

**[ DOE REGULATIONS NO. 1-95, January 02, 1995 ]**

**RULES AND REGULATIONS IMPLEMENTING EXECUTIVE ORDER  
NO. 215 ON PRIVATE SECTOR PARTICIPATION IN POWER  
GENERATION**

Pursuant to Section 2 of Executive Order No. 215 (EO 215) allowing private sector participation in power generation activities, and the relevant provisions of Republic Act No. 7638 (RA 7638) creating the Department of Energy (DOE), the DOE hereby promulgates the following amended Rules and Regulations to implement the provisions of EO 215.

Part I

General Provisions of the Rules and Regulations

The succeeding Articles shall include the general provisions to be followed for all types of generating facilities owned by the private sector participating in power generation.

Article I

Statement of Policy, Scope and Definition of Terms

*SECTION 1. Statement of Policy* - Pursuant to the general provisions of RA 7638, it is hereby declared the policy of the State to ensure a continuous, adequate, and economic supply of energy with the end in view of ultimately achieving self-reliance in the country's energy requirements through the economic development of indigenous energy resources and through the efficient utilization of energy.

The DOE shall provide policy directions for the formulation of power system expansion plans and programs to achieve the above-stated objectives, following the approved national economic plan and consistent with policies on environmental protection, and conservation and maintenance of ecological balance.

Pursuant to Section 1 of EO 215, the National Power Corporation (NAPOCOR) shall continue to be responsible for the strategic and rational development of the country's power grids including the construction of associated generating facilities and setting up of transmission line grids in Luzon, Visayas, and Mindanao. However, private corporations, cooperatives or similar associations shall be allowed to construct and operate electric generating plants and associated transmission facilities.

Furthermore, it is hereby declared the policy of the State to promote competition in generation, and to increase the responsibility of all utilities to perform their own planning, including the acquisition of an efficient portfolio of generation and demand-side resources. It is the intent of the State that these rules promote the ability of all utilities to meet these expanded responsibilities, in particular by ensuring transmission access at fair prices and by establishing standard NAPOCOR

tariffs for services required by utilities when contracting for other sources of generation.

*SECTION 2. Scope* - These Rules and Regulations shall govern the relation between the DOE, NAPOCOR, the National Electrification Administration (NEA), the Energy Regulatory Board (ERB), private electric distribution utilities and cooperatives, and such private corporations, cooperatives or similar associations as may be allowed to own and operate electric generating plants and facilities that will sell or excess electricity production to the NAPOCOR, other electric utilities, and end-users in areas within and outside the NAPOCOR transmission grids, pursuant to Section 1 of EO 215.

These rules and regulations shall be an interim set of rules that shall be amended, replaced, or repealed in due time as restructuring and privatization efforts for the Philippine power industry moves through ongoing and anticipated phases towards an increasingly competitive and efficient industry structure for the Philippine power sector.

*SECTION 3. Definition of Terms* - As used in these rules and regulations, the following terms shall have the following respective meanings:

- a. "Avoided-Cost" means the least incremental cost that an electric utility would incur towards meeting its anticipated power demand if such utility does not buy power from a Private Sector Generation Facility (PSGF).
- b. "Back-up Power" means electricity supplied by NAPOCOR or an electric utility to replace electricity ordinarily generated by PSGF during unscheduled outages of the latter.
- c. "Block Power Production Facility (BPPF)" means any electric generating facility intended primarily to sell all or the bulk of its power output to the grid, consistent with the development plans formulated by NAPOCOR and/or electric utilities, and approved by the DOE.
- d. "Bottoming-cycle Cogeneration Facility" means a cogeneration facility in which the energy input to the system is first applied to a useful thermal energy process, and the reject heat emerging from the process is then used for power production.
- e. "Capacity" means the load for which a generating unit, generating station, or other electrical machine is rated by the manufacturer.
- f. "Cogeneration Facility" means a facility which produces electrical and/or mechanical energy and forms of useful thermal energy (such as heat or steam) used for industrial, commercial, heating, or cooling purposes, through the sequential use of energy.
- g. "Coincident Maximum Demand" means the maximum demand at the instant of greatest load of NAPOCOR.
- h. "Department of Energy or DOE" refers to the government agency created pursuant to RA 7638 promulgated on 9 December 1992.
- i. "Development Plans", refers to the Power Development Program or PDP formulated and updated yearly by the NAPOCOR and/or individual electric utilities.

- j. "Distribution System", means the electric system of an electric utility which delivers electricity from transformation points on the transmission system to the consumers or end-users.
- k. "Electric Cooperative" shall mean a corporation under RA 6038 or PD 269 as amended by PD 1645, or a cooperative supplying or empowered to supply electric service.
- l. "Electric Energy" as commonly used in the electric utility industry, means kilowatt-hours.
- m. "Electric Utility System" refers to the distribution system of an electric cooperative, local-government owned and privately-owned electric utility operating within the NAPOCOR and electric utility power grids.
- n. "Electric Utility" refers to the electric cooperative, local-government-owned and privately-owned electric utility operating within the NAPOCOR grids or other electric systems.
- o. "Energy Industry Administration Bureau or EIAB" refers to the Bureau under the DOE that shall, among others, assist in the formulation of regulatory policies to encourage and guide the operations of both government and private entities involved in energy resource supply activities including independent power production and electricity distribution.
- p. "Energy Planning and Monitoring Bureau or EPMB" refers to the Bureau under the DOE that shall, among others, supervise, coordinate, and integrate the formulation, monitoring, and review of programs and plans for energy supply development such as power development, local energy resource development and production, energy importation.
- q. "Energy Regulatory Board or ERB" refers to the quasi-judicial agency created under Executive Order 172, dated 8 May 1987, which, among other functions, fixes and regulates the prices of petroleum products and the power rates of electric utilities, now including the NAPOCOR and the electric cooperatives, pursuant to Section 18 of RA 7638.
- r. "Energy Resource Development Bureau or ERDB" refers to the Bureau under the DOE that shall, among others, assist in the formulation and implementation of policies to develop and increase the domestic supply of local energy resources like fossil fuels, nuclear fuels, hydropower and geothermal resources.
- s. "Total Energy Input" for purposes of calculating thermal efficiencies of cogeneration facilities, is defined as the total kilograms of fuel used multiplied by the Higher Heating Value (HHV) of the fuel input/s as received.
- t. "Franchise Area" shall mean geographical area franchised to a public service entity, such as: electric cooperative, local government or privately-owned electric utility system.
- u. "Grid" means the electrical system of interconnected transmission lines, substations and generating plants of NAPOCOR or the concerned electric utility, as the case may be.

v. "Host Utility" means the franchised electric utility operating nearest to where, or within whose area a qualified PSGF is located.

w. "Incremental PSG Power" means electricity supplied by NAPOCOR or an electric utility, regularly used by an owner of a qualified private sector generation facility in addition to that which the latter generates itself. It is the difference between the total electricity requirement of a private sector generator and the amount it generates.

x. "Interconnection" means the connection of a generating facility or a power distribution facility to an electric utility system or the NAPOCOR grid.

y. "Interconnection Costs" means the costs of all necessary interconnecting electrical equipment, protective devices and control equipment needed by a private sector generator for its PSGF to permit interconnected operations with NAPOCOR or an electric utility.

z. "Interruptible Power" means electricity supplied by NAPOCOR or an electric utility to a private sector generator subject to interruption by the former.

a.1. "Maintenance Power" means electricity supplied by NAPOCOR or an electric utility, to a private sector generator whose PSGF is undergoing scheduled maintenance work.

b.1. "Mini-Hydro Facilities" means hydro facilities capacities of 101 kilowatts to 10,000 kilowatts.

c.1 "National Electrification Administration or NEA" means the corporation, wholly-owned and controlled by the government, created under the provisions of Presidential Decree No. 269, as amended, of 06 August 1973, and tasked primarily to administer the rural electrification program.

d.1 "National Power Corporation or NAPOCOR" means the corporation, wholly-owned and controlled by the government, formed under the provisions of Republic Act No. 6395 of 10 September 1971 and tasked primarily to undertake the development of hydroelectric generation of power and the production of electricity from nuclear, geothermal and other sources, as well as the transmission of electric power on a nationwide basis.

e.1 "Peak Demand" means the maximum integrated load demand occurring for thirty (30) minutes continuously.

f.1. "Person" means any natural person, firm, association, corporation, business trust and partnership.

g.1. "Primary Energy Source" means the fuel used for the generation of electricity, except that such terms do not include:

1. The minimum amounts of fuel required for ignition, start up, testing, flame stabilization, and control uses, and

2. The minimum amounts of fuel required to alleviate or prevent:

- i. unanticipated equipment outages, and

ii. emergencies, directly affecting the public health, safety or welfare, which would result from electric power outages.

h.1 "Private Sector Generation Facility, (PSGF)" means

1. any cogeneration facility meeting the minimum thermal efficiency standards set by the DOE for cogeneration systems; or
2. any renewable resource power production facility, or
3. any electric generating facility that shall use indigenous energy resources as its primary energy source, or
4. any electric generating facility, particularly a Block Power Production Facility, intended primarily to sell all or the bulk of its power output to the grid, consistent with the development plans formulated by NAPOCOR and/or electric utilities, and approved by the DOE.

i.1 "Private Sector Generator" refers to the owner and/or operator of the accredited PSGF.

j.1 "Purchase" means the purchase of electricity by NAPOCOR or an electric utility from a private sector generator.

k.1 "Rate" means any price, tariff or charge, as classified by NAPOCOR or the electric utility, with respect to the sale or purchase and/or wheeling of electricity.

l.1 "Renewable Energy Sources" means sources of energy that are regenerative of virtually inexhaustible such as biomass, solar, wind, geothermal or hydro, and also means by - product materials that, but for their use as a source of energy, would be considered waste.

m.1 "Renewable Resource Power Production Facility (RRPPF)" means a facility which produces electricity by the use of renewable energy resources as its primary energy source.

n.1 "Sale" means the sale of electricity by NAPOCOR or an electric utility to a private sector generator.

o.1 "Spinning Reserve" means generating capacity that is on-line and ready to take load, but in excess of the current load of the electric system.

p.1 "System Emergency" means a condition on NAPOCOR's or an electric utility's system which is likely to result in imminent significant disruption of service to customers or is imminently likely to endanger life or property.

q.1 "Thermal Efficiency", as it pertains to cogeneration facilities, is defined as the ratio of useful energy output to the total energy input.

r.1 "Topping-cycle Cogeneration Facility" means a cogeneration facility in which the energy input to the facility is first used to produce useful power with the reject heat recovered from power production then used to provide useful thermal energy.

s.1 "Uncontrollable Forces" means any occurrence beyond the control of a party which causes that party to be unable to perform its obligations and which the party has been unable to overcome by the exercise of due diligence, including but not