**Department Circular No. DC2021** - \_\_-\_\_\_\_\_\_

**SUPPLEMENTING DEPARTMENT CIRCULAR NO. DC2021-06-0013 ON THE FRAMEWORK GOVERNING THE TEST AND COMMISSIONING OF GENERATION FACILITIES FOR ENSURING READINESS TO DELIVER ENERGY TO THE GRID OR DISTRIBUTION NETWORK**

**WHEREAS,** Section 2 of Republic Act No. 9136, otherwise known as the Electric Power Industry Reform Act of 2001 (EPIRA), declared as the policy of the State to ensure the quality, reliability, security and affordability of the supply of electric power*;*

**WHEREAS**, Section 37 of the EPIRA further mandates the Department of Energy (DOE) to supervise the restructuring of the electricity industry, and in addition thereto, to a*) ensure the reliability, quality and security of supply of electric power*; b) *jointly with the electric power industry participants, establish the wholesale electricity spot market and formulate the detailed rules governing the operations thereof*; and c) *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;*

**WHEREAS,** Republic Act No. 11234, otherwise known as the Energy Virtual One-Stop Shop Act (“EVOSS”) and its Implementing Rules and Regulations, provides for specific time frame for mother agencies and its attached bureaus to act upon all applications involving power generation, transmission or distribution projects, upon submission of complete documentary evidence, and imposes corresponding penalties for non-compliance thereof;

**WHEREAS**,Section 6 of the EPIRA states that a Generation Company shall, before it operates, secure from the Energy Regulatory Commission (ERC) a Certificate of Compliance (COC);

**WHEREAS**, Article I, Section 2 (iii) of the 2014 Revised Rules for the Issuance of Certificates of Compliance (COCs) for Generation Companies and Entities with Generation Facilities prescribed a maximum period of two (2) months for the conduct of Test and Commissioning for new Generation Facilities;

**WHEREAS,** generating units under regulatory and commercial testing are scheduled and dispatched in the Wholesale Electricity Spot Market (WESM) through imposition of overriding constraints and are considered price takers, pursuant to Section 7.6 of the WESM Dispatch Protocol Manual Issue 12.0;

**WHEREAS**, the Generation Companies have identified and recommended some improvements in the policy, specifically on the way forward for those Generation Companies that are compliant with the test and commissioning period but still waiting for the issuance of Certificate of Compliance (COC) from the ERC;

**WHEREAS**, the DOE recognized the importance of determining the definite status of power plants after completion of testing and commissioning process for a competitive market outcomes and for supply planning, hence, necessitating supplemental circular ensuring clarity and effectiveness of the policy on test and commissioning in line with the policy of maximizing available power generating capacity at all times;

**NOW, THEREFORE**, pursuant to its authority and mandate under the EPIRA and its Implementing Rules and Regulations (IRR), and after due consideration of the inputs from various stakeholders, the DOE hereby issues, adopts and promulgates the following:

**Section 1.** Section 4.3 (Procedures During Test and Commissioning) of DC2021-06-0013 is hereby updated as follows:

* 1. ***Procedures During Test and Commissioning***

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* + 1. Immediately upon expiry of the Provisional CATC or upon certification that the Generation Facility has completed the conduct of Test and Commissioning, the following shall be observed:

1. The SO shall cease submission of over-riding constraints to the MO to prevent continuous injection of the Generation Facility while awaiting approval to commence Commercial Operations.
2. Should energy injections still be recorded from the Generation Facility, the Generation Company shall not be allowed to declare any bilateral contract quantity and shall not be entitled to any WESM payments for any injected energy but shall be charged for any energy withdrawn from the grid or distribution network. The TNP or the DU in case of Embedded Generator shall immediately cause the disconnection of the Generation Company to prevent further injection in the grid or distribution network.

***Prior to the issuance of a COC by the ERC, a generation company that has been issued with a FCATC may be allowed to continue to operate and be compensated as price taker in the market, unless the ERC issues an Order for the generation company's immediate disconnection from the grid.***

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**Section 12. Separability Clause.** If for any reason, any section or provision of this Circular is declared unconstitutional or invalid, such parts not affected shall remain valid and subsisting.

**Section 13. Repealing Clause.** Any department circular or issuance, contrary to or inconsistent with this Circular is hereby repealed, modified or amended accordingly.

**Section 14. Effectivity.** This Circular shall take effect immediately after publication in at least two (2) newspapers of general circulation. Let a copy of this Circular be furnished to the University of the Philippines Law Center - Office of National Administrative Register (UPLC-ONAR).

Issued this \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ 2022 at the DOE, Energy Center, Rizal Drive, Bonifacio Global City, Taguig City, Metro Manila.

**ALFONSO G. CUSI**

Secretary