



Republic of the Philippines
DEPARTMENT OF ENERGY

DEPARTMENT CIRCULAR NO. DC 2013-07-0013^w

**PROVIDING SUPPLEMENTAL POLICIES TO EMPOWER THE
CONTESTABLE CUSTOMERS UNDER THE REGIME OF RETAIL
COMPETITION AND OPEN ACCESS AND ENSURE GREATER
COMPETITION IN THE GENERATION AND SUPPLY SECTORS
OF THE PHILIPPINE ELECTRIC POWER INDUSTRY**

WHEREAS, Section 2 of the Republic Act No. 9136, otherwise known as "The Electric Power Industry Reform Act of 2001" (or EPIRA), declared the Policy of the State to, among others things to:

- (a) Ensure the quality, reliability, security and affordability of the supply of electric power;
- (b) 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; and
- (c) Protect the public interest as it is affected by the rates and services of electric utilities and other providers of electric power.

WHEREAS, the Department of Energy (DOE) is mandated, among other things to:

- (a) Supervise the restructuring of the electric power industry;
- (b) Formulate rules and regulations as may be necessary to implement the objectives of EPIRA; and
- (c) Exercise such other powers, as may be necessary or incidental to attain the objectives of EPIRA.

WHEREAS, in compliance with its mandate under the EPIRA and to ensure that the implementation of Retail Competition and Open Access (RCOA) will redound to better electricity services at reasonable price, brought about by the competition introduced in the supply sector, the DOE promulgated policies and attendant guidelines through the following:

- (a) Department Circular No. DC2012-05-0005, issued on 09 May 2012, which prescribes the general policies for the implementation of RCOA;

- (b) Department Circular No. DC2012-11-0010, issued on 28 November 2012, which provides for additional guidelines and implementing policies for RCOA and amending certain provisions of Department Circular No. DC2012-05-0005; and
- (c) Department Circular No. DC2013-05-006, issued 06 May 2013, which enjoins electric power industry participants to ensure an effective and successful transition towards implementation of RCOA through transparency, good governance and greater competition in the generation and supply sectors.

WHEREAS, the DOE recognizes the issues and concerns raised by significant number of Contestable Customers (CCs) on the difficulties to get clear and firm offers for Retail Supply Contracts (RSCs) with the Retail Electricity Suppliers (RES);

WHEREAS, during the conduct of Information and Education Campaigns (IECs), the CCs relayed that most RES have preference over larger loads with higher load factors, and the offers, if there is any, are higher than existing rates, and if competitive with existing rates, CCs are tied with long-term contracts and stringent pre-termination provisions;

WHEREAS, despite the nineteen (19) RES duly licensed and eight (8) Local RES duly authorized by the Energy Regulatory Commission (ERC), the RCOA is being perceived to be a Suppliers' market making the CCs confined to the limited offers and terms or no offer at all, which is contrary to the Customer Empowerment espoused under EPIRA;

WHEREAS, the DOE deems it necessary to issue supplemental policies to empower the CCs and promote greater competition in the generation and supply sectors in order to achieve the objectives of RCOA;

NOW, THEREFORE, for and in consideration of the foregoing premises, the DOE, in pursuit of its supervisory functions vested to it by the EPIRA, hereby provides the following policies:

Section 1. Customer Choice. Consistent with the objectives of EPIRA and its Implementing Rules and Regulations (EPIRA-IRR), and other applicable rules and regulations, a CC may source its electricity supply requirements from ERC-licensed RES; ERC-authorized Local RES; and, on its option, directly through the Wholesale Electricity Spot Market (WESM). Furthermore, a CC shall be allowed to enter into a Retail Supply Contract (RSC) with a prospective Generation Company; provided, that the Generation Company is issued a Certificate of Compliance (COC) by the ERC and successfully registered as a Trading Participant in the WESM; and provided, further, that before the effective date of the RSC, the Generating Company shall have secured a Supplier's license from the ERC.

Section 2. Supply Contract and Customer Switching. Regardless of the contract period of the RSC entered into by a CC and its RES, such RSC shall provide "Customer Switching" provision whereby the CC shall be allowed to terminate its RSC with its incumbent RES should there be a competitive supply contract package that is more responsive to the needs of the CC. The incumbent RES shall have the right to retain the RSC provided that it can match the superior offer to the CC.

Notwithstanding and consistent with Section 8 of DOE Circular No. DC2012-11-0010, the initial switch of a CC to its new Supplier shall only be allowed six (6) months after the full RCOA Commercial Operation Date. The actual switching shall be based on a considerable period of time as may be determined by the RES and the CC, but should not exceed the applicable notification requirement by the CRB, as provided in the same DOE Circular.

Towards this end, the ERC shall provide the necessary guidelines in determining competitiveness of an RSC. The competitiveness of a supply contract package may include determination on among other things, price, quality of power, and value added services.

Section 3. Transparency of Electricity Rates under RCOA Regime. A CC which has no choice due to absence of acceptable offer from RES or Local RES shall continue to remain with its franchised DU or current service provider, and shall be charged based on its existing rates until it is able to secure an RSC. In such event, the CC may switch to its new Supplier, subject to notification requirements to the Central Registration Body (CRB) and its incumbent RES.

For the purpose of customer empowerment, transparency and competitiveness, the power bill of the CC that shall continue to be served by its franchised DU shall have two sets of power bill. These are: (i) its current power bill; and (ii) a new set of power bill, further unbundled and grouped according to competitive and regulated charges of the franchised DU, duly approved by the ERC. For illustration purposes, the second or the other power bill of the CC shall reflect the following: (i) generation and relevant supply charges; (ii) regulated charges such as transmission and distribution wheeling charges; and (iii) other pass through charges such as government taxes and subsidies. The intent of the second power bill is to prepare the CCs to understand and be familiarized as to how its power bill will transition from its current state to the competitive billing system.

As regards the billing of a RES to CC, the ERC shall ensure that there are no double charges particularly on the approved administrative charges due to the DU to compensate its administrative expenses in contracting for the supply of electricity to serve its captive customers prior to the RCOA implementation. The transmission and distribution wheeling rates, including pass-through charges shall be publicly disclosed and posted in the DOE, ERC and PEMC websites for the guidance and information of all CCs.

Towards this end, all DUs shall submit to the DOE its monthly summary schedule of rates not later than ten (10) days after the reference month.

Section 4. Regulatory Support. The ERC shall issue guidelines and parameters on the determination of superior offer by the RES. As such, in cases of disputes arising in determining the superiority of the package being offered by the new RES, the matter shall be referred to and decided by the ERC.

Section 5. Repealing Clause. Except insofar as may be manifestly inconsistent herewith, nothing in this Circular shall be construed as to repeal any of the mechanisms already existing or responsibilities already provided for under existing rules.

Section 6. Separability Clause. If for any reason, any section or provision of this Circular is declared unconstitutional or invalid, such parts not affected shall remain in full force and effect.

Section 7. Effectivity. This Circular shall take effect fifteen (15) days following its publication in at least two (2) newspapers of general circulation and shall remain in effect until otherwise revoked.

Issued this _____ in Energy Center, Bonifacio Global City, Taguig City.



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Secretary

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