



Republic of the Philippines  
**DEPARTMENT OF ENERGY**

**DEPARTMENT CIRCULAR NO. \_\_\_\_\_**

**AMENDING PROVISIONS OF DC2018-08-0025 ENTITLED “PRESCRIBING THE RULES GOVERNING THE REVIEW AND EVALUATION 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 2001 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:

- (a) supervise the restructuring of the electric power industry;
- (b) formulate rules and regulations as may be necessary to implement the objectives of the EPIRA; and
- (c) 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);

**WHEREAS**, in the above-cited case, the SC ruled that the subject matter of the dispute between MECO and NPC involved the distribution of energy resource, specifically direct supply of electricity which was not within the authority of ERC to resolve nor the Regional Trial Court as the jurisdiction over the said dispute belonged to the DOE;

**WHEREAS**, in compliance with the above-cited SC ruling, the Direct Connection Review and Evaluation Committee (D-REC) was created under Department Order No. 2014-11-019;

**WHEREAS**, the DC2018-08-0025 entitled "*Prescribing the Rules Governing the Review and Evaluation of Direct Connection Applications of Industrial, Commercial and Other Electricity End-users*" was approved and signed by Secretary Alfonso G. Cusi on 24 August 2018;

**WHEREAS**, the D-REC deem it necessary to amend certain provisions of the Rules to further enhance the process of the review and evaluation of applications for direct connection;

**NOW THEREFORE**, pursuant to SC ruling and in consideration of the foregoing, the DOE hereby issues, adopts and promulgates the following amendments to the DOE Department Circular No. DC2018-08-0025:

**Section 1. AMENDMENT TO SECTION 1. DEFINITION OF TERMS. xxxx**

- a. **Applicant** refers to an End-User or its duly authorized representative which submitted a verified application for the renewal of an existing or approval of a new direct connection;

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- b. **Contestable Customer** refers to an End-User that has secured a Certificate of Contestability from the ERC and belongs to the Contestable Market;
- c. **(New definition) Contestable Market** refers to the electricity End-users who have a choice of a supplier of electricity, as may be determined by the ERC in accordance with the Electric Power Industry Reform Act of 2001;
- d. **Directly Connected Customer (DCC)** refers to industrial or bulk electricity End-User, which is supplied through the Grid or Sub-transmission Assets that are still owned by the TransCo;
- e. **Direct Connection** refers to an arrangement for the supply of energy to an End-User by directly connecting to the Grid or Sub-transmission Assets that are still owned by the TransCo;

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**Section 2. AMENDMENT TO SECTION 2. COVERAGE. xxxx**

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- c. Any End-user that has secured a waiver for the right to supply from its DU provided its peak demand and delivery voltage satisfy the requirement of Section 2 (b) hereof.

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**Section 3. AMENDMENT TO SECTION 3. GENERAL PRINCIPLES FOR DIRECT CONNECTION. XXXX**

- a. The privilege of direct connection shall only be afforded to high demand, energy intensive electricity End-Users.
- b. The franchised DU serving the area within which the End-User applying for direct connection is located, shall be afforded the opportunity to prove whether or not it is capable to provide the technical and power supply requirements of the End-User applying for direct connection.
- c. End-Users including Contestable Customers which are already being provided with distribution wheeling service by a DU shall not be afforded the privilege of direct connection except in cases that the Contestable Customer Applicant has secured an affidavit from the DU stating that it has no objection on the direct connection application.
- d. Prior to its filing of application for direct connection, the Applicant shall formally inform the franchised DU of its connection requirements and the location of its facilities, and must have undergone the DU's application process which includes the conduct of a Distribution Impact Study (DIS).
- e. The DOE shall continue to recognize all existing and valid direct connection in force at the time of the effectivity of these Rules until the expiration of their supply contracts with the Generation Company or Supplier. The end-user shall submit to the DOE, copy furnished the concerned franchised DU, the date of the expiration of the original term of its supply contract with the Generation Company or Supplier. The End-user may renew its supply contract with the Generation Company or Supplier but must apply with the DOE as a new direct connection Applicant.

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**Section 4. AMENDMENT TO SECTION 4. APPLICATION FOR DIRECT CONNECTION. XXXX**

- a. XXXX

- i. Proof of application for connection by the Applicant with the DU and supporting documents, which includes, among others, the DIS expressly indicating that the DU is not capable to serve the requirements of the applicant or DCC. The DU shall process said application within thirty (30) days from the submission of the application form in accordance with section 4.3.5.2 of the PDC and the completion of DIS in accordance with section 4.3.3.2 of the PDC; or
  - ii. Communication/waiver from the DU that it cannot provide the services and facilities required by the Applicant;
- b. Upon the Applicant's determination that the franchised DU serving the area within which the Applicant's facilities requiring connection for electricity service is or will be located, has failed or waived its privilege to provide distribution service, the Applicant may file with the DOE through the D-REC, copy furnished the concerned DU, a verified application containing and/or enclosing thereto the following information/documents:
- i. xxxx
- xxxx
- vii. DELETED
    - 1) DELETED
    - 2) DELETED
    - 3) DELETED
- xxxx
- c. xxxx
  - d. The concerned DU shall inform the DOE of its action on the application for direct connection within thirty (30) working days from receipt of the copy of the application.
  - e. **(New Provision)** The franchised DU shall join into a conciliation meeting with the applicant to be facilitated by the D-REC prior the review and evaluation of application.
- xxxx
- i. Provided that all information and documentary requirements shall have been complied with and the specific periods for the DU to contest the application have been observed, the D-REC shall decide on the application within thirty (30) working days from the date the case has been submitted for decision.
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**Section 5. AMENDMENT TO SECTION 5. RENEWAL OF DIRECT CONNECTION STATUS. XXXX**

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- b. Provided that all required information under Section 4 of this Rule shall have been complied with and the concerned DU has been given the opportunity to respond to the application for renewal and establish its technical capability to connect the Applicant, the D-REC shall complete the evaluation and inform the Applicant and concerned DU of its decision to approve or deny any renewal of contract within thirty (30) working days from the date of complete submission.

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**Section 6. AMENDMENT TO SECTION 7. EVALUATION OF FRANCHISED DISTRIBUTION UTILITY. XXXX**

- a. New Applications

For the D-REC's evaluation if the franchised DU is capable to meet the requirements of the Applicant, the franchised DU shall submit within fifteen (15) working days from the receipt of written advice by the D-REC TWG, the following operational data requirements pertaining to the past three (3) years immediately preceding the year of the application.

**TECHNICAL/OPERATIONAL**

- i. XXXX

XXXX

- iii. DELETED
- iv. DELETED

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- vi. DELETED

**FINANCIAL**

- vii. DELETED
- viii. DELETED
- ix. DELETED
- x. DELETED
- xi. DELETED

**Section 7. 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 8. Effectivity.** These amendments shall take effect 15 days following 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 the National Administrative Register (UPLC-ONAR).

Issued at the Energy Center, Rizal Drive, Bonifacio Global City, Taguig City on \_\_\_\_\_, 2019

**ALFONSO G. CUSI**  
Secretary