

Payment mulled for shareholders of delisting firms

THE Philippine Stock Exchange, Inc. (PSE) is considering an amendment to market rules that will require companies that breached their public float to pay shareholders who have already tendered their shares before a tender offer extension.

“One of our proposed amendments, which was already approved by the board for public comments, is if a company breaches the public float prior to the cross of the tender offer, it will be required to file and pay for that,” PSE President Ramon S. Monzon told reporters on the sidelines of a forum in Taguig City last week.

“If the company already met the threshold and it wants to extend, then you can extend. But you should pay first those who have already tendered their shares,” Mr. Monzon added.

According to Mr. Monzon, the proposed amendment came up after the delisting move of conglomerate Metro Pacific Investments Corp. (MPIC).

“Our rule is 95% threshold,” Mr. Monzon said, citing as an example MPIC, which got 96.87% of total shares during its initial tender offer but extended and obtained an additional 0.3%.

“But they held up payments for the 18.7% [of total shares]. The company should pay first those who have tendered based on the original commitment,” he said.

“Every time we change our rules, we have to submit it for public comments, then submit [it] to the Securities and Ex-

change Commission (SEC). After public comments, we look at the comments then we submit to the SEC for final rule,” he added.

During its delisting process, MPIC extended the tender offer period for its shares until Sept. 19 from Sept. 7 to give more time for minority investors to decide.

“The decision of the bidders to extend the tender offer period is to provide the remaining MPIC shareholders, who missed the deadline on Sept. 7, 2023, more time to fully appreciate the recent developments on the delisting of MPIC and make a decision to participate in the tender offer,” the company previously said.

The PSE last week approved MPIC’s delisting as the conglomerate completed its P28.4-billion tender offer to acquire the remaining shares held by minority investors. The company’s shares were suspended as its public float went below the required minimum level for listed firms.

In August, majority shareholders of MPIC agreed to voluntarily delist the company from the stock exchange.

MPIC is one of the three key Philippine units of Hong Kong-based First Pacific, the others being Philex Mining Corp. and PLDT Inc.

Hastings Holdings, Inc., a unit of PLDT Beneficial Trust Fund subsidiary MediaQuest Holdings, Inc., has a majority share in *BusinessWorld* through the Philippine Star Group, which it controls. — **Revin Mikhael D. Ochoa**

SC upholds Maxicare’s nearly P420-M tax claim

THE Supreme Court (SC) has upheld a tax court ruling that set aside Maxicare Healthcare Corp.’s tax liabilities worth P419.77 million for the taxable year 2012.

In a 21-page decision dated July 10 and made public on Oct. 4, the tribunal agreed with the Court of Tax Appeals’ (CTA) conclusion that Maxicare was not afforded due process when its tax liabilities were assessed.

“A written notice requirement for both the final letter of demand and the final assessment notice is in observance of due process — to afford the taxpayer adequate opportunity to file a protest on the assessment,” Associate Justice Maria Filomena D. Singh said in the ruling.

Under the Tax Code, an entity must be given 60 days to submit supporting documents before the commissioner of internal revenue (CIR) decides on a tax assessment.

The High Court noted that the CIR issued its final decision on the disputed assessment before

the 60-day window had lapsed, which it said violated Maxicare’s right to due process.

The commissioner argued that the firm was not denied due process since Maxicare was able to submit a protest letter to the subject assessment.

The High Court disagreed, saying the firm was not afforded a “genuine opportunity to be heard” since the CIR had issued its final decision before Maxicare could submit additional supporting documents following its request to reinvestigate its tax liabilities.

In this case, the denial of due process is manifestly evident and was clearly recognized by the CTA First Division and wholly affirmed by the CTA En Banc.

“Tax investigation and assessment necessarily demand the observance of due process because they affect the proprietary rights of specific persons,” the Supreme Court said. — **John Victor D. Ordoñez**

Smart looks to explore emerging technologies

SMART Communications, Inc. said it would explore emerging technologies to enhance its networks, the wireless subsidiary of PLDT Inc. said on Sunday.

“We will continue to fortify and optimize our network, utilizing the latest technologies to make it more resilient and responsive,” Eric Santiago, Smart Network head, said in a statement.

To date, the company has expanded its total fiber footprint to more than 1.1 million kilometers, Smart said.

The telecommunications company’s fiber footprint expansion mainly consists of international and domestic fiber, which in turn covers Smart’s mobile network including al-

most all of its 3G, 4G/LTE, and 5G.

Smart said it would continue to enhance its integrated fixed and wireless networks, which it said is in line with the government’s digitalization target.

“Our investments over the years in strengthening our integrated fixed and wireless networks have enabled us to deliver enhanced mobile services to our subscribers across the country,” Mr. Santiago said.

Smart and PLDT have earlier expressed their commitments to further enhance its networks to further accelerate the internet quality in the Philippines. — **Ashley Erika O. Jose**



Republic of the Philippines
DEPARTMENT OF ENERGY
(Kagawaran ng Enerhiya)

DEPARTMENT CIRCULAR NO. DC2023 - 10-0028 GUIDELINES ON PETROLEUM DATA DECLASSIFICATION AND FREE DATA ACCESS

WHEREAS, Section 2, Article XII of the 1987 Constitution provides that “[t]he exploration, development, and utilization of natural resources shall be under the full control and supervision of the State”;

WHEREAS, Section 4 of Republic Act (RA) No. 7638, as amended, otherwise known as “The Department of Energy (DOE) Act of 1992”, mandates the DOE to prepare, integrate, coordinate, supervise and control all plans, programs, projects and activities of the Government relative to energy exploration, development, utilization, distribution, and conservation;

WHEREAS, Section 37 (k) of RA 9136, otherwise known as “The Electric Power Industry Reform Act of 2001”, provides that the DOE shall have the power to, among others, “[A]ssess the requirements of, determine priorities for, provide direction to, and disseminate information resulting from energy research and development programs for the optimal development of various forms of energy production and utilization technologies”;

WHEREAS, Section 2, Presidential Decree (PD) No. 87, as amended, otherwise known as the “Oil Exploration and Development Act of 1972,” declared it to be the policy of the State “to hasten the discovery and production of indigenous petroleum through the utilization of government and/or private resources, local and foreign, under the arrangements embodied in this Act xxx” and provides in Section 8 (f) thereof, as among the obligations of a Petroleum Service Contractor, the submission of geological and other information, data and reports;

WHEREAS, on 8 November 1974, PD 575 created and established the Philippine National Petroleum Center to, among others, “centralize all data and information on the country’s petroleum resources”;

WHEREAS, at present, the Energy Data Center of the Philippines (EDCP) is the sole central repository of petroleum, coal and geothermal energy data in the Philippines, under the administrative supervision of the Information and Data Management Division (IDMD) of the Information Technology and Management Services (ITMS) of the DOE;

WHEREAS, BED Circular No. 7 issued on 12 April 1976, provides that “[A]ny agreement among service contractors, petroleum exploration concessionaires and other interested companies for the use of said data and/or information whether through trade or exchange or for other valuable consideration, shall be subject to prior approval of the Board”;

WHEREAS, DOE Circular No. 93-11-09, issued on 10 November 1993, provides that “[A]ll existing service contractors as well as geophysical survey contractors shall have exclusive right to the data and information generated during the geophysical survey, drilling, and/or production phase/s of operations undertaken pursuant to Presidential Decree No. 87, as amended, and said data and information are considered confidential and, as such, the data may not be made available to any outside parties until such time that the contract has elapsed and the area covering said data and information has been relinquished, in which case, the data and information may be declassified by the DOE and made accessible to any interested party”;

WHEREAS, the DOE issued Department Circular (DC) No. DC2017-12-0017, titled “Adopting the Philippine Conventional Energy Contracting Program (PCECP) of Awarding Petroleum Service Contracts (PSCs) and Creating the Review and Evaluation Committee (REC)”, to institute and implement a system of coordination and administration, supervision and regulation during the implementation and operation of the PSCs;

WHEREAS, the DOE is continuously adopting new mechanisms and strategies to effectively carry out its plans and programs as mandated under PD 87, as amended, including its implementing rules and regulations;

WHEREAS, exploration activities are data-driven and require different sets of petroleum data to identify prospective areas for oil and gas;

WHEREAS, the DOE desires to attract more Exploration and Production (E&P) companies to spur exploration activities which may provide new discoveries of oil and gas fields leading to their development and production by declassifying petroleum data and providing free access thereto;

NOW, THEREFORE, in consideration of the aforementioned premises, the following guidelines are hereby adopted and promulgated for compliance by all concerned:

Section 1. Scope. This Circular shall apply to all petroleum data and reports stored in the EDCP and all other petroleum data and reports that are in the possession, control, and custody of third persons, whether as owners, interest partners or otherwise.

Section 2. Policy on Data Declassification.

- 2.1 Petroleum data and reports stored in the EDCP (hereinafter, the “EDCP Data”) that were submitted pursuant to expired, relinquished, or terminated PSCs are hereby declassified.
- 2.2 Petroleum data and reports that were submitted pursuant to an active PSC shall be declassified upon the expiration of the exclusivity period as stipulated in the PSC. In the absence of such stipulation in the PSC, petroleum data and reports shall be declassified upon effectivity of this Circular.
- 2.3 All petroleum reports or data acquired, generated, processed, or reprocessed pursuant to a multi-client agreement shall be declassified upon the expiration of the exclusivity period stated in the multi-client agreement.
- 2.4 All other technical data, reports, and interpretations not covered by the preceding paragraphs shall be declassified immediately upon the effectivity of this Circular.
- 2.5 Digital EDCP Data can either be: a) original (e.g., stored in 9-track tapes or 3590/3592 tape cartridges or their latest medium), or b) copies thereof. The sale, trade, exchange, and distribution of the EDCP Data is unauthorized and strictly prohibited.
 - 2.5.1 Original digital EDCP Data shall be returned to the EDCP within a period of up to six (6) months after its withdrawal, subject to the terms and conditions of the Data Use Agreement Form (DUAF). In the case of 9-track tapes, the borrower shall return the EDCP Data stored in 3590/3592 tape cartridges or their latest medium. In the case of 3590/3592 tape cartridges or their latest medium, the borrower shall return the tape cartridges.

In both cases, the borrower shall provide the EDCP with the data stored in a portable external drive.

- 2.5.2 Original digital EDCP Data shall be borrowed subject to such conditions as may be set by the DOE following its evaluation of the request to borrow, including with respect to the ability of the borrower to process and return the data in the required medium and comply with the requirements of the DOE.
- 2.5.3 All borrowers of original digital EDCP Data shall exercise due care in handling the data and shall be liable in case of damage or loss. In the event of failure to comply with the provisions of this Circular and the DUAF, the borrower, its assignees or successors-in-interest shall not be allowed access to any EDCP Data and shall be disqualified from participating in any contracting process of the DOE.
- 2.5.3 Copied EDCP Data need not be returned to the EDCP.
- 2.6 Reports, evaluations and/or reprocessed data generated from the EDCP Data shall be submitted to the DOE within three (3) years from the date of the acquirer’s receipt of the EDCP Data and shall thereafter be immediately declassified, provided, that, such reports, evaluations and/or reprocessed data may be sold, traded, exchanged, or distributed within said three-year period so long as they have not been declassified.
- 2.7 The DOE, through the REC, reserves the right to exclude any data, report, or information which it deems to be of, or will affect national security and other analogous instances.

Section 3. Data Repository. All petroleum data and reports that are required to be submitted to the DOE shall be received and stored in the EDCP.

Section 4. Eligible Person/Entity on Free Data Access. Eligible persons/entities referred to in the succeeding section are any of the following:

- 4.1 Government agencies and instrumentalities;
- 4.2 Service Contractors or their duly authorized representatives;
- 4.3 Potential investors or their duly authorized representatives;
- 4.4 Researchers/Students; and
- 4.5 Other persons/entities that may be allowed by the DOE upon written request.

Section 5. Free Access to Data. Access to all declassified petroleum data and reports may be given to any eligible person and/or entity free of charge, subject to the applicable processing fee as stipulated below, which shall be reviewed and updated periodically by the IDMD-ITMS, provided, that, the processing fee shall be waived for students requesting access to data.

Data Type	Processing Fee (PhP)
General Report per report	1,400.00
Well Report per well	1,400.00
Wire Line per well	1,400.00
Seismic Data per line/series	1,400.00
Well Core and Samples per section	1,500.00

Section 6. Data Request Procedure. All requests for data access shall comply with the following procedures:

- 6.1 The requesting party shall submit a letter of intent addressed to the Director of the ITMS, indicating the name, address, affiliation, and purpose of the request for data access with the following supporting documents:
 - a. For government agencies and instrumentalities, government ID and authorization;
 - b. For Service Contractors, company-issued ID and authorization;
 - c. For potential investors, government-issued ID and company-issued ID;
 - d. For researchers/students, any government-issued ID of the requesting party, proof of affiliation (if applicable), and endorsement from the Dean/Professor of the academic institution (if applicable);
 - e. Other persons/entities that may be allowed by the DOE upon written request, and submission of any government-issued ID, and proof of affiliation (if applicable).

Letter of intent with incomplete supporting documents shall not be accepted.

In the course of the evaluation, the DOE may require the submission of other documents/requirements which it deems relevant to its review and approval of the request.

- 6.2 Upon determination of the completeness of the requirements submitted, the IDMD-ITMS shall provide the requesting party with a list of available data and a Data Request Form (DRF), hereto attached as Annex A.
- 6.3 The requesting party shall submit the accomplished DRF to the IDMD-ITMS, who shall transmit the same along with the supporting requirements to the Petroleum Resources Development Division of the Energy Resource Development Bureau (PRDD-ERDB) for its evaluation and recommendation.
- 6.4 The PRDD-ERDB shall evaluate whether:
 - a. The data being requested is, or may affect, national security concerns;
 - b. The requesting party is not a delinquent contractor or has unsettled commitments with the DOE pursuant to a PSC, multi-client, or other agreements;
 - c. The borrower has the ability to comply with this Circular; and
 - d. Other analogous instances.
- 6.5 The IDMD-ITMS shall act in accordance with the recommendation of the PRDD-ERDB on the request, provided, that, in case of disapproval, the requesting party may file an appeal with the REC within fifteen (15) days from notice of such disapproval.
- 6.6 Upon the favorable recommendation of the PRDD-ERDB, the IDMD-ITMS shall issue to the requesting party a Billing Statement and DUAF.
- 6.7 The requesting party shall request for an Order of Payment (OP) from the Accounting Division of the Financial Services.
- 6.8 The requesting party shall pay the processing fee to the Treasury Division within ten (10) calendar days from the issuance of the OP.
- 6.9 The requesting party shall submit the Proof of Payment and duly accomplished DUAF to the IDMD-ITMS. Thereafter, the IDMD-ITMS shall release the data to the requesting party.


Section 7. REC Supervision. In recognition of the value and importance of petroleum data to the country’s overall efforts in the exploration, development and utilization of indigenous oil, the REC shall have overall supervision in the implementation of this Circular, and may direct, as may be necessary, the review and updating of the policies stated herein.

Section 8. Separability Clause. If for any reason, any section or provision of this Circular and its Annexes is declared unconstitutional or invalid, such parts not affected shall remain in full force and effect.

Section 9. Repealing Clause. BED Circular No. 7 and DOE Circular No. 93-11-09 are hereby repealed. All other DOE issuances inconsistent with the provisions of this Circular are likewise repealed or amended accordingly.

Section 10. Effectivity. This Circular shall take effect fifteen (15) calendar days following its publication in the Official Gazette or in at least two (2) newspapers of general circulation. A copy of this Circular shall be filed with the University of the Philippines Law Center – Office of National Administrative Register.

Issued this ___ day of September 2023 at the DOE, Energy Center, Rizal Drive cor. 34th Street, Bonifacio Global City, Taguig City, Metro Manila.


RAPHAEL P.M. LOTILLA
Secretary
SEP 29 2023



ANNEX A

REPUBLIC OF THE PHILIPPINES DEPARTMENT OF ENERGY ENERGY DATA CENTER OF THE PHILIPPINES		DATA REQUEST FORM
COMPANY :		Job Number : _____
ATTENTION :		Date : _____
PURPOSE :		Job for Billing : _____
DATA DESCRIPTION		
AREA / BASIN :	DATA TYPE/S :	

REQUESTED BY : _____ PHONE No. : _____

AUTHORIZED BY : _____ DATE : _____

APPROVED BY : _____ DATE : _____