

**[DEPARTMENT CIRCULAR NO. DC2018-03-0005,
March 27, 2018]**

**PRESCRIBING THE GUIDELINES RECOGNIZING THE RIGHTS OF
INDIGENOUS CULTURAL COMMUNITIES (ICCS)/INDIGENOUS
PEOPLES (IPS) IN THEIR ANCESTRAL DOMAINS AND ACCESS TO
THE FINANCIAL BENEFITS AS HOST COMMUNITIES UNDER THE
ER 1-94 PROGRAM AND RULE 29 (A) OF THE IMPLEMENTING
RULES AND REGULATIONS OF REPUBLIC ACT NO. 9136,
OTHERWISE KNOWN AS, "ELECTRIC POWER INDUSTRY REFORM
ACT OF 2001"**

Adopted: 09 February 2018

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WHEREAS, it is the policy of the state to rationalize, Integrate, and coordinate the various programs of the Government towards self-sufficiency and enhanced productivity in power and energy without sacrificing ecological concerns;

WHEREAS, Section 5(1) of Republic Act No. 7638 mandates the DOE to devise ways and means of giving direct benefits to the province, city, or municipality, especially the community and people affected, and equitable and preferential benefit to the region that hosts the energy resource and/or the energy-generating facility. Provided, however, That the other provinces, cities, municipalities, or regions shall not be deprived of their energy requirements;

WHEREAS, Energy Regulations ("E.R.") No. 1-94 Issued by the Department of Energy (DOE) operationalize the implementation of Section 5(i) of Republic Act No. 7638;

WHEREAS, Section 66 of R. A. No, 9136, otherwise known as the "Electric Power Industry Reform Act of 2001" and Rule 29(A) of its Implementing Rules and Regulations of EPIRA-IRR which requires all energy generation companies and/or energy resource developers to provide financial benefits equivalent to one centavo per kilowatt-hour (P0.01/kWh) of the total electricity sales of the generation facility to the region, province, city or municipality and barangay that host the generation facility as well as the establishment of corresponding trust accounts and the administration thereof by the DOE;

WHEREAS, on 29 October 1997, Republic Act No. 8371 was enacted, recognizing and promoting the rights of Indigenous Cultural Communities (ICCs)/Indigenous People (IPs), particularly their rights to their ancestral lands and domains to ensure their economic, social and cultural well-being.

WHEREAS, there is a need to recognize the rights of the ICCs/Ps to their ancestral domain and the natural resources therein, specifically the right for an

equitable share of the benefits from generating facilities and/or energy resources by as defined under the ER No. 1-94 Program and corroborated on Rule 29 (A) of the EPIRA-IRR;

WHEREAS, there is a need to strengthen the cooperation among the energy resource developers and/or power producers and the host LGUs/Region/s to facilitate the process of providing direct benefits to the ICCs/IPs through simplified implementation procedures;

NOW, THEREFORE, FOR AND IN CONSIDERATION OF THE FOREGOING PREMISES, the DOE hereby adopts and promulgates the following guidelines in recognition of the rights of the ICCs/IPs in their ancestral domains and to access the financial benefits pursuant to Rule 29(A) of the EPIRA-IRR and Section 66 of Republic Act No. 9136.

Section 1. Scope and Coverage

1.1 All legitimate and bonafide ICCs/IPs, duly recognized and accredited by the National Commission on Indigenous People, and issued with Certificate of Ancestral Domain Title that host the generating facilities and/or energy resources shall be entitled to the financial benefits under the ER No. 1-94 Program; and

1.2 The financial benefits shall cover the Development and Livelihood and Reforestation, Watershed Management, Health, and Environment Enhancement components of ER 1-94 Funds.

Section 2. Definition of Terms

2.1 Ancestral Domains refer to all areas generally belonging to ICCs/IPs comprising lands, inland waters, coastal areas and natural resources therein, held under a claim of ownership, occupied or possessed by the ICCs/IPs by themselves or through their ancestors, communally or Individually since time immemorial, continuously to the present except when interrupted by war, force majeure or displacement by force, deceit, stealth or as a consequence of government projects or any other voluntary dealings entered into by government and private individual/corporations and which are necessary to ensure their economic, social and cultural welfare. It shall include ancestral lands, forests, pasture, residential, agricultural and other lands individually owned whether alienable or disposable or otherwise, hunting grounds, burial grounds, worship areas, bodies of water, mineral, and other natural resources, and lands which may no longer be exclusively occupied by the ICCs/IPs but which they traditionally had access to for their subsistence and traditional activities, particularly home ranges of ICCs/Ps who are still nomadic and/or shifting cultivators.

2.2 Ancestral Lands refer to land occupied, possessed and utilized by individuals, families and clans who are members of the ICCs/IPs since time immemorial, by themselves or through predecessors-in-interest under claims of individual or traditional group ownership, continuously to the present except when interrupted by war, force

majeure or displacement by force, deceit, stealth or as a consequence of government projects or any other voluntary dealings entered into by government and private individual/ corporations including but not limited to, residential lots, rice terraces or paddies, private forests, swidden farms and tree lot.

2.3 Free and Prior Informed Consent shall mean the consensus of all members of the ICCS/IPs to be determined in accordance with their respective customary laws and practices, free from any external manipulation, interference, coercion and obtained after fully disclosing the intent and scope of the activity, in a language and process understandable to the community.

2.4 Indigenous Cultural Communities/Indigenous People refer to a group of people of homogenous societies identified by self-ascription and ascription by others, who have continuously lived as organized community on communally bounded and defined territory, and who have, under claims of territory since time immemorial occupied, possessed and utilized such territories, sharing common language, customs, traditions and other distinctive cultural trails, or who have through resistance to political, social and cultural inroads of colonization, non-indigenous religions and cultures, became historically differentiated from the majority of Filipinos, ICCs/IPs shall likewise include people who are regarded as indigenous on the account of their descent from the population which inhabited the country, at the time of conquest or colonization, or at the time of inroads of non-indigenous religions and cultures of the establishment of present state boundaries, who retain some or all of their own social, economic, cultural and political institutions, but who may have been displaced from their traditional domains or who may have resettled outside their ancestral domains.

2.5 Watershed is a land area drained by a stream or fixed body of water and its tributaries having common outlet for surface run-off. It encompasses the topographic and hydrological boundaries of the total land area that contributes to the flow of the water body, upstream of the water tapping point, such as the dam crest.

Section 3. Coverage of Beneficiaries. To recognize the rights of Indigenous ICCs/IPs on their rights to their ancestral lands and domains, Host Communities under Section 3 of Rule 29 (A) of the EPIRA IRR shall refer to local government units (barangays, municipality/city, province, or region) and Ancestral Domains/Lands of ICCs/IPs where the energy generating facility and/or energy resource is physically located.

Section 4. Allocation of Shares. To address the specific and unique development needs/requirement of ICCs/IPs, the allocation of shares under Section 4 of Rule 29(A) of the EPIRA IRR shall be distributed in the following manner:

4.1 The 25% share for development and livelihood fund (DLF) and 25% share of reforestation, watershed management, health and/or