

FAQ on Retail Electricity Suppliers (RES)

I. On Securing a RES License

Answers to the questions in this section are to be found in the Guidelines for the Issuance of Licenses to Retail Electricity Suppliers (RES), as amended, promulgated by the ERC, on February 1, 2006.

1. Who can apply for a Retail Electricity Supplier license? (1 See Guidelines for the Issuance of Licenses to Retail Electricity Suppliers (RES), as amended, Article I Sec. 4 and Sec. 5, Article II Sec. 1 and Sec. 4.)

The following may obtain a license to become a RES:

- (a) A Generation Company or its Affiliate;
- (b) An Affiliate of a Distribution Utility;
- (c) A Distribution Utility which shall operate as a RES outside its franchise area;
- (d) Aggregators (defined as a Person or entity engaged in consolidating electric power demand in the Contestable Market for the purpose of purchasing and reselling electricity on a group basis, but only after two years after the declaration of open access and retail competition;)
- (e) An IPP Administrator; and
- (f) Any other Person or entity intending to engage in the selling, brokering, or marketing of electricity to the contestable market;

If you are a single proprietor, of legal age, and duly registered at the Department of Trade and Industry (DTI) as engaged in the retail electricity supply business, you can apply for the Supplier's License at ERC.

Juridical entities on the other hand must be duly registered with the Department of Trade and Industry (DTI), Securities and Exchange Commission (SEC) and/or the Cooperative Development Authority (CDA) as an entity engaged in retail electricity supply business before applying for the Supplier's License at the ERC.

Exempted from securing a Supplier's License are Distribution Utilities, which shall serve the Contestable Market (end-users who are given the right to choose their supplier of electricity) only in their respective franchise areas and Persons or entities authorized by appropriate entities to supply electricity within their Economic Zones.

You are restricted from applying if you or any of your affiliates, stockholders, directors and officers or any of your and their relatives within the fourth (4th) civil degree of consanguinity or affinity, legitimate or common law, owns any interest, directly or indirectly, in TRANSCO or its buyer or concessionaire, or Independent Market Operator.

2. What are the criteria that must be met by RES License applicants? (2 See Guidelines for the Issuance of Licenses to Retail Electricity Suppliers (RES), as amended, Article II Sec. 2 and Sec. 3.)

Those interested in becoming a RES should be able to demonstrate their creditworthiness for the protection of their customers. They should also possess the technical and managerial capability to ensure reliable electricity supply.

3. How can RES applicants demonstrate that they are creditworthy? (3 See Guidelines for the Issuance of Licenses to Retail Electricity Suppliers (RES), as amended, Article II Sec. 2.)

An applicant must possess any of the following credit standards:

- a) Investment grade credit rating by a reputable credit bureau; or
- b) Unused cash resources with an amount equivalent to the Applicant's expected monthly billings, or Php 5 million; or

c) Proof of credit worthiness confirmed through the certification of companies (including Generation Companies, Transco and Distribution Utilities) that have extended credit line to the Applicant.

4. What technical and managerial capability must RES applicants possess to ensure reliable electricity supply? (4 See Guidelines for the Issuance of License to Retail Electricity Suppliers (RES), as amended, Article II Sec. 3.)

An Applicant must have the technical and managerial capability to ensure reliable electricity supply in accordance with its customer contracts, such as the:

- a. Ability and knowledge to operate and manage an electric supply business, which involves the requirement to understand ERC's rules, codes, and guidelines.
- b. Ability to set-up and operate within the customer transfer system approved by the ERC, an automated information exchange associated with business to business (B2B) communications and transactions.
- c. Technical ability to enter into any necessary access or interconnection arrangements or other required contracts with Transco, and one or more Distribution Utilities;
- d. Technical ability to secure generation through compliance with all applicable requirements of the Market Operator, if applicable;
- e. Technical ability to meet its transactional requirements with the Market Operator or its contractual obligations with any industry participant, if applicable;
- f. Adequate staffing and employee training to meet all service level commitments.

5. What documents are required for securing a RES License? (5 See Guidelines for the Issuance of License to Retail Electricity Suppliers (RES) Article III Sec. 2, 3, and 4.)

For new applicants, the following documents and information are required to be submitted:

- a. Articles of Incorporation/Partnership with Certificate of Registration (for juridical person);
- b. Business Name Registration Certificate (for single proprietorship);
- c. Mayor's Permit;
- d. RES Information Sheet (form to be prescribed by ERC);
- e. Certified true copies of audited balance sheet, cash flow, and income statement for the two most recent twelve (12)-month periods, or for the life of the business if not in existence for at least two (2) years, if applicable;
- f. If affiliate, certified true copies of audited balance sheet, cash flow and income statements for the two most recent 12-month periods of parent company;
- g. Projected Five-year Financial Statements and Five-year Business Plan;
- h. List of affiliates engaged in the generation, distribution and retail supply of electricity, and their corresponding business addresses;
- i. Sworn Statement that the applicant shall comply with the Code of Conduct for Competitive Retail Market Participants and the Competition Rules;
- j. Sworn statement that:

a) the Applicant or Affiliate thereof or any stockholder, director or officer or any of their relatives within the fourth (4th) civil degree of consanguinity or affinity, legitimate or common law, does not own any interest, directly or indirectly, in TRANSCO or its Buyer or Concessionaire, or Independent Market Operator; and

b) no officer or director of the Applicant is an officer or director of the Transco or its Buyer or Concessionaire;

k. Proof of payment of application fees;

l. List of directors and officers, including curriculum vitae; and

m. Such other information or documents that the ERC may require.

If an applicant intends to collect deposits, it needs to submit to ERC a certification from a commercial bank that he/she can avail of said bank's escrow facility. If it has already collected deposits from its customers based on its projected sales, it must submit to ERC a certification from a commercial bank stating the amount deposited in escrow.

For license renewal, the following are the required documents:

- a. Application for Renewal of License;
- b. Proof of Payment of Renewal Fees;
- c. Security Deposit commensurate to amount collected from customers, if applicable;
- d. Business Permit;
- e. Latest RES Information Sheet;
- f. Recent annual report to shareholders together with Audited Financial Statements; and
- g. Such other information or documents that ERC may require.

6. Upon submission of the required documents, how long will it take to process the application? (6 See Guidelines for the Issuance of License to Retail Electricity Suppliers (RES), as amended, Article III Sec. 1)

Provided all the requirements have been fulfilled, an applicant can expect a notification from the ERC within sixty (60) working days. The final action on an application may also be postponed if the ERC believes that there is a reasonable ground to do so.

7. How long is the validity of the RES License? (7 See Guidelines for the Issuance of Licenses to Retail Electricity Suppliers (RES), as amended Article V.)

The RES License issued by the ERC shall have a term of three (3) years, renewable at the end of every term. The RES License shall be non-transferable and shall be valid for the stated terms unless otherwise revoked by ERC.

8. Are there exceptions to the RES license requirement? (8 See Guidelines for the Issuance of Licenses to Retail Electricity Suppliers (RES), as amended, Article I Sec. 5)

Yes. The Local RES of Distribution Utilities operating only in their franchise areas and Persons or entities authorized by appropriate entities to supply electricity within their respective Economic Zones are exempted from securing a RES license.

9. What are the obligations of a RES/Local RES? (9 See Guidelines for the Issuance of Licenses to Retail Electricity Suppliers (RES), as amended, Article VI and Article VII.)

A RES/Local RES has the following obligations:

- (a) A RES/Local RES who is also engaged in power generation and distribution business shall ensure that its supply business activities and rates are functionally and structurally unbundled from its generation and distribution businesses, as provided for in Rule 10 of the IRR of the EPIRA on the Structural and Functional Unbundling of Electric Power Industry Participants. In the said unbundling, the RES shall ensure that there is no cross subsidization between and among its business activities in accordance with the ERC-approved Business Separation and Unbundling Plan.
- (b) A RES/Local RES shall comply with the provisions of the EPIRA and its Implementing Rules and Regulations, the applicable provisions of the Philippine Distribution Code, the Distribution Service and Open Access Rules (DSOAR), the Code of Conduct for Competitive Retail Market Participants, Uniform Business Practices, and all applicable rules and regulations prescribed by ERC.
- (c) A RES/Local RES shall provide updated information in a format prescribed by ERC to enable the contestable market to make informed choices.
- (d) A RES/Local RES shall at all times adopt the business to business (B2B) interface system approved by the ERC.
- (e) A RES/Local RES shall identify and segregate in its bills to End-users the components of the Retail Rate as follows: generation, transmission, distribution, supply, and other related charges for electric service. It shall likewise identify and segregate the components of its Supplier's Charges as required by the EPIRA.
- (f) A RES shall comply with the Creditworthiness Criteria and such financial security to secure proper performance as a RES as provided in Section 2, Article II of the Guidelines for the

Issuance of Licenses to Retail Electricity Suppliers and as maybe determined by ERC to protect the interest of End-users in Contestable Markets. Further a RES shall ensure that the advance deposits collected from its customers are sufficiently covered by security deposits at all times.

(g) A RES/Local RES who sources power from the wholesale electricity spot market shall comply with the WESM Rules at all times.

(h) A RES/Local shall comply with the Competition Rules prescribed by the ERC concerning abuse of market power, cartelization, and any other anti-competitive or discriminatory behavior.

(i) A RES/Local RES shall collect the Universal Charge from all of its End-users on a monthly basis, and shall comply with the Rules Governing the Collection of Universal Charge and the Guidelines and Procedures Governing Remittances and Disbursements of Universal Charge, issued by ERC.

(j) A RES/Local RES that intends to cease operations shall notify the ERC at least thirty (30) days prior to ceasing operations and shall provide proof of refund of any monies owed to customers, as well as a settlement proof of payment of any amount owed to a DU, Transco, WESM or a Generation Company. Thereafter, the Supplier's License is deemed cancelled.

(k) A RES shall inform the ERC of any material change to the information supplied in the Supplier's License application within thirty (30) days from the occurrence of such an event.

(l) A RES/Local RES shall file a monthly or as may be deemed necessary by ERC containing the following information, on a form prescribed by the ERC:

1. Average prices. Average retail sales price broken down by residential, small general service, and large general service customers and by transmission and distribution service territories; for each category, the average retail sales price is the total revenue divided by total kilowatt-hour sales;

2. Revenues. Total revenues from kilowatt-hour sales to customers;

3. Customers. List and type of customers served, and amounts of deposits collected from each.

4. Bank certification. Certification coming from a reputable bank, stating the amount deposited in escrow.

5. Other information. Other information that the ERC deems necessary or useful in carrying out its duties and obligations.

II. On Retail Rates and Charges

Answers to the questions in this section can be found in the EPIRA.

1. What is the Retail Rate? (10 See R.A. 9136 Ch. 1 Sec. 4)

The Retail Rate is the total price paid by end-users. It is the sum of the charges for generation, transmission and related ancillary services, distribution, supply and other related charges for electric service;

2. What is the Supplier's Charge? (11 See R.A. 9136 Ch. 1 Sec. 4)

The Supplier's Charge is the charge imposed by RES/Local RES for the sale of electricity to end-users. It does not include the charges for generation, transmission and distribution wheeling;

3. What pricing schemes can a RES/Local RES offer to its customers? (12 See R.A. 9136 Ch. 1 Sec. 29)

A RES/Local RES can choose to adopt or create any pricing scheme that it believes will make it competitive, in as much as the prices to be charged by RES/Local RES for the supply of electricity to the contestable market shall not be subject to regulation by the ERC.

III. On Other Concerns

1. Is the RES/Local RES responsible for metering, meter reading, billing and collection, and switching arrangements for customers? (13 See UBP and Distribution Services and Open Access Rules (promulgated January 18, 2006)

Metering and meter reading shall be the responsibility of the Distribution Utility, until otherwise determined by the ERC.

Billing and collection is the responsibility of the RES/Local RES. In case of dual billing, the RES/Local RES and the DU are responsible for their own respective billing and collection.

Switching arrangements for customers shall follow the procedures set out in the Uniform Business Practices (to come out this December, 2006).

2. What protection is given to RES/Local RES from delinquent customers? (14 See Guidelines for the Issuance of Licenses to Retail Electricity Suppliers (RES) Article III Sec. 3.)

A RES/Local RES is allowed to collect funds, including deposits or advances, from customers prior to providing services. However, such a RES/Local RES will then be required to post a security deposit in amount based on the sales value that the RES/Local RES will collect or has collected from its customers.

3. Is there a limit to the number of customers that a RES/Local RES may obtain?

A RES/Local RES may have as many customers as it can get provided that it can sustain its competitiveness and it does not commit any anti-competitive behavior.

4. What do customers generally look for in a RES/Local RES?

Results of a survey conducted by ERC among large end-users, i.e. having a monthly average peak demand of at least 1 MW, show that customers are giving the highest priority to the price that RES/Local RES will be offering.