Negative Tax Pass Through Amount (as the case may be) is to be applied;

(f) any previous application of this Article XI in respect of the Affected Regulated Entity which has resulted in an Approved Tax Pass Through Amount or Negative Tax Pass Through Amount in respect of a previous Tax Change Event being more or less than the amount which it should have been for the purposes of Article XI;

(g) any change in the way or rate at which another Tax is calculated, or the repeal or imposition of another Tax, which, in the ERC's opinion, is complementary to the Tax Change Event concerned;

(h) the effect of any other previous Tax Change Event that has occurred in respect of the Affected Regulated Entity since the later of:

- the commencement of the Previous Regulatory Period; and
- the last decision relating to the Affected Regulated Entity which has been made under this Article XI in relation to a Tax Change Event; and

(i) any other factors the ERC considers relevant.

Application of Approved Tax Pass Through Amount or Negative Tax Pass Through Amount

The Affected Regulated Entity may, after:

(a) receipt or deemed receipt of a notice under Section 11.2.2 or 11.2.3 requiring the Affected Regulated Entity to pass through an Approved Tax Pass Through Amount; and

(b) publishing a notice in a newspaper of general circulation that sets out:

- the Approved Tax Pass Through Amount which the ERC has approved or is deemed to have approved;
- the circumstances giving rise to the Approved Tax Pass Through Amount; and
- the basis on, date from and period over which the Affected Regulated Entity will apply the Approved Tax Pass Through Amount to Customers of the relevant Regulated Distribution System,

and shall apply the Approved Tax Pass Through Amount on the basis, from the date and over the period specified or deemed to be specified in the notice from the ERC.

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An Affected Regulated Entity must, after receipt of a notice under Section 11.3.1 requiring the Affected Regulated Entity to pass through a Negative Tax Pass Through Amount to Customers, apply the Negative Tax Pass Through Amount on the basis, from the date and over the period specified in the notice from the ERC.

The effect of an Approved Tax Pass Through Amount or a Negative Tax Pass Through Amount must be:

- (a) shown on the bills of each affected Customer which are rendered in respect of any part of the period until the next Regulatory Period commences; or
- (b) otherwise notified to such Customers in a manner approved by the ERC.

Exclusion of Approved Tax Pass Through Amount

Subject to Sections 4.16 an Approved Tax Pass Through Amount that may be applied by an Affected Regulated Entity under this Article XI is not to be taken into account in the calculation of the maximum average price that the Affected Regulated Entity is permitted to charge for the provision by it of Regulated Distribution Services in respect of the relevant Regulated Distribution System, or in determining whether that price has been exceeded.

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ARTICLE XII

RE-OPENING AND ADJUSTMENT EVENTS

Change in CPI – Maximum Annual Price Cap Re-opening

A Regulated Entity may apply to the ERC in writing for a change in the method used to calculate the Maximum Annual Price Cap for a Regulated Distribution System (MAP_t) as set out in Section 4.2.1, if the absolute value of the change in CPI between two consecutive Quarters within the then current Regulatory Period, as calculated pursuant to Section 12.1.6, is greater than 0.07.

Where a Regulated Entity makes an application pursuant to Section 12.1.1, it must include with that application the following information:

- (a) the raw data relied upon to demonstrate that the circumstance referred to in Section 12.1.1 has occurred; and
- (b) the calculations relied upon to demonstrate that the circumstance referred to in Section 12.1.1 has occurred.

Upon receiving an application under Section 12.1.1, the ERC must decide whether or not the circumstance referred to in Section 12.1.1 has occurred.

Where, following an application by a Regulated Entity under Section 12.1.1, the ERC decides that the circumstance referred to in Section 12.1.1 has occurred, the ERC must determine a new method for the purpose of calculating the Maximum Annual Price cap for the relevant Regulated Distribution System that is to apply for the relevant Regulatory Period by applying, to the extent reasonably practicable, the principles specified under Articles IV and V. The new method so determined applies for each succeeding Regulatory Year in the then current Regulatory Period, commencing with the Regulatory Year that commences after the ERC determines that new method.

For the purposes of this Section 12.1, the change in CPI between two consecutive Quarters within a Regulatory Period (ΔCPI_{rp}) is calculated as follows:

$$\Delta CPI_{rp} = [CPI_{(Qj)} / CPI_{(Qj-1)}] - 1$$

Where:

$CPI_{(Qj)}$ is the CPI for the second of the consecutive Quarters within the relevant Regulatory Period; and

$CPI_{(Qj-1)}$ is the CPI for the first of the consecutive Quarters within the relevant Regulatory Period.

Forecasted Capital Expenditure on Major Projects – X factor adjustment for subsequent Regulatory Period

A Regulated Entity must promptly notify the ERC in writing if any capital expenditure for a Major Project, which is forecasted to be undertaken in the

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capital expenditure program approved by the ERC under Section 4.12.5 has not been substantially undertaken within 18 months of the time it was so forecasted to be undertaken.

If at any time the ERC determines that a Major Project, which is forecasted to be undertaken in the capital expenditure program that is approved by the ERC under Section 4.12.5 for a Regulated Distribution System that is operated by a Regulated Entity, has not been substantially undertaken within 18 months the time it was forecasted:

(a) the ERC must promptly notify the Regulated Entity in writing of its termination;

(b) after taking into account any submissions made by the Regulated Entity, the ERC may determine a new value for the X factor in the formula for the calculation of the Maximum Annual Price cap for that Regulated Distribution System as set out in Section 4.2.1 by recalculating the X factor:

- (i) based on the exclusion from that capital expenditure program of all of the capital expenditure which is forecasted to be undertaken in that program for the Major Project;
- (ii) disallowing excess revenue earned by a Regulated Entity on capital expenditure that has been deferred but which has been included in the forecasts used for the original calculation of the X factor, as described in Section 12.2.3 below; and
- (iii) so as to recognize the extent to which the previous X factor was set on the basis of the capital expenditure that is excluded under paragraph (i).

Any X factor which is recalculated under this Section applies for each succeeding Regulatory Year in the then current Regulatory Period, commencing with the Regulatory Year after the ERC recalculates that X factor, unless the ERC (acting pursuant to this Article XII) subsequently determines a new value for the X factor, or a new method for the purpose of calculating that Maximum Annual Price cap, that is to apply for such Regulatory Years; or

- alternatively, during the Regulatory Reset for the Regulatory Period following the one in which a Major Project has been deferred, the ERC may calculate the excess revenue that was earned by a Regulated Entity on the capital value of the deferred project and treat this as an over-recovery by the Regulated Entity, that will be recovered during the next Regulatory Period. Such over-recovery amount will then be deducted from the allowed revenue requirement for the first Regulatory Year of the following Regulatory Period (ARR₂₀₁₂ as per Section 4.15.2).

Excess revenue earned by a Regulated Entity as a result of delaying a Major Project will be calculated based on the period for which a Major Project was deferred and the income earned by the Regulated Entity on the value of the Major Project during that period. The excess revenue calculation will take into account the return on the deferred forecast capital expenditure associated with the Major Project and the allowance made for regulatory

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depreciation on this capital expenditure, as part of the building blocks used for the calculation of the smoothed price path prior to the start of the Regulatory Period in which the Major Project was estimated to be implemented, converted to present value at the time of the calculation, using the following formula:

$$ER_n = (WACC \times CV_n \times \frac{Def_n}{12} + Depn_n)(1 + WACC)^{\frac{Def_n}{12}}$$

where,

- ER_n = excess revenue earned related to deferred Major Project n;
- WACC = Regulatory WACC as described in Section 4.11 for the period of the deferral. If the WACC for a Regulated Entity has changed during the deferral period, as described in Section 4.11.13, it will be calculated at the weighted average for the WACC for the total deferral period, where the weighting will be according to the time for which the different WACC figures applied;
- CV_n = estimated capital value for deferred Major Project n that was included in the approved capital expenditure forecast for the current Regulatory Period;
- Def_n = the time with which the Major Project n has been deferred (measured in months); and
- $Depn_n$ = regulatory depreciation on the capital expenditure for Major Project n that was included in the approved depreciation forecast for the current Regulatory Period, over the time Def_n .

calculating the X factor as described in Section 12.2.2(b), the excess revenue to be deducted from the allowed revenue requirements for the remaining years of the Regulatory Period. Alternatively, the excess amount will be deducted during the next Regulatory Period, as described in Section 12.2.2(c).

If a Major Project is deferred into the next Regulatory Period, regardless of the period of such deferral, Sections 12.2.2 (c) and 12.2.3 will apply. This implies that any Major Project deferred to a next Regulatory Period will be excluded from a Regulated Entity's construction program, unless it is re-applied for. Should the Regulated Entity wish to still proceed with the same Major Project during the next Regulatory Period, this project should be included in the forecasts for capital expenditure submitted by the Regulated Entity for the next Regulatory Period, in terms of Section 4.12.

In the case that a Regulated Entity wishes to defer a Major Project into the next Regulatory Period, written notice of this intention must be provided to the ERC prior to the date at which a Regulated Entity submits its application for capital expenditure for the next Regulatory Period.

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for changes to electricity consumption patterns

At each annual rate reset, prior to the start of a next Regulatory Year (Regulatory Year t), the actual electricity consumption in a Regulated Distribution System will be compared with the forecast consumption figures approved by the ERC in its final determination on the price control arrangement for the Subsequent Regulatory Period.

The comparison of actual and forecast consumption (DeltakWh_t) for Regulatory Year t will be as follows:

$$\text{DeltakWh}_t = \{\text{Absolute value of } [(CQ_{t-1} - RQ_{t-1}) / (CQ_{t-1})]\} \times 100$$

where

CQ_{t-1} = The total amount of energy (expressed in kWh) delivered through the relevant Regulated Distribution System, during the 12-month period ending on December 31 in Regulatory Year $t-1$, to Distribution Connection Points in respect of that Regulated Distribution System

RQ_{t-1} = The forecast amount of energy (expressed in kWh) delivered through the relevant Regulated Distribution System, during the 12-month period ending on December 31 in Regulatory Year $t-1$, to Distribution Connection Points in respect of that Regulated Distribution System, determined as follows:

$$RQ_{t-1} = 0.5(FQ_{t-2} + FQ_{t-1})$$

where

FQ_{t-1} = The total amount of energy (expressed in kWh) forecast by the ERC in its final determination on the price control arrangements for the Subsequent Regulatory Period to be delivered through the relevant Regulated Distribution System, during Regulatory Year $t-1$, to Connection Points in respect of that Regulated Distribution System; and

FQ_{t-2} = The total amount of energy (expressed in kWh) forecast by the ERC in its final determination on the price control arrangements for the Subsequent Regulatory Period to be delivered through the relevant Regulated Distribution System, during Regulatory Year $t-2$, to Distribution Connection Points in respect of that Regulated Distribution System.

If $\text{DeltakWh}_t > 15\%$, then the ERC will recalculate the forecast energy consumption figures for the Regulated Entity for the remainder of the Regulatory Period, including Regulatory Year t . Based on these new consumption figures, the ERC will then determine a new value for the X factor that will apply to the Regulated Entity for the remainder of the Regulatory Period.

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Any X factor which is recalculated under this Section 12.3.3 applies for each succeeding Regulatory Year in the then current Regulatory Period for the Regulated Entity for which it was calculated. The new energy consumption forecasts calculated by the ERC will also remain in place for each succeeding Regulatory Year and will form the basis against which similar comparisons will be carried out at future annual rate resets for that Regulated Entity.

or Unforecasted Acquisitions – X factor adjustment for Subsequent Regulatory Period

Where:

(a) a Regulated Entity has acquired assets which form part of a Regulated Distribution System;

(b) that acquisition (referred to in this Section 12.4.1 as the "relevant acquisition") occurs during the Subsequent Regulatory Period;

(c) the value of the assets so acquired, together with the aggregate value of all other assets which form part of that Regulated Distribution System and which have previously been acquired by the Regulated Entity during the Subsequent Regulatory Period, is greater than the lesser of PhP 150 Million or 3% of the value of all assets that, at the time of the relevant acquisition, are used by the Regulated Entity to provide Regulated Distribution Services; and

(d) the acquisition of the assets referred to in paragraph (c):

(i) is not included by the ERC in the calculation of the Regulatory Asset Base for that Regulated Distribution System for any Regulatory Year in the Subsequent Regulatory Period, pursuant to Section 4.9.1, for the purposes of the Regulatory Reset Process for the Subsequent Regulatory Period under Article VII; or

(ii) is included by the ERC in the calculation of the Regulatory Asset Base for that Regulated Distribution System for any Regulatory Year in the Subsequent Regulatory Period, pursuant to Section 4.9.1, for the purposes of the Regulatory Reset Process for the Subsequent Regulatory Period under Article VII, but is for an amount that is:

(A) greater than 150%; or

(B) less than 60%,

of the forecast amount included for that purpose by the ERC in the calculation of that Regulatory Asset Base,

then:

(c) where paragraphs (a), (b), (c) and (d)(i) or (d)(ii)(A) apply, the Regulated Entity may apply to the ERC in writing for the determination of a new value of the X factor in the formula for the calculation of the Maximum Annual Price cap for that Regulated Distribution System; or

(d) where paragraphs (a), (b), (c) and (d)(ii)(B) apply, the Regulated Entity promptly notify the ERC in writing of the application of those paragraphs.

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Where a Regulated Entity makes an application pursuant to Section 12.4.1(e), it must include with that application information that demonstrates that the circumstances referred to in Section 12.4.1(a), (b), (c) and (d)(i) or (d)(ii)(A) have occurred.

Upon receiving an application under Section 12.4.1(e), the ERC must decide whether or not the circumstances referred to in Section 12.4.1(a), (b), (c) and (d)(i) or (d)(ii)(A) have occurred.

If at any time the ERC determines that the circumstances referred to in Section 12.4.1(a), (b), (c) and (d)(ii)(B) have occurred, the ERC must promptly notify the relevant Regulated Entity in writing of its determination.

If:

- a) following an application by a Regulated Entity under Section 12.4.1(e), the ERC decides that the circumstances referred to in Section 12.4.1(a), (b), (c) and (d)(i) or (d)(ii)(A) have occurred – the ERC must; or
- b) at any time, the ERC determines that the circumstances referred to in Section 12.4.1(a), (b), (c) and (d)(ii)(B) have occurred – the ERC may,

In either case after taking into account any submissions made by the Regulated Entity, determine a new value for the X factor in the formula for the calculation of the Maximum Annual Price cap for that Regulated Distribution System as set out in Section 4.2.1 by recalculating the X factor:

c) based on:

- where Section 12.4.1(a), (b), (c) and (d)(i) apply, the inclusion of the value of the assets which have been so acquired;
- where Section 12.4.1(a), (b), (c) and (d)(ii)(A) or (d)(ii)(B) apply, the amount for which the assets were acquired; and

d) so as to recognize the extent to which the previous X factor was set on the basis of:

- in the case of paragraph (d)(i), those assets not being so acquired by the Regulated Entity; and
- in the case of paragraph (d)(ii), those assets being acquired by the Regulated Entity for a different amount.

The X factor which is recalculated under this Section 12.4.5 applies for each succeeding Regulatory Year in the then current Regulatory Period, commencing the Regulatory Year that commences after the ERC recalculates that X factor, the ERC (acting pursuant to this Article XII) subsequently determines a new value for the X factor in the formula for the calculation of the Maximum Annual Price cap for that Regulated Distribution System, or a new method for the purpose of recalculating that Maximum Annual Price cap, that is to apply for such Regulatory

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Regulatory Entities should note that in terms of Commonwealth Act 146 all major capital works need to be approved by the ERC prior to commencing with such works.

PhP/\$US exchange rate adjustment

If the PhP/\$US exchange rate for a Quarter within the Subsequent Regulatory Period is less than 90%, or more than 110%, of the PhP/\$US exchange rate for that Quarter which is approved by the ERC for the purposes of the capital expenditure program that is approved by the ERC under Section 4.12.5 for a Regulated Distribution System (see also Section 12.5.2), then this Section 12.5.1 applies in respect of the Regulatory Year that immediately follows the Regulatory Year in which that Quarter occurs (Section 4.5 specifies the consequences of Section 12.5.1 so applying).

For the purposes of Section 12.5.1:

- (a) both the first-mentioned and the second-mentioned PhP/\$US exchange rate must be expressed as PhP/US\$1 (for example, if PhP50 can purchase US\$1, the relevant PhP/\$US exchange rate is 50); and
- (b) the first-mentioned PhP/\$US exchange rate must be calculated in a manner, and be of a kind, that is substantially comparable to the manner of calculation, and kind, of the second-mentioned PhP/\$US exchange rate.

Weighted Average Cost of Capital Adjustment

At the time of making its final determination on the price-control arrangements for each new Entry Group, in accordance with Section 4.11 the ERC will determine the appropriate rate of return (WACC) for the return on capital building block that will be included in the allowed revenue requirement for that Entry Group. To ensure reasonable consistency between the rates of return applied for different Entry Groups, the ERC will at each Entry Point also review the WACC used for earlier Entry Groups. The difference between the newly determined WACC and the WACC used for each previous Entry Group will therefore be calculated.

The difference between the newly determined WACC at a new Entry Point and the WACC used for a previous Entry Group is calculated as follows:

$$\Delta WACC = \text{Absolute value of } [(WACC_{\text{new}} - WACC_{\text{current}}) / (WACC_{\text{current}})] \times 100$$

where:

$WACC_{\text{new}}$ = The newly determined WACC at the latest Entry Point

$WACC_{\text{current}}$ = The current WACC applying to a previous Entry Group

If $\Delta WACC$ is less than or equal 90%, or more than or equal 110% for any previous Entry Group, then the WACC for that previous Entry Group will be adjusted to the most recent WACC determined by the ERC. The ERC will then, for that previous Entry Group, determine a new value for the X factor in the formula for the calculation of the maximum average price cap for that Regulated Distribution System as set out in Section 4.2.1. This will take into account the impact of the change in the allowed WACC on the various parameters on which the X-factor is based.

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Any X factor which is recalculated under this Section 12.6.3 applies for each succeeding Regulatory Year in the then current Regulatory Period for the Entry Group for which it was calculated, commencing with the Regulatory Year that commences after the ERC recalculates that X factor.

Operating and maintenance expenditure adjustment

Where:

- (a) a Regulated Entity has incurred operating and maintenance expenditure on a Regulated Distribution System that it operates;
- (b) that expenditure (referred to in this Section 12.7.1 as the "relevant expenditure") occurs during the Subsequent Regulatory Period;
- (c) the relevant expenditure referred to in paragraph (b):
 - (i) pursuant to Section 4.13.5, for the purpose of the Regulatory Reset Process for the Subsequent Regulatory Period under Article VII and results in a total Operating and Maintenance expenditure that is greater than 125% of the full Operating and Maintenance amount included for that Regulatory Year by the ERC in the final determination of the price-control arrangements for the Subsequent Regulatory Period, it is not included by the ERC in the calculation of the Operating and Maintenance expenditure allowed for that Regulated Distribution System for any Regulatory Year in the Subsequent Regulatory Period, or
 - (ii) for the purpose of the Regulatory Reset Process for the Subsequent Regulatory Period under Article VII, it is included by the ERC in the Operating and Maintenance expenditure for that Regulated Distribution System for any Regulatory Year in the Subsequent Regulatory Period, but varies to the extent that total Operating and Maintenance expenditure is:
 - (A) greater than 125%; or
 - (B) less than 75%,
of the forecast amount included for that Regulatory Year purpose by the ERC in the final determination of the price-control arrangements for the Subsequent Regulatory Period,
then:
- d) where paragraphs (a), (b) and (c)(i) or (c)(ii)(A) apply, the Regulated Entity may apply to the ERC in writing for the determination of a new value of the X factor or in the formula for the calculation of the Maximum Annual Price cap for the Regulated Distribution System; or
- e) where paragraphs (a), (b) and (c)(ii)(B) apply, the Regulated Entity must promptly notify the ERC in writing of the application of those paragraphs.

Where a Regulated Entity makes an application pursuant to Section 12.7.1(d), it must include with that application information that

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demonstrates that the circumstances referred to in Section 12.7.1(a), (b) and (c)(i) or (c)(ii)(A) have occurred.

Upon receiving an application under Section 12.7.1(e), the ERC must decide whether or not the circumstances referred to in Section 12.7.1(a), (b) and (c)(i) or (c)(ii)(A) have occurred.

If at any time the ERC determines that the circumstances referred to in Section 12.7.1(a), (b) and (c)(ii)(B) have occurred, the ERC must promptly notify the relevant Regulated Entity in writing of its determination.

If:

(a) following an application by a Regulated Entity under Section 12.7.1(d), ERC decides that the circumstances referred to in Section 12.7.1(a), (b) and (c)(ii)(A) have occurred – the ERC must; or

(b) at any time, the ERC determines that the circumstances referred to in Section 12.7.1(a), (b) and (c)(ii)(B) have occurred – the ERC may,

in either case after taking into account any submissions made by the Regulated Entity, determine a new value for the X factor in the formula for the calculation of the Maximum Annual Price cap for that Regulated Distribution System as set out in Section 4.7.1 by recalculating the X factor:

(c) based on:

- where Section 12.7.1(a), (b), (c)(i) and (c)(ii)(A) apply, the inclusion of the additional expenditure so identified;

- where Section 12.4.1(a), (b) and (c)(ii)(B) apply, the reduction of the excess expenditure so identified; and

(d) so as to recognize the extent to which the previous X factor was set on the of:

- in the case of paragraph (c)(i), that extra Operating and Maintenance expenditure not being incurred by the Regulated Entity; and

- in the case of paragraph (c)(ii), the variances in the Operating and Maintenance expenditure from what was originally approved by the ERC.

(c) Any X factor which is recalculated under this Section 12.4.6 applies for succeeding Regulatory Year in the then current Regulatory Period, commencing with the Regulatory Year that commences after the ERC recalculates the X factor, unless the ERC (acting pursuant to this Article XII) subsequently determines a new value for the X factor in the formula for the calculation of the Maximum Annual Price cap for that Regulated Distribution System, or a new value for the purpose of calculating that Maximum Annual Price cap, that is to apply for such Regulatory Years.

Procedure for events leading to an adjustment of rates

Section 4(e), Rule 3 of the Implementing Rules and Regulations (IRR) of R.A. No. 9136 should be strictly adhered to in all applications filed with the ERC for rates and other relief affecting consumers. Any application that

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would lead to revenue recovery on the part of Regulated Entity and therefore give rise to an adjustment in rates for consumers (which could be an increase or decrease), including applications for applying pass-through costs and re-opening events for recalculating the X-factor, should comply with Section 4(e), Rule 3 of the IRR and the ERC's Rules of Practice and Procedure.

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ARTICLE XIII

DECISION REVOCATION AND NOTICES

Revoked Decision Revocation Arrangements

If the ERC has made a decision under these Rules and later concludes that the decision was made on the basis of information provided to the ERC that was false or misleading in a material document or fact, or on the basis of analysis provided to the ERC by a Regulated Entity which incorporated a material calculation error, then, subject to Section 13.1.2, the ERC may revoke the decision and make a new decision in substitution for the revoked decision.

Before the ERC revokes and substitutes a decision pursuant to Section 13.1.1, the ERC must first:

- (a) notify each Regulated Entity in writing to which the decision applies of:
 - the proposed revocation;
 - the false or misleading information or the calculation error;
 - the information required from such Regulated Entities to assist the ERC in making a new decision (if necessary); and
 - the proposed process and time frame for making any new decision (including the proposed date of effect of the revocation and new decision);
- (b) allow each Regulated Entity to which the decision applies a reasonable period to make submissions to the ERC, regarding the proposals referred to in paragraph (a) (including submissions as to whether the original decision was based on information that was false or misleading in a material particular or on a material calculation error); and
- (c) take into account any matters contained in submissions made pursuant to paragraph (b).

A new decision made under Section 13.1.1 must only differ from the revoked decision to the extent necessary to correct for:

- a) the false or misleading information (if any) on which the revoked decision was based;
- b) the calculation error (if any) on which the revoked decision was based;
- c) the application of the revoked decision during the period in which that decision was in effect.

The provision of false or misleading information to the ERC is a breach of these Rules and the ERC may impose a fine or penalty under Section 43(l) of the EPIRA for such a breach.

Rules for Setting Distribution Wheeling Rates

Modification of Time Periods

The ERC may, by written notice to a Regulated Entity and upon a request for such extension being made in writing by the Regulated Entity, extend:

- (a) any time prescribed by these Rules as the time by which a thing required to be done by the Regulated Entity must be done; or
- (b) any period prescribed by these Rules as the period within which a thing required to be done by the Regulated Entity must be done.

Exception Clause

If a good cause appears, the ERC may allow an exception from any provisions of these Rules if such exception is found to be in the public interest and is not contrary to law or other related rules and regulations.

Rules for Setting Distribution Wheeling Rates

APPENDIX A QUALIFIED FRANCHISE AREAS

Qualified Franchise Area	Regulated Entity
FIRST ENTRY GROUP	
Cagayan de Oro and municipalities of Tagoloan, Jasaan, Misamis Occidental, Misamis Oriental, and Zamboanga, all in Misamis Occidental, Mindanao	Cagayan de Oro Electric Power & Light Company, Inc (CEPALCO)
Albay City, Calasiao, Sta. Barbara, Dagupan, San Fabian (Luzon), and barangays Bolingit and San Carlos City.	Dagupan Electric Corporation (DECORP)
Manila, entire provinces of Cavite and Rizal, part of the provinces of Batangas, Laguna and Marikina, and barangays in the province of Marikina	Manila Electric Company (MERALCO)
SECOND ENTRY GROUP	
Compostela City, Parts of the municipalities of Datu Odin Sinsuat, Marikina, Piña-ig) and Sultan Kudarat Province	Cotobato Light & Power Company (CLPC)
Davao City in the Province of Davao del Norte	Iligan Light & Power, Incorporated (ILPI)
Bohol City, Olango Island and City of Cordova	Mactan Electric Company (MECO)
Olongapo and its suburbs	Olongapo Electricity Distribution Corporation (OEDC)
THIRD ENTRY GROUP	
Cabanatuan in the Province of Nueva Ecija	Cabanatuan Electric Corporation (CELCOR)
City of Ibaan, Barangay Ibaan in the Municipality of San Mateo, Barangay Pag-asa in the Municipality of Taysan and Barangay Adya in Lipa City, all in the Province of Batangas	Ibaan Electric and Engineering Corporation (IEEC)
Davao and Panabo and municipalities of Carmen, Dujali and Zamboanga in Davao Del Norte	Davao Light and Power Company (DLPC)

Rules for Setting Distribution Wheeling Rates

APPENDIX B

PERFORMANCE INCENTIVE SCHEME

OVERVIEW

Performance incentive scheme that will apply for the Subsequent Regulatory Periods listed below. The scheme will have three main streams.

Unlinked incentive scheme

Performance of Regulated Distribution Systems will be assessed against a number of network performance and service performance measures.²⁷ If performance levels meet predetermined targets, Regulated Entities will be financially rewarded or, if performance levels fail to meet predetermined performance targets, Regulated Entities will be financially penalized.

Reward or penalty will take the form of a performance incentive factor (S-factor) included in the price control formula described in Section 4.2.1. The performance incentive factor will be a weighted performance measure, based on the performance achieved against a number of indices over the calendar year preceding each Regulatory Year.

Guaranteed Service Levels

Introduction of Guaranteed Service Levels (GSLs) will be introduced for each Regulated Distribution System, in terms of which customers will receive certain guarantees with respect to the responsiveness and effectiveness of Regulated Entities. If these GSLs are not met, predetermined penalties will be paid by the Regulated Entities directly to customers.

Additional performance disclosure

Performance of Regulated Distribution Systems against a further number of performance indices (network and service related) will be regularly measured and reported.

LINKED INCENTIVE SCHEME

Including the performance rewards or penalties

Performance incentive factor included in the price control formula described in Section 4.2.1, as repeated below, includes an incentive factor (S-factor) that is calculated based on the performance of a Regulated Distribution System against a number of performance indices.

$$S_t = [\text{MAP}_{t-1} \times \{1 + \text{CWI}_t - X\}] + S_t - K_t + \text{ITA}_t$$

Performance measures refer to those indices measured directly in terms of Distribution System performance, usually expressed as technical factors. Service performance measures refer to those indices relating to the performance of the staff supporting the operation of the Distribution System, usually expressed in terms of the number of complete actions, or the number of times actions exceeded or missed target levels.

Rules for Setting Distribution Wheeling Rates

r can be zero, positive or negative, depending on whether actual performance e (weighted) majority of the indices has exceeded the performance targets below or has fallen below these.

Service performance indices to be measured

ing service performance indices will be taken into account in calculating the ce incentive factor:

Performance Measures

average interruption frequency index (SAIFI). A measure of the average r of sustained planned and unplanned service interruptions experienced per er over the measurement period.

er average interruption duration index (CAIDI). A measure of the average n of planned and unplanned sustained service interruptions over the ement period.

l system average interruption duration index (SAIDI). A measure of the duration of sustained planned service interruptions for all customers over the ement period.

regulation. A measure of the probability of Distribution System voltage levels outside the boundaries prescribed in the Distribution Code.

losses. An indication of total losses on a Regulated Distribution System, g technical and non-technical losses (but excluding administrative losses).

Performance measures

process applications for Regulated Distribution Services.

connect premises to the Regulated Distribution System after compliance with nment and Regulated Entity requirements.

ge of calls answered at the call center (or equivalent) within a predetermined

ntities already face a downside potential from the system loss cap that is Regulated Distribution Systems. It is therefore the intention that the system ance index will not have a negative measure– it will be zero or positive only.

ed Entities may propose other service performance indices and weightings as ppropriate for its distribution network, subject to ERC's review and approval.

Calculation of the performance incentive factor

ance incentive factor will be based on a weighted sum of performance one for each of the indices noted above. It will be calculated as follows:

$$FQ_t = \frac{S_{SAIFI,t} + S_{CAIDI,t} + S_{SAIDI,t} + S_{VoltViol,t} + S_{Sysloss,t} + S_{Proc,t} + S_{Con,t} + S_{Call,t}}{0.025ARR_t}$$

Rules for Setting Distribution Wheeling Rates

- R_t = the allowed annual revenue for Regulatory Year t calculated in accordance with Section 4.7.7;
- E_t = the total amount of energy (expressed in kWh) that is forecast to be delivered to Distribution Connection Points through the relevant Regulated Distribution System during Regulatory Year t, with the forecast as approved by the ERC;

$$R_{SAIFI} \times Perf_{SAIFI,t-1}$$

- where, $S_{SAIFI,t}$ = S-component for SAIFI for Regulatory Year t;
- W_{SAIFI} = ERC-Approved weighting given to the SAIFI S-component; and
- $Perf_{SAIFI,t-1}$ = SAIFI performance assessment for the calendar year ending on December 31 of Regulatory Year t-1.

$$R_{CAIDI} \times Perf_{CAIDI,t-1}$$

- where, $S_{CAIDI,t}$ = S-component, CAIDI for Regulatory Year t;
- W_{CAIDI} = ERC-Approved weighting given to the CAIDI S-component; and
- $Perf_{CAIDI,t-1}$ = CAIDI performance assessment for the calendar year ending on December 31 of Regulatory Year t-1.

$$R_{SAIDI} \times Perf_{SAIDI,t-1}$$

- where, $S_{SAIDI,t}$ = S-component for planned SAIDI for Regulatory Year t;
- W_{SAIDI} = ERC-Approved weighting given to the SAIDI S-component; and
- $Perf_{SAIDI,t-1}$ = Planned SAIDI performance assessment for the calendar year ending on December 31 of Regulatory Year t-1.

$$R_{VoltViol} \times Perf_{VoltViol,t-1}$$

- where, $S_{VoltViol,t}$ = S-component for voltage regulation performance for Regulatory Year t;
- $W_{VoltViol}$ = ERC-Approved weighting given to the voltage regulation S-component; and
- $Perf_{VoltViol,t-1}$ = Voltage regulation performance assessment for the calendar year ending on December 31 of Regulatory Year t-1.

Rules for Setting Distribution Wheeling Rates

$\times Perf_{Sysloss,t-1}$

where, $S_{Sysloss,t}$ = S-component for system losses performance for Regulatory Year t;

$W_{Sysloss}$ = ERC-Approved weighting given to the system losses S-component; and

$Perf_{Sysloss,t-1}$ = System losses performance assessment for the calendar year ending on December 31 of Regulatory Year t-1.

$\times Perf_{Proc,t-1}$

where, $S_{Proc,t}$ = S-component for time to process applications for Regulatory Distribution Services for Regulatory Year t;

W_{Proc} = ERC-Approved weighting given to the process time S-component; and

$Perf_{Proc,t-1}$ = Process time performance assessment for the calendar year ending on December 31 of Regulatory Year t-1.

$\times Perf_{Con,t-1}$

where, $S_{Con,t}$ = S-component for time to provide connection to the Regulated Distribution System for Regulatory Year t;

W_{Con} = ERC-Approved weighting given to the service connection time S-component; and

$Perf_{Con,t-1}$ = Connection time performance assessment for the calendar year ending on December 31 of Regulatory Year t-1.

$\times Perf_{Call,t-1}$

where, $S_{Call,t}$ = S-component for call-center performance for Regulatory Year t;

W_{Call} = ERC-Approved weighting given to the call-center performance S-component; and

$Perf_{Call,t-1}$ = Call-center performance assessment for the calendar year ending on December 31 of Regulatory Year t-1.

Weighting of the performance indices

Section 8.2.3 (c) the total level of the rewards or penalties under the incentive scheme for any Regulatory Year should not exceed 3 % of the total revenue for a Regulated Distribution System for that year. As the

Rules for Setting Distribution Wheeling Rates

ce incentive scheme will have two streams involving possible changes to the revenue that can be earned, the following ceilings will apply to these streams:

Maximum value of the price-linked incentive scheme in any Regulatory Year will be set at 2.5% of the annual revenue requirement for that Regulatory Year.

Revenue allowance for the GSL scheme will be set at 0.5 % of the annual revenue requirement in any Regulatory Year as calculated before the GSL scheme is taken into account.

When the price-linked incentive scheme is already accounted for in the formulas B2.1.2. The weightings will be determined during the regulatory reset process subsequent Regulatory Period.

Termination of the performance targets for the various performance indices

The methodology to determine the performance targets is described below. Regulated entities are required to collect information about the performance levels of each Distribution System against these indices over the Previous Regulatory Period. This information will be used when determining the final performance bands for the incentive scheme implemented during the subsequent regulatory period.

The performance bands will be used for each performance index, as illustrated in the table below. Performance in each of these bands would result in the allocation of a performance assessment value to the index being assessed. These are the "Perf" values defined in Section B2.1.2.

Table B2 : Proposed performance assessment bands

Performance band	Description	Performance value
1	Performance greatly below target	-1.0
2	Target not achieved	-0.5
3	Performance as per expectation	0
4	Target exceeded	0.5
5	Target greatly exceeded	1.0

The performance target for each performance index will be set by the ERC as a result of its annual determination on the price control arrangements for the Subsequent Regulatory Period. For each performance index, the target may be set at:

1. The historical performance level of a Regulated Entity against that index, based on its average annual performance against this index for the five-year period; or

2. The improvement over the historical performance level of a Regulated Entity against that index, as determined by the ERC based on benchmarking against the performance of the other Philippines privately-owned electricity distribution companies and/or similar international utilities. Such benchmarking will allow for the consideration of physical, economic and regulatory differences between distribution companies and the results will be subject to public consultation prior to setting performance targets.

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er in which the bands will be set for each performance index is described in -g) below.

le B3a : Setting of performance bands for SAIFI performance

SAIFI	
	SAIFI performance target set by the ERC for the Subsequent Regulatory Period
iation	Standard deviation of the annual SAIFI values for a Regulated Distribution System for the 8 years ending on the Previous regulatory Period
reatly below target	Annual SAIFI more than 2 standard deviations above the SAIFI target
ieved	Annual SAIFI more than 1 standard deviation, but less than or equal to 2 standard deviations, above the SAIFI target
s per expectation	Annual SAIFI between or equal to 1 standard deviation above and 1 standard deviation below the SAIFI target
nd	Annual SAIFI more than 1 standard deviation, but less than or equal to 2 standard deviations, below the SAIFI target
xceeded	Annual SAIFI more than 2 standard deviations below the SAIFI target

le B3b : Setting of performance bands for CAIDI performance

CAIDI	
	CAIDI performance target set by the ERC for the Subsequent Regulatory Period
tion	Standard deviation of the annual CAIDI values for a Regulated Distribution System for the 8 years ending on the Previous Regulatory Period
reatly below target	Annual CAIDI more than 2 standard deviations above the CAIDI target
ved	Annual CAIDI more than 1 standard deviation, but less than or equal to 2 standard deviations, above the CAIDI target
s per expectation	Annual CAIDI between or equal to 1 standard deviation above and 1 standard deviation below the CAIDI target value
d	Annual CAIDI more than 1 standard deviation, but less than or equal to 2 standard deviations, below the CAIDI target
xceeded	Annual CAIDI more than 2 standard deviations below the CAIDI target

Setting of performance bands for planned SAIDI performance

SAIDI	
DI target	Planned SAIDI performance target set by the ERC for the Subsequent Regulatory Period
iation	Standard deviation of the annual planned SAIDI values for a Regulated Distribution System for the 8 years ending on the Previous Regulatory Period
eatly below target	Annual planned SAIDI more than 2 standard deviations above the planned SAIDI target
ved	Annual planned SAIDI more than 1 standard deviation, but less than or equal to 2 standard deviations, above the planned SAIDI target
per expectation	Annual planned SAIDI between or equal to 1 standard deviation above and 1 standard deviation below the planned SAIDI target value
	Annual planned SAIDI more than 1 standard deviation, but less than or equal to 2 standard deviations, below the planned SAIDI target

Rules for Setting Distribution Wheeling Rates

exceeded	Annual planned SAIDI more than 2 standard deviations below the planned SAIDI target
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Setting of performance bands for voltage regulation performance

VOLTAGE REGULATION	
ability of voltage	Voltage regulation performance target set by the ERC for the Subsequent Regulatory Period
ation	Standard deviation of the annual voltage regulation values for a Regulated Distribution System for the 5 years ending on the Previous regulatory Period
greatly below target	Annual voltage regulation more than 2 standard deviations above the voltage regulation target
ieved	Annual voltage regulation more than 1 standard deviation, but less than or equal to 2 standard deviations, above the voltage regulation target
s per expectation	Annual voltage regulation between or equal to 1 standard deviation above and 1 standard deviation below the voltage regulation target value
ed	Annual voltage regulation more than 1 standard deviation, but less than or equal to 2 standard deviations, below the voltage regulation target
exceeded	Annual voltage regulation more than 2 standard deviations below the voltage regulation target

Setting of performance bands for system losses

SYSTEM LOSSES	
em losses	8.5%
greatly below target	Not applicable
ieved	Not applicable
s per expectation	System losses on or between 7.5% to 8.5%
ed	System losses between 6.5% and 7.5%
exceeded	System losses less than or equal to 6.5%

Rules for Setting Distribution Wheeling Rates

Setting of performance bands for time to process applications

TIME TO PROCESS SERVICE APPLICATIONS	
to process a service	Target application processing time set by the ERC for the Subsequent Regulatory Period
viation	Standard deviation of the target time to process applications, for the 5 years ending on the Previous Regulatory Period.
greatly below target	Annual target processing time more than 2 standard deviations above the service application target value
chieved	Annual target processing time more than 1 standard deviation, but less than or equal to 2 standard deviations, above the service application target value
as per expectation	Annual target processing time between or equal to 1 standard deviation above and 1 standard deviation below the service application target value
ied	Annual target processing time more than 1 standard deviation, but less than or equal to 2 standard deviations, below the service application target value
y exceeded	Annual target processing time more than 2 standard deviations below the service application target value

Setting of performance bands for time to provide connection

TIME TO PROVIDE CONNECTIONS	
to provide a	Target time to provide a connection set by the ERC for the Subsequent Regulatory Period
iation	Standard deviation of the target time to provide a connection, for the 5 years ending on the Previous Regulatory Period
greatly below target	Annual target connection time more than 2 standard deviations above the connection target value
ieved	Annual target connection time more than 1 standard deviation, but less than or equal to 2 standard deviations, above the connection target value
as per expectation	Annual target connection time between or equal to 1 standard deviation above and 1 standard deviation below the connection target value
ed	Annual target connection time more than 1 standard deviation, but less than or equal to 2 standard deviations, below the connection target value
exceeded	Annual target connection time more than 2 standard deviations below the connection target value

Setting of performance bands for call center performance

CALL CENTER PERFORMANCE	
performance	Target percentage of calls answered within 30 seconds, set by the ERC for Subsequent Regulatory Period. (This could also be the average time taken to answer calls.)
ion	Standard deviation of the target call-center performance target, for the 5 years ending on the Previous Regulatory Period
greatly below	Annual target connection time more than 2 standard deviations above the call-center performance target value
ieved	Annual target connection time more than 1 standard deviation, but less than or equal to 2 standard deviations, above the call-center performance target value

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	Annual target connection time between or equal to 1 standard deviation above and 1 standard deviation below the call-center performance target value
exceeded	Annual target connection time more than 1 standard deviation, but less than or equal to 2 standard deviations, below the call-center performance target value
significantly exceeded	Annual target connection time more than 2 standard deviations below the call-center performance target value

GUARANTEED SERVICE LEVELS SCHEME

The guaranteed service levels (GSL) scheme will be applied to Regulated Distribution Systems in terms of which Regulated Entities will compensate a Customer directly if service delivery performance thresholds are not met.

Proposed GSL indices and payment levels

The indices that will be included in the GSL scheme are listed below. The actual performance targets for each index will be determined by the ERC during the reset process in the subsequent Regulatory Period.

1. A Customer of a Regulated Distribution System experiencing more than the number of sustained interruptions over any Regulatory Year;

2. A Customer of a Regulated Distribution System experiencing more than the number of sustained interruptions in a Regulatory Year;

3. Restoration of service to a Customer after a fault on the secondary side of a Regulated Distribution System, including the service drop, does not occur within the time frame after the fault occurring; and

4. The Regulated Entity failing to provide a connection to a Customer on the day requested, with cumulative payments applying for each day that a connection is later provided, up to a maximum of five days.

Regulated Entities should collect performance data against each of these indices during the Previous Regulatory Period. This data will be provided to the ERC during the Subsequent Regulatory Period, not later than twelve months after the start of the next Regulatory Period, or as requested by the ERC. Final targets will be set on this information, as approved by the ERC.

Determining the penalty levels

Appropriate GSL performance levels requires current information on actual performance against the indices. The ERC will collect the information from Regulated Entities during the Subsequent Regulatory Period to determine the penalty levels that will apply if the GSLs are not met.

The methodology that will be used to establish the penalty levels is as follows:

- (a) The ERC will calculate the total revenue allocation for the GSL scheme. In accordance with Section B2.1.3 (b), this allocation will be calculated as 0.5 % of the annual revenue requirement. Penalty levels will be constant for the whole of the Subsequent Regulatory Period; these will be based on the annual revenue

Rules for Setting Distribution Wheeling Rates

requirement for last regulatory year of the previous regulatory period (the start of the period).

$$SLRev = 0.005 \times ARR_{t-1}$$

ARR_{t-1} is the annual revenue requirement for last regulatory year of the previous regulatory period, calculated in accordance with Section 4.7.7 (carried forward to article VI for subsequent regulatory periods)

(b) Based on the data submitted by the Regulated Entities and the performance targets established for each index, the ERC will assess the likely number of instances in a year that each of the performance target levels will be exceeded. For example, the number of customers likely to have faults exceeding the target time duration (GSL3) during Regulatory Year t would be n_{GSL3} .

(c) By allocating the same weighting to all the proposed GSL indices, the revenue allocation will be made per index. For example, the revenue allocated to the GSL3 measure would be :

$$GSL3Rev = 0.25 \times GSLRev$$

(d) The penalty amount for each index will be calculated by dividing the revenue allocation for each index by the estimated number of times that the penalty level for that index is expected to be exceeded. For example, the penalty payable each time that an interruption on the secondary side of a Regulated Distribution System is not restored within the target time, would result in a penalty amount (rounded off) of:

$$Pen_{GSL3} = \frac{GSL3Rev}{n_{GSL3}}$$

Setting revenue requirements

An allowance will be made over and above the annual revenue requirement for the Regulated Entity, to cover the anticipated average amount that would be payable under the GSL scheme. While this allowance will not be part of the annual revenue requirement (which is calculated based on the building blocks), it will be added to the annual revenue requirement for each Regulatory Year during the Subsequent Regulatory Period for the purposes of calculating the smoothing factor and setting the initial price cap to apply for the Subsequent Regulatory Period.

Regulated Entities who manage to perform better than forecasted against the GSL will be able to retain the savings on the extra revenue allowance. Conversely, those Regulated Entities who pay out more penalties than forecast, will bear the additional cost, up to a maximum of 0.5% of the annual revenue requirement for a Regulatory Year.²⁸

²⁸ If the penalty amount exceeds the cap of 3% of the annual revenue requirement for the performance incentive scheme.

Rules for Setting Distribution Wheeling Rates

tion of the 0.5% of the annual revenue requirement allowance is to allow Entities the option of incurring additional expenditure to avoid penalty or to remain revenue neutral if they maintain current performance levels.

cluded events

number of external events which can have a substantial impact on the actual performance of Regulated Distribution Systems against performance indices, but that are primarily outside the control of Regulated Entities. The ERC will allow these events to be excluded from the statistics used to calculate network or service performance.

which the impact on the performance of a Regulated Distribution System will be excluded are:

interruptions made at the request of a customer;

shedding due to a shortfall in generation;

interruptions caused by a failure of the transmission network;

distribution voltage regulation caused by voltage levels at the transmission connection points falling outside the boundaries described in the Philippine Grid Code;²⁹

interruptions caused by a failure of a transmission connection asset, but only to the extent that the interruptions were not due to inadequate planning of transmission connections; and

load supply interruptions due to rare and extreme events which were not reasonably able to be foreseen, or if they could be foreseen, for which the impact could not be effectively mitigated even if appropriate responses were provided.

the ability of a customer to respond to a reasonable request, or to allow access to a site.

An Entity wishing to exclude the impact of a certain event from the calculation of the performance incentive scheme would need to provide the ERC with the following information:

1. A description of the nature of the event for which an exclusion is sought and the reasons justifying the exclusion of the event, including the provision of supporting evidence;

2. An assessment of the impact of the event on the Regulated Distribution System reliability and performance, for each of the measures adversely affected;

3. A description of the steps that the Regulated Entity took to mitigate against or respond to the event; and

4. Evidence that the Regulated Entity was unable to further mitigate against the impact of the event.

²⁹ Article 10.1 of the Philippine Grid Code (R.A. 9136) prescribes the RMS value of the long-duration voltage to be greater than 95% but not less than 90% of the nominal (transmission) voltage level.

Rules for Setting Distribution Wheeling Rates

will adopt the Beta Method, developed by the Institute for Electrical and Engineers (IEEE) to identify major event days.³⁰

ists will be applied to determine the main cause(s) for the major event days, where appropriate, the underlying event and formally classing it as “severe”. include assessing the nature and rarity of an event, the ability to foresee and an event, the ability of distribution companies to mitigate the effects of an the reaction of Regulated Entities after the event.

consideration the ERC approves the classification of an event as extreme, the he event on the performance indices would be excluded from the performance sed as part of the performance incentive scheme.

Information disclosure

component of the performance incentive scheme is the measurement and of further performance data. For the Subsequent regulatory period, Regulated ll be required to measure the performance of each Regulated Distribution inst the following indices:

Performance indices

ary average interruption frequency index (MAIFI);

ty of tripping events per 100 circuit-km;

Performance indices

time to respond to queries and complaints;

time to reconnect a service after payment of all dues and customer’s ace with the Regulated Entity’s and Local Government Unit’s requirements.

land and Island Micro-grid Facilities performance indices, Regulated Entities red to measure the performance of each Regulated Distribution System ollowing indices:

stem average interruption frequency index (SAIFI)

anned system average interruption duration index (SAIDI)

omentary average interruption frequency index (MAIFI)

ne to process service application

ne to provide connections

urrently defined GSL-4

tion, broken down monthly, has to be collected and supplied to the ERC addition to the monthly figures, the cumulative performance total against ust also be provided, from the start of the corresponding calendar year till e month for which each index was measured.

ends to annually publicize the information disclosure data for all Regulated Systems.

ngineering Society. (2004, May). IEEE Std 1366™ – 2003. IEEE Guide for Electric Power bility Indices. New York, USA. Institute of Electronics and Electrical Engineers (IEEE)

Rules for Setting Distribution Wheeling Rates

APPENDIX C

ENTRY GROUPS FOR PBR

For the reset process, as well as the Regulatory Periods associated with each group are also indicated.³¹

<p>Entry Group</p> <p>Man Electric Light & Power Company</p> <p>Man Electric Corporation</p> <p>Man Electric Company</p>	<p><u>Second Regulatory Period</u> July 1, 2007 to June 30, 2011</p> <p><u>Third Regulatory Period</u> July 1, 2011 to June 30, 2015</p> <p><u>Fourth Regulatory Period (LAPSED)</u> July 1, 2015 to June 30, 2022</p> <p><u>Fifth Regulatory Period</u> July 1, 2022 to June 30, 2026</p>
<p>Entry Group</p> <p>Man Light & Power Company, Inc.</p> <p>Man Light & Power Company, Inc.</p> <p>Man Electric Company</p> <p>Man Electricity Distribution Company³²</p>	<p><u>Second Regulatory Period</u> April 1, 2009 to March 31, 2013</p> <p><u>Third Regulatory Period (LAPSED)</u> April 1, 2013 to March 31, 2023</p> <p><u>Fourth Regulatory Period</u> April 1, 2023 to March 31, 2027</p>
<p>1st Entry Group</p> <p>Man Electric Corporation</p> <p>Man Light & Power Company, Inc.</p> <p>Man Electric and Engineering Corp.</p> <p>Man Electric Company, Inc.</p> <p>Man Electric Inc.</p> <p>Man Electric Company</p>	<p><u>Second Regulatory Period</u> July 1, 2010 to June 30, 2014</p> <p><u>Third Regulatory Period (LAPSED)</u> July 1, 2014 to June 30, 2024</p> <p><u>Fourth Regulatory Period</u> July 1, 2024 to June 30, 2028</p>

Later entrant groups were subject to a First Regulatory Period as described in the original Wheeling Rate Guidelines for the first entrant group. All later entrant groups therefore were subject to Performance Based Regulation in the Second Regulatory Period.

Man Electric Company, Inc. began to enter PBR by April 1, 2023 as it has only been privatized in June 2013 and the Commission approved its rate adjustment as a private DU in an Order dated March 6, 2018.

Rules for Setting Distribution Wheeling Rates

Fourth Entry Group Les Electric Corporation	<u>Second Regulatory Period</u> October 1, 2011 to Sept. 30, 2015
Light Company, Inc. Electric Distribution Company	<u>Third Regulatory Period (LAPSED)</u> October 1, 2015 to Sept. 30, 2025
Electric Company / MORE ic and Power Corporation	<u>Fourth Regulatory Period</u> October 1, 2025 to Sept. 30, 2029
Enerzone Corporation	
Fernando Electric Light & Power any	



ANNEX "I"

Annex "A"

**RULES FOR SETTING
TRANSMISSION WHEELING RATES**

ERC Case No. 2018-004RM

May 2022

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Republic of the Philippines

Energy Regulatory Commission

Pacific Center, San Miguel Avenue, Pasig City

**RULES FOR SETTING
TRANSMISSION WHEELING RATES**

Section 43(f) of Republic Act No. 9136, otherwise known as the Electric Industry Reform Act of 2001, and Rule 15, Section 5(a) of the Implementing Regulations issued pursuant to that Act, the Energy Regulatory Commission hereby promulgates the following Rules for the Setting of Transmission Wheeling

Rules is an amendment to the Guidelines on the Methodology for Setting Transmission Wheeling Rates for 2003 to around 2027, dated May 29, 2003, and referred to in shortened form as the Transmission Wheeling Rate Guidelines

**PHILIPPINE ELECTRICITY INDUSTRY
RULES FOR SETTING
TRANSMISSION WHEELING RATES**

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Rules for Setting Transmission Wheeling Rates

ARTICLE I GENERAL PROVISIONS

Purpose

The purpose of these Rules is to set out the methodology to be used in setting the maximum transmission wheeling rates that may be charged for the provision of Regulated Transmission Services by the Regulated Entity.

Content of the Rules

These Rules set out:

the methodology to be used in setting the maximum transmission wheeling rates that may be charged for the provision of Regulated Transmission Services by the Regulated Entity;

the pricing principles with which the ERC must comply for the purposes of setting the maximum transmission wheeling rates that may be charged for the provision of Regulated Transmission Services by the Regulated Entity;

the annual rate verification and adjustment process which the ERC must undertake in relation to the maximum transmission wheeling rates that may be charged for the provision of Regulated Transmission Services by the Regulated Entity during a Regulatory Period;

the regulatory processes and timelines to which both the Regulated Entity and the ERC must adhere in order for the methodology established by these Rules to be administered and applied in a timely manner; and

the performance indicators, performance targets and reporting arrangements with which the Regulated Entity must comply during the Subsequent Regulatory Period and each Subsequent Regulatory Period, and which the ERC must monitor, in order to ensure the effective and efficient delivery of Regulated Transmission Services to consumers.

Definitions

These Rules, unless the contrary intention appears, the following words and phrases have the following meanings:

Ancillary services	Those services that are necessary to support the transmission of capacity and energy from resources to loads while maintaining the reliable operation of the Grid in accordance with good utility practice and the Grid Code, as further defined in clause 3.3.1.1 of the WESM Rules (examples of Ancillary Services are given in clause 3.3.1.2 of the WESM Rules).
Regulatory Year	Refers to year denoted by the Regulatory Year in Section

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Year	6.2.1 hereof.
Approved FM Pass Through Amount	The lesser of an FM Pass Through Amount proposed by the Regulated Entity in relation to a Force Majeure Event and the Eligible FM Pass Through Amount in respect of that Force Majeure Event as referred to in Section 10.3.1(b).
Approved Tax Pass Through Amount	The lesser of a Positive Tax Pass Through Amount proposed by the Regulated Entity in relation to a Tax Change Event and the Eligible Tax Pass Through Amount in respect of that Tax Change Event as referred to in Section 11.2.2(b).
Business Day	A day other than a Saturday or a Sunday or an official Philippine national public holiday.
Business Preparation Guideline	The Guideline promulgated by the ERC under Rule 10, Section 1 of the IRR.
Connection Point	The point of connection of a User System or Equipment to the Grid.
CPI	The All Items Consumer Price Index published by the National Statistics Office of the Philippines.
Customer	A person whose User System or Equipment is directly connected to the Grid and who purchases or receives, or who is seeking to purchase or receive, Regulated Transmission Services. For the avoidance of doubt, this may include a person who operates a Generation Facility, a Distribution Utility, a Retail Electricity Supplier, or an End-user. In addition, and notwithstanding the foregoing, a Customer includes an Embedded Generator (as that term is defined in the Grid Code) in so far as that Embedded Generator purchases or receives, or is seeking to purchase or receive, the Regulated Transmission Services referred to in paragraphs (e) or (g) of the definition of "Regulated Transmission Services".

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Customer Segment	A category of Customers which have similar consumption characteristics for Regulated Transmission Services, based on their geographic location and consumption profile, as measured by the number of connections, the energy throughput (MWh), the non-coincident peak load (MW), the co-incident peak load (MW), the time-of-day or any other physical measure as approved from time to time by the ERC. A Customer Segment is likely to include all of the Customers who are charged the same tariff by the Regulated Entity for the provision of Regulated Transmission Services.
Decision Period	In respect of a Force Majeure Event Claim, the period within which the ERC must give a notice to the Regulated Entity under Section 10.3.1 to avoid a deemed notification of its decision under Section 10.3.2 (see Section 10.3.3).
Effectivity Date	The date on which these Rules take effect.
Eligible FM Costs Through Amount	This refers to the actual costs incurred at any time in respect of a Force Majeure Event (as calculated by the Regulated Entity under Section 10.1.1 or determined by the ERC under Section 10.3.1, as appropriate), as a result of the occurrence of that Force Majeure Event.
Eligible Tax Costs Through Amount	In respect of a Tax Change Event, the increase in costs in the transmission of electricity to Connection Points that the Regulated Entity has incurred and is likely to incur, until the end of the Regulatory Period in which the Tax Change Event occurs, as a result of that Tax Change Event (as calculated by the Regulated Entity under Section 11.2.1(c) or determined by the ERC under Section 11.2.2(a), as appropriate), excluding corporate income tax.
EPIRA	Republic Act No. 9136, otherwise known as the Electric Power Industry Reform Act of 2001.
Equipment	Equipment as defined in the Grid Code.
ERC	The Energy Regulatory Commission created by Section 38 of the EPIRA.
Included Service	A service that is provided in the ordinary course of an electricity transmission business that is neither a Regulated Transmission Service nor a service that is contestable (for these purposes, whether or not a service is contestable is a matter that, if disputed, will be determined by the ERC).
First Regulatory Period	The period commencing on the Effectivity Date and ending on the First Regulatory Period End Date (both dates inclusive).

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First Regulatory Period End Date	The date on which the First Regulatory Period ends in accordance with Sections 2.2 and 2.3.
First Regulatory Year	The period commencing on the Effectivity Date and ending on 31 December 2003 (both dates inclusive).
FM Pass Through Amount	An amount that is not greater than an Eligible FM Pass Through Amount as referred to in Section 10.1.1.
FM Threshold Amount	In respect of a Regulatory Year, the amount calculated in accordance with Section 10.2.5.
Force Majeure Event	<p>(a) A typhoon, storm, tropical depression, flood, drought, volcanic eruption, earthquake, tidal wave or landslide; or</p> <p>(b) an act of public enemy, war (declared or undeclared), sabotage, blockade, revolution, riot, insurrection, civil commotion or any violent or threatening actions,</p> <p>which results or is likely to result in an increase in the costs incurred by the Regulated Entity in the transmission of electricity to Connection Points, or in complying with the provisions of any legislation, or of any rules, regulations or Rules made under the EPIRA, including the IRR and the Grid Code, which must be complied with in relation to the transmission of such electricity.</p>
Force Majeure Event Claim	A written claim that satisfies the requirements set out in Section 10.2.3.
Force Majeure Event Notice	A written notice that satisfies the requirements set out in Section 10.2.2.
Recast Period	A twelve month period ending on 30 September in an Application Year (see Section 6.3.3(c)).
Grid	The high voltage backbone system of interconnected transmission lines, substations and related facilities, located in each of the island groups of Luzon, Visayas and Mindanao, or as may otherwise be determined by the ERC in accordance with Section 45 of the EPIRA, together with such Subtransmission Systems as are connected to that system and as are operated by the Regulated Entity.
Historical Period	A twelve-month period ending on 30 September (see Section 6.2.1(a)).

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Initial Re-valuation	The asset re-valuation that is referred to in Section 4.6.1.
Initial Re-valuation Report	The report that is referred to as the Initial Re-valuation Report in Section 4.6.2(c) or (d) (as the case may be).
ERR	The Implementing Rules and Regulations issued pursuant to the EPIRA.
Local Government	Local Government as defined in Executive Order No. 292, otherwise known as the Administrative Code of 1987.
National Government	The National Government as defined in Executive Order No. 292, otherwise known as the Administrative Code of 1987.
Negative Tax Change Event	A Tax Change Event which results in the Regulated Entity incurring materially lower costs than it would have incurred but for that event in the transmission of electricity to Connection Points.
Negative Tax Pass Through Amount	An amount that is not greater than a Required Tax Pass Through Amount as referred to in Section 11.1.2.
Network Service Provider	Network Service Provider as defined in the WESM Rules.
OATS Rules	The Open Access Transmission Service Rules that have been filed by the Regulated Entity with the ERC and approved by the ERC.
Person	Refers to a natural or juridical person, as the case may be.
P	Philippine Peso.
Positive Tax Change Event	A Tax Change Event which results in the Regulated Entity incurring materially higher costs than it would have incurred but for that event in the transmission of electricity to Connection Points.
Positive Tax Pass Through Amount	An amount that is not greater than an Eligible Tax Pass Through Amount as referred to in Section 11.1.1.
Quarter	A period of three months from 1 January to 31 March (both dates inclusive), 1 April to 30 June (both dates inclusive), 1 July to 30 September (both dates inclusive) or 1 October to 31 December (both dates inclusive).
Regulated	Collectively, any entity or entities who provide any Regulated Transmission Services. For the purposes of these

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Entity Rules, this shall refer to TransCo and its Concessionaire/s, who is currently National Grid Corporation of the Philippines (NGCP).

Regulated Transmission Services

The following services:

- (a) the conveyance of electricity through the Grid and the control and monitoring of electricity as it is conveyed through the Grid (including any services that support such conveyance, control or monitoring or the safe operation of the Grid);
- (b) the planning, maintenance, augmentation and operation of the Grid;
- (c) the provision, installation, commissioning, testing, repair, maintenance and reading both of meters that are used to measure the delivery of electricity to Customers and of other meters that are used (for the purposes of the WESM) to measure the flow of electricity into or through the Grid;
- (d) until the commencement of the Subsequent Regulatory Period, Transmission Connection Services;
- (e) the provision of Ancillary Services that are provided using assets which form part of the Grid¹ (excluding any such Ancillary Services to the extent they are provided to the System Operator under contract or through a spot market established under the WESM Rules);
- (f) billing, collection and customer service for Customers purchasing (or seeking to purchase) any of the services referred to in paragraphs (a), (b), (c) and (e) and for persons purchasing (or seeking to purchase) any Transmission Connection Services; and
- (g) those services provided by the System Operator under the Grid Code, the Distribution Code or the WESM Rules in its capacity as such,

but do not include such of these services as are determined by the ERC to be contestable.

Regulatory The First Regulatory Period, the Second Regulatory Period, the Third Regulatory Period, the Previous Regulatory Period

¹ such Ancillary Services is services provided by a series reactor or a static VAR

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Period	or a Subsequent Regulatory Period (as the case may be).
Regulatory Year	The First Regulatory Year and any subsequent calendar year that occurs during a Regulatory Period.
Relevant Tax	Any Tax payable by the Regulated Entity other than: <ul style="list-style-type: none">(a) corporate income tax or other income tax; or(b) any tax on fringe benefits or capital gains; or(c) real property tax or any other tax on the ownership or occupancy of premises; or(d) customs and import duties; or(e) rates, taxes, fees and charges imposed by any Local Government or other local authority having taxation powers; or(f) withholding tax; or(g) documentary stamp taxes or similar taxes and duties; or(h) any donor's tax; or(i) penalties, charges, fees and interest on late payments, or deficiencies in payments, relating to any Tax; or(j) any Tax that replaces or is the equivalent of any of the Taxes referred to in paragraphs (a) to (h).
Required Tax Costs On Winding Down	In respect of a Tax Change Event, the costs in the transmission of electricity to Connection Points that the Regulated Entity has saved and is likely to save, until the end of the Regulatory Period in which the Tax Change Event occurs, as a result of that Tax Change Event (as determined by the ERC under Section 11.1.2).
Carried-forward Depreciated Regulatory Asset Base	The regulatory asset base as determined by the ERC under Section 4.6.12 or as calculated in accordance with Section 4.7.2 (see also Section 4.7.1) (as the case may be).
End Regulatory Period	The period commencing on the day immediately following the First Regulatory Period End Date and ending on the fifth anniversary of the First Regulatory Period End Date (both dates inclusive).
Significant Project	A capital expenditure project that meets all the criteria below are considered significant projects, as follows: <ul style="list-style-type: none">(a) which is contained in the capital expenditure program that is approved by the ERC under Section 4.10.5; and

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- (b) for which the capital expenditure forecast in any Regulatory Year for that project (as contained in that program) is greater than 10% of the total capital expenditure forecast for that Regulatory Year under that program.

Subsequent regulatory period A Regulatory Period other than the First Regulatory Period, the Second Regulatory Period, and the Third Regulatory Period, the duration of which is determined in accordance with Section 2.5.

System operator The party responsible for generation Dispatch, or the implementation of the generation Dispatch Schedule of the Market Operator, the provision of Ancillary Services, and operation to ensure safety, Power Quality, Stability, Reliability and Security of the Grid.

Tax Any tax, levy, impost, deduction, charge, rate, duty or withholding which is levied or imposed by the National Government or a Local Government or any agency, department, instrumentality or other authority of the National Government or a Local Government.

- Tax Change event**
- (a) A change in (or a change in the application or official interpretation of) a Relevant Tax or the way in which a Relevant Tax is calculated; or
 - (b) the removal of a Relevant Tax; or
 - (c) the imposition of a Relevant Tax,

which results in the Regulated Entity incurring materially higher or lower costs than it would have incurred but for that event in the transmission of electricity to Connection Points. For these purposes:

- (i) if the Tax Change Event occurs in the First Regulatory Period, the Regulated Entity will only be deemed to incur materially higher or lower costs where the change in costs that the Regulated Entity has incurred and is likely to incur until the end of the First Regulatory Period, as a result of that Tax Change Event, exceeds an average of PhP 16.7 million for each month in the period from the occurrence of that Tax Change Event to the end of the First Regulatory Period; and
- (ii) if the Tax Change Event occurs in a Regulatory

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Period other than the First Regulatory Period, the Regulated Entity will only be deemed to incur materially higher or lower costs where the change in costs that the Regulated Entity has incurred and is likely to incur until the end of that Regulatory Period, as a result of that Tax Change Event, exceeds 1% of such of the total forecast operating and maintenance expenditure in nominal terms (excluding forecast taxes, levies and duties) as is used for the purposes of the Regulatory Reset Process under Article VII for that Regulatory Period and as pertains to the period from the occurrence of that Tax Change Event to the end of that Regulatory Period.

Third Regulatory Period	The Regulatory Period which immediately follows the Second Regulatory Period.
Transmission Connection Assets	The components of the Grid used to provide Transmission Connection Services.
Transmission Connection Services	<p>The following services:</p> <ul style="list-style-type: none">(a) the provision of capability at a Connection Point to deliver electricity to or take electricity from the Connection Point;(b) the conveyance of electricity:<ul style="list-style-type: none">(i) from the User System or Equipment of a Customer to the Connection Point; or(ii) from the Connection Point to the User System or Equipment of a Customer;(c) the planning, installation, maintenance, augmentation, testing and operation of Transmission Connection Assets; and(d) the provision of services that support any of the services referred to in paragraphs (a) to (c).
Trigger Condition	A condition the occurrence of which entitles the Regulated Entity to apply to the ERC for a change in the method used to calculate the Maximum Annual Revenue cap as referred to in Section 12.1.1.
User System	User System as defined in the Grid Code.

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dition, words and phrases used in these Rules which are defined in the EPIRA
: IRR have the meaning given to them in the EPIRA or the IRR (as the case may

Interpretation

these Rules, unless the contrary intention appears:

- a) the singular includes the plural and conversely;
- b) where a term is defined, its other grammatical forms have a corresponding meaning;
- c) a reference to any law or the rules and regulations issued implementing such a law or to any particular provision of a law or of any rules or regulations issued implementing such a law is taken to include any modification, consolidation, amendment, re-enactment, replacement or codification of the law, rules and regulations, or provision; and
- d) mentioning anything after include, includes or including does not limit what else might be included.

calculations made under or for the purposes of these Rules must be rounded to
r significant digits, except that any amount which is calculated solely in PhP
opposed to, for example, PhP/kWh) must be rounded to the nearest peso. For
se purposes, significant digits are all the non-zero digits of a number and the
s that are included between them or that are final zeros and signify accuracy
the significant digits of 0.01230 are 1, 2, 3 and the final 0, which signifies
racy to five places).²

When a calculation is required under these Rules:

- a) Regulatory Year "t" or calendar year "t" is the Regulatory Year or calendar year (as the case may be) in respect of which the calculation is being made;
- b) Regulatory Year "t-1" or calendar year "t-1" is the Regulatory Year or calendar year (as the case may be) immediately preceding Regulatory Year "t" or calendar year "t";
- c) Regulatory Year "t-2" or calendar year "t-2" is the Regulatory Year or calendar year (as the case may be) immediately preceding Regulatory Year "t-1" or calendar year "t-1"; and
- d) Regulatory Year "t-3" or calendar year "t-3" is the Regulatory Year or calendar year (as the case may be) immediately preceding Regulatory Year "t-2" or calendar year "t-2".

Multiple Entities and Obligations of Regulated Entity

When more than one entity authorized to provide any Regulated Transmission
services has been granted a franchise, with the result that the Regulated Entity comprises

² Webster's Third New International Dictionary, Random House, New York, 1991.

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More than one entity, the rights of the Regulated Entity under these Rules may be exercised by any of those entities and such exercise of those rights by such an entity will be deemed, for the purposes of these Rules, to irrevocably and unconditionally bind each of those entities.

Where more than one entity provides any Regulated Transmission Services, with the result that the Regulated Entity comprises more than one entity, each of those entities will be jointly and severally liable for the performance of the obligations of the Regulated Entity under these Rules and the performance of such obligations by any of those entities will be deemed, for the purposes of these Rules, to be the performance of those obligations by each of those entities.

Where more than one entity provides any Regulated Transmission Services, with the result that the Regulated Entity comprises more than one entity, the performance by the ERC of its obligations under these Rules in respect of any one of those entities will be deemed, for the purposes of these Rules, to be the performance of those obligations in respect of all of those entities.

Where more than one entity provides any Regulated Transmission Services, with the result that the Regulated Entity comprises more than one entity, these Rules must be construed and applied in such a manner that, as far as is reasonably practicable, results in all of those entities being treated (in the aggregate) in the same manner as a single entity would have been treated in those circumstances if that single entity alone had comprised the Regulated Entity.

It is acknowledged that a range of ownership, operating, corporate and other structures may be implemented in relation to the provision of Regulated Transmission Services (including structures which are put in place in connection with the award of a Concession Contract to a Concessionaire and subcontracting arrangements). Accordingly, these Rules must be construed and applied by the ERC in such a manner that accommodates such structures but that does not permit the use of such structures to avoid the tenor of the obligations imposed by these Rules, other Rules and Regulations of the ERC and the pertinent provisions of the OATS Act (even if this means a departure from a literal interpretation of these Rules).

Services other than Regulated Transmission Services

Except as otherwise provided in the OATS Rules, a person may only be charged a fair and reasonable charge for an Excluded Service.

In the event of a dispute in respect of the amount of a charge for an Excluded Service, what is a fair and reasonable charge will be determined by the ERC.

For the purposes of determining what is a fair and reasonable charge for an Excluded Service, both where a charge for an Excluded Service is being determined and where a dispute in respect of such a charge is being determined by the ERC, the following matters must be taken into account (without limitation to other matters that may be taken into account for those purposes):

the reasonable costs incurred in efficiently providing the Excluded Service, including:

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- (i) an allowance for appropriately attributable operating and maintenance and overhead costs that are deemed prudent and reasonable;
- (ii) an allowance for the depreciation of the assets used to provide the Excluded Service over the economic life of those assets;
- (iii) a reasonable return on the depreciated value of the assets used to provide the Excluded Service (such reasonable return might, for example, be the then-applicable weighted average cost of capital as calculated pursuant to Section 4.9 or Section 5.9); and
- (iv) an allowance for taxes paid in connection with the provision of the Excluded Service or the income derived from the provision of the Excluded Service, as may be consistent with the provisions of law;

the charge that would have been likely to be negotiated for the provision of the Excluded Service in an arm's length commercial negotiation between a willing seller and a willing buyer if the market for the Excluded Service were competitive;

whether any assets used to provide the Excluded Service to the person purchasing (or seeking to purchase) the Excluded Service will be or have been specifically constructed for that purpose;

any special value of the Excluded Service to the person purchasing (or seeking to purchase) the Excluded Service (for example, as a result of any assets used to provide the Excluded Service being dedicated to the provision of that Excluded Service to that person); and

whether any costs incurred in providing the Excluded Service (including any return on assets used to provide the Excluded Service) have been or are likely to be recovered from other persons (for example, as a result of any assets used to provide the Excluded Service subsequently being used to provide that Excluded Service to such other persons).

without in any way limiting the services that may constitute an Excluded Service, Transmission Connection Services will, with effect from the commencement of the Third Regulatory Period, be treated as Excluded Services (except to the extent they are determined by the ERC to be contestable). For the purposes of determining what is a fair and reasonable charge for such Transmission Connection Services, both where a charge for such Transmission Connection Services is being negotiated and where a dispute in respect of such a charge is determined by the ERC (and without limiting any other matters that may be taken into account for those purposes):

the matters referred to in Section 1.6.3 must be taken into account; and

to the extent any assets used to provide such Transmission Connection Services as at the commencement of the Second Regulatory Period were, immediately prior to the commencement of the Second Regulatory Period,

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included in the regulatory asset base (see Section 4.6.8), those assets will be valued at the value that was then attributed to them as part of the regulatory asset base (to the extent such assets are used to provide Transmission Connection Services following the expiry of the First Regulatory Period, those assets will cease to form part of the regulatory asset base: see Section 4.6.8(a)).

Subtransmission Assets

The Regulated Entity must shall maintain an asset register which clearly identifies each asset owned by it that is a Subtransmission Asset. Such register shall be made available to the ERC as it may require.

Provision of Information

The Regulated Entity shall, on the written request or Order of the ERC, provide the ERC, within ten (10) days of its receipt of the request or Order, with such information, calculations, forecasts and other data as the ERC requires from time to time for the purposes of these Rules and for the purposes of assisting the ERC to perform its functions under these Rules.

Amendment

These Rules may only be amended by the ERC for the purposes of giving effect to a decision made by it in accordance with these Rules or with the agreement of the Regulated Entity or as ordered by a court with appropriate jurisdiction. Amendments may also be introduced by the ERC to clarify, provide implementation details, or to respond to contingencies, as the case may be.

Severability

If for any reason, any provision or part of a provision of these Rules is declared unconstitutional or invalid, those provisions which are not thereby affected will continue to be in full force and effect.

Effectivity

These Rules shall take effect immediately upon its publication in a newspaper of general circulation in the Philippines or in the Official Gazette.

ARTICLE II

TIMING FOR REGULATORY PERIODS

Steps to Incentive Based Rate Regulation

Subject to Articles V, X and XI, the revenue cap, price cap or hybrid cap that is calculated in a manner determined by the ERC in accordance with the provisions of Article V will apply for the relevant Subsequent Regulatory Period.

Once the Effectivity Date has occurred, the provisions of these Rules will apply.

Subsequent Regulatory Periods

Each Subsequent Regulatory Period shall:

commence on the day immediately following the end of a preceding Regulatory Period;

have a period of five (5) years from the end of the immediately preceding Regulatory Period or longer as determined by the Commission; and

both dates inclusive.

**ARTICLE III
PREVIOUS REGULATORY PERIODS**

General Principle

ie amounts earned during the Previous Regulatory Period in terms of the maximum Annual Revenue Cap (MAR) determined by the ERC under these Rules, as well as any amounts over- or under-recovered by a Regulated Entity during the Previous Regulatory Period shall form part of the calculation of the MAR for the Subsequent Regulatory Period. This includes the recovery of amounts disallowed by the ERC as a regulatory intervention during the previous regulatory periods, subject to the conditions set by the Commission under its Rules (i.e. gold plating not allowed). The mechanism by which these amounts are accounted for is described in Section 4 of these Rules.

Service and quality performance levels achieved or not achieved by a Regulated Entity during the Previous Regulatory Period shall be considered under the performance incentive scheme (PIS) for the Subsequent Regulatory Period. These historical performance levels shall be used in setting performance targets for the Subsequent Regulatory Period described in Section 4.13.4, and also in determining the S-factor that will apply during year 1 of the Subsequent Regulatory Years (as per Section 4.2.1), as well as in determining necessary actions for unmet commitments and targets.

ARTICLE IV

SUBSEQUENT REGULATORY PERIOD

General Price Control Principles

Subject to Section 6.2.1(f) and (g), the maximum transmission wheeling rates that a Regulated Entity may charge for the provision by it of Regulated Transmission Services during each Regulatory Year will be set under a Maximum Annual Revenue cap in accordance with the Regulatory Reset Process for the Subsequent Regulatory Period under Article VII.

A Regulated Entity must ensure that the total revenue that is derived from the provision by it of Regulated Transmission Services during a Regulatory Year t that occurs in the Subsequent Regulatory Period does not exceed the Maximum Annual Revenue cap for that Regulatory Year t as calculated in accordance with Section 4.2.1. Notwithstanding the foregoing, a failure to comply with this obligation will not be a violation of these Rules (any revenue that exceeds the Maximum Annual Revenue cap will effectively be applied as a reduction in the Maximum Annual Revenue cap for the following Regulatory Year $t+1$), subject to Section 4.3.3 Article IV of these Rules.

Revenue Control Formula

Subject to Section 4.3.5 and Articles VIII, X, XI and XII, the maximum allowed revenue (expressed in PhP) for a Regulatory Year t that occurs during the Subsequent Regulatory Period (the Maximum Annual Revenue cap for that Regulatory Year t or MAR_t) is calculated in accordance with the following formula:

$$MAR_t = [MAR_{t-1} \times \{1 + CWI_t - X\}] - K_t - RBR_t$$

where:

MAR_{t-1} = Maximum allowed revenue (expressed in PhP) for Regulatory Year $t-1$ as calculated in accordance with this Section 4.2.1;

CWI_t = Change in Weighted Index for Regulatory Year t as calculated in accordance with Section 4.4;

X = An Efficiency Factor for Regulatory Year t . X equals the value calculated by the ERC for the Subsequent Regulatory Period under Section 4.13.3 or recalculated under Sections 12.7.2 or 12.8.4 (as the case may be) (subject to any recalculation under Sections 12.7.2 or 12.8.4, it is constant for the whole of the Subsequent Regulatory Period). For the avoidance of doubt, as a result of such calculation or recalculation X may be a positive or negative value or may be zero;

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K_t = Correction Factor to adjust for over or under recovery of revenue in Regulatory Year t-1. K_t is calculated in accordance with Sections 4.3.1 and 4.3.2; and

BR_t = A portion (expressed in PhP) of the net income derived, during the 12 month period ending on 30 September in Regulatory Year t-1, from each related business undertakings, examples of which are provided in Section 4.3.4, which is engaged in directly or indirectly by the Regulated Entity, which business utilizes assets that form part of the regulatory asset base (see Section 4.7.8), being a portion that is determined by the ERC pursuant to Section 20 of the EPIRA and that may vary as between such businesses but which, for each such business, does not exceed 50% of the net income that is so derived from that business.

1 the provisions in this Article IV apply for the Subsequent Regulatory Period ly, except to the extent Article V specifically carries forward all or a part of ose provisions for the purposes of their application in a Subsequent Regulatory riod.

Over / Under Recovery Formula

e Correction Factor for Regulatory Year t (K_t) is calculated in accordance with ction 4.3.2. For the purposes of Section 4.3.2, the Differential Amount for gulatory Year t (DA_t) is calculated as follows:

$$DA_t = (TR_{t-1} - MAR_{t-1})$$

ere:

TR_{t-1} = The total qualifying revenue (expressed in PhP) of the Regulated Entity for the 12-month period ending on 30 September in Regulatory Year t-1 and is calculated as:

$$TR_{t-1} = CR_{t-1} + MR_{t-1}$$

Where:

CR_{t-1} is the amount (expressed in PhP) billed to Customers for the provision by the Regulated Entity of Regulated Transmission Services during that period (adjusted to exclude any amounts by which the Regulated Entity's revenue is increased due to the application of Articles X or XI and any surcharges of the kind referred to in Section 8.2.2(b), and to include any amounts by which that revenue is decreased due to the application of Article XI or the payment of any rebates of the kind referred to in Section 8.2.2(b)); and

MR_{t-1} is the net payments (expressed in PhP) payable to or by the Regulated Entity during that period pursuant to the WESM Rules in its capacity as either a Network Service Provider or the System Operator

Rules for Setting Transmission Wheeling Rates

and which are referable to that period (including such amounts, if any, as are payable to the Regulated Entity as a result of the operation of clauses 3.13.15 or 3.13.16 of the WESM Rules). If such amounts as are payable to the Regulated Entity exceed such amounts as are payable by the Regulated Entity, then MR_{t-1} will be a positive amount that is equal to that difference. If such amounts as are payable by the Regulated Entity exceed such amounts as are payable to the Regulated Entity, then MR_{t-1} will be a negative amount that is equal to that difference. The value of MR_{t-1} will be zero (0) until such time as the Financial Transmission Rights as defined in the WESM are defined in relevant Rules and commence to operate; and

MR_{t-1} = Maximum allowed revenue (expressed in PhP) for Regulatory Year t-1, as calculated in accordance with Section 4.2.1. Where Regulatory Year t is the first Regulatory Year of the Subsequent Regulatory Period, MAR_{t-1} is the MAR_t for the last Regulatory Year of the Previous Regulatory Period.

Correction Factor for Regulatory Year t (K_t) is calculated as follows:

if $DA_t > 0$ and $DA_t < (0.05 \times MAR_{t-1})$,

then

$$K_t = DA_t \times (1 + i_t / 100);$$

if $DA_t > 0$ and $DA_t \geq (0.05 \times MAR_{t-1})$ (where \geq means greater than or equal to),

then

$$K_t = \{ [DA_t - (0.05 \times MAR_{t-1})] \times [1 + (i_t + 4\%) / 100] \}$$

$$+ [(0.05 \times MAR_{t-1}) \times (1 + i_t / 100)];$$

if $DA_t = 0$,

then

$$K_t = 0; \text{ and}$$

if $DA_t < 0$,

then

(i) where Regulatory Year t is the first Regulatory Year of the Subsequent Regulatory Period, K_t will be a negative amount that is the greater of:

(A) $DA_t \times (1 + i_t / 100)$ (which is a negative amount); and

(B) minus $(0.05 \times MAR_{t-1})$ (which is a negative amount); and

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- (ii) where Regulatory Year t is any Regulatory Year (other than the first Regulatory Year) occurring during the Subsequent Regulatory Period, $K_t = DA_t \times (1 + i_t / 100)$ (in such a case K_t will be a negative amount because DA_t is a negative amount),

Where

i_t = the simple average of the monthly 364-days T-bill rate as published by the Bangko Sentral ng Pilipinas for the period from 1 October of calendar year $t-2$ to 30 September of calendar year $t-1$; and

MAR_{t-1} has the same meaning as in Section 4.3.1.

the Correction Factor for the first Regulatory Year of the Subsequent Regulatory Period is calculated pursuant to Section 4.3.2(d)(i) and the absolute value of the Differential Amount for that Regulatory Year (as calculated in accordance with Section 4.3.1) is greater than 5% of the maximum allowed revenue for the last Regulatory Year of the Previous Regulatory Period, then the Regulated Entity may apply to the ERC in writing for the recovery by it of that excess amount, such application to be made at the same time as the Regulated Entity, acting pursuant to Section 6.2.1(b), submits to the ERC its proposal for the maximum transmission wheeling rates that may be charged by it for the provision of Regulated Transmission Services during the second Regulatory Year of the Subsequent Regulatory Period.

Regulated business undertakings that utilize Regulated Transmission System assets may include, but are not limited to, the following:

- (a) rental of facilities and equipment;
- (b) co-location of facilities and equipment;
- (c) antenna attachments;
- (d) use of building lots and space;
- (e) use of access roads;
- (f) attachment of telephone cables; and
- (g) tapping to AC/DC power sources.

On receiving an application under Section 4.3.3, the ERC shall:

determine how much of the Differential Amount for the first Regulatory Year of the Subsequent Regulatory Period is the result of circumstances that are outside the control of the Regulated Entity; and

evaluate the application for the recovery of such amounts as applied for by the regulated entity, taking into consideration the lawful basis for such amounts, the results of which will determine the level by which an increase in the maximum allowed revenue may be allowed for all or any of the regulatory years of the subsequent regulatory period.

Rules for Setting Transmission Wheeling Rates

Change in Weighted Index

The change in Weighted Index for Regulatory Year t (CWI_t) is calculated as follows:

$$CWI_t = \{ (W1 \times \Delta CPI_t) + (W2 \times \Delta USER_t) \}$$

where:

subject to Section 4.18:

(a) if Section 12.9.1 applies in respect of Regulatory Year t, W1 = 0.455; or

(b) if Section 12.9.1 does not apply in respect of Regulatory Year t, W1 = 1;

subject to Section 4.18:

(a) if Section 12.9.1 applies in respect of Regulatory Year t, W2 = 0.545; or

(b) if Section 12.9.1 does not apply in respect of Regulatory Year t, W2 = 0;

ΔCPI_t is the change in CPI for Regulatory Year t and is calculated in accordance with Section 4.4.2; and

$\Delta USER_t$ is the change in the PHP/\$US exchange rate for Regulatory Year t and is calculated in accordance with Section 4.4.3.

The change in CPI for Regulatory Year t (ΔCPI_t) is calculated as follows (assuming all index data is derived from, or adjusted to, the same base year³):

$$\Delta CPI_t = (CPI_{t-1} / CPI_{t-2}) - 1$$

where:

$$CPI_{t-1} = \{ CPI_{(Q4, t-2)} + CPI_{(Q1, t-1)} + CPI_{(Q2, t-1)} + CPI_{(Q3, t-1)} \}; \text{ and}$$

$$CPI_{t-2} = \{ CPI_{(Q4, t-3)} + CPI_{(Q1, t-2)} + CPI_{(Q2, t-2)} + CPI_{(Q3, t-2)} \}$$

where:

$CPI_{(Q4, t-2)}$ is the CPI for the Fourth Quarter ending in year t-2;

$CPI_{(Q1, t-1)}$ is the CPI for the First Quarter ending in year t-1;

$CPI_{(Q2, t-1)}$ is the CPI for the Second Quarter ending in year t-1;

$CPI_{(Q3, t-1)}$ is the CPI for the Third Quarter ending in year t-1;

$CPI_{(Q4, t-3)}$ is the CPI for the Fourth Quarter ending in year t-3;

$CPI_{(Q1, t-2)}$ is the CPI for the First Quarter ending in year t-2;

$CPI_{(Q2, t-2)}$ is the CPI for the Second Quarter ending in year t-2; and

$CPI_{(Q3, t-2)}$ is the CPI for the Third Quarter ending in year t-2.

³ The National Statistics Office of the Philippines (NSO) currently uses an index base year of 1986. In the future, should the NSO change the base year for its reported CPI, the CPI values in 3.3.2 must all be adjusted to use the same base year (see Section 3.3.4).

Rules for Setting Transmission Wheeling Rates

As an example, using National Statistics Office data dated 2 December 2002, where 1994 was the base year with index of 100:

$CPI_{(Q4, 2000)} = 157.8$, $CPI_{(Q1, 2001)} = 159.4$, $CPI_{(Q2, 2001)} = 161.5$, $CPI_{(Q3, 2001)} = 163.2$, $CPI_{(Q4, 2001)} = 164.3$, $CPI_{(Q1, 2002)} = 165.2$, $CPI_{(Q2, 2002)} = 166.3$ and $CPI_{(Q3, 2002)} = 167.9$.

Consequently:

$\Delta CPI_{2003} = 0.0340$ (Note this escalation is not required under Section 3.2 or 3.3, but is provided only as an example of the calculation of ΔCPI_t).

The change in the PhP/\$US exchange rate for Regulatory Year t ($\Delta USER_t$) is calculated as follows (assuming all US consumer price index data is derived from, adjusted to, the same base year⁴):

$$\Delta USER_t = \left\{ \frac{USER_{t-1}}{USER_{t-2}} \times \left(\frac{USCPI_{t-1}}{USCPI_{t-2}} \right) \right\} - 1$$

where:

$$USER_{t-1} = \{ USER_{(Q4, t-2)} + USER_{(Q1, t-1)} + USER_{(Q2, t-1)} + USER_{(Q3, t-1)} \}; \text{ and}$$

$$USER_{t-2} = \{ USER_{(Q4, t-3)} + USER_{(Q1, t-2)} + USER_{(Q2, t-2)} + USER_{(Q3, t-2)} \}$$

where:

$USER$ for a Quarter (Q) is the average of the Philippine Peso/United States Dollar inter-bank mid-rates prevailing on each of the last 5 Business Days of that Quarter, each such rate being as published by the Bangko Sentral ng Pilipinas, expressed as PhP/US\$1 (for example, if PhP50 can purchase US\$1, then $USER$ is 50);

$USER_{(Q4, t-2)}$ is the $USER$ for the Fourth Quarter ending in year $t-2$;

$USER_{(Q1, t-1)}$ is the $USER$ for the First Quarter ending in year $t-1$;

$USER_{(Q2, t-1)}$ is the $USER$ for the Second Quarter ending in year $t-1$;

$USER_{(Q3, t-1)}$ is the $USER$ for the Third Quarter ending in year $t-1$;

$USER_{(Q4, t-3)}$ is the $USER$ for the Fourth Quarter ending in year $t-3$;

$USER_{(Q1, t-2)}$ is the $USER$ for the First Quarter ending in year $t-2$;

$USER_{(Q2, t-2)}$ is the $USER$ for the Second Quarter ending in year $t-2$; and

$USER_{(Q3, t-2)}$ is the $USER$ for the Third Quarter ending in year $t-2$; and

$$CPI_{t-1} = \{ USCPI_{(Q4, t-2)} + USCPI_{(Q1, t-1)} + USCPI_{(Q2, t-1)} + USCPI_{(Q3, t-1)} \}; \text{ and}$$

$$CPI_{t-2} = \{ USCPI_{(Q4, t-3)} + USCPI_{(Q1, t-2)} + USCPI_{(Q2, t-2)} + USCPI_{(Q3, t-2)} \}$$

where:

⁴ If for any such US consumer price index data should change, the values used in Section 3.3.4 should be adjusted to use the same base year (see Section 3.3.4).

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USCPI for a Quarter (Q) is the Consumer Price Index for all urban customers, US city average published by the US Bureau of Labour Statistics for the last month of that Quarter in series CUUR 0000SAO;

$USCPI_{(Q4, t-2)}$ is the USCPI for the Fourth Quarter ending in year t-2;

$USCPI_{(Q1, t-1)}$ is the USCPI for the First Quarter ending in year t-1;

$USCPI_{(Q2, t-1)}$ is the USCPI for the Second Quarter ending in year t-1;

$USCPI_{(Q3, t-1)}$ is the USCPI for the Third Quarter ending in year t-1;

$USCPI_{(Q4, t-3)}$ is the USCPI for the Fourth Quarter ending in year t-3;

$USCPI_{(Q1, t-2)}$ is the USCPI for the First Quarter ending in year t-2;

$USCPI_{(Q2, t-2)}$ is the USCPI for the Second Quarter ending in year t-2; and

$USCPI_{(Q3, t-2)}$ is the USCPI for the Third Quarter ending in year t-2.

source of data described in this Section 4.4 is no longer published, or if any change occurs in relation to such data which would cause the continued use of the source to result in inaccurate comparisons between data calculated using the source prior to the change and data calculated using the source after the change, such alternative source as the ERC reasonably determines, after consultation with the Regulated Entity, will be substituted.

General Building Block Principles

As part of the Regulatory Reset Process for the Subsequent Regulatory Period under Article VII, the ERC must determine the Annual Revenue Requirement for Regulatory Year t in the Subsequent Regulatory Period (ARR_t), based on a forward-looking analysis of forecast cash flow requirements, that will help determine an optimal forecast revenue requirement of the Regulated Entity in each Regulatory Year of the Subsequent Regulatory Period. The ARR_t must reasonably compensate the Regulated Entity for prudent, reasonable, and economically efficient costs and risks it incurs in providing Regulated Transmission Services in order to encourage:

a commercial environment which is transparent and stable, and which does not discriminate between the users of Regulated Transmission Services;

the same outcomes in the market for Regulated Transmission Services as would be achieved if that market were competitive;

competition in the provision of Regulated Transmission Services wherever practicable;

the commercial viability of the Regulated Entity through allowing it to recover its prudent, efficient and reasonable economic costs, together with a reasonable return on its approved capital invested in the Grid, as determined by the ERC;

competition in upstream and downstream markets;

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stability in the transmission wheeling rates charged for Regulated Transmission Services;

recovery of those costs related to the provision of Regulated Transmission Services (eg. costs associated with responsibilities as Market Operator are excluded from the transmission wheeling rates);

fairness in the charges made for Regulated Transmission Services, including through the progressive removal of cross-subsidies;

as a minimum, maintenance of service delivery levels subsisting at the beginning of the Subsequent Regulatory Period and an improvement of service delivery levels during that period as contemplated by Article VIII; and

maintenance of the Grid such that, at the end of the term of the Subsequent Regulatory Period, the Grid is able to continue to provide sustainable electricity transmission service delivery into the future without above average expenditure on upgrades or critical maintenance, and with the ability of continuing the service delivery levels previously achieved.

ARR_t must result from an economic and financial analysis of the forecast cash flow requirements of the Regulated Entity based on a Building Block analysis pursuant to Section 4.6, which uses a 'classical' weighted average cost of capital as defined in Section 4.10.

Taxes, other than corporate income tax, must be included as a specific line item in the Building Blocks alongside the operating and maintenance expenditures to which they are related.

When undertaking the economic and financial analysis to determine the ARR_t, the ERC will adequately compensate the Regulated Entity for all identified and quantifiable risks inherent in an electricity transmission business in the Philippines. The ERC recognizes that the over compensation for such risks will be to the disadvantage of Customers because it will permit unjustifiably high tariffs and the under compensation for such risks will be to the disadvantage of the Regulated Entity (and ultimately Customers) because it will adversely affect the ability of the Regulated Entity.

Primary Building Blocks

The primary financial Building Blocks which will form the basis of calculating the ARR_t are as follows:

operating and maintenance expenditure;

taxes other than corporate income tax;

regulatory depreciation;

return 'on' capital; and

corporate income tax.

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the operating and maintenance expenditure for Regulatory Year t is constituted by the forecasts of such expenditure for that Regulatory Year as approved by the ERC in accordance with Section 4.12.

the taxes, other than corporate income tax, for Regulatory Year t are constituted by the forecasts of payments of such taxes for that Regulatory Year as approved by the ERC in accordance with Section **Error! Reference source not found.**

the Regulatory Depreciation for Regulatory Year t is that which is determined by the ERC on the basis of the methodology for its determination set out in Section 4.2.

the return 'on' capital for Regulatory Year t is the Regulatory Asset Base for that Regulatory Year (RAB_t), as determined by the ERC on the basis of the methodology for its determination set out in Section 4.7, increased by an allowance for working capital in accordance with Section 4.6.7, multiplied by the nominal weighted average cost of capital (WACC), as determined by the ERC in accordance with Section 4.10.

the corporate income tax for Regulatory Year t is the estimated corporate income tax payable by the Regulated Entity in that Regulatory Year as determined by the ERC in accordance with Sections **Error! Reference source not found.** to **Error! Reference source not found.** (an income tax adjustment, as determined by the ERC in accordance with Section **Error! Reference source not found.**, is also included for the purposes of calculating ARR_t). The transmission company being concessionaire is required under R.A. 9511 to pay a Franchise Tax equivalent to three percent (3%) of all gross receipts derived from its operation under said franchise. The 3% Franchise Tax shall be in lieu of income tax and any and all other taxes.

The Building Block formula to be used in calculating ARR_t is as follows:

$$ARR_t = Opex_t + Tax_{m,t} + RegDepr_t + [(RAB_t + WC_t) \times WACC] + Tax_{p,t} + ITA_t$$

where:

- $Opex_t$ = The nominal⁵ operating and maintenance expenditure for Regulatory Year t which is forecast for that Regulatory Year and approved by the ERC in accordance with Section 4.12;
- $Tax_{m,t}$ = The payment of taxes, other than corporate income tax, for Regulatory Year t in nominal terms which are forecast for that Regulatory Year and approved by the ERC in accordance with Section **Error! Reference source not found.**;

⁵ the word 'nominal' is used with its financial meaning, such that nominal peso numbers are with inflation applied, and are in pesos of the day. Notionally these are end of year (EoY) figures, unless stated otherwise.

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$gDepn_t$ = The Regulatory Depreciation for Regulatory Year t in real⁶ terms as determined by the ERC on the basis of the methodology for its determination set out in Section 4.9.2;

B_t = The Regulatory Asset Base for Regulatory Year t in real terms as determined by the ERC on the basis of the methodology for its determination set out in Section 4.8;

λ = The working capital allowance for Regulatory Year t , which is set at a proportion of the difference between:

- (a) the real operating and maintenance expenditure which is forecast for that Regulatory Year and approved by the ERC in accordance with Section 4.12; and
- (b) the real amount of the bad debts which are forecast for that Regulatory Year and approved by the ERC in accordance with Section 4.12,

such proportion being determined by the ERC, as part of the Regulatory Reset Process for the Subsequent Regulatory Period under Article VII, after a lead/lag study of relevant payables and receivables or the latest actual working capital requirement of the Regulated Entity verifiable from its Audited Financial Statements such that it should reflect its lead/lag analysis for the past five (5) years ;

CC = The weighted average cost of capital calculated using a 'classical' formula and as determined by the ERC in accordance with Section 4.10. This value is determined by the ERC as part of the Regulatory Reset Process for the Subsequent Regulatory Period under Article VII and remains constant for each Regulatory Year in the Subsequent Regulatory Period unless a re-opening event occurs as described in Section 12.11;

t = The estimated corporate income tax payable by the Regulated Entity in Regulatory Year t as determined by the ERC in accordance with Sections **Error! Reference source not found.** to **Error! Reference source not found.**. For the Subsequent Regulatory Period, this value may be set to zero; and

⁶ the word 'real' is used with its financial meaning, such that real peso numbers are without inflation applied. Notionally these are end of year (EoY) figures unless stated

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A_t = The income tax adjustment amount for Regulatory Year t as determined by the ERC in accordance with Section Error! Reference source not found..

Asset Valuation

As part of the Regulatory Reset Process under Article VII for Subsequent Regulatory Periods, the ERC must require that either one of the following be adopted:

the regulatory asset base for a Regulated Transmission System is re-valued. The re-valuation must value the material items of plant and equipment either:

- at their optimized deprival value (i.e. at the lesser of their optimized depreciated replacement cost and their recoverable amount (their recoverable amount being the greater of their economic value and net realizable value)); or
- using some other method of internationally-accepted valuation methodology as determined by the ERC; or

the previous value of the regulatory asset base for a Regulated Transmission System is rolled-forward.

In this regard, the ERC shall issue the required documents to advise the Regulated Entities of which valuation methodology to apply in the relevant Subsequent Regulatory Period.

However, any assets previously optimized out of the regulatory asset base for a Regulated Transmission System will be included in that regulatory asset base if the ERC is satisfied that those assets are required to support the provision of Regulated Transmission Services, in which case the principles set out in Section 4.7.2 must be employed in relation to the treatment of those assets.

Where the re-valuation undertaken pursuant to Section 4.7.1 shows that an asset has previously been optimised out of the regulatory asset base should be included in the regulatory asset base for the Subsequent Regulatory Period, the following principles relating to the treatment of that asset must be employed:

the value at which that asset must be included in the regulatory asset base is its optimized depreciated value at the date that it has been determined to be included as part of the RAB; and

that asset must be included in the regulatory asset base in the year in the Subsequent Regulatory Period in which the asset is forecast to be required to support the provision of Regulated Transmission Services by the Regulated Entity, and the asset must be depreciated (in an accelerated manner) over its remaining economic life as if it had never been optimised out of the regulatory asset base.

The Valuation allows for network optimization disallowing any over- design and unnecessary assets and matches the economic value of the asset when inflation is

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igh, which was adopted during the previous regulatory period; unless otherwise specified in subsequent issuances, the Commission shall adopt a rolled-forward approach in determining the value of the regulatory asset base for the Subsequent regulatory Period. This will require a roll forward based on an actual efficient capital expenditure and an actual depreciation of the previous Regulatory Period. incentivized the DUs to become efficient in its CAPEX spending.

1 determining the value of the regulatory asset base for a Regulated Transmission system using a rolled-forward approach, the process shall be as follows:

Table 1: ERC's Steps in Determining the Roll Forward Asset Values⁷

Opening RAB	Adopt the latest approved Opening RAB
Add: Actual Capital Expenditure (CAPEX)	Optimized actual cost of new assets or investment that has been added
Less: Regulatory Depreciation	Actual return of capital allowed under the RTWR (based on the standard asset lives set by the ERC)
Less: Asset Disposal/Retirement (net income from disposal)	Optimized actual cost of disposed/retired assets less net income from disposal
Closing RAB	Closing value of the RAB to be carried forward at the start of the next Regulatory Period

3 rolled-forward valuation shall be undertaken by an independent expert appointed by the Regulated Entity who shall prepare and issue an independent expert's report. The independent expert's report and the recommended Closing RAB shall be reviewed and approved by the ERC.

4 details of the rolled-forward valuation must be validated to the relevant Regulated Entity's asset register or general ledger (as required), and such reconciliation must be fully documented in the submission of the relevant Roll-forward Valuation Report to the ERC. The Rolled-Forward Valuation Report must specify the reported asset values for the following Asset Categories j (or of other asset categories as the ERC approves):

5 for transmission lines, the relevant Asset Categories are as follows:

- (i) buildings, civil works and establishment;
- (ii) towers and associated lines;

6 This section excludes the addition of inflation factors at the time of roll forward RAB calculation. The Commission shall consider the application of any inflation factor only once, either thru the RAB or

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- (iii) poles and associated lines;
- (iv) underground cables;
- (v) CTS and CS, electrode lines and accessories sub-sea cables;
- (vi) easements owned by the Regulated Entity;
- (vii) other;
- (viii) spare parts and tools spares;

for transmission substation components, the relevant Asset Categories are as follows:

- (i) buildings, civil works and establishment;
- (ii) power transformers;
- (iii) circuit breakers and accessories;
- (iv) instrument transformers;
- (v) meters and protection and control equipment;
- (vi) power compensating equipment reactors;
- (vii) buswork;
- (viii) other;
- (ix) spare parts and tools spares;

for communications plant, the relevant Asset Categories are as follows:

- (i) buildings, civil works and establishment;
- (ii) communications plant and infrastructure;
- (iii) fibre optic cables;
- (iv) fibre optic cable terminal equipment;
- (v) ancillary infrastructure;
- (vi) other;
- (vii) spare parts and tools spares;

for system operations, the relevant Asset Categories are as follows:

- (i) buildings, civil works and establishment;
- (ii) control room and control infrastructure;
- (iii) ancillary infrastructure;
- (iv) other;
- (v) spare parts and tools;

for metering equipment assets, the relevant Asset Categories are as follows:

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- (i) market meters;
- (ii) meters which are not market meters, Connection assets or Subtransmission assets;

for non-network assets, the relevant Asset Categories are as follows:

- (i) computers and office equipment;
- (ii) plant, tools and equipment;
- (iii) furniture and fittings;
- (iv) commercial buildings;
- (v) land;
- (vi) other.
- (vii) spare parts and tools

Assets found between a Regulatory Period and the Subsequent Regulatory Period, but not related to capital expenditure, and submitted to the ERC during a regulatory reset process for approval and inclusion in the RAB.

undertaking the optimisation of the assets, to consider the following optimisation principles must be employed:

assets which are assessed to have an unreasonable degree of over-capacity or excess redundancy (i.e. assets which are unreasonably over-designed or have unreasonably excessive installed capacity) will have their value split between the value of that capacity or redundancy which is reasonably necessary to meet Customer requirements for Regulated Transmission Services within the electricity transmission network planning horizon (see paragraph (b)) and the value of that capacity or redundancy which is in excess of this requirement – for these purposes, what is reasonable must be assessed having regard to the need to ensure reliability in the provision of Regulated Transmission Services into the future, and investment that is reasonably undertaken to meet the target levels of performance determined by the ERC pursuant to Article VIII will be deemed to be reasonable;

the electricity transmission network planning horizon will be taken to be 15 years or as otherwise determined by the ERC based on reasonable planning policies in the context of an electricity transmission network in the Philippines; and

the analysis of over-capacity or excess redundancy will be based on there being no changes to the location of supply and demand (i.e. take-off points for generators and loads), transmission line or cable routes, easements or substation locations, but existing network elements can be re-rated or re-designed in a notional sense to assess their optimised value.

optimization principles may be used as approved by the ERC following the advice from an independent expert or experts referred to in Section 4.6.2. Such

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principles must include the manner in which windfall gains and losses arising from the Initial Re-valuation are to be treated.

The Roll-Forward Valuation Report for a Regulated Transmission System must differentiate between those assets which are to be included in the Regulatory Asset Base for that Regulated Transmission System and those assets which are to be excluded from the Regulatory Asset Base for the reason that the Regulatory Asset Base must only include assets to the extent that such assets:

-) are necessary to meet Customer requirements for Regulated Transmission Services within the electricity transmission network planning horizon referred to in the optimization principles;
-) except in the case of spares, are in service (ie. have been commissioned and are providing a service);
-) in the case of spares, are in reasonable quantities as determined by the ERC (pursuant to Section 7.1.2(b)); and
-) in the case of easements, are clearly documented as being owned by the Regulated Entity.

For the purposes of the Construction Work in Progress (CWIP) Factor as it applies in respect of all assets or an Asset Category is intended to compensate for the investment cost (ie. the time value of money), calculated using a typical spend profile for assets of the relevant type (at the weighted average cost of capital determined by the ERC), over the typical period from the commencement of the construction of such assets to the commissioning of those assets (excluding any periods of unjustified delay). For these purposes, the "spend profile" is to be determined as the average expenditure on those types of assets in relation to past projects undertaken, calculated on a project and monthly basis over the whole life of each project from budget approval to commissioning. The CWIP Factor must be derived from a calculation method approved by the ERC which could take the form of:

directly estimating the investment cost for specific past projects and adding this cost to the optimized replacement cost of the revalued assets; or

another method approved by the ERC.

The CWIP Factor may be the same for all valued assets or may differ as between Asset Categories.

The ERC must estimate, in respect of that Regulated Transmission System, the value of the Rolled-forward Depreciated Regulatory Asset Base for each Asset Category j as at the commencement of the first Regulatory Year (t) in the subsequent Regulatory Period ($RAB_{oj,t}$). For these purposes, $RAB_{oj,t}$ is equal to $RAB_{oj,t-1}$ as calculated in accordance with the formula specified in Section 4.8.1 except that, for the purposes of applying that formula:

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$RAB_{oj,t-1}$ shall be deemed to be the value of each asset in Asset Category j that shall be included in the regulatory asset base for that Regulated Transmission System (as defined in Section 4.6.7) and which is existing as of the date of the valuation in relation to that Regulated Transmission System.

$Capex_{j,t-1}$ will be deemed to be the actual or budgeted capital expenditure of the relevant Regulated Entity on assets in Asset Category j for the period commencing on the date of that valuation up to the date of commencement of the Subsequent Regulatory Period to the extent such expenditure is reasonable and attributable to assets which would be included in the regulatory asset base for that Regulated Transmission System, adjusted by the CWIP Factor subject to the ERC approval, except that the CWIP Factor must not be applied to the extent the relevant capital expenditure is:

- on an asset that is categorised as part of spares, easements, buildings, civil works and establishment, or non-system assets; or
- on a Residual Subtransmission Asset and reclassified assets (including those assets that performs Transmission function);

$RegDepn_{oj,t-1}$ shall be deemed to be the Regulatory Depreciation of those assets in Asset Category j that are to be included in the Regulatory Asset for that Regulated Transmission System, and that are in existence as at valuation date in relation to that Regulated Transmission System, excluding spares, easements and land, such Regulatory Depreciation being calculated in accordance with Section 4.9.1 (but as if the reference to Regulatory Year t in that Section were instead a reference to the period from the date of the valuation to the date of commencement of the Subsequent Regulatory Period);

$RegDepn_{cj,t-1}$ will be deemed to be the Regulatory Depreciation of the capital expenditure on assets in Asset Category j , excluding spares, easements and land, such Regulatory Depreciation being calculated consistently with the methodology set out in Section 4.7.1 (but as if the reference to Regulatory Year t in that Section were instead a reference to the period:

- to the date of commencement of the Subsequent Regulatory Period);
- and

$Disposals_{j,t-1}$ will be deemed to be the actual or budgeted net receipts from the disposal, during the period from the valuation date in relation to that Regulated Transmission System to the date of commencement of the Subsequent Regulatory Period, of assets in Asset Category j that are to be included in the regulatory asset base for that Regulated Transmission System to the extent such net receipts are reasonable. The net receipts from the disposal of such an asset will be determined as the receipts from

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the disposal of that asset, minus the value of that asset at the actual or budgeted date of its disposal. The value of that asset at the actual or budgeted date of its disposal will be determined as the rolled-forward depreciation regulatory asset base value of that asset at that time.

sets remaining in service beyond their regulatory life as described in Section (a), will remain part of the regulatory asset base subject to review by the ERC. ch assets and their residual value must be separately identified in the Valuation report. Since the Regulatory Depreciation on these assets would have been mpletely recovered, the ERC shall determine the reasonable residual value to be d for the purposes of calculating a return on the regulatory asset base only (in ordance with Sections 4.6.7 and 4.8). There will be no further depreciation on se assets and at such time that they are finally removed from service, there will no further disposal value in terms of Section 4.9.1. Any revenue derived from sale of assets thus disposed will however be taken into account for the poses of Section 4.3.1

Regulatory Asset Base

Regulatory Asset Base for any Regulatory Year t (RAB_t) is derived from a rolled-forward calculation of the value of each Asset Category j and is calculated as follows:

$$RAB_t = (RAB_{o,t} + RAB_{c,t}) / 2$$

where:

$RAB_{o,t}$ = In the case where Regulatory Year t is the first Regulatory Year in the Subsequent Regulatory Period, the sum across the Asset Categories j of the rolled-forward depreciated regulatory asset base for each Asset Category j as at the commencement of the first Regulatory Year in the Subsequent Regulatory Period ($RAB_{oj,t-1}$) as determined by the ERC under Section 4.8.1; or

= In the case where Regulatory Year t is a Regulatory Year (other than the first Regulatory Year) in the Subsequent Regulatory Period, the sum across the Asset Categories j of the opening rolled-forward depreciated regulatory asset base for each Asset Category j for that Regulatory Year t ($RAB_{oj,t} = RAB_{cj,t-1}$), as defined in Section 4.8.2.

$RAB_{c,t}$ = The sum across the Asset Categories j of the closing rolled-forward depreciated regulatory asset base for each Asset Category j for Regulatory Year t ($RAB_{cj,t}$), as defined in Section 4.8.2.

Closing rolled-forward depreciated regulatory asset base for Asset Category j for Regulatory Year t ($RAB_{cj,t}$) is calculated as follows:

$$RAB_{cj,t} = RAB_{oj,t} - \text{RegDepn}_{oj,t} + \text{Capex}_{j,t} - \text{RegDepn}_{cj,t} - \text{Disposals}_{j,t}$$

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here:

$\lambda B_{oj,t}$ = The opening rolled-forward depreciated regulatory asset base for Asset Category j for Regulatory Year t , which is numerically equal to $RAB_{cj,t-1}$ except that, where Regulatory Year t is the first Regulatory Year in the Subsequent Regulatory Period, $RAB_{oj,t}$ is the rolled-forward depreciated regulatory asset base for Asset Category j as at the commencement of the first Regulatory Year in the Subsequent Regulatory Period as determined by the ERC under Section 4.8.2;

$\lambda Depn_{oj,t}$ = The Regulatory Depreciation, for Regulatory Year t , of those assets in Asset Category j (excluding spares, land and easements) that were included in the rolled-forward depreciated regulatory asset base for Asset Category j as at the commencement of the first Regulatory Year in the Subsequent Regulatory Period as determined by the ERC consistently with its determination under Section 4.6.12 and with the method for calculating the Regulatory Depreciation for that Asset Category as set out in Section 4.9.1;

$\lambda ex_{j,t}$ = The forecast capital expenditure of the Regulated Entity on assets within Asset Category j for Regulatory Year t as approved by the ERC under Section 4.11.5;

$Depn_{cj,t}$ = The Regulatory Depreciation, for Regulatory Year t , of the forecast capital expenditure of the Regulated Entity on assets (excluding spares, land and easements) within Asset Category j (as approved by the ERC under Section 4.10.5) to the extent that such forecast capital expenditure relates to a Regulatory Year in the Subsequent Regulatory Period which precedes Regulatory Year t , such Regulatory Depreciation being calculated consistently with the methodology set out in Section 4.9.1; and

$\lambda osals_{j,t}$ = The forecast receipts from the disposal, during Regulatory Year t , of assets within Asset Category j , as determined by the ERC as part of the Regulatory Reset Process for the Subsequent Regulatory Period under Article VII. Such forecast receipts will be at the rolled-forward depreciated regulatory asset value for the relevant assets.

For the purposes of this Section 4.8 and Section 4.9, assets are to be included in the categories as defined in, or otherwise approved by the ERC pursuant to, Section 4.7.6 or in smaller categories (Asset Categories $j = 1 \dots n$) such that each

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category includes similar assets with similar economic lives (such lives being calculated in accordance with Section 4.9.1).

Regulatory Depreciation

The Regulatory Depreciation for Asset Category j for Regulatory Year t ($RegDepn_{j,t}$) is calculated on a straight line basis using either of the following methods depending on the available data :

$$RegDepn_{j,t} = ORC_{j,t} / RegL_{j,t} \text{ or } ODRC_{j,t} / RemL_{j,t}$$

where:

$ORC_{j,t}$ = the optimised replacement cost for the assets that are within Asset Category j as at the commencement of Regulatory Year t ;

$RegL_{j,t}$ = the Regulatory Life of Asset Category j and is equal to the weighted average⁸ economic life of the assets that are within Asset Category j as at the commencement of Regulatory Year t , where the economic life of an asset is taken to expire when the costs of maintenance and repair of that asset exceed the efficient replacement cost of it on a project comparison basis, using a forward looking discounted cash flow analysis, or as otherwise determined by the ERC. As a result of the report referred to in 4.9.3, $RegL_{j,t}$ may differ from the asset life used for financial reporting or taxation purposes;

$ODRC_{j,t}$ = the optimised depreciated replacement cost for the assets that are within Asset Category j as at the commencement of Regulatory Year t , calculated (on the basis of the application of straight line depreciation of the optimised replacement cost for those assets) by multiplying their optimised replacement cost by the weighted average Remaining Life of Asset Category j ($RemL_{j,t}$) and dividing that product by the Regulatory Life of Asset Category j ($RegL_{j,t}$);

$Age_{j,t}$ = $(RegL_{j,t} - Age_{j,t})$; and

$Age_{j,t}$ = the weighted average age of the assets that are within Asset Category j as at the commencement of Regulatory Year t .

Regulatory Depreciation for Regulatory Year t in real terms ($RegDepn_t$) is calculated as follows:

$$RegDepn_t = (RegDepn_{o,t} + RegDepn_{c,t})$$

⁸ optimised replacement cost or by optimised depreciated replacement cost, depending on the availability for asset age in the Regulated Entity's asset register systems.

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here:

$gDepn_{o,t}$ = Sum of $RegDepn_{oj,t}$ for Regulatory Year t for each Asset Category j , as defined in Section 4.8.2; and

$gDepn_{c,t}$ = Sum of $RegDepn_{cj,t}$ for Regulatory Year t for each Asset Category j , as defined in Section 4.8.2.

For the purposes of this Section 4.9, the review the ERC will be undertaking during the Subsequent Regulatory Period shall include but not limited to:

the condition of such assets as are used by the Regulated Entity to provide Regulated Transmission Services and as are specified by the ERC (either specifically or by reference to a category of assets); and

the regulatory life which should be attributed to such assets.

Such review must also mention the manner in which windfall gains and losses arising from changes in the regulatory life of the assets referred to in this Section 4.9 are to be treated.

Weighted Average Cost of Capital Determination

The purpose of calculating the weighted average cost of capital is to provide a rate of capital for regulatory purposes which can be applied to a Building Block cash flow model that generates a regulated revenue stream over a defined regulatory period for the Regulated Entity providing Regulated Transmission Services.

For this purpose a classical weighted average cost of capital (WACC) is to be used. As, in the ERC's view, it best balances the financial Building Blocks in Section 4.6.7 and the principles in Section 4.5.1.

WACC (expressed in decimal, as opposed to percentage, terms) is to be calculated as follows:

$$WACC = [r_e \times E / V] + [r_d \times D / V]$$

where:

r_e = the cost of equity and is calculated in accordance with Section 4.10.4;

r_d = the cost of debt and is calculated in accordance with Section 4.10.7;

D = the amount of equity funding assumed for regulatory purposes in the capital structure of the Regulated Entity, being 33% of V for the Subsequent Regulatory Period⁹;

⁹ The UK has used $D=60\%$ - 70% for its decisions on NGC (2000). The ACCC in Australia has used $D=60\%$ for its decisions on SPI Powernet (Dec 2002), ElectraNet SA (Dec 2002), TransGrid (Jan 2000), and Snowy (Jan 2001).

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= the amount of debt funding assumed for regulatory purposes in the capital structure of the Regulated Entity, being 67% of V for the Subsequent Regulatory Period⁹; and

= E + D.

The cost of equity (r_e), expressed in decimal terms, is calculated as follows:

= $r_f + \text{Beta}_e \times (r_m - r_f)$

where:

= the risk-free rate within the Philippines, expressed in decimal terms, as determined in accordance with 4.10.5;

Beta_e = the Equity Beta for the electricity transmission business undertaken by the Regulated Entity as determined by the ERC for regulatory purposes; and

$(r_m - r_f)$ = the Market Risk Premium (MRP), expressed in decimal terms, adopted by the ERC as specified in Section 4.10.6.

The best approximation of a risk-free rate is generally the yield on the longest dated government borrowing instrument, usually a Treasury Bill or equivalent. Unless otherwise specified in subsequent issuances of the ERC, the ERC shall adopt the direct approach which is deemed appropriate and reasonable considering the availability of the Philippines (local) data which reflects sufficient liquidity.

Market Risk Premium (MRP) is a measure of the risk associated with holding a portfolio of equity market assets rather than a portfolio of long-dated government bonds. The premium effectively measures the difference between the long-term average return to investors in the equity market of the Philippines (r_m) and the risk-free rate within the Philippines (r_f). Due to the smaller size, and potential lower liquidity, of the publicly traded equity market in the Philippines, and the absence of history on long-term government bonds with reasonable liquidity, and the absence of a reasonably long time-series of market data, the ERC may adopt, for the Subsequent Regulatory Period, an MRP of 0.06¹⁰.

The cost of debt (r_d), expressed in decimal terms, is calculated as follows:

= $r_f + DM$

where:

= the risk-free rate within the Philippines, expressed in decimal terms, as determined in accordance with Section 4.10.5; and

⁹The UK has used MRP = 0.035 for its decisions on NGC (2000). The ACCC in Australia has used 0.06 for its decisions on SPI Powernet (Dec 2002), ElectraNet SA (Dec 2002), Powerlink SA (Jan 2000), and Snowy (Jan 2001).

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4 = the debt margin (or premium) within the Philippines (expressed in decimal terms and nominal terms) as determined by the ERC, which conceptually represents the margin above the risk-free rate within the Philippines that is requested by debt providers for providing funds to the Regulated Entity to the extent such debt arrangements are representative of arms-length negotiated rates in liquid markets and are financially efficient.

the Philippines, there may be an expectation that the debt margin for a regulated electricity transmission business will be higher than in more developed countries. The size and availability of debt funding sources from within the Philippines may be limited due to either bond market size or bank lending covenants. As a result, access to the required debt levels may require the inclusion of a "guarantee" premium of one form or another in the cost of debt, which is above the debt margin seen in overseas markets. This margin might be either a peso guarantee (where debt funds are sought in the Philippines and guaranteed by an offshore bank) or a partial risk guarantee from the World Bank or similar international funding agency (where debt funds are sought outside the Philippines). The ERC must not allow the risks associated with the provision of debt finance to be double counted or over compensated within the debt margin, and the debt margin must reflect a realistic market outcome at the time it is determined. The ERC will determine the debt margin for the purposes of calculating the cost of debt only after considering alternative sources of debt funds which may be appropriate in the context of funding the Regulated Entity within the Philippines, such consideration to occur during the Regulatory Reset Process in the Subsequent Regulatory Period under Article VII.

During the Regulatory Reset Process for the Subsequent Regulatory Period under Article VII, the ERC will give the Regulated Entity and other interested parties the opportunity to make written submissions to the ERC on the method and data sources which the ERC may rely upon in its determination of the risk-free rate in the Philippines, the cost of debt and gearing ratio for the purposes of calculating WACC.

When these Rules have come into effect, the formula for calculating WACC and its components as set out in this Section 4.10 shall be adopted by the ERC for the applicable Regulatory Period. The ERC may however from time to time amend the manner in which it determines the underlying parameters on which its calculation of the WACC is based and shall issue the corresponding document in the form of an amendment to these Rules or subsequent Position Paper, and shall apply the same in the Subsequent Regulatory Period.

The ERC will explore the possibility of categorizing what are short and long-term asset in setting the WACC. It is worthy to note that for regulated entity under regulation is inherently long-lived, considerations should be made on the cost of return (WACC) because most of the investments are long-term and the regulated entity need some assurance that it be allowed to lock-in the regulatory

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ACC. The primary objective is to ensure that the regulated entity would be entitled to a full investment recovery of its regulated assets at an appropriate, prudent and reasonable rate of return. It is recognized that using current data for short-lived assets provides efficient investment signals. However, it is also recognized that there are advantages in using long-term average data, which provide greater stability, reduce re-financing risks for long-lived assets.

Capital Expenditure Forecast

During the Regulatory Reset Process for the Subsequent Regulatory Period under Article VII, the Regulated Entity must provide the ERC with its forward forecasts of its proposed annual capital expenditure for each Regulatory Year in the subsequent Regulatory Period. This capital expenditure program must separately identify each capital expenditure project which is forecast to cost PhP 50 million or more. For both these separately identified projects and the remaining forecast capital expenditure, the forecasts must each be broken down into the asset categories identified in Section 4.7.6 or such other asset categories as the ERC approves.

For each of the capital expenditure projects which is separately identified in accordance with Section 4.11.1, the capital expenditure program must be accompanied by:

a description of the project;

the reason for the ranking of the project relative to other projects in terms of its proposed commissioning date;

the impact the project is expected to have on those measures of the performance of the Grid which are determined by the ERC under Article VIII;

a classification of the project into the following categories:

- (i) load growth (identifying the load growth expected to be met over the electricity transmission network planning horizon of 15 years referred to in Section 4.7.7 (b));
- (ii) non-load growth (identifying the primary reasons for the expenditure) which is to be further sub-categorized as follows:
 - (A) network; or
 - (B) non-network; or
 - (C) network control, safety or metering;

a further sub-classification of the projects in Section 4.11.2 (d) into the following:

- (i) replacement related (identifying why the assets need replacing, what remaining asset value is sought to be written off, if any, and the potential disposal value of the replaced assets); or

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- (ii) refurbishment related (identifying the increase in operational life expected from the refurbishment, if any); or
- (iii) new assets (identifying which assets are for shared network infrastructure and which are for new connections); and

a division of the forecast capital expenditure for that project into the forecast annual capital expenditure on that project, with a further division into directly attributable expenditures and allocated overheads.

the remaining forecast capital expenditure which is not allocated to separately identified capital expenditure projects in accordance with Section 4.11.1, the capital expenditure program must be accompanied by a justification against each of the asset categories identified in Section 4.7.6, or such other asset categories as the ERC approves, as to why the forecast expenditures are necessary and are of reasonable magnitude, and must be categorised as follows:

network; or

non-network; or

as otherwise determined by the ERC.

ERC must review the capital expenditure program and accompanying documentation to determine:

whether the capital expenditure program has been represented fairly such that all related capital expenditure is grouped together into the one project and has not been sub-divided to place it below the individual project reporting threshold in Section 4.11.1, is based upon the best available prices (adjusted to PhP) obtainable from international markets, is reasonably efficient from a design and implementation point of view, is likely to support the forecast growth in customer connections, co-incident peak demand and energy delivered and is sufficient to allow the Regulated Entity to achieve or exceed the applicable target levels of performance specified under Article VIII; and

whether the PhP/\$US exchange rate and CPI forecasts referred to in Section 4.11.6 are reasonable.

ERC must decide on the following:

whether the capital expenditure program is based upon the best available prices locally or internationally (adjusted to PhP) taking into consideration minimum standards as may be prescribed by the Commission or by existing Rules and Regulations; is reasonably efficient; is likely to support the forecast growth in customer connections, co-incident peak demand and energy delivered and is sufficient to allow the Regulated Entity to achieve or exceed the applicable target levels of performance specified under Article VIII; and

whether the PhP/\$US exchange rate and CPI forecasts referred to in Section 4.11.6 are reasonable.

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If the ERC decides these conditions have been met it must approve:

- the capital expenditure program proposed by the Regulated Entity; and
- the PhP/\$US exchange rate and CPI forecasts used by the Regulated Entity.

If the ERC decides these conditions have not been met it must, after consulting with the Regulated Entity, approve such program or forecasts with such amendments as it considers necessary for those conditions to be met.

The capital expenditure forecasts provided by the Regulated Entity as part of the capital expenditure program must be provided in real and nominal terms and must be supported by detailed documentation which clearly and comprehensively substantiates those forecasts, including details of the PhP/\$US exchange rate and CPI forecasts, for each Quarter of the Subsequent Regulatory Period, which have not been used by the Regulated Entity to generate those forecasts.

Any proposed capital expenditure for a Regulatory Year in the Subsequent Regulatory Period which is contained in a plan for expansion or improvement of transmission facilities that is approved by the ERC pursuant to Section 9(d) of the RA or Rule 6, Sections 7(d) or 10(c) of the IRR will be deemed to be forecast capital expenditure for that Regulatory Year that is approved for the purposes of Section 4.11.

The ERC must determine the capital expenditure forecast to be included in the Pricing Block analysis based on consideration of the information available to it including any reports. Unless contradictory evidence exists for particular projects, capital expenditure forecasts must be based on the standard replacement costs as determined and approved by the ERC.

At the same time as the Regulated Entity provides the ERC with its forward forecasts of its proposed annual capital expenditure pursuant to Section 4.11.1, the Regulated Entity must also provide to the ERC a written statement that separately identifies, for each Regulatory Year in the Subsequent Regulatory Period, the Regulated Entity's proposed annual capital expenditure on Ancillary Services that are provided using the Grid.

The ERC must consider the written statement referred to in Section 4.11.8 and, in the event it is of the view that the proposed annual capital expenditure referred to in Section 4.11.8 is likely to be inadequate to enable the requirements of the Grid Code to be complied with, may advise that view to the Regulated Entity.

For the Subsequent Regulatory Period, Regulated Entity is allowed a certain amount as provision for funding land-related CAPEX where the net difference between the allowed cost vs. the actual land-related CAPEX shall be recovered by the Regulated Entity subject to the approval of the Commission. The ERC will develop a methodology for the ex-post prudency review of land-related CAPEX.

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Operating and Maintenance Expenditure

During the Regulatory Reset Process for the Subsequent Regulatory Period under Article VII, the Regulated Entity must provide the ERC with:

- i) its historical operating and maintenance expenditure for each of the three calendar years preceding the commencement of the Subsequent Regulatory Period (the last such calendar year must include the Regulated Entity's best estimate of such expenditure for that year to the extent such operating and maintenance expenditure for that year has not then been incurred); and
- ii) its forward forecasts of its proposed annual operating and maintenance expenditure for each Regulatory Year in the Subsequent Regulatory Period.

Each annual historical and forecast operating and maintenance expenditure must separately identify operating and maintenance expenditure grouped into the following categories and sub-categories:

- i) payroll, in sub-categories as follows:
 - (i) network operations supervision and engineering staff;
 - (ii) network operations other staff;
 - (iii) network planning supervision and engineering staff;
 - (iv) system operations supervision and engineering staff;
 - (v) administration, human resources, finance, corporate and regulatory staff;

network operations;

network maintenance;

plant and equipment insurance;

system operations;

WESM compliance (excluding any expenses incurred as the Market Operator);

bad debts;

internal and external audit functions;

regulatory liaison and compliance (for all reasonable costs associated with complying with applicable government agency rules and regulations)

Where Regulated Entity engage in related business activities outside the operation of their Regulated Transmission Systems and incur operating and maintenance expenditure for services that are shared between these related business activities and the Regulated Transmission Services, Regulated Entity must provide full details of the magnitude of these costs and the manner in which these costs are allocated between the related

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business activities and the Regulated Transmission Services. A list of related businesses is noted in Section 4.3.4;

-) corporate and central office;
- 1) IT licences, operations and maintenance;
-) lease payments (buildings, vehicles, furniture & fittings and other);
-) net foreign exchange, ie. foreign exchange losses (positive) plus foreign exchange gains (negative);
-) property maintenance;
-) property insurance;
- other.

During the Regulatory Reset Process for the Subsequent Regulatory Period under Article VII, the Regulated Entity must also provide the ERC with:

a summary of its historical real property tax payments for each of the three calendar years preceding the commencement of the Subsequent Regulatory Period (the last such calendar year must include the Regulated Entity's best estimate of such payments for that year to the extent such payments for that year have not then been made); and

its forward forecasts of its expected real property tax payments for each Regulatory Year in the Subsequent Regulatory Period.

The annual operating and maintenance expenditure forecasts must be accompanied by a justification against each of the expenditure categories identified in Section 4.12.1 as to why the forecast expenditures are necessary and of reasonable magnitude (such forecasts could, for example, be supported by benchmarks against overseas electricity transmission businesses). The written justification must also demonstrate improvements in operational efficiency and productivity over the Subsequent Regulatory Period. For these purposes, benchmarks against operational parameters such as staff numbers, energy throughput, number of customer connections, service performance or other measures may be used to justify the relevant expenditures.

The ERC must review both the operating and maintenance expenditure forecasts as well as the forecast expenditure for taxes, levies and duties (other than corporate income taxes) in relation to a Regulated Transmission System and the accompanying documentation to determine:

whether the forecast operating and maintenance expenditure is reasonably efficient, is likely to support the forecast growth in customer connections, co-incident peak demand and energy delivered and is sufficient to allow the Regulated Entity to achieve or exceed the applicable target levels of performance specified under Article VIII;

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whether the forecasts for bad debts reflect a responsible approach to collections and are consistent with a reasonable strategy for improving collections; and

whether the PhP/\$US exchange rate and CPI forecasts referred to in Section 4.12.6 are reasonable.

ERC must decide on the following:

whether the forecast operating and maintenance expenditure is reasonably efficient, is likely to support the forecast growth in customer connections, co-incident peak demand and energy delivered and is sufficient to allow the Regulated Entity to achieve or exceed the applicable target levels of performance specified under Article VIII;

whether the forecasts for bad debts reflect a responsible approach to collections and are consistent with a reasonable strategy for improving collections; and

whether the PhP/\$US exchange rate and CPI forecasts referred to in Section 4.12.6 are reasonable.

ERC decides these conditions have been met it must approve:

the forecast operating and maintenance expenditure (and forecast payments of taxes, levies and duties referred to in Section 4.12.2 (b)) proposed by the Regulated Entity; and

the PhP/\$US exchange rate and CPI forecasts used by the Regulated Entity.

ERC decides these conditions have not been met it shall approve such forecasts with such amendments as it considers necessary for those conditions to be met.

operating and maintenance expenditure forecasts, and forecast payments of taxes, levies and duties referred to in Section 4.12.2 (b), provided by the Regulated Entity must be provided in nominal terms and must be supported by detailed documentation which clearly and comprehensively substantiates those forecasts, including details of the PhP/\$US exchange rate, PhP/Yen exchange rate and CPI forecasts, for each Quarter of the Subsequent Regulatory Period, which have been used by the Regulated Entity to generate those forecasts.

ERC must determine the operating and maintenance expenditure forecasts to be included in the Building Block analysis based on consideration of the information available to it including any relevant reports.

The purposes of Section **Error! Reference source not found.**, the extent to which the tax referred to in paragraph (a) relates to taxable income of the Regulated Entity (net of any related accumulated tax losses) which arises from the provision of Regulated Transmission Services by the Regulated Entity must be verified by an auditor who:

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- (i) is registered as a certified public accountant under the Revised Accountancy Law (Republic Act No. 9298);
- (ii) possesses the independence as defined in Part B Section 8 of the Code of Professional Ethics for Certified Public Accountants as promulgated by the Board of Accountancy and approved by the Professional Regulation Commission; and
- (iii) is one of the five largest auditing firms in the Philippines (as measured by annual revenue derived in the Philippines) or is approved by the ERC for the purposes of giving the certification referred to in this paragraph (b).

Revenue Smoothing

As a result of the Building Block approach, it is unlikely that there will be a linear increase in the allowed annual revenue requirement for each Regulatory Year in the Subsequent Regulatory Period. Accordingly, so as to reduce the likelihood of revenue shocks to Customers and of revenue shocks to the Regulated Entity, subject to the proposal of the Regulated Entity, the ERC will smooth the allowed annual revenue requirement for each year in the Subsequent Regulatory Period by starting at the Maximum Annual Revenue cap for the last Regulatory Year in the Previous Regulatory Period. Such smoothed allowed annual revenues will incorporate a recovery of efficiency savings in costs. The formula used is provided in this Section 4.13.

In order to calculate the Efficiency Factor (X) for the Subsequent Regulatory Period, the first step is to calculate the present value of the reset from the allowed revenues for the last Regulatory Year in the Previous Regulatory Period and each of the Regulatory Years in the Subsequent Regulatory Period (PV_{t-1}) must be calculated as follows:

$$PV_{t-1} = MAR_{t-1} + \frac{ARR_t}{(1 + WACC)} + \frac{ARR_{t+1}}{(1 + WACC)^2} + \frac{ARR_{t+2}}{(1 + WACC)^3} + \frac{ARR_{t+3}}{(1 + WACC)^4} + \frac{ARR_{t+4}}{(1 + WACC)^5}$$

where:

R_{t-1} = the maximum allowed revenue for the last Regulatory Year in the Previous Regulatory Period as calculated in accordance with Section 3.2.1 but as if the Correction Factor for that year (K_t) were zero;

R_t = the annual revenue requirement for the first Regulatory Year in the Subsequent Regulatory Period as calculated in accordance with Section 4.6.7;

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- \mathcal{R}_{t+1} = the annual revenue requirement for the second Regulatory Year in the Subsequent Regulatory Period as calculated in accordance with Section 4.6.7;
- \mathcal{R}_{t+2} = the annual revenue requirement for the third Regulatory Year in the Subsequent Regulatory Period as calculated in accordance with Section 4.6.7;
- \mathcal{R}_{t+3} = the annual revenue requirement for the fourth Regulatory Year in the Subsequent Regulatory Period as calculated in accordance with Section 4.6.7;
- \mathcal{R}_{t+4} = the annual revenue requirement for the fifth Regulatory Year in the Subsequent Regulatory Period as calculated in accordance with Section 4.6.7; and
- ACC = the classical weighted average cost of capital as determined by the ERC in accordance with Section 4.10.

The Efficiency Factor (X) must then be calculated for the Subsequent Regulatory Period from the solution of the following equation (where only X is unknown) using the results of the calculation in Section 4.13.2:

$$\begin{aligned} \mathcal{R}_{t-1} = & (\text{MAR}_{t-1} - P_0) \times [1 + \\ & (1 + \text{Inflation}_t - X) / (1 + \text{WACC}) + \\ & (1 + \text{Inflation}_t - X) (1 + \text{Inflation}_{t+1} - X) / (1 + \text{WACC})^2 + \\ & (1 + \text{Inflation}_t - X) (1 + \text{Inflation}_{t+1} - X) (1 + \text{Inflation}_{t+2} - X) / (1 + \\ & \text{WACC})^3 + \\ & (1 + \text{Inflation}_t - X) (1 + \text{Inflation}_{t+1} - X) (1 + \text{Inflation}_{t+2} - X) \\ & (1 + \text{Inflation}_{t+3} - X) / (1 + \text{WACC})^4 + \\ & (1 + \text{Inflation}_t - X) (1 + \text{Inflation}_{t+1} - X) (1 + \text{Inflation}_{t+2} - X) \\ & (1 + \text{Inflation}_{t+3} - X) (1 + \text{Inflation}_{t+4} - X) / (1 + \text{WACC})^5] \end{aligned}$$

where:

such amount (expressed in PhP) as the ERC determines to represent windfall gains and windfall losses in revenue resulting from exogenous factors, and to mitigate price shocks during the transition from the Previous Regulatory Period to the Subsequent Regulatory Period, provided only that such amount must be:

less than or equal to $\text{MAR}_{t-1} - [\text{ARR}_t / (1 + \text{WACC})]$ (but must not be a negative amount) where $\text{MAR}_{t-1} \geq [\text{ARR}_t / (1 + \text{WACC})]$ (\geq meaning greater than or equal to); or

greater than or equal to $\text{MAR}_{t-1} - [\text{ARR}_t / (1 + \text{WACC})]$ (but must not be a positive amount) where $\text{MAR}_{t-1} \leq [\text{ARR}_t / (1 + \text{WACC})]$ (\leq meaning less than or equal to);

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MAR_{t-1} , ARR_t and $WACC$ are the same values as defined in Section 4.13.2, where t is the first Regulatory Year in the relevant Regulatory Period and the $WACC$ is the $WACC$ applying at reset to the relevant Regulatory Period;

MAR_{t-1} is as calculated pursuant to Section 4.13.2; and

$Inflation_t$ through $t+4$ is the forecast inflation for Regulatory Year t , $t+1$, $t+2$, $t+3$ or $t+4$ (as the case may be), expressed in decimal (as opposed to percentage) terms, which is used by the ERC for the purpose of the Regulatory Reset Process for the subsequent Regulatory Period under Article VII.

$SMAR_t$ is the Smoothed Maximum Annual Revenue Requirement for each Regulatory Year in the Subsequent Regulatory Period ($SMAR_t$) is calculated during the regulatory reset process as follows:

where the relevant Regulatory Year is the first Regulatory Year in the Subsequent Regulatory Period, the Smoothed Maximum Annual Revenue for that Regulatory Year ($SMAR_t$) is:

$$SMAR_t = MAR_{t-1} \times (1 + Inflation_t - X);$$

where the relevant Regulatory Year is the second Regulatory Year in the Subsequent Regulatory Period, the Smoothed Maximum Annual Revenue for that Regulatory Year ($SMAR_{t+1}$) is:

$$SMAR_{t+1} = SMAR_t \times (1 + Inflation_{t+1} - X);$$

where the relevant Regulatory Year is the third Regulatory Year in the Subsequent Regulatory Period, the Smoothed Maximum Annual Revenue for that Regulatory Year ($SMAR_{t+2}$) is:

$$SMAR_{t+2} = SMAR_{t+1} \times (1 + Inflation_{t+2} - X);$$

where the relevant Regulatory Year is the fourth Regulatory Year in the Subsequent Regulatory Period, the Smoothed Maximum Annual Revenue for that Regulatory Year ($SMAR_{t+3}$) is:

$$SMAR_{t+3} = SMAR_{t+2} \times (1 + Inflation_{t+3} - X);$$
 and

where the relevant Regulatory Year is the last Regulatory Year in the Subsequent Regulatory Period, the Smoothed Maximum Annual Revenue for that Regulatory Year ($SMAR_{t+4}$) is:

$$SMAR_{t+4} = SMAR_{t+3} \times (1 + Inflation_{t+4} - X),$$

Where:

MAR_{t-1} = the maximum allowed revenue for the last Regulatory Year in the Previous Regulatory Period as calculated in accordance with Section 3.2.1 but as if the Correction Factor for that year (K_t) were zero;

$Inflation_t \dots t+4$ = the forecast inflation for Regulatory Year t , $t+1$, $t+2$, $t+3$ or $t+4$ (as the case may be), expressed in decimal (as opposed to percentage) terms,

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which is used by the ERC for the purpose of the Regulatory Reset Process for the Subsequent Regulatory Period under Article VII; and

X is as calculated pursuant to Section 4.13.3.

Revenue Path Transition

The ERC must ensure that, for the transition from the Previous Regulatory Period to the Subsequent Regulatory Period, it applies the Correction Factor for the first Regulatory Year of the Subsequent Regulatory Period (as calculated in accordance with Section 4.3) so that any over recovery of revenue in respect of the last Regulatory Year of the Previous Regulatory Period is effectively returned to Customers through lower tariffs in the first Regulatory Year of the Subsequent Regulatory Period.

The Correction Factor for the first Regulatory Year of the Subsequent Regulatory Period (as calculated in accordance with Section 4.3):

-) would be negative; and
-) the absolute value of that Correction Factor would be greater than 5% of the maximum allowed revenue for the last Regulatory Year of the Subsequent Regulatory Period (as calculated under Section 4.2.1)

and, for the purposes of determining the revenue cap for the first Regulatory Year of the Subsequent Regulatory Period pursuant to Section 4.1.1, the amount of that Correction Factor (which will be a negative amount) will be treated as being limited to 5% of that maximum allowed revenue (and the Regulated Entity will not be entitled to recover any more of that excess, whether in that Regulatory Year or in any subsequent Regulatory Year).

Revenue Majeure and Tax Event Pass Throughs

The ERC must ensure that such part of an Approved FM Pass Through Amount, Approved Tax Pass Through Amount or a Negative Tax Pass Through Amount that has not been applied in the Previous Regulatory Period, and that is entitled or required to be applied after the expiry of the Previous Regulatory Period, is incorporated into the Building Block analysis to be applied for the Subsequent Regulatory Period. In such a case the recovery or pass through of that amount will cease to be undertaken pursuant to Article X or XI (as the case may be) and will be deemed to have been effected instead by virtue of its incorporation into the Building Block analysis that is to be applied for the Subsequent Regulatory Period.

The ERC must ensure that, in applying the Building Block analysis for the Subsequent Regulatory Period, the Regulated Entity is neither advantaged nor disadvantaged as a result of the application of Article X or XI, in respect of a Revenue Majeure Event or Tax Change Event that occurs in the Previous Regulatory Period, resulting in an amount being recovered or passed through during the Subsequent Regulatory Period under either of those Articles.

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The ERC must ensure that any increase or saving in costs in the transmission of electricity to Connection Points that the Regulated Entity is likely to suffer or receive during the Subsequent Regulatory Period, being an increase or saving that is the result of a Tax Change Event that has occurred in the Previous Regulatory Period, is incorporated into the Building Block analysis to be applied for the Subsequent Regulatory Period.

Service Quality Measures and Targets

The ERC must implement a performance incentive scheme that rewards the Regulated Entity for achieving specified target levels of performance over and above the requirements under the Philippine Grid Code, and penalizes the Regulated Entity for failing to achieve specified target levels of performance, during the Subsequent Regulatory Period in accordance with Article VIII. Without limiting the nature of such scheme, the performance incentive scheme must include performance indicators, performance targets and reporting arrangements with which the Regulated Entity must comply during that Subsequent Period and may be a continuation of that developed under Section 8.2.

Efficiency Adjustments

The ERC must comply with Article IX in respect of the treatment of Net Efficiency Adjustments (as defined in Article IX) which arise during the Subsequent Regulatory Period (except that the ERC may elect not to apply an efficiency adjustment for any Regulatory Year t during that Subsequent Regulatory Period where service delivery levels subsisting during the last Regulatory Year in the immediately preceding Regulatory Period have not been maintained for Regulatory Year t). In addition, as part of the Regulatory Reset Process for that Subsequent Regulatory Period under Article VII, the ERC will consider:

- separately identifying those cost reductions and increases which are due to improved or reduced efficiency and those which have been caused by external factors (ie. are 'windfall' gains or losses), and removing those latter gains or losses from the efficiency adjustment calculation, so that better efficiency incentives are provided to the Regulated Entity;

- the introduction of a mechanism to reward the Regulated Entity for advances in universal access which has the potential to benefit End-users through improved access to the Grid; and

- the introduction of a mechanism to reward the Regulated Entity for the elimination of network constraints which would enhance the operation of the WESM and potentially benefit End-users through lower electricity prices and efficiency factors to be considered.

Change in Weighted Index

During the Regulatory Reset Process for the Subsequent Regulatory Period under Article VII, the ERC must review the values of W1 and W2 as set out in Section 8.2 to determine whether they appropriately reflect those proportions of the capital

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penditure forecasts, and the operating and maintenance expenditure forecasts, or that Regulatory Period which are approved by the ERC under Sections 4.11.5 and 4.12.5 and which are to be undertaken in or are otherwise referable to a foreign currency.

As a result of its review under Section 4.18.1, the ERC determines that the values of W1 or W2 as set out in Section 3.3 should be altered to more appropriately reflect those proportions of the capital expenditure forecasts, and the operating and maintenance expenditure forecasts, referred to in Section 4.18.1, then the ERC must determine the altered values and those altered values must be used in applying the formula for the calculation of MAR_t as set out in Section 4.2.1. Without limiting the way in which the ERC may determine to alter the values of W1 or W2 for the purposes of this Section 4.18.2, the ERC may determine values which are constant for the whole of the Subsequent Regulatory Period or that are different for each Regulatory Year in the Subsequent Regulatory Period. The values of W1 and W2 as determined pursuant to this Section 4.18.2 must not be changed during the Subsequent Regulatory Period.

The Regulated Entity may propose in its Revenue Application in every Regulatory Reset Process value of W1 and W2 subject for ERC's evaluation.

Side Constraint

During the Regulatory Reset Process for the Subsequent Regulatory Period under Article VII, the ERC must determine the amount of the Side Constraint referred to in Section 6.4.1, which amount must be the same for each Regulatory Year in the Subsequent Regulatory Period.

Financial Ratios Analysis

During the Regulatory Reset Process for the Subsequent Regulatory Period under Article VII, the Regulated Entity must provide the ERC with a forecast financial ratios analysis for each Regulatory Year of the Subsequent Regulatory Period. The financial ratios must be derived from forecasts of the following financial accounting statements:

Profit and Loss Statement;

Balance Sheet; and

Statement of Cash Flows.

The forecast financial ratios which must be provided by the Regulated Entity to the ERC are as follows:

Interest Cover Ratios:

(i) EBIT / Interest Expense;

(ii) EBITDA / Interest Expense;

Cash Flow Adequacy Ratios:

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- (i) Funds from Operations / Total Debt;
- (ii) Free Operating Cash Flow / Total Debt;

Profitability Ratios:

- (i) EBITDA / Sales;

Capital Structure and Leverage Ratios:

- (i) Long-term Debt / Total Capital;
- (ii) Total Debt / Total Capital;
- (iii) Debt / Equity; and

Other ratios determined by the ERC,

each case calculated in a manner that is approved by the ERC (which manner, to the extent reasonably possible, be consistent with the manner of calculation adopted by the Grid Code or reputable financial institutions in respect of such financial ratios).

For the purposes of this Section 4.20.2, EBIT means earnings before interest and taxes and EBITDA means earnings before interest, tax, depreciation and amortization.

The ERC will review, remodel or recalculate the forecast financial accounting statements and forecast financial ratios referred to in this Section 4.20.

In determining the Annual Revenue Requirement for each Regulatory Year in the subsequent Regulatory Period for the purposes of the Regulatory Reset Process under Article VII, the ERC must take into account the estimated credit rating of the Regulated Entity which results from the forecast financial ratios referred to in Section 4.20 so as to achieve the general Building Block principles in Section 4.1.

**ARTICLE V
RULE CHANGES**

General Principles

A revised version of the RTWR will be issued for any changes to the rules as deemed necessary by the ERC for the next Regulatory Period. (This current version is an update of the RTWR).

Each revision of the RTWR will initially be issued in draft format and will be subject to public consultation. Following this consultation, a final version of the RTWR will be issued. If further rule changes during a Regulatory Period are contemplated by the ERC, any such changes will only be effected after full further public consultation and after consideration of all valid submissions received on such rule changes.

ARTICLE VI

ANNUAL VERIFICATION AND ADJUSTMENT OF TARIFF RATES

Annual Transmission Rate Setting

The maximum transmission wheeling rates that may be charged by the Regulated Entity for the provision of Regulated Transmission Services during a Regulatory Year may only be changed in accordance with this Article VI and the OATS Rules, following an annual review that is conducted in accordance with this Article VI and the OATS Rules.

Annual Rate Setting Timetable

Subject to the requirements of any applicable law and relevant Position Paper, the annual review of the maximum transmission wheeling rates that may be charged by the Regulated Entity for the provision of Regulated Transmission Services during a Regulatory Year must proceed according to the following timetable and process:

Three months prior to the commencement of the Regulatory Year (such Regulatory Year being referred to for the purposes of this Article VI as the Application Year), the Regulated Entity is directed to submit the data and information referred to in Section 6.3.2 in respect of the 12-month period ending on 30 September of the immediately preceding year (such period being referred to as the Historical Period) and provide its calculations of the following to the ERC in both written and soft copy form:

- (i) the amount billed to Customers for the provision by the Regulated Entity of Regulated Transmission Services during the Historical Period;
- (ii) the net payments payable to or by the Regulated Entity during the Historical Period pursuant to the WESM Rules in its capacity as either a Network Service Provider or the System Operator and referring to the Historical Period (including such amounts, if any, as are payable to the Regulated Entity as a result of the operation of clauses 3.13.15 or 3.13.16 of the WESM Rules) (MR_{t-1}) (see Section 4.3);
- (iii) the total qualifying revenue of the Regulated Entity for the Historical Period (TR_{t-1}) (see Section 4.3);
- (iv) the simple average of the monthly 364-days T-bill rate in nominal percent per annum terms published by the Bangko Sentral ng Pilipinas for the Historical Period (see Section 4.3);
- (v) the Correction Factor under the over/under recovery formula for the Application Year (K_t) (see Section 4.3);

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- (vi) the net income derived, during the Historical Period, from each related business which is engaged in by the Regulated Entity and which utilizes assets that form part of the regulatory asset base (see Section 4.2);
- (vii) the change in Weighted Index for the Application Year (CWI_t) (see Section 4.2);
- (viii) the maximum allowed revenue (MAR_t) for the Application Year (see Section 4.2);
- (ix) using the forecasts for the Application Year as specified in Section 6.3.3(b), and the proposed maximum transmission wheeling rates referred to in Section 6.2.1(b), the estimated amount that will be billed to all Customers for the provision by the Regulated Entity, during the Application Year, of Regulated Transmission Services (the purpose of this calculation is to assist in demonstrating the compliance (or likely compliance) of those proposed maximum rates with the requirements of these Rules and the OATS Rules);
- (x) using the data for the Historical Period referred to in Section 6.3.2(a) and (e) and the forecasts for the Forecast Period referred to in Section 6.3.3(c) and (d), calculations which demonstrate, for each Customer Segment, whether or not the proposed maximum transmission wheeling rates comply with Section 6.4; and
- (xi) such other items as the ERC may specify from time to time for the purposes of these Rules (for this purpose the ERC may also specify that the Regulated Entity need not calculate one or more of the items referred to above).

Two months prior to the commencement of the Application Year, and subject to the requirement under relevant Position Paper, the Regulated Entity is directed to submit its determination of the maximum transmission wheeling rates for each Regulatory Year (MAR_t as described in Section 4.2.1) and for an adjustment of its transmission tariffs for each Customer Segment for each Regulatory Year resulting from the translation of this maximum transmission wheeling rate into tariffs. The application for the maximum transmission wheeling rate that the regulated entity may be permitted to charge and the translation into translation tariffs per customer segment may be filed annually or every two years, subject to the requirement under the relevant Position Paper, in accordance with the Revised Rules of Practice and Procedure.

As part of this rate application, Regulated Entity must submit to the ERC, in both written and soft copy form, all information used in its calculation of the maximum transmission wheeling rate, together with a statement that demonstrates the compliance of this proposed maximum transmission wheeling rate with the requirements of these Rules (including, in particular, Section 4.1.2, 6.4 and 6.5 (as applicable)) and the OATS Rules.

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-) The rate application by the Regulated Entity must clearly indicate the data used in calculating the proposed maximum transmission wheeling rates and the source of all data used, and must provide an explanation of each calculation and its outcome, so that there is no ambiguity for the ERC in interpreting how the Regulated Entity has calculated the proposed maximum transmission wheeling rates.
-) In accordance with the Revised Rules of Practice and Procedure¹¹, the rate applications shall be published by the Applicant to allow interested parties the opportunities to register as parties of record to the rate case and to appear and contribute to the public hearings that will be held on the rate applications.

Public hearings on the rate application shall be held at venues to be decided by the ERC. At such hearings, the ERC will put questions to the Regulated Entity about their rate application and parties of record to the case will be allowed to cross-examine the witnesses put forward by Regulated Entity to defend their rate applications.¹²

Where the ERC requires such by notice in writing or by Order issued during the public hearings, the Regulated Entity must file with the ERC, in accordance with the Revised Rules of Practice and Procedure, further information on the proposed maximum transmission wheeling rates set out in its submission, and such further information must be so provided a month before the commencement of the Application Year.

The ERC must determine whether or not the maximum transmission wheeling rates proposed by the Regulated Entity in its submission (as such submission may be amended with the approval of the ERC) comply with the requirements of these Rules (including, in particular, Sections 4.1.2, 6.4 and 6.5 (as applicable)) and the OATS Rules. If:

- (i) the ERC is satisfied that such rates do comply with the requirements of these Rules and the OATS Rules, an Order will be issued in this regard to the Regulated Entity and the Regulated Entity must, after advertising these intention four weeks in advance in a local newspaper of general circulation, implement those rates with effect from the start of the Application Year;
- (ii) the ERC is not satisfied that such rates do comply with the requirements of these Rules and the OATS Rules:

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noted that the questions and cross-examinations will be limited to aspects pertaining to the n only. Information accepted as part of earlier processes by the ERC, or earlier regulatory not be open for questions or cross-examination – including decisions made during the set Process leading up to the determination of the initial maximum transmission wheeling latory Period.

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- (A) the Regulated Entity must amend its proposed maximum transmission wheeling rates in accordance with such directions as the ERC may give for the purposes of ensuring that those rates comply (or are likely to comply) with the requirements of these Rules and the OATS Rules; and
- (B) on receiving an order from the ERC approving the amended rates, the Regulated Entity must implement those amended tariffs, after advertising these intention four weeks in advance in a local newspaper of general circulation, but not earlier than the start of the Application Year (pending which the Regulated Entity must continue to apply its existing rates).

If the Regulated Entity fails to file its submission on its proposed maximum transmission wheeling rates two months prior to the commencement of the Application Year (as required under Section 6.2.1 (b)), the maximum transmission wheeling rates that may be charged by it for the provision of Regulated Transmission Services during the Application Year will be such rates as are determined by the ERC (being rates that the ERC is satisfied comply (or are likely to comply) with the requirements of these Rules and the OATS Rules), pending which the Regulated Entity must continue to apply its existing rates.

A failure by the Regulated Entity to file a submission or any further information as required under Section 6.2.1 (b) or (e) is a breach of these Rules and the ERC may impose a fine or penalty under Section 43 (1) of the EPIRA for such a breach.

Annual Actual and Forecast Data Requirements

the data required for the purposes of the calculations referred to in Section 6.2.1(a) includes financial and operational data on actual outcomes and forecasts of that data.

the historical financial and operational data that must be provided to the ERC will depend on the form of price control and associated parameters which are determined by the ERC to apply for the Application Year. However, until the ERC determines otherwise, the Regulated Entity must provide the ERC, as part of its late application as described in Section 6.2.1(a), with at least the following historical financial and operational data (such data being provided in both written and soft copy form):

the total amount billed to all Customers in each Customer Segment for the provision by the Regulated Entity, during the Historical Period, of Regulated Transmission Services ($CR_{k, t-1}$) (see Section 6.4);

the maximum transmission wheeling rates it has applied to each Customer Segment during the Historical Period;

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-) the actual transmission wheeling rates it has applied to each Customer Segment during the Historical Period;
-) the separate components of payments payable to or by the Regulated Entity during the Historical Period pursuant to the WESM Rules in its capacity as either a Network Service Provider or the System Operator and referring to the Historical Period (including such amounts, if any, as are payable to the Regulated Entity as a result of the operation of clauses 3.13.15 or 3.13.16 of the WESM Rules); and
-) the sum of the monthly non-coincident peak demands (expressed in MW) at each Connection Point of each of the Customers in each Customer Segment for the Historical Period ($AQ_{k,t-1}$) (see Section 6.4).

the forecast financial and operational data that must be provided to the ERC will depend on the form of price control and associated parameters which are determined by the ERC to apply for the Application Year. However, until the ERC determines otherwise, the Regulated Entity must provide the ERC, as part of its rate application as described in Section 6.2.1(a), with at least the following forecast financial and operational data (such data being provided in both written and soft copy form):

the total amount forecast to be billed to all Customers, and to all Customers in each Customer Segment, for the provision by the Regulated Entity, during the Application Year, of Regulated Transmission Services;

the sum of the forecast monthly non-coincident peak demands (expressed in MW) at each Connection Point of all Customers, and of all Customers in each Customer Segment, for the Application Year;

the total amount forecast to be billed to all Customers in each Customer Segment for the provision by the Regulated Entity, during the 12-month period ending on 30 September in the Application Year (the Forecast Period), of Regulated Transmission Services ($FCR_{k,t}$) (see Section 6.4); and

the sum of the forecast monthly non-coincident peak demands (expressed in MW) at each Connection Point of each of the Customers in each Customer Segment for the Forecast Period ($FQ_{k,t}$) (see Section 6.4).

Constraints on Proposed Maximum Transmission Wheeling Rates

Pursuant to Section 6.5, the maximum transmission wheeling rates that may be charged by the Regulated Entity for the provision of Regulated Transmission Services during an Application Year to a Customer Segment (k) must comply with the following condition:

$$CR_{k,t} / CR_{k,t-1} \leq (1 + CWI_t + SC_t) \times FQ_{k,t} / AQ_{k,t-1}$$

where:

$CR_{k,t}$ = the total amount forecast to be billed to all Customers in Customer Segment k for the provision by the

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Regulated Entity, during the Forecast Period, of Regulated Transmission Services, as provided under Section 6.3.3 (c);

$\sum_{k, t-1}$ = the total amount billed to all Customers in Customer Segment k for the provision by the Regulated Entity, during the Historical Period, of Regulated Transmission Services, as provided under Section 6.3.2(a);

" \leq " = less than or equal to;

C_t = the Side Constraint for Regulatory Year t , which is such amount as the ERC determines for that Regulatory Period, during the Regulatory Reset Process for the:

- (a) For Subsequent Regulatory Periods, following consideration on submissions from stakeholders and the Regulated Entity and discussions during the public hearings during the regulatory reset process, and having regard to the needs of End-users, may substitute the parameter $SC_{k,t}$ for the parameter SC_t appearing in the above equation to the effect that side constraint values can be separately determined by the ERC for each Customer Segment k , in each Regulatory Year t , of the relevant Regulatory Period;

here:

$SC_{k,t}$ = the Side Constraint for Customer Segment k for Regulatory Year t , as determined by the ERC in the regulatory reset process.

ΔVI_t = the change in Weighted Index for Regulatory Year t as calculated in accordance with Section 4.4;

$\sum_{k, t}$ = where the Customers in Customer Segment k take electricity from the Grid, the sum of the forecast monthly non-coincident peak demands (expressed in MW) at each Connection Point of each of those Customers in Customer Segment k , for the Forecast Period, as provided under Section 6.3.3(d);

= where the Customers in Customer Segment k deliver electricity to the Grid, the sum of the forecast monthly non-coincident peak demands (expressed in MW) at

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each Connection Point of each of those Customers in Customer Segment k , for the Forecast Period, as provided under Section 6.3.3(d); and

$Q_{k, t-1}$ = where the Customers in Customer Segment k take electricity from the Grid, the sum of the monthly non-coincident peak demands (expressed in MW) at each Connection Point of each of those Customers in Customer Segment k , for the Historical Period, as provided under Section 6.3.2(e);

= where the Customers in Customer Segment k deliver electricity to the Grid, the sum of the monthly non-coincident peak demands (expressed in MW) at each Connection Point of each of those Customers in Customer Segment k , for the Historical Period, as provided under Section 6.3.2(e).

For the sake of clarity, it should be noted that the computation of the side constraints does not include any amounts that may be earned in terms of Article X (Revenue Majeure pass through events) or Article XI (Tax Event pass through). Revenue earned for such pass through events will be excluded from the calculation above.

In situations where a Regulated Entity has experienced major under-recovery of revenue during the Historical Period, the side-constraints could prevent the correction factor (K_t as described in Sections 4.2.1 and 4.3) from being fully incorporated in the adjusted rates for the Application Year. Hence, Regulated Entity would not be able to fully recover the said under-recoveries. Similarly, following a re-opening event as described in Article XII, the side constraints could prevent the adjusted rates from being fully implemented. In such an event, Regulated Entity after considering the impact to the consumers, may opt to choose to apply the side constraints or relax the side constraints for one or more Customer Segments during the Application Year. The Regulated entity may also choose to carry over all or part of such under-recoveries into the next Regulatory Period, where it will be considered in the calculation of the Smoothed Revenue for the next Regulatory Period, in accordance with Sections 4.13.1 and 4.13.2.

Other parameters

The maximum transmission wheeling rates that may be charged by the Regulated Entity for the provision of Regulated Transmission Services must:

- (a) comply with the requirements of any applicable law (including the EPIRA and the IRR);

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- (b) comply with applicable requirements that apply to such rates as set out in the ERC Decision dated 10 November 2010 under ERC Case No. 2009-180RC¹³ or any superseding decision/order;
- (c) be such as to result in the removal of cross subsidies in accordance with the applicable requirements of any law or of any previous order by the ERC¹⁴; and
- (d) comply with the applicable requirements of any law or order made by the ERC relating to the treatment of system losses.

r of the Application for the Approval of the Maximum Annual Revenue for the Third
iod (2011 to 2015) of the National Grid Corporation of the Philippines (NGCP) During the
set Process for the Third Regulatory Period in Accordance with the Alternative Form of Rate
ology Under the Rules in Setting the Transmission Wheeling Rates (RTWR), NGCP

bsidy charges that result from the order referred to in Section 6.5.1(b) or any superseding
t payments for Regulated Transmission Services and so are not included in the revenue cap.

**ARTICLE VII
REGULATORY RESET PROCESS**

Regulatory Reset Process Timelines

Prior to each Regulatory Period the ERC will undertake a Regulatory Reset process pursuant to this Article VII. This process will, in accordance with this Article VII, entail consultation in respect of the ERC's proposals for the price control arrangements that are to apply for that Regulatory Period.

The ERC must publish a Regulatory Reset Issues Paper not less than 21 months prior to the end of each Regulatory Period. The Regulatory Reset Issues Paper must:

-) provide the ERC's initial views on the issues raised by the pending Regulatory Reset Process; and
-) specify the information to be provided by the Regulated Entity for the purposes of the Regulatory Reset Process and the time by which that information must be provided.

The Regulated Entity must provide the information specified pursuant to paragraph (b) within the time specified under that paragraph.

The ERC must call for written submissions on the issues raised in the Regulatory Reset Issues Paper and must require that such submissions be delivered not later than two months after the publication of the Regulatory Reset Issues Paper. When such written submissions have been received, the ERC must, within two weeks of the closing date for written submissions and subject to Section 7.1.4, publish all such submissions on its website, or through such other electronic medium as is generally accepted and in use at that time, and have hard copies of them available for purchase from its offices.

If a written submission identifies information in it which is confidential, the ERC may only publish or otherwise disclose that information if the ERC has given written notification to the person who has made that submission of the ERC's intention to publish or otherwise disclose that information and either:

-) that person has not made a written submission to the ERC objecting to the publication or disclosure of that information (including reasons as to why publication or disclosure of the information would cause substantial commercial damage or harm to it) within two weeks of receiving the written notification; or

that person has made a written submission to the ERC objecting to the publication or disclosure of that information (including reasons as to why publication or disclosure of the information would cause substantial commercial damage or harm to it) but the ERC, after considering that submission, nevertheless decides that publication or disclosure of the

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information will not cause substantial commercial damage or harm to that person

Following the publication of the Regulatory Reset Issues Paper, the ERC will provide guidance on how to undertake the report in respect of each of the following:

-) the asset roll-forward referred to in Section 4.7 (as applicable) (see Section 4.9.3);
-) for the purposes of the Regulatory Reset Process for the Subsequent Regulatory Period, the condition of certain assets that are used to provide Regulated Transmission Services and the regulatory life which should be attributed to such assets (see Section 4.9.3);
-) the determination of the weighted average cost of capital referred to in Section 4.10 (as applicable);
-) the review of the Regulated Entity's proposed capital expenditure referred to in Section 4.11 (as applicable); and
-) the review of the Regulated Entity's proposed operating and maintenance expenditure referred to in Section 4.12 (as applicable).

At least later than nine months prior to the commencement of the relevant Regulatory Period the ERC must publish a draft determination on the price control arrangements that are to apply for the relevant Regulatory Period on the ERC's website (subject to normal internet service provider performance) or through such other electronic medium as is generally accepted and in use at that time. Copies of the draft determination must also be available for purchase at the offices of the ERC.

The ERC must invite submissions on the draft determination, such submissions to be provided in writing or at public hearings convened for that purpose.

Written submissions must be made within two months of the publication of the draft determination and only those persons who make written submissions may participate in the relevant public hearings.

Relevant public hearings must be held during the period of seven to five months prior to the commencement of the relevant Regulatory Period.

After considering all the submissions made to it in accordance with Sections 7.1.9 and 7.1.10, the ERC must publish a final determination on the price control arrangements that are to apply for the relevant Regulatory Period. Such final determination must be published not later than three months prior to the commencement of the relevant Regulatory Period on the ERC's website (subject to normal internet service provider performance) or through such other electronic medium as is generally accepted and in use at that time. Copies of the final determination must also be available for purchase at the offices of the ERC.

ARTICLE VIII

SERVICE QUALITY MEASURES AND TARGETS

Establishment of Transmission Performance Standards

Not later than eighteen months prior to the commencement of the Subsequent Regulatory Period, the ERC must, subject to Section 8.1.3, determine:

1) the indices that are to be used for the purposes of these Rules to measure the performance of the Grid and the performance of the Regulated Entity in restoring Regulated Transmission Services following the outage of a component of the Grid (these indices must at least include those specified in Appendix A and may, for example, include any of the power quality standards specified in the Philippine Grid Code;

2) for each of the indices referred to in paragraph (a), the target level of performance of the Grid or the target level of performance of the Regulated Entity (as the case may be) for each Regulatory Year occurring during the Previous Regulatory Period, as measured by that index;

3) the manner in which the Regulated Entity must record the actual performance of the Grid, and the actual performance of the Regulated Entity, as measured by each of the indices referred to in paragraph (a);

4) the manner and form in which, and the time by which, the Regulated Entity must report to the ERC on the actual performance of the Grid, and the actual performance of the Regulated Entity, for each Regulatory Year occurring during the Previous Regulatory Period, as measured by each of the indices referred to in paragraph (a) (at a minimum such reports must report separately on the performance of those parts of the Grid that are specified in Appendix A); and

5) the circumstances in which the ERC may grant permission for a period of performance to be excluded for the purposes of measuring the performance of the Grid or the performance of the Regulated Entity in restoring Regulated Transmission Services following the outage of a component of the Grid, using the indices referred to in paragraph (a) (such circumstances must include the events provided in clause 3.3.3.2(a), (b), (d) and (e) of the Philippine Grid Code).

6) For the purposes of assisting the ERC to determine the matters referred to in this Section 8.1.1, the Regulated Entity must as soon as practicable after the Activity Date provide the ERC with such information as the ERC requires under Chapter 3 of the Philippine Grid Code.

7) The target levels of performance determined under Section 8.1.1(b) may vary as between Regulatory Years and as between the location of different parts of the

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The ERC must determine the matters referred to in Section 8.1.1 after consultation with such stakeholders as it thinks appropriate and after taking into account:

-) accepted international practices in relation to the matters referred to in Section 8.1.1;
-) the measures which the Regulated Entity can reasonably be required to implement for the purposes of meeting the target levels of performance referred to in Section 8.1.1(b) and complying with the obligations regarding recording and reporting referred to in Sections 8.1.1(c) and (d);
-) the capital expenditure program approved by the ERC under Section 4.10;
-) the relevant provisions of the Philippine Grid Code; and
-) any other factors the ERC considers relevant.

Performance Incentive Scheme

As part of the Regulatory Reset Process for the Subsequent Regulatory Period under Article VII, the ERC must develop a performance incentive scheme that:

rewards the Regulated Entity to the extent that the actual level of performance of the Grid or of the Regulated Entity (as the case may be) for a Regulatory Year, as measured by the indices referred to in Section 8.1.1(a), exceeds the target level of performance of the Grid or of the Regulated Entity (as the case may be) for that Regulatory Year, as determined under Section 8.1.1(b);

penalizes the Regulated Entity to the extent that the actual level of performance of the Grid or of the Regulated Entity (as the case may be) for a Regulatory Year, as measured by the indices referred to in Section 8.1.1(a), is below the target level of performance of the Grid or of the Regulated Entity (as the case may be) for that Regulatory Year, as determined under Section 8.1.1(b); and

complies with the principles set out in Section 8.2.3.

Without limiting the nature of the scheme referred to in Section 8.2.1, such a scheme may take the form of:

a scheme under which the Regulated Entity is entitled to an increase in the maximum allowed revenue for a Regulatory Year (where Section 8.2.1(a) applies) or suffers a decrease in the maximum allowed revenue for a Regulatory Year (where Section 8.2.1(b) applies); or

a scheme under which the Regulated Entity is entitled to levy a surcharge on some or all of its Customers (where Section 8.2.1(a) applies) or is required to pay a rebate to some or all of its Customers (where Section 8.2.1(b) applies).

The levels of reward referred to in Section 8.2.1(a), and the levels of penalty referred to in Section 8.2.1(b), must conform with the following principles:

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-) the levels of reward should be reasonable, and should be set so as to provide an incentive to improve the performance of the Grid and of the Regulated Entity over time but not so as to encourage excessive investment in capacity, extension or interconnectivity of the Grid;
-) the levels of penalty should be reasonable, and should be set so as to be proportional to the levels of reward (with a larger penalty being payable the greater the differential between the actual and target levels of performance); and

the levels of reward and penalty must be set such that:

- (i) if the scheme is a scheme described in Section 8.2.2(a), the rewards and penalties applying in respect of any Regulatory Year do not exceed 3% of the ARR_t for that Regulatory Year determined for the purposes of the Regulatory Reset Process undertaken under Article VII in respect of the Regulatory Period in which that Regulatory Year occurs; and
- (ii) if the scheme is a scheme described in Section 8.2.2(b), the rewards and penalties applying in respect of any Regulatory Year:
 - (A) do not exceed 10% of the average monthly transmission wheeling rate tariff applicable to affected connections of the relevant Customers; and
 - (B) do not exceed 3% of the ARR_t for that Regulatory Year determined for the purposes of the Regulatory Reset Process undertaken under Article VII in respect of the Regulatory Period in which that Regulatory Year occurs.
 - (C) if the scheme is a combination of the above schemes, the scheme must be such that the rewards and penalties applying in respect of any Regulatory Year do not exceed the above limits.

Appendix A, the performance incentive that will apply to the Regulated Entity in the Subsequent Regulatory Periods is described.

ARTICLE IX

OPEX AND CAPEX EFFICIENCY ADJUSTMENTS

General Efficiency Adjustment Principles

The Net Efficiency Adjustment is designed to ensure that the Regulated Entity has an incentive to achieve cost reductions in controllable costs above those contained in forecasts approved by the ERC as part of the Regulatory Reset Process for a Regulatory Period under Article VII.

During the Regulatory Reset Process for the Subsequent Regulatory Period under Article VII, the ERC determines that the historical service delivery levels persisting during Previous Regulatory Periods have not been maintained on average during the Previous Regulatory Period, or the ERC may elect not to apply, or to adjust the Net Efficiency Adjustment.

Calculation of Net Efficiency Adjustment

The Net Efficiency Adjustment for a Regulatory Year t in the Subsequent Regulatory Period (EA_t) is calculated as follows:

$$EA_t = CEA_t + OEA_t$$

where:

A_t is the Net Capital Efficiency Adjustment for Regulatory Year t , as defined in Section 9.2.2; and

OEA_t is the Net Operating and Maintenance Efficiency Adjustment for Regulatory Year t , as defined in Section 9.2.3.

CEA_t : Net Capital Efficiency Adjustment for Regulatory Year t (CEA_t) is calculated as follows:

$$CEA_t = WACC \times (\text{Capex Forecast}_t - \text{Capex Actual}_t)$$

where:

WACC = the classical weighted average cost of capital as determined by the ERC in accordance with Section 4.11; and

Capex Forecast $_t$ = the real capital expenditure forecast for Regulatory Year t , determined by deflating the nominal capital expenditure forecast approved by the ERC for Regulatory Year t pursuant to Section 4.11.5 (as such forecast is adjusted in accordance with Section 9.2.4) to accommodate actual changes in CPI over Regulatory Year t ; and

Capex Actual $_t$ = the actual real level of capital expenditure incurred in Regulatory Year t in respect of the Grid by the

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Regulated Entity, determined by deflating that actual capital expenditure to accommodate actual changes in CPI over Regulatory Year t.

The Net Operating and Maintenance Efficiency Adjustment for Regulatory Year t (OEA_t), is calculated as follows:

) Where Regulatory Year t is the first Regulatory Year of a Regulatory Period:

$$OEA_t = \text{Opex Forecast}_t - \text{Opex Actual}_t; \text{ and}$$

) Where Regulatory Year t is not the first Regulatory Year of the Regulatory Period:

$$OEA_t = (\text{Opex Forecast}_t - \text{Opex Forecast}_{t-1}) - (\text{Opex Actual}_t - \text{Opex Actual}_{t-1})$$

Where:

Opex Forecast_t = the nominal operating and maintenance expenditure forecasted that is approved by the ERC for Regulatory Year t pursuant to Section 4.12, as adjusted in accordance with Section 9.2.4;

Opex Forecast_{t-1} = the nominal operating and maintenance expenditure forecasted that is approved by the ERC for Regulatory Year t-1 pursuant to Section 4.12, as adjusted in accordance with Section 9.2.4;

Opex Actual_t = the actual nominal level of operating and maintenance expenditure incurred in Regulatory Year t; and

Opex Actual_{t-1} = the actual nominal level of operating and maintenance expenditure incurred in Regulatory Year t-1.

the purposes of calculating the Net Capital Efficiency Adjustment, or the Net Operating and Maintenance Efficiency Adjustment, for a Regulatory Year t the Regulator may, at its discretion but after taking into account any submissions made by the Regulated Entity, adjust the capital expenditure forecast approved by the ERC for Regulatory Year t pursuant to Section 4.11.5 or the operating and maintenance expenditure forecast approved by the ERC for Regulatory Year t-1 or Regulatory Year t pursuant to Section 4.12.5 (as the case may be) so as to reflect:

changes in the scope of services provided and activities undertaken by the Regulated Entity from those which formed the basis of the forecasts (for example as a result of the disposal of any Subtransmission Assets to another entity); and

material differences between the forecast level of output for a Regulatory Year (as accepted by the ERC) and the level of actual output for that

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Regulatory Year, in each case as measured by the system co-incident maximum demand (for these purposes there will only be deemed to be such a material difference where the system co-incident maximum demand for the relevant Regulatory Year is greater than 105%, or is less than 95%, of the forecast system coincident maximum demand for that Regulatory Year (as accepted by the ERC)).

) material differences between the actual Philippine CPI as compared with the Philippine CPI figures used for the capital expenditure forecasts approved by the ERC pursuant to section 4.11.5 and operating and maintenance expenditure forecasts approved by the ERC pursuant to section 4.12.5 (for these purposes there will only be deemed to be such a material difference where the actual ΔCPI_t for a Regulatory Year as calculated in section 4.4.2, varies by more than 10% from the annual change in the CPI forecast by a Regulated Entity for Regulatory Year t , as calculated by using the ΔCPI_t formula in section 4.4.2 but substituting actual quarterly CPI figures with the Regulated Entity's approved quarterly forecast figures for the same period); and

) material differences between the actual PhP/US\$ exchange rate and the USA CPI as compared with the exchange rate and USA CPI figures used for the capital expenditure forecasts approved by the ERC pursuant to section 4.11.5 and operating and maintenance expenditure forecasts approved by the ERC pursuant to section 4.12.5 (for these purposes there will only be deemed to be such a material difference where the actual $\Delta USER_t$ for a Regulatory Year, as calculated in section 4.4.3, varies by more than 10% from the annual change in the exchange and CPI rates forecast by a Regulated Entity for Regulatory Year t , as calculated by using the $\Delta USER_t$ formula in section 4.4.3 but substituting actual quarterly exchange rate and USA CPI figures with the Regulated Entity's approved quarterly exchange rate and USA CPI forecast figures for the same period).

In the absence of these circumstances, the forecast shall remain unchanged for the purposes of this Article. The adjustment of any forecasts pursuant to this Section 9.2.4 is only for the purposes of this Article IX and will not apply for the purposes of any other Article.

At the time of the Regulatory Reset Process for the Subsequent Regulatory Period or Article VII, the actual levels of capital expenditure, operating and maintenance expenditure incurred by a Regulated Entity in the previous regulatory year will not be known. To address this:

the Regulated Entity must, during the Regulatory Reset Process, provide to the ERC its actual levels of capital expenditure, and its actual levels of operating and maintenance expenditure, in respect of the Previous Regulatory Year; and

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- b) the ERC must determine the estimates of such amounts which are to be applied for the purpose of calculating the Net Efficiency Adjustment in respect of that Regulated Transmission System for that previous Regulatory Year.
- c) The difference between the estimate applied by the ERC for this purpose and the actual expenditure for the previous regulatory year will be assessed by the ERC during the annual rate reset, when the actual expenditure levels will be known. Any difference between the estimate applied by the ERC for previous regulatory year and the actual expenditure for the same period will be corrected for. In the unlikely event that this difference is sufficiently large to have a material impact on the smoothing factor determined through Section 4.14, the ERC may decide to treat this as cause for a re-opening event, which will be managed in terms of Article XII. Otherwise, any correction required will be handled during the Regulatory Reset Process for the next Regulatory Period, by adjusting the Net Efficiency Adjustment for that next period.

Mechanism for Carrying Over Net Efficiency Adjustments

The Net Efficiency Adjustment for a Regulatory Year t will be retained by the Regulated Entity for a period of 5 years (where the Net Efficiency Adjustment for that Regulatory Year is a positive amount) and will be borne by the Regulated Entity for a period of 5 years (where the Net Efficiency Adjustment for that Regulatory Year is a negative amount). Accordingly, the Net Efficiency Adjustment for Regulatory Year t must be:

where the Net Efficiency Adjustment for Regulatory Year t is a positive amount - added to; or

where the Net Efficiency Adjustment for Regulatory Year t is a negative amount - subtracted from,

the annual revenue requirement (calculated in accordance with Article V) for each of the Regulatory Years in the next Regulatory Period up to and including that Regulatory Year which is the fifth Regulatory Year after Regulatory Year t .¹⁵

This means that the annual revenue will be increased or decreased by the net sum of the Net Efficiency Adjustments for each of the Regulatory Years in the next Regulatory Periods that are to be added to or subtracted from the annual revenue requirement for that Regulatory Year in accordance with this Section 4.1.

¹⁵ For example, if Regulatory Year t is 2006, then the fifth Regulatory Year after Regulatory Year t is 2011.

ARTICLE X

FORCE MAJEURE EVENT REGULATED PASS THROUGH

Force Majeure Event Pass Through

When a Force Majeure Event occurs, the Regulated Entity may seek the ERC's approval to charge Customers, in addition to the maximum amounts that the Regulated Entity is otherwise permitted to charge Customers for Regulated Transmission Services pursuant to Articles III, IV or V (as applicable), an amount (the FM Pass Through Amount) that is not greater than the Eligible FM Pass Through Amount (as calculated by the Regulated Entity) in respect of that Force Majeure Event as at the date of the Force Majeure Event Claim (if any) given to the ERC pursuant to Section 10.2 in respect of that Force Majeure Event.

Claim for a Force Majeure Event

To seek the ERC's approval to pass through an FM Pass Through Amount under Section 10.1, the Regulated Entity must give the ERC:

a Force Majeure Event Notice pursuant to Section 10.2.2 within 3 months of the relevant Force Majeure Event occurring; and

a Force Majeure Event Claim pursuant to Section 10.2.3 within 12 months of the relevant Force Majeure Event occurring.

A Force Majeure Event Notice must specify:

the details of the Force Majeure Event concerned; and

the date the Force Majeure Event occurred.

A Force Majeure Event Claim must specify:

the details of the Force Majeure Event concerned;

the date the Force Majeure Event occurred;

the increase in costs that the Regulated Entity has actually incurred as at the date of the Force Majeure Event Claim:

- (i) in the transmission of electricity to Connection Points; and
- (ii) in complying with the provisions of any legislation, or of any rules, regulations or Rules made under the EPIRA, including the IRR and the Grid Code, which must be complied with in relation to the transmission of such electricity,

as a result of the occurrence of the Force Majeure Event;

the extent (if any) to which the Regulated Entity has the benefit of any insurance against the consequences of the Force Majeure Event;

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-) the FM Pass Through Amount the Regulated Entity proposes in relation to the Force Majeure Event;
-) the basis on which the Regulated Entity proposes to apply the FM Pass Through Amount to Customers, including the amount the Regulated Entity proposes to apply to Customers in each Regulatory Year; and
-) the date from, and the period over, which the Regulated Entity proposes to apply the FM Pass Through Amount to Customers,

and must be accompanied by evidence of the increase in costs referred to in paragraph (c), and justification that such costs are reasonable and occur as a sole consequence of the Force Majeure Event.

the amount which the Regulated Entity proposes to apply to any Customer in any Regulatory Year, as specified in a Force Majeure Event Claim pursuant to section 10.2.3(f), might result in the price for electricity paid by any End-user increasing in that Regulatory Year by more than the FM Threshold Amount in respect of that Regulatory Year, the ERC must publish a notice in a newspaper of general circulation in the area in which such End-users are located which:

sets out the details of the claimed Force Majeure Event and the date that Force Majeure Event was claimed to have occurred;

specifies the FM Pass Through Amount the Regulated Entity proposes in relation to that Force Majeure Event and the basis on, date from and period over which the Regulated Entity proposes to apply that FM Pass Through Amount to Customers (including the amount the Regulated Entity proposes to apply to Customers in each Regulatory Year), in each case as set out in the Force Majeure Event Claim;

states that, if the Regulated Entity's proposal is approved by the ERC, it might result in an increase in the price of electricity; and

invites interested persons to make submissions in relation to:

- (i) whether the claimed Force Majeure Event has occurred;
- (ii) the amount that the ERC should determine as the Eligible FM Pass Through Amount in respect of the claimed Force Majeure Event;
- (iii) the basis on, date from and period over which any Approved FM Pass Through Amount should be applied to Customers; and
- (iv) the effect of the claimed Force Majeure Event on the delivery of electricity to End-users.

the purposes of Section 10.2.4, the FM Threshold Amount in respect of a Regulatory Year t ($FMTA_t$) is calculated as:

$$A_t = 0.02 \text{ PhP / kWh} \times (\text{CPI}_{t-1} / \text{CPI}_{2022})$$

where:

A_t has the same meaning as in Section 3.3.2; and

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CPI_{2022} is the sum of the CPIs for the Quarters ending on 31 December 2021, 1 March 2022, 30 June 2022 and 30 September 2022.

The submissions referred to in Section 10.2.4 must be provided in writing or at such public consultations as the ERC may decide to convene for that purpose, but only those persons who make written submissions may participate in any such public consultations.

Approval by ERC

If the ERC receives a Force Majeure Event Claim under Section 10.2.1(b) in relation to a Force Majeure Event, the ERC must decide whether the relevant Force Majeure Event occurred and, if the ERC decides the Force Majeure Event occurred, the ERC must decide:

- (a) the Eligible FM Pass Through Amount in respect of the Force Majeure Event;
- (b) the basis on which the FM Pass Through Amount proposed by the Regulated Entity in relation to the Force Majeure Event or the Eligible FM Pass Through Amount in respect of the Force Majeure Event as determined by the ERC (whichever is the lesser) (the Approved FM Pass Through Amount) may be applied to Customers; and

the date from, and period over, which the Approved FM Pass Through Amount in respect of the Force Majeure Event may be applied to Customers,

The ERC must notify the Regulated Entity in writing of the ERC's decision and the reasons for the ERC's decision.

If the ERC does not give a notice to the Regulated Entity under Section 10.3.1 or to the expiry of the Decision Period in respect of the Force Majeure Event Claim then, on the first Business Day after the expiry of that Decision Period, the ERC is deemed to have notified the Regulated Entity of its decision that:

the FM Pass Through Amount proposed by the Regulated Entity in relation to the relevant Force Majeure Event in the Force Majeure Event Claim is the Approved FM Pass Through Amount in respect of that Force Majeure Event; and

the basis on, date from and period over which that Approved FM Pass Through Amount may be applied to Customers are as specified in the Force Majeure Event Claim.

For the purposes of Section 10.3.2, the Decision Period in respect of a Force Majeure Event Claim is:

90 Business Days after the ERC receives:

- (i) the Force Majeure Event Claim from the Regulated Entity; and

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(ii) such evidence of the increase in costs referred to in Section 10.2.3(c) as is required by the ERC;

-) if the ERC convenes a public consultation or public consultations for the purpose of taking submissions in response to a notice published by the ERC pursuant to Section 10.2.4, such longer period as the ERC determines to be reasonable in the circumstances (in which case the ERC must give notice of that longer period to the Regulated Entity within 5 Business Days after the last such public consultation).

Relevant Factors for ERC Consideration

In making a decision under Section 10.3.1, the ERC must take into account:

-) the matters and proposals set out in the Force Majeure Event Claim;
-) any submissions made to the ERC pursuant to Section 10.2.4;
-) the extent to which it would have been reasonable for the Regulated Entity to have procured insurance against the consequences of the Force Majeure Event; and
-) any amount recoverable by the Regulated Entity under insurances against the consequences of the Force Majeure Event and of which the Regulated Entity has the benefit,

and, subject to the requirement that the Regulated Entity is not to be compensated for losses against which it would have been reasonable for the Regulated Entity to have been insured, or for losses to the extent they are able to be compensated for by claiming under insurances of which the Regulated Entity has the benefit, the ERC must seek to ensure that the Regulated Entity is fully (but not over) compensated for the increase in costs referred to in Section 10.2.3(c) to the extent that it was reasonable for the Regulated Entity to incur those costs (or for such other amount as is proposed by the Regulated Entity), taking into account:

the relative amounts of electricity transmitted by the Regulated Entity to each Customer;

the time cost of money based on the weighted average cost of capital determined by the ERC which applies for the purposes of these Rules in respect of the period over which the Approved FM Pass Through Amount is to be applied;

the basis on and period over which the Approved FM Pass Through Amount is to be applied;

any previous application of this Article X which has resulted in the Regulated Entity recovering an amount either more or less than the amount required to fully (but not over) compensate it in respect of a previous Force Majeure Event in accordance with this Article X; and

any other factors the ERC considers relevant such as to verify and determine the reasonableness and prudence of the actual costs incurred.

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The ERC may require the Regulated Entity for an independent expert or experts report pursuant to Section 10.3.1.

Application of Approved FM Pass Through Amount

The Regulated Entity may, after:

1 receipt or deemed receipt of a notice under Section 10.3.1 or 10.3.2 allowing the Regulated Entity to pass through an Approved FM Pass Through Amount; and

publishing a notice in a newspaper of general circulation that sets out:

- (i) the Approved FM Pass Through Amount which the ERC has approved or is deemed to have approved;
- (ii) the circumstances giving rise to the Approved FM Pass Through Amount; and
- (iii) the basis on, date from and period over which the Regulated Entity will apply the Approved FM Pass Through Amount to Customers,

2 apply the Approved FM Pass Through Amount on the basis, from the date and over the period specified or deemed to be specified in the notice from the ERC.

3 The effect of an Approved FM Pass Through Amount must be:

shown on the bills of each affected Customer which are rendered in respect of any part of the period until the next Regulatory Period commences; or

otherwise notified to such Customers in a manner approved by the ERC.

Recovery of Approved FM Pass Through Amount

4 Subject to Sections 4.16.1 and 4.16.2, the Regulated Entity may recover an Approved FM Pass Through Amount in accordance with this Article X notwithstanding that such recovery might otherwise result in a breach of the relevant cap under the applicable form of price control as calculated in accordance with Article III, IV or V.

ARTICLE XI

TAX EVENT REGULATED PASS THROUGH

Tax Event Pass Through

If a Positive Tax Change Event occurs, the Regulated Entity may seek the ERC's approval to charge Customers, in addition to the maximum amounts that the Regulated Entity is otherwise permitted to charge Customers for Regulated Transmission Services pursuant to Articles III, IV or V (as applicable), an amount (Positive Tax Pass Through Amount) that is not greater than the Eligible Tax Pass Through Amount (as calculated by the Regulated Entity) in respect of that Tax Change Event.

If a Negative Tax Change Event occurs, the ERC may require the Regulated Entity to pass on savings to Customers, as a reduction in the maximum amounts that the Regulated Entity is otherwise permitted to charge Customers for Regulated Transmission Services pursuant to Articles III, IV or V (as applicable), an amount (Negative Tax Pass On Amount) that is not greater than the Required Tax Pass On Savings Amount (as determined by the ERC) in respect of that Tax Change Event.

Claim for a Positive Tax Pass Through

To seek the ERC's approval to pass through a Positive Tax Pass Through Amount under Section 11.1.1, the Regulated Entity shall submit to the ERC in writing, within 3 months of the relevant Tax Change Event occurring, which specifies:

the details of the Tax Change Event concerned;

the date the Tax Change Event took effect;

the increase in costs in the transmission of electricity to Connection Points that the Regulated Entity has incurred and is likely to incur, until the end of the Regulatory Period in which the Tax Change Event occurs, as a result of the Tax Change Event;

the Positive Tax Pass Through Amount;

the basis on which the Regulated Entity proposes to apply the Positive Tax Pass Through Amount to Customers, including the amount the Regulated Entity proposes to apply to Customers in each Regulatory Year; and

the period over which the Regulated Entity proposes to apply the Positive Tax Pass Through Amount to Customers,

which is accompanied by evidence of the actual and likely increase in costs referred to in paragraph (c).

If the ERC receives a statement under Section 11.2.1 in relation to a Positive Tax Change Event, the ERC must decide:

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-) Whether the Tax Change event occurred;
-) the Eligible Tax Pass Through Amount in respect of that Tax Change Event;
-) the basis on which the Positive Tax Pass Through Amount proposed or the Eligible Tax Pass Through Amount as determined by the ERC (whichever is the lesser) (the Approved Tax Pass Through Amount), may be applied to Customers; and
-) the period over which the Approved Tax Pass Through Amount to such Customers,

and notify the Regulated Entity in writing of the ERC's decision and the reasons for the ERC's decision.

Required Negative Tax Pass Through

When a Negative Tax Change Event occurs and the ERC decides to impose a requirement on the Regulated Entity in relation to that Negative Tax Change Event as described in Section 11.1.2, the ERC must decide:

the Negative Tax Pass Through Amount in respect of that Tax Change Event;

the basis on which that Negative Tax Pass Through Amount must be applied to Customers; and

the period over which the Negative Tax Pass Through Amount in respect of that Tax Change Event must be applied to Customers,

and notify the Regulated Entity in writing of the ERC's decision and the reasons for the ERC's decision.

The Regulated Entity must provide the ERC with such information as the ERC requires for the purpose of making a decision under Section 11.3.1 within the time specified by the ERC in a notice provided to the Regulated Entity by the ERC for that purpose.

Relevant Factors

When making a decision under Sections 11.2.2 or 11.3.1, the ERC must (in the case of a decision under Section 11.2.2) take into account the matters and proposals set out in the Regulated Entity's statement and:

in the case of a decision under Section 11.2.2 - the ERC must ensure that the Regulated Entity is allowed a reasonable compensation for the actual and likely increase in costs referred to in Section 11.2.1(c) (or for such lesser amount as is proposed by the Regulated Entity); and

in the case of a decision under Section 11.3.1 - the ERC must ensure that the aggregate amount that the Regulated Entity is required to pass through to Customers is an amount that is not more than the costs that the Regulated Entity has saved and is likely to save, until the end of the

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Regulatory Period in which the Negative Tax Change Event occurs, in the transmission of electricity to Connection Points as a result of the Negative Tax Change Event,

taking into account:

- a) the relative amounts of electricity transmitted by the Regulated Entity to each Customer;
- b) the time cost of money based on the weighted average cost of capital (if any) determined by the ERC which applies for the purposes of these Rules in respect of the period over which the Approved Tax Pass Through Amount or the Negative Tax Pass Through Amount (as the case may be) is to be applied;
- c) the basis on and period over which the Approved Tax Pass Through Amount or the Negative Tax Pass Through Amount (as the case may be) is to be applied;

any previous application of this Article XI which has resulted in an Approved Tax Pass Through Amount or a Negative Tax Pass Through Amount in respect of a previous Tax Change Event being more or less than the amount which it should have been for the purposes of this Article XI;

any change in the way or rate at which another Tax is calculated, or the removal or imposition of another Tax, which, in the ERC's opinion, is complementary to the Tax Change Event concerned;

the effect of any other previous Tax Change Event that has occurred of the Regulated Entity since the later:

- the commencement of the Previous Regulatory Period; and
- the last decision relating to the Affected Regulated Entity which has been made under this Article XI in relation to a Tax Change Event; and

any other factors the ERC considers relevant.

Application of Approved Tax Pass Through Amount or Negative Tax Pass Through Amount

Regulated Entity may, after:

receipt or deemed receipt of a notice under Section 11.2.2 or 11.2.3 allowing the Regulated Entity to pass through an Approved Tax Pass Through Amount; and

publishing a notice in a newspaper of general circulation that sets out:

- (i) the Approved Tax Pass Through Amount which the ERC has approved or is deemed to have approved;
- (ii) the circumstances giving rise to the Approved Tax Pass Through Amount; and

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(iii) the basis on, date from and period over which the Regulated Entity will apply the Approved Tax Pass Through Amount to Customers, apply the Approved Tax Pass Through Amount on the basis, from the date and over the period specified or deemed to be specified in the notice from the ERC.

The Regulated Entity must, after receipt of a notice under Section 11.3.1 requiring a Regulated Entity to pass through a Negative Tax Pass Through Amount to Customers, apply the Negative Tax Pass Through Amount on the basis, from the date and over the period specified in the notice from the ERC.

The effect of an Approved Tax Pass Through Amount or a Negative Tax Pass Through Amount must be:

(a) shown on the bills of each affected Customer which are rendered in respect of any part of the period until the next Regulatory Period commences; or

(b) otherwise notified to such Customers in a manner approved by the ERC.

Relevance of Approved Tax Pass Through Amount

Subject to Sections 4.16, an Approved Tax Pass Through Amount may be applied to an Affected Regulated Entity under this Article XI is not to be taken into account in the calculation of the maximum average revenue that the Regulated Entity is permitted to charge, or in determining whether that revenue has been exceeded.

ARTICLE XII

RE-OPENING AND ADJUSTMENT EVENTS

Conditions for Maximum Annual Revenue cap Re-Opening

The Regulated Entity may apply to the ERC in writing for a change in the method used to calculate the Maximum Annual Revenue cap (MAR_t) as set out in Section 12.1.1 if any of the following conditions (each a Trigger Condition) has occurred:

- (a) the absolute value of the change in CPI between two consecutive Quarters within the previous Regulatory Period, as calculated pursuant to Section 12.5.1, is greater than 0.07; or
- (b) a major prescribed change in the PhP/\$US exchange rate during the Previous Regulatory Period, as defined in Section 12.5.2; or
- (c) the PhP/\$US exchange rate for a Quarter within the Subsequent Regulatory Period is more than 120% of the PhP/\$US exchange rate for that Quarter which is approved by the ERC for the purposes of the capital expenditure program that is approved by the ERC under Section 4.10.5 (see also Section 12.5.3); or
- (d) the absolute value of the change in the three-month average of non-coincident peak demands between two consecutive Regulatory Years (each of which occurs in the then current Regulatory Period), as calculated pursuant to Section 12.6, is greater than 0.50.

Information to Accompany Application for Maximum Annual Revenue cap Re-Opening

Where the Regulated Entity makes an application pursuant to Section 12.1, it must provide with that application the following information:

- (a) the raw data relied upon to demonstrate that the relevant Trigger Condition has occurred;
- (b) the calculations relied upon to demonstrate that the relevant Trigger Condition has occurred; and
- (c) in the case where the Trigger Condition relied upon is that referred to in Section 12.1.1(d), a statement from an independent auditor and/or engineering firm as the case may require, which firm is approved by the ERC, on whether or not the relevant raw data is accurate (including whether or not the physical metering systems are operating correctly at the time the relevant measurements are made) and whether or not that raw data fairly and reasonably represents the peak demand at each Connection Point.

Process and Timing for Decision on Application for Maximum Annual Revenue Cap Re-Opening

Upon receiving an application under Section 12.1.1, the ERC must:

- (a) decide whether or not the Trigger Condition the subject of the application has occurred; or
- (b) in the case where the Trigger Condition relied upon is that referred to in Section 12.1.1(d), request additional clarification on the raw data, its accuracy, its representative nature, its source, its veracity or its authenticity, or on the calculation made to demonstrate that the Trigger Condition has occurred, in order to assist the ERC to determine whether that Trigger Condition has occurred.

Maximum Annual Revenue Cap Re-Opening – determination of new cap

Where, following an application by a Regulated Entity under Section 12.1.1, the ERC decides that a Trigger Condition has occurred, the ERC must determine a new method for the purpose of calculating the Maximum Annual Revenue cap that is to apply for the relevant Regulatory Period by applying, to the extent reasonably practicable, the principles specified under Articles IV and V. The new method so determined applies for each succeeding Regulatory Year in the current Regulatory Period, commencing with the Regulatory Year that commences after the ERC determines that new method.

Maximum Annual Revenue cap Re-Opening – Definitions: change in CPI, PhP/\$US exchange rate

For the purposes of Section 12.1.1(a), the change in CPI between two consecutive quarters within a Regulatory Period ($\Delta\text{CPI}_{\text{TP}}$) is calculated as follows:

$$\Delta\text{CPI}_{\text{TP}} = [\text{CPI}_{(Q_j)} / \text{CPI}_{(Q_{j-1})}] - 1$$

where:

(Q_j) is the CPI for the second of the consecutive Quarters within the relevant Regulatory Period; and

(Q_{j-1}) is the CPI for the first of the consecutive Quarters within the relevant Regulatory Period.

For the purposes of Section 12.1.1(b) a major prescribed change in the PhP/\$US exchange rate during the Previous Regulatory Period occurs where:

$$\Delta\text{USER}_{Q1/Q2} > 0.15 \text{ and } \Delta\text{USER}_{Q2/Q3} > 0.15; \text{ or}$$

$$\Delta\text{USER}_{Q1/Q2} < \text{minus } 0.15 \text{ and } \Delta\text{USER}_{Q2/Q3} < \text{minus } 0.15.$$

For the purposes of Section 12.9.1(a), a minor prescribed change in the PhP/\$US exchange rate during the Previous Regulatory Period occurs where:

$$\Delta\text{USER}_{Q1/Q2} > 0.08 \text{ and } \Delta\text{USER}_{Q2/Q3} > 0.08; \text{ or}$$

$$\Delta\text{USER}_{Q1/Q2} < \text{minus } 0.08 \text{ and } \Delta\text{USER}_{Q2/Q3} < \text{minus } 0.08.$$

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or the purposes of this Section 12.5.2:

$\Delta \text{USER}_{Q1/Q2} = [\text{USER}_{Q2} / \text{USER}_{Q1}] - 1$; and

$\Delta \text{USER}_{Q2/Q3} = [\text{USER}_{Q3} / \text{USER}_{Q2}] - 1$,

here:

SER has the same meaning as in Section 4.4.3;

SER_{Q1} is the USER for a Quarter within the Previous Regulatory Period;

SER_{Q2} is the USER for the Quarter (if any) within the Previous Regulatory Period that immediately follows the Quarter which is denoted as Q1 for the purposes of this Section 12.5.2; and

SER_{Q3} is the USER for the Quarter (if any) within the Previous Regulatory Period that immediately follows the Quarter which is denoted as Q2 for the purposes of this Section 12.5.2.

For the purposes of Sections 12.1.1(c) and 12.9.1(b):

(a) both the first-mentioned and the second-mentioned PhP/\$US exchange rates must be expressed as PhP/US\$1 (for example, if PhP50 can purchase US\$1, then the relevant PhP/\$US exchange rate is 50); and

(b) the first-mentioned PhP/\$US exchange rate must be calculated in a manner, and be of a kind, that is substantially comparable to the manner of calculation, and kind, of the second-mentioned PhP/\$US exchange rate.

Maximum Annual Revenue Cap Re-Opening - Change in Three-Month Average of Non-Coincident Peak Demand

For the purposes of Section 12.1.1(d), the change in the three-month average of non-coincident peak demands between two consecutive Regulatory Years (ΔNCPD) is calculated as follows:

$\Delta \text{NCPD} = [\text{NCPD}_t / \text{NCPD}_{t-1}] - 1$

where:

$\text{NCPD}_t = \{ \text{NCPD}_{(Mi)} + \text{NCPD}_{(Mi-1)} + \text{NCPD}_{(Mi-2)} \}$; and

$\text{NCPD}_{t-1} = \{ \text{NCPD}_{(Mi-12)} + \text{NCPD}_{(Mi-13)} + \text{NCPD}_{(Mi-14)} \}$

where:

$\text{NCPD}_{(Mi)} =$ the average of the non-coincident peak demands from all Connection Points for calendar month "i" in the second of the consecutive Regulatory Years (Regulatory Year t), being Connection Points in existence as at the commencement of that calendar month;

$\text{NCPD}_{(Mi-1)} =$ the average of the non-coincident peak demands from all Connection Points for the calendar month

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immediately preceding calendar month “i” , being Connection Points in existence as at the commencement of calendar month “i”;

$CPD_{(Mi-2)}$ = the average of the non-coincident peak demands from all Connection Points for the calendar month immediately preceding calendar month “i-1” , being Connection Points in existence as at the commencement of calendar month “i”;

$CPD_{(Mi-12)}$ = the average of the non-coincident peak demands from all Connection Points for the calendar month in the first of the consecutive Regulatory Years (Regulatory Year t-1) which corresponds to calendar month “i” (eg. if calendar month “i” is February 2021 then calendar month “i-12” is February 2020), being Connection Points in existence as at the commencement of calendar month “i-12”;

$CPD_{(Mi-13)}$ = the average of the non-coincident peak demands from all Connection Points for the calendar month immediately preceding calendar month “i-12” , being Connection Points in existence as at the commencement of calendar month “i-12”; and

$CPD_{(Mi-14)}$ = the average of the non-coincident peak demands from all Connection Points for the calendar month immediately preceding calendar month “i-13” , being Connection Points in existence as at the commencement of calendar month “i-12”.

the purposes of Section 12.6.1, the average of the non-coincident peak demands from relevant Connection Points for a calendar month is to be measured at meters located at each of those Connection Points which are operative.

Deferred Capital Expenditure on Significant Projects – X factor adjustment

Regulated Entity must promptly notify the ERC in writing if any capital expenditure for a Significant Project, which is forecasted to be undertaken in the capital expenditure program that is approved by the ERC under Section 4.11.5, has not been substantially undertaken within 18 months of the time it was so forecasted to be undertaken.

any time the ERC determines that any capital expenditure for a Significant Project, which is forecasted to be undertaken in the capital expenditure program that is approved by the ERC under Section 4.11.5, has not been substantially undertaken within 18 months of the time it was so forecasted to be undertaken:

- (a) the ERC must promptly notify the Regulated Entity in writing of its determination; and

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(b) after taking into account any submissions made by the Regulated Entity, the ERC may determine a new value for the X factor in the formula for the calculation of the Maximum Annual Revenue cap as set out in Section 4.2.1 by recalculating the X factor:

- (i) based on the exclusion from that capital expenditure program of all of the capital expenditure which is forecast to be undertaken in that program for the Significant Project; and
- (ii) so as to recognise the extent to which the previous X factor was set on the basis of the capital expenditure that is excluded under paragraph (i).

any X factor which is recalculated under this Section 12.7.2 applies for each succeeding Regulatory Year in the then current Regulatory Period, commencing with the Regulatory Year that commences after the ERC recalculates that X factor, unless the ERC (acting pursuant to this Article XII) subsequently determines a new X factor, or a new method for the purpose of calculating the Maximum Annual Revenue cap, that is to apply for such Regulatory Years.

Major Unforecasted Disposals – X factor adjustment

The Regulated Entity must promptly notify the ERC after it has disposed of assets in such form, or would but for that disposal form, part of the Grid where:

(a) that disposal (referred to in this Section 12.8.1 as the "relevant disposal") occurs during the Previous Regulatory Period; and

(b) the value of the assets so disposed of, together with the aggregate value of all other assets which form part of the Grid and which have previously been disposed of by the Regulated Entity during the Previous Regulatory Period, is greater than 0.1% of the value of all the assets that, at the time of the relevant disposal, are used by the Regulated Entity to provide Regulated Transmission Services.

At any time the ERC determines that:

(a) the Regulated Entity has disposed of assets which form, or would but for that disposal form, part of the Grid and which have an aggregate value of greater than 0.1% of the value of all the assets that, at the time of the ERC's determination, are used by the Regulated Entity to provide Regulated Transmission Services; and

(b) such disposal or disposals occur during the Previous Regulatory Period,

(c) the ERC must promptly notify the Regulated Entity in writing of its determination; and

(d) after taking into account any submissions made by the Regulated Entity, the ERC may determine a new value for the X factor in the

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formula for the calculation of the Maximum Annual Revenue cap as set out in Section 4.2.1 by recalculating the X factor:

- (i) based on the exclusion of the value of the assets which have been so disposed of; and
- (ii) so as to recognise the extent to which the previous X factor was set on the basis of those assets not being so disposed of.

ny X factor which is recalculated under this Section 12.8.2 applies for each succeeding Regulatory Year in the then current Regulatory Period, commencing with the Regulatory Year that commences after the ERC recalculates that X factor, unless the ERC (acting pursuant to this Article XII) subsequently terminates a new X factor, or a new method for the purpose of calculating the Maximum Annual Revenue cap, that is to apply for such Regulatory Years.

the Regulated Entity must promptly notify the ERC after it has disposed of assets in such form, or would but for that disposal form, part of the Grid where:

- (a) that disposal (referred to in this Section 12.8.3 as the "relevant disposal") occurs during the Subsequent Regulatory Period;
- (b) the value of the assets so disposed of, together with the aggregate value of all other assets which formed part of the Grid and which have previously been disposed of by the Regulated Entity during the Subsequent Regulatory Period, is greater than 0.1% of the value of all the assets that, at the time of the relevant disposal, are used by the Regulated Entity to provide Regulated Transmission Services; and
- (c) the disposal of the assets referred to in paragraph (b) (ie. the assets the subject of the relevant disposal as well as those which have previously been disposed of by the Regulated Entity during the Subsequent Regulatory Period):
 - (i) is not included by the ERC in the calculation of the Regulatory Asset Base for any Regulatory Year in the Subsequent Regulatory Period, pursuant to Section 4.8.1, for the purposes of the Regulatory Reset Process for the Subsequent Regulatory Period under Article VII; or
 - (ii) is included by the ERC in the calculation of the Regulatory Asset Base for any Regulatory Year in the Subsequent Regulatory Period, pursuant to Section 4.8.1, for the purposes of the Regulatory Reset Process for the Subsequent Regulatory Period under Article VII, but is for an amount that is greater than 105% or less than 95% of the forecast amount included for that purpose by the ERC in the calculation of that Regulatory Asset Base.

any time the ERC determines that:

- (a) the Regulated Entity has disposed of assets which form, or would but for that disposal form, part of the Grid and which have an aggregate

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value of greater than 0.1% of the value of all the assets that, at the time of the ERC's determination, are used by the Regulated Entity to provide Regulated Transmission Services;

(b) such disposal or disposals occur during the Subsequent Regulatory Period; and

(c) the disposal of such assets during the Subsequent Regulatory Period:

(i) is not included by the ERC in the calculation of the Regulatory Asset Base for any Regulatory Year in the Subsequent Regulatory Period, pursuant to Section 4.8.1, for the purposes of the Regulatory Reset Process for the Subsequent Regulatory Period under Article VII; or

(ii) is included by the ERC in the calculation of the Regulatory Asset Base for any Regulatory Year in the Subsequent Regulatory Period, pursuant to Section 4.8.1, for the purposes of the Regulatory Reset Process for the Subsequent Regulatory Period under Article VII, but is for an amount that is greater than 105% or less than 95% of the forecast amount included for that purpose by the ERC in the calculation of that Regulatory Asset Base,

n:

(d) the ERC must promptly notify the Regulated Entity in writing of its determination; and

(e) after taking into account any submissions made by the Regulated Entity, the ERC may determine a new value for the X factor in the formula for the calculation of the Maximum Annual Revenue cap as set out in Section 4.2.1 by recalculating the X factor:

(iii) based on:

(A) in the case of paragraph (c)(i), the exclusion of the value of the assets which have been so disposed of; and

(B) in the case of paragraph (c)(ii), the amount for which the assets were disposed of; and

(iv) so as to recognise the extent to which the previous X factor was set on the basis of:

(A) in the case of paragraph (c)(i), those assets not being so disposed of; and

(B) in the case of paragraph (c)(ii), those assets being disposed of for a different amount.

X factor which is recalculated under this Section 12.8.4 applies for each preceding Regulatory Year in the then current Regulatory Period, commencing the Regulatory Year that commences after the ERC recalculates that X factor, unless the ERC (acting pursuant to this Article XII) subsequently

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etermines a new X factor, or a new method for the purpose of calculating the maximum Annual Revenue cap, that is to apply for such Regulatory Years.

PhP/\$US exchange rate adjustment

:

(a) a minor prescribed change in the PhP/\$US exchange rate during the Previous Regulatory Period (as defined in Section 12.5.2) occurs, then this Section 12.9.1 applies:

- (i) where the Quarter which is denoted as Q3 for the purposes of Section 12.5.2 is a Quarter that does not end on 31 December - in respect of the Regulatory Year that immediately follows the Regulatory Year in which that Quarter occurs; and
- (ii) where the Quarter which is denoted as Q3 for the purposes of Section 12.5.2 is a Quarter that ends on 31 December - in respect of the second Regulatory Year after the Regulatory Year in which that Quarter occurs

(Section 4.4.1 specifies the consequences of Section 12.9.1 so applying);
or

(b) the PhP/\$US exchange rate for a Quarter within the Subsequent Regulatory Period is less than 90%, or more than 110%, of the PhP/\$US exchange rate for that Quarter which is approved by the ERC for the purposes of the capital expenditure program that is approved by the ERC under Section 4.11.5 (see also Section 12.5.3), then this Section 12.9.1 applies in respect of the Regulatory Year that immediately follows the Regulatory Year in which that Quarter occurs (Section 4.4.1 specifies the consequences of Section 12.9.1 so applying).

Major Unforecasted Acquisitions – X factor adjustment for Subsequent Regulatory Period

here:

- (a) a Regulated Entity has acquired assets which form part of a Regulated Transmission System;
- (b) that acquisition (referred to in this Section 12.4.1 as the "relevant acquisition") occurs during the Subsequent Regulatory Period;
- (c) the value of the assets so acquired, together with the aggregate value of all other assets which form part of that Regulated Transmission System and which have previously been acquired by the Regulated Entity during the Subsequent Regulatory Period, is greater than the lesser of PhP 150 Million or 3% of the value of all assets that, at the time of the

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relevant acquisition, are used by the Regulated Entity to provide Regulated Transmission Services; and

(d) the acquisition of the assets referred to in paragraph (c):

- (i) is not included by the ERC in the calculation of the Regulatory Asset Base for that Regulated Transmission System for any Regulatory Year in the Subsequent Regulatory Period, pursuant to Section 4.8.1, for the purposes of the Regulatory Reset Process for the Subsequent Regulatory Period under Article VII; or
- (ii) is included by the ERC in the calculation of the Regulatory Asset Base for that Regulated Transmission System for any Regulatory Year in the Subsequent Regulatory Period, pursuant to Section 4.8.1, for the purposes of the Regulatory Reset Process for the Subsequent Regulatory Period under Article VII, but is for an amount that is:
 - A. greater than 150%; or
 - B. less than 60%,

of the forecast amount included for that purpose by the ERC in the calculation of that Regulatory Asset Base,

then:

- (e) where paragraphs (a), (b), (c) and (d)(i) or (d)(ii)(A) apply, the Regulated Entity may apply to the ERC in writing for the determination of a new value of the X factor in the formula for the calculation of the Maximum Annual Revenue cap for that Regulated Transmission System; or
- (f) where paragraphs (a), (b), (c) and (d)(ii)(B) apply, the Regulated Entity must promptly notify the ERC in writing of the application of those paragraphs.

where a Regulated Entity makes an application pursuant to Section 12.4.1(e), it must include with that application information that demonstrates that the circumstances referred to in Section 12.4.1(a), (b), (c) and (d)(i) or (d)(ii)(A) have occurred.

upon receiving an application under Section 12.4.1(e), the ERC must decide whether or not the circumstances referred to in Section 12.4.1(a), (b), (c) and (d)(ii)(A) have occurred.

at any time the ERC determines that the circumstances referred to in Section 12.4.1(a), (b), (c) and (d)(ii)(B) have occurred, the ERC must promptly notify the Regulated Entity in writing of its determination.

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- (a) following an application by a Regulated Entity under Section 12.4.1(e), the ERC decides that the circumstances referred to in Section 12.4.1(a), (b), (c) and (d)(i) or (d)(ii)(A) have occurred – the ERC must; or
- (b) at any time the ERC determines that the circumstances referred to in Section 12.4.1(a), (b), (c) and (d)(ii)(B) have occurred – the ERC may,

in either case after taking into account any submissions made by the Regulated Entity, determine a new value for the X factor in the formula for the calculation of the Maximum Annual Revenue cap for that Regulated Transmission System as set out in Section 4.2.1 by recalculating the X factor:

- (c) based on:
 - where Section 12.4.1(a), (b), (c) and (d)(i) apply, the inclusion of the value of the assets which have been so acquired;
 - where Section 12.4.1(a), (b), (c) and (d)(ii)(A) or (d)(ii)(B) apply, the amount for which the assets were acquired; and
- (d) so as to recognize the extent to which the previous X factor was set on the basis of:
 - in the case of paragraph (c)(i), those assets not being so acquired by the Regulated Entity; and
 - in the case of paragraph (c)(ii), those assets being acquired by the Regulated Entity for a different amount.

Y X factor which is recalculated under this Section 12.4.6 applies for each succeeding Regulatory Year in the then current Regulatory Period, commencing with the Regulatory Year that commences after the ERC recalculates that X factor, unless the ERC (acting pursuant to this Article XII) subsequently determines a new value for the X factor in the formula for the calculation of the Maximum Annual Revenue cap for that Regulated Transmission System, or a new method for the purpose of calculating that Maximum Annual Revenue cap, that it applies for such Regulatory Years.

Regulatory Entity should note that in terms of Commonwealth Act 146 all major capital works need to be approved by the ERC prior to commencing with such works.

Weighted Average Cost of Capital Adjustment

At the time of making its final determination on the price-control arrangements for the Regulated Entity, in accordance with Section 4.10 the ERC will determine an appropriate rate of return (WACC) for the return on capital building block that will be included in the allowed revenue requirement. The ERC at any Regulatory Period may review the WACC used for the current Regulatory Period. The difference between the newly determined WACC and the WACC used in its final determination will therefore be calculated.

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The difference between the newly determined WACC and the WACC used in its final determination is calculated as follows:

$$\text{DeltaWACC} = \text{Absolute value of } [(WACC_{\text{new}} - WACC_{\text{current}}) / (WACC_{\text{current}})] \times 100$$

where :

$WACC_{\text{new}}$ = The newly determined WACC

$WACC_{\text{current}}$ = The current WACC

If DeltaWACC is less than or equal 90%, or more than or equal 110%, then the WACC will be adjusted to the most recent WACC determined by the ERC. The ERC will then, determine a new value for the X factor in the formula for the calculation of the maximum average revenue for that Regulated Transmission System as set out in Section 4.2.1. This will take into account the impact of the change in the allowed WACC on the various parameters on which the X-factor is based.

Any X factor which is recalculated under this Section 12.6.3 applies for each succeeding Regulatory Year in the then current Regulatory Year for which it was calculated, commencing with the Regulatory Year that commences after the ERC recalculates that X factor.

The ERC shall consider the application of any inflation factor only once, either to the RAB or WACC.

Operating and maintenance expenditure adjustment

Where:

(a) a Regulated Entity has incurred operating and maintenance expenditure on a Regulated Transmission System that it operates;

(b) that expenditure (referred to in this Section 12.7.1 as the "relevant expenditure") occurs during the Subsequent Regulatory Period;

(c) the relevant expenditure referred to in paragraph (b):

- (i) pursuant to Section 4.12.5, for the purpose of the Regulatory Reset Process for the Subsequent Regulatory Period under Article VII and results in a total Operating and Maintenance expenditure that is greater than 125% of the full Operating and Maintenance amount included for that Regulatory Year by the ERC in the final determination of the price-control arrangements for the Subsequent Regulatory Period, it is not included by the ERC in the calculation of the Operating and Maintenance expenditure allowed for that Regulated Transmission System for any Regulatory Year in the Subsequent Regulatory Period, or
- (ii) for the purpose of the Regulatory Reset Process for the Subsequent Regulatory Period under Article VII, it is included by the ERC in the Operating and Maintenance expenditure for that

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Regulated Transmission System for any Regulatory Year in the Subsequent Regulatory Period, but varies to the extent that total Operating and Maintenance expenditure is:

- (A) greater than 125%; or
- (B) less than 75%,

of the forecast amount included for that Regulatory Year purpose by the ERC in the final determination of the price-control arrangements for the Subsequent Regulatory Period, then:

(d) where paragraphs (a), (b) and (c)(i) or (c)(ii)(A) apply, the Regulated Entity may apply to the ERC in writing for the determination of a new value of the X factor in the formula for the calculation of the Maximum Annual Revenue cap for that Regulated Transmission System; or

(e) where paragraphs (a), (b) and (c)(ii)(B) apply, the Regulated Entity must promptly notify the ERC in writing of the application of those paragraphs.

Where a Regulated Entity makes an application pursuant to Section 12.7.1(a), it must include with that application information that demonstrates that the circumstances referred to in Section 12.7.1(a), (b) and (c)(i) or (c)(ii)(A) have occurred.

Upon receiving an application under Section 12.7.1(e), the ERC must decide whether or not the circumstances referred to in Section 12.7.1(a), (b) and (c)(i) or (c)(ii)(A) have occurred.

At any time the ERC determines that the circumstances referred to in Section 12.7.1(a), (b) and (c)(ii)(B) have occurred, the ERC must promptly notify the relevant Regulated Entity in writing of its determination.

Following an application by a Regulated Entity under Section 12.7.1(d), the ERC decides that the circumstances referred to in Section 12.7.1(a), (b) and (c)(i) or (c)(ii)(A) have occurred – the ERC must; or

at any time the ERC determines that the circumstances referred to in Section 12.7.1(a), (b) and (c)(ii)(B) have occurred – the ERC may,

in either case after taking into account any submissions made by the Regulated Entity, determine a new value for the X factor in the formula for the calculation of the Maximum Annual Revenue cap for that Regulated Transmission System as set out in Section 4.14.1 by recalculating the X factor:

based on:

- where Section 12.7.1(a), (b), (c)(i) and (c)(ii)(A) apply, the inclusion of the additional expenditure so identified;

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- where Section 12.4.1(a), (b) and (c)(ii)(B) apply, the reduction of the excess expenditure so identified; and

d) so as to recognize the extent to which the previous X factor was set on the basis of:

- in the case of paragraph (c)(i), that extra Operating and Maintenance expenditure not being incurred by the Regulated Entity; and
- in the case of paragraph (c)(ii), the variances in the Operating and Maintenance expenditure from what was originally approved by the ERC.

e) Any X factor which is recalculated under this Section 12.4.6 applies for each succeeding Regulatory Year in the then current Regulatory Period, commencing with the Regulatory Year that commences after the ERC recalculates that X factor, unless the ERC (acting pursuant to this Article XII) subsequently determines a new value for the X factor in the formula for the calculation of the Maximum Annual Revenue cap for that Regulated Transmission System, or a new method for the purpose of calculating that Maximum Annual Revenue cap, that is to apply for such Regulatory Years.

Procedure for events leading to an adjustment of rates

Section 4(e), Rule 3 of the Implementing Rules and Regulations (IRR) of R.A. 9136 should be strictly adhered to in all applications filed with the ERC for costs and other relief affecting consumers. Any application that would lead to undue recovery on the part of Regulated Entity and therefore give rise to an adjustment in rates for consumers (which could be an increase or decrease), including applications for applying pass-through costs and re-opening events for recalculating the X-factor, should comply with Section 4(e), Rule 3 of the IRR and the ERC's Revised Rules of Practice and Procedure.

ARTICLE XIII

DECISION REVOCATION AND NOTICES

Limited Decision Revocation Arrangements

If the ERC has made a decision under these Rules and later concludes that the decision was made on the basis of information provided to the ERC that was false or misleading in a material particular, or on the basis of analysis provided to the ERC by the Regulated Entity which incorporated a material calculation error, then, subject to Section 13.1.2, the ERC may revoke the decision and make a new decision in substitution for the revoked decision.

Before the ERC revokes and substitutes a decision pursuant to Section 13.1.1, the ERC must first:

notify the Regulated Entity in writing of:

- (i) the proposed revocation;
- (ii) the false or misleading information or the calculation error;
- (iii) the information required from the Regulated Entity to assist the ERC in making a new decision (if necessary); and
- (iv) the proposed process and time frame for making any new decision (including the proposed date of effect of the revocation and new decision);

allow the Regulated Entity a to make a reasonable time period to make submissions to the ERC, regarding the proposals referred to in paragraph (a) (including submissions as to whether the original decision was based on information that was false or misleading in a material particular or on a material calculation error); and

take into account any matters contained in a submission made by the Regulated Entity pursuant to paragraph (b).

A new decision made under Section 13.1.1 must only differ from the revoked decision to the extent necessary to correct for:

the false or misleading information (if any) on which the revoked decision was based;

the calculation error (if any) on which the revoked decision was based; and

the application of the revoked decision during the period in respect of which that decision was in effect.

The provision of false or misleading information to the ERC is a breach of these Rules and the ERC may impose a fine or penalty under Section 43 (1) of the Act for such a breach.

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Modification of Time Periods

The ERC may, by written notice to the Regulated Entity and upon a request for such extension being made in writing by the Regulated Entity, extend:

-) any time prescribed by these Rules as the time by which a thing required to be done by the Regulated Entity must be done; or
-) any period prescribed by these Rules as the period within which a thing required to be done by the Regulated Entity must be done.

Exception Clause

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

Fines and Penalty

Violation of any provisions of these Guidelines 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 17 of Republic Act 9136 otherwise known as the Electricity Power Industry Reform Act (EPIRA).

Regulated Entity who:

refusing to comply and cooperate with data and information requirements and audit activities;

failure to comply on a timely basis; and

withholding of any relevant information,

shall be subject to penalty provision.

APPENDIX A

PERFORMANCE INDICES AND METRICS

OVERVIEW

Performance incentive scheme that will apply for the Subsequent Regulatory is described below. The scheme will have three main streams.

Price-linked Incentive Scheme

Performance of Grid will be assessed against a number of network performance and service performance measures.¹⁶ If performance levels exceed predetermined targets, Regulated Entity will be financially rewarded. If performance levels fail to meet predetermined performance targets, Regulated Entity will be financially penalized.

Reward or penalty will take the form of a performance incentive factor (S-factor) to be used in price control formula described in Section 4.2.1. The performance incentive factor will be a weighted performance measure, based on the performance levels achieved against a number of indices over the calendar year preceding each Regulatory Year.

Information Disclosure

Performance of the Grid against a further number of performance indices (network and service related) will be regularly measured and published.

RICE-LINKED INCENTIVE SCHEME

Capturing the performance rewards or penalties

Performance incentive factor included in the price control formula described in 4.2.1, as repeated below, includes an incentive factor (S-factor) that is based on the performance of a Grid against a number of performance

$$AR_t = [MAR_{t-1} \times \{1 + CWI_t - X\}] + S_t - K_t + ITA_t$$

It can be zero, positive or negative, depending on whether actual performance against the (weighted) majority of the indices has exceeded the target levels discussed below or has fallen below these.

Service performance indices to be measured

Performance measures refer to those indices measured directly in terms of Distribution System usually expressed as technical factors. Service performance measures refer to those indices related to the performance of the staff supporting the operation of the Distribution System, usually expressed in terms of the time taken to complete actions, or the number of times actions exceeded or fell below target levels.

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Following service performance indices will be taken into account in setting the performance incentive factor:

Key Performance Measures

System Interruption Severity Index (SISI) - the ratio of the unserved energy to the system peak load occurring during the rating/reporting period. Unserved energy is the energy not served due to transmission line interruption(s) computed by outage duration multiplied by the load involved before the interruption. System peak load, on the other hand, is the highest demand for a particular rating/reporting period measured in megawatts (MW).

Frequency of Tripping (FOT) per 100 ckt-km (FOT/100ckt-km) - measures the number of line outages (transients and permanent or sustained) initiated by tripping of the relay subject to exclusion of identified faults.

System Availability (SA) - a proportion of total circuit time is the percentage of the system being considered on-line during the rating/reporting period. A circuit is regarded as being unavailable when it is out of service for construction, refurbishment, maintenance, or fault.

Frequency Limit Compliance (FLC) - refers to the percentage of time during the rating period that the system frequency is within the allowable frequency range of 60 ± 0.3 Hz.

Voltage Limit Compliance (VLC) - refers to the percentage of the number of voltage measurements during the rating period that the voltage measured did not exceed $\pm 5\%$ of the nominal voltage of all buses identified in the region (Luzon - 230 kV & 500 kV, Visayas - 138 kV & 69 kV, Mindanao - 138 kV) monitored at the high side of the substation.

Transmission Availability Indicator (ConA) for Luzon grid only - measures the availability of a subset of lines and transformers in the Luzon and Visayas Grids.

Ancillary Services Availability Indicator (ASAI) - measures the availability of ancillary services on each of the three grids in accordance with the requirements of Ancillary Services Procurement Plan (ASPP).

Performance Measures

Customer Satisfaction Indicator (CSI) - measures the extent to which customers with direct connections to the grid, including generators, distribution utilities and directly connected individual customers, are satisfied with the level of service provided by the Regulated Entity. Customer satisfaction will be measured by customer responses to an annual survey conducted by an external research provider using an objective and quantitative scoring system. The survey will be conducted by an

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pendent research company that will be engaged by the ERC and paid for the Regulated Entity.

Regulated Entity may propose other service performance indices and weights as deemed appropriate for its Grid, subject to ERC's review and approval.

Calculation of the Performance Incentive Factor

The performance incentive factor will be based on a weighted sum of performance components, one for each of the indices noted above. It will be calculated as follows:

$$\frac{[S_{SISI,t} + S_{FOT} + S_{SA} + S_{FLC} + S_{VLC} + S_{ConA} + S_{ASAI} + S_{CSI}] \times 0.025ARR_t}{FQ_t}$$

where,

ARR_t = the allowed annual revenue for Regulatory Year t calculated in accordance with Section 4.7.7;

FQ_t = the total amount of energy (expressed in kWh) that is forecast to be delivered to Grid Connection Points through the relevant Grid during Regulatory Year t, with the forecast as approved by the ERC;

$S_{SISI} \times Perf_{SISI,t-1}$

where, $S_{SISI,t}$ = S-component for SISI for Regulatory Year t;

W_{SISI} = ERC-Approved weighting given to the SISI S-component; and

$Perf_{SISI,t-1}$ = SISI performance assessment for the calendar year ending on December 31 of Regulatory Year t-1.

$S_{FOT} \times Perf_{FOT,t-1}$

where, $S_{FOT,t}$ = S-component, FOT for Regulatory Year t;

W_{FOT} = ERC-Approved weighting given to the FOT S-component; and

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$Perf_{FOT,t-1}$ = FOT performance assessment for the calendar year ending on December 31 of Regulatory Year t-1.

$V_{SA} \times Perf_{SA,t-1}$

where, $S_{SA,t}$ = S-component for SA for Regulatory Year t;

W_{SA} = ERC-Approved weighting given to the SA S-component; and

$Perf_{FOT,t-1}$ = SA performance assessment for the calendar year ending on December 31 of Regulatory Year t-1.

$V_{FLC} \times Perf_{FLC,t-1}$

where, $S_{FLC,t}$ = S-component for FLC performance for Regulatory Year t;

W_{FLC} = ERC-Approved weighting given to the FLC S-component; and

$Perf_{FLC,t-1}$ = FLC performance assessment for the calendar year ending on December 31 of Regulatory Year t-1.

$V_{VLC} \times Perf_{VLC,t-1}$

where, $S_{VLC,t}$ = S-component for VLC for Regulatory Year t;

W_{VLC} = ERC-Approved weighting given to the VLC S-component; and

$Perf_{VLC,t-1}$ = VLC performance assessment for the calendar year ending on December 31 of Regulatory Year t-1.

$V_{ConA} \times Perf_{ConA,t-1}$

where, $S_{ConA,t}$ = S-component for ConA for Regulatory Year t;

W_{ConA} = ERC-Approved weighting given to the ConA S-component; and

$Perf_{ConA,t-1}$ = ConA performance assessment for the calendar year ending on December 31 of Regulatory Year t-1.

$V_{ASAI} \times Perf_{ASAI,t-1}$

where, $S_{ASAI,t}$ = S-component for ASAI for Regulatory Year t;

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W_{ASAI} = ERC-Approved weighting given to ASAI S-component; and

$Perf_{ASAI,t-1}$ = ASAI performance assessment for the calendar year ending on December 31 of Regulatory Year t-1.

$V_{CSI} \times Perf_{CSI,t-1}$

where, $S_{CSI,t}$ = S-component for CSI for Regulatory Year t;

W_{CSI} = ERC-Approved weighting given to CSI S-component; and

$Perf_{CSI,t-1}$ = CSI performance assessment for the calendar year ending on December 31 of Regulatory Year t-1.

Weighting of the Performance Indices

of the total level of the rewards or penalties under the performance scheme for any Regulatory Year should not exceed 3 % of the allowed revenue for a Grid for that year. As the performance incentive scheme involves two streams involving possible changes to the annual revenue that can be earned, the following ceilings will apply to the maximum value of the price-linked incentive scheme in any Regulatory Year will be capped at 2.5% of the allowed revenue requirement for that Regulatory Year.

The weighting on the price-linked incentive scheme is already accounted for in the methodology in Section A2.1.2. The weightings will be determined during the reset process for the Subsequent Regulatory Period.

Determination of the Performance Targets for the Various Performance Indices

The methodology to determine the performance targets is described below. Entities are required to collect information about the performance levels achieved against these indices over the Previous Regulatory Period. This data is used when determining the final performance bands for the incentive scheme to be implemented during the subsequent regulatory period.

The same performance bands will be used for each performance index, as shown in Table A2. Performance in each of these bands would result in the determination of a simple performance assessment value to the index being assessed. The "Perf"-values described in Section A2.1.2.

Table A2: Proposed Performance Assessment Bands

Performance	Description	Performance
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Band		Value
1	Performance greatly below target	-1.0
2	Target not achieved	-0.5
3	Performance as per expectation	0
4	Target exceeded	0.5
5	Target greatly exceeded	1.0

ected performance target for each performance index will be set by the part of its final determination on the price control arrangements for the ent Regulatory Period. For each performance index, the target may be

historical performance level of a Regulated Entity against that index, ed on the average annual performance against this index for the five- r period; or

improvement over the historical performance level of a Regulated Entity inst that index, as determined by the ERC based on benchmarking inst the performance of the other similar international utilities. Such chmarking will allow for the normalization of physical, economic, and datory differences, and the results will be subject to public consultation r to setting performance targets.

he bands will be set for each performance index is described in Table A3 w.

Table A3a: Setting of Performance Bands for SISI Performance

SISI	
	SISI performance target set by the ERC for the Subsequent Regulatory Period
tion	Standard deviation of the annual SISI values for the Grid for the 10 years ending on the Previous Regulatory Period
eatly below	Annual SISI more than 2 standard deviations above the SISI target
ved	Annual SISI more than 1 standard deviation, but less than or equal to 2 standard deviations, above the SISI target
per	Annual SISI between or equal to 1 standard deviation above and 1 standard deviation below the SISI target
	Annual SISI more than 1 standard deviation, but less than or equal to 2 standard deviations, below the SISI target
ceeded	Annual SISI more than 2 standard deviations below the SISI target

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Table A3b: Setting of Performance Bands for FOT Performance

FOT	
	FOT performance target set by the ERC for the Subsequent Regulatory Period
Standard deviation	Standard deviation of the annual FOT values for the Grid for the 10 years ending on the Previous Regulatory Period
Greatly below	Annual FOT more than 2 standard deviations above the FOT target
Exceeded	Annual FOT more than 1 standard deviation, but less than or equal to 2 standard deviations, above the FOT target
As per	Annual FOT between or equal to 1 standard deviation above and 1 standard deviation below the FOT target value
Met	Annual FOT more than 1 standard deviation, but less than or equal to 2 standard deviations, below the FOT target
Not exceeded	Annual FOT more than 2 standard deviations below the FOT target

Table A3c: Setting of Performance Bands for SA Performance

SA	
	SA performance target set by the ERC for the Subsequent Regulatory Period
Standard deviation	Standard deviation of the annual SA values for the Grid for the 10 years ending on the Previous Regulatory Period
Greatly below	Annual SA more than 2 standard deviations above the SA target
Exceeded	Annual SA more than 1 standard deviation, but less than or equal to 2 standard deviations, above the SA target
As per	Annual SA between or equal to 1 standard deviation above and 1 standard deviation below the SA target value
Met	Annual SA more than 1 standard deviation, but less than or equal to 2 standard deviations, below the SA target
Not exceeded	Annual SA more than 2 standard deviations below the SA target

Table A3d: Setting of Performance Bands for FLC Performance

FLC	
	FLC performance target set by the ERC for the Subsequent Regulatory Period
Standard deviation	Standard deviation of the annual FLC values for the Grid for the 10 years ending on the Previous Regulatory Period
Greatly below	FLC more than 2 standard deviations above the FLC target
Exceeded	FLC more than 1 standard deviation, but less than or equal to 2 standard deviations, above the FLC target

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as per	FLC between or equal to 1 standard deviation above and 1 standard deviation below the FLC target value
ded	FLC more than 1 standard deviation, but less than or equal to 2 standard deviations, below the FLC target
ly exceeded	FLC more than 2 standard deviations below the FLC target

Table A3e: Setting of Performance Bands for VLC Performance

VLC	
Target	VLC performance target set by the ERC for the Subsequent Regulatory Period
Standard deviation	Standard deviation of the annual VLC values for the Grid for the 10 years ending on the Previous Regulatory Period
Performance greatly below	VLC more than 2 standard deviations above the VLC target
Performance not achieved	VLC more than 1 standard deviation, but less than or equal to 2 standard deviations, above the VLC target
Performance as per target	VLC between or equal to 1 standard deviation above and 1 standard deviation below the VLC target value
Performance exceeded	VLC more than 1 standard deviation, but less than or equal to 2 standard deviations, below the VLC target
Performance greatly exceeded	VLC more than 2 standard deviations below the VLC target

Table A3f: Setting of Performance Bands for ConA Performance

ConA	
Target	ConA performance target set by the ERC for the Subsequent Regulatory Period
Standard deviation	Standard deviation of the annual ConA values for the Grid for the 10 years ending on the Previous Regulatory Period
Performance greatly below	ConA more than 2 standard deviations above the ConA target
Performance not achieved	ConA more than 1 standard deviation, but less than or equal to 2 standard deviations, above the ConA target
Performance as per target	ConA between or equal to 1 standard deviation above and 1 standard deviation below the ConA target value
Performance exceeded	ConA more than 1 standard deviation, but less than or equal to 2 standard deviations, below the ConA target
Performance greatly exceeded	ConA more than 2 standard deviations below the ConA target

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Table A3g: Setting of Performance Bands for ASAI Performance

ASAI	
Target	ASAI performance target set by the ERC for the Subsequent Regulatory Period
Standard deviation	Standard deviation of the annual ASAI values for the Grid for the 10 years ending on the Previous Regulatory Period
Performance greatly below	ASAI more than 2 standard deviations above the ASAI target
Performance not achieved	ASAI more than 1 standard deviation, but less than or equal to 2 standard deviations, above the ASAI target
Performance as per target	ASAI between or equal to 1 standard deviation above and 1 standard deviation below the ASAI target value
Performance exceeded	ASAI more than 1 standard deviation, but less than or equal to 2 standard deviations, below the ASAI target
Performance greatly exceeded	ASAI more than 2 standard deviations below the ASAI target

Table A3h: Setting of Performance Bands Customer Satisfaction Index

CSI	
Target	CSI performance target set by the ERC for the Subsequent Regulatory Period
Standard deviation	Standard deviation of the target CSI, for the 5 years ending on the Previous Regulatory Period.
Performance greatly below	Annual target CSI more than 2 standard deviations above the CSI target value
Performance not achieved	Annual target CSI more than 1 standard deviation, but less than or equal to 2 standard deviations, above the CSI target value
Performance as per target	Annual target CSI between or equal to 1 standard deviation above and 1 standard deviation below the CSI target value
Performance exceeded	Annual target CSI more than 1 standard deviation, but less than or equal to 2 standard deviations, below the CSI target value
Performance greatly exceeded	Annual target CSI more than 2 standard deviations below the CSI target value

Excluded events

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be a number of external events which can have a substantial impact on the performance of the Grid against performance indices, but that are primarily outside the control of Regulated Entity. The ERC will allow these to be excluded from the statistics used to calculate network or service performance.

Events of which the impact on the performance of the Grid will generally be excluded are:

Outages that occur outside the Grid;

Outages due to Load shedding as a result of generation deficiency;

Planned Outages where the Users have been notified at least seven (7) days prior to the loss of power;

Outages that are initiated by the System Operator during the occurrence of Significant Incidents or the failure of its facilities;

Outages caused by any natural or manmade calamities; and

Outages due to other Events that the ERC shall approve after due notice and consulting.

A Regulated Entity wishing to exclude the impact of a certain event from the calculation of the service performance incentive scheme would need to provide the following:

A detailed description of the nature of the event for which an exclusion is sought and the reasons justifying the exclusion of the event, including the submission of supporting evidence;

An assessment of the impact of the event on the Grid reliability performance, for each of the measures adversely affected;

A description of the steps that the Regulated Entity took to mitigate against the event; and

Confirmation that the Regulated Entity was unable to further mitigate against the impact of the event.

Information disclosure

A component of the performance incentive scheme is the measurement and disclosure of further performance data. For the Subsequent regulatory period the Regulated Entity will be required to measure the performance of the Grid against the following indices:

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performance indices

number of interruption events, ie. number of times service is lost to a customer or group of Customers;

weighted average interruption frequency index, ie. connected MVA impacted by outages in excess of 10 minutes divided by total connected MVA;

unweighted average interruption frequency index, ie. connected MVA impacted by outages of less than or equal to 10 minutes divided by total connected MVA;

weighted average interruption duration index, ie. the product of connected MVA impacted by outages and the total number of minutes of such outages, divided by total connected MVA;

average forced outage duration, ie. the total duration of forced outages (measured in minutes) divided by the total number of such outages;

percentage time error, ie. the deviation of electric time from standard time (measured using a binary point system);

transmission losses as defined in the Philippine Grid Code.

percentage of management of Ancillary Services indicating the sufficiency of services and the number of firms contracted.

percentage of Congestion; and

percentage of Severity Cost.

Performance information, broken down monthly, has to be collected and supplied to the Commission monthly. In addition to the monthly figures, the cumulative performance index for each index must also be provided, from the start of the reporting calendar year till the end of the month for which each index was

Performance reports must be made available, at a minimum:

for each part of the Grid as is located in Luzon;

for each part of the Grid as is located in Visayas;

for each part of the Grid as is located in Mindanao;

for each technically relevant, each interconnection link between those parts of the Grid referred to above; and

for each technically relevant, each interconnection link between each island which is not in service for those parts of the Grid referred to above.

The Commission tends to annually publicize the information disclosure data for all