

Proposed Amendment to the Benefits to Host Communities Program Rule 29(A) of EPIRA-IRR

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ENERGY REGULATIONS (ER) No. 1-94 PROGRAM

INCLUSION OF THE INDIGENOUS PEOPLES

Broadening the Policy Framework for Equitable, Sustainable and Inclusive Sharing of Financial Benefits under the Program



Backgrounder

- *The Philippine Constitution of 1987;*
- *Indigenous Peoples Rights Act of 1997;*
- *UN Declaration on the Rights of Indigenous Peoples of 2007; and,*
- *ILO Convention on Indigenous and Tribal Peoples*

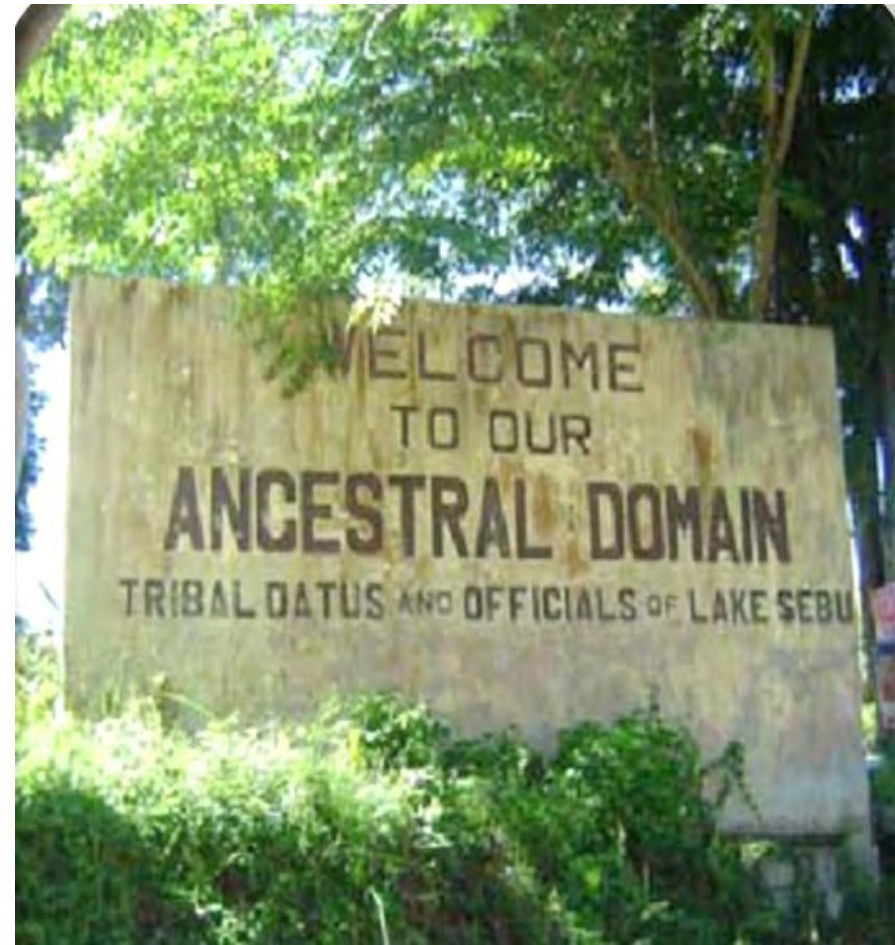
Form pillars of Legal and Policy Framework on Indigenous Peoples rights



Fundamental Rights of Indigenous Peoples

(IPs)

- Right to Ancestral Domains and Natural Resources therein such as **Watersheds and other Forest Products and Services**
- Right to Self-Governance and Self-Determination
- Right to Cultural Integrity
- Fundamental Human Rights and Right to Development



Ancestral Domain marker in Lake Sebu. (Photo: PANLIPI)



Realization of State Policies

- Rights Guaranteed have not been fully realized
- Government policies often reveals a lack of basic understanding or consciousness of the rights as established by IPRA.
- Among the significant areas of concern in terms of legal and policy framework is the equitable, sustainable and inclusive sharing of benefits from the development of watershed in ancestral domains of the Indigenous Peoples.



*Higaonon of Bukidnon.
(Photo: FPE-MIPPEG Project)*



Policy Adjustments



3D mapping (Photo: FPE-MIPPEG Project)

Integrating Rights of Indigenous Communities into Energy Regulations (ER) No. 1-94 (Benefits to Host Communities) Program thru an administrative fiat (DOE Department Circular)



Basic Premises



Children of Sibuyan Mangyan Tagabukid at Sitio Kabuylanan, Brgy. Cambajao, Sibuyan, Romblon. (Photo: FPE-MIPEEG Project)

Indigenous Peoples or the Indigenous Cultural Communities (ICCs) are situated in their Ancestral Domains (ADs) that are construed to be private in nature but communally-owned and carries with it intergenerational accountability as provided in Section 5 of the IPRA on the Indigenous Concept of Ownership



Basic Premises



*Sibuyan Island watershed, Romblon.
(Photo: FPE)*

Consistent with the State Policy recognizing the IP's right for self determination, the ICCs/IPs may be able to access ER No. 1-94 funds (DLF & RWMHEEF) to be primarily used for projects to improve their quality of life as well as to contribute to the sustainability of energy resources as long as their AD serves as host to the Power Plants.



Basic Premises



Maeng ancestral mountain. (Photo: FPE-MIPPEG Project)

In appropriating benefits to the “IPs/ICCs” that host an energy generating facility or energy resource project, a fixed minimum percentage share shall be allocated to the “host IPs/ICCs”.

“IPs/ICCs” that host an energy generating facility or energy resource project, can contribute to the biodiversity conservation and watershed management, using sound, traditional and indigenous practices within that energy resource area.



Proposed Amendments



*Buhita Ancestral Domain Areas, Bukidnon.
(Photo: FPE-MIPPEG Project)*

In general, ER 1-94 is proposed to be amended:

- To expand the operational definition of host communities to include ICCs/IPs in the definition of host communities; and,
- To allocate specific share of ER No. 1-94 financial benefits to ICCs/IPs that host generating facilities or energy resource units.



Proposed Amendments

Definition of Terms

I. Addition of terms to be defined and used within the implementing rules, particularly, Ancestral Domains, Ancestral Lands, Free and Prior Informed Consent, Indigenous Peoples and Watersheds

II. Omnibus replacement of the term Host LGU to Host Communities, thus, adopting a more inclusive definitions of “Host Communities” , “Beneficiaries” and the phrase “Communities and People Affected”



*Sibuyan Mangyan Tagabukid, Sibuyan, Romblon.
(Photo: FPE-MIPPEG Project)*



Proposed Amendments

Section 1: Scope of Application:

To include the ancestral domains of indigenous peoples' communities that host Power Plants.



Mt. Buasao in Abra. (Photo: FPE)



Proposed Amendments

Section 3: Beneficiaries:

Replace the term “Host LGUs” to “Host Communities”.



Higaonon of Bukidnon. (Photo: FPE-MIPPEG Project)



Proposed Amendments

Section 6: Project implementation and approval

In Sub-paragraph (a) revision of the first sentence to read
“the Generation Company/ and/or energy resource developer through its designated COMREL & NCIP, shall assist in preparation of annual work program/project proposals...”



Abra. (Photo: FPE-MIPPEG Project)



Proposed Amendments

- I. MOA to be entered with DOE include the Generation Company, the indigenous cultural communities of the concerned Ancestral Domains/ Land, and NCIP to access the ER 1-94 funds for Development, Livelihood, Reforestation, Watershed Management Health and
- II. Environmental Enhancement Projects.



*IP Mandatory Representative Installation,
Tubo, Abra. (Photo: FPE-MIPPEG ProjectI)*



Proposed Amendments

Section 8: Audit of financial benefits and Project Monitoring:

In the second par. which starts with the sentence “ *The DOE shall conduct financial and technical audit to monitor compliance by the LGU/Region... inclusion of the phrase “x x x or ICCs/ IPs of the Host Ancestral Domain/ lands with regard to the implementation of the project.*



Abra. (Photo: FPE-MIPPEG Project)

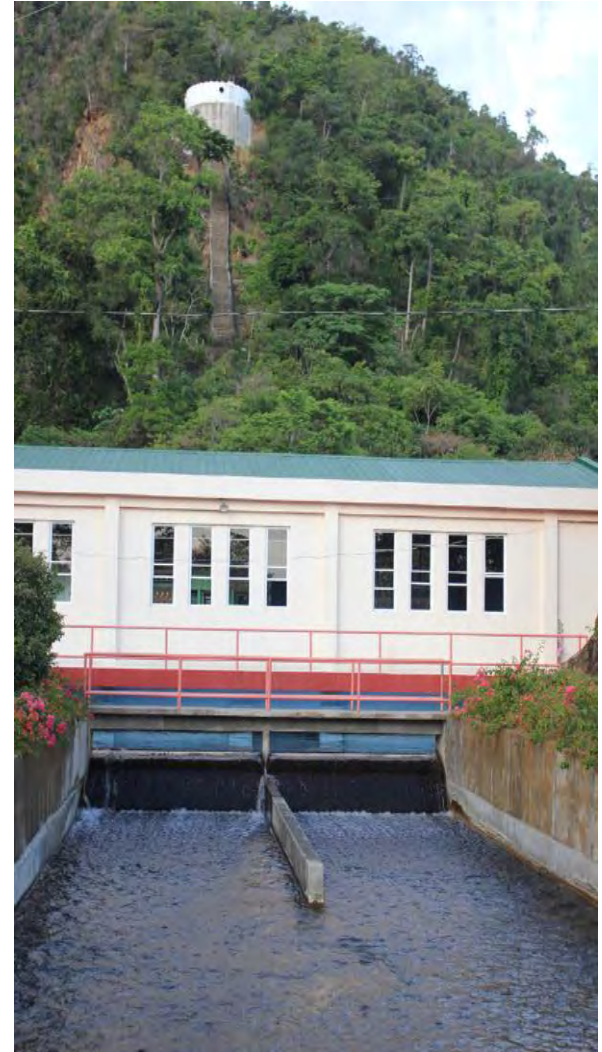


Proposed Amendments

Section 8: Audit of financial benefits and Project Monitoring

Inclusion of ICCs/IPs of the Host Communities in the accountability in the event of unjustified disbursement of funds, delay in the implementation of the project.

Additional paragraph which states “The DOE shall likewise review and audit the sources of funds particularly on the total electricity sales of the Generation Facility to determine the financial benefits due to the Host LGUs, Host Region *and Host Ancestral Domains/ lands*.”



Cantingas Mini-hydro Power Plant,
Sibuyan, Romblon.
(Photo: FPE-MIPPEG Project)



Proposed Amendments

Section 9. Other provisions.

I. Inclusion of the provision which provides redress for land resource conflicts, which reads: “In cases where a boundary dispute arises on the geographical location of the generation facilities and/or energy resource, the matter shall be amicably resolved among the stakeholders involved, failure to resolve the conflict amicably may give rise to the filing of a complaint with the ERC or the NCIP when one of the parties involved is the Host Ancestral Domains/Lands. Provided that pending the resolution of the complaint, the DOE shall momentarily hold in abeyance the evaluation and approval of project proposals submitted by Host LGUs, Host Region/s and Host ICCs/IPs affected.



*Mt. Guiting-guiting, Sibuyan Island.
(Photo: FPE-MIPPEG Project)*



Consensus Building

Through this IEC/Pubcon :

- We can document inputs/comments from concerned project partners.
- Unearthed a number of key issues which contribute to the refinement of draft Department Circular.
- Address the most salient of these issues which is the inequitable and sometimes total absence of benefit sharing for IPs/ICCs situated in ancestral domains/territories that host Power Plants despite the environmental services IPs provide.
- Finally, generate opportunities for partnerships to push forward the energy reform agenda of the Department.



Next Steps / Way Forward



*Mt. Guiting-guiting, Sibuyan Island.
(Photo: FPE-MIPPEG Project)*

- **Consolidate the gathered inputs/comments;**
- **Posting of the draft DC in the DOE portal for further review and comments by the concerned stakeholders;**
- **Integrate, if necessary, the collated inputs and comments in said draft DC; and,**
- **Submit the finalized draft DC version for the Secretary's approval**



MANY THANKS TO



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