

**WHOLESALE ELECTRICITY SPOT MARKET  
RULES CHANGE COMMITTEE**

**RESOLUTION NO. 2012-01**

**Proposed Amendments to the WESM Rules on Dispute Resolution Provisions**

**WHEREAS**, the Philippine Electricity Market Corporation (PEMC) submitted to the Rules Change Committee (RCC) on 06 June 2011 its proposed URGENT Amendments to the WESM Rules on various dispute resolution provisions, which include changes on the structure of the WESM dispute resolution process where the mediator and arbitrators shall no longer form part of the Dispute Resolution Group (DRG) and the DRG shall no longer be a PEM Board Committee, as well as procedures on the accreditation and selection of mediator and arbitrators;

**WHEREAS**, on 08 June 2011, the proposed urgent amendments were approved by the RCC, as amended;

**WHEREAS**, during the 60<sup>th</sup> PEM Board (the "Board") Meeting on 30 June 2011, the PEM Board approved the proposed urgent amendments, the implementation of which shall be upon the establishment of the necessary prerequisites such as the appointment of the Dispute Resolution Administrator under the new structure and the establishment of the Dispute Management Protocol (DMP);

**WHEREAS**, pursuant to Section 7 of the Manual of Procedures for Changes to the WESM Rules (the "Rules Change Manual"), the Board-approved urgent amendments to the various dispute resolution provisions in the WESM Rules were published in the WESM website on 01 July 2011;

**WHEREAS**, on 13 July 2011, WESM members and all other interested parties were notified through electronic mail of the Board's approval and were invited to make written submissions;

**WHEREAS**, during the period of publication, comments were received from the interested parties;

**WHEREAS**, in compliance with the requirements set forth in the Rules Change Manual, the WESM Dispute Resolution Administrator (DRA) submitted to the RCC on 02 November 2011 the proposed amendments to the WESM Rules on various dispute resolution provisions as GENERAL amendments;

**WHEREAS**, the proposed amendments involve additional revisions to streamline and make effective the dispute resolution process as well as clarification on the coverage of disputes cognizable under the WESM dispute resolution process;

**WHEREAS**, during the 55<sup>th</sup> RCC Meeting on 09 November 2011, the proposed amendments to the WESM Rules were presented to the RCC, for discussion;

**WHEREAS**, during the said 55<sup>th</sup> RCC Meeting, after due deliberation, the RCC agreed to revise certain aspects of the proposed amendments to consider the

*ant*



comments/recommendations raised over the course of the deliberation, which include, among others, the retention of the PEM Board and its Working Groups as possible parties to dispute, retention of the right of a party to file a complaint with the ERC if a party to a dispute is not satisfied with the resolution of the dispute resolution panel and deletion of a provision which provides that the payment by the Market Operator of the reasonable costs of proceedings is made contingent upon the establishment of malice, manifest partiality, bad faith, gross incompetence or gross negligence;

**WHEREAS**, during the 56<sup>th</sup> RCC Meeting on 05 December 2011, after satisfying the requisite criteria as provided for under the pertinent provisions of the WESM Rules and Rules Change Manual, the RCC members then present constituting a quorum, unanimously approved the proposed amendments to the WESM Rules on dispute resolution provisions, incorporating the revisions made by the RCC, and subject to the PEMC-Legal's drafting of the appropriate language for Section 3.3.3.7;

**WHEREAS**, during the 57<sup>th</sup> RCC Meeting on 11 January 2012, the PEMC-Legal's proposed language was presented, which the RCC subsequently approved;

**WHEREAS**, during the said 57<sup>th</sup> Meeting, the RCC affirmed its 05 December 2011 approval of the proposed amendments to the WESM Rules, incorporating the revisions made by PEMC-Legal;

**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 on Dispute Resolution Provisions (attached as Annex "A"), as revised by the RCC, are adopted and approved in full;

**RESOLVED FINALLY**, that the proposed amendments to the WESM Rules on Dispute Resolution Provisions be endorsed to the PEM Board for approval.

Done this 11 January 2012, Pasig City.

<p>Approved by:  <b>RULES CHANGE COMMITTEE</b>    <b>Rowena Cristina L. Guevara</b>  Chairperson  University of the Philippines  (UP)</p>	
<p>Members:</p>	
<p><b>Epictetus E. Patalinghug</b>  Independent  University of the Philippines  (UP)</p>	<p>  <b>Francisco L.R. Castro, Jr.</b>  Independent  The Herma Group</p>
<p>  <b>Maila Lourdes G. de Castro</b>  Independent  Unitel Productions, Inc.</p>	<p>  <b>Cherry Aquino-Javier</b>  Generation Sector  AES Philippines  (AES)</p>
<p>  <b>Cynthia R. Encarnacion</b>  Generation Sector  National Power Corporation  (NAPOCOR)</p>	<p>  <b>Liberty Z. Dumlaog</b> * who prejudice to  Generation Sector PSALM's position in  Power Sector Assets and Liabilities Management  Corporation (PSALM) 6R 1935 21</p>
<p>  <b>Ralph T. Crisologo</b>  Generation Sector  SN Aboitiz Power  (SNAP)</p>	<p><b>Augusto D. Sarmiento</b>  Distribution Sector (PDU)  Dagupan Electric Corporation  (DECORP)</p>
<p>  <b>Ciprinilo C. Meneses</b>  Distribution Sector (PDU)  Manila Electric Company  (MERALCO)</p>	<p>  <b>Jose P. Santos</b>  Distribution Sector (EC)  Ilocos Norte Electric Cooperative, Inc.  (INEC)</p>
<p>  <b>Sulpicio C. Lagarde Jr.</b>  Distribution Sector (EC)  Central Negros Electric Cooperative, Inc.  (CENECO)</p>	<p>  <b>Conrado D. Pecjo</b>  Supply Sector  Angeles Power, Inc.</p>
<p><b>Raul Joseph G. Seludo</b>  Transmission Sector  National Grid Corporation of the Philippines  (NGCP)</p>	<p><b>Robinson P. Descanzo</b>  Market Operator  Philippine Electricity Market Corporation  (PEMC)</p>
	<p>Certified True and Correct:    <b>Elaine D. Gonzales</b>  RCC Secretary  PEMC</p>



**RCC/WESM-WR-11/15 Proposed Amendments to the WESM Rules on Dispute Resolution Provisions**  
**(Reference: RCC/WESM-WR-11/07 Proposed Urgent Amendments to the WESM Rules on Dispute Resolution Provisions)**

Original Provision	PEM Board-Approved Proposed Urgent Amendments	Dispute Resolution Administrator (DRA) Submission		RCC-Approved Proposed Amendments	
		Proposed Amendments	Rationale		Remarks
	30 June 2011	02 November 2011		11 January 2012	
<b>1.4.6 Formation of Committees</b> The <i>PEM Board</i> shall form working groups and appoint qualified personnel who shall act as the following:  (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;  (b) A <i>Market Surveillance Committee</i> to monitor and report on activities in the spot market in accordance with clause 1.6;  (c) A <i>Technical Committee</i> 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; and  (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</i>	<b>1.4.6 Formation of Committees</b> The <i>PEM Board</i> shall form working groups and appoint qualified personnel who shall act as the following:  (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;  (b) A <i>Market Surveillance Committee</i> to monitor and report on activities in the spot market in accordance with clause 1.6;  (c) A <i>Technical Committee</i> 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; and  (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</i>	<b>1.4.6 Formation of Committees</b> The <i>PEM Board</i> shall form working groups and appoint qualified personnel who shall act as the following:  (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;  (b) A <i>Market Surveillance Committee</i> to monitor and report on activities in the spot market in accordance with clause 1.6;  (c) A <i>Technical Committee</i> 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; and  (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</i>	The Dispute Resolution Administrator is not involved in the mediation process.	<b>1.4.6 Formation of Committees</b> The <i>PEM Board</i> shall form working groups and appoint qualified personnel who shall act as the following:  (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;  (b) A <i>Market Surveillance Committee</i> to monitor and report on activities in the spot market in accordance with clause 1.6;  (c) A <i>Technical Committee</i> 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; and  (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</i>	- Approved, as proposed



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<p>Rules 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 clause 7.3.</p>	<p>Rules 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 <u>resolution</u> <del>mediation</del> of the dispute between <u>or among</u> the parties <del>to reach resolution</del> within a specified period of time in accordance with the dispute resolution process under clause 7.3.</p>	<p>Rules in accordance with chapter 8, and the formulation, revision, amendment of market manuals, procedures and guidelines; and</p> <p>(e) A <i>Dispute Resolution Administrator</i> to facilitate the <u>resolution</u> <del>mediation</del> of the dispute between <u>or among</u> the parties <del>to reach resolution</del> within a specified period of time in accordance with the dispute resolution process under clause 7.3.</p>		<p>Rules in accordance with chapter 8, and the formulation, revision, amendment of market manuals, procedures and guidelines; <u>and</u></p> <p>(e) A <i>Dispute Resolution Administrator</i> to facilitate the <u>resolution</u> <del>mediation</del> of the dispute between <u>or among</u> the parties <del>to reach resolution</del> within a specified period of time in accordance with the dispute resolution process under clause 7.3.</p>	
<p><b>3.3.3 Ancillary Services Agreements</b></p> <p>xxx</p> <p>3.3.3.7 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</i> agreement shall be determined by the <i>Dispute Resolution Administrators</i> in accordance with clause 7.3.</p>	<p><b>3.3.3 Ancillary Services Agreements</b></p> <p>xxx</p> <p>3.3.3.7 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</i> agreement shall be determined <del>by the Dispute Resolution Administrators</del> in accordance with clause 7.3.</p>	<p><b>3.3.3 Ancillary Services Agreements</b></p> <p><u><b>3.3.3.7 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</i> agreement shall be determined by the <i>Dispute Resolution Administrators</i> in accordance with clause 7.3.</b></u></p>	<p>At present, any dispute in relation to the determination of payment under ancillary services procurement agreement shall resort to the dispute procedures provided in the Open Access Transmission Service (OATS) Rules.</p> <p>The proposed deletion of this clause will avoid possible conflict with the OATS Rules.</p>	<p><b>3.3.3 Ancillary Services Agreements</b></p> <p>xxx</p> <p>3.3.3.7 Any dispute between the <i>System Operator</i> and the <i>Ancillary Services Provider</i> in relation to the determination of a payment <u><b>under an for spot market ancillary services agreement</b></u> shall be determined by the <i>Dispute Resolution Administrators</i> in accordance with clause 7.3, <u><b>unless otherwise</b></u></p>	<p>- Agreed to retain Section 3.3.3.7 but revise to qualify the term ancillary services in relation to the spot market.</p>

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		Proposed Amendments	Rationale		Remarks
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		(TO BE DELETED)		<b>provided in the Ancillary Services Procurement Agreement (ASPA).</b>	
<b>7.1 Scope of Chapter 7</b>  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:  (a) The responsibilities for ensuring that all <i>WESM members</i> comply with the <i>WESM Rules</i> ;  (b) The procedures on how the alleged breaches will be dealt with including: (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; (2) The manner in which an alleged breach is to be investigated; (3) The manner in which a breach is to be sanctioned;	<b>7.1 Scope of Chapter 7</b>  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:  (a) The responsibilities for ensuring that all <i>WESM members</i> comply with the <i>WESM Rules</i> ;  (b) The procedures on how the alleged breaches will be dealt with including: (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; (2) The manner in which an alleged breach is to be investigated; (3) The manner in which a breach is to be sanctioned;	<b>7.1 Scope of Chapter 7</b>  In line with the principles of self-governance, expeditious, just and least expensive disposition of disputes and considering the continuous nature of transactions and operations of the <i>WESM</i> , this chapter sets out:  (a) The responsibilities for ensuring that all <i>WESM members</i> comply with the <i>WESM Rules</i> ;  (b) The procedures on how the alleged breaches will be dealt with including: (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; (2) The manner in which an alleged breach is to be investigated; (3) The manner in which a breach is to be sanctioned;	The proposed amendment is consistent with the recommended structure where the mediator and members of the dispute resolution panel shall no longer form part of the Dispute Resolution Group (DRG) and the DRG shall no longer be a PEM Committee.	<b>7.1 Scope of Chapter 7</b>  In line with the principles of self-governance, expeditious, just and least expensive disposition of disputes and considering the continuous nature of transactions and operations of the <i>WESM</i> , this chapter sets out:  (a) The responsibilities for ensuring that all <i>WESM members</i> comply with the <i>WESM Rules</i> ;  (b) The procedures on how the alleged breaches will be dealt with including: (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; (2) The manner in which an alleged breach is to be investigated; (3) The manner in which a breach is to be sanctioned;	- Approved, as proposed



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<p>been notified by the <i>Market Operator</i> under clause 2.4.6.2 that an application for registration as a <i>WESM member</i> has been unsuccessful, as to:</p> <p>(g) The application or interpretation of the <i>WESM Rules</i>; or</p> <p>(h) A dispute under or in relation to a contract between two or more persons or entities referred to in clauses 7.3.1.1 (a) to (f) where that contract provides that the dispute resolution procedures under the <i>WESM Rules</i> are to apply to any dispute under or in relation to that contract with respect to the application of the <i>WESM Rules</i>; or</p> <p>(i) A dispute under or in relation to the rules and regulations issued by the <i>ERC</i> and <i>DOE</i> under the <i>Act</i>, where such rules and regulations provide that the dispute</p>	<p>been notified by the <i>Market Operator</i> under clause 2.4.6.2 <b>on the following grounds:</b> <del>that</del></p> <p>(1) an application for registration as a <i>WESM member</i> has been unsuccessful; <del>as to:</del></p> <p>(2) <del>(g) the</del> application or interpretation of the <i>WESM Rules</i>; <del>or</del></p> <p>(3) <del>(h) A a</del> dispute under or in relation to a contract between two or more persons or entities referred to in clauses 7.3.1.1 (a) to <del>(f) (e)</del> where that contract provides that the dispute resolution procedures under the <i>WESM Rules</i> are to apply to any dispute under or in relation to that contract with</p>	<p>(e) Intending <i>WESM members</i>;</p> <p>(f) Persons who have been notified by the <i>Market Operator</i> under clause <b>2.5.6.1. 2.4.6.2 on the following grounds:-</b> <del>that</del></p> <p><del>(1) an application for registration as a WESM member has been unsuccessful; as to:</del></p> <p><del>(2) (g) the application or interpretation of the WESM Rules; or</del></p> <p><del>(3) (h) a dispute under or in relation to a contract between two or more persons or entities referred to in clauses 7.3.1.1 (a) to (f) (e) where that contract provides that the dispute</del></p>	<p>and the latter is the correct reference in the <i>WESM Rules</i> on the notice of non-approval of application.</p> <p>The PEM Board and its Working Groups are also excluded as a party to the dispute since the PEM Board and its Working Groups have no juridical personalities.</p>	<p>(e) Intending <i>WESM members</i>;</p> <p>(f) Persons who have been notified by the <i>Market Operator</i> under clause <b>2.5.6.1. 2.4.6.2 on the following grounds:-</b> <del>that</del></p> <p>(1) an application for registration as a <i>WESM member</i> has been unsuccessful; <del>as to:</del></p> <p>(2) <del>(g) the</del> application or interpretation of the <i>WESM Rules</i>; <del>or</del></p> <p>(3) <del>(h) a</del> dispute under or in relation to a contract between two or more persons or entities referred to in clauses 7.3.1.1 (a) to <del>(f) (e)</del> where that contract provides that the dispute resolution procedures under the <i>WESM Rules</i> are to apply to any</p>	<p>Agreed to retain the other grounds for dispute.</p>



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<p>resolution procedures under the <i>WESM Rules</i> are to apply to any dispute under or in relation to that industry code or rules and regulations; or</p> <p>(j) The failure of an entity or entities referred to in clauses 7.3.1.1. (a) to (e) to act or behave in a manner consistent with the <i>WESM Rules</i>; or</p> <p>(k) An obligation to settle payment under the <i>WESM Rules</i>; or</p> <p>(l) The failure of a person referred to in clause 7.3.1.1 (f) to become registered as a <i>WESM member</i> under chapter 2.</p>	<p>respect to the application of the <i>WESM Rules</i>; <del>or</del></p> <p>(4) <del>(i) A</del> a dispute under or in relation to the rules and regulations issued by the <i>ERC</i> and <i>DOE</i> under the <i>Act</i>, where such rules and regulations provide that the dispute resolution procedures under the <i>WESM Rules</i> are to apply to any dispute under or in relation to that industry code or rules and regulations; <del>or</del></p> <p>(5) <del>(i) The</del> the failure of an entity or entities referred to in clauses 7.3.1.1. (a) to (e) to act or behave in a manner consistent with the <i>WESM Rules</i>; <del>or</del></p> <p>(6) <del>(k) A</del> an obligation to settle payment under the <i>WESM</i></p>	<p><del>resolution procedures under the <i>WESM Rules</i> are to apply to any dispute under or in relation to that contract with respect to the application of the <i>WESM Rules</i>; or</del></p> <p>(4) <del>(i) a dispute under or in relation to the rules and regulations issued by the <i>ERC</i> and <i>DOE</i> under the <i>Act</i>, where such rules and regulations provide that the dispute resolution procedures under the <i>WESM Rules</i> are to apply to any dispute under or in relation to that industry code or rules and regulations; or</del></p> <p>(5) <del>(i) the failure of</del></p>		<p>dispute under or in relation to that contract with respect to the application of the <i>WESM Rules</i>; <del>or</del></p> <p>(4) <del>(i) a</del> a dispute under or in relation to the rules and regulations issued by the <i>ERC</i> and <i>DOE</i> under the <i>Act</i>, where such rules and regulations provide that the dispute resolution procedures under the <i>WESM Rules</i> are to apply to any dispute under or in relation to that industry code or rules and regulations; <del>or</del></p> <p>(5) <del>(i) the</del> the failure of an entity or entities referred to in clauses 7.3.1.1. (a) to (e) to act or behave in a manner consistent with the <i>WESM Rules</i>; <del>or</del></p> <p>(6) <del>(k) an</del> obligation to</p>	



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	30 June 2011	02 November 2011		11 January 2012	
	<p><i>Rules; or</i></p> <p><del>(l) The failure of a person referred to in clause 7.3.1.1 (f) to become registered as a WESM member under chapter 2.</del></p>	<p><del>an entity or entities referred to in clauses 7.3.1.1. (a) to (e) to act or behave in a manner consistent with the WESM Rules;</del></p> <p><del>or</del></p> <p><del>(6) (k) an obligation to settle payment under the WESM Rules; or</del></p> <p><del>(l) The failure of a person referred to in clause 7.3.1.1 (f) to become a registered as a WESM member under chapter 2.</del></p> <p><u>The aforementioned parties shall bind themselves with the effect of submitting any dispute, controversy or claim arising out of or relating to, a WESM transaction to which they are or will be a party for settlement by arbitration in accordance with the dispute resolution provisions provided</u></p>		<p>settle payment under the <i>WESM Rules; or</i></p> <p><del>(l) The failure of a person referred to in clause 7.3.1.1 (f) to become a registered as a WESM member under chapter 2.</del></p> <p><u>The aforementioned parties shall bind themselves with the effect of submitting any dispute, controversy or claim arising out of or relating to, a WESM transaction to which they are or will be a party for settlement by arbitration in accordance with the dispute resolution provisions provided herein.</u></p>	



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		Proposed Amendments	Rationale		Remarks
	30 June 2011	02 November 2011 herein.		11 January 2012	
<b>7.3.1 Application and Guiding Principles</b>  7.3.1.3 Where a dispute of a kind set out in clause 7.3.1.1 arises, the parties concerned shall comply with the procedures set out in clauses 7.3.2 to 7.3.14 before pursuing any other dispute resolution mechanism, including but not limited to court action in relation to the dispute.	<b>7.3.1 Application and Guiding Principles</b>  <u>7.3.1.3</u> Where a dispute of a kind set out in clause 7.3.1.1 arises, the parties concerned shall comply <b>first with the protocols in their respective dispute management systems before pursuing the dispute resolution process laid down under this Rules.</b> <del>with the procedures set out in clauses 7.3.2 to 7.3.14 before pursuing any other dispute resolution mechanism, including but not limited to court action in relation to the dispute.</del>	<b>7.3.1 Application and Guiding Principles</b>  7.3.1.3 Where a dispute of a kind set out in clause 7.3.1.1 arises, the parties concerned shall comply <b>with the dispute management protocol set out in this Chapter. first with the protocols in their respective dispute management systems before pursuing the dispute resolution process laid down under this Rules.</b> <del>with the procedures set out in clauses 7.3.2 to 7.3.14 before pursuing any other dispute resolution mechanism, including but not limited to court action in relation to the dispute.</del>	The proposed revision is harmonized with the provision on dispute management protocol	<b>7.3.1 Application and Guiding Principles</b>  7.3.1.3 Where a dispute of a kind set out in clause 7.3.1.1 arises, the parties concerned shall comply <b>with the dispute management protocol set out in this Chapter. first with the protocols in their respective dispute management systems before pursuing the dispute resolution process laid down under this Rules.</b> <del>with the procedures set out in clauses 7.3.2 to 7.3.14 before pursuing any other dispute resolution mechanism, including but not limited to court action in relation to the dispute.</del>	- Approved, as proposed
<b>7.3.2 Appointment of Dispute Resolution Administrator and Panel Group</b>	<b>7.3.2 Appointment of Dispute Resolution Administrator and Panel Group</b>	<b>7.3.2 Appointment of Dispute Resolution Administrator and Panel Group</b>	The revised clause reflects the recommended procedure and establishes the responsibilities and	<b>7.3.2 Appointment of Dispute Resolution Administrator and Panel Group</b>	- Approved, as proposed



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	30 June 2011	02 November 2011		11 January 2012	
			qualifications of the DRA.		
7.3.2.1 The <i>PEM Board</i> shall appoint a person to act as the <i>Dispute Resolution Administrator</i> , who shall also be a part of the <i>Dispute Resolution Group</i> .	7.3.2.1 The <i>PEM Board</i> shall appoint a person to act as the <i>Dispute Resolution Administrator</i> , who shall <del>also be a part of the <i>Dispute Resolution Group</i>.</del> <b><u>have the following responsibilities:</u></b>  (a) <b><u>Administer and ensure the effective implementation and operation of the WESM dispute resolution process;</u></b> (b) <b><u>Aid in the resolution of disputes within the objectives established under clause 7.3.1.5;</u></b> (c) <b><u>Determine judiciously if the dispute falls under the WESM dispute resolution process;</u></b> (d) <b><u>Draft and issue standard forms and documents required or expedient in the resolution of disputes;</u></b>	7.3.2.1 The <i>PEM Board</i> shall appoint a person to act as the <i>Dispute Resolution Administrator</i> , who shall <del>also be a part of the <i>Dispute Resolution Group</i>.</del> <b><u>have the following responsibilities:</u></b>  (a) <b><u>Administer and ensure the effective implementation and operation of the WESM dispute resolution process;</u></b> (b) <b><u>Aid in the resolution of disputes within the objectives established under clause 7.3.1.5;</u></b> Determine preliminarily if the dispute falls under the WESM dispute resolution process; (c) (d) <b><u>Draft and issue standard forms and documents required or expedient in to help expedite the resolution of</u></b>	Under the present WESM Rules, the responsibilities of the Dispute Resolution Administrator are not spelled out. The responsibilities of the Dispute Resolution Administrator are in line with the recommended structure where the mediators and arbitrators shall be selected from an accredited list in case the need for mediation or arbitration arises.	7.3.2.1 The <i>PEM Board</i> shall appoint a person to act as the <i>Dispute Resolution Administrator</i> , who shall <del>also be a part of the <i>Dispute Resolution Group</i>.</del> <b><u>have the following responsibilities:</u></b>  (a) <b><u>Administer and ensure the effective implementation and operation of the WESM dispute resolution process;</u></b> (b) <b><u>Aid in the resolution of disputes within the objectives established under clause 7.3.1.5;</u></b> Determine preliminarily if the dispute falls under the WESM dispute resolution process; (c) (d) <b><u>Draft and issue standard forms and documents required or expedient in to help expedite the resolution of</u></b>	- Approved, as proposed



Original Provision	PEM Board-Approved Proposed Urgent Amendments	Dispute Resolution Administrator (DRA) Submission		RCC-Approved Proposed Amendments	
		Proposed Amendments	Rationale		Remarks
	30 June 2011	02 November 2011		11 January 2012	
	<p>(e) <u>Facilitate the accreditation process of mediators and arbitrators;</u></p> <p>(f) <u>Refer the case to the mediator selected by the parties in dispute from the accredited pool of mediators;</u> and</p> <p>(g) <u>Refer the case to the arbitration panel composed of arbitrators selected by the parties in dispute from the accredited list of arbitrators.</u></p>	<p><del>disputes;</del></p> <p>(d) (e) <u>Facilitate the accreditation process of mediators and arbitrators;</u></p> <p>(e) <u>Update the list of accredited mediators and arbitrators published in the website;</u></p> <p>(f) <u>Refer the case to the mediator selected by the parties in dispute from the accredited pool of mediators;</u> and</p> <p>(g) <u>Refer the case to the arbitration panel composed of arbitrators selected by the parties in dispute from the accredited list of arbitrators.</u></p>		<p><del>disputes;</del></p> <p>(d) (e) <u>Facilitate the accreditation process of mediators and arbitrators;</u></p> <p>(e) <u>Update the list of accredited mediators and arbitrators published in the website;</u></p> <p>(f) <u>Refer the case to the mediator selected by the parties in dispute from the accredited pool of mediators;</u> and</p> <p>(g) <u>Refer the case to the arbitration panel composed of arbitrators selected by the parties in dispute from the accredited list of arbitrators.</u></p>	
7.3.2.2 The <i>Dispute Resolution Administrator</i> shall: (a) Have a detailed understanding and experience of alternative dispute resolution practice and procedures which do	7.3.2.2 The <i>Dispute Resolution Administrator</i> shall <b>have the following qualifications:</b> (a) <del>Have a d</del> Detailed understanding and experience of alternative dispute	7.3.2.2 The <i>Dispute Resolution Administrator</i> shall <b>have the following qualifications:</b> (a) <del>Have a d Detailed understanding and experience of alternative dispute</del>	For clarity, Clause 7.3.2.2 provides the qualifications of the DRA.	7.3.2.2 The <i>Dispute Resolution Administrator</i> shall <b>have the following qualifications:</b> (a) <del>Have a d Detailed understanding and experience of alternative dispute</del>	- Approved, as amended



Original Provision	PEM Board-Approved Proposed Urgent Amendments	Dispute Resolution Administrator (DRA) Submission		RCC-Approved Proposed Amendments	
		Proposed Amendments	Rationale		Remarks
	30 June 2011	02 November 2011		11 January 2012	
<p>not involve litigation;</p> <p>(b) Have the capacity to determine the most appropriate alternative dispute resolution procedures in particular circumstances;</p> <p>(c) Have an understanding of the electricity industry;</p> <p>(d) Has not been employed by any electric power industry participant, or a company or body related to or associated with a <i>WESM Participant</i> at least one year before appointment; and</p> <p>(e) Agrees not to be employed by and does not accept employment with any electric power industry participant, or a company or body related to or associated with a <i>WESM member</i> within one year after the person ceases to be a <i>Dispute Resolution Administrator</i>.</p>	<p>resolution practice and procedures which do not involve litigation;</p> <p>(b) <del>Have the c</del>Capacity to determine the most appropriate alternative dispute resolution procedures in particular circumstances;</p> <p>(c) <del>Have an u</del>Understanding of the electricity industry <b>and the WESM;</b></p> <p>(d) <del>Has n</del>Not been employed by any electric power industry participant, or a company or body related to or associated with a <i>WESM Participant</i> at least one year before appointment; and</p> <p>(e) <b>The DRA</b> Agrees not to be employed by and does not accept employment with any electric power industry participant, or a company or body related to or associated with a <i>WESM member</i> within one year after the person ceases to be a <i>Dispute</i></p>	<p><del>resolution practice and procedures which do not involve litigation; At least five years' experience in alternative dispute resolution practice and procedures which do not involve litigation;</del></p> <p>(b) <del>Have the c</del><b>Capacity to determine the most appropriate alternative dispute resolution procedures in particular circumstances; At least two years' experience in the electric power industry; and</b></p> <p>(c) <del>Have an u</del><b>Understanding of the electricity industry and the WESM; (d)Has</b> Not been employed by any electric power industry participant, or a company or body related to or associated with a</p>		<p><del>resolution practice and procedures which do not involve litigation; At least five years' experience in alternative dispute resolution practice and procedures which do not involve litigation;</del></p> <p>(b) <del>Have the c</del><b>Capacity to determine the most appropriate alternative dispute resolution procedures in particular circumstances; At least two five years' experience in the electric power industry; and</b></p> <p>(c) <del>Have an u</del><b>Understanding of the electricity industry and the WESM; (d)Has</b> Not been employed by any electric power industry participant, or a company or body related to or associated with a</p>	Revise Item b. The DRA should have at least <b>five years' experience</b> in the electric power industry.



Original Provision	PEM Board-Approved Proposed Urgent Amendments	Dispute Resolution Administrator (DRA) Submission		RCC-Approved Proposed Amendments	
		Proposed Amendments	Rationale		Remarks
	30 June 2011 <i>Resolution Administrator.</i>	02 November 2011 <i>WESM Participant at least one year before appointment.;</i> <b>and</b>  <b>The DRA</b> Agrees not to be employed by and does not accept employment with any electric power industry participant, or a company, or a body related to or associated with a <i>WESM member</i> within one year after the person ceases to be a <i>Dispute Resolution Administrator</i> .		11 January 2012 <i>WESM Participant at least one year before appointment.;</i> <b>and</b>  <b>The DRA</b> Agrees not to be employed by and does not accept employment with any electric power industry participant, or a company, or a body related to or associated with a <i>WESM member</i> within one year after the person ceases to be a <i>Dispute Resolution Administrator</i> .	
7.3.2.4 to 7.3.2.6	Clauses 7.3.2.4 to 7.3.2.6 are TO BE DELETED	Clauses 7.3.2.4 to 7.3.2.6 are TO BE DELETED	The proposed deletion is in line with the new process of accreditation and selection of mediators and arbitrators.	Clauses 7.3.2.4 to 7.3.2.6 are TO BE DELETED	- Approved, as proposed
<b>7.3.3 Dispute Management Systems</b>  All of the parties which are listed in clauses 7.3.1.1 (a) to (e) shall implement and adopt a <i>dispute management system</i> which is approved by the <i>PEM Board</i> .	<b><u>7.3.3 7.3.4 Dispute Management Systems</u></b>  <b><u>7.3.4.1</u></b> <del>All of the parties which are listed in clauses 7.3.1.1 (a) to (e) shall implement and adopt a <i>dispute management system</i> which is approved by the <i>PEM Board</i>. All WESM members shall</del>	<b><u>7.3.3 Dispute Management-Systems Protocol</u></b>  <b><u>7.3.3.1</u></b> <del>All of the parties which are listed in clauses 7.3.1.1 (a) to (e) shall implement and adopt a <i>dispute management system</i> which is approved by the <i>PEM Board</i>. All WESM members shall</del>	For clarity. The mechanisms on dispute management protocol has been wanting. The dispute management protocol is crucial in the establishment of procedures at the level of the Market Operator and WESM Member.	<b><u>7.3.3 Dispute Management-Systems Protocol</u></b>  <b><u>7.3.3.1</u></b> <del>All of the parties which are listed in clauses 7.3.1.1 (a) to (e) shall implement and adopt a <i>dispute management system</i> which is approved by the <i>PEM Board</i>. All WESM members shall</del>	- Approved, as proposed



Original Provision	PEM Board-Approved Proposed Urgent Amendments	Dispute Resolution Administrator (DRA) Submission		RCC-Approved Proposed Amendments	
		Proposed Amendments	Rationale		Remarks
	<i>30 June 2011</i>	<i>02 November 2011</i>		<i>11 January 2012</i>	
	<p><del>implement and adopt a dispute management system which shall entail a system for managing disputes privately between the parties and without resorting to the formal dispute resolution process.</del></p> <p><del>The dispute management system shall:</del></p> <p><del>(a) nominate a dispute management system contact to be the first point of contact for the notification of disputes;</del></p> <p><del>(b) establish the procedures for the service and receipt of notice of dispute and other related notices; and</del></p> <p><del>(c) set out the protocols for responding to requests for information from other WESM member/s in relation to a dispute.</del></p>	<p><del>implement and adopt a dispute management system which shall entail a system for managing disputes privately between the parties and without resorting to the formal dispute resolution process.</del></p> <p><del>The dispute management system shall:</del></p> <p><del>(a) nominate a dispute management system contact to be the first point of contact for the notification of disputes;</del></p> <p><del>(b) establish the procedures for the service and receipt of notice of dispute and other related notices; and</del></p> <p><del>(c) set out the protocols for responding to requests for information from other WESM member/s in relation to a dispute.</del></p> <p><del>Prior to the referral of a</del></p>	<p>As suggested, the dispute management protocol will identify the focal person of the Member, the procedures for the service and receipt of notice of dispute and other related notices and establish the negotiation process.</p>	<p><del>implement and adopt a dispute management system which shall entail a system for managing disputes privately between the parties and without resorting to the formal dispute resolution process.</del></p> <p><del>The dispute management system shall:</del></p> <p><del>(a) nominate a dispute management system contact to be the first point of contact for the notification of disputes;</del></p> <p><del>(b) establish the procedures for the service and receipt of notice of dispute and other related notices; and</del></p> <p><del>(c) set out the protocols for responding to requests for information from other WESM member/s in relation to a dispute.</del></p> <p><del>Prior to the referral of a</del></p>	



Original Provision	PEM Board-Approved Proposed Urgent Amendments	Dispute Resolution Administrator (DRA) Submission		RCC-Approved Proposed Amendments	
		Proposed Amendments	Rationale		Remarks
	30 June 2011	02 November 2011		11 January 2012	
		<p><u>dispute to the DRA, a dispute management protocol (DMP) shall be first implemented by all parties covered by the WESM dispute resolution process.</u></p> <p><u>The DMP is a system to be followed by the disputing parties and shall form part of the negotiation stage of the WESM dispute resolution framework. The goal of the DMP is to allow the parties to negotiate through designated DMP contact persons within a period of 45 days from the time a formal notice is received by the Market Operator or a WESM Member.</u></p> <p><u>For this purpose, the DMP of the Market Operator and each WESM Member shall provide:</u></p> <p><u>(a) the DMP contact person who will be</u></p>		<p><u>dispute to the DRA, a dispute management protocol (DMP) shall be first implemented by all parties covered by the WESM dispute resolution process.</u></p> <p><u>The DMP is a system to be followed by the disputing parties and shall form part of the negotiation stage of the WESM dispute resolution framework. The goal of the DMP is to allow the parties to negotiate through designated DMP contact persons within a period of 45 days from the time a formal notice is received by the Market Operator or a WESM Member.</u></p> <p><u>For this purpose, the DMP of the Market Operator and each WESM Member shall provide:</u></p> <p><u>(a) the DMP contact person who will be</u></p>	



Original Provision	PEM Board-Approved Proposed Urgent Amendments	Dispute Resolution Administrator (DRA) Submission		RCC-Approved Proposed Amendments	
		Proposed Amendments	Rationale		Remarks
	30 June 2011	02 November 2011		11 January 2012	
		<p><u>the first point of contact for the notification of disputes;</u></p> <p>(b) <u>the mode of service and receipt of notice of dispute and other related notices;</u></p> <p>(c) <u>the mode of responding to requests for information from other WESM member/s in relation to a dispute.</u></p>		<p><u>the first point of contact for the notification of disputes;</u></p> <p>(b) <u>the mode of service and receipt of notice of dispute and other related notices;</u></p> <p>(c) <u>the mode of responding to requests for information from other WESM member/s in relation to a dispute.</u></p>	
New Provision	7.3.3.2 <u>Each WESM member shall submit a copy of its dispute management system to the DRA and shall be posted in the market website.</u>	7.3.3.2 <u>Each WESM member shall submit a copy of its dispute management system to the DRA and shall be posted in the market website. The Market Operator and all WESM Members shall submit a copy of its dispute management protocol to the DRA which shall be posted by the DRA in the market website.</u>	All participants will be guided by the DMP of other participants to facilitate the dispute resolution process.	7.3.3.2 <u>Each WESM member shall submit a copy of its dispute management system to the DRA and shall be posted in the market website. The Market Operator and all WESM Members shall submit a copy of its dispute management protocol to the DRA which shall be posted by the DRA in the market website.</u>	- Approved, as proposed
New Provision	7.3.3 <u>Accreditation and Selection of Mediator and Arbitrators</u>	7.3.43. <u>Accreditation and Selection of Mediators and Arbitrators</u>	This suggested provision will detail the procedures for the	7.3.43. <u>Accreditation and Selection of Mediators and Arbitrators</u>	- Approved, as proposed



Original Provision	PEM Board-Approved Proposed Urgent Amendments	Dispute Resolution Administrator (DRA) Submission		RCC-Approved Proposed Amendments	
		Proposed Amendments	Rationale		Remarks
	30 June 2011	02 November 2011		11 January 2012	
			accreditation and selection of mediator and arbitrators from certified ADR providers by the Office of Alternative Dispute Resolution of the Department of Justice.		
New Provision	<b>7.3.3.1 The Dispute Resolution Administrator shall recommend a procedure for the accreditation of the mediators and arbitrators from certified alternative dispute resolution (ADR) providers by the Office of the Alternative Dispute Resolution of the Department of Justice. Such mediators and arbitrators shall be accredited based on the following qualifications:</b> <ol style="list-style-type: none"> <li>Proven track record and experience in mediation and arbitration proceedings;</li> <li>Deep understanding of the electricity industry in the Philippines and the</li> </ol>	<b>7.3.4.1 7.3.3.1 The Dispute Resolution Administrator shall recommend to the PEM Board the procedure for the accreditation of the mediators and arbitrators from certified alternative dispute resolution (ADR) providers. a procedure for the accreditation of the mediators and arbitrators from certified alternative dispute resolution (ADR) providers by the Office of the Alternative Dispute Resolution of the Department of Justice. Such mediators and arbitrators shall be accredited based on the following qualifications:</b> <ol style="list-style-type: none"> <li>Proven track record</li> </ol>	The new process involves two phases: 1) accreditation and 2) selection. With the proposed amendment, the PEM Board is tasked to approve the DRA-recommended accreditation process and actual accreditation of mediators and arbitrators. While the selection will be done by the parties to a dispute under the guidance of the DRA.	<b>7.3.4.1 7.3.3.1 The Dispute Resolution Administrator shall recommend to the PEM Board the procedure for the accreditation of the mediators and arbitrators from certified alternative dispute resolution (ADR) providers. a procedure for the accreditation of the mediators and arbitrators from certified alternative dispute resolution (ADR) providers by the Office of the Alternative Dispute Resolution of the Department of Justice. Such mediators and arbitrators shall be accredited based on the following qualifications:</b> <ol style="list-style-type: none"> <li>Proven track record</li> </ol>	- Approved, as proposed



Original Provision	PEM Board-Approved Proposed Urgent Amendments	Dispute Resolution Administrator (DRA) Submission		RCC-Approved Proposed Amendments	
		Proposed Amendments	Rationale		Remarks
	30 June 2011	02 November 2011		11 January 2012	
	<p><b>WESM;</b></p> <p>3. <u>Preferably handled an an electricity industry-related dispute; and</u></p> <p>4. <u>Must not have been engaged or employed by any electric power industry participant, or a company or body related to or associated with a WESM Participant at least one year before the accreditation.</u></p> <p>The DRA shall ensure that an updated list of accredited mediators and arbitrators shall be published in the WESM website.</p>	<p><u>and experience in mediation and arbitration proceedings;</u></p> <p>2. <u>Deep understanding of the electricity industry in the Philippines and the WESM;</u></p> <p>3. <u>Preferably handled an an electricity industry-related dispute; and</u></p> <p>4. <u>Must not have been engaged or employed by any electric power industry participant, or a company or body related to or associated with a WESM Participant at least one year before the accreditation.</u></p> <p>The PEM Board shall approve the process of accreditation and shall thereafter accredit the DRA-recommended mediators and arbitrators based on the said accreditation process.</p>		<p><u>and experience in mediation and arbitration proceedings;</u></p> <p>6. <u>Deep understanding of the electricity industry in the Philippines and the WESM;</u></p> <p>7. <u>Preferably handled an an electricity industry-related dispute; and</u></p> <p>8. <u>Must not have been engaged or employed by any electric power industry participant, or a company or body related to or associated with a WESM Participant at least one year before the accreditation.</u></p> <p>The PEM Board shall approve the process of accreditation and shall thereafter accredit the DRA-recommended mediators and arbitrators based on the said accreditation process.</p>	



Original Provision	PEM Board-Approved Proposed Urgent Amendments	Dispute Resolution Administrator (DRA) Submission		RCC-Approved Proposed Amendments	
		Proposed Amendments	Rationale		Remarks
	30 June 2011	02 November 2011		11 January 2012	
		The DRA shall ensure that an updated list of accredited mediators and arbitrators shall be published in the WESM website.		The DRA shall ensure that an updated list of accredited mediators and arbitrators shall be published in the WESM website.	
New Provision	7.3.3.2 Upon determination by the Dispute Resolution Administrator that the dispute falls under the WESM dispute resolution process, the DRA shall assist the parties in selecting the mediators from the list of accredited mediators considering the following: (a) The nature and particular circumstances of the dispute; (b) The mediation expertise; and (c) The availability of time to handle the mediation proceeding.	7.3.3.2 Upon determination by the Dispute Resolution Administrator that the dispute falls under the WESM dispute resolution process, the DRA shall assist the parties in selecting the mediators from the list of accredited mediators considering the following: (a) The nature and particular circumstances of the dispute; (b) The mediation expertise; and (c) The availability of time to handle the mediation proceeding.  (TO BE DELETED)	Already covered in 7.3.4.1 above. Details such as criteria and procedures to be proposed by DRA for PEM approval.	<del>7.3.3.2 Upon determination by the Dispute Resolution Administrator that the dispute falls under the WESM dispute resolution process, the DRA shall assist the parties in selecting the mediators from the list of accredited mediators considering the following: (d) The nature and particular circumstances of the dispute; (e) The mediation expertise; and (f) The availability of time to handle the mediation proceeding.  (TO BE DELETED)</del>	- Approved, as proposed
New Provision	7.3.3.3 In the event of failure of	<del>7.3.3.3 In the event of failure of</del>	Already covered in	<del>7.3.3.3 In the event of failure of</del>	

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Original Provision	PEM Board-Approved Proposed Urgent Amendments	Dispute Resolution Administrator (DRA) Submission		RCC-Approved Proposed Amendments	
		Proposed Amendments	Rationale		Remarks
	30 June 2011	02 November 2011		11 January 2012	
	<u>the mediation process, the DRA shall assist the parties in dispute in selecting three (3) arbitrators from a list of accredited arbitrators within ten (10) days. The DRA shall include a description of the particular expertise of each of the members in the list.</u>	<u>the mediation process, the DRA shall assist the parties in dispute in selecting three (3) arbitrators from a list of accredited arbitrators within ten (10) days. The DRA shall include a description of the particular expertise of each of the members in the list.</u>  (TO BE DELETED )	7.3.4.1 above. Details such as criteria and procedures to be proposed by DRA for PEM approval.	<u>the mediation process, the DRA shall assist the parties in dispute in selecting three (3) arbitrators from a list of accredited arbitrators within ten (10) days. The DRA shall include a description of the particular expertise of each of the members in the list.</u>  (TO BE DELETED )	- Approved, as proposed
New Provision	New Provision	<b>7.3.4.2</b> <u>In case of failure of the negotiation process and upon a preliminary determination by the Dispute Resolution Administrator that the dispute falls under the WESM dispute resolution process, the DRA shall provide the parties with a list of accredited mediators together with their respective expertise.</u>	This new provision aims to lay down the procedure to be taken in case the DRA determines that the dispute falls under the WESM dispute resolution process after the failure of the negotiation process.	<b>7.3.4.2</b> <u>In case of failure of the negotiation process and upon a preliminary determination by the Dispute Resolution Administrator that the dispute falls under the WESM dispute resolution process, the DRA shall provide the parties with a list of accredited mediators together with their respective expertise.</u>	- Approved, as proposed
New Provision	New provision	<b>7.3.4.3</b> <u>In the event of failure of the mediation process, the DRA shall provide the parties with a list of</u>	This suggested provision is consistent with the new procedure where a list of	<b>7.3.4.3</b> <u>In the event of failure of the mediation process, the DRA shall provide the parties with a list of</u>	- Approved, as proposed



Original Provision	PEM Board-Approved Proposed Urgent Amendments	Dispute Resolution Administrator (DRA) Submission		RCC-Approved Proposed Amendments	
		Proposed Amendments	Rationale		Remarks
	30 June 2011	02 November 2011		11 January 2012	
		<b><u>accredited arbitrators together with their respective expertise.</u></b>	accredited arbitrators shall be forwarded to the parties in case mediation fails.	<b><u>accredited arbitrators together with their respective expertise.</u></b>	
<b>7.3.4 Dispute Resolution Process</b>  xxx  7.3.4.6 If the Dispute Resolution Administrator is not reasonably satisfied that the dispute is one to which clause 7.3.1.1 applies, the procedures set out in clause 7.3.4.7 do not apply to the dispute.	<b><u>7.3.4 7.3.5 Dispute Resolution Process</u></b>  xxx  <b><u>7.3.5.6</u></b> <del>7.3.4.6</del> If the Dispute Resolution Administrator is not reasonably satisfied that the dispute is one to which clause 7.3.1.1 applies, the <del>procedures set out in clause 7.3.4.7</del> do not apply to the dispute. <b><u>DRA shall issue a written order stating that the claim is not a dispute covered under clause 7.3.1.1.</u></b>	<b><u>7.3.4 7.3.5 Dispute Resolution Process</u></b>  xxx  <b><u>7.3.5.6</u></b> <del>7.3.4.6</del> If the Dispute Resolution Administrator is not reasonably satisfied that the dispute is one to which clause 7.3.1.1 applies, the <del>procedures set out in clause 7.3.4.7</del> do not apply to the dispute. <b><u>DRA shall issue a written order stating that the claim is not a dispute covered under clause 7.3.1.1.</u></b>	The proposed change will clarify the procedure in case the Dispute Resolution Administrator has determined that the written claim does not fall under the WESM dispute resolution process.	<b><u>7.3.4 7.3.5 Dispute Resolution Process</u></b>  xxx  <b><u>7.3.5.6</u></b> <del>7.3.4.6</del> If the Dispute Resolution Administrator is not reasonably satisfied that the dispute is one to which clause 7.3.1.1 applies, the <del>procedures set out in clause 7.3.4.7</del> do not apply to the dispute. <b><u>DRA shall issue a written order stating that the claim is not a dispute covered under clause 7.3.1.1.</u></b>	- Approved, as proposed
7.3.4.7 If the Dispute Resolution Administrator is reasonably satisfied that the dispute is one to which clause 7.3.1.1 applies, the Dispute Resolution Administrator shall: (a) Appoint a <i>dispute resolution panel</i> in accordance with	<b><u>7.3.5.7</u></b> <del>7.3.4.7</del> If the Dispute Resolution Administrator is reasonably satisfied that the dispute is one to which clause 7.3.1.1 applies, the Dispute Resolution Administrator shall <b><u>issue a written order stating that the claim falls under the WESM dispute</u></b>	<b><u>7.3.5.7</u></b> <del>7.3.4.7</del> If the Dispute Resolution Administrator is reasonably satisfied that the dispute is one to which clause 7.3.1.1 applies, the Dispute Resolution Administrator shall <b><u>issue a written order direction stating preliminarily that the claim falls under the</u></b>	The proposed change will clarify the procedure in case the Dispute Resolution Administrator has determined that the written claim falls under the WESM dispute resolution process.	<b><u>7.3.5.7</u></b> <del>7.3.4.7</del> If the Dispute Resolution Administrator is reasonably satisfied that the dispute is one to which clause 7.3.1.1 applies, the Dispute Resolution Administrator shall <b><u>issue a written order direction stating preliminarily that the claim falls under the</u></b>	- Approved, as proposed



Original Provision	PEM Board-Approved Proposed Urgent Amendments	Dispute Resolution Administrator (DRA) Submission		RCC-Approved Proposed Amendments	
		Proposed Amendments	Rationale		Remarks
	30 June 2011	02 November 2011		11 January 2012	
clause 7.3.5; and (b) Refer the dispute for resolution by the <i>dispute resolution panel</i> appointed under clause 7.3.5, within five <i>business days</i> of receiving any information from the parties to the dispute under clause 7.3.5.4.	<b>resolution process:</b> (a) <del>Appoint a dispute resolution panel in accordance with clause 7.3.5; and</del> (b) <del>Refer the dispute for resolution by the dispute resolution panel appointed under clause 7.3.5, within five business days of receiving any information from the parties to the dispute under clause 7.3.5.4.</del>	<b>WESM dispute resolution process.</b> (a) <del>Appoint a dispute resolution panel in accordance with clause 7.3.5; and</del> (b) <del>Refer the dispute for resolution by the dispute resolution panel appointed under clause 7.3.5, within five business days of receiving any information from the parties to the dispute under clause 7.3.5.4.</del>	Renumbering.	<b>WESM dispute resolution process.</b> (a) <del>Appoint a dispute resolution panel in accordance with clause 7.3.5; and</del> (b) <del>Refer the dispute for resolution by the dispute resolution panel appointed under clause 7.3.5, within five business days of receiving any information from the parties to the dispute under clause 7.3.5.4.</del>	
7.3.4.8 Subject to all time limits specified in clause 7.3.5, nothing in this clause 7.3 precludes the <i>Dispute Resolution Administrator</i> from facilitating resolution of the dispute by agreement between the parties to the satisfaction of the parties without appointing or involving a <i>dispute resolution panel</i> .	(TO BE DELETED)	(TO BE DELETED)	For avoidance of doubt and redundancy, a dispute management system is instituted already which will aid the DRA in the resolution of disputes before going through the formal dispute resolution process.	(TO BE DELETED)	- Approved, as proposed
<b>7.3.5 The Dispute Resolution Panel</b>	<b><u>7.3.5 The Dispute Resolution Panel</u></b>  Clauses 7.3.5.1 to 7.3.5.8 are to	<b><u>7.3.5 The Dispute Resolution Panel</u></b>  Clauses 7.3.5.1 to 7.3.5.8 are to	The proposed deletion is consistent with the recommended procedure on the	<b><u>7.3.5 The Dispute Resolution Panel</u></b>  Clauses 7.3.5.1 to 7.3.5.8 are to	- Approved, as proposed



Original Provision	PEM Board-Approved Proposed Urgent Amendments	Dispute Resolution Administrator (DRA) Submission		RCC-Approved Proposed Amendments	
		Proposed Amendments	Rationale		Remarks
	30 June 2011	02 November 2011		11 January 2012	
	be DELETED.	be DELETED	selection and accreditation of mediator and arbitrators.	be DELETED	
<b>7.3.8 Legal Representation</b>  Legal representation before the <i>dispute resolution panel</i> may be permitted by the <i>dispute resolution panel</i> where the <i>dispute resolution panel</i> considers it appropriate or desirable.	(TO BE DELETED)	<b>7.3.8 Legal Representation</b>  <b>Reliance on <del>L</del>legal representation before the <i>dispute resolution panel</i> in dispute resolution proceedings may be permitted whenever the mediator and/or arbitration panel by the <i>dispute resolution panel</i> where the <i>dispute resolution panel</i> considers it appropriate or desirable.</b>	Minimal reliance on legal representation is encouraged in all stages of dispute resolution proceedings. In practice, legal representation is permissible even during the mediation stage and not only during arbitration proceedings.	<b>7.3.8 Legal Representation</b>  <b><u>Reliance on <del>L</del>legal representation before the <i>dispute resolution panel</i> in dispute resolution proceedings may be permitted whenever the mediator and/or arbitration panel by the <i>dispute resolution panel</i> where the <i>dispute resolution panel</i> considers it appropriate or desirable.</u></b>	- Approved, as proposed
<b>7.3.9 Cost of Dispute Resolution</b>  The reasonable costs of the parties to the dispute may be allocated by the <i>dispute resolution panel</i> for payment by one or more parties as part of its resolution.	<b>7.3.9 Cost of Dispute Resolution</b>  <b><u>Unless otherwise agreed upon by the parties, <del>the</del> reasonable costs of the <del>parties to the dispute proceedings</del> may be allocated by the mediator or arbitrators <i>dispute resolution panel</i> for payment by one or more parties as part of the agreement or award, its resolution as may be applicable. The following are considered costs of the proceedings:</u></b>  <b><u>(a) Professional fees of the</u></b>	<b>7.3.9 Cost of Dispute Resolution</b>  <b><u>Unless otherwise agreed upon by the parties, <del>the</del> reasonable costs of the <del>parties to the dispute proceedings</del> may be allocated by the mediator or arbitrators <i>dispute resolution panel</i> for payment by one or more parties as part of the agreement or award, its resolution as may be applicable. The following are considered costs of the proceedings:</u></b>  <b><u>(a) Professional fees of the</u></b>	This proposed revision establishes the allocation of the costs of proceedings between the parties and defines what constitutes costs of proceedings.  In this proposal, the payment by the Market Operator of the reasonable costs of proceedings is made contingent upon the establishment of	<b>7.3.9 Cost of Dispute Resolution</b>  <b><u>Unless otherwise agreed upon by the parties, <del>the</del> reasonable costs of the <del>parties to the dispute proceedings</del> may be allocated by the mediator or arbitrators <i>dispute resolution panel</i> for payment by one or more parties as part of the agreement or award, its resolution as may be applicable. The following are considered costs of the proceedings:</u></b>  <b><u>(a) Professional fees of the</u></b>	- Approved, as amended  Agreed to delete the following proposed new provision:  <i>"The payment by the Market Operator of the reasonable costs of proceedings shall be made only upon determination by the mediator or arbitration panel that the Market Operator's</i>



Original Provision	PEM Board-Approved Proposed Urgent Amendments	Dispute Resolution Administrator (DRA) Submission		RCC-Approved Proposed Amendments	
		Proposed Amendments	Rationale		Remarks
	30 June 2011	02 November 2011		11 January 2012	
	<b>mediator and arbitrators;</b> <b>(b) Legal expenses; and</b> <b>(c) Administrative costs.</b>	<b>mediator and arbitrators;</b> <b>(b) Legal expenses; and</b> <b>(c) Administrative costs.</b>  <b>The payment by the Market Operator of the reasonable costs of proceedings shall be made only upon determination by the mediator or arbitration panel that the Market Operator's liability arose out of conduct involving malice, manifest partiality, bad faith, gross incompetence or gross negligence.</b>	malice, manifest partiality, bad faith, gross incompetence or gross negligence consistent with Clause 1.4.10 of the WESM Rules.	<b>mediator and arbitrators;</b> <b>(b) Legal expenses; and</b> <b>(c) Administrative costs.</b>  <b>The payment by the Market Operator of the reasonable costs of proceedings shall be made only upon determination by the mediator or arbitration panel that the Market Operator's liability arose out of conduct involving malice, manifest partiality, bad faith, gross incompetence or gross negligence.</b>	<i>liability arose out of conduct involving malice, manifest partiality, bad faith, gross incompetence or gross negligence."</i>
<b>7.3.10 Effect of Resolution</b>  xxx  7.3.10.3 If a resolution of the <i>dispute resolution panel</i> applies to a person referred to in clauses 7.3.1.1 (a) to (e) that person shall comply with the resolution of the <i>dispute resolution panel</i> to the extent that the resolution applies to that person, notwithstanding that the person was not a party to the dispute.	<b>7.3.10 Effect of Resolution</b>  xxx  7.3.10.3 <del>If a resolution of the <i>dispute resolution panel</i> applies to a person referred to in clauses 7.3.1.1 (a) to (e) that person shall comply with the resolution of the <i>dispute resolution panel</i> to the extent that the resolution applies to that person, notwithstanding that the person was not a party to the dispute.</del>	<b>7.3.10 Effect of Resolution</b>  xxx  7.3.10.3 <b>All persons referred to in clauses 7.3.1.1 (a) to (e) affected by an agreement reached during the mediation stage or an award of the arbitration panel shall comply with the agreement or award to the extent that such agreement or award applies to them, notwithstanding that they were not parties</b>	With regard to disputes on settlement and payments, other WESM Members may be affected by the resolution of dispute in case of adjustments in settlement and payments.  This provision is enhanced to be consistent with the proposed dispute resolution framework where a dispute may be resolved not only through arbitration but	<b>7.3.10 Effect of Resolution</b>  xxx  7.3.10.3 <b>All persons referred to in clauses 7.3.1.1 (a) to (e) affected by an agreement reached during the mediation stage or an award of the arbitration panel shall comply with the agreement or award to the extent that such agreement or award applies to them.</b>	- Approved, as proposed



Original Provision	PEM Board-Approved Proposed Urgent Amendments	Dispute Resolution Administrator (DRA) Submission		RCC-Approved Proposed Amendments	
		Proposed Amendments	Rationale		Remarks
	30 June 2011	02 November 2011		11 January 2012	
	(DELETED)	<p><u>to the dispute.</u></p> <p><u>The DRA shall, prior to the mediation or arbitration process, notify in writing and through posting in the market website, all persons who may be affected as a consequence of the resolution of the dispute.</u></p>	also through mediation. Further, compliance with due process shall be observed by the DRA in informing other WESM members to give them an opportunity to participate in the dispute resolution proceeding.	<p><u>notwithstanding that they were not parties to the dispute.</u></p> <p><u>The DRA shall, prior to the mediation or arbitration process, notify in writing and through posting in the market website, all persons who may be affected as a consequence of the resolution of the dispute.</u></p>	
7.3.10.4 If a party to a dispute is not satisfied with the resolution of the <i>dispute resolution panel</i> , the party may file a formal complaint to the <i>ERC</i> .	7.3.10.4 If a party to a dispute is not satisfied with the resolution of the <i>dispute resolution panel</i> , the party may file a formal complaint to the <i>ERC</i> .  (FOR RETENTION )	<del>7.3.10.4 If a party to a dispute is not satisfied with the resolution of the dispute resolution panel, the party may file a formal complaint to the ERC.</del>  (FOR DELETION)	The Proposed WESM Dispute Resolution Framework offers an agreement-based arbitration. For consistency with other provisions, this is being deleted. This does not mean however that jurisdiction is being removed from ERC.	7.3.10.4 If a party to a dispute is not satisfied with the resolution of the <i>dispute resolution panel</i> , the party may file a formal complaint to the <i>ERC</i> .  (FOR RETENTION )	- Agreed to retain. The RCC deemed that making the jurisdiction of the ERC silent is taking away the right of the parties to file a formal complaint with the ERC.
<b>7.3.11 Recording and Publication</b>	<b>7.3.11 Recording and Publication</b>	<b>7.3.11 Recording and Publication</b>		<b>7.3.11 Recording and Publication</b>	- Approved, as proposed
7.3.11.1 When the <i>dispute resolution panel</i> resolves a dispute, the	7.3.11.1 When the <u>mediator and/or arbitration panel</u> <del>dispute resolution</del>	7.3.11.1 <del>When the mediator and/or arbitration panel</del> <del>dispute resolution panel</del>	For uniformity with the other provisions, the resolution of disputes	7.3.11.1 <del>When the mediator and/or arbitration panel</del> <del>dispute resolution</del>	



Original Provision	PEM Board-Approved Proposed Urgent Amendments	Dispute Resolution Administrator (DRA) Submission		RCC-Approved Proposed Amendments	
		Proposed Amendments	Rationale		Remarks
	30 June 2011	02 November 2011		11 January 2012	
chairperson of the dispute resolution panel shall send written details of the resolution of the dispute to the <i>Dispute Resolution Administrator</i> , the <i>PEM Board</i> , the <i>ERC</i> and the <i>Market Operator</i> as soon as practicable.	<del>panel</del> resolves a dispute, <b>as may be applicable</b> , the <b>mediator and/or arbitration dispute-resolution panel</b> shall send written details of the resolution of the dispute to the <i>Dispute Resolution Administrator</i> , the <i>PEM Board</i> , <b>the DOE</b> , the <i>ERC</i> and the <i>Market Operator</i> as soon as practicable.	<b><u>resolves a dispute. Whenever a dispute is resolved, the mediator or the arbitration tribunal, as may be applicable, the chairperson of the dispute-resolution panel</u></b> shall send written details of the resolution of the dispute to the <i>Dispute Resolution Administrator</i> , the <i>PEM Board</i> , <b>the DOE</b> , the <i>ERC</i> and the <i>Market Operator</i> as soon as practicable.	is not exclusive with the dispute resolution panel. Further, there is a need to distinguish the dispute resolution panel from the previous framework with the present framework on the usage of mediator and arbitration panel.  Also, the DOE, as the supervisor of the electricity industry, is included in the list of entities to be furnished of the details of the resolution of dispute.	<del>panel resolves a dispute. Whenever a dispute is resolved, the mediator or the arbitration tribunal, as may be applicable, the chairperson of the dispute-resolution panel</del> shall send written details of the resolution of the dispute to the <i>Dispute Resolution Administrator</i> , the <i>PEM Board</i> , <b>the DOE</b> , the <i>ERC</i> and the <i>Market Operator</i> as soon as practicable.	
7.3.11.2 Subject to clause 5.3, the details and results of each dispute which the dispute resolution panel resolves (including the reasons why the Dispute Resolution Administrator decided to appoint particular people to the dispute resolution panel) shall be published and made available to WESM members as soon as practicable after the resolution of the	7.3.11.2 Subject to clause 5.3, the details and results of each dispute which <del>the mediator and/or arbitration panel</del> <b>resolves, as the case may be, except confidential information</b> , <del>dispute-resolution panel resolves (including the reasons why the Dispute Resolution Administrator decided to appoint</del>	7.3.11.2 Subject to clause 5.3, the details and results of each dispute which the <b><u>mediator and/or arbitration panel resolves, as the case may be, except confidential information</u></b> , <del>dispute-resolution panel resolves (including the reasons why the Dispute Resolution Administrator decided to appoint</del>	For consistency with the other provisions, the dispute resolution process is not exclusive with the dispute resolution panel (suggested to be termed as arbitration panel).	7.3.11.2 Subject to clause 5.3, the details and results of each dispute which the <b><u>mediator and/or arbitration panel resolves, as the case may be, except confidential information</u></b> , <del>dispute-resolution panel resolves (including the reasons why the Dispute Resolution Administrator decided to appoint</del>	- Approved, as proposed



Original Provision	PEM Board-Approved Proposed Urgent Amendments	Dispute Resolution Administrator (DRA) Submission		RCC-Approved Proposed Amendments	
		Proposed Amendments	Rationale		Remarks
	30 June 2011	02 November 2011		11 January 2012	
dispute by the dispute resolution panel.	particular people to the <del>dispute resolution panel</del> shall be published and made available to WESM members as soon as practicable after the resolution of the dispute. <del>by the dispute resolution panel.</del>	particular people to the <del>dispute resolution panel</del> shall be published and made available to WESM members as soon as practicable after the resolution of the dispute. <del>by the dispute resolution panel.</del>		particular people to the <del>dispute resolution panel</del> shall be published and made available to WESM members as soon as practicable after the resolution of the dispute. <del>by the dispute resolution panel.</del>	
<b>7.3.12 Judicial Review</b>  Following <i>ERC</i> resolution of the dispute, any case which involves question of fact may be appealable to the Court of Appeals and those which involves question of law may be directly appealable to the Supreme Court.	(TO BE DELETED)	(TO BE DELETED)	This provision is no longer necessary since the rules on jurisdiction of courts will prevail.	TO BE DELETED)	- Approved, as proposed
<b>7.3.13 Limitation of Liability</b>  The <i>Dispute Resolution Administrator, dispute resolution panel</i> and its members are not to be liable for any loss or damage suffered or incurred by a Participant or any other person as a consequence of any act or omission of those persons unless the <i>Dispute Resolution Administrator, the dispute resolution panel, or its members</i> , as the case may be, acted with	<b>7.3.13 Limitation of Liability</b>  The <i>Dispute Resolution Administrator, <del>dispute resolution panel</del></i> and its members are <del>is</del> not to be liable for any loss or damage suffered or incurred by a Participant or any other person as a consequence of any act or omission of those persons unless the <i>Dispute Resolution Administrator, the <del>dispute resolution panel</del>, or its members</i> , <del>as the case may be</del> , acted with	<b>7.3.13 Limitation of Liability</b>  The <i>Dispute Resolution Administrator, <del>dispute resolution panel</del></i> and its members are <del>is</del> not liable for any loss or damage suffered or incurred by a Participant or any other person as a consequence of any act or omission of those persons unless the <i>Dispute Resolution Administrator, the <del>dispute resolution panel</del>, or its members</i> , <del>as the case may be</del> , acted with	This proposed revision will only cover the limitation of liability in favor of the DRA since the mediators and arbitrators are no longer within the WESM structure.	<b>7.3.123 Limitation of Liability</b>  The <i>Dispute Resolution Administrator, <del>dispute resolution panel</del></i> and its members are <del>is</del> not liable for any loss or damage suffered or incurred by a Participant or any other person as a consequence of any act or omission of those persons unless the <i>Dispute Resolution Administrator, the <del>dispute resolution panel</del>, or its members</i> , <del>as the case may be</del> , acted with	- Approved, as amended (revisions involve renumbering only)

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Original Provision	PEM Board-Approved Proposed Urgent Amendments	Dispute Resolution Administrator (DRA) Submission		RCC-Approved Proposed Amendments	
		Proposed Amendments	Rationale		Remarks
	<i>30 June 2011</i>	<i>02 November 2011</i>		<i>11 January 2012</i>	
malice, manifest impartiality, bad faith, gross incompetence or gross negligence.	malice, manifest impartiality, bad faith, gross incompetence or gross negligence.	malice, manifest impartiality, bad faith, gross incompetence or gross negligence.		malice, manifest impartiality, bad faith, gross incompetence or gross negligence.	
<b>7.3.14 Indemnity</b>  Notwithstanding clause 7.3.13, except for liability arising from conduct involving malice, partiality, bad faith, gross incompetence or gross negligence, if the Dispute Resolution Administrator, the dispute resolution panel or the members thereof are made liable to pay any amount for loss or damages suffered or incurred by a person referred to in clauses 7.3.1.1 (a) to (f) or any other person as a consequence of any of its acts or omissions in performance of dispute resolution, the <i>PEM Board</i> shall indemnify said persons through an indemnification process to be developed by the <i>PEM Board</i> .  (a) For the full amount adjudged; and (b) For costs and expenses incurred by that person in defending itself in the related proceedings.	(TO BE DELETED)	(TO BE DELETED)	The proposed deletion is consistent with the suggestion that the Dispute Resolution Group shall no longer be a PEM Committee.	(TO BE DELETED)	- Approved, as proposed
Glossary		Glossary	For clarity, the intent of the dispute	Glossary	



Original Provision	PEM Board-Approved Proposed Urgent Amendments	Dispute Resolution Administrator (DRA) Submission		RCC-Approved Proposed Amendments	
		Proposed Amendments	Rationale		Remarks
	30 June 2011	02 November 2011		11 January 2012	
<b>Dispute Management System.</b> A system for managing disputes privately between the relevant parties and without resorting to formal <i>dispute resolution</i> process in Clause 7.3, and which has been approved by the <i>PEM Board</i> under Clause 7.3.3.		Dispute Management <b>Protocol.</b> <del>System. A system for managing disputes privately between the relevant parties and without resorting to formal dispute resolution process in Clause 7.3, and which has been approved by the PEM Board under Clause 7.3.3.</del> The DMP is a system to be followed by the disputing parties and shall form part of the negotiation stage of the WESM dispute resolution framework.	management system is to establish the protocol that will govern the parties in the expeditious resolution of disputes. The protocol is the more appropriate term considering that a set of rules shall be established by the WESM Members and the Market Operator.  The dispute management protocol strives to preserve and enhance relationships between parties to a dispute with emphasis on avoidance of conflicts and minimal reliance on formal legal procedures.	Dispute Management <b>Protocol.</b> <del>System. A system for managing disputes privately between the relevant parties and without resorting to formal dispute resolution process in Clause 7.3, and which has been approved by the PEM Board under Clause 7.3.3.</del> The DMP is a system to be followed by the disputing parties and shall form part of the negotiation stage of the WESM dispute resolution framework.	- Approved as proposed
Glossary  <b>Dispute Resolution Group.</b> A pool of at least seven experts appointed by the <i>Dispute Resolution Administrator</i> from which the <i>Dispute resolution panel</i> is formed.				Glossary  <del>Dispute Resolution Group. A pool of at least seven experts appointed by the Dispute Resolution Administrator from which the Dispute resolution panel is formed.</del>	- Reference to the Dispute Resolution Group (DRG) in the Glossary is removed, consistent with the removal of DRG as one of the PEM Board Committees.