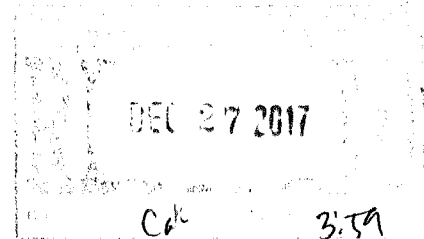


Republic of the Philippines
ENERGY REGULATORY COMMISSION
San Miguel Avenue, Pasig City

**IN THE MATTER OF THE
APPLICATION FOR THE
RECOVERY OF THE
INCREMENTAL FUEL AND
INDEPENDENT POWER
PRODUCER (IPP) COSTS
UNDER THE 10TH TO 17TH
GENERATION RATE
ADJUSTMENT MECHANISM
(GRAM)**



**ERC CASE No. 2008-042 RC
ERC CASE No. 2008-053 RC
ERC CASE No. 2008-063 RC
ERC CASE No. 2009-032 RC
ERC CASE No. 2009-056 RC
ERC CASE No. 2010-003 RC
ERC CASE No. 2010-068 RC
ERC CASE No. 2010-074 RC**

**IN THE MATTER OF THE
APPLICATION FOR THE
RECOVERY OF THE
INCREMENTAL COSTS ON
FOREIGN CURRENCY
FLUCTUATION UNDER THE
15TH TO 16TH INCREMENTAL
CURRENCY EXCHANGE
RATE ADJUSTMENT (ICERA)**

D O C U M E N T E D
Date: DEC 22 2017
By: _____

**ERC CASE No. 2010-067 RC
ERC CASE No. 2010-073 RC**

NATIONAL POWER
CORPORATION/ POWER
SECTOR ASSETS AND
LIABILITIES MANAGEMENT
CORPORATION NPC/PSALM,

Applicants.

x-----x

O R D E R

On 26 March 2012, the Commission in its Decision resolved the above captioned cases. In the said Decision, PSALM was directed to submit a report containing the latest balance of the Deferred Accounting Adjustment (DAA) and the proposed scheme for its recovery/refund.

On 01 June 2012, in compliance with the above directive a report containing the latest balance of the DAA for the Luzon grid only.

On 21 June 2012, PSALM submitted its additional compliance, a report containing the DAA balance for Visayas and Mindanao grids, as well as the corresponding DAA allocation for customers during the relevant test periods together with its proposed methodology for recovery/refund scheme of GRAM & ICERA DAA.

In an Order dated 20 June 2017, the Commission approved PSALM's recovery/refund scheme for the implementation of the 10th to 17th GRAM and the 15th to 16th ICERA. PSALM was authorized to implement the allocated DAA for each customer based on the recovery period of sixty (60) months.

On 03 October 2017, the Private Electric Power Operators Association (PEPOA) through a letter requested for clarification of the implementation of the 10th to 17th GRAM and 15th to 16th ICERA.

On 06 October 2017, PEPOA filed an *"Ex-Parte Motion for Leave to Intervene, Admit Motion Clarification and to Defer*

Implementation of the DAA under the 10th – 17th GRAM and 15th – 16th ICERA”.

In an Order dated 19 October 2017, the Commission deferred the implementation of the approved GRAM and ICERA to the January 2018 billing, pending the evaluation of the clarifications raised in PEPOA’s letter and motion.

In relation to PEPOA’s Motion for Leave to Intervene in the subject cases, the Commission noted that PEPOA is not a registered intervenor in the abovementioned cases and the period to register an intervention has lapsed. Thus, said motion to intervene is denied. This notwithstanding and in the interest of proper implementation of the Commission Decision, the following clarification on the issues raised are hereby issued.

DISCUSSION

The Commission issued a Decision dated March 26, 2012 resolving the 10th to 17th GRAM covering the test period from January 2007 to April 2010 and 15th to 16th ICERA covering the test period from July 2009 to April 2010. In said Decision, the Commission granted PSALM the following DAA:

Grids	GRAM DAA (PhP)	ICERA DAA (PhP)
Luzon	26,281,952,768.34	8,193,293,149.95
Visayas	7,706,055,072.95	918,421,045.84
Mindanao	1,908,403,425.72	(224,300,499.43)

Further, the Commission directed PSALM to submit a report containing the latest balance of DAA and a proposed scheme for the recovery/refund of the approved DAA.

The Commission in its Order dated 20 June 2017, authorized PSALM to implement the methodology for the recovery/refund of 10th to 17th GRAM and 15th to 16th ICERA using the formula provided herein.

Allocation of DAA

$$DAA (k) = Total DAA * \frac{\sum_j^n Energy Sales (k)}{\sum_j^n Energy Sales}$$

where:

<i>K</i>	=	<i>Name of customer</i>
<i>DAA (k)</i>	=	<i>allocated Current DAA for customer k</i>
<i>Energy Sales (k)</i>	=	<i>Energy Sales of customer k during the Current DAA actual period</i>
<i>Energy Sales</i>	=	<i>Total NPC Energy Sales for the grid during the test period</i>
<i>j-n</i>	=	<i>Monthly test period of the Current DAA</i>

Coverage of Billing and Collection

PSALM/NPC shall directly bill and collect the DAA to/from the following customers:

- Existing NPC/PSALM customers from the relevant DAA test periods until present
- NPC customers attached to the SGCs covered by the DAA test period
- Customers that have already closed operations

Billing Methodology

$$Monthly DAA (k) = \frac{DAA (k)}{Recovery months}$$

where:

<i>DAA (k)</i>	=	<i>allocated Current DAA for customer k</i>
<i>Recovery Months</i>	=	<i>Sixty (60) months recovery period as set by the Commission</i>

The allocated GRAM and ICERA DAA for each customer shall be recovered by PSALM/NPC on a fixed monthly basis or in absolute amount and the monthly DAA rate to be passed on to the end users should be computed using the current kWh sales of relevant end users¹ of the DUs.

In compliance with the Commission's directive on the said Order, PSALM implemented the approved recovery scheme and issued the corresponding Debit/Credit memo to its customers for the recovery/(refund) of GRAM and ICERA DAA.

PEPOA in its letter and *Motion*, raised the following issues regarding the implementation of the approved DAA:

- a) Should DUs charge DAA to customers who are now part of the Contestable Market but were part of the Captive Market when the DAA was incurred? Considering that these customers are no longer customers of the DU, can the DAA be coursed thru their Retail Electricity Suppliers (RES)?
- b) Should new customers (Who were connected to the DU after the test period) be also charged the DAA considering they were not customers of the DU during the test period?
- c) Are DUs considered mere collectors of the DAA, such that the DUs shall remit the DAA to PSALM/NPC only upon collection from the end-users (similar to VAT on generation)?
- d) Is PSALM/NPC authorized to charge interest/surcharge for late/overdue payment/account based on their existing credit and collection policy?
- e) Can DUs pass-on any interest/surcharge only to delinquent accounts who caused the interest/surcharge?
- f) Are DUs pre-authorized by the Order of 20 June 2017 to reformat their electric bills to customers to add separate line items therein to include DAA under the 10th-17th GRAM and 15th-16th ICERA, and the corresponding VAT?

Further, PEPOA prayed for the deferral of the implementation of the approved DAA pending clarification by the Commission of the queries raised in the foregoing motion for clarification. Said prayer was granted in an Order dated 19 October 2017.

¹ Existing end-users during the covered test period

Accordingly, after review and consideration of the issues raised the Commission now resolves PEPOA's clarification as follows:

- a) *Should DUs charge DAA to customers who are now part of the Contestable Market but were part of the Captive Market when the DAA was incurred? Considering that these customers are no longer customers of the DU, can the DAA be coursed thru their Retail Electricity Suppliers (RES).*

In its Order dated 20 June 2017 the Commission allocated the GRAM and ICERA DAA for each customer and shall be recovered by PSALM/NPC on a fixed monthly basis or in absolute amount. It should be noted that the customers covered by the DAA allocation are those customers whose electricity requirements were supplied by NPC/PSALM during the entire period of 10th to 17th GRAM and 15th to 16th ICERA applications.

Further, the said DAA allocation was derived using the total energy purchased by the DU from PSALM during the said period. Since, the allocation was based on total energy of the DU during the test period, prior to some of the customers being in the contestable market, these customers who were then part of the DU's captive market during the test period has a share on the DAA allocated for each DU.

Accordingly, the Commission rules that these contestable customers should be charged by the DU since the same was considered and reflected in the energy sales used in the allocation of the DAA. The said customers shall be billed in absolute amount allocated to them through their RES.

- b) *Should new customers (Who were connected to the DU after the test period) be also charged the DAA considering they were not customers of the DU during the test period?*

As stated above, the derivation of the approved DAA was based on the sales of the DU. Thus, allowing the DU to charge the DAA to its new customers would lead to overcharging of DAA. These customers were not included in the allocation of the DAA and pertain only to those supplied by DU during the test period. Hence, the approved DAA shall be recovered only by the DU from its customers during the test period.

Thus, in the same manner that former captive customers (who are now with their RES) are liable for the DAA, The Commission clarifies that new customers should not be charged the approved DAA.

- c) *Are DUs considered mere collectors of the DAA, such that the DUs shall remit the DAA to PSALM/NPC only upon collection from the end-users (similar to VAT on generation)?*
- d) *Is PSALM/NPC authorized to charge interest/surcharge for late/overdue payment/account based on their existing credit and collection policy?*
- e) *Can DUs pass-on any interest/surcharge only to delinquent accounts who caused the interest/surcharge.*

The GRAM and ICERA DAA are deferred adjustments, which were incurred by PSALM/NPC in supplying energy during the corresponding period thus, it should be recovered/refunded by PSALM/NPC to its customers. Hence, the said DUs are not just mere collectors of the said DAA but these are charges that they should pay to NPC/PSALM and charged to their customers as part of their generation charge.

Considering that there are DUs whose customers switched from being captive to contestable, the following rules should be observed:

1. For **captive** customers: this should **be treated as power bill which should be paid in full** to PSALM on or before its due date. It is worth noting that the DU has the capacity to enforce collection from said customers

The DUs remedy as to delinquent accounts shall be governed by its collection policy (e.g. charging of interest, disconnection, etc.); and

2. For **contestable** customers: since these are no longer customers of the DU, the DU may encounter issue in collecting the deferred charges. **Hence, payment to PSALM should only be made upon collection from the customer.** To facilitate such collection and imposition of **any interest**, the DU together with the RES, the contestable customer and PSALM should negotiate and agree on the collection term taking into consideration the Commission approved recovery period for the DAA of sixty (60) months.

f) Are DUs pre-authorized by the Order of 20 June 2017 to reformat their electric bills to customers to add separate line items therein to include DAA under the 10th-17th GRAM and 15th-16th ICERA, and the corresponding VAT?

As discussed earlier, customers covered by the DAA allocation are those PSALM/NPC customers during the relevant billing period, as the same was incurred when they were drawing power from PSALM/NPC.

Since these customers are no longer customers of PSALM/NPC, the recovery should not be based on PhP/kWh as there would be no basis of kWh purchases or billing determinant. Thus, in the Commission's Order dated 20 June 2017, PSALM was authorized to recover the DAA on a fixed monthly basis or in absolute amount. Consequently, the DU shall be allowed to pass-on the derived DAA rate using the current kWh sales of relevant end users of the DUs. With this methodology the DUs will be ensured full recovery of the amount paid to PSALM for the DAA.

Hence, The Commission confirms that the DAA should be a separate line item, since the generation charge is based on Total Power Purchased and Generated (TPG) while the DAA is based on the kWh sales.

It may be worth emphasizing at this point that the GRAM and ICERA DAA are deferred costs that were incurred by PSALM in fulfilling its obligations to its customer to supply energy. Hence, the approved methodology is designed only to enable PSALM to recover the fuel and ForEx costs they incurred. Further, this will assure the consumers that they would not be charged more than they ought to pay and will allow NPC/PSALM to be compensated for its services.


WHEREFORE, the foregoing premises considered, PSALM and the DUs are hereby directed to abide by the above clarifications issued by the Commission in the implementation of the 20 June 2017 Order.

The DUs are hereby directed to resume the implementation of the GRAM and ICERA starting the January 2018 billing period, as

directed in the 19 October 2017 Order and in accordance with the above rulings.

SO ORDERED.

Pasig City, 19 December 2017.

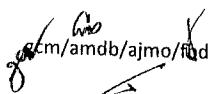

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