



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

DEPARTMENT CIRCULAR NO. DC2023-05-0014

**PROMULGATING THE REVISED RULES AND GUIDELINES GOVERNING
THE OPERATIONALIZATION OF THE RENEWABLE PORTFOLIO
STANDARDS FOR OFF-GRID AREAS PURSUANT TO SECTION 12 OF THE
RENEWABLE ENERGY ACT OF 2008**

WHEREAS, Republic Act (RA) No. 7638 or the Department of Energy (DOE) Act of 1992 declares the 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, Section 4 of RA 7638 mandates the 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;

WHEREAS, RA 9136 or the Electric Power Industry Reform Act of 2001 (EPIRA) declares the policy of the State to, among others: (a) ensure and accelerate the total electrification of the country; (b) ensure the quality, reliability, security, and affordability of the supply of electric power; (c) assure socially and environmentally compatible energy sources and infrastructure; and (d) 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 23 of the EPIRA and Sections 4(f) and 4(h) of its Implementing Rules and Regulations (IRR) prescribe that the distribution utilities (DUs) have the obligation to, among others: (a) supply electricity in the least cost manner to its Captive Market, subject to the collection of retail rate duly approved by the Energy Regulatory Commission (ERC); and (b) provide universal service within their franchise, over a reasonable time from the requirement thereof, including unviable areas, as part of their social obligations, in a manner that shall sustain the economic viability of the utility, subject to the approval by the ERC in the case of private or government-owned utilities;

WHEREAS, Section 37(e)(i) of the EPIRA and Section 1(e)(i) of its IRR mandate the DOE to encourage private sector investments in the electricity sector and promote the development of indigenous and RE resources;

WHEREAS, Section 59 of the EPIRA and Section 1, Rule 14 of its IRR provide that the provision of electric service in remote and unviable areas that the franchised utility is unable to service for any reason shall be opened to other qualified third parties;

WHEREAS, Section 70 of the EPIRA and Sections 3(a) and 4(a) of its IRR prescribe that the National Power Corporation (NPC) through its Small Power Utilities Group (SPUG) shall perform the missionary electrification to provide power generation and its associated power delivery systems in areas that are not connected to the transmission system which shall be funded from revenues from sales in missionary areas and from the Universal Charge for Missionary Electrification (UC-ME);

WHEREAS, RA 9513 or the Renewable Energy Act of 2008 (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 their efficient and cost-effective commercial application by providing fiscal and nonfiscal incentives;

WHEREAS, Section 6 of the RE Act and Section 4 of its IRR define the "Renewable Portfolio Standards (RPS)" as an obligation on electric power industry participants such as generators, DUs, or suppliers, to contribute to the growth of the renewable energy industry of the country by sourcing or producing a specified fraction of their electricity from eligible RE resources, as may be determined by the National Renewable Energy Board (NREB);

WHEREAS, Section 12 of the RE Act and Section 12 of its IRR provide that the NPC-SPUG or its successors-in-interest and/or qualified third parties in off-grid areas shall, in the performance of its mandate to provide missionary electrification, source a minimum percentage of its total annual generation from RE resources available in their respective areas, as may be determined by the DOE;

WHEREAS, the DOE developed the National Renewable Energy Program (NREP) on 15 June 2011 which aimed to establish a comprehensive approach to encourage greater private sector participation, through investments, in RE development;

WHEREAS, DOE Department Circular (DC) No. DC2018-08-0024 or the RPS Off-Grid Rules mandates electric power industry participants to source or produce a specified portion of their electricity requirements from eligible RE resources;

WHEREAS, RA 11646 or the Microgrid Systems Act declares the policy of the State to, among others: (a) accelerate total electrification and ensure the provision of quality, reliable, and secure electricity service at reasonable rates in unserved and underserved areas; and (b) provide a competitive environment for different kinds of energy sources while prioritizing low-cost, indigenous, renewable, and environment-friendly sources of energy;

WHEREAS, Section 6 of the Microgrid Systems Act states that qualified third parties (QTPs) providing alternative electric service pursuant to Section 59 of EPIRA were renamed as Microgrid System Providers (MGSPs);

WHEREAS, Section 4.17 of DOE DC No. 2022-05-0017 or the Rules and Regulations to Implement RA 11646 defines MGSPs as natural or juridical persons whose business includes the installation, operation, and maintenance of microgrid systems in unserved and underserved areas;

WHEREAS, due to the Coronavirus (COVID-19) Pandemic, the rollout of the RPS Off-Grid Rules was not conducted and the DOE was unable to undertake the capacity building among Mandated Participants and the individual determination of their RPS requirements;

WHEREAS, the DOE conducted public consultations on 7 March 2023 in Iloilo City, 15 March 2023 in Davao City, and 23 March 2023 in Clark to operationalize the RPS Off-Grid Rules;

WHEREAS, the DOE has issued DC No. DC2019-01-0001, titled "Prescribing the Omnibus Guidelines on Enhancing Off-Grid Power Development and Operation", to incorporate and interrelate all existing and new policies and strategies for achieving quality, reliability, affordability, security, stability, efficiency and accountability of electric power services in off-grid areas;

NOW, THEREFORE, in consideration of the foregoing, the DOE hereby issues and promulgates the following revised guidelines for the operationalization of the RPS Off-Grid Rules pursuant to Section 12 of the RE Act of 2008.

RULE 1 GENERAL PROVISIONS

Section 1. Title. This Circular shall be known as the "Revised Rules and Guidelines Governing the Operationalization of the RPS Off-Grid Rules" and shall hereinafter be referred to as the "Revised RPS Off-Grid Rules".

Section 2. Purpose. This Circular is issued to achieve the following:

- (a) Contribute to the growth of the RE industry in the Off-Grid and Missionary Areas by mandating electric power industry participants to source or produce a specified portion of their electricity requirements from eligible RE resources;
- (b) Improve efficiency in power supply through integration of RE in the power generation supply mix on a per off-grid area basis;
- (c) Accelerate green energy transition by reducing use of fossil fuels through hybridization or use of alternative technologies; and

- (d) Facilitate development of the respective RPS requirements and Compliance Plan of Mandated Participants in the Off-Grid and Missionary Areas. In the case of DUs, said plan must be consistent with its annual Distribution Development Plan (DDPs) and Power Supply Procurement Plan (PSPP).

Section 3. Scope. This Circular sets out the policies and guidelines for Off-Grid Areas on the following:

- (a) Attainment of Optimal Supply Mix;
- (b) Setting of the Minimum Annual RPS Requirements;
- (c) Determination of the Eligible RE Facilities;
- (d) Development of Dispatch Protocols of RE Generation;
- (e) Establishing the obligations of the Mandated Participants and other stakeholders; and
- (f) Defining the Framework for Compliance.

Section 4. Definition of Terms. Unless otherwise stated, the following terms shall be defined as follows:

- (a) "Distributed Energy Resources" or "DER" refers to power sources connected to the distribution system or electrical system of the End-Users, that could be aggregated to meet a demand;
- (b) "Eligible RE Facility" refers to a generating unit that utilizes RE resources or RE technology to generate electric power and started commercial operations upon the effectivity of the RE Act;
- (c) "Embedded Generation" refers to generating units that are directly connected to the distribution system of a DU or indirectly connected to the transmission system;
- (d) "Force Majeure" refers to typhoons, storms, tropical depressions, flooding, drought, volcanic eruptions, earthquakes, tidal waves or landslides, or acts of a public enemy, wars (with or without Congressional declaration), riots, insurrections, revolutions, acts of sabotage, blockades or any violent and threatening actions, as well as uncontrollable conditions that may result or would likely lead to the extraordinary disruption of operations of the RE Developer, Generation Company, or DU;
- (e) "Mandated Participant" as used in the Circular, refers to an electric power industry participants mandated to contribute to the growth of the RE industry and comply with the Minimum Annual RE Generation/RPS Off-Grid

Requirements pursuant to Section 12 of the RE Act and as enumerated under Rule 4, Section 12 of this Circular;

- (f) **“Minimum Renewable Energy Generation Requirement”** refers to the amount or volume of RE generation needed to comply with by the RPS Off-Grid Mandated Participants under Section 7 of this Circular;
- (g) **“Optimal Supply Mix”** refers to the total generation mix in any Off-Grid and Missionary Area derived from various fuel supply technologies that, when integrated with electricity generated from RE generation, resulted in adequacy of supply and the reliability of the grid in the least-cost manner;
- (h) **“RE Developer”** refers to individuals or juridical entities created, registered and/or authorized to operate in the Philippines in accordance with existing Philippine laws and regulations and is engaged in the exploration, development or utilization of RE resources and actual operation of RE systems/facilities pursuant to the RE Act;
- (i) **“Small Grid”** refers to the backbone system of the interconnected high-voltage lines or medium-voltage lines, substations, and other related facilities not connected to the national transmission backbone grid in Luzon, Visayas and Mindanao. For the purpose of this Circular, Small Grid shall include areas serviced by MGSPs; and
- (j) **“Small Grid System Operator”** or **“SGSO”** refers to the party responsible for generation dispatch and real-time control of the power system in off-grid areas through the management of operating reserves reactive power support, black start and other operating requirements to ensure safety, power quality, stability, reliability, and the security of the small grid.

Further, this Circular hereby adopts by reference the terms defined in the RE Act, EPIRA, and Microgrid Systems Act, and their respective IRRs insofar as they are consistent with this Circular.

RULE 2

RPS POLICY, OPTIMAL SUPPLY MIX AND MINIMUM RE REQUIREMENT

Section 5. The Off-Grid Renewable Energy Development Policy. Consistent with Section 12 of the RE Act and Section 12 of its IRR, it is hereby reiterated the responsibilities of the NPC-SPUG or its successors-in-interest, in the performance of its mandate to provide missionary electrification, and/or MGSPs in the Off-Grid Areas to source a percentage or all of their energy requirements or supply, as the case may be, from eligible RE resources.

To ensure the efficient and successful implementation of the objectives of Off-Grid RE Development, the following shall govern:

- (a) **NPC-Small Power Utilities Group (NPC-SPUG) Served Off-Grid and Missionary Areas.** Consistent with its mandate under Section 12 of the RE Act, the NPC-SPUG shall prepare its multi-year RPS Compliance Plan, which shall include the specific plans and programs to minimize if not eliminate the use of conventional fuels for its power generation facilities in the Off-Grid and Missionary Areas. Said RPS Compliance Plan shall form part of its Missionary Electrification Plan (MEP) and shall be approved and endorsed by the NPC Board to the DOE for integration to the Missionary Electrification Development Plan (MEDP) pursuant to DOE Circular No. DC2019-01-0001.

The NPC-SPUG RPS Compliance Plan may include any or all of the following:

- (i) **Hybridization Program.** Existing NPC-SPUG diesel power plants shall be hybridized with RE system leading to the most optimal configuration in the concerned Off-Grid and Missionary Areas. NPC-SPUG shall formulate its Hybridization Program;
- (ii) **Private Sector Participation (PSP) Program through New Private Power Providers (NPPs).** All NPC-SPUG areas shall be opened to the private sector for the development, financing, construction, and operation of RE Projects based on competitive procurement process of the concerned DU. To ensure efficient take over by the NPP of the generation function of NPC-SPUG, the DU, NPP and NPC-SPUG shall prepare and agree on a Take Over Program (TOP) defining the transition to full service by NPP in the area. The TOP shall include plans and programs covering the transition from existing NPC-SPUG supply to full assumption by the NPP of the power generation business, and the needed enhancement in transmission and/or distribution facilities; and
- (iii) **RE Project Development.** NPC-SPUG may develop its own RE Facility, subject to existing laws and regulations, and shall secure RE Contract from the DOE. For clarity, new RE Projects may cover rehabilitation of existing/inefficient/non-operational RE Projects.
- (b) **For DUs and Other Stakeholders.** The National Electrification Administration (NEA) and the National Transmission Corporation (TransCo) shall develop a system to support, among others, the capacity building of the Mandated Participants including but not limited to:
- (i) **Assessment of RE resources in terms of availability and demand compatibility in the Missionary and Off-Grid Areas, upon request of the Mandated Participants;**

- (ii) Development or use of any internationally accepted optimization software or equivalent locally developed simulation tool for the determination of Optimal Supply Mix per Missionary and Off-Grid Areas; and
- (iii) Conduct trainings on a regular basis and/or upon request and at no cost to Mandated Participants, which shall include but not limited to the following:
 - (1) Hosting Capacity Analysis;
 - (2) Distribution Impact Study (DIS); and
 - (3) Documentary/permitting requirements for the development and commercial operations of an RE power project.
- (c) **Capacity Building on RE Development.** The DOE shall provide trainings and orientations on RE Development policies and guidelines, including securing RE Contracts to interested RE Developers.

Section 6. Minimum Annual RE Generation/RPS Off-Grid Requirements. In the case of the other Mandated Participants such as the NPPs, MGSPs and DUs with Embedded Generators, they shall contribute to the generation, procurement and/or supply of RE in the area by meeting at least the minimum percentage of RE share needed to attain the Optimal Supply Mix in their energy supply portfolio and subsequently maintain the minimum annual RE requirements.

In calculating the minimum RE percentage share, the Mandated Participants, TransCo or DOE, shall consider the following:

- (a) Generation of all existing identified RPS-eligible RE resources in the area; and
- (b) Adoption of hybrid or distributed RE generation systems, whenever feasible.

Section 7. Attainment of Optimal Supply Mix. All Mandated Participants shall contribute to the attainment of an Optimal Supply Mix in their respective Missionary and Off-Grid Areas. In the determination of the Optimal Supply Mix for each Missionary and Off-Grid Areas, any internationally accepted optimization software or equivalent locally developed simulation tool may be used, in consideration of the following:

- (a) Stable operation of existing generating units and reliability of the grid with the entry of an RE generation facility consistent with existing and applicable performance standards; and
- (b) The capacity corresponding to the above minimum RE generation shall

ensure optimal penetration of RE generation while maintaining stable, reliable and adequate supply of electricity.

For purposes of clarity, a scenario may be considered optimal if the savings or reduction generated from the exercise yields to reduction/savings from UC-ME subsidy of the particular off-grid area, as supported by the financial/simulation results from internationally accepted optimization software or equivalent locally developed simulation tool.

Section 8. Review of RPS Off-Grid Rules. The DOE, in consultation with the stakeholders, shall review the RPS Off-Grid Rules, on or before September 30 of each year or as may be necessary, to ensure its alignment with the NREP and the Philippine Energy Plan. Such review shall consider, among others, the emerging RE technologies and resources, the existence of registered RE projects and changes in the criteria of Eligible RE Facilities.

Priority shall be given to awarded RE Contracts in the Off-Grid and Missionary Areas towards the attainment of RPS generation targets.

RULE 3 ELIGIBLE RE FACILITIES AND DISPATCH PROTOCOLS

Section 9. Eligible RE Facilities. For the purpose of this Circular, the Eligible RE Facilities utilizing the following technologies and resources shall be:

- (a) Biomass;
- (b) Waste-to-Energy (WTE) Technology;
- (c) Wind Energy;
- (d) Solar Energy;
- (e) Run-of-River (ROR) Hydroelectric Power Systems;
- (f) Impounding Hydroelectric Power Systems;
- (g) Ocean Energy;
- (h) Geothermal Energy;
- (i) Hybrid systems as defined in the RE Act with respect to the RE component;
and
- (j) Other RE technologies which may be later identified by the DOE, after endorsement of NREB and relevant government agencies.

Provided, That, for the RE facilities utilizing these technologies to be eligible for RPS compliance and to be attributed the corresponding RE Certificates (RECs), these RE facilities should have started commercial operations on or after the effectivity of the RE Act.

Section 10. Eligible Generation from RE Technologies for RPS Compliance. Eligible RE generation for RPS compliance shall have at least one of the following attributes:

- (a) RE installations whose commercial operations started on or after the effectivity of the RE Act;
- (b) Incremental RE capacity resulting from any of the following:
 - (i) Expansion of an existing RE generation facility; and
 - (ii) Upgrading of an RE-based power generation facility: *Provided, That the commercial operations of such RE-based power generation facility started on or after the effectivity of the RE Act. The Composite Team shall determine the eligible component of such capacities;*
- (c) New capacities resulting from a change in the technology, *i.e., from a non-RE to an RE generation facility: Provided, That the commercial operation of such RE generation facility started on or after the effectivity of the RE Act;*
- (d) Mothballed RE generation facilities that are restored into operation: *Provided, That the commercial operation of such restored RE generation facility started on or after the effectivity of the RE Act; and*
- (e) Other types of RE generation facilities as may be later identified by the DOE.

Section 11. Dispatch of RE Generation under the RPS Rules. RE generation facilities shall be given priority dispatch by the Small Grid System Operator (SGSO) to the extent of the demand of the Missionary and Off-Grid Areas.

With the exception of MGSPs, the RE Developer shall comply with the requirements and follow the dispatch instructions of the SGSO in order to effectively implement its priority dispatch without affecting grid reliability and security.

The SGSO shall be guided by the following:

- (a) The dispatch of RE generation facility and other generation facilities shall follow the dispatch protocols based on existing applicable rules and regulations; and
- (b) In the event that there is more than one (1) RE generation facility the area,

priority dispatch shall be given to the RE generation facility with the least-cost True Cost of Generation Rate (TCGR), inclusive of cash generation-based incentive, if availed of by the RE Developer.

RULE 4
MANDATED PARTICIPANTS AND FRAMEWORK FOR COMPLIANCE

Section 12. Mandated Participants. Unless otherwise provided, the following are mandated to comply with the Minimum Annual RE Generation/RPS Off-Grid Requirements as prescribed in this Circular:

- (a) Generation Companies including NPC-SPUG, NPPs, and MGSPs;
- (b) DUs and Local Government Unit/s (LGU/s) operating electric system/s in off-grid areas; and
- (c) Other entities which may later be identified by the DOE.

Section 13. Framework of RPS Compliance. All Mandated Participants, as described below, shall comply with their obligations under Section 12 of the RE Act and this Circular:

- (a) *Case 1. A Missionary and Off-Grid Area with Single DU and Single Generation Company.* The Generation Company, in coordination with the host DU or LGU-operated electric systems, shall:
 - (i) Determine the Optimal Supply Mix; and
 - (ii) Prepare and implement the RPS Requirements and Compliance Plan.

The required volume or percentage of RE generation based on the Optimal Supply Mix, shall be the minimum annual RE Generation requirements of the Generation Company.

The same shall be applicable to NPC-SPUG and MGSPs with respect to their respective service areas.

- (b) *Case 2. A Missionary and Off-Grid Area with Single DU and Multiple Generation Companies.* The host DU shall:
 - (i) Determine the Optimal Supply Mix; and
 - (ii) Prepare and implement the RPS Requirements and Compliance Plan.

The required volume or percentage of RE generation based on the Optimal Supply Mix shall be shared pro-rata to all Generation Companies, based on the contracted energy (MWh) of each Generation Company, which shall

serve as basis of the Generation Companies' respective minimum annual RE Generation requirements.

- (c) *Case 3. A Missionary and Off-Grid Area with Multiple DUs and Multiple Generation Companies.* NEA and/or TransCo, in coordination with the Mandated Participants, and in consideration of the total power supply requirements of the concerned off-grid area, shall:
- (i) Determine the Optimal Supply Mix; and
 - (ii) Assist the preparation and implementation of the RPS Requirements and Compliance Plan.

The required volume or percentage of RE generation based on the Optimal Supply Mix shall be shared pro-rata to all Generation Companies, based on the contracted energy (MWh) of each Generation Company per DU, which shall serve as basis of the Generation Companies' respective minimum annual RE Generation requirements.

Section 14. Compliance Mechanisms. The Mandated Participants may use the generated RECs from any of the following:

- (a) RE generation by NPC-SPUG from its own or contracted RPS Eligible RE Facilities;
- (b) RE generation supplied by MGSP or NPP from its own or contracted Eligible RE Facilities;
- (c) Generation from embedded RE generation facilities of the DUs;
- (d) Purchased or acquired RECs from the RE Market; and
- (e) Such other mechanisms, including but not limited to distributed RE resources, to be determined by the DOE upon recommendation of the RPS Composite Team (RPSCT), and in consultation with the stakeholders.

Section 15. General Guidelines for the Operationalization of the RPS Off-Grid Rules. To ensure the efficient and successful operationalization of the Revised RPS Off-Grid Rules, all Mandated Participants shall be guided by the following:

- (a) Mandated Participants shall ensure the compatibility of eligible RE Facilities with existing plants and transmission or distribution systems in the Missionary and Off-Grid Areas, as well as determine the associated support and protection requirements;
- (b) Mandated Participants, in coordination with their host DLIs, have the option to contract its minimum RPS requirements or construct their own RE Facilities for its compliance. For clarity, the corresponding MW and MWh quantities of said RE Facilities shall be included in the PSPP of the concerned DU;

(c) For RE Developers/Generation Companies:

- (i) RE Developers which have acquired or are in possession of the appropriate RE Contracts with the DOE are qualified to bid or participate in the competitive procurement of any DU as they are considered as potential NPPs under DOE Circular No. DC2019-01-0001 and other subsequent issuances by the DOE;
- (ii) RE Developers with the most advantageous RE subsidy offer that will redound to a higher net reduction in the UC-ME requirement of the Missionary and Off-Grid Areas, inclusive of the cash generation-based incentive if availed, shall be awarded the pertinent PSA;
- (iii) All PSAs and MGSP Service Contracts that have been procured and executed prior to the effectivity of DC No. DC2018-08-0024 shall be recognized until their expiration while those that have been filed and pending before the ERC before the effectivity of said DC shall be recognized based on ERC's decision;
- (iv) Any additional RE generation needed that are beyond the existing contractual agreements shall comply with the CSP Policy;
- (v) Generation Companies may amend their existing contractual agreements by displacing contracted energy using fossil fuels with RE-based generation: *Provided*, That the concerned Generation Company/ies shall forego their existing conventional generating plant/s: *Provided*, further, That the resulting electricity rates shall be duly approved by the ERC, consistent with Section 22 of this Circular; and
- (vi) Generation Companies and/or NPPs that are currently operating conventional and fossil-fired power plants may enter into back-to-back contract with any RE Developer for purposes of complying with the minimum Off-Grid RPS requirements: *Provided*, That the agreement shall comply with the regulatory framework to be issued by the ERC under Section 22 of this Circular.

(d) For DUs/LGU-Owned Electric Systems:

- (i) The host DU/LGU-Owned Electric Systems, in coordination with the Generation Company/ies within its franchise area, shall facilitate timely conduct of the CSP consistent with the off-grid area's Optimal Supply Mix and future PPSP of the concerned off-grid area;

- (ii) DUs/LGU-Owned Electric Systems, with the assistance of the SGSO, shall conduct a system or distribution impact study for each proposed RE generation facility, which shall comply with the applicable provisions of the Philippine Small Grid Guidelines (PSGG) and Philippine Distribution Code (PDC), to ensure stability and reliability of the grid;
- (iii) DUs/LGU-Owned Electric System have the option to develop their own RE generation facility: *Provided*, That the DU shall register as an RE Developer with the DOE. In case of a joint venture, the DU shall conduct a CSP for the development and/or operation of its RE generation project;
- (iv) DUs/LGU-Owned Electric System may enter into a joint venture for the installation and operation of microgrid systems pursuant to, and subject to the conditions under Section 15 of the Microgrid Systems Act and NEA Guidelines;
- (v) The DU/LGU-owned Electric System, as supported by results of System/Distribution Impact Study to maintain reliability and security of the grid, may apply for exemption under Section 2.2.1.3 of DC No. DC2021-09-0030 for embedded generation facility utilizing indigenous resources with capacity of 10 MW for Luzon and 5 MW each for Visayas and Mindanao; and
- (vi) DUs/LGU-Owned Electric System shall integrate in their DDPs the RPS Requirements and Compliance Plan per Missionary and Off-Grid Areas, which shall include, among others: Optimal Supply Mix; Minimum Annual RPS Requirements; proposed/potential RE generation facility; procurement timeline; and estimated commercial operation of the proposed/potential RE generation facility.

RULE 5 COMPOSITE TEAM

Section 16. Creation of Composite Team. For the purpose of overseeing the implementation of this Circular, a Composite Team is hereby created. The representatives from NEA and TransCo shall serve as resource persons and/or observers to the RPSCT.

The DOE Legal Services shall provide legal assistance and support to the RPSCT in cases of disputes arising from compliance under this Circular or such other legal issues that may be referred to Legal Services in connection with the interpretation of this Circular.

The Technical Services Management Division of the REMB shall provide technical and administrative support to the RPSCT.

Section 17. Responsibilities of the Composite Team. The RPSCT shall:

- (a) Evaluate and monitor the RPS Requirements and Compliance Plan per Mandated Participant;
- (b) Validate the RPS Requirements and Compliance Plan consistent with the minimum annual RPS requirements per Missionary and Off-Grid Areas under Section 13 of this Circular;
- (c) Submit a Compliance Report of Mandated Participants to the DOE Secretary, ERC and NREB, after the review and validation of the pertinent information gathered from the RE Registrar; and
- (d) Perform such other responsibilities and roles as directed by the DOE Secretary through a separate issuance.

RULE 6

TIMELINE OF IMPLEMENTATION AND CARRY-OVER OF RPS COMPLIANCE

Section 18. Implementation Period. The Compliance Year 1 per Missionary and Off-Grid Areas shall be based on the Mandated Participant's submitted RPS Requirements and Compliance Plan, duly evaluated and validated by the DOE through the RPSCT.

Section 19. Carry-Over of Compliance. The DOE may allow a Mandated Participant to carry-over its RPS compliance shortfall in any given year to the next succeeding year only, in accordance with the procedure below.

The request to carry-over the RPS compliance shall be addressed to the RPSCT with the following supporting documents:

- (a) Proof of over-contracting and/or existence of force majeure:
 - (i) If the request is based on over-contracting, the Mandated Participant's Power Supply-Demand Outlook for the ten (10)-year planning period, status of Power Supply Agreements (PSAs) filed before the Energy Regulatory Commission (ERC), and other relevant data and information which establish that the Mandated Participant's compliance with the minimum annual RPS requirement will result in over-contracting of power supply contracts.
 - (ii) If the request is based on force majeure, a certification from the RE Registrar confirming that in the Compliance Year subject of the request,

circumstance/s beyond the control of the Mandated Participant exist/s, as follows:

- (1) That the supply from Eligible RE Facilities are inadequate to meet the Optimal Supply Mix;
 - (2) That the supply of RECs is inadequate to meet the RPS requirement; and/or
 - (3) That there is unavailable capacity from the transmission and/or relevant distribution network to transport the Eligible RE Facilities to the Missionary and Off-Grid Areas.
- (iii) If the circumstances cited as force majeure are not among those mentioned in the immediately preceding subsection, proof establishing a causal relation between circumstance, consideration, or condition, economic or otherwise, and the Mandated Participant's RPS compliance shortfall, with a narrative of the Mandated Participant's efforts to comply with the RPS requirement.
- (b) RPS Compliance Plan for the one (1)-year carry-over period (i.e., RPS requirement for the year plus RPS compliance shortfall) duly adopted by the Mandated Participant through Board Resolution or its equivalent, as certified by its Corporate Secretary or its President, if unincorporated.

Upon recommendation of the RPSCT, the DOE may approve the request and the RPS Compliance Plan. The request to carry-over RPS compliance shall be deemed approved by the DOE after the lapse of sixty (60) days from submission of complete supporting documents: *Provided*, That from the date of the notice to the Mandated Participant to rectify its submission, the 60-day period shall be paused and shall continue to run only on the date of submission of the rectified documents.

RULE 7

REPORTORIAL REQUIREMENTS, PROHIBITED ACTS AND SANCTIONS

Section 20. Reportorial Requirements. The Mandated Participants shall submit compliance reports to the DOE no later than 15 March of each year. In the case of DUs, all data sets and information shall be consistent with their most recent DDP submission. Pursuant to Section 35 of the RE Act, the DOE shall impose appropriate sanctions against any Mandated Participant for non-compliance or violation of this Circular, including non-submission of any of the following documents per Missionary and Off-Grid Areas:

- (a) 10-Year Power Supply-Demand Situation;

- (b) Optimal Supply Mix Simulations;
- (c) RPS Requirements and Compliance Plan;
- (d) Power Supply Agreements and Details; and
- (e) Other data sets and information deemed necessary by the DOE to establish and monitor a database required for the implementation of the Revised RPS Off-Grid Rules.

Section 21. Penalties for Non-Compliance. Consistent with Section 35 of the RE Act and Section 35 of its IRR and this Circular, the following administrative and criminal sanctions may be imposed:

- (a) *Administrative Liability.* In accordance with Section 36 of the RE Act and Section 36 of its IRR, the DOE may impose a penalty ranging from a minimum of One Hundred Thousand Pesos (P100,000.00) to Five Hundred Thousand Pesos (P500,000.00) or, upon its discretion, may recommend to the appropriate government agency the revocation of the Mandated Participant's license, franchise, or authority to operate.
- (b) *Criminal Liability.* In accordance with Section 36 of the RE Act and Section 38 of its IRR, any person who fails to comply with or violates the RPS Off-Grid Rules shall be imposed the penalties provided under the RE Act. Any person who wilfully aids or abets the commission of such violation or failure 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/s, president, chief operating officer, chief executive officer, director/s or officer/s responsible for the violation.

The failure of such person/s to comply with the RPS Off-Grid Rules, upon conviction thereof, shall be meted the penalty of imprisonment of one (1) year to five (5) years, or a fine ranging from a minimum of One Hundred Thousand Pesos (PhP100,000.00) to One Hundred Million Pesos (PhP100,000,000.00), 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 DENR or any other concerned government agency.

The DOE Rules of Practice and Procedure shall be applicable to cases for the imposition of the foregoing penalties until such time that the DOE issues rules and

regulations on administrative actions for violations of the RPS Rules.

In no case shall a fine or penalty imposed on a Mandated Participant be charged to any of its customers or be considered a substitute for compliance.

RULE 8 FINAL PROVISIONS

Section 22. Regulatory Support. The ERC shall, within sixty (60) calendar days from the effectivity of this Circular, develop a regulatory framework for the Revised RPS Off-Grid Rules in consideration of the following, among others:

- (a) Impact of the RPS Off-Grid compliance with the existing contractual agreements such as displacement of fossil fuels with RE-based generation, rationalization of UC-ME subsidy, potential stranded assets and stranded contract costs;
- (b) Potential impacts and corresponding attendant costs arising from a Mandated Participant's compliance with its minimum annual RPS requirements consistent with the Optimal Supply Mix of the concerned Missionary and/or Off-Grid Area; and
- (c) Cost recovery mechanisms, when applicable.

To ensure that the objectives of this Circular are met, the DOE and ERC shall conduct regular coordination meetings, to be called by either of the two (2) agencies.

Section 23. Information, Education and Communication (IEC) Activities. Pursuant to Section 31 of the IRR of the RE Act, the DOE shall develop a comprehensive IEC campaign that is designed to increase the public awareness and appreciation of the Revised RPS Off-Grid Rules and the RE industry, in general.

Section 24. Non-Diminution of Vested Rights. No provision of this Circular shall be construed as diminishing or impairing any right vested by virtue of existing laws, contracts, or agreements.

Section 25. 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 26. Repealing Clause. This Circular repeals DC No. DC2018-08-0024. Moreover, all previous issuances, rules and regulations inconsistent with this Circular are hereby repealed, amended or modified accordingly.

Section 27. Effectivity. This Circular shall take effect fifteen (15) days after its publication in at least two (2) newspapers of general circulation. A copy of this Circular shall be filed with the University of the Philippines Law Center – Office of the National Administrative Register.

Issued this ___ day of May 2023 at the DOE, Energy Center, Rizal Drive cor. 34th St., Bonifacio Global City, Taguig City.


RAPHAEL P.M. LOTILLA
Secretary



MAY 23 2023