



DEPARTMENT CIRCULAR NO. DC 2024-03-0009

**DECLARING THE COMMERCIAL OPERATIONS DATE OF RETAIL
COMPETITION AND OPEN ACCESS (RCOA) AND GREEN ENERGY OPTION
PROGRAM (GEOP) IN MINDANAO**

WHEREAS, Republic Act (RA) No. 9136, titled “Electric Power Industry Reform Act of 2001” or the EPIRA, declares the policy of the State, among others, to ensure the quality, reliability, security, and affordability of the supply of electric power and to ensure transparent and reasonable prices of electricity in a regime of free and fair competition and full public accountability to achieve greater operational and economic efficiency and enhance the competitiveness of Philippine products in the global market;

WHEREAS, Section 31 of the EPIRA mandates that retail competition and open access on distribution wires shall be implemented not later than three (3) years upon the effectivity of the law, subject to the fulfillment of the conditions stipulated therein;

WHEREAS, Section 37 of the EPIRA mandates the Department of Energy (DOE) to, among others, supervise the restructuring of the electric power industry; facilitate and encourage reforms in the structure and operations of distribution utilities for greater efficiency and lower costs; jointly with the electric power industry participants, establish the wholesale electricity spot market and formulate the detailed rules governing the operations thereof; and exercise such other powers as may be necessary or incidental to attain the objectives of the EPIRA;

WHEREAS, on 09 May 2012, upon declaration by the Energy Regulatory Commission (ERC) of the fulfillment of the conditions set in Section 31 of the EPIRA, the DOE promulgated Department Circular (DC) No. DC2012-05-0005, titled “Prescribing the General Policies for the Implementation of the Retail Competition and Open Access (RCOA)”, integrating RCOA in the Wholesale Electricity Spot Market (WESM) and providing specific policies to operationalize RCOA concepts such as customer empowerment or customer choice, the business of supply of electricity, supplier, supplier of last resort, and membership in the WESM, among others;

WHEREAS, RA 9513 or the “Renewable Energy Act of 2008” declares the policy of the State to, among others, accelerate the exploration and development of renewable energy resources such as, but not limited to, biomass, solar, wind, hydro, geothermal and ocean energy sources, including hybrid systems, to achieve energy self-reliance, through the adoption of sustainable energy development strategies to reduce the country’s dependence on fossil fuels and thereby minimize the country’s exposure to price fluctuations in the international markets;

WHEREAS, Section 9 of RA 9513 mandates that the DOE shall establish a Green Energy Option program which provides end-users the option to choose RE resources as their sources of energy. In consultation with the National Renewable Energy Board (NREB), the DOE shall promulgate the appropriate implementing rules and regulations which are necessary, incidental or convenient to achieve the objectives set forth under the said law;

WHEREAS, on 18 July 2018, the DOE issued DOE DC No. DC2018-07-0019, titled “Promulgating the Rules and Guidelines Governing the Establishment of the Green Energy Option Program pursuant to Renewable Energy Act of 2008”, establishing the GEOP and allowing stakeholders in the electric power industry to contribute to the development and utilization of clean energy, particularly, RE, in the country;

WHEREAS, in compliance with the provisions of RA 9136 and RA 9513, RCOA, and GEOP were implemented on a voluntary basis in Luzon and Visayas on 26 June 2013 and 03 December 2021, respectively;

WHEREAS, on 26 January 2023, WESM in Mindanao commenced commercial operations pursuant to DOE DC No. DC2022-12-0039, titled “Declaring the Commercial Operation of the Wholesale Electricity Spot Market (WESM) in the Mindanao Grid”, which will ensure a fair playing field for electricity investors and access to a competitively priced, stable, and reliable electricity supply for consumers;

WHEREAS, the establishment of WESM in Mindanao will help facilitate the implementation of policy mechanisms that promote competition and customer choice through RCOA and GEOP;

WHEREAS, the DOE, cognizant of the readiness of the Mindanao Grid for the commercial operation of RCOA and GEOP, drafted a circular and posted the same on the DOE website on 15 May 2023 to solicit comments and recommendations;

WHEREAS, to provide a better understanding and awareness among the public on the implementation of RCOA and GEOP and on the draft circular, the DOE, in collaboration with the ERC and with support from the Independent Electricity Market Operator of the Philippines (IEMOP) and the Philippine Electricity Market Corporation (PEMC), conducted a series of information, education, and communication campaigns and public consultations with Mindanao stakeholders in the following areas and dates:

Area	Date
Davao City	18 May 2023
Zamboanga	20 June 2023
Butuan	04 July 2023
Cagayan de Oro	18 July 2023
General Santos City	30 August 2023

NOW, THEREFORE, based on the foregoing premises and in consideration of the comments and recommendations received from stakeholders on the proposed implementation of RCOA and GEOP in Mindanao, the DOE hereby issues, adopts and promulgates the following:

Section 1. Declaration of the Commercial Operations of RCOA and GEOP in Mindanao. The DOE hereby declares 26 March 2024 as the commencement date of the commercial operations of RCOA and GEOP in the Mindanao Grid. For this purpose, the following guidelines shall be observed:

- 1.1 All electricity end-users whose average peak demand falls within the threshold for contestability set by the ERC shall be allowed, on a voluntary basis, to source their electricity supply from a Retail Electricity Supplier (RES). Electricity end-users whose average peak demand does not fall within the contestability

threshold, but are nevertheless interested to participate in RCOA, may participate as part of an aggregated demand in accordance with prevailing ERC rules on demand aggregation;

- 1.2 All electricity end-users in the Mindanao Grid whose average peak demand falls within the threshold set by DOE for participation in the GEOP shall be allowed, on a voluntary basis, to source their electricity supply from a Renewable Energy Supplier (RE Supplier), subject to applicable rules and regulations;
- 1.3 The migration of eligible electricity end-users under the RCOA or GEOP shall be governed by applicable procedures under the WESM Rules, Retail Rules and Market Manuals, and other relevant issuances by the DOE and ERC;
- 1.4 Prior to the commercial operations date as provided herein, the ERC, Market Operator (MO)/Central Registration Body (CRB), WESM Governance Arm (WGA), Distribution Utilities (DUs), Network Service Providers (NSPs) and Metering Service Providers (MSPs) shall ensure the readiness of all requisites in the full implementation of RCOA and GEOP as provided under applicable rules and regulations; and
- 1.5 In coordination with the ERC, the MO/CRB, DUs, NSPs, MSPs and other relevant entities, the DOE shall conduct training and orientation to ensure the familiarization of all stakeholders with applicable procedures, guidelines, rules and regulations in the implementation of RCOA and GEOP in Mindanao.

Section 2. Treatment of DUs' Displaced Contract Capacity or Energy (DCC/E) Arising from the Migration of Customers under RCOA and GEOP. Any DU which may incur DCC/E shall inform the ERC, copy furnish the DOE, of its DCC/E. Towards this end, the ERC, in the exercise of its functions under the EPIRA, shall ensure the adjustments of the DUs' power supply contracts through any of the following mechanisms:

- 2.1 Invoke adjustment provisions, if any, in the power supply agreements (PSAs) for the adjustment of contracted capacity or energy due to migration under RCOA or GEOP;
- 2.2 In cases where PSAs of DUs do not contain provisions on the reduction of contracted capacity or energy, renegotiate the reduction of contracted capacity or energy as may be allowed by the ERC, subject to applicable rules and regulations, provided, that the proposed reduction shall comply with least-cost provisions under the EPIRA;
- 2.3 Auction the DCC/E to other DUs or RES, subject to ERC rules and regulations;
- 2.4 Declare the DCC/E in the WESM as quantities for sale, subject to ERC's applicable rules and regulations; or
- 2.5 Explore other means to reduce the DCC/E, provided, that, it shall comply with the least cost provisions of the EPIRA and shall not discriminate against or unduly increase the generation charges of the DU's remaining Captive Customers.

DCC/E shall refer to the excess in the contracted capacity or energy of a DU from a

generation company, resulting from the unutilized volume of capacity or energy attributable to migrating Contestable and GEOP Customers.

The capacity or energy remaining with the DU shall be adequate to supply the power requirements of its Captive Market including the DU's demand growth.

The ERC shall closely monitor all measures taken by the DU on transactions involving the DCC/E, such that any anti-competitive behavior or abuse of market power shall be dealt with accordingly.

Section 3. Responsibilities of the Energy Agencies and Stakeholders. Pursuant to their respective mandates and functions under the EPIRA and its Implementing Rules and Regulations, the WESM Rules and Manuals, and other relevant laws and issuances, the CRB, WGA, National Electrification Administration, National Transmission Corporation, National Grid Corporation of the Philippines, DUs and other concerned stakeholders in Mindanao are enjoined to extend their full support and cooperation in the commercial operation of RCOA and GEOP and voluntary participation of qualified electricity end-users in the RCOA and GEOP in Mindanao.

Section 4. Regulatory Support. For the proper implementation of the policies set herein, the ERC is hereby enjoined to render the necessary regulatory support to ensure the timely and successful implementation of the commercial operation of RCOA and GEOP in Mindanao to include but not limited to:

- 4.1 Review and render decisions on all applications for the adjustments in the DU's PSAs as may be necessary, in accordance with Section 2 of this Circular;
- 4.2 Licensing of the Suppliers;
- 4.3 Approval of the cost recovery by relevant entities in putting up systems and facilities required to implement the provisions of this Circular; and
- 4.4 Promulgation of rules and regulations, including penalties, to ensure a competitive and level playing field in RCOA and GEOP.

Section 5. Repealing Clause. The provisions of other circulars, orders, issuances, rules, and regulations which are inconsistent with the provisions of this Circular, are hereby repealed, amended, modified, or superseded accordingly.

Section 6. Separability. If, for any reason, any section or provision of this Circular is declared unconstitutional or invalid, such parts not affected shall remain valid and subsisting.

Section 7. Effectivity and Publication. This Circular shall take effect immediately upon its publication in two (2) newspapers of general circulation. A copy of this DC shall be filed with the University of the Philippines Law Center – Office of National Administrative Register (UPLC-ONAR).

Issued this MAR 01 2024 at the DOE, Energy Center, Rizal Drive cor. 34th Street, Bonifacio Global City, Taguig City.


RAPHAEL P.M. LOTILLA
Secretary

