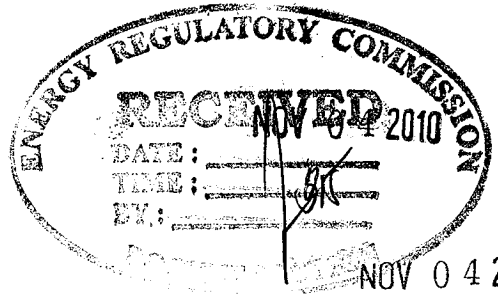


REPUBLIC OF THE PHILIPPINES
ENERGY REGULATORY COMMISSION
SAN MIGUEL AVENUE, PASIG CITY

IN THE MATTER OF THE PETITION
FOR THE AMENDMENT OF THE
RULES FOR PREPAID RETAIL
ELECTRIC SERVICE USING A
PREPAID METERING SYSTEM,
APPROVED BY THE HONORABLE
ENERGY REGULATORY
COMMISSION IN ERC RESOLUTION
NO. 15, SERIES OF 2009,



2010-010

ERC Case No. _____ RM

XEN ENERGY SYSTEMS, INC.,
Petitioner.
x-----x

PETITION

Petitioner Xen Energy Systems, Inc., through the undersigned counsel and unto this Honorable Commission, respectfully states:

THE APPLICANT

1. Petitioner is a corporation duly organized and existing by virtue of the laws of the Republic of the Philippines, with principal office located at Suite 412, Cityland Pasong Tamo Tower, 2210 Don Chino Roces Ave., Pio Del Pilar, Makati City. Petitioner may be served orders and other processes through its undersigned counsel.

2. Petitioner is a pioneering machine-to-machine and machine-to-mobile technology enabler and provider in the Asia Pacific Region, providing applications and platforms which support various industry segments in partnership with telecoms operators, system integrators, hardware and software vendors and related application developers.

3. Petitioner is a provider of prepaid electricity meters. It intends to provide prepaid meters and associated services to distribution utilities under the purview of the

“Rules for Prepaid Retail Electric Service Using a Prepaid Metering System,” (the “Prepaid Metering Rules”) approved by this Honorable Commission in ERC Resolution No. 15, Series of 2009. As a provider of prepaid electricity meters and the associated services, Petitioner’s interests may be substantially affected by the implementation of the Prepaid Metering Rules.

4. Further, as a prepaid metering service provider, Petitioner has expertise in technology and processes that can provide more efficient, effective and economical prepaid metering services that, while consistent with and promotes the policy objectives of the Prepaid Metering Rules, may not necessarily be compatible with the language of the said Rules. Thus, Petitioner is in a position to propose appropriate amendments to the said Rules that will further promote the objectives of the said Rules and accommodate technology that allows for more effective and efficient implementation of prepaid metering.

5. Under Sections 1 and 2 of Rule 21 of this Honorable Commission’s Rules of Practice and Procedure, the process of amending an existing rule may be initiated by the Commission or by interested persons with substantial interest in the rule or action requested.

6. In view of the foregoing, Petitioner respectfully submits that it has substantial interest in the Prepaid Metering Rules and in the amendments proposed in the present Petition. Hence, it has the legal standing to institute the present Petition for the amendment of the said Rules.

NATURE OF THE APPLICATION

7. The instant Petition is filed pursuant to and by virtue of Rule 21 of this Honorable Commission’s Rules of Practice and Procedure.

8. In the Petition, Petitioner seeks the reconsideration or re-evaluation by this Honorable Commission of Sections 2.6, 2.7 and 2.8 of the Prepaid Metering Rules and its adoption of amendments thereto, as proposed herein.

DISCUSSION

I. The actual cost of electricity service at the time of consumption is the more appropriate rate to be applied to prepaid transactions, instead of the rate prevailing at the time of purchase of prepaid credit.

(a) Under the Prepaid Metering Rules, the applicable rate is the rate at the time of the purchase of prepaid credit.

9. Petitioner respectfully submits that the Prepaid Metering Rules indicates that the electricity rate to be applied to a prepaid transaction is set at the time of the purchase of the credit, which must be reflected as a fixed P/kWh rate.

9.1. In this regard, Section 2.6 of the Prepaid Metering Rules provides:

"2.6 Prepaid Transaction

The DU should allow **the purchase of electric energy credit** in reasonably small increments.

Unless the DU applies for and the ERC approves a different tariff for prepaid meters, including the application of discounts, if any, **the rates to be applied in any prepaid transaction should be based on the effective postpaid retail rate current at the time of purchase**; Provided, however, that the DU shall continue to charge the lifeline rate to residential customers whose consumptions during a particular month do not exceed the approved lifeline cap. *(Emphasis supplied)*

xxx"

9.2. Moreover, Section 2.7.5¹ requires that the receipt provided for every payment made by a residential customer should include the amount of electricity energy credit in kilowatt-hours (“kWh”) and in pesos.

9.3. In addition, the second paragraph of Section 2.2² requires a warning to the customers when the remaining credit goes below the thresholds in peso and equivalent kWh.

10. The foregoing suggests that, as mentioned earlier, the electricity rate to be applied is set as a fixed P/kWh rate at the time of the purchase of the credit.

(b) The rate at the time of purchase of the prepaid credit may not be the most appropriate rate.

11. Petitioner respectfully submits that the more appropriate electricity rate to be applied should be the actual cost of electricity service at the time of consumption, and not the rate at the time of the purchase of the prepaid credit.

12. It is likely that the actual cost of the electricity service may be either higher or lower at the time of purchase than its actual cost at the time of consumption. Consequently, to set the rate at the time of purchase is not realistic and does not reflect the actual retail cost.

¹ “Section 2.7 Printed Receipt or Confirmation.

Every time a residential customer makes a payment, the DU shall provide a receipt or written confirmation of payment that includes the following:

x x x

2.7.5 The amount of electricity energy credit **(in kilowatt-hours and in pesos)**.” *(Emphasis supplied)*

² Second paragraph of Section 2.2:

“The prepaid meter should also have the capability to communicate to the customer the current balance . . . and to warn the residential customer before the remaining credit level goes below the threshold **(in Peso and equivalent kWh)** as may be agreed upon by the residential customer and the DU.” *(Emphasis supplied)*

13. The application of a fixed rate set at the time of the purchase of prepaid credit may be unfair to either the customer or the distribution utility, as the case may be. It will likely result in under-recovery or over-recovery of costs on the part of the utility. Conversely, it may result in the customer paying more or less than the actual cost of electricity service.

14. It may give rise to unscrupulous practices of hedging, where one may take advantage of low cost of power by buying energy credits in bulk, and use the credits or even resell the same at a profit when the retail cost increases. It may also serve as a disincentive to the distribution utility to make prepaid credit available at a time when an increase in the cost is expected.

15. Notably, the Prepaid Metering Rules does not provide for any mechanism addressing over- and under-recoveries arising from the difference between the fixed rate and the actual costs. There is thus no means by which any under-recoveries may be recovered by the distribution utility, or by which any over-recoveries may be refunded to the customer.

16. Further, the retail rate of electricity to be paid by the customer, as well as the various components of such rate (such as generation charges, transmission and distribution wheeling charges, the universal charge, among others), is regulated by this Honorable Commission generally based on appropriate levels of cost recovery and return. Such approved retail rate is the actual cost of electricity to the consumer. As the distribution utility cannot validly charge its customers a rate other than the approved regulated rate, it would not be appropriate to charge prepaid customers another rate, much less a rate based only by the time prepaid credit is obtained.

(c) The more appropriate rate is the actual cost of electricity service at the time of consumption.

17. Petitioner respectfully submits that the actual cost of electricity service at the time of consumption should be applied to prepaid electricity transactions, instead of the rate current at the time of the purchase of the credit. This would not only reflect the actual cost of electricity service, but will also obviate the risk on the part of both the utility and the customer due to rate fluctuation. This would also be fair and beneficial to the customers since the electricity service that distribution utilities will extend to them will be equivalent to the amount they spent. In the end, it will protect the interest of both the customers and the utility concerned.

18. Notably, the actual cost of electricity service at the time of consumption is not known yet or determinable at such time. It is only after the end of the billing period that the distribution utility will have the information necessary to determine the retail rate for such billing period, which information includes the generation charges, power delivery service charges, and the like. Information like the said charges will be known to the utility only when it receives the billings from its power suppliers and the transmission service provider.

19. Given the foregoing, it may be appropriate to apply the best available rate, that is, a rate that most closely approximates the actual cost at the time of consumption. The best available rate may be the distribution utility's most recent available rate, which is likely the retail rate of the previous billing period or the second previous billing period.

20. As there may be a difference between the best available rate and the actual cost, there is a need to make appropriate adjustments when the actual cost is determined to ensure that any over-recovery resulting from such difference on the part of the utility is effectively credited to the customer and conversely, any under-recovery is recovered by the utility.

21. While there may be over- and under-recoveries, the utilization of the best available rate minimizes such over- and under-recoveries. The concern on the unscrupulous practice of hedging, as discussed above, is obviated. The subsequent adjustment eliminates any such over- or under-recoveries.

22. With the adjustment, the customer ends up paying the actual cost of electricity service. Petitioner respectfully manifests that the application of the best available rate at the time of electricity consumption as well as the necessary adjustment to correct any over- and under-recoveries can be implemented using existing prepaid metering technology.

(d) Prepaid credit is a form of payment facility, and the actual purchase of electricity is at the time of consumption.

23. Further, Petitioner submits that at the time of the customer obtains prepaid credit, there is yet no purchase or consumption of electricity.

23.1. Rather, the purchase of prepaid credit partakes of the nature of a deposit of an amount from which payment for future purchases may be sourced.

23.2. Prepaid credit therefore is a form of payment facility. The purchase of prepaid credit is the establishment of such payment facility. It would not be the most appropriate, nor is it necessary to fix the rate upon the establishment of the payment facility.

24. Petitioner submits further that the purchase of electricity occurs at the time of consumption. The purchase of electricity may be equated to a sale under the purview of the Civil Code.

24.1. By the contract of sale, one of the contracting parties obligates himself to transfer the ownership of and to deliver a determinate thing, and the other to pay therefore a price certain in money or its equivalent.³ The distribution utility obligates to transfer the ownership of and to deliver a determinate number of kilowatt-hours to its customer, in consideration of the price paid by the customer.

24.2. A contract of sale validly exists if there is (a) consent of the part of the seller to transfer and deliver, and on the part of the buyer to pay;⁴ (b) a subject matter that is determinate or at least, capable of being made determinate;⁵ and (c) the price certain in money or its equivalent,⁶ referred to as the consideration of the sale.

24.3. At the time the customer obtains prepaid credit, the subject matter of the sale of electricity is not yet determinate, nor is it determinable. After all, the customer may even opt not to consume electricity even after having obtained prepaid credit. It is only at the time of the consumption of electricity that the subject matter of the sale, *i.e.*, the kilowatt-hours, is actually determined, or at least, capable of being determined, as required by the Civil Code.

³ Article 1458, Civil Code:

“By the contract of sale one of the contracting parties obligates himself to transfer the ownership and to deliver a determinate thing, and the other to pay therefor a price certain in money or its equivalent. x x x”

⁴ *Ibid.*

⁵ Article 1460, Civil Code:

“A thing is determinate when it is particularly designated or physical segregated from all other of the same class.

The requisite that a thing be determinate is satisfied if at the time the contract is entered into, the thing is capable of being made determinate without the necessity of a new or further agreement between the parties. (n)”

⁶ Article 1458, Civil Code.

24.4. As to the price certain, Petitioner submits that while setting the purchase rate to the rate at the time of purchase of credit may result in a definite rate, such rate may not be appropriate. As previously mentioned, a distribution utility cannot validly charge its customers a rate other than the approved regulated rate, it would not be appropriate to charge prepaid customers another rate based only by the time prepaid credit is obtained.

24.5. Thus, at the time of the purchase of prepaid credit there is no valid contract of sale of electricity.

25. Hence, as earlier mentioned, the purchase of electricity occurs at the time of consumption. It is this purchase that is subject to the regulation of this Honorable Commission.

26. At such point, the subject matter is already determinable. Further, the appropriate price may and should be applied, the same being the regulated retail rate as approved by this Honorable Commission applicable at the time of consumption.

27. In view of the foregoing, Petitioner proposes the amendments to the provisions of the Prepaid Metering Rules enumerated below to allow the application of the best available rate at the time of consumption as well as the necessary adjustment. For ease of reference, the proposed amendments are in bold letters.

(a) Section 2.6

"Section 2.6 Prepaid Transaction

The DU should allow the purchase of electric energy credit in reasonably small increments.

Unless the DU applies for and the ERC approves a different tariff for prepaid meters, including the application of discounts, if any, the rates to be applied in any prepaid transaction should be based on the effective postpaid retail rate current at the time of purchase

or the best available rate at the time of consumption; Provided that the difference between the applied rate and the actual retail rate shall refunded to or recovered from the customers by the DU, as the case may be; provided further, however, that the DU shall continue to charge the lifeline rate to residential customers whose consumptions during a particular month do not exceed the approved lifeline cap.

For purposes of this section, the word “month” is hereby defined to be the corresponding time interval for which the meters of the DU’s postpaid customers are read for purposes of billing.” The term “best available rate at the time of consumption” is hereby defined as a rate that reasonably approximates the actual retail rate at the time of consumption, such as the rate for the previous billing month or the second previous billing month. (*Emphasis supplied*)

(b) Section 2.7.5

“Section 2.7 Printed Receipt or Confirmation.

Every time a residential customer makes a payment, the DU shall provide a receipt or written confirmation of payment that includes the following:

x x x

2.7.5 The amount of electricity energy credit (in kilowatt-hours and /or in pesos).” (*Emphasis supplied*)

(c) Second paragraph of Section 2.2. The deletion of the word “equivalent” in the phrase “in Peso and equivalent kWh” is likewise proposed.

“The prepaid meter should also have the capability to communicate to the customer the current balance and to warn the residential customer before the remaining credit level goes below the threshold (in Peso and/or kWh) as may be agreed upon by the residential customer and the DU.” (*Emphasis supplied*)

II. Confirmation by Short Message Service (“SMS”) message of payment for prepaid credit sufficiently protects the customers’ interests and should be considered as a reasonable form of confirmation.

28. Section 2.7⁷ of the Prepaid Metering Rules requires the distribution utility to provide a receipt or written confirmation of payment containing certain information each time a residential customer makes a payment. Section 2.7 provides:

“2.7 Printed Receipt or Confirmation

Every time a residential customer makes a payment, the DU shall provide a **receipt or written confirmation of payment...** (*Emphasis supplied*)

29. It is clear that the purpose of the above-requirement is to ensure that the customer is duly informed of the relevant details of his purchase of the prepaid credit, and that he may have a record of the same.

30. Petitioner respectfully submits the requirement of a written confirmation is more appropriate for payments made directly to a distribution utility. That is, payments for prepaid credit made at the office of the distribution utility or its payment centers. Petitioner submits further that the requirement of written confirmation may not necessarily be appropriate for purchase of prepaid credit through retailers.

31. With existing technology, prepaid electricity credits may be made available in the same manner as the widely popular prepaid mobile phone credits, with the same accessibility, effectiveness and reliability. It may be noted that in the purchase of prepaid mobile phone credits, no written confirmation of payment is involved.

⁷ “Section 2.7 Printed Receipt or Confirmation. Every time a residential customer makes a payment, the DU shall provide a **receipt or written confirmation of payment** that includes the following:

2.7.1 Name of Distribution Utility;

2.7.2 Receipt Number;

2.7.3 Date and Time of Purchase;

2.7.4 Meter Identification (name of customer, meter and service identification numbers, etc.)

2.7.5 Amount of electricity energy credit (in kilowatt-hours and in pesos);

2.7.6 Tariff charge; and

2.7.7. The number of purchase transactions made in the same month” (*Emphasis supplied*)

Rather, purchasers of mobile phone credit are provided with confirmation of the purchase through Short Message Services ("SMS") messages.

32. On this matter, Petitioner submits that convenience on the part of the end-users and the accessibility in the purchase of prepaid credits through retailers, as well as cost-efficiency for the distribution utility in the implementation of the prepaid service, are essential to the success of the service.

33. The availability of prepaid credit through retailers is beneficial to the customers and will help promote the implementation of prepaid metering services. However, as previously mentioned, the requirement of written confirmation may not be appropriate for purchase of credit from retailers.

34. While the requirement is evidently for the protection of the customers, it necessarily requires the customer to set aside time to go the distribution utility's office or payment centers, not to mention the cost of transportation, only to purchase prepaid credits and obtain the said receipt or written confirmation. This would be no different from a post-paid customer paying his electricity bill, and no less inconvenient.

35. This also necessitates additional services and costs on the part of the distribution utility. Instead of utilizing retailers to make prepaid credit easily accessible to the customers, the distribution utility may have to establish and operate its own outlets for prepaid credit sales and/or make necessary adjustments to its existing payment mechanisms in order to cater to all purchases of prepaid credit. These will require significant additional manpower, administrative and other costs, which costs are necessarily passed on to the customers.

36. As mentioned earlier, it may be noted that for prepaid mobile telephone credit, credit is easily accessible by the customers through retailers, such as convenience or sari-sari stores, which are not required to issue written confirmations in behalf of the

telecommunications companies. The mobile phone subscriber receives an SMS message confirming the credit purchased, and may obtain his real-time prepaid balance anytime through SMS.

37. One of the key features of existing prepaid metering technology is identical to that offered by the mobile telecommunications industry. Prepaid electricity credits may be made available through retailers. Similar to the purchase of prepaid mobile phone credit where the customer informs the retailer of his mobile phone number and may payment, all the customer has to do is give the retailer his meter number and make payment. The customer shall, thereafter, receive an SMS confirmation of the purchase of credit. This means of purchasing credit has been proven successful in the telecommunications industry, which success will certainly be replicated in the prepaid metering service.

38. Likewise, the prepaid meters now also enable a residential customer to access his account through SMS.

39. In addition, unlike in the telecommunications industry, where the confirmation of the purchase of prepaid credit is limited to SMS, another feature that may be provided by existing prepaid metering technology is that it may enable a customer to view the details of the purchase of electricity credit as well as other details of his prepaid account at any time on the internet. Moreover, the customer may still obtain at the distribution utility's office a written confirmation of the credit purchase and of any other aspect of his account, if he so desires.

40. Transmittal of the confirmation of payment of energy credits though SMS would be more convenient for the customer, and more cost efficient for the distribution utility, for as long as the former's rights and interests are fully protected.

41. Petitioner respectfully submits that confirmation of payment of prepaid credit through SMS, complemented by easy and immediate access to account information, also through SMS, and the option of obtaining written confirmation from the distribution utilities sufficiently ensure that the interests of the customers are protected. The objectives of the Rules to ensure that the customer is duly informed of the relevant details of his prepaid credit purchase and that he may have a record of the same are more than adequately met.

42. In view of the foregoing, Petitioner proposes the following amendments to Section 2.7 of the Prepaid Metering Rules. For ease of reference, the proposed amendments are in bold letters.

"Section 2.7 Printed Receipt or Confirmation

Every time a residential customer makes a payment, the DU shall provide a confirmation of payment that includes the following:

2.7.1. Name of Distribution Utility;

x x x

2.7.5 The number of purchase transactions made in the same month.

The confirmation should be in writing, in the form of short message service ("SMS") message, or in other reasonable form provided the customer is duly informed of and may have a record of the payment and the above-enumerated information. If such confirmation is not in writing and written confirmation is not reasonably available at the point of sale, the customer may, subsequent to the purchase, request a written confirmation at the office the DU." (Emphasis supplied)

43. The deletion of the phrase "receipt or written" from the first paragraph of Section 2.7, which reads "the DU shall provide a receipt or written confirmation of payment," is included in the proposed amendments.

III. An arrangement where electricity service may not be interrupted at any time when prepaid electric credits are not available should

be considered an acceptable alternative to providing access to the purchase credits for twenty four (24) hours a day.

44. Section 2.8 of the Prepaid Metering Rules requires the distribution utility to provide its customers easy access to the purchase of electricity credit twenty-four (24) hours a day. Section 2.8 provides:

“2.8 Easy Access to the Purchase of Electric Energy

The DU offering PRES using a prepaid metering system shall allow reasonable means by which the residential customer shall have **easy access to the purchase of electric energy for twenty four (24) hours** to ensure continuous service.” *(Emphasis supplied)*

45. It is clear that the policy objective of such requirement is to ensure that a customer will not suffer an interruption of service when prepaid credit is not available for purchase.

46. However, the requirement necessarily entails costs on the part of the distribution utility in maintaining at least one outlet for prepaid credit open 24 hours a day for purchase of prepaid credit, which costs will necessarily be passed on to the customer. Retailers, as well as the office of the distribution utility, from which prepaid electricity credits may be purchased, may not be open for business 24 hours a day.

47. Existing prepaid metering technology is capable of addressing the objective of the Prepaid Metering Service Rules and, at the same time, obviate the additional costs of maintaining outlets open for 24 hours.

48. A prepaid metering system service may be programmed not to interrupt the electric service during hours when retailers and the distribution utility’s office are closed (“off-hours”), even if the customer runs out of prepaid credit.

49. If a customer fails to purchase prepaid credit despite the warning required under Sections 2.2⁸ and 2.4⁹ of the Prepaid Metering Rules, and runs out of credit during off-hours, electricity service shall not be interrupted. The customer may still avail of electricity service until the time he can already purchase electricity credit, or when the retailers or the distribution utility's office opens. During off-hours, the customer may incur a negative balance in his credit, which will be netted out once he purchases credits.

50. Petitioner respectfully submits that the foregoing arrangement ensures electricity service is not interrupted by reason of unavailability of electricity credit, while at the same time obviating the necessity of additional costs on the part of the distribution utility.

51. The foregoing arrangement is more beneficial and convenient to the customers, since they will no longer be constrained to travel to the prepaid credit sales outlet at ungodly hours only to purchase credit. It is likewise cost-effective for the distribution utility, which need not incur the costs of maintaining a 24-hour prepaid credit sales outlet and pass the same on to the customers.

⁸ "2.2 Prepaid Meter and Metering System

The prepaid meter should be certified by the International Electrotechnical Commission (IEC) or American National Standards Institute (ANSI) that it complies with their standards.

The prepaid meter should also have the capability to communicate to the customer the current balance, time and date; to display the customer's previous thirty (30) day-period consumption and the number of days into the current thirty (30) day-period, followed by the consumption in kWh; and **to warn the residential customer before the remaining credit level goes below the threshold** (in Peso and equivalent kWh) as may be agreed upon by the residential customer and the DU." *(Emphasis supplied)*

⁹ "2.4 Installation Location of Prepaid Meters

Prepaid meters may be installed inside or outside the house of a residential customer, Provided, that either way, the residential customer shall be provided with a mechanism or device to be used in monitoring and managing the rate at which energy is being consumed and **in receiving warning when credit drops to the agreed threshold.**" *(Emphasis supplied)*

52. In view of the foregoing, Petitioner proposes the following amendments to Section 2.8 of the Prepaid Metering Rules. For ease of reference, the proposed amendments are in bold letters.

“Section 2.8 Easy Access to the Purchase of Electric Energy

To ensure that electricity service to a residential customer is not interrupted by reason of unavailability of electricity credit, the DU offering PRES using a prepaid metering system:

2.8.1 Shall allow reasonable means by which the residential customer shall have easy access to the purchase of electric energy credit for twenty four (24) hours; or

2.8.2 Shall not interrupt electricity service in case a customer runs out of credit at any time when credit is not available for purchase, and may only interrupt service at the time credit is already available for purchase.” (*Emphasis supplied*)

CONCLUSION

53. Petitioner respectfully submits the amendments proposed herein are fair and reasonable, beneficial to the customers, and promote the policy objectives of the Prepaid Metering Rules.

54. The implementation of the prepaid metering service, especially when it reflects the actual retail cost of electricity service and coupled with the functionality, convenience and accessibility provided by SMS technology and retail distribution, will greatly benefit the customers by according an effective and affordable means of purchasing electricity and managing electricity consumption.

55. With the amendment of the particular provisions of the Rules, distribution utilities will be able to provide such benefits to the customers and realize the policy objectives of this Honorable Commission in implementing the prepaid metering service.

PRAYER

WHEREFORE, the foregoing premises considered, it is respectfully prayed that this Honorable Commission issue a Resolution approving and adopting the amendments to the Prepaid Metering Rules as proposed herein.

Likewise, Petitioner prays for other reliefs as are just and equitable under the foregoing premises.

Pasig City, 4 November 2010.

LACHICA & ASSOCIATES
Suite 1903-B, West Tower
Philippines Stock Exchange Centre
Exchange Road, Ortigas Center
Pasig City

By:

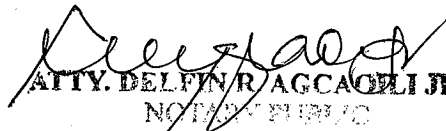
SUNDY LORENCE C. LACHICA
PTR No. 2118686; 1/14-10; Makati City
IBP No. 812740; 1/14/10; Makati City
MCLE Compliance No. III-0015928; 4/23/10
Roll No. 51017

Christiene Salve A. Demaisip
CHRISTIENE SALVE A. DEMAISIP
PTR No. 5931269; 01/18/10; Pasig City
IBP No. 812744; 01/14/10; Rizal
MCLE Compliance No. III-0010836; 03/30/10
Roll No. 54475

SUBSCRIBED AND SWORN to before me this 10 day of NOV 2010 2010

in the City of MANILA affiant exhibiting to me his Government-issued identification DRIVERS LICENSE No. NOJ-AD-025709, issued at Parang City, on January 14, 2010.

Doc. No.: 130
Page No.: 24
Book No.: CXC1
Series of 2010.


ATTY. DELFIN R. AGCAELI JR.
NOTARY PUBLIC
PTR# 0234234 / Exp. 12/31/2010
IB# 79 11 / ROLL# 24685
TIN# 144-519-066
Comm. Exp. Dec. 31, 2010

REPUBLIC OF THE PHILIPPINES)
CITY OF PASIG CITY) S.S.

SECRETARY'S CERTIFICATE

I, GREG JOSEPH SJ. TIONGCO, Filipino citizen, of legal age, and with office address at 2104 Robinsons Equitable Tower, ADB Avenue, Pasig City City, after having been sworn in accordance with law, hereby poses and states, that:

1. I am the Corporate Secretary of XEN ENERGY SYSTEMS, INC. (the "Corporation"), a corporation duly organized and existing under and by virtue of the laws of the Philippines.

2. At the special meeting of the Board of Directors of the Corporation held on November 2, 2010, the following resolutions were unanimously passed and approved:

"RESOLVED, that Xen Energy Systems, Inc. (the "Corporation"), be authorized, as it is hereby authorized, to file and prosecute a petition (the "Petition") with the Energy Regulatory Commission ("ERC") for the amendment of the ERC's *"Rules for Prepaid Electric Service Using a Prepaid Metering System,"* approved by the ERC in its Resolution No. 15, Series of 2009.

RESOLVED FURTHER, that ATTY. SUNDY LORENCE C. LACHICA or any other lawyer of the law office of LACHICA AND ASSOCIATES, be authorized to file the said Petition and to represent the Corporation and appear for and on its behalf in all proceedings, meetings, discussions before the ERC, to perform any and all acts and deeds and to submit and sign such documents and pleadings necessary to implement this authority;

RESOLVED FINALLY, that MR. ARIEL R. DELA CRUZ, President of the Corporation, be appointed, as he is hereby appointed as its attorney-in-fact, with authority:

- a. to represent the Corporation in filing of the said Petition with the ERC;
- b. to act as agent of and appear in behalf of the Corporation in the pre-trial and all proceedings in relation to the Petition for the approval of the said amendments, with full power to make commitments and take positions, and to consider (1) the possibility of an amicable settlement or a submission to

arbitration, mediation or other modes of alternative dispute resolution; (2) the simplification of the issues; (3) the necessity or desirability of amendments to the pleadings; (4) the possibility of obtaining stipulations or admissions of facts and of documents totally or partially to avoid unnecessary proof; (5) the limitation of the number of witnesses or time allocated to particular witnesses and issues; (6) the advisability of a preliminary reference of issues to a commissioner; (7) the necessity or desirability of having an expository hearing or consumer forum; (8) procedures at the hearing and hearing schedule; (9) the submission of written testimony and exhibits to be offered and the marking thereof; (10) agreements regarding service of documents; and (11) such other matters as may aid in the prompt disposition of the proceedings;


c. to execute, sign and obtain any document, including the verification and certification of non-forum shopping, that may be required in the filing and prosecution of the said Petition;

d. to do and perform on behalf of the Corporation any act and deed relating to the case, which the Corporation could legally do and perform, including the filing of any further necessary petitions or appeals."

3. These board resolutions have not been revoked, amended, or modified, and remain valid and binding on the Corporation.


4. The foregoing is in accordance with the records of the Corporation.

IN WITNESS WHEREOF, I have set my hand this NOV 03 2010 day of _____ 2010.


GREG JOSEPH S.J. TIONGCO
Corporate Secretary

SUBSCRIBED AND SWORN TO BEFORE ME this NOV 03 2010 day of _____ 2010, affiant exhibiting to me his Passport No. XX0640205 issued at DFA - Manila on 3/01/2008

Doc. No. 120 ;
Page No. 37 ;
Book No. 5 ;
Series of 2010.


ATTY. CATHERINE S. BRINGAS
NOTARY PUBLIC
Until December 31, 2011
PTR No. 5909836 / Jan. 12, 2010 / Pasig City
IBF O.R. No. 812185 / Jan. 12, 2010 / RSM Chapter
Supreme Court Bar of Attorney's No. 58525
MCLE Compliance no. 11 (2013-1) / May 1, 2010 / Pasig City