

[DOE ENERGY REGULATIONS NO. 1-97, February 05, 1997]

RULES AND REGULATIONS GOVERNING BULK POWER SUPPLY OF INDUSTRIES FROM THE NATIONAL POWER CORPORATION

Pursuant to the authority vested upon the Department of Energy by Republic Act No. 7638 (Department of Energy Act of 1992), which mandates the Energy Industry Administration Bureau to encourage and guide the operations of both government and private entities involved in electricity distribution, and consistent with Republic Act No. 6395, as amended, which authorizes the National Power Corporation to sell electric power in bulk to industrial enterprises, the Department hereby adopts and promulgates the following rules and regulations to govern bulk power supply to industrial enterprises/estates from the National Power Corporation (NPC), hereinafter referred to as "NPC bulk supply".

SECTION 1. Statement of Policy - The Department of Energy (DOE) shall promote the economic and efficient generation and transmission of electricity, with due regard to the capability of the franchised electric, distributor to serve the power requirements of such industrial enterprises/ estates.

Furthermore, the DOE shall ensure the provision of adequate and reliable power supplies as well as competitive power rates for industrial enterprises/estates with the end view of promoting investments and industrial development and generating exports and employment.

The DOE'S Energy Industry Administration Bureau (EIAB) shall have overall jurisdiction in the implementation of the policy on NPC bulk supply.

SECTION 2. Scope of Application -These rules and regulations shall apply to any of the following entitites:

a. Any existing or prospective industrial enterprise not located within an industrial estate.

b. Any existing or prospective industrial estate as the sole customer and not the industrial enterprises located thereat. For purposes of these rules and regulations, industrial estate, as defined under Republic Act No. 7916 (An Act Providing for the Legal Framework and Mechanisms for the Creation, Operation, Administration, and Coordination of Special Economic Zones in the Philippines, Creating for this Purpose, the Philippine Economic Zone Authority (PEZA), and for Other Purposes), shall mean a tract of land subdivided and developed according to a comprehensive plan under a unified continuous management and with provisions for basic infrastructure and utilities, with or without prebuilt standard factory buildings and community facilities for the use of the community of industries.

- c. Any industrial enterprise seeking to renew an NPC bulk supply contract in force at the time of the effectivity of these rules and regulations.

SECTION 3. General Provisions

The following shall be the general provisions to be followed in the implementation of the policy on NPC bulk supply;

- a. The franchised electric distributor shall be given the opportunity to supply the power requirements of existing or prospective industrial enterprise/estates that are located or plan to locate within its franchise area.
- b. The franchised electric distributor must possess the technical and financial capability to assume the distribution function for the industrial enterprise/estate, as shall be determined by the EIAB based on the performance standards prescribed under Section 10(b) of these rules and regulations.
- c. in all cases, the affected franchised electric distributor shall match NPC power rates to satisfactorily guarantee non-prejudice to the operation and viability of the concerned industrial enterprise/estate.
- d. The DOE shall recognize NPC bulk supply contracts in force at the time of the effectivity of these rules and regulations.
- e. The DOE shall recognize any stipulation pertaining to restrictions or prohibitions on bulk supply under any existing and/or future Power Purchase Agreement between NPC and the affected franchised electric distributor.
- f. The NPC may continue to provide bulk supply to government institutions, unless otherwise stipulated under any existing or future Power Purchase Agreement between the NPC and the affected franchised electric distributor.
- g. The term for any new or renewed NPC bulk supply contract shall be subject to the terms and conditions mutually agreed upon by the NPC and the concerned industrial estate/enterprise.

SECTION 4. Limitations on NPC Bulk Supply - NPC bulk supply shall not be granted in any of the following cases:

- a. Industrial enterprises/estates already in operation and already being served by electric distributors at the time of the effectivity of these rules and regulations, except in cases, where the industrial enterprise/estate presents for determination by the EIAB sufficient proof that the concerned franchised electric distributor fails to satisfy the provisions of Section 10 hereof as well as to provide competitive power rates to the concerned industrial enterprise/estate.
- b. Residential customers, including those within the industrial estates and real estate subdivisions.

SECTION 5. Specific Provisions for Granting NPC Bulk Supply - The following shall guide applicants requesting for authority to avail of NPC bulk supply:

a. The industrial load shall not be less than 2,000 kilowatts (kW) and the delivery voltage shall be in accordance with the following transmission voltage in the concerned NPC grid:

1. Luzon Grid - 230,000 volts
2. Visayas Grid - 69,000 volts
3. Mindanao Grid - 138,000 volts

b.-The NPC bulk supply shall not result in duplication of service facilities.

c. The industrial enterprise/estate shall shoulder all costs of putting up operating and maintaining all the dedicated facilities associated with the power service delivery. For purposes of these rules and regulations, dedicated facilities shall include all radial transmission lines, substations, subtransmission and distribution lines, transformers and associated equipment solely utilized by the industrial enterprise/estate to enable power service delivery.

d. In the case of industrial estates not under the supervision of the Philippine Economic Zone Authority (PEZA), the affected franchised electric distributor shall have the right of first refusal to supply the power requirements of the concerned industrial estate and the individual enterprises that are located or plan to locate thereat, provided, however, that the affected franchised electric distributor shall meet the technical and financial standards of performance prescribed under Section 10(b) of these rules and regulations.

e. For individual estates under the supervision of PEZA, which have the franchise to operate heat, light and power utilities by virtue of Republic Act 7916, the affected franchised electric distributor shall be given the opportunity to operate and maintain the facilities associated with the power service delivery to the individual enterprises located thereat.

SECTION 6. Filing of Applications for NPC Bulk Supply- The industrial enterprise/estate seeking authority to avail of or to renew its NPC supply contract shall be guided by the following:

a. Applicants shall file with the EIAB a written application containing and/or enclosing thereto the following information/documents:

1. Name and business address including a brief, corporate/ business profile of applicant;

Location of applicant's installation, plant or factory for which NPC bulk supply is sought, including the nearest NPC substation, as well as the power demand, delivery voltage, requested schedule for connection, load curve, and other relevant technical information;

Statement of the reasons for applying for NPC bulk supply; and

4. Such other documents which the EIAB may deem necessary in support of the application.

b. All applications for new NPC bulk supply contracts and renewal of contracts

in force at the time of the effectivity of these rules and regulations shall be subject to hearing procedures conducted in accordance with the Rules of Practice and Procedure governing hearings before the EIAB as adopted by the DOE on February 1993.

c. The EIAB shall approve or deny any application for NPC bulk supply based on the affected franchised electric distributor's meeting the technical and financial standards of performance prescribed under Section 10 (b) of these rules and regulations and its ability to match NPC power rates.

The industrial enterprise/estate which has been granted authority to have NPC bulk supply shall submit to EIAB a copy of its bulk supply contract with the NPC for monitoring purposes.

d. In the case where the affected franchised electric distributor is deemed technically and financially capable but cannot match power rates, the NPC and the concerned franchised electric distributor shall adopt an interim billing arrangement prescribed under Section 9 of these rules and regulations.

e. For renewal of any NPC bulk supply contract, the concerned industrial enterprise/estate shall advise the EIAB and the NPC in writing of such intention to renew at least three (3) months before the expiration of the contract. The industrial enterprise/estate shall henceforth be further guided by the specific provisions under Sections 6(a) and 6 (c) and Section 8 of these rules and regulations.

f. Provided that all information requirements shall have been complied with, the EIAB shall approve or deny any application for new NPC bulk supply within sixty (60) days from the date of application.

SECTION 7. Renewal of NPC Bulk Supply Contracts

-The renewal of any NPC bulk supply contract shall be further governed by the following;

a. The industrial enterprise/estate shall advise the EIAB in writing of such intention to renew the contract at least three (3) months before contract expiration.

b. Provided that all information requirements shall have been complied with, the EIAB shall complete the evaluation and inform the industrial enterprise/estate and concerned electric distributor of its decision to approve or deny any renewal of contract within sixty (60) days from the date of submission.

c. Any industrial enterprise/estate connected below the transmission voltages prescribed in Section 5 (a) of the rules and regulations and which has been granted authority to renew its bulk supply contract with the NPC, shall shoulder all costs of putting up, operating and maintaining the new/ upgraded 'dedicated facilities' pursuant to the required transmission voltages in the concerned grid.

SECTION 8. Transfer of Subtransmission Facilities

For any industrial enterprise/estate where the concerned electric distributor is deemed technically and financially capable and will match NPC power rates, the

following provisions shall be applied:

- a. The EIAB shall forthwith issue an order allowing the franchised electric distributor to serve the industrial enterprise/estate within a reasonable period of time but not exceeding one year from the date of issuance of said order.
- b. The franchised electric distributor shall negotiate with the NPC for the transfer of the dedicated facilities put up by the latter. Repayment for the investment on such facilities shall be done in accordance with arrangements mutually agreed upon by the NPC and the affected franchised electric distributor.
- c. During the pendency of the actual transfer of the concerned industrial enterprise/estate to the affected franchised electric distributor, the latter, if it so wishes, shall adopt with NPC an interim billing arrangements prescribed under Section 9 of these rules and regulations. The affected franchised electric distributor may use the proceeds derived from such billing arrangement for upgrading the facilities to facilitate take-over of service to the concerned industrial enterprise/estate.
- d. The franchised electric distributor may enter into a tripartite agreement with the NPC and the industrial enterprise/estate to facilitate and effect the transfer arrangements.
- e. For monitoring purposes, the franchised electric distributor shall submit to the EIAB copies of any such transfer agreement and related documents.

SECTION 9. Interim Billing Arrangement - For franchised electric distributor deemed technically and financially capable but cannot match NPC power rates to the concerned industrial enterprise/estate, the affected franchised electric distributor, if it so wishes, shall adopt with NPC an interim arrangement, as follows:

- a. The monthly billing for the affected franchised electric distributor by NPC shall be based on the prevailing utility rate and effective load factor resulting from aggregating the consumption of the industrial enterprise/estate within its franchise area and the consumption of the franchised electric distributor.
- b. To ensure the implementation of this interim billing arrangement, the NPC shall submit to the EIAB copies of any agreements thereon.
- c. The interim billing arrangement shall only be effective until such time that the affected franchised electric distributor is able to match the NPC power rates while maintaining its technical and financial capability.

SECTION 10. Performance Evaluation of Franchisee! Electric Distributor - The following guidelines and procedures shall apply to any applications for NPC bulk supply contract:

- a. For purposes of evaluating the technical and financial capability of the affected franchised electric distributor to serve the concerned industrial enterprise within its franchise area, the EIAB shall require the affected franchised electric distributor to submit the following operational data requirements pertaining to the past three (3) years immediately preceding the year of the application.