



August 20, 2020

TECHNICAL ADVISORY NO. 02
Series of 2020

TO : ALL ELECTRIC COOPERATIVES

**SUBJECT : UPDATES IN THE DOE's GREEN ENERGY OPTION PROGRAM
(GEOP) AND REQUEST FOR INPUTS IN THE IMPLEMENTATION
PROGRAM**

The National Electrification Administration (NEA) was directed by the Department of Energy (DOE) to relay the developments regarding the Green Energy Option Program (GEOP). This is one of the sustainable energy development strategies of the DOE which aims to accelerate the exploration and development of Renewable Energy (RE) resources to achieve energy self-reliance.

The DOE issued **Department Circular No. DC2018-07-0019** entitled "*Promulgating the Rules and Guidelines Governing the Establishment of the Green Energy Option Program (GEOP) Pursuant to Renewable Energy Act of 2008*" on July 2018. The GEOP is a voluntary policy mechanism that allows electricity end-users with 100kW and above demand to source their electricity supply from renewable energy (RE) sources through RE Suppliers.

On April 2020, the DOE issued **Department Circular No. DC2020-04-0009**, "*Guidelines Governing the Issuance of Operating Permits to Renewable Energy Suppliers under the Green Energy Option Program*". This circular prescribes the guidelines and procedures in the issuance, administration and revocation of GEOP Operating Permits to RE Suppliers.

As stated in the **DC2018-07-0019, Section 4 and DC2020-04-009, Section 3**; The circular applies to all Distribution Utilities, hence the Electric Cooperatives too. However, during the discussions the ECs and/or its representatives were not represented. It is of great importance to involve the ECs on this, so we are requesting for your inputs and suggestions in the implementation of the program.

For your reference, please see the following attached files.

1. DOE Department Circular No. DC2018-07-0019, entitled "Promulgating the Rules and Guidelines Governing the Establishment of the Green Energy Option Program," and;
2. DOE Department Circular No. DC2020-04-0009, entitled "Guidelines Governing the Issuance of Operating Permits to Renewable Energy Suppliers under the Green Energy Option Program."

Please send your comments/suggestions to nea_ored@yahoo.com until September 10, 2020. Thank you very much.

Very truly yours,



ARTIS NIKKI L. TORTOLA
Deputy Administrator for Technical Services



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

July 29, 2020

MR. EDGARDO R. MASONGSONG

Administrator
National Electrification Administration
57 NIA Rd., Diliman, Quezon City

Dear **Administrator Masongsong**:

The Department of Energy (DOE) issued Department Circular No. DC2018-07-0019 entitled, "Promulgating the Rules and Guidelines Governing the Establishment of the Green Energy Option Program (GEOP) Pursuant to the Renewable Energy Act of 2008" on 18 July 2018. The GEOP is a voluntary policy mechanism that allows electricity end-users with 100 kW and above demand to source their electricity supply from renewable energy (RE) sources through RE Suppliers.

The said DOE Circular was completed with the issuance of DOE Circular No. DC2020-04-0009, "Guidelines Governing the Issuance of Operating Permits to Renewable Energy Suppliers Under the Green Energy Option Program" on 22 April 2020. This Circular prescribes the guidelines and procedures in the issuance, administration and revocation of GEOP Operating Permits to RE Suppliers.

With this, the National Renewable Energy Board (NREB) created a Technical Working Group (TWG) composed of members from different government agencies and stakeholders in the energy sector to discuss issues and concerns for the full implementation of the GEOP.

It has been noted, however, that Electric Cooperatives (ECs) are not represented during the discussions. It is our intent to involve the ECs and get their inputs and suggestions in the implementation of the program.

In this regard, NEA is hereby directed to provide assistance by way of relaying these developments to the ECs as we endeavor to engage them in the implementation process of the GEOP. For further information, please do not hesitate to contact Mr. Gaspar Escobar of our NREB-Technical Services Management Division at telephone no. (02) 8479-2900 loc. 415/338 or at gaspar.escobar@doe.gov.ph.

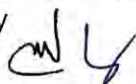
Thank you very much.

Very truly yours,

 AUG 06 2020

EMMANUEL P. JUANEZA

Undersecretary





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 (₱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;

- (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



JUL 18 2018

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



DEPARTMENT CIRCULAR NO. DC2020- 04 - 0009 ^m

**GUIDELINES GOVERNING THE ISSUANCE OF
OPERATING PERMITS TO RENEWABLE ENERGY SUPPLIERS UNDER
THE GREEN ENERGY OPTION PROGRAM**

WHEREAS, Section 2 of Republic Act (RA) No. 7638, as amended, otherwise known as the "*Department of Energy Act of 1992*," mandates the Department of Energy (DOE) to prepare, integrate, coordinate, supervise and control all plans, programs, projects and activities of the Government relative to energy exploration, development, utilization, distribution and conservation, among others;

WHEREAS, RA No. 9513, otherwise known as "*An Act Promoting the Development, Utilization and Commercialization of Renewable Energy Resources and For Other Purposes*" (the "RE Act"), declares as a policy of the State to accelerate the exploration and development of Renewable Energy (RE) Resources to achieve energy self-reliance through the adoption of sustainable energy development strategies;

WHEREAS, Section 9 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, on 18 July 2018, the DOE issued Department Circular (DC) No. DC2018-07-0019, entitled "*Promulgating the Rules and Guidelines Governing the Establishment of the Green Energy Option Program Pursuant to Renewable Energy Act of 2008*," establishing the GEOP (the "GEOP Rules");

WHEREAS, second paragraph of Section 11(a)(i) of the GEOP Rules provides that the DOE shall, after conduct of public consultations, promulgate the necessary guidelines and procedures for issuance of permits to RE Suppliers;

WHEREAS, the DOE and the National Renewable Energy Board (NREB) conducted a series of public consultations on the draft GEOP Operating Permit Guidelines on 18 June 2019, 27 June 2019, 11 July 2019 and 25 July 2019 in Cebu, Davao, Batangas and Pampanga, respectively;

NOW, THEREFORE, for and in consideration of the foregoing premises, the DOE hereby adopts and issues the following guidelines and procedures covering the issuance of Operating Permits to RE Suppliers:

Section 1. Title. This Circular shall be known as the *“Guidelines for the Issuance of Operating Permits for RE Suppliers under the Green Energy Option Program,”* and shall hereinafter be referred to as the *“GEOP Operating Permit Guidelines.”*

Section 2. Coverage. This Circular shall prescribe the guidelines and procedures in the issuance, administration, and revocation of GEOP Operating Permits to RE Suppliers.

All contracts under the GEOP shall cover a minimum of 100kW, regardless of percentage required by the End-User.

Section 3. Scope. This Circular shall apply to the following stakeholders:

- 3.1. End-Users;
- 3.2. RE Developers;
- 3.3. RE Suppliers;
- 3.4. Distribution Utilities;
- 3.5. Retail Electricity Suppliers;
- 3.6. Philippine Electricity Market Corporation and/or the Independent Market Operator;
- 3.7. Supplier of Last Resort;
- 3.8. Central Registration Body;
- 3.9. RE Registrar;
- 3.10. National Grid Corporation of the Philippines;
- 3.11. National Transmission Corporation;
- 3.12. Metering Service Providers, duly licensed by the Energy Regulatory Commission (ERC); and
- 3.13. Other entities which may later be created or otherwise identified relevant for the successful implementation of the GEOP.

Section 4. Definition of Terms. This Circular hereby adopts, by reference, the terms defined in RA No. 9136, RE Act, their respective implementing rules and regulations, the GEOP Rules, as well as other relevant DOE Department Circulars. Furthermore, the following terms, as used in this Circular, shall be defined as follows:

- 4.1. **“Certificate of Registration”** or **“COR”** refers to an official document issued by the DOE to any individual or juridical entity engaged in the development, utilization and commercialization of RE Resources, either for own-use or commercial purposes, awarded an RE Contract, after all the necessary information and requirements have been satisfactorily complied with;

- 4.2. **"Contestable Customer"** refers to electricity end users who have a choice of a supplier of electricity, as may be determined by the ERC in accordance with the RA No. 9136;
- 4.3. **"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 energy: *Provided*, That it has satisfied the eligibility requirements stated under Rule 2, Section 6 of the GEOP Rules;
- 4.4. **"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:
- 4.4.1. Contract Period;
 - 4.4.2. Name of Electricity End-User and Location;
 - 4.4.3. Name of RE Supplier and Source of RE Supply;
 - 4.4.4. Guaranteed Demand (in kW or MW) and Energy (in kWh or MWh);
 - 4.4.5. Contract Price for the supply of electricity;
 - 4.4.6. Payment Terms;
 - 4.4.7. Replacement Power Provision;
 - 4.4.8. Default Provision; and
 - 4.4.9. Other Charges, if any, segregated and itemized;
- 4.5. **"GEOP Operating Permit"** refers to a document issued by the DOE to an entity allowing the supply of electric power to an End-User pursuant to this Circular;
- 4.6. **"Renewable Energy Facility"** or **"RE Facility"** refers to any power plant that generates electricity using RE Resources;
- 4.7. **"Replacement Power"** refers to the provision in the GEOP Supply Contract, which shall be delivered to the End-User in any or all of the following events:
- 4.7.1. Whenever the RE Resource sourced and/or contracted by the RE Supplier is not available due to scheduled preventive maintenance services; or
 - 4.7.2. Whenever needed to address the variability of an RE technology used to supply electricity to the End-User.
- 4.8. **"RE Registrar"** or **"RER"** refers to the entity designated by the DOE to establish and operate the RE Market pursuant to Section 8 of the RE Act and DC2019-12-0016 (or the "REM Rules").

Section 5. RE Supplier Qualifications.

- 5.1. Any person, natural or juridical, registered and/or authorized to operate in the Philippines under existing Philippine laws and engaged in the business of

generating and/or supplying electricity from RE Resources may apply for a GEOP Operating Permit as an RE Supplier under GEOP;

- 5.2. For avoidance of doubt, any RE Facility is eligible for GEOP, whether or not the same is eligible for Renewable Portfolio Standards (RPS) compliance as long as there is still available capacity or energy for supply under GEOP; and
- 5.3. Owners and operators of RE Facilities constructed and operating prior to RE Act but registered under the RE Act may qualify as RE Suppliers under the GEOP.

Section 6. Application Requirements. All applications for the GEOP Operating Permit shall be in writing and verified. The application shall likewise contain the following documents:

- 6.1. Affidavit of undertaking on the capability to supply and deliver the RE generation to the End-User;
- 6.2. Proof of a Contract for the Supply of Replacement Power in accordance with Section 10.1 of this Circular; and
- 6.3. Proof of payment of the processing fee.

Section 7. Qualification for Existing Retail Electricity Suppliers. Any person or entity that has been issued a Retail Electricity Supplier's license by the ERC and has demonstrated the ability to serve its Contestable Customer under the Retail Competition and Open Access may be automatically issued an Operating Permit as RE Supplier under the GEOP subject to the applicant's submission of the following documents:

- 7.1. Billing document from at least one (1) Contestable Customer for two (2) years immediately preceding the date of application, or a sworn statement of such Contestable Customer attesting to the fact that it has a contract with the applicant effective for the two (2) years immediately preceding the date of application;
- 7.2. Affidavit of undertaking on the applicant's capability to supply and deliver the RE generation to the End-User;
- 7.3. Proof of a Contract for the Supply of Replacement Power in accordance with Section 10.1 of this Circular; and
- 7.4. Proof of payment of the processing fee.

Section 8. Processing and Approval of Applications.

- 8.1. The DOE, through its Renewable Energy Management Bureau (REMB), shall be responsible for evaluating all applications for the issuance of GEOP Operating Permits to eligible RE Suppliers.

- 8.2. Within twenty (20) working days from the submission of complete application documents and compliance with the requirements, the REMB Director shall recommend to the Secretary the approval or disapproval of the application.
- 8.3. The application shall be acted upon by the DOE Secretary, upon endorsement by the Supervising Assistant Secretary and Undersecretary of the REMB.

Section 9. Obligations of RE Suppliers. The RE Suppliers under the GEOP shall have the following obligations:

- 9.1. Comply with all the terms and conditions of the GEOP Operating Permit and the provisions of this Circular, and the GEOP Rules;
- 9.2. Submit annual reports to the REMB on or before the 30th of January, which shall contain the following data:
 - 9.2.1. Total kWh generated from owned and/or operated RE Facility;
 - 9.2.2. Total kWh purchased per RE Resource;
 - 9.2.3. Total kWh sold per customer; and
 - 9.2.4. Total kWh purchased for Replacement Power on hourly basis;
- 9.3. Ensure that the total power dispatched from its RE Facilities should always be greater than or equal to the total kWh sold to its customers;
- 9.4. Register in the Wholesale Electricity Spot Market and with the Central Registration Body before it can supply electric power to the eligible End-Users; and
- 9.5. Register with the RE Registrar pursuant to the RE Market Rules promulgated by the DOE.

Section 10. Provision of Replacement Power. To ensure that End-Users are supplied with sufficient and reliable electricity, the RE Supplier shall secure the necessary Replacement Power, as follows:

- 10.1. During the first two years of implementation of this Circular, any RE Supplier may opt to contract supply from generation facilities utilizing indigenous resources as Replacement Power. Thereafter, in support of the greater development and utilization of RE Resources, any Replacement Power shall exclusively be sourced from RE Resources.
- 10.2. In cases where the supply is generated from hybrid RE technologies such as solar and battery energy storage systems, the Replacement Power shall only be required during the period when the facility is under maintenance services.

Section 11. Period of Validity. The GEOP Operating Permit shall be valid for a period of five (5) years from date of issuance stated therein, unless earlier revoked by the DOE for any violation of the GEOP Rules and this Circular.

Section 12. Renewal of Application. Six (6) months prior to its expiration and upon submission of required documents and payment of a renewal fee, the RE Supplier may apply for renewal of its GEOP Operating Permit.

The DOE shall determine whether the RE Supplier has complied with all the DOE requirements for RE Supplier in accordance with this Circular.

Section 13. Suspension, Revocation or Cancellation of GEOP Operating Permits. The DOE may suspend, revoke or cancel any GEOP Operating Permit on the following grounds:

- 13.1. Failure of the RE Supplier to comply with its obligations under the GEOP Rules and the terms and conditions under which the GEOP Operating Permit was issued;
- 13.2. Providing false or misleading information to the End-User or the DOE;
- 13.3. Failure to respond to DOE directives, communications, inquiries within the periods provided therein, or address customer complaints within five (5) working days from receipt of the same; and
- 13.4. Termination of the GEOP Supply Contract by the End-User for cause.

Upon a positive finding by the DOE that the RE Supplier has committed any of the above enumerated grounds, the latter shall be required to explain in writing why its GEOP Operating Permit should not be suspended, revoked or cancelled. The RE Supplier shall be given a non-extendible period of fifteen (15) calendar days to submit its explanation, which shall be accompanied by supporting documents.

Not later than fifteen working (15) days from its receipt of the RE Supplier's written explanation, the REMB shall submit its findings and recommendations to the DOE Secretary, through its Supervising Assistant Secretary and Undersecretary. The DOE Secretary shall have a period of five (5) working days to act upon said recommendation. The decision of the DOE Secretary shall be final and immediately executory.

The RE Supplier shall immediately be notified of the decision of the DOE Secretary in writing, within three (3) days upon receipt by REMB of the DOE Secretary's decision, through personal service, registered mail, private courier service, or in the absence of the aforementioned modes of service, through electronic mail.

Section 14. Penalties. The following are the penalties which may be imposed upon an RE Supplier which has been found to have committed any of the acts provided in Section 13 hereof and has failed to provide justifications therefor:

- 14.1. First Offense. Suspension of the GEOP Operating Permit for one (1) month;
- 14.2. Second Offense. Suspension of the GEOP Operating Permit for three (3) months; and

14.3. Third Offense. Cancellation/Revocation of the GEOP Operating Permit.

Provided, That, in cases where the RE Supplier was found to have twice committed the same violation in succession, the GEOP Operating Permit shall be cancelled/revoked.

Section 15. RE Pool. To accelerate exploration, development and utilization of RE Resources, and to ensure RE supply is available in a least-cost manner, RE Suppliers and RE Generators/Developers may enter into a joint action or establish a pool of RE supply under the GEOP to the extent permitted by applicable laws.

Section 16. Separability Clause. If for any reason, any provision of this Circular is declared unconstitutional or invalid, the other parts or provisions not affected thereby shall remain in full force and effect.

Section 17. Repealing Clause. The provisions of other department circulars which are inconsistent with the provisions of this Circular are hereby repealed, amended or modified accordingly.

Section 18. Effectivity. This Circular shall take into effect fifteen (15) days following its publication in at least two (2) newspapers of general circulation and its filing with the National Administrative Register of the UP Law Center.


ALFONSO G. CUSI
Secretary

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