



DEPARTMENT CIRCULAR NO. DC2023-05-0015 *Qu*

PRESCRIBING THE AMENDMENTS TO DEPARTMENT CIRCULAR NO. DC2017-12-0015 OR THE RENEWABLE PORTFOLIO STANDARDS (RPS) RULES FOR ON-GRID AREAS

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

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 its efficient and cost-effective commercial application by providing fiscal and nonfiscal incentives;

WHEREAS, pursuant to Section 6 of the RE Act, the DOE upon recommendation of the National Renewable Energy Board (NREB), promulgated Department Circular (DC) No. DC2017-12-0015, titled "Promulgating the Rules and Guidelines Governing the Establishment of the Renewable Portfolio Standards for On-Grid Areas" or the "RPS On-Grid Rules";

WHEREAS, the Philippine Energy Plan (PEP) 2020-2040 and the National Renewable Energy Program (NREP) 2020-2040 have set the goal of attaining 35% RE share in power generation mix by 2030 and 50% by 2040;

WHEREAS, Sections 8 and 9 of the RPS On-Grid Rules initially set the minimum annual RE percentage increment (K_m) at one percent (1%) to be applied to the Net Electricity Sales of the Mandated Participant for the previous year, and thereafter to be adjusted by the DOE as necessary to ensure that the objectives of the RE Act are achieved;

WHEREAS, the DOE through DC No. DC2022-09-0030 issued and promulgated the Adjusted Annual Incremental RE Percentage (K_m), which effectively increased the K_m from 1% to 2.52% starting 2023 to meet the aspirational targets of increasing the RE share in the power generation mix;

WHEREAS, the DOE through DC No. DC2021-11-0036 issued and promulgated the Revised Guidelines for the Green Energy Auction Program (GEAP) in the Philippines, which is intended to provide an additional market for RE through competitive electronic

bidding of RE capacities, and at the same time support the compliance by Mandated Participants in meeting their RPS requirements;

WHEREAS, while implementing the RPS On-Grid Rules and considering the latest development in consumer empowerment, the DOE deemed it necessary to enhance the RPS policies and guidelines towards greater efficiency and effectiveness;

NOW, THEREFORE, pursuant to its authority under the RE Act and the RPS On-Grid Rules, the DOE hereby adopts, issues, and promulgates the following amendments to the RPS On-Grid Rules:

Section 1. A new term, to be designated as Section 5(k), is hereby inserted under the RPS On-Grid Rules, to be defined as follows:

“Section 5. Definition of Terms. As used in this Circular, the following terms shall be defined as follows:

xxx xxx xxx

(k) **“Generation Mix”** refers to the combination of the various fuels and technologies used to generate electric power to supply the electricity demand of a given geographic region;”

Section 2. Section 5(n) of the RPS On-Grid Rules, on the definition of “Net Electricity Sales,” is hereby amended, to read as follows:

“(n) “Net Electricity Sales” refers to the **Mandated Participant’s actual/metered energy purchased/supplied** less system losses and own-use reckoned from 26 December of the preceding year to 25 December of the current year, **consistent with Section 3 of this Circular;**”

Section 5(f) of the RPS On-Grid Rules is hereby deleted. The other subparagraphs of Section 5 are hereby renumbered accordingly.

Section 3. To clarify the prescribed parameters for calculating the minimum RPS requirement for each Mandated Participant, Section 7 of the RPS On-Grid Rules is hereby amended, to read as follows:

“Section 7. Minimum Annual RPS Requirement. The **annual incremental RE percentage** shall be computed based on the aspirational target of attaining 35% RE share in the country’s Generation Mix by 2030 and 50% by 2040, subject to review as set forth in Section 14 of the RPS On-Grid Rules.

The minimum annual RPS requirement per Mandated Participant shall be computed by the Composite Team in coordination with the NREB; *Provided*, That the annual RPS requirement for each

Mandated Participant shall be calculated in accordance with the following formula, all expressed in MWh:

$$RPS_{(n)} = ES_{(n-1)} * \sum_{m=0}^n K_m$$

Where:

- m = Year 0 to n, excluding the Transition Period
- n = the Year of the RPS requirement starting at Compliance Year 1 (**Year 2020**) and excluding Transition Period (**Year 2019**)
- RPS_(n) = RPS for the Year n for each Mandated Participant starting at Compliance Year 1 (in MWh, rounded down to the nearest MWh)
- K₀ = the percentage of total energy sales from plants under the FIT System to the total energy sales of all Mandated Participants at Year 0 (**2018**)
- K_m = Minimum Annual Incremental RE percentage, as per Section 8 of the RPS On-Grid Rules, for all Mandated Participants at year m
 - = Incremental RPS percentage requirements for the Mandated Participants in Luzon, Visayas and Mindanao shall be at **one percent (1%) for Years 2018-2022, and 2.52% starting Year 2023 onwards, until extended or modified by the DOE, based on the annual review of the Composite Team such that the Target RE Share in the power generation mix shall be achieved (K is not constant)**¹
- ES_(n-1) = Net Electricity Sales in previous Year for each Mandated Participant (in MWh, rounded down to the nearest MWh). For avoidance of doubt, ES_(n-1) at Year 1 shall be the Net Electricity Sales of Year 0. **For clarity, the following shall be excluded in the computation of ES:**
 - (a) **Sales of the Supplier under a Multiple Suppliers Arrangement/Scheme; Provided, That the concerned MWh sales**

¹ Promulgated on 23 September 2022, the minimum annual RE percentage increment was increased from 1% to 2.52% starting year 2023 under DC No. DC2022-09-0030 or the Adjusted K_m.

are already accounted in the sales of the Primary Supplier;

- (b) Corresponding MWh sales for the energy supplied to the Contestable Customer if it is already a Supplier of Last Resort (SOLR) transaction.

Year 0 shall be the year 2018, the RPS Compliance Year 1 shall be the Year 2020 and the intervening period shall be the Transition Period.

The calculation of RPS requirements for each DU shall be included as an integral part of the Distribution Development Plan.”

Section 4. Section 12 of the RPS On-Grid Rules is hereby amended, to read as follows:

“Section 12. RPS Mandated Participant. The following entities are mandated to comply with the RPS On-Grid Rules:

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All Mandated Participants, in complying with their respective RPS requirements, shall comply with the least-cost sourcing of power supply such as the Competitive Selection Process (CSP) policy and regulations set by the DOE and the Energy Regulatory Commission (ERC). **In the case of DUs, the ERC shall within sixty (60) calendar days from effectivity date of this Circular issue the rules on least-cost mandate with respect to the procurement of RE generation supply for their Captive Market, as part of complying with their minimum RPS requirements.”**

Section 5. To clarify RPS compliance mechanisms, Section 15(f) of the RPS On-Grid Rules is hereby inserted, to read as follows:

“Section 15. Compliance Mechanisms. In complying with the Rules, the Mandated Participant shall use Renewable Energy Certificates (RECs) from any, a combination, or all of the following:

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- (f) Such other mechanisms, including but not limited to GEAP and/or its Opt-In Mechanism and Distributed RE Resources, to be determined by the DOE upon recommendation of the RPSCT, and in consultation with the stakeholders.”

Section 6. A new guideline on the issuance of REC, to be designated as Section 17(f)(v), is hereby inserted under the RPS On-Grid Rules, to read as follows:

“Section 17. General Principles on the Establishment of the RE Market and the RE Registrar. The following principles shall be considered in the establishment of the rules and guidelines governing the RE Market and the RE Registrar:

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(f) REC shall be issued based on the following:

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- v. On the energy produced or generated by Eligible RE Facilities under Multiple Suppliers Arrangement/Scheme, the RECs shall be allocated to the Suppliers based on the actual/metered quantities of energy supplied by the individual Suppliers to the End-User. For clarity, the gross energy consumption of the End-User shall be the sum of the actual/metered quantities of energy supplied by the individual Suppliers.

Section 7. Section 17, subparagraphs (f)(i), (m) and (n) of the RPS On-Grid Rules is hereby amended, to read as follows:

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(f) REC shall be issued based on the following:

- i. On the output of Eligible RE Facilities not under the FIT System, the RECs shall be issued to the Mandated Participant to the extent of its PSA with the Eligible RE Facility; *Provided*, That if the generation of the Eligible RE Facility is dispatched **beyond the contracted energy** under any PSA, then the RECs shall be issued to the owner of the Eligible RE Facility; *Provided*, further, That RE Facilities should have been in commercial operations after the effectivity of the RE Act of 2008 to be eligible for attribution of RECs;

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(m) Compliance with the Annual RPS Requirement shall be on an annual basis. The compliance period shall be from 26 December of the current year to 25 December of the following year. Each Mandated Participant shall ensure its submission of sufficient RECs to the RE Registrar through its

RPS Account on or before December 25 of the following year for each compliance period. **For purposes of clarity, the timeframe to submit RECs to the RE Registrar for Compliance Year 1 (2020), is from 26 December 2020 until 25 December 2021.**

- (n) During the first three (3) years of the RPS Program, commencing from the start of the Compliance Year, and every other year thereafter, the DOE shall review the **implementation of the RPS and the REM** for possible revisions based on the rate of compliance of the Mandated Participants, RE Market activity and general success in meeting the RPS goals.”

Section 8. To provide clarification on a Mandated Participant's request to carry-over its RPS compliance, Section 25 of the RPS On-Grid Rules is hereby amended, to read as follows:

“Section 25. 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 RPS Composite Team (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, to wit:
 - (1) That the supply from Eligible RE Facilities are inadequate to meet the RPS requirement;

- (2) That the RECs are inadequate to meet the RPS requirement; and/or
 - (3) That the supply from Eligible RE Facilities cannot be delivered to the grid due to unavailable capacity at both transmission and relevant distribution network;
- 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.

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Section 9. To provide clarification on the timelines of implementation of the RPS program, Section 26 of the RPS On-Grid Rules is hereby amended, to read as follows:

“Section 26. Transition Period. A Transition Period of one (1) year from the effectivity of these Rules **starting Year 0 (Year 2018)**, is hereby provided to ensure an orderly, efficient and effective imposition of the RPS On-Grid Rules. The said period will allow the Mandated Participants to prepare all the information and data required in the establishment of the baseline to be determined by the DOE, prepare their respective compliance mechanisms, as well as prepare the consumers for the impact of the RPS On-Grid Rules.

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Section 10. To provide the significance of regulatory framework towards the successful implementation of the RPS Program, Section 30 (Regulatory Support) is hereby amended, to read as follows:

“Section 30. Regulatory Support. The Energy Regulatory Commission (ERC) shall provide regulatory support for the effective implementation of this Circular. Towards this end, the ERC is hereby enjoined to, within sixty (60) calendar days from the effectivity of this Circular, establish a Regulatory Framework in consideration of the following, among others:

- (a) Determination of potential impacts of a Mandated Participant's compliance with its minimum annual RPS requirements;
- (b) Calculation of attendant costs arising from a Mandated Participant's compliance with its RPS requirements; and
- (c) Rationalization of cost recovery mechanism, when applicable.”

Section 11. 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 12. Repealing Clause. All previous issuances, rules and regulations inconsistent with this Circular are hereby repealed, amended or modified accordingly.

Section 13. Effectivity. This Circular shall take effect fifteen (15) days after 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 Street, Bonifacio Global City, Taguig City.


RAPHAEL P.M. LOTILLA
Secretary



MAY 23 2023