

**MEMORANDUM CIRCULAR**  
**NO. \_\_\_\_\_**

**SUBJECT: IMPLEMENTING RULES AND REGULATIONS OF THE NATIONAL TELECOMMUNICATIONS COMMISSION ON PUBLIC SERVICES PURSUANT TO REPUBLIC ACT NO. 11659 AND ITS IMPLEMENTING RULES AND REGULATIONS**

**WHEREAS**, Republic Act (RA) No. 11659, *An Act Amending Commonwealth Act (CA) No. 146, otherwise known as the Public Service Act* (Act) took effect on 09 April 2022;

**WHEREAS**, *Section 3(m) of the Act* recognized the National Telecommunications Commission (NTC) as one of the administrative agencies to which the powers and duties of the Public Service Commission were transferred by subsequent laws;

**WHEREAS**, the National Economic and Development Authority (NEDA) and other relevant government agencies, including the NTC, thereafter duly convened, crafted and signed the *Implementing Rules and Regulations (IRR) of Republic Act (RA) No. 11659* which took effect on 04 April 2023;

**WHEREAS**, the *Second Paragraph, Section 54 of said IRR* states that “Administrative Agencies may issue guidelines and circulars as may be deemed necessary for the effective implementation of the various provision of the Act and these Rules, provided that the same are consistent with C.A No. 146, as amended, the Act and these Rules”;

**WHEREAS**, NTC is mandated by law to supervise and regulate wire or wireless communications system, wire or wireless broadcasting stations and other public services, in order to protect and promote public interest and welfare;

**WHEREAS**, in the supervision and regulation of these public services, *Section 40 of CA 146, as amended by Section 22 of the Act* provides that an “Administrative Agency may collect from any public service [x x x] reasonable fees and charges and impose appropriate penalties and fines as provided by law: *Provided*, That such fees, charges, penalties and fines may be adjusted to its present value every five (5) years using the Consumer Price Index (CPI) as published by the Philippine Statistics Authority (PSA)”;

**NOW, THEREFORE**, in faithful compliance with the above-mentioned Act and IRR and pursuant to the provisions of *RA No. 7925, or the Public Telecommunications Policy Act of the Philippines; Act No. 3846, or the Radio Control Law, as amended; Executive Order*

(EO) No. 546, series of 1979; and EO No. 205, series of 1987, the following rules and regulations on public services within the jurisdiction and authority of the NTC are hereby promulgated:

## **RULE I. PRELIMINARY PROVISIONS**

**SECTION 1. TITLE.** - These guidelines, rules and regulations shall be known as the "NTC Rules on Public Services under R.A. No. 11659" (Rules).

**SECTION 2. COVERAGE.** These Rules shall apply to all persons, whether juridical or natural; who own, operate, manage, or control in the Philippines; for hire or compensation; with general or limited clientele, whether permanent, occasional or accidental; and done for general business purposes any wire or wireless communications system, wire or wireless broadcasting station and other similar public services, including but not limited to, the following:

- i. Public telecommunications entities (PTEs);
- ii. Value-Added Service (VAS) Providers;
- iii. Radio, Television and other Broadcast Stations; and
- iv. Cable Antenna Television (CATV) Operators.

**SECTION 3. DEFINITION OF TERMS.** - For purposes of these Rules, the terms below shall be defined as follows:

**(a). Act** - refers to RA No. 11659, or "An Act Amending Commonwealth Act (CA) No. 146, otherwise known as the Public Service Act, as amended".

**(b). Certificate** - refers to any Certificate of Authority (CA), Certificate of Public Convenience (CPC), Certificate of Public Convenience and Necessity (CPCN), Certificate of Registration (COR), Provisional Authority (PA), or any other appropriate form of authorization for the operation of a public service under the jurisdiction of the NTC.

**(c). Commission or NTC** - refers interchangeably to the National Telecommunications Commission.

**(d). Critical Infrastructure** - refers to any public service which owns, uses, or operates systems and assets, whether physical or virtual, so vital to the Republic of the Philippines that the incapacity or destruction of such systems or assets would have a detrimental impact on national security, including telecommunications and other such vital services as may be declared by the President of the Philippines.

**(e). Person** - refers to both natural and juridical persons, and includes every-individual, co-partnership, joint-stock company, or corporation, whether domestic or foreign, their lessees, trustees, or receivers, as well as any municipality, province, city, government-owned or-controlled corporation, or agency of the Government of the Philippines, and whatever other persons or entities that may own or possess or operate public services.

**(f) Philippine National** - refers to citizens, partnerships, associations, and corporations defined by *Section 3(a) of R.A. No. 7042, otherwise known as the Foreign Investments Act of 1991, as amended.*

**(g) Public Service Entity** - refers to any person who own, operate, manage or control public services as defined under *Section 13(b) of CA No. 146, as amended* by laws and jurisprudence.

**(h) Public Telecommunications Entity** - refers to any person engaged in the business of providing telecommunications service to the public for compensation.

**(i) Telecommunications** - refers to any process which enables a telecommunications entity to relay and receive voice, data, electronic messages, written or printed matter, fixed or moving pictures, words, music or visible or audible signals or any control signals of any design and for any purpose by wire, radio or other electromagnetic, spectral, optical or technological means, as defined by *Section 3 (a) of R.A. No. 7925, otherwise known as the Public Telecommunications Policy Act of the Philippines, as amended*, except passive telecommunications tower infrastructure and components, such as, but not limited to, poles, fiber ducts, dark fiber cables, and passive telecommunications tower infrastructure, as defined by the Department of Information and Communications Technology (DICT), and value-added services, as defined by *Section 3(h) of R.A. No. 7925, as amended.*

**(j). Value Added Service (VAS) Provider** - an entity which, relying on the transmission, switching, and local distribution of public telecommunications entities, offers enhanced services beyond those ordinarily provided for by such carriers; and/or is allowed direct access to all satellite systems, whether fixed or mobile, international or domestic, to build and operate broadband facilities to offer internet services.

## **RULE II. GENERAL PROVISIONS**

**SECTION 4. NON-IMPOSITION OF NATIONALITY REQUIREMENTS.** - Foreign nationals may invest in the capital stock of entities classified as critical infrastructure,

such as public telecommunication entities, to the extent allowed under Secs 24 and 25 of the Act and Sec 44 and 45 of the IRR.

There shall be no nationality requirement to be imposed upon VAS Providers.

**SECTION 5. EMPLOYMENT OF FOREIGN NATIONALS.** Any public service entity covered under Section 2 of these Rules may employ foreign national/s: *Provided, That* such public service entity, upon referral of the application to employ foreign national by other relevant government agencies such as the NEDA and Department of Justice, has secured from the NTC a prior written certification or letter of no objection to employ such foreign national.

**SECTION 6. PERFORMANCE AUDIT.** - All public service entities covered under Section 2 of these Rules shall undergo an annual performance audit conducted by an independent evaluation team to monitor cost, the quality of services provided to the public, and the ability to immediately and adequately respond to emergency cases.

Public telecommunications entities shall, in addition to the foregoing, be also audited annually on risk assessment and cybersecurity, among others.

Failure to pass the annual performance audit for three (3) consecutive years shall be a ground for suspension or revocation of the certificate/s or authorization of the public service entity concerned.

Each public service entity shall submit to the NTC the official result of its performance audit on or before 30<sup>th</sup> April of the year following the conduct thereof.

The NTC shall hereafter issue the corresponding guidelines on the conduct of the annual performance audit, pursuant to Section 20 of these Rules.

**SECTION 7. CERTIFICATION ON INFORMATION SECURITY.** Pursuant to *Section 26 of the Act and Section 47 of its IRR*, any person or entity engaged in telecommunications service, except those classified as Micro, Small and Medium Enterprises (MSMEs) under *RA No. 6977*, shall obtain and maintain certification from an accredited certification body confirming compliance to relevant and prescribed ISO standards on information security: *Provided, That* the maintenance of the ISO certification shall be a continuing qualification for retention of the certificate issued by the NTC.

The NTC shall hereafter issue the corresponding guidelines on the requirements and processes to obtain and maintain such ISO certification, pursuant to Section 20 of these Rules.

### **RULE III. ADMINISTRATIVE FEES AND CHARGES**

**SECTION 8. SUPERVISION AND REGULATION FEES (SRF).** All public service entities covered under Section 2 of these Rules shall pay annual SRF pursuant to *Section 40 of CA 146, as amended by Section 22 of the Act*, applicable laws and jurisprudence.

**SECTION 9. COMPUTATION OF SRF.** The SRF shall be computed as follows:

- a. For public service entities with capital stock, the SRF shall be Fifty Centavos (PHP0.50) for every One Hundred Pesos (PHP100.00) or fraction thereof, of the subscribed or paid capital, including any subsequent increase thereon.
- b. For public service entities without capital stock, the SRF shall be Fifty Centavos (PHP0.50) for every One Hundred Pesos (PHP100.00) or fraction thereof, of the capital invested, or of the property and equipment, whichever is higher.

**SECTION 10. PAYMENT OF SRF.** The SRF shall be paid annually on or before 30<sup>th</sup> September of each year, with a penalty of fifty percent (50%) in case of delinquency. If the fees or any balance thereof are not paid within sixty (60) days from the said date, the penalty shall be increased by one percent (1%) for every month thereafter of delinquency.

### **RULE IV. PENALTIES**

**SECTION 11. PENALTIES.** Pursuant to *Section 21 of CA No. 146, as amended by Section 11 of the Act*, fines and penalties shall be imposed, after due notice and hearing, against:

- a) A Grantee of any Certificate issued by the NTC who is found violating or failing to comply with the terms and conditions of any certificate or any order, decision, or regulation of the NTC, in accordance with **Table "A"** below: *Provided, however*, if such Grantee was able to comply within a period of sixty (60) days from the date of commission/omission or discovery, whichever is earlier, of such violation or failure to comply, said Grantee shall be meted with an initial fine/penalty equivalent to one (1) day corresponding to its classification and frequency of violation: *Provided, further*, in case the Grantee failed to comply within the said sixty (60)-day period, such Grantee shall be liable for such fine/penalty equivalent to one (1) day plus the daily penalty corresponding to **Table A** below until such time that the violation/s or failure to comply had been fully rectified and/or complied with.

**TABLE "A"**

CLASSIFICATION <sup>1</sup>	APPLICABLE FINE/PENALTY (in PhP)			
	1 <sup>ST</sup> OFFENSE	2 <sup>ND</sup> OFFENSE	3 <sup>RD</sup> OFFENSE	4 <sup>TH</sup> AND SUCCEEDING OFFENSES
<b>Micro</b>	5,000.00 per day of violation	10,000.00 per day of violation	15,000.00 per day of violation	20,000.00 per day of violation
<b>Small</b>	10,000.00 per day of violation	20,000.00 per day of violation	30,000.00 per day of violation	40,000.00 per day of violation
<b>Medium</b>	50,000.00 per day of violation	100,000.00 per day of violation	150,000.00 per day of violation	200,000.00 per day of violation
<b>Large</b>	100,000.00 per day of violation	200,000.00 per day of violation	300,000.00 per day of violation	400,000.00 per day of violation

The amount of imposable fine/penalty, as well as the frequency of violation or failure to comply of a particular Grantee of Certificate issued by the NTC shall be determined/counted on a per Certificate basis.

- b) Any other person not covered by paragraph (a) hereof who are found violating any order, decision, or regulation of the NTC, in accordance with **Table "B"** below:

**TABLE "B"**

CLASSIFICATION <sup>2</sup>	APPLICABLE FINE/PENALTY (in PhP)			
	1 <sup>ST</sup> OFFENSE	2 <sup>ND</sup> OFFENSE	3 <sup>RD</sup> OFFENSE	4 <sup>TH</sup> AND SUCCEEDING OFFENSES
<b>Micro</b>	10,000.00 per day of violation	20,000.00 per day of violation	30,000.00 per day of violation	40,000.00 per day of violation

<sup>1</sup> Pursuant to *RA No. 6977, as amended*, the above classification shall refer to public service entities covered under Section 2 of these Rules whose total assets, inclusive of those arising from loans but exclusive of the land on which the particular public service entity's office, plant and equipment are situated, have value falling under the following categories:

**Micro** – not more than Three Million Pesos (PhP 3,000,000.00)

**Small** – Three Million and One Peso (PhP 3,000,001.00) to Fifteen Million Pesos (PhP 15,000,000.00)

**Medium** – Fifteen Million and One Peso (PhP 15,000,001.00) to One Hundred Million Pesos (PhP 100,000.00)

**Large** – More than One Hundred Million Pesos (PhP 100,000,000.00).

<sup>2</sup> *Ibid.*

<b>Small</b>	20,000.00 per day of violation	40,000.00 per day of violation	60,000.00 per day of violation	80,000.00 per day of violation
<b>Medium</b>	100,000.00 per day of violation	200,000.00 per day of violation	300,000.00 per day of violation	400,000.00 per day of violation
<b>Large</b>	200,000.00 per day of violation	400,000.00 per day of violation	600,000.00 per day of violation	800,000.00 per day of violation

The NTC may adjust the foregoing computation of fees, charges, penalties, and fines to its present value, every five (5) years using the CPI as published by the PSA.

**SECTION 12. REFUND OF EXCESS RATES COLLECTED.** - In cases where rates collected by the public service entity exceed the rates authorized by the NTC, the NTC may order a refund to consumers in lieu of or in addition to the fine or penalty imposed under the Act or the special law governing the public service.

**SECTION 13. PAYMENT OF FINES/PENALTIES.** - The fines/penalties so imposed shall be paid to the Government of the Philippines through the NTC, and failure to pay the fine or comply with the order to refund, as the case may be, within the time specified in the order or decision of the NTC, shall be deemed good and sufficient reason for the suspension of the Certificate of said public service, until payment shall be made or the order is complied with. Payment may also be enforced by appropriate action brought in a court of competent jurisdiction.

**SECTION 14. IMPOSITION OF FINES/PENALTIES NOT A BAR TO OTHER REMEDIES.** - The remedy and imposition of fines/penalties provided under Rule IV herein shall not be a bar to, or affect any other remedy provided in *C.A. No. 146, as amended*, the Act, and other relevant laws, rules and regulations, but shall be cumulative and additional to such remedy or remedies.

**SECTION 15. OFFER OF COMPROMISE.** Pursuant to *Section 22 of CA 146, as amended*, the NTC may compromise any case that arise under the Act for such amount as it may deem just and reasonable.

The offer of compromise shall not be lower than seventy percent (70%) of the adjudged fine/penalty.

**SECTION 16. FORMAL REQUIREMENTS FOR OFFER OF COMPROMISE.** The offer of compromise shall be in a formal motion containing the following:

- i. justification for the offer of compromise;
- ii. detailed computation on the determination of offered compromise;
- iii. certificate of authority to submit the Offer of Compromise; and

- iv. report, notice or any document that will serve as proof of voluntary compliance to its violations.

**SECTION 17. APPROVAL OF COMPROMISE.** All compromise settlements under the jurisdiction of NTC shall be resolved by the Commission *en banc*. All decisions, whether approved or denied, shall have the concurrence of the Commissioner, through an order accepting the Offer of Compromise.

The case is considered provisionally closed on the day the compromised amount is fully paid.

## **RULE V. EXERCISE OF QUASI-JUDICIAL FUNCTION**

**SECTION 18. QUASI-JUDICIAL POWERS AND FUNCTIONS.** The NTC shall continue to exercise its quasi-judicial powers and functions under the existing *2006 Rules of Practice and Procedure*. In addition, the following powers and functions shall be followed pursuant to *Sections 17 to 21 of the Act and its IRR*:

- a) **Conduct of Hearing and Investigation.** All hearings and investigations before the NTC shall be governed by the rules adopted by the NTC, and in the conduct thereof, the NTC shall not be bound by the technical rules of legal evidence: *Provided*, The NTC Hearing Officer may summarily punish for contempt by a fine not exceeding Two Thousand Pesos (P2,000.00), or by imprisonment not exceeding ten (10) days, or both, any person guilty of misconduct in the presence of the Hearing Officer or so near the same as to interrupt the hearing or session or any proceedings before NTC, including cases in which a person present at a hearing, session, or investigation held by the Hearing Officer refuses to be sworn as a witness or to answer as such when lawfully required to do so.
- b) **Rules on Hearings and Investigations.** Subject to *Section 30 of CA 146, as amended*, the following rules shall apply:
  - i. The Commission may issue *subpoenas* and *subpoenas duces tecum*, for witnesses in any matter or inquiry pending before the NTC and require the production of all books, papers, tariffs, contracts and all other documents, which the Commission may deem necessary in any proceeding. Such process shall be issued under the seal of the Commission, signed by one of the Hearing Officer. Disobedience to or failure to comply with such subpoena, shall constitute indirect contempt, and may be instituted in the manner as provided in the Rules of Court before the appropriate court.
  - ii. Any person who shall neglect or refuse to answer any lawful inquiry or produce before the NTC, books, papers, tariffs, contracts, agreements,



and documents or other things called for by the NTC, if in his power to do so, in obedience to the subpoena or lawful inquiry of the NTC upon conviction thereof by a court of competent jurisdiction, shall be punished by a fine not exceeding Thirty Thousand Pesos (P30,000.00) or by imprisonment not exceeding six (6) months, or both, at the discretion of the court.

- iii. The officials and Hearing Officers of the NTC shall have the power to administer oaths in all matters under the jurisdiction of the Commission.
  - iv. Witnesses appearing before the NTC in obedience to subpoena or subpoena duces tecum shall be entitled to receive the same fees and mileage as witness attending regional trial courts in civil cases.
  - v. Any person who shall obstruct the NTC or either of the Hearing Officers while engaged in the discharge of official duties, or who shall conduct himself in a rude, disrespectful or disorderly manner before the NTC or either of the Hearing Officers, while engaged in the discharge of official duties, or shall orally or in writing be disrespectful to, offend or insult either of the Hearing Officers on occasion or by reason of the performance of his official duties, upon conviction thereof by a court of competent jurisdiction, shall be punished for each offense by a fine not exceeding Thirty Thousand Pesos (P30,000.00), or by imprisonment not exceeding six (6) months, or both, at the discretion of the Court.
- c) **Additional Authority of NTC in the Conduct of Investigation and Hearings.** The NTC may, in any investigation or hearing, by its order in writing, cause the deposition of witnesses residing within or without the Philippines to be taken in the manner and under the conditions prescribed by the Rules of Court. Where witnesses reside in places distant from Manila and it would be inconvenient and expensive for them to appear personally before the NTC, the NTC may, by proper order, commission any clerk of the Regional Trial Court of the Philippines to take the deposition of witnesses in any case pending before the NTC. It shall be the duty of the official so commissioned, to designate promptly a date or dates for the taking of such deposition, giving timely notice to the parties, and on said date to proceed to take the deposition, reducing it to writing. After the depositions have been taken, the official so commissioned shall certify to the depositions taken and forward them as soon as possible to the NTC. It shall be the duty of the respective parties to furnish stenographers for taking and transcribing the testimony taken.

The NTC may also, by proper order, authorize any of the attorneys of the legal branch, if they be lawyers, to hear and investigate any case filed with the NTC and in connection therewith to receive such evidence as may be material thereto. At the conclusion of the hearing or investigation, the attorney

authorized shall submit the evidence received by him to the NTC to enable the latter to render its decision.

## **RULE VI. MISCELLANEOUS PROVISIONS**

**SECTION 19. REFERENCE TO IMPLEMENTING RULES AND REGULATIONS -** *The Implementing Rules and Regulations (IRR) of Republic Act (RA) No. 11659 shall apply to all other matters not covered under this Circular.*

**SECTION 20. SUPPLEMENTAL ISSUANCES -** The NTC may issue such orders, circulars, guidelines, and/or regulations in order to supplement the implementation of any particular provision or group of provisions under these Rules.

**SECTION 21. SEPARABILITY CLAUSE. -** If any section or part of this Circular is held unconstitutional or invalid, the other sections or provisions not otherwise affected shall remain in full force and effect.

**SECTION 22. REPEALING CLAUSE. -** Any circular, order, memorandum or parts thereof inconsistent herewith are deemed repealed or amended accordingly.

**SECTION 23. EFFECTIVITY CLAUSE. -** This Circular shall take effect fifteen (15) calendar days after publication in a newspaper of general circulation and upon deposit of three (3) certified true copies thereof with the University of the Philippines Law Center.

Quezon City, Philippines, \_\_\_\_ 2024.

**ELLA BLANCA B. LOPEZ**  
Commissioner

**JON PAULO V. SALVAHAN**  
Deputy Commissioner

**ALVIN BERNARD N. BLANCO**  
Deputy Commissioner