



Republic of the Philippines  
**DEPARTMENT OF ENERGY**  
**(Kagawaran ng Enerhiya)**

**DEPARTMENT CIRCULAR NO. 2022-\_\_\_\_\_**

**RULES AND REGULATIONS IMPLEMENTING REPUBLIC ACT NO. 11646  
(MICROGRID SYSTEMS ACT)**

**WHEREAS**, Section 9 of the 1987 Constitution of the Philippines declares as a policy that the State shall promote a just and dynamic social order that will ensure the prosperity and independence of the nation and free the people from poverty through policies that provide adequate social services, promote full employment, a rising standard of living, and an improved quality of life for all;

**WHEREAS**, Section 20 of the 1987 Constitution of the Philippines also provides that the State recognizes the indispensable role of the private sector, encourages private enterprise, and provides incentives to needed investments;

**WHEREAS**, Section 2 (a) and (b) of Republic Act (RA) No. 9136 or the "*Electric Power Industry Reform Act (EPIRA)*", declares that it is the policy of the State to ensure and accelerate the total electrification of the country; and, to ensure quality, reliability, security and affordability of the supply of electric power (ii) ensure transparent and reasonable prices of electricity in a regime of free and fair competition and full public accountability; (iii) enhance the inflow of private capital and broaden the ownership base of the power generation, transmission and distribution sectors; (iv) protect the public interest as it is affected by the rates and services of electric utilities and other providers of electric power; and (v) encourage the efficient use of energy and other modalities of demand-side management;

**WHEREAS**, Section 2 (f) and (h) of the EPIRA states that it is also the policy of the State to protect the public interest as it is affected by the rates and services of electric utilities and other providers of electric power; and, to promote the utilization of indigenous and new and renewable energy resources in power generation in order to reduce dependence on imported energy;

**WHEREAS**, on 21 January 2022, Republic Act No. 11646 entitled "An Act Promoting the Use of Microgrid Systems to Accelerate the Total Electrification of Unserved and Underserved Areas Nationwide" also known as "Microgrid Systems Act" (Act) was approved;

**WHEREAS**, Section 26 of Republic Act No. 11646 states that the Department of Energy (DOE) shall issue the implementing rules and regulations of this Act within sixty (60) working days upon its effectivity;

**WHEREAS**, the DOE conducted a review of all relevant policies and guidelines, and presented recommendations to the stakeholders through the following consultation meetings conducted on various dates:

- Public Consultations with stakeholders on \_\_\_\_\_ 2022.

**NOW, THEREFORE**, in consideration of the foregoing, the DOE, pursuant to Section 26 of Republic Act No. 11646, in consultation with appropriate government agencies such as the Energy Regulatory Commission (ERC), National Electrification Administration (NEA), National Power Corporation (NPC), National Transmission Corporation (TRANSCO) and Electric Power Industry Stakeholders, hereby issues, adopts and promulgates the following rules and regulations to implement the provisions of the Act.

## **PART I. GENERAL PROVISIONS**

### **SECTION 1. Title**

This Department Circular shall be known as the “Implementing Rules and Regulations (IRR) of Republic Act No. 11646, otherwise known as the “Micro Grid Systems Act” and hereinafter referred to as the “IRR”.

### **SECTION 2. Declaration of Policies**

It is hereby declared the policy of the state to:

- 2.1. Pursue sustainable rural development and poverty reduction towards nation building through energy access;
- 2.2. Accelerate total electrification and ensure the provision of quality, reliable, secure, and affordable supply of electric power in unserved and underserved areas;
- 2.3. Promote private sector participation in electrification of unserved and underserved areas;
- 2.4. Provide a competitive environment and level playing field for different kinds of energy sources with a preference for low-cost, indigenous, renewable, and environment-friendly sources of energy; and,
- 2.5. Ensure the adoption of a dynamic regulatory environment that allows end users to benefit from technologies and innovations in the electric power industry.

### **SECTION 3. Scope**

Subject to Section 3 of the Act, this IRR shall apply to the development of microgrid systems in unserved and underserved areas nationwide.

### **SECTION 4. Definition of Terms**

As used in the Act and this IRR, the following terms shall be defined as follows:

- 4.1. **Authority to Operate (ATO)** refers to the document issued by the Energy Regulatory Commission (ERC) to the microgrid system provider, which shall constitute as the latter's license to provide integrated power generation and distribution services to unserved or underserved areas;
- 4.2. **Certificate of Compliance (COC)** refers to a license issued by the ERC in favor of a person or entity to operate a power plant or other facilities used in the generation of electricity pursuant to Section 6 of RA 9136 and Section 4 of the Implementing Rules and Regulations of RA 9136;
- 4.3. **Competitive Selection Process for Microgrid System Provider (CSP)** refers to the procedure wherein an entity is awarded the contract to provide integrated power generation and distribution services to an unserved or underserved area through a transparent and competitive procedure, such as, but not limited to, an auction, unsolicited proposal, or Swiss challenge, taking into consideration the requirements of the Act and other applicable laws;
- 4.4. **Decentralized Power Generation (DPG)** refers to small-scale power generation facilities which operate locally and are connected to the distribution system of the microgrid or end-user that could be aggregated to provide electric power necessary to meet demand, including, but not limited to, mini-wind turbines connected to a microgrid, energy storage, and solar photovoltaic rooftop of an end-user;
- 4.5. **Distribution System** refers to the system of wires and associated facilities extending between the delivery points on the transmission, subtransmission system, or power generation facility connection and the point of connection to the premises of the end-user, whichever is applicable;
- 4.6. **Distribution Utility (DU)** refers to any electric cooperative, private corporation, government-owned utility, or existing local government unit which has a franchise to operate a distribution system including those whose franchise covers economic zones;
- 4.7. **DU Operated Microgrid System** refers to a microgrid system owned and operated by a DU in a DU identified unserved area in its local total electrification roadmap;
- 4.8. **Electric Cooperative (EC)** refers to a DU organized pursuant to Presidential Decree No. 269, as amended, or as otherwise provided in the Act;

- 4.9. **End-user** refers to any natural or juridical person requiring the supply and delivery of electricity for its own use;
- 4.10. **Grid** refers to the high voltage backbone system of interconnected transmission lines, substations, and related facilities, located in each of Luzon, Visayas, and Mindanao;
- 4.11. **Grid-tied Microgrid System** refers to a microgrid system that is electrically connected to the distribution system of a DU and can operate in synchronized mode or in island mode;
- 4.12. **Island Mode** refers to a grid-tied microgrid system operating as a stand-alone system in supplying and delivering electric power to connected end-users;
- 4.13. **Isolated Microgrid System** refers to a microgrid system that is not electrically connected to a distribution system of a DU and is operating as a stand-alone system in supplying and delivering electric power to connected end-users;
- 4.14. **Local Total Electrification Roadmap (LTER)** refers to a DU's comprehensive 10-year strategic plan with an annual work plan to accelerate total electrification in its franchise area, to be updated annually;
- 4.15. **Microgrid System** refers to a group of interconnected loads and a generation facility or DPG with clearly defined electrical boundaries that acts as an integrated power generation and distribution system, whether or not connected to a distribution or transmission system;
- 4.16. **Microgrid System Provider Service Contract (MSC)** refers to the contract between the microgrid system provider and the National Power Corporation (NPC) whereby the microgrid system provider performs the missionary electrification function on behalf of the NPC and provides integrated power generation and distribution services in an unserved **or** underserved area, and to receive subsidy whenever applicable;
- 4.17. **Microgrid System Provider (MGSP)** refers to a natural or juridical person whose business includes the installation, operation, and maintenance of microgrid systems in unserved or underserved areas nationwide;
- 4.18. **MGSP Proponent** - refers to any entity that is eligible to provide integrated power generation and distribution services in unserved and underserved areas;
- 4.19. **National Total Electrification Roadmap (NTER)** refers to a comprehensive national strategic plan including a work plan to accelerate total electrification in the country taking into account the various LTERs and the Distribution

Development Plans (DDPs). It shall be incorporated in the Philippine Energy Plan;

- 4.20. **NPC Graduation Plan** refers to a comprehensive and detailed strategy of the NPC to attract private sector participation in areas purely served by the NPC;
- 4.21. **Philippine Distribution Code** refers to the set of rules, requirements, procedures and standards governing Distribution Utilities and Users of Distribution System in the operation, maintenance and development of the Distribution System. It also defines and establishes the relationship of the Distribution System with the facilities or installations of the parties connected thereto.
- 4.22. **Philippine Small Grid Guidelines** refers to the rules, procedures, and requirements for the generation scheduling, dispatch and control of active power, including provisions of ancillary service, if any, which are required to ensure power quality, reliability, and security of the Small Grid.
- 4.23. **Private Investor-Owned Utilities (PIOU)** - refers to private business organization which has an exclusive franchise to operate a distribution system;
- 4.24. **Qualified Third Party (QTP)** refers to the alternative electric service provider duly qualified and authorized by the ERC to serve Unviable Areas pursuant to Section 59 of the EPIRA and Rule 14 of the EPIRA-IRR
- 4.25. **Swiss Challenge** refers to a competitive procurement system to be followed when projects are procured through unsolicited proposals from the MGSP Proponent;
- 4.26. **Synchronized Mode** refers to the operation of grid-tied microgrid systems whose generation facility or DPG is able to operate in the same frequency at its connection point to the distribution system of a DU, and allows the grid-tied microgrid system to supply to or draw power from the grid;
- 4.27. **Underserved Area** refers to a currently served area whose supply of electricity is less than twenty-four (24) hours daily because of the non-implementation of the approved capital expenditure projects, noncompliance with the service parameters of the Philippine Distribution Code (PDC), or any other reason resulting to an overall failing mark based on ERC's latest annual technical evaluation of performance of distribution systems;
- 4.28. **Universal Charge for Missionary Electrification (UC-ME)** refers to the portion of the non-bypassable charge passed on and collected from all end-users on a monthly basis by the DUs pursuant to Republic Act No. 9136,

otherwise known as the “Electric Power Industry Reform Act of 2001”, a portion of which is allocated for the provision of integrated power generation and distribution services in unserved and underserved areas not connected to the grid or within a franchise area where the distribution system is not connected to the grid;

- 4.29. **Unserved Area** refers to an area, upon the effectivity of the Act, with no electricity access, no distribution system lines, no home power systems, no connection to any microgrid system, or for which no distribution grid extension has been developed or implemented by the DU; and,
- 4.30 **Unsolicited Proposal** refers to the proposal for the provision of electricity service in the unserved and underserved areas, submitted by an MGSP Proponent to the NPC, which is not in response to a solicitation or request issued by the latter.

## **PART II - Identification and Declaration of Unserved and Underserved Areas**

### **Section 5. Identification of Unserved Areas and Underserved Areas**

- 5.1. Consistent with Section 15 of the Act, the DUs shall submit to the DOE and integrate in its annual DDP, the LTER, which shall include a detailed inventory of all unserved and underserved areas within its franchise.
- 5.2. The NPC and NEA shall recommend to the DOE the template of the LTER within thirty (30) calendar days from the effectivity of IRR, thereafter, the DOE shall issue the final template within fifteen (15) calendar days upon receipt of the recommended template. The LTER shall contain the following, among others:
- 5.2.1. A validated detailed inventory of all areas within a DU’s franchise which it plans to electrify including a specific time frame for electrification, including DU identified unserved areas for electrification through DU operated microgrid systems;
- 5.2.2. A validated annual work plan for electrification; and,
- 5.2.3. A validated detailed inventory of all unserved and underserved areas within its franchise.
- 5.3. All projects in each annual work plan shall be completed not later than eighteen (18) months from submission to the DOE or, in the case of DU identified unserved areas, from the lapse of the thirty (30) calendar day period for MGSPs to tender an all-in price offer pursuant to Section 14 of this IRR. For the DU

Identified Underserved Areas included in the work plan, the submission shall include, but not limited to, the following:

- 5.3.1. Technical and Financial Proposal;
  - 5.3.2. Load profile (projected total energy sales, peak demand, growth rate etc);
  - 5.3.3. Proposed Rate;
  - 5.3.4. Demographic profile; and,
  - 5.3.5. Existing electricity provider.
- 5.4. All LTER shall be submitted by the DUs to the DOE or by the NEA, in the case of ECs, together with its recommendations not later than the 15th of March of every year.
- 5.5. The DOE shall receive and validate any petitions from end-users pursuant to Section 6 of this IRR, and nominations from MGSP Proponent pursuant to Section 15 of this IRR, in consultation with NEA and NPC prior to the DOE's declaration of unserved and underserved areas.
- 5.6. The DOE shall prepare the NTER and publish it on the DOE website, not later than September of every year.
- 5.7. Unserved and Underserved Areas that already have an appropriation for electrification in the General Appropriations Act (GAA) at the time of the effectivity of the Act shall not be included in the list of DOE declared unserved and underserved areas and DU identified unserved areas.

## **Section 6. End-User Petition of Unserved and Underserved Areas**

- 6.1. Any end-user residing in unserved or underserved areas not identified or included by the DU in its LTER or not declared by the DOE, may file a petition to the DOE for possible declaration as unserved or underserved areas. The said petition shall include the following:
- 6.1.1. Full name;
  - 6.1.2. Complete address;
  - 6.1.3. Contact details;
  - 6.1.4. Government issued ID or other competent identifications; and
  - 6.1.5. Electricity service situation of the areas where the petitioner is residing
- 6.2. The DOE, in coordination with NPC, NEA and other agencies, shall verify the subject area/s qualification for possible inclusion in the list of DOE declared unserved and underserved areas. The verification shall not be longer than thirty (30) calendar days from the receipt of the petition.
- 6.3. The NEA/NPC shall submit to the DOE its verification report including its proposed action to address the end-user's petition.

## **Section 7. Declaration of Unserved and Underserved Areas**

- 7.1. DOE shall declare Unserved and Underserved areas indicated/identified in the following:
- 7.1.1 All unserved and underserved areas in the DU's LTER not identified for DU operated microgrid system;
  - 7.1.2 NPC-SPUG areas identified in their Graduation Plan pursuant to Section 16.2 of this IRR;
  - 7.1.3 Verified petitioned areas pursuant to Section 6 of this IRR; and,
  - 7.1.4 Nominated areas pursuant Section 15 of this IRR.

The said declaration shall be published in the DOE website no later than September of every year.

- 7.2. Unserved areas identified for electrification by DU operated microgrid systems in their LTER shall be published by the DOE as DU Identified Unserved areas and shall undergo CSP pursuant to Section 14 of this IRR.
- 7.3. The DOE declared unserved or underserved areas or DU identified unserved areas which are awarded to MGSP's pursuant to Sections 13 and 14 of this IRR shall be deemed waived by the DU insofar as its obligation to provide distribution services and connections to end users and supply electricity to the area concerned. The waiver shall not transfer, abandon, or modify DU's franchise but bestows upon the awarded and compliant MGSP the exclusive right and obligation during the existence of the MSC, on behalf of the NPC, to provide integrated power generation and distribution services to the unserved and underserved area during the period of the MSC, consistent with the NPC's missionary electrification function.

## **PART III. Qualification of MGSP**

### **Section 8. Eligibility Requirements**

- 8.1. The participation as a MGSP shall be open to any party including private corporations, local government units, cooperatives, non-government organizations, generation companies and their subsidiaries, and DU's and their subsidiaries who have demonstrated the capability and willingness to comply with the relevant technical, financial, and other requirements as prescribed under the competitive selection process for MGSP.



8.2. The ownership and operation of a microgrid system in unserved and underserved areas shall not be a public utility operation. Therefore, any MGSP shall not be required to secure a franchise from Congress, but shall secure an ATO and COC from the ERC prior to its operation;

**Section 9. Guidelines for DU’s Joint Venture**

9.1. A DU may enter into a joint venture for the installation and operation of microgrid systems. The DU shall maintain a separate account for such business undertaking pursuant to the ERC’s applicable rules and guidelines on business separation and unbundling. Only a joint venture for the installation and operation of a microgrid system where the DU owns at least fifty-one (51%) of capital shall be considered as a DU operated microgrid system or a DU’s MGSP.

9.2. The NEA shall issue guidelines for the ECs entering into a Joint Venture within sixty (60) calendar days from the effectivity of this IRR.

**IV. Procedure for Electrification of Unserved and Underserved Areas through Microgrid System**

**SECTION 10. Authorized Entity for the Conduct of CSP**

The DOE authorizes the NPC to conduct the CSP for the DOE declared Unserved and Underserved Areas and DU identified Unserved Areas in the DU franchise areas.

**SECTION 11. Bids and Awards Committee for MGSP**

11.1. MGSP Bids and Awards Committee (MGSP BAC)

11.1.1. The NPC shall establish an independent MGSP BAC to spearhead and manage the CSP for MGSP. The MGSP BAC shall comply with the policy and procedures in the conduct of CSP for MGSP, as provided for in this IRR.

11.1.2. The NPC shall designate five (5) members of the MGSP BAC. The member of NP Board may only serve as an observer and not as a member of the MGSP BAC.

11.1.3. The Chair and Vice Chair shall be selected by the members of the MGSP BAC. The Chairman shall only vote in case of a tie.

11.1.4. A quorum of the MGSP BAC shall be composed of a simple majority of all voting members of the MGSP BAC.

11.1.5. The MGSP BAC shall be posted on the DOE website.

## 11.2. MGSP BAC Technical Working Group (TWG) and Secretariat

The NPC shall designate its own MGSP BAC TWG and MGSP BAC Secretariat, to be headed by a regular or permanent employee of the NPC, preferably an officer, to assist the MGSP BAC in the performance of its functions.

11.2.1. The MGSP BAC TWG shall be composed of technical, legal and financial personnel of the NPC.

11.2.2. The MGSP BAC TWG shall assist the MGSP BAC in the technical components of the CSP for MGSP, such as development of the MSC, TOR, eligibility screening, evaluation of bids, and post-qualification.

11.2.3. The MGSP BAC Secretariat shall provide administrative support to the MGSP BAC for this purpose and serve as the keeper of all records and documents relating to all CSP for MGSP conducted by the NPC.

11.2.4. The MGSP BAC Secretariat shall fully document each step of the CSP for MGSP and prepare and keep written minutes of all the MGSP BAC meetings and proceedings.

## 11.3. Observers in the CSP for MGSP

To assure all parties to the selection of MGSP that the process employed is conducted in an open, transparent, effective, efficient and equitable manner, the NPC shall invite Observers in accordance with this IRR.

11.3.1. The NPC shall invite the DOE, ERC, and NEA as Observers;

11.3.2. Observers shall not participate in the proceedings and shall have no right to vote.

11.3.3. Observers shall be given invitations in writing and transmitted formally through any available modes at least five (5) working days before the date of the procurement stages.

11.3.4. The invitations to the Observers shall be extended in all of the following stages of the CSP for MGSP: Pre-bid Conferences, Submission and Opening of Bids, Bid Evaluation, Post-qualification, Awarding, and Contract Signing.

11.3.5. Observers shall be allowed unrestricted access to the following documents upon their request: (a) minutes of NPC meetings; (b)

Abstract of Bids; (c) post-qualification summary report; (d) video recording of CSP for MGSP proceedings; (e) opened proposals; (f) draft MSC template; (g) Bid Documents and other related documents.

- 11.3.6. Observers may submit to the NPC their written comments and recommendations within seven (7) working days from the end of the CSP for MGSP activity or from the receipt of the documentation of the proceedings.
- 11.3.7. The absence of Observers will not nullify the CSP for MGSP proceedings.
- 11.3.8. Observers may request from the NPC the result of the bidding and other pertinent documents related to the conduct of the CSP for MGSP proceedings. Such request shall be made before the approval of the ERC of the MSC.

## **SECTION 12. Preparation of Bid Documents for the CSP for MGSP.**

12.1. The NPC shall prepare the Bidding Documents, which include at the minimum the following:

- 12.1.1. Invitation to bid;
- 12.1.2. Bidding schedule;
- 12.1.3. Terms of Reference that includes, but not limited to:
  - 12.1.3.1. Load Profile (projected total energy sales, peak demand, growth rate etc.);
  - 12.1.3.2. Proposed Rate;
  - 12.1.3.3. Demographic profile of the subject Area including the existing electricity provider;
  - 12.1.3.4. Potential renewable energy resources;
  - 12.1.3.5. Target date of project commissioning;
  - 12.1.3.6. Plan for compliance with the Philippine Small Grid Guidelines;
  - 12.1.3.7. Plan for compliance with the Renewable Portfolio Standard Guidelines of Off-grid Areas; and
- 12.1.4. Draft MSC.

12.2 The Bid Documents and TOR shall be submitted by the NPC to the DOE for review and evaluation, within thirty (30) working days after the date of publication of the declared Unserved and Underserved Areas and the DU Identified Unserved Areas.

12.3 The DOE shall recommend changes to the Bid Documents and the TOR when necessary, within thirty (30) working days upon receipt from the NPC.

## **SECTION 13. CSP for MGSP in DOE Declared Unserved and Underserved Areas**

### 13.1. Publication and Posting.

The Invitation to Bid shall be:

- 13.1.1. Issued by the NPC within twenty (20) calendar days from the publication of the list of DOE declared unserved and underserved areas;
- 13.1.2. Published in a newspaper of general circulation once weekly for two (2) consecutive weeks, and in addition, be published at least once in a newspaper of local circulation in the province where the unserved and underserved areas are located;
- 13.1.3. Posted continuously in the websites of the DOE, NPC and NEA for fifteen (15) consecutive calendar days upon publication; and,
- 13.1.4. Posted at any conspicuous places within the concerned DU's main office premises for fifteen (15) consecutive calendar days upon publication.

### 13.2. Pre-bid Conference

- 13.2.1. The MGSP BAC shall conduct a pre-bid conference to address the queries from the prospective bidders.
- 13.2.2. The pre-bid conference shall discuss, among other things, the eligibility requirements, the TOR and the technical, legal and financial components of the MSC to be bid out.
- 13.2.3. The MGSP BAC shall reply to the written queries or clarifications of the MGSP Proponents in the form of Bid/Supplemental Bulletins.
- 13.2.4. Decisions of the MGSP BAC amending any provision of the Bidding Documents shall be issued in writing through a Supplemental/Bid Bulletin at least seven (7) working days before the deadline for the submission and receipt of bids.
- 13.2.5. Supplemental/Bid Bulletins may be issued in the following circumstances:
  - 13.2.5.1. Request of the MGSP Proponents for clarification(s) on or for an interpretation of any part of the Bid Documents; and,

- 13.2.5.2. Upon the initiative of the MGSP BAC for purposes of clarifying or modifying any provision of the Bidding Documents. Any modification to the Bid Documents shall be identified as an amendment.

### 13.3. Receipt and Opening of Bids

- 13.3.1. A MGSP proponent shall submit its sealed bid proposal on or before the date and time indicated in the Invitation to Bid, which must not be later than thirty (30) calendar days from its publication and posting.
- 13.3.2. The opening of bids shall take place in the presence of qualified bidders and the MGSP BAC.

### 13.4. Bid Evaluation Criteria and Process

- 13.4.1. The MGSP BAC shall proceed with the determination of the winning MGSP using the evaluation criteria prescribed in the Bid Documents.
- 13.4.2. A bid that fails to meet all requirements in the Invitation to Bid shall not be considered. The first part of the bid shall undergo a pass/fail criteria based on financial, technical and legal qualifications, while the second part shall consider the lowest price.
- 13.4.3. The lowest calculated bid shall be subjected to a post-qualification process to determine whether the concerned bidder complies with and is responsive to all the requirements and conditions as specified in the TOR and other pertinent bidding documents. The following shall be the minimum criteria in the evaluation of the Technical and Financial Proposals:
  - 13.4.3.1. *Qualification of the Proponent* – to include among others, the technical capacities and experiences of the key personnel/staff to execute the design & engineering, construction works and set up an appropriate operations and management system, as well as the financial position of the proponent to undertake the project;
  - 13.4.3.2. *Proposed Technology* – compliance with applicable rules and policies contained in the Philippine Small Grid Guidelines issued by the ERC and the Renewable Energy Portfolio Standards in Off-Grid Areas. The technology should be the least-cost option in providing 24/7 electricity service and will result to 100% household electrification in the area over the project term.

13.4.3.3. *Institutional Arrangements* – refers to the operation and maintenance arrangements, including billing and collection, disconnection, among others.

13.4.3.4. *Financial Proposal* to include assumptions used in the project costing, adequate financing, life-cycle cost estimate and formulation of its proposed full cost.

13.4.4. Upon MGSP BAC's determination of the winning MGSP, the DU's MGSP shall have the right to tender a lower all-in price offer within seven (7) calendar days after the MGSP BAC publishes all price offers it has received on its website. Such tender shall be submitted to the NPC and the winning bidder; or,

Should DU's MGSP tender a lower offer, the MGSP BAC shall recommend the award for electrification of the unserved or underserved area using Microgrid System to the DU's MGSP. Otherwise, the MGSP BAC shall recommend the award to the winning MGSP.

13.4.5. The NPC and the winning MGSP shall execute the MSC within ten (10) working days after the conduct of successful CSP, in accordance with the minimum terms and conditions as provided in the template.

13.4.6. The entire procedure from pre-qualification of MGSPs until the submission to the ERC of the awarded contract shall be no longer than ninety (90) calendar days after all the published requirements are completely submitted.

13.4.7. The award by the NPC to the MGSP, the execution of the MSC, and the filing of a complete application with the ERC pursuant to ERC's Revised Rules of Practice and Procedure, and Guidelines Governing Electronic Applications, Filings and Virtual hearings, or any subsequent amendment thereto, shall comprise the provisional authority of the MGSP to start collection of the rate specified in the award, the MSC, and the application upon the start of the MGSP's operation provided the following conditions are met:

13.4.7.1 The ERC shall issue the necessary Order granting provisional authority to MGSP to collect the applicable rate pursuant to Section 17.1 of the IRR.

13.4.7.2\_The ERC shall schedule and conduct a hearing thereon within thirty (30) calendar days from receipt of the complete application, upon publication and notice to all affected parties:

13.4.7.3 The final decision shall be issued within one hundred thirty-five (135) calendar days from receipt of the complete application.

13.4.8. In the event that there are no participants or there is no awarded MGSP in the CSP for a particular unserved or underserved area, the NPC shall perform its missionary electrification mandate in the said area until an MGSP takes part or is awarded in the next CSP.

## **SECTION 14. CSP for MGSP in DU Identified Unserved Areas**

### 14.1. Publication and Posting.

The Invitation to Bid shall be:

13.1.5. Issued by the NPC within twenty (20) calendar days from the publication of the DU identified unserved areas;

13.1.6. Published in a newspaper of general circulation once weekly for two (2) consecutive weeks, and in addition, be published at least once in a newspaper of local circulation in the province where the unserved and underserved areas are located;

13.1.7. Posted continuously in the websites of the DOE, NPC and NEA in the case of the ECs, for fifteen (15) consecutive calendar days upon publication; and,

13.1.8. Posted at any conspicuous places within the concerned DU's main office premises for fifteen (15) consecutive calendar days upon publication.

### 14.2. Pre-bid Conference

14.2.1. The MGSP BAC shall conduct a pre-bid conference to address the queries from the prospective bidders.

14.2.2. The pre-bid conference shall discuss, among other things, the eligibility requirements, the TOR and the technical, legal and financial components of the MSC to be bid out.

14.2.3. The MGSP BAC shall reply to the written queries or clarifications of the MGSP Proponents in the form of Bid/Supplemental Bulletins.

14.2.4. Decisions of the MGSP BAC amending any provision of the Bidding Documents shall be issued in writing through a Supplemental/Bid

Bulletin at least seven (7) working days before the deadline for the submission and receipt of bids.

14.2.5. Supplemental/Bid Bulletins may be issued in the following circumstances:

14.2.5.1. Request of the MGSP Proponents for clarification(s) on or for an interpretation of any part of the Bid Documents; and,

14.2.5.2. Upon the initiative of the DU for purposes of clarifying or modifying any provision of the Bidding Documents. Any modification to the Bid Documents shall be identified as an amendment.

#### 14.3. Receipt and Opening of Bids

14.3.1. A MGSP proponent shall submit its sealed bid proposal on or before the date and time indicated in the Invitation to Bid, which must not be later than thirty (30) calendar days from its publication and posting.

14.3.2. The opening of bids shall take place in the presence of qualified bidders and the MGSP BAC.

#### 14.4. Bid Evaluation Criteria and Process

14.4.1. The MGSP BAC shall publish all price offers from the MGSP Proponent it has received on its website.

14.4.2. A bid that fails to meet all requirements in the Invitation to Bid shall not be considered. The first part of the bid shall undergo a pass/fail criteria based on financial, technical and legal qualifications, while the second part shall consider the lowest price.

14.4.3. The DU shall have the right to tender a lower all-in price offer within seven (7) calendar days after the MGSP BAC publishes all price offers.

14.4.4. Should DU tender a lower offer, the MGSP BAC shall recommend the award for electrification of the unserved area using Microgrid System to the DU.

Otherwise, the MGSP BAC shall recommend the MGSP proponent with the lowest all-in price offer as the winning MGSP. The winning MGSP shall be subjected to a post-qualification process to determine whether the concerned bidder complies with and is responsive to all the requirements and conditions as specified in the TOR and other



pertinent bidding documents. The following shall be the minimum criteria in the evaluation of the Technical and Financial Proposals

- 14.4.4.1. *Qualification of the Proponent* – to include among others, the technical capacities and experiences of the key personnel/staff to execute the design & engineering, construction works and set up an appropriate operations and management system, as well as the financial position of the proponent to undertake the project;
- 14.4.4.2. *Proposed Technology* – compliance with applicable rules and policies contained in the Philippine Small Grid Guidelines issued by the ERC and the Renewable Energy Portfolio Standards in Off-Grid Areas. The technology should be the least-cost option in providing 24/7 electricity service and will result in 100% household electrification in the area over the project term.
- 14.4.4.3. *Institutional Arrangements* – refers to the operation and maintenance arrangements, including billing and collection, disconnection, among others.
- 14.4.4.4. *Financial Proposal* to include assumptions used in the project costing, adequate financing, life-cycle cost estimate and formulation of its proposed Full Cost Recovery Rate (FCRR).
- 14.4.5. The NPC and the winning MGSP/DU shall execute the MSC within ten (10) working days after the conduct of successful CSP, in accordance with the minimum terms and conditions as provided in the template.
- 14.4.6. The entire procedure from pre-qualification of MGSPs until the submission to the ERC of the awarded contract shall be no longer than ninety (90) calendar days after the publication by the DOE of the list of DU identified unserved areas .
- 14.4.7. The award by the NPC to the MGSP/DU, the execution of the MSC, and the filing of a complete application with the ERC, and the issuance of the ERC of the appropriate ATO and COC shall comprise the provisional authority of the MGSP/DU to start collection of the rate specified in the award, the MSC, and the application upon the start of the MGSP's operation on the conditions that:
  - 14.4.7.1 The ERC shall schedule and conduct a hearing thereon within thirty (30) calendar days from receipt of the complete application, upon publication and notice to all affected parties; and,

14.4.7.2 The final decision shall be issued within one hundred thirty-five (135) calendar days from receipt of the complete application.

14.4.8. In the event there are no offers from any MGSP for a particular DU identified unserved area, the DU shall electrify the area through a DU operated microgrid system within eighteen (18) months from the lapse of the thirty (30) calendar day period for MGSPs to tender an all-in price offer.

## **SECTION 15. Nomination of Areas by MGSP Proponents**

The NPC may adopt the Swiss Challenge for Unsolicited Proposal (USP) as an alternative mode in selecting the MGSP in accordance with the guidelines prescribed under this IRR.

### **15.1. Requisites for Unsolicited Proposal**

The USP shall be considered when the target area is currently assigned to or served by the NPC or all the following conditions exist:

- 15.1.1. The target area is unserved or underserved area;
- 15.1.2. The target area is not yet published as DOE declared unserved or underserved area or DU identified unserved area; and,
- 15.1.3. The target area is not included in the DU's LTER or DDP.

### **15.2. Submission of a Complete USP**

The MGSP proponent shall submit the following USP documents to the NPC:

- 15.2.1. Cover letter expressing its interest;
- 15.2.2. Documents as proof of its eligibility, as provided in Annex "A" "Checklist of Requirements for MGSP; and,
- 15.2.3. Project Proposal which shall contain the following, at the minimum:
  - 15.2.3.1. Proposed electrification solution or technology to be applied for the target area including the system design for the generation and distribution lines;
  - 15.2.3.2. Number of potential and target household connections;
  - 15.2.3.3. Proposed institutional and commercial arrangements (i.e., meter reading, billing and collection, disconnection policies, etc.)

- 15.2.3.4. Expected date of commissioning/commercial operation of the project;
- 15.2.3.5. Work Plan with target dates, detailing the schedule of the significant activities to be taken towards project completion including the target date of application with the ERC for the issuance of the Authority to Operate (ATO);
- 15.2.3.6. Proposed FCRR and other charges to end-users.

### 15.3. Receipt and Acceptance of the USP

- 15.3.1. Upon receipt of the USP, the MGSP BAC shall check the presence or absence of the required documents as provided under Section 15.2. of this IRR. The MGSP BAC shall only accept the USP with complete documents.
- 15.3.2. The MGSP BAC shall inform the Proponent the completeness of the document within three (3) working days. For incomplete submission, all documents shall be returned to the Proponent.
- 15.3.3. In case the first USP is not accepted, the MGSP BAC shall continue checking the completeness of the required documents under Section 15.2 of this IRR of the other MGSP Proponents, if any, using the First-In-Time Approach.

### 15.4. Evaluation of the USP

- 15.4.1. The following shall be the minimum criteria in the evaluation of the Technical and Financial Proposals:
  - 15.4.1.1. *Qualification of the Proponent* – to include among others, the technical capacities and experiences of the key personnel/staff to execute the design & engineering, construction works and set up an appropriate operations and management system, as well as the financial position of the proponent to undertake the project;
  - 15.4.1.2. *Proposed Technology* – compliance with applicable rules and policies contained in the Philippine Small Grid Guidelines issued by the ERC and the Renewable Energy Portfolio Standards in Off-Grid Areas. The technology should be the least-cost option in providing 24/7 electricity service and will result in 100% household electrification in the area over the project term.
  - 15.4.1.3. *Institutional Arrangements* – refers to the operation and maintenance arrangements, including billing and collection, disconnection, among others.

- 15.4.1.4. *Financial Proposal* to include assumptions used in the project costing, adequate financing and life-cycle cost estimate and formulation of its proposed FCRR.
- 15.4.2. The MGSP BAC shall evaluate and inform the Proponent whether the USP is qualified or not within twenty (20) working days. For unqualified USP, all documents shall be returned to the MGSP Proponent. The MGSP BAC may proceed with the evaluation of another MGSP proponent. If none of the MGSP Proponents will qualify, a CSP shall be conducted pursuant to Section 13 of this IRR after the posting of the area as DOE declared unserved or underserved area.
- 15.4.3. In case the MGSP BAC receives more than one USP involving the same target area prior to the declaration of the first USP as the “Original Proposal”, the MGSP BAC shall evaluate the proposals using a First-In-Time approach.
  - 15.4.3.1. Under the First-In-Time approach, the complete USP first received by the MGSP BAC shall primarily be evaluated and decided upon. Subsequent submitted USP will only be evaluated if the first one is not qualified, based on the order of their submission.
  - 15.4.3.2. The MGSP BAC shall acknowledge the USP submissions of other MGSP Proponents for similar target area and advise the said MGSP Proponents of the existence of similar proposal(s) and its rank/position based on the date of receipt.
  - 15.4.3.3. If the USP has been declared as the “Original Proposal”, other proposals shall be returned to the respective proponents unopened.
- 15.4.4. The MGSP BAC shall subsequently declare the MGSP Proponent as the Original Proponent and its accepted USP as the “Original Proposal”, and shall prepare the TOR and the corresponding Bidding Documents.

## 15.5. Preparation and Review of Bid Documents

- 15.5.1. The MGSP BAC shall prepare the Bid Documents based on the Original Proposal of the Original Proponent which include at the minimum the following:
  - 15.5.1.1. Invitation to bid;
  - 15.5.1.2. Bidding schedule;

- 15.5.1.3. Terms of Reference that includes, but not limited to, the following data from the USP:
- i. Projected load profile;
  - ii. Type of offered technology;
  - iii. Proposed energy generated for the term period;
  - iv. Target number of households;
  - v. Demographic profile of the target area including the existing electricity provider;
  - vi. Full Cost Rate; and
  - vii. Target date of Commercial Operations.
- 15.5.1.4. Draft MSC in accordance with the template provided by the DOE.

15.5.2. The Bid Documents and TOR shall be submitted by the NPC to the DOE for review and evaluation, within thirty (30) working days from the receipt of complete USP documents.

15.5.3. The DOE shall recommend changes to the Bid Documents and the TOR when necessary, within thirty (30) working days upon receipt from the NPC.

## 15.6. Swiss Challenge for Unsolicited Proposal

The Original Proposal shall be subjected to a Swiss Challenge.

### 15.6.1. Publication and Posting

The target area shall be published and posted on the ~~ERC~~ and DOE websites and be included in the list of DOE declared unserved or underserved areas. Such publication shall also serve as the invitation to bid.

### 15.6.2. Pre-bid Conference

15.6.2.1. The MGSP BAC shall conduct at least one (1) Pre-Bid Conference to address the queries of the prospective bidders within fourteen (14) calendar days after the publication of Invitation to Bid.

15.6.2.2. The pre-bid conference shall discuss, among other things, the eligibility requirements, the TOR and technical, legal and financial components of the MSC to be bid out.

15.6.2.3. Requests for clarification to the MGSP BAC from the prospective MGSP Proponents shall be made in writing or

through electronic mail before the conduct of the Pre-bid Conference, or after three (3) days from the scheduled Pre-bid Conference, and through manifestation(s) during the Pre-bid Conference.

- 15.6.2.4. The MGSP BAC shall reply to the written queries or clarifications of the MGSP Proponents in the form of Bid/Supplemental Bulletins.
- 15.6.2.5. Decisions/clarifications of the MGSP BAC amending any provision of the Bidding Documents shall be issued in writing through a Supplemental/Bid Bulletin at least seven (7) working days before the deadline for the submission and receipt of bids.
- 15.6.2.6. Supplemental/Bid Bulletins may be issued in the following circumstances:
  - 15.6.2.6.1. Request of the MGSP Proponents for clarification(s) on or before an interpretation of any part of the Bid Documents; and,
  - 15.6.2.6.2. Upon the initiative of the MGSP BAC for purposes of clarifying or modifying any provision of the Bidding Documents. Any modification to the Bid Documents shall be identified as an amendment.
- 15.6.2.7. Pre-bid Conference shall be conducted within ten (10) working days upon the posting of the invitation for comparative proposal.
- 15.6.2.8. The MGSP BAC shall ensure that all clarifications and queries must be clarified by the issuance of Supplemental/Bid Bulletins, and shall avoid any delay in the conduct of the Swiss Challenge.

### 15.6.3. Receipt and Opening of Comparative Proposals

- 15.6.3.1. A MGSP Proponent shall submit its sealed comparative proposal on or before the date and time indicated in the Invitation to Bid, which must not be later than thirty (30) working days from its publication and posting. Comparative proposals submitted after the deadline shall no longer be accepted.
- 15.6.3.2. The MGSP Proponents shall submit their proposals through their duly authorized representative using the forms specified in the Bidding Documents in two (2) separate

sealed bid envelopes which shall be submitted simultaneously. The first shall contain the technical component of the bid, including the eligibility requirements, and the second shall contain the financial component of the bid.

- 15.6.3.3. The MGSP BAC shall open the bids after the deadline for the submission and receipt of bids. The time, date, and place of the opening of bids shall be specified in the Bidding Documents. The MGSP Proponents or their duly authorized representatives may attend the opening of bids. The MGSP BAC shall ensure the integrity, security, and confidentiality of all submitted proposals.

In case the proposals cannot be opened as scheduled due to justifiable reasons, the MGSP BAC shall take custody of the bids submitted and reschedule the opening of bids on the next working day or at the soonest possible time through the issuance of a Notice of Postponement to be posted in the DOE or NPC's website, if any, and the NEA's website for ECs.

- 15.6.3.4. The opening of bids shall take place in the presence of qualified bidders, Observers, and the MGSP BAC. Absence of a MGSP Proponent shall not be a ground for the postponement of opening of bids or disqualification of the MGSP Proponent.

#### 15.6.4. Bid Evaluation of the Comparative Proposals

- 15.6.4.1. The MGSP BAC, after the end of the thirty (30) -day submission of comparative proposal, shall undergo a qualification and evaluation process of the legal, technical, and financial requirements submitted by proponents using the criteria indicated in the Bidding Documents.
- 15.6.4.2. The MGSP BAC shall recommend, in fourteen (14) calendar days, the declaration of the lowest comparative proposal as the lowest calculated bid to the NPC. Upon the NPC's declaration, the MGSP BAC shall notify the Original Proponent.
- 15.6.4.3. The Original Proponent shall have the right to match such price proposal within ten (10) working days from receipt of the notification from the MGSP BAC of the result of the comparative bid.
- 15.6.4.4. In case the Original Proponent fails to match the price proposal of the lowest calculated bid within the specified

period, the comparative proponent/lowest calculated bidder shall be the winning bidder.

On the other hand, if the Original Proponent matches the price proposal of the comparative proponent/lowest calculated bidder within the specified period, the Original Proponent shall be the winning bidder.

15.6.4.5. The Original Proponent shall be the winning bidder in case of the following conditions:

15.6.4.5.1. No comparative bid was received by the MGSP BAC; or,

15.6.4.5.2. Comparative bids failed to meet the requirements prescribed in the bid documents.

15.6.4.6. The MGSP BAC shall conclude the selection of the winning MGSP within fifty (50) working days from opening of the Comparative Bids and correspondingly recommend the issuance of the Notice of Award.

15.6.4.7. The NPC and the winning MGSP shall execute the MSC within ten (10) working days after the conduct of the successful bidding, in accordance with the template provided by the DOE.

## **SECTION 16. NPC Missionary Electrification**

16.1. In the event that there are no participants or there is no awarded MGSP in the CSP pursuant to Section 13 of this IRR, the NPC shall continue to perform its missionary electrification function by energizing the said area within twenty four (24) months from the availability of funding source. NPC shall continue to energize the area until an MGSP takes part or is awarded in the next CSP.

16.2. The NPC shall source the funding of the energization from the National Government or other identified fund sources and grants.

16.3. The NPC shall prepare and submit to the DOE a comprehensive and detailed Graduation Plan within six (6) months upon effectivity of this IRR and shall be updated annually. The said plan shall include, but not limited to, the following:

16.3.1. Areas to be included in the list of DOE declared Unserved and Underserved Areas; and,



- 16.3.2. Criteria for inclusion of areas in the DOE declared Unserved and Underserved areas.

## **PART V. Regulatory Framework**

### **SECTION 17. Permitting Process**

- 17.1. The Provisional Authority shall be issued by the ERC within seventy-five (75) calendar days upon receipt of complete application.
- 17.2. A hearing shall be scheduled and conducted by the ERC within thirty (30) calendar days from receipt of the complete application, upon publication and notice to all affected parties.
- 17.3. The final decision relative to the application for ATO shall be issued by the ERC within one hundred thirty-five (135) calendar days from receipt of the complete application.
- 17.4. A COC shall be secured from the ERC prior to the commercial operation of the MGSP.
- 17.5. Republic Act No. 11234, otherwise known as the “Energy Virtual One-Stop Shop Act”, shall apply to the permitting process of all MGSPs: Provided, That the applicable time frame shall be reduced to half of the time frame indicated in Sections 13, 14 ,15 and 16 of Republic Act No. 11234 unless the specific time frame is provided in the Act or in this IRR.

### **SECTION 18. Issuance of Rates**

- 18.1. The ERC shall evaluate and determine an MGSP or DU operated microgrid system’s full cost, approved subsidy if applicable, and retail rate imposed on end-users of unserved and underserved areas.
- 18.2. The ERC shall issue rules on the UCME availment in accordance with DOE’s existing policy on subsidy rationalization within one hundred twenty (120) calendar days upon effectivity of this IRR.

### **SECTION 19. Technical and Services Performance Standards**

The ERC shall develop, establish, and promulgate in consultation with the DOE, NPC, NEA and other relevant government agencies and private stakeholders in the electric power industry, the minimum technical and service performance standards for microgrid systems within one hundred twenty (120) calendar days from the effectivity

of the Act: Provided, That these standards shall be compliant with the PDC, Philippine Small Grid Guidelines, Philippine Grid Code, and other relevant rules and regulations

## **PART VI. Administration of UCME Subsidy**

### **SECTION 20. Collection and Disbursement Procedure**

- 20.1. The ERC within ninety (90) days upon effectivity of this IRR, shall issue a resolution on the recovery, collection and availment of UC-ME by NPC for microgrid.
- 20.2. The NPC shall submit to the ERC, within sixty (60) days upon effectivity of this IRR, the guidelines for the disbursement of UC-ME to MGSPs.
- 20.3. The procedure for the release of the UC-ME subsidy shall not be more than forty-five (45) calendar days from submission to the NPC of the UC-ME subsidy claim with complete documentary requirements.

## **PART VII. Transition of Service Procedure**

### **SECTION 21. Expiration of MSC**

In the event of a distribution grid extension upon the expiration of an MSC, the DU shall have the option to acquire the microgrid system of the MGSP, and resume its obligation to provide distribution services and connection, and supply electricity to the said area subject to the approval of the ERC and pursuant to Section 22 of this IRR.

Should there be no distribution grid extension upon the expiration of an MSC, a CSP shall be conducted pursuant to Sections 13 or 14 of this IRR, whichever is applicable: Provided, That the MGSP with the expiring MSC over the area that participates in such CSP shall have the exclusive right to tender a lower offer within seven (7) calendar days from the announcement of the winning MGSP in the CSP.

### **SECTION 22. Detailed Transition of Service Procedure**

The DOE together with the NPC shall issue, within one hundred eighty (180) days upon effectivity of this IRR, a detailed procedure for the transition of service from the NPC or a DU to an MGSP, or from an existing MGSP to a DU or another MGSP. Provided, that such transition shall not exceed ninety (90) calendar days from the completion of the CSP.

## **PART VIII. Functions and Responsibilities**

### **SECTION 23. DOE**

The DOE shall:

- 23.1. Prepare and publish annually on its website the NTER, upon consultation with public and private stakeholders;
- 23.2. Determine, in consultation with DUs, the time frame for compliance with their respective LTERs and DDPs: Provided, that all projects in each annual work plan shall be completed not later than eighteen (18) months from submission to the DOE or, in the case of DU identified unserved areas, from the lapse of the thirty (30)-calendar day period for MGSPs to tender an all-in price offer pursuant to Section 14 of the IRR;
- 23.3. Receive and verify petitions from end-users, who are currently residing in an unserved or underserved area not identified or included by the DU in its LTER or not declared by the DOE as such, to declare such area as an unserved or underserved area;
- 23.4. Identify and declare regularly unserved and underserved areas;
- 23.5. Oversee/supervise the conduct of the CSP for electrification of Unserved and Underserved Areas through Microgrid System, pursuant to Sections 10 to 15 of this IRR;
- 23.6. Monitor the operations of all awarded MGSPs and their respective MSCs: Provided, That the DOE, motu proprio or upon complaint, may conduct a review of an MGSP's operation and its corresponding MSC should it find reasonable grounds for noncompliance with the minimum technical and service performance standards and other provisions of the MSC;
- 23.7. Determine a detailed procedure for the transition of service from the NPC or a DU to an MGSP, or from an MGSP to a DU or another MGSP, whichever is applicable;
- 23.8. Provide support to the ERC in the development and promulgation of the minimum technical and service performance standards for microgrid systems consistent with Section 19 of this IRR; and,
- 23.9. Perform such other powers and functions as may be necessary to attain the objectives of the Act.

## **SECTION 24. ERC**

The ERC shall:

- 24.1. Provide for a simplified and streamlined permitting process for MGSPs and DU operated microgrid systems in accordance with the time frame specified in

- Section 17 of this IRR, and issue an ATO and COC to an MGSP pursuant to such process;
- 24.2. Develop, establish, and promulgate in consultation with the DOE, the NPC, the National Electrification Administration (NEA), and other relevant government agencies and private stakeholders in the electric power industry, the minimum technical and service performance standards for microgrid systems within one hundred twenty (120) calendar days from the effectivity of the Act: Provided, That these standards shall be compliant with the PDC, PSGG, Philippine Grid Code, and other relevant rules and regulations;
  - 24.3. Review and act on all MSCs entered into within the time frame consistent with Section 17 of this IRR;
  - 24.4. Exercise its rate-making power through the evaluation and determination of the following, within the applicable time frames provided under Section 17 of this IRR:
    - 24.4.1. An MGSP or DU operated microgrid system's full cost, approved subsidy if applicable, and retail rate imposed on end-users of unserved and underserved areas;
    - 24.4.2. An equitable recovery mechanism, if applicable, for an MGSP's assets to ensure just compensation at the expiration of the MSC pursuant to Section 17 of the Act; and,
    - 24.4.3. In the event of a distribution grid extension, upon the expiration of the MSC, and upon decision of the DU to acquire the microgrid system, review the application of the DU before the ERC to connect the microgrid system to the distribution grid pursuant to the equitable recovery mechanism provided in this section provided that any connection that results in an increase in rates shall have to be approved by the ERC.
  - 24.5. Monitor the compliance of all MGSPs with their obligations under their respective ATOs and COCs;
  - 24.6. Issue rules for the UC-ME availment of MGSPs in accordance with the DOE Rationalization Policy for UC-ME;
  - 24.7. Issue a resolution on the recovery, collection and availment of UC-ME by the NPC for microgrid;

- 24.8. Exercise original and exclusive jurisdiction over all cases involving the exercise of the abovementioned powers, functions, and responsibilities, and over all cases involving disputes arising from the Act, except in competition cases under Republic Act No. 10667, otherwise known as the “ Philippine Competition Act”; and,
- 24.9. Process any DU’s application for renewal of Certificate of Public Convenience and Necessity even with the presence of an MGSP in its franchise area pursuant to Section 18 of the Act.

## **SECTION 25. NEA**

The NEA shall:

- 25.1. Assist ECs in the preparation of their respective LTERs;
- 25.2. Evaluate and verify the unserved and underserved areas submitted by ECs as part of its LTER and submit its recommendations to the DOE not later than the 15th of March of every year;
- 25.3. Provide support to the ERC in the development and promulgation of the minimum technical and service performance standards for microgrid systems consistent with Section 19 of this IRR;
- 25.4. Provide support in the DOE’s issuance of Guidelines of the Technical, Financial and other requirements for an MGSP in coordination with the NPC and Transco; and,
- 25.5. Issue guidelines for the Joint Venture engagement of ECs.

## **SECTION 26. NPC**

The NPC shall:

- 26.1. Prepare and execute annually an NPC Graduation Plan pursuant to Section 16.2 of this IRR;
- 26.2. Continue to perform its missionary electrification mandate, including areas with no participating or awarded MGSP during a CSP pursuant to Section 16.1 of this IRR;
- 26.3. Conduct CSPs pursuant to Sections 10.1 and 10.2 of this IRR consistent with the procedure under Sections 13 or 14 of this IRR.;

- 26.4. Execute the MSC with the awarded MGSP in accordance with the minimum terms and conditions as provided in the template;
- 26.5. Exclusively collect from the DUs, administer, and apply the UC-ME;
- 26.6. Provide simplified and streamlined procedure and requirements for the processing of UC-ME subsidy claims, upon consultation with public and private stakeholders;
- 26.7. Release the UC-ME subsidy within forty-five (45) calendar days from submission to the NPC of the UC-ME subsidy claim with complete documentary requirements;
- 26.8. Provide support in the DOE's issuance of Guidelines of the Technical, Financial and other requirements for an MGSP in coordination with the NEA, and TRANSCO;
- 26.9. Provide support to the ERC in the development and promulgation of the minimum technical and service performance standards for microgrid systems consistent with Section 19 of this IRR; and,
- 26.10. Provide support in the determination and establishment of a detailed procedure for the transition of service from the NPC or a DU to an MGSP, or from an MGSP to a DU or another MGSP, whichever is applicable.

## **SECTION 27. DU**

The DU shall:

- 27.1. Develop the LTER to be submitted annually to DOE or through the NEA in the case of the ECs;
- 27.2. Integrate the LTER in its DDP;
- 27.3. DU may enter into a joint venture for the installation and operation of microgrid systems consistent with requirements of Section 15 of the Act.

## **SECTION 28. MGSP Proponent**

The MGSP Proponent shall:

- 28.1. Secure the necessary permits and licenses from the relevant government agencies; and,

- 28.2. Comply with all provisions, including the financial, technical, environmental and other performance standards for the MGSP including provision of the MSC entered into with the NPC.

## **SECTION 29. MGSP and DU's MGSP**

The MGSP and DU's MGSP shall:

- 29.1. Build, operate, maintain, and control its microgrid system in accordance with its MSC, the Act, and other applicable laws, rules, regulations, and codes;
- 29.2. Supply the load requirements of its area of operation, faithfully implement its electrification work program, and comply with all its obligations under its MSC, if applicable;
- 29.3. Prepare and submit any report required by the ERC and DOE pursuant to their powers under Sections 11 and 12 of the Act;
- 29.4. Ensure end-user safety and protection at all times; and,
- 29.5. In the case of MGSPs, be exempt from the following:
- 29.5.1. The public listing requirement under Section 28 of Republic Act No. 9136, and,
  - 29.5.2. The market share limitation requirement under Section 45(a) of Republic Act No. 9136.
- 29.6. The end-users in unserved areas and underserved areas not connected to the grid or within a franchise area where the distribution system is not connected to the grid shall be exempt from the following:
- 29.6.1. The payment of feed-in-tariff (FIT) allowance under the FIT system in Section 7 of Republic Act no. 9513, otherwise known as the "Renewable Energy Act of 2008", and,
  - 29.6.2. The payment of universal charges under Section 34 of Republic Act No. 9136.

## **SECTION 30. Strengthening and Expansion of the Electric Power Industry Management Bureau in the Department of Energy.**

Within six (6) months from the effectivity of the IRR, the Secretary of the DOE shall submit the organizational structure and staffing complement, which shall be effective

upon the approval of the Department of Budget and Management, consistent with existing civil service rules and regulations.

Pending the approval of the organizational structure and staffing complement, the Secretary of the DOE may designate staff to operationalize the divisions created and to perform the duties, functions, and responsibilities under the Act and the IRR.

### **SECTION 31. Creation of a Special Division in the Energy Regulatory Commission.**

A special Division attached to the appropriate Service Department in the ERC is hereby created for the effective implementation of the Act. The new organizational structure and staffing complement shall be determined by the Commission and approved by the Office of the President in accordance with the existing laws, rules, and regulations. The budgetary requirements shall be taken from the current appropriations of the ERC. Thereafter, the funding for the dedicated division shall be included in the GAA.

### **SECTION 32. NPC's Authority to Secure Required Resources.**

To effectively perform its mandate under this IRR, NPC is hereby authorized to secure resources, including but not limited to financial, human, and logistic, among others to fully comply with its duties and responsibilities.

## **PART IX. Prohibited Acts and Criminal and Administrative Penalties**

### **SECTION 33. Prohibited Act**

Any person, natural or juridical, is prohibited from the following acts:

- 33.1. Refusal to allow the installation of any microgrid system by an MGSP: Provided, That the requirements under Sections 5, 6, 7, 8, and 9 of the Act are complied with;
- 33.2. Refusal to turn over the provision of integrated power generation and distribution services to an MGSP, or distribution services and connection and supply of electricity to a DU, whichever is applicable;
- 33.3. Refusal to allow a DU to acquire a microgrid system pursuant to Section 17 of the Act;
- 33.4. Imposition of new contractual terms and charges on the end-user which are not part of the MSC or not approved by the ERC, whichever is applicable; and,



33.5. Failure to comply with the functions, responsibilities, and time frames in Sections 5 to 19 of the Act.

### **SECTION 34. Criminal and Administrative Penalties**

34.1. The responsible officers and employees of any private corporation or government agency who commit the following prohibited acts shall, upon conviction, suffer the following penalties:

34.1.1. Violation of Section 23(a), (b), and (c) - Imprisonment of six (6) years to eight (8) years, or a fine ranging from a minimum of Seventy-five million pesos (P75,000,000.00) to One hundred million pesos (P100,000,000.00), upon discretion of the court;

34.1.2. Violation of 23(d) - Imprisonment of four (4) years to six (6) years, or a fine ranging from a minimum of Fifty million pesos (P50,000,000.00) to Seventy-five million pesos (P75,000,000.00); and,

34.1.3. Violation of Section 23(e) - Imprisonment of two (2) years to four (4) years, or a fine ranging from a minimum of Twenty-five million pesos (P25,000,000.00) to fifty million pesos (P50,000,000.00), upon discretion of the court.

Any person who willfully aids or abets the commission of these prohibited acts or who causes the commission of any such act by another shall be liable in the same manner as the principal. In cases of an association, partnership, or corporation, the penalty shall be imposed on the member, partner, president, chief operating officer, chief executive officer, director, or officer responsible for the violation.

34.2 Without prejudice to the aforementioned criminal liabilities, any government officer, or employee who violates Section 23(e) of the Act shall be held administratively liable, as follows:

34.2.1. First offense - Thirty (30) days suspension without pay and mandatory attendance in Values Orientation Program;

34.2.2. Second offense - Three (3) months suspension without pay; and,

34.2.3. Third offense - Dismissal and perpetual disqualification from public service, and forfeiture of retirement benefits.

### **PART X. Final Provision**

**SECTION 35. AMENDATORY CLAUSE**

This IRR amends Section 16(c) of Commonwealth Act No. 146 otherwise known as the “Public Service Act”; Section 8 of Executive Order No. 172 Series of 1987, entitled “Creating the Energy Regulatory Board”; Sections 28, 43, 45(a), 51(l), 59, and 70 of Republic Act No. 9136; Sections 13, 14, 15, and 16 of Republic Act No. 11234; and any other law, presidential decree or issuance, executive order, letter of instruction, rules, and regulations inconsistent with the provisions of this Rule.

**SECTION 36. SEPARABILITY CLAUSE**

If any portion or provision of this IRR is declared unconstitutional, the same shall not affect the validity or the legality of the other provisions.

**SECTION 37. REPEALING CLAUSE**

Any law, presidential decree or issuance, executive order, letter of instruction, rules and regulations, and legislative or administrative franchises inconsistent with the provisions of this Rule is hereby repealed or modified accordingly.

**SECTION 38. EFFECTIVITY**

These Rules shall take effect fifteen (15) days following its complete publication in at least two (2) newspapers of general circulation. Copies thereof shall be filed with the University of the Philippines Law Center – Office of National Administrative Register (UPLC-ONAR).

Issued on \_\_\_\_\_ at Energy Center, Bonifacio Global City, Taguig City.