

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



**RULES TO GOVERN THE ISSUANCE OF
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY
(CPCN) TO DISTRIBUTION UTILITIES AND THE
NATIONAL TRANSMISSION CORPORATION (TransCo)**

Pursuant to Section 43 (p) of Republic Act No. 9136 and Section 16 of Commonwealth Act No. 146, as amended, otherwise known as the "Public Service Act", the Energy Regulatory Commission (ERC) hereby adopts and promulgates These Rules to establish procedures, standards and criteria for the issuance of a Certificate of Public Convenience and Necessity (CPCN) to distribution utilities and the National Transmission Corporation (TransCo/ Buyer/Concessionaire).

ARTICLE I

GENERAL PROVISIONS

Section 1. Objectives. These Rules shall have the following objectives:

- a) To ensure the quality, reliability, security and affordability of the supply of electric power;
- b) To ensure and accelerate the total electrification of the country; and
- c) To protect the public interest as it is affected by the rates and services of electric utilities and other producers of electric power.

Section 2. Scope. These Rules shall apply to all distribution utilities (DUs) and the National Transmission Corporation (TransCo/Buyer/Concessionaire), including but not limited to the following:

- a) Electric Cooperatives;
- b) Privately-Owned distribution utilities;
- c) Local government Unit Owned-and-Operated distribution System;
- d) Entities duly authorized to operate within the Economic Zones (EZs);
- e) Other duly authorized entities engaged in the distribution of electricity; and
- f) TransCo /Buyer/Concessionaire

Section 3. Definition of Terms. As used in these Rules, the following terms shall have the following respective meanings:

“Act” unless otherwise stated, shall refer to Republic Act No. 9136, otherwise known as the *“Electric Power Industry Reform Act of 2001”*;

“Certificate of Public Convenience and Necessity” or CPCN shall refer to the authorization issued to a distribution utility and TransCo/ Buyer/Concessionaire for the operation of a distribution system or transmission system for which a franchise is required by law;

“Buyer or Concessionaire” shall refer to a qualified party awarded the sale agreement or Concession Contract for transmission assets.

“Distribution of Electricity” shall refer to the conveyance of electric power by a distribution utility through its distribution system;

“Distribution System” shall refer to the system of wires and associated facilities belonging to a franchised distribution utility extending between the delivery points on the transmission or subtransmission system or generator connection and the point of connection to the premises of the end-user;

“Distribution Utility” shall refer to any electric cooperative (EC), private corporation, government-owned utility or existing local government unit which has an exclusive franchise to operate an electric distribution system in accordance with its franchise and the Act;

“Economic Zones” or **“EZs”** shall refer to selected areas which are being developed into agro-industrial, industrial, tourist, recreational, commercial, banking, investment and financial centers. An EZ may refer to any of the following: Industrial Estates (IEs), Export Processing Zones (EPZs), Free Trade Zones (FTZs), Information Technology Parks and Tourist / Recreational Centers, such as those managed, administered, or operated by the Bases conversion Development Authority (BCDA), Cagayan Economic Zone Authority (CEZA), Clark Development Corporation (CDC), Philippine Economic Zone Authority (PEZA), Phividec Industrial Authority (PIA), and Zamboanga City Economic Zone Authority (ZCEZA).

“National Transmission Corporation or TransCo” shall refer to corporation organized pursuant to the Act to acquire all the transmission assets of the NPC;

ARTICLE II

FILING OF APPLICATIONS

Section 1. Filing of Application. A Distribution Utility or the TransCo/Buyer/Concessionaire shall secure a CPCN before it operates. A Distribution Utility or the TransCo/Buyer /Concessionaire shall file a formal application for the issuance of a CPCN in accordance with Rule 20 (D) of the *Rules of Practice and Procedure Governing Hearings Before the ERC*.

Section 2. Qualifications. Only applicants that possess the following qualifications shall be issued a CPCN. The CPCN shall be issued upon prayer showing that the following criteria are complied with:

- a) Filipino citizenship or corporations, co-partnerships, associations or joint-stock companies constituted and organized under the laws of the Philippines: *Provided*, that sixty (60) per centum of the stock or paid up capital of any such corporation, co-partnership, association or joint stock company must belong entirely to citizens of the Philippines;
- b) Technical capability; and
- c) Financial capability.

Section 3. Term of CPCN. The CPCN shall be valid only for the term of the DU's or TransCo / Buyer/ Concessionaire's franchise.

Section 4. Renewal of CPCN. The application for the renewal of a CPCN shall be filed one (1) year before its expiration.

ARTICLE III

REQUIREMENTS AND PROCEDURES

Section 1. Submission of Required Data. The following documents shall be submitted by the DU or the TransCo/Buyer/Concessionaire upon its application:

I. GENERAL DOCUMENTS:

A. Copy of Franchise issued by NEA / Congress.

In the event that the CPCN application is filed simultaneously with an application for franchise, proof of its pendency shall be submitted.

B. Key Management Officials

List of names, titles, and responsibilities of all key management officials presently employed or to be employed in the electric transmission/distribution utility operation.

C. Corporate or Partnership Documents

- 1) For a corporation:
 - a) Certificate of Incorporation
 - b) Articles of Incorporation
 - c) By-Laws
- 2) For a partnership: copy of the partnership agreement.

D. Service Area Map

- 1) Map clearly showing the boundary of the applicant's proposed service area.
- 2) Total number of energized barangays or municipalities.
- 3) Total number of unenergized barangays or municipalities

E. Utility Practices and Procedures

- 1) Proposed tariff or practices and procedures of the applicant, showing all rates, deposits and charges associated with providing the proposed service to the general public.
- 2) Standard practices the applicant will follow when dealing with its customers (such as billing practices, conditions of disconnection, etc.)
- 3) If an application is a renewal of a CPCN, to be submitted is a statement of its currently effective tariff.

II. TECHNICAL DOCUMENTS/INFORMATION

A. For new CPCN:

- 1) The names and addresses of personnel responsible for the design, installation, maintenance, and repair of equipment for the proposed system;
- 2) Single line diagram of the generation system, transmission system and the distribution systems;

- 3) Information regarding the power supply for the proposed service area indicating the contracted demand and energy;
- 4) Single line diagram of the distribution system / transmission system drawn in adequate scale on the map of the franchise area to be supplied with electricity, showing the location of substation, poles, distribution transformers and lines indicating substation name and capacity; designation of feeders or circuits; type of poles used; voltage level in kilovolt (kV) per feeder or circuit; length of each feeders in circuit-kilometers; size of distribution transformers; and number of customers connected to each feeders or circuits.
- 5) Statement confirming that the proposed transmission / distribution system meets the technical requirements of the Philippine Grid Code and Philippine Distribution Code (New applicant is required to submit a Statement of Compliance and Compliance Plan to the PGDC); and
- 6) Description of any negotiations with telephone and/or cable television utilities on the joint use of pole lines.

B. For renewal of CPCN:

- 1) Names and addresses of additional personnel responsible for the design, installation, maintenance, and repair of equipment for the proposed system;
- 2) Any modification of the existing single line diagram of the generation system, transmission system and the distribution systems;
- 3) Updated information regarding the power supply for the proposed service area indicating the contracted demand and energy;
- 4) Any modification in the existing single line diagram of the distribution system / transmission system drawn in adequate scale on the map of the franchise area to be supplied with electricity, showing the location of substation, poles, distribution transformers and lines indicating substation name and capacity; designation of feeders or circuits; type of poles used; voltage level in kilovolt (kV) per feeder or circuit; length of each feeders in circuit-kilometers; size of distribution transformers; and number of customers connected to each feeders or circuits.
- 5) Statement confirming that the existing transmission / distribution system meets the technical requirements of the Philippine Grid Code and Philippine Distribution Code; and
- 6) Description of any new negotiations with telephone and/or cable television utilities on the joint use of pole lines.

III. FINANCIAL INFORMATION:

A. Financial Status

- 1) Copies of the most recent year's audited balance sheet and income statement if the applicant is an existing business which previously has not operated as a public utility or has not been previously authorized to operate as a public utility;
- 2) Copies of the most recent year's balance sheet and income statement of the principal owners of the business if the applicant is a new business which proposes to operate as a utility; and
- 3) Copies of the appropriate pages from its annual report submitted to the Commission, if those pages still reflect the current financial status of the utility, or copies of current statements to other agencies or copies of its most recent internal documents which contain substantially the same information if the applicant is authorized to operate as a public utility.

B. Sources of Financing

- 1) List of sources of financing for the proposed utility or expansion of an existing utility, including:
 - d) documents showing that the sources listed will provide the applicant with the required funds; and
 - e) terms and conditions of all relevant loans and equipment contracts.
- 2) If the plant or a portion thereof is contributed, list of sources and conditions of all on-site and off-site assessments, grants, or other sources of funding.

Failure of the Distribution Utility or the TransCo/Buyer/Concessionaire to submit any of the required data/information shall be a ground for the denial of the application.

Section 2. Procedures. Applications filed pursuant to these Rules shall be governed by Rule 20 (D) of the *Rules of Practice and Procedures Governing Hearings Before the ERC*.

ARTICLE IV

OBLIGATIONS OF THE CPCN GRANTEE

Section 1. Compliance with pertinent laws and rules. The Distribution Utility or the TransCo/Buyer/Concessionaire shall ensure that during the term of the CPCN, it meets all the technical and financial standards provided in the Philippine Grid Code and Philippine Distribution Code and all other pertinent rules and regulations issued by the Commission in accordance with the law.

Section 2. Payment of Supervision Fees. The Distribution Utility or the TransCo/Buyer/ Concessionaire shall pay the Supervision Fees, on or before the 30th day of September each year.

Section 3. Submission of Annual Report. The Distribution Utility or the Transco/ Buyer/Concessionaire shall submit Annual Report, on or before the 31st day of May each year.

ARTICLE V

REVOCATION OF THE CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

Pursuant to Section 43 (e) of the Act, the Commission may amend or revoke, after due notice and hearing, the CPCN of any Distribution Utility or the TransCo/Buyer/Concessionaire which fails to comply with the provisions of the Act, its IRR, these Rules or any of its orders or resolutions.

ARTICLE VI

PENALTIES

Violations of any provisions of these Rules shall be subject to the imposition of fines and penalties in accordance with the Guidelines to Govern the Imposition of Administrative Sanctions in the Form of Fines and Penalties Pursuant to Section 46 of the Act promulgated by the ERC on May 17, 2002.

ARTICLE VII

FINAL PROVISION

Section 1. 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.

Section 2. Effectivity Clause. These Rules shall take effect fifteen (15) days after its publication in a newspaper of general circulation in the Philippines.

Pasig City, September 19, 2007

RODOLFO B. ALBANO, JR.
Chairman

RAUF A. TAN
Commissioner

ALEJANDRO Z. BARIN
Commissioner

MARIA TERESA R. CASTANEDA
Commissioner

JOSE C. REYES
Commissioner