

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

**REVISED RULES FOR THE ISSUANCE OF
CERTIFICATES OF COMPLIANCE (COCs) FOR
GENERATION COMPANIES/FACILITIES**

Pursuant to Section 6 of Republic Act No. 9136, its Implementing Rules and Regulations, the Philippine Grid Code, the Philippine Distribution Code and the Wholesale Electricity Spot Market (WESM) Rules, the Energy Regulatory Commission (ERC) hereby adopts and promulgates these Revised Rules for the Issuance of Certificates of Compliance (COCs) for Generation Companies/Facilities.

**ARTICLE I
GENERAL PROVISIONS**

Section 1. **Objectives.** – These Revised Rules have the following objectives: (a) to govern applications for Certificates of Compliance (COCs); (b) to clarify the requirements and procedures for such applications, including renewals thereof; (c) to reiterate and/or prescribe the qualifications, disqualifications and the legal obligations of grantees of COCs; and (d) to monitor compliance with the R.A. 9136, its Implementing Rules and Regulations, WESM Rules and Manuals, Philippine Grid Code and Philippine Distribution Code.

Section 2. **Guiding Principles.** –

(a) No Person may engage in the generation of electricity as a Generation Company unless it has secured a COC from the ERC to operate facilities used in the Generation of Electricity.

(b) The application for a COC shall be in the name of the Generation Company owning the facilities used in the generation of electricity and the COC shall be issued in the name of such owner. However, in the case of Facilities covered by the National Power Corporation Independent Power Producer Contracts (NPC-IPP Contracts), the ERC shall consider the COCs issued to the owners of the said Facilities as issued also to the IPP Administrators (IPPAs), if any, for purposes of enforcement of and compliance with the subject Revised Rules, until such time that a set of Rules is issued by the ERC for the licensing of said IPPAs.

(c) The owner of the generation facilities may transfer, convey or assign said COC to the operator/s of the generation facilities: Provided, that the latter shall also comply with all applicable legal obligations and requirements as set forth in these Revised Rules and other ERC issuances; Provided further, that a Deed of Assignment shall be executed by the owner/s and the operator/s of the generation facilities for submission and approval by the ERC.

(d) A COC shall be secured from the ERC before the Commercial Operations of a Generation Facility. For new Generation Facilities, the Generation Company may conduct Commissioning for a maximum period of two (2) months even without a COC and the sale of the generated output during Commissioning shall not be considered as Commercial Operations. Beyond this period, however, the sale of generated output shall already be deemed as Commercial Operations for which a COC shall be required. Notwithstanding this provision, the recovery of the cost of power purchased by a distribution utility during Commissioning shall be governed by the Guidelines for the Recovery of Costs for Generation Component of the Distribution Utilities' Rates.

(e) The COC shall stipulate all the obligations of a Generation Company or any assignee thereof, consistent with the standards and operating guidelines established herein or which the ERC may require from time to time, and with such other laws, rules, and regulations pertinent thereto and shall be issued only after a showing of compliance with such standards and requirements.

(f) The COC issued to a Generation Company shall include all of its generating facilities situated in one contiguous area, which are in operation at the time of issuance. An expansion, conversion, or repowering of any of the Generation Company's Facilities, or an acquisition of a new Generating Facility and any Stand-by/Back up facilities being operated thereby shall require a separate COC. A separate COC application shall therefore be filed.

(g) A Generation Company existing before the effectivity of R.A. No. 9136 shall be covered by Article III of these Revised Rules.

Section 3. **Scope.** – These Revised Rules shall apply to all facilities used or to be used for the Generation of Electricity, including but not limited to the following:

- (a) Existing Generating Facilities:
 - (i) Spin-off Facilities of NPC or their Transferees, including Generating Facilities or Generation Companies owned by NPC transferred to PSALM and subsequently privatized pursuant to the Act;
 - (ii) Agus and Pulangui Complexes;
 - (iii) Facilities owned and operated by NPC-SPUG;
 - (iv) Accredited Facilities under BOT arrangement and other variants with NPC, NPC-SPUG, NIA and other government agencies;
 - (v) Accredited Facilities under BOT arrangement and other variant with Distribution Utilities;
 - (vi) Facilities Owned or Operated by a Distribution Utility;
 - (vii) Generation Companies/Facilities under Contract with a Distribution Utility;
 - (viii) Self-Generation Facilities;
 - (ix) Facilities operating in Economic Zones; and
 - (x) Facilities operating in isolated areas.

- (b) New Generating Facilities:
 - (i) Any newly-constructed Facility connected to the Grid with appropriate health, safety and environmental clearances;
 - (ii) Any Facility currently under BOT arrangement and other variants with NPC, NPC-SPUG and other government agencies and government-owned and controlled corporations; and
 - (iii) Any Facility that shall operate in an isolated area.
- (c) Generating Facilities Under Construction:
 - (i) DOE-Accredited Facility under BOT arrangement and other variants with NPC, NPC-SPUG, NIA and other government agencies;
 - (ii) DOE-Accredited Facility under BOT arrangement and other variants with Distribution Utilities;
 - (iii) Non-DOE-Accredited Facility under contract with Distribution Utilities;
 - (iv) Self-Generation Facility; and
 - (v) Facility located in Economic Zones and Facility operating in isolated areas.
- (d) New Generating Companies – New entities owning or operating one or more Generating Facilities
- (e) PSALM-appointed IPP Administrators
- (f) Expansion of existing Generating Facilities

Section 4. Definition of Terms. –

- (a) “Affiliate” refers to 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.
- (b) “Black start” refers to the process of recovery from Total System Blackout using a Generating Unit with the capability to start and synchronize with the System without an external power supply.
- (c) “Commercial Operations” for purposes of this Rules, shall refer to the period in which the plant has completed the commissioning phase and the generation facility has achieved operational and capability criteria in accordance with standard engineering practice for Generation Facilities.
- (d) “Commissioning” refers to the series of activities, tests and procedures undertaken in order to start Commercial Operations of a generation facility.

- (e) "Contestable Market" refers to the end-users who have a choice of a Supplier of electricity, as may be determined by the ERC in accordance with the provisions of R.A. 9136 and its Implementing Rules and Regulations.
- (f) "Control" refers to the power to direct or cause the direction of the management policies of a Person by contract, by agency, or otherwise.
- (g) "Distribution Utility" refers to 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 R.A. 9136.
- (h) "Industry Participant" refers to any person or entity engaged in the generation, transmission, distribution or supply of electricity.
- (i) "Installed Generating Capacity in a Grid" refers to the sum of the maximum capacity of the generation facilities which are connected to a transmission system or distribution system that forms part of a particular Grid.
- (j) "Economic Zones" or "EZs" refer to 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".
- (k) "Embedded Generators" refer to generating units that are indirectly connected to the grid through the Distribution Utilities' lines or industrial generating facilities that are synchronized with the grid.
- (l) "Energy Regulatory Commission" or ERC refers to the regulatory agency created under R.A. 9136.
- (m) "Generation Company" refers to any person or entity authorized by ERC to operate facilities used in the generation of electricity.
- (n) "Generation Facility" refers to a facility for the production of electricity.
- (o) "Generation of Electricity" refers to the production of electricity by a generation company or co-generation facility pursuant to the provisions of R.A. 9136.

- (p) “Grid” refers to the high voltage backbone system of interconnected transmission lines, substations, and related facilities for the purpose of conveyance of bulk power.
- (q) “Grid Code” refers to the set of rules, requirements, procedures and standards to ensure the safe, reliable, secured and efficient operation, maintenance, and development of the high voltage backbone Transmission System and its related facilities.
- (r) “IPP Administrators” refer to qualified independent entities appointed by PSALM who shall administer, conserve and manage the contracted energy output of NPC IPP contracts, including selling the contracted energy output of these contracts and offering ancillary services, where applicable.
- (s) “Market Operator” refers to the “Autonomous Group Market Operator” or “AGMO” constituted by the DOE under Section 30 of R.A. 9136, 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.
- (t) “Maximum Capacity” refers to the gross capacity that a unit can sustain over a specified period of time as established during formal demonstration through testing based on manufacturers’ approved procedures or any internationally-accepted testing such as, but not limited to, the American Society of Mechanical Engineers (ASME) and American National Standards Institute (ANSI): Provide, That for generation facilities that have not conducted such testing during the 12 months immediately prior to its initial submission of its maximum capacity, the initial submission thereof shall be the highest nominated capacity over the period of twelve (12) months as provided in the capacity nomination submission for dispatch scheduling.
- (u) “Maximum load or “Pmax” refers to the maximum demand in MW that a generating unit, or generating block or module in the case of a combined cycle power plant, can reliably sustain for an indefinite period of time, based on the generator capability tests.
- (v) “Minimum Stable Load” or “Pmin” refers to the minimum demand in MW that a generating unit, or generating block or module in the case of a combined cycle power plant, can reliably sustain for an indefinite period of time, based on the generator capability tests.
- (w) “National Grid Corporation of the Philippines” or “NGCP” refers to the corporate vehicle of the consortium which was awarded the concession to assume the power transmission functions of the National Transmission Corporation (“TRANSCO”).

- (x) “National Power Corporation” or “NPC” refers to the government corporation created under Republic Act No. 6395, as amended.
- (y) “National Transmission Corporation” or “TRANSCO” refers to the corporation organized pursuant to R.A. 9136 to acquire all the transmission assets of the NPC.
- (z) “Philippine Electricity Market Corporation” or “PEMC” refers to the entity responsible for governing and administering the operations of the WESM, also referred to in these Rules as the Market Operator, provided, however, that should the market operations functions of the WESM be transferred to an Independent Market Operator (IMO), all references to PEMC shall thereafter refer to its governing the WESM while all references to the Market Operator shall refer to such independent Market Operator without need of amendment of these Rules.
- (aa) “Philippine Electrical Code, Part II” refers to the basic safety rules for safeguarding persons from the hazards arising from the installation, operation and maintenance of electric supply and communication facilities.
- (bb) “Philippine Stock Exchange” or “PSE” refers to the corporate body duly organized and existing under Philippine law, licensed to operate as a securities exchange by the SEC.
- (cc) “Power Development Program” or “PDP” refers to 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.
- (dd) “Power Sector Assets and Liabilities Management Corporation” or “PSALM Corp.” or “PSALM” refers to the corporation created pursuant to Section 49 of R.A. 9136.
- (ee) “Ramp Down Rate” refers to the normal rate that a generating unit reduces its power output, expressed in MW per minute.
- (ff) “Ramp Up Rate” refers to the normal rate that a generating unit increases its power output, expressed in MW per minute.
- (gg) “Related Group” refers to a person and any business entity controlled by that person, along with the Affiliates of such business entity, and the directors and officers of the business entity or its Affiliates, and relatives by consanguinity or affinity, legitimate or common law, within the fourth civil degree, of the person or any of the foregoing directors or officers.
- (hh) “Supervisory Control and Data Acquisition” or “SCADA” refers to a system of remote control and telemetry used to monitor and control a power system.

- (ii) “Stand-by/Back-up” refers to a generating facility used for the main purpose of providing in-house electricity source for the power plant’s lighting and auxiliary equipment during total system shutdown.
- (jj) “Synchronized” refers to the state when connected generating units and/or interconnected AC Systems operate at the same frequency and where the phase angle displacements between their voltages vary about a stable operating unit.
- (kk) “System” refers to the Grid or Distribution System or any User System. Also refers to a group of Components connected or associated in a fixed configuration to perform a specified function.
- (ll) “Supplier” refers to any person or entity authorized by the ERC to sell, broker, market or aggregate electricity to the end-users.
- (mm) “Supply” refers to the sale of electricity to an end-user by an Industry Participant duly licensed by the ERC.
- (nn) “Self-Generation Facility” refers to a power Generation Facility owned and constructed by an end-user for such end-user’s own consumption or internal use excluding Generation Facilities for use by households, clinics, hospitals and other medical facilities.
- (oo) “Small Power Utilities Group” or “SPUG” refers to the functional unit of NPC created to pursue missionary electrification function.
- (pp) “Wholesale Electricity Spot Market” or “WESM” refers to the wholesale electricity spot market created in accordance with R.A. 9136.

ARTICLE II

QUALIFICATIONS OF GENERATION COMPANIES AND GENERATION FACILITIES

Section 1. Ownership Limitations. –

(a) Transmission Cross-Ownership Prohibition

A Generation Company or its subsidiary or Affiliate or other entity engaged in generating and supplying electricity or stockholders or 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 the TRANSCO or NGCP. Likewise, the TRANSCO or NGCP or any of 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 any Generation Company or Distribution Utility or its respective subsidiary or affiliate or Supplier. 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 the TRANSCO or NGCP has no employment, consultancy, fiduciary, contractual, commercial or other economic relationship or interest in the TRANSCO or NGCP, or conversely, if such relative of any stockholder, director or officer of a Generation Company, Distribution Utility or Supplier has no employment, consultancy, fiduciary, contractual, commercial or other economic relationship or interest in the Generation Company, Distribution Utility or Supplier: 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 Generation Company, Distribution Utility or Supplier, if such share ownership is not more than one per centum (1%) of the total outstanding shares of such listed Generation Company, Distribution Utility or Supplier; 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 the TRANSCO or NGCP: Provided, moreover, That such owner of shares of stock in the listed corporate stockholder of the TRANSCO or NGCP shall not own more than one per centum (1%) of the shares of stock or equity interest in any Generation Company, Distribution Utility or Supplier. This provision shall not be applicable to PSALM during the period that its generation assets are being privatized pursuant to Section 47 of R.A. 9136.

(b) Generation Market Restrictions

1. General Principle

No Generating Company, Facility or any other person may engage in any anti-competitive behavior including, but not limited to, cross-subsidization, price or market manipulation, false or deceptive marketing, or other unfair trade practices detrimental to the encouragement and protection of Contestable Markets or the WESM.

2. Limits on Concentration in Ownership of Generating Capacity

No company, Related Group or 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; provided that such restrictions shall not apply to PSALM or NPC during the time that its assets are being privatized pursuant to Section 47 of R.A. 9136. This limitation shall not apply to a Generation Company/Facility located in the NPC-SPUG areas or in isolated grids that are not connected to the high voltage transmission system. The ERC shall determine the installed generating capacity in a Grid and the national installed generating capacity on or before the 15th day of March of each year and/or as often as may be necessary.

The capacity of such Facility shall be credited to the entity controlling the terms and conditions of the prices or quantities of the output of such capacity sold in the market in cases where different entities own the same Generation Facility.

In cases where different entities own, operate or control the same Generation Facility, the capacity of such Facility shall be credited to the entity controlling the capacity of the Generation Facility. This qualification shall be used for purposes of calculating whether a particular generation entity is deemed to have complied with the market share limitations as provided above.

3. Limits on Bilateral Contracts

A Generation Company shall not sell to an affiliate Distribution Utility through bilateral power supply contracts more than fifty percent (50%) of that Distribution Utility's total demand. This limitation shall apply regardless of whether demand is expressed in terms of capacity or energy. This limitation shall not prejudice contracts entered into prior to the effectivity of R.A. No. 9136.

4. Penalties for Anti-Competitive or Discriminatory Act or Behavior

The ERC shall, motu proprio monitor and penalize any market power abuse or anti-competitive or unduly discriminatory act or behavior, or any unfair trade practice that distorts competition or harms consumers, by any industry participant, in accordance with the procedure laid down in Resolution No. 45, Series of 2006 ("Competition Rules and Complaint Procedures"). Upon a finding of a prima facie case that an industry participant has engaged in such act or behavior, the ERC shall, after due notice and public hearing, stop and redress the same. Such remedies shall, without limitation, include the separation of the business activities of an industry participant into different juridical entities, imposition of bid or price controls, issuance of injunctions in accordance with the Rules of Court, divestment or disgorgement of excess profits, and imposition of fines and penalties under Article III, Section 7 of the "Guidelines to Govern the Imposition of Administrative Sanctions in the Form of Fines and Penalties Pursuant to Section 46 of R.A. 9136, as Amended".

(c) Public Listing Requirements

Generation Companies, which are not publicly listed shall offer and sell to the public a portion not less than fifteen percent (15%) of their common shares of stocks, provided, however, that Generation Companies, or their respective holding companies that are already listed in the PSE are deemed in compliance. For existing companies, such public offering shall be implemented not later than five (5) years from the effectivity of R.A. 9136. New companies shall implement their respective public offerings not later than five (5) years from the issuance of their COCs.

ARTICLE III REQUIREMENTS AND PROCEDURES

Section 1. **In General.** – All Generation Companies and Entities with Generation Facilities shall apply for the issuance of a COC with the ERC. Provided all the requirements shall have been complied with, the ERC shall notify the Generation

Company or Entities with Generation Facilities of its action within ninety (90) calendar days from the filing of the application. In the event the ERC requires the submission of additional information, or orders the postponement of final action on an application on reasonable grounds, the 90-day period shall be reckoned from the date of complete submission of the required information or the lifting of the suspension of the final action on the application. The ERC shall deny the application if the applicant fails to submit all the information and other requirements within the period allowed.

If a Generation Company has filed its application in accordance with the preceding paragraph but has not been issued a COC within the 90-calendar day period, its application shall be deemed provisionally approved.

Section 2. **Documents/Information Required for New Applications. –**

(a) The following documents/information are required to be submitted by all Generation Companies and Entities with Generation Facilities, except Self-Generation Facilities, at the time of application:

- (1) Operational as of June 26, 2001
 - (aa) Application Form (COC Form No. 1);
 - (bb) Company Profile (COC Form No. 2);
 - (cc) Certificate of DOE/NPC Accreditation, when applicable;
 - (dd) Three (3) year Operational History,(COC Form No. 3), if applicable;
 - (ee) Sworn Statement that each of the Facilities complies with and will continue to comply with the Philippine Grid Code (PGC) and Philippine Distribution Code (PDC) for the duration of the COC; and
 - (ff) Sworn statement that the company and its generating facilities comply with and will continue to comply with the WESM Rules and Manuals for the duration of the COC, when applicable.

Generation Companies/Facilities operational as of June 26, 2001 which do not meet the financial and technical standards required of Generation Companies/Facilities by the PGC and PDC shall be given up to one (1) year within which to comply with the said standards.

- (2) Operational after June 26, 2001
 - (aa) General Requirements
 - (i) Application Form (COC Form No. 1);
 - (ii) Company Profile (COC Form No. 2); and
 - (iii) Three (3) year Operational History (COC Form No. 3), if applicable.

(bb) Technical Qualification

- (i) Sworn Statement that each of the Facilities complies with and will continue to comply with the PGC and PDC for the duration of the COC;
- (ii) Sworn Statement that the company and its generating facilities comply with and will continue to comply with the WESM Rules and Manuals for the duration of the COC, when applicable;
- (iii) Management Contracts in force, if applicable;
- (iv) General Plant Description;
- (v) Location Map;
- (vi) Connection Agreement between the Grid Owner (TRANSCO) and the Existing Generation Facility or Interconnection plans/details with the high voltage backbone transmission system/grid or Distribution System (for Embedded Generators) and or Transmission/Distribution Use of System Agreement, if available; and
- (vii) PGC, PDC and WESM Requirements
 - 1. Electrical/Mechanical Plans and Diagrams;
 - 2. Plant Specifications such as minimum stable load, maximum stable load, ramp up rate and ramp down rate, including plant efficiency and heat rate, if applicable;
 - 3. Technical Description of the Load to be served (for those in isolated areas and those serving dedicated loads);
 - 4. Safety Rules/Guidelines;
 - 5. WESM membership, if applicable; and
 - 6. Details of its Communication and SCADA Requirements, if applicable.

(cc) Financial Capability

- (i) Audited financial statements for the 2 most recent 12-month periods, if available;
- (ii) Schedule of liabilities, to include the following information: name of creditor, type of credit, credit terms;
- (iii) 5-year financial plan; and
- (iv) Documentation on financial track record of the Generation Company and its principal stockholder, if available.

(dd) Ownership/Control

- (i) Articles of Incorporation/Partnership (for Corporation/Partnership) with Certificate of Registration;
- (ii) Business Name Registration Certificate (for Single Proprietorship);
- (iii) Updated listing of shareholders and corresponding equity shares;
- (iv) Complete list of its Board of Directors and Senior Officials down to the level of Plant Managers;

- (v) Types of long term debt and equity instrument, including amount and proportion to total capitalization;
- (vi) Sworn Statement that the company complies with and will continue to comply with the provisions on cross ownership and market share restrictions under R.A. No. 9136, its Implementing Rules and Regulations, and these Revised Rules for the duration of the COC;
- (vii) Comprehensive and complete listing of Affiliates and Related Groups, including ownership and management structure; and
- (viii) PSE Certificate to the effect that they are listed with PSE, when applicable.

(ee) Other Requirements

- (i) Power Supply Agreements, if applicable;
- (ii) Memorandum of Agreement on the Establishment of Trust Accounts by the Generation Company and/or the Energy Resource Developer and the Department of Energy on Benefits to Host Communities pursuant to Rule 29 of the IRR of R.A. 9136;
- (iii) Environmental Compliance Certificate (ECC) duly approved by the Department of Environment and Natural Resources (DENR);
- (iv) Department of Energy (DOE) Endorsement indicating that the power plant project is consistent with the Power Development Program of the Government or with the Missionary Electrification Development Plan (MEDP) for power plant project located in isolated grid; and
- (v) Such other information or document that the ERC may require.

(b) The following documents/information are required to be submitted by Self-Generation Facilities at the time of application:

- (1) Self-Generation Facility (SGF) with aggregate installed capacity below 1 MW

(aa) General Requirements

- (i) Application Form (COC Form No. 1);
- (ii) Company Profile (COC Form No. 2), and
- (iii) Other Document/s that the ERC may require.

- (2) Self-Generation Facility (SGF) with aggregate installed capacity of 1 MW and above

(aa) General Requirements

- (i) Application Form (COC Form No. 1);
- (ii) Company Profile (COC Form No. 2);
- (iii) Three (3) year Operational History (Form No. 3); and
- (iv) DOE/NPC Certificate of Accreditation, if applicable.

- (bb) Additional Requirements
 - (i) Securities and Exchange Commission (SEC) Registration;
 - (ii) Latest General Information Sheet (GIS) of the Company – SEC Form; and
 - (iii) Other Document/s that the ERC may require.

Section 3. Documents/Information Required for Applications for COC Renewal. –

(a) For Generation Companies

- (1) General Requirements
 - (aa) Application Form (COC Form No. 1);
 - (bb) Company Profile (COC Form No. 2); and
- (2) Technical Qualification
 - (aa) Sworn Statement that each of the Facilities complies with and will continue to comply with the PGC and PDC for the duration of the COC;
 - (bb) Sworn Statement that the company and its generating facilities comply with and will continue to comply with the WESM Rules and Manuals for the duration of the COC, when applicable;
 - (cc) General Plant Description, if there are any changes; and
 - (dd) PGC, PDC, and WESM Requirements
 - 1. Electrical/Mechanical Plans and Diagrams, if there are any changes;
 - 2. Details of its Communication and SCADA Requirements, if there are any changes; and
 - 3. Certificate of WESM Membership or Application for WESM Membership, as may be applicable.
- (3) Financial Capability
 - (aa) Updated schedule of liabilities, to include the following information: name of creditor, type of credit, credit terms;
 - (bb) 5-year financial plan; and
 - (cc) Documentation on financial track record of the Generation Company and its principal stockholder.
- (4) Ownership/Control
 - (aa) Articles of Incorporation/Partnership (for Corporation /Partnership) with Certificate of Registration, if there are any changes;
 - (bb) Latest General Information Sheet (GIS) of the Company – Form from SEC;
 - (cc) Updated complete list of its Board of Directors and Senior Officials down to the level of Plant Managers;
 - (dd) Sworn Statement that the company complies with and will continue to comply with the provisions on cross-ownership and market share restrictions under R.A. 9136, its

- Implementing Rules and Regulations, and these Revised Rules for the duration of the COC; and
- (ee) Updated and comprehensive listing of Affiliates and Related Groups, including ownership and management structure.

(5) Other Requirements

- (aa) Power Supply Agreements, if new PSAs have been executed/entered;
- (bb) Most recent Quarterly Monitoring Report of the DENR or any DENR-accredited third party tester; and
- (cc) Such other information or documents that the ERC may require.

(b) For Self-Generation Facility

- (1) Self-Generation Facility (SGF) with aggregate installed capacity below 1 MW

General Requirements

- (aa) Application Form (COC Form No. 1);
- (bb) Company Profile (COC Form No. 2), and
- (cc) Other Document/s that the ERC may require.

- (2) Self-Generation Facility (SGF) with aggregate installed capacity of 1 MW and above

General Requirements

- (aa) Application Form (COC Form No. 1);
- (bb) Company Profile (COC Form No. 2);
- (cc) Three (3) year Operational History (Form No. 3); and
- (dd) DOE/NPC Certificate of Accreditation, if applicable.

Additional Requirements

- (aa) Securities and Exchange Commission (SEC) Registration;
- (bb) Latest General Information Sheet (GIS) of the Company – SEC Form; and
- (cc) Other Document/s that the ERC may require.

Section 4. **When to File.** – The application for COC for Generation Facilities shall be filed not later than three (3) months before the targeted date of commissioning of the said facilities.

Section 5. **Transfer of Ownership.** – If a Generation Facility, including that of NPC, whose owner has been previously issued a COC, is transferred or sold and the term of such COC has not expired, the new owner shall not be required to secure a new COC for the remainder of the term of the existing COC, provided that the transfer of ownership is reported to the ERC within three (3) days and the new owner conforms to all the obligations imposed on a Generation Company. If the new owner does not meet the financial and technical standards required of a Generation Company, the new owner

shall be given a period of one (1) year or the remaining life of the COC, whichever is shorter, within which to comply with such requirement.

Section 6. Change of Status. – A Self-Generating Facility, which intends to sell its generated electricity, shall file an application for the amendment of its COC from a Self-Generation Facility to a Generation Company and submit and comply with all the pertinent requirements imposed on a Generation Company under Article III, Section 2 of these Revised Rules. Pending evaluation and final action on the said application, the ERC may provisionally allow such Self-Generating Facility to sell its generated electricity on the basis of its existing COC, subject to its compliance with the applicable requirements for power supply to Distribution Utilities or participation in the WESM.

Section 7. Ocular Technical Inspection. – All Generation Companies/Facilities shall be subject to the actual ocular technical inspection to be conducted by the designated ERC personnel, at least twice (2x) during the five (5) year life of the COC.

For new Generation Companies/Facilities, a technical inspection shall be conducted on the newly-constructed facilities by the designated ERC personnel on or during the Commissioning of the Facilities and in all cases prior to the Commercial Operations of the same.

ARTICLE IV OBLIGATIONS OF A GENERATION COMPANY/FACILITY

Section 1. Compliance with Technical Standards. – A Generation Company shall ensure that all its Facilities connected to the Grid meet the technical design and operational criteria of the Grid Code and Distribution Code promulgated by the ERC, Philippine Electrical Code, and the system requirements of TRANSCO or NGCP, including, among others, standards for voltage fluctuation, frequency, harmonics, security, reliability, unplanned outages and provision for ancillary services and shall operate in accordance with such operational criteria.

Section 2. Compliance with Financial Standards. – A Generation Company with Facilities connected to the Grid shall conform to the Guidelines for the Financial Standards of Generation Companies.

Section 3. Compliance with Environmental Standards. – A Generation Company shall ensure that its Generation Facilities comply with applicable environmental laws, rules and regulations.

Section 4. Generation Facilities Operating in Isolated Areas. – A Generation Company operating a Generation Facility in isolated areas shall meet the technical and financial standards to be issued by the ERC using applicable and practicable criteria within two (2) years, or such other period as may be specified by the ERC, from the issuance of such technical and financial standards. The generation rates to be charged by a Generation Company operating a facility in SPUG areas and isolated areas shall be fixed and determined by the ERC.

Section 5. **Structural and Functional Unbundling of a Generation Company.** – A Generation Company shall structurally and functionally unbundle its generation business activities and rates from its supply and/or related businesses.

Section 6. **Self-Generator’s Contribution to the Universal Charge.** – Upon expiration of the exemption of Self-Generation Facilities from the imposition of Universal Charge pursuant to Section 7, Rule 18 of the Implementing Rules and Regulations of R.A. 9136, a Self-Generation Facility subject to the aforementioned provision shall remit directly to TRANSCO or NGCP the corresponding Universal Charge set by the ERC. In relation to this, TRANSCO or NGCP shall be provided access to the customer side of the meter in order to determine the utilization of such Generation Facility for the purpose of assessing the corresponding Universal Charge.

The term “register” provided in the aforementioned rule shall be equivalent to the issuance of a COC to the concerned Facility.

Section 7. **Benefits to Host Communities.** – The obligations of Generation Companies and energy resource developers to communities hosting the energy Generation Facilities and/or energy resource developers as defined under Chapter II, Sections 289 to 294 of the Local Government Code and Section 5 (i) of Republic Act No. 7638 and their Implementing Rules and Regulations shall continue, and the obligations mandated under Chapter II, Section 291 of Republic Act No. 7160 shall apply to privately-owned corporations or entities utilizing the national wealth of the locality.

Section 8. **Generation Company’s Participation in the WESM.** – Upon the establishment of the WESM by the DOE, jointly with Industry Participants, a Generation Company shall comply with the membership criteria as prescribed under the WESM Rules and Manuals.

A Generation Company with Generation Facilities connected to a Grid shall make information available to the Market Operator to enable it to implement the appropriate dispatch scheduling and shall comply with the said scheduling in accordance with the WESM Rules and Manuals.

A Generation Company shall, likewise, make information available to the TRANSCO or NGCP to facilitate its central dispatch. Subject to technical constraints, the grid operator of the TRANSCO or NGCP shall provide central dispatch to a Generation Facility connected, directly or indirectly, to the transmission system in accordance with the dispatch schedule submitted by the Market Operator, which schedule shall take into account outstanding bilateral contracts.

Section 9. **DOE Reportorial Requirements.** – A Generation Company shall submit to the DOE any information as may be required by it for the preparation of the Power Development Program (PDP), subject to appropriate measures to preserve the confidentiality of proprietary or commercially sensitive information.

Section 10. **ERC Reportorial Requirements.** –

(a) Within thirty (30) days after the end of each fiscal period, the Generation Company shall submit to the ERC a management report or discussion on operations and financial results, which shall include the following:

- (i) Report on capacity utilization, electricity dispatch/sales volume, maintenance schedules, and unscheduled downtimes during the period;
- (ii) Report on bilateral agreements entered into during the period, including copies thereof;
- (iii) Report on energy revenues during the period, detailing volumes, the identity/ies of the buyer/s and prices broken down as follows: fuel cost, fixed operating and maintenance expenses, variable operating and maintenance expenses, and capital recovery charge; and
- (iv) Any material information affecting the operations (such as changes in minimum stable load, rated capacity, ramp up rate and ramp down rate), ownership, management, and financial condition and results of the Generation Company.

(b) Within thirty (30) days from the filing of its Income Tax Return with the Bureau of Internal Revenue (BIR), the Generation Company 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 and a computation of Debt Service Capability Ratio (DSCR) derived from the audited figures. The income statement shall include a detailed schedule of operating expenses for the period.

(c) Within three (3) days from the happening of an event which results in a material change concerning or potentially affecting the company's ownership, management, operations, financial condition and performance, the Generation Company shall submit a written disclosure to the ERC of such fact or event and its impact on the company.

ARTICLE V ISSUANCE, TERM, RENEWAL OF THE CERTIFICATE OF COMPLIANCE

Section 1. **Issuance and Term.** – Upon compliance with the requirements as provided in these Rules, the ERC shall issue a COC to the Generation Company/Facilities, subject to compliance with such other terms and conditions as the ERC may require, which shall be valid for a period of five (5) years, unless sooner revoked by the ERC after due notice and hearing.

Section 2. **Renewal.** – A Generation Company intending to continue operating beyond the term of the issued COC shall apply with the ERC for its renewal at least six (6) months prior to its expiration. The application for renewal of the COC shall be accepted only if submitted together with all the relevant documents, required information disclosure and proof of conformity to the obligations set forth in these Revised Rules and after the required fees shall have been paid. The ERC shall endeavor to resolve

the application for renewal within the six (6) month period prior to expiration of the COC's term.

If a Generation Company has filed its application for renewal in accordance with the preceding paragraph but has not been issued a new COC prior to expiration of its present one, its application shall be deemed provisionally approved.

ARTICLE VI REVOCATION OF THE CERTIFICATE OF COMPLIANCE AND IMPOSITION OF PENALTIES

Section 1. **Revocation.** – The ERC may revoke, after due notice and hearing, a COC if the Generation Company fails to comply with any of the requirements of these Revised Rules or any of the conditions contained in the COC.

Section 2. **Violations.** – A Generation Company that fails to comply with any of the obligations set forth herein and the conditions contained in the COC, including operating without a valid COC, shall be subject to the imposition of fines and penalties under Article III of the “Guidelines to Govern the Imposition of Administrative Sanctions in the Form of Fines and Penalties Pursuant to Section 46 of R.A. No. 9136, as Amended”.

ARTICLE VII FEES AND CHARGES

Application fees and COC fees, including the costs attendant to the conduct of technical inspections, in such amounts as may be determined and prescribed by the ERC shall be imposed on all applicants upon the filing of applications or issuance of COC.

ARTICLE VIII MONITORING

The ERC shall monitor the compliance of Generation Companies with the terms and conditions of their COCs and the provisions of these Revised Rules.

ARTICLE IX SEPARABILITY

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

ARTICLE X EFFECTIVITY

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

Let copies of these Revised Rules be furnished the University of the Philippines Law Center-Office of the National Administrative Register (UPLC-ONAR).

Pasig City, February ____, 2010

ZENaida G. CRUZ-DUCUT
Chairperson

RAUF A. TAN
Commissioner

ALEJANDRO Z. BARIN
Commissioner

MARIA TERESA A.R. CASTAÑEDA
Commissioner

JOSE C. REYES
Commissioner