

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



RESOLUTION NO. 05, Series of 2016

**A RESOLUTION ADOPTING THE 2016 RULES GOVERNING
THE ISSUANCE OF LICENSES TO RETAIL ELECTRICITY
SUPPLIERS (RES) AND PRESCRIBING THE
REQUIREMENTS AND CONDITIONS THEREFOR**

WHEREAS, Section 29 of Republic Act No. 9136 otherwise known as the Electric Power Industry Reform Act of 2001 (EPIRA) provides the requirements of the Energy Regulatory Commission (ERC) for electricity suppliers intending to supply the contestable market;

WHEREAS, on 13 July 2005, Resolution No. 10, Series of 2005 entitled “*Adopting the Guidelines for the Issuance of Licenses to Retail Electricity Suppliers (RES)*” was promulgated to establish the requirements for securing a RES license. Said Guidelines were later amended on 1 February 2006 as the “*Guidelines for the Issuance of Licenses to Retail Electricity Suppliers (RES), As Amended*” and were further revised on 17 January 2011, in an issuance entitled “*A Resolution Adopting the Revised Rules for the Issuance of Licenses to Retail Electricity Suppliers (RES)*”;

WHEREAS, on 25 November 2013, Resolution No. 22, Series of 2013 entitled “*Resolution Adopting Amendments to Articles I, II and III of the Revised Rules for the Issuance of Licenses to Retail Electricity Suppliers*” provided, among others, restrictions and additional requirements for RES license applicants;

WHEREAS, on 22 October 2014, Resolution No. 17, Series of 2014 entitled “*A Resolution Suspending the Issuance of Retail Electricity Supplier Licenses*” was promulgated to temporarily place the evaluation of RES licenses on hold in order to provide regulatory guidance for intending retail market players;

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WHEREAS, on 13 July 2015 and 13 November 2015, the first and second drafts, respectively, of the amendment to the RES licensing rules were posted on the two (2) ERC-administered websites to solicit comments from the industry participants. A public consultation and Focus Group Discussion (FGD) were consequently conducted to discuss the comments submitted by the stakeholders regarding the same;


WHEREAS, after a careful consideration of the various views and comments submitted by interested parties, the ERC deems it appropriate to adopt the attached “*2016 Rules Governing the Issuance of Licenses to Retail Electricity Suppliers (RES) and Prescribing the Requirements and Conditions Therefor*”;

NOW THEREFORE, the ERC, after thorough and due deliberation, hereby **RESOLVES**, as it is hereby **RESOLVED**, to **APPROVE** and **ADOPT** the “*2016 Rules Governing the Issuance of Licenses to Retail Electricity Suppliers (RES) and Prescribing the Requirements and Conditions Therefor*”, hereto attached as Annex “A” and made an integral part of this Resolution.

This Resolution shall take effect immediately following its publication in a newspaper of general circulation.

Let copies of this Resolution be furnished all parties concerned and the University of the Philippines Law Center – Office of the National Administrative Register (UPLC-ONAR), all Retail Electricity Suppliers, Distribution Utilities, Department of Energy and the Central Registration Body.

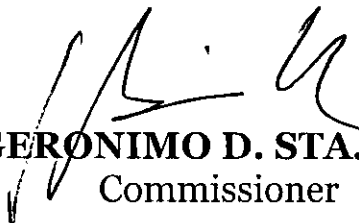
Pasig City, 8 March 2016.


JOSE VICENTE B. SALAZAR
Chairman and CEO


ALFREDO J. NON
Commissioner


GLORIA VICTORIA C. YAP-TARUC
Commissioner


**JOSEFINA PATRICIA A.
MAGPALE-ASIRIT**
Commissioner


GERONIMO D. STA. ANA
Commissioner


DTL/NSSS

ERC
Office of the Chairman



D-2016-006-OC-01770

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

**2016 RULES GOVERNING THE ISSUANCE OF LICENSES
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 to Retail Electricity Suppliers (RES) and Prescribing the Requirements and Conditions Therefor, hereinafter referred to as the "2016 RES Rules".

**ARTICLE I
GENERAL PROVISIONS**

Section 1. Objectives

The following are the objectives of these 2016 RES Rules:

- a. To promote free, fair, and true competition and accountability, and prevent harmful monopoly and market power abuse 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 requirements from, conditions for, qualifications, disqualifications and the legal obligations of grantees of RES licenses, to ensure compliance with existing laws and rules.



Section 2. Guiding Principles

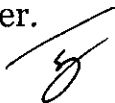
- a. No Person may engage in the Supply of Electricity to End-users in the Contestable Market unless such Person has secured a RES license from the ERC.
- b. The RES license shall stipulate all the obligations of a RES consistent with the qualifications and criteria required herein and such other laws, rules and regulations pertinent thereto. A RES license shall be issued upon compliance with the standards and requirements herein set forth.

Section 3. Who may become a RES

In accordance with the Act and its IRR, any of the following **may** become a RES;

- a. Generation Company or Affiliate thereof;
- b. An Affiliate of a DU with respect to the latter's Contestable Market within or outside its Franchise Area, subject to restrictions imposed by the ERC on market share limits and the conduct of business activities;
- c. Retail Aggregators;
- d. An Independent Power Producer (IPP) Administrator; and
- e. Any other Person intending to engage in the selling, brokering or marketing of electricity to the Contestable Market, consistent with the Act and its IRR.

The ERC shall not be precluded from imposing additional restrictions contained in separate rules issued, or still to be issued by it. The ERC, for justifiable reasons, may likewise exempt compliance by a RES license holder to specific license conditions, taking into account the actual operations of such RES license holder.



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 2016 RES Rules and the competitive retail electricity market (CREM).

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 a RES license has been granted, the RES license holder shall be given a period of two (2) years from receipt of such grant to operate its RES business. Failure to fully comply shall be a ground for the revocation of the RES license.

Section 5. 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.

Commercial Bank

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.

**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.

**Competitive Retail
Electricity Market
(CREM)**

An electricity market wherein contestable customers exercise their ability to choose suppliers of electricity by virtue of open access in

the distribution system.

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.

Escrow Agreement

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.

Franchise Area

A geographical area exclusively assigned or granted to a Distribution Utility for distribution of electricity.

Generation Company (GenCo)

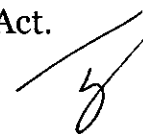
Any Person or entity authorized by the ERC to operate facilities used in the generation of electricity.

**Holdout Agreement/
Restricted Account**

An agreement where a fund or deposit in a Commercial Bank is held subject to certain bank placed and/or customer placed restrictions.

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.
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).

Quick Ratio

The ratio of the sum of Cash, Marketable Securities and Trade Receivables to the Current Liabilities and shall be used to measure the safety margin for the payment of the current debt of the applicant if there is shrinkage in the value of cash and receivables.

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.

Retail Electricity Supplier's (RES) License

The authority granted by the ERC to any person or entity to act as supplier of electricity to the Contestable Market.

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 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.

Universal Charge The charge, if any, imposed for the recovery of stranded costs and other purposes pursuant to Section 34 of the Act.

Value-added Service Service(s) or product offered in addition to the Supply of Electricity to a Contestable Customer.

Wholesale Electricity Spot Market (WESM) The wholesale electricity spot market established pursuant to Section 30 of the Act.

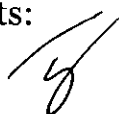
ARTICLE II QUALIFICATIONS OF A RETAIL ELECTRICITY SUPPLIER

Section 1. Who may apply. The following may apply as a 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) or Securities and Exchange Commission (SEC) as an entity authorized to engage in the retail electricity supply business.

Section 2. Organizational, 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 related experience in the area of electricity markets of at least ten (10) years; or should the Applicant engage the services of a Consultant, the said Consultant should have at least fifteen (15) years of relevant experience in the electricity industry.
- b. Ability to set-up and operate within the customer switching system approved by the 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 average electricity prices, value-added services, and any other information from the RES to enable the Contestable Customers to make informed choices.
- e. Technical ability to enter into any necessary access or interconnection arrangements or other required contracts with the NGCP, the Market Operator and one or more DUs, 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 which can provide pertinent information regarding the ability and competence of the RES in ensuring reliable electricity supply.

In the case of a RES which is an affiliate of a GenCo or DU, such RES must be set up as an entity juridically separate from such GenCo or DU with a separate set of Board of Directors, officers, employees and offices.



Section 3. Credit and Financial Standards

a. Credit Standard

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

- i. Investment grade credit rating by a reputable credit bureau; or
- ii. Unused cash resources in an amount equivalent to the Applicant's expected monthly billings, or Ten Million Pesos (PhP10,000,000.00), whichever is higher, with an attached proof of creditworthiness confirmed through the certification of companies (including GenCos, the NGCP and the DUs) 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 a 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;

Once an Applicant has been issued a RES license and has started operations, the RES shall update its unused cash resources to approximate the actual monthly billings on a quarterly basis to reflect the changes in the number of Contestable Customer it serves; or

b. Financial Standard

- i. A RES is required to meet a minimum annual Quick Ratio of 1.5x throughout the period covered by its RES license.
- ii. A RES performing below the benchmark is required to submit a Program to Comply within sixty (60) days of receipt of an ERC directive. The Program to Comply shall identify the specific activities to be undertaken by the RES in order to meet the financial standard. Information on the Program to Comply shall include the following:



1. Concrete activities/measures to be undertaken to upgrade performance and the estimated financial effects;
2. Expected semi-annual targets/milestones achievements; and
3. Clear and definite timetable for the activities and the targets.

The ERC shall inform the RES of its action on the RES Program to Comply within sixty (60) days from receipt thereof. The RES shall be given one (1) year within which to comply with the ERC-prescribed benchmark.

At any time after its submission of a Program to Comply, the RES shall inform the ERC in writing of any event or condition which shall prevent it from meeting the ERC-prescribed financial standard. The notice shall be given to the ERC within seven (7) days of the happening of such event or condition. The ERC may require the RES to submit a revised Program to Comply to consider the new information brought to its attention by the RES.

Unless the RES formally advises the ERC of any condition affecting the meeting of targets in its Program to Comply, the ERC shall expect the RES to comply with the financial standard within the prescribed period.

Section 4. Treatment of Cash Deposits from Contestable Customers

A RES which has collected cash deposits from its customers based on projected sales, shall be required to deposit the actual cash amount collected in an Escrow Account; or in a Restricted Account/Holdout Agreement entered into with the customer, making the said cash deposit unavailable for use in financing the 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 stating that it has availed of

the said bank's Escrow facility, or 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 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 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 and other bank administrative charges, 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. A 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, or be 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. A 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,

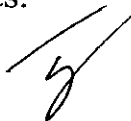
commercial or other economic relationship or interest in NGCP, or conversely, if such relative of any stockholder, director or officer of a RES has no employment, consultancy, fiduciary, contractual, commercial or other economic relationship or interest in the RES: *Provided, further*, that this prohibition 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 a RES, if such share ownership is not more than one *per centum* (1%) of the total outstanding shares of such listed 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.

ARTICLE IV OBLIGATIONS OF RETAIL ELECTRICITY SUPPLIERS

Section 1. A RES that is also engaged in 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 the 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 in a timely manner, without need of further notice, the annual reportorial requirements provided in Section 2.12, Article II of the Business Separation Guidelines (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. A RES shall maintain its own website linked to the ERC and DOE websites. Such RES websites shall provide updated information including indicative or average electricity prices under its Retail Supply Contracts and value-added services to enable the Contestable Customers to make informed choices.



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

Section 4. A 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. A RES shall comply with the creditworthiness criteria and such financial standards provided in Section 3, Article II of these Rules and as may be determined by the ERC to protect the interest of the Contestable Customers.

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

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

Section 8. A 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. A RES is required to collect: (i) Universal Charge and (ii) FIT-All Charges, where applicable, from all of its customers on a monthly basis. The RES shall likewise comply with the Rules Governing the Collection of Universal Charge and the Guidelines, Procedures Governing Remittances and Disbursements of Universal Charge, and the Guidelines on the Collection of the Feed-In Tariff Allowance (FIT-ALL) and the Disbursement of the FIT-ALL Fund issued by the ERC.

Section 10. A RES shall inform the ERC of any material change to the information supplied in its documentary requirements under Articles II and V hereof, within three (3) days from the occurrence of such event.

Section 11. A 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 the ERC, including the reportorial requirements prescribed in these 2016 RES Rules.

Section 12. A RES shall comply with the limitations on ownership and control prescribed in the Act and its IRR.

Section 13. A RES that intends to cease operations shall notify the ERC at least sixty (60) days prior to ceasing operations and shall provide proof of the 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 GenCo. Thereafter, the RES license is deemed cancelled.

ARTICLE V REQUIREMENTS AND PROCEDURES

Section 1. The Applicant shall secure a 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 the ERC shall have required the submission of additional information, or ordered on reasonable grounds the postponement of final action on the application.

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

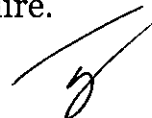
- a. Duly accomplished RES Information Sheet (form available at the ERC website [RES Form 2]);
- b. Articles of Incorporation/Partnership with Certificate of Registration (for juridical persons);
- c. Certified true copies of audited financial statements for the two most recent twelve-month periods, 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 I, 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 [RES Form 3]). The Business Plan should adequately explain how the Applicant will launch and operate its business, specifically, information on its business strategies and its value-added services;
- f. General Information Sheet of the Applicant and its Affiliates engaged in the generation, distribution and retail supply of electricity, and their corresponding business addresses;
- g. Documents referred to in Sections 2 and 3, Article II hereof (Technical and Managerial Standards, Credit and Financial Standards), Organizational chart and identification of its Board of Directors and officers including the individual bio-data of each;
- h. Business Permit / Mayor's Permit;
- i. Proof of payment of applicable fees; and
- j. Such other information or documents that the ERC may require.

Section 3. 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 the RES license;
- b. Duly accomplished RES Information Sheet (form available at the ERC website [RES Form 2]);
- c. Updated Five-year Business Plan reflecting the business activities to be implemented under its new RES license term;
- d. Proof of Payment of applicable fees; and
- e. Such other information or documents that ERC may require.

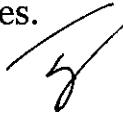


Section 4. All submissions shall be certified under oath by the Applicant or any duly authorized officer in case of a juridical person.

Section 5. Failure to submit the above requirements to the ERC shall be a ground for denial of the application or renewal of the RES license.

Section 6. In order to avoid potential customer abuse by a RES, the ERC may revoke or refuse to renew a RES license for any of the just causes 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 without justifiable cause;
- g. Failure to operate its RES business within two (2) years from grant of license; and,
- h. 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**

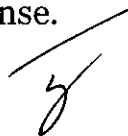
The Applicant shall pay the application fee of Three Thousand Pesos (PhP3,000.00) upon its filing of application or renewal of license. Upon issuance or renewal of a RES license, the Applicant shall likewise pay the RES license fee equivalent to, whichever is higher among the following amounts:

- a. Seventy five (PhP 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 (PhP 10,000.00).

**ARTICLE VII
TERM OF LICENSE**

The RES license issued by the ERC after the promulgation of these 2016 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 2016 RES Rules and other applicable laws and issuances.

The RES shall apply for the renewal of its 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 (form available at the ERC website [RES Form 4]) every 15th day of the subsequent month after the quarter, providing the following information:

- a. Average electricity prices (Total revenue [excluding pass-on charges] 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 security 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. Complete contract information, under oath, summarizing the existing Retail Supply Contracts, particularly indicating the following:
 1. List of customers, actual demand and energy consumption of each customer;
 2. Contract duration;
 3. RES actual monthly demand purchased from a GenCo or other source of power; and
 4. Other additional charges (if any).
- f. A Statement, under oath, of the Disclosure of Capacity and Energy prescribed in Resolution No. 5, Series of 2013, "*A Resolution on Disclosures of Capacity and Energy Allocations by Distribution Utilities in the Luzon and Visayas Grids and Retail Electricity Suppliers*"; and



- g. Other information that the ERC deems necessary or useful in carrying out its duties and obligations.

Section 2. All licensed RES shall submit the following documents on an annual basis, without need of further notice:

- a. Within thirty (30) days from the filing of its Income Tax Return with the Bureau of Internal Revenue (BIR), the RES shall submit a complete set of its Audited Financial Statements (i.e. balance sheet, income statement, statement of cash flows, notes), including the audit opinion, the statement of management's responsibility on the financial statements.
- b. Mayor's permit for the current year, to be submitted every 31st of January of each year.

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 SANCTIONS

Any Person acting as a RES without a valid license issued by ERC, except those exempt from this requirement, shall be subjected to the 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 2016 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 X MONITORING

The ERC shall monitor the compliance of RES with the terms and conditions of their license and the provisions of these 2016 RES Rules.

**ARTICLE XI
SEPARABILITY**

If for any reason, any section of these 2016 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 XII
REPEALING CLAUSE**

Resolution No. 22, Series of 2013 entitled "Resolution Adopting Amendments to Article I, II and III of the Revised Rules for the Issuance of Licenses to Retail Electricity Suppliers" shall continue to have full force and effect except insofar as it is inconsistent with these 2016 RES Rules. Resolution No. 17, Series of 2014 entitled "A Resolution Suspending the Issuance of Retail Electricity Suppliers Licenses", is hereby repealed.

**ARTICLE XIII
EFFECTIVITY**

These 2016 RES Rules shall take effect immediately following its publication in a newspaper of general circulation in the country.

Pasig City, 8 March 2016.


JOSE VICENTE B. SALAZAR
Chairman


GLORIA VICTORIA C. YAP-TARUC
Commissioner


**JOSEFINA PATRICIA A. MAGPALE-
ASIRIT**
Commissioner


ALFREDO J. NON
Commissioner


GERONIMO D. STA. ANA
Commissioner

lalo/lmm/DTL/NSSS

