

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

RESOLUTION NO. 25, Series of 2007

**A RESOLUTION ADOPTING THE RULES ON RATE
FILING BY THE SUPPLIER OF LAST RESORT (SOLR)**

WHEREAS, pursuant to Sections 2 and 43 of Republic Act 9136, otherwise known as the Electric Power Industry Reform Act of 2001 (EPIRA), and its Implementing Rules and Regulations (IRR), the Commission is mandated to promulgate rules and regulations, and perform regulatory functions appropriate and necessary in order to ensure the successful restructuring and modernization of the electric power industry;

WHEREAS, on 21 June 2006, the Commission promulgated the Rules for Supplier of Last Resort to establish the policies, rules and procedures for the provision of back-up supply to contestable customers in case of an event that requires the services of a SOLR;

WHEREAS, to provide a uniform filing system for applications by the SOLR for the approval of SOLR Rate/charges to the affected contestable market, the Commission proposed a set of rules known as the "Rules on Rate Filing by the Supplier of Last Resort";

WHEREAS, the Rules shall establish the policies, rules and procedures to ensure the recovery of the allowable premium and reasonable return and other costs associated with the SOLR service;

WHEREAS, on 15 November 2006, the Commission conducted a public consultation for the adoption of the proposed Rules on Rate Filing by the SOLR;

WHEREAS, in accordance with the aforesaid provision and after a careful consideration of the various views and comments submitted by interested parties, the Commission deems it appropriate to adopt the Rules on Rate Filing by the SOLR;



NOW THEREFORE, the Commission, after a thorough and due deliberation, hereby **RESOLVES**, as it is hereby **RESOLVED**, to **APPROVE** and **ADOPT**, the "**Rules on Rate Filing by the Supplier of Last Resort (SOLR)**" herein attached as ANNEX "A" 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, 10 October 2007.



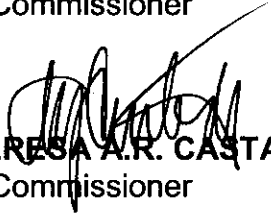
RODOLFO B. ALBANO, JR.
Chairman



RAUF A. TAN
Commissioner



ALEJANDRO Z. BARIN
Commissioner



MARIA TERESA A.R. CASTAÑEDA
Commissioner



JOSE C. REYES
Commissioner

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

RULES ON RATE FILING BY THE SUPPLIER OF LAST RESORT (SOLR)

ERC CASE NO. 2006-16 RM

Pursuant to Sections 2 and 43 of Republic Act No. 9136, its Implementing Rules and Regulations (IRR), the Distribution Services and Open Access Rules (DSOAR), and the Rules for the Supplier of Last Resort (SOLR), the Energy Regulatory Commission (ERC) hereby promulgates the following Rules on Rate Filing by the SOLR.

**ARTICLE I
GENERAL PROVISIONS**

Section 1. Objectives

- 1.1 To provide a uniform filing system for applications by the SOLR for the approval of SOLR Rate/charges to the affected contestable market; and
- 1.2 To ensure the recovery of the allowable Premium and reasonable return and other costs associated with the SOLR service.

Section 2. Scope

These Rules shall apply to all Suppliers of Last Resort.

Section 3. Definition of Terms

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

Applicant	A SOLR seeking ERC's approval of the SOLR Rate to be charged to its customers.
Bilateral Contract Price	The agreed electricity price, whether monthly or hourly, that is charged by the Generation Company to the SOLR.
Distribution Utility (DU)	Any electric cooperative, private corporation, government-owned utility or existing local government unit which has an exclusive franchise



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to operate a distribution system in accordance with its franchise and Republic Act No. 9136.

ERC Rules of Practice and Procedures

The rules established for the general procedures and requirements for filing an application with the ERC.

Generation Company

Generating facility contracted by the SOLR to provide electricity supply to SOLR customers.

Last Resort Supply Business Segment

That portion of a distribution utility's services pertaining to the sale of electricity to SOLR customers, including billing, collection and the provision of basic customer service.

Nodal Energy Price

The energy price at a node determined ex-ante or ex-post.

Open Access Date

The commencement date of open access and retail competition in a particular grid, as determined by ERC.

Premium

The compensation for risks assumed in the provision of SOLR service, as approved by the ERC.

SOLR Rate

The applicable Ex-Post WESM Nodal Energy Price or the Bilateral Contract Price, whichever is higher, plus incremental administrative and overhead expenses, reasonable return on investment and the applicable Premium.

This definition shall take precedence over any other definition of the SOLR Rate contained in previous Rules, Guidelines or any other issuance of the ERC.

Wholesale Aggregator

Any person or entity, other than a Generation Company, registered by the ERC to sell electricity to Distribution Utilities.

Section 4. Guiding Principles

The DU shall serve as the SOLR for the Contestable Market in its franchise area in the early stages of retail competition and open access, which shall run for two (2) years from Open Access Date, unless otherwise determined by ERC. DUs which lack the capability to participate in the Wholesale Electricity Spot Market (WESM) shall not qualify to serve as SOLR in their respective franchise areas, except DUs which participate in the WESM through a Wholesale Aggregator. In which case, other DUs shall be allowed to serve as SOLR in the franchise area of



the first DU not capable of participating in the WESM. The ERC shall determine which of the qualified DUs shall serve as SOLR under Section 2, Article 1 of The Rules for the Supplier of Last Resort.

In the event that a particular DU disputes its capability to serve as SOLR outside its franchise area, such DU shall submit to the ERC its justification for its incapacity to serve as SOLR, within fifteen (15) days from receipt of notice by the ERC.

The SOLR shall file and submit for ERC approval its proposed SOLR Rate for the Contestable Market, within sixty (60) days from receipt of notification from the ERC. Where a DU is qualified to act as SOLR outside its franchise area, its proposed SOLR Rate shall be filed and submitted to the ERC within three (3) months from having been qualified as such. The failure of any DU to file the SOLR Rate application within the prescribed period shall result in the imposition of a SOLR Rate equivalent only to the Ex-Post WESM Nodal Energy Price or the Bilateral Contract Price, whichever is higher, until such time that its application has been filed and approved by the ERC.

Prior to the filing of its SOLR Rate application, the SOLR shall ensure that it has complied with the provisions of the Business Separation Guidelines, As Amended, to efficiently account for transactions falling under the Last Resort Supply Business Segment.

ARTICLE II RATE FILING REQUIREMENTS

Section 1. Filing Requirements

- 1.1 The Applicant shall file its application with the ERC, together with the following:
 - 1.1.1 Itemized expenses for SOLR service and its justification;
 - 1.1.2 Proposed reasonable return on investment and its justification;
 - 1.1.3 Proposed Premium and its justification; and
 - 1.1.4 All other basic requirements as prescribed in the ERC Rules of Practice and Procedure, which shall include, but not be limited to, the following:
 - a) The Applicant 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 with all its annexes and accompanying documents.



- b) The Applicant must cause the publication of the entire application, excluding its annexes, in a newspaper of general circulation within its franchise area or area where it principally operates, and/or outside the franchise area if the DU will serve as SOLR in another franchise area.
- 1.2 The Applicant shall include in its filing a recovery formula or a mechanism to recoup a cost that is not recovered due to the absence of a SOLR customer, or to refund an over-recovery arising from the collection of SOLR Rate.
- 1.3 The ERC may request additional information or data from the Applicant as it deems appropriate.

Section 2. Procedures for Filing

- 2.1 The Applicant shall, within sixty (60) days from receipt of notification from the ERC, submit for ERC approval its proposed SOLR Rate. Where a DU is qualified to act as SOLR outside its franchise area, its proposed SOLR Rate shall be filed and submitted to the ERC within three (3) months from having been qualified as such.
- 2.2 The Applicant, before filing said application with ERC's Docket Section, shall proceed to the Contestable Market Division (CMD), Market Operations Service (MOS), for determination of the completeness of the requirements attached to the application, and assessment of application fees. Thereafter, the CMD will issue the Order of Payment for the application fee. Said application fees shall be governed by the Schedule of ERC Fees and Charges, as Amended.
- 2.3 Upon payment of the application fee, the Applicant shall file the application and supporting documents in three (3) hard copies and three (3) soft copies with the Docket Section of the ERC.
- 2.4 The ERC shall give notice of the commencement of the hearings of applications to all parties and to such other persons as the ERC determines.
- 2.5 The notice of hearing shall be published by the Applicant, at its own expense, at least twice for two (2) successive weeks in two (2) newspapers of nationwide circulation, the last date of publication to be not later than ten (10) days before the scheduled initial hearing.



**ARTICLE III
REPORTORIAL REQUIREMENTS**

Section 1. Within twenty (20) days following the first month of the implementation of retail competition, the SOLR shall submit to the ERC the following information:

1.1 Energy Purchased for SOLR service

Source of Power	Average Electricity Price	Total kWh Purchased

1.2 Energy Sold to SOLR Customers

SOLR Customers	SOLR Rate/charges	Total kWh Sold	Period for the provision of SOLR service

1.3 Sample bill per customer segment

Henceforth, said information shall be submitted to the ERC on a regular basis on or before the twenty-fifth (25th) day of each month.

Section 2. On or before the 30th day of January of the following year, the SOLR shall provide the ERC with the following (if any):

2.1 All calculations and collections made related to Article II, Sec. 1.2, together with the supporting documents, which shall include, but not be limited to, the following:

2.1.1 Amount not recovered from its SOLR operation.

2.1.2 Total amount recovered or intended to be recovered through the mechanism.

2.2 The ERC shall verify any over/(under) recovery of the above mentioned recovery mechanism yearly by comparing the approved amount to be recovered against the total collection for the same period.

2.3 If the ERC fails to verify the said mechanism within sixty (60) days from the submission of calculation with complete supporting documents, the rates shall be deemed final and confirmed.

2.4 Any over/under recovery incurred by the SOLR as a result of verification process shall be refunded to or collected from the affected SOLR customers. The scheme to be adopted relative to this shall be proposed by the Applicant.

**ARTICLE IV
ADMINISTRATIVE SANCTIONS**

Any violation of these Rules shall be subject to the penalty which the ERC may impose in accordance with the Guidelines to Govern the Imposition of Administrative Sanctions in the Form of Fines and Penalties pursuant to Section 46 of Republic Act No. 9136 promulgated by the ERC.

**ARTICLE V
SEPARABILITY**

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

**ARTICLE VII
EFFECTIVITY**

These Rules shall take effect on the fifteenth (15th) day following its publication in a newspaper of general circulation in the country.

Pasig City, 10 October 2007.


RODOLFO B. ALBANO, JR.
Chairman


RAUF A. TAN
Commissioner


ALEJANDRO Z. BARIN
Commissioner


MARIA TERESA A.R. CASTAÑEDA
Commissioner


JOSE C. REYES
Commissioner


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