NATIONAL ADMINISTRATIVE REGISTER · MAY 30, 2003

FURTHER AMENDING SECTION 14 OF DEPARTMENT CIRCULAR NO. 98-03-004 ENTITLED “RULES AND REGULATIONS IMPLEMENTING REPUBLIC ACT 8479, DOWNSTREAM OIL INDUSTRY DEREGULATION ACT OF 1998...

DOE DEPARTMENT CIRCULAR NO. DC 2003-06-007, May 30, 2003

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SECTION 1. Coverage. — Pursuant to Chapter VII, Section 23 of Republic Act No. 8479, otherwise known as the "Downstream Oil Industry Deregulation Act of 1998," Section 14 (paragraph) c of Department Circular No. 98-03-004, as amended by Department Circular No. 2002-05-001, is hereby further amended to read as follows:

"SEC. 14. Promotion of Retail Competition

xxx

c. Grant of Gasoline Station Loan

(1) The Gasoline Station Lending and Financial Assistance Program

The Gasoline Station Lending and Financial Assistance Program (hereinafter referred to as the Program) is designed to provide credit assistance to New Industry Participants (Borrowers) whose owners successfully complete the two-fold program on management and skills training in the retailing of Petroleum Products for the establishment, operation, improvement, management and maintenance of gasoline stations within the current deregulated environment. The financial assistance covers the retailing of all Petroleum Products sold in gasoline stations, including LPG.

(2) Program Fund

Pursuant to Section 10 of R.A. 8479, the total amount (Program Fund) earmarked for the Program is Ninety-Four Percent (94%) of the Three Hundred Million Pesos, equivalent to Two Hundred Eighty-Two Million Pesos (P282M). This Program Fund shall be made available by the Philippine Amusement and Gaming Corporation (PAGCOR) through the DOE and administered by the Development Bank of the Philippines (DBP). The DBP and the DBP-Trust Services (DBP-TS) shall administer the Program Fund under a Memorandum of Agreement (MOA) dated January 23, 2003. This Program Fund shall be placed in two (2) special accounts with DBP-TS, which is tasked to perform fund management functions and loan administration services to monitor fund disbursement and collection. The DBP-TS shall maintain two (2) books of accounts for the Program Fund and a subsidiary ledger account of all borrowers.

All repayments, including amortization payments of principal and interest earnings, shall accrue to the "Second Generation Fund" in accordance with the MOA.

The Program Fund shall assume the credit risk of Borrowers.

(3) Eligible Borrowers

The following Borrowers shall be qualified to avail of the Program:

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(i) Natural persons who successfully completed the two-fold program on management and skills training for the establishment, operation, management and maintenance of gasoline stations; or

(ii) Corporations, partnerships, cooperatives, associations, non-government organizations, joint ventures, consortia, single proprietorships and similar parties whose owners/representatives successfully completed the two-fold program on management and skills training for the establishment, operation, management and maintenance of gasoline stations.

Employees of the DOE and its attached agencies namely, the National Electrification Administration, Philippine National Oil Company and its subsidiaries, National Power Corporation, Privates Sector Assets and Liabilities Management (PSALM) and Transmission Company (TRANSCO) are disqualified from applying for the gasoline station loan during their employment in the said offices or entities and up to a period of one (1) year after the time of their resignation or separation from the services of such offices or entities. In addition, relatives up to the fourth civil degree either by consanguinity or affinity of members of the Executive Committee (ExCom) of the DOE, Chief Executive Officers and the members of the Board of Directors/Administrators of such attached agencies shall not be qualified to apply for the gasoline station loan while said officials are in the service of such offices/entities up to a period of one (1) year after their resignation or separation from the service of said offices or entities.

(4) Eligible Loan Purposes

The following Loan Purposes shall be eligible for funding under the Program:

(i) Purchase and installation of equipment to be used for the operation of a gasoline station including, but not limited to, dispensing pumps, underground tanks, filters, compressors;

(ii) Purchase and installation of equipment related to safety and environmental protection including, but not limited to, fire extinguishers, water tanks;

(iii) Construction and concreting of pump islands;

(iv) Purchase of initial inventory of Petroleum Products from suppliers of good standing not exceeding One Million Pesos (P1 million);

(v) Purchase of brand new LPG cylinders not to exceed forty (40) cylinders;

(vi) Purchase and installation of other similar equipment as may be approved by OIAB.

(5) Equity Participation

A minimum of fifty percent (50%) of the total Project cost, including existing land and improvements made by the Borrower, shall serve as equity of said Borrower.

(6) Loanable Amount/Terms of the Loan

All eligible projects (Projects) can avail of the one hundred percent (100%) loanable amount provided that such amount shall not exceed fifty percent (50%) of the total Project cost or Five Million Pesos (P5,000,000.00), whichever is lower. The maximum term of the loan shall be seven (7) years and payments of principal shall be made monthly; Provided, that the first installment shall be due within six (6) months from the date of initial release of the loan proceeds.

(7) Interest Rate

Interest on the loan shall be fixed at six percent (6%) per annum and shall be payable monthly in arrears starting

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six (6) months after the release of loan.

(8) Penalties

Late payments shall be subject to a penalty of twenty-four percent (24%) per annum based on past due amortizations, computed from due date of such amortization until fully paid.

(9) Collateral Requirements

Loans may be secured by any or a combination of the following collaterals:

(i) Real estate mortgage for up to sixty percent (60%) of appraised value;

(ii) Chattel mortgage for up to seventy-five percent (75%) of appraised value;

(iii) Assets acquired out of loan proceeds and other applicable securities specific to the Projects, such as but not limited to the following:

1. Real estate mortgage;
2. Chattel mortgage on Project assets;
3. Assignment of insurance coverage;
4. Assignment of leasehold contract; and/or
5. Joint and several signatures (JSS) of stockholders and/or key officers

(iv) Assignment of leasehold contract; and

(v) Joint and several signatures (JSS) of stockholders/key officers.

(10) Loan Disbursement

Loan proceeds shall be disbursed upon one hundred percent (100%) completion of the equity requirement. For civil works, loan releases for the construction and concreting of pump islands (including canopy), shall be made in two (2) tranches based on the development of the civil works.

An initial fifty percent (50%) of the total approved loan shall be released provided that one hundred percent (100%) of the equity has been complied with. The balance of the approved amount shall be made upon full completion of the civil works.

(11) Loan Application and Acceptance

(i) Persons interested to participate in the Program shall submit the following documents to the Oil Industry Administration Bureau (OIAB) of the DOE:

1. Duly accomplished Application Form (Annex 1);

2. Check payable to the DOE in the amount of Five Thousand Five Hundred Pesos (P5,500.00) as application fee;

3. Check payable to DBP in the amount of Twenty Thousand Pesos (P20,000.00) as processing fee (to be returned to Borrower if his application fails initial evaluation);

4. DOE Certificate of Completion of the two-fold training program;

5. DTI or SEC Registration and Articles of Incorporation, as applicable;

6. Feasibility Study of the Project including the location and layout of the proposed gasoline station, proposed supplier/s, manpower complement and other similar information; and

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7. Environmental Compliance Certificate (ECC) issued by the DENR for stations ready to operate, or ECC application letter duly received by the Environmental Monitoring Bureau of the DENR for stations still to be established.

(ii) The DOE, through its OIAB shall undertake a preliminary evaluation of the application which shall include, but not be limited to, the checking of eligibility criteria, identification and inspection of the proposed site and other relevant matters.

(iii) Within fifteen (15) working days from receipt of the application, the OIAB shall submit the results of its evaluation and its recommendation to the DOE Review Committee (RC).

(iv) The DOE RC shall deliberate on the OIAB findings and recommendation within five (5) working days from receipt of such OIAB recommendation. Applications that merit funding assistance shall be immediately endorsed by the DOE RC to the DBP, together with the processing fee, for credit investigation, appraisal of offered collaterals and final evaluation. Applications not found qualified to avail of the Program Fund shall be returned to the OIAB which shall immediately inform the applicant of the DOE Review Committee's decision.

(12) Loan Approval/Denial

(i) The DBP, through its lending units in the Branch Banking Sector (BBS) and the Development Banking Sector (DBS) Head Office, shall undertake the investigation and evaluation of the loan applications and forward to the OIAB their recommendation for approval within twenty-five (25) working days from receipt of such application.

1. A recommendation for approval shall be supported by a credit application which shall be returned to DBP upon the DOE's approval.

2. In the event of a denial, the DBP shall return all documents to the DOE Review Committee with a written explanation citing the reason(s) for the denial together with the evaluation reports.

(ii) The OIAB shall act on the DBP's favorable findings and recommendations by issuing a Notice of Approval to approved credit applications to the DBP together with the complete requirements, copy furnished the Loan Administrator (DBP-TS) within five (5) working days from receipt of said recommendation. In case of disapproval, the OIAB shall directly inform the applicants.

(13) Loan Documentation and Release

(i) The DBP, through its BBS and/or Program Management I/Program Management II (PMI/PMII) shall, upon receipt of the Notice of Approval from the OIAB, undertake the following:

1. Require the approved Borrower to submit documentary requirements including post-dated checks.

2. Prepare and cause the execution of required loan documents such as the loan agreement, promissory note, mortgage contract and other security documents. The loan agreement shall be executed by representatives of the Borrower and the DOE, and duly witnessed by representatives from the DBP.

3. Verify compliance with all pre-release conditions. If all conditions are complied with, the DBP shall forward the necessary documents to DBP-TS, which is the duly designated Loan Administrator, with the written instruction for the release of the loan, copy furnished the OIAB.

(ii) The DBP shall serve as the clearing office for transactions under this Program. Loan approvals, releases and related transactions from the branches shall be forwarded to DBP-TS for release and/or recording and booking.

(iii) The DBP-TS shall, upon receipt of the written instructions from the DBP, prepare the necessary check release

to qualified Borrowers. For branch releases, the DBP-TS shall transfer funds to the branch concerned which shall, in turn, prepare the check release and issue the check in favor of the Borrower. The branch shall advise DBP-TS of the actual date of release to Borrower.

(14) Account Management

For account management, the DBP-TS shall have the following responsibilities:

(i) Book loan releases and maintain subsidiary and general ledgers;

(ii) Send the appropriate billing statements and collection letters to Borrowers;

(iii) Remit monthly to the Bureau of Treasury, through the DOE, all earnings/income, net of fees, accruing to the General and Second Generation Fund;

(iv) Render regular reports including, but not limited to, financial statements, schedule of investments and other related reports; and

(v) Perform such other functions as may be necessary to comply with the foregoing.

(15) Collection of Loan Payments

The DBP shall be responsible for sending the appropriate collection letters and/or reminders to the Borrowers. On the amortization due dates, the DBP shall deposit the applicable postdated check issued by the Borrower for application as loan payment and on the same day remit the collection to the Loan Administrator. All loan payments shall be credited by the DBP-TS to the Second Generation Fund.

(16) Reportorial Requirements

All Borrowers shall Submit Quarterly Reports to the OIAB commencing from the start of commercial operation and fifteen (15) days after the end of each succeeding quarter to include volume of sales and records of Petroleum Products deliveries (by product, by supplier) and other information requested by DOE.

(17) Non-Transferability Clause

The Borrower shall neither assign nor transfer the operation of the gasoline station subject of the loan application without the express written consent of the DOE during the term of the Loan Agreement.

(18) Standards of Quality

The construction, operation, improvement and maintenance of the gasoline station subject of the loan applications shall be in accordance with existing and future standards promulgated for the industry or with international standards of quality. Only products meeting the Philippine National Standard (PNS) shall be dispensed at the stations. Moreover, these stations shall be operated and maintained in conformance with all rules and regulations of the DOE.

(19) Sanctions

Sanctions shall be imposed on the following offenses:

(i) Non-conformity with applicable standards for fuel, facilities and practices — Penalties imposed pursuant to DOE regulations

(ii) Late/Non-payment of monthly amortization — Penalty provided under the Loan Agreement

(iii) Transfer of operation of the gasoline station without consent of the DOE — Penalty shall include

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termination of Loan Agreement and other relevant penalties

SECTION 2. Repealing Clause. — Any Department Orders, Circulars or Issuances inconsistent with this Circular are hereby repealed or modified accordingly.

SECTION 3. Separability Clause. — If, for any reason or reasons, any part of this Circular is declared by a court of competent jurisdiction as unconstitutional or invalid, the other parts or provisions not so declared shall not be affected thereby.

SECTION 4. Effectivity. — This Department Circular No. 2003-06-007 shall take effect upon its publication in at least two (2) newspapers of general circulation.

Adopted: 30 May 2003

(SGD.) VINCENT S. PEREZ, JR.
Secretary

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