



## RULES CHANGE COMMITTEE

### Revised Proposed General Amendments to the WESM Manual on Dispute Resolution regarding Disputes under the Retail Rules

Effective Date : 21 July 2023

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**WHEREAS**, on 12 March 2021, the Dispute Resolution Administrator (DRA) initiated proposed amendments to the WESM Manual on Dispute Resolution pertaining to the modes of arbitration for disputes under the Retail Rules, among others;

**WHEREAS**, following the rules change process, the proposal was approved as amended by the Rules Change Committee (per RCC Resolution No. 2021-07) and the PEM Board (per PEM Board Resolution No. 2021-37-05), and was consequently endorsed to the DOE for final approval on 29 July 2021;

**WHEREAS**, the DOE only partially approved the proposed amendments as expressed in its letter to the PEM Board dated 31 March 2022 and the subsequent promulgation of DOE Department Circular No. 2022-06-0021 dated 20 June 2022, which only approved the following:

- i. Proposed changes on the inclusion of Dispute Resolution between Supplier and Customer under the Retail Rules and the use of Formal Offer Arbitration or “Pendulum Arbitration”;
- ii. Proposed Guidelines for Virtual Hearings and Conference During Arbitration; and
- iii. Revision of the phrase “PEM Board and its Working Groups” to “Governance Arm” as possible impleadable party to a dispute

**WHEREAS**, as for its March 2022 letter, the DOE provided comments and recommendations regarding the portion of the proposal it did not adopt which pertains to the kinds of disputes between Suppliers and Customers under the Retail Rules that may be under the scope of the WESM Dispute Resolution Process, and directed the PEM Board and the DRA to revisit the scope of disputes covered in the proposal which should be limited only within the scope of the Retail Rules;

**WHEREAS**, on 21 June 2023, the DRA submitted a Memorandum to the Rules Change Committee (RCC) dated 16 June 2023 (Annex A) providing his responses to the DOE’s comments and recommendations, as well as proposed revisions to the amendments originally submitted to the DOE in July 2022;

**WHEREAS**, the DRA likewise presented to the RCC a summary of his response and the proposed revisions to the amendments during the latter’s 217<sup>th</sup> Meeting on 23 June 2023:

| DOE’s Comments  | DRA’s Response   |
|---|--|
| 1. Provide a mechanism in cases where the party being disputed is the PEM Board or the WESM Governance Committees (WGCs). | <ul style="list-style-type: none"> <li>• The current mode of WESM Dispute Resolution is contemplated to only admit and settle “<i>inter-partes</i>” (between the parties) disputes with subject matters that are civil, commercial or business as distinguished from those that are</li> </ul> |

Revised Proposed General Amendments to the WESM Manual on Dispute Resolution  
regarding Disputes under the Retail Rules

| DOE's Comments   | DRA's Response  |
|--|---|
|  | <p>penal, administrative or regulatory/ policy-based in nature.</p> <ul style="list-style-type: none"> <li>Disputes involving the PEM Board and the WGCs may not be the subject of an arbitrable dispute under the WESM Dispute Resolution Framework as it is inconsistent with the premise of commercial arbitration.</li> </ul>   |
| <p>2. Define limitations on the exemptions and/or scope of disputes and consider when members of the PEM Board and the WGCs could remain to be subject to a dispute on matters outside the scope of the WESM Penalty Manual.</p> | <p>There is no urgency in establishing the scope of arbitrable disputes against the PEM Board and the WGCs since aside from these types of disputes being unlikely to occur, the current framework already provides for a mechanism that would allow the DRA to preliminarily assess any dispute and decide whether such dispute is indeed arbitrable or not.</p>   |
| <p>3. Revisit the scope of disputes under the Retail Rules</p>   | <p>Limit the scope of arbitrable disputes under the Retail Rules to be considered as <u>commercial</u> in nature. The proposed new provision under Section 7.3.1 of the Dispute Resolution Manual is reworded to clarify that arbitrable disputes between Suppliers and Customers are only those that pertains to the commercial aspects of their Retail Supply Contracts but which does not include the interest of the public (Annex B). Disputes involving “the interest of the public” are excluded from the coverage of the WESM Dispute Resolution Framework as they fall under the original and exclusive jurisdiction of the ERC.</p> |

**WHEREAS**, during the same meeting, the RCC adopted the DRA's rewording of the proposed new Section 7.3.1 that further clarifies the scope of the arbitrable disputes under the Retail Rules, and likewise concurs with the DRA's responses to the DOE's comments to be submitted to the DOE for consideration;

**NOW THEREFORE**, we, the undersigned, on behalf of the sectors we represent, hereby resolve, as follows:

**RESOLVED**, that the RCC recommends the submission of the DRA's responses to the DOE regarding the latter's comments provided in its letter to the PEM Board on 31 March 2022, for the DOE's consideration, herein attached as Annex A;

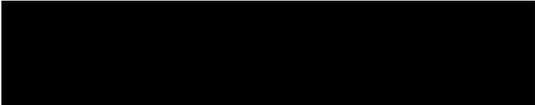
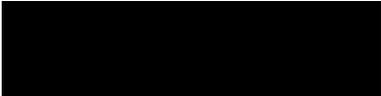
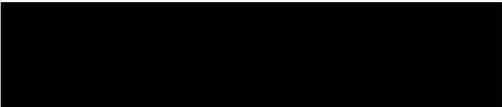
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**RESOLVED FURTHER**, that the RCC approves the Revised Proposed General Amendments to the WESM Manual on Dispute Resolution regarding Disputes under the Retail Rules attached as Annex B;

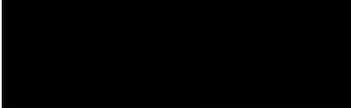
**RESOLVED FINALLY**, that the Revised Proposed General Amendments to the WESM Manual on Dispute Resolution regarding Disputes under the Retail Rules are hereby endorsed to the PEM Board for approval, and subsequent submission to the DOE for final approval.

Done this **21st** day of **July 2023**, Pasig City.

Revised Proposed General Amendments to the WESM Manual on Dispute Resolution regarding Disputes under the Retail Rules

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| <p>Approved by:<br/><b>THE RULES CHANGE COMMITTEE</b></p>  |  |
| <p>Independent Members:</p>  |  |
| <br><b>JESUSITO G. MORALLOS</b><br>Chairperson  | <br><b>JOSE RODERICK F. FERNANDO</b>   |
| <br><b>RACHEL ANGELA P. ANOSAN</b>  | <br><b>JORDAN REL C. ORILLAZA</b>  |
| <p>Generation Sector Members:</p>  |  |
| <br><b>DIXIE ANTHONY R. BANZON</b><br>Masinloc Power Partners Co. Ltd.<br>(MPPCL)           | <br><b>CHERRY A. JAVIER</b><br>Aboitiz Power Corp.<br>(APC)                                |
| <br><b>CARLITO C. CLAUDIO</b><br>Millennium Energy, Inc./ Panasia Energy, Inc.<br>(MEI/PEI) | <br><b>MARK D. HABANA</b><br>Vivant Corporation - Philippines<br>(Vivant)                  |
| <p>Distribution Sector Members:</p>  |  |
| <br><b>RYAN S. MORALES</b><br>Manila Electric Company<br>(MERALCO)                          | <br><b>VIRGILIO C. FORTICH, JR.</b><br>Cebu III Electric Cooperative, Inc.<br>(CEBECO III) |

Revised Proposed General Amendments to the WESM Manual on Dispute Resolution regarding Disputes under the Retail Rules

|  |   |
|--|---|
| <br><b>NELSON M. DELA CRUZ</b><br>Nueva Ecija II Area 1 Electric Cooperative, Inc.<br>(NEECO II – Area 1) | <br><b>RUSSEL S. ALABADO</b><br>Angeles Electric Corporation<br>(AEC) |
| Supply Sector Member:  |   |
| <br><b>GIAN KARLA C. GUTIERREZ</b><br>First Gen Corporation<br>(FGEN)                                    |   |
| Market Operator Member:  |   |
| <br><b>JOHN PAUL S. GRAYDA</b><br>Independent Electricity Market Operator of the Philippines<br>(IEMOP)  |   |
| System Operator Member:  |   |
| <br><b>DARRYL LON A. ORTIZ</b><br>National Grid Corporation of the Philippines<br>(NGCP)                |   |

| WESM Rules |        |                    |  |   |
|------------|--------|--------------------|--|---|
| Title      | Clause | Original Provision | Proposed Amendment<br>(as amended by RCC)  | Rationale   |
| GLOSSARY   | 11     | (new)              | <b><u>Interruptible Load Program. The program set out in relevant ERC issuances where an End-user, in accordance with its protocol with its Network Service Providers, voluntarily agrees to either fully de-load, by disconnecting its delivery point that receives electricity, or partially de-load by reducing its load in response to an alert or notice issued by the System Operator of an expected power shortage.</u></b> | To define Interruptible Load Program based on provisions of relevant rules and issuances on ILP |

| WESM Dispatch Protocol Manual 18.0     |        |                              |  |  |   |   |                      |
|--|--------|------------------------------|--|--|---|---|----------------------|
| Title                                  | Clause | Original Provision           |  | Proposed Amendment (as amended by RCC) | Rationale   |   |                      |
| WESM Timetable – Week-Ahead Projection | 4.3.2  | WAP Timeline                 |  | WAP Timeline                           | To establish that Market Participants should provide inputs based on reasonable estimates of their expected capability for the upcoming week. |   |                      |
|  |        | Time                         | Activity   | Responsible Party                      |   | Time  | Activity             |
|  |        | Before 0845H                 | Submit the most recent self-scheduled nominations, bids and offers for all relevant hours of the WAP run | Trading Participants                   | Before 0845H  | Submit the most recent self-scheduled nominations, bids and offers for all relevant hours of the WAP run <b><u>consistent with the provisions of Clauses 6.1.7 and 6.13 of this Manual.</u></b> | Trading Participants |
| WESM Timetable – Day-Ahead Projection  | 4.4.2  | DAP Timeline                 |  | DAP Timeline                           | To establish that Market Participants should provide inputs based on reasonable estimates of their expected capability for the upcoming week. |   |                      |
|  |        | Time                         | Activity   | Responsible Party                      |   | Time  | Activity             |
|  |        | Before [STPH1* - 10 minutes] | Submit the most recent self-scheduled nominations, bids and offers for all relevant hours of the DAP run | Trading Participants                   | Before [STPH1* - 10 minutes]  | Submit the most recent self-scheduled nominations, bids and offers for all relevant hours of the DAP run <b><u>consistent with the provisions of Clauses 6.1.7 and 6.13 of this Manual.</u></b> | Trading Participants |

| <b>WESM Manual on Billing and Settlement Issue 12.1</b> |               |                           |   |   |
|---|---------------|---------------------------|---|---|
| <b>Title</b>  | <b>Clause</b> | <b>Original Provision</b> | <b>Proposed Amendment<br/>(as amended by RCC)</b>   | <b>Rationale</b>  |
| <b>Bilateral Contract Declaration</b>                   | 9.5           | (new)                     | <p><b><u>REDECLARATIONS FOR ENERGY TRANSACTIONS</u></b></p> <p><b><u>9.5.1 Generation Companies may re-declare bilateral contract quantities in respect to:</u></b></p> <ul style="list-style-type: none"> <li>a) <b><u>Contestable Customers that are registered with the Distribution Utility as Interruptible Load Program participants;</u></b></li> <li>b) <b><u>Directly connected customers that are registered with the Transmission Network Service Provider as Interruptible Load Program participants;</u></b></li> <li>c) <b><u>Force majeure events resulting in inability to access the Market Operator’s electronic submission platform</u></b></li> </ul> | <p>To institutionalize the Interim Protocol, which is currently not officially part of the WESM Manuals</p> <p>Section 9.5.1.a and 9.5.1.b are adopted from the Interim Protocol. Section 9.5.1.c is added to accommodate cases of Trading Participants requesting for re-declaration during force majeure events resulting to inability to access the Central Registration and Settlement System</p> |
|   |               | (new)                     | <p><b><u>9.5.2 In relation to Section 9.5.1.a and 9.5.1.b of this Manual, the System Operator and Distribution Utilities shall provide the Market Operator the list of Directly Connected Customers and Contestable customers respectively participating in the Interruptible Load Program every 15<sup>th</sup> day of the month.</u></b></p>  | <p>Section 9.5.2 is adopted from the Interim Protocol.</p>  |
|   |               | (new)                     | <p><b><u>9.5.3 If re-declaration is due to Section 9.5.1.a of this Manual, the Generation Companies shall enroll the applicable Distribution Utility as a supply customer with the Market Operator prior to re-declaration in accordance with Section 3.5 of the WESM Manual on Registration, Suspension and De-Registration Criteria and Procedures.</u></b></p>   | <p>Section 9.5.3 is adopted from the Interim Protocol.</p>  |
|   |               | (new)                     | <p><b><u>9.5.4 The System Operator and Distribution Utilities shall inform the Market Operator of the actual time and duration of de-loading of their customers participating in the Interruptible Load Program no later than one (1) business day from the end of the relevant trading day the Interruptible Load Program was activated.</u></b></p>   | <p>Section 9.5.4 is adopted from the Interim Protocol.</p>  |

**WESM Manual on Billing and Settlement Issue 12.1**

| Title | Clause | Original Provision | Proposed Amendment<br>(as amended by RCC)   | Rationale  |
|-------|--------|--------------------|---|--|
|       |        | (new)              | <b><u>9.5.5 If re-declaration is due to Section 9.5.1.a of this Manual, the Generation Companies shall submit the re-declaration of bilateral contract quantities for the applicable Contestable Customers for the account of the corresponding Distribution Utilities no later than seven (7) business days from the end of the relevant trading day when the Interruptible Load Program was activated.</u></b>  | Section 9.5.5 is adopted from the Interim Protocol.  |
|       |        | (new)              | <b><u>9.5.6 If re-declaration is due to Section 9.5.1.b of this Manual, the Generation Companies shall submit the re-declaration of bilateral contract quantities for the applicable directly connected customers no later than seven (7) business days from the end of the relevant trading day when the Interruptible Load Program was activated.</u></b>   | Section 9.5.6 is adopted from the Interim Protocol.  |
|       |        | (new)              | <b><u>9.5.7 If re-declaration is due to Section 9.5.1.c of this Manual, the Generation Companies shall submit the re-declaration of bilateral contract quantities for the affected dispatch intervals, with accompanying proof of inability to access the Market Operator’s electronic submission platform, no later than seven (7) business days from the end of the relevant trading day when the <i>force majeure</i> event occurred, provided that the Generation Company shall immediately report the inability to access the Market Operator’s electronic submission platform within the day of occurrence of the <i>force majeure</i> event.</u></b> | Section 9.5.7 is proposed to accommodate cases of Trading Participants requesting for re-declaration during force majeure events resulting to inability to access the Central Registration and Settlement System |
|       |        | (new)              | <b><u>9.5.8 The Market Operator is authorized to approve a request for re-declaration of bilateral contract quantities made under Section 9.5.5 and 9.5.6 of this Manual provided that such re-declaration complies with all the following requirements:</u></b><br><br><b><u>a) The bilateral contract quantity re-declarations were submitted no later than seven (7) business days from</u></b>  | Section 9.5.8 is adopted from the Interim Protocol.  |

| WESM Manual on Billing and Settlement Issue 12.1 |        |                    |  |  |
|--|--------|--------------------|--|--|
| Title  | Clause | Original Provision | Proposed Amendment<br>(as amended by RCC)  | Rationale  |
|  |        |                    | <p><u>the end of the relevant trading day when the Interruptible Load Program was activated;</u></p> <p><u>b) The bilateral contract quantity re-declarations were only for intervals and for the CCs and/or DCCs that participated when the Interruptible Load Program was activated;</u></p> <p><u>c) The bilateral contract quantity re-declarations of Generation Companies correspond with their respective contract enrolments; and</u></p> <p><u>d) The bilateral contract re-declarations of Generation Companies follow the prescribed format and mode of submissions.</u></p>  |  |
|  |        | (new)              | <p><b><u>9.5.9 The Market Operator is authorized to approve a request for re-declaration of bilateral contract quantities made under Section 9.5.7 of this Manual provided that such re-declaration complies with all the following requirements:</u></b></p> <p><u>a) The bilateral contract quantity re-declarations were submitted no later than seven (7) business days from the end of the relevant trading day when the force majeure event occurred;</u></p> <p><u>b) The bilateral contract quantity re-declarations were only for intervals when the Market Operator’s electronic submission platform was inaccessible;</u></p> <p><u>c) The bilateral contract quantity re-declarations of Generation Companies correspond with their respective contract enrolments;</u></p> <p><u>d) The bilateral contract re-declarations of Generation Companies follow the prescribed format and mode of submissions;</u></p> <p><u>e) The Generation Company immediately reported the inability to access the Market Operator’s electronic submission platform within the day of occurrence of the force majeure event; and</u></p> | Section 9.5.9 is proposed to provide guidance to the Market Operator and Generation Companies on criteria for evaluation of submitted re-declarations. |

| WESM Manual on Billing and Settlement Issue 12.1 |        |                    |   |   |
|--|--------|--------------------|---|---|
| Title  | Clause | Original Provision | Proposed Amendment<br>(as amended by RCC)   | Rationale   |
|  |        |                    | f) <u>The Generation Company attests, by way of a public document, to the truthfulness and correctness of the submitted proof of inability to access the Market Operator’s electronic submission platform.</u>  |   |
|  |        | (new)              | <b><u>9.5.10 The Market Operator shall act upon requests for re-declaration and shall inform the WESM Member of its decision and reason for approval or disapproval within a period of five (5) working days from receipt thereof.</u></b><br><br><b><u>A monthly summary of re-declaration requests, including the reasons and decisions, shall be provided by the Market Operator to the PEM Board for information.</u></b>   | To provide timeline for approval/disapproval of request for redeclarations  |
|  |        | (new)              | <b><u>9.5.11 Disputes in respect of the Market Operator’s disapproval of a request for redeclaration may be raised within six (6) months from the WESM Member’s receipt of the Market Operator’s decision. It shall be resolved pursuant to the dispute resolution procedure set out in the WESM Rules Clause 7.3.</u></b>  | To provide recourse for participants in case of disputes in line with existing dispute resolution process   |
|  |        | (new)              | <b><u>9.5.12 Re-declarations approved after the 28<sup>th</sup> day of the calendar month shall not be included in the computation of the preliminary settlement statement and instead shall be included in the final settlement statements for that billing month.</u></b><br><br><b><u>Necessary adjustments in erroneous re-declarations reflected in the preliminary statement shall be allowed, provided that it is made before the preparation of the final settlement statement.</u></b> | To institutionalize that the re-declarations after the 28 <sup>th</sup> day shall not be included in the preliminary settlement statement but if there were adjustments in the preliminary settlement statement, this shall be allowed provided that it is made before the preparation of final settlement statement. |
|  |        | (new)              | <b><u>9.5.13 The Market Operator shall issue advisories on the mode of submissions of the re-declaration and publish the same in the Market Information Website.</u></b>  | To institutionalize the Interim Protocol, which is currently not officially part of the WESM Manuals  |

**WESM Manual on Billing and Settlement Issue 12.1**

| <b>Title</b> | <b>Clause</b> | <b>Original Provision</b> | <b>Proposed Amendment<br/>(as amended by RCC)</b> | <b>Rationale</b> |
|--------------|---------------|---------------------------|---|------------------|
|              |               |                           |   |                  |