

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



RESOLUTION NO. 10, Series of 2016

**A RESOLUTION ADOPTING THE REVISED RULES FOR  
CONTESTABILITY**

**WHEREAS**, on 23 January 2008, the Commission promulgated the Rules for Contestability which established the conditions and eligibility requirements for End-users to be part of the Contestable Market;

**WHEREAS**, the ERC sees the need to amend the existing Rules for Contestability aimed at addressing the implementation issues for the retail market, and to likewise adjust the threshold level for the Contestable Market as embodied in Section 31 of Republic Act No. 9136, otherwise known as the Electric Power Industry Reform Act (EPIRA) and Rule 12 of its Implementing Rules and Regulations (IRR);

**WHEREAS**, on 13 July 2015 and 13 November 2015, the first and second drafts of the Revised Rules for Contestability, respectively, were posted on the two (2) ERC-administered websites to solicit comments from the industry participants;

**WHEREAS**, a public consultation and Focus Group Discussion (FGD) were consequently conducted to discuss the comments submitted by the stakeholders;

**WHEREAS**, the final draft of the Revised Rules for Contestability was posted on the Commission website on 8 April 2016 to elicit comments from concerned stakeholders;

**WHEREAS**, after a careful consideration of the various views and comments submitted by interested parties and the views expressed by the electric power industry participants, the ERC deems it appropriate to adopt the Revised Rules for Contestability;

A handwritten signature or mark consisting of a few strokes, possibly initials, located below the main text.

**NOW THEREFORE**, the Commission, after thorough and due deliberation, hereby **RESOLVES**, as it is hereby **RESOLVED**, to **APPROVE** and **ADOPT**, the “**Revised Rules for Contestability**” herein attached as “Annex A” and made an integral part of this Resolution.

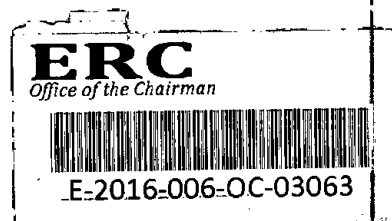
This Resolution shall take effect immediately following its publication in a newspaper of general circulation.

Let copies of this Resolution be furnished all parties concerned and the University of the Philippines Law Center – Office of the National Administrative Register (UPLC-ONAR), all Retail Electricity Suppliers, Distribution Utilities, Department of Energy and the Central Registration Body.

Pasig City, 12 May 2016.

  
**JOSE VICENTE B. SALAZAR**

Chairman



  
**ALFREDO J. NON**  
Commissioner

  
**GLORIA VICTORIA C. YAP-TARUC**  
Commissioner

  
**JOSEFINA PATRICIA A. MAGPALE-ASIRIT**  
Commissioner

  
**GERONIMO D. STA. ANA**  
Commissioner

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

**REVISED RULES FOR CONTESTABILITY**

Pursuant to Sections 31 and 43 of Republic Act No. 9136, its Implementing Rules and Regulations (IRR), the Energy Regulatory Commission (ERC) hereby promulgates the following amendments to the Rules for Contestability.

**ARTICLE I**  
**GENERAL PROVISIONS**

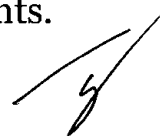
**Section 1. Objectives**

- a) To clarify and establish the conditions and eligibility requirements for End-users to be part of the Contestable Market;
- b) To set the threshold level for the Contestable Market;
- c) To ensure the efficient transition towards full contestability; and,
- d) To ensure consumer protection and enhance the competitive operation of the retail electricity market.

**Section 2. Scope**

These Rules shall apply to the:

- 1. Contestable Market;
- 2. Retail Electricity Suppliers (RES);
- 3. Distribution Utilities (DUs);
- 4. Distributors within Economic Zones;
- 5. Suppliers of Last Resort (SOLR); and,
- 6. All other relevant industry participants.



### **Section 3. Definition of Terms**

As used in these Rules, the following terms shall have the following respective meanings:

<b>Act</b>	Republic Act No. 9136, otherwise known as "Electric Power Industry Reform Act of 2001";
<b>Captive Market</b>	The electricity End-users who do not have the choice of a supplier of electricity, as may be determined by the ERC in accordance with the Act;
<b>Central Registration Body (CRB)</b>	An independent entity assigned to undertake the required processes, information technology, and other systems capable of handling customer switching and information exchange among retail electricity market participants;
<b>Competitive Retail Electricity Market (CREM)</b>	An electricity market wherein contestable customers exercise their ability to choose suppliers of electricity by virtue of open access in the distribution system, subject to the threshold level set by the ERC;
<b>Contestable Market</b>	The electricity End-users who have a choice of a supplier of electricity, as may be determined by the ERC in accordance with the Act;
<b>Contiguous Area</b>	Areas which are located within certain boundaries such as, subdivisions, villages, economic zones, business districts, and other similar situated End-users in which the supply of electricity can be measured through metering devices;
<b>Contestable Customer</b>	An electricity End-user which belongs to the Contestable Market. An aggregate of Contestable Customers organized under

succeeding phases of retail competition and open access shall be considered as a single Contestable Customer, unless otherwise provided by the ERC;

**Directly-Connected Customers (DCC)**

Industrial or bulk electricity End-users, which are directly supplied with electricity by a Generation Company or the Power Sector Assets Liabilities and Management Corporation (PSALM) or the National Power Corporation (NPC) pursuant to Republic Act No. 6395, as amended by Presidential Decree No. 395;

**Distribution Utility (DU)**

Any electric cooperative, private corporation, government owned utility or existing local government unit which has an exclusive franchise to operate a distribution system in accordance with its franchise and the Act;

**Displaced Contract Capacity Energy (DCC/E)**

The excess contracted capacity and energy of a DU from a Generation Company resulting from the potential un-utilized volume of capacity and energy allocated to migrating Contestable Customers;

**End-user**

Any person or entity requiring the supply and delivery of electricity for its own use;

**Energy Regulatory Commission (ERC)**

The independent and quasi-judicial regulatory agency created under Section 38 of the Act;

**Last Resort Supply Event**

An event where a Contestable Customer ceases to receive service from its RES or an event where a Contestable Customer fails to choose an RES or any other event stated in the Rules for the Supplier of Last Resort;

**Market Operator (MO)**

The entity responsible for the operation of the Wholesale Electricity Spot Market, currently the Autonomous Group Market Operator or "AGMO". The AGMO is

constituted by the DOE under Section 30 of the Act, which shall undertake the preparatory work and initial operation of the WESM for a period of twelve months from the spot market commencement date, initially under the administrative supervision of the TransCo.

**Open Access**

The system of allowing any qualified person the use of transmission, and/or distribution system and associated facilities subject to the payment of transmission and/or distribution retail wheeling rates duly approved by the ERC;

**Prospective Generation Company (Prospective GenCo)**

Any person or entity whose power generation project is still being planned or is undergoing construction and has been included in the Department of Energy's (DOE) Power Development Plan (PDP), subject to the requirements defined under Section 2.3(e), Article II of these Rules;

**Retail Aggregator**

A person or entity duly licensed by the ERC to engage in consolidating the electric power demand of End-users qualified for contestability for the purpose of purchasing and reselling electricity on a group basis;

**Retail Aggregation**

The joining of two or more End-users within a contiguous area into a single purchasing unit, wherein such purchasing unit shall be part of the Contestable Market, as provided in Section 31 of the Act;

**Retail Competition**

The provision of electricity to End-users in the Contestable Market by Retail Electricity Suppliers through Open Access;

**Retail Electricity Supplier (RES)**

Any person or entity authorized by the ERC to sell, broker, market or aggregate electricity to End-users in the Contestable

Market;

**Retail Supply Contract (RSC)**

The contract entered into by and between the Contestable Customer and the Retail Electricity Supplier for the Supply of Electricity and may include the provision of other value-added service;

**Rules for Contestability**

The set of rules promulgated by the ERC that prescribes the conditions and criteria for an End-user to qualify as a Contestable Customer;

**Rules for the Supplier of Last Resort (SOLR Rules)**

The set of rules promulgated by the ERC that provides the policies and procedures for the provision of supply to Contestable Customers in the case of a Last Resort Supply Event;

**Single Premise**

Any of the following shall comprise a Single Premise if owned or occupied by an End-user under one business name, registered with the utility and used by such End-user for the same business enterprise (not intended for re-selling):

- a) the whole of any single building or structure;
- b) a part of any single building or structure;
- c) two or more adjoining parts of any single building or structure;

**Supplier of Last Resort**

A regulated entity designated by the ERC to serve End-users in the Contestable Market following a Last Resort Supply Event;

**Threshold Reduction Date/s**

The dates declared by the ERC to indicate the reduction of the threshold level for End-users to qualify for contestability;

**Wholesale Electricity Spot Market**

The wholesale electricity spot market established pursuant to Section 30 of the Act.



## ARTICLE II DETERMINATION OF CONTESTABILITY

### **Section 1. Mandatory Migration to Contestability Status**

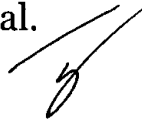
- 1.1 The Threshold Reduction Date covering End-users with an average monthly peak demand of at least 750 kilowatts (750 kW) for the preceding twelve (12) months, is hereby set to 26 June 2016. Thus, on such date, all End-users with an average monthly peak demand of at least 1 MW (1MW Customers) and 750 kW (750kW Customers), which have been issued Certificates of Contestability by the ERC, shall be allowed to contract with any RES on a voluntary basis.

Thereafter, an End-user with an average monthly peak demand of at least 1MW is hereby mandated to enter into Retail Supply Contract (RSC) with a RES by its mandatory contestability date of 26 December 2016.

Subsequently, an End-user with an average monthly peak demand of at least 750kW is hereby mandated to enter into an RSC with a RES by its mandatory contestability date of 26 June 2017.

The lowering of the threshold to cover an End-user with an average monthly peak demand of at least 500kW is set on 26 June 2018, subject to the review of the performance of the retail market by the ERC. Corollarily, in its review of the performance of the retail market, the ERC shall establish a set of criteria as basis for the lowering of the contestability threshold.

- 1.2 Retail Aggregation shall subsequently be allowed on 26 June 2018. During this phase, suppliers of electricity shall be allowed to contract with End-users whose aggregate demand within a Contiguous Area is at least 750 kW.
- 1.3 Retail Competition and Open Access shall be effective only in grids where the Wholesale Electricity Spot Market (WESM) is operational.





## **Section 2. General Procedures on Migration**

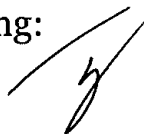
- 2.1 All suppliers of electricity to the Contestable Market shall require a license from the ERC. A Contestable Customer certified by the ERC to be part of the Contestable Market should have already entered into an RSC with a licensed RES sixty (60) days prior to the respective dates of mandatory contestability set by the ERC. The RES of the said Contestable Customer must inform the concerned DU at least 60 days prior to the intended switch. The 60-day period shall apply to End-users acquiring contestability status subsequent to the applicable Threshold Reduction Date.

For any Contestable Customer issued a Certificate of Contestability within three (3) months prior to the applicable mandatory contestability date, said Contestable Customer shall be granted a period of six (6) months from receipt of the said Certificate of Contestability within which to enter into an RSC and complete the customer switching requirements. Accordingly, any intentional delay in the transmittal of such Certificate of Contestability by the DU, shall be subject to sanctions imposed by the ERC.

- 2.2 A Contestable Customer which has not entered into an RSC sixty (60) days prior to its applicable mandatory contestability date should immediately inform the DU and the ERC of such fact. Such Contestable Customer shall be physically disconnected by the DU from the system unless it is served by the Supplier of Last Resort (SOLR), or, if applicable, procures power from the WESM.

The concerned Contestable Customer shall inform the DU of any option taken prior to the expiration of the said sixty-day period. The CRB shall inform the ERC and the DU of the list of Contestable Customers that will potentially be served by the SOLR at least seventy five (75) days prior to the respective mandatory contestability dates.

- 2.3 Any Contestable Customer which, upon effectivity of these Rules, has yet to migrate to the CREM, shall be allowed by the ERC to contract with a Prospective GenCo for its Supply of Electricity, and shall be deemed compliant with the mandatory contestability requirement, subject to the following:



- a. Any Contestable Customer shall be allowed to enter into an RSC with any Prospective GenCo despite the commercial operations of the latter's power plant at a subsequent period of time: *Provided*, That the pre-determined effectivity date of the RSC should be on or after the commercial operations date of the power plant.
- b. No Prospective GenCo shall enter into an RSC with a Contestable Customer without a provisional RES license issued by the ERC in its favor.
- c. The option granted to a Contestable Customer to contract with a licensed Prospective GenCo shall be exercised only once, and for a limited period reckoned from the effectivity of these Revised Rules for Contestability until the threshold for contestability for 750 kW Customers becomes mandatory.
- d. Any Contestable Customer which has entered into an RSC with a licensed Prospective GenCo shall inform the DU of the same within fifteen (15) days from the signing of the said contract.
- e. Any generation company which has completed the pre-development stage requirements by DOE for a power plant project, shall be issued a provisional RES license and act as a Prospective GenCo, provided the following have been filed with the ERC:
  1. Duly accomplished RES Information Sheet;
  2. Articles of Incorporation/Partnership with Certificate of Registration;
  3. General Information Sheet of the Applicant and its Affiliates engaged in the generation, distribution and retail supply of electricity, and their corresponding business addresses;
  4. Business permit/Mayor's permit;
  5. Sworn statement that it shall secure a regular RES license at least ninety (90) days prior to commercial operations of its generating facilities;
  6. Proof of payment of applicable fees; and
  7. Such other information or documents that the ERC may require.
- f. Henceforth, the Prospective GenCo which has been issued a provisional RES license shall comply with the following

timelines, failure of which shall result in the cancellation of the said license granted it, without need of notice and hearing:

1. Within one (1) year from the grant of a provisional RES license, the Prospective GenCo shall submit a certified copy of its Environmental Compliance Certificate (ECC) to the ERC, as proof of completion to the pre-development requirements.
  2. Within two (2) years and six (6) months from the grant of its license, the Prospective GenCo must have entered into an Engineering Procurement and Construction (EPC) contract with its counterparty, and shall submit the same to the ERC.
  3. It shall have commenced its testing and commissioning within four (4) years from the grant of the provisional RES license.
- g. Failure on the part of the Prospective GenCo to comply with any phase in the prescribed timeline shall result in the cancellation of its license and RSC/s. The cancellation of the provisional license is without prejudice to the imposition of fines and penalties against such Prospective GenCo should it be found that its undertakings have been made merely to circumvent the mandatory contestability provisions of these Rules.

As a result of the cancellation of the said provisional license, any affected Contestable Customer shall be granted a period of six (6) months from notice by the ERC, within which to contract with a licensed RES. During said period, and until an RSC has been entered into, the DU shall continue to serve the affected Contestable Customer. Should the affected Contestable Customer fail to contract with a RES within the period indicated in the RSC, Section 2.2 hereof on disconnection shall apply.

- h. The DU shall continue to supply the electricity requirements of the concerned Contestable Customer during the period that the power plant of the Prospective GenCo is still under construction. The rates to be charged by the DU shall be based on the Time-of-Use (TOU) Rate or Peak/Off-Peak (POP) Rate pricing scheme approved by the ERC for said DU. For Contestable Customers located in franchise areas where the TOU or POP pricing

scheme has not been implemented, the current average retail rate approved by the ERC for the concerned DU, shall apply. Such rate shall likewise apply to a Contestable Customer being served by the DU on a transition basis under the previous paragraph.

- 2.4 Any End-user which has qualified as a Contestable Customer, yet enjoys preferential rates by virtue of an Executive Order (EO) issued by the Office of the President, shall migrate to the CREM after expiration of the original term of its supply contract.
- 2.5 All directly-connected End-users which qualify under the threshold level set by the ERC shall be part of the Contestable Market regardless of whether the sub-transmission assets where they are connected have been sold to the DU.

However, the supply contracts existing upon promulgation of these Rules shall remain valid until the expiration of the original term but shall in no case be subject to renewal of the parties.

Once ownership to such sub-transmission asset is vested on the concerned DU, the RES shall assume the responsibility of entering into a Distribution Wheeling Service (DWS) agreement with the DU on behalf of the previously directly-connected Contestable Customer.

- 2.6 Any government entity certified as a Contestable Customer shall continue to be supplied by its DU or its current supplier until such time that the generic technical specifications for the procurement of electricity required by Government Policy Procurement Board (GPPB) under RCOA has been determined.

### **Section 3. Eligibility Requirements of End-users to be part of the Contestable Market**

- 3.1 The average monthly peak demand for a certain period is computed as the sum of the monthly registered peak demand divided by the number of months for the relevant period. Sources of registered peak demand include the measurements registered at the revenue meters of the relevant DU or the National Grid Corporation of the Philippines (NGCP) (for End-users directly-connected to transmission facilities) or reports provided by those with self-generating facilities.

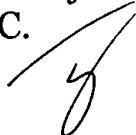


- 3.2 The eligibility of an End-user shall be based on its average monthly peak demand as indicated by a single revenue meter and shall be determined as follows:
- a. An existing End-user in the Captive Market that has increased its demand and registered a historical average monthly peak demand of 750 kW for the preceding twelve (12) months shall be eligible to the Contestable Market.
  - b. A newly-connected End-user whose forecasted monthly peak demand is three (3) MW and above shall qualify as a Contestable Customer: *Provided*, That it has furnished the ERC proof of its projected demand duly certified by the DU, subject to the ERC's confirmation of the validity of the said projected demand.
  - c. A newly-connected End-user whose forecasted average monthly peak demand qualifies under the threshold level set by the ERC, yet falls below three (3) MW, is required to have a registered historical monthly peak demand based on the threshold level set by the ERC for three (3) consecutive months before it becomes eligible for contestability. An End-user that has been in operation for less than twelve (12) months prior to the Threshold Reduction Date shall be considered a newly connected End-user.
- 3.3 An End-user maintaining multiple revenue meters in a Single Premise has the option to consolidate its demand by requesting the DU to install a single main revenue meter, which may result in modifications in its connection agreement and Distribution Wheeling Service Agreement with the DU, subject to the provisions of the Philippine Electrical Code. In this case, the basis for contestability is the consolidated forecasted demand, which shall be based on the historical peak demand of all meters. For purposes of determining eligibility, such Contestable Customer shall be regarded as a newly connected End-user.
- 3.4 An End-user whose actual total monthly peak demand breaches the threshold level but whose consumption is nevertheless not measured by all its meters, will be treated as a newly connected End-user for purposes of determining eligibility under Section 3.2 hereof.

- 3.5 Should an End-user's demand requirements vary monthly and should it achieve the threshold level only a number of months within a year, yet the average monthly peak demand for twelve (12) months nevertheless attains the required threshold level, said End-user shall be qualified to the Contestable Market.
- 3.6 An End-user whose actual total monthly peak demand attains the threshold level but which partially sources its requirements from a DU where its demand as registered in the revenue meter does not reach the threshold level, shall inform the ERC and show proof of its eligibility as a Contestable Customer, subject to ERC approval and certification.
- 3.7 An End-user which has entered into an RSC with an RES within the period specified herein is deemed to have migrated from the regulated service of a DU to the CREM. Such Contestable Customer shall no longer be allowed to revert back to the captive market. However, in instances where the Contestable Customer's average monthly peak demand has decreased to less than 25% of the threshold for the preceding six (6) month period, and the same is not attributable to seasonal demand, it may send a written request to the ERC, with a confirmation from the RES or SOLR that the demand level of such Contestable Customer has decreased by such amount. Such Contestable Customer may be reverted to the Captive Market, subject to ERC approval. Upon such approval, the Contestable Customer shall settle its obligations with its RES as stated in the RSC before it is reverted to the Captive Market. Subsequently, the concerned RES of the said qualified End-user shall inform the CRB and the ERC that its customer shall revert to the Captive Market.

#### **Section 4. Procedures in Informing Eligibility of End-user in the Contestable Market**

- 4.1 A DU shall regularly submit to the ERC and CRB on a monthly basis accurate information on Contestable Customers that have accounts with the DU, as provided in these Rules. The DU shall be held responsible for the information submitted to the ERC. Failure to disclose the status of an End-user, found to be otherwise qualified for contestability, shall subject the DU to the imposition of fines and penalties set by the ERC.



- 4.2 The ERC shall issue certifications for the Contestable Customers in the first and second phases of retail competition, based on the data submitted by the DUs and the NGCP, prior to the Threshold Reduction Date covering the respective phases. The certificate shall serve as authority that such End-users are eligible. The certification to be issued by the ERC may be universal, referring to the End-users included in the list with certain exceptions, or specific to an individual End-user.
- 4.3 NGCP and the DU shall be responsible for informing qualified End-users directly connected to the transmission facilities, or located within the franchise areas, respectively, of their eligibility and providing CRB with relevant information covering such End-users.
- 4.4 The ERC shall issue certifications within seven (7) Business Days after receipt of information of the list of qualified End-users.
- 4.5 After the issuance by the ERC of a certification under Section 4.4, End-users that become eligible under Section 3.5, Article II herein shall request a certification directly from the ERC, copy furnished the respective DU.
- 4.6 The DU shall have the obligation to notify the End-user, in writing, of its eligibility within fifteen (15) days from receipt of the Certificate of Contestability from the ERC.
- 4.7 To ensure that the notice is duly received or presumed to be received by the Contestable Customer, the concerned DU shall send a written notice to the qualified Contestable Customer via registered mail. The return card provided after the registered mail has been received by the Contestable Customer shall serve as proof that the latter has been properly notified.
- Other acceptable means of notification may be made, provided that a record of the appropriate proof of receipt and notification can be provided by the DU. This includes personal delivery, electronic mail or facsimile machine.
- 4.8 End-users connected to the DU system with revenue meters that capture the End-user's entire consumption eligible to become part of the Contestable Market, but have not been included in the DU's list

of qualified Contestable Customers, or have not been informed in writing by the DU within the franchise area, shall not be subject to the SOLR Rate. Instead, it shall be charged the existing DU retail rate until such time that the Contestable Customer is properly informed and certified and is switched to an RES. The non-complying DU shall submit a written explanation to the ERC on its failure to include the Contestable Customer in its list, or its failure to inform the concerned Contestable Customer. Failure to disclose such information shall subject the erring entity to appropriate fines and penalties set by the ERC.

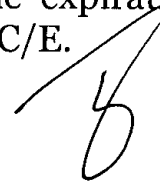
### **ARTICLE III OTHER RELEVANT PROVISIONS**

**Section 1.** Pursuant to the DOE Circular No. DC 2015-06-0010, the following measures shall be allowed for any DU which may have incurred Displaced Contract Capacity Energy (DCC/E) arising from the migration of Contestable Customers to the CREM:

- 1.1 Renegotiation of energy or capacity for the existing power supply contracts between the DUs and the generation companies which do not contain provisions on the reduction of contracted energy volume upon migration of the Contestable Customers.

In cases where a DU has multiple contracts with various Generation Companies having no energy reduction provision, the renegotiation of the reduction of capacity and energy volumes shall be done on a pro-rated manner. Any amendment to the said power supply contracts shall be filed with the ERC for its approval. The renegotiated power supply contracts of the DUs shall be effective only after the approval of the ERC. Any modalities of addressing DCC/E shall be revenue neutral to the affected DU and Generation Company.

- 1.2 Auctioning off to other DUs or RES; or
- 1.3 Declaration of the DCC/E in the Wholesale Electricity Market (WESM) as quantity for sale. This shall only be allowed after determination of the ERC and until the expiration of the DU's bilateral contracts declared as having DCC/E.





DCC/E shall refer to the excess in the contracted capacity and energy of a DU from a generation company, resulting from the potential un-utilized volume of capacity and energy allocated to migrating Contestable Customers. As such, the capacity or energy that is to remain with the DU shall be adequate to supply the power requirements of its remaining Captive Market including the DU's projected demand growth.

The ERC shall closely monitor all measures taken by the DU on transactions involving the DCC/E, such that any undertaking taken which amounts to anti-competitive behavior or abuse of market power, shall be dealt with accordingly.

**Section 2.** A Contestable Customer, which opts to source its requirements from a mix of suppliers, should be made to choose a single RES from which it would procure all of its requirements notwithstanding that it sources all its energy requirements directly from WESM and/or from multiple suppliers. Such RES, considered as a single source shall have the responsibility of securing the total energy requirement of the Contestable Customer, shall be responsible for all energy consumed by the latter, and shall be required to execute the DWS agreement with the DU.

**Section 3.** A single billing scheme shall be initially adopted for the CREM. The RES will thus be contracting with other service providers (i.e. DU for DWS and transmission service, Market Operator for WESM transactions) on behalf of its Contestable Customers, except for the connection agreement which shall subsequently be entered into by a Contestable Customer and the DU.

A directly-connected Contestable Customer may implement the dual billing scheme. Such dual billing may also be applied to any other Contestable Customer on a case-to-case basis, subject to approval by the ERC.

**Section 4.** The minimum term of an RSC shall be one (1) billing cycle following the WESM billing cycle: *Provided*, That in no case shall the term of an RSC be longer than two (2) years.

The RES shall allow the Contestable Customer to switch anytime from another supplier during the life of the RSC. The RES should ensure that the termination fee indicated in the RSC is fair and reasonable and mutually agreed upon between the RES and Contestable Customer.

**Section 5.** An End-user who is qualified on the basis of the determined threshold level shall nevertheless be prohibited from participating in the Contestable Market where the DU which operates within its franchise area has failed to comply with any of the following conditions: (a) the relevant DU must have approved unbundled rates; (b) the relevant DU must have implemented its approved Business Separation and Unbundling Plan (BSUP); (c) the DU must have implemented its inter-class cross subsidy removal scheme; and (d) the DU must have complied with the business-to-business (B2B) system requirements.

## **Section 6. Metering Requirements**

- 6.1 End-users in the Contestable Market shall have installed time-of-use metering facilities capable of measuring energy use and demand in a fashion consistent with WESM energy settlement intervals, and distribution and transmission demand charge intervals.
- 6.2 Metering facilities for End-users in the Contestable Market shall be completely installed by the concerned DU at least sixty (60) days prior to the relevant Threshold Reduction Date declared by the ERC.
- 6.3 End-users in the Contestable Market and/or its RES shall have the right to own advanced metering equipment and select their own contractor or equipment vendor provided that it meets all ERC requirements and standards, as provided in the DSOAR.
- 6.4 The entity procuring the meter shall have the option to own the meter, and an agreement for meter ownership shall be entered into between the owner and the DU, as provided in the DSOAR.
- 6.5 The ERC shall issue a separate policy on metering requirements for the succeeding phases of retail competition.

## **ARTICLE IV REPORTORIAL REQUIREMENTS**

**Section 1.** All DUs, Distributors within Economic Zones and NGCP shall submit a monthly report to the ERC, every fifteenth (15<sup>th</sup>) day following the month subject matter of the report, and without need

of further notice, information on End-users with: 1) average monthly peak demand of at least one megawatt (1 MW) for the preceding twelve (12) months; 2) average monthly peak demand of seven hundred fifty kilowatts (750 kW) to nine hundred ninety nine kilowatts (999 kW); and 3) average monthly peak demand of five hundred kilowatts (500 kW) to seven hundred forty nine kilowatts (749 kW), including, but not limited, to the following (form available at the ERC website [CMD Form 5]):

- a) Customer name;
- b) Billing and service addresses;
- c) Customer's account number;
- d) Meter number;
- e) Meter type (interval meter, etc.);
- f) Meter reading date or cycle and reporting period;
- g) Billing period and payment due date;
- h) Standardized customer classification approved and promulgated by the ERC;
- i) The most recent twelve (12) months of historical usage, i.e. monthly registered peak demand (in kW) and monthly total registered energy consumption (in kWh); and,
- j) Customer information such as telephone numbers and e-mail addresses, subject to agreement on confidentiality.

**Section 2.** The Central Registration Body (CRB) shall submit to the ERC, every 15<sup>th</sup> day of the subsequent month after the quarter, a quarterly report which provides the following information:

- a) Contestable Customer Name;
- b) Meter number;
- c) Monthly registered demand (in kW); and
- d) Monthly metered quantity (in kWh)

**Section 3.** Failure to submit accurate information and comply with the above requirements shall be subject to the appropriate ERC fines and penalties.

## **ARTICLE V AMENDMENTS**

The ERC shall amend and/or expand the coverage of these Rules from time to time as may be necessary to meet the needs of the Electric Power

Industry Participants and End-users. Before making any significant revisions of these Rules, the ERC will undertake public consultation as appropriate.

## **ARTICLE VI REPEALING CLAUSE**

To avoid inconsistency with these Revised Rules for Contestability, Resolution No. 11 Series of 2013, entitled: *“A Resolution Adopting the Supplemental Rules to the Transitory Rules for the Initial Implementation of Open Access and Retail Competition”* is hereby repealed.

All rules and guidelines or portions thereof, issued by the ERC that are inconsistent with these Revised Rules for Contestability are hereby repealed or modified accordingly.

## **ARTICLE VII SANCTIONS**

The ERC shall impose the appropriate fines and penalties for any violation or non-compliance with these Rules, pursuant to the *“Guidelines to Govern the Imposition of Administrative Sanctions in the Form of Fines and Penalties Pursuant to Section 46 of R.A. 9136”*.

## **ARTICLE VIII SEPARABILITY**

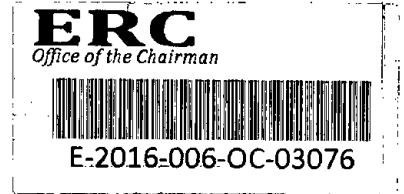
If for any reason, any provision of these Rules is declared unconstitutional or invalid by final judgment of a competent court, the other parts or provisions hereof which are not affected thereby shall continue to be in full force and effect.

**ARTICLE IX  
EFFECTIVITY**

These Rules shall take effect immediately following its publication in a newspaper of general circulation in the country.

Pasig City, 12 May 2016.


  
**JOSE VICENTE B. SALAZAR**  
Chairman *no 3*



  
**ALFREDO J. NON**  
Commissioner

  
**GLORIA VICTORIA C. YAP-TARUC**  
Commissioner

  
**JOSEFINA PATRICIA A.  
MAGPALE-ASIRIT**  
Commissioner

  
**GERONIMO D. STA. ANA**  
Commissioner