



Republic of the Philippines
DEPARTMENT OF ENERGY
(Kagawaran ng Enerhiya)

DEPARTMENT CIRCULAR NO. DC2020- 04 - 0009^m

**GUIDELINES GOVERNING THE ISSUANCE OF
OPERATING PERMITS TO RENEWABLE ENERGY SUPPLIERS UNDER
THE GREEN ENERGY OPTION PROGRAM**

WHEREAS, Section 2 of Republic Act (RA) No. 7638, as amended, otherwise known as the "*Department of Energy Act of 1992*," mandates the Department of Energy (DOE) to prepare, integrate, coordinate, supervise and control all plans, programs, projects and activities of the Government relative to energy exploration, development, utilization, distribution and conservation, among others;

WHEREAS, RA No. 9513, otherwise known as "*An Act Promoting the Development, Utilization and Commercialization of Renewable Energy Resources and For Other Purposes*" (the "RE Act"), declares as a policy of the State to accelerate the exploration and development of Renewable Energy (RE) Resources to achieve energy self-reliance through the adoption of sustainable energy development strategies;

WHEREAS, Section 9 of the RE Act provides that the DOE shall establish a Green Energy Option Program (GEOP), which provides end-users the option to choose RE Resources as their sources of energy;

WHEREAS, on 18 July 2018, the DOE issued Department Circular (DC) No. DC2018-07-0019, entitled "*Promulgating the Rules and Guidelines Governing the Establishment of the Green Energy Option Program Pursuant to Renewable Energy Act of 2008*," establishing the GEOP (the "GEOP Rules");

WHEREAS, second paragraph of Section 11(a)(i) of the GEOP Rules provides that the DOE shall, after conduct of public consultations, promulgate the necessary guidelines and procedures for issuance of permits to RE Suppliers;

WHEREAS, the DOE and the National Renewable Energy Board (NREB) conducted a series of public consultations on the draft GEOP Operating Permit Guidelines on 18 June 2019, 27 June 2019, 11 July 2019 and 25 July 2019 in Cebu, Davao, Batangas and Pampanga, respectively;

NOW, THEREFORE, for and in consideration of the foregoing premises, the DOE hereby adopts and issues the following guidelines and procedures covering the issuance of Operating Permits to RE Suppliers:

Section 1. Title. This Circular shall be known as the *“Guidelines for the Issuance of Operating Permits for RE Suppliers under the Green Energy Option Program,”* and shall hereinafter be referred to as the *“GEOP Operating Permit Guidelines.”*

Section 2. Coverage. This Circular shall prescribe the guidelines and procedures in the issuance, administration, and revocation of GEOP Operating Permits to RE Suppliers.

All contracts under the GEOP shall cover a minimum of 100kW, regardless of percentage required by the End-User.

Section 3. Scope. This Circular shall apply to the following stakeholders:

- 3.1. End-Users;
- 3.2. RE Developers;
- 3.3. RE Suppliers;
- 3.4. Distribution Utilities;
- 3.5. Retail Electricity Suppliers;
- 3.6. Philippine Electricity Market Corporation and/or the Independent Market Operator;
- 3.7. Supplier of Last Resort;
- 3.8. Central Registration Body;
- 3.9. RE Registrar;
- 3.10. National Grid Corporation of the Philippines;
- 3.11. National Transmission Corporation;
- 3.12. Metering Service Providers, duly licensed by the Energy Regulatory Commission (ERC); and
- 3.13. Other entities which may later be created or otherwise identified relevant for the successful implementation of the GEOP.

Section 4. Definition of Terms. This Circular hereby adopts, by reference, the terms defined in RA No. 9136, RE Act, their respective implementing rules and regulations, the GEOP Rules, as well as other relevant DOE Department Circulars. Furthermore, the following terms, as used in this Circular, shall be defined as follows:

- 4.1. **“Certificate of Registration”** or **“COR”** refers to an official document issued by the DOE to any individual or juridical entity engaged in the development, utilization and commercialization of RE Resources, either for own-use or commercial purposes, awarded an RE Contract, after all the necessary information and requirements have been satisfactorily complied with;

- 4.2. "**Contestable Customer**" refers to electricity end users who have a choice of a supplier of electricity, as may be determined by the ERC in accordance with the RA No. 9136;
- 4.3. "**End-User**" refers to any person or entity requiring the supply and delivery of electricity for its own use. As used in this Circular, an End-User shall refer to any person or entity who chooses RE Resources as sources of energy: *Provided*, That it has satisfied the eligibility requirements stated under Rule 2, Section 6 of the GEOP Rules;
- 4.4. "**GEOP Supply Contract**" refers to the agreement between an End-User and an RE Supplier for the supply of electricity generated from RE by duly authorized RE Supplier, which shall contain, at the minimum, the following terms and conditions:
- 4.4.1. Contract Period;
 - 4.4.2. Name of Electricity End-User and Location;
 - 4.4.3. Name of RE Supplier and Source of RE Supply;
 - 4.4.4. Guaranteed Demand (in kW or MW) and Energy (in kWh or MWh);
 - 4.4.5. Contract Price for the supply of electricity;
 - 4.4.6. Payment Terms;
 - 4.4.7. Replacement Power Provision;
 - 4.4.8. Default Provision; and
 - 4.4.9. Other Charges, if any, segregated and itemized;
- 4.5. "**GEOP Operating Permit**" refers to a document issued by the DOE to an entity allowing the supply of electric power to an End-User pursuant to this Circular;
- 4.6. "**Renewable Energy Facility**" or "**RE Facility**" refers to any power plant that generates electricity using RE Resources;
- 4.7. "**Replacement Power**" refers to the provision in the GEOP Supply Contract, which shall be delivered to the End-User in any or all of the following events:
- 4.7.1. Whenever the RE Resource sourced and/or contracted by the RE Supplier is not available due to scheduled preventive maintenance services; or
 - 4.7.2. Whenever needed to address the variability of an RE technology used to supply electricity to the End-User.
- 4.8. "**RE Registrar**" or "**RER**" refers to the entity designated by the DOE to establish and operate the RE Market pursuant to Section 8 of the RE Act and DC2019-12-0016 (or the "REM Rules").

Section 5. RE Supplier Qualifications.

- 5.1. Any person, natural or juridical, registered and/or authorized to operate in the Philippines under existing Philippine laws and engaged in the business of

generating and/or supplying electricity from RE Resources may apply for a GEOP Operating Permit as an RE Supplier under GEOP;

- 5.2. For avoidance of doubt, any RE Facility is eligible for GEOP, whether or not the same is eligible for Renewable Portfolio Standards (RPS) compliance as long as there is still available capacity or energy for supply under GEOP; and
- 5.3. Owners and operators of RE Facilities constructed and operating prior to RE Act but registered under the RE Act may qualify as RE Suppliers under the GEOP.

Section 6. Application Requirements. All applications for the GEOP Operating Permit shall be in writing and verified. The application shall likewise contain the following documents:

- 6.1. Affidavit of undertaking on the capability to supply and deliver the RE generation to the End-User;
- 6.2. Proof of a Contract for the Supply of Replacement Power in accordance with Section 10.1 of this Circular; and
- 6.3. Proof of payment of the processing fee.

Section 7. Qualification for Existing Retail Electricity Suppliers. Any person or entity that has been issued a Retail Electricity Supplier's license by the ERC and has demonstrated the ability to serve its Contestable Customer under the Retail Competition and Open Access may be automatically issued an Operating Permit as RE Supplier under the GEOP subject to the applicant's submission of the following documents:

- 7.1. Billing document from at least one (1) Contestable Customer for two (2) years immediately preceding the date of application, or a sworn statement of such Contestable Customer attesting to the fact that it has a contract with the applicant effective for the two (2) years immediately preceding the date of application;
- 7.2. Affidavit of undertaking on the applicant's capability to supply and deliver the RE generation to the End-User;
- 7.3. Proof of a Contract for the Supply of Replacement Power in accordance with Section 10.1 of this Circular; and
- 7.4. Proof of payment of the processing fee.

Section 8. Processing and Approval of Applications.

- 8.1. The DOE, through its Renewable Energy Management Bureau (REMB), shall be responsible for evaluating all applications for the issuance of GEOP Operating Permits to eligible RE Suppliers.

- 8.2. Within twenty (20) working days from the submission of complete application documents and compliance with the requirements, the REMB Director shall recommend to the Secretary the approval or disapproval of the application.
- 8.3. The application shall be acted upon by the DOE Secretary, upon endorsement by the Supervising Assistant Secretary and Undersecretary of the REMB.

Section 9. Obligations of RE Suppliers. The RE Suppliers under the GEOP shall have the following obligations:

- 9.1. Comply with all the terms and conditions of the GEOP Operating Permit and the provisions of this Circular, and the GEOP Rules;
- 9.2. Submit annual reports to the REMB on or before the 30th of January, which shall contain the following data:
 - 9.2.1. Total kWh generated from owned and/or operated RE Facility;
 - 9.2.2. Total kWh purchased per RE Resource;
 - 9.2.3. Total kWh sold per customer; and
 - 9.2.4. Total kWh purchased for Replacement Power on hourly basis;
- 9.3. Ensure that the total power dispatched from its RE Facilities should always be greater than or equal to the total kWh sold to its customers;
- 9.4. Register in the Wholesale Electricity Spot Market and with the Central Registration Body before it can supply electric power to the eligible End-Users; and
- 9.5. Register with the RE Registrar pursuant to the RE Market Rules promulgated by the DOE.

Section 10. Provision of Replacement Power. To ensure that End-Users are supplied with sufficient and reliable electricity, the RE Supplier shall secure the necessary Replacement Power, as follows:

- 10.1. During the first two years of implementation of this Circular, any RE Supplier may opt to contract supply from generation facilities utilizing indigenous resources as Replacement Power. Thereafter, in support of the greater development and utilization of RE Resources, any Replacement Power shall exclusively be sourced from RE Resources.
- 10.2. In cases where the supply is generated from hybrid RE technologies such as solar and battery energy storage systems, the Replacement Power shall only be required during the period when the facility is under maintenance services.

Section 11. Period of Validity. The GEOP Operating Permit shall be valid for a period of five (5) years from date of issuance stated therein, unless earlier revoked by the DOE for any violation of the GEOP Rules and this Circular.

Section 12. Renewal of Application. Six (6) months prior to its expiration and upon submission of required documents and payment of a renewal fee, the RE Supplier may apply for renewal of its GEOP Operating Permit.

The DOE shall determine whether the RE Supplier has complied with all the DOE requirements for RE Supplier in accordance with this Circular.

Section 13. Suspension, Revocation or Cancellation of GEOP Operating Permits. The DOE may suspend, revoke or cancel any GEOP Operating Permit on the following grounds:

- 13.1. Failure of the RE Supplier to comply with its obligations under the GEOP Rules and the terms and conditions under which the GEOP Operating Permit was issued;
- 13.2. Providing false or misleading information to the End-User or the DOE;
- 13.3. Failure to respond to DOE directives, communications, inquiries within the periods provided therein, or address customer complaints within five (5) working days from receipt of the same; and
- 13.4. Termination of the GEOP Supply Contract by the End-User for cause.

Upon a positive finding by the DOE that the RE Supplier has committed any of the above enumerated grounds, the latter shall be required to explain in writing why its GEOP Operating Permit should not be suspended, revoked or cancelled. The RE Supplier shall be given a non-extendible period of fifteen (15) calendar days to submit its explanation, which shall be accompanied by supporting documents.

Not later than fifteen working (15) days from its receipt of the RE Supplier's written explanation, the REMB shall submit its findings and recommendations to the DOE Secretary, through its Supervising Assistant Secretary and Undersecretary. The DOE Secretary shall have a period of five (5) working days to act upon said recommendation. The decision of the DOE Secretary shall be final and immediately executory.

The RE Supplier shall immediately be notified of the decision of the DOE Secretary in writing, within three (3) days upon receipt by REMB of the DOE Secretary's decision, through personal service, registered mail, private courier service, or in the absence of the aforementioned modes of service, through electronic mail.

Section 14. Penalties. The following are the penalties which may be imposed upon an RE Supplier which has been found to have committed any of the acts provided in Section 13 hereof and has failed to provide justifications therefor:

- 14.1. First Offense. Suspension of the GEOP Operating Permit for one (1) month;
- 14.2. Second Offense. Suspension of the GEOP Operating Permit for three (3) months; and

14.3. Third Offense. Cancellation/Revocation of the GEOP Operating Permit.


Provided, That, in cases where the RE Supplier was found to have twice committed the same violation in succession, the GEOP Operating Permit shall be cancelled/revoked.

Section 15. RE Pool. To accelerate exploration, development and utilization of RE Resources, and to ensure RE supply is available in a least-cost manner, RE Suppliers and RE Generators/Developers may enter into a joint action or establish a pool of RE supply under the GEOP to the extent permitted by applicable laws.

Section 16. Separability Clause. If for any reason, any provision of this Circular is declared unconstitutional or invalid, the other parts or provisions not affected thereby shall remain in full force and effect.

Section 17. Repealing Clause. The provisions of other department circulars which are inconsistent with the provisions of this Circular are hereby repealed, amended or modified accordingly.

Section 18. Effectivity. This Circular shall take into effect fifteen (15) days following its publication in at least two (2) newspapers of general circulation and its filing with the National Administrative Register of the UP Law Center.


ALFONSO G. CUSI
Secretary

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