



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

**DEPARTMENT CIRCULAR NO. DC2020- \_\_\_\_\_ - \_\_\_\_\_**

**PROMULGATING THE RULES AND GUIDELINES GOVERNING THE  
GREEN ENERGY AUCTION PROGRAM IN THE PHILIPPINES**

**WHEREAS**, Republic Act No. 7638, otherwise known as the “Department of Energy (DOE) Act of 1992” or the “DOE Charter”, 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 5(b) of the DOE Charter mandates the DOE to “develop and update the existing Philippine energy program which shall provide for an integrated and comprehensive exploration, development, utilization, distribution and conservation of energy resources, with preferential bias for environment-friendly, indigenous, and low-cost sources of energy. The program shall include a policy direction towards the privatization of government agencies related to energy, deregulation of the power and energy industry, and reduction of dependency on oil-fired plants....”;

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

**WHEREAS**, the RPS On-Grid Rules also provides that the DOE, in coordination with NREB, shall establish a market development program for RPS in order to encourage the compliance of the Mandated Participants with their respective RPS obligations;

**WHEREAS**, Department Circular No. DC2019-10-0013, otherwise known as the “Omnibus Guidelines Governing the Award and Administration of Renewable Energy Contracts and the Registration of Renewable Energy Developers” or the “Omnibus Guidelines”, provides for an Open and Competitive Selection Process (“OCSP”) as one of the modes for the selection and awarding of RE Contracts for Pre-Determined Areas, as such terms are defined therein;

**WHEREAS**, the preliminary assessment of the 2011-2030 National Renewable Energy Program (“NREP”) indicates that the total installed RE capacity as of December 2018 is lower than the target capacity by 3,608MW, with the share of RE in the country’s generation supply mix reduced to less than 24%;

**WHEREAS**, in order to provide more avenue for compliance by Mandated Participants in meeting their RPS requirements and bolster the DOE’s efforts in promoting the utilization of indigenous and environment-friendly energy resources to meet the nationally-set NREP targets, there is a need to explore and pursue new and supplemental programs to support increased investment in new RE projects.

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

## **RULE 1 GENERAL PROVISIONS**

**SECTION 1. Title.** This Circular shall be known as the “Rules Governing the Green Energy Auction Program in the Philippines” and shall hereafter be referred to as the “Green Energy Rules.”

## **SECTION 2. Purposes and Objectives.**

2.1 Purposes. The Green Energy Rules is hereby promulgated to:

- 2.1.1 Set the framework by which the DOE shall facilitate the procurement of supply from RE projects by the Mandated Participants under the RPS On-Grid Rules, such as the Distribution Utilities, and Retail Electricity Suppliers (“RES”), through a competitive process for their compliance with the RPS Program and, as applicable, for their long-term power supply requirements pursuant to the respective Power Supply Procurement Plans (“PSPP”) of the Distribution Utilities;
- 2.1.2 Support the development and increase the access to financing of new RE projects by awarding RE Contracts under a competitive process, together with long-term bilateral contracts; and
- 2.1.3 Implement the mandate for preferential bias for RE and indigenous sources of energy for long-term energy independence.

2.2 Objectives. This Green Energy Rules seeks to attain the following objectives to:

- 2.2.1 Assist the Mandated Participants in the RPS Program in developing and/or fulfilling their RPS compliance plans with their participation in the Green Energy Auction facilitated by the DOE;
- 2.2.2 Assist RE Developers in accessing markets for bilateral contracts and mitigating market exposure and risks related to RE projects;
- 2.2.3 Address price volatility related to the procurement of RE supply and the pricing of RECs;
- 2.2.4 Enhance the RE programs, in general, by promoting competitive setting of the rates for RE supply in the country; and
- 2.2.5 Facilitate the development of a mechanism or methodology by the ERC in regularly setting and updating the prices for long-term contracts for RE supply for peak and off-peak requirements of regulated entities to their captive customers, including the summary procedures thereof.

### **SECTION 3. Scope and Components**

3.1 Scope. This Circular shall apply to the Mandated Participants of the RPS On-Grid Rules, and Qualified RE Suppliers.

3.2 Components.

3.2.1 *Green Energy Tariff*, set out in Rule 2 below – to provide price signals on the commercial value of electricity generated from RE facilities, resulting from a competitive process, and setting the tariff and/or price cap as well as summary procedures for approval of RE supply by regulated entities to their captive customers; and

3.2.2 *Green Energy Auction*, set out in Rule 3 below – to facilitate contracting of supply from Qualified Suppliers to Qualified Customers under a competitive process. To this end, the Green Energy Auction shall be administered by the DOE through the Green Energy Auction Committee (“GEAC”).

**SECTION 4. Definition of Terms.** This Circular hereby adopts, by reference, the terms defined in the EPIRA, RE Act, their respective implementing rules and regulations, the RPS On-Grid Rules, the Omnibus Guidelines, the WESM Rules, as well as the relevant DOE Department Circulars.

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

- 4.1 “ARP” or “ARPs” shall refer to the Auction Round Procedures applicable for each round of Green Energy Auction conducted under this Circular, referred to in Section SECTION 8. herein;
- 4.2 “Contracting Customer” refers to the Qualified Customers participating in a Green Energy Auction and correspondingly entered into the Green Energy Implementation Agreement;
- 4.3 “Green Energy Auction” refers to the competitive process for procurement of RE supply undertaken pursuant to these Rules set out in Section 3.2.2 and Rule 3 hereof;
- 4.4 “GEAC” or “Green Energy Auction Committee” refers to the RPS Composite Team established by the DOE under DC2017-12-0015, with additional powers and functions set out in this Circular;
- 4.5 “Green Energy Implementation Agreement” refers to the agreement among the Winning Bidders and Contracting Customers, as primary parties, duly acknowledged by the Market Operator indicating, among others, the matters covered by Rule 4 of this Circular;

- 4.6 “Green Energy Tariff” refers to the price, in PhP/kWh, resulting from the conduct of each Green Energy Auction corresponding to each Qualified Bidder on a pay-as-bid basis;
- 4.7 “Mandated Participants” refers to the electric power industry participants mandated to comply with the RPS annual requirements which includes entities enumerated under the RPS On-Grid Rules;
- 4.8 “Market Operator” refers to the Autonomous Group Market Operator or the Independent Market Operator, as defined in the implementing rules of EPIRA, whichever is applicable;
- 4.9 “Notice of Auction” shall refer to the written notice issued by the DOE referred to in Section 8.1. herein;
- 4.10 “Notice of Percentage Volume Allocation” refers to the written notice issued by the GEAC to the relevant parties referred to in Section 10.1. herein;
- 4.11 “Notice of Reserve Price” refers to the advisory to the DOE issued by the ERC pursuant to Section 5.4. herein;
- 4.12 “NREB” refers to the National Renewable Energy Board created under Section 27 of the RE Act;
- 4.13 “OCSP” shall mean Open and Competitive Selection Process set out in the Omnibus Guidelines Governing the Award and Administration of Renewable Energy Contracts and the Registration of Renewable Energy Developers, or the Omnibus Guidelines, set out in DOE Department Circular No. DC2019-10-0013;
- 4.14 “Percentage Volume Allocation” refers to the energy allocation on a per interval basis as determined by the Market Operator for each Qualified Customer pursuant to the Green Energy Implementation Agreement and consistent with Sections SECTION 6. and Error: Reference source not found herein;
- 4.15 “PSPP” refers to the Power Supply Procurement Plan prepared by a Distribution Utility for the acquisition of a variety of demand-side and supply-side resources to achieve the cost-effective and optimal supply mix for its captive customers;
- 4.16 “Qualified Customers” refers to Mandated Participants under the RPS On-Grid Rules that are qualified to participate in the Green Energy Auction under Section 7.2. herein;
- 4.17 “Qualified Suppliers” refers to RE Developers registered with the DOE pursuant to the Omnibus Guidelines or DOE Department Circular No. DC2019-10-0013, and eligible to participate in the Green Energy Auction under Section 7.3. herein;

- 4.18 “RE Act” refers to Republic Act No. 9513 otherwise known as the “Renewable Energy Act of 2008”;
- 4.19 “RE Contract” refers to the agreement between the Government and a RE Developer as defined under the Omnibus Guidelines or DOE Department Circular No. DC2019-10-0013;
- 4.20 “RECs” refers to RE Certificates issued under the RPS On-Grid Rules under DC2017-12-0015 and the REM Rules under DC2019-12-0016;
- 4.21 “Reserve Price” shall refer to the maximum price offer in PhP/kWh set by the ERC pursuant to applicable law and these Rules that shall operate as the cap for Green Energy Auction conducted for the period during which such tariffs are in effect;
- 4.22 “RPS” or “RPS Program” refers to the Renewable Portfolio Standards program mandated under Section 6 of the RE Act;
- 4.23 “RPS On-Grid Rules” refers to the RPS Rules for On-Grid Areas prescribed under DOE Department Circular No. DC2017-12-0015; and
- 4.24 “Winning Bidder” refers to the Qualified Suppliers with volume offers that are at or lower than the Reserve Price in a Green Energy Auction and entered into a Green Energy Implementation Agreement under this Circular.

## **RULE 2 GREEN ENERGY TARIFF**

**SECTION 5. Pricing Principles.** The following principles shall be observed in the development of the Green Energy Tariff:

- 5.1. General Principle. The Green Energy Tariff shall reflect the value of electricity, resulting from a competitive process, that Qualified Suppliers are capable of supplying based on the relevant delivery periods, thereby resulting in the displacement of such volume of electricity that would have been sourced from non-RE projects during the relevant trading (demand-supply) intervals.
- 5.2. Pricing Parameters. The resulting Green Energy Tariff for each Winning Bidder in a Green Energy Auction shall not exceed the Reserve Price. The ERC shall determine annually the Reserve Price for peak and off-peak, or variable and non-variable power supply, for the combined Luzon-Visayas grid and for the Mindanao grid, which may consider the parameters based on the pricing model utilized in setting FIT rates for the relevant technologies and applying, to the fullest extent possible, to the non-FIT RE technologies.

- 5.3. Pricing Unit. The Reserve Price and, consequently, the Green Energy Tariff shall be set on a PHP/kWh-basis to reflect the value of actual energy generated by the Qualified Suppliers and to be consistent with the compliance requirements of the RPS On-Grid Rules.
- 5.4. Price Determination. These principles shall be observed by the ERC in developing the mechanism or methodology for the annual setting of Reserve Price. Note later than May 31 of every year, the ERC shall issue in strict confidentiality the Notice of Reserve Price addressed to the DOE Secretary which shall be disclosed pursuant to these Rules. The resulting Green Energy Tariff for each Winning Bidder (which shall not exceed the Reserve Price under any circumstances) shall qualify as authorized to be collected from the captive customers of the such Winning Bidder without need of further action or approval from the ERC.

### **RULE 3 GREEN ENERGY AUCTION**

**SECTION 6. Framework for Auction.** The Green Energy Auction is hereby established as a mechanism to facilitate contracting by Qualified Suppliers with Qualified Customers through a competitive process or auction.

- 6.1. Offer. Qualified Suppliers can offer to supply a specified volume of electricity generated by their facilities, to be covered by Green Energy Implementation Agreement at prices at or below the Reserve Price determined pursuant to these Green Energy Rules. The corresponding RECs attributed to each MWh of electricity supplied under the Green Energy Implementation Agreement shall belong to the Contracting Customers through the Market Operator, in accordance with the RPS On-Grid Rules.
- 6.2. RPS Requirements. The Qualified Customers shall establish their RPS requirements through their individual PSPPs. The GEAC shall consolidate the RPS requirements of the Qualified Customers that will be included in the auction, pursuant to Section SECTION 7. of this Circular. The consolidated RPS requirements shall be the total supply volume to be subject of the auction.
- 6.3. Setting of the Volume Allocation. To set the Percentage Volume Allocation in a Supply Only-Auction, the GEAC will compare the consolidated RPS requirements with the total volume registered by the Qualified Suppliers.
- 6.3.1 If the consolidated RPS requirements is equal to the total volume registered by the Qualified Suppliers for the auction, the Percentage Volume Allocation per Qualified Customer shall be the RPS requirement of the Qualified Customer over the total volume registered by the Qualified Suppliers;

6.3.2 If the consolidated RPS requirement is more than the total volume registered by the Qualified Suppliers for the auction, the Percentage Volume Allocation per Qualified Customer shall be the RPS requirement of the Qualified Customer over the consolidated RPS requirements; and

6.3.3 If the consolidated RPS requirement is less than the total volume registered by the Qualified Suppliers for the auction, the higher priced winning offers shall be excluded until the total volume of the offers from Qualified Suppliers equal that of the consolidated RPS requirements. The Percentage Volume Allocation per Qualified Customer shall be the RPS requirement of the Qualified Customer over the consolidated RPS requirements.

**6.4. Maximum Awarded Volume.** Under a Supply Only-Auction, the total volume to be awarded under each Green Energy Auction shall not be more than the consolidated RPS requirement.

**SECTION 7. Guiding Principles** The following principles shall be observed in the conduct of a Green Energy Auction and the development of specific terms of reference for each auction round:

7.1. Auction Procedures. At the option of the DOE, the auction may be conducted as:

7.1.1 *Supply Only-Auction* – whereby only Green Energy Implementation Agreement shall be awarded to the Qualified Suppliers, and only RE projects already covered by RE Contracts, which includes those that are under the pre-development and development stages, shall be qualified to participate; or

7.1.2 *Integrated OCSP-Supply Auction* – whereby RE Contracts shall be awarded together with Green Energy Implementation Agreement resulting from an integrated process for OCSP-Supply Auction. In such instances, the provisions of this Circular shall be considered in formulating the rules applicable for such integrated process.

7.2. Qualified Customers. The Green Energy Auction is designed to assist Mandated Participants under the RPS On-Grid Rules to comply with their RPS requirements. Consequently, all Mandated Participants are deemed enrolled as Qualified Customers in the Green Energy Auction; Provided that, a Mandated Participant or a portion of a Mandated Participant's RPS requirement may be excluded from a scheduled Green Energy Auction in the following cases:

7.2.1 *Mandatory Exclusion.* A Mandated Participant declared by the DOE Secretary to be excluded from the auction based on the legal, technical and financial position of the participant as recommended by the GEAC;



7.2.2 *Voluntary Exclusion.* A Mandated Participant may file with the GEAC, not later than twenty (20) calendar days following the publication of the Notice of Auction by the DOE referred to in Section 8.1. below, a written certification signed by the duly authorized officer of the company/cooperative attesting to the resolution approved by its board of directors that the company/cooperative:

7.2.2.1 Will conduct its own competitive process, in accordance with relevant DOE regulations, to procure sufficient RE supply and/or RECs to meet its own RPS requirements for the relevant period;

7.2.2.2 In case of a Distribution Utility, has included in its PSPP, timely filed with the DOE, the details of such competitive procurement process, including the timelines and volumes to be contracted;

7.2.2.3 In the case of RES and generators, that it has contracted or plants to contract on its own such sufficient quantity to cover its RPS requirement; and

7.2.2.4 Acknowledges that the provisions of these Green Energy Rules, particularly, Sections SECTION 13. and SECTION 14. hereof shall not apply to the power supply agreements executed by the company/cooperative from such procurement process separate from the Green Energy Auction, such that the company/cooperative will need to observe the general rules and obtain necessary approvals for its power supply agreements.

The exclusion, once acknowledged and confirmed by the GEAC, shall apply only to the specific auction round covered by the Notice of Auction and the resolution issued by the company/cooperative.

7.2.3 Contracting Customers. The Qualified Customers receiving their respective Percentage Volume Allocation for each Green Energy Auction and who shall sign the Green Energy Implementation Agreement shall be referred to as Contracting Customers.

7.3. Qualified Suppliers. Without prejudice to specific qualifications for suppliers issued by the GEAC for each auction round, RE projects eligible to participate in the RPS under Section 10 of the RPS On-Grid Rules under DC2017-12-0015 shall be eligible to participate in the Green Energy Auction.

7.3.1 The specific type of RE supply shall be identified in the terms of reference to be issued for each auction round.

7.3.2 Qualified Suppliers can voluntarily participate by offering to supply all or a portion of the electricity generated by their RE facilities for the volume requirements available for each specific auction round and in accordance with the specific terms of reference issued accordingly.

7.3.3 The Qualified Suppliers who are declared Winning Bidders for each Green Energy Auction and sign the Green Energy Implementation Agreement shall be referred to as the Winning Bidders.

**SECTION 8. Mechanics of Auction.** The DOE may procure and maintain the necessary technology or electronic platform to implement a transparent, fair and efficient auction. In the development of the auction platform, the following general mechanics shall be observed, with details for each auction round to be provided in the specific Auction Round Procedures (“ARP”) to be issued prior to each auction:

**8.1. Publication of the Notice of Auction.** The DOE shall publish the Notice of Auction on its website (www.doe.gov.ph) and in at least one (1) newspaper of general circulation not later than June 15 of every year. A copy of the Notice of Auction shall also be sent by electronic mail to the ERC and the identified officers or representatives of each Mandated Participant.

**8.2. Contents of Notice.** The Notice of Auction shall indicate, among others:

**8.2.1** The schedule for the auction or auctions, as the case may be, for Luzon-Visayas and for Mindanao, and the dates of issuance of the specific terms of reference and ARPs for each auction round;

**8.2.2** Whether the auction(s) shall be Supply-Only and/or an integrated OCSP-Supply process;

**8.2.3** Advisory-reminder that all Mandated Participants under the RPS On-Grid Rules are deemed included in the auction without need of registration or enrollment, unless otherwise excluded under Section 7.2. above; and

**8.2.4** Acknowledgment to ERC of the adoption of the ERC-determined Reserve Price received by DOE not later than May 31 of every year.

**8.3. Auction Process**

**8.3.1** Prior to each auction round, the DOE shall publish the ARP for such round and include following information:

**8.3.1.1** Auction timeline and milestones, including the dates for the qualifying and the final auctions,

- 8.3.1.2** Total supply volume (MWh) subject to the auction,
- 8.3.1.3** Type of supply (variable or non-variable RE) required,
- 8.3.1.4** Delivery period and contract term,
- 8.3.1.5** Applicable annual line rental cap for the account of the generator, and
- 8.3.1.6** Applicable Green Energy Implementation Agreement template(s), duly approved by ERC, providing for the terms and conditions for supply, including the mechanism for Percentage Volume Allocation, determination of average price, posting of performance bond and any penalty arrangements for failure to meet supply obligations or payment obligations, such as disqualification from subsequent auctions and/or cancellation of RE contracts, if applicable.

**8.3.2** All Qualified Suppliers under Section 7.3. may register their intention to participate in the Green Energy Auction. The registration shall be made with the GEAC, providing the information that shall be required for the specific auction round.

**8.3.3** The GEAC shall verify the status of the RE projects sought to be registered and confirm its availability to participate in the Green Energy Auction pursuant to the specific requirements set out in the ARPs. The GEAC shall issue the list of Qualified Suppliers which shall then be invited to participate in a Pre-Bid Conference to be conducted at least twenty (20) calendar days before the commencement of the auction date. The GEAC shall address the queries raised during the pre-bid conference in a GEAC bulletin which may be issued within ten (10) calendar days after the pre-bid conference.

**8.3.4** The auction shall be conducted by electronic bidding. All such Qualified Suppliers shall be notified by the GEAC by electronic mail of their qualification and shall be furnished user-specific electronic IDs to be used for the auction.

**8.3.5** On the date and time set for the auction, all Qualified Suppliers, should they decide to proceed with the auction, shall place their bids (MWh supply offer and PhP/kWh price) by electronic submission using the user-specific IDs provided by the GEAC.

**8.3.6** The DOE shall thereafter disclose the Reserve Price upon opening of the sealed envelope received from ERC containing such price. Only such bids at or below the applicable Reserve Price shall be considered and ranked from lowest to highest price to cover the total auction MWh-volume. All Qualified Suppliers declared as Winning Bidders shall sign the Green Energy Implementation Agreement.

**RULE 4**  
**GREEN ENERGY IMPLEMENTATION AGREEMENT**

**SECTION 9. Components of the Agreement.** The Green Energy Implementation Agreement shall provide, among others, the following:

- 9.1. Supply components – The terms of supply by Winning Bidders to the Contracting Customers, and the terms of receipt or delivery of supply to the Contracting Customers in accordance with the Percentage Volume Allocation, taking into consideration the term or duration of contract, and whether or not the RE supply is for peak or off-peak, or variable or non-variable requirements of the Contracting Customers;
- 9.2. Payment components – The payment obligation by each Winning Bidder for actual energy delivered in accordance with the Percentage Volume Allocation based on the average price P/kWh in accordance with Section SECTION 10. below; and
- 9.3. Allocation component – The implementation by the Market Operator of the Percentage Volume Allocation in the determination of actual energy delivered corresponding to the RECs and computation of the average price payable in accordance with this Circular.

**SECTION 10. Percentage Volume Allocation and Award.**

- 10.1. Percentage Volume Allocation. The GEAC shall conduct a final evaluation of the total volume for contracting by the Contracting Customers and the total volume to be delivered by each of the Winning Bidders. The GEAC shall determine the Percentage Volume Allocation for such auction round.
  - 10.1.1 Each Winning Bidder shall be paid in accordance with the offer price at which it offers (paid-as-bid) to supply the actual volumes delivered.
  - 10.1.2 The Contracting Customers shall pay the average price of all volumes dispatched for the relevant billing period as calculated by the Market Operator.
  - 10.1.3 The GEAC shall regularly review the Percentage Volume Allocation, award and settlement.

For purposes of illustration of the offer allocation, settlement and payment, see *Annex A*.

- 10.2. Notice of Percentage Volume Allocation. The Notice of Percentage Volume Allocation shall be issued by the DOE Secretary, as recommended by the GEAC, to all relevant parties stating that the parties are given thirty (30) calendar days to submit a signed board

resolution authorizing the execution of the Green Energy Implementation Agreement.

- 10.3. Submission of the Signed Board Resolution and Execution of Green Energy Implementation Agreement. Within the period prescribed in the preceding clause, the parties shall submit a copy of the signed board resolution to the GEAC, together with executed originals of the Green Energy Implementation Agreement, signed in counterparts, using the templates provided with the ARPs. If the parties need more time to execute the Green Energy Implementation Agreement or decide not to proceed, they shall advise the DOE in writing within the same period indicating the reasons and mutually agreed way forward, as applicable.

**SECTION 11. Program Implementation.** The Green Energy Auction shall be conducted by the DOE on a regular basis to facilitate compliance by Mandated Participants with their RPS requirements and assist Distribution Utilities in particular in their long-term power supply requirements.

- 11.1. Initial Implementation. The First Wave Auction shall commence not later than one hundred and twenty (120) calendar days from the effectivity of these Rules. Not later than sixty (60) calendar days from the effectivity of these Rules, the ERC shall, in the exercise of its rule-making powers, develop and adopt templates for the Green Energy Implementation Agreements for implementation of the Green Energy Auction Program.

The following shall be eligible to register as Qualified Suppliers for the First Wave Auction:

- 11.1.1 RE projects that commenced operations after the effectivity of the RE Act that failed to qualify as a FIT Eligible project and/or not covered by any bilateral contract;
- 11.1.2 RE projects, under development stage, as submitted by the REMB and are scheduled to enter into commercial operations to comply with their obligations during the relevant RPS compliance year; and
- 11.1.3 Eligible RE Facilities under Section 10 of the RPS On-Grid Rules with respect only of their uncontracted volumes and are available to deliver or supply to comply with their obligations for the relevant RPS compliance year.
- 11.2. Regularity of Auctions. The DOE shall conduct the next Green Energy Auctions in a manner similar to the conduct of the First Wave Auction as set out above, on an annual basis starting from the First Wave Auction, unless otherwise determined by the DOE, upon the recommendation of the NREB on the basis of the RPS requirements of Mandated Participants and the NREP.

**SECTION 12. Role of the Market Operator.** The Market Operator shall enter into the Green Energy Implementation Agreement solely to perform the responsibility of providing the energy allocation per billing period to each Contracting Customer and to the RE Registrar for the latter's determination of REC allocation for compliance with the RPS requirements.

**SECTION 13. Compliance with CSP.** In view of the requirements under DOE Circular No. DC2015-06-0008, as amended by Department Circular No. DC2018-02-0003, a Distribution Utility, that contracts for RE supply through the Green Energy Auction shall be considered as having complied with the Competitive Selection Process requirements.

**SECTION 14. Compliance with RPS.** The volume of RE supplied pursuant to Green Energy Implementation Agreement shall be counted for purposes of their compliance with the Renewable Portfolio Standards, as provided in DOE Department Circular No. DC2017-12-0015.

**SECTION 15. Regulatory Support.** To ensure that the provisions of this Circular are implemented properly and to encourage new investments in the RE sector while ensuring customer protection, the ERC is hereby responsible for the approval of the following:

- 10.1. template Green Energy Implementation Agreement,
- 10.2. Reserve Price, and
- 10.3. In the event that the Winning Bidder is an embedded generator, the appropriate wheeling charges on a per kWh basis for embedded generation.

## **RULE 5 FINAL PROVISIONS**

**SECTION 16. Non-Diminution of Vested Rights.** No provision of this Circular shall be taken to diminish any right vested by virtue of existing laws, contracts, or agreements.

**SECTION 17. Separability Clause.** If any provision of this Circular is declared invalid or unconstitutional, the other provisions not affected thereby shall remain valid and subsisting.

**SECTION 18. Repealing Clause.** All previous issuances, rules and regulations inconsistent with this Circular are hereby repealed, amended or modified accordingly.

**SECTION 19. Effectivity.** This Circular shall take effect fifteen (15) days after its filing with the University of the Philippines Law Center – Office of the

National Administrative Register and publication in at least two (2) newspapers of general circulation.

**ALFONSO G. CUSI**  
Secretary

Issued on \_\_\_\_\_ at the Department of Energy, Energy Center,  
Merritt Road, Fort Bonifacio, Taguig City, Metro Manila.

## **ANNEX A**

### **Illustration of Percentage Volume Allocation, Award and Payment**