

DEPARTMENT CIRCULAR NO. DC 2023- \_\_\_\_\_

**PRESCRIBING THE GUIDELINES FOR THE OPT-IN  
MECHANISM UNDER 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(h) of the DOE Charter empowers the DOE to;

**WHEREAS**, Section 5(h) and Section 5(k) of the DOE Charter empower the DOE to among others, formulate and implement a program for the accelerated development of non-conventional energy systems and the promotion and commercialization of its applications; and formulate such rules and regulations as may be necessary to implement the objectives of the DOE Charter, respectively,

**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) to ensure the quality, reliability, security and affordability of the supply of electric power; (b) ensure fair and non-discriminatory treatment of public and private sector entities in the process of restructuring the electric power industry; (c) assure socially and environmentally compatible energy sources and infrastructure; and (d) 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(i) of the EPIRA empowers the DOE to develop policies and procedures, and as appropriate, promote a system of energy development incentives to enable and encourage electric power industry participants to provide adequate capacity to meet demand including, among others, reserve requirements;

**WHEREAS**, Section 37(j) of the EPIRA mandates that the DOE shall endeavor to provide for an environment conducive to free and active private sector participation and investment in all energy activities;

**WHEREAS**, Section 37(p) of the EPIRA authorizes the DOE to formulate such rules and regulations as may be necessary to implement the objectives of the EPIRA;

**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 5 of the RE Act designates the DOE as the lead agency mandated to implement the provisions thereof;

**WHEREAS**, in pursuit of its mandates under the RE Act, the DOE promulgated on 19 November 2021 Department Circular No. DC2021-11-0036, otherwise known as “*Providing the Revised Guidelines for the Green Energy Auction Program in the Philippines*” or the “*GEAP Guidelines*”, which is intended to support and/or facilitate immediate and timely investments in new or additional RE capacities to ensure the provision of adequate supply and competitive rates of electricity in the country;

**WHEREAS**, under Section 10 of the GEAP Guidelines, the DOE shall issue the guidelines for the Opt-in Mechanism, which aims to lessen the charges under the Feed-in-Tariff system over time by enabling direct contracting of the RPS Mandated Participants from the GEAP pool;

**WHEREAS**, the DOE has determined that the competitive bidding process under the GEAP is one of the best ways to accelerate the development of RE resources as well as increase the investments in RE and other energy activities, and provide adequate capacity to meet demand including grid reserve requirements;

**WHEREAS**, the DOE conducted virtual public consultations on the draft Opt-In Mechanism Guidelines on 18 and 21 March 2022 covering Luzon and Visayas stakeholders, and Mindanao stakeholders, respectively;

**NOW, THEREFORE**, in consideration of the foregoing, the DOE hereby issues and promulgates the guidelines to implement the Opt-in Mechanism to supplement the implementation of the GEAP.

**Section 1. Title.** This Circular shall be known as “*Prescribing the Guidelines for the Opt-in Mechanism Under the Green Energy Auction Program in the Philippines*” or the “*Opt-in Mechanism Under GEAP*.”

**Section 2. Purposes and Objectives.** This Opt-in Mechanism Under GEAP is hereby promulgated to:

- (a) Decrease the applicable FIT-All rate charged to end-users;
- (b) Meet any RPS Mandated Participant supply and RPS requirements through the Opt-In Mechanism at the RPS Mandated Participant's option; and
- (c) Comply and provide further guidelines in the implementation of Department Circular No. DC2021-11-0036 or the GEAP Guidelines.

**Section 3. Scope.** This Circular shall apply to the following:

- (a) Energy Regulatory Commission (ERC);
- (b) RPS Mandated Participants, as defined under Section 4.8 of the GEAP Guidelines;
- (c) Winning Bidders, as defined under Section 4.9 of the GEAP Guidelines;
- (d) National Transmission Corporation (TransCo); and
- (e) Market Operator, as defined under Section 4.8 of the GEAP Guidelines;

**Section 4. Definition of Terms.** This Circular hereby adopts, by reference, the terms as defined in the EPIRA, RE Act, and their respective implementing rules and regulations, RPS On-Grid Rules, the Omnibus RE Guidelines, the WESM Rules, FIT Rules, and Green Energy Auction Program insofar as the said terms are consistent herewith, as well as the relevant DOE Department Circulars.

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

- (a) **“Opt-In Participation Agreement”** or **“OPA”** shall be the contract among TransCo, Market Operator, and the Opt-In Participant as further described in Section 8 of this Circular.
- (b) **“Opt-In Mechanism”** refers to the process defined in Section 5 of this Circular.
- (c) **“Opt-In Capacity”** pertains to the capacity contracted by the RPS Mandated Participant consistent with this Circular.
- (d) **“Opt-in Participants”** refer to the RPS Mandated Participants that comply with eligibility requirements under Section 5.1 and exercise Opt-In Mechanism.

**Section 5. Opt-In Mechanism.** Consistent with Department Circular No. DC2021-11-0036 or the GEAP Guidelines, any Distribution Utility (DU) shall have the option to procure from the GEAP pool of Winning Bidders under a particular auction round and thereby carve out such DU-procured volumes from the FIT-All compensation.

Other RPS Mandated Participants, such as the Retail Electricity Suppliers (RES) and Generating Companies (GenCos) with Directly Connected Customers, may exercise Opt-In Mechanism as well, subject to the approval of the DOE. The RPS Mandated Participants who exercise this option are called Opt-In Participants. The capacity attributable to the carve-out volume by Opt-In Participants is called the Opt-In Capacity.

The RPS Mandated Participants shall have the following Opt-In Mechanism:

- (a) **Eligibility Requirements.** The DOE through the GEAC shall establish eligibility requirements for the Opt-In Participants in each Auction Round, including parameters such as, but not limited to, NEA credit rating, financial ratio, and form of security deposit. The eligibility requirements shall be clearly defined and posted on the DOE website.
- (b) **Participation in Opt-In Mechanism.** An RPS Mandated Participant that complies with eligibility requirements prescribed pursuant to Section 5(a) of this Circular, may exercise its option to Opt-In within the schedule specified in Section 5(e) of this Circular. The RPS Mandated Participant shall submit a letter request to the DOE specifying the Opt-In Capacity, with an attached Board Resolution or Secretary's Certificate showing the authority to Opt-in. Upon evaluation that it complies with eligibility requirements under Section 5(a), the DOE shall endorse the Opt-in Participant to TransCo and Market Operator. The endorsement shall contain the Opt-In Participant's Opt-In capacity which is determined in accordance with Section 5(d).
- (c) **Opt-In Participation Agreement.** An Opt-In Participant that intends to participate in Opt-In Mechanism shall enter into an OPA with the Transco and Market Operator. Only an Opt-In Participant that has been endorsed by the DOE shall be allowed to enter into an OPA with TransCo and Market Operator. The Opt-In Participant shall recognize that it shall remit the Opt-In proceeds to the Market Operator corresponding to the weighted Green Energy Tariff (GET) and Opt-In Capacity generation.

The OPA is further defined in Section 8 of this Circular.”

- (d) **Opt-In Capacity.** The Opt-In Capacity as specified by the Opt-In Participant in the letter request and shall correspondingly be stated in the OPA. The corresponding Opt-In energy shall be determined by multiplying the total energy generated by the Winning Bidders by the proportion of the Opt-In Capacity to the total capacity in the GEAP auction round.

GEAP Winning Capacities shall receive compensation based be kept whole

- (e) **Opt-In Submission Date.** RPS Mandated Participants shall file their intent to Opt-In with DOE on or before 15<sup>th</sup> September each year, to be included in the determination of GEAP capacity to be included in the immediate Auction Round to be conducted by the DOE. The OPA entered into by the RPS Mandated Participant with TransCo and Market Operator shall take effect within 120 days from the Winning Bidders' issuance of Notice of Award (NOA). However, the OPA start date shall be the date when the Specific GEAP Round Winning Capacities start injecting power into the grid. All Opt-In Capacities shall be considered by the TransCo in its estimated FIT-All requirements for the particular year to be filed with the ERC in the immediately preceding year.

- (f) **CSP Exemption.** Any DU that exercised Opt-In Mechanism shall be deemed compliant with the Competitive Selection Process (CSP) requirement of the DOE considering the GEAP Winning Bids are below the ERC-set GEAR Prices for the particular GEAP Auction Round.

**Section 6. Decrease in FIT-All Charge.** The FIT-All Fund requirement represents the difference between the ERC-approved FIT rate and the prevailing market price (Cost Recovery Rate or CRR), plus other components. The Opting-in by RPS Mandated Participants shall decrease the FIT-All Fund requirement, which will eventually reduce the FIT-All rate charged to end-users.

The Opt-In Participants shall pay the Opt-In proceeds to the Market Operator corresponding to their Opt-In Capacity and weighted average GET. The payments of the Opt-In Participants under the OPA shall accrue under the FIT-All Fund administered by TransCo.

TransCo shall report the reductions in FIT-All charges attributable to the Opt-In transactions to the DOE and ERC.

**Section 7. Pricing.** The TransCo shall calculate the weighted average GET (Php/kWh) by dividing the total amount to be paid to all the Winning Bidders for a particular auction round by their total energy generated. The weighted average GET corresponding to the Opt-In Capacity shall be charged, not against the FIT-All rate, but against the Opt-In Participants as part of the generation charge payable by and collected from the relevant Captive.

The Opt-In Participants shall pay the weighted average GET price as per Sections 6, 8(b), and 8(c) of this Circular.

## **REVISIONS TO FIT RULES, FIT ALL GUIDELINES, AND ADDITIONAL RELATED TEMPLATE**

**Section 8. Opt-In Participation Agreement Template.** The ERC shall formulate and approve an OPA template with the following features:

- (a) The Market Operator shall provide the following:
- (i) Monthly energy generated by RE Developers under GEAP to TransCo for the computation of the weighted average GET.
  - (ii) Upon TransCo's submission of the weighted average GET, the Market Operator shall prepare a Summary of settlement allocation including the Opt-in transactions as described in Section 5(c).

- (b) Opt-In Participants shall remit the settlement proceeds to the Market Operator based on the summary of settlement allocation and subsequently, the Market Operator shall remit the same to TransCo.
- (c) TransCo shall settle the FIT Revenue claims of RE Developers under GEAP and, in turn, the RE Developer under GEAP shall issue Official Receipt to TransCo for any FIT Differential paid to them and the RPS Mandated/Opt-In Participant for the Actual Cost Recovery Revenue (ACRR).
- (d) The corresponding payment of the Opt-In Participant shall accrue to the FIT-All Fund and, in principle, shall reduce the FIT-All rate charged to the end-users.
- (e) Opt-in participants and Winning bidders should declare their BCQs to facilitate minimal disruption to existing processes and to ensure more accurate calculation of line rental charges once the market trading nodes are assigned to them, provided that line rentals shall be on the respective accounts of the Opt-in participants.
- (f) The Market Operator shall develop a methodology for allocating the Opt-in energy such that bilateral contract declarations between Opt-In participants and Winning Bidders are proportionate to their respective shares in the Opt-in Capacity.

**Section 9. Revisions to FIT Rules and FIT-All Guidelines.** Within six (6) months from the effectivity of this Circular, the ERC shall issue necessary revisions in FIT Rules and FIT-All Guidelines consistent with this Circular to ensure the proper implementation of the Opt-In Mechanism.

- (a) Allow RPS Mandated Participants, as Opt-In Participants, to pay settlement proceeds directly to the Market Operator;
- (b) Formulate and approve an OPA template;
- (c) Allow TransCo, Market Operator, and Opt-In Participant to enter an OPA; and
- (d) Allow for bilateral contract quantity declaration for the Opt-In Participant under one common node for dispatched energy of the Winning Bidders. However, in case the declared quantity by the Opt-In Participant is more than its contracted energy under OPA, such excess energy shall be paid based on Market Clearing Price and shall be considered as outside GEAP. On the other hand, if the declared quantity is below the contracted energy under OPA, the Opt-In Participant shall pay the full contracted energy at GET.

**Section 10. Start of Opt-in Period.** In consideration of the Market Operator's necessary budget approvals, system enhancement, methodology formulation

under Section 8(f) of this Circular, and approval of rules change for WESM, the DOE shall issue an Advisory on the commencement of the Opt-in period to give ample time to accomplish the necessary procedures by the Market Operator after the effectivity of this Circular.

**Section 11. Non-Diminution of Vested Rights.** No provision of this Circular shall be construed as diminishing or impairing any right vested by virtue of existing laws, contracts, or agreements.

**Section 12. 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 13. Repealing Clause.** All previous issuances, rules and regulations inconsistent with this Circular are hereby repealed, amended, or modified accordingly.

**Section 14. 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.

**RAPHAEL P.M. LOTILLA**  
*Secretary*

Issued on \_\_\_\_\_ at the Department of Energy, Energy Center, Rizal Drive, Fort Bonifacio, Taguig City, Metro Manila