

May 29, 2018

USEC. FELIX WILLIAM B. FUENTEBELLA

Department of Energy
Bonifacio Global City
Taguig City

Dear Usec. Fuentebella:

This refers to the ongoing Focus Group Discussions (FGD) the DOE is conducting for all stakeholders of the power industry on the possible amendments to the EPIRA and its IRR.

May we be allowed to submit the attached proposals for amendment for the DOE's consideration.

Thank you.

(Sgd) GERARDO P. VERZOSA

General Manager
BENECO

FOCUS GROUP DISCUSSION

PROPOSED AMENDMENTS TO THE EPIRA IRR

May 30, 2018

Quest Hotel and Conference Center

Clark, Pampanga

PRESENTOR: BENECO (GM GERARDO P. VERZOSA)

Sector: Distribution Sector (Electric Cooperative)

Issue	Specific Provision Affected	Proposal
<p>1. NEA should be given more teeth in the exercise of its supervisory and regulatory functions. This requires the transformation of the NEA as an authority.</p>	<p>Sec. 27 of EPIRA</p> <p>Franchising Power in the Electric Power Sector.- The power to grant franchise to persons engaged in the transmission and distribution of electricity shall be vested exclusively in the Congress of the Philippines.....</p> <p>Sec. 3 Responsibilities of NEA (EPIRA IRR)</p> <p>(a)xxx (b)xxx (c)xxx</p> <p>Sec. 8. EPIRA (a)Pursuant to Sec. 27 of the Act, a franchise to a person intending to engage in the Distribution of Electricity shall be granted exclusively by the Congress of the Philippines.</p>	<p>Franchising Power in the Electric Power Sector.- The power to grant franchise to persons engaged in the transmission and distribution of electricity shall be vested exclusively in the Congress of the Philippines.....</p> <p><u>For electric cooperatives, the power to grant their franchise shall be vested with the NEA.</u></p> <p><u>The National Electrification Administration (NEA) shall be renamed and converted as the National Electrification Authority (NEA) to exercise such powers defined under PD 269 and RA 10531 including other powers related to being an authority.</u></p>

<p>2. Reduction of electricity</p> <p>(a) Expanded Value Added Tax (EVAT)</p> <p>(b) Imposition of National and Local taxes</p>	<p>Chapter II Section 6 EPIRA (4th paragraph)</p> <p>Pursuant to the objective of lowering electricity rates to end-users, sales of generated power by generation companies shall be value added to zero-rated</p> <p>Sec. 66 (EPIRA) Benefits to Host Communities. – The obligations of generation companies and energy resource developers to communities hosting energy generating facilities and/or energy resource developers as defined under Chapter II, Section 289 to 294 of the Local Government Code and Section 5 (i) of Republic Act No. 7638 and their implementing rules and regulation and applicable orders and circular consistent with this Act shall continue.....</p> <p>Section 4. Nature of Benefits Provided Under E.R. 1-94 (EPIRA IRR)</p> <p>(a) The Generation Company and/or energy resource developer shall set aside one centavo per kilowatt-hour (P 0.01/kWh) of the total electricity sales as financial benefit of the host communities of such Generation Facility, where</p>	<p>Pursuant to the objective of lowering electricity rates to end-users, sales of generated power by generation, transmission power, distribution of electricity and supply shall be exempted from 12% VAT or any form of taxes</p> <p>The poles and lines of the ECs should be exempted from real property tax as assessed by the LGUs</p> <p>The ECs should not be assessed of business and income taxes since their rates approved by the ERC are based on revenue requirement</p> <p>(a) The Generation Company and/or energy resource developer shall set aside one centavo per kilowatt-hour (P 0.01/kWh) of the total electricity sales as financial benefit of the host communities of such Generation Facility, where applicable. <u>The said share shall be directly remitted to the local government units that have jurisdiction over the</u></p>
<p>3. Benefits to host communities</p>	<p>(a) The Generation Company and/or energy resource developer shall set aside one centavo per kilowatt-hour (P 0.01/kWh) of the total electricity sales as financial benefit of the host communities of such Generation Facility, where</p>	<p>(a) The Generation Company and/or energy resource developer shall set aside one centavo per kilowatt-hour (P 0.01/kWh) of the total electricity sales as financial benefit of the host communities of such Generation Facility, where applicable. <u>The said share shall be directly remitted to the local government units that have jurisdiction over the</u></p>

	applicable.	<u>host communities</u>
4. ECs engagement with power generation	<p>Sec. 5. Limits on Bilateral Supply Contracts by a Distribution Utility (b)No Distribution Utility shall be allowed to source from bilateral power supply contracts more than fifty percent (50%) of its total demand from an Affiliate engaged in generation, but such limitation shall not prejudice contracts entered into prior to the effective date of the Act. This limitation shall apply regardless of whether demand is expressed in terms of capacity or energy.</p>	<p><u>For electric cooperatives, they shall be allowed to source from bilateral power supply contracts up to one hundred percent (100%) of its total demand from an affiliate engaged in generation provided the source of power is renewable energy.</u></p>
5. The DOE policy on the issuance of Hydro Service Contracts	<p>Rule 3. Sec. 1. (EPIRA IRR)</p> <p>(a)xxx (b)xxx (c)xxx (d)xxx (e)xxx (i)xxx (ii)xxx (iii)xxx (iv)xxx (f)xxx (g)xxx (h)xxx (i)Develop policies and procedures and, as appropriate, promote a system of energy development incentives to enable and encourage Electric Power Industry Participants to provide adequate capacity to meet demand including,</p>	

	<p>among others, reserve requirements.</p> <p>Sec. 5. Privileges of a Distribution Utility</p> <p>(a)xxx (b)xxx (c)xxx (i)xxx (ii)xxx</p>	<p>Relative to this, the DOE shall recognize the electric cooperatives as a key player in power generation. The ECs shall be allowed to put up their generation facility provided the source of power will be renewable energy.</p> <p>The DOE must give the ECs the opportunity to secure hydro service contracts based on terms and conditions reflective of the nature of the operations of ECs.</p> <p>In cases where the HSC has already been awarded to an independent private entity, the Terms of Reference (TOR) of the HSC should include a provision mandating the entity to reveal the benefits it could give to the host communities. An interested EC must then be given the right to match the benefits to be given by the private entity and should the offer of the ECs be better, the ECs must be allowed to be the party to develop the resources of the area covered by the HSC.</p> <p>The issuance of a HSC to a private party should not prevent the residents from choosing their power developer especially if the areas concerned fall within the ancestral domains of Indigenous Peoples (IPs) and Indigenous Cultural Communities (ICCs). The Indigenous Peoples Rights Act (IPRA) or RA 8371 is a paramount law that enshrined the rights of IPs to decide the use and development of their natural resources. The HSC given to a private entity should not supersede such right. The IPs/ICCs must be given the right to decide which company or party they would enter into a MOA for the development of their renewable energy resources.</p>
<p>6. Generation of Power in SPUG Areas</p>	<p>Rule 13. Sec. 3. (EPIRA IRR)</p> <p>(a)SPUG shall be responsible for</p>	

	<p>providing power generation and its associated power delivery systems in areas that are not connected to the Grid and cannot be serviced by the Distribution Utilities and other qualified third parties.</p> <p>(b)xxx (c)xxx (d)xxx (e)xxx (f)xxx</p>	<p>(g)The generation plants erected in SPUG areas be transferred to the ECs from the NPC provided the ECs have proven to be technically and financially able to run the said facilities.</p>
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