

Republic of the Philippines
DEPARTMENT OF ENERGY

DEPARTMENT CIRCULAR NO. 2003-12-011

**ENJOINING ALL DISTRIBUTION UTILITIES TO SUPPLY ADEQUATE,
AFFORDABLE, QUALITY AND RELIABLE ELECTRICITY**

WHEREAS, Section 2 of Republic Act No. 9136, also known as the "Electric Power Industry Reform Act of 2001" or "EPIRA", declared as a policy of the state, among others, "[t]o ensure the quality, reliability, security and affordability of the supply of electric power;"

WHEREAS, pursuant to Section 17 of EPIRA, the Department of Energy has the mandate, among others,:

- a. "[t]o ensure the reliability, quality, and security of supply of electric power" (Sec. 37 (d));
- b. "[t]o encourage private sector investments in the electricity sector and promote development of indigenous and renewable energy sources" (Sec. 37 (e)(i));
- c. [i]n consultation with other government agencies, to promote a system of incentives to encourage industry participants, including new generating companies and end-users to provide adequate and reliable electric Supply" (Sec. 37 (e)(iii));
- d. "[t]o develop policies and procedures and, as appropriate- promote a system or energy development incentives to enable and encourage electric power industry participants to provide adequate capacity to meet demand including, among others, reserve requirements" (Sec. 37 (i)); and,
- e. "[t]o monitor private sector activities relative to energy projects in order to attain goals of the restructuring, privatization, and modernization of the electric power sector as provided for under existing laws. Provided, that the Department of Energy shall endeavor to provide for an environment conducive to free and active private sector participation and investment in all energy activities" (Sec. 37 (j));

WHEREAS, pursuant to Section 6 of EPIRA, the "generation of electric power, a business affected with public interest, shall be competitive and open;"

WHEREAS, pursuant to Section 47 (j) of EPIRA, the National Power Corporation (NPC) "may generate and sell electricity only from the undisposed generating assets and IPP [Independent Power Producer] contracts of PSALM Corp. and shall not incur any new obligations to purchase power through bilateral contracts with generation companies or other suppliers;"

WHEREAS, pursuant to Section 23 of EPIRA, all distribution utilities, as defined in the law, "shall have the obligation to supply electricity in the least cost manner to its captive market subject to the collection of retail rate duty approved by the Energy Regulatory Commission (ERC); "

WHEREAS, pursuant to Sections 4 (nn) and 37 (c) of EPIRA, the Department of Energy has formulated prepared and updated the ten-year Power Development Program (PDP) in coordination with generation, transmission and distribution utility companies, which indicated a critical reserve requirement in various regions of the country in the upcoming five years of the planning horizon;

WHEREAS, the Department of Energy through various communication programs has encouraged and campaigned for the entry and removal of barriers to entry of private sector participation in the generation of electricity in line with the PDP;

NOW, THEREFORE, the Department of Energy is issuing this Circular to all distribution utilities:

SECTION 1. Reiteration of State Policy. - All distribution utilities must henceforth take cognizance and assume full responsibility to forecast, assure and contract for the supply of electric power in their respective franchise areas to meet their obligations as a distribution utility.

SECTION 2. Compliance. - While the NPC and the National Transmission Corporation or TRANSCO are pursuing government projects to improve the supply and delivery of electric power in the national grid, all distribution utilities must submit to the Department no later than 15th of March every year the annual 5-year Distribution Development Plan pursuant to Section 4 (p), Rule 7 of the Implementing Rules and Regulations of EPIRA. The Distribution Development Plan shall include, among others all abstract of the terms and conditions of power supply contracts with NPC's existing and available supply, and, where NPC's supply is not available and sufficient, the power supply contracts with private power producers to augment the power supply in their franchise areas and to assure that power interruptions are minimized. The proscription prescribed under Section 45 of EPIRA on "Cross Ownership, Market Power Abuse and Anti-Competitive Behavior" shall be strictly followed by all distribution utilities. The Department shall issue within (30) days from effectivity of this Circular separate guidelines for the preparation of the Distribution Development Plan.

SECTION 3. Assistance to Electric Cooperatives (ECs). - To assist the ECs in their power supply contract negotiations, the National Electrification Administration (NEA) shall provide training programs to ECs and other necessary activities necessary to provide reliable and quality service to all the consumers. Towards this end, NEA shall submit to the Department within thirty (30) days from the effectivity of this Circular the action plan to assist the ECs, to include, but not limited to, financial management services, funding arrangements and other structures that will support the ECs ability to enter into power supply contracts. Thereafter the Department shall issue the appropriate implementing guidelines for this purpose.

SECTION 4. Enforcement. - Towards achieving the objectives of EPIRA and this Circular, any distribution utility which fails to comply shall be immediately recommended by the Department for appropriate sanction, fines and/or penalties, including modification and revocation of certificates of public convenience and/or necessity, license or permits of franchised distribution utilities, to the ERC, pursuant to Sections 45 (p) and 46 of EPIRA.

SECTION 5. Effectivity. - This Circular shall take effect immediately a day after its posting in the Department's website and complete publication in a newspaper of general circulation

Fort Bonifacio, Taguig, Metro Manila, 5 December 2003.

(sgd)

VICENTE S. PEREZ

Secretary