

**MGA KAUTUSANG PAMPANGASIWAAN AT ALINTUNTUNIN NG MGA
KAGAWARAN, KAWANIAN AT TANGGAPAN**
(DEPARTMENT, BUREAU AND OFFICE ADMINISTRATIVE ORDERS AND REGULATIONS)

OFFICE OF THE PRESIDENT OF THE PHILIPPINES MALACANANG

OFFICE OF ENERGY AFFAIRS

RULES AND REGULATIONS TO IMPLEMENT EXECUTIVE ORDER NO. 215 ON PRIVATE SECTOR
PARTICIPATION IN POWER GENERATION

Pursuant to Section 2 of Executive Order No. 215 the National Power Corporation (NAPOCOR) and the National Electrification Administration (NEA) hereby promulgate the following Rules and Regulations, as approved by the Office of Energy Affairs (OEA).

PART I – GENERAL PROVISIONS OF THE RULES AND REGULATIONS

The succeeding Articles shall include the general provisions to be followed for all types of generating facilities owned by the private sector participating in power generation.

ARTICLE I – *Statement of Policy, Scope and Definition of Terms*

SECTION 1. *Statement of Policy.* – The NAPOCOR shall be responsible for the strategic and rational development of the country’s power grids including the construction of associated generating facilities and the setting up of transmission line grids in Luzon, Visayas, Mindanao. However, private corporations, cooperatives or similar associations shall be allowed and encouraged to construct and operate electric generating plants.

SECTION 2. *Scope.* – These Rules and Regulations shall govern the relation between the NAPOCOR, the NEA, and such private corporations, cooperatives or similar associations as may be allowed to acquire, construct and operate electric generating plants and facilities pursuant to Section 1 of the Executive Order.

SECTION 3. *Definition of Terms.* – As used in these Rules and Regulations, the following terms shall have the following respective meanings:

- a. “Avoided Cost” means the incremental investment and/or operating and maintenance and overhead cost that an electric utility would incur, thru putting up additional capacity and/or operating its own power plants, if such utility does not buy electric energy or capacity or both from a private sector generation facility (PSGF).
- b. “Back-up Power” means electricity supplied by NAPOCOR, or an electric utility to replace electric to replace electricity ordinarily generated by a private sector generation facility (PSGF) during/unscheduled outages of the latter of the latter.
- c. “Block Power Production Facility (BPPF)” means a facility which is programmed and included in the NAPOCOR Power Development Program but is owned, constructed and

operated by entities from the private sector and whose generated electricity shall be sold solely to NAPOCOR.

- b. “Bottoming-cycle Cogeneration Facility” means a cogeneration facility in which energy input to the system is first applied to a useful thermal energy process, and the reject heat emerging from the process is then used for power production.
- e. “Capacity” means the load for which a generating unit, generating station, or other electrical apparatus is rated, usually in kilowatts by the manufacturer.
- f. “Cogeneration Facility” means a facility which produces electric energy and forms of useful thermal energy (such as heat or steam), used for industrial, commercial, heating, or cooling purposes, through the sequential use of energy.
- g. “Coincident Maximum Demand” means the maximum demand at the instant of greatest load of NAPOCOR.
- h. “Developmental Plans”, refers to and is used interchangeably with the Power Development Program (PDP) of the NAPOCOR.
- i. “Distributing System” means the electric system of an electric utility which delivers electricity from transformation points on the transmission system to the consumers or end-users.
- j. “Electric Cooperative” shall mean a corporation under RA 6038 or PD 269 as amended by PD 1645 or a cooperative supplying or empowered to supply electric service which has heretofore been organized under the Philippine Non-Agricultural Coop. Act, whether converted under P.D. 260 or not.
- k. “Electric Energy”, as commonly used in the utility industry, means kilowatt-hours.
- l. “Electric Utility System”, refers to the distribution system of an electric cooperative, local-government owned and privately-owned electric utility operating within the NAPOCOR an electric utility power grids.
- m. “Electric Utility”, refers to the electric cooperative, local-government-owned and privately owned electric utility operating within the NAPOCOR grids or other electric systems.
- n. “Franchised Area” shall mean a geographical area franchised to a public service entity such as: electric cooperative local government or privately owned electric system.
- o. “Grid” means the electrical system of interconnected transmission lines, substations and generating plants of the National Power Corporation, or the concerned electric utility as the case maybe.
- p. “Incremental PSG Power” means electricity supplied by NAPOCOR or an electric utility, regularly used by an owner of a qualified private sector generation facility in addition to that which the latter generates itself. It is the difference between the total electricity requirement of a private sector generator and the amount it generates.
- q. “Interconnection” means the connection of a generating facility or a power distribution facility to an electric utility system of the NAPOCOR grid.
- r. “Interconnection Costs” means the costs of all necessary interconnecting electrical equipment, protective devices and control equipment needed by a private sector generator for its PSGF to permit interconnected operations with NAPOCOR or an electric utility.
- s. “Interruptible Power” means electricity supplied by NAPOCOR or an electric utility to a private sector generator subject to interruption by the former.
- t. “Maintenance Power” means electricity supplied by NAPOCOR or an electric utility, to a private sector generator who’s PSGF is undergoing scheduled maintenance work.

- u. “National Electrification Administration or NAE” means the corporation, wholly-owned and controlled by the government, created under the provisions of Presidential Decree No. 269 of 8 October 1979 and tasked primarily to administer the rural electrification program.
- v. “National Power Corporation or NPC” means the corporation, wholly-owned and controlled by the government, formed under the provisions of Republic Act No. 6395 of 10 September 1971 and tasked primarily to undertake the development of hydroelectric generation and the production of electricity from nuclear, geothermal and other sources, as well as the transmission of electric power on a nationwide basis.
- w. “Office of Energy Affairs or OEA” means the government agency formed under the provisions of Executive Order No. 193 of 10 June 1987 and be primarily responsible for the formulation planning, monitoring, implementation of, and coordination of policies and programs in the field of energy in the field of energy. By virtue of Executive Order No. 215, the OEA was given the mandate to review and approve the draft Rules and Regulations to implement the Executive Order No. 215, initially drafted and submitted to the OEA by the NAPOCOR and NEA, after appropriate public consultation with concerned parties including the private sector.
- x. “Peak Demand” means the maximum integrated load demand occurring for thirty(30) minutes continuously.
- y. “Person” means any natural person, firm, association, corporation, business trust and partnership.
- z. “Primary Energy Source” means the fuel for the generation of electricity, except the such terms do not include:
 1. The minimum amounts of fuel required for ignition, start up, testing, flame stabilization, and control uses, and
 2. The minimum amounts of fuel required to alleviate or prevent:
 - I. Unanticipated equipment outages, and
 - II. Emergencies, directly affecting the public health, safety or welfare, which would result from electric power outages.
- a.1. “Private Sector Generation Facility,(PSGF)” means:
 1. Any cogeneration and renewable resource power production facility, or
 2. Any electric generating facility, particularly a Block Power Production Facility (BPPF), intended primarily to sell all its production to the NAPOCOR grids, consistent with the development plans formulated by the National Power Corp. or
 3. Any electric generating facility that shall use indigenous energy resources as its primary fuel.
- b.1. “Private Sector Generator” refers to the owner and operator of the accredited PSGF.
- c.1. “Purchase” means the purchase of electricity by NAPOCOR or an electric utility from a private sector generator.
- d.1. “Rate” means any price, tariff or charge, as classified by NAPOCOR or the electric utility with respect to the sale or purchase of electricity.
- e.1. “Renewable Energy Sources” means sources of energy that are regenerative or virtually inexhaustible such as biomass, solar, wind, geothermal or hydro, and also means by-product materials that but for their use as a source of energy would be considered waste.
- f.1. “Rules on Sale of Electricity” refers to the procedures set by NAPOCOR for

it customers to follow regarding matters on direct connection, billing, billing protest, adjustment clause, payment of bills, and other matters relative to customer's service.

- g.1. "Renewable Resource Power Production Facility (RRPPF)" means a facility which produces electricity by the use of renewable energy resources as its primary energy source.
- h.1. "Sale" means the sale of electricity by NAPOCOR or an electric utility to a private sector generator.
- i.1. "Spinning Reserve" means generating capacity that is on-line and ready to take load, but in excess of the current load of the electric system.
- j.1. "System Emergency" means a condition on NAPOCOR's or an electric utility's system which is likely to result in imminent significant disruption of service to customers or is imminently likely to endanger life or property.
- k.1. "Topping-cycle Cogeneration Facility" means a cogeneration facility in which the energy input to the facility is first used to produce useful power with the reject heat recovered from power production then used to provide useful thermal energy.
- l.1. "Uncontrollable Forces" mean any occurrence beyond the control of a party which causes that party to be unable to perform its obligations and which the party has been unable to overcome by the exercise of due diligence, including but not limited to flood, drought, earthquake, storm, fire, pestilence, lightning and other natural catastrophes, epidemic, war, riot, civil disturbance or disobedience, action or inaction of legislature, judicial or regulatory agencies, or other proper authority affecting the operation of the PSGFs, failure or sabotage of facilities which have been maintained in Accordance with good engineering and operating practices in the Philippines.
- m.1. "Wheeling" means the provision of electric energy transmission services by NAPOCOR or an electric utility for the purpose of enabling the owner of a Accredited PSGF to transmit power to another system or end-user.

ARTICLE II – *Qualification of a Private Sector Generation Facility*

SECTION 1. *Ownership.* – *Qualifications as to ownership of a PSGF shall be any of the following*

- a. A PSGF may be constructed, owned and operated by private persons, private corporations, cooperatives or similar associations not primarily engaged in the generation or sale of electricity and shall be governed by applicable Philippine Laws on corporations or similar associations as to registration, independent auditing, taxation and other related matters as provided by said laws. Foreign entities may participate in electricity generation subject to applicable Philippine laws.
- b. Private corporations, cooperatives and similar associations primarily engaged in the generation or sale of electric power, referred to in these implementing rules as electric utilities, may own, construct and operate generating facilities but shall be subject to electric utility regulations concerning rates, financial limitations, taxes and other laws applicable to their operations as electric utilities.

For entities availing of the government's Investment Priorities Program, such entities shall be guided by relevant legislation thereto.

SECTION 2. *Facility Classification.* – A Private Sector Generation Facility referred in this Part of these Rules and Regulation shall include the following electric generating plants:

- a. Cogeneration facilities such as topping-cycle, bottoming-cycle and fossil fuel cogeneration units meeting engineering, operating and efficiency standards as prescribed in Section 5 of this Article;
- b. Renewable Resource Power Production Facilities such as those using biomass, solar, wind, geothermal, hydro or wastes as the primary source of energy; and
- c. Electric generating facilities that shall use indigenous energy resources as their primary fuels.

SECTION 3. *Jurisdiction of NAPOCOR and NEA.* – NAPOCOR shall have jurisdiction over all private power production in areas served by the NAPOCOR grids. NEA shall have jurisdiction over all other areas not served by the NAPOCOR grids.

SECTION 4. *Size of Generating Units.* – The maximum size of a generating unit of a PSGF shall be limited to the existing largest generating unit size or 10% of the coincident maximum demand of the concerned NAPOCOR grid or as allowed by NAPOCOR. Further, for areas within the jurisdiction of NEA, the size of generating units allowed by NEA shall be based on the demand of the electric cooperative in accordance with the Power Expansion Program as approved by NEA.

SECTION 5. *Engineering, Operating and Efficiency Standards.* – A PSGF shall be guided by internationally-accepted standards in engineering, operations and reliability.

SECTION 6. *Economic Criteria.* – Any proposed electric generating facility can qualify as a PSGF, if it can provide a net foreign exchange savings to the nation, by virtue of:

- a. Generating electric energy more efficiently or cheaper than can otherwise be generated by existing plants;
- b. Using indigenous and/or renewable energy sources; and
- c. Accessing lower costs of capital and/or cheaper plan investment.

ARTICLE III – *Procedures for Applying for Accreditations and Interconnection of a Cogeneration and a Renewable Resource Power Production Facility as a Private Sector Generation Facility*

SECTION 1. *Accreditation.* – A Private Sector Generation Facility (PSGF) which meets the qualifications for accreditation set forth in Article II is a qualified PSGF.

SECTION 2. *Accreditation by NAPOCOR.* – The owner or operator of a proposed PSGF within the jurisdiction on NAPOCOR, whether solely for internal use or not and whether the facility is existing or shall be constructed, and whose generating unit is subject to the limitations under Article II hereof, shall apply for accreditation as a qualified PSGF to NAPOCOR. For facilities whose generation is not solely for internal use of owner, but also for sale to NAPOCOR or electric utilities, NAPOCOR shall determine the franchised electric utility with the nearest distribution facilities to which the PSGF shall be obligated to interconnected. If the nearest electric utility distribution facilities are such that the interconnection would not be cost effective, NAPOCOR may seek the approval of the OEA to directly connect to PSGF itself.

SECTION 3. *Accreditation by the NEA.* – The owner of a proposed PSGF within the jurisdiction of NEA shall apply for Certification and Accreditation to the NEA, which shall determine whether the accredited PSGF shall be directly connected to any electric cooperative. In which case the qualified PSGF shall follow the procedures and technical and operational requirements of NEA.

SECTION 4. *OEA Monitoring of Accredited PSGF's.* – A copy of the certificate of accreditation issued by the NAPOCOR and NEA relative to foregoing Sections 2 or 3 together with the corresponding technical description shall be promptly forwarded to OEA for monitoring purposes.

SECTION 5. *Generation by Electric Utilities.* – Facilities owned by an electric utility and whose generation is solely for the internal use of the owner electric utility shall be further guided by Part V of these Rules and Regulations.

SECTION 6. *Generation by Non-utilities Primarily for Internal Use.* – Facilities whose generation is intended primarily for the internal use of the non-utility owner but also plans to sell excess production to the NAPOCOR grid/concerned electric utility shall be further guided by either Part II or Part III as applicable, of these Rules and Regulations when such plan to sell is effected.

SECTION 7. *Representation During Accreditation/Negotiation.* – Where proposals for PSGFs are submitted by persons or entities, foreign or local, other than the organization which is or will be set up to construct, own and operate the facilities, agreement made during any negotiation after accreditation shall not legally bind parties involved thereto until such time when a final contract is agreed upon and signed. Documentary support such as Letters of Intent and Memorandum of Agreement made and signed during any negotiation shall be used as basis in the preparation of the actual contract between NAPOCOR or the electric utility and the Organization, existing or newly created, owning the PSGF.

SECTION 8. *Revocation of Qualified Status.* – NAPOCOR or NEA may revoke the qualified status of a PSGF which has been accredited under this Article if such facility fails to comply with the requirements of these Rules and Regulations or any of the statements contained in its application for certification. Decision of revocation of qualified status shall be done only upon approval of OEA and after the owner of the qualified PSGF has been given due process or the opportunity to explain failure of compliance.

SECTION 9. *Application and Negotiation for Interconnection with NAPOCOR grids.* – In cases where NAPOCOR determines that the generation of an accredited PSGF within the NAPOCOR's jurisdiction should be sold to a concerned electric utility, the owner of said qualified PSGF shall apply and negotiate with the concerned electric utility for interconnection with the latter. If interconnection is hindered by any disagreement, the owner of the PSGF may negotiate with NAPOCOR for the latter to purchase the PSGF's generation itself. NAPOCOR shall then treat the PSGF generation site as a delivery point of NAPOCOR to the electric utility operating near the site where the PSGF is located. IF neither NAPOCOR nor any concerned electric utility shall interconnect with the qualified PSGF, then the owner of the PSGF may elevate his case to the OEA for settlement.

Upon accreditation of a PSGF within NAPOCOR's jurisdiction and whose generation is also for sale to NAPOCOR, the owner of said qualified PSGF shall apply and negotiate with

NAPOCOR. Any disagreement on any matter that hinders the interconnection of the PSGF with NAPOCOR shall be settled by OEA.

Accredited PSGF whose generation is solely for the owners' internal use, need not apply for interconnection, but may do so if in the future there is a likelihood that sale to NAPOCOR or electric utilities would occur following the provisions of Parts I and either II or III of these Rules and Regulations.

A privately owned electric utility connecting with a PSGF shall submit to the ERB and OEA a copy of any interconnection agreement reached with the said PSGF for review and monitoring purposes. An electric cooperative connecting with a PSGF shall submit a copy of any interconnection agreement with said PSGF to the NEA and OEA for review and monitoring purposes. The NAPOCOR shall only furnish OEA a copy of any interconnection agreement with a PSGF for review and monitoring purposes.

It shall mean that the interconnection agreement, in this instance, already includes the agreement reached between the electric utility/NAPOCOR and the owner of the PSGF on matters pertaining to rates of purchase and sales, operating and maintenance schedules, procedures for dispatch, protective and metering devices and other items that are important to both parties.

SECTION 10. *Action on Modification of a PSGF.* – Prior to undertaking any substantial alteration or modification of PSGF which has been certified under these RULES AND REGULATIONS the owner or operator of such qualified PSGF shall apply to NAPOCOR, or NEA as the case may be, for a ruling that the proposed alteration would not result in a revocation of the facility's qualified status. The term "substantial alteration or modification of a qualified PSGF" means such alteration, modification or other changes as will materially affect the accuracy of the information submitted pursuant to Section 4 of this Article.

ARTICLE IV – Obligations of NAPOCOR, NEA, Electric Utilities and Owners of Qualified Private Sector Generation Facilities

SECTION 1. *Purchase Electricity Energy from Qualified PSGF.* – NAPOCOR, or concerned electric utilities shall purchase, at rates to be established in accordance with Article V, hereof, any electric energy and capacity which is made available by the owner of a qualified PSGF.

SECTION 2. *Purchase by Electric Utility of Power Already Contracted.* – Any electric utility, with the agreement of the owner of a qualified PSGF and the NAPOCOR or another concerned electric utility may purchase any electricity that the NAPOCOR or the concerned electric utility is contracted to purchase from the said owner of the PSGF under the provisions of these Rules and Regulations.

SECTION 3. *Adjustments in Financial Accounting.* – The NAPOCOR or and concerned electric utilities shall accordingly adjust their financial accounting systems and procedures resulting from purchases of electricity from private sector generators. The rate of return on rate base levels shall then be determined after all adjustments have been made and set in place.

SECTION 4. *Determination of Avoided Cost.* – The NAPOCOR and any other utility that purchases PSGF power under these Rules and Regulations shall calculate their avoided costs, not later than three (3) months from the date of effectivity of these Rules and Regulations, and shall make available to the Office of Energy Affairs the data and methodology from which avoided costs have been derived. These data and methodology shall be updated as may be required.

ARTICLE V. Rates for Purchases

SECTION 1. General Provision. – NAPOCOR or any electric utility shall not be required to pay more than their avoided cost.

SECTION 2. Purchase Rates Qualification. – Rates for purchase shall:

- a. Be just and reasonable to the electric customers of NAPOCOR or concerned electric utilities, and in the public interest;
- b. Be accordance with the guidelines set by NEA, for electric cooperatives, and ERB, for privately owned electric utilities, on this matter for qualified PSGFs where full and/or excess production shall be sold to the system of concerned electric utilities.

SECTION 2. Environmental Concerns. – Qualified PSGFs shall meet standards on environmental management, including, among others, those on air quality, noise levels, waters quality, solid waste, emission balances and controls, land use and esthetics as required by law through appropriate government agencies.

SECTION 3. Contents of Contract. – Consistent with these Rules and Regulations, all contracts between the owners of PSGFs and NAPOCOR or the concerned electric utility shall include, among others, the following:

- a. Identification of Parties;
- b. Recitals (rationale of contract)
- c. Considerations (general agreements);
- d. Purchase and Sales (stipulation of power purchase and sale);
- e. Conditions of Delivery;
 1. Point of Delivery
 2. Character of Service (technical specifications for expected power output)
 3. Power Factor
 4. Continuity/reliability
- f. Rates for Purchase from Facility and Adjustments clauses;
- g. Rates for Sale to Facility and Adjustment clauses;
- h. Billing Period and Payment Terms;
- i. Penalty and Discount Clauses;
- j. Rights and Obligations of NAPOCOR/Electric Utility and PSGF;
 1. Ownership, Design, Operation and Maintenance
 2. Construct Requirements
 3. Plans and Specifications
 4. Inspection and Tests
 5. Change of Equipment
 6. Costs
 7. Control and Protective Apparatus
 8. Location
 9. Delivery and Amount of Production
 10. Notices
 11. Land Rights
 12. Regulatory Approvals

13. Codes and Standards
 14. Removal of Equipment
 15. Provisions for Contract Violation
- k. Operations;
 1. Date of Operation
 2. Operating Procedure
 3. Sell-back Conditions
 - l. Safety Requirements;
 - m. Force Majeure;
 - n. Meter Provisions and Metering Arrangements;
 - o. Right to Access for Inspection, etc;
 - p. Liability of Each Party with Respect to Operations;
 - q. Durations of Contract and Conditions for Contract Cancellation;
 - r. Provision for Security; and
 - s. Additional Provisions.

SECTION 4. Force Majeure. – Neither party to a contract shall be in default if failure of performance of the terms of the contract is caused by factors due to acts of God, nature or uncontrollable forces.

ARTICLE VI. – Rates of Sales

SECTION 1. General Rules. – Except for back-up power, rates for sales of NAPOCOR or the concerned electric utility to the qualified PSGF, shall be based on the net interchange of energy between the said qualified PSGF and NAPOCOR or the concerned electric utility. If said interchange of energy results in requiring the PSGF to pay for electricity used, the applicable rates in this case shall not discriminate against the PSGF in comparison to rates for sales to other customers served by NAPOCOR or the concerned electric utility.

SECTION 2. *Services to be Provided to any Qualified PSGF.*

- a. As contracted with the owner of a qualified PSGF, NAPOCOR or the concerned electric utility shall provide on “as available basis”;
 1. Incremental PSG power;
 2. Back-up power;
 3. Maintenance power;
 4. Interruptible power.
- b. The NAPOCOR and concerned electric utilities may waive the requirement of the preceding Subsection (2a) if, after notice in the area served by NAPOCOR or NEA or the electric utility, NAPOCOR or NEA or the electric utility demonstrates and finds that compliance with such requirement shall;
 1. Impair NAPOCOR’s or the electric utility’s ability to render adequate service to its customers; or
 2. Place a harsh and undue burden on NAPOCOR or the affected electric utility.

SECTION 3. *Rates for Back-up Power.* – Rates for sales of back-up power to PSGF shall be at rate mutually agreed upon and stipulated in a contract between the owner/proponent of the PSGF and NAPOCOR or the concerned electric utility.

ARTICLE VII. - *Operating Standards, Environmental Concerns and Other Matters*

SECTION 1. *Standards for Operations and Reliability.* – The NAPOCOR and the concerned electric utility shall follow established internationally accepted engineering standards to ensure safety, system-security and reliability for interconnected system operations. Furthermore, NAPOCOR or NEA and the concerned electric utility shall evaluate and approve the system design, adhere to Electrical and Mechanical Engineering standards, as well as physically inspect the power installations and witness the testing and commissioning of the PSGF that will be interconnected to the system to ensure that all necessary equipment are in place and functioning properly.

SECTION 2. *Sale of Electricity to a Qualified PSGF.* – NAPOCOR or any concerned electric utility shall sell to any owner of a qualified PSGF electricity requested by the latter, in accordance with Article VI, hereof.

SECTION 3. *Interconnections within NAPOCOR grids.* – The NAPOCOR or any concerned electric utility shall allow such interconnection with any qualified PSGF as may be necessary to accomplish purchases or sales under these Rules and Regulations. Upon approval of the application and effectivity of an agreement for interconnection by the owner of a qualified PSGF and NAPOCOR or any concerned electric utility, the NAPOCOR or the concerned electric utility may issue an order requiring the physical connection of the qualified PSGF to the transmission facilities of NAPOCOR or NEA, or the distribution system of the concerned electric utility.

SECTION 4. *Interconnection within NEA jurisdiction.* – the NEA shall allow such interconnections with any qualified PSGF as may be necessary to accomplish purchases or sales under these Rules and Regulations. Upon application for interconnection of any qualified PSGF to NEA, the NEA may issue an order requiring:

- a. The physical connection of any qualified PSGF to the distribution facilities Of any concerned electric cooperative;
- b. The qualified PSGF to provide at its own expense the necessary inter-connecting electrical equipment and devices including associated distribution facilities, protective relays and communication, in accordance with appropriate electrical plans approved by NEA to make an effective physical/electrical interconnection to the system of the electric utility concerned.

SECTION 5. *Transmission to Other Electric Utilities (Wheeling).* – The Owner of a qualified PSGF may arrange with the NAPOCOR/any concerned electric utility, to transmit the electricity of the former to a third party (electric utility or end-user). Any third party electric utility or end-user to which such electricity is transmitted shall purchase the same under this Section. The rate for purchase by the third party (electric utility or end-user) to which such electricity is transmitted shall be adjusted to reflect line losses and shall include charges for transmission. A tariff structure for wheeling shall be applied by NAPOCOR or a concerned electric utility to the owner of the PSGF for the use of transmission facilities.

SECTION 6. *Safety Requirements.* – The owner of the PSGF shall provide and install protective devices in their facilities as a safeguard from any NAPOCOR or NEA or electric utility system disturbances.

SECTION 7. *Periodic Reporting to NAPOCOR and NEA.* – The owner of the PSGFs shall regularly submit to NAPOCOR or NEA in a prescribed form, operating or other information as may be required by NAPOCOR or NEA for monitoring and planning purposes.

PART II – SPECIFIC PROVISIONS FOR MININ-PRIVATE SECTOR GENERATION FACILITIES WITH CAPACITY LESS THAN 1000 KILOWATTS

In addition to Article I; Section 1, 2, 3 and 6 of Article II; Section 1, 4, 7, 8, 9 and 10 of Article III; Section 1, 3, 4, 5, 6 and 7 of Article IV; Article V, VI and VII of Part I of these Rules and Regulations, the following Articles shall guide proponents/owners of PSGFs whose plant capacity is 1000 kilowatts or below.

ARTICLE I – *Procedure for Applying for Accreditation as a Private Sector Generation Facility*

SECTION 1. *Accreditation of Mini-PSGFs.* – All mini-PSGFs served by the NAPOCOR grids shall be accredited by NAPOCOR. For applicants in the provinces, accreditation shall be done by the regional office of NAPOCOR where the proposed facility shall be situated. Accreditation by the NEA for applicants situated in areas not served by the NAPOCOR grids shall follow the provisions set on this matter in Section 3, Article III of Part I of these Rules and Regulations.

SECTION 2. *NAPOCOR or NEA Assistance.* – The NAPOCOR or NEA shall assist the owners of the mini-PSGF in securing/meeting requirements set by various government agencies on matters regarding construction and operation of generating plants.

SECTION 3. *Contents of Application.* – The contents for application for accreditation for a qualified mini-PSGF shall contain the following information:

- a) Name and address of the applicant and locality of the facility;
- b) Facility classification/Plant description;
- c) Plant capacity and generating capability;
- d) Fuel usage;
- e) Equity ownership; and
- f) Any other information that may be needed in the evaluation of proposed mini-PSGF.

SECTION 4. *Period of Processing.* – NAPOCOR and NEA shall take action to approve or deny any application fro accreditation for qualified mini-PSGF within one (1) month from date of application, provided all needed information and government approvals have been submitted them.

ARTICLE II – *Interconnection Costs, System Emergencies, and Operating Standards and Other Matters*

SECTION 1. *Interconnection Costs within NAPOCOR grids.* – NAPOCOR, or the concerned electric utility shall shoulder all costs needed for the realization of the physical connection of the mini-PSGF to the former’s transmission facilities. Maintenance costs for the interconnection facilities shall also be borne by NAPOCOR or the concerned electric utility.

SECTION 2. *Standards for Operations and Reliability.* – Notwithstanding the evaluation, approval and inspection described in Section 1 of Article VII, Part I of these Rules and Regulations, NAPOCOR, NEA and concerned electric utility make no representation as to the economic, technical and operational capability or reliability of the PSGF.

SECTION 3. *Operating Structure.* –The mini-PSGF directly connected to the NAPOCOR or concerned electric utility grid, if required, shall be operated by its owner in accordance with arrangements scheduled by the NAPOCOR load dispatchers. The generating units shall be so designed and provided, if required, with controls to adequately operate on load-follow mode or on automatic load frequency control regulation under the dispatching system of NAPOCOR. Mini-PSGF connected to concerned electric utility shall be operated following the latter’s dispatching/distribution system.

SECTION 4. *System Emergencies.* – Private sector generators shall be obligated to provide power to NAPOCOR or the concerned electric utility during system emergencies to the extent provided by the agreement between the mini-PSGFs owners and NAPOCOR or the affected electric utility.

SECTION 5. *Operation on “As-available” Basis.* – The electricity supplied by a mini-PSGF to NAPOCOR or an electric utility on an “as-available” basis shall follow a schedule provided by the owner of the mini-PSGF as to the time and period, and agreed to by NAPOCOR or the concerned electric utility.

PART III – SPECIFIC PROVISIONS FOR COGENERATION AND RENEWABLE RESOURCE POWER PRODUCTION AS PRIVATE SECTOR GENERATION FACILITIES

In addition to the provisions of Part I of these Rules and Regulations, the following Articles shall guide proponents/owners of Private Sector Generation Facility (PSGF) whose plant capacity is over 1000 kilowatts.

ARTICLE I – *Procedures for Applying for Accreditation and Interconnection of a Cogeneration and a Renewable Resource Power Production Facility as a Private Sector Generation Facility.*

SECTION 1. *Contents of Application.* –The application for accreditation for a qualified PSGF status shall contain, among others, the following information;

- a. The name and address of the applicant and the location of the facility;
- b. A description of the facility, including a statement indicating whether such facility is a renewable resource power production facility or a cogeneration facility;
- c. The power production capacity and energy (kw and kwh) of the facility;

- d. The primary energy source (fuel) of the facility;
- e. The projected mode of operation of the facility, (i.e., whether solely for internal use, or all its production to be sold to NAPOCOR grid/electric utility or just the excess) including plans for interconnection with the NAPOCOR grids, or electric utility operating at the site where facility is located;
- f. A description of that equity ownership of the facility including the percentage of ownership by NAPOCOR and/ or any electric utility, or by any organization or person;
- g. The period of construction, installation and commissioning of the facility; and
- h. Any other information to be presented in forms as the concerned electric utility and/or the NAPOCOR may require.

SECTION 2. *Period of Processing.* – Provided all requirements shall have been complied with NAPOCOR or NEA shall approve or deny any application for accreditation for qualified PSGF status within three (3) months from the date of the application, unless NAPOCOR or NEA shall have required the submission of additional information, or postponement of final action on an application or other reasonable grounds. Any order postponing final action on an application, shall state specifically the grounds for postponement, and that date on which a final ruling shall be issued. Any unresolved issue between NAPOCOR or concerned electric utility and qualifying PSGF shall be settled upon arbitration by the OEA.

ARTICLE II – Rights of NAPOCOR/NEA/Concerned Electric Utility on the Design and Construction of the Private Sector Generation Facility

SECTION 1. *Rationale.* – For the protection and reliability of NAPOCOR’s, or the concerned electric utility’s power system, NAPOCOR or the concerned electric utility reserves the right to review the design and monitor the construction, operation and maintenance of the PSGF. By reviewing and monitoring, NAPOCOR or the electric utility makes no representations as to the economic and technical feasibility, operational capability or reliability of the PSGF. The owner of the PSGF is solely responsible for the economic and technical feasibility, operational capability and reliability thereof.

SECTION 2. *Right to Review.* – NAPOCOR, NEA or the concerned electric utility shall have the right to review the drawing pertaining to the design of the PSGF and its interconnection facilities. Any flaws perceived by NAPOCOR, NEA or the electric utility in the design shall be described in writing. Internationally accepted engineering standards shall be utilized as reference in this review process.

SECTION 3. *Right to Monitor.* – NAPOCOR, NEA or the concerned electric utility shall have the right to monitor the construction work and construction schedule, start-up, operation and maintenance of the PSGF and shall have the right to consult with and make recommendations to the owner of the PSGF.

ARTICLE III – Obligations of NAPOCOR, NEA, Electric Utilities and Owners of Qualified Private Sector Generation Facilities

SECTION 1. *Interconnection within NAPOCOR grids.* – In addition to the provisions of Section 4, Article IV of Part I of these Rules and Regulations, upon the approval of the application and effectivity of the agreement for interconnection by the owner of a qualified PSGF and

NAPOCOR or any concerned electric utility, the NAPOCOR or the concerned electric utility may issue an order requiring the owner of a qualified PSGF to advance investment for the necessary interconnecting electrical equipment and devices in accordance with appropriate electrical plans approved by NAPOCOR or the concerned electric utility. Payment for the investment on these shall be made the following arrangements as mutually agreed upon by contracting parties.

SECTION 2. *Rate Satisfaction.* – A rate for purchase satisfies the requirement of Section 2 of Article V, Part I is such purchase rate equals or does not exceed the cost determined after consideration of the factors set forth in Section 5 of this Article.

SECTION 3. *Case with Different Costs.* – In the case in which the rates for purchases are based upon estimates of costs over the specific period of a contract the rates for such purchases do not violate this Article if the rates for such purchases differ from costs at the time of delivery.

SECTION 4. *Purchase “as-available”.* – The rates for purchases of energy and capacity on an “as-available” basis shall be based on the NAPOCOR’s of the purchasing electric utility’s costs calculated at the time of delivery or costs calculated and stipulated in a contract to purchase. Energy and capacity on an “as-available” basis shall mean electricity by a PSGF to NAPOCOR or an electric utility following a schedule provided by the owner of the PSGF as to time and period and agreed to by NAPOCOR or concerned electric utility.

SECTION 5. *Factors Affecting Rates for Purchases.* – The NAPOCOR and a concerned electric utility may require the specific factors mentioned below shall, to the extent practicable, be taken into account in the determination of costs;

- a. The data on avoided costs of NAPOCOR or the affected electric utility as submitted to the OEA in accordance with Section 4, Article V, Part I of these Rules and Regulations.
- b. The availability of capacity and energy from a qualified PSGF during the system daily and seasonal peak periods, including:
 1. The ability of the NAPOCOR or the concerned electric utility to dispatch the qualified PSGF;
 2. The expected or demonstrated reliability of the qualified PSGF;
 3. The terms of any contract including the duration of the obligation, termination, notice requirement and sanctions for non-compliance;
 4. The extent to which scheduled out-ages of the qualified PSGF can be usefully coordinated with scheduled out-stages of the NAPOCOR or the electric utility’s facilities;
 5. The usefulness of energy and capacity supplied from a qualified PSGF during system emergencies, including its ability to separate its load from its generation;
 6. The individual and aggregate value of energy and capacity from qualified PSGFs on NAPOCOR’s of the electric utility’s system;
 7. The smaller capacity increments and the shorter lead times available with additions of capacity from qualified PSGFs.
- c. The relationship of the availability of electric energy and capacity from the qualified PSGF to the ability of NAPOCOR or the affected electric utility to avoid costs, including the deferral of capacity additions and the reduction of fossil fuel use.
- d. The costs or saving resulting from variations in line losses from those that would have existed in the absence of purchases from a qualified PSGF if NAPOCOR or the

purchasing electric utility generated an equivalent amount of energy itself or purchased an equivalent amount of electric energy and capacity.

ARTICLE IV – *Interconnection Costs, System Emergencies and Operating Standards and Other Matters*

SECTION 1. *Interconnection Costs within NAPOCOR grids.* – Consistent with the provision in Section 1 of Article III of Part III of these Rules and Regulations, the owner of a qualified PSGF shall advance all costs needed for the realization of the physical connection of the former to the transmission facilities of NAPOCOR or any concerned electric utility. Repayment on these investment costs shall be done in accordance with arrangements mutually agreed upon by the contracting parties. Maintenance costs for the interconnection facilities shall be borne by the NAPOCOR or concerned electric utility.

SECTION 2. *Operating Structure.* – The PSGF directly connected to the NAPOCOR or concerned electric utility grid, if required, shall be operated by its owner to carry its share of the system load demand and capacity reserve margin in accordance with the hourly, daily, weekly, monthly, and/or yearly dictates/arrangements scheduled by the NAPOCOR Power Management Center’s Load Dispatchers. The generating units shall be so designed and provided with electric/automatic controls, if required, to adequately operate on load-follow mode or on automatic load frequency control regulation under the dispatching system of NAPACOR. PSGF connected no concerned electric utility shall be operated following the latter’s dispatching/distribution system.

SECTION 3. *System Emergencies.* – Private sector generates shall be obligated to provide power to NAPOCOR or the concerned electric utility during system emergencies to the extent provided by the agreement between the qualified PSGFs owners and NAPOCOR or the affected electric utility.

PART IV – SPECIFIC PROVISIONS ON BLOCK POWER PRODUCTIONS FACILITIES

In addition to the provision of Article I; Section 1 and 5 of Article II; Sections 4 and 7 of Article III, Section 3 of Article VI; Section IV of Article VII of Part 1 of these Rules and Regulations, the following Articles shall guide proponents/owners of Block Power Production Facilities (BPPF) from the private sector. Electricity generated by BPPFs shall be sold only to NAPOCOR.

ARTICLE I – *Qualifications for a Block Power Production Facility as A PSGF*

SECTION 1. *Ownership.* – Qualification as to ownership of a PSGF provided in Section 1 Article II of Part I of these Rules and Regulations shall be applicable to ownership of BPPF. In addition, the following qualification shall be allowed for owners of a BPPF.

- a. Consistent with the development plans formulated by NAPOCOR, a BPPF may be constructed and operated by a NAPOCOR subsidiary corporation solely created for the purpose of owning the facility. Majority interest of the NAPOCOR subsidiary on the equity of the BPPF shall be considered as ownership by an electric utility and shall be subject to the applicable laws.

- b. A proponent/owner of a BPPF in which NAPOCOR has a monitory interest is being held by the private sector shall be governed by applicable laws other than for electric utilities.

SECTION 2. *Conformance of BPPF's with NAPOCOR Development Plans.* – Block Power Production facilities shall follow the Power Development Program of NAPOCOR as to the plant type, capacity, number, size, location and other technical requirements of generating units or facilities programmed thereat. Exception to this provision shall be subject to the evaluation and approval by the NAPOCOR.

SECTION 3. *Economic Criteria.* – A qualifying BPPF shall have a lower or equal investment cost and/or production cost as NAPOCOR.

ARTICLE II – Procedures for Applying for Accreditation as a Block Power Production Facility

SECTION 1. *Accreditation.* – A private sector generation facility which meets the criteria for accreditation set forth in the preceding Article is a qualified BPPF.

SECTION 2. *Accreditations Procedures of a BPPF.* – The NAPOCOR shall treat BPPF applicants from the private sector on a case to case basis. Accreditation shall commence upon public announcement of NAPOCOR for applicants from the private sector to construct and operate large generating facilities as included and programmed in the NAPOCOR Power Program. The applicant period shall be set by NAPOCOR. Evaluation and negotiation activities, and approval/disapproval of applications filed shall be completed within a reasonable period as determined by NAPOCOR. In case no applicant is chosen to construct and operate a specific block power generation project, ample time shall be given to NAPOCOR to undertake pre-construction and construction activities itself.

A facility not in conformity with NAPOCOR's Power Development Program may be proposed and its feasibility be submitted for consideration as a BPPF. NAPOCOR shall subject such proposal to a thorough evaluation and shall compare it with other BPPF applicants.

SECTION 3. *Contents of Application.* – The application for accreditation for a qualifying BPPF shall contain, among others the following:

- a. The name and address of the applicant, name of the BPPF project, and plant type;
- b. Technical description of the BPPF citing, among others, the following:
 - 1. Installed capacity
 - 2. Annual Generation
 - 3. Forced Outage Rate
 - 4. Heat Rate
 - 5. Maintenance Days
 - 6. Dependable Capacity
 - 7. Station Use
 - 8. Economic Life
 - 9. Primary energy source (fuel)
 - 10. Mode of Operation (base or peaking)
- c. Description of the equity ownership of the facility including the percentage of ownership, if applicable of NAPOCOR and/ or any electric utility;

- d. Dates of construction, installation and commissioning of the BPPF;
- e. The project feasibility report, source and terms of foreign and local financing, operating capital budget, plans of obtaining manpower complement, qualification and training of personal to run the facility;
- f. The provisions of adequate equipment for protective relaying coordinated with the power system, direct communications, telemetering controls to the grid load dispatch center of NAPOCOR; and
- g. Any other information as may be required by the National Power Corporation.

SECTION 4. *Period of Processing.* – NAPOCOR shall take action to approve or deny any application for accrediting a qualifying BPPF within a predetermined period.

SECTION 5. *Interconnection after Accreditation.* – Among others, provisions on interconnection after accreditation of a BPPF shall be included in a contract between NAPOCOR and the owner of the BPPF.

SECTION 6. *Revocation of Accredited Status.* – Instances or causes that may force NAPOCOR to revoke the qualified status of BPPF shall be clearly stated in the contract between NAPOCOR and the owner of the BPPF.

ARTICLE III – *Rights of NAPOCOR on the Design and Construction of the Block Power Generation Facility.*

SECTION 1. *Rationale.* – For the protection and reliability of NAPOCOR’s power system, NAPOCOR reserves the right to review the design and monitor the construction, operation and maintenance of the BPPF. By reviewing and monitoring, NAPOCOR makes no representations as to the economic and technical feasibility, operational capability or reliability of the BPPF. The owner of the BPPF is solely responsible for the economic and technical feasibility, operational capability thereof.

SECTION 2. *Right to Review.* – NAPOCOR shall have the right to review drawings pertaining to the design of the BPPF and its interconnection facilities. Such review may include, among others, the building structure, generator. Governor, excitation, system, synchronizing equipment, protective relays, communication devices and metering system. Any flaws perceived by NAPOCOR in the design shall be described in writing. Internationally accepted engineering shall be utilized as reference in this review process.

SECTION 3. *Right to Monitor.* – NAPOCOR shall have the right to monitor the construction and construction schedule, start-up, operation and maintenance of the BPPF and shall have the right to consult with and make recommendations to the owner of the owner of the BPPF.

ARTICLE IV – *Obligations of NAPOCOR and Owner of Block Power Production Facilities*

SECTION 1. *Obligation to Purchase Electric Energy from the Qualified BPPF.* – The NAPOCOR shall purchase, at rates to be agreed upon in accordance with the succeeding Article, hereof, electric energy and capacity which is made available by the owner of the qualified BPPF.

SECTION 2. *Obligation to Sell to a Qualified BPPF.* – NAPOCOR shall sell to the owner of a qualified BPPF maintenance power consistent with its maintenance schedule submitted to NAPOCOR, and back-up power.

SECTION 3. *Obligation to Interconnect.* – NAPOCOR shall interconnect with a qualified BPPF to accomplish purchases or sales under these Rules and Regulations and following stipulation in the contract between NAPOCOR and the owner of the BPPF on this matter.

ARTICLE V – *Rates for Purchase and Sales*

SECTION 1. *Purchase Rate.* – NAPOCOR’s purchase rate from a BPPF shall be on a case to case basis and shall not exceed the avoided cost of NAPOCOR.

SECTION 2. *Factors Affecting Purchase Rates.* – In the calculation of the cost for a BPPF, NAPOCOR shall consider, to the extent practicable, the following factors that may be affecting rates for purchase:

- a. The data on the avoided cost of NAPOCOR as submitted to the OEA in accordance with Section 4, Article V, Part I of these Rules and Regulations.
- b. The availability of capacity and energy from the qualified BPPF during the system daily and seasonal peak periods including:
 1. The ability of the NAPOCOR to dispatch the qualified BPPF;
 2. The expected or demonstrated reliability of the qualified BPPF;
 3. The terms of any contract including of the obligations, termination, notice requirement and sanctions for non-compliance;;
 4. The extent to which scheduled outages of the qualified BPPF can be usefully coordinated with scheduled outages of the NAPOCOR;
 5. The usefulness of energy and capacity supplied from the qualified including its ability to separate its load from its generation;
 6. The individual and aggregate value of energy and capacity from qualified BPPFs on NAPOCOR’s system.
 7. The capacity increments and the lead times available with additions of capacity from qualified BPPFs.
 8. The corresponding value of the reserve capacity being carried by NAPOCOR and to be shared by the BPPFs and the NAPOCOR customers.
- c. The relationship of the availability of electric energy and capacity from the qualified BPPF to the ability of NAPOCOR to avoid costs, including the deferral of capacity additions and the reduction of fossils fuel use.
- d. The cost of savings resulting from variations in line losses from those that would have existed in the absence of purchases from a qualified BPPF if NAPOCOR generated an equivalent amount of energy itself or purchased an equivalent amount energy amount of electric energy and capacity.

SECTION 3. *Rates for Sales.* – NAPOCOR shall sell power to the BPPF for maintenance purposes at rates mutually agreed upon by NAPOCOR and the owner of the BPPF.

SECTION 4. *Rates to BPPF for Electric Power.* – NAPOCOR shall sell electric power to the BPPFs during unscheduled outages, as available, for their consumption at rate mutually agreed

upon by NAPOCOR and the owner of the BPPF. Back-up power for capacity unserved by BPPFs due to their unscheduled outages shall be provided by NAPOCOR's reserve units. Penalty due to the inability of the BPPF to provide contracted power during its unscheduled outage shall be stipulated in the contract between NAPOCOR and owner of the BPPF.

SECTION 5. *Operating Structure.* – The BPPF as a PSGF directly connected to the NAPOCOR grid shall be operated by its owner to carry its share of the system load demand and capacity reserve margin in accordance with the hourly, daily, weekly, monthly and/ or yearly arrangements scheduled by the NAPOCOR Power Management Center's Load Dispatchers. Although, the BPPF generating units may have been conceived as a base load plant, these generating units shall be so designed and provided with electronic and automatic controls to operate adequately on load-follow mode or on automatic load frequency control regulation by the SCADA (dispatching) system of NAPOCOR.

SECTION 6. *Environment Concerns.* – The BPPF shall consider the environmental impact/effect of its operation. The owner of the BPPF shall ascertain that environmental management standards as required by law through appropriate governmental agencies are met in the construction, operation and maintenance of the BPPF.

ARTICLE VII – *Other Provisions on BPPF*

SECTION 1. *Interconnection Costs.* - The owner of a BPPF shall advance investments needed in interconnecting the BPPF with the NAPOCOR grid. Repayment shall be made in accordance with mutually agreed upon arrangements of the contracting parties. Maintenance costs for the interconnection facilities shall also be agreed upon by the NAPOCOR and the owner of the BPPF.

SECTION 2. *BPPF Contract.* – A contract with the owner of a BPPF shall be prepared by NAPOCOR on a case cases basis. However, the basic contents of this contract shall include, among others, the terms enumerated in Section 3, Article VII of Part I of this Rules and Regulations.

SECTION 3. *Security of BPPF.* –For emergency situations, NAPOCOR, with the assistance of the military, shall take over the operations of the BPPFs to ensure continuity of electric service and/or to prevent brownouts.

SECTION 4. *Power Planning.* – The NAPOCOR shall provide interested parties its Power Development Program for their reference. Same Power Development Program shall be followed by NAPOCOR in considering the private sector entities to participate in power generation activities. The NAPOCOR may include in the PDP schedules the following:

- a. Period of application for the private sector to construct and operate the power plant stated in the PDP;
- b. Period of evaluation of application;
- c. Period of negotiation with qualified applicant for the BPPF activity; and
- d. Period for approval and other matters relative to the BPPF activity.

PART V – RULES GOVERNING GENERATING FACILITIES SOLELY FOR THE INTERNAL USE OF ELECTRIC UTILITIES

In addition to the provision of Article I; Sections 5 and 6 of Article II; Section 8 of Article III, the following Articles shall guide electric utilities engaged in power generation solely for internal use.

ARTICLE I – *Qualification as a Private Sector Generation Facility (PSGF)*

SECTION 1. *Ownership.* – Electric utilities other than NAPOCOR shall be allowed to construct, operate and maintain generating facilities (whether already existing or still to be installed) solely for their internal use. They shall be subject to electric utility regulations concerning rates, financial limitations, taxes and other laws applicable to their operations as electric utilities. The term “internal use” as utilized in this Part of the Rules and Regulations shall mean that electric could use for plant maintenance and/or sell the electricity they generate directly to their customers.

SECTION 2. *Size of Generating Units.* – The limitations on maximum size of generating units as stipulated in Section 4 of Article II, Part I of these Rules and Regulations shall be encouraged in order to facilitate possible NAPOCOR service to these generating plants during breakdown or maintenance period.

ARTICLE II – *Procedures for Applying for Accreditation as a Private Sector Generation Facility*

SECTION 1. *Accreditation.* – An electric utility’s generating facility which meets the criteria for accreditation set forth in the preceding Article is a qualified PSGF.

SECTION 2. *Accreditation by NAPOCOR or NEA.* – The electric utility shall apply for accreditation as a qualified PSGF to NAPOCOR or NEA, as the case may be. The electric utility concerned shall also submit to NAPOCOR or NEA the technical description and the operating data of its generating units, as well as the units’ respective annual maintenance schedules for planning and monitoring purposes.

SECTION 3. *Contents of Application.* – The application for accreditation for a qualified PSGF status shall contain, among others, the following information:

- a. The name and address of the applicant and the location of the facility;
- b. A description of the facility, including a statement indicating whether such facility is a renewable resource power production facility, a cogeneration facility, or any other electric power generating facility;
- c. The power production capacity and energy (kw and kwh) of the facility;
- d. The primary energy source (fuel) used or to be used by the facility;
- e. A description of the equity ownership of the facility;
- f. The date of construction, installation and commissioning of the facility; and
- g. Any other information to be presented in forms as the National Power Corporation or NEA may require.

SECTION 4. *Period of Processing.* – Provided all requirement shall have been complied with, NAPOCOR or NEA, as the case may be, shall take action to approve or deny any application for accreditation within three (3) months from the date of the application, unless NAPOCOR or NEA shall have required the submission of additional information, or postponement of final action on an application or other reasonable grounds. Any order postponing final action on an application shall state specifically the grounds for postponement, and the date on which a final ruling shall be issued. Any unresolved issue between the NAPOCOR or NEA and electric utility owning the qualifying PSGF may be settled upon hearing by the Office of Energy Affairs.

SECTION 5. *Assumption on Interconnection.* – It shall be assumed that the electric utilities owning generating units for their internal use are already interconnected with the NAPOCOR grid. Any possible interchange of electricity to and from NAPOCOR shall be coursed through said interconnection facilities. This provision does not apply electric utilities not served by the NAPOCOR grids and are under NEA’s jurisdiction.

ARTICLE III – NAPOCOR’s or NEA’s Operational Relationship with Electric Utilities Owning Generating Facilities Solely for Internal Usage

SECTION 1. *Provision on Reserve Capacity.* – NAPOCOR shall maintain a reserve capacity in the NAPOCOR grid system considering all generating facilities existing and operating therein. A minimal annual reserve capacity carrying fee as determined by NAPOCOR shall be paid by all electric utilities with generating facilities for their internal use to NAPOCOR. Such payment shall make NAPOCOR obligated to serve the affected electric utilities maintenance and back-up power.

SECTION 2. *Provision on Incremental Power.* – NAPOCOR shall supply incremental PSO power to the electric utility owning generating facilities for its internal use to the extent provided in a contract for this purpose. The selling rate of NAPOCOR for this incremental power shall be the rate mutually agreed upon by NAPOCOR and the owner of the PSGF.

SECTION 3. *Rate of Back-up/Maintenance Power.* – The rate of NAPOCOR to generating facilities solely for the internal use of an electric utility of maintenance power shall be the rate mutually agreed upon by NAPOCOR and the PSGF which shall be stipulated in a contract between NAPOCOR and the PSGF.

SECTION 4. *Provision for System Emergencies.* – Electric utilities generating power solely for its internal use may arrange with NAPOCOR to provide the electric utilities or vice – versa electric power during system emergencies to the extent possible and under terms to be agreed upon by both parties.

SECTION 5. *Dispatchability.* – Generating facilities solely for internal use by an electric utility shall not be obligated to be under the Dispatch Management system (DSM) of the NAPOCOR.

SECTION 6. *Production Cost Higher than NAPOCOR’s.* – At a time when production cost from the generating units solely for internal use of an electric utility is higher than buying from NAPOCOR, and the electric utility decides to get power from NAPOCOR to replace its own generation, NAPOCOR shall sell to the said electric utility provided that NAPOCOR’s unit production cost would remain the same with the added load; NAPOCOR’s system operations would

not be hampered; NAPOCOR service to other customers would not be unduly affected; and NAPOCOR would not be pressured to add new capacities to meet the new load. At this time also NAPOCOR shall not be obligated to purchase the generating facilities of the electric utility as this may be detrimental to the interest of NAPOCOR's regular customers.

SECTION 7. *Excess Production of PSGF.* – In instances when the generating units of electric utilities are capable of producing electricity in excess of their requirement, NAPOCOR shall not be obligated to purchase such excess power.

In instances when NAPOCOR may not opt to purchase power from said electric utility, purchase rate shall not exceed the cost of NAPOCOR had it generated the power itself at the time of delivery.

SECTION 8. *Change of Status.* – An electric utility with an accredited generating facility solely for its internal use may decide to sell excess production on a regular basis to NAPOCOR. Terms and conditions of purchase by NAPOCOR shall be consistent with the applicable provisions given in Parts I and II of these Rules and Regulations and shall be stipulated in a Contract.

SECTION 9. *Periodic Reporting to NAPOCOR or NEA.* – The electric utility owning generating facility for internal use shall regularly submit to NAPOCOR or NEA, in a prescribed form, operating and other information as may be required by NAPOCOR or NEA for monitoring and planning purposes.

PART VI - GENERAL PROVISIONS

SECTION 1. *Implementation of the Rules and Regulations.* – The OEA shall take all the necessary and reasonable measures to ensure that the provisions of these Rules and Regulations are made effective.

SECTION 2. *OEA Revisions of the Rules and Regulations.* – The OEA shall prescribe and, from time to time thereafter, revise such Rules as it determines necessary to encourage private sector participation in power production. Such Rules shall be prescribed after consultation with the private sector and appropriate government agencies.

SECTION 3. *Publication.* - These Rules and Regulations shall take effect thirty (30) days after publication thereof in the Office Gazette.

Makati, Metro Manila, Philippines, 25 May 1989.

(Sgd.) ERNETO M. ABOITIZ

President

National Power Corporation

(Sgd.) RODRIGO E. CABRERA

Administrator

National Electrification Administration

APPROVED:

(Sgd.) WENCESLAO R. DE LA PAZ

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