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| **DOE’s Proposed Provision** | **Comments / Recommendation** | **Proposed Wording** |
| **PRESCRIBING REVISED GUIDELINES FOR THE QUALIFICATION AND PARTICIPATION OF QUALIFIED THIRD PARTIES PURSUANT TO SECTION 23, 59 AND 70 OF THE REPUBLIC ACT NO. 9136, OTHERWISE KNOWN AS THE ELECTRIC POWER INDUSTRY REFORM ACT OF 2001** |  |  |
| **WHEREAS**, Section 2(a) of Republic Act No. 9136 or, the “Electric Power Industry Reform Act of 2001” (EPIRA), declared the policy of the State to ensure and accelerate the total electrification of the country; |  |  |
| **WHEREAS**, Section 23 of the EPIRA states that the Distribution Utilities (DUs) shall provide universal service within their franchise area, over a reasonable time from the requirement thereof, including Unviable Areas, as part of their social obligation, in a manner that shall sustain the economic viability of the utility; |  |  |
| **WHEREAS**, Section 59 of the EPIRA authorized the provision of electric services by alternative service providers also known as Qualified Third Parties (QTPs) in remote and Unviable Areas that the franchised DU is unable to service for any reason; |  |  |
| **WHEREAS**, pursuant to Rule 13 of the EPIRA-IRR, the DOE shall issue specific guidelines on how to encourage the inflow of private capital and the manner in which other parties, including DUs and QTPs, can participate in the projects set forth in the Missionary Electrification Development Plan (MEDP); |  |  |
| **WHEREAS,** pursuant to Section 4 of Rule 14 of the EPIRA-IRR, the DOE shall set the criteria to determine the qualifications of third party entities that may participate in providing electricity to remote and Unviable Areas; |  |  |
| **WHEREAS**, in compliance with Rule 13 of the EPIRA-IRR, and Section 4 of Rule 14 of the EPIRA-IRR, the DOE issued Department Circular No. 2004-06-006 and Department Circular No. 2005-12-011 on 18 June 2004, and 12 December 2005, respectively, that prescribed the qualification criteria and guidelines for the participation of QTPs in the Unviable Areas; |  |  |
| **WHEREAS,** Section 12 of Rule 4of the IRR of Republic Act No. 9513 or the “Renewable Energy Act of 2008” or “RE Act,” mandates that NPC-SPUG or its successors-in-interest, DUs concerned, and/or QTPs in off-grid areas shall, in the performance of its mandate to provide missionary electrification, source a minimum percentage of its total annual generation from available renewable energy resources in the areas concerned as determined by DOE; |  |  |
| **WHEREAS**, in order to further strengthen and expand the QTP Program and to meet the total electrification target of the Government, there is a need to update and revise the existing qualification criteria and guidelines for the participation of QTPs including the streamlining of the accreditation process and provide a policy and regulatory environment that is more conducive to the participation of private sector; |  |  |
| **WHEREAS**, the DOE conducted public consultations with stakeholders in Manila, Cebu City and Davao City including focused group discussions with the attached agencies to discuss the proposed amendment to the DOE QTP Circulars;   |  |  | | --- | --- | | **Venue** | **Dates** | | Luzon – Makati City | June 5, 2015 | | Visayas – Cebu City | July 2, 2015 | | Mindanao – Davao City | June 25, 2015 | |  |  |
| **NOW, THEREFORE, FOR AND IN CONSIDERATION OF THE FOREGOING PREMISES**, the DOE hereby promulgates the following guidelines and procedures for the qualification and participation of QTPS in Unviable Areas. |  |  |
| **ARTICLE I**  **GENERAL PRINCIPLES** |  |  |
| **Section 1. Declaration of Policies.**  It is hereby declared the policies of the DOE that: |  |  |
| (a) All DUs shall endeavor to provide electricity services to all households within their respective franchise areas, including remote and Unviable Areas, in an efficient and sustainable manner consistent with their respective franchises. |  |  |
| (b) All Unviable Areas, which the DU cannot serve for whatever reason are eligible for support under the Government’s missionary electrification program and are declared open for participation by QTPs. All Unelectrified Areas are hereby declared Unviable Areas, without necessity of declaring said areas as unviable pursuant to Section 3 of this Circular. |  |  |
| (c) All QTPs shall adopt the least-cost and most efficient technology options in serving Unviable Areas. Towards this end, preference shall be given to persons or entities that can offer the least-cost technologies with due consideration to RE resources, if available in the area. For the purpose of this Circular, the “least-cost technologies” refers to technologies that can provide the highest level of electric service at lower cost applicable to a particular Unviable Area/s. |  |  |
| (d) The NPC-SPUG shall continue to electrify Unviable Areas not taken by the QTPs or other entities under specific projects and programs of Local Government Units (LGUs), Official Donor Assistance (ODAs), and DUs that have waived their obligations to serve such Unviable Areas. |  |  |
| **Section 2. Definition of Terms.** |  |  |
| 1. ***“Competitive Selection Process”*** or ***“CSP”*** refers to the process wherein a Qualified Third Party (QTP) is selected through a transparent, open, and competitive bidding to secure, among others, the lowest long-term cost of power and services and the most advantageous implementation schedule; |  |  |
| 1. "***Department of Energy***" or "***DOE***" refers to the government agency created pursuant to Republic Act No. 7638 whose expanded functions are provided in the EPIRA; |  |  |
| 1. "***Distribution Utility***" or "***DU***" as refers to any Electric Cooperative, private corporation, government-owned utility or existing local government unit which has an exclusive franchise to operate a distribution system in accordance with its franchise and the EPIRA; |  |  |
| 1. "***Electric Cooperative*** " or "***EC***" refers to an electric distribution utility organized and registered pursuant to Presidential Decree No. 269, as amended, Republic Act No. 9520 and other related laws; |  |  |
| 1. "***Eligible DU or EC***" refers to any DU or EC qualified by DOE and authorized by the ERC to serve Unviable Areas pursuant to Rule 7, Section 6(a) of the EPIRA-IRR, and as prescribed in this Circular for the purpose of attaining and accelerating the total electrification of the country; |  |  |
| 1. "***Energy Regulatory Commission***" or "***ERC***" refers to the independent, quasi-judicial regulatory agency created under Section 38 of EPIRA, which shall, among others, promote competition, encourage market development, have exclusive jurisdiction over all cases contesting rates, fees, fines and penalties, as well as fix and approve the Universal Charge imposed on all electricity consumers for purposes provided in the EPIRA; |  |  |
| 1. "***Full Cost Recovery Rate***" or "***FCRR***" refers to the rate, expressed in Peso per kilowatt-hour, that allows the recovery of the full efficient costs of sustaining the generation, distribution and supply of electricity in Unviable Areas served by QTPs, and other entities as may be authorized by the ERC to serve under the QTP Program; |  |  |
| 1. "***Generation Company***" refers to any person or entity authorized by the ERC to operate facilities used in the generation of electricity; |  |  |
| 1. ***“Joint Venture”*** of ***“JV”*** refers to a strategic partnership between an eligible DU, and a private sector, or a Government entity, or a combination thereof, which shall bind them to contribute money, capital, assets, property and service to provide electricity service in an Unviable Area, and with the intention of sharing in the profits or losses derived there from; |  |  |
| 1. "***Missionary Electrification***" refers to provision of basic electricity service in Unviable Areas with the ultimate aim of bringing the operations in these areas to viability levels; |  |  |
| 1. "***Missionary Electrification Development Plan***" or "***MEDP***" refers to the five-(5) year plan of the DOE, updated annually, to implement the Government's missionary electrification program including those projects to be funded through the Universal Charge for Missionary Electrification; |  |  |
| 1. "***Missionary Electrification Subsidy***” or “***ME Subsidy***” refers, for purposes of this Circular, to the funds duly approved by the ERC to cover the difference between the Full Cost Recovery Rate (FCRR) and Subsidized Approved Retail Rate (SARR) of a QTP sourced from the Universal Charge for Missionary Electrification; |  |  |
| 1. "***National Electrification Administration”*** or “***NEA***” refers to the Government agency created under Presidential Decree No. 269, as amended by Republic Act No. 10531 or the “National Electrification Administration (NEA) Reform Act of 2013”; |  |  |
| 1. ***“National Power Corporation - Small Power Utilities Group”*** or ***“NPC-SPUG”*** refers to the functional unit of the NPC created to pursue Missionary Electrification function; |  |  |
| 1. ***“Person”*** refers to a natural or juridical person,; |  |  |
| 1. “***Power Sector Asset and Liabilities Management Corporation***" or "***PSALM***" refers to the corporation created pursuant to Section 49 of the EPIRA; |  |  |
| 1. "***Qualified Third Party***" or "***QTP***" refers to the alternative electric service provider duly qualified by DOE and authorized by the ERC to serve Unviable Areas pursuant to Section 59 of the EPIRA and Rule 14 of the EPIRA-IRR, and as prescribed in this Circular for the purpose of attaining and accelerating the total electrification of the country; |  |  |
| 1. ”***Qualification Criteria***” refers to the set of financial, technical, and other indices of performance prescribed by DOE as basis for accrediting QTPs to serve remote and Unviable Areas; |  |  |
| 1. "***QTP Service Area***" refers to the unviable area waived by the DU where QTP shall provide missionary electrification service and characterized by an area which is not connected to the main grid and is without 24-hour electricity services; |  |  |
| 1. "***QTP Service Contract***" refers to the agreement between a DU and the QTP, duly approved by the ERC, defining the latter’s responsibilities in providing the missionary electrification in Unviable Areas, *Provided, That*, such agreement shall set the terms and conditions by which the QTP shall provide the service including the applicable performance and service standards. |  |  |
| 1. "***Renewable Energy Resources***" refers to energy resources that do not have an upper limit on the total quantity to be used. Such resources are renewable on a regular basis and the renewable rate is rapid enough to consider available over an indefinite time. These include, among others, biomass, solar, wind, hydro and ocean energy; |  |  |
| 1. ***“Renewable Energy Service/Operating Contract” or “RESC”*** refers to the service agreement between the Government, through the President of the Philippines or the DOE, and an RE Developer over an appropriate period as determined by the DOE in which the RE Developer has the exclusive right to explore and develop a particular RE area; |  |  |
| 1. "***Subsidized Approved Retail Rate***" or "***SARR***" shall refer to the rate, expressed in Peso per kilowatt-hour, that the ERC has determined to be the maximum that an end-user in Unviable Areas should pay for power supplied by a QTP, *Provided, That*, the revenues derived from the SARR combined with the ERC-approved UC-ME Subsidy should put the entity providing electricity service in the Unviable Area in the same financial position as if it was able to charge the FCRR; |  |  |
| 1. "***Universal Charge for Missionary Electrification***" or "***UC-ME***" refers to the portion of the Universal Charge which is allocated for Missionary Electrification projects deemed eligible by the ERC to avail the subsidy; |  |  |
| 1. “***Unelectrified Area***” refers to an area where there is no electricity at the household level, except for individual generators, solar home systems, kerosene lamps or any means of electrification not provided by the DU or EC having the franchise over said area; |  |  |
| 1. “***Unviable Area”*** refers to a remote geographical area within the franchise area of a DU where the immediate extension of the distribution line is not feasible, as defined by Rule 4 (ssss) of the EPIRA-IRR. Areas that are currently served by the DUs but are deemed unviable on account of huge operating costs shall also mean Unviable areas as defined herein. For the purpose of this Circular, huge operating costs mean that the costs on the construction and the daily operations and maintenance of the facility, will affect the entire financial position of the DUs; |  |  |
| 1. ***“Waiver”*** refers to the formal announcement of the DU that an area within its franchise area is Unviable and therefore declared open for QTP participation. For the duration of the Waiver, the franchise of the DU shall not be transferred, abandoned and/or modified with respect to the Unviable Area included therein but only the right to service provide electricity service to such area. |  |  |
| **Section 3. Declaration of Unviable Areas.**  The DOE hereby adopts the following procedures in the declaration of Unviable Areas: |  |  |
| 1. All Unviable Areas, which the DU cannot serve for whatever reason are eligible for support under the Government’s missionary electrification program and are declared open for participation by QTPs. |  |  |
| 1. ***DU Development Planning.*** Consistent with Section 23 of Republic Act 9136, Rule 7, Section 4 (p) Obligations of a Distribution Utility of EPIRA-IRR, and the subsequent DOE Circulars, the DUs shall prepare and submit to DOE, after verification by NEA, its annual Distribution Development Plan (DDP) not later than 15th of March of every year for integration to the Power Development Plan (PDP) and Philippine Energy Plan (PEP). |  |  |
| 1. The DDP shall contain information classifying areas within its franchise that are viable and unviable in accordance with the prescribed form of the DOE. The DUs shall waive the areas that have been found unviable on the basis of huge operating costs that the DUs will incur should the grid lines will be constructed, operated and maintained and will contribute to the ECs system loss. The proposed waived areas shall be included in the respective Distribution Development Plans of the DUs. |  |  |
| 1. ***Consolidation of List of Areas***. The DOE through its Electric Power Industry Management Bureau (EPIMB) shall consolidate and make available to the public, the list of Unviable Areas not only from the DDP but also all other unelectrified areas to date. |  |  |
| 1. ***Publication of Unviable Areas***. The DOE shall declare and post in the DOE Website the list of Unviable Areas not later than September of every year. The list shall also be posted within the DOE, premises and NEA and NPC website. |  |  |
| **Section 4. Rates and Subsidies in Unviable Areas.** |  |  |
| 1. For the duration of the term of the QTP Service Contract, the QTP is deemed to be performing the missionary electrification service with respect to the QTP Service Area. |  |  |
| 1. The NPC-SPUG, consistent with the MEDP, shall petition the ERC for the approval of the UC-ME subsidy requirements for the QTPs, among others. |  |  |
| 1. Entities providing electricity services in the Unviable Areas shall be eligible for subsidy with respect to a particular Unviable Area when the approved Full Cost Recovery Rate (FCRR) is higher than the Subsidized Approved Retail Rate (SARR). The difference between the FCRR and the SARR shall be the computed Missionary Electrification Subsidy based on a per connection system. |  |  |
| 1. Subject to any guidelines that the ERC may issue, private sector-driven or community based electrification projects, which do not require subsidy from the UC-ME may proceed with the service provided that the proponents/operators shall notify and secure approval from the DOE. |  |  |
| 1. Collection, remittance or disbursement of UC-ME subsidy shall conform to ERC decisions/orders and approved guidelines and procedures governing the remittances and disbursements of the Universal Charge developed and managed by the PSALM. |  |  |
| 1. Every 15th day of September each year, all QTPs including NPC-SPUG, shall directly submit to the DOE through the EPIMB, their respective accomplishments (e.g., number of household served, total generation and kilowatt-hour sales, and other operations data) as well as the UC-ME Subsidy requirements for the forthcoming year. |  |  |
| 1. After review and evaluation, the DOE shall incorporate in its MEDP and accordingly advise NPC-SPUG, the list of duly authorized QTPs corresponding UC-ME subsidy requirements. |  |  |
| **Section 5. Accreditation of a Qualified Third Party** |  |  |
| 1. The DOE shall set up an accreditation procedure for Prospective QTPs in Waived areas. Categorized depending on capitalization, technology and expertise, the Prospective QTP shall be responsible for ensuring it remains in good standing with the DOE through timely and accurate submission of requirements, documents and compliances. |  |  |
| 1. The DOE shall set up an accreditation procedure for Prospective QTPs in Waived areas. Categorized depending on capitalization, technology and expertise, the Prospective QTP shall be responsible for ensuring it remains in good standing with the DOE through timely and accurate submission of requirements, documents and compliances. |  |  |
| (c) Persons applying for accreditation with DOE as a Qualified Third Party shall be evaluated based on the criteria indicated in **Annex A** of this Circular. |  |  |
| (d) The QTP accreditation shall be valid for a period of three years, subject to an annual submission of report to the DOE EPIMB with an Undertaking of Good Standing stating that its qualification as a QTP subsists; |  |  |
| (e) The DOE shall supervise and monitor the accredited QTPs’ compliance with the qualification criteria and its performance in QTP Areas served. |  |  |
| **ARTICLE II**  **PREPARATION FOR CSP**  **Section 1. Options in Managing the CSP** |  |  |
| 1. A DU / EC shall have the following options in managing the competitive process for the selection of their QTPs: 2. Request DOE to secure a Transaction Advisor or engage the services of a Transaction Advisor, at its own cost; |  |  |
| 1. Manage the competitive selection process by itself; |  |  |
| **Section 2. Appointment of a Transaction Advisor**  The Transaction Advisor referred to Article II Section 1 (a) (i) shall refer to a third party, whether natural or juridical person, accredited by the DOE with the following minimum qualifications: |  |  |
| * 1. of proven probity, integrity and competence; |  |  |
| * 1. at least five (5) years experience in providing technical advice to missionary electrification participants, such as, DUs or ECs, the private sector, relevant government agencies; and, |  |  |
| * 1. not an employee, agent, consultant of a prospective QTP taking part in the CSP for the particular transaction where his advice is being sought.   The Transaction Advisor shall be responsible for assisting the DU / EC in developing the terms of reference, bid documents, draft QTP Service Agreement (QSA) and key contracts necessary to complete the contracting process until a QSA is awarded to the winning QTP. |  |  |
| Within six (6) months from the effectivity of the Rules, the DOE shall issue specific guidelines on the accreditation of the transaction advisor. |  |  |
| **Section 3. Notice of CSP launch** |  |  |
| Three (3) months before the issuance of the invitation to bid for the supply electricity in an Unviable Area, the DU / EC shall notify the National Power Corporation (“NPC”), National Electrification Administration (“NEA”), the Energy Regulatory Commission (“ERC”) and the Department of Energy (“DOE) of the date of the CSP launch, which notification shall include: |  |  |
| 1. proposed mode of CSP in accordance with Article III of these Rules; |  |  |
| 1. mode of managing the CSP; |  |  |
| 1. proposed Terms of Reference and Invitation to Bid which contains the following: 2. term; |  |  |
| 1. demand expressed in capacity or energy; |  |  |
| 1. preferred technology, if any and justification for preference; |  |  |
| 1. target date of delivery the level of service appropriate; |  |  |
| 1. proposed SARR taking into consideration the type of customers, livelihood and economic activity in the Waived Area; |  |  |
| 1. Replacement Power and Back-up Power strategy; |  |  |
| 1. plan for compliance with the Philippine Small Grid Guidelines particularly N-1; penalty provisions in case of delay in construction and commercial operations; grounds for termination of during the term of the waiver. |  |  |
| **Section 4. DOE and NEA Review of Bid Documents**  The DU / EC shall, in addition to compliance with the immediately foregoing Section, submit to the DOE the following: |  |  |
| 1. Copies of the Bidding Documents that will be used for the CSP; 2. A copy of the proposed QSC that the DU/EC intends to sign with the winning QTP, specifying the expected output that the winning QTP shall provide; |  |  |
| 1. A copy, if available, of the due diligence report on the DU/EC and the NPC generation plants if available; and, |  |  |
| 1. Such other information that the DOE may require. |  |  |
| Unless the DOE or NEA advises the DU / EC otherwise within 15 days prior to the date of the CSP launch, the DU / EC shall proceed with the CSP for the Waived Area as the case may be. |  |  |
| **ARTICLE III**  **MODES OF CSP** |  |  |
| **Section 1. Bidding** |  |  |
| 1. On the date of the CSP launch, the DU / EC shall publish in a newspaper of general circulation once a week for two consecutive weeks the Invitation to Bid and posting in the website of the DOE, NEA, NPC and conspicuous places within the DU franchise area indicating the key terms outlined in Article II, Section 2 (c) of these Rules. |  |  |
| 1. A prospective QTP shall submit its bid on or before the date indicated in the Invitation to Bid, which must not be later than sixty (60) days from the publication and posting of the Invitation to Bid. |  |  |
| 1. A bid that fails to meet all requirements in the Invitation to Bid shall not be considered. |  |  |
| 1. A CSP is successful if it receives at least two (2) bids from prospective QTPs. |  |  |
| 1. The bid is evaluated based on the least cost of electricity, expressed on a peso per kilowatt hour basis. |  |  |
| **Section 2. Direct Negotiation** |  |  |
| Direct negotiation is allowed after two failed biddings. |  |  |
| **Section 3. Unsolicited Proposal** |  |  |
| 1. An unsolicited proposal may be accepted by the DU / EC when ANY OF THE FOLLOWING CONDITIONS is present in the proposal: 2. Utilizes innovative, cost-effective, sustainable technology |  |  |
| 1. Utilizes renewable energy with the RE component higher than RPS, if RPS is already in place, provided it satisfies the DU demand requirement and will not affect system reliability |  |  |
| 1. Proposes a tariff that is no more than ten percent (10%) of the retail rate of the DU / EC having the franchise over the Unviable Area. |  |  |
| 1. DU or DU Subsidiary seeks to supply power in DU franchise area |  |  |
| 1. Installed capacity of more than (>) 100 kW but equal to or less than (≤)200 kW. |  |  |
| 1. Following the acceptance of the unsolicited proposal, the DU / EC shall comply with the procedure laid down in Article II of these Rules. |  |  |
| 1. At a minimum the DU / EC shall invite by publication, for two (2) consecutive weeks, in a newspaper of general circulation, comparative or competitive proposals. |  |  |
| 1. If no other proposal is received for a period of thirty (30) working days, the DU / EC shall award the supply contract to original proponent of the unsolicited proposal, provided that a CSP certification is obtained from the DOE prior to such award. |  |  |
| 1. In the event that another proponent submits a proposal of lower cost, the proponent of the unsolicited proposal reserves the right to match the price of the other proponent within thirty (30) working days. |  |  |
| **ARTICLE IV**  **EXEMPTIONS** |  |  |
| **Section 1.** No CSP is required for the following:   1. Generation project funded by a Donor where at least 50% of the capital expenditure is donated, provided that the Donor-funded portion of the project is not included in its FCRR recovery; |  |  |
| 1. Where the installed capacity is 100 kW or below. |  |  |
| 1. Proposes a tariff that is equal to or lower than the retail rate of the DU / EC having the franchise over the Unviable Area, therefore no subsidy access. |  |  |
| **Section 2**. Government approvals still required:  Notwithstanding the exemption from CSP under Article IV, Section 1, the DU / EC is still required to comply with all requirements for QSA approval prescribed under these Rules and applicable rules of the ERC, DOE, NPC and NEA. |  |  |
| **ARTICLE V**  **AWARD AND QSA NEGOTIATION** |  |  |
| **Section 1. Post-qualification of the prospective QTP** |  |  |
| Following the CSP, and prior to the award of the supply contract, the DU / EC shall conduct a post-qualification evaluation of the prospective QTP, to determine whether it possesses the legal, technical and financial capability to undertake its obligations as a QTP. |  |  |
| **Section 2. CSP Certification** |  |  |
| Prior to the award of the QSA, the DU / EC shall secure a certification from the DOE (“CSP Certification”) that it underwent a CSP or that it is exempt from the conduct of CSP in accordance with these Rules.  **Section 3. Key elements of the QSA** |  |  |
| Following the award of the QSA, the DU / EC and winning QTP shall negotiate to ensure critical elements are included in the QSA, to wit:   1. definite commercial operations date; |  |  |
| 1. strategy for Replacement Power and Back-up Power in the event of scheduled and unscheduled outages, respectively; |  |  |
| 1. events of default and grounds for termination of the QSA, for failure to achieve key milestones such as the period for filing the QSA for ERC approval, failure to commence construction, delay in construction, delay in commissioning and commercial operations; |  |  |
| 1. other ley term and termination events; |  |  |
| 1. construction and performance bond of the QTP    1. level of service (no. of hours of operation, customer collection plan)    2. plan for graduation from subsidy access |  |  |
| 1. phase-in phase out plan following the term of the agreement; and, |  |  |
| 1. consequences of expiration or termination of the agreement. |  |  |
| **ARTICLE VI**  **ERC APPROVAL OF THE QSA** |  |  |
| **Section 1. Joint Filing with the ERC** |  |  |
| Following the execution of the QSA, the DU / EC and selected QTP shall jointly file an application with the ERC for the approval of the QSA and the QTP FCRR, respectively. This includes a proposed QTP SARR consistent with the DU / EC TOR. The QSA approval shall be consistent with Rule 20 (B) of the ERC Rules of Practice and Procedure. |  |  |
| **Section 2. Pre-filing requirements** |  |  |
| The ERC shall accept a QSA application for filing even in the absence of an Environmental Compliance Certificate / Certificate of Non-Coverage, RE service contract or operating contract, provided the applicants submit a sworn undertaking to submit the requirements prior to Commercial Operations. |  |  |
| **Section 3. ERC Action on Application** |  |  |
| As an exception to the prescribed periods in the ERC Rules of Practice and Procedure, the ERC shall:   1. Within seventy five (75) days from filing of the application for QSA, issue an order whether a Provisional Approval (“PA”) is granted; if no order is issued within said period, this is an implied denial of the motion for issuance of PA. |  |  |
| 1. The ERC shall issue a Decision or Final Approval within twelve (12) months from filing of the application. |  |  |
| 1. If no Decision is issued within the said period the QSA and QTP FCRR shall be subject to the following:    1. if a PA has been issued, then the PA is deemed extended; |  |  |
| * 1. if no PA has been issued, then an interim relief is deemed issued, allowing the QTP to recover a FCRR equivalent to the Benchmark Rate if any has been issued, or in its absence the SARR, in addition to charging the actual cost of fuel capped at a Specific Fuel Consumption Rate based on the NPC fuel consumption guidelines. |  |  |
| **Section 4. Recovery of FCRR** |  |  |
| 1. The QTP shall be allowed to recover the FCRR approved by the ERC. In cases where the FCRR is higher than the SARR, the QTP shall be allowed to recover the difference from the UCME. In case the UCME disbursed by PSALM to NPC is insufficient to cover the UCME requirement of the QTPs and NPC-SPUG, the UCME for QTPs shall be paid out first out of the total disbursement by PSALM. |  |  |
| 1. In case of approval under Article VI Section 3 (c), the QTP shall be entitled to the subsidy from the period of deemed extension of the PA or deemed issuance of interim relief, until the date of issuance of the Decision. |  |  |
| 1. Following the issuance of the Decision by ERC, the QTP shall execute a subsidy agreement with NPC for the availment of the UCME, in accordance with the Decision. |  |  |
| **ARTICLE VII**  **RESPONSIBILITIES AND OBLIGATIONS** |  |  |
| Section 1. Responsibilities of a QTP Providing Electricity in an Unviable Areas.  1. Meet the qualification criteria set by the DOE in this Circular. |  |  |
| 1. Secure from DOE, ERC and other Government instrumentalities relevant permits and licenses, including authority to charge its rates, in order to commence providing services in the waived area/s. |  |  |
| 1. Comply with all provisions, including the financial, technical, environmental and other performance standards for the QTP including provision of the Service Contract entered into with the concerned DU. |  |  |
| 1. Operate and maintain properly its facilities to provide services in the QTP Service Area in an efficient and sustainable manner. |  |  |
| 1. Submit quarterly reports to the DOE and ERC on its financial, technical, and operational performance pursuant to Rule 14 of the EPIRA IRR including its UC-ME utilization. |  |  |
| 1. Submit monthly reports to DOE on the status of its operations including household connections and the number of serve connections, as well as relevant operational data such as but not limited to energy generation, energy sales, system losses, collection efficiency, development plans and programs for the service area. |  |  |
| Section 2. Responsibilities of a Distribution Utility or Electric Cooperatives in Remote and Unviable Areas |  |  |
| 1. Submit the Distribution Development Plan (DDP), after NEA’s review, including the prescribed format and contents not later than 15th of March of each year to DOE. |  |  |
| 1. Conduct CSP in the selection of QTPs to serve the Unviable Areas in accordance with Article III of this Circular. |  |  |
| 1. Execute the QTP Service Contract (QTPSC) with the selected QTP, in accordance with this Circular and ERC guidelines on QTPs. |  |  |
| 1. Ensure that the QTP is providing adequate and reliable electricity service and performing in accordance with the standards set in the QTP Service Contract for the Unviable Area. |  |  |
| 1. Extend assistance to the QTP serving an Unviable Area within its franchise; such as securing the necessary rights of way, site acquisition, permits and licensing from the concerned local agencies. |  |  |
| 1. Develop benchmark SARR in the Unviable Area, including different tariff levels depending on consumption or consumer types. |  |  |
| Section 3. Responsibilities of NPC-SPUG. |  |  |
| 1. Perform missionary electrification of Unviable Areas not taken by the DUs, QTPs and other entities to help meet the total electrification target. |  |  |
| 1. To include in its petition for the approval to the ERC, the UCME requirements of the QTPs and other qualified entities. |  |  |
| 1. Execute a Subsidy Contract with the QTP within 30 days upon receipt of the ERC’s provisional or final approval, as the case may be , from the date of the QTP’s application for Authority to Operate and approval of the QSC; [But this may be with PSALM if PSALM will directly disburse the UCME to the QTP] |  |  |
| 1. Submit monthly reports to DOE on the status of its electrification program and the completed number of connections. |  |  |
| Section 4. Responsibilities of PSALM. |  |  |
| 1. Directly disburse UC-ME Subsidies to QTPs and other duly qualified entities as prescribed in this Circular. |  |  |
| 1. In accordance with the Rules to Govern the Availment and Disbursement of Cash Incentive to RE Developers Operating in Missionary Areas approved by the ERC under Resolution No. 7 dated 11 April 2014, shall directly disburse the approved cash incentive to eligible RE Developers in off-grid areas as defined in Section 4 of this Circular. |  |  |
| Section 5. Responsibilities of DOE |  |  |
| 1. Determine and incorporate in the MEDP, the QTP projects for Unviable Areas and corresponding UC-ME requirements, if any, in payment of the Missionary Electrification Subsidy. |  |  |
| 1. Establish and implement the accreditation system for prospective QTPs in Unviable Areas. |  |  |
| 1. Issue a CSP certification following a review of the CSP conducted by the DU / EC in the selection of its QTPs. 2. Oversee the implementation of the QTP Program, coordinate the related activities and closely monitor the progress of the Unviable Area Electrification Program. |  |  |
| 1. Monitor the household connection for each of the Unviable Area served by QTPs. |  |  |
| 1. Issue pertinent guidelines as deemed necessary for the effective implementation of this Program. |  |  |
| 1. To encourage investments and private sector participation in Unviable Areas, the DOE shall coordinate with ERC on the setting of the FCRR levels that may be applied in the Unviable Areas. |  |  |
| Section 6. Responsibilities of NEA |  |  |
| 1. Provide institutional, technical and legal assistance to ECs opting to provide electricity service to Unviable Areas within their franchise area through a Subsidiary or a Joint Venture Agreement. No later than six (6) months from the effectivity of this Circular, NEA shall issue guidelines on how ECs may construct, acquire, own, operate and maintain generating facilities within its franchise area to qualify as an Eligible EC or DU. |  |  |
| 1. Evaluate and verify the areas submitted by ECs as remote and unviable and submit its recommendations to the DOE in accordance with this Circular not later than March 15 of each year. |  |  |
| 1. Conduct appropriate information and education drive among ECs to allow private sector participation in the provision of electricity services within ECs franchise areas |  |  |
| 1. Assist DOE in monitoring of the household electrification level in areas served by the QTPs. |  |  |
| **ARTICLE VIII**  **MISCELLANEOUS PROVISIONS** |  |  |
| Section 1. Repealing Clause. |  |  |
| Department Circulars DC 2004-06-006 and DC 2005-12-011 are hereby amended or repealed accordingly. |  |  |
| Section 2. Saving Clause. |  |  |
| 1. If for any reason, any provision of this instrument/circular is declared unconstitutional or invalid, the other parts or provisions hereof which are not affected thereby shall be continue to be in full force and effect. |  |  |
| 1. The implementation of this Circular shall not exempt the parties from existing government rules and regulations, and applicable government agency circulars or issuances. |  |  |
| Section 3. Effectivity. |  |  |
| This Circular shall take effect after fifteen (15) days upon publication in a newspaper of general circulation. |  |  |
| **ANNEX A**  **ACCREDITATION GUIDELINES** |  |  |
| **Criteria:**   1. **General Criteria**.    1. To qualify, an entity must demonstrate that it is financially and technically capable; |  |  |
| * 1. Organizations eligible for accreditation may include, without limitation, private firms, LGUs, cooperatives, non-government organizations, generation companies or its subsidiaries, and Eligible DUs or ECs, which are not prohibited by law or their own charter from engaging in the generation and distribution of electricity. |  |  |
| * 1. Entities that have been qualified by the DOE to provide electricity in an Unviable Area shall submit a work and financial plan, which shall include key activity milestones and target dates. DOE may revoke or cancel an entity’s qualification if the milestones and target dates are not met unless under justifiable causes. |  |  |
| * 1. An entity that has already been qualified by DOE to provide electricity service in an Unviable Area, shall remain in good standing and provided there is no substantial change in the ownership and technical personnel of the entity, may serve other Unviable Areas as long as it is financially capable to do so per Section 5 (d) of this Circular. |  |  |
| 1. **Legal** **Criteria**.    1. Any Person registered with the Philippine Securities and Exchange Commission (PSEC) and/or Cooperative Development Authority (CDA), meeting the criteria set forth in this Circular may be accredited as a qualified entity. Applicants must submit the following documents in support of their application: |  |  |
| * + 1. Securities and Exchange Commission (SEC)/Cooperative Development Authority (CDA) registration |  |  |
| * + 1. By-laws and Articles of Incorporation |  |  |
| * + 1. Certification authorizing its representative to negotiate and enter into QTP Service Contract with the DU |  |  |
| * + 1. Business permit |  |  |
| * + 1. Controlling stockholders and percentage of holdings |  |  |
| * + 1. Organizational chart of the company |  |  |
| * + 1. Parent/subsidiary/ affiliates (if applicable) |  |  |
| * + 1. Company profile |  |  |
| * + 1. A notarized undertaking certifying that the applicant intends to design, construct, operate and maintain its generation and distribution systems in full compliance with the relevant requirements prescribed under the applicable laws including EPIRA and its attendant rules and regulations. |  |  |
| * + 1. CDA or legislative franchise |  |  |
| * + 1. LGU what documents to be submitted : law creating it or RA 7160 |  |  |
| * + 1. Another DU, other than the franchised DU can participate in the electrification or energize the Unviable Areas subject to the Qualification Criteria. |  |  |
| 1. **Technical Criteria**.    1. To be accredited, an interested Person must demonstrate that it has the technical skills and capacity to operate a power generation facility and/or an electric power distribution system for public supply. |  |  |
| * 1. In order to demonstrate the required skills and capacity, applicants must provide:      1. Track Record or Experience. Proof of on-going and completed contracts/agreements of similar to or congruent with the proposed project; |  |  |
| * + 1. Key Personnel Experience. Curriculum Vitae of management and technical personnel; and |  |  |
| * + 1. List of existing company-owned equipment and any lease agreements relevant to the proposed project |  |  |
| 1. **Financial Criteria**.    1. To be accredited, an interested Person must demonstrate that it has the financial capacity to build a power generation facility and its associated power distribution system of the size required for the provision of electricity services. |  |  |
| * 1. Proof of financial capacity may include, among others:      1. Audited Financial Statements for the last two (2) years duly certified by an independent third party auditor; |  |  |
| * + 1. Bank certification coming from Bangko Sentral and Pilipinas (BSP) accredited banks to substantiate cash balance in the audited Financial Statements |  |  |
| * + 1. Projected cash flow statement for two (2) years |  |  |
| * + 1. List of company-owned equipment and facilities for the project |  |  |
| * + 1. If applicant is a new company, audited financial statement and duly certified guarantee or letter of undertaking/support from its parent company or partner to fund the work program. |  |  |
| **Accreditation process:**   1. The DOE-REAMD shall establish a QTP Register that will accept applications for QTP registration from persons seeking to engage in QTP service as enumerated in Section (a) (2) of this Annex. |  |  |
| 1. All applications shall contain an application letter and the relevant documents supporting their legal, technical and financial eligibility as indicated in Sections (b), (c), and (d) respectively of this Annex. |  |  |
| 1. The DOE shall act on the application within 30 days from the submission of said application, otherwise it shall be deemed approved. However, the period for acting on the application for registration is tolled upon any question by the DOE on the documents supporting the application or a request for any further justification or clarification based on the documents submitted. |  |  |
| 1. The DOE shall issue a QTP Registration Certificate to an applicant found to possess the legal, technical and financial qualification required of a prospective QTP Applicant. Provided however that no Registration Certificate shall be issued to a QTP Applicant blacklisted by any government agency or instrumentality and barred from participating in any government project. |  |  |
| 1. The Registration Certificate issued to the Registered QTP shall be valid for three years. |  |  |
| **Monitoring and Supervision**  No later than January 30 of each calendar year, the Registered QTP shall submit an Undertaking to the DOE QTP Register that it possesses the Qualification Criteria it had submitted upon application for registration as a QTP. The Registered QTP shall inform the DOE of any change in circumstances and, if required, shall explain to the DOE why its registration shall not be revoked, in accordance with the following section. |  |  |
| **Suspension and Revocation**   * + - * 1. Grounds for Suspension:   The DOE may, upon due notice and hearing, suspend the Registration Certificate upon any of the following grounds:   1. Misleading, inaccurate or inconsistent documents submitted in support of the application for registration |  |  |
| 1. Failure to secure in a timely manner the appropriate government permits and approvals for QTP operations |  |  |
| * + - * 1. **Grounds for Revocation:**   The DOE may, upon due notice and hearing, revoke the Registration Certificate upon any of the following grounds:   1. Material misrepresentation or fraud with regard to any of the documents submitted in support of the Qualification Criteria |  |  |
| 1. Unremedied event which gave cause for suspension |  |  |