

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

**RULES FOR THE DISTRIBUTION
OF NET SETTLEMENT SURPLUS**

Pursuant to Sections 2 (c), (f) and (j) of Republic Act No. 9136, the Price Determination Methodology (PDM) for the Wholesale Electricity Spot Market (WESM) and WESM Rules, the Energy Regulatory Commission (ERC) hereby adopts and promulgates these rules to establish a suitable process for the immediate and equitable flow-back of the Net Settlement Surplus (NSS) by the Philippine Electricity Market Corporation (PEMC) to the Distribution Utilities (DUs) and Default Wholesale Suppliers (DWS), and ultimately to the End-users.

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 protect the public interest as it is affected by the rates and services of electric utilities and other providers of electric power;
- 1.1.3 To provide a mechanism for the just and equitable distribution of Net Settlement Surplus; and
- 1.1.4 To flow back the Net Settlement Surplus to End-users in the most immediate and equitable manner.

Section 1.2 Scope

These Rules shall apply to:

- 1.2.1 Generation Companies;
- 1.2.2 Distribution Utilities;
- 1.2.3 Default Wholesale Suppliers;

- 1.2.4 Wholesale Aggregators;
- 1.2.5 End-users of electricity;
- 1.2.6 Philippine Electricity Market Corporation (PEMC); and
- 1.2.7 Relevant industry participants, as applicable.

Section 1.3 Definition of Terms

For purposes of these Rules, the following terms shall have the respective meanings:

Act	Refers to Republic Act No. 9136 also known as the “Electric Power Industry Reform Act of 2001 (EPIRA)”.
Bilateral Power Supply Contracts	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 by NPC or its Assignee and end-users who are directly connected to the grid.
Default Wholesale Supplier	The entity which shall provide the supply of electricity to cover the imbalances of indirect members in the WESM. This could be the National Power Corporation, Power Sector Assets and Liabilities Management or an Assignee, as per ERC Resolution No. 11, Series of 2008.
Direct WESM Member	A person or an entity who is registered with the Market Operator under Section 2.3. of the WESM Rules.

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.
End-user	Any person or entity requiring the supply and delivery of electricity for its own use.
Energy Regulatory Commission (ERC)	The independent and quasi-judicial regulatory agency created under Section 38 of the Act.
Indirect WESM Member	A person or an entity who is allowed to indirectly trade in the WESM through a Direct WESM Member.
Net Settlement Surplus (NSS)	The settlement surplus remaining after all market transactions have been accounted for, including the assignment of transmission line rentals to Network Service Providers. This remainder is assumed to be attributable to economic rentals arising from other binding constraints, and accounted for in accordance with the WESM Rules provision on the Treatment of Remaining Settlement Surplus.
National Power Corporation	The government corporation created under Republic Act No. 6395, as amended.
Nodes	Connection points in a network, or junction points within a network model, whether physical or notional.
Non-WESM Member	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.
NPC-Successor Generating Company or Assignee	Otherwise known as the winning bidder, to which PSALM has successfully turned over any NPC-owned power plant privatized in accordance with

Section 47 of the Act. As such, said assignees shall have 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.

Philippine Electricity Market Corporation (PEMC)

The entity responsible for governing and administering the operations of the WESM, also referred to in these Rules as the Market Operator, provided, however, that should the market operations functions of the WESM be transferred to an Independent Market Operator (IMO), all references to PEMC or the Market Operator shall refer to such Independent Market Operator without need of amendment of these Rules.

Power Sector Assets and Liabilities Management Corporation (PSALM)

The corporation created pursuant to Section 49 of the Act.

Wholesale Aggregator

Any Person or entity who has been issued a Certificate of Registration by the ERC to sell electricity to Distribution Utilities.

Wholesale Electricity Spot Market (WESM)

The electricity market established by the Department of Energy (DOE) in accordance with Section 30 of 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

DESCRIPTION OF NET SETTLEMENT SURPLUS

Section 2.1 The adoption of locational marginal pricing for the WESM under different market trading nodes, accounts for congestion and losses in the transmission system. As a result, price differences occur between

generator nodes and customer nodes due to these losses and congestion. The surplus resulting from the aggregate WESM settlement transactions is the Net Settlement Surplus.

Section 2.2 The WESM Rules, as amended, defines “Net Settlement Surplus (NSS)” as the settlement surplus remaining after all market transactions have been accounted for, including the assignment of transmission line rentals to Network Service Providers. This remainder is assumed to be attributable to economic rentals arising from other binding constraints, and accounted for in accordance with the WESM rules provision on the Treatment of Remaining Settlement Surplus.

ARTICLE 3

APPLICATION OF THE NET SETTLEMENT SURPLUS

Section 3.1 The NSS shall be allocated and distributed at the wholesale level by PEMC to the following WESM customers:

- 3.1.1 Distribution Utilities (DUs) which are Direct WESM Members;
- 3.1.2 National Power Corporation (NPC) and Power Sector Assets and Liabilities Management Corporation (PSALM) as the Default Wholesale Suppliers (DWS) of Indirect WESM Members;
- 3.1.3 NPC-Successor Generating Companies who have agreed to act as the DWS for the assigned Transition Supply Contracts with Indirect WESM members; and
- 3.1.4 Other parties which paid line rental and congestion charges.

Section 3.2 Any NSS distributed at the wholesale level to the DUs directly by PEMC or indirectly through the DWS, shall be subject to immediate re-distribution to the corresponding End-users at the retail level.

ARTICLE 4

RE-DISTRIBUTION PERIOD OF NET SETTLEMENT SURPLUS

Section 4.1 Upon effectivity of these Rules, PEMC shall immediately include the NSS for distribution and reflect the same in the corresponding billing

statement on the current billing period, from the time of computation and determination of the NSS amount. The End-users are deemed to have received the re-distribution by virtue of the deduction in the billed amount for the DUs and DWS.

Section 4.2 The distribution shall be in the form of an immediate deduction or adjustment from the total settlement amount to be paid by the DUs and the DWS to PEMC;

Section 4.3 Subject to Article 6 hereof, any other NSS amount retained by PEMC, and due to be distributed prior to the effectivity of these Rules shall be distributed to the appropriate DUs and DWS' within thirty (30) days from effectivity of these Rules.

Section 4.4 Any NSS amount received from PEMC and retained by the DUs and DWS prior to the effectivity of these Rules shall be re-distributed by the DUs – Direct WESM members to their End-users, and by the DWS' to the Indirect WESM members and eventually to the End-users under the following procedures:

4.4.1 The DWS shall distribute to the corresponding Indirect WESM members, the entire amount of the NSS received on the next billing period after receipt of the NSS.

4.4.2 The DUs, both Direct and Indirect WESM Members, shall immediately re-distribute to their End-users the NSS starting on the next billing period after receipt of the NSS where the period of re-distribution shall correspond to the number of months that the NSS has accumulated.

ARTICLE 5

FLOW BACK COMPUTATION OF NET SETTLEMENT SURPLUS

Section 5.1 Subject to the re-distribution period under Article 4 hereof, PEMC shall distribute the NSS to the customers and the bilateral contract parties that paid line rental trading amounts. The allocation shall be on a pro-rata basis, depending on each recipient's contribution to the total NSS. The amount to be distributed to each recipient shall be equal to the total NSS amount multiplied by the ratio of the recipient's line rental and congestion charges payments for the billing month to the total line rental and congestion charges payments for the billing month of all recipients.

This rule shall apply regardless of the distribution method, whether outright deduction or otherwise.

This is represented by the following formula:

$$R_{jk} = \sum \text{NSS}_k \times \left(\frac{\sum \text{LRCC}_{jk}}{\sum \text{LRCC}_k} \right)$$

Where:

R_{jk} = rebate amount or NSS allocation for recipient **j** for billing period **k**

$\sum \text{NSS}_k$ = the Net Settlement Surplus for the billing period **k**

$\sum \text{LRCC}_{jk}$ = sum of the line rental and congestion charges payments of recipient **j** for billing period **k**

$\sum \text{LRCC}_k$ = sum of line rental and congestion charges payments of all paying WESM customers for the billing period **k**

k = 28/29/30/31 days or one WESM billing cycle

j = any WESM customer paying line rentals and congestion charges to which a pro-rated amount of NSS will be returned.

Section 5.2 Any NSS amount which is due for distribution by PEMC, the same having accumulated prior to the effectivity of the Rules and/or any amount retained after effectivity of the Rules and has not been included in the adjustment under Section 4.2 hereof, shall be distributed in the following manner:

5.2.1 The DWS shall re-distribute the NSS to their customers, also on a pro-rata basis, depending on each recipient's contribution to the total NSS. The amount to be returned to each recipient shall be equal to the total NSS amount received from PEMC, multiplied by the ratio of the recipient's line rental and congestion charges payments for the billing month to the total line rental and congestion charges payments for the billing month of all recipients.

5.2.2 The DUs, both Direct and Indirect WESM members, who are recipients of an NSS amount, shall re-distribute the NSS to the End-users, on a pro-rata basis based on kWh consumption per customer per month. The procedure is to first compute the monthly NSS based on the total kWh consumption of all customers per month. The resulting monthly NSS shall then be pro-rated per customer based on kWh consumption per customer. The kWh consumption to be used shall be the same months wherein the NSS resulted.

This is represented by the following formulae:

Conversion of total NSS amount to monthly:

$$\mathbf{NSS_k = NSS_T \times (\sum kWh_k / \sum kWh_T)}$$

Where:

NSS_k = the Net Settlement Surplus including interests to be distributed for the billing period **k**;

NSS_T = the total Net Settlement Surplus including interests received;

$\sum kWh_k$ = total kWh consumption of all customers for the billing period **k**;

$\sum kWh_T$ = total kWh consumption of all customers for all billing months wherein the NSS amount to be returned has resulted;

k = 28/29/30/31 days or one WESM billing cycle;

T = all months covered by the NSS.

Re-distribution of monthly NSS per customer:

$$\mathbf{NSS_{jk} = NSS_k \times (\sum kWh_{jk} / \sum kWh_k)}$$

Where:

NSS_{jk} = the Net Settlement Surplus to be returned to customer j, for the billing period k;

NSS_k = the Net Settlement Surplus computed for the billing period k;

$\sum kWH_{jk}$ = total kWh consumption of customer j for the billing period k;

$\sum kWH_k$ = total kWh consumption of all customers for billing period k;

k = 28/29/30/31 days or one WESM billing cycle;

j = any end-user/customer of DUs

ARTICLE 6

TEN PERCENT (10%) RETENTION BY PEMC OF THE NSS

Section 6.1 PEMC shall be allowed to retain ten percent (10%) of the average NSS amount for the previous twelve (12) months preceding the current WESM billing or invoice cycle to cover metering data corrections from the reconciliation being conducted by PEMC or to fund deficit settlements.

Section 6.2 Any amount in excess of the allowed ten percent (10%) to be retained shall be returned as a deduction in the WESM Members' billing statement following the procedures in these "Rules". Any deficit in the said allowed retention shall be taken from the NSS in the current billing month and the next billing months until the amount allowed to be retained is achieved.

Section 6.3 The interest earned on the retained NSS amount shall be allocated on a pro-rata basis depending on each recipient's contribution to the total NSS for the current billing month. The amount to be returned to each

recipient shall be equal to the total amount of interest earned, multiplied by the ratio of the recipient's NSS contribution for the current billing month to the total NSS contribution of all recipients for the current billing month.

This is represented by the following formula:

$$\text{Int}_{jk} = \sum \text{Int}_k \times \left(\frac{\sum \text{LRCC}_{jk}}{\sum \text{LRCC}_k} \right)$$

Where:

Int_{jk} = Interest rebate amount for recipient **j** and for the current billing period **k**

$\sum \text{Int}_k$ = the total interest earned to be distributed on the current billing period **k**

$\sum \text{LRCC}_{jk}$ = sum of the line rental and congestion charges payments of recipient **j** for the current billing period **k**

$\sum \text{LRCC}_k$ = sum of line rental and congestion charges payments of all paying WESM customers for the current billing period **k**

k = 28/29/30/31 days or one WESM billing or invoice cycle

j = any WESM customer paying line rentals and congestion charges to whom a pro-rated amount of interest earned on the retained NSS will be returned.

Section 6.4 Interest earned on the allowed NSS retention shall also be returned to the DUs and DWS in the form of immediate deduction from the DUs' or DWS' bills on the billing period the interest is earned.

Section 6.5 The interest amount to be returned to the NSS recipients shall be based on the rate of the prevailing 91-day T-bill rate plus 300 basis points.

ARTICLE 7

INTERESTS AND PENALTIES

Section 7.1 Subject to Article 6 hereof, should PEMC be unable to return the amount of the NSS due to be returned to WESM customers and/or the interest incurred in the retained 10% during the specified period under these Rules, the retained amount will be imposed an interest at the rate of the prevailing 91-day T-bill rate plus 300 basis points.

Section 7.2 The DUs and DWS which are recipients of the NSS and have not complied with the re-distribution process under these Rules during the period specified shall be subject to the same interest rates, the return of which shall be in accordance with Article 6 hereof.

ARTICLE 8

PERIOD OF EFFECTIVITY

Section 8.1 These Rules shall be implemented in Luzon and will take effect fifteen (15) days following its publication in a newspaper of general circulation in the Philippines and will continue until otherwise directed by the ERC.

ARTICLE 9

SEPARABILITY

Section 9.1 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 are not affected thereby shall continue to be in full force and effect.

ARTICLE 10

SANCTIONS

Section 10.1 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, __ September 2008.

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