

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

DRAFT FOR DISCUSSION ONLY

**CODE OF CONDUCT FOR COMPETITIVE RETAIL
MARKET PARTICIPANTS**

Pursuant to Sections 29 and 31 of Republic Act No. 9136, hereinafter referred to as the Act and its Implementing Rules and Regulations (IRR), the Energy Regulatory Commission (ERC) hereby adopts and promulgates the following Code of Conduct for Competitive Retail Market Participants.

**ARTICLE I
GENERAL PROVISIONS**

Section 1. Objectives

This Code of Conduct is adopted for the following purposes:

- a) To protect Customers and promote consumer confidence in the retail electricity industry through the establishment of standards of behavior for marketing electricity;
- b) To promote honesty, fairness and transparency in the disclosure of information to Customers; and
- c) To ensure that there would be non-discriminatory access to regulated services and no preferential treatment by a Distribution Utility (DU) of its Local and Affiliated Retail Electricity Supplier (RES) in marketing and providing electricity services in the DU's franchise area.

Section 2. Scope

This Code shall apply to:

- a) Retail Electricity Suppliers (RES);
- b) Local Retail Electricity Suppliers (Local RES);

- c) Distribution Utilities (DUs); and
- d) The Contestable Market

Together, the above-mentioned parties are collectively referred hereto as the Competitive Retail Market Participants.

Section 3. Definition of Terms

In this Code, unless otherwise provided, the following terms have their respective meaning:

Act	Republic Act No. 9136, otherwise known as the “Electric Power Industry Reform Act of 2001”
Advertising	Act of making the general public aware and informed of one’s products and/or services, which includes sales promotion (may be through print, radio, television, telephone, direct mail, electronic media or the internet) for the purpose of encouraging Customers to enter, or consider entering, into a contract for the purchase of electricity.
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.
Business Day	A day other than a Saturday, Sunday or an official or declared Philippine national or local public holiday.
Code of Conduct	The set of rules promulgated by ERC to govern the conduct of RES’, <u>Local RES’</u> , DUs, as well as their stockholders, directors, officers and employees, within the boundaries of fair competition.
Contestable Market	Electricity end-users who have a choice of a supplier of electricity, as may be determined by the ERC in accordance with the Act.
Cooling-off Period	The period of ten (10) business days, upon

receipt by the Customer of the Disclosure Statement, within which said Customer has the right to cancel the Retail Supply Contract it has entered into with the RES or the Local RES.

Customer	An electricity end-user that belongs to the Contestable Market.
Customer Information	Basic information relating to a Customer's account as maintained by a DU, including but not limited to the name of the Customer, billing address, meter-related information, and actual and average monthly consumption.
Disclosure Statement	Document outlining information to be included in the terms and conditions of the Retail Supply Contract between RES <u>or Local RES</u> and Customer. The Disclosure Statement shall be in a form prescribed by ERC.
Distribution Utility (DU)	An entity that owns, operates, or controls one or more distribution systems such as but not limited to: <ul style="list-style-type: none">a) Electric Cooperatives;b) Privately-owned Distribution Utilities;c) Local Government Unit Owned-and-Operated Distribution Systems;d) Entities duly authorized to operate within Economic Zones; ande) Other duly authorized entities engaged in the distribution of electricity.
ERC	The Energy Regulatory Commission created under Section 38 of the Act.
IRR	The Implementing Rules and Regulations of the Act
Local Retail Electricity Supplier (Local RES)	<u>Refers to the non-regulated business segment of the DU catering to the Contestable Market in its franchise area. As such, a license is not required.</u>
Marketer	A Person designated by a RES <u>or Local RES</u> to handle marketing activities which include advertising, sales promotions, and other similar activities for the purpose of entering into a Retail Supply Contract.

Marketing Contact	A contact of any kind made by a RES <u>and/or Local RES</u> or their Salespersons with a Customer (including in person, by telephone or by written or electronic communication) for the purpose of encouraging that Customer to enter, or consider entering, into a Retail Supply Contract or for the purpose of proposing a Retail Supply Contract to, or negotiating or entering into a Retail Supply Contract with, that Customer.
No Disturbance Request	A request made by a Customer for it not to be bothered by any form of Marketing Contact by a RES and/ <u>or the Local RES.</u>
Open Access	The system of allowing any qualified person the use of transmission, and/or distribution system and associated facilities subject to the payment of transmission and/or distribution retail wheeling rates duly approved by the ERC.
Person	A natural or juridical person.
Retail Competition	The provision of electricity to a Contestable Market by suppliers of electricity through Open Access.
Retail Electricity Supplier (RES)	Any person or entity licensed by the ERC to sell, broker, market or aggregate electricity to end-users in the Contestable Market. <u>A RES refers to either an Affiliate RES or any independent RES licensed by the ERC.</u>
Retail Supply Contract	The contract for the sale of electricity entered into by and between the RES or the <u>Local RES</u> and the Customer.
Salesperson	An employee of a RES or <u>Local RES</u> authorized to perform sales-related work, or an agent, contractor or marketer, including their employees, acting on behalf of a RES <u>or Local RES;</u>
Supply Address	The address for which a Customer purchases, or is seeking to purchase, electricity from a RES.
Uniform Business Practices (UBP)	The set of guidelines promulgated by ERC which prescribes the standardized business rules for DU-RES interactions, relating to customer enrollments, switching, exchange of metering, billing and payment information, and the like.

Words and phrases used in this Code which are defined in the Act or the IRR have the meaning given to them in the Act or the IRR.

Section 4. In this Code, unless the contrary intention appears:

- a) the singular includes the plural and conversely;
- b) a reference to any law or rules and regulations issued implementing such a law or to any particular provision of a law or of any rules and regulations issued implementing such law is taken to include any modification, consolidation, amendment, re-enactment, replacement or codification of the same; and
- c) mentioning anything after include, includes or including is not understood to be limitative of the enumerations that follow.

ARTICLE II RESPONSIBILITIES AND CONDUCT OF COMPETITIVE RETAIL MARKET PARTICIPANTS

Section 1. General Responsibilities of RES

- a) A RES is not allowed to market its supply business to Customers prior to its receipt from the ERC of a RES license.
- b) A Local RES is not allowed to market its supply business to Customers until at least one (1) RES has been licensed.
- c) A RES and a Local RES are responsible for the conduct of:
 - i) their Salespeople;
 - ii) any Marketer acting on their behalf; and
 - iii) the Salespeople of any Marketer acting on their behalf
 - iv) any other employee, officer, director, contractor or authorized representative of the RES or Local RES who shall be deemed to be agents of the RES or Local RES.

Accordingly, a violation of the Code by any such person will be deemed to be a violation of this Code by the RES or the Local RES.

Nothing in this Code shall affect the obligation of the persons mentioned above to comply with national and local laws.

Section 2. Marketing Conduct

- a) A RES and Local RES , while engaged in marketing, shall :

- i) comply with all laws, rules and guidelines relating to the sale of electricity to Customers;
- ii) not engage in misleading, deceptive or unfair conduct, whether by act or omission;
- iii) not exert undue pressure, harass nor coerce a Customer;
- iv) provide sufficient time, or a minimum of one (1) day, for a Customer to read thoroughly, and without exerting undue pressure, all documents provided by it;
- v) ensure that information provided to a Customer is truthful and in clear and simple language;
- vi) ensure that any comparison made is clear, factually correct, timely and easily understood by Customers, and does not omit important information that should be disclosed;
- vii) not make any verbal representations regarding contracts, rights or obligations unless those representations are contained in a written offer;
- viii) ensure that information provided to a Customer is relevant to that Customer's circumstances; and
- ix) ensure all descriptions and representation made in promotional materials are in accordance with actual conditions, situations and circumstances;
- x) not use print that due to its size or other visual characteristics, is likely to impair materially the legibility or clarity of documents provided to Customers;
- xi) not state or in any way imply that it (Affiliate RES) has special relations/arrangements with a DU or has been given preferential status by a DU.

Section 3. Time of Contact/Transaction

Except by prior appointment or when preferred by a Customer, a RES and/or Local RES must not visit or call a Customer for the purpose of marketing:

- a) at any time on a Saturday, Sunday or other public holiday; or
- b) on any other day except between 8:00 AM to 5:00 PM.

Section 4. RES and Local RES Identification and Contact Details

- a) At the commencement of any Marketing Contact in person or by telephone, the RES and/or Local RES must advise the Customer of the purpose of the Marketing Contact and provide the Customer with the following information:
 - i) the name of the Salesperson;
 - ii) the name of the RES or Local RES; and
 - iii) RES license number.
- b) Prior to completion of a Marketing Contact whether in person, by telephone, or by any other means, the RES and/or Local RES must provide the Customer with contact details including, among other information, their business addresses, telephone, mobile phone and facsimile numbers and e-mail addresses.
- c) In any Marketing Contact that is in written or electronic form, the RES and/or Local RES must clearly set out:
 - i) the purpose of the Marketing Contact;
 - ii) the name of the Salesperson;
 - iii) the name of the RES or Local RES;
 - iv) RES license number;
 - v) contact details including, among other information, business address, telephone, facsimile and mobile phone numbers, and e-mail address.
- d) A RES and/or Local RES shall have a telephone number which may be reached by the general public.

Section 5. Marketing in person

- a) A RES, Local RES or any of their Salespeople who initiates a Marketing Contact by visiting, or otherwise approaching a Customer in person, shall wear a clearly visible identification card containing:
 - i) the full name of the Salesperson;
 - ii) the name of the RES or Local RES; and

- iii) a photograph of the RES' or Local RES' Salesperson;
 - iv) a symbol or any indicator which shows that the RES is licensed by the ERC, and that said license is valid up to a certain period.
- b) Information or details required to be provided to a Customer under Article II, Sections 4 (a) and (b) must be provided to the Customer in writing if the RES and/or the Local RES makes the Marketing Contact by visiting, or otherwise approaching the Customer in person.
- c) A RES, Local RES or any of their Salespeople who initiates a Marketing Contact by visiting the Customer's premises must exercise due care and respect with regard to the Customers' property and premises.

Section 6. Termination of Marketing Contacts

- a) If a Customer requests the termination of a Marketing Contact (not being merely a deferral by the Customer of the Marketing Contact to another date), the RES and/or Local RES, including their Salespeople, shall:
- i) immediately comply with that request; and
 - ii) refrain from initiating a transaction with that Customer again for a minimum period of twenty (20) Business Days from the date of the request, unless otherwise advised by the Customer.
- b) No Disturbance Requests made by Customers shall be respected by RES and/or Local RES at all times, unless revoked by said Customers.

Section 7. Training and Product Knowledge

- a) A RES and/or Local RES shall take reasonable steps to ensure that their Salespeople:
- i) understand and comply with this Code and the requirements of all laws, rules and guidelines relating to the sale of electricity to Customers;
 - ii) understand and are able to clearly explain the retail supply business in relation to other sectors of the electric industry;

- iii) understand and are able to clearly explain the products offered, including:
 - iii.1) pricing, billing procedures and payment options;
 - iii.2) eligibility requirements for concessions or rebates; and
 - iii.3) the basis for any comparisons made between such products and those offered by other RES' and/or Local RES;
 - iv) know and refrain from doing what is misleading, deceptive or unfair conduct; and
 - v) appreciate the meaning and importance of the need for a Customer to give its informed consent to a Retail Supply Contract.
- b) A RES and/or Local RES shall provide continuing training and evaluation of its Salespeople for the purpose of ensuring that they acquire the understanding referred to in Article II, Section 7(a);
 - c) A RES and/or Local RES shall keep records of trainings and evaluation undertaken by it under Article II, Section 7(b) for at least five (5) years after such training and testing was undertaken and shall submit annual reporting of said trainings and evaluation to the ERC.

Section 8. Advertising

- a) A RES and/or Local RES shall ensure that:
 - i) any Advertising conducted by it or on its behalf, and any material which is used in said Advertising, is not conducted or used in a manner that is misleading or deceptive;
 - ii) where any Advertising conducted by it or on its behalf makes any comparison with products offered by other RES' and/or Local RES, such comparisons are fair, clear, timely, accurate and verifiable;
 - iii) any Advertising conducted by it or on its behalf includes a telephone number and an e-mail address which a Customer may call or use to request detailed information concerning the price of electricity and other services.
- b) A RES and/or Local RES shall ensure that, where any Advertising conducted by it or on its behalf refers to the price at which the RES

and/or Local RES is offering to sell electricity and optional services, the same also states:

- i) the period of time during which the offer remains valid; and
 - ii) the duration of the contract for which that price is being offered;
 - iii) if the price is not fixed, the manner in which the price will be determined; or
 - iv) the average price per kWh, for the electricity that is to be sold under the contract, over the term of the contract.
- c) A RES and/or Local RES shall not advertise nor disclose the price of electricity in such a manner as to mislead a reasonable person into believing that the retail electric supply portion of the bill shall be the total bill amount for the delivery of electricity to the End-user's location. When Advertising or disclosing the price for electricity, it shall also disclose the Transmission and Distribution Utility's Wheeling Charges, as well as other mandated charges like tax and universal charge.

Section 9. Customer Information

- a) A RES and/or Local RES shall comply with the provisions of all ERC-promulgated guidelines governing Retail Electricity Suppliers, relating to the provision of Customer Information.
- b) A RES and/or Local RES shall take reasonable steps to ensure that any Customer Information obtained by it shall be considered confidential and is not used by the RES, Local RES or any of their Salespeople other than for the purposes for which that Customer Information was provided to the RES, Local RES or any of their employees.
- c) A RES and/or Local RES shall not disclose Customer Information without the consent of the Customer in writing, except when information has been sufficiently aggregated such that individual Customer Information cannot be identified, or where Customer Information is required to be disclosed:
 - i) for the purpose of complying with a legal requirement; or
 - ii) when past due accounts of the Customer have been passed to a debt collection agency.
- d) A RES and/or Local RES shall inform Customers regarding the conditions described in Article II, Section 9(c) under which

Customer Information may be released to a third party without the Customer's consent.

- e) On request by a Customer, but not more often than once a month, a RES and/or Local RES must provide the Customer with details of all Customer Information it retains with respect to that Customer. However, a fee may be charged by the RES and/or Local RES for a request for Customer Information covering a period of more than twelve (12) months.

Section 10. Record Keeping Standards

- a) To assist RES, Local RES and Customers in dealing with inquiries, verifications and complaints, a RES and/or Local RES shall keep records of:
 - i) all Marketing Contacts by the RES, Local RES or their Salespeople with Customers during the previous three (3) years, whether initiated by the RES, Local RES, a Salesperson or the Customer (including the name or contact details of the Customer, the date and time of each such Marketing Contact, the name of the Salesperson who is involved in the Marketing Contact, and all e-mail exchanges with Customers and/or prospects);
 - ii) all "No Disturbance Requests" made by Customers during the previous twelve (12) months; and
 - iii) all Marketing Contacts which have been terminated during the previous three (3) years at the request of a Customer.
- b) A RES and/or Local RES shall make the records referred to in Article II, Section 10(a) available to the ERC for inspection or submission when requested by the ERC to do so.
- c) A RES and/or Local RES shall keep records of all complaints filed by Customers, as referred to in Article II, Section 15(d).
- d) Maintain documentation on all other transactions for a period of three (3) years.

Section 11. Market Information

Markets should operate on trust with the accuracy of market information, transparency of market behavior and the confidentiality of commercially sensitive information entrusted to each RES and/or Local RES. A RES and/or Local RES shall:

- a) Ensure that any information disclosed to the media, including market publications, surveys and price indices, is accurate and not misleading.
- b) Strictly comply with procedures designed to ensure that all business transactions are transparent and properly documented in a timely manner and that no such business transactions are concealed or misrepresented.

Section 12. Provision of Disclosure Statement and Retail Supply Contract

- a) A RES and/or Local RES shall ensure that, at the time a Customer expresses its interest to enter into a Retail Supply Contract with the RES and/or Local RES, the following information is provided in writing to the Customer in a Disclosure Statement that is prescribed by ERC:
 - i) The full name, business address, telephone and facsimile numbers and e-mail address of the RES and/or Local RES;
 - ii) The type, frequency of bills and payment methods the Customer will receive;
 - iii) The details of all applicable prices, charges, and service levels that will apply to the Customer, where the RES and/or Local RES must declare that the price offered is inclusive of all costs in connection with the sale of electricity;
 - iv) Any price and charges payable under or in connection with the Retail Supply Contract other than for the electricity that is to be sold under said contract (including any costs associated with the provision of infrastructure such as electricity meters);
 - v) Any additional charge of any type which is or may become payable under the Retail Supply Contract including penalties, fees, interest and other expenses which may be payable by the Customer if the Customer defaults or is late in making payments that are due under the Retail Supply Contract;
 - vi) Any requirement for the payment of funds or security deposit, the amount of such funds or security deposit, the circumstances in which that fund or security deposit (or any part of it) may be retained by the RES and/or Local RES, and the circumstances in which that security deposit, and the interest earned by such deposit, must be returned to the Customer;

- vii) The circumstances in which the RES, Local RES or the Customer may terminate the Retail Supply Contract;
 - viii) The early termination charges which may apply if the Customer terminates the Retail Supply Contract prior to its expiry date and after the Cooling-off Period, and the method of calculation of those charges;
 - ix) Details of the right conferred on a Customer to cancel the Retail Supply Contract in accordance with Article II, Section 13, Cooling-Off (including the manner in which the Customer may do so);
 - x) Details of the procedures approved by the ERC under Article II, Section 15, Complaint Handling Procedures to resolve complaints by Customers and the right under those procedures for Customers to refer such complaints to the ERC if they are not satisfactorily resolved.
- b) The Disclosure Statement shall be considered as having received by the Customer based on the following circumstances:
- i) in the case where the statement is personally delivered to and received by the Customer or any of its employees/agent or representative, the date when it is delivered;
 - ii) in the case where the statement is received by the Customer by facsimile or e-mail on or before 5:00 PM on a Business Day, that Business Day;
 - iii) in the case where the statement is received by the Customer by facsimile or e-mail after 5:00 PM on any day, the next Business Day; and
 - iv) in the case where the statement is sent to the Customer by registered mail, the date seven (7) Business Days after the date the statement is so sent.
- c) A RES and/or Local RES may enter into a Retail Supply Contract with a Customer within five (5) Business Days commencing on the date of receipt by the Customer of the Disclosure Statement;
- d) A RES and/or Local RES shall ensure that upon signing of the Retail Supply Contract, the Customer is provided with a copy of said contract.
- e) Retail Supply Contracts shall provide for the supply of electricity to commence on the day as agreed upon by both RES, or Local RES and Customer but not earlier than the expiration of the Cooling-off

Period.

- f) The rates and any terms and conditions of a Retail Supply Contract between a Customer and a RES or Local RES may only be modified by agreement in writing between the Customer and the RES or Local RES.
- g) For the avoidance of doubt, if the amount of the contract price changes in accordance with some term or condition of a Retail Supply Contract previously agreed between the Customer and the RES or Local RES, no further agreement is required.
- h) A RES and Local RES shall not renew a Retail Supply Contract with a Customer unless the original said contract contains terms of renewal, and/or the Customer:
 - a. receives an advance written notice of the renewal no more than sixty (60) days before the date of renewal;
 - b. has at least thirty (30) days from the receipt of such notice and prior to the date of renewal to reject the renewal.
- i) A Retail Supply Contract with a Customer that is renewed shall be consistent with the original contract, unless both parties agree to the new terms and conditions.

Section 13. Cooling-Off

- a) A RES and/or Local RES shall ensure that a Retail Supply Contract confers on the Customer the right to cancel the Retail Supply Contract in accordance with this section within a period of five (5) Business Days commencing on the date of signing of the Retail Supply Contract.
- b) A Customer may exercise the right to cancel the Retail Supply Contract referred to in Article II, Section 13(a) notwithstanding any affirmation of the Retail Supply Contract by the Customer.
- c) In order for a Customer to exercise the right to cancel a Retail Supply Contract under this Section:
 - i) the Customer must give to the RES or Local RES a written notice of cancellation which clearly indicates an intention on the part of the Customer to cancel the Retail Supply Contract; and
 - ii) the notice of cancellation referred to in paragraph (i) must be received by the RES not later than five (5) Business Days after

signing of the Retail Supply Contract. ~~the Date of Receipt of the Disclosure Statement with respect to the Retail Supply Contract.~~

- d) For the purposes of Article II, Section 13(c.ii), a notice of cancellation under this section will be deemed to have been received by the RES or the Local RES:
 - i) in the case where the Customer personally delivers the notice to the RES or the Local RES, the date the Customer so delivers the notice;
 - ii) in the case where the Customer sends the notice on or before 5:00 PM on a Business Day by facsimile or e-mail, that Business Day;
 - iii) in the case where the Customer sends the notice after 5:00 PM on any day by facsimile or e-mail to the RES' or Local RES' facsimile number or e-mail address, the next Business Day;
 - iv) in the case where the Customer sends the notice by registered mail to the RES' or Local RES' business address, the date seven (7) Business Days after the Customer sent the notice;
 - v) In any other case, the date the RES or Local RES actually receives the notice.
- j) The Cooling-off Period prescribed above shall no longer apply in cases of renewal of Retail Supply Contracts.

Section 14. Responsibilities of the DU, its Local RES, and its Affiliate RES

- a) A DU shall be a separate, independent entity, ~~with a separate juridical personality,~~ from its Local and Affiliate RES. As such, a DU must ensure operational separation as well as accounting and financial separation from ~~all its Local RES and Affiliates,~~ and shall maintain separate financial records and books of accounts. The DU shall not share facilities, office, property, equipment, assets, employees, and computer hardware/software with its Affiliate and Local RES.
- b) A DU shall not accord, and must ensure that its Affiliate and/or Local RES is not accorded , preferential treatment in relation to the distribution of electricity, connection to the distribution system operated by the DU, maintenance of the system, the provision, installation, commissioning, testing, repair or maintenance of meters, or the reading of meters, between:

b.1) Customers who acquire electricity from a person other than the DU, its Local RES or its Affiliate of the DU; and

b.2) Customers who acquire electricity from the DU its Local RES or its an Affiliate of the DU,

solely on the basis that the Customers referred to in paragraph (b.2) acquire their electricity from the DU, its Local RES or ~~an~~ its Affiliate of the DU.

c) A DU shall not, and shall ensure that its Affiliate RES does not sell, advertise for sale or offer to sell electricity to Customers using a brand name, business name, trade mark, logo or other name or symbol that is used by, or that suggests any affiliation or other connection with, the electricity distribution which is conducted by that DU.

Accordingly, a DU's affiliate RES shall not use the name, brand name, business name, trade mark, logo or other name or symbol of, or used by, the DU.

A Local RES shall, in addition to the business name, trade mark or logo of the DU, use other name or symbol that suggests its being the Local RES of said DU.

d) A DU's Affiliate RES shall not trade upon, promote or advertise its relationship with the DU, including through the maintenance of a link between a website of the Affiliate and a website of the DU.

e) A DU shall not, and shall ensure that its Affiliate or Local RES does not, provide to Customers, in the same communication or envelope, information about the sale of electricity by ~~the DU~~ its Local RES or any of its Affiliates.

f) A DU's Local RES and/or Affiliate RES shall not participate in joint advertising, joint marketing or joint promotional activities, including joint sales calls, joint stalls or presentations at tradeshow or other information or marketing events, or joint or linked websites.

g) In cases where a Customer requests general information from a DU about the sale of electricity, the DU shall not promote the sale of electricity by its Affiliate and/or Local RES, or offer any opinion regarding the sale of electricity by any other person, but must instead direct the Customer to the ERC website for the purpose of obtaining a list of ~~licensed~~ all RES'. The DU shall likewise not give any negative comment nor remark against any of its competitors.

h) A DU may participate in meetings with the Affiliate and/or Local RES to discuss technical or operational matter regarding the DU's

provision of distribution services to the Customer, but only in the same manner and to the same extent the DU participates in such meetings with non-Affiliate RES and their Customers. The DU shall not listen to, view, or otherwise participate in any way in a sales discussion between a Customer and Affiliate or Local RES or non-Affiliate RES.

- i) A DU shall not allow preferential access by its Affiliate and/or Local RES to information about its distribution system or operation. Information obtained by a DU in the course of conducting its regulated business shall not be shared directly or indirectly with its Affiliate and/or Local RES unless the same is also made available to other RES operating within its franchise area on the same terms, conditions, form and manner.

A DU shall not provide any information received from, or as a result of doing business with, any non-affiliated RES to an Affiliate RES and/or its Local RES without the written approval of the non-affiliated RES.

- j) A DU must ensure that any of its directors, officers or employees is not also a director, officer or employee of its Affiliate RES.

A DU must likewise ensure that any of its employees is not also an employee of its Local RES.

- k) A DU shall not subsidize in any manner, directly or indirectly, the business of its Affiliate and/or Local RES.
- l) A DU shall not finance or co-sign or guarantee any loan or financial obligation of its Affiliate and/or Local RES.
- m) If a DU shall collect a fee from its Affiliate and/or Local RES for any services, products, property, equipment or facilities the latter used, said fee shall be based on the market price or what the DU will charge other RES.

Section 15. Complaint Handling Procedures

- a) At least twenty (20) Business Days prior to its operation as a RES or Local RES, the RES and/or Local RES must submit to the ERC, for approval, its procedures to resolve complaints by Customers in relation to Retail Supply Contracts ~~with the RES and Local RES.~~
- b) The procedures referred to in Article II, Section 15(a) must at a minimum provide for the following:

- b.1) how complaints are to be filed by Customers to the RES and/or Local RES;
 - b.2) the handling of complaints by RES and/or Local RES;
 - b.3) the method of response to complaints (for example, in writing);
and
 - b.4) the referral of complaints to the ERC when these are not satisfactorily resolved.
- c) The ERC may amend any procedure submitted to it under Article II, Section 15(a) and such amended procedures will apply to, and must be adopted by, the RES and/or Local RES not later than ten (10) Business Days after the date the RES and/or Local RES are notified by the ERC that those procedures have been approved.
 - d) A RES and/or Local RES shall keep records of all complaints filed by Customers in relation to the Retail Supply Contracts ~~with the RES~~ (including the name or other contact details of the relevant Customer, the details of the complaint, the manner in which the complaint was handled, the RES' and/or Local RES' response to the complaint and the reasons for that response, and the resolution [if any] of the complaint) for at least five (5) years after such complaints have been resolved and must make records thereof available to the ERC when required.

ARTICLE III PENALTIES

If the ERC determines that a Person has violated this Code, the ERC may, after due notice and hearing, make such order or orders against that person as it considers appropriate, including among others, the following:

- a) an order requiring the person to stop engaging in the conduct that constitutes the violation;
- b) an order requiring the person to do any act or thing to rectify the violation or to remedy or mitigate the consequences of the violation; and
- c) fines and penalties.

Any RES and/or Local RES that fails to comply with any of these obligations shall be subject to revocation of license, and/or fines and penalties as may be imposed by ERC pursuant to Article III of the Guidelines to Govern the Imposition of Administrative Sanctions in the Form of Fines and Penalties.

**ARTICLE IV
ERC REPORTORIAL REQUIREMENTS**

The RES and/or Local RES shall submit to the ERC:

- a) Any information as may be required by it for market evaluation and monitoring purposes, subject to appropriate measures to preserve confidentiality of proprietary or commercially sensitive information;
- b) Annual report of trainings.

**ARTICLE V
PRESERVATION OF OTHER RIGHTS**

Nothing in this Code affects other legal rights which a Customer may have in relation to a Retail Supply Contract or the conduct of a RES and/or Local RES, as provided in other applicable laws.

**ARTICLE VI
AMENDMENT**

Subject to the provisions of any applicable law:

- a) this Code may be amended from time to time by the ERC after consultation with concerned parties; and
- b) any amendment to this Code takes effect fifteen (15) days after its publication in at least one (1) newspaper of general circulation.

**ARTICLE VII
SEPARABILITY**

If for any reason any provision of these 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 VIII
EFFECTIVITY**

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

Pasig City, December ____, 2005.

RODOLFO B. ALBANO, JR. Chairman	
OLIVER B. BUTALID Commissioner	JESUS N. ALCORDO Commissioner
RAUF A. TAN Commissioner	ALEJANDRO Z. BARIN Commissioner