# Annexes

**Annex 1**

## Summary of the 27 Resolutions, Rules, Regulations and Policies Promulgated in 2011

**Resolution No. 1: A Resolution Adopting the Revised Rules for the Issuance of Licenses to Retail Electricity Suppliers** (RES) *(January 17, 2011)*

The Resolution Adopting the Revised Rules for the Issuance of Licenses to Retail Electricity Suppliers (RES) was issued to ensure consistency with the industry-related policies, laws, rules and regulations, and to clarify the documentary requirements for the RES License application.

The major amendments for the issuance of Licenses to RES include the following:

1. The term of a RES License was changed from three (3) to five (5) years;
2. The term "Supplier's License" was changed to "RES License";
3. The term "Local Retail Electricity Supplier (Local RES) was added and defined;
4. Inclusion of the provision regarding the cross ownership prohibition stated in Section 7 of Republic Act No. 9511 *(An Act Granting NGCP a Franchise to Engage in the Business of Conveying or Transmitting Electricity Through High Voltage Backbone System of Interconnected Transmission Lines, Substations and Related Facilities, and for other purposes);,*
5. An additional creditworthiness requirement for licensed RES such as updating of the credit standards on a monthly basis every time the number of contestable customers it serves changes;
6. A change in the computation of the RES License Fee: where in the capitalization or the total capital invested into the business; or in the event an applicant has two or more businesses, the capitalization allocated for the supply business; or two or more business which are electricity related, the capitalization shall be based on the ERC-approved Business Separation Unbundling Plan (BSUP);
7. A mandated 30-day written notice to the ERC by an entity if it intends to operate as a Local RES; and
8. A provision on just causes for non-renewal and/or revocation of RES license by the ERC.

**Resolution No. 2: A Resolution Adopting the Amended Rules for the Recovery of NPC Stranded Contract Costs and Stranded Debts Portion of the Universal Charge** *(February 7, 2011)*

The Amended Rules for the Recovery of the Stranded Debts (SD) Portion of the Universal Charge seek to: (1) Provide the general framework to be used in deciding petitions by the Power Sector Assets and Liabilities Management Corporation (PSALM) with respect to the recovery of the Stranded Contract Costs and Debts of the National Power Corporation (NPC) through the Universal Charge (UC); (2) Establish an orderly procedure and manner in which the PSALM shall file its petitions for the establishment of and availment from the UC with respect to the Stranded Contract Costs and Stranded Debts recovery; (3) Define the parameters to calculate the amount of Stranded Contract Costs and Stranded Debts recovery and outline reportorial requirements governing PSALM's petition for establishment of and availment from the UC, as well as the succeeding true-up petitions that PSALM shall file; and (4) Develop a true-up mechanism to determine discrepancy between actual disbursements and approved share from the UC.

The major amendments to the Rules are:

1. Inclusion of a provision for true-up adjustments of the UC for NPC Stranded Contract Costs and Stranded Debts for subsequent years;
2. Inclusion of a provision that the excess recovery will be used to offset and Stranded Contract Costs determined for subsequent years should the amount determined in the Gross Annual Contract Costs be less than the combined amounts derived from Revenues from the Sale of Contracted Energy of Eligible IPPs and privatization of Eligible IPP Contracts;
3. The exclusion of the capacity fees related to eligible IPP contracts in the provision for financial obligations for purposes of the Stranded Debt filing; and
4. Inclusion of the following revenue components in the Projected cash inflows:

   a. Total cash inflow from privatization
      i. Projected proceeds from the privatization of non-eligible IPP Contracts;
      ii. Projected net proceeds from the sale of sub-transmission assets;
      iii. Projected proceeds from the concession of operations of the transmission system.
   b. From projected cash flow from NPC's operation:
      i. Projected collections of capacity fees of non-eligible IPP Contracts through other rate adjustment mechanisms such as, but not limited to, ICERA and the Automatic Recovery of Monthly Fuel and Purchased Power Costs and Foreign-Exchange Related Costs;
      ii. Projected collections related to the Foreign Exchange Losses and/or Gains collected through ICERA; and
      iii. Projected collections associated with the Depreciation Expense related to NPC assets which have been transferred to PSALM.
5. Inclusion of a provision on how PSALM shall compute the NPC Stranded Debts of the UC for end-users with or without self-generating facilities in all grids.
6. Inclusion of a provision for the addition of the total assumed kilowatt-hours (kWh) generation of the self-generating facilities registered with the ERC and PSALM in the total system electricity sales to be used in the UC-SD. This will be operative only after the lapse of the grace period set under Section 7, Rule 18 of the IRR of RA 9136.

**Resolution No. 3: A Resolution for the Establishment of a Technical Working Group (TWG) for the Resolution of Issues on Accounting, Billing and Settlement with the Opening of the Retail Market *(February 28, 2011)***

Section 31 of Republic Act No. 9136 (EPIRA) mandated the implementation of Open Access and Retail Competition (OARC) not later than three (3) years upon effectivity of the EPIRA, subject to the following conditions:

1. Establishment of the wholesale electricity spot market;
2. Approval of unbundled transmission and distribution wheeling charges;
3. Initial implementation of the cross subsidy removal scheme;
4. Privatization of at least seventy (70%) percent of the total capacity of generating assets of NPC Luzon and Visayas; and
5. Transfer of the management and control of at least seventy (70%) percent of the total energy output of power plants under contract with NPC to the IPP Administrators.

The completion of the last pre-condition triggers the commencement of Open Access and Retail Competition (OARC). Thus, the ERC determined the need to formulate, review and/or clarify the rules that provide detailed processes and assignment of responsibilities for the accounting, billing and settlement of transactions and address other issues.

Accordingly, the ERC created a Technical Working Group (TWG), composed of personnel of the ERC and one (1) representative each from the agencies who will provide technical and operational inputs in the resolution of issues that may arise, to wit:

1. Retail Electricity Suppliers Association (RESA);
2. Manila Electric Company (MERALCO);
3. Private Electric Power Cooperatives Association (PEPOA);
4. Philippine Rural Electric Cooperatives Association (PHILRECA);
5. Market Operator (MO);
6. Philippine Independent Power Producers Association (PIPPA); and
7. National Grid Corporation of the Philippines (NGCP).

**Resolution No. 4: A Resolution Setting the Installed Generating Capacity Per Grid, National Grid and the Market Share Limitations Per Grid and the National Grid for 2011** *(March 14, 2011)*

The ERC promulgated the *Guidelines for the Determination of Installed Generating Capacity in a Grid and the National Installed Generating Capacity and Enforcement of the Limits of Concentration of Ownership, Operation or Control of Installed Generating Capacity* on December 14, 2005 and became effective on February 22, 2006. This is to promote free and fair competition in the generation and supply sectors to achieve greater operational and economic efficiency and to ensure customer protection and enhance competitive operation of the markets for generation and supply of electricity. Section 3, Article II of the said Guidelines provides for the initial setting of the installed generating capacity per Grid, National Grid and market share limitations per Grid and the National Grid, to be adjusted by the ERC on or before the 15th day of March of the succeeding years or as often as may be necessary.

In line with this, the ERC set the 2011 installed generating capacity per Grid and National Grid and market share limitations per Grid and National Grid, as follows:

| Grid | Installed Generating Capacity (kW) | % Market Share Limitations as per RA 9136 | Installed Generating Capacity Limit (kW) |
|---|---|---|---|
| Luzon | 11,167,476.01 | 30% | 3,350,242.80 |
| Visayas | 2,051,956.00 | 30% | 615,586.80 |
| Mindanao | 1,756,583.00 | 30% | 526,974.90 |
| National | 14,976,015.01 | 25% | 3,744,003.75 |

The schedule above shall be strictly enforced and implemented until the next adjustment thereto which shall be done on or before the 15th day of March of the succeeding years and/or as often as may be necessary based on the maximum capacity of the power plants as submitted by the Generation Companies and other entities that are required to submit reports with the ERC pursuant to the said Guidelines.

**Resolution No. 5: A Resolution Directing All Distribution Utilities to Remit Their Respective Proportionate Shares to the Distribution Management Committee's (DMC) 2011 Budget** *(January 17, 2011)*

In line with Section 2.2.4.1, Chapter 2 of the Philippine Distribution Code (PDC) which provides that all of Distribution Management Committee's (DMC) operating costs shall be shared among all DUs as a direct proportion of their Annual Peak Demand or Annual Energy Sales, the ERC approved the budget of the DMC for the year 2011 as follows:

| BUDGET | AMOUNT (PhP) |
|---|---:|
| Approved (2011 DMC Budget)<br>Less: Unutilized Portion (2010) | 16,740,703.00<br>1,453,136.00 |
| **TOTAL AMOUNT** | **15,287,567.00** |

The ERC directed the DUs to remit their proportionate share in the approved budget of the DMC on or before April 15, 2011 and submit to ERC its proof of compliance within fifteen (15) days from such compliance. The proportionate share of each DU to the 2011 DMC budget is computed based on its 2009 Annual Energy Sales.

**Resolution No. 6: A Resolution Adopting the Amendments to the Rules and Regulations Implementing Republic Act No. 7832** *(January 31, 2011)*

The ERC amended the Implementing Rules and Regulations of Republic Act No. 7832 known as the *Anti-Electricity and Electric Transmission Line/Materials Pilferage Act of 1994* to address current issues and incorporate recent jurisprudence and newly adopted policies and procedures.

The major amendments to the Rules and Regulations Implementing Republic Act No. 7832, among others, include the following:

1. Added a Section 3 under Rule III – Prima Facie Evidence;
2. Added a Rule IV – New Provisions;
3. Added a Rule V –Inspection Rules and Procedures;
4. Added a Rule VII – Billings and Surcharges; and
5. Added a Rule IX – Rationalization of System Loss.

**Resolution No. 7: A Resolution Allowing the Distribution Utilities to Include in their Monthly Transmission Cost the National Grid Corporation of the Philippines (NGCP) National Franchise Tax Billing** *(March 7, 2011)*

Section 9 of Republic Act No. 9511, *An Act Granting the National Grid Corporation of the Philippines a Franchise to Engage in the Business of Conveying or Transmitting Electricity Through High Voltage Back-Bone System of Interconnected Transmission Lines, Substations and Related Facilities, and for Other Purposes,* requires NGCP to pay a three (3%) percent national franchise tax in lieu of all other taxes except realty tax.

Recognizing the need for a uniform implementation of the recovery of NGCP's franchise tax charges and that the same is considered to be a pass through cost on the part of the Distribution Utilities (DUs), the ERC resolved and approved to include the 3% National Franchise Tax billed by NGCP as part of the DUs' total monthly transmission cost in the Transmission Rate Adjustment Mechanism (TRAM) formula.

**Resolution No. 8: A Resolution Adopting the Rules Governing the Tariff Glide Path Pursuant to Article VII of the Rules for Setting the Electric Cooperatives Wheeling Rates** *(May 2, 2011)*

The ERC promulgated the *Rules for Setting the Electric Cooperatives Wheeling Rates (RSEC-WR)* on September 23, 2009 which embody the new regulatory framework for the on-grid electric cooperatives.

Article VII of the RSEC-WR provides for the Tariff Glide Path (TGP) where the rate of the EC per group shall be adjusted during the Regulatory Period using the formula provided. In order to fully implement the TGP, the ERC promulgated the TGP Rules which details the methodology, the regulatory process and the timeline.

The TGP Rules set out the following:

1. Economic and statistical parameters that the ERC will consider in determining the indices, the efficiency factors and the reward/penalties scheme that would define the adjustment of the initial tariff caps within the first Regulatory Period;
2. Technical and performance standards that the ECs must comply with in consonance with the provisions of the Philippine Distribution Code (PDC) and other ERC Rules and Regulations which will be the basis for the calculation of the Performance Incentive Scheme (PIS);
3. Statistical analysis that shall be undertaken by the ERC in determining the variables affecting the TGP;
4. Consultative and collaborative process and the timelines which both the ECs and the ERC must adhere to in order for the Rules to be applied as intended;
5. Relevant period that the ERC will use in determining the nominal values for the Index and the efficiency factors;
6. Reportorial requirements that the ECs must comply with as part of the process of defining the values for the Index (I), Efficiency Factor (X) and Performance Incentive (S); and
7. Circumstances that would justify exception from the provisions of the TGP Rules and the RSEC-WR.

**Resolution No. 9: A Resolution Adopting the Rules Requiring Generation Companies and Distribution Utilities which are not Publicly Listed to Offer and Sell to the Public a Portion of not less than Fifteen Percent (15%) of their Common Shares of Stock Pursuant to Section 43 (t) of Republic Act No. 9136 and Rule 3, Section 4 (m) of its Implementing Rules and Regulations (IRR)** *(May 23, 2011)*

The ERC, pursuant to Section 2 (d) of Republic Act No. 9136 which provides that it is the policy of the State to enhance the inflow of private capital and broaden the ownership base of the power generation, transmission and distribution sectors, promulgated Resolution No. 18, Series of 2005, which details the guidelines on how to implement Section 43 (t) of R.A. 9136 and Rule 3, Section 4 (m) of its IRR. The ERC, however, suspended the effectivity and implementation of Resolution 18 on May 10, 2006 pending the conduct and termination of public hearing thereon through Resolution No. 21, Series of 2006.

Recognizing the need to issue these Rules to implement the mandate of R.A. 9136 on public offering, the ERC resolved to adopt the *Rules Requiring Generation Companies and Distribution Utilitiess which are not Publicly Listed to Offer and Sell a Portion of not less than Fifteen Percent (15%) of their Common Shares of Stock.*

These Rules apply to the Generations Companies and Distribution Utilities (electric cooperatives that have common shares of stock, Privately-Owned DUs and LGU-Owned and Operated Distribution Systems). Not covered by these Rules are the self-generation facilities, generation companies and distribution utilities already listed in the Philippine Stock Exchange including their respective holding companies, entities engaged in electric generation and distribution business as partnerships which do not list partnership interests, and electric cooperatives that have no common shares of stocks.

**Resolution No. 10: A Resolution Declaring December 26, 2011 as the Open Access Date to Mark the Commencement of the Full Operations of the Competitive Retail Electricity Market in Luzon and Visayas** *(June 6, 2011)*

Under Section 31 of Republic Act No. 9136, the implementation of the open access and retail competition (OARC) shall commence upon completion of the following conditions:

1. Establishment of the wholesale electricity spot market (WESM);
2. Approval of unbundled transmission and distribution wheeling charges;
3. Initial implementation of the cross subsidy removal scheme;
4. Privatization of at least seventy (70%) percent of the total capacity of generating assets of NPC in Luzon and Visayas; and
5. Transfer of the management and control of at least seventy (70%) percent of the total energy output of power plants under contract with NPC to the IPP Administrators.

Based on the resolutions and decisions rendered by the ERC on the various applications for the unbundling of transmission and distribution wheeling charges and removal of cross-subsidy and the applications for the requisite regulatory approvals for the establishment and operation of the WESM both in the Luzon and Visayas Grids and on the evidence presented by the parties in ERC Case No. 2011-004 RM, entitled *"In the Matter of the Declaration of the Retail Competition and Open Access Pursuant to Section 31 of Republic Act No. 9136, Otherwise known as the Electric Power Industry Reform Act of 2001 and Sections 3 and 4 of its Implementing Rules and Regulations",* the ERC found that all the legal pre-conditions provided in Section 31 of the EPIRA and Section 3, Rule 12 of its IRR have been fulfilled. Thus, the ERC declared December 26, 2011 as the Open Access Date to mark the commencement of the full operations of the competitive retail electricity market in Luzon and Visayas. All electricity consumers with an average monthly peak demand of one (1) MW for the twelve (12) months preceding December 26, 2011, as certified by the ERC to be contestable customers, shall have the right to choose their own electricity suppliers and are enjoined to exercise such right to their full benefit.

*The ERC, however, declared the deferment of the implementation of open access and retail competition in Luzon and Visayas through an Order issued on October 24, 2011 under ERC Case No. 2011-009 RM. After careful deliberation on the requests received by the ERC from Manila Electric Company (MERALCO), the Private Electric Power Operators Association (PEPOA), the Philippine Rural Electric Cooperative Association, Inc. (PHILRECA) and the Department of Energy (DOE) Steering Committee, the ERC acknowledged that not all the rules, systems, preparations, and infrastructures required for the implementation of open access and retail competition have been* *put in place in accordance with the originally contemplated timetable. The ERC was convinced that the commencement date of December 26, 2011 was no longer feasible for the establishment of the retail market. The ERC shall coordinate with other pertinent agency in determining the revised timelines.*

**Resolution No. 11: A Resolution Clarifying Resolution No. 17, Series of 2008 and Suspending Indefinitely the Filing of the Distribution Utilities' Respective Applications as required Under the "Guidelines for the Approval of Caps on the Recoverable Rate of Distribution System Losses" and Resolution No. 19, Series of 2007** *(May 9, 2011)*

The ERC clarified that Resolution No. 17, Series of 2008, only required the DUs to submit to the ERC, through a sworn statement, the results of their updated annual segregated system loss to be incorporated in their Annual Reports starting May 30, 2011.

Further, the ERC suspended indefinitely the filing of the DUs' respective applications as required under the "Guidelines for the Approval of Caps on the Recoverable Rate of Distribution System Losses and Resolution No. 19, Series of 2007.

**Resolution No. 12: A Resolution Confirming the Participation of the Energy Regulatory Commission (ERC) in the Steering Committee created by the Department of Energy (DOE) Defining the Policies for the Commencement of Retail Competition and Open Access** *(July 11, 2011)*

The ERC resolved to express its full support and extend its utmost cooperation to the Steering Committee created by the Department of Energy (DOE) through DOE Circular No. 2011-06-0006 to review rules and recommend policies to govern Open Access and Retail Competition.

The ERC, however, being an independent quasi-judicial regulatory body, resolved to decline the invitation for it to act as Co-Chair of the Steering Committee to give the latter full and sufficient discretion to review the issuances and make policy recommendations relative to competitive retail electricity market. Notwithstanding that, the ERC committed to participate in all the meetings and activities of the Steering Committee.

**Resolution No. 13: Resolution Adopting the Distribution Management Committee (DMC) Rules to Govern the Monitoring of Compliance of Distribution Utilities with the Philippine Distribution Code** *(June 21, 2011)*

Sections 43 (b) and 43 (t) of Republic Act No. 9136 (EPIRA) mandate the ERC to promulgate and enforce a National Grid Code and a Distribution Code and to perform such other regulatory functions that are appropriate and necessary in order to ensure the successful restructuring and modernization of the electric powr industry.

Section 2.2.5.1 of the Philippine Distribution Code (PDC) provides that the Distribution Management Committee (DMC) shall establish its own rules and procedures relating to the conduct of its business such as the monitoring of distribution code enforcement. Pursuant thereto, the DMC issued and proposed "Rules to Govern the Monitoring of Compliance of Distribution Utilities with the Philippine Distribution Code". Further, Section 2.2.5.2 of the PDC provides that such rules and procedures of the DMC shall be approved by the ERC. Thus, the ERC resolved to approve and adopt the *Rules to Govern the Monitoring of Compliance of Distribution Utilities (DUs) with the Philippine Distribution Code* proposed by the DMC.

The Rules are designed to establish a monitoring system and ensure the compliance of the DUs with the standards prescribed in the Philippine Distribution Code. It also aims to promote accountability of the DUs and protect the public interest as it is affected by the rates and services of the DUs and other providers of electric power. Moreover, the Rules identify which standards must be complied with in order of priority and the timeline of compliance with specific Standards.

The Rules apply to all electric power DUs, including the privately-owned DUs, Electric Cooperatives, Local Government Unit (LGU) Owned-and-Operated DUs, entities duly authorized to own, operate and maintain distribution facilities within the economic zones, consortium of DUs and other duly authorized entities engaged in the distribution of electricity.

**Resolution No. 14: A Resolution Modifying the Terms: *'Members' Contribution for Capital Expenditures (MCC) to Reinvestment Fund for Sustainable Capital Expenditures (RFSC)' and 'MCC – Real Property Tax (RPT) to Provision for RPT' as Provided in the Rules for Setting Electric Cooperatives'* Wheeling Rates (RSEC-WR)** *(July 6, 2011)*

The ERC, on September 23 2009 promulgated the Rules for Setting the Electric Cooperatives' (ECs) Wheeling Rates (RSEC-WR). Article 5 of the said Rules introduced the fund called the Members' Contribution for Capital Expenditure (MCC) envisioned to fund the amortization or debt service of the ECs, among others. Article 4.6 of the Rules provides for the payment of current Real Property Tax (RPT) which may be sourced from the additional contribution from member-consumers until the tax payments shall have been fully recovered. In order to clarify and avoid confusion on the use of the said terms, the ERC deemed it appropriate to modify the nomenclature of MCC under Article 5 and MCC-RPT under Article 4.6 of the RSEC-WR to *Reinvestment Fund for Sustainable Capital Expenditures (RFSC) and Provision for RPT*, respectively. The nature and purpose thereof, however, remain the same.

**Resolution No. 15: A Resolution Adopting the Amended Rules for the Approval of the Sale and Transfer of TRANSCO's Subtransmission Assets and the Acquisition by Qualified Consortiums** *(July 6, 2011)*

The ERC resolved to amend and adopt the Rules for the Approval of the Sale and Transfer of the TRANSCO's Subtransmission Assets and the Acquisition by Qualified Consortiums to: (1) Set the standards to distinguish the TRANSCO's or NGCP's transmission assets from its sub-transmission assets; (2) Establish an approval process prior to the final sale and transfer of sub-transmission assets to DUs; and (3) Govern the granting of franchise to the consortium or juridical entity to operate sub-transmission assets.

The amendments to the Sub-transmission Guidelines include, among others, the following:

1. Definition and legal treatment of a Consortium;
2. Extension of the deadline for disposition of sub-transmission assets until December 31, 2011 pursuant to the policies adopted in Resolution No. 27, Series of 2010 and ERC Case No. 2008-088 MC;
3. Responsibility of the Right of Way (ROW) costs incurred before and after the signing of the Lease Purchase Agreement (LPA) or Contract to Sell;
4. Compulsory capitalization of deferred sub-transmission charges for ECs only;
5. Billing of directly connected end-users pursuant to Resolution No. 27, Series of 2010; and
6. Submission of required data in forming a consortium, such as a Memorandum of

Agreement (MOA) and a policy on the treatment of existing and future connected end-user.

**Resolution No. 16: A Resolution Adopting the Amended Rules on the Definition and Boundaries of Connection Assets for Customers of Transmission Provider** *(July 6, 2011)*

The ERC resolved to amend the *Rules on the Definition and Boundaries of Connection Assets for Customers of Transmission Provider* to clarify its existing policy on the treatment of connection assets and delineate a sub-category of assets owned by the TRANSCO and/or NGCP which affects the changing arrangements of the Transmission Provider.

The major amendments to the Rules include the following:

1. Residual Sub-transmission Assets are those Sub-transmission facilities shared by two or more connected customers; or Sub-transmission facilities which if taken out of the System, will also affect other Customers connected to it;
2. Connection Assets (CAs) and Residual Sub-transmission Assets (RSTAs) for Load Customers of Transmission Provider include Residual Sub-transmission Assets defined as assets from the last Single Mechanical Connection which is shared with another Customer within the Grid to the last Single Mechanical connection of a User System or Equipment of a Customer at its Connection Point;
3. Connection Assets for Generation Customers of Transmission Provider include those from the Single Mechanical Connection of a User System or Equipment of a Generator, at its Connection Point, to the last Single Mechanical Connection which is not shared with another Generator within the Grid.

   A Generation Company may develop and own or operate a dedicated point-to-point limited facilities provided, that such facilities are required only for the purpose of connecting to the transmission system, and are used solely by the generating facility, subject to prior authorization by the ERC.

4. The Connection Assets for Customers of Transmission Provider shall include:

a. Load end step-down transformer serving only one (1) customer or two (2) or more the same customers.
b. Dedicated point-to-point limited facility of a generation company;

5. The Connection Assets for Customers of Transmission provider shall exclude:

   a. Residual Sub-transmission Assets.
   b. Load end step-down transformer serving two (2) or more different customers.
   c. The power circuit breaker(s), surge arrester(s), disconnect switch(es) including Numerical Distance Relays, Break Failure Relays or any other multi-function protective devises and equipment as prescribed and required in the Philippine Grid Code or mechanical connection at the primary side of the step down transformer which is not shared by another Customer; and

6. Residual sub-transmission assets connecting two (2) or more DUs which have not been sold, disposed or filed with the ERC for approval of sale by December 31, 2011 shall be reclassified as transmission network assets and reverted back to Transmission Provider's RAB to be recovered consistent with the OATS.

**Resolution No. 17: Resolution Adopting the Investor-Owned Electric Distribution Utility Planning Manual** *(July 6, 2011)*

The ERC recognized the significance and importance of having a comprehensive and integrated development plan not only for ECs but also for investor-owned or privately-owned distribution utilities (DUs) consistent with the Philippine Distribution Code (PDC), safety standards set by the Philippine Electric Code and the Rules for Setting Distribution Wheeling Rates (RDWR).

The distribution plan prepared by the DUs must have, among others, the following objectives:

1. Accurate prediction of the future demand and requirements for distribution service of customers;
2. Analytically identified and quantified problems and deficiencies of the existing distribution facilities to provide adequate capacity, to conform with safety requirements and to meet the required performance standards; and
3. The proposed projects to comply with obligations and standards are the project alternatives that provide the highest net benefits from the point of view of customers, when selected from technically feasible alternatives.

In addition to that, the Manual provides guidelines on how investor-owned DUs should undertake the planning of their sub-transmission and distribution networks. It is intended to support the Revenue Application of the DUs operating under Performance Based Regulation (PBR) during their reset applications.

**Resolution No. 18: A Resolution Adopting the Rules and Procedures Governing the Utilization and Disbursements of the Universal Charge-Environmental Charge**
(June 27, 2011)

Section 34 of Republic Act No. 9136 (EPIRA) mandates the collection of Universal Charge, which is to be determined, fixed and approved by the ERC and to be imposed on all electricity end-users, one of which is an environmental charge (EC) equivalent to one fourth of one centavo per kilowatt-hour (PhP0.0025/kWh), which shall accrue to an environmental fund to be used solely for watershed rehabilitation and management. Said fund shall be managed by the National Power Corporation (NPC).

In compliance with the EPIRA, its IRR and Power Sector Assets and Liabilities Management Corporation's (PSALM's) Guidelines and Procedures governing remittances and disbursement of the Universal Charge, the ERC issued the Rules and Procedures Governing the Utilization and Disbursements of the Universal Charge-Environmental Charge. The Rules promulgated govern the: (1) Management of the EC disbursed by PSALM to the NPC, (2) Utilization of the EC solely for watershed rehabilitation and management, (3) Disbursement of the EC corresponding to the approved petitions to specific watersheds, (4) Utilization of the Special Environmental Fund Account (SEFA), including the use of savings, and (5) Provision of information to NPC so that it may comply with its obligations for the management of the EC.

**Resolution No. 19: A Resolution Suspending the Proceedings of the Technical Working Group Established by the Commission for the Resolution of Issues on Accounting, Billing and Settlement with the Opening of the Retail Market** *(August 1, 2011)*

Through the issuance of Resolution No. 3, Series of 2011 on February 28, 2011, the ERC created a Technical Working Group (TWG) for the resolution of issues on accounting, billing and settlement with the opening of the retail market. On June 17, 2011, the Department of Energy (DOE) issued a Circular No. 2011-06-0006, creating the Retail Competition and Open Access (RCOA) Steering Committee tasked primarily to review the existing open access rules and to develop and recommend policies to implement the system, processes and timelines.

The Committee consists of the DOE (as chair) and the following (as members):

1. Philippine Electricity Market Corporation (PEMC);
2. National Power Corporation (NPC);
3. National Transmission Commission (TRANSCO);
4. Power Sector Assets and Liabilities Management Corporation (PSALM);
5. National Electrification Administration (NEA);
6. National Grid Corporation of the Philippines (NGCP); and
7. Department of Finance.

In view of the foregoing, the ERC suspended the proceedings of the TWG it created (in February 2011) after determining that the issues sought to be resolved at the TWG level would be the very same issues resolved in the TWGs of the Steering Committee which would amount to a duplication of the use of resources by all the parties concerned.

**Resolution No. 20: A Resolution Adopting the Revised Timelines for the Filing of Multi-Year Capital Expenditure (CAPEX) Applications of Electric Cooperatives Prescribed in Section 6.2 (Transitory Provision) of the Amended Rules for the Approval of Regulated Entities' Capital Expenditure Projects** *(July 4, 2011)*

Under the Rules Governing the Tariff Glide Path (TGP) Pursuant to Article VII of the Rules for Setting the Electric Cooperatives' Wheeling Rates (RSEC-WR) (Resolution No. 8, Series of 2011), the timelines for the filing of applications under the TGP are as follows:

| ENTRANT GROUP | NUMBER OF ECs | 1ST REGULATORY PERIOD (six [6] years) | INITIAL TARIFF GLIDE PATH FILING AND EVERY THREE (3) YEARS THEREAFTER |
|---|---|---|---|
| 1 | 29 | 2011-2016 | 4th month 2013 |
| 2 | 35 | 2012-2017 | 4th month 2014 |
| 3 | 32 | 2013-2018 | 4th month 2015 |

The ERC recognized that there is a need to revise the timelines for the filing of applications under the Amended CAPEX Rules to coincide with the timelines for the filing of applications under the TGP Rules. Below is the revised timelines for the filing of the Multi-Year CAPEX applications prescribed by the Amended CAPEX Rules applicable only to ECs under the TGP Rules:

1. Filing of Forecasted CAPEX

| ENTRANT GROUP | 1ST REGULATORY PERIOD CAPEX FILING (SUBSEQUENT FILING SHALL BE MADE EVERY THREE [3] YEARS THEREAFTER) | 1ST REGULATORY PERIOD CAPEX PLAN COVERAGE |
|---|---|---|
| 1 | April 2013 | 2014-2016 |
| 2 | April 2014 | 2015-2017 |
| 3 | April 2015 | 2016-2018 |

2. Filing of Interim CAPEX

| ENTRANT GROUP | 1ST REGULATORY PERIOD CAPEX PLAN COVERAGE | INTERIM CAPEX PLAN COVERGAE (PERIODS BEFORE THE INITIAL TARIFF GLIDE PATH FILING) | DEADLINE FOR THE FILING OF INTERIM CAPEX APPLICATION |
|---|---|---|---|
| 1 | 2014-2016 | 2011-2013 | September 2011 |
| 2 | 2015-2017 | 2011-2014 | October 2011 |
| 3 | 2016-2018 | 2011-2015 | November 2011 |

For the filing of forecasted CAPEX, the ECs must file their respective three-year CAPEX applications in accordance with the prescribed groupings and timelines under the TGP Rules and consistent with their respective five-year rolling Distribution Development Plans (DDP) submitted to the Department of Energy (DOE). The succeeding CAPEX applications shall be filed on the 4th month of the 3rd and 6th Regulatory Years of the ECs' respective Regulatory Periods.

For the filing of Interim CAPEX projects, specifically the capital projects for the period prior to the 1st Regulatory Period CAPEX Plan coverage, the ECs that have filed their respective multi-year CAPEX applications prior to the promulgation of Resolution No. 24, Series of 2010 (suspension of timelines) are exempt from complying with the deadlines for the filing of Interim CAPEX applications. The Interim CAPEX projects that were not included in the multi-year CAPEX applications shall be filed on or before the 4th month of the Regulatory Year prior to the remaining years of the Interim CAPEX Plan Coverage.

**Resolution No. 21: A Resolution Adopting the Amended Guidelines for the Setting and Approval of Electricity Generation Rates and Subsidies for Missionary Electrification Areas** *(August 22, 2011)*

The ERC resolved to amend and adopt the Subsidized Approved Generation Rate (SAGR) Guidelines, in order to, among others: (1) Implement the mandate of R.A. 9513, particularly the grant of cash incentive to renewable energy developers; (2) Require NPC SPUG to file a petition to set the UC-ME on or before March 15 of every calendar year; (3) Dispense with the filing of quarterly true-up petition; and (4) Conform with the FIT Rules.

The amendments to the Guidelines for the Setting and Approval of Electricity Generation Rates and Subsidies for Missionary Electrification Areas include the following:

1. Article II (Delegated NPC SPUG Areas) - Section 3 (Filing and Approval of PSA and the NPP TCGR) and Section 4 (Recovery of the NPP TCGR);

2. Article III (NPC SPUG Areas) - Section 1 (a) (Setting and Adjustment of NPC SPUG TCGR);

3. Article IV (Availment of Cash Incentive by Renewable Energy Developers for Missionary Electrification) - Section 1 (Determination of the Renewable Energy developer Eligible for the Availment of the Cash Incentive) and Section 2 (Disbursement of Cash Incentive); and

4. Article V (Provisions applicable to Delegated NPC SPUG Areas and NPC SPUG Areas) - Section 1 (c) and (d) (Determination of the SAGR and its Adjustments), Section 2 (UC-ME Filing Requirements and Procedures) and Section 4 (Obligation of NPC SPUG or the NPPs to Source from RE Resources).

**Resolution No. 24: A Resolution Adopting the Revised Uniform Reportorial Requirement (URR) by all Distribution Utilities** *(September 26, 2011)*

In view of the ERC's issuance of Resolution No. 24, Series of 2010 suspending the submission of the Uniform Reportorial Requirement (URR) under Resolution No. 17, Series of 2009, due to the ongoing review of the Implementing Rules and Regulations (IRR) of Republic Act No. 7832 (Anti-Pilferage of Electricity and Theft of Electricity Transmission Lines/Materials Act of 1994) and due to the filing of the on-grid Electric Cooperative (ECs) applications pursuant to the Rules for Setting the Electric Cooperatives' Wheeling Rates, and because of the new developments in the industry brought about by the promulgations of various Rules and Resolutions, the ERC needed to revise and improve the URR.

The revised URR shall be submitted by the Distribution Utilities (in electronic and hard copies) in lieu of the DU-MO1, DU-MO2 and other monthly calculations starting January 2012 and henceforth on or before the 30th day of the following month.

**Resolution No. 26: A Resolution Amending Resolution No. 26, Series of 2010**
*(December 26, 2011)*

The ERC, on January 26, 2009, through Resolution No. 01, series of 2009 set the deadline for the disposition of the Residual Sub-transmission Assets (RSTA) on December 31, 2010. RSTA refers to sub-transmission assets which are shared by and between two (2) or more connected Distribution Utilities (DUs). This, however, was modified by the ERC on December 15, 2010, through Resolution No. 26, series of 2010, extending the deadline until December 31, 2011.

The National Transmission Corporation (TRANSCO), on the other hand, requested on December 19, 2011 for another extension on the disposition of the RSTAs until June 30, 2012 because negotiations with the DUs on the formation of the consortium is still on-going and approximately 20% of the RSTAs have yet to be disposed.

The ERC, considering that the DUs are still negotiating for the formation of a consortium, deemed it appropriate to grant the request of TRANSCO with modification and extend the deadline until December 31, 2012 to afford the DUs ample time to acquire the RSTAs. Thus, the ERC resolved to amend Resolution No. 26, Series of 2010 by extending the deadline for the disposition of the RSTAs until December 31, 2012.

**Resolution No. 27: A Resolution on the Installation of Interval Meters in the Premises of Qualified Contestable Customers and on the Provision of their Load Profile**
*(December 12, 2011)*

The ERC issued the *Resolution on the Installation of Interval Meters in the Premises of Qualified Contestable Customers and on the Provision of their Load Profile* to provide the terms and conditions by which a distribution utility (DU) may provide information pertaining to the historical consumption or load profile data to its end-users thereby allowing them to aptly plan and negotiate for retail electricity supply.

The ERC received a proposition from MERALCO, PEPOA and PHILRECA conveying that, as a value added service, they are amenable to supply raw and readable load profile data and analysis thereof for a reasonable fee of Five Thousand Pesos (PhP 5,000.00) for the provision of load profile data to requesting contestable customers.

Accordingly, the ERC resolved to direct DUs in Luzon and Visayas with potential contestable customers to comply with the following:

1. To complete within thirty (30) days from issuance hereof, the installation of time-of-use (TOU) metering facilities capable of measuring energy use and demand consistent with the WESM energy settlement intervals and distribution and transmission demand charge intervals.

   In this regard, potential customers are enjoined to inform the ERC of the DU's failure to install metering facilities within their premises within the reglementary period provided by the ERC;

2. Prior to any request, to provide the potential contestable customers their monthly average consumption data for the last twelve (12) months free of charge;

3. For purposes of negotiating retail supply contracts with licensed suppliers and upon request of contestable customers, the DU shall provide them their twelve (12) month hourly demand/consumption data and other available information at no cost;

4. Should the Meter Service Provider (MSP)/ Wholesale Meter Service Provider (WMSP) offer load profiling services that includes an analysis of such information, the same shall be provided at minimal cost mutually agreed upon between the MSP/WMSP and the contestable customer; and

5. The DUs are enjoined to observe non-discriminatory pricing for the provision of load profile services to its customers.