

[DOE DEPARTMENT CIRCULAR NO. DC 2010-03-0003, February 26, 2010]

DIRECTING ALL POWER GENERATION COMPANIES, THE TRANSMISSION SERVICE PROVIDER, AND ALL DISTRIBUTION UTILITIES TO ENSURE ADEQUATE AND RELIABLE ELECTRIC POWER SUPPLY IN THE COUNTRY

WHEREAS, Section 5 of Republic Act No. 7638, as amended by Section 37 of Republic Act No. 9136 or the Electric Power Industry Reform Act of 2001 (EPIRA), mandates the Department of Energy (DOE) to, among others, (1) ensure the reliability, quality and supply of electric power, and 2) establish and administer programs for the exploration, transportation, marketing, distribution, utilization, conservation, stockpiling and storage of energy resources of all forms, whether conventional or non-conventional;

WHEREAS, the DOE is mandated to develop policies and procedures and, as appropriate, promote a system of energy development incentives to enable and encourage electric power industry participants to provide adequate capacity to meet demand including, among others, reserve requirements;

WHEREAS, the DOE is also mandated to monitor private sector activities relative to energy projects in order to attain the goals of the restructuring, privatization, and modernization of the electric power sector as provided for under existing laws: Provided, That the Department shall endeavor to provide for an environment conducive to free and active private sector participation and investment in all energy activities;

WHEREAS, the DOE is further enjoined to formulate and implement programs including a system of providing incentives and penalties, for the judicious and efficient use of energy in all energy-consuming sectors of the economy;

WHEREAS, Section 6 of the EPIRA provides that the generation of electric power is a business affected with public interest and shall be competitive and open;

WHEREAS, as a result of the privatization of Government's power generation assets, the generation of electricity in Luzon is now dominated by the private sector and eventually, the same situation will occur in Visayas;

WHEREAS, a Generation Company has an obligation to meet the technical and financial operating criteria ensuring compliance with standards for among others, security, reliability, unplanned outages and provision of ancillary services and shall operate in accordance with such operational criteria;

WHEREAS, under the EPIRA, the distribution of electricity, a business affected with public interest, is a regulated common carrier business requiring a national

franchise, which franchise may be revoked by Congress upon recommendation of the DOE and/ or the Energy Regulatory Commission (ERC);

WHEREAS, Section 9 of the EPIRA mandated the National Transmission Company and/or its Concessionaire, presently the National Grid Corporation of the Philippines (NGCP) among others, to provide open and non-discriminatory access to its transmission system to all electricity users, ensure and maintain the reliability, adequacy, security, stability and integrity of the nationwide electrical grid in accordance with the performance standards for the operations and maintenance of the grid as set forth in a Philippine Grid Code (PGC), and improve and expand its transmission facilities, consistent with the PGC and the Transmission Development Plan (TDP) to adequately serve generation companies, distribution utilities and suppliers requiring transmission service and/or ancillary services through the transmission system: *Provided*, That TRANSCO shall submit any plan for expansion or improvement of its facilities for approval by the ERC;

NOW, THEREFORE, from the foregoing premises and pursuant to the mandate of the DOE under the EPIRA, this Circular is hereby promulgated:

SECTION 1. Scope - This Circular shall apply to all Generation Companies and Distribution Utilities in the country as defined in the EPIRA as well as the National Transmission Corporation (TRANSCO) or its concessionaire, presently the NGCP which is also referred to as the System Operator (SO);

SECTION 2. Responsibilities of Generation Companies - Pursuant to the EPIRA, all Generation Companies shall ensure the availability of its generation facilities at all times subject only to technical constraints duly communicated to the SO in accordance with existing rules and procedures. For this purpose, Generation Companies shall have the following responsibilities:

2.1 All Generation Companies shall operate in accordance with their Maximum Available Capacity. For this purpose, the Maximum Available Capacity shall be equal to the registered maximum capacity of the (aggregate) unit less (1) forced unit outages, (2) scheduled unit outages, (3) de-rated capacity due to technical constraints which include (a) plant equipment-related failure and ambient temperature, (b) hydro constraints which pertains to limitation on the water elevation/turbine discharge and megawatt output of the plant and (c) geothermal constraints which pertain to capacity limitation due to steam quality (chemical composition, condensable and non-condensable gases), steam pressure and temperature variation, well blockage and limitation on steam and brine collection and disposal system.

All Generation Companies shall submit its Maximum Available Capacity and operational status on a monthly basis to the DOE-Electric Power Industry Management Bureau (EPIMB),