

[ERC, March 25, 2004]

**GUIDELINES FOR THE RECOVERY OF COSTS FOR THE
GENERATION COMPONENT OF THE DISTRIBUTION UTILITIES'
RATES**

Pursuant to Sections 25 and 67 of Republic Act No. 9136 or "the Act" and Part II, Rule 5, Section 6 of the Implementing Rules and Regulations (IRR) of the Act, the Energy Regulatory Commission (ERC) hereby adopts and promulgates this guidelines:

- a. To establish the process for determining when the recovery of the generation component of the supply of electricity in the Retail Rates of a Distribution Utility should be limited by the rate contained within the Transition Supply Contract ("TSC") ;
- b. To establish procedures, standards and criteria for the full recovery of prudent and reasonable economic costs related to the generation component included in the Retail Rates charged by Distribution Utilities for the supply of electricity to their Captive Market; and
- c. To establish guidelines for the approval of new generation contract by the ERC.

**Article I
General Provisions**

This Guidelines shall have the following objectives:

- a. To ensure the continued quality, reliability, security and affordability of the supply of electric power;
- b. To ensure the transparent and reasonable prices of electric service in a regime of free and fair competition and full public accountability to achieve greater operational and economic efficiency;
- c. To enhance the inflow of private capital and broaden the ownership base in the power generation sector of the industry; and
- d. To encourage the efficient use of energy and other modalities of demand side management.

Article II

Scope and Definition of Terms

SECTION 1. Scope - This Guidelines shall apply to:

- a. National Power Corporation;
- b. Generation Companies, excluding SPUG;
- c. National Transmission Corporation;
- d. Power Sector Assets and Liabilities Management Corporation;
- e. Department of Energy;
- f. Distribution Utilities; and
- g. Combinations of Distribution Utilities.

SECTION 2. Definition of Terms - As used in this Guidelines, the following terms shall have the following respective meanings:

- a. "**Act**" unless otherwise stated, shall refer to Republic Act No. 9136, otherwise known as the "Electric Power Industry Reform Act of 2001".
- b. "**Captive Market**" shall refer to electricity end-users who do not have the choice of a supplier of electricity, as may be determined by the Energy Regulatory Commission (ERC) in accordance with the Act;
- c. "**Certificate of Compliance**" shall refer to the document issued by the ERC to a Generation Company pursuant to the Act, the Implementing Rules and Regulations of the Act and the applicable ERC Guidelines;
- d. "**Contestable Market**" shall refer to electricity end-users who have choice of a supplier of electricity, as may be determined by the ERC in accordance with the Act;
- e. "**Department of Energy**" or "**DOE**" shall refer to the government agency created pursuant to Republic Act No. 7638 which is provided with the additional mandate under the Act of supervising the restructuring of the electricity industry, developing policies and procedures, formulating and implementing programs, and promoting a system of incentives that will encourage private sector investments and reforms in the electricity industry and ensuring an adequate and reliable supply of electricity;
- f. "**Demand Side Management**" or "**DSM**" shall refer to measures undertaken by Distribution Utilities to encourage end-users in the proper management of their load to achieve efficiency in the utilization of fixed infrastructures in the system;
- g. "**Distribution Utility**" shall refer to any electric cooperative, private corporation, government-owned utility or existing local government unit which has an exclusive franchise to operate a distribution system in

accordance with its franchise and the Act;

h. **"Energy Regulatory Commission" or "ERC"** shall refer to the regulatory agency created by Section 38 of the Act;

i. **"Generation Company"** shall refer to any person or entity authorized by the ERC to operate facilities used in the generation of electricity;

j. **"Generation Rate Adjustment Mechanism (GRAM)"** - shall refer to the mechanism which allows the periodic adjustment to the Generation Rate to reflect changes in fuel and purchased power costs after a review by the ERC before costs are passed on to customers;

k. **"Grid"** shall refer to the high backbone system of interconnected transmission lines, substations and related facilities;

l. **"Incremental Currency Exchange Rate Adjustment (ICERA)"** - shall refer to the mechanism which allows the periodic adjustment to the FOREX Adjustment/CERA to reflect the changes in currency exchange after a review by the ERC before said changes are passed on to customers;

m. **"National Power Corporation" or "NPC"** - shall refer to the government corporation created under Republic Act No. 6395, as amended;

n. **"National Transmission Corporation or TRANSCO"** shall refer to the government corporation organized pursuant to the Act to acquire all the Transmission assets of the NPC;

o. **"Power Development Program" or "PDP"** shall refer to the indicative plan for managing electricity demand through energy-efficient programs and for the upgrading, expansion, rehabilitation, repair and maintenance of power generation and transmission facilities, formulated and updated yearly by the DOE in coordination with the generation, transmission and distribution utility companies;

p. **"PSALM Corporation" or "PSALM" or "Power Sector Assets and Liabilities Management Corporation"** shall refer to the Government - owned and controlled corporation created pursuant to Section 49 of the Act, which took ownership of all existing NPC generation assets, liabilities, IPP contracts, real estate, and all other disposable assets;

q. **"Region"** shall refer to the three (3) separate Grids, namely Luzon, Visayas and Mindanao;

r. **"Regional Rate Schedule"** shall refer to the schedule of rates, including adjustments and/or indexation formulas, contained within the TSCs offered by NPC for each Region;

s. **"Regional TSC Availability Record"** shall refer to the record created and updated pursuant to Section 1, Article IV;

- t. **"Retail Rate"** shall refer to the total price paid by end-users consisting of the charges for generation, transmission and related ancillary services, distribution, supply and other related charges for electric service;
- u. **"Supplier"** shall refer to any Person licensed by the ERC to sell, broker, market or aggregate electricity to end-users; and
- v. **"Transition Supply Contract"** or **"TSC"** shall refer to a contract for electricity supply filed with the ERC by NPC in accordance with Section 67 of the Act.

Article III

NPC Transition Supply Contracts

SECTION 1. Filing and Approval of Supplemental Agreements for Existing NPC Supply Contracts - Not later than thirty (30) days following the effectivity of this guidelines, NPC shall file with the ERC the supplementary agreements for existing executed power supply contracts with Distribution Utilities. The supplemental agreements shall include, at the minimum, the term of the supplemental agreement, the quantity of capacity and energy being contracted and the regional rate schedule. The ERC shall act on the supplemental agreement within sixty (60) days from the acceptance of the filing.

SECTION 2. NPC's Offering of New TSCs to Distribution Utilities - Not later than sixty (60) days following the effectivity of this guidelines, NPC shall offer TSCs to all Distribution Utilities in each Region subject to availability and in accordance with Section 4, Article III.

SECTION 3. Initial Requests by Distribution Utilities for TSCs - Not later than thirty (30) days following the offer from NPC of a TSC, the Distribution Utility shall submit a letter of intent to enter into a TSC with NPC to the Office of the President of NPC and the Office of the President of PSALM. The Distribution Utility shall simultaneously provide a copy to ERC on all letters of intent. A letter of intent shall include the hourly schedule of demand and energy, if available, during the term of the TSC, with as much detail or specificity as possible, for which the Distribution Utility intends to contract.

SECTION 4. Allocation of TSCs within each Region - In the event that NPC lacks sufficient capacity and/or energy in any Region to fulfill all the requests for TSCs in that Region as evidenced by the letters of intent received pursuant to Section 4 above, each Distribution Utility requesting a TSC shall have its request reduced prorata with all other requests for TSCs in that Region.

SECTION 5. Filing and Approval of an Executed TSC - NPC shall file with the ERC, for its approval, all TSCs duly negotiated and executed with any Distribution Utility. The ERC shall issue their final approval of such TSCs within ninety (90) days following acceptance of the filing.