



Republic of the Philippines
DEPARTMENT OF ENERGY

DEPARTMENT CIRCULAR NO. DC 2015- 07 - 0013

ADOPTING FURTHER AMENDMENTS TO THE WESM RULES
(Procedure for Changes to the WESM Rules and Market Manuals)

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 30 September 2014, the Philippine Electricity Market Corporation (PEMC) submitted to the Rules Change Committee (RCC) its proposed amendments to the WESM Rules, particularly on the procedure for changes to the WESM Rules and Market Manuals in order to clearly spell out the approval for changes to the WESM Rules;

WHEREAS, on 05 November 2014, the proposal was presented by PEMC to the RCC during the 94th RCC Meeting, which thereafter approved its publication in the WESM website to solicit comments from market participants and other interested parties;

WHEREAS, on 14 January 2015, the RCC during its 96th RCC Meeting deliberated on the proposal, with inputs from the DOE, and after giving due course to the matter, finalized and approved the said proposal for endorsement to the PEM Board;

WHEREAS, on 10 March 2015, 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 18 March 2015, the above stated amendments to the WESM Rules were submitted to the DOE for final approval, in compliance with Chapter 8 of the WESM Rules;

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

WHEREAS, the DOE deemed it necessary to amend certain provisions of the WESM Rules to include the final approval of the Market Manuals by the DOE to address the issues on inconsistencies between the WESM Rules and Market Manuals and to promote transparency and efficient electricity market;

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. Amendments to the WESM Rules.

- (a) Clause 1.4.5.2 under Obligations of the PEM Board is amended to read –

“1.4.5.2 The following are the powers and duties of the *PEM Board*:

xxx xxx xxx

- (f) Review and recommend changes to the *WESM Rules* and *Market Manuals*, as well as the adoption of new *Market Manuals*; and

xxx xxx xxx”

- (b) Clause 8.1 under Chapter 8 Rules Change is amended to read –

“8.1 SCOPE OF CHAPTER 8

Proposals for changes, amendments, and modifications of the *WESM Rules* and *Market Manuals*, as well as the adoption of new *Market Manuals* shall be undertaken in accordance with the provisions of this chapter.

This chapter 8 sets out:

- (a) The composition and manner of appointment of the *Rules Change Committee*;
- (b) The procedure for effecting a change to the *WESM Rules* and *Market Manuals* ; and
- (c) The procedure for approval of a change to *the WESM Rules* and *Market Manuals*, including proposals that will result in an amendment to the *WESM Price Determination Methodology*, and adoption of new *Market Manuals*.”

- (c) Clause 8.2 under Rules Change Committee is amended to read –

“ 8.2 RULES CHANGE COMMITTEE

8.2.1 Establishment of a Rules Change Committee

The *PEM Board* shall establish a *Rules Change Committee* in consultation with industry participants.

8.2.2 Composition of Rules Change Committee

8.2.2 1 The *Rules Change Committee* shall be comprised in a manner that is consistent with the composition of the *PEM Board*, provided that the persons representing each of the sectors and other members of the *Rules Change Committee* shall not be the same persons as those who are *Directors* of the *PEM Board*.

8.2.2.2 The principles applicable to the composition and operation of the *PEM Board* as set out in *WESM Rules* Clause 1.4.2 apply also to the composition of the *Rules Change Committee*.

8.2.3 Membership requirements - Rules Change Committee

Each member of the *Rules Change Committee* shall:

- (a) be appointed by the *PEM Board* in consultation with industry participants;
- and
- (b) not be a member of the *PEM Board*.

8.2.4 Termination

The *PEM Board* may terminate the appointment of any member of the *Rules Change Committee* at any time if:

xxx xxx xxx

8.2.5 Appointment for Vacated Positions

If the *PEM Board* decides to terminate the appointment of any member of the *Rules Change Committee* in accordance with *WESM Rules* Clause 8.2.4, the *PEM Board* shall appoint another representative from the same membership category to fill the vacancy in the *Rules Change Committee* as soon as practicable.

8.2.6 Resignation

A member of the *Rules Change Committee* may resign by giving a written notice to the *PEM Board* thirty (30) *working days* before the effectivity of resignation.

8.2.7 Conduct of meetings

The *Rules Change Committee* shall meet and regulate its meetings and conduct its business in a manner that is consistent with the provisions of the *WESM Rules*.

8.2.8 Advice and assistance

The *Rules Change Committee* may obtain such advice or any other assistance as it deems appropriate, including, without limitation, advice or assistance from persons with experience relevant to any proposal to change the *WESM Rules* or *Market Manuals*, or to adopt a new *Market Manual*, which the *Rules Change Committee* is considering; and from *WESM members* who are likely to be affected by any proposal."

- (d) Clause 8.3 under Referral of Matters to the Rules Change Committee is amended to read –

"8.3 REFERRAL OF MATTERS TO THE RULES CHANGE COMMITTEE

8.3.1 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 a new *Market Manual* to the *Rules Change Committee*.

8.3.2 Form of submission

Proposals for a change or changes to the *WESM Rules* or *Market Manuals*, or the adoption of new *Market Manuals* shall:

- (a) be in writing and addressed to the *Rules Change Committee*;
- (b) include the name and address of the applicant;
- (c) demonstrate that the change to the *WESM Rules* or *Market Manual*, or the proposed new *Market Manual* is:
 - (1) consistent with the *WESM* objectives;
 - (2) feasible;
 - (3) not unreasonably costly to implement; and
 - (4) aimed at providing a more appropriate or better means of achieving the criteria set out in *WESM Rules* Clauses 8.3.2 (c) (1) to (c) (3), by replacing an existing provision of the *WESM Rules* or a *Market Manual*, or adopt a new *Market Manual*;
- (d) provide the reasons why a change to the *WESM Rules* or *Market Manual*, or the adoption of a proposed new *Market Manual* is necessary or desirable; and
- (e) contain sufficient information to permit a proper consideration by the *Rules Change Committee* of those reasons, including the public benefit (if any) of making the change to the *WESM Rules* or *Market Manual*, or adopting a new *Market Manual*.

8.3.3 Rules Change Committee obligations

The *Rules Change Committee* shall:

- (a) keep a register of all proposals for a change in the *WESM Rules* or *Market Manuals* as well as proposals for new *Market Manuals* submitted to it; and
 - (b) give due course to the proposal in the *Rules Change Committee* meeting immediately following the *Rules Change Committee* Secretariat's receipt of a proposal or as soon as practicable."
- (e) Clause 8.4 under Consideration of Proposed Rules Change by the Rules Change Committee is amended to read –

"8.4 CONSIDERATION OF PROPOSALS TO CHANGE THE WESM RULES OR MARKET MANUALS OR TO ADOPT NEW MARKET MANUALS BY THE RULES CHANGE COMMITTEE

8.4.1 Rules Change Classification Procedures

8.4.1.1 Rules change proposals shall be classified as follows:

- a) Urgent Proposals refer to proposals for amendments to the *WESM Rules* and *Market Manuals* or the adoption of new *Market Manuals*, which require immediate action to-

- i. Avoid, reduce the risk of or mitigate the adverse effects of certain conditions on the ability of the power system to function normally;
- ii. Avoid, reduce the risk of or mitigate the effects of the abuse of market power or anti-competitive behavior;
- iii. Avoid, reduce the risk of or mitigate the unintended adverse effect of a *WESM Rule* (or any of its amendments) or a provision in a *Market Manual*;
- iv. Facilitate the implementation of any regulation, circular, order or issuance of the DOE or ERC pursuant to the EPIRA, or of any issuance of the PEM Board.

b) Minor Proposals are proposals for amendments to the *WESM Rules* or *Market Manuals*, which are corrections as to form such as typographical or grammatical changes, or those which are of a non-material procedural or a non-substantive nature. A proposal will not qualify as a Minor Proposal if it entails any of the following-

- i. A WESM member or the Market Operator would incur material additional costs in order to effect the change or to be compliant with the change brought about by the amendment;
- ii. The determination of timetable (including bid and offer submission schedules, auction schedules, etc.) or prices in any of the physical or financial markets would be changed;
- iii. The means of procurement of, and prices paid for, an ancillary service would be changed; The level or timing of information released to the WESM would be changed;
- iv. The proposal would result in a change to the conditions for participation such that any currently authorized WESM member would no longer be authorized;
- v. The proposal would make it unreasonably difficult for a WESM member to comply with the law, or would render an otherwise compliant WESM member non-compliant with law, or would deprive a WESM member of any right under existing law; and
- vi. The change would introduce additional risks to the Market Operator of not being able to direct the operation of the spot market or to the System Operator of not being able to maintain system reliability in accordance with the applicable standards.

c) General Proposals refer to proposed amendments to the *WESM Rules* or *Market Manuals*, or new *Market Manuals*, which do not otherwise qualify as either Minor Proposals or Urgent Proposals.

8.4.1.2 The proposed amendments to the *WESM Rules, Market Manuals*, and any amendment and/or adoption of a new *Market Manuals* shall take effect upon approval and promulgation by the DOE.

In cases of changes to the *WESM Rules, Market Manuals* or the adoption of new *Market Manuals*, implemented pursuant to *WESM Rules* Clause 8.4.1.1 (a) prior to DOE's approval, shall be processed and submitted to the DOE for final approval; otherwise, the effectivity of such *WESM Rules* changes shall be no more than six (6) months from the *PEM Board* approval.

8.4.1.3 Subject to approval by the *PEM Board*, the *Rules Change Committee* shall develop and *publish* detailed guidelines and procedures to be employed in the consideration, approval, publication and effectivity of any proposed change to the *WESM Rules* and *Market Manuals*, as well as for the adoption of new *Market Manuals*. These guidelines and procedures will, as far as practicable, be consistent with the provisions of this Chapter 8, provided, however, that the Committee may establish procedures, time periods and manner of publication and effectivity other than as stated in this Chapter 8 depending on the classification of the proposed change.

8.4.2 Assessment of proposals

Pursuant to *WESM Rules* Clause 8.3.3 (b), the *Rules Change Committee* shall assess whether the proposed change to the *WESM Rules* or *Market Manual*, or the proposal for a new *Market Manual* is:

- (a) consistent with the *WESM* objectives
- (b) feasible;
- (c) not unreasonably costly to implement; and
- (d) aimed at providing a more appropriate or better means of achieving the criteria set out in Clauses 8.4.1 (a) to (c).

8.4.3 Discretions when assessing a proposal

In considering whether a proposal for a change in the *WESM Rules* or a *Market Manual*, or for the adoption of a new *Market Manual* satisfies the criteria as set out in *WESM Rules* Clause 8.4.1, the *Rules Change Committee* may:

- (a) Take into account any information and documents that the *Rules Change Committee* reasonably considers to be relevant to its consideration of the proposed change to the *WESM Rules* or *Market Manual* or the proposed new *Market Manual*;
- (b) Consult with such persons whom the *Rules Change Committee* reasonably considers will likely be affected by the proposal;
- (c) Seek such information and views from any person as may be practicable under the circumstances; and

- (d) Refer and delegate the proposal to any working group, comprised of persons having such expertise as the Committee, in the *Rules Change Committee's* absolute discretion, whenever it considers reasonable or necessary or as it may consider practicable in the circumstances delegating to that working group any obligation or task of the *Rules Change Committee* as set out in *WESM Rules* Clauses 8.4.3, and 8.4.5 other than this *WESM Rules* Clause 8.4.3 (d).

8.4.4 Notification following failure to satisfy criteria

If the *Rules Change Committee* concludes that a proposal does not satisfy the criteria set out in *WESM Rules* Clause 8.4.2, it shall notify the proponent and the *PEM Board* within 10 *working days* after its decision on the non-adoption of the proposal, including the reason for its decision.

8.4.5 Notification following satisfying criteria

If the *Rules Change Committee* concludes that a proposal satisfies the criteria as set out in *WESM Rules* Clause 8.4.2, the *Rules Change Committee* shall:

- (a) Notify the *PEM Board*, all *WESM members* and other interested parties of the proposal; and
- (b) Invite such parties to make written submissions regarding the proposal within the next 30 *working days* after publication of the proposed change to the *WESM Rules* or *Market Manual*, or new *Market Manual* in the market information website.

8.4.6 Submissions regarding proposed Rules change

To be validly considered, a written submission made in response to a proposed change to the *WESM Rules*, *Market Manual*, or a proposal for the adoption of a new *Market Manual*, as provided under clause 8.4.5 (b), must be received by the *Rules Change Committee* no later than 30 *working days* after the notice and invitation referred to in *WESM Rules* Clauses 8.4.5 (a) and (b) are issued.

8.4.7 Approval of proposals

If the *Rules Change Committee*, upon deliberation of the proposal and having considered all valid submissions, concludes that it is necessary or desirable to give effect to the proposed change to the *WESM Rules* or the *Market Manual*, or adoption of a new *Market Manual*, then it shall submit said proposal to the *PEM Board* for approval."

- (f) Clause 8.5 under Consideration of Proposed Rules Changes by the *PEM Board* is amended to read –

“8.5 CONSIDERATION OF PROPOSALS TO CHANGE THE WESM RULES OR MARKET MANUALS OR ADOPT NEW MARKET MANUALS BY THE PEM BOARD

8.5.1 PEM Board assessment of proposals

If the *Rules Change Committee* submits a proposal to the *PEM Board* for the *PEM Board's* approval of any change to the *WESM Rules* or *Market Manual*, or adoption of a new *Market Manual*, in accordance with *WESM Rules* Clause 8.4.7, the *PEM Board* shall deliberate on the same in the next *PEM Board* meeting immediately following its receipt thereof to assess whether:

- (a) The proposal satisfies the criteria as set out in *WESM Rules* Clause 8.4.2; and
- (b) The processes and procedures set out in *WESM Rules* Clause 8.4 have been duly followed.

8.5.2 *PEM Board* discretions when assessing a proposal for a change in the *WESM Rules* or *Market Manuals*, or for the adoption of new *Market Manuals*.

In considering whether a proposal for a change in the *WESM Rules* or *Market Manuals*, or adoption of new *Market Manuals* satisfies the criteria which are set out in *WESM Rules* Clause 8.4.2, the *PEM Board* may:

- (a) Take into account any information and documents, which the *PEM Board* reasonably considers to be relevant to its consideration of the proposal;
- (b) Consult with such persons as the *PEM Board* reasonably considers will likely be affected by the proposal; and
- (c) Seek such information and views from any person whom the *PEM Board* considers relevant or as may be practicable in the circumstances.

8.5.3 Notification following unsuccessful proposal

8.5.3.1 If the *PEM Board* concludes that a proposed change to the *WESM Rules* or a *Market Manual*, or proposal for a new *Market Manual* does not satisfy the criteria set out in *WESM Rules* Clause 8.4.2, the *PEM Board* shall notify:

- (a) The *Rules Change Committee*;
- (b) Any party who made written submissions to the *Rules Change Committee* under *WESM Rules* Clause 8.4.5; and
- (c) The *DOE* and the *ERC*,

within 10 *working days* after reaching that conclusion, and shall provide reasons for its decision.

8.5.3.2 If the *PEM Board* determines that the processes and procedures set out in *WESM Rules* Clause 8.4 have not been duly followed, the *PEM Board* shall:

- (a) Refer the proposal back to the *Rules Change Committee* so that the procedural error can be rectified within the earliest possible time in accordance with *WESM Rules* Clause 8.4; and
- (b) Take such steps as it considers reasonably necessary and appropriate in all the circumstances to ensure that the *Rules Change Committee* adheres to the processes and procedures set out in *WESM Rules* Clause 8.4 in the future.

8.5.4 Approving and submitting a proposal for approval

If the *PEM Board* concludes that the proposal satisfies the criteria which are set out in *WESM Rules* Clause 8.4.2 and that the processes and procedures set out in *WESM Rules* Clause 8.4 have been duly followed, the *PEM Board*:

- a) shall immediately submit the proposal to the DOE for final approval, except in the case of Urgent Proposal under *WESM Rules* Clause 8.4.1.1 (a); and
- b) shall cause publication of the approved proposal under *WESM Rules* Clause 8.4.1.1 (a), which will become effective fifteen (15) *working days* after its publication or on such date and for such period as the *PEM Board* determines; or upon such time that the amendment may be implemented taking into consideration the technical changes that need to be introduced to the *Market Management System* (MMS) or to such other systems. "

- (g) Clause 8.6 under Approval of Proposed Rule Changes by the DOE is amended to read –

"8.6 APPROVAL OF PROPOSAL FOR CHANGES TO THE WESM RULES OR
MARKET MANUALS OR ADOPT NEW MARKET MANUALS

8.6.1 DOE assessment of proposal

If the *PEM Board* submits a proposal to the DOE for DOE's final approval of any change to the *WESM Rules* or *Market Manual*, or adoption of a new *Market Manual*, in accordance with the *WESM Rules* Clause 8.5.4, the DOE shall assess whether the proposed change to the *WESM Rules* satisfies the criteria which are set out in Clause 8.4.2.

8.6.2 DOE discretions when assessing proposal for a change in the *WESM Rules* or *Market Manuals*, or for the Adoption of New *Market Manuals*

In considering whether a proposal for a change in the *WESM Rules* or *Market Manuals*, or adoption of new *Market Manuals* satisfies, the criteria, which are set out in *WESM Rules* Clause 8.4.2, the DOE, may:

- (a) Take into account any information and documents which the DOE reasonably considers to be relevant to its consideration of the proposal;
- (b) Consult with such persons as the DOE, reasonably considers will likely be affected by the proposal; and
- (c) Seek such information and views from any person in relation to the proposal as may be practicable in the circumstances.

8.6.3 Notification following failure to satisfy criteria

If the DOE concludes that a proposal does not satisfy the criteria, which are set out in *WESM Rules* Clause 8.4.2, the DOE, shall notify:

- (a) The *PEM Board*;
- (b) The *Rules Change Committee*; and
- (c) The person who proposed the change to the *WESM Rules*,

within 10 *working days* of reaching that conclusion and shall provide reasons for its decision.

8.6.4 Approval of a proposal

If the *DOE* concludes that a proposal is consistent with the Act and the public interest and satisfies the criteria, which are set out in *WESM Rules* Clause 8.4.2, it shall approve the proposal and cause its publication. The proposal approved by the *DOE* will take effect within fifteen (15) *working days* from its publication or on such later date as the *DOE*, determines or upon such time that the amendment may be implemented.

8.6.5 Report by the Rules Change Committee

The *Rules Change Committee* and the *PEM Board* shall develop and make available to *WESM members* a periodic report, which sets out:

- (a) All proposals to change the *WESM Rules* or *Market Manuals*, or adopt new *Market Manuals*, that have been made in the previous six-month period;
- (b) The progress of those proposals in accordance with the procedures prescribed in this chapter 8;
- (c) The reason for any delays in relation to the progress of those proposals and any action the *Rules Change Committee*, the *PEM Board* or the *DOE* has taken to overcome those delays; and
- (d) Any other matter which the *Rules Change Committee*, the *PEM Board* or the *DOE* reasonably considers to be relevant to the progress of proposals, including but not limited to any policies developed by the *Rules Change Committee*, the *PEM Board* or the *DOE* in relation to:

xxx xxx xxx"

Section 3. 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 4. 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 this 29 June 2015 at the DOE, Energy Center, Rizal Drive, Bonifacio Global City, Taguig City, Metro Manila.



CARLOS JERICHO L. PETILLA
Secretary



Republic of the Philippines
DEPARTMENT OF ENERGY

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