



**Implementation of the Amended  
ENERGY REGULATIONS 1-94 PROGRAM  
pursuant to the recently issued Policies:  
(DC2018-03-005, DC2018-08-0021, DO2019-01-0001,  
DC2019-06-0010)**

**Frequently Asked Questions**

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1. **What are the Legal and Operational Bases of Energy Regulation No. 1-94 (ER 1-94 Program)?**
  - a. **Section 5 (i) of Republic Act (RA) No. 7638**, also known as “Department of Energy Act of 1992” which took effect in December of 1992 and its corresponding **E.R. 1-94**, issued by DOE on **27 June 1994**;
  - b. **Section 66 of Republic Act (RA) No. 9136**, also known as “Electric Power Industry Reform Act (EPIRA) of 2001” which stated that all obligations of generation companies and energy resource developers as defined in Section 5(i) of RA 7638 including its implementing rules and regulations shall continue; and
  - c. **Part A, Rule 29 of EPIRA-Implementing Rules and Regulation (IRR)**, which took effect on **March 22, 2002** which provides Rules for the Benefit to Host Communities pursuant to Section 5(i) of RA 7638.
  - d. **Department Circular No. DC2018-03-0005**, prescribing the Guidelines recognizing the rights of (**ICCs/IPs**) in their Ancestral Domain and access to the Financial Benefits as Host Communities under Energy Regulations (E.R.) No. 1-94 which was **signed on 09 February 2018**.
  - e. **Department Circular No. DC2018-08-0021**, providing for the amendments to Rule 29 Part (A) of the implementing rules and regulations of R.A. No. 9136 which was **signed on 26 July 2018**.
    - i. **Department Order No. DO2019-01-0001**, providing the internal guidelines and procedures for the transfer of existing funds in relation to the Financial Benefits under ER 1-94 Program which was **signed on 28 December 2018**.
    - ii. **1st Advisory on the Implementation of DC2018-08-0021**, providing supplemental clarificatory guidelines to accelerate and effectively implement DC2018-08-0021 which was **signed on 02 May 2019**.
    - iii. **2nd Advisory on the Implementation of DC2018-08-0021**, providing supplemental clarificatory guidelines to accelerate and effectively implement DC2018-08-0021 which was **signed on 19 July 2021**.
  - f. **Department Circular No. DC2019-06-0010**, Prescribing the Administrative Operating Guidelines (AOG) for the Availment and Utilization of Financial Benefits by the Indigenous Cultural

Communities/Indigenous Peoples pursuant to DOE Department Circular No. DC2018-03-0005 which **was signed on 14 June 2019**.

2. **What is Energy Regulations (ER) No. 1-94?**

**ER 1-94** is the implementing rules and regulations of Section 5(i) of RA 7638 which mandates the DOE **“to devise ways and means of giving direct benefits** to the province, city, or municipality, especially the community and people affected, and equitable preferential benefit to the region that hosts the energy resource and/or the energy-generating facility”.

This has been corroborated by Section 66 of RA 9136 and Rule 29(A) of EPIRA-IRR.

The generation company and/or energy resource developer is mandated to set aside **one centavo per kilowatt-hour (Php0.01/kWh) of the total electricity sales as financial benefits of the host communities** of such generation facility.

3. **What are the policy objectives of ER 1-94?**

- a. To recognize and recompense the contributions made by the pertinent community and people affected;
- b. To lessen conflict of rights; and
- c. To promote harmony and cooperation among host local government units, community and people affected, the energy resource developers or power producers, and the appropriate agencies of the National Government.

4. **What is the scope of application of ER 1-94?**

The ER 1-94 shall apply to Generation facilities and/or energy resource development projects located in all barangays, cities or municipalities, provinces, regions, and ancestral lands/domains of the ICCs/IPs.

5. **Who is required to provide financial benefits to host beneficiaries?**

The following generating facilities and/or energy resource development facilities are obliged to set aside **Php0.01/kWhr of the total electricity sales as financial benefit of the host communities**:

- a. Spin-off facilities of NPC or their transferees, including generation facilities transferred to PSALM and subsequently privatized;
- b. Agus and Pulangui complexes;
- c. Facilities owned and operated by NPC-SPUG;

- d. Facilities under BOT arrangement and other variants with government agencies (NPC, NIA, SPUG, PNOC-EDC) and distribution utilities (IPPs of DUs);
- e. Facilities under BOT arrangement and other variants with the IPPs of DUs;
- f. Facilities owned or operated by a DU;
- g. Integrated energy resource development and generation facilities such as hydro, geothermal, and coal;
- h. Energy Generating Facilities operating in Economic Zones;
- i. Self-generation facilities that sells excess power to the grid; and
- j. Other emerging technologies for power generation, deemed to be considered by the DOE.

6. **Who are the host beneficiaries under ER 1-94?**

Financial Benefits shall be provided to the Host LGUs, especially the community and people affected, while equitable preferential benefits shall be provided to the Host Region and ICC/IP, as determined by the NCIP. Host LGUs, Region and ICCs/IPs shall be understood as follows:

- a. **With respect to Generation Facilities:**
  - i. The Host LGUs, Region and ICCs/IPs is where the Generation Facility is physically located. In the case of power barges, the host LGU, Region and ICCs/IPs is where the power barge is moored. Generation facilities shall not include transmission lines and substations.
- b. **With respect to Energy Resources:**
  - i. Integrated Geothermal - The Host LGU, Region and ICC/IP is where the producing geothermal reservoir is located as delineated by geochemical, geophysical and exploration surveys. Producing a geothermal reservoir refers to the subsurface geological environment where the geothermal fluids accumulate and circulate, inclusive of the production and re-injection/recharge zone.
  - ii. Integrated Hydropower. The Host LGU, Region and ICC/IP is that where the Hydropower reservoir is located as delineated by detailed topographic, geological and geotechnical investigations, reservoir and dam height optimization studies, and as delineated by detailed group surveys.
  - iii. All other emerging energy facilities, the Host LGU, Region and ICC/IP where the Generation Facility is physically located, as approved by the DOE.

7. **How is the Php0.01/kWhr of the total electricity sales as financial benefit be allocated to its beneficiaries?**

The financial benefits shall be allocated as follows:

a. **Electrification Fund (EF):**

Fifty percent of one centavo per kilowatt-hour (0.005/kWh) of Electricity Sales shall be set aside as EF and shall be applied in the following radiating order:

- i. Community and People Affected;
- ii. Host Barangay/s;
- iii. Host Municipality/ies or City/ies;
- iv. Host Province/s;
- v. Host Region/s; and
- vi. Other prioritized areas by the DUs, as may be approved by the DOE.

The DOE shall issue supplemental advisory on the specific criteria for the allocation of the EF consistent with the radiating order of financial benefits to be implemented by the DUs.

b. **Development and Livelihood Fund (DLF) and Reforestation, Watershed Management, Health and/or Environment Enhancement Fund (RWMHEEF)**

Twenty-five percent of one centavo per kilowatt-hour (0.0025/kWh) of the Electricity Sales shall be allocated as DLF while the remaining Twenty-five percent of one centavo per kilowatt-hour (0.0025/kWh) shall be allocated as a RWMHEEF. The DLF and RWMHEEF shall be allocated in the following manner:

- |      |                                   |       |
|------|-----------------------------------|-------|
| i.   | Community and People Affected     | - 5%  |
| ii.  | Host Barangay/s                   | - 20% |
| iii. | Host Municipality/ies or City/ies | - 35% |
| iv.  | Host Province/s                   | - 30% |
| v.   | Host ICCs/IPs                     | - 5%  |
| vi.  | Host Region/s; and                | - 5%  |

In the absence of Community and People Affected, funds allocated for the same shall form part of the fund for the Host Barangay/s.

The inclusion of ICCs/IPs as host beneficiaries is pursuant to DC2018-03-0005. In the absence of ICCs/IPs, the funds allocated for the same shall form part of the fund for the Host Region/s.

8. **How does the financial benefits be remitted to the beneficiaries?**

The following activities should be facilitated first by the concern beneficiaries to facilitate the remittances:

- a. Forging of MOA for the Establishment of Interest-Bearing Current Accounts and more by and between the following:
  - i. GenCo and/or ERD and DU for EF; and
  - ii. GenCo and/or ERD and Designated Beneficiaries for the DLF/RWMHEEF.
  
- b. Establishment of an interest-bearing current accounts which shall be named as follows:
  - i. DU-GenCo and/or ERD-EF (ER 1-94)
  - ii. HLGU-GenCo and/or ERD-DLF (ER 1-94)
  - iii. HLGU-GenCo and/or ERD-RWMHEEF (ER 1-94)

The DU and Host Beneficiaries with existing ER 1-94 Trust Accounts for the purpose of implementation of their previous funded projects are required to open a new/separate Interest-Bearing Current Account.

- c. Compliance of Annual submission of Annual Work Program (AWP) and its supporting documents specifically the liquidation of financial releases to DU and Designated Beneficiaries to their respective GenCo and/or ERD.

Failure to comply with said requirements will result in the remittance of their corresponding ER 1-94 fund to the dedicated Trust Account established by the GenCo and/or ERD as provided in Sec. 8 of the DC2018-08-0021.

9. **What do you mean by “Trust Accounts”?**

**Trust Accounts** shall mean the **interest-bearing current accounts** intended exclusively for ER 1-94 funds held in trust by the GenCos and/or ERDs, concerned DUs, Designated Beneficiaries and ICCs/IPs.

10. **When will the financial benefits be remitted directly to the Trust Accounts of the concerned DUs and the Designated Beneficiaries?**

Upon compliance of Annual submission of Annual Work Program (AWP) and its supporting documents, the available fund will be directly remitted quarterly to the Trust Accounts of the beneficiaries on the first year of implementation the DC2018-08-0021.

But for the second year of implementation of said guidelines, compliance of submission of AWP and its supporting documents, specifically the certification of liquidation of the financial releases to DU and Designated Beneficiaries to their respective GenCo and/or ERD will be required prior quarterly remittance to their respective Trust Accounts.

**11. How do the financial benefits under EF be accessed by the DU?**

The DOE shall issue supplemental advisory on the specific guidelines for the utilization of the EF consistent with the radiating order of financial benefits to be implemented by the DUs.

**12. How will the allocation and distribution of benefits be done when there are more than one Host Beneficiaries for DLF and RWMHEEF?**

In the event that the GenCo and/or ERD overlaps more than one host LGU, the DLF and RWMHEEF shall be equally allocated among host LGU.

In cases where political boundaries of GenCo and/or ERD are clearly delineated by land surveys duly approved by the DENR-Land Management Bureau, allocation shall be computed on the basis of the population (based on latest census) – seventy percent (70%) and to land area occupied by the said GenCo and/or ERD – thirty percent (30%), pursuant to Section 292 of the Local Government Code.

**13. Who will administer/maintain the Trust Account and implement the project of the Community and People Affected under DLF and RWMHEEF?**

The host Barangay where the resettled community is physically located will maintain the Trust Account in the name of resettled community and implement the project/s.

In some other cases when the resettled community is physically located in non-host barangay/community the latter will maintain the TA and implement the project/s.

**14. Which Authorized Government Depository Banks (AGDB) can the concern DUs and Designated Beneficiaries establish and open their Interest-Bearing Current Accounts?**

- a. Landbank of the Philippines (LBP)
- b. Development Bank of the Philippines (DBP)
- c. United Coconut Planters Bank (UCPB)



- d. Any other identified government banks pursuant to Department of Finance Department Circular No. 01-2017 entitled "Amendment Guidelines on AGDB"

**15. Who will prepare the AWP and where will it be submitted?**

All AWPs shall be prepared by the DU and Designated Beneficiaries and shall be submitted to the concerned GenCo and/or ERD;

- a. For EF - The AWP shall be prepared by the DU in accordance with its Distribution Development Plan (DDP).
- b. For DLF and RWMHEEF - The AWP shall be prepared in accordance with the following plans/programs:
  - i. For the Host Barangay and City/Municipality, it should be consistent with Comprehensive Development Plan (CDP) and Comprehensive Land Use Plan (CLUP);
  - ii. For Host Region, it should be consistent with Regional Development Plan (RDP) and Regional Physical Framework Plan (RFPF); and
  - iii. For Host ICC/IP, it should be consistent with Ancestral Domain Sustainable Development Protection Plan (ADSDPP) or Indigenous Peoples Development Plan (IPDP).

The AWP shall be prepared subject to the following considerations:

- a. Promotion of rural development, upliftment of socio-economic conditions addressing environmental concerns;
- b. Identification of target beneficiaries;
- c. Project implementation in accordance with specific target timelines;
- d. Attachment of the required Sanggunian Resolution, in accordance with Sec. 3.1 of this Circular;
- e. Availability of funds; and
- f. No unliquidated project funds.

**16. What are considered tangible projects qualified for funding in EF, DLF & RWMHEEF?**

The following are considered as tangible projects qualified for funding:

- a. Under EF:
  - i. Provision of electric service connection to qualified unserved households through house wiring and/or subsidy;

- ii. Extension of distribution line facilities on unenergized areas/households;
  - iii. Alternative electrification solution to unenergized areas where extension of distribution line is not technically or financially feasible, as determined by the DU;
  - iv. Improvement/rehabilitation/restoration of the Distribution system, including the adoption of emerging technologies; and
  - v. Distribution System and facilities in unserved, underserved and unviable areas.
- b. Under DLF and RWMHEEF, projects that are covered by the following are considered as tangible projects: (*indicate previous generic classification of projects funded under DLF and RWMHEEF*)
- i. Livelihood and Community Development;
  - ii. Reforestation, Watershed Management and Climate Change Resiliency;
  - iii. Health Service Enhancement; and
  - iv. Public Service Facility/ies.

Please take note that the costs for seminars/workshop and capacity building activities, meetings, salaries, wages, honorarium and the like are not allowed to be funded under ER No. 1-94.

**17. Can the available DLF and RWMHEEF be combined to finance a project under its AWP?**

The DLF and RWMHEEF can only be used specific to the type of projects and cannot be combined. Available DLF from multiple GenCo and/or ERD can be combined to finance specific DLF project by indicating it on their respective AWP and the same applies for the RWMHEEF projects.

**18. What happens in case the funds will not be enough to cover the proposed project under AWP?**

If after the validation of the GenCo and/or ERD of the available fund in relation with their submitted AWP results to insufficient fund to cover all identified projects, the host beneficiary may opt to not pursue their entire planned projects and let their fund accumulate overtime to cover their entire projects or it can just prioritize implementation of projects that can be cover by the available fund by revising their AWP.

**19. Who will conduct the post-audit for completed projects implemented by the Designated Beneficiaries?**

In the conduct of post-audit for projects implemented by the Designated Beneficiaries, the following shall be observed:

- a. The utilization of ER 1-94 Funds by the Host LGUs shall be supported with pertinent documents duly certified by the Local Accountant and stamped received by the resident Local Commission on Audit. The Audit shall commence at any given calendar or fiscal year whichever is applicable.
- b. However, for the utilization of ER 1-94 Funds by the DUs and ICCs/IPs, DOE is yet to issue a supplemental guidelines on this in consultation with COA on timeline and appropriate COA office that will facilitate audit activity.

**20. How does the existing financial benefits within the DOE be remitted to the beneficiaries?**

The following activities should be facilitated first by the concern beneficiaries to facilitate the remittances from the DOE:

- a. The DOE shall reconcile the available funds based from the total remittances of the GenCos and/ERDs less the total disbursement made to the LGU and DU implementors of ER 1-94 Projects. Upon reconciliation, said available funds will be allocated to the concern DU for EF and the Host LGUs and Host Region Beneficiaries for the DLF and RWMHEEF.
- b. Establishment of an interest-bearing current accounts which shall be named as follows:
  - i. DU-GenCo and/or ERD-EF (ER 1-94)
  - ii. HLGU-GenCo and/or ERD-DLF (ER 1-94)
  - iii. HLGU-GenCo and/or ERD-RWMHEEF (ER 1-94)

The said Trust Accounts are the same accounts where the GenCo and/or ERD will directly remit the financial benefits.

- c. Liquidation of all disbursement made to the LGU and DU implementors of ER 1-94 Projects is required prior remittance of said existing Fund.

**21. What will happen to the on-going ER 1-94 Projects prior to the implementation of DC2018-08-0021?**

- a. **DLF and RWMHEEF – Under** these projects, the concerned LGUs/Regions should complete and technically as well as financially liquidate said projects to facilitate project closeout by the DOE. Existing funds from DOE and prospective funds from GenCos/ERDs shall be remitted upon project closeout.

**22. Who will be prioritized for Transfer of Existing Funds administered by DOE?**

Processing of funds transfer shall be made on a “first-come-first-serve” basis for the designated beneficiaries that will submit complete requirements and with no pending unliquidated ER 1-94 project/s.

23. **What will happen to the financial benefits of the designated beneficiaries/proponent if the same failed to open? establish interest bearing current accounts?**

- a. **For existing funds** - all funds due to the concerned DUs and Host LGUs/Beneficiaries shall be remitted to the National Treasury. Such project fund/s can still be accessed through the submission of appropriate documents to the Department of Budget and Management, including DOE's certification that there are no unliquidated project funds.
- b. **For the prospective funds**, in the event of non-compliance of the DU, Host LGU and ICC/IP of the requirements for the remittance of Financial Benefit, the corresponding fund shall be remitted to the dedicated trust account established by the GenCos and/or Energy Resource Developers as provided in Section 8 of DC2018-08-0021.

24. **What will happen to the existing funds which were not claimed by concerned DUs/LGUs after the lifting of the declaration of State of Public Health Emergency?**

Failure to the Designated beneficiaries to claim the ER 1-94 Funds due to absence of the required IBCA and/or have advised the DOE not to further utilized their allocated share, their ER 1-94 funds shall be deposited by the DOE to the National Treasury within sixty (60) days from the lifting of the declaration of the State of Public Health Emergency. For this purpose, designated beneficiaries can still avail of the said funds by coordination and submission of appropriate documents to the Department of Budget and Managements.