| **SECTION** | **COMMENTS/RECOMMENDATION** | **PROPOSED/SUGGESTED REVISION** |
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| **DEPARTMENT CIRCULAR NO. DC2025-\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**  **PROMULGATING THE REVISED RULES AND GUIDELINES**  **GOVERNING THE IMPLEMENTATION OF THE**  **GREEN ENERGY OPTION PROGRAM** |  |  |
| **WHEREAS,** Republic Act No. 7638, otherwise known as the "Department of Energy (DOE) Act of 1992," declares it as a policy of the State to, among others, ensure a continuous, adequate and economic supply of energy through the integrated and intensive exploration, production, management and development of the country's indigenous energy resources; |  |  |
| **WHEREAS,** Republic Act 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 37(e)(i), Chapter III of the EPIRA mandates the DOE to encourage private sector investments in the electric power industry and promote the development of indigenous and RE Resources; |  |  |
| **WHEREAS,** Republic Act No. 9513, otherwise known as the "Renewable Energy Act of 2008" or the “RE Act” 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 its efficient and cost-effective commercial application by providing fiscal and non-fiscal incentives; |  |  |
| **WHEREAS,** Section 6, Chapter III of the RE Act provides that all stakeholders in the electric power industry shall contribute to the growth of the RE industry in the country; |  |  |
| **WHEREAS,** Section 9, Chapter III of the RE Act provides that the DOE shall establish a Green Energy Option Program (GEOP), which provides Electricity End-Users the option to choose RE Resources as their sources of energy; |  |  |
| **WHEREAS,** Section 9, Chapter III of the RE Act, further provides that the DOE, in consultation with the National Renewable Energy Board (NREB), shall promulgate the appropriate implementing rules and regulations necessary, incidental or convenient to achieve the objectives of the RE Act; |  |  |
| **WHEREAS**, on 18 July 2018, the DOE issued Department Circular (DC) No. DC2018-07-0019 titled, “Promulgating the Rules and Guidelines Governing the Establishment of the Green Energy Option Program Pursuant to the Renewable Energy Act of 2008,” establishing the GEOP Rules. |  |  |
| **WHEREAS,** on 22 April 2020, the DOE issued DC No. DC2020-04-0009 titled, “Guidelines Governing the Issuance of Operating Permits to Renewable Energy Suppliers under the Green Energy Option Program,” prescribing the guidelines and procedures in the issuance, administration, and revocation of GEOP Operating Permits to RE Suppliers. |  |  |
| **WHEREAS**, on 22 April 2021, the Energy Regulatory Commission (ERC) issued Resolution No. 08, Series of 2021, “A Resolution Adopting the Green Energy Option Program,” setting the regulatory framework to operationalize the GEOP. |  |  |
| **WHEREAS**, on 03 December 2021, the GEOP was implemented on a voluntary basis in Luzon and Visayas. |  |  |
| **WHEREAS**, on 31 January 2023, the DOE issued DC No. DC2023-01-0004, “Adopting Amendments to the WESM Rules, Retail Rules and Various Market Manuals, and Promulgation of the Retail Manual on the Procedures for the Implementation of the Green Energy Option Program.” |  |  |
| **WHEREAS**, with the commencement of the commercial operation of WESM in Mindanao on 26 January 2023 and cognizant of the readiness of the Mindanao Grid for retail market operations, the DOE issued DC No. DC2024-03-0009 on 01 March 2024, declaring 26 March 2024 as the commencement date of the commercial operations of RCOA and GEOP in Mindanao. |  |  |
| **WHEREAS,** the DOE acknowledged the challenges experienced by stakeholders as well as the opportunities raised to further enhance the program and increase end-users participation. |  |  |
| **WHEREAS,** the DOE conducted public consultations covering Luzon, Visayas, and Mindanao areas on \_\_\_\_\_ its proposed implementing rules and regulations for the GEOP; and |  |  |
| **NOW, THEREFORE**, premises considered, the DOE hereby issues, adopts and promulgates the following rules and guidelines: |  |  |
| **RULE 1**  **GENERAL PROVISIONS**   1. **Title and Scope.** This Circular shall be known as the "Revised Rules and Guidelines Governing the Implementation of the Green Energy Option Program (GEOP) in the Philippines” and shall hereinafter be referred to as the “GEOP Rules.” |  |  |
| 1. **Purpose.** This Circular shall have the following objectives:    1. Set~~s~~ the rules and guidelines to properly guide End-Users, GEOP Providers, Network Service Providers (NSPs), and other stakeholders in the electric power industry in operationalizing plans of End-Users to source their electricity from RE Resources;    2. Provide the framework for a market under the GEOP benefiting RE investors, developers, suppliers, and End-Users, and increase the utilization and supply of RE capacity in the country; and    3. Empower End-Users to contribute in the development and utilization of RE resources, in a competitive and sustainable manner. |  |  |
| 1. **Guiding Principles.** Consistent with the intent of the RE Act to empower End-Users to choose RE Resources and contribute in meeting the national RE targets under the Philippine Energy Plan and the National Renewable Energy Plan, the GEOP shall be subject only to such regulation as are strictly necessary to prevent abuse of market power, cartelization, and other anti-competitive or discriminatory behavior. In the implementation of the GEOP**,** the following principles shall apply: |  |  |
| * 1. Any End-User opting to participate in the GEOP shall inform its host Distribution Utility (DU) of its plan to source power from RE Resources.   The host DU and GEOP Provider shall fully inform the End-User of the attendant technical, commercial, and legal arrangements necessary to implement the GEOP; |  |  |
| * 1. The host DU and GEOP Provider shall agree and facilitate the implementation of the GEOP for the End-User, including but not limited to, Distribution Wheeling Services Agreement, Metering Services Agreement, and Billing and Collection Services Agreement; |  |  |
| * 1. The NSPs, as the entities mandated to provide transmission and distribution services within their respective franchises, shall adhere to the principles of open and non-discriminatory access to the transmission and distribution facilities; |  |  |
| * 1. The NSPs shall ensure reliable and efficient wire or wheeling services to the End-User and/or the GEOP Provider. In case the GEOP Contract is canceled, revoked, or terminated for any reason, the NSPs shall continue to provide the wheeling services; Provided, however, That all obligations of the End-User or GEOP Provider is settled or paid; and |  |  |
| * 1. All rates and charges to End-Users shall be unbundled, segregated, and itemized for each of the generation components, transmission charges and/or distribution charges, supply charges and other applicable charges. |  |  |
| 1. This Circular shall apply to the following stakeholders:    1. End-Users;    2. GEOP Providers;    3. Distribution Utilities;    4. Economic Zone Developers and Utility Enterprises;    5. Network Service Providers (NSP);    6. Metering Service Providers (MSP);    7. Market Operator (MO);    8. Suppliers of Last Resort (SOLR);    9. Central Registration Body (CRB);    10. RE Registrar; and    11. Energy Regulatory Commission (ERC). |  |  |
| 1. **Definition of Terms.** As used in this Circular, the following terms shall be defined as follows: |  |  |
| * 1. **“Aggregated End-Users”** refer to End-Users that are not located in adjacent or adjoined by a common boundary but are within the same franchise area of a DU. Aggregated End-Users may opt to participate in the GEOP pursuant to Section 7 of this Circular; |  |  |
| * 1. **“Certificate of Compliance”** or “COC” refers to a certificate issued by the ERC in favor of a person or entity to operate a Generation Facility pursuant to Section 6 of EPIRA and Section 4 of its IRR; |  |  |
| * 1. **“Contiguous Areas”** refer to adjacent or adjoining areas which are located within a common boundary, such as, but not limited to subdivisions, villages, economic zones and business districts, condominium buildings, commercial establishments, or mixed-use development complexes. End-Users located within a Contiguous Area may opt to participate in the GEOP pursuant to Section 7 of this Circular; |  |  |
| * 1. **“Distribution Utilities”** or **“DU”** refer to electric cooperatives, private corporations, government-owned utilities or existing local government units which have exclusive franchises to operate distribution systems in accordance with the EPIRA, including DUs and entities licensed to operate in the economic zones; |  |  |
| * 1. **“End-User”** refers to any person or entity requiring the supply and delivery of electricity for its own use. As used in this Circular, an End-User shall refer to any person or entity who chooses RE Resources as sources of its energy; Provided, That it has satisfied the eligibility requirements stated under Rule 2, Section 6 and 7 of this GEOP Rules; |  |  |
| * 1. **“Generation Facility”** refers to a facility where electric energy is produced from some other form of energy by means of a suitable apparatus; |  |  |
| * 1. **“GEOP Contract”** refers to the private agreement between an End-User and GEOP Provider for the supply of electricity; |  |  |
| * 1. **“GEOP Provider”** refer to individuals or juridical entities created, registered or authorized to operate in the Philippines in accordance with existing laws and engaged in the production and**/**or supply of electric power from RE resources to End-User, duly issued Operating Permits by the DOE and GEOP-Retail Electricity Supplier (RES) License by the ERC; |  |  |
| * 1. **"GEOP Operating Permit"** refers to a document issued by the DOE to an entity allowing the supply of electric power to an End-User, pursuant to Rule 4 of this Circular; |  |  |
| * 1. **“GEOP Entities”** refer to electric power industry participants mandated to carry out the responsibilities under the GEOP; |  |  |
| * 1. “Metering Service Provider” or “MSP” refers to a person or entity authorized by the ERC to provide metering services as defined in the Distribution Services and Open Access Rules; |  |  |
| * 1. **“Net Electricity Sales”** refers to energy supply less system losses and own use reckoned from 26 December of the preceding year to 25 December of the current year; |  |  |
| * 1. **“Network Service Provider”** or **“NSP”** refers to a person or entity engaged in the activity of owning, controlling, or operating a transmission or distribution system intended for the conveyance of electric power from the Generating Facility to the End-User; |  |  |
| * 1. **“RE Certificate"** or **“REC”** refers to a certificate representing all renewable and environmental attributes from one megawatt-hour (1MWh) of electricity generation sourced from duly registered and eligible RE Generation Facilities; |  |  |
| * 1. **“Renewable Energy Market"** or“REM" refers to the venue where the compliance of Mandated Participants of the Renewable Portfolio Standards (RPS) through RECs are tracked, surrendered or traded based on the amount of power generated from RPS-eligible RE resources is made; |  |  |
| * 1. **“RE Registrar"** or **“RER"** refers to the entity designated by the DOE to establish and operate the RE Market pursuant to Section 8 of the RE Act and DC2019-12-0016 (or the "REM Rules"); |  |  |
| * 1. **"RE Resources"** refers to energy resources that do not have an upper limit on the total quantity to be used. Such resources are renewable on a regular basis, and whose renewal rate is relatively rapid to consider availability over an indefinite period of time. These include, among others, biomass, solar, wind, geothermal, ocean energy and hydropower that conform with internationally accepted norms and standards on dams, and other emerging renewable energy technologies; |  |  |
| * 1. **“Replacement Power"** refers to the supply of electricity to an End-User enrolled in the GEOP which shall be delivered should the supply contracted by the GEOP Provider be unavailable for whatever cause or reason; and |  |  |
| * 1. **“Wholesale Electricity Spot Market”** or **“WESM"** refers to the wholesale electricity spot market established by the DOE pursuant to Section 30 of the EPIRA.   Furthermore, this Circular hereby adopts by reference the terms defined in the EPIRA and RE Act and their respective implementing rules and regulations. |  |  |
| **RULE 2**  **ELIGIBLE END-USERS AND RE FACILITIES, PROVIDERS FOR GEOP, STREAMLINED REGULATION AND SUPPORT MECHANISM** |  |  |
| 1. **Eligible End-Users.** The following End-Users are eligible to participate in the GEOP: |  |  |
| * 1. End-Users that have a monthly average peak demand of 50 kW and above for the past twelve (12) months, or whose estimated average monthly peak demand for the next twelve (12) months, based on the load profiling, is 50 kW or above; |  |  |
| * 1. End-Users within a Contiguous or Aggregated End-Users, including households and local government units thereat, whose estimated average aggregate monthly peak demand is at least 50 kW. The GEOP Provider may act as the aggregator and facilitate the switching of the Aggregated End-Users, subject to applicable rules and guidelines of the ERC; |  |  |
| * 1. End-Users in missionary and Off-Grid areas regardless of the average monthly peak demand of the End-User, subject to Section 9.3 below. |  |  |
| 1. **Eligible RE Facilities.** The following RE Facilities are eligible to provide RE supply under the GEOP: |  |  |
| * 1. Regardless of the monthly average peak demand of the End-User:      1. RE Facilities under the Expanded Roof-Mounted Solar Program that are located on the premises of the End-User;      2. Distributed Energy Resources comprising behind-the-meter RE systems that are located on the premises of the End-User and do not inject excess power into the grid;      3. RE Suppliers in missionary and Off-Grid areas, subject to Section 9.3 below; |  |  |
| * 1. Energy Storage Systems solely integrated to an RE facility, subject to rules, guidelines, and relevant regulations of the DOE and the ERC; |  |  |
| * 1. All other RE Facilities not falling under Sections 7.1 and 7.2 above.   All RE Facilities, including Distributed Energy Resources and/or Embedded Generators supplying under the GEOP shall comply with all DOE and ERC policies and regulations, respectively. |  |  |
| 1. Entities that shall utilize an RE Facility eligible to supply power under the GEOP shall secure a GEOP-RES License from the ERC and an Operating Permit from the DOE as GEOP Provider pursuant to Rule 4 of this Circular; Provided, That for purposes of securing a GEOP-RES License to supply electricity under the GEOP, the ERC shall only require the GEOP Operating Permit in lieu of all other requirements, documentary or otherwise, for an application for GEOP-RES License. |  |  |
| 1. **Governing Contract.** The GEOP Contract shall govern the relationship between the End-User and the GEOP Provider. |  |  |
| * 1. The GEOP Contract shall not require approval from the ERC. Moreover, the DOE and ERC may not review or revise the terms and conditions of the GEOP Contract, including the price of electricity agreed upon. |  |  |
| * 1. Excess Generation under GEOP Contract.The NSPs shall not be financially liable for any excess power provided by the GEOP Provider to the End-User under the GEOP Contract. |  |  |
| * 1. GEOP Contracts for the supply of electricity from RE resources in Off-Grid areas shall not be entitled to any subsidy from the Universal Charge for Missionary Electrification. |  |  |
| 1. **Upholding End-User Choice.**  Any eligible End-User has the option to voluntarily contract directly with a GEOP Provider, as guided with the following: |  |  |
| * 1. An End-User that opted to contract with a GEOP Provider may revert as the customer of the DU, provided it has fulfilled all of its contractual/financial obligations to the GEOP Provider and has executed the relevant agreement for the supply of electricity by the DU; |  |  |
| * 1. Any End-User who reverted to the DU as a customer may again participate in the GEOP, subject to the fulfillment of its contractual obligations with the DU; |  |  |
| * 1. Pursuant to Department Circular No. DC2024-03-0009, entitled “Declaring the Commercial Operations Date of Retail Competition and Open Access and Green Energy Option Program in Mindanao,” this Circular shall allow participation of eligible End-Users to the GEOP in Luzon, Visayas, and Mindanao On-Grid areas; and |  |  |
| * 1. **Billing Mechanism**. An End-User opting to participate in the GEOP shall have an option to choose either single billing or dual billing.      1. **Dual Billing.** Under the dual billing scheme, the End-User shall be billed separately by its GEOP Provider for the supply of electricity generated from GEOP including the Replacement Power, and by its NSP or TNP, in case of Directly-Connected customers for the wires**/**wheeling services and other charges.      2. **Single Billing.** Under the single billing scheme, the End-User shall be billed by its GEOP Provider for all charges in the electricity supply, unbundled and itemized. |  |  |
| 1. **GEOP Requirements.** If necessary**,** the ERC shall issue or update existing guidelines following the objectives ofthis Circular and any amendment/s thereto. |  |  |
| 1. **GEOP Oversight Committee.**  An Oversight Committee, chaired by the DOE Undersecretary for REMB, is hereby created with the following members:    1. DOE REMB Director or his/her designated representative;    2. DOE Electric Power Industry Management Bureau Director or his/her designated representative;    3. DOE Legal Services Director or his/her designated representative; and    4. Representative from the CRB.   The REMB Technical Services Management Division, or another bureau or unit designated by the Secretary, shall provide technical and administrative support to the Oversight Committee. |  |  |
| 1. **Support for GEOP Providers.**     1. The DOE, upon recommendation of the GEOP Oversight Committee, may conduct an auction program where GEOP Providers may procure RE supply for participating End-Users. The DOE may mandate the Green Energy Auction Committee to issue the guidelines and terms of reference and conduct the auction pursuant to this Section.    2. RE Pool.To accelerate exploration, development, and utilization of RE Resources, and to ensure RE supply is available in a least-cost manner, GEOP Providers and RE Generators/Developers may enter into a joint action or establish a pool of RE supply under the GEOP to the extent permitted by applicable laws. |  |  |
| **RULE 3**  **GEOP MANDATE** |  |  |
| 1. **GEOP Mandated Activities.**    1. TNP, NSPs, MO, and GEOP Providers, shall provide individually and/or collectively, the mechanisms for the physical connection and commercial arrangements necessary to ensure the success of the GEOP.    2. Any End-User who intends to switch to the GEOP shall:       1. Notify, through registered mail or personal service, the DU of its intention to participate in the GEOP, within three (3) months prior to the signing of the GEOP Contract; and       2. Notify, through registered mail or personal service, the DU of its signed contract with a GEOP Provider within one (1) month prior to its effectivity. |  |  |
| * 1. **Any End-User under the GEOP shall:**      1. Be informed, through its monthly electric bill, of its monthly energy consumption and generation charge provided by the GEOP Provider;      2. Be informed by the GEOP Provider or NSP of the transmission, distribution services, and other charges, segregated and unbundled, by way of its monthly electric bill, as applicable; and      3. Pay and/or settle its financial obligations to the DU and/or GEOP Provider. Failure to do so shall subject the End-User to the disconnection policies of the DU and/or sanctions under their wheeling agreement and GEOP Supply Contract. |  |  |
| 1. **Responsibilities of GEOP Entities.**    1. **GEOP Providers shall:**       1. Including existing RES under the Retail Competition and Open Access Program, secure an Operating Permit from the DOE, pursuant to Rule 4 of this Circular and comply with all the terms and conditions of this Circular and any amendments hereto;       2. Register with the MO, through the CRB and RE Registrar;       3. Provide a transparent and simplified offer sheet to the End-User, containing the terms and conditions of the GEOP Contract to the End-User;       4. Incorporate in the GEOP Contractwith the End-User the mechanism to address the intermittency or availability factor of the RE Facilities to ensure the continuous power supply service, the provision of Replacement Power, and the transmission and/or distribution wheeling charges, if applicable;       5. Ensure transparency in the monthly electric bill of the GEOP's End-User;       6. Comply with the reportorial requirements of the DOE, ERC, CRB and the RE Registrar;       7. Inform the GEOP End-user of its option to choose between a single or dual billing scheme; |  |  |
| * + 1. Submit reports annually on or before every 30th of January or as may deemed necessary by the DOE to the REMB, which shall contain the following data:  1. Monthly kWh generated from owned, operated, and/or contracted RE facility; 2. Monthly kWh purchased per RE resource; 3. Monthly kWh sold per customer; 4. Peak Demand per customer in kW; 5. Available supply capacity per technology in MW; 6. Monthly purchased Replacement Power in kW; and 7. Any additional information requested by the DOE.   The DOE shall establish a compliance template for this purpose.   * + 1. Facilitate the switching of respective GEOP customers including the submission of complete requirements to the CRB. |  |  |
| * 1. **DU as the SOLR shall:**      1. Impose rates and/or charges dulyapproved by the ERC;      2. Automatically provide supply to the End-User, in the event that the GEOP Provider and its corresponding Replacement Power is not able to perform its obligation under the GEOP Contract. As an alternative, the GEOP Provider may enter into an agreement with the DU on the provision of Replacement Power to the End-User; and      3. All DUs registered as SOLR in the Retail Market shall be automatically registered as GEOP SOLR in the CRB without the need of any supplementing requirements. |  |  |
| * 1. **TNP shall:**      1. Provide an open and non-discriminatory access to its transmission facilities;      2. Segregate and itemize all charges to the End-User or GEOP Provider;      3. Ensure the dispatch of the generating facilities, in accordance with the WESM Rules and the Philippine Grid Code;      4. Incorporate GEOP supply to its annual preparation and update of its Transmission Development Plan, ensuring the reliability and efficiency of the transmission system, including the provision of the needed ancillary services, to support the expansion of renewable energy; and      5. Perform as the default MSP for the End-Users directly-connected to the transmission facilities. |  |  |
| * 1. **DUs as NSPs shall:**      1. Provide an open and non-discriminatory access to its distribution system;      2. Maintain the reliability and efficiency of the distribution facilities; and      3. Annually prepare and update its Distribution Development Plan to consider the needed infrastructures to operationalize the GEOP within its franchise area. |  |  |
| * 1. **DUs as MSPs shall:**      1. Perform as the default Retail MSP within its franchise and ensure the compliance with the installation and maintenance of all revenue metering facilities of the End-User;      2. Register as GEOP MSP with the CRB. Provided that all DUs registered as Retail MSP in the Retail Market shall be automatically registered as GEOP MSP in the CRB without the need of any supplementing requirements; and      3. Submit annually on or before the 30th of January or as deemed necessary to the DOE list of eligible customers under their franchise areas with respective peak demand (in kW) and contact information. |  |  |
| * 1. **CRB and RE Registrar shall:**      1. Register the GEOP's End-Users with their GEOP Provider;      2. Facilitate amendments to the WESM and Retail Rules and Manuals, if necessary; and      3. Submit quarterly report / updates to the DOE including, but not limited to:  1. List of GEOP End-Users’ name served by each GEOP Provider; 2. Meter Number and Market Short Name; 3. Monthly registered peak and average demand (in kW); 4. Monthly metered quantity (in kWh); 5. Number of GEOP End-Users that switched, sorted by the DU franchise area; and 6. Percent (%) increase in Switching per DU franchise area. |  |  |
| 1. **Responsibilities of the DOE through the Renewable Energy Management Bureau (REMB).** Consistent with Section 32 of the RE Act, the REMB shall:    1. Evaluate the applications for and recommend the issuance of Operating Permits to GEOP Providers, pursuant to Rule 4 of this Circular;    2. Monitor the energy output compliance of all GEOP Providers;    3. Post in the DOE website the GEOP requirements and processes, list of GEOP Providers issued with GEOP Operation Permits with contact details, and other relevant information about the GEOP;    4. Conduct Information, Education and Communication Campaign campaigns to inform all End-Users and other entities involved in the GEOP; and    5. Undertake regular review and assessment of the GEOP Rules, and propose amendments to the GEOP Oversight Committee, if necessary. |  |  |
| 1. **Other Provisions.**      * 1. **Provision of Replacement Power.** To ensure that End-Users are supplied with sufficient and reliable electricity, the GEOP Provider shall secure the necessary Replacement Power, as follows:      1. Transition Period.During the first three (3) years of the implementation of this Circular,a GEOP Provider shall source at least fifty percent (50%) of its Replacement Power from RE Resources. Thereafter, in support of the greater development and utilization of RE Resources, any Replacement Power shall exclusively be sourced from RE Resources.      2. The CRB shall monitor the energy output compliance of all GEOP Providers as prescribed herein. Any GEOP Provider violating this provision shall be subjected to penalties under Rule 4 of this Circular. |  |  |
| * 1. **RECs Derived from the GEOP.** End-Users under the GEOP and GEOP Providers may own and trade the corresponding attributed RECs under the voluntary RE Market (VREM). All RECs generated under the GEOP shall be for the account of the End-Users or the GEOP Providers, subject to their agreement. The DOE shall issue the rules and regulations for the implementation of this Section.   Until such time that the DOE issues above-mentioned rules and regulations,the RECs generated from the energy supplied to the End-Users under the GEOP shall be for the account of the DUs; Provided, That the energy sales from the GEOP shall be part of the Net Electricity Sales of the DU for its RPS compliance requirement. |  |  |
| * 1. **REC Eligibility and Issuance.** All RE generation under the GEOP shall be issued the corresponding RECs; Provided, That only RECs from RE facilities that are RPS-eligible under Sections 10 and 11 of the RPS Rules for On-Grid areas shall be allowed to be traded in the REM; Provided, further, That all RECs generated under the GEOP, regardless of RPS-eligibility shall be allowed to be traded in the VREM or any international REC market, subject to applicable rules and other issuances of the DOE: Provided, finally, That all or any of the provisions of this paragraph may be repealed upon issuance of the DOE of the rules regulations on VREM. |  |  |
| **RULE 4**  **GEOP OPERATING PERMIT GUIDELINES** |  |  |
| 1. **GEOP Provider Qualifications.**    1. Any person, natural or juridical, registered and/or authorized to operate in the Philippines under existing Philippine laws and engaged in the business of generating and/or supplying electricity from RE Resources may apply for a GEOP Operating Permit as a GEOP Provider under GEOP;    2. Subject to Section 7, any RE Facility is eligible for GEOP, whether or not the same is eligible for RPS compliance as long as there is still available capacity or energy for supply under GEOP; and    3. Owners and operators of RE Facilities constructed and operating prior to RE Act but registered under the RE Act may qualify as GEOP Provider under the GEOP. |  |  |
| 1. **Application Requirements.** All applications, including new and renewal of the GEOP Operating Permit, shall be in writing and verified. All applicants shall likewise submit the following documents to the DOE:    1. Affidavit of undertaking on the capability to supply and deliver the RE generation to the End-User;    2. Proof of Contract/s for the Supply of Replacement Power in accordance with Section 17.1 of this Circular; and    3. Proof of payment of the processing fee.   All existing RES under the Retail Competition and Open Access program intending to supply electricity under the GEOP shall apply for a GEOP Operating Permit and comply with all the requirements stated herein; Provided, That in any application for renewal of GEOP-RES License with the ERC, the GEOP Operating Permit shall, for purposes of supplying electricity under the GEOP, be accepted in lieu of all other requirements, documentary or otherwise. |  |  |
| 1. **Processing and Approval of Applications.**    1. The DOE, through the REMB, shall be responsible for evaluating all applications for the issuance of GEOP Operating Permits to eligible GEOP Providers.    2. Within twenty (20) working days from the submission of complete application documents and compliance with the requirements, the REMB Director shall recommend to the Secretary the approval or disapproval of the application.    3. The application shall be acted upon by the DOE Secretary, upon endorsement by the Supervising Assistant Secretary and Undersecretary of the REMB. |  |  |
| 1. **Period of Validity.** The GEOP Operating Permit shall be valid for a period of five (5) years from the date of issuance stated therein, unless earlier revoked by the DOE for any violation of this Circular. |  |  |
| 1. **Renewal of Application.** Six (6) months prior to its expiration, the GEOP Provider may apply for renewal of its GEOP Operating Permit, subject to submission of required documents and payment fee under Section 15 of this Circular. |  |  |
| 1. **Suspension, Revocation or Cancellation of GEOP Operating Permits.** The DOE may suspend, revoke, or cancel any GEOP Operating Permit on the following grounds:    1. Failure of the GEOP Provider to comply with its obligations under the GEOP Rules and the terms and conditions under which the GEOP Operating Permit was issued;    2. Providing false or misleading information to the End-User or the DOE;    3. Failure to respond to DOE directives, communications, inquiries within the periods provided therein, or address customer complaints within five (5) working days from receipt of the same; and    4. Termination of the GEOP Contract by the End-User for cause.   Upon a positive finding by the DOE that the GEOP Provider has committed of any of the above enumerated grounds, the latter shall be required to explain in writing why its GEOP Operating Permit should not be suspended, revoked, or cancelled. The GEOP Provider shall be given a non-extendible period of fifteen (15) calendar days to submit its explanation, which shall be accompanied by supporting documents.  Not later than fifteen working (15) days from its receipt of the GEOP Provider’s written explanation, the REMB shall submit its findings and recommendations to the DOE Secretary, through its Supervising Assistant Secretary and Undersecretary. The DOE Secretary shall have a period of five (5) working days to act upon said recommendation. The decision of the DOE Secretary shall be final and immediately executory.  The GEOP Provider shall immediately be notified of the decision of the DOE Secretary in writing, within three (3) days upon receipt by REMB of the DOE Secretary's decision, through personal service, registered mail, private courier service, or through electronic mail. |  |  |
| 1. **Penalties**. Without prejudice to Rule 5 of this Circular, the following are the penalties which may be imposed upon a GEOP Provider which has been found to have committed any of the acts provided in Section 23 hereof and has failed to provide justifications therefor:    1. **First Offense.** Suspension of the GEOP Operating Permit for six (6)month;    2. **Second Offense.** Suspension of the GEOP Operating Permit for one (1) year; and    3. **Third Offense.** Cancellation/ Revocation of the GEOP Operating Permit.   Provided, That, in cases where the GEOP Provider was found to have twice committed the same violation in succession, the GEOP Operating Permit shall be cancelled/revoked. |  |  |
| **RULE 5**  **PROHIBITED ACTS AND SANCTIONS** |  |  |
| 1. **Prohibited Act.** Pursuant to Section 35(e) of the RE Act, non-compliance with or violation of the GEOP Rules shall be subject to the administrative and/or criminal penalties herein provided. |  |  |
| 1. **Penalties for Non-Compliance.** Consistent with RE Act, its IRR and this Circular, the following administrative and criminal sanctions may be imposed:    1. **Administrative Liability.** The DOE may impose a penalty ranging from a minimum of One Hundred Thousand Pesos (P100,000.00) to Five Hundred Thousand Pesos (P500,000.00) or, upon its discretion, may recommend to the appropriate government agency, the revocation of the DU's or Generation Facility’s license, franchise or authority to operate; |  |  |
| * 1. **Criminal Liability.** In accordance with Section 36 (Penalty Clause) and Section 35 (Prohibited Acts) of the RE Act, any person who willfully fails to comply with or violates the GEOP Rules shall be imposed with the penalties provided under the RE Act. Any person who willfully aids or abets the commission of such failure or violation or who causes the commission of any such act by another shall be liable in the same manner as the principal.   In the case of associations, partnerships or corporations, the penalty shall be imposed on the partner, president, chief operating officer, chief executive officer, directors or officers responsible for the violation.  The failure to comply with or any violation of the GEOP Rules, upon conviction thereof, shall be imposed the penalty of imprisonment of one (1) year to five (5) years, or a fine ranging from a minimum of One Hundred Thousand Pesos (P100,000.00) to One Hundred Million Pesos (P100,000,000.00), or twice the amount of damages caused or costs avoided for non-compliance, whichever is higher, or both upon the discretion of the court.  This is without prejudice to the penalties provided for under existing environmental regulations prescribed by the Department of Environment and Natural Resources or any other concerned government agency; |  |  |
| * 1. The DOE Rules of Practice and Procedure shall be applicable to cases for the imposition of the foregoing penalties; and   2. In no case shall a fine or penalty imposed on a DU or RE Provider/Generation Facility be charged to any of its End-Users or be considered as a substitute for compliance. |  |  |
| 1. **Dispute Resolution.** Any disputes between GEOP Providers and End-Users arising from the performance or interpretation of any provision hereof shall be referred to the GEOP Oversight Committee in accordance with guidelines to be subsequently issued by the DOE.   In the event that a resolution cannot be reached through the GEOP Oversight Committee, the aggrieved party may then proceed to file the dispute with the regular courts of competent jurisdiction. |  |  |
| 1. **Separability Clause.** If any provision of this Circular is declared invalid or unconstitutional, the other provisions not affected thereby shall remain valid and subsisting. |  |  |
| 1. **Repealing Clause.** All previous issuances, rules, and regulations inconsistent with this Circular are hereby repealed, amended, or modified accordingly. Correspondingly, DC2018-07-0019 and DC2020-04-0009 are hereby repealed. |  |  |
| 1. **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. |  |  |
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