**DEPARTMENT CIRCULAR NO. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**PROVIDING SUPPLEMENTAL FRAMEWORK FOR THE PROCUREMENT OF ANCILLARY SERVICES, AMENDING THEREBY DEPARTMENT CIRCULAR NO. DC2021-10-0031, OTHERWISE KNOWN AS “PRESCRIBING THE POLICY FOR THE TRANSPARENT AND EFFICIENT PROCUREMENT OF ANCILLARY SERVICES BY THE SYSTEM OPERATOR”**

**WHEREAS,** Section 2 of RA No. 9136, or the “Electric Power Industry Reform Act of 2001” or EPIRA, declares it a policy of the State to ensure the quality, reliability, security, and affordability of the supply of electric power, and the 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;

**WHEREAS,** EPIRA provides that the Department of Energy (DOE) is mandated to monitor private sector activities relative to energy projects, and to exercise such other powers to achieves the objectives of EPIRA which includes, among others, the protection of public interest as it is affected by the rates and services of electric utilities and other providers of electric power;

**WHEREAS,** on 04 December 2019, the DOE promulgated Department Circular (DC) No. DC2019-12-0018, titled “Adopting a General Framework Governing the Provision and Utilization of Ancillary Services in the Grid”, which introduced the direction for the procurement of Ancillary Services (AS) by the System Operator (SO) and the mechanisms to achieve the appropriate kind and level of AS required by the grid;

**WHEREAS,** DC2019-12-0018 provides that the SO shall procure Regulating, Contingency, and Dispatchable Reserves through firm contracts;

**WHEREAS,** on 04 October 2021, the DOE promulgated DC No. DC2021-10-0031, titled “Prescribing the Policy for the Transparent and Efficient Procurement of Ancillary Services by the System Operator”. This policy outlined the procedures for the conduct of Competitive Selection Process (CSP) in the procurement of AS by the System Operator;

**WHEREAS,** on 12 August 2024, the DOE promulgated Department Order (DO) No. DO2024-09-0006, reorganizing the composition of the Ancillary Services -Technical Working Group (AS-TWG);

**WHEREAS**, Section 3 of the DOE Department Order No. DO2024-09-0006 provides that the AS-TWG is mandated to render technical assistance and advice to the DOE in developing further policies on AS and assisting the DOE in implementing the provisions of the related policies and regulations on AS and the Reserve Market;

**WHEREAS,** on 06 March 2025, in the Special Meeting No. 2025-01, the AS-TWG unanimously concurred that the major cause of high Reserve Market prices was due to insufficient supply of AS and the expensive resource types of scheduled AS Providers particularly in the Visayas region;

**WHEREAS,** on 28 March 2025, through AS-TWG Resolution No. 2025-01, the AS-TWG submitted to DOE and ERC their recommendation to increase the contracted AS levels by the SO to address the volatility of the Reserve Market prices in Visayas.

**WHEREAS,** to expedite the procurement of the necessary AS in the grid and to ensure the reliability of the Philippine grid and its sub-grids, it is imperative to enact a supplementary framework to further mobilize the SO in the attainment of a sustainable, reliable, and efficient level of AS at a cost that is reasonable and fair to all electric power industry participants and to the electricity consumers;

**NOW, THEREFORE,** for and in consideration of the foregoing premises, the DOE hereby issues the supplementary framework for the procurement of AS by the SO:

**Section 1**. Section 8 of DC2021-10-0031 is hereby amended to read as follows:

“**Section 8. Direct Negotiation in the Procurement of AS**

* 1. xxx xxx xxx
	2. xxx xxx xxx

xxx xxx xxx

* 1. Subject to the *motu proprio* directive of the DOE or its approval of a request by the SO, the SO may directly negotiate with qualified AS providers in the Grid or a certain sub-grid without the need of conducting a CSP for AS, provided any of the following conditions are met:
1. Insufficiency of power supply and of any or all types of AS in the Reserve Market, grid or sub-grid, which pose a threat to the reliability of or the availability of power supply in the grid or sub-grid, as certified by both the SO and the Market Operator; or
2. Sustained increase in the cost of providing AS in the grid or sub-grid, for a period of six (6)months which is higher by at least two times than the prevailing price of AS in the Reserve Market in other major grids during such comparable period in the grid or sub-grid, as determined by the Market Operator.

All ASPAs directly negotiated by the SO pursuant to this subsection shall authorize the SO to immediately implement these ASPAs by virtue of the directive or approval of the DOE, without prejudice to the evaluation and final decision of the ERC on the application for the approval of such ASPAs.

In case no available or qualified AS provider is available, the SO may negotiate with a generation plant and expedite its AS capability testing, if qualified, prior to the execution of an ASPA under this subsection.

The SO and the AS provider shall jointly apply for the approval of directly negotiated ASPA to the ERC within fifteen (15) days from execution thereof, ensuring full compliance with all the filing requirements of the ERC to initiate the proceedings thereof.

The terms and conditions of directly negotiated ASPAs under this subsection shall include, among others:

1. The capacities directly contracted shall not exceed the required AS level in the grid or sub-grid at the time of the execution of the ASPA;
2. The period of the ASPA shall not exceed five (5) years;
3. Cannot be renewed or extended. As such, the SO shall conduct a CSP for such agreements before their expiration;
4. The rate of AS under such ASPA shall be equivalent to the latest ERC-approved ASPA tariff for the same technology, AS type in the grid or a comparable sub-grid at the time of its execution, or the latest ERC-approved AS rates in a CSP, whichever is lower; and
5. Any provision for cost increase, acceleration, or escalation shall be subject to the approval of the ERC.

The SO shall submit a status report on its compliance with the directive or approval of the DOE within thirty (30) days from receipt thereof and every fifteenth (15th) of the succeeding semester until the required AS levels for the grid or sub-grid have been achieved or upon the completion of the CSP for AS, as may be advised by the Department.”

**Section 2.** **Regulatory Support.** The ERC shall issue all necessary rules and regulations, or amendments thereof, and the timely evaluation and processing of applications, authorizations, and other approvals for the effective implementation of this Circular.

**Section 3. Continuing Obligations.** Nothing in this Circular shall be construed as to excuse the SO from its primary responsibility of conducting the necessary CSP for AS or any of its obligations under DC2019-12-0018, DC2021-10-0030, and other relevant rules and regulations on the procurement of AS.

**Section 4. Separability Clause.** If any section or provision of this Circular is declared unconstitutional or invalid, such parts not affected shall remain valid and subsisting.

**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. Effectivity.** 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 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ at the DOE, Energy Center, Rizal Drive cor. 34th Street, Bonifacio Global City, Taguig City.

 **RAPHAEL P.M. LOTILLA**

Secretary