

2  
3  
4 **PRESCRIBING REVISED GUIDELINES FOR THE QUALIFICATION AND**  
5 **PARTICIPATION OF QUALIFIED THIRD PARTIES PURSUANT TO SECTION**  
6 **23, 59 AND 70 OF THE REPUBLIC ACT NO. 9136, OTHERWISE KNOWN AS**  
7 **THE ELECTRIC POWER INDUSTRY REFORM ACT OF 2001**  
8

9 **WHEREAS**, Section 2(a) of Republic Act No. 9136 or, the “Electric Power Industry Reform Act of  
10 2001” (EPIRA), declared the policy of the State to ensure and accelerate the total electrification  
11 of the country;

12  
13 **WHEREAS**, Section 23 of the EPIRA states that the Distribution Utilities (DUs) shall provide  
14 universal service within their franchise area, over a reasonable time from the requirement thereof,  
15 including Unviable Areas, as part of their social obligation, in a manner that shall sustain the  
16 economic viability of the utility;

17  
18 **WHEREAS**, Section 59 of the EPIRA authorized the provision of electric services by alternative  
19 service providers also known as Qualified Third Parties (QTPs) in remote and Unviable Areas  
20 that the franchised DU is unable to service for any reason;

21  
22 **WHEREAS**, pursuant to Rule 13 of the EPIRA-IRR, the DOE shall issue specific guidelines on  
23 how to encourage the inflow of private capital and the manner in which other parties, including  
24 DUs and QTPs, can participate in the projects set forth in the Missionary Electrification  
25 Development Plan (MEDP);

26  
27 **WHEREAS**, pursuant to Section 4 of Rule 14 of the EPIRA-IRR, the DOE shall set the criteria to  
28 determine the qualifications of third party entities that may participate in providing electricity to  
29 remote and Unviable Areas;

30  
31 **WHEREAS**, in compliance with Rule 13 of the EPIRA-IRR, and Section 4 of Rule 14 of the EPIRA-  
32 IRR, the DOE issued Department Circular No. 2004-06-006 and Department Circular No. 2005-  
33 12-011 on 18 June 2004, and 12 December 2005, respectively, that prescribed the qualification  
34 criteria and guidelines for the participation of QTPs in the Unviable Areas;

35  
36 **WHEREAS**, Section 12 of Rule 4 of the IRR of Republic Act No. 9513 or the “Renewable Energy  
37 Act of 2008” or “RE Act,” mandates that NPC-SPUG or its successors-in-interest, DUs concerned,  
38 and/or QTPs in off-grid areas shall, in the performance of its mandate to provide missionary  
39 electrification, source a minimum percentage of its total annual generation from available  
40 renewable energy resources in the areas concerned as determined by DOE;

41  
42 **WHEREAS**, in order to further strengthen and expand the QTP Program and to meet the total  
43 electrification target of the Government, there is a need to update and revise the existing  
44 qualification criteria and guidelines for the participation of QTPs including the streamlining of the  
45 accreditation process and provide a policy and regulatory environment that is more conducive to  
46 the participation of private sector;

47  
48 **WHEREAS**, the DOE conducted public consultations with stakeholders in Manila, Cebu City and  
49 Davao City including focused group discussions with the attached agencies to discuss the  
50 proposed amendment to the DOE QTP Circulars;

| Venue                 | Dates         |
|-----------------------|---------------|
| Luzon – Makati City   | June 5, 2015  |
| Visayas – Cebu City   | July 2, 2015  |
| Mindanao – Davao City | June 25, 2015 |

52  
53  
54 **NOW, THEREFORE, FOR AND IN CONSIDERATION OF THE FOREGOING PREMISES**, the  
55 DOE hereby promulgates the following guidelines and procedures for the qualification and  
56 participation of QTPS in Unviable Areas.

57  
58  
59 **ARTICLE I**  
60 **GENERAL PRINCIPLES**

61  
62 **Section 1. Declaration of Policies.**

63  
64 It is hereby declared the policies of the DOE that:

- 65  
66 (a) All DUs shall endeavor to provide electricity services to all households within their  
67 respective franchise areas, including remote and Unviable Areas, in an efficient and  
68 sustainable manner consistent with their respective franchises.  
69  
70 (b) All Unviable Areas, which the DU cannot serve for whatever reason are eligible for support  
71 under the Government’s missionary electrification program and are declared open for  
72 participation by QTPs. All Unelectrified Areas are hereby declared Unviable Areas,  
73 without necessity of declaring said areas as unviable pursuant to Section 3 of this Circular.  
74  
75 (c) All QTPs shall adopt the least-cost and most efficient technology options in serving  
76 Unviable Areas. Towards this end, preference shall be given to persons or entities that  
77 can offer the least-cost technologies with due consideration to RE resources, if available  
78 in the area. For the purpose of this Circular, the “least-cost technologies” refers to  
79 technologies that can provide the highest level of electric service at lower cost applicable  
80 to a particular Unviable Area/s.  
81  
82 (d) The NPC-SPUG shall continue to electrify Unviable Areas not taken by the QTPs or other  
83 entities under specific projects and programs of Local Government Units (LGUs), Official  
84 Donor Assistance (ODAs), and DUs that have waived their obligations to serve such  
85 Unviable Areas.

86  
87 **Section 2. Definition of Terms.**

- 88  
89 (a) **“Competitive Selection Process”** or **“CSP”** refers to the process wherein a Qualified  
90 Third Party (QTP) is selected through a transparent, open, and competitive bidding to  
91 secure, among others, the lowest long-term cost of power and services and the most  
92 advantageous implementation schedule;  
93  
94 (b) **"Department of Energy"** or **"DOE"** refers to the government agency created pursuant to  
95 Republic Act No. 7638 whose expanded functions are provided in the EPIRA;  
96

- 97 (c) "**Distribution Utility**" or "**DU**" as refers to any Electric Cooperative, private corporation,  
 98 government-owned utility or existing local government unit which has an exclusive  
 99 franchise to operate a distribution system in accordance with its franchise and the EPIRA;  
 100
- 101 (d) "**Electric Cooperative** " or "**EC**" refers to an electric distribution utility organized and  
 102 registered pursuant to Presidential Decree No. 269, as amended, Republic Act No. 9520  
 103 and other related laws;  
 104
- 105 (e) "**Eligible DU or EC**" refers to any DU or EC qualified by DOE and authorized by the ERC  
 106 to serve Unviable Areas pursuant to Rule 7, Section 6(a) of the EPIRA-IRR, and as  
 107 prescribed in this Circular for the purpose of attaining and accelerating the total  
 108 electrification of the country;  
 109
- 110 (f) "**Energy Regulatory Commission**" or "**ERC**" refers to the independent, quasi-judicial  
 111 regulatory agency created under Section 38 of EPIRA, which shall, among others,  
 112 promote competition, encourage market development, have exclusive jurisdiction over all  
 113 cases contesting rates, fees, fines and penalties, as well as fix and approve the Universal  
 114 Charge imposed on all electricity consumers for purposes provided in the EPIRA;  
 115
- 116 (g) "**Full Cost Recovery Rate**" or "**FCRR**" refers to the rate, expressed in Peso per kilowatt-  
 117 hour, that allows the recovery of the full efficient costs of sustaining the generation,  
 118 distribution and supply of electricity in Unviable Areas served by QTPs, and other entities  
 119 as may be authorized by the ERC to serve under the QTP Program;  
 120
- 121 (h) "**Generation Company**" refers to any person or entity authorized by the ERC to operate  
 122 facilities used in the generation of electricity;  
 123
- 124 (i) "**Joint Venture**" of "**JV**" refers to a strategic partnership between an eligible DU, and a  
 125 private sector, or a Government entity, or a combination thereof, which shall bind them to  
 126 contribute money, capital, assets, property and service to provide electricity service in an  
 127 Unviable Area, and with the intention of sharing in the profits or losses derived there from;  
 128
- 129 (j) "**Missionary Electrification**" refers to provision of basic electricity service in Unviable  
 130 Areas with the ultimate aim of bringing the operations in these areas to viability levels;  
 131
- 132 (k) "**Missionary Electrification Development Plan**" or "**MEDP**" refers to the five-(5) year  
 133 plan of the DOE, updated annually, to implement the Government's missionary  
 134 electrification program including those projects to be funded through the Universal Charge  
 135 for Missionary Electrification;  
 136
- 137 (l) "**Missionary Electrification Subsidy**" or "**ME Subsidy**" refers, for purposes of this  
 138 Circular, to the funds duly approved by the ERC to cover the difference between the Full  
 139 Cost Recovery Rate (FCRR) and Subsidized Approved Retail Rate (SARR) of a QTP  
 140 sourced from the Universal Charge for Missionary Electrification;  
 141
- 142 (m) "**National Electrification Administration**" or "**NEA**" refers to the Government agency  
 143 created under Presidential Decree No. 269, as amended by Republic Act No. 10531 or  
 144 the "National Electrification Administration (NEA) Reform Act of 2013";  
 145
- 146 (n) "**National Power Corporation - Small Power Utilities Group**" or "**NPC-SPUG**" refers  
 147 to the functional unit of the NPC created to pursue Missionary Electrification function;

- 148  
149 (o) **“Person”** refers to a natural or juridical person,;
- 150  
151 (p) **“Power Sector Asset and Liabilities Management Corporation”** or **“PSALM”** refers to  
152 the corporation created pursuant to Section 49 of the EPIRA;  
153
- 154 (q) **“Qualified Third Party”** or **“QTP”** refers to the alternative electric service provider duly  
155 qualified by DOE and authorized by the ERC to serve Unviable Areas pursuant to Section  
156 59 of the EPIRA and Rule 14 of the EPIRA-IRR, and as prescribed in this Circular for the  
157 purpose of attaining and accelerating the total electrification of the country;  
158
- 159 (r) **“Qualification Criteria”** refers to the set of financial, technical, and other indices of  
160 performance prescribed by DOE as basis for accrediting QTPs to serve remote and  
161 Unviable Areas;  
162
- 163 (s) **“QTP Service Area”** refers to the unviable area waived by the DU where QTP shall  
164 provide missionary electrification service and characterized by an area which is not  
165 connected to the main grid and is without 24-hour electricity services;  
166
- 167 (t) **“QTP Service Contract”** refers to the agreement between a DU and the QTP, duly  
168 approved by the ERC, defining the latter’s responsibilities in providing the missionary  
169 electrification in Unviable Areas, *Provided, That*, such agreement shall set the terms and  
170 conditions by which the QTP shall provide the service including the applicable  
171 performance and service standards.  
172
- 173 (u) **“Renewable Energy Resources”** refers to energy resources that do not have an upper  
174 limit on the total quantity to be used. Such resources are renewable on a regular basis  
175 and the renewable rate is rapid enough to consider available over an indefinite time. These  
176 include, among others, biomass, solar, wind, hydro and ocean energy;  
177
- 178 (v) **“Renewable Energy Service/Operating Contract”** or **“RESC”** refers to the service  
179 agreement between the Government, through the President of the Philippines or the DOE,  
180 and an RE Developer over an appropriate period as determined by the DOE in which the  
181 RE Developer has the exclusive right to explore and develop a particular RE area;  
182
- 183 (w) **“Subsidized Approved Retail Rate”** or **“SARR”** shall refer to the rate, expressed in Peso  
184 per kilowatt-hour, that the ERC has determined to be the maximum that an end-user in  
185 Unviable Areas should pay for power supplied by a QTP, *Provided, That*, the revenues  
186 derived from the SARR combined with the ERC-approved UC-ME Subsidy should put the  
187 entity providing electricity service in the Unviable Area in the same financial position as if  
188 it was able to charge the FCRR;  
189
- 190 (x) **“Universal Charge for Missionary Electrification”** or **“UC-ME”** refers to the portion of  
191 the Universal Charge which is allocated for Missionary Electrification projects deemed  
192 eligible by the ERC to avail the subsidy;  
193
- 194 (y) **“Unelectrified Area”** refers to an area where there is no electricity at the household level,  
195 except for individual generators, solar home systems, kerosene lamps or any means of  
196 electrification not provided by the DU or EC having the franchise over said area;  
197

- 198 (z) **“Unviable Area”** refers to a remote geographical area within the franchise area of a DU  
 199 where the immediate extension of the distribution line is not feasible, as defined by Rule  
 200 4 (ssss) of the EPIRA-IRR. Areas that are currently served by the DUs but are deemed  
 201 unviable on account of huge operating costs shall also mean Unviable areas as defined  
 202 herein. For the purpose of this Circular, huge operating costs mean that the costs on the  
 203 construction and the daily operations and maintenance of the facility, will affect the entire  
 204 financial position of the DUs;  
 205
- 206 (aa) **“Waiver”** refers to the formal announcement of the DU that an area within its franchise  
 207 area is Unviable and therefore declared open for QTP participation. For the duration of the  
 208 Waiver, the franchise of the DU shall not be transferred, abandoned and/or modified with  
 209 respect to the Unviable Area included therein but only the right to service provide electricity  
 210 service to such area.  
 211

212 **Section 3. Declaration of Unviable Areas.**  
 213

214 The DOE hereby adopts the following procedures in the declaration of Unviable Areas:  
 215

- 216 (a) All Unviable Areas, which the DU cannot serve for whatever reason are eligible for support  
 217 under the Government’s missionary electrification program and are declared open for  
 218 participation by QTPs.  
 219
- 220 (b) **DU Development Planning.** Consistent with Section 23 of Republic Act 9136, Rule 7,  
 221 Section 4 (p) Obligations of a Distribution Utility of EPIRA-IRR, and the subsequent DOE  
 222 Circulars, the DUs shall prepare and submit to DOE, after verification by NEA, its annual  
 223 Distribution Development Plan (DDP) not later than 15<sup>th</sup> of March of every year for  
 224 integration to the Power Development Plan (PDP) and Philippine Energy Plan (PEP).  
 225
- 226 (c) The DDP shall contain information classifying areas within its franchise that are viable and  
 227 unviable in accordance with the prescribed form of the DOE. The DUs shall waive the  
 228 areas that have been found unviable on the basis of huge operating costs that the DUs  
 229 will incur should the grid lines will be constructed, operated and maintained and will  
 230 contribute to the ECs system loss. The proposed waived areas shall be included in the  
 231 respective Distribution Development Plans of the DUs.  
 232
- 233 (d) **Consolidation of List of Areas.** The DOE through its Electric Power Industry  
 234 Management Bureau (EPIMB) shall consolidate and make available to the public, the list  
 235 of Unviable Areas not only from the DDP but also all other unelectrified areas to date.  
 236
- 237 (e) **Publication of Unviable Areas.** The DOE shall declare and post in the DOE Website the  
 238 list of Unviable Areas not later than September of every year. The list shall also be posted  
 239 within the DOE, premises and NEA and NPC website.  
 240  
 241  
 242  
 243

244 **Section 4. Rates and Subsidies in Unviable Areas.**  
 245

- 246 (a) For the duration of the term of the QTP Service Contract, the QTP is deemed to be  
 247 performing the missionary electrification service with respect to the QTP Service Area.  
 248

- 249 (b) The NPC-SPUG, consistent with the MEDP, shall petition the ERC for the approval of the  
250 UC-ME subsidy requirements for the QTPs, among others.  
251
- 252 (c) Entities providing electricity services in the Unviable Areas shall be eligible for subsidy  
253 with respect to a particular Unviable Area when the approved Full Cost Recovery Rate  
254 (FCRR) is higher than the Subsidized Approved Retail Rate (SARR). The difference  
255 between the FCRR and the SARR shall be the computed Missionary Electrification  
256 Subsidy based on a per connection system.  
257
- 258 (d) Subject to any guidelines that the ERC may issue, private sector-driven or community  
259 based electrification projects, which do not require subsidy from the UC-ME may proceed  
260 with the service provided that the proponents/operators shall notify and secure approval  
261 from the DOE.  
262
- 263 (e) Collection, remittance or disbursement of UC-ME subsidy shall conform to ERC  
264 decisions/orders and approved guidelines and procedures governing the remittances and  
265 disbursements of the Universal Charge developed and managed by the PSALM.  
266
- 267 (f) Every 15<sup>th</sup> day of September each year, all QTPs including NPC-SPUG, shall directly  
268 submit to the DOE through the EPIMB, their respective accomplishments (e.g., number  
269 of household served, total generation and kilowatt-hour sales, and other operations data)  
270 as well as the UC-ME Subsidy requirements for the forthcoming year.  
271
- 272 (g) After review and evaluation, the DOE shall incorporate in its MEDP and accordingly advise  
273 NPC-SPUG, the list of duly authorized QTPs corresponding UC-ME subsidy requirements.  
274

275 **Section 5. Accreditation of a Qualified Third Party**  
276

- 277 (a) The DOE shall set up an accreditation procedure for Prospective QTPs in Waived areas.  
278 Categorized depending on capitalization, technology and expertise, the Prospective QTP  
279 shall be responsible for ensuring it remains in good standing with the DOE through timely  
280 and accurate submission of requirements, documents and compliances.  
281
- 282 (b) Prospective QTPs accredited by the DOE shall be prima facie deemed qualified to  
283 participate in the DU / EC Competitive Selection Process in accordance with Article II of  
284 this Circular, provided that the DU / EC can conduct further due diligence on the  
285 qualification of the Prospective QTP prior to the QSA award.  
286
- 287 (c) Persons applying for accreditation with DOE as a Qualified Third Party shall be evaluated  
288 based on the criteria indicated in **Annex A** of this Circular.  
289
- 290 (c) The QTP accreditation shall be valid for a period of three years, subject to an annual  
291 submission of report to the DOE EPIMB with an Undertaking of Good Standing stating  
292 that its qualification as a QTP subsists;
- 293 (d) The DOE shall supervise and monitor the accredited QTPs' compliance with the  
294 qualification criteria and its performance in QTP Areas served.  
295  
296  
297

298 **ARTICLE II**  
299 **PREPARATION FOR CSP**

300 **Section 1. Options in Managing the CSP**

- 301
- 302 a) A DU / EC shall have the following options in managing the competitive process for the
- 303 selection of their QTPs:
- 304 (i) Request DOE to secure a Transaction Advisor or engage the services of a
- 305 Transaction Advisor, at its own cost;
- 306 (ii) Manage the competitive selection process by itself;
- 307

308 **Section 2. Appointment of a Transaction Advisor**

309

310 The Transaction Advisor referred to Article II Section 1 (a) (i) shall refer to a third party, whether

311 natural or juridical person, accredited by the DOE with the following minimum qualifications:

312

- 313 (a) of proven probity, integrity and competence;
- 314
- 315 (b) at least five (5) years experience in providing technical advice to missionary electrification
- 316 participants, such as, DUs or ECs, the private sector, relevant government agencies; and,
- 317
- 318 (c) not an employee, agent, consultant of a prospective QTP taking part in the CSP for the
- 319 particular transaction where his advice is being sought.
- 320

321 The Transaction Advisor shall be responsible for assisting the DU / EC in developing the terms of

322 reference, bid documents, draft QTP Service Agreement (QSA) and key contracts necessary to

323 complete the contracting process until a QSA is awarded to the winning QTP.

324

325 Within six (6) months from the effectivity of the Rules, the DOE shall issue specific guidelines on

326 the accreditation of the transaction advisor.

327

328 **Section 3. Notice of CSP launch**

329

330 Three (3) months before the issuance of the invitation to bid for the supply electricity in an

331 Unviable Area, the DU / EC shall notify the National Power Corporation (“NPC”), National

332 Electrification Administration (“NEA”), the Energy Regulatory Commission (“ERC”) and the

333 Department of Energy (“DOE”) of the date of the CSP launch, which notification shall include:

334

- 335 (a) proposed mode of CSP in accordance with Article III of these Rules;
- 336
- 337 (b) mode of managing the CSP;
- 338
- 339 (c) proposed Terms of Reference and Invitation to Bid which contains the following:
- 340
- 341 i. term;
- 342
- 343 ii. demand expressed in capacity or energy;
- 344
- 345 iii. preferred technology, if any and justification for preference;
- 346
- 347 iv. target date of delivery the level of service appropriate;
- 348
- 349 v. proposed SARR taking into consideration the type of customers, livelihood and
- 350 economic activity in the Waived Area;

- 351  
352 vi. Replacement Power and Back-up Power strategy;  
353  
354 vii. plan for compliance with the Philippine Small Grid Guidelines particularly N-1; penalty  
355 provisions in case of delay in construction and commercial operations; grounds for  
356 termination of during the term of the waiver.  
357

#### 358 **Section 4. DOE and NEA Review of Bid Documents**

359  
360 The DU / EC shall, in addition to compliance with the immediately foregoing Section, submit to  
361 the DOE the following:

- 362  
363 (a) Copies of the Bidding Documents that will be used for the CSP;  
364  
365 (b) A copy of the proposed QSC that the DU/EC intends to sign with the winning QTP,  
366 specifying the expected output that the winning QTP shall provide;  
367  
368 (c) A copy, if available, of the due diligence report on the DU/EC and the NPC generation  
369 plants if available; and,  
370  
371 (d) Such other information that the DOE may require.  
372

373 Unless the DOE or NEA advises the DU / EC otherwise within 15 days prior to the date of the  
374 CSP launch, the DU / EC shall proceed with the CSP for the Waived Area as the case may be.  
375

### 376 377 **ARTICLE III** 378 **MODES OF CSP**

#### 379 380 **Section 1. Bidding**

- 381  
382 (a) On the date of the CSP launch, the DU / EC shall publish in a newspaper of general  
383 circulation once a week for two consecutive weeks the Invitation to Bid and posting in the  
384 website of the DOE, NEA, NPC and conspicuous places within the DU franchise area  
385 indicating the key terms outlined in Article II, Section 2 (c) of these Rules.  
386  
387 (b) A prospective QTP shall submit its bid on or before the date indicated in the Invitation to  
388 Bid, which must not be later than sixty (60) days from the publication and posting of the  
389 Invitation to Bid.  
390  
391 (c) A bid that fails to meet all requirements in the Invitation to Bid shall not be considered.  
392  
393 (d) A CSP is successful if it receives at least two (2) bids from prospective QTPs.  
394  
395 (e) The bid is evaluated based on the least cost of electricity, expressed on a peso per kilowatt  
396 hour basis.  
397

#### 398 **Section 2. Direct Negotiation**

399  
400 Direct negotiation is allowed after two failed biddings.  
401

402 **Section 3. Unsolicited Proposal**

- 403
- 404 (a) An unsolicited proposal may be accepted by the DU / EC when ANY OF THE
- 405 FOLLOWING CONDITIONS is present in the proposal:
- 406 i. Utilizes innovative, cost-effective, sustainable technology
- 407 ii. Utilizes renewable energy with the RE component higher than RPS, if RPS is
- 408 already in place, provided it satisfies the DU demand requirement and will not
- 409 affect system reliability
- 410 iii. Proposes a tariff that is no more than ten percent (10%) of the retail rate of the DU
- 411 / EC having the franchise over the Unviable Area.
- 412 iv. DU or DU Subsidiary seeks to supply power in DU franchise area
- 413 v. Installed capacity of more than (>) 100 kW but equal to or less than ( $\leq$ )200 kW.
- 414 (b) Following the acceptance of the unsolicited proposal, the DU / EC shall comply with the
- 415 procedure laid down in Article II of these Rules.
- 416
- 417 (c) At a minimum the DU / EC shall invite by publication, for two (2) consecutive weeks, in a
- 418 newspaper of general circulation, comparative or competitive proposals.
- 419
- 420 (d) If no other proposal is received for a period of thirty (30) working days, the DU / EC shall
- 421 award the supply contract to original proponent of the unsolicited proposal, provided that
- 422 a CSP certification is obtained from the DOE prior to such award.
- 423
- 424 (e) In the event that another proponent submits a proposal of lower cost, the proponent of the
- 425 unsolicited proposal reserves the right to match the price of the other proponent within
- 426 thirty (30) working days.
- 427

428  
429 **ARTICLE IV**  
430 **EXEMPTIONS**

431  
432 **Section 1.** No CSP is required for the following:

- 433
- 434 a) Generation project funded by a Donor where at least 50% of the capital expenditure is
- 435 donated, provided that the Donor-funded portion of the project is not included in its FCRR
- 436 recovery;
- 437
- 438 b) Where the installed capacity is 100 kW or below.
- 439
- 440 c) Proposes a tariff that is equal to or lower than the retail rate of the DU / EC having the
- 441 franchise over the Unviable Area, therefore no subsidy access.
- 442

443  
444  
445 **Section 2.** Government approvals still required:

446  
447 Notwithstanding the exemption from CSP under Article IV, Section 1, the DU / EC is still required

448 to comply with all requirements for QSA approval prescribed under these Rules and applicable

449 rules of the ERC, DOE, NPC and NEA.

450  
451 **ARTICLE V**  
452

453  
454  
455  
456  
457  
458  
459  
460  
461  
462  
463  
464  
465  
466  
467  
468  
469  
470  
471  
472  
473  
474  
475  
476  
477  
478  
479  
480  
481  
482  
483  
484  
485  
486  
487  
488  
489  
490  
491  
492  
493  
494  
495  
496  
497  
498  
499  
500  
501  
502  
503

## **AWARD AND QSA NEGOTIATION**

### **Section 1. Post-qualification of the prospective QTP**

Following the CSP, and prior to the award of the supply contract, the DU / EC shall conduct a post-qualification evaluation of the prospective QTP, to determine whether it possesses the legal, technical and financial capability to undertake its obligations as a QTP.

### **Section 2. CSP Certification**

Prior to the award of the QSA, the DU / EC shall secure a certification from the DOE (“CSP Certification”) that it underwent a CSP or that it is exempt from the conduct of CSP in accordance with these Rules.

### **Section 3. Key elements of the QSA**

Following the award of the QSA, the DU / EC and winning QTP shall negotiate to ensure critical elements are included in the QSA, to wit:

- (a) definite commercial operations date;
- (b) strategy for Replacement Power and Back-up Power in the event of scheduled and unscheduled outages, respectively;
- (c) events of default and grounds for termination of the QSA, for failure to achieve key milestones such as the period for filing the QSA for ERC approval, failure to commence construction, delay in construction, delay in commissioning and commercial operations;
- (d) other key term and termination events;
- (e) construction and performance bond of the QTP
  - i. level of service (no. of hours of operation, customer collection plan)
  - ii. plan for graduation from subsidy access
- (f) phase-in phase out plan following the term of the agreement; and,
- (g) consequences of expiration or termination of the agreement.

## **ARTICLE VI ERC APPROVAL OF THE QSA**

### **Section 1. Joint Filing with the ERC**

Following the execution of the QSA, the DU / EC and selected QTP shall jointly file an application with the ERC for the approval of the QSA and the QTP FCRR, respectively. This includes a proposed QTP SARR consistent with the DU / EC TOR. The QSA approval shall be consistent with Rule 20 (B) of the ERC Rules of Practice and Procedure.

504  
505  
506  
507  
508  
509  
510  
511  
512  
513  
514  
515  
516  
517  
518  
519  
520  
521  
522  
523  
524  
525  
526  
527  
528  
529  
530  
531  
532  
533  
534  
535  
536  
537  
538  
539  
540  
541  
542  
543  
544  
545  
546  
547  
548  
549  
550  
551  
552  
553

## **Section 2. Pre-filing requirements**

The ERC shall accept a QSA application for filing even in the absence of an Environmental Compliance Certificate / Certificate of Non-Coverage, RE service contract or operating contract, provided the applicants submit a sworn undertaking to submit the requirements prior to Commercial Operations.

## **Section 3. ERC Action on Application**

As an exception to the prescribed periods in the ERC Rules of Practice and Procedure, the ERC shall:

- (a) Within seventy five (75) days from filing of the application for QSA, issue an order whether a Provisional Approval (“PA”) is granted; if no order is issued within said period, this is an implied denial of the motion for issuance of PA.
- (b) The ERC shall issue a Decision or Final Approval within twelve (12) months from filing of the application.
- (c) If no Decision is issued within the said period the QSA and QTP FCRR shall be subject to the following:
  - i. if a PA has been issued, then the PA is deemed extended;
  - ii. if no PA has been issued, then an interim relief is deemed issued, allowing the QTP to recover a FCRR equivalent to the Benchmark Rate if any has been issued, or in its absence the SARR, in addition to charging the actual cost of fuel capped at a Specific Fuel Consumption Rate based on the NPC fuel consumption guidelines.

## **Section 4. Recovery of FCRR**

- (a) The QTP shall be allowed to recover the FCRR approved by the ERC. In cases where the FCRR is higher than the SARR, the QTP shall be allowed to recover the difference from the UCME. In case the UCME disbursed by PSALM to NPC is insufficient to cover the UCME requirement of the QTPs and NPC-SPUG, the UCME for QTPs shall be paid out first out of the total disbursement by PSALM.
- (b) In case of approval under Article VI Section 3 (c), the QTP shall be entitled to the subsidy from the period of deemed extension of the PA or deemed issuance of interim relief, until the date of issuance of the Decision.
- (c) Following the issuance of the Decision by ERC, the QTP shall execute a subsidy agreement with NPC for the availment of the UCME, in accordance with the Decision.

## **ARTICLE VII RESPONSIBILITIES AND OBLIGATIONS**

### **Section 1. Responsibilities of a QTP Providing Electricity in an Unviable Areas.**

- (a) Meet the qualification criteria set by the DOE in this Circular.

- 554 (b) Secure from DOE, ERC and other Government instrumentalities relevant permits and  
555 licenses, including authority to charge its rates, in order to commence providing services  
556 in the waived area/s.  
557
- 558 (c) Comply with all provisions, including the financial, technical, environmental and other  
559 performance standards for the QTP including provision of the Service Contract entered  
560 into with the concerned DU.  
561
- 562 (d) Operate and maintain properly its facilities to provide services in the QTP Service Area in  
563 an efficient and sustainable manner.  
564
- 565 (e) Submit quarterly reports to the DOE and ERC on its financial, technical, and operational  
566 performance pursuant to Rule 14 of the EPIRA IRR including its UC-ME utilization.  
567
- 568 (f) Submit monthly reports to DOE on the status of its operations including household  
569 connections and the number of serve connections, as well as relevant operational data  
570 such as but not limited to energy generation, energy sales, system losses, collection  
571 efficiency, development plans and programs for the service area.  
572

573 **Section 2. Responsibilities of a Distribution Utility or Electric Cooperatives in Remote and**  
574 **Unviable Areas**  
575

- 576 (a) Submit the Distribution Development Plan (DDP), after NEA's review, including the  
577 prescribed format and contents not later than 15<sup>th</sup> of March of each year to DOE.  
578
- 579 (b) Conduct CSP in the selection of QTPs to serve the Unviable Areas in accordance with  
580 Article III of this Circular.
- 581 (c) Execute the QTP Service Contract (QTPSC) with the selected QTP, in accordance with  
582 this Circular and ERC guidelines on QTPs.  
583
- 584 (d) Ensure that the QTP is providing adequate and reliable electricity service and performing  
585 in accordance with the standards set in the QTP Service Contract for the Unviable Area.  
586
- 587 (e) Extend assistance to the QTP serving an Unviable Area within its franchise; such as  
588 securing the necessary rights of way, site acquisition, permits and licensing from the  
589 concerned local agencies.  
590
- 591 (f) Develop benchmark SARR in the Unviable Area, including different tariff levels depending  
592 on consumption or consumer types.  
593  
594  
595  
596  
597  
598  
599  
600  
601  
602  
603  
604

605 **Section 3. Responsibilities of NPC-SPUG.**

- 606
- 607 (a) Perform missionary electrification of Unviable Areas not taken by the DUs, QTPs and other
- 608 entities to help meet the total electrification target.
- 609
- 610 (b) To include in its petition for the approval to the ERC, the UCME requirements of the QTPs
- 611 and other qualified entities.
- 612
- 613 (c) Execute a Subsidy Contract with the QTP within 30 days upon receipt of the ERC's
- 614 provisional or final approval, as the case may be , from the date of the QTP's application
- 615 for Authority to Operate and approval of the QSC; [But this may be with PSALM if PSALM
- 616 will directly disburse the UCME to the QTP]
- 617 .
- 618 (d) Submit monthly reports to DOE on the status of its electrification program and the
- 619 completed number of connections.
- 620

621 **Section 4. Responsibilities of PSALM.**

- 622
- 623 (a) Directly disburse UC-ME Subsidies to QTPs and other duly qualified entities as prescribed
- 624 in this Circular.
- 625
- 626 (b) In accordance with the Rules to Govern the Availment and Disbursement of Cash
- 627 Incentive to RE Developers Operating in Missionary Areas approved by the ERC under
- 628 Resolution No. 7 dated 11 April 2014, shall directly disburse the approved cash incentive
- 629 to eligible RE Developers in off-grid areas as defined in Section 4 of this Circular.
- 630

631 **Section 5. Responsibilities of DOE.**

- 632
- 633 (a) Determine and incorporate in the MEDP, the QTP projects for Unviable Areas and
- 634 corresponding UC-ME requirements, if any, in payment of the Missionary Electrification
- 635 Subsidy.
- 636
- 637 (b) Establish and implement the accreditation system for prospective QTPs in Unviable Areas.
- 638
- 639 (c) Issue a CSP certification following a review of the CSP conducted by the DU / EC in the
- 640 selection of its QTPs.
- 641
- 642 (d) Oversee the implementation of the QTP Program, coordinate the related activities and
- 643 closely monitor the progress of the Unviable Area Electrification Program.
- 644
- 645 (e) Monitor the household connection for each of the Unviable Area served by QTPs.
- 646
- 647 (f) Issue pertinent guidelines as deemed necessary for the effective implementation of this
- 648 Program.
- 649
- 650 (g) To encourage investments and private sector participation in Unviable Areas, the DOE
- 651 shall coordinate with ERC on the setting of the FCRR levels that may be applied in the
- 652 Unviable Areas.
- 653
- 654
- 655

656 **Section 6. Responsibilities of NEA.**

657

658 (a) Provide institutional, technical and legal assistance to ECs opting to provide electricity  
659 service to Unviable Areas within their franchise area through a Subsidiary or a Joint  
660 Venture Agreement. No later than six (6) months from the effectivity of this Circular, NEA  
661 shall issue guidelines on how ECs may construct, acquire, own, operate and maintain  
662 generating facilities within its franchise area to qualify as an Eligible EC or DU.

663

664 (b) Evaluate and verify the areas submitted by ECs as remote and unviable and submit its  
665 recommendations to the DOE in accordance with this Circular not later than March 15 of  
666 each year.

667

668 (c) Conduct appropriate information and education drive among ECs to allow private sector  
669 participation in the provision of electricity services within ECs franchise areas

670

671 (d) Assist DOE in monitoring of the household electrification level in areas served by the  
672 QTPs.

673

674

675

**ARTICLE VIII  
MISCELLANEOUS PROVISIONS**

676

677

678 **Section 1. Repealing Clause.**

679

680 Department Circulars DC 2004-06-006 and DC 2005-12-011 are hereby amended or repealed  
681 accordingly.

682

683 **Section 2. Saving Clause.**

684

685 (a) If for any reason, any provision of this instrument/circular is declared unconstitutional or  
686 invalid, the other parts or provisions hereof which are not affected thereby shall be  
687 continue to be in full force and effect.

688

689 (b) The implementation of this Circular shall not exempt the parties from existing government  
690 rules and regulations, and applicable government agency circulars or issuances.

691

692 **Section 3. Effectivity.**

693

694 This Circular shall take effect after fifteen (15) days upon publication in a newspaper of general  
695 circulation.

696

697 DOE, Energy Center, Fort Bonifacio, Taguig City, Metro Manila, \_\_\_\_\_.

698

699

700

**ALFONSO G. CUSI**  
Secretary

701

702

703

704

705

706

**ANNEX A**  
**ACCREDITATION GUIDELINES**

707  
708  
709  
710  
711  
712  
713  
714  
715  
716  
717  
718  
719  
720  
721  
722  
723  
724  
725  
726  
727  
728  
729  
730  
731  
732  
733  
734  
735  
736  
737  
738  
739  
740  
741  
742  
743  
744  
745  
746  
747  
748  
749  
750  
751  
752  
753  
754  
755  
756  
757

**1. Criteria:**

**(a) General Criteria.**

- (1) To qualify, an entity must demonstrate that it is financially and technically capable;
- (2) Organizations eligible for accreditation may include, without limitation, private firms, LGUs, cooperatives, non-government organizations, generation companies or its subsidiaries, and Eligible DUs or ECs, which are not prohibited by law or their own charter from engaging in the generation and distribution of electricity.
- (3) Entities that have been qualified by the DOE to provide electricity in an Unviable Area shall submit a work and financial plan, which shall include key activity milestones and target dates. DOE may revoke or cancel an entity's qualification if the milestones and target dates are not met unless under justifiable causes.
- (4) An entity that has already been qualified by DOE to provide electricity service in an Unviable Area, shall remain in good standing and provided there is no substantial change in the ownership and technical personnel of the entity, may serve other Unviable Areas as long as it is financially capable to do so per Section 5 (d) of this Circular.

**(b) Legal Criteria.**

- (1) Any Person registered with the Philippine Securities and Exchange Commission (PSEC) and/or Cooperative Development Authority (CDA), meeting the criteria set forth in this Circular may be accredited as a qualified entity. Applicants must submit the following documents in support of their application:
  - (i) Securities and Exchange Commission (SEC)/Cooperative Development Authority (CDA) registration
  - (ii) By-laws and Articles of Incorporation
  - (iii) Certification authorizing its representative to negotiate and enter into QTP Service Contract with the DU
  - (iv) Business permit
  - (v) Controlling stockholders and percentage of holdings
  - (vi) Organizational chart of the company
  - (vii) Parent/subsidiary/ affiliates (if applicable)
  - (viii) Company profile
  - (ix) A notarized undertaking certifying that the applicant intends to design, construct, operate and maintain its generation and distribution systems in full compliance with the relevant requirements prescribed under the applicable laws including EPIRA and its attendant rules and regulations.
  - (x) CDA or legislative franchise
  - (xi) LGU what documents to be submitted : law creating it or RA 7160
  - (xii) Another DU, other than the franchised DU can participate in the electrification or energize the Unviable Areas subject to the Qualification Criteria.

758  
759  
760  
761  
762  
763  
764  
765  
766  
767  
768  
769  
770  
771  
772  
773  
774  
775  
776  
777  
778  
779  
780  
781  
782  
783  
784  
785  
786  
787  
788  
789  
790  
791  
792  
793  
794  
795  
796  
797  
798  
799  
800  
801  
802  
803  
804  
805  
806  
807  
808

(c) **Technical Criteria.**

- (1) To be accredited, an interested Person must demonstrate that it has the technical skills and capacity to operate a power generation facility and/or an electric power distribution system for public supply.
- (2) In order to demonstrate the required skills and capacity, applicants must provide:
  - (i) Track Record or Experience. Proof of on-going and completed contracts/agreements of similar to or congruent with the proposed project;
  - (ii) Key Personnel Experience. Curriculum Vitae of management and technical personnel; and
  - (iii) List of existing company-owned equipment and any lease agreements relevant to the proposed project

(d) **Financial Criteria.**

- (1) To be accredited, an interested Person must demonstrate that it has the financial capacity to build a power generation facility and its associated power distribution system of the size required for the provision of electricity services.
- (2) Proof of financial capacity may include, among others:
  - (i) Audited Financial Statements for the last two (2) years duly certified by an independent third party auditor;
  - (ii) Bank certification coming from Bangko Sentral and Pilipinas (BSP) accredited banks to substantiate cash balance in the audited Financial Statements
  - (iii) Projected cash flow statement for two (2) years
  - (iv) List of company-owned equipment and facilities for the project
  - (v) If applicant is a new company, audited financial statement and duly certified guarantee or letter of undertaking/support from its parent company or partner to fund the work program.

**2. Accreditation process:**

- (a) The DOE-REAMD shall establish a QTP Register that will accept applications for QTP registration from persons seeking to engage in QTP service as enumerated in Section (a) (2) of this Annex.
- (b) All applications shall contain an application letter and the relevant documents supporting their legal, technical and financial eligibility as indicated in Sections (b), (c), and (d) respectively of this Annex.
- (c) The DOE shall act on the application within 30 days from the submission of said application, otherwise it shall be deemed approved. However, the period for acting on the application for registration is tolled upon any question by the DOE on the documents

809 supporting the application or a request for any further justification or clarification based on  
810 the documents submitted.

811  
812 (d) The DOE shall issue a QTP Registration Certificate to an applicant found to possess the  
813 legal, technical and financial qualification required of a prospective QTP Applicant.  
814 Provided however that no Registration Certificate shall be issued to a QTP Applicant  
815 blacklisted by any government agency or instrumentality and barred from participating in  
816 any government project.

817  
818 (e) The Registration Certificate issued to the Registered QTP shall be valid for three years.  
819

### 820 **3. Monitoring and Supervision**

821  
822 No later than January 30 of each calendar year, the Registered QTP shall submit an  
823 Undertaking to the DOE QTP Register that it possesses the Qualification Criteria it had  
824 submitted upon application for registration as a QTP. The Registered QTP shall inform the  
825 DOE of any change in circumstances and, if required, shall explain to the DOE why its  
826 registration shall not be revoked, in accordance with the following section.  
827

### 828 **4. Suspension and Revocation**

829  
830 (a) Grounds for Suspension:  
831  
832 The DOE may, upon due notice and hearing, suspend the Registration Certificate upon  
833 any of the following grounds:  
834

- 835 i. Misleading, inaccurate or inconsistent documents submitted in support of the  
836 application for registration
- 837 ii. Failure to secure in a timely manner the appropriate government permits and  
838 approvals for QTP operations

#### 839 **(b) Grounds for Revocation:**

840  
841 The DOE may, upon due notice and hearing, revoke the Registration Certificate upon any  
842 of the following grounds:  
843

- 844 i. Material misrepresentation or fraud with regard to any of the documents submitted  
845 in support of the Qualification Criteria
- 846 ii. Unremedied event which gave cause for suspension  
847