



DEPARTMENT CIRCULAR NO. DC2023-07-0023

**ADOPTING FURTHER AMENDMENTS TO THE WHOLESALE ELECTRICITY
SPOT MARKET (WESM) RULES AND MARKET MANUALS**

(Provisions on Penalty Framework for Test and Commissioning)

WHEREAS, Sections 30 and 37(f) of the Republic Act (RA) No. 9136 or the "*Electric Power Industry Reform Act of 2001*" (EPIRA) mandate the Department of Energy (DOE) to supervise the restructuring of the electricity industry and in addition thereto, a) ensure the reliability, quality, and security of supply of electric power; b) jointly with the electric power industry participants, establish the wholesale electricity spot market and formulate the detailed rules governing the operations thereof; and c) monitor private sector activities relative to energy projects to attain the goals of the restructuring, privatization, and modernization of the electric power sector as provided for under existing laws;

WHEREAS, on 28 June 2002, the DOE, with the endorsement of the electric power industry participants, promulgated the WESM Rules through Department Circular (DC) No. DC2002-06-0003;

WHEREAS, any changes, amendments, and modifications to the WESM Rules, Retail Rules, and their Market Manuals shall be undertaken in accordance with the provisions of Chapter 8 of the WESM Rules;

WHEREAS, on 03 June 2021, the DOE promulgated DC No. DC2021-06-0013, titled "*Adopting a General Framework Governing the Test and Commissioning of Generation Facilities for Ensuring Readiness to Deliver Energy to the Grid or Distribution Network*", which provided clear-cut procedures and timelines on the conduct of test and commissioning;

WHEREAS, Section 9 of said DC mandates the Governance Arm to propose changes to the WESM Rules and relevant Market Manuals in accordance with the enforcement and compliance with the policy provided in the subject Circular and to recommend to the DOE and the Energy Regulatory Commission (ERC) the possible sanctions and other measures that will promote compliance of the concerned stakeholders with the policies stated in the same Circular;

WHEREAS, on 05 May 2022, the Governance Arm or the Philippine Electricity Market Corporation (PEMC), submitted to the Rules Change Committee (RCC) its proposed amendments to the WESM Manuals regarding Penalty Framework for Test and Commissioning which sought to provide the penalty mechanism or omission of a Trading Participant with facility or plant whose test and commissioning period has expired;

WHEREAS, on 16 June 2022, the DOE issued DC No. DC2022-05-0015 to supplement DC No. DC2021-06-0013, allowing the power plants to continue to inject energy to the grid after successful completion of the test and commissioning process to support the anticipated increase in demand, particularly during the summer period;

WHEREAS, the RCC, in consultation with the Market Surveillance Committee (MSC) and Compliance Committee (CC), deliberated on the proposal to consider the comments received from interested parties and harmonizing with the DOE DC No. DC2022-05-0015, it was subsequently finalized and submitted to the Philippine Electricity Market (PEM) Board;

WHEREAS, in a letter dated 02 December 2022, the PEM Board submitted a proposal for the DOE's final approval, in compliance with Chapter 8 of the WESM Rules;

WHEREAS, on 11 January 2023, the proposal was posted on the DOE website to solicit comments from the stakeholders and other interested parties;

WHEREAS, the DOE, to ensure transparency and consistency with the objectives of the EPIRA and the WESM, conducted the following public consultations on said proposed amendments:

Date	Leg	Venue
09 February 2023	Luzon	Taguig City
16 February 2023	Visayas	Cebu City
28 February 2023	Mindanao	Davao City

NOW, THEREFORE, pursuant to its authority and mandate under the EPIRA and its IRR, and after due consideration of the inputs and recommendations from various stakeholders, the DOE hereby issues, adopts, and promulgates the following:

Section 1. Amendments to the WESM Rules. The following provisions of the WESM Rules are hereby updated as follows:

3.5.5 Generation Offers and Data

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3.5.5.5 Each *Non-Scheduled Generation Company* shall submit a standing nomination of *loading levels* for each of its *non-scheduled generating units* for each *dispatch interval* in each *trading day* of the week in accordance with the *timetable*. The standing nomination of *loading levels* shall apply until revised or updated by the *Non-Scheduled Generation Company*.

3.5.5.6 *Generation Companies* shall provide to the *Market Operator* and the *System Operator* the standing *projected outputs* in respect of their *must dispatch generating units* and *priority dispatch generating units* for each *dispatch interval* in each *trading day* of the week in accordance with the relevant *Market Manuals* and provisions of the *Grid Code*. The standing

projected outputs shall apply until revised or updated by the relevant *Generation Company*.

- 3.5.5.7 A *Trading Participant* who fails to submit the *projected outputs* for its *must dispatch generating unit* or *priority dispatch generating unit* as provided under Clause 3.5.5.6 may be liable for the sanctions imposed under Clause 7.2.
- 3.5.5.8 Each *Generation Company* shall submit check data to be used by the *Market Operator*, in accordance with the relevant *Market Manuals*, to assist in determining the validity of any projected output submitted in respect of a *must dispatch generating unit* or a *priority dispatch generating unit* under Clause 3.5.5.6.
- 3.5.5.9 *Must dispatch generating units* shall comply with the forecast accuracy standards, in respect of their *projected outputs* submitted under Clause 3.5.5.6, consistent with the *Grid Code*.
- 3.5.5.10 The *Enforcement and Compliance Office* shall evaluate annually the forecast accuracy standards complied with by *must dispatch generating units* in accordance with Clause 3.5.5.9.
- 3.5.5.11 A *Trading Participant* who fails to meet the requisite forecast accuracy standards set out in accordance with Clause 3.5.5.9 in respect of *projected outputs* for a *must dispatch generating unit* submitted under Clause 3.5.5.6 may be liable for the sanctions imposed under Clause 7.2.
- 3.5.5.12 The *Enforcement and Compliance Office* shall report to the *PEM Board* and the *DOE* the monthly and annual compliance of each *must dispatch generating unit* with the forecast accuracy standards in respect of its *projected outputs*.
- 3.5.5.13 Each *Generation Company* that has secured a *Final Certificate of Approval to Connect* but with pending issuance of *Certificate of Compliance* from the *ERC* shall submit, as applicable:
- a) Standing nomination of the *loading levels* for each of its *scheduled generating units*, *battery energy storage systems*, and *pumped-storage units*; or
 - b) *Projected outputs* in respect of its *must dispatch generating units* and *priority dispatch generating units*.

The *Generation Company* shall submit its nomination of the *loading levels* or *projected outputs* for each *dispatch interval* on each *trading day* of the

week in accordance with the *timetable*. The standing nomination of the *loading levels* and *projected outputs* shall apply until revised or updated by the *Generation Company*.

- 3.5.5.14 A *Generation Company* that has secured a *Final Certificate of Approval to Connect* but with pending issuance of the *Certificate of Compliance* from the *ERC* for its *must dispatch generating unit* shall comply with the forecast accuracy standards in respect of its *projected outputs* which shall be evaluated by the *Enforcement and Compliance Office*, in accordance with Clauses 3.5.5.8 to 3.5.5.12.

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3.8.4 Dispatched Trading Participants

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- 3.8.4.5 A *generating unit* that has secured a *Final Certificate of Approval to Connect* but with pending issuance of the *Certificate of Compliance* from the *ERC* shall likewise comply with the obligations, as applicable, of dispatched *Trading Participants* prescribed in Clause 3.8.4.

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3.8.6 Sanctions of Trading Participants

Any *Trading Participant*, including those that have secured a *Final Certificate of Approval to Connect* but with pending issuance of the *Certificate of Compliance* from the *ERC*, that (a) does not comply with the *dispatch conformance standards* or (b) consistently fails to use its reasonable endeavors to comply with the *dispatch instructions* issued by the *System Operator* under Clauses 3.8.3, 6.3, and 6.5, shall be liable for sanctions imposed under Clause 7.2.

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Section 2. Amendments to the Market Manual on Registration, Suspension, and De-registration Criteria and Procedures. The following provisions of the Market Manual on Registration, Suspension, and De-registration Criteria and Procedures are hereby amended as follows:

2.5.4.4 Generation Registered Capacities

A *Generation Company* shall include in its application for registration the *maximum stable load (Pmax)*, the *minimum stable load (Pmin)*, the *ramp up rate*, and the *ramp down rate* of each *generating unit* or aggregated *generating units* that are included in its application.

For *Generation Companies* applying for the *Test and Commissioning* registration, the information on the *generating unit* parameters provided to the *Market Operator* shall

be consistent with that contained in the ERC Form 7 (General Plant Description) duly received by the *ERC*.

For *Generation Companies* applying for the *Commercial Operations* registration, the information on the *generating unit* parameters provided to the *Market Operator* shall be consistent with that contained in the *Certificate of Compliance* or the Provisional Authority to Operate issued by the *ERC*, as well as the submissions made to the *ERC* in relation to the issuance thereof. If the *generating unit* is a *battery energy storage system*, the *Generation Company* shall include the generating unit's energy storage efficiency and the maximum storage capacity in its application. If the *generating unit* is a *pumped-storage unit*, the *Generation Company* shall include the generating unit's maximum pump load.

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2.5.7.3 Guidelines for the Test and Commissioning Registration

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- j) The *Market Operator* shall submit a monthly report on the status of the *Test and Commissioning* of the *generating units* to the *Enforcement and Compliance Office*, copy furnished the *DOE* and *ERC*, indicating information such as but not limited to:
- (i) Whether a *WESM Member* has been duly notified of the impending expiration of its Provisional Certificate of Authority to Connect;
 - (ii) Whether a *WESM Member* is given a Final Certificate of Authority to Connect, *Certificate of Compliance*, or the Provisional Authority to Operate, including the effectivity date/s, if such is known to the *Market Operator*; and
 - (iii) Any relevant information affecting the obligations set forth in paragraphs (a), (d), and (h) of this Section for its appropriate enforcement action.

An investigation may likewise be initiated *motu proprio* by the *Enforcement and Compliance Office* as may be authorized under Section 7.2.1 of the Enforcement and Compliance Manual.

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3.3.1 Registered Capacities and Reserve Capabilities

- 3.3.1.1. The *Trading Participant* wishing to change the registered capacities and/or ramp rates of its *generating unit/s* shall request in writing to the *Market Operator*. Such changes shall be in accordance with the latest *Certificate of Compliance*, any *ERC*-certified document, or the *Generating Unit Capability Test* issued by *NGCP*.
- 3.3.1.2. Request for changes submitted by the *Trading Participant*, in connection with the registered capacities and/or ramp rates of its *generating units*, shall be approved by the *Market Operator* based on the latest *Certificate of*

Compliance, any ERC-certified document or Generating Unit Capability Test issued by NGCP.

- 3.3.1.3. The *Market Operator* shall notify the *PEM Board*, *ERC*, and *DOE* of any changes in the registered capacities and/or ramp rates of the *generating units* in the *WESM* within three (3) *working days* from the date of the *Market Operator's* approval of such change in registration.

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Section 3. Amendments to the Market Manual on Dispatch Protocol. The following provisions of the Market Manual on Dispatch Protocol are hereby updated as follows:

2.1 Definitions

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- 2.1.2 The following words and phrases as used in this *Market Manual* shall have the following meaning:

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- ff. *Self-scheduled nomination*. Nominations of *loading levels* by the *Non-Scheduled Generation Companies*, *projected outputs* of *Generation Companies with must dispatch generating units* and *priority dispatch generating units*, and *loading levels* or *projected outputs* of the *generating units*, as applicable, that has been issued with a *Final Certificate of Approval to Connect* but with pending issuance of *Certificate of Compliance* by the *ERC*.

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6.4 Categories of Self-scheduled Nominations, Bids, and Offers

- 6.4.1 The *self-scheduled nominations*, *bids*, and *offers* that can be submitted in the *WESM* are as follows:

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- d. *Self-scheduled nominations*
- i. Schedule of *loading levels* (i.e. energy quantities only) for the *non-scheduled generating units* of the *non-scheduled Generation Companies*;
 - ii. *Projected output* (i.e. energy quantities only) of the *Generation Companies with must dispatch generating units* and *priority dispatch generating units*;

- iii. *Schedule of loading levels of the generating units that has been issued with a Final Certificate of Approval to Connect but with pending issuance of the Certificate of Compliance by the ERC; and*
- iv. *Projected output (i.e., energy quantities only) of the Generation Companies with must dispatch generating units and priority dispatch generating units that has been issued with a Final Certificate of Approval to Connect but with pending issuance of Certificate of Compliance by the ERC.*

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11.3 Responsibilities

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- 11.3.4 *A Trading Participant that has been released with a Final Certificate of Approval to Connect but with pending issuance of the Certificate of Compliance from the ERC for its generating units shall likewise comply with dispatch schedules issued by the Market Operator, the dispatch instructions issued by the System Operator to their facilities operating on AGC mode, and the re-dispatch instructions issued to them by the System Operator, if any.*

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11.5 Dispatch of Must and Priority Dispatch Generating Units

- 11.5.1 *A must dispatch generating unit shall generate at its maximum available output at all times unless the Market Operator or System Operator has instructed the generating unit to restrict output. This shall likewise apply to must dispatch generating units that have secured a Final Certificate of Approval to Connect but with pending issuance of the Certificate of Compliance from the ERC.*

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Section 12 Dispatch Compliance

12.1 Background

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- 12.1.5 *Scheduled generating units, battery energy storage systems, pumped storage units, must dispatch generating units, and priority dispatch generating units that have Final Certificate of Approval to Connect but with pending issuance of Certificate of Compliance from the ERC shall likewise operate in accordance with Sections 12.1.1 and 12.1.3, as applicable, and*

as prescribed in Chapter 3 of the *WESM Rules*.

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12.4. Compliance with Dispatch Schedules and Instructions

12.4.1 Compliance by the *Scheduled Generating Units and Priority Dispatch Generating Units*

- a. All *scheduled generating units and priority dispatch generating units* shall comply with their respective *dispatch schedules*. This obligation shall also apply to the *scheduled generating units and priority dispatch generating units* with a Final Certificate of Approval to Connect but with pending issuance of the *Certificate of Compliance* from the *ERC*. In complying with their *dispatch schedules*, said *generating units* shall generate in accordance with the *dispatch conformance standards* prescribed in Section 12.5 of the Dispatch Protocol. In the case of a *priority dispatch generating unit*, compliance with the *dispatch conformance standards* shall also apply in cases where its *dispatch schedule* was restricted pursuant to *WESM Rules* Clauses 3.6.1.7 and 3.6.1.8 because of a potential *system security contingency*.

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12.4.2 Compliance by the Must Dispatch Generating Units

- a. A *must dispatch generating unit* shall generate at its *maximum available output* at all times, unless it has been instructed to restrict its output by the *Market Operator or System Operator*. This obligation shall also apply to *must dispatch generating units* with a Final Certificate of Approval to Connect but with pending issuance of the *Certificate of Compliance* from the *ERC*.

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Section 4. Amendments to the Market Penalty Manual. The attachment of the Penalty Manual is hereby updated as follows:

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Section 4 - Table 1. Frequency of Occurrence Matrix

Frequency	Isolated Occurrence	Repetitive or Recurring Occurrence	
	Level 1	Level 2	Level 3
xxx	xxx	xxx	xxx

Section 4 - Table 1. Frequency of Occurrence Matrix

Frequency	Isolated Occurrence	Repetitive or Recurring Occurrence	
	Level 1	Level 2	Level 3
One-time requirement with the timeline set for compliance	N/A	Four (4) to thirty (30) business days of delay reckoned from the end of the compliance period provided by the relevant Market Rules or Manuals.	More than thirty (30) business days of delay reckoned from the end of the compliance period provided by the relevant Market Rules or Manuals.

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Section 5 - Table 2. Schedule of Breach and Penalties

No.	Breach	Market Rule Breached & Associated Market Manual	Applicable Penalty	Level 2 - Financial Penalty	Level 3 - Escalated Financial Penalty
xxx	xxx	xxx	xxx	xxx	xxx
13	<p>Failure of the registered WESM Member to apply for Commercial Operations Registration after receiving the <i>Certificate of Compliance</i> or the Provisional Authority to Operate whichever is earlier.</p> <p>The failure to apply for Commercial Operations Registration is considered without just cause when</p>	Section 2.5.7.3 (g) and (h) of the Registration Manual	<p>Level 1- N/A</p> <p>Level 2 - Financial Penalties</p> <p>Level 3 - Escalated Financial Penalties</p> <p>Level 4 - Suspension / Deregistration/Disconnection</p>	<p>P10,000 for the first day of default/delay plus P1,000 for each day of continuing breach/violation</p> <p>The penalty computation will continue until compliance by the concerned WESM Member with respect to its commercial operation registration or the actual deregistration</p>	<p>Additional P2,000 for each day of continuing breach/violation</p> <p>The penalty computation will continue until compliance by the concerned WESM Member with respect to its commercial operation registration or the actual deregistration in the WESM (if Level 4</p>

Section 5 - Table 2. Schedule of Breach and Penalties

No.	Breach	Market Rule Breached & Associated Market Manual	Applicable Penalty	Level 2 - Financial Penalty	Level 3 - Escalated Financial Penalty
	<p>the inaction, deferment, or delay on the part of the WESM Member has no basis in fact or in law, or the cause/s for such failure is/are not established to have been beyond its control.</p>			<p>on in the WESM (if Level 4 penalty is imposed), as the case may be.</p>	<p>penalty is imposed), as the case may be.</p>
14	<p>Generation after the expiry of the authorized test and commissioning period unless otherwise authorized by law, relevant Market Rules, and/or Market Manuals.</p>	<p>Section 2.5.7.3 (a) (c) and (h) of the Registration Manual</p>	<p>Level 1 - Non-Compliance Letter / Reprimand Level 2 - Financial Penalties Level 3 - Escalated Financial Penalties</p>	<p>For each count of breach: P100/MWh x GESQ (MWh) P100 –pre-set penalty amount GESQ – refers to the <i>gross energy settlement quantity of generating unit</i> as defined in Clause 3.13.6 of the <i>WESM Rules</i>.</p>	<p>For each breach: P200/MWh x GESQ (MWh) P200 – pre-set penalty amount GESQ – refers to the <i>gross energy settlement quantity of generating unit</i> as defined in Clause 3.13.6 of the <i>WESM Rules</i>.</p>

Section 5 - Table 2. Schedule of Breach and Penalties


No.	Breach	Market Rule Breached & Associated Market Manual	Applicable Penalty	Level 2 - Financial Penalty	Level 3 - Escalated Financial Penalty
15	Failure to comply with express mandatory provisions of the <i>Market Rules</i> , that are not otherwise covered in other identified <i>breach</i> , but which expressly provide for the imposition of <i>penalties</i> .				

Section 5. Separability Clause. If, for any reason, any section or provision of this Circular is declared unconstitutional or invalid, such parts not affected shall remain valid and subsisting.

Section 6. Repealing Clause. All issuances contrary to or inconsistent with this Circular is hereby repealed, modified, or amended accordingly.

Section 7. Effectivity. This Circular shall take effect fifteen (15) days following its complete publication in at least two (2) newspapers of general circulation and shall remain in effect until otherwise revoked. A copy of this Circular shall be filed with the University of the Philippines Law Center – Office of National Administrative Register (UPLC-ONAR).

Issued this ____ day of July 2023 at the DOE, Energy Center, Rizal Drive cor. 34th Street, Bonifacio Global City, Taguig City, Metro Manila.


RAPHAEL P.M. LOTILLA
 Secretary



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