



Republic of the Philippines
DEPARTMENT OF ENERGY

DEPARTMENT CIRCULAR NO. DC 2014 - 03 - 0008

ADOPTING FURTHER AMENDMENTS TO THE WESM RULES
(Prudential Requirements)

WHEREAS, Section 37 of the Electric Power Industry Reform Act (EPIRA) provides that the 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, upon the joint endorsement of the electric power industry participants, promulgated the WESM Rules through Department Circular No. 2002-06-003;

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

WHEREAS, on 21 March 2013, after considerable deliberation, the Philippine Electricity Market (PEM) Board during its 80th PEM Board Meeting resolved to reduce the level Prudential Requirements (PR) from sixty-three (63) days to thirty-five (35) days, which is deemed sufficient to cover the thirty (30) days settlement amount that will be due plus the five (5) days contingency;

WHEREAS, the PEM Board likewise agreed that the basis of assessment of the Actual Exposure (AE) and Maximum Exposure (ME) be changed, which shall be: a) for the AE, the last preliminary statement or available settlement data; and, b) for the ME, the average settlement amount in the last six (6) billing periods, taking into consideration the price spikes and changes in the Bilateral Contract Quantity (BCQ);

WHEREAS, the PEM Board directed the Rules Change Committee (RCC) to study and revise the pertinent provisions of the *WESM Rules* and the *Billing and Settlement Manual on Prudential Requirements* for the implementation of the above directives which was consequently deliberated by the RCC starting on 08 April 2013;

WHEREAS, in accordance with the provisions of the WESM Rules on Rules Change Process, on 05 June 2013, the RCC completed the proposed amendments to the WESM Rules and the Billing and Settlement Manual relative to the PR, taking into consideration the Board Directives, and approved for posting in the WESM public information website to solicit comments from market participants and other interested parties;

WHEREAS, on 03 July 2013, the RCC deliberated upon the comments received from the Philippine Electricity Market Corporation (PEMC)-Finance, and while the PEM Board approved the "previous six months" relative to the computation of ME, the RCC agreed that it would be more appropriate to adopt the "26th March to 25th September" in order to

account the price spikes in certain months of the year (i.e. rainy months where price and demand is lower);

WHEREAS, in the same meeting, the RCC agreed on the second posting of the proposal in the WESM website for further comments due to the material changes made on the original proposal;

WHEREAS, on 07 August and 04 September 2013, the RCC during its 77th and 78th RCC Meeting, respectively, again deliberated and gave due course to the comments received from the market participants;

WHEREAS, the RCC in its 78th RCC Meeting, after its due deliberation on the matter, finalized and approved the proposed amendments to the WESM Rules and the Billing and Settlement Manual relative to PR for endorsement to the PEM Board;

WHEREAS, on 30 September 2013, the RCC's proposed amendments relative to the said PR was presented during the 87th PEM Board Meeting where the PEM Board raised several issues and made recommendations on the matter, and remanded the RCC to further study and incorporate its recommendations to the proposed amendments concerning PR;

WHEREAS, on 02 October 2013, the RCC in its 79th RCC Meeting deliberated upon the PEM Board's comments and recommendations, and formed a sub-committee to draft the revised proposal;

WHEREAS, on 06 November 2013, the RCC in its 80th RCC Meeting further deliberated upon the proposal revised and crafted by its sub-committee with consideration to the PEM Board comments and recommendations, and approved for posting in the WESM website the additional proposed amendment to the WESM Rules and the Billing and Settlement Manual to solicit comments from the market participants and other interested parties;

WHEREAS, on 04 December 2013, the RCC in its 81st RCC Meeting gave due course and deliberated upon the comments received from the market participants;

WHEREAS, on 08 January 2014, the RCC in its 82nd RCC Meeting passed a Resolution adopting the additional proposed amendment to the WESM Rules and the Billing and Settlement Manual relative to PR, with minor revisions as discussed and agreed upon by the RCC, and it finalized the said proposal for endorsement to the PEM Board;

WHEREAS, on 05 February 2014, after due evaluation and deliberation, the PEM Board has resolved to approve for endorsement to the DOE the above stated RCC proposed amendments to the WESM Rules;

WHEREAS, on 06 February 2014, the above stated amendments was submitted to the DOE for approval, consistent with Chapter 8 of the WESM Rules; and

WHEREAS, the DOE thoroughly reviewed the PEM Board-approved amendments to the WESM Rules and considered it reasonable and consistent with the objectives of the WESM Rules.

NOW THEREFORE, pursuant to its authority under the WESM Rules, the DOE hereby adopts, issues, and promulgates the following amendment to the WESM Rules:

Section 1. Amendment to the WESM Rules. The following clauses are hereby amended to read as follows:

1.1 Clause 3.14.11.2 under Payment Default Procedure is amended to read -

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(b) Immediately issue a suspension notice in accordance with Clause 3.15.8 if the *Market Operator* considers that the default is not capable of remedy and that failure to issue a suspension notice would be likely to expose other *WESM members* to greater risk, and to notify in writing the appropriate regulatory and administrative bodies concerned of such suspension; and/or

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1.2 Clause 3.15.2 under Provision of Security is amended to read -

3.15.2 Provision of Security

3.15.2.1 Subject to clause 3.15.2.2, a *WESM member* wishing to participate in *Market Transactions* shall provide and maintain a security complying with the requirements of Clause 3.15.2.

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3.15.2.3 The *Market Operator* may vary or cancel the exemption given pursuant to clause 3.15.2.2 above in reference to Clause 3.15.2.1, at any time, by giving written notice of the variation or cancellation of the exemption to the *WESM member*.

3.15.2.4 A *WESM member* who is exempt from providing a security deposit under Clause 3.15.2.2 shall be required to pay the total negative settlement amount due, if any, within three (3) *working days* before the due date as provided under Clause 3.14.6.

3.15.2.5 Failure to comply with Clause 3.15.2.4 shall be a ground for the cancellation of exemption and said failure shall cause the *WESM member* to be assessed and be required to put up *Prudential Requirements*. Upon written request of the *WESM member*, the *Market Operator* may lift the cancellation of exemption from *Prudential Requirements*, provided that the *WESM member*:

- a) has settled all its outstanding obligations including interest, if any; and
- b) has no record of default in payment or non-compliance with the *Prudential Requirements* for the immediately preceding six (6) billing periods from the cancellation of exemption.

1.3 Clause 3.15.3 under Form of Security is amended to read -

3.15.3 Form of Security

The security provided by the *WESM Member* under this Clause 3.15 shall be in accordance with the following hierarchy of preferred forms of security:

a) Cash; or,

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c) Surety bond issued by a surety or insurance company duly accredited by the Office of the Insurance Commissioner of the Philippines; or,

d) Such other forms of security or guarantee as may be acceptable and allowed by the *Market Operator*;

Provided, however, that in all cases where the security deposit provided is other than in the form of Cash, the following conditions shall apply in determining whether or not the *Market Operator* will allow such alternative form of security:

a) Only in the event that the *Market Operator* determined that the amount of default can be immediately drawn on due date from such form of security; and,

b) Said *WESM member* proposing to post a security deposit in a form other than Cash has no record of default in payment or non-compliance with the *Prudential Requirements* for the immediately preceding six (6) billing periods.

1.4 Clause 3.15.4 under Amount of Security is amended to read -

3.15.4 Amount of Security

Using available historical data, the *Market Operator* shall determine the initial *Prudential Requirements* of a new *WESM member* corresponding to the portion of its demand that is not covered by *bilateral contracts*, or ten percent (10%) of its total demand if fully covered by *bilateral contracts*, multiplied by the average actual market price of the previous twelve (12) billing periods.

3.15.4.1 Subject to Clause 3.15.2.2, prior to the end of each *Financial Year*, the *Market Operator* shall determine and provide written confirmation to each *WESM member* of its *Maximum Exposure* to the *Market Operator* in respect of a billing period in the following *Financial Year*. The amount of security to be provided by each *WESM member* pursuant to Clauses 3.15.2.1 and 3.15.2.2 shall be equivalent to the *Maximum Exposure*.

Upon the request of a *WESM member*, the *Market Operator* may consider a replacement month in the computation of *Maximum Exposure* within the 26th March to 25th September billing periods, having the same number of calendar days if:

- a) There is a disagreement between the *Market Operator* and the *WESM Participant* on the *Final Statement* during the months covered in the computation of the *Maximum Exposure*; or
- b) There is a positive settlement amount in any billing period in the computation of the *Maximum Exposure*.

If there is a change in the *bilateral contract* of a *WESM member*, the *Maximum Exposure* shall be computed based on the settlement amounts estimated by the *Market Operator* using the average actual market price based on the billing period of 26th March to 25th September. In no case shall the *Maximum Exposure* be less than ten percent (10%) of the total demand. Average actual market price shall refer to the ratio of the total *spot market* payment of a *WESM Member*, which may include *Spot Market* energy and reserve transactions and *Line Rental* amount for contracted quantities, to the total metered quantities net of *bilateral contract* quantities for each billing month.

If a *WESM member* that is exempt from *Prudential Requirements* under Clause 3.15.2.2 becomes a net buyer and fails to pay its obligations, the prudential security that shall be imposed pursuant to clause 3.15.2.5 shall be computed based on:

- a) the average of the previous six (6) negative settlement amounts for the past twelve (12) consecutive billing periods; or,
- b) in the absence of the previous six (6) negative settlement amounts, the average of the available negative settlement amounts for the past twelve (12) consecutive billing periods.

If the *Market Operator* determines that the security provided by a *WESM member* is below the assessed *Maximum Exposure*, the *Market Operator* shall require such *WESM member* to increase its security deposit up to the level of its *Maximum Exposure* within three (3) *working days* after the receipt of the written notification of the annual assessment. If the *WESM member* fails to comply within the prescribed date or any later date agreed to in writing with the *Market Operator*, then the *Market Operator* shall issue a default notice under Clause 3.14.11.1.c.

3.15.4.2 The *Market Operator* may review its method of determination of a *WESM member's Market Exposure* at any time, provided that any change to a *WESM member's Maximum Exposure* will apply no earlier than thirty (30) days following receipt of written notification from the *Market Operator* by a *WESM member* of that change, or such earlier period agreed to in writing by the *PEM Board*.

3.15.4.3 Each *WESM member* shall ensure that at all times the aggregate undrawn and unclaimed amounts of current and valid security held by the *Market Operator* in respect of that *WESM member* is not less than that *WESM member's Maximum Exposure*.

3.15.4.4 To diminish the possibility of incurring a *Margin Call* under Clause 3.15.10, a *WESM member* may provide a security or securities in accordance with Clause 3.15.3 for an aggregate amount that exceeds its *Maximum Exposure*.

If said additional security or securities is not in the form of Cash, the *WESM member* shall secure the prior written determination and approval of the *Market Operator*.

1.5 Clause 3.15.5 under Replacement Security is amended to read -

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b) After that security expires or terminates, the maximum amount which the *Market Operator* will be entitled to be paid in aggregate under any remaining security or securities provided by the *WESM member* under this Clause 3.15 will be less than *WESM member's Maximum Exposure*,

then the *WESM member* shall deliver to the *Market Operator*, at least ten (10) *working days* prior to the time at which that existing security is due to expire or terminate, a replacement security which:

- (1) Is of sufficient value to enable the *WESM member* to comply with Clause 3.15.4.3;
- (2) Complies with the requirements of this Clause 3.15; and,
- (3) Shall take effect no later than the date on which the existing security is due to expire or terminate.

3.15.5.2 If:

- a) A *WESM member* fails to comply with Clause 3.15.5.1; and,
- b) That *WESM member* does not remedy that failure within three (3) *working days* after being notified by the *Market Operator* of the failure,

then the *WESM member* is deemed to be in default and the *Market Operator* shall give the *WESM member* a *Suspension Notice* in accordance with Clause 3.15.7.

1.6 Clause 3.15.6 under Drawdown of Security is amended to read -

3.15.6.1 The *Market Operator* shall notify a *WESM member*, in writing, once the *Market Operator* exercises its rights in accordance with Clause 3.15 under a security provided by said *WESM member*.

3.15.6.2 If, as a result of the *Market Operator* exercising its rights under a security provided by a *WESM member* under this Clause 3.15, the maximum amount which the *Market Operator* is entitled to be paid under the security or securities provided by the *WESM member* under this Clause 3.15 is less than the *WESM member's Maximum Exposure*, then, within three (3) *working days* from receipt of the written notice under Clause 3.15.6.1, the *WESM member* shall provide an additional security to ensure that, at all times, it complies with the requirements of this Clause 3.15.

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1.7 Clause 3.15.7 is amended to read -

3.15.7 Refund of Security

Upon written request from the *WESM member*, the *Market Operator* shall refund the prudential security under the following conditions:

- a) if the *Market Operator* has lifted the cancellation of exemption after the *WESM member* complied with its obligations under Clause 3.15.2.5 ; or
- b) if the security deposit of a *WESM member* consistently exceeds the *Maximum Exposure* in previous six (6) consecutive billing period.

The refund of security deposit shall be allowed by the *Market Operator* after the assessment of the amount of refund, provided that the *WESM member* has no record of default and non- compliance with the *Prudential Requirements* in previous six (6) consecutive billing periods.

1.8 Original Clause 3.15.7 under Suspension of a *WESM member* is renumbered and amended accordingly to read -

3.15.8 Suspension of a *WESM member*

3.15.8.1 As soon as practicable after a *Suspension Notice* is issued by the *Market Operator* under the *WESM Rules*, the *Market Operator* shall:

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- c) Notify in writing the *ERC*, the *DOE* and *National Electrification Administration* of such suspension.

3.15.8.2 The *Market Operator* shall revoke a *Suspension Notice* if:

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- c) There are no other circumstances in existence, which would entitle the *Market Operator* to issue a *Suspension Notice*.

The *Market Operator* shall not revoke a *Suspension Notice* more than one (1) month after it was issued.

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3.15.8.4 From the time that the *Market Operator* issues a written *Suspension Notice* to a *WESM member* under the *WESM Rules*, the *WESM member* is ineligible to participate in the *spot market*, until such time as the *Market Operator* notifies the *WESM member* and all other relevant *WESM members*, in writing, that the *Suspension Notice* has been revoked.

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3.15.8.6 If:

- a) The *Market Operator* has issued a *Suspension Notice* to a *WESM member* due to a default event and in the *Market Operator's* reasonable determination, the *WESM member* is incapable of rectifying the default event for any reason; or,
- b) The *Market Operator* has issued a suspension notice to a *WESM member* due to a failure by the *WESM member* to continue to satisfy the *Prudential Requirements* and in the *Market Operator's* reasonable determination, the *WESM member* is incapable of rectifying that failure for any reason,

The *Market Operator*, in either case, shall deregister that *WESM member* as soon as practicable and promptly *publish* a notice of that fact.

1.9 Original Clause 3.15.8 under Trading Limits is renumbered and amended accordingly to read -

3.15.9 Trading Limits

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3.15.9.3 The trading limit for a *WESM member*, at any time, shall be equal to the total value of the security, including *Interest Rate*, if any, provided by the *WESM member* to the *Market Operator* under Clauses 3.15.3 (a) to (c),

1.10 Original Clause 3.15.9 under Monitoring is renumbered and amended accordingly to read -

3.15.10 Monitoring

3.15.10.1 The *Market Operator* shall review, on a monthly basis, its actual exposure to each *WESM member* in respect of previous billing periods in accordance with the *WESM Rules*.

3.15.10.2 In calculating the *Market Operator's* actual exposure to a *WESM member* under Clause 3.15.9.1, the *Market Operator* shall take into account:

- a) Outstanding settlement amounts for the *WESM member* in respect of previous billing periods; and
- b) Settlement amounts for the *WESM member* for the billing period that will be due on the period in which the review occurs based on the available settlement statement.

3.15.10.3 If the *Market Operator* calculates that its actual exposure to a *WESM member* exceeds the *WESM member's* trading limit, then the *Market Operator* shall notify the *WESM member* in writing.

1.11 Original Clause 3.15.10 under Margin Calls is renumbered and amended accordingly to read -

3.15.11 Margin Calls

3.15.11.1 If the *Market Operator* calculates that its exposure to a *WESM member* exceeds the *WESM member's* trading limit, then the *Market Operator* shall make a *Margin Call* on that *WESM member* by notice to the *WESM member* in writing (*Margin Call Notice*).

3.15.11.2 If the *Market Operator* makes a *Margin Call* on a *WESM member* under Clause 3.15.11.1, then the *WESM member* must satisfy the *Margin Call* by providing the amount of shortfall within three (3) *working days* from receipt of the *Margin Call Notice*, by either:

- a) Providing to the *Market Operator* an additional security or securities complying with the requirements of this Clause 3.15, or
- b) Prepaying the amount payable or which will become payable.

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3.15.11.4 If a *WESM member* fails to satisfy a margin call by providing additional security or making a prepayment under Clause 3.15.11.2, then the *Market Operator* shall issue the *WESM member* a *Suspension Notice* in writing.

In the event of suspension, all the settlement statements issued to such *WESM member*, including an estimate of the accrued trading amounts, shall become immediately due and demandable.

1.12 Original Clause 3.15.11 under Confidentiality is renumbered and amended accordingly to read -

3.15.12 Confidentiality

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1.13 Glossary Chapter 11 is amended to read -

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Actual Exposure. The total amount of obligation that a *WESM member* is required to pay on due date.

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Default interest rate. An *Interest Rate* of three percent (3%) per annum or the approved default interest by the *PEM Board*, in addition to the *Interest Rate*, to be applied to the remaining default amount.

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Interest Rate. In relation to any period for which an interest rate is to be determined hereunder, a rate per annum equal to the lending rate published by the *Bangko Sentral ng Pilipinas* at the time of payment.

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Maximum Exposure. The maximum exposure of a *WESM member* shall mean the computed average monthly settlement amount of the billing periods covering 26 March through 25 September prior to the end of the *Financial Year* multiplied by the factor 35/30 and shall set the level of security deposit that a *WESM Member* is required to maintain.

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Section 2. 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 3. Effectivity. This Circular shall take into effect fifteen (15) days from its publication in at least two (2) newspapers of general circulation and shall remain in effect until otherwise revoked.

Issued at Energy Center, Bonifacio Global City, Taguig City.


CARLOS JERICO L. PETILLA
Secretary



Republic of the Philippines
DEPARTMENT OF ENERGY

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