



KINGDOM OF CAMBODIA
Nation, Religion, King

Royal Government of Cambodia

No.: 54

Unofficial Translation by EAC

SUB-DECREE
ON
PRINCIPLES FOR DETERMINING THE REASONABLE COST IN
ELECTRICITY BUSINESS

The Royal Government of Cambodia

- Seen the Constitution of the Kingdom of Cambodia;
- Seen the Royal KRET No. NS/RKT/0704/124 dated July 15, 2004 on the Appointment of the Royal Government;
- Seen the Royal KRAM No. 02/NS/94 dated July 20, 1994 on establishment of the Council of Ministers;
- Seen the Royal KRAM No. NS/RKM/0201/03 dated February 02, 2001 promulgating the Electricity Law of the Kingdom of Cambodia;
- Approval of the Council of Ministers in its full plenum dated March 25, 2005

Hereby Decided

CHAPTER 1

GENERAL PROVISIONS

Article 1.

This Sub-Decree prescribes the basic principles for determining the reasonable cost in electricity business for Electricity Authority of Cambodia (The Authority) to set electricity tariff fair for consumers in accordance with the Law.

Article 2.

The Authority shall not require Licensees to provide electric power services where their reasonable costs cannot be recovered in full through tariffs, except to the extent that specific subsidies or compensations are provided.

Article 3.

The Authority shall issue regulations on detailed principles and methodology for calculation and quantification of above reasonable cost.

CHAPTER 2

METHOD DETERMINING OF LICENSEE' REASONABLE COST

Article 4.

Licensee's reasonable cost shall be the total of reasonable cost of the following components:

- (a) Operation and maintenance costs;
- (b) Costs of fuel purchases;
- (c) Administrative and general management costs;
- (d) Power purchase costs;
- (e) Depreciation costs;
- (f) Profit and cost of loan employed;
- (g) Other costs as considered reasonable by the Authority.

Article 5.

In the process of tariff review and setting each Licensee shall submit to the Authority the accounting reports and information, including information on each component stated in article 4 of this Sub-Decree according to the format and content specified in Authority' Procedures and Regulations, and any other information that the Authority may require.

Article 6.

The verification and determination of reasonable cost shall be carried out for each component in accordance with basic principle specified in chapter 3 of this Sub-Decree and detailed principles and methodology specified in the Regulations of the Authority.

Article 7.

In determining reasonability of licensee' costs, the Authority:

- May apply different principles to different licensees, to the extent that these are necessary to take account of their different sizes, locations, and other objective circumstances.
- May require licensees to provide separate cost information of each Separate Business for determining the Licensee's reasonable cost for each Separate Business; Separate Business means each of Generation Business, Transmission Business and Distribution Business.
- May require licensees to provide separate cost information of each separate area of service of the Licensee for determining the Licensee's reasonable cost for each such area of service.
- May apply performance based tariff regulation methodologies that are designed to encourage cost reduction, efficient operation, and improved service quality by Licensees.

The Authority shall not use any methodology to determine the reasonable costs of a licensee in such a way that it is likely to threaten the long-term financial viability of the Licensee's business.

CHAPTER 3

PRINCIPLES DETERMINING REASONABLE COST IN ELECTRICITY BUSINESS

Article 8.

For operation and maintenance costs:

1. Allow the Licensee to recover only prudently incurred operation and maintenance expenses that are necessary to provide licensed services of reasonable standards.
2. In all cases, the levels of operation and maintenance costs determined as reasonable will be limited to those that are necessary for an efficiently operating utility, in the circumstances of the Licensee.
3. Provisions for bad debts will be treated as an operational cost, where the Licensee is able to satisfy the Authority that it exercises an efficient system of revenue collection and that the levels of bad debts it incurs are unavoidable, taking account of the area it serves and its social obligations.

Article 9.

For costs of fuel purchases:

1. In general, fuel costs will only be regarded as reasonable when they reflect the lowest price reasonably obtainable, given the circumstances of the Licensee.
2. For smaller Licensees, the reasonable fuel price should be the fuel price of major market of that area determined in accordance with paragraph 1 of this article, taking account of transport costs.
3. For larger Licensees, the reasonable fuel price, whether purchased directly or through contracts with IPPs, should be the prices that reflect international market prices, taking account of other cost such as transport costs and related taxes, and this price shall be determined under a competitive bidding process.
4. In case of periodic changes in fuel price, the Authority shall allow the differential fuel costs to be passed on to consumers in terms of a Fuel Adjustment Formula approved by the Authority.

Article 10.

For administrative and general management costs:

1. Administrative and general management expenses should be reasonable for the size of licensee' business and limited to those essential and necessary for licensee' business only.
2. In case of a Licensee with a consolidated License or providing service in more than one area, where some of the expenses relate to the utility as a whole, it will be necessary to apportion them between the Separate Businesses and Separate Service Areas, and the apportionment of such joint costs will be subject to review and approval by the Authority.
3. Where, applicable, insurance costs should be limited to those necessary and appropriate to the business of the Licensee. The Licensee shall demonstrate that these insurances are necessary and its premiums charged are the lowest that are reasonably obtainable, given the Licensee's circumstances.

Article 11.

For the power purchase costs:

1. Licensee shall purchase electricity at the best effective and competitive price and condition. Licensee shall obtain no objection on price and conditions of power purchase from the Authority according to the Regulations and License before signing PPA with other party.

2. Where power purchases by a Licensee are undertaken according to a PPA that was in force before enforcement of Electricity Law, the Authority should allow Licensee to recover this power purchase price under the terms and conditions in this PPA in accordance with the provision in Article 76 of Electricity Law.
3. In all cases, after executing the PPA the power purchase costs are the reasonable cost if Licensee can demonstrate that:
 - (a) The quantity of power purchased under each contract is consistent with a merit order dispatch of available power plants, in accordance with normal industry practice; and
 - (b) The fuel prices used in the calculation of the amounts due are consistent with the best market prices obtainable at the time the fuel was purchased.

Article 12.

For depreciation costs:

1. The Licensee will be allowed to recover the gross valuation of Licensee's fixed assets through depreciation costs. The gross valuation of Licensee's fixed assets shall be determined in accordance with the principles specified in article 14 of this Sub-Decree. The net valuation of licensee's fixed assets for any period shall be the gross valuation of fixed asset adjusted to take account of the accumulated depreciation cost.
2. Detailed rules for determining the depreciation cost of fixed assets shall be based on following principles:
 - (a) the straight-line depreciation method must be used; and
 - (b) the depreciation life of any fixed asset or class of fixed asset must be based on reasonable estimates of the expected economic life of the asset, and must be in compliance with any relevant accounting standards.

Detailed rules for determining the depreciation cost of fixed assets may depart from the principles set out in paragraph 2 of this article only where the Authority believes this would result in significant distortion to the pattern of tariffs or significant difficulties for the licensee in payment of principal amount of the loan.

Article 13.

For the profit and the cost of loans employed:

1. Allow the Licensee to have a reasonable profit on its net direct capital. Reasonable profit, allowed to be recovered through electricity tariffs, shall be calculated base on

the rate of return determined by the Authority taking into account the circumstances, size, area and type of licensee' business. The net direct capital of Licensee means the net valuation of the Licensee's fixed assets determined in accordance with Article 12, plus any permitted working capital utilised in the Licensee's business, less any outstanding loans received from financial institution.

2. The rate of return determined by Authority shall take into account the need for expansion and improvement of licensee's business so as to be able to meet all reasonable demands placed on it by consumers or the Authority and shall ensure the reasonable balance between the interests of consumers and licensee.
3. The rate of return determined by the Authority shall take into account the tax payment obligations of licensee under the laws of Cambodia, except VAT if any. VAT should be excluded in determination of reasonable costs and should be shown as a separate item in electricity bill to consumers.
4. In addition to the allowed rate of return on the net direct capital, the Licensee will be allowed to recover the costs of the loans taken from financial institutions for investment in its business. The costs of loans are the ongoing expenses for payment of interests and other fees of using the loans.

Article 14.

To ensure that Depreciation cost and Profit & Cost of Loan employed, determined in article 12 and 13 of this Sub-Decree are reasonable, it is necessary to determine the fair valuation of different types of assets and capital utilised in the Licensee's business. The valuation of different types of assets and capital of Licensee shall comply with the following principles:

1. The gross value of fixed assets utilised in the Licensee's business shall be the cost of their acquisition at the time of their acquisition, plus any subsequent expenditure on their enhancement and less the proceeds of any subsequent partial sale or any decommissioning. No adjustment shall be made to the gross value determined in this way in respect of inflation, technical developments, or sale or transfer of the assets, or other matters, except where, any part of the assets of a Licensee were sold or transferred to the Licensee prior to the enforcement of this sub-decree with a value that the Authority believes would not result in a significant distortion of the Licensee's tariffs. The Authority may accept such transfer value, provided that the valuation is accepted by the Licensee's independent auditors.

Where, in the case that the gross valuation of an asset cannot reasonably be determined by the above principle, the Authority may accept a valuation on the basis of the market value of the asset.

2. In determining the total gross valuation of fixed assets that a Licensee utilises in its business, the Authority shall take account of any consumer contributions, grants, or

other gifts from external parties relating to any of the assets. Except where the Authority is satisfied that special circumstances in the public interest justify a different treatment, it shall adjust the gross valuation of assets to ensure that they exclude the value of such contributions grants, or gifts for the purposes of determining tariffs.

3. Capital assets under construction shall not be included in the gross value of fixed assets. When such assets are successfully commissioned into use, their value shall be added to the Licensee's gross value of fixed assets.

While capital assets remain under construction, the Licensee shall be allowed to add to their construction cost an allowance for interest during construction. The allowance for interest during construction shall be calculated on the expenditure on construction, on an annually compounded basis, using the average cost of loans held by the Licensee during the year in question.

On successful commissioning of the asset, the amount to be capitalised as a fixed asset shall be the total construction cost, plus accumulated interest to the date of commissioning.

4. Where requested to do so by a Licensee, the Authority shall determine an appropriate value for the working capital necessary for the operation of the business. Such valuation shall take account of the reasonable lags in payment that would arise in the Licensee's business experiences where operated according to normal prudent commercial practices.

The Authority shall not determine or accept any valuation for assets, different from the provisions of this article, whether tangible or intangible assets.

Article 15.

For other costs which not specified in this Sub-Decree, the licensee will be allowed to recover such costs only when the Authority is satisfied that exceptional circumstance exists and that to disallow such costs would represent a serious threat to the financial viability of the Licensee.

CHAPTER 4

FINAL PROVISIONS

Article 16.

Any provisions that contradict this sub-decree shall be considered null and void.

Article 17.

Minister in charge of Council of Ministers office, Minister of MEF, Minister of MIME, Ministers, Secretaries of State of all ministries and Chairman of EAC shall implement this Sub-Decree from the date of its execution.

Phnom Penh, April 08, 2005

CC.

- Ministry of Royal Palace
- Secretariat of Constitution Council
- Secretariat of Senate
- Secretariat of National Assembly
- Office of Prime Minister
- General Secretary of Royal Government
- As stated in Article 17
- Files

Signed by Prime Minister
HUN SEN