

## Department Circular 2000-03-004

### FURTHER AMENDING ENERGY REGULATIONS NO. 1-95 DATED JANUARY 2, 1995 ENTITLED "RULES AND REGULATIONS IMPLEMENTING EXECUTIVE ORDER NO.215 ON PRIVATE SECTOR PARTICIPATION IN POWER GENERATION" AS AMENDED BY DEPARTMENT CIRCULAR NO. 97-01-001 DATED JANUARY 21, 1997

**WHEREAS**, Executive Order No. 215 issued on July 10, 1987 allows the participation of private sector in power generation;

**WHEREAS**, the Department of Energy (the DOE) encourages the participation of the private sector in the power generation business consistent with the said Executive Order;

**WHEREAS**, the DOE recognizes the unique contribution to be made by Renewable Resource Power Production Facilities (RRPPF) also known as the New and Renewable Energy Facilities (NREF) in the country's generation mix and in meeting rural electrification targets;

**WHEREAS**, there is an imperative need to facilitate and enhance the participation of RRPPF/NREF in power generation in view of the country's growing electricity requirement;

**NOW, THEREFORE**, the DOE hereby adopts and promulgates the following amendments to Energy Regulations No. 1-95 as amended by Department Circular No. 97-01-001;

**Section 1.** Part I, Article IV, Section I of Energy Regulations No. 1-95 as amended by Department Circular No. 97-01-001 is hereby amended to read as follows:

"Section 1. Contents of the Application. The contents of applications for accreditation as a qualified Private Sector Generation Facility (PSGF) should generally contain the following information:

- a. Name and address of the applicant and location of the proposed facility;
- b. Project organizational set-up;
- c. Names of cooperative/participating companies, equity participation, incorporation documents, audited financial statements for the last two fiscal years, and records of successful experience in similar activities over the last five (5) years;
- d. Project financing plans;
- e. Administrative and technical manpower complements;
- f. Facility classification and general plant description;
- g. Sale of PSGF generation (whether generation is solely for sale to the grid, dedicated to an electric utility, or for internal use with provision for sale of excess power to the grid);
- h. Projected mode of operation (base load or peaking);
- i. Power and annual energy production capacity (in kW and kWh).

- respectively) of the proposed facility;
- j. Primary energy source (fuel) of the facility, heating value and net plant rate;
  - k. Projected forced outage rate, maintenance days, dependable capacity and station energy use;
  - l. Projected economic life of project and proposed duration of interconnection /cooperation period;
  - m. Interconnection plans with NAPOCOR or other electric utility;
  - n. Detailed project timetable, including target periods for financial closing, groundbreaking, installation of major plant equipment, testing and commissioning of the facility;
  - o. Any other information as may be required under the specific provisions of Parts II, III, IV or as may be deemed necessary by the EIAB for evaluation purposes.

However, records of successful experience in similar activities over the last five (5) years as requisite in Item c. above shall not be required for RRPPF/NREF projects provided that:

1. the technology being proposed has already achieved commercial status and can be demonstrated to be adaptable to local conditions; or
2. the project is being developed for purposes of self-generation, and the developer demonstrates the capability to provide or the financial capacity to retain the competent technical and financial capabilities necessary to implement to proposed project; or
3. if the project is being developed by a utility or independent power producer, the developer demonstrates the capability to provide or the financial capacity to retain the competent technical and financial capabilities necessary to implement the proposed project."

**Section 2.** Part I, Article VI, Section 3 of the same Energy Regulations as amended by Department Circular No. 97-01-001 is hereby amended to read as follows:

"SECTION 3. Provision on Spinning Reserve. The owner of the PSGF shall maintain a continuous spinning reserve at all times to the extent possible and under terms to be agreed upon with NAPOCOR or the concerned electric utility. However, this provision on spinning reserve shall not apply to RRPPF/NREF projects if:

1. the project is not connected to either the national backbone grid, or regional or island mini-grids; or
2. the project is connected to a regional or island mini-grid powered by conventional generation reasonably capable of load following, e.g., peaking or intermediate diesel generation plants.

Further, if the RRPPF/NREF project is proposed for connection to the national backbone grid, the provision on spinning reserve shall be subject to negotiation with the transmission system operator or from any future regulatory body overseeing the

operations of the transmission grid system."

**Section 3.** Part II, Article II, Section 3 of the same Energy Regulations as amended by Department Circular No. 97-01-001 is hereby amended to read as follows:

"SECTION 3. Cogeneration Facilities Utilizing Renewable Energy Sources. Cogeneration facilities utilizing renewable energy forms as its primary energy source or utilizing renewable energy sources and fossil fuels, either through a blend, combination, or alternating use of such fuels, shall be classified as Renewable Resource Cogeneration Facilities for of accreditation as qualified PSGFs. Renewable Resource Cogeneration Facilities shall not be subject to the minimum thermal efficiency standards required for cogeneration facilities under Section 2 of this Article."

**Section 4.** Part I, Article III, Section 6 of the same Energy Regulations as amended by Department Circular No. 97-01-001 is hereby further amended to read as follows:

"SECTION 6. Economic Criteria. Any proposed electric generating facility should submit to EIAB at least a ten-year power supply agreement for capacity and energy between NAPOCOR and/or the electric utility that will be served by the facility to enable to EIAB to determine that said facility satisfies incremental load/demand, and should be able to demonstrate its potential for providing net foreign exchange savings to the country, by virtue of:

- a. generating electric energy more efficiently or cheaper than can otherwise be generated by existing or programmed generation facilities under the power development plans of NAPOCOR and/or other electric utilities; and /or
- b. accessing lower costs of capital, cheaper plant investment, and/or locally manufactured equipment."

However, proposed RRPPF shall not be required to submit the above power supply agreement to EIAB but should be able to demonstrate its potential for providing net foreign exchange savings to the country, by virtue of using indigenous and/or

renewable energy sources."

**Section 5.** Part III, Article I, Section 2 of the same Energy Regulations as amended by Department Circular No. 97-01-001 is hereby further amended to read as follows:

"Section 2. Formulation and Submission of Power Development Plans of NAPOCOR and/or Other electric Utilities. Pursuant to Section 1 of Article I and Sections 1 and 2 of Article II, Part I, the DOE shall require NAPOCOR and/or individual electric utilities to submit power development programs covering a ten-year period, for the DOE's review and approval.

NAPOCOR shall submit to the DOE an annual update of its Power Development Program (PDP) on or before the first day of June 1997 and every year thereafter.

Such submissions should include NAPOCOR's system load forecasts and generation requirements, resource and technology assessments and evaluations, cost assumptions and other technical parameters, and the resulting system expansion plans for NAPOCOR's major and small-island power grids. NAPOCOR submissions should identify power generation projects to be undertaken through private sector participation, the justification for such, and the indicative timetables for undertaking prequalification of interested private sector entities, tendering of bids, evaluation, and award of private power contracts for each of the projects identified.

Individual electric utilities seeking to implement or contract the implementation of generation projects shall be required to enter long-term power supply agreements for capacity and energy of at least ten years with NAPOCOR to facilitate NAPOCOR's systems planning activities.

Such electric utilities shall submit to the DOE their individual or combined long-term power development plans which shall contain an efficient portfolio or generation (including projected power purchases from NAPOCOR and qualified PSGFs) and demand-side resources on or before 30 April 1997 and every year thereafter, for the DOE's review and approval.

However, RRPPF/NREF projects intending to provide electricity to an electric utility or for internal use or exclusive use by an identified customer shall not be required to submit to the DOE its long-term power supply agreement with NAPOCOR and its DOE-approved power development plan.

Accordingly, with the exception of RRPPF/NREF projects mentioned above, no application for accreditation of any proposed electric generating facility for an electric utility shall be entertained by the DOE without the concerned utility's long-term power supply agreement with NAPOCOR and its DOE-approved power development plan.

NAPOCOR and/or other electric utilities shall inform and seek the DOE's prior approval to implement generation projects not included in the approved development plans."

**Section 6.** This Circular shall take effect immediately a day after its complete

publication in at least two (2) newspapers of general circulation.

Fort Bonifacio, Taguig, Metro Manila, 17 March 2000.

Witnessed by:

(sgd)

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(sgd)

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