

AUTORIDADE REGIONAL  
REGULADORA DE ELETRICIDADE DA CEDEAO

ECOWAS REGIONAL  
ELECTRICITY  
REGULATORY AUTHORITY



AUTORITÉ DE RÉGULATION  
RÉGIONALE DU SECTEUR DE  
L'ÉLECTRICITÉ DE LA CEDEAO

---

ENERGY COMMISSION BUILDING, GHANA AIRWAYS AVENUE, PMB 76 MINISTRIES POST OFFICE, ACCRA – GHANA  
TEL: (+233) 0302 817 047 (+233) 0302 817 049 FAX: (+233) 0302 817 050 WEBSITE: [www.erera.arrec.org](http://www.erera.arrec.org) EMAIL: [info@erera.arrec.org](mailto:info@erera.arrec.org)

---

**RESOLUTION N°011/ERERA/17**  
**Adoption of the Rules of Practice and Procedures of ECOWAS  
Regional Electricity Regulatory Authority**

---

The Regulatory Council,

**MINDFUL** of the Supplementary Act A/SA.2/01/08 establishing the ECOWAS Regional Electricity Regulatory Authority(ERERA);

**MINDFUL** of Regulation C/REG.27/12/07 of 15 December 2007 as amended, concerning the Composition, Organization, Functions and Operation of ERERA;

**MINDFUL** of the Directive C/DIR.1/06/13 dated 21 June 2013 on the organization of the regional electricity market;

**MINDFUL** of the Regional Market Rules for the West African Power Pool (WAPP) approved by Resolution N°005/ERERA/15;

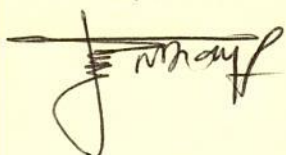
**RESOLVE THAT:**

1. The Rules of Practice and Procedures of ECOWAS Regional Electricity Regulatory Authority, hereby attached, is adopted by the Regulatory Council.

2. The Rules of Practice and Procedures of ECOWAS Regional Electricity Regulatory Authority shall be published in the ERERA official Bulletin and Website.

**Done in Big Ada, Greater Accra, GHANA, on December 11, 2017**

**Aly Mar NDIAYE**



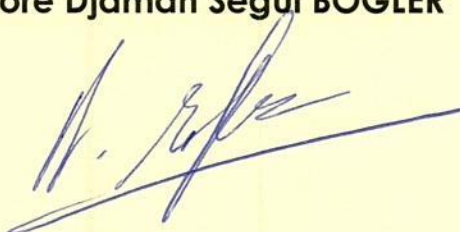
**Council Member**

**Haliru DIKKO**



**Council Member**

**Honoré Djamah Ségui BOGLER**



**Chairman**

**AUTORIDADE REGIONAL  
REGULADORA DE ELETRICIDADE DA CEDEAO**

**ECOWAS REGIONAL  
ELECTRICITY  
REGULATORY AUTHORITY**



**AUTORITÉ DE RÉGULATION  
RÉGIONALE DU SECTEUR DE  
L'ÉLECTRICITÉ DE LA CEDEAO**

---

**ECOWAS REGIONAL ELECTRICITY REGULATORY AUTHORITY  
RULES OF PRACTICE AND PROCEDURE**

---

**DECEMBER 2017**

**ECOWAS REGIONAL ELECTRICITY REGULATORY AUTHORITY**

*[Handwritten signature]*



## ERERA RULES OF PRACTICE AND PROCEDURE

---

### TABLE OF CONTENTS

1-	APPLICABILITY .....	3
2-	DESCRIPTION AND OPERATION OF ERERA .....	3
3-	REFERENCE TO THE RULES OF PRACTICE AND PROCEDURE.....	4
4-	DEFINITIONS.....	4
5-	FILINGS AND SERVICE .....	6
6-	RULEMAKING AND PUBLIC CONSULTATION INITIATED BY ERERA .....	7
7-	PROCEEDINGS INITIATED BY APPLICATION OR COMPLAINT.....	7
8-	HEARING PROCESS .....	8
9-	ERERA DECISIONS .....	9
10-	CONFIDENTIAL INFORMATION .....	9
11-	EFFECTIVE DATE .....	10

## 1- Applicability

- 1.1 These Rules of Practice and Procedure (RPP) shall govern all Proceedings before the ECOWAS Regional Electricity Regulatory Authority (ERERA).
- 1.2 In any Proceeding, ERERA may issue directions on procedure to supplement the RPP, which will govern the conduct of that Proceeding.
- 1.3 The following are examples of matters to be governed by the RPP:
  - (a) Applications for approval as market participant;
  - (b) Applications for the approval of general tariff changes or tariff adjustments;
  - (c) Applications for approval of new or amended tariff categories;
  - (d) Applications for reconsideration of ERERA Decisions;
  - (e) Complaints by market participants against other market participants or system and market operator;
  - (f) Periodic filing of regulatory reports;
  - (g) Motions for extension of deadlines regarding consultations, reconsideration, responses, etc;
  - (h) Treatment of confidential information;
  - (i) Treatment of correspondence;
  - (j) Reporting of market information.

## 2- Description and Operation of ERERA

- 2.1 ERERA is the regional electricity regulator for the Economic Community of West African States (ECOWAS) region, authorized to act under Regulation C/REG.27/12/07 of 15 December 2007, as amended by Regulation C/REG.24/11/08 of 29 November 2008, on the Composition, Organisation, Functions and Operation of ERERA.
- 2.2 ERERA's decisions are made by its Regulatory Council. ERERA may delegate the conduct of individual Proceedings to a Hearing Officer or a Rulemaking Officer.
- 2.3 ERERA prefers electronic communications, addressed to [info@erera.arrec.org](mailto:info@erera.arrec.org). Acceptable software formats are listed on the ERERA website.
- 2.4 ERERA's physical address: Energy Commission Building, Ghana Airways Avenue, Behind Alliance Française, Airport Residential Area, Accra, Ghana.
- 2.5 Postal address: PMB 76 Ministries Post Office, Accra, Ghana.
- 2.6 Website: [www.erera.arrec.org](http://www.erera.arrec.org).
- 2.7 Telephone: Phone: +233 (0)302 817 047 – 049.
- 2.8 Fax: +233 (0)302 817 050.
- 2.9 All communications to ERERA that require regulatory action or that relate to a Docket must be addressed in writing to ERERA and preferably directed to



## ERERA RULES OF PRACTICE AND PROCEDURE

---

info@erera.arrec.org.

- 2.10 Questions related to the application of these Rules of Practice and Procedure may be directed to info@erera.arrec.org.
- 2.11 ERERA's office is open to the public from Monday to Friday between the hours of 8:30 and 16:30 GMT except Public Holidays in Ghana. For the purpose of filing official documents and receipt of correspondence, business hours are from 9:00 to 15:30 GMT, Monday to Friday except Public Holidays in Ghana.
- 2.12 By policy, ERERA treats its records as public information. Access to its records will be granted except in cases of confidentiality, market-sensitive information, and personal privacy as more fully described in section 10.3.
- 2.13 ERERA shall maintain a docket system for every Proceeding before ERERA, which may include electronic or physical documents. The Docket shall be a public record that may be inspected in electronic form on ERERA's website and is available for inspection during business hours or may be obtained via facsimile. Charges for facsimile or hard copies will apply where applicable.
- 2.14 ERERA will communicate with the public through notices posted to its official website, [www.erera.arrec.org](http://www.erera.arrec.org), or by notices directed to the affected parties.
- 2.15 ERERA has all the powers granted by ERERA's Act and Regulations in respect of the attendance and examination of witnesses, the amendment of proceedings, the production and inspection of documents, the enforcements of its Orders and all other matters necessary or proper for the due exercise of its powers.
- 2.16 ERERA receives documents in any of the three official languages of ECOWAS. ERERA will designate one of the official languages for an Oral Hearing and will arrange for simultaneous interpretation of hearings upon reasonable prior request.
- 2.17 Notwithstanding the above provisions, ERERA's physical address and contacts may change and such changes will not affect the other provisions of these RPP.

### 3- Reference to the Rules of Practice and Procedure

- 3.1 These rules may be cited as the RPP.

### 4- Definitions

- 4.1 In the RPP:

**"Advisory Opinion"** means an Order issued by ERERA which conclusively declares the pre-existing rights of contending parties without any coercive decree or a formal statement intended to create, preserve, assert or testify to a right

**"Applicant"** means a Person who has filed an Application with ERERA under ERERA's Act and Regulations;

**"Application"** means a written request to ERERA to exercise its power in respect of



## ERERA RULES OF PRACTICE AND PROCEDURE

---

matters referred to in this request;

**"Complaint"** means a written request to ERERA to exercise its statutory power in respect of matters related to a claim referred to in this request;

**"Complainant"** means any Person who files a Complaint with ERERA;

**"Decision"** means a definitive opinion, conclusion, or binding determination of ERERA in a matter;

**"Docket"** means a file containing all documents, materials and correspondence pertaining to a particular Proceeding;

**"Electronic Hearing"** means a Hearing held by telephone conference, video conference, or some other form of electronic technology allowing persons to communicate with one another

**"ERERA's Act and Regulations"** means:

- (a) The ECOWAS Supplementary Act A/SA.2/1/08 of 18 January 2008 establishing ERERA
- (b) The Regulation C/REG.27.12/07 of 15 December 2007, as amended by Regulation C/REG.24/11/08, on the composition, organisation, functions and operations of ERERA
- (c) Any other regulations of ECOWAS and ERERA in application of the aforementioned Act and Regulation.
- (d) The Directive C/DIR.1/06/13 of 21 June 2013 on the organization of the regional electricity market and any other regulations in application of this directive.

**"Exhibit"** means any material put in evidence to support a particular assertion

**"Hearing"** means a Proceeding before ERERA wherein a Party or Parties provide submissions to ERERA which submissions may, in ERERA's discretion, be preceded by the provision of information and/or evidence to ERERA, and includes an Electronic Hearing, an Oral Hearing and a Written Hearing;

**"Hearing Officer"** ERERA may appoint a Hearing Officer to conduct a Hearing. The Hearing Officer shall be part of the staff or the Regulatory Council of ERERA.

**"Information Request"** means any request made in writing by a Party for information or particulars directed to a Party in a Proceeding;

**"Intervener"** means a Person other than the Applicant who has formally requested and been granted the status of Party to a Proceeding and who intends to participate in the production and testing of evidence. Electricity regulators of ECOWAS member states may participate in any Proceeding.

**"Market Participant"** means any Person registered as participant in the ECOWAS regional electricity market.

**"Motion"** means an Application made in writing or orally to ERERA in a Hearing to seek an Order.

**"Order"** means a direction, command, or judgment of ERERA in a Docket.

**"Oral Hearing"** means a Hearing at which the Parties or their representatives



attend before ERERA in person allowing the persons to communicate orally;

**"Party"** means either an Applicant, a respondent to a Complaint, or an Intervener

**"Person"** means any individual, partnership, corporation, association, governmental body, public or private organization

**"Pre-Hearing Conference"** means a meeting, which may be held before a Hearing, to set a timetable for the Proceeding, to finalize what matters may be discussed and to identify Intervenors;

**"Proceeding"** means a process to decide a matter brought before ERERA, including a matter commenced by rulemaking, by Application, or by Complaint;

**"Rulemaking Officer"** means the Person in charge of managing the rulemaking Proceeding. The Rulemaking Officer shall be part of the Regulatory staff or the Regulatory Council of ERERA.

**"Tariff"** means any publication containing rates, charges, rules, regulations, conditions, specifications or requirements relating in any way to the provision or movement of electricity in the regional electricity market.

**"Written Hearing"** means a Hearing in which the Proceeding before ERERA is conducted entirely in writing.

## 5- Filings and Service

- 5.1 Filings must state the name of the Applicant and provide a brief summary of the action requested.
- 5.2 Filings with ERERA should be preferably made electronically to the Chairman of ERERA at [info@erera.arrec.org](mailto:info@erera.arrec.org).
- 5.3 Filings are deemed made on the date they are sent electronically if sent before 15:30 GMT. If sent later than 15:30 GMT, the filing is deemed made the following day.
- 5.4 Filings made on a day the ERERA office is not able to receive filings electronically, by reason of weather, emergency, or technical difficulties, are deemed timely made on the following business day. The Applicant should be notified accordingly.
- 5.5 Filings due on a day ERERA's office is not open for business or its website is not available to make filings, are due the following business day.
- 5.6 ERERA will promptly post filings to its website.
- 5.7 ERERA will maintain a service list of all Parties to each Docket.
- 5.8 The filing party must make service of a filing on all other Parties in the Docket if the matter is an Application or a Complaint Docket. Service is not required in a rulemaking Docket. Service should be made electronically to the electronic addresses on the service list. Any document required to be served on a Party under these Rules may be served on the Party's representative.
- 5.9 Notices issued by ERERA are served by posting on the ERERA website and sent to Parties by electronic means. The Notices are deemed to be received by the



Parties once posted on ERERA website.

- 5.10 Parties unable to receive electronic service of documents should make arrangements with ERERA for alternate service by postal, fax, courier or other means.

## **6- Rulemaking and Public Consultation Initiated by ERERA**

- 6.1 Before issuing a proposed or final substantive rule, ERERA shall offer an opportunity for public comment and may consult with the Parties most likely to be affected by the rule.
- 6.2 ERERA may begin formal consultation utilizing consultative documents such as a staff paper, a white paper, or a policy statement.
- 6.3 ERERA may initiate a Notice of Inquiry (NOI) for the purpose of gathering information about a subject matter or as a means of generating ideas on a specific issue. NOIs are initiated either by ERERA on its own initiative or after consideration of a third party request. An NOI may lead to a Notice of Proposed Rulemaking (NPRM).
- 6.4 ERERA may issue a Notice of Proposed Rulemaking (NPRM) that contains proposed changes to ERERA's rules or that sets out ERERA's indicative position on a particular subject matter, and request public comment on the proposals contained therein.
- 6.5 The Regulatory Council will appoint a Rulemaking Officer to manage the rulemaking Proceeding. The Rulemaking Officer will consult with and receive comments from ERERA's consultative committees and other stakeholders. After consultation, the Rulemaking Officer will make a recommendation to the Regulatory Council.
- 6.6 An NOI or a NPRM will state a date for submission of written comments, typically two to six weeks after issuance. It may also provide for a second round of comments, and state a date for their submission.
- 6.7 The Rulemaking Officer and the designated consultative committees may receive oral comments in addition to written comments.

## **7- Proceedings Initiated by Application or Complaint**

- 7.1 Any regulated entity may request ERERA to act or approve a proposal through an Application.
- 7.2 Any Person may request ERERA to make a finding that a regulated entity has committed a breach of regional electricity market regulation through a Complaint. A Complaint may seek specific damages or future relief resulting from the breach. The question of breach of regulation will be treated under the ERERA Enforcement Rules. The Complaint for damages will be treated under the ERERA Dispute Settlement Rules.
- 7.3 Applications and Complaints should clearly set forth the facts relied upon and



## ERERA RULES OF PRACTICE AND PROCEDURE

---

the relief sought, the statutory authority, tariff provision, or regulation (if any) under which the request is filed and the identity and the interest of the Person submitting the request.

- 7.4 A Market Participant claiming that market rules or a tariff provision is inefficient, uneconomic, unfair, or discriminatory, may file a Complaint against the sponsor of the tariff. If ERERA so finds, it may prescribe remedial provisions.
- 7.5 ERERA will give notice of an Application by posting on its website.
- 7.6 ERERA will give notice of a Complaint by posting on its website and by directly notifying the concerned Parties and national regulators.
- 7.7 The notice of Application or Complaint will state a date for responses or interventions.
- 7.8 Any Person may file a response to the Application or Complaint, and may request to become an Intervener. A Motion to intervene shall state the Person's interest in the matter.
- 7.9 ERERA may recommend or order that Interveners with similar interests present a joint intervention.
- 7.10 Any Party may be represented before ERERA by any representative it may designate.
- 7.11 If no material fact is in dispute, ERERA may rule on the Application or the Complaint without further Proceedings.
- 7.12 If ERERA concludes that further Proceedings are necessary to resolve an Application or a Complaint, it may set the matter for Hearing or refer the matter for conciliation or arbitration following the ERERA Dispute Settlement Rules.

### 8- Hearing Process

- 8.1 ERERA may designate a Hearing Officer to conduct further Proceedings.
- 8.2 The Hearing Officer may hold a pre-hearing or technical conference with the Parties. The conference may define issues to be resolved, schedule dates for filing testimony, dates for Hearings, dates for written arguments, and other procedural matters.
- 8.3 Direct testimony should be filed in writing prior to the Hearing.
- 8.4 Parties may submit information requests to other Parties for the purpose of a satisfactory understanding of the matters to be considered in Hearing.
- 8.5 Information requests shall be identified by the inquiring Party's designated initials. They shall be:
  - (a) addressed to the Party from whom the response is sought;
  - (b) numbered consecutively in respect of each item of information requested;
  - (c) relevant to the Proceeding; and
  - (d) served within the time limit determined in the pre-hearing conference.



## ERERA RULES OF PRACTICE AND PROCEDURE

---

- 8.6 A copy of any information request directed to a Party pursuant to 8.5 shall be filed with ERERA and served on all Parties to the Proceeding.
- 8.7 Responses to Information Requests shall:
- (a) provide a full and adequate response to each information request by electronic means; and
  - (b) be filed with ERERA and be served on all Parties to the Proceeding.
- 8.8 Objections to information requests or disputes with respect to the adequacy of a response to an information request will be resolved by the Hearing Officer.
- 8.9 Besides information requests, Parties may by Motion request the Hearing Officer to allow deposition of witnesses, production of documents, interrogatories, or requests for admissions.
- 8.10 Testimony shall be under oath.
- 8.11 The Hearing Officer may admit or dismiss Interveners, administer oaths to witnesses, rule on admissibility of testimony, schedule witnesses and arguments, accept stipulations of evidence, determine if written argument will be received, and otherwise manage the Hearing procedure.
- 8.12 The Hearing Officer shall determine when the Hearing has been completed, close the record, [provide for any late-filed exhibits], and shall prepare a written proposed decision which shall be recommended to ERERA Regulatory Council for final Decision.
- 8.13 If the Parties reach a settlement during the pendency of a Hearing, the Hearing Officer shall certify the settlement to ERERA, indicating whether it comports with ERERA policy and legal requirements, and whether it is a complete or partial settlement of the matters being heard in the Docket.

### 9- ERERA Decisions

- 9.1 The Regulatory Council shall promptly consider reports and recommendations from rulemakings and hearings. Cases may be decided by a majority vote of participating Regulatory Council members.
- 9.2 Subject to the production of new facts or new evidences, ERERA may reconsider its decision within 90 days upon the request of a Party or on its own motion. If reconsideration is requested, the request must be served on every Party. Responses shall be filed within 10 working days from the service.
- 9.3 A Party dissatisfied with a decision by the ERERA Regulatory Council may appeal before the ECOWAS Court of Justice in accordance with ERERA's Act and Regulations.

### 10-Confidential Information

- 10.1 All information submitted to ERERA shall be placed in the public record unless the Party marks such information as confidential and asserts a claim of



## ERERA RULES OF PRACTICE AND PROCEDURE

---

confidentiality at the time of filing.

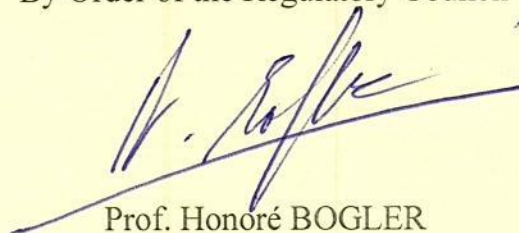
- 10.2 Any material submitted by a Person that it claims is confidential or proprietary, shall be filed and identified in accordance with these rules.
- 10.3 A claim of confidentiality must be supported by reasons why the material should be accorded confidential treatment. Such reasons include:
- (a) The information is protected by ERERA's Act and Regulations;
  - (b) The information is market-sensitive and its disclosure could reasonably be expected to result in undue financial loss or gain to a Person directly or indirectly affected by the Proceeding, or could harm significantly a Person's competitive position.
  - (c) The information is personal, financial, commercial, scientific or technical in nature;
  - (d) The information involves critical infrastructure;
  - (e) The information has been consistently treated as confidential by a Person directly affected by the Proceeding.
- 10.4 ERERA will treat such information as confidential and maintain the information in a secure manner.
- 10.5 ERERA may allow limited access to confidential information as required for fairness in the hearing process. Such access may be by disclosure of an abridged version of the information or by conducting a portion of the Hearing in non-public session or by access subject to a non-disclosure agreement.
- 10.6 A Party may challenge the confidential treatment and move ERERA to find that the claim of confidentiality does not outweigh the public interest in the disclosure of the information.
- 10.7 If ERERA finds that confidential treatment of the information is not warranted, it shall not release the information for 15 working days to allow the Party claiming confidentiality to assert to the ECOWAS Court of Justice its claim for judicial protection of the information.

### 11-Effective date

- 11.1 This RPP shall be effective six (06) months after execution.

**DONE IN BIG ADA, GREATER ACCRA, GHANA, ON DECEMBER 11, 2017**

By Order of the Regulatory Council



Prof. Honoré BOGLER  
Chairman