

**ELECTRICITY
REGULATORY
CONTRACT**

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Parties

1. **PNG Power Ltd** (company number 1-44680) (**PNG Power**).
2. **The Independent Consumer and Competition Commission**, a body corporate established under the *Independent Consumer and Competition Commission Act 2002* (the **Commission**).

Recitals

- A PNG Power has been declared by the Treasurer to be a regulated entity under section 32 of the *Independent Consumer and Competition Commission Act 2002*.
- B The Supply and Sale of electricity, the Scheduled Services and the Excluded Services the subject of this Contract have been declared by the Treasurer to be regulated services under section 32 of the *Independent Consumer and Competition Commission Act 2002*.
- C PNG Power is licensed under the *Electricity Industry Act* to generate, transmit, distribute and sell electricity in Papua New Guinea.
- D This Contract is a regulatory contract that is binding on PNG Power and the Commission pursuant to the provisions of the *Independent Consumer and Competition Commission Act 2002* and the *Electricity Industry Act*.
- E This Contract regulates the prices that PNG Power may charge for the Supply and Sale of electricity, the Scheduled Services and the Excluded Services.

It is agreed as follows.

1. General

1.1 Definitions

Actual Cumulative Expenditure means:

- (a) all actual capital expenditure in relation to PNG Power's transmission, distribution and generation operations in Papua New Guinea made by PNG Power, PNG Power Management or the Papua New Guinea Electricity Commission in the period from 1 January 2002 to the date of the Capital Expenditure Progress Report (both dates inclusive), including capital works in progress; and
- (b) all capital expenditure in relation to PNG Power's transmission, distribution and generation operations in Papua New Guinea which, as at the date of the Capital

Expenditure Progress Report, PNG Power has contracted unconditionally to undertake,

in each case including capital expenditure on assets used in those operations (such as motor vehicles and computer systems) but excluding any associated overheads.

Adjusted Cumulative Expenditure has the meaning given to it in clause 4.2(a)(iii).

Approved FM Pass Through Amount has the meaning given to it in clause 5.1(e)(ii).

Approved Tax Pass Through Amount has the meaning given to it in clause 5.2(c)(ii).

Approved Water Pass Through Amount has the meaning give to it in clause 5.3(c)(ii).

Business Day means a day other than a Saturday or a Sunday.

Capital Expenditure Progress Report means a report submitted to the Regulator in accordance with clause 4.2(a).

Commencement Date means the date this Contract takes effect pursuant to Section 37(2) of the *Independent Competition and Consumer Commission Act 2002*.

Connection Point means the point of connection between, on the one hand, a transmission or distribution network operated by PNG Power and, on the other hand, a premises, public lighting installation or electric line or equipment operated by a person other than PNG Power through which electricity supplied by that network is supplied to a premises or public lighting installation.

Contract means this Electricity Regulatory Contract.

Customer, in respect of a premises or a public lighting installation, means a person to whom electricity is supplied by PNG Power at that premises or that public lighting installation or a person who is seeking to have electricity supplied by PNG Power at that premises or that public lighting installation, the relevant premises or public lighting installation in either case being located in a Service Area.

Domestic Customer, in respect of a premises, means a Customer who consumes or intends to consume electricity supplied to that premises principally for domestic or household purposes, but does not include a person who is a General Supply Customer or an Industrial Customer in respect of that premises.

Excluded Services means the services described in Schedule 6.

First Regulatory Year means the period from the Commencement Date to 31 December 2002 (both dates inclusive).

FM Pass Through Amount has the meaning given to it in clause 5.1(a).

Force Majeure Event means:

- (a) a cyclone, storm, flood, drought that continues for more than two years, earthquake, tidal wave or landslide; or
- (b) an act of public enemy, war (declared or undeclared), sabotage, blockade, revolution, riot, insurrection, civil commotion or any violent or threatening actions,

which results or is likely to result in an increase in the costs incurred by PNG Power in generating, transmitting or distributing electricity for delivery to premises or public lighting

installations, or retailing electricity to Customers in respect of premises or public lighting installations, that are located in a Service Area, or in complying with the provisions of any legislation, or of any codes or guidelines made or published by the Regulator under the *Independent Consumer and Competition Commission Act 2002*, which must be complied with in relation to the generation, transmission, distribution or retail of such electricity.

Force Majeure Event Claim has the meaning given to it in clause 5.1(d).

Force Majeure Event Notice has the meaning given to it in clause 5.1(c).

General Supply Customer, in respect of a premises, means a Customer who has a minimum demand for electricity of less than 200kVA at that premises, but who does not consume or intend to consume that electricity principally for domestic or household purposes.

Imprudent Capex Percentage has the meaning given to it in clause 4.2(d)(ii)(B).

Imprudent Capex Shortfall has the meaning given to it in clause 4.2(d)(ii)(A).

Individual Consumption, in respect of a premises for a Regulatory Year, means the total amount of electricity consumed at that premises during that Regulatory Year as calculated in accordance with a method approved, specified or deemed to be approved by the Regulator pursuant to clause 6.1(j), (k) or (l) (whichever is applicable).

Industrial Customer, in respect of a premises, means a Customer who has a minimum demand for electricity of 200kVA or more at that premises, irrespective of the purpose for which that electricity is or is intended to be consumed.

Kanudi Contract means the Power Purchase Agreement dated 13 July 1996 originally between the Papua New Guinea Electricity Commission, Korea Heavy Industries & Construction Co., Limited and Daewoo Corporation.

Maximum Annual Price Cap, for Regulatory Year t , means the amount (MAP_t) calculated in accordance with Schedule 2. Notwithstanding the foregoing, for the First Regulatory Year (FRY), $MAP_{FRY} = 371.45K/MWh$.

Negative Tax Change Event means a Tax Change Event which results in PNG Power incurring materially lower costs than it would have incurred but for that event in generating, transmitting or distributing electricity for delivery to premises or public lighting installations, or retailing electricity to Customers in respect of premises or public lighting installations, that are located in a Service Area.

Negative Tax Pass Through Amount has the meaning given to it in clause 5.2(e).

New Connection, in respect of a premises, means a connection of a kind described in Schedule 11.

Outage means any full or partial unavailability of a generating plant or a transmission or distribution network operated by PNG Power (or any part thereof) which results in a disruption to the supply of electricity by PNG Power to a premises or a public lighting installation that is located in a Service Area.

Papua New Guinea Electricity Commission means the body of that name established under the *Electricity Industry Act*.

Permitted FM Pass Through Amount, at any time in respect of a Force Majeure Event, means the increased costs that PNG Power has actually incurred as at that time (as calculated by PNG Power under clause 5.1(a) or by the Regulator under clause 5.1(e), as appropriate):

- (a) in generating, transmitting and distributing electricity for delivery to premises and public lighting installations, and retailing electricity to Customers in respect of premises and public lighting installations, that are located in a Service Area; and
- (b) in complying with the provisions of any legislation, or of any codes or guidelines made or published by the Regulator under the *Independent Consumer and Competition Commission Act 2002*, which must be complied with in relation to the generation, transmission, distribution or retail of such electricity,

as a result of the occurrence of that Force Majeure Event.

Permitted Tax Pass Through Amount, in respect of a Tax Change Event, means the increase in costs that PNG Power has incurred and is likely to incur over the term of this Contract (as calculated by PNG Power under clause 5.2(a) or by the Regulator under clause 5.2(c), as appropriate) in generating, transmitting and distributing electricity for delivery to premises and public lighting installations, and retailing electricity to Customers in respect of premises and public lighting installations, that are located in a Service Area as a result of the occurrence of the Tax Change Event.

Planned Outage means an Outage that is scheduled at least 5 days in advance for the purposes of routine maintenance.

PNG Power means PNG Power Ltd (company number 1-44680) or any person that subsequently carries on substantially the same business, using substantially the same assets, as the business carried on and assets used by PNG Power Ltd as at the Commencement Date.

PNG Power Management means PNG Power (Management) Ltd (company number 1-44679).

Positive Tax Change Event means a Tax Change Event which results in PNG Power incurring materially higher costs than it would have incurred but for that event in generating, transmitting or distributing electricity for delivery to premises or public lighting installations, or retailing electricity to Customers in respect of premises or public lighting installations, that are located in a Service Area.

Positive Tax Pass Through Amount has the meaning given to it in clause 5.2(a).

Quarter means a period of three months from 1 January to 31 March (both dates inclusive), 1 April to 30 June (both dates inclusive), 1 July to 30 September (both dates inclusive) or 1 October to 31 December (both dates inclusive).

Regulator means the Independent Consumer and Competition Commission established under the *Independent Consumer and Competition Commission Act 2002*.

Regulatory Principles means the principles set out in Schedule 10.

Regulatory Year means the First Regulatory Year or a period of 12 months commencing on 1 January of a year during the term of this Contract.

Relevant Tax means:

- (a) any Tax payable by PNG Power other than:
 - (i) income tax or any tax on fringe benefits or capital gains;
 - (ii) any tax on payroll;
 - (iii) land tax or any other tax on the ownership or occupancy of premises;
 - (iv) customs and import duties;
 - (v) municipal rates, taxes and other charges imposed by the National Capital District Commission, any Provincial or Local-level Governments or any other local authorities;
 - (vi) stamp duty, withholding tax or similar taxes and duties;
 - (vii) penalties, fines, interest, charges, fees or other amounts for late payments relating to any Tax; or
 - (viii) any Tax that replaces or is the equivalent of any of the Taxes referred to in paragraph (i) to (vi); and
- (b) any licence fees payable by PNG Power under section 24J of the *Electricity Industry Act*.

Required Connection Date, in respect of a New Connection, means the relevant date set out (opposite the description of that New Connection) in Schedule 11.

Required Notice, in respect of a Planned Outage that affects premises in a Service Area, means a notice of that Planned Outage that is:

- (a) broadcast in that Service Area by way of radio or television announcement during the hours of 8.00 am and 7.00 pm on any day;
- (b) published in a daily newspaper circulating in that Service Area; or
- (c) delivered by mail to each Customer in respect of premises that are affected by the Planned Outage,

such broadcast, publication or delivery being made at least 5 days (not including the day on which the broadcast, publication or delivery is made) prior to the date on which the Planned Outage commences.

Required Tax Pass Through Amount, in respect of a Tax Change Event, means the costs that PNG Power has saved and is likely to save over the term of this Contract (as calculated by the Regulator under clause 5.2(e)) in generating, transmitting and distributing electricity for delivery to premises and public lighting installations, and retailing electricity to Customers in respect of premises and public lighting installations, that are located in a Service Area as a result of the occurrence of the Tax Change Event.

Required Water Pass Through Amount has the meaning given to it in clause 5.3(f)(i).

Scheduled Services means the services described in Schedule 5.

Service Area means a service area listed in Schedule 4.

Service Zone means a service zone listed in Schedule 4.

Subsequent Regulatory Year means any Regulatory Year after the First Regulatory Year.

Supply and Sale of electricity means all of the services required:

- (a) to generate electricity and to deliver, or support the delivery of, electricity to a Connection Point (including maintenance of the capability of the relevant generating plant to generate electricity and of the relevant transmission or distribution network to transfer electricity through the network and deliver it to, and allow it to be taken from, the Connection Point, and the management, maintenance and operation of that generating plant and that transmission or distribution network); and
- (b) to sell that electricity,

except for:

- (c) Excluded Services;
- (d) Scheduled Services; and
- (e) Unregulated Services.

Tariff Component means an individual price element (whether expressed as a fixed or variable charge, a minimum charge or otherwise) comprising part of a tariff.

Tax means any tax, levy, impost, deduction, charge, rate, duty or withholding which is levied or imposed by the National Government, a Provincial or Local-level Government or any agency, department, instrumentality or other authority of the National Government or of a Provincial or Local-level Government.

Tax Change Event means:

- (a) a change in (or change in application or official interpretation of) a Relevant Tax or the way in which a Relevant Tax is calculated;
- (b) the removal of a Relevant Tax; or
- (c) the imposition of a Relevant Tax,

which results in PNG Power incurring materially higher or lower costs than it would have incurred but for that event in generating, transmitting or distributing electricity for delivery to premises or public lighting installations, or retailing electricity to Customers in respect of premises or public lighting installations, that are located in a Service Area.

Total Consumption, in respect of a specified period, means the total amount of electricity delivered by PNG Power during that period to Customers in respect of premises and public lighting installations that are located in a Service Area as calculated in accordance with a method approved, specified or deemed to be approved by the Regulator pursuant to clause 6.1(n), (o) or (p) (whichever is applicable).

Total Energy Delivered, in respect of a Service Area for a specified period, means the amount of electricity that would normally be supplied during that period to a transmission or distribution network for delivery to premises or public lighting installations that are located in that Service Area as calculated in accordance with a method approved, specified or deemed to be approved by the Regulator pursuant to clause 6.1(f), (g) or (h) (whichever is applicable).

Total Forecast Capital Expenditure means the sum of the Yearly Forecast Capital Expenditures in respect of Regulatory Years 2002 to 2006 (both inclusive).

Uncontrollable Cumulative Expenditure has the meaning given to it in clause 4.2(a)(ii).

Uncontrollable Outage means an Outage which is caused by an event the nature or extent of which could not reasonably have been foreseen or prevented by PNG Power.

Undelivered Energy, in respect of a Service Area for a specified period, means the amount of energy not delivered in that Service Area for that period as a result of Outages other than Uncontrollable Outages as calculated in accordance with a method approved, specified or deemed to be approved by the Regulator pursuant to clause 6.1(b), (c) or (d) (whichever is applicable).

Unregulated Services means services which are not regulated services (as that term is defined in the *Independent Consumer and Competition Commission Act 2002*).

Unservd Energy Ratio, in respect of a Service Area (s) for a specified period (p) ($USE_{s,p}$), is calculated as:

$$UE_{s,p}/TED_{s,p}$$

where:

$UE_{s,p}$ is the Undelivered Energy in respect of that Service Area for that period; and

$TED_{s,p}$ is the Total Energy Delivered in respect of that Service Area for that period.

Water Access Pass Through Amount, in respect of any Regulatory Year t (being a Subsequent Regulatory Year), means the amount $WAPTA_t$ (expressed in Kina) calculated as follows:

$$WAPTA_t = WAP_{t-1} - (156,048 * \delta PNGCPI_{t-1})$$

where:

WAP_{t-1} is the aggregate of the payments of fees (expressed in Kina) referable to the year ending on 30 September in Regulatory Year t-1 which have been made by PNG Power under the Water Use Permits; and

$\delta PNGCPI_{t-1}$ is calculated as:

$$\delta PNGCPI_{t-1} = PNGCPI_{t-1} / PNGCPI_{2001}$$

where:

$PNGCPI_{t-1}$ is the Adjusted PNGCPI for the 12 month period ending on 30 September in Regulatory Year t-1 and is calculated in accordance with paragraph B.1(a) of Schedule 3; and

$PNGCPI_{2001}$ is the Adjusted PNG CPI for the 12 month period ending on 30 September 2001 and is calculated in accordance with paragraph B.1(a) of Schedule 3.

Water Use Permits means the water use permits transferred to PNG Power pursuant to a notice published in the National Gazette under section 7(2) of the *Electricity Commission (Privatization) Act 2002* on or about the Commencement Date and includes all water use permits issued from time to time in full or partial replacement of those water use permits.

Yearly Forecast Capital Expenditure, in respect of any Regulatory Year t, means the amount (**YFCE_t**) calculated as follows:

$$YFCE_t = FCE_t \times \{ [(PNGCPI_t / PNGCPI_{2001}) * 0.5] + [\delta RAER_t * 0.5] \}$$

where:

FCE_t is the amount of the yearly forecast capital expenditure (if any) for Regulatory Year t as set out in Schedule 12;

PNGCPI_t is the Adjusted PNG CPI for the 12 month period ending on 30 September in Regulatory Year t and is calculated in accordance with paragraph B.1(a) of Schedule 3;

PNGCPI₂₀₀₁ is the Adjusted PNG CPI for the 12 month period ending on 30 September 2001 and is calculated in accordance with paragraph B.1(a) of Schedule 3; and

δRAER_t is calculated as:

$$\delta RAER_t = \left(1 + \frac{AER_t - AER_{2001}}{AER_{2001}} \right) * \frac{ACPI_t}{ACPI_{2001}}$$

where:

AER_t is the Kina/Australian Dollar Exchange Rate for the 12 month period ending on 30 September in Regulatory Year t and is calculated in accordance with paragraph B.2(a) of Schedule 3;

ACPI_t is the Australian CPI for the 12 month period ending on 30 September in Regulatory Year t and is calculated in accordance with paragraph B.3(a) of Schedule 3;

AER₂₀₀₁ is 0.5949; and

ACPI₂₀₀₁ is 134.20.

1.2 Principles of interpretation

(a) Unless the contrary intention appears, the following principles of interpretation apply to this Contract:

- (i) words denoting persons include corporations, unincorporated associations, firms, governments and governmental agencies;
- (ii) a reference to a person includes a person's agents, successors and permitted assigns, persons who have control over any assets of a person and receivers, managers, trustees, administrators and liquidators and similar persons appointed over:
 - (A) a person; or
 - (B) any assets of a person;
- (iii) headings are only included for convenience and do not affect the interpretation of this Contract;

- (iv) a reference to a clause or Schedule is to a clause of, or Schedule to, this Contract;
 - (v) a reference to an agreement, document or regulatory instrument (including this Contract) is a reference to that agreement, document or regulatory instrument as varied, novated or replaced from time to time (whether or not the parties thereto remain the same);
 - (vi) a reference to legislation is a reference to legislation in force in Papua New Guinea; and
 - (vii) a reference to legislation or to a provision of legislation includes a modification or re-enactment of it, a legislative provision substituted for it and a regulation or statutory instrument issued under it.
- (b) All calculations made under or for the purposes of this Contract must be rounded to four significant digits.
- (c) When a calculation is required under this Contract:
- (i) Regulatory Year “t”, Subsequent Regulatory Year “t” or calendar year “t” is the Regulatory Year, Subsequent Regulatory Year or calendar year (as the case may be) in respect of which the calculation is being made;
 - (ii) Regulatory Year “t-1”, Subsequent Regulatory Year “t-1” or calendar year “t-1” is the Regulatory Year, Subsequent Regulatory Year or calendar year (as the case may be) immediately preceding Regulatory Year “t”, Subsequent Regulatory Year “t” or calendar year “t”; and
 - (iii) Regulatory Year “t-2”, Subsequent Regulatory Year “t-2” or calendar year “t-2” is the Regulatory Year, Subsequent Regulatory Year or calendar year (as the case may be) immediately preceding Regulatory Year “t-1”, Subsequent Regulatory Year “t-1” or calendar year “t-1”.

1.3 Revoking or altering decisions

- (a) If the Regulator has made a decision under this Contract and later concludes that the decision was made on the basis of information provided to the Regulator that was false or misleading in a material particular, then, subject to clause 1.3(b), the Regulator may revoke the decision and make a new decision in substitution for the revoked decision.
- (b) Before the Regulator revokes and substitutes a decision pursuant to clause 1.3(a), the Regulator must first:
 - (i) notify PNG Power of the proposed revocation and of the proposed new decision (including the proposed date of effect of the revocation and new decision), and allow PNG Power a reasonable opportunity to make submissions to the Regulator regarding the proposed revocation and the proposed new decision (including submissions as to whether the original decision was based on information that was false or misleading in a material particular); and

- (ii) take into account any matters contained in a submission made by PNG Power pursuant to paragraph (i).
- (c) A new decision made under clause 1.3(a) applies from:
 - (i) if notice of the new decision is required to be published under clause 1.4(a)(ii) – the later of the date on which that notice is so published and any date specified by the Regulator in that notice as the date from which the new decision is to apply; and
 - (ii) if notice of the new decision is not required to be published under clause 1.4(a)(ii) - the later of the date the new decision is made and any date specified by the Regulator in making that new decision as the date from which the new decision is to apply.
- (d) A new decision made under clause 1.3(a) must only differ from the revoked decision to the extent necessary to correct for:
 - (i) the false or misleading information on which the revoked decision was based; and
 - (ii) the application of the revoked decision during the period in respect of which that decision was in effect.

1.4 Notices

- (a) The Regulator must ensure that a notice of each decision made by the Regulator under this Contract (other than a decision made pursuant to clause 1.5) is:
 - (i) sent to the Ministers responsible for the *Electricity Industry Act* and the *Independent Consumer and Competition Commission Act 2002*;
 - (ii) published in the National Gazette and a newspaper circulating nationally; and
 - (iii) sent to PNG Power.
- (b) The Regulator must ensure that a copy of each decision made by the Regulator under this Contract, together with a copy of its reasons for that decision, is:
 - (i) sent to the Ministers responsible for the *Electricity Industry Act* and the *Independent Consumer and Competition Commission Act 2002*;
 - (ii) sent to PNG Power; and
 - (iii) made available for inspection and purchase by members of the public.

1.5 Modification of time periods

The Regulator may, by written notice to PNG Power, extend:

- (a) the time by which a thing required to be done by PNG Power must be done; or
- (b) the period within which a thing required to be done by PNG Power must be done, as requested in writing by PNG Power.

1.6 Term

The term of this Contract commences on the Commencement Date and ends on 31 December 2011 (both dates inclusive).

2. Tariffs

2.1 Customer categorisation

- (a) PNG Power must classify each of its Customers in respect of a premises as a Domestic Customer, a General Supply Customer or an Industrial Customer in respect of that premises in accordance with the criteria set out in Schedule 7. Any dispute as to whether PNG Power has correctly classified a Customer in respect of a premises in accordance with those criteria will be determined by the Regulator.
- (b) PNG Power must classify each premises that is connected to a transmission or distribution network operated by PNG Power and that is located in a Service Area by reference to that Service Area and the Service Zone in which that Service Area is located.
- (c) For the First Regulatory Year PNG Power must assign each Customer in respect of a premises that, as at the Commencement Date, is connected to a transmission or distribution network operated by PNG Power to a tariff set out in Schedule 1.

2.2 Maximum tariffs for First Regulatory Year: Supply and Sale of electricity

- (a) The maximum amount that PNG Power may charge for the Supply and Sale of electricity during the First Regulatory Year:
 - (i) to a Customer in respect of a premises that is located in a Service Area; or
 - (ii) to a Customer in respect of a public lighting installation that is located in a Service Area,is the applicable tariff set out in Schedule 1.
- (b) In so far as the Supply and Sale of electricity during the First Regulatory Year is concerned, PNG Power must not charge a Customer in respect of a premises or a public lighting installation that is located in a Service Area more for a Tariff Component of a tariff for the Supply and Sale of such electricity that is set out in Schedule 1 than the amount of that Tariff Component as set out in Schedule 1.
- (c) PNG Power must not charge a tariff for the Supply and Sale of electricity during the First Regulatory Year:
 - (i) to a Customer in respect of a premises that is located in a Service Area; or
 - (ii) to a Customer in respect of a public lighting installation that is located in a Service Area,that is not set out in Schedule 1, and the tariffs set out in Schedule 1 cannot be varied for the First Regulatory Year (save that PNG Power may allow any Customer a discount to such a tariff).

- (d) Nothing in this clause 2.2 affects the operation of clauses 5 and 7.

2.3 Maximum tariffs for Subsequent Regulatory Years: Supply and Sale of electricity

- (a) Subject to this clause 2.3 and clauses 2.8 and 3, PNG Power may from time to time change the tariffs it charges for the Supply and Sale of electricity during a Subsequent Regulatory Year:
- (i) to any Customer in respect of a premises that is located in a Service Area;
or
 - (ii) to any Customer in respect of a public lighting installation that is located in a Service Area.

For the avoidance of doubt, except as provided in clauses 2.3(c), 4, 5 or 7, PNG Power may not change an existing tariff or Tariff Component of a tariff, close an existing tariff or introduce a new tariff for such Supply and Sale of electricity otherwise than in accordance with the procedure set out in clause 3.

- (b) The tariffs for the Supply and Sale of electricity that are set out in a statement for a Subsequent Regulatory Year t that is given by PNG Power to the Regulator pursuant to clause 3.1(a) must be such that:

$$FWAT_t \leq MAP_t$$

where:

$FWAT_t$ is the Forecast Weighted Average Tariff (expressed in K/MWh) for that Subsequent Regulatory Year and is calculated in accordance with paragraph D of Schedule 2; and

MAP_t is the Maximum Annual Price Cap (expressed in K/MWh) for that Subsequent Regulatory Year.

- (c) In so far as the Supply and Sale of electricity during a Subsequent Regulatory Year t is concerned, and subject to clauses 2.3(d), (e), (f), (g), 3, 4, 5 and 7, PNG Power must not charge a Customer in respect of a premises or a public lighting installation that is located in a Service Area more for a Tariff Component of a tariff for the Supply and Sale of such electricity than an amount (MTC_t) calculated as follows (rounded to the nearest Kina):

$$MTC_t = MTC_{t-1} * (MAP_t / MAP_{t-1}) * 1.015$$

where:

MTC_{t-1} is the amount of that Tariff Component (if any) that was approved, deemed to be approved or set by the Regulator (as the case may be) pursuant to clause 3.1 for the Regulatory Year immediately preceding the relevant Subsequent Regulatory Year. Where the Regulatory Year immediately preceding the relevant Subsequent Regulatory Year is the First Regulatory Year, MTC_{t-1} is the amount of the Tariff Component (if any) that is set out in Schedule 1 (as varied, if at all, in accordance with this Contract);

MAP_t is the Maximum Annual Price Cap (expressed in K/MWh) for Subsequent Regulatory Year t; and

MAP_{t-1} is the Maximum Annual Price Cap (expressed in K/MWh) for Regulatory Year t-1.

The tariffs for the Supply and Sale of electricity that are set out in the statement for that Subsequent Regulatory Year that is given by PNG Power to the Regulator pursuant to clause 3.1(a) must be consistent with the requirements of this clause 2.3(c).

- (d) In so far as the Supply and Sale of electricity during a Subsequent Regulatory Year t is concerned, and subject to clause 2.3(e), PNG Power must not charge a General Supply Customer in respect of premises that are located in Service Zone 1 more for a Tariff Component of a tariff for the Supply and Sale of such electricity than an amount ($MTC_{gs,t}$) calculated as follows (rounded to the nearest Kina):

$$MTC_{gs,t} = MTC_{gs,t-1} * (MAP_t / MAP_{t-1})$$

where:

$MTC_{gs,t-1}$ is the amount of that Tariff Component (if any) that was approved, deemed to be approved or set by the Regulator (as the case may be) pursuant to clause 3.1 for the Regulatory Year immediately preceding the relevant Subsequent Regulatory Year. Where the Regulatory Year immediately preceding the relevant Subsequent Regulatory Year is the First Regulatory Year, $MTC_{gs,t-1}$ is the amount of the Tariff Component (if any) that is set out in Schedule 1 (as varied, if at all, in accordance with this Contract);

MAP_t is the Maximum Annual Price Cap (expressed in K/MWh) for Subsequent Regulatory Year t; and

MAP_{t-1} is the Maximum Annual Price Cap (expressed in K/MWh) for Regulatory Year t-1.

The tariffs for the Supply and Sale of electricity that are set out in the statement for that Subsequent Regulatory Year that is given by PNG Power to the Regulator pursuant to clause 3.1(a) must be consistent with the requirements of this clause 2.3(d).

- (e) Where PNG Power delivers electricity to a General Supply Customer in respect of premises that are located in a Service Area and the amount of electricity consumed at those premises is measured using a credit meter, PNG Power may (instead of charging the General Supply Customer an amount as described in clause 2.3(c) or clause 2.3(d) for the electricity that is delivered by PNG Power to those premises during any month in a Subsequent Regulatory Year) charge the General Supply Customer an amount that does not exceed the amount calculated as follows (rounded to the nearest Kina):

$$9 \text{ Kina} * (MAP_t / 371.45)$$

where MAP_t is the Maximum Annual Price Cap (expressed in K/MWh) for Subsequent Regulatory Year t . The tariffs for the Supply and Sale of electricity that are set out in the statement for that Subsequent Regulatory Year that is given by PNG Power to the Regulator pursuant to clause 3.1(a) must be consistent with the requirements of this clause 2.3(e).

- (f) Subject to clause 2.3(g), the tariffs for the Supply and Sale of electricity that are set out in a statement for a Subsequent Regulatory Year t that is given by PNG Power to the Regulator pursuant to clause 3.1(a) must be such that the amount payable for the first 30kWh of electricity that is delivered by PNG Power during any month in that Subsequent Regulatory Year to a premises that is located in a Service Area, being a premises in respect of which the Customer is a Domestic Customer and at which the amount of electricity consumed is measured using a credit meter, does not exceed the amount calculated as follows (rounded to the nearest Kina):

$$19.66 \text{ toea/kWh} * (MAP_t / 371.45)$$

where MAP_t is the Maximum Annual Price Cap (expressed in K/MWh) for Subsequent Regulatory Year t .

- (g) Where PNG Power delivers electricity to a Domestic Customer in respect of premises that are located in a Service Area and the amount of electricity consumed at those premises is measured using a credit meter, PNG Power may (instead of charging the Domestic Customer an amount as described in clause 2.3(f) for the electricity that is delivered by PNG Power to those premises during any month in a Subsequent Regulatory Year) charge the Domestic Customer an amount that does not exceed the amount calculated as follows (rounded to the nearest Kina):

$$6 \text{ Kina} * (MAP_t / 371.45)$$

where MAP_t is the Maximum Annual Price Cap (expressed in K/MWh) for Subsequent Regulatory Year t . The tariffs for the Supply and Sale of electricity that are set out in the statement for that Subsequent Regulatory Year that is given by PNG Power to the Regulator pursuant to clause 3.1(a) must be consistent with the requirements of this clause 2.3(g).

2.4 Maximum tariffs for Scheduled Services

The maximum amount that PNG Power may charge a Customer for a Scheduled Service which it provides during a Regulatory Year (PSS_t) is the amount calculated as follows (rounded to the nearest Kina):

$$PSS_t = PSS_0 * \delta PNGCPI_{t-1}$$

where:

PSS_0 is the maximum charge for that Scheduled Service as set out in Schedule 5;
and

$\delta PNGCPI_{t-1}$ is calculated in accordance with paragraph B of Schedule 2.

2.5 Tariffs for Excluded Services

PNG Power must charge Customers for Excluded Services on a fair and reasonable basis and, in the event of a dispute in respect of the amount of a charge for an Excluded Service, PNG Power must only charge such amount for that Excluded Service as the Regulator determines to be fair and reasonable.

2.6 Prepayment for electricity consumed by Domestic Customers and associated services

The minimum amount that PNG Power may charge in any Subsequent Regulatory Year t for a receipt that is used to enable the consumption of electricity by a Domestic Customer at premises that are located in a Service Area, where the amount of electricity consumed at those premises is measured using a prepayment meter, is an amount that does not exceed the amount calculated as follows (rounded to the nearest Kina):

$$8 \text{ Kina} * (\text{MAP}_t / 371.45)$$

where MAP_t is the Maximum Annual Price Cap (expressed in K/MWh) for Subsequent Regulatory Year t .

The maximum amount that PNG Power may charge in any Subsequent Regulatory Year t for the Easipay Emergency Service or a Domestic Easipay Emergency Receipt (see Schedule 1) is the amount calculated for that Subsequent Regulatory Year in accordance with the formula referred to above.

2.7 Prepayment for electricity consumed by General Supply Customers and associated services

The minimum amount that PNG Power may charge in any Subsequent Regulatory Year t for a receipt that is used to enable the consumption of electricity by a General Supply Customer at premises that are located in a Service Area, where the amount of electricity consumed at those premises is measured using a prepayment meter, is an amount that does not exceed the amount calculated as follows (rounded to the nearest Kina):

$$33 \text{ Kina} * (\text{MAP}_t / 371.45)$$

where MAP_t is the Maximum Annual Price Cap (expressed in K/MWh) for Subsequent Regulatory Year t .

The maximum amount that PNG Power may charge in any Subsequent Regulatory Year t for a General Supply Easipay Emergency Receipt (see Schedule 1) is the amount calculated for that Subsequent Regulatory Year in accordance with the formula referred to above.

2.8 Discrimination

The tariffs PNG Power charges for the Supply and Sale of electricity to Customers in respect of premises (including any discounts allowed in respect of those tariffs) must not discriminate unreasonably between Customers who are in substantially the same circumstances. If the Regulator, after consulting with PNG Power, notifies PNG Power that any tariffs (including any discounts allowed in respect of those tariffs) which PNG Power is charging for the Supply and Sale of such electricity do unreasonably discriminate between

such Customers, then PNG Power must immediately change those tariffs (including any discounts allowed in respect of those tariffs) so as to remove that discrimination and must advise the Regulator of those changed tariffs.

3. Altering Tariffs

3.1 Annual variation

- (a) PNG Power must, for each Subsequent Regulatory Year, give the Regulator a statement in accordance with clause 3.1(b) that:
 - (i) sets out PNG Power's proposed tariffs for the Supply and Sale of electricity for that Subsequent Regulatory Year; and
 - (ii) demonstrates compliance of those proposed tariffs and of each Tariff Component of those proposed tariffs with the relevant requirements set out in clause 2.3 and Schedules 2 and 3.
- (b) A statement referred to in clause 3.1(a) must be given to the Regulator by the second Friday in November of the Regulatory Year immediately preceding the relevant Subsequent Regulatory Year.
- (c) The Regulator must not approve a statement given by PNG Power under clause 3.1(a) if:
 - (i) the statement does not demonstrate compliance of the proposed tariffs and of each Tariff Component of those proposed tariffs with the relevant requirements set out in clause 2.3 and Schedules 2 and 3; or
 - (ii) the Regulator is not satisfied that the amount of any Tariff Component of a proposed tariff that is set out in that statement is fair and reasonable (for these purposes the Regulator is deemed to be so satisfied in respect of the amount of any such Tariff Component where the amount of the Tariff Component complies with such of the requirements (if any) of clauses 2.3(c), (d), (e), (f) or (g) as are applicable).
- (d) The Regulator must approve a statement given by PNG Power under clause 3.1(a) if:
 - (i) the statement demonstrates compliance of the proposed tariffs and of each Tariff Component of those proposed tariffs with the relevant requirements set out in clause 2.3 and Schedules 2 and 3; and
 - (ii) the Regulator is satisfied that the amount of any Tariff Component of a proposed tariff that is set out in that statement is fair and reasonable (for these purposes the Regulator is deemed to be so satisfied in respect of the amount of any such Tariff Component where the amount of that Tariff Component complies with such of the requirements (if any) of clauses 2.3(c), (d), (e), (f) or (g) as are applicable).
- (e) If the Regulator does not notify PNG Power of the Regulator's decision regarding a statement given by PNG Power under clause 3.1(a) by the first Monday in

December of the Regulatory Year immediately preceding the relevant Subsequent Regulatory Year, the Regulator is deemed to have approved the statement with effect from that day.

- (f) The tariffs in any statement given by PNG Power under clause 3.1(a), being a statement which is approved or deemed to have been approved by the Regulator, apply from the later of:
 - (i) the date on which the Regulator approves or is deemed to have approved the statement; and
 - (ii) the start of the Subsequent Regulatory Year in respect of which the tariffs are to apply.
- (g) If PNG Power does not provide a statement to the Regulator as required by and in accordance with clause 3.1(a), or such a statement is so provided but (by the first Monday in December of the Regulatory Year immediately preceding the relevant Subsequent Regulatory Year) the Regulator notifies PNG Power of the Regulator's decision not to approve that statement, then the Regulator may reset the relevant tariffs for the relevant Subsequent Regulatory Year in a manner in which the Regulator could have approved the tariffs if they were included in a statement given by PNG Power under clause 3.1(a). The Regulator must notify PNG Power in writing of the tariffs so set by the Regulator. The tariffs set by the Regulator apply from the later of:
 - (i) the date on which the Regulator notifies PNG Power of the tariffs; and
 - (ii) the start of the Subsequent Regulatory Year in respect of which the tariffs are to apply.

3.2 Six month variation

- (a) If the change in the Cumulative Weighted Index over the 6 month period ending on 31 March in any Subsequent Regulatory Year (calculated as set out in paragraph (iii)) exceeds 1.10, PNG Power may give the Regulator a statement in accordance with clause 3.2(b) that:
 - (i) sets out a proposed variation to the existing tariffs for the Supply and Sale of electricity for the last six months of that Subsequent Regulatory Year; and
 - (ii) demonstrates compliance of the tariffs for the Supply and Sale of electricity for the last six months of that Subsequent Regulatory Year (incorporating the proposed variation to the existing tariffs), and of each Tariff Component of those tariffs (as proposed to be varied), with the relevant requirements set out in clause 2.3 and Schedules 2 and 3.

For these purposes:

- (iii) the change in the Cumulative Weighted Index over the 6 month period ending on 31 March in a Subsequent Regulatory Year t ($CWI_{m,t}$) is calculated in the same manner as CWI_t in paragraph B of Schedule 2 except that:

- (A) PNGCPI_{t-1} is the Adjusted PNG CPI for the 6 month period ending on 31 March in Subsequent Regulatory Year t and is calculated in accordance with paragraph B.1(b) of Schedule 3;
 - (B) AER_{t-1} is the Kina/Australian Dollar Exchange Rate for the 6 month period ending on 31 March in Subsequent Regulatory Year t and is calculated in accordance with paragraph B.2(b) of Schedule 3;
 - (C) ACPI_{t-1} is the Australian CPI for the 6 month period ending on 31 March in Subsequent Regulatory Year t and is calculated in accordance with paragraph B.3(b) of Schedule 3;
 - (D) AFP_{t-1} is the Average Fuel Price for the 6 month period ending on 31 March in Subsequent Regulatory Year t and is calculated in accordance with paragraph B.4(b) of Schedule 3;
 - (E) USER_{t-1} is the Kina/United States Dollar Exchange Rate for the 6 month period ending on 31 March in Subsequent Regulatory Year t and is calculated in accordance with paragraph B.5(b) of Schedule 3; and
 - (F) USCPI_{t-1} is the US CPI for the 6 month period ending on 31 March in Subsequent Regulatory Year t and is calculated in accordance with paragraph B.6(b) of Schedule 3; and
- (iv) for the purpose only of the application of clause 3.2(a)(ii):
- (A) the Maximum Annual Price Cap (expressed in K/MWh) for the Subsequent Regulatory Year t is calculated in the same manner as MAP_t in paragraph A of Schedule 2, except that CWI_t is CWI_{m,t} as calculated in accordance with this clause 3.2(a); and
 - (B) a reference in clause 2.3 to a statement that is given by PNG Power to the Regulator pursuant to clause 3.1(a) will be construed as a reference to the statement that is given by PNG Power to the Regulator pursuant to clause 3.2(a).
- (b) A statement referred to in clause 3.2(a) must be given to the Regulator by the second Friday in May of the relevant Subsequent Regulatory Year.
- (c) The Regulator must not approve a statement given by PNG Power under clause 3.2(a) if:
- (i) the statement does not demonstrate compliance of the tariffs for the Supply and Sale of electricity for the last six months of the relevant Subsequent Regulatory Year (incorporating the proposed variation to the existing tariffs) with the relevant requirements set out in clause 2.3 and Schedules 2 and 3, as modified in accordance with clause 3.2(a); or
 - (ii) the Regulator is not satisfied that the amount of any Tariff Component of a proposed tariff that is set out in that statement is fair and reasonable (for these purposes the Regulator is deemed to be so satisfied in respect of the amount of any such Tariff Component where the amount of the Tariff

Component complies with such of the requirements (if any) of clauses 2.3(c), (d), (e), (f) or (g) as are applicable, as modified in accordance with clause 3.2(a)).

- (d) The Regulator must approve a statement given by PNG Power under clause 3.2(a) if:
 - (i) the statement demonstrates compliance of the tariffs for the Supply and Sale of electricity for the last six months of the relevant Subsequent Regulatory Year (incorporating the proposed variation to the existing tariffs) with the relevant requirements set out in clause 2.3 and Schedules 2 and 3, as modified in accordance with clause 3.2(a); and
 - (ii) the Regulator is satisfied that the amount of any Tariff Component of a proposed tariff that is set out in that statement is fair and reasonable (for these purposes the Regulator is deemed to be so satisfied in respect of the amount of any such Tariff Component where the amount of that Tariff Component complies with such of the requirements (if any) of clauses 2.3(c), (d), (e), (f) or (g) as are applicable, as modified in accordance with clause 3.2(a)).
- (e) If the Regulator does not notify PNG Power of the Regulator's decision regarding a statement given by PNG Power under clause 3.2(a) by the first Monday in June of the relevant Subsequent Regulatory Year, the Regulator is deemed to have approved the statement with effect from that day.
- (f) The variation to the tariffs as set out in any statement given by PNG Power under clause 3.2(a), being a statement which is approved or deemed to have been approved by the Regulator, applies from the later of:
 - (i) the date on which the Regulator approves or is deemed to have approved the statement; and
 - (ii) 1 July of the relevant Subsequent Regulatory Year.

3.3 Maximum tariffs

In so far as the Supply and Sale of electricity during a Subsequent Regulatory Year is concerned, and subject to clauses 4, 5 and 7, PNG Power must not charge a Customer in respect of a premises or a public lighting installation that is located in a Service Area more than the applicable tariff and Tariff Components that are approved, deemed to be approved or set by the Regulator (as the case may be) pursuant to clause 3.1 or 3.2 for that Subsequent Regulatory Year.

4. On-going Regulation

4.1 Mid-term review of pricing formulae and balancing controls

- (a) PNG Power may, in accordance with clause 4.1(b), submit a request to the Regulator that the Regulator approve a variation of any or all of the provisions of clauses 2.3(c) and (d), the values in the table set out in paragraph A.1 of Schedule

3 (provided that the sum of those values for each Regulatory Year is always 1.0000) and the values in the table set out in paragraph A.2 of Schedule 3 on the basis that any of the assumptions set out in Schedule 8 have been proven incorrect. Any such request must be accompanied by a submission which sets out in detail the reasons for the requested variation (including any of the assumptions set out in Schedule 8 which have been proven incorrect and the respects in which such assumptions have been proven incorrect).

- (b) The request and submission referred to in clause 4.1(a) must be given to the Regulator not earlier than 1 January 2006 and not later than 31 March 2006.
- (c) The Regulator may only approve a variation of any of the provisions of clauses 2.3(c) and (d), the values in the table set out in paragraph A.1 of Schedule 3 and the values in the table set out in paragraph A.2 of Schedule 3 pursuant to this clause 4.1 if:
 - (i) the Regulator is satisfied that any of the assumptions set out in Schedule 8 have been proven incorrect;
 - (ii) the Regulator is satisfied that a variation of any of the provisions of clauses 2.3(c) and (d), the values in the table set out in paragraph A.1 of Schedule 3 and the values in the table set out in paragraph A.2 of Schedule 3 should be made as a result of any of the assumptions set out in Schedule 8 being incorrect and that the variation is appropriate to accommodate that matter;
 - (iii) the Regulator is satisfied that, where an assumption set out in Schedule 8 is incorrect by virtue of a cost incurred by PNG Power exceeding the amount of that cost as set out in Schedule 8, the variation would not result in PNG Power being compensated for any expenditure which is not reasonable, prudent or efficient or for any expenditure for which PNG Power is otherwise compensated by virtue of the operation of any other provision of this Contract; and
 - (iv) to the extent that the variation was not requested by PNG Power in the request referred to in clause 4.1(a), PNG Power has agreed to that variation.

Any variation of the provisions of clauses 2.3(c) or (d), the values in the table set out in paragraph A.1 of Schedule 3 or the values in the table set out in paragraph A.2 of Schedule 3 which is approved by the Regulator pursuant to this clause 4.1(c) is deemed to take effect as from (and including) 1 January 2007.

- (d) If the Regulator does not notify PNG Power of the Regulator's decision regarding the request submitted by PNG Power under clause 4.1(a) within 120 Business Days of the Regulator receiving the request, the Regulator is deemed to have approved the request, and the variation of the provisions of clauses 2.3(c) and (d), the values in the table set out in paragraph A.1 of Schedule 3 and the values in the table set out in paragraph A.2 of Schedule 3 (as so requested by PNG Power) is deemed to take effect as from (and including) 1 January 2007.

- (e) Nothing in this clause 4.1 derogates in any way from the requirements of clause 3.1.

4.2 Mid-term review of Capital Expenditure Program

- (a) PNG Power must, in accordance with clause 4.2(b), submit a Capital Expenditure Progress Report for the calendar years 2002 to 2006 (inclusive) that sets out:
 - (i) the Actual Cumulative Expenditure;
 - (ii) the amount (if any) of that Actual Cumulative Expenditure which is attributable to:
 - (A) the connection, after the Commencement Date, of a single new load in excess of 30MW (including any capital expenditures required to augment the transmission or distribution network operated by PNG Power, or to increase the capacity of any generating plant operated by PNG Power, so as to enable that load to be serviced); or
 - (B) the reinstatement or repair of any transmission or distribution network or any generating plant operated by PNG Power where the need for that reinstatement or repair has arisen as a result of damage or destruction caused by the occurrence, after the Commencement Date, of a cyclone, storm, flood, earthquake, tidal wave, landslide, act of public enemy, war (declared or undeclared), sabotage, revolution, riot, insurrection or civil commotion,(such amount of the Actual Cumulative Expenditure referred to in this clause 4.2(a)(ii) being referred to as the **Uncontrollable Cumulative Expenditure**); and
 - (iii) if the Actual Cumulative Expenditure reduced by the Uncontrollable Cumulative Expenditure (such reduced amount being referred to as the **Adjusted Cumulative Expenditure**) is less than 80% of the estimated* Total Forecast Capital Expenditure, and PNG Power considers that the difference between the Adjusted Cumulative Expenditure and the estimated Total Forecast Capital Expenditure is the result of more efficient capital expenditure, the details of such efficient capital expenditure.
- (b) The Capital Expenditure Progress Report referred to in clause 4.2(a) must be given to the Regulator not earlier than 31 July 2006 and not later than 31 August 2006, and must be certified by a registered company auditor (as defined in section 2 of the *Accountants Act 1996*) as being not false or misleading.
- (c) The Regulator or PNG Power may, within 5 days after the Capital Expenditure Progress Report referred to in clause 4.2(a) is submitted to the Regulator, give written notice to the other of them that it requires the appointment of an international consultant for the purposes of this clause 4.2. As soon as reasonably

* This amount will be estimated because PNGCPI₂₀₀₆, AER₂₀₀₆ and ACPI₂₀₀₆ will not be known as at the date of submission of the Capital Expenditure Progress Report.

practicable after the giving of any such notice and after consulting with PNG Power, the Regulator must appoint an appropriately qualified independent international consultant to report to the Regulator and PNG Power, by 15 November 2006, as to:

- (i) the amount of the Adjusted Cumulative Expenditure;
 - (ii) if the Adjusted Cumulative Expenditure is less than 80% of the Total Forecast Capital Expenditure whether, in the international consultant's opinion, the difference between the Adjusted Cumulative Expenditure and the Total Forecast Capital Expenditure is entirely the result of more efficient capital expenditure; and
 - (iii) if the Adjusted Cumulative Expenditure is less than 80% of the Total Forecast Capital Expenditure and (in the international consultant's opinion) the difference between the Adjusted Cumulative Expenditure and the Total Forecast Capital Expenditure is not entirely the result of more efficient capital expenditure – the amount which it considers to be the amount of capital expenditure (excluding associated overheads) in excess of the Adjusted Cumulative Expenditure that PNG Power would need to make as at that time so as to avoid there being any imprudent shortfall in capital expenditure in relation to any transmission or distribution network or any generating plant then operated by PNG Power.
- (d) After considering the Capital Expenditure Progress Report submitted by PNG Power pursuant to clause 4.2(a), any report provided in accordance with clause 4.2(c) by an international consultant (if any) appointed pursuant to that clause, and any further information obtained by the Regulator pursuant to clause 4.2(e) or otherwise provided by PNG Power, the Regulator must, not earlier than 22 November 2006 and not later than 30 November 2006, notify PNG Power of its determinations as to the following matters:
- (i) the amount of the Adjusted Cumulative Expenditure and, if the Adjusted Cumulative Expenditure is less than 80% of the Total Forecast Capital Expenditure, whether the difference between the Adjusted Cumulative Expenditure and the Total Forecast Capital Expenditure is entirely the result of more efficient capital expenditure; and
 - (ii) if the Adjusted Cumulative Expenditure is less than 80% of the Total Forecast Capital Expenditure and the Regulator determines that the difference between the Adjusted Cumulative Expenditure and the Total Forecast Capital Expenditure is not entirely the result of more efficient capital expenditure –
 - (A) the amount which it considers to be the amount of capital expenditure (excluding associated overheads) in excess of the Adjusted Cumulative Expenditure that PNG Power would need to make as at that time so as to avoid there being any imprudent shortfall in capital expenditure in relation to any transmission or

distribution network or any generating plant then operated by PNG Power (the *Imprudent Capex Shortfall*); and

- (B) the Imprudent Capex Shortfall as a percentage of the Total Forecast Capital Expenditure (the *Imprudent Capex Percentage*).
- (e) PNG Power must, at its expense, provide the Regulator and any international consultant appointed pursuant to clause 4.2(c) with such access to PNG Power's records, employees and contractors as the Regulator or the international consultant requires for the purposes of this clause 4.2.
- (f) The costs of any international consultant appointed pursuant to clause 4.2(c) must be borne by PNG Power.

4.3 Subsequent Regulatory Contract

- (a) PNG Power may, in accordance with clause 4.3(b), submit to the Regulator a draft Electricity Regulatory Contract which PNG Power considers should bind it for a period of five years commencing with effect from (and including) 1 January 2012 and any written submission as to its form and content that PNG Power considers appropriate.
- (b) The draft Electricity Regulatory Contract and any submissions, as referred to in clause 4.3(a), must be given to the Regulator by 31 December 2010.
- (c) After considering:
 - (i) the draft Electricity Regulatory Contract and any submissions made by PNG Power under clause 4.3(a);
 - (ii) any submissions made by any other person in relation to the form or content of the Electricity Regulatory Contract which should bind PNG Power following the expiry of this Contract; and
 - (iii) the particular circumstances of the electricity supply industry in Papua New Guinea,the Regulator must publish a draft Electricity Regulatory Contract that is proposed to bind PNG Power for a period of five years commencing with effect from (and including) 1 January 2012.
- (d) In preparing the draft Electricity Contract referred to in clause 4.3(c), the Regulator must also take into account:
 - (i) the legitimate business interests of PNG Power;
 - (ii) the legitimate interests of suppliers to, and customers of, PNG Power;
 - (iii) the nature and uses of the services the prices of which would be regulated under the draft Electricity Regulatory Contract;
 - (iv) the costs of supplying the services the prices of which would be regulated under the draft Electricity Regulatory Contract;

- (v) the costs of complying with relevant health, safety, environmental, social and other legislation and regulatory requirements applying to the electricity supply industry in Papua New Guinea;
 - (vi) the return on assets required to sustain past and future investment in the electricity supply industry in Papua New Guinea;
 - (vii) any relevant international benchmarks for prices, costs and return on assets in comparable industries, taking into account the particular circumstances of Papua New Guinea;
 - (viii) the financial implications of the draft Electricity Regulatory Contract (if it were to come into force) for PNG Power and the electricity supply industry in Papua New Guinea;
 - (ix) any other factors specified in or under relevant legislation; and
 - (x) any other factors the Regulator considers relevant.
- (e) In addition, the draft Electricity Regulatory Contract referred to in clause 4.3(c):
- (i) must not be inconsistent with, and must be prepared in accordance with, the Regulatory Principles; and
 - (ii) must comply with the requirements of the *Independent Consumer and Competition Commission Act 2002*.
- (f) The Regulator must publish the draft Electricity Regulatory Contract referred to in clause 4.3(c) by 30 April 2011.
- (g) PNG Power may, in accordance with clause 4.3(h), make such written submissions to the Regulator as it thinks appropriate in relation to the form and content of the draft Electricity Regulatory Contract referred to in clause 4.3(c).
- (h) The submissions referred to in clause 4.3(g) must be given to the Regulator by 30 June 2011.
- (i) After considering:
- (i) any submissions made by PNG Power under clause 4.3(g); and
 - (ii) any submissions made by any other person in relation to the form or content of the draft Electricity Regulatory Contract referred to in clause 4.3(c),
- the Regulator must publish a final draft of the Electricity Regulatory Contract referred to in clause 4.3(c) by not later than 30 November 2011.
- (j) In preparing the final draft of the Electricity Regulatory Contract referred to in clause 4.3(c), the Regulator must also take into account the matters referred to in clause 4.3(d).
- (k) In addition, the final draft of the Electricity Regulatory Contract referred to in clause 4.3(c):
- (i) must not be inconsistent with, and must be prepared in accordance with, the Regulatory Principles;

- (ii) must comply with the requirements of the *Independent Consumer and Competition Commission Act 2002*; and
 - (iii) must be for a period of five years commencing with effect from (and including) 1 January 2012.
- (l) The Regulator may issue statements of regulatory intent which elaborate on how the Regulator will exercise its powers under this clause 4.3.

5. Regulated Pass Through

5.1 Force Majeure Event Pass Through

Application by PNG Power

- (a) If a Force Majeure Event occurs, PNG Power may seek the Regulator's approval to charge Customers, in addition to the maximum amounts that PNG Power is otherwise permitted to charge Customers for the Supply and Sale of electricity pursuant to clauses 2 and 3, an amount (***FM Pass Through Amount***) that is not greater than the Permitted FM Pass Through Amount (as calculated by PNG Power) in respect of that Force Majeure Event as at the date of the Force Majeure Event Claim (if any) given to the Regulator pursuant to clause 5.1(d) in respect of that Force Majeure Event.
- (b) To seek the Regulator's approval to pass through a FM Pass Through Amount under clause 5.1(a), PNG Power must give the Regulator:
- (i) a Force Majeure Event Notice pursuant to clause 5.1(c) within 3 months of the Force Majeure Event occurring; and
 - (ii) a Force Majeure Event Claim pursuant to clause 5.1(d) within 12 months of the Force Majeure Event occurring.
- (c) A Force Majeure Event Notice must specify:
- (i) details of the Force Majeure Event concerned; and
 - (ii) the date the Force Majeure Event occurred.
- (d) A Force Majeure Event Claim must specify:
- (i) details of the Force Majeure Event concerned;
 - (ii) the date the Force Majeure Event occurred;
 - (iii) the increase in costs that PNG Power has actually incurred as at the date of the Force Majeure Event Claim:
 - (A) in generating, transmitting and distributing electricity for delivery to premises and public lighting installations, and retailing electricity to Customers in respect of premises and public lighting installations, that are located in a Service Area; and
 - (B) in complying with the provisions of any legislation, or of any codes or guidelines made or published by the Regulator under the

Independent Consumer and Competition Commission Act 2002,
which must be complied with in relation to the generation,
transmission, distribution or retail of such electricity,

as a result of the occurrence of the Force Majeure Event;

- (iv) the extent (if any) to which PNG Power has the benefit of any insurance against the consequences of the Force Majeure Event;
- (v) the FM Pass Through Amount PNG Power proposes in relation to the Force Majeure Event;
- (vi) the basis on which PNG Power proposes to apply the FM Pass Through Amount to Customers; and
- (vii) the date from, and period over, which PNG Power proposes to apply the FM Pass Through Amount to Customers,

and must be accompanied by evidence of the increase in costs referred to in paragraph (iii).

Approval by Regulator

- (e) If the Regulator receives a Force Majeure Event Claim under clause 5.1(d) in relation to a Force Majeure Event, the Regulator must decide whether the Force Majeure Event occurred and, if the Regulator decides the Force Majeure Event occurred, the Regulator must decide:
 - (i) the Permitted FM Pass Through Amount in respect of the Force Majeure Event;
 - (ii) the basis on which the FM Pass Through Amount proposed by PNG Power in relation to the Force Majeure Event or the Permitted FM Pass Through Amount in respect of the Force Majeure Event as determined by the Regulator (whichever is the lesser) (the **Approved FM Pass Through Amount**) may be applied to Customers; and
 - (iii) the date from, and period over, which the Approved FM Pass Through Amount in respect of the Force Majeure Event may be applied to Customers,

and notify PNG Power in writing of the Regulator's decision and the reasons for the Regulator's decision.

- (f) If the Regulator does not give a notice to PNG Power under clause 5.1(e) within 20 Business Days of receiving:
 - (i) a Force Majeure Event Claim from PNG Power under clause 5.1(d); and
 - (ii) such evidence of the increase in costs referred to in clause 5.1(d)(iii) as is required by the Regulator,

then, on the 21st Business Day after receiving that Force Majeure Event Claim and that evidence, the Regulator is deemed to have notified PNG Power of its decision that:

- (iii) the FM Pass Through Amount proposed by PNG Power in relation to the relevant Force Majeure Event in the Force Majeure Event Claim be the Approved FM Pass Through Amount in respect of that Force Majeure Event; and
- (iv) the basis on, date from and period over which that Approved FM Pass Through Amount may be applied to Customers are as specified in the Force Majeure Event Claim.

Relevant Factors

- (g) In making a decision under clause 5.1(e), the Regulator must take into account:
 - (i) the matters and proposals set out in the Force Majeure Event Claim;
 - (ii) the extent to which it would have been reasonable for PNG Power to have procured insurance against the consequences of the Force Majeure Event; and
 - (iii) any amount recoverable by PNG Power under insurances against the consequences of the Force Majeure Event and of which PNG Power has the benefit,

and, subject to the requirement that PNG Power is not to be compensated for losses against which it would have been reasonable for PNG Power to have been insured, or for losses to the extent they are able to be compensated for by claiming under insurances of which PNG Power has the benefit, the Regulator must seek to ensure that PNG Power is fully (but not over) compensated for the increase in costs referred to in clause 5.1(d)(iii) to the extent that it was reasonable for PNG Power to incur those costs, taking into account:

- (iv) the relative amounts of electricity supplied by PNG Power to each Customer;
- (v) the time cost of money for the period over which the Approved FM Pass Through Amount is to be applied;
- (vi) the basis on and period over which the Approved FM Pass Through Amount is to be applied;
- (vii) any previous application of this clause 5.1 which has resulted in PNG Power recovering an amount either more or less than the amount required to fully (but not over) compensate it in respect of a previous Force Majeure Event in accordance with this clause 5.1; and
- (viii) any other factors the Regulator considers relevant.

Application of Approved FM Pass Through Amount

- (h) PNG Power may, after:
 - (i) receipt or deemed receipt of a notice under clause 5.1(e) or (f) allowing PNG Power to pass through an Approved FM Pass Through Amount; and

- (ii) publishing a notice in a daily newspaper circulating nationally that sets out:
 - (A) the Approved FM Pass Through Amount which the Regulator has approved or is deemed to have approved;
 - (B) the circumstances giving rise to the Approved FM Pass Through Amount; and
 - (C) the basis on, date from and period over which PNG Power will apply the Approved FM Pass Through Amount to Customers,

apply the Approved FM Pass Through Amount on the basis, from the date and over the period specified or deemed to be specified in the notice from the Regulator.

- (i) The effect of an Approved FM Pass Through Amount must be:
 - (i) shown on the bill of each affected Customer; or
 - (ii) otherwise notified to such Customers in a manner approved by the Regulator.

Relevance of Approved FM Pass Through Amount

- (j) An Approved FM Pass Through Amount applied by PNG Power under this clause 5.1 is not to be taken into account in the application of clauses 2 and 3.

5.2 Tax Pass Through

Application by PNG Power

- (a) If a Positive Tax Change Event occurs, PNG Power may seek the Regulator's approval to charge Customers, either in addition to the maximum amounts that PNG Power is otherwise permitted to charge Customers for the Supply and Sale of electricity pursuant to clauses 2 and 3 or as part of the calculation of the Maximum Annual Price Cap for a Subsequent Regulatory Year, an amount (**Positive Tax Pass Through Amount**) that is not greater than the Permitted Tax Pass Through Amount (as calculated by PNG Power) in respect of that Tax Change Event.
- (b) To seek the Regulator's approval to pass through a Positive Tax Pass Through Amount under clause 5.2(a), PNG Power must give the Regulator a statement within 3 months of the Tax Change Event occurring, specifying:
 - (i) details of the Tax Change Event concerned;
 - (ii) the date the Tax Change Event took effect;
 - (iii) the increase in costs that PNG Power has incurred and is likely to incur over the term of this Contract in generating, transmitting and distributing electricity for delivery to premises and public lighting installations, and retailing electricity to Customers in respect of premises and public lighting installations, that are located in a Service Area as a result of the occurrence of the Tax Change Event;
 - (iv) the Positive Tax Pass Through Amount PNG Power proposes in relation to the Tax Change Event;

- (v) the basis on which PNG Power proposes to apply the Positive Tax Pass Through Amount to Customers; and
- (vi) the date from, and period over, which PNG Power proposes to apply the Positive Tax Pass Through Amount to Customers,

and accompanied by evidence of the actual and likely increase in costs referred to in paragraph (iii).

- (c) If the Regulator receives a statement under clause 5.2(b) in relation to a Positive Tax Change Event, the Regulator must decide whether that Tax Change Event occurred and, if the Regulator decides the Tax Change Event occurred, the Regulator must decide:
 - (i) the Permitted Tax Pass Through Amount in respect of that Tax Change Event;
 - (ii) the basis on which the Positive Tax Pass Through Amount proposed by PNG Power in relation to that Tax Change Event or the Permitted Tax Pass Through Amount in respect of that Tax Change Event as determined by the Regulator (whichever is the lesser) (the **Approved Tax Pass Through Amount**) may be applied to Customers, including whether this amount is to be applied in the calculation of the Maximum Annual Price Cap for a Subsequent Regulatory Year pursuant to clause 2.3 and Schedules 2 and 3 or otherwise; and
 - (iii) the date from, and period over, which the Approved Tax Pass Through Amount in respect of that Tax Change Event may be applied to Customers,and notify PNG Power in writing of the Regulator's decision and the reasons for the Regulator's decision.
- (d) If the Regulator does not give a notice to PNG Power under clause 5.2(c) within 20 Business Days of receiving:
 - (i) a statement from PNG Power under clause 5.2(b); and
 - (ii) such evidence of the actual and likely increase in costs referred to in clause 5.2(b)(iii) as is required by the Regulator,then, on the 21st Business Day after receiving PNG Power's statement and that evidence, the Regulator is deemed to have notified PNG Power of its decision that:
 - (iii) the Positive Tax Pass Through Amount proposed by PNG Power in relation to the relevant Tax Change Event in PNG Power's statement be the Approved Tax Pass Through Amount in respect of that Tax Change Event; and
 - (iv) the basis on, date from and period over which that Approved Tax Pass Through Amount may be applied to Customers are as specified in PNG Power's statement.

Required Tax Pass Through

- (e) If a Negative Tax Change Event occurs, the Regulator may require PNG Power to pass through to Customers an aggregate amount (***Negative Tax Pass Through Amount***) that is not greater than the Required Tax Pass Through Amount (as determined by the Regulator) in respect of that Tax Change Event. In such a case, the Regulator must decide:
- (i) the Negative Tax Pass Through Amount in respect of that Tax Change Event;
 - (ii) the basis on which that Negative Tax Pass Through Amount must be applied to Customers, including whether this amount is to be applied in the calculation of the Maximum Annual Price Cap for a Subsequent Regulatory Year pursuant to clause 2.3 and Schedules 2 and 3 or otherwise; and
 - (iii) the date from, and period over, which the Negative Tax Pass Through Amount in respect of that Tax Change Event must be applied to Customers,
- and notify PNG Power in writing of the Regulator's decision and the reasons for the Regulator's decision.
- (f) PNG Power must provide the Regulator with such information as the Regulator requires for the purpose of making a decision under clause 5.2(e) within the time specified by the Regulator.

Relevant Factors

- (g) In making a decision under clause 5.2(c) or 5.2(e), the Regulator must (in the case of a decision under clause 5.2(c)) take into account the matters and proposals set out in PNG Power's statement and:
- (i) in the case of a decision under clause 5.2(c) - the Regulator must ensure that PNG Power is fully (but not over) compensated for the actual and likely increase in costs referred to in clause 5.2(b)(iii); and
 - (ii) in the case of a decision under clause 5.2(e) – the Regulator must ensure that the aggregate amount that PNG Power is required to pass through to Customers is an amount that is equivalent to (but not more than) the costs that PNG Power has saved and is likely to save over the term of this Contract in generating, transmitting and distributing electricity for delivery to premises and public lighting installations, and retailing electricity to Customers in respect of premises and public lighting installations, that are located in a Service Area as a result of the occurrence of the Negative Tax Change Event,
- taking into account:
- (iii) the relative amounts of electricity supplied by PNG Power to each Customer;

- (iv) the time cost of money for the period over which the Approved Tax Pass Through Amount or the Negative Tax Pass Through Amount (as the case may be) is to be applied;
- (v) the basis on and period over which the Approved Tax Pass Through Amount or the Negative Tax Pass Through Amount (as the case may be) is to be applied;
- (vi) any previous application of this clause 5.2 which has resulted in an Approved Tax Pass Through Amount or a Negative Tax Pass Through Amount in respect of a previous Tax Change Event being more or less than the amount which it should have been for the purposes of this clause 5.2;
- (vii) any change in the way or rate at which another Tax is calculated, or the removal or imposition of another Tax, which, in the Regulator's opinion, is complementary to the Tax Change Event concerned;
- (viii) the effect of any other previous Tax Change Event that has occurred since the later of the Commencement Date and the last decision made under this clause 5.2 in relation to a Tax Change Event; and
- (ix) any other factors the Regulator considers relevant.

Application of Approved Tax Pass Through Amount or Negative Tax Pass Through Amount

- (h) PNG Power may, after:
 - (i) receipt or deemed receipt of a notice under clause 5.2(c) or (d) allowing PNG Power to pass through an Approved Tax Pass Through Amount; and
 - (ii) publishing a notice in a daily newspaper circulating nationally that sets out:
 - (A) the Approved Tax Pass Through Amount which the Regulator has approved or is deemed to have approved;
 - (B) the circumstances giving rise to the Approved Tax Pass Through Amount; and
 - (C) the basis on, date from and period over PNG Power will apply the Approved Tax Pass Through Amount to Customers,

apply the Approved Tax Pass Through Amount on the basis, from the date and over the period specified or deemed to be specified in the notice from the Regulator.
- (i) PNG Power must, after receipt of a notice under clause 5.2(e) requiring PNG Power to pass through a Negative Tax Pass Through Amount to Customers, apply the Negative Tax Pass Through Amount on the basis, from the date and over the period specified in the notice from the Regulator.
- (j) The effect of an Approved Tax Pass Through Amount or a Negative Tax Pass Through Amount must be:
 - (i) shown on the bill of each affected Customer; or

- (ii) otherwise notified to such Customers in a manner approved by the Regulator.

Relevance of Approved Tax Pass Through Amount or Negative Tax Pass Through Amount

- (k) An Approved Tax Pass Through Amount or a Negative Tax Pass Through Amount applied by PNG Power under this clause 5.2 is only to be taken into account in the application of clauses 2 and 3 to the extent that the manner in which it has been applied is through the inclusion of an amount as "TPTA" in the formula used to calculate the Maximum Annual Price Cap for a Subsequent Regulatory Year as set out in Schedule 2.

5.3 Water Access Pass Through Amounts

Application by PNG Power

- (a) In any Subsequent Regulatory Year (the **Submission Regulatory Year**), PNG Power may seek the Regulator's approval to charge Customers, in addition to the maximum amounts that PNG Power is otherwise permitted to charge Customers for the Supply and Sale of electricity pursuant to clauses 2 and 3 during the immediately succeeding Regulatory Year (the **Relevant Regulatory Year**), an amount that is not greater than the Water Access Pass Through Amount in respect of the Relevant Regulatory Year (to the extent that amount is positive).
- (b) To seek the Regulator's approval to pass through an amount under clause 5.3(a), PNG Power must give the Regulator a statement, by the second Friday in November of the Submission Regulatory Year, specifying:
 - (i) that amount;
 - (ii) the payments of fees referable to year ending on 30 September in the Submission Regulatory Year which have been made by PNG Power under the Water Use Permits;
 - (iii) the basis on which PNG Power proposes to apply the amount referred to in paragraph (i) to Customers; and
 - (iv) the date from, and period over, which PNG Power proposes to apply the amount referred to in paragraph (i) to Customers,and must be accompanied by evidence of the payments referred to in paragraph (ii).
- (c) If the Regulator receives a statement under clause 5.3(b), the Regulator must decide:
 - (i) the Water Access Pass Through Amount in respect of the Relevant Regulatory Year;
 - (ii) the basis on which the amount referred to in clause 5.3(b)(i) or the amount referred to in clause 5.3(c)(i) as determined by the Regulator (whichever is the lesser) (the **Approved Water Pass Through Amount**) may be applied to Customers; and

(iii) the date from, and period over, which the Approved Water Pass Through Amount may be applied to Customers,

and notify PNG Power in writing of the Regulator's decision and the reasons for the Regulator's decision.

(d) If the Regulator does not give a notice to PNG Power under clause 5.3(c) within 20 Business Days of receiving:

(i) a statement from PNG Power under clause 5.3(b); and

(ii) such evidence of the payments referred to in clause 5.3(b)(ii) as is required by the Regulator,

then, on the 21st Business Day after receiving PNG Power's statement and that evidence, the Regulator is deemed to have notified PNG Power of its decision that:

(iii) the amount referred to in clause 5.3(b)(i) be the Approved Water Pass Through Amount; and

(iv) the basis on, date from and period over which that amount may be applied are as specified in PNG Power's statement.

Required Water Pass Through

(e) The Regulator may require PNG Power to pass through to Customers an amount that is equal to the Water Access Pass Through Amount in respect of any Regulatory Year (to the extent that amount is negative).

(f) If the Regulator requires PNG Power to pass through to Customers an amount under clause 5.3(e), the Regulator must decide:

(i) that amount (such amount being referred to as a **Required Water Pass Through Amount**);

(ii) the basis of which that Required Water Pass Through Amount must be applied to Customers; and

(iii) the date from, and period over, which that Required Water Pass Through Amount must be applied to Customers,

and notify PNG Power in writing of the Regulator's decision and the reasons for the Regulator's decision.

(g) PNG Power must provide the Regulator with such information as the Regulator requires for the purpose of making a decision under clause 5.3(f) within the time specified by the Regulator.

Application of Approved Water Pass Through Amount or Required Water Pass Through Amount

(h) PNG Power may, after:

(i) receipt or deemed receipt of a notice under clause 5.3(c) or (d) allowing PNG Power to pass through an Approved Water Pass Through Amount; and

- (ii) publishing a notice in a daily newspaper circulating nationally that sets out:
 - (A) the Approved Water Pass Through Amount which the Regulator has approved or is deemed to have approved;
 - (B) the circumstances giving rise to the Approved Water Pass Through Amount; and
 - (C) the basis on, date from and period over which PNG Power will apply the Approved Water Pass Through Amount to Customers,

apply the Approved Water Pass Through Amount on the basis, from the date and over the period specified or deemed to be specified in the notice from the Regulator.

- (i) PNG Power must, after receipt of a notice under clause 5.3(f) requiring PNG Power to pass through a Required Water Pass Through Amount to Customers, apply the Required Water Pass Through Amount on the basis, from the date and over the period specified in the notice from the Regulator.
- (j) The effect of an Approved Water Pass Through Amount or a Required Water Pass Through Amount must be:
 - (i) shown on the bill of each affected Customer; or
 - (ii) otherwise notified to such Customers in a manner approved by the Regulator.

Relevance of Approved Water Pass Through Amount or Required Water Pass Through Amount

- (k) An Approved Water Pass Through Amount or a Required Water Pass Through Amount applied by PNG Power under this clause 5.3 is not to be taken into account in the application of clauses 2 and 3.

6. Methods of Calculation, Reporting and Customer Rebates

6.1 Methods of Calculation

Undelivered Energy

- (a) PNG Power must, by 30 July 2002, give the Regulator a statement which sets out the method which PNG Power proposes to use to calculate the amount of energy not delivered in a Service Area as a result of Outages other than Uncontrollable Outages (the **Undelivered Energy** in respect of a Service Area).
- (b) The Regulator must, by 30 September 2002, decide whether or not to approve the method proposed by PNG Power under clause 6.1(a) and, in making this decision, the Regulator must take into account:
 - (i) accepted international practices for calculating amounts of energy that are not delivered as a result of outages;
 - (ii) the need to ensure that the method used to calculate the amount of such energy results in reasonable and consistent estimates of lost load and of

disrupted supply of electricity across all Service Areas and enables the calculation of the amount of energy that is not delivered as a result of any Outage (other than an Uncontrollable Outage) irrespective of the cause, duration or extent of that Outage;

- (iii) the measures which PNG Power can reasonably be required to implement for the purposes of calculating the amount of such energy; and
- (iv) any other factors the Regulator considers relevant.

The Regulator must notify PNG Power in writing of its decision under this clause 6.1(b) by 30 September 2002.

- (c) If the Regulator decides not to approve the method proposed by PNG Power under clause 6.1(a), the Regulator must specify the method which PNG Power is to use to calculate the Undelivered Energy in respect of each Service Area, taking into account the matters referred to in clause 6.1(b), and must notify PNG Power in writing of its decision under this clause 6.1(c) by 30 September 2002.
- (d) If the Regulator does not notify PNG Power of the Regulator's decision regarding the method proposed by PNG Power under clause 6.1(a) by 30 September 2002, the Regulator is deemed to have approved the method so proposed by PNG Power.

Total Energy Delivered

- (e) PNG Power must, by 30 July 2002, give the Regulator a statement which sets out the method which PNG Power proposes to use to calculate the amount of electricity that would normally be supplied to a transmission or distribution network for delivery to premises or public lighting installations that are located in a Service Area (the **Total Energy Delivered** in respect of a Service Area).
- (f) The Regulator must, by 30 September 2002, decide whether or not to approve the method proposed by PNG Power under clause 6.1(e) and, in making this decision, the Regulator must take into account :
 - (i) the measures which PNG Power can reasonably be required to implement for the purposes of calculating the amount of such electricity; and
 - (ii) any other factors the Regulator considers relevant.

The Regulator must notify PNG Power in writing of its decision under this clause 6.1(f) by 30 September 2002.

- (g) If the Regulator decides not to approve the method proposed by PNG Power under clause 6.1(e), the Regulator must specify the method which PNG Power is to use to calculate the Total Energy Delivered in respect of each Service Area, taking into account the matters referred to in clause 6.1(f), and must notify PNG Power in writing of its decision under this clause 6.1(g) by 30 September 2002.
- (h) If the Regulator does not notify PNG Power of the Regulator's decision regarding the method proposed by PNG Power under clause 6.1(e) by 30 September 2002, the Regulator is deemed to have approved the method so proposed by PNG Power.

Individual Consumption

- (i) PNG Power must, by 30 July 2002, give the Regulator a statement which sets out the method which PNG Power proposes to use to calculate the total amount of electricity consumed at a premises during a Regulatory Year (the **Individual Consumption** in respect of a premises during a Regulatory Year).
- (j) The Regulator must, by 30 September 2002, decide whether or not to approve the method proposed by PNG Power under clause 6.1(i) and, in making this decision, the Regulator must take into account:
 - (i) accepted international practices for measuring and estimating the amount of electricity consumed at particular premises;
 - (ii) the measures which PNG Power can reasonably be required to implement for the purposes of calculating the amount of such electricity; and
 - (iii) any other factors the Regulator considers relevant.

The Regulator must notify PNG Power in writing of its decision under this clause 6.1(j) by 30 September 2002.

- (k) If the Regulator decides not to approve the method proposed by PNG Power under clause 6.1(i), the Regulator must specify the method which PNG Power is to use to calculate the Individual Consumption in respect of a premises during a Regulatory Year, taking into account the matters referred to in clause 6.1(j), and must notify PNG Power in writing of its decision under this clause 6.1(k) by 30 September 2002.
- (l) If the Regulator does not notify PNG Power of the Regulator's decision regarding the method proposed by PNG Power under clause 6.1(i) by 30 September 2002, the Regulator is deemed to have approved the method so proposed by PNG Power.

Total Consumption

- (m) PNG Power must, by 30 July 2002, give the Regulator a statement which sets out the method which PNG Power proposes to use to calculate the total amount of electricity delivered by PNG Power during a period to Customers in respect of premises and public lighting installations that are located in a Service Area (the **Total Consumption** for that period).
- (n) The Regulator must, by 30 September 2002, decide whether or not to approve the method proposed by PNG Power under clause 6.1(m) and, in making this decision, the Regulator must take into account:
 - (i) accepted international practices for measuring and estimating the amount of electricity delivered to premises and public lighting installations;
 - (ii) the measures which PNG Power can reasonably be required to implement for the purposes of calculating the amount of such electricity; and
 - (iii) any other factors the Regulator considers relevant.

The Regulator must notify PNG Power in writing of its decision under this clause 6.1(n) by 30 September 2002.

- (o) If the Regulator decides not to approve the method proposed by PNG Power under clause 6.1(m), the Regulator must specify the method which PNG Power is to use to calculate the Total Consumption for a period, taking into account the matters referred to in clause 6.1(n), and must notify PNG Power in writing of its decision under this clause 6.1(o) by 30 September 2002.
- (p) If the Regulator does not notify PNG Power of the Regulator's decision regarding the method proposed by PNG Power under clause 6.1(m) by 30 September 2002, the Regulator is deemed to have approved the method so proposed by PNG Power.

6.2 Quarterly Reports

- (a) PNG Power must, for each Quarter (commencing with the first Quarter in 2003), give the Regulator a statement that sets out for each Service Area for each month in the relevant Quarter:
 - (i) the Undelivered Energy in respect of that Service Area;
 - (ii) the Total Energy Delivered in respect of the Service Area;
 - (iii) the Unserved Energy Ratio in respect of that Service Area;
 - (iv) the number of Planned Outages occurring during that month which affected premises that are located in that Service Area;
 - (v) for each such Planned Outage, whether the Required Notice of that Planned Outage was given, the means (if any) by which Customers were notified of the Planned Outage and the period between the giving of such notification and the commencement of the Planned Outage;
 - (vi) the number of New Connections made in respect of premises that are located in that Service Area; and
 - (vii) the number of New Connections in relation to premises that are located in that Service Area which were not made by the Required Connection Date.
- (b) The statement referred to in clause 6.2(a) must be in such form (if any) as is required by the Regulator.
- (c) A statement for a Quarter referred to in clause 6.2(a) must be given to the Regulator by the last Business Day of the month which immediately follows the end of that Quarter.
- (d) PNG Power must provide to the Regulator any additional information that the Regulator requires in connection with the information contained in a statement referred to in clause 6.2(a) within such time as the Regulator requires.

6.3 Reliability Standards Rebate

- (a) For each Regulatory Year PNG Power must pay to each Customer in respect of a premises located in a Service Area and to which electricity is supplied by PNG

Power, an amount (R_t) which is the greater of zero and the amount calculated as follows:

$$R_t = [IC_t * (USE_{s,t} - RT_{z,t}/100)] * [MAP_t * 5] * D_t$$

where:

IC_t is the Individual Consumption in respect of the premises for that Regulatory Year (expressed in MWh);

$USE_{s,t}$ is the Unserved Energy Ratio in respect of the Service Area in which the premises is located (s) for that Regulatory Year;

$RT_{z,t}$ is the Reliability Target for that Regulatory Year as set out in Schedule 9 for the Service Zone in which that Service Area is located;

MAP_t is the Maximum Annual Price Cap for that Regulatory Year; and

D_t is:

- (i) if the relevant premises are located in Service Zone 1 – zero where that Regulatory Year is the First Regulatory Year and 1 where that Regulatory Year is any other Regulatory Year; and
 - (ii) if the relevant premises are located in Service Zone 2 or Service Zone 3 – zero where that Regulatory Year is the First Regulatory Year or 2003, 2004 or 2005 and 1 where that Regulatory Year is any other Regulatory Year.
- (b) The amount referred to in clause 6.3(a) must be paid:
- (i) in four equal instalments by way of a deduction against each of the next four bills that are rendered in respect of electricity supplied to that premises, with the first such bill against which the deduction is made being the first bill that is issued after 30 April in the Regulatory Year immediately following the relevant Regulatory Year; or
 - (ii) where PNG Power so determines, by way of a separate sum which is paid by 30 April in the Regulatory Year immediately following the relevant Regulatory Year to the person (if any) who is then the Customer in respect of those premises.
- (c) PNG Power must, for each Regulatory Year, give the Regulator a statement that sets out for each Service Area for that Regulatory Year:
- (i) the Undelivered Energy in respect of each such Service Area;
 - (ii) the Total Energy Delivered in respect of each such Service Area;
 - (iii) the Unserved Energy Ratio in respect of each such Service Area; and
 - (iv) the total for each such Service Area of the amounts of the Individual Consumption in respect of each premises located in that Service Area.
- (d) The statement referred to in clause 6.3(c) must be in such form (if any) as is required by the Regulator.

- (e) A statement for a Regulatory Year referred to in clause 6.3(c) must be given to the Regulator by 30 April of the immediately succeeding Regulatory Year.
- (f) PNG Power must:
 - (i) provide to the Regulator any additional information that the Regulator requires in connection with the information contained in the statement referred to in clause 6.3(c) within such time as the Regulator requires; and
 - (ii) if required by the Regulator, and within such time as the Regulator stipulates, provide to the Regulator evidence that PNG Power has paid any amount required to be paid pursuant to clause 6.3(a) as required by this clause 6.3.

6.4 Planned Outages Rebate

- (a) If PNG Power does not give the Required Notice of a Planned Outage that affects premises which are located in a Service Area and to which electricity is supplied by PNG Power, and the Customer in respect of that premises makes a complaint to PNG Power (either in person, by telephone or in writing) about that failure within 30 Business Days after the day on which that Planned Outage commences, PNG Power must pay to that Customer an amount of K5 in respect of that premises.
- (b) The amount referred to in clause 6.4(a) must be paid:
 - (i) by way of deduction against the first bill in respect of electricity supplied to the relevant premises which is rendered after the making of the complaint referred to in clause 6.4(a); or
 - (ii) where no such bill is rendered within 3 months after the making of the complaint referred to in clause 6.4(a) or where PNG Power so determines, by way of a separate sum which is paid to the relevant Customer within 4 months after the making of that complaint.
- (c) In addition to any payment which is required to be made pursuant to clause 6.4(a), PNG Power must pay to each Customer in respect of a premises which is located in a Service Area and to which electricity is supplied by PNG Power an amount of K5 for each such premises where the number of Planned Outages in a Regulatory Year affecting premises in that Service Area and of which the Required Notice is not given exceeds 5% of the total number of Planned Outages in that Regulatory Year that affect premises in that Service Area.
- (d) The amount referred to in clause 6.4(c) must be paid:
 - (i) by way of deduction against the first bill in respect of electricity supplied to the relevant premises which is rendered after 31 March in the Regulatory Year immediately following the relevant Regulatory Year; or
 - (ii) where no such bill is rendered by 30 April in the Regulatory Year immediately following the relevant Regulatory Year or where PNG Power so determines, by way of a separate sum which is paid by 30 April in the Regulatory Year immediately following the relevant Regulatory Year to the person (if any) who is then the Customer in respect of those premises.

- (e) PNG Power must, for each Regulatory Year, give the Regulator a statement that sets out for each Service Area for that Regulatory Year:
 - (i) the number of Planned Outages occurring during that Regulatory Year which affected premises that are located in that Service Area; and
 - (ii) for each such Planned Outage, whether the Required Notice of that Planned Outage was given, the means (if any) by which Customers were notified of the Planned Outage and the period between the giving of such notification and the commencement of that Planned Outage.
- (f) The statement referred to in clause 6.4(e) must be in such form (if any) as is required by the Regulator.
- (g) A statement for a Regulatory Year referred to in clause 6.4(e) must be given to the Regulator by 31 January of the immediately succeeding Regulatory Year.
- (h) PNG Power must:
 - (i) provide to the Regulator any additional information that the Regulator requires in connection with the information contained in the statement referred to in clause 6.4(e) within such time as the Regulator requires; and
 - (ii) if required by the Regulator, and within such time as the Regulator stipulates, provide to the Regulator evidence that PNG Power has paid any amount required to be paid pursuant to clause 6.4(a) or (c) as required by this clause 6.4.

6.5 Late Connections Rebate

- (a) If PNG Power does not complete a New Connection in respect of a premises that is located in a Service Area by the Required Connection Date, then PNG Power must pay to the Customer in respect of that premises the lesser of:
 - (i) a sum of K20 for each day during the period commencing on the day after the Required Connection Date and expiring on the day before that New Connection is made; and
 - (ii) K100.
- (b) The amount referred to in clause 6.5(a) must be paid:
 - (i) by way of deduction against the first bill in respect of electricity supplied to the relevant premises which is rendered after the expiry of the period of 10 Business Days commencing on the Required Connection Date; or
 - (ii) where no such bill is rendered within 3 months after the expiry of the period referred to in clause 6.5(b)(i) or where PNG Power so determines, by way of a separate sum which is paid within 4 months after the expiry of that period to the person (if any) who is then the Customer in respect of those premises.
- (c) PNG Power must, for each Regulatory Year, give the Regulator a statement that sets out for each Service Area for that Regulatory Year:

- (i) the number of New Connections made in respect of premises that are located in that Service Area; and
 - (ii) the number of New Connections in relation to premises that are located in that Service Area which were not made by the Required Connection Date.
- (d) The statement referred to in clause 6.5(c) must be in such form (if any) as is required by the Regulator.
- (e) A statement for a Regulatory Year referred to in clause 6.5(c) must be given to the Regulator by 31 January of the immediately succeeding Regulatory Year.
- (f) PNG Power must:
- (i) provide to the Regulator any additional information that the Regulator requires in connection with the information contained in the statement referred to in clause 6.5(c) within such time as the Regulator requires; and
 - (ii) if required by the Regulator, and within such time as the Regulator stipulates, provide to the Regulator evidence that PNG Power has paid any amount required to be paid pursuant to clause 6.5(a) as required by this clause 6.5.

6.6 Information about Rebates

PNG Power must provide information to its Customers about their eligibility for rebates under this clause 6, such information to be in a form that is acceptable to the Regulator.

7. Amendment of Regulatory Contract

7.1 Agreed Amendments

- (a) Subject to clause 7.1(b), this Contract may be varied from time to time by written agreement between the Regulator and PNG Power but any such variation must not be inconsistent with the Regulatory Principles or the requirements of the *Independent Consumer and Competition Commission Act 2002*.
- (b) No variation may be made to this Contract (whether pursuant to this clause 7.1 or pursuant to clause 4.1) unless:
- (i) at least 40 Business Days prior to any such variation taking effect:
 - (A) the Regulator has published a notice describing the proposed variation in both the National Gazette and a daily newspaper circulating nationally and inviting the making of submissions in relation to the proposed variation not less than 20 Business Days after the date of publication of that notice;
 - (B) the Regulator has provided a notice to the Minister responsible for the *Electricity Industry Act* describing the proposed variation; and
 - (C) the Regulator has made available, for inspection or purchase by the public, copies of the precise form of the proposed variation; and

- (ii) the Regulator has considered such submissions in relation to the proposed variation as it receives under clause 7.1(b)(i).

7.2 Amendments made by virtue of the operation of the Independent Consumer and Competition Commission Act 2002

If, with the consent of PNG Power, any service comprising the Supply and Sale of electricity, any Excluded Services or any Schedule Services cease to be regulated services (as that term is defined in the *Independent Consumer and Competition Commission Act 2002*), this Contract will be varied, in accordance with the operation of section 33(4) of the *Independent Consumer and Competition Commission Act 2002*, by deleting any reference in this Contract to such of those services as have ceased to be regulated services.

8. Termination of Regulatory Contract

8.1 Agreed termination

This Contract may be terminated at any time by written agreement between the Regulator and PNG Power.

8.2 Cessation of PNG Power as a regulated entity

This Contract will terminate automatically if PNG Power ceases to be a regulated entity (as that term is defined in the *Independent Consumer and Competition Commission Act 2002*).

Schedule 1 - MAXIMUM TARIFFS FOR FIRST REGULATORY YEAR

A. Industrial Customers (Credit Meters)

Electricity Supply	Rates and Charges
All energy	22.78 toea/kWh
Demand charge	24.42 Kina/kVA/month
Minimum demand	200.00 Kina/month

B. General Supply Customers

B.1 Credit Meters

Electricity Supply	Rates and Charges
All energy	41.82 toea/kWh
Minimum charge	9.00 Kina/month

B.2 Easipay

Electricity Supply	Rates and Charges
All energy	40.80 toea/kWh
Minimum charge	33.00 Kina/receipt
Easipay Emergency Receipt – General Supply	33.00 Kina

C. Domestic Customers

C.1 Credit Meters

Electricity Supply	Rates and Charges
First 30 kWh/month	19.66 toea/kWh/month
Balance	32.52 toea/kWh
Minimum charge	6.00 Kina/month
Easipay Emergency Service	8.00 Kina
Easipay Emergency Receipt – Domestic	8.00 Kina

C.2 Easipay

Electricity Supply	Rates and Charges
All energy	27.13 toea/kWh
Minimum charge	8.00 Kina/receipt

D. Public Lighting Customers

Type of fitting	Annual charges (Kina)
40 W Fluorescent	67.00
80 W Fluorescent	105.00
50 W Mercury Vapor HP	83.00
80 W Mercury Vapor HP	125.00
125 W Mercury Vapor HP	191.00
250 W Mercury Vapor HP	382.00
400 W Mercury Vapor HP	607.00
70 W Sodium Vapor HP	115.00
120 W Sodium Vapor HP	185.00
150 W Sodium Vapor HP	240.00
250 W Sodium Vapor HP	384.00
400 W Sodium Vapor HP	612.00
90 W Sodium Vapor HP	169.00
135 W Sodium Vapor HP	240.00
500 W Tungsten Halogen	696.00
1500 W Tungsten Halogen	2309.00
1000 W Quartz Incandescent	1390.00
100 W Incandescent	140.00
120 W Incandescent	169.00
150 W Incandescent	207.00

Schedule 2 - TARIFF FORMULAE

A. Maximum Annual Price Cap (MAP_t)

The Maximum Annual Price Cap (expressed in K/MWh) for Regulatory Year t (MAP_t) is calculated as follows:

$$\text{MAP}_t = \text{MAP}_{t-1} * \text{CWI}_t * (1 - X_t) * (1 - \text{CEF}) + \text{OUR}_t + \text{TPTA}$$

where:

MAP_{t-1} is the Maximum Annual Price Cap (expressed in K/MWh) for Regulatory Year t-1 prior to any recalculation of it for the purposes of clause 3.2. Where Regulatory Year t is 2003, MAP_{t-1} is 371.45K/MWh;

CWI_t is the change in the Cumulative Weighted Index over the 12 month period ending on 30 September in Regulatory Year t-1 and is calculated in accordance with paragraph B of this Schedule 2;

X_t is the value of X for Regulatory Year t as set out in paragraph A.2 of Schedule 3;

CEF is:

- (a) where Regulatory Year t is a Regulatory Year preceding 2007-zero; and
- (b) where Regulatory Year t is 2007 or a subsequent Regulatory Year – the value of CEF as calculated pursuant to paragraph A.3 of Schedule 3;

OUR_t is the Over/Under Recovery Adjustment (if any) (expressed in K/MWh) for Regulatory Year t and is calculated in accordance with paragraph C of this Schedule 2; and

TPTA is the total of such amounts (if any) (expressed in K/MWh) as the Regulator has determined should be applied in the calculation of the Maximum Annual Price Cap for Regulatory Year t pursuant to clause 5.2. TPTA will be positive if the amounts to be passed through as a result of the occurrence of Positive Tax Change Events exceed the amounts to be passed through as a result of the occurrence of Negative Tax Change Events. TPTA will be negative if the amounts to be passed through as a result of the occurrence of Negative Tax Change Events exceed the amounts to be passed through as a result of the occurrence of Positive Tax Change Events.

B. Change in the Cumulative Weighted Index (CWI_t)

The change in the Cumulative Weighted Index over the 12 month period ending on 30 September in Regulatory Year t-1 (CWI_t) is calculated as follows:

$$\text{CWI}_t = \{ (W1_t * \delta\text{PNGCPI}_{t-1}) + (W2_t * \delta\text{RAER}_{t-1}) + (W3_t * \delta\text{FPI}_{t-1}) + (W4_t * \delta\text{RUSER}_{t-1}) + (W5_t * [(0.3 * \delta\text{PNGCPI}_{t-1}) + (0.7 * \delta\text{RUSER}_{t-1})]) \} / \{ (W1_{t-1} * \delta\text{PNGCPI}_{t-2}) + (W2_{t-1} * \delta\text{RAER}_{t-2}) + (W3_{t-1} * \delta\text{FPI}_{t-2}) + (W4_{t-1} * \delta\text{RUSER}_{t-2}) + (W5_{t-1} * [(0.3 * \delta\text{PNGCPI}_{t-2}) + (0.7 * \delta\text{RUSER}_{t-2})]) \}$$

where:

$W1_t$ is the value of W1 for Regulatory Year t as set out in paragraph A.1 of Schedule 3;

$W2_t$ is the value of W2 for Regulatory Year t as set out in paragraph A.1 of Schedule 3;

$W3_t$ is the value of W3 for Regulatory Year t as set out in paragraph A.1 of Schedule 3;

$W4_t$ is the value of W4 for Regulatory Year t as set out in paragraph A.1 of Schedule 3;

$W5_t$ is the value of W5 for Regulatory Year t as set out in paragraph A.1 of Schedule 3;

$W1_{t-1}$ is the value of W1 for Regulatory Year t-1 as set out in paragraph A.1 of Schedule 3;

$W2_{t-1}$ is the value of W2 for Regulatory Year t-1 as set out in paragraph A.1 of Schedule 3;

$W3_{t-1}$ is the value of W3 for Regulatory Year t-1 as set out in paragraph A.1 of Schedule 3;

$W4_{t-1}$ is the value of W4 for Regulatory Year t-1 as set out in paragraph A.1 of Schedule 3;

$W5_{t-1}$ is the value of W5 for Regulatory Year t-1 as set out in paragraph A.1 of Schedule 3;

$\delta\text{PNGCPI}_{t-1}$ is calculated as:

$$\delta\text{PNGCPI}_{t-1} = \text{PNGCPI}_{t-1} / \text{PNGCPI}_{2001}$$

where:

PNGCPI_{t-1} is the Adjusted PNG CPI for the 12 month period ending on 30 September in Regulatory Year t-1 or calendar year t-1 and is calculated in accordance with paragraph B.1(a) of Schedule 3; and

PNGCPI_{2001} is the Adjusted PNG CPI for the 12 month period ending on 30 September 2001 and is calculated in accordance with paragraph B.1(a) of Schedule 3;

$\delta\text{PNGCPI}_{t-2}$ is calculated as:

$$\delta\text{PNGCPI}_{t-2} = \text{PNGCPI}_{t-2} / \text{PNGCPI}_{2001}$$

where:

PNGCPI_{t-2} is the Adjusted PNG CPI for the 12 month period ending on 30 September in Regulatory Year t-2 or calendar year t-2 and is calculated in accordance with paragraph B.1(a) of Schedule 3; and

PNGCPI₂₀₀₁ is the Adjusted PNG CPI for the 12 month period ending on 30 September 2001 and is calculated in accordance with paragraph B.1(a) of Schedule 3;

δRAER_{t-1} is calculated as:

$$\delta\text{RAER}_{t-1} = \left(1 + \frac{\text{AER}_{t-1} - \text{AER}_{2001}}{\text{AER}_{2001}} \right) * \frac{\text{ACPI}_{t-1}}{\text{ACPI}_{2001}}$$

where:

AER_{t-1} is the Kina/Australian Dollar Exchange Rate for the 12 month period ending on 30 September in Regulatory Year t-1 or calendar year t-1 and is calculated in accordance with paragraph B.2(a) of Schedule 3;

ACPI_{t-1} is the Australian CPI for the 12 month period ending on 30 September in Regulatory Year t-1 or calendar year t-1 and is calculated in accordance with paragraph B.3(a) of Schedule 3;

AER_{2001} is 0.5949; and

ACPI_{2001} is 134.20;

δRAER_{t-2} is calculated as:

$$\delta\text{RAER}_{t-2} = \left(1 + \frac{\text{AER}_{t-2} - \text{AER}_{2001}}{\text{AER}_{2001}} \right) * \frac{\text{ACPI}_{t-2}}{\text{ACPI}_{2001}}$$

where:

AER_{t-2} is the Kina/Australian Dollar Exchange Rate for the 12 month period ending on 30 September in Regulatory Year t-2 or calendar year t-2 and is calculated in accordance with paragraph B.2(a) of Schedule 3;

ACPI_{t-2} is the Australian CPI for the 12 month period ending on 30 September in Regulatory Year t-2 or calendar year t-2 and is calculated in accordance with paragraph B.3(a) of Schedule 3;

AER_{2001} is 0.5949; and

ACPI_{2001} is 134.20;

δFPI_{t-1} is calculated as:

$$\delta\text{FPI}_{t-1} = \left(1 + \frac{\text{AFP}_{t-1} - \text{AFP}_{2001}}{\text{AFP}_{2001}} \right)$$

where:

AFP_{t-1} is the Average Fuel Price for the 12 month period ending on 30 September in Regulatory Year t-1 or calendar year t-1 and is calculated in accordance with paragraph B.4(a) of Schedule 3; and

AFP₂₀₀₁ is 3.812, which is the Average Fuel Price for the 12 month period ending on 30 September 2001;

δFPI_{t-2} is calculated as:

$$\delta FPI_{t-2} = \left(1 + \frac{AFP_{t-2} - AFP_{2001}}{AFP_{2001}} \right)$$

where:

AFP_{t-2} is the Average Fuel Price for the 12 month period ending on 30 September in Regulatory Year t-2 or calendar year t-2 and is calculated in accordance with paragraph B.4(a) of Schedule 3; and

AFP₂₀₀₁ is 3.812, which is the Average Fuel Price for the 12 month period ending on 30 September 2001;

δRUSER_{t-1} is calculated as:

$$\delta RUSER_{t-1} = \left(1 + \frac{USER_{t-1} - USER_{2001}}{USER_{2001}} \right) * \frac{USCPI_{t-1}}{USCPI_{2001}}$$

where:

USER_{t-1} is the Kina/United States Dollar Exchange Rate for the 12 month period ending on 30 September in Regulatory Year t-1 or calendar year t-1 and is calculated in accordance with paragraph B.5(a) of Schedule 3;

USCPI_{t-1} is the US CPI for the 12 month period ending on 30 September in Regulatory Year t-1 or calendar year t-1 and is calculated in accordance with paragraph B.6(a) of Schedule 3;

USER₂₀₀₁ is 0.3036; and

USCPI₂₀₀₁ is 177.80; and

δRUSER_{t-2} is calculated as:

$$\delta RUSER_{t-2} = \left(1 + \frac{USER_{t-2} - USER_{2001}}{USER_{2001}} \right) * \frac{USCPI_{t-2}}{USCPI_{2001}}$$

where:

USER_{t-2} is the Kina/United States Dollar Exchange Rate for the 12 month period ending on 30 September in Regulatory Year t-2 or calendar year t-2 and is calculated in accordance with paragraph B.5(a) of Schedule 3;

USCPI_{t-2} is the US CPI for the 12 month period ending on 30 September in Regulatory Year t-2 or calendar year t-2 and is calculated in accordance with paragraph B.6(a) of Schedule 3;

USER₂₀₀₁ is 0.3036; and

USCPI₂₀₀₁ is 177.80.

C. Over/Under Recovery Adjustment (OUR_t)

The Over/Under Recovery Adjustment (expressed in K/MWh) for Regulatory Year t (OUR_t) is calculated as follows:

If:

$$0.975 \leq \frac{AWAT_t}{(0.75 * MAP_{t-1}) + (0.25 * MAP_{t-1Adj})} \leq 1.025$$

then OUR_t = 0.

If:

$$\frac{AWAT_t}{(0.75 * MAP_{t-1}) + (0.25 * MAP_{t-1Adj})} > 1.025 \text{ or } \frac{AWAT_t}{(0.75 * MAP_{t-1}) + (0.25 * MAP_{t-1Adj})} < 0.975$$

then OUR_t = MAP_{t-1} - AWAT_t.

For these purposes:

MAP_{t-1} is the Maximum Annual Price Cap (expressed in K/MWh) for Regulatory Year t-1.

Where Regulatory Year t – 1 is the First Regulatory Year, MAP_{t-1} is 371.45 K/MWh;

MAP_{t-1Adj} is:

- (a) where, pursuant to clause 3.2, the Regulator has approved or is deemed to have approved a variation in the tariffs that apply in respect of Regulatory Year t-1 - the Maximum Annual Price Cap (expressed in K/MWh) for Regulatory Year t-1 as recalculated in accordance with clause 3.2(a)(iv)(A); and
- (b) in any other case – MAP_{t-1}; and

AWAT_t is the Actual Weighted Average Tariff (expressed in K/MWh) for Regulatory Year t and is calculated as follows:

$$AWAT_t = \frac{R_{D, t-1} + R_{GS, t-1} + R_{I, t-1} + R_{PL, t-1}}{TC_{t-1}}$$

where:

R_{D, t-1} is the total revenue (expressed in K) derived by PNG Power from the Supply and Sale of electricity, during the 12 month period ending on 30 September in Regulatory Year t-1, to Domestic Customers in respect of premises that are located in a Service Area;

R_{GS, t-1} is the total revenue (expressed in K) derived by PNG Power from the Supply and Sale of electricity, during the 12 month period ending on 30 September in Regulatory Year t-1, to General Supply Customers in respect of premises that are located in a Service Area;

$R_{I, t-1}$ is the total revenue (expressed in K) derived by PNG Power from the Supply and Sale of electricity, during the 12 month period ending on 30 September in Regulatory Year t-1, to Industrial Customers in respect of premises that are located in a Service Area;

$R_{PL, t-1}$ is the total revenue (expressed in K) derived by PNG Power from the Supply and Sale of electricity, during the 12 month period ending on 30 September in Regulatory Year t-1, to Customers in respect of public lighting installations that are located in a Service Area; and

TC_{t-1} is the Total Consumption for the 12 month period ending on 30 September in Regulatory Year t-1.

For these purposes, where Regulatory Year t-1 is the First Regulatory Year, the relevant amount of revenue derived by PNG Power during the 12 month period ending on 30 September in the First Regulatory Year is deemed to include the amount of such revenue that was derived by PNG Power Management or the Papua New Guinea Electricity Commission during that period.

D. Forecast Weighted Average Tariff (FWAT_t)

The Forecast Weighted Average Tariff (expressed in K/MWh) for Regulatory Year t (FWAT_t) is calculated as follows:

$$FWAT_t = \frac{FR_{D, t} + FR_{GS, t} + FR_{I, t} + FR_{PL, t}}{TC_{t-1}}$$

where:

$FR_{D, t}$ is the total revenue (expressed in K) that would be derived by PNG Power from the Supply and Sale of electricity, during Regulatory Year t, to Domestic Customers in respect of premises that are located in a Service Area if:

- (a) the same amount of electricity was delivered by PNG Power during Regulatory Year t to such Domestic Customers as was delivered by PNG Power during the 12 month period ending on 30 September in Regulatory Year t-1 to Domestic Customers in respect of premises that are located in a Service Area; and
- (b) the tariffs for the Supply and Sale of that electricity were those set out in the statement given by PNG Power to the Regulator pursuant to clause 3.1(a) or clause 3.2(a) (as the case may be);

$FR_{GS, t}$ is the total revenue (expressed in K) that would be derived by PNG Power from the Supply and Sale of electricity, during Regulatory Year t, to General Supply Customers in respect of premises that are located in a Service Area if:

- (a) the same amount of electricity was delivered by PNG Power during Regulatory Year t to such General Supply Customers as was delivered by PNG Power during the 12 month period ending on 30 September in

Regulatory Year t-1 to General Supply Customers in respect of premises that are located in a Service Area; and

- (b) the tariffs for the Supply and Sale of that electricity were those set out in the statement given by PNG Power to the Regulator pursuant to clause 3.1(a) or clause 3.2(a) (as the case may be);

$FR_{i,t}$ is the total revenue (expressed in K) that would be derived by PNG Power from the Supply and Sale of electricity, during Regulatory Year t, to Industrial Customers in respect of premises that are located in a Service Area if:

- (a) the same amount of electricity was delivered by PNG Power during Regulatory Year t to such Industrial Customers as was delivered by PNG Power during the 12 month period ending on 30 September in Regulatory Year t-1 to Industrial Customers in respect of premises that are located in a Service Area; and
- (b) the tariffs for the Supply and Sale of that electricity were those set out in the statement given by PNG Power to the Regulator pursuant to clause 3.1(a) or clause 3.2(a) (as the case may be); and

$FR_{p,L}$ is the total revenue (expressed in K) that would be derived by PNG Power from the Supply and Sale of electricity, during Regulatory Year t, to Customers in respect of public lighting installations that are located in a Service Area if:

- (a) the same amount of electricity was delivered by PNG Power during Regulatory Year t to such Customers as was delivered by PNG Power during the 12 month period ending on 30 September in Regulatory Year t-1 to Customers in respect of public lighting installations that are located in a Service Area; and
- (b) the tariffs for the Supply and Sale of that electricity were those set out in the statement given by PNG Power to the Regulator pursuant to clause 3.1(a) or clause 3.2(a) (as the case may be); and

TC_{t-1} is the Total Consumption for the 12 month period ending on 30 September in Regulatory Year t-1.

For these purposes, where Regulatory Year t-1 is the First Regulatory Year, the relevant amount of electricity delivered by PNG Power during the 12 month period ending on 30 September in the First Regulatory Year is deemed to include the amount of such electricity that was delivered by PNG Power Management or the Papua New Guinea Electricity Commission during that period.

Schedule 3 - CALCULATION OF FORMULAE VARIABLES

A. Variables

A.1 Real Weights (W1, W2, W3, W4, W5) for Regulatory Year t

W*	Regulatory Year t									
	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
W1 (Adjusted PNG CPI weight)	0.3029	0.3191	0.3416	0.3436	0.3365	0.3274	0.3198	0.3095	0.2996	0.2897
W2 (Australian \$ purchasing power weight)	0.3200	0.3200	0.3200	0.3200	0.3200	0.3200	0.3200	0.3200	0.3200	0.3200
W3 (Fuel weight)	0.2317	0.2192	0.2032	0.2102	0.2224	0.2355	0.2473	0.2607	0.2737	0.2866
W4 (Kanudi CRC weight)	0.1046	0.1020	0.0974	0.0908	0.0872	0.0843	0.0813	0.0790	0.0768	0.0747
W5 (Kanudi VOMC weight)	0.0407	0.0397	0.0378	0.0353	0.0339	0.0328	0.0316	0.0307	0.0299	0.0290

* The sum of the weights (W) for each Regulatory Year must always be 1.0000.

A.2 Smoothing Factor (X)

Regulatory Year t	2003	2004	2005	2006 - 2011
X	0.010421	0.010421	0.010421	0.0000

A.3 Capital Efficiency Factor (CEF)

$$CEF = (0.0012 * ICP) + 0.049$$

where:

ICP is the numerical amount of the Imprudent Capex Percentage as defined in clause 4.2(d)(ii)(B) (ie. if the Imprudent Capex Percentage is 15%, ICP is 15).

B. Indices

B.1 Adjusted PNG CPI

(a) For a 12 month period ending on 30 September

The Adjusted PNG CPI for the 12 month period ending on 30 September in Regulatory Year t or calendar year t (PNGCPI_t) is calculated as follows:

$$PNGCPI_t = \{ PNGCPI_{(q4, t-1)} + PNGCPI_{(q1, t)} + PNGCPI_{(q2, t)} + PNGCPI_{(q3, t)} \} / 4$$

where:

PNGCPI for a Quarter (q) is the All Groups Weighted Average CPI for Urban Areas excluding Drinks, Tobacco and Betel Nut, published by the National Statistics Office;

$PNGCPI_{(q4, t-1)}$ is the PNGCPI for the Quarter ending on 31 December in Regulatory Year t-1 or calendar year t-1;

$PNGCPI_{(q1, t)}$ is the PNGCPI for the Quarter ending on 31 March in Regulatory Year t or calendar year t ;

$PNGCPI_{(q2, t)}$ is the PNGCPI for the Quarter ending on 30 June in Regulatory Year t or calendar year t; and

$PNGCPI_{(q3, t)}$ is the PNGCPI for the Quarter ending on 30 September in Regulatory Year t or calendar year t.

(b) For a 6 month period ending on 31 March

The Adjusted PNG CPI for the 6 month period ending on 31 March in Regulatory Year t or calendar year t ($PNGCPI_{m,t}$) is calculated as follows:

$$PNGCPI_{m,t} = \{PNGCPI_{(q4,t-1)} + PNGCPI_{(q1,t)}\}/2$$

where such terms are as defined in paragraph (a) above.

B.2 Kina/Australian Dollar Exchange Rate

(a) For a 12 month period ending on 30 September

The Kina/Australian Dollar Exchange Rate for the 12 month period ending on 30 September in Regulatory Year t or calendar year t (AER_t) is calculated as follows:

$$AER_t = \{AER_{(q4, t-1)} + AER_{(q1, t)} + AER_{(q2, t)} + AER_{(q3,t)}\} / 4.$$

where:

AER for a Quarter (q) is the Kina/Australian Dollar inter-bank mid rate published by the Bank of Papua New Guinea (expressed as \$A/1K) prevailing on the last day of that Quarter or, if that last day is not a Business Day, on the next day which is a Business Day (for example, if A\$0.57 can purchase 1 Kina, then AER is 0.57);

$AER_{(q4, t-1)}$ is the AER for the Quarter ending on 31 December in Regulatory Year t-1 or calendar year t-1 ;

$AER_{(q1, t)}$ is the AER for the Quarter ending on 31 March in Regulatory Year t or calendar year t;

$AER_{(q2, t)}$ is the AER for the Quarter ending on 30 June in Regulatory Year t or calendar year t; and

$AER_{(q3,t)}$ is the AER for the Quarter ending on 30 September in Regulatory Year t or calendar year t.

(b) For a 6 month period ending on 31 March

The Kina/Australian Dollar Exchange Rate for the 6 month period ending on 31 March in Regulatory Year t or calendar year t ($AER_{m,t}$) is calculated as follows:

$$AER_{m,t} = \{AER_{(q4,t-1)} + AER_{(q1,t)}\}/2$$

where such terms are as defined in paragraph (a) above.

B.3 Australian CPI

(a) For a 12 month period ending on 30 September

The Australian CPI for the 12 month period ending on 30 September in Regulatory Year t or calendar year t ($ACPI_t$) is calculated as follows:

$$ACPI_t = \{ACPI_{(q4,t-1)} + ACPI_{(q1,t)} + ACPI_{(q2,t)} + ACPI_{(q3,t)}\} / 4$$

where:

ACPI for a Quarter (q) is the Consumer Price Index, All Groups Index Number (weighted average of eight capital cities) published by the Australian Bureau of Statistics for that Quarter in ABS Cat.No.6401.0;

$ACPI_{(q4,t-1)}$ is the ACPI for the Quarter ending on 31 December in Regulatory Year t-1 or calendar year t-1;

$ACPI_{(q1,t)}$ is the ACPI for the Quarter ending on 31 March in Regulatory Year t or calendar year t;

$ACPI_{(q2,t)}$ is the ACPI for the Quarter ending on 30 June in Regulatory Year t or calendar year t; and

$ACPI_{(q3,t)}$ is the ACPI for the Quarter ending on 30 September in Regulatory Year t or calendar year t.

(b) For a 6 month period ending on 31 March

The Australian CPI for the 6 month period ending on 31 March in Regulatory Year t or calendar year t ($ACPI_{m,t}$) is calculated as follows:

$$ACPI_{m,t} = \{ACPI_{(q4,t-1)} + ACPI_{(q1,t)}\}/2$$

where such terms are as defined in paragraph (a) above.

B.4 Average Fuel Price

(a) For a 12 month period ending on 30 September

The Average Fuel Price for the 12 month period ending on 30 September in Regulatory Year t or calendar year t (AFP_t) is calculated as follows:

$$AFP_t = \{AFP_{(q4,t-1)} + AFP_{(q1,t)} + AFP_{(q2,t)} + AFP_{(q3,t)}\} / 4$$

where:

AFP for a Quarter (q) is the average price of all the fuel (expressed in K/litre) purchased by PNG Power during that Quarter for the purpose of generating electricity for supply by PNG Power to premises and public lighting installations that are located in the Service Areas, such average

price being certified as correct by a registered company auditor (as defined in section 2 of the *Accountants Act 1996*);

$AFP_{(q4, t-1)}$ is the AFP for the Quarter ending on 31 December in Regulatory Year t-1 or calendar year t-1 ;

$AFP_{(q1, t)}$ is the AFP for the Quarter ending on 31 March in Regulatory Year t or calendar year t;

$AFP_{(q2, t)}$ is the AFP for the Quarter ending on 30 June in Regulatory Year t or calendar year t; and

$AFP_{(q3, t)}$ is the AFP for the Quarter ending on 30 September in Regulatory Year t or calendar year t.

(b) For a 6 month period ending on 31 March

The Average Fuel Price for the 6 month period ending on 31 March in Regulatory Year t or calendar year t ($AFP_{m,t}$) is calculated as follows:

$$AFP_{m,t} = \{AFP_{(q4, t-1)} + AFP_{(q1, t)}\} / 2$$

where such terms are as defined in paragraph (a) above.

For the purposes of this paragraph B.4, where a Quarter ends in the First Regulatory Year or a preceding calendar year, fuel purchased by PNG Power Management or the Papua New Guinea Electricity Commission during that Quarter for the purpose of generating electricity for supply to premises and public lighting installations that are located in a Service Area is deemed to be fuel purchased by PNG Power during that Quarter for that purpose.

B.5 Kina/United States Dollar Exchange Rate

(a) For a 12 month period ending on 30 September

The Kina/United States Dollar Exchange Rate for the 12 month period ending on 30 September in Regulatory Year t or calendar year t ($USER_t$) is calculated as follows:

$$USER_t = \{USER_{(q4, t-1)} + USER_{(q1, t)} + USER_{(q2, t)} + USER_{(q3, t)}\} / 4$$

where:

USER for a Quarter (q) is the Kina/United States Dollar inter-bank mid rate published by the Bank of Papua New Guinea (expressed as \$US/1K) prevailing on the last day of that Quarter or, if that last day is not a Business Day, on the next day which is a Business Day (for example, if US\$0.28 can purchase 1 Kina, then USER is 0.28);

$USER_{(q4, t-1)}$ is the USER for the Quarter ending on 31 December in Regulatory Year t-1 or calendar year t-1;

$USER_{(q1, t)}$ is the USER for the Quarter ending on 31 March in Regulatory Year t or calendar year t;

$USER_{(q2, t)}$ is the USER for the Quarter ending on 30 June in Regulatory Year t or calendar year t; and

$USER_{(q3,t)}$ is the USER for the Quarter ending on 30 September in Regulatory Year t or calendar year t.

(b) For a 6 month period ending on 31 March

The Kina/United States Dollar Exchange Rate for the 6 month period ending on 31 March in Regulatory Year t or calendar year t ($USER_{m,t}$) is calculated as follows:

$$USER_{m,t} = \{USER_{(q4,t-1)} + USER_{(q1,t)}\}/2$$

where such terms are as defined in paragraph (a) above.

B.6 US CPI

(a) For a 12 month period ending on 30 September

The US CPI for the 12 month period ending on 30 September in Regulatory Year t or calendar year t ($USCPI_t$) is calculated as follows:

$$USCPI_t = \{USCPI_{(q4,t-1)} + USCPI_{(q1,t)} + USCPI_{(q2,t)} + USCPI_{(q3,t)}\} / 4$$

where:

USCPI for a Quarter (q) is the average of the Consumer Price Index for all urban consumers, US city average published by the US Bureau of Labour Statistics for each month of that Quarter in series CUUR 0000SAO;

$USCPI_{(q4,t-1)}$ is the USCPI for the Quarter ending on 31 December in Regulatory Year t-1 or calendar year t-1;

$USCPI_{(q1,t)}$ is the USCPI for the Quarter ending on 31 March in Regulatory Year t or calendar year t;

$USCPI_{(q2,t)}$ is the USCPI for the Quarter ending on 30 June in Regulatory Year t or calendar year t; and

$USCPI_{(q3,t)}$ is the USCPI for the Quarter ending on 30 September in Regulatory Year t or calendar year t .

(b) For a 6 month period ending on 31 March

The US CPI for the 6 month period ending on 31 March in Regulatory Year t or calendar year t ($USCPI_{m,t}$) is calculated as follows:

$$USCPI_{m,t} = \{USCPI_{(q4,t-1)} + USCPI_{(q1,t)}\}/2$$

where such terms are as defined in paragraph (a) above.

B.7 Changes in calculation of CPI and Exchange Rates

- (a) If a source of data described in any of paragraphs B.1, B.2, B.3, B.5 or B.6 above is no longer published, or if any other change occurs in relation to such data which would cause the continued use of the source to result in inaccurate comparisons between data calculated using the source prior to the change and data calculated using the source after the change, then such an alternative source as PNG Power and the Regulator agree shall be substituted.

- (b) If PNG Power and the Regulator are unable to agree on the alternative source of data pursuant to paragraph B.7(a) within 10 Business Days, the matter must be referred for expert determination to the President or other senior office bearer, for the time being, of the Australian Institute of Valuers, or its successor, the decision of which shall be final.

Schedule 4 - SERVICE AREAS AND SERVICE ZONES

Service Areas	Service Zone
Port Moresby	1
Goroka	1
Rabaul/Kervat	1
Gusap	1
Ialibu	1
Kagua	1
Kainantu	1
Kundiawa	1
Kwikila	1
Lae	1
Madang	1
Mendi	1
Minj/Banz	1
Mount Hagen	1
Mumeng	1
Pangia	1
Wabag	1
Wapenamanda	1
Yonki	1
Kimbe	2
Wewak	2
Aitape	3
Alotau	3

Service Areas	Service Zone
Bialla	3
Daru	3
Finschhafen	3
Kavieng	3
Kerema	3
Lorengau	3
Maprik	3
Popondetta	3
Samarai	3
Vanimo	3
Wau	3
Porgera	3

The boundaries for each Service Area listed above are as specified in the retail licence issued to PNG Power under the *Electricity Industry Act*.

Schedule 5 - SCHEDULED SERVICES

Service	Maximum Charge (Kina)
<i>Provision of temporary supply</i>	
Minimum account charge	9.00
Temporary supply connection fee	51.00
<i>New connection where a line is already connected to the relevant connection point</i>	
Normal hours	25.00
After hours	51.00
<i>Reconnection for defaulting customers</i>	
Normal hours	51.00
After hours	101.00
<i>Intermediate meter reading</i>	16.00
<i>Metering & service (single phase) (new connection where a line is required to connect to the relevant connection point for a single phase connection)</i>	83.00
<i>Metering & service (three phase) (new connection where a line is required to connect to the relevant connection point for a three phase connection)</i>	247.00
<i>Metering testing</i>	66.00

Schedule 6 - EXCLUDED SERVICES

1. Provision of a distribution network extension to connect a premises or public lighting installation which is not connected as at the Commencement Date.
2. Provision of a network connection with sufficient capacity to meet a Customer's full demand where the Customer has some locally installed generation or co-generation (ie. standby charge).
3. Network augmentation associated with the connection of a new load (it being acknowledged that the Regulator may establish a method for the costs of such network augmentation to be shared between the Customer in respect of the new load and subsequent Customers who benefit from that augmentation by including provisions for that purpose in a code made under the *Independent Consumer and Competition Commission Act 2002*).
4. Testing of the variation of the voltage at a Customer's terminals at the request of the Customer.
5. Inspecting or testing any service lines, apparatus or works on a Customer's premises at the request of a Customer.

Schedule 7 - CUSTOMER CATEGORIES

. Domestic Customers

A Customer is a Domestic Customer in respect of a premises if that Customer consumes or intends to consume electricity supplied to that premises principally for domestic or household purposes and that Customer is not a General Supply Customer or an Industrial Customer in respect of those premises.

. General Supply Customers

A Customer is a General Supply Customer in respect of a premises if that Customer has a minimum demand for electricity of less than 200kVA at that premises, as determined in accordance with this Schedule 7, and does not consume or intend to consume that electricity principally for domestic or household purposes.

. Industrial Customers

A Customer is an Industrial Customer in respect of a premises if that Customer has a minimum demand for electricity of 200kVA or more at that premises, as determined in accordance with this Schedule 7, irrespective of the purpose for which that electricity is or is intended to be consumed.

For the purposes of this Schedule 7:

- (a) In determining whether a Customer's electricity consumption is principally for domestic or household purposes, PNG Power must take into account past electricity consumption at, and the operations for which electricity has previously been required at, the relevant premises.
- (a) A Customer's minimum demand for electricity at a premises is to be determined on the basis of the metered electricity supply to those premises over any period of 12 consecutive months in the period of two years before the date of calculation.
- (b) On application by PNG Power or the relevant Customer, and if satisfied that it is appropriate to do so, in a case where electricity has been supplied to the relevant premises for a limited period only or inaccuracies have affected the measurement of electricity supplied to those premises, the Regulator may determine an estimated minimum demand for electricity for the Customer in respect of the premises and that estimate shall be used for the purpose of classifying the Customer in accordance with this Schedule 7.

Schedule 8 - ASSUMPTIONS

Note: all costs are expressed in 2001 Kina

. Variable Cost Assumptions by Service Zone

Unit variable costs – Service Zone 1 (Kina/MWh)	Regulatory Year			
	2002	2003	2004	2005
• Fuel costs excluding the payments made in respect of fuel under the Kanudi Contract	301.29	251.08	200.86	200.86
• Payments made in respect of fuel under the Kanudi Contract	100.43	100.43	100.43	100.43
• Payments made in respect of variable operation and maintenance costs under the Kanudi Contract	53.54	53.54	53.54	53.54
• Variable operation and maintenance costs of hydro electric generating plants operated by PNG Power	2.24	2.24	2.24	2.24
• Variable operation and maintenance costs of thermal electric generating plants operated by PNG Power	102.16	102.16	102.16	102.16
• Variable operation and maintenance costs of transmission networks operated by PNG Power	1.12	1.12	1.12	1.12
• Variable operation and maintenance costs of distribution networks operated by PNG Power	2.12	2.12	2.12	2.12

Unit variable costs – Service Zone 2 (Kina/MWh)	Regulatory Year			
	2002	2003	2004	2005
• Fuel costs	346.49	288.74	230.99	230.99
• Variable operation and maintenance costs of hydro electric generating plants operated by PNG Power	17.08	17.08	17.08	17.08
• Variable operation and maintenance costs of thermal electric generating plants operated by PNG Power	44.54	44.54	44.54	44.54
• Variable operation and maintenance costs of distribution networks operated by PNG Power	5.14	5.14	5.14	5.14

Unit variable costs – Service Zone 3 (Kina/MWh)	Regulatory Year			
	2002	2003	2004	2005
• Fuel costs	346.49	288.74	230.99	230.99
• Variable operation and maintenance costs of hydro electric generating plants operated by PNG Power	23.92	23.92	23.92	23.92
• Variable operation and maintenance costs of thermal electric generating plants operated by PNG Power	50.88	50.88	50.88	50.88
• Cost of power purchased from the Porgera Mine and PNG Forest Products Pty Ltd	63.73	63.73	63.73	63.73
• Operation and maintenance costs of distribution networks operated by PNG Power	5.36	5.36	5.36	5.36

• Fixed Cost Assumptions

Total fixed costs ('000 Kina)	Regulatory Year			
	2002	2003	2004	2005
• Fixed operation and maintenance costs excluding the Capital Recovery Charge under the Kanudi Contract ¹	30,489	30,489	30,489	30,489
• Capital Recovery Charge under the Kanudi Contract	22,193	22,193	22,193	22,193
• Payments made in respect of fixed operation and maintenance costs under the Kanudi Contract	11,014	11,014	11,014	11,014
• Fixed operation and maintenance costs of transmission networks operated by PNG Power	6,662	6,662	6,662	6,662
• Fixed operation and maintenance costs of distribution networks operated by PNG Power	13,920	13,920	13,920	13,920
• Land compensation payments relating to the use of the Yonki Dam (and associated land, plant and equipment) as a dam and for related purposes	600	600	600	600
• Land compensation payments relating to the use of the Sirinumu Dam (and associated land, plant and equipment) as a dam and for related purposes	500	500	500	500
• Other land compensation payments	0	0	0	0
• Capital expenditure on generation, transmission and distribution assets operated by PNG Power	37,209	53,489	82,830	45,136

¹ Includes dam maintenance costs paid to PNG Dams Ltd of K800,000 per calendar year and K156,048 per calendar year paid as fees under the Water Use Permits.

Schedule 9 - MINIMUM RELIABILITY STANDARDS

Reliability Target (%)			
Regulatory Year	Service Zone 1	Service Zone 2	Service Zone 3
2003	1.1	N/A	N/A
2004	0.8	N/A	N/A
2005	0.6	1.0	1.5
2006	0.5	1.0	1.5
2007	0.4	1.0	1.5
2008	0.3	1.0	1.5
2009	0.22	1.0	1.5
2010	0.22	1.0	1.5
2011	0.22	0.4	0.8

Schedule 10 - REGULATORY PRINCIPLES

5. There must be an examination of:
 - (a) the value of capital stock at the end of the term of this Contract, which must be based on the depreciated value of the initial capital value used in this Contract (K294,069,000) and the depreciated value of the actual prudent capital expenditures undertaken during the term of this Contract. The depreciation method to be applied to these capital amounts must be the current cost accounting approach applying a depreciated optimised replacement cost (the DORC methodology). The actual capital expenditure made during the term of this Contract must be reviewed to ensure that it was prudent and should be included in the asset base going forward;
 - (b) the continued suitability of the real weights, W1 to W5 set out in the table contained in paragraph A.1 of Schedule 3, given the movement of costs during the term of this Contract;
 - (c) the appropriate rate of return to apply in setting the new price path;
 - (d) the level of future capital expenditure and operating expenditure to maintain service levels, including any efficiency factor to be applied to operating expenditure (other than to fuel and depreciation);
 - (e) the allowance for the costs associated with the Kanudi Contract which is expressed to terminate in 2014;
 - (f) any arrangements that are to apply in relation to, and the timing for, the introduction of access regulation for transmission and distribution networks and the introduction of contestability for electricity consumers; and
 - (g) an allowance for accelerated depreciation of any assets identified by PNG Power as being stranded or potentially being stranded by the introduction of retail competition.
6. PNG Power must be regulated under an incentive regulation approach.
7. A building block approach must be adopted, consisting of the following components:
 - (a) initial capital stock;
 - (b) return on capital (WACC);
 - (c) new capital expenditure;
 - (d) return of capital - economic depreciation; and
 - (e) operating expenses.
8. There must be the establishment of a glide path adjustment with a sharing of efficiency gains between PNG Power and electricity consumers.

Schedule 11 - NEW CONNECTIONS AND REQUIRED CONNECTION DATES

Connection	Required Connection Date ³
Reactivation of service to premises where premises has not been disconnected and premises is located in Service Zones 1, 2 or 3	2 working days after the reactivation of service is requested by the relevant Customer
New low voltage ¹ connection from existing mains adjacent to the premises to be connected where premises is located in: <ul style="list-style-type: none"> - Service Zone 1 - Service Zones 2 or 3 	5 working days after the connection is requested by the relevant Customer 7 working days after the connection is requested by the relevant Customer
New low voltage ¹ connection which requires erection of new mains (with a maximum of 3 additional poles) where relevant premises is located in: <ul style="list-style-type: none"> - Service Zone 1 - Service Zones 2 or 3 	15 working days after the connection is requested by the relevant Customer ⁴ 20 working days after the connection is requested by the relevant Customer ⁴
New high voltage ² connection which requires new mains and pole mounted transformers where relevant premises is located in: <ul style="list-style-type: none"> - Service Zone 1 - Service Zones 2 or 3 	50 working days after the connection is requested by the relevant Customer ⁴ 65 working days after the connection is requested by the relevant Customer ⁴
New high voltage ² connection which requires new mains and ground type substations where relevant premises is located in Service Zones 1, 2 or 3	90 working days after the connection is requested by the relevant Customer ⁴
Any other new connection	Date agreed between PNG Power and the relevant Customer

1 Low voltage means 415V (three-phase) or 240V (single-phase).

2 High voltage means 11kV and above.

3 These Required Connection Dates assume that any electric line or equipment to which the connection is being made is in a safe condition and is ready to receive such connection and that the Customer has complied with any requirements imposed by PNG Power as a pre-condition to connection.

4 These Required Connection Dates assume that the required new mains and transformers are to be located either on land owned by the relevant Customer or on land over which the relevant easements have been granted.

Schedule 12 - YEARLY FORECAST CAPITAL EXPENDITURE

	Regulatory Year				
	2002	2003	2004	2005	2006
Yearly Forecast Capital Expenditure ('000 Kina)*	37,209	53,489	82,830	45,136	24,666

* Excludes all associated overheads.

Executed by PNG Power Ltd

Director Signature

Director/Secretary Signature

Print Name

Print Name

**Executed by the Independent Consumer
and Competition Commission**

Mekere Morauta Kt. MP

Prime Minister and Treasurer

For and on behalf of the Independent Consumer and Competition Commission pursuant to Section
17 of the *Independent Consumer and Competition Commission Act 2002*