

Republic of the Philippines
ENERGY REGULATORY COMMISSION
San Miguel Avenue, Pasig City

**RULES ON THE DEFAULT WHOLESALE SUPPLY ARRANGEMENTS
FOR THE PHILIPPINE WHOLESALE ELECTRICITY SPOT MARKET, AS AMENDED**

Pursuant to Sections 2 (c) and (j) of Republic Act No. 9136, Department of Energy (DOE) Circular No. 2006-06-0009 and Energy Regulatory Commission (ERC) Resolution No. 30, Series of 2006, the ERC hereby promulgates the following Rules on the Default Wholesale Supply Arrangements for the Philippine Wholesale Electricity Spot Market (WESM), as amended.

**ARTICLE 1
GENERAL PROVISIONS**

Section 1.1 Objectives

- 1.1.1 To ensure transparent and reasonable prices of electricity and enhance the competitive operation of the electricity market;
- 1.1.2 To ensure the provision of continuous supply of electricity to Distribution Utilities (DUs) and End-users;
- 1.1.3 To determine the prices to be applied on Default Wholesale Supply Arrangements for the WESM; and
- 1.1.4 To designate the authorized Default Wholesale Suppliers.

Section 1.2 Scope

These Rules shall apply to:

- 1.2.1 Distribution Utilities;
- 1.2.2 End users of electricity who are:
 - 1.2.2.1 Permitted by ERC to connect to the grid in accordance with Resolution No. 48, Series of 2006.; and
 - 1.2.2.2 Permitted by other competent government agency to connect directly to the grid.
- 1.2.3 National Power Corporation (NPC);

- 1.2.4 Power Sector Assets and Liabilities Management Corporation (PSALM);
- 1.2.5 Philippine Electricity Market Corporation (PEMC);
- 1.2.6 Assignees as defined in these Rules; and
- 1.2.7 Relevant industry participants, if applicable.

Section 1.3 Definition of Terms

As used in these Rules, the following terms shall have the following respective meanings:

Act	Refers to Republic Act No. 9136 also known as the “Electric Power Industry Reform Act of 2001”.
ASSIGNED CONTRACTS	The power supply contracts assigned by NPC and PSALM to the new owners of NPC-owned power plants, as specified in the Terms and Conditions of the Asset Purchase Agreement between the PSALM and the new owner.
ASSIGNEES	Otherwise known as the winning bidder, in which PSALM has successfully turned over any NPC-owned power plant. Said assignees have already complied with all the deliverables as provided in the Asset Purchase Agreement including the required up-front payment generally amounting to forty percent (40%) of the bid price.
Bilateral Power Supply Contracts	Refers to the contracts for the physical supply of electricity as contemplated under Section 45(c) of R.A. 9136, which do not include a financial derivative contract nor a contract for the sale of electricity from a distribution utility to a person who requires the supply and delivery of that electricity for its own consumption nor power supply contracts entered into between NPC and end-users who are directly connected to the grid. For purposes of these Rules, Transition Supply

Contracts shall be subject to the provisions of ERC Resolution No. 37, Series of 2006.

Default Wholesale Supplier

The entity which shall provide the supply of electricity to cover the imbalances of customers in the WESM.

Default Wholesale Supply Arrangements

Arrangements for the supply of electricity to cover the imbalances of customers in the WESM.

Department of Energy

The government agency created pursuant to Republic Act No. 7638 whose expanded functions are provided under the Act.

Direct WESM Member

A person or an entity who is registered with the Market Operator under Section 2.3. of the WESM Rules.

Direct WESM Transactions

Shall refer to the transactions of Direct WESM Members covering electricity purchased or sold through the WESM.

Distribution Utility

Any electric cooperative, private corporation, government-owned utility or existing local government unit which has an exclusive franchise to operate a distribution system in accordance with the Act.

Economic Zones (EZs)

Shall refer to selected areas which are highly developed or have the potential to be developed into agro-industrial, industrial, tourist, recreational, commercial, banking, investment and financial centers. Economic Zones which are directly connected to the Grid shall, for purposes of these Rules, be considered Distribution Utilities.

End-user

Any person or entity requiring the supply and delivery of electricity for its own use.

Energy Regulatory Commission

The independent and quasi-judicial regulatory agency created under Section 38 of the Act.

Ex-Post Nodal Energy Price	The price determined by the Market Operator for each market trading node and trading interval, after the end of that trading interval.
Grid	The high voltage backbone system of interconnected transmission lines, substations and related facilities, located in each of Luzon, Visayas and Mindanao, or as may otherwise be determined by the ERC in accordance with Section 45 of the Act.
IMBALANCES	The electricity withdrawals made by a customer from the WESM in excess of its contracted levels, subject to Section 2.3 of these Rules.
Indirect WESM Member	A person or an entity who is allowed to indirectly trade in the WESM through a Direct WESM Member.
Indirect Primary WESM Transactions	Shall refer to the transactions of an Indirect WESM Member covering electricity purchased or sold through the WESM.
Indirect Secondary WESM Transactions	Shall refer to the transactions of a non-WESM Member covering electricity purchased or sold through the WESM.
National Power Corporation	The government corporation created under Republic Act No. 6395, as amended.
National Transmission Corporation (TransCo)	Refers to the corporation organized pursuant to the Act to acquire all the transmission assets of the NPC.
NPC Grid Rate	Refers to the NPC's existing Time of Use (TOU) rates and the Franchise and Benefits to Host Communities (FBHC) charge, approved by the ERC. Changes in the NPC Grid Rate shall be adopted based on approval of new levels of TOU Rates and/or FBHC charge or any additional charges that may be authorized by the ERC.

Non-WESM Member	Shall refer to a person or entity who is not registered with the Market Operator either as a Direct WESM Member or an Indirect WESM Member but continues to withdraw/inject power and energy from/into the grid through the WESM.
Philippine Electricity Market Corporation (PEMC)	The entity responsible in governing and administering the operations of the WESM, also referred to in these Rules as the Market Operator.
Power Sector Assets and Liabilities Management Corporation	The corporation created pursuant to Section 49 of the Act.
Transition Supply Contract	A contract duly negotiated by NPC with a Distribution Utility pursuant to Section 67 of the Act.
Wholesale Electricity Spot Market	The electricity market established by the Department of Energy (DOE) in accordance with the Act.

Terms not otherwise defined in Section 1.3 hereof, which are defined in the Act, its Implementing Rules and Regulations, or the WESM Rules, have the same meaning ascribed to them therein.

ARTICLE 2 APPLICATION OF THE DEFAULT WHOLESALe SUPPLY ARRANGEMENTS

Section 2.1 The Default Wholesale Supply Arrangements shall apply to the following customers in the Luzon Grid:

2.1.1 Distribution Utilities, including Electric Cooperatives (ECs), private utilities, and local government utilities; and

2.1.2 End users of electricity who are:

2.1.2.1 Permitted by ERC to connect to the grid in accordance with Resolution No. 48, Series of 2006; and

2.1.2.2 Permitted by other competent government agency to connect directly to the grid.

Section 2.2 Default Wholesale Supply Arrangements shall apply to the following transactions:

2.2.1 Indirect Primary WESM transactions; and

2.2.2 Indirect Secondary WESM transactions.

Section 2.3 For Transition Supply Contracts, the DWS shall only apply to the imbalances equivalent to actual consumptions beyond one hundred twenty percent (120%) of the total contracted levels under said Contract or such other level as determined by the ERC, relative to its approval of the Transition Supply Contracts.

Section 2.4 For clarity, Default Wholesale Supply Arrangements shall not apply to Direct WESM transactions and transactions covered by Bilateral Power Supply Contracts.

ARTICLE 3 TRANSITION SUPPLY CONTRACTS AND BILATERAL POWER SUPPLY CONTRACTS

Section 3.1 The central dispatch of electricity in the WESM entails the scheduling of all requirements of customers, including the requirements covered by Transition Supply Contracts and Bilateral Power Supply Contracts.

Section 3.2 The ERC shall monitor compliance by the Distribution Utilities to the provisions of Section 45 (c) of the Act, which requires the Distribution Utilities not to source more than ninety per cent (90%) of its total demand from Bilateral Power Supply Contracts for the first five (5) years from the establishment of WESM.

Section 3.3 The Transition Supply Contracts shall be treated as special and distinct contracts, and shall not be considered Bilateral Power Supply Contracts for purposes of Section 45 (c) of the Act as per ERC Resolution No. 37 Series of 2006.

Section 3.4 A Transition Supply Contract entered into between the NPC and Distribution Utilities shall remain valid until one (1) year after introduction of open access. At the end of said period, all TSCs are considered terminated by operation of Section 67 of the Act. However, the Distribution Utility, subject to NPC's concurrence, shall have the option to file with the ERC, an application for approval of said contract as Bilateral Power Supply Contract pursuant to Section 45 (b) of the Act. The said application should be filed by the Distribution Utility at least six (6) months prior to the automatic expiration of the term of the TSC.

Section 3.5 Any Distribution Utility which has an existing Transition Supply Contract with NPC but opted to become a Direct WESM Member shall no longer enjoy the twenty percent (20%) bandwidth as stated in its TSC with NPC. All imbalances beyond the one hundred percent (100%) contracted level of said DUs shall be deemed taken from the WESM.

ARTICLE 4 DESIGNATION OF THE DEFAULT WHOLESALE SUPPLIER

Section 4.1 Unless otherwise determined by the ERC, PSALM and NPC shall remain as the authorized Default Wholesale Suppliers, except for its Assigned Contracts whose Assignees have agreed to be the Default Wholesale Suppliers. In cases where the assignees refuse to become the Default Wholesale Suppliers, NPC and PSALM shall remain the Default Wholesale Suppliers.

Section 4.2 The designation of the Assignees as the other authorized Default Wholesale Suppliers shall only be limited to its Assigned Contracts and the assignees shall not be authorized to be the Default Wholesale Suppliers for contracts other than the Assigned Contracts.

Section 4.3 Within thirty (30) days upon the closing date or the turn over date, NPC shall forward to the ERC and PEMC the Assignees for a particular privatized NPC generating asset and the corresponding Assigned Contracts.

ARTICLE 5 PRICING FOR THE DEFAULT WHOLESALE SUPPLY ARRANGEMENTS

Section 5.1 The price to be imposed on the supply provided by the DWS shall be the NPC Grid Rate or the WESM Ex-Post Nodal Energy Price for each relevant trading hour, whichever is higher, plus a premium of ten percent (10%) of the said higher amount, unless the ERC approves a new pricing mechanism.

Section 5.2 The premiums paid by any Distribution Utility with regard to its DWS arrangement are not authorized as pass-through charges to end-users or customers.

Section 5.3 The PEMC shall act as the agency responsible for trading electricity which includes energy consumption covered by the DWS Arrangements and shall be responsible for providing relevant information for purposes of billing and settlement on DWS transactions.

**ARTICLE 6
PERIOD OF EFFECTIVITY**

- Section 6.1 These Rules shall be implemented in Luzon from 26 June 2008 until one (1) year after the start of open access and retail competition.
- Section 6.2 During the said effectivity period, the DWS Arrangements may be replaced by any other arrangement or alternative mechanism as approved by the ERC.

**ARTICLE 7
SEPARABILITY**

- Section 7.1 If for any reason any provision of these Rules is declared unconstitutional or invalid by final judgment of a competent court, the other parts or provisions hereof which were not affected thereby shall continue to be in full force and effect.

**ARTICLE 8
SANCTIONS**

- Section 8.1 The ERC shall impose the appropriate fines and penalties for any violation or non-compliance with these Rules, pursuant to the "Guidelines to Govern the Imposition of Administrative Sanctions in the Form of Fines and Penalties Pursuant to Section 46 of R.A. 9136".

Pasig City, 04 June 2008.

RODOLFO B. ALBANO, JR.
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