



DEPARTMENT CIRCULAR NO. _____

PRESCRIBING FURTHER POLICIES TO ENHANCE THE PROCUREMENT OF ELECTRIC POWER SUPPLY FROM RENEWABLE ENERGY RESOURCES, AMENDING FOR THE PURPOSE DEPARTMENT CIRCULAR NO. DC2023-06-0021

WHEREAS, Republic Act (RA) No. 9136, otherwise known as the “Electric Power Industry Reform Act of 2001” or “EPIRA”, declares the policy of the State to, among others: (a) assure socially and environmentally compatible energy sources and infrastructure; and (b) promote the utilization of indigenous and new and renewable energy (RE) resources in power generation in order to reduce dependence on imported energy;

WHEREAS, Section 2(f) of the EPIRA, further declares that it is also the policy of the State to protect the public interest as it affected by the rates and services of electric utilities and other providers of electric power, while Section 23, par. 3 thereof provides that distribution utilities shall supply electricity in the least cost manner to its Captive Market;

WHEREAS, RA No. 9513, otherwise known as the “Renewable Energy Act of 2008” or the “RE Act”, declares the policy of the State to accelerate the exploration and development of RE resources including hybrid systems, to achieve self-reliance, strategies to reduce the country’s dependence on fossil fuels and thereby minimize the country’s exposure to price fluctuations in the international markets, the effects of which spiral down to almost all sectors of the economy;

WHEREAS, the RE Act further declares the policy of the State to increase the utilization of RE by institutionalizing the development of national and local capabilities in the use of RE Systems, and promoting their efficient and cost-effective commercial application by providing fiscal and non-fiscal incentives;

WHEREAS, on 22 December 2017, the Department of Energy (DOE) issued Department Circular (DC) No. DC2017-12-0015, as amended, implementing the Renewable Portfolio Standards (RPS) for On-Grid areas (RPS Rules);

WHEREAS, on 02 March 2021, the DOE issued DC No. DC2021-03-0003, providing the guidelines in the formulation of the Distribution Development Plan (DDP) which serves as a reference by the Energy Regulatory Commission (ERC) in the review and approval of the Power Supply Agreements and Capital Expenditures application of the Distribution Utilities (DUs);

WHEREAS, on 30 June 2023, the DOE issued DC No. DC2023-06-0021 entitled, “Prescribing the Policy for the Mandatory Conduct of the Competitive Selection Process by the Distribution Utilities for the Procurement of Power Supply for their Captive Market”;

WHEREAS, on _____ 2025, the DOE conducted public consultation through Microsoft Teams and Facebook Live on the proposed amendments to DC No. DC2023-06-0021 to enhance the power supply contracting of DUs from indigenous energy resources, thereby increasing the utilization of indigenous energy resources;

NOW, THEREFORE, in consideration of the foregoing, the DOE hereby issues and promulgates the following supplementary and amendatory policies and mechanisms in the Competitive Selection Process (CSP) policy:

Section 1. Objectives. – This Circular aims to:

- (A) Prioritize the development and utilization of Renewable Energy (RE) for power projects;
- (B) Further provide an efficient avenue for the offtake of RE projects; and
- (C) Rationalize the costs and subsidies in cases where the obligations under power supply agreements are affected by force majeure or fortuitous events.

Section 2. Section 1 (*Governing Principles*) of DC2023-06-0021 is hereby amended and shall read as follows:

“SECTION 1. GOVERNING PRINCIPLES

The procurement by DUs of power supply for the Captive Market shall be governed by the following principles:

- 1.1. xxx
- 1.2. xxx
- 1.3. xxx
- 1.4. xxx
- 1.5. xxx
- 1.6. Pursue energy transition to clean energy in accordance with the targets set forth under the Philippine Energy Plan; and
- 1.7. Protect the interest of the general public.”

Section 3. Section 2 (*Coverage and Exceptions*) of DC2023-06-0021 is hereby revised as follows:

SECTION 2. COVERAGE AND EXCEPTIONS

- 2.1. xxx

2.2. xxx

2.3. In the following instances, the conduct of CSP shall not be required:

2.3.1. xxx

2.3.2. xxx

2.3.3. xxx

2.3.4. Supply to any DU from Covered RE Facilities wherein the contracted capacity shall not exceed 10MW per DU: *Provided*, That the allowable contracted capacity may be increased, subject to approval by the DOE based on (a) the level of penetration of Renewable Energy (RE) in the franchise area of the DU; (b) the additional capacity shall meet the demand of the DU; and (c) the DU is technically capable to absorb and distribute the additional capacity: *Provided, further*, That the DU and the System Operator shall adopt the necessary measures to ensure that the operation of the generating facility/ies shall not compromise the reliability of the distribution and transmission networks, and shall provide the documents that may be required by the ERC for the determination of compliance with such condition.

“*Covered RE Facilities*” shall mean any embedded or grid-connected RE power plant located within the franchise area of a DU, whether existing or under development.

2.3.5. Procurement by a DU of supply from a Covered RE Facility pursuant to its Right of First Refusal. This exemption shall only extend to: (a) compliance with the annual Renewable Portfolio Standards (RPS) requirements; and (b) power supply needed by the DU for its Captive Market in accordance with the DDP and PSPP: *Provided, further*, That the DU and the System Operator shall adopt the necessary measures to ensure that the operation of the generating facility/ies shall not compromise the reliability of the distribution and transmission networks, and shall provide the documents that may be required by the ERC for the determination of compliance with such condition.

2.3.6. Negotiated procurement of Emergency Power supply wherein the Emergency Power Supply Agreement (EPSA) shall be filed with the ERC within thirty (30) calendar days after the occurrence of the Force Majeure/Fortuitous Events (FM/FE) or emergency power supply situations, without any need of any prior clearance or certification from the DOE, and shall have a maximum and non-extendable period of one (1)

year from its execution. The EPSA shall be immediately implemented to address the emergency, subject to conditions to be defined by the ERC; Provided, that the procurement of emergency power shall not be entitled to any form of subsidy when the DU is in default on the conduct of CSP or has committed any action or inaction contributory to the FM/FE; and

2.3.7. xxx

All the above instances are subject to the guidelines to be set by ERC and its determination of the compliance by DU with its obligation to supply electricity in the least cost manner to its Captive Market, taking into consideration the quality, affordability, sustainability and reliability of the electric power supply.”

Section 3. Right of First Refusal of DUs Hosting RE Facilities. – A host DU shall have a Right of First Refusal over the capacity from a Covered RE Facility that is needed to augment supply to its Captive Market or for compliance with its annual RPS requirements.

RE developers of Covered RE Facilities shall first offer the capacity generated from such facilities to the host DU. Such offer shall be made at any time before the date of expiration of any supply agreement, or before the Commercial Operations Date of a new RE Facility or the expansion of existing generation facilities.

Section 4. Grid Support Technology. – The ERC and DOE shall issue guidelines providing incentives for RE technologies with grid support capabilities within six (6) months from the effectivity of this Circular.

Section 5. Regulatory Support. – The ERC is enjoined to issue necessary regulatory provisions or any amendments thereto for the implementation of the abovementioned policies and mechanisms under this Circular.

Within six (6) months from effectivity of this Circular, the ERC shall issue rules which shall:

- (a) Ensure that capacity from Covered RE Facilities offered in CSPs of other DUs respect the Right of First Refusal of host DUs;
- (b) Establish a methodology for the price of capacity from Covered RE Facilities, per RE resource type and technology;
- (c) Provide detailed guidelines to host DUs’ exercise of the Right of First Refusal, taking into consideration the following, but not limited to: (i) offer of Capacity; (ii) Acceptance or Rejection of Revised Offer; (iii) Execution of Power Supply Agreements; and (iv) Failure of Negotiations;

- (d) Set forth the minimum terms and conditions of the PSA between the host DU and the RE developer of a Covered RE Facility;
- (e) Set forth a procedure for the filing and timeline for approval of PSAs ensuing from exercise of Right of First Refusal.
- (f) Provide a mechanism for expedited resolution of controversies arising from exercise of right of first refusal; and
- (g) Other rules necessary for the proper implementation of this Circular.

Furthermore, the DOE, NEA and ERC shall promulgate the pertinent guidelines for the posting of all necessary information relative to all Power Supply Agreements and other similar arrangements on their respective websites, bulletin boards and alike, without prejudice to the confidentiality of certain information and data in such contracts and agreements.

Section 6. Separability Clause. – If any provision of this Circular is declared invalid or unconstitutional, the other provisions not affected thereby shall remain valid and subsisting.

Section 7. Repealing Clause. – Any prior issuances, orders or circulars inconsistent with this Circular are hereby repealed, amended or modified accordingly.

Section 8. Effectivity. – This Circular shall take effect fifteen (15) days after its publication in at least two (2) newspapers of general circulation. Copies of this Circular shall be filed with the University of the Philippines Law Center – Office of the National Administrative Register.

Issued this _____ at the DOE, Energy Center, Rizal Drive cor. 34th Street, Bonifacio Global City, Taguig City.

RAPHAEL P.M. LOTILLA
Secretary