

**WHOLESALE ELECTRICITY SPOT MARKET
RULES CHANGE COMMITTEE**

RESOLUTION No. 2010-01

**Proposed Amendments to the Market Surveillance, Compliance and Enforcement
Market Manual regarding the Prescribed Form for Requests for Investigation**

WHEREAS, Section 10.1.1 of the Market Surveillance, Compliance and Enforcement Market Manual (the "Manual") provides the procedure for investigation of an alleged breach, abuse of market power or anti-competitive behavior;

WHEREAS, Section 10.1.1 (a) of the Manual requires the filing of Request for Investigation (RFI) before the PEM Board by the MSC, a WESM Member, the Market Operator (MO), System Operator (SO) or other PEM Committee;

WHEREAS, on 24 November 2009, the PEMC Legal Department submitted its proposed amendments on the Manual to the Rules Change Committee (RCC), for consideration and approval;

WHEREAS, the proposed amendments to the Manual prescribe a form for the filing of RFI of an alleged breach, abuse of market power or anti-competitive behavior;

WHEREAS, the proposal aims to improve efficiency and ensure expediency in the WESM investigation process as the proposed RFI form lists down the details needed to formally initiate an investigation, which provides the distinction between simple written queries and formal requests for investigation of a WESM Member, the MO or the SO;

WHEREAS, during the 29th RCC Meeting on 02 December 2009, the proposed amendments were presented to the RCC, for review and approval;

WHEREAS, as agreed upon by the RCC during its 29th Meeting, the proposed amendments were published in the RCC Web Forum on 04 December 2009 to solicit comments from the market participants and other interested parties;

WHEREAS, during the period of publication, there were no comments received from the market participants and other interested parties;

WHEREAS, during the 30th RCC Meeting on 13 January 2010, the RCC agreed to adopt the proposed amendments;

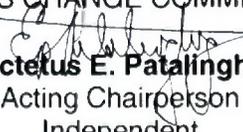
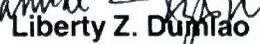
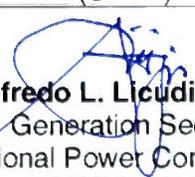
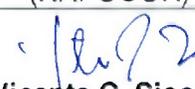
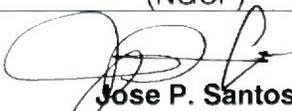
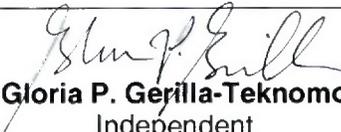
NOW THEREFORE, we, the undersigned and in behalf of the sector we represent, hereby resolve as follows:

Rules Change Committee
Resolution No. 2010-01
Proposed Amendments to the Market Surveillance, Compliance and Enforcement Market Manual

RESOLVED, that the proposed amendments to the Market Surveillance, Compliance and Enforcement Market Manual (attached as Annex "A") is adopted and approved in full;

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

Done this 10th day of March 2010, Pasig City.

Approved by : RULES CHANGE COMMITTEE  Epictetus E. Patalinghug Acting Chairperson Independent University of the Philippines (UP)	
Members:	
 Cherry Aquino-Javier Generation Sector AES Philippines (AES)	 Ralph T. Crisologo Generation Sector SN Abotiz Power (SNAP)
<i>* PSALM has legal issues + reservations on the MSCEM Manual - by number</i>  Liberty Z. Dumfao Generation Sector Power Sector Assets and Liabilities Management Corporation (PSALM)	 Alfredo L. Licudine, Jr. Generation Sector National Power Corporation (NAPOCOR)
Raul Joseph G. Seludo Transmission Sector National Grid Corporation of the Philippines (NGCP)	 Vicente C. Sioson Distribution Sector (PDU) Manila Electric Company (MERALCO)
 Jose P. Santos Distribution Sector (EC) Ilocos Norte Electric Cooperative (INEC)	 Conrado D. Pecjo Supply Sector Angeles Power, Inc.
Robinson P. Descanzo Market Operator Philippine Electricity Market Corporation (PEMC)	 Gloria P. Gerilla-Teknomo Independent CPI-Energy Phils., Inc.
	Certified True and Correct:  Elaine D. Gonzales RCC Secretary PEMC

Title	Section	Provision	Proposed Amendment	Rationale
Initiation of Investigation	10.1.1 (a)	<p>The procedure for Investigation of an alleged Breach, abuse of market power or Anti-Competitive Behavior may be initiated by:</p> <p>(a) The filing of a Request for Investigation of an alleged Breach, abuse of market power or Anti-Competitive Behavior before the PEM Board by the MSC, a WESM Member, the Market Operator, System Operator or other PEM Committee; or</p> <p>xxx</p>	<p>The procedure for Investigation of an alleged Breach, abuse of market power or Anti-Competitive Behavior may be initiated by:</p> <p>(a) The filing of a Request for Investigation of an alleged Breach, abuse of market power or Anti-Competitive Behavior before the PEM Board by the MSC, a WESM Member, the Market Operator, System Operator or other PEM Committee, <u>using the form as prescribed under Appendix C</u>; or</p> <p>xxx</p>	<p>The prescribed form will assist the PEM Board in distinguishing between simple queries and formal requests for investigations.</p> <p>Also for expediency in the investigation process, as the form is intended to guide the participants on what data/details are needed from them for the RFI.</p>
New			<p>Appendix C. Request for Investigation Form</p> <p>(copy attached)</p>	

REQUEST FOR INVESTIGATION (RFI)

COMMITMENT AND REPRESENTATIONS

I am submitting this Request for Investigation (RFI) to the Philippine Electricity Market (PEM) Board pursuant to Clause 10.1.1 of the Market Surveillance, Compliance, and Enforcement Market Manual. This RFI is based on actual occurrences and is not motivated by any ill-will against the WESM Member/Market Operator (MO)/System Operator (SO) being reported.

I hereby certify that I am duly authorized to submit this RFI for and in behalf of <fill in the name of WESM Member/MO/SO/PEM Committee> as shown in the attached Secretary's Certificate. I agree that I and my principal will cooperate with and provide the Philippine Electricity Market Corporation (PEMC) with all information which I and/or my principal may have in connection with this RFI.

Name and Signature
of Authorized Representative

Date

CONTACT DETAILS OF THE ENTITY WHO IS REPORTING A POSSIBLE BREACH

Name of WESM Member/MO/SO/PEM Committee:

Authorized Representative: _____

Position: _____ E-mail address: _____

Phone No.: _____ Fax No.: _____

WESM MEMBER/ MARKET OPERATOR/ SYSTEM OPERATOR WHO MAY POSSIBLY BE IN BREACH OF THE WESM RULES OR MANUALS

WESM RULE OR MANUAL POSSIBLY BREACHED

Please cite the specific provision(s) of the WESM Rules or Manuals

DESCRIPTION OF THE ACTS/OMISSION WHICH MAY CONSTITUTE A BREACH

Please provide a description of the actual circumstances surrounding the purported breach. Attach supporting documents, if any. Use additional pages if necessary.

<u>DATE AND INTERVAL WHEN THE POSSIBLE BREACH HAPPENED</u>	
Date: _____	Time/Intervals: _____

Notes on the investigation procedure, as provided under the WESM Rules and the Market Surveillance, Compliance, and Enforcement Market (MSCEM) Manual, and the Energy Regulatory Commission (ERC)-PEMC Memorandum of Agreement (MOA) and Protocol:¹

1. This Request for Investigation (RFI) together with the supporting documents, if any, should be submitted to the Philippine Electricity Market (PEM) Board, through the PEM Board Corporate Secretary².
2. If the PEM Board determines that the RFI, on its face, is not frivolous, the PEM Board will direct the Philippine Electricity Market Corporation-Enforcement and Compliance Office (PEMC-ECO) to conduct an investigation, subject to the provisions of the WESM Rules and the MSCEM Manual. Under the WESM Rules and MSCEM Manual:
 - a. The ECO shall send a Preliminary Notice of Investigation (PNI) to the party under investigation within five days from receipt of the RFI or Order of the PEM Board. A copy of the PNI shall be furnished to the PEM Board, the Market Operator, and the ERC;
 - b. The party under investigation shall submit its reply to the ECO within 10 calendar days from receipt of the Preliminary Notice of Investigation;
 - c. The ECO will conduct the investigation proper, and may call a conference with the party under investigation for the purpose of verifying information or data in relation to the alleged breach.
3. After conducting an investigation, the ECO shall prepare an Investigation Report stating the following:
 - a. Summary of the preliminary matters;
 - b. Determination of the existence or non-existence of a breach;
 - c. Findings of fact of the ECO relating to breach;
 - d. Sources of the data or information upon which such findings of fact are based;
 - e. Recommended penalty (if applicable).
4. The Investigation Report shall be submitted to each member of the Market Surveillance Committee (MSC).
5. The MSC shall review the Investigation Report with respect to:
 - a. Compliance by the ECO with the procedures set forth in the Manual for the conduct of Investigation; and
 - b. Validity and completeness of the data and documents upon which the factual findings are based.

¹ Sources as of 18 August 2009. These documents may be downloaded at the WESM website, www.wesm.ph
² Addressed to: The PEM Board Corporate Secretary, Philippine Electricity Market Corporation, 18/F Robinson's Equitable Tower, ADB Ave., Ortigas, Pasig City

6. In its review of the reports submitted by the ECO, the MSC may remand the Investigation Report to the ECO or Market Assessment Group for further investigation. The MSC may also conduct conferences or consultations.
7. The MSC shall prepare and submit its report to the PEM Board.
8. The PEM Board has the authority to review the correctness of the penalty or other affirmative action recommended by the ECO. No penalty shall be imposed without the approval of the PEM Board.
9. The Energy Regulatory Commission shall be provided with a copy of the PEM Board's resolution.
10. Under the ERC-PEMC MOA and Protocol, pending the transfer of the Market Operations functions to the Independent Market Operator, any investigation conducted against the Market Operator for Breach of the WESM Rules and WESM Manuals and/or Anti-Competitive Behavior shall be undertaken by the ERC.
11. Investigation of acts or omissions which may constitute anti-competitive behaviour shall be undertaken by the ERC, unless the ERC impliedly or expressly allows or directs PEMC to conduct the investigation.