

PRESCRIBING THE INTERIM UNIFORM GUIDELINES AND PROCEDURES FOR THE RECOVERY OF JUST COMPENSATION IN THE EVENT OF RELOCATION BY THE ELECTRIC COOPERATIVES (ECS) OF THEIR DISTRIBUTI...

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WHEREAS, Republic Act No. 9136 or the “Electric Power Industry Reform Act of 2001 (EPIRA),” declares, among others, as policy of State, to ensure the quality, reliability, security, and affordability of the supply of electric power;

WHEREAS, Section 2 of Republic Act No. 7638 or the “Department of Energy Act of 1992,” as amended by Section 37 of the EPIRA, authorized the Department of Energy (DOE) to exercise supervision and control over all government activities relative to energy projects and to formulate rules and regulation necessary to implement the objectives of these laws;

WHEREAS, Section 16 of Republic Act No. 10531 or the “National Electrification Administration (NEA) Reform Act of 2013” provides that the DOE is tasked to formulate the rules and regulations;

WHEREAS, Section 9 of Republic Act No. 10531 provides that ECs are “to construct, maintain and operate electric transmission and distribution lines along, upon, under and across publicly owned lands and public thoroughfares, including, without limitation, all roads, highways, streets, alleys, bridges, and causeways. In the event of the need of such lands and thoroughfares for the primary purpose of the government, the EC shall be properly compensated;”

WHEREAS, on 29 July 2013, pursuant to the said mandate, the DOE issued Department Circular No. DC-2013-07-0015 or the “Implementing Rules and Regulations of the Republic Act No. 10531(IRR)” which took effect on 13 August 2013;

WHEREAS, Section 10 (a), Rule III of DC2013-07-0015 provides that “the DOE and the Department of Public Works and Highways (DPWH) shall, within one hundred eighty (180) days from the effectivity of this IRR, issue implementing rules and regulations to carry out the proper compensation for ECs when sub- transmission and distribution lines, consistent with issuances of the ERC on cost recovery;”

WHEREAS, there are remaining concerns on the implementation and interpretation of the provision on proper compensation for the relocation of distribution and sub-transmission lines due to government and non-government projects in the absence of the joint issuance of the DOE and DPWH;

WHEREAS, since the passage of the amendments, the DOE and NEA have received requests for the interpretation of some provisions of the NEA Reform Act of 2013 and its IRR including Section (10) (a), Rule III of DC2013-07-0015;

WHEREAS, there is a need for uniform guidelines and procedures in the interim, to be followed, to ensure public

safety and order in support of sustained community development and progress; and

WHEREAS, under existing laws and jurisprudence, IRRs may be amended in pursuit to clarify and carry out the objectives of the law.

NOW THEREFORE, pursuant to its authority under the Republic Act No 10531, the DOE hereby issues, adopts and promulgates the foregoing:

Section 1. Title. This Circular shall be known as the “Interim Uniform Guidelines and Procedures for the Recovery of just Compensation for Relocation.”

Section 2. Scope and Application. This Circular shall apply to all relocations of electric poles and assets of ECs including Right of Way (ROW) issues arising from government or non-government projects.

Section 3. Coordination on Projects. To minimize electric service disruption and ensure maximum safety, all proponents, whether government or private, are hereby encouraged to Closely coordinate with the ECs whose electric poles and sub-transmission lines are for relocation including the resolution of ROW issues and concerns on the land and/or property where the new distribution and transmission lines will be erected and transferred.

Towards this end, all proponents, whether government or private, with on-going projects or planning to implement projects that will affect the existing lines of any EC, are required to submit such program of work and schedules of implementation to the EC having jurisdiction over the affected project area within a reasonable period, copy furnished the DOE and NEA.

Section 4. Determination of Relocation Cost. In the determination of relocation costs, the ECs and the proponent of the government or non-government project is encouraged to come up with a collectively agreed valuation, taking into consideration the aggregated benefits of the project to the community: Provided, That in case of disagreement, the following formula is proposed:

$$\text{COST OF RELOCATION} = a + b + c - d$$

Where:

a = Cost of Construction of New Distribution/Transmission Lines in the New Permanent Location

b = Cost of Electric Service Disruption (Revenue Loss, if any)

c = Cost of Right of Way Acquisition

d = Cost to Relocate and Fair Market Value of Usable Materials from the Old/Retired
Distribution/Sub-Transmission Lines (Net of Dismantling and Transportation Cost)

For the purposes of determining the Cost of Construction, the NEA Price Index and Construction Specification Standards for Distribution and/or Sub- Transmission Lines may be used.

Section 5. Reservation on Relocation. No actual relocation can be implemented until just compensation for the relocation of existing electric poles, including the mode of payment are properly determined and agreed upon by the ECs and the government and the proponent of the non-government project.

Section 6. Reportorial Requirements. The NEA shall issue an advisory to all ECs for the submission of information provided in Section 2 of this Circular to ensure its effective implementation.

Section 7. Non-Retroactivity. This Circular will only apply to projects implemented or for implementation after the effectivity of Republic Act No. 10531.

Section 8. Repealing Clause. All circulars and issuances not consistent with this Circular shall be modified and repealed accordingly.

Section 9. Effectivity and Publication. This Circular shall be effective upon its publication in two (2) newspapers of general circulation and shall remain in effect until revoked.

Issued at Energy Center, Bonifacio Global City, Taguig City.

(SGD) CARLOS JERICO L. PETILLA
Secretary

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