

**DEPARTMENT CIRCULAR NO. \_\_\_\_\_**

**PROMULGATING THE RULES GOVERNING THE ESTABLISHMENT OF  
GREEN ENERGY OPTION PROGRAM PURSUANT TO SECTION 9  
OF THE REPUBLIC ACT NO. 9513, OTHERWISE KNOWN AS  
“THE RENEWABLE ENERGY ACT OF 2008”**

**WHEREAS**, Republic Act No. 7638, otherwise known as the “Department of Energy (DOE) Act of 1992,” declares 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 resources in power generation in order to reduce dependence on imported energy;

**WHEREAS**, Section 37(e)(i), Chapter III of EPIRA mandates the Department of Energy (DOE) to encourage private sector investments in the electricity sector and promote the development of indigenous and Renewable Energy (RE) resources;

**WHEREAS**, Republic Act No. 9513, otherwise known as the “Renewable Energy Act of 2008” or the “RE Act,” declares 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 End-users the option to choose RE resources as their resources 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**, the NREB conducted public consultations covering Luzon, Visayas, and Mindanao areas, and thereafter endorsed to the DOE on 01 November 2017, its proposed implementing rules and regulations for the GEOP;

**WHEREAS**, the DOE conducted another public consultations on 13 December 2017 in Legend Villas, Mandaluyong City, Metro Manila,; and on 18 January 2018 in Royal Mandaya Hotel, Davao City;

**NOW THEREFORE**, in consultation with NREB and after conduct of public consultations nationwide, the DOE hereby issues, adopts and promulgates the following rules and regulations:

## **RULE 1 GENERAL PROVISIONS**

**Section 1. Title and Scope.** This Circular shall be known as the “Rules Governing the Establishment of the Green Energy Option Program (GEOP) in the Philippines” and shall hereinafter be referred to as the “GEOP Rules.”

**Section 2. Purpose.** This GEOP Rules sets the general rules and procedures to properly guide the End-users, RE Providers, transmission service provider, Distribution Utilities (DUs), in executing the option taken by the End-Users to choose RE Resources as sources of its energy, either partially or fully.

Likewise, this GEOP Rules is intended to achieve the most effective and efficient way of ensuring continuous electric power supply to the End-Users regardless of its chosen supply sources and as far as practicable maximizing the use of existing transmission and distribution facilities.

Furthermore, this GEOP Rules considers various options for End-users to contribute in the development and utilization of RE resources, in least-cost and sustainable manner.

**Section 3. Guiding Principles.** Consistent with the intent of RE Act to empower End-users to choose RE resources as their sources of energy either partially or fully, the following principles shall apply:

- (a) Any End-user opting to choose any or a combination of RE resources, shall be fully informed by the RE Provider and the DU of the attendant technical, commercial and legal arrangements, necessary to implement the GEOP. Accordingly, it is understood that the End-user has rendered an informed decision when it opted to source its energy requirements from RE resources under the GEOP;
- (b) Whether or not the End-users have opted partial or full supply of RE resources, all host DUs shall ensure continuity of electric power supply to the End-users, subject to the commercial and technical arrangements with the RE Providers and the host DUs;
- (c) The GEOP shall adhere to the principles of open and non-discriminatory access to the transmission and distribution facilities of transmission service providers, and DUs, respectively, and therefore shall not result to duplication of said facilities;
- (d) A community or cluster of households may opt to source their power supply from RE resources, subject to technical and commercial arrangement, and in accordance with the private sector participation program of the DOE; and
- (e) All rates and charges to End-users shall be unbundled, segregated and itemized for each of the generation components, transmission charges and distribution and supply charges.

**Section 4. Scope of Application.** This GEOP Rules shall apply to the following stakeholders:

- (a) RE Generation Facilities/RE Providers;
- (b) Distribution Utilities;
- (c) Retail Electricity Suppliers;
- (d) Ecozone Developes and/or Ecozone Utility Enterprises;
- (e) Private Sector operating in Missionary Areas;
- (f) RE Generators and End-users both in the Main Grid or Off-Grid Areas;
- (g) National Transmission Corporation or its Concessionaire;

- (h) Philippine Electricity Market Corporation (PEMC); and
- (i) National Power Corporation (NPC).

**Section 5. Definition of Terms.** As used in this Circular, the following terms shall be defined as follows:

- (a) **“Distribution Utilities or DUs”** refer to distribution utilities, 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 operating in the economic zones;
- (b) **“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 End-user shall refer to any person who chooses RE resources as sources of their energy, wholly or partially;;
- (c) **“Generation Facility”** refers to a facility for the production of electricity or thermal energy such as, but limited to steam, hot or cold water;
- (d) **“National Grid Corporation of the Philippines or NGCP”** refers to the entity granted a franchise by the Congress of the Philippines to operate and maintain the transmission network of the Philippines in accordance with the provisions of the Concession Agreement with the Government of the Philippines;
- (e) **“RE Certificate or REC”** refers to a certificate representing all renewable and environmental attributes from one megawatt-hours (1 MWh) of electricity generation sourced from duly registered Eligible RE Facilities;
- (f) **“RE (Systems) Developers” or RE Developers”** refer to individuals or juridical entities created, registered or authorized to operate in the Philippines in accordance with existing Philippine laws and engaged in the exploration, development and utilization of RE resources and actual operation of RE systems or facilities.
- (g) **“RE Facility or RE Facilities”** refer to generation facilities that utilize RE Resources;

- (h) **"RE Providers"** refer to individuals or juridical entities created, registered or authorized to operate in the Philippines in accordance with existing Philippine laws and engaged in the provision of GEOP to End-user, **duly registered and authorized by the DOE**;
- (i) **"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;
- (j) **"Replacement Power"** refers to the supply of electricity to the End-user who is enrolled in the GEOP, triggered when the RE resource contracted to the End-user is not available to deliver the supply;
- (k) **"Retail Electricity Supplier"** refers to any person or entity authorized by the Energy Regulatory Commission (ERC) to sell, broker, market or aggregate electricity to the end-users; and
- (l) **"Wholesale Electricity Spot Market or WESM"** refers to the wholesale electricity spot market established by the DOE pursuant to EPIRA.

Furthermore, this Circular hereby adopts by reference the terms defined in the EPIRA and RE Act and their respective IRRs.

## **RULE 2 GEOP MANDATE, SECTORS AND ELIGIBLE RENEWABLE ENERGY RESOURCES**

**Section 6. GEOP Policy.** The GEOP Rules is a mechanism that provides End-users the option to choose RE Resources as their source of energy, partially or fully.

- (a) Any End-user, prior to its engagement or enrolment in the GEOP, shall have been fully informed and educated by the RE Provider and/or the concerned DU;
- (b) Any resulting increase in the blended generation charge of the host DU to its Captive Customers and therefore shall be borne by the End-user that enrolled under the GEOP;

- (c) The GEOP shall be a non-regulated activity intended to develop and promote increased utilization RE resources through empowerment of End-users to choose RE resources as sources of their energy;
- (d) The GEOP shall not result to diminution of electricity services to the End-users thereby ensuring continuous and quality supply of electricity to the End-users;
- (e) All rates and charges to the End-users shall be transparent and itemized.
- (f) RE generation from the GEOP shall form part of the RPS compliance by the Mandated Participants and the corresponding RE Certificates (REC) generated from the GEOP shall be attributed to the host DUs.

**Section 7. RE Facilities Covered by GEOP.** All RE Facilities are eligible for purposes of compliance with the GEOP.

**Section 8. GEOP Mandated Activities.**

- (a) TRANSCO and/or its successors-in-interest NGCP, DUs, PEMC and all relevant parties shall provide individually and/or collectively, the mechanisms for the physical connection and commercial arrangements necessary to ensure the success of the GEOP.
- (b) The GEOP may be implemented through but not limited to the following schemes:
  - (i) Direct contracting by an End-user with the RE Provider, partially or fully, of its energy requirements;
  - (ii) Through the DU, either partially or fully, of its energy requirements;.
- (c) Any End-user who shall enroll under the GEOP should be informed, by way of its monthly electric bill, its monthly energy consumption and generation charge provided by the RE Facilities.
- (d) In the case of Direct Contracting between an End-user and RE Provider:
  - (i) The RE Provider engaged by the End-user to supply RE shall have provided a transparent and simplified Offer Sheet to the End-user,

containing the terms and conditions of the RE supply to the End-user, such as but not limited to:

- (1) Capacity and availability of the RE resources to be supplied or installed in the premises of the End-user;
  - (2) Fees and charges that will be applied;
  - (3) After sales service (maintenance program) for the RE facility;
  - (4) Provision of or arrangement with the host DU for the provision of Replacement Power in case the RE facility is not available;
- (e) In the case of the host DU, contracting an RE Provider, on behalf of the End-user, existing policies and regulations on Competitive Selection Process (CSP) shall apply.

#### **Section 9. Other Menus for End-users.**

- (a) A Contestable Customer may require his RES to source RE resources as part of his energy sources, the terms and conditions of which shall be subject to their negotiation;
- (b) Any Local Government Unit (LGU) may request the host DU or an RE Provider to be supplied through RE resources, subject to the technical and commercial viability; and
- (c) Any isolated or off-grid area that is currently served by diesel or other conventional means of power generation, may request its service provider including duly licensed private sector operating in missionary areas such as New Private Power Provider (NPP) or Qualified Third Party (QTP) to source RE resources as their alternative sources of energy: Provided, That there will be no increase in the Universal Charge for Missionary Electrification.

#### **Section 10. Other Provisions.**

- (a) **Review of the GEOP.** The DOE in consultation with the ERC, NREB and other stakeholders shall undertake a regular or as necessary, annual review and assessment of the GEOP Rules;

- (b) **Information, Education and Communication Campaign (IEC).** The DOE through the Electric Power Industry Management Bureau and Renewable Energy Management Bureau in coordination with NREB shall conduct IEC campaign to inform all electricity End-users and other affected entities on the GEOP.
- (c) **GEOP Regulatory Framework.** Consistent with Section 6 of the IRR of the RE Act, the ERC shall issue the necessary regulatory framework to effect and achieve the objectives of the GEOP.
- (d) **Registration Requirements.** All End-users (according to class regardless of demand size) may register with their DUs or RESs their option to source their electricity requirements from RE resources.
- (e) **Supply by DUs.** All DUs shall aggregate the demand for all RE resources, and contract directly with the RE Developers for corresponding requirements net of the customers who have opted to contract directly with RE Developer or Supplier.

A DU shall not be required to supply an End-user that has exercised the option where such supply will result in an increase in the blended generation which shall be passed through to other End-users of the DU.

- (f) **Billing Mechanism.** All DU's shall reflect in the monthly electric bill how much monthly energy consumption and generation charge is provided by RE Facilities.

#### **RULE 4 PROHIBITED ACTS AND SANCTIONS**

**Section 11. Prohibited Act.** Pursuant to Section 35(a) of the RE Act, non-compliance or violation of the GEOP Rules under this circular shall be subject to the administrative penalties herein provided.

**Section 12. Penalties for Non-Compliance.** Consistent with RE Act, its IRR and this circular, the following administrative and criminal sanctions may be imposed:

- (a) **Administrative Liability.** The DOE may impose a penalty ranging from a minimum of One Hundred Thousand Pesos (₱100,000.00) to Five Hundred Thousand Pesos (₱500,000.00) or, upon its discretion, may recommend to the appropriate government agency for the revocation of the DU's or Generation Facility's license, franchise or authority to operate.



- (b) **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 association, partnership 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 violation of the GEOP Rules, upon conviction thereof, shall suffer the penalty of imprisonment of one (1) year to five (5) years, or a fine ranging from a minimum of One Hundred Thousand Pesos (₱100,000.00) to One Hundred Million Pesos (₱100,000,000.00), 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.

- (c) The DOE Rules of Practice and Procedure shall be applicable to cases for the imposition of the foregoing penalties.
- (d) 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 a substitute for compliance, unless such fines or penalties are provided as a future form of compliance and provide the least cost alternative to the Mandated Entity.

#### **RULE 4 TRANSITORY AND OTHER PROVISIONS**

**Section 13. Transitory Provisions.** No provision of this Circular shall be taken to diminish any right vested by virtue of existing laws, contracts, or agreements.

**Section 14. Reportorial Requirements.** All DUs and RE Providers shall submit to the DOE a monthly updates on the implementation of GEOP.

The DOE shall establish a reliable database to serve required for the implementation of the GEOP Rules.

To this end, the following entities shall be required to submit these documents:

- (a) For DUs within the period required by the DOE:
  - (i) Purchases from all Generation Facilities, power source or through the WESM;
  - (ii) For purchases from NPC or the Power Sector Assets and Liabilities Management Corporation (PSALM), all purchases shall be segregated into RE and non-RE based resources on the proportionate share of the non-value added tax allocation from NPC or PSALM; and
  - (iii) Such other reports that the DOE may require;
- (b) All Generation Companies/RE Providers shall be required to submit data on sales to their directly connected customers for the period to be identified by the DOE.

**Section 15. 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 16. Repealing Clause.** All previous issuances, rules and regulations inconsistent with this circular are hereby repealed, amended or modified accordingly.

**Section 17. Effectivity.** This circular shall take effect after its 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.