



**WHOLESALE ELECTRICITY SPOT MARKET  
RULES CHANGE COMMITTEE**

**RESOLUTION NO. 2020-02**

**Proposed Amendments to the WESM Rules and the WESM Manual on  
Information Disclosure and Confidentiality Issue 5.0 Regarding Exceptions for  
Confidentiality Undertakings for Oversight Bodies**

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

**WHEREAS**, the proposed amendments provide exceptions for the DOE and the ERC, as oversight bodies, in receiving confidential market data, and exempting them in executing a non-disclosure agreement with the Market Operator;

**WHEREAS**, the proposal aims to facilitate a more efficient market data provision to the DOE and the ERC;

**WHEREAS**, during its 157<sup>th</sup> Meeting on 18 October 2019, the RCC approved the publication of the proposed amendments to the WESM Rules and the WESM Manual on Information Disclosure and Confidentiality Issue 5.0 in the PEMC website to solicit comments from industry stakeholders and interested parties;

**WHEREAS**, following the 30-working day commenting period from publication date on 22 October 2019, comments were received from PEMC, Aboitiz Power Corporation (APC), SPC Power Corporation (SPC) and SPC Island Power Corporation (SIPC), and Manila Electric Company (MERALCO), which, together with the proponent's responses to these comments, were considered in the RCC's deliberation during its 159<sup>th</sup> meeting on 06 December 2019;

**WHEREAS**, considering all points raised and IEMOP's response to all the comments submitted by the parties, the RCC agreed to retain the IEMOP's original proposal to exempt only the DOE and the ERC in undertaking a non-disclosure agreement with the MO in relation to the provision of confidential market data:



**WHEREAS**, during its 160<sup>th</sup> Meeting on 24 January 2020, the RCC adopted additional provisions requiring the Market Operator to request for confidential treatment of information provided to the DOE and ERC;

**WHEREAS**, during the same meeting, the RCC likewise adopted a new provision requiring a general non-disclosure and confidentiality agreement between the Market Operator and PEMC covering all confidential information;

**WHEREAS**, following the deliberation, the RCC approved the proposal, as originally submitted by IEMOP and the endorsement of the same to the PEM Board;

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

**RESOLVED**, that the RCC approves the proposed amendments to the WESM Rules and the WESM Manual on Information Disclosure and Confidentiality Issue 5.0 Regarding Exceptions for Confidentiality Undertakings for Oversight Bodies;

**RESOLVED FURTHER**, that the proposed amendments to the WESM Rules and the WESM Manual on Information Disclosure and Confidentiality Issue 5.0 Regarding Exceptions for Confidentiality Undertakings for Oversight Bodies (Annexes) are hereby endorsed to the PEM Board for approval and subsequent transmittal to the DOE for promulgation;

Done this 24 January 2020, Pasig City.

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| Approved by:<br><b>THE RULES CHANGE COMMITTEE</b>  |  |
| Independent Members:   |  |
| <br><b>Malla Lourdes G. de Castro</b><br>Chairperson                                | <br><b>Francisco L.R. Castro, Jr.</b>  |
| <br><b>Allan C. Nerves</b>  | <br><b>Concepcion I. Tanglao</b>   |
| Generation Sector Members:   |  |
| <br><b>Dixie Anthony R. Banzon</b><br>Masinloc Power Partners Co. Ltd.<br>(MPPCL) | <br><b>Abner B. Tolentino</b><br>Power Sector Assets and Liabilities<br>Management Corporation (PSALM) |
| <br><b>Cherry/A. Javier</b><br>Aboitiz Power Corp.<br>(APC)                       | <i>(vacant seat)</i>   |
| Distribution Sector Members:   |  |
| <b>Virgilio C. Fortich, Jr.</b><br>Cebu III Electric Cooperative, Inc.<br>(CEBECO3)  | <br><b>Ryan S. Morales</b><br>Manila Electric Company<br>(MERALCO)                                     |
| <br><b>Ricardo G. Gumalal</b><br>Iligan Light and Power, Inc.<br>(ILPI)           | <br><b>Jose P. Santos</b><br>Ilocos Norte Electric Cooperative, Inc.<br>(INEC)                         |

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

**Proposed Amendments to the WESM Rules and the WESM Manual on Information Disclosure and Confidentiality Issue 5.0 Regarding Exceptions for Confidentiality Undertakings for Oversight Bodies**

| WESM Manual on Information Disclosure and Confidentiality Issue 5.0 |        |  |   |  |
|---|--------|--|---|--|
| Title   | Clause | Provision  | Proposed Amendment  | Rationale  |
| Protection of Permitted Disclosures                                 | 5.4.2  | <p>The <i>Market Operator</i> 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 –</p> <p>a. keep the information provided confidential, and not to disclose the same to any other person or entity;</p> <p>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.</p> | <p>The <i>Market Operator</i> 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 –</p> <p>a. keep the information provided confidential, and not to disclose the same to any other person or entity;</p> <p>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.</p> <p><b><u>5.4.3. For all confidential information provided to the DOE and ERC, the Market Operator shall request for confidential treatment of such information.</u></b></p> <p><b><u>5.4.4. 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></b></p> | <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> |

**Annex A**

**Proposed Amendments to the WESM Rules and the WESM Manual on Information Disclosure and Confidentiality Issue 5.0 Regarding Exceptions for Confidentiality Undertakings for Oversight Bodies**

| WESM Rules                   |         |   |  |  |
|------------------------------|---------|---|--|--|
| Title                        | Clause  | Provision   | 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); <del>or 5.3.2(f) or 5.3.2(i)</del> , the <i>WESM member</i> or the <i>Market Operator</i> (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> <p>“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.”</p> |