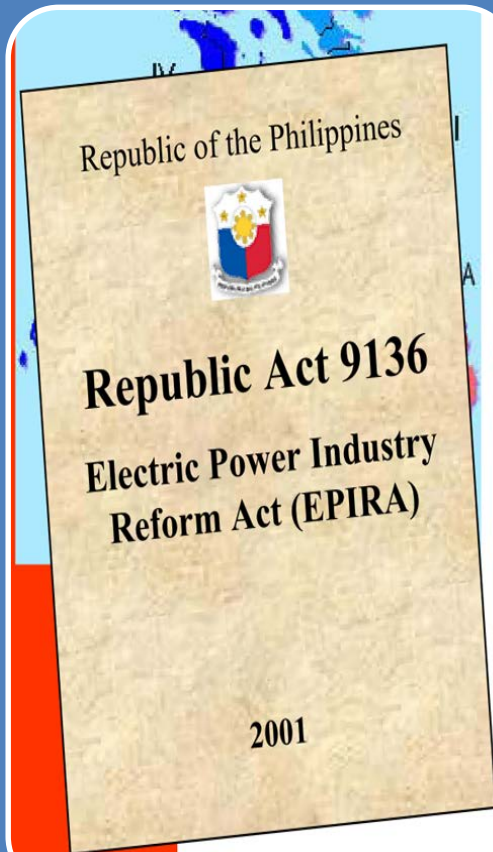


# RULES AND APPLICATION PROCESS FOR POWER SUPPLY AGREEMENTS

# Outline of Presentation

1. Legal Basis for ERC review of PSA
2. Review of PSA Applications
3. Proceedings for PSA Applications

# LEGAL BASIS



**Section 6. Generation sector**  
**Section 4(e), Rule 5 of the**  
**IRR**

**Section 23. Functions of DUs**  
**Section 25. Retail Rate**

**Section 45(b)**  
**DU's Bilateral Power Supply Contracts**

**Section 41. Consumer Interest**



# Regulatory Principle

*Section 6, Chapter 2 of the Republic Act No. 9136 or the Electric Power Industry Reform Act of 2001 (EPIRA)*

## GENERATION SECTOR.

Generation of electric power, a business affected with public interest, shall be competitive and open.

Upon implementation of retail competition and open access, the prices charged by a generation company for the supply of electricity shall not be subject to regulation by the ERC except as otherwise provided in this Act.



# Regulatory Principle

*Section 25, Chapter 2 of Republic Act No. 9136 or the Electric Power Industry Reform Act of 2001 (EPIRA)*



**RETAIL RATE.** The retail rates charged by distribution utilities for the supply of electricity in their captive market shall be subject to regulation by the ERC based on the **principle of full recovery of prudent and reasonable economic costs incurred**, or such other principles that will promote efficiency as may be determined by the ERC.

# Regulatory Principle

## Section 4 (e), Rule 5 of the Implementing Rules and Regulations of the EPIRA

**“xxx Prior to the implementation of OARC, the prices charged by a Generation Company for the Supply of Electricity shall be subject to ERC regulation on the Retail Rates charged by Distribution Utilities xxx”**



# Regulatory Principle

*Section 23, Chapter 2 of the Republic Act No. 9136  
Functions of Distribution Utilities.*

**A distribution utility shall have the obligation to supply electricity in the least cost manner to its captive market, subject to the collection of retail rate duly approved by the ERC.**



# Regulatory Principle

***Section 45 (b) of Republic Act No. 9136 or the Electric Power Industry Reform Act of 2001 (EPIRA)***

*Cross Ownership, Market Power Abuse And Anti-Competitive Behavior.*

*X X X*

*To promote true market competition and prevent harmful monopoly and market power abuse, the ERC shall enforce the following safeguards:*

*X X X*

*(b) Distribution utilities may enter into bilateral power supply contracts subject to review by ERC.*

*X X X.*





A stylized illustration of a meeting. A man in a suit with a yellow tie and a yellow circle with the number '1' on his head is standing and pointing at a document on a green table. Three other people in suits are seated around the table, looking at the document. The background is a light blue sky with yellow and green streaks.

# REVIEW AND APPROVAL OF RECOVERABLE GENERATION RATE

A photograph showing a person's hands working on a desk. The hands are pointing at a document in a folder. A calculator and a pen are also visible on the desk.

Contract

*Contract Negotiations*

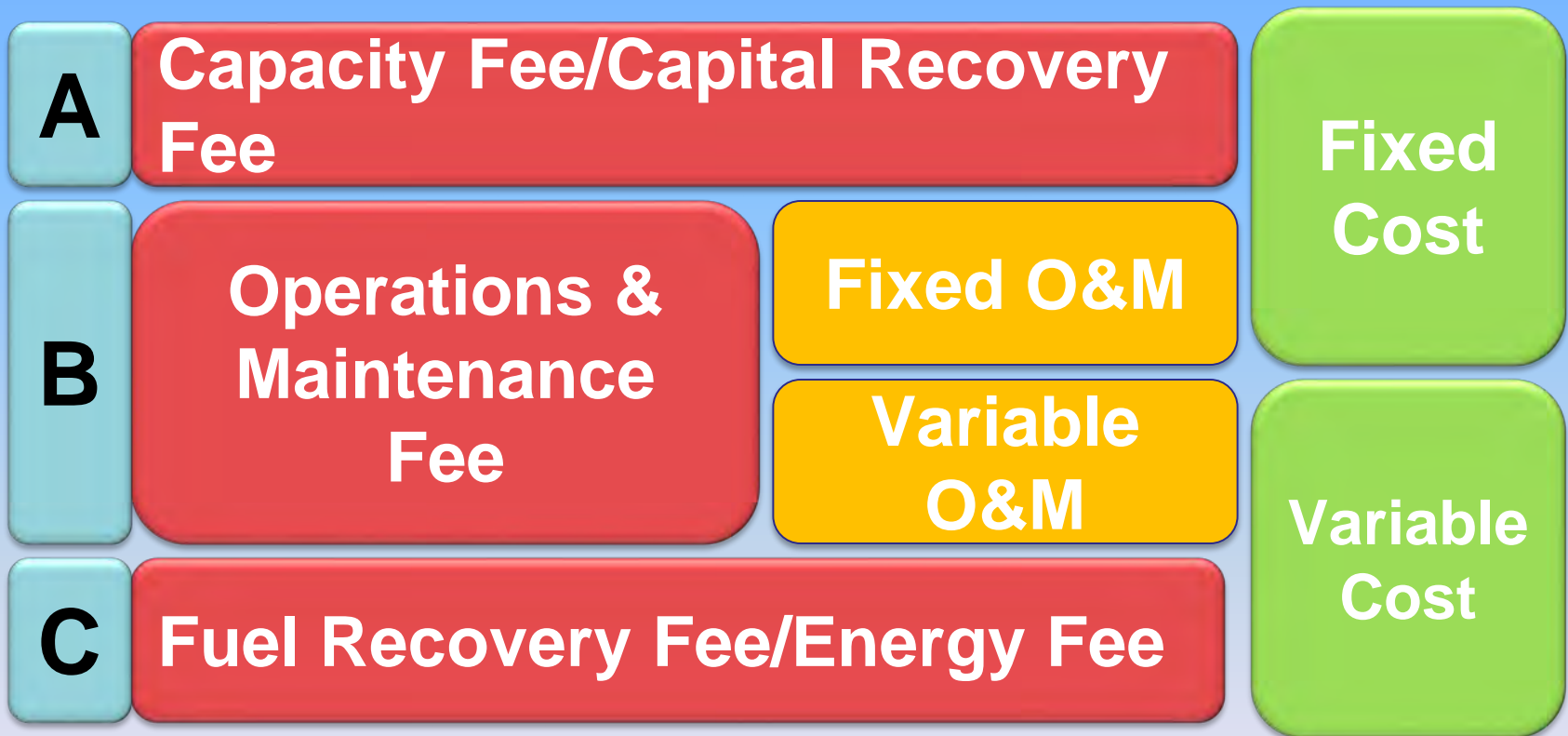
# Generation Rate Structure Review



**What does the ERC  
look into in its review  
and evaluation?**



# Generation Rate Components






## Capital Recovery Fee

- a capital-related component to recover the cost of investment (historical cost) over the economic life of the plant together with a reasonable rate of return
- Fixed for the duration of the project life/plant economic life

# Capital Recovery Fee

## Required Supporting Documents/ Input Parameters

- 
- **PROJECT COST (EPC/VERIFIED ESTIMATES)**
  - **PLANT TECHNICAL SPECIFICATIONS (ECONOMIC LIFE/RECOVERY PERIOD)**
  - **RATE OF RETURN (WACC/COST OF EQUITY)**
  - **PLANT DEPENDABLE CAPACITY (BILLING DETERMINANT)**



# Generation Rate Components



## Operations & Maintenance Fee

Fixed O&M

Variable O&M

**Refers the recurring expenses related to the operations and maintenance of the power plant facilities**

**Fixed O&M** – an element to recover fixed operating and maintenance (O&M) costs. This cost is determined by the capacity of the plant, not the level of utilization.

**Variable O&M** - an element to recover variable O&M costs and which varies with the amount of electricity generated.

## Operations and Maintenance Fee

### Required Supporting Documents/ Input Parameters



- GENERAL AND ADMINISTRATIVE EXPENSES



- MAINTENANCE AND INSURANCE



- SUPPLIES AND SPARE PARTS



- GOV'T TAXES AND LICENSES

# Generation Rate Components

## Operations & Maintenance Fee

### *Regulatory Authority over Expenses*

- Management exercises its prerogative in incurring expenses
- The Commission reviews the expenses incurred by management and decides whether or not to allow recovery of these cost from consumers
- Prudence and reasonableness of the proposed expenses, and relationship to the provision of service

# Generation Rate Components



**Fuel Recovery Fee/Energy Fee**

**Variable  
Cost**

- Pass-through cost to allow recovery of fuel consumed to generate power
- Cost also depends on the plant heat rate

## Required Supporting Documents/ Input Parameters



- FUEL SUPPLY CONTRACT/S



- FUEL PROCUREMENT PROCESS



- FUEL COST COMPUTATION (BASIS OF ASSUMED  
BASE COST/PRICES AND INDEXATION)



- CONSUMPTION RATE/HEAT RATE



# Proceedings before the ERC

# Requirements under EPIRA

\*Rule 3, Sec. 4 (e) of the IRR

*“Any application or petition for rate adjustment or for any relief affecting the consumers must be verified, and accompanied with an acknowledgment receipt of a copy thereof by the LGU Legislative Body of the locality where the applicant or petitioner principally operates together with the certification of the notice of publication thereof in a newspaper of general circulation in the same locality.*

## Rule 3, Sec. 4 (e) cont.

*The ERC may grant provisionally or deny the relief prayed for not later than seventy five (75) days from the filing of the application or petition, based on the same and the supporting documents attached thereto and such comments or pleadings the consumers or the LGU concerned may have filed within 30 calendar days from receipt of a copy of the application or petition or from the publication thereof as the case may be*

## Rule 3, Sec. 4 (e) cont.

*Thereafter, the ERC shall conduct a formal hearing on the application or petition, giving proper notices to all parties concerned, with at least one public hearing in the affected locality, and shall decide the matter on the merits not later than twelve (12) months from the issuance of the aforementioned provisional order.”*

# Pre-filing requirements

- Legal
  - Proof of publication
  - Proof of receipt of Sanggunian
  - Board resolution authorizing: filing, representation
  - Proof of conduct of CSP



# Pre-filing requirements

- Technical

- Guide is the checklist

- \*Combination of documents to be provided by both  
DU and Generator

- Supply/demand data
    - Company/Cost data
    - Procurement process information

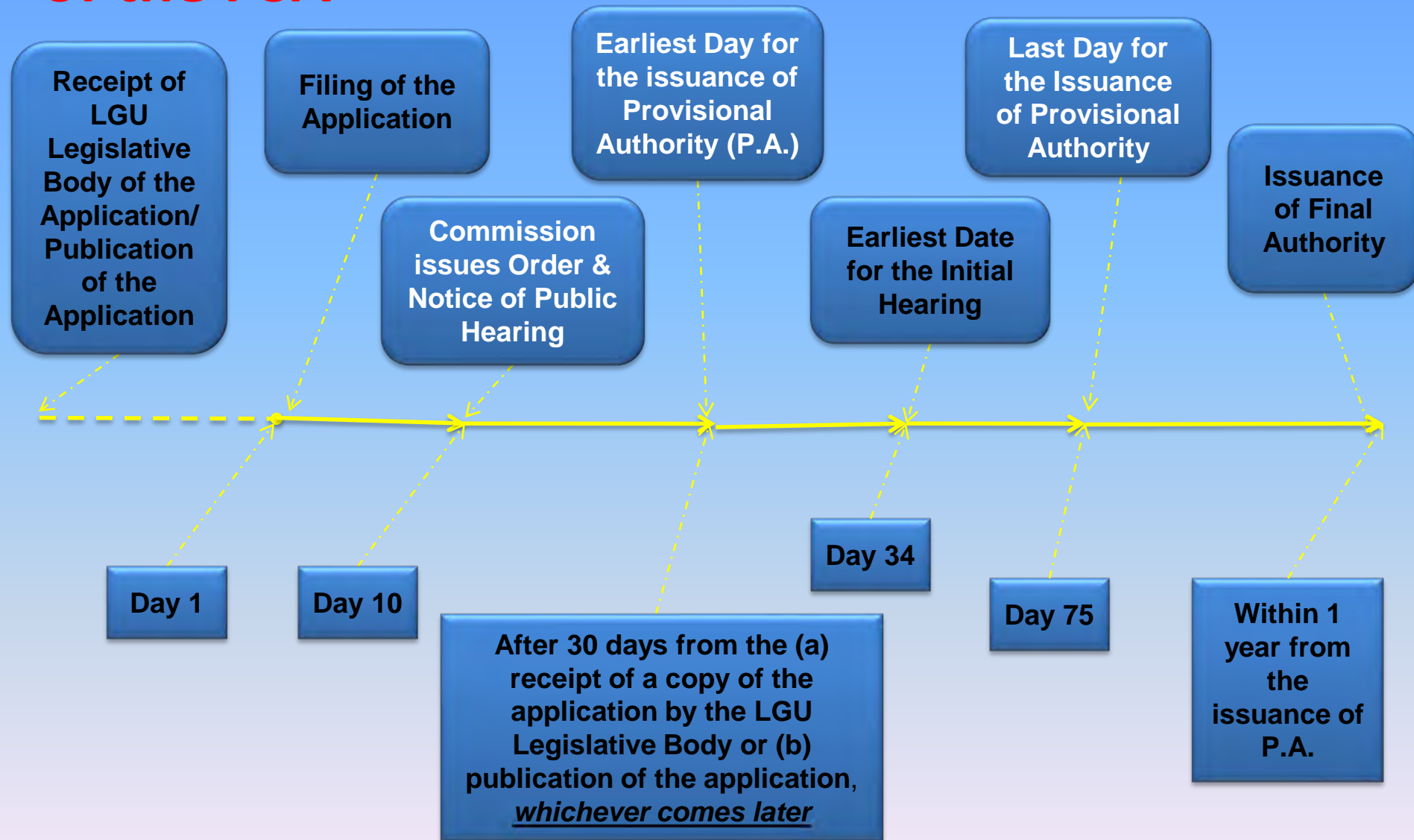
- \*Currently under review

# Compliance with CSP\*

- Minimum conditions
  - Selection process must be transparent.
  - Selection process must be competitive.
  - DU must receive at least 2 qualified bids from entities it is not prohibited to contract with
  - TOR must at the minimum contain information required under Sec. 2 of Res. No. 13
  - direct negotiations may be done only after at least 2 failed bids

**\*(Res. 13, S. 2015; Res. 1, S. 2016)**

# Timeline for the Application of the PSA



# Parties in the Proceedings

1. Applicants\* (Res. 2, Series of 2015)
  - DU
  - Generation Company
2. Intervener
3. Oppositor

# Intervention vs. Opposition

Intervention	Opposition
petition filed 5 days before hearing	Any time during the proceedings
Considered party to the case	Not considered a party
Right to cross-examine witness	Only when allowed by the Commission



# Recent Initiatives for PSA

- Fast track resolution
  - 2 Technical Working Groups created
  - Continuous capacity building of technical staff



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