NATIONAL ADMINISTRATIVE REGISTER · AUGUST 22, 2011

A RESOLUTION ADOPTING THE AMENDED GUIDELINES FOR THE SETTING AND APPROVAL OF ELECTRICITY GENERATION RATES AND SUBSIDIES FOR MISSIONARY ELECTRIFICATION AREAS

ERC RESOLUTION NO. 21, S. 2011, August 22, 2011

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WHEREAS, Section 43(t) of Republic Act No. 9136, otherwise known as the Electric Power Industry Reform Act of 2001 (EPIRA), authorizes the Energy Regulatory Commission (ERC) to "perform such regulatory functions as are appropriate and necessary in order to ensure the successful restructuring and modernization of the electric power industry x x x";

WHEREAS, Section 70 of the EPIRA provides that the missionary electrification function of the National Power Corporation (NPC), through the Small Power Utilities Group (SPUG), shall be funded from the revenues from sales in missionary areas and from the Universal Charge to be collected from all electricity end-users as determined by the ERC;

WHEREAS, Section 34 of the EPIRA empowers the ERC to determine, fix and approve a Universal Charge to be imposed on all electricity end-users;

WHEREAS, on December 16, 2008, Republic Act No. 9513 (R.A. 9513), otherwise known as the Renewable Energy Act of 2008, was enacted;

WHEREAS, Section 15(h) of R.A. 9513 mandates that a renewable energy developer, established after the effectivity thereof, shall be entitled to a cash generation-based incentive per kilowatt hour rate generated, equivalent to fifty percent (50%) of the Universal Charge for power needed to service missionary areas where it operates the same, to be chargeable against the Universal Charge for Missionary Electrification (UC-ME);

WHEREAS, Section 12 of R.A. 9513 requires the NPC-SPUG or its successors-in-interest and/or qualified third parties in off-grid areas, in the performance of its mandate to provide missionary electrification, to source a minimum percentage of its total annual generation, upon recommendation of the National Renewable Energy Board (NREB), from available renewable energy resources in the area concerned, as may be determined by the Department of Energy (DOE);

WHEREAS, Section 7 of R.A. 9513 and Section 5 of its Implementing Rules and Regulations (IRR) mandate the ERC, in consultation with NREB, to formulate and promulgate the Feed-In Tariff System (FITS) Rules;

WHEREAS, on July 12, 2010, the ERC, in pursuance of this mandate, promulgated Resolution No. 16, Series of 2010, entitled "Resolution Adopting the Feed-In Tariff (FIT) Rules";

WHEREAS, said FIT Rules establish the FIT system and the method of determining and approving the FIT and the Feed-In Tariff Allowances (FIT-AII);

WHEREAS, the ERC sees the need to amend the Subsidized Approved Generation Rate (SAGR) Guidelines in order to, among others: 1) implement the mandate of RA 9513, particularly the grant of cash incentive to renewable energy developers; 2) require NPC SPUG to file a petition to set the UC-ME on or before March 15 of

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every calendar year; 3) dispense with the filing of quarterly true-up petition; and 4) conform with the FIT Rules;

WHEREAS, on February 14, 2011, the ERC issued a Notice soliciting comments on the 1st draft of the proposed Amended SAGR Guidelines from interested parties not later than March 11, 2011;

WHEREAS, on various dates, several interested parties submitted their respective comments on the 1st draft of the proposed Amended SAGR Guidelines;

WHEREAS, on April 11, 2011, the ERC issued another Notice soliciting comments on the 2nd draft of the proposed Amended SAGR Guidelines from interested parties not later than April 25, 2011 and setting the same for public consultation on May 5, 2011;

WHEREAS, on April 25, 2011, only Manila Electric Company (MERALCO) submitted its comments;

WHEREAS, on May 5, 2011, a public consultation on the 2nd draft of the proposed Amended SAGR guidelines was held;

NOW, THEREFORE, the ERC, after thorough and due deliberation, RESOLVED, as it hereby RESOLVES, to ADOPT the Amended Guidelines for the Setting and Approval of Electricity Generation Rates and Subsidies for Missionary Electrification Areas, hereto attached as Annex "A"[*] and made an integral part of this Resolution.

This Resolution shall take effect on the fifteenth (15th) day following its publication in a newspaper of general circulation in the country.

Let copies of this Resolution be furnished the University of the Philippines Law Center-Office of the National Administrative Register (UPLC-ONAR), NPC, SPUG, Power Sector Assets and Liabilities Management Corporation (PSALM), all New Power Providers (NPPs) in Delegated NPC SPUG Areas, Renewable Energy Developers for Missionary Electrification and Distribution Utilities.

Adopted: 22 August 2011

(SGD.) ZENAIDA G. CRUZ-DUCUT

Chairperson

(SGD) MARIA TERESA A.R. CASTAÑEDA

(SGD) JOSE C. REYES

Commissioner

Commissioner

(SGD.)ALFREDO J. NON

Commissioner

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[*] Text Available at Office of the National Administrative Register, U.P. Law Complex, Diliman, Quezon City.

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