

## RULES CHANGE COMMITTEE

### Revisions to RCC Resolution No. 20-02 Providing for Proposed Amendments to WESM Rules and WESM Manual on Market Operator Information Disclosure and Confidentiality Regarding Exceptions for Confidentiality Undertakings for Oversight Bodies (ORCP-WR-WM-19-19)



Effective Date : 17 September 2021

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**WHEREAS**, on 14 October 2019, the Independent Electricity Market Operator of the Philippines (IEMOP) submitted a proposed amendment to the WESM Rules and WESM Manual on Market Operator Information Disclosure and Confidentiality Issue 5.0 regarding Exceptions for Confidentiality Undertakings for Oversight Bodies;

**WHEREAS**, the proposal aims to facilitate a more efficient market data provisions to the DOE and ERC by providing exceptions to them as oversight bodies in receiving confidential market data and by exempting them in executing a non-disclosure agreement with the Market Operator;

**WHEREAS**, after the requisite posting of the proposal in PEMC website to call for comments, PEMC, Aboitiz Power Corporation (APC), SPC Power Corporation (SPC), SPC Island Power Corporation (SIPC) and Manila Electric Company (MERALCO) submitted their respective comments which were responded to by the proponent and were considered in the RCC's deliberations during its 159<sup>th</sup> and 160<sup>th</sup> Meetings held on 06 December 2019 and 24 January 2020, respectively;

**WHEREAS**, the RCC agreed to:

- (1) Exempt the DOE and the ERC in undertaking a non-disclosure agreement with the MO in relation to the provision of confidential market data;
- (2) Likewise exempt PEMC from executing a non-disclosure agreement; and
- (3) Include additional provisions requiring the Market Operator to request for confidential treatment of information provided to the DOE and the ERC.

**WHEREAS**, the RCC approved the proposal, as amended, for endorsement to the PEM Board by the RCC on 24 January 2020 under RCC Resolution No. 20-02<sup>1</sup>. It was subsequently approved by the PEM Board on 25 March 2020<sup>2</sup>. The proposal was endorsed to the DOE for final approval on 08 April 2020 and underwent public consultations;

**WHEREAS**, on 28 May 2021, PEMC received the DOE letter dated 20 May 2021 remanding the proposal with the position that only the DOE and ERC should be exempted from executing non-disclosure agreement considering the current governance structure of the WESM. The DOE recommended PEMC to further justify why it also must be exempted, including the members of the PEMC Board and WESM Governance Committees;

**WHEREAS**, during the 180<sup>th</sup> and 183<sup>rd</sup> Meetings held on 18 June 2021 and 20 August 2021, respectively, RCC deliberated the remanded proposal, with inputs from IEMOP and PEMC, and agreed to:

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<sup>1</sup> Proposed Amendments to the WESM Rules and WESM Manual on Information Disclosure and Confidentiality Issue 5.0 Regarding Exceptions for Confidentiality Undertakings for Oversight Bodies dated 24 January 2020

<sup>2</sup> PEM Board Resolution No. 2020-22-04 dated 25 March 2020

- (1) Remove PEMC from exempted entities to execute a non-disclosure agreement in Section 5.4.2 of the WESM Manual on Market Operator Information Disclosure and Confidentiality Issue 5.1;
- (2) Disapprove PEMC's proposal to include the Governance Arm as one of the entities to whom disclosure is automatically allowed in the WESM Rules;
- (3) Refer to WESM Rules Clauses 5.2.1.4 and 5.2.1.5 in the new proposed provision (Section 5.4.3) of the WESM Manual on Market Operator Information Disclosure and Confidentiality Issue 5.1.

**WHEREAS**, on 17 September 2021 during its 184<sup>th</sup> Regular Meeting, the RCC approved, the proposed revisions to RCC Resolution 20-02;

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

**RESOLVED**, that the RCC approves the Revisions to RCC Resolution No. 20-02 Providing for Proposed Amendments to WESM Manual on Market Operator Information Disclosure and Confidentiality Regarding Exceptions for Confidentiality Undertakings for Oversight Bodies Issue 5.0 (Annex);

**RESOLVED FURTHER**, that the said Proposed Amendments to the WESM Rules and Proposed Amendments to WESM Manual on Market Operator Information Disclosure and Confidentiality Issue 5.1 are hereby endorsed to the PEM Board for approval and subsequent transmittal to the DOE for promulgation.

Done this 17<sup>th</sup> day of **September 2021** *via* Microsoft Teams.



Approved by:  
**THE RULES CHANGE COMMITTEE**

Independent Members:

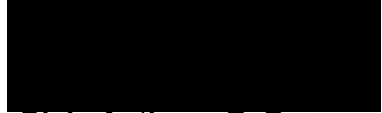
  
**Maila Lourdes G. de Castro**  
Chairperson


  
**Francisco L.R. Castro Jr.**


  
**Allan C. Nerves**

  
**Concepcion I. Tanglao**

Generation Sector Members:

  
**Dixie Anthony R. Banzon**  
Masinloc Power Partners Co. Ltd.  
(MPPCL)


  
**Cherry A. Javier**  
Aboitiz Power Corp.  
(APC)

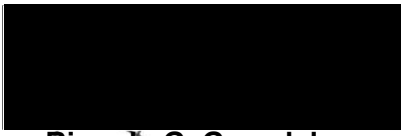
  
**Carlito C. Claudio**  
Millennium Energy, Inc./ Panasia Energy, Inc.  
(MEI/PEI)


**Mark D. Habana**  
Vivant Corporation - Philippines  
(Vivant)

Distribution Sector Members:

  
**Virgilio C. Fortich, Jr.**  
Cebu III Electric Cooperative, Inc.  
(CEBECO III)

  
**Ryan S. Morales**  
Manila Electric Company  
(MERALCO)

  
**Ricardo G. Gumalal**  
Iligan Light and Power, Inc.  
(ILPI)

  
**Nelson M. Dela Cruz**  
Nueva Ecija II Area 1 Electric Cooperative, Inc.  
(NEECO II – Area 1)

Supply Sector Member:
<div> <b>Lorreto H. Rivera</b> TeaM (Philippines) Energy Corporation (TPEC)</div>
Market Operator Member:
<div> <b>Isidro E. Cacho, Jr.</b> Independent Electricity Market Operator of the Philippines (IEMOP)</div>
System Operator Member:
<div> <b>Ambrocio R. Rosales</b> National Grid Corporation of the Philippines (NGCP)</div>



### Proposed Amendments to the WESM Rules

Title	Section	Provision	Proposed Amendment	Rationale	Revised Proposed Amendment	Rationale
CONFIDENTIALITY Conditions	5.3.3.2	In the case of a disclosure under clause 5.3.2(c), 5.3.2(f) or 5.3.2(i), the WESM member or the Market Operator (as the case may be) who wishes to make the disclosure, shall prior to making the disclosure, inform the proposed recipient of the information that it is confidential information and shall take appropriate precautions, including at the very least securing a written undertaking from the recipient that such recipient will keep the information confidential to ensure that the recipient keeps the information confidential in accordance with the provisions of this clause 5.3 and does not use the information for any purpose other than that permitted under clause 5.3.2.	In the case of a disclosure under clause 5.3.2(c), <u>or</u> 5.3.2(f) <del>or 5.3.2(i)</del> , the WESM member or the Market Operator (as the case may be) who wishes to make the disclosure, shall prior to making the disclosure, inform the proposed recipient of the information that it is confidential information and shall take appropriate precautions, including at the very least securing a written undertaking from the recipient that such recipient will keep the information confidential to ensure that the recipient keeps the information confidential in accordance with the provisions of this clause 5.3 and does not use the information for any purpose other than that permitted under clause 5.3.2.	<p>The regulatory framework of the WESM under Section 1.2.3 of the WESM Rules provides that the DOE “promulgates the detailed rules for the WESM”, while the ERC enforces the rules and regulations governing the operations of the electricity spot market and the activities of the spot Market Operator and other participants in the spot market. In view of the existing authority of both agencies over the WESM, it is proposed that the DOE and ERC not be required to execute confidentiality and non-disclosure undertakings for WESM data.</p> <p>The clause proposed to be deleted (i.e., WESM Rules Clause 5.3.2 (i) provides confidentiality exceptions to DOE and ERC and any other government authority having jurisdiction over a WESM Member as follows:</p>	None	-



Revisions to RCC Resolution No. 20-02 Providing for Proposed Amendments to WESM Manual on Market Operator Information Disclosure and Confidentiality Regarding Exceptions for Confidentiality Undertakings for Oversight Bodies (ORCP-WR-WM-19-19)

Title	Section	Provision	Proposed Amendment	Rationale	Revised Proposed Amendment	Rationale
				“5.3.2(i) The disclosure of information to the <i>ERC</i> and <i>DOE</i> and any other government authority having jurisdiction over a <i>WESM member</i> , pursuant to the <i>WESM Rules</i> or otherwise”		



**Proposed Amendments to WESM Manual on Information Disclosure and Confidentiality Issue 5.1**

Title	Section	Provision	Proposed Amendment	Rationale	Revised Proposed Amendment	Rationale
Protection of Permitted Disclosures	5.4.2	The Market Operator shall require the recipient to execute confidentiality and non-disclosure agreements or undertaking with terms and conditions consistent with this Manual and the WESM Rules. Such terms and conditions will include the undertaking to –  a) keep the information provided confidential, and not to disclose the same to any other person or entity;  b) to use the information only for the purpose for which it is provided or for purposes permitted by the WESM Rules clause 5.3.2.	The Market Operator shall require the recipient, <b><u>except for the DOE, ERC and PEMC,</u></b> to execute confidentiality and non-disclosure agreements or undertaking with terms and conditions consistent with this Manual and the WESM Rules. Such terms and conditions will include the undertaking to –  a) keep the information provided confidential, and not to disclose the same to any other person or entity;  b) to use the information only for the purpose for which it is provided or for purposes	The regulatory framework of the WESM under Section 1.2.3 of the WESM Rules provides that the DOE “promulgates the detailed rules for the WESM”, while the ERC enforces the rules and regulations governing the operations of the electricity spot market and the activities of the spot Market Operator and other participants in the spot market. In view of the existing authority of both agencies over the WESM, it is proposed that the DOE and ERC need not be required to execute confidentiality and non-disclosure undertakings for WESM data.	The Market Operator shall require the recipient, <b><u>except for the DOE and ERC,</u></b> to execute confidentiality and non-disclosure agreements or undertaking with terms and conditions consistent with this Manual and the WESM Rules. Such terms and conditions will include the undertaking to –  a) keep the information provided confidential, and not to disclose the same to any other person or entity;  b) to use the information only for the purpose for which it is provided or for purposes	Both DOE and ERC are government institutions and thus, anything submitted to them can theoretically be considered public information. However, this is not the same for PEMC.  For consistency with proposed Section 5.4.4
	(new) <b><u>5.4.3</u></b>		<b><u>For all confidential information provided to the DOE and ERC, the Market Operator shall request for</u></b>		<b><u>With due regard to WESM Rules Clauses 5.2.1.4 and 5.2.1.5, for all confidential information provided to the DOE and ERC, the Market</u></b>	The regulatory framework of the WESM under Section 1.2.3 of the WESM

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Title	Section	Provision	Proposed Amendment	Rationale	Revised Proposed Amendment	Rationale
			<u>confidential treatment of such information.</u>		<u>Operator shall request for confidential treatment of such information.</u>	Rules provides that the DOE “promulgates the detailed rules for the WESM”, while the ERC enforces the rules and regulations governing the operations of the electricity spot market and the activities of the spot Market Operator and other participants in the spot market. In view of the existing authority of both agencies over the WESM, it is proposed that the DOE and ERC need not be required to execute confidentiality and non-disclosure undertakings for WESM data.
	(new) <u>5.4.4</u>		<u>For all confidential information provided to PEMC, the Market Operator and PEMC shall execute a general non-disclosure and confidentiality agreement to facilitate information sharing.</u>		<u>For all confidential information provided to PEMC, the Market Operator and PEMC shall execute a general non-disclosure and confidentiality agreement to facilitate information sharing.</u>	

