

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

RULES FOR THE POWER SUPPLY OPTION PROGRAM
(previously referred to as Interim Open Access)

ERC CASE NO. 2008-013 RM

Pursuant to Section (43) of Republic Act No. 9136, its Implementing Rules and Regulations (IRR), the Energy Regulatory Commission (ERC) hereby promulgates the following Rules for the Implementation of Power Supply Option Program in Luzon.

ARTICLE I
GENERAL PROVISIONS

Section 1. Objectives

- 1.1 To provide the regulatory framework for the implementation of the Power Supply Option Program ; and
- 1.2 To ensure the effective implementation of the Power Supply Option Program in that an additional choice of supply is made available to qualified customers.

Section 2. Scope

These Rules shall apply to:

1. Power Supply Option Program Customers;
2. Retail Electricity Suppliers;
3. Eligible Distribution Utilities;
4. Generation Companies or Affiliate thereof;
5. National Grid Corporation of the Philippines (NGCP);
6. Independent Power Producer (IPP) Administrators;
7. Market Operator;
8. Other relevant industry participants.

Section 3. Definition of Terms

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

Act	Republic Act No. 9136, otherwise known as “Electric Power Industry Reform Act of 2001”.
Bilateral Contract Quantity (BCQ)	The quantity of electricity that has been sold by one party to another at a particular node, as agreed by both parties in a bilateral contract.
Business Day	A day other than a Saturday, a Sunday or an official or declared Philippine national or local public holiday.
Code of Conduct for Competitive Retail Market Participants	The set of rules promulgated by ERC to govern the conduct of Retail Electricity Suppliers (RES), Distribution Utilities (DUs), as well as their stockholders, directors, officers and employees, within the boundaries of fair competition.
Connection Agreement	Agreement between a connection customer and a DU relating to distribution connection assets and services.
Distribution Utility (DU)	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.
Distribution Wheeling Service	The conveyance of power throughout a distribution system in a manner to meet the demand of End-users or generators.
Distribution Wheeling Service (DWS) Agreement	An agreement between an eligible DU and a Retail Electricity Supplier on behalf of an Eligible Customer for the procurement of Distribution Wheeling Service. For the purpose of Power Supply Option Program, the Distribution Wheeling Service Agreement shall include the procurement of transmission services.
Eligible Customer	For purposes of these Rules, an End-user

	who is qualified to participate in the Power Supply Option Program according to the eligibility requirements in Section 3, Article II of these Rules, and as certified by the ERC.
Eligible Distribution Utility	A DU which expresses its willingness to voluntarily implement Power Supply Option Program through the mechanism provided under Section 2, Article II hereof.
Eligible Supplier	A generating company or a RES that is qualified to participate in the Power Supply Option Program, as determined by the ERC.
End-user	Any person or entity requiring the supply and delivery of electricity for its own use.
Energy Imbalance	The difference of the Eligible Supplier nomination and the actual metered consumption at a specific metering point.
Energy Regulatory Commission (ERC)	The independent and quasi-judicial regulatory agency created under Section 38 of the Act.
Independent Power Producer (IPP)	An existing power generating entity which is not owned by the National Power Corporation.
Market Operator (MO)	The entity responsible for the operation of the Wholesale Electricity Spot Market.
Market Trading Node (MTN)	The node at which electricity will be either bought or sold from the spot market, as described in detail in Section 3.2.2 of the WESM Rules
National Power Corporation (NPC)	The government corporation created under Republic Act No. 6395, as amended.
National Grid Corporation of the Philippines (NGCP)	The corporation organized pursuant to the Act to acquire all the transmission assets of NPC.
Open Access	The system of allowing any qualified person the use of transmission, and/or distribution system and associated facilities subject to the payment of transmission and/or

distribution retail wheeling rates duly approved by the ERC.

Open Access Date

The commencement date of Open Access and Retail Competition in a grid, as determined by ERC, in accordance with the Act.

Petition for the Implementation of Interim Open Access in the Luzon and Visayas Grids

Petition docketed as ERC Case No. 2008-026 RC, filed by Petitioners composed of Philippine Independent Power Producers Association (PIPPA), Manila Electric Company (MERALCO), Visayan Electric Company (VECO), Davao Light and Power Co., Inc. (DLPC), Clark Electric Distribution Corp., Cagayan Electric Power and Light Company (CEPALCO), San Fernando Electric Light and Power Co. (SFELAPCO), and Panay Electric Company, Inc. (PECO).

Power Sector Assets and Liabilities Management Corporation (PSALM)

The corporation created pursuant to Section 49 of the Act.

Power Supply Option Program (PSOP)

The Interim Open Access scheme proposed by the Petitioners, as modified by the ERC.

Power Supply Option Program Contract (PSOP Contract)

The contract entered into by and between the Eligible Customer and the Eligible Supplier relative to PSOP arrangements.

Retail Competition

The provision of electricity to End-users in the Contestable Market by Retail Electricity Suppliers through Open Access.

Retail Electricity Supplier (RES)

Any person or entity authorized by the ERC to sell, broker, market or aggregate electricity to End-users in the Contestable Market.

Standardized Customer Classification

Customer segments proposed by a DU and approved by the ERC, wherein End-users are classified according to their consumption characteristics for regulated distribution services in respect of that regulated distribution system, based on their network configuration and consumption profile, as measured by the

number of connections, the energy throughput (kWh), the non-coincident peak load (kW), the co-incident peak load (kW), the time-of-day or any other physical measure as approved from time to time by the ERC. Customers that are charged with the same tariff are classified into a customer segment.

Terms of Reference (TOR)

The terms of reference attached to the Petition for the Implementation of Interim Open Access in the Luzon and Visayas Grids, signed by the Petitioners, except for SFELAPCO, and several business groups.

Transition Supply Contract (TSC)

A contract for electricity supply filed by NPC and approved by the ERC in accordance with Section 67 of the Act.

Wholesale Electricity Spot Market (WESM)

The Wholesale Electricity Spot Market established by the Department of Energy (DOE) pursuant to the Act.

Terms, not otherwise defined herein, which are defined in the Act or its Implementing Rules and Regulation (IRR) shall have the meaning ascribed to them in the Act or its IRR, as the case may be.

Section 4. Guiding Principles

To ensure the effective implementation of Power Supply Option Program, the following policies shall be adhered to:

- 4.1 The Rules for Power Supply Option Program (the “Rules”) shall be effective only for the period prior to the Open Access Date. Once the ERC declares the establishment of actual Open Access and Retail Competition, the Power Supply Option Program and all contracts and transactions related thereto shall automatically terminate upon Open Access Date.
- 4.2 The PSOP is another supply option to customers in addition to the existing programs such as the Customer Choice Program of the Manila Electric Company (MERALCO) and the One Day Power Sale (ODPS) of the National Power Corporation (NPC). The implementation of the Power Supply Option Program in a franchise area shall be a voluntary act on the part of a DU. Therefore, only Eligible Customers within the franchise areas of Eligible DUs shall be allowed to participate in the program.
- 4.3 A single billing policy shall be adopted. The Eligible Supplier shall contract with other service providers (i.e. Eligible DU for transmission and distribution wheeling and ancillary services) on behalf of its Eligible Customers, except for

the Connection Agreement, which shall be subsequently entered into by an Eligible Customer with its Eligible DU.

- 4.4 The Eligible DU shall be the sole metering service and data provider for the Eligible Customers.
- 4.5 For the duration of PSOP, a policy of single entry and single exit shall be enforced. That is, should an Eligible Customer decide to join the PSOP, the PSOP Customer will have to avail of retail supply from an Eligible Supplier for the whole duration of its participation in the PSOP. Should the Eligible Customer decide to exit from the PSOP and return to the regulated retail rates of the DU, said customer shall no longer be allowed to participate in PSOP for the rest of the program.

ARTICLE II ELIGIBILITY REQUIREMENTS

Section 1. Eligibility of Generating Companies and Retail Supply Companies as Suppliers in the Power Supply Option Program

- 1.1 Only Eligible Suppliers shall be allowed to participate in the PSOP. Eligible Suppliers shall include:
 - 1.1.1 All generation companies, including NPC-Successor Generating Companies, or their related groups, that are within the mandated market cap, i.e. owning, operating or controlling 30% or less of the installed generating capacity in a grid and/or 25% or less of the national installed capacity pursuant to Section 45 of the Act;
 - 1.1.2 NPC-IPPs with respect to capacity which is not covered by contracts;
 - 1.1.3 IPP Administrators with respect to the uncontracted energy output of NPC-IPP contracts;
 - 1.1.4 NPC, upon compliance with the market share limitation as provided in Section 45 of the Act; and
 - 1.1.5 A RES duly licensed by the ERC.
- 1.2 For the entities in Section 1.1.1 to 1.1.4 above to be Eligible Suppliers, they should have secured a RES license from the ERC prior to participating in the program.
- 1.3 NPC shall continue selling its capacity at the wholesale level either through the Wholesale Electricity Spot Market (WESM) or through its Transition Supply Contracts (TSCs).

- 1.4 Only a licensed RES which has an ERC-approved Business Separation and Unbundling Plan (BSUP) shall be allowed to participate in the Power Supply Option Program as Eligible Suppliers.
- 1.5 Eligible Suppliers shall be required to be direct WESM members.

Section 2. Eligibility of Distribution Utilities

- 2.1 No DU shall be allowed to implement the PSOP within its franchise area without the appropriate authorization granted by the ERC conferring upon it the status of an Eligible DU.
- 2.2 All DUs who intend to participate in the PSOP shall notify the ERC in writing of such intent, with proof that the following requirements have been met:
 - 2.2.1 The DU must have Eligible Customers within its franchise area;
 - 2.2.2 The DU must have ERC-approved unbundled rates;
 - 2.2.3 The DU must have filed its Business Separation and Unbundling Plan (BSUP);
 - 2.2.4 The DU must have initially implemented its inter-class cross subsidy removal scheme;
 - 2.2.5 The DU must have submitted a complete list of its eligible Customers with their respective information, as provided in Section 1.1, Article III of these Rules; and
 - 2.2.6 The DU must have manifested, through an undertaking, that it shall abide by all the rules and guidelines of ERC.
- 2.3 DUs, which took part in the Petition and are signatories to its Terms of Reference (TOR), are deemed to have volunteered their participation in the PSOP and shall not be subject to Section 2.2 hereof.

Section 3. Eligibility of Power Supply Option Program Customers

- 3.1 The implementation of the PSOP shall be a voluntary act on the part of a DU. Therefore, only Eligible Customers within the franchise areas of Eligible DUs shall be allowed to implement the same.
- 3.2 Upon implementation of the PSOP, only End-users with a monthly average peak demand of at least one megawatt (1 MW) for the preceding twelve (12) months shall be eligible to participate, notwithstanding that during some of those months, the end-user's monthly peak demand fell below one megawatt (1 MW).
- 3.3 The eligibility of an End-user shall only be based on the peak demand as indicated by a single utility meter.

- 3.4 The threshold level for End-users to be eligible to participate is at one (1) MW throughout the duration of the implementation of the PSOP.
- 3.5 The demand requirements of non-eligible End-users cannot be aggregated into a single End-user to become a single Eligible Customer.
- 3.6 Once an End-user is certified to be eligible, it will remain eligible throughout the duration of PSOP regardless of changes in its peak demand during the program.
- 3.7 ERC reserves the right to refuse certification of a particular customer should the latter be found to have not complied with the eligibility requirements.

ARTICLE III PROCEDURES ON INFORMING END-USERS OF THEIR ELIGIBILITY

Section 1. Notification Process Prior to the Commencement of the PSOP

- 1.1 The ERC shall determine which End-users shall be eligible to participate in PSOP based on the most recent customer information submitted by Eligible Distribution Utilities to the ERC in compliance with the Rules on Customer Switching.
- 1.2 The ERC shall issue certifications for Eligible Customers within fifteen (15) Business Days from the effectivity of these Rules. Such certification shall be coursed through the Eligible DU.
- 1.3 The Eligible DUs shall send the certification to the End-user, containing the details of its eligibility, within five (5) days of receipt from the ERC.
- 1.4 An End-user that wishes to participate in the PSOP shall send a written notice to the Eligible DU and the ERC of its participation, for it to be included in the program. For the avoidance of doubt, the failure of the Eligible Customer to submit the written notice within the prescribed period should not preclude it from eventually participating under the PSOP, subject to its compliance with the notice requirement.
- 1.5 Such notification from the End-user shall constitute a waiver of confidentiality relative to the following information: Eligible Customer's name, billing and service address, and contact information such as telephone number/s and e-mail addresses. Such information shall be posted by the ERC on its website.
- 1.6 End-users that meet the eligibility requirements but have not been informed thereof may directly request the ERC to evaluate their eligibility.
- 1.7 A PSOP Contract shall only commence on the first day of the eligible End-user's next billing cycle, as determined by the DU.

Section 2. Notification Process for the Duration of the PSOP

- 2.1 Where the PSOP has already commenced and is ongoing, Eligible DUs shall submit an updated list of Customers to ERC for certification. The ERC shall issue certifications for new Customers within five (5) Business Days from receipt of information from the Eligible DU.
- 2.2 The Eligible DU shall notify the End-user of its eligibility, as provided in Section 1.3 hereof.

ARTICLE IV OBLIGATIONS OF PSOP PARTICIPANTS

Section 1. Obligations of Eligible Suppliers

- 1.1 Eligible Suppliers that are generation companies shall comply with the ownership limitation as provided in Section 45 of the Act.
- 1.2 An Eligible Supplier who is engaged in other electricity-related business activities as defined in the Business Separation Guidelines, As Amended, shall ensure that its business activities are functionally and structurally unbundled. In said unbundling, the Eligible Supplier shall ensure that there is no cross subsidization between and among its business activities, in accordance with the ERC-approved Business Separation and Unbundling Plan.
- 1.3 An Eligible Supplier may procure its power requirements from other Eligible Suppliers and the WESM.
- 1.4 Eligible Suppliers shall provide all power requirements of its Eligible Customers, except for energy related to distribution system losses, energy imbalances as defined by the WESM Rules, and line losses. In addition, Eligible Suppliers shall ensure continuous supply at all times.
- 1.5 Prior to entering into a PSOP Contract with a Eligible Customer, the Eligible Supplier shall conduct an orientation regarding the nature and provisions of the PSOP Contract and that the PSOP Contract shall include a provision that the same shall terminate on Open Access Date.

Section 2. Obligations of Eligible Distribution Utilities

- 2.1 Eligible DUs shall provide non-discriminatory access to its distribution system, and shall provide all regulated services at rates approved by the ERC and at non-discriminatory terms and conditions.
- 2.2 Upon coordination with the Eligible Supplier, the Eligible DU shall determine and assign each Eligible Customer to a specific Market Trading Node (MTN) as defined under the WESM Rules.

Metering and Data Dissemination Services

- 2.3 Eligible DUs shall provide metering related services to Eligible Customers within its franchise area. WESM compliant interval metering facilities for Eligible Customers participating in the PSOP shall be completely installed by the Eligible DU at the start of the same as declared by the ERC. The DU shall be allowed to recover the additional charges that cover the incremental costs related to enhancement of metering facilities subject, however, to ERC approval.
- 2.4 Eligible DUs shall continue to own, operate, maintain and access the meters used by Customers participating in the PSOP.
- 2.5 Eligible DUs shall continue with the regular meter reading schedules for the Eligible Customers, and provide the meter reading data of each Eligible Customer to its respective Eligible Supplier, within three (3) Business Days from the meter reading date.
- 2.6 Eligible DUs shall only disseminate meter reading data to a Eligible Customer's current Eligible Supplier. It shall not release meter reading data and other details to other Eligible Supplier or any other entity without the Customer's authorization.

Transmission Wheeling and Ancillary Services

- 2.7 An Eligible DU shall continue contracting with NGCP for transmission wheeling service and ancillary services on behalf of its Eligible Customers. The Eligible DU shall bill the Eligible Supplier for both transmission wheeling and ancillary services provided to each Eligible Customer in accordance with the ERC-approved NGCP rates and charges.

Distribution Wheeling and other Regulated Services

- 2.8 An Eligible DU shall provide distribution wheeling service to each Eligible Customer and shall bill the Eligible Supplier for distribution wheeling, system loss and other applicable regulated charges per customer classification as provided to each Eligible Customer.
- 2.9 An Eligible DU shall be responsible for procuring all energy related to distribution system losses, as provided for under Section 5.4 of the Distribution Services and Open Access Rules. The system loss charges should be based on blended purchased power costs of the Eligible DU and shall be based on the ERC-approved rates.

Disconnection/Reconnection of Eligible Customer

- 2.10 In cases of non-payment by the Eligible Customer, an eligible Supplier may send a 48-hour written notice of disconnection to such customer. The Eligible

Supplier shall inform the Eligible DU of such notice at the same time it sends notice of disconnection to the Eligible Customer.

- 2.11 In cases of non-payment by the Eligible Customer, the Eligible DU may disconnect the Eligible Customer within 24 hours from receipt of request for disconnection from the Eligible Supplier.
- 2.12 Should the Eligible Customer settle its obligations to the Eligible Supplier prior to the time of disconnection, the Eligible Supplier must send an advice to the Eligible DU to desist from disconnecting service, or immediately reconnect the service, should the same be disconnected. Such advice shall be time-stamped and recordable, and shall take effect upon receipt of the Eligible DU of a time-stamped notice. Otherwise, the Eligible DU shall not be responsible for verifying the validity of the Eligible Supplier's request for disconnection.
- 2.13 The Eligible DU shall reconnect the Eligible Customer immediately upon written advice of the Eligible Supplier.

Non-payment of Eligible Supplier to other service providers

- 2.14 In case of non-payment by the Eligible Supplier to other service providers, such Eligible Supplier and its affected Eligible Customers shall be informed by the Eligible DU within 48 hours from receipt by the latter of a request for disconnection from the concerned service provider. The affected Eligible Customers shall endeavor to find another Eligible Supplier, otherwise, it shall receive default supply services from the Eligible DU.
- 2.15 If the Eligible Supplier does not settle its obligations within 48 hours, the Eligible DU may disconnect the affected Eligible Customers within 24 hours of expiration of the 48-hour window.
- 2.16 Should the Eligible Supplier settle its obligations prior to the time of disconnection, it must send an advice to the Eligible DU to desist from disconnecting service, or immediately reconnect the service, should the same be disconnected. Such advice shall be time-stamped and recordable, and shall take effect upon receipt of the Eligible DU of a time-stamped notice. Otherwise, the Eligible DU shall not be responsible for verifying the validity of the request for disconnection.

Default Supply

- 2.17 An Eligible DU shall provide supply services to its Eligible Customers in the event an Eligible Supplier fails to provide such services for the following reasons:
 - 2.17.1 The Eligible Supplier has ceased to operate;
 - 2.17.2 The Eligible Supplier's license has been revoked by ERC;

- 2.17.3 The Distribution Wheeling Service Agreement between the Eligible Supplier and the Eligible DU had been terminated;
 - 2.17.4 The Eligible Supplier is no longer permitted to trade electric energy through the WESM;
 - 2.17.5 The Eligible Supplier has given notice to the ERC that it will no longer provide supply services.
- 2.18 Should any of the events under Section 2.17 hereof occur, the rate to be charged shall be the ex-ante or ex-post WESM nodal energy price, whichever is higher, for the energy consumed by an Eligible Customer during all hours that it has been supplied by the Eligible DU. No additional costs shall be charged by Eligible DUs to Customers for this service.
 - 2.19 For the circumstance in Section 2.17.1 hereof, the Eligible Supplier shall inform the DU and the ERC, and the DU in turn shall inform the affected Eligible Customers.
 - 2.20 The ERC shall inform the DU of the circumstances in Sections 2.17.2 and 2.17.5 hereof, and the DU in turn shall inform the affected Eligible Customers.
 - 2.21 The Market Operator shall inform the DU and the ERC of the circumstance in Sections 2.17.4 hereof, and the DU in turn shall inform the affected Eligible Customers.
 - 2.22 The Eligible Customer, after being notified of the circumstances in Sections 2.17.1, 2.17.2, 2.17.4 and 2.17.5 hereof, shall be responsible for informing the DU that it shall avail of default supply.
 - 2.23 For the circumstance in Section 2.17.3 hereof, the DU shall inform the Eligible Customer immediately that the latter may avail of default supply.
 - 2.24 In the event that an Eligible Customer avails of default supply, it shall enter into a Default Supply Contract with the DU, which will take effect immediately. Otherwise, it shall be disconnected by the DU.
 - 2.25 In no case shall default service be longer than three (3) months. The Eligible Customer should contract with an Eligible Supplier within that period of time. Any new PSOP Contract entered into shall be effective on the next billing cycle.
 - 2.26 In the event of power shortage, the WESM Rules will govern such a contingency. The Default Supplier is not intended to be a generator of last resort for such contingency.

Section 3. Rights and Responsibilities of Eligible Customers

- 3.1 Upon receipt of the ERC certification from the Eligible DU, the Eligible Customer shall send a written notice at least thirty (30) days before its meter

reading date to its Eligible DU expressing its intention to participate in the PSOP. Qualified Eligible Customers who do not opt to participate need not send notices to their DU.

- 3.2 The qualified Eligible Customer shall provide a written authorization to the Eligible DU to provide an Eligible Supplier with information on its historical consumption and other details only if such Customer wishes to negotiate with such Eligible Supplier. The Eligible DU shall not release such information to any Eligible Supplier without the Eligible Customer's authorization. Only information stated in the Eligible Customer's authorization will be released by the Eligible DU.
- 3.3 Customers shall be provided with a copy of the PSOP Contract upon its signing.
- 3.4 A Eligible Customer may file a complaint with the ERC regarding its transactions with the Eligible Supplier, provided that a complaint concerning the same issue was previously filed with the respective Eligible Supplier, and such Customer was adversely affected by the Eligible Supplier' resolution of the complaint.

ARTICLE V ACCOUNTING AND SETTLEMENT OF ENERGY IMBALANCE, LINE RENTALS AND NET SETTLEMENT SURPLUS

Section 1. Accounting and Settlement of WESM Line Rental Charges

- 1.1 The Philippine Electricity Market Corporation (PEMC), as Market Operator (MO), shall be responsible for the settlement and accounting of line rental charges and associated Net Settlement Surplus amounts between the Eligible Suppliers.
- 1.2 PEMC shall provide the Eligible DU with detailed and separate computations of the line rental charges related to the BCQ quantities of the Eligible DU sourced for its non-PSOP customers and BCQ quantities sourced by the Eligible Supplier for its Eligible Customers by MTN. The detailed information shall be submitted by PEMC to the Eligible DU every 15th of the month.
- 1.3 Pursuant to Clause 3.13.1.1 (b) of the WESM Rules, the Generating Company shall be billed the line rental trading amount associated with its declared BCQ which shall then be carved out from the total line rental fee to be charged to the DU by the MO.
- 1.4 The line rental fee for each Eligible Supplier shall be computed as the summation of the product of the hourly BCQ of the Eligible Supplier and the difference of the ex-ante price of the Eligible Supplier's MTN and the ex-ante price of the counterparty generator MTN.

Section 2. Accounting and Settlement of WESM Imbalances and NSS

2.1 The Eligible DU shall be responsible for the accounting of energy imbalances and attendant Net Settlement Surplus (NSS) for energy entering the DU system for the account of the Eligible Supplier. The DU shall collect such amounts from the Eligible Supplier and remit collections to WESM.

2.2 To compute the attributable costs, the Eligible DU must be provided with the following information:

2.2.1 From the Eligible Supplier:

- a. The list of Eligible Customers of the Eligible Supplier with its corresponding MTN assignment;
- b. The Generating Companies with whom the Eligible Supplier has a supply contract and its corresponding MTN assignment, if any
- c. The Eligible Supplier's Bilateral Contract Quantity (BCQ) per MTN per hour

2.2.2 From the Eligible DU's metering data:

- a. The Eligible Customer's actual hourly consumption which is the actual energy registered by the DU metering installation; the sum of the Eligible Customers' consumption as gathered from the meter data shall be taken to be the total consumption of the Eligible Supplier;

2.2.3 From the MO:

- a. Total hourly energy at the delivery points of the DU system as measured by the WESM meters;
- b. Total hourly BCQ declared by Eligible Suppliers per MTN;
- c. Final hourly ex-post WESM prices for each MTN in the DU system;
- d. Amount of NSS associated with energy taken from WESM and line rental charges associated with the BCQ of each Eligible Customer, if any.

2.3 The total imbalance quantity per trading period in the DU system is the total metered quantity taken from all metering points of the Eligible DU less the sum of all relevant BCQ for delivery into the DU system over the same trading period.

The Total DU System Imbalance = [Total kWh from DU WESM metering points] – [DU's BCQ + All Eligible Suppliers' BCQ]

2.4 The imbalance quantity per trading period for the Eligible DU shall be the total metered quantity taken from all metering points of the Eligible DU less the sum of all metered quantities of all Eligible Customers, and less the sum of BCQ for delivery to the Eligible DU's captive customers.

The Eligible DU's imbalance for non-PSOP customers = [Total kWh from DU WESM metering points] – [DU's total BCQ] – [Total consumption of all PSOP customers (from DU meters)]

- 2.5 The imbalance quantity per trading period for each Eligible Customer shall be the total metered quantity taken from all metering points of the Eligible Customer less the sum of BCQ for delivery to the Eligible Customer.

The Eligible Supplier's imbalance for its PSOP customers = [consumption of all Eligible Supplier's PSOP customers (from DU meters)] – [Eligible Supplier's BCQ]

- 2.6 The imbalance charge per trading period for each Eligible Supplier shall be the sum of imbalance charges computed for each of the Eligible Customer in Section 2.5 hereof.
- 2.7 Subject to a new methodology approved by the ERC for the distribution of NSS, the NSS per Eligible Supplier shall be in proportion to the Eligible Supplier's current spot market purchases amount.
- 2.8 The Eligible DU may be allowed to charge a fee for the provision of the service of accounting and settlement of imbalances and NSS. This shall be for the recovery of expenses incurred in the provision of this service which includes billing, collection, and settlement. The fee to be charged by the Eligible DU shall be subject to ERC approval.

Section 3. Distribution Charges

- 3.1 The Eligible DU shall continue to bill all distribution charges, system loss charges and other applicable pass-through charges such as the lifeline subsidy rate, universal charges, taxes and other fees through the Eligible Supplier.
- 3.2 The Generating Companies shall be responsible for providing the BCQ nominations and declarations to the WESM.
- a. Should an Eligible Supplier and/or a Generating Company have a dispute regarding the BCQ quantity reported by the MO to the Eligible DU, the RES or Generating Company shall be responsible for correcting its BCQ declaration.
 - b. Should there be a dispute between/among the Eligible Supplier, its Generating Company and/or MO, the same shall be settled among themselves and should not affect any payments due the Eligible DU.
 - c. Notwithstanding the pendency of a dispute, the Eligible Supplier shall settle its obligation to the Eligible DU without deductions or offset and the dispute shall not be a ground for delay or non-payment of succeeding

billings. The Eligible DU shall have the right to refuse partial payment of bills.

- d. Regardless of the outcome of the dispute, the Eligible DU shall not be liable to pay interest on any amount.

Measurement of Actual Consumption

- 3.3 For each Customer, the Eligible DU shall install metering facilities capable of measuring energy use and demand in a fashion consistent with WESM energy settlement intervals. The DU shall be allowed to charge incremental metering charges for said arrangement.
- 3.4 The amount of energy purchased by an Eligible Supplier is equivalent to the sum of the energy consumptions of its Eligible Customers measured through their meters. The amount of energy recorded at the Eligible Customer's meter is assumed to be the total amount of the energy it purchased and was delivered for its consumption.

Section 4. Eligible Supplier's Responsibility for Energy Imbalance and Line Rental Fees of its Eligible Customers

- 4.1 All risks of imbalances shall be accounted for the Eligible Supplier. Any unaccounted imbalance shall be assumed to be attributable to the Eligible Supplier.
- 4.2 The Eligible Supplier shall be responsible for all contractual, service, and billing matters related to their Eligible Customers, including any customer service and billing complaint and dispute. Enforcing payment for billing adjustments, rebilling and differential bills shall form part of the responsibilities of the Eligible Supplier. Hence, billing and payment risks resulting from billing adjustments, rebilling and differential bills disputed by the Eligible Customer shall be carried out by the Eligible Supplier in the course of their normal business operations and not by the Eligible DU. The non-payment of the Eligible Customers shall not be sufficient reason for the non-payment of an Eligible Suppliers' obligations to the Eligible DU, NGCP and generating company.

Section 5. Dispute Resolution

- 5.1 The parties to any dispute arising from the interpretation or implementation of this settlement process shall act in good faith and use all reasonable endeavors to resolve the dispute in an amicable manner. Should the matter not be settled within thirty (30) days from the written notice of dispute by the disputing party, the matter may be referred to the ERC for proper resolution in accordance with applicable rules and regulations.

Section 6. Information Confidentiality

- 6.1 All proprietary data received by the Eligible DU necessary for the accounting and settlement of the imbalances and NSS under this process shall be treated as confidential and shall not be disclosed to any other third party without prior written consent of the party to which the data is proprietary. In this regard, the provisions of the WESM rules on confidentiality shall apply.

ARTICLE VI

CONTRACTS BETWEEN POWER SUPPLY OPTION PROGRAM PARTICIPANTS

Section 1. Supply Contract between Generation Company and Retail Electricity Supplier

- 1.1 The supply contracts between generation companies and RES' during the Power Supply Option Program shall have a term that will commence on the date agreed upon by the parties, which is in no case earlier than the date of implementation of the PSOP. Such contracts shall automatically terminate upon Open Access Date.

Section 2. Provision of PSOP Contract to the Customer

- 2.1 A PSOP Contract between an Eligible Supplier and an Eligible Customer shall have a minimum term of twelve (12) months, within which the Eligible Customer cannot opt to be supplied by the Eligible DU as a captive customer and be subject to the DU's regulated supply rates, after which the parties shall be allowed to renew their contract, or the Eligible Customer shall elect another Eligible Supplier, subject to the provisions of these Rules.
- 2.2 An Eligible Supplier shall ensure that upon signing of the PSOP Contract, the Customer is provided with a copy of said contract.
- 2.3 The PSOP Contracts shall provide for the supply of electricity to commence on the first day of the next billing cycle from execution of the PSOP Contract or any other first day of succeeding billing cycles, as agreed upon by both RES and Eligible Customer.
- 2.4 The rates and any terms and conditions of a PSOP Contract between an Eligible Customer and an Eligible Supplier may only be modified by agreement in writing between the Eligible Customer and the Eligible Supplier.
- 2.5 For the avoidance of doubt, if the amount of the contract price is allowed to vary in accordance with some term or condition of a PSOP Contract previously agreed between the Customer and the Eligible Supplier, no further agreement shall be required.
- 2.6 In relation to Section 2.5 hereof, should a Customer elect switching to another Eligible Supplier, the former shall submit a 30-day notice to its incumbent supplier.

Section 3. Distribution Wheeling Service Agreement Between Distribution Utility and Retail Electricity Supplier

- 3.1 A DWS Agreement shall be entered into between the Eligible Supplier and the Eligible DU on behalf of the Eligible Customer. Said DWS Agreement shall commence only on the effective date of the PSOP Contract between the Eligible Supplier and the Eligible Customer. The pro forma DWS Agreement provided in the Distribution Services and Open Access Rules shall be used for this purpose.
- 3.2 Aside from the transmission and distribution wheeling services, the DWS Agreement between an Eligible Supplier and Eligible DU shall include the following items and attachment:
- 3.2.1 Pass-through costs related to system losses, deferred costs and other charges incurred by such Eligible DU prior to the commencement of PSOP Contracts entered into by Eligible Customers within its franchise area, subject to ERC-approved rules;
- 3.2.2 Lifeline subsidies;
- 3.2.3 Bill deposits equivalent to forecasted monthly consumption on DUs charges to the Eligible Supplier, including but not limited to DWS, transmission charge, systems loss charge , etc., subject to yearly adjustment as provided in the Distribution Service and Open Access Rules (DSOAR); and
- 3.2.4 Service fee for the accounting and settlement of Energy Imbalances and net settlement surplus.
- 3.2.5 Metering service agreement, which covers procurement of meter on behalf of the customer (if applicable), meter installation, maintenance, calibration, repair, meter reading and meter data dissemination to Eligible Supplier.
- 3.3 The term of the DWS Agreement shall end upon the commencement of Open Access and Retail Competition as prescribed in the Act.

**ARTICLE VII
REDUCTION OF CONTRACTED VOLUME BETWEEN
GENERATION COMPANY AND ELIGIBLE DISTRIBUTION UTILITY**

- 1.1 All existing TSCs will remain valid. Where the Eligible DU's energy requirement is reduced due to the transfer of an End-user to an Eligible Supplier, such DU may reduce its Transition Supply Contract (TSC) volume in accordance with the provisions of the TSC, or as otherwise agreed upon by the parties.

- 1.2 The Eligible DU shall provide the NPC Successor Generating Company with the corresponding monthly energy requirement of a Customer intending to transfer to an Eligible Supplier, and the energy that will be reduced under the TSC, at least ten (10) days prior to the billing date of NPC Successor Generating Company.
- 1.3 In relation to Section 1.3 hereof, an Eligible Supplier shall notify the Eligible DU of the effectivity date of the PSOP Contract and Distribution Wheeling Service Agreement for a Customer, at least thirty (30) days prior to such effectivity date, to ensure that NPC or NPC Successor Generating Company is provided sufficient notice in reducing the Eligible DU's TSC volume.

ARTICLE VIII REPORTORIAL REQUIREMENTS

Section 1. Once the PSOP commences, Eligible DUs shall submit the following information to the ERC:

- a. Names of Eligible Customers within its franchise area;
- b. Names of Eligible Customers that have opted to participate in Power Supply Option Program; and
- c. Names of Eligible Supplier serving each participating Eligible Customer.

Eligible DUs shall submit an updated list of Eligible Customers to the ERC on a monthly basis.

Section 2. Each Eligible Supplier shall file a monthly report to the ERC containing the following information:

- a. **Average prices.** Average retail sale price broken down by transmission and distribution service territories; for each category, the average retail sale price is the total revenue divided by the total kilowatt-hour sales;
- b. **Revenues.** Total revenues from kilowatt-hour sales to Eligible Customers;
- c. **Customers.** Name of Eligible Customers served, and amount of deposits collected from each.
- d. **Bank certification.** Certification from reputable bank, stating the amount deposited in escrow.
- e. **Other information.** Other information that the ERC deems necessary or useful in carrying out its duties and obligations.

Section 3. All Eligible Suppliers and NPC/PSALM, NPC-IPPS, NPC-Successor Generating Companies shall submit a monthly report to the ERC containing monthly sales to TSC holders (in kW, kWh and peso sales), and the Eligible Suppliers which it has contracts with.

**ARTICLE IX
EFFECTIVITY OF POWER SUPPLY OPTION PROGRAM**

The PSOP shall commence ninety (90) days after completion of either of the following conditions, whichever comes earlier:

- a. The transfer of the operation of the Calaca NPC Generation Assets to the private generation companies concerned or its equivalent in terms of capacity; or
- b. The privatization of at least 70% of the total capacity of generating assets of NPC in Luzon and Visayas.

The PSOP shall be implemented only in Luzon and shall end upon Open Access Date.

All contracts entered into by entities participating in the Power Supply Option Program shall be deemed terminated upon Open Access Date. Electric power industry participants shall then enter into new contracts under the Open Access regime, in accordance with the rules and policies for Open Access and Retail Competition.

**ARTICLE X
AMENDMENTS**

The ERC shall amend and/or expand the coverage of these Rules from time to time where this may be necessary to meet the needs of the electric power industry participants and End-users. Before making any significant revisions of these Rules, the ERC will undertake public consultation as appropriate.

**ARTICLE XI
SANCTIONS**

The ERC shall impose the appropriate fines and penalties for any violation or non-compliance with these Rules, pursuant to the "Guidelines to Govern the Imposition of Administrative Sanctions in the Form of Fines and Penalties Pursuant to Section 46 of R.A. 9136".

**ARTICLE XII
SEPARABILITY**

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

**ARTICLE XIII
EFFECTIVITY**

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

Pasig City, ____(date)____.

ZENAIDA G. CRUZ-DUCUT
Chairperson

RAUF A. TAN
Commissioner

ALEJANDRO Z. BARIN
Commissioner

MARIA TERESA A.R. CASTAÑEDA
Commissioner

JOSE C. REYES
Commissioner