**DRAFT DEPARTMENT CIRCULAR ENTITLED, “IMPLEMENTING GUIDELINES FOR THE DECOMMISSIONING AND MOTHBALLING OF GENERATING PLANT OR UNIT PURSUANT TO SECTION 2.8 OF DOE DEPARTMENT CIRCULAR (DC) NO. DC2010-03-0003[[1]](#footnote-1)”**

| **Provisions** | **Proposed Revisions** | **Comments** |
| --- | --- | --- |
| **WHEREAS,** Section 2 of the Republic Act No. 9136, otherwise known as the Electric Power Industry Reform Act of 2001 (EPIRA), declares as the policy of the State to ensure the quality, reliability, security, and affordability of supply of electric power; |  |  |
| **WHEREAS,** Section 37 of the EPIRA, further mandates the Department of Energy (DOE) to formulate policies for the planning and implementation of a comprehensive program for the efficient supply and economical use of energy consistent with the approved national economic plan and the policies of environmental protection and conservation and maintenance of ecological balance, and provide a mechanism for the integration, rationalization, and coordination of the various energy programs of the Government; |  |  |
| **WHEREAS,** Section 2.8 of the DOE DC No. DC2010-03-0003 issued on 26 February 2010, states that the Generation Companies (GenCos) shall seek prior clearance from the DOE regarding any plans for deactivation or mothballing of existing generating units or facilities critical to the reliable operation of the Grid; |  |  |
| **WHEREAS,** Section 3.1 of the DOE DC No. DC2020-02-0004[[2]](#footnote-2) issued on 08 February 2020, prescribes guidelines for GenCos submission of three-year planned outage schedules to the National Grid Corporation of the Philippines (NGCP) for the Grid Operating Program (GOP) in accordance with the Philippine Grid Code (PGC); |  |  |
| **WHEREAS,** Republic Act (RA) No. 9513, otherwise known as the Renewable Energy Act of 2008, aims to promote the development, utilization, and commercialization of renewable energy (RE) resources; |  |  |
| **WHEREAS,** Section 6 (h) of RA No. 11285, otherwise known as “Energy Efficiency and Conservation Act” (EE&C Act),provides thatthe DOE shall assist the power plant owners in complying with the guidelines for the accurate characterization of wastes arising from energy-consuming devices, equipment, fixtures, and other relevant items, including the end-of-life vehicles and its component parts; |  |  |
| **WHEREAS,** the GenCos, as part of their responsibilities on the application for decommissioning or mothballing of its generating plant or unit, shall abide by the mandates of RA No. 6969[[3]](#footnote-3), RA No. 8749[[4]](#footnote-4), RA No. 9003[[5]](#footnote-5), and RA No. 9275[[6]](#footnote-6); |  |  |
| **WHEREAS,** the owner of the Waste-to-Energy (WtE) facilities shall abide by the mandates of the Department of Environment and Natural Resources (DENR) Administrative Order No. DAO-2019-21, entitled “Guidelines Governing for the Integrated Management of Municipal Solid Wastes”; |  |  |
| **WHEREAS,** RA No. 11234, otherwise known as the EVOSS Act, aims to further streamline and simplify the permitting process for the electric power industry participants and prospective investors; |  |  |
| **WHEREAS,** DOE DC No. 2017-03-0002[[7]](#footnote-7) issued on 20 March 2017, promulgated the amendments for the implementation of must dispatch and priority dispatch generating units in the WESM, which prescribes criteria, guidelines, and procedures for the registration, suspension, and de-registration of members and participants in the WESM; |  |  |
| **WHEREAS,** the DOE, to ensure transparency and consistency with the objectives of the EPIRA, conducted public consultations on the following dates:

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| --- | --- |
| **Date** | **Venue** |
| 22 November 2022 | bai Hotel Cebu, Mandaue City, Cebu |
| 24 November 2022 | Apo View Hotel, Davao City |
| 28 November 2022 | The Marquis Events Place BGC, Inc., Taguig City |

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| **NOW THEREFORE**, from the foregoing premises, the DOE hereby adopts the following guidelines for the decommissioning and mothballing of generating plant or unit:**Section 1. General Principles.** The DOE hereby adopts these guidelines for decommissioning or mothballing of the generating plant or unit to achieve the following:  |  |  |
| * 1. Ensure reliability and security of power supply such that the power system, wholly or partly, will not be compromised by the decommissioning or mothballing of a generating plant or unit;
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| * 1. Strengthen the planning and monitoring of supply profile by identifying the generating plant or unit that will be disconnected from the system.
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| * 1. Ensure compliance with regard to appurtenant permits, obligations, contracts, agreements, and other responsibilities prior to decommissioning or mothballing, and define the prescription period for such; and
 |  |  |
| * 1. Clarify that the decommissioning or mothballing of a generating plant or unit shall not in any way exempt or discharge the GenCo from any pending obligations, liabilities, and/or penalties that may be imposed by other entities.
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| **Section 2. Scope.** This Guidelines shall apply to all generating plant or unit intending to conduct decommissioning or mothballing, including the embedded generating facilities, regardless of their technology, and mode of connection; *Provided* that the decommissioning and mothballing for a nuclear power plant will be covered by a separate policy. |  |  |
| **Section 3. Definition of Terms.** |  |  |
| * 1. **“Connection Assets”** refer toassets that are put in place primarily to connect a customer/s to the Grid and used for purposes of Transmission Connection Services for the conveyance of electricity which if taken out of the System, will only affect the Customer connected to it and will have minimal effect on the Grid, or other connected Customers[[8]](#footnote-8). It also refers to any component of a transmission system or distribution system which, in the reasonable opinion of the Market Operator (MO), is associated with a connection point, including metering installations[[9]](#footnote-9).
 |  |  |
| * 1. **“Decommissioning”** refers to the process undertaken voluntarily by a generating company through which its generating plant or unit is retired from service and its operating licenses are revoked. It involves the process of removing all associated generating facilities used solely by the subject generating plant or unit, which may be sold or discarded. Some demolition of structures may be performed to facilitate cleaning or equipment removal[[10]](#footnote-10).
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| * 1. **“Embedded Generators / Embedded Generating Facilities”** refers to generating units that are indirectly connected to the Grid through the distribution system that supplies power to its host Distribution Utilities (DU) or the Grid.
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| * 1. **“Generating Plant”** refers to one or more generating units, where electric energy is produced from some other form of energy by means of a suitable apparatus[[11]](#footnote-11).
 |  |  |
| * 1. **“Generating Unit”** refers to a unit conversion apparatus including auxiliaries and associated equipment, functioning as a single unit, which is used to produce electric energy from some other form of energy[[12]](#footnote-12).
 |  |  |
| * 1. **“Mothballing”** refers to the process of temporary deactivation and removal from the service of the generating plant or unit, for not less than 6 months for their preservation so they can be restarted, used, or sold at a future date[[13]](#footnote-13).
 |  |  |
| * 1. **“Network Service Provider (NSP)”** refers to a person who engages in the activity of owning, controlling, or operating a transmission or distribution system.
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| * 1. **“Small Grid System Operator (SGSO)”** refers to the party responsible for generation dispatch and real-time control of the power system in off-grid areas through the management of operating reserves, reactive power support, black start and other operating requirements to ensure safety, power quality, stability, reliability and security of the Small Grid[[14]](#footnote-14).
 |  |  |
| **Section 4. Guidelines for Decommissioning and Mothballing**The applicant shall comply with the standard procedures and documentary requirements as provided in this Circular. |  |  |
| 1. **DECOMMISSIONING**
	1. The process of decommissioning begins with the formal submission of Letter of Intent (LOI) to the DOE and ends when the operations of the generating plant or unit completely ceases.

The applicant shall notify the DOE in writing of its intent to decommission its generating plant or unit two (2) years prior to the target decommissioning date, copy furnished the relevant agencies. The LOI shall provide the cause to decommission the generating plant or unit. |  |  |
| * 1. The LOI shall be supported by the following documents:
		1. The fact sheet on the generating plant or unit, attached as Annex A, which shall contain but not limited to the following information:
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| * + - 1. Company Name;
			2. Name of generating plant;
			3. Indicate the installed capacity of the generating plant or unit to be decommissioned, whichever is applicable;
			4. Location of the generating plant or unit to be decommissioned;
			5. Commercial operation date of the generating plant or unit;
			6. Off-taker; and
			7. Target date of decommissioning.
 |  |  |
| * + 1. Notarized Board Resolution or any equivalent document supporting the request for decommissioning;
 |  |  |
| * + 1. Acknowledgement letter of the applicant’s LOI from the various agencies such as the Board of Investments (BOI), NGCP or local DUs (for embedded generating facilities), Philippine Electricity Market Corporation (PEMC), Independent Electricity Market Operator of the Philippines (IEMOP), and ERC; and
 |  |  |
| * + 1. Letter of no objection from DENR regarding the plan to decommission a generating plant or unit.
 |  |  |
| * 1. The DOE shall check the completeness of the applicant’s submitted requirements and shall notify the applicant within three (3) working days of the status of its application to decommission a generating plant or unit.

The applicant shall have two (2) months to complete the necessary requirements after the DOE notification. Failure to comply within the prescribed period shall render the LOI invalid and void, and the generating plant or unit shall continue to be governed by existing rules and regulations subject to imposition of sanctions and penalties. |  |  |
| * 1. The DOE shall evaluate the application for decommissioning of the generating plant or unit being applied for, in consideration of the impact on the power system.
 |  |  |
| * 1. The DOE shall issue the Letter of Confirmation (LOC) within sixty (60) calendar days upon receipt of the complete documentary requirements as provided in Section 4.2 of this Circular. Provided that the issuance of LOC shall not preclude the ERC from exercising authority over anti-competitive behaviors of GenCos.
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| * 1. The applicant shall notify the DOE of any changes to its plan to decommission.
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| 1. **MOTHBALLING**
	1. The process of mothballing begins with the formal submission of LOI to the DOE and ends when operations of the generating plant or unit completely ceases.

The applicant shall notify the DOE in writing of its intent to mothball its generating plant or unit six (6) months prior to the target mothballing date, copy furnished the relevant agencies.The LOI shall provide the cause to mothball the generating plant or unit. |  |  |
| * 1. The LOI shall be supported by the following documents:
		1. A fact sheet on a generating plant or unit, attached as Annex B, which shall contain the following information:
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| * + - 1. Company Name;
			2. Name of generating plant;
			3. Indicate the installed capacity of the generating plant or unit to be decommissioned, whichever is applicable;
			4. Location of the generating plant or unit to be mothballed;
			5. Commercial operation date of the generating plant or unit;
			6. Off-taker;
			7. Target date of mothballing; and
			8. Target date of return to service.
 |  |  |
| * + 1. Notarized Board Resolution or any equivalent document supporting the request for mothballing;
 |  |  |
| * + 1. Acknowledgement letter of the applicant’s LOI from the various agencies such as the BOI, NGCP or local Dus (for embedded generating facilities), PEMC, IEMOP, and ERC;
 |  |  |
| * + 1. Letter of no objection from DENR regarding the plan to mothball a generating plant or unit; and
 |  |  |
| * + 1. Mothballing Plan indicating the activities starting from the mothballing date of the generating plant or unit up to the return to service date.
 |  |  |
| * 1. The DOE shall check the completeness of the applicant’s submitted requirements and shall notify the applicant within three (3) working days of the status of its application to mothball a generating plant or unit.

The applicant shall have two (2) months to complete the necessary requirements after the DOE notification. Failure to comply within the prescribed period shall render the LOI invalid and void, and the generating plant or unit shall continue to be governed by existing rules and regulations subject to imposition of sanctions and penalties. |  |  |
| * 1. The DOE shall evaluate the application for mothballing of the generating plant or unit being applied for, in consideration of the impact on the power system.
 |  |  |
| * 1. The DOE shall issue the LOC within sixty (60) calendar days upon receipt of the complete documentary requirements submitted by the applicant as provided in Section 4.8 of this Circular. Provided that the issuance of LOC shall not preclude the ERC from exercising authority over anti-competitive behaviors of GenCos.
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| * 1. The applicant shall notify the DOE of any changes to its plan to mothball. Furthermore, the applicant shall inform the DOE and relevant agencies at least 30 days before its return to service.
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| * 1. The applicant shall notify the DOE and relevant agencies whether the mothballed generating plant or unit will return to service as scheduled, or deviate from the mothballing period, wherein the number of extended days shall fall under unplanned outages.
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| **Section 5. Responsibilities of GenCos.** In addition to the above processes, the owner shall also be responsible for the following:  |  |  |
| 1. The Genco shall continue to comply with applicable rules and regulations relative to its operation and shall ensure availability of its generating plant or unit prior to the effective date of its decommissioning or mothballing;
 |  |  |
| 1. Prepare and submit a quarterly progress report to the DOE based on the Mothballing Plan;
 |  |  |
| 1. Upon receipt of the LOC, submit a copy of the same to the MO, SO, and ERC. The submission shall be made no later than 7 calendar days before the start date of decommissioning or mothballing as indicated in the LOC.
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| **Section 6. Responsibilities of the DOE.** Pursuant to its mandate under the EPIRA, the DOE shall also: |  |  |
| 1. In coordination with the System Operator (SO), evaluate the potential impact of the possible reduction of dependable capacity due to decommissioning and/or mothballing of generating plant or unit; and

Monitor the status of the mothballing activities of the GenCo for updating the power outlook. |  |  |
| **Section 7. Responsibilities of the MO.** The MO shall: |  |  |
| 1. Prepare and submit to the Rules Change Committee (RCC) proposed changes to the WESM Rules and relevant Market Manuals, as may be necessary, for the effective implementation of the policies provided herein;
 |  |  |
| 1. Ensure timely processing of applications for deregistration and issuance of necessary document in relation to decommissioning/mothballing; and
 |  |  |
| 1. Provide update to the DOE, ERC, SO, NSP, and WESM Governance Arm the status of registration of generating plant or unit intending to decommission or mothball.
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| **Section 8. Responsibility of the WESM Governance Arm.** The WESM Governance Arm shall: |  |  |
| * 1. Prepare and submit to the RCC proposed changes to the WESM Rules and relevant Market Manuals in accordance with the enforcement and compliance to the policy provided herein as necessary; and
 |  |  |
| * 1. Ensure adherence of the GenCo to the WESM Rules and Manuals until its application for deregistration is decided.
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| **Section 9. Responsibility of the NSP and SGSO.** The NSP, and SGSO shall be responsible for the following:1. Formulate and/or amend, as necessary, connection and disconnection procedures in consideration of this Circular;
 |  |  |
| 1. Facilitate and assist the generating plant or unit owner relative to the decommissioning or mothballing and other activities relevant thereto; and
 |  |  |
| 1. Continue to maintain the connection asset where the mothballed generating plant or unit is connected, provided that the same is included in the Regulatory Asset Base approved by the ERC.
 |  |  |
| **Section 10. Regulatory Support.** The ERC shall review, update, and harmonize, as necessary, all resolutions and regulations relevant to the implementation of the policies stated under this circular and promulgate guidelines on the same, including the appropriate action on Certificate of Compliance as applicable to decommissioning and mothballing. |  |  |
| The ERC shall implement the enforcement and penalty mechanisms in cases of non-compliance with this Circular by any electric power industry participant identified herein after due process. |  |  |
| The ERC shall monitor and take measures in accordance with its function to penalize abuse of market power, cartelization, and anti-competitive or discriminatory behavior by any electric power industry participant. |  |  |
| **Section 11. Repealing Clause.** All rules and regulations, or any portion thereof, that are inconsistent with this circular are hereby repealed or modified accordingly. |  |  |
| **Section 12. Separability Clause.** If for any reason, any section or provision of this Circular is declared unconstitutional or invalid, the other parts or provisions hereof are not affected thereby shall continue to be in full force and effect. |  |  |
| **Section 13. Effectivity.** This Department Circular shall take effect fifteen (15) days after its publication in two (2) newspapers of general circulation. Copies of this Circular shall be filed with the University of the Philippines Law Center-Office of the National Administrative Register. |  |  |

1. Directing all Power Generation Companies, the Transmission Service Provider, and all Distribution Utilities to Ensure Adequate and Reliable Electric Power Supply in the Country. [↑](#footnote-ref-1)
2. Providing Guidelines on the Planned Outage Schedules of Power Plants and Transmission Facilities and the Public Posting of the Grid Operating and Maintenance Program (GOMP). [↑](#footnote-ref-2)
3. Toxic Substances and Hazardous and Nuclear Wastes Control Act of 1990 [↑](#footnote-ref-3)
4. Philippine Clean Air Act of 1999 [↑](#footnote-ref-4)
5. Ecological Solid Waste Management Act of 2000 [↑](#footnote-ref-5)
6. Philippine Clean Water Act of 2004 [↑](#footnote-ref-6)
7. Adopting the Various Wholesale Electricity Spot Market (WESM) Market Manuals and their further Amendments for the Implementation of Must Dispatch and Priority Dispatch Generating Units in the WESM [↑](#footnote-ref-7)
8. OATS Rule [↑](#footnote-ref-8)
9. WESM Rules [↑](#footnote-ref-9)
10. Adapted from United States Environmental Protection Agency (EPA) - Coal Plant Decommissioning: Plant Decommissioning, Remediation and Redevelopment [↑](#footnote-ref-10)
11. Philippine Grid Code (PGC) [↑](#footnote-ref-11)
12. Ibid [↑](#footnote-ref-12)
13. Adapted from Pacific Northwest National Laboratory: Business Models for Coal Plant Decommissioning [↑](#footnote-ref-13)
14. DOE DC2021-11-0039 entitled, “Mandating the National Transmission Corporation as Small Grid System Operator in Specific Off-Grid Areas” [↑](#footnote-ref-14)