

**WHOLESALE ELECTRICITY SPOT MARKET
RULES CHANGE COMMITTEE**

RESOLUTION NO. 2018-06

Philippine Electricity Market Corp.
Office of the Corporate Secretary
APPROVED
AUG 13 2018
By: *J. Sop* Time: *J. Sop*

**Proposed Amendments to the WESM Rules and Various WESM Manuals
related to Market Surveillance, Enforcement and Compliance**

WHEREAS, the Rules Change Committee (RCC) received two (2) separate proposals from the Philippine Electricity Market Corporation (PEMC) and from the Market Surveillance Committee (MSC), both of which sought to amend the WESM Rules and various WESM Manuals in relation to market surveillance, enforcement and compliance;

WHEREAS, the RCC's course of action, from receipt of the proposals until approval, are herein provided:

A. Proposed Amendments to the WESM Rules and Various Market Manuals related to Market Surveillance

The subject proposal submitted by the MSC intends to enhance the market surveillance processes pertaining to: (a) market monitoring, assessment and surveillance; and (b) harmonization of the same with the ERC-PEMC Protocol pertaining to investigation of anti-competitive behavior. The proposed changes are also aligned with PEMC-Enforcement and Compliance Office's move to consolidate provisions related to enforcement and compliance that are currently in the Market Surveillance, Compliance and Enforcement Market Manual into a separate Enforcement and Compliance Manual.

The MSC submitted the proposal to the RCC on 29 December 2016, and presented the same during the RCC's 123rd Meeting on 13 January 2017.

Following initial discussions, the RCC approved the publication of the proposed amendments in the market information website to solicit comments from the WESM Members and stakeholders, giving them 30-working days from the publication of said proposal (i.e., 18 January 2017) to submit their comments.

The RCC subsequently deliberated on the proposal during its 127th, 129th and 130th regular meetings held on 17 March, 19 May and 09 June 2017, respectively, giving due consideration to the comments received from the DOE and the MSC's responses and clarifications.

The body subsequently adopted the proposed amendments to the WESM Rules and WESM Manual on Market Surveillance incorporating the following revisions:

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- *For the WESM Rules:*
 - (i) replacement of the term "PEM Committees" with "WESM Governance Committees";
 - (ii) inclusion of the definition of "WESM Governance Committee"; and
 - (iii) adoption of the proposed wording of the MSC in Section 5.3.3 (b) of the proposed WESM Manual on Market Surveillance regarding the contents of a Market Intervention Report;
- *For the WESM Manual on Market Surveillance* – provision of a 30-working day timeline for the MSC's submission of an initial Market Intervention Report to the PEM Board upon receipt of notification from the Market Operator or the System Operator
- *For various WESM Manuals* – adoption of the proposal to replace the term "PEM Committees" with "WESM Governance Committees" in the following WESM Manuals:
 - (i) PEM Audit Market Manual Issue 2.0;
 - (ii) Manual of Procedures for Changes to the WESM Rules Issue 2.0;
 - (iii) Guidelines Governing the Constitution of the PEM Board Committees Issue 2.0;
 - (iv) Dispute Resolution Market Manual Issue 5.0;
 - (v) Technical Committee Market Manual Issue 2.0;
 - (vi) Catalogue of Market Monitoring Data and Indices Issue 1.0; and
 - (vii) WESM Consultation Guidelines Issue 1.0

With the proposal due for finalization, the MSC requested the RCC to defer the endorsement of the same to the PEM Board until it has finalized the proposed amendments to the WESM Penalty Manual, which were expected to impact and necessitate further changes to the MSC Manual and the proposed ECO Manual (see item B).

With the MSC's submission of further amendments to the RCC-approved draft of the proposal, discussions on the proposals resumed on 01 June 2018 during the RCC's 141st Meeting. The additional amendments are primarily regarding the inclusion of the following in the MSC's responsibilities:

- (a) prepare and submit to the PEM Board, DOE and ERC of reports on suspected incidents of anti-competitive behaviour by any WESM participants; and
- (b) decide on appeal by WESM Members against the imposition of penalty.

The body agreed to publish the proposed revisions in the market information website to receive comments from WESM Members and stakeholders within 30-working days.

Aboitiz Power Corporation and FirstGen Corporation submitted their comments which, together with the MSC's responses and clarifications, were taken into consideration by the

RCC in its deliberation of the proposal during its 143rd Meeting on 03 August 2018. The body adopted the further amendments, as revised.

During the same meeting, the RCC approved the endorsement to the PEM Board of the proposed amendments as adopted in June 2017 combined with the further amendments.

B. Proposed Amendments to the WESM Rules and Proposed WESM Manual on Enforcement and Compliance

Submitted by PEMC on 06 December 2016, the proposal aims to:

- (i) clarify the roles and functions of the PEM Board, the Enforcement and Compliance Office, the Market Surveillance Committee and other WESM organizational units that are involved in the enforcement and compliance processes in the WESM;
- (ii) clarify the coverage of enforcement and compliance;
- (iii) enhance the processes for monitoring and investigation of possible breach of the market rules and manuals; and
- (iv) clarify the sanctions that can be imposed as a consequence of a breach.

In line with the objective of delineating the roles and responsibilities of various entities in the enforcement and compliance processes, PEMC likewise proposed to excise from the current WESM Manual on Market Surveillance, Compliance and Enforcement all provisions on enforcement and compliance which will be developed into a separate new WESM Manual, the Enforcement and Compliance Manual. It would also detail the guidelines and procedures to implement the relevant WESM Rules provision as proposed to be amended.

In crafting its proposal, PEMC recognized that the MSC also submitted to the RCC a parallel proposal to amend the WESM Manual on Market Surveillance, Compliance and Enforcement to further effect the deletion of enforcement and compliance provisions in the same.

The proposal was presented before the RCC on 13 January 2017 during its 123rd Meeting, and following initial discussions, the body approved the publication of the proposal in the market information website to request comments from WESM Members and stakeholders. After a 30-day commenting period beginning from the date of publication of the proposal on 18 January 2017, comments were received from the DOE and SN Aboitiz Power.

The RCC proceeded to deliberate on the proposal from its 127th, 128th, 129th, 131st and 132nd meetings held on 17 March, 11 April, 19 May, 07 July and 10 August 2017, respectively, giving due consideration to the comments received and PEMC's responses to the same.

From the deliberations, the RCC made the following changes in the proposed amendments to the WESM Rules:

- (i) amend Clause 1.3.1.2 to remove from the responsibilities of the Market Operator the reporting of possible incidences of anti-competitive behavior noting that such matters are beyond the Market Operator's jurisdiction;
- (ii) add provisions under the proposed Clauses 7.2.4.8 and 7.2.4.9 stating that if the Market Surveillance Committee (MSC) disagrees with the Enforcement and Compliance Office's (ECO) findings and recommendation regarding an investigation and it fails to resolve such conflict with the ECO, the MSC shall raise such disagreement via its report to the PEM Board;
- (iii) add a provision under the proposed Clause 7.2.4.10 that the PEM Board could make its own findings or assessment should there be conflict between the ECO and the MSC's assessment or recommendation; and
- (iv) clarify under Clause 7.2.4.11 that the decision of the PEM Board on the appeal submitted by a Trading Participant against whom an enforcement action was imposed by the former shall be final and executory;

With the proposal due for finalization in August 2017, the PEMC requested the RCC to defer the endorsement of the same to the PEM Board until the MSC has finalized its proposed amendments to the WESM Penalty Manual, which amendments are expected to affect and necessitate further changes to the proposed ECO Manual.

PEMC subsequently submitted on 15 May 2018 the proposed further amendments to the WESM Rules and ECO Manual as adopted by the RCC in August 2017. The additional amendments intend to lay-out a comprehensive compliance monitoring and assessment process that covers not only data gathering for determination of probable breach, but also the validation, assessment and analysis of relevant data and information from Trading Participants, Market Operator, System Operator and other various sources before determining if a Notice of Specified Penalty should be issued to a Trading Participant. Said further changes were introduced with the primary objective of giving Trading Participants due process in responding to any allegations of probable breach. Such procedures were also aligned with the procedures of the MSC as specified in the WESM Penalty Manual 2.0.

The proposal was presented to the RCC on 01 June 2018 during its 143rd meeting, after which the body approved the proposal's publication in the market information website to request comments from WESM Members and stakeholders.

Following a 30-day commenting period, the RCC received comments from Aboltiz Power Corporation and FirstGen Corporation. The deliberation of the proposal was held on 03 August 2018 during the RCC's 143rd meeting, where the RCC considered the comments and PEMC's clarifications and thereafter agreed to make revisions for enhancement and clarity.

During the same meeting, the RCC approved the endorsement to the PEM Board of the proposed amendments as adopted in August 2017 combined with the further amendments.

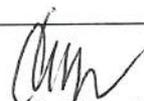
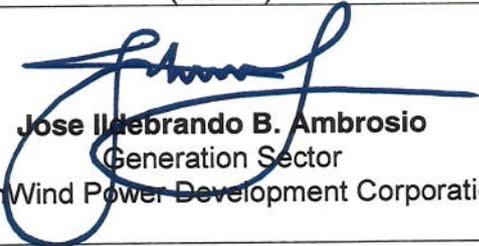
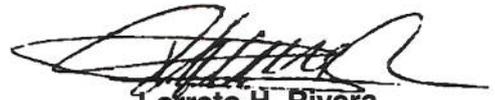
WHEREAS, having no further matters for deliberation, the RCC approved both proposals, as revised, for endorsement to the PEM Board;

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

RESOLVED, that the Proposed Amendments to the to the WESM Rules and Various WESM Manuals related to Market Surveillance and Enforcement and Compliance are hereby approved by the RCC;

RESOLVED FURTHER, that the attached Annexes of the WESM Rules and Various WESM Manuals related to Market Surveillance and Enforcement and Compliance are hereby endorsed to the PEM Board for approval and endorsement to the DOE.

Done this 03 August 2018, Pasig City.

<p>Approved by: RULES CHANGE COMMITTEE</p> <p> Maila Lourdes G. de Castro Chairperson Independent</p>	
<p>Members:</p>	
<p> Concepcion I. Tanglao Independent</p>	<p> Francisco L.R. Castro Jr. Independent</p>
<p> Allan C. Nerves Independent</p>	<p> Isidro E. Cacho, Jr. Market Operator Philippine Electricity Market Corporation (PEMC)</p>
<p> Ambrocio R. Rosales Transmission Sector National Grid Corporation of the Philippines (NGCP)</p>	<p>Abner B. Tolentino Generation Sector Power Sector Assets and Liabilities Management Corporation (PSALM)</p>
<p> Jose Ildefonso B. Ambrosio Generation Sector North Wind Power Development Corporation</p>	<p> Ciprinilo C. Meneses Distribution Sector (PDU) Manila Electric Company (MERALCO)</p>
<p> Jose P. Santos Distribution Sector (EC) Ilocos Norte Electric Cooperative, Inc. (INEC)</p>	<p> Ludovico D. Lim Distribution Sector Antique Electric Cooperative, Inc. (ANTECO)</p>
<p> Lorreto H. Rivera Supply Sector TeaM (Philippines) Energy Corporation (TPEC)</p>	<p>Noted by:</p> <p>Elaine D. Gonzales Manager – Market Data and Analysis</p>

Proposed Amendments to the WESM Rules related to Market Surveillance, Enforcement and Compliance

Title	Section	Provision	Proposed Amendment	Rationale
Responsibilities of the System Operator	1.3.3	Under these Rules, the <i>System Operator</i> shall have the following functions and responsibilities:	1.3.4. ¹ Under these Rules, the <i>System Operator</i> shall have the following functions and responsibilities:	
		(a) Be responsible for and operate the <i>power system</i> in accordance with the <i>WESM Rules</i> , the <i>Grid Code</i> and any instruction issued by the <i>Market Operator</i> or the <i>ERC</i> .	xxx	
		(b) Provide <i>central dispatch</i> to all generation facilities and loads connected, directly or indirectly, to the transmission system in accordance with the <i>dispatch schedule</i> submitted by the <i>Market Operator</i> .	xxx	
		(c) Contribute towards the development of procedures, processes or systems, or to assist with any aspect of the operation of the <i>spot market</i> , in coordination with the <i>Market Operator</i> .	xxx	
		(d) Implement the transitory provisions specified in Chapter 10; and	(d) Implement the transitory provisions specified in Chapter 10; and	

¹ As approved by the RCC under RCC Resolution 2018-02 and thereafter endorsed by the PEM Board to the DOE, said provision has been re-numbered.

Title	Section	Provision	Proposed Amendment	Rationale
		(e) Perform those actions that are required to be taken prior to the <i>spot market commencement date</i> as specified in the <i>WESM Rules</i> and clause 10.4.	(e) Perform those actions that are required to be taken prior to the <i>spot market commencement date</i> as specified in the <i>WESM Rules</i> and clause 10.4; <u>and</u>	<ul style="list-style-type: none"> To clearly state the obligation of the System Operator to monitor non-compliances with the WESM Rules by Trading Participants.
			<u>(f) Identify and report to PEMC and the DOE any apparent or possible non-compliance with the WESM Rules and Market Manuals by any WESM Member.</u>	
	1.6.2	1.6.2 Responsibilities of the Market Surveillance Committee The Market Surveillance Committee shall from time to time as necessary and appropriate, and whenever the <i>PEM Board</i> directs:	1.6.2 Responsibilities of the Market Surveillance Committee The <i>Market Surveillance Committee</i> shall from time to time as necessary and appropriate, and <u>or</u> whenever the <i>PEM Board</i> directs:	<ul style="list-style-type: none"> To clarify that the MSC should be able to carry out its functions set out under this section without need of PEM Board directive, but the latter may also direct that the MSC could take action if it wishes to do so.
		(a) Monitor activities conducted by WESM Participants in the <i>spot market</i> ;	(a) xxx	
		(b) Prepare periodic reports, which outline: <ol style="list-style-type: none"> (1) Activities of WESM Participants in the <i>spot market</i>; (2) Apparent or suspected incidents of anti-competitive behavior by any WESM Participant; and (3) Matters concerning the operation of the <i>spot market</i> generally, which reports shall be submitted to 	(b) Prepare periodic reports, which outline: <ol style="list-style-type: none"> (1) Activities of WESM Participants in the <i>spot market</i>; (2) Apparent or suspected incidents of anti-competitive behavior by any WESM Participant; and (3) Matters concerning the operation of the <i>spot market</i> generally, which reports shall be submitted to 	For clarity

Title	Section	Provision	Proposed Amendment	Rationale
		<p>the <i>PEM Board</i>, the DOE and <i>ERC</i> upon completion;</p> <p>(c) Deleted and intentionally left blank</p>	<p>the <i>PEM Board</i>, the DOE and <i>ERC</i> upon completion;</p> <p>xxx</p>	
		<p>(d) Assist the <i>PEM Board</i> or the <i>Enforcement and Compliance Officer</i> to investigate and gather evidence of: <u>(As Amended by DOE DC No. 2006-01-001 dated 10 January 2006)</u></p> <p>(1) Unusual or suspicious behavior or activities of <i>WESM members</i> in the spot market;</p> <p>(2) Suspected or alleged breaches of the <i>WESM Rules</i> by <i>WESM Members</i>; and</p> <p>(3) Suspected or alleged <i>anti-competitive behavior</i>,</p>	<p>(d) Assist the <i>PEM Board</i> or the <i>Enforcement and Compliance Officer</i> to investigate and gather evidence of: <u>(As Amended by DOE DC No. 2006-01-001 dated 10 January 2006)</u></p> <p>(1) Unusual or suspicious behavior or activities of <i>WESM members</i> in the spot market;</p> <p>(2) Suspected or alleged breaches of the <i>WESM Rules</i> by <i>WESM Members</i>; and</p> <p>(3) Suspected or alleged <i>anti-competitive behavior</i>,</p>	<ul style="list-style-type: none"> To align with the changes made in the Market Surveillance, Compliance and Enforcement Manual consistent with the ERC-PEMC Protocol. Investigation of unusual or suspicious behavior or activities of the <i>WESM Members</i> in the spot market is not part of the functions of the MSC. <p>Sec. 2.4 of the PEMC-ERC Protocol provides that PEMC shall refrain from investigating the alleged anti-competitive behavior unless the ERC has consented/directed otherwise.</p>
		(New)	<p><u>(d) Review reports of investigation of breaches of the <i>WESM Rules</i> and <i>Market Manuals</i> carried out by the <i>Enforcement and Compliance Office</i> and, based on the results of such investigation, decide on the outcomes of the investigation and</u></p>	<ul style="list-style-type: none"> To include the MSC's function in reviewing ECO Investigation Reports on Breaches of the <i>WESM Rules</i> or <i>Market Manuals</i>.

Title	Section	Provision	Proposed Amendment	Rationale
			<u>recommend imposition of sanctions or penalties if warranted.</u>	
		<p>(e) From time to time if the <i>Market Surveillance Committee</i> in its discretion deems necessary or appropriate, propose amendments to the <i>WESM Rules</i> in accordance with chapter 8 with a view to:</p> <p style="padding-left: 40px;">(1) Improving the efficiency and the effectiveness of the operation of the <i>WESM</i>; and</p> <p style="padding-left: 40px;">(2) Improving or enhancing the prospects for the achievement of the <i>WESM</i> objectives;</p> <p>(f) Assist the <i>Rules Change Committee</i> in relation to its assessment of proposals to amend the <i>WESM Rules</i> under chapter 8.</p>	<p>(e) xxx</p> <p>(f) xxx</p>	
Design and Promulgation of Penalties	1.6.3	<p>Design and Promulgation of Penalties</p> <p>(Added as per DOE DC No.2006-11-0013 dated 09November 2006)</p> <p>The Market Surveillance Committee (MSC) will design and promulgate the penalty levels and the appropriate range of penalties, for breaches and non-compliance of WESM Rules, anti-competitive behavior, and abuse of market power.</p> <p>xxx</p>	<p>1.6.3 xxx</p> <p><i>Deleted and intentionally left blank.</i></p>	<ul style="list-style-type: none"> To consolidate the provisions pertaining to enforcement and compliance in one section for a better organization of the WESM Rules. This is also to maintain Chapter 1 for provisions pertaining to organization and structure. <p><i>Note: The original section on “Design and Promulgation of Penalties” is covered under Chapter 7.2.5.5.</i></p>

Title	Section	Provision	Proposed Amendment	Rationale
THE MARKET	CHAPTER 3	THE MARKET	xxx	
Revision of Market Offers/Bids, Nominations of Loading Levels and Projected Outputs	3.5.11	Revision of Market Offers/Bids, Nominations of Loading Levels and Projected Outputs	xxx	
	3.5.11.7 (as amended by DOE Circular No. 2016-01-0002)	<p><i>Trading Participants</i> shall immediately advise the <i>System Operator</i> and <i>Market Operator</i> of any circumstances which threaten a significant probability of material adverse change in the state of their facilities in any <i>dispatch interval</i> of any <i>trading day</i> in the current <i>week-ahead market horizon</i>.</p> <p>After the occurrence of the significant event referred to above, the <i>Trading Participant</i> shall submit a written report to the <i>Market Operator</i> with supporting data immediately within the following trading day.</p>	<p><i>Trading Participants</i> shall immediately advise the <i>System Operator</i> and the Market Operator of any circumstances which threaten a significant probability of material adverse change in the state of their facilities in any <i>dispatch interval</i> of any <i>trading day</i> in the current <i>week-ahead market horizon</i>.</p> <p>After the occurrence of the significant event referred to above, the <i>Trading Participant</i> shall submit to the Enforcement and Compliance Office a written report to the Market Operator with supporting data of the significant event that occurred immediately within not later than the following trading day and such report and data so submitted shall serve as compliance by the Trading Participant of its reporting obligation under Clause 7.2.2.2. The same report and data may also be made available to the Market Operator.</p>	<ul style="list-style-type: none"> • To provide that the significant event report and supporting data required in this clause be made available to ECO instead of the Market Operator as this is intended to serve as compliance with the non-compliance reporting required in proposed clause 7.2.2.2. • To also provide that the same may be made available to the Market Operator to avoid duplication of reports and to ease reporting burden of Trading Participants.

Title	Section	Provision	Proposed Amendment	Rationale
Intervention Report	6.9.4.1	<p>Market Intervention Report</p> <p>Upon the concurrence of one or more of the following events:</p> <p>(a) a <i>market intervention</i>;</p> <p>(b) An event which, in the <i>System operator's</i> reasonable opinion, is or may be a threat to <i>system security</i>;</p> <p>(c) A force majeure event; or</p> <p>(d) An emergency,</p> <p>the PEM Board shall, within ten days thereof, direct the Market Surveillance Committee to investigate the circumstances of that event and prepare a report to assess:</p> <p>(a) The adequacy of the relevant provisions of the WESM Rules in relation to the event or events which occurred;</p> <p>(b) The appropriateness of actions taken by the System operator and the Market Operator in relation to the event or events which occurred;</p> <p>(c) The costs incurred by WESM members as a consequence of responding to the event or events; and</p> <p>(d) Any finding of potential, fault of any WESM Participant including a preliminary recommendation for further evaluation by the PEM Auditor.</p>	<p>Upon the concurrence occurrence of one or more of the following events:</p> <p>(a) a <i>market intervention</i>;</p> <p>(b) An event which, in the <i>System Operator's</i> reasonable opinion, is or may be a threat to <i>system security</i>;</p> <p>(c) A force majeure event; or</p> <p>(d) An emergency,</p> <p><u>and upon receipt of the notification from the Market Operator or the System Operator, the Market Surveillance Committee shall conduct a review, and shall prepare a Market Intervention Report including:</u> the PEM Board shall, within ten days thereof, direct the Market Surveillance Committee to investigate the circumstances of that event and prepare a report to assess:</p> <p>(a) The adequacy of the relevant provisions of the WESM Rules in relation <u>relevant</u> to the event, <u>and its proposed amendments, if any</u> or events which occurred;</p> <p>(b) The appropriateness of actions taken by the <i>System Operator</i> and or the Market Operator in relation to the event or events which occurred;</p>	<ul style="list-style-type: none"> Removed the need for the PEM Board to direct the MSC to conduct an investigation on the occurrence of a market intervention event but instead, the MSC shall conduct a review of said event accordingly. The details of the report to be prepared are proposed to be reflected in the proposed Market Surveillance Manual.

Title	Section	Provision	Proposed Amendment	Rationale
			(c) The impact and possible costs incurred by <i>WESM members</i> as a consequence of responding to the event or events; and (d) Any finding of p Potential, fault of any breaches by WESM Members Participant including a preliminary recommendation for further evaluation by the PEM Auditor.	
	6.9.5	Market Suspension Report	Market Suspension Report	
Market Suspension Report	6.9.5.1	Within ten (10) <i>business days</i> following a declaration by the <i>ERC</i> under Clause 6.9.1.1, the <i>Market Surveillance Committee, upon directive from the PEM Board</i> , shall investigate the circumstances of that event and prepare a report to assess: (a) The adequacy of the provisions of the WESM Rules relevant to the event or events which occurred; (b) appropriateness of actions taken by the Market Operator or the <i>System Operator</i> in relation to the event or events which occurred; and (As amended by DOE DC No. 2016-06-0008 dated 17 June 2016) (c) The costs incurred by the WESM members as a consequence of responding to the event or events.	Within ten (10) <i>business days</i> following a declaration by the <i>ERC</i> under Clause 6.9.1.1, the <i>Market Surveillance Committee, upon directive from the PEM Board</i> , shall investigate review the circumstances of that event and prepare a Market Suspension report. to assess: (a) The adequacy of the provisions of the WESM Rules relevant to the event or events which occurred; (b) appropriateness of actions taken by the Market Operator or the System Operator in relation to the event or events which occurred; and (As amended by DOE DC No. 2016-06-0008 dated 17 June 2016) (c) The costs incurred by the WESM members as a consequence of responding to the event or events.	<ul style="list-style-type: none"> Removed the need for the MSC to investigate the market suspension event. Similar to market intervention event, the MSC shall conduct a review of the market suspension event. <p>The details of the report to be prepared are proposed to be reflected in the proposed Market Surveillance Manual.</p>

Title	Section	Provision	Proposed Amendment	Rationale
ENFORCEMENT AND DISPUTES	Chapter 7	ENFORCEMENT AND DISPUTES	xxx	
SCOPE OF CHAPTER 7	7.1	<p>In line with the principles of self-governance, expeditious, just and least expensive disposition of disputes and considering the continuous nature of the transactions and operations of the <i>WESM</i>, this chapter sets out:</p> <p>(a) The responsibilities for ensuring that all <i>WESM members</i> comply with the <i>WESM Rules</i>;</p> <p>(b) The procedures on how the alleged breaches will be dealt with including:</p> <p>(1) The correct party to whom notice of an alleged breach of the <i>WESM Rules</i> by a <i>WESM member</i> shall be given;</p> <p>(2) The manner in which an alleged breach is to be investigated;</p> <p>(3) The manner in which a breach is to be sanctioned;</p> <p>(c) Other provisions on how disputes are to be resolved; and</p> <p>(d) The appointment of an <i>Enforcement and Compliance Officer</i>, a <i>Dispute Resolution Administrator</i> and selection of mediators and arbitrators that shall form part of the arbitration panel.</p>	<p>In line with the principles of self-governance, expeditious, just and least expensive disposition of disputes <u>and breaches of the <i>WESM Rules or Market Manuals</i></u> and considering the continuous nature of the transactions and operations of the <i>WESM</i>, this chapter sets out:</p> <p>(a) The responsibilities for ensuring that all <i>WESM mMembers</i> comply with the <i>WESM Rules</i>;</p> <p>(b) The procedures on how the alleged breaches will be dealt with including: (1) The correct party to whom notice of an alleged breach of the <i>WESM Rules</i> by a <i>WESM member</i> shall be given; (2) The manner in which an alleged breach is to be investigated; (3) The manner in which a breach is to be sanctioned;</p> <p><u>The process for enforcement of the <i>WESM Rules and Market Manuals</i> including:</u></p> <p><u>(1) The _____ procedures and responsibilities for carrying out enforcement proceedings, including the monitoring of</u></p>	<ul style="list-style-type: none"> • Proposed revision to item (b) – to reflect the proposed changes to Clause 7.2, as follows: <ul style="list-style-type: none"> a) Provisions pertaining to notices and other procedural matters be included in the proposed ECO manual instead; and b) The <i>WESM Rules</i> provisions contain the high level rules on how enforcement is to be carried out. <p><i>Note: The terms enforcement proceedings and enforcement action and their definitions are proposed to be included under the Glossary of the <i>WESM Rules</i>.</i></p>

Title	Section	Provision	Proposed Amendment	Rationale
			<p><u>compliance with the WESM Rules and Market Manuals, investigation of probable breach, and imposition of sanctions; and</u></p> <p><u>(2) the enforcement actions that can be taken as consequences of a breach, and the procedures and responsibilities for imposing and implementing the same;</u></p> <p>(c) Other provisions on how disputes are to be resolved; and</p> <p>(d) The appointment of an <i>Enforcement and Compliance Officer</i>, a <i>Dispute Resolution Administrator</i> and selection of mediators and arbitrators that shall form part of the arbitration panel.</p>	
ENFORCEMENT	7.2	ENFORCEMENT	xxx	
Compliance	7.2.1	Compliance The <i>PEM Board</i> , in consultation with the <i>Market Operator</i> and the <i>System operator</i> , shall do all things reasonably necessary to ensure that all <i>WESM members</i> comply with the <i>WESM Rules</i> .	Compliance <u>7.2.1.1 PEMC, The — PEM Board, — in consultation with</u> through the <i>Market Operator</i> and/or the <i>System Operator</i> , shall do all things reasonably necessary to ensure that all <i>WESM Members</i> comply with the <i>WESM Rules and Market Manuals; and, for this purpose, shall be responsible for enforcement of the WESM Rules and </i>	To refer to PEMC, being the governing body, and to establish the responsibilities of PEMC, the Compliance Committee and the ECO in enforcing and assuring compliance with the WESM Rules and manuals.

Title	Section	Provision	Proposed Amendment	Rationale
			<u><i>Market Manuals</i></u> in accordance with this <u><i>Clause 7.2</i></u> ; <u><i>Provided that the PEM Board shall carry out this function in conjunction with the Compliance Committee and the Enforcement and Compliance Office.</i></u>	
	7.2.1.2 (new)	NEW	<u><i>7.2.1.2 The guidelines and procedures for carrying out the enforcement proceedings and for implementing the enforcement actions and other provisions of this Clause 7.2 shall be set out in a Market Manual that shall be promulgated and amended in accordance with Chapter 8.</i></u>	<ul style="list-style-type: none"> To provide that the rules of procedure be included in a market manual (proposed Enforcement and Compliance Manual or ECO Manual) rather than set out in the WESM Rules.
Breaches of the WESM Rules and Market Manuals by WESM Members	7.2.2	Breaches of the WESM Rules by WESM Members	Breaches of the <u><i>WESM Rules and Market Manuals</i></u> by <u><i>WESM Members</i></u>	<ul style="list-style-type: none"> To explicitly include breach of the market manuals, aside from the WESM Rules, as coming under the WESM enforcement processes. To revise the entire Clause 7.2.2 to refer only to the general guidelines for monitoring and reporting of possible breach by WESM Members. Rules pertaining to the conduct of investigation and imposition of sanctions will be included in separate clauses in the WESM Rules or in the proposed ECO Manual as appropriate, for clarity and better organization.

Title	Section	Provision	Proposed Amendment	Rationale
				<p><i>Note: Specifically, section 7.2.2 is proposed to be amended as follows –</i></p> <p>a) <i>All procedural matters set out in the original clauses 7.2.2.1 to 7.2.2.6 be deleted and instead be included in the proposed Enforcement and Compliance Manual.</i></p> <p>b) <i>The proposed revision to clauses 7.2.2.1 to 7.2.2.6 shall state the high level rules that will be followed for taking of enforcement actions against WESM members.</i></p> <p>c) <i>Original clauses 7.2.2.7 to 7.2.2.9 are to be removed from this section and instead be included in section 7.2.5 which will contain all rules pertaining to imposition of sanctions and other remedies.</i></p>
	7.2.2.1	If a WESM member or the Market Operator has reasonable grounds to believe that another WESM member may have committed or may be committing a breach of the WESM Rules, the WESM member or the Market Operator shall notify the PEM Board of the alleged breach in writing as soon as possible.	<p><i>(Original provision transferred to Clause 7.2.4.3 – Enforcement Proceedings and revised)</i></p> <p>If a WESM member or the Market Operator has reasonable grounds to believe that another WESM member may have committed or may be committing a breach of the WESM Rules, the WESM member or the Market Operator shall notify the PEM Board of the alleged breach in writing as soon as possible.</p>	<ul style="list-style-type: none"> • To explicitly set out the principle that a WESM Member can only be penalized for a non-compliance with any provision of the WESM Rules or Market Manuals if there is a rule or a provision in a manual that provides that the non-compliance is subject to sanctions. • To be consistent with objectives of transparency, as WESM Members

Title	Section	Provision	Proposed Amendment	Rationale
			<p><u>The enforcement proceedings and enforcement actions set out in this Clause 7.2 may only be carried out for non-compliances with the WESM Rules or Market Manuals which are specified in the WESM Penalty Manual as subject of sanctions, or specified in any provision of the WESM Rules or any Market Manual as subject of sanctions or investigation under this Clause 7.2; Provided, however, that non-compliances with provisions of the WESM Rules or any Market Manual that is specified as subject of an action by the Market Operator without need of investigation under this Clause 7.2 shall not be subject of any enforcement proceeding or enforcement action set out in this Clause 7.2.</u></p>	<p>will be well-informed of the acts or omissions for which they can be penalized.</p> <ul style="list-style-type: none"> • To recognize that there are provisions of the WESM Rules that require the doing of an act, but a non-compliance may not necessarily warrant imposition of sanctions under this Chapter. Among these are: <ol style="list-style-type: none"> (a) Provisions of the rules that already direct the Market Operator to implement automatic sanctions – e.g., suspension or deregistration for non-compliance with prudential requirements, or non-payment of obligations. In these cases, sanctions under Chapter 7 are neither warranted nor appropriate, otherwise there will be double penalties. (b) Some provisions refer to performance standards, which are addressed by requirements for audit of market processes – e.g., market operator performance standards.

Title	Section	Provision	Proposed Amendment	Rationale
	7.2.2.2	<p>The PEM Board shall direct the Enforcement and Compliance Officer to investigate the alleged breach as soon as possible, when:</p> <p>(a) A WESM member or the Market Operator notifies the PEM Board of an alleged breach of the WESM Rules in accordance with clause 7.2.2.1; or</p> <p>(b) The PEM Board has a reasonable ground to believe that the WESM member has committed or is committing an act probably in violation of the WESM Rules; or</p> <p>(c) The Market Surveillance Committee submits a report showing suspected breaches of the WESM Rules by WESM members</p>	<p><i>(Original clause 7.2.2.2 is transferred to Clause 7.2.4.3 and revised)</i></p> <p>The PEM Board shall direct the Enforcement and Compliance Officer to investigate the alleged breach as soon as possible, when</p> <p>(a) A WESM member or the Market Operator notifies the PEM Board of an alleged breach of the WESM Rules in accordance with clause 7.2.2.1; or</p> <p>(b) The PEM Board has a reasonable ground to believe that the WESM member has committed or is committing an act probably in violation of the WESM Rules; or</p> <p>(c) The Market Surveillance Committee submits a report showing suspected breaches of the WESM Rules by WESM members</p> <p><u>Subject to Clause 3.5.11.7, a WESM Member shall notify the Enforcement and Compliance Office, in such form and by such means required by the latter, of any possible non-compliance with the WESM Rules or Market Manuals that it may have committed.</u></p>	<ul style="list-style-type: none"> • To make non-compliance reporting by WESM Members mandatory. This is to facilitate compliance monitoring by the ECO and to ensure that investigations for breach will only be initiated for unexplained non-compliances. • To specify that the submission of significant event reports supporting under WESM Rules Clause 3.5.11.7 be considered a compliance to these requirements to avoid duplication of reporting requirements.

Title	Section	Provision	Proposed Amendment	Rationale
	7.2.2.3	The <i>Enforcement and Compliance Officer</i> shall issue a written notice to the <i>WESM member</i> who is alleged to be in breach of the <i>WESM Rules</i> within five calendar days upon receipt of notice from the <i>PEM Board</i> .	<p>The <i>Enforcement and Compliance Officer</i> shall issue a written notice to the <i>WESM member</i> who is alleged to be in breach of the <i>WESM Rules</i> within five calendar days upon receipt of notice from the <i>PEM Board</i>.</p> <p><u>The <i>PEM Board</i> may, upon application of a <i>WESM Member</i> and recommendation by the <i>Enforcement and Compliance Office</i>, exempt said <i>WESM Member</i> from an investigation and imposition of sanctions for probable <i>breach</i> that are committed –</u></p> <p>a) <u>Within the first three months of membership in the <i>WESM</i> by said <i>WESM Member</i>; or</u></p> <p>b) <u>Within the first three months of the issuance of a new provision of this <i>WESM Rules</i> or a new <i>Market Manual</i>, or an amendment thereto, with respect to such new rule, market manual or amendment, if non-compliance with the same amounts to a <i>breach</i>;</u></p> <p><u>Provided, however, that no investigation for breach has been initiated pursuant to Clause 7.2.4.3.</u></p>	<p>To provide that the grant of exemption from an investigation, which is currently specified in the MCEM Manual under the provision on Non-Compliance Notice, be set out in the WESM Rules as this is a substantive authority.</p> <p><i>Note: The provision of notice and the details of the notice as provided for in original clauses 7.2.2.3, 7.2.2.4 and 7.2.2.5, and all procedural matters, are proposed to be deleted and be included instead in the proposed ECO Manual.</i></p>

Title	Section	Provision	Proposed Amendment	Rationale
	7.2.2.4	<p>The said notice issued by the <i>Enforcement and Compliance Officer</i> shall:</p> <p>(a) Specify the nature of the breach and the sanctions that may be imposed if the breach is not remedied;</p> <p>(b) Require the <i>WESM member</i> to explain in writing the alleged breach within ten (10) calendar days from receipt thereof; and</p> <p>(c) Order the <i>WESM Member</i> who is in alleged breach to immediately remedy the act or omission comprising the alleged breach or some other remedial measure, if in the opinion of the <i>Enforcement and Compliance Officer</i>, exercising due and necessary diligence, believes that some remedial or preventive measure should be taken to abate the effects of the act or omission complained of; Provided that (i) complying with the order shall not be deemed as an admission of guilt of the act or omission complained of, and (ii) shall be recognized as a mitigating factor if the complying party is later determined to be in breach</p>	<p>The said notice issued by the <i>Enforcement and Compliance Officer</i> shall:</p> <p>(a) Specify the nature of the breach and the sanctions that may be imposed if the breach is not remedied;</p> <p>(c) Require the <i>WESM member</i> to explain in writing the alleged breach within ten (10) calendar days from receipt thereof; and</p> <p>(c) Order the <i>WESM Member</i> who is in alleged breach to immediately remedy the act or omission comprising the alleged breach or some other remedial measure, if in the opinion of the <i>Enforcement and Compliance Officer</i>, exercising due and necessary diligence, believes that some remedial or preventive measure should be taken to abate the effects of the act or omission complained of; Provided that (i) complying with the order shall not be deemed as an admission of guilt of the act or omission complained of, and (ii) shall be recognized as a mitigating factor if the complying party is later determined to be in breach</p>	<ul style="list-style-type: none"> To be deleted and be included instead in the proposed ECO Manual.

Title	Section	Provision	Proposed Amendment	Rationale
	7.2.2.5	The notice shall be copy furnished to: (a) The <i>PEM Board</i> ; [and] (b) The ERC, (b) the market operator within five business days from issuance of notice.	The notice shall be copy furnished to: (a) The <i>PEM Board</i>; [and] (b) The ERC, (b) the market operator within five business days from issuance of notice.	<ul style="list-style-type: none"> To be deleted and be included instead the proposed ECO Manual.
	7.2.2.6	The <i>Enforcement and Compliance Officer</i> after according the parties due process shall determine whether the <i>WESM member</i> in question is in breach of the <i>WESM Rules</i> .	<p><i>(Original clause is transferred to/re-numbered as Clause 7.2.4.6)</i></p> <p>The <i>Enforcement and Compliance Officer</i> after according the parties due process shall determine whether the <i>WESM member</i> in question is in breach of the <i>WESM Rules</i>.</p>	<ul style="list-style-type: none"> To include all provisions pertaining to the conduct of investigation into one section.
	7.2.2.7	If the <i>Enforcement and Compliance Officer</i> determines that a <i>WESM member</i> has indeed breached a <i>WESM Rule</i> , the <i>Enforcement and Compliance Officer</i> shall require in writing the <i>WESM member</i> to remedy the breach within a reasonable period of time; <i>Provided that</i> , the period to remedy, as determined by the <i>Enforcement and Compliance Officer</i> , shall take in consideration all the attendant circumstances surrounding the breach including the nature and extent of damages or injuries caused as well as the quickest possible time required to correct the breach.	<p><i>(Original Clause 7.2.2.7 is transferred to/re-numbered as Clause 7.2.5.3 – Enforcement Actions)</i></p> <p>If the <i>Enforcement and Compliance Officer</i> determines that a <i>WESM member</i> has indeed breached a <i>WESM Rule</i>, the <i>Enforcement and Compliance Officer</i> shall require in writing the <i>WESM member</i> to remedy the breach within a reasonable period of time; <i>Provided that</i>, the period to remedy, as determined by the <i>Enforcement and Compliance Officer</i>, shall take in consideration all the attendant circumstances surrounding the breach including the nature and extent of damages or</p>	<ul style="list-style-type: none"> To include all matters concerning consequences of breach into one section.

Title	Section	Provision	Proposed Amendment	Rationale
			injuries caused as well as the quickest possible time required to correct the breach.	
	7.2.2.8 (As amended by DOE DC No. 2006-01-0001 dated 10 January 2006)	<p>The <i>Enforcement and Compliance Officer</i> may further recommend to the <i>PEM Board</i> that the <i>WESM Member</i> determined to be in breach be suspended in accordance with Clause 3.15.8 if the said <i>Member</i> has:</p> <p>(a) Committed such a breach of the <i>WESM Rules</i> and that the breach cannot be rectified;</p> <p>(b) Continued to breach the <i>WESM Rules</i> over a period of time; or</p> <p>(c) Failed to remedy a breach after it has been required to do so.</p> <p>The <i>Enforcement and Compliance Officer</i> may recommend to the <i>PEM Board</i> for approval the suspension of the party in breach in accordance with Clause 3.15.8.</p>	<p>The <i>Enforcement and Compliance Officer</i> may further recommend to the <i>PEM Board</i> that the <i>WESM Member</i> determined to be in breach be suspended in accordance with Clause 3.15.8 if the said <i>Member</i> has:</p> <p>(a) Committed such a breach of the <i>WESM Rules</i> and that the breach cannot be rectified;</p> <p>(b) Continued to breach the <i>WESM Rules</i> over a period of time; or</p> <p>(c) Failed to remedy a breach after it has been required to do so.</p> <p>The <i>Enforcement and Compliance Officer</i> may recommend to the <i>PEM Board</i> for approval the suspension of the party in breach in accordance with Clause 3.15.8.</p>	<ul style="list-style-type: none"> To delete the provision and instead include the same in the WESM Penalty Manual.
	7.2.2.9	If the breach is of such a nature that payment of compensation to affected parties is required, the <i>Market Operator</i> on behalf of the affected party may make a demand for payment under the <i>WESM Rules</i> without prejudice to the fines and penalties that the <i>ERC</i> may impose.	<p><i>(Original Clause 7.2.2.9 is transferred to/re-numbered as Clause 7.2.5.4).</i></p> <p>If the breach is of such a nature that payment of compensation to affected parties is required, the <i>Market Operator</i> on behalf of the affected party may make a demand for payment under the <i>WESM Rules</i> without prejudice to the fines and penalties that the <i>ERC</i> may impose.</p>	<ul style="list-style-type: none"> To include all matters concerning consequences of breach be into one section.

Title	Section	Provision	Proposed Amendment	Rationale
Alleged Breaches of the WESM Rules by the Market Operator or System Operator	7.2.3	Alleged Breaches of the WESM Rules by the Market Operator or System Operator	Alleged Breaches of the WESM Rules by the Market Operator or <u>the</u> System Operator	<ul style="list-style-type: none"> • Clerical edit
	7.2.3.1	If a WESM member has reasonable grounds to believe that the Market Operator or System operator is in breach of the WESM Rules, the WESM member shall notify in writing the PEM Board of the breach.	If a WESM m Member has reasonable grounds to believe that the Market Operator or <u>the</u> System e Operator is in breach of the WESM Rules, the WESM m Member shall notify in writing the PEM Board of the breach.	<ul style="list-style-type: none"> • Clerical edits
	7.2.3.2	If the PEM Board considers that the Market Operator or System Operator has committed a breach of the WESM Rules, the PEM Board shall direct the Enforcement and Compliance Officer to investigate the alleged breach as soon as possible.	If the PEM Board considers that the Market Operator or <u>the</u> System Operator has committed a breach of the WESM Rules, the PEM Board shall direct the Enforcement and Compliance Officer to investigate the alleged breach as soon as possible.	<ul style="list-style-type: none"> • Clerical edit
	7.2.3.3	The Enforcement and Compliance Officer shall issue a written notice to the Market Operator or the System operator within five business days upon receipt of notice from the PEM Board.	<p>The Enforcement and Compliance Officer shall issue a written notice to the Market Operator or the System operator within five business days upon receipt of notice from the PEM Board.</p> <p><u>The guidelines and procedures for investigation of the System Operator or the Market Operator shall be set out in the Market Manual adopted pursuant to Clause 7.2.1.2.</u></p>	<ul style="list-style-type: none"> • To include all procedural matters, including the investigation of WESM Members, in the proposed ECO Manual.

Title	Section	Provision	Proposed Amendment	Rationale
	7.2.3.4	<p>The notice which the Enforcement and Compliance Officer is required to issue under clause 7.2.3.3 shall:</p> <p>(a) Specify the nature of the breach and the sanctions which may be imposed if the breach is not remedied; and</p> <p>(b) Require the <i>Market Operator</i> or the <i>System Operator</i> to explain in writing the alleged breach within a reasonable period of time.</p>	<p>The notice which the Enforcement and Compliance Officer is required to issue under clause 7.2.3.3 shall:</p> <p>(a) Specify the nature of the breach and the sanctions which may be imposed if the breach is not remedied; and</p> <p>(b) Require the <i>Market Operator</i> or the <i>System Operator</i> to explain in writing the alleged breach within a reasonable period of time.</p> <p><u>If the investigation carried out pursuant to Clause 7.2.3.3 confirms the occurrence of a breach, the PEM Board shall cause the issuance of a notice to the <i>Market Operator</i> or the <i>System Operator</i> to remedy the breach and carry out measures to prevent its recurrence and to mitigate its adverse impact.</u></p>	<ul style="list-style-type: none"> • To clarify that the notice of breach shall be issued only after completion of an investigation. • To provide that the final action be taken by the PEM Board and not the ECO.
	7.2.3.5	<p>The notice issued under clause 7.2.3.3 shall be copy furnished to:</p> <p>(a) The PEM Board; and</p> <p>(b) The ERC.</p>	<p>The notice issued under clause 7.2.3.34 shall be copy furnished to:</p> <p>(a) The PEM Board <u>DOE</u>; and</p> <p>(b) The <i>ERC</i>.</p>	<ul style="list-style-type: none"> • To clarify that the PEM Board will be issuing the notice under the proposed Clause 7.2.3.4 of the WESM Rules.

Title	Section	Provision	Proposed Amendment	Rationale
	7.2.3.6	If the breach is of such a nature that payment of compensation to affected parties is required, the PEM Board on behalf of the affected party may make a demand for payment from the Market Operator or the System Operator under the WESM Rules without prejudice to the fines and penalties that the ERC may impose.	If the breach is of such a nature that <u>the PEM Board determines that</u> payment of compensation to affected parties is required, the PEM Board <u>it may</u> , on behalf of the affected party, may make a demand for payment from the <i>Market Operator</i> or the <i>System Operator</i> <u>ensuring, however, that the amount of compensation to be imposed will not affect the viability and sufficiency of resources for the normal and efficient operation of the Market Operator or the System Operator</u> under the WESM Rules <u>and</u> without prejudice to the fines and penalties that the <i>ERC</i> may impose.	<ul style="list-style-type: none"> • To add express provision that there is a determination that compensation is due, and that the decision be taken by the PEM Board instead of the ECO. • That the compensation should not affect the viable operations of the System Operator and Market Operator. This proviso is taken from the MSCE Manual.
	7.2.3.7	If a breach by the <i>Market Operator</i> is not rectified within a reasonable time from the notice issued under clause 7.2.3.3 or is incapable of rectification, the <i>PEM Board</i> may file a formal complaint to the <i>ERC</i> .	If a breach by the <i>Market Operator</i> <u>or the System Operator</u> is not rectified within a reasonable time from the notice issued under clause 7.2.3.3 4 or is incapable of rectification, the <i>PEM Board</i> may file a formal complaint to the <i>ERC</i> .	<ul style="list-style-type: none"> • To include breach by the System Operator. • To change the reference clause consistent with the proposed revision to Clause 7.2.3.4.

Title	Section	Provision	Proposed Amendment	Rationale
	7.2.3.8	NEW	<p><u>The results of the investigation by the Enforcement and Compliance Office, the decision of the PEM Board and all actions by these parties in accordance with this Clause 7.2.3 shall not be subject to dispute resolution under Clause 7.3.</u></p>	<ul style="list-style-type: none"> To clarify that the findings of breach and any action taken as a consequence of the breach are not subject of dispute resolution. In this case, the remedy should be to invoke the jurisdiction of the ERC.
Investigations	7.2.4	Investigations	Investigations <u>Enforcement Proceedings</u>	<ul style="list-style-type: none"> To capture in the heading, the changes under this section, i.e., inclusion as well of other enforcement processes, particularly compliance monitoring.
	7.2.4.1	The <i>Enforcement and Compliance Officer</i> may request from the <i>WESM member</i> who is alleged to be in breach of the <i>WESM Rules</i> all information relating to the breach.	<p><i>(The original Clause 7.2.4.1 is proposed to be deleted and instead included in the proposed ECO Manual.)</i></p> <p>The <i>Enforcement and Compliance Officer</i> may request from the <i>WESM member</i> who is alleged to be in breach of the <i>WESM Rules</i> all information relating to the breach. (As amended by DOE DC No. 2006-01-0001 dated 10 January 2006)</p> <p><u>The Enforcement and Compliance Office shall regularly monitor the activities of WESM Members, other than the System Operator, in the WESM to make a preliminary determination if a probable</u></p>	<ul style="list-style-type: none"> To oblige the Enforcement and Compliance Office to regularly monitor for breach. This transfers the responsibility of monitoring of probable breach from the Market Surveillance Committee and the Market Assessment Group to the ECO. To exclude the System Operator in the ECO's regular monitoring of WESM Members' activities as it will be covered by Clause 7.2.3. The expressed reference to System Operator is because, unlike the Market Operator, it is classified as a

Title	Section	Provision	Proposed Amendment	Rationale
			<p><u>breach of the WESM Rules or Market Manuals may have been committed by any WESM Member.</u></p>	<p>WESM Member under Chapter 2 of the WESM Rules.</p>
	7.2.4.2	<p>If the <i>Enforcement and Compliance Officer</i> makes a request for information under clause 7.2.4.1, it shall provide to the <i>WESM member</i> to whom the request is made the reasons for the request.</p>	<p><i>(The original Clause 7.2.4.2 is proposed to be deleted and included in the proposed ECO Manual.)</i></p> <p>If the <i>Enforcement and Compliance Officer</i> makes a request for information under clause 7.2.4.1, it shall provide to the <i>WESM member</i> to whom the request is made the reasons for the request. (As amended by DOE DC No. 2006-01-0001 dated 10 January 2006)</p> <p><u>The monitoring and determination of breach by the Enforcement and Compliance Office under Clause 7.2.4.1 shall be made on the basis of available information, including but not limited to:</u></p> <p>a) <u>Market and dispatch data and reports from the Market Operator and the System Operator;</u></p> <p>b) <u>Information contained in non-compliance reports submitted by the WESM Member pursuant to Clause 7.2.2.2 and other reports submitted by the WESM Member to PEMC and to the Market Operator pursuant to these</u></p>	<p><u>Proposed Amendment</u></p> <ul style="list-style-type: none"> • To provide for compliance monitoring by the ECO. The purpose of the monitoring is to determine whether there is possible breach, and if there is, for the ECO to initiate a full investigation. • To specify the information upon which the monitoring is carried out by the ECO, ensuring that the ECO does not exercise this function discretionarily. In particular, this ensures that the ECO considers all available information so that investigations will not be unnecessarily initiated. <p><i>Note: Further limits are provided for in the other succeeding clauses:</i></p> <p>a) <i>Specifying the types of breach to which the compliance monitoring applies (this will be specified in proposed WESM Penalty Manual).</i></p>

Title	Section	Provision	Proposed Amendment	Rationale
			<p><u>WESM Rules and relevant Market Manuals; and</u></p> <p>c) <u>Data and reports from the DOE, ERC, or other government agencies that has jurisdiction over the WESM Member or over its operations, if such data and reports have been made available to the Enforcement and Compliance Office.</u></p> <p><u>The Enforcement and Compliance Office shall ensure that the necessary verification or assessment of compliance or non-compliance is performed and that due process is observed in the conduct of compliance monitoring and assessment. Upon finding of breach, penalties may immediately be imposed by the Enforcement and Compliance Office on the concerned WESM Member pursuant to clause 7.2.5.2.</u></p>	<p>b) <i>Requiring strict compliance with procedures – which will provide further safeguard and measures to protect the WESM members from capricious actions.</i></p> <ul style="list-style-type: none"> • On item (b) - To include data and reports related to non-compliance be made to PEMC as governing body of WESM. • Note: This should not exclude any other data or reports which may be required by the Market Operator but eventually be needed by PEMC in the determination of probable breach. • Note: The compliance monitoring and assessment activity of ECO is designed to be comprehensive enough to cover the validation, assessment, and analysis of the submitted data or information from the trading participants, the Market Operator, the System Operator, and such other relevant information from various sources. With this, there is no need for further investigation.

Title	Section	Provision	Proposed Amendment	Rationale
				<ul style="list-style-type: none"> There may still be investigation but not as a result of the compliance monitoring of ECO; rather, it can be initiated in accordance with the succeeding clause. (See section 7.2.4.3) The added provision (last paragraph): to provide for the effect/results of the compliance activities, i.e., these will be the basis for the imposition of penalties.
	7.2.4.3	<p>If a <i>WESM member</i> fails to comply with a directive or request by the Enforcement and Compliance Officer for information under clause 7.2.4.1, the Enforcement and Compliance Officer may request the Market Surveillance Committee to investigate the matter and to prepare a report or such other documentation as the Enforcement and Compliance Officer may determine.</p>	<p><i>Re-numbered (previously Clause 7.2.2.1 and 7.2.2.2) with proposed changes:</i></p> <p>If a <i>WESM member</i> fails to comply with a directive or request by the Enforcement and Compliance Officer for information under clause 7.2.4.1, the Enforcement and Compliance Officer may request the Market Surveillance Committee to investigate the matter and to prepare a report or such other documentation as the Enforcement and Compliance Officer may determine. (As amended by DOE DC No. 2006-01-0001 dated 10 January 2006)</p> <p><u>The Enforcement and Compliance Office shall initiate an investigation against a WESM Member upon:</u></p>	<p><u>Proposed Amendment</u></p> <ul style="list-style-type: none"> To specify that the ECO can initiate an investigation based on the results of its monitoring. Initiation by ECO will take the place of the initiation by the Compliance Committee. To specify that the endorsement by the PEM Board be omitted and instead oblige the ECO to immediately initiate an enforcement process based on the results of its monitoring of participant transactions or upon complaint or report of alleged breach. This shortens the process as investigations are initiated

Title	Section	Provision	Proposed Amendment	Rationale
			<p>(a) <u>report of possible breach or request for investigation submitted to it by any WESM Member, the Market Operator, the System Operator, or any of the WESM committees or their members; or</u></p> <p>(b) <u>a directive from the Energy Regulatory Commission specifically directing investigation for breach for possible imposition of sanctions under these Rules or implementing manual.</u></p> <p><u>Provided, however, that the PEM Board or any of its members, or the Compliance Committee or any of its members may not request for or initiate an investigation.</u></p>	<p>immediately and without need of convening the PEM Board.</p> <ul style="list-style-type: none"> To specify that the Compliance Committee may no longer initiate an investigation to avoid perceptions of prejudice and avoid potential conflicts as the Compliance Committee will review the results of the investigations by the ECO. <p><i>Note: The proposed ECO Manual also provides for an investigation by the ECO upon the directive of the ERC or other government agency. This, however, is not included in this provision as this is more properly covered by the regulation of the issuing government agency. Its inclusion in the proposed manual is to provide for a procedure that the ECO can follow in case the government agency does not specify the procedure.</i></p> <p>For item (b):</p> <ul style="list-style-type: none"> ECO may still investigate based on: <ul style="list-style-type: none"> Report of possible breach by MO or SO or WESM Members Request for investigation; and ERC directives

Title	Section	Provision	Proposed Amendment	Rationale
	7.2.4.4	<p>A WESM Member shall cooperate with the Market Surveillance Committee to undertake the investigation and to prepare the report or other documentation under clause 7.2.4.3 and shall, at the request of the Market Surveillance Committee, use its best endeavors to ensure that third parties make available such information as the person may reasonably be required for the purpose of the investigation.</p>	<p><i>(Original Clause 7.2.4.4 is proposed to be deleted to set out all procedural matters in the ECO Manual.)</i></p> <p>A WESM Member shall cooperate with the Market Surveillance Committee to undertake the investigation and to prepare the report or other documentation under clause 7.2.4.3 and shall, at the request of the Market Surveillance Committee, use its best endeavors to ensure that third parties make available such information as the person may reasonably be required for the purpose of the investigation.</p> <p><u>An investigation shall be initiated no later than two (2) years from the date of the occurrence of the act or omission constituting the probable breach; and after the lapse of two (2) years, no investigation may be carried out in respect of said act or omission.</u></p>	<ul style="list-style-type: none"> To provide for a prescriptive period for the investigation of breach. The intention is to ensure that a party is investigated within a reasonable period after an act or omission constituting probable breach is committed.
	7.2.4.5	<p>In the event that an alleged breach exists, the participant in breach shall bear the cost of the investigation and preparation of the report or other documentation under clause 7.2.4.3.</p>	<p>In the event that an alleged breach exists, the participant in breach shall bear the cost of the investigation and preparation of the report or other documentation under clause 7.2.4.3.</p> <p><u>The investigation shall be carried out strictly in accordance with this Clause 7.2</u></p>	<p>To specify that the procedures that will be adopted by the PEM Board is the proposed Enforcement and Compliance Manual (or ECO Manual).</p>

Title	Section	Provision	Proposed Amendment	Rationale
			<p><u>and the <i>Market Manual</i> adopted pursuant to Clause 7.2.1.2.</u></p>	
	7.2.4.6	<p>Any report or other documentation referred to in this clause 7.2.4 may be used in any proceeding under or in relation to the <i>WESM Rules</i> or for the purpose of commencing any such proceeding.</p>	<p><i>(Original Clause 7.2.4.6 is transferred to/re-numbered as Clause 7.2.7.2)</i></p> <p>The Enforcement and Compliance Officer after according the parties due process shall determine whether the WESM member in question is in breach of the WESM Rules. <u>In carrying out its investigations,</u> the Enforcement and Compliance Officer shall <u>accord</u> the parties <u>opportunity to be heard.</u></p>	<ul style="list-style-type: none"> To simplify the language used. <p><i>Note: The proposed provision is based on the following original clause:</i></p> <p>7.2.2.6. The Enforcement and Compliance Officer after according the parties due process shall determine whether the WESM member in question is in breach of the WESM Rules.</p>
	7.2.4.7	<p>All information provided under this clause 7.2.4 shall be treated in accordance with clause 5.3.</p>	<p><i>(Original Clause 7.2.4.7 is transferred to/re-numbered Clause 7.2.7.1)</i></p> <p>All information provided under this clause 7.2.4 shall be treated in accordance with clause 5.3.</p> <p><u>After completing its investigation, the Enforcement and Compliance Office shall submit to the Compliance Committee a report setting out its findings of fact, its assessment as to whether a breach has been committed, and its recommendations on the appropriate enforcement actions that can be carried out.</u></p>	<ul style="list-style-type: none"> To provide the procedure for the ECO's submission of a report to the Compliance Committee regarding the results of its investigation and its recommendations. Note: This provision refers to investigation results which emanated from a request for investigation, report of probable breach from the Market Operator,

Title	Section	Provision	Proposed Amendment	Rationale
				System Operator or WESM Members, or directive of the ERC.
	7.2.4.8 (new)	NEW	<p><u>7.2.4.8 The Compliance Committee shall review the following:</u></p> <p><u>a) status of the compliance monitoring and assessment activities and implementation of sanctions by the Enforcement and Compliance Office on a periodic basis;</u></p> <p><u>b) results of the investigation initiated in accordance with clause 7.2.4.3, and the recommendations of the Enforcement and Compliance Office to confirm if a breach has been committed and shall, thereafter, submit its report and corresponding recommendations to the PEM Board as follows:</u></p> <p><u>i. if it confirms that a breach has been committed, it shall recommend the imposition of the proper penalty in accordance with the WESM Penalty Manual adopted pursuant to Clause 7.2.5.5 and other enforcement actions in accordance with Clause 7.2.5; or</u></p>	<ul style="list-style-type: none"> • To institutionalize the review process of the Compliance Committee, which is currently provided for only in the MSCEM Manual. As this is a substantive function, it should be mandated in the WESM Rules and not only in a market manual. • To provide that if the Compliance Committee finds that there was breach, it shall recommend the proper penalty (based on the WESM Penalty Manual) and other enforcement actions, such as remedial measures and other corrective actions. • For item (a) – to differentiate the action that may be undertaken by the Compliance Committee with respect to the compliance monitoring activity of ECO and on the conduct of investigation.

Title	Section	Provision	Proposed Amendment	Rationale
			<p><u>ii. if it confirms that no <i>breach</i> has been committed, it shall recommend the closure of the <i>enforcement proceeding</i>; and</u></p> <p><u>iii. if there is conflict between its own findings or assessment and that of the <i>Enforcement and Compliance Office</i>, it shall include in its report a statement of the conflict in the findings or assessment and the matters that are to be submitted to the <i>PEM Board</i> for resolution.</u></p>	<p>✓ <u>Compliance monitoring and assessment (complete/comprehensive assessment) – ECO immediately implements the sanction; Compliance Committee to check only the status of activities and implementation of sanctions</u></p> <p>✓ <u>Investigation – Compliance Committee reviews the results of investigation first before it recommends sanctions.</u></p>
	7.2.4.9 (new)	NEW	<p><u>7.2.4.9 In carrying out its review, under clause 7.2.4.8 (b), the <i>Compliance Committee</i> shall remand the case to the <i>Enforcement and Compliance Office</i> if it determines that:</u></p> <p><u>a) the procedures set out in this Clause 7.2 and in the <i>Market Manual</i> adopted pursuant to Clause 7.2.1.2 were not complied with in whole or in part; or</u></p> <p><u>b) the data or any part thereof relied upon by the <i>Enforcement and Compliance Office</i> in its findings and assessment is not valid; or</u></p> <p><u>c) further investigation is required to consider additional or new information</u></p>	<ul style="list-style-type: none"> • To set out the obligations of the Compliance Committee in carrying out the review and the boundaries of the review. The Compliance Committee may only remand and not conduct its own investigation, as it is the ECO's primary role to investigate. • Proposed item (c): to ensure that all available information is considered in disposing of the investigation.

Title	Section	Provision	Proposed Amendment	Rationale
			<p><u>that was not previously considered or not made available to the <i>Enforcement and Compliance Office</i> and which it believes may materially affect the findings of the investigation if such information is to be considered; or</u></p> <p>d) <u>it disagrees with the findings of facts or the assessment of the <i>Enforcement and Compliance Office</i>, provided, however, that the <i>Compliance Committee</i> and the <i>Enforcement and Compliance Office</i> shall endeavor in good faith to resolve any conflicting findings and assessment, and provided, furthermore, that if no resolution is arrived at, the matter shall be included in the report to be submitted by the <i>Compliance Committee</i> to the <i>PEM Board</i> pursuant to Clause 7.2.4.8.</u></p>	<ul style="list-style-type: none"> To set out the procedure to be undertaken in instances when the Compliance Committee and the ECO have conflict in their respective assessment of the results of the investigation. <p><i>Note: Items (a) and (b) are taken from the MSCEM Manual.</i></p> <ul style="list-style-type: none"> To clarify that this provision only applies to investigation (not to the compliance monitoring activity)
	7.2.4.10 (new)	NEW	<p><u>7.2.4.10 The <i>PEM Board</i> shall act on the recommendations of the <i>Compliance Committee</i> to:</u></p> <p>a) <u>if a <i>breach</i> has been committed, determine the appropriate <i>enforcement action</i> that shall be carried out, in accordance with Clause 7.2.5.2 and the <i>WESM Penalty Manual</i> adopted</u></p>	<ul style="list-style-type: none"> To specify the procedure that closure is declared in case the MSC finds that there is no breach. Otherwise, the case is not yet closed as there are further actions that need to be carried out, such as the imposition of sanctions.

Title	Section	Provision	Proposed Amendment	Rationale
			<p><u>pursuant to Clause 7.2.5.5, and cause the implementation of the same; or</u></p> <p><u>b) if no breach has been committed, direct the closure of the enforcement proceeding; and</u></p> <p><u>c) if there is a conflict between the findings or assessment of the Enforcement and Compliance Office and that of the Compliance Committee, resolve the same and make its own findings or assessment.</u></p>	
	7.2.4.11 (new)	NEW	<p><u>The decision of the PEM Board shall be final and immediately executory upon its issuance.</u></p>	<ul style="list-style-type: none"> To explicitly state when the decision of the PEM Board on the results of an investigation and the resulting recommendation should take effect.
Sanctions	7.2.5	Sanctions	<p>Sanctions <u>Enforcement Actions</u></p>	<ul style="list-style-type: none"> To include the different enforcement actions, in addition to sanctions, that can be required or carried out in cases of breach.

Title	Section	Provision	Proposed Amendment	Rationale
	7.2.5.1	The <i>ERC</i> shall have the original and exclusive jurisdiction over all cases contesting rates, fees, fines and penalties imposed by the <i>ERC</i> in the exercise of its powers, functions and responsibilities, and over all cases involving disputes between and among participants or players in the <i>energy sector</i> .	xxx	
	7.2.5.2	In line with the principles stated in clause 7.1, the <i>PEM Board</i> may impose sanctions on any participant of the <i>WESM</i> for breach of any provision of the <i>WESM Rules</i> ; Provided that this is without prejudice to the authority of <i>ERC</i> to impose fines and penalties pursuant to Section 46 of the <i>Act</i> .	<p>In line with the principles stated in Clause 7.1:</p> <p><u>a) The Enforcement and Compliance Office may impose penalties upon completion of its compliance monitoring and after consideration of all the information referred to in clause 7.2.4.2 following the procedures provided in the WESM Penalty Manual; and</u></p> <p><u>b) The PEM Board acting upon the results of the investigation by the Enforcement and Compliance Office and recommendations of the Compliance Committee submitted pursuant to Clause 7.2.4.8, may impose sanctions direct upon on any participant of the WESM Member, other than the System Operator or the Market Operator, any of the following enforcement actions for breach of any provision of the WESM Rules or Market Manuals:</u></p>	<ul style="list-style-type: none"> • To explicitly state the: <ul style="list-style-type: none"> a) authority of the PEM Board to require that enforcement actions be taken as a consequence of breach, and the types of action that can be taken; b) the specific enforcement actions that can be carried out against an erring WESM Member; c) PEM Board imposition of enforcement action upon the results of the ECO investigation and the Compliance Committee recommendation; d) inclusion of breach of Market Manuals under the coverage of the enforcement authority of the PEM Board; and

Title	Section	Provision	Proposed Amendment	Rationale
			<p>i. <u>Imposition of financial or non-financial penalties in accordance with the WESM Penalty Manual adopted pursuant to Clause 7.2.5.5;</u></p> <p>ii. <u>Implementation of remedial measures to prevent recurrence of or mitigate any adverse impact of the breach;</u></p> <p>iii. <u>Cessation of the act, activity or practice constituting the breach, or carrying out of an act, activity or practice the omission of which constitutes the breach; or</u></p> <p>iv. <u>Any other corrective action, as may appropriate given the circumstances surrounding the breach.</u></p> <p>Provided that this <u>The imposition of penalties by the PEM Board is shall be</u> without prejudice to the authority of ERC to impose fines and penalties pursuant to Section 46 of the Act.</p>	<p>e) exclusion of the MO and SO, as their investigation is subject to clause 7.2.3.</p> <p><i>Note: The WESM Penalty Manual shall contain the details of the enforcement actions and related guidelines and procedures.</i></p> <ul style="list-style-type: none"> To authorize ECO to implement the penalties in accordance with the proposed Penalty Manual 2.0.
	7.2.5.3 (new; previously 7.2.2.7)	If the <i>Enforcement and Compliance Officer</i> determines that a <i>WESM member</i> has indeed breached a <i>WESM Rule</i> , the <i>Enforcement and Compliance Officer</i> shall require in writing the <i>WESM member</i> to remedy the breach within a reasonable period of time; <i>Provided that</i> , the period to remedy, as determined by the <i>Enforcement and</i>	If the <i>Enforcement and Compliance Officer</i> determines that a <i>WESM member</i> has indeed breached a <i>WESM Rule</i>, the <i>Enforcement and Compliance Officer</i> shall require in writing the <i>WESM member</i> to remedy the breach within a reasonable period of time; <i>Provided that</i>, the period to remedy, as determined by the <i>Enforcement and Compliance Officer</i>,	<ul style="list-style-type: none"> To provide the remedial measures that will be carried out pending an investigation. It is intended to allow for remedies to be already implemented while investigation is ongoing so that adverse impact can

Title	Section	Provision	Proposed Amendment	Rationale
		<p><i>Compliance Officer</i>, shall take in consideration all the attendant circumstances surrounding the breach including the nature and extent of damages or injuries caused as well as the quickest possible time required to correct the breach.</p>	<p><u>7.2.5.3 In the course of an investigation or compliance monitoring, the <i>Enforcement and Compliance Office</i> or the <i>Compliance Committee</i> may require the <i>WESM Member</i> undergoing investigation to take remedial measures within a reasonable period to mitigate the adverse impact of the act or omission constituting the <i>breach</i> shall take taking</u> in consideration all the attendant circumstances surrounding the breach including the nature and extent of damages or injuries caused as well as the quickest possible time required to correct the breach carry out the remedial measure.</p>	<p>be prevented or mitigated the soonest.</p> <ul style="list-style-type: none"> The remedial measure referred to in clause 7.2.5.2 (b) shall be imposed by the PEM Board after an investigation is completed.
	<p>7.2.5.4 (new; previously Clause 7.2.2.9)</p>	<p>If the breach is of such a nature that payment of compensation to affected parties is required, the <i>Market Operator</i> on behalf of the affected party may make a demand for payment under the <i>WESM Rules</i> without prejudice to the fines and penalties that the <i>ERC</i> may impose.</p>	<p>If the breach is of such a nature that payment of compensation to affected parties is required, the <i>Market Operator</i> on behalf of the affected party may make a demand for payment under the <i>WESM Rules</i> without prejudice to the fines and penalties that the <i>ERC</i> may impose.</p> <p><u>7.2.5.4 If the <i>breach</i> by any <i>WESM Member</i> has resulted in a financial loss to any <i>Trading Participant</i> and a corresponding financial gain to another <i>Trading Participant</i>, the <i>PEM Board</i>, upon application by the aggrieved <i>Trading Participant</i> submitted no later than one year from the final disposition of the <i>breach</i></u></p>	<ul style="list-style-type: none"> To put the parties in the same or similar position that they would have been if the breach of a <i>WESM Member</i> had not occurred. It should be clarified that the compensation referred to is not necessarily a form of damages that will be paid by the party in breach. Considering, however, that the determination of loss or gain arising from a breach may be difficult, it is proposed to limit this only to those that can be determined in the <i>WESM</i> settlements.

Title	Section	Provision	Proposed Amendment	Rationale
			<p><u>and upon recommendation by the Enforcement and Compliance Office and the Market Operator, may require the payment of compensation to the party suffering financial loss by the party that financially benefited from the breach; Provided, however, that financial loss or benefit shall be understood as pertaining to a Trading Participant's transactions in the WESM and is readily determinable in the WESM settlements.</u></p>	<ul style="list-style-type: none"> • Compensation shall be awarded only upon application and determination by the ECO and the MO that compensation is due. • Application for compensation should be made within one year from the final disposition of the <i>breach</i>.
	7.2.5.5 (new, previously 1.6.3)	<p>The Market Surveillance Committee (MSC) will design and promulgate the penalty levels and the appropriate range of penalties, for breaches and non-compliance of WESM Rules, anti-competitive behavior, and abuse of market power.</p> <p>The MSC will conduct consultations with the Rules Change Committee and the PEM Board in its formulation of the penalty levels and appropriate range of penalties.</p> <p>The penalty scheme and any changes made by the MSC will be published in the Market Information Website and a copy furnished to the PEM Board and the Rules of Change Committee. The MSC shall specify the date when the penalties become effective, which</p>	<p>The Market Surveillance Committee (MSC) will design and promulgate the penalty levels and the appropriate range of penalties, for breaches and non-compliance of WESM Rules, anti-competitive behavior, and abuse of market power.</p> <p>The MSC will conduct consultations with the Rules Change Committee and the PEM Board in its formulation of the penalty levels and appropriate range of penalties.</p> <p>The penalty scheme and any changes made by the MSC will be published in the Market Information Website and a copy furnished to the PEM Board and the Rules of Change Committee. The MSC shall specify the date when the penalties become effective, which</p>	<ul style="list-style-type: none"> • Item (a), which refers to specifications of breach, is included to – <ol style="list-style-type: none"> a) Ensure that WESM members are well informed of the non-compliances or acts or omissions for which they can be penalized; and b) Implement the proposed Clause 7.2.5.3 that only non-compliances specified to be subject of penalties can be penalized. • To retain the ECO and the MSC's annual review of the WESM Penalty Manual, ensuring that all changes to

Title	Section	Provision	Proposed Amendment	Rationale
		<p>shall in no case be earlier than the date of its publication.</p> <p>The penalty scheme will be reviewed by the MSC annually.</p>	<p>shall in no case be earlier than the date of its publication.</p> <p>The penalty scheme will be reviewed by the MSC annually.</p> <p><u>7.2.5.5 A WESM Penalty Manual shall be adopted and promulgated by the Department of Energy, and which shall specify the:</u></p> <p>a) <u>Acts or omissions constituting breach of the WESM Rules or Market Manuals for which penalties can be imposed;</u> <u>and</u></p> <p>b) <u>Penalties, financial and non-financial, that can be imposed for each type of breach, which should be commensurate to the nature and gravity of the breach;</u></p> <p><u>The Market Surveillance Committee shall design and review the WESM Penalty Manual from time to time as may be necessary, and in consultation with the Rules Change Committee and the PEM Board.</u></p>	<p>the WESM Rules and manuals will be captured in the specifications of breach. It will also allow adjustments to amounts of penalties and compensation as well as changes to remedial measures to take into consideration prevailing market conditions and advancements in technology.</p> <ul style="list-style-type: none"> • To provide for the design and review of the WESM Penalty Manual by the MSC, ensuring that all changes to the WESM Rules and manuals will be captured in the specifications of breach. • The review of the WESM Penalty Manual shall be done in consultation with the PEM Board and Rules Change Committee, subject to the approval of the Department of Energy.

Title	Section	Provision	Proposed Amendment	Rationale
	previously 1.6.3	<p>The amount of the financial penalty shall be determined in consideration of:</p> <ol style="list-style-type: none"> 1. the circumstances in which the Breach occurred; 2. the severity of the Breach; 3. the duration of the Breach and the rate of recurrence; 4. the extent to which the Breach was caused by inadvertence, negligence, or its deliberateness; 5. the actions of the party upon becoming aware of the Breach; 6. whether the party disclosed the matter to the MSC or ECO on its own accord or only when prompted to do so; 7. whether the party complied with all preventive actions remedial measures prescribed by the ECO; 8. any benefit that the party obtained or expected to obtain as a result of the Breach; 9. the impact of the Breach on other WESM Members and the WESM as a whole; and <p>Other factors as the ECO or PEM Board considers appropriate.</p>	<p>The amount of the financial penalty shall be determined in consideration of:</p> <ol style="list-style-type: none"> 1. the circumstances in which the Breach occurred; 2. the severity of the Breach; 3. the duration of the Breach and the rate of recurrence; 4. the extent to which the Breach was caused by inadvertence, negligence, or its deliberateness; 5. the actions of the party upon becoming aware of the Breach; 6. whether the party disclosed the matter to the MSC or ECO on its own accord or only when prompted to do so; 7. whether the party complied with all preventive actions remedial measures prescribed by the ECO; 8. any benefit that the party obtained or expected to obtain as a result of the Breach; 9. the impact of the Breach on other WESM Members and the WESM as a whole; and 10. Other factors as the ECO or PEM Board considers appropriate. 	<ul style="list-style-type: none"> • To set out the factors that will be considered in determining the proper penalty for a breach in the WESM Penalty Manual.

Title	Section	Provision	Proposed Amendment	Rationale
Actions by Agents, Employees or Officers of Participants	7.2.6	The act or omission of any partner, agent, officer, employee or any person acting for and in behalf of a <i>WESM member</i> , or the <i>Market Operator</i> , constituting a breach of the <i>WESM Rules</i> , shall be considered an act or omission of the <i>WESM Member</i> .	xxx	
Publication	7.2.7	Publication	Publication Information Disclosure and Confidentiality	<ul style="list-style-type: none"> • New Title
	7.2.7	Subject to clause 5.3, the <i>Enforcement and Compliance Officer</i> shall <i>publish</i> a monthly report setting out a summary for the period covered by the report of all actions and rulings made during that period in relation to the enforcement of the <i>WESM Rules</i> .	(This part of 7.2.7 renumbered and transferred to 7.2.7.3)	

Title	Section	Provision	Proposed Amendment	Rationale
	7.2.7.1 <i>(new; previously 7.2.4.7)</i>	All information provided under this clause 7.2.4 shall be treated in accordance with clause 5.3.	<p><i>Re-numbered (previously 7.2.4.7) with revisions.</i></p> <p>All information provided under this clause 7.2.4 shall be treated in accordance with clause 5.3.</p> <p><u>The PEM Board shall adopt guidelines and procedures for treatment of information provided and generated under this Clause 7.2, which guidelines and procedures shall be included in the Market Manual that will be promulgated pursuant Clause 7.2.1.2.</u></p>	<ul style="list-style-type: none"> • To provide separate procedures and guidelines for confidentiality and disclosure of information that is more specific to enforcement processes for more clarity, instead of applying Clause 5.3, which refer to market information confidentiality. • It is noted that WESM Rules clause 5.3 contain rules that may not be relevant to enforcement processes, or that refer specifically to the Market Operator. Referring to clause 5.3 without further qualification may result in confusion as to the application of the rules to enforcement processes or to the parties involved in the process. • The guidelines and procedures are proposed to be included in the proposed ECO Manual.

Title	Section	Provision	Proposed Amendment	Rationale
	7.2.7.2 (new; previously 7.2.4.6)	Any report or other documentation referred to in this clause 7.2 may be used in any proceeding under or in relation to the <i>WESM Rules</i> or for the purpose of commencing any such proceeding.	<i>Re-numbered (previously 7.2.4.6) – no change</i> Any report or other documentation referred to in this Clause 7.2 may be used in any proceeding under or in relation to the <i>WESM Rules</i> or for the purpose of commencing any such proceeding.	<ul style="list-style-type: none"> • Re-numbering
	7.2.7.3 (new; previously 7.2.7)	Subject to clause 5.3, the <i>Enforcement and Compliance Officer</i> shall publish a month report setting out a summary for the period covered by the report of all actions and rulings made during that period in relation to the enforcement of the <i>WESM Rules</i> .	Re-numbered (previously 7.2.7) with revisions. Subject to clause 5.3, the <u>Enforcement and Compliance Office</u> shall publish a monthly report setting out a summary for the period covered by the report of all actions and rulings made during that period in relation to the enforcement of the <i>WESM Rules</i> <u>in the market information website, with copies furnished to the DOE, ERC, the PEM Board and the Compliance Committee.</u>	<ul style="list-style-type: none"> • To omit reference to Clause 5.3 as the latter refers to confidentiality and may not actually apply given that the report is required to be published. • To also explicitly provide for the obligation of the ECO to report the results of an enforcement proceeding to the Compliance Committee, ERC, DOE and PEM Board. <p>Reporting to the ERC adopts the agreement contained in the ERC-PEMC Protocol.</p>

Title	Section	Provision	Proposed Amendment	Rationale
Appointment of an Enforcement and Compliance Officer	7.2.8	Appointment of an Enforcement and Compliance Officer	Appointment of an Enforcement and Compliance Officer <u>Enforcement and Compliance Office</u>	<ul style="list-style-type: none"> To refer to the supervision of the Enforcement and Compliance Office, in general.
	7.2.8.1	The President of PEMC shall appoint a person to act as Enforcement and Compliance Officer with the concurrence of the <i>PEM Board</i> .	<p>The President of PEMC shall appoint a person to act as Enforcement and Compliance Officer with the concurrence of the <i>PEM Board</i>:</p> <p>(a) <u>With the concurrence of the <i>PEM Board</i>, shall appoint a person to act as Enforcement and Compliance Officer that will head the Enforcement and Compliance Office created pursuant to Clause 1.4.8.1; and</u></p> <p>(b) <u>Exercise administrative supervision over the Enforcement and Compliance Office.</u></p>	To explicitly state that the PEMC President exercises administrative supervision over the ECO.
	7.2.8.2 (new)	NEW	<u>7.2.8.2 Subject to Clause 7.2.8.1, the <i>PEM Board</i> shall exercise supervision and control over the Enforcement and Compliance Office in the performance by the latter of its functions as provided for in these <i>WESM Rules</i> and in relevant <i>Market Manuals</i>.</u>	To explicitly state that it is the PEM Board that has supervision and control over the ECO in the exercise of the latter's functions.

Title	Section	Provision	Proposed Amendment	Rationale
Designation of a Compliance Officer for WESM Member, Market Operator and System Operator	7.2.9	Designation of a Compliance Officer for WESM Member, Market Operator and System Operator	xxx	
	7.2.9.1	Each WESM Member, the <i>Market Operator</i> , the <i>System Operator</i> , Metering Service Provider and any other WESM Service Providers shall designate a Compliance Officer in their respective organizations	Each All WESM Members, the System Operator, Metering Service Provider and any other WESM Service Providers and the <i>Market Operator</i> shall designate a WESM Compliance Officer in their respective organizations; <u>Provided that the person so appointed should have an understanding of the WESM compliance requirements of his or her organization, and occupies a senior management position in the organization that he or she is able to recognize possible non-compliances and has sufficient authority to resolve the same.</u>	<ul style="list-style-type: none"> To simplify the provision since the System Operator, the Metering Service Providers and other service providers are <i>WESM Members</i>. <p>Added proviso: to ensure that the WCO that will be appointed is of such position in his/her organization that he/she is able to resolve any non-compliances.</p>
	7.2.9.2	The Compliance Officer shall:	The WESM Compliance Officer shall:	For Clarity

Title	Section	Provision	Proposed Amendment	Rationale
		(a) Monitor and undertake necessary activities to ensure the full compliance of their respective organizations to the EPIRA, the Implementing Rules and Regulations, the <i>WESM Rules</i> and <i>WESM Market Manuals</i> ; and develop necessary procedures and guidelines for this purpose;	(a) Monitor and undertake necessary activities <u>the activities and transactions in the WESM of his or her organization and carry out measures</u> to ensure the full compliance with the EPIRA, <u>its</u> Implementing Rules and Regulations, the <i>WESM Rules</i> and <u>WESM Market Manuals</u> ; and develop <u>put in place</u> necessary procedures and guidelines for this purpose;	<ul style="list-style-type: none"> To reflect editorial corrections to make the language style more consistent with the rest of the rules.
		(b) From time to time, if the Compliance Officer deems it necessary or appropriate, propose policies or amendments to the <i>WESM Rules</i> and/or <i>WESM Market Manuals</i> to enhance or develop the <i>WESM</i> enforcement and compliance, with the objective of promoting good commercial and technical practices.	(b) From time to time <u>and</u> if the Compliance Officer <u>he or she</u> deems it necessary or appropriate, propose amendments to the <i>WESM Rules</i> and/or <u>and WESM Market Manuals</u> to enhance or develop the <i>WESM</i> enforcement and compliance, with the objective of promoting <u>and to promote</u> good commercial and technical practices;	<ul style="list-style-type: none"> To reflect editorial corrections to make the language style more consistent with the rest of the rules.
		(c) Be responsible in facilitating and coordinating with the <i>WESM Enforcement Compliance Office (ECO)</i> , all matters relating to the enforcement and compliance of their respective organization, including the provision of the necessary information and data, as may be required by any of the <i>WESM Governance Committees</i> and by the <i>ECO</i> .	(c) Be responsible in facilitating and coordinating with the Enforcement Compliance Office (ECO) , <u>on</u> all matters relating to the <u>WESM</u> enforcement, and compliance of their respective organization <u>and governance</u> , including the provision of the necessary information and data, as may be required by any of the <u>WESM Governance Committees and by the ECO Enforcement and Compliance Office; and</u>	<ul style="list-style-type: none"> To reflect editorial corrections to make the language style more consistent with the rest of the rules.

Title	Section	Provision	Proposed Amendment	Rationale
		(d) Submit a report to the ECO concerning their respective organization's compliance with <i>WESM Rules</i> and <i>WESM Market Manuals</i> on an annual basis or as may be determined by the ECO or any of the <i>WESM Governance Committees</i> .	d) Submit a report to the ECO concerning their respective organization's compliance with <i>WESM Rules</i> and <i>WESM Market Manuals</i> on an annual basis or as may be determined by the ECO or any of the <i>WESM Governance Committees</i>. <u>Submit to the Enforcement and Compliance Office a report of his or her organization's compliance with <i>WESM Rules</i> and <i>Market Manuals</i> covering such period, but not less frequent than annually, and in such form as may be prescribed by the Enforcement and Compliance Office.</u>	<ul style="list-style-type: none"> To provide that the ECO shall prescribe the form and manner of submission of the annual report. To reflect editorial corrections to make the language style more consistent with the rest of the rules.
Limitation of Liability and Indemnification	7.2.10 (new)	NEW	<u>Limitation of Liability and Indemnification</u>	
	7.2.10.1 (new)	NEW	<u>Unless they acted with malice, manifest partiality, bad faith, gross incompetence or gross negligence, the members of the Market Surveillance Committee, the Enforcement and Compliance Officer and the members of the staff of the Enforcement and Compliance Office shall not be made personally liable for any loss or damage incurred by a <i>WESM Member</i> or any other person as a consequence of any act or omission undertaken in the</u>	<p>To provide for limits to liability and indemnification of the PEM Board members (patterned after Clause 1.4.9 and 1.4.10).</p> <ul style="list-style-type: none"> To provide similar protection to the ECO and the MSC. Given the nature of their functions, they can be made subject to claims for liability for loss or damages to members that have

Title	Section	Provision	Proposed Amendment	Rationale
			<u>performance of the duties and responsibilities contained in this Clause 7.2 as well as in the <i>Market Manual</i> adopted pursuant to Clause 7.2.1.2 and the <i>WESM Penalty Manual</i> adopted pursuant to Clause 7.2.5.5 Manual.</u>	been subjected to investigations and penalties.
	7.2.10.2 (new)	NEW	<u>Notwithstanding Clause 7.2.10.1, should any of the persons named in said Clause 7.2.10.1 be made liable for any amount for loss or damage suffered or incurred by any person or entity, the <i>PEMC</i> shall indemnify said persons through an indemnification process to be developed by the <i>PEM Board</i>; provided, however, that the indemnification shall exclude any liability arising out of conduct involving malice, manifest partiality, bad faith, gross incompetence or gross negligence; and provided, final that said indemnification shall cover the full amount adjudged, and the costs and expenses incurred by the person involved in defending himself or herself in the related proceedings.</u>	<ul style="list-style-type: none"> To provide basis for the development of an indemnification process to be undertaken upon certain conditions.

Title	Section	Provision	Proposed Amendment	Rationale
Glossary	Chapter 11	NEW	<u>Breach. Any act or omission that constitutes a violation of or a non-compliance with any provision of the WESM Rules and its associated Market Manuals, which are expressly provided for as subject of sanctions if committed.</u>	<ul style="list-style-type: none"> To provide definition, ensuring clarity of the rules and uniform understanding.
		NEW	<u>Enforcement. This is the process by which a WESM Member found in breach of the WESM Rules or Market Manuals is imposed penalties, which may be financial or non-financial in nature, and/or take corrective actions, as a consequence of the breach.</u>	To provide definition, ensuring clarity of the rules and uniform understanding.
		NEW	<u>Enforcement action. This is an action carried out against a WESM Member as a consequence of the breach by that WESM Member of the WESM Rules or Market Manuals, which may include imposition of penalties, payment of compensation, remedial measures and other corrective actions.</u>	To provide definition, ensuring clarity of the rules and uniform understanding.

Title	Section	Provision	Proposed Amendment	Rationale
		NEW	<p><u>Enforcement and Compliance Office. This is the unit created within PEMC pursuant to Clause 1.4.8.1, headed by the <i>Enforcement and Compliance Officer</i>, which primarily provides technical and investigative support to the <i>PEM Board</i> in carrying out their respective enforcement and compliance functions.</u></p>	<p>To reinforce the proposed rule change stating that the function rests with the Office and not the person appointed as the Enforcement and Compliance Officer.</p>
		<p>Enforcement and compliance officer. A person tasked to perform compliance and enforcement functions pursuant to clause 7.2, including the investigation of alleged breach of the <i>WESM Rules</i> and imposition of appropriate sanctions and such other functions as may, from time to time, be assigned to him by PEMC.</p>	<p>Enforcement and compliance officer. A person tasked to perform compliance and enforcement functions pursuant to clause 7.2, including the investigation of alleged breach of the <i>WESM Rules</i> and imposition of appropriate sanctions and such other functions as may, from time to time, be assigned to him by PEMC. <u>Enforcement and Compliance Officer. This is the person appointed pursuant to Clause 7.2.8.1 that will head the <i>Enforcement and Compliance Office</i> and that will be responsible for providing support to the performance by the <i>PEM Board</i> of their enforcement and compliance functions.</u></p>	<p>To clarify the nature of the functions of the officer, and to further reinforce the proposed rule change stating that the function rests with the Office and not the person appointed as the Enforcement and Compliance Officer.</p>

Title	Section	Provision	Proposed Amendment	Rationale
		NEW	<u>Enforcement proceeding. This is the activity carried out to establish and determine the occurrence of breach and the corresponding enforcement action that will be carried out as a consequence of the breach, and includes monitoring, assessment, investigation and imposing enforcement actions.</u>	To provide definition, ensuring clarity of the rules and uniform understanding.
		NEW	<u>WESM Governance Committees. Refers to working groups created by the PEM Board pursuant to Clause 1.4.6 of the WESM Rules. The WESM Governance Committees are as follows: <i>Dispute Resolution Administrator, Market Surveillance Committee, Compliance Committee, PEM Audit Committee, Rules Change Committee and Technical Committee.</i></u>	To include a definition of the WESM Governance Committee To include Compliance Committee in the enumeration of the WESM Governance Committees.
		NEW	<u>WESM Penalty Manual. The <i>Market Manual</i> promulgated by the <i>Market Surveillance Committee</i> in consultation with the <i>Rules Change Committee</i>, the <i>Enforcement and Compliance Office</i> and the <i>PEM Board</i>, pursuant to Clause 7.2.5.5 that set outs the schedule of possible <i>breaches</i> and the corresponding penalties or sanctions that can be imposed, and the manner of carrying out such sanctions.</u>	To provide definition, ensuring clarity of the rules and uniform understanding.

Title	Section	Provision	Proposed Amendment	Rationale
Appendices to Chapter 7	Appendix C	Appendix C Appendices to Chapter 7 Background Note to Appendix C1 – Classification of Rules xxx	Appendix C Appendices to Chapter 7 Background Note to Appendix C1 – Classification of Rules xxx	To delete entire Appendix C as it does not form part of the WESM Rules and is provided for information only. It no longer serves a purpose and may also create confusion in the interpretation of the provisions of the WESM Rules.

Proposed Amendments to the WESM Manual on Market Surveillance, Compliance and Enforcement

Title	Section	Provision	Proposed Amendment	Rationale
Market Manual Title	Cover Page and Header	Market Surveillance, Compliance and Enforcement Market Manual Issue 3.0	Market Surveillance, Compliance and Enforcement Manual Issue 3 .0	Revised to reflect that the Manual covers only the market surveillance functions of the MSC.
Document Identity	Cover Page and Header	WESM-MSCEMM-003	WESM-MSCEMM-003 4	Revised to reflect new Document ID number.
Abstract	Cover Page	This document covers procedures and detailed requirements, data exchange, reports and activities for market assessment, surveillance, compliance and enforcement.	This document covers the procedures and detailed requirements, data exchange, reports and activities for market monitoring , assessment, and surveillance, compliance and enforcement .	Deleted the compliance and enforcement procedures as these will be covered in the proposed WESM Enforcement and Compliance Manual.
INTRODUCTION	1.		xxx	
Purpose	1.1.		xxx	
	1.1.1	This Market Manual provides a summary of <i>WESM Rules</i> on market surveillance, compliance and enforcement and establishes the principles and procedures for the conduct of activities related to market surveillance, compliance and enforcement.	This Market Manual provides a summary of <i>WESM Rules</i> on market surveillance, compliance and enforcement and establishes the principles <u>of the WESM Rules and Retail Rules (collectively referred to as market rules) on market monitoring, assessment and surveillance. The same also provides the and procedures for the conduct of activities related to market monitoring, assessment and surveillance to implement the said rules</u> compliance and enforcement.	Revised to reflect that this manual only covers the principles of the WESM Rules and Retail Rules on market monitoring, assessment and surveillance and does not cover compliance and enforcement. To be consistent with proposed Enforcement and Compliance Manual and Penalty Manual.

Title	Section	Provision	Proposed Amendment	Rationale
	1.1.2	This Market Manual also establishes the responsibilities of the <i>PEM Board</i> , the MSC, ECO and MAG, WESM Members, the <i>Market Operator</i> and <i>System Operator</i> , and other PEM Committees in relation to market surveillance, compliance and enforcement, including the duty of WESM Members, the <i>Market Operator</i> and the <i>System Operator</i> to provide information to the MSC, ECO and MAG.	This Market Manual also establishes details the responsibilities of the <i>PEM Board</i> , MSC, ECO and MAG, <u>Market Surveillance Committee, Market Assessment Group, WESM Members, the Market Operator, and System Operator, and other PEM Committees</u> <u>WESM Governance Committees as established in the market rules.</u> in relation to market surveillance, compliance and enforcement, including the duty of WESM Members, the Market Operator and the System Operator to provide information to the MSC, ECO and MAG.	Revised for clarity. Replaced terminologies consistent with <i>WESM Rules</i> Clause 7.2.9.2 (c) and (d) and with proposed Enforcement and Compliance Manual and Penalty Manual.
Scope	1.2.		xxx	
	1.2.1	This Manual covers all related procedures and activities concerning market surveillance, compliance and enforcement, including:	This Manual covers all related procedures and activities concerning market <u>monitoring, assessment and</u> surveillance, compliance and enforcement, including as follows:	For consistency with the foregoing provisions, removed references to compliance and enforcement.
		(a) The qualifications of the members of the MSC, the staff of the MAG and the ECO;	[delete]	The Manual is being amended to focus on the market surveillance function of the MSC.
		(b) All activities and procedures, including the functions, authority and reports of the MSC, ECO and MAG;	<u>(a)</u> (b) All activities and procedures, including the functions, authority and reports of the MSC, ECO and MAG, <u>Market Surveillance Committee, Enforcement and Compliance Office and Market Assessment Group; and</u>	<ul style="list-style-type: none"> • Renumbered following earlier deletions. • Following the style and formatting adopted by the DOE, refrained from using the acronyms for MSC, ECO and

Title	Section	Provision	Proposed Amendment	Rationale
				MAG, other than for DOE, ERC and <i>PEM Board</i> .
		(c) Rules on access to information and data management; and	(b) (c) Rules on access to information and data management; and	<ul style="list-style-type: none"> Renumbered following earlier deletions. Clerical revision.
		(d) The Guidelines for Imposition of Fines and Penalties.	[delete]	This portion was deleted as this will already be covered in the WESM Enforcement and Compliance Manual as proposed by the ECO.
	1.2.2	This Market Manual shall not apply to compliance and enforcement of other Applicable Law, Rules and Regulations, unless specifically provided therein.	[delete]	This provision was deleted as this is not relevant for this manual.
Review and Update of Manual	1.3.		xxx	
	1.3.1	The <i>PEM Board</i> , with the assistance of the MAG, ECO and the MSC, shall maintain this Manual under review, to identify any need for updates and amendments.	The <i>PEM Board</i> , with the assistance of the Market Assessment Group MAG, ECO and the Market Surveillance Committee , shall maintain this Manual under review, to identify any need for updates and amendments.	Following the style and formatting adopted by the DOE, refrained from using the acronyms for MSC, ECO and MAG, other than for DOE, ERC and PEM Board.
	1.3.2	Amendment to the provisions of this Manual requires the approval of the <i>PEM Board</i> . After such approval, the amended Manual shall be published in the Market Information Website. The approval of the <i>PEM Board</i> shall specify the date when the amended Manual becomes effective, which shall in no case be earlier than the date of its publication.	Amendments to the provisions of this Manual shall be in accordance with Chapter 8 of the WESM Rules and the Manual of Procedures for Changes to the WESM Rules. requires the approval of the <i>PEM Board</i>. After such approvals, the amended Manual shall be published in the Market Information Website.	<p>Revised to refer to the provisions of Chapter 8 on Rules Change Process and the Manual of Procedures for Changes to the WESM Rules.</p> <p>Provisions deleted were already included in Chapter 8 of the WESM Rules.</p>

Title	Section	Provision	Proposed Amendment	Rationale
			The approval of the <i>PEM Board</i> shall specify the date when the amended Manual becomes effective, which shall in no case be earlier than the date of its publication.	
	1.3.3	Amendment proposals to this Manual may arise from:	[delete]	Provisions regarding amendments of WESM Manuals including this proposed Market Surveillance Manual, are reflected in the Manual of Procedures for Changes to the <i>WESM Rules</i> .
		(a) The <i>PEM Board</i> , upon its own initiative or upon a recommendation by the MSC or other PEM Committee;	[delete]	
		(b) A WESM Member, the <i>Market Operator</i> , the <i>System Operator</i> or any party affected by the operations of this Manual; and	[delete]	
		(c) The MSC in view of: <ul style="list-style-type: none"> (i) Experience, problems or other issues identified in implementation and application of this Manual; or (ii) Amendments to the <i>WESM Rules</i> or other Applicable Law, Rules and Regulations; or (iii) Conflict of interpretation; or (iv) Provisions or parts of this Manual being annulled or declared invalid. 	[delete]	
	1.3.4	Amendment proposals by the ECO and the MAG shall be made thru the MSC.	[delete]	
	1.3.5	Amendment proposals shall be submitted, reviewed and approved in accordance with the procedures in the Rules Change Manual.	[delete]	

Title	Section	Provision	Proposed Amendment	Rationale
	1.3.6	The responsibility for drafting the amendments occasioned and approved by the above-described circumstances shall lie with:	[delete]	
		(a) The Rules Change Committee regarding amendments to this Manual that are required or otherwise attributable to amendments to the <i>WESM Rules</i> or other Applicable Law, Rules and Regulations; or	[delete]	
		(b) The MSC, ECO or MAG, which may request the assistance of the Rules Change Committee.	[delete]	
DEFINITIONS, INTERPRETATION AND CONSTRUCTION	2.		xxx	
Definition of Terms	2.1.	Act means the Republic Act No. 9136 also known as the Electric Power Industry Reform Act (EPIRA), as it may be modified by competent authorities from time to time.	<u>Unless otherwise defined in this Manual, any terms and acronyms used in this Manual shall have the same definition as that in the <i>WESM Rules</i>.</u> Act means the Republic Act No. 9136 also known as the Electric Power Industry Reform Act (EPIRA) of 2001, as it may be modified by competent authorities from time to time	<ul style="list-style-type: none"> Clarified the basis for the terms and acronyms used. Consistent with the <i>WESM Rules</i>.
		Applicable Law, Rules and Regulations shall include the EPIRA and its Implementing Rules and Regulations, the Philippine Grid Code, the Philippine Distribution Code, the Competition Rules, the <i>WESM Rules</i> and Market Manuals	Applicable Law, Rules and Regulations shall include the Act or EPIRA and its Implementing Rules and Regulations-IRR, the Philippine Grid Code, the Philippine Distribution Code, the Competition Rules, the	Minor revisions.

Title	Section	Provision	Proposed Amendment	Rationale
		and such other codes, rules, regulations, and issuances related to the WESM, as they may be issued or modified by competent authorities from time to time.	WESM Rules and Market Manuals and such other codes, rules, regulations, and issuances related to the WESM, as they may be issued or modified by competent authorities from time to time.	
		(new)	<u>Administered Price means a price imposed by the Market Operator to the Trading Participants during market suspension and intervention to be used for settlements which price is determined in accordance with the methodology developed and published by the Market Operator and approved by the ERC.</u>	Included a definition of Administered Price, consistent with the WESM Rules.
		Anti-Competitive Behavior means behavior contrary to competition as defined in the Act, IRR, the Competition Rules and other rules and regulations that the ERC may promulgate regarding competition.	<u>Anti-Competitive Behavior</u> means <u>anti-competitive</u> behavior contrary to competition as defined in <u>Section 45 of</u> the Act, its IRR, the Competition Rules and other <u>pertinent</u> rules and regulations that the ERC may promulgate. regarding competition.	Consistent with the WESM Rules, with some additions for clarity.
		Breach means any act, omission, conduct or behavior and the like, contrary to, or not compliant with, the WESM Rules, its Market Manuals, and WESM Objectives, rules and regulations.	<u>Breach</u> means any act or omission, conduct or behavior and the like, contrary to, or not compliant with, <u>that constitutes a violation or non-compliance with any provision of the WESM Rules, Market Rules, and its Market Manuals that are expressly provided for as subject of penalties if committed,</u> and WESM Objectives, rules and regulations.	Consistent with the definition in the proposed WESM Enforcement and Compliance Manual. Also consistent with the principle to make the definition of breach to be specific to those acts or omissions that are specified as subject to sanctions if committed.

Title	Section	Provision	Proposed Amendment	Rationale
		Compliance Report means the periodic report submitted by the ECO to the MSC.	[delete]	Deleted as this does not form part of the coverage of this Manual; This will be covered in the proposed WESM Enforcement and Compliance Manual.
		Constraint means a limitation on the capability of any combination of network elements, loads, generating units or Ancillary Service Providers such that it is, or is deemed by the <i>System Operator</i> to be, unacceptable to adopt the pattern of transfer, consumption, generation or production of electrical power or other services that would be most desirable if the limitation were removed, as defined in the <i>WESM Rules</i> .	xxx	
		(new)	<u>Customer means person who: (a) engages in the activity of purchasing electricity supplied through a transmission or distribution system other than where all that person's electricity requirements are purchased from a Supplier; and (b) registers with the Market Operator in that capacity under Clause 2.3.2 of the WESM Rules.</u>	Included a definition of customer, consistent with what is reflected in the WESM Rules.
		Deregistration means the penalty by which registration of a WESM Member is revoked and ends its participation in the WESM.	[delete]	Deleted as this is not relevant for the purpose of this Manual.
		DOE refers to the Department of Energy, the government agency created pursuant to Republic Act No. 7638.	DOE refers to the Department of Energy, the government agency created pursuant to Republic Act No. 7638 <u>whose expanded functions are provided in the Act.</u>	Consistent with what is reflected in the <i>WESM Rules</i> .

Title	Section	Provision	Proposed Amendment	Rationale
		<i>Enforcement and Compliance Officer (ECO)</i> refers to an officer of the PEMC in charge of the compliance and enforcement functions and responsibilities as established in the <i>WESM Rules</i> , and in charge of the corresponding procedures established in this Market Manual.	Enforcement and Compliance Officer (ECO) refers to an officer of the PEMC in charge of the compliance and enforcement functions and responsibilities as established in the <i>WESM Rules</i> , and in charge of the corresponding procedures established in this Market Manual.	Following the style and formatting adopted by the DOE, refrained from using the acronyms for MSC, ECO and MAG, other than for DOE, ERC and PEM Board.
		ERC refers to the Energy Regulatory Commission, the independent quasi-judicial regulatory body created by the EPIRA.	xxx	
		(new)	<u>Generation Company means a person or entity authorized by the ERC to operate facilities used in the generation of electricity, and registered with the Market Operator in that capacity in accordance with Clause 2.3.1 of the WESM Rules.</u>	Consistent with what is reflected in the WESM Rules.
		Independent means a person that is considered as independent of the Philippine electric power industry, in accordance with the criteria set forth in WESM Rule 1.4.2.7.	[delete]	Deleted as this is not relevant for the purpose of this Manual.
		Intervention means a measure taken by the <i>System Operator</i> when the grid is in extreme state condition as established in the Grid Code, arising from (1) a threat to system security; (2) force majeure; or (3) emergency, and during which administered prices shall be used by the <i>Market Operator</i> for settlements of energy transactions in the WESM.	<u>Market Intervention</u> means a measure taken by the <i>System Operator</i> when the grid is in extreme <u>the alert or emergency</u> state condition as established in the Grid Code, arising from (1) a threat to system security; (2) force majeure <u>event</u> or (3) emergency, <u>or by the Market Operator in relation to the simulation or implementation of its</u>	Updated the definition, following the approval of the DOE of the amendments to the <i>WESM Rules</i> on Market Intervention and Suspension promulgated via DOE Circular 2016-06-008.

Title	Section	Provision	Proposed Amendment	Rationale
			<u>business continuity or disaster and recovery procedures provided in Clause 6.8.1 of the WESM Rules. During such event, Administered Prices shall be used for settlements.</u>	
		Intervention Report means the report prepared by the MSC and submitted to the <i>PEM Board</i> in accordance with Section 11.3 of this Manual.	Intervention Report means the report prepared by the MSC Market Surveillance Committee and submitted to the <i>PEM Board</i> in accordance with Section 41.3 5.3 of this Manual.	Updated the referenced Section and made clerical revisions.
		Investigation means an inquiry conducted by the ECO of a Breach, abuse of market power or Anti-Competitive Behavior pursuant to this Manual.	[delete]	Deleted as this does not form part of the coverage of this Manual; This will be covered in the proposed WESM Enforcement and Compliance Manual.
		Investigation Report means the report prepared by the ECO and submitted to the MSC pursuant to the conduct of an Investigation of an alleged Breach, abuse of market power or Anti-Competitive Behavior.	[delete]	
		IRR means the Implementing Rules and Regulations of the Act.	xxx	
		Market Assessment Group (MAG) means the market assessment unit established by the PEMC pursuant to the <i>WESM Rules</i> to support the <i>Market Surveillance Committee</i> (MSC) and	Market Assessment Group (MAG) means the market assessment is a PEMC unit established by the PEMC pursuant to the	<ul style="list-style-type: none"> Consistent with the WESM Rule Clause 1.4.7.1

Title	Section	Provision	Proposed Amendment	Rationale
		regularly prepare assessments of the WESM and Philippine power sector.	<i>WESM Rules</i> to serve as the primary support unit of the WESM Governance Committees, which include the <i>Market Surveillance Committee (MSC)</i> , and regularly prepare assessments of the reports on overall performance and competitiveness of the WESM and Philippine power sector.	<ul style="list-style-type: none"> Following the style and formatting adopted by the DOE, refrained from using the acronyms for MSC, ECO and MAG, other than for DOE, ERC and PEM Board.
		Market Assessment Report means the periodic report prepared by the MAG and submitted to the MSC.	Market Assessment Report means the periodic report prepared by the MAG Market Assessment Group and submitted to the MSC Market Surveillance Committee .	
		Market Information Website means the website for the publication of information and results of the WESM established in accordance with the <i>WESM Rules</i> .	Market Information Website means the facility established by the Market Operator on the electronic communication system on which it may website for the publication of publish information which is then made available to and may be accessed by results of the WESM members . established in accordance with the WESM Rules.	Consistent with what is reflected in the WESM Rules.
		Market Manual means a manual of specific procedures, systems and protocols for the implementation of the <i>WESM Rules</i> .	xxx	
		Market Assessment System means the system to be used by the MAG in collecting, storing and processing monitoring data and other	Market Assessment System means the system to be used by the MAG Market Assessment Group in collecting, storing and processing monitoring data and other	Following the style and formatting adopted by the DOE, refrained from using the acronyms for MSC, ECO and MAG, other than for DOE, ERC and PEM Board.

Title	Section	Provision	Proposed Amendment	Rationale
		information necessary for the MSC to carry out its functions.	information necessary for the MSC Market Surveillance Committee to carry out its functions.	
		<i>Market Surveillance Committee</i> (MSC) refers to the PEM Committee appointed by the <i>PEM Board</i> to monitor and report on activities in the WESM and those participating or providing services in the WESM in accordance with this Manual.	Market Surveillance Committee (MSC) refers to the PEM Committee WESM Governance Committee appointed by the <i>PEM Board</i> to monitor and report on the activities in the WESM and those participating or providing services in the WESM in accordance with this Manual.	Replaced “PEM Committee” with “WESM Governance Committee” consistent with WESM Rules Clause 7.2.9.2 (c) and (d).
		Market Suspension means an event wherein the ERC declares the operation of the spot market to be suspended in cases of natural calamities or national and international security emergencies, and during which event administered prices shall be used by the <i>Market Operator</i> for settlements of energy transactions in the WESM.	Market Suspension means an event wherein the <i>ERC</i> declares the operation of the <i>spot market</i> to be suspended in cases of natural calamities or national and international security emergencies. and during which event administered prices shall be used by the Market Operator for settlements of energy transactions in the WESM.	Consistent with what is reflected in the WESM Rules with some minor revisions. The deleted part is deemed repetitive as the same was already provided in the definition of administrative price.
		Monthly Monitoring Report means the periodic report prepared by the MSC and submitted to the <i>PEM Board</i> containing evaluations, agreed conclusions, and recommendations on matters relating to the market monitoring and assessment functions of the MSC.	[delete]	Deemed not needed to be defined since the monthly monitoring report as required from the MSC was identified and explained in the subsequent provisions of this Manual.
		Non-Compliance Notice means the document submitted by a WESM Member, the <i>Market Operator</i> or <i>System Operator</i> to the <i>PEM Board</i> when it is unable, or will be unable, to	[delete]	Deleted as this is not relevant for the purpose of this Manual.

Title	Section	Provision	Proposed Amendment	Rationale
		comply with a provision of the <i>WESM Rules</i> , Market Manual or WESM Objective, rules and regulations.		
		Non-Compliance Report means the report prepared by the ECO and submitted to the MSC pursuant to a review of a Non-Compliance Notice.	[delete]	Deleted as this is not relevant for the purpose of this Manual.
		Over-Riding Constraints means Constraints imposed in the market dispatch optimization model by the <i>Market Operator</i> , at the recommendation of the <i>System Operator</i> , with the intention of over-riding the effect of a <i>Trading Participant's</i> offers or demand bids in accordance with WESM Rule 3.5.13 and this Manual.	Over-Riding Constraints means Constraints imposed in the market dispatch optimization model by the <i>Market Operator</i>, as required by the <i>System Operator</i>, with the intention of over-riding the effect of a <i>Trading Participant's</i> offers or demand bids in accordance with WESM Rule 3.5.13 and this Manual. <u>relative to the power flow, energy generation of a specific facility in the Grid to address system security threat, mitigate the effects of a system emergency, address the need to dispatch generating units to comply with systems, regulatory and commercial test requirements,</u> in accordance with WESM Rule Clause 3.5.13 of the <i>WESM Rules</i> and this Manual.	Revised to clarify the instances when over-riding constraints are imposed per WESM Rules Clause 3.5.13.
		PEM Auditor refers to the auditor appointed by the <i>PEM Board</i> , as defined in the <i>WESM Rules</i> , tasked to undertake the functions and activities set out in the PEM Audits Market Manual.	PEM Auditor Committee refers to the auditor WESM Governance eCommittee appointed by the <i>PEM Board</i> , as defined in the <i>WESM Rules</i>, <u>tasked to conduct audits of the operation of the <i>spot market</i></u> and undertake	Provided a definition of the PEM Audit Committee instead of the PEM Auditor.

Title	Section	Provision	Proposed Amendment	Rationale
			the functions and activities set out in the <u>WESM Rules and</u> PEM Audit Market Manual.	
		<i>PEM Board</i> refers to the Board of Directors of the PEMC that is responsible for governing the WESM.	xxx	
		PEM Committee refers to a Committee duly provided for under the <i>WESM Rules</i> and such other committees created by the <i>PEM Board</i> from time to time, including for purposes of this Manual, the PEM Auditor and the MSC.	PEM Committee <u>WESM Governance Committee</u> refers to <u>working groups created by the PEM Board pursuant to Clause 1.4.6 of a Committee</u> duly provided for under the <i>WESM Rules</i> . and such other committees created by the <i>PEM Board</i> from time to time, including for purposes of this Manual, <u>The WESM Governance Committees are as follows:</u> the <i>PEM Auditor Committee</i> , and the MSC <u>Market Surveillance Committee, Technical Committee, Rules Change Committee and the Dispute Resolution Administrator.</u>	Replaced “PEM Committee” with “WESM Governance Committee” consistent with WESM Rules Clause 7.2.9.2 (c) and (d). Clarified what constitutes a WESM Governance Committee and enumerated the examples of the same.
		PEMC refers to the Philippine Electricity Market Corporation, a non-stock, non-profit public-private partnership that governs the wholesale electricity spot market (WESM).	PEMC refers to the Philippine Electricity Market Corporation <u>or PEMC refers to the Market Operator and the Central Registration Body.</u> a non-stock, non-profit public-private partnership that governs the wholesale electricity spot market (WESM).	Revised to clarify that PEMC also refers to the Market Operator as well as the Central Registration Body.
		PEMC Charter refers to the Articles of Incorporation and By-Laws of the PEMC, as approved by the Securities and Exchange	[delete]	Deleted as this is not relevant for the purpose of this Manual.

Title	Section	Provision	Proposed Amendment	Rationale
		Commission on 18 November 2003, and as they may be amended from time to time.		
		Preliminary Notice means the notice given by the ECO to a party to be investigated for an alleged Breach, abuse of market power, or Anti-Competitive Behavior and copies of which shall be furnished to the <i>PEM Board</i> and the ERC;	[delete]	Deleted as this is not relevant for the purpose of this Manual. This will be covered in the proposed WESM Enforcement and Compliance Manual.
		Request for Investigation refers to the request submitted to the <i>PEM Board</i> to initiate the procedure for investigating an alleged Breach, abuse of market power or Anti-Competitive Behavior.	[delete]	Deleted as this is not relevant for the purpose of this Manual.
		(new)	<u>Retail Rules means the rules promulgated by the DOE governing the integration of retail competition in the operation and governance processes of the WESM and the management of the transactions of Suppliers and Contestable Customers in the WESM, and the operations of the Central Registration Body.</u>	Provided a definition of the Retail Rules as this is often referred to in this Manual.
		Review Document on Over-Riding Constraints means the report prepared by the MSC in accordance with Section 11.5.11 of this Manual.	Review Document on Over-Riding Constraints means the report prepared by the MSC <u>Market Surveillance Committee</u> in accordance with Section 11.5.11 <u>5.5</u> of this Manual.	<ul style="list-style-type: none"> • Following the style and formatting adopted by the DOE, refrained from using the acronyms for MSC, ECO and MAG, other than for DOE, ERC and <i>PEM Board</i>; • Corrected reference section in this Manual as revised.

Title	Section	Provision	Proposed Amendment	Rationale
		Rules Amendment Review Document means the document prepared by the MSC when requested by the Rules Change Committee to review a proposed amendment to the <i>WESM Rules</i> or the <i>Market Manuals</i> .	Rules Amendment Review Document means the document prepared by the MSC <u>Market Surveillance Committee</u> when requested by the <i>Rules Change Committee</i> to review a proposed amendment to the <i>WESM Rules</i> or the <i>Market Manuals</i> .	Following the style and formatting adopted by the DOE, refrained from using the acronyms for MSC, ECO and MAG, other than for DOE, ERC and <i>PEM Board</i> .
		Rules denote the <i>WESM Rules</i> .	[delete]	Deleted and replaced with “WESM Rules” as defined below.
		Rules Change Committee refers to the committee established by WESM Rule 8.2 to review and propose amendments to the <i>WESM Rules</i> .	Rules Change Committee refers to the <u>WESM Governance Committee</u> established by WESM Rule 8.2 to review and propose amendments to the <i>WESM Rules</i> .	Replaced “PEM Committee” with “WESM Governance Committee” consistent with WESM Rules Clause 7.2.9.2 (c) and (d).
		Selection Committee refers to the Committee composed of at least three (3) members of the <i>PEM Board</i> , one of whom should be an Independent <i>PEM Board</i> director, which is tasked to review and evaluate the qualifications of all persons nominated to any PEM Committee requiring appointment by the <i>PEM Board</i> .	[delete]	Deleted as this is not relevant for the purpose of this Manual.
		Suspension means the penalty imposed where a WESM Member shall temporarily be unable to participate in the WESM, or to participate in the activities of any PEM Committee or working group, or to participate in the <i>PEM Board</i> or any voting process in the <i>PEM Board</i> , PEM Committee or working group.	[delete]	Deleted as this is not relevant for the purpose of this Manual.

Title	Section	Provision	Proposed Amendment	Rationale
		<i>Trading Participant</i> is a person or entity registered with the <i>Market Operator</i> in accordance with WESM Rule 2.3.3 as either a customer or a generation company.	Trading Participant is means a person or entity registered with the Market Operator in accordance with WESM Rule 2.3.3 as either a customer or a generation company.	Revised to already indicate what the WESM Rule Clause 2.3.3 refers to as the Trading Participant.
		WESM Member means a person who is registered with the <i>Market Operator</i> in accordance with <i>WESM Rules</i> 2.3 and 2.4, and that includes <i>Trading Participants</i> , Metering Services Providers, Network Service Providers, Ancillary Services Providers and the <i>System Operator</i> .	WESM Member means a person who is registered with the <i>Market Operator</i> in accordance with WESM Rules Clauses 2.3 and 2.4 of the WESM Rules , and that includes Trading Participants, Metering Services Providers, Network Service Providers, Ancillary Services Providers and the System Operator.	For clarification.
		WESM Objectives refers to the objectives of the spot market as defined in WESM Rule 1.2.5.	[delete]	Deleted as this is not relevant for the purpose of this Manual.
		(new)	<u>WESM Rules means the detailed rules that govern the administration and operation of the WESM.</u>	Added a definition as <i>WESM Rules</i> is most often mentioned in this Manual.
Interpretation and Construction	2.2.		xxx	
	2.2.1	Any Annex to this Manual shall be considered an integral part hereof.	xxx	
	2.2.2	Any reference to "this Market Manual " or "this Manual" is a reference to the whole of this Market Surveillance, Compliance and	Any reference to "this Market Manual" or "this Manual" is a reference to the whole of this Market Surveillance, Compliance and	Revised to reflect that the Manual covers only the market surveillance functions of the MSC.

Title	Section	Provision	Proposed Amendment	Rationale
		Enforcement Market Manual, including all its Annexes.	Enforcement Market Manual, including all its Annexes.	
	2.2.3	The singular includes the plural and vice versa.	xxx	
	2.2.4	The words “such as”, “include”, “including”, “for example” and “in particular” shall be construed as being by way of illustration or emphasis only and shall not limit or prejudice the generality of any foregoing words.	xxx	
	2.2.5	Headings in this Manual are for convenience only and shall not affect the construction and interpretation of the provisions of this Manual.	xxx	
	2.2.6	Any reference to any law, regulation made under any law, rules or codes shall be to that item as amended, modified, revised or replaced from time to time.	xxx	
	2.2.7	Unless otherwise stated or contextually inherent, any reference to a numbered rule corresponds to that clause in the <i>WESM Rules</i> .	[delete]	Deleted as there is no need for this. As a convention, WESM Rules provisions are referred to as Clauses, and sections for WESM Manuals.
	2.2.8	The provisions in this Manual, the <i>WESM Rules</i> and other Market Manuals shall be read, construed and interpreted in such a manner as to harmonize and reconcile each and every provision thereof. In the event of inconsistency, the <i>WESM Rules</i> shall prevail.	[retain provision and renumber to Sec. 2.2.7]	Renumbered following earlier deletions.
	2.2.9	Should any provision of this Manual be declared invalid or nullified by any court or authority of competent jurisdiction, the other provisions not affected by the declaration of invalidity or nullity shall continue to be in full force and effect.	[retain provision and renumber to Sec. 2.2.8]	

Title	Section	Provision	Proposed Amendment	Rationale
	2.2.10	If part of a provision of this Manual be invalidated or nullified by any court or authority of competent jurisdiction, but the rest of such provision would remain valid if part of the wording were deleted, the provision shall apply with such minimum modification as may be:	[delete]	Deemed redundant, thus deleted.
		(a) Necessary to make it valid and effective; and	[delete]	
		(b) Most closely achieves the result of the original wording but without affecting the meaning or validity of any other provision of this Manual.	[delete]	
THE MARKET SURVEILLANCE COMMITTEE	3.		[delete]	This section and all its provisions were deleted as these are deemed not relevant for this Manual. These provisions may be found in the Guidelines on the Constitution of PEM Committees.
Composition and Quorum	3.1.		[delete]	
	3.1.1	The MSC shall have five (5) independent and expert members contracted by the PEMC.	[delete]	
	3.1.2	The quorum for any meeting of the MSC shall be a simple majority of the members then appointed. Where there is a vacancy in the MSC, the remaining members shall perform all the functions and duties of the MSC so long as there is the required quorum.	[delete]	
	3.1.3	The <i>PEM Board</i> , through the President of the PEMC, shall exercise administrative supervision over the MSC. As such, the	[delete]	

Title	Section	Provision	Proposed Amendment	Rationale
		President shall exercise the following functions:		
		(a) Monitor the performance of the MSC;	[delete]	
		(b) Provide recommendation on any adjustments of honoraria that may be received by the MSC; and	[delete]	
		(c) Recommend the termination and removal of a member of the MSC as provided under Section 3.5.3 of this Manual.	[delete]	
Remuneration	3.2.		[delete]	
	3.2.1	The <i>PEM Board</i> shall establish the policy on remuneration of the members of the MSC. This shall include the manner of covering the expenses incurred in the periodic monitoring meetings or other special meetings of the MSC.	[delete]	
Qualifications and Disqualifications	3.3.		[delete]	
	3.3.1	The members of the MSC shall be independent of the Philippine electric power industry and the Philippine Government.	[delete]	
	3.3.2	To be a member of the MSC, a person must fulfill the following requisites and possess the following qualifications:	[delete]	
		(a) Be a natural person;	[delete]	
		(b) Be of legal age;	[delete]	
		(c) Be of sound mind;	[delete]	
		(d) Be at least a college graduate, provided that this qualification shall not apply to those with at least ten (10) years of	[delete]	

Title	Section	Provision	Proposed Amendment	Rationale
		relevant experience in their field of expertise; and		
		(e) Have sufficient relevant experience in one or more of the following: (i) Competitive wholesale electricity markets or financial or commodity markets; (ii) Philippine law and regulations pertaining to electricity; (iii) Economics; (iv) Laws and regulations of competitive wholesale electricity markets; (v) Power system operation; and/or (vi) Such other fields as may be relevant to and required in the performance of the responsibilities of the MSC.	[delete]	
	3.3.3	In addition to the qualification requirements in the previous paragraph, a member of the MSC must not be and not have been:	[delete]	
		(a) Convicted by final judgment of an offense involving moral turpitude or any fraudulent act or transgression;	[delete]	
		(b) Found with finality by a court of competent jurisdiction or a quasi-judicial body to have willfully violated, or aided, abetted, counseled, induced or procured the violation of any Applicable Law, Rules and Regulations	[delete]	
		(c) Judicially declared to be insolvent;	[delete]	
		(d) Found guilty by final judgment by a foreign court or equivalent regulatory authority of	[delete]	

Title	Section	Provision	Proposed Amendment	Rationale
		acts, violations or misconduct similar to any of the acts, violations or misconduct listed in the foregoing paragraphs;		
		(e) Convicted by final judgment of an offense punishable by imprisonment for a period exceeding six (6) years.	[delete]	
	3.3.4	Prior to being appointed as a member of the MSC, the person must provide the <i>PEM Board</i> a signed declaration that he fully complies with the independence requisites established in this Manual and has no conflict with any of the parties covered in this Manual when he assumes his position as a member of the MSC.	[delete]	
Selection and Appointment	3.4.		[delete]	
	3.4.1	The <i>PEM Board</i> shall select and appoint persons with the qualifications and requisites established in this Manual to be members of the MSC.	[delete]	
	3.4.2	Selection shall be made at least one (1) month before the expiration of the term of the MSC member or within one (1) month after a vacancy has occurred in the MSC. The <i>PEM Board</i> shall publish in a newspaper of general circulation and post in the Market Information Website a notice calling for the submission of qualified nominees. Any person or entity making such nomination must submit a nomination form as prescribed by the <i>PEM Board</i> .	[delete]	

Title	Section	Provision	Proposed Amendment	Rationale
	3.4.3	The Selection Committee shall review the persons nominated and request from those that it considers compliant with the qualifications and requisites, the submission of an expression of interest with their qualifications and experience.	[delete]	
	3.4.4	The Selection Committee will review the submissions received and select the member or members best qualified, and compliant with the independence requisites. In determining the list of nominees, the Selection Committee shall consider foreign professionals only if such professional is known to be an outstanding expert or specialist in the particular field and that the services of such foreigner is urgently necessary either for lack of local experts or if his or her service will promote the advancement of the WESM.	[delete]	
	3.4.5	The Selection Committee shall, as much as possible, select and recommend persons with different expertise so that the combined expertise of the members covers all or most of the market surveillance and monitoring functions established in this Manual, and the areas of expertise specified in the qualifications section of this Manual.	[delete]	
	3.4.6	Upon receipt of the list of qualified nominees from the Selection Committee, the <i>PEM Board</i> shall post in the Market Information Website and make available to all WESM Members the list of nominees.	[delete]	

Title	Section	Provision	Proposed Amendment	Rationale
	3.4.7	The <i>PEM Board</i> shall, by resolution, appoint and confirm the MSC members from among the list of qualified nominees recommended by the Selection Committee. The <i>PEM Board</i> shall appoint one of the members of the MSC to act as the chairperson.	[delete]	
Term of Appointment	3.5.		[delete]	
	3.5.1	A member of the MSC shall be appointed for a term of three (3) years and shall be eligible for re-appointment. However, the first members of the MSC shall be appointed for the following terms: the Chairman for three (3) years, two (2) members for two (2) years, and the remaining two (2) members for one (1) year.	[delete]	
	3.5.2	The <i>PEM Board</i> may terminate the appointment of a member of the MSC prior to the end of his term in the following cases:	[delete]	
		(a) The person ceases to meet the qualifications and requisites established in this Manual;	[delete]	
		(b) The person becomes disqualified in accordance with the disqualification conditions in this Manual;	[delete]	
		(c) The member fails to attend at least 50% of the periodic monitoring meetings for the calendar year, or prepare the required reports in a timely manner; or	[delete]	
		(d) The person does not perform his duties and responsibilities in accordance with this	[delete]	

Title	Section	Provision	Proposed Amendment	Rationale
		Manual, or acts contrary to the principles and Objectives of the WESM.		
	3.5.3	The <i>PEM Board</i> shall constitute an ad hoc committee of three (3) persons, composed of the President of PEMC, an Independent Director and one member from a PEM Committee other than the MSC. The ad hoc committee shall determine and evaluate whether there is sufficient ground to terminate the MSC member's appointment. A determination made by the ad hoc group finding insufficient grounds for termination shall be final. However, if the ad hoc group finds that there is sufficient ground to seek the termination of a member of the MSC, the same shall be confirmed by a majority vote of the <i>PEM Board</i> constituting a quorum.	[delete]	
	3.5.4	A member of the MSC shall cease to hold office if the said member:	[delete]	
		(a) Resigns prior to the end of his appointment period for failure to maintain the qualifications and other requisites of the position, or for other personal reasons; or	[delete]	
		(b) Becomes incapable of performing his duties as stated in this Manual; or	[delete]	
		(c) Whose appointment has been terminated in accordance with Section 3.5.3 of this Manual or by reason of the expiration of the term; or	[delete]	
		(d) Dies.	[delete]	

Title	Section	Provision	Proposed Amendment	Rationale
	3.5.5	For impending vacancies in the MSC, the <i>PEM Board</i> , through the Selection Committee, shall select the new member or members sufficiently in advance to enable the replacement to be available on time. The replacement must meet the necessary qualifications and requisites and must not have any of the disqualifications set forth in this Manual. If the replacement has not been appointed in time, the member whose term has expired shall continue to hold office in a transitory capacity until his replacement has been appointed.	[delete]	
	3.5.6	The term of a replacement of a member whose complete term had not yet expired shall be for the remaining period of the predecessor's term.	[delete]	
Meetings	3.6.		[delete]	Deleted as provisions regarding meetings and holding of such are deemed covered under Section 4.3 of this Manual.
	3.6.1	The MSC shall hold periodic monitoring meetings at least once a month.	[delete]	
	3.6.2	When decided in accordance with this Manual, the MSC shall hold special meetings to finalize and agree on a review or Investigation, and prepare the corresponding report.	[delete]	
	3.6.3	A special meeting shall be coordinated and agreed with the members of the MSC with an advance notice of not less than five (5) business days.	[delete]	
	3.6.4	The opinions, recommendations and conclusions of the MSC shall be decided in its	[delete]	

Title	Section	Provision	Proposed Amendment	Rationale
		meeting, acting as a collegial body. In case a member disagrees with all or part of such opinions, recommendations or conclusions, the individual report of such member shall be attached as an annex to the report of the MSC.		
CREATION OF THE MARKET ASSESSMENT GROUP	4.		[delete]	This Section and all its provisions are deleted as these are deemed not relevant for the purpose of this Manual.
	4.1.	The PEMC shall establish and maintain the MAG comprised of full-time employees of the PEMC with the experience and qualifications necessary to effectively fulfill the responsibilities contained in this Manual. Such qualifications include:	[delete]	
		(a) Understanding of the WESM and the operation of competitive electricity markets;	[delete]	
		(b) Knowledge of the Philippines electricity industry; and	[delete]	
		(c) Experience in the field of competition, power system analysis or economics.	[delete]	
	4.2.	The PEMC shall provide appropriate staffing and resources for the MAG to implement the functions and efficiently conduct the activities assigned in this Manual on a timely basis.	[delete]	
	4.3.	The MAG shall develop the activities described in this Manual in close coordination with the MSC, to collect data, process the monitoring indices and send information to the MSC in a timely and effective manner.	[delete]	

Title	Section	Provision	Proposed Amendment	Rationale
CREATION OF THE ENFORCEMENT AND COMPLIANCE OFFICE	5.		[delete]	This Section and all its provisions are deleted as these are deemed not relevant for the purpose of this Manual. All these provisions will be considered in the proposed WESM Enforcement and Compliance Manual.
	5.1.	The <i>Enforcement and Compliance Office</i> shall be created by the PEMC to be headed by the ECO, a full time employee of the PEMC, with the experience and qualifications necessary to effectively fulfill the responsibilities contained in this Manual. Such qualifications include:	[delete]	
		(a) Knowledge of the WESM and the operation of wholesale electricity markets;	[delete]	
		(b) Knowledge of the Philippine electricity industry; and	[delete]	
		(c) Such expertise as may be relevant to and required in the performance of the responsibilities of the ECO.	[delete]	
	5.2.	The PEMC shall provide appropriate staffing and resources for the ECO for the efficient and timely performance of his functions as provided in this Manual.	[delete]	
RESPONSIBILITIES	6.		[retain section title and renumber to Sec. 3]	Renumbered due to several changes and deletions earlier made.
		(new)	<u>3.1 Market Surveillance Committee</u> <u>3.1.1 Market Surveillance Committee shall have the following responsibilities:</u>	Defines the responsibilities of the MSC as enumerated under Section 6.2 of the MSC EMM Issue 3, with revisions to consider only responsibilities related to

Title	Section	Provision	Proposed Amendment	Rationale
			<p>a. <u>Develop monitoring data and indices necessary to effectively carry out its market surveillance function, as well as prepare a catalogue thereof, and continuously enhance the same as it deems appropriate, in view of findings and issues established or determined during the market surveillance process;</u></p> <p>b. <u>Review the following reports prepared and submitted by the Market Assessment Group:</u> (i) <u>Market Assessment Report;</u> (ii) <u>Retail Market Assessment Report;</u> (iii) <u>Over-riding Constraints Report.</u></p> <p>c. <u>Submit Monthly Monitoring Reports, Quarterly Retail Market Monitoring Reports, Annual Reports to the PEM Board;</u></p> <p>d. <u>Prepare and submit special market reports as may be directed by the PEM Board, DOE or ERC;</u></p> <p>e. <u>Prepare and submit reports on apparent or suspected incidents of anti-competitive behavior by any WESM participant, to the PEM Board, DOE and ERC;</u></p>	<p>market surveillance, assessment and monitoring;</p> <p>Also added applicable provisions pursuant to the ERC-PEMC Protocol.</p> <p>To be consistent with the WESM Rules Clause 1.6.2(b)(2). MSC mandate on ACB shall be in accordance with competition guidelines to be issued by ERC and PCC.</p> <p>Include the MSC's responsibility to issue a decision on appeals as provided under section 4.13 of the proposed WESM Penalty Manual</p> <p>The MSC is responsible in the design of penalty levels and the annual review of the WESM Penalty Manual as necessary, but defers to the DOE for the promulgation of the said Manual.</p>

Title	Section	Provision	Proposed Amendment	Rationale
			<p>f. <u>In the course of its monitoring and surveillance function, advise the Enforcement and Compliance Office of certain acts or omissions on the part of the Trading Participant, which may constitute possible Breach;</u></p> <p>g. <u>Review an event of market intervention or market suspension, as defined under Chapter 6 of the WESM Rules, and prepare the corresponding Market Intervention or Market Suspension Report to be submitted to the PEM Board;</u></p> <p>h. <u>Upon request, assist the Rules Change Committee in reviewing proposed amendments to the WESM Rules and Market Manuals, and make recommendations on the expected impact and necessity of the amendment proposal; and</u></p> <p>i. <u>Decide on an appeal filed by a WESM member as provided under Section 4.13 of the WESM Penalty Manual.</u></p> <p>j. <u>Annually or as often as necessary review the WESM Penalty Manual.</u></p>	

Title	Section	Provision	Proposed Amendment	Rationale
In General	6.1.		6.1. In General 3.2. PEM Board	Renumbered following earlier deletions. Provided the responsibilities of the PEM Board.
	6.1.1	The <i>PEM Board</i> , the MSC, ECO and MAG, WESM Members, the <i>Market Operator</i> and <i>System Operator</i> , and other PEM Committees shall perform their respective functions and duties consistent with:	6.1.1 3.2.1 The <i>PEM Board</i> , the MSC, ECO and MAG, WESM Members, shall oversee and monitor the activities of the Market Operator and the System Operator , and other PEM Committees shall perform their respective functions and duties consistent with: to ensure that they fulfill their responsibilities under the WESM Rules and act in a manner consistent therewith.	Included the PEM Board's responsibilities relative to market surveillance and Monitoring.
		(a) The WESM Objectives;	[delete]	Deleted as no longer deemed relevant.
		(b) The development of the WESM in a manner that is sustainable, competitive, efficient, transparent and reliable;	[delete]	
		(c) Non-discrimination and the development of fair competition;	[delete]	
		(d) Transparency, ensuring non-discrimination by the <i>Market Operator</i> and <i>System Operator</i> ;	[delete]	
		(e) Efficient trading and pricing governed, as far as practicable and when effective	[delete]	

Title	Section	Provision	Proposed Amendment	Rationale
		competition is possible, by commercial and market forces; and		Deleted as this Section as well as the provisions under the same are deemed redundant having been defined previously under the renumbered Section 3.
		(f) Non-discriminatory open access to qualified users and non-discriminatory entry to the market by qualified applicants.	[delete]	
The Market Surveillance Committee	6.2.		[delete]	
	6.2.1	The MSC shall have following responsibilities:	[delete]	
		(a) Define the monitoring data and indices necessary to effectively carry out its market surveillance function	[delete]	
		(b) Review market monitoring indices and Market Assessment Report prepared by the Market Assessment Group	[delete]	
		(c) Submit Monthly Market Surveillance Reports and Annual Reports to the <i>PEM Board</i> ;	[delete]	
		(d) In the conduct of its market surveillance function, identify acts or omissions which may constitute Breaches, abuse of market power and Anti-Competitive Behavior, and initiate an Investigation;	[delete]	
		(e) Review the Non-Compliance Report prepared by the ECO pursuant to the review of a Non-Compliance Notice, and submit its review to the <i>PEM Board</i> ;	[delete]	
		(f) Review Investigation Reports prepared by the ECO pursuant to an Investigation of an alleged Breach, abuse of market power or	[delete]	

Title	Section	Provision	Proposed Amendment	Rationale
		Anti-Competitive Behavior, and submit its review to the <i>PEM Board</i> ;		
		(g) Monitor the design and efficiency of the <i>WESM Rules</i> and propose amendments thereto;	[delete]	
		(h) Investigate an event of Intervention or Market Suspension and prepare the corresponding Intervention Report or Market Suspension Report to be submitted to the <i>PEM Board</i> ;	[delete]	
		(i) Review Over-Riding Constraints;	[delete]	
		(j) Recommend mitigation measures, in accordance with Section 12 of this Market Manual, on matters under Investigation;	[delete]	
		(k) Upon request, assist the Rules Change Committee in reviewing proposed amendments to the <i>WESM Rules</i> , and make recommendations on the expected impact and necessity of the amendment proposal; and	[delete]	
		(l) Review of the significant variations reports.	[delete]	
The Market Assessment Group	6.3.		6.3. The 3.3 Market Assessment Group	
	6.3.1	The MAG shall have the following responsibilities:	[renumber to Sec. 3.3.1]	
		(a) Regularly collect monitoring data and process monitoring indices;	(a) Regularly collect monitoring data from the <i>Market Operator, System Operator, and WESM participants</i> , and process monitoring indices;	Revised to specify the sources of monitoring data.

Title	Section	Provision	Proposed Amendment	Rationale
		(b) Provide aggregation and analysis on monitoring data and monitoring indices;	xxx	
		(c) Organize and administer the Market Monitoring System;	(c) Organize and administer the Market Assessment Monitoring System;	Revised to reflect that the system used is called Market Assessment System (MAS).
		(d) Prepare and submit Market Assessment Reports to the MSC;	(d) Prepare and submit Market Assessment Reports to the MSC Market Surveillance Committee ; (e) Prepare and submit special market reports as directed by the <i>Market Surveillance Committee</i> ;	<ul style="list-style-type: none"> Added that the MAG shall, in addition to the regular market reports, also prepare and submit to the MSC special reports, as applicable. Clerical revisions.
		(e) Provide technical support and processing capability to the MSC in the exercise of its functions;	(f) Provide technical support and processing capability to the Market Surveillance Committee MSC in the exercise of its functions;	Revised for clarity.
		(f) Promptly provide all data, information, reports and other documentation requested by the MSC or ECO in the performance of their functions;	(g) Promptly provide all data, information, reports and other documentation requested by the Market Surveillance Committee MSC or ECO-Enforcement and Compliance Office. in the performance of their functions;	<ul style="list-style-type: none"> Following the style and formatting adopted by the DOE, refrained from using the acronyms for MSC, ECO and MAG, other than for DOE, ERC and PEM Board; Clerical revisions.
		(g) Recommend mitigation measures to the MSC when, in the course of its monitoring, it determines that Anti-Competitive Behavior or abuse of market power may reasonably exist;	[delete]	This has been deleted as this is contained under Section 6- Mitigation Measures.
		(h) Maintain a record of each incident leading to an Over-Riding Constraint and provide	(h) Maintain a record of each incident leading to an Over-Riding Constraint and provide the	<ul style="list-style-type: none"> Following the style and formatting adopted by the DOE, refrained from

Title	Section	Provision	Proposed Amendment	Rationale
		the MSC a summary of incidents with Over-Riding Constraints for its periodic monitoring meetings;	Market Surveillance Committee Market Surveillance Committee MSC a summary of said incidents with Over-Riding Constraints for during its periodic monitoring meetings;	using the acronyms for MSC, ECO and MAG, other than for DOE, ERC and <i>PEM Board</i> ; <ul style="list-style-type: none"> • Clerical revisions.
		(i) Inform the MSC on policy development, amendments to the <i>WESM Rules</i> and decisions of the <i>PEM Board</i> relevant to the market surveillance functions;	(i) Inform the Market Surveillance Committee MSC on policy developments, amendments to the <i>WESM Rules</i> and Market Manuals, and decisions of the <i>PEM Board</i> relevant to the market monitoring and surveillance functions; and	Following the style and formatting adopted by the DOE, refrained from using the acronyms for MSC, ECO and MAG, other than for DOE, ERC and <i>PEM Board</i> .
		(j) Periodically report on the development of monitoring indices; and	(j) Periodically report on the development of monitoring indices; Recommend to the Market Surveillance Committee the adoption or modification of market monitoring indices.; and	Revised to include the need for the MAG to recommend the adoption or modification of market monitoring indices.
		(k) Review of offers on administered prices which are used in SO intervention.	[delete]	Deleted as this is deemed not relevant for the purpose of this Manual. Prices used during intervention is provided in the Administered Price Methodology Manual.
The Enforcement and Compliance Officer	6.4.		[delete]	This Section and all its provisions are deleted as these are deemed not relevant for the purpose of this Manual. All these provisions will be considered and will be covered in the proposed WESM Enforcement and Compliance Manual.
	6.4.1	The ECO shall have the following responsibilities:	[delete]	

Title	Section	Provision	Proposed Amendment	Rationale
		(a) Establish principles and procedures, and undertake activities to effectively promote compliance by WESM Members, the <i>Market Operator</i> and <i>System Operator</i> with the <i>WESM Rules</i> , its Market Manuals and WESM Objective, rules and regulations;	[delete]	
		(b) Prepare periodic Compliance Reports to be submitted to the MSC;	[delete]	
		(c) Review Non-Compliance Notices upon the direction of the <i>PEM Board</i> ; (d) Monitor compliance with remedial or preventive measures imposed by the <i>PEM Board</i> upon a party filing a Non-Compliance Notice;	[delete]	
		(e) Conduct Investigations of alleged Breach, abuse of market power and Anti-Competitive Behavior;	[delete]	
		(f) Recommend mitigation measures to the MSC when, in the course of an Investigation, it determines that Anti-Competitive Behavior or abuse of market power may reasonably exist;	[delete]	
		(g) Monitor compliance by a party to a Suspension Notice issued by the <i>PEM Board</i> ; and	[delete]	
		(h) Inform the MSC on policy development, amendments to the <i>WESM Rules</i> and decisions of the <i>PEM Board</i> relevant to compliance and enforcement.	[delete]	

Title	Section	Provision	Proposed Amendment	Rationale
Other Responsible Entities	6.5.		[delete]	This Section and all its provisions are deleted as these are deemed not relevant for the purpose of this Manual. All these provisions will be considered and will be covered in the proposed WESM Enforcement and Compliance Manual.
The PEM Board	6.5.1		[delete]	
	6.5.1.1	The <i>PEM Board</i> shall:	[delete]	
		(a) Oversee and monitor the activities of the <i>Market Operator</i> and <i>System Operator</i> to ensure that they fulfill their responsibilities under the <i>WESM Rules</i> and act in a manner consistent therewith;	[delete]	
		(b) Oversee and monitor the activities of WESM Members to ascertain compliance and determine Breaches of the <i>WESM Rules</i> ;	[delete]	
		(c) Direct the ECO to conduct an Investigation of an alleged Breach, abuse of market power or Anti-Competitive Behavior upon its own initiative or upon receiving a Request for Investigation; and	[delete]	
		(d) Impose the appropriate penalties for acts and omissions constituting a Breach, abuse of market powers or Anti-Competitive Behavior.	[delete]	
The Market Operator	6.5.2		6.5.2. The <u>3.4</u> Market Operator	Renumbered due to the changes and deletions earlier made.
	6.5.2.1	The <i>Market Operator</i> shall:	6.5.2.1 <u>3.4.1</u> The <i>Market Operator</i> shall have the following responsibilities:	Clerical enhancements.

Title	Section	Provision	Proposed Amendment	Rationale
		(a) Monitor the daily trading activities in the WESM and assess whether such trading complies with the <i>WESM Rules</i> ;	(a) Monitor the daily trading activities in the WESM and assess determine whether or not such trading complies is performed in accordance with the <i>WESM Rules</i> ;	Revised for clarity.
		(b) File a Request for Investigation when it has knowledge of acts or omissions which may reasonably constitute a Breach, abuse of market power or Anti-Competitive Behavior; and	(b) <u>Notify the Enforcement and Compliance Office</u> File a Request for Investigation when it has knowledge of acts or omissions which may reasonably constitute a Breach, abuse of market power or Anti-Competitive Behavior; and	Consistent with Section 6.4.5 of the proposed WESM Enforcement and Compliance Manual. The proposed Section 6.4.5 states that if a WESM Member or any party believes that a breach may have been committed by any WESM Member, it may submit a request for investigation to the ECO.
		(c) Promptly provide all data, information, reports and other documentation requested by the MSC, ECO, or MAG in the performance of their functions.	(c) Promptly provide all data, information, reports and other documentation requested by the <u>DOE, ERC, PEM Board, Market Surveillance Committee, Enforcement and Compliance Office or Market Assessment Group.</u> MSC, ECO or MAG in the performance of their functions.	Revised to include DOE, ERC and <i>PEM Board</i> among those provided with data, information, reports, etc. when requested.
The System Operator	6.5.3		6.5.3. The 3.5 <i>System Operator</i>	Renumbered due to the changes and deletions earlier made.
	6.5.3.1	The <i>System Operator</i> shall:	6.5.3.1 3.5.1 The <i>System Operator</i> shall have the following responsibilities:	Clerical enhancement.
		(a) Monitor the operation and practices of WESM members during the coordination, operational planning and real time	xxx	

Title	Section	Provision	Proposed Amendment	Rationale
		operation of the electricity system to assess compliance with the <i>WESM Rules</i> ;		
		(b) File a Request for Investigation when it has knowledge of acts or omissions which may reasonably constitute a Breach, abuse of market power or Anti-Competitive Behavior; and	(b) Notify the Enforcement and Compliance Office File a Request for Investigation when it has knowledge of acts or omissions which may reasonably constitute a Breach, abuse of market power or Anti-Competitive Behavior ; and	Consistent with Section 6.4.5 of the proposed WESM Enforcement and Compliance Manual. The proposed Section 6.4.5 states that if a WESM Member or any party believes that a breach may have been committed by any WESM Member, it may submit a request for investigation to the ECO.
		(c) Promptly provide all data, information, reports and other documentation requested by the MSC, ECO, or MAG in the performance of their functions.	(c) Promptly provide all data, information, reports and other documentation requested by the DOE, ERC, PEM Board, Market Surveillance Committee, Enforcement and Compliance Office, or Market Assessment Group. MSC, ECO or MAG in the performance of their functions.	Revised to include DOE, ERC and PEM Board among those provided with data, information, reports, etc. when requested.
Other PEM Committees	6.5.4		[renumber to Sec. 3.6] Other WESM Governance Committees PEM Committees	<ul style="list-style-type: none"> • Renumbering due to changes earlier made. • Replaced “PEM Committee” with “WESM Governance Committee” for consistency with Clause 7.2.9.2 (c) and (d). <p>Note: PEM Committee includes the five (5) WESM Governance Committees and other committees such as Review Committee,</p>

Title	Section	Provision	Proposed Amendment	Rationale
				Selection Committee, Board Review Committee or other Committees as may be formed by the PEM Board under WESM Rules Clause 1.4.6.
	6.5.4.1	The PEM Committees shall:	6.5.4.1 3.6.1 The other WESM Governance Committees PEM Committees shall have the following responsibilities:	Replaced “PEM Committee” with “WESM Governance Committee” for consistency with Clause 7.2.9.2 (c) and (d).
		(a) Identify in its reports or documents submitted to the <i>PEM Board</i> any condition or circumstance which reasonably corresponds to a Breach, abuse of market power or Anti-Competitive Behavior and file a Request for Investigation;	(a) Identify in its reports or documents submitted to the <i>PEM Board</i> any condition or circumstance which reasonably corresponds Notify the Enforcement and Compliance Office when they have knowledge of acts or omissions which may reasonably constitute to a Breach; abuse of market power or Anti-Competitive Behavior and file a Request for Investigation;	Consistent with Section 6.4.5 of the proposed WESM Enforcement and Compliance Manual. The proposed Section 6.4.5 states that if any WESM Committee, other than the MSC believes that a breach may have been committed by any WESM Member, it may submit a request for investigation to the ECO.
		(new)	(b) Notify the Market Operator when they have knowledge of acts or omissions constituting possible abuse of market power or anti-competitive behavior;	Per the PEMC-ERC Protocol, it is PEMC that shall issue a Notice of Possible Commission of Anti-Competitive Behavior and transmit the same to the ERC. This is to clarify that any acts or omissions constituting possible abuse of market power or anti-competitive behavior be notified to the ERC, pursuant to the PEMC-ERC Protocol.

Title	Section	Provision	Proposed Amendment	Rationale
		(b) Provide assistance and technical expertise to the MSC, ECO or MAG when so requested in accordance with this Manual; and	(b) (c) Provide assistance and technical expertise to other WESM Governance Committees , MSC, ECO or MAG when so requested in accordance with this Manual; and	Revised for clarity.
		(c) Promptly provide all data, information, reports and other documentation requested by the MSC, ECO, or MAG in the performance of their functions.	(c) (d) Promptly provide all data, information, reports and other documentation requested by DOE, ERC, PEM Board, WESM Governance Committees, Market Assessment Group or Enforcement and Compliance Office MSC, ECO, or MAG in the performance of their functions.	Revised to include DOE, ERC, <i>PEM Board</i> and PEM Committees among those provided with data, information, reports, etc. when requested.
		(new)	<u>3.7 WESM Members and Participants</u>	Included a section on the responsibility of WESM Members and Participants.
		(new)	<u>3.7.1 When required by the Market Surveillance Committee, Enforcement and Compliance Office or Market Assessment Group, a WESM member or WESM participant shall timely submit information and data for the Market Surveillance Committee to effectively carry out its functions and responsibilities under this Manual.</u>	Included a provision on the responsibility of WESM Members and Participants.
MARKET MONITORING	7.		[renumber to Sec. 4]	Renumbering due changes earlier made.
Market Assessment	7.1.		[renumber to Sec. 4.1]	

Title	Section	Provision	Proposed Amendment	Rationale
	7.1.1	The MAG shall prepare weekly or monthly Market Assessment Reports, as may be required by the MSC, which shall include:	7.1.1 4.1.1 The MAG Market Assessment Group shall prepare weekly, or monthly and annual Market Assessment Reports for submission to as may be required by the Market Surveillance Committee MSC, which shall include:	Revised to clarify what reports are expected from the MAG to be submitted to the MSC.
		(a) An assessment of the development of market behavior covering the period between the periodic monitoring meetings of the MSC, including: (i) The evolution of the monitoring indices; (ii) Analysis and aggregation of monitoring data; and (iii) Analysis of monitoring indices.	(a) An assessment of the development of the market behavior covering the period between the periodic monitoring meetings of the MSC , including: (i) Analysis and aggregation of monitoring data; and (ii) Analysis and evolution of monitoring indices; and (iv) Recommendations, as necessary.	Clarified what the contents of the MAG reports should include.
		(b) Pending issues and recommendations of the MSC; and	[delete]	This has been included as item Sec. 7.1.1 (a) (iv).
		(b) Such other matters related to market monitoring and assessment, including without limitation: (i) Generation mix: generation capacity per type of fuel and per type of flexibility (base load, peak, intermittent); (ii) Load behavior and trend: (energy and peak demand); (iii) Generation capacity availability and trend; and (iv) Adequacy of reserve.	xxx	

Title	Section	Provision	Proposed Amendment	Rationale
	7.1.2	The MAG shall have the authority to collect the monitoring data and process the monitoring indices, primarily from the <i>Market Operator</i> and <i>System Operator</i> , and process it with the Market Monitoring System.	[delete]	Deemed redundant as this is already included under the renumbered Section 3.3.1 above.
	7.1.3	If some of the required monitoring data is unavailable either from the <i>Market Operator</i> or <i>System Operator</i> , the MAG shall collect such information from the relevant WESM Member.	[delete]	This provision has been deleted and a similar provision included in renumbered Section 5.4.2 “Upon the request of the Market Surveillance Committee, the System Operator, Market Operator, and/or concerned WESM members shall provide such data or information to enable the Market Surveillance Committee to complete its investigation.”
	7.1.4	The MAG shall submit the Market Assessment Report to the members of the MSC which shall be attached as an annex to the Monthly Monitoring Report of the MSC.	[delete]	Deemed redundant as this has been included under the renumbered Section 4.1.1.
		(new)	<p><u>4.1.2 The Market Assessment Group shall prepare quarterly and annual Retail Market Assessment Reports for submission to the Market Surveillance Committee, which shall include the following:</u></p> <p><u>(a) An assessment of the development of the market including:</u></p> <p><u>(i) Analysis and aggregation of monitoring data;</u></p> <p><u>(ii) Analysis and evolution of monitoring indices; and</u></p>	<ul style="list-style-type: none"> • Renumbered following earlier deletions. • Include the preparation of quarterly and annual Retail Market Assessment Reports by MAG for submission to the MSC per Section 3.2.2 of the Catalogue of Retail Market Monitoring Data and Indices.

Title	Section	Provision	Proposed Amendment	Rationale
			<p><u>(iii) Recommendations, as necessary.</u></p> <p><u>(b) Such other matters related to market monitoring and assessment, including without limitation:</u></p> <p><u>(i) Load profile;</u></p> <p><u>(ii) Demand trend;</u></p> <p><u>(iii) Market concentration; and</u></p> <p><u>(iv) Activities of the suppliers and contestable customers.</u></p>	<ul style="list-style-type: none"> Clarifies what the quarterly and annual Retail Market Assessment Reports should contain.
	7.1.5	Upon submission/presentation of the Market Monitoring Report to the <i>PEM Board</i> , the Market Assessment Report may be published in the Market Information Website or disseminated to <i>Trading Participants</i> requesting a copy thereof in accordance with Sections 14.9 and 14.10 of this Manual.	7.1.5 4.1.3 Upon submission /presentation of the Market Monitoring Report to the <i>PEM Board</i> , the <u>above-mentioned</u> Market Assessment Reports may shall be published in the Market Information Website.—Or disseminated to <i>Trading Participants</i> requesting a copy thereof in accordance with Sections 14.9 and 14.10 of this Manual.	<ul style="list-style-type: none"> Renumbered following earlier deletions. Revised for clarity.
Market Monitoring Data and Indices	7.2.		[renumber to Sec 4.2]	Renumbered following earlier deletions.
Monitoring Data	7.2.1		[renumber to Sec 4.2.1]	
	7.2.1.1	The MAG shall regularly collect, organize and maintain the monitoring data.	7.2.1.1 4.2.1.1 The MAG— Market Assessment Group shall regularly collect, organize and maintain the monitoring data.	Clerical enhancement.
	7.2.1.2	The MAG shall adopt procedures and formats for the regular submission of monitoring data	7.2.1.2 4.2.1.2 The MAG— Market Assessment Group shall adopt procedures	

Title	Section	Provision	Proposed Amendment	Rationale
		after providing an opportunity for affected parties to review and comment on such procedures. A party to whom such procedures apply shall establish mechanisms to ensure that the corresponding monitoring data is prepared and submitted, or ready to be accessed, within the time and in the formats specified.	and formats for the regular submission of monitoring data after providing an opportunity for affected parties to review and comment on such procedures. A party to whom such procedures apply shall establish mechanisms to ensure that the corresponding monitoring data is prepared and submitted, or ready to be accessed, within the time and in the formats specified.	
	7.2.1.3	The MAG shall develop a standard format, and such procedures, mechanisms and interface protocols, for the submission of monitoring data. All parties affected shall adhere to the standard format.	[delete]	Deemed redundant as this has been covered under renumbered Section 4.2.1.1.
	7.2.1.4	A party required to provide regular monitoring data shall submit it within the timeframe and in the formats specified by the MAG and may not contest the authority of the MAG to obtain the data prescribed in the monitoring data catalogue.	7.2.1.4 4.2.1.3 A party required to provide regular monitoring data shall submit it within the timeframe and in the formats specified by the MAG Market Assessment Group and may not contest the its authority of the MAG to obtain the data prescribed in the monitoring data catalogue.	Clerical enhancement.
	7.2.1.5	The monitoring data shall be used by the MAG to calculate monitoring indices and to conduct analysis required by the MSC for the purpose of monitoring:	7.2.1.5 4.2.1.4 The monitoring data shall be used by the MAG Market Assessment Group to calculate monitoring indices and to conduct analysis required by the MSC Market	

Title	Section	Provision	Proposed Amendment	Rationale
			<u>Surveillance Committee</u> for the purpose of monitoring:	
		(a) The functioning of the WESM in different time-scales and market conditions;	(a) The functioning of the WESM and the <u>Retail Market</u> in different time-scales <u>periods or intervals</u> and market conditions;	Revised for clarity.
		(b) The behavior of <i>Trading Participants</i> ; and	xxx	
		(c) The conduct and performance of the <i>Market Operator</i> and <i>System Operator</i> .	xxx	
	7.2.1.6	The MSC shall develop:	[delete]	Deemed redundant as this has been covered under renumbered Section 3.1.1.
		(a) A catalogue of monitoring data that shall be routinely provided by the <i>Market Operator</i> and <i>System Operator</i> ;	[delete]	
		(b) If necessary, a catalogue of the additional monitoring data that may be collected from WESM Members to complement the data from the <i>Market Operator</i> and <i>System Operator</i> ; and	[delete]	
		(c) A catalogue of the monitoring indices that will be used to process and analyze the monitoring data collected.	[delete]	
	7.2.1.7	The monitoring data required from <i>Trading Participants</i> shall be published in the Market Information Website.	[delete]	Deleted as publication is already covered under renumbered Section 8.9 on Confidentiality.
	7.2.1.8	For the purpose of improving and adapting the monitoring process to the conditions and problems identified in the WESM, and to effectively achieve the objectives and purpose of market surveillance, the MSC has the	[delete]	Deemed redundant as this has been covered under renumbered Section 4.2.1.1.5.

Title	Section	Provision	Proposed Amendment	Rationale
		authority to modify the catalogue of monitoring data and monitoring indices as it deems appropriate, in view of findings and issues experienced or perceived during the market surveillance process.		
	7.2.1.9	Prior to modifying the catalogue of monitoring data, the MSC shall notify the <i>Market Operator</i> , the <i>System Operator</i> and WESM Members, and shall provide them an opportunity to comment on the modifications.	7.2.1.9 4.2.1.5 The Market Assessment Group, from time to time, shall recommend to the Market Surveillance Committee modifications to the catalogue of monitoring data and indices. Prior to modifying the catalogues of monitoring data and indices, the MSC Market Surveillance Committee shall consult notify the <i>Market Operator</i> , the <i>System Operator</i> and WESM M members , and shall provide them an opportunity to comment on the modifications.	Revised to include deleted provision above, with enhancements.
	7.2.1.10	The MSC may request that the <i>Market Operator</i> , the <i>System Operator</i> or a WESM Member to provide special information not included in the monitoring data catalogue if such information is needed to perform its functions. The MSC shall send the request to the affected party but may delegate the collection of this information to the MAG. A party receiving such request for data or information shall provide it promptly to the MSC or MAG, as the case may be.	[delete]	Deemed already covered under renumbered Section 7.1 below: "To perform its functions and achieve its objectives, the —Market Surveillance Committee and — Market Assessment Group - shall have the authority to request and access any relevant data, information, report or document that a WESM-member or WESM participant, the Market Operator or System Operator may have in its possession"
Monitoring Indices	7.2.2		[renumber to Sec. 4.2.2]	Renumbered following earlier deletions.

Title	Section	Provision	Proposed Amendment	Rationale
	7.2.2.1	The MSC shall identify potential inefficiencies, anomalous circumstances, conducts or outcomes in the WESM through the monitoring indices.	<p>7.2.2.1 The MSC shall identify potential inefficiencies, anomalous circumstances, conducts or outcomes in the WESM through the monitoring indices.</p> <p><u>4.2.2.1</u> The set of monitoring indices developed by the <i>Market Surveillance Committee</i> provides indication of market trends, performance and possible drivers, and signals, which require more in-depth analysis. This shall include the following indices:</p> <p>(a) <u>WESM</u></p> <p>i. <u>Market Performance;</u> ii. <u>Supply Generation;</u> iii. <u>Spot Market Price;</u> iv. <u>Transmission Constraint; and</u> v. <u>Structural.</u></p> <p>(b) <u>Retail Market</u></p> <p>i. <u>Market Performance;</u> ii. <u>Market Structure; and</u> iii. <u>Retail</u> Activity.</p>	Revised to clarify the purpose of monitoring indices and what these indices are.
	7.2.2.2	The MSC will develop and adopt a list of monitoring indices to analyze the monitoring data or other information collected in connection with market surveillance.	<p>7.2.2.2 <u>4.2.2.2</u> The MSC <i>Market Surveillance Committee</i> will develop and shall adopt a the said list of monitoring indices to analyze the monitoring data or other information collected in connection with market surveillance.</p>	Clerical enhancement.

Title	Section	Provision	Proposed Amendment	Rationale
	7.2.2.3	The Market Monitoring System shall include at least two types of monitoring indices:	[delete]	Deemed no longer relevant given changes made above.
		(a) Market monitoring indices to monitor the overall competitiveness and efficiency of the WESM; and	[delete]	
		(b) Monitoring indices of <i>Trading Participants</i> , to monitor their behavior and relative performance and to assess bidding strategies.	[delete]	
	7.2.2.4	The MSC shall continue to elaborate and improve on the list of monitoring indices based on its experience with their application, the results and developments of the WESM, and developments in international practices.	[delete]	
	7.2.2.5	The MSC has the authority to eliminate, add, or otherwise modify monitoring indices as it deems necessary, and to select the monitoring indices it considers appropriate and useful. Such prerogative shall be exercised to facilitate the identification of conditions or circumstances that may correspond to an abuse of market power, Anti-Competitive Behavior, or any other behavior, condition or situation that may undermine the efficiency, transparency and effective competition in the WESM.	[delete]	
	7.2.2.6	In updating the monitoring indices, the MSC may receive recommendations from the <i>PEM Board</i> , and other interested parties.	7.2.2.6 4.2.2.3 In updating the monitoring indices, the MSC <i>Market Surveillance Committee</i> may receive recommendations	Clerical enhancement.

Title	Section	Provision	Proposed Amendment	Rationale
			from the <i>PEM Board</i> , and other interested parties.	
	7.2.2.7	The monitoring indices will be an assessment tool of the MSC to identify conditions that may require further assessment or Investigation. The monitoring indices itself will not determine definitively the existence of abuse of market power or Anti-Competitive Behavior, but will serve as a means of identifying circumstances which may require further assessment or justify a Investigation.	[delete]	Deemed no longer relevant given changes made above. See renumbered Section 4.2.2.1 above.
Periodic Monitoring by the <i>Market Surveillance Committee</i>	7.3.		[retain section title and renumber to Sec. 4.3]	Renumbered following earlier deletions.
	7.3.1	The MSC shall meet at least once every month to carry out a review of the Market Assessment Report submitted by the MAG, and the preparation of the Monthly Monitoring Report to be submitted to the <i>PEM Board</i> .	7.3.1 4.3.1 The MSC <i>Market Surveillance Committee</i> shall meet at least once every month to carry out a review of the Market Assessment Report and the Retail Market Assessment Report submitted by the MAG Market Assessment Group , and the preparation of the Monthly Monitoring Report and Retail Market Monitoring Report to be submitted to the <i>PEM Board</i> .	Revised for clarity and to include the Retail Market Assessment Report and Retail Market Monitoring Report as provided in Sec. 3.2.2 of the Catalogue of Retail Market Monitoring Data and Indices.
	7.3.2	Meetings of the MSC shall be held at the PEMC office premises. The PEMC shall ensure that adequate space and facilities are allocated to the MSC for this purpose.	7.3.2 4.3.2 Meetings of the MSC <i>Market Surveillance Committee</i> shall be held at the PEMC office premises. The PEMC shall ensure that adequate space and facilities are	Clerical enhancement.

Title	Section	Provision	Proposed Amendment	Rationale
			allocated to the MSC <u>Market Surveillance Committee</u> for this purpose.	
	7.3.3	Prior to each periodic monitoring meeting of the MSC, the MAG shall:	7.3.3 4.3.3 Prior to each periodic monitoring meeting of the MSC <u>Market Surveillance Committee</u> , the MAG <u>Market Assessment Group</u> shall <u>submit the Market Assessment Reports corresponding to the period, for Market Surveillance Committee's approval.</u>	Enhancements to indicate MAG's submission of Market Assessment Reports to the MSC.
		(a) Collect and validate monitoring data and process the monitoring indices;	[delete]	Details as to the preparation of the Market Assessment Report and the Retail Market Assessment Reports are deemed no longer needed in view of the changes already made above.
		(b) Collect information, documents and reports that need to be assessed or reviewed by the MSC;	[delete]	
		(c) Prepare a status report on problems or concerns identified by the MSC in its previous periodic monitoring meeting, as well as a progress report on the implementation of actions or mitigation measures, or amendments to the Rules recommended by the MSC;	[delete]	
		(d) Summarize the main incidents or unusual conditions or behaviors during the period	[delete]	

Title	Section	Provision	Proposed Amendment	Rationale
		since the previous periodic monitoring meeting, for the MSC to assess; and		
		(e) Prepare and submit the Market Assessment Reports corresponding to the period.	[delete]	
		Likewise, the ECO shall: (a) Prepare a status report of all Investigations of alleged Breach, abuse of market power or Anti-Competitive Behavior, and of all reviews of Non-Compliance Notices;	[delete]	This Section and all its provisions are deleted as these are deemed not relevant for the purpose of this Manual. All these provisions will be considered and will be covered in the proposed WESM Enforcement and Compliance Manual.
		(b) Summarize all incidents relating to compliance and enforcement, including instances which may require the imposition of mitigating measures; and	[delete]	
		(c) Prepare and submit the Compliance Report corresponding to the period.	[delete]	
	7.3.4	In the periodic monitoring meetings, the MSC shall:	7.3.4 4.3.4 In the periodic monitoring meetings, the MSC <i>Market Surveillance Committee</i> shall:	Revised for clarity.
		(a) Assess market monitoring indices and price trends in the WESM to evaluate whether spot prices and reserve prices are in line with those that may be expected in an effectively competitive market;	(a) Assess market monitoring indices and price trends in the WESM and the Retail Market to evaluate whether spot prices and reserve prices are in line with those that may be expected in an effectively competitive market;	Revised for clarity.

Title	Section	Provision	Proposed Amendment	Rationale
		(b) Identify market outcomes or pricing situations that are inefficient or contrary to competition or the WESM Objectives;	xxx	
		(c) Assess monitoring indices, the behavior and strategies in bids and offers and, as appropriate, the relationship of those bids or offers to marginal or other costs;	xxx	
		(d) Assess any conduct of a WESM Member, the <i>Market Operator</i> or <i>System Operator</i> that could correspond to a Breach, abuse of market power or Anti-Competitive Behavior and, as appropriate, recommend mitigating measures when necessary, or file a Request for Investigation;	<p>(d) Assess any conduct of a WESM Mmember, the Market Operator or System Operator that could correspond to a possible Breach, abuse of market power or Anti-Competitive Behavior and, as appropriate, recommend mitigating measures when necessary, or file a Request for Investigation,</p> <p><u>(d) Pursuant to Section 3.1 of this Manual, advise the Enforcement and Compliance Office of certain acts or omissions which may constitute possible Breach, or in the case of possible abuse of market power or anti-competitive behavior, recommend to the PEMC President the issuance of a Notice of Possible Commission of anti-competitive behavior for submission to the ERC.</u></p>	<p>Adopts changes made pursuant to renumbered Section 3.1 above.</p> <p>Assessment of breach will be the responsibility of the ECO.</p>

Title	Section	Provision	Proposed Amendment	Rationale
		(e) Identify any need for, and recommend the implementation of, measures to remedy or mitigate abuse of market power or Anti-Competitive Behavior, anomalous conditions, market defects or problems with the <i>WESM Rules</i> ;	(e) Identify any need for, and recommend the implementation of, measures to remedy or mitigate possible abuse of market power or A anti-Competitive B behavior, anomalous conditions, market defects or problems with the market WESM Rules ;	Revised for clarity and to be consistent with proposed Enforcement and Compliance Manual and Penalty Manual.
		(f) Identify flaws or inefficiencies in the design of the <i>WESM Rules</i> or Market Manuals, and propose amendments thereto; and	(f) Identify flaws or inefficiencies in Review from time to time the market design of the WESM Rules or Market Manuals , and propose necessary amendments thereto to the WESM Rules, Retail Rules and Market Manuals ; and	Revised for clarity and enhancements.
		(g) Review reports and recommendations of the ECO and MAG and prepare the corresponding reports thereon.	(g) Review reports and recommendations of the ECO Enforcement and Compliance Office and MAG Market Assessment Group, and take appropriate action thereon including preparing corresponding reports thereon .	Revised for clarity and enhancements.
	7.3.5	The MSC may meet with the <i>PEM Board</i> or the President of PEMC to discuss its views with respect to the decisions made by the <i>PEM Board</i> in relation to previous findings and recommendations of the MSC.	7.3.5 4.3.5 The MSC Market Surveillance Committee may meet with the <i>PEM Board</i> or the President of PEMC to discuss its views with respect to the decisions made by the <i>PEM Board</i> in relation to previous findings and recommendations of the MSC Market Surveillance Committee .	Clerical enhancement.

Title	Section	Provision	Proposed Amendment	Rationale
	7.3.6	The MSC may, with the approval of the <i>PEM Board</i> , request meetings with the DOE or ERC to obtain clarifications and discuss views and experiences in relation to its findings and recommendations.	7.3.6 4.3.6 The MSC Market Surveillance Committee may with the approval of the PEM Board , request meetings with the DOE or ERC to obtain clarifications and discuss views and experiences in relation to its findings and recommendations.	Clerical enhancement. The MSC's request for meetings with DOE or ERC no longer needed approval of the <i>PEM Board</i> .
	7.3.7	MSC shall prepare a Monthly Monitoring Report at the end of each periodic monitoring meeting which shall contain:	7.3.7 4.3.7 MSC The Market Surveillance Committee shall prepare a Monthly Monitoring Report at the end of each periodic monitoring meeting which shall contain:	Clerical enhancement.
		(a) An evaluation of monitoring indices and changes to the monitoring data or monitoring indices, if any;	xxx	
		(b) Conclusions and recommendations on the efficiency and adequacy of the <i>WESM Rules</i> and, when necessary, recommendations on amendments to the Rules or the Market Manuals;	(b) Conclusions and recommendations on the efficiency and adequacy of the <i>WESM Rules and Retail Rules</i> and, when necessary, recommendations on amendments to the said Rules or the <i>Market Manuals</i> ;	Clerical enhancement to include the Retail Rules.
		(c) Conclusions and recommendations regarding price trends, market monitoring indices, market behavior and outcomes of the WESM as a whole;	(c) Conclusions and recommendations regarding price trends, market monitoring indices, market behavior and outcomes of the market WESM as a whole; (d) Conclusions and recommendations regarding monitoring indices, trends in bids and offers and the behavior of Trading Participants possessing market power or setting the market prices;	Clerical enhancement. Merge the original provisions Sec. 7.3.7 (c) and (d).

Title	Section	Provision	Proposed Amendment	Rationale
		(d) Conclusions and recommendations regarding monitoring indices, trends in bids and offers and the behavior of <i>Trading Participants</i> possessing market power or setting the market prices;	[delete]	Deleted already included under (c) above.
		(e) Evaluation and initial recommendations on special or unusual circumstances or behaviors or results since the previous periodic monitoring meeting;	[retain and renumber to (d)]	Renumbering.
		(f) When necessary, recommendations on preventive or mitigation measures; and	[retain and renumber to (e)]	Renumbering.
		(g) Evaluations and conclusions resulting from a review of ECO or MAG reports.	(g) (f) Evaluations and conclusions resulting from a review of ECO or MAG Market Assessment Group reports.	Clerical enhancement.
		(new)	<u>(g) Approved Market Assessment Report.</u>	The approved Market Assessment Reports form part of the MSC's Monthly Monitoring Reports.
	7.3.8	The Monthly Monitoring Report for the last month of the calendar year shall be included in the Annual Report to be prepared and submitted after the last periodic monitoring meeting of the calendar year.	7.3.8 The Monthly Monitoring Report for the last month of the calendar year shall be included in the Annual Report to be prepared and submitted after the last periodic monitoring meeting of the calendar year. <u>4.3.8 The Market Surveillance Committee shall submit to the PEM Board the following:</u>	Revised to indicate the deadlines for the submission of the MSC Reports to the <i>PEM Board</i> .

Title	Section	Provision	Proposed Amendment	Rationale
			<p>(a) <u>Monthly Monitoring Report, not later than one week after its approval;</u></p> <p>(b) <u>Quarterly Retail Market Monitoring Report, not later than one week after its approval;</u></p> <p>(c) <u>Annual Retail Market Monitoring Report, within the first quarter of the succeeding year;</u></p> <p>(d) <u>Annual Market Assessment Report, within the third quarter of the succeeding year; and</u></p> <p>(e) <u>Annual Report, which contains its accomplishments and work plan, within the first quarter of the succeeding year.</u></p>	
	7.3.9	<p>Monthly Monitoring Reports shall be submitted to the <i>PEM Board</i> not later than one week after the end of the corresponding periodic monitoring meeting. The Annual Report shall be submitted not later than one (1) month after the end of the calendar year.</p>	<p>7.3.9. Monthly Monitoring Reports shall be submitted to the <i>PEM Board</i> not later than one week after the end of the corresponding periodic monitoring meeting. The Annual Report shall be submitted not later than one (1) month after the end of the calendar year. <u>4.3.9. The Market Surveillance Committee shall transmit a copy of the Monthly Monitoring Report, Annual Market Assessment Report,</u></p>	<p>Revised to specifically indicate the submission of the said MSC Reports to the DOE and ERC.</p>

Title	Section	Provision	Proposed Amendment	Rationale
			<u>Quarterly Retail Market Monitoring Report and Annual Retail Market Monitoring Report to the DOE and ERC.</u>	
	7.3.10	The <i>PEM Board</i> shall submit a copy of the Monthly Monitoring Report or Annual Report to the DOE and ERC in accordance with Sections 14.9 and 14.10 of this Manual.	[delete]	Deleted since per practice, it is the MSC which already provides a copy of its reports to the ERC and the DOE and not the PEM Board.
Monitoring Anti-Competitive Behavior and Abuse of Market Power	7.4.		[renumber to Sec. 4.4] Monitoring Anti-Competitive Behavior and Abuse of Market Power <u>Issuance of Notification of Possible Anti-Competitive Behavior</u>	
	7.4.1	The MSC shall monitor the WESM for any Anti-Competitive Behavior or abuse of market power. For this purpose, the MSC shall, among others:	7.4.1 The MSC shall monitor the WESM for any Anti-Competitive Behavior or abuse of market power. For this purpose, the MSC shall, among others:	Deleted the provisions not aligned with the ERC-PEMC Protocol (Included in proposed WESM Enforcement and Compliance Manual).
		(a) Review the bidding and offer strategies of <i>Trading Participants</i> ;	[delete]	
		(b) Detect any correlation between bidding strategies and the conditions in the WESM or other market conditions to identify patterns of bidding behavior; and	[delete]	
		(c) Identify overall market power concerns.	[delete]	
	7.4.2	The MSC shall implement mechanisms and perform the necessary analysis to:	[delete]	
		(a) Assess and identify conducts or anomalous situations in the WESM which could correspond to Anti-Competitive Behavior or gaming of the <i>WESM Rules</i> ;	[delete]	

Title	Section	Provision	Proposed Amendment	Rationale
		(b) Identify instances where abuse market power has or could be exercised;	[delete]	
		(c) Analyze possible causes of unusually high or low prices in the WESM; and	[delete]	
		(d) Analyze unusual conditions of generation or reserve not offered to the WESM.	[delete]	
	7.4.3	The following conduct of a WESM member shall, among others, be considered as Anti-Competitive Behavior when such conduct significantly affects prices in the WESM:	[delete]	
		(a) Physical withholding or the refusal to offer to sell, or schedule, the maximum available output of reserve to the WESM, by a facility available and capable of producing such output or reserve. This type of conduct may, among others, include: (i) Falsely declaring that a generation facility has been forced out of service, or has otherwise become unavailable or has constraints that limits its output or reserve; or (ii) Operating a generating unit in real-time to produce an output level that is less than the <i>System Operator's</i> dispatch instruction.	[delete]	
		(b) Economic withholding or submitting of bids for a facility that are unjustifiably high so that the facility output or reserve is not, or will not, be dispatched, or so that the bid will set the price.	[delete]	

Title	Section	Provision	Proposed Amendment	Rationale
	7.4.4	If the MSC decides that a conduct or circumstance could reasonably correspond to Anti-Competitive Behavior, as typified in the previous paragraph, the MSC shall:	7.4.4 4.4.1 If the MSC <u>Market Surveillance Committee determines</u> decides that <u>an act or omission constitutes possible</u> conduct or circumstance could reasonably correspond to <u>Anti-Competitive Behavior</u> , as typified in the previous paragraph, the MSC <u>Market Surveillance Committee</u> shall: <u>recommend to the PEMC President the issuance of a Notice of Possible Commission of anti-competitive behavior. Said issuance may contain adequate preventive or mitigation measures, when necessary, until the Investigation is concluded to protect effective competition and fair prices and outcomes in the WESM and the Retail Market.</u>	Revised to reflect the provisions in Sec. 2.3 of the ERC-PEMC Protocol.
		(a) Inform the party or parties involved and the <i>PEM Board</i> of the conduct;	[delete]	Deleted the provisions not aligned with the ERC-PEMC Protocol.
		(b) File a Request for Investigation; and	[delete]	
		(c) Recommend adequate preventive or mitigation measures, when necessary, until the Investigation is concluded to protect effective competition and fair prices and outcomes in the WESM.	[delete]	
COMPLIANCE	8.		[delete]	Deleted Section 8 and all provisions under it, as these are deemed not relevant for the purpose of this Manual. Included in the proposed WESM Enforcement and Compliance Manual.

Title	Section	Provision	Proposed Amendment	Rationale
Principles of Compliance	8.1.		[delete]	
	8.1.1.	Each WESM Member must comply with the <i>WESM Rules</i> , its Market Manuals, rules and regulations, and conduct its activities consistent with the WESM Objectives.	[delete]	
	8.1.2.	The <i>Market Operator</i> shall perform its functions and responsibilities in full compliance with the <i>WESM Rules</i> , the Market Manuals, and other Applicable Laws, Rules and Regulations. It shall also ensure that the dispatch schedules comply with any constraints informed by the <i>System Operator</i> .	[delete]	
	8.1.3.	The <i>System Operator</i> shall perform its functions and responsibilities in full compliance with the <i>WESM Rules</i> , the Market Manuals, the Grid Code and other Applicable Laws, rules and regulations.	[delete]	
	8.1.4.	WESM Members, the <i>Market Operator</i> and the <i>System Operator</i> shall, at the soonest possible time:	[delete]	
		(a) Inform the <i>PEM Board</i> whenever it will not be able to comply with a Rule and propose remedial plans and actions; and	[delete]	
		(b) Inform the <i>PEM Board</i> of any act, omission, or conduct that may reasonably correspond to a Breach.	[delete]	
Compliance Reports	8.2.		[delete]	Deleted Section 8.2 and all provisions under it, as these are deemed not relevant for the purpose of this Manual. Included in

Title	Section	Provision	Proposed Amendment	Rationale
				the proposed WESM Enforcement and Compliance Manual.
	8.2.1.	The ECO shall organize and maintain a compliance database consisting of:	[delete]	
		(a) Reports or notices of alleged Breaches or non-compliance;	[delete]	
		(b) Data, reports and other information related to the development and results of Investigations; and	[delete]	
		(c) Records of each established Breach, containing the name of the party in Breach, its gravity and recurrence, and the sanctions or penalties imposed, if any.	[delete]	
	8.2.2.	The ECO shall prepare monthly Compliance Reports for the <i>PEM Board</i> containing:	[delete]	
		(a) A summary of Requests for Investigation received from the <i>Market Operator</i> , the <i>System Operator</i> or a WESM Member;	[delete]	
		(b) A summarized description of Investigations or reviews being carried out;	[delete]	
		(c) A summary of the development of non-compliance issues and the enforcement processes;	[delete]	
		(d) Such recommendations that may arise from the experiences or observations in administering the compliance and enforcement procedures; and	[delete]	

Title	Section	Provision	Proposed Amendment	Rationale
		(e) Issues or problems arising from the implementation of the procedures and provisions established in this Manual.	[delete]	Deleted Section 9 and all provisions under it, as these are deemed not relevant for the purpose of this Manual. Included in the proposed WESM Enforcement and Compliance Manual.
	8.2.3.	The monthly Compliance Report shall be submitted to the MSC.	[delete]	
NON-COMPLIANCE NOTICE	9.		[delete]	
General	9.1.		[delete]	
	9.1.1.	The following procedure shall apply only to Non-Compliance Notices filed:	[delete]	
		(a) Within the first six (6) months from the start of commercial operations of the WESM;	[delete]	
		(b) Within the first three (3) months of membership in the WESM of a WESM Member, provided that it became a member after the first six (6) months from the start of commercial operations of the WESM;	[delete]	
		(c) Within the first three (3) months of the issuance of a WESM Rule, Market Manual, <i>WESM Rules</i> and regulations, or of an amendment thereto, with respect to the new WESM Rule, Market Manual, or <i>WESM Rules</i> and regulations, or amendment;	[delete]	
		(d) Within the first three (3) months of the formulation of a WESM Objective with	[delete]	

Title	Section	Provision	Proposed Amendment	Rationale
		respect to such new WESM Objective; and		
		(e) Such other instances as the <i>PEM Board</i> may deem appropriate	[delete]	
	9.1.2.	The <i>PEM Board</i> may grant an exemption from compliance when the party filing the Non-Compliance Notice provides an adequate remedial plan to solve the non-compliance problem, and the non-compliance has no adverse market effects and is not unreasonable under the circumstances.	[delete]	
	9.1.3.	When an exemption from compliance is not granted, the filing of a Non-Compliance Notice shall be considered a mitigating factor in imposing the penalty for the Breach.	[delete]	
Procedure for Review of Non-Compliance Notice	9.2.		[delete]	
	9.2.1.	When a WESM Member, the <i>Market Operator</i> or <i>System Operator</i> finds that it is, or will be, unable to comply with a provision of the <i>WESM Rules</i> , its Market Manuals or rules and regulations within the period provided in Section 9.1.1 of this Manual, it shall immediately submit a Non-Compliance Notice to the <i>PEM Board</i> .	[delete]	
	9.2.2.	The Non-Compliance Notice shall include:	[delete]	
		(a) The particular provisions that has not been or will be not be complied with;	[delete]	

Title	Section	Provision	Proposed Amendment	Rationale
		(b) A description of the extent of non-compliance;	[delete]	
		(c) The reason for the non-compliance;	[delete]	
		(d) The remedial plan that will be taken to mitigate the effects of non-compliance or to achieve full compliance; and	[delete]	
		(e) The time frame, if not the actual date, by which compliance could be achieved.	[delete]	
	9.2.3.	The <i>PEM Board</i> shall immediately send the Non-Compliance Notice to the ECO for review.	[delete]	
	9.2.4.	In its review, the ECO shall determine if:	[delete]	
		(a) The grounds for non-compliance are reasonable;	[delete]	
		(b) The non-compliance has adverse market effects;	[delete]	
		(c) The proposed remedial plan will adequately solve the non-compliance problem within reasonable time; and	[delete]	
		(d) The reasonableness of the period of exemption from compliance.	[delete]	
	9.2.5.	For purposes of its review, the ECO may request additional information or clarifications from the party submitting the Non-Compliance Notice, the MAG, the <i>Market Operator</i> or the <i>System Operator</i> , as may be necessary.	[delete]	
	9.2.6.	The ECO may request a PEM Committee to support its review, to acquire sufficient knowledgeable advice in making his determination.	[delete]	
	9.2.7.	The ECO shall prepare a Non-Compliance Report which shall contain:	[delete]	

Title	Section	Provision	Proposed Amendment	Rationale
		(a) A description of the non-compliance;	[delete]	
		(b) Factual findings and opinion on whether the non-compliance could have reasonably been avoided;	[delete]	
		(c) The data or documents upon which factual findings are based;	[delete]	
		(d) Evaluations and conclusions on the material adverse impact or distortion to the WESM of the non-compliance;	[delete]	
		(e) A recommendation on whether the proposed remedial plan, and its duration, should be accepted or rejected; and	[delete]	
		(f) Recommended penalties, remedial actions or preventive measures which may be implemented or imposed in view of the non-compliance.	[delete]	
	9.2.8.	The Non-Compliance Report shall be submitted by the ECO to all the members of the MSC.	[delete]	
	9.2.9.	The ECO shall immediately give to the party filing the Non-Compliance Notice a summary of the contents of the Non-Compliance Report if there is a recommendation to reject or modify the proposed remedial plan, or to impose a penalty.	[delete]	
Review by the MSC	9.3.		[delete]	
	9.3.1.	Each member of the MSC shall review the Non-Compliance Report. Once all individual reviews are furnished the other members of the MSC, the MSC shall hold a special meeting to	[delete]	

Title	Section	Provision	Proposed Amendment	Rationale
		review the Non-Compliance Report. If the periodic monitoring meeting is near, the MSC may decide to wait until such meeting to conduct its Review.		
	9.3.2.	The MSC shall review the Non-Compliance Report in terms of:	[delete]	
		(a) The validity and completeness of the data and documents upon which the factual findings are based; and	[delete]	
		(b) The practicability of the remedial plan or preventive action recommended by the ECO, if any.	[delete]	
	9.3.3.	If the data or documents are not valid or are inconclusive, or if the recommended remedial measure or preventive action is impracticable, the MSC shall remand the report to the ECO for further review.	[delete]	
	9.3.4.	If the MSC concludes that the data or documents are valid and complete and, when applicable, that the remedial plan or preventive action proposed by the ECO is practicable, the MSC shall, within five (5) business days from the special or periodic monitoring meeting, submit its report on the Non-Compliance Notice to the <i>PEM Board</i> for review.	[delete]	
	9.3.5.	The report of the MSC shall include:	[delete]	
		(a) A description of the non-compliance;	[delete]	
		(b) A summary of the recommendation of the ECO with respect to the proposed remedial measure and its duration;	[delete]	

Title	Section	Provision	Proposed Amendment	Rationale
		(c) A summary of the penalties, remedial actions or preventive measures recommended by the ECO, if any;	[delete]	
		(d) A statement that the data or documents upon which the ECO based his factual findings are valid and complete; and	[delete]	
		(e) When applicable, a statement that the remedial plan or preventive action recommended by the ECO is practicable.	[delete]	
Review by the <i>PEM Board</i>	9.4.		[delete]	
	9.4.1.	Based on the report of the MSC, the <i>PEM Board</i> shall:	[delete]	
		(a) When the ECO recommends exemption from compliance, assess the practicability of the durations of such exemption and the remedial or preventive measure, and determine their appropriate durations; or	[delete]	
		(b) When the ECO recommends the imposition of a penalty, assess whether the penalty recommended is appropriate under the circumstances, and impose the proper penalty.	[delete]	
	9.4.2.	The <i>PEM Board</i> shall order the ECO to notify the party and the <i>Market Operator</i> of its decision. Said notice shall include:	[delete]	
		(a) A description of the non-compliance; and	[delete]	
		(b) When exemption is not granted: (i) The justification therefor; and (ii) The penalty imposed.	[delete]	

Title	Section	Provision	Proposed Amendment	Rationale
		(c) When exemption is granted: (i) The justification for the exemption; (ii) The nature and extent of the exemption; (iii) The period within which full compliance must be achieved; (iv) The remedial plan to be implemented during such period; (v) The penalty imposed, if any; and (vi) Any alternative provisions or measures that will be applicable during the transitory exemption period.	[delete]	
	9.4.3.	The <i>PEM Board</i> shall order the ECO to publish a list of exemptions granted in the Market Information Website.	[delete]	
	9.4.4.	The ECO shall keep a register of all cases where exemptions are granted, identifying the name of the party, the rule or provision subject of the exemption, the remedial plan and the duration of the exemption period. Upon request from any WESM Member, the ECO shall provide a copy of such register in accordance with Sections 14.9 and 14.10 of this Manual.	[delete]	
Compliance with Remedial or Preventive Measures	9.5		[delete]	
	9.5.1.	Monitoring of compliance with the remedial measure shall be the function of the ECO.	[delete]	

Title	Section	Provision	Proposed Amendment	Rationale
	9.5.2.	The <i>PEM Board</i> , on its own initiative, or upon the recommendation of the ECO, may reduce the period for compliance when it has determined that such exemption will, or has resulted in, adverse market effects or is otherwise not reasonable under the circumstances.	[delete]	
INVESTIGATIONS	10.		[delete]	Deleted Section 10 and all provisions under it, as these are deemed not relevant for the purpose of this Manual. Included in the proposed WESM Enforcement and Compliance Manual.
Initiation of Investigation	10.1.		[delete]	
	10.1.1.	The procedure for Investigation of an alleged Breach, abuse of market power or Anti-Competitive Behavior may be initiated by:	[delete]	
		(a) The filing of a Request for Investigation of an alleged Breach, abuse of market power or Anti-Competitive Behavior before the <i>PEM Board</i> by the MSC, a WESM Member, the <i>Market Operator</i> , <i>System Operator</i> or other PEM Committee, using the form as prescribed under Appendix C; or <u>(As approved by <i>PEM Board</i> Resolution No. 2010-34 dated 27 April 2010)</u>	[delete]	
		(b) The issuance of an Order from the <i>PEM Board</i> directing the ECO to conduct an Investigation.	[delete]	

Title	Section	Provision	Proposed Amendment	Rationale
	10.1.2.	Immediately upon receiving the Request for Investigation, the <i>PEM Board</i> shall transmit the Request to the ECO for Investigation.	[delete]	
Preliminary Notice	10.2.		[delete]	
	10.2.1.	Within five (5) calendar days from receiving the Request for Investigation or the Order of the <i>PEM Board</i> , the ECO shall issue a Preliminary Notice to the party to be investigated. The Preliminary Notice shall include:	[delete]	
		(a) The act or omission constituting the alleged Breach;	[delete]	
		(b) A description of the type and nature of the Breach;	[delete]	
		(c) The period wherein the alleged Breach has occurred;	[delete]	
		(d) Sanctions that may be imposed if the Breach is not remedied; and	[delete]	
		(e) A copy of the Request for Investigation or <i>PEM Board Order</i> .	[delete]	
	10.2.2.	If the Request for Investigation is filed against a WESM Member, the Preliminary Notice shall additionally:	[delete]	
		(a) Require the WESM Member to submit, within ten (10) calendar days from receipt thereof, a written explanation for the allegations, explaining the conditions that lead to or caused it, together with the detailed description of the measures to be taken to end and solve the same, and	[delete]	

Title	Section	Provision	Proposed Amendment	Rationale
		to ensure that it will not be repeated. The WESM Member shall attach such documents and affidavits in support of its explanation.		
		(b) Order the WESM Member to immediately remedy the act or omission, or to take some other remedial measure if, in the opinion of the ECO, exercising due and necessary diligence, some remedial or preventive measure should be taken to abate the effects of the act or omission complained.	[delete]	
	10.2.3.	A WESM member may be required to take remedial or preventive measures when the act or omission complained of may:	[delete]	
		(a) Negatively impact trading in the WESM and would likely prevent orderly and efficient trading or settlement;	[delete]	
		(b) Lead to unfair or unreasonable WESM prices;	[delete]	
		(c) Cause material negative impact on the viability and sustainability of the WESM or the functions of the <i>Market Operator</i> if not immediately remedied; or	[delete]	
		(d) Cause material negative impact on the system or the functions of the <i>System Operator</i> if not immediately remedied;	[delete]	
	10.2.4.	Compliance with the remedial or preventive measure is not deemed an admission of guilt.	[delete]	
	10.2.5.	If the Request for Investigation is filed against the <i>System Operator</i> or the <i>Market Operator</i> ,	[delete]	

Title	Section	Provision	Proposed Amendment	Rationale
		the Preliminary Notice shall require the <i>System Operator</i> or the <i>Market Operator</i> to explain the allegations in writing and submit the same within a specified period of time deemed reasonable by the ECO under the circumstances. The <i>Market Operator</i> or the <i>System Operator</i> shall attach such documents and affidavits in support of its explanation.		
	10.2.6.	The Preliminary Notice shall be copied to the <i>PEM Board</i> and ERC.	[delete]	
Written Explanation to the Request for Investigation	10.3.		[delete]	
	10.3.1.	If the party to be investigated admits in its written explanation the allegations in the Request for Investigation and offers a settlement acceptable to the party filing the request, the parties shall sign an undertaking that the settlement shall be final and binding upon them, subject to the approval of the settlement by the <i>PEM Board</i> .	[delete]	
	10.3.2.	If the Investigation is initiated by the <i>PEM Board</i> in accordance with Section 10.1.1(b) of this Manual, the party in alleged Breach shall prepare a settlement offer for the approval of the <i>PEM Board</i> .	[delete]	
	10.3.3.	The ECO may, in its discretion, proceed with Investigation, despite the settlement by the parties or the submission of a settlement offer,	[delete]	

Title	Section	Provision	Proposed Amendment	Rationale
		to determine the validity of the admission by the party and any imposable penalty.		
	10.3.4.	If the party does not admit the allegations, ECO shall proceed with the Investigation.	[delete]	
Investigation Proper	10.4.		[delete]	
	10.4.1.	The ECO shall ensure that due process shall be accorded to all parties involved in an Investigation.	[delete]	
	10.4.2.	The ECO has the authority and power to request from the parties concerned all the information required to investigate and determine the existence or non-existence of an alleged Breach, abuse of market power or Anti-Competitive Behavior.	[delete]	
	10.4.3.	For the purpose of obtaining comprehensive information and expert advice, the ECO has the authority:	[delete]	
		(a) To request information from the <i>System Operator</i> , the <i>Market Operator</i> or other WESM Members even if they did not file the Request for Information;	[delete]	
		(b) To request from the MAG any information which may be in its possession as a result of the exercise of its monitoring and assessment functions; and	[delete]	
		(c) To request a PEM Committee to support its Investigation, and acquire sufficient knowledgeable advice in making his determination.	[delete]	
Conference	10.5.		[delete]	

Title	Section	Provision	Proposed Amendment	Rationale
	10.5.1.	At the request of the parties to the Investigation, or at its own instance, the ECO may allow a conference to be conducted for the purpose of gathering and verifying information or data in relation to the alleged Breach, abuse of market power or Anti-Competitive Behavior.	[delete]	
	10.5.2.	The procedure to be followed during the conference shall be determined by the ECO in accordance with the exigencies of each Investigation. In all instances, a notice of the conference shall be given to all named parties and posted in the Market Information Website at least five (5) calendar days before the scheduled conference.	[delete]	
Investigation Report	10.6.		[delete]	
	10.6.1.	After the termination of Investigation and the conference, where applicable, the ECO shall prepare the Investigation Report which shall:	[delete]	
		(a) State a summary of preliminary matters, from the filing of the Request for Investigation or issuance of the Order for Investigation by the <i>PEM Board</i> , up to the initiation of the Investigation; and	[delete]	
		(b) Make a determination of the existence or non-existence of a Breach, abuse of market power or Anti-Competitive Behavior;	[delete]	
		(c) Contain the findings of fact of the ECO relating to Breach, abuse of market power or Anti-Competitive Behavior, or	[delete]	

Title	Section	Provision	Proposed Amendment	Rationale
		the absence thereof, as admitted by the parties or determined in the course of the Investigation;		
		(d) State the source of the data or information upon which such findings of fact are based;	[delete]	
		(e) Include the assessment, opinion and recommendations of the ECO and the basis therefor; and	[delete]	
		(f) State the recommended penalty or other affirmative action in case there is a finding of Breach, abuse of market power or Anti-Competitive Behavior.	[delete]	
	10.6.2.	If there is a finding of Breach, abuse of market power or Anti-Competitive Behavior, the Investigation Report shall also include:	[delete]	
		(a) The causes and extent of the Breach, abuse of market power or Anti-Competitive Behavior;	[delete]	
		(b) The nature and extent of damages or injuries caused;	[delete]	
		(c) A recommendation on mitigating measures in instances allowed under this Manual; and	[delete]	
		(d) A recommendation on the penalties to be imposed against the erring parties.	[delete]	

Title	Section	Provision	Proposed Amendment	Rationale
	10.6.3.	For purposes of this Manual, a WESM Member, the <i>System Operator</i> or the <i>Market Operator</i> shall be in Breach when a Breach is determined through an Investigation, or, in the assessment or Investigation of an alleged Breach, the WESM Member, the <i>System Operator</i> or the <i>Market Operator</i> does not reply within the established deadline or does not provide all the information requested on time.	[delete]	
	10.6.4.	In case a settlement has been made or offered, the Investigation Report shall additionally include:	[delete]	
		(a) A summary of the settlement and undertaking between the parties to abide therewith, or the offer to settle submitted by the party being investigated, as appropriate; and	[delete]	
		(b) The assessment, opinion and recommendations of the ECO with respect to the settlement or settlement offer.	[delete]	
	10.6.5.	The ECO shall immediately give the party investigated a summary of the contents of the Investigation Report if there is a finding of Breach, abuse of market power or Anti-Competitive Behavior.	[delete]	
Review of the Investigation	10.7.		[delete]	

Title	Section	Provision	Proposed Amendment	Rationale
Report by the MSC				
	10.7.1.	The Investigation Report shall be submitted by the ECO to each member of the MSC.	[delete]	
	10.7.2.	Within five (5) business days from receipt of the Investigation Report, each member of the MSC shall prepare and provide the other members with his preliminary review thereon.	[delete]	
	10.7.3.	Once all the preliminary reviews have been sent to the members of the MSC, a special meeting shall be held to review the Investigation Report. If the periodic monitoring meeting is near, the MSC may decide to wait until such meeting to produce its report.	[delete]	
	10.7.4.	During the special or periodic monitoring meeting, the members of the MSC shall discuss their preliminary reports and review the Investigation Report with respect to:	[delete]	
		(a) Compliance by the ECO with the procedures set forth in this Manual for the conduct of Investigation; and	[delete]	
		(b) Validity and completeness of the data and documents upon which the factual findings are based.	[delete]	
	10.7.5.	If the MSC determines that the ECO failed to comply with the procedures provided in this Manual for Investigation, the MSC shall determine if such non-compliance by the ECO materially affects the rights of the parties, the factual findings of the ECO, or the credibility of the data and documents upon which the factual	[delete]	

Title	Section	Provision	Proposed Amendment	Rationale
		findings are based. In such case, the MSC shall remand the report to the ECO for compliance with the procedures.		
	10.7.6.	If the MSC determines that the data and documents upon which the ECO based its factual findings are not valid or complete, the MSC shall remand the report to the ECO or MAG for further Investigation.	[delete]	
	10.7.7.	In its review of the reports submitted by the ECO, the MSC may conduct conferences or consultations, or carry out its own investigation on matters enumerated in Section 10.7.4 of this Manual. In case of a conference, notice thereof must be given to the named parties at least five (5) calendar days prior the scheduled conference.	[delete]	
	10.7.8.	If the MSC concludes that the ECO substantially complied with procedures provided in this Manual without materially affecting the rights of the parties or the credibility of the data and documents, and that the data and documents upon which the ECO based its factual findings are valid and complete, the MSC shall prepare and submit its report to the <i>PEM Board</i> which shall include the following:	[delete]	
		(a) A description of the matter that was investigated by the ECO, including a summary of all settlements and offers for settlements, when applicable;	[delete]	
		(b) A summary of the preliminary matters;	[delete]	

Title	Section	Provision	Proposed Amendment	Rationale
		(c) A summary of the factual findings, opinions, and recommendations of the ECO;	[delete]	
		(d) A statement that the ECO complied with procedural requirements provided in this Manual, or that the non-compliance with the procedural requirements, if any, does not materially affect the rights of the parties, the factual findings of the ECO, or the credibility of the data and documents upon which the factual findings are based;	[delete]	
		(e) A statement that the factual findings of the ECO are based on valid and complete data or documents; and	[delete]	
		(f) A statement that the MSC is adopting the factual findings of the ECO.	[delete]	
	10.7.9.	The report of the MSC shall be submitted to the <i>PEM Board</i> within five (5) business days from the special or periodic meeting.	[delete]	
Review by the <i>PEM Board</i>	10.8.		[delete]	
	10.8.1.	The <i>PEM Board</i> has the authority to review the correctness of the penalty or other affirmative action recommended by the ECO.	[delete]	
	10.8.2.	No penalty shall be imposed without the approval of the <i>PEM Board</i> .	[delete]	
	10.8.3.	In instances where payment of compensation by a WESM Member to affected parties is required, the <i>Market Operator</i> , on behalf of the affected parties, may make a demand for	[delete]	

Title	Section	Provision	Proposed Amendment	Rationale
		payment from the WESM Member under the <i>WESM Rules</i> .		
	10.8.4.	In instances where payment of compensation by the <i>System Operator</i> or the <i>Market Operator</i> to affected parties is required, the <i>PEM Board</i> , pursuant to the <i>WESM Rules</i> , may make a demand for payment from the <i>System Operator</i> or the <i>Market Operator</i> on behalf of the affected parties.	[delete]	
	10.8.5.	Before imposing payment of compensation on the <i>System Operator</i> or the <i>Market Operator</i> , the <i>PEM Board</i> shall review and make a determination that such payment will not affect the viability and sufficiency of resources for the normal and efficient operation of the <i>System Operator</i> or the <i>Market Operator</i> , as applicable.	[delete]	
	10.8.6.	The ECO shall publish in the Market Information Website a monthly report setting out a summary of all actions and rulings made during that period in relation to enforcement for the period covered by the report.	[delete]	
OTHER REVIEW FUNCTIONS	11.		[retain section title and renumber to Sec. 5]	Renumbered.
Review of the WESM Rules	11.1.		44.4 5.1 Review of the Market WESM-Rules	Revised to clarify that the Review should also include the Retail Rules.
	11.1.1.	The MSC shall implement mechanisms to analyze and identify, as early as possible, actual or potential flaws or inefficiencies in the <i>WESM Rules</i> or its implementation, and recommend amendments to the Rules to:	44.4.4 5.1.1 In the performance of its market surveillance function, the MSC <i>Market Surveillance Committee</i> shall monitor the implementation, and adopt mechanisms to analyze the effectiveness of and identify, as	Revised for clarity and enhancements

Title	Section	Provision	Proposed Amendment	Rationale
			early as possible, actual or potential flaws or inefficiencies in the pertinent Market WESM Rules or its implementation, and and if necessary recommend amendments thereto in order to the Rules to:	
		(a) Improve the overall competitiveness in and the effective operation of the WESM;	(a) Improve the overall competitiveness in and the effective operation of the WESM and Retail Market ;	Revised for clarity.
		(b) Increase the transparency and efficiency of the WESM;	(b) Increase the transparency and efficiency of the WESM and Retail Market ;	
		(c) Enhance the conditions and economic signals to achieve the WESM Objectives; and	(c) Enhance the conditions and economic signals to achieve the WESM and Retail Market Objectives; and	
		(d) Solve distortions, or mitigate any flaw or problem that may negatively affect the efficient and transparent operation of a competitive power market.	(d) Solve Mitigate distortions, or mitigate any flaws or problems that may negatively affect the efficient and transparent operation of a competitive power market.	Revised for clarity and enhancements.
	11.1.2.	For the first twelve (12) months of commercial operations of the WESM, the MSC shall closely monitor the implementation of the <i>WESM Rules</i> and its results. The MSC shall include in its Monthly Monitoring Report an assessment of the design and performance of the <i>WESM Rules</i> , and recommend amendments to avoid potential problems, solve existing problems or address undesired outcomes.	[delete]	Deleted as this is no longer deemed relevant.

Title	Section	Provision	Proposed Amendment	Rationale
	11.1.3.	Any amendment proposal shall be submitted in accordance with the Rules Change Manual.	[retain provision and renumber to Sec. 5.1.2] Any amendment proposal shall be submitted in accordance with the Rules Change Manual <u>of Procedures for Changes to the WESM Rules.</u>	Renumbering due to changes and deletions earlier made.
Review of Amendment Proposals to the WESM Rules	11.2.		4.2 5.2 Review of <u>Proposed</u> Amendments Proposals to the Market WESM Rules <u>and Market Manuals</u>	Revised for clarity
	11.2.1.	Upon the request of the Rules Change Committee, or as otherwise provided in the Rules Change Manual, the MSC shall also review and give its opinion and recommendations on an amendment proposal to the <i>WESM Rules</i> .	4.2.1 5.2.1 Upon the request of the <i>Rules Change Committee</i> , or as otherwise provided in the Rules Change Manual <u>of Procedures for Changes to the WESM Rules</u> , the MSC <u>Market Surveillance Committee</u> shall also review and give its opinion and recommendations on an amendment proposal <u>the proposed amendments</u> to the Market WESM Rules, <u>and Market Manuals.</u>	Revised for clarity and clerical enhancements
	11.2.2.	When an amendment proposal needs to be reviewed by the MSC, the Rules Change Committee shall send a copy thereof to each member of the MSC and specify the review period. Each member of the MSC shall prepare and provide the other members with his preliminary review thereon.	[delete]	Deleted as deemed not operationally efficient; The Rules Change Committee already requests all Committees to provide comments.
	11.2.3.	The MSC shall review the proposed amendment during the next periodic	[delete]	Deleted as deemed not operationally viable.

Title	Section	Provision	Proposed Amendment	Rationale
		monitoring meeting, unless the review period specified by the Rules Change Committee requires an earlier meeting. In such case, the MSC shall call a special meeting.		
	11.2.4.	During the MSC meeting, the members of the MSC shall discuss the amendment proposal. After the end of the meeting, the MSC shall send to the Rules Change Committee a Rules Amendment Review Document with its opinion and recommendations.	[delete]	Deleted as deemed not operationally efficient.
Review of Intervention	11.3.		41.3 5.3 Review of the Market Intervention	<ul style="list-style-type: none"> • Renumbered. • Revised for clarity.
	11.3.1.	The <i>PEM Board</i> shall direct the MSC to conduct an investigation upon the occurrence of any of the following events:	41.3.1 5.3.1 The <i>PEM Board</i> <u>Market Surveillance Committee</u> shall direct the MSC to conduct an investigation <u>review</u> upon the occurrence of any of the following events:	Revised to indicate that the MSC without need for PEM Board directive shall conduct a review of a market intervention.
		(a) An Intervention declared by the <i>System Operator</i> as established in the Grid Code, due to: (i) An emergency; (ii) A threat to system security; or (iii) An event of force majeure;	xxx	
		(b) An event which, in the <i>System Operator's</i> reasonable opinion is, or may be, a threat to system security;	(b) An event which, in the <i>System Operator's</i> reasonable opinion is, or may be, a threat to system security; <u>intervention declared by the Market Operator due to force majeure, which includes:</u>	Revised to clarify instances of market intervention per Clause 6.8 of the WESM Rules.

Title	Section	Provision	Proposed Amendment	Rationale
			<p>(i) <u>Market system hardware or software failure that makes it impossible to receive or process market offer/bid information or produce market schedules due to erroneous real-time status input data or dispatch the system in accordance with the WESM Rules; and</u></p> <p>(ii) <u>Interruption in the operations of market software used by the Market Operator to support various processes in the WESM during the simulation of the business continuity plan and disaster recovery procedures, or any other event, circumstance or occurrence in nature of, or similar in effect to any</u> of the foregoing.</p>	
		(c) A force majeure event; or	[delete]	Deleted as already deemed redundant given the earlier revised provision.
		(d) An emergency.	[delete]	
	11.3.2.	When one or more of the events described occurs, the <i>PEM Board</i> , through the President of PEMC, shall within the next ten (10) business days, notify each member of the MSC and direct the MSC to conduct an investigation of the event and the preparation of the corresponding Intervention Report.	41.3.2 5.3.2 When one or more any of the events described occurs as described above , the PEM Board, through the President of PEMC, shall within the next ten (10) business days, the Market Operator or the System Operator, as the case may be, shall notify each member of the Market Surveillance	Revised for clarity and enhancements. Removed the need for the PEM Board to direct the MSC to conduct an investigation on the occurrence of a market intervention event but instead, the MSC shall conduct a review of said event.

Title	Section	Provision	Proposed Amendment	Rationale
			Committee MSC and direct the MSC to conduct an investigation of the such event and the preparation of the corresponding Intervention Report in writing .	
	11.3.3.	The request from the <i>PEM Board</i> for an investigation and an Intervention Report shall include:	11.3.3 The request from the <i>PEM Board</i> for an investigation and an Intervention Report shall include: <u>5.3.3 Upon receipt of the notification from the Market Operator or the System Operator, the Market Surveillance Committee shall conduct a review and shall prepare a Market Intervention Report, which shall include:</u>	<ul style="list-style-type: none"> Revised for clarity. The MSC shall conduct a review of the market intervention event.
		(a) All information regarding the event provided by the <i>System Operator</i> or the <i>Market Operator</i> to the <i>PEM Board</i> , or otherwise available to the <i>PEM Board</i> ;	(a) All data and information regarding the event, including those provided by the <i>System Operator</i> or the <i>Market Operator</i> to the <i>PEM Board</i>, or otherwise available to the <i>PEM Board</i>;	Revised for clarity.
		(b) The data and information in relation to the event which may be in the possession of the MAG in the exercise of its monitoring functions; and	[delete]	Deemed redundant as the information from MAG and other sources will form part of the initial reports to be submitted to the MSC.
		(c) A reasonable period within which the report of the MSC should be submitted, provided that such period will not be less than twenty (20) business days after the MSC has received the foregoing information.	(c) (b) A reasonable period within which the report of the MSC should be submitted, provided that such period will not be less than twenty (20) business days after the MSC has received the foregoing information.	Included the coverage of the assessment to be made by the MSC, per WESM Rules Clause 6.9.4.1.

Title	Section	Provision	Proposed Amendment	Rationale
			<p><u>Assessment and recommendations, as applicable, on:</u></p> <ul style="list-style-type: none"> i. <u>The adequacy of the provisions of the WESM Rules relevant to the event, and its proposed amendments, if any;</u> ii. <u>The appropriateness of actions taken by the System Operator and/or Market Operator in relation to the event;</u> iii. <u>The impact and possible costs incurred by WESM members as a consequence of the event; and</u> iv. <u>Potential breaches by WESM members.</u> 	
	11.3.4.	Within the next five (5) business days from receipt of the request, a member of the MSC may request the MAG for additional information which, among others, may include:	<p>11.3.4 Within the next five (5) business days from receipt of the request, a member of the MSC may request the MAG for additional information which, among others, may include:</p> <p><u>5.3.4 Upon the request of the Market Surveillance Committee, the System Operator, Market Operator, and/or concerned WESM members shall provide such data or information to enable the Market Surveillance Committee to complete its review.</u></p>	Revised for clarity and enhancements.

Title	Section	Provision	Proposed Amendment	Rationale
		(a) Relevant data, conditions and documentation that made the <i>System Operator</i> reasonably believe that the Intervention was necessary;	[delete]	Deleted as this has been included in the earlier provision.
		(b) Any estimate or information from the <i>Market Operator</i> on the impact and costs on the WESM and its members.	[delete]	Deemed redundant as this has been incorporated under renumbered Section 5.3.3 (b) above.
		(new)	<u>5.3.5 The <i>Market Surveillance Committee</i> may request a third party to provide necessary data or information to enable the <i>Market Surveillance Committee</i> to complete its review, or to act as resource person relative thereto.</u>	Included to consider other possible data sources from third parties.
	11.3.5.	If additional information is requested, the MAG shall have the responsibility of collecting and sending it to all members of the MSC, ensuring that each member has available the same data and information.	[delete]	Deleted too much detail.
	11.3.6.	If the additional information cannot be provided within reasonable time, the MAG shall recommend to the requesting member of the MSC that an extension to the time specified by the <i>PEM Board</i> be requested, justifying the reason for the delay in providing the information and stating the period within which the MAG can provide the additional information.	[delete]	
	11.3.7.	If a member of the MSC requests an extension, the Chairman of the <i>PEM Board</i> shall review	[delete]	Not applicable.

Title	Section	Provision	Proposed Amendment	Rationale
		the request and accept it if reasonable, and inform all members of the MSC thereof.		
	11.3.8.	Each member of the MSC shall assess the event based on the information provided and his experience, and prepare and send to the other MSC members his preliminary opinion and recommendations.	[delete]	
	11.3.9.	A special meeting of the MSC shall be held to prepare the report. However, if the periodic monitoring meeting is near, the MSC may decide to wait until such meeting to produce its report.	[delete]	
	11.3.10.	During the meeting, the members of the MSC shall discuss their review and opinion. After the end of the meeting, and within the period required by the <i>PEM Board</i> , the MSC shall send its report with its assessment and recommendations, as applicable, of:	[delete]	Deemed redundant as this has been incorporated under renumbered Section 5.3.3 (b) above
		(a) The adequacy of the provisions of the <i>WESM Rules</i> relevant to the event or events, and its recommended amendments, if any;	[delete]	
		(b) The appropriateness of actions taken by and conduct of the <i>System Operator</i> and <i>Market Operator</i> in relation to the event or events;	[delete]	
		(c) The Impact and possible costs incurred by WESM Members as a consequence of to the event or events;	[delete]	
		(d) Potential Breaches or faults by WESM Participants; and	[delete]	

Title	Section	Provision	Proposed Amendment	Rationale
		(e) Recommendations including, when considered necessary, a preliminary assessment for further evaluation by the PEM Auditor of the potential flaw.	[delete]	
	11.3.11.	If the MSC reasonably believes that the information collected is insufficient to provide its opinion and full review, the MSC must state in the report the causes why the information was insufficient. In such cases, the MSC may excuse itself from providing an opinion or recommendation on one or more of the matters investigated, unless additional information is made available.	[delete]	Recommended to be deleted.
	11.3.12.	A copy of the Intervention Report shall be sent to the <i>PEM Board</i> for review and approval.	41.3.12 5.3.6 A copy of the The Market Surveillance Committee's Market Intervention Report shall be sent submitted to the <i>PEM Board</i> for review and approval, within a reasonable period, provided that the initial report shall be submitted within thirty (30) working days after the MSC has received the notification from the Market Operator or the System Operator.	To provide a timeline for the submission of the MSC's initial report on the review of market intervention event.
	11.3.13.	The approved Intervention Report shall be copied by the <i>PEM Board</i> to the ERC and DOE, and to any interest persons upon request, in accordance with Sections 14.9 and 14.10 of this Manual.	41.3.13 5.3.7 A copy of the The approved Market Intervention Report shall be copied transmitted by the <i>PEM Board</i> to the ERC and DOE, and be furnished to any interested persons upon request, in accordance with Sections 14.9 and 14.10 8 of this Manual.	

Title	Section	Provision	Proposed Amendment	Rationale
Review of Market Suspension	11.4.		[retain section title and renumber to Sec. 5.4]	Renumbered.
	11.4.1.	Within ten (10) days after the ERC has declared a Market Suspension, the <i>PEM Board</i> , through the President of PEMC, shall notify each member of the MSC and direct the MSC to conduct an investigation of the event, and to prepare the corresponding Market Suspension Report.	<p>41.4.4 5.4.1 Within ten (10) business days after the ERC has declared following a notice by the Market Operator of a declaration of Market Suspension, the PEM Board, through the President of PEMC, shall notify each member of the MSC and direct by the ERC under Clause 6.9.1.1 of the WESM Rules, the MSC Market Surveillance Committee to conduct an shall convene and investigation of the event, and to prepare the corresponding Market Suspension Report review such declaration and prepare a report to assess:</p> <p>(a) The adequacy of the relevant provisions of the WESM Rules in relation to the event or events which occurred;</p> <p>(b) The appropriateness of actions taken by the System Operator and the Market Operator in relation to the event or events which occurred;</p> <p>(c) The costs incurred by WESM members as a consequence of responding to the event or events; and</p> <p>(d) Any finding of potential, fault of any WESM Participant including a preliminary recommendation for</p>	<p>For clarity included other provisions as stated in the other portions of this Section.</p> <p>Included the coverage of the assessment to be made by the MSC, per WESM Rules Clause 6.9.5.1.</p>

Title	Section	Provision	Proposed Amendment	Rationale
			<u>further evaluation by the <i>PEM Audit Committee</i>.</u>	
		(a) All information regarding the event provided by the <i>System Operator</i> or the <i>Market Operator</i> to the <i>PEM Board</i> , or otherwise available to the <i>PEM Board</i> ;	[delete]	Deleted and consolidated with other related provisions under the renumbered Section 5.4.2.
		(b) The data and information in relation to the event which may be in the possession of the MAG in the exercise of its monitoring functions; and	[delete]	
		(c) A reasonable period of time within which the report should be submitted, provided that such period will not be less than twenty (20) business days after the MSC has all the necessary information.	[delete]	
		(new)	<u>5.4.2 Upon the request of the <i>Market Surveillance Committee</i>, the <i>System Operator</i>, <i>Market Operator</i>, and/or concerned WESM members shall provide such data or information to enable the <i>Market Surveillance Committee</i> to complete its review.</u>	Consolidates above deleted provisions.
		(new)	<u>5.4.3. The <i>Market Surveillance Committee</i> may request a third party to provide necessary data or information to enable the <i>Market Surveillance Committee</i> to complete its review, or to act as resource person relative thereto.</u>	Included so as to consider other possible data sources from third parties

Title	Section	Provision	Proposed Amendment	Rationale
	11.4.2.	Within the next five (5) business days from receipt of the request, a member of the MSC may request the MAG for additional information, which among others, may include any estimate or information from the <i>Market Operator</i> on the impact and costs on the WESM and its members.	[delete]	Deemed unnecessary to be included as this is part of the administrative tasks of the MAG as Secretariat.
	11.4.3.	If additional information is requested, the MAG shall have the responsibility of collecting and sending it to all members of the MSC, ensuring that each member has available the same data and information.	[delete]	
	11.4.4.	If the additional information cannot be provided within reasonable time, the MAG shall recommend to the requesting member of the MSC that an extension to the time specified by the <i>PEM Board</i> be requested, justifying the reason for the delay in providing the information and stating the period within which the MAG can provide the additional information.	[delete]	
	11.4.5.	If a member of the MSC requests an extension, the Chairman of the <i>PEM Board</i> shall review the request and accept it if reasonable, and inform all members of the MSC thereof.	[delete]	Deleted, provisions are too detailed.
	11.4.6.	Each member of the MSC shall assess the event based on the information provided and his experience, and prepare and send to the other MSC members his preliminary opinion and recommendations.	[delete]	

Title	Section	Provision	Proposed Amendment	Rationale
	11.4.7.	A special meeting of the MSC shall be held to prepare the Market Suspension Report. However, if the periodic monitoring meeting is near, the MSC may decide to wait until such meeting to produce its report.	[delete]	
	11.4.8.	During the meeting, the members of the MSC shall discuss their review and opinion. Within five (5) business days after the end of the meeting, and within the period required by the <i>PEM Board</i> , the MSC shall prepare and send the Market Suspension Report with the assessment and recommendations, as applicable, of:	[delete]	
		(a) The adequacy of the provisions of the <i>WESM Rules</i> relevant to the event or events, and its recommended amendments, if any;	[delete]	Deleted – already included under the renumbered Section 5. 5.1 to 5.5.3 as applicable.
		(b) The appropriateness of actions taken by and conduct of the <i>System Operator</i> and <i>Market Operator</i> in relation to the event; and	[delete]	
		(c) The Impact and possible costs incurred by WESM Members as a consequence of to the event or events.	[delete]	
	11.4.9.	If the MSC reasonably believes that the information collected is insufficient to provide its opinion and full review, the MSC must state in the report the causes why the information was insufficient. In such cases, the MSC may excuse itself from providing an opinion or recommendation on one or more of the matters	[delete]	Deleted, provisions are too detailed and not applicable.

Title	Section	Provision	Proposed Amendment	Rationale
		investigated, unless the additional information is made available.		
	11.4.10.	A copy of the Market Suspension Report shall be sent to the <i>PEM Board</i> for review and approval.	11.4.10 5.4.4 A copy of the The Market Surveillance Committee's Market Suspension Report shall be sent submitted to the <i>PEM Board</i> for review and approval.	Clerical enhancements.
	11.4.11.	The approved Market Suspension Report shall be copied by the <i>PEM Board</i> to the ERC and DOE, and to any interested party upon request, in accordance with Sections 14.9 and 14.10 of this Manual.	11.4.11 5.4.5 A copy of the The approved Market Surveillance Committee Market Suspension Report shall be copied transmitted by the <i>PEM Board</i> to the ERC and DOE, and shall be furnished to any interested persons upon request, in accordance with Sections 14.9 and 14.10 8 of this Manual.	
Review of Over-Riding Constraints	11.5.		[retain section title and renumber to Sec. 5.5]	Renumbered.
	11.5.1.	The MAG shall maintain a record of each incident that leads the <i>Market Operator</i> to an Over-Riding Constraint condition, storing the information provided by the <i>System Operator</i> . The MAG may establish a standard form for the <i>System Operator</i> to provide the required information related to the imposition or relaxation of Constraints.	[delete]	Reflected applicable provisions under the renumbered Section 5.5.2.
	11.5.2.	Should the <i>System Operator</i> recommend to the <i>Market Operator</i> that Over-Riding Constraints be imposed, for one or more trading intervals, on the energy dispatch or reserve dispatch of a specific generation	[delete]	Revised all applicable provisions and were reflected under the renumbered Sections 5.5.1 to 5.5.3.

Title	Section	Provision	Proposed Amendment	Rationale
		facility because the offer or bid of such facility does not represent its capability and could materially affect dispatch or pricing, the <i>System Operator</i> shall provide the MAG within the next two (2) business days, the following information and details of the incident:		
		(a) Data or conditions, including documentation when relevant, that made the <i>System Operator</i> reasonably believe that the generation offer, reserve offer or demand bid did not represent the actual or expected capability of the facility for the corresponding trading interval;	[delete]	
		(b) A description and evaluation on the manner in which the misrepresentation in the bid or offer was expected to impact materially and mislead dispatch or pricing; and	[delete]	
		(c) The estimated impact of the imposition of the Over-Riding Constraint on affected <i>Trading Participants</i> and the WESM.	[delete]	
	11.5.3.	When the structure of offers leads to a condition where providing reserve does not allow the simultaneous provision of very low or high levels of generation, and the <i>System Operator</i> recommends to the <i>Market Operator</i> that Constraints be imposed or relaxed, for one or more trading intervals so that generating systems operate in a range that allows increasing generation or increasing reserve, as applicable, the <i>System Operator</i> shall, within	[delete]	Not applicable.

Title	Section	Provision	Proposed Amendment	Rationale
		the next two (2) business days, provide the MAG the following information and details of the incident:		
		(a) A description of the offers and evaluation of the condition that would have affected the provision of reserve combined with low and high level of generation without the Over-Riding Constraint;	[delete]	
		(b) An explanation on how the proposed relaxation or imposition of Constraint resolved the problem; and	[delete]	
		(c) The estimated impact on the affected <i>Trading Participants</i> and the WESM prices due to the Over-riding Constraint, explaining how it took into consideration the commercial interests of <i>Trading Participants</i> and the market prices for energy and reserves in the relevant reserve region.	[delete]	
	11.5.4.	For the periodic monitoring meeting of the MSC, the MAG shall provide the MSC a summary of the incidents with Over-Riding Constraints, describing conditions and the consequences of such actions as informed by the <i>System Operator</i> .	[delete]	Reflected under the renumbered Section 5.51.
		(new)	<u>5.5.1 The System Operator shall provide the Market Surveillance Committee, through the Market Assessment Group, with the details of the over-riding constraint imposed (e.g. date, trading interval, reasons for the imposition) under a</u>	Consolidated applicable provisions as abovementioned.

Title	Section	Provision	Proposed Amendment	Rationale
			<u>standard form prescribed by the <i>Market Surveillance Committee</i> within the next two (2) business days. The <i>Market Surveillance Committee</i> may require from the <i>System Operator</i> additional information, as it may deem necessary.</u>	
		(new)	<u>5.5.2. The <i>Market Assessment Group</i> shall maintain a record of each over-riding event and any significant impact thereof on the market, which shall be reported to the <i>Market Surveillance Committee</i> on a monthly basis. During its review of the over-riding constraints imposed by the <i>System Operator</i>, the <i>Market Surveillance Committee</i> may require additional information to further assess the event.</u>	
			<u>5.5.3. The <i>Market Operator</i> or a <i>WESM member</i> may also request the <i>Market Surveillance Committee</i> to review a decision to impose or relax an over-riding constraint.</u>	
	11.5.5.	The <i>System Operator</i> , the <i>Market Operator</i> or a <i>WESM Member</i> may also request the <i>MSC</i> to review a decision by the <i>Market Operator</i> to impose or relax a Constraint. Such request shall be submitted to the <i>MAG</i> and shall include:	11.5.5 <u>5.5.4</u> The <i>System Operator</i>, the <i>Market Operator</i> or a <i>WESM Member</i> may also request the <i>MSC</i> to review a decision by the <i>Market Operator</i> to impose or relax a Constraint. Such request shall be submitted to	Clerical enhancement.

Title	Section	Provision	Proposed Amendment	Rationale
			the MSC <u>Market Surveillance Committee</u> and shall include:	
		(a) The identification of the party requesting the review;	xxx	
		(b) The identification of the incident, including the date, trading intervals and conditions, when the Over-riding Constraint was established;	(b) The identification of the incident, including the date, trading intervals and conditions, when the Over-riding C constraint was imposed established ;	Enhancement.
		(c) The reason for the request, describing the specific issues or concerns to be reviewed;	xxx	
		(d) If the request is submitted by the <i>System Operator</i> , the details of the incident; and	[delete]	Already covered under the renumbered Section 5.5.4 (b).
		(e) Any other matter or relevant information considered significant by the requesting party to be taken into consideration by the MSC in its review of the incident.	(e) (d) Any other matter or relevant information considered significant by the requesting party to be taken into consideration by the MSC <u>Market Surveillance Committee</u> in its review of the incident.	Clerical enhancement.
	11.5.6.	The MAG shall verify that all necessary information has been submitted. Within the next five (5) business days, the MAG shall:	11.5.6. 5.5.5. The MAG <u>Market Assessment Group</u> shall verify that all necessary information has been submitted. Within the next five (5) business days, the MAG <u>Market Assessment Group</u> shall:	
		(a) If the request is complete, acknowledge receipt and inform the requesting party that the request will be submitted for review by the MSC; or	(a) If the request is complete, acknowledge receipt and inform the requesting party that the request will be submitted for	

Title	Section	Provision	Proposed Amendment	Rationale
			review to the MSC <u>Market Surveillance Committee</u> ; or	
		(b) If the request is incomplete, inform the requesting party of the rejection and the reason for such rejection, provided that the party that presented the request may submit a new complete request	(b) If the request is incomplete, inform the requesting party of the <u>deficiency and request for submission of the required data.</u> rejection and the reason for such rejection, provided that the party that presented the request may submit a new complete request	Revised to provide an avenue to address the deficiency.
	11.5.7.	Once a valid request has been received, the MAG shall send a copy of such request to each member of the MSC, including:	[delete]	Deemed unnecessary to be included as this is part of the administrative tasks of the MAG as Secretariat.
		(a) All information submitted with the request;	[delete]	
		(b) The data collected by the MAG from the <i>System Operator</i> for that incident; and	[delete]	
		(c) The description of the nature of circumstances in which the <i>System Operator</i> has established, in consultation with <i>Trading Participants</i> and the <i>Market Operator</i> , the basis to recommend the imposition or relaxation of Constraints.	[delete]	
	11.5.8.	Within the next seven (7) business days, each member of the MSC shall send his preliminary Review on Over-Riding Constraints to the other members of the MSC. Such review shall be based on the information submitted by the MAG and the general knowledge on conditions and previous situations in the WESM acquired by the MSC.	11.5.8 Within the next seven (7) business days, each member of the MSC shall send his preliminary Review on Over-Riding Constraints to the other members of the MSC. Such review shall be based on the information submitted by the MAG and the general knowledge on conditions and previous situations in the WESM acquired by the MSC. 5.5.6 The	Revised and consolidated some provisions earlier deleted and to specify the review report to be prepared by the MSC on its review on the imposition of an over-riding constraint.

Title	Section	Provision	Proposed Amendment	Rationale
			<p><u>Market Surveillance Committee shall conduct its review on the imposition of an over-riding constraint, and thereafter transmit to the requesting party, copy furnished the PEM Board, the Review Report on Over-riding Constraints containing the following:</u></p> <p><u>(a) Whether the imposition of over-riding constraint was reasonably justified;</u></p> <p><u>(b) Whether a Trading Participant was adversely affected by the imposition of the over-riding constraint; and</u></p> <p><u>(c) Conclusion and recommendations, if any.</u></p>	
	11.5.9.	A special meeting of the MSC shall be held to prepare the Review Document on Over-Riding Constraints. If the periodic monitoring meeting is near, the MSC may decide to wait until such meeting to produce its report.	[delete]	Not applicable
	11.5.10.	During the special or periodic monitoring meeting, the members of the MSC shall discuss their review and opinion, and make their decision thereon.	[delete]	
	11.5.11.	At the end of the special or periodic monitoring meeting, the Review Document on Over-Riding Constraints shall be prepared by the MSC, which shall include:	[delete]	Already consolidated under the renumbered Section 5.5.6.

Title	Section	Provision	Proposed Amendment	Rationale
		(a) The opinion and recommendations regarding the administration of the incident;	[delete]	
		(b) Whether any <i>Trading Participant</i> , the <i>Market Operator</i> or the <i>System Operator</i> acted inappropriately;	[delete]	
		(c) If the conclusion is that a <i>Trading Participant</i> , the <i>Market Operator</i> or the <i>System Operator</i> acted inappropriately, an evaluation on whether this has caused or imposed significant costs on other parties, and: (i) Its recommendation on the compensation to be paid by the <i>Trading Participants</i> or the <i>Market Operator</i> or the <i>System Operator</i> , as the case may be; and (ii) A recommendation to initiate an Investigation by the ECO.	[delete]	
	11.5.12.	If the MSC reasonably believes that the information collected is insufficient to provide its opinion and full review, the MSC must state in the review document the causes why the information was insufficient and make recommendations on the minimum information that should be provided whenever a Constraint is imposed or relaxed, as well as any proposed modification to this chapter of this Manual. In such cases, the MSC may excuse itself from providing an opinion or recommendation	[delete]	Not applicable.

Title	Section	Provision	Proposed Amendment	Rationale
		unless the additional information is made available.		
MITIGATION MEASURES	12.		[retain section title and renumber to Sec. 6]	Renumbering.
		(new)	<u>The Market Surveillance Committee may recommend to the PEMC the imposition of mitigation measures to address possible:</u> <u>(a) Breaches of the WESM Rules; and</u> <u>(b) Acts or omissions constituting possible Anti-Competitive Behavior.</u>	Provided a general statement that MSC may also recommend mitigating measures.
	12.1.	The MSC shall, in consultation with the <i>Market Operator</i> and <i>System Operator</i> , recommend adequate mitigation measures under any of the following circumstances:	[delete]	Deleted as this is deemed not part of the functions of the MSC.
		(a) When a conduct that may correspond to Anti-Competitive Behavior has been identified and an Investigation has been initiated, and preventive mitigation measures are determined to be necessary until the Investigation is finalized to reduce or eliminate potential effects contrary to effective competition;	[delete]	
		(b) When Anti-Competitive Behavior has been determined to exist in an Investigation, and affirmed by the <i>PEM Board</i> , and mitigation measures are determined to be necessary to diminish the effect or prevent the repetition of such conduct;	[delete]	
		(c) When the market surveillance process has identified a rule or procedure in the	[delete]	

Title	Section	Provision	Proposed Amendment	Rationale
		WESM that allows a <i>Trading Participant</i> to manipulate market prices or otherwise impair effective competition, or the rule or procedure produces inefficient outcomes contrary to the WESM Objectives, and provisional mitigating measures are necessary until the corresponding rule or procedure is amended to permanently preclude such manipulation or inefficiency; and		
		(d) Such other similar or analogous circumstances.	[delete]	
	12.2.	As a post-application measure, the MSC may, within forty-eight (48) hours from implementation of a mitigating measure, consult the Audit Committee to determine the adequacy of such mitigating measure.	[delete]	No longer applicable.
	12.3.	Whenever the MSC recommends implementing mitigation measures, a copy of its recommendation shall be sent to the <i>PEM Board</i> for final approval. No mitigation measure shall be implemented without the approval of the <i>PEM Board</i> .	[delete]	
	12.4.	The approved mitigation measure shall be published in the Market Information Website.	[delete]	
	12.5.	A mitigation measure approved and imposed by the <i>PEM Board</i> shall expire not later than six (6) months after it was imposed or earlier, upon resolution of the <i>PEM Board</i> when the MSC, in the performance of its market surveillance functions, assesses that such	[delete]	

Title	Section	Provision	Proposed Amendment	Rationale
		mitigating measure is no longer necessary and recommends its termination.		
	12.6.	Subject to the liability limitation and indemnification provisions contained in this Manual, the <i>Market Operator</i> or the MSC shall not be liable to a WESM member for the costs or consequences of a mitigation measure.	[delete]	
ACCESS TO INFORMATION AND DATA MANAGEMENT	13.		[retain section title and renumber to Sec. 7]	Renumbering.
	13.1.	To perform its functions and achieve its objectives, the MSC, MAG and ECO have the authority to request and access any relevant data, information, report or document that a WESM Member, the <i>Market Operator</i> or <i>System Operator</i> may have in its possession.	13.4 7.1 To perform its functions and achieve its objectives, the MSC <i>Market Surveillance Committee</i> and MAG <i>Market Assessment Group</i> and ECO shall have the authority to request and access any relevant data, information, report or document that a WESM Member or WESM participant , the <i>Market Operator</i> or <i>System Operator</i> may have in its possession.	Clerical enhancements.
	13.2.	The MSC, MAG and ECO are authorized to request, with appropriate deadlines, the submission of data, documents and other information necessary for their respective functions under this Manual.	13.2 7.2 The <i>Market Surveillance Committee</i> MSC and Market Assessment Group MAG and ECO are authorized to request, with appropriate deadlines, the submission of data, documents and other information necessary for the accomplishment of their respective functions under this Manual.	

Title	Section	Provision	Proposed Amendment	Rationale
	13.3.	Each WESM Member, the <i>Market Operator</i> and <i>System Operator</i> shall submit, in a timely manner and in the required format, such data, documents and other information referred to in the monitoring data, or requested by the MSC, ECO or MAG in relation to its functions under this Manual. Every submission of information or data shall be accompanied by a declaration that such information or data are valid, accurate, and complete and based on authentic documents.	13.3 7.3 Each WESM Member or WESM participant , the <i>Market Operator</i> and <i>System Operator</i> shall submit, in a timely manner and in the required format, such data, documents and other information referred to in the monitoring data, or requested by the <u>Market Surveillance Committee or Market Assessment Group</u> MSC, ECO or MAG in relation to its functions under this Manual. Every submission of information or data <u>pursuant to this Manual</u> shall be accompanied by a <u>written</u> declaration that such information or data are valid, accurate, and complete and based on authentic documents. <u>The name and designation of the individual submitting the informational data shall be indicated in such declaration.</u>	<ul style="list-style-type: none"> • Clerical enhancements; • Clarifies the need to submit the name and designation of person submitting the document.
	13.4.	Failure to submit such data, document or information within the prescribed period without reasonable cause shall be considered a Breach of this Manual.	[delete]	Non-submission of data, information and documents within the prescribed period shall not be a ground for breach.
	13.5.	A request for information by the MSC, MAG or ECO shall:	13.5 7.5 A request for information by the MSC, MAG or ECO <u>Market Surveillance Committee, Enforcement and Compliance Office and Market Assessment Group</u> shall:	Clerical enhancements.
		(a) Be in writing;	xxx	
		(b) Indicate the reason for the request;	xxx	

Title	Section	Provision	Proposed Amendment	Rationale
		(c) Specify the document or information requested and, when applicable, the format;	xxx	
		(d) Specify a reasonable time within which the information must be provided; and	xxx	
		(e) Provide other relevant information or clarification to ensure that the request is understood by the Recipient.	xxx	
CONFIDENTIALITY	14.		[retain section title and renumber to Sec. 8]	
	14.1.	Each member of the MSC, the staff of the MAG and the ECO shall enter into a confidentiality undertaking, in accordance with the terms prescribed by the <i>PEM Board</i> .	14.4 8.1. Each member of the MSC <u>Market Surveillance Committee and the Market Assessment Group</u> , the staff of the MAG and the ECO shall enter into a confidentiality undertaking, in accordance with the terms prescribed by the <i>PEM Board</i> .	Clerical enhancements.
	14.2.	To carry out its responsibilities, the MSC, MAG and ECO have the right to access and review confidential or commercially-sensitive data available from a WESM Member, the <i>Market Operator</i> or <i>System Operator</i> .	14.2. 8.2. To carry out its responsibilities, the MSC, MAG and ECO <u>Market Surveillance Committee and the Market Assessment Group shall</u> have the right to access and review confidential or commercially-sensitive data available from a <i>WESM Member or WESM participant</i> , the <i>Market Operator</i> or <i>System Operator</i> .	
	14.3.	The MSC, the MAG and the ECO shall implement procedures as may be reasonable and necessary to protect the confidentiality and commercial value of documents or other	[delete]	Consolidated with other provisions under the renumbered Section 8.5.

Title	Section	Provision	Proposed Amendment	Rationale
		information obtained in the performance of its functions.		
	14.4.	The MSC, the MAG or the ECO shall not use the confidential or commercially-sensitive information for other purposes other than for which it was obtained.	[delete]	
	14.5.	Monitoring indices shall not qualify as confidential, and the results and evolution of monitoring indices shall be published in the Market Information Website.	[delete]	Transferred under the renumbered Section 8.9.
	14.6.	If a WESM Member, the <i>System Operator</i> or the <i>Market Operator</i> marks or claims that a document or information requested is confidential, the party shall provide the reasons that justify such confidentiality treatment.	14.2. 8.3. If a WESM Member or WESM Participant , the <i>System Operator</i> or the <i>Market Operator</i> marks or claims that a document or information requested is confidential, the party shall provide the reasons that justify such confidentiality treatment.	Clerical enhancements.
	14.7.	The MSC, ECO or MAG, as applicable, shall review the confidentiality claim in line with the <i>WESM Rules</i> and other Applicable Law, Rules and Regulations. If the claim is valid, the requirements for the protection of such document or information, as may be necessary to ensure the confidentiality and commercial value of such document or information, shall be established.	14.7 8.4 The MSC, ECO or MAG Market Surveillance Committee or Market Assessment Group , as applicable, shall review the confidentiality claim in line with the <i>WESM Rules</i> and other Applicable Law, Rules and Regulations. If the claim is valid, the requirements for the protection of such document or information, as may be necessary to ensure the confidentiality and commercial value of such document or information, shall be established.	
		(original provision from Sec. 14.3)	14.3 8.5. The MSC, the MAG and the ECO Market Surveillance Committee and the	Renumbered with revisions.

Title	Section	Provision	Proposed Amendment	Rationale
			Market Assessment Group shall implement procedures as may be reasonable and necessary to protect the confidentiality and commercial value of documents or other information acquired and not use the same for other purposes other than which it was obtained in the performance of its functions.	
	14.8.	All reviews and reports to be submitted to the <i>PEM Board</i> shall not, as far as practicable, contain any confidential or commercially-sensitive information.	[retain provision and renumber to Sec. 8.6]	Renumbered.
	14.9.	Reports to be published or disseminated to the ERC, DOE or to any person requesting a copy of any report prepared pursuant to this Manual shall be subject to the exclusion of portions which are classified as confidential or commercially sensitive information.	[retain provision and renumber to Sec. 8.7]	
	14.10.	The members of the MSC, the ECO or MAG, as the case may be, shall prepare a version of their Reports, deleting confidential information, to enable its dissemination and publication.	14.10. 8.8. The members of the MSC, the ECO or MAG, <u>Market Surveillance Committee, Enforcement and Compliance Office and Market Assessment Group</u> as the case may be, shall prepare a version of their Reports, deleting confidential information, to enable its dissemination and publication.	Clerical enhancements.
		(new)	<u>8.9. Monitoring indices shall not qualify as confidential, and the results and evolution of monitoring indices shall be</u>	Included a statement that the monitoring indices and the results are deemed not confidential.

Title	Section	Provision	Proposed Amendment	Rationale
			<u>published in the Market Information Website.</u>	
LIMITATION OF LIABILITY AND INDEMNIFICATION	15.		[retain section title and renumber to Sec. 9]	Renumbered.
	15.1.	Members of the MSC, or the staff of the MAG or the ECO shall not be made personally liable for any loss or damage suffered or incurred by a WESM Member, the <i>System Operator</i> , the <i>Market Operator</i> or any other person as a consequence of any act or omission undertaken in the performance of the duties and responsibilities contained in the Market Manuals or the <i>WESM Rules</i> , unless the person acted with malice, manifest partiality, bad faith, gross incompetence or gross negligence.	15.1. 9.1 Members of the MSC PEM Board, Market Surveillance Committee , or the staff of the MAG Market Assessment Group or the ECO shall not be made personally liable for any loss or damage suffered or incurred by a WESM Member , the <i>System Operator</i> , the <i>Market Operator</i> or any other person as a consequence of any act or omission undertaken in the performance of the duties and responsibilities contained in the <i>Market Manuals</i> or the <i>WESM Rules</i> , unless the person acted with malice, manifest partiality, bad faith, gross incompetence or gross negligence.	Clerical enhancements.
	15.2.	Should any member of the MSC, or any staff of the MAG or the ECO be made liable for any amount for loss or damage suffered or incurred by any person or entity as a consequence of any of its acts or omissions in the performance of its duties as prescribed in the Market Manuals or the <i>WESM Rules</i> , the PEMC shall indemnify said persons through an indemnification process to be developed by the	15.2. 9.2. Should any member of the MSC PEM Board, Market Surveillance Committee , or any staff of the MAG or the ECO Market Assessment Group be made liable for any amount for loss or damage suffered or incurred by any person or entity as a consequence of any of its acts or omissions in the performance of its duties as prescribed in the <i>Market Manuals</i> or the <i>WESM Rules</i> , the	

Title	Section	Provision	Proposed Amendment	Rationale
		<p><i>PEM Board</i>; Provided however that the indemnification shall exclude any liability arising out of conduct involving malice, manifest partiality, bad faith, gross incompetence or gross negligence. Said indemnification shall cover:</p>	<p>PEMC shall indemnify said persons through an indemnification process to be developed by the <i>PEM Board</i>; Provided however that the indemnification shall exclude any liability arising out of conduct involving malice, manifest partiality, bad faith, gross incompetence or gross negligence. Said indemnification shall cover:</p>	
		(a) The full amount adjudged; and	xxx	
		(b) The costs and expenses incurred by the member of the MSC or any staff of the MAG or the ECO in defending itself in the related proceedings.	(b) The costs and expenses incurred by the member of the MSC <u>Market Surveillance Committee</u> or any staff of the MAG or the ECO <u>Market Assessment Group</u> in defending <u>himself/herself or</u> itself, <u>as the case may be</u> , in the related proceedings.	Clerical enhancements.
Flowchart of Enforcement Procedures	Appendix A		[delete]	Deleted as these will be covered in the proposed WESM Enforcement and Compliance Manual.
Guidelines for Imposition of Fines and Penalties	Appendix B		[delete]	
Request for Investigation Form	Appendix C		[delete]	

PUBLIC

WESM Manual

Enforcement and Compliance Issue No. 1.0

Abstract	This manual sets out the approach for enforcement of the obligations of <i>WESM Members</i> under the <i>WESM Rules</i> and <i>Market Manuals</i> , and implements Section 7.2 of the <i>WESM Rules</i> and related provisions. It sets out specifically the guidelines and procedures for monitoring compliance by <i>WESM Members</i> with their obligations under the <i>WESM Rules</i> and <i>Market Manuals</i> , and in the investigation and imposition of sanctions for <i>breach</i> . The corresponding authorities and responsibilities of the persons and entities involved in the enforcement processes of the WESM. This also sets out the obligations of WESM Compliance Officers designated pursuant to the <i>WESM Rules</i> .
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Document Change History

Issue No.	Proponent	Date of Effectivity	Reason for Amendment
1.0	PEMC- <i>Enforcement and Compliance Office</i>		<p>New <i>Market Manual</i> that provides the guidelines and procedures for the implementation of the enforcement and compliance processes of the WESM and the corresponding provisions of the <i>WESM Rules</i> and <i>Retail Rules</i>.</p> <p><i>With the adoption of this Manual, the WESM Market Surveillance, Compliance and Enforcement Market Manual will likewise be amended to, among other things, excise all provisions relating to enforcement and compliance that are set out in this Manual.</i></p>

Document Approval

Issue No.	RCC Approval	RCC Resolution No.	PEM Board Approval	PEM Board Resolution No.
1.0				

Reference Documents

Document ID	Document Title
	Wholesale Electricity Spot Market Rules (<i>WESM Rules</i>)
	<i>Retail Rules</i> for the Integration of Retail Competition and Open Access in the Wholesale Electricity Spot Market (<i>Retail Rules</i>)
	WESM Penalty Manual

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SECTION 1 INTRODUCTION**1.1 PURPOSE**

- 1.1.1 This Manual sets out the framework and processes by which compliance with the rules and *Market Manuals* governing the Wholesale Electricity Spot Market are enforced. It sets out more particularly the processes for monitoring compliance, and for investigation of *breaches* and imposition of corresponding sanctions and penalties, and other consequences of *breach*.

1.2 SCOPE OF APPLICATION

- 1.2.1 More specifically, the processes and actions set out in this Manual apply to the enforcement of the following market rules –
- a) the *Wholesale Electricity Spot Market Rules*, otherwise known as the *WESM Rules*, and its associated *Market Manuals*; and
 - b) the *Retail Rules for the Integration of Retail Competition and Open in the Wholesale Electricity Spot Market*, otherwise known as the *Retail Rules*, and its associated *Market Manuals*.
- 1.2.2 For brevity and unless the context provides otherwise, the reference to *market rules* and *Market Manuals* in this Manual shall collectively pertain to the sets of rules and *Market Manuals*, specified in the preceding paragraph.
- 1.2.3 The processes set out in this Manual apply to all *WESM Members*, including *Trading Participants*, service providers and the *System Operator*, as well as the *Market Operator*.
- 1.2.4 The investigation procedures set out in this Manual will also apply in cases where the *Enforcement and Compliance Office* or the *Enforcement and Compliance Officer* of the WESM is directed by the Energy Regulatory Commission to conduct investigations for subject matter and purposes involving *WESM Members* and their participation in the WESM, other than what is covered by this Manual and for which no procedures were prescribed.

1.2.5 This Manual does not cover the following –

- a) Processes for managing compliance with WESM registration requirements, and treatment of events of default associated with prudential requirements, billing and settlements, and payments due to the *Market Operator*, as well as the processes surrounding imposition of sanctions on, suspension, and deregistration of *Metering Services Providers*. The processes for managing compliance with registration, prudential requirements and WESM settlements are covered in separate *Market Manuals*, while *Metering Services Providers* are not within the scope of the enforcement and compliance in the WESM.
- b) Treatment of disputes among *WESM Members* or disputes involving the *Market Operator* or the *System Operator*, which are covered by the WESM dispute resolution processes under Clause 7.3 of the *WESM Rules*. Correspondingly, *breaches* that are covered by the enforcement actions set out in this Manual as well as the conduct and results of the enforcement proceedings and actions set out in this Manual shall not be subject of a dispute under the WESM dispute resolution processes.
- c) Enforcement of the obligations set out in the *WESM Rules* that pertain to the performance and audit of the *Market Operator* as well as the audit of metering arrangements, which are within the mandate and processes of the *PEM Audit Committee*.
- d) The processes set out in this Manual shall not apply to the enforcement of other rules and other *Market Manuals* that do not form part of the *WESM Rules* or *Retail Rules* and their implementing *Market Manuals*. It is understood that such other rules or other *Market Manuals* shall be enforced according to their own provisions. Consistent with this, this Manual does not apply to the enforcement of rules and *Market Manuals* governing the Interim Mindanao Electricity Market (IMEM) and the renewable energy market. Enforcement and compliance in these markets and the performance by the *Enforcement and Compliance Office* and the *PEM Board* of their enforcement-related functions shall be in accordance with the terms of their respective rules and *Market Manuals*.

SECTION 2 DEFINITIONS, REFERENCES AND INTERPRETATION**2.1 DEFINITIONS**

2.1.1 All terms and abbreviations used in this Manual that are defined in the *WESM Rules* and the *Retail Rules* shall have the same meaning as defined in the latter, unless the context otherwise provides or the said term or abbreviation is otherwise defined in the Glossary of this Manual. This shall be regardless of whether or not the term or abbreviation is italicized.

2.1.2 Where italicized and unless the context otherwise provides, the term or abbreviation shall have the definition given in the Glossary of this Manual, and which definition shall prevail over any other definition contained in the *WESM Rules*, the *Retail Rules* or other issuances.

2.2 REFERENCES

2.2.1 This Manual shall be read in association with the *WESM Rules*, *Retail Rules* and the various *Market Manuals* approved for use in the WESM, including but not limited to the documents listed in the Reference Documents table of this Manual.

2.2.2 It is understood that references to the *WESM Rules*, the *Retail Rules*, and the EPIRA and its Implementing Rules and Regulations made in this Manual, particularly in its footnotes, are based on the most recent amendments of these issuances when this Manual was first promulgated.

2.3 INTERPRETATION

2.3.1 Unless otherwise stated in this Manual, the rules of interpretation set out in Chapter 9 of the *WESM Rules* shall also apply to this Manual.

SECTION 3 LEGAL AND REGULATORY FRAMEWORK**3.1 LEGAL BASIS**

- 3.1.1 Section 30 of Republic Act No. 9136 expressly provides that the wholesale electricity spot market rules shall provide for the procedures for, among other things, the surveillance and assurance of compliance of the participants with the market rules. The formation of the market's governing body is likewise mandated to be included in the market rules as part of the procedures for administering the market.
- 3.1.2 These mandates are reiterated in the EPIRA Implementing Rules and Regulations, or the EPIRA-IRR. The EPIRA-IRR, Rule 9 similarly directs the inclusion in the *WESM Rules* of the procedures for assurance of compliance with the rules among market participants and the formation of a governing body.¹ The same Rule 9 likewise states that the market rules shall be formulated as to provide for adequate sanctions in cases of *breaches* of the *WESM Rules*.²
- 3.1.3 Pursuant to the legal mandate discussed above, the *WESM Rules* provide for the manner by which they are to be enforced, including particularly the imposition of sanctions for *breach* and the requirements and procedures before sanctions can be imposed.³ The *WESM Rules* likewise provide for the design and promulgation of a penalty scheme that will be applied in case of *breach*.⁴
- 3.1.4 The *WESM Rules* also expressly provide that *WESM Members*, upon having registered with the *Market Operator* as such, are bound by the *WESM Rules*.⁵
- 3.1.5 Meanwhile, the *Retail Rules* expressly provide that Chapter 1 of the *WESM Rules* shall apply with respect to the governance of the integration of retail competition in the WESM, the operations of the *Central Registration Body* and the participation and transactions in the WESM of suppliers and contestable

¹ EPIRA-IRR, Rule 9, Section 5 (c) (iii)

² EPIRA-IRR, Rule 9, Section 5 (b) (iv)

³ *WESM Rules*, Clause 1.8.1 and Section 7.2

⁴ *WESM Rules*, Clause 1.6.3

⁵ *WESM Rules*, Clause 2.2.2

customers.⁶ It is also expressly provided that the enforcement of the *Retail Rules* shall also be in accordance with Chapter 7 of the *WESM Rules*.⁷

3.2 ENFORCEMENT OF THE MARKET RULES

- 3.2.1 The Energy Regulatory Commission is mandated by the EPIRA to enforce the rules and regulations governing the operations of the WESM and the activities of the *Market Operator* and other market participants. This is for the purpose of ensuring greater supply and rational pricing of electricity.⁸ This mandate of the ERC is reiterated in the EPIRA-IRR.⁹
- 3.2.2 Concurrently, the *WESM Rules* establish a governance structure for the WESM which includes, among other things, a structure for carrying out enforcement and compliance functions. The establishment of such governance structure is pursuant to the EPIRA which, as discussed in the previous paragraphs, provides that the procedures for administering the market which are to be set out in the *WESM Rules* include the formation of a governing body.¹⁰
- 3.2.3 In line with this, the *WESM Rules* prescribes the respective mandates of the Philippine Electricity Market Board and the *Market Surveillance Committee* in respect to enforcement and compliance. The *WESM Rules* also provide for the creation of an *Enforcement and Compliance Office* and the appointment of and *Enforcement and Compliance Officer*, both of which are to assist the Board in carrying out its enforcement and compliance functions. The *Enforcement and Compliance Office* is a unit within the Philippine Electricity Market Corporation.¹¹

3.3 SCOPE OF WESM ENFORCEMENT AND SANCTIONS

- 3.3.1 The sanctions that may be imposed by authority of and the enforcement process prescribed in the *WESM Rules* are for *breaches* of the *WESM Rules*, the *Retail Rules* and their implementing *Market Manuals*. The specific approach to enforcement is described in more detail in Section 5 of this Manual.

⁶ *Retail Rules*, Clause 1.5.1

⁷ *Retail Rules*, Clause 1.6.2

⁸ EPIRA, Section 43 (c)

⁹ EPIRA-IRR, Rule 3, Section 4 (i)

¹⁰ EPIRA, Section 30, 2nd paragraph (c) and EPIRA-IRR, Rule 9, Section 5 (c) (iii)

¹¹ *WESM Rules*, Chapter 1

- 3.3.2 *Breaches* of other rules and regulations that also affect the operations of the WESM or that govern *WESM Member*, but are not part of the *WESM Rules* or the *Retail Rules*, are not covered by sanctions and enforcement process authorized under the *WESM Rules*. This is notwithstanding that the acts or omissions that are subject of sanctions under the *WESM Rules* may also amount to a *breach* of or are subject to sanctions under these other rules or regulation.
- 3.3.3 The scope of enforcement and sanctions under the *WESM Rules* also does not extend to cases of *anti-competitive behavior* or abuse or misuse of market power by market participants. This is notwithstanding that an act or omission constituting a *breach* of the *WESM Rules* may also constitute *anti-competitive behavior* or abuse of market power.
- 3.3.4 It is understood, further, that the authority of the structures within the WESM to enforce the *WESM Rules* and to impose sanctions is without prejudice to the original jurisdiction of the ERC to enforce the *WESM Rules* and to impose fines and penalties for violations of the EPIRA. Any enforcement action, sanction and penalties under the *WESM Rules*, therefore, should not be understood as precluding or limiting the exercise of the ERC of its original jurisdiction.

3.4 ENFORCEMENT ACTIONS UNDER THE *WESM RULES*

- 3.4.1 *WESM Rules* Clause 1.8.1 provides that the Rules are to be enforceable in accordance with its Chapter 7. Chapter 7 of the *WESM Rules* describes the processes for enforcement and the corresponding authorities and responsibilities of the *PEM Board*, the *Market Surveillance Committee* and the *Enforcement and Compliance Office*.¹²
- 3.4.2 In addition, however, the *WESM Rules* and some *Market Manuals* also authorize the *Market Operator* to impose sanctions and penalties for some specific non-compliance or behavior. These specifically pertain to non-compliances with registration and membership requirements by *WESM Members*; defaults in payments and prudential requirements by Trading Participants, and to *breach* and unethical act by *Metering Services Providers*. More specifically –

¹² The enforcement processes are set out in *WESM Rules* Section 7.2.

- a) Non-compliances with the WESM registration requirements give ground for the *Market Operator* to take punitive action, and the sanctions that can be imposed include suspension or deregistration of the *WESM Member* from the WESM.¹³
- b) Non-compliances pertaining to prudential requirements¹⁴ and to payments to the *Market Operator* are considered as events of default¹⁵ and similarly give grounds for the *Market Operator* to suspend or deregister the erring *WESM Member* from the WESM.
- c) *Breach* and unethical act or conduct by a *Meter Services Provider* also gives ground for deregistration of the erring *Meter Services Provider* by the *Market Operator*.¹⁶ The *Market Operator* is also authorized under the *WESM Rules* to develop a process of penalties and sanctions for *Meter Services Provider* whose *meter data* is incorrect beyond reasonable limits.¹⁷

3.4.3 Where the *WESM Rules* and relevant *Market Manuals* authorize the *Market Operator* to impose sanctions, the imposition of the prescribed sanctions is always an automatic action by the *Market Operator* and is not required to be carried out through the processes set out in Chapter 7 of the *WESM Rules*. Notably, the sanctions imposed by the *Market Operator* follow automatically from the mere occurrence of the non-compliance or event of default.

3.4.4 Thus, enforcement under Chapter 7 of the *WESM Rules* which is to be implemented through this Manual is to be understood as pertaining to non-compliances with the *WESM Rules* and *Market Manuals* other than those for which the *Market Operator* is authorized to impose automatic sanctions. This distinction in the treatment of non-compliances is made as to ensure that a category of non-compliance is not simultaneously subject of sanctions carried out by the *Market Operator* and of sanctions under Chapter 7. For example, as non-compliance with prudential requirements is already subject to sanctions, i.e., suspension and deregistration, by the *Market Operator*, then these can no longer be made subject of enforcement under Chapter 7. To do otherwise will result in the same act constituting the non-compliance being sanctioned twice.

¹³ WESM Manual on Criteria and Procedures for Registration, Suspension and Deregistration

¹⁴ *WESM Rules* Section 3.15.5, 3.15.6 and 3.15.10 in relation to Section 3.15.7

¹⁵ *WESM Rules* Section 3.14.11

¹⁶ *WESM Rules* Clauses 4.7.2 and 4.75

¹⁷ *WESM Rules* Clauses 4.7.3, 4.7.4 and 4.7.5

3.4.5 The specific approach to enforcement is described in more detail in Section 5 of this Manual.

SECTION 4 RESPONSIBILITIES**4.1 PHILIPPINE ELECTRICITY MARKET BOARD**

- 4.1.1 Within the WESM, the *PEM Board* shall have the primary authority and responsibility to enforce the *WESM Rules*¹⁸ and the *Retail Rules*¹⁹ (collectively, the *market rules*) and their implementing *Market Manuals* (collectively, the *Market Manuals*). In this respect, the *PEM Board* shall be responsible for deciding outcomes of investigations that are brought to it, particularly, authorizing the imposition of sanctions for *breach*, and directing compensation and remedial or mitigation measures, pursuant to the procedures set out in this Manual.
- 4.1.2 The *PEM Board* shall exercise its authority to enforce the *market rules* in the manner set out in the *WESM Rules*, this Manual and in the *WESM Penalty Manual*. It shall carry out this function in conjunction with the *Market Surveillance Committee* and the *Enforcement and Compliance Office*, which are by themselves granted specific authorities under the *WESM Rules*, this Manual and the *WESM Penalty Manual*. As such, the *PEM Board* shall not exercise its authority in a manner as to limit the corresponding authority granted to the *Market Surveillance Committee* and the *Enforcement and Compliance Office*.
- 4.1.3 The *PEM Board*, in relation to its mandate of overseeing compliance within the WESM, shall also have the following functions and responsibilities –
- a) Initiating and receiving independent operational audits;
 - b) Authorizing market notices, memoranda and reports in respect of its own decisions and functions;
 - c) Appointing the *Enforcement and Compliance Officer*, upon the recommendation of the PEMC President; and
 - d) Creating working groups from among its members or engaging services of experts as it deems necessary and expedient, for the purpose of carrying out its enforcement-related functions.
- 4.1.4 The *PEM Board* shall meet, deliberate, resolve and vote on the investigations for *breach*, particularly imposition of penalties, sanctions, and remedial

¹⁸ *WESM Rules* Clause 1.4.5.2 and Clause 7.2

¹⁹ *Retail Rules* Clause 1.7

measures based on the recommendations of the *Market Surveillance Committee* and results of the investigations by the *Enforcement and Compliance Office*, and all matters pertaining to enforcement and compliance, in the same manner as it meets, deliberates, resolves and votes on matters submitted to or coming within its authority, unless such act of imposing penalties, sanctions and remedial measures is authorized to be carried out by the Market Surveillance Committee or the Enforcement and Compliance Office under the *WESM Penalty Manual* or other relevant *Market Manual*. It may, at its discretion, adopt its own internal procedures for handling of investigations and other enforcement- related matters referred to it.

4.2 MARKET SURVEILLANCE COMMITTEE

4.2.1 Within the limits set out in this Manual and in addition to its functions as set out in the *WESM Rules* and the Market Surveillance Manual, the *Market Surveillance Committee* has the following authority and obligation in respect to enforcement of the *WESM Rules*. Its enforcement authority includes the authority to –

- a) Review reports of investigations and decide on the outcome of each case based on the findings of facts and the recommendations of the *Enforcement and Compliance Office*;
- b) Recommend to the *PEM Board* the imposition of penalties for *breaches* other than those arising from, and determined through the compliance monitoring and assessment by ECO, and implementation of remedial measures as a consequence of such *breach*, based on outcomes of investigation carried out by the *Enforcement and Compliance Office*;
- c) Decide on or resolve a request for reconsideration of the Notice of Specified Penalties filed by any concerned *WESM Member* in accordance with the relevant provisions of the *WESM Penalty Manual*;
- d) Authorize issuance of notices, reports and memoranda in respect of its own decisions and functions;
- e) Regularly review and promulgate changes, as appropriate, to the *WESM Penalty Manual* pursuant to *WESM Rules* Clause 7.2.

4.2.2 The *Market Surveillance Committee* shall carry out its enforcement functions in conjunction with the *PEM Board* and the *Enforcement and Compliance Office*, as provided for in the *WESM Rules*, this Manual and the *WESM Penalty Manual*. It shall not carry out its authority in a manner as to undermine the

respective authorities granted to the *PEM Board* and the *Enforcement and Compliance Office*.

4.2.3 The *Market Surveillance Committee* shall adopt its own requirements and procedures for meetings, including notices, quorum and voting requirements. It is understood, however, that time is of the essence in respect to the enforcement processes in the WESM. Thus, the *Market Surveillance Committee's* internal procedures may allow, among other things, that –

- a) Notices of meetings and other communications can be issued by electronic means, such as email, web postings, fax and other forms of telecommunications; as well as by traditional means such as by hand through personal delivery by private couriers, messengers or messengerial services, or by postal mail.
- b) Resolution of investigations and other compliance-related matters can be carried out through referendum, and without need of face to face meetings.
- c) Meetings can be conducted through electronic means, such as through teleconferencing and other similar technologies.
- d) Other procedures can be adopted as would facilitate resolution and decisions on enforcement and compliance matters brought before it.

4.3 ENFORCEMENT AND COMPLIANCE OFFICE

4.3.1 The *Enforcement and Compliance Office*, together with the *Market Surveillance Committee*, shall assist the *PEM Board* in the enforcement of the *WESM Rules* and other market rules, and shall have the following authority and responsibility–

- a) Administer the WESM enforcement processes, with authority and responsibility that includes, but is not limited to –
 - i. monitoring of compliance amongst *WESM Members*, and, based on the result of its own monitoring and assessment, to imposing specified penalties therefor in accordance with the *WESM Penalty Manual*;
 - ii. deciding on a request for reconsideration filed by any *WESM Member* of the *Notice of Specified Penalty* arising from its compliance monitoring and assessment activities as may be authorized under the *WESM Penalty Manual*;

- iii. investigating *breach*, submitting the results of its investigations and making recommendations on sanctions and penalties, compensation and remedial measures, as it deems appropriate based on the results of its investigations; and
 - iv. evaluating applications for exemptions and submitting recommendations on possible action on the application, and monitoring implementation of approved compliance plans.
- b) Require from *WESM Members*, the *Market Operator*, and the *System Operator* the submission of data, documents, and other forms of information that it needs in the course of its monitoring and investigation;
 - c) Obtain data, documents, and other forms of information that it needs for its monitoring and investigations from persons, agencies, or entities other than those stated in the foregoing paragraph;
 - d) Obtain expert advice or technical assistance, and other information from *WESM* committees, as it deems necessary to aid in its investigation and monitoring;
 - e) Prepare and issue notices, memoranda, and reports in respect of its own functions and authority;
 - f) Assist the *PEM Board* and the working groups it may create in carrying out enforcement and compliance functions;
 - g) Assist the *PEM Board* in enforcing approved penalties and sanctions, as well as in implementing collection and payment of compensation, and compliance with *remedial measures*.
- 4.3.2 The *Enforcement and Compliance Office* shall exercise the foregoing authority and functions under the supervision and control of the *PEM Board*. Neither the *Market Surveillance Committee* nor the Board shall, however, act in such a manner as to prevent, unreasonably delay, or exert undue influence over, the performance by the *Enforcement and Compliance Office* of its functions.
- 4.3.3 In addition to the foregoing functions, the *Enforcement and Compliance Office* shall also be responsible for -
- a) Continuously developing systems and procedures to deter *breaches* of the *WESM Rules* and further evolve enforcement of penalties consistent with the objectives of the *WESM*;
 - b) Implementing compliance activities intended to promote consultation and voluntary compliance, to deter *breaches* of the *WESM Rules* by *WESM*

Members and to further evolve enforcement of penalties consistent with the objectives of the WESM;

- c) Assisting the *Market Surveillance Committee* in designing penalty levels and in reviewing and recommending changes, as appropriate, to the *WESM Penalty Manual*;
- d) Keeping the *PEM Board* informed on compliance-related matters;
- e) Notifying the ERC and the DOE of investigations on and confirmed *breaches* by *WESM Members*;
- f) Undertaking other compliance-related activities directed by the *PEM Board*;
- g) Receiving and managing all compliance-related communications such as reports, notices, self-reports, requests for investigations, reports of probable *breach* and complaints;
- h) Maintaining a compliance database in accordance with this Manual, publishing information in the market information website, and disseminating information to various parties;
- i) Perform all other actions required of it under this Manual; and
- j) Overall, providing secretariat and technical support to the *PEM Board* in matters pertaining to investigations, and other enforcement and compliance matters.

4.3.4 The *Enforcement and Compliance Office* shall be headed by an *Enforcement and Compliance Officer* who shall oversee and supervise the day-to-day performance by the *Enforcement and Compliance Office* of its functions. All reports, notices and memoranda required to be issued by the *Enforcement and Compliance Office* shall be authorized and signed by said officer or, in his/her absence, by the person specifically designated by the *Enforcement and Compliance Officer* or the PEMC President. The *Enforcement and Compliance Officer* shall be appointed by the *PEM Board*, upon the recommendation of the PEMC President.

4.3.5 Control and supervision over the day-to-day performance by the *Enforcement and Compliance Office* and the *Enforcement and Compliance Officer* of their functions shall be exercised by the *PEM Board*. The PEMC President shall have administrative supervision over the *Enforcement and Compliance Office* and the *Enforcement and Compliance Officer*.

4.4 PEMC PRESIDENT

4.4.1 The PEMC President shall have the following functions in respect to enforcement and compliance in the WESM –

- a) Recommend to the Board the appointment of the *Enforcement and Compliance Officer*;
- b) Appoint the *Enforcement and Compliance Office* staff, other than the *Enforcement and Compliance Officer*;
- c) Exercise administrative supervision over the *Enforcement and Compliance Officer* and the *Enforcement and Compliance Office* and their performance of their respective duties and responsibilities under this Manual; and
- d) Issue notices and receive notices or authorize receiving of notices required in this Manual to be issued by or to the *Market Operator* in accordance with internal business processes of PEMC.

4.5 MARKET ASSESSMENT GROUP

4.5.1 The Market Assessment Group shall –

- a) Make available to the *Enforcement and Compliance Office*, the *Market Surveillance Committee*, and the *PEM Board* its market assessment and monitoring reports and data as well as other market and dispatch data and reports received by it in the course of its performing its market monitoring functions;
- b) Provide technical assistance or expertise, if so requested, in relation to any investigation or enforcement action being undertaken; and
- c) Provide secretariat support to the *Market Surveillance Committee* as it carries out its functions under this Manual.

4.6 WESM GOVERNANCE COMMITTEES

4.6.1 Any of the WESM Governance Committees or any of their members shall, if called upon or requested, -

- a) Provide technical expertise or assistance in relation to any investigation or enforcement action being undertaken; and
- b) Provide or make available its reports, data or information that can aid in any investigation or compliance monitoring being undertaken.

4.6.2 If, in the course of the performance of its functions, a WESM Governance Committee or any of its members has reason to believe that a *WESM Member* may have committed a *breach*, it may submit a *request for investigation* in accordance with the procedures set out in this Manual.

4.7 MARKET OPERATOR

4.7.1 The *Market Operator* shall -

- a) Make available to the *Enforcement and Compliance Office*, the *Market Surveillance Committee* and the *PEM Board* data, reports and other information received or generated by it or that comes into its custody in the course of its market operations;
- b) Provide technical assistance or expertise, if so requested, in relation to any investigation or enforcement action being undertaken;
- c) Together with the *Enforcement and Compliance Office*, be responsible for determining compensation that shall be collected and paid as a consequence of a *breach*; and
- d) Perform the actions required of it under this Manual.

4.7.2 If, in the course of the performance of its functions, the *Market Operator* has reason to believe that a *WESM Member* may have committed a *breach*, it may initiate an investigation by submitting a *notice of probable breach* in accordance with the procedures set out in this Manual.

4.8 SYSTEM OPERATOR

4.8.1 The *System Operator* shall, if called upon or requested, -

- a) Make available to the *Enforcement and Compliance Office*, the *Market Surveillance Committee* and the *PEM Board* data, reports and other information received or generated by it or that comes into its custody in the course of its operations;
- b) Provide technical assistance or expertise, if so requested, in relation to any investigation or enforcement action being undertaken; and
- c) Perform the actions required of it under this Manual.

4.8.2 If, in the course of the performance of its functions, the *System Operator* has reason to believe that a *WESM Member* may have committed a *breach*, it may initiate an investigation by submitting a *notice of probable breach* in accordance with the procedures set out in this Manual.

4.9 WESM MEMBERS

- 4.9.1 By having registered in the WESM, a *WESM Member* has undertaken to comply, in good faith, with the *market rules* and *Market Manuals* and as such, is bound by this Manual and the *WESM Penalty Manual*, and all notices and decisions issued by authority of these manuals.
- 4.9.2 If called upon or requested, a *WESM Member* shall strictly comply with directives and notices issued in relation to any *enforcement action* and *enforcement proceeding* being carried out.
- 4.9.3 Any *WESM Member* may initiate an investigation by submitting a *request for investigation* in accordance with the procedures set out in this Manual if it has reason to believe that another *WESM Member* may have committed a *breach*.

SECTION 5 WESM ENFORCEMENT PROCEEDINGS AND ACTIONS**5.1 RATIONALE**

- 5.1.1 *Enforcement* in the WESM refers to the process by which a *WESM Member* found in *breach* of the *market rules* and *Market Manuals* is imposed penalties or sanctions, which may be financial or non-financial in nature, and/or required to take remedial measures or pay compensation, as a consequence of the *breach*.
- 5.1.2 *Enforcement* in the WESM rests on the concept of absolute liability, in that –
- a) The acts or omissions that constitute the *breach* are those that can be established as directly attributable to the *WESM Member*, and
 - b) The acts or omissions pertain to compliances with the *market rules* and *Market Manuals* to which the *WESM Member* agreed to be bound by having registered in the WESM, and for *WESM Members* that are trading participants, by also having acquiesced to the WESM *market participation agreement*.
- 5.1.3 Prevention of the act or omission is of paramount importance given its potential impact on the market or on the reliability and security of the power system, and thus, intent, or fault, or exercise of diligence is not a consideration in respect to a finding of *breach*.

5.2 DEFINITION OF BREACH

- 5.2.1 A non-compliance with the *market rules* and *Market Manuals* is categorized as a *breach* if it is of such nature that its occurrence can cause adverse impact on or threaten the efficiency of the scheduling and dispatch processes of the WESM and the ability of the WESM to meet its objectives. In these cases, ensuring the efficiency of the WESM and prevention of any adverse impact to either the market or the power system is more important.
- 5.2.2 Accordingly, not all non-compliances with the provisions of the *market rules* or *Market Manuals* are considered as *breach* that are subject to the *enforcement proceedings* and *enforcement actions* set out in this Manual.

- 5.2.3 By limiting the definition of a *breach*, WESM *enforcement* under this Manual will focus on obligations set out in the *market rules* and *Market Manuals* with which *WESM Members* are expected to fully or completely comply, and not simply to employ due diligence to ensure compliance. This is so, the focus being to preserve the integrity and efficiency of the market or the security and reliability of the power system. This is regardless of intent or fault or exercise of diligence.
- 5.2.4 As discussed in Section 3 of this Manual, there are also mandatory obligations set out in the *market rules* which are subject to sanctions that are enforced by the *Market Operator*. In these instances, the prescribed sanction is imposed by the *Market Operator* upon occurrence of the non-compliance and without need of an investigation. While these are mandatory obligations, non-compliance with these are not categorized as *breach* for purposes of *enforcement* under this Manual. Their exclusion is in order that the non-compliance will not be sanctioned twice.
- 5.2.5 More specifically then, the non-compliances that are categorized as *breaches* covered by *enforcement* under this Manual are as follows –
- a) Non-compliances with the *market rules* and *Market Manuals* which are specified as *breach* in and are subject of sanctions under the *WESM Penalty Manual*;²⁰ and
 - b) Non-compliances with provisions of the *market rules* or *Market Manuals* which are expressly provided as subject to sanctions under said provisions of the *market rules* or *Market Manuals* although they may not be specifically listed in the *WESM Penalty Manual*.
- 5.2.6 For the avoidance of doubt, the following acts or omissions or non-compliances are not classified as *breaches* that are covered by the *enforcement actions* and *enforcement proceedings* set out in this Manual –
- a) Non-compliance with registration requirements and membership criteria, which is subject of a sanction specified to be imposed by the *Market Operator* as set out in relevant *Market Manuals*.²¹

²⁰ See *WESM Penalty Manual*.

²¹ See *WESM Manual: Criteria and Procedures for Registration, Suspension and Deregistration*, otherwise known as the *WESM Registration Manual*.

- b) Events of default pertaining to prudential requirements and payment obligations to the *Market Operator* which are subject of sanctions specified to be imposed by the *Market Operator* under the *WESM Rules*.²²
 - c) Non-payment of amounts due to paid to the *Market Operator* for market transactions, including but not limited to payment of settlement amount as defined in Chapter 3 of the *WESM Rules*, in relevant price determination methodologies approved for application in the WESM and in other *Market Manuals*. This does not include payment of financial penalties and compensation as a consequence of a *breach* covered by this Manual as the treatment of such non-payment is categorized as *breach* in and is covered under the WESM Penalty Manual.
 - d) *Breach* of the *WESM Rules* and unethical act of wholesale *Metering Services Providers* for which penalties and sanctions are specified in the *WESM Rules* Chapter 4 as to be imposed by the *Market Operator*.
 - e) Non-compliance with performance standards, including but not limited to those imposed for the *Market Operator* and other WESM service providers, which may or may not be subject of market audit requirements and processes.
 - f) Matters which the parties agree to submit to dispute resolution under relevant laws, the *WESM Rules* and relevant *Market Manual*.
 - g) Subject to paragraph 5.2.5 (b), non-compliances that are not specified as subject of sanctions in the *WESM Penalty Manual*.
- 5.2.7 Any *enforcement action* taken under this Manual does not imply enforcement of the Philippine Grid Code, the Philippine Distribution Code, other rules and regulations which likewise govern or regulate the WESM or the *WESM Members*, and therefore does not prejudice and is likewise not prejudiced by the taking of any action authorized under such codes, rules and regulations. This is notwithstanding that such codes, rules and regulations also impose sanctions on the same acts or omissions that constitute a *breach* of the *market rules* or *Market Manuals* as defined above.

²² See Chapter 3, *WESM Rules*.

5.3 ENFORCEMENT PROCEEDINGS

- 5.3.1 WESM *enforcement proceedings* refer to the activities or processes that are carried out to establish and determine the occurrence of *breach* and the corresponding *enforcement action* that will be carried out as a consequence of the *breach*. These include the processes for compliance monitoring and assessment, investigation for *breach* and imposition of *enforcement actions*.
- 5.3.2 **Compliance monitoring and assessment**, as described in this Manual, is an integral part of *enforcement proceedings* in the WESM. Compliance monitoring under this Manual shall be carried out by the *Enforcement and Compliance Office* and shall be primarily for the purpose of determining the occurrence of *breach* of the *market rules* and *Market Manuals*. Assessment is done by taking into consideration all the relevant and verified market data and information from the *Market Operator*, the *System Operator*, the *WESM Members*, among others, with the end in view of determining the appropriate *enforcement actions*, if warranted. The compliance monitoring and assessment carried out for other purposes, such as for measuring performance standards or for audit compliance or for market assessment and surveillance, is not covered or restricted by this Manual.
- 5.3.3 **Investigations for *breach*** committed by *WESM Members* may be initiated as a result of the compliance monitoring by the *Enforcement and Compliance Office*, from a *notice of probable breach* by the *Market Operator* or the *System Operator*, or by *request for investigation* from other *WESM Members* or *WESM Committees*. This is carried out by the *Enforcement and Compliance Office* which shall afford the party being investigated sufficient opportunities to respond to the investigation. Investigation reports of the *Enforcement and Compliance Office* are reviewed by the *Market Surveillance Committee*. The results of the investigation, as reviewed, are then submitted to the *PEM Board*, which has the authority to impose sanctions and penalties, and to require that remedial measures be carried out.
- 5.3.4 **Imposition of specified penalties** by the *Enforcement and Compliance Office*, as may be authorized by the WESM Penalty Manual, is carried out if a breach is determined after the concerned WESM Member is afforded adequate opportunities to respond to the initial finding of probable breach in accordance with the internal business process, as may be established hereafter.

- 5.3.5 **Imposition of sanctions and penalties** by the *PEM Board* is carried out in the accordance with the *WESM Penalty Manual* and is based on the recommendations of the *Market Surveillance Committee*. The latter submits recommendations based on its findings of facts on an investigation which, in turn, is based on its review of the results of the investigations by the *Enforcement and Compliance Office*. The investigations referred to herein are those initiated in accordance with clause 6.4.2 of this Manual.
- 5.3.6 **Implementation of remedial measures** can be prescribed by the *Enforcement and Compliance Office* or the *Market Surveillance Committee* as provisional measures while an investigation for *breach* is ongoing. Final remedial measures are determined and imposed by the *PEM Board* based on the outcomes of an investigation.
- 5.3.7 **Determination and payment of compensation** is done through a separate process and not in the course of an investigation for *breach*. *WESM Trading Participants* that are financially disadvantaged as a result of a *breach* by another *WESM Member* may separately apply for payment of compensation. Claims for compensation are evaluated jointly by the *Market Operator* and the *Enforcement and Compliance Office*, and approved by the *PEM Board*.
- 5.4 ENFORCEMENT ACTIONS FOR BREACH**
- 5.4.1 *Enforcement actions* are the actions that can be authorized as consequences of a *breach*. These include the imposition of sanctions and penalties, directing payment of compensation or requiring implementation of remedial measures. In appropriate cases, filing of a complaint or petition to initiate regulatory action may also be authorized.
- 5.4.2 **Financial and non-financial penalties.** The financial and non-financial penalties that can be imposed for *breaches* covered by this Manual are those set out in the *WESM Penalty Manual*.
- 5.4.3 **Compensation of affected WESM Trading Participants.** Compensation is the payment made by a *WESM Member* that is financially benefitted as a result of a *breach* to another *WESM Member* that was financially disadvantaged as a result of the same *breach*. Compensation of affected or aggrieved *WESM Member* applies particularly to the types of *breach* where the direct financial impact of the *breach* on another *WESM Member* is readily determinable from

the WESM settlement processes. The manner by which compensation is determined and to whom compensation will be made are set out in this Manual.

- 5.4.4 **Remedial measures.** To foster continuing compliance, to prevent recurrence of *breach*, or to prevent or mitigate adverse impact on the market or the power system, it may be necessary to require a *WESM Member* to take remedial measures. Such measures may be required to be implemented before, during and after an investigation. The remedial measures that can be imposed shall be determined on a case by case basis, and may be directed by either the *Enforcement and Compliance Office*, the *Market Surveillance Committee* or the *PEM Board*, depending on which stage of the process the measure is required to be carried out.
- 5.4.5 **Initiation of regulatory action.** In cases of *breach* by the *System Operator* or the *Market Operator*, the *PEM Board* may initiate a complaint with the ERC if either party fails to rectify the *breach* or the *breach* is incapable of rectification.

SECTION 6 PROCEDURES FOR MONITORING, INVESTIGATION AND REVIEW**6.1 GUIDING PRINCIPLES**

- 6.1.1 Investigations under this Manual are inquisitorial and the proceedings are summary in nature and are not carried out in an adversarial manner. For this purpose, the *Enforcement and Compliance Office* has the authority to obtain information and technical or expert advice from various sources, including but not limited to the *Market Operator*, *System Operator*, the various WESM committees, and other entities and agencies to aid in its investigation. This authority notwithstanding, it is the responsibility of the party being investigated to ensure that all information in its possession are made available for the investigation. If the party investigated fails to present or provide to the *Enforcement and Compliance Office* any information in its possession or known to it during the formal investigation, such party is deemed to have waived the presentation of such information and the same may not thereafter serve as basis for review of the results of the investigation of the *Enforcement and Compliance Office*.
- 6.1.2 An investigation shall be carried out in a manner that ensures that all parties concerned are given the opportunity to be heard. This requirement shall be fulfilled by strict compliance with the procedures set out in this Manual.
- 6.1.3 Sanctions or penalties may be imposed and remedial measures may be implemented after an investigation or upon finding of a probable breach as a result of the compliance monitoring and assessment carried out by the *Enforcement and Compliance Office* in accordance with this Manual.
- 6.1.4 No dispute resolution proceeding may be initiated upon the results of an investigation, including the findings of fact, the determination of whether a *breach* has been committed, and the sanctions, penalties and remedial measures imposed, and any and all actions taken by the *Enforcement and Compliance Office*, *Market Surveillance Committee*, and *PEM Board* in respect to an investigation. This includes a dispute resolution under Clause 7.3 of the *WESM Rules*.
- 6.1.5 Investigations shall be initiated within two (2) years from occurrence of the act or omission constituting the probable *breach*. For example, investigation of an

event occurring on 01 January 2014 shall be initiated not later than 01 January 2016 which is the end of the two-year period.

- 6.1.6 Unless the *PEM Board* authorizes a longer period, the *Enforcement and Compliance Office* shall complete an investigation of a case and submit its investigation report as set out in Section 6.10 not later than twenty-four (24) months from the issuance of the *notice investigation*. The *PEM Board*, at its discretion and on written request by the *Enforcement and Compliance Office*, may allow a longer period for an investigation to be completed if it is satisfied that the right of the parties investigated to due process will be prejudiced if a longer period is not allowed. Where a case is remanded pursuant to Section 6.12 and, for this reason, the *Enforcement and Compliance Officer* is unable to complete the investigation within the twenty-four-month period, the *PEM Board* shall, upon request of the latter, allow a longer period for the investigation to be completed.

6.2 SERVICE

- 6.2.1 All notices required to be issued to and served on *WESM Members* under this Section 6 shall be issued to and served on the *WESM Member* through its *WESM Compliance Officer* as appears on the records of the *Enforcement and Compliance Office*, or if none is designated, through any one of the main contact person, president or chief executive officer of the *WESM Member* as appears in the records of the *Market Operator*. At its discretion, *WESM Member* may also designate another person as its authorized representative for a specific investigation, provided that such designation shall be considered as made for that investigation only.
- 6.2.2 All notices shall be served at the office addresses of the above-named persons as this information appears in the records of the *Enforcement and Compliance Officer* or the *Market Operator*. *WESM Members* have the obligation to ensure that their contact information provided to the *Enforcement and Compliance Office* and to the *Market Operator* is current at all times regardless that they are not subject of any investigation.
- 6.2.3 All submissions to the *Enforcement and Compliance Office* pursuant to the procedures set out in this Section shall be served on it through the offices of the *Market Operator*, unless a different address is notified.

- 6.2.4 Service of notices and reports by the *Enforcement and Compliance Office* to all specified recipients as well as all notices and submissions to the *Enforcement and Compliance Office* may be made by personal service or by postal mail. Personal service includes service by in-house or third party messengerial services or by commercial couriers. Service is deemed to have been made upon actual delivery if made by personal service, or upon deposit in the post office if by postal mail, notwithstanding in either case that the same was returned undelivered or that the intended recipient refused the delivery.
- 6.2.5 The foregoing notwithstanding, the *Enforcement and Compliance Office* may also serve notices and allow submissions by electronic mail or by other electronic means. It is provided however, that the *notice of investigation*, relevant *notice of penalty*, and the report on the results of the investigation shall always be served on the relevant *WESM Member* by personal service or by postal mail at their respective offices and may not be served by electronic means.

6.3 COMPLIANCE MONITORING AND ASSESSMENT

- 6.3.1 The *Enforcement and Compliance Office* shall regularly monitor compliance by *WESM Members* with the *market rules* and *Market Manuals* to determine if an act or omission that may constitute probable *breach* covered by this Manual may have been committed. The monitoring shall cover all *WESM Members* and all categories of *breach* described in Section 5.2.5 as covered by the *enforcement* process set out in this Manual.
- 6.3.2 The *Enforcement and Compliance Office* shall carry out compliance monitoring and assessment by examining readily available and verifiable market and dispatch data and reports, which, for avoidance of doubt, shall include the following –
- a) Input and output data submitted or transmitted to and generated by the *Market Management System* of the *Market Operator*;
 - b) Post-dispatch reports of the *Market Operator* and the *System Operator*;
 - c) Market information and reports published in the market information website; and
 - d) Information contained in non-compliance reports, and other relevant reports submitted by a *WESM Member* pursuant to this Manual, or other reports or forms submitted by a *WESM Member* to the *Enforcement and Compliance*

Office or the *Market Operator* pursuant to other *Market Manuals* or provisions of the market rules. All the reasons or explanations provided therein must be accompanied by valid supporting documents.

The *Enforcement and Compliance Office* shall, for this purpose, establish a detailed process or procedure of compliance monitoring and assessment and prescribe a reply format or template that may be accomplished by the *WESM Member* as part of the monitoring process. In developing the procedure, the *Enforcement and Compliance Office* shall ensure that the right of the *WESM Member* to due process shall be protected by giving them adequate time and opportunity to respond to any allegations of probable *breach* of the WESM Rules and/or market manuals, and to be informed of the results of the compliance monitoring and assessment.

- 6.3.3 The *Enforcement and Compliance Office* may also consider information and reports that it can obtain from the DOE and the ERC and their attached agencies or offices, and other government agencies with jurisdiction over the *WESM Member* or its operations. Such information and reports may be considered if these are readily available without restriction to and verifiable by the *Enforcement and Compliance Office* as well as the *WESM Member* covered by the monitoring.
- 6.3.4 The *Enforcement and Compliance Office* may also obtain expert advice or technical assistance from any WESM Committee, the *System Operator* or the *Market Operator*, as it deems necessary to aid in its monitoring.
- 6.3.5 The *Enforcement and Compliance Office* shall, for this purpose, establish a detailed process or procedure of compliance monitoring and assessment and prescribe a reply format or template that may be accomplished by the *WESM Member* as part of the monitoring process. In developing the procedure, the *Enforcement and Compliance Office* shall ensure that the right of the *WESM Member* to due process shall be protected by giving them adequate time and opportunity to respond to any allegations of probable *breach* of the WESM Rules and/or market manuals, and to be informed of the results of the compliance monitoring and assessment.
- 6.3.6 If, as a result of its compliance monitoring and assessment, and after taking into account all the market data and information cited in Sections 6.3.2 to 6.3.4,

the reasons provided by the concerned *WESM Member* and all the supporting documents submitted in relation thereto, the *Enforcement and Compliance Office* determines that there is a *breach* committed by a *WESM Member*, it shall issue the *Notice of Specified Penalty* in accordance with the *WESM Penalty Manual*. Where remedial measures are required, it shall cause the implementation of the same in accordance with Section 6.17.

- 6.3.7 A *WESM Member* may seek a reconsideration or appeal of the *Notice of Specified Penalty* in accordance with the procedures and subject to the requirements provided in Section 4.13 of the *WESM Penalty Manual*.

6.4 INITIATION OF INVESTIGATION

- 6.4.1 An investigation is initiated upon the endorsement to the *Enforcement and Compliance Office* of a report of probable breach or a *request for investigation* on the *WESM Member* that is subject of the investigation or upon a directive from the ERC. The related procedures on investigation, such as, issuance of notice of investigation, submission by the parties, conduct of ocular inspections, and implementation of the decisions, set forth in Sections 6.5 to 6.14 of this Manual shall apply.
- 6.4.2 A *notice of investigation* shall be issued upon either one of the following –
- a) A *report of probable breach* submitted by the *System Operator* or the *Market Operator*, or
 - b) A *request for investigation* submitted by any *WESM committee* or any *WESM Member*, or
 - c) A directive from the ERC specifically directing investigation for *breach* for possible imposition of sanctions under the *WESM Rules* or the *WESM Penalty Manual*.
- 6.4.3 The *PEM Board* or the *Market Surveillance Committee*, or any of their respective members, may not initiate or cause the initiation of an investigation.
- 6.4.4 If the *Market Operator* or the *System Operator* monitors the occurrence of probable *breach* by a *WESM Member*, it may submit to the *Enforcement and Compliance Office* a *report of probable breach*. This shall be in writing and shall clearly specify, at the minimum, –

- a) the type of *breach* and the rule or *Market Manual* alleged to have been *breached*;
- b) the specific acts or omission constituting the possible *breach*;
- c) the *WESM Member* involved;
- d) the generating unit or customer facility involved; and
- e) the periods, specifying if applicable the trading dates and trading intervals, in which the act or omission occurred.

6.4.5 If a *WESM Committee*, other than the *Market Surveillance Committee*, *WESM Member* or any party believes that a *breach* may have been committed by any *WESM Member*, it may submit a *request for investigation* to the *Enforcement and Compliance Office*. This shall be in writing and shall clearly specify, at the minimum –

- a) the party submitting the request, with complete contact details;
- b) the type of *breach* and the rule or *Market Manual* alleged to have been *breached*;
- c) the specific act or omission constituting the possible *breach*;
- d) the *WESM Member* involved;
- e) the generating unit or customer facility involved; and
- f) the periods, including if applicable the trading dates and trading intervals, in which the act or omission occurred.

6.4.6 A *request for investigation* or *report of probable breach* may cover more than one occurrence of the same type of *breach*. Where the acts or omission constituting the probable *breach* occurs several times over one *WESM* billing period, the *report of probable breach* or *request for investigation* shall, to the extent practicable, cover all occurrences for at least one billing period. Submission shall be made within such period as to allow the *Enforcement and Compliance Office* reasonable period within which to initiate an investigation within the two-year period prescribed in Section 6.1.5. In any case, no investigation can be initiated two (2) years after the occurrence of the act or omission regardless that the *request for investigation* or the *report for probable breach* was submitted before the lapse of the two-year period.

6.4.7 Immediately upon receipt of the *report of probable breach* or *request for investigation*, the *Enforcement and Compliance Office* shall determine whether

the specific acts or omissions referred to are already covered in a formal investigation it has or intends to initiate as a result of its compliance monitoring under Section 6.3. If so included, it shall notify the party submitting the *report of probable breach* or *request for investigation* that an investigation has been or will be initiated and that no separate investigation shall thus be initiated.

- 6.4.8 If the *request for investigation* or *report of probable breach* is not covered by a formal investigation initiated or intended to be initiated, the *Enforcement and Compliance Office* shall verify if the same substantially contains the information required in the preceding Section 6.4.4 or Section 6.4.5. If not, it shall return the same to the requesting party which shall then rectify the identified shortcomings and submit a new *request for investigation* or *report of probable breach* no later than five (5) business days from receipt of the notice from the *Enforcement and Compliance Office*. If no revision is received within the five-day period, the matter shall be deemed abandoned and no investigation shall be initiated upon such request or report.
- 6.4.9 If the *Enforcement and Compliance Office* determines that the *request for investigation* or *report of probable breach* is complete, it shall immediately initiate a formal investigation in accordance with this *Manual*. The *Enforcement and Compliance Office* shall not unreasonably withhold confirmation or delay any action required in this paragraph.
- 6.4.10 Where the conduct of an investigation is directed by the ERC, the *Enforcement and Compliance Office* shall initiate formal investigation in accordance with this *Manual* no later than ten (10) working days from receipt of the order, resolution, decision or any such other document containing the directive, unless a different period is directed.
- 6.4.11 The directive from the ERC to conduct an investigation will be carried out in accordance with this *Manual* only if the directive clearly specifies that the investigation is for the purpose of a possible imposition by the *PEM Board* of sanctions and penalties pursuant to the *WESM Penalty Manual* or the *WESM Rules*. Where the investigation directed is not for such purpose or is for fact-finding purposes only, the investigation shall be carried out in accordance with the directive. In such case, the procedures set out in this *Manual* shall only have supplementary effect.

6.4.12 Where the *Enforcement and Compliance Office* is uncertain as to whether or not the ERC directive is clearly for the conduct of an investigation under this Manual, it shall seek clarification of the same and the period stated in Section 6.4.10 shall be reckoned from the date that the clarification has been received by *Enforcement and Compliance Office*.

6.4.13 If the acts or omissions required to be investigated by the ERC are already covered, in whole or in part, by an investigation or by the compliance monitoring and assessment activity already initiated or intended to be initiated by the *Enforcement and Compliance Office*, it may, if appropriate, consolidate or integrate the data or information used in the compliance monitoring, or the results thereof, in the investigation so that no overlapping investigations or monitoring activities shall be carried out, and shall notify the agency directing the investigation and the parties being investigated of such consolidation or the results of the previous compliance monitoring and assessment. If necessary, an amended *Preliminary Notice of Investigation* shall be issued.

6.5 NOTICE OF INVESTIGATION

6.5.1 The *notice of investigation* shall be issued to and served on the *WESM Member* that will be investigated and shall clearly state, at the minimum, the following –

- a) type of *breach* alleged to have been committed and the provision of the *market rules* or *Market Manual* alleged to have been *breached*;
- b) acts or omission constituting the possible *breach*;
- c) generation or customer facility or resource involved; and
- d) time or trading interval and the trading day when the possible *breach* occurred.

6.5.2 If the investigation is initiated upon a *report of probable breach*, *request for investigation* or ERC directive, but is already covered or is being covered by the compliance monitoring by the *Enforcement and Compliance Office*, the *notice of investigation*, in addition to the requirement set in the immediately preceding paragraph, shall also state the market and dispatch data and report which served as bases for the initiation of the investigation and upon which a verification of the contents of the notice can be made.

6.5.3 If the investigation is initiated upon a *report of probable breach, request for investigation* or ERC directive, copies of the same shall be attached to the *notice of investigation*.

6.5.4 Copies of the *notices of investigation* shall be furnished to the party that submitted the *request for investigation* or *report of probable breach*, as well as to the ERC.

6.6 SUBMISSION BY PARTIES

6.6.1 The *WESM Member* being investigated shall submit its reply to the investigation within ten (10) working days from receipt of the *notice of investigation*.

6.6.2 The reply shall clearly state the party's explanations and the relevant data, records and other documents to support the explanations. To ensure completeness of the reply, the *Enforcement and Compliance Office* may prescribe a reply format or template. Copies of all supporting data, records and other documents duly certified by the custodian of such data, records or documents shall be submitted with the reply.

6.6.3 The *WESM Member* being investigated may submit additional or supplemental reply, data, documents or records to the *Enforcement and Compliance Office* at any time before the issuance of the notice of completion of investigation pursuant to Section 6.9.1 of this Manual.

6.6.4 If the investigation was initiated upon a *request for investigation*, the party that submitted the *request for investigation* may submit additional information to the *Enforcement and Compliance Office*, with copies furnished to the *WESM Member* being investigated, within ten (10) working days from its receipt of the copy of the *notice of investigation*.

6.6.5 The *Enforcement and Compliance Office* may, at its discretion, request for the submission of additional explanations, data, records, or other documents from the party investigated or the party that requested the investigation. The request shall be issued in writing and shall state the period within which the same should be submitted which shall not be less than five (5) working days from receipt of the request. The party so directed shall comply with any request for additional submission.

6.6.6 The party that fails to submit its reply and/or any additional submission within the periods stated is deemed to have waived its right to submit its reply or additional submission.

6.6.7 If the investigation was initiated upon a *request for investigation*, copies of all submissions by the parties shall be furnished to the party that submitted the *request for investigation* or the *WESM Member* being investigated, as applicable. The responsibility to furnish copies shall be that of the party making the submission.

6.7 CONFERENCES AND OCULAR INSPECTIONS

6.7.1 Conferences and ocular inspections of facilities involved in the investigation may be conducted upon notice by the *Enforcement and Compliance Office* or upon request by the party being investigated.

6.7.2 The party investigated may request for the conduct of a conference or ocular inspection in its reply or in any subsequent written request submitted to the *Enforcement and Compliance Office*. The request shall state the desired date and time of the activity. The request must be submitted before the *Enforcement and Compliance Office* issues notice of completion of formal investigation pursuant to Section 6.9.1.

6.7.3 If a conference or ocular inspection is to be conducted whether at the instance of the *Enforcement and Compliance Office* or on request of the *WESM Member*, the *Enforcement and Compliance Office* shall issue the notice of conference or notice of ocular inspection which shall clearly state the date, time and venue of the activity, and all parties that are expected to participate in or be present during the activity. If parties other than the *Enforcement and Compliance Office* and the party being investigated are requested to participate in the activity, the notice shall also be served on such other parties.

6.7.4 The notice of conference or notice of ocular inspection shall be served on all parties not later than five (5) working days before the scheduled date of the activity. The notice shall also be published in the market information website within the same period.

6.7.5 Unless the *WESM Member* being investigated requests for conduct of a conference or ocular inspection, the conduct of such activity is not mandatory.

6.8 REQUEST FOR INFORMATION AND TECHNICAL ADVICE

6.8.1 For the purpose of obtaining comprehensive information to aid in its investigation, the *Enforcement and Compliance Office* has the authority to –

- a) Request information from the *System Operator*, the *Market Operator*, or other *WESM Members*, regardless that they are not parties to the investigation;
- b) Request from the Market Assessment Group any information that may be in its possession as a result of the exercise of its monitoring and assessment functions; and
- c) Request information or data from the DOE, the ERC, and other government agencies that have jurisdiction over the *WESM Member* or the WESM.

6.8.2 The *Enforcement and Compliance Office* may also request the *Market Operator* or the *System Operator*, or any WESM Committee other than the *Market Surveillance Committee*, to provide technical or expert advice on any issues that is subject of or relevant to an investigation.

6.9 COMPLETION OF FORMAL INVESTIGATION

6.9.1 After the *Enforcement and Compliance Office* has completed obtaining the information it requires for the investigation and after the *WESM Member* investigated has submitted its reply and required additional information or the lapse of the period for submitting the same, the *Enforcement and Compliance Office* shall notify the *WESM Member* investigated of the completion of the formal investigation. The notice shall be accompanied by a list of all information that were obtained for the investigation. The issuance of the notice signifies the completion of the formal investigation and the *Enforcement and Compliance Office* shall thereafter proceed with the preparation of the Investigation Report pursuant to Section 6.10.

6.9.2 Copies of the notice of completion shall also be furnished to the party that submitted the relevant *request for investigation* or *notice of probable breach*.

6.10 INVESTIGATION REPORT

6.10.1 After the *Enforcement and Compliance Office* completes its investigation and has issued the notice of completion of the investigation in accordance with

Section 6.9, it shall prepare an *investigation report* that clearly sets out the following –

- a) Summary of preliminary matters and procedures carried out in the investigation, from the initiation of the investigation to the completion of the formal investigation;
- b) List of information considered in the investigation and upon which the findings of fact are based, and the sources of such information;
- c) Findings of fact relating to the *breach*, as admitted by the parties or determined in the course of the investigation;
- d) Assessment and opinion, and the basis therefor;
- e) On the basis of its findings, assessment and opinion, determination of the existence or non-existence of a *breach*;
- f) Recommended penalties or sanctions, if existence of a *breach* is confirmed; and
- g) Recommended remedial measures and other *enforcement actions*, as it deems appropriate under the circumstances of the case.

6.10.2 Copies of the data, records, reports and other documents relied upon and examined in the investigation and which served as bases for the findings, assessment and recommendations of the *Enforcement and Compliance Office* shall be made as annexes of the investigation report.

6.10.3 The investigation report and its annexes shall be submitted by the *Enforcement and Compliance Office* to the *Market Surveillance Committee* by serving copies of the same to each committee member through the Market Assessment Group.

6.11 REVIEW OF INVESTIGATION

6.11.1 The *Market Surveillance Committee* shall review all investigation reports submitted by the *Enforcement and Compliance Office*.

6.11.2 On its next scheduled meeting after receipt of investigation report submitted by the *Enforcement and Compliance Office*, the *Market Surveillance Committee* shall make a preliminary determination if the investigation report submitted is sufficient for review or if it is necessary to remand the case to the *Enforcement and Compliance Office*. A case may be remanded if the Committee determines that –

- a) The procedures for investigation prescribed in this Manual were not complied with in whole or in part;
- b) The data or any part thereof relied upon by the *Enforcement and Compliance Office* in its findings and assessment is not valid; or
- c) Further investigation is required to consider additional or new information that was not previously considered by or was not made available to the *Enforcement and Compliance Office* and which the *Market Surveillance Committee* believes may materially affect the findings of the investigation if such information is to be considered.

6.11.3 If a case is remanded to it, the *Enforcement and Compliance Office* shall carry out the procedures set out in Section 6.12 of this Manual.

6.11.4 After completing its review, the *Market Surveillance Committee* shall submit to the *PEM Board* its investigation review report which clearly states –

- a) Its assessment as to whether or not the *Enforcement and Compliance Office* has complied with the procedures prescribed in this Manual;
- b) Its assessment as to whether the data relied upon by the *Enforcement and Compliance Office* are valid;
- c) Its findings of facts on the investigation taking into consideration the results of investigation presented in the Investigation Report;
- d) Its assessment as to whether or not *breach* is committed or not and the basis for such conclusion on the basis of such findings of facts;
- e) If it disagrees with the findings, conclusions and/or recommendations of the *Enforcement and Compliance Office*, the findings, conclusions or recommendations to which it disagrees and the bases for such disagreements; and
- f) If warranted, recommendations for sanctions, remedial measures and other *enforcement actions*, taking into consideration the recommendations of the ECO on these matters.

6.11.5 The investigation review report of the *Market Surveillance Committee* shall be submitted to the *PEM Board* together with the investigation report or, if the case is remanded pursuant to this section, the revised investigation report submitted by the *Enforcement and Compliance Office*. The copies of the reports submitted to the *PEM Board* shall include all its annexes and attachments.

6.12 REMAND OF CASES

- 6.12.1 If a case is remanded to the *Enforcement and Compliance Office*, it shall rectify the identified shortcomings or carry out further investigation and revise its investigation report accordingly, in accordance with the procedures set out in this Section.
- 6.12.2 Within five (5) working days from receipt of the notice of the remand, the *Enforcement and Compliance Office* shall notify the party investigated of the remand and the reasons therefor. If the investigation was initiated upon a *request for investigation* or a *notice of probable breach*, the parties that submitted the same shall likewise be notified of the remand.
- 6.12.3 The *Enforcement and Compliance Office*, as it deems appropriate, may conduct conferences and ocular inspections; require submission of market data and reports from the *Market Operator* or the *System Operator*, or the Market Assessment Group, or other *WESM Members*; request technical assistance from the Market Assessment Group, the *Market Operator*, the *System Operator* or any WESM Committee; or require additional submissions from the party being investigated. These shall be carried out following the applicable procedures set out Sections 6.6, 6.7 and 6.8.
- 6.12.4 The *Enforcement and Compliance Office* shall submit a revised investigation report to the *Market Surveillance Committee*. The revised investigation report shall clearly set out the procedures undertaken and the changes in the findings, assessment and recommendations. Upon receipt of the revised investigation report, the *Market Surveillance Committee* shall then proceed with the review as set out in Section 6.11. It may not remand the case again to the *Enforcement and Compliance Office*.
- 6.12.5 If the *Enforcement and Compliance Office* disagrees with the reasons specified by the *Market Surveillance Committee* as bases for the remand, it shall submit to the Committee a report stating the reasons for its disagreement. The *Enforcement and Compliance Office*, however, may not unreasonably refuse to rectify the shortcomings or conduct further investigation as notified by the *Market Surveillance Committee*.
- 6.12.6 The *Market Surveillance Committee* and the *Enforcement and Compliance Office* shall take all measures to resolve their conflicting positions. If no

resolution is arrived at despite reasonable efforts, the *Market Surveillance Committee* shall proceed with the completion of its review and prepare and submit its Investigation Review Report in accordance with Sections 6.11.4 and 6.11.5 of this Manual.

6.13 DECISION

- 6.13.1 The *PEM Board* shall render a decision on any investigation carried out under this Manual based on the results of the investigation conducted by the *Enforcement and Compliance Office* and the review by the *Market Surveillance Committee*.
- 6.13.2 If the *Market Surveillance Committee* confirms a finding of *breach*, the *PEM Board* shall render a decision approving, disapproving or modifying the sanctions, remedial measures, and other recommendations submitted by the *Market Surveillance Committee* and the *Enforcement and Compliance Office* in their respective reports.
- 6.13.3 If the *Market Surveillance Committee* confirms that no *breach* has been committed, the *PEM Board* shall confirm the completion of the investigation and closure of the case.
- 6.13.4 If there is a disagreement between the *Market Surveillance Committee* and the *Enforcement and Compliance Office* with respect to any findings, conclusions and recommendations and the matter is not resolved pursuant to Sections 6.12.5 and 6.12.6, the *PEM Board* shall review the results of the investigation, including the findings of facts and recommendations, and decide on the outcome of the case.
- 6.13.5 In reviewing a case pursuant to Section 6.13.4, the *PEM Board* may, at its discretion, create an *ad hoc committee* or working group from among its members to review the same and submit recommendations for final action by the *PEM Board*.
- 6.13.6 Upon conduct of a review pursuant to the preceding Sections 6.13.4 and 6.13.5, the *PEM Board* shall then render its decision in accordance with this Section 6.13.

6.13.7 The decision of the *PEM Board* is final and executory and is binding on the parties to the investigation. Upon its finality, the same shall be implemented by the *Enforcement and Compliance Office* in the manner provided for in Section 6.14 of this Manual.

6.14 NOTICE, FINALITY AND IMPLEMENTATION OF THE *PEM BOARD* DECISION

6.14.1 The *PEM Board*, through its Secretary, shall immediately notify the *Enforcement and Compliance Office* of its decision. The Secretary of the *PEM Board* shall issue a certification of the relevant resolution or the excerpt of the minutes of the meeting of *PEM Board*. The Secretary of the *PEM Board* shall likewise notify the *Market Surveillance Committee*.

6.14.2 Upon receipt of the certification issued by the *PEM Board* Secretary, the *Enforcement and Compliance Office* shall notify *WESM Member* investigated of the *PEM Board* action by serving on such *WESM Member* copy of the following –

- a) Certification of the resolution or excerpt of the meeting of *PEM Board*; and
- b) Record of the results of the investigation consisting of the Investigation review report submitted by the *Market Surveillance Committee* to the *PEM Board* and the Investigation report and its annexes.

6.14.3 After issuance of the notice of the *PEM Board's* decision to the party investigated pursuant to Section 6.14.2, the *Enforcement and Compliance Office* shall take the following actions –

- a) Notify the *Market Surveillance Committee*, ERC, and DOE of the action taken on the investigation. The notification submitted shall serve as a compliance with the obligation of the *PEM Board* set out in *WESM Rules* Clause 1.4.5.1 (e) to notify the ERC of any action it has taken in respect to a *breach*.
- b) Where financial or non-financial penalties are approved, cause the issuance of the relevant *notice of penalty* and the implementation of the same in accordance with the requirements and procedures set out in the *WESM Penalty Manual*.

- c) Where remedial measures are required, cause the implementation of the same in accordance with Section 6.17.

6.15 INVESTIGATION OF THE *MARKET OPERATOR* AND THE *SYSTEM OPERATOR*

- 6.15.1 Any provision in this Manual to the contrary notwithstanding, the investigation of the *System Operator* or the *Market Operator* for probable *breach* of the *market rules* and *Market Manuals* shall be carried out in accordance with this Section 6.15.
- 6.15.2 A *WESM Member* that has reasonable grounds to believe that the *Market Operator* or the *System Operator* may be in *breach* of the *market rules* or *manuals* shall submit a notice to the *Enforcement and Compliance Office*, of the probable *breach*.
- 6.15.3 The notice shall be submitted within such period as to allow the *Enforcement and Compliance Office* reasonable period within which to initiate an investigation within the two-year period prescribed in Section 6.1.5. No investigation can be initiated two (2) years after occurrence of the act or omission regardless that the notice was submitted prior to the lapse of the two-year period.
- 6.15.4 The notice to be submitted to the *PEM Board* shall be in writing and shall clearly set out the –
 - a) the specific provision of the *market rules* or *Market Manuals* alleged to have been *breached*;
 - b) the specific acts or omissions constituting the possible *breach*; and
 - c) the periods, specifying if applicable the trading dates and trading intervals in which the act or omission occurred.
- 6.15.5 Upon receipt of the notice, the *Enforcement and Compliance Office* shall verify if the same substantially contains the information required in Section 6.15.4. If not, it shall return the same to the requesting party which shall then rectify the shortcomings and submit a new notice no later than five (5) working days from the receipt of the notice from the *Enforcement and Compliance Office*. If no revision is received within the five-day period, the matter shall be deemed abandoned and no investigation shall be initiated upon such notice.

- 6.15.6 The *Enforcement and Compliance Office* shall notify the *PEM Board* of the receipt of a notice immediately upon receipt thereof.
- 6.15.7 If the *Enforcement and Compliance Office* determines that the notice submitted is complete, it shall initiate the investigation by issuing the *notice of investigation* to the *System Operator* or the *Market Operator*, as applicable. The *notice of investigation* shall be issued in the same manner as provided for in Section 6.5.
- 6.15.8 The *System Operator* or the *Market Operator* shall submit its reply within the same period and the same manner as provided for in Section 6.6.
- 6.15.9 The formal investigation shall be conducted by the *Enforcement and Compliance Office* in the same manner as set out in Sections 6.6, 6.7, 6.8 and 6.9, as these are applicable. After the *Enforcement and Compliance Office* completes its investigation, it shall prepare an investigation report clearly setting out the matters required in Sections 6.10.1 and 6.10.2, and submit the same to the *Market Surveillance Committee* in accordance with Section 6.10.3.
- 6.15.10 The *Market Surveillance Committee* shall review the investigation report submitted by the *Enforcement and Compliance Office* in accordance with Sections 6.11 and 6.12 and submit its investigation review report to the *PEM Board* in accordance with Section 6.11.5.
- 6.15.11 Upon the results of the investigation, the *PEM Board* shall determine whether a *breach* has been committed. If it determines that a *breach* has been committed, it shall determine the remedial measures that should be carried out by the *System Operator* or the *Market Operator* to rectify the *breach*, prevent its recurrence or mitigate its impact. If it determines that no *breach* has been committed, it shall direct the closure of the investigation.
- 6.15.12 The decision of the *PEM Board* shall be notified and implemented in the same manner as that set out in Section 6.14.
- 6.15.13 If remedial measures are required to be implemented, these shall be notified and implemented in accordance with Section 6.17. If the *breach* is not remedied or the remedial measures are not implemented in full or in part, the *PEM Board* may file a formal complaint to the ERC.

6.15.14 A *Trading Participant* that believes that it was financially disadvantaged as a direct consequence of the *breach* by the *System Operator* or the *Market Operator*, may submit an application for compensation. The application shall be submitted and disposed of in accordance with Section 7 of this Manual. If the party required to pay compensation is the *Market Operator*, the *PEM Board* shall create a working group from among its members to determine the compensation due. The amount of compensation that will be imposed should not affect the viability and sufficiency of the resources for the normal operations of the *Market Operator* or the *System Operator*.

6.16 OFFER FOR SETTLEMENT OF PENALTIES

6.16.1 Except where the investigation was initiated upon directive of the ERC pursuant to Section 6.4.10, the *WESM Member* that was issued a *notice of investigation* may submit an offer for settlement of the applicable penalties without investigation, or if an investigation has commenced, before the completion of the investigation.

6.16.2 The offer shall be in writing and shall be submitted to the *Enforcement and Compliance Office* within the same period for submitting a reply under Section 6.6.1 or any anytime thereafter but before the *WESM Member* is notified of the completion of the formal investigation pursuant to Section 6.9 of this Manual or before the issuance of the *Notice of Specified Penalty* under Section 6.3.7 hereof. An offer for settlement that is submitted after the *Enforcement and Compliance* has issued the notice of completion or the *Notice of Specified Penalty* shall not be considered.

6.16.3 If the offer does not cover all the occurrences of probable *breach* that are included in the *notice of investigation*, the written offer shall clearly specify the occurrences of probable *breach* that is covered in the offer. The offer shall also describe the remedial measures that the *WESM Member* intends to implement or has implemented to rectify the *breach*, prevent its recurrence or to mitigate its impact and the corresponding compliance plan.

6.16.4 If the offer was submitted within the period stated in Section 6.16.2, the *Enforcement and Compliance Office* shall examine the offer to determine whether the information provided are complete and whether remedial measures are required to be implemented. The *Enforcement and Compliance Office* may

then require submission of additional information and of a compliance plan if none was submitted or the revision of the compliance plan that was submitted as it deems appropriate.

6.16.5 Within fifteen (15) working days from receipt of the offer, the *Enforcement and Compliance Office* shall submit a report to the *Market Surveillance Committee* clearly specifying –

- a) The coverage of the offer for settlement, particularly the occurrences of *breach* that are included in the offer;
- b) The recommended penalties determined in accordance with the *WESM Penalty Manual* and taking into consideration the qualifying circumstances surrounding the *breach* that can be inferred from the *request for investigation* or the *notice of probable breach* and the offer and other submissions of the *WESM Member*; and
- c) The remedial measures recommended and corresponding compliance plan.

6.16.6 Upon receipt of the report, the *Market Surveillance Committee* shall review the same and determine the appropriate penalties and remedial measures, and shall submit its recommendations to the *PEM Board*. Upon receipt of the report of the *Market Surveillance Committee* or at its regular meeting immediately following the date of receipt, the *PEM Board* shall render its decision approving the penalties, which shall be determined in accordance with the *WESM Penalty Manual* and, if applicable, the remedial measures that will be imposed on the *WESM Member*. It shall then direct the issuance of the *notice of penalty* and implementation of its decision in accordance with Section 6.14 of this Manual. The decision of the *PEM Board* shall be final and executory.

6.16.7 The offer for settlement shall only have the effect of terminating the investigation or the compliance monitoring and assessment activity of the *Enforcement and Compliance Office* in respect to all occurrences of possible *breach* that is covered in the offer. It shall not have the effect of preventing any claim and grant of compensation under Section 7 of this Manual.

6.16.8 If the offer for settlement does not cover all occurrences of probable *breach* included in the *notice of investigation*, the investigation of the remaining occurrences will continue in accordance with this Manual.

6.17 REMEDIAL MEASURES

6.17.1 Remedial measures are tasks or actions that are required of a *WESM Member* being investigated or found in *breach* for the purpose of mitigating or preventing the adverse impact of *breach* or to prevent recurrence of the *breach*. They may be required when the act or omission subject of the investigation may –

- a) Negatively impact trading in the WESM and would likely prevent orderly and efficient trading or settlement;
- b) Lead to unfair or unreasonable WESM prices;
- c) Cause material negative impact on the viability and sustainability of the WESM or the functions of the *Market Operator* if not immediately remedied; or
- d) Cause material negative impact on the system or the functions of the *System Operator* if not immediately remedied.

6.17.2 It is understood, however, that compliance by a party investigated with remedial measures that were required while an investigation or the compliance monitoring and assessment is still pending under Sections 6.17.4, 6.17.5 and 6.17.6 is not deemed an admission of the *breach*.

6.17.3 A *WESM Member* may be required to implement remedial measures by the *Enforcement and Compliance Office*, the *Market Surveillance Committee* or the *PEM Board*.

6.17.4 The *Enforcement and Compliance Office* or the *Market Surveillance Committee* may require that remedial measures be carried out pending completion of an investigation if it determines that the immediate implementation of such measures is necessary to prevent or mitigate an adverse impact caused by the acts or omissions of the *WESM Member* that are subject of the investigation. Where directed by the *Enforcement and Compliance Office* or the *Market Surveillance Committee*, the remedial measures are implemented as provisional remedies until the *PEM Board* finally decides on the final remedial measures that have to be implemented.

6.17.5 The *Enforcement and Compliance Office* may require implementation of remedial measures at any time during the compliance monitoring and assessment or after it initiates an investigation and before it completes and submits its investigation report pursuant to Section 6.10 of this Manual.

- 6.17.6 The *Market Surveillance Committee* may require a *WESM Member* to implement remedial measures in the course of its review of an investigation and before it submits its investigation review report to the *PEM Board* pursuant to Section 6.11 of this Manual. The Committee shall inform the *Enforcement and Compliance Office* of the remedial measures that are required to be implemented.
- 6.17.7 The final remedial measure directed by the *PEM Board* shall be contained in the *notice of penalty* served on the *WESM Member*. For provisional remedial measures directed by the *Enforcement and Compliance Office* or the *Market Surveillance Committee*, a *notice of provisional remedial measures* shall be issued by the *Enforcement and Compliance Office* and served on the *WESM Member*.
- 6.17.8 If the remedial measure required is of such nature that can be immediately implemented or started, the *WESM Member* so directed shall implement the same immediately upon receipt of the notice. Within five (5) working days from receipt of the relevant notice, the party shall notify the *Enforcement and Compliance Office* in writing that the measure required has been implemented or started and the details of the implementation.
- 6.17.9 If the remedial measure required is of such nature that it cannot be immediately implemented and completed, the *WESM Member* so directed shall, within five business days from receipt of the relevant *notice*, submit its compliance plan to the *Enforcement and Compliance Office*. The plan shall detail the manner and period within which the party concerned shall implement and complete the remedial measure. As appropriate, the plan shall specify the manner by which the *WESM Member* intends to mitigate any adverse effect, to operate or modify its equipment or facility, or to otherwise conduct its operations in order to carry out or accomplish the remedial measure.
- 6.17.10 The *Enforcement and Compliance Office* shall monitor the compliance by the *WESM Member* to ensure that the remedial measures are implemented as directed. As part of its monitoring, the *Enforcement and Compliance Office* may issue such reminders or notices to the *WESM Member* as it deems appropriate from time to time. The *WESM Member* may also be required to

submit periodic reports of its compliance, as well as to allow ocular inspection of its facilities if appropriate.

- 6.17.11 Upon complete implementation of the compliance plan or lapse of the period within which the compliance plan is required to be implemented, the *Enforcement and Compliance Office* shall submit a report to the *PEM Board* detailing the results of the implementation.
- 6.17.12 A failure to implement the required remedial measure, in whole or in part, shall be considered a *breach* and shall be subject to penalties as set out in the WESM Penalty Manual. The sanction shall be imposed by the *PEM Board*, upon recommendation of the *Enforcement and Compliance Office*, without need of further investigation.

6.18 COSTS

- 6.18.1 The *PEM Board* shall decide on the costs associated with any investigation and with the implementation of decisions and remedial measures that will be shouldered by *WESM Member* involved in the investigation. The costs to be imposed shall be in accordance with a schedule of costs and charges that the *PEM Board* shall determine and review from time to time. The schedule of costs and charges, and any changes on it, shall be published in the market information website before it takes effect.
- 6.18.2 Notwithstanding the foregoing, the costs associated with the day-to-day operations of the *Enforcement and Compliance Office*, the Market Assessment Group, and the *Market Surveillance Committee* shall not be passed on to a *WESM Member* as cost associated with any investigation, decision or remedial measure. These shall instead be included in the annual revenue requirements of the PEMC which shall be defrayed through the market fees.

SECTION 7 COMPENSATION**7.1 GUIDING PRINCIPLES**

- 7.1.1 The objective of granting compensation to a *WESM Member* under this Manual is not penal. For this reason, it is not the intention to impose punitive results such as would be the case where a party is required to pay compensation without having benefited from a *breach*. The objective of compensation is to put a party in the same or similar position that party would have been if the *breach* had not occurred. This objective applies whether the party suffered a loss or received windfall gain as a consequence of the *breach*.
- 7.1.2 Parties to a compensation claim shall be *WESM Trading Participants*, i.e., generation companies or customer trading participants, that suffered a financial loss or that benefited financially directly as a result of a *breach*. Financial loss or benefit shall be understood as pertaining to the *Trading Participants'* transactions in the WESM and is readily determinable from the WESM settlements. The party claiming compensation may or may not have been the party that submitted a request for investigation.
- 7.1.3 An award of compensation shall only be made against a trading participant that benefited financially as a direct result of a *breach* (i.e., the payer) and shall only be awarded in favor of a trading participant that suffered a financial loss as a direct result of *breach* (i.e., the payee). The amount of the award shall not be more than how much the payer has benefitted financially as a direct result of the *breach* and as determined in accordance with this section.
- 7.1.4 Given the foregoing, not all types of *breach* may justify an award of compensation.

7.2 APPLICATION FOR COMPENSATION

- 7.2.1 A *WESM Trading Participant* that suffered a financial loss directly as a result of a *breach* by another *WESM Member* may apply for compensation by submitting a formal claim with the *Enforcement and Compliance Office*. The claim must relate directly to a *breach* by a *WESM Member* that is confirmed upon an investigation carried out under this Manual.

- 7.2.2 A claim for compensation must be made within one (1) year from the date of the publication in the market information website of the *PEM Board* decision with respect to the investigation of the relevant *breach*. For the avoidance of doubt, the publication shall be that required to be made under Section 10.2 of this Manual. Such claim shall be pursued only in accordance with the provisions of this Section 7, and may not be submitted for dispute resolution.
- 7.2.3 After the said one-year period, no further claim for compensation may be made in respect to such *breach*.
- 7.2.4 The claim shall clearly specify the *breach* that is the basis for the claim for compensation and how it caused a loss on the requesting party, and the nature and amount of the loss incurred. The requesting trading participant shall provide such information as it deems appropriate or necessary to prove its claim.
- 7.2.5 Within fifteen (15) working days from receipt of the claim, the *Enforcement and Compliance Office* shall assess the request to determine if the information provided is complete and shall, within the same period, notify the requesting party if additional information is required to evaluate the claim. The requesting party shall submit such additional information as may be required within the period specified by *Enforcement and Compliance Office*.
- 7.2.6 The *Enforcement and Compliance Office* shall notify the *PEM Board*, through the Board's Secretary, of the submission of a claim within a reasonable period from receipt of the same.

7.3 EVALUATION AND APPROVAL OF CLAIM

- 7.3.1 The *Enforcement and Compliance Office* and the *Market Operator* shall evaluate the claim for compensation and determine whether or not compensation may be due. If it is determined that compensation may be warranted, a determination shall also be made if there are other trading participants that will be affected by the claim.
- 7.3.2 The *Enforcement and Compliance Office* shall notify all the *Trading Participants* identified pursuant to Section 7.3.1 of the claim and whether they will be required to pay or will be entitled to receive compensation.

- 7.3.3 Within ten (10) working days from receipt of the notice, the *Trading Participants* so notified shall submit their written comment or contest. If the *Trading Participant* that received the notice agree with the determination of compensation, it shall notify the *Enforcement and Compliance Office* in writing of its conformity. If it disagrees with the determination, it shall submit a written contest in accordance with the procedures set out in this section.
- 7.3.4 A trading participant that wishes to contest the determination of compensation shall submit its written contest within ten (10) working days from receipt of the notice issued pursuant to Section 7.3.2. If no contest is received within said period, the requirement to pay compensation or the award of compensation in respect to the party that failed to submit a contest shall no longer be subject of a contest.
- 7.3.5 The written contest shall clearly set out the grounds for the same and shall be accompanied by such information to support the grounds raised. No contest may be made and received for the purpose of contesting the findings on the *breach* that was the basis for the claim for compensation. The contest shall be limited to the determination of the compensation or the amounts calculated.
- 7.3.6 The *Enforcement and Compliance Office* and the *Market Operator* shall evaluate all contests submitted. For this purpose, they may require submission of additional information from the parties submitting the claim or the contest as well as from other *WESM Members* and the *System Operator*, and may conduct conferences and ocular inspections.
- 7.3.7 The services of independent third parties with the necessary expertise may be engaged to further evaluate a claim or a contest.
- 7.3.8 After completing the evaluation, the *Enforcement and Compliance Office* and the *Market Operator* shall jointly submit an assessment report to the *PEM Board*, which shall include, among other things, recommendations on whether to grant compensation, the trading participants against whom compensation shall be collected and to whom the same shall be paid, and the corresponding amounts.

7.3.9 Upon receipt of the assessment report, the *PEM Board* shall act on the same either approving, disapproving or modifying the recommendations contained in the report.

7.4 PAYMENT AND COLLECTION OF COMPENSATION

7.4.1 Compensation approved by the *PEM Board* shall be collected from and paid to the trading participants by the *Market Operator* through the WESM settlement processes.

7.4.2 Collection and payment shall, as much as practicable, be carried out on the billing period immediately succeeding the date of approval by the *PEM Board* of the claim for compensation, unless the *PEM Board* specifies a different period.

7.4.3 The *Market Operator* shall notify the *PEM Board* and the *Enforcement and Compliance Office* of the collection and payment of compensation, or if it is unable to implement the same within the period stated in the foregoing paragraph, the reason for the same.

7.4.4 Failure of a *Trading Participant* to pay the compensation due from it constitutes a *breach* and shall be subject to *penalty* as set out in the *WESM Penalty Manual* without need of investigation. The imposition of the *penalty* shall be decided by the *PEM Board* upon recommendation of the *Enforcement and Compliance Office*.

SECTION 8 NON-COMPLIANCE REPORT AND EXEMPTIONS**8.1 RATIONALE**

- 8.1.1 The compliance monitoring and assessment of the market obligations of the *WESM Members* are among the enforcement processes established under this Manual.
- 8.1.2 Self-reports by *WESM Members* of their possible non-compliances will provide the *Enforcement and Compliance Office* the information that it will need to more effectively carry out its compliance monitoring tasks. This will also help in lessening the possibility that the monitoring and screening by the *Enforcement and Compliance Office* of *WESM Member* compliance will result in error arising from incomplete information. This is particularly important considering that the results of the compliance monitoring may result in the initiation an investigation for possible *breach*.
- 8.1.3 While it is required of *WESM Members* to ensure compliance with their market obligations, it is recognized that there will be circumstances where exempting a *WESM Member* from sanctions would be fair and reasonable. This is particularly true where new rules are implemented that would require *WESM Members* to carry out changes to their internal processes, infrastructure and systems. A similar situation may also apply to newly-registered *WESM Members* which are still in the process of establishing their internal processes and infrastructure.

8.2 SCOPE OF APPLICATION

- 8.2.1 The provisions of this section shall apply to all *WESM Members*. The provisions of this section referring to exemption shall also apply to persons or entities that have submitted an application for membership or registration in the WESM.
- 8.2.2 This section shall only apply to obligations of *WESM Members* which, if not complied with, shall constitute a *breach* as defined in this Manual and in the *WESM Penalty Manual* as well as relevant provisions of the *market rules* or *Market Manuals*.

8.3 NON-COMPLIANCE REPORTS

- 8.3.1 *WESM Members* that were or that expect to be unable to comply with an obligation under the *market rules* and *Market Manuals*, which if not complied with may constitute a *breach*, are required to submit to the *Enforcement and Compliance Office* a *non-compliance report* in the form and following the procedures set out in this Section 8.
- 8.3.2 To avoid duplication of reports, the significant event reports and supporting data submitted by *Trading Participants* in compliance with the requirements of *WESM Rules* Clause 3.5.11.7 shall serve as non-compliance report for the event being reported. The *Enforcement and Compliance Office* may, however, require the *Trading Participant* to submit additional information or data in accordance with Section 8.4 of this Manual.
- 8.3.3 For the avoidance of doubt, no non-compliance report need to be submitted in accordance with this Manual for the following non-compliances –
- a) Failure to comply with prudential requirements, or the occurrence of any event of default, or failure to pay sums of money to the *Market Operator* pursuant to Chapter 3 of the *WESM Rules*, or price determination methodologies approved by the ERC for use in the WESM, and associated *Market Manuals*; or
 - b) Failure to comply with requirements for registration in or for continuing membership in the WESM pursuant to Chapter 2 of the *WESM Rules* and associated *Market Manuals*, and in the *Retail Rules*.

8.4 CONTENTS OF NON-COMPLIANCE REPORTS

- 8.4.1 The non-compliance report shall contain the following information, it being understood that these are high level descriptions of the contents of the report and that the *Enforcement and Compliance Office* may prescribe more specific information or detail –
- a) The rule or obligation that has not been complied with or that with which the *WESM Member* expects it may not be able to comply;
 - b) The specific facility involved;
 - c) The date and time or trading interval that the non-compliance has occurred;
 - d) The reasons for the non-compliance;

- e) Where appropriate, the measures taken or proposed to be taken to mitigate the impact of the non-compliance, as well as to avoid recurrence in the future; and
- f) Where appropriate, the reporting *WESM Member* shall submit additional information, records or documents that will support the facts being reported.

8.4.2 The *Enforcement and Compliance Office* may prescribe the format of the report and the details of the information that it requires for the purpose of facilitating submission and evaluation of the reports, and may modify the same from time to time. The *Enforcement and Compliance Office* shall notify all *WESM Members* of the prescribed format and required information. The *Enforcement and Compliance Office* shall ensure that the report format shall not be unduly burdensome on the part of the *WESM Member*.

8.4.3 If the *Enforcement and Compliance Office* determines that the report submitted is not in the prescribed format or that not all the required information was provided, it shall notify the *WESM Member* and require that the shortcomings be rectified. The *WESM Member* so directed shall submit a revised non-compliance report or submit the missing information no later than three (3) working days upon being notified.

8.5 SUBMISSION OF NON-COMPLIANCE REPORTS

8.5.1 Unless the *Enforcement and Compliance Office* provides for a different period, non-compliance reports shall be submitted on the business day after a non-compliance has occurred. Where appropriate, the non-compliance report for a trading day shall include all non-compliances or events that occurred during the trading day being reported.

8.5.2 The *WESM Member* may also submit a non-compliance report when it expects the occurrence of event/s that may result in a possible non-compliance with its obligations in the WESM. When a non-compliance report was submitted in advance of an event, the *WESM Member* shall not be required to submit another report pursuant to the foregoing section, unless the actual circumstances varied from what was previously reported. In such case, the *WESM Member* shall submit a revised non-compliance report no later than the business day after the event or occurrence of the non-compliance.

8.5.3 Non-compliance reports shall be submitted in the manner prescribed by the *Enforcement and Compliance Office* which shall notify all *WESM Members* of

a prescribed report format. The *Enforcement and Compliance Office* may not, however, refuse to accept a report by reason that same was not submitted in the prescribed manner, but may only require rectification pursuant to Section 8.4.3.

- 8.5.4 The *Market Operator* or the *Enforcement and Compliance Office* may, if practicable, develop and provide a facility that will allow *WESM Members* to submit non-compliance reports through electronic means. If provided, such facility shall be made available to all *WESM Members* without discrimination and subject only to compliance with registration and access requirements that will be set by the *Market Operator* or the *Enforcement and Compliance Office*. If a facility is so provided, all reports shall be submitted through such facility.

8.6 ACTION ON NON-COMPLIANCE REPORTS

- 8.6.1 The *Enforcement and Compliance Office* shall evaluate non-compliance reports submitted by *WESM Members* as part of the compliance monitoring and assessment procedure set out in Section 6 of this Manual. As provided for in Section 6, non-compliance reports, and all the supporting documents related thereto, shall be among the information that shall be considered and assessed together with all the market data made available to the *Enforcement and Compliance Office* in determining whether or not a *Notice of Specified Penalty* is issued against a *WESM Member*. For this reason, the *Notice of Specified Penalty* may be issued as a result of compliance monitoring and assessment without need of a formal investigation.
- 8.6.2 A finding of *breach* may thus be made and enforcement action may be taken against a *WESM Member* on the basis of the non-compliance report and its supporting documents submitted by the *WESM Member*, the market data and information from the *Market Operator*, the *System Operator*, and other relevant market data.
- 8.6.3 The non-compliance reports submitted by *WESM Members* or any information contained therein may also be made available by *Enforcement and Compliance Office* to other units within PEMC or to any *WESM Committee* to be utilized for market assessment, surveillance and audit purposes.

8.7 EXEMPTIONS

8.7.1 Exemption from sanctions may be granted under the following circumstances and periods –

- a) Within the first three (3) months of membership in the WESM, with respect to any obligation under the *market rules* or *Market Manuals* which amounts to a *breach* if not complied with; or
- b) Within the first three (3) months of the issuance of a *market rule* or *Market Manual* or of an amendment thereto, with respect to such new rule, manual or amendment if non-compliance with the same amounts to a *breach*. No exemption shall be applied for or approved, however, if a transition period during which no sanctions or penalties for *breach* can be imposed has been expressly directed.

8.7.2 The *PEM Board* may grant an exemption if all of the following circumstances are present –

- a) The party filing the application for exemption establishes to the satisfaction of the *PEM Board* that there are reasonable grounds for its inability to comply with the obligation in question; and that the exemption is not unreasonable under the circumstances.
- b) The party filing the application submits a compliance plan which will enable it to comply with the obligation in question upon expiration of the exemption period.
- c) The non-compliance will have no adverse effects on the market processes, on the operations of the power system, and on other *WESM Members*, and will not adversely impact on the ability of the *Market Operator* to administer the WESM or the *System Operator* to operate the power system.
- d) The non-compliance will not result in increased costs for the *System Operator*, the *Market Operator* or any *WESM Member*.

8.7.3 The duration of the exemption that may be granted shall not be longer than the periods as stated in Section 8.7.1 of this Manual, although the *PEM Board* may, in exceptional circumstances, allow for a longer duration. Exceptional circumstances, for this purpose, shall refer to circumstances where it is not practicable for the *WESM Member* to attain full compliance within the periods stated in Section 8.7.1. As it takes time before an application for exemption can

be granted, exemptions which are granted may be made effective retroactive to the date of submission of an application or on such other date as the *PEM Board* may determine.

8.8 APPLICATION FOR EXEMPTION

- 8.8.1 A *WESM Member* that wishes to seek exemption shall submit its application to the *Enforcement and Compliance Office* no later than fifteen calendar days after the effectivity date of membership in the WESM or of the new *market rule* or *Market Manual*. No application shall be accepted after the stated periods. Where practicable, the application may be submitted prior to the effective date of membership of the new *WESM Member* or effectivity date of the new or amended *market rule* or *Market Manual*. An applicant for *WESM Membership* may also submit its application for exemption together with its application for WESM registration or at any time prior to approval of its application for registration. In the latter case, however, the approval of the application for exemption shall be contingent on the approval of WESM registration.
- 8.8.2 No application for exemption shall, however, be submitted and approved when a *notice of investigation* has already been issued by the *Enforcement and Compliance Office* pursuant to Section 6 of this Manual. In the latter case, the *WESM Member* shall instead participate in the investigation carried out by the *Enforcement and Compliance Office*.
- 8.8.3 The application shall be submitted to the *Enforcement and Compliance Office* and shall contain the following information and shall be accompanied by supporting data or documents –
- a) The specific provision, requirement or procedure of the *market rule* or *Market Manuals* that the *WESM Member* or applicant is unable to comply with;
 - b) The reasons for the possible non-compliance;
 - c) The duration of the non-compliance, specifying, to the extent practicable, the trading intervals and dates; and
 - d) The facilities involved.
- 8.8.4 The application must be accompanied by a compliance plan that specifies the concrete measures that the *WESM Member* shall accomplish to resolve the factors giving rise or causing the non-compliance and to mitigate any adverse

impact that the non-compliance may cause. The compliance plan shall specify the activities to be undertaken and the timetable for implementing the same.

8.9 ACTION ON APPLICATION FOR EXEMPTION

- 8.9.1 The *Enforcement and Compliance Office* shall evaluate the application and the accompanying compliance plan, to establish if all the circumstances set out in Section 8.7.2 are present. In carrying out its evaluation, the *Enforcement and Compliance Office* may seek technical assistance or advice from the *Market Operator*, the *System Operator*, the *Market Surveillance Committee* and other WESM committees. By having filed an application, the *WESM Member* waives confidentiality of any information it has provided with its application, it being understood that the *Enforcement and Compliance Office* may disclose the same to the *Market Operator*, the *System Operator*, the *Market Surveillance Committee* and other WESM committees.
- 8.9.2 The *Enforcement and Compliance Office* shall also seek the conformity of the *Market Operator* and the *System Operator* of the exemption if, in its opinion, the obligation affects market processes or the operations of the power system. Objection by the *Market Operator* or the *System Operator* to the grant of exemption can be a sufficient ground for disapproval of the application for exemption.
- 8.9.3 No later than fifteen (15) calendar days from receipt of the application, the *Enforcement and Compliance Office* shall submit to the *PEM Board* an assessment report which shall be based on information that has been made available to it. The assessment report, shall set out clearly its recommendation on whether to grant exemption and the reasons therefor. If an exemption is recommended, the duration of the exemption and the compliance plan that need to be carried out by the *WESM Member* shall likewise be detailed in the report.
- 8.9.4 Acting on the assessment report and recommendations of the *Enforcement and Compliance Office*, the *PEM Board* shall decide whether to grant the exemption.
- 8.9.5 Should it decide to grant the exemption, the *PEM Board* shall likewise specify the exemption period and approve the compliance plan that will be required to be implemented by the *WESM Member*. If it disapproves the application, the *PEM Board* shall set out the reasons for the disapproval. The *PEM Board*,

through the Board Secretary, shall immediately notify the *Enforcement and Compliance Office* of its action.

- 8.9.6 Within three (3) working days from receipt of the notice from the *PEM Board*, the *Enforcement and Compliance Office* shall notify the *WESM Member* in writing of the action of the *PEM Board*. If the exemption is granted, the notice to be issued to the *WESM Member* shall clearly set out the exemption period and the approved compliance plan. If the exemption is not granted, the notice shall set the out the reasons for the disapproval. Copies of the notice and approved compliance plan, if applicable, shall be furnished to the *System Operator*, the *Market Operator*, the *Market Surveillance Committee*, the DOE and the ERC.

8.10 EFFECTS OF GRANT OR DISAPPROVAL OF EXEMPTION

- 8.10.1 If an exemption is approved, the *WESM Member* shall not be subject of any enforcement proceeding for any non-compliance of the specified obligation that occurs within the approved exemption period.
- 8.10.2 Notwithstanding the grant of exemption, the *WESM Member* may be made liable to pay for compensation as a consequence of a non-compliance, in accordance with Section 7.
- 8.10.3 If an exemption is not granted, the *WESM Member* may, upon an investigation carried out pursuant to Section 6, be liable for sanctions for *breach* of the obligation subject of the application, including those that occurred prior and during the period that the application was pending. The *WESM Member* may also be liable for payment of compensation determined in accordance with Section 7.

8.11 IMPLEMENTATION OF COMPLIANCE PLAN

- 8.11.1 If an exemption is granted, the *WESM Member* shall carry out the measures and tasks set out in the approved compliance plan, and shall ensure that full compliance is achieved within the period specified.
- 8.11.2 The *Enforcement and Compliance Office* shall monitor the implementation of the compliance plan, and, for this purpose. For this purpose, it may require submission of periodic reports from the *WESM Member*, conduct ocular inspections of the facilities of the *WESM Member*, obtain information from the

Market Operator, the *System Operator* or other parties or agencies, and take any other action as it deems necessary to carry out the monitoring.

8.11.3 Within a reasonable time after the lapse of the exemption period, the *Enforcement and Compliance Office* shall notify the *PEM Board* of the results of the implementation by the *WESM Member* of the compliance plan.

8.12 REVOCATION OF EXEMPTION

8.12.1 The exemption granted shall be automatically revoked upon lapse of the exemption period, without need of notice from the *PEM Board* or the *Enforcement and Compliance Office*. After the lapse of the period, the *WESM Member* is expected to comply with the obligation for which it was previously exempted and shall be liable for sanctions in case of *breach*.

8.12.2 Upon recommendation of the *Enforcement and Compliance Office* or upon its own initiative, the *PEM Board* may revoke the exemption granted prior to the lapse of the exemption period if the *WESM Member* is unable to implement the compliance plan or is unable to put in place the measures directed pursuant to this Section 8 or it has determined that such exemption will or has resulted in adverse effects on the market or the operations of the power system or is otherwise unreasonable under the circumstances. The *Enforcement and Compliance Office* shall submit its recommendation to the *PEM Board* upon the results of its monitoring under Section 8.11.2.

SECTION 9 WESM MEMBER INTERNAL COMPLIANCE**9.1 GUIDING PRINCIPLES**

- 9.1.1 By having registered to participate in the WESM as either a service provider or trading participant, all *WESM Members* have the primary obligation to comply with the *market rules* and *Market Manuals*. Such obligation likewise extends to compliance with other rules and regulations of other regulatory agencies where compliance with such will, in turn, impact on WESM compliance. Among other things, this includes compliance with environmental standards, such as emission standards for coal power plants, licensing requirements, franchise conditions and reportorial requirements of various government agencies.
- 9.1.2 Fostering a culture of compliance is encouraged through proactive compliance by *WESM Members* of their obligations under the *market rules* and *Market Manuals*. Proactive compliance can lead to fewer *breaches* and, in turn, to less frequent imposition of *penalties*.
- 9.1.3 Towards achieving the objective of fostering a culture of compliance, the *WESM Rules* Clause 7.2.9.1 directs that each *WESM Member*, the *Market Operator*, the *System Operator*, *Metering Services Providers* and other service providers shall designate a WESM Compliance Officer in their respective organizations.

9.2 WESM MEMBER INTERNAL COMPLIANCE

- 9.2.1 *WESM Members* are encouraged to develop and maintain an in-house compliance program within their organizations with the end in view to ensuring that their relevant personnel, systems and processes, infrastructure and organizational activities are geared to, in turn, achieving and ensuring WESM compliance. Among other things, it is encouraged that in-house compliance activities include processes for readily detecting occurrence of probable *breach*, and for implementing corrective and preventive measures once detected.
- 9.2.2 Compliance programs should also cover counterparties and other third parties whose dealings can impact on the ability of the *WESM Member* to ensure WESM compliance.
- 9.2.3 Compliance activities should also include education of employees, counterparties and other relevant third parties on the operations of the WESM and on provisions of *market rules* and *Market Manuals* relevant to their

respective operations and activities and how such operations and activities, in turn, impact on WESM compliance.

9.3 WESM COMPLIANCE OFFICERS

9.3.1 All *WESM Members*, including *Trading Participants*, *System Operator*, and other service providers, as well as the *Market Operator* shall designate a WESM Compliance Officer within their respective organizations.

9.3.2 On January of each year, and at any time a new WESM Compliance Officer is designated, the *WESM Member* shall submit the names of its WESM Compliance Officer and such other details and in such form as may be required by the *Enforcement and Compliance Office*. They shall ensure that information submitted is current at all times. The *Enforcement and Compliance Office* shall maintain a registry of the incumbent WESM Compliance Officers of all *WESM Members*. A *WESM Member* shall be responsible for ensuring that the information submitted to the Enforcement and Compliance is current at all times.

9.3.3 It is required that the person to be appointed as WESM Compliance Officer should have an understanding of the WESM compliance requirements of their organization, and is of a position that he or she is able to recognize possible non-compliances and has sufficient authority to resolve the same. As such, he or she should occupy a senior management position such as those pertaining, but not limited, to legal, risk management, regulatory or compliance, but should not be directly involved in the day-to-day activities related to trading transactions in the WESM.

9.4 OBLIGATIONS OF WESM COMPLIANCE OFFICERS

9.4.1 As prescribed in *WESM Rules* Clause 7.2.9.2, WESM Compliance Officers shall –

- (a) Monitor the activities and transactions in the WESM of his or her organization and carry out measures to ensure compliance by his or her organization with the EPIRA, its Implementing Rules and Regulations, the *market rules* and *Market Manuals*; and, for this purpose, put in place necessary procedures and guidelines;

- (b) Keep abreast with developments in the WESM, including amendments to *market rules* and *Market Manuals* as well as issues raised by the WESM governance committees and the *PEM Board* affecting his or her organization's compliance, and ensure that relevant personnel and units within his or her organization are informed of and, if appropriate, will implement changes in the organization's internal systems and processes to comply with amendments to *market rules* and *Market Manuals*, and to resolve issues raised;
- (c) From time to time and if it deems it necessary or appropriate, propose amendments to the *market rules* and *Market Manuals* to enhance or develop the WESM enforcement and compliance and to promote good commercial and technical practices;
- (d) Be the main point of contact that is responsible in coordinating with the *Enforcement Compliance Office* on all matters relating to the WESM enforcement, compliance and governance, including the provision of the necessary information and data, as may be required by any of the *WESM* committees and by the *Enforcement and Compliance Office*;
- (e) Submit to the *Enforcement and Compliance Office* a report of his/her organization's compliance with *market rules* and *Market Manuals* covering such period, but not less frequent than annually, and in such form as may be prescribed by the *Enforcement and Compliance Office*.

9.5 ANNUAL WCO REPORT

- 9.5.1 Pursuant to *WESM Rules* Clause 7.2.9.2 (d), all WESM Compliance Officers shall submit a report to the *Enforcement and Compliance Office* which shall state the compliance activities undertaken and the enforcement-related issues and concerns that have arisen during a calendar year.
- 9.5.2 The report shall be submitted to the *Enforcement and Compliance Office* in such form and number of copies as the latter may require. The reports shall be submitted not later than 31 January of the following year, or on such other period as the *Enforcement and Compliance Office* may set from time to time. The *Enforcement and Compliance Office* shall notify all *WESM Members*, from time to time, of the form and number of copies required, and the period for submission of the report if a date other than 31 January is set.

- 9.5.3 An annual consolidated report shall be submitted by the *Enforcement and Compliance Office* to the DOE and the *PEM Board* no later than sixty (60) days from the last day for submission of reports by the WESM Compliance Officers.

SECTION 10 INFORMATION DISCLOSURE AND RECORDS MANAGEMENT**10.1 SCOPE OF APPLICATION**

10.1.1 The provisions of this section refer only to the obligation of the *Enforcement and Compliance Office* in respect to the handling of information and records that comes to its possession as it carries out its functions under this Manual, as well as to its obligation to prepare, disseminate and publish reports.

10.2 INFORMATION DISCLOSURE AND PUBLICATION

10.2.1 The *Enforcement and Compliance Office* shall publish the following information in the market information website –

- a) List of investigations initiated, including the parties and facilities involved, the possible *breach* subject of the investigation, and the status of the investigation;
- b) Summarized description of the results of an investigation, including the names of the parties and facilities involved, the nature of the *breach* confirmed in the investigation, penalties or sanctions imposed, and remedial measures required;
- c) List of application for exemptions received, including the names of the applicants, and summarized description of the exemption applied for and approved; and
- d) List of applications for compensation received, including names of applicants and summarized description of compensation approved and names of parties receiving and paying compensation.

10.2.2 Copies of the following shall be provided by the *Enforcement and Compliance Office* upon request and, if so required by the *Enforcement and Compliance Office*, upon payment of reasonable fees to defray cost of retrieval, reproduction and transmittal –

- a) Investigation reports and investigation review reports prepared in respect to an investigation for *breach*; and
- b) Assessment reports issued in respect to an application for exemption.

10.2.3 Notwithstanding the foregoing, copies of records and documents submitted by a party in respect to an investigation, application for exemption or claim for compensation may not be provided to any other party without the written

consent of the owner of such record or document or the party that submitted the same. Thus, where such records or document are annexed to an investigation or assessment report, the copies of the latter that will be disseminated will exclude such records or documents. This prohibition, however, does not cover data, documents or records that are otherwise published or disseminated by the *Market Operator* or other parties.

10.3 REPORTING REQUIREMENTS

10.3.1 The *Enforcement and Compliance Office* shall submit a monthly report to the *PEM Board*, the *Market Surveillance Committee*, the DOE and the ERC containing information on the following –

- a) Status of investigations, applications for exemptions, and claims for compensation being carried out, with summarized description of the same;
- b) Summary of the results of non-compliance monitoring carried out;
- c) Summary of the development of non-compliance issues and enforcement processes;
- d) Recommendations that may arise from the experiences and observations in administering the compliance and enforcement procedures; and
- e) Issues and problems arising from the implementation of the procedures and provisions established in this Manual.

10.3.2 The *Enforcement and Compliance Office* shall likewise prepare, publish and disseminate such report as may be required of it from time to time by the *PEM Board*, DOE or ERC in respect to enforcement and compliance in the WESM; or such report as the *Enforcement and Compliance Office* may deem appropriate or necessary from time to time.

10.4 COMPLIANCE DATABASE AND RECORDS RETENTION

10.4.1 Subject to the required retention period set out in this Section, the *Enforcement and Compliance Office* shall organize and maintain a compliance database that shall contain, the following –

- a) Records of investigations, including but not limited to the investigation reports and their attachments, the investigation review reports, *PEM Board* action on investigations, data and records used in the investigation, submissions of parties investigated, and notices and communications issued and received pertaining to an investigation.

- b) Non-compliance reports and supporting documents submitted by *WESM Members*.
- c) Records of applications for exemptions, including applications submitted, assessment reports and PEM action on applications, notices and communications issued and received, compliance monitoring reports, and all other documents and records generated and received pertaining to an application for exemption.
- d) Records of claims for compensation, including requests, comments and contests submitted, and reports on the results of the evaluation of the claim for compensation, action of the *PEM Board*, and all other documents and records generated and received pertaining to a claim for compensation.
- e) Monthly and periodic reports required to be prepared and published or disseminated by the *Enforcement and Compliance Office* under this Manual.

10.4.2 Access to the database shall be limited to the *Enforcement and Compliance Office*, although copies of records contained therein which are not covered by prohibited disclosure may be provided to other parties upon request.

10.4.3 The foregoing records required to be maintained in the compliance database shall be retained in electronic form for the periods set out in the following table.

Record	Start of Retention Period	Retention Period
Records of investigation cases	Date of final action on the case, i.e., final <i>PEM Board</i> approval	10 years
Non-compliance reports of <i>WESM Members</i>	Date of submission of report	10 years
Records of applications for exemption	Date of the final action on the application, i.e., final <i>PEM Board</i> action	10 years
Records of claims for compensation	Date of final action on the claim, i.e., final action by the <i>PEM Board</i>	10 years

Record	Start of Retention Period	Retention Period
Monthly and periodic reports	Date of first publication or first dissemination	5 years
Reports published in market information website	Date of first publication or first dissemination	5 years

SECTION 11 LIMITATION OF LIABILITY AND INDEMNIFICATION**11.1 LIMITATION OF LIABILITY**

11.1.1 The members of the *PEM Board* and the *Market Surveillance Committee*, whether acting individually or jointly, the *Enforcement and Compliance Officer* and the members of the staff of the *Enforcement and Compliance Office*, and the PEMC President shall not be made personally liable for any loss or damage incurred by a *WESM Member*, the *Market Operator* or the *System Operator* or any other person as a consequence of any act or omission undertaken in the performance of the duties and responsibilities contained in this Manual, other *Market Manuals* and the *market rules*. This is except when the person acted with malice, manifest partiality, bad faith, gross incompetence or gross negligence.

11.2 INDEMNIFICATION

11.2.1 Should any of the persons named in Section 11.1.1 be made liable for any amount for loss or damage suffered or incurred by any person or entity as a consequence of any of its acts or omissions in the performance of its duties as prescribed in this Manual, other *Market Manuals* and the *market rules*, the PEMC shall indemnify said persons through an indemnification process to be developed by the *PEM Board*. It is provided, however, that the indemnification shall exclude any liability arising out of conduct involving malice, manifest partiality, bad faith, gross incompetence or gross negligence. Said indemnification shall cover the full amount adjudged, and the costs and expenses incurred by the person involved in defending himself or herself in the related proceedings.

SECTION 12 AMENDMENT, PUBLICATION AND EFFECTIVITY**12.1 AMENDMENTS**

12.1.1 This Manual shall be amended in consultation with the *Enforcement and Compliance Office* and the *Market Surveillance Committee*, and in accordance with the relevant provisions of the *WESM Rules* and relevant *Market Manual* on revision or amendments of *Market Manuals*.

12.1.2 Without limiting the persons or entities which may initiate amendments of this Manual, amendment of this Manual may be initiated upon submission of proposals by the *Enforcement and Compliance Office*, the *Market Surveillance Committee*, any WESM Committee, the *Market Operator*, the *System Operator*, or any other *WESM Member*.

12.1.3 Without limiting the grounds upon which this Manual may be amended, amendments to this Manual shall be made to make this Manual consistent with –

- a) EPIRA and its Implementing Rules and Regulations if any amendments thereto will affect enforcement and compliance in the WESM;
- b) The *market rules*, the WESM Penalty Manual, and other *Market Manuals* if any amendments thereto will affect enforcement and compliance in the WESM;
- c) Issuances of the ERC concerning enforcement of the *WESM Rules*; and
- d) Issuances of the DOE affecting enforcement of the *WESM Rules*.

12.2 PUBLICATION

12.2.1 This Manual shall be published in the market information website in accordance with the provisions of the relevant *Market Manual* on publication of *Market Manuals* approved for implementation in the WESM.

12.3 EFFECTIVITY

12.3.1 This Manual and any amendments thereto shall become effective upon publication and in accordance with the provisions of the *WESM Rules* and relevant *Market Manual* on procedures and effectivity of changes to *Market Manuals*.

SECTION 13 GLOSSARY

Term or Abbreviation	Definition
Breach	Act or omission that constitutes a violation or non-compliance with any provision of the <i>market rules</i> and <i>Market Manuals</i> that are expressly provided for as subject of sanctions and penalties if committed.
Compensation	Sum of money required to be collected from a WESM trading participant and paid to another WESM trading participant that was, respectively, benefitted financially and adversely affected financially as a direct consequence of a <i>breach</i> by a <i>WESM Member</i> .
Compliance plan	A plan detailing the actions or tasks required to be carried out by a <i>WESM Member</i> to implement a remedial measure.
Enforcement	This is the process by which a <i>WESM Member</i> found in <i>breach</i> is imposed penalties, which may be financial or non-financial in nature, and/or required to take corrective actions or remedial measures, or pay compensation, as a consequence of the <i>breach</i> .
Enforcement action	This is an action carried out against a <i>WESM Member</i> as a consequence of the <i>breach</i> by that <i>WESM Member</i> of the <i>WESM Rules</i> or <i>Market Manuals</i> , which may include imposition of penalties, payment of compensation, carrying out remedial measures and other corrective actions.
Enforcement and Compliance Office	This is the unit created within PEMC pursuant to the <i>WESM Rules</i> , headed by the <i>Enforcement and Compliance Officer</i> , which primarily provides technical and investigative support to the <i>Market Surveillance Committee</i> and the <i>PEM Board</i> in carrying out their respective enforcement and compliance functions.
Enforcement and Compliance Officer	This is the person appointed pursuant to the <i>WESM Rules</i> that will head the <i>Enforcement and Compliance Office</i> .
Enforcement proceeding	This is the activity or series of activities carried out to establish and determine the occurrence of <i>breach</i> and the corresponding enforcement action that will be carried out as a consequence of the <i>breach</i> , and includes monitoring,

Term or Abbreviation	Definition
	assessment, investigation and imposing enforcement actions.
Exemption	This is the authority granted by the <i>PEM Board</i> exempting a <i>WESM Member</i> from sanctions for non-compliance with an obligation, which would otherwise amount to a <i>breach</i> if no exemption was granted.
Market participation agreement	The agreement required by the <i>Market Operator</i> to be executed by a <i>WESM Member</i> upon its registration in the WESM that, among other things, obliges the <i>WESM Member</i> to comply with the <i>WESM Rules</i> .
Market Manuals	This refers collectively to the <i>Market Manuals</i> approved for use in the WESM to implement the <i>WESM Rules</i> and the <i>Retail Rules</i> .
Market rules	This refers collectively to the <i>WESM Rules</i> and the <i>Retail Rules</i> to which this Manual applies.
Non-compliance report	A report submitted pursuant to Section 8 of this Manual by a <i>WESM Member</i> that is unable to comply with any of its obligation under the <i>WESM Rules</i> or <i>Market Manuals</i> .
Notice of provisional remedial measure	A notice in writing issued by the <i>Enforcement and Compliance Office</i> directing a <i>WESM Member</i> to implement a remedial measure pending completion of an investigation.
Notice of investigation	Formal notice issued by the <i>Enforcement and Compliance Office</i> to a <i>WESM Member</i> to initiate an investigation for possible <i>breach</i> .
Remedial measure	An action or task required to be carried out by a <i>WESM Member</i> to reduce or remove adverse impact of a <i>breach</i> (i.e., mitigation), or prevent the recurrence of a <i>breach</i> (i.e., prevention), or the cessation of an act or activity constituting or causing a <i>breach</i> or an action or task carried out leading to such cessation (i.e., correction).
Report of probable breach	Written report submitted to the <i>Enforcement and Compliance Office</i> by the <i>Market Operator</i> or the <i>System Operator</i> to notify the <i>Enforcement and Compliance Office</i> of probable <i>breach</i> by a <i>WESM Member</i> for purposes of initiating an investigation.
Request for investigation	Written request submitted to the <i>Enforcement and Compliance Office</i> by any <i>WESM Member</i> , WESM

Term or Abbreviation	Definition
	Committee, or any other party, other than the <i>Market Operator</i> or <i>System Operator</i> , to notify the <i>Enforcement and Compliance Office</i> of possible <i>breach</i> by a <i>WESM Member</i> for purposes of initiating an investigation.
WESM Compliance Officer	Person designated by <i>WESM Members</i> , <i>System Operator</i> , <i>Market Operator</i> , Metering Services Provider and any other WESM service providers within their respective organizations pursuant to and the perform the functions set out in <i>WESM Rules</i> Clause 7.2.9.
WESM Penalty Manual, or Penalty Manual	This is the manual promulgated by the <i>WESM Market Surveillance Committee</i> that sets out the sanctions that can be imposed for each category <i>breach</i> of the <i>WESM Rules</i> and associated manuals, and the manner of carrying out such sanctions.

Proposed Amendments to Various Market Manuals related Market Surveillance, Enforcement and Compliance

i. PEM Audit Market Manual Issue 2.0

Title	Section	Provision	Proposed Amendment	Rationale
Review and Updates	1.3			
	1.3.3	<p>Amendment proposals to this Manual may arise from</p> <p>(a) The PEM Board, upon its own initiative or upon a recommendation by other PEM Committees;</p>	<p>Amendment proposals to this Manual may arise from</p> <p>(a) The PEM Board, upon its own initiative or upon a recommendation by other PEM WESM Governance Committees;</p>	<p>For consistency with the proposed amendments to the WESM Rules.</p> <p>Sections 7.2.9.2 (c) & (d) of the WESM Rules used the term “WESM Governance Committee” instead of the “PEM Committee” per the DOE DC NO. 2010-007-0008 dated 30 June 2010.</p>
Definitions	2.1	Market Manual means a manual of specific procedures, systems and protocols for the implementation of the WESM Rules and for the PEM Committees and the ECO.	Market Manual means a manual of specific procedures, systems and protocols for the implementation of the WESM Rules and for the PEM WESM Governance Committees and the ECO Enforcement and Compliance Office .	See rationale of proposed amendments to Sec. 1.3.3
		Market Surveillance Committee (MSC) refers to the PEM Committee appointed by the PEM Board to monitor and report on activities in the spot market in accordance with the Market Surveillance Market Manual.	Market Surveillance Committee (MSC) refers to the PEM WESM Governance Committee appointed by the PEM Board to monitor and report on activities in the spot market in accordance with the Market Surveillance Market Manual.	See rationale of proposed amendments to Sec. 1.3.3

Title	Section	Provision	Proposed Amendment	Rationale
		PEM Committee refers to a Committee duly provided for under the WESM Rules and such other committees created by the PEM Board from time to time be, including for purposes of this Manual, the PEM Auditor, the Technical Committee and the MSC.	PEM-WESM Governance Committee refers to a Committee duly provided for under the WESM Rules and such other committees created by the PEM Board from time to time be, including for purposes of this Manual, the PEM Auditor, the Technical Committee and the MSC Market Surveillance Committee.	See rationale of proposed amendments to Sec. 1.3.3
		Selection Committee refers to the Committee composed of at least three (3) members of the PEM Board, one of whom should be an Independent PEM Board director, which is tasked to review and evaluate the qualifications of all persons nominated to any PEM Committee requiring appointment by the PEM Board.	Board Selection Committee refers to the Committee composed of at least three (3) members of the PEM Board, one of whom should be an Independent PEM Board director, which is tasked to review and evaluate the qualifications of all persons nominated to any PEM WESM Governance Committee requiring appointment by the PEM Board.	See rationale of proposed amendments to Sec. 1.3.3

ii. **Manual of Procedures for Changes to the WESM Rules Issue 2.0**

Title	Section	Provision	Proposed Amendment	Rationale
Purpose – This Manual	1.1	(b) Describes the responsibilities and undertakings required of the DOE, the PEM Board, the Rules Change Committee, the other PEM Board Committees, any WESM Member and of any interested parties in the	(b) Describes the responsibilities and undertakings required of the DOE, the PEM Board, the Rules Change Committee, the other PEM Board WESM Governance Committees, any WESM Member and of any	For consistency with the proposed amendments to the WESM Rules. Sections 7.2.9.2 (c) & (d) of the WESM Rules used the term

Title	Section	Provision	Proposed Amendment	Rationale
		initiation, evaluation, and approval or disapproval of any amendment, review or interpretation of the WESM Rules, manuals of procedures, guidelines and issuances governing the WESM. The procedures described in this Manual shall be read and construed consistent with the WESM Rules.	interested parties in the initiation, evaluation, and approval or disapproval of any amendment, review or interpretation of the WESM Rules, manuals of procedures, guidelines and issuances governing the WESM. The procedures described in this Manual shall be read and construed consistent with the WESM Rules.	“WESM Governance Committee” instead of the “PEM Committee” per the DOE DC NO. 2010-007-0008 dated 30 June 2010.
Definition	2.1	PEM Board Committees refers to the Committees created by the PEM Board pursuant to the WESM Rules, and may interchangeably be referred to as PEM Committees	PEM Board WESM Governance Committees refers to the Committees working groups created by the PEM Board pursuant to the Clause 1.4.6 of the WESM Rules, and may interchangeably be referred to as PEM Committees. The WESM Governance Committees are as follows: Dispute Resolution Administrator, Market Surveillance Committee, PEM Audit Committee, Rules Change Committee and Technical Committee.	See rationale of proposed amendments to Sec. 1.1 Definition is based from Clause 1.4.6 of the WESM Rules.
		PEM Committee Secretariat refers to the support group tasked to handle administrative matters of the PEM Board Committees	PEM WESM Governance Committee Secretariat refers to the support group tasked to handle administrative matters of the PEM Board WESM Governance Committees	See rationale of proposed amendments to Sec. 1.1
Form and contents of proposal	5.2	The proposal shall:	The proposal shall:	See rationale of proposed amendments to Sec. 1.1

Title	Section	Provision	Proposed Amendment	Rationale
		(a) be in writing addressed to the PEM Board through the PEM Committee Secretariat, using the prescribed Rules Change Proposal Form;	(a) be in writing addressed to the PEM Board through the PEM WESM Governance Committee Secretariat, using the prescribed Rules Change Proposal Form;	
To whom submitted	5.3	(a) The proposals shall be submitted to the PEM Committee Secretariat which shall check for the completeness of the proposal and its compliance with the formal requirements set forth in Section 5.2 of this Manual. Only proposals which are made in the prescribed form shall be accepted and considered as submitted.	(a) The proposals shall be submitted to the PEM-WESM Governance Committee Secretariat which shall check for the completeness of the proposal and its compliance with the formal requirements set forth in Section 5.2 of this Manual. Only proposals which are made in the prescribed form shall be accepted and considered as submitted.	See rationale of proposed amendments to Sec. 1.1
		(c) Incomplete proposals or those which do not comply with the formal requirements shall be denied due course, and the PEM Committee Secretariat shall notify the proponent of the denial citing the grounds therefor. The proponent may re-submit the proposal and comply with the formal requirements.	(c) Incomplete proposals or those which do not comply with the formal requirements shall be denied due course, and the PEM WESM Governance Committee Secretariat shall notify the proponent of the denial citing the grounds therefor. The proponent may re-submit the proposal and comply with the formal requirements.	See rationale of proposed amendments to Sec. 1.1
Initial determination	6.1.1	(a) Within ten (10) business days from endorsement by the PEM Committee Secretariat of proposals for general or minor amendments, the Committee shall convene to evaluate whether or not the proposal satisfies	(a) Within ten (10) business days from endorsement by the PEM WESM Governance Committee Secretariat of proposals for general or minor amendments, the Committee shall convene to	See rationale of proposed amendments to Sec. 1.1

Title	Section	Provision	Proposed Amendment	Rationale
		the criteria set forth in Section 4 of this Manual and in the WESM Rules, and whether or not it involves a general, urgent or minor amendment.	evaluate whether or not the proposal satisfies the criteria set forth in Section 4 of this Manual and in the WESM Rules, and whether or not it involves a general, urgent or minor amendment.	
Consultation and referral to other committees and persons --	6.1.2	(b) (v) Other PEM Board committees, where the proposal affects any matter falling under their respective competence;	(b) (v) Other the PEM Board committees WESM Governance Committees , where the proposal affects any matter falling under their respective competence;	See rationale of proposed amendments to Sec. 1.1
Written submission --	6.1.3	(b) Only written submissions submitted and actually received by the PEM Committee Secretariat within the prescribed period shall be validly considered by the Committee.	(b) Only written submissions submitted and actually received by the PEM WESM Governance Committee Secretariat within the prescribed period shall be validly considered by the Committee.	See rationale of proposed amendments to Sec. 1.1
		(d) The written submissions may be provided through printed document, by electronic means or by facsimile, and directed to the Committee through the PEM Committee Secretariat.	(d) The written submissions may be provided through printed document, by electronic means or by facsimile, and directed to the Committee through the PEM WESM Governance Committee Secretariat.	See rationale of proposed amendments to Sec. 1.1
Custodian of records --	11.2	The Head of the PEM Committee Secretariat shall have official custody and charge of the records prepared for or in connection with the rules change process, including but not limited to the journal and minutes of deliberations of the Committee or the PEM Board. The	The Head of the PEM WESM Governance Committee Secretariat shall have official custody and charge of the records prepared for or in connection with the rules change process, including but not limited to the journal and minutes of	See rationale of proposed amendments to Sec. 1.1

Title	Section	Provision	Proposed Amendment	Rationale
		Chairperson shall keep and maintain the official version of all the amendments made pursuant to these Manual.	deliberations of the Committee or the PEM Board. The Chairperson shall keep and maintain the official version of all the amendments made pursuant to these Manual.	

iii. **Guidelines Governing the Constitution of the PEM Board Committees Issue 2.0**

Title	Section	Provision	Proposed Amendment	Rationale
Manual Title		Guidelines Governing the Constitution of the PEM Board Committees	Guidelines Governing the Constitution of the PEM Board WESM Governance and Board Committees	To distinguish between WESM Governance Committee and Board Committee.
DEFINITION OF TERMS	Article I			
(no section title)	1.02	(o) “Market Surveillance Committee” or “MSC” refers to one of the PEM Committees tasked to monitor and report on activities in the spot market in accordance with the WESM Rules.	(o) “Market Surveillance Committee” or “MSC” refers to one of the PEM WESM Governance Committees tasked to monitor and report on activities in the spot market in accordance with the WESM Rules.	For consistency with the definition in the proposed amendments to the WESM Rules. Sections 7.2.9.2 (c) & (d) of the WESM Rules used the term “WESM Governance Committee” instead of the “PEM Committee” per the DOE DC NO. 2010-007-0008 dated 30 June 2010.
		(q) “PEM Audit Committee” or “PAC” refers to one of the PEM Committees and headed by the PEM Auditor to perform duties in accordance with the WESM Rules.	(q) “PEM Audit Committee” or “PAC” refers to one of the PEM WESM Governance Committees and headed by the PEM Auditor to	See rationale of proposed amendments to Sec. 1.02 (o)

Title	Section	Provision	Proposed Amendment	Rationale
		(s) “PEM Board Committees” or “PEM Committees” are working groups as envisioned by the WESM Rules to assist the PEM Board in the performance of its functions.	perform duties in accordance with the WESM Rules. (s) “PEM Board <u>WESM Governance</u> Committees” or “PEM <u>Committees</u> ” are <u>refers to the</u> working groups as envisioned by the WESM Rules to assist the PEM Board in the performance of its functions <u>created by the PEM Board pursuant to Clause 1.4.6 of the WESM Rules.</u> <u>The WESM Governance Committees are as follows: Dispute Resolution Administrator, Market Surveillance Committee, PEM Audit Committee, Rules Change Committee and Technical Committee.</u>	See rationale of proposed amendments to Sec. 1.02 (o) Definition is based from Clause 1.4.6 of the WESM Rules.
		(t) “Other PEM Board Committees” or “Other Board Committees” are working groups created by the Board to perform particular functions as well as to assist the Board in the discharge of its duties. The phrase “committee members” may signify to include Committee Members and/or Chairpersons.	(t) “Other PEM Board <u>Committees</u> ” or “Other Board <u>Committees</u> ” are <u>refers to the</u> working groups created by the <u>PEM</u> Board to perform particular functions as well as to assist the Board in the discharge of its duties. The phrase “committee members” may signify to include Committee Members and/or Chairpersons.	To distinguish between <i>WESM Governance Committee</i> and other working groups created by the PEM Board.
		(x) “Rules Change Committee” or “RCC” refers to one of the PEM Committees to assist the PEM Board and the Department of Energy in relation to the revision and amendment of the	(x) “Rules Change Committee” or “RCC” refers to one of the <u>PEM WESM Governance</u> Committees to assist the PEM Board and the Department of Energy in relation to	See rationale of proposed amendments to Sec. 1.02 (o)

Title	Section	Provision	Proposed Amendment	Rationale
		WESM Rules and in formulation, revision and amendment of market manuals, procedures and guidelines.	the revision and amendment of the WESM Rules and in formulation, revision and amendment of market manuals, procedures and guidelines.	
		(z) “Technical Committee” or “TC” refers to one of the PEM Committees tasked to monitor and review technical matters under and in relation to the WESM Rules, the Grid Code and Distribution Code.	(z) “Technical Committee” or “TC” refers to one of the PEM-WESM Governance Committees tasked to monitor and review technical matters under and in relation to the WESM Rules, the Grid Code and Distribution Code.	See rationale of proposed amendments to Sec. 1.02 (o)
PEM Board Committees	2.01	<p>PEM Board Committees</p> <p>(f) Other PEM Board Committees as deemed necessary by the Board to assist in the performance of its functions, such as:</p> <p>xxx</p> <p>(ii) Board Selection Committee (BSC) – refers to a committee to assist the PEM Board in the selection of qualified members of the PEM Committees and other Board Committees.</p> <p>xxx</p>	<p>PEM Board WESM Governance and Board Committees</p> <p>(f) Other PEM Board Committees as deemed necessary by the Board to assist in the performance of its functions, such as:</p> <p>xxx</p> <p>(ii) Board Selection Committee (BSC) – refers to a committee to assist the PEM Board in the selection of qualified members of the PEM WESM Governance Committees and other Board Committees.</p> <p>xxx</p>	See rationale of proposed amendments to Sec. 1.02 (o) and (t)

Title	Section	Provision	Proposed Amendment	Rationale
(no section title)	2.02	<p>The PEM Board Committees shall primarily assist the PEM Board and/or the DOE in the formulation of polices that will help in the achievement of the WESM objectives of establishing a sustainable, competitive, efficient, transparent and reliable market for electricity where:</p> <p>xxx</p>	<p>The PEM Board WESM Governance Committees shall primarily assist the PEM Board and/or the DOE in the formulation of polices that will help in the achievement of the WESM objectives of establishing a sustainable, competitive, efficient, transparent and reliable market for electricity where:</p> <p>xxx</p>	See rationale of proposed amendments to Sec. 1.02 (o)
DOE Representation in the Committees	2.04	<p>DOE Representation in the Committees</p> <p>The Department of Energy as the agency primarily responsible to implement the EPIRA and its implementing rules and the WESM Rules shall be represented in all PEM Committees and other Board Committees created and to be created for the purpose of facilitating and providing policy support and guidance for the development of the WESM.</p>	<p>DOE and ERC Representation in the Committees</p> <p>The Department of Energy DOE as the agency primarily responsible to implement the EPIRA and its implementing rules and the WESM Rules shall be represented in all PEM WESM Governance Committees and other Board Committees created and to be created for the purpose of facilitating and providing policy support and guidance for the development of the WESM.</p>	See rationale of proposed amendments to Sec. 1.02 (o)
VACANCY, NOMINATION, SELECTION AND APPOINTMENT OF PEM	Article III	(section title)	VACANCY, NOMINATION, SELECTION AND APPOINTMENT OF PEM WESM GOVERNANCE COMMITTEE MEMBERS	See rationale of proposed amendments to Sec. 1.02 (o)

Title	Section	Provision	Proposed Amendment	Rationale
COMMITTEE MEMBERS				
Nomination	3.02	<p>(a) In case of a vacancy, the Committee Chairperson, any member thereof or the Market Assessment Group shall give notice to the Selection Board Committee immediately upon occurrence of the vacancy or within one month prior to the effectivity of the expiration of term of office of the concerned member.</p> <p>(b) Selection Committee shall then cause the publication of notice of such vacancy or solicit nomination for the position.</p> <p>(c) Nomination shall be submitted to the Selection Committee or to any person designated by the Selection Committee.</p> <p>(d) All nominations shall be in a form (Appendix [A]) and manner as may be prescribed by the Selection Committee.</p> <p>(e) Nomination for sectoral representatives shall be coming from the respective sectors to be represented in the committee in</p>	<p>(a) In case of a vacancy, the Committee Chairperson, any member thereof or the Market Assessment Group shall give notice to the Selection Board Selection Committee immediately upon occurrence of the vacancy or within one month prior to the effectivity of the expiration of term of office of the concerned member.</p> <p>(b) The Board Selection Committee shall then cause the publication of notice of such vacancy or solicit nomination for the position.</p> <p>(c) Nomination shall be submitted to the Board Selection Committee or to any person designated by the Board Selection Committee.</p> <p>(d) All nominations shall be in a form (Appendix [A]) and manner as may be prescribed by the Board Selection Committee.</p> <p>(e) Nomination for sectoral representatives shall be coming from the respective sectors to be</p>	For consistency with the terminology, <i>Board Selection Committee (BSC)</i> , defined in Sec. 2.01 (f) (ii)

Title	Section	Provision	Proposed Amendment	Rationale
		<p>accordance with these Guidelines or applicable rules.</p> <p>xxx</p>	<p>represented in the committee in accordance with these Guidelines or applicable rules.</p> <p>xxx</p>	
Selection	3.03	<p>(a) The Selection Committee shall pre-screen and shortlist all candidates nominated to become a member of the relevant Committee in accordance with the qualifications and disqualifications set forth in these Guidelines and applicable laws and rules.</p> <p>(b) In the determination of the list of candidates, the Selection Committee shall consider foreign professionals, if and only if during the pre-screening and evaluation process, they have proven that such professional is known to be an outstanding expert or specialist in the particular field and that the services of such foreigner is urgently necessary either for lack of local experts or if his or her service will promote the advancement of the Spot Market.</p>	<p>(a) The Board Selection Committee shall pre-screen and shortlist all candidates nominated to become a member of the relevant Committee in accordance with the qualifications and disqualifications set forth in these Guidelines and applicable laws and rules.</p> <p>(b) In the determination of the list of candidates, the Board Selection Committee shall consider foreign professionals, if and only if during the pre-screening and evaluation process, they have proven that such professional is known to be an outstanding expert or specialist in the particular field and that the services of such foreigner is urgently necessary either for lack of local experts or if his or her service will promote the advancement of the Spot Market.</p>	See rationale of proposed amendments to Sec. 3.02
Publication of Nominees	3.04	Upon screening of the nominees submitted within allowable time as prescribed by the Selection Committee, the latter shall cause the publication of	Upon screening of the nominees submitted within allowable time as prescribed by the Board Selection Committee, the latter shall cause the	See rationale of proposed amendments to Sec. 3.02

Title	Section	Provision	Proposed Amendment	Rationale
		the list of the qualified nominees in the PEMC web site.	publication of the list of the qualified nominees in the market information website PEMC web site .	<i>PEMC web site</i> is replaced with <i>market information website</i> for consistency with the WESM Rules.
Interview of the Nominees	3.05	After the publication of the shortlisted nominees and upon verification and resolution of opposition thereof, if any, the Selection Committee may opt to conduct further assessment of the shortlisted nominees through personal interview or any other means as the Selection Committee may consider appropriate. The BSC shall rate them in accordance with a scoring system provided for this purpose.	After the publication of the shortlisted nominees and upon verification and resolution of opposition thereof, if any, the Board Selection Committee may opt to conduct further assessment of the shortlisted nominees through personal interview or any other means as the Board Selection Committee may consider appropriate. The BSC Board Selection Committee shall rate them in accordance with a scoring system provided for this purpose.	See rationale of proposed amendments to Sec. 3.02
Appointment of PEM Committee Members and Chairpersons.	3.06	The PEM Board appoints the members and the Chairpersons of the PEM Committees from among the list of qualified nominees, screened and duly endorsed by the Selection Committee.	The PEM Board appoints the members and the Chairpersons of the PEM WESM Governance Committees from among the list of qualified nominees, screened and duly endorsed by the Board Selection Committee.	See rationale of proposed amendments to Sec. 1.02 (o) and 3.02
QUALIFICATIONS AND DISQUALIFICATIONS OF PEM COMMITTEE MEMBERS	Article IV	(section title)	QUALIFICATIONS AND DISQUALIFICATIONS OF PEM WESM GOVERNANCE AND BOARD COMMITTEE MEMBERS	See rationale of proposed amendments to Sec. 1.02 (o)
Common Qualifications	4.01	In addition to the specific requirements provided under this Guidelines and	In addition to the specific requirements provided under this	See rationale of proposed amendments to Sec. 1.02 (o)

Title	Section	Provision	Proposed Amendment	Rationale
		<p>pertinent laws and rules, each member of a PEM Committee shall possess the following qualifications:</p> <p>xxx</p>	<p>Guidelines and pertinent laws and rules, each member of a PEM-WESM Governance Committee shall possess the following qualifications:</p> <p>xxx</p>	
Disqualification	4.02	<p>The following persons are disqualified from being appointed as a member of any of the PEM Committees and Other Board Committees:</p> <p>xxx</p>	<p>The following persons are disqualified from being appointed as a member of any of the PEM-WESM Governance Committees and Other Board Committees:</p> <p>xxx</p>	<p>See rationale of proposed amendments to Sec. 1.02 (o) and (t)</p>
Nomination	7.09	<p>(a) All nominees to the RCC shall be submitted to the Selection Committee by the respective Sector which is intended to be represented therein.</p> <p>(b) If a person is nominated in more than one Sector, the Selection Committee shall have the discretion to require additional documentary evidence or other requirements to ensure that such nominee represents the best interest of, and to recommend to the PEM Board which Sector the nominee is most qualified.</p> <p>xxx</p>	<p>(a) All nominees to the RCC shall be submitted to the Board Selection Committee by the respective Sector which is intended to be represented therein.</p> <p>(b) If a person is nominated in more than one Sector, the Board Selection Committee shall have the discretion to require additional documentary evidence or other requirements to ensure that such nominee represents the best interest of, and to recommend to the PEM Board which Sector the nominee is most qualified.</p> <p>xxx</p>	<p>See rationale of proposed amendments to Sec 3.02</p>

Title	Section	Provision	Proposed Amendment	Rationale
Conduct of Business, Voting and Procedure	9.07	<p>The DRG may promulgate its own rules of procedure in accordance with the purpose for which each PEM Committee is created and always consistent with the EPIRA, the WESM Rules, the PEMC Charter and these Guidelines. The dispute resolution process shall be guided by the following rules and/or by a process as may be applicable based on generally accepted procedure in dispute resolution:</p> <p>a. The presence of majority of all members of the DRP shall constitute a quorum for the transaction of business.</p> <p>b. The majority vote of all members of the DRP is required to constitute a valid DRP decision. In case of disagreement, absence of a member or a vacancy, no decision shall be valid except made by a unanimous vote of the majority of all members of the DRP.</p> <p>c. In case of a vacancy or absence of a member of the DRP, the remaining members shall continue to perform its functions and duties provided that there is a quorum. Otherwise, the DRA must appoint</p>	<p>The DRAG may promulgate its own rules of procedure in accordance with the purpose for which each PEM WESM Governance Committee is created and always consistent with the EPIRA, the WESM Rules, the PEMC Charter and these Guidelines. The dispute resolution process shall be guided by the following applicable rules and/or by a and processes as may be applicable based on generally accepted procedure in the Dispute Resolution Market Manual.</p> <p>a. The presence of majority of all members of the DRP shall constitute a quorum for the transaction of business.</p> <p>b. The majority vote of all members of the DRP is required to constitute a valid DRP decision. In case of disagreement, absence of a member or a vacancy, no decision shall be valid except made by a unanimous vote of the majority of all members of the DRP.</p> <p>c. In case of a vacancy or absence of a member of the DRP, the remaining members shall</p>	<p>DRG and DRP have already been dissolved.</p> <p>See rationale of proposed amendments to Sec. 1.02 (o)</p>

Title	Section	Provision	Proposed Amendment	Rationale
		<p>replacement of such member in the DRP to be selected from among the members of the DRG.</p> <p>d. In the absence of a DRP head / chair for a particular meeting, a temporary head/chair shall be elected by the majority of the members present constituting a quorum subject to the approval of the DRA.</p> <p>e. The Acting DRP chair/head shall serve until a new one is appointed by the DRA.</p>	<p>continue to perform its functions and duties provided that there is a quorum. Otherwise, the DRA must appoint replacement of such member in the DRP to be selected from among the members of the DRG.</p> <p>d. In the absence of a DRP head / chair for a particular meeting, a temporary head/chair shall be elected by the majority of the members present constituting a quorum subject to the approval of the DRA.</p> <p>e. The Acting DRP chair/head shall serve until a new one is appointed by the DRA.</p>	
(no section title)	10.01	<p>To enable the PEM Committees to discharge their collective responsibilities under the WESM Rules, each member shall:</p> <p>xxx</p> <p>(f) Perform in a fair and non-discriminatory manner, all functions and duties specifically delegated to him under the WESM Rules, any</p>	<p>To enable the PEM WESM Governance Committees to discharge their collective responsibilities under the WESM Rules, each member shall:</p> <p>xxx</p> <p>(f) Perform in a fair and non-discriminatory manner, all functions and duties specifically delegated to him under the WESM</p>	See rationale of proposed amendments to Sec. 1.02 (o)

Title	Section	Provision	Proposed Amendment	Rationale
		<p>Market Manuals or by the PEM Board;</p> <p>(g) Avoid actual or potential conflicts of interest by refraining from participating in any activity that could:</p> <p>xxx</p> <p>(iii) Take advantage of his position as member of a PEM Committee in the conduct of an outside business;</p> <p>xxx</p>	<p>Rules, any Market Manual or by the PEM Board;</p> <p>(g) Avoid actual or potential conflicts of interest by refraining from participating in any activity that could:</p> <p>xxx</p> <p>(iii) Take advantage of his position as member of a PEM <u>WESM Governance</u> Committee in the conduct of an outside business;</p> <p>xxx</p>	
Committee Honoraria	10.04	The President of PEMC has the authority to formulate company policy and guidelines for the grant of privileges, per diems and other benefits for the Committee members and subject to the availability of fund.	The President of PEMC has the authority to formulate company policy and guidelines for the grant of privileges, per diems and other benefits for the WESM Governance Committee members and subject to the availability of fund.	See rationale of proposed amendments to Sec. 1.02 (o)

iv. Dispute Resolution Market Manual Issue 5.0

Title	Section	Provision	Proposed Amendment	Rationale
Review and Updates	1.3			
	1.3.3	Amendment proposals to this Manual may arise from: (a) The PEM Board, upon its own initiative or upon a recommendation by a PEM Committee; xxx	Amendment proposals to this Manual may arise from: (a) The PEM Board, upon its own initiative or upon a recommendation by a PEM WESM Governance Committee; xxx	For consistency with the proposed amendments to the WESM Rules. Sections 7.2.9.2 (c) & (d) of the WESM Rules used the term “WESM Governance Committee” instead of the “PEM Committee” per the DOE DC NO. 2010-007-0008 dated 30 June 2010.
Definitions	2.1	(w) Market Manual means a manual of specific procedures, systems and protocols for the implementation of the WESM Rules and for the PEM Committees and the Enforcement and Compliance Officer.	w) Market Manual means a manual of specific procedures, systems and protocols for the implementation of the WESM Rules and for the PEM WESM Governance Committees and the Enforcement and Compliance Officer.	See rationale of proposed amendments to Sec. 1.3.3
		(ee) PEM Committee refers to a Committee duly provided for under the WESM Rules and such other committees created by the PEM Board from time to time, including for purposes of this Manual the DRA.	(ee) PEM WESM Governance Committee refers to the working groups created by the PEM Board as a Committee duly provided for under pursuant to Clause 1.4.6 of the WESM Rules and such other committees created by the PEM Board from time to time, including for purposes of this Manual the DRA. The WESM Governance Committees are as follows: Dispute Resolution Administrator, Market Surveillance	See rationale of proposed amendments to Sec. 1.3.3 Definition is based from Clause 1.4.6 of the WESM Rules.

Title	Section	Provision	Proposed Amendment	Rationale
			<u>Committee, PEM Audit Committee, Rules Change Committee and Technical Committee.</u>	
		(II) Selection Committee refers to the committee composed of at least three (3) members of the PEM Board, one of whom should be an Independent PEM Board director, which is tasked to review and evaluate the qualifications of all persons nominated to any PEM Committee requiring appointment by the PEM Board.	(II) The Board Selection Committee refers to the committee composed of at least three (3) members of the PEM Board, one of whom should be an Independent PEM Board director, which is tasked to review and evaluate the qualifications of all persons nominated to any PEM WESM Governance Committee requiring appointment by the PEM Board.	See rationale of proposed amendments to Sec. 1.3.3 For consistency with the terminology defined in Sec. 2.01 of the Guidelines Governing the Constitution of the PEM Board Committees Issue 2.0 -- <i>Board Selection Committee (BSC)</i> .
Selection and Appointment	5.2.			
	5.2.3	The Selection Committee shall pre-screen and shortlist all candidates nominated and request from those that it considers compliant with the qualification requirements, the submission of an expression of interest with their qualifications and experience.	The Board Selection Committee shall pre-screen and shortlist all candidates nominated and request from those that it considers compliant with the qualification requirements, the submission of an expression of interest with their qualifications and experience.	For consistency with the terminology defined in Sec. 2.01 of the Guidelines Governing the Constitution of the PEM Board Committees Issue 2.0 -- <i>Board Selection Committee (BSC)</i> .
	5.2.4	The Selection Committee will review the submissions received and select the person best qualified and complies with the independence requirements. In determining the list of nominees, the Selection Committee shall consider foreign professionals only if such professional is known to be an	The Board Selection Committee will review the submissions received and select the person best qualified and complies with the independence requirements. In determining the list of nominees, the Board Selection Committee shall consider foreign professionals only if such professional	See rationale of proposed amendments to Sec. 5.2.3

Title	Section	Provision	Proposed Amendment	Rationale
		outstanding expert or specialist in the particular field and that the services of such foreigner is urgently necessary either for lack of local experts and if his service will promote the advancement of the WESM.	is known to be an outstanding expert or specialist in the particular field and that the services of such foreigner is urgently necessary either for lack of local experts and if his service will promote the advancement of the WESM.	
	5.2.5	Upon receipt of the list of qualified nominees from the Selection Committee, the PEM Board shall post in the Market Information Website and make available to all WESM Members the list of nominees.	Upon receipt of the list of qualified nominees from the Board Selection Committee, the PEM Board shall post in the Market Information Website and make available to all WESM Members the list of nominees.	See rationale of proposed amendments to Sec. 5.2.3
	5.2.6	The PEM Board shall, by resolution, approve and confirm the DRA recommended by the Selection Committee from among the list of qualified nominees.	The PEM Board shall, by resolution, approve and confirm the DRA recommended by the Board Selection Committee from among the list of qualified nominees.	See rationale of proposed amendments to Sec. 5.2.3
Term of Appointment	5.5			
	5.5.4	Upon receipt of written notice of resignation or before the end of the term of the DRA, the PEM Board, through the Selection Committee, shall forthwith select a replacement who meets the established qualifications and requisites of the new DRA to be appointed.	Upon receipt of written notice of resignation or before the end of the term of the DRA, the PEM Board, through the Board Selection Committee, shall forthwith select a replacement who meets the established qualifications and requisites of the new DRA to be appointed.	See rationale of proposed amendments to Sec. 5.2.3

v. **Technical Committee Market Manual Issue 2.0**

Title	Section	Provision	Proposed Amendment	Rationale
PURPOSE	1.1.			
	1.1.3.	Establish the scope, guidelines and procedures in providing expert support to other PEM Committees, PEMC or WESM Members;	Establish the scope, guidelines and procedures in providing expert support to other PEM WESM Governance Committees, PEMC or WESM Members;	For consistency with the proposed amendments to the WESM Rules. Sections 7.2.9.2 (c) & (d) of the WESM Rules used the term “WESM Governance Committee” instead of the “PEM Committee” per the DOE DC NO. 2010-007-0008 dated 30 June 2010.
REVIEW AND UPDATES	1.3.			
	1.3.3.	Amendment proposals to this Manual may arise from (a) The PEM Board, upon its own initiative or upon a recommendation by other PEM Committees; xxx	Amendment proposals to this Manual may arise from (a) The PEM Board, upon its own initiative or upon a recommendation by other PEM WESM Governance Committees; xxx	See rationale of proposed amendments to Sec. 1.1.3
DEFINITIONS	2.1.	Market Manual means a manual of specific procedures, systems and protocols for the implementation of the WESM Rules and for the PEM Committees.	Market Manual means a manual of specific procedures, systems and protocols for the implementation of the WESM Rules and for the PEM WESM Governance Committees.	See rationale of proposed amendments to Sec. 1.1.3
		Market Surveillance Committee (MSC) refers to the PEM Committee appointed by the PEM Board to monitor and report	Market Surveillance Committee (MSC) refers to the PEM WESM Governance Committee appointed by	See rationale of proposed amendments to Sec. 1.1.3

Title	Section	Provision	Proposed Amendment	Rationale
		on activities in the spot market in accordance with the Market Surveillance Market Manual.	the PEM Board to monitor and report on activities in the spot market in accordance with the Market Surveillance Market Manual.	
		PEM Committee refers to a Committee duly provided for under the WESM Rules and such other committees created by the PEM Board from time to time, including for purposes of this Manual, the PEM Auditor, the Technical Committee and the Market Surveillance Committee.	<u>PEM-WESM Governance Committee</u> refers to <u>the working groups created by the PEM Board as a Committee</u> duly provided for under <u>pursuant to Clause 1.4.6 of the WESM Rules</u> and such other committees created by the PEM Board from time to time, including for purposes of this Manual the PEM Auditor, the Technical Committee and the Market Surveillance Committee. <u>The WESM Governance Committees are as follows: Dispute Resolution Administrator, Market Surveillance Committee, PEM Audit Committee, Rules</u>	See rationale of proposed amendments to Sec. 1.1.3 Definition is based from Clause 1.4.6 of the WESM Rules.
RESPONSIBILITIES	3.1.			
	3.1.3.	Upon request, provide the PEM Board with recommendations on matters referred to the committee; (a) Assist the PEM Board, PEM Committees and PEMC with any request for technical review or study deemed to be under the	Upon request, provide the PEM Board with recommendations on matters referred to the committee; (a) Assist the PEM Board, <u>PEM WESM Governance</u> Committees and PEMC with any request for technical review or study deemed to be	See rationale of proposed amendments to Sec. 1.1.3

Title	Section	Provision	Proposed Amendment	Rationale
		expertise of the Technical Committee; xxx	under the expertise of the Technical Committee; xxx	
SELECTION AND APPOINTMENT	3.2.	The selection and appointment of the Technical Committee members shall be in accordance with the Guidelines Governing the Constitution of the PEM Board Committees.	The selection and appointment of the Technical Committee members shall be in accordance with the Guidelines Governing the Constitution of the PEM Board WESM Governance Committees.	See rationale of proposed amendments to Sec. 1.1.3
PROCEDURES	4.3.			
	4.3.2.	Any request for technical review or study from PEM Committees, PEMC or a WESM Member shall be submitted to the Technical Committee, addressed through the Market Assessment Group, using the prescribed Request Form (Annex A).	Any request for technical review or study from PEM WESM Governance Committees, PEMC or a WESM Member shall be submitted to the Technical Committee, addressed through the Market Assessment Group, using the prescribed Request Form (Annex A).	See rationale of proposed amendments to Sec. 1.1.3

vi. **Catalogue of Market Monitoring Data and Indices Issue 1.0**

Title	Section	Provision	Proposed Amendment	Rationale
Definition of Terms	2	Market Assessment Group (MAG). Refers to the market assessment group of the Philippine Electricity Market Corporation established pursuant to the WESM Rules tasked to support the PEM Committee and regularly prepare assessments reports on the overall market performance and competitiveness.	Market Assessment Group (MAG). Refers to the market assessment group of the Philippine Electricity Market Corporation established pursuant to the WESM Rules tasked to support the PEM WESM Governance Committee and regularly prepare assessments reports on the	For consistency with the proposed amendments to the WESM Rules. Sections 7.2.9.2 (c) & (d) of the WESM Rules used the term “WESM Governance Committee” instead of the “PEM Committee” per the DOE

Title	Section	Provision	Proposed Amendment	Rationale
			overall market performance and competitiveness.	DC NO. 2010-007-0008 dated 30 June 2010.

vii. **WESM Consultation Guidelines Issue 1.0**

Title	Section	Provision	Proposed Amendment	Rationale
Legal Basis	1.1	<p>xxx</p> <p>In this regard, WESM Rules provide for the creation of five (5) working groups, namely: PEM Auditor, Market Surveillance Committee, Technical Committee, Rules Change Committee, and Dispute Resolution Administrator (collectively, the “PEMC Committees” and each, a “PEMC Committee”).</p> <p>xxx</p> <p>Considering the composition of the WESM TWG and its mandate during the preparatory phase of the WESM, the PEM Board hereby acknowledges and adopts the deliberations and endorsement of the WESM TWG in fulfillment of the public consultation requirement under WESM Rule 1.9 until the formal constitution of the PEM Committees.</p>	<p>xxx</p> <p>In this regard, WESM Rules provide for the creation of five (5) working groups, namely: PEM Auditor, Market Surveillance Committee, Technical Committee, Rules Change Committee, and Dispute Resolution Administrator (collectively, the “WESM Governance PEMC Committees” and each, a “PEMC Committee”).</p> <p>xxx</p> <p>Considering the composition of the WESM TWG and its mandate during the preparatory phase of the WESM, the PEM Board hereby acknowledges and adopts the deliberations and endorsement of the WESM TWG in fulfillment of the public consultation requirement under WESM Rule 1.9 until the formal constitution of the</p>	<p>For consistency with the proposed amendments to the WESM Rules.</p> <p>Sections 7.2.9.2 (c) & (d) of the WESM Rules used the term “WESM Governance Committee” instead of the “PEM Committee” per the DOE DC NO. 2010-007-0008 dated 30 June 2010.</p>

Title	Section	Provision	Proposed Amendment	Rationale
		<p>Once the PEMC Committees have been duly formed and constituted by the PEM Board, the activities and functions of the WESM TWG shall cease.</p> <p>xxx</p>	<p><u>WESM Governance</u> PEMC Committees.</p> <p>Once the <u>WESM Governance</u> PEMC Committees have been duly formed and constituted by the PEM Board, the activities and functions of the WESM TWG shall cease. The consultation process with industry participants shall thereafter be undertaken by the PEM Board through the <u>WESM Governance</u> PEMC Committees.</p> <p>xxx</p>	
Scope	1.2	<p>xxx</p> <p>(a) At the time when the PEMC Committees have not yet been constituted and technical assistance is being rendered by the WESM TWG (“Transition Period”); and</p> <p>(b) After the PEMC Committees have been formally constituted and have commenced performance of their WESM Functions and activities.</p> <p>xxx</p>	<p>xxx</p> <p>(a) At the time when the <u>WESM Governance</u> PEMC Committees have not yet been constituted and technical assistance is being rendered by the WESM TWG (“Transition Period”); and</p> <p>(b) After the <u>WESM Governance</u> PEMC Committees have been formally constituted and have commenced performance of their WESM Functions and activities.</p> <p>xxx</p>	See rationale of proposed amendments to Sec. 1.1

Title	Section	Provision	Proposed Amendment	Rationale
Consultation Process During Transition Period	3.0	<p>The following procedure shall be applicable during the Transition Period or at the time when the PEMC Committees have not yet been constituted. In compliance with the requirements of the WESM Rules, WESM consultation process during the transition period shall be administered by the WESM TWG.</p> <p>xxx</p>	<p>The following procedure shall be applicable during the Transition Period or at the time when the WESM Governance PEMC Committees have not yet been constituted. In compliance with the requirements of the WESM Rules, WESM consultation process during the transition period shall be administered by the WESM TWG.</p> <p>xxx</p>	See rationale of proposed amendments to Sec. 1.1
Consultation Process After Transition	4.0	<p>The following procedure shall be applicable after the transition period or once the PEMC Committees have been constituted and they have assumed the activities of the WESM TWG.</p> <p>(a) Matters requiring consultation shall be initiated by PEM Board and may direct either the Market Operator or any relevant PEMC Committee to prepare and develop the necessary documentation. If it appears that assistance of and coordination with other entities or PEMC Committees is required, the matter shall first be referred to such entity or EPMC Committee for review and comment before the same is submitted to the PEM Board.</p>	<p>The following procedure shall be applicable after the transition period or once the WESM Governance PEMC Committees have been constituted and they have assumed the activities of the WESM TWG.</p> <p>(a) Matters requiring consultation shall be initiated by PEM Board and may direct either the Market Operator or any relevant WESM Governance PEMC Committee to prepare and develop the necessary documentation. If it appears that assistance of and coordination with other entities or WESM Governance PEMC Committees is required, the matter shall first be referred to such entity or WESM Governance PEMC</p>	See rationale of proposed amendments to Sec. 1.1

Title	Section	Provision	Proposed Amendment	Rationale
		<p>xxx</p> <p>(d) The Market Operator or PEMC Committee assigned to handle matter shall, within a reasonable period, consolidate and evaluate all written submissions.</p> <p>(e) Where, in the reasonable opinion of the Market Operator or the PEMC Committee, there is a diversity of views expressed in the written submissions received, it shall recommend to the PEM Board the conduct of a consultation meeting</p> <p>xxx</p> <p>(g) Following its consideration of the matter under consultation, the Market Operator or PEMC Committee shall, within fifteen days from receipt of the last written submission or the last consultation forum, revise and update the matter in conformity with the results of the consultation and make the necessary recommendation and prepare a report (the “Report”) setting out:</p>	<p>Committee for review and comment before the same is submitted to the PEM Board.</p> <p>xxx</p> <p>(d) The Market Operator or WESM Governance PEMC Committee assigned to handle matter shall, within a reasonable period, consolidate and evaluate all written submissions.</p> <p>(e) Where, in the reasonable opinion of the Market Operator or the WESM Governance PEMC Committee, there is a diversity of views expressed in the written submissions received, it shall recommend to the PEM Board the conduct of a consultation meeting</p> <p>xxx</p> <p>(h) Following its consideration of the matter under consultation, the Market Operator or WESM Governance PEMC Committee shall, within fifteen days from receipt of the last written submission or the last consultation forum, revise and</p>	

Title	Section	Provision	Proposed Amendment	Rationale
			update the matter in conformity with the results of the consultation and make the necessary recommendation and prepare a report (the “Report”) setting out: <ul style="list-style-type: none"> a. xxx b. xxx c. The WESM Governance PEM Committee’s decision in relation to the matter; d. The reasons for the WESM Governance PEM Committee’s decision; e. xxx f. xxx 	
Shows the Procedure for Public Consultation after the Transition Period	Figure 5.2	MO/IMO or PEMC Committee	MO/IMO or WESM Governance PEMC Committee	See rationale of proposed amendments to Sec. 1.1
Forms	6.0	Appendix A – Form Notice to the Public and Invitation to Comment Notice is hereby given of the proposed [document/ template] of the [Subject Matter/ Title] submitted by the [MARKET OPERATOR/IMO/PEMC COMMITTEE] on [Date of Submission].	Appendix A – Form Notice to the Public and Invitation to Comment Notice is hereby given of the proposed [document/ template] of the [Subject Matter/ Title] submitted by the [MARKET OPERATOR/IMO/ WESM Governance PEMC	See rationale of proposed amendments to Sec. 1.1

Title	Section	Provision	Proposed Amendment	Rationale
			COMMITTEE] on [Date of Submission].	