

## **Annex "A"**

### **RULES ON THE RECOVERY OF PASS-THROUGH TAXES (REAL PROPERTY, LOCAL FRANCHISE, AND BUSINESS TAXES) OF DISTRIBUTION UTILITIES**

#### **ARTICLE I**

#### **GENERAL PROVISIONS**

##### **1.1. Objectives**

These Rules shall have the following objectives:

- a. To provide guidance to Distribution Utilities (DUs) through an orderly procedure for recovery of Real Property, Local Franchise, and Business Taxes;
- b. To allow the full recovery of all just and reasonable components of the taxes levied by Local Government Units (LGUs) against the DUs to enable the latter to operate viably;
- c. To ensure transparency and efficiency in the implementation of appropriate recovery of tax charges; and
- d. To put in place a fair and transparent process for the confirmation of the cost adjustments implemented by the DUs and the true-up of the Real Property, Local Franchise and Business Taxes pass-through charges as approved by the Commission.

##### **1.2. Guiding Principles**

DUs shall be allowed recovery of all just and reasonable costs pertaining to taxes that are levied by LGUs, subject to the post-validation and confirmation mechanism of the Commission.

The Supreme Court, in the case of *Manila Electric Company (MERALCO) vs. The City Assessor and City Treasurer of Lucena City*, G.R. No. 166102, dated 15 August 2015, confirmed that machineries owned by DUs are subject to Real Property Taxes (RPT). Pursuant to the said Decision of the Supreme Court, machineries are not exempted from the RPT. This confirms the DUs' liability to pay RPT not only for land and buildings but for machineries as well.

In view of the above-cited Supreme Court Decision, the DUs fall under the following scenarios:

###### **1.2.1. Privately-owned DUs (PDUs)**

For PDUs under the Performance Based Regulation, these rules shall apply to RPT related to Machineries only, and only until the next regulatory reset when the RPT has been excluded from the Annual Revenue Requirement (ARR). Upon the finalization of the Regulatory Reset Process for the next Regulatory Period, PDUs shall already exclude the RPT in the financial Building Blocks of the ARR for each Regulatory Year in such Subsequent Regulatory Period, and the

Rules provided herein shall apply to all RPT charges.

#### 1.2.2. Electric Cooperatives (ECs)

The RPT for on-grid ECs are recovered as paid, and the rate of recovery is computed based on the period it has paid subject to the provisions of the Rules for Setting Electric Cooperatives Wheeling Rates (RSEC-WR).

The Current RPT Charge for ECs shall refer to the RPT that ECs have paid for the LGUs for the current period covered by the current rate of additional contribution for RPT reflected as a separate line item in the bill.

### 1.3. Scope and Applicability

These Rules shall apply to all DUs where Real Property, Local Franchise, and Business Taxes are levied and shall govern the recovery of the pass-through costs.

Only real property, franchise and business taxes that are assessed by the LGUs and subsequently paid for by the DUs shall be allowed to be passed on to consumers, subject to the provisions of these Rules.

Tax arrearages (excluding penalties and other charges) imposed on DUs shall be allowed to be passed on to consumers.

Tax arrearages shall include taxes assessed for prior years but paid by the concerned DU. In such instances, the amount of taxes paid by the concerned DU for the prior years shall be allowed to be passed on, provided that the requirements provided under these Rules are complied with.

These Rules shall likewise govern the applications for the recovery of any allowable real property, local franchise and business tax. Applications of this nature filed under Resolution No. 16, Series of 2009 shall no longer be accepted by the ERC.

Subject to the requirements provided in these Rules, the real property, local franchise and business taxes paid by the DUs for a particular calendar year may be passed on to consumer only within the year it was paid. Other taxes allowed to be passed on to their consumers but paid beyond the period mentioned in the preceding statement shall be recovered through the confirmation mechanisms under Article V of these Rules.

The resulting pass-through charges shall be reflected as a separate line item in their customers' electricity bills.

### 1.4. Definition of Terms

- a. **"Annual Revenue Requirement" or "ARR"** shall refer to the allowed annual revenue requirement for a utility which fully compensates the utility for efficient distribution expenses such as operating and maintenance expenses, return of capital, return on capital and other taxes;
- b. **"Business Tax" or "BT"** shall refer to the tax levied by the municipalities and cities as contemplated under Section 143 and 151, respectively, of the Local Government Code of 1991;
- c. **"Compliance Filing"** shall refer to Rule 20, Paragraph G, Section

3 of the ERC Resolution No. 38, Series of 2006;<sup>1</sup>

- d. **"Current Taxes"** shall refer to the Real Property, Local Franchise and Business Taxes that are covered by these rules, which are levied by the LGU for the present year starting 2021;
- e. **"Distribution Utility" or "DU"** shall refer to any electric cooperative, private corporation, government-owned utility or existing LGU which has an exclusive franchise to operate a distribution system in accordance with its franchise and Republic Act 9136;
- f. **"DSM Charges "** shall refer to the distribution utility's unbundled rates to cover the operating expenses compose of its payroll and operations and maintenance expenses;
- g. **"Electric Cooperative" or "EC"** shall refer to a distribution utility organized and incorporated pursuant to Presidential Decree No. 269, as amended by Presidential Decree No, 1645 and Republic Act No. 6938. Otherwise known as the Cooperative Code of the Philippines; wherein,
  - i. **On-Grid ECs** shall refer to the ECs connected to the Grid operating under the RSEC-WR.
  - ii. **Off-Grid ECs** shall refer to the island ECs that are not connected to the Grid;
- h. **"Levying LGU"** shall refer to the local government unit authorize to levy tax, fee, charge or other imposition unless otherwise provided under the Local Government Code of the Philippines;
- i. **"Local Franchise Tax" or "LFT"** shall refer to the tax levied by the province and cities on business enjoying a franchise as defined under to Sections 137 and 151 of Republic Act No. 7160, otherwise known as the Local Government Code of 1991;
- j. **"Machineries"** shall refer to machines, equipment, mechanical contrivances, instruments, appliances or apparatus which may or may not be attached, permanently or temporarily, to the real property. It includes the physical facilities for production, the installations and appm1enant service facilities, those which are mobile, self-powered or self-propelled, and those not permanently attached to the real property which are actually, directly, and exclusively used to meet the needs of the particular industry, business or activity and which by their very nature and purpose are designed for, or necessary to its manufacturing, mining, logging, commercial, industrial or agricultural purposes, as defined under Section 199 of the Local Government Code of 1991. For DUs, this includes assets such as, transformers, electric posts, transmission lines, insulators, and electric meters;
- k. **"Privately-owned DUs" or "PDUs"** shall refer to private corporation which has an exclusive franchise to operate a distribution system in accordance with its franchise;
- l. **"Real Property Taxes" or "RPT"** refers to Local Taxes imposed by Provinces, Cities and Municipalities against the DUs pursuant to

---

<sup>1</sup> A Resolution Promulgating the Energy Regulatory Commission's Rules of Practice and Procedure.", and any applicable amendments thereof

Sections 197-283 of the LGC;

- m. **"Recoverable Cost"** shall refer to the cost of any tax imposed to the utility that has been paid or incurred and allowed to be passed on by the utility;
- n. **"Recovery Period"** shall generally refer to the period when the cost adjustments are implemented;
- o. **"Statement of Account"** shall refer to an account statement sent to a customer or client which contains the detailed report of the contents of an account. It shows billings to and payments from the customer or client during a specific time period; and
- p. **"Tax Assessment"** shall refer to the act or process of determining the value of a property, or proportion thereof, subject to tax, including the discovery, listing and appraisal of properties.

## **ARTICLE II**

### **REAL PROPERTY TAX**

#### **2.1. Current RPT**

Current RPTs that are paid by the DUs are deemed part of their operating costs and shall be allowed to be recovered from the end users as the Current RPT Charge subject to the limitations in these Rules.

While the RPT is a common expenditure for all DUs, the rate thereof varies depending on the LGU.

The Current RPT Charge to be recovered by the DUs shall be determined and limited to the real property taxes assessed by the LGUs for the present year and paid for by the DUs, as evidenced by the following:

- a. a certified true copy of the local Tax Ordinance and/or any applicable Provincial Tax Ordinance/Resolution;
- b. a certified true copy of the tax assessment;
- c. a certified true copy of the statement of account;
- d. a certified true copy of the official receipt of payment / LGU Assessor's or Treasurer's office issuance of a certificate of full payment;
- e. projected kilowatt-hours sales for the particular proposed recovery period; and
- f. such other documents as may be required by the Commission.

Upon complete submission of the foregoing documents, the DU is hereby authorized to recover from its consumers the allowable Current RPT as pass-through charges pursuant to these Rules. Such pass-through charges shall be reflected as a separate line item in the electric bill, and subject to post-verification and confirmation by the Commission as provided under Article V of these Rules, where

the corresponding over/under recovery shall be considered in the DUs filing of their respective applications through Compliance Filing (CF).

The recovery period shall be equivalent to the number of months for which the DU has paid the said Current RPT. To illustrate, for DUs that made a one-time payment for the entire amount due for the year, the same shall be recoverable from their consumers for a period of twelve months. On the other hand, for those who paid on a quarterly basis, the recovery period shall be three (3) months of the quarter covered by the said payment. To illustrate, if a DU paid the current RPT for the first quarter of the year 2021, the DU may recover the said Current RPT for three (3) months or until March 2021.

Notwithstanding the immediately preceding paragraph, the said RPT charges shall only be allowed recovery for the current year and any remaining uncollected amount shall be included as part of the DUs' under-recovery in its compliance filing. To illustrate, the paid RPT for the year 2021 shall only be allowed as a pass-through in 2021. The uncollected portion of the allowable RPT charges shall then be recovered as part of the DU's compliance filing.

Within thirty (30) days from the last billing cycle in which the RPT adjustment was collected and fully recovered, a report on the said recovery, in accordance with the prescribed format provided in Appendix "A" hereof, shall be submitted to the Commission complete with supporting documents regarding its implementation.

Monthly collections and revenue shall be included in the DUs submission to the Commission under the Uniform Reportorial Requirements (URR).

## **2.2. Current RPT Pass-Through Computation**

The Current RPT Charge shall be calculated using the following formula:

$$\mathbf{RPT\ Charge} = \frac{\mathbf{RPT}_c}{\mathbf{S}_c}$$

Where:

RPT Charge = The Current RPT Charge expressed in Php/kWh representing the RPT paid for the present year to the LGUs located within the franchise area of the DU

RPT<sub>c</sub> = The total RPT paid for present year to all the LGUs imposing the tax within the specific municipality(ies) and/or city(ies) of the franchise area of the DU

S<sub>c</sub> = Projected Total kWh Sales for the recovery period of the Current RPT

For PDUs under the Performance Based Regulation, these rules shall apply to Current RPT related to Machineries only, and only until the next regulatory reset. Upon the finalization of the Regulatory Reset Process for the next Regulatory Period, privately-owned DUs shall already exclude the RPT in the financial Building Blocks of the ARR for each Regulatory Year in such Subsequent Regulatory Period, and the Rules provided herein shall apply to all RPT charges that will be imposed by the LGUs.

For ECs, these Rules shall be applied prospectively on all its Current RPT Charges

that will be imposed by the LGUs.

## **2.3. REAL PROPERTY TAX RECOVERY ADJUSTMENT CLAUSE (RPTRAC)**

### **2.3.1. Real Property Taxes Paid for Prior Years**

Real Property Taxes arrearages shall be applied and allowed for recovery as a Real Property Tax Recovery Adjustment Clause only upon prior approval of the Commission.

The RPTRAC shall be recovered as a separate line item in the electric bill until the approved amount has been fully recovered, subject to post-verification and confirmation by the Commission.

A report on the said recovery shall be made to the Commission, complete with supporting documents regarding its implementation, within fifteen (15) days from the last billing cycle in which the RPTRAC was collected. This may be subject to audit upon the discretion of the Commission.

### **2.3.2. Supporting Documents for RPTRAC**

The DU shall be required to submit the following supporting documents in support of its application:

1. Certified true copy of local tax ordinance;
2. Statement of Account;
3. Official Receipt;
4. Proposed recovery period;
5. Projected kilowatt-hours sales for the proposed recovery period;
6. Proposed RPTRAC rate of recovery; and
7. Such other documents as may be required by the Commission.

### **2.3.3. RPTRAC Computation**

The RPTRAC shall be calculated using the following formula:

$$\text{RPTRAC} = \frac{\text{RPT}_a}{S}$$

Where:

RPTRAC	=	The RPT Recovery Adjustment Clause expressed in PhP/kWh and allowed by the Commission
RPT <sub>a</sub>	=	Total Real Property Taxes for prior years, arrearages (excluding penalties and surcharges) paid to all LGUs imposing the tax
S	=	Projected kWh Sales for the proposed recovery period

### ARTICLE III

#### LOCAL FRANCHISE AND BUSINESS TAXES

##### 3.1 Local Franchise Tax Pass-Through Computation

A DU is obligated to pay Local Franchise Taxes (LFT) to their respective LGU/s. This shall be reflected in its customer's electric bill, and its recovery shall be based on the tax rate multiplied against the total gross revenue<sup>2</sup> in Peso (Distribution, Supply, Metering and other charges/adjustments, i.e. subsidy on lifeline charge, lifeline subsidy discount and inter-class cross subsidy charge, excluding Reinvestment Fund collections in the case of an EC).

##### 3.2 Business Tax Pass-Through Computation

Business Taxes (BT) paid by DUs may be recovered from its customers. The recovery of the said taxes shall be reflected in its customer's electric bill, with the amount to be recovered based on the following formula:

$$BT = \left( \frac{Bt_a}{S_{FBT}} \right) + OBTA$$

Where:

- BT* = Business Taxes Charge expressed in Peso/kWh representing business taxes that a DU paid to the specific LGUs
- Bt<sub>a</sub>* = Business Taxes (excluding penalty and surcharge) other than those already considered in the distribution rates, paid for the current calendar year
- S<sub>FBT</sub>* = Projected Total kWh Sales for the recovery period
- OBTA* = Other Business Taxes Cost Adjustment, refer to adjustments as approved by the Commission after prior verification and confirmation.

In calculating the local business taxes, it shall be based on the DU's total distribution charges, excluding the penalties and surcharges paid. The DU shall reflect the computed rate, in PhP/kWh and corresponding revenues in a separate line item in the customers' monthly billing.

##### 3.3 Supporting Documents for Local Franchise and Business Taxes Adjustment; Recovery Period as a Pass-Through

---

<sup>2</sup> The Department of Finance (DOF) Local Circular No. 1-07 dated June 28, 2007 has prescribed the guidelines on how the ECs may be levied by the LGUs on their gross receipts, which is net of the Generation, Transmission, Reinvestment Fund and Universal Charges.

## **Charge**

The LFT and BT to be recovered by the DUs shall be determined and limited to the taxes assessed by the LGUs for the present year and paid for by the DUs, as evidenced by the following:

- a. Certified true copies of the Local Ordinances of the Province, Cities and each of the Municipalities wherein franchise/business tax are levied;
- b. Tax receipts for the payments made;
- c. Summary of Franchise/ Business tax computation;
- d. Actual distribution revenues;
- e. Breakdown of gross sales/ receipts; and
- f. Other relevant documents as may be required by the Commission.

Upon complete submission of the foregoing documents, the DU is authorized to recover the allowable LFT/BT under these Rules. Such pass-through charges shall be reflected as a separate line item in the electric bill, subject to post-verification and confirmation by the Commission as provided under Article V of these Rules, where the corresponding over/under recovery shall be considered in the DUs filing of their respective applications through Compliance Filing (CF).

The recovery period shall be equivalent to the number of months for which the DU has paid the said LFI/BT. To illustrate, for DUs that made a one-time payment for the entire amount due for the year, the same shall be recoverable from their consumers for a period of twelve months. On the other hand, for those who paid on a quarterly basis, the recovery period shall be three (3) months of the quarter covered by the said payment. To illustrate, if a DU paid the LFT/BT for the first quarter of the year 2021, the DU may recover the said LFT/BT for three (3) months or until March 2021.

Notwithstanding the immediately preceding paragraph, the said LFT/BT charges shall only be allowed recovery for the current year and any remaining uncollected amount shall be included as part of the DUs' under-recovery in its compliance filing. To illustrate, the paid BT for the year 2021 shall only be allowed as a pass-through in 2021. The uncollected portion of the allowable BT charges shall then be recovered as part of the DU's compliance filing.

Within thirty (30) days from the last billing cycle in which the LFT/BT adjustment was collected and fully recovered, a report, in accordance with the prescribed format in the Appendix "A" for the BT and Appendix "B" for the LFT, shall be submitted to the Commission, complete with supporting documents regarding its implementation.

Likewise, the monthly collections and revenue shall be included in the DUs submission to the Commission under the Uniform Reportorial Requirements (URR).

### **3.4. Local Franchise and Business Tax Recovery Adjustment Clause**

- 3.4.1. Local Franchise and Business Tax arrearages (excluding penalties and surcharges) shall be applied and allowed for recovery as a Tax Recovery Adjustment Clause (TRAC).

- 3.4.2. The TRAC shall be recovered as a separate line item in the electric bill until the approved amount has been fully recovered, subject to post-verification and confirmation by the Commission.
- 3.4.3. A report on the said recovery shall be made to the Commission, complete with supporting documents regarding its implementation, within fifteen (15) days from the last billing cycle in which the TRAC was collected. This may be subject to audit upon the discretion of the Commission.
- 3.4.4. Before including the TRAC in its customers' bill, the DU shall submit to the ERC its calculation thereof using the TRAC formulaprovided above, together with the following information and supporting documents:
- a. Proposed recovery period;
  - b. Certified true copy of prior years Tax Assessments issued by the concerned LGU/s;
  - c. Certified true copies of Local Tax Ordinance/s;
  - d. Certified true copies of Official Receipts;
  - e. Projected kilowatt-hours sales for the particular proposed recovery; and
  - f. Other relevant documents as may be required by ERC.
- 3.4.5. Upon receipt of the complete documents, ERC shall verify and determine from the submissions the appropriate TRAC that the DU shall be allowed to impose on its customers.
- 3.4.6. The DU shall await the ERC's clearance before the inclusion and imposition of such taxes in its customers' retail rates and shall impose the TRAC allowed until such time that its franchise and business tax payments, as may be adjusted by the ERC during itsprior verification, have been fully recovered.

**3.4.7. TRAC Computation**

3.4.7.1. The TRAC shall be calculated using the following formula:

$$TRAC = \left( \frac{Lft_a + Bt_a}{S_{TRAC}} \right) + OFBA$$

Where :

*TRAC* = Tax Recovery Adjustment Charge expressed in Peso/kWh applied to the customer's monthly billing until such time the total franchise and business taxes paid to the local government

shall have been fully recovered;

*Lfta* = Local franchise tax (***excluding penalty and surcharge***) paid prior to the implementation of the approved franchise tax rate;

*Bta* = Business Tax (***excluding penalty and surcharges***) paid prior to the implementation of the approved business tax formula;

*SrRAC* = Projected kWh sales for a particular proposed recovery period or as determined by ERG; and

*OFBA* = Other Franchise and Business Taxes Cost Adjustments, refer to adjustments deemed necessary by the Commission after prior verification and confirmation, and the TROUR determined using the formula provided in Sections 4.3, 4.3.1 and 4.3.2 hereof.

## ARTICLE IV

### TRUE UP MECHANISM

This Article shall establish a procedure for the recovery or refund of pass-through costs and the confirmation process that would govern the cost adjustment and true-up mechanisms approved by the ERC.

#### 4.1. Calculation of Over/Under Recoveries

The DU shall calculate the over or under recoveries on the RPT, LFT and BT Rate brought about by the variance between the allowable cost and the revenues billed using the applicable formulae provided herein.

#### 4.2. RPT Over/Under Recovery

Consistent with ERC Resolution No. 16, series of 2009<sup>3</sup>, a provision for true up mechanism is allowed every three (3) years that coincides with the DU's confirmation filing. The RPT over/under recovery charged to customers shall be based on the following formula:

$$RPT_{OUR} = \frac{(RPTR_i + RPTR_{ii} + \dots RPTR_n) - (RPTA_i + RPTA_{ii} + \dots RPTA_n)}{S_{RPTOUR_{Total Actual}}}$$

Where:

$RPT_{OUR}$  = Refers to over/under recoveries real property taxes during the recovery period expressed in Peso/kWh

$RPTR_{i \text{ to } n}$  = Real Property tax revenue for the recovery period I to n computed as follows:

---

<sup>3</sup> "A Resolution Adopting the Rules Governing the Automatic Cost Adjustment and True-Up Mechanism and Corresponding Confirmation Process for Distribution Utilities."

$$RPTR = RPT \text{ Charge} \times \sum S_{RPTOUR \text{ Actual}}$$

Where:

RPT Charge = The Current RPT Charge expressed in Php/kWh as determined in Section 2.2 above

$S_{RPTOUR \text{ Actual}}$  = kWh sales for  $i$  to month  $n$  during the recovery period

RPTA  $i$  to  $n$  = ERC verified real property taxes paid by the DU for the recovery period  $i$  to  $n$

$S_{RPTOUR \text{ Actual}}$  = Actual Total kWh sales for the recovery period.

### 4.3. Local Franchise and Business Taxes Over/Under Recovery

The Local Franchise and Business Taxes Over/Under Recovery to be charged to customers shall be calculated based on the following formulae:

#### 4.3.1. Business Tax Over/Under Recovery

For BT Over/Under Recovery (BTOUR) to be charged to customers shall be calculated based on the following formula:

$$BT_{OUR} = \frac{(BTR_i + BTR_{ii} + \dots BTR_n) - (BTA_i + BTA_{ii} + \dots BTA_n)}{S_{BTOUR_{Total Actual}}}$$

Where:

$BT_{OUR}$  = Refers to over/under recoveries business taxes during the recovery period express in Php/kWh

$BTR_{i to n}$  = Business tax revenue for the recovery period  $i$  to  $n$  computed as follows:

$$BTR = (BT \times \sum_{i=1 \dots m} S_{BTOUR_{ACTUAL}})$$

Where:

$BT$  = ERC Other Business Tax Rate

$S_{BTOUR_{ACTUAL}}$  = kWh Sales for the Month  $i$  to Month  $m$  during the recovery period

$BTA_{i to n}$  = ERC verified business taxes paid by the DU for the recovery period  $i$  to  $n$

$S_{BTOUR_{TOTAL ACTUAL}}$  = Actual kWh Sales for the recovery period

### 4.3.2. Local Franchise Tax Over/Under Recovery

For LFT Over/Under Recovery (LFTOUR) to be charged to customers shall be calculated based on the following formula:

$$LFT_{OUR} = \frac{(LFTR_i + LFTR_{ii} + \dots LFTR_n) - (LFTA_i + LFTA_{ii} + LFTA_n)}{S_{LFTOUR_{Total Actual}}}$$

Where:

- $LFT_{OUR}$  = Refers to over/under recoveries in local franchise taxes during the recovery period expressed in PhP/kWh
- $LFTR_{i to n}$  = Local Franchise Tax revenue for the recovery period  $i$  to  $n$
- $LFTA_{i to n}$  = ERC verified local franchise taxes paid by the DU for the recovery period  $i$  to  $n$
- $S_{LFTOUR_{Total Actual}}$  = Actual Total kWh sales for the recovery period

## ARTICLE V

### FILING AND RESOLUTION OF THE APPLICATIONS

#### 5.1. Filing

The DUs shall file their respective initial consolidated applications through Compliance Filing (CF) within the corresponding periods as prescribed hereunder:

DISTRIBUTION UTILITIES	PERIOD OF FILING	COVERED ADJUSTMENTS
Luzon DUs	31 March 2023	January 2021-December 2022
Visayas DUs	31 March 2024	January 2021-December 2023
Mindanao DUs	31 March 2025	January 2021-December 2024

Subsequently, the DUs shall file their respective consolidated applications every three (3) years following the sequence of period of filing prescribed under ERC Resolution 21, Series of 2010<sup>4</sup>.

#### 5.2. Form of Application and Supporting Document

The Applications and supporting documents therewith shall adopt the prescribed templates (Appendix "A" or Appendix "B") by the ERC.

<sup>4</sup> A Resolution Amending Section 4 Article 4 and Section 1 of Article 5 of the Rules Governing the Automatic Cost Adjustment and True-up Mechanisms and Corresponding Confirmation Process for Distribution Utilities.

### **5.3. ERC Post Audit**

At any given time, the DUs implementation of recovery of Real Property Taxes, Local Franchises Taxes and Business Taxes may be subjected to any post audit by the Commission to examine the implemented rates based on the recovery period.

## **ARTICLE VI**

### **MISCELLANEOUS PROVISIONS**

#### **6.1 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.

#### **6.2 Fines and Penalties**

Violation of any provisions of these Guidelines shall be subject to the imposition of fines and penalties in accordance with the Guidelines to Govern the Imposition of Administrative Sanctions in the form of fines and penalties pursuant to Section 46 of Republic Act 9136 otherwise known as the Electricity Power Industry Reform Act (EPIRA).

#### **6.3 Exception Clause**

Where good cause appears, the ERC may allow an exception from any provisions of these Rules if such exception is found to be in the public interest and is not contrary to law or any other related rules and regulations.

#### **6.4 Repealing Clause**

These rules supersede the current rules on recovery of real property tax provided in the *Rules for Setting the Electric Cooperatives' Wheeling Rates (RSEC-WR)* and *Rules for Setting Distribution Wheeling Rates (RDWR)* and its Position Paper.

Similarly, these rules amend and modify the provisions of *ERC Resolution No. 16, Series of 2009*, relative to the recovery of any local franchise tax and business tax, including the filing of applications for recovery hereof.

All previous Commission issuances not consistent with these Rules are hereby repealed or modified accordingly.

#### **6.5 Effectivity**

These Rules shall take effect immediately following its publication in newspaper of general circulation in the country or in the Official Gazette.