

[DOE DEPARTMENT CIRCULAR NO. DC 2004-06-006, June 18, 2004]

PRESCRIBING THE QUALIFICATION CRITERIA FOR THE QUALIFIED THIRD PARTY PURSUANT TO SECTION 59 OF "THE ELECTRIC POWER INDUSTRY REFORM ACT OF 2001," AND ITS IMPLEMENTING RULES AND REGULATIONS

WHEREAS, it is the policy of the State to ensure and accelerate the total electrification of the country;

WHEREAS, Section 59 of Republic Act No. 9136, otherwise known as the "Electric Power Industry Reform Act of 2001" or "EPIRA," has opened to other Qualified Third Parties (QTPs) the provision of electric service in remote and unviable areas that the franchised Distribution Utility is unable to service;

WHEREAS, pursuant to Rule 13 of the Implementing Rules and Regulations (IRR) of "EPIRA" or "EPIRA-IRR," the Department of Energy (DOE) is tasked to issue specific guidelines on how to encourage the inflow of private capital and the manner whereby other parties can participate in the missionary electrification projects set forth in the Missionary Electrification Development Plan (MEDP);

WHEREAS, pursuant to Rule 14 of the EPIRA-IRR, the DOE shall set the criteria for determining QTPs that may participate in providing electricity to remote and unviable areas which may include financial, technical, environmental, and other indices of performance;

WHEREAS, the DOE deems it appropriate to broaden its approach to rural and missionary electrification through the creation of a market-based environment that is conducive to private sector investment and participation and encourages technology transfer, and research and development;

NOW, THEREFORE, FOR AND IN CONSIDERATION OF THE FOREGOING PREMISES, the DOE hereby promulgates the following guidelines setting out the qualification criteria for the determination of QTPs that may be authorized to participate in missionary electrification program of the Government as set out in the EPIRA and its IRRs.

SECTION 1. Definition of Terms - Unless the context otherwise indicates, the terms used in this Circular shall have the following meanings:

- a. "Distribution Utility" refers to any electric cooperative, private corporation, government-owned utility or existing local government unit, which has an exclusive franchise to operate a distribution

system in accordance with its franchise and the EPIRA;

- b. "Missionary Electrification" refers to the provision of basic electricity service in unviable areas with the ultimate aim of bringing the operations in these areas to viability levels;
- c. "Missionary Electrification Development Plan" or "MEDP" refers to the five- (5) year plan of the DOE, updated annually, to implement missionary electrification program of the Government and serves as basis for the determination by the ERC of the Universal Charge for Missionary Electrification (UC-ME);
- d. "Person" refers to a natural or juridical person, as the case may be;
- e. "Qualification Criteria" refers to the set of financial, technical, and other indices of performance prescribed by the DOE as basis for determining QTP/s to serve Unviable or Waived Area/s;
- f. "Qualified Third Party " or "QTP" refers to the alternative electric service provider authorized to serve remote and unviable areas pursuant to Section 59 of the EPIRA and Rule 14 of the EPIRA-IRR;
- g. "Unviable Area" refers to a geographical area within the franchise area of Distribution Utility where immediate extension of distribution line is not feasible; and
- h. "Waived Area" refers to an area within the franchise area of a Distribution Utility declared as unviable and cannot be served for any reason by the Distribution Utilities.

SECTION 2. Declaration of Policies - It is hereby declared the policies of the DOE that:

- a. Any Person who meets the Qualification Criteria set forth in this Circular shall be accredited as a QTP.
- b. All QTPs shall comply with the technical, financial, reporting, environmental, and other performance standards, which the DOE and/or ERC may prescribe relative to the provision of electricity services to remote and Unviable Areas.
- c. No Person shall be allowed to serve Waived Areas unless it is first accredited as a QTP by the DOE.

SECTION 3. Guiding Principles in Accrediting QTPs.

(a) Any Person, who intends to serve a Waived Area, may apply with the DOE through the Electric Power Industry Management Bureau (EPIMB) for accreditation as a QTP. The DOE shall evaluate an application based on the Qualification Criteria

set forth in this Circular.

(b) DOE may impose upon any Person limitations of its accreditation as a QTP, including limitations as to the size of an area a QTP is allowed to apply to serve (where size will be measured by number of potential customers and/or probable peak demand).

SECTION 4. Eligibility Criteria for Qualified Third Party.

a. **General**

(i) To be accredited as a QTP, a Person must demonstrate that it is financially and technically capable, and of good standing in the business community.

(ii) Any Person registered with the Philippine Securities and Exchange Commission which meets the criteria set forth in this Circular may be accredited as a QTP.

(iii) Organizations eligible for accreditation may include, without limitation, private firms, Local Government Units, Cooperatives, Non-Government Organizations, Generation Companies or its subsidiaries, or subsidiaries of Distribution Utilities.

b. **Limitation on Accreditation**

The DOE may restrict the type or size of system that a QTP will be allowed to construct and operate. Such restrictions may include, without limitation, (i) restrictions on the size of system, (ii) restrictions on the location of the system; and (iii) restrictions on the generating technology to be used. Where the size of the system is restricted, such restriction may be expressed in terms of generation capacity, technology, and/or number of connections to be served.

c. **Technical Criteria**

(i) To be accredited as a QTP, an interested Person must demonstrate that it has the technical skills and capacity to operate a power generation facility and/or an electric power distribution system for public supply.

(ii) In order to demonstrate the required skills and capacity, applicants must provide:

(1) Full details of the technical skills and experience of the key management team responsible for the operation of the system.