

**[ERC AMENDED RULES AND REGULATIONS
IMPLEMENTING SECTION 28 OF REPUBLIC ACT
NO. 9136, AUGUST 24, 2001, March 13, 2002]**

**AMENDED RULES AND REGULATIONS IMPLEMENTING SECTION
28 OF REPUBLIC ACT NO. 9136, OTHERWISE KNOWN AS THE
ELECTRIC POWER INDUSTRY ACT OF 2001**

Consistent with the constitutional mandate for dispersal of ownership and de-monopolization of public utilities as enunciated under Section 28 of Republic Act No. 9136, otherwise known as the Electric Power Industry Act of 2001, the Energy Regulatory Commission hereby adopts and promulgates the following rules and regulations to implement the aforesaid section.

SECTION 1. Definition of Terms. — As used in these Rules:

(a) *Common Share of Stock* shall refer to the evidence of ownership in a stock corporation with complete voting rights;

(b) *Controlling Stockholders* shall refer to the stockholders, natural or juridical, singly or collectively with related interests, owning more than 25% of the voting shares of a distribution utility.

(c) *De monopolization* shall refer to the process of removing control by a stockholder and related interests in a distribution utility through sale, transfer or other modes of disposition of their stockholding in excess of the ceiling prescribed under RA 9136;

(d) *Dispersal of Ownership* shall refer to the sale, transfer or other modes of disposition of the stock ownership of persons, natural or juridical, including directors, officers, stockholders and their related interests in a distribution utility and their respective holding, companies;

(e) *Distribution Utility* shall refer 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 RA 9136;

(f) *Electric Cooperative* shall refer to a distribution utility organized pursuant to Presidential Decree No. 269, as amended, or as otherwise provided in RA 9136;

(g) *Energy Regulatory Board (ERB)* shall refer to the independent quasi-judicial regulatory body created under Executive Order No. 172, as amended;

(h) *Energy Regulatory Commission (ERC)* shall refer to the independent quasi-judicial regulatory body created under RA 9136;

(i) *Holding Company* shall refer to a juridical person holding more than 25% of the voting stocks of a distribution utility;

(j) *Person* shall refer to any being, natural or juridical, capable of possessing legal rights and obligations, or of being the subject of legal relations;

(k) *Philippine Stock Exchange (PSE)* shall refer to an entity created under the Revised Securities Act to manage the trading of shares of stocks of listed corporations;

(l) *Public Utility* as referred to herein shall mean a distribution company which has been granted a franchise by the Congress of the Philippines and a Certificate of Public Convenience and Necessity (CPCN) by the Energy Regulatory Board or the Energy Regulatory Commission. This term shall likewise refer to a electric cooperative with existing franchise granted by the National Electrification Administration (NEA) subject to the provisions of Section 27 of RA 9136;

(m) *Related Interests* shall refer to either a natural person related within the fourth civil degree of consanguinity or affinity to a director, officer or stockholder of a distribution company, or to juridical persons affiliated to each other through common business interest or belonging to a business group where the holdings of the stockholders altogether constitute a majority or control in one (1) or more enterprises;

(n) *Small Distribution Company* shall refer to a distribution facility whose peak demand is equal to or less than ten (10) MW.

SECTION 2. Coverage. — These Rules shall apply to all private distribution utilities except electric cooperatives.

SECTION 3. Divestment of Shareholdings in Distribution Utilities. — The holdings of any person, natural or juridical, including directors, officers, stockholders and their related interests in a distribution utility and their respective holding companies shall not exceed twenty-five (25%) percent of the total voting shares of stock.

Any holding in excess of the ceiling prescribed herein shall be divested in accordance with these Rules.

Divestment, for purposes of these Rules, shall include any mode of disposition including sale or transfer either directly or through the Philippine Stock Exchange (PSE).

SECTION 4. Exemption from Divestment of Shareholdings. — The provisions of the preceding section shall not apply to a distribution utility or the company holding the shares or its controlling stockholder/s whose shares are already listed on the PSE at the time of the effectivity of RA 9136.

Section 5. Period of Divestment for Distribution Utilities. - **Consistent with the Constitutional mandate for the State to encourage equity participation in public utilities by the general public.** Distribution Utilities with peak demand of more than 10 MV **but not exceeding 100 MW**, whose directors, officers, stockholders, and their related interests together with their respective holding