

## **Business Separation Guidelines**

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Supply services may also comprise the provision, installation, commissioning, testing, repair, maintenance and reading of meters that are used to measure the delivery of electricity to end-users who are included in the contestable market or to other customers who are not end-users (whether such services are provided to those end-users or other customers or to any other person).

- 4.2.7 The assets included in this Business Segment are all the assets used directly, or a relevant share of the shared assets which are used, to provide the services referred to in Section 4.2.6. The liabilities included in this Business Segment are all the liabilities incurred directly, or a relevant share of the shared liabilities which are incurred, to provide the services or undertake the activities referred to in Section 4.2.6.
- 4.2.8 Revenues include all revenues associated with providing the services or undertaking the activities referred to in Section 4.2.6.
- 4.2.9 Costs include all costs associated with the provision of the supply services referred to in Section 4.2.6, including the relevant share of the operating and maintenance costs and the depreciation costs of the assets used to provide the services or undertake the activities referred to in Section 4.2.7

### **4.3 Transmission and Related Activities Business Segments**

- 4.3.1 The five transmission and related activities Business Segments are described below.

#### ***Transmission Services Business Segment***

- 4.3.2 This segment comprises the provision of transmission services – namely:
- (a) the conveyance of electricity through the Grid and the control and monitoring of electricity as it is conveyed through the Grid (including any services that support such conveyance, control or monitoring or the safe operation of the Grid); and
  - (b) the provision of Ancillary Services (if any) that are provided using assets which form part of the Grid (an example of such Ancillary Services is services provided by a series reactor or a static var compensator);
  - (c) the planning, maintenance, augmentation and operation of the Grid;
  - (d) the provision, installation, commissioning, testing, repair, maintenance and reading both of meters that are used to measure the delivery of electricity to customers and of other meters that are used (for the purposes of the WESM) to measure the flow of electricity into or through the Grid; and

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- (e) billing, collection and customer service for customers purchasing any of the above services and/or any transmission connection services referred to in Section 4.3.6.

4.3.3 The assets included in this Business Segment are all the facilities and assets used to provide the transmission services referred to in Section 4.3.2 (including support plant, other plant and equipment used in connection with the conveyance of electricity through the Grid, safety, control and data transmission equipment used to control and monitor the conveyance of electricity through the Grid, and transmission load and supply meters). The liabilities included in this Business Segment are all the liabilities incurred directly, or a relevant share of the shared liabilities which are incurred, to provide the services or undertake the activities referred to in Section 4.3.2.

4.3.4 Revenues include all revenues derived from the provision of the transmission services referred to in Section 4.3.2, as well as revenues derived from the sale of related facilities, plant or assets. Revenues include those used to reduce transmission wheeling rates under Section 20 of the EPIRA, which must be separately identified.

4.3.5 Costs include all costs associated with the management, maintenance and operation of Grid facilities and other assets in order to provide the transmission services referred to in Section 4.3.2, and the depreciation of the assets referred to in Section 4.3.3.

### ***Transmission Connection Services Business Segment***

4.3.6 This segment comprises the provision of transmission connection services – namely:

- (a) the provision of capability at each Connection Point to the Grid to deliver electricity to or take electricity from the Connection Point, and the conveyance of electricity:
  - (ii) from the facilities of persons which are directly connected to the Grid to the Connection Point; or
  - (iii) from the Connection Point to the facilities of persons which are directly connected to the Grid;
- (b) the planning, installation, maintenance, augmentation, testing and operation of Transmission Connection Assets; and
- (c) the provision of other services that support any of the above services.

4.3.7 The assets included in this Business Segment are all the facilities and assets used to provide the transmission connection services referred to in Section 4.3.6 (including support plant, service drop plant and wires and equipment dedicated for the sole use or benefit of a person or persons who are directly connected to the Grid). The liabilities included in this Business Segment are all the liabilities

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incurred directly, or a relevant share of the shared liabilities which are incurred, to provide the services or undertake the activities referred to in Section 4.3.6.

- 4.3.8 Revenues include all revenues associated with providing the transmission connection services referred to in Section 4.3.6, as well as revenues derived from the sale of related facilities, plant or assets.
- 4.3.9 Costs include all costs associated with the management, maintenance and operation of the Transmission Connection Assets in order to provide the transmission connection services referred to in Section 4.3.6, and the depreciation of the Transmission Connection Assets.

### ***System Operations Business Segment***

- 4.3.10 This segment comprises all activities and functions undertaken by the System Operator under the Grid Code, the Distribution Code or the WESM Rules, including the availment of Ancillary Services.
- 4.3.11 The assets included in this Business Segment are all facilities and assets (including support plant) used for undertaking System Operator functions. The liabilities included in this Business Segment are all the liabilities incurred directly, or a relevant share of the shared liabilities which are incurred, to provide the services or undertake the activities referred to in Section 4.3.10.
- 4.3.12 Revenues include all revenues generated in relation to System Operator functions or activities related to these functions.
- 4.3.13 Costs include all operating and maintenance costs associated with System Operator functions, and the depreciation of the assets referred to in Section 4.3.11.

### ***Market Operations Business Segment***

- 4.3.14 This segment comprises all activities and functions undertaken by TRANSCO relating to its role as administrative supervisor of the Autonomous Group Market Operator (note: such role will cease once an independent entity is formed to act as the market operator).
- 4.3.15 The assets included in this Business Segment are all facilities and assets (including support plant) used for administratively supervising Market Operator functions. The liabilities included in this Business Segment are all the liabilities incurred directly, or a relevant share of the shared liabilities which are incurred, to provide the services or undertake the activities referred to in Section 4.3.14.
- 4.3.16 Revenues include all revenues generated in relation to the administrative supervision of the Market Operator functions or activities related to these functions.
- 4.3.17 Costs include all operating and maintenance costs associated with the administrative supervision of the Market Operator functions, and the depreciation of the assets referred to in Section 4.3.15.

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### ***Related Businesses Business Segment***

- 4.3.18 This segment comprises the provision of all other services, and the carrying out of all other activities, that utilize transmission assets, facilities or staff (not being services or activities referred to elsewhere in this Section 4.3), including:
- (a) electricity related services, such as the construction and maintenance of customer installations; and
  - (b) non-electricity related services, such as telecommunications services.
- 4.3.19 The assets included in this Business Segment are all the assets used directly, or a relevant share of the shared assets which are used, to provide the services or undertake the activities referred to in Section 4.3.18. The liabilities included in this Business Segment are all the liabilities incurred directly, or a relevant share of the shared liabilities which are incurred, to provide the services or undertake the activities referred to in Section 4.3.18.
- 4.3.20 Revenues include all revenues generated from the provision of the services or the undertaking of the activities referred to in Section 4.3.18. Revenues exclude those used to reduce transmission wheeling rates under Section 20 of the EPIRA, which must be separately identified.
- 4.3.21 Costs include the relevant share of operating and maintenance costs and depreciation costs apportioned in accordance with the principles set out in Section 3.4.

### **4.4 Distribution and Related Activities Business Segments**

- 4.4.1 While Wholesale Aggregation is an independent business activity which can be undertaken by any Electric Power Industry Participant, said business activity can be considered as additional business segment under Distribution and Related Activities Business Segments.
- 4.4.2 The seven distribution and related activities business segments are described below. These are further classified into regulated and non-regulated Business Segments. The distribution utility must ensure that there is no sharing of facilities, office, assets, employees (except for top management), equipment and computer hardware/software between its regulated and non-regulated business segments.

#### **Regulated Business Segments:**

##### ***Distribution Services Business Segment***

- 4.4.3 This segment comprises the provision of distribution services - namely:
- (a) the conveyance of electricity through a Distribution System and the control and monitoring of electricity as it is conveyed through the

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Distribution System (including any services that support such conveyance, control or monitoring or the safe operation of the Distribution System);

- (b) the provision of Ancillary Services (if any) that are provided using assets which form part a Distribution System (an example of such Ancillary Services is services provided by a series reactor or a static var compensator);
- (c) the planning, maintenance, augmentation and operation of a Distribution System;
- (d) the provision, installation, commissioning, testing, repair, maintenance and reading of WESM-related meters that are not also used to measure the delivery of electricity to end-users or other customers; and
- (e) billing, collection and the provision of customer services that are directly related to the delivery of electricity to end-users or that relate to the connection of such persons to a Distribution System (whether such services are provided to those end-users or to Suppliers or to any other person).

4.4.4 The assets included in this Business Segment are all the facilities and assets used to provide the distribution services referred to in Section 4.4.3 (including support plant and other plant and equipment used in connection with the conveyance of electricity through the Distribution System, safety, control and data transmission equipment use to control and monitor the conveyance of electricity through the Distribution System, and WESM-related distribution load and supply meters where these are not also used to measure the delivery of electricity to end-users or other customers). The liabilities included in this Business Segment are all the liabilities incurred directly, or a relevant share of the shared liabilities which are incurred, to provide the services or undertake the activities referred to in Section 4.4.3.

4.4.5 Revenues include all revenues derived from the provision of the distribution services referred to in Section 4.4.3, as well as revenues derived from the sale of related facilities, plant or assets. Revenues include those used to reduce distribution wheeling charges under Section 26 of the EPIRA, which must be separately identified.

4.4.6 Costs include all costs associated with the management, maintenance and operation of Distribution System facilities and other assets in order to provide the distribution services referred to in Section 4.4.3, and the depreciation of the assets referred to in Section 4.4.4.

### ***Distribution Connection Services Business Segment***

4.4.7 This segment comprises the provision of distribution connection services - namely:

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- (a) the provision of capability at each Connection Point to a Distribution System to deliver electricity to or take electricity from the Connection Point, and the conveyance of electricity:
    - (i) from the facilities of persons which are directly connected to the Distribution System to the Connection Point; or
    - (ii) from the Connection Point to the facilities of persons which are directly connected to the Distribution System;
  - (b) the planning, installation, maintenance, augmentation, testing and operation of Distribution Connection Assets; and
  - (c) the provision of other services that support any of the above services.
- 4.4.8 The assets included in this Business Segment are all the facilities and assets used to provide the distribution connection services referred to in Section 4.4.7 (including support plant, service drop plant and wires and equipment dedicated for the sole use or benefit of a person or persons who are directly connected to the Distribution System). The liabilities included in this Business Segment are all the liabilities incurred directly, or a relevant share of the shared liabilities which are incurred, to provide the services or undertake the activities referred to in Section 4.4.7.
- 4.4.9 Revenues include all revenues associated with providing the distribution connection services referred to in Section 4.4.7, as well as revenues derived from the sale of related facilities, plant or assets.
- 4.4.10 Costs include all costs associated with the management, maintenance and operation of the Distribution Connection Assets in order to provide the distribution connection services referred to in Section 4.4.7, and the depreciation of the Distribution Connection Assets.

### ***Regulated Retail Services Business Segment***

- 4.4.11 This segment comprises the provision of regulated retail services, namely services pertaining to the sale of electricity to end-users who are included in the Captive Market, and includes:
- (a) billing, collection and the provision of customer services to such end-users in their capacity as electricity consumers;
  - (b) energy trading (including the purchase of electricity and hedging activities) undertaken in connection with the sale of electricity to end-users who are included in the Captive Market; and
  - (c) the sale of electricity to end-users who are included in the Captive Market.

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Regulated retail services also comprise the provision, installation, commissioning, testing, repair, maintenance and reading of meters that are used to measure the delivery of electricity to end-users who are included in the Captive Market.

- 4.4.12 The assets included in this Business Segment are all the assets used directly, or a relevant share of the shared assets which are used, to provide the regulated retail services referred to in Section 4.4.11. The liabilities included in this Business Segment are all the liabilities incurred directly, or a relevant share of the shared liabilities which are incurred, to provide the services or undertake the activities referred to in Section 4.4.11.
- 4.4.13 Revenues include all revenues associated with providing the regulated retail services referred to in Section 4.4.11.
- 4.4.14 Costs include all costs associated with the provision of the regulated retail services referred to in Section 4.4.11, including the relevant share of the operating and maintenance costs and the depreciation costs of the assets used to provide the services or undertake the activities referred to in Section 4.4.12

### ***Last Resort Supply Business Segment***

- 4.4.15 This segment comprises the provision of SOLR services provided by a Distribution Utility, namely services pertaining to the sale of electricity to SOLR Customers, including billing, collection and the provision of basic customer service.
- 4.4.16 The assets included in this Business Segment are all the assets used directly, or a relevant share of the shared assets which are used, to provide the SOLR services referred to in Section 4.4.15. The liabilities included in this Business Segment are all the liabilities incurred directly, or a relevant share of the shared liabilities which are incurred, to provide the services or undertake the activities referred to in Section 4.4.15
- 4.4.17 Revenues include all revenues associated with providing the SOLR services referred to in Section 4.4.15
- 4.4.18 Costs include all costs associated with the provision of the SOLR services referred to in Section 4.4.15 including the relevant share of the operating and maintenance costs and the depreciation costs of the assets used to provide the services or undertake the activities referred to in Section 4.4.16

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### ***Wholesale Aggregation***

- 4.4.19 This segment comprises the Distribution Utility's service of purchasing electricity in bulk and selling this to other Distribution Utilities. It also comprises the provision of Wholesale Aggregation services provided by a Distribution Utility, namely services pertaining to the sale of electricity to other Distribution Utilities including billing, collection and the provision of basic customer service.
- 4.4.20 The assets included in this Business Segment are all the assets used directly, or a relevant share of the shared assets which are used, to provide the Wholesale Aggregation services referred to in Section 4.4.19. The liabilities included in this Business Segment are all the liabilities incurred directly, or a relevant share of the shared liabilities which are incurred, to provide the services or undertake the activities referred to in Section 4.4.19.
- 4.4.21 Revenues include all revenues associated with providing the Wholesale Aggregation services referred to in Section 4.4.19.
- 4.4.22 Costs include all costs associated with the provision of the Wholesale Aggregation services referred to in Section 4.4.19, including the relevant share of the operating and maintenance costs and the depreciation costs of the assets used to provide the services or undertake the activities referred to in Section 4.4.20

### **Non-Regulated Retail Services Business Segment**

- 4.4.23 This segment comprises the provision of non-regulated retail services provided by a Distribution Utility, namely services pertaining to the sale of electricity to end-users who are included in the contestable market or to other customers who are not end-users, and includes:
- (a) billing, collection and the provision of customer services to such end-users in their capacity as electricity consumers or to such other customers in their capacity as purchasers of electricity;
  - (b) energy trading (including the purchase of electricity and hedging activities) undertaken in connection with the sale of electricity to end-users who are included in the contestable market or to other customers who are not end-users; and
  - (c) the sale of electricity to end-users who are included in the contestable market or to other customers who are not end-users.

Non-regulated retail services also comprise the provision, installation, commissioning, testing, repair, maintenance and reading of meters that are used to measure the delivery of electricity to end-users who are included in the contestable market or to other customers who are not end-users (whether such services are provided to those end-users or other customers, to Suppliers or to any other person).



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- 4.4.24 The assets included in this Business Segment are all the assets used directly, or a relevant share of the shared assets which are used, to provide the non-regulated retail services referred to in Section 4.4.23. The liabilities included in this Business Segment are all the liabilities incurred directly, or a relevant share of the shared liabilities which are incurred, to provide the services or undertake the activities referred to in Section 4.4.23.
- 4.4.25 Revenues include all revenues associated with providing the non-regulated retail services referred to in Section 4.4.23.
- 4.4.26 Costs include all costs associated with the provision of the non-regulated retail services referred to in Section 4.4.23, including the relevant share of the operating and maintenance costs and the depreciation costs of the assets used to provide the services or undertake the activities referred to in Section 4.4.24.

### ***Related Businesses Business Segment***

- 4.4.27 This segment comprises the provision of all other services, and the carrying out of all other activities, that utilize distribution assets, facilities or staff (not being services or activities referred to elsewhere in this Section 4.4), including:
- (a) electricity related services, such as the construction and maintenance of customer installations; and
  - (b) non-electricity related services, such as telecommunications services.
- 4.4.28 The assets included in this Business Segment are all the assets used directly, or a relevant share of the shared assets which are used, to provide the services or undertake the activities referred to in Section 4.4.27. The liabilities included in this Business Segment are all the liabilities incurred directly, or a relevant share of the shared liabilities which are incurred, to provide the services or undertake the activities referred to in Section 4.4.27.
- 4.4.29 Revenues include all revenues generated from the provision of the services or the undertaking of the activities referred to in Section 4.4.27. Revenues exclude those used to reduce distribution wheeling charges under Section 26 of the EPIRA, which must be separately identified.
- 4.4.30 Costs include the relevant share of operating and maintenance costs and depreciation costs apportioned in accordance with the principles set out in Section 3.4.

### **4.5 Supply Business Segments**

- 4.5.1 The single supply Business Segment is described below.

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### ***Supply Services Business Segment***

- 4.5.2 This segment comprises supply services provided by a Supplier, namely services pertaining to the sale of electricity to end-users who are included in the contestable market, and includes:
- (a) billing, collection and the provision of customer services to such end-users in their capacity as electricity consumers or to such other customers in their capacity as purchasers of electricity;
  - (b) energy trading (including the purchase of electricity and hedging activities) undertaken in connection with the sale of electricity to end-users who are included in the contestable market or to other customers who are not end-users; and
  - (c) the sale of electricity to end-users who are included in the contestable market or to other customers who are not end-users.

Supply services may also comprise the provision, installation, commissioning, testing, repair, maintenance and reading of meters that are used to measure the delivery of electricity to end-users who are included in the contestable market or to other customers who are not end-users (whether such services are provided to those end-users or other customers or to any other person).

- 4.5.3 The assets included in this Business Segment are all the assets used directly, or a relevant share of the shared assets which are used, to provide the services referred to in Section 4.5.2. The liabilities included in this Business Segment are all the liabilities incurred directly, or a relevant share of the shared liabilities which are incurred, to provide the services or undertake the activities referred to in Section 4.5.2.
- 4.5.4 Revenues include all revenues associated with providing the services or undertaking the activities referred to in Section 4.5.2.
- 4.5.5 Costs include all costs associated with the provision of the supply services referred to in Section 4.5.2, including the relevant share of the operating and maintenance costs and the depreciation costs of the assets used to provide the services or undertake the activities referred to in Section 4.5.3

### **4.6 Wholesale Aggregation Business Segment**

- 4.6.1 The single wholesale aggregation Business Segment is described below

#### ***Wholesale Aggregation services Business Segment***

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- 4.6.2 This segment comprises supply services provided by a Wholesale Aggregator, namely services pertaining to the sale of electricity to Distribution Utilities, and includes:
- (d) billing, collection and the provision of customer services to Distribution Utilities;
  - (e) energy trading (including the purchase of electricity and hedging activities) undertaken in connection with the sale of electricity to Distribution Utilities; and
  - (f) the sale of electricity to Distribution Utilities.
- 4.6.3 The assets included in this Business Segment are all the assets used directly, or a relevant share of the shared assets which are used, to provide the services referred to in Section 4.6.2. The liabilities included in this Business Segment are all the liabilities incurred directly, or a relevant share of the shared liabilities which are incurred, to provide the services or undertake the activities referred to in Section 4.6.2.
- 4.6.4 Revenues include all revenues associated with providing the services or undertaking the activities referred to in Section 4.6.2.
- 4.6.5 Costs include all costs associated with the provision of the Wholesale Aggregation services referred to in Section 4.6.2, including the relevant share of the operating and maintenance costs and the depreciation costs of the assets used to provide the services or undertake the activities referred to in Section 4.6.3

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**ARTICLE V**

**OTHER REQUIREMENTS RELATED TO BUSINESS SEPARATION**

**5.1 Prohibition on discrimination**

A Distribution Utility must not, and must ensure that its Affiliates do not, unreasonably discriminate, whether directly or indirectly, between:

- (a) end-users who are in the contestable market and who acquire electricity from a person other than the Distribution Utility or an Affiliate of the Distribution Utility; and
- (b) end-users who are in the contestable market and who acquire electricity from the Distribution Utility or an Affiliate of the Distribution Utility,

in relation to the Distribution of Electricity, connection to the Distribution System operated by it, the provision, installation, commissioning, testing, repair or maintenance of meters, or the reading of meters.

**5.2 Disclosure of Information**

5.2.1 A Distribution Utility must ensure that information:

- (a) which relates to an End-user who is in the contestable market; and
- (b) which is obtained by the Distribution Utility or its Affiliates in the course of distributing electricity to that End-user or providing connection, metering or meter reading services to that End-user,

is not used by that Distribution Utility or its Affiliates in connection with the sale, or offering for sale, of electricity to that End-user except with the written consent of that End-user. A Distribution Utility must retain copies of such consents for at least two years and must make them available to the ERC for inspection when requested by the ERC to do so.

5.2.2 A Distribution Utility must ensure that all information regarding events or circumstances that are likely to affect the operational status or availability of the Distribution System operated by it is disclosed to all other Electric Power Industry Participants at least 3 days before the operational status or availability of the Distribution System is affected by those events or circumstances or (if that is not possible) as soon as practicable thereafter, in such manner as is approved for that purpose by the ERC.

5.2.3 TRANSCO or its Buyer or Concessionaire must ensure that all information regarding events or circumstances that are likely to affect the operational status or availability of the Grid is disclosed to all other Electric Power Industry Participants at least 3 days before the operational status or availability of the Grid

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is affected by those events or circumstances or (if that is not possible) as soon as practicable thereafter, in such manner as is approved for that purpose by the ERC.

- 5.2.4 A Generation Company must ensure that all information regarding events or circumstances that are likely to affect the operational status or availability of any facility that is operated by it to generate electricity is disclosed to all other Electric Power Industry Participants at least 3 days before the operational status or availability of that facility is affected by those events or circumstances or (if that is not possible) as soon as practicable thereafter, in such manner as is approved for that purpose by the ERC.

### **5.3 Prohibition on cross-subsidies**

- 5.3.1 A Distribution Utility must ensure that:

- (a) costs incurred in connection with activities undertaken by it or its Affiliates, being costs which are not allocated (in accordance with Articles II, III and IV) to the provision of services the price of which is regulated by the ERC, are not included in the cost base used to determine the prices charged by the Distribution Utility or its Affiliates for the provision of such services; and
- (b) the assets comprising the Distribution System operated by the Distribution Utility are not encumbered except with the approval of the ERC or for the purposes of securing financial accommodation which is used solely to fund the maintenance, repair, augmentation, extension, replacement or operation of that Distribution System.

- 5.3.2 TRANSCO or its Buyer or Concessionaire must ensure that:

- (a) costs incurred in connection with activities undertaken by it or its Affiliates, being costs which are not allocated (in accordance with Articles II, III and IV) to the provision of services the price of which is regulated by the ERC, are not included in the cost base used to determine the prices charged by it or its Affiliates for the provision of such services; and
- (b) the assets comprising the Grid are not encumbered except with the approval of the ERC or for the purposes of securing financial accommodation which is used solely to fund the maintenance, repair, augmentation, extension, replacement or operation of the Grid.

### **5.4 Generation of electricity for Distribution Utilities**

- 5.4.1 If a Distribution Utility and its Affiliates collectively generate more than 50% of the total demand of the Distribution Utility, the Distribution Utility must immediately ensure that all electricity generated by the Distribution Utility and its Affiliates is generated by its Affiliates to the exclusion of the Distribution Utility. If, as a result of compliance by the Distribution Utility with this requirement, the

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Distribution Utility sources more than 50% of its total demand from bilateral power supply contracts with associated firms engaged in generation, and that constitutes a breach of Section 45(b) of the EPIRA (contracts entered into prior to the effectivity of the EPIRA not being prejudiced for this purpose), then that will also be a breach of the Competition Rules by virtue of Rule 15, Section 1(b) of the Competition Rules.

5.4.2 For the purposes of Section 5.4.1:

- (a) the total demand of a Distribution Utility is determined in accordance with Rule 14, Section 5(b)(i) of the Competition Rules;
- (b) the total demand of a Distribution Utility does not include its demand which is sourced from a generation facility that is connected to an isolated grid; and
- (c) an isolated grid is a transmission system or a distribution system which is not connected to a grid (as defined in section 45(a) of the EPIRA and Rule 11, Section 4 of the IRR or otherwise determined pursuant thereto).

### **5.5 Restriction on activities of transmission business**

TRANSCO or its Buyer or Concessionaire must not engage in any of the following business activities:

- (a) power generation; or
- (b) the conveyance of electric power other than through the Grid; or
- (c) the sale of electricity; or
- (d) the business of an IPP Administrator.

### **5.6 Common directors, officers and employees**

An Electric Power Industry Participant must ensure that a director, officer or employee of it or of any of its Affiliates (collectively, the "First Corporate Group") is not also a director, officer or employee of an Electric Power Industry Participant or of any of that Electric Power Industry Participant's Affiliates (collectively, the "Second Corporate Group") where any entity that is included in the Second Corporate Group is not an Affiliate of an entity that is included in the First Corporate Group.

### **5.7 Sale of electricity to contestable market**

A Distribution Utility must not, and must ensure that its Affiliates do not, sell, advertise for sale or offer to sell electricity to the contestable market using a brand name, business name, trade mark, logo or other name or symbol that is used by, or

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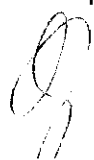
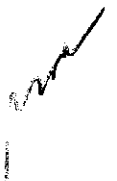
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that suggests any affiliation or other connection with, the electricity distribution business which is conducted by that Distribution Utility.

### **5.8 Code of Conduct**

An Electric Power Industry Participant must comply with, and ensure that its Affiliates comply with, such code of conduct as may be promulgated by the ERC to regulate matters relating to end-users.



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**ARTICLE VI  
PENALTIES**

If the ERC determines that an Electric Power Industry Participant:

- (a) has violated a provision of these Guidelines; or
- (b) has failed to implement its Business Separation and Unbundling Plan as approved by the ERC; or
- (c) has failed to fully and promptly implement a decision of the ERC made under Rule 10, Section 3(e) of the IRR,

the ERC may, in accordance with the Rules of Procedure Governing Complaints Filed Before the Consumer Affairs Service ERC, promulgated by it (or such other rules of procedure that it promulgates hereafter), make such order or orders against the Electric Power Industry Participant as it considers appropriate, including all or any of the following orders:



- (d) an order requiring the Electric Power Industry Participant to stop engaging in the conduct that constitutes the violation;
- (e) an order requiring the Electric Power Industry Participant to do any act or thing to rectify the violation or to remedy or mitigate the consequences of the violation;
- (f) an order requiring the Electric Power Industry Participant to pay to the ERC a fine or penalty of not less than P50,000.00 and not more than P50,000,000.00;
- (g) an order requiring the Electric Power Industry Participant not to participate in Retail Competition and Open Access;
- (h) in the case of a Distribution Utility, an order not to operate in a contestable market;
- (i) in the case of a Retail Electricity Supplier, an order suspending, revising or revoking the Supplier's license for the Supply of Electricity to end-users.



**ARTICLE VII  
SEPARABILITY**

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



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**ARTICLE VIII  
EFFECTIVITY**

These Guidelines take effect 15 days after its publication in a newspaper of general circulation in the country.

Pasig City, Philippines, June 21, 2006.

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

  
**OLIVER B. BUTALID**  
Commissioner

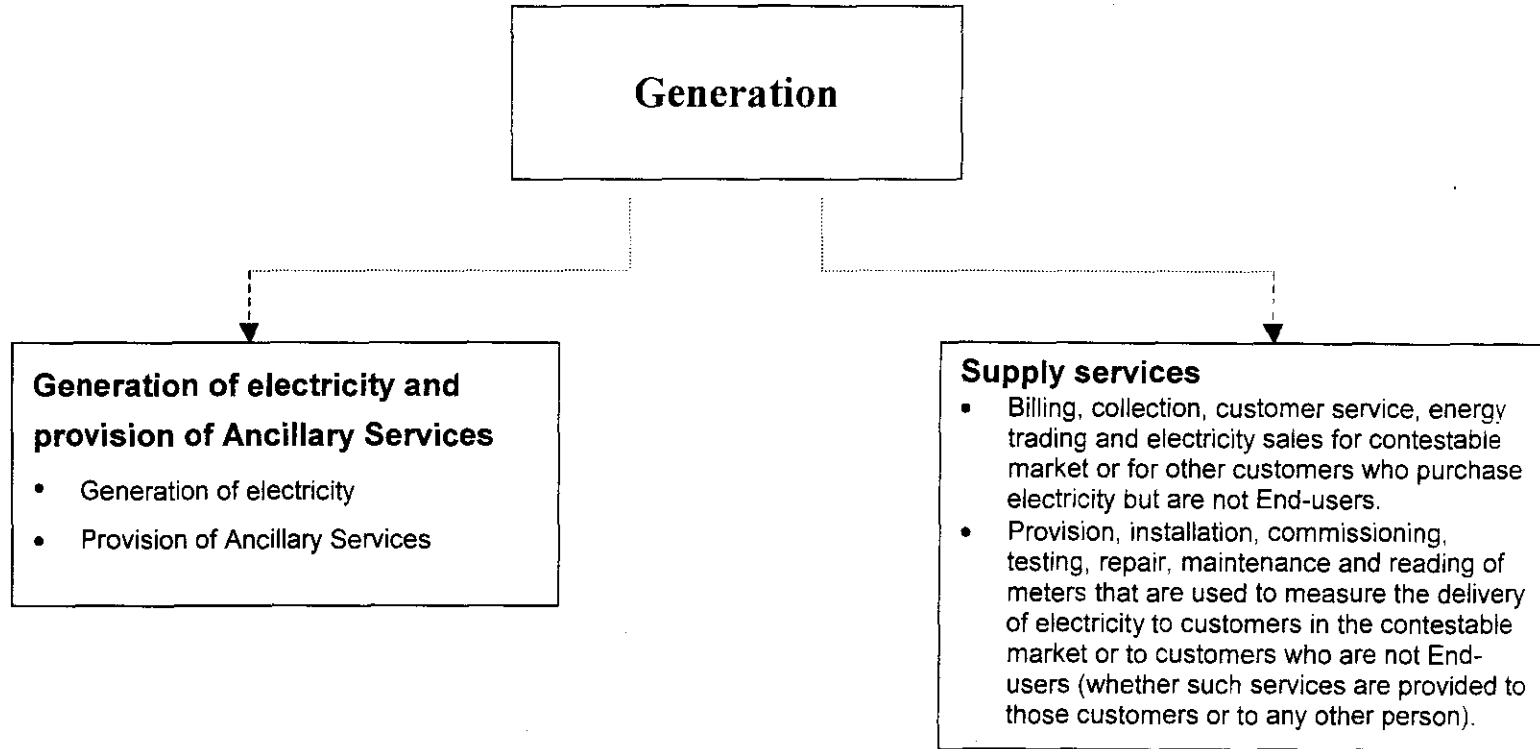
(On Leave)  
**JESUS N. ALCORDO**  
Commissioner

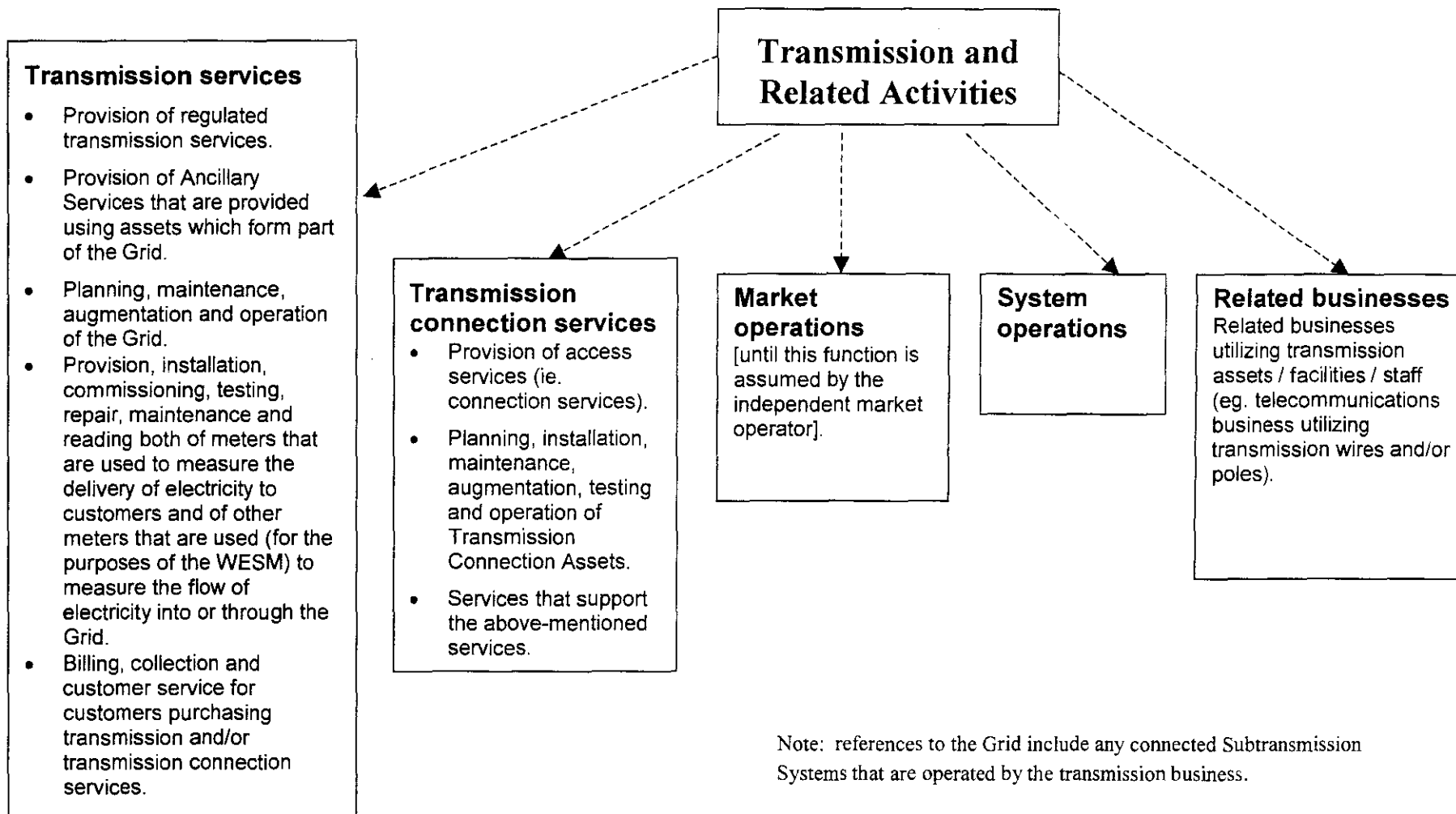
  
**RAUF A. TAN**  
Commissioner

  
**ALEJANDRO Z. BARIN**  
Commissioner

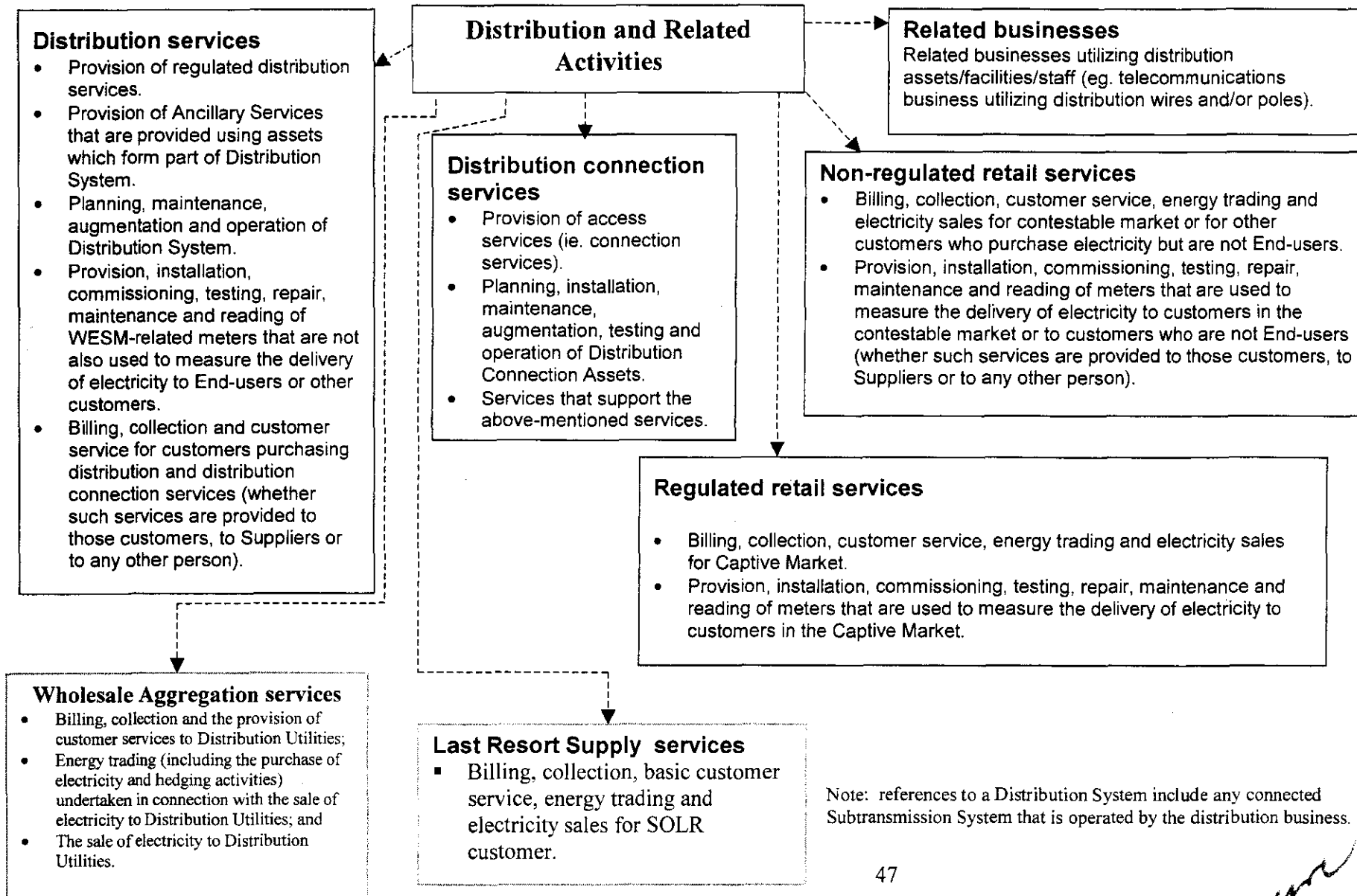
**APPENDIX A – BUSINESS SEGMENTS**

The Business Segments for each principal activity (generation, transmission and related activities, distribution and related activities, and supply) are illustrated in the following diagrams.





## Business Separation Guidelines



Supply

**Supply services**

- Billing, collection, customer service, energy trading and electricity sales for contestable market or for other customers who purchase electricity but are not End-users.
- Provision, installation, commissioning, testing, repair, maintenance and reading of meters that are used to measure the delivery of electricity to customers in the contestable market or to customers who are not End-users (whether such services are provided to those customers or to any other person).

Wholesale Aggregation

- Billing, collection and the provision of customer services to Distribution Utilities;
- Energy trading (including the purchase of electricity and hedging activities) undertaken in connection with the sale of electricity to Distribution Utilities; and
- The sale of electricity to Distribution Utilities

*AB*

*[Handwritten mark]*



**APPENDIX B – ACCOUNTING SEPARATION REPORTING FORMATS (ALL BUSINESS SEGMENTS AND RECONCILIATION TO GENERAL PURPOSE FINANCIAL STATEMENTS)**

Total Statement of Income for the year ended \_\_\_\_\_  
 Electric Power Industry Group \_\_\_\_\_

Description	Revenue	Operating Costs	Profit Before Interest & Tax	Interest & Tax Costs	Extraordinary Items	Operating Profit After Interest, Tax and Extraordinary Items
<b>ELECTRIC POWER INDUSTRY PARTICIPANT(S)</b>						
<b>Generation*</b>						
Generation Services						
Supply Services						
<b>Transmission and Related Activities*</b>						
Transmission Services						
Transmission Connection Services						
Market Operations						
System Operations						
Related Businesses						
<b>Distribution and Related Activities*</b>						
Distribution Services						
Distribution Connection Services						
Regulated Retail Services						
Wholesale Aggregation Services						
Last Resort Supply Services						
Non-regulated Retail Services						
<b>Wholesale Aggregation</b>						
Related Businesses						
<b>Supply*</b>						
Supply Services						
<b>Elimination of Inter-company Transactions</b>						
<b>Total</b>						
<b>RELATED BUSINESSES</b>						
Total revenues <sup>1</sup>						
Total costs <sup>2</sup>						
Other adjustments <sup>3</sup>						
<b>OTHER BUSINESSES</b>						
Total revenues <sup>1</sup>						
Total costs <sup>2</sup>						
Other adjustments <sup>3</sup>						
<b>Elimination of Inter-company Transactions</b>						
<b>Total as per audited General Purpose Financial Statements</b>						

\*Complete for each Business Segment that the Electric Power Industry Group is engaged in

<sup>1</sup>Specified by type of revenue (account heading)

<sup>2</sup>Specified by type of cost (account heading)

<sup>3</sup>Specified by type or category (account heading)