

Report on the Dispute Resolution DRA Case No.: WESM-ARB-24-01

August 2024

This Report is prepared by the
Philippine Electricity Market Corporation –
Dispute Resolution Administrator

In compliance with the Clause 7.3.12.2 of the WESM Rules and Section 5.6 of the Dispute Resolution Manual, the DRA shall publish in the Market Information Website a Dispute Report, which shall contain the following:

- A. A summarized description of the dispute, identifying the parties and the nature of the dispute, with such details as the DRA may deem necessary to prevent future recurrence of similar disputes without necessarily causing any undue prejudice that may occur as a result of any extensive publication.
- B. The description of the dispute resolution process utilized; and
- C. The results of the award.

NATURE OF THE DISPUTE

Claims for additional compensation for Must-Run Unit (MRU) for periods (1) 10 May 2022 – 12 May 2022 and (2) 13 June 2022 to 15 June 2022.

DESCRIPTION OF THE DISPUTE

Claimant states that it is entitled to additional compensation on account of having generated power as a MRU during certain interval periods pursuant to the directive of the System Operator. It therefore seeks for the Respondent Market Operator (MO) to make a computation of the additional compensation allegedly due it and to collect the said amount from the WESM Trading Participants. Respondent MO claims otherwise and if Claimant did indeed run as a MRU, its claim is time-barred.

PARTIES TO THE DISPUTE

The following are the parties to the dispute:

Claimant : Belgrove Power Corporation (BPC)
Respondents : Independent Electricity Market Operator of the Philippines, Inc. (IEMOP); and
National Grid Corporation of the Philippines (NGCP)

COMPOSITION OF THE ARBITRAL TRIBUNAL

The following are the composition of the Arbitral Tribunal:

Chairman : Atty. Salvador S. Panga, Jr
Members : Atty. Donemark Joseph L. Calimon
Atty. Ian Ray P. Malilong

The appointment of the Arbitral Tribunal was pursuant to Section 9.4 Of the WESM Dispute Resolution Manual.

DISPUTE MANAGEMENT PROCESS UTILIZED

The request for arbitration was filed pursuant to Section 9.2.1 of the WESM Dispute Resolution Manual Issue 9.0 in relation to Section 7.1.1(d) following the agreement of the Parties to dispense with mediation and commence arbitration. The DRA issued a certification stating that mediation is no longer a viable option for the parties on 13 October 2023.

RESULTS OF THE AWARD

A review of the claims presented by the Claimant revealed that such claims rest on factual circumstances, admissions in the documents submitted and regulatory issuances. Given such, and after due deliberation, the Arbitral Tribunal ruled the following:

1. Claimant was run as a Must Run Unit during the disputed intervals.
2. It generated during those periods the quantities it asserted in its claim.
3. The Time bar provision in Clause 14.4.7 Section 14, of the WESM Dispatch Protocol Manual applies only when a party intends to raise a discrepancy in the data contained in the System Operator's Dispatch Instruction Reports and not where what is being disputed is the Market Operator's computation on the basis of such data.
4. It is in plain terms and clear intent of the DOE Circular No. 2014-01-0003 for the Malaya Thermal Power Plant to be compensated when it ran as a MRU.
5. The Arbitral Tribunal makes no ruling on the amount of additional compensation due Claimant as it was not asked to do so.

COSTS IN THIS MATTER

All administrative costs incident to this arbitration proceeding, including arbitrator's fees, Tribunal Secretary Fees, filing fees and related expenses were borne by the Claimant pursuant to Claimant's Memorandum.

FINAL AWARD

The Arbitral Tribunal accordingly decided and awarded in full and final disposition of the arbitration, as follows:

1. Respondent IEMOP was directed to make a computation of the additional compensation due Claimant for having been directed by Respondent NGCP to run as MRU from 0905H on 10 May 2022 to 0415H on 12 May 2022 and from 0605H on 13 June 2022 to 1600H on 15 June 2022, and to collect the said amount from the WESM Trading Participants for payment to Claimant.
2. The Claimant has been assessed the costs of the arbitration, as provided in the Terms of Reference and already billed and fully collected by the Dispute Resolution Administrator.
3. All other claims, counterclaims or request for relief not specifically resolved in this Award were denied.

Submitted by:



Atty. Teodoro Y. Kalaw, IV, C.Arb.
Dispute Resolution Administrator

Note: This signature has been redacted pursuant to PEMC's Documented Information Management Policy. The full version of the file is available with the DRA Secretariat of PEMC.