

DEPARTMENT CIRCULAR NO. DC2019- _____ - _____

PROMULGATING THE RULES AND GUIDELINES GOVERNING THE GREEN ENERGY PRICING PROGRAM IN THE PHILIPPINES

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, Section 2 of 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) ensure fair and non-discriminatory treatment of public and private sector entities in the process of restructuring the electric power industry; (b) assure socially and environmentally compatible energy sources and infrastructure; and (c) 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 electricity sector 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 mandated the Renewable Portfolio Standards (“RPS”) program requiring all stakeholders in the electric power industry to contribute to the growth of the RE industry in the country and, towards this end, directed the National Renewable Energy Board (“NREB”) to set the minimum percentage of generation from eligible RE resources and to determine which sector RPS shall be imposed on a per grid basis;

WHEREAS, Section 9, Chapter III of the RE Act also provides that the DOE shall establish a Green Energy Option Program (“GEOP”), which provides 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 NREB, shall promulgate the appropriate implementing rules and regulations necessary, incidental or convenient to achieve the objectives of the RE Act for the GEOP;

1 **WHEREAS**, the Department Circular No. DC2017-12-0015, otherwise known as the
2 “RPS Rules for On-Grid Areas” or the “RPS On-Grid Rules” requiring the Mandated
3 Participants, as defined therein, to source or produce the minimum annual RPS
4 requirement and the minimum annual incremental RE percentage of their total
5 electricity requirements from eligible RE resources in order to develop indigenous and
6 environmentally friendly energy resources, and provided for the compliance
7 mechanisms, monitoring as well as penalties for non-compliance;

8
9 **WHEREAS**, Department Circular No. DC2017-12-0015, otherwise known as the “RPS
10 Rules for On-Grid,” provides that the DOE, in coordination with NREB, shall establish
11 a market development program for RPS in order to encourage the compliance of the
12 Mandated Participants with their respective RPS obligations;

13
14 **WHEREAS**, the Department Circular No. DC2018-07-0019, otherwise known as the
15 “Rules Governing the Establishment of the Green Energy Option Program (“GEOP”) in
16 the Philippines” or the “GEOP Rules” provides for the general rules and procedures to
17 properly guide the End-Users, RE Suppliers and Network Service Providers (NSP) in
18 facilitating the option taken by the End-Users to choose RE Resources as sources of
19 their energy;

20
21 **WHEREAS**, in order to provide more avenues for compliance by Mandated
22 Participants in meeting their RPS requirements as well as enhancing the features of
23 the GEOP by facilitating voluntary contracting of RE supply, there is a need to explore
24 and pursue new and supplemental programs to support increased investment in new
25 RE projects.

26
27 **NOW, THEREFORE**, premises considered, the DOE hereby issues, adopts and
28 promulgates the following rules and regulations:

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30 **RULE 1**
31 **GENERAL PROVISIONS**

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33 **SECTION 1. TITLE.** This Circular shall be known as the “Rules Governing Green
34 Energy Pricing Program in the Philippines” and shall hereafter be referred to as the
35 “Green Energy Pricing Rules.”

36
37 **SECTION 2. PURPOSES AND OBJECTIVES.**

38
39 **2.1** The Green Energy Pricing Rules is hereby promulgated to:

- 40
41 (a) set the framework by which the DOE shall facilitate the procurement by
42 Distribution Utilities, Electric Cooperatives, Retail Electricity Suppliers (“RES”),
43 RE Suppliers, and End-Users of supply from renewable energy projects through
44 a competitive process for purposes of compliance with the requirements
45 under the Renewable Portfolio Standards (“RPS”), and
46

- 1 (b) provide a guide for pricing and contractual terms for direct procurement of
2 supply of renewable energy under the Green Energy Option Program
3 (“GEOP”).
4

5 **2.2** In establishing and operationalizing these purposes, these Green Energy Pricing
6 Rules seeks to attain the following objectives:
7

- 8 (a) To assist the Mandated Participants in the RPS Program in developing their RPS
9 compliance plans by participation in the Green Energy Auction facilitated by
10 the DOE;
11
12 (b) To assist RE Developers in accessing markets for bilateral contracts and
13 mitigating market exposure and risks related to RE Projects;
14
15 (c) To reduce price volatility related to the procurement of renewable energy and
16 pricing of RECs;
17
18 (d) To enhance the GEOP by setting the Green Energy Pricing as the benchmark
19 rate for the RE in the country; and
20
21 (e) To direct the ERC to establish a mechanism or methodology for the setting and
22 regular updating of pre-approved rates for a specific period of delivery or
23 contract term for RE supply for baseload, mid-merit and peaking requirements
24 of regulated entities to their captive customers.
25

26 **SECTION 3. SCOPE AND COMPONENTS.**
27

28 **3.1** This Circular shall apply to the following stakeholders:
29

- 30 (a) End-Users;
31 (b) Distribution Utilities;
32 (c) Electric Cooperatives;
33 (d) RE Suppliers;
34 (e) RES; and
35 (f) Qualified RE Projects.
36

37 **3.2** The Green Energy Pricing Program shall have two (2) components:
38

- 39 (a) *Green Energy Pricing*, set out in Rule 2 below – to provide price signals on the
40 commercial value of electricity generated from RE Facilities towards the
41 setting of mechanism or methodology for pre-approved pricing for RE supply
42 to captive customers of regulated entities; and
43
44 (b) *Green Energy Auction*, set out in Rule 3 below – to facilitate contracting for
45 supply from Qualified RE Projects to Registered End-Users under a competitive
46 process until the full implementation of the mechanism or methodology for
47 the setting of pre-approved pricing for RE supply. To this end, the Green Energy

1 Auction shall be administered by the DOE through the Green Energy Matching
2 Committee ("GEMC"), with members from the EPIMB and REMB to be
3 appointed by the Secretary of Energy, in accordance with Section 11 below.
4

5 **SECTION 4. DEFINITION OF TERMS.** This Circular hereby adopts, by reference, the
6 terms defined in the EPIRA, RE Act, their respective implementing rules and
7 regulations, the GEOP Rules, the WESM Rules, as well as the relevant DOE Department
8 Circulars.
9

10 Furthermore, the terms, as used in this Circular, shall be defined as follows:
11

- 12 (a) "*Certificate of Compliance*" refers to a license issued by the ERC in favor of a
13 person or entity to operate a power plant or other facilities used in the
14 generation of electricity pursuant to ERC Resolution No. 16, Series of 2014, in
15 view of Section 6 of R.A. 9136 and Section 4 of the Implementing Rules and
16 Regulations of R.A. 9136;
17
- 18 (b) "*Certificate of Confirmation of Commerciality*" or "*COCOC*" refers to the
19 certificate issued by the Department of Energy confirming the Declaration of
20 Commerciality for a Renewable Energy Developer to develop, construct,
21 operate, and maintain the Renewable Energy Project, pursuant to DOE
22 Department Circular No. DC DC2009-07-0011;
23
- 24 (c) "*Commercial Operations Date*" or "*COD*" refers to the date that the RE Project
25 shall commence its commercial operations as indicated in the Certificate of
26 Compliance issued by the ERC;
27
- 28 (d) "*Competitive Selection Process*" or "*CSP*" refers to the process wherein a
29 Generation Company is awarded a contract to supply electric power
30 requirements of a Distribution Utility through transparent and competitive
31 bidding undertaken by Distribution Utilities to secure supply of electricity at
32 the least cost;
33
- 34 (e) "*Distribution Development Plan*" or "*DDP*" refers to the annual plan prepared
35 by the Department of Energy that details the programs of the Distribution
36 Utilities regarding their acquisition of sub-transmission assets, expansion and
37 rehabilitation of distribution facilities, and the costs associated to these
38 activities in order to deliver the electric power services to the projected
39 number of customers, and their corresponding energy and demand
40 requirements;
41
- 42 (f) "*EPIMB*" or "*Electric Power Industry Management Bureau*" refers to the
43 bureau within the DOE that supervises the implementation of the electric
44 power industry restructuring and ensures adequate, efficient and reliable
45 supply of electricity, and formulated plans, programs and strategies relative to
46 rural electrification;

- 1 (g) “ERC” or “Energy Regulatory Commission” refers to the regulatory agency
2 created under Section 38 of Republic Act No. 9136 otherwise known as the
3 “Electric Power Industry Reform Act of 2001”;
4
- 5 (h) “First Wave Auction” refers to the initial implementation of the Green Energy
6 Auction, wherein only Qualified RE Projects, as described under these Rules,
7 are allowed to participate;
8
- 9 (i) “First Wave Projects/Suppliers” refers to the initial set of Renewable Energy
10 Projects that are eligible to participate in the Green Energy Auction, as
11 determined under the Green Energy Pricing Rules;
12
- 13 (j) “Green Energy Option Program” or “GEOP” refers to the Renewable Energy
14 policy mechanism which shall provide end-users the option to choose
15 Renewable Energy resources as their source of energy;
16
- 17 (k) “Green Energy Matching Committee” or “GEMC” refers to the committee
18 within the DOE, with composition, powers and functions as set out in this
19 Circular;
20
- 21 (l) “Initial Market Value” or “IMV” refers to the price cap in the Green Energy
22 Auction, as determined under the Green Energy Pricing Rules;
23
- 24 (m) “Invitation to Participate” or “ITP” refers to the document issued to Mandated
25 Participants inviting them to participate in the Green Energy Auction;
26
- 27 (n) “Load Weighted Average Price” or “LWAP” refers to the average price
28 produced by multiplying each nodal energy price in the WESM by the load at
29 that node summing the results, and then dividing by the sum of the loads
30 involved;
31
- 32 (o) “Mandated Participants” refers to the electric power industry participants
33 mandated to comply with the RPS annual requirement which includes entities
34 enumerated under DOE Department Circular No. DC2017-12-0015, otherwise
35 known as the RPS On-Grid Rules;
36
- 37 (p) “NREB” refers to the National Renewable Energy Board established under
38 Section 27 of Republic Act No. 9513, otherwise known as the Renewable
39 Energy Act;
40
- 41 (q) “Power Supply Procurement Plan” refers to the Distribution Utility’s plan for
42 the acquisition of a variety of demand-side and supply-side resources to cost-
43 effectively meet the electricity needs of its customers;
44
- 45 (r) “Qualified RE Project” refers to the renewable energy project registered with
46 the DOE pursuant to pursuant to DOE Department Circular No. DC DC2009-07-
47 0011 and eligible to participate in the Green Energy Auction pursuant to
48 Sections 10 and 11 of these Rules;

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- (s) *"RE Certificates"* or *"RECs"* refers to a certificate representing all renewable and environmental attributes from one MWh of electricity generation sourced from an eligible RE Generation Facility;
- (t) *"RE Market"* or *"REM"* refers to the market developed and implemented pursuant to the relevant issuance by the DOE where the trading of the RE Certificates is made pursuant to Section 8 of the RE Act;
- (u) *"RE PSA"* or *"Renewable Energy-Power Supply Agreement"* refers to the bilateral agreement between a Registered End-User and a Qualified RE Project which details the roles and responsibilities of each party with respect to the purchase and supply of power under this Program;
- (v) *"Registered End-User"* refers to Mandated Participants under the RPS On-Grid Rules or eligible End-Users under the GEOP Rules that are eligible to participate in the Green Energy Auction pursuant to Sections 9 and 11 of these Rules;
- (w) *"Renewable Energy Management Bureau"* or *"REMB"* refers to the bureau under the Department of Energy responsible for the formulation and implementation of policies, plans, and programs related to the accelerated development, transformation, utilization and commercialization of renewable energy resources including emerging energy technologies;
- (x) *"Volume"* refers to megawatt-hour (MWh); and
- (y) *"Wholesale Electricity Spot Market"* or *"WESM"* is the venue, which was established pursuant to Republic Act No. 9136, for trading electricity as a commodity.

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RULE 2
GREEN ENERGY PRICING

5 **SECTION 5. PRICING PRINCIPLES.** The following principles shall be observed in
6 setting the Green Energy Pricing:
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- 8 (a) The Green Energy Price shall reflect the value to the Grid of electricity that
9 Qualified RE Projects are capable of supplying based on the relevant reference
10 period and thereby resulting in the displacement of such volume of electricity
11 that would have been sourced from non-RE projects during the relevant
12 trading (demand-supply) intervals.
13
- 14 (b) In arriving at the Green Energy Price, Initial Market Values for peak and off-
15 peak/baseload power supply, on a quarterly basis, shall be determined by the
16 DOE based on the following:
17
- 18 i. Where the WESM is operational – the average of monthly LWAPs
19 recorded in the WESM, corresponding to baseload and
20 midmerit/peaking hours, for a reference period of [five (5)] years or
21 [sixty (60)] billing periods prior to the date of the Auction, unless
22 otherwise provided in Section 11 below, or
23
 - 24 ii. In Mindanao for the period where WESM is not in operational – the
25 Forecast Cost Recovery Rate (PhP/kWh) for Mindanao in the most
26 recent petition for the FIT Allowance Rate filed by the FIT All
27 Administrator under the ERC Resolution No. 24, series of 2013, or the
28 Guidelines on the Collection of the Feed-in Tariff Allowance and the
29 Disbursement of the FIT-All Fund.
30
- 31 (c) As such, Qualified RE Projects can indicate peak and off-peak/baseload prices,
32 on a quarterly basis, corresponding to their volume (MWh) offers in the Green
33 Energy Auction.
34
- 35 (d) The price shall be set on a PhP/MWh-basis to reflect the value of actual energy
36 generated by the Qualified RE Project and to be consistent with the compliance
37 requirements of the RPS On-Grid Rules.
38
- 39 (e) The Initial Market Values shall be published by the DOE on its website and
40 updated on a regular basis, not later than [thirty (30) calendar days prior to
41 each Auction date], to serve as pricing indicators for RE developers and
42 customers contracting under the GEOP.
43
- 44 (f) These principles shall be observed by the ERC in developing the mechanism or
45 methodology for the setting of a pre-approved pricing for RE supply to captive
46 market by regulated entities, as provided in Section 6 below.
47

1 **SECTION 6. REGULATORY FRAMEWORK.**

2
3 **6.1** The DOE shall coordinate closely with the ERC in the adoption of Green Energy
4 Pricing as benchmark rates in the ERC’s review and approval of the RE-PSAs
5 entered into by Distribution Utilities and Electric Cooperatives pursuant to the
6 Green Energy Auction. In developing the regulatory framework, due consideration
7 shall be given to:

8
9 (a) the mandatory nature of procurement of RE supply by Mandated Participants
10 under the RE Act and the RPS On-Grid Rules, and

11
12 (b) the displacement of non-RE supply from the market on account of the
13 generation from Qualified RE Projects, consistent with the mandate to
14 promote utilization of indigenous and new and renewable energy resources in
15 power generation under Sections 2(g) and (h), and 37(e)(i) of EPIRA and Section
16 2(b) and (c) of the RE Act.

17
18 **6.2** The Green Energy Pricing resulting from the Green Energy Auction under this
19 Circular shall be observed until the ERC adopts and implements, in accordance
20 with its rules, a methodology for pre-determined pricing of RE supply by regulated
21 entities to their captive market, consistent with the requirements under EPIRA.

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24 **RULE 3**
25 **GREEN ENERGY AUCTION**

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27 **SECTION 7. FRAMEWORK FOR AUCTION.** The Green Energy Auction is hereby
28 established as a mechanism to facilitate contracting, on a voluntary basis, by Qualified
29 RE Projects with Registered End-Users through a competitive process or auction. In
30 this auction, Qualified RE Projects can offer to supply a specified volume of electricity
31 generated by their facilities under RE-PSAs to Registered End-Users at prices at or
32 below the Initial Market Values determined pursuant to these Green Energy Pricing
33 Rules. The corresponding RE Certificates attributed to each MWh of electricity
34 supplied under the RE-PSAs shall belong to the Registered End-Users in accordance
35 with the RPS On-Grid Rules.

36
37 **SECTION 8. GUIDING PRINCIPLES.** The following principles shall be observed in the
38 conduct of a Green Energy Auction:

39
40 (a) Qualified RE Projects can voluntarily participate by offering all or a portion of
41 the electricity generated by their RE Facilities as peak and/or off-peak or
42 baseload supply with corresponding price offers set on a quarterly basis, for
43 the RE-PSA term or duration and at the delivery dates set out in the relevant
44 auction rules to be issued by the DOE, pursuant to Section 9 herein.

- 1 (b) The Green Energy Auction is designed to assist Mandated Participants,
2 enrolling in this Program on a voluntary basis, under the RPS On-Grid Rules to
3 comply with their RPS requirements.
4
- 5 (c) The cost of renewable energy contracted pursuant to the Green Energy
6 Auction shall be charged to the respective customers of the Mandated
7 Participants on a per-kWh basis pursuant to the terms of the RE-PSAs and, as
8 necessary for regulated parties, the approval of the ERC.
9
- 10 (d) Other Registered End-Users under the GEOP may participate in the Green
11 Energy Auction on voluntary basis, provided, however, that priority allocation
12 to be given to Mandated Participants with immediate RPS compliance
13 requirements.
14
- 15 (e) The DOE shall conduct the Green Energy Auction until such time that the ERC
16 adopts and implements the mechanism or price-setting methodology for
17 contracting of RE supply by regulated entities for the captive market.
18

19 **SECTION 9. ELIGIBILITY OF DISTRIBUTION UTILITIES, ELECTRIC COOPERATIVES,**
20 **RES, AND RE SUPPLIERS.** All End-Users, Distribution Utilities, Electric Cooperatives,
21 RES, and RE Suppliers shall be eligible, on a voluntary basis, to participate in the Green
22 Energy Auction. Mandated Participants, as enumerated under DOE Department
23 Circular No. DC2017-12-0015, otherwise known as the "RPS On-Grid Rules," that fail
24 to finalize their RPS compliance plans by [30 November] 2019 shall be required to
25 participate in the First Wave Auction in order to ensure that they meet their respective
26 RPS requirements for the years 2020 to 2022.
27

28 **SECTION 10. ELIGIBILITY OF RE PROJECTS.** RE Projects eligible to participate in the
29 RPS under Section 10 of DOE Department Circular No. DC2017-12-0015 and GEOP
30 under Section 9 of DOE Department Circular No. DC2018-07-0019 shall be eligible to
31 participate in the Green Energy Auction, subject to the Program Implementation
32 Phases in Section 12.
33

34 **SECTION 11. CONDUCT OF THE GREEN ENERGY AUCTION.** The auction shall be
35 conducted in accordance with the following procedures, with details for each auction
36 phase to be provided in the relevant Invitation to Participate ("ITP") to be issued prior
37 to each auction:
38

- 39 (a) **Publication of the Invitation to Participate in the Green Energy Auction.** The
40 DOE shall publish the ITP not later than 30 calendar days prior to each Green
41 Energy Auction. The ITP which shall include, among others, the date, time and
42 place of the offer submission and the price ceiling or Initial Market Values for
43 the offers. The template renewable energy power supply agreements ("RE-
44 PSA") for each type of supply shall be likewise be provided together with the
45 ITP or in a supplement thereto.
46

1 (b) **Customer Registration.** Eligible end-users under the RPS On-Grid Rules and the
2 GEOP Rules may, on a voluntary basis, register their intent to procure
3 renewable energy through the Green Energy Auction by indicating their
4 volume requirements, expressed in MWh, with the DOE and their respective
5 Distribution Utilities, Electric Cooperatives, RES, and RE Suppliers, as the case
6 may be.

7
8 For Mandated Participants, the registration shall also indicate alongside the
9 volume (MWh) the corresponding RPS compliance period or timeline. Upon
10 registration, REMB, with the assistance of the Electric Power Industry
11 Management Bureau ("EPIMB"), shall verify the requirements of the
12 Distribution Utility or Electric Cooperative based on its DDP and the PSPP.
13 Additionally, REMB, with the assistance of EPIMB, shall also verify the
14 requirements of the Distribution Utility or Electric Cooperative based on its RPS
15 Forms and Compliance Plans.

16
17 End-users, under the RPS On-Grid Rules and GEOP, may be allowed to
18 aggregate their demand for registration under the Program.

19
20 The list of customers eligible to participate in each auction, together with their
21 respective volume (MWh) requirements and term of supply (delivery period),
22 shall be disclosed in a supplement to the Invitation to Participate ("Qualified
23 Customers Listing").

24
25 (c) **Registration of RE Projects.** Developers or owners of RE Projects which meet
26 the qualification requirements under Section 10 may, on a voluntary basis,
27 register their intent to participate in order to participate in the Green Energy
28 Auction. The registration shall be made with the REMB, specifying the capacity
29 (MW), volume (MWh) and value-to-grid or demand curve requirement (off-
30 peak/baseload and peak) for each RE Project.

31
32 The REMB shall verify the status of the RE Projects sought to be registered and
33 confirm its status and availability to participate in the Program. The list of RE
34 Projects eligible to participate in each auction, together with their respective
35 supply volume (MWh) and term of supply (delivery period), shall be disclosed
36 in a supplement to the Invitation to Participate ("Qualified RE Projects
37 Listing").

38
39 (d) **Initial Market Values.** In recognition of the variability of the costs of RE by
40 reason of technology and type of resource as well as the distinct ability of
41 different technology and resources to supply demand, the rates of the offers
42 submitted in the Green Energy Auction, expressed in PHP/kWh on a quarterly
43 basis, shall be subject to an Initial Market Value ("IMV"), which shall operate
44 as a price ceiling. Any submitted offer in the auction which exceeds the IMV
45 shall be automatically disqualified. The IMV shall be based on the pricing
46 principles set out in Section 5 above and the following principles:

47

- 1 i. Price Offers in the Green Energy Auction may be allowed on an
2 aggregated or portfolio-basis, provided, that all RE Projects included in
3 the portfolio or aggregation are eligible projects under Section 10 of
4 this Circular.
5
- 6 ii. The rates shall be subject to pre-identified adjustment factors which
7 will be set out in the RE-PSA and the ITP.
8
- 9 (e) **Pre-Offer Conference.** A pre-offer conference shall be conducted at least
10 twenty (20) calendar days before the offer submission date specified in the
11 Invitation to Participate to allow all the registered RE Projects to present their
12 queries before the GEMC. Only such parties included in the Qualified
13 Customers Listing and Qualified RE Projects Listing may participate in the pre-
14 offer conference. The GEMC shall address the queries raised during the pre-
15 offer conference in a GEMC Bulletin which may be issued within twenty (20)
16 calendar days after the pre-offer conference.
17
- 18 (f) **Offer Submission Date.** The Qualified RE Projects shall submit their offers in
19 the form prescribed by the GEMC, together with an acceptance of the terms
20 of the RE-SPA duly certified by an authorized officer of the company, on the
21 scheduled date and time indicated in the Invitation to Participate. The GEMC
22 shall only accept the offers equal to or below the IMVs specified in the
23 Invitation to Participate in the matching process. All offers exceeding the IMVs
24 shall not be considered.
25
- 26 (g) **Notice of Ranking.** The GEMC will review all offers that are at or below the IMV
27 and rank them from lowest to highest price offer. The notice of ranking will be
28 sent to the Qualified RE Projects still eligible to participate in the Green Energy
29 Auction.
30
- 31 (h) **Evaluation of Offers and Matching.** The GEMC shall evaluate the ranked offers
32 and match them with the requirements of the Qualified End-Users registered
33 for each Auction.
34
- 35 i. For the First Wave Auction, for instance, Registered End-users with the
36 least and most immediate MWh requirement for RPS compliance will
37 be prioritized in the matching process. Other factors that will ensure
38 efficiency and economy, such as proximity of location and delivery
39 points, among others, shall be considered. To this end, the DOE may
40 procure and maintain the necessary technology or electronic platform
41 to implement a transparent, fair and efficient matching process.
42
- 43 ii. GEOP customers shall be included in the allocation or matching after
44 allocation among Mandated Participants.
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- 46 iii. The parameters for matching shall be provided in a GEMC Bulletin to
47 be issued prior to the offer submission date for each auction.

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- (i) **Notice of Matching.** The Notice of Matching shall be issued by the GEMC to all relevant parties for final acceptance. The notice shall state that the parties are given ten (10) calendar days to submit a signed board resolution authorizing the execution of the RE-PSA with the matched party. The templates of the Board Resolutions for the RE Projects and end-users are herein attached as Annex A-1 and Annex A-2, respectively.
 - (j) **Submission of the Signed Board Resolution.** Within the period prescribed in the preceding clause, the parties shall submit a copy of the signed board resolution to the GEMC.
 - (k) **Execution of Power Supply Agreements.** The Qualified RE Projects and Qualified Customers shall execute RE-PSA using the templates attached to this Department Circular as: Annex B-1 for Baseload/Off-Peak RE; Annex B-2 for Mid-merit/Peak RE. The parties shall have a period of ten (10) calendar days from the receipt of the Notice of Matching to accept, confirm, and execute the PSAs. If the parties need more time to execute the RE-PSA or decide not to proceed, they shall jointly advise the DOE in writing within the same period indicating the reasons and mutually agreed way forward, as applicable.
 - (l) **Submission of the Signed RE-PSA.** Once the matched parties have executed the RE-PSA, one (1) original copy shall be provided to the GEMC within ten (10) calendar days from the execution date.

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The RE-PSA shall be submitted to the ERC for approval in the case of Distribution Utilities. In its evaluation, the ERC shall consider that only RE-PSAs that comply with the templates provided and the prices resulting from the Green Energy Auction shall be deemed to satisfy the requirements in Sections 13 and 14 in these Rules.

32 **SECTION 12. PROGRAM IMPLEMENTATION.** The Green Energy Auction shall be
33 conducted by the DOE on a regular basis to facilitate compliance by Mandated
34 Participants with their RPS requirements and assist procurement under the GEOP.

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- (a) For the initial implementation of the Green Energy Pricing Program ("First Wave Auction"), the conduct of the first Green Energy Auction shall commence not later than [thirty (30)] days from the effectivity of these Rules with the issuance of the auction rules or Invitation to Participate.
 - i. The reference period for the IMVs for the First Wave Auction shall be from the first trading interval of 26 January 2015 until the last trading interval of [25 October 2019] ("First Reference Period").
 - ii. The following shall be eligible to register as Qualified RE Projects for the First Wave Auction:

- 1 • RE Projects that commenced operations after the effectivity of
2 the RE Act that failed to qualify as a FIT Eligible project under
3 Department Circular No. DC2013-05-0009, otherwise known as
4 the "Guidelines for the Selection Process of RE Projects under
5 Feed-in Tariff System and the Award of Certificate for Feed-in
6 Tariff Eligibility," in respect of the capacity of such RE Facility
7 that is not covered by a bilateral contract ("FIT-Stranded
8 Project");
9
- 10 • RE Projects that have not yet commenced operations but have
11 been issued a Certificate of Confirmation of Commerciality
12 under Department Circular No. DC2009-07-0011 or Department
13 Circular No. DC2019-10-0013, as the case may be, as of [30
14 November 2019], as certified by the REMB and are scheduled
15 to enter into commercial operations to comply with their
16 obligations during the relevant RPS compliance year; and
17
- 18 • Eligible RE Facilities under Section 10 of the RPS On-Grid Rules
19 in respect only of their uncontracted volumes and are available
20 to deliver or supply to comply with their obligations for the
21 relevant RPS compliance year.
22

23 (b) The DOE shall conduct the next Green Energy Auctions in a manner similar to
24 the conduct of the First Wave Auction as set out above, on an annual basis
25 starting from the First Wave Auction, unless otherwise determined by the DOE
26 upon the recommendation of the National Renewable Energy Board ("NREB").
27 The REMB shall regularly publish:

- 28
- 29 i. a list of eligible RE Projects that can register as Qualified RE Projects
30 based on the list of indicative RE projects that have been issued RE
31 Service Contracts under Department Circular No. DC2009-07-0011 or
32 Department Circular No. DC2019-10-0013, as the case may be; and
33
- 34 ii. the aggregated volume (MWh) of RPS requirements of the Mandated
35 Participants under the RPS On-Grid Rules.
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37 **SECTION 13. COMPLIANCE WITH CSP.** In view of the CSP requirement under DOE
38 Circular No. DC2015-06-0008, as amended by Department Circular No. DC2018-02-
39 0003, a Distribution Utility or Electric Cooperative, which contracts for renewable
40 energy through the Green Energy Auction shall be considered as having complied with
41 the Competitive Selection Process requirements.
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43 **SECTION 14. COMPLIANCE WITH RPS.** The volume of renewable energy supplied
44 pursuant to RE PSAs concluded pursuant to the Green Energy Auction shall be counted
45 for purposes of their compliance with the Renewable Portfolio Standards, as provided
46 in DOE Department Circular No. DC2017-12-0015.
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4 **RULE 4**
5 **GEOP CONTRACTING**

6 **SECTION 15. GEOP CONTRACTING.** As provided in Rule 3, Section 11 above, GEOP
7 customers shall be included in the allocation or matching in the Green Energy Auction
8 after allocation among Mandated Participants for RPS compliance has been completed.
9 Nothing in this Circular shall diminish the rights of end-users under the GEOP Rules to
10 directly contract with Retail Electricity Suppliers and RE Suppliers for renewable energy
11 in volumes beyond those auctioned through the Green Energy Auction.

12 **SECTION 16. DEREGULATED PRICING.** Subject to the GEOP Rules, Renewable Energy
13 Supply Contracts directly entered into by end-users and RE Suppliers or Retail Electricity
14 Suppliers shall not be regulated by the ERC. The parties shall, therefore, be free to
15 negotiate on the rates for energy contracted beyond the green energy auction, which
16 may take into account any premium and costs due to other business factors.

17 For purpose of setting the rates in a contract directly entered into by the parties, the
18 IMVs may be used as a pricing index for RE-PSAs.

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21 **RULE 5**
22 **FINAL PROVISIONS**

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24 **SECTION 17. Non-Diminution of Vested Rights.** No provision of this Circular shall be
25 taken to diminish any right vested by virtue of existing laws, contracts, or agreements.

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27 **SECTION 18. Separability Clause.** If any provision of this Circular is declared invalid
28 or unconstitutional, the other provisions not affected thereby shall remain valid and
29 subsisting.

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31 **SECTION 19. Repealing Clause.** All previous issuances, rules and regulations
32 inconsistent with this Circular are hereby repealed, amended or modified accordingly.

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34 **SECTION 20. Effectivity.** This Circular shall take effect fifteen (15) days after its filing
35 with the University of the Philippines Law Center – Office of the National Administrative
36 Register and publication in at least two (2) newspapers of general circulation.

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40 **ALFONSO G. CUSI**
41 Secretary

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43 Issued on _____ at the Department of Energy, Energy Center, Merritt
44 Road, Fort Bonifacio, Taguig City, Metro Manila.