

DEPARTMENT CIRCULAR NO. DC2014- - _____

**ADOPTION OF DEMAND AGGREGATION AND SUPPLY AUCTIONING POLICY
IN THE ELECTRIC POWER INDUSTRY**

WHEREAS, Section ___ of the “Electric Power Industry Reform Act of 2001” or “EPIRA” declares among others the following policy of the State:

- (a) To ensure and accelerate the total electrification of the country;
- (b) To ensure the quality, reliability, security and affordability of the supply of electric power;
- (c) 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;
- (d) To enhance the inflow of private capital and broaden the ownership base of the power generation, transmission and distribution sectors;
- (e) To ensure fair and non-discriminatory treatment of public and private sector entities in the process of restructuring the electric power industry;
- (f) To protect the public interest as it is affected by the rates and services of electric utilities and other providers of electric power; and
- (g) To assure socially and environmentally compatible energy sources and infrastructure;

WHEREAS, Section 37 of the EPIRA, mandates the Department of Energy (DOE), in addition to its powers and functions under Republic Act No. 7638 or the Department of Energy Act of 1992, to supervise the restructuring of the electricity, and shall undertake among others:

- “(d) Ensure the reliability, quality and security of supply of electric power;

- (e) Following the restructuring of the electricity sector,
 - (i) Encourage private sector investments in the electricity sector and promote development of indigenous and renewable energy sources;
 - (ii) Facilitate and encourage reforms in the structure and operations of distribution utilities for greater efficiency and lower costs;
 - (iii) In consultation with other government agencies, promote a system of incentives to encourage industry participants, including new generating companies and end-users to provide adequate and reliable electric supply;
- (i) Develop policies and procedures and, as appropriate, promote a system of energy development incentives to enable and encourage electric power industry participants to provide adequate capacity to meet demand including, among others, reserve requirements;
- (j) Monitor private sector activities relative to energy projects in order to attain the goals of the restructuring, privatization, and modernization of the electric power sector as provided for under existing laws: *Provided*, That the Department shall endeavor to provide for an environment conducive to free and active private sector participation and investment in all energy activities;
- (l) Formulate and implement programs, including a system of providing incentives and penalties, for the judicious and efficient use of energy in all energy-consuming sectors of the economy;
- (p) Formulate such rules and regulations as may be necessary to implement the objectives of this Act; and
- (q) Exercise such other powers as may be necessary or incidental to attain the objectives of this Act.”

WHEREAS, EPIRA provides that all Distribution Utilities (DUs) shall have the obligation to supply electricity in the least-cost manner to its Captive Market, subject to the collection of retail rate duty approved by the Energy Regulatory Commission (ERC):

WHEREAS, based on the 2014 Distribution Utility Development Plan (DDP) submitted by the DUs, the projected aggregated peak demand of the Luzon DUs will be 8,610 MW in 2015; 8,946 MW in 2016 and expected to grow at an annual average rate of 3.9 percent until 2023 to 11,829 MW. While aggregated demand in Visayas is projected to reach 1,595 MW in 2015; 1,691 MW in 2016 and will grow to 2,198 MW by 2023 at an average rate of 4.0 percent. Mindanao demand will be 1,651 MW in 2015; 1,758 MW in 2016 and will further grow at an average rate of 5.0 percent to 2,445 MW by 2023.

WHEREAS, Based on the records submitted by the DUs on their current supply contracts, their un-contracted demand are (i) Luzon - 31 percent in 2015; 32 percent in 2016 and 69 percent in 2023; (ii) Visayas - 27 percent in 2015; 46 percent in 2016 and 77 percent in 2023; (iii) Mindanao – 10 percent in 2015; 5 percent in 2016 and 35 percent in 2023.

WHEREAS, the un-contracted energy requirements of DUs provide the window of opportunity for the existing and potential private investors to contract these out and invest in additional power generation capacities, both conventional and renewable energy (RE); and

WHEREAS, adequate and proper power supply contracting by the DUs ensures electricity demand is met, while electricity end-users is protected from unnecessary exposure in the volatility of spot prices in the Wholesale Electricity Spot Market.

NOW, THEREFORE, premises considered, the DOE hereby adopts the policy on Demand Aggregation and Supply Auctioning Program in the electric power industry to achieve greater private sector participation in the generation sector with end view of ensuring adequacy of electric power supply in each of the franchise areas served by the DUs, and greater transparency and reasonableness in the electricity rates and charges:

Section 1. General Policies and Principles.

The Demand Aggregation and Supply Auctioning Policy (DASAP), introduces the policy on the amalgamation of the electricity demands of DUs and other buyers of electricity. The following shall be observed in the implementation of this policy:

- (a) The DASAP shall provide empowerment to the DUs and other buyers of electricity as may be authorized herein by the DOE to participate in the auctioning of the current and future electricity demand requirements.
- (b) The DASAP shall recognize all existing and prospective generation capacities from current licensed Generation Companies of ERC and those that intend to

participate as new Generation Companies. As such, power generation projects under construction and to be constructed as listed in the Power Development Plan (PDP) of the DOE shall be allowed to participate and offer bids in the auctioning program.

Towards this end, the DASAP anticipates that: (i) short-to-medium-term efficiency where the operation of existing at minimum cost; and (ii) long-term efficient where investments for new generation capacity and underconstruction resources in the right quantity and mix of resources.

- (c) The DASAP shall be the platform to allow a yearly venue to auction the baseload and peaking requirements of DUs.
- (d) In order to ensure timeliness in the execution of the auction result, the DASAP shall adopt and use the Auction Power Supply Agreement (PSA) Template to be developed by DOE in consultation with the ERC.
- (e) In pursuit of promoting RE in the power sector, the DASAP shall comply with percentage of RE generation in the supply mix of the DUs compliance to R.A. 9513 or RE Law, and as may be promulgated by the DOE.
- (f) All Directly-Connected Customers may participate in the DASAP by sourcing its demand and energy requirements through the auctions that will be executed through DASAP.
- (g) All Retail Electricity Suppliers (RES) may participate in the DASAP by sourcing all or any partial demand and energy requirements for its Contestable Customers. In no case that this Circular will allow a RES to procure capacity and energy requirements of another RES.
- (h) In the case of those Contestable Customers with peak demand of 1 MW up but have yet to secure Retail Supply Contracts (RSCs) with RES due to various technical and operational issues, they may aggregate or consolidate their demand and electricity requirements, and may participate in the auctioning program.

Section 2. Scope and Application.

This policy shall apply to the following:

- (a) Distribution Utilities as Mandatory Participants.

Notwithstanding the mandatory participation, a DU may be allowed to exemption from the coverage only for CY 2015 DASAP, provided, such DU shall seek prior approval of the DOE upon compliance with the requirements as provided for under Section 4 of this Circular.

- (b) As Voluntary Participants
 - (i) Generation Companies.
 - (ii) Retail Electricity Suppliers;
 - (iii) Directly-Connected Customers; and
 - (iv) Contestable Customers.

Section 3. Responsibilities.

Pursuant to their respective mandates and functions under the EPIRA, the EPIRA Implementing Rules and Regulations (EPIRA-IRR), and other laws, rules, and issuances, the following stakeholders shall endeavor to perform the following responsibilities, to wit:

(a) **Department of Energy (DOE).**

As mandated to develop policies and procedures to enable and encourage Electric Power Industry Participants to provide adequate capacity, the DOE shall:

- (i) Create a Multi-Agency Auction Committee to develop the DASAP rules and processes, and recommend to the DOE Secretary for approval;
- (ii) Oversee the course of the auction;
- (iii) Issue Notice-Of-Award to winning bidder(s) for signing of Power Supply Agreements (PSAs) and signal the implementation of capacity expansion or construction of new capacities; and
- (iv) Issue necessary policies and implementing rules to ensure successful auctioning and therefore achieve the objectives of this Circular.

(b) **Energy Regulatory Commission (ERC).**

The ERC shall be responsible in the approval and regulation of the individual Power Supply Agreements (PSAs) as initiated through the DASAP. The ERC shall require the DOE's Notice-of-Awards as part of its information requirements in the approval of PSAs.

Further, ERC may take part as an Observer during the conduct of Auction process.

(c) **National Electrification Administration (NEA).**

The NEA shall have the following responsibilities for the whole auction process:

- (i) Within thirty (30) days from the issuance of this Circular, assist the Electric Cooperatives (ECs) in the aggregation of their demand and submit to DOE through the Electric Power industry Management Bureau (EPIMB) the result of the aggregation based on strategies adopted in aggregating the EC demand requirements;
- (ii) Assist the DOE in the review of the submitted information requirements as prescribed in this Circular, necessary or pre-requisite for conduct of auction;
- (iii) Ensure timely participation of all ECs in the DASAP; and
- (iv) Extend technical assistance to ECs in preparation of the DDPs and the determination of appropriate capacity requirements (baseload, midrange/intermediate, and peaking) to be procured from the auction.

(d) **Philippine Electricity Market Corporation**

- (i) Prepare the appropriate line rental matrix on a node-to-node basis to be used as information by auction participants.
- (ii) Provide guidance/advice to the Auction Committee on matters pertaining to DASAP treatment in the operation of the Wholesale Electricity Spot Market (WESM).

(e) **Distribution Utilities.**

All DUs are mandated to participate in the DASAP through procurement of their uncontracted baseload requirements, and at least 50 percent (50%) of intermediate and peaking requirements.

All DUs shall comply with auction requirements as prescribed in this Circular and other rules and guidelines as may be prescribed in the implementation of the DASAP.

(f) **Other Participants.**

Generation Companies, Directly-Connected Customers, Contestable Customers, and Retail Electricity Suppliers may participate in the auction and, as may be the case, comply with auction requirements as required.

Section 4. Demand Aggregation and Supply Auction Overview.

The DASAP as established by the DOE is contingent in the following activities:

(a) **Aggregation of Distribution Utility Demand Requirements.**

All DUs may aggregate their uncontracted demand requirements and have these offered in the auction. Aggregation must be amongst the contiguously located DUs.

(b) **Setting of the Auction Date.**

The Auction Date shall be determined and declared by the DOE, in consultation with the Auction Committee, for purpose of ensuring certainty to auction participants that they will have a venue to secure a power supply contract.

(c) **Submission of Data and Bid Security.**

This shall be done four (4) months prior auction for DOE to determine the generation capacities (for existing, under construction, and new generation plants, which will be participating in the Auction) and the demand requirement of DUs, directly connected customers or contestable customers that can be enrolled in the auction.

(i) **Distribution Utilities**

Submission of the following required pre-auction information for each distribution utility or aggregated utility and other customers to the Department of Energy:

- A. Authorized Representative, duly approved by its Board;
- B. Name of Customer; (if aggregated include notarized certification);
- C. Previous year's hourly load duration curve (if aggregated include data for each member utility);
- D. Monthly baseload or baseload and intermediate capacity requirement (MW) and its corresponding energy (MWH) for the next 3 years(if aggregated include data for each member utility);
- E. Projected load requirements for the next 10 years(if aggregated include data for each member utility);
- F. Contracted capacities and corresponding suppliers; (if aggregated include data for each member utility);
- G. ERC Certificate of Contestability (if applicable);
- H. Provide Key Performance Indices as determined by NEA (if applicable); and
- I. Bid security (PhP/kW).

(ii) **Generation Companies**

Any interested Generation Company, whether existing or intending to invest in the generation sector shall submit submit the required auction pre-qualification information and other requirements to the DOE.

A. Existing Generating Plants

- (1) Name of Company;
- (2) Authorized Representative;
- (3) Name of Power Plant;
- (4) Power Plant Location;
- (5) Date of Commercial Operation;
- (6) Type of Operation: (baseload, midrange/intermediate, peaking,);

- (7) Previous year's hourly capacity curve;
- (8) Pmin(MW)
- (9) Pmax(MW: net of station use)
- (10) Available capacity and energy for auction (MW and Energy);
- (11) Duration of Bid: (maximum of 3 years);
- (12) Bank Certificate of Loan Approval; and
- (13) Bid security (PhP/kW).

B. New and Under-Construction Generating Plants

- (1) Name of Company;
- (2) Authorized Representative;
- (3) Name of Power Plant;
- (4) Location of Power Plant;
- (5) Date of Commercial Operation (if applicable);
- (6) Target Date of Commercial Operation (if applicable);
- (7) Type of Operation: (baseload or baseload and intermediate);
- (8) Rated Capacity(MW);
- (9) Dependable Capacity (MW);
- (10) Available capacity for auction (MW and Energy):
- (11) Duration of bid (start(month/year) and end year(month/year));
- (12) Securities and Exchange Commission (SEC) Registration
- (13) By-Laws and Articles of Incorporation – SEC Certified;
- (14) Business Permit;
- (15) Controlling Stockholders and Percentage of their Holdings;
- (16) Organizational Chart of Company;
- (17) Work Program i.e., detailed program from start until target Commercial Operations Date (COD);
- (18) Company Profile; and
- (19) Bid security (PhP/kW).

C. Directly Connected Customer and Contestable Customer

- (1) Name of Customer;

- (2) Notarized Authorized Representative;
- (3) Previous year's hourly load duration curve;
- (4) Projected monthly demand requirement (MW) and its corresponding energy (MWH) for the next 3 years;
- (5) Projected demand requirements for the next 10 years;
- (6) Contracted capacities and corresponding supplier(s);
- (7) ERC Certificate of Contestability; and
- (8) Bid security (PhP/kW).

D. Retail Electricity Supplier

- (1) Name of Customer;
- (2) Notarized Authorized Representative;
- (3) Demand Offer (MW);
- (4) Duration of offer (start(month/year) and end year(month/year));
- (5) Generation Company Affiliation; and
- (6) Bid Security(PhP/kW)

(d) Posting/Publication of Auction Data.

Two (2) months prior to Auction Date, the DOE shall publish in its website www.doe.gov.ph the final Auction Data to provide participants the relevant information on, but not limited to, DUs' and Retail Participants' electricity demand requirements (MW), and un-contracted generating capacities (MW).

(e) Execution and Nature of the Auction.

The auction shall be "Pay-as-Bid", where the winning generation companies are paid based on the price indicated on their respective sealed-bids, for demand requirements of DUs designed to have three (3) simultaneous bidding rounds aimed at providing the participants a fair chance of having their excess un-contracted generation capacities and demand requirements covered by a power supply agreement.

The whole auction process shall be concluded in a day where un-contracted generation capacities of existing generating plants shall be offered as short to medium-term contracts (1 to 3 years), while new generation capacities and under-construction generating plants can be offered at long-term contracts (1 to 25 years).

An Auction Bid Ceiling will be determined by the DOE in coordination with ERC for purposes of calculating the Generation Companies bids and for determination of winning bidders by the Auction Facilitator.

Section 5. Creation of Auction Committee.

Within fifteen (15) days upon effectivity of this Circular, the DOE shall create an Auction Committee, composed of representatives from various government agencies consistent with Section 23 of R.A. 7638:

- (a) National Economic and Development Authority;
- (b) Department of Trade and Industry/Board of Investments;
- (c) Department of Justice-Office for Competition;
- (d) Department of Energy; and
- (e) National Electrification Administration.

Section 6. Exemption in the Participation in the Supply Auction

The DOE may allow exemption in the mandatory participation in the Supply Auction only for the first year of auction (CY 2015), which shall cover the requirements for the next five (5) years, subject to the compliance of DUs of the following requirements:

- (a) Letter of justification seeking exemption in the Supply Auction duly supported by the following documents:
 - (i) ERC Approved Power Supply Agreements;
 - (ii) Power Supply Agreements pending approval by the ERC;
 - (iii) Duly notarized certification of Power Supply Procurement Plan;
- (b) The letters shall be submitted to DOE at least four (4) months prior the auction date for approval by the Auction Committee. Upon acceptance and recommendation by the Auction Committee the DOE shall issue certificate granting the exemption.

Section 7. Compliance to Renewable Portfolio Standards and Supply Mix Policy.

Pursuant to Republic Act No. 9513, otherwise known as the "Renewable Energy Act of 2008," DUs and RES shall comply with the annual minimum incremental percentage to be sourced from eligible RE Resources and which shall, in no case, be less than one percent (1%) of its annual energy demand over the next ten (10) years.

Likewise, in pursuit of attaining energy security at reasonable costs, the DOE may promulgate a supply mix policy that shall prescribe the necessary policy and guidelines, and attendant rules and regulations that shall be implemented in the electric power industry.

Section 8. DASAP Implementing Rules and Regulations.

Within sixty (60) days from the effectivity date of this Circular, the DOE shall promulgate the detailed implementing rules and regulations, which shall define and prescribed the process and design of the auction.

Section 9. Policy and Regulatory Support and Coordination.

The ERC is requested to support the enforcement of this Circular.

Pursuant to their respective mandates under EPIRA, the DOE and ERC shall closely coordinate in order that any policy or regulatory issues that may arise, in the implementation of the demand aggregation and auction policy, shall be jointly resolved by the DOE and ERC.

Section 10. Repealing Clause.

Nothing in this Circular shall be construed as to amend, supersede, or repeal any of the mechanism or institutions already existing or responsibilities already allocated and provided for under any existing law, rule, or contract.

Section 11. Separability Clause.

If for any reason any section of this circular is declared unconstitutional or invalid, such parts not affected shall remain in full force and effect.

Section 12. Effectivity.

This Department Circular shall take effect immediately.

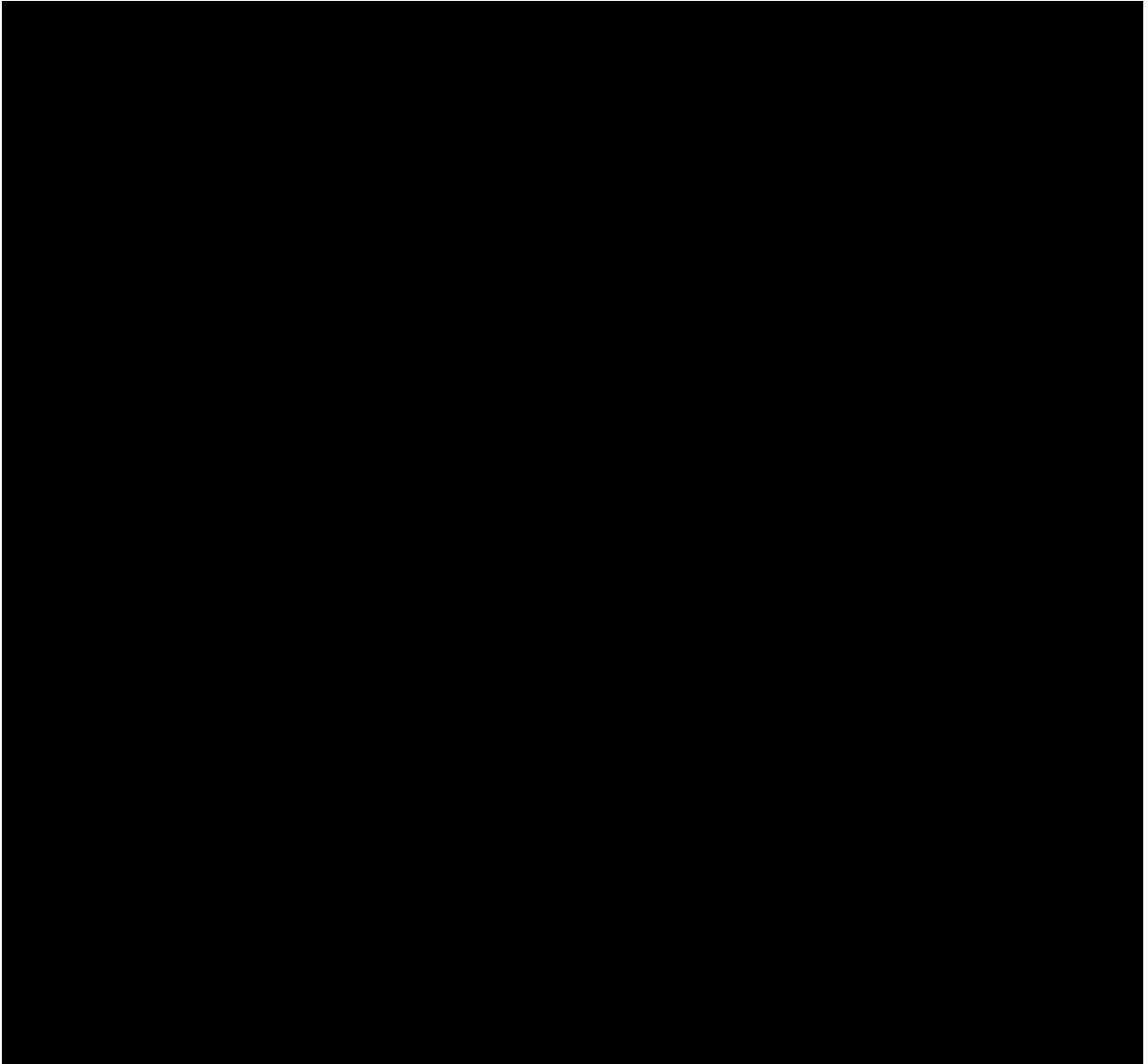
Copies of this Circular shall be filed with the University of the Philippines Law Center-Office of the National Administrative Register (UPLC-ONAR), and all entities engaged in the generation, transmission, distribution and supply of electricity.

Signed this _____ day of _____ 2014 at DOE, Energy Center, Rizal Drive, Bonifacio Global City, Taguig City, MetroManila.

CARLOS JERICO L. PETILLA
Secretary

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ANNEX A



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