



16 May 2018

TECHNICAL ADVISORY NO. 6
Series of 2018

TO : **ALL GENERAL MANAGERS**

SUBJECT : **PROMULGATING THE RULES AND GUIDELINES
GOVERNING THE ESTABLISHMENT OF THE GREEN
ENERGY OPTION PROGRAM PURSUANT TO
SECTION 9 OF THE RENEWABLE ENERGY ACT OF
2008 (RA 9513)**

The Green Energy Option Program (GEOP) Rules was created pursuant to Section 9 of the RE Law, which states that the program will provide end-users the option to choose RE resources as their sources of energy. From the latest version of the GEOP Rules attached as a result of the Final Group Discussion (FGD) last May 15, 2018 at Legend Villas, may we seek for your final inputs/comments to the rules for consolidation by at the latest, May 23, 2018 and send them thru ORED's nea_ored@yahoo.com or PHILRECA Atty. Janeene D. Colingan's j9_041578@yahoo.com. You may also send it directly thru DOE's remb9513@gmail.com.

Thank you for your usual cooperation. We will appreciate receiving any of your response regarding this matter.

Very truly yours,

ARTIS NIKKIL L. TORTOLA
Deputy Administrator
Technical Services



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

DEPARTMENT CIRCULAR NO. DC2018- ____ - ____

**PROMULGATING THE RULES AND GUIDELINES GOVERNING THE
ESTABLISHMENT OF THE GREEN ENERGY OPTION PROGRAM PURSUANT
TO SECTION 9 OF 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 Department of Energy (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;

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;

WHEREAS, the DOE conducted further public consultations on 13 December 2017 in Legend Villas, Mandaluyong City, Metro Manila; and on 18 January 2018 in Royal Mandaya Hotel, Davao City;

NOW, THEREFORE, in consultation with NREB and after conduct of public consultations nationwide, 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, Network Service Providers, 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:

- 3.1 Any End-User opting to choose any or a combination of RE Resources shall inform its DU of this plan to source power from RE Resources under the GEOP. The End-user's DU and RE Supplier shall fully inform the End-User of the attendant technical, commercial and legal arrangements necessary to implement the GEOP. Accordingly, the End-User has rendered an informed decision when it opted to source its energy requirements from a RE Supplier under the GEOP;
- 3.2 The DUs shall continue to provide distribution wheeling service and supply of electricity to the End-Users. The attendant commercial and technical arrangements with the RE Suppliers and the End-Users shall be discussed and agreed;

- 3.3 The Network Service Providers, as the sole entity to provide transmission and distribution services under their respective franchises, shall adhere to the principles of open and non-discriminatory access to the transmission and distribution facilities;
- 3.4 All rates and charges to End-Users shall be unbundled, segregated and itemized for each of the generation components, transmission charges and distribution and supply charges.
- 3.5 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;

Section 4. Scope. This Circular shall apply to the following stakeholders:

- 4.1 RE Suppliers;
- 4.2 Distribution Utilities;
- 4.3 Economic Zone Developers;
- 4.4 Ecozone Utility Enterprises;
- 4.5 End-Users;
- 4.6 National Transmission Corporation ("TRANSCO") or its Concessionaire;
- 4.7 Philippine Electricity Market Corporation (PEMC).

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

- 5.1 **"Distribution Utilities" or "DUs"** refers 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 operating in the economic zones;
- 5.2 **"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;
- 5.3 **"Generation Facility"** refers to a facility for the production of electricity and/or thermal energy such as, but not limited to, steam, hot or cold water;
- 5.4 **"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;
- 5.5 **"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;

- 5.6 **"Network Service Providers"** refers to a person who engages in the activity of owning, controlling, or operating a transmission or distribution system;
- 5.7 **"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 Eligible RE Generation Facility;
- 5.8 **"Renewable Energy Market" or "REM"** refers to the market to be developed and operated by PEMC where the trading of the RE Certificates is made pursuant to Section 8 of the RE Act;
- 5.9 **"RE Suppliers"** refers 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 or energy from RE resources to End-User duly issued permits by the DOE;
- 5.10 **"RE Registrar" or "RER"** refers to a unit within PEMC, which is non-stock, non-profit private corporation designated in accordance with Republic Act No. 9513 that will administer and operate the REM;
- 5.11 **"RE Resources"** refers 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;
- 5.12 **"Replacement Power"** refers to the supply of electricity to the End-User who is enrolled in the GEOP, triggered when the RE Resource contracted to the End-User is not available to deliver the supply; and
- 5.13 **"Wholesale Electricity Spot Market or WESM"** refers to the Wholesale Electricity Spot Market established by the DOE pursuant to 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, all End-Users with a monthly average peak demand of 100 kW and above, for the past 12 months, may opt to participate in the GEOP.

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.

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 readiness of the market and that the technical requirements and standards are already met.

The DU may offer alternative, hereinafter referred to as "GEOP Call for Enrolment." Under this scheme, the DU shall invite all GEOP-intending End-users to submit application, and, thereafter, aggregate the demand and energy requirements for competitive procurement of RE Supplier. The invitation shall be posted in the DU's website and adopt other means by which all End-users may access the information.

Section 8. End-User Choice. Any Eligible End-User has the option to: (1) not avail of the GEOP; (2) participate in the GEOP through its DU; or (3) Directly contract with an RE Supplier.

An End-User that opted to contract with a RE Supplier may revert to be supplied by the DU, subject to: (1) fulfillment of all its contractual obligations to the RE Supplier; and (2) execution of relevant agreement for the supply of electricity by the DU, including a definite contract period.

For the avoidance of doubt, the End-User who reverted to being supplied by the DU may again go back to the GEOP, subject to the fulfillment of its contractual obligations with the DU.

If the End-User GEOP participant will revert to being a Captive Customer, the End-User shall inform the DU at least three (3) months prior to the expiration of the GEOP Supply Contract with its RE Supplier/s.

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 for purposes of participating in the GEOP.

Section 10. GEOP Mandated Activities.

- 10.1 TRANSCO and/or its successors-in-interest, DUs, PEMC, 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 smooth implementation and coordination, the DOE may initiate this undertaking together with NREB.

10.2 Any End-User who shall enroll under the GEOP shall;

10.2.1 Be informed, by way of its monthly electric bill, of its monthly energy consumption and generation charge provided by the RE Facilities.

10.2.2 Notify the DU of its intention to participate in the GEOP, three (3) months prior to the signing of the GEOP supply contract.

10.2.3 Notify the DU of its signed contract at least one (1) month prior to its effectivity.

Section 11. Responsibilities of Mandated Entities. To ensure effective implementation of the GEOP, the following entities shall:

11.1 Responsibilities of RE Suppliers

11.1.1 Apply for permit with the DOE, through its REMB, as a RE Supplier, and correspondingly register in the Central Registration Body (CRB) and RE Registrar in order to provide electric power supply to the End-Users under the GEOP. Within six (6) months from the effectivity of this Circular, the DOE shall, after conduct of public consultations, issue its guidelines and procedures in issuing permits to RE Suppliers.

11.1.2 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 continuous power supply service, provision of Replacement Power, transmission and/or distribution wheeling charges, if applicable.

11.1.3 Ensure transparency in the monthly electric bill of the GEOP's End-user.

11.1.4 Comply with the reportorial requirements of the DOE, ERC, CRB and the RE Registrar.

11.2 Responsibilities of the DU as the Supplier of Last Resort

11.2.1 The DU shall be the Supplier of Last Resort under the GEOP. The rates or charges by the DU to the End-User as a Supplier of Last Resort under the GEOP shall be approved by the ERC.

11.2.2. The DU shall provide electricity supply, if available, to the End-User, in the event that the RE Supplier is not able to perform its obligation under the GEOP Supply Contract.

11.3 Responsibilities of National Transmission Corporation or its Concessionaire.

11.3.1 Ensure reliability and efficiency of the transmission system including provision of the needed ancillary services;

11.3.2 Ensure proper dispatching of the generating facilities in accordance with the WESM Rules and the Philippine Grid Code.

11.4 Responsibilities of the Distribution Utilities as Network Service Providers.

11.4.1 Provide open and non-discriminatory access to its distribution system;

11.4.2 Maintain reliability and efficiency of distribution facilities;

11.4.3 Prepare and update annually its Distribution Development Plan (DD) to consider the needed infrastructures to operationalize the GEOP within its franchise area; and

11.4.4 As Retail Metering Service Provider, ensure compliance with the installation and maintenance of all revenue metering facilities of the End-User.

11.5 Responsibilities of CRB and RE Registrar

11.5.1 Register the GEOP's End-users with their RE Suppliers.

11.5.2 Facilitate amendments to the market rules for the effective and smooth implementation of the GEOP.

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:

12.1 All-in Fees and charges that will be applied;

12.2 Replacement Power, which should also come from a RE Facility;

12.3 Facilitate registration and switching with the CRB;

Section 13. Responsibilities of REMB under GEOP and the GEOP Oversight Committee. Consistent with Section 31 of the RE Act, the REMB shall evaluate and recommend issuance of permits to the RE Suppliers for the provision of RE Resources to the End-Users who opted for GEOP.

An Oversight Committee for 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.

Section 14. Other Provisions.

- 14.1 Review of the GEOP.** The DOE in consultation with the ERC, NREB and other stakeholders shall undertake a regular or as necessary, annual review and assessment of the GEOP Rules;
- 14.2 RPS Compliance.** The RECs from the energy supplied to End-Users under the GEOP shall be for the account of the DUs. For the avoidance of doubt, the energy sales from the GEOP shall be part of the Net Electricity Sales of the DU for the purpose of its RPS compliance requirement.
- 14.3 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 Section 10 and 11 of the RPS Rules for On-Grid Areas may be issued the corresponding RECs. The REC shall be issued to the DUs.
- 14.4 Information, Education and Communication Campaign (IEC).** The DOE through the Electric Power Industry Management Bureau and Renewable Energy Management Bureau, in coordination with the ERC and NREB, shall conduct IEC campaign to inform all electricity End-Users and other affected entities on the GEOP.
- 14.5 GEOP Regulatory Framework.** Consistent with Section 6 of the IRR of the RE Act, the ERC shall issue the necessary regulatory framework to effect and achieve the objectives of the GEOP. The regulatory framework shall only be on matters affecting the DU rates to its customers.
- 14.6 Billing Mechanism.** The End-User availing of GEOP shall be under a dual billing scheme.

Under a 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 (for the wires services and charges).

RE Suppliers shall reflect in the monthly electric bill all charges under the GEOP supply contract including the monthly energy consumption. The DU, on the other hand, shall bill all other charges including transmission, distribution charges, as well as other pass-through charges (e.g, Universal Charge, FIT-All) by the Network Service Provider.

RULE 4 PROHIBITED ACTS AND SANCTIONS

Section 15. 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 penalties herein provided.

Section 16. Penalties for Non-Compliance. Consistent with RE Act, its IRR and this circular, the following administrative and criminal sanctions may be imposed:

- 16.1 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.
- 16.2 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 association, partnership 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 violation of the GEOP Rules, upon conviction thereof, shall suffer the penalty of imprisonment of one (1) year to five (5) years, or a fine ranging from a minimum of One Hundred Thousand Pesos (₱100,000.00) to One Hundred Million Pesos (₱100,000,000.00), 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.

- 16.3** The DOE Rules of Practice and Procedure shall be applicable to cases for the imposition of the foregoing penalties.
- 16.4** 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 a substitute for compliance, unless such fines or penalties are provided as a future form of compliance and provide the least cost alternative to the Mandated Entity.

RULE 5 TRANSITORY PROVISIONS

Section 17. Transitory Provisions. No provision of this Circular shall be taken to diminish any right vested by virtue of existing laws, contracts, or agreements.

Section 18. Reportorial Requirements. All DUs and RE Suppliers shall submit to the DOE a monthly update on the implementation of GEOP.

- 18.1 The DOE, ERC, CRB and RER shall establish a reliable database required for the implementation of the GEOP Rules.
- 18.2 All DUs shall submit the list of End-Users intending to participate in the GEOP, and the End-Users who signed a contract with RE Suppliers.
- 18.3 All RE Suppliers shall be required to submit data on sales to their End-Users.

Section 19. 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 20. Repealing Clause. All previous issuances, rules and regulations inconsistent with this circular are hereby repealed, amended or modified accordingly.

Section 21. Effectivity. This Circular shall take effect fifteen (15) after its publication in at least two (2) newspapers of general circulation.

ALFONSO G. CUSI
Secretary

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