



Republic of the Philippines
DEPARTMENT OF ENERGY
(Kagawaran ng Enerhiya)

DEPARTMENT CIRCULAR NO. _____

PROMULGATING THE 2023 REVISED RULES GOVERNING THE PROCESSING OF DIRECT CONNECTION APPLICATIONS OF INDUSTRIAL, COMMERCIAL AND OTHER ELECTRICITY END-USERS

WHEREAS, Republic Act No. 7638, otherwise known as the “Department of Energy Act of 1992”, mandates the DOE to prepare, integrate, coordinate, supervise and control all plans, programs, projects and activities of the Government relative to energy exploration, development, utilization, distribution and conservation, among others;

WHEREAS, Republic Act No. 9136, otherwise known as the “Electric Power Industry Reform Act of 2000 or EPIRA”, states that it is the policy of the State to: (i) ensure the quality, reliability, security, and affordability of the supply of electric power; (ii) ensure transparent and reasonable prices of electricity in a regime of free and fair competition and full public accountability to achieve greater operational and economic efficiency and enhance the competitiveness of Philippine products in the global market; (iii) protect the public interest as it is affected by the rates and services of electric utilities and other providers of electric power; and, (iv) encourage the efficient use of energy and other modalities of demand side management;

WHEREAS, Section 37 of the EPIRA mandates the DOE, among others, to: (i) supervise the restructuring of the electric power industry;(ii) formulate rules and regulations as may be necessary to implement the objectives of the EPIRA; and, (iii) exercise such other powers as may be necessary or incidental to attain the objectives of the EPIRA;

WHEREAS, Section 9 of the EPIRA states that the National Transmission Corporation (TransCo) or its Buyer/Concessionaire shall provide open and non-discriminatory access to its transmission system to all electricity users;

WHEREAS, Section 23 of the EPIRA states that Distribution Utilities (DU) shall provide universal service within their franchise, over a reasonable time from the requirement thereof, in a manner that shall sustain the economic viability of the utility, subject to the approval by the Energy Regulatory Commission (ERC) in the case of private or government-owned utilities;

WHEREAS, on 08 May 2014, the ERC endorsed to the DOE all direct connection applications in compliance with the Supreme Court (SC) ruling in the Mactan Electric Company, Inc. (MECO) vs. NPC, et al. (G.R. No. 172960), citing that the DOE has jurisdiction over the dispute relative to the distribution of energy resource, specifically direct supply of electricity, and was not within the authority of ERC to resolve nor the Regional Trial Court;

WHEREAS, on 29 November 2017, the DOE promulgated the Department Circular DC2017-12-0013 entitled “Providing Policies on the Implementation of Retail

Competition and Open Access (RCOA) for Contestable Customers in the Philippine Electric Power Industry”;

WHEREAS, the Republic Act No. 11032 otherwise known as the “Ease of Doing Business and Efficient Government Service Delivery Act of 2018”, states that, all offices and agencies which provide government services are mandated to regularly undertake cost compliance analysis, time and motion studies, undergo evaluation and improvement of their transaction systems and procedures and reengineer the same if deemed necessary to reduce bureaucratic red tape and processing time;

WHEREAS, the Republic Act No. 11234 otherwise known as the “Energy Virtual One-Stop Shop Act”, states that, an Energy Virtual One-Stop Shop (EVOSS) shall be established under the supervision of the DOE and shall operate and maintain an effective information technology infrastructure system, which shall be updated regularly;

WHEREAS, on 09 January 2020, the DOE promulgated the Department Circular DC2020-01-0001 entitled “Prescribing the Rules Governing the Review and Evaluation of Direct Connection Applications of Industrial, Commercial and Other Electricity End-Users”;

WHEREAS, on 10 May 2022, the DOE also promulgated the Department Circular DC2022-05-0014 entitled “Amending Department Circular No. DC2022-01-0001 on Rules Governing the Review and Evaluation of Direct Connection Applications of Industrial, Commercial and Other Electricity End-Users”;

WHEREAS, the DOE deemed it necessary to provide supplementary guidelines to address the issues and concerns on the process and requirements of the Application for Direct Connection and to facilitate the compliance and participation of DCCs to the existing laws and regulations.

NOW THEREFORE, in consideration of the foregoing, the DOE hereby issues, and adopts existing provisions and applicable amendments to the DOE Department Circulars No. DC2020-01-0001, and promulgates the following rules and regulations:

RULE 1

GENERAL PROVISIONS

Section 1. Title and Scope. This Circular shall be known as the “2023 Revised Rules Governing the Review and Evaluation of Direct Connection Applications of Industrial, Commercial and Other Electricity End-users” and shall hereinafter be referred to as the “*2023 DCC Rules*”.

Section 2. Purpose. The *2023 DCC Rules* sets the general rules and procedures to properly guide the *End-users* in facilitating their application for renewal or approval of new *Direct Connection* arrangement.

Section 3. General Principles. The following principles shall be adopted in the review and evaluation of applications for *Direct Connection*:

- 3.1. The privilege of *Direct Connection* shall only be afforded to high demand electricity End-users;
- 3.2. The issues on reliability and rates are not grounds for the application for *Direct Connection* and such shall be referred to the ERC;
- 3.3. The stability and reliability of the *Grid* shall be the primary consideration in approving *Direct Connection* application;
- 3.4. Prior to the filing of application for *Direct Connection*, the *Applicant* shall apply for connection with the franchised Distribution Utility (DU);
- 3.5. The Applicant's connection facility requirements shall not form part of the regulatory asset base of the Transmission Network Provider (TNP);
- 3.6. The DOE shall continue to recognize all existing and valid *Direct Connection* in force at the time of the effectivity of the *2023 DCC Rules* until the expiration of their supply contracts with the Generation Company or Supplier; and
- 3.7. The *2023 DCC Rules* shall not apply to Ecozone Developer and/ or Operator as defined in Section 2.0 of Implementing Rules and Regulations of Republic Act No. 7916 or "The Special Economic Zone Act of 1995" (as amended).

Section 4. Coverage. The evaluation of applications for *Direct Connection* shall cover the following:

- 4.1. Any existing *DCC* intending to renew its Transmission Service Agreement with the TNP, that has secured a *Waiver* from its franchise DU or whose application has been deemed waived pursuant to Section 9.4; and
- 4.2. New *End-user* that has secured a *Waiver* from its franchise DU or whose application has been deemed waived pursuant to Sections 9.1, 9.2, or 9.3, provided, that the *Applicant* has at least corresponding monthly average peak demand for the past 12 month period/ forecasted monthly peak demand and delivery voltage:
 - 4.2.1. 10MW; 69 kV for Luzon Grid;
 - 4.2.2. 5MW; 69 kV for Visayas Grid; and
 - 4.2.3. 5MW; 69 kV for Mindanao Grid.

The DOE may consider a lower peak demand provided that the delivery voltage is the same as indicated above.

Section 5. Definition of Terms. For the purpose of this Circular, the following terms are defined, as follows:

- 5.1. **Action** refers to a final decision (approval or disapproval) on an application by a DU-authorized personnel involved in the application process;
- 5.2. **Applicant** refers to an End-user or its duly authorized representative who submitted application for renewal or approval of new direct connection;

- 5.3. **Directly Connected Customer (DCC)** refers to a high demand End-user, who is supplied electricity through the Grid or sub-transmission assets that are still owned by the TransCo;
- 5.4. **Direct Connection** refers to an arrangement for the supply of energy to an End-user directly connecting to the Grid or sub-transmission assets that are still owned by the TransCo;
- 5.5. **End-user** refers to any person or entity requiring the supply and delivery of electricity for its own use;
- 5.6. **Grid** refers to the high voltage backbone system of interconnected transmission lines, substations and related facilities, located in each of Luzon, Visayas and Mindanao, or as may otherwise be determined by the ERC in accordance with Section 45 of the EPIRA;
- 5.7. **Subtransmission Asset** refers to the facility related to the power delivery service below the transmission voltages and based on the functional assignment of assets, including but not limited to the step-down transformers, used solely by load customers, associated switchyard/substation, control and protective equipment, reactive compensation equipment to improve customer power factor, overhead lines and the land such facilities/equipment are located. For this purpose, this includes the National Transmission Corporation (TransCo) or its Buyer/Concessionaire assets linking the transmission system and the distribution system which are neither classified as a generation nor transmission asset; and
- 5.8. **Transmission Network Provider** refers to the party that is responsible for maintaining adequate Grid Capacity, in accordance with the provisions of the Philippine Grid Code; and
- 5.9. **Waiver** refers to a duly notarized DU Board Resolution approved by the DU Board stating that the franchise DU waives its right to render distribution services or that the DU does not pose any objection to the application for Direct Connection of the End-user.

Rule 2 Evaluation of Application

Section 6. Requirements for Application. An *Applicant* intending to avail of or to renew a *Direct Connection* arrangement shall submit an application containing the following:

- 6.1. *Waiver* from the franchised DU. For existing *DCC*, any notarized document stating the franchised DU's waiver of the right to provide electricity services and duly approved by the DU Board. For cases under Section 9, documents providing that the application is deemed waived.
- 6.2. Corporate or business profile;

6.3. Legal Documents

6.3.1. SEC Registration

6.3.2. Proof of Ownership/ Lease/ any other relevant document proving the existence of the site/location of the DCC facility

6.3.3. BIR Registration with Latest ITR

6.3.4. Business Permits

6.3.5. DTI Registration

6.4. Secretary's Certificate designating authorized representative;

6.5. Brief description of the proposal;

6.6. Location map of facility for which direct supply is sought, including the nearest TNP or DU substation;

6.7. Power demand, delivery voltage, timeline for connection requirement, load forecast, and other relevant technical information;

6.8. Certification from the TNP that the current demand including the five (5) years projected demand can be accommodated by existing transmission facilities and the same shall not adversely compromise the operation of the Grid based on the grid impact study. This shall include the Technical Assessment as provided by the TNP; and

6.9. Application Letter addressed to:

The DOE Secretary

Attention: Electric Power Industry Management Bureau
Department of Energy
Energy Center, Rizal Drive
Bonifacio Global City, Taguig City, Metro Manila

Section 7. Application Process.

7.1. The DOE shall only accept applications with complete documentary requirements as provided in Section 6 of these Rules.

7.2. The *Applicant* shall submit to the EPIMB the proof of payment of the processing fee in accordance with the Schedule of Fees and Charges in compliance with Administrative Order No. 31. Dated 1 October 2012 and its Implementing Rules and Regulations.

7.3. The EPIMB may conduct a site inspection on the facilities intended for *Direct Connection* to verify the assertions of the *Applicant* and to gather any other relevant information necessary for the review and evaluation.

7.4. The DOE may render disapproval and/or termination of evaluation of the application on the basis of the following:

7.4.1 Submission of tampered or falsified data/documents;

7.4.2 Non-existing location; and

7.4.3 Failure of the *Applicant* to provide a notarized attestation that it will comply with the technical specifications required by the TNP based on the results of the Technical Assessment.

7.5. In all instances, the DOE shall approve or deny any application for *Direct Connection* based on the completeness of documents submitted by the *Applicant* and other information gathered thru site inspection within fifty (50) calendar days including the transmittal of the decision to the DOE Secretary for approval and signature.

Section. 8. Renewal of Direct Connection.

8.1 All existing *DCC* connected to the Grid or to the subtransmission assets owned by the TransCo may apply for renewal of its *Direct Connection* status and shall submit all the requirements indicated in Section 6 of these Rules. Provided that, the application shall be submitted at least three (3) months before the expiration of its Transmission Supply Agreement with the TNP.

8.2 In cases where the DU refuses to issue the *Waiver* to an existing *DCC*, the DU shall issue a notarized attestation approved by the DU Board, within thirty (30) working days upon receipt of the *DCC*'s request, explaining fully in writing the basis of the refusal to issue the *Waiver*. Provided, that the franchised DU shall state in the same document the manifestation of its capability to provide the required services and facilities to the *End-user*, within 90 working days from the issuance of the attestation or within the reasonable period as agreed by the DU and the *End-user*. The attestation shall also include DU's plan to acquire the corresponding asset should the *End-user* agrees to divest the same.

Rule 3 Other Provisions

Section 9. Non-action and Waiver of Obligations of Distribution Utilities. All DUs are mandated to act on the application for connection pursuant to Section 23 of Republic Act 9136. For this purpose, the franchised DU is deemed to have waived its obligation to provide the services to the *Applicant* when:

9.1 The franchised DU failed to release its *Action* on the application of new *End-user* as duly submitted with complete supporting documents within thirty (30) working days from the franchised DU's receipt of the complete application.

A submission is considered complete when the franchised DU accepts the *New End-user's* submission as complete in form and in substance and notifies the *New End-user* of such acceptance. The notification of such acceptance or non-acceptance shall be made not later than 30 days from the franchised DU's receipt of the application; provided, that, non-acceptance shall be fully

explained in writing and the grounds upon which such non-acceptance is based; provided, further, that failure of the franchised DU to determine the completeness, to accept the New *End-user's* submission, and to notify the New *End-user* of such acceptance within the 30-day period shall be considered as having waived the DU's right to connect such New *End-user*;

- 9.2 The franchised DU disapproved the application for connection of new *End-user*;
- 9.3 The franchised DU failed to complete the connection of an approved application of new *End-user* within 90 working days or on a later date in a form of a written agreement by the DU and the *End-user*.

Within 90 working days or on a later date as agreed by the parties, from the franchised DU's acceptance of the application, the DU shall process the electrical connection requirement of the *Applicant*. In case that there are additional processes required to be completed by the *Applicant*, such as obtaining clearance or certificates from other agencies or entities or fulfill other separate processes not within their authority, which include installations of facilities needed by the *Applicant* which are not within the standard connection pursuant to applicable ERC regulations, the same shall have the effect of stalling the running of the 90-day period or the date agreed by the parties to complete the connection. The remainder of the time frame shall commence to run as soon as the separate process is completed by the *Applicant*;

- 9.4 The franchised DU refused to release the *Waiver* of rights to an existing *DCC* and have failed to complete the connection to the *Applicant* as provided in Section 8; and
- 9.5 The franchised DU failed to address the issues and concerns with the reliability of critical facilities. Critical facilities are elements of the infrastructures that support essential services in a society, which includes transport systems, air and seaports, communications systems, hospitals, police and military installations, and public administration services, provided that they satisfy the threshold requirement in Section 6.2.

In such cases, the *Applicant* hereof may already submit its application for *Direct Connection*, together with the proof of franchised DUs disapproval on the *End-user's* application for connection or proof of DU's failure to provide or acquire the services and facilities within the 90-working days or within the reasonable period as agreed upon by the *End-user*; provided, that the *Applicant* shall also submit a notarized attestation that all the information and documents provided are factual and truthful. Further, the DOE may conduct a dialogue between the *Applicant* and the franchised DU to ascertain the claims of both parties.

Section 10. Responsibilities of DCCs. All *DCCs* are required to register in the Wholesale Electricity Spot Market and adhere to the governing Rules and Manuals.

All *DCCs* with existing Retail Supply Contracts shall not be allowed to source their power requirements directly from a Generation Company. Provided, all existing Power

Supply Agreements of *DCCs* with Generation Companies shall be respected by the DOE until the expiration of their contracts.

For this purpose, all concerned *DCCs* shall submit to the DOE all information on their existing *PSAs*.

Section 11. Transfer of Subtransmission Facilities. Upon the franchised DU's acquisition from the TransCo of the concerned sub-transmission facilities to which the *DCC* is connected, the franchised DU shall assume the responsibility to continuously serve the *DCC* and shall impose and collect the corresponding wheeling rates as duly approved by the ERC. Provided, however, that the supply arrangement of *DCCs* should be respected until its expiration, after which, the *DCC* may apply with the DOE for direct connection subject to requirements of Section 6 of these Rules.

Section 12. Request for Reconsideration. A party adversely affected by the decision or Resolution of the DOE may, within five (5) working days from receipt of the copy thereof, file a request for reconsideration. Otherwise, the decision shall become final and executory. The DOE shall resolve the request within twenty (20) working days from receipt thereof.

Section 13. Separability. If for any reason, any section or provision of this Circular is declared invalid or unconstitutional, the other provisions not affected thereby shall remain valid and subsisting.

Section 14. Repealing. All previous issuances, rules and regulations inconsistent with the provisions of this Circular are hereby repealed or amended accordingly.

Section 15. Effectivity. This Circular shall take effect after fifteen (15) days upon its publication in two (2) newspapers of general circulation.

Let copy of this Circular be furnished the University of the Philippines Law Center-Office of National Administrative Register (UPLC-ONAR).

Issued at Energy Center, Rizal Drive, Bonifacio Global City, Taguig City on _____ 2019.

RAPHAEL P.M. LOTILLA
Secretary

ASB / ADLGB / DICE / AMCM / URCLG

ATTESTATION FOR DEEMED WAIVED APPLICATION

I, **(Name of Authorized Representative)** , a Filipino citizen of legal age, hereby attest:

1. That I am an employee of **(Name of Company)**, hereinafter referred to as the "**Company**", holding the position of _____;
2. That I am the authorized representative of the **Company** as indicated in the attached Secretary's Certificate;
3. That I declare that the information provided, and documents submitted in the **Company's** Application for Direct Connection is true, accurate and complete to the best of my knowledge;
4. That I understand that any falsification, omission, or concealment of material fact may subject me to administrative, civil, or criminal liability, and may result in the disapproval and/or termination of evaluation of the **Company's** application.

IN WITNESS WHEREOF, I have hereunto set my hands this _____
at _____, Philippines.

Signed in the Presence of

ACKNOWLEDGMENT

REPUBLIC OF THE PHILIPPINES)

CITY OF _____) S.S

BEFORE ME, A Notary Public for and in the City of _____, this _____
personally appeared the parties to the foregoing instrument and attached and exhibited evidences
of identification and known to me to be the same persons who executed the foregoing instrument
and they acknowledge to me that the same is their free and voluntary act and deed.

WITNESS MY HAND SEAL, on the date and the place above written.

DOC. NO. _____

PAGE NO. _____

BOOK NO. _____

SERIES OF _____

Draft Circular (DC) “Promulgating the 2023 Revised Rules Governing the Processing of Direct Connection Applications of Industrial, Commercial, and Other Electricity End-Users”

Section	Provision	Stakeholder Comment	Rationale