

Republic of the Philippines
ENERGY REGULATORY COMMISSION
Pasig City

RESOLUTION NO. 06, Series of 2026

A RESOLUTION CLARIFYING ERC RESOLUTION NO. 17, SERIES OF 2025 OR THE AMENDMENTS TO THE PUBLIC OFFERING REQUIREMENT (POR) GUIDELINES, AND ERC RESOLUTION NO. 26, SERIES OF 2005 OR THE MARKET SHARE LIMITATION (MSL) GUIDELINES

WHEREAS, Section 2(d) of Republic Act No. 9136, otherwise known as the Electric Power Industry Reform Act of 2001 (EPIRA) declares the policy of the State to enhance the inflow of private capital and broaden the ownership base of the power generation, transmission, and distribution sectors;

WHEREAS, Section 43(t) of the EPIRA and Rule 3, Section 4(m) of its Implementing Rules and Regulations (IRR) provide that the Energy Regulatory Commission (ERC) shall perform such other regulatory functions as are appropriate and necessary in order to ensure the successful restructuring and modernization of the electric power industry, such as, but not limited to, the rules and guidelines under which Generation Companies (GenCos) and Distribution Utilities (DUs) which are not publicly listed shall offer and sell to the public a portion of not less than fifteen percent (15%) of their common shares of stock: Provided, however, that GenCos, DUs, or their respective holding companies that are already listed in the Philippine Stock Exchange (PSE) are deemed in compliance. For existing companies, such public offering shall be implemented not later than five (5) years from effectivity of this Act. New companies shall implement their respective public offerings not later than five (5) years from the issuance of their Certificate of Compliance (COC);

WHEREAS, on 16 October 2025, the ERC, pursuant to its mandate under Section 43(t) of the EPIRA, adopted ERC Resolution No. 17, Series of 2025, entitled "*A Resolution Amending Sections 1.4 and 2.2 of Resolution No. 9, Series of 2011, Requiring Generation Companies and Distribution Utilities which are not Publicly Listed to Offer and Sell to the Public a Portion of Not Less Than Fifteen Percent (15%) of their Common Shares of Stock, Pursuant to Section 43(t) of Republic Act No. 9136 and Rule 3, Section 4(m) of its Implementing Rules and Regulations,*" which rationalized and streamlined the enforcement of the Public Offering Requirement (POR) with prevailing Philippine Stock Exchange (PSE) requirements for public listing;

WHEREAS, on 12 January 2026, the ERC issued an Advisory, reiterating Generation Companies (GenCos), Private Distribution Utilities (DPU), and Electric Cooperatives (ECs) of their compliance with Section 2.2 of Resolution No. 17, Series of 2025 on the period of public offering;

WHEREAS, several stakeholders raised concerns over the inclusion of the unredacted Shareholders' Agreement (SHA) and Share Subscription Agreement (SSA) in the mandatory list of documents that are required to be submitted to the Commission;

WHEREAS, the ERC formulated and adopted Resolution No. 26, Series of 2005 or the *"Guidelines for the Determination of Installed Generating Capacity in a Grid and the National Installed Generating Capacity and Enforcement of the Limits of Concentration of Ownership, Operation or Control of Installed Generating Capacity under Section 45 of Republic Act No. 9136" (MSL Guidelines)*, which took effect on 22 February 2006;

WHEREAS, Section 3, Article II of the said MSL Guidelines provides that the initial setting of the installed generating capacity (IGC) per Grid, national Grid, and the market share limitations (MSL) per Grid and the national Grid shall be contained in a separate issuance of the ERC specifically prescribed for such purpose;

WHEREAS, the ERC shall adjust the foregoing IGC per Grid, national IGC, and the MSL on or before the 15th day of March of the succeeding years or as often as may be necessary based on the maximum capacities of the power plants as submitted under oath by the GenCos and other entities required to report to the ERC, pursuant to the MSL Guidelines, for purposes of monitoring compliance with Section 45 of the EPIRA and the COC Rules;

WHEREAS, to ensure consistency in the evaluation and determination of ownership and control as measures of compliance with the POR and MSL Guidelines and prevent circumvention through indirect or contractual arrangements, the ERC shall examine agreements that may confer control or influence over GenCos and mandated stakeholders;


NOW THEREFORE, the Commission, after due deliberation, hereby **RESOLVES**, as it is hereby **RESOLVED**, to **APPROVE** and **ADOPT** clarifications on ERC Resolution No. 17, Series of 2025 and ERC Resolution No. 26, Series of 2005, hereto attached as **Annex "A"** and to declare the same as an integral and operative part of this Resolution.

This Resolution shall be effective immediately following its publication in a newspaper of general circulation, or in the Official Gazette.

Let copies of this Resolution be furnished to the University of the Philippines Law Center-Office of the National Administrative Register (UPLC-ONAR) and all industry stakeholders, as well as published on the ERC website and such other online platforms available to the Commission.

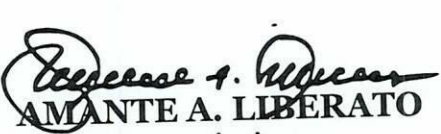
SO ORDERED. March 11, 2026

Pasig City.


FRANCIS SATURNINO C. JUAN
Chairperson and CEO


FLORESINDA G. BALDO-DIGAL
Commissioner


MARKO ROMULO L. FUENTES
Commissioner


AMANTE A. LIBERATO
Commissioner


PARIS G. REAL
Commissioner


MOS: CDAA / CMTB / CLB / SOM

**Deliberated and approved during the 26 February 2026 Commission Meeting.*

AREAS FOR CLARIFICATION

1. Inclusion of the unredacted Shareholder's Agreement (SHA) and Share Subscription Agreement (SSA) in the reportorial requirements

Section 2.2 of Resolution No. 17, Series of 2025 provides:

*“For the ERC’s monitoring of their readiness and qualifications for PSE-listing, all generation companies and DUs that are not yet in compliance with the POR shall submit, no later than the 15th day of January of each year, a verified declaration by their responsible officers attesting to their companies’: a) Financial Performance for the last three (3) years; b) **Stockholders’ Equity**; c) Market Capitalization; d) Operating History; e) Authorized Capital Stock; f) Number of Stockholders; and g) such other material facts proving that they are not yet qualified to list with the PSE.”*

The requirement to submit the SHA and SSA is anchored on the existing obligation under Resolution No. 17, Series of 2025 to monitor and verify the Generation Companies’ (GenCos) Stockholders’ Equity. The SHA establishes the ownership structure and shareholder rights, while the SSA sets out the capital contributions and share issuances. These documents provide reliable and auditable support for verifying the accuracy, completeness, and authenticity of stockholders’ equity as presented in the financial statements. Such inclusion does not create a new substantive requirement but merely clarifies the evidentiary basis necessary to validate compliance of mandated stakeholders, particularly GenCos.

Accordingly, submission of the complete and unredacted SHA and SSA is necessary to assess substantive compliance with (Public Offering Requirement) POR.

2. Relevance of SHA and SSA with the Market Share Limitations (MSL)

Section 2, Article III of the MSL Guidelines provides:

Section 2. Power of ERC to Require Information. *The ERC may, upon written notice, require any Person covered by these Guidelines including the Market Operator, to provide it with any information or documents under oath relating to the enforcement and monitoring of compliance with these Guidelines.*

ANNEX A

The submission of SHA and SSA is necessary to properly assess ownership and control structures, including indirect interests. These documents enable the Commission to determine the true degree of control exercised by holding companies over GenCos, to facilitate the proper crediting of Installed Generating Capacity (IGC) and ensure the consistent application of MSL rules and related guiding principles.

The submission of the General Information Sheet (GIS) and the Articles of Incorporation (AOI) provide information on the identity of shareholders and their respective ownership of common and/or voting shares over the GenCos. However, these documents alone are insufficient to determine the existence of ultimate or effective controlling interest, as they do not necessarily disclose contractual arrangements or other mechanisms that may materially influence control beyond nominal share ownership.


MOS: CDA / CMB / CLB / SOM