

Republic of the Philippines
ENERGY REGULATORY COMMISSION
San Miguel Avenue, Pasig City



Resolution No. 38, Series of 2006

A RESOLUTION PROMULGATING THE ENERGY REGULATORY COMMISSION'S RULES OF PRACTICE AND PROCEDURE

WHEREAS, the Energy Regulatory Commission ("ERC") is mandated under Republic Act No. 9136, otherwise known as the Electric Power Industry Reform Act of 2001 ("EPIRA") to carry out certain functions after due notice and hearing;

WHEREAS, in the discharge of such functions, the ERC has adopted the Rules of Practice and Procedure Governing Hearings Before the Energy Regulatory Board;

WHEREAS, there is a need to update, revise, and expand the existing rules of practice and procedure being followed by the ERC so as to align the same to the new provisions and requirements in the EPIRA and its Implementing Rules and Regulations and recent pronouncements thereon by the Supreme Court;

WHEREAS, to address this need, the ERC came out with the draft ERC Rules of Practice and Procedure and issued a notice setting the same for public hearing on 12 May 2006;

WHEREAS, the ERC received various comments and suggestions from interested parties before and during the 12 May 2006 public hearing;

WHEREAS, after careful consideration of the various views and comments submitted by interested parties, the Commission deems it appropriate to introduce certain revisions to the draft ERC Rules of Practice and Procedure and to promulgate the same;

NOW, THEREFORE, the ERC hereby RESOLVES to APPROVE and PROMULGATE, as it is hereby APPROVED and PROMULGATED, the ERC Rules of Practice and Procedure, hereto attached and made an integral part of this Resolution.

This Resolution shall take effect fifteen (15) days following its publication in a newspaper of general circulation in the country.

Pasig City, 22 June 2006.

(On Leave)
RODOLFO B. ALBANO, JR.
Chairman


OLIVER B. BUTALID
Commissioner


RAUF A. TAN
Commissioner

(On Leave)
JESUS N. ALCORDO
Commissioner


ALEJANDRO Z. BARIN
Commissioner

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RULES OF PRACTICE AND PROCEDURE**

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Republic of the Philippines
ENERGY REGULATORY COMMISSION
San Miguel Avenue, Pasig City

**ENERGY REGULATORY COMMISSION'S (ERC) RULES OF
PRACTICE AND PROCEDURE**

RULE 1 - GENERAL PROVISIONS

Section 1. *Purpose.* - It is the purpose of these rules to aid anyone who wishes to appear before the Energy Regulatory Commission and participate in any proceeding before it. It is the Commission's intention to be accessible and to make its Rules of Practice and Procedure clear and understandable for the parties, their attorneys, and the general public.

Section 2. *Application of Rules.* - Unless otherwise stated, these rules apply to all proceedings before the Commission where the Commission is required under prevailing laws, rules and guidelines to hold a hearing or to afford to the parties to the proceeding before it an opportunity for a hearing before making a decision.

Section 3. *General Powers of the Commission under these Rules.* - The Commission may issue general or specific procedural directions at any time, including before or during any proceeding.

The Commission may also exempt itself from these rules in the broader interest of justice and apply such suitable procedure that shall secure the just and expeditious determination of the matters in issue.

Section 4. *Construction of these Rules.* - These rules shall be liberally construed to secure the most expeditious and least expensive determination of every proceeding before the Commission on its merits, consistent, however, with the requirements of justice.

Section 5. *Application of the Rules of Court.* - In the absence of any applicable provision in these rules, the pertinent provisions of the Supreme Court of the Philippines' Rules of Court and Rules on Electronic Evidence may, in the interest of expeditious disposition of the cases pending before the Commission and whenever practicable and convenient, be applied suppletorily or by analogy.

RULE 2 - DEFINITIONS

Section 1. *Definitions.* - As used in these rules, except as otherwise required by the context:

"Applicant" means, in proceedings involving filings for permission or authorization which the Commission may give under the statutory authority delegated to it, the party on whose behalf the filings are made.

"Commission" and "Commissioner" mean the Energy Regulatory Commission, and a member thereof, respectively. "Chair" means the Chairperson of the Commission.

"Commission counsel" means a lawyer-member of the Commission's staff.

"Commission-initiated investigation" means a proceeding initiated by the Commission in the exercise of its investigative and quasi-judicial authority.

"Complainant" means a person who files a complaint intended to initiate a proceeding with the Commission regarding any act or omission by any person subject to the Commission's jurisdiction.

"Confidential information" means such information that has a commercial value or other value that would be, or could reasonably be expected to be, destroyed or diminished, or where the proprietary interest of any party, person or entity will be prejudiced, if the information were disclosed.

"Docket" means a file maintained by the Commission as the record for matters filed and proceedings heard by the Commission.

"Filing" means written pleadings, applications, comments, petitions, protests, motions, notices, compliance, and other papers submitted to the Commission.

"Hearing" means any proceeding at which evidence is taken on the merits of the matters at issue or comments received with respect to a proposed rule for adoption by the Commission.

"Intervenor" means a person who participates in a pending matter or proceeding as a party of record by statutory right or by order of the Commission on petition to intervene.

"Matter" or "proceeding" means the docket initiated by a filing or submittal or a Commission notice or order.

"Party" means each person named or admitted as a party to a proceeding before the Commission.

"Petitioner" means a person other than a complainant or an applicant, seeking affirmative relief from the Commission.

"Pleading" means a written document submitted by a party, or a person seeking to participate in a proceeding before the Commission, setting forth allegations of fact, claims, defenses, requests for relief, and/or other matters relevant to the issues raised and/or the relief sought in a proceeding and is used herein to refer to an application, petition, complaint, or answer as provided for in Rule 5.

"Pre-trial conference" means any conference or meeting of the parties, prior to the presentation of evidence on the merits, on the record and presided over by the Commission or a presiding officer for the purpose of formulating and simplifying the issues in the proceeding or addressing other matters that may expedite orderly conduct and disposition of the proceeding.


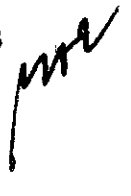
"Presiding officer" means the Chair or a Commissioner, or a Commission counsel authorized to conduct or preside over any hearing before the Commission.

"Respondent" means a person under the Commission's jurisdiction against whom any complaint or petition is filed or directed or a person who is under formal investigation by the Commission.

"Rule" means each statement, order, guideline, or decision of general applicability issued by the Commission that implements, interprets and prescribes law or policy, or describes the organization, procedures, or practice requirements of the Commission.

"Rule-making" means a proceeding to adopt, amend, or repeal a Commission rule.



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RULE 3 - FORMAL REQUIREMENTS

Section 1. *Caption.* - All initial applications, petitions, complaints, and other papers filed with the Commission in any proceeding shall clearly show, in the caption, the names of all persons in whose behalf the filing is made. If more than one person is involved, a single name only need be included in the title of subsequent papers filed. All subsequent filings shall show the docket designation assigned by the Docket Section of the Commission.

Section 2. *Form and Size.* - All pleadings and other papers filed with the Commission shall be typed or printed on paper 8.5" wide and 14" long. The impression may be on both sides of the paper and shall be double-spaced. Footnotes and quotations may be single-spaced. Pleadings and other papers, together with the annexes thereto, shall be fastened only on the left side. Unless otherwise directed, an original and two (2) copies of any pleading and other papers shall be filed. Reproductions may be made by any process provided that all copies are clear and permanently legible.

Section 3. *Signature.* - Except as may otherwise be ordered by the Commission, the original copy of each pleading or any other paper to be filed shall be signed by the party or its duly authorized representative, or by the party's attorney, and shall show the address of the same.

The signature of the party, its representative or attorney on any paper filed with the Commission constitutes a certification that the signatory has read the paper being subscribed and filed, and knows the contents thereof; that to the best of the signatory's knowledge, information, and belief formed after a reasonable inquiry, it is well grounded in fact and is warranted by existing law or it is not interposed for any improper purpose.

Section 4. *Verification and Certification against Forum Shopping.* - All pleadings as specified under Rule 5 of these rules filed with the Commission shall be verified. The verification shall contain a sworn statement that affiant has read the pleading and that the allegations therein are true and correct of affiant's own knowledge and belief. If such verification is executed by the party's responsible officer, in cases where the party is a juridical person, there shall be attached to the pleading the corresponding board resolution or secretary's certificate authorizing such officer to represent the party in the proceedings and to execute such verification on its behalf.

In addition, there shall be attached to an initiatory pleading, i.e. an application, petition, or answer with counter-complaint, a sworn certification against non-forum shopping executed in accordance with the Rules of Court.

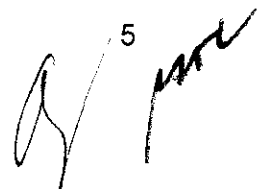
Section 5. *Construction.* - All pleadings and other filings shall be liberally construed and errors or defects therein which do not mislead or affect the substantial rights of the parties involved shall be disregarded.

Section 6. *Rejection of Pleadings and Documents.* - Filings which are not in substantial compliance with these or other Commission rules, orders of the Commission, or applicable statutes, except for applications or petitions which were the subject of pre-filing conference under Section 4 of Rule 6 and endorsed for filing by the Commission's staff, may be rejected within fifteen (15) days after filing or actual receipt by the Commission. If rejected, such papers will be returned with an indication of the deficiencies therein, including non-payment of the required filing fee as docketing requirement if such is the case. Rejection of such pleadings and documents is not a bar to the re-filing of the same with the Commission after compliance with all the requirements. Acceptance of a pleading or document for filing is not a determination that the pleading or document complies with all requirements of the Commission and is not a waiver of such requirements. The Commission's Docket Section is authorized to reject pleadings and documents under this rule.

Section 7. *Electronic Filing.* - Unless otherwise required by the Commission for other filings with it or exempted from this requirement, all pleadings, together with their supporting documents, shall also be electronically filed with the submission of at least three (3) diskettes or compact discs containing the electronic files thereof in file formats acceptable to the Commission such as Microsoft Office or OpenOffice.

Section 8. *Confidential Information.* - Claims of privilege may be made pursuant to Rule 4.



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RULE 4 - CONFIDENTIAL INFORMATION

Section 1. *Request for Confidential Treatment of Information.* - A party to any proceeding before the Commission may request that information about that party in the Commission's possession not be disclosed. To do so, said party shall:

- (a) Submit a request that information not be disclosed describing therein with particularity the information to be treated as confidential; specifying the grounds for the claim of confidential treatment of the information; and, if applicable, specifying the period during which the information must not be disclosed.
- (b) Submit to the Commission one copy of the document that contains the information sought to be treated as confidential, placed in a sealed envelope, with the envelope and each page of the document stamped with the word "Confidential".

If the information for which confidentiality is requested is part of the attachments to an application, petition or other filing, the application, petition or filing must comply with this section by incorporating therein the request.

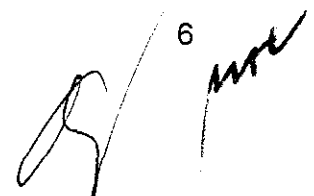
The party making the request shall serve the other parties with the request but not copies of the documents and/or information subject of the request. The other parties served with the request may thereafter file their opposition or comment on the request within ten (10) days from receipt thereof.

The party seeking to have the information protected from disclosure has the burden of proof to demonstrate that the information sought to be disclosed is entitled to that protection.

Section 2. *Action by the Commission on the Request.* - For the purpose of determining whether or not to accord confidential treatment to information, the Commission may review the information claimed to be confidential.

The Commission may deny the request for confidential treatment of information on grounds such as, but not limited to the following:

- (a) The party requesting confidential treatment of information has no actual, valuable proprietary interest to protect with respect to the information sought to be treated as confidential.
- (b) The information is, at the time of the request, generally available to the public by means other than through a breach of any confidentiality obligation with respect to such information.
- (c) The information is, at the time of the request, available to or already in the possession of the Commission on a non-confidential basis from a source that, to the knowledge of the Commission, has lawfully acquired such information on a non-confidential basis.



If the Commission denies the request, the information shall be subject to public disclosure thirty (30) days after the date on which the party requesting confidential treatment of information receives the Commission's order denying the request or order denying any motion for reconsideration thereof, if any, unless restrained by order of a court of competent jurisdiction or unless the Commission, upon motion by the requesting party filed before such disclosure, orders the return of the information to the said party, in which case it shall be prohibited from making use of the same information as evidence in the proceeding.

If the Commission determines that the disclosure of information requested to be treated as confidential information is justified, the Commission shall:

- (a) Issue an order to that effect; and
- (b) Unless otherwise required or directed by the order of a court of competent jurisdiction or agreed upon by the parties involved, continue to protect the information from public disclosure by maintaining the confidential information separate and apart from the records of the case and ensuring that confidential information is not divulged to unauthorized persons.

Section 3. Confidential Information as Evidence. - If a party intends to use confidential information as evidence after the Commission grants its request for treatment of such information as confidential, it shall manifest to the Commission such intention and request for issuance of a protective order.

Section 4. Contents of Protective Order. - If the Commission determines that a protective order should be issued with regard to the information designated as confidential, the Commission shall issue a protective order which:


- (a) Describes generally the nature of the confidential information and the procedures to be utilized to protect the confidentiality of the information;
- (b) Specifies the period during which the disclosure of the information to the public will be withheld or otherwise limited;
- (c) Specifies the procedures to be used by all the other parties during the pendency of the proceedings to ensure the confidentiality of the information;
- (d) Specifies the procedures for handling or returning the confidential information, as appropriate, upon the close of the proceedings or at the end of the period for which the information is to be treated as confidential;
- (e) Requires that the confidential information not be disclosed, except as:
 - 1. May be agreed upon by the parties pursuant to a protective agreement; or
 - 2. Otherwise directed by the Commission;
- (f) Specifies the procedures to be used at the time of the evidentiary hearing to protect the confidentiality of the information;
- (g) Requires such other action as the Commission deems appropriate under the circumstances.

Section 5. Disclosure of Information Designated as Confidential; Penalties.
- Information which is the subject of an agreement or a protective order shall be provided only to the Commission's staff in charge of the case. The parties of

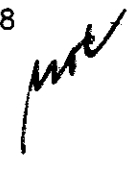
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record or their attorneys or representatives, if the parties are juridical entities, after agreeing to be bound by the terms of the protective order or agreement, shall be allowed access to such confidential information.

Any person, party, attorney or representative of a party, or member of the Commission staff who violates the procedures of the Commission for protecting information; fails to obey a protective order issued by the Commission; violates the terms or conditions of a protective agreement; or violates any other prohibition of the disclosure of information designated as confidential, shall be subject to the imposition of administrative fines and penalties, without prejudice to whatever other remedies of the party in whose favor the protective order was issued.



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RULE 5 - PLEADINGS

Section 1. *In General.* - Pleadings shall be written in any of the official languages, typewritten or printed, and filed with the Docket Section of the Commission. It shall state clearly and concisely the ultimate facts and legal authority upon which the pleader relies for the grant of authorization or any other relief.

Section 2. *Supporting Documents.* - All pleadings shall be accompanied by such documents which substantially establish the truth of the factual allegations contained therein.

Section 3. *Application.* - By means of an application, the applicant seeks authorization or permission to undertake any matter or activity within the regulatory power of the Commission. It shall contain a concise statement of the authorization applied for and the ultimate facts that would qualify or entitle the applicant to the grant of the authorization being sought.

When the application is predicated on a franchise, sale, lease, mortgage, or any other contract, such franchise or contract shall be referred to in the application by alleging in substance its salient and pertinent provisions and appending to the application a copy of the franchise or contract.

Section 4. *Petition.* - By means of a petition, a person, other than an applicant or complainant, petitions the Commission for affirmative relief under any statute or other authority delegated to the Commission. It shall state clearly and concisely the petitioner's grounds of interest in the subject matter, the facts relied upon, and the relief sought, and shall cite by appropriate reference the statutory provision or other authority relied upon for relief. If the relief sought affects the rights of other persons, it shall implead all these other persons as respondents and state their complete names and addresses.

Section 5. *Complaint.* - The complaint is a concise statement of the ultimate facts of the matter complained of within the regulatory power of the Commission, and shall specify the principal relief sought. It shall state the complete name and address of the respondent against whom the complaint is directed.

Section 6. *Answer.* - The respondent summoned to answer a complaint or petition or to whom an order is issued by the Commission to show cause, shall file an answer within fifteen (15) days from receipt of the Commission's order. The answer shall admit or deny the material allegations stated in the complaint, petition, or show cause order, and shall state the matters of fact and the law relied upon, attaching therewith such documents supporting the allegations in the answer.

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RULE 6 - PRE-FILING REQUIREMENTS

Section 1. *Rate Applications and Other Applications or Petitions for Relief Affecting the Consumers.* - Among the applications or petitions that directly affect the electricity rates chargeable to the end users or directly affect the consumers are applications for a general change in rate schedules or revision of rates and applications for approval of a power supply contract between a distribution utility and power producer.

The Commission may consider other applications and petitions as falling under this category of applications/petitions and thus direct compliance with the pre-filing requirements in Section 2 of this rule.

Section 2. *Pre-filing Requirements for Rate Applications and Other Applications/Petitions for Relief Affecting the Consumers.* - Before the Commission shall accept and docket rate applications and other applications or petitions for relief affecting the consumers, the applicant or petitioner must comply with the following requirements:

(a) The applicant or petitioner must furnish the Local Government Unit (LGU) Legislative Body (and not the Office of the Mayor) of the city or municipality where it principally operates, a copy of the application or petition, and not a mere notice of application/petition, with all its annexes and accompanying documents. If such principal place of operation is a component city or a municipality, the applicant or petitioner shall likewise furnish the LGU Legislative Body of the province of which such component city or municipality is part.

(b) The applicant or petitioner must cause the publication of the entire application or petition, excluding its annexes, and not a mere notice of filing or notice of application or petition, in a newspaper of general circulation within its franchise area or area where it principally operates.


Section 3. *Proof of Compliance with the Pre-filing Requirements.* - To demonstrate compliance with the foregoing requirements, the applicant or petitioner shall attach to its application or petition a certification issued by the Presiding Officer, Secretary of the LGU Legislative Body concerned, or their duly authorized representatives, attesting to the fact that such LGU Legislative Body was served a copy of the application or petition, with all its annexes and accompanying documents, and the date of such service. In the absence of such certification, the applicant or petitioner shall prove compliance by attaching the affidavit of the person that served the application or petition on the LGU Legislative Body, attesting to such fact and the date of such service. The affiant shall also attach to the affidavit a copy of the page of the application or petition bearing the stamp "received" or acknowledgement of receipt by the LGU Legislative Body.

The applicant or petitioner shall also attach to the application or petition an affidavit of publication executed by the editor-in-chief or other responsible officer


of the newspaper of general circulation wherein the application or petition was published, together with a copy of the newspaper issue containing the published application or petition. The affidavit of publication shall also contain information on the area or areas where the newspaper is being circulated.

Section 4. *Pre-filing Conference with Commission Staff.* - Before accepting any application or petition for filing, the Commission's Docket Section may first refer applicant or petitioner, or its representative to the appropriate Service of the Commission for a pre-filing conference to inquire into the compliance with the foregoing pre-filing requirements and/or the completeness of the supporting documents attached to the application or petition.

Section 5. *Filing Fees.* - The requirement for the payment of filing fees upon the filing of an initiatory pleading shall be governed by the Schedule of ERC Fees and Charges, as amended.



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RULE 7 - AMENDMENT OF PLEADINGS AND
SUPPLEMENTAL PLEADINGS

Section 1. *Amendments of Pleadings and Supplemental Pleadings.* - Before a pleading can be amended or supplemented, the pleader shall file a motion for leave attaching therewith the proposed amended or supplemental pleading. Except as provided in the following section, such leave to amend will be allowed or denied by the Commission as a matter of discretion.

If the amendment will substantially enlarge or modify an application or petition, the Commission, after granting leave, shall require applicant or petitioner to comply with the requirements in Rule 6, if the application or petition is covered by said rule, and to republish the notice of hearing on the amended application or petition.

Section 2. *Amendments of Complaints and Petition.* - Complaints may be amended once as a matter of right before the respondent files a responsive pleading thereto. The same rule applies to petitions which implead a respondent. After the filing of such responsive pleading, amendments of pleadings or the filing of supplemental pleadings may be made only upon leave of the Commission.

Section 3. *Amendments to Conform to the Evidence.* - When, at a hearing, issues not raised by the pleadings are introduced by express or implied consent of the parties, they shall be treated in all respects as if they had been raised in the pleadings. Such amendment of the pleadings as may be necessary to cause them to conform to the evidence and to raise these new issues may be made upon motion of any party at any time during or after the hearing. If evidence upon new issues is objected to on the ground that it is not within the issues raised in the pleadings, the Commission may allow the amendment of pleadings and such evidence to be received, when it appears that the presentation of the merits of the proceeding will be served thereby without prejudicing the public interest or the rights of any party.

Section 4. *Withdrawal.* - A party desiring to withdraw an application, petition, or complaint filed with the Commission shall file a motion to withdraw such application, petition, or complaint stating therein the reasons for the withdrawal. Such motion will be granted or denied by the Commission as a matter of discretion.

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RULE 8 - PARTIES

Section 1. *Classification of Parties.* - According to the nature of the proceedings before the Commission and the relationships of the parties to the proceedings, a party to a proceeding shall be classified as an applicant, petitioner, complainant, respondent, or intervenor.

Section 2. *Appearances.* - A party may represent itself or may be represented by an attorney. Any non-lawyer who satisfies the Commission or the presiding officer that he or she possesses the expertise to render valuable service to a party and assist it in the presentation of matters before the Commission, may be allowed to appear on behalf of a party or parties. The Commission may also direct the appearance of the Grid Management Committee, Distribution Management Committee, or some other experts, as intervenors in certain cases where, in the determination of the Commission, they may be of assistance to the Commission in the resolution of matters brought before it.

Section 3. *Conduct Required.* - Any person appearing in a proceeding before the Commission must conform to recognized standards of ethical and courteous conduct required of persons appearing before the regular courts. Contumacious conduct by any person at any hearing before the Commission is a ground for the exclusion of that person from that hearing and for summary suspension of that person from further participation in the proceeding.

Section 4. *Rights of Parties.* - At any proceeding before the Commission, each party of record is entitled to enter an appearance, introduce evidence, examine and cross-examine witnesses, make arguments, make and argue motions and generally participate in the proceeding.

The Commission or the presiding officer shall acknowledge an oppositor for the purpose of making a statement.

Section 5. *Withdrawal of Representative.* - Any representative wishing to withdraw from a proceeding before the Commission must make a motion stating the reasons for the requested withdrawal and, as far as practicable, must secure the conformity of the party represented.

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RULE 9 - INTERVENTION, OPPOSITION AND COMMENT

Section 1. *Intervention.* - Any person having an interest in the subject matter of any hearing or investigation pending before the Commission may become a party thereto by filing a verified petition with the Commission giving the docket number and title of the proceeding and stating: (1) the petitioner's name and address; (2) the nature of petitioner's interest in the subject matter of the proceeding, and the way and manner in which such interest is affected by the issues involved in the proceeding; and (3) a statement of the relief desired.

Section 2. *Filing of Petitions to Intervene.* - Petitions under this rule shall be served on the original parties and filed with the Commission not less than five (5) days prior to the time the proceeding is called for hearing, unless the notice of hearing fixes the time for filing such petitions, in which case such notice shall govern. A petition, which for good cause shown was not filed within the time herein limited, may be presented to and allowed or denied by the Commission or the presiding officer at the time the proceeding is called for hearing.

Section 3. *Grant of Leave to Intervene.* - If a petition to intervene shows that the petitioner has a direct and substantial interest in the subject of the proceeding, or any part of it, and the intervention would not unduly broaden the issues, the Commission or the presiding officer may grant leave for the petitioner to intervene or otherwise to appear in the proceeding with respect to the matters set forth in the petition and subject to such reasonable conditions as may be prescribed by the Commission or presiding officer.

The grant of such leave to intervene does not constitute a finding by the Commission that such party will or may be affected by any order or rule made in the proceeding. Failure of any party to file answer to such petition for leave to intervene does not constitute an admission of the facts stated in such petition.



Section 4. *Limitation on Intervenors.* - When two or more intervenors have substantially the same interest and positions, the Commission or presiding officer may, in order to expedite the hearing, limit the number of intervenors who will be permitted to cross-examine, make and argue motions or make objections during the course of the hearing.

Section 5. *Opposition and Comment.* - Any person other than a party of record who objects to the approval of an application, petition, or other matter which is, or will be, under consideration by the Commission, or otherwise may have some comments thereon, may file an opposition thereto or comment thereon at any stage of the proceedings before the applicant or petitioner rests its case. No particular form of opposition or comment is required, but the document, letter or writing should contain the name and address of such person and a concise statement of the opposition or comment and the grounds relied upon. If possible, three (3) legible copies of the opposition or comment including the original shall be filed with the Commission and the assigned docket number of such proceeding shall be clearly indicated therein. The parties affected by the

opposition or comment filed shall be served with a copy thereof and shall be given the opportunity to respond to the same within ten (10) days from receipt thereof.

Section 6. *Effect of Filing of Opposition or Comment.* - An opposition or comment is intended solely to alert the Commission and the parties to a proceeding of the fact and nature of the objections to or comments on an application, petition, or any other proposed Commission action and does not become evidence in the proceeding. The filing of an opposition or comment does not make the filer a party to the proceedings unless it is permitted by the Commission to intervene therein on petition to intervene.



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RULE 10 - SERVICE AND FILING

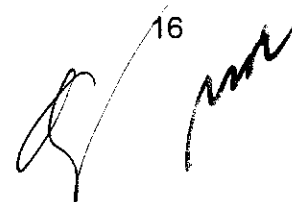
Section 1. *Service Upon Parties.* - Subject to the provisions of Rule 4 on Confidential Information, a copy of all documents filed in any proceeding before the Commission shall be served upon all other parties impleaded or admitted by the Commission. If a party appears after the original documents have been filed, a copy of all papers previously filed shall be furnished to such party upon its request.

Section 2. *Manner of Service and Period to Respond.* - Unless otherwise ordered by the Commission, service shall be made upon a party or upon its attorney, if an appearance has been entered, by hand-delivery, registered mail, or express courier delivery to its place of business or residence. Service may also be made by electronic service (electronic mail) or facsimile transmission, if the parties agree that it is sufficient.

If the party served is allowed under these rules or by order of the Commission a certain period of time within which to respond to the pleading or document served upon it, the period shall commence on the date of receipt by hand delivery, registered mail, or express courier delivery. By agreement, the parties may also use the date of electronic service/mailing or facsimile transmission as the reckoning date of the commencement of the period.

Section 3. *Proof of Service.* - There shall accompany and be attached to the original of each document filed with the Commission proof of service upon all other parties as required by this rule, which shall consist of a written admission of the party served or the certification of the party serving, containing a statement of the date, place and manner of service, and with the registry or courier delivery receipts, if service is by registered mail or express delivery, attached thereto.

Section 4. *Filing of Pleadings and Other Papers.* - The filing of pleadings and other papers shall be made by presenting the original and two (2) copies of any pleading or other papers, together with the diskettes or compact discs containing the electronic files of the same, personally to the Docket Section of the Commission, or by sending them by registered mail addressed to the Docket Section.



RULE 11 - TIME

Section 1. *Computation.* - Except as otherwise provided by law, in computing any period of time prescribed or allowed by these rules, or any other Commission rule, regulation, or order, or by any applicable law, the day of the act, event, or default from or after which the designated period of time begins to run shall not be included, but the last day of the period so computed shall be included, unless it is a Saturday, Sunday, or a legal holiday, in which event the period shall run until the end of the next working day.

Section 2. *Extensions.* - Except as otherwise provided, whenever by any Commission rule, regulation, or order, or any notice given thereunder, an act is required or allowed to be done at or within a specified time, the time fixed or the period of time prescribed may, for good cause, be extended by the Commission upon the filing of a motion, prior to the expiration of the applicable period of time, showing that there is good cause for such extension of time.

Section 3. *Continuance.* - The Commission or presiding officer may, for good cause at any time, with or without request, continue or adjourn any hearing. A hearing before the Commission shall begin at the time and place fixed in an order or a notice, but thereafter may be adjourned from time to time or from place to place by the Commission or the presiding officer.

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RULE 12 - MOTIONS

Section 1. *Motions in General.* - All requests for relief other than what is sought by pleading shall be by motion. Motions must be in writing or made on the record during a hearing. A motion shall fully state the action requested or order sought and the grounds relied upon and, if necessary to prove facts alleged therein that are not yet of record, shall be accompanied by supporting affidavits and other papers. A copy of the written motion shall be served upon all the parties before filing with the Commission.

Section 2. *Objections.* - Any party objecting to a written motion filed pursuant to this rule shall, within ten (10) days from receipt of a copy of the motion, file an objection thereto in writing setting forth in detail the grounds for the objection. The time for filing objections may be varied by order of the Commission.

Section 3. *Action on the Motion.* - The Commission or the presiding officer may conduct such proceedings and enter such orders as are deemed necessary to address issues raised by the motion.

Section 4. *Delay of Proceeding.* - Except as otherwise directed by the Commission or the presiding officer, the filing of a motion, either prior to or during any proceeding, and any action thereon, shall not delay the conduct of such proceeding.

RULE 13 - NOTICE OF HEARING

Section 1. *Notice Required.* - The Commission shall give notice of the commencement of the hearings of applications or petitions to all parties and to such other persons as the Commission designates. After commencement, a hearing may be adjourned upon oral notice to those present at the time of adjournment.

Section 2. *Form of Notice.* - Notice shall be by registered mail or personal service. Nothing herein, however, shall limit the power of the Commission to order notice by other means.

Section 3. *Contents of Notice.* - The notice shall include:

- (a) A statement of the time, place, and nature of the hearing;
- (b) A statement of the legal authority and jurisdiction under which the hearing is held; and
- (c) A short and plain statement of the matters involved.

The notice shall substantially comply with the applicable form in the attached ERC Standard Forms.

Section 4. *Publication and Other Requirements.* - The notice of hearing for any application or petition for rate adjustment or for any relief affecting the consumers shall be published by the applicant or petitioner, at its own expense, at least twice for two (2) successive weeks in two (2) newspapers of nationwide circulation, the last day of publication not to be later than ten (10) days before the scheduled hearing. In all other applications or petitions, the publication of the notice shall only be once in a newspaper of general circulation in the locality or localities where the applicant or petitioner operates its business, if there be any such local newspaper, or in a newspaper of nationwide circulation, at least ten (10) days before the scheduled hearing.

All notices of hearing of any application or petition shall also be posted on the Commission's Website upon its issuance.

In its discretion, the Commission may impose upon the applicant or petitioner such other requirements as may be deemed necessary to the end that persons who may be affected by the application shall be apprised thereof and have opportunity to file their intervention or to comment on and/or submit their opposition to the application or petition.

Section 5. *Compliance with the Jurisdictional Requirements.* - At the initial hearing of the application or petition, the applicant or petitioner shall submit in writing its compliance with the jurisdictional requirements of publication and notice to all affected parties, attaching thereto such evidence, including registry receipts and/or return cards, methodically arranged and duly marked for examination or inspection by the other parties.

RULE 14 - PROVISIONAL AUTHORITY

Section 1. *Motions for Provisional Authority.* - For applications or petitions covered by Section 1 of Rule 6, the motion for provisional authority shall be included in the application or petition and the caption of the pleading shall clearly indicate that such relief is requested.

Section 2. *Allegations in Support of the Motion and Supporting Documents.*
- The motion must be accompanied by supporting affidavits and documents and must allege such facts and circumstances as would justify the Commission's exercise of discretion by granting provisional authority or interim relief prior to a final decision.

Section 3. *Action on the Motion.* - Motions for provisional authority or interim relief may be acted upon with or without hearing. The Commission shall act on the motion on the basis of the allegations of the application or petition and supporting documents and other evidences that applicant or petitioner has submitted and the comments or opposition filed by any interested person, if there be any.

For motions filed in applications or petitions covered by Section 1 of Rule 6, the Commission shall hold in abeyance its resolution of the motion until after the lapse of thirty (30) days from the receipt of a copy of the application or petition by the LGU Legislative Body concerned or publication of the application or petition in a newspaper of general circulation, whichever comes later. The Commission shall also resolve the motion within seventy-five (75) days from the filing of the application or petition. If the Commission issues a provisional authority, it shall schedule and start the hearing on the application or petition within thirty (30) days from date of issuance of the provisional authority and resolve the same within twelve (12) months from the issuance of the provisional authority.

Section 4. *Refund.* - The interim relief granted by the Commission shall be subject to refund if the Commission finds after the hearing on the application or petition that the applicant or petitioner was not entitled thereto or to the full amount of any provisional rate adjustment allowed and to such other conditions that the Commission may impose.

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RULE 15 - DISCOVERY PROCEDURES

Section 1. *Policy.* - The Commission favors prompt and complete disclosure and exchange of information and encourages informal arrangements among the parties for this exchange. Further, it is the Commission's policy to encourage the timely use of discovery as a means toward effective presentations at hearing and avoidance of the use of cross-examination at hearing for discovery purposes.

Section 2. *Modes of Discovery.* - The modes of discovery permitted in the Rules of Court may be employed by any party. Upon experiencing any difficulties in obtaining discovery, the parties may seek relief from the Commission by filing a proper motion.

Section 3. *Depositions.* - The testimony of any witness may be taken by deposition at any time before the hearing is closed. The deposition shall proceed in the same manner and pursuant to the same procedures governing the taking and use of depositions under the Rules of Court.

Section 4. *Data Requests.* - In any proceeding pending before the Commission, the Commission and any party may request such data, studies, work papers, reports, and information as are reasonably relevant to the proceeding and are permitted by these rules or by law.

Data requests by a party shall be in writing, shall be directed to the party to whom the request is made or its attorney, copy furnished the Commission, and shall specify in as much detail as possible the material requested. Oral data requests may be allowed at the Commission's or presiding officer's discretion when made on the record during a hearing. Written or oral requests for data shall include the purpose and justification therefor. Any requested material or portion thereof to which objection is not made as set forth below shall be produced for the requesting party as soon as practicable and in no event later than fifteen (15) days after service of the request, unless the time for production is otherwise shortened or extended by agreement or order of the Commission.

Objection to a data request by a party in whole or in part on the ground that the request is unreasonable and/or the material is not relevant or not permitted or required by law shall be made by motion filed as soon as practicable and in no event later than ten (10) days after service of the request. An oral objection may be made at a hearing when the Commission or presiding officer has allowed an oral data request. Objection shall include the portions of the data request objected to and shall detail the basis for the objection. The Commission or the presiding officer shall thereupon determine the validity of the request, taking into account the objection thereto, and rule accordingly.

Copies of all requested data shall be served on the Commission and, subject to the reimbursement of the reproduction costs incurred by the requested


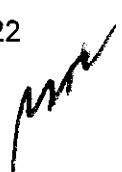
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party, on all other parties, unless a protective order has been granted under Section 5.

Section 5. *Protective Orders.* - Upon motion by a party from whom discovery is sought, and for good cause shown, the Commission or presiding officer may make an order when justice requires to protect the party from unreasonable annoyance, embarrassment, oppression, burden or expense, or from disclosure of confidential business and financial information. If the motion for a protective order is denied in whole or in part, the Commission or presiding officer may order that the party provide or permit discovery. If the motion is made upon a claim of privilege, the procedure in Rule 4 shall apply.

Section 6. *Effect of Failure to Comply.* - The failure of a party to comply with a data request or a Commission order related thereto shall be a ground for striking such portion of any testimony related to such request, without prejudice to the institution of contempt proceedings against the erring party at the discretion of the Commission.



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RULE 16 - PRE-TRIAL CONFERENCE

Section 1. *Policy.* - The Commission encourages the use of pre-trial conferences as a means of making more effective use of hearing time and to otherwise aid in the disposition of the proceeding or the settlement thereof. Having the issues clearly delineated in advance of hearing and the ground rules for the conduct of the hearing well understood may be particularly beneficial in complex or multi-party proceedings. For applications or petitions filed with the Commission, the pre-trial conference may proceed immediately after the applicant or petitioner has submitted its compliance with the jurisdictional requirements.

Section 2. *Matters to be Taken Up During Pre-Trial Conference.* - The Commission may require that a pre-trial conference be held with the parties for the purpose of formulating and simplifying the issues in the proceeding or addressing other matters that may expedite orderly conduct and disposition of the proceeding. Such matters may include:

- (a) the necessity or desirability of having an expository hearing or consumer forum during which the applicant or petitioner will be required to make an informal presentation of the application or petition and to respond to public comments or requests for clarification from the consumers;
- (b) the necessity or desirability of amendments to the pleadings;
- (c) the possibility of obtaining admissions of fact and documents which will avoid unnecessary proof;
- (d) limitations on the number of witnesses or time allocated to particular witnesses or issues at the hearings;
- (e) procedures at the hearing and hearing schedule;
- (f) the submission of written testimony and exhibits to be offered at the hearing and the marking thereof;
- (g) the consideration of outstanding motions and petitions to intervene;
- (h) agreements regarding service of documents;
- (i) the status of any settlement negotiations, if appropriate, and the possibility of submission to alternative modes of dispute resolution; and
- (j) other matters as may aid in the prompt disposition of the proceeding.

Section 3. *Pre-Trial Brief.* - The Commission may require any one or all of the parties to a proceeding to file at least five (5) days before the date of initial hearing or date set for pre-trial conference a pre-trial brief containing, among others:



- (a) a summary of admitted facts and proposed stipulation of facts;
- (b) the issues to be tried or resolved;
- (c) the documents or exhibits to be presented, stating the purpose thereof and proposed markings therefor; and
- (d) the number and names of the witnesses, with their written testimony in affidavit form, if already available, to be attached to the pre-trial brief.

Failure to file the pre-trial brief shall have the same effect as failure to appear at the pre-trial conference.

Section 4. *Appearance of Parties.* - All parties or their duly authorized representatives shall attend the pre-trial conference fully prepared for a productive discussion of all matters and fully authorized to make commitments or take positions. Failure of any party to attend or be represented during the pre-trial conference without good cause shown shall constitute a waiver of any objection to any agreement reached or to any order or ruling made as a result of the conference.

Section 5. *Pre-Trial Order.* - Upon termination of the pre-trial conference, the Commission shall issue an order stating the matters taken up during the conference, the action taken thereon, the amendments allowed to the pleadings, and the agreements or admissions made by the parties as to any of the matters considered. The order shall control the subsequent course of the proceedings, unless modified by the Commission to prevent manifest injustice.



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RULE 17 - SUMMARY PROCEEDINGS

Section 1. *Uncontested Proceedings.* - In applications, petitions, or complaints where there are no intervenors or there is no contest, the applicant, petitioner, or complainant shall prove its case by submitting and offering into evidence the affidavits of its witnesses and other evidences within the time allowed by the Commission or presiding officer. Before considering the record closed and the case submitted for decision, however, the Commission may require the submission of additional data and/or set the case for clarificatory hearing and direct applicant or petitioner and its witnesses to appear before it for questioning.

Section 2. *Summary Procedure for Consumer Complaints.* -

(a) *Coverage.* - The following consumer complaints shall be heard in accordance with the summary procedure set forth herein:

1. The complaint involves an amount not more than Two Hundred Thousand Pesos (PhP 200,000.00);
2. The only issue involved in the complaint is incapable of pecuniary estimation or pertains to a violation of certain provisions of the Magna Carta for Residential Consumers on proper notices, meter testing and sealing, announcement of scheduled power interruptions, installation and relocation of meters, investigation by utilities of consumer complaints, and reconnections of electric service; or
3. Other cases as may be determined by the Commission.

However, nothing in this section shall preclude the Commission from conducting a formal hearing on complaints previously declared as subject to summary procedure.

(b) *Summary Dismissal of the Complaint.* - After the Commission determines that the case falls under summary procedure, it may, from an examination of the allegations therein and such papers as may be attached thereto, dismiss the case outright on the grounds apparent therefrom for the dismissal of administrative actions such as lack of jurisdiction over the subject matter of the proceeding.

If no ground for dismissal exists, it shall forthwith issue an order stating that the summary procedure under this section shall apply. The order shall also contain the issues to be resolved.

(c) *Submission of Affidavits and Position Papers.* - Within a period of fifteen (15) days from receipt of the order mentioned in the preceding paragraph, the parties shall simultaneously submit affidavits of their witnesses and other

evidences on the factual issues defined in the order, together with their position papers setting forth the law and the facts relied upon by them.

(d) *Rendition of Judgment.* - The Commission shall render judgment within thirty (30) days after receipt of the last affidavit or position paper, or the expiration of the period for filing the same.

However, should the Commission find it necessary to clarify certain material facts, it may, during the said period, issue an order specifying the matters to be clarified, and require the parties to submit affidavits or other evidence on the said matters within ten (10) days from receipt of said order. Judgment shall be rendered within thirty (30) days after the receipt of the last clarificatory affidavit, or the expiration of the original sixty (60)-day period, whichever comes later.

Section 3. *Summary Decision.* -

(a) *Motion for Summary Decision.* - The Commission may grant a motion for summary decision on any or all issues to the extent that the pleadings, affidavits, materials obtained by discovery or otherwise, admissions, matters officially noticed, or evidence of record show that there is no genuine issue as to any material fact and that the moving party is entitled to a decision in its favor, as a matter of law, on the issues expressly set forth in the motion.

(b) *Filing and Contents of Motion.* - Any party to a proceeding may move for summary decision on any or all of the issues. The motion may be filed at any time before the close of the hearing on the merits. The party filing the motion shall demonstrate that the issue or issues may be resolved by summary decision in accordance with the standard set forth in the preceding paragraph. Affidavits in support of the motion shall be based on personal knowledge and shall set forth such facts as would be admissible in evidence. A motion for summary decision shall specifically describe the facts upon which the request for summary decision is based, the information and materials which demonstrate those facts, and the laws or legal principles that entitle the movant to a summary decision.

(c) *Response to Motion.* - Any response to a motion for summary decision shall be filed within ten (10) days from receipt of a copy thereof. A party opposing the motion shall show, by affidavits, materials obtained by discovery or otherwise, admissions, matters officially noticed, or evidence of record, that there is a genuine issue of material fact for determination at the hearing, or that summary decision is inappropriate as a matter of law.

RULE 18 - HEARINGS

Section 1. *Public Hearings.* - Except as permitted by law or by order of the Commission, all hearings shall be public. The Commission or the presiding officer may, however, limit the number of spectators and participants to the extent that safety and good order require. The Commission or presiding officer may also eject or bar the admission of any person who disrupts or threatens to disrupt a public hearing.

Section 2. *Venue.* - All hearings shall be held in the Commission's Central Office in Pasig City, unless a different place is designated in the notice.

Section 3. *Consolidation.* - The Commission, on its own initiative or upon motion by a party, may consolidate cases involving common questions of fact or law, or may conduct joint hearings thereon. However, upon motion of the interested party, a separate hearing may be held on issues peculiar only to the movant.

Section 4. *Presiding Officer.* - The hearing shall be conducted by the Commission or a presiding officer who shall be the Chair or a Commissioner or a Commission counsel. The presiding officer or the clerk of the Commission may administer oaths and affirmations. The presiding officer shall take full control of the proceedings and shall limit the presentation of evidence to matters relevant to the issues and necessary for a just and speedy disposition of the case. The presiding officer shall be authorized to make all decisions regarding the admission or exclusion of evidence or any other procedural matters which may arise in the course of the hearing.

Section 5. *Order of Presentation.* - The following order of presentation of evidence shall be followed:

(a) The party initiating the proceeding shall present its evidence by offering the affidavits and supporting documents of its witnesses and such additional evidences as it may wish to present. In consolidated proceedings, all parties initiating the consolidated proceeding shall first present their evidence;

(b) The witnesses shall be cross-examined by the respondent, opposing party or intervenors;

(c) The party initiating the proceeding may, if it deems necessary, ask questions on re-direct examination on matters covered during the cross-examination of its witness and the respondent; the opposing party or intervenors shall thereafter be allowed to conduct re-cross-examination on matters covered by the re-direct examination of the witness;

(d) After presentation of its witnesses, the party initiating the proceeding shall formally offer its exhibits;

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(d) The respondent, opposing party or intervenors, as the case may be, shall then present their evidence in the same manner;

(e) Presentation of rebuttal or sur-rebuttal evidence may be allowed subject to the discretion of the Commission.

Section 6. *Direct Testimony.* - All direct testimony shall be presented in writing, unless otherwise allowed by the Commission or the presiding officer. Written testimony, when properly authenticated by the witness under oath, may be transcribed into the record or admitted as an exhibit. Direct testimony shall be pre-filed at the pre-trial conference, unless the Commission or the presiding officer allows the filing thereof at a later time.

Written testimony shall be prepared in question and answer form, numbering each line of text along the left-hand margin, if possible, and with the pages numbered consecutively; shall contain a statement of the qualifications of the witness; shall contain only matters of personal knowledge to the witness or matters on which the witness is an expert or otherwise competent to testify; shall be signed under oath; and shall be accompanied by any exhibits to which it relates. Such written testimony shall be subject to the same rules of admissibility and cross-examination of the witness as if it were presented orally.

Section 7. *Cross-examination.* - Cross-examination of the witness presenting such written testimony shall proceed and terminate at the hearing at which it is authenticated by the witness, unless the Commission or presiding officer for good cause shall otherwise direct. In the cross-examination of witnesses, only relevant, pertinent and material questions necessary to enlighten the Commission on the issues shall be allowed.

Section 8. *Rebuttal and Sur-rebuttal Testimony.* - All rebuttal and sur-rebuttal testimony shall be presented in writing and also in question and answer form, unless otherwise allowed by the Commission or the presiding officer. Written testimony, when properly authenticated by the witness under oath, may be transcribed into the record or admitted as an exhibit. Rebuttal testimony shall be served upon each party and pre-filed at least five (5) days prior to a scheduled hearing for reception of rebuttal and sur-rebuttal evidence, unless a shorter period is allowed by the Commission or presiding officer. Cross-examination of a witness presenting rebuttal or sur-rebuttal testimony shall proceed and terminate at the hearing at which it is authenticated, unless the Commission or presiding officer for good cause shall otherwise direct.

Section 9. *Exhibits.* - All exhibits shall, to the extent practicable, be marked for identification during the pre-trial conference or prior to commencement of the hearing. Except as allowed by the Commission or the presiding officer, no exhibit shall be marked for identification unless copies have been provided to all parties and to the Commission.

Section 10. *Offer of Evidence.* - As regards testimonial evidence, the offer must be made before the witness authenticates his or her written testimony. As

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regards documentary and object evidence, the offer must be made after the presentation of a party's testimonial evidence.

Section 11. *Objections.* - When objections are made to the admission of evidence before the Commission, the grounds relied upon shall be stated briefly.

Section 12. *Number of Witnesses.* - The Commission or presiding officer may limit appropriately the number of witnesses that may be heard upon any issue.

Section 13. *Further Evidence.* - At any stage of the hearing, the Commission may call for further evidence upon any issue, and require such evidence to be presented by the party or parties concerned. The Commission may, if deemed advisable, authorize any participant to file specific documentary evidence as part of the record within a fixed time, before considering the case submitted for decision. If requested by a party, cross-examination of this material shall be permitted.

Section 14. *Memorandum.* - Unless waived by the parties with the consent of the Commission or the presiding officer, at the close of the hearing, or at such other time during the proceeding as the Commission shall deem appropriate, the Commission shall fix the time for the filing of memorandums, giving due regard to the nature of the proceeding, the magnitude of the record, and the complexity and importance of the issues involved. The memorandum shall contain:

- (a) A concise statement of the case and the issues for resolution; and
- (b) Proposed findings of fact and conclusions of law, together with the proof or exhibits relating thereto and the reasons therefor separately stated and discussed.

Section 15. *Recording of Hearings.* - Hearings shall be recorded through any available means, and a transcript of the hearing shall be a part of the record. Such transcripts shall include a verbatim report of the hearing; nothing shall be omitted therefrom except as is directed on the record by the Commission or the presiding officer; and shall be certified as true and correct by any of the Commission's stenographers. For purposes of the preparation of the transcript, the Commission may require any of the parties to prepare and submit such transcript based on the official recording of the Commission, subject to verification and certification by the Commission's stenographer that such transcript submitted faithfully reflects what are contained in the official recording.



Any person may record, with prior leave of the Commission, all or any portion of a hearing by way of camera, video, or voice recorder of any kind, subject to whatever conditions the Commission may impose.

Section 16. *Close of Record.* - The record in a proceeding shall close after the memorandums, if any, have been filed, or otherwise after the Commission orders the case submitted for decision, and thereafter, there shall not be received in evidence or considered as part of the record any document, letter or other evidence submitted except as provided in the succeeding section.

Section 17. *Reopening of Proceedings.* - Notwithstanding the provisions of Section 16, any party may file a motion for reopening of the proceedings for the purpose of taking additional evidence at any time after the presentation of evidence has been completed but before promulgation of a decision, order or resolution, if during that period there should occur or arise transactions, events or matters, whether factual or legal resulting in a changed situation of the parties. Copies of such motion shall be served upon all parties or their attorneys of record, and shall set forth clearly the facts claimed to constitute grounds requiring reopening of the proceedings, including material changes of fact or of law alleged to have occurred since the conclusion of the hearing. Within ten (10) days following the service of such motion, or such shorter or longer time as the Commission shall order, any other party to the proceedings may object to the motion.

The Commission may also *motu proprio* reopen the proceedings for reception of further evidence at any time prior to the issuance of its decision, order, or resolution, after notice to the parties and opportunity to be heard.



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RULE 19 - RULES OF EVIDENCE

Section 1. *Rules of Evidence Not to be Strictly Applied.* - Subject to the requirements of due process, the technicalities of law and procedure and the rules obtaining in the courts of law shall not strictly apply to proceedings before the Commission. However, irrelevant, immaterial, or unduly repetitious evidence shall be excluded.



Section 2. *Official Notice.* - Official notice may be taken of judicially cognizable facts not subject to reasonable dispute in that they are generally known within the jurisdiction of the Commission or capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned. In addition, official notice may be taken of generally recognized facts within the area of the Commission's specialized knowledge.

Section 3. *Motions for Official Notice and Opportunity to Respond.* - If a party intends to rely on matters officially noticed as part of that party's direct case, it shall file a motion for official notice during the presentation of its evidence. Motions for official notice may be written or oral. The motion shall state with specificity the facts, material, records, or documents of which official notice is requested, and copies of such materials, records, or documents shall be provided to the Commission and all parties. A party who opposes the motion shall have the opportunity to contest the requested action.

Section 4. *Data Requested by the Commission.* - The Commission may consider in its decision such data, studies, work papers, reports, and information submitted to it by any party upon its request pursuant to Rule 15.



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RULE 20 - PROCEDURES AND REQUIREMENTS IN
PARTICULAR COMMISSION PROCEEDINGS

A. Applications for a General Change in Rate Schedules or Revision of Rates

Section 1. Applications for a General Change in Rate Schedules or Revision of Rates. - Applications for a general change in rate schedules shall indicate the revised rates applied for and the reasons cited to justify such revision or adjustment. Rate applications of distribution utilities that are not yet under performance-based regulation shall conform to the appropriate form in the attached ERC Standard Forms.

Section 2. Supporting Documents and Information. - The application for a general change in rate schedules shall be accompanied by the following documents and information:

- (a) Schedule A (in ERC Format)

Table 1: Development of Rate Base

Specific Requirements: For Electric Cooperatives (EC) and Private Utilities (PU)

- 1.1. Appraisal Report
 - 1.1.1. Independent appraiser should be accredited by ERC
 - 1.1.2. Appraisal Report must be in accordance with the Guidelines for the Appraisal of Property, Plant and Equipment for Rate Fixing Purposes of ERC
 - 1.1.3 Two (2) copies of Valuation Report of Independent Appraisal Company
- 1.2. Detailed Breakdown of assets, additions and retirements after the last approved application up to the present appraisal
- 1.3. Schedule showing the percentage of local and foreign cost component of assets under appraisal
- 1.4. Schedule of rate of depreciation and method used per asset category
- 1.5. Schedule of utility plant in service for the test year (both depreciable and non-depreciable assets)
 - 1.5.1. Schedule: Comparison of Utility Plant in Service (Test Year vs. Previous Year) Assets with more than 100% increase from previous years need detailed breakdown with corresponding justification
- 1.6. Schedule of depreciation expense on Appraisal Increase (from last approved appraisal)
 - 1.6.1. Schedule of depreciation rate
- 1.7. Schedule of Construction Work-In-Progress (Status and Percentage of Completion)
- 1.8. Determination of Cash Working Capital (computation, billing cycle, supporting documents)

- 1.9. Schedule of Assets previously disallowed by ERB/ERC indicating order/decision date, if any

Table 2: Capital Costs

Specific Requirements: For PUs only

- 2.1. Copy of the Approved Capital Expenditure (CAPEX) Project/s or the application in the absence of approved CAPEX Project/s for the Test Year
- 2.2. Projected Statement of Invested Capital and Rate of Return for a Five (5) Year Period
- 2.3. Schedule of Invested Capital and Rate of Return (for the Test Year period)
- 2.4. Schedule of Annual Debt Cost Calculation for the Test Year

Specific Requirements: For ECs only

- 2.1. National Electrification Administration (NEA) Loan Profile for the Test Year
- 2.2. Loan Profiles from sources other than NEA for the Test Year (Include loan profiles for the succeeding year(s) if new loans were acquired after the test year)
- 2.3. Detailed Breakdown of the amount of Debt Service reflected in the current rate application (Uniform Filing Requirements / UFR)
- 2.4. Written explanation reconciling the differences in total amount of Debt Service (UFR) (excluding Interest Cost on Cash Working Capital) vs. the Test Year's Loan Profile/s (NEA and other sources)
- 2.5. Copy of the Approved Capital Expenditure (CAPEX) Project/s or the application in the absence of approved CAPEX Project/s for the Test Year

Table 3: Operation & Maintenance Expense

Specific Requirements: For ECs and PUs

- 3.1. Power Cost
 - 3.1.1. Generation Cost Schedule for the Test Year
 - 3.1.2. Transmission Cost Schedule for the Test Year
 - 3.1.3. System Loss Schedule for the Test Year
 - 3.1.4. Written explanation reconciling the differences in the amount reflected in the Generation & Transmission & System Loss Schedules vs. rate application (UFR)
 - 3.1.5. Sources of Power
 - i. NPC (Main or Small Power Utilities Group / SPUG), pls. specify)
 - ii. Independent Power Producers (IPP)
 - iii. Self-generation
 - iv. Others (ex. Other Distribution Utilities / DUs)
 - 3.1.6. Certified True Copies of Power Bills used in the Test Year
- 3.2. Explanation on any discrepancy of the amount reflected in the rate application vs. Audited Financial Statement (F/S)

- 3.3. Detailed Breakdown of all Expenses/Accounts - with explanation as to the purpose of expenses (both in hard and electronic copies)
- 3.4. NEA Cash Approved Budgets for the Test Year (For ECs)
- 3.5. Top Twenty (20) Uncollectible Accounts (Acct. Code No. 420-904)
- 3.6. Copies of publications/fliers made for Informational and Instructional Advertising Expenses for the year 2003 and corresponding costs thereon. (Acct. No. 420-905-00)

Table 4: Payroll Portion of O & M

Specific Requirements: For ECs and PUs

- 4.1. Plantilla/Payroll (per employee, latest monthly) basic salary, SSS, Pag-ibig, PhilHealth, 13th month pay & other benefits for the Test Year (Use Table 1)
- 4.2. For the 2 years prior the Test Year, Test Year and the Year after:
 - 4.2.1. Total number of plantilla (permanent) positions
 - 4.2.3. Number of positions filled-up
 - 4.2.4. Number of vacant positions
 - 4.2.5. Number of contractual employees
 - 4.2.6. Number of casual employees
- 4.3. Written explanation reconciling the difference in the Plantilla/Payroll vs. the Payroll Cost reflected in the rate application (if any)
- 4.4. Certified photocopies of the following issuances: 2003 to present

Specific Requirements: For ECs only

- 4.5. Wage orders issued affecting the EC's salaries & wages
- 4.6. Copy of NEA approval on each of the incentives/ benefits granted by the cooperative to its officers and employees (Refer to Table 2)
- 4.7. If applicable, copies of the EC Board Resolution on the incentives/benefits granted to officers and employees
- 4.8. If applicable, copies of the Collective Bargaining Agreement (CBA) on increase in salaries or grant of incentives or benefits
- 4.9. Details of Pension & Benefits (Acct. No. 430-926-00)
- 4.10. Officers' Allowances & Benefits (Acct. No. 433-934-00)

Table 5: Depreciation and Amortization Expense

Table 6: Income Tax & Other Items

- (b) Work Papers on Details & Explanations
 1. Audited F/S (Audited F/S of test year)
 2. Balance Sheet
 3. Income Statement
 4. Cash Flow
 5. Notes to the Financial Statement
 6. Trial Balance
 7. Work Papers
 - 7.1. To explain functionalization of each account and its basis
 - 7.2. To explain calculation of electricity-related amounts/ adjustments transferred to column 4 of Schedule A

- 7.3. To allocate electricity-related amounts in column 5 of Schedule A among the five functions in cols. 6-10
8. Projected Financial Statements for Five (5) Year Period
9. Projected Cash Flow Statements for Five (5) Year Period

- (c) Schedule A-1: Summary of Revenue
 1. Sources for all Distribution/Transmission
 2. Related Business
- (d) Schedule B in ERC Format: Summary of Cost of Service (CoS) using Revalued Assets/ Projected Values (*For PUs only*) .
- (e) Schedule C: Cost of Capital

Specific Requirements: For ECs only

1. Calculation/Methodology/Debt Service Details
 2. Detailed summary of all components of total EC debt service
 3. All supporting documentation including any reports submitted to NEA or Power Sector Assets and Liabilities Management Corporation (PSALM)
- (f) Schedule D: Functionalization Factors
 1. Detailed computation/explanation of any deviation/modification made on default factors of the UFR Model
 2. Method used in the Demand-Customer Split Minimum Plant Method
 - 2.1. Summary of Meters (latest data)
 - 2.1.1. Type, Quantity and Amount
 - 2.1.2. Number and Cost (disposed and under repair)
 - 2.2. Summary of Transformers (latest data)
 - 2.2.1. Type, Quantity and Amount
 - 2.2.2. Number and Cost (disposed and under repair)
 - 2.3. Summary of Poles (latest data)
 - 2.3.1. Type, Quantity and Amount
 - 2.3.2. Number and Cost (disposed)
 3. Narrative description of the functionalization factor if code designation is used
 4. The relative (decimal representations of percentages) amounts constituting the functionalization factors
 5. The absolute amounts constituting the factors, i.e. the data used as numerators and divisors in calculating the functionalization factors
 - (g) Schedule E: Billing Determinants & Customer Class Allocation
 1. Sub-Schedule E-1: System Data

Specific Requirements For ECs and PUs

- 1.1. Basis of kWh Sales
 - 1.1.1. Actual
 - 1.1.2. Average
 - 1.1.3. Annualized

- i. Increase or decrease in kWh sales due to adjustment for changes in customer composition and/or for changes in the number of customers
 - ii. Increase or decrease in kWh sales due to adjustment other than for the effects of customers (e.g. reclassification of customers), reflecting each adjustment separately
 - 1.2. Basis of kW Demand
 - 1.2.1. Annual Billing-Demand (kW) for the test year for customer classes with demand meters meaning, all customers of that particular class should have demand meters
 - 1.3. Basis of Number of Customer
 - 1.3.1. Average number of customers
 - 1.3.2. Year-end number of customers
 - 1.4. System Load Factor
 - 1.5. Schedule of Power Interruptions for Five (5) Year Period
 - 1.6. Narrative explanation for all adjustments made for the Year of the above schedule
 - 1.7. Frequency Distribution of Customers and kWh consumption of Residential Customers (Test Year and Current Year)
2. Sub-Schedule E-2: Customer Adjustments

Specific Requirements: For ECs and PUs

- 2.1. Does the DU have the following customer classes:
 - 2.1.1. Sale for Resale? If yes:
 - Identify the customer/s
 - Provide copy of the contract
 - When did the sale started?
 - What is the rate/kWh charged to his customer?
 - To date, does the DU still have this type of customer?
 - 2.1.2. "Others"? If yes:
 - Identify the customer/s and give brief description of customer class (e.g. Temporary Lightings during fiestas)
 - What is the rate/kWh charged to this customer?
 - To date, does the DU still have this type of customer?
 - 2.1.3. Large Load? If yes:
 - Identify the customer/s
 - Provide copy of the contract
 - When did the sale start?
 - What is the rate/kWh charged to his customer?
 - To date, does the DU still have this type of customer?
 - From what voltage level does this customer take power?
 - What is the product line of this customer?
 - Is it considered in the computation of the Total Revenue Requirement? If not, submit schedule showing the cost of servicing and revenue derived from the same.
 - Provide same schedule for other customers under the same scenario

2.1.4. Streetlights?

- How does the DU bill this type of customers (Per number of bulbs/per street/per barangay/per municipality?)
- Are they metered?

2.1.5. List of Barangay Power Association (BAPA) (*For ECs only*)

- Indicate number of mother meters and individual house connections per BAPA and corresponding kWh Sales
- Identify the customer/s and give brief description of customer class (e.g. Temporary Lightings during fiestas)
- What is the rate/kWh charged to the customer?
- How does the DU bill this type of customers (Per number of bulbs/per street/per barangay/per municipality?)

3. Sub-Schedule E-3: Rate of Return

Specific Requirements: For PUs only

- 3.1. Determination of Return on Rate Base/Weighted Average Cost of Capital (WACC) (study and supporting documents)

4. Sub-Schedule E-4: Class CoS Analysis

5. Sub-Schedule E-5: Class Allocation Factors for

- 5.1. Generation
- 5.2. Transmission
- 5.3. Distribution
- 5.4. Supply
- 5.5. Metering

(h) Schedule F: Rate Design

- 1. Sub-Schedule F-1: Revenue Summary
- 2. Sub-Schedule F-3: Rate Class Definition
- 3. Sub-Schedule F-4: Load Research Data

Specific Requirements: For ECs and Pus

- 3.1. Sub-Schedule F-4.1: Basis of System Peak Demand
- 3.2. Sub-Schedule F-4.1.1: Total system peak demand and peak demand by rate and by class for the Test Year and for each month of the Test Year
- 3.3. Sub-Schedule F-4.1.2: Detailed computation of Coincident and Non- Coincident Peak per customer class for the Test Year
- 4. Sub-Schedule F-5: Justification for Consumption Level-Based Rates
- 5. Sub-Schedule F-6: Proof of Revenue Statement
 - 5.1. Sub-Schedule F-6.1: Comparison of Revenue and Rate (Existing vs. Proposed)
- 6. Sub-Schedule F-7: Rate Design Analysis Data
 - 6.1. Sub-Schedule F-7.1: Customer Profile and Rate Impact Simulation per customer class

- (i) Schedule H
 - 1. Sub-Schedule H-1: Computation of Inter-Class Cross Subsidy
 - 2. Sub-Schedule H-2: Proof of Revenue Statement
 - 3. Sub-Schedule H-3: Computation of Lifeline Rate

Specific Requirements: For ECs and PUs

- 3.1. Sub-Schedule H.3.1: Detailed Breakdown of Lifeline Discount granted and collection of subsidy
- 3.2. Sub-Schedule H.3.2: Frequency Distribution of Customers and kWh consumption of Residential Customers (Test Year and Current Year)

- (j) Schedule J: System Losses & Associated Costs

Specific Requirements: For ECs and PUs

- 1. Proposed cap on the recoverable rate of system losses based on load density, sales mix, cost of service, delivery voltage, and any other relevant technical parameters. The supporting data and analysis shall distinguish between technical and non-technical system losses and differentiate losses based on customer class.
- 2. Detailed system loss information for the past five (5) years and any applicable engineering studies
- 3. Calculations of all costs directly attributed to system losses
- 4. Calculations of the rate components for the recovery of costs associated with system losses in a fashion separate and distinct from other rates; and
- 5. Plan to reduce system losses over the next five (5) years which shall include costs and/or investments to attain such deduction

- (k) Schedule K: Rate Schedules for Each Customer

- (l) Schedule L: Non-Recurring Rates & Supporting Cost Data

B. Applications for Approval of Power Supply Contract

Section 1. *Applications for Approval of Power Supply Contract.* – Applications for approval of power supply contract between a distribution utility and power producer, other than those covered by the Guidelines for the Setting and Approval of Electricity Generation Rates and Subsidies for Missionary Electrification Areas (ERC Resolution No. 11, series of 2005, dated 6 July 2005), shall include a statement of the salient provisions of the said contract, including the stipulations on the pricing, and a statement of its impact on the overall rates of the applicant-utility once said contract is approved.

Section 2. *Supporting Documents and Information.* - The application for approval of power supply contract shall be accompanied by the following documents and information:

- (a) Articles of Incorporation of Generation Company

- (b) Securities and Exchange Commission (SEC) Certificate of Registration of the said Articles of Incorporation of Generation Company
- (c) Latest General Information Sheet of Generation Company
- (d) Board of Investment (BOI) Certificate of Registration of Generation Company
- (e) Environmental Compliance Certificate (ECC) issued by the Department of Environment and Natural Resources (DENR) to the Generation Company
- (f) Power Supply Agreement/Energy Conversion Agreement Contract (PSA/ECA)
- (g) Details of the PSA/ECA
 - 1. Executive Summary
 - 2. Sources of Funds/Financial Plans
 - 2.1. Debt/Equity Ratio
 - 2.2. Project Cost
 - 2.3. Annual Interest
 - 2.4. Computation of Return on Investment/WACC
 - 2.5. Certification from the Bank/Lending Institution specifying the principal amortization, term and interest during the cooperation period of the loan agreement
 - 3. Purchased Power Rate
 - 3.1. Breakdown of the base prices of Operation and Maintenance, Capacity Fee, Fixed Operation Fee, and Energy Fee (provide computations)
 - 3.2. Sample Computation of Power Rates with the supporting documents on the assumptions taken
 - 3.3. If applicable, basis/rationale of indexation and level of indexation
 - 4. Cash Flow specifying the following:
 - 4.1. Initial Costs
 - 4.2. Breakdown of Operating and Maintenance Expenses and
 - 4.3. Minimum Energy Off-take (MEOT)
- (i) All details on the procurement process of fuel including requests, proposals received, tender offers, etc.
- (j) Copy of Related Agreements (i.e. Transmission Wheeling Contract, Fuel Supply Agreements, etc.)
- (k) Certificate of Compliance (COC) issued by the ERC pursuant to the Guidelines for the issuance of COC for Generation Companies/Facilities
- (l) Certification by NPC on whether or not Transition Supply Contract (TSC) capacity and energy are expected to be available during the contractual period (include relevant supporting documentation, data and analysis supporting each statement)
- (m) All relevant technical and economic characteristics of the generation capacity, installed capacity, mode of operation, and dependable capacity of the plant
- (n) Details on the procurement process used by the Distribution Utility leading to the selection of the Generation Company including request(s) for proposals, proposal received by the Distribution Utility, tender offers, etc.
- (o) Details regarding transmission projects or grid connection projects necessary to complement the proposed generation capacity, including the parties that will develop and/or own such facilities, any costs related to

- such project, and specification of the parties responsible for recovery of any costs related to such projects
- (p) Certification regarding the consistencies and inconsistencies between the proposed generation capacity and the Department of Energy's (DOE) Philippine Development Plan (PDP). Any inconsistency shall be supported by relevant analysis including but not limited to, forecasts and assessment of available generation capacity and technology mix.
 - (q) Details regarding the load forecast projections in accordance with the latest Distribution Development Plan of the Distribution Utility and the variability of those projections over the proposed contractual period, including the estimation of the potential for a reduction in load supplied by the Distribution Utility due to retail competition. Any inconsistency shall be supported by relevant analysis.
 - (r) If the application is filed later than two years following the effectivity of the Guidelines for the Recovery of Costs for the Generation Component of the Distribution Utilities' Rates, the application must include an alternative Demand Side Management (DSM) program that could be implemented by the Distribution Utilities if approved by the ERC. The Distribution Utility shall submit the projected costs and benefits of the DSM program.

Section 3. Applications for Approval of Power Supply Contract between an Electric Cooperative and a New Power Provider. - The applicant in applications for approval of power supply agreement between an electric cooperative and a new power provider (NPP), as the same is defined in the Guidelines for the Setting and Approval of Electricity Generation Rates and Subsidies for Missionary Electrification Areas (ERC Resolution No. 11, series of 2005, dated 6 July 2005), shall comply with the requirements in said guidelines pertaining to the notification by the electric cooperative of the launch of the competitive selection process and the requirements pertaining to the filing and approval of the power supply agreement (PSA) between an electric cooperative and an NPP and approval of the true cost of generation rate (TCGR).

In these applications, the Commission will render a decision within ninety (90) days from the date of the filing of the application, unless it extends the 90-day decision period for a maximum of ninety (90) days on account of extraordinary circumstances attending the application. If no decision is rendered within the original or the extended decision period, the PSA and the NPP TCGR will be deemed approved.

C. Application for Approval of Electric Distribution Capital Projects

Section 1. In General. - Any plan for expansion or improvement of distribution facilities shall be reviewed and approved by the Commission to ensure that all capital projects are optimized and that the contracting and procurement of the equipment, assets and services have been subjected to transparent and competitive bidding and purchasing processes to protect public interest. Applications of this nature shall be governed by the Guidelines to Govern the Submission, Evaluation and Approval of Electric Distribution Capital Projects.

Section 2. Application for Approval of Major Electric Capital Projects. - The application for the approval of any Major Electric Capital Project/s, as the same is defined in the Guidelines to Govern the Submission, Evaluation and Approval of Electric Distribution Capital Projects shall comply with the formal requirements in Rule 3 and shall be accompanied by the following supporting documents:

- (a) Description of the Project
- (b) Justifications for the Project (include the adverse effects of the non-implementation of the proposed Project(s) and impact or benefits of the proposed Project(s) on the system)
- (c) Options/Alternatives considered in lieu of the proposed Project(s)
- (d) Five-year Historical and Forecast Planning Data consistent with the Distribution Development Plan (DDP)
- (e) Technical Analysis (Simulation and/or Computation)
- (f) Projected Financial & Economic Cost Analysis
 - 1. Impact/effect on rate base of the proposed Project(s)
 - 2. Net Present Value, Internal Rate of Return and Benefit/Cost Ratio analysis (include analysis of the alternatives)
- (g) Conceptual Engineering Design and Drawings
- (h) Project Cost Estimates which have to be in reference to a specified design and bill of materials in the latest Manual of Construction Standards submitted to the ERC
- (i) Project Financing Plan
- (j) Proposed Gantt Chart Schedule (include Bidding and Procurement Schedule)
- (k) Board Resolution or Secretary's Certificate approving the proposed Project(s)
- (l) Sworn Statement from the authorized representative of the Electric Utility that an application for approval from the concerned agencies that may have interest in the proposed project has been filed /or shall be filed by (specify date of filing and furnish ERC a copy within 5 days upon filing)
- (m) Sworn Statement from the authorized representative of the Electric Utility that the proposed major capital project is consistent with the DDP. Projects which are not included in the DDP need justification.

Section 3. Application for Approval of Major Non-Electric Capital Projects. - The application for the approval of any Major Non-Electric Capital Project, as the same is defined in the Guidelines to Govern the Submission, Evaluation and Approval of Electric Distribution Capital Projects shall comply with the formal requirements in Rule 3 and shall be accompanied by the following supporting documents:

- (a) Description of the Project
- (b) Justification for the Project
- (c) As-built Design and Drawings, if applicable
- (d) Actual Project Cost
- (e) Projected Financing Plan
- (f) Gantt Chart Schedule
- (g) Board Resolution or Secretary's Certificate approving the proposed project/s

- (h) Sworn Statement from the authorized representative of the Electric Utility that an application for approval from the concerned agencies that may have interest in the proposed project has been filed or shall be filed, if applicable

Section 4. *Issuance of Provisional Authority.* - Upon filing of the application, the Commission may, on its own or upon motion, grant the issuance of a Provisional Authority (PA) based on the allegations of the application and on such other documents attached thereto or submitted by the parties. The Commission, if necessary, may schedule a hearing for the issuance of a PA not later than thirty (30) days from the filing of the application. Thereafter, the Commission shall issue a ruling either granting or denying the PA stating clearly the reasons therefor, within seventy five (75) days from the filing of the application.

Section 5. *Decision.* - Any application for the approval of Major Capital Projects and/or Major Emergency Capital Projects shall be decided by the Commission within ninety (90) days from the time the applicant formally offers its evidence; otherwise, the application shall be deemed approved upon the lapse of said period.

Section 6. *Permit Fee.* - For the authorization and approval of Major Capital Projects and/or Major Emergency Capital Projects, an electric utility shall be required to pay a permit fee based on the existing schedule of ERC Fees and Charges.

Section 7. *Referral to the Distribution Management Committee or Technical Consultant.* - The Commission may refer to the Distribution Management Committee or engage the services of a consultant at a reasonable cost, in the evaluation of any Major Capital Project application submitted to it for approval. The applicant shall be charged an amount equivalent to the expenses incurred by the Commission in engaging the services of the consultant, and said expenses shall be recovered by the applicant as part of the capital expenditure of the project being evaluated.

Section 8. *Reportorial Requirements.* - In addition to the foregoing, the electric utility shall comply with the reportorial and other requirements contained in the Guidelines to Govern the Submission, Evaluation and Approval of Electric Distribution Capital Projects.

D. Applications for Authorizations as Required by Section 20 (e) and (g) of the Public Service Act

Section 1. *In General.* - A distribution utility shall secure the Commission's authorization for issuance of stock certificates representing an increase of capital; for issuance of any share of stock without par value; or issuance of any bond or other evidence of indebtedness payable in more than one year from the issuance thereof. It shall also secure the Commission's approval to the sale, alienation, mortgage, encumbrance, or lease of its property, franchises, certificates, privileges, or rights or any part thereof; merger or consolidation of its property,

franchises, certificates, privileges, or rights or any part thereof, with those of another utility.

Section 2. *Supporting Documents.* - Applications under Section 1 shall be accompanied by the following documents and information insofar as they are applicable:

- (a) Latest Audited balance Sheet and Profit and Loss Statement;
- (b) Letter of approval of lending institution from where the loan is to be secured;
- (c) List of projects and/or items of equipment and their estimated cost to which the proceeds of the loan will be utilized;
- (d) List of properties to be mortgaged (with specifications);
- (e) Details or specifications of the equipment/projects to be purchased; and
- (f) Basis/Reasonableness of the estimated cost per project/equipment.

Section 3. *Applications for Issuance of any Bond or Other Evidence of Indebtedness Payable in More Than One Year To Fund Electric Capital Projects.* - If the issuance of bonds or other evidence of indebtedness payable in more than one year from issuance is for the purpose of funding the distribution utility's electric capital projects, the application for authorization therefor and for the mortgage or encumbrance of property to secure such indebtedness, if such is the case, shall be joined with the application for approval of said electric capital projects to be filed under Rule 20 (C).

Section 4. *Issuance of Provisional Authority.* - Upon filing of the application under Section 1, the Commission may, on its own or upon motion, grant the issuance of a Provisional Authority (PA) based on the allegations of the application and on such other documents attached thereto or submitted by the parties. The Commission, if necessary, may schedule a hearing for the issuance of a PA not later than thirty (30) days from the filing of the application. Thereafter, the Commission shall issue a ruling either granting or denying the PA stating clearly the reasons therefor, within seventy five (75) days from the filing of the application.

Section 5. *Decision.* - Any application under Section 1 shall be decided by the Commission within ninety (90) days from the time the applicant formally offers its evidence; otherwise, the application shall be deemed approved upon the lapse of said period.

E. Consumer Complaints

Section 1. *Intent, Application and Scope.* - It is the Commission's intent that disputes between regulated companies and their customers are resolved as quickly, effectively, and inexpensively as possible. This rule establishes informal customer complaint procedures that are designed to address disputes, subject to the Commission's jurisdiction, that occur between distribution utilities and individual customers. It provides for expedited processes for customer complaints that can be resolved quickly by the customer and the distribution utility. It also

provides a process for informal Commission staff resolution of complaints that cannot be resolved by the distribution utility and the customer.

Section 2. Informal Process for Consumer Complaints. -

(a) Any customer of a distribution utility may file a complaint with the Commission's Consumer Affairs Service or with its Visayas or Mindanao Field Offices whenever the customer has an unresolved dispute with the distribution utility regarding the electric service that is subject to the Commission's regulation. The complaint shall be communicated in writing. The complaint shall include the name of the distribution utility against which the complaint is made, the name of the customer and the customer's service address, and a description of the complaint.

(b) The Commission staff handling the complaint will determine if the customer has earlier contacted the distribution utility and referred the complaint to the distribution utility's Consumer Welfare Desk (CWD) officer for resolution. If the customer has not yet contacted the distribution utility, the Commission staff will advise the customer to refer the complaint first to the distribution utility's CWD officer.

(c) If the complaint has already been referred to the distribution utility's CWD officer and no resolution has been reached, the Commission staff shall notify the distribution utility of the complaint and request a written response from the distribution utility within five (5) days from receipt of the notice, copy furnished the customer. The notification to the distribution utility by the Commission staff will be addressed to the distribution utility's CWD officer or any other responsible officer.

(d) The distribution utility's response to the Commission staff shall explain the likely cause of the problem, all actions taken by the distribution utility to resolve the customer's complaint at the CWD level, and the distribution utility's proposed resolution of the complaint and shall answer every specific question raised by the Commission staff in the notification. The distribution utility's response shall also include communications sent to the customer that contain the distribution utility's proposed resolution of the complaint or statement of position in addressing or resolving the complaint.

(e) If a customer objects to the distribution utility's response to the complaint or rejects the distribution utility's proposed resolution thereof, the customer may request further review of the complaint by Commission staff. Commission staff will then propose a resolution of the complaint. Before coming up with a proposed resolution of the complaint, the Commission staff may conduct informal conference between the parties and direct the submission of copies of bills, billing statements, field reports, photographs, documents, or other information in the participants' possession that may be necessary.

(f) If the proposed resolution is acceptable, the customer and the distribution utility shall manifest their acquiescence thereto in writing. If the customer or the distribution utility is not in agreement with Commission staff's

proposed resolution and no other resolution is agreed upon by the parties, the complaint shall be endorsed for hearing and dispute resolution by the Commission.

Section 3. *Formal Hearing.* -

(a) After the Commission staff endorses the complaint for hearing, the customer shall be required to verify his or her complaint, if the same has not yet been verified, and the complaint shall be docketed as a consumer complaint and assigned a case number. Thereafter, the Commission shall issue an order requiring the respondent to file its answer thereto within fifteen (15) days from receipt of the order. If the respondent fails to file its answer within the period, the Commission shall render a decision based on the records.

(b) After respondent files its answer, the Commission shall determine if the case can be tried under the summary procedure in Section 2 of Rule 17. If the Commission determines that this procedure is applicable, it shall issue an order to this effect as stated in Section 2 of Rule 17. If the Commission determines otherwise, it shall set the case for pre-trial conference and require the parties to submit their pre-trial briefs in accordance with Section 3 of Rule 16.

F. *Commission-initiated Investigation*

Section 1. *Inquiry of the Commission.* - The Commission may *motu proprio* initiate an action or inquiry against any person or entity when so required by law, national or public interest, and/or in its exercise of any of the powers and functions vested upon it by Republic Act No. 9136 or any other law enforced and administered by it.

Section 2. *Contents of the Order.* - In the exercise of its prerogative, the Commission may commence such hearing or inquiry by an order to show cause, setting forth the grounds and legal bases for such order. The order shall state the facts constituting the violation and also the range or extent of the sanction or penalty that may be imposed should the violation be substantiated, and shall be served upon the person or respondent being investigated.

Section 3. *Answer.* - Within a period of fifteen (15) days from receipt of a show cause order, the respondent shall file an answer in accordance with Rule 5.

Section 4. *Disposition.* - If the Commission finds the answer sufficient in form and substance to warrant termination of the inquiry, it shall issue an order to that effect; otherwise, it shall proceed to conduct the hearing on the matter.

Section 5. *Offers of Settlement.* - Any party to an administrative proceeding may, at any time before a decision is rendered, make an offer to the Commission conditionally or otherwise for a consented decree, voluntary compliance or desistance and other settlement of the case. The offer and any or all of the ultimate facts upon which the offer is based shall be considered for settlement purposes only, and shall not be used as evidence against any party for any other

purpose and shall not constitute an admission by the party making the offer of any violation of the laws, rules, regulation, orders and resolution of the Commission, nor as a waiver to file any warranted criminal action.

Section 6. *Cease and Desist Order.* - In appropriate cases, the Commission shall issue Cease and Desist Order after due notice and hearing.

Section 7. *Imposition of Fines and Penalties.* - The imposition of administrative fines and penalties shall be governed by 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, as amended.

G. Compliance Filings with the Commission

Section 1. *In General.* - When the Commission issues an order that authorizes or requires a party to make a filing to implement specific terms of the order or to comply with conditions for the issuance thereof with respect to the issues resolved in the proceeding, the filing is deemed a "compliance filing". A compliance filing is made under the docket number of the order to which it relates.

If the Commission in its order directs a party to initiate an entirely new proceeding, such filing made in compliance with said directive will be assigned a new docket number, treated as a separate application or petition, and covered by the same rules applicable to all other applications or petitions.

Section 2. *Reporting Requirement.* - The Commission may, in its order, require a party to report periodically to the Commission with respect to a subject matter stated therein. The reports must be filed under the docket number of the proceeding in which the order is entered, unless otherwise specified in the order establishing the requirement or directed by the Commission.

Section 3. *Compliance filing pursuant to certain Rules or Guidelines adopted by the Commission.* - When the Commission adopts certain rules authorizing or requiring a party to make a filing in accordance therewith, the filing is likewise deemed a "compliance filing". This compliance filing is filed with the Commission's Docket Section, which will assign it a separate number, and must include the following:



- (a) A verified cover letter that identifies the specific rules to which the filing relates, the period covered, if applicable, and the name, address and contact number of the person making the filing, and summary of the compliance; and
- (b) All the pertinent or required documents to be submitted in support of the compliance filing as provided in the applicable rules or as may be required by the Commission.

Section 4. *Commission Action on Compliance Filings under Section 3.* - Within fifteen (15) days from the filing, the Commission shall make a determination of the completeness of the submission. If it finds that there are still

documents and other data that must be submitted, it shall issue an order directing the submission of such other documents and data. In such case, the filing shall be deemed to have been made only upon the receipt by the Commission of such additional documents and data.

After consideration of all the documents submitted in support of the compliance filing, the Commission may enter an order approving the compliance filing or rejecting the same or any portion of the filing that fails to comply. However, if the rules to which the compliance filing relates provide for the automatic approval thereof upon the lapse of a specified period stated therein if no decision is reached thereon by the Commission, then the filing shall be deemed approved upon the lapse of the period or any extension thereto made by the Commission, as may be the case.



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RULE 21 - RULE-MAKING

Section 1. *Initiation of Rule-making.* - The process of adopting a new rule or amending or repealing an existing rule may be initiated by the Commission or by interested persons upon a petition for the issuance, amendment, or repeal of any rule.

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 and address of the 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.

The Commission shall either deny the petition, stating its reasons in writing, or will grant the petition by initiating rule-making and issuing a Notice of Proposed Rule-making.

Section 3. *Notice of Rule-making.* - The Commission shall give Notice of Proposed Rule-making and cause the proposed rule to be published on its Website. Depending on the nature or subject matter of the proposed rule, the Commission may also cause the publication thereof in newspapers of general circulation and send copies thereof to affected parties. For proposed rules that involve the fixing or setting rates and charges, the notice shall be published in a newspaper of general circulation at least two (2) weeks before the scheduled hearing thereon.

The Notice shall set any written comment period, the manner these comments will be received by the Commission, and will specify the time, date, and place of any public hearing thereon.

Section 4. *Rule-making Proceedings.* - Before finalizing language of a proposed new rule or an amendment to, or repeal of, an existing rule, the Commission shall receive public input through written comments and/or oral submissions. The Commission shall designate in its Notice the format and timing of public comment.

Any public hearing shall provide affected persons and other members of the public a reasonable opportunity for presentation of evidence, arguments, and oral statements within reasonable conditions and limitations imposed by the Commission to avoid duplication, irrelevant comments, unnecessary delay, or disruption of the proceedings. For this purpose, the procedure set forth in Rule 19 shall be applied insofar as it is applicable.

The Chair, any Commissioner, or any person designated by the Commission may preside at the public hearing. The Commission shall ensure that the Commission staff responsible for preparing the proposed rule or amendment are available, and shall notify interested parties who petitioned for the

institution of rule-making proceedings to be present, for them to explain the proposal and to respond to questions or comments regarding the proposed rule.

The Commission shall preserve the comments made at the public hearing by a stenographer or by recording instruments.

Any person may submit written statements within the specified period of time. All timely, written statements shall be considered by the Commission and shall be made a part of the record of the rule-making proceeding.

Section 5. *Resolution to Adopt a Rule.* - Before acting on a proposed rule, the Commission will consider all of the written submissions and/or oral submissions and evidences received in the rule-making proceeding or any memorandum summarizing such submissions. The Commission will use its own experience, specialized knowledge, and judgment in the adoption of a rule. The rule adopted by resolution of the Commission shall not be the subject of a motion for reconsideration under Rule 23 and one who is adversely affected by said rule may petition the Commission to initiate rule-making under Section 2.

Section 6. *Issuance and Publication.* - After the approval and issuance of the rule, the Commission shall cause its publication in a newspaper of general circulation or the Official Gazette and shall file a certified copy thereof with the Office of the National Administrative Register (ONAR) at the University of the Philippines (UP) Law Center. The Commission shall also post the same on its Website.

Section 7. *Effectivity of Rules.* - Unless otherwise provided therein, rules issued by the Commission shall become effective fifteen (15) days after its publication in a newspaper of general circulation or the Official Gazette, whichever comes earlier.



RULE 22 - FINAL ORDERS, RESOLUTIONS, AND DECISIONS

Section 1. *How Rendered.* - Unless otherwise stated in these rules or order of the Commission and subject to the vote requirement in Section 38 of Republic Act No. 9136, all final orders, resolutions and decisions shall be signed by the members of the Commission who concurred thereto at the time the same was deliberated upon and approved in a Commission meeting where a quorum is present.

Section 2. *Form and Contents.* - All final orders and decisions shall be in writing stating clearly and distinctly the facts and the law on which it is based. They shall be filed with the Docket Section of the Commission which shall immediately cause copies thereof to be served upon the parties and to such other persons or entities as the Commission may designate.

Section 3. *Rendition of Decision.* - Unless otherwise stated in these rules or order of the Commission, the Commission shall render its decision in all applications, petitions or complaints within thirty (30) days from the date the case is submitted to it for decision on the merits. In all its final orders, resolutions, or decisions, the Commission may grant such relief, impose such conditions or fix such terms as may be deemed necessary to promote public interest.

Section 4. *Correction of Clerical Mistakes.* - Clerical mistakes in orders or decisions arising from oversight or omission may be corrected by the Commission at any time on its own initiative, or on motion of any party.

Section 5. *Finality.* - All final orders, resolutions or decisions of the Commission shall become final and inappealable upon the expiration of fifteen (15) days from notice thereof to all parties. Any appeal shall not stay the same, unless the appellate court shall direct otherwise.

Section 6. *Appeal.* - The appeal from final orders, resolutions or decisions of the Commission shall be taken within (15) days from notice thereof or of the denial of the appellant's motion for reconsideration duly filed in accordance with Rule 23.

Section 7. *Compilation and Publication of Decisions.* The Docket Section shall compile all final orders, resolutions, and decisions of the Commission and make them available for public inspection.

RULE 23 - MOTION FOR RECONSIDERATION

Section 1. *Filing of Motion for Reconsideration.* - A party adversely affected by a final order, resolution, or decision of the Commission rendered in an adjudicative proceeding may, within fifteen (15) days from receipt of a copy thereof, file a motion for reconsideration. In its motion, the movant may also request for reopening of the proceeding for the purpose of taking additional evidence in accordance with Section 17 of Rule 18. No more than one motion for reconsideration by each party shall be entertained.

Section 2. *Opposition.* - Any party to the proceeding may object to a motion for reconsideration filed under Section 1 by filing an opposition thereto within ten (10) days from receipt thereof. After the filing of said opposition or the lapse of the period for filing the same, the motion shall be deemed submitted for resolution, unless the Commission grants the request for reopening the proceeding, in which case it shall set the case for hearing.

Section 3. *Effect of Filing of Motion for Reconsideration.* - The filing of a motion for reconsideration shall stop the running of the fifteen-(15) day period in Section 5 of Rule 22 and prevent the final order, resolution or decision of the Commission from becoming final and inappealable. However, unless otherwise ordered by the Commission, such filing shall not prevent the final order, resolution or decision from becoming effective, as the same shall be effective upon the date specified therein or upon the lapse of the fifteen-(15) day period, as the case may be.

RULE 24 - MISCELLANEOUS PROVISIONS

Section 1. *Repeal.* - All prior rules, regulations, guidelines or practices followed before the Commission which are inconsistent herewith are hereby repealed or deemed modified accordingly.

Section 2. *Separability Clause.* - If, for any reason, any provision of these rules is declared unconstitutional or contrary to law, the other parts or provisions hereof which are not affected thereby shall continue to be in full force and effect.

Section 3. *Effectivity.* - These rules shall become effective fifteen (15) days after its publication in a newspaper of general circulation or the Official Gazette, whichever comes earlier. Upon becoming effective, these rules shall be applied to pending proceedings before the Commission to the extent that they are applicable.

Pasig City, 22 June 2006

(ON LEAVE)
RODOLFO B. ALBANO JR.
Chairman


OLIVER B. BUTALID
Commissioner

(ON LEAVE)
JESUS N. ALCORDO
Commissioner


RAUF A. TAN
Commissioner


ALEJANDRO Z. BARIN
Commissioner

ERC STANDARD FORMS

Form 1. Notice of Hearing for General Rate Applications

Republic of the Philippines
ENERGY REGULATORY COMMISSION
 San Miguel Avenue, Pasig City

IN THE MATTER OF THE APPLICATION FOR
 APPROVAL OF THE AVERAGE RATE
 INCREASE (DECREASE) OF
 _____/kWh WITH PRAYER FOR
 PROVISIONAL AUTHORITY.

ERC CASE NO. _____-XXXRC

DISTRIBUTION UTILITY,

Applicant.

x-----x

NOTICE OF PUBLIC HEARING

TO ALL INTERESTED PARTIES:

Notice is hereby given that on *(date of filing)*, *Distribution Utility* filed with the Commission, pursuant to *(legal basis of the application)*, an application with prayer for provisional authority for approval of the average *increase (decrease)* of _____/kWh in its distribution, supply, and metering charges. In its application, *Distribution Utility* alleges that:

(Summary of the allegations in the application)

Summarized below is the proposed schedule of rates and the estimated impact of the rate adjustment applied for on each customer class of the *Distribution Utility*.

(Figures in the following table are mere simulations and the classification of customers is for illustration purposes only)

Customer Class		Distribution Charge		Supply Charge		Metering Charge	
		Proposed Rate	Increase (Decrease)	Proposed Rate	Increase (Decrease)	Proposed Rate	Increase (Decrease)
Residential	PhP/ kWh	1.0349	0.3765	0.4077	0.1989	0.1891	(0.0191)
	PhP/cust/mo					5.0000	-
Commercial	PhP/kWh	1.0566	0.5295	30.2800	16.0600	84.8400	65.6600
	PhP/cust/mo						
Industrial	PhP/kWh	0.8885	0.1930	30.2800	16.0600	84.8400	65.6600
	PhP/cust/mo						
	PhP/kW	19.800	-				
Public Building	PhP/kWh	0.7835	(0.0486)	30.2800	16.0600	84.8400	65.6600
	PhP/cust/mo						
Street Lights	PhP/kWh	0.8466	(0.5388)	30.2800	16.0600	84.8400	65.6600
	PhP/cust/mo						
Special Lighting	PhP/kWh	0.7621	0.07770	30.2800	16.0600	84.8400	65.6600
	PhP/cust/mo						

Sale to Resale	PhP/kWh PhP/cust/mo	0.8921	0.1089	30.2800	16.0600	84.8400	65.6600
Large Load	PhP/kWh PhP/cust/mo PhP/kW	0.7548 302.3900	0.0798 136.5700	30.2800	16.0600	84.8400	65.6600

The Commission has set the application for initial hearing and pre-trial conference on **(date) (day of the week) at (time) in (venue).**

All persons who have an interest in the subject matter of the proceeding may become a party thereto by filing, at least five (5) days prior to the date of initial hearing and subject to the other requirements in the ERC's Rules of Practice and Procedure, a verified petition with the Commission giving the docket number and title of the proceeding and stating: (1) the petitioner's name and address; (2) the nature of petitioner's interest in the subject matter of the proceeding, and the way and manner in which such interest is affected by the issues involved in the proceeding; and (3) a statement of the relief desired.

All other persons who may want their views known to the Commission with respect to the subject matter of the proceeding may file their opposition to the application or comment thereon at any stage of the proceeding before the applicant concludes the presentation of its evidence. No particular form of opposition or comment is required, but the document, letter or writing should contain the name and address of such person and a concise statement of the opposition or comment and the grounds relied upon.

All such persons who may wish to have a copy of the application may request the applicant prior to the date of the initial hearing that they be furnished with a copy of the application. The applicant is hereby directed to furnish all those making such request with copies of the application and its attachments, subject to reimbursement of reasonable photocopying costs. Likewise, any such persons may examine the application and other pertinent records filed with the Commission during the usual office hours.

WITNESS, the Honorable _____, Chairman, and the Honorable _____, _____, and _____, Commissioners, Energy Regulatory Commission, this ____ day of _____ at Pasig City, Metro Manila.

Executive Director III

Form 2. Rate Application

(Caption)

PARAGRAPH 1 : Should include a brief introduction/background about the applicant, such as its organization, office address, the General Manager, etc.

PARAGRAPH 2 : Should include the petition being prayed for by the applicant and the table of the comparative existing distribution rates vis-a-vis their proposed rates per customer class. *(For DUs that are still implementing the bundled rates, the distribution charge to be incorporated in their existing rate should exclude the power cost component).*

Table I. Comparison of Proposed & Existing rates

Customer Class ¹	Proposed Rates	Existing Rates	Difference
Residential: Distribution Supply Metering Commercial: Distribution Supply Metering Industrial: Distribution Supply Metering Public Buildings: Distribution Supply Metering Street Lights: Distribution Supply Metering Irrigation: Distribution Supply Metering			

Note: Cross-Subsidy should be part of the DU's proposed rates if the DU has not yet implemented its existing unbundled rates.

PARAGRAPH 3 : Should include the explanation or the reason why they have to raise the rates provided in the previous table, that is, to achieve the proposed revenue requirement of the utility as provided in the following table. Said revenue requirement will not be achieved if the utility will continue to utilize its existing unbundled rates.

Table II. Comparison of Revenue Requirement

Customer Class ¹	Billing Determinants (Annualized kWh Sales, Number of Customers and/or kW demand)	Existing Rates (PhP/kWh, PhP/customer/mo/ PhP/kW)	Existing Revenues	Proposed Rates (PhP/kWh, PhP/customer/m or PhP/kW)	Proposed Revenues
Residential: Distribution Supply Metering Commercial: Distribution Supply Metering Industrial: Distribution Supply					

¹ The specific customer class used in all the tables are provided only for illustration.

Metering					
Public Buildings:					
Distribution					
Supply					
Metering					
Street Lights:					
Distribution					
Supply					
Metering					
Irrigation:					
Distribution					
Supply					
Metering					
TOTAL					
Difference in Revenues (Proposed-Existing)					

PARAGRAPH 4 : Should include the table of the DUs proposed Revenue Requirements and a brief explanation on the reasons why they need to increase such component/s of the same.

Table III. Summary of Proposed Revenue Requirement per Cost Component

PROPOSED REVENUE REQUIREMENT			
Particulars	Total Company* (PhP) (1)	Electric Adjustment (PhP) (2)	Proposed Revenue Requirement (PhP) (1) + (2)
Payroll			
Operation & Maintenance (less fuel, PP & Payroll)			
Depreciation & Amortization (for PUs only)			
Other Expenses (for PUs only)			
Return on Rate Base (For PUs only)			
ECs Debt Service (For ECs)			
Less: ORI (Other Revenue Items)			
Add: CAPEX Fund (For ECs)			
TOTAL REVENUE REQUIREMENT			
Total Rate Base (For PUs only)			

*Per Audited Financial Statement

Reasons for the Electric Adjustment are as follows (Sample Reasons are provided to show level of detail):

Payroll - Increase was due to Wage Order No. ___ dated _____, reorganization as approved by NEA which requires annualization of the cost provided in the audited Financial Statement

Operation & Maint. Expenses - Adjustment was due to increase in gasoline prices, increase in prices of supplies and services

Since year 2004 up to present.

- Depreciation & Amortization - Adjustment due to additions/ retirement of assets and appraisal increase.
- Return on Rate Base - Adjustments due to increase in Rate Base
- Rate Base - Adjustments due to additions/retirement of assets and appraisal increases.
 - Movement of the cash working capital.
 - Completion of construction work in progress as of December 2005
 - Increase in cost of materials and supplies.
- Debt Service - Adjusted to reflect actual amortization consistent with the NEA loan profile ending December 2005
- Increase in CAPEX Fund - Cost of the approved CAPEX projects cannot be financed merely by the 5% reinvestment fund. Hence, the DU may propose a higher percentage of Reinvestment fund to fully cover the capital cost of the project.

PARAGRAPH 5 : Should include a discussion on the Functionalization and Allocation of Cost using the Uniform Filing Requirements Model to arrive at the Revenue Summary

Table IV Revenue Summary per Customer Class & Function

Customer Class ¹	Total Revenue	Distribution Related Revenue	Supply Related Revenue	Metering Related Revenue
Residential				
Commercial				
Industrial				
Public Buildings				
Street Lights				
Irrigation				
TOTAL				

PARAGRAPH 6 : This portion is applicable only for DUs that have not yet implemented their unbundled rates. The following table has to be implemented pursuant to Section 74 of R.A. 9136 and Rule 16, Section 5 of its IRR.

Table V. Computation of Inter-Class Cross-Subsidy

Customer Class ¹	Existing	Increase	Total	Proposed	Inter-Class Cross Subsidy	Cross-Subsidy/kWh
Residential						
Commercial						

Industrial						
Public Buildings						
Street Lights						
Irrigation						

However for those that have already implemented their unbundled rates but whose cross-subsidies have not yet been fully removed, said DUs should continue to implement the gradual removal of the said subsidies.

PARAGRAPH 7 : Should include a brief discussion on the lifeline rates (level of discount, lifeline discount/subsidy charge, No. of Lifeline customers and corresponding Percentage (%) to Total Number of Residential customers that would benefit from the Lifeline Discount, etc.) For those that have implemented the unbundled rates and are proposing a new lifeline level of computation, the reason for proposing said new level should also be included.

Table VI. Lifeline kWh Consumption Level and Discount

kWh Consumption	Level of Discount (Sample)
0- ___ kWh	50%
___ kWh	40%
___ kWh	30%
___ kWh	20%
___ kWh	10%
___ kWh	5%

PARAGRAPH 8 : Should allege that the DU will comply with the pre-filing requirements in the IRR before filing the application with the ERC

PARAGRAPH 9 : Should enumerate the documents included in the DU's application in compliance with the Uniform Filing Requirements

PARAGRAPH 10 : PRAYER by the DU should emphasize the proposed revenue requirement (in Peso) which is exclusive of the Power Cost that the DU needs in order to be continuously viable in its electricity distribution operation. It should also include the specific charges per customer class.

Table VII. Proposed Charges per Customer Class

Particulars	Customer Class ¹					
	Residential	Commercial	Industrial	Public Bldg.	Street Lights	Others
Distribution (Peso/kWh)						
Distribution Demand Charge (PhP/KW)						
Supply (PhP/kWh)						
Supply (PhP/cust./Mo.)						
Metering (Peso/kWh)						
Metering (Peso/Cust./Mo.)						

¹ The specific customer classes used in the above table are provided only for illustration.

ADDITIONAL INFORMATION:

In the computation of the unbundled rates using the UFR model prescribed by the ERC, the DUs should have a "zero" input on the Generation, Transmission and System Loss column. The reason for this is that Generation, Transmission and System Loss charges will no longer be part of the rate application since the Generation, Transmission and System Loss Charges are covered by the AGRA, TRAM and System Loss Recovery Guidelines, respectively.


For those DUs that have already submitted, docketed and have been set for hearing their rate applications, said DUs have to recalculate their UFR applications without the Generation, Transmission and System Loss revenue requirement leaving only the revenue requirement for the DUs distribution system operations.

For DUs that have "Sale for Resale" customers, said customer class should only be allowed a distribution charge to cover the distribution wheeling cost incurred in servicing their Sale for Resale customers.

The CAPEX Fund may not be pegged at 5% as long as it is supported by documents and computations that will justify the required proposed revenue for improvement, expansion and rehabilitation of the DU's distribution system.

 FSC/ERC Rules of Practice and Procedure



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