



Republic of the Philippines
DEPARTMENT OF ENERGY

DEPARTMENT CIRCULAR NO. DC2022-03-0011 *pd*

**ADOPTING FURTHER AMENDMENTS TO THE WHOLESALE ELECTRICITY
SPOT MARKET (WESM) RULES AND ITS MARKET MANUAL ON INFORMATION
DISCLOSURE AND CONFIDENTIALITY
(Exceptions for Confidentiality Undertakings for DOE and ERC)**

WHEREAS, Sections 30 and 37(f) of the Electric Power Industry Reform Act (EPIRA) provides that the Department of Energy (DOE), jointly with the electric power industry participants, shall establish the Wholesale Electricity Spot Market (WESM) and formulate the detailed rules governing the operations thereof;

WHEREAS, on 28 June 2002, the DOE, with the endorsement of the electric power industry participants, promulgated the WESM Rules through Department Circular No. DC2002-06-003;

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

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

WHEREAS, the proposal aims to facilitate a more efficient market data provisions to the DOE and ERC by providing exceptions to them as oversight bodies in receiving confidential market data and by exempting them from the requirement of non-disclosure agreement with the Market Operator;

WHEREAS, on 24 January 2020, the RCC approved the revised proposal. On 25 March 2020, the PEM Board approved and endorsed the same to the DOE for approval on 08 April 2020;

WHEREAS, on 29 June 2020, the DOE posted the proposed amendments in the DOE website to solicit further comments from the market participants and other interested parties;

WHEREAS, on 22 and 29 July 2020, the DOE conducted public consultations on the abovementioned proposed amendments to solicit inputs and consider comments of stakeholders in the finalization of the same;

WHEREAS, on 28 May 2021, the DOE remanded the proposal to PEMC raising concern that the proposed exemption of the PEM Board from executing non-disclosure

agreement may pose conflict of interest considering that the members of the governance arm are electric power stakeholders;

WHEREAS, on 11 October 2021, the PEM Board-approved amendments to the WESM Rules and Market Manual on Market Operator Information Disclosure and Confidentiality Regarding Exceptions for Confidentiality Undertakings for DOE and ERC were submitted to the DOE for approval, in compliance with Chapter 8 of the WESM Rules;

NOW THEREFORE, after careful review of the PEM Board-approved proposal and the comments and recommendations received on the same, the DOE, pursuant to its authority under the EPIRA and the WESM Rules, hereby adopts, issues, and promulgates the following amendments to the WESM Rules and various Market Manuals:

Section 1. Amendments to the WESM Rules. The following provisions in the WESM Rules are hereby amended:

a. Section 5.3.3.2 (Conditions) under Confidentiality is amended to read as –

“5.3.3.2 Conditions

In the case of a disclosure under Clause 5.3.2(c), or Clause 5.3.2(f), the *WESM Member* or the *Market Operator* (as the case may be) who wishes to make the disclosure, shall prior to making the disclosure, inform the proposed recipient of the information that it is confidential information and shall take appropriate precautions, including at the very least securing a written undertaking from the recipient that such recipient will keep the information confidential in accordance with the provisions of this Clause 5.3 and does not use the information for any purpose other than that permitted under Clause 5.3.2.”

Section 2. Amendments to the WESM Market Manual on Information Disclosure and Confidentiality Issue 5.1. The following provisions in the WESM Manual on Information Disclosure and Confidentiality Issue are hereby amended:

a. Section 5.4.2 under Protection of Permitted Disclosures is amended to read as –

“5.4.2 The Market Operator shall require the recipient, except for the DOE and ERC, to execute confidentiality and non-disclosure agreements or undertaking with terms and conditions consistent with this Manual and the WESM Rules. Such terms and conditions will include the undertaking to -

- a) keep the information provided confidential, and not to disclose the same to any other person or entity;
- b) to use the information only for the purpose for which it is provided or for purposes permitted by the WESM Rules Clause 5.3.2.

b. New Section 5.4.3 under Protection of Permitted Disclosures are added to read as:

"5.4.3 For all confidential information provided to *PEMC*, the *Market Operator* and *PEMC* shall execute a general non-disclosure and confidentiality agreement to facilitate information sharing."

Section 3. 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 4. Repealing Clause. Except insofar as may be manifestly inconsistent herewith, nothing in this Circular shall be construed as to repeal any mechanisms already existing or responsibilities already provided for under existing rules.

Section 5. Effectivity. This Circular shall take effect fifteen (15) days following its publication in two (2) newspapers of general circulation. Copies hereof shall be filed with the University of the Philippines Law Center – Office of National Administrative Register (UPLC-ONAR).

Issued on _____ 2022 at the Energy Center, Rizal Drive, Bonifacio Global City, Taguig City.


ALFONSO G. CUSI
Secretary

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