

Republic of the Philippines
Energy Regulatory Commission
San Miguel Avenue, Pasig City

**GUIDELINES FOR THE IMPLEMENTATION OF THE REDUCTION IN RATE
OF THE ELECTRIC COOPERATIVES DUE TO THE CONDONATION OF
DEBTS**

Pursuant to Section 60 of Republic Act No. 9136 or the Act, Rule 31 of the Implementing Rules and Regulations (IRR) of the Act and Sections 5 and 6 of Executive Order (EO) No. 119, the Energy Regulatory Commission (ERC) hereby adopts these Guidelines to govern the application for rate reduction filed by the Electric Cooperatives (ECs).

ARTICLE I

GENERAL PROVISIONS

These Guidelines shall have the following objectives:

- a. To lay down the general framework that will be used in evaluating the application for rate reduction;
- b. To provide a list of requirements for the approval of the application for rate reduction;
- c. To prescribe a procedure in the filing and approval of the application for rate reduction;

ARTICLE II

SCOPE AND DEFINITION OF TERMS

Section 1. Scope. - In accordance with the program approved by the President of the Philippines, the PSALM shall assume all outstanding financial obligations of ECs to NEA and other government agencies incurred as of June 26, 2001 for the purpose of financing the Rural Electrification Program exclusively utilized for capital expenditures for the acquisition, construction, operation and

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maintenance, and/or expansion and rehabilitation of distribution, generation and Subtransmission Assets/facilities and pre-operating expenses for newly-established ECs and shall include the interests, surcharges and penalties on the Rural Electrification Loans, released from NEA and other government agencies to ECs as of 26 June 2001, duly booked by NEA, validated by COA and confirmed by the ECs.

Such outstanding financial obligations include loans contracted from the following government agencies:

- a. National Electrification Administration (NEA)
- b. Development Bank of the Philippines (DBP)
- c. Land Bank of the Philippines (LBP)
- d. Asset Privatization Trust (APT) now Privatization and Management Office (PMO);
- e. NPC, for loans on taken-over systems, excluding power bills;
- f. Department of Energy (DOE); and
- g. Local Government Units (LGUs).

Provided, However, That such loans were contracted in accordance with NEA policies and with prior NEA authorization, except for loans transferred to APT, now PMO.

Section 2: Definition of Terms. As used in these Guidelines, the following terms shall have the following respective meanings:

- a. "Act" shall refer to Republic Act No. 9136 which took effect on June 26, 2001;
- b. "Commission on Audit" or "COA" refers to the constitutional body created under Section IX-D of the 1987 Constitution;

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- c. "Department of Energy" or "DOE" refers to the government agency created pursuant to Republic Act No. 7638 whose expanded functions are provided in the Act;
- d. "Department of Finance" or "DOF" shall refer to the government agency created pursuant to Executive Order No. 127, as amended;
- e. "Electric Cooperative" or "EC" refers to a Distribution Utility organized pursuant to Presidential Decree No. 269, as amended or as otherwise provided in the Act;
- f. "Energy Regulatory Commission" or "ERC" refers to the regulatory agency created by Section 38 of R.A. 9136;
- g. "Financing for Rural Electrification" refers to those loans and grants extended to ECs, for the construction or acquisition, operation and maintenance of distribution, generation, and subtransmission facilities for the purpose of supplying electric service, and those loans for the restoration, upgrading and expansion of such facilities, in areas which are considered rural at the time of the grant of such loans;
- h. "National Electrification Administration" or "NEA" refers to the government agency created under Presidential Decree No. 269, as amended, with additional mandate set forth in the Act;
- i. "National Power Corporation" or "NPC" refers to the government corporation created under Republic Act No. 6395, as amended;
- j. "Power Sector Assets and Liabilities Management Corporation" or "PSALM Corp." or "PSALM" refers to the corporation created pursuant to Section 49 of the Act;
- k. "Rural Electrification" refers to the delivery of basic electric services, consisting of power generation, subtransmission and/or extension of associated power delivery system that would bring about important social and economic benefits to the countryside;
- l. "Rural Electrification Loan" refers to financial obligations strictly incurred for Rural Electrification;
- m. "Rural Electrification Program" refers to the National Government plan to achieve total electrification of the countryside for the purpose of fostering

economic development and uplifting the living standards of the Filipino people;

ARTICLE III

DATA REQUIREMENTS AND FILING PROCEDURE

Section 1: Submission of Required Data. – The EC shall submit the following documents to facilitate the evaluation of the application for rate reduction:

- a. Certification/s from NEA and/or other government agencies indicating the total amount approved for condonation and attesting that such loans have been used for Rural Electrification Program;
- b. Certification from COA attesting that the total amount applied for debt service condonation has been duly verified and found to be true and correct;
- c. Certification from the concerned EC confirming that the amount is due and outstanding;
- d. Certification from NPC attesting that the EC is current in the payment of its obligations or that the EC has a duly executed agreement with the NPC containing a sustainable payment arrangement;
- e. Certification from PSALM provisionally acknowledging the amount of loans applied for condonation subject to the final results of an audit to be performed by an independent body commissioned for such purpose;
- f. Detailed information or report on outstanding loans applied for condonation, such as:
 1. List of outstanding loans obtained from creditors under Article II, Section 1 hereof;
 2. Purpose for each loan;
 3. Date of approval of each loan;
 4. Total releases from each loan granted and date of such releases;
 5. Principal and interest payments made for each loan;
 6. Outstanding balance for each loan;

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7. Amortization payments on the Rural Electrification Loans;
8. Data pertaining to its last approved rate adjustment whether provisional or final;
9. Proceeds from Benefits to Host Communities in the form of grants or technical assistance pursuant to Chapter II, Sections 289 to 294 of the Local Government Code, if applicable;
10. Monthly kilowatthour sales covering the period July 1, 2001 to June 30, 2002;
11. Statement on debt restructuring of any loan, if any;
12. Revenues generated from amortization portion of approved rates channeled to payments of purchased power cost, if applicable;
13. Other documents that may be needed by the ERC in the course of the evaluation.

Section 2: Procedure for Filing with ERC. - Each EC, through its duly authorized representative, shall fill out an application form for rate reduction prescribed by the ERC.

Copies of the accomplished application form shall be furnished the a.) Local Government Unit (LGU) Legislative Body of the city or municipality where the applicant principally operates, who shall issue a certification acknowledging receipt of the application; and b.) the Editor or Business Manager of a newspaper of general circulation in the locality who shall issue a certification of the notice of publication of the application.

The authorized representative of the EC shall file the verified application in six (6) copies together with a Board Resolution, indicating his authority to act on behalf of the EC, and the certifications referred to in the immediately preceding paragraph.

Section 3: Grant of Provisional Authority. - The ERC may approve provisionally, within seventy five (75) calendar days from the date of filing, the applications filed by the ECs for rate reduction, equivalent to the savings realized due to the removal of the amortization payments of the loans, based on the documents submitted in support of the application and the comments/pleadings which the consumers or the LGU concerned may have submitted within thirty (30) days from receipt of the copies of the application or from the publication, as



the case may be; Provided, That the data required under items a, b, c, d and f(7) and f(10) of Article III, Section 1 hereof shall have been submitted.

Section 4. Formal Hearing. - The ERC shall conduct formal hearings on the applications, giving proper notices to all parties concerned, with at least one (1) public hearing in the affected locality.

The notices of hearing shall be published at least twice for two (2) successive weeks in two (2) newspapers of nationwide circulation.

Section 5. Issuance of Decision. - The ERC shall issue a final decision on the application not later than twelve (12) months from the issuance of a provisional order, based on the required documents submitted pursuant to Article III, Section 1 hereof and the certification from PSALM that it has undertaken an independent audit, verified the purposes for which the debts have been incurred and confirmed that the amount applied for is true and correct.

Section 6. Publication of Approved Rates.- The ERC shall publish the approved rates in at least one (1) newspaper of general circulation and/or post electronically and circulate to all interested electric power industry participants.

Section 7. Separate Item in End-User's Bill. - The approved reduction in rates shall be reflected as a separate item in the consumers electric bills.

ARTICLE IV

SEPARABILITY

If for any reason any provision of these Guidelines 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 V

EFFECTIVITY

These Guidelines shall take effect immediately upon publication in a newspaper of general circulation in the country.

Pasig City, October 21, 2002.



LETICIA V. IBAY
Acting Chairmah



MARY ANNE B. COLAYCO
Commissioner



OLIVER B. BUTALID
Commissioner



CARLOS R. ALINDADA
Commissioner