



DEPARTMENT CIRCULAR NO. _____

**PROVIDING SUPPLEMENTAL POLICY TO DEPARTMENT CIRCULAR
NO. DC2018-08-0021 ENTITLED "PROVIDING FOR THE AMENDMENTS
TO RULE 29 PART (A) OF THE IMPLEMENTING RULES AND REGULATIONS
OF REPUBLIC ACT NO. 9136"**

WHEREAS, on 26 July 2018, the DOE issued Department Circular (DC) No. DC2018-08-0021 entitled "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, to provide the rules and Guidelines for the administration of the financial benefits under the ER 1-94 Program to promote efficiency in the government processes and ensure that the financial benefits are properly allocated and availed of;

WHEREAS, DC2018-00-0021 further provides that the utilized financial benefits shall be subject to post-audit by:

1. The National Electrification Administration (NEA) Commission on Audit (COA) Resident Auditor for the Electrification Fund (EF) utilized by ECs;
2. An Entity, to be determined under a Memorandum of Agreement (MOA) for the EF utilized by the 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 Peoples (IPs)/Indigenous CCs (ICCs).

WHEREAS, on various dates, the DOE received inquiries or request for clarification on the allocation of provincial share accruing from Generation Company (GenCo)/Energy Resource Development (ERD) operations situated within Highly Urbanized Cities (HUCs) in Metro Manila;

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

WHEREAS, DC2019-06-0010 further provides that the utilized financial benefits shall be subject to post-audit by the COA or in accordance with MOA between Host ICCs/IPs and the GenCos and/or ERDs, whichever is applicable;

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

WHEREAS, upon consultation, it is imperative for the DOE to issue this Circular in harmonizing the related policy issuances relative to the implementation of ER 1-94 program to:

- a) Further clarify the allocation of ER 1-94 financial benefits accruing from the operations of generating facilities and/or energy resource development facilities located within HUCs in Metro Manila; and

- b) Provide guidance in the audit of utilized ER 1-94 financial benefits by the concerned DUs and Host IPs/ICCs.

WHEREAS, the DOE conducted a consultation on the proposed policy to solicit comments and inputs from concerned stakeholders, with details as follows:

Date	Activity
14 November 2022	Public Consultation with Metro Manila Development Authority, and concerned National Capital Region Local Government Units Generation Companies
Various Dates	Consultation with COA Special Audit Office, DOE Resident COA Auditor
February 2024	Online Public Consultation through Posting of Call for Inputs and/or Comments

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

Section 1. Section 2 of DC2018-08-0021 (*Scope of Application*) is revised to read as follows:

This Circular shall apply to Generation Facilities and/or ERD projects located in all barangays, cities or municipalities including the Highly Urbanized Cities within the National Capital Region (NCR), 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:

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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 in which it is geographically located,

The financial benefits shall be allocated consistent with Section 6.2. of DC2018-08-0021.

6.3.2. HUCs situated in NCR

The financial benefits shall be applied in the following manner:

6.3.2.1.	Community and People Affected	-	5%
6.3.2.2.	Host Barangay/s	-	20%
6.3.2.3.	Host City/ies	-	35%
6.3.2.4	Host IP/ICC	-	5%
6.3.2.5.	Host Region	-	35%

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Section 3. Section 11 Audit of Financial Benefits and Project Monitoring and Audit of Annual Work Plan (AWP) of DC2018-08-0021 is revised to read as follows:

11.1. Electricity Sales Audit

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The DOE shall be allowed to have full access to pertinent books of accounts, and secure and maintain a copy of relevant documents from the GenCos and/or ERDs relative to ER 1-94 Program and maintain a database of the reported and validated electricity sales and remitted financial benefits.

11.2. Monitoring of AWP Implementation

For policy development and formulation as well as continued evaluation of the ER 1-94 Program implementation, the GenCo and/or ERDs shall accomplish AWP Implementation template form as attached in Annex "A", to be submitted 60 calendar days after the end of each Quarter at the reference year.

11.3. Audit of Project Implementation under Validated AWP

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

11.3.1. Audit DLF and RWMHEEF

11.3.1.1. For the case of Host LGUs and Region's Beneficiaries, the audit shall be conducted by its Local COA.

11.3.1.2. For the case of Host IPs/ICCs, audit shall be conducted by the designated COA unit.

11.3.2. Audit of EF

The audit of EF utilized by the concerned DU shall be conducted by the designated COA unit.

11.3.3. 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, together with fully accomplished supporting documents.

11.3.4. For the Host IPs/ICCs and concerned DUs, the repository and/or custodian of liquidation reports and other supporting documents shall be with the authorized officials of their respective units to ensure that all records and documents are properly labeled, including the disbursement vouchers relative to the utilization of funds shall be made available for easy access and retrieval during the COA's cyclical audit.

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Section 4. Administrative Sanctions.

The GenCo and/or ERDs shall comply with the mandatory requirements of this Circular as well as the DC2018-08-0021 and its Advisories. Failure or refusal, without justifiable

reason, shall constitute grounds for the DOE to recommend to the ERC administrative sanctions in accordance with its rules and regulations.

Section 5. Capacity Building Support

Upon effectivity of this Circular, the DOE shall undertake continuous Information, Education and Communication activities to the concerned stakeholders to effectively implement the provisions of this Circular.

Section 6. Separability Clause.

If for any reason, any provision of this Circular or application of such provision is held invalid, the other provisions hereof as they are separable, shall remain in full force and effect.

Section 7. Repealing Clause.

All prior issuances, rules, regulations, or part thereof which are inconsistent with this Circular are hereby repealed, revoked, amended, or modified accordingly.

Section 8. Effectivity.

This Circular shall take effect within fifteen (15) days after its complete publication in two (2) newspapers of general nationwide circulation and submission to the University of the Philippines Law Center – Office of National Administrative Register.

Issued on _____ 2024 at DOE Building, Energy Center, Rizal Drive, Fort Bonifacio Global City, Taguig City.

RAPHAEL P.M. LOTILLA
Secretary

Date: _____