IMPLEMENTING SECTION 43(T) OF REPUBLIC ACT NO. 9136 AND RULE 3, SECTION 4(M) OF THE IMPLEMENTING RULES AND REGULATIONS (IRR) OF THE SAID ACT

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WHEREAS, pursuant to Section 2(d) of Republic Act No. 9136 (the Electric Power Industry Reform Act of 2001 or EPIRA), it is the policy of the state to enhance the inflow of private capital and broaden the ownership base of the power generation, transmission and distribution sectors;

WHEREAS, Section 43(t) of the said Act provides that:

"Section 43. Functions of the ERC. – xxx xxx xxx:

(t) Perform such other regulatory functions as are appropriate and necessary in order to ensure the successful restructuring and modernization of the electric power industry, such as, but not limited to, the rules and guidelines under which generation companies, distribution utilities which are not publicly listed shall offer and sell to the public a portion of not less than fifteen percent (15%) of their common shares of stocks: Provided, however, That generation companies, distribution utilities or their respective holding companies that are already listed in the Philippine Stock Exchange (PSE) are deemed in compliance. For existing companies, such public offering shall be implemented not later than five (5) years from the effectivity of this Act. New Companies shall implement their respective public offerings not later than five (5) years from the issuance of their certificate of compliance; (underscoring supplied)"

WHEREAS, Rule 3, Section 4 (m) of the Implementing Rules and Regulations (IRR) of the said Act provides that:

"Rule 3, Section 4 - Responsibilities of the ERC.

(m) The ERC shall perform such other regulatory functions as are appropriate and necessary in order to ensure the successful restructuring and modernization of the electric power industry, such as but not limited to, the rules and guidelines under which Generation Companies, Distribution Utilities, which are not publicly listed, shall offer and sell to the public a portion of not less than fifteen percent (15%) of their common shares of stocks: Provided, however, That Generation Companies, Distribution Utilities or their respective holding companies that are already listed in the PSE are deemed in compliance. For existing companies, such public offering shall be implemented not later than five (5) years from the effectivity of this Act. New Companies shall implement their respective public offerings not later than five (5) years from the issuance of their certificate of compliance; (underscoring supplied)"

WHEREAS, the said Act took effect on June 26, 2001.

NOW, THEREFORE, be it resolved, AS THIS COMMISSION HEREBY RESOLVES, to require all Generation Companies (GCs) and Distribution Utilities (DUs) which are not publicly listed in the PSE, to offer and sell to the public a portion of not less than fifteen percent (15%) of their common shares of stocks.

FURTHER, for GCs, DUs or their respective holding companies existing at the time of the promulgation of R.A. No. 9136, the period of public offering shall be implemented not later than five (5) years from June 26, 2001. For new GCs or their respective holding companies, the period of offering shall be implemented not later than five (5) years from the issuance of their Certificate of Compliance (COC). For both categories, the public offering process and requirements shall be governed by the applicable provisions of the Omnibus Investment Code of 1987, as amended, its Implementing Rules and Regulations (IRR), the Securities Regulation Code (R.A. 8799), PSE's rules and regulations, and all other applicable laws, rules and regulations.

FINALLY, GCs and DUs covered by this Resolution, shall within thirty (30) days from public offering, submit reports to the Commission on the extent of their compliance herewith together with Certifications from the PSE showing the number of shares listed, names of the shareholders presently owning the said shares and other relevant information for monitoring and verification purposes.

This Resolution shall take effect immediately.

Adopted: 17 Aug. 2005

(SGD.) RODOLFO B. ALBANO, JR.

Chairman

(SGD.) OLIVER B. BUTALID

(SGD.) JESUS N. ALCORDO

Commissioner

Commissioner

(SGD.) ALEJANDRO Z. BARIN

(SGD.) RAUF A. TAN (On Official Travel)

Commissioner

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