



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

DEPARTMENT CIRCULAR NO. _____

**PROVIDING FOR THE POLICIES AND GUIDELINES ON THE CONDUCT
OF PERFORMANCE AUDITS FOR ALL POWER GENERATION
AND DISTRIBUTION SYSTEM FACILITIES IN THE COUNTRY**

WHEREAS, Republic Act No. 9136, otherwise known as “The Electric Power Industry Reform Act of 2001” or “EPIRA” declares among others the policy of the State to:

- (a) Ensure the quality, reliability, security and affordability of the supply of electric power;
- (b) 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;
- (c) Enhance the inflow of private capital and broaden the ownership base of the power generation, transmission and distribution sectors; and
- (d) Protect the public interest as it is affected by the rates and services of electric utilities and other providers of electric power.

WHEREAS, pursuant to Section 37 of the EPIRA, the Department of Energy (DOE) is specifically mandated and authorized among others, to:

- (a) Ensure the reliability, quality and security of supply of electric power;
- (b) Facilitate and encourage reforms in the structure and operations of distribution utilities for greater efficiency and lower costs;
- (c) In consultation with other government agencies, promote a system of incentives to encourage industry participants, including new generating companies and end-users to provide adequate and reliable electric supply;
- (d) 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;
- (e) Monitor private sector activities relative to energy projects in order to attain the goals of the restructuring, privatization, and modernization of the electric power sector as provided for under existing laws;

- (f) Formulate such rules and regulations as may be necessary to implement the objectives of the EPIRA; and
- (g) Exercise such other powers as may be necessary or incidental to attain the objectives of the EPIRA.

WHEREAS, Sections 6 and 22 of the EPIRA expressly declares the generation sector as a business affected with public interest, and the distribution sector a regulated industry, respectively;

WHEREAS, the Energy Regulatory Commission (ERC), in compliance with its mandate under the EPIRA, promulgated the Philippine Grid Code (PGC) and the Philippine Distribution Code (PDC), prescribing among others the technical and financial performance standards that governs the operations of Generation Companies and Distribution Utilities, respectively;

WHEREAS, in pursuit of its mandate, the DOE promulgated on 26 February 2010, Department Circular No. DC2010-03-0003, entitled “Directing All Power Generation Companies, The Transmission Service Provider, And All Distribution Utilities To Ensure Adequate And Reliable Electric Power Supply In The Country,” whereby all Generation Companies are mandated to, among others:

- (a) Operate based on its maximum available capacity;
- (b) Submit to the DOE its monthly operational status and fuel inventory reports; and
- (c) Maintain an adequate in-country stock of fuels based on the minimum inventory required by the Circular; and, strictly abide by the PGC.

WHEREAS, the DOE Department Circular No. DC2010-03-0003 mandates the Distribution Utilities (DUs) to regularly submit to the DOE the following:

- (a) Distribution Development Plan (DDP) to monitor the existing, available, and future supply requirements; and
- (b) Monthly Operations Report (MOR) for the private Distribution Utilities and Monthly Financial and Statistical Report (MFSR) for Electric Cooperatives;

WHEREAS, the DOE Department Circular No. DC2010-03-0003 likewise mandates the DUs to ensure (i) full compliance at all times with all the requirements of the PDC; (ii) reporting of significant load interruptions in its franchise area or any threats that may lead to such events; and, (iii) that the power requirements within their franchise areas are adequately covered by supply contracts or purchases from the Wholesale Electricity Spot Market (WESM) at all times;

WHEREAS, the DOE noted the increasing and frequent occurrences of Forced and Unplanned Outages particularly of large baseload power plants based on the reports of the National Grid Corporation of the Philippines resulting to issuances of Yellow and Red Alert notices, which may lead to supply shortfall and possibly rotating brownouts;

WHEREAS, in the exercise of its mandate under Republic Act No. 7638, also known as the “Department of Energy Act of 1992,” and EPIRA, to ensure the security, reliability, quality and

affordability of the supply of electric power, the DOE deems it necessary to institutionalize a regular compliance assessment on all issuances relative to PGC, PDC, terms and conditions on permits and licenses issued to power generation facilities and distribution system facilities;

WHEREAS, on 08 August 2016 and 25 August 2016, the DOE, separately entered into a Memorandum of Agreement with the Institute of Integrated Electrical Engineers of the Philippines (hereinafter referred to as "IIEE") and the Philippine Society of Mechanical Engineers, Inc. (hereinafter referred to as "PSME"), respectively, in which both organizations agreed to provide their expertise, pro bono, to assist the DOE in the conduct of Technical Audit of the complete generation, transmission and distribution infrastructure in the country;

NOW, THEREFORE, premises considered, the DOE hereby adopts the following policies and guidelines on the conduct of technical and operational audit of all power generation and distribution system facilities in the country.

Section 1. Declaration of Policy and Objectives.

The DOE hereby directs the conduct of overall performance audit for all power generation and distribution system facilities, hereinafter referred to as the Technical Audit for purposes of among others, the following:

- 1.1 Evaluate the overall performance and efficiency of the power generation and distribution system facilities in the country;
- 1.2 Conduct of post-review of compliance with the existing laws and regulations, as well as to the terms and conditions of the various permits and licenses issued to the said facilities and their respective owners and/or proponents, such as but not limited to EPIRA, WESM Rules, PGC, PDC, and Environment Compliance Certificates (ECCs);
- 1.3 Determine and remove bottlenecks and inefficiencies in the operation of power generation and distribution system facilities that cause disruptions in the supply of electricity and the volatility of electricity prices in the market;
- 1.4 Identify effective systems of penalties and incentives to encourage greater efficiencies and improve the performance of Generation Company/ies and Distribution Utility/ies;
- 1.5 Ensure that the Energy Sector is able to fully respond to the requirements of the economic activities and support the economic growth targets set by the Development Budget Coordinating Council (DBCC); and
- 1.6 Incorporate best practice and good governance principles that enhance transparency, fairness and accountability in the operation of the various Generation Facility/ies and Distribution System in the country.

Nothing in this Circular is intended to encroach or step in the authority of the ERC but the Technical Audit shall serve as basis of DOE's future policies instrumental to the attainment of the primary goal of EPIRA particularly in ensuring the security, reliability and affordability of the supply of electric power.

Section 2. Scope of Coverage.

This Circular shall apply to:

- 2.1 All Generation Company/ies owning and/or operating Generation Facility located in Luzon, Visayas and Mindanao, both in the main grid and off-grid areas; and
- 2.2 All Distribution Utility/ies operating a Distribution System in the country.

For this purpose, the aforementioned Electric Power Industry Participants are mandated to ensure compliance with the Technical Audit requirements, including but not limited to:

- 2.3 Providing within the prescribed period the required data, reports, records and other information that are deemed necessary for the successful implementation of the Technical Audit activities; *Provided*, That all members of the Technical Audit task forces created pursuant to this Circular shall ensure utmost confidentiality of any information received for the purpose of this audit;
- 2.4 Grant visitation privileges in the form of full accessibility/unrestricted access to their facilities to conduct inspection of facilities for the purpose of verifying the authenticity of reports submitted in compliance to standards;
- 2.5 If necessary, allow conduct of testing of any or all parts of the facilities;
- 2.6 Fully assist and assure the security of the Technical Audit task forces in the conduct of inspection.

Section 3. Creation of the Performance Audit Task Forces.

To assist in the implementation of the Technical Audits, it is hereby created the Task Force Performance Audit on Power Generation Facilities (TFPA-PGF) and the Task Force Performance Audit on Distribution System Facilities (TFPA-DSF), as follows:.

- (a) Task Force Performance Audit on Power Generation Facilities (TFPA-PGF), to be composed as follows:

Chairman: National Transmission Corporation (TransCo)

Members:

- (i) Energy Regulatory Commission (ERC) Representatives;
- (ii) Grid Management Committee Representatives (Independent of Electric Power Industry Participants);
- (iii) National Grid Corporation of the Philippines (NGCP) Representatives;
- (iv) Philippine Electricity Market Corporation (PEMC) Representatives;
- (v) WESM Market Governance Committee Members from Market Surveillance Committee (MSC) and Technical Committee (TC); and
- (vi) National Electrification Administration (NEA) Representatives.

The following DOE Bureaus are likewise directed to assist the TFPA-PGF and TFPA-DSF:

- (i) Electric Power Industry Management Bureau (EPIMB) Representatives;
- (ii) Energy Utilization Management Bureau (EUMB) Representatives;
- (iii) Energy Policy and Planning Bureau (EPPB) Representatives; and
- (iv) Renewable Energy Management Bureau (REMB) Representatives;

- (b) Task Force Performance Audit on Distribution Systems Facilities (TFPA-DSF), to be composed as follows:

Chairman: National Electrification Administration (NEA)

Members:

- (i) Energy Regulatory Commission (ERC) Representatives;
- (ii) Distribution Management Committee Representatives (Independent of Electric Power Industry Participants);
- (iii) National Transmission Corporation (TransCo) Representatives;
- (iv) Philippine Electricity Market Corporation (PEMC) Representatives.

The following DOE Bureaus are likewise directed to assist the TFPA-PGF:

- (v) Electric Power Industry Management Bureau (EPIMB) Representatives;
- (vi) Energy Utilization Management Bureau (EUMB) Representatives;
- (vii) Energy Policy and Planning Bureau (EPPB) Representatives; and
- (viii) Renewable Energy Management Bureau (REMB) Representatives;

Other relevant government agencies and private sector institutions (e.g., UP-National Engineering Center; Integrated Institute of Electrical Engineers (IIEE), Philippine Society of Mechanical Engineers (PSME)) may be invited to join the TFPA-PGF and TFPA-DSF, as deemed necessary to address the timely and effectiveness of the Performance Audits.

The DOE Secretary shall designate a DOE Undersecretary to oversee the conduct of the Technical Audit and provide guidance and/or direction to the TFPA-PGF and TFPA-DSF consistent with the instructions and directives of the DOE Secretary.

To support the operations of the TFPA-PGF and TFPA-DSF, a Technical Secretariat shall be headed by the EPIMB, duly supported by EPPB, REMB, and EUMB.

Likewise, the Directors of the Administrative Services (AS) and Finance Services (FS) shall compose the Administrative and Finance Support Team to the task forces.

Section 4. Responsibilities of the Task Forces.

4.1 The TFPA-PGF and TFPA-DSF shall have the following responsibilities:

- 4.1.1 Within thirty (30) days from issuance of this Circular, shall conduct meetings and workshops to define their respective approach and methodology for the conduct of performance audits and to:
 - 4.1.1.1 Determine the priority areas and entities to be studied;
 - 4.1.1.2 Determine the reports/documents needed to validate the performance;
 - 4.1.1.3 Achieve common understanding by all Task Force Members including responsibilities, assignments and accountabilities; and
 - 4.1.1.4 Prepare the proposed roll out program in a Technical Audit Plan (TAP) for the technical audits.
- 4.1.2 Implement the TAP duly approved by the DOE Secretary taking into consideration the deadline provided by the DOE Secretary and the resources available for the conduct of the audit;
- 4.1.3 Conduct on-site Technical Audits for Priority Areas (Pilot Generation Company/ies and Pilot Distribution Utility/ies), with Entry and Exit Meetings with the proponents;
- 4.1.4 Upon their respective determination, the TFPA-PGF and TFPA-DSF may recommend the engagement of Independent Third Party Auditor and/or hiring of technically qualified persons on a contractual basis, to assist in the conduct of the audit;
- 4.1.5 Undertake data gathering and analyses;
- 4.1.6 Coordinate with the Administrative and Finance Support Team (AST) on any support or assistance needed which shall include, but not limited to travel arrangements, conduct of meetings with concerned Generation Company/ies or Distribution Utility/ies and relevant entities, securing necessary permits, clearances on the conduct of site inspections and field visits, and procurement/production of materials;
- 4.1.7 Prepare monthly status report to the DOE Secretary through the Oversight, on the progress of the audit identifying actual accomplishments, challenges and barriers that require intervention by the DOE and the recommendations to remedy the same to ensure the success of the Technical Audit;
- 4.1.8 Arising from the audit results, identify the gaps and weakness in the monitoring and enforcement, and recommend policies, programs and strategies to improve the performance and compliance of the industry participants.

To provide support to the TFPA-PGF and TFPA-DSF, the Technical Secretariat shall recommend appropriate personnel to comprise the following support groups:

- 4.1.9 **Database Management Support Group (DMSG)** which shall be responsible for gathering, summarizing and maintaining the data and information needed by the TFPA-PGF and TFPA-DSF;
- 4.1.10 **Technical Inspection Support Group (TISG)** which shall be responsible for assisting the TFPA-PGF and TFPA-DSF in the formulation and implementation of the Technical Audit Plan, conduct of site inspections and field visits, preparation of

status reports and other tasks that the task forces may deem necessary for the effectively carrying out the technical audit activities;

- 4.1.11 **Administrative Support Group (ASG)** which shall be responsible for ensuring the provision of administrative support to include arrangements for conduct of meeting and inspections, travel arrangements and logistics and liquidation of expenses, among others.

Section 5. Logistics Support.

The TFPA-PGF and TFPA-DSF shall provide an estimate of the costs to be incurred in the performance of their mandates for approval of the DOE Secretary. Upon the institutionalization of the yearly technical and operations audit of power generation and distribution system facilities, the funding requirements shall be included in the DOE Regular Budget as approved in the General Appropriations Act (GAA).

Section 6. Institutionalization of Technical Audit.

From the effectivity of this Circular, all Generation Companies and Distribution Utilities shall be required to have a Technical Performance Audit through an independent third party and reputable technical audit firm.

Section 8. Regulatory Support

The DOE shall coordinate with the Energy Regulatory Commission on the required regulatory support for the institutionalization of Technical Audit Performance, which include among others, the accreditation of independent third party and reputable technical audit firms.

Section 9. Separability Clause

If for any reason, any section or provision of these Implementing Rules and Procedures is declared unconstitutional or invalid, the other parts or provisions hereof which are not affected thereby shall continue to be in full force and effect.

Section 10. Effectivity and Publication.

This Department Circular shall be effective fifteen (15) days from its publication in a newspaper of general circulation. Copies of this Circular shall be filed with the University of the Philippines Law Center - Office of the National Administrative Register (UPLC-ONAR).

Signed this ____ day of _____ 2016 at DOE, Energy Center, Rizal Drive, Bonifacio Global City, Taguig City, Metro Manila.

ALFONSO G. CUSI
Secretary