

Whereas, Republic Act No. 7638, otherwise known as the “Department of Energy Act of 1992,” declared the policy of the State to:

- A. ensure a continuous, adequate, and economic supply of energy with the end in view of ultimately achieving self-reliance in the country’s energy requirements through the integrated and intensive exploration, production, management, and development of the country’s indigenous energy resources, and through the judicious conservation, renewal and efficient utilization of energy to keep pace with the country’s growth and economic development and taking into consideration the active participation of the private sector in the various areas of energy resource development, and
- B. rationalize, integrate, and coordinate the various programs of the Government towards self-sufficiency and enhanced productivity in power and energy without sacrificing ecological concerns.



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DEPARTMENT OF ENERGY

DEPARTMENT CIRCULAR NO. [DC2015-06-0004](#)

Mandating All Distribution Utilities to Undergo Competitive Selection Process (CSP) in Securing Power Supply Agreements (PSA)



- ◆ **Section 1. General Principles.** Consistent with its mandate, the Department of Energy (DOE) recognizes that Competitive Selection Process (CSP) in the procurement of Power Supply Agreements (PSAs) by the Distribution Utilities (DUs) ensures security and certainty of electricity prices of electric power to end-users in the long-term. Towards this end, all CSPs undertaken by the DUs shall be guided by the following principles:

- a. Increase the transparency needed in the procurement process in order to reduce risks;
- b. Promote and instill competition in the procurement and supply of electric power to all electricity end-users;
- c. Ascertain least-cost outcomes that are unlikely to be challenged in the future as the political and institutional scenarios should change; and
- d. Protect the interest of the general public.

- ◆ **Section 2. Scope of Application and Coverage.** This Circular shall apply to any entity that owns, operates, or controls one or more distribution systems in the main grid and off-grid areas, such as, but not limited to:

- a. Electric Cooperatives (ECs);
- b. Private Investor-Owned Distribution Utilities
- c. Local Government Unit Owned-and-Operated Distribution Systems/Utility
- d. Multi-Purpose Cooperatives duly authorized by appropriate Government agencies to operate electric power system;
- e. Entities duly authorized to operate within economic zones, and
- f. Other duly authorized entities engaged in the distribution of electricity.

- ◆ **Section 3. Standard Features in the Conduct of CSP.** After the effectivity of this Circular, all DUs shall procure PSAs only through CSP conducted Third Party duly recognized by the Energy Regulatory Commission (ERC) and the DOE. In the case of ECs, the Third Party shall also be duly recognized by the National Electrification Administration (NEA).

Under this Circular, CSPs for the procurement of PSAs of all DUs shall observe the following:

- a. Aggregation for uncontracted demand requirements of DUs;
- b. Annually conducted; and
- c. Uniform template for the terms and conditions in the PSA to be issued by the ERC in coordination with the DOE.

Within one hundred twenty (120) days from the effectivity of this Circular, the ERC and DOE shall jointly issue the guidelines and procedures for the aggregation of the uncontracted demand requirements of the DUs and the process for the recognition or accreditation of the Third Party that conducts the CSP as hereto provided. For clarity, the term “aggregation” as used in this Circular refers to the wholesale demand and energy requirements of DUs, and not of the Contestable Markets under Retail Competition and Open Access (RCOA) regime.

As used in this section, the uncontracted demand or energy requirements of the DUs shall refer to the energy and demand not yet procured individually or collectively by the DUs, excluding those energy and capacity covered by PSAs that have been filed for approval before the ERC.

- ◆ **Section 4. Supplemental Guidelines.** To ensure efficiency and transparency of the CSP process, the ERC, upon its determination and in coordination with the DOE, shall issue supplemental guidelines and procedures to properly guide the DUs and the Third Party in the design and execution of CSP. The supplemental guidelines should ensure that any CSP and its outcome shall redound to greater transparency in the procurement of electric supply, and promote greater private sector participation in the generation and supply sectors, consistent with the declared policies under the Electric Power Industry Reform Act (EPIRA).

- ◆ **Section 5. Non-Retroactivity.** This Circular shall have prospective application and will not apply to PSAs with tariff rates already approved and/or have been filed for approval by the ERC before the effectivity of this Circular.

- ◆ **Section 6. Monitoring, Enforcement and Compliance.** The DOE through the Electric Power Industry Management Bureau (EPIMB), together with the ERC, shall monitor compliance with the conditions of CSPs and the compliance with the provisions of PSAs.

- ◆ **Section 7. Regulatory Support.** The ERC, in the exercise of its powers and functions under the EPIRA shall establish and impose existing fines and/or penalties for non-compliance of electric power industry participants to support the enforcement of this Circular.

- ◆ **Section 8. 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 9. Separability Clause.** If for any reason, any section or provision of this Circular is declared unconstitutional or invalid, the other parts or provisions hereof which are not affected thereby shall continue to be in full force and effect.

- ◆ **Section 10. Effectivity.** This Circular shall take effect immediately upon its publication in two (2) newspapers of general circulation and shall remain in effect until otherwise revoked.

- ◆ Signed by CARLOS JERICO L. PETILLA, Secretary of the Department of Energy, on June 11, 2015 at DOE Energy Center, Bonifacio Global City, Taguig City.