

**WHOLESALE ELECTRICITY SPOT MARKET
RULES CHANGE COMMITTEE**

RESOLUTION NO. 2015-13

Proposed Amendments to the Retail Rules on Retail Disconnection

WHEREAS, the proposal emanated from the Retail Electricity Suppliers Association's (RESA) submission of comments to the Philippine Independent Power Producers Association's (PIPPA) Proposed Amendments to the WESM Rules on the Adoption of a Disconnection Policy for the Wholesale Market, which PIPPA proposal was published for comments on 30 May 2014;

WHEREAS, RESA's comments aimed to also incorporate in the WESM Rules a similar policy for disconnection to govern the retail side;

WHEREAS, upon reviewing RESA's comments, the Rules Change Committee (RCC) deemed the same to be already in the nature of a proposal as it recommends for parallel provisions for disconnection on the Retail Rules applicable to retail customers;

WHEREAS, upon recommendation of the RCC, RESA submitted separately its Proposed Amendments to the Retail Rules for Retail Disconnection;

WHEREAS, during the 93rd RCC Meeting held on 01 October 2014, the proposal was presented to and discussed by the RCC, and thereafter approved for posting in the market information website, to solicit comments of participants and interested parties;

WHEREAS, the proposal was published on 13 October 2014, with notice to participants sent on the same day;

WHEREAS, in response to the RCC's call for comments, written comments were received from SN Aboitiz Power (SNAP) and Manila Electric Company (MERALCO);

WHEREAS, during the 95th RCC Meeting held on 03 December 2014, in the course of the discussion of the Proposed Amendments to the WESM Rules on Wholesale Disconnection, the Department of Energy (DOE) recommended that, instead of amending the WESM and Retail Rules for the inclusion of a policy for wholesale and retail disconnection, the pertinent DOE Department Circulars on Disconnection (DC2010-05-0006 and DC2010-080010) on its policy and implementing guidelines be amended instead;

WHEREAS, during the 96th RCC Meeting held on 14 January 2015, the RCC created a Sub-committee on Disconnection composed of representatives from the Generation and Supply sectors, as well as one Independent representative;

WHEREAS, the Sub-committee on Disconnection was tasked to draft the proposed amendments to the Department Circular Nos. DC2010-05-0006 and

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DC2010-080010 on the DOE policy on disconnection and its implementing guidelines, respectively, to incorporate the proposed amendments on disconnection discussed so far by the RCC;

WHEREAS, in view of the RCC's agreements, the Sub-Committee on Disconnection conducted a meeting on 03 February 2015, and presented the initial results of its discussions during the 97th RCC Meeting held on 04 February 2015;

WHEREAS, the Sub-Committee on Disconnection presented mainly the general framework of the proposed disconnection procedure, where all requests for disconnection will now be coursed through the Market Operator (MO), instead of directly to the Network Service Provider (NSP);

WHEREAS, during the said meeting, all references to the National Grid Corporation of the Philippines (NGCP) and/or the SO were proposed to be replaced with Network Service Provider, in order to cover the DUs, both being responsible parties in implementing physical disconnection;

WHEREAS, in the same meeting, the MO expressed its reservations on having been given the responsibility of requesting all disconnections, stating that the MO is not privy to the contract between Generators and the party to be disconnected;

WHEREAS, the SO likewise raised its concerns on the timelines and procedures for disconnection as proposed by the Sub-committee on Disconnection;

WHEREAS, during the 98th RCC Meeting held on 04 March 2015, the RCC Generator representative from PIPPA apprised the RCC of the most recent discussions on the matter with PIPPA, expressing the general sentiment of its members to pursue PIPPA's original proposal to amend the WESM Rules instead of the DOE's recommendation to amend the pertinent DOE department circulars, which same sentiment was shared by the RESA-member representative in the RCC;

WHEREAS, the concerned parties expressed that by reflecting the amendments to the Rules for the incorporation of a policy on disconnection, they hope to lessen any third party intervention when implementing disconnection;

WHEREAS, noting the strong sentiment among the Generation and Supply Sectors, and recognizing that it is the RCC's obligation to act on proposals submitted to it, in the same meeting, the RCC agreed to pursue the amendments to the WESM/Retail Rules for Wholesale/Retail Disconnection, as originally proposed by the parties;

WHEREAS, during the 99th RCC Meeting held on 08 April 2015, the Sub-Committee on Disconnection requested deferment of further discussions on the matter, informing the RCC that the Sub-Committee on Retail Disconnection composed of the Supply and Distribution Utility Sectors are still set to meet on 15 April 2015 to discuss and finalize drafting of the proposal;

WHEREAS, on 15 April 2015, the Sub-Committee on Retail Disconnection, met to discuss the proposal, which meeting was attended by members from RESA, MERALCO, Ilocos Norte Electric Cooperative (INEC), and Philippine Electricity Market Corporation (PEMC);

WHEREAS, in the said Sub-Committee meeting, MERALCO provided its inputs on the proposal, with the intent of making the proposal consistent with the provisions under the Distribution Services Open Access Rules (DSOAR);

WHEREAS, as a result of discussions during the Sub-committee meeting, RESA revised its Proposed Amendments to the Retail Rules on Retail Disconnection to incorporate MERALCO's comments, except the finer details which were deemed for inclusion in the appropriate retail market manual as agreed upon previously by the RCC;

WHEREAS, the revised proposal was presented by the Sub-Committee during the 100th RCC Meeting held on 06 May 2015;

WHEREAS, in the course of discussions during that meeting, the ERC remarked that it has jurisdiction over the disconnection of Contestable Customers and end-users, thereby, requesting for deferment of further discussions on the matter for the ERC to be given time to check on its guidelines relative to disconnection;

WHEREAS, the ERC further expressed that it will submit its position paper within the timeline of two (2) weeks as agreed with the RCC;

WHEREAS, upon follow-up with the ERC of its position paper, the ERC expressed in its communication to the Secretariat, through email, that the RCC can already proceed with its discussion on the matter, with the ERC to intending to instead submit its comments upon the RCC's posting of the proposal;

WHEREAS, during the 101st RCC Meeting held on 03 June 2015, the RCC discussed the matter again, with the RESA-member Supply Sector stressing that the proposal, as revised, already considers the DSOAR based on comments and inputs provided by MERALCO;

WHEREAS, the Secretariat apprised the RCC of updates from the ERC, relative to its supposed submission of a position paper regarding RESA's Proposed Amendments to the Retail Rules on Retail Disconnection;

WHEREAS, with the information from the ERC that it will just submit its comments upon the proposal's posting, the RCC agreed to continue discussing the revised proposal of RESA and in that same meeting, approved the publication of RESA's Proposed Amendments to the Retail Rules on Retail Disconnection, with further additional inputs from the RCC during discussions;

WHEREAS, RESA's proposal was published for the second time in the market information website on 06 July 2015, as a revised version, to solicit comments of participants once again, with notice to participants sent the following day;

WHEREAS, in response to the RCC's call for comments, written comments were received from PEMC and MERALCO;

WHEREAS, during the 104th RCC Meeting held on 02 September 2015, the RCC deliberated upon the proposal, giving due course to the comments submitted by the parties;

WHEREAS, the Supply Sector agreed on PEMC's comments and accepted the same, expressing that the PEMC comments were merely simplification, shortening of the wordings, and re-arranging of the provisions, but which in essence carried the RESA's proposal, ensuring consistency with the DSOAR;

WHEREAS, in response to MERALCO's submitted comments, the Supply Sector expressed that when RESA revised the proposal, it already considered comments and inputs previously submitted by MERALCO to make the proposal consistent with the DSOAR;

WHEREAS, in view of the foregoing, the RCC with concurrence of the DU representative from MERALCO, agreed to dispense with MERALCO's comments since RESA's proposal, as published, is already in consideration of MERALCO's inputs;

WHEREAS, in the same meeting, the ERC expressed that the matter on disconnection covering end-users falls within the ERC's jurisdiction and, in this view, stated that any proposals pertaining to the matter should go to the ERC for rule-making;

WHEREAS, the ERC expressed its observation that certain provisions in RESA proposal are inconsistent with the DSOAR, and that specific details on disconnection, including among others, when and how to disconnect, what are the specific procedures, etc., were not reflected in the RESA proposal, which items the ERC deemed necessary to accord due process to concerned customers;

WHEREAS, in response to the concerns raised by the ERC, the RESA-member Supply Sector representative in the RCC expressed that when RESA revised its proposal, it consulted with MERALCO and incorporated MERALCO's comments, on the assumption that said comments tried to align the RESA proposal with the DSOAR;

WHEREAS, further on the ERC's comments relating to due process, the RCC informed ERC that the decision to take out the detailed procedures from the Proposed Amendments to the Retail Rules on Retail disconnection is based on a previous RCC agreement, as the RCC perceives that the Rules [WESM and Retail] should contain only the general guiding principles, with the finer details and operational procedures more appropriately reflected in the market manuals;

WHEREAS, since the matter involved both policy and regulation, it was expressed by PEMC that perhaps the matter can be considered for discussion between the ERC and the DOE at the WESM Tripartite Committee;

WHEREAS, the ERC conveyed the information that the said Tripartite Committee only tackles matters relating to mitigating measures in the WESM and reiterated its position that the matter on disconnection is within the ERC's mandate and as such, RESA may opt to either go directly to the ERC for rule making (on a possible submission of a proposal to amend the DSOAR), or, if the RCC pursues and approves the proposal, when it goes to the PEM Board, consider seeking for the PEM Board's endorsement of the Proposal to ERC rather than for its approval of the proposal;

WHEREAS, the RCC explained to the ERC that based on the existing WESM Rules and guidelines covering the RCC, all proposals submitted to it shall be acted

upon by the RCC, for decision, whether or not to approve and endorse the same to the PEM Board;

WHEREAS, further on the RCC procedure, all amendments approved by the RCC shall be endorsed to the PEM Board for the PEM Board's and subsequently, the DOE's approval and promulgation;

WHEREAS, the RCC, nonetheless recognized the concerns raised by ERC during discussions, which the RCC considered as valid concerns;

WHEREAS, the RCC equally recognized the validity of the concerns of the Supply Sector;

WHEREAS, taking into consideration all the valid concerns of the parties and given the difficulty of deciding on the proposal, the matter was put into a vote to determine whether or not it will be approved and endorsed to the PEM Board, for the PEM Board's approval;

WHEREAS, as a result, eleven (11) voted for the approval¹ and endorsement of the proposal to the PEM Board, while one (1) voted for its disapproval², one (1) abstained³ from voting, and one (1) was not present at the time of voting⁴;

WHEREAS, the RCC agreed to endorse to the PEM Board the proposal, as published in the website, with the assumption that the details specified in that version of the proposal would address somehow the concerns raised by the ERC in terms of consistency with the DSOAR, as it already considered MERALCO's inputs;

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

RESOLVED, that the Proposal for Amendments to the Retail Rules on Retail Disconnection (ANNEX A), is hereby adopted and approved by the RCC, with the finer details to of said proposal for disconnection to be included in a Manual to be crafted by the RCC, subsequent to the submission of this Proposal to the PEM Board;

RESOLVED FURTHER, that the attached Proposal for Amendments to the Retail Rules on Retail Disconnection is hereby endorsed to the PEM Board for approval and endorsement to the DOE.

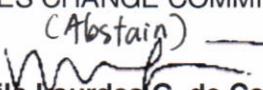
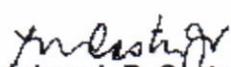
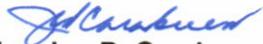
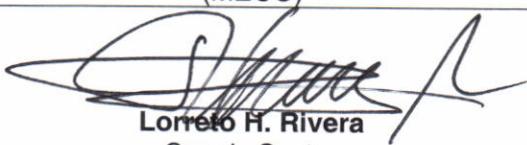
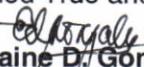
¹ RCC members who voted for approval are: Francisco Castro (Independent), Lorreto Rivera (Supply), Theo Sunico (Generator), Jose Ferlino Raymundo (Generator), Joselyn Carabuena (Generator), Ciprinilo Meneses (DU), Jose Santos (DU), Ludovico Lim (DU), Juanito Tolentino (DU), Ambrocio Rosales (DU), and Isidro Cacho (MO).

² RCC member voted for disapproval is Allan Nerves (Independent).

³ RCC member who abstained from voting is Maila Lourdes de Castro (Independent/Chairperson).

⁴ RCC member who was not present during voting is Concepcion Tanglao (Independent).

Done this 02 September 2015, Pasig City.

Approved by: RULES CHANGE COMMITTEE (Abstain)  Maïla Lourdes G. de Castro Chairperson Independent	
Members:	
 Concepcion I. Tanglao Independent	 Francisco L.R. Castro, Jr. Independent
(Disapprove)  Allan C. Nerves Independent	 Isidro E. Cacho, Jr. Market Operator Philippine Electricity Market Corporation (PEMC)
 Ambrocio R. Rosales Transmission Sector National Grid Corporation of the Philippines (NGCP)	 Joselyn D. Carabuena Generation Sector Power Sector Assets and Liabilities Management Corporation (PSALM)
 Jose Ferlino P. Raymundo Generation Sector SMC Global	 Theo C. Sunico Generation Sector Vivant Corporation
 Ciprinilo C. Meneses Distribution Sector (PDU) Manila Electric Company (MERALCO)	 Jose P. Santos Distribution Sector (EC) Ilocos Norte Electric Cooperative, Inc. (INEC)
 Gilbert A. Pagobo Distribution Sector Mactan Electric Company (MECO)	 Ludovico D. Lim Distribution Sector Antique Electric Cooperative, Inc. (ANTECO)
 Lorreto H. Rivera Supply Sector Team (Philippines) Energy Corporation (TPEC)	Certified True and Correct:  Elaine D. Gonzales RCC Secretary PEMC

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ANNEX A
Retail Electricity Suppliers Association's (RESA) Proposed Amendments to the
Retail Rules for the Incorporation of Disconnection for Retail Customers

Item No.	Rules/Manual	Section and Title	Original Provision	Proposed Amendments	Rationale
1	CHAPTER 2: REGISTRATION		Chapter 2: REGISTRATION	Chapter 2: REGISTRATION, <u>DE-REGISTRATION</u> AND <u>SUSPENSION</u>	
2			new	<u>2.7 DISCONNECTION</u>	To incorporate disconnection in the Retail Rules There is no existing provisions on the Retail Rules and WESM Rules that protects a retail supplier from the non-payment of a Contestable Customer considering that existing Rules requires the Retail Supplier as the responsible party to pay for the DWS Charges as a Contract Party to the DWSA and Market Related Charges as the Direct WESM Member on behalf of the Contestable Customers.
3			new	<u>2.7.1. General Provisions</u>	
4			new	<u>2.7.1.1. Grounds for Disconnection shall include, but is not limited to, the following:</u> <u>(a) Failure of the Contestable Customer and/or Supplier to</u>	General Provision sets the responsibilities for each party in the disconnection and when a Contestable Customer may be disconnected.

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				<p><u>comply with the financial and technical obligations under the Open Access Transmission Service (OATS) Rule, Philippine Grid Code, Philippine Distribution Code, WESM and Retail Rules, Wheeling and Connection Agreements and Retail Supply Contracts (RSC);</u></p> <p><u>(b) Failure of the Supplier to pay the Network Service Provider;</u></p> <p><u>(c) Failure of the Contestable Customer to pay the Network Service Provider; and</u></p> <p><u>(d) Failure of the Contestable Customer to comply with the registration requirements of the Central Registration Body (CRB).</u></p>	
5			new	<p><u>2.7.1.2. The Network Service Provider where the Contestable Customer is connected to, has the responsibility to disconnect WESM members that fail to comply with their financial and technical obligations under the OATS Rules, the Philippine Grid Code, Philippine Distribution Code, the WESM and Retail Rules and with their existing contracts with other WESM members (including RSC,</u></p>	

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6			new	<p><u>Transmission Service Agreement (TSA), Distribution Wheeling Services Agreement (DWSA) and Connection Agreement (CA), among others).</u></p> <p><u>2.7.1.3. If at any time a Contestable Customer ceases to be eligible to be registered as a Trading Participant in accordance with the Retail Rules, that Contestable Customer or the Supplier shall inform the Market Operator and the Central Registration Body accordingly. As soon as practicable, after the Market Operator becomes aware that a Contestable Customer is no longer eligible to be registered, the Market Operator shall:</u></p> <p><u>(a) issue a suspension notice in respect of that Trading Participant; and</u></p> <p><u>(b) initiate disconnection of the Contestable Customer in accordance with WESM Rules Clause 2.9.</u></p>	To incorporate disconnection / termination rules for Retail Customers.
7			new	<p><u>2.7.1.4. Where a default event has occurred in relation to a Contestable Customer, the Market Operator shall follow the</u></p>	To incorporate disconnection / termination rules / protocol for Retail Customers

6/2/20

ANNEX A
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8			new	<p><u>procedures set forth in the WESM Rules Clause 3.14.11.</u></p> <p><u>If the Contestable Customer is not directly connected to the Grid, then, instead of the Network Service Provider, the Market Operator shall follow WESM Rules Clause 2.9 with the Distribution Utility.</u></p>	
9			new	<p><u>2.7.1.5. Notwithstanding that a person or an entity is suspended from participation in the spot market and disconnected from the grid or Distribution Utility, that person's or entity's obligations and liabilities which arose under the WESM Rules prior to the date on which that person or entity was suspended and disconnected remain unaffected.</u></p> <p><u>2.7.1.6. In the event that a Contestable Customer fails to comply with the required financial and technical obligations to the Supplier as provided under their existing contracts, a Supplier (RES or Local RES) shall issue a written Notice of Disconnection to the Contestable Customer forty-eight (48) hours before such disconnection.</u></p>	<p>To incorporate disconnection / termination rules / protocol for Retail Customers and to clarify that standing obligations of such entity remain even after disconnection / suspension.</p>

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10			new	<p><u>Simultaneous to the issuance of the Notice of Disconnection to the relevant Contestable Customer, the issuing party shall copy furnish the Central Registration Body and the Network Service Provider, where the concerned Contestable Customer is connected.</u></p> <p><u>2.7.1.7. A Contestable Customer that is an Indirect WESM Member and whose retail supply contract with a Supplier has terminated or expired, shall be disconnected unless it is able to enter into a new contract with a Supplier or switch to the Supplier of Last Resort (SOLR).</u></p>	To incorporate disconnection / termination rules / protocol for Retail Customers
11			new	<p><u>2.7.2. Remedial Actions to Stay or Defer the Disconnection</u></p>	This section is on how the disconnection may be remedied.
12			new	<p><u>2.7.2.1. The implementation of the disconnection may be deferred if any of the following conditions are present:</u></p> <p><u>(a) Settlement/payment of the outstanding amount due and demanded was settled prior to the scheduled disconnection date. The requesting WESM</u></p>	To incorporate disconnection / termination rules / protocol for Retail Customers

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				<p><u>Member that filed for disconnection shall immediately inform the Central Registration Body of the settlement/payment of the outstanding amount prior to the scheduled disconnection date in order for the Network Service Provider to defer the execution of such disconnection.</u></p> <p><u>(b) Recalled Notice of Disconnection by the requesting WESM Member as a result of a Special Payment Agreement or Restructuring Agreement entered into by the contracting parties prior to the scheduled disconnection date. The requesting WESM Member shall immediately inform the Central Registration Body of the recall prior to the scheduled disconnection date in order for the Network Service Provider to defer the execution of such disconnection.</u></p> <p><u>(c) If there is proof of non-receipt of the Notice of Disconnection, the execution of the Notice of Disconnection may be deferred</u></p>	

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				<p>for up to <u>forty-eight hours from the actual receipt of the Notice of Disconnection:</u></p> <p>(d) <u>In the case of the Market Operator as the requesting party, the Contestable Customer for disconnection has remedied the default event, or satisfied the margin call or has complied with the membership criteria or requirement that gave rise to its suspension. The Market Operator, as the requesting party shall immediately inform the Central Registration Body and the Network Service Provider of the registration of such person or entity to the WESM prior to the scheduled disconnection date in order for the Network Service Provider to defer the execution of such disconnection; and</u></p> <p>(e) <u>Recalled Notice of Disconnection by the requesting person or entity for any valid reason not stated above.</u></p>	
13			new	2.7.2.2. <u>The disconnected Contestable Customer shall</u>	

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				<p><u>continue to be liable for any and all of its outstanding obligations and liabilities under the WESM Rules, Retail Rules and all other existing contracts.</u></p>	<p>To incorporate disconnection / termination rules / protocol for Retail Customers and to clarify that standing obligations of such entity remain even after disconnection / suspension.</p>
14			new	<p><u>2.7.3. Reconnection</u></p>	
15			new	<p><u>2.7.3.1. The WESM Member requesting for a reconnection of person or entity shall submit its Notice of Reconnection and a letter-request to the CRB for the execution of the Request for Reconnection. The Central Registration Body shall then notify the Network Service Provider in writing for such reconnection.</u></p>	<p>To incorporate disconnection / termination rules / protocol for Retail Customers</p>
16			new	<p><u>2.7.3.2. Within seven (7) days after receipt of the Notice of Reconnection from the Central Registration Body, the Network Service Provider shall execute the Reconnection of service of the Customer. The Market Operator, in coordination with the Network Service Provider shall issue the Market advisory for such reconnection.</u></p>	<p>To incorporate disconnection / termination rules / protocol for Retail Customers</p>

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17			new	<p><u>2.7.3.3. In the case of the disconnected entity wherein its disconnection was requested by multiple parties, the reconnection will only be executed when all the requesting parties have issued both the Notice of Reconnection and letter-request to the Central Registration Body.</u></p>	To incorporate disconnection / termination rules / protocol for Retail Customers
18			new	<p><u>2.7.3.4. In all instances, a reconnection fee shall be paid by the disconnected person or entity to either the Supplier (for indirect WESM Members) or the Network Service Provider (for Direct WESM Members) prior to reconnection.</u></p>	To incorporate disconnection / termination rules / protocol for Retail Customers

10/24