

**[DE ENERGY REGULATIONS NO. 1-94, May 24,
1994]**

**RULES AND REGULATIONS IMPLEMENTING SECTION 5(I) OF
REPUBLIC ACT NO. 7638, OTHERWISE KNOWN AS THE
DEPARTMENT OF ENERGY ACT OF 1992**

SECTION 1. Title — Pursuant to the authority vested upon it by Section 5(i) of Republic Act No. 7638, otherwise known as the "Department of Energy Act of 1992," which provides that the Department shall "[d]evise 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: Provided, however, that the other provinces, cities, municipalities, or regions shall not be deprived of their energy requirements," the Department of Energy hereby adopts and promulgates the following rules and regulations.

SECTION 2. Policy Objectives — (a) to recognize and provide recompense for the contribution made by the pertinent barangay, municipality or city, province, or region in hosting within their respective territorial jurisdiction the energy resource and/or energy-generating facility through which the rest of the country is energized;

b. To lessen conflict of rights among host LGUs, the community and people affected, the energy resource developers or power producers, and the appropriate agencies of the national government, recognizing that the relationship among them is affected with public interest; and

c. To promote harmony and cooperation among host LGUs, the community and people affected, the energy resource developers or power producers, and the appropriate agencies of the national government whereby the community and people affected and the host LGUs are provided with benefits under a coordinated and consultative or participative process while the power producers or energy resource developers are accorded community support and legal protection by the host LGUs.

SECTION 3. Scope of Application — These rules and regulations shall apply to energy resource development projects and energy-generating facilities located in all barangays, municipalities, cities, and provinces, except those falling within Metropolitan Manila, Metropolitan Cebu (Cebu City, Lapu-Lapu City, and Mandaue City), Metropolitan Davao and other highly urbanized cities as defined under Section 452 of the Local Government Code.

The benefits under these rules and regulations shall be required prospectively from all energy resource developers and power producers including those existing at the time of the effectivity of these rules and regulations.

SECTION 4. *Definition of Terms* — Unless the context otherwise indicates, the terms used in these rules and regulations shall have the following respective meanings:

- a. Barangay shall be as defined in the Local Government Code of 1991.
- b. Benefits refers to all forms of assistance or services that can be extended to the host LGU or host region.
- c. Beneficiary refers to the host LGU or the host region entitled to the benefits.
- d. City shall be as defined in the Local Government Code of 1991.
- e. Cogeneration Facility refers to a facility which produces electricity or mechanical energy and forms of useful thermal energy (such as heat or steam) for industrial, commercial, heating, or cooling purposes through the sequential use of energy and is accredited as a cogeneration facility by the DOE.
- f. Community and People Affected refers to a *bona fide* residents of a host LGU and who were relocated, as a result of the construction, and/or operation of an energy generating facility or the development of an energy resource development project, to official resettlement sites.
- g. DENR refers to the Department of Environment and Natural Resources as reorganized by Executive Order No. 192, series of 1987, as amended.
- h. DILG refers to the Department of the Interior and Local Government created pursuant to Republic Act No. 6975, as amended.
- i. Distribution System refers to the electric system of an electric utility which delivers electricity from transformation points on the transmission system to the consumers or end-users.
- j. DOE refers to the Department of Energy created pursuant to Republic Act No. 7638.
- k. DOH refers to the Department of Health created pursuant to Executive Order No. 119, series of 1987, as amended.
- l. DOLE refers to the Department of Labor and Employment defined under Book IV, Title VII of Executive Order No. 292, series of 1987, as amended.
- m. DPWH refers to the Department of Public Works and Highways as reorganized by Executive Order No. 124, series of 1987, as amended.
- n. Electricity Sales refers to the sales proceeds derived by the power producer from the actual generation of the energy-generating facility net of station own use, and losses.
- o. Electric Utility System refers to the distribution system of an electric cooperative, government-owned or privately-owned electric utility operating within one or several electric utility power grids.

p. Electric utility refers to the electric cooperative, government-owned or privately-owned electric utility operating within one or several electric utility power grids.

q. Electrification refers to the provision of dependable and adequate electric services to a franchised area.

r. Energy-efficient technologies refers to technologies which meet the ratio of useful energy output to energy input prescribed by the DOE under its circulars and/or its implementing rules and regulations.

s. Energy-generating facilities refers exclusively to any other following types of power plants constructed/operated to supply electricity:

- 1) Coal-fired Power Plant refers to an electricity-generating plant which utilizes coal (whether locally produced or imported) as fuel.
- 2) Geothermal Power Plant refers to an electricity-generating plant which utilizes geothermal steam and/or brine.
- 3) Hydroelectric Power Plant refers to an electricity-generating plant which utilizes the kinetic energy of falling or running water.
- 4) Oil-fired Power Plant refers to an electricity-generating plant which utilizes liquid or gaseous fuel such as industrial fuel oil or diesel. It shall not, however, include any electricity-generating plant fired by natural gas or liquefied petroleum gas.

t. Energy resource refers only to any of the following:

- 1) Biomass refers to any organic matter used for energy, broadly classified into plant matters and animal residues. Plant matters are further categorized into (a) naturally-occurring resources such as forest and agricultural residues, and (b) cultivated resources such as woodlot or tree farms.
- 2) Coal refers to a black or brownish-black solid combustible rock formed by the accumulation, decomposition, and compaction of plant materials under a long acting geological process.
- 3) Geothermal resources refers to all geothermal fluids existing naturally or formed by the artificial introduction of fluids into naturally hot formations, heat energy in the earth, and any by-product derived from these.
- 4) Hydrothermal or Hydro resources refers to natural streams, rivers or lakes that can be harnessed to provide the combination of adequate flow and head essential for hydropower generation.
- 5) Natural Gas refers to gas obtained from boreholes and wells and consisting primarily of hydrocarbons.
- 6) Petroleum refers to any mineral oil, hydrocarbon gas, bitumen, asphalt, mineral gas, and all other similar or naturally associated substances with the exception of coal, peat, bituminous shale and/or other stratified mineral fuel deposits.

Energy resource may be classified as either conventional or nonconventional,

imported or indigenous.

- 1) Conventional energy resources refers to traditional energy resources such as coal, petroleum, geothermal, hydro, and natural gas.
- 2) Nonconventional energy resources refers to energy resources which are renewable and indigenous, the conversion and utilization technology of which is characterized as decentralized and modular. These shall include biomass, mini-hydro, micro-hydro, ocean waves, solar, wind, and similar energy resources.
- 3) Imported energy resources refers to energy resources which are principally obtained from outside the Philippines.
- 4) Indigenous energy resources refers to energy resources which originate or occur naturally in the Philippines.

u. Energy resource developer refers to any person (whether natural or juridical) that is engaged or intends to engage in the development of energy resources.

v. Franchise refers to a privilege extended to a person (whether natural or juridical) to operate, maintain and/or distribute power within a specific geographical area.

w. Franchised area refers to a geographical area franchised to a public service entity, such as electric cooperative, local government-owned or privately-owned electric utility.

x. Franchise holder refers to a person (whether natural or juridical) holding a franchise.

y. Host LGU refers to the local government unit (barangay, municipality, city, or province) where the energy resource and/or energy generating facility is located as determined under Section 5 hereof.

z. Host region refers to the region where the energy resource and/or energy-generating facility is located as determined under Section 5 hereof.

aa. Load dispatch refers to the system of directing electricity supplied from energy-generating facilities to various electricity consumers.

bb. Local Government Code refers to Republic Act No. 7160.

cc. Micro-hydroelectric power development or Micro-hydro refers to the construction and installation of a hydroelectric generating plant and its auxiliary facilities such as transmission, substation and machine shop with an installed capacity of less than 101 kilowatts.

dd. Mineable coal reserve refers to a well-defined mass of coal from which extraction is economically feasible.

ee. Mini-hydroelectric power development or mini-hydro refers to the construction and installation of a hydroelectric generating plant and its auxiliary facilities such as transmission, substation and machine shop with an installed

capacity of less than 101 kilowatts nor more than 10, kilowatts.

ff. Municipality shall be as defined in the Local Government Code of 1991.

gg. NEA refers to the National Electrification Administration created pursuant to Presidential Decree No. 269, as amended, tasked primarily to administer the rural electrification program.

hh. NPC refers to the National Power Corporation created pursuant to Republic Act No. 6395, as amended.

ii. On-going energy-generating projects refers to energy-generating facilities which are existing, and to those projects under which energy-generating facilities are under construction, at the time of the effectivity of these rules and regulations.

jj. Power producer refers to any person (whether natural or juridical) who is engaged in the construction and/or operation of an energy-generating facility.

kk. Province shall be as defined in the Local Government Code of 1991.

ll. Public Service Cooperative or PSC refers to an electric cooperative that is organized or that qualifies as a cooperative under the provisions of Republic Act No. 6938.

mm. Reservoir refers only to any of the following:

- 1) Geothermal reservoir refers to a subsurface geological environment where the geothermal fluids accumulate and circulate.
- 2) Hydro reservoir refers to either a natural lake or an artificial lake created by the impounding of streamflow, run-off and subsurface water behind a dam.
3. Petroleum/Natural Gas reservoir refers to a subsurface geological environment where crude oil and/or natural gas accumulate under adequate trap conditions.

nn. Rural Electric Cooperative or REC refers to a corporation organized under Republic Act No. 6038, or Presidential Decree No. 269 as amended by Presidential Decree No. 1645, or a cooperative supplying or empowered to supply electric service which has heretofore been organized under the Philippine Non-Agricultural Cooperative Act, whether or not converted under Presidential Decree No. 269.

oo. Small Scale Coal Mining (SSCM) Permittee refers to a holder of a DOE permit to exploit coal resources covering an area within a coal operating contract or a free area outside of a coal operating contract. An SSCM coal permit covers a compact and contiguous area not exceeding five (5) hectares with a geological coal reserve not exceeding 50,000 metric tons.

pp. Watershed refers to a land area drained by a stream or fixed body of water and its tributaries having a common outlet for surface run-off.

SECTION 5. Beneficiaries — (a) Direct benefits shall be provided to the host LGU, especially the community and people affected while equitable preferential