



Philippine Electricity  
Market Corporation

ORCP-WM-22-05

Date Received: 10 May 2022

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## REQUEST FOR MARKET RULES AND MANUALS AMENDMENTS

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Proposals made only under this prescribed form shall be accepted and considered as submitted.

This request for amendments are be submitted to:

**Rules Change Committee**

Attention: WESM Governance Committee Secretariat  
Philippine Electricity Market Corporation  
18/F Robinsons Equitable Tower  
ADB Avenue, Ortigas Center  
Pasig City, 1605 Philippines  
Email addresses: [rcc@wesm.ph](mailto:rcc@wesm.ph) / [mag\\_rrd@wesm.ph](mailto:mag_rrd@wesm.ph)  
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### I. Proponent's Information

Name	LEONIDO J. PULIDO III / ELVIN HAYES E. NIDEA
Designation	PEMC President / Chief Governance Officer
Company	Philippine Electricity Market Corporation
Company Address	18F Robinsons Equitable Tower, ADB. Ave.
	Ortigas, Pasig City 1600
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## II. Amendment Information

**Proposed Amendments to the** (please tick the box):

☐ WESM Rules   ☐ Retail Rules

- ☒ Market Manual:
1. Registration, Suspension and De-Registration Criteria and Procedures Manual *(in reference to the version that is still pending with the Department of Energy as of the date of the submission of the rules change request)*
  2. WESM Penalty Manual

Topic: Proposed Rule Amendments Relating to Test and Commissioning Penalty Framework

**Proposed Classification of Amendments** (please tick the box):

☒ General   ☐ Minor   ☐ Urgent

If Urgent, reason for urgency:

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### III. SUMMARY OF THE PROPOSED RULES CHANGE

The proposed rules change covers the penalty mechanism for the following acts or omission of a trading participant with facility or plant whose test and commissioning period has expired:

- a. Failure of the registered WESM Member to apply for commercial operations registration after receiving the Certificate of Compliance (COC) or the Provisional Authority to Operate (PAO).
- b. Generation after expiry of authorized test and commissioning period unless otherwise authorized by the relevant DOE issuances, Market Rules or Manuals.

The proposal covers the following aspects: (a) area/subject of the enforcement; (b) trigger of enforcement proceedings; and (c) enforcement actions.

This proposal, however, does not cover any revisions to the rules pertaining to the enforcement proceedings, as the existing process relating to monitoring and investigation under the Enforcement and Compliance Manual are adequate to cover other related enforcement proceedings and may, thus, be applied to the subject proposal.

### IV. BACKGROUND

The Department of Energy (DOE) issued the Department Circular DC2021-06-0013 “Adopting a General Framework Governing the Test and Commissioning of Generation Facilities for Ensuring Readiness to Deliver Energy to the Grid or Distribution Network” on 03 June 2021. In issuing the said circular, the DOE considered, among other things, the following, the citation of which is relevant in the discussion of the subject proposal –

- Thirty-eight (38) plants were recorded to be on test and commissioning status in the WESM for more than two (2) months, the longest being five (5) years, as of 01 April 2020;<sup>1</sup> and
- The extended test and commissioning of generation facilities pose a material effect on the WESM outcomes particularly in displacing scheduled generators affecting

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<sup>1</sup> 9<sup>th</sup> Whereas Clause of DOE DC2021-06-0013



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the competitiveness in the WESM while being exempted from the mandatory requirements of submitting offers or projected outputs.<sup>2</sup>

The DOE DC2021-06-0013 provided for the clear-cut procedures and timeline for the conduct of test and commissioning. It also provided for the possible consequences in case a generation facility beyond the authorized period for test and commissioning, as follows –

- There will be no overriding constraints by the System Operator while awaiting the commercial operations;
- There will be no bilateral contract quantity (BCQ) declaration and no WESM payments for any injected energy; but the energy withdrawn from the grid or distribution network will be charged to the concerned generation company.

However, there are yet no sanctions provided in any rules or market manuals for any act or omission of the generation company relative to the obligations and/or prohibition set forth in the said DOE issuance. Thus, it mandated the WESM Governance Arm to prepare and submit proposed changes to the WESM Rules and relevant Market Manuals in accordance with the enforcement and compliance policy,<sup>3</sup> and to review and recommend to the DOE and ERC possible sanctions and other measures that will promote compliance of concerned stakeholders to the policies stated in DOE DC2021-06-0013.<sup>4</sup> Hence, this proposal.

The Philippine Electricity Market Corporation (PEMC) through the Market Assessment Group (MAG) and the Enforcement and Compliance Office (ECO) and in consultation with the Compliance Committee (CC)<sup>5</sup> and the Market Surveillance Committee (MSC)<sup>6</sup>, has conducted a study that focuses on the penalty framework for these two (2) area/s or subjects of enforcement:

- a. Failure of the registered WESM Member to apply for commercial operations registration after receiving the COC or PAO;

This presupposes that the test and commissioning activities have already been concluded and the appropriate certification from the ERC has already been obtained by the concerned generation company; but for any or unknown reason/s,

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<sup>2</sup> 10<sup>th</sup> Whereas Clause of DOE DC2021-06-0013

<sup>3</sup> Section 9.1 of the DOE DC2021-06-0013

<sup>4</sup> Section 9.3 of the DOE DC2021-06-0013

<sup>5</sup> Compliance Committee 1<sup>st</sup> Regular Meeting, 15 December 2021

<sup>6</sup> Market Surveillance Regular Meetings (2021-13 and 2022-05), 16 December 2021; and 17 March 2022



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the said company nevertheless failed or refused to be registered in the WESM under a commercial operation status.

- b. Generation after expiry of authorized test and commissioning period unless otherwise authorized by the relevant DOE issuances, Market Rules or Manuals.

This would cover a situation where a generator, despite having an expired test and commissioning status, would generate or inject energy to the grid in violation of the rules set in DC2021-06-0013.

The study on penalty framework or mechanism was also presented, discussed, and consulted with the following stakeholders:

- a. With the ERC on 21 December 2021
- b. With the DOE on 23 December 2021
- c. With the Generation Companies on 12 January 2022

The same study was also submitted for comments to the PEMC Management on 30 March 2022.

## V. THE PROPOSED RULES CHANGE

### A. Market Manuals

Area/s of Rule Amendments	Description	Market Manuals to be Amended	Recommending Committee
1. Subject of Enforcement	a) Failure of the registered WESM Member to apply for Commercial Operations Registration after receiving the Certificate of Compliance (COC) or the Provisional Authority to Operate (PAO)	Registration, Suspension and De-Registration Criteria and Procedures Manual  Note: The version used for this purpose is the latest version ( <i>now pending with the DOE</i> )	Rules Change Committee (RCC)



Area/s of Rule Amendments	Description	Market Manuals to be Amended	Recommending Committee
	b) Generation after expiry of authorized test and commissioning period, and while awaiting the issuance of COC/PAO		
2. Trigger of Enforcement	a) Report of Probable Breach from the Market Operator b) <i>Motu proprio</i> investigation of ECO	Registration, Suspension and De-Registration Criteria and Procedures Manual	RCC
3. Enforcement Action	a) Determination of Penalty Level In relation to Frequency of Occurrence	WESM Penalty Manual 1.0 <ul style="list-style-type: none"> <li>Schedule of Breaches and Penalty</li> <li>Frequency of Occurrence Matrix</li> </ul>	Market Surveillance Committee (in consultation with RCC)

## B. WESM Rules

The generation company with a facility or plant on test and commissioning status, as registered in the WESM, is considered a WESM Member within the meaning of the WESM rules; and shall, for all intents and purposes, be covered by the enforcement proceedings and actions under Section 7 of the WESM Rules. **No revision to the WESM Rules** is, thus proposed, as the proponent finds the following provision (and other related provisions in the WESM Rules) adequate as far as the coverage of the subject entity is concerned –



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“7.2.2.5 The enforcement proceedings and enforcement actions set out in this Clause 7.2 may only be carried out **for non-compliances of a WESM Member** with the WESM Rules or Market Manuals as specified in the WESM Penalty Manual, or in any provision of the WESM Rules or any Market Manual which are subject of sanctions or investigation under this Clause 7.2.” (emphasis ours)

The focus, therefore, of the subject proposal is the revision to the abovementioned Market Manuals to ensure that the relevant act or omission constituting a breach is clearly specified and identified, as to fall under the ambit of the enforcement provisions of the WESM Rules and relevant market manuals.

### C. Considerations in Submitting the Proposal to RCC and MSC

In submitting the subject proposal to both the RCC and the MSC, the proponent is guided by the following guidelines, as stated in the WESM Rules:

1. Proposals for Changes to the WESM Rules or Market Manuals, or Adoption of New Market Manuals

“The Market Operator, the Government, any WESM member or other interested parties may submit proposals for changes to the WESM Rules or Market Manuals, or for the adoption of new Market Manuals **to the Rules Change Committee.**”<sup>7</sup> (emphasis ours)

2. Review of the Penalty Manual

“The **Market Surveillance Committee** shall review the WESM Penalty Manual from time to time as may be necessary, and **in consultation with the Rules Change Committee**, Compliance Committee and the PEM Board, recommend changes thereto, provided, that changes on the same shall be subject to the approval of the DOE.”<sup>8</sup> (emphasis ours)

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<sup>7</sup> Clause 8.3.1 of the WESM Rules

<sup>8</sup> Clause 7.2.5.5 of the WESM Rules



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The WESM Penalty Manual also provides that “[t]he **Market Surveillance Committee** shall design the penalty levels and appropriate range of penalties that will be applied for breaches of the WESM Rules. **This is to be done in consultation with the Rules Change Committee and the PEM Board.** The penalty levels and ranges are to be reviewed by the Market Surveillance Committee from time to time and as may be necessary.”<sup>9</sup> (emphasis ours)

As the revisions or amendments are interrelated, the proponent presents them altogether to see how the provisions as set in different market manuals – the Registration, Suspension and De-Registration Criteria and Procedures Manual and the WESM Penalty Manual – would complement each other towards a common objective, as discussed herein.

Lastly, the subject proposal is being submitted and presented to the Market Surveillance Committee in consideration of the following guidelines,<sup>10</sup> as stated in the WESM Rules:

- a. The acts or omissions constituting breach of the WESM Rules or Market Manuals for which penalties can be imposed must be specified.
- b. The penalties, financial and non-financial, that can be imposed for each type of breach should be commensurate to the nature and gravity of the breach.
- c. The procedures for and respective obligations of responsible persons or entities in implementing penalties must be specified.

## VI. BACKGROUND AND DESCRIPTION OF THE PROPONENT

The proponent is the Philippine Electricity Market Corporation with its officers as follows:

Leonido J. Pulido III – President

Elvin Hayes E. Nidea – Chief Governance Officer

Marydette C. Jocson – Corporate Services Department Head

Marian Venussa S. Dela Fuente – Corporate Secretary / Legal Department Head

John Mark S. Catriz – Market Assessment Group Head

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<sup>9</sup> Section 1.1.3 of the WESM Penalty Manual 1.0, effective 23 October 2021

<sup>10</sup> Clause 7.2.2.5 of the WESM Rules, as amended by DOE DC2021-08-0026, effective 23 October 2021



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Ma. Hazel M. Gubaton-Lopez – Enforcement and Compliance Office Head  
Elaine D. Gonzales – Internal Audit Head  
Clares Loren J. Jalocon –Corporate Planning and Communications Head  
Patrick S. Fernandez – Information System and Technology Head

## **VII. CONCLUSIONS AND RECOMMENDATIONS**

The amendments to the Registration, Suspension and De-Registration Criteria and Procedures Manual and the WESM Penalty Manual are proposed to implement the directives under Section 9.1 and 9.3 of the DOE DC2021-06-0013 entitled “Adopting a General Framework Governing the Test and Commissioning of Generation Facilities for Ensuring Readiness to Deliver Energy to the Grid or Distribution Network”. Thus, it is recommended that the proposed changes be adopted.

## **VIII. REFERENCES**

- A. WESM Rules
- B. DOE DC2021-06-0013 (Adopting a General Framework Governing the Test and Commissioning of Generation Facilities for Ensuring Readiness to Deliver Energy to the Grid or Distribution Network)
- C. WESM Penalty Manual 1.0
- D. Registration, Suspension and De-Registration Criteria and Procedures Manual (in reference to the version that is still pending with the Department of Energy as of the date of the submission of the rules change request)



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**Proponent's Information (for the Party Submitting the Comments)**

Name	<b>Lawrence S. Fernandez</b>
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## IX. Proposed Amendment

### A. Registration, Suspension and De-Registration Criteria and Procedures

WESM Manual on Registration, Suspension and De-Registration Criteria and Procedures									
Title	Section	Original Provision	RCC & PEM Board-approved Amendments (RCC Reso No. 2021-18)	Proposed Amendment	Rationale	Comments	Proposed Wording based on Comments	Proponent's Response	RCC Agreement
						<i>[Please write general comments here, if any.]</i>			
Other Requirements for Approved Applications	2.5.7.3 Guidelines for Test and Commissioning Registration	[None]	a) The generating unit of the WESM Member shall be allowed to declare bilateral contract quantities and be entitled to WESM payments for its generated output only within the test and commissioning period indicated in the valid Provisional Certificate of Approval to Connect issued by the Network Service Provider or upon completion of the conduct of test and commissioning, if completed earlier. Generation beyond the authorized test and commissioning period shall not be allowed to be	a) The generating unit of the WESM <i>Member</i> shall be allowed to declare bilateral contract quantities and be entitled to WESM payments for its generated output only within the test and commissioning period indicated in the valid Provisional Certificate of Approval to Connect issued by the <i>Network Service Provider</i> or upon completion of the conduct of test and commissioning, if completed earlier. Generation beyond the authorized test	Slight modification; To have a clear subject of enforcement.  To make it a statement of obligation or a clear prohibition first. i.e., "Generation beyond the authorized T&C period is not allowed"; followed by a consequence, i.e., no BCQ declaration and no WESM settlement.	The provision was further revised to reflect refinement of language.  Section 4.3.3 of DC 2021-06-0013 recognizes injection not only from the grid but also the distribution network, thus:  "4.3.3 xxx b) xxx and shall not be charged for any energy withdrawn from the grid <u>or distribution network</u> . xxx."  Given this, it is proposed that this be	a) The generating unit of the WESM <i>Member</i> shall be allowed to declare bilateral contract quantities and be entitled to WESM payments for its generated output only within the test and commissioning period, indicated in the valid Provisional Certificate of Approval to Connect issued by the <i>Network Service Provider</i> , or <del>upon</del> <u>until</u> completion of the conduct of test and commissioning, if		

WESM Manual on Registration, Suspension and De-Registration Criteria and Procedures									
Title	Section	Original Provision	RCC & PEM Board-approved Amendments (RCC Reso No. 2021-18)	Proposed Amendment	Rationale	Comments	Proposed Wording based on Comments	Proponent's Response	RCC Agreement
			declared as a bilateral contract quantity and shall not be entitled to WESM payments. Any net surplus as a result of injected energy from unauthorized test and commissioning activity will be treated in accordance with WESM Rules Clause 3.13.16. However, the WESM Member shall still be charged for all withdrawals from the grid for the conduct of its test and commissioning activities.	and commissioning period shall not be allowed. <b><u>Neither shall it</u></b> <del>to be</del> declared as a bilateral contract quantity <b><u>nor</u></b> and shall be entitled to WESM payments. Any net surplus as a result of injected energy from unauthorized test and commissioning activity will be treated in accordance with <i>WESM Rules</i> Clause 3.13.16. However, the <i>WESM Member</i> shall still be charged for all withdrawals from the grid <b><u>for the conduct of its test and commissioning activities.</u></b>	Deletion of the last phrase: to cover instances where the injection of energy happens <b>after</b> the test and commissioning activities or while awaiting the requirements for commercial operations	reflected in the proposed amendment.	completed earlier. Generation beyond the authorized test and commissioning period <b><u>or completion of the conduct of test and commissioning</u></b> shall not be allowed. Neither shall <b><u>such generation</u></b> be declared as a bilateral contract quantity nor shall <b><u>it</u></b> be entitled to WESM Payments. xxx However, the <i>WESM Member</i> shall still be charged for all withdrawals from the grid <b><u>or distribution network.</u></b>		
	2.5.7.3 Guidelines for Test and Commissioning		2.5.7.3 Guidelines for Test and Commissioning Registration X X X	[NEW]  g) The WESM Member of a generating unit	To set a trigger for investigation wherein:	As stated in the rationale, the intention of the proposed amendment is to ensure that possible	h) The <i>Market Operator</i> shall immediately coordinate <b><u>before Level 1 Penalty is triggered</u></b> with the		

WESM Manual on Registration, Suspension and De-Registration Criteria and Procedures									
Title	Section	Original Provision	RCC & PEM Board-approved Amendments (RCC Reso No. 2021-18)	Proposed Amendment	Rationale	Comments	Proposed Wording based on Comments	Proponent's Response	RCC Agreement
	Registration		g) The WESM Member of a generating unit shall submit to the Market Operator an application for Commercial Operations Registration within three (3) working days from receipt of its Certificate of Compliance or Provisional Authority to Operate (PAO).	shall submit to the Market Operator an application for Commercial Operations Registration within three (3) working days from receipt of its Certificate of Compliance or Provisional Authority to Operate (PAO).  <b><u>h) The Market Operator shall immediately coordinate with the concerned WESM Member the matters which may affect its obligation and/or a possible non-compliance pertaining to paragraphs (a) (c) and (g) of this Section.</u></b>  <b><u>If the Market Operator has reasonable grounds to believe that a breach has been</u></b>	a. The concerned WESM Member is timely advised of its obligation to comply with the Manual  b. Despite the said notification, reminder, or advice, the WESM Member failed to comply with relevant rules/Manuals  The intention of this provision is to exhaust the possible actions before one is investigated and/or penalized, considering that	actions have been exhausted before a WESM Member is investigated and/or penalized.  As provided in Section 4.4.6 of DC 2021-06-0013, the GenCo "shall, within three (3) working days, immediately submit the COC issued by the ERC to the MO and submit its WESM registration application for Commercial Operations".  It is recommended that for obligation and/or possible non-compliance to paragraph (g), the MO coordinate with the WESM Member, upon receipt by the former of a copy of the COC or PAO.	concerned <i>WESM Member</i> the matters which may affect its obligation and/or a possible non-compliance pertaining to paragraphs (a), (c) and (g) of this Section.  If the <i>Market Operator</i> has reasonable grounds to believe that a breach has been committed by a <i>WESM Member</i> notwithstanding the coordination and communication with the latter, the <i>Market Operator</i> shall submit a report <del>of</del> to the <i>Enforcement and Compliance Office</i> , <b><u>of</u></b> any possible non-compliance referred to in paragraphs (a) (c) and (g) of this		

WESM Manual on Registration, Suspension and De-Registration Criteria and Procedures									
Title	Section	Original Provision	RCC & PEM Board-approved Amendments (RCC Reso No. 2021-18)	Proposed Amendment	Rationale	Comments	Proposed Wording based on Comments	Proponent's Response	RCC Agreement
				<u>committed by a WESM Member notwithstanding the coordination and communication with the latter, the Market Operator shall submit a report of to the Enforcement and Compliance Office any possible non-compliance referred to in paragraphs (a) (c) and (g) of this Section for its appropriate enforcement action.</u>  <u>An investigation may likewise be initiated motu proprio by the Enforcement and Compliance Office as may be authorized under Section 7.2.1 of the Enforcement and Compliance Manual.</u>	<p>the entity involved is not in full commercial operation yet (although a registered WESM Member already).</p> <p>For those information that are made known or readily available to PEMC/ECO, the ECO may investigate <i>motu proprio</i>, as allowed under the EC Manual.</p>	<p>For obligation and/or possible non-compliance to paragraph (a) and (c), it is recommended that MO coordinate with the WESM Member prior to the expiry of the Provisional CATC, or upon completion of the conduct of test and commissioning, if completed earlier.</p> <p>Typographical correction.</p>	Section <sub>1</sub> for its appropriate enforcement action.		

B. WESM Penalty Manual

WESM Penalty Manual, Issue 3.0								
Title	Section	Provision	Proposed Amendment	Rationale	Comments	Proposed Wording based on Comments	Proponent's Response	RCC Agreement
					<i>[Please write general comments here, if any.]</i>			
4.5. Qualifying Circumstances	4.5.2 Table 1-Frequency of Occurrence Matrix	[NEW] See <a href="#">Table A</a> below	[NEW] See <a href="#">Table A</a> below  Consideration: No. of delay/default in the registration for Commercial Operation  With table for Level 1 – 3 Working Days Delay Level 2 – 4 to 30 Workings Delay Level 3 – 31 Working Days Delay or More	To include in the frequency of occurrence matrix the “ <i>One-time requirement</i> ,” such as the application for Commercial Operations Registration after receiving the Certificate of Compliance (COC) or the Provisional Authority to Operate (PAO)  The inclusion in the frequency of occurrence table is necessary to determine the level of penalty.				

WESM Penalty Manual, Issue 3.0								
Title	Section	Provision	Proposed Amendment	Rationale	Comments	Proposed Wording based on Comments	Proponent's Response	RCC Agreement
Section 5 – Schedule of Breach and Penalties	Item 13	[NEW] See <a href="#">Table A</a> below	[NEW]  See <a href="#">Table B</a> below  A pre-set amount is provided for a simpler computation and consideration	To include the type of breach concerning the obligation of the plant on test and commissioning to register as commercial operation once all the registration documents are complete.  To be covered by the enforcement action.				
Section 5 – Schedule of Breach and Penalties	Item 14	[NEW] See <a href="#">Table A</a> below	[NEW]  See <a href="#">Table C</a> below  A pre-set amount is provided for a simpler computation and consideration	To include the type of breach concerning the prohibition on the part of plant on test and commissioning to generate output if the T&C period has expired.  To be covered by the enforcement action.				

WESM Penalty Manual, Issue 3.0								
Title	Section	Provision	Proposed Amendment	Rationale	Comments	Proposed Wording based on Comments	Proponent's Response	RCC Agreement
Section 5 – Schedule of Breach and Penalties	Item 15	13. Failure to comply with express mandatory provisions of the Market Rules, that are not otherwise covered in other identified breach but which expressly provide for imposition of penalties.	<del>13</del> 5. Failure to comply with express mandatory provisions of the Market Rules, that are not otherwise covered in other identified breach but which expressly provide for imposition of penalties.	Renumbering (from 13 to 15) as a result of the proposed inserted provisions above				

TABLE A

Frequency	Isolated Occurrence	Repetitive or Recurring Occurrence		Comment	Proposed Wording based on Comment	Proponent's Response	RCC Agreement
	Level 1	Level 2	Level 3				
By dispatch interval (i.e., 5-minute interval)	24x or less over the billing month	25x to 50x over the billing month	51x or more over the billing month				
Hourly (i.e., settlement interval)	2x or less over the billing month	3x to 5x over the billing month	6x or more over the billing month				
Daily	3x over the previous 30-day period	More than 2x over the previous 7-day period 2x or less over the previous 7-day period and more than 3x over the previous 30-day period	More than 2x over the previous 7-day period and more than 3x over the previous 30-day period				
Weekly	1x over the previous 12-month period	1x over a 4-week period and more than 1x over the previous 12-month period	More than 1x over a 4-week period				
Annual, semestral, quarterly, or monthly	First time occurrence	Every occurrence after the first time (since registration of the WESM Member or effectivity of the new Market Rule or Market Manual)	Breach occurs for more than two (2) <u>successive</u> periods. Level 3 penalty applies starting from the third consecutive occurrence.				
Occasional (no prescribed period)	6x or less over the previous 12-month period	More than 6x over the previous 12-month period	N/A				
<u>One-time requirement with timeline set for compliance</u>	<u>3 working days delay/default</u>	<u>Exceeding 3 working days but not more than 30 days</u>	<u>Exceeding 30 working days</u>				

TABLE B

No.	Breach	Market Rule Breached & Associated Market Manual	Applicable Penalty	Level 2 - Financial Penalty	Level 3 - Escalated Financial Penalty	Comments	Proposed Wording based on Comments	Proponent's Response	RCC Agreement
13	<p><u>Failure of the registered WESM Member to apply for Commercial Operations Registration after receiving the Certificate of Compliance (COC) or the Provisional Authority to Operate (PAO).</u></p> <p><u>The failure to apply for Commercial Operations Registration is considered without just cause when the inaction, deferment, or delay on the part the WESM Member has no basis in fact or in law, or the cause/s for such failure is/are not established to have</u></p>	<p><u>Section 2.5.7.3 (g) and (h) of the Registration Manual</u></p>	<ul style="list-style-type: none"><li><u>Level 1- Reprimand</u></li><li><u>Level 2 - Financial Penalties</u></li><li><u>Level 3 – Escalated Financial Penalties</u></li></ul>	<p><u>P10,000 for the first day of default/ delay plus P1,000 for each day of continuing breach/violation</u></p>	<p><u>Additional P2,000 for each day of continuing breach/violation but not to exceed P100,000</u></p>	<p>It is observed that the breach pertained to is the failure to apply, <i>without just cause</i>, for Commercial Operations Registration after receiving COC or PAO. For clarity, it is proposed to insert “<i>without just cause</i>” in the heading.</p>	<p>Failure of the registered WESM Member, <b><u>without just cause</u></b>, to apply for Commercial Operations Registration after receiving the Certificate of Compliance (COC) or the Provisional Authority to Operate (PAO).</p>		

No.	Breach	Market Rule Breached & Associated Market Manual	Applicable Penalty	Level 2 - Financial Penalty	Level 3 - Escalated Financial Penalty	Comments	Proposed Wording based on Comments	Proponent's Response	RCC Agreement
	<u>been beyond its control.</u>								
14	<u>Generation after expiry of authorized test and commissioning period unless otherwise authorized by the relevant Market Rules or Manuals.</u>	<u>Section 2.5.7.3 (a) (c) and (h) of the Registration Manual</u>	<ul style="list-style-type: none"> <li><u>Level 1- Reprimand</u></li> <li><u>Level 2 - Financial Penalties</u></li> <li><u>Level 3 – Escalated Financial Penalties</u></li> </ul>	<u>For each count of breach:</u>  <u>P100 x Generated Capacity, MW</u> <u>P100 – pre-set penalty amount</u> <u>Generated Capacity – the actual generation in MW for each dispatch interval</u>	<u>For each breach:</u>  <u>P200 x Generated Capacity, MW</u> -	Clarification is sought as to what instances generation is authorized by the relevant Market Rules or Manuals even after expiry of authorized test and commissioning period.			

**SAMPLE COMPUTATION FOR [BREACH NO. 13](#)**

A. **A. 3-Day Violation:** Non-Compliance Letter/Reprimand (Level 1)

B. **30-Day Violation:** Financial Penalty

Count	Penalty Level	Penalty	Amount (PhP)
Day 1 (1 count)	Level 2	5,000 x 1	5,000
Day 2-30 (28 counts)		1,000 x 29	29,000
<b>Total</b>			<b>34,000</b>

C. **60-Day Violation:** Financial Penalty

Count	Penalty Level	Penalty	Amount (PhP)
Day 1 (1 count)	Level 2	5,000 x 1	5,000
Day 2-30 (29 counts)		1,000 x 29	29,000
Day 31-60 (30 counts)	Level 3	2,000 x 30	60,000
<b>Total Penalty</b>			<b>94,000</b>

D. **100-Day Violation:** Financial Penalty

Count	Penalty Level	Penalty	Amount (PhP)
Day 1 (1 count)	Level 2	5,000 x 1	5,000
Day 2-30 (29 counts)		1,000 x 29	29,000
Day 31-100 (70 counts)	Level 3	2,000 x 70	140,000
<b>Total</b>			<b>174,000</b>
<b>Penalty Cap</b>			<b>100,000</b>

#### **SAMPLE COMPUTATION FOR BREACH NO. 14**

EXAMPLE: Generated beyond the T&C period

Assumptions:

- For Small size power plant
- Not authorized to operate / no specific instruction from SO
- Duration of Violation: 3 Hours
- Generation (MW): Varies every 5 minute

Count	Interval	Generation (MW)	Penalty	Penalty Level	Penalty Amount
1	8:00	10	100	Level 1	1,000.00
2	8:05	13	100	Level 1	1,300.00
3	8:10	10	100	Level 1	1,000.00
4	8:15	15	100	Level 1	1,500.00
5	8:20	10	100	Level 1	1,000.00
6	8:25	8	100	Level 1	800.00
7	8:30	5	100	Level 1	500.00
8	8:35	10	100	Level 1	1,000.00
9	8:40	15	100	Level 1	1,500.00
10	8:45	10	100	Level 1	1,000.00
11	8:50	6	100	Level 1	600.00
12	8:55	4	100	Level 1	400.00
13	9:00	12	100	Level 1	1,200.00
14	9:05	18	100	Level 1	1,800.00
15	9:10	16	100	Level 1	1,600.00
16	9:15	17	100	Level 1	1,700.00
17	9:20	15	100	Level 1	1,500.00
18	9:25	14	100	Level 1	1,400.00
19	9:30	19	100	Level 1	1,900.00
20	9:35	20	100	Level 1	2,000.00
21	9:40	12	100	Level 1	1,200.00
22	9:45	8	100	Level 1	800.00
23	9:50	5	100	Level 1	500.00
24	9:55	10	100	Level 1	1,000.00
25	10:00	12	200	Level 2	2,400.00
26	10:05	18	200	Level 2	3,600.00
27	10:10	16	200	Level 2	3,200.00
28	10:15	17	200	Level 2	3,400.00
29	10:20	15	200	Level 2	3,000.00
30	10:25	14	200	Level 2	2,800.00

Count	Interval	Generation (MW)	Penalty	Penalty Level	Penalty Amount
31	10:30	19	200	Level 2	3,800.00
32	10:35	20	200	Level 2	4,000.00
33	10:40	12	200	Level 2	2,400.00
34	10:45	8	200	Level 2	1,600.00
35	10:50	5	200	Level 2	1,000.00
36	10:55	10	200	Level 2	2,000.00
<b>Total</b>					<b>61,400.00</b>

*Note: The Penalty Amount would vary depending on extent of violation measured in terms of capacity generated, i.e., the actual generation (MW) (Column C)*