



DEPARTMENT CIRCULAR NO. DC2022-06-0019 *p*

**DECLARING THE INTERIM COMMERCIAL OPERATIONS
OF THE RENEWABLE ENERGY MARKET**

WHEREAS, Republic Act (RA) No. 7638, otherwise known as the "*Department of Energy (DOE) Act of 1992*," declares as a policy of the State to, among others, ensure the 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, RA No. 9136 otherwise known as the "*Electric Power Industry Reform Act of 2001*," or "*EPIRA*," declares as a policy of the State to, among others, ensure the quality, reliability, security and affordability of the supply of electric power;

WHEREAS, Section 37, Chapter III of EPIRA mandates the DOE to encourage private sector investments in the electricity sector and promote the development of indigenous and RE resources;

WHEREAS, RA No. 9513, otherwise known as the "*Renewable Energy Act of 2008*" or the "*RE Act*," declares as a policy of the State to increase the utilization of renewable energy (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 non-fiscal incentives;

WHEREAS, Section 6 of the RE Act states that all stakeholders in the electric power industry shall contribute to the growth of the RE industry of the country. Towards this end, the National Renewable Energy Board (NREB) shall set the minimum percentage of generation from eligible RE resources and determine to which sector the Renewable Portfolio Standards (RPS) shall be imposed on a per grid basis;

WHEREAS, Section 8 of the RE Act and Section 10 of its Implementing Rules and Regulations (IRR) state that the DOE shall establish the Renewable Energy Market (REM) and shall direct the Philippine Electricity Market Corporation (PEMC) to implement changes to the Wholesale Electricity Spot Market (WESM) Rules in order to incorporate the rules specific to the operation of the REM under the WESM;

WHEREAS, Section 8 of the RE Act and Section 11 of its IRR state that the PEMC shall, under the supervision of the DOE, establish and operate the Renewable Energy Registrar (RER) and shall issue, keep, and verify RE Certificates (RECs) corresponding to energy generated from eligible RE facilities, which shall be used by Mandated Participants for compliance under the RPS;

WHEREAS, on 22 December 2017 and 24 August 2018, the DOE issued Department Circulars (DC) Nos. DC2017-12-0015 and DC No. DC2018-08-0024, promulgating the rules and guidelines governing the establishment of the RPS Rules for On-Grid Areas and RPS Rules for Off-Grid Areas, respectively;

WHEREAS, on 04 December 2019, the DOE issued DC No. DC2019-12-0016, "**PROMULGATING THE RENEWABLE ENERGY MARKET RULES**", otherwise known as the "REM Rules" to establish the basic rules, requirements and procedures that govern the operation of the REM;

WHEREAS, Section 2 of the REM Rules prescribes that the PEMC for the establishment of the REM and the development of the Philippine Renewable Energy Market System (PREMS) shall perform the RER functions, *Provided*, That no later than one (1) year from the start of commercial operations of the REM, the functions, assets and liabilities of PEMC in performing the RER functions shall be transferred to the entity performing market operations;

WHEREAS, Section 4 of the REM Rules prescribe that the REM Governance Committee (RGC) shall, among others, oversee and monitor the activities of the RER with regard to the REM processes to ensure that the REM participants and Mandated Participants comply with the REM Rules;

WHEREAS, Section 5(d) of the REM Rules prescribes that prior to the commencement of the REM, corresponding changes to the WESM Rules shall have been implemented by the PEMC to facilitate the operation of the REM in relation to the WESM;

WHEREAS, Section 5(a) of the REM Rules prescribes that PEMC shall submit, for approval, to the DOE the following: (1) Readiness Criteria consisting of the activities and scenarios necessary to enable the effective implementation of the REM; and (2) Certification on the level of compliance of all REM Participants and Mandated Participants in the Readiness Criteria for the commencement/operationalization of the REM, including a recommendation as to whether or not the Readiness Criteria have been met;

WHEREAS, Section 5(a) of the REM Rules further prescribes that the start of the commercial operations of the REM shall be based on the Department's validation and verification of PEMC's certification and recommendation as to whether or not the activities identified in the Readiness Criteria have been completed;

WHEREAS, on 09 July 2021, the DOE issued DC No. DC2021-07-0024, "**ADOPTING FURTHER AMENDMENTS TO THE WHOLESALE ELECTRICITY SPOT MARKET (WESM) RULES FOR THE OPERATION OF THE RENEWABLE ENERGY MARKET**", to harmonize the WESM Rules and Retail Rules with the policies stipulated in Section 8 of the RE Act and the REM Rules as well as to enable the RER to carry out its functions in issuing RE Certificates pursuant to the RPS Rules;

WHEREAS, on 04 October 2021, the DOE issued DC No. DC2021-10-0032, **“ADOPTING THE RENEWABLE ENERGY MARKET (REM) MANUALS”**, to operationalize the relevant provisions in the REM Rules for the implementation of the REM through the four (4) manuals: REM Registration Manual; REM Allocation of RE Certificates for Feed-In Tariff (FIT) RE Generation; REM Investigation Procedures and Penalty Manual; and REM Dispute Resolution;

WHEREAS, PEMC through its letter dated 15 September 2021 certified that critical activities under the Readiness Criteria have substantially been completed while the following regulatory matters need to be established towards the anticipated full operationalization of the REM: i) REC Price Cap and Methodology; ii) Rules on the Recovery Mechanism for the cost of RPS Compliance by regulated entities; and iii) Structure and Level of Market Transaction Fees for the REM;

WHEREAS, the RPS Composite Team (RPSCT) validated and verified that critical activities under the Readiness Criteria for the commencement of interim commercial operations of the REM have been substantially completed. Thus, through its Resolution No. RPSCT2021-10-05-001, the RPSCT recommended proceeding with the declaration of the interim commercial operations of the REM wherein the RE Registrar can perform its functions except for any financial transactions, until such time that the full Commercial Operations of the REM has been declared by the DOE.

NOW, THEREFORE, premises considered, the DOE adopts the recommendation of the RPSCT and declares as follows:

Section 1. Title. This Circular shall be known as the ***“Declaring the Interim Commercial Operations of the Renewable Energy Market”***.

The Interim Commercial Operations (I-COP) of the REM, its activities and governing rules hereinafter provided shall be referred to as “REM I-COP”.

Section 2. Commencement of the REM I-COP. In consideration of the significant milestones reached in the attainment of the Readiness Criteria, and while awaiting the determination of the REC Price Cap and its Methodology, Rules on the Recovery Mechanism for the cost of RPS Compliance by regulated entities, and Structure and Level of Market Transaction Fees for the REM, the commencement of the REM I-COP is hereby declared.

The REM I-COP shall not yet involve any financial transactions, until such time that the Commercial Operations of the REM has been declared by the DOE.

Section 3. Responsibilities of the RE Registrar (RER). The RER shall perform all functions related to the following activities under the REM I-COP:

- (a) Registration and Participant Support:
 - i. Continue accepting applications for REM registration by the REM Participants to achieve one hundred percent (100%) registration; and
 - ii. Ensure availability of REM information on the Market Information Website, consistent with Section 5.1.3 of the REM Rules.

- (b) REM Awareness Activities:
 - i. Conduct REM and PREMS trainings and lectures at least twice a month for the benefit of REM Participants, electricity end-users and/or other stakeholders; and
 - ii. Publish online materials for REM and PREMS on the Market Information Website for the REM.

- (c) RPS Mandates and Computations:
 - i. Facilitate the uploading to the PREMS of gross sales data from Mandated Participants; and
 - ii. Compute the RPS requirements for a compliance period and issue preliminary and final statement reports to the Mandated Participants.

- (d) REC Data Submission and Validation:
 - i. Secure and process the data required for the full commercial operation of the REM from the Market Operator and National Transmission Corporation and upload the same to the PREMS;
 - ii. Facilitate the submission of data by Distribution Utilities with registered voluntary generators (*i.e.*, net-metered, RE for own-use, non-WESM-embedded RE generators) in the PREMS;
 - iii. Facilitate the validation of data by the REM Participants through submission of Data Validation Forms, meetings, and email exchanges;
 - iv. Address concerns and issues raised by REM Participants on their data prior to REC issuance; and
 - v. Coordinate with the data provider for any issues and concerns on the REM data.

- (e) REC Issuance and Validation:
 - i. Prepare and/or update, as necessary, the REC Manual Computation Template for the issued RECs under the FIT mechanism for reference of and use by each REM participant in validation;
 - ii. Issue RECs under the FIT and Non-FIT Compliance Mechanisms;
 - iii. Address concerns and issues raised by REM Participants on their issued RECs; and
 - iv. Adjust the issued RECs, as necessary.

- (f) REC Reports Submission:
 - i. Prepare and submit REM Reports to the DOE including the Annual REC Report required under the RPS Rules; and
 - ii. Prepare other related reports, as required by PEMC Management, RGC, PEM Board, DOE, or ERC.

- (g) Operability of the Philippine Renewable Energy Market System (PREMS):
 - i. Ensure the 99.5% availability of the PREMS and PREMS public websites;
 - ii. Propose and implement PREMS enhancements, as deemed necessary and approved by the DOE;
 - iii. Monitor the functioning of the PREMS and ensure that operational issues are immediately resolved; and
 - iv. Propose and implement PREMS public website enhancements, as deemed necessary and approved by the DOE.

- (h) Support Services to REM Governance Committee (RGC):
 - i. Provide technical and administrative support to the RGC;
 - ii. Facilitate regular meetings and other activities of the RGC;
 - iii. Facilitate the processing of the REM Rules and Manual change proposals;
 - iv. Monitor compliance of the REM Participants;
 - v. Conduct studies related to REM implementation and developments; and
 - vi. Monitor and report the completion of the items enumerated in the DOE-approved Readiness Checklist.

- (i) REM Transaction Fees:
 - i. Consistent with Section 8 of the RE Act, determine the market transaction fees, and file the same to the ERC for approval.

Section 4. Guidance on the RPS Compliance. The following shall guide the Mandated Participants of RPS in both On-Grid and Off-Grid areas:

- (a) For Mandated Participants in On-Grid Areas:
 - i. *Compliance Year 1 of the RPS On-Grid Rules.* – Year 2020 shall remain as the Compliance Year 1 of the full implementation of the RPS On-Grid Rules. For each compliance year, the compliance period shall be from 26 December of the current year to 25 December of the following year based on Section 17(m) of the RPS On-Grid Rules.¹

¹ To illustrate, the compliance period for Compliance Year 1 is from 26 December 2020 to 25 December 2021; for Compliance Year 2, 26 December 2021 to 25 December 2022; for Compliance 3, 26 December 2022 to 25 December 2023; and so on.

Based on available data and result of simulations done by the DOE through its Renewable Energy Management Bureau (REMB), all Mandated Participants were deemed compliant with their respective minimum annual RPS Requirements for Compliance Year 1-3 (2020-2022). Accordingly, the implementation of the REM-ICOP will not cause any delays to the full implementation of the RPS On-Grid Rules.

- ii. *Issuance and Validity of RE Certificates.* – RECs shall be issued by the RE Registrar corresponding to the metered generation (MWh) of RE Facilities eligible for RPS compliance starting 2018 and onwards. A REC shall be valid for three (3) years from the date the REC was issued, regardless of the date the energy component (MWh) was generated based on Section 17(i) of the RPS On-Grid Rules.²
- iii. *Suspension or Carry-Over of Compliance Shortfall.* – Upon recommendation of the RPSCT, the DOE may, in lieu of suspending compliance of a Mandated Participant, allow such Mandated Participant to carry-over the compliance shortfall for a period of three (3) years under any of the following conditions based on Section 25 of the RPS On-Grid Rules:
 - (i) Inadequate supply of the Eligible RE Facilities to meet the minimum annual RPS Requirements;
 - (ii) Inadequate supply of RECs to meet the minimum annual RPS Requirements;
 - (iii) Unavailable capacity at both the transmission and relevant distribution network to transport the power produced by the Eligible RE Facilities to the grid;
 - (iv) Occurrence or existence of a *force majeure* event affecting or preventing a Mandated Participant from complying with the minimum annual RPS Requirements, as the case may be, and that it exerted all efforts to comply therewith; or
 - (v) Such other consideration or condition, economic or otherwise, which is outside the control of a Mandated Participant as may be determined by the RPSCT.

Since the promulgation of the RPS On-Grid Rules in December 2017, the Mandated Participants were already advised to commence planning for their respective RPS compliance requirements provided under Section 26 of the RPS On-Grid Rules. Hence, a Mandated Participant needs to show, through clear and convincing proof, that the reason for its anticipated non-compliance is beyond its control and that it exerted all efforts to comply therewith.

² All RECs issued in December 2021 will be valid until December 2024; RECs issued in January 2022 will be valid until January 2025; RECs issued in February 2022 will be valid until February 2025; and so on.

- (b) For Mandated Participants in Off-Grid Areas:

Compliance Year 1 of the RPS Off-Grid Rules is suspended until further notice.

Section 5. Regulatory Support. To realize a fully functional RE Market, the Energy Regulatory Commission (ERC) is hereby enjoined to process and resolve the following, within 120 working days:

- (a) Determination and approval of the REC Price Cap and Methodology;
- (b) Rules on the Recovery Mechanism for the cost of RPS Compliance by regulated entities, are critical components for the anticipated full operationalization of the REM; and
- (c) Structure and Level of Market Transaction Fees for the REM.

Section 6. Separability Clause. If any provision in this Circular is declared invalid or unconstitutional, the other provisions not affected thereby shall remain valid and subsisting.

Section 7. 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, superseded, or modified accordingly.

Section 8. Effectivity. This Circular shall take effect fifteen (15) days after publication in 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



Issued on JUN 10 2022, at Energy Center, Rizal Drive,
Bonifacio Global City, Taguig City.