

DEPARTMENT CIRCULAR NO. 2015-06-0008

**“MANDATING ALL DISTRIBUTION UTILITIES TO UNDERGO
COMPETITIVE SELECTION PROCESS IN SECURING POWER
SUPPLY AGREEMENTS”**

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*2016 NEA-EC National Legal Conclave
Hotel Novotel Manila Araneta Center , Quezon City
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Scope of Presentation

- **Background**
- **DOE Circular No.2015-06-0008**
 - ❖ **General Provisions**
 - ❖ **Salient Features**
- **DOE and ERC Issuances**
 - ❖ **Joint DOE and ERC Resolution No.1, Series of 2015**
 - ❖ **ERC Resolution No.13, Series of 2015**
 - ❖ **ERC Resolution No.1, Series of 2016**
- **Next Steps**

Policy Framework

Republic Act No. 9136 (EPIRA)

- Efficiency, Transparency and Competition
- Effective Governance and Regulations
- Consumer Empowerment and Protection



Competitive Selection Process (CSP)

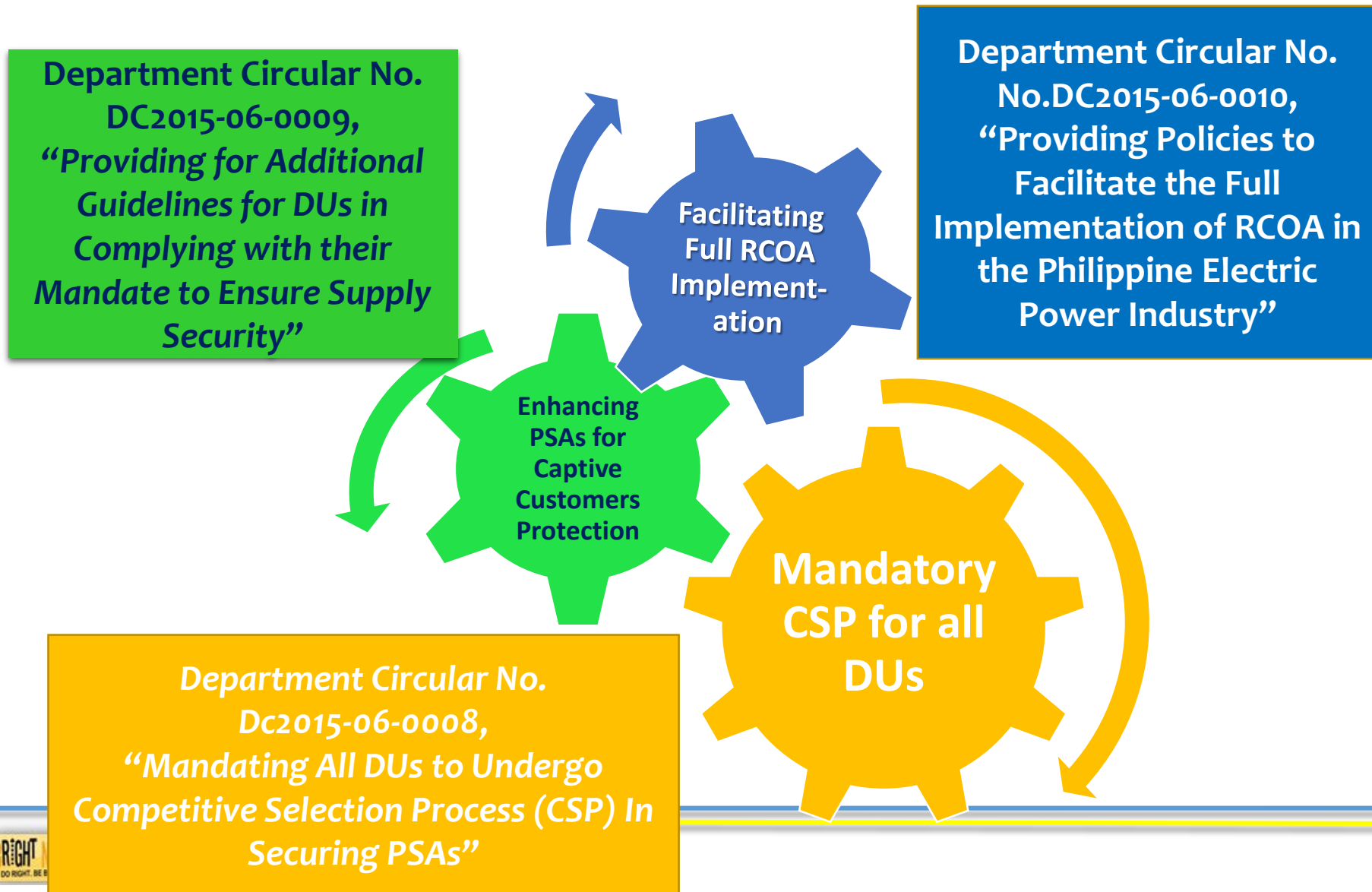
- **CSP is not new.**
 - ❖ **First mandated in off-grid areas through DC2004-01-001, issued on 24 Jan 2004, *introduced Private Sector Participation (PSP) in Existing NPC-SPUG Areas.***
- **Complemented by the Regulator.**
 - ❖ **Issued ERC Resolution No. 11, Series of 2005, “*Adopting the Guidelines for the Setting and Approval of Electricity Generation Rates and Subsidies for Missionary Electrification Areas.*”**

Competitive Selection Process

- **PSP in SPUG Areas (DC No. 2004-01-001)**
 - ❖ **Competitive process to be used to select one or more New Private Providers (NPPs) to supply power to area**
 - ❖ **DU options in managing competitive process—**
 - **Use a Transactions Advisor**
 - **NPC-SPUG assigns its PSA with the Distribution Utility (DU) to NPP through a competitive process**
 - **The DU manages competitive selection process by itself**

DOE Issuances

Ensuring Energy Security and Transparency in Rates and Processes



DEPARTMENT CIRCULAR NO. DC2015-06-0008
***“Mandating All Distribution Utilities to
Undergo Competitive Selection Process (CSP)
In Securing PSAs”***

Department Circular No. DC2015-06-0008

“Mandating All DUs to Undergo CSP in Securing PSAs”

Highlights:

- Signed on 11 June 2015 and published on 30 June 2015 at the Philippine Daily Inquirer and The Philippine Star.
- Will not apply to PSAs with tariff rates already approved and/or have been applied for approval by the ERC before the effectivity of the Circular.
- There shall be enforcement and compliance monitoring by the DOE, and with penalty provision through ERC.

Department Circular No. DC2015-06-0008

“Mandating All DUs to Undergo CSP in Securing PSAs”

Salient Features

- Requires all DUs to conduct CSP, through a Third Party duly recognized by the DOE and ERC. In the case for Electric Cooperatives, shall be recognized by the NEA;
- CSP shall conform with the following:
 - ❖ Aggregation of DUs un-contracted demand requirement;
 - ❖ Annual conduct of CSP; and
 - ❖ Uniform PSA Template on the terms and conditions to be issued by the ERC and DOE

Department Circular No. DC2015-06-0008

“Mandating All DUs to Undergo CSP in Securing PSAs”

Salient Features

- **ERC and DOE to issue Implementing Guidelines (IG) within 120 days from the effectivity of the Circular (i.e., 27 October 2015)**
- **IG shall contain specific details on the process of aggregation of un-contracted demand requirements of DUs and accreditation of Third Party authorized to conduct CSP**
- **ERC to issue supplemental guidelines and procedures on the design and execution of the CSP**

SUBSEQUENT ISSUANCES BY DOE AND ERC ON CSP

JOINT DOE & ERC RESOLUTION NO.1 (2015)

“A Resolution Enjoining All Distribution Utilities to Conduct Competitive Selection Process (CSP) in the Procurement of Supply for Their Captive Market”

Salient Provisions

- **Signed on 20 October 2015 and published on 07 November 2015 at the Philippine Daily Inquirer and The Philippine Star**
- **DOE and ERC recognize that CSP in the procurement of PSAs by the DUs engenders transparency, enhances security of supply, and ensure stability of electricity prices to captive electricity end-users in the long-term**
- **ERC to issue the appropriate regulations to implement the CSP**

ERC RESOLUTION NO.13 (2015)

“A Resolution Enjoining All Distribution Utilities to Conduct Competitive Selection Process (CSP) in the Procurement of Supply for Their Captive Market”

Salient Provisions

- **Signed on 20 October 2015 and published on 06 November 2015 at the Philippine Daily Inquirer**
- **Prescribes the following:**
 - ❖ PSA shall be awarded to the winning Generation Company following a successful transparent and competitive selection process or by Direct Negotiation;
 - ❖ DU may adopt any accepted form of CSP;

Salient Provisions

- **Direct Negotiation maybe made by the DU after at least two (2) failed CSPs:**
 - ❖ **DU did not receive any proposal;**
 - ❖ **Only one supplier submit proposal; and**
 - ❖ **Competitive proposal from prospective suppliers failed to meet the TOR requirements as determined by the DU's BAC.**
- **Will not apply to PSAs already filed with the ERC as of the effectivity of the Resolution**

ERC RESOLUTION NO.1 (2016)
***“A Resolution Clarifying the Effectivity of ERC
Resolution No.13, series of 2015”***

Salient Provisions

- **Signed on 15 March 2016**
- **Effective 30 April 2016, all DUs shall conduct CSP for the supply of their Captive Market**
- **There should be at least two (2) qualified bids for the CSP to be considered as successful**
- **DUs shall adopt the Terms of Reference prescribed in Section 2 of ERC Resolution No.13, series of 2015**

Salient Provisions

- **On PSAs with provisions on automatic renewal or extension of term:**
 - ❖ **PSAs approved by ERC or filed before the effectivity of Resolution No.1, may have one (1) automatic renewal or extension for a period not exceeding one (1) year from the end of their respective terms;**
 - ❖ **There will be no automatic renewal or extension of PSAs upon effectivity of Resolution No.1**

Next Steps

- **DOE and ERC to re-convene the CSP Technical Working Group to prepare the Supplemental Guidelines on CSP**
- **Conduct of public consultations**
- **Issuance of Supplemental Guidelines on CSP**

THANK YOU!

DEPARTMENT CIRCULAR NO. 2015-06-008

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