



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

DEPARTMENT CIRCULAR NO. DC2018- 07 - 0019

PROMULGATING THE RULES AND GUIDELINES GOVERNING THE
ESTABLISHMENT OF THE GREEN ENERGY OPTION PROGRAM
PURSUANT TO 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 (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 electricity sector 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 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 for the GEOP;

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; and

WHEREAS, the DOE conducted further public consultations on 13 December 2017 in Mandaluyong City, Metro Manila; and on 18 January 2018 in Davao City.

NOW, THEREFORE, premises considered, 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 Suppliers and Network Service Providers (NSP), in facilitating the option taken by the End-Users to choose RE Resources as sources of their energy.

This Circular considers various options for End-Users to contribute in the development and utilization of RE Resources, in a 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, the following principles shall apply:

- (a) Any End-User opting to participate in the GEOP shall inform its host DU of his plan to source power from RE Resources. The DU and RE Supplier, on the other hand, shall fully inform the End-User of the attendant technical, commercial and legal arrangements necessary to implement the GEOP. It is therefore presumed and understood that the End-User has rendered an informed decision when it opted to source its energy requirements from a RE Supplier under the GEOP;
- (b) 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;

- (c) The NSPs shall ensure the reliable and efficient wire or wheeling services to the End-User and/or the RE Supplier. The attendant commercial and technical arrangements shall be discussed and agreed with the RE Suppliers and the End-Users;

In cases where the GEOP Supply Contract is canceled, revoked or terminated for any reason, the NSPs shall continue to provide the wheeling services; *Provided, However, That* any unpaid obligations of the End-User or RE Supplier is settled or paid.

- (d) All rates and charges to 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
- (e) 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 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:

- (a) End-Users;
- (b) RE Suppliers;
- (c) Distribution Utilities;
- (d) Economic Zone Developers;
- (e) Economic Zone Utility Enterprises;
- (f) National Transmission Corporation (TRANSCO) or its successors-in-interest;
- (g) Philippine Electricity Market Corporation (PEMC) and/or the Independent Market Operator (IMO);
- (h) Supplier of Last Resort (SOLR);
- (i) Central Registration Body (CRB); and
- (j) RE Registrar.

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

- (a) ***“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;

- (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 or entity who chooses RE Resources as sources of its energy;
- (c) **"Generation Facility"** refers to a facility where electric energy is produced from some other form of energy by means of a suitable apparatus;
- (d) **"GEOP Supply Contract"** refers to the agreement between an End-User and an RE Supplier for the supply of electricity generated from RE by duly authorized RE Supplier, which shall contain at the minimum, the following terms and conditions:
 - (i) Contract Period;
 - (ii) Name of Electricity End-User and Location;
 - (iii) Name of RE Supplier and Source of RE Supply;
 - (iv) Guaranteed Demand (in kW or MW) and Energy (in kWh or MWh);
 - (v) Contract Price for the supply of electricity;
 - (vi) Payment Terms;
 - (vii) Replacement Power Provision;
 - (viii) Default Provision; and
 - (ix) Other Charges, if any, segregated and itemized.
- (e) **"Mandated Entities"** refer to electric power industry participants mandated to carry out the responsibilities under the GEOP;
- (f) **"National Grid Corporation of the Philippines" or "NGCP"** refers to the entity granted a franchise under Republic Act No. 9511 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;
- (g) **"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;
- (h) **"Network Service Provider"** 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;

- (i) **"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;
- (j) **"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;
- (k) **"RE Suppliers"** 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;
- (l) **"RE Registrar" or "RER"** refers to a unit within PEMC, which is non-stock, non-profit private corporation designated in accordance with RE Act that will administer and operate the REM;
- (m) **"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;
- (n) **"Replacement Power"** refers to the supply of electricity to an End-User enrolled in the GEOP which shall be delivered to the latter should the RE Resource contracted by the RE Supplier be unavailable for whatever cause or reason; and
- (o) **"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. Voluntary Participation of 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:

- (a) All 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;
- (b) In the case of new connections, the following shall apply:
 - (i) End-Users whose estimated average monthly peak demand for the next twelve (12) months, based on the load profiling, is 300 kW or above, may participate in the GEOP;
 - (ii) A newly connected End-User whose estimated average monthly peak demand for twelve (12) months, based on the load profiling, is from 100 kW to below 300 kW, shall have registered historical monthly peak demand of at least 100 kW for three (3) consecutive months, to be able to participate in the GEOP; and
 - (iii) An End-User that has been in operation for less than twelve (12) months from the effectivity of the GEOP Rules shall be considered as a newly connected End-User for the purposes of this Circular.
- (c) The participation of the End-User in the GEOP shall be governed by a GEOP Supply Contract between the End-User and its RE Supplier. The GEOP Supply Contract shall not require an approval from the ERC as stated under Section 3(e) of Rule 1 hereof.
- (d) The participation of the End-User in the GEOP shall be for the desired supply of RE generation in its demand and energy requirements.

Section 7. Voluntary Participation of End-Users with Average Peak Demand below 100 kW. All End-Users with average peak demand below 100 kW may participate in the GEOP after the DOE, in consultation with NREB and industry stakeholders, determines the technical requirements and standards are already met.

Section 8. End-User Choice. Any eligible End-User has the option to voluntarily contract directly with a RE Supplier.

- (a) An End-User that opted to contract with a RE Supplier may revert as the customer of the DU subject to: (1) fulfillment of all its contractual obligations

to the RE Supplier; and (2) the execution of relevant agreement for the supply of electricity by the DU, including a definite contract period. This contract for the supply of electricity between the End-User and the DU shall be consistent with the rules issued by the ERC.

- (b) The End-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.
- (c) Until such time that the DOE, in consultation with NREB and industry stakeholders, determines the readiness of the Mindanao market, including the commercial operation of the WESM and declaration of retail competition in Mindanao, and subject to Sections 6 and 7 of this Circular, GEOP may only be available to End-Users in Luzon and Visayas.

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:

- (a) Entities that shall utilize RE Facilities to supply power under the GEOP shall secure an operating permit from the DOE as RE Suppliers.
- (b) RE Facilities covered by the GEOP shall have the necessary Certificates of Compliance (COC) from the ERC.
- (c) Distributed energy resources and/or generation facilities specifications and standards shall conform with the rules prescribed by the ERC.

Section 10. GEOP Mandated Activities.

- (a) TRANSCO and/or its successors-in-interest, DUs, PEMC and/or IMO, and RE Suppliers, shall provide individually and/or collectively, the mechanisms for the physical connection and commercial arrangements necessary to ensure the success of the GEOP. To ensure the smooth implementation and coordination, the DOE shall initiate this undertaking.

(b) Any End-User who enrolls under the GEOP shall:

- (i) Be informed by its DU, through the monthly electric bill, of its monthly energy consumption and generation charge provided by the RE Facilities;
- (ii) Be informed by the NSP or the DU of the transmission, distribution services, and other charges, segregated and unbundled, by way of its monthly electric bill;
- (iii) Notify, through registered mail or personal service, the DU of its intention to participate in the GEOP, three (3) months prior to the signing of the GEOP Supply Contract;
- (iv) Notify, through registered mail or personal service, the DU of its signed contract with an RE Supplier at least one (1) month prior to its effectivity; and
- (v) Pay and/or settle its financial obligations to the DU and/or RE Supplier. Failure to do so shall subject the 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.

(a) **RE Suppliers shall:**

- (i) Apply for an operating permit with the DOE, through its Renewable Energy Management Bureau (REMB), as a RE Supplier, and correspondingly register in the CRB and RE Registrar in order to provide electric power supply to the End-Users under the GEOP, in accordance with the guidelines and procedures to be set by the DOE.

Within six (6) months from the effectivity of this Circular, the DOE shall, after the conduct of public consultations, issue its guidelines and procedures in issuing permits to RE Suppliers.

The preceding paragraph notwithstanding, entities that have already demonstrated their ability to contract and bill Contestable Customers, under the Retail Competition and Open Access (RCOA), such as those entities licensed as Retail Electricity Suppliers (RES), as well as the Local RES, are automatically qualified as RE Supplier; *Provided*, the RES owns or operates the RE Facility, or procured competitively-priced RE generation as part of its compliance with the Renewable Portfolio Standards (RPS) On-Grid Rules promulgated by the DOE;

- (ii) Incorporate in the GEOP Supply Contract with the 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;
 - (iii) Ensure transparency in the monthly electric bill of the GEOP's End-User; and
 - (iv) Comply with the reportorial requirements of the DOE, ERC, CRB and the RE Registrar.
- (b) **DU as the SOLR shall:**
- (i) Impose rates and/or charges under the GEOP; *Provided*, the rates and/or charges imposed by the DU to the End-User shall first be approved by the ERC; *Provided further*, that pending the approval by the ERC, the default rates and/or charges shall be the WESM nodal price rate plus the premium to cover administrative and overhead expenses, in accordance with the ERC Rules; and
 - (ii) Provide electricity supply to the End-User, in the event that the RE Supplier is not able to perform its obligation under the GEOP Supply Contract. As an alternative, the RE Supplier may enter into agreement with the DU on the payment of Replacement Power to the End-User.
- (c) **TRANSCO or its Successor-In-Interest shall:**
- (i) Provide an open and non-discriminatory access to its transmission facilities;
 - (ii) Ensure the reliability and efficiency of the transmission system, including the provision of the needed ancillary services;
 - (iii) Segregate and itemize all charges to the End-User or RE Supplier;
 - (iv) Ensure the dispatch of the generating facilities, in accordance with the WESM Rules and the Philippine Grid Code;
 - (v) Annually prepare and update its Transmission Development Plan (TDP); and
 - (vi) Perform as the default Metering Service Provider (MSP) for the End-Users directly-connected to the transmission facilities.

(d) **DUs as NSPs shall:**

- (i) Provide an open and non-discriminatory access to its distribution system;
- (ii) Maintain the reliability and efficiency of the distribution facilities;
- (iii) Annually prepare and update its Distribution Development Plan (DDP) to consider the needed infrastructures to operationalize the GEOP within its franchise area; and
- (iv) 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.

(e) **CRB and RE Registrar shall:**

- (i) Register the GEOP's End-Users with their RE Suppliers; and
- (ii) Facilitate amendments to the WESM Rules, if necessary.

Section 12. RE Supplier Offer Sheet to GEOP End-User. The RE Supplier shall provide 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:

- (a) The itemized and unbundled all-in fees and charges that will be applied;
- (b) Replacement Power which shall likewise be sourced from a RE Facility; and
- (c) Facilitate the registration and switching with the CRB.

Section 13. Responsibilities of the DOE through REMB and the GEOP Oversight Committee. Consistent with Section 32 of the RE Act, the REMB shall evaluate the applications for and recommend the issuance of operating permits to the RE Suppliers for the provision of RE Resources to the End-Users who opted for GEOP.

An Oversight Committee on the GEOP, at the option of the DOE Secretary, may be created through a separate issuance, to set the guidelines and eligibility criteria for the RE Suppliers, consistent with Section 9 of this Circular.

Section 14. GEOP Oversight Committee. For the purpose of implementing the provisions of this Circular, an Oversight Committee, chaired by the DOE Undersecretary for REMB, is hereby created with the following members:

- (a) DOE REMB Director or his/her designated representative;
- (b) DOE Electric Power Industry Management Bureau Director or his/her designated representative;
- (c) DOE Legal Services Director or his/her designated representative; and
- (d) Representative from the CRB.

The REMB, or another bureau or unit designated by the Secretary, shall provide technical and administrative support to the Oversight Committee.

Section 15. Other Provisions.

- (a) **Review of the GEOP.** The DOE, in consultation with the ERC, NREB and other stakeholders, shall undertake a regular review and assessment of the GEOP Rules;
- (b) **RECs Derived from the GEOP.** The RECs generated from the energy supplied to the End-Users under the GEOP shall be for the account of the DUs. The energy sales from the GEOP shall be part of the Net Electricity Sales of the DU for its RPS compliance requirement.

For RE Facilities installed within the End-User's premises, the DU has the option to install a third kilowatt-hour meter or use the RE Facility's built-in meter to monitor the total RE generation supplied to the End-User; *Provided*, that all meters shall be tested and calibrated by the ERC in accordance with its Rules.

- (c) **REC Eligibility and Issuance.** While all RE Facilities are eligible for purposes of participating in the GEOP, only generation from RE Facilities that are eligible under Sections 10 and 11 of the RPS Rules for On-Grid Areas shall be issued the corresponding RECs. The REC shall be issued to the account of the DUs.
- (d) **Information, Education and Communication Campaign (IEC).** The DOE in coordination with the ERC, shall conduct an IEC campaign to inform all electricity End-Users and other affected entities on the GEOP.
- (e) **GEOP Regulatory Requirements.** The ERC shall issue the necessary regulatory framework particularly in setting the technical and interconnection standards and wheeling fees, to effect and achieve the objectives of the GEOP.
- (f) **Billing Mechanism.** A dual billing system may be adopted by the End-User availing of the GEOP, RE Supplier and the DU. Under the dual billing

scheme, the End-User will be billed separately by its RE Supplier for the supply of electricity generated by the RE Resource including Replacement Power, and by its DU or TRANSCO or its Successor-In-Interest, in case of Directly-Connected End-Users for the wires services and charges.

In the event that the End-User, RE Supplier, and the DU elect the dual billing scheme, the bills shall reflect an itemized and unbundled all-in charges under the GEOP Supply Contract including the monthly energy consumption. For the DU or TRANSCO or its Successor-In-Interest, in case of Directly-Connected End-User, the bill shall reflect all other wires and services charges, including but not limited to, the transmission or distribution charges, and other pass-through charges.

- (g) **Excess Generation Provided by RE Suppliers.** The DUs shall not be financially liable for any excess power provided by the RE Supplier to the End-User under the GEOP Supply Contract.

RULE 4 PROHIBITED ACTS AND SANCTIONS

Section 16. 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 17. 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, 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 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;

- (c) The DOE Rules of Practice and Procedure shall be applicable to cases for the imposition of the foregoing penalties; and
- (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 as a substitute for compliance.

RULE 5 TRANSITORY PROVISIONS

Section 18. Non-Diminution of Vested Rights. No provision of this Circular shall be taken to diminish any right vested by virtue of existing laws, contracts, or agreements.

Section 19. Reportorial Requirements. All DUs and RE Suppliers shall submit to the DOE an annual report on the implementation of the GEOP. The DUs shall include such report in their respective DDPs.

All DUs and TRANSCO or its Successor-In-Interest shall submit the list of End-Users intending to participate in the GEOP, and the End-Users who signed a GEOP Supply Contract with RE Suppliers.

All RE Suppliers shall be required to submit data on sales to their End-Users.

The DOE, ERC, CRB and RER shall establish a database required for the implementation of the GEOP Rules.

Section 20. 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 21. Repealing Clause. All previous issuances, rules and regulations inconsistent with this Circular are hereby repealed, amended or modified accordingly.

Section 22. 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.


ALFONSO G. CUSI
Secretary



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Issued on _____ at the Department of Energy, Energy Center,
Merritt Road, Fort Bonifacio, Taguig City, Metro Manila