

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

**RULES GOVERNING THE ISSUANCE OF LICENSES OR
AUTHORIZATION TO RETAIL ELECTRICITY SUPPLIERS (RES) AND
PRESCRIBING THE REQUIREMENTS AND CONDITIONS THEREFOR**

Pursuant to Sections 29, 31, and 45 of Republic Act No. 9136, hereinafter referred to as the Act, its Implementing Rules and Regulations (IRR), the Philippine Distribution Code (PDC), and the Wholesale Electricity Spot Market (WESM) Rules, the Energy Regulatory Commission (ERC) hereby adopts the following Rules for the Issuance of Licenses or Authorization to Retail Electricity Suppliers (RES) and Prescribing the Requirements and Conditions therefor, hereinafter referred to as the "2015 RES Rules":

**ARTICLE I
GENERAL PROVISIONS**

Section 1. Objectives

The following are the objectives of these 2015 RES Rules:

- a. To promote free and fair competition and accountability of Electric Power Industry Participants to achieve greater operational and economic efficiency, thereby rationalizing electricity prices and making them competitive and transparent;
- b. To ensure consumer protection and enhance the competitive operation of the retail electricity market; and
- c. To prescribe and clarify the qualifications, disqualifications and the legal obligations of grantees of RES licenses, to ensure compliance with existing laws and rules.

Section 2. Guiding Principles

- a. Subject to Section 5, Article I hereof, no Person may engage in the Supply of Electricity to End-users in the Contestable Market unless such Person has secured an RES License from the ERC.
- b. The RES License shall stipulate all the obligations of an RES consistent with the qualifications and criteria required of an RES herein and such other laws, rules and regulations pertinent thereto. An RES License shall be issued upon compliance with the standards and requirements herein set forth.

- c. All RES shall have an equal opportunity to compete for available supply including excess contract capacities of Distribution Utilities due to the switching of Contestable Customers.

Section 3. Who may become RES

In accordance with the Act and its IRR, any of the following may become an RES:

- a. A Distribution Utility (DU) with respect to the Contestable Market within its franchise area, also known as the Local RES;
- b. Generation Company or Affiliate thereof;
- c. An Affiliate of a DU with respect to the Contestable Market within or outside its Franchise Area;
- d. Retail Aggregators;
- e. An Independent Power Producer (IPP) Administrator; and
- f. Any other Person intending to engage in the selling, brokering or marketing of electricity to the Contestable Market, consistent with the Act and its Implementing Rules and Regulations.

Section 4. Issuance of a License

The ERC shall issue a license to a qualified RES that complies with all applicable requirements stipulated herein such as, but not limited to, technical and financial qualifications, conditionalities of cross-ownership, market power abuse, anti-competitive behavior and all other requirements which are deemed necessary for the proper implementation of these 2015 RES Rules and the competitive retail electricity market (CREM).

Except as provided in Section 5 hereof, no RES shall be allowed to engage in selling, brokering, marketing or aggregating of electricity to Contestable Customers or to participate in the WESM without a valid license from the ERC. A license obtained by a qualified RES from the ERC shall be valid within Philippine territories where retail competition and open access exist.

Once an RES license or authorization, in the case of the Local RES, has been granted, such RES shall be given a period of one (1) year from receipt of such grant or authority, to enter into contracts with Contestable Customer otherwise, such license or authorization shall be deemed revoked.

Section 5. Exemption from RES License Requirement

Subject to the limitations and conditions prescribed in these 2015 RES Rules and in such other applicable issuances of the ERC, the following entities, referred as the

Local RES, shall be allowed to engage in the retail supply of electricity without securing an RES license from ERC:

- a. Distribution Utilities within their Franchise Areas; and
- b. Persons authorized by competent authorities to supply electricity within their respective Economic Zones.

At least thirty (30) days prior to its intended operations as a Local RES, such entity shall notify the ERC in writing of the intended date of its actual operations. Upon notification, said entity is deemed bound by the provisions of Article IV and Article VIII hereof, and shall be required to provide ERC with basic information provided in Section 3, Article V hereof. For purposes of these Rules, actual operations shall include advertising, marketing and brokering.

Section 6. Classifications of RES Licenses

As there are special requirements and conditions that apply to the different holders of RES licenses, as provided in these 2015 RES Rules or as will be provided in subsequent issuances, the RES Licenses to be issued shall be classified, as follows:

- a. RES License-GenCo – to be issued to a Generation Company that intends to sell only the output of its generation facilities to the CREM.
- b. RES License-GenCo Affiliate – to be issued to an Affiliate of a Generation Company that intends to sell to the CREM from the output of its affiliate Generation Company and/or from non-affiliate Generation Companies.
- c. RES License-DU Affiliate – to be issued to an affiliate of a DU that is organized as a separate juridical person to participate in the CREM within or outside the franchise area of its affiliate DU.
- d. RES License-Retail Aggregator – to be issued to any Person that intends to serve two or more End-users within a contiguous area as a single purchasing unit, wherein such purchasing unit shall be part of the Contestable Market, in accordance with the Rules on Aggregation to be issued by the ERC.
- e. RES License-IPPA – to be issued to an IPPA that intends to sell only the contracted output under its IPP Agreement to the CREM.
- f. RES License-Limited – to be issued to any Person or entity having no GenCo affiliate and who has no intention to sell to the CREM at large but only to cater to the requirements of its affiliate contestable customer. Such entities include:
 - i. Developer/Operator in the economic zones;
 - ii. Buildings/Infrastructures containing a variety of establishments; and
 - iii. Industrial businesses.
- g. RES License-General – to be issued to any other Person not falling under any of the foregoing who intends to engage in the selling, brokering, or marketing

of electricity to the CREM. It includes Persons falling under two or more of the above RES license classifications.

Section 7. Definition of Terms

Act	Republic Act No. 9136, otherwise known as "Electric Power Industry Reform Act of 2001".
Affiliate	Any Person which, alone or together with any other Person, directly or indirectly, through one or more intermediaries, Controls, is Controlled by, or is under common Control with another Person. Affiliates shall include a subsidiary company and parent company and subsidiaries, directly or indirectly, of a common parent.
Applicant	A Person or entity seeking to obtain a license to become a supplier of retail electricity to the Contestable Customer.
Code of Conduct for Competitive Retail Market Participants	The set of rules promulgated by the ERC to govern the conduct of competitive retail market participants, their stockholders, directors, officers and employees, within the boundaries of fair competition.
<u>Commercial Bank</u>	<u>Corporations which, in addition to the general powers incident to corporations, exercise all such powers as may be necessary to carry on the business of commercial banking such as accepting drafts and issuing letters of credit; discounting and negotiating promissory notes, drafts, bills of exchange, and other evidences of debt; accepting or creating demand deposits; receiving other types of deposits and deposit substitutes; buying and selling foreign exchange and gold or silver bullion; acquiring marketable bonds and other debt securities; and extending credit, subject to such rules as the Monetary Board may promulgate. These rules may include the determination of bonds and other debt securities eligible for investment, the maturities and aggregate amount of such investment.</u>

Competition Rules and Complaint Procedures	The rules promulgated by ERC to promote and ensure competition in the electric power industry pursuant to the Act and its Implementing Rules and Regulations.
Contestable Customer	An electricity End-user that belongs to the Contestable Market.
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.
Control	The power to direct or cause the direction of the management policies of a Person by contract, agency, or otherwise.
Distribution Utility (DU)	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 its franchise and the Act, including DUs operating in the Economic Zones.
Economic Zones (EZs)	Selected areas which are highly developed or have the potential to be developed into agro-industrial, industrial, tourist, recreational, commercial, banking, investment and financial centers, including but not limited to the following: Industrial Estates (IEs), Export Processing Zones (EPZs), Free Trade Zones, Information Technology Parks and Tourist/Recreational Centers, the "Bases Conversion Development Authority" or "BCDA", "Cagayan Economic Zone Authority" or "CEZA", "Clark Development Corporation" or "CDC", "Philippine Economic Zone Authority" or "PEZA", "Phividec Industrial Authority" or "PIA", and "Zamboanga City Economic Zone Authority" or "ZCEZA".
End-user	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.

<u>Escrow Agreement</u>	<u>An agreement where a fund or deposit is held in trust by a Commercial Bank, to be turned over to the grantee only upon fulfillment of a condition.</u>
Franchise Area	A geographical area exclusively assigned or granted to a Distribution Utility for distribution of electricity.
Generation Company (GenCo)	Any Person or entity authorized by the ERC to operate facilities used in the generation of electricity.
<u>Holdout Agreement/ Restricted Account</u>	<u>An agreement where a fund or deposit in a Commercial Bank is held subject to certain bank placed and/or customer placed restrictions.</u>
Independent Market Operator (IMO)	A Person or entity who is financially and technically capable, with proven experience and expertise of not less than two (2) years as a leading independent market operator of similar or larger size electricity markets endorsed jointly by the Department of Energy (DOE) and Electric Power Industry Participants to assume the functions, assets and liabilities from the Autonomous Group Market Operator (AGMO), pursuant to Section 30 of the Act.
IPP Administrator	Qualified independent entities appointed by Power Sector Assets & Liabilities Management Corporation which shall administer, conserve and manage the contracted energy output of NPC IPP contracts.
Local Retail Electricity Supplier (Local RES)	The non-regulated business segment of the DU catering to the Contestable Market only within its franchise area, or Persons authorized by appropriate entities to supply electricity within their respective Economic Zones.
Market Operator	The "Autonomous Group Market Operator" or "AGMO" constituted by the DOE under Section 30 of the Act, with equitable representation from Electric Power Industry Participants, initially under the administrative

supervision of the TRANSCO, which shall undertake the preparatory work and initial operation of the WESM until the creation of an Independent Market Operator which shall assume the functions, assets and liabilities of the AGMO.

National Power Corporation (NPC)

The government corporation created under Republic Act No. 6395, as amended.

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.

National Transmission Corporation (TRANSCO)

The corporation organized pursuant to Section 8 of the Act to acquire all the transmission assets of the NPC.

Person

A natural or juridical person, as the case may be.

Philippine Stock Exchange (PSE)

The corporate body duly organized and existing under Philippine law, licensed to operate as a securities exchange by the Securities and Exchange Commission (SEC).

Retail Aggregation

The joining of two or more End-users within a contiguous area into a single purchasing unit, wherein such purchasing unit shall be part of the Contestable Market, as provided in Section 31 of the Act.

Retail Competition

The provision of electricity to a Contestable Customer by the RES through Open Access.

Retail Electricity Supplier (RES)

Any Person or entity authorized by the ERC to sell, broker, market or aggregate electricity to the End-users.

Unless otherwise provided, all references to the RES herein shall include the Local RES.

Retail Electricity Supplier's (RES) License

The authority granted to any person or entity by the ERC to act as Retail Electricity Supplier.

Retail Rate

The total price paid by End-users consisting

	of the charges for generation, transmission and related ancillary services, distribution, supply and other related charges for electric service.
Retail Supply Contract (RSC)	The contract entered into by and between the RES or Local RES and the Contestable Customer.
Supply of Electricity	The sale of electricity by a party other than a generator or a distributor in the franchise area of a distribution utility using the wires of the distribution utility concerned.
<u>Surety Bond</u>	<u>An agreement of assurance by one party, the guarantor, to pay the second party, the obligee, a certain amount if the third party, the principal, fails to perform its obligations.</u>
Universal Charge	The charge, if any, imposed for the recovery of stranded costs and other purposes pursuant to Section 34 of the Act.
Wholesale Electricity Spot Market (WESM)	The wholesale electricity spot market established pursuant to Section 30 of the Act.

**ARTICLE II
QUALIFICATIONS OF A RETAIL ELECTRICITY SUPPLIER**

Section 1. Who may apply. The following may apply as an RES:

- a. A natural person of legal age, duly registered with the Department of Trade and Industry (DTI) as engaged in the retail electricity supply business; or
- b. A juridical person duly registered with the Department of Trade and Industry (DTI), Securities and Exchange Commission (SEC) as an entity authorized to engage in the retail electricity supply business.

Section 2. Technical and Managerial Standards

The Applicant shall provide the following information in support of its technical and managerial capability to ensure reliable electricity supply in accordance with its customer contracts:

- a. Ability and knowledge to operate and manage the electricity supply business, where the Applicant shall provide documentation demonstrating that at least two (2) of its officers or employees holding managerial positions have a combined experience in the area of competitive electricity markets of at least ten (10) years; or should the Applicant engage the services of a Consultant, said Consultant should have at least fifteen (15) years of relevant experience in the electricity industry.

For its continuing compliance with such requirement, the RES license holder shall require its officers and employees to attend seminars and trainings related to the competitive retail electricity markets.

- b. Ability to set-up and operate within the customer switching system approved by ERC, an automated information exchange associated with business to business (B2B) communications and transactions and the capability to comply with all applicable customer registration, settlement policies and market rules and protocols.
- c. Ability to maintain appropriate billing and collection system for its customers;
- d. Ability to maintain a website which provides updated information such as offered prices and value-added services to enable the Contestable Customer to make informed choices.
- e. Technical ability to enter into any necessary access or interconnection arrangements or other required contracts with NGCP, the Market Operator and one or more Distribution Utilities, i.e. historical transactions with the industry participant, such as service contracts, agreements and/or transaction receipts as confirmation.
- f. Adequate staffing and employee training to meet all service level commitments.
- g. Other relevant information that the ERC may require.

Section 3. Credit Standards and Security Deposit

An Applicant must possess any of the following credit standards to demonstrate that it has the financial capability required to undertake this business:

- a. Investment grade credit rating by a reputable credit bureau; or
- b. Provision of standby letter of credit to the extent of Ten Million Pesos (PhP10,000,000.00) by a Commercial Bank, with an attached proof of creditworthiness confirmed through the certification of companies (including Generation Companies, NGCP and Distribution Utilities) that have extended credit line to the Applicant; or if the Applicant is an affiliate or subsidiary and the Applicant has yet to commence operations as an RES, a sworn statement from the parent company that it shall infuse the required working capital of the

Applicant for its RES business, with supporting documents regarding the parent company's capability to support the Applicant; or

- c. Surety Bond issued by a surety or insurance company duly accredited by the Office of the Insurance Commission of the Philippines, in an amount equivalent to the expected monthly sales from its target contestable customers based on its Projected Five-Year Business Plan. The Surety Bond shall be valid for a period of not less than one year.

Once an Applicant has been issued an RES license and has started operations, the RES shall update its unused cash resources or Surety Bond to approximate the actual monthly billings on a quarterly basis, based on the average billing amount of the previous quarter, to reflect the changes in the number of Contestable Customer it serves.

In the event that such Surety Bond is cancelled, modified, expires or is drawn upon, the RES shall execute and maintain an additional or replacement bond such that the cumulative value of all outstanding bonds never falls below the amount required above. The RES shall provide the ERC copy of the said additional or replacement bond at least thirty (30) days from its effectivity.

Section 4. Treatment of Cash Deposits from Contestable Customers

An RES who has collected cash deposits from its customers based on projected sales, shall be required to deposit the actual cash amount collected in an Escrow; or in a Restricted Account/Holdout Agreement entered into with the customer, making said cash deposit unavailable for use in financing said RES' working capital requirements. The escrow amount shall be reconciled every close of each month to ensure that it is equal to the customer's cash deposit at the end of the month, and such amount shall be maintained until the next reconciliation. The RES shall submit to the ERC a certification from a Commercial Bank located in the Philippines that it has availed of said bank's Escrow facility, Restricted Account/Holdout Agreement facility, or a certification stating the cash amount deposited in the abovementioned bank facilities. Likewise, the RES shall be required to pay its customers an annual interest on collected deposits equivalent to the interest earnings (net of tax) of the amount in Escrow. Such interest may also be deducted from the customer's current billing. The Local RES shall likewise comply with the cash deposit requirements in the same manner as an RES.

The above notwithstanding, the RES may draw sufficient funds from the relevant account in case the customer commits a breach of its obligations to the RES, details of which should be agreed upon by both parties and should be consistent with the process under Section 4.8.4.3, Article IV of the Distribution Services and Open Access Rules. On the other hand, if the RES/Local RES fails in its obligation to supply the customer, as provided in their retail supply contract, the latter may also be entitled to refund its deposit and interest earned, less any outstanding obligations, subject to the provisions of the Escrow Agreement and the Retail Supply Contract.

**ARTICLE III
LIMITATIONS AND RESTRICTIONS
ON A RETAIL ELECTRICITY SUPPLIER**

Section 1. Ownership Limitations and Restrictions

- a. An RES or Affiliate thereof or any stockholder, director or officer or any of their relatives within the fourth (4th) civil degree of consanguinity or affinity, legitimate or common law, shall not own any interest in, nor employed directly or indirectly with the Philippine Electricity Market Corporation (PEMC) and the IMO.
- b. Except for ex-officio government-appointed representatives, no Person who is an officer or director of the TRANSCO or NGCP shall be an officer or director of any RES.
- c. An RES or Local RES, or its stockholders, directors or officers thereof, or any of their relatives within the fourth civil degree of consanguinity and their respective spouses, shall not be allowed to hold any shares of stock in NGCP: *Provided*, That the cross-ownership prohibition under this provision shall not apply to a relative by blood or marriage, if such relative of any stockholder, director or officer of NGCP has no employment, consultancy, fiduciary, contractual, commercial or other economic relationship or interest in NGCP, or conversely, if such relative of any stockholder, director or officer of an RES or Local RES has no employment, consultancy, fiduciary, contractual, commercial or other economic relationship or interest in the RES or Local RES: *Provided, further*, That this prohibition on cross-ownership shall not apply to: (a) ownership of shares of stock in a company listed in the Philippine Stock Exchange (PSE) even if such listed company is an RES or Local RES, if such share ownership is not more than one *per centum* (1%) of the total outstanding shares of such listed RES or Local RES; or (b) ownership of shares of stock which is not more than one *per centum* (1%) in a company listed in the PSE which owns or controls shares of stock in NGCP: *Provided, moreover*, That such owner of shares of stock in the listed corporate stockholder of the NGCP shall not own more than one per centum (1%) of the shares of stock or equity interest in any RES or Local RES.

Section 2. Market Limitations and Restrictions

- a. Consistent with Section 45 of the Act and ERC Resolution No. 26, Series of 2005, no Person, company or Related Group of IPP Administrator, singly or in combination, can own, operate or control more than thirty percent (30%) of the installed generating capacity of a Grid and/or twenty-five percent (25%) of the national installed generating capacity. "Related group" includes a Person's business interest, including its subsidiaries, affiliates, directors or officers or any of their relatives by consanguinity or affinity, legitimate or common law, within the fourth civil degree. An RES shall be considered a Person for this purpose.

For purposes of calculating the market share limitation under Section 45, the procured capacity of an RES with a GenCo affiliate obtained from a non-affiliate GenCo shall be included in the crediting of the installed generating capacity of the GenCo or group of GenCos of which the RES is affiliated.

- b. No RES or Local RES, and/or its Affiliates, can enter into Retail Supply Contracts, which cover more than 25% of the total peak demand in the retail market.
- c. No Person issued an RES License-Limited shall be allowed to serve a Contestable Customer which is not an Affiliate. Should a GenCo, which is affiliated with such RES, start commercial operations during the life of the license, the said RES shall report such matter to the ERC and file for the amendment of such license.

ARTICLE IV OBLIGATIONS OF RETAIL ELECTRICITY SUPPLIERS

Section 1. An RES that is also engaged in power generation, distribution and other electricity related businesses shall ensure that its supply business activities and rates are functionally and structurally unbundled, as provided for in Rule 10 of the IRR of the Act on the Structural and Functional Unbundling of Electric Power Industry Participants. In said unbundling, the RES shall ensure that there is no cross subsidization between and among its business activities, in accordance with the ERC-approved Business Separation and Unbundling Plan.

Such RES shall submit on a timely manner, without need of further notice, the annual reportorial requirements provided in Article II, Section 2.12 of the BSG, As Amended such as: the Accounting Separation Statements, Compliance Report, the Auditor's Report, and other documents provided in the said rules.

Section 2. An RES shall maintain its own website linked to the ERC and DOE websites. Such RES website shall provide updated information including offered prices and value-added services to enable the Contestable Customers to make informed choices.

Section 3. An RES shall, at all times, adopt the business to business (B2B) interface system approved by ERC.

Section 4. An RES shall identify and segregate in its bills to End-users the components of the Retail Rate as follows: Supplier's Charge (composed of Generation & Others); DU's passed-on Charges; Transmission Charges; and other related charges for electric service.

Section 5. An RES shall comply with the Creditworthiness Criteria and such financial security to secure proper performance as an RES as provided in Section 3, Article II of these Rules and as may be determined by ERC to protect the interest of the Contestable Customers.

Section 6. An RES shall ensure that the advance deposits collected from its customers are sufficiently covered by Escrow, Restricted Account/Holdout Agreement to the Contestable Customer. Advance deposits may be adjusted on an annual basis based on the RES' customers' average twelve-month bills.

Section 7. An RES, which sources power from the wholesale electricity spot market, shall comply with the WESM Rules at all times.

Section 8. An RES shall comply with the Competition Rules and Complaint Procedures as may be prescribed by the ERC concerning abuse of market power, cartelization and any other anti-competitive or discriminatory behavior.

Section 9. An RES is required to collect (i) Universal Charge and (ii) FIT All Charges, where applicable, from all of its customers on a monthly basis, and shall comply with the Rules Governing the Collection of Universal Charge and the Guidelines, Procedures Governing Remittances and Disbursements of Universal Charge, and the Feed-In Tariff (FIT) Rules issued by ERC.

Section 10. An RES that intends to cease operations shall notify the ERC at least thirty (30) days prior to ceasing operations and shall provide proof of refund of any monies owed to its customers, as well as a settlement plan or proof of payment of any amount owed to a DU, NGCP, WESM or a Generation Company. Thereafter, the RES License, or authority of Local RES to supply, is deemed cancelled.

Section 11. An RES shall inform the ERC of any material change to the information supplied in its documentary requirements under Article II and V hereof within three (3) days from the occurrence of such event.

Section 12. An RES shall comply with the provisions of the Act and its Implementing Rules and Regulations, the applicable provisions of the Business Separation Guidelines, Philippine Distribution Code, the Distribution Services and Open Access Rules (DSOAR), As Amended, the Code of Conduct for Competitive Retail Market Participants, and all applicable rules and regulations prescribed by ERC, including the reportorial requirements prescribed in these 2015 RES Rules.

ARTICLE V REQUIREMENTS AND PROCEDURES

Section 1. The Applicant shall secure an RES License from the ERC prior to engaging in the Supply of Electricity to Contestable Customers. Provided all the requirements shall have been complied with, the ERC shall approve, disapprove, or reject an application within sixty (60) working days from the date of application unless ERC shall have required the submission of additional information, or ordered on reasonable grounds, the postponement of final action on an application.

Section 2. Basic Requirements for an RES license application. The following documents and information are required to be submitted by an Applicant:

- a. Duly accomplished RES Information Sheet;

- b. Articles of Incorporation/Partnership with Certificate of Registration (for juridical person);
- c. Certified true copies of audited financial statements for the two most recent twelve (12)-month periods, or for the life of the business if it has been in existence for less than two (2) years, if applicable;
- d. If an Affiliate under Section 3(b), Article 2, certified true copies of audited financial statements for the two most recent years of its parent company, as submitted in its annual reports to shareholders;
- e. Projected Five-year Financial Statements and Five-year Business Plan (outline available at the ERC website). The Business Plan should adequately explain how the applicant will launch and operate its business specifically business strategies and its value proposition;
- f. List of directors and officers, detailing the respective years of experience in the electric power industry;
- g. Generation Information Sheet of the Applicant and its Affiliates engaged in the generation, distribution and retail Supply of Electricity, and their corresponding business addresses;
- h. Sworn Statement that the Applicant shall comply with the rules and regulations governing the CREM;
- i. Sworn statement that the Applicant shall comply with the ownership limitations as provided in Section 5, Article II hereof;
- j. Sworn Statement that the Applicant shall commence operations and enter into contracts with Contestable Customers within one (1) year from the issuance of an RES license
- k. Documents referred to in Sections 2, 3 and 4, Article II hereof;
- l. Business Permit;
- m. Mayor's Permit;
- n. Official website containing significant data about the company, offered- prices, value-added service, and others;
- o. Proof of payment of application fees;
- p. Such other information or documents that the ERC may require.

Section 3. Basic Requirements for a DU as a Local RES. The following documents and information are required to be submitted by an intending Local RES:

- a. Letter of Intent to Act as Local RES within its franchise area;
- b. Duly accomplished Local RES Information Sheet (form available at the ERC website);
- c. List of Affiliates engaged in the generation, distribution and retail Supply of Electricity, and their corresponding business addresses;
- d. List of directors and officers, detailing the respective years of experience in the electric power industry;
- e. Proof of payment of Application fees; and
- f. Such other information or documents that the ERC may require.

Section 4. Renewal of RES License. In case of renewal of its RES License, the RES shall submit the following requirements:

- a. Letter of Intent to renew RES license;
- b. Duly accomplished RES Information Sheet (form available at the ERC website);
- c. Updated Five-year Business Plan reflecting the business activities to be implemented in its new RES License term;
- d. Accomplishment Report vis-à-vis previous Five-year Business Plan;
- e. Recent annual report to shareholders together with Audited Financial Statements;
- f. Latest Audited Financial Statement;
- g. Proof of Security Deposit commensurate to amount collected from customers, if applicable;
- h. Business Permit;
- i. Official website containing significant data about the company;
- j. Proof of Payment of Renewal Fees; and
- k. Such other information or documents that ERC may require.

Section 5. All submissions shall be certified under oath by the Applicant or any duly authorized officer in case of a juridical person.

Section 6. Failure to submit the above requirements to the ERC shall be a ground for denial of application or renewal of license.

Section 7. In order to avoid potential customer abuse by a RES, the ERC may revoke or refuse to renew an RES license for just causes as defined below:

- a. Providing false or misleading information to customers and the ERC;
- b. Failure to maintain and/or submit credit standards in accordance with Section 3, Article II hereof;
- c. Bankruptcy, insolvency, or the inability to meet financial obligations on a reasonable and timely basis;
- d. A pattern of not responding to ERC inquiries or customer complaints in a timely fashion;
- e. Conviction of the licensee, a person controlling the RES, or a principal employed by the RES, of any crime involving fraud, theft, or deceit related to the RES' service;
- f. Failure to provide service to any customer and failure to continuously operate for a total period of ~~thirty (30)~~ twelve (12) months from the time of the issuance of an RES license or authorization to act as Local RES by the ERC; and,
- g. Other significant violations, including the failure or a pattern of failures to comply with applicable laws, these Rules and other retail competition rules and ERC issuances.

ARTICLE VI PAYMENT OF FEES

The Applicant shall pay the application fee of Three Thousand Pesos (PhP3,000.00) upon its filing of application or renewal of license. Upon issuance or renewal of an RES License, the Applicant shall likewise pay the RES License fee equivalent to, whichever is higher, among the following:

- a. Seventy five (P 0.75) centavos for each one hundred pesos of whichever is applicable of the following:
 1. The capital stock subscribed and paid up of the corporation or if the applicant is a Partnership or Sole Proprietorship, the capitalization or the total capital invested into the business; or
 2. In the event an Applicant has two or more businesses, the capitalization allocated for the supply business. Should the Applicant have two or more businesses which are electricity related, the capitalization shall be based on the ERC-approved BSUP; or
- b. Ten Thousand Pesos (PhP10,000.00).

The Local RES shall likewise comply with the payment of license fees in the same manner as the other RES. Further, the Local RES shall ensure that such fee shall not be passed-on to its related DU's captive customers.

ARTICLE VII TERM OF LICENSE

The RES License issued by the ERC after the promulgation of these 2015 RES Rules shall have a term of five (5) years, renewable at the end of every term. The RES License shall be non-transferable and shall be subject to revocation by the ERC for any violation of these 2015 RES Rules and other applicable laws and issuances.

The RES shall apply for a renewal of license not later than sixty (60) days before the expiration of its current license.

ARTICLE VIII REPORTORIAL REQUIREMENTS

Section 1. Each RES shall submit a quarterly report every 15th day of the subsequent month after the quarter on the following information:

- a. Average prices (Total revenue divided by total kWh sales to Contestable Customers);
- b. Revenues. Total revenues from kilowatt-hour sales to Contestable Customers;
- c. Customers. List of customers served and amount of deposits that have been collected from each customer, if applicable;
- d. Bank certification from a Commercial Bank, if any, stating the amount deposited in escrow under the RES' account. Such escrow amount shall be reconciled every close of each month to ensure that it is equal to the customer's cash deposit at the end of the month, and shall be maintained until the next reconciliation;
- e. Security deposits collected from contestable customers (if applicable);
- f. Update of the unused cash resources deposited in a Commercial Bank or Surety Bond (if any); and
- g. Other information that the ERC deems necessary or useful in carrying out its duties and obligations.

Section 2. All licensed RES and Local RES shall submit the following documents every 20th of January of each year, on an annual basis, without need of further notice:

- a. Completed Contract Information Sheet summarizing the existing Retail Supply Contracts, particularly indicating the following:
 - i. List of customers and actual demand and peak demand of each customer;
 - ii. Contract duration;
 - iii. Contract rate per contestable customer;
 - iv. RES actual demand purchased from a GenCo; and,
 - v. Other additional charges (if any)

- b. Five-Year Key Performance Target Sheet. The RES/Local RES shall indicate whether or not the targets for the year have been achieved under the previous Five-Year Business Plan and provide a justification should the latter be the case.

- c. Mayor's permit for the current year.

- d. Audited Financial Statement of latest fiscal or calendar year. To be submitted every May of each year.

- e. List of sources of supply including the level of contracted capacity

Section 3. Confidentiality. The ERC shall accord certain information disclosed by the Applicant or identified by the RES such level of strict confidentiality by subjecting the same to appropriate protective measures, if applicable.

ARTICLE IX **TRANSITORY PROVISIONS**

Pursuant to the ERC's mandate under the Act to promote competition, encourage the development of a robust CREM and ensure consumer protection, the following provisions shall be observed by the concerned Entities:

Section 1. Within thirty (30) days from effectivity of these 2015 RES Rules, and consistent with the mandate of the ERC to promote competition, encourage market development and ensure customer choice, a DU with Local RES business segment which has not yet complied with the Annual Reportorial Requirements provided in Article II, Section 2.12 of the Business Separation Guidelines (BSG), As Amended shall submit the following documents to the ERC: (i) Accounting Separation Statements; (ii) Management Responsibility Statement; (iii) Auditor's Report; (iv) General Information Sheet; and (v) Compliance Report.

Section 2. Any DU or Local RES, which may incur Displaced Contract Capacity Energy (DCC/E) arising from the migration of Contestable Customers or from the implementation of limitations provided herein, shall inform the ERC, copy furnished the DOE of its impending DCC/E. Towards this end, the ERC shall allow the following with respect to the treatment of the DCC/E:

- a. Renegotiation of the supply contract with the contracted Generation Company. In cases where a DU or Local RES has multiple contracts with various Generation Companies, the renegotiation of the reduction of capacity and energy volumes shall be done on a pro-rated manner.
- b. Auction to other DUs or RES or through a CSP process that may be governed by a separate issuance of the ERC; or
- c. Declaration in the Wholesale Electricity Market (WESM) as quantity for sell, in cases where the DU is not authorized to act as Local RES. This shall only be allowed after determination of the ERC and until the expiration of the DU's bilateral contracts declared as having DCC/E.

Renegotiated PSAs of the DUs shall only be effective after the approval of the ERC. Any modalities of addressing DCC/E shall be revenue neutral to the affected DU.

DCC/E shall refer to the excess in the contracted capacity and energy of a DU from a Generation Company, resulting from the potential unutilized volume of capacity and energy allocated to migrating CCs. As such, the capacity or energy that shall remain with the DU shall be adequate to supply the power requirements of its remaining Captive Market including the DU's projected demand growth.

Section 3. All existing RES licensees and DUs authorized to act as Local RES shall have one year from effectivity of these 2015 RES Rules to comply with Article III, Section 2 hereof.

Section 4. All existing RES licenses and Local RES shall initially submit to ERC the reportorial requirements provided in Article VIII hereof for monitoring purposes, within sixty (60) days from the effectivity of these 2015 RES Rules.

ARTICLE X SANCTIONS

Any Person acting as an RES without a valid license issued by ERC, except those exempt from this requirement, and any DU acting as a Local RES without any authority from the ERC shall be subjected to appropriate sanctions provided under existing laws, rules and regulations.

The ERC shall impose the appropriate fines and penalties, including the revocation or suspension of license, for any violation or non-compliance with these 2015 RES

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 XI
MONITORING**

The ERC shall monitor the compliance of RES with the terms and conditions of their License and the provisions of these 2015 RES Rules.

**ARTICLE XII
SEPARABILITY**

If for any reason, any section of these 2015 RES Rules is declared unconstitutional or invalid, other parts or sections hereof not affected thereby shall continue to be in full force and effect.

**ARTICLE XIII
REPEALING CLAUSE**

All rules and guidelines, or portions thereof, issued by the ERC that are inconsistent with these 2015 RES Rules are hereby repealed or modified accordingly.

**ARTICLE XIV
EFFECTIVITY**

These 2015 RES Rules shall take effect on the fifteenth (15th) day following its publication in a newspaper of general circulation in the country.

Pasig City, ____ July 2015.

ALFREDO J. NON
Officer-In-Charge

GLORIA VICTORIA C. YAP-TARUC
Commissioner

JOSEFINA PATRICIA A. MAGPALE-ASIRIT
Commissioner

GERONIMO D. STA. ANA
Commissioner