

the annual revenue requirement (calculated in accordance with Article V) for each of the Regulatory Years in the Third Regulatory Period up to and including that Regulatory Year which is the fifth Regulatory Year after Regulatory Year t.<sup>14</sup>

For the avoidance of doubt, this means that the annual revenue requirement for any such Regulatory Year will be increased or decreased by the net sum of the Net Efficiency Adjustments for each of the Regulatory Years in the Second Regulatory Period that are to be added to or subtracted from the annual revenue requirement for that Regulatory Year in accordance with this Section 9.3.1.

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<sup>14</sup> For example, if Regulatory Year t is 2006, then the fifth Regulatory Year after Regulatory Year t is 2011.

**ARTICLE X**

**FORCE MAJEURE EVENT REGULATED PASS THROUGH**

**10.1 Force Majeure Event Pass Through**

10.1.1 If a Force Majeure Event occurs, the Regulated Entity may seek the ERC's approval to charge Customers, in addition to the maximum amounts that the Regulated Entity is otherwise permitted to charge Customers for Regulated Transmission Services pursuant to Articles III, IV or V (as applicable), an amount (FM Pass Through Amount) that is not greater than the Eligible FM Pass Through Amount (as calculated by the Regulated Entity) in respect of that Force Majeure Event as at the date of the Force Majeure Event Claim (if any) given to the ERC pursuant to Section 10.2 in respect of that Force Majeure Event.

**10.2 Claim for a Force Majeure Event**

10.2.1 To seek the ERC's approval to pass through an FM Pass Through Amount under Section 10.1, the Regulated Entity must give the ERC:

- (a) a Force Majeure Event Notice pursuant to Section 10.2.2 within 3 months of the relevant Force Majeure Event occurring; and
- (b) a Force Majeure Event Claim pursuant to Section 10.2.3 within 12 months of the relevant Force Majeure Event occurring.

10.2.2 A Force Majeure Event Notice must specify:

- (a) details of the Force Majeure Event concerned; and
- (b) the date the Force Majeure Event occurred.

10.2.3 A Force Majeure Event Claim must specify:

- (a) details of the Force Majeure Event concerned;
- (b) the date the Force Majeure Event occurred;
- (c) the increase in costs that the Regulated Entity has actually incurred as at the date of the Force Majeure Event Claim:
  - (i) in the transmission of electricity to Connection Points; and
  - (ii) in complying with the provisions of any legislation, or of any rules, regulations or Rules made under the EPIRA, including the IRR and the Grid Code, which must be complied with in relation to the transmission of such electricity,

as a result of the occurrence of the Force Majeure Event;

- (d) the extent (if any) to which the Regulated Entity has the benefit of any insurance against the consequences of the Force Majeure Event;

- (e) the FM Pass Through Amount the Regulated Entity proposes in relation to the Force Majeure Event;
- (f) the basis on which the Regulated Entity proposes to apply the FM Pass Through Amount to Customers, including the amount the Regulated Entity proposes to apply to Customers in each Regulatory Year; and
- (g) the date from, and the period over, which the Regulated Entity proposes to apply the FM Pass Through Amount to Customers,

and must be accompanied by evidence of the increase in costs referred to in paragraph (c), and justification that such costs are reasonable and occur as a sole consequence of the Force Majeure Event.

10.2.4 If the amount which the Regulated Entity proposes to apply to any Customer in any Regulatory Year, as specified in a Force Majeure Event Claim pursuant to Section 10.2.3(f), might result in the price for electricity paid by any End-user increasing in that Regulatory Year by more than the FM Threshold Amount in respect of that Regulatory Year, the ERC must publish a notice in a newspaper of general circulation in the area in which such End-users are located which:

- (a) sets out the details of the claimed Force Majeure Event and the date that Force Majeure Event was claimed to have occurred;
- (b) specifies the FM Pass Through Amount the Regulated Entity proposes in relation to that Force Majeure Event and the basis on, date from and period over which the Regulated Entity proposes to apply that FM Pass Through Amount to Customers (including the amount the Regulated Entity proposes to apply to Customers in each Regulatory Year), in each case as set out in the Force Majeure Event Claim;
- (c) states that, if the Regulated Entity's proposal is approved by the ERC, it might result in an increase in the price of electricity; and
- (d) invites interested persons to make submissions in relation to:
  - (i) whether the claimed Force Majeure Event has occurred;
  - (ii) the amount that the ERC should determine as the Eligible FM Pass Through Amount in respect of the claimed Force Majeure Event;
  - (iii) the basis on, date from and period over which any Approved FM Pass Through Amount should be applied to Customers; and
  - (iv) the effect of the claimed Force Majeure Event on the delivery of electricity to End-users.

10.2.5 For the purposes of Section 10.2.4, the FM Threshold Amount in respect of a Regulatory Year  $t$  ( $FMTA_t$ ) is calculated as:

$$FMTA_t = 0.02 \text{ PhP / kWh} \times (CPI_{t-1} / CPI_{2002})$$

Where:

$CPI_{t-1}$  has the same meaning as in Section 3.3.2; and

CPI<sub>2002</sub> is the sum of the CPIs for the Quarters ending on 31 December 2001, 31 March 2002, 30 June 2002 and 30 September 2002 (namely, 663.7<sup>15</sup>).

10.2.6 The submissions referred to in Section 10.2.4 must be provided in writing or at such public consultations as the ERC may decide to convene for that purpose, but only those persons who make written submissions may participate in any such public consultations.

### **10.3 Approval by ERC**

10.3.1 If the ERC receives a Force Majeure Event Claim under Section 10.2.1(b) in relation to a Force Majeure Event, the ERC must decide whether the relevant Force Majeure Event occurred and, if the ERC decides the Force Majeure Event occurred, the ERC must decide:

- (a) the Eligible FM Pass Through Amount in respect of the Force Majeure Event;
- (b) the basis on which the FM Pass Through Amount proposed by the Regulated Entity in relation to the Force Majeure Event or the Eligible FM Pass Through Amount in respect of the Force Majeure Event as determined by the ERC (whichever is the lesser) (the Approved FM Pass Through Amount) may be applied to Customers; and
- (c) the date from, and period over, which the Approved FM Pass Through Amount in respect of the Force Majeure Event may be applied to Customers,

and notify the Regulated Entity in writing of the ERC's decision and the reasons for the ERC's decision.

10.3.2 If the ERC does not give a notice to the Regulated Entity under Section 10.3.1 prior to the expiry of the Decision Period in respect of the Force Majeure Event Claim then, on the first Business Day after the expiry of that Decision Period, the ERC is deemed to have notified the Regulated Entity of its decision that:

- (a) the FM Pass Through Amount proposed by the Regulated Entity in relation to the relevant Force Majeure Event in the Force Majeure Event Claim is the Approved FM Pass Through Amount in respect of that Force Majeure Event; and
- (b) the basis on, date from and period over which that Approved FM Pass Through Amount may be applied to Customers are as specified in the Force Majeure Event Claim.

10.3.3 For the purposes of Section 10.3.2, the Decision Period in respect of a Force Majeure Event Claim is:

- (a) unless the ERC determines otherwise pursuant to paragraph (b), 90 Business Days after the ERC receives:

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<sup>15</sup> This figure is calculated using National Statistics Office data dated 2 December 2002.

- (i) the Force Majeure Event Claim from the Regulated Entity; and
  - (ii) such evidence of the increase in costs referred to in Section 10.2.3(c) as is required by the ERC;
- (b) if the ERC convenes a public consultation or public consultations for the purpose of taking submissions in response to a notice published by the ERC pursuant to Section 10.2.4, such longer period as the ERC determines to be reasonable in the circumstances (in which case the ERC must give notice of that longer period to the Regulated Entity within 5 Business Days after the last such public consultation).

#### **10.4 Relevant Factors for ERC Consideration**

10.4.1 In making a decision under Section 10.3.1, the ERC must take into account:

- (a) the matters and proposals set out in the Force Majeure Event Claim;
- (b) any submissions made to the ERC pursuant to Section 10.2.4;
- (c) the extent to which it would have been reasonable for the Regulated Entity to have procured insurance against the consequences of the Force Majeure Event; and
- (d) any amount recoverable by the Regulated Entity under insurances against the consequences of the Force Majeure Event and of which the Regulated Entity has the benefit,

and, subject to the requirement that the Regulated Entity is not to be compensated for losses against which it would have been reasonable for the Regulated Entity to have been insured, or for losses to the extent they are able to be compensated for by claiming under insurances of which the Regulated Entity has the benefit, the ERC must seek to ensure that the Regulated Entity is fully (but not over) compensated for the increase in costs referred to in Section 10.2.3(c) to the extent that it was reasonable for the Regulated Entity to incur those costs (or for such lesser amount as is proposed by the Regulated Entity), taking into account:

- (e) the relative amounts of electricity transmitted by the Regulated Entity to each Customer;
- (f) the time cost of money based on the weighted average cost of capital determined by the ERC which applies for the purposes of these Rules in respect of the period over which the Approved FM Pass Through Amount is to be applied;
- (g) the basis on and period over which the Approved FM Pass Through Amount is to be applied;
- (h) any previous application of this Article X which has resulted in the Regulated Entity recovering an amount either more or less than the amount required to fully (but not over) compensate it in respect of a previous Force Majeure Event in accordance with this Article X; and
- (i) any other factors the ERC considers relevant.

10.4.2 The ERC may require the Regulated Entity to retain an independent expert or experts pursuant to Article XIV for the purpose of preparing a written report in respect of any of the matters that the ERC is required to decide pursuant to Section 10.3.1.

**10.5 Application of Approved FM Pass Through Amount**

10.5.1 The Regulated Entity may, after:

- (a) receipt or deemed receipt of a notice under Section 10.3.1 or 10.3.2 allowing the Regulated Entity to pass through an Approved FM Pass Through Amount; and
- (b) publishing a notice in a newspaper of general circulation that sets out:
  - (i) the Approved FM Pass Through Amount which the ERC has approved or is deemed to have approved;
  - (ii) the circumstances giving rise to the Approved FM Pass Through Amount; and
  - (iii) the basis on, date from and period over which the Regulated Entity will apply the Approved FM Pass Through Amount to Customers,apply the Approved FM Pass Through Amount on the basis, from the date and over the period specified or deemed to be specified in the notice from the ERC.

10.5.2 The effect of an Approved FM Pass Through Amount must be:

- (a) shown on the bills of each affected Customer which are rendered in respect of any part of the period until the next Regulatory Period commences; or
- (b) otherwise notified to such Customers in a manner approved by the ERC.

**10.6 Relevance of Approved FM Pass Through Amount**

10.6.1 Subject to Sections 4.15.1, 4.15.2, 5.15.1 and 5.15.2, the Regulated Entity may recover an Approved FM Pass Through Amount in accordance with this Article X notwithstanding that such recovery might otherwise result in a breach of the relevant cap under the applicable form of price control as calculated in accordance with Article III, IV or V.

**ARTICLE XI**

**TAX EVENT REGULATED PASS THROUGH**

**11.1 Tax Event Pass Through**

11.1.1 If a Positive Tax Change Event occurs, the Regulated Entity may seek the ERC's approval to charge Customers, in addition to the maximum amounts that the Regulated Entity is otherwise permitted to charge Customers for Regulated Transmission Services pursuant to Articles III, IV or V (as applicable), an amount (Positive Tax Pass Through Amount) that is not greater than the Eligible Tax Pass Through Amount (as calculated by the Regulated Entity) in respect of that Tax Change Event.

11.1.2 If a Negative Tax Change Event occurs, the ERC may require the Regulated Entity to pass through to Customers, as a reduction in the maximum amounts that the Regulated Entity is otherwise permitted to charge Customers for Regulated Transmission Services pursuant to Articles III, IV or V (as applicable), an amount (Negative Tax Pass Through Amount) that is not greater than the Required Tax Pass Through Amount (as determined by the ERC) in respect of that Tax Change Event.

**11.2 Claim for a Positive Tax Pass Through**

11.2.1 To seek the ERC's approval to pass through a Positive Tax Pass Through Amount under Section 11.1.1, the Regulated Entity must give the ERC, within 3 months of the relevant Tax Change Event occurring, a written statement which specifies:

- (a) details of the Tax Change Event concerned;
- (b) the date the Tax Change Event took effect;
- (c) the increase in costs in the transmission of electricity to Connection Points that the Regulated Entity has incurred and is likely to incur, until the end of the Regulatory Period in which the Tax Change Event occurs, as a result of the Tax Change Event;
- (d) the Positive Tax Pass Through Amount the Regulated Entity proposes in relation to the Tax Change Event;
- (e) the basis on which the Regulated Entity proposes to apply the Positive Tax Pass Through Amount to Customers, including the amount the Regulated Entity proposes to apply to Customers in each Regulatory Year; and
- (f) the date from, and period over, which the Regulated Entity proposes to apply the Positive Tax Pass Through Amount to Customers,

and which is accompanied by evidence of the actual and likely increase in costs referred to in paragraph (c).

11.2.2 If the ERC receives a statement under Section 11.2.1 in relation to a Positive Tax Change Event, the ERC must decide whether that Tax Change Event occurred and, if the ERC decides the Tax Change Event occurred, the ERC must decide:

- (a) the Eligible Tax Pass Through Amount in respect of that Tax Change Event;
- (b) the basis on which the Positive Tax Pass Through Amount proposed by the Regulated Entity in relation to that Tax Change Event or the Eligible Tax Pass Through Amount in respect of that Tax Change Event as determined by the ERC (whichever is the lesser) (the Approved Tax Pass Through Amount), may be applied to Customers; and
- (c) the date from, and period over, which the Approved Tax Pass Through Amount in respect of that Tax Change Event may be applied to Customers,

and notify the Regulated Entity in writing of the ERC's decision and the reasons for the ERC's decision.

11.2.3 If the ERC does not give a notice to the Regulated Entity under Section 11.2.2 within 90 Business Days of receiving:

- (a) a statement from the Regulated Entity under Section 11.2.1; and
- (b) such evidence of the increase in costs referred to in Section 11.2.1(c) as is required by the ERC,

then, on the 91<sup>st</sup> Business Day after receiving the Regulated Entity's statement and that evidence, the ERC is deemed to have notified the Regulated Entity of its decision that:

- (c) the Positive Tax Pass Through Amount proposed by the Regulated Entity in relation to the Tax Change Event in the Regulated Entity's statement is the Approved Tax Pass Through Amount in respect of that Tax Change Event; and
- (d) the basis on, date from and period over which that Approved Tax Pass Through Amount may be applied to Customers are as specified in the Regulated Entity's statement.

### **11.3 Required Negative Tax Pass Through**

11.3.1 If a Negative Tax Change Event occurs and the ERC decides to impose a requirement on the Regulated Entity in relation to that Negative Tax Change Event as described in Section 11.1.2, the ERC must decide:

- (a) the Negative Tax Pass Through Amount in respect of that Tax Change Event;
- (b) the basis on which that Negative Tax Pass Through Amount must be applied to Customers; and



- (c) the date from, and period over, which the Negative Tax Pass Through Amount in respect of that Tax Change Event must be applied to Customers,

and notify the Regulated Entity in writing of the ERC's decision and the reasons for the ERC's decision.

11.3.2 The Regulated Entity must provide the ERC with such information as the ERC requires for the purpose of making a decision under Section 11.3.1 within the time specified by the ERC in a notice provided to the Regulated Entity by the ERC for that purpose.

#### **11.4 Relevant Factors**

11.4.1 In making a decision under Sections 11.2.2 or 11.3.1, the ERC must (in the case of a decision under Section 11.2.2) take into account the matters and proposals set out in the Regulated Entity's statement and:

- (a) in the case of a decision under Section 11.2.2 - the ERC must ensure that the Regulated Entity is fully (but not over) compensated for the actual and likely increase in costs referred to in Section 11.2.1(c) (or for such lesser amount as is proposed by the Regulated Entity); and
- (b) in the case of a decision under Section 11.3.1 – the ERC must ensure that the aggregate amount that the Regulated Entity is required to pass through to Customers is an amount that is not more than the costs that the Regulated Entity has saved and is likely to save, until the end of the Regulatory Period in which the Negative Tax Change Event occurs, in the transmission of electricity to Connection Points as a result of the Negative Tax Change Event,

taking into account:

- (c) the relative amounts of electricity transmitted by the Regulated Entity to each Customer;
- (d) the time cost of money based on the weighted average cost of capital determined by the ERC which applies for the purposes of these Rules in respect of the period over which the Approved Tax Pass Through Amount or the Negative Tax Pass Through Amount (as the case may be) is to be applied;
- (e) the basis on and period over which the Approved Tax Pass Through Amount or the Negative Tax Pass Through Amount (as the case may be) is to be applied;
- (f) any previous application of this Article XI which has resulted in an Approved Tax Pass Through Amount or a Negative Tax Pass Through Amount in respect of a previous Tax Change Event being more or less than the amount which it should have been for the purposes of this Article XI;

- (g) any change in the way or rate at which another Tax is calculated, or the removal or imposition of another Tax, which, in the ERC's opinion, is complementary to the Tax Change Event concerned;
- (h) the effect of any other previous Tax Change Event that has occurred since the later of the Effectivity Date and the last decision made under this Article XI in relation to a Tax Change Event; and
- (i) any other factors the ERC considers relevant.

**11.5 Application of Approved Tax Pass Through Amount or Negative Tax Pass Through Amount**

11.5.1 The Regulated Entity may, after:

- (a) receipt or deemed receipt of a notice under Section 11.2.2 or 11.2.3 allowing the Regulated Entity to pass through an Approved Tax Pass Through Amount; and
- (b) publishing a notice in a newspaper of general circulation that sets out:
  - (i) the Approved Tax Pass Through Amount which the ERC has approved or is deemed to have approved;
  - (ii) the circumstances giving rise to the Approved Tax Pass Through Amount; and
  - (iii) the basis on, date from and period over which the Regulated Entity will apply the Approved Tax Pass Through Amount to Customers,

apply the Approved Tax Pass Through Amount on the basis, from the date and over the period specified or deemed to be specified in the notice from the ERC.

11.5.2 The Regulated Entity must, after receipt of a notice under Section 11.3.1 requiring the Regulated Entity to pass through a Negative Tax Pass Through Amount to Customers, apply the Negative Tax Pass Through Amount on the basis, from the date and over the period specified in the notice from the ERC.

11.5.3 The effect of an Approved Tax Pass Through Amount or a Negative Tax Pass Through Amount must be:

- (a) shown on the bills of each affected Customer which are rendered in respect of any part of the period until the next Regulatory Period commences; or
- (b) otherwise notified to such Customers in a manner approved by the ERC.

**11.6 Relevance of Approved Tax Pass Through Amount**

11.6.1 Subject to Sections 4.15.1, 4.15.2, 5.15.1 and 5.15.2, the Regulated Entity may recover an Approved Tax Pass Through Amount in accordance with this Article XI notwithstanding that such recovery might otherwise result in a breach of the relevant cap under the applicable form of price control as calculated in accordance with Article III, IV or V.

**ARTICLE XII**

**RE-OPENING AND ADJUSTMENT EVENTS**

**12.1 Preconditions for Maximum Annual Revenue cap Re-Opening**

12.1.1 The Regulated Entity may apply to the ERC in writing for a change in the method used to calculate the Maximum Annual Revenue cap ( $MAR_t$ ) as set out in Section 3.2.1 or Section 4.2.1 if any of the following conditions (each a Trigger Condition) has occurred:

- (a) the absolute value of the change in CPI between two consecutive Quarters within the then current Regulatory Period, as calculated pursuant to Section 12.5.1, is greater than 0.07; or
- (b) a major prescribed change in the PhP/\$US exchange rate during the First Regulatory Period, as defined in Section 12.5.2; or
- (c) the PhP/\$US exchange rate for a Quarter within the Second Regulatory Period is more than 120% of the PhP/\$US exchange rate for that Quarter which is approved by the ERC for the purposes of the capital expenditure program that is approved by the ERC under Section 4.10.5 (see also Section 12.5.3); or
- (d) the absolute value of the change in the three-month average of non-coincident peak demands between two consecutive Regulatory Years (each of which occurs in the then current Regulatory Period), as calculated pursuant to Section 12.6, is greater than 0.50.

**12.2 Information to Accompany Application for Maximum Annual Revenue cap Re-Opening**

12.2.1 Where the Regulated Entity makes an application pursuant to Section 12.1, it must include with that application the following information:

- (a) the raw data relied upon to demonstrate that the relevant Trigger Condition has occurred;
- (b) the calculations relied upon to demonstrate that the relevant Trigger Condition has occurred; and
- (c) in the case where the Trigger Condition relied upon is that referred to in Section 12.1.1(d), a statement from an independent audit and/or engineering firm as the case may require, which firm is approved by the ERC, on whether or not the relevant raw data is accurate (including whether or not the physical metering systems are operating correctly at the time the relevant measurements are made) and whether or not that raw data fairly and reasonably represents the peak demand at each Connection Point.

**12.3 Process and Timing for Decision on Application for Maximum Annual Revenue cap Re-Opening**

12.3.1 Upon receiving an application under Section 12.1.1, the ERC must:

- (a) decide whether or not the Trigger Condition the subject of the application has occurred; or
- (b) in the case where the Trigger Condition relied upon is that referred to in Section 12.1.1(d), request additional clarification on the raw data, its accuracy, its representative nature, its source, its veracity or its authenticity, or on the calculation made to demonstrate that the Trigger Condition has occurred, in order to assist the ERC to determine whether that Trigger Condition has occurred.

12.3.2 Where the ERC requests clarification from the Regulated Entity under Section 12.3.1(b), the ERC must clearly state its clarification requirements and a time frame within which the Regulated Entity must respond.

12.3.3 The ERC must notify the Regulated Entity in writing of the ERC's decision under Section 12.3.1 (a), and the reasons for that decision, within 30 Business Days after the date of:

- (a) the day after the date the ERC receives the application from the Regulated Entity under Section 12.1.1; or
- (b) the day after the date the ERC receives the additional clarification requested from the Regulated Entity under Section 12.3.1(b); or
- (c) the day after the date the ERC notifies the Regulated Entity it intends to extend the time for making its decision (the ERC may only extend such time once and for a maximum of an additional 30 Business Days),

as the case may be.

**12.4 Maximum Annual Revenue cap Re-Opening – determination of new cap**

12.4.1 Where the ERC decides that a Trigger Condition has occurred it must determine a new method for the purpose of calculating the Maximum Annual Revenue cap that is to apply for the relevant Regulatory Period by applying, to the extent reasonably practicable, the principles specified under Articles IV and V. The new method so determined applies for each succeeding Regulatory Year in the then current Regulatory Period, commencing with the Regulatory Year that commences after the ERC determines that new method.

**12.5 Maximum Annual Revenue cap Re-Opening – Definitions: change in CPI, PHP/SUS exchange rate**

12.5.1 For the purposes of Section 12.1.1(a), the change in CPI between two consecutive Quarters within a Regulatory Period ( $\Delta\text{CPI}_{\text{rp}}$ ) is calculated as follows:

$$\Delta\text{CPI}_{\text{rp}} = [\text{CPI}_{(\text{Qj})} / \text{CPI}_{(\text{Qj-1})}] - 1$$

Where:

CPI<sub>(Qj)</sub> is the CPI for the second of the consecutive Quarters within the relevant Regulatory Period; and

CPI<sub>(Qj-1)</sub> is the CPI for the first of the consecutive Quarters within the relevant Regulatory Period.

12.5.2 For the purposes of Section 12.1.1(b) a major prescribed change in the PhP/\$US exchange rate during the First Regulatory Period occurs where:

- (a)  $\Delta\text{USER}_{Q1/Q2} > 0.15$  and  $\Delta\text{USER}_{Q2/Q3} > 0.15$ ; or
- (b)  $\Delta\text{USER}_{Q1/Q2} < \text{minus } 0.15$  and  $\Delta\text{USER}_{Q2/Q3} < \text{minus } 0.15$ .

For the purposes of Section 12.9.1(a), a minor prescribed change in the PhP/\$US exchange rate during the First Regulatory Period occurs where:

- (a)  $\Delta\text{USER}_{Q1/Q2} > 0.08$  and  $\Delta\text{USER}_{Q2/Q3} > 0.08$ ; or
- (b)  $\Delta\text{USER}_{Q1/Q2} < \text{minus } 0.08$  and  $\Delta\text{USER}_{Q2/Q3} < \text{minus } 0.08$ .

For the purposes of this Section 12.5.2:

$\Delta\text{USER}_{Q1/Q2} = [ \text{USER}_{Q2} / \text{USER}_{Q1} ] - 1$ ; and

$\Delta\text{USER}_{Q2/Q3} = [ \text{USER}_{Q3} / \text{USER}_{Q2} ] - 1$ ,

where:

USER has the same meaning as in Section 3.3.3;

USER<sub>Q1</sub> is the USER for a Quarter within the First Regulatory Period;

USER<sub>Q2</sub> is the USER for the Quarter (if any) within the First Regulatory Period that immediately follows the Quarter which is denoted as Q1 for the purposes of this Section 12.5.2; and

USER<sub>Q3</sub> is the USER for the Quarter (if any) within the First Regulatory Period that immediately follows the Quarter which is denoted as Q2 for the purposes of this Section 12.5.2.

12.5.3 For the purposes of Sections 12.1.1(c) and 12.9.1(b):

- (a) both the first-mentioned and the second-mentioned PhP/\$US exchange rates must be expressed as PhP/US\$1 (for example, if PhP50 can purchase US\$1, then the relevant PhP/\$US exchange rate is 50); and
- (b) the first-mentioned PhP/\$US exchange rate must be calculated in a manner, and be of a kind, that is substantially comparable to the manner of calculation, and kind, of the second-mentioned PhP/\$US exchange rate.

**12.6 Maximum Annual Revenue cap Re-Opening - Change in Three-Month Average of Non-Coincident Peak Demand**

12.6.1 For the purposes of Section 12.1.1(d), the change in the three-month average of non-coincident peak demands between two consecutive Regulatory Years (DeltaNCPD) is calculated as follows:

$$\Delta\text{NCPD} = [ \text{NCPD}_t / \text{NCPD}_{t-1} ] - 1$$

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Where:

$$\text{NCPD}_t = \{ \text{NCPD}_{(Mi)} + \text{NCPD}_{(Mi-1)} + \text{NCPD}_{(Mi-2)} \} ; \text{and}$$

$$\text{NCPD}_{t-1} = \{ \text{NCPD}_{(Mi-12)} + \text{NCPD}_{(Mi-13)} + \text{NCPD}_{(Mi-14)} \}$$

Where:

$\text{NCPD}_{(Mi)}$  = the average of the non-coincident peak demands from all Connection Points for calendar month “i” in the second of the consecutive Regulatory Years (Regulatory Year t), being Connection Points in existence as at the commencement of that calendar month;

$\text{NCPD}_{(Mi-1)}$  = the average of the non-coincident peak demands from all Connection Points for the calendar month immediately preceding calendar month “i”, being Connection Points in existence as at the commencement of calendar month “i”;

$\text{NCPD}_{(Mi-2)}$  = the average of the non-coincident peak demands from all Connection Points for the calendar month immediately preceding calendar month “i-1”, being Connection Points in existence as at the commencement of calendar month “i”;

$\text{NCPD}_{(Mi-12)}$  = the average of the non-coincident peak demands from all Connection Points for the calendar month in the first of the consecutive Regulatory Years (Regulatory Year t-1) which corresponds to calendar month “i” (eg. if calendar month “i” is February 2005 then calendar month “i-12” is February 2004), being Connection Points in existence as at the commencement of calendar month “i-12”;

$\text{NCPD}_{(Mi-13)}$  = the average of the non-coincident peak demands from all Connection Points for the calendar month immediately preceding calendar month “i-12”, being Connection Points in existence as at the commencement of calendar month “i-12”; and

$\text{NCPD}_{(Mi-14)}$  = the average of the non-coincident peak demands from all Connection Points for the calendar month immediately preceding calendar month “i-13”, being Connection Points in existence as at the commencement of calendar month “i-12”.

12.6.2 For the purposes of Section 12.6.1, the average of the non-coincident peak demands from relevant Connection Points for a calendar month is to be measured by meters located at each of those Connection Points which are operative.

**12.7 Deferred Capital Expenditure on Significant Projects – X factor adjustment**

12.7.1 The Regulated Entity must promptly notify the ERC in writing if any capital expenditure for a Significant Project, which is forecast to be undertaken in the capital expenditure program that is approved by the ERC under Section 4.10.5, has not been substantially undertaken within 18 months of the time it was so forecast to be undertaken.

12.7.2 If at any time the ERC determines that any capital expenditure for a Significant Project, which is forecast to be undertaken in the capital expenditure program that is approved by the ERC under Section 4.10.5, has not been substantially undertaken within 18 months of the time it was so forecast to be undertaken:

- (a) the ERC must promptly notify the Regulated Entity in writing of its determination; and
- (b) after taking into account any submissions made by the Regulated Entity, the ERC may determine a new value for the X factor in the formula for the calculation of the Maximum Annual Revenue cap as set out in Section 4.2.1 by recalculating the X factor:
  - (i) based on the exclusion from that capital expenditure program of all of the capital expenditure which is forecast to be undertaken in that program for the Significant Project; and
  - (ii) so as to recognise the extent to which the previous X factor was set on the basis of the capital expenditure that is excluded under paragraph (i).

Any X factor which is recalculated under this Section 12.7.2 applies for each succeeding Regulatory Year in the then current Regulatory Period, commencing with the Regulatory Year that commences after the ERC recalculates that X factor, unless the ERC (acting pursuant to this Article XII) subsequently determines a new X factor, or a new method for the purpose of calculating the Maximum Annual Revenue cap, that is to apply for such Regulatory Years.

**12.8 Major Unforecast Disposals – X factor adjustment**

12.8.1 The Regulated Entity must promptly notify the ERC after it has disposed of assets which form, or would but for that disposal form, part of the Grid where:

- (a) that disposal (referred to in this Section 12.8.1 as the "relevant disposal") occurs during the First Regulatory Period; and
- (b) the value of the assets so disposed of, together with the aggregate value of all other assets which form part of the Grid and which have previously been disposed of by the Regulated Entity during the First Regulatory Period, is greater than 0.1% of the value of all the assets that, at the time of the relevant disposal, are used by the Regulated Entity to provide Regulated Transmission Services.

12.8.2 If at any time the ERC determines that:

- (a) the Regulated Entity has disposed of assets which form, or would but for that disposal form, part of the Grid and which have an aggregate value of greater than 0.1% of the value of all the assets that, at the time of the ERC's determination, are used by the Regulated Entity to provide Regulated Transmission Services; and
- (b) such disposal or disposals occur during the First Regulatory Period, then:
- (c) the ERC must promptly notify the Regulated Entity in writing of its determination; and
- (d) after taking into account any submissions made by the Regulated Entity, the ERC may determine a new value for the X factor in the formula for the calculation of the Maximum Annual Revenue cap as set out in Section 3.2.1 by recalculating the X factor:
  - (i) based on the exclusion of the value of the assets which have been so disposed of; and
  - (ii) so as to recognise the extent to which the previous X factor was set on the basis of those assets not being so disposed of.

Any X factor which is recalculated under this Section 12.8.2 applies for each succeeding Regulatory Year in the then current Regulatory Period, commencing with the Regulatory Year that commences after the ERC recalculates that X factor, unless the ERC (acting pursuant to this Article XII) subsequently determines a new X factor, or a new method for the purpose of calculating the Maximum Annual Revenue cap, that is to apply for such Regulatory Years.

12.8.3 The Regulated Entity must promptly notify the ERC after it has disposed of assets which form, or would but for that disposal form, part of the Grid where:

- (a) that disposal (referred to in this Section 12.8.3 as the "relevant disposal") occurs during the Second Regulatory Period;
- (b) the value of the assets so disposed of, together with the aggregate value of all other assets which formed part of the Grid and which have previously been disposed of by the Regulated Entity during the Second Regulatory Period, is greater than 0.1% of the value of all the assets that, at the time of the relevant disposal, are used by the Regulated Entity to provide Regulated Transmission Services; and
- (c) the disposal of the assets referred to in paragraph (b) (ie. the assets the subject of the relevant disposal as well as those which have previously been disposed of by the Regulated Entity during the Second Regulatory Period):
  - (i) is not included by the ERC in the calculation of the Regulatory Asset Base for any Regulatory Year in the Second Regulatory Period, pursuant to Section 4.7.1, for the purposes of the



Regulatory Reset Process for the Second Regulatory Period under Article VII; or

- (ii) is included by the ERC in the calculation of the Regulatory Asset Base for any Regulatory Year in the Second Regulatory Period, pursuant to Section 4.7.1, for the purposes of the Regulatory Reset Process for the Second Regulatory Period under Article VII, but is for an amount that is greater than 105% or less than 95% of the forecast amount included for that purpose by the ERC in the calculation of that Regulatory Asset Base.

12.8.4 If at any time the ERC determines that:

- (a) the Regulated Entity has disposed of assets which form, or would but for that disposal form, part of the Grid and which have an aggregate value of greater than 0.1% of the value of all the assets that, at the time of the ERC's determination, are used by the Regulated Entity to provide Regulated Transmission Services;
- (b) such disposal or disposals occur during the Second Regulatory Period; and
- (c) the disposal of such assets during the Second Regulatory Period:
  - (i) is not included by the ERC in the calculation of the Regulatory Asset Base for any Regulatory Year in the Second Regulatory Period, pursuant to Section 4.7.1, for the purposes of the Regulatory Reset Process for the Second Regulatory Period under Article VII; or
  - (ii) is included by the ERC in the calculation of the Regulatory Asset Base for any Regulatory Year in the Second Regulatory Period, pursuant to Section 4.7.1, for the purposes of the Regulatory Reset Process for the Second Regulatory Period under Article VII, but is for an amount that is greater than 105% or less than 95% of the forecast amount included for that purpose by the ERC in the calculation of that Regulatory Asset Base,

then:

- (d) the ERC must promptly notify the Regulated Entity in writing of its determination; and
- (e) after taking into account any submissions made by the Regulated Entity, the ERC may determine a new value for the X factor in the formula for the calculation of the Maximum Annual Revenue cap as set out in Section 4.2.1 by recalculating the X factor:
  - (i) based on:
    - (A) in the case of paragraph (c)(i), the exclusion of the value of the assets which have been so disposed of; and

- (B) in the case of paragraph (c)(ii), the amount for which the assets were disposed of; and
- (ii) so as to recognise the extent to which the previous X factor was set on the basis of:
  - (A) in the case of paragraph (c)(i), those assets not being so disposed of; and
  - (B) in the case of paragraph (c)(ii), those assets being disposed of for a different amount.

Any X factor which is recalculated under this Section 12.8.4 applies for each succeeding Regulatory Year in the then current Regulatory Period, commencing with the Regulatory Year that commences after the ERC recalculates that X factor, unless the ERC (acting pursuant to this Article XII) subsequently determines a new X factor, or a new method for the purpose of calculating the Maximum Annual Revenue cap, that is to apply for such Regulatory Years.

## **12.9 PhP/\$US exchange rate adjustment**

12.9.1 If:

- (a) a minor prescribed change in the PhP/\$US exchange rate during the First Regulatory Period (as defined in Section 12.5.2) occurs, then this Section 12.9.1 applies:
  - (i) where the Quarter which is denoted as Q3 for the purposes of Section 12.5.2 is a Quarter that does not end on 31 December - in respect of the Regulatory Year that immediately follows the Regulatory Year in which that Quarter occurs; and
  - (ii) where the Quarter which is denoted as Q3 for the purposes of Section 12.5.2 is a Quarter that ends on 31 December – in respect of the second Regulatory Year after the Regulatory Year in which that Quarter occurs

(Section 3.3.1 specifies the consequences of Section 12.9.1 so applying);  
or
- (b) the PhP/\$US exchange rate for a Quarter within the Second Regulatory Period is less than 90%, or more than 110%, of the PhP/\$US exchange rate for that Quarter which is approved by the ERC for the purposes of the capital expenditure program that is approved by the ERC under Section 4.10.5 (see also Section 12.5.3), then this Section 12.9.1 applies in respect of the Regulatory Year that immediately follows the Regulatory Year in which that Quarter occurs (Section 3.3.1 specifies the consequences of Section 12.9.1 so applying).

**ARTICLE XIII**

**DECISION REVOCATION AND NOTICES**

**13.1 Limited Decision Revocation Arrangements**

13.1.1 If the ERC has made a decision under these Rules and later concludes that the decision was made on the basis of information provided to the ERC that was false or misleading in a material particular, or on the basis of analysis provided to the ERC by the Regulated Entity which incorporated a material calculation error, then, subject to Section 13.1.2, the ERC may revoke the decision and make a new decision in substitution for the revoked decision.

13.1.2 Before the ERC revokes and substitutes a decision pursuant to Section 13.1.1, the ERC must first:

- (a) notify the Regulated Entity in writing of:
  - (i) the proposed revocation;
  - (ii) the false or misleading information or the calculation error;
  - (iii) the information required from the Regulated Entity to assist the ERC in making a new decision (if necessary); and
  - (iv) the proposed process and time frame for making any new decision (including the proposed date of effect of the revocation and new decision);
- (b) allow the Regulated Entity a reasonable period to make submissions to the ERC, not exceeding 30 Business Days, regarding the proposals referred to in paragraph (a) (including submissions as to whether the original decision was based on information that was false or misleading in a material particular or on a material calculation error); and
- (c) take into account any matters contained in a submission made by the Regulated Entity pursuant to paragraph (b).

13.1.3 A new decision made under Section 13.1.1 must only differ from the revoked decision to the extent necessary to correct for:

- (a) the false or misleading information (if any) on which the revoked decision was based;
- (b) the calculation error (if any) on which the revoked decision was based; and
- (c) the application of the revoked decision during the period in respect of which that decision was in effect.

13.1.4 The provision of false or misleading information to the ERC is a breach of these Rules and the ERC may impose a fine or penalty under Section 43 (l) of the EPIRA for such a breach.

**13.2 Modification of Time Periods**

13.2.1 The ERC may, by written notice to the Regulated Entity and upon a request for such extension being made in writing by the Regulated Entity, extend:

- (a) any time prescribed by these Rules as the time by which a thing required to be done by the Regulated Entity must be done; or
- (b) any period prescribed by these Rules as the period within which a thing required to be done by the Regulated Entity must be done.

**ARTICLE XIV  
INDEPENDENT EXPERTS**

**14.1 Accreditation of independent expert**

14.1.1 Where these Rules confer on the ERC the right or obligation to require the Regulated Entity to retain an independent expert pursuant to this Article XIV, that independent expert must have expertise in one or more of the following areas:

- (a) asset valuation;
- (b) transmission system design, construction, maintenance and operation;
- (c) load flow modelling of electricity transmission networks;
- (d) transmission network benchmark service performance;
- (e) accounting;
- (f) corporate finance, financial modelling and pricing;
- (g) economic analysis and economic modelling;
- (h) fire inspection;
- (i) insurance and claims risk adjustment;
- (j) such other areas as the ERC notifies in writing to the Regulated Entity.

14.1.2 The Regulated Entity must, within 90 Business Days after the Effectivity Date and at all times thereafter, establish and maintain a list of experts that:

- (a) have expertise in one or more of the areas referred to in Section 14.1.1 and, in respect of each such area, satisfy the applicable criteria that are specified in Appendix B or that are otherwise notified in writing by the ERC to the Regulated Entity from time to time; and
- (b) have no commercial or pecuniary relationship with the Regulated Entity at a financial, management or board level,

(such experts being referred to in this Article XIV as Accredited Experts).

14.1.3 The ERC may, from time to time, direct the Regulated Entity:

- (a) to include a particular person or persons on the list referred to in Section 14.1.2, provided that person or those persons satisfy the requirements set out in Section 14.1.2; or
- (b) to remove a particular person or persons from that list,  
and the Regulated Entity must immediately comply with that direction.

14.1.4 The Regulated Entity must, upon the direction of the ERC, promptly provide the ERC with:

- (a) a copy of the up to date list referred to in Section 14.1.2; and
- (b) such information relating to experts included on that list as the ERC may reasonably require.

**14.2 Use of independent expert or other external consultant to undertake particular work**

14.2.1 Where the ERC (having the right or obligation to do so pursuant to these Rules) decides to require the Regulated Entity to retain an independent expert pursuant to this Article XIV, the ERC must give a written notice to the Regulated Entity which:

- (a) identifies the area or areas of expertise described in Section 14.1.1 which that independent expert must have;
- (b) sets out the scope of the work that is to be undertaken by that independent expert;
- (c) specifies the criteria against which tenders to undertake that scope of work are to be evaluated (such criteria may include, among other things, international or local experience or a combination of such experience); and
- (d) specifies the time by which the independent expert must provide the ERC with its written report on the work the subject of the scope of work.

14.2.2 Within one week of receiving the written notice referred to in Section 14.2.1, the Regulated Entity must, in an open tender process, seek Expressions of Interest (EOIs) from all of the Accredited Experts who have the area or areas of expertise identified in that notice pursuant to Section 14.2.1(a), such EOIs to be due on the 15<sup>th</sup> Business Day after the Regulated Entity receives that notice (or such other time as the ERC specifies in that notice).

14.2.3 Within one week of receipt of the EOIs by the Regulated Entity from the Accredited Experts in accordance with Section 14.2.2:

- (a) the Regulated Entity must evaluate such EOIs against the criteria specified, pursuant to Section 14.2.1(c), in the notice referred to in Section 14.2.1 and must provide the details of such evaluation to the ERC; and
- (b) the Regulated Entity must request not less than three of those Accredited Experts who have lodged such EOIs and who, in the Regulated Entity's opinion, best satisfy the criteria specified, pursuant to Section 14.2.1(c), in the notice referred to in Section 14.2.1 (or, if there are less than three such Accredited Experts, all of the Accredited Experts who have lodged an EOI in accordance with Section 14.2.2) to provide directly to the ERC (to the exclusion of the Regulated Entity) detailed tenders against the scope of work identified in that notice pursuant to Section 14.2.1(b), such tenders to be due on the 15<sup>th</sup> Business Day after the request for tenders (or such other time as the ERC notifies in writing to the Regulated Entity).

14.2.4 Until the ERC has selected its preferred Accredited Expert under Section 14.2.5, all communications between the Regulated Entity and any Accredited Expert who

has lodged an EOI pursuant to Section 14.2.2 or a tender pursuant to Section 14.2.3 or 14.2.5:

- (a) must be in writing (a copy of which must be promptly provided to the ERC by the Regulated Entity); or
- (b) may be by telephone or personal contact, but only if a duly authorised representative of the ERC is present at that time (unless the ERC has expressly waived its right to be so present).

14.2.5 Within three weeks of receiving all of the tenders in accordance with Section 14.2.3, the ERC must:

- (a) select from those tenders the Accredited Expert which it prefers, in which case the ERC must notify the Regulated Entity accordingly; or
- (b) require the Regulated Entity to request such other Accredited Expert or Accredited Experts as are nominated by the ERC, who have the area or areas of expertise identified in the notice referred to in Section 14.2.1, to provide directly to the ERC (to the exclusion of the Regulated Entity) detailed tenders against the scope of work identified in that notice pursuant to Section 14.2.1(b), such tenders to be due at such time as the ERC notifies in writing to the Regulated Entity, in which case the Regulated Entity must promptly comply with that request and the ERC must, within three weeks of receiving those tenders:
  - (i) select from those tenders (and the tenders previously provided to it under Section 14.2.3) the Accredited Expert which it prefers; and
  - (ii) notify the Regulated Entity accordingly.

Upon being notified of the ERC's preferred Accredited Expert under this Section 14.2.5, the Regulated Entity must thereupon retain the services of that Accredited Expert to undertake the scope of work identified, pursuant to Section 14.2.1(b), in the notice referred to in Section 14.2.1.

14.2.6 The costs of any independent expert retained pursuant to this Article XIV must be borne by the Regulated Entity.

14.2.7 The Regulated Entity must ensure that the terms of engagement of an independent expert who is retained pursuant to this Article XIV:

- (a) require that independent expert to provide the ERC (to the exclusion of the Regulated Entity) with a written report on the work undertaken by it pursuant to its scope of work by the time specified, pursuant to Section 14.2.1(d), in the notice referred to in Section 14.2.1; and
- (b) contain such other terms as may reasonably be required by the ERC (including that the ERC may terminate the retainer of the independent expert at any time if the ERC has reasonable grounds for believing that the expert is not sufficiently independent in undertaking the work or that the expert has an actual or potential conflict of interest in undertaking, or continuing to undertake, the work).

14.2.8 Notwithstanding the foregoing, where these Rules confer on the ERC the right or obligation to require the Regulated Entity to retain an independent expert pursuant to this Article XIV, the ERC may instead decide that:

- (a) the work that would otherwise be undertaken by that independent expert may be undertaken by an entity engaged by the Regulated Entity; and
- (b) any report prepared by such an entity may be utilised by the ERC for the purposes of these Rules in place of a report that would otherwise be prepared by that independent expert.

14.2.9 Nothing in this Article XIV precludes the ERC from directly engaging an external consultant for the purposes of assisting it in connection with any matter arising under these Rules (other than in circumstances where these Rules oblige the ERC to require the Regulated Entity to retain an independent expert or experts pursuant to this Article XIV) and, if the ERC engages such a consultant, or requires the Regulated Entity to engage such a consultant to undertake work on the ERC's behalf, the reasonable costs of that consultant must, be borne by the Regulated Entity, if so required by the ERC, and be either reimbursed to the ERC by the Regulated Entity, or paid directly to the consultant, as the contract may require.

#### **14.3 Cooperation with independent experts and external consultants**

14.3.1 The Regulated Entity must provide any independent expert who is retained pursuant to this Article XIV and any external consultant referred to in Section 14.2.9 with such access to the Regulated Entity's systems, records, infrastructure and personnel as the independent expert or consultant requires to enable it to successfully complete its work for the ERC and must otherwise fully cooperate with the independent expert or consultant for that purpose.

#### **14.4 Report of independent expert or external consultant**

14.4.1 Where a report is provided to the ERC by an independent expert who is retained pursuant to this Article XIV, by an entity referred to in Section 14.2.8, or by an external consultant referred to in Section 14.2.9, and that report contains information which is provided by the Regulated Entity, the ERC may only disclose the contents of that report:

- (a) to the Regulated Entity; or
- (b) to a person other than the Regulated Entity if:
  - (i) the ERC has first given the Regulated Entity 10 days' written notice of its intention to disclose those contents, together with a copy of the intended disclosure; and
  - (ii) the ERC has taken such steps as it considers to be appropriate (after considering any submissions that the Regulated Entity has made to the ERC during that 10 day period) to mask, excise or otherwise modify the intended disclosure for the purpose of protecting the confidentiality of any information contained in the intended



disclosure which is properly regarded as being confidential in nature.

**APPENDIX A  
PERFORMANCE INDICES AND METRICS**

For the purposes of Section 8.1.1(a), at least the following indices must be determined by the ERC as the indices that are to be used to measure the performance of the Grid and the performance of the Regulated Entity in restoring Regulated Transmission Services following the outage of a component of the Grid:

- number of interruption events, ie. number of times service is lost to a Customer or group of Customers;
- sustained average interruption frequency index, ie. connected MVA impacted by outages in excess of 10 minutes divided by total connected MVA;
- momentary average interruption frequency index, ie. connected MVA impacted by outages of less than or equal to 10 minutes divided by total connected MVA;
- sustained average interruption duration index, ie. the product of connected MVA impacted by outages and the total number of minutes of such outages, divided by total connected MVA;
- system interruption severity index, ie. the product of MW not supplied due to outages and the total number of minutes of such outages (otherwise known as “unserved energy”), divided by system peak load (measured in MW);
- frequency of tripping, ie. the total number of tripping events divided by length per 100 circuit-km;
- average forced outage duration, ie. the total duration of forced outages (measured in minutes) divided by the total number of such outages;
- accumulated time error, ie. the deviation of electric time from standard time (expressed using a binary point system);
- number of frequency limit violations, ie. the number of times system frequency exceeds  $\pm 0.3\text{Hz}$  from the nominal frequency of 60Hz (expressed using a binary point system);
- number of voltage limit violations, ie. the number of times the root mean square of the voltages in high-voltage substation buses nominated by the ERC differs from the nominal voltage (expressed using a binary point system); and
- system losses as defined in clause 3.4 of the Grid Code.

For the purposes of Section 8.1.1(d), those parts of the Grid in respect of which separate performance reports must be made are, at a minimum:

- such part of the Grid as is located in Luzon;
- such part of the Grid as is located in Visayas;

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- such part of the Grid as is located in Mindanao;
- where technically relevant, each interconnection link between those parts of the Grid referred to above; and
- where technically relevant, each interconnection link between each island which provides service for those parts of the Grid referred to above.

**APPENDIX B  
CRITERIA FOR INDEPENDENT EXPERTS**

Asset valuation

Have experience in:

- Appraising electricity network plant and equipment, and land and buildings, within the Philippines using a fair value methodology;
- Valuing electricity transmission network assets, in an overseas jurisdiction, using an optimised replacement cost valuation methodology; and
- Assisting regulated entities and/or regulators in overseas jurisdictions in reviewing or determining regulatory asset bases used for the purposes of incentive or performance based regulatory arrangements.

Have qualifications in (see below):

- Engineering;
- Accounting; and
- Business or Commerce.

Transmission system design, construction, maintenance and operation, load flow modelling and transmission network benchmark service performance

Have experience in:

- Electricity network load flow modelling;
- Design, construction and maintenance of electricity transmission networks, including project cost estimation, project planning, cost control and network constraint elimination;
- Measuring and monitoring electricity network performance;
- Design and/or augmentation of electricity networks for reduced line losses; and
- Electricity network performance monitoring and benchmarking against overseas transmission entities.

Have:

- Qualifications in Engineering (see below); or
- Other qualifications relevant to the matters referred to above.

Accounting

Have experience in:

- Administering, reviewing or developing financial accounting, asset register or operational systems;

- Auditing, accounting, asset register and operational systems, leading to the issuance of an audit opinion on statutory financial reports; and
- Assisting with asset valuation assignments.

Have qualifications in:

- Accounting (see below).

### Corporate finance, financial modelling and pricing

Have experience in:

- Principles of asset valuation of electricity networks to optimised replacement cost and/or deprival value;
- Estimation of weighted average cost of capital for regulatory and commercial purposes;
- Cash flow and financial modelling and financial forecasting;
- Credit rating analysis and estimation;
- Analysis and/or development of operating and maintenance expenditure, and capital expenditure, forecasts in the electricity sector;
- Developing submissions to electricity regulators or as a regulator/regulator's advisor in examining such submissions;
- Regulation of electricity network prices or tariffs;
- Analysis of service and financial performance against local and overseas benchmarks; and
- Analysis of discounted cash flow or similar financial modelling.

Have qualifications in (see below):

- Business or Commerce;
- Economics;
- Accounting; and
- Engineering.

### Economic analysis and economic modelling

Have experience in:

- Economic forecasting of economic growth and/or electricity demand.

Have qualifications in:

- Economics (see below).

### Fire Inspection

Have experience in:

- Investigation of the causes of fires in buildings or plant and equipment; and
- Assessing the risks of fire and effectiveness of fire prevention and control systems.

Have qualifications in:

- Engineering (see below); or
- Fire investigation.

### Insurance and claims risk adjustment

Have experience in:

- Investigation and assessment of force majeure events; and
- Estimation or examination of the costs resulting from force majeure events, including direct replacement costs and the opportunity costs associated with continuation of electricity supply.

Have qualifications in (see below):

- Engineering; or
- Business or Commerce; or
- as an Actuary.

### Professional qualifications

Where a person is required to have qualifications in Accounting, that person must be registered as a certified public accountant under the Revised Accountancy Law (Presidential Decree No.692) who possesses the independence as defined in Part II Section 14 of the Code of Professional Ethics for Certified Public Accountants as promulgated by the Board of Accountancy and approved by the Professional Regulation Commission.

Where a person is required to have qualifications in Engineering, Economics or Business or Commerce, or as an Actuary, that person must have:

- graduate or post graduate qualifications in that discipline from a reputable Philippines or overseas university; and
- be a member of a professional institute in the Philippines or an overseas jurisdiction which represents that discipline.