

DEPARTMENT CIRCULAR NO. DC 2024 - 09 - 0029

PROMULGATING THE REVISED GUIDELINES GOVERNING THE ALLOCATION, REMITTANCE, MONITORING AND AUDIT OF FINANCIAL BENEFITS TO HOST COMMUNITIES PURSUANT TO SECTIONS 6, 7, 10 AND 11 OF DEPARTMENT CIRCULAR (DC) NO. DC2018-08-0021

WHEREAS, on 26 July 2018, the Department of Energy (DOE) issued Department Circular (DC) No. DC2018-08-0021, titled "Providing for the Amendments to Rule 29 Part (A) of the Implementing Rules and Regulations of Republic Act No. 9136," which took effect on 23 August 2018, and establishes the rules and guidelines for the administration of financial benefits under the Energy Regulation No. 1-94 (ER 1-94) Program, in order to promote efficiency in the government processes and ensure that the financial benefits are properly allocated and availed of;

WHEREAS, DOE DC No. DC2018-08-0021 further provides that the utilized financial benefits shall be subject to post-audit by the following:

1. The National Electrification Administration - Commission on Audit (NEA-COA) Resident Auditor for the Electrification Fund (EF) utilized by electric cooperatives;
2. An entity, to be determined under a Memorandum of Agreement (MOA) for the EF utilized by private distribution utilities (DUs); and
3. An entity, to be determined under the MOA for Development and Livelihood Fund (DLF) and Reforestation, Watershed Management Health, and/or Environment Enhancement Fund (RWMHEEF), utilized by the Host Indigenous Cultural Communities (ICCs) / Indigenous Peoples (IPs).

WHEREAS, on various occasions, the DOE has received inquiries and requests for clarification regarding the allocation of the provincial share from Generation Company or Facilities (GenCos) and/or Energy Resource Development (ERD) facilities located within Highly Urbanized Cities (HUCs) in the National Capital Region (NCR), as the current remittance scheme tends to leave the provincial share stranded;

WHEREAS, Section 7 of DOE DC No. DC2018-08-0021 provides guidance to the GenCos and/or ERD facilities regarding the requirements and timeline for remitting ER 1-94 funds to the concerned DUs and host beneficiaries;

WHEREAS, on 14 June 2019, the DOE issued DC No. DC2019-06-0010, titled "Prescribing the Administrative Operating Guidelines for the Availment and Utilization of Financial Benefits by the ICCs/IPs pursuant to DOE Department Circular No. DC2018-03-0005";

WHEREAS, Section 14 of DOE DC No. DC2019-06-0010 further provides that the utilized financial benefits shall be subject to post-audit by the COA or in accordance with the MOA between Host ICCs/IPs and the GenCos and/or ERD facilities, whichever is applicable;

WHEREAS, on various dates, the DOE transmitted clarificatory letters to the COA regarding the audit on the utilization of ER 1-94 funds by the concerned DUs and Host ICCs/IPs;

WHEREAS, after consultation, it is imperative for the DOE to issue this Circular to align related policy issuances in the implementation of the ER 1-94 Program, as follows:

- a) Clarify further the allocation of ER 1-94 financial benefits accruing from the operations of GenCos and/or ERD facilities located within HUCs in NCR and other regions;
- b) Harmonize the reportorial and remittance obligations of GenCos and/or ERD facilities with the new policies and procedures;
- c) Monitor the compliance of GenCos and/or ERD facilities with the ER 1-94 fund remittance timeline and requirements; and
- d) Provide guidance on the audit of utilized ER 1-94 financial benefits by the concerned DUs and Host ICCs/IPs.

WHEREAS, the DOE conducted consultations on the proposed policy to solicit comments and inputs from concerned stakeholders, as follows:

Date	Activity
14 November 2022	Public Consultation with the Metro Manila Development Authority, and concerned National Capital Region Local Government Units Generation Companies
Various Dates	Consultation with COA Special Audit Office, and DOE Resident COA Auditor
26 February – 08 March 2024	Virtual Public Consultations

NOW, THEREFORE, in consideration of the foregoing, the DOE hereby issues and promulgates the following amendatory provisions:

Section 1. Section 2 (*Scope of Application*) of DC No. DC2018-08-0021 is revised to read as follows:

“This Circular shall apply to Generation Facilities (GenCos) and/or Energy Resource Development (ERD) facilities located in all barangays, cities, or municipalities, cities or Highly Urbanized Cities, provinces, and ancestral lands/domains of the ICCs/IPs.”

Section 2. Section 6 of DC2018-08-0021 (*Allocation and Application of Financial Benefits Fund*) is revised to read as follows:

"The GenCos and/or Energy Resource Developers xxx

6.1. xxx

6.2. xxx

The DLF and RWMHEEF shall be allocated in the following manner:

- 6.2.1. Community and People Affected - 5%
- 6.2.2. Host Barangay/s - 20%
- 6.2.3. Host Municipality/ies or City/ies - 35%
- 6.2.4. Host Province/s - 30%
- 6.2.5. Host ICCs/IPs - 5%
- 6.2.6. Host Region/s - 5%

xxx

6.3. For the allocation of DLF and RWMHEEF Provincial Share for HUCs, it shall be determined based on the following conditions:

6.3.1. HUCs within a Province where it is geographically located, the financial benefits shall be allocated in the following manner:

- 6.3.1.1. Community and People Affected - 5%
- 6.3.1.2. Host Barangay/s - 20%
- 6.3.1.3. Host City/ies - 35%
- 6.3.1.4. Host Province/s - 30%
- 6.3.1.5. Host ICCs/IPs - 5%
- 6.3.1.6. Host Region/s - 5%

6.3.2. HUCs situated in NCR and in Zamboanga Peninsula, the financial benefits shall be applied in the following manner:

- 6.3.1.7. Host Barangay/s - 25%
- 6.3.1.8. Host City/ies - 35%
- 6.3.1.9. Host Region/s - 40%

Section 3. Section 7 (Remittance of Financial Benefits) of said DC is hereby modified to read as follows:

7.1. The EF shall be remitted by the GenCos and/or ERD facilities to the DUs, while the DLF and RWMHEEF shall be remitted to the Host Local Government Units (LGUs), Host ICCs/IPs, and identified LGUs for the Host Region/s.

7.2. The remittance of Financial Benefits shall be subject to the compliance of the Host LGUs and ICCs/IPs with their submission of the following:

7.2.1. Established Trust Accounts submitted to GenCos and/or ERD facilities pursuant to the MOA on the Establishment of Trust Accounts;

- 7.2.2. Validation by GenCos and/or ERD facilities validation of Annual Work Plan (AWP) to ensure that the identified project cost is within the available ER 1-94 funds; and
- 7.2.3. A copy of the duly signed Liquidation Report by the Accountant of the Designated Beneficiaries, along with proof that it has been stamped received by the concerned COA Resident Auditor, as applicable.
- 7.3. In the event of non-compliance of the concerned DUs, Host LGUs, and Host ICCs/IPs with any of the requirements for the remittance of Financial Benefits, the corresponding funds shall be set aside and remitted to the dedicated trust accounts established by the GenCos and/or ERD facilities as provided in Section 8 of DOE DC No. DC2018-08-0021.
- 7.4. For non-host communities benefiting from the Region Share, the GenCos and/or ERD facilities shall remit the financial benefits to the General Fund Account (GFA) of the identified LGU, subject to a MOA for project implementation of the Regional Development Council (RDC), and GenCos and/or ERDs.

Section 4. Section 10 of DC No. DC2018-08-0021 (*Allocation and Application of Financial Benefits Fund*) is revised to read as follows:

10.1.

xxx

10.2. The AWP shall be prepared by the concerned DUs, Host LGUs, ICCs/IPs, and the concerned RDC of the Host Region as follows:

10.2.1. The Host LGUs, ICCs/IPs, as well as the non-host communities, as endorsed by RDC, shall prepare their respective AWP for DLF and RWMHEEF, at any given month of the year, whenever the funds are sufficient to finance the proposed projects. The AWP shall be submitted in both print and electronic copies to the concerned GenCos and/or ERD facilities.

10.2.2. For EF, the AWP shall be prepared by the concerned DUs and submitted in both print and electronic copy to the GenCos and/or ERD facilities not later than 15th of March of every year. The electrification projects identified in the AWP shall be prepared by the DU in accordance with its Local Total Electrification Roadmap.

xxx

Section 5. Section 11 (Audit of Financial Benefits and Project Monitoring and Audit of AWP) of DC2018-08-0021 is revised to read as follows:

11.1. Electricity Sales Audit

The DOE, through its Power Compliance Division (PCD) – Financial Services (FS), shall conduct periodic audits and reviews of reported electricity sales, fund allocation, and remittances of Financial Benefits of the GenCos and/or ERD facilities to the concerned DUs, Host LGUs, ICCs/IPs and identified LGU beneficiary for Host Region. The DOE shall maintain a database of the reported/validated electricity sales and remitted Financial Benefits.

The GenCos and/or ERD facilities shall ensure that the COA Special Audit Team, in coordination with DOE, has full access to pertinent books of accounts and other relevant documents relative to the ER 1-94 Program allocation and remittances to their designated beneficiaries. Furthermore, the GenCos/ERDs facilities shall maintain a database of reported and validated electricity sales.

11.2. Monitoring of AWP Implementation

For policy development and formulation, as well as continued evaluation of the ER 1-94 Program implementation, the GenCos and/or ERD facilities shall submit the required information on the Validated AWP of the Host Communities through the DOE-Electric Power Data Management System.

11.3. Audit of Project Implementation under Validated AWP

The utilization of ER 1-94 funds, considered as public funds, shall follow the usual government accounting and auditing rules and regulations and shall be audited by the COA.

11.3.1. Audit of DLF and RWMHEEF

11.3.1.1. Host LGUs and Regional Share LGU Beneficiaries' fund utilization and disbursement shall be audited by their respective COA Resident Auditors.

11.3.1.2. Host ICCs/IPs fund utilization and disbursement shall be audited by the COA Special Audit Team through a special audit engagement.

The Host ICC/IP Accounting Officer or its duly designated Accountant shall prepare and sign the Fund Utilization Report (FUR), duly approved by the ICC/IP Chieftain/Leader, along with fully accomplished supporting documents.

The repository and/or custodian of liquidation reports and other supporting documents submitted by the Host ICCs/IPs, LGUs and concerned DUs shall be the authorized officials of their respective units for the duration of five (5) years. They shall ensure that all records and documents are properly labeled, including the disbursement vouchers relative to the utilization of funds, to facilitate easy access and retrieval during the audit of COA Special Audit Team.

11.3.2. Audit of EF

11.3.2.1. The audit of EF utilized by the concerned DU shall be conducted by the COA Special Audit Team through a special audit engagement."

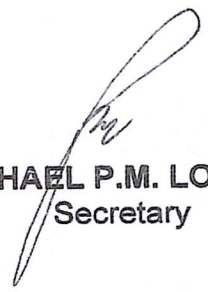
Section 6. Administrative Sanctions. The GenCos and/or ERD facilities shall comply with the mandatory requirements under DOE DC No. DC2018-08-0021, its Advisories, and this DC. Failure to comply, without justifiable reason, shall constitute grounds for the DOE to recommend to the Energy Regulatory Commission the imposition of administrative sanctions in accordance with its rules and regulations.

Section 7. Separability Clause. If for any reason, any section or provision of this DC is held unconstitutional or invalid, such parts not affected shall remain in full force and effect.

Section 8. Repealing Clause. All prior issuances, rules, regulations, or parts thereof that are inconsistent with this DC are hereby repealed, revoked, amended, or modified accordingly. The provisions of DOE DC No. DC2018-08-0021 not affected by this DC shall remain in effect.

Section 9. Effectivity. This DC shall take effect within fifteen (15) days after its complete publication in two (2) newspapers of general circulation. A copy of this DC shall be filed with the University of the Philippines Law Center – Office of National Administrative Register (UPLC-ONAR).

Issued on SEP 10 2024 at the DOE, Energy Center, Rizal Drive cor. 34th Street, Bonifacio Global City, Taguig City.


RAPHAEL P.M. LOTILLA
Secretary

