

**WHOLESALE ELECTRICITY SPOT MARKET
RULES CHANGE COMMITTEE**

RESOLUTION No. 2010- 10

**Proposed Amendments to the WESM Rules
and Dispute Resolution Market Manual**

WHEREAS, the Proposed Amendments to the WESM Rules concerning Dispute Resolution Provisions was approved by the previous Rules Change Committee (RCC) on 10 December 2008;

WHEREAS, during the 44th PEM Board (the "Board") Meeting on 24 February 2010, the Board remanded to and directed the newly-constituted RCC to further deliberate on the proposed rules change to incorporate new developments in the market and the power industry;

WHEREAS, during the 32nd RCC Meeting on 07 April 2010, in compliance with the Board's directive, the proposed rules change was presented to the RCC, for further discussion;

WHEREAS, during the 33^d RCC Meeting on 05 May 2010, the RCC agreed to approve the proposed rules change, incorporating the RCC comments and suggestions;

WHEREAS, during the 50th Board Meeting on 29 July 2010, the Board referred the RCC-approved rules change in the WESM Rules to the new members of the Dispute Resolution Group (DRG) for their appropriate inputs and comments;

WHEREAS, the DRG submitted their proposals to amend the WESM Rules and the Dispute Resolution Market Manual (DRMM) on 13 August 2010 to address the procedural gaps in the WESM Rules and incorporate the latest legal developments and requested the President of the PEMC for certification of the proposals as URGENT Amendments ;

WHEREAS, the DRG proposed that the dispute resolution procedures relative to all matters governed by Clause 7.3.1.1 shall be governed by the Dispute Resolution Market Manual, which is to be incorporated as an integral part of the WESM Rules;

WHEREAS, on 16 August 2010, the President of PEMC certified the DRG proposals as URGENT Amendment pursuant to Section 3.1 of the Manual of Procedures for Changes to WESM Rules;

NOW THEREFORE, we, the undersigned and in behalf of the sector we represent, hereby resolve as follows:

RESOLVED, that the proposed amendments to the WESM Rules and DRMM (attached as Annex "A") is adopted and approved in full subject to the comments of the ERC;

RESOLVED FINALLY, that the proposed amendments to the WESM Rules be endorsed to the PEM Board for approval.

Done this 18th day of August 2010, Pasig City.

Approved by :
RULES CHANGE COMMITTEE

[Signature]
Epictetus E. Patalinghug
 Acting Chairperson
 Independent
 University of the Philippines
 (UP)

Members:

<p><i>[Signature]</i> Cherry Aquino-Javier Generation Sector AES Philippines (AES)</p>	<p><i>[Signature]</i> Ralph T. Crisologo Generation Sector SN Abotiz Power (SNAP)</p>
<p><i>PSALM has issues on PEMC / DRG's jurisdiction</i> Liberty Z. Dumlao Generation Sector Power Sector Assets and Liabilities Management Corporation (PSALM)</p>	<p>Alfredo L. Licudine, Jr. Generation Sector National Power Corporation (NAPOCOR)</p>
<p>Raul Joseph G. Seludo Transmission Sector National Grid Corporation of the Philippines (NGCP)</p>	<p><i>[Signature]</i> Vicente C. Sison <i>With reservations for review by our lawyers.</i> Distribution Sector (PDU) Manila Electric Company (MERALCO)</p>
<p>Jose P. Santos Distribution Sector (EC) Ilocos Norte Electric Cooperative (INEC)</p>	<p><i>[Signature]</i> Conrado D. Pecjo Supply Sector Angeles Power, Inc.</p>
<p><i>[Signature]</i> Robinson P. Descanzo Market Operator Philippine Electricity Market Corporation (PEMC)</p>	<p><i>[Signature]</i> Gloria P. Gerilla-Teknomo Independent CPI-Energy Phils., Inc.</p>
<p><i>[Signature]</i> Augusto D. Sarmiento Distribution Sector (PDU) Dagupan Electric Corporation (DECORP)</p>	
	<p>Certified True and Correct: <i>[Signature]</i> Elaine D. Gonzales RCC Secretary PEMC</p>

Proposed Amendments to the WESM Rules
RCC/WESM-WR-10/08

Title	Section	Provision	Proposed Amendment	Rationale
Formation of Committees	1.4.6	<p>The <i>PEM Board</i> shall form working groups and appoint qualified personnel who shall act as the following:</p> <p>(a) The <i>PEM Auditor</i> to conduct audits of the operation of the <i>spot market</i> and of the <i>Market Operator</i> in accordance with clause 1.5;</p> <p>(b) A <i>Market Surveillance Committee</i> to monitor and report on activities in the <i>spot market</i> in accordance with clause 1.6;</p> <p>(c) A Technical Committee to monitor and review technical matters under and in relation to the <i>WESM Rules</i>, the <i>Grid Code</i> and <i>Distribution Code</i> in accordance with clause 1.7;</p> <p>(d) A <i>Rules Change Committee</i> to assist the <i>PEM Board</i> and the <i>DOE</i> in relation to the revision and amendment of the <i>WESM Rules</i> in accordance with chapter 8, and the formulation, revision and amendment of market manuals, procedures and guidelines; and</p> <p>(e) A <i>Dispute Resolution Administrator</i> to facilitate the mediation of the dispute between the parties to reach resolution within a specified period of time in accordance with the dispute resolution process under chapter 7.</p>	<p>The <i>PEM Board</i> shall form working groups and appoint qualified personnel who shall act as the following:</p> <p>(a) The <i>PEM Auditor</i> to conduct audits of the operation of the <i>spot market</i> and of the <i>Market Operator</i> in accordance with clause 1.5;</p> <p>(b) A <i>Market Surveillance Committee</i> to monitor and report on activities in the <i>spot market</i> in accordance with clause 1.6;</p> <p>(c) A Technical Committee to monitor and review technical matters under and in relation to the <i>WESM Rules</i>, the <i>Grid Code</i> and <i>Distribution Code</i> in accordance with clause 1.7;</p> <p>(d) A <i>Rules Change Committee</i> to assist the <i>PEM Board</i> and the <i>DOE</i> in relation to the revision and amendment of the <i>WESM Rules</i> in accordance with chapter 8, and the formulation, revision and amendment of market manuals, procedures and guidelines; and</p> <p>(e) A <i>Dispute Resolution Administrator</i> to facilitate the resolution mediation of the disputes between the parties to reach resolution within a specified period of time <u>and</u> in accordance with the dispute resolution process under chapter 7.</p>	<p>The authority of the DR Administrator is not limited to mediation since mediation is only a preliminary step to the dispute resolution process.</p>
Ancillary Services Agreements	3.3.3.7	<p>Any dispute between the <i>System Operator</i> and the <i>Ancillary Services Provider</i> in relation to the determination of a payment under an <i>ancillary services agreement</i> shall be determined by the</p>	<p>Any dispute between the <i>System Operator</i> and the <i>Ancillary Services Provider</i> in relation to the determination of a payment under an <i>ancillary services agreement</i> shall be resolved</p>	<p>This dispute shall be resolved in accordance with the process provided under clause 7.3, and not automatically by the DRA.</p>

Title	Section	Provision	Proposed Amendment	Rationale
SCOPE OF CHAPTER 7	7.1	<p><i>Dispute Resolution Administrator</i> in accordance with clause 7.3.</p> <p>In line with the principles of self-governance, expeditious, just and least expensive disposition of disputes and considering the continuous nature of the transactions and operations of the <i>WESM</i>, this chapter sets out:</p> <p>(a) The responsibilities for ensuring that all <i>WESM Members</i> comply with the <i>WESM Rules</i>;</p> <p>(b) The procedures on how the alleged breaches will be dealt with including:</p> <p>(1) The correct party to whom notice of an alleged breach of the <i>WESM Rules</i> by a <i>WESM Member</i> shall be given;</p> <p>(2) The manner in which an alleged breach is to be investigated;</p> <p>(3) The manner in which a breach is to be sanctioned;</p> <p>(c) Other provisions on how disputes are to be resolved; and</p> <p>(d) Appointment of an Enforcement and Compliance Officer, a <i>Dispute Resolution Administrator</i> and <i>Dispute Resolution Panel</i>.</p>	<p>determined by the <i>Dispute Resolution Administrator</i> in accordance with clause 7.3.</p> <p>In line with the principles of self-governance, expeditious, just and least expensive disposition of disputes and considering the continuous nature of the transactions and operations of the <i>WESM</i>, this chapter sets out:</p> <p>(a) The responsibilities for ensuring that all <i>WESM Members</i> comply with the <i>WESM Rules</i>;</p> <p>(b) The procedures on how the alleged breaches will be dealt with including:</p> <p>(1) The correct party to whom notice of an alleged breach of the <i>WESM Rules</i> by a <i>WESM Member</i> shall be given;</p> <p>(2) The manner in which an alleged breach is to be investigated;</p> <p>(3) The manner in which a breach is to be sanctioned;</p> <p>(c) Other provisions on how disputes are to be resolved; and</p> <p>(d) Appointment of an <i>Enforcement and Compliance Officer, a Dispute Resolution Administrator, and members of the Dispute Resolution Group</i> and <i>Dispute Resolution Panel</i>.</p>	Chapter 7 provides separate procedures for the selection of members of the DR Group and the DR Panel.
Dispute Resolution Process	7.3.4.1	If a dispute arises to which the dispute resolution procedures under this clause 7.3 apply, the parties to the dispute shall act in good faith and use all reasonable endeavors to resolve the dispute through the procedures and alternative dispute mechanisms which are available to the parties through their <i>dispute management system</i> .	The dispute resolution procedures relative to all matters governed by Sec. 7.3.1.1 shall be governed by the Dispute Resolution Market Manual, which is hereby incorporated by reference to form an integral part of the <i>WESM Rules</i> .	Revision removes inconsistencies between DRMM and <i>WESM Rules</i> and ensures that disputing parties make reference only to the DRMM to guide them in the dispute resolution process. Moreover, it is critical that there be only one set of rules to govern dispute resolution in

Title	Section	Provision	Proposed Amendment	Rationale
				order to avoid inconsistencies and confusion.
Dispute Resolution Process	7.3.4.2 to 7.3.4.14	If a party wishes to refer a dispute to the <i>Dispute Resolution Administrator</i> under clause 7.3.4.2, that party shall notify in writing the <i>Dispute Resolution Administrator</i> and all of the other parties to the dispute of which the party is aware: (a) Of the existence of a dispute; and (b) Setting out a brief history of the dispute including: (1) The names of the parties to the dispute; (2) The grounds of the dispute; and (3) The results of any previous dispute resolution processes undertaken pursuant to the <i>WESM Rules</i> in respect of the dispute; and (4) The listing of all unresolved issues and detail description thereof.	WESM Rule Sec. 7.3.4.2 to 7.3.14 are to be DELETED	See above rationale
Glossary		Dispute Management System. A system for managing disputes privately between the relevant parties and without resorting to the formal dispute resolution process in clause 7.3, and which has been approved by the PEM Board under clause 7.3.3.	Dispute Management System. A system for managing disputes privately between the relevant parties and without resorting to the formal dispute resolution process in clause 7.3, and which has been approved by the PEM Board under clause 7.3.3.	For consistency with deletion of 7.3.3 (Dispute Management System)
Settlement Revisions	3.14.9.1	If an amount in a <i>final statement</i> issued under clause 3.14.5: (a) Has been the subject of a dispute and the dispute has been resolved in any way which causes the amount payable to differ from the amount payable as set out in the <i>final statement</i> ; or (b) Has been identified as being in error in accordance with clause 3.14.9.2 and the	If an amount in a <i>final statement</i> issued under clause 3.14.5: (a) Has been the subject of a dispute and the dispute has been resolved in any way which causes the amount payable to differ from the amount payable as set out in the <i>final statement</i> ; or (b) Has been identified as being in error in accordance with clause 3.14.9.2 and the	Clerical Correction

Title	Section	Provision	Proposed Amendment	Rationale
		<p>correct amount has been determined by the <i>Market Operator</i>,</p> <p>(c) The <i>Market Operator</i> shall issue to each <i>WESM Member</i> affected by the resolution of the dispute or the correction of the error a revised statement for the relevant <i>billing period</i> setting out:</p> <p>(d) The amount payable by the <i>WESM Member</i> to the <i>Market Operator</i> or the amount payable by the <i>Market Operator</i> to the <i>WESM Member</i>; and</p> <p>(e) The adjustment to the final statement as agreed or determined plus interest calculated on a daily basis at the <i>interest rate</i> for the period from the <i>payment date</i> applicable to the <i>final statement</i> to which the adjustment relates to the <i>payment date</i> applicable to the revised statement issued under this clause 3.14.9.1.</p>	<p>correct amount has been determined by the <i>Market Operator</i>,</p> <p>(c) The <i>Market Operator</i> shall issue to each <i>WESM Member</i> affected by the resolution of the dispute or the correction of the error a revised statement for the relevant <i>billing period</i> setting out:</p> <p><u>(i)</u> The amount payable by the <i>WESM Member</i> to the <i>Market Operator</i> or the amount payable by the <i>Market Operator</i> to the <i>WESM Member</i>; and</p> <p><u>(ii)</u> The adjustment to the final statement as agreed or determined plus interest calculated on a daily basis at the <i>interest rate</i> for the period from the <i>payment date</i> applicable to the <i>final statement</i> to which the adjustment relates to the <i>payment date</i> applicable to the revised statement issued under this clause 3.14.9.1.</p>	

**Proposed Amendments to the Dispute Resolution Market Manual
RCC/WESM-WM-10/09**

Title	Section	Provision	Proposed Amendment	Rationale
Procedures for the Dispute Resolution Administrator and Dispute Resolution Panel	New Provision 8.1.		<u>All corporate parties must be represented by corporate officials of sufficiently senior status in the corporation, duly authorized by a Board Resolution certified by the Corporate Secretary to submit the dispute to any dispute resolution process and fully empowering said corporate officials to (1) enter into a compromise agreement at any stage of the proceedings, and (2) sign a Terms of Reference (TOR) containing admissions of facts, formulated issues, the rules of procedure to govern the mediation or arbitration proceedings and timelines of milestone dates, that are all binding upon the corporation without need for further referral to said authorizing Board.</u>	<p>The present Manual lacks a provision comprehensively addressing the necessity of a written authority to participate in the dispute resolution processes. With the exception of Section 8.1.2 of the Manual which prescribes the requirement of written authority from representatives of the participants to engage in a negotiation process.</p> <p>This amendment will safeguard the integrity of the dispute resolution processes where the representatives of the disputing parties are equipped with sufficient authority to enter into agreement and to oblige their organization in complying with the arbitral award.</p>
Negotiation	8.1.2.	<p align="center">xxx</p> <p>Parties shall be represented by individuals of sufficiently senior status in their organization, and armed with a written authority to negotiate the matter in dispute and to participate in the negotiation procedures.</p> <p align="center">xxx</p>	<p align="center">xxx</p> <p>Parties shall be represented by individuals of sufficiently senior status in their organization, and armed with a written authority to negotiate the matter in dispute and to participate in the negotiation procedures.</p> <p align="center">xxx</p>	<p>This provision is already redundant in view of the proposed amendment requiring written authority in all phases of the dispute resolution processes.</p>

Title	Section	Provision	Proposed Amendment	Rationale
Referral of Dispute to the Dispute Resolution Administrator	8.2.5	<p style="text-align: center;">xxx</p> <p>If the Dispute Resolution Administrator makes a preliminary determination that the dispute resolution process under the WESM Rules applies, he shall notify all other relevant parties that may be involved in or affected by the dispute, whether or not identified in complainant's notice, in such forms as prescribed in Annex B ("Notice to Respondent(s) and Affected Parties") and may, where applicable, transmit a copy of the Statement of Claim within five (5) days from receipt Statement of Claim.</p> <p style="text-align: center;">xxx</p>	<p style="text-align: center;">xxx</p> <p>If the Dispute Resolution Administrator makes a preliminary determination that the dispute resolution process under the WESM Rules applies, he shall seek information from the Market Operator as to which other WESM Members may be affected by the dispute and, thereupon, notify them as well as the respondent within five (5) days from receipt of such information, together with a copy of the Statement of Claim/Notice of Dispute.</p> <p style="text-align: center;">xxx</p>	<p><i>The DRA will send a separate form to affected participants which are not impleaded by the complainant because the DRMM requires that all participants must be notified of any proceeding that may potentially affect them, based on the earlier advice of the Market Operator.</i></p> <p><i>Further, the current Annex B (Notice to Respondents and Affected Parties) contains provisions which are not appropriate for affected parties such as the filing of Statement of Defense/Notice of Dispute.</i></p>
Mediation	8.3.6	<p style="text-align: center;">xxx</p> <p>The parties involved shall then choose the eventual mediator by alternatively striking off one name at a time from the list with the last name on the list becoming the mediator. The party which initiated the complaint shall have the right to strike off first.</p> <p style="text-align: center;">xxx</p>	<p style="text-align: center;">xxx</p> <p>The parties involved shall then choose the eventual mediator by alternatively striking off one name at a time from the list with the last name on the list becoming the mediator. The party which initiated the complaint shall have the right to strike off first.</p> <p><u>If there are multiple parties to the dispute such that it is not possible to use the strike-out procedure, the DRA shall request the parties to agree on the Mediator. If the parties are unable to do so, the DRA shall then proceed to make the appointment based on the list of the</u></p>	<p>The current rule does not contemplate a situation where there may be multiple parties involved. Consequently, a procedure needs to be set out to address this situation.</p>

Title	Section	Provision	Proposed Amendment	Rationale
			<p><u>submitted nominees.</u></p> <p>xxx</p>	
	8.3.7	8.3.7 The costs of proceedings shall be borne by the parties to the dispute, with each side bearing half of the costs. If any of the parties refuse to comply with the payment of the mediation costs, the Dispute Resolution Administrator may direct the Market Operator to enforce the settlement of such payment, or request the PEM Board on behalf of the affected party to make a demand for payment, or both.	<p>8.3.7 The costs of proceedings shall be borne by the parties to the dispute, with each side bearing half of the costs. If any of the parties refuse to comply with the payment of the mediation costs, the Dispute Resolution Administrator may direct the Market Operator to enforce the settlement of such payment, or request the PEM Board on behalf of the affected party to make a demand for payment, or both.</p> <p><u>The costs of the mediation shall be fixed by the mediator prior to the commencement of the mediation proceeding. The term “costs shall include”:</u></p> <p><u>(i) The fees of the mediator, to be fixed in accordance with a Schedule of Fees attached as Annex () to the DRMM;</u></p>	The mediator, in the same manner as the members of the Dispute Resolution Panel, shall likewise be entitled to reasonable fees in accordance with industry standards. This fee is computed in accordance with what a member of the DRP would get if the dispute went into arbitration.
Selection and Appointment	9.2.2	<p>xxx</p> <p>The parties involved shall then choose the members of the Dispute Resolution Panel by alternately striking off one name at a time from the list with the last three (3) names becoming members of the Dispute Resolution Panel. The party which initiated the complaint shall have the right to strike off first.</p> <p>xxx</p>	<p>xxx</p> <p>The parties involved shall then choose the members of the Dispute Resolution Panel by alternately striking off one name at a time from the list with the last three (3) names becoming members of the Dispute Resolution Panel. The party which initiated the complaint shall have the right to strike off first.</p> <p><u>If using the strike-out procedure will</u></p>	The current rule does not contemplate a situation where there may be multiple parties involved. Consequently, a procedure needs to be set out to address this situation. The procedure is different from the default selection of a mediator since in the case of the dispute resolution panel, three members need to be appointed.

Title	Section	Provision	Proposed Amendment	Rationale
			<p><u>give undue advantage to any party due to the scarcity of available DRG Members or some other similar reason, the DRA shall request the parties to mutually agree on the composition of the DRP failing which the DRA shall make the default appointments.</u></p> <p><u>In any case, the members of the DRP thus selected shall elect a Chairman from among themselves.</u></p> <p>xxx</p>	
Statement of Claim	Annex A	<p>xxx</p> <p>I. Nature and Summary of the Dispute</p> <p>The complainant must state, in no more than 250 words, the nature of and a brief summary of the dispute, the grounds thereof, the persons involved therein, as well as the basic relief sought.</p> <p>This section may be quoted in full by the Dispute Resolution Administrator in any publications or postings, whether for limited or general circulation. Information which the complainant desires to be kept confidential should not be disclosed in this section.</p> <p>xxx</p>	<p>xxx</p> <p>I. Nature and Summary of the Dispute</p> <p>The complainant must state, in no more than 250 words, briefly the nature of and a brief summary of the dispute, the grounds thereof, the persons involved therein, as well as the basic relief sought.</p> <p>This section may be quoted in full by the Dispute Resolution Administrator in any publications or postings, whether for limited or general circulation. Information which the complainant desires to be kept confidential should not be disclosed in this section.</p> <p>xxx</p>	<p><i>The phrase “, in no more than 250 words,” was deleted and changed to “briefly” as the former can have a limiting effect to the substantive aspect on the nature of the dispute and the grounds thereof.</i></p>
Notice to	Annex B			<i>The title of the form was changed</i>

Title	Section	Provision	Proposed Amendment	Rationale
Respondent(s) and Affected Parties		<p style="text-align: center;">xxx</p> <p>Notice to Respondents and Affected Parties</p> <p>Please be notified that on (date of filing), a Statement of Claim was filed by (Complainant) with this Office. A copy of the Statement of Claim is attached.</p> <p>You may file a Statement of Defense, individually or jointly with other respondents or interested or affected parties, within ten (10) business days from your receipt hereof. All Statements of Defense filed during the period allowed, if any, shall be considered by the Dispute Resolution Administrator in the final determination of whether the dispute(s) is properly cognizable under the WESM Rules. Statements of Defense may be hand-delivered, mailed, e-mailed or sent by courier to this Office.</p> <p style="text-align: center;">xxx</p>	<p style="text-align: center;">xxx</p> <p>Notice to Respondents and Affected Parties</p> <p>Please be notified that on (date of filing), a Statement of Claim/Notice of Dispute was filed by (Complainant) with this Office. A copy of the Statement of Claim is attached.</p> <p>You may file a Statement of Defense, individually or jointly with other respondents or interested or affected parties, within ten (10) business days from your receipt hereof. All Statements of Defense filed during the period allowed, if any, shall be considered by the Dispute Resolution Administrator in the final determination of whether the dispute(s) is properly cognizable under the WESM Rules. Statements of Defense may be hand-delivered, mailed, e-mailed or sent by courier to this Office.</p> <p style="text-align: center;">xxx</p>	<p>to "Notice to Respondents", and the phrase "individually or jointly with other respondents or interested or affected parties" was deleted, since the DRG recommends sending a different notice to participants who might be potentially affected, but are not yet parties to the dispute.</p> <p><i>This is pursuant to Clauses 7.2.2 and 8.2.5 of the Dispute Resolution Market Manual which require the DRA to notify potentially affected participants of a pending dispute.</i></p>
NEW PROVISION	New Annex C		<p style="text-align: center;">xxx</p> <p style="text-align: center;"><u>Notice to Affected Parties</u></p> <p><u>Please be notified that on (date of filing), a Statement of Claim/Notice of Dispute was filed by (Complainant) with the Dispute Resolution Administrator. A</u></p>	<p><i>The DRG will send a separate form to affected participants because the DRMM requires that they be notified of any proceeding that may potentially affect them, based on the earlier advice of the Market Operator. The claims or defenses of the affected participants may differ from that of the identified respondents in</i></p>

Title	Section	Provision	Proposed Amendment	Rationale
			<p><u>copy of the Statement of Claim is attached.</u></p> <p><u>A copy of the Notice of Claim is being sent to you in view of the advice of the Market Operator that you may be potentially affected by any agreement in or resolution of this dispute pursuant to Clauses 7.2.2 and 8.2.5 of the Dispute Resolution Market Manual.</u></p> <p><u>If you feel the need to respond to this notice, please do so within five (5) business days from receipt hereof.</u></p> <p style="text-align: center;">xxx</p>	<p><i>the Statement of Claim/Notice of Dispute.</i></p>
NEW PROVISION	New Annex D		<p style="text-align: center;"><u>Table of Mediation Fees</u></p> <p style="text-align: center;">-- please refer to Attachment A.1 –</p>	<p><i>Essential for maintaining the quality of service rendered by the DRG and to complete the dispute resolution process, it is recommended to adopt the table of mediation fees by the CIAC as this is an industry-accepted standard.</i></p>
NEW PROVISION	New Annex E		<p style="text-align: center;"><u>Table of Arbitration Fees</u></p> <p style="text-align: center;">-- please refer to Attachment A.2 –</p>	<p><i>Essential for maintaining the quality of service rendered by the DRG and to complete the dispute resolution process, it is recommended to adopt the table of arbitration fees by the PDRCI as this is an industry-accepted standard.</i></p>

Proposed Amendments to the Dispute Resolution Market Manual
RCC/WESM-WM-10/09

Attachment A.1
COMPUTATION OF MEDIATION FEES¹

Mediator's fees shall be computed by reference to the Schedule of Arbitrator's Fees (Annex "B") and determining how much each arbitrator would receive if the dispute would eventually be submitted to arbitration. The fee of the mediator shall then be equivalent to the share of one (1) arbitrator for the dispute.

¹ Source: Based also on the schedule of arbitration fees of the Philippine Dispute Resolution Center.

Proposed Amendments to the Dispute Resolution Market Manual
RCC/WESM-WM-10/09

Attachment A.2
TABLE OF ARBITRATION FEES²

A. Arbitrators' Fees:

1. Base Amount (BA)³

- a. Up to 1M = P50,000.00
- b. Over 1M to 5M = P75,000.00 + 2% in excess of 1M (or P75,000 – P155,000.00)
- c. Over 5M to 10M = P180,000.00 + 1% in excess of 5M (or P180,000.00 to P230,000.00)
- d. Over 10M to 20M = P255,000.00 + .75% in excess of 10M (or P255,000.00 to P330,000.00)
- e. Over 20M to 50M = P355,000.00 + .50% in excess of 20M (or P355,000 to P505,000.00)
- f. Over 50M to 100M = P530,000.00 + .25% in excess of 50M (or P530,000.00 to P655,000.00)
- g. Over 100M = P680,000.00 + .10% in excess of 100M

2. Adjustments

The Base Amount computed in Item No. 1 is then adjusted to take into account the following factors:

² Source: Philippine Dispute Resolution Center, Inc.

³ Base Amount is computed by adding all claims and counterclaims.

	Adjustment Factor (AF)
Complexity (AF¹)	
Simple	1.0
Complex	2.0
Number of Disputants / Parties (AF²)	
2	1.0
3	2.0
4 and over	3.0
Number of Arbitrator/s (AF³)	
1	1.0
3	2.0
Overall Adjustment Factor (OAF)	
$OAF = (AF^1 + AF^2 + AF^3) - 3.0$	

3. Total Arbitrators' Fees

The total arbitrators' fees is computed using the following formula:

$$\text{Total Fees} = (\text{BA} \times \text{OAF} + 1.0)$$

(If there are 3 arbitrators, the fee is usually divided in accordance with the following proportion: 40% of the chairman and 30% for each member).

B. Administrative Fees

SCHEDULE OF ADMINISTRATIVE FEES

The amount of the Administrative Fee (AF) shall be based on the sum in dispute (SID). The SID is the total monetary claim of the claimant against the respondent or the amount of the respondent's counterclaim. The AF will be separately assessed for the claimant and the respondent on the basis of their respective claim or counterclaim.

In all cases, the claimant is required to pay upon filing of its claim a minimum fee (MF) of P20, 000.00.

The SID shall initially be determined from the pleadings of the parties and the corresponding AF paid. The SID shall be subject to upward or downward adjustment after the preliminary conference of the parties and their respective counsel with the arbitrator/s appointed for the dispute.

The AF shall be based on the following schedule:

SID up to P1,000,000 (1M)	= P20,000.00
Over 1M to P5M	= P20,000 + 1% of amount in excess of 1M
Over 5M to 10M	= P60,000 + .5% of amount in excess of 5M
Over 10M	= P85,000 + .1% of amount in excess of 10M, but in no case to exceed P200, 000.

The Administrative Fee covers all clerking and secretarial services similar to that provided by a Clerk of Court.

For exceptional or unusual circumstances which result in additional cost or expenditure (not normally encountered), the DRP reserves the right to issue and assess additional administrative and/or arbitration fees. Prior to issuance of such assessment, the DRP will explain the same to the parties.