

**[DE DEPARTMENT CIRCULAR NO. 96-08-009,
August 09, 1996]**

**PROVIDING ADDITIONAL GUIDELINES FOR THE GRANTING OF
BENEFITS UNDER ENERGY REGULATIONS NO. 1-94**

WHEREAS, Energy Regulations (E.R.) 1-94 promulgated on May 24, 1994 prescribed the provision of direct benefits to pertinent local government units (LGUs) hosting energy resources and/or energy-generating facilities within their territorial jurisdiction, pursuant to Section 5(i) of Republic Act No. 7638 (Department of Energy Act of 1992);

WHEREAS, E.R. 1-94 required energy resource developers and/or power producers to provide, among others, a set of financial benefits equivalent to one centavo per kilowatt-hour from electricity sales proceeds of their energy projects or energy-generating facilities;

WHEREAS, Department Circular No. 95-11-009 issued on November 8, 1995 required the establishment of trust accounts for the funds required to be set up under E.R. 1-94;

WHEREAS, full implementation of the aforesaid energy regulations and circular has been hampered by concerns regarding the levels of contribution in cases of energy projects and facilities involving integral operations (i.e. geothermal and hydropower facilities) and such projects and facilities involving private sector generators;

WHEREAS, implementation has been further hampered by other issues requiring clarification of certain provisions of E.R. 1-94;

WHEREAS, it has become imperative to issue additional guidelines to supplement and clarify such provisions of the aforesaid energy regulations and circular;

WHEREFORE, premises considered, the DOE hereby adopts the following policies and guidelines to expedite implementation of the aforesaid energy regulations and circular:

I

Applicability of E.R. 1-94

To ensure a uniform applicability of E.R. 1-94, the DOE hereby directs the following entities to provide the benefits required under E.R. 1-94 and to establish trust accounts mandated under Department Circular No. 95-11-009;

a. For energy-generating facilities owned and operated by the National Power Corporation (NPC), the NPC shall fully shoulder the one centavo which shall

constitute part of its generation cost.

b. For geothermal resource development projects and power plants, the energy resource developer and power producer shall equally contribute one-half centavo, which shall constitute part of the cost of geothermal steam.

c. For energy-generating facilities owned and/or operated by an independent power producer (IPP) under such private power schemes as Build-Operate-Transfer, Energy Conversion Agreement, Rehabilitate-Operate-Lease, etc. and involving sale of the generated electricity to the NPC, the NPC shall fully shoulder the one centavo which shall constitute part of its cost of purchased power from the concerned IPP.

Where the IPP under any such private power schemes has entered into an agreement with the NPC to shoulder the benefits required under E.R. 1-94, whether fully or partially, such agreement shall govern the obligations of the parties in complying with the said energy regulations.

d. For energy-generating facilities owned and/or operated by an IPP and involving sale of the generated electricity to an electric distribution utility or rural electric cooperative (REC), the IPP shall fully shoulder the one centavo which shall constitute part of its cost of power sold to the concerned utility or REC.

The NPC, Philippine National Oil Company, IPPs, and other concerned energy resource developers and/or power producers shall accordingly adjust their steam costs, rates of purchase or sales, and where necessary, financial accounting systems, as a result of the foregoing requirement.

Any corresponding impact on existing contractual rates of power purchase or sale shall be determined by the concerned energy resource developer and/or power producer and submitted to the Energy Regulatory Board for review and approval.

Accordingly, all concerned energy resource developers and power producers shall cause the establishment of trust accounts for the period ending July 31, 1996 within thirty (30) days after the effectivity of this Circular, in accordance with the guidelines and procedures under Department Circular No. 95-11-009.

The administration of trust accounts in the case of all energy-generating facilities classified under Part I (c) hereof shall be undertaken by the DOE, through its Financial Management Services.

II.

Granting of Benefits from Power Barges

To rationalize the granting of benefits from power barges which operations may entail transfer or dispatch to different locations over certain periods, power barges moored at any location for less than six (6) months shall be exempted from providing the benefits required under E.R. 1-94. For this purpose, the concerned power producer shall submit to the DOE copies of relevant documents to support any request for such exemption.