

Republic of the Philippines
ENERGY REGULATORY COMMISSION
San Miguel Avenue, Pasig City



**IN THE MATTER OF THE
RESOLUTION ADOPTING
THE ERC RULES
SUPPLEMENTING THE
SWITCHING AND BILLING
PROCESS AND ADOPTING A
DISCONNECTION POLICY
FOR CONTESTABLE
CUSTOMERS**

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ERC CASE NO. 2017-__RM

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NOTICE

D O C K E T E D
Date: FEB 16 2017
By: [Signature]

Notice is hereby given that the draft “*Resolution Adopting the ERC Rules Supplementing the Switching and Billing Process and Adopting a Disconnection Policy for Contestable Customers*” is posted on the Energy Regulatory Commission (ERC) websites www.erc.gov.ph and www.buyyourelectricity.com.ph for comments from the industry stakeholders.

The said Resolution is scheduled for public consultation on 15 March 2017 at nine o’clock in the morning (9:00 AM) to twelve noon (12:00 NN) at the 8th Floor Hearing Room, Pacific Center Building, San Miguel Avenue, Ortigas Center, Pasig City.

All interested parties may submit their comments to contestable@erc.gov.ph on or before 7 March 2017. The said Resolution may be downloaded from the foregoing ERC Websites or may be photocopied, at cost, during regular office hours at the ERC Main Office.

Pasig City, 16 February 2017.

ATTY. NATHAN J. MARASIGAN
Chief of Staff
Office of the Chairman and CEO

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Republic of the Philippines
ENERGY REGULATORY COMMISSION
San Miguel Avenue, Pasig City

**ERC RULES SUPPLEMENTING THE SWITCHING AND
BILLING PROCESS AND ADOPTING A DISCONNECTION
POLICY FOR THE CONTESTABLE CUSTOMERS**

ERC CASE NO. _____RM

Pursuant to Sections 29, 31, 43 and 45 of Republic Act No. 9136, hereinafter referred to as the Act, its Implementing Rules and Regulations (IRR), the Energy Regulatory Commission (ERC) hereby adopts and promulgates the *ERC Rules Supplementing the Switching and Billing Process and Adopting a Disconnection Policy for Contestable Customers*, referred to as "the Rules".

**ARTICLE I
GENERAL PROVISIONS**

Section 1. Objectives.

The Rules shall have the following objectives:

- a. To provide supplementary procedures on the customer switching method and ensure its effective implementation.
- b. To ensure the efficient and timely exchange of information between and among competitive retail market participants.

- c. To provide applicable billing procedures and disconnection process for contestable customers.

Section 2. Scope.

These Rules shall apply to:

- a. Contestable Market;
- b. Retail Electricity Suppliers (RES’);
- c. Distribution Utilities (DUs);
- d. Distributors within Economic Zone;
- e. Suppliers of Last Resort (SOLR);
- f. The Central Registration Body (CRB); and,
- g. All other relevant industry participants.

Section 3. Definition of Terms

Act	Republic Act No. 9136, otherwise known as “Electric Power Industry Reform Act of 2001”.
Business Day	A day other than a Saturday, a Sunday or an official or declared Philippine national or local public holiday.
Central Registration Body	An independent entity assigned to undertake the required processes, information technology, and other systems capable of handling customer switching and information exchange among retail electricity market participants.
Contestable Customer	An electricity End-user which belongs to the Contestable Market. An aggregate of Contestable Customers organized under succeeding phases of retail competition and open access shall be considered as a single

Contestable Customer, unless otherwise provided by the ERC.

Contestable Market

The electricity end-users who have a choice of a supplier of electricity, as may be determined by the ERC in accordance with the Act.

Distribution Services and Open Access Rules (DSOAR)

The set of rules promulgated by the ERC regarding the provision of regulated services by a DU to entities such as captive and contestable customers, RES, other DUs, generation companies, under the environment created by the Act.

Distribution Utility

Any electric cooperative, private corporation, government-owned utility or existing local government unit which has an exclusive franchise to operate a distribution system in accordance with the Act.

Distribution Wheeling Service (DWS)

The conveyance of power throughout a distribution system to meet the demand of end-users.

Distribution Wheeling Service Agreement (DWSA)

An agreement between a DU and a RES, or SOLR on behalf of a Customer, or between a DU and a Customer, for the procurement of DWS.

Dual Billing

A billing system whereby a Contestable Customer receives two (2) separate bills from its RES and from a DU.

Distributors in Economic Zone

Any entity which has an exclusive franchise to operate a distribution system within the economic zones

End-user	Refers to any person or entity requiring the supply and delivery of electricity for its own use.
Energy Regulatory Commission (ERC)	The independent and quasi-judicial regulatory agency created under Section 38 of the Act.
Local Retail Electricity Supplier (Local RES)	The non-regulated business segment of the DU authorized by the ERC to supply electricity to the Contestable Customers within the DU's franchise area only, or Persons authorized by appropriate entities to supply electricity within their respective economic zones. As Local RES, the DU is not required to secure a supplier's license.
National Grid Corporation of the Philippines (NGCP)	The corporation awarded the concession to operate the transmission facilities of the National Transmission Corporation pursuant to the Act and Republic Act No. 9511.
Retail Electricity Supplier (RES)	Any person or entity authorized by the ERC to sell, broker, market or aggregate electricity to end-users in the Contestable Market. Unless otherwise provided, all references to the RES herein shall include the Local RES.
Retail Supply Contract (RSC)	The contract for the sale of electricity entered into by and between the RES and the Contestable Customer.
Single Billing	A billing system whereby a Contestable Customer receives only one consolidated bill issued by a RES.

Supplier of Last Resort	A regulated entity designated by the ERC to serve End-users in the Contestable Market following a Last Resort Supply Event;
Switch Request	A request sent by a prospective RES for the CRB to switch a Contestable Customer from its RES.
Switch or Switching	The commercial transfer of a Contestable Customer from one supplier to another, which takes effect on the regular meter reading date or on a special meter reading date following a last resort supply event.
Wholesale Electricity Spot Market (WESM)	The Wholesale Electricity Spot Market established by the Department of Energy (DOE) pursuant to the Act.

ARTICLE II SWITCH PROCESS

Section 1. The following are the end-users covered by the mandatory contestability requirement laid down in Section 1, Article II of ERC Resolution No. 10, Series of 2016 and Resolution No. 28, Series of 2016 entitled *Revised Timeframe for Mandatory Contestability, Amending Resolution No. 10, Series of 2016 Entitled Revised Rules for Contestability* :

- a. All electricity end-users with a monthly average peak demand of at least 1MW and certified as such by the ERC; and
- b. All electricity end-users with a monthly average peak demand of at least 750kW and certified as such by the ERC.

Section 2. The following end-users, while issued Certificates of Contestability by the ERC, are not covered by the mandatory contestability requirement mentioned above but are allowed to Switch to the CREM on a voluntary basis:

- a. Newly-connected end-user described in Section 3.2 (b) and (c), Article II of the *Revised Rules for Contestability*, which have been in operation for less than twelve (12) months; and,
- b. Government entities certified by the ERC as Contestable Customers pending implementation of the provision provided in Section 2.6, *Article II of the Revised Rules for Contestability*;

Section 3. Switching of a Contestable Customer shall take effect subject to the supplementary conditions and procedures provided hereunder:

- a. No Contestable Customer shall be allowed to Switch should it have an outstanding balance on its regular bill. Whether under dispute or not, the Contestable Customer shall be required to pay the outstanding balance prior to Switching.
- b. Should the payment of a security deposit be required as stated in the RSC, the Contestable Customer shall pay the corresponding deposit to the prospective RES upon receipt of a Switch approval from the RES
- c. A Contestable Customer which is about to Switch to another RES, and which has been required to put up a security deposit by its incumbent RES shall be entitled to the refund of the said amount plus the applicable interest earned, computed in accordance with Section 4, Article II of the “*2016 Rules Governing the Issuance of License to RES and Prescribing the Requirements and Conditions Therefor*”. The incumbent RES shall refund the amount to the Contestable Customer upon settlement by the latter of its outstanding balances.

Section 4. The RES or multiple RES shall have the obligation to supply all the requirements of the Contestable Customer.

Section 5. The DU shall be the default meter service provider for the retail market until such time that the ERC determines the provision of metering services at the retail level to be competitive. For purposes of these Rules, meter service shall include procurement of meter on behalf of a Contestable Customer, meter installation, maintenance, repair, calibration with the supervision of ERC, meter reading, including data dissemination to the CRB.

The NGCP shall be the default meter service provider for the directly-connected Contestable Customer. The NGCP, as the owner of the billing meters, shall be responsible for data dissemination and metering services. Despite and existing commercial agreement by the DU with NGCP on the matter of meter service to the directly-connected Contestable Customer, the meter service provider shall still be considered as the NGCP.

ARTICLE III BILLING AND PAYMENTS

Section 1. Billing Method

- 1.1 The RES, and in the case of multiple RES, the primary RES shall have the responsibility to procure all the energy requirements of the Contestable Customer, contract with the network service providers on behalf of such customer, and submit the Switching requirements to the CRB. In such case, the Contestable Customer shall receive one consolidated bill from the RES reflecting the wheeling charges from the network service providers.
- 1.2 A Contestable Customer which is a direct member of the WESM may choose from the single or dual/multiple billing schemes: *Provided*, That said customer maintain the chosen billing option for at least one (1) year and such should be stipulated in the RSC.

1.3 Neither the DU nor the RES shall impose any charges on a Contestable Customer for changing a billing method.

1.4 For the Dual/Multiple Billing scheme, the Contestable Customer shall have the responsibility to contract with the RES and/or procure from WESM for its electricity requirements; to contract directly with the network service providers for the wheeling agreement; and the responsibility to submit the Switching requirements to the CRB.

The network service provider, RES and/or WESM, if applicable, shall render separate bills directly to the Contestable Customer. The Contestable Customer shall pay the network service provider and the RES and/or WESM separately within the timeframe specified in their respective RSCs and wheeling agreement.

1.5 Should a contestable customer opt to change its billing services, the following provisions shall apply:

a. A Contestable Customer shall send a request for a change in billing to its incumbent RES from current billing scheme to the chosen billing option, at least thirty (30) days prior to the start of the intended billing period covered;

b. The RES shall send the request for a change in billing to the network service provider at least fifteen (15) days prior to the scheduled meter reading date;

c. The network service provider shall provide a response for change in billing to the RES within two (2) Business Days indicating acceptance thereof and the effective date of the change in billing option;

d. The RES shall notify the Contestable Customer within one (1) Business Day upon receipt of response for change in billing.

Section 2. Bill Content

2.1 The RES' bills shall be in clear and simple language, and shall, among others, contain the following:

- a. RES' contact person, address and telephone number;
 - b. Address, telephone number and email addresses of the ERC;
and
 - c. Network service provider's customer service and emergency telephone numbers.
- 2.2 A RES may prescribe such format of its single bill as it deems appropriate: *Provided*, That it identifies and segregates the components of its supplier's charge and separately states the network service provider wheeling charges in detail.
- 2.3 The RES' bills shall contain sufficient information to allow Contestable Customers to calculate their charges, such as but not limited to: the kWh usage for the indicated billing period, the billing date (due date), next meter reading date, remaining balance and payments applied.
- 2.4 If optional services (added-value services) are provided, the associated charges shall be itemized separately on the Contestable Customer's bill.

Section 3. Payment Processing and Remittance

- 3.1 The RES shall supply the entire requirements of its Contestable Customer subject to the pricing methodology as specified in their RSC, and shall pay all amounts due to the network service providers and other payees within the timeframe specified in its respective agreements to avoid disconnection of service.
- 3.2 The RES shall send wheeling service payments to the network service provider within the timeframe specified in their billing agreement by use of electronic funds transfer, bank-to-bank transfers, or any other means agreed upon by both parties.
- 3.3 Should the RES fail to remit to the network service provider the latter's proper share of Contestable Customer payments within the timeframe specified in its billing agreement, the RES shall pay interest on the un-remitted amount. The RES shall calculate the interest at the rate of 12% per annum from the date the payment was due to be received by the network service provider or its bank.

The payment of interest is in addition to, and not in lieu of, the rights and remedies otherwise available to the parties.

- 3.4 The RES may impose late payment charges to Contestable Customers on unpaid amounts provided the terms of the late payment charges are stated in the RSC and previously disclosed to the Contestable Customers.
- 3.5 If a Contestable Customer's check is returned for any reason, the RES may charge the Contestable Customer for the return fee and any reasonable administrative fee, in addition to late payment charges.

ARTICLE IV DISCONNECTION PROCESS

Section 1. A Contestable Customer service shall be subject to disconnection upon occurrence of any of the following and subject to the procedures stated hereunder:

- a. Failure of the Contestable Customer and/or RES to comply with the financial and technical obligations under the *Open Access Transmission Service Rules (OATS Rules)*, *Philippine Grid Code*, *Philippine Distribution Code*, *WESM Rules*, wheeling and connection agreement and its RSC.
- b. Failure of the RES to settle its balances with the network service provider in accordance with the DWSA and applicable rules.
 - i. In the event a RES fails to pay for DWS by the due date prescribed for the service, the DU shall notify the RES that service under the DWS agreement will be terminated in seven (7) days from the RES' receipt of the notice to such effect.
 - ii. If the RES fails to pay within forty eight (48) hours following said notice, the DU shall send a copy of the notice of disconnection to the RES's affected Contestable Customers.
 - iii. Prior to termination of service under the DWS agreement, the Contestable Customer must either acquire supply from

another RES or temporarily acquire service as a SOLR customer to avoid disconnection.

- iv. If upon termination of service under the RES DWS agreement, the Contestable Customer has not acquired service from another RES or the SOLR, the DU shall have the right to physically disconnect such customer.
- c. Failure of the Contestable Customer to pay the RES and the network service provider.
 - i. In the event that a Contestable Customer fails to pay the DWS by the due date, a 48-hour notice of disconnection shall be sent to the Contestable Customer.
 - ii. In the event that a Contestable Customer fails to pay the RES for service rendered by the due date, the RES may send a 48-hour notice of disconnection to the Contestable Customer.
 - iii. If the Contestable Customer fails to pay the amount within the 48-hour period; the DU shall have the right to physically disconnect such Contestable Customer.
 - iv. The DU shall disconnect the Contestable Customer within twenty four (24) hours upon receipt of request for disconnection from the RES and notify the RES within one (1) hour that the Contestable Customer has been disconnected.
 - d. The RES shall be held liable in case the Contestable Customer disputes the disconnection made by the DU and found to be meritorious.

Section 2. Deferment of Disconnection. The disconnection may be deferred if any of the following are complied with:

- a. The outstanding amount due and demanded was settled prior to the scheduled disconnection date. The requesting party that filed for disconnection shall immediately inform the DU of the settlement/payment of the outstanding amount to defer the execution of such disconnection.

If at the time the disconnection is to be made, the RES or the Contestable Customer tenders full payment of the unpaid bill to the agent or employee of the DU who is to effect the

disconnection, the said agent or employee of the DU shall desist from disconnecting the service to allow the RES or the Contestable Customer to pay his bills within twenty four (24) hours: *Provided, however,* That the RES or the Contestable Customer can only invoke this provision once for the same unpaid bill.

- b. Recalled Notice of Disconnection by the requesting party as a result of a special payment agreement or restructuring agreement entered into by the contracting parties prior to the scheduled disconnection date. The requesting party shall immediately inform the RES of the recall for the network service provider to defer the execution of such disconnection.
- c. Recalled Notice of Disconnection by the requesting party for any valid reason not stated above.

Section 3. The disconnected Contestable Customer shall continue to be liable for any and all of its outstanding obligations and liabilities under the DSOAR, WESM Rules and all other existing contracts.

Section 4.A Contestable Customer shall be reconnected upon occurrence of the following conditions:

- a. The RES requesting for a reconnection of its Contestable Customer shall submit its Notice of Reconnection to the DU for the execution of the Request for Reconnection.
- b. The DU shall execute the reconnection of service, within the day from receipt of the Notice of Reconnection from the RES.
- c. In the case of the disconnected Contestable Customer wherein its disconnection was requested by multiple suppliers, the reconnection will only be executed when all the requesting parties have issued both the Notice of Reconnection to the DU.
- d. If the electricity supply was disconnected due to non-payment of bills or security deposit, the reconnection shall be restored on the same day of receipt of payment from the Contestable Customer.

- e. Across instances, a reconnection fee shall be paid by the disconnected Contestable Customer to either the RES or to the DU prior to reconnection.

The foregoing rules shall apply, unless and until the parties mutually agree on a disconnection scheme.

ARTICLE V DISPUTES

Section 1. B2B System Contingency

- 1.1 In case of emergencies affecting the operation of the B2B System, the CRB shall inform the ERC, NGCP/WMSP, affected DUs and RES of the situation within one (1) hour of its occurrence.
- 1.2 During such situation, transactions will be done through electronic mail or other technology. The B2B System transaction timeframes, however, shall still be complied with.

Section 2. Data Irregularity

- 1.1 In case of data irregularity between retail market participants (e.g. meter reading, Customer Information), data from the DU or NGCP/WMSP shall be used temporarily while the irregularity is being investigated by the ERC.
- 1.2 Disputes on data irregularity shall be resolved through the dispute resolution process of the ERC.

Section 3. Dispute Resolution

- 1.1 Any dispute or complaint arising from the switching processes contained in these Rules, and such other procedures necessary to facilitate the Switching process, shall be resolved through the dispute resolution process of the ERC.

Section 4. B2B System Transaction Timeframes

- 1.1 Requests, notices, responses to notices or requests, and data sent or received by a concerned entity before 3:00 P.M. on a Business Day shall be received on that Business Day. Otherwise, it shall be deemed to have been received on the first working hour on the next Business Day.

ARTICLE VI OTHER PROHIBITED ACTS UNDER RCOA

Section 1. No RES shall engage in any anti-competitive agreement that prevents or reduces competition in the retail market.

Section 2. No RES shall enter into a retail supply contract which refers to the supply of fixed quantities or take or pay provision.

Section 3. No RES shall apply any cancellation or termination charges should the Contestable Customer terminate the retail supply contract prior to its expiry date.

ARTICLE VII SANCTIONS

The ERC shall impose the appropriate fines and penalties for any violation or non-compliance with these Rules, pursuant to the *“Guidelines to Govern the Imposition of Administrative Sanctions in the Form of Fines and Penalties Pursuant to Section 46 of R.A. 9136”*.

ARTICLE VIII AMENDMENTS

The ERC shall amend and expand these Rules from time to time where this may be necessary. Before making any significant revisions to the Rules, the ERC will undertake public consultation as appropriate.

Any other previous rule promulgated by the ERC that is inconsistent with this is hereby modified accordingly.

**ARTICLE IX
SEPARABILITY**

If for any reason any provision of the *ERC Rules Supplementing the Switching and Billing Process and Adopting a Disconnection Policy for Contestable Customers* is declared unconstitutional or invalid by final judgment of a competent court, the other parts or provisions hereof which were not affected thereby shall continue to be in full force and effect.

**ARTICLE X
EFFECTIVITY**

The *ERC Rules Supplementing the Switching and Billing Process and Adopting a Disconnection Policy for Contestable Customers* shall take effect on the fifteenth (15th) day following its publication in a newspaper of general circulation in the country.

Pasig City, _____	
JOSE VICENTE B. SALAZAR Chairman & CEO	
GLORIA VICTORIA C. YAP-TARUC Commissioner	ALFREDO J. NON Commissioner
JOSEFINA PATRICIA A. MAGPALE-ASIRIT Commissioner	GERONIMO D. STA. ANA Commissioner