



Republic of the Philippines
DEPARTMENT OF ENERGY

HOUSE RULES GOVERNING THE REVIEW AND EVALUATION OF DIRECT CONNECTION APPLICATIONS OF INDUSTRIAL, COMMERCIAL AND OTHER QUALIFIED ELECTRICITY END-USERS, ECONOMIC ZONES AND ECOZONE ENTERPRISES

Legal Basis

Pursuant to the Supreme Court (SC) decision in the Mactan Electric Company, Inc. (MECO) vs. NPC, etc. (G.R. No. 172960), the subject matter of the dispute between MECO and NPC involved the distribution of energy resource, specifically direct supply of electricity which was not within the authority of ERC to resolve nor the Regional Trial Court (RTC) as the jurisdiction belonged to the DOE. Thus, in compliance with the said SC ruling, the Energy Regulatory Commission (ERC) endorsed on 08 May 2014 all Direct Connection applications to the DOE.

Purpose. This House Rules will serve as internal guidelines to govern the review and evaluation of the applications for direct connection by Electricity End-users and Ecozone Enterprises.

Section 1. Definition of Terms.

- a. **Applicant** refers to an Electricity End-user or Ecozone Enterprise which submitted application for renewal or approval of new direct connection.
- b. **Contestable Customer** refers to an Electricity End-user or Ecozone Enterprise that belongs to the Contestable Market.
- c. **Directly Connected Customer or DCC** refers to an industrial or bulk electricity end-user, which are supplied through the transmission or sub-transmission assets that are still owned by the National Transmission Corporation (TransCo).
- d. **Direct Connection** refers to an arrangement for the supply of energy to an Electricity End-User or Ecozone Enterprise using the transmission or sub-transmission assets with voltage level requirement beyond the level that can be provided by the Distribution Utility or Ecozone Utility Enterprise where the Electricity End-User or Ecozone Enterprise is located; directly connecting to the grid using facilities that cannot be economically and technically provided by the Distribution Utility or Ecozone Utility Enterprise.
- e. **Direct Connection Review and Evaluation Committee (D-REC)** refers to a committee created under Department Circular No. DO2014-11-0019 which is composed of the Undersecretary supervising the Electric Power Industry Management Bureau (EPIMB) as Chair, Director for EPIMB as Vice Chair, Director for DOE Legal Services, Director for DOE Financial Services, representative of PSALM, representative of NEA, representative of NGCP, representative of TransCo and representative of PEMC as members.

- f. **Ecozones or "Special Economic Zones" (SEZ)** shall refer to selected areas with highly developed or which have the potential to be developed into agri-industrial, industrial, tourist, recreational, commercial, banking, investment and financial centers whose metes and bounds are fixed or delimited by Presidential Proclamations. An Ecozone may contain any or all of the following: industrial estates (IEs), export processing zones (EPZ), free trade zones and tourist/ recreational centers.
- g. **Ecozone Enterprise** refers to an entity or concern within the Ecozone and duly registered by Phillipine Economic Zone Authority (PEZA), engaging in manufacturing, services, tourism and any other kind of trade.
- h. **Ecozone Utilities Enterprise** shall refer to a business entity or concern within the Ecozone duly registered with and/or licensed by the PEZA with or without the incentives provided under Republic Act No. 6957, as amended, (the Build-Operate-Transfer Law) and/or with or without financial exposure on the part of the PEZA, such as contractors/operators of light and power systems, water supply and distribution systems, communications and transportation systems within the ECOZONE and other similar or ancillary activities as may be determined by the Board.
- i. **End-User** refers to any person or entity requiring the supply and delivery of electricity for its own use.
- j. **Subtransmission Assets** - refers to the facilities related to the power delivery service below the transmission voltages and based on the functional assignments of assets including but not limited to the step-down transformers used solely by load customers, associated switchyard/substation, control and protective equipment, reactive compensation equipment to improve customer power factor, overhead lines and the land such facilities/equipment are located. This includes NGCP or its successor-in-interest assets linking the transmission system and the distribution system which are neither classified as generation nor transmission.

Section 2. General Principles For Direct Connection. The following principles shall be adopted by the D-REC in the review and evaluation of applications for Direct Connection:

- a. The applicant Electricity End-user or Ecozone Enterprise load should not be less than 100 kilowatts (kW) and the delivery voltage shall be in accordance with the following transmission voltage:
 - A. 69- 230 kilovolts (kV) for Luzon Grid
 - B. 69-138 kV for Visayas Grid
 - C. 69-138 kV for Mindanao Grid, and

- b. The franchised Distribution Utility or PEZA-registered Ecozone Utility Enterprise may file any action at any time in relation to any application for Direct Connection within its franchise area.
- c. Any franchised Distribution Utility which opposes any application for Direct Connection by an electricity End-User or Ecozone Enterprise shall be accorded adequate and reasonable opportunity to contest an applicant's allegations about the DU's technical and financial capability to serve the quantity and quality of electric power supply required by the applicant.
- d. The Electricity End-user or Ecozone Enterprise that is planning to apply as a Directly Connected Customer (DCC) shall discuss its connection requirements with the Distribution Utility prior to filing its application. The D-REC shall prescribe the technical, operational and financial capability standards for the Distribution Utilities for purposes of Direct Connection applications, consistent with the ERC Rules, duly approved by the DOE Secretary, and after due notice and public consultation.

The requirements provided herein shall not apply to PEZA registered or accredited Ecozone Utility Enterprise.

- e. In all cases, the affected franchised Distribution Utility shall:
 - i. Provide sufficient proof that it can satisfactorily guarantee to meet the quantity and quality of electric power supply required by the applicant electricity End-User or Ecozone Enterprise including the cost for the supply of electricity to support the operation and viability of the applicant electricity End-User or Ecozone Enterprise. As such, the franchised Distribution Utility shall submit the following:
 - a. Evidence of its existing and planned Power Supply Agreement with a Generation Company;
 - b. Financial Profile for the last three (3) years;
 - c. Certification from the Philippine Electricity Market Corporation (PEMC) that it has sufficiently complied with the WESM prudential requirements and has not received any notice of default;
 - d. Copies of application to the ERC for the recovery of Capital Expenditure for enhancement and expansion of its Distribution System which shall include the improvement or expansion needed by the applicant electricity End-user or Ecozone Enterprise;
 - e. Certification of good credit standing with power supplier and transmission service provider;
 - f. Cost-benefit analysis showing impact to the Distribution Utility operations of foregoing the concerned Electricity End-user or Ecozone Enterprise;
 - g. Distribution Development Plan (to prove that the Distribution Utility has expansion plans to cater additional demands); and
 - h. Average systems loss for the past three (3) years not exceeding the allowed recoverable cap.

- ii. Sufficiently pass the rating for technical and financial standards as indicated in Annex A of this Circular.
- f. The DOE shall continue to recognize all existing and valid Direct Connection in force at the time of the effectivity of these rules until the expiration of their supply contracts.
- g. Any Power Supply Agreement (PSA) and Transmission Supply Agreement (TSA), whether new or renewed, entered into by the DCC shall be subject to the terms and conditions mutually agreed upon between the parties concerned.
- h. In cases where the sub-transmission facilities to which the Electricity End-user or Ecozone Enterprise is connected has been acquired by the franchised DU, the Electricity End User or the Ecozone Enterprise shall be subject to payment of wheeling charges duly approved by the ERC.
- i. In the implementation of Retail Competition and Open Access (RCOA), regardless of its demand level, the Electricity End-User or Ecozone Enterprise having the privilege of direct connection may continue to source its power supply from the PSALM, an SGC, an IPP or an IPPA, subject to payment of applicable wheeling charges, as determined by the ERC, until the expiration of their supply contracts. Provided, however, if at the time of the expiration of its contract with its counterparty, the Electricity End-User or Ecozone Enterprise has a load demand falling within the RCOA threshold level as indicated in the timeline provided by ERC and DOE for that particular expiration year, the same shall be subject to the RCOA rules.

The DCC, upon the implementation of retail aggregation, may opt to aggregate its demand with other contiguously located Electricity End-users and source its supply from ERC-licensed Retail Electricity Supplier (RES)/Aggregator.

Section 3. Coverage. The evaluation of applications for direct connection by the D-REC shall only cover the following:

- a. Any existing DCC intending to renew its direct connection arrangements either with PSALM, SGC, IPP, IPPA, including its Transmission Service Agreement with the NGCP, provided that the DU remains to be technically and financially incapable of serving the DCC; and
- b. Any Electricity End-User or Ecozone Enterprise with a load requirement of at least 100 Kilowatts (kW) intending to secure supply of electricity with PSALM, an SGC, IPP, or an IPPA, provided that the DU remains to be technically and financially incapable of serving the DCC.

Section 4. Applicability of Direct Connection. Direct Connection shall not be granted in any of the following cases:

- a. If the Applicant is already in operation and already being served by franchised Distribution Utility at the time of the effectivity of these rules, except in cases, where the Applicant presents, for the determination of the D-REC, sufficient proof that the concerned franchised Distribution Utility fails to satisfy the provisions of Section 9(b) hereof to the concerned Applicant;
- b. DCCs that have been issued Certificate of Contestability by the Energy Regulatory Commission whether or not currently served by Retail Electricity Suppliers (RES); except in cases where the DCC presents, for the determination of the D-REC, sufficient proof that the concerned franchised Distribution Utility fails to satisfy the provisions of Section 9(b) hereof;
- c. Residential customers; and
- d. Any prospective Electricity End-user or Ecozone Enterprise that intends to connect thru the sub-transmission assets already acquired by the concerned Distribution Utility/consortium from TransCo. This shall include sub-transmission asset as listed under ERC Resolution No. 4, Series of 2013, entitled: "A Resolution Amending Resolution No. 26 Series of 2011".

Section 5. Application for Direct Connection. An Applicant or a DCC seeking approval to avail of or to renew a Direct Connection arrangement shall be guided by the following:

- a. The DCC or the Applicant shall file with the DOE through the D-REC a written application containing and/or enclosing thereto the following information/documents:
 - i. Name and business address including a brief corporate/business profile of applicant;
 - ii. Location of Applicant's/DCC installation, plant, or factory for which direct supply is sought, including the nearest NGCP/Distribution Utility substation, as well as the power demand, delivery voltage, requested schedule for connection, load curve, and other relevant technical information;
 - iii. Certification from the NGCP that the current demand including the five (5) year projected demand can be accommodated by existing transmission facilities, otherwise the customer may be allowed to fund the required infrastructure. Provided, however, that the Electricity End-User or the Ecozone Enterprise shall retain ownership of such dedicated facilities until such time that such facilities are required for competitive purposes and its ownership shall be transferred to the National Transmission Corporation (TransCo) or its successor-in-interest, or the franchise DU, as applicable, at a fair market price, in accordance with the provisions of the EPIRA;



- iv. Certification of willingness to shoulder the cost of needed connection assets and subtransmission facilities in cases where the NGCP/DU is unable to immediately provide for the cost of infrastructure due to a regulatory limitation seeking approval of ERC for cost recovery;
- v. Cost Benefit Analysis. Proof that the Direct Connection status will give rise to the continued growth and/or survival of its business and shall result to positive economic impact to the community where the Applicant is located. The analysis shall include among others:
 - A. Comparative operational or production costs
 - B. Capital infusion
 - C. Additional employment
 - D. Projected taxes or income to the government
 - E. Comparative product or service cost
 - F. Other measures as applicable (e.g. improvement in infrastructure, export growth, etc.); and
- vi. Such other documents which the D-REC may deem necessary in support of the application.

The application should be addressed to:

The DOE Secretary
Attention: The Chairperson
Direct Connection-Review and Evaluation
Committee
c/o Electric Power Industry Management Bureau
Department of Energy
Energy Center, Rizal Drive
Bonifacio Global City, Taguig City, Metro Manila
Telephone No. 840-2120

The concerned DU shall be copy furnished with the letter of application. The D-REC shall ensure posting of the application in the DOE website within two (2) working days from receipt of the application.

- b. The Applicant Electricity End-User or Ecozone Enterprise shall pay a corresponding application fee in accordance with the Schedule of Fees and Charges in compliance with Executive Order No. 31, dated 1 October 2012, and Implementing Rules and Regulations for Executive No. 31 Series of 2012, to cover processing expenses as follows:
 - i. Administrative costs
 - ii. Publication
- c. The concerned Distribution Utility shall inform the DOE of its action on the application for Direct Connection within fifteen (15) working days from receipt

of the copy of the application. Otherwise, the D-REC shall consider that the Distribution Utility has waived its right to file any action on the application.

- d. Upon receipt of copy of the application, the D-REC Chairperson shall refer the application, within two (2) days from receipt to the D-REC TWG.
 - i. The D-REC TWG shall determine the completeness and authenticity of the documents submitted by the applicant within three (3) working days from receipt of the application, and issue notice to the applicant of the completeness of the supporting documents, or if there are additional information requirements needed to warrant the full evaluation of the application.
 - ii. The D-REC TWG shall commence immediately its technical, financial and legal evaluation of the application in accordance with Section 3(1) of these rules.
 - iii. The D-REC TWG shall complete its evaluation of the application within forty five (45) working days including conduct of site inspection or field verification as may be directed by the D-REC. The cost incurred for the conduct of site inspection shall be for the account of the Applicant.
 - iv. The D-REC TWG shall inform the D-REC on the developments of its evaluation on weekly basis until its submission of the final result of the evaluation and recommendation to the D-REC for its approval and eventual endorsement to the DOE Secretary.
- e. In the conduct of consultations, focus group discussions and/or meetings, as deemed necessary by the D-REC in order to validate all facts relating to the direct connection application, the D-REC Secretariat shall inform the Applicant, the concerned Distribution Utility and other affected entities of the details of the conduct of consultations including the date, time, venue, invited participants and resource persons and other pertinent information relating to the consultations.
- f. In all instances, the D-REC shall approve or deny any application for Direct Connection based on the affected franchised Distribution Utility's meeting the technical, operational and financial capability standards as prescribed in these rules.
- g. The Electricity End-User or Ecozone Enterprise, which has been granted authority for Direct Connection shall submit to D-REC a copy of its Power Supply Contract with PSALM, SGC, IPP IPPA, and Transmission Services Agreement with the NGCP, for monitoring purposes.
- h. The costs of putting up, operating and maintaining all 'dedicated facilities' associated with the power service delivery for new connections shall be borne by the electricity End-User or Ecozone Enterprise. The electricity End-User or the Ecozone shall retain ownership of such dedicated facilities until such time that such facilities are required for competitive purposes and its ownership

shall be transferred to the National Transmission Corporation (TransCo) or its successor-in-interest, or the franchise DU, as applicable, at a fair market price, in accordance with the provisions of the EPIRA.

For purposes of these rules, dedicated facilities shall include all radial transmission lines, substations and associated equipment solely utilized by the Electricity End-User or Ecozone Enterprise to enable power service delivery. Such proposed connection facilities shall be in compliance with existing ERC rules and resolutions including the connection requirements and procedures of NGCP.

The applicant shall inform the DOE of such arrangement and submit copies of pertinent documents on the construction of such facilities including its intent to enter into a Power Supply Agreement (PSA) with the Generation Company.

- i. Provided that all information and documentary requirements shall have been complied with, the D-REC shall approve or deny any application for new direct connection within sixty (60) days from the date of application, unless otherwise the situation warrants a thorough evaluation and consultation.

Section 6. Renewal of Direct Connection Status. The following shall govern the process for the renewal of Direct Connection Agreements:

- a. The Electricity End-User or the Ecozone Enterprise shall advise the D-REC in writing, copy furnished the franchised Distribution Utility or Ecozone Utility Enterprise, of such intention to renew the contract at least three (3) months before its PSA expires. The electricity End-User or the Ecozone Enterprise shall ensure that the TSA shall have an expiration term similar to the PSA, but not later than the expiration of the franchise of the transmission service provider.
- b. Provided that all required information shall have been complied with, the D-REC shall complete the evaluation and inform the Applicant and concerned Distribution Utility of its decision to approve or deny any renewal of contract within sixty (60) days from the date of submission.
- c. Any Electricity End-User or Ecozone Enterprise which has been granted authority by the D-REC to renew its Direct Connection status but need to upgrade its dedicated facilities due to expansion shall shoulder all costs of putting up, and maintaining the new/upgraded "dedicated facilities" pursuant to the required transmission voltages in the concerned grid. The same facilities shall be turned-over to TransCo or its successor-in-interest when so required in accordance with the provision of the EPIRA.

Section 7. Disapproval of Application. The D-REC shall issue an order disapproving or denying the application in the following cases:

- a. Application for Direct Connection where the concerned Distribution Utility is deemed technically and financially capable to serve the Applicant. The D-REC shall advise the franchised Distribution Utility to serve the Electricity End-User or Ecozone Enterprise.
- b. Applicant Electricity End-User or Ecozone Enterprise which are already within the RCOA regime (Section 2i). The same shall be endorsed by the D-REC to the ERC for the issuance of Certificate of Contestability.
- c. Applicant Electricity End-user or Ecozone Enterprise load requirement cannot be accommodated by the current load capacity of transmission facilities (lines, transformers and other high voltage devices), unless said Electricity End-user or Ecozone Enterprise is willing to fund the upgrading works at its initial cost subject to the usual regulatory processes and approvals.

Section 8. Transfer of Subtransmission Facilities. Upon the franchised Distribution Utility's acquisition from the TransCo of the concerned subtransmission facilities to which the DCC is connected, the Distribution Utility shall assume the responsibility to continuously serve the DCC and shall impose and collect the corresponding wheeling rates as duly approved by the ERC. Provided, however, that the supply arrangement of DCCs should be respected until its expiration, after which, the DCC will then be free to source its supply from any Generation Company or the WESM, and if qualified as a Contestable Customer (CC), to enter into a Retail Supply Contract (RSC) pursuant to the RCOA policies.

Section 9. Capability Evaluation of Franchised Distribution Utility. The following guidelines and procedures shall apply in determining the capability of the franchised Distribution Utility to satisfy the supply requirements of the Applicant for Direct Connection:

a. New Applications

The franchised Distribution Utility or Ecozone Utility Enterprise shall submit to D-REC a Memorandum of Undertaking, manifesting its intention to serve the Electricity End-user or Ecozone Enterprise applying for Direct Connection.

For the D-REC's evaluation if the franchised Distribution Utility or the Ecozone Utility Enterprise is capable to meet the electricity supply requirements of the applicant, the franchised Distribution Utility or the Ecozone Utility Enterprise shall submit the following operational data requirements pertaining to the past three (3) years immediately preceding the year of the application for Direct Connection:

- i. System operating map (single line diagram) indicating the voltage level and load carried at each points;

- ii. Details of power supply agreements with Generation Companies to include load forecast, contracted capacity, duration, other terms such as outage allowances, replacement power supply provision, rates per supply agreement, rate schedule per customer class;
- iii. List and details of embedded generation available;
- iv. Power outages report specifying the duration, frequency, nature/causes of each outage, affected area or line section, and the equivalent lost sales (revenue) in kWh or total interrupted kWh;
- v. Cost benefit analysis showing the advantages to the Distribution Utility or to the Ecozone Utility Enterprise of having the applicant as customer, which may include improvement in the distribution costs, load profile and other benefits that will result to lower electricity rates in the Distribution Utility's s franchise area;
- vi. Distribution facility's expansion plan and copies of application to ERC for capital cost recovery (medium-and/or long term); and
- vii. Other documents and records relevant to support its compliance to technical and financial capability criteria set herein.

b. Applications for Renewal

If the franchised Distribution Utility or Ecozone Utility Enterprise opts to contest the renewal of direct-connection application of the Electricity End-User or Ecozone Enterprise within its franchise area, it shall submit the operational data requirements pertaining to the past three (3) years immediately preceding the year of application as provided in Section 9(a).

The D-REC shall then evaluate the capability of the franchised Distribution Utility or Ecozone Utility Enterprise to meet the power supply requirements of the Electricity End-User or Ecozone Enterprise.

Section 10. Connection and Disconnection Protocol of DCCs.

The Philippine Electricity Market Corporation (PEMC) and the National Grid Corporation of the Philippines (NGCP) shall draft a protocol on the connection and disconnection of DCCs, consistent with DOE Department Circular Nos. DC 2010-05-0006 and DC 2010-08-0010.

Section 11. Resolution Of Pending Cases Endorsed To The DOE.


These rules shall be applied to govern the review and evaluation of applications on Direct Connections and pending cases pertaining to Direct Connections already filed or pending before the ERC, which are endorsed to the DOE by virtue of the Supreme Court decision on G.R. No. 172960.

PRESCRIBING THE TECHNICAL, OPERATIONAL AND FINANCIAL CAPABILITY STANDARDS FOR THE DISTRIBUTION UTILITIES FOR PURPOSES OF DIRECT CONNECTION APPLICATIONS

For purposes of evaluating the technical capability of the Distribution Utility for purposes of direct connection application, the following technical capability standards shall include but not limited to the following:

- The concerned distribution utility has acquired from TransCo a subtransmission facilities to which the applicant can be connected or has a line with voltage level equivalent to that of the Subtransmission Asset.
- Should have a minimum inventory of materials used for immediate replacement during emergency repair and maintenance of the line.
- Should have a combined weighted average of not more than 80% in reliability performance for the most current year (Interruption Frequency Rate – 50% and Cumulative Interruption Time – 50%). The standard is set at 5 times for Interruption Frequency Rate and 45 hours for Cumulative Interruption Time. A Distribution Utility not meeting the criterion may provide an explanation to be considered by the Commission.

For purposes of evaluating the financial capability of the Distribution Utility for purposes of direct connection application, the following financial capability standards shall include but not limited to the following based on the most current audited financial statement:

- Current on all financial obligations related to all contracts with suppliers of inputs necessary for the Distribution Utility's provision of electricity service to its End-Users;
 - Current on all financial obligations related to outstanding debt; Provided, That exceptions may be considered in the case of pending debt restructuring;
 - A current ratio of not less than 0.80:1 or a quick ratio of not less than 0.70:1. The current ratio shall be calculated as the ratio of the current assets to current liabilities. The quick ratio shall be calculated as the ratio of the current assets less inventory to current liabilities;
 - A debt ratio of not more than 70%. The debt ratio shall be calculated as the ratio of total liabilities to total assets;
 - An average collection period of not more than sixty (6) days. The average collection shall be calculated as the ratio of average receivables to daily sales. The average receivables shall be determined using the average of the receivables at the beginning and end of the year. The daily sales shall be computed by dividing sales by 365 days; and
 - A positive net profit margin and return on assets. The net profit margin shall be calculated as the ratio of net profits after taxes to sales. The net profits after taxes shall be computed as earnings before interest and taxes minus tax (EBIT – Tax). The return on assets shall be computed as the
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ratio of earnings before interest and taxes minus tax (EBIT-Tax) to the average total assets.

The Distribution Utility may submit other relevant information to be considered by the DOE in determining the financial capability of such Distribution Utility.

Recommending Approval:



MYLENE C. CAPONGCOL
OIC-Undersecretary

Approved:



ZENAIDA Y. MONSADA
Secretary

