

**RULES ON THE ACCREDITATION OF HEARING OFFICERS/
TECHNICAL CONSULTANTS AND THEIR APPOINTMENT
TO ACT AS SUCH IN CASES BEFORE
THE ENERGY REGULATORY COMMISSION**

Pursuant to Section 43 (t) of Republic Act No. 9136, otherwise known as the Electric Power Industry Reform Act of 2001, the Energy Regulatory Commission (ERC) hereby promulgates the following Rules On The Accreditation Of Hearing Officers/Technical Consultants And Their Appointment To Act As Such In Cases Before The Energy Regulatory Commission:

1. QUALIFICATION REQUIREMENTS

1.1. Accredited Hearing Officers (AHO)

- 1.1.1. Must be a member of the Philippine bar with at least five (5) years experience in the active practice of law;
- 1.1.2. Must be a member in good standing of the Integrated Bar of the Philippines (IBP) and in compliance with all the requirements of the Supreme Court for being such, including but not limited to the completion of the minimum mandatory continuing legal education credits;
- 1.1.3. Must have familiarity with trial court procedures and proceedings before administrative agencies;
- 1.1.4. Must be of known competence, impartiality and integrity; and
- 1.1.5. Must be a resident for at least one year and maintains an office in the city/province where he is applying as AHO.

1.2. Technical Consultants (TC)

1.2.1. Individual Technical Consultant

- 1.2.1.1. Must be duly registered with the Board of Accountancy (BOA), engaged in public accountancy as defined under R.A. 9298, otherwise known as "The Philippine Accountancy Act of 2004" and is accredited with the Professional Regulation Commission for the practice of public accountancy;
- 1.2.1.2. Must be a member in good standing of the Philippine Institute of Certified Public Accountants (PICPA) and in compliance

with the requirements of PICPA, including but not limited to undergoing the continuing professional education program; and

1.2.1.3. Must possess the independence, integrity, objectivity, due care, confidentiality and professional behavior as defined in the Code of Professional Ethics for Certified Public Accountants as promulgated by the Board of Accountancy and approved by the PRC.

1.2.2. For General Professional Partnerships

1.2.2.1. Must be in good financial standing and authorized to conduct auditing, accounting and/or bookkeeping services under all applicable laws, rules and regulations with a minimum of five (5) years experience in auditing of public utilities;

1.2.2.2. Must adhere and adopt in its operations the highest standards of professional conduct, including independence, integrity, due care, objectivity and confidentiality as defined in the Code of Professional Ethics for Certified Public Accountants as promulgated by the Board of Accountancy and approved by the PRC; and

1.2.2.3. At the time of application, must have at least one (1) signing practitioner or partner who is already accredited, or who is qualified and is applying for accreditation by the ERC.

2. DISQUALIFICATION FROM ACCREDITATION

The following may not be appointed as AHO or TC:

2.1. Those who are performing services related to bookkeeping, management accounting, preparation of financial statements, internal audit functions, actuarial services, appraisal or valuation services, information systems design and implementation, and management functions or human resources to entities under the jurisdiction of ERC; and

2.2. Those who have been charged with and convicted by final judgment of a crime involving moral turpitude, fraud or found guilty of aiding or abetting or causing the commission of any such offense by another.

3. APPLICATION FOR ACCREDITATION

3.1. General Requirements for Initial Accreditation. For initial accreditation, a duly accomplished and notarized application form annexed to these Rules shall be submitted by the applicant to the ERC, together with the following documents duly labeled and placed in a long folder:

3.1.1. Duly signed application letter addressed to the ERC by the individual applicant, in case of GPP, the same should be signed by the managing partner;

3.1.2. Two (2) copies 1"x1" of most recent ID picture of the applicant;

3.1.3. Two (2) copies of resume (duly signed on all pages) including the following information:

3.1.3.1. Name, address and contact number of applicant;

3.1.3.2. Educational background;

3.1.3.3. Employment background (name of company, position, status of appointment, inclusive dates);

3.1.3.4. List of trainings/seminars attended (title, date, number of hours, venue, conducted by);

3.1.3.5. Licenses/examinations/eligibilities passed;

3.1.3.6. Skills specialization; and

3.1.3.7. Other qualifications;

3.1.4. Photocopies of college diploma or Transcript of Records and/or PRC License/IBP ID, whichever is applicable;

3.1.5. Photocopies of certificates of attendance/participation in any relevant trainings/seminars/conventions, etc.,

3.1.6. Proof of payment of appropriate professional/privilege tax;

3.1.7. Certificate of no pending administrative and criminal case from appropriate authorities;

3.1.8. Receipt of payment of application fee in the amount of PhP5,000.00; and

3.1.9. Other documents as may be required.

3.2. Specific Requirements for AHO. For AHO applicants, the following shall likewise be submitted together with the general requirements:

3.2.1. Proof of payment of current year IBP Membership Fee; and

3.2.2. Photocopy of certificate of compliance for the current Mandatory Continuing Legal Education (MCLE) period; and

3.3. Specific Requirements for Individual TC. For individual TC applicants, the following shall likewise be submitted together with the general requirements:

3.3.1. Copy of updated PRC license and Certificate of Registration as a public practitioner issued by the Board of Accountancy (BOA)/ PRC;

3.3.2. Certificate of Good Moral Character issued by two (2) disinterested persons, who are member of the Philippine Institute of Certified Public Accountants in good standing; and

3.3.3. Written general description of quality assurance policies adopted by the applicant with regard to client acceptance and continuance, independence, risk management policies, and review and evaluation procedures.

3.4. Specific Requirements General Professional Partnerships. For GPP applicants, the following shall likewise be submitted together with the general requirements:

3.4.1. Copy of the Certificate of Registration as a public practitioner issued by BOA/PRC to the partnership which is current and effective;

3.4.2. Written general description of quality assurance policies adopted by the partnership with regard to client acceptance and continuance, independence, risk management policies, and review and evaluation procedures;

3.4.3. Copy of the Certificate of Accreditation issued by the SEC pursuant to SEC's Memorandum Circular dated October 23, 2003;

3.4.4. Copy of audited financial statements for the immediately preceding two (2) years; and

- 3.4.5. Undertaking under Oath that the partnership shall fully cooperate with the ERC's working requirements including the preservation of working papers for a period of seven (7) years and making them available to the ERC and its representatives when required or directed to do so.

4. EVALUATION PROCEDURE

- 4.1. Applications and supporting documents shall be evaluated for completeness, veracity and sufficiency by the authorized ERC staff.
- 4.2. Applicants may be required to appear personally for an interview and present original copies of documents submitted for authentication of the photocopies submitted.
- 4.3. Applicants may be required to undergo ERC and/or other required trainings and to submit proof thereof prior to ERC action on their applications.

5. ISSUANCE OF CERTIFICATE OF ACCREDITATION AND RENEWAL

- 5.1. Upon approval of the application, a certificate of accreditation valid for three (3) years shall be issued to any applicant who has satisfactorily met all the requirements of the ERC. Accreditation may be renewed thereafter upon submission of an application letter for renewal and compliance with such requirements that the ERC may impose on the applicant, not later than forty five (45) days before the expiration of the certificate of accreditation.
- 5.2. For purposes of renewing a certificate of accreditation issued herein, the applicant shall submit:
 - 5.2.1. All documents required to be submitted for initial accreditation, as updated; and
 - 5.2.2. Proof of payment of renewal fee, PhP2,000.00 for AHO and individual TC, and PhP5,000.00 for GPPs.

6. APPOINTMENT

- 6.1. The ERC, in its discretion, may appoint an AHO or TC to act as such and assist the ERC in any case before it, with the terms of the engagement,

including any sanction to be imposed on the AHO or TC, to be determined by the ERC, and with the cost of such engagement to be borne by any one or all of the parties to the case.

6.2. The following are disqualified from being appointed as AHO or TC for a particular case:

6.2.1. Those who are related by consanguinity or affinity within the fourth civil degree to any of the parties to the case or their officers/directors; and

6.2.2. Those that have financial, fiduciary or other interest in the case or has any personal bias which might prejudice the right of any party.

7. TERMS OF ENGAGEMENT

The AHO's and TC's terms of engagement may vary depending on the nature of the case, to which they are appointed to act as such, subject to the agreement of the ERC and the concerned AHO or TC. The specific terms of engagement shall be embodied in the Order of Reference to be issued by the ERC to the AHO or TC for each case referred to them.

8. GROUNDS FOR REVOCATION OF ACCREDITATION OR APPOINTMENT

The accreditation or appointment herein granted or issued shall be revoked, after due notice and giving the concerned AHO or TC an opportunity to be heard, under any of the following circumstances:

8.1. Any willful misrepresentation done in the application for accreditation;

8.2. Loss of any of the qualifications or having any of the disqualifications provided for in these Rules;

8.3. Failure to submit within the prescribed period the evaluation reports required by the ERC relative to the AHO's or TC's terms of engagement;

8.4. Directly or indirectly attempting to influence, or offering or agreeing to attempt to influence the official action of any officer or employee of the ERC by the use of threats, false accusations, duress or coercion, or by offering any special inducement or promise of advantage or by bestowing any gift, favor or thing of substantial value;

- 8.5. Negligence in the conduct of the evaluation resulting to non-compliance with the terms of engagement and other guidelines and rules promulgated by the ERC;
- 8.6. Certifying the accuracy and veracity of any report and other submissions to the ERC without conducting an actual evaluation and review of the pertinent documents;
- 8.7. In case of GPPs, dissolution of the partnership, except for the purpose of admitting new partner/s, as evidenced by an Affidavit of Dissolution submitted to the Board of Accountancy, or upon findings by the ERC that the partnership is dissolved; and
- 8.8. Any other justifiable cause as determined by the ERC.

9. REPORTORIAL REQUIREMENTS

The reports to be submitted by the AHO or TC and the timing of submission shall depend on the nature of the case/s assigned by the ERC.

The ERC may, in its discretion, issue an Order before, during and after the referral of the case to the AHO or TC for the submission of specific reports within a prescribed period of time. In all instances, these submissions must be accompanied by a notarized certification on the completeness, accuracy and veracity of the statements, findings, and calculations therein, executed by the AHO or TC.

10. PENALTIES

10.1. Imposition of Fines. For failure to comply with foregoing requirements and other requirements of the ERC, as well as the terms of the engagement, the ERC shall impose a fine on the erring AHO or TC, after due notice and hearing, in accordance with the following scale of fines:

Offense	Technical Consultants		
	Hearing Officer	Individual	Partnership
First	PhP 100,000.00	PhP 50,000.00	PhP 100,000.00
Second	200,000.00	100,000.00	200,000.00
Third	400,000.00	200,000.00	400,000.00

However, the ERC may reduce the amount of the applicable fine depending on the circumstances surrounding the violation.

10.2 Non-Monetary Sanctions. The imposition of the fines above shall be without prejudice to other administrative, civil or criminal remedies that the ERC may pursue, including the revocation of the accreditation and the recommendation to proper disciplining authorities of the erring AHO or TC for revocation or suspension of the authority to practice his profession.

11. SEPARABILITY CLAUSE

If for any reason, any part or section of these 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.

12. EFFECTIVITY

These Rules shall take effect fifteen (15) days following its publication in a newspaper of general circulation.

Pasig City, October ____, 2006.

RODOLFO B. ALBANO JR.
Chairman

RAUF A. TAN
Commissioner

ALEJANDRO Z. BARIN
Commissioner

MARIA TERESA A.R. CASTANEDA
Commissioner

JOSE C. REYES
Commissioner

AEG/FGB/FSCJ