



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

DEPARTMENT CIRCULAR NO. DC 2020-01-0001 *A*

**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 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);

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, on 24 August 2018, the DOE promulgated the Department Circular DC2018-08-0025 entitled “Prescribing the Rules Governing the Review and Evaluation of Direct Connection Applications of Industrial, Commercial and Other Electricity End-users” (Rules);

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 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, the DOE deems it necessary to amend Department Circular DC2018-08-0025 to further enhance the process of the review and evaluation of applications for direct connection and to align with the recently promulgated laws;

WHEREAS, the DOE conducted Public Consultations on the proposed Department Circular revising the Rules on the following dates and venues: (i) April 05, 2019 in Mindanao; (ii) April 12, 2019 in Luzon; and, (iii) May 23, 2019 in Visayas.

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. General Principles. The following principles shall be adopted in the review and evaluation of applications for direct connections:

- 1.1. The privilege of direct connection shall only be afforded to high demand electricity End-users;
- 1.2. The issues on reliability and rates are not grounds for the application for direct connection and such shall be referred to the ERC;
- 1.3. Prior to the filing of application for direct connection, the Applicant shall apply for connection with the franchised DU;
- 1.4. The stability and reliability of the Grid shall be the primary consideration in approving direct connection application;
- 1.5. The Applicant’s connection facility requirements shall not form part of the regulatory asset base of the Transmission Network Provider (TNP); and

- 1.6. 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.

Section 2. Coverage. The evaluation of applications for direct connection shall cover the following:

- 2.1. Any existing Directly Connected Customer (DCC) intending to renew its direct connection arrangements either with a Generation Company or Supplier, including its Service Agreement with the TNP; and
- 2.2. Any End-user that has secured a waiver for the right to supply from its DU, 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:
 - 2.2.1. 10MW; 69 kV for Luzon Grid;
 - 2.2.2. 5MW; and 69 kV for Visayas Grid;
 - 2.2.3. 5MW; and 69 kV for Mindanao Grid.
- 2.3. Any New End-user whose application has been deemed waived, provided its peak demand and delivery voltage satisfy the requirement of Section 2 hereof.

For this purpose, the DU is deemed to have waived its obligation to provide the services to the New End-user when:

- 2.3.1. The DU failed to release its action on the application as duly submitted with complete supporting documents within thirty (30) working days;
- 2.3.2. The DU disapproved the application for connection, and;
- 2.3.3. The DU failed to complete the connection of an approved application within 90 working days or on a later date as agreed by the DU and the New End-user.

In such cases, the New End-user, provided, its peak demand and delivery voltage satisfy the requirement of Section 2 hereof may already submit its application for direct connection together with the proof of disapproval on its application or, failure of the DU to connect within the 90-working days or on a later date as agreed by the parties.

A submission is considered complete when the 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 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 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.

Within 90 working days, or on a later date as agreed by the parties, from the DU's acceptance of the application, the DU shall process the electrical connection requirement of the New End-user. In case that there are additional processes required to be completed by the New End-user, 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 New End-user 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 New End-user.

Section 3. Definition of Terms. For the purpose of this Circular, the following terms are defined, as follows:

- 3.1 **Action** refers to a final decision (approval or disapproval) on an application by a DU-authorized personnel involved in the application process;
- 3.2 **Applicant** refers to an End-user or its duly authorized representative who submitted application for renewal or approval of new direct connection;
- 3.3 **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;
- 3.4 **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;
- 3.5 **End-user** refers to any person or entity requiring the supply and delivery of electricity for its own use;
- 3.6 **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;
- 3.7 **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

3.8 **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.

Section 4. Requirements for Application. An Applicant intending to avail of or to renew a direct connection arrangement shall submit an application containing the following:

- 4.1 Waiver from the DU that it cannot provide the services and facilities required by the Applicant, provided that the waiver is issued by the DU Board or its duly authorized personnel. For cases under Section 2 (2.3), documents proving that the application is deemed waived.
- 4.2 Corporate or business profile;
- 4.3 Secretary's Certificate designating authorized representative;
- 4.4 Brief description of the proposal;
- 4.5 Location map of facility for which direct supply is sought, including the nearest TNP or DU substation;
- 4.6 Power demand, delivery voltage, timeline for connection requirement, load forecast, and other relevant technical information;
- 4.7 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; and

Section 5. Application Process.

5.1 The application should be 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

5.2 The DOE shall only accept applications with complete documentary requirements as provided in Section 4 of these Rules.

5.3 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.

5.4 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. The date of the site inspection shall be the starting date of the evaluation.

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

5.5.1 Submission of tampered or falsified data/documents;

5.5.2 Non-existing location and/or facilities; and

5.5.3 Express withdrawal of the application, which should be done in writing by the Applicant.

5.6 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 forty (40) working days including the transmittal of the decision to the DOE Secretary for approval and signature.

Section 6. Renewal of Direct Connection. 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 4 of these Rules. Provided that, the application shall be submitted at least three (3) months before the expiration of its Power Supply Agreement and/or Transmission Supply Agreement.

Section 7. 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 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 4 of these Rules.

Section 8. 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 9. 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 10. Repealing. DC 2018-008-025 is hereby revoked *in toto*. All issuances inconsistent with the provisions of this Circular are hereby repealed or amended accordingly.

Section 11. 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.


ALFONSO G. CUSI
Secretary



JAN 09 2020