



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

DEPARTMENT CIRCULAR NO. DC 2021- 11-0036 *μ*

**PROVIDING THE REVISED GUIDELINES FOR THE
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(b) of the DOE Charter mandates the DOE to develop and update the existing Philippine energy program which shall provide for an integrated and comprehensive exploration, development, utilization, distribution and conservation of energy resources, with preferential bias for environment-friendly, indigenous, and low-cost sources of energy. The program shall include a policy direction towards the privatization of government agencies related to energy, deregulation of the power and energy industry, and reduction of dependency on oil-fired plants;

WHEREAS, Section 5(c) of the DOE Charter directs the DOE to establish and administer programs for the distribution of energy resources of all forms, whether conventional or non-conventional;

WHEREAS, Section 5(h) of the DOE Charter empowers the DOE to formulate and implement a program for the accelerated development of non-conventional energy systems and the promotion and commercialization of its applications;

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, Chapter III, Section 37(e)(i) of the EPIRA mandates the DOE to encourage private sector investments in the electricity sector and promote the development of indigenous and RE sources;

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 Department 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, the DOE, based on its demand-supply simulations, determines that the country needs immediate additional capacities to adequately serve the increasing electricity demand and system security requirements;

WHEREAS, Section 4 of Department Circular (DC) No. DC2015-07-0014 entitled "Prescribing the Policy for Maintaining the Share of Renewable Energy (RE) Resources in the Country's Installed Capacity Through the Holistic Implementation of the Pertinent Provisions of Republic Act No. 9513 or the RE Act on Feed-In Tariff (FIT) System, Priority and Must Dispatch, Among Others" stated that succeeding FIT installations shall be through an auction system:

"Section 4. FIT Auction. To ensure the attainment of Section 2 of this Circular, the DOE will use the FIT installation targets. Upon the full subscription of the existing FIT installation targets, the succeeding rounds for the installation targets for FIT-eligible resources shall be made through an auction system to be adopted by the DOE x x x."

WHEREAS, the Energy Regulatory Commission (ERC) issued the following rules on FIT: (1) Resolution No. 16, Series of 2010 or the "Resolution Adopting the Feed-In Tariff Rules" (hereinafter, referred to as the FIT Rules); and (2) Resolution No. 18, Series of 2014 or "A Resolution Approving the Templates for the Renewable Energy Payment Agreement (REPA) and Renewable Energy Supply Agreement (RESA)";

WHEREAS, since the implementation of the RE Act and its policy development support mechanisms as well as the FIT Rules, the cost of RE has declined resulting in lower contracted generation rates which should be taken advantage of;

WHEREAS, the DOE has determined that the competitive bidding process under the Green Energy Auction (GEA) Program is one of the best ways to accelerate the development of renewable energy systems and the promotion and commercialization

of its applications, encourage free and active private sector participation and investment in all energy activities, and provide adequate capacity to meet demand including, reserve requirements;

WHEREAS, the GEA Program will further the attainment of the aforesaid policies declared in the EPIRA and the RE Act;

WHEREAS, due to the novel and unique nature of the GEA Program, it requires the full engagement and utmost cooperation of all stakeholders; including the DOE, as policy maker and the ERC as the implementer of those policies to effectively discharge the DOE's mandates under the EPIRA and the RE Act¹;

WHEREAS, under such premises, the ERC shall adopt and faithfully implement, execute, and enforce the rules and regulations of the DOE consistent with said policies, plans and programs;

NOW, THEREFORE, in consideration of the foregoing, the DOE hereby issues and promulgates the following revised guidelines for the implementation of the GEA Program.

RULE 1 GENERAL PROVISIONS

Section 1. Title. This Circular shall be known as "***Providing the Revised Guidelines for the Green Energy Auction Program in the Philippines***" or the "***GEAP Guidelines***".

Section 2. Purposes and Objectives.

2.1. **Purposes.** This GEAP Guidelines is hereby promulgated to:

- 2.1.1 Establish the implementation framework for the GEAP and provide clarity on the roles of implementing agencies/entities.
- 2.1.2 Support and/or facilitate immediate and timely investments in new or additional RE capacities to ensure provision of adequate supply and competitive rates of electricity in the country;
- 2.1.3 Support the development of new RE projects under a competitive process, together with long-term contracts; and
- 2.1.4 Implement the mandate of giving preference to RE sources for a cleaner and sustainable environment.

2.2. **Objectives.** This GEAP Guidelines seeks to attain the following objectives:

¹ *Philippine Chamber of Commerce and Industry v. Department of Energy and Energy Regulatory Commission*, G.R. Nos. 228588, 229143, and 229453, 02 March 2021.

- 2.2.1 Promote the growth of renewable energy as one of the country's primary sources of energy to achieve energy security and self-reliance;
- 2.2.2 Implement the RE Act mandate to prioritize the connection and building of RE capacity;
- 2.2.3 Ensure transparent and competitive selection of RE facilities to achieve reasonable rates and encourage, as far as practicable, the best RE entrants in the system;
- 2.2.4 Support energy security by adding new capacities to the grid thereby ensuring adequate and sustainable supply of electricity, especially in the short- to medium-term;
- 2.2.5 Address price volatility related to the procurement and pricing of Renewable Energy Certificates (RECs) by increasing availability of RECs in the RE Market;
- 2.2.6 Enhance the RE programs, in general, by promoting a competitive setting of rates for RE supply in the country;
- 2.2.7 Assist the Mandated Participants of the Renewable Portfolio Standards (RPS) Program by increasing the allocation of RECs generated from GEAP; and
- 2.2.8 Ensure the utilization of efficient RE technologies for low carbon shift in the energy sectors.

Section 3. Scope and Components.

3.1 **Scope.** This Circular shall apply to the following:

- 3.1.1 RE Developers/Generators;
- 3.1.2 RPS Mandated Participants;
- 3.1.3 National Transmission Corporation (TransCo);
- 3.1.4 National Grid Corporation of the Philippines (NGCP)
- 3.1.5 System Operator;
- 3.1.6 Market Operator;
- 3.1.7 RE Registrar;
- 3.1.8 Distribution Utilities; and
- 3.1.9 Electricity end-users.

3.2 **Components.** The GEAP consists of the following:

- 3.2.1 **Green Energy Tariff**, to provide price signals on the commercial value of electricity generated from RE facilities resulting from a competitive process, and set the benchmark price for Distribution Utilities (DUs) under the Opt-in Mechanism; and

- 3.2.2 **Green Energy Auction**, to facilitate the determination of RE facilities that are eligible under the GEAP. To this end, the Green Energy Auction shall be administered by the DOE through the Green Energy Auction Committee (GEAC).

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 Rules², the Omnibus RE Guidelines³, the WESM Rules, FIT Rules⁴ 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:

- 4.1 **"Auction Round Procedures" or "ARP"** refers to the procedures for each round of Green Energy Auction conducted under this Circular;
- 4.2 **"Certificate of Award"** refers to the document which shall be issued by the DOE to the Winning Bidders, by virtue of which the DOE shall be bound to issue the Certificate of Nomination/Endorsement for GET, taking into account the commercial operations date and the delivery date;
- 4.3 **"Certificate of Endorsement for Green Energy Tariff" or "COE-GET"** refers to the certificate issued by the DOE, upon recommendation of the GEAC, confirming the readiness to inject power to the grid by the Winning Bidder under GEAP, *Provided*, That in determining the readiness to inject power of the Winning Bidder's eligible facility, the DOE shall also take into consideration the widely-accepted industry standards for the applicable RE technology in place at the time of its evaluation;
- 4.4 **"Green Energy Auction," "Auction," or "GEA"** refers to the competitive process of procuring RE supply undertaken pursuant to this Circular as set out in Rule 3 hereof;
- 4.5 **"Green Energy Auction Committee" or "GEAC"** refers to the committee to be reconstituted under Section 11 of this Guidelines, with additional powers and functions set out in this Circular;
- 4.6 **"Green Energy Tariff" or "GET"** refers to the price, in PhP/kWh, resulting from the conduct of each Green Energy Auction corresponding to each Winning Bidder on a pay-as-bid basis;
- 4.7 **"Green Energy Auction Reserve Price" or "GEAR Price"** refers to the maximum price offers in PhP/kWh set by the ERC pursuant to applicable law and this Circular that shall be used as the ceiling price for particular ARP;

² Department Circular No. DC2017-12-0015 entitled, "Promulgating the Rules and Guidelines Governing the Establishment of the Renewable Portfolio Standards for On-Grid Areas".

³ Department Circular No. DC2019-010-0013 entitled, "Omnibus Guidelines Governing the Award and Administration of Renewable Energy Contracts and the Registration of Renewable Energy Developers".

⁴ ERC Resolution No. 16, Series of 2010.

- 4.8 **"Mandated Participants"** refers to the electric power industry participants that were obligated to comply with the RPS Rules, based on the minimum annual requirements set by the DOE upon recommendation of the RPS Composite Team;
- 4.9 **"Market Operator"** refers to the Independent Market Operator of the WESM, created or formed pursuant to EPIRA;
- 4.10 **"New and Existing Capacities"** refers to the RPS eligible facilities as defined in the RPS On-Grid Rules;
- 4.11 **"Notice of Auction"** refers to the written notice issued by the DOE referred to in Section 9.1 herein;
- 4.12 **"Qualified Suppliers"** refers to RE Developers/Generators registered with the DOE pursuant to the Omnibus RE Guidelines, eligible to participate in the GEA as determined by the GEAC under Section 6.1 of this Circular;
- 4.13 **"Qualified Bidders"** refers to Qualified Suppliers who have been notified of their qualifications and have been furnished user-specific electronic identification (ID) to be used for the auction in accordance with Section 9.9 of this Circular;
- 4.14 **"RE Certificate" or "REC"** refers to a certificate issued by the RE Registrar representing all renewable and environmental attributes from the megawatt-hour (MWh) of electricity generation from an eligible RE Generation Facility; and
- 4.15 **"Winning Bidder"** refers to the Qualified Bidders that are determined to have the most responsive bid or offer in a particular auction bid round.

RULE 2 GREEN ENERGY TARIFF

Section 5. Pricing Principles. The following principles shall be observed in the determination of the GET:

- 5.1. **General Principle.** The GET shall reflect the value of electricity, resulting from a competitive process that Qualified Bidders are capable of supplying the prescribed capacity volume and delivery periods. The Winning Bidder/s shall have the most competitive bid price offered based on the TOR for a particular ARP, as determined by the GEAC;
- 5.2 **Pricing Unit.** The GET shall be expressed in PhP/kWh-basis to reflect the value of actual energy generated by the Winning Bidder and to be consistent with the compliance requirements of the RPS On-Grid Rules and the relevant provisions of the FIT Rules.

- 5.3. **Price Determination.** The price offered by the Winning Bidder shall be the GET. The ERC shall include the GET in its computation of the FIT-All for the GEA.

RULE 3 GREEN ENERGY AUCTION

Section 6. Framework for the Auction. The Green Energy Auction (GEA) is hereby established as a mechanism to facilitate the selection of eligible RE plants through a competitive process or auction.

- 6.1 **Offer.** Any or all of the following New and Existing Capacities may be offered for bidding under the GEA:

6.1.1 RE facilities that were built and will be built after the RE Act, which capacity may be offered under the GEA, *Provided, That* said facilities have no legal impediment, such as the existence of a power purchase agreement/power supply agreement with any Distribution Utility (DU) or other off-takers at the time of the agreed delivery date/s; or

6.1.2 RE facilities that were built and commercially operating prior to the effectivity of the RE Act but have undergone expansion or upgrading projects, of which such additional capacities may be offered under the GEA, *Provided, That,* such capacity is independent of the facilities' existing units, and therefore shall be separately installed with its metering facility.

The incremental or additional capacity and corresponding power generation brought about by the expansion or upgrading of the legacy plants shall be deemed eligible for RPS compliance by the Mandated Participants.

6.1.3 For geothermal and impounding hydropower facilities, the DOE upon recommendation of GEAC shall develop a specific auction policy and guidelines or a separate remuneration package under the GEA.

6.1.4 Other emerging RE technologies may be included in the GEAP and the FIT, consistent with the RE Act, as determined by the DOE.

- 6.2 **Auction Capacity Requirement.** In determining the capacity requirement for each ARP, the GEAC shall be guided by the following:

6.2.1 Capacity needed by the grid for sufficient supply;

6.2.2 Levels of RE to maintain the RE generation mix target set by the DOE; and

- 6.2.3 Volume of RECs in the market, to assist in the compliance with RPS requirements of Mandated Participants.

Section 7. GEA Guiding Principles. The following principles shall be observed in the conduct of a Green Energy Auction and the development of specific Terms of Reference for each auction round:

- 7.1 The auction shall be conducted for New and Existing RE Capacities, as defined in this Circular, and are duly registered with the DOE with no existing power purchase agreement/power supply agreement with any DU or end-user at the time of the agreed delivery date/s;
- 7.2 Participating entities shall be allowed full recovery of prudent and reasonable economic costs incurred, *Provided*, That the Winning Bidders' bid offers shall be considered their prudent and reasonable economic costs;
- 7.3 Efficiency and competitive prices of electricity shall be promoted;
- 7.4 Fair and transparent processes will be observed in all stages of the GEAP; and
- 7.5 Clean and sustainable forms of energy will be harnessed.

Section 8. GEAR Price Determination. The ERC shall determine the GEAR Price/s under each ARP. Towards this end, the initial GEAR Price and the methodology for determining the GEAR Price shall be issued by the ERC no later than sixty (60) days after the issuance of the Notice of Auction for the first auction round. For succeeding auction rounds, the GEAR Price, based on the methodology adopted, shall be issued thirty (30) days after the issuance of the Notice of Auction.

Section 9. Auction Process. The following process shall be observed, with details and the corresponding timeline for each auction round to be provided in the specific ARP to be issued prior to each auction:

- 9.1 Publication of the Notice of Auction. The DOE shall publish the Notice of Auction on its website and in at least one (1) newspaper of general circulation. A copy of the Notice of Auction shall also be sent by electronic mail to the ERC, TransCo, and the Market Operator.

The Notice of Auction shall indicate the coverage as the case may be, for Luzon, Visayas and Mindanao, whether per grid or as a whole, as well as the capacity and equivalent energy generation, with due consideration to interconnection limits and security of the grids.

- 9.2 Issuance of GEAR Price. The ERC shall issue and submit to the DOE the GEAR Price in accordance with the Section 8 of this Circular.
- 9.3 Issuance of the TOR and ARPs for each auction round. The DOE shall issue the TOR and ARP at least fifteen (15) days prior to the first day of registration for each auction round.

9.4 Registration. Qualified Suppliers intending to participate in the auction shall register with the DOE by submitting to the GEAC the following requirements:

- 9.4.1 Letter of Intent signed by the Qualified Supplier's authorized representative;
- 9.4.2 Proof of authority of the Qualified Supplier's authorized representative to sign documents related to the GEA;
- 9.4.3 Work Program; and
- 9.4.4 Proof of payment of registration and processing fee.

9.5 Evaluation of Qualified Suppliers. The GEAC shall evaluate the Qualified Suppliers, in accordance with the applicable Terms of Reference and ARP, and thereafter declare the Qualified Bidders.

The list of Qualified Bidders shall be posted on the DOE's website prior to the Pre-Bid Conference. All such Qualified Bidders shall be notified by the GEAC through electronic mail of their qualification.

9.6 Issuance of IDs to Qualified Bidders. The GEAC shall issue user-specific IDs to Qualified Bidders.

9.7 Pre-Bid Conference. The Pre-Bid Conference is intended to provide the Qualified Bidders with details and to answer their questions about the auction. After the Pre-Bid Conference, Qualified Bidders may submit further questions for clarification. Issues raised during this time may be addressed through a bid bulletin issued by the DOE, which shall be posted on its website.

9.8 Bid Bond and Affidavit of Undertaking. Qualified Bidders shall have until one (1) working day before the Auction Proper to submit physical copies of: 1) proof of posting of the bid bond, and 2) the Affidavit of Undertaking to deliver the committed capacities on delivery date signed by the Qualified Bidder's duly authorized representative.

The Affidavit of Undertaking shall indicate the total supply capacity per delivery period subject to the auction, including: 1) the type of RE technology required, as applicable; and 2) the delivery period and contract term.

9.9 Auction Proper. On the date and time set for the auction, all Qualified Bidders shall place their bids capacity (MW) and price (PhP/kWh) offer through the electronic bidding platform operated by the DOE, using the user-specific IDs provided by the GEAC. For the avoidance of doubt, Qualified Bidders must offer the entire capacity of the RE facility.

The GEAC shall rank the offers from lowest to highest bid price. The DOE, through the GEAC, shall thereafter declare the Winning Bidders. Notice of award with Certificate of Award shall subsequently be given to each Winning Bidder.

- 9.10 Issuance of Certificate of Award. The DOE shall issue the Certificate of Award to the Winning Bidder, which shall indicate the name of the Winning Bidder, the capacity, name of eligible RPS facility/ies and GET for issuance of Certificate of Nomination/Endorsement for GET eligibility.
- 9.11 Submission of Post-Auction Documents. All Winning Bidders shall submit the performance/completion bond and other documentary requirements as specified in the TOR.
- 9.12 Issuance of Certificate of Endorsement–GET (COE-GET). The Winning Bidder/s shall follow the procedure laid out in Section 6 of Department Circular No. DC2013-05-0009 for the issuance of the COE-GET, *Provided*, That the Winning Bidder/s shall attach the Certificate of Award to the notice mentioned in Section 6(a) thereof. Upon confirmation by the DOE of Successful Commissioning, the Winning Bidder/s shall be deemed ready to inject power to the grid and shall be entitled to the issuance of COE-GET.
- 9.13 Post-Auction Procedures. After securing the COE–GET, the Winning Bidder/s shall comply with the procedures outlined in ERC Resolution No. 16, Series of 2014⁵. For purposes of securing a Certificate of Compliance from the ERC, the COE-GET shall be considered, interpreted, and accepted as the same Certificate of Endorsement for FIT Eligibility issued by the DOE under FIT.

RULE 4 GENERAL PROVISIONS FOR OPT-IN MECHANISM

Section 10. Opt-In Mechanism. In order to reduce FIT-All charges to the electricity end-users, and to meet any DU supply and RPS requirements, an Opt-in Mechanism is hereby introduced. Specifically, any DU shall have the option to procure from the GEAP pool of a Winning Bidder under a particular auction round and thereby carve out such DU-procured volumes from the pool compensable by the FIT-All.

- 10.1 The Opt-In Mechanism herein established shall be governed by guidelines to be issued by the DOE upon recommendation of GEAC, and in consultation with the relevant government agencies and industry stakeholders, within thirty (30) days from the effectivity of this Circular, which shall include, but not limited to, the following general principles:
- 10.1.1 The generation cost reflected in the contract between the DU exercising the Opt-In option and the Winning Bidder/s shall be the offered price or the blended offer price of the Winning Bidder/s in the relevant auction round. Towards this end, the contracted generation under such contract shall be charged by the DU against its captive customers and the corresponding RECs generated from the “Opt-In Capacity” generation shall accrue in favor of the DU off-taker. For avoidance of doubt, the Winning Bidder shall still be paid its offered price after the Opt-In.

⁵ “A Resolution Adopting the 2014 Revised Rules for the Issuance of Certificates of Compliance (COCs) for Generation Companies, Qualified End-Users and Entities with Self-Generation Facilities”.

- 10.1.2 The Opt-In Capacity shall be deducted from the GEA capacity;
 - 10.1.3 The GEA capacity and basis for calculating the FIT-All Fund shall be decreased according to the corresponding Opt-In Capacity contracted by the DUs; and
 - 10.1.4 The GET (Php/kWh) corresponding to the Opt-In Capacity Volume shall be charged, not against the FIT-All Fund, but against the Opting-In Participants as part of the generation charge payable by the relevant Captive customers.
- 10.2 The formulation and issuance of the Opt-In Guidelines shall not delay the conduct of the first GEAP auction round.

RULE 5 GREEN ENERGY AUCTION COMMITTEE

Section 11. Reconstitution of the GEAC. To ensure the efficient implementation of this Guidelines and any amendment/supplement thereto, the GEAC is hereby reconstituted and shall be headed by the Assistant Secretary designated by the Secretary to head the RPS Composite Team created under Section 19, Rule 5 of the RPS On-Grid Rules.

The GEAC shall be composed of the members of the RPS Composite Team, and the respective officers of the Market Operator and TransCo. For this purpose, the designated representatives of the Market Operator and TransCo shall be members of the GEAC upon the effectivity of this Circular.

The GEAC shall be assisted by Technical Working Group (TWG) in the evaluation of bid documents for every auction round. The TWG shall be composed of representatives from Legal Services, Financial Services, Electric Power Industry Management Bureau (EPIMB), representatives of REMB Technical Divisions and other relevant entities as necessary.

The DOE Secretary shall issue a Special Order for the GEAC and the TWG specifying the members and their respective duties and responsibilities.

RULE 6 OTHER PROVISIONS

Section 12. Policy implementation. The DOE, through the GEAC, shall conduct the Green Energy Auction on an annual basis or as necessary pursuant to Section 6 of this Circular.

Section 13. Compliance with CSP Policy. The Green Energy Auction including the Opt-In Mechanism shall serve as compliance with the Competitive Selection Process (CSP) requirements for DUs.

Section 14. Price Ceiling for DU-Initiated CSP. The GET of the marginal plant per technology shall serve as the price ceiling for the power supply agreement of a DU undertaking a separate Competitive Selection Process (CSP) for its compliance under the RPS.

Section 15. Compliance with RPS. The volume of RE and RECs supplied pursuant to this Circular shall be counted for purposes of compliance by the Mandated Participants with the RPS, as provided in DOE Department Circular No. DC2017-12-0015. The RECs shall be distributed, *pro rata*, among the Mandated Participants based on their payment to the FIT-All.

Section 16. Adoption of Certain Provisions in the FIT Rules. The GEA adopts the Regulatory Framework and Administration of FITs provided under Resolution No. 16, Series of 2010 issued by the ERC. However, the GEA pricing mechanism shall be governed by Section 8 of this Circular. As such, other entities involved in the implementation of FIT shall continue to discharge their responsibilities as set forth in the FIT Rules with respect to each auction round and subsequent incidents.

Section 17. Responsibilities of Government Agencies. The following entities shall likewise have the respective responsibilities enumerated below:

17.1 **Department of Energy (DOE).** The DOE shall issue the Certificate of Award to each Winning Bidder upon their submission of the performance bond. The Certificate of Award shall be the basis for the eligibility of the Winning Bidder to receive Certificate of Nomination/Endorsement for GET. The DOE shall submit the GET set after each auction to ERC.

17.2 **Energy Regulatory Commission (ERC).** To ensure the sustainability and viability of the Winning Bidders, the ERC shall issue the FIT Certificate of Compliance (COC-FIT), within sixty (60) days from receipt of the complete filing from the Winning Bidder.

17.3 **National Transmission Corporation (TransCo).** In addition to its responsibilities under the FIT Rules, TransCo shall have the following responsibilities:

17.3.1 Enter into a REPA with the Winning Bidders under the GEA;

17.3.2 Include in the Petition for FIT-All, the GEA Capacity and status of FIT-All to include, among others, payments made to the Winning Bidders in the FIT-All; and

17.3.3 Submit reports to the DOE and ERC status of its GEA implementation including policy recommendations to address issues relating to the FIT administration related to the GEA implementation.

17.4 Network Service Providers. All Transmission and Distribution Network Provider shall:

17.4.1 Ensure timely conduct of System Impact Study (SIS) or Distribution Impact Study (DIS) and processing of the connections requirement as well as conduct of relevant tests to allow commercial operations of renewable energy generating units as committed pursuant to the implementation of GEA Guidelines. Towards this end, the NGCP shall submit to the DOE within thirty (30) days from issuance of this Circular its current process and timeline for conducting and/or processing requests for SIS, and to indicate adjustments needed, if any, to ensure transparent and timely processing and completion of the RE project;

17.4.2 Transmission Network Provider shall review, update and submit for the DOE's approval the Transmission Development Plan incorporating the grid expansion and ancillary services requirements that may arise from the implementation of this policy and ensure the timely filing to the ERC of capital expenditures; and

17.4.3 Distribution Network Provider shall review, update and submit for the DOE's approval the Distribution Development Plan incorporating the distribution system expansion requirements that may arise from the implementation of this policy and ensure the timely filing to the ERC of capital expenditures.

RULE 7 FINAL PROVISIONS

Section 18. 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 19. Prohibited Acts. The following acts shall be prohibited:

19.1 Failure to Deliver. Failure by the Winning Bidder, for reasons solely attributable to the Winning Bidder, to deliver the committed capacity to WESM:

19.1.1 On the date of commencement of supply as provided for under the GEA contract; or

19.1.2 For more than one (1) year from the effective date of the GEA contract.

19.2 Bid Manipulation and Anti-Competitive Conduct. The following agreements between or among Qualified Suppliers/Qualified Bidders are considered as bid manipulation, constitute anti-competitive conduct and are prohibited under these Guidelines:

19.2.1 ***Bid suppression***. Bid suppression schemes involve agreements among competitors, in which one or more companies agree to refrain from bidding or to withdraw a previously submitted bid, so that the designated winner's bid will be accepted. In essence, bid suppression means that a company does not submit a bid for final consideration;

19.2.2 ***Bid rotation***. In bid rotation schemes, conspiring firms continue to bid, but they agree to take turns being the Winning Bidder. The way in which bid-rotation agreements are implemented can vary. For example, conspirators might choose to allocate approximately equal monetary values from a certain group of contracts to each firm or to allocate volumes that correspond to the size of each company;

19.2.3 ***Market allocation***. Competitors carve up the market and agree not to compete for certain customers or in certain geographic areas. Competing firms may, for example, allocate specific customers or types of customers to different firms, so that competitors will not bid (or will submit only a cover bid) on contracts offered by a certain class of potential customers which are allocated to a specific firm. In return, that competitor will not competitively bid to a designated group of customers allocated to other firms in the agreement;

19.2.4 Any other analogous practices of bid manipulation; and

19.2.5 Any other agreement in relation to the conduct or participation in the auction which tends to substantially prevent, restrict or lessen competition.

Section 20. Penalty Clause. Any person or juridical entity who commits any of the prohibited acts under Section 19 hereof shall be subject to the penalties provided under Section 46 of the EPIRA. In addition, said persons or juridical entities shall be prohibited from participating in any auction under the GEAP or CSP.

Section 21. 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 22. Repealing Clause. This Circular repeals Department Circular No. DC2020-07-0017. Moreover, all previous issuances, rules and regulations

inconsistent with this Circular are hereby repealed, amended or modified accordingly.

Section 23. 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.




ALFONSO G. CUSI
Secretary

Issued on NOV 03 2021 at the Department of Energy, Energy Center, Merritt Road, Fort Bonifacio, Taguig City, Metro Manila.