



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

DEPARTMENT CIRCULAR NO. DC 2021-03-0007 *m*

**ADOPTING FURTHER AMENDMENTS TO THE WHOLESALE ELECTRICITY
SPOT MARKET (WESM) RULES AND MARKET MANUAL ON THE
MANAGEMENT OF NET SETTLEMENT SURPLUS
(Harmonization with the Energy Regulatory Commission Resolution No. 07,
Series of 2019)**

WHEREAS, Sections 30 and 37(f) of the Electric Power Industry Reform Act (EPIRA) provides that the Department of Energy (DOE), jointly with the electric power industry participants, shall establish the Wholesale Electricity Spot Market (WESM) and formulate the detailed rules governing the operations thereof;

WHEREAS, on 28 June 2002, the DOE, with the endorsement of the electric power industry participants, promulgated the WESM Rules through Department Circular No. DC2002-06-003;

WHEREAS, any changes, amendments, and modifications to the WESM Rules, Retail Rules and their Market Manuals shall be undertaken in accordance with the provisions of Chapter 8 of the WESM Rules;

WHEREAS, on 12 February 2020, the Market Operator submitted to the Rules Change Committee (RCC) its proposed amendments to the WESM Rules and Market Manual on the Management of Net Settlement Surplus for the implementation of the Energy Regulatory Commission (ERC) Resolution No. 07, Series of 2019 "A Resolution Adopting Amendments to the Rules for the Distribution of Net Settlement Surplus (NSS)";

WHEREAS, on 20 February 2020, the Philippine Electricity Market Corporation (PEMC) also submitted to the RCC its proposed amendments to the WESM Rules, particularly on NSS or net settlement deficit (NSD);

WHEREAS, both proposed amendments submitted aim to harmonize the WESM Rules and Market Manuals with the said ERC Resolution No. 07, Series of 2019, particularly on the transparency and effective determination of settlement surplus or deficit in the WESM;

WHEREAS, on 21 February 2020, the RCC during the 161st RCC Meeting discussed the abovementioned proposal, and thereafter approved the posting of the proposed amendments in the PEMC's information website to solicit comments from the market participants and other interested parties;

WHEREAS, on 24 April 2020, the RCC during its 164th RCC Meeting deliberated on the proposal giving due course to the comments received from the stakeholders;

WHEREAS, on 15 May 2020, the RCC during its 165th RCC Meeting finalized and approved the proposed amendments for endorsement to the PEM Board;

WHEREAS, on 27 May 2020, after due evaluation and deliberation, the PEM Board during its 24th Regular PEM Board Meeting, approved for endorsement to the DOE the above stated RCC-approved proposal;

WHEREAS, on 08 June 2020, the PEM Board-approved amendments to the WESM Rules and Market Manual on Management of Net Settlement Surplus were submitted to the DOE for final approval, in compliance with Chapter 8 of the WESM Rules;

WHEREAS, on 31 July 2020, the DOE posted the draft Department Circular adopting the proposed amendments in the DOE website to solicit comments from the market participants and other interested parties;

WHEREAS, on 27 and 29 October 2020, the DOE conducted public consultations on the abovementioned proposed amendments to solicit inputs and consider comments of stakeholders in the finalization of the same;

NOW THEREFORE, after careful review of the PEM Board-approved proposal and the comments and recommendations received on the same, the DOE, pursuant to its authority under the EPIRA, hereby adopts, issues, and promulgates the following amendments to the WESM Rules and Market Manual on the Management of Net Settlement Surplus:

Section 1. Amendments to the WESM Rules. The following provisions in the WESM Rules for the current market design are hereby amended:

- a. Clause 3.13.16.1 (Treatment of Remaining Settlement Surplus) under Settlement Quantities and Amounts is amended to read as –

“3.13.16.1 If the transactions required by Clauses 3.13.14.2 (a), (b) and (d), in aggregate, result in a surplus or deficit remaining, this will be known as the *net settlement surplus or net settlement deficit*.”

- b. Clause 3.13.16.2 (Treatment of Remaining Settlement Surplus) under Settlement Quantities and Amounts is amended to read as –

“3.13.16.2 The *net settlement surplus or net settlement deficit*:

- (a) may be flowed back to the *WESM Participants* in accordance with the procedures to be developed under Clause 3.13.16.3, or may be used by the *Market Operator* to establish and support the market for financial transmission rights subject to the approval of the *PEM Board*; and

- (b) shall be clearly accounted for and taken into account when setting the allowable charges under any regulatory instruments applying to the *Market Operator* and the *System Operator*.”
- c. New Clause 3.13.16.4 (Treatment of Remaining Settlement Surplus) under Settlement Quantities and Amounts is added to read as –
- “3.13.16.4 The calculation and flow back mechanism of *net settlement surplus* or *net settlement deficit* shall be in accordance with the *ERC*’s issuances as prescribed in its *Rules for the Distribution of Net Settlement Surplus*.”
- d. New Clause 3.13.16.5 (Treatment of Remaining Settlement Surplus) under Settlement Quantities and Amounts is added to read as –
- “3.13.16.5 The *ERC* may issue changes to the flow back of the *net settlement surplus* or *net settlement deficit* to the *WESM Participants*. Such changes shall be reflected in the procedures referred to in Clause 3.13.16.3 by the *Market Operator* in accordance with the rules change process in Chapter 8.”
- e. The definition of the term “Net Settlement Surplus” under the Glossary is amended to read as –
- “Net Settlement Surplus or Net Settlement Deficit. The settlement surplus or settlement deficit remaining after all market transactions have been accounted for, including the assignment of transmission line rentals to *Network Service Providers*. This remainder is assumed to be attributable to economic rentals arising from other binding constraints, and accounted for in accordance with Clause 3.13.16.”

Section 2. Amendments to the WESM Rules for the Implementation of Enhancement to WESM Design and Operations. The following provisions in the WESM Rules for the Enhanced WESM Design and Operations are hereby amended:

- a. Clause 3.13.12.1 (Treatment of Remaining Settlement Surplus) under Settlement Quantities and Amounts is amended to read as –
- “3.13.12.1 If the transactions required by Clauses 3.13.12.2 (a), (b) and (d), in aggregate, result in a surplus or deficit remaining, this will be known as the *net settlement surplus* or *net settlement deficit*.”
- b. Clause 3.13.12.2 (Treatment of Remaining Settlement Surplus) under Settlement Quantities and Amounts is amended to read as –
- “3.13.12.2 The *net settlement surplus* or *net settlement deficit*:
- (a) may be flowed back to the *WESM Participants* in accordance with the procedures to be developed under Clause 3.13.12.3, or may be used by the *Market Operator* to establish and support the market for financial transmission rights subject to the approval of the *PEM Board*; and

(b) shall be clearly accounted for and taken into account when setting the allowable charges under any regulatory instruments applying to the *Market Operator*.”

- c. New Clause 3.13.12.4 (Treatment of Remaining Settlement Surplus) under Settlement Quantities and Amounts is added to read as –

“3.13.12.4 The calculation and flow back mechanism of *net settlement surplus* or *net settlement deficit* shall be in accordance with the *ERC*’s issuances as prescribed in its *Rules for the Distribution of Net Settlement Surplus*.”

- d. New Clause 3.13.12.5 (Treatment of Remaining Settlement Surplus) under Settlement Quantities and Amounts is added to read as –

“3.13.12.5 The *ERC* may issue changes to the flow back of the *net settlement surplus* or *net settlement deficit* to the *WESM Participants*. Such changes shall be reflected in the procedures referred to in Clause 3.13.16.3 by the *Market Operator* in accordance with the rules change process in Chapter 8.”

Section 3. Amendments to the WESM Market Manual on the Management of Net Settlement Surplus. The following provisions in the Market Manual on the Management of Net Settlement Surplus, Issue No. 3.0, are hereby amended:

- a. Section 2.2 (References) under Definitions, References and Interpretation is amended to read as –

“2.2 This document should be read together with the –

xxx xxx xxx

(e) *Energy Regulatory Commission Resolution No. 7, Series of 2019, A Resolution Adopting Amendments to the Rules for the Distribution of Net Settlement Surplus (NSS)*.”

- b. Section 3.1.1 (Market Operator) under Responsibilities is amended to read as –

“3.1.1 In accordance with *WESM Rules* Clause 3.13.16.3, the *Market Operator* shall:

xxx xxx xxx”

- c. New Section 3.1.2 (Market Operator) under Responsibilities is added to read as –

“3.1.2 In accordance with *ERC Resolution No. 07, Series of 2019*, the *Market Operator* shall:

- (a) Ensure the accurate implementation of the said ERC Resolution including the corresponding Net Settlement Surplus (NSS) or Net Settlement Deficit (NSD) re-distribution pursuant to Articles III, IV, V and VI of the Resolution; and
 - (b) Hold liable for any erroneous implementation of the formula as contained in the said ERC Resolution.”
- d. Section 4.2 (Ownership of Net Settlement Surplus) and its Subsections under Net Settlement Surplus Allocation are amended to read as –

“4.2 RE-DISTRIBUTION OF NET SETTLEMENT SURPLUS/DEFICIT

4.2.1 *WESM Participants* that paid for the surplus line loss and congestion payments shall receive a share in the NSS. Pursuant to Article IV Section 1 of ERC Resolution No. 7 Series of 2019, the NSS or NSD shall be billed to *Direct WESM Members* including, but not limited to, the following entities:

- (a) *Distribution Utilities (DUs)*;
- (b) *Retail Electricity Suppliers (RES)*, including *Local RES* and the *Supplier of Last Resort (SoLR)*, and other electricity suppliers;
- (c) *Generation Companies*;
- (d) *Independent Power Producer (IPP) Administrators*; and
- (e) *Other parties registered as Direct WESM Members*.

4.2.2 The total of the hourly *NSS* and/or *NSD* allocation for every *billing period* shall be reflected immediately as a deduction to or an adjustment to the total *settlement amount* of the *Direct WESM Member*, whether for its own *WESM* transactions or on behalf of its *Indirect WESM Member*. This shall be correspondingly re-distributed to the *end-users* at the retail level as part of the monthly generation rate pursuant to their corresponding power supply agreements approved by the *ERC*.

4.2.3 *NSS* or *NSD* allocation corresponding to adjustments for transactions prior to the switching of an *Indirect WESM Member* to another *Direct Member* shall be billed to the current *Direct WESM Member*.

4.2.4 Any *NSS* or *NSD* allocation billed to the *RES* shall be subject to re-distribution to its *Contestable Customers* pursuant to their *Retail Supply Contract*.”

- e. Section 5.1 (Calculation of Net Settlement Surplus) and its Subsections under Methodology and Procedure are amended to read as –

“5.1 CALCULATION OF NET SETTLEMENT SURPLUS AND NET SETTLEMENT DEFICIT

5.1.1 The adoption of locational marginal pricing for the *WESM* under different *market trading nodes* accounts for congestion and losses in the transmission system. As a result, the price differences occur between generator nodes and

customer nodes due to the losses and congestion. The aggregate *WESM settlement amount* may result to:

- (a) *Net Settlement Surplus which is also known as NSS; or*
- (b) *Net Settlement Deficit which is also known as NSD.*

5.1.2 The *NSS* or *NSD* amount shall be calculated based on the total *trading amount* for every *trading interval*.

5.1.3 The *NSS* occurs when the total collectibles exceed the total payables.

5.1.4 The *NSD* occurs when the total payables exceed the total collectibles.

5.1.5 Pursuant to Article III Section 1 of ERC Resolution No. 07 Series of 2019, the total *NSS* or *NSD* (NSS_{Total} or NSD_{Total}) shall be determined by getting the difference of the total collectibles ($TA_{Collectibles}$) and the total payables ($TA_{Payables}$):

$$NSS_{Total,i} \text{ or } NSD_{Total,i} = TA_{Collectibles,i} - TA_{Payables,i}$$

Where:

$NSS_{Total,i}$ or $NSD_{Total,i}$ = Total *Net Settlement Surplus* or *Net Settlement Deficit*, in PhP, for *trading interval i*

$TA_{Collectibles}$ = Total *trading amount*, in PhP, to be collected by the *Market Operator* from the *Trading Participants* for *trading interval i*

$TA_{Payables}$ = Total *trading amount*, in PhP, to be paid by the *Market Operator* to the *Trading Participants* for *trading interval i*

i = *trading interval*"

- f. Section 5.2 (Net Settlement Deficit) and its Subsections under Methodology and Procedure are amended to read as –

"5.2 DERIVATION OF NET SETTLEMENT SURPLUS AND NET SETTLEMENT DEFICIT

5.2.1 Pursuant to Article III Section 2 of ERC Resolution No. 07 Series of 2019, allocation of the *NSS* or *NSD* shall be based on the cause of the surplus (e.g., surplus transmission loss payment, surplus congestion payment, among others). As such, the *NSS* or *NSD* calculation is disaggregated into *NSS* or *NSD* due to losses (NSS_{Loss} or NSD_{Loss}) and the *NSS* or *NSD* due to congestion ($NSS_{Congestion}$ or $NSD_{Congestion}$), which are allocated separately. The following formula illustrates the components of the disaggregated *NSS* or *NSD*:

$$NSS_{Total,D,i} \text{ or } NSD_{Total,D,i} = NSS_{Loss,i} \text{ or } NSD_{Loss,i} + NSS_{Congestion,i} \text{ or } NSD_{Congestion,i}$$

Where:

$NSS_{Total,D,i}$ or $NSD_{Total,D,i}$ = Sum of disaggregated *Net Settlement Surplus* or *Net Settlement Deficit* due to transmission loss and congestion, in PhP, for *trading interval i*

$NSS_{Loss,i}$ or $NSD_{Loss,i}$ = *Net Settlement Surplus* or *Net Settlement Deficit* due to transmission loss payments, in PhP, for *trading interval i*

$NSS_{Congestion,i}$ or $NSD_{Congestion,i}$ = *Net Settlement Surplus* or *Net Settlement Deficit* due to congestion payments, in PhP, for *trading interval i*

i = *trading interval*

5.2.2 In order to determine NSS_{Loss} or NSD_{Loss} and $NSS_{Congestion}$ or $NSD_{Congestion}$, the *trading amounts* shall also be disaggregated among its components. Based on the components of the locational marginal prices (LMP), the *trading amounts* collected and paid by the *Market Operator* for each *trading participant* shall be disaggregated as follows:

$$TA_{Payable,P,i} \text{ or } TA_{Collectible,P,i} = TA_{Energy,P,i} + TA_{Loss,P,i} + TA_{Congestion,P,i}$$

Where:

$TA_{Payable,P,i}$ or $TA_{Collectible,P,i}$ = *Trading amount of Trading Participant P*, in PhP, for *trading interval i*

$TA_{Energy,P,i}$ = *Trading amount for energy of Trading Participant P*, in PhP, for *trading interval i*

$TA_{Loss,P,i}$ = *Trading amount for transmission loss of Trading Participant P*, in PhP, for *trading interval i*

$TA_{Congestion,P,i}$ = *Trading amount for congestion of Trading Participant P*, in PhP, for *trading interval i*

5.2.3 The NSS or NSD due to line loss payment (NSS_{Loss} or NSD_{Loss}) shall be determined as the difference of the collectibles and the payables for energy and transmission loss as shown by the equation below:

$$NSS_{Loss,i} \text{ or } NSD_{Loss,i} = \sum_{cp \in CP} (TA_{Energy,cp,i} + TA_{Loss,cp,i}) - \sum_{pp \in PP} (TA_{Energy,pp,i} + TA_{Loss,pp,i})$$

Where:

$NSS_{Loss,i}$ or $NSD_{Loss,i}$ = *Net Settlement Surplus* or *Net Settlement Deficit* due to transmission loss payments, in PhP, for *trading interval i*

TA_{Energy} = Total trading amount of a Trading participant for energy, in PhP, for trading interval i

TA_{Loss} = Total trading amount of a Trading Participant for transmission loss, in PhP, for trading interval i

CP = Set of Trading Participants with collectible trading amounts

cp = Trading Participant with collectible trading amount

PP = Set of Trading Participants with payable trading amounts

pp = Trading Participant with payable trading amount

i = trading interval

5.2.4 The NSS or NSD due to congestion ($NSS_{Congestion}$ or $NSD_{Congestion}$) shall be calculated as the difference of the collectibles and the payables for congestion as shown below:

$$NSS_{Congestion,i} \text{ or } NSD_{Congestion,i} = \sum_{cp \in CP} TA_{Congestion,cp,i} - \sum_{cp \in PP} TA_{Congestion,pp,i}$$

Where:

$NSS_{Congestion,i}$ or $NSD_{Congestion,i}$ = Net Settlement Surplus or Net Settlement Deficit due to congestion payments, in PhP, for trading interval i

$TA_{Congestion}$ = Total trading amount of a Trading Participant for congestion, in PhP, for trading interval i

CP = Set of Trading Participants with collectible trading amounts

cp = Trading Participant with collectible trading amount

PP = Set of Trading Participants with payable trading amounts

pp = Trading Participant with payable trading amount

i = trading interval

5.2.5 During trading intervals when there is no computed transmission loss and congestion, the NSS or NSD shall be computed as follows:

$$NSS_{NoTLCP,i} \text{ or } NSD_{NoTLCP,i} = TA_{Collectables,i} + TA_{Payables,i}$$

Where:

$NSS_{NoTLCP,i}$ or $NSD_{NoTLCP,i}$ = Total Net Settlement Surplus or Net Settlement Deficit when there is no calculated transmission loss and congestion payments, in PhP, for trading interval i

$TA_{Collectables,i}$ = Total trading amount, in PhP, to be collected by the Market Operator from the Trading Participants for trading interval i

$TA_{Payables,i}$ = Total trading amount, in PhP, to be paid by the Market Operator to the Trading Participants for trading interval i

i = trading interval"

- g. Section 5.3 (Flow Back to the Participants) and its Subsections under Methodology and Procedure are amended to read as –

“5.3 DETERMINATION OF NET SETTLEMENT SURPLUS ALLOCATION

5.3.1 The Market Operator shall allocate the NSS to the Trading Participants that paid for the surplus loss and congestion charges. The allocation shall be determined based on each recipient’s contribution to the total NSS_{Loss} and $NSS_{Congestion}$.

5.3.2 The allocation of NSS_{Loss} shall be calculated as follows:

$$NSS_{Loss,P,i} = \frac{LL_{Spot,P,i} + LL_{LR,P,i}}{\Sigma LL_{Spot,i} + LL_{LR,i}} \times NSS_{Loss,i}$$

Where:

$NSS_{Loss,P,i}$ = NSS allocation due to line loss payments, in PhP, of Trading Participant P for trading interval i

$LL_{Spot,P,i}$ = Surplus line loss payment for spot transaction, in PhP, of Trading Participant P for trading interval i

$LL_{LR,P,i}$ = Surplus line loss payment for line rental, in PhP, of Trading Participant P for trading interval i

$NSS_{Loss,i}$ = Net Settlement Surplus due to line loss payments, in PhP, for trading interval i

i = trading interval

5.3.3 The allocation of $NSS_{Congestion}$ shall be calculated as follows:

$$NSS_{Congestion,P,i} = \frac{CC_{Spot,P,i} + CC_{LR,P,i}}{\Sigma CC_{Spot,i} + CC_{LR,i}} \times NSS_{Congestion,i}$$

Where:

$NSS_{Congestion,P,i}$ = NSS allocation due to congestion charge payments, in PhP, of Trading Participant P for trading interval i

$CC_{Spot,P,i}$ = Surplus congestion charge payment for spot transaction, in PhP, of Trading Participant P for trading interval i

$CC_{LR,P,i}$ = Congestion charge payment for line rental, in PhP, of Trading Participant P for trading interval i

$NSS_{Congestion,i}$ = Net Settlement Surplus due to congestion payments, in PhP, for trading interval i

i = trading interval

5.3.4 In trading intervals when there are no calculated transmission loss and congestion payments, the NSS shall be allocated to all Trading Participants with withdrawal from the grid. The allocation shall be proportionate to the actual withdrawal from the grid of the Trading Participant relative to the total actual withdrawals during the trading interval as shown by the equation below:

$$NSS_{NoTLCP,P,i} = \frac{MQ_{Withdrawal,P,i}}{\sum_{ww \in WW} MQ_{Withdrawal,ww,i}} \times NSS_{NoTLCP,i}$$

Where:

$NSS_{NoTLCP,P,i}$ = NSS allocation when there is no calculated transmission loss and congestion payments, in PhP, of Trading Participant P for trading interval i

$MQ_{Withdrawal,P,i}$ = Actual withdrawal from the grid, in MWh, of Trading Participant P for trading interval i

$NSS_{NoTLCP,i}$ = Net Settlement Surplus when there is no calculated transmission loss and congestion payments, in PhP, for trading interval i

ww = Trading Participant with actual withdrawal from the grid

WW = Set of all Trading Participants with actual withdrawal from the grid

i = trading interval"

- h. Section 5.4 (Limitation of Flow Back Mechanism) and its Subsections under Methodology and Procedure are amended to read as –

"5.4 DETERMINATION OF NET SETTLEMENT DEFICIT ALLOCATION

5.4.1 The *Market Operator* shall allocate the *NSD* to *Customers* who caused the deficit. The allocation shall be determined based on each recipient's contribution to the total NSD_{Loss} and $NSD_{Congestion}$.

5.4.2 The allocation of NSD_{Loss} shall be calculated as follows:

$$NSD_{Loss,P,i} = \frac{LL_{Spot,P,i} + LL_{LR,P,i}}{\Sigma LL_{Spot,i} + LL_{LR,i}} \times NSD_{Loss,i}$$

Where:

$NSD_{Loss,P,i}$ = NSD allocation due to line loss payments, in PhP, of Trading Participant *P* for trading interval *i*

$LL_{Spot,P,i}$ = Surplus line loss payment for spot transaction, in PhP, of Trading Participant *P* for trading interval *i*

$LL_{LR,P,i}$ = Surplus line loss payment for line rental, in PhP, of Trading Participant *P* for trading interval *i*

$NSD_{Loss,i}$ = *Net Settlement Deficit* due to line loss payments, in PhP, for trading interval *i*

i = trading interval

5.4.3 The allocation of $NSD_{Congestion}$ shall be calculated as follows:

$$NSD_{Congestion,P,i} = \frac{CC_{Spot,P,i} + CC_{LR,P,i}}{\Sigma CC_{Spot,i} + CC_{LR,i}} \times NSD_{Congestion,i}$$

Where:

$NSD_{Congestion,P,i}$ = NSD allocation due to congestion charge, in PhP, of Trading Participant *P* for trading interval *i*

$CC_{Spot,P,i}$ = Surplus congestion charge payment for spot transaction, in PhP, of Trading Participant *P* for trading interval *i*

$CC_{LR,P,i}$ = Congestion charge payment for line rental, in PhP, of Trading Participant resource *P* for trading interval *i*

$NSD_{Congestion,i}$ = *Net Settlement Deficit* due to congestion payments, in PhP, for trading interval *i*

i = trading interval

5.4.4 In *trading intervals* when there are no calculated transmission loss and congestion payments (e.g. administered pricing, price substitution methodology and secondary price cap, among others) the *NSD* shall be allocated to all *Trading Participants* with actual withdrawal from the *grid*. The

allocation shall be proportionate to the actual withdrawal from the *grid* of the *Trading Participant* relative to the total actual withdrawals during the interval as shown by the equation below:

$$NSD_{NoTLCP,p,i} = \frac{MQ_{Withdrawal,P,i}}{\sum_{ww \in WW} MQ_{Withdrawal,ww,i}} \times NSD_{NoTLCP,i}$$

Where:

$NSD_{NoTLCP,P,i}$ = NSD allocation when there is no calculated transmission loss and congestion payments, in PhP, of Trading Participant *P* for trading interval *i*

$MQ_{Withdrawal,P,i}$ = Actual withdrawal from the grid, in MWh, of Trading Participant *P* for trading interval *i*

$NSD_{NoTLCP,i}$ = Net Settlement Deficit when there is no calculated transmission loss and congestion payments, in PhP, for trading interval *i*

ww = Trading Participant with actual withdrawal from the grid

WW = Set of all Trading Participants with actual withdrawal from the grid

i = trading interval"

- i. Original Section 5.4 (Limitation of Flow Back Mechanism) under Methodology and Procedure is renumbered to read as –

“5.5 LIMITATION OF FLOW BACK MECHANISM

xxx xxx xxx”

- j. Original Section 5.5 (Schedule of Payments to the Participants) under Methodology and Procedure is renumbered to read as –

“5.6 SCHEDULE OF PAYMENTS TO THE PARTICIPANTS

xxx xxx xxx”

- k. Original Section 6.0 (Net Settlement Surplus Retention) and Section 7.0 (Fund Management and Taxation) and their Subsections are hereby deleted.

- l. Original Section 8.0 (Reportorial Requirements) and its Subsections are renumbered and amended to read as -

“6.0 REPORTORIAL REQUIREMENTS

6.1.1 The *Market Operator* shall prepare the following reportorial requirements:

- (a) Monthly summary reports on the amount of NSS or NSD distributed to each *Trading Participant* which shall include the breakdown of the computation of line loss and congestion per *Trading Participant* and other pertinent details to support the calculations. This report shall be made available to all *WESM Participants* and shall be published in the market information website. A verified copy of the report shall likewise be submitted to the *ERC* on a monthly basis including contributors to and reasons for the surplus or deficit, no later than ninety (90) *business days* from the last day of the *billing period* covered by the monthly summary report. The corresponding Value Added Tax (VAT) and interest amounts, as well as the date when the interests were earned or credited to *the market operator*, if any, shall similarly be included in the subject monthly summary report;
- (b) The pertinent data covered by the subject monthly summary report shall also be submitted in MS Excel format; and
- (c) The annual report on the NSS or NSD calculation and allocation shall be submitted no later than the 30th day of May immediately following the year in review, comparing the subject year and the preceding year's NSS levels and allocations, and analysis of the factors and constraints giving rise to any NSS or NSD. This report shall also be submitted to the market participants and to the *PEM Board*.

6.1.2 The *Market Operator* shall comply with Clause 5.2.6 of the *WESM Rules* which requires, among others, the conduct of a *spot market* audit covering such items as enumerated under Clauses 5.2.6.1 to 5.2.6.4 of the *WESM Rules*. The audit shall also include the actual calculation of NSS or NSD, its breakdown into NSS or NSD due to loss and congestion, and its allocation, corresponding VAT and interest amounts, as well as the actual billing and collection.

Such audit shall be conducted by a qualified third party auditor, and a quarterly report resulting therefrom shall be submitted to the *ERC* no later than ninety (90) *business days* after the *billing period* in review.”

m. New Section 7.0 (Interest) and its Subsections are added to read as –

“7.0 INTERESTS

7.1 Should the *Market Operator* be unable to return the amount of the NSS due to be flowed back to appropriate *WESM Participants* under the *ERC Resolution No. 07 Series of 2019* during the period specified, the retained amount shall be imposed an interest at the rate of the prevailing 91-day Treasury Bill rate as published by the *Bangko Sentral ng Pilipinas (BSP)* plus 300 basis points, the return of which shall be in accordance with Article 4 of *ERC Resolution No. 07 Series of 2019*. Such interest shall not be passed on to the market participants.

7.2 The DUs and RES, which are recipients of NSS but have not complied with the re-distribution process under the ERC Resolution No. 07 Series of 2019 during the period specified shall be subject to the interest at the rate of the prevailing 91-day Treasury Bill rate as published by the BSP plus 300 basis points, the return of which shall be in accordance with Article 4 of ERC Resolution No. 07 Series of 2019. The subject interest shall be on account of DUs and RES and shall not be passed on to their respective customers.”

n. New Section 8.0 (Penalties) and its Subsections are added to read as –

“8.0 PENALTIES

8.1 A penalty ranging from One Hundred Thousand Pesos (PhP100,000.00) to a maximum of Fifty Million Pesos (PhP50,000,000.00) shall be imposed on the following acts:

- (a) Failure to correctly implement NSS Rules, as amended, including the NSS or NSD formula;
- (b) Failure to submit documentary requirements as required under the ERC Resolution No. 07 Series of 2019;
- (c) Failure to conduct audits of the market operations and the settlement systems and the other procedures, persons, systems or other matters relevant to the spot market as required under Section 1.5.2 of the *WESM Rules* and Section, Article VII of ERC Resolution No. 07 Series of 2019.
- (d) Non-submission or failure to submit on a timely basis, the required reports as provided in Article VII of ERC Resolution No. 07 Series of 2019;
- (e) Failure to act on and resolve adverse findings of NSS audit within ninety (90) days upon receipt by the *ERC* of the subject Quarterly Audit Report;
- (f) Submission of inaccurate NSS and other related data;
- (g) Unauthorized disclosure of NSS data; and
- (h) Failure to comply with the directives of the *ERC* pertinent to the implementation of the ERC Resolution No. 07 Series of 2019.

8.2 The penalties stated in the preceding section shall be without prejudice to any civil, administrative, and criminal action that may be filed against the violation/s of the ERC Resolution No. 07 Series of 2019.”

Section 4. Separability Clause. If for any reason, any section or provision of this Circular is declared unconstitutional or invalid, such parts not affected shall remain valid and subsisting.

Section 5. Effectivity. This Circular shall take effect fifteen (15) days following its complete publication in at least two (2) newspapers of general circulation and shall remain in effect until otherwise revoked. Copies thereof shall be filed with the

University of the Philippines Law Center – Office of National Administrative Register (UPLC-ONAR).

Issued this _____ 2021 at the DOE, Energy Center, Rizal Drive, Bonifacio Global City, Taguig City, Metro Manila.


ALFONSO G. CUSI
Secretary



MAR 16 2021