| **SECTION** | **COMMENTS/RECOMMENDATION** | **PROPOSED/SUGGESTED REVISION** |
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| **DEPARTMENT CIRCULAR NO. DC2024-\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**  **PROMULGATING THE RULES AND GUIDELINES**  **GOVERNING THE ESTABLISHMENT OF THE**  **GREEN ENERGY OPTION PROGRAM** |  |  |
| **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,** 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) assure socially and environmentally compatible energy sources and infrastructure; and (b) 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 electric power industry 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 provides that all stakeholders in the electric power industry shall contribute to the growth of the RE industry in the country; |  |  |
| **WHEREAS,** Section 9, Chapter III of the RE Act provides that the DOE shall establish a Green Energy Option Program (GEOP), which provides Electricity 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 National Renewable Energy Board (NREB), shall promulgate the appropriate implementing rules and regulations necessary, incidental or convenient to achieve the objectives of the RE Act; |  |  |
| **WHEREAS**, on 18 July 2018, the DOE issued Department Circular (DC) No. DC2018-07-0019 titled, “Promulgating the Rules and Guidelines Governing the Establishment of the Green Energy Option Program Pursuant to the Renewable Energy Act of 2008,” establishing the GEOP Rules. |  |  |
| **WHEREAS,** on 22 April 2020, the DOE issued DC No. DC2020-04-0009 titled, “Guidelines Governing the Issuance of Operating Permits to Renewable Energy Suppliers under the Green Energy Option Program,” prescribing the guidelines and procedures in the issuance, administration, and revocation of GEOP Operating Permits to RE Suppliers. |  |  |
| **WHEREAS**, on 22 April 2021, the Energy Regulatory Commission (ERC) issued Resolution No. 08, Series of 2021, “A Resolution Adopting the Green Energy Option Program,” setting the regulatory framework to operationalize the GEOP. |  |  |
| **WHEREAS**, on 03 December 2021, the GEOP was implemented on a voluntary basis in Luzon and Visayas. |  |  |
| **WHEREAS**, on 31 January 2023, the DOE issued DC No. DC2023-01-0004, “Adopting Amendments to the WESM Rules, Retail Rules and Various Market Manuals, and Promulgation of the Retail Manual on the Procedures for the Implementation of the Green Energy Option Program.” |  |  |
| **WHEREAS**, with the commencement of the commercial operation of WESM in Mindanao on 26 January 2023 and cognizant of the readiness of the Mindanao Grid for retail market operations, the DOE issued DC No. DC2024-03-0009 on 01 March 2024, declaring 26 March 2024 as the commencement date of the commercial operations of RCOA and GEOP in Mindanao. |  |  |
| **WHEREAS,** the DOE acknowledged the challenges experienced by stakeholders as well as the opportunities raised to further enhance the program and increase end-users participation. |  |  |
| **WHEREAS,** the DOE conducted public consultations covering Luzon, Visayas, and Mindanao areas on \_\_\_\_\_ its proposed implementing rules and regulations for the GEOP; and |  |  |
| **NOW, THEREFORE**, premises considered, the DOE hereby issues, adopts and promulgates the following rules and guidelines:  **RULE 1**  **GENERAL PROVISIONS**  **Section 1. Title and Scope.** This Circular shall be known as the "Revised Rules and Guidelines Governing the Implementation of the Green Energy Option Program in the Philippines” and shall hereinafter be referred to as the “GEOP Rules." |  |  |
| **Section 2. Purpose.** This Circular shall have the following objectives:  **2.1.** Sets the rules and guidelines to properly guide the Electricity End-Users, GEOP Electricity Suppliers (GESs), and Network Service Providers (NSPs) and other stakeholders in the electric power industry in facilitating the option taken by the Electricity End-Users to choose RE Resources as sources of their energy; |  |  |
| **2.2.** Provide a non-regulated market to RE investors, developers, and electricity suppliers and increase supply capacity in the country; and |  |  |
| **2.3.** Empower Electricity End-Users to contribute to the development and utilization of RE Resources, in a competitive and sustainable manner. |  |  |
| **Section 3. Guiding Principles.** Consistent with the intent of the RE Act to empower Electricity End-Users to choose RE and contribute in meeting the national RE target of at least 35% share in the power generation mix by 2030 and 50% by 2040, the following principles shall apply:  **3.1.** Any Electricity End-User opting to participate in the GEOP shall inform its host DU of its plan to source power from RE Resources. The host DU, on the other hand, shall inform and discuss with the Electricity End-User the attendant technical, commercial, and legal arrangements necessary to implement the Electricity End-User’s option to participate in the GEOP. |  |  |
| **3.2** The host DU and the chosen GES, on the other hand, shall agree and facilitate the implementation of the GEOP for the Electricity End-User, including but not limited to Distribution Wheeling Services Agreement, Metering Services Agreement, and Billing and Collection Services Agreement; |  |  |
| **3.3.** The NSPs, as the entities mandated to provide transmission and distribution services within their respective franchises, shall adhere to the principles of open and non-discriminatory access to the transmission and distribution facilities; |  |  |
| **3.4.** The NSPs shall ensure reliable and efficient wire or wheeling services to the Electricity End-User and/or the GES. In case the GEOP Supply Contract is canceled, revoked, or terminated for any reason, the NSPs shall continue to provide the wheeling services; Provided, however, that all obligations of the Electricity End-User or GES is settled or paid; |  |  |
| **3.5.** All rates and charges to Electricity End-Users shall be unbundled, segregated, and itemized for each of the generation components, transmission charges and/or distribution charges, supply charges and other applicable charges; and |  |  |
| **3.6.** The GEOP shall be a non-regulated activity intended to develop and promote the increased utilization of indigenous and environmentally friendly sources of energy through the empowerment of Electricity End-Users to choose RE Resources. As such, the GEOP Supply Contract need not be approved by the Energy Regulatory Commission (ERC). |  |  |
| **Section 4. Scope.** This Circular shall apply to the following stakeholders:  **4.1** Electricity End-Users;  **4.2** GESs;  **4.3** Distribution Utilities (DUs);  **4.4** Economic Zone Developers and Economic Zone Utility Enterprises;  **4.5** Transmission Network Provider (TNP);  **4.6** Market Operator (MO) ;  **4.7** Supplier of Last Resort (SOLR);  **4.8** Central Registration Body (CRB); and  **4.9** RE Registrar (RER). |  |  |
| **Section 5. Definition of Terms.** As used in this Circular, the following terms shall be defined as follows:  **5.1. “Certificate of Compliance”** or **“COC”** refers to a certificate issued by the ERC in favor of a person or entity to operate a Generation Facility pursuant to Section 6 of EPIRA and Section 4 of its IRR; |  |  |
| **5.2. “Contiguous Areas”** refer to areas which are located within certain boundaries such as subdivisions, villages, economic zones, business districts and other areas in which supply of electricity of similarly situated Electricity End-users can be measured through metering devices, such as but not limited to any of the following:     1. Condominium buildings; 2. Commercial establishments; 3. Mixed-used development complexes; 4. Same nature of business; 5. Within the same Local Government Unit; 6. Within the same franchise area of a DU; or 7. Others, subject to DOE endorsement and ERC approval; |  |  |
| **5.3. “Distribution Utilities”** or **“DU”** refer to electric cooperatives, private corporations, government-owned utilities or existing local government units which have exclusive franchises to operate distribution systems in accordance with the EPIRA, including DUs and entities licensed to operate in the economic zones; |  |  |
| **5.4. “Electricity End-User”** refers to any person or entity requiring the supply and delivery of electricity for its own use. As used in this Circular, an Electricity End-User shall refer to any person or entity who chooses RE Resources as sources of its energy; Provided, that it has satisfied the eligibility requirements stated under Rule 2, Section 6 and 7 of this GEOP Rules;  **5.5. “Generation Facility”** refers to a facility where electric energy is produced from some other form of energy by means of a suitable apparatus;  **5.6. “GEOP Supply Contract”** refers to the non-regulated agreement between an Electricity End-User and GES for the supply of electricity;  **5.7. “Mandated Entities”** refer to electric power industry participants mandated to carry out the responsibilities under the GEOP;  **5.8. “Metering Service Provider”** or **“MSP”** refers to a person or entity authorized by the ERC to provide metering services as defined in the Distribution Services and Open Access Rules;  **5.9. “Net Electricity Sales”** refers to energy supply less system losses and own use reckoned from 26 December of the preceding year to 25 December of the current year; |  |  |
| **5.10. “Network Service Provider”** or **“NSP”** refers to a person or entity engaged in the activity of owning, controlling, or operating a transmission or distribution system intended for the conveyance of electric power from the Generating Facility to the End-User;    **5.11. “RE Certificate"** or **“REC”** refers to a certificate representing all renewable and environmental attributes from one megawatt-hour (1MWh) of electricity generation sourced from duly registered and eligible RE Generation Facilities;  **5.12. “Renewable Energy Market"** or **“REM"** refers to the market developed and operated by PEMC or the independent market operator, as the case may be, where the trading of the RE Certificates is made pursuant to Section 8 of the RE Act;  **5.13. "GEOP Operating Permit"** refers to a document issued by the DOE to an entity allowing the supply of electric power to an Electricity End-User, pursuant to Rule 4 of this Circular;    **5.14. “GEOP Suppliers”** or **“GESs"** refer to individuals or juridical entities created, registered or authorized to operate in the Philippines in accordance with existing laws and engaged in the provision or supply of electric power from RE resources to End-User, duly issued Operating Permits by the DOE; |  |  |
| **5.15.** **“RE Market”** or **“REM”** refers to a market for the trading of Renewable Energy Certificates, pursuant to Section 8 of the RE Act. The REM is intended as a venue for Mandated Participants obligated by Renewable Portfolio Standards to comply with their requirements;  **5.16. “RE Registrar"** or **“RER"** refers to the entity designated by the DOE to establish and operate the RE Market pursuant to Section 8 of the RE Act and DC2019-12-0016 (or the "REM Rules");  **5.17. "RE Resources"** refer to energy resources that do not have an upper limit on the total quantity to be used. Such resources are renewable on a regular basis, and whose renewal rate is relatively rapid to consider availability over an indefinite period of time. These include, among others, biomass, solar, wind, geothermal, ocean energy and hydropower that conform with internationally accepted norms and standards on dams, and other emerging renewable energy technologies;  **5.18. “Replacement Power"** refers to the supply of electricity to an Electricity End-User enrolled in the GEOP which shall be delivered should the supply contracted by the GES be unavailable for whatever cause or reason; and  **5.19. “Wholesale Electricity Spot Market”** or **“WESM"** refers to the wholesale electricity spot market established by the DOE pursuant to Section 30 of the EPIRA.  Furthermore, this Circular hereby adopts by reference the terms defined in the EPIRA and RE Act and their respective implementing rules and regulations. |  |  |
| **RULE 2**  **ELIGIBLE END-USERS FOR GEOP**  **Section 6. Participation of Electricity End-Users with Average Peak Demand of 100 kilowatts (kW) and above.** Upon the effectivity of this Circular, the following threshold levels shall be applied to ensure an orderly implementation of the GEOP:  **6.1.** All Electricity End-Users with a monthly average peak demand of 100 kW and above, for the past twelve (12) months, may opt to participate in the GEOP; and |  |  |
| **6.2.** Electricity End-Users whose estimated average monthly peak demand for the next twelve (12) months, based on the load profiling, is 100 kW or above, may participate in the GEOP; |  |  |
| **6.3.** The participation of the Electricity End-User in the GEOP shall be governed by a GEOP Supply Contract between the Electricity End-User and its GES. The GEOP Supply Contract shall not require an approval from the ERC as stated under Section 3.6 of Rule 1 hereof. |  |  |
| **Section 7. Participation of End-Users with Average Peak Demand below 100 kW.** In support of growing commitments to sustainable development and/or net-zero emission targets, any Electricity End-Users with an average peak demand below 100 kW may participate in the GEOP, under the following framework:  **7.1.** Electricity End-Users with an average peak demand below 100 kW, located in a Contiguous Area, may opt to aggregate, and participate in the GEOP. The respective GES shall act as the aggregator and facilitate the switching of the aggregated Electricity End-Users, subject to ERC existing rules and guidelines; and |  |  |
| **7.2.** All Electricity End-Users, located in Economic Zones, may opt to participate in the GEOP through direct contracting with a GES or through a tripartite agreement with its Economic Zone Utility and a GES. |  |  |
| **Section 8. Upholding End-User Choice.** Any eligible Electricity End-User has the option to voluntarily contract directly with a GES, as guided with the following:  **8.1.** An Electricity End-User that opted to contract with a GES may revert as the customer of the DU, provided it has fulfilled all of its contractual/financial obligations to the GES and has executed relevant agreement for the supply of electricity by the DU; |  |  |
| **8.2.** Any ElectricityEnd-User who reverted to the DU as a customer may again participate in the GEOP, subject to the fulfillment of its contractual obligations with the DU; |  |  |
| **8.3.** Pursuant to Department Circular No. DC2024-03-0009, this Circular shall allow participation of eligible Electricity End-Users to the GEOP in Luzon, Visayas, and Mindanao On-Grid areas; and |  |  |
| **8.4.** To further promote the GEOP in the country, Electricity End-Users and GESs in missionary and Off-Grid areas may participate in the GEOP; Provided, that the agreement shall be purely commercial and shall not be entitled to any subsidy from the Universal Charge for Missionary Electrification. Provided further, that the Replacement Power in these areas shall be sourced directly from the contracted supply of the host DU. |  |  |
| **RULE 3**  **GEOP MANDATE, SECTORS, ELIGIBLE RENEWABLE ENERGY RESOURCES**  **Section 9. Renewable Energy Generation Facilities (“RE Facilities”) Covered by GEOP.** All RE Facilities are eligible to participate in the GEOP and are further subject to the following rules:  **9.1.** Entities that shall utilize RE Facilities to supply power under the GEOP shall secure an Operating Permit from the DOE as GESs pursuant to Rule 4 of this Circular; |  |  |
| **9.2.** AllRE Facilities, including Distributed Energy Resources and/or Embedded Generators supplying under the GEOP shall comply with all DOE and ERC policies and regulations, respectively. |  |  |
| **Section 10. GEOP Mandated Activities.**  **10.1.** TNP, NSPs, MO, and GESs, shall provide individually and/or collectively, the mechanisms for the physical connection and commercial arrangements necessary to ensure the success of the GEOP. |  |  |
| **10.2.** Any Electricity End-User who intends to switch to the GEOP shall:  **10.2.1.** Notify, through registered mail or personal service, the DU of its intention to participate in the GEOP, within three (3) months prior to the signing of the GEOP Supply Contract; and  **10.2.2.** Notify, through registered mail or personal service, the DU of its signed contract with a GES within one (1) month prior to its effectivity. |  |  |
| **10.3.** Any Electricity End-User under the GEOP shall:  **10.3.1.** Be informed, through its monthly electric bill, of its monthly energy consumption and generation charge provided by the GES;  **10.3.2.** Be informed by the GES or NSP of the transmission, distribution services, and other charges, segregated and unbundled, by way of its monthly electric bill, as applicable; and  **10.3.3.** Pay and/or settle its financial obligations to the DU and/or GES. Failure to do so shall subject the Electricity End-User to the disconnection policies of the DU and/or sanctions under their wheeling agreement and GEOP Supply Contract. |  |  |
| **Section 11. Responsibilities of Mandated Entities.**  **11.1. GESs shall:**  **11.1.1.** Including existing Retail Electricity Suppliers under the Retail Competition and Open Access Program,secure an Operating Permit from the DOE, pursuant to Rule 4 of this Circular and comply with all the terms and conditions of this Circular and any amendments hereto;  **11.1.2.** All Local Retail Electricity Suppliers (LRES) are automatically qualified as GES without the need for GEOP Operating Permit. Provided, that any LRES shall only be allowed to supply within its host DU franchise area, in compliance with all applicable rules and regulations;  **11.1.3.** Register with the CRB and RE Registrar; |  |  |
| **11.1.4.** Provide a transparent and simplified offer sheet to the End-User, containing the terms and conditions of the GEOP supply contract to the End-User;  **11.1.5.** Incorporate in the GEOP Supply Contract with the Electricity End-User the mechanism to address the intermittency or availability factor of the RE Facilities to ensure the continuous power supply service, the provision of Replacement Power, and the transmission and/or distribution wheeling charges, if applicable;  **11.1.6.** Ensure transparency in the monthly electric bill of the GEOP's End-User;  **11.1.7.** Comply with the reportorial requirements of the DOE, ERC, CRB and the RE Registrar;  **11.1.8.** Inform the GEOP Electricity End-user of its option to choose between a single or dual billing scheme;  **11.1.9.** Submit reports annually on or before every 30th of January or as may deemed necessary by the DOE to the REMB, which shall contain the following data:   1. Monthly kWh generated from owned, operated, and/or   contracted RE facility;   1. Monthly kWh purchased per RE resource; 2. Monthly kWh sold per customer; 3. Peak Demand per customer in kW; 4. Available supply capacity per technology in MW; 5. Monthly purchased Replacement Power in kW; and 6. Any additional information requested by the DOE.   The DOE shall establish a compliance template for this purpose.  **11.1.10.** Facilitate the switching of respective GEOP customers including the submission of complete requirements to the CRB. |  |  |
| **11.2. DU as the SOLR shall:**  **11.2.1.** Impose rates and/or charges duly approved by the ERC;  **11.2.2.** Automatically provide supply to the Electricity End-User, in the event that the GES and its corresponding Replacement Power is not able to perform its obligation under the GEOP Supply Contract. As an alternative, the GES may enter into an agreement with the DU on the provision of Replacement Power to the End-User; and  **11.2.3.** Register as GEOP SOLR to the CRB. Provided that, all DUs registered as SOLR in the Retail Market shall be automatically registered as GEOP SOLR in the CRB without the need of any supplementing requirements. |  |  |
| **11.3. TNP shall:**  **11.3.1.** Provide an open and non-discriminatory access to its transmission facilities;  **11.3.2.** Ensure the reliability and efficiency of the transmission system, including the provision of the needed ancillary services;  **11.3.3.** Segregate and itemize all charges to the End-User or GES;  **11.3.4.** Ensure the dispatch of the generating facilities, in accordance with the WESM Rules and the Philippine Grid Code;  **11.3.5.** Incorporate GEOP supply to its annual preparation and update of its Transmission Development Plan; and  **11.3.6.** Perform as the default MSP for the Electricity End-Users directly-connected to the transmission facilities. |  |  |
| **11.4. DUs as NSPs shall:**  **11.4.1.** Provide an open and non-discriminatory access to its distribution system;    **11.4.2.** Maintain the reliability and efficiency of the distribution facilities; and  **11.4.3.** Annually prepare and update its Distribution Development Plan to consider the needed infrastructures to operationalize the GEOP within its franchise area. |  |  |
| **11.5. DUs as MSPs shall:**  **11.5.1.** Perform as the default Retail MSP within its franchise and ensure the compliance with the installation and maintenance of all revenue metering facilities of the End-User;  **11.5.2.** Register as GEOP MSP with the CRB. Provided that all DUs registered as Retail MSP in the Retail Market shall be automatically registered as GEOP MSP in the CRB without the need of any supplementing requirements; and  **11.5.3.** Submit annually on or before the 30th of January or as deemed necessary to the DOE list of eligible customers under their franchise areas with respective peak demand (in kW) and contact information. |  |  |
| **11.6. CRB and RE Registrar shall:**  **11.6.1.** Register the GEOP's End-Users with their GESs;  **11.6.2.** Facilitate amendments to the WESM and Retail Rules and Manuals, if necessary; and  **11.6.3.** Submit quarterly report / updates to the DOE including, but not limited to:   1. List of GEOP End-Users’ name served by each GES; 2. Meter Number and Market Short Name; 3. Monthly registered peak and average demand (in kW); 4. Monthly metered quantity (in kWh); 5. Number of GEOP End-Users that switched, sorted by the DU franchise area; and 6. Percent (%) increase in Switching per DU franchise area. |  |  |
| **Section 12. Responsibilities of the DOE through the Renewable Energy Management Bureau (REMB).** Consistent with Section 32 of the RE Act, the REMB shall:    **12.1.** Evaluate the applications for and recommend the issuance of Operating Permits to the GESs, pursuant to Rule 4 of this Circular;  **12.2.** Post in the DOE website the list of GES issued with GEOP Operation Permit with contact details, annually or as deemed necessary by the REMB;  **12.3.** Conduct IEC campaigns to inform all electricity End-Users and other involved entities in the GEOP; and  **12.4.** Undertake regular review and assessment of the GEOP Rules, and propose amendments, if necessary. |  |  |
| **Section 13. Other Provisions.**  **13.1. Provision of Replacement Power.** To ensure that End-Users are supplied with sufficient and reliable electricity, the GES shall secure the necessary Replacement Power, as follows:  **13.1.1. Transition Period.** Upon the effectivity of this Circular, a three (3) year transition period shall be allowed to all GESs to contract supply from the DU, through WESM, or generation facilities utilizing indigenous resources as Replacement Power.  **13.1.2.** During this transition, the total energy supplied (in kWh) to an End-User shall be at least fifty percent (50%) coming from RE sources. Thereafter, in support of the greater development and utilization of RE Resources, any Replacement Power shall exclusively be sourced from RE Resources.  **13.1.3.** The CRB shall monitor the energy output compliance of all GESs as prescribed herein. Any GES violating this provision shall be subjected to penalties under Rule 4 of this Circular. |  |  |
| **13.2. RECs Derived from the GEOP.** Until such time that the DOE issued a policy on voluntary RE market (VREM), which shall allow the ownership and trading of RECs from Electricity End-Users, the RECs generated from the energy supplied to the End-Users under the GEOP shall be for the account of the DUs. Provided that, the energy sales from the GEOP shall be part of the Net Electricity Sales of the DU for its RPS compliance requirement. Thereafter, all generated RECs shall be owned by the Electricity End-Users. |  |  |
| **13.3. REC Eligibility and Issuance.** All RE generation under the GEOP shall be issued the corresponding RECs. Provided that only RECs from RE facilities that are eligible under Sections 10 and 11 of the RPS Rules for On-Grid areas shall be allowed to be traded in the REM. Provided further, that all RECs generated under the GEOP, including eligible and non-eligible RPS generating facilities, shall be allowed to be traded in the VREM or any international REC market. |  |  |
| **13.4. GEOP Regulatory Requirements.** For the successful implementation of the GEOP, the ERC shall issue necessary or update existing regulatory framework, following the objectives of this policy and any amendment/s thereto. |  |  |
| **13.5. Billing Mechanism**. An End-User opting to participate in the GEOP shall have an option to choose either single billing or dual billing  **13.5.1. Dual Billing.** A dual billing system may be adopted by the End- User availing of the GEOP. Under the dual billing scheme, the Electricity End-User shall be billed separately by its GES for the supply of electricity generated from GEOP including the Replacement Power, and by its NSP or TNP, in case of Directly-Connected customers for the wires/wheeling services and other charges.  **13.5.2. Single Billing.** Under the single billing scheme, the End-User shall be billed by its GES for all charges in the electricity supply, unbundled and itemized. |  |  |
| **13.6. Excess Generation Provided by GESs.** The NSPs shall not be financially liable for any excess power provided by the GES to the End-User under the GEOP Supply Contract. |  |  |
| **13.7. GEOP with Energy Storage Systems (ESS).** Consistent with DOE related policies, any ESS solely integrated to a RE facility shall likewise be treated as a RE source and may supply to the GEOP End-Users, subject to rules, guidelines, and relevant regulations by the DOE and the ERC. |  |  |
| **RULE 4**  **GEOP OPERATING PERMIT GUIDELINES**  **Section 14. GES Qualifications.**  **14.1.** Any person, natural or juridical, registered and/or authorized to operate in the Philippines under existing Philippine laws and engaged in the business of generating and/or supplying electricity from RE Resources may apply for a GEOP Operating Permit as an GES under GEOP;  **14.2.**  For avoidance of doubt, any RE Facility is eligible for GEOP, whether or not the same is eligible for RPS compliance as long as there is still available capacity or energy for supply under GEOP; and  **14.3.** Owners and operators of RE Facilities constructed and operating prior to RE Act but registered under the RE Act may qualify as GESs under the GEOP. |  |  |
| **Section 15. Application Requirements.** All applications, including new and renewal of the GEOP Operating Permit shall be in writing and verified. All applicants shall likewise submit following documents to the DOE:  **15.1.** Affidavit of undertaking on the capability to supply and deliver the RE generation to the End-User;  **15.2.** Proof of Contract/s for the Supply of Replacement Power in accordance with Section 13.1 of this Circular; and  **15.3.** Proof of payment of the processing fee.  For avoidance of doubt, all existing Retail Electricity Suppliers under the Retail Competition and Open Access program intending to supply for the GEOP shall apply and comply with all the requirements stated herein. |  |  |
| **Section 16. Processing and Approval of Applications.**  **16.1.**  The DOE, through the REMB, shall be responsible for evaluating all applications for the issuance of GEOP Operating Permits to eligible GESs.    **16.2.** Within twenty (20) working days from the submission of complete application documents and compliance with the requirements, the REMB Director shall recommend to the Secretary the approval or disapproval of the application.  **16.3.** The application shall be acted upon by the DOE Secretary, upon endorsement by the Supervising Assistant Secretary and Undersecretary of the REMB. |  |  |
| **Section 17. Period of Validity.** The GEOP Operating Permit shall be valid for a period of five (5) years from the date of issuance stated therein, unless earlier revoked by the DOE for any violation of this Circular. |  |  |
| **Section 18. Renewal of Application.** Six (6) months prior to its expiration, the GES may apply for renewal of its GEOP Operating Permit, subject to submission of required documents and payment fee under Section 15 of this Circular. |  |  |
| **Section 19. Suspension, Revocation or Cancellation of GEOP Operating Permits.** The DOE may suspend, revoke, or cancel any GEOP Operating Permit on the following grounds:  **19.1.** Failure of the GES to comply with its obligations under the GEOP Rules and the terms and conditions under which the GEOP Operating Permit was issued;    **19.2.** Providing false or misleading information to the End-User or the DOE;  **19.3.** Failure to respond to DOE directives, communications, inquiries within the periods provided therein, or address customer complaints within five (5) working days from receipt of the same; and  **19.4.** Termination of the GEOP Supply Contract by the End-User for cause. |  |  |
| Upon a positive finding by the DOE that the GES has committed of any of the above enumerated grounds, the latter shall be required to explain in writing why its GEOP Operating Permit should not be suspended, revoked, or cancelled. The GES shall be given a non-extendible period of fifteen (15) calendar days to submit its explanation, which shall be accompanied by supporting documents. |  |  |
| Not later than fifteen working (15) days from its receipt of the GES's written explanation, the REMB shall submit its findings and recommendations to the DOE Secretary, through its Supervising Assistant Secretary and Undersecretary. The DOE Secretary shall have a period of five (5) working days to act upon said recommendation. The decision of the DOE Secretary shall be final and immediately executory.  The GES shall immediately be notified of the decision of the DOE Secretary in writing, within three (3) days upon receipt by REMB of the DOE Secretary's decision, through personal service, registered mail, private courier service, or in the absence of the aforementioned modes of service, through electronic mail. |  |  |
| **Section 20. Penalties**. The following are the penalties which may be imposed upon a GES which has been found to have committed any of the acts provided in Section 21 hereof and has failed to provide justifications therefor:  **20.1. First Offense.** Suspension of the GEOP Operating Permit for one (1) month;  **20.2. Second Offense.** Suspension of the GEOP Operating Permit for three (3) months; and  **20.3. Third Offense.** Cancellation/Revocation of the GEOP Operating  Permit.  Provided, That, in cases where the GES was found to have twice committed the same violation in succession, the GEOP Operating Permit shall be cancelled/revoked. |  |  |
| **Section 21. RE Pool.** To accelerate exploration, development, and utilization of RE Resources, and to ensure RE supply is available in a least-cost manner, GESs and RE Generators/Developers may enter into a joint action or establish a pool of RE supply under the GEOP to the extent permitted by applicable laws. |  |  |
| **RULE 5**  **PROHIBITED ACTS AND SANCTIONS**  **Section 22. Prohibited Act.** Pursuant to Section 35(e) of the RE Act, non- compliance with or violation of the GEOP Rules shall be subject to the administrative and/or criminal penalties herein provided. |  |  |
| **Section 23. Penalties for Non-Compliance.** Consistent with RE Act, its IRR and this Circular, the following administrative and criminal sanctions may be imposed:  **23.1. Administrative Liability.** The DOE may impose a penalty ranging from a minimum of One Hundred Thousand Pesos (P100,000.00) to Five Hundred Thousand Pesos (P500,000.00) or, upon its discretion, may recommend to the appropriate government agency, the revocation of the DU's or Generation Facility’s license, franchise or authority to operate; |  |  |
| **23.2. Criminal Liability.** In accordance with Section 36 (Penalty Clause) and Section 35 (Prohibited Acts) of the RE Act, any person who willfully fails to comply with or violates the GEOP Rules shall be imposed with the penalties provided under the RE Act. Any person who willfully aids or abets the commission of such failure or violation or who causes the commission of any such act by another shall be liable in the same manner as the principal.  In the case of associations, partnerships or corporations, the penalty shall be imposed on the partner, president, chief operating officer, chief executive officer, directors or officers responsible for the violation.    The failure to comply with or any violation of the GEOP Rules, upon conviction thereof, shall be imposed the penalty of imprisonment of one (1) year to five (5) years, or a fine ranging from a minimum of One Hundred Thousand Pesos (P100,000.00) to One Hundred Million Pesos (P100,000,000.00), or twice the amount of damages caused or costs avoided for non-compliance, whichever is higher, or both upon the discretion of the court.  This is without prejudice to the penalties provided for under existing environmental regulations prescribed by the Department of Environment and Natural Resources or any other concerned government agency; |  |  |
| **23.3.** The DOE Rules of Practice and Procedure shall be applicable to cases for the imposition of the foregoing penalties; and  **23.4.** In no case shall a fine or penalty imposed on a DU or RE Provider/Generation Facility be charged to any of its End-Users or be considered as a substitute for compliance. |  |  |
| **Section 24. 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 25. Repealing Clause.** All previous issuances, rules, and regulations inconsistent with this Circular are hereby repealed, amended, or modified accordingly. Correspondingly, DC2018-07-0019 and DC2020-04-0009 are hereby repealed.  **Section 26. Effectivity.** This Circular shall take effect fifteen (15) days after its publication in at least two (2) newspapers of general circulation. Copies of this Circular shall be filed with the University of the Philippines Law Center — Office of the National Administrative Register. |  |  |