

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

**GUIDELINES TO GOVERN THE SUBMISSION, EVALUATION
AND APPROVAL OF ELECTRIC POWER TRANSMISSION
AND DISTRIBUTION CAPITAL PROJECTS**

Pursuant to Section 43 of Republic Act No. 9136 otherwise known as the Electric Power Industry Reform Act of 2001 (EPIRA), Rules 6 and 7 of its Implementing Rules and Regulations, Section 8 of ERB Resolution No. 95-21, as amended, and Section 20 (b) of Commonwealth Act No. 146, as amended, the Energy Regulatory Commission (ERC) hereby adopts and promulgates the following Guidelines to Govern the Submission, Evaluation and Approval of Electric Power Transmission and Distribution Capital Projects.

ARTICLE I

GENERAL PROVISIONS

1.1 Objectives

- 1.1.1 To provide the transmission company and distribution utilities with a uniform system for filing applications for the approval of electric power capital projects;
- 1.1.2 To ensure that capital projects are in compliance with the Philippine Grid Code (PGC) and the Philippine Distribution Code (PDC);
- 1.1.3 To protect the public interest as it is affected by the rates and services of electric utilities and other providers of electric power;
- 1.1.4 To ensure the economic, orderly and efficient development of electric utilities' resources that concern public interest;
- 1.1.5 To ensure that the procurement of equipment, materials and services are transparent and compliant with the applicable laws and accepted industry practices and standards.

1.2 Guiding Principles

Provisions in Chapter 6 of the PGC and Chapter 6 of the PDC directed the Grid Owner and the Distributors to conduct grid and distribution planning for the preparation and evaluation of transmission and distribution system reinforcement projects and for the preparation of the transmission and distribution development plans. TransCo is mandated to prepare the Transmission Development Plan (TDP) for its submission to the DOE for integration with the Power Development Program (PDP) and the Philippine Energy Plan (PEP). Similarly, Distribution Utilities are mandated to prepare and submit their annual 5-year Distribution Development Plans to the DOE. Individual development projects found within the TDP and the DDP shall be reviewed by the ERC.

Any plan for expansion or improvement of transmission and distribution facilities shall be reviewed and approved by the ERC to ensure that all capital projects are optimized and that the contracting and procurement of the equipment, assets and services have been subjected to transparent and competitive bidding and purchasing processes to protect public interest.

1.3 Scope of Application

- 1.3.1 National Transmission Corporation (TransCo);
- 1.3.2 Electric Cooperatives;
- 1.3.3 Privately-Owned Distribution Utilities;
- 1.3.4 Local Government Unit Owned-and-Operated Distribution Systems;
- 1.3.5 Entities duly authorized to operate within the Economic Zones;
- 1.3.6 Qualified Third Parties (QTPs) operating in waived areas of a franchised Distribution Utility

1.4 Definition of Terms

Department of Energy / DOE	The government agency created pursuant to Republic Act No. 7638 whose expanded functions are provided in the Act.
Distribution Development Plan	The five-year development plan submitted by the distribution utilities to the DOE not later than the fifteenth (15 th) of March of every year, pursuant to Section 23 of R.A. No. 9136 and Rule 7, Section 4(p) of its

IRR. In the case of electric cooperatives, such plans shall be submitted through the NEA for review and consolidation, in preparation of the National Electric Cooperatives Distribution Development Plan.

Distribution Management Committee (DMC)

The committee established by the ERC to monitor the implementation of the Distribution Code and to perform other functions mentioned in Section 2.2.1 of the Distribution Code.

Distribution System

The system of wires and associated facilities belonging to a franchised distribution utility, extending between the delivery points on the transmission, sub-transmission system, or generating plant connection and the point of connection to the premises of the end-user.

Distribution Utility

Any electric cooperative, private corporation, government-owned utility, or existing local government unit that has an exclusive franchise to operate a distribution system.

Economic Zone (EZ)

The selected areas which are being developed into agro-industrial, industrial, tourist, recreational, commercial, banking, investment and financial centers. An EZ may refer to any of the following: Industrial Estates, Export Processing Zones, Free Trade Zones, Information Technology Parks and Tourist / Recreational Centers, such as but not limited to, those managed, administered, or operated by the Bases Conversion Development Authority (BCDA), Cagayan Economic Zone Authority (CEZA), Clark Development Corporation (CDC), Subic Energy Zone (SEZ), Philippine Economic Zone Authority (PEZA), Phividec Industrial Authority (PIA), and Zamboanga City Economic Zone Authority (ZCEZA).

Electric Cooperative	A distribution utility organized pursuant to Presidential Decree No. 269, as amended or as otherwise provided in Republic Act No. 9136.
Electric Utility	All electric Power Transmission and Distribution Utilities as stated in Section 3 of Article 1 of this Guidelines.
Force Majeure	Any act of God, act of the public enemy, insurrection, riot, fire, storm or flood, explosion, breakage or accident to machinery or equipment, any order or regulation or restriction imposed by governmental military or lawfully established civilian authority, or any other cause beyond and Electric Utilities' control.
Grid / Transmission System	The high-voltage backbone system of interconnected transmission lines, substations, and related facilities.
Grid Management Committee (GMC)	The committee established by the ERC to monitor the implementation of the Grid Code and to perform other functions mentioned in Section 2.2.1 of the Grid Code.
Grid Owner	The party that owns the high-voltage backbone transmission system and is responsible for maintaining adequate grid capacity in accordance with the provisions of the Grid Code.
National Transmission Corporation (TransCo)	The corporation that assumed the authority and responsibility of planning, maintaining, constructing, and centrally operating the high-voltage Transmission System, including the construction of Grid interconnections and the provision of Ancillary Services. When used in this Guidelines, it shall also refer to the Buyer or Concessionaire or assignee of TransCo.

Philippine Distribution Code (PDC) / Distribution Code	The set of basic rules, requirements, procedures, and standards to ensure the safe, reliable, secured and efficient operation, maintenance, and development of the distribution systems in the Philippines. It also defines and establishes the technical aspects of the working relationship of the Distributors and all users of the distribution system.
Philippine Energy Plan (PEP)	The overall energy program formulated and updated yearly by the DOE and submitted to Congress pursuant to Republic Act No. 7638.
Philippine Grid Code (PGC) / Grid Code	The set of basic rules, requirements, procedures, and standards that will ensure the safe, reliable, secured and efficient operation, maintenance, and development of the high-voltage backbone transmission system in the Philippines. It identifies and recognizes the responsibilities and obligations of the Grid Owner, System Operator, and the Market Operator.
Power Development Program (PDP)	The indicative plan for managing electricity demand through energy-efficient programs and for the upgrading, expansion, rehabilitation, repair, and maintenance of power generation and transmission facilities, formulated and updated yearly by the DOE in coordination with the generation, transmission, and distribution utility companies.
Qualified Third Party (QTP)	The alternative electric service provider authorized to serve remote and Unviable Areas pursuant to Section 59 of the Act and Rule 14 of its Implementing Rules and Regulations. It shall refer to persons who meet the qualifications set by the DOE and who obtained the necessary permits from the ERC and any other agency as may be required to be an indirect beneficiary of a person of the Universal Charge for Missionary Electrification.

**Transmission
Development Plan
(TDP)**

The program for expansion, reinforcement, and rehabilitation of the Transmission System which is prepared by the Grid Owner and submitted to the DOE for integration with the PDP and PEP.

1.5 Classification of Capital Projects

1.5.1 Major Capital Projects

These are projects with costs that are substantial in terms of the nature and scope of work of establishing, constructing, upgrading, or operating new units or extending existing facilities.

All Major Capital Projects that qualify under the following conditions shall be filed for approval with the ERC:

- a) For TransCo, the total project cost shall be more than or equal to 0.25% of the amount of Total Net Property and Equipment in Service in its latest audited Balance Sheet.
- b) For a Distribution Utility, the total project cost of the consolidated Major Capital Projects included in the DDP for a given year shall be more than or equal to 0.25% of the recorded amount of Total Net Property and Equipment in Service in its latest audited Balance Sheet.
- c) For an Electric Cooperative, the total project cost of the consolidated Major Capital Projects included in the DDP for a given year shall be more than or equal to 0.25% of the recorded amount of Total Net Property and Equipment in Service in its latest audited Balance Sheet, or PhP 500,000.00 whichever is higher.

All other projects that do not qualify under the above specified conditions shall be treated as Minor Capital Projects.

All Major Capital Projects of TransCo that shall be filed with the ERC shall be consistent with the TDP. It shall only be submitted to the ERC for evaluation and approval after having secured an endorsement / approval of the project(s) feasibility studies from the

Management Committee of TransCo or Board of Directors of its Buyer or Concessionaire, as the case may be.

For Distribution Utilities and other duly authorized entities engaged in the distribution of electricity, all Major Capital Projects intended for implementation in a given year should have been filed with the ERC on the following scheduled dates of the previous year:

Apr 01 - June 30-	Electric Cooperatives having a recorded amount of PhP250M and above of Net Property and Equipment in Service in its latest audited Balance Sheet
July 01 - Sep 31-	Private Distribution Utilities and Utilities operating within Economic Zones
Oct 01 - Dec 31-	Electric Cooperatives having a recorded amount below PhP250M of Net Property and Equipment in Service in its latest audited Balance Sheet

Major Capital Projects as indicated in the TDP and DDP shall be filed for review and approval of the ERC. Splitting of major projects is prohibited except if with prior authorization from the ERC.

1.5.2 Minor Capital Projects

These are projects of retiring, relocating, replacing, repairing, maintaining or rehabilitating of existing facilities, or of making any addition to or general extension of the service initiated by the customer or the government.

An Electric Utility shall not be required to file formal application for ERC approval of Minor Capital Projects to be implemented in a given year. However, an Electric Utility shall notify the ERC at least thirty (30) days in advance before starting the implementation of Minor Capital Project/s, by indicating the following:

- a) Project / Program / Activity Description;
- b) Justification/s or Benefits to be delivered;
- c) Estimated Project / Program / Activity Costs;
- d) Project / Program / Activity Schedule; and
- e) Procurement Schedule

The ERC shall, within ninety (90) days from receipt of an Electric Utility's notice of implementation of a Minor Capital Project, inform the concerned Electric Utility of its action thereon; otherwise it is deemed that all Minor Capital Projects shall have been approved.

Minor Capital Projects are subject to verification by the ERC. Upon verification, any significant discrepancies or deviations from the submitted documents shall be subject to the penalty which the Commission may impose.

1.5.3 Emergency Capital Projects

These are projects that require immediate implementation during an event of force majeure in order to maintain safe, reliable, secure and efficient operation of the power system.

The Electric Utility shall notify the ERC in writing within one (1) week upon implementation of Major Emergency Capital projects. Supporting documents / information that include (a) Project Costs and (b) Project Schedule shall be submitted thirty (30) days after the said notification.

The Electric Utility shall file for approval a formal application within sixty (60) days after commencement of Major Emergency Capital Projects.

ARTICLE II

APPLICATIONS AND REQUIREMENTS

2.1 Application for Major Capital Projects

The application for the approval of any Major Capital Project/s shall be verified by an authorized representative of the Electric Utility, which has to present Board Resolution or Secretary's Certificate to show proof of his / her being the designated representative of the Board of Directors and shall be filed with the ERC together with properly labeled three (3) hard copies and three (3) electronic copies of the following requirements:

- 2.1.1 Description of the Project;
- 2.1.2 Justifications for the Project (include the adverse effects of the non-implementation of the proposed Project(s) and impact or benefits of the proposed Project(s) on the system);
- 2.1.3 Options / Alternatives considered in lieu of the proposed Project(s);
- 2.1.4 5-year Historical and Forecast Planning Data consistent with the TDP / DDP;
- 2.1.5 Technical Analysis (Simulation and/or Computation);
- 2.1.6 Projected Financial & Economic Cost Analysis;
 - i. Impact / effect on rate base of the proposed Project(s);
 - ii. Net Present Value, Internal Rate of Return and Benefit/Cost Ratio analysis (include analysis for the alternatives);
- 2.1.7 Conceptual Engineering Design and Drawings;
- 2.1.8 Detailed Project Cost Estimates (Equipment, Materials, Installation/ Construction, Testing & Commissioning, Feasibility & Engineering Design);
- 2.1.9 Project Financing Plan;
- 2.1.10 Proposed Gantt Chart Schedule (include Bidding and Procurement Schedule);
- 2.1.11 Board resolution or Secretary's Certificate approving the proposed Project(s);
- 2.1.12 Sworn Statement from the authorized representative of the Electric Utility that an application for approval from the concerned agencies that may have interest in the proposed project has been filed / or shall be filed by (specify date of filing and furnish ERC a copy within 5 days upon filing);
- 2.1.13 Sworn Statement from the authorized representative of the Electric Utility that the proposed major capital project/s are consistent with the TDP / DDP

2.2 Evaluation and Approval

Within fifteen (15) days from receipt of an application, the ERC shall verify the completeness of the documents submitted, and notify in writing the Electric Utility concerned: to submit additional documents if some requirements are found lacking; or to pay the required filing fee as docketing requirement, if the requirements were found complete.

Any petition, application or action to be filed herein shall be governed by the existing Rules of Practice and Procedure Governing Hearings before the ERC, the pertinent provisions of the Act or its IRR and other related laws.

Any application for approval of Major Capital Projects and/or Emergency Capital Projects shall be decided by the ERC within one hundred twenty (120) days from receipt of the applicant's Formal Offer of Evidences (FOE); otherwise, it is deemed that the application shall have been approved.

For the authorization and approval of Major Capital Projects and/or Emergency Capital Projects, an Electric Utility shall be required to pay a permit fee based on the existing schedule of ERC Fees and Charges.

The ERC may refer to the GMC or the DMC or engage the services of a qualified third party at a reasonable cost, in the evaluation of any Major Capital Project/s application submitted to the ERC for approval. The concerned Electric Utility shall be charged an amount equivalent to the expenses incurred by the ERC in engaging the services of the qualified third party.

2.3 Reportorial Requirements

Thirty (30) days after ERC's approval of a Major or Emergency Capital Project, an Electric Utility shall submit the Plan for Right-of-Way (if applicable) and result/s of the competitive bidding which include proposals and purchase orders of materials and / or equipment in stock or part of inventories utilized for the particular project/s (if applicable).

An Electric Utility shall be required to submit progress report and actual project running costs of the Major or Emergency Capital Project every twenty-five percent (25%) of the work accomplished, until its full completion.

Any significant or substantial change in the conceptual engineering design, specifications and/or increase/decrease in the bill of materials that will result in a cumulative variation order beyond 10% of the original project cost shall be reported to ERC in writing within fifteen (15) days before implementing the variation order. The ERC shall render its decision within thirty (30) days from receipt of the report; otherwise, it is deemed that the revision/s shall have been approved. Failure to submit a report within the said period shall constitute a waiver by the Electric Utility for any claim.

The Electric Utility shall submit to the ERC a written report, together with justifications, if it decides to defer or cancel approved Major Capital Projects.

ARTICLE III

ADMISTRATIVE SANCTIONS

Violations of this Guidelines shall be subject to the penalty which the Commission may impose in accordance with the Guidelines to Govern the Imposition of Administrative Sanctions in the Form of Fines and Penalties pursuant to Section 46 of Republic Act 9136.

ARTICLE IV

TRANSITORY PROVISIONS

Major Capital Projects that are in the implementation process or that were recently been completed, but without the prior approval from the Commission, shall be submitted to the ERC for approval within three (3) months from the date of the effectivity of this Guidelines.

ARTICLE V

SEPARABILITY CLAUSE

If for any reason, any provision of this Guidelines 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 VI
REPEALING CLAUSE

Any rule or regulation inconsistent with the provisions of this Guidelines is hereby repealed and modified accordingly.

ARTICLE VII
EFFECTIVITY

This Guidelines shall take effect fifteen (15) days upon its publication in a newspaper of nationwide circulation.

Pasig City, June 2, 2005.