



Republic of the Philippines
DEPARTMENT OF ENERGY

DEPARTMENT CIRCULAR NO. DC 2010-05-0006
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**TERMINATING THE DEFAULT WHOLESALE SUPPLIER ARRANGEMENT FOR THE
PHILIPPINE WHOLESALE ELECTRICITY SPOT MARKET (WESM) AND
DECLARING A DISCONNECTION POLICY**

WHEREAS, the Department of Energy (the "DOE") is mandated under Section 30 of Republic Act No. 9136, otherwise known as the "Electric Power Industry Reform Act of 2001" or "EPIRA", to establish the Wholesale Electricity Spot Market (WESM) that will facilitate a transparent, competitive, and reliable electricity market in the country;

WHEREAS, on 21 June 2006, the DOE issued Department Circular No. 2006-06-008 declaring the launching of the WESM in the Luzon Grid and the terms and conditions for the commencement of the full commercial operations of the WESM;

WHEREAS, at the start of the commercial operation of WESM, not all electric industry participants, particularly the Distribution Utilities (DUs), were able to meet the technical and commercial requirements to directly trade in the WESM;

WHEREAS, on 22 June 2006, the DOE issued Department Circular No. 2006-06-0009 designating the National Power Corporation (NPC) and Power Sector Assets and Liabilities Management Corporation (PSALM) as the Default Wholesale Suppliers (DWS) to supply the electric power supply imbalances of customers in the WESM;

WHEREAS, Section 3 of Department Circular No. 2006-06-0009 states that the DWS Arrangement shall be implemented for a period not longer than one (1) year from the start of commercial operations of the WESM in Luzon;

WHEREAS, Section 4 of Department Circular No. 2006-06-0009 states that the designation of NPC and PSALM as the DWS is an interim measure to ensure the smooth transition from the current supply arrangements to the implementation of the WESM;

WHEREAS, commercial operations of the WESM commenced on 26 June 2006;

WHEREAS, as of 28 April 2010, PSALM has successfully bid out an aggregate rated capacity of 3,318.23 MW which accounts for the 87.82% of the total 3,778.23 MW rated capacity of PSALM/NPC owned generating assets in the Luzon and Visayas grids; also, PSALM has bid out 68.22% or 3,345.75 MW of the total 4,904.55 MW capacity of NPC-IPP contracts in the Luzon and Visayas grids;

WHEREAS, the privatization of the significant portion of NPC generating plants and other power assets of PSALM, since the effectivity of the DWS, has significantly affected the ability of PSALM and NPC to supply the energy requirements of its customers;

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WHEREAS, there is a need to terminate the DWS since NPC and PSALM can no longer economically and effectively perform their duties as the default wholesale supplier;

WHEREAS, the termination of the DWS arrangement will cause distribution utilities (DUs) to have no default supplier of electricity for the imbalances of their contract and shall likewise leave them without any supplier, in case they fail to enter into a supply contract with a generator or other service providers;

WHEREAS, to ensure continuous supply of electricity within its franchise area, a DU is encouraged to enter into a bilateral contract with a generator or other service provider, in a least cost manner, to cover its energy requirements;

WHEREAS, DUs can withdraw electricity from the grid, provided they are WESM Members, either as a Direct or Indirect, pursuant to WESM Rules Section 2.2.4.2, which states that "no person or entity shall be allowed to inject or withdraw electricity from the grid unless that person or entity is a registered member of the WESM";

WHEREAS, it therefore necessarily follows that DUs who are not WESM members do not have the right to withdraw electricity from the grid and should therefore be disconnected from the grid;

WHEREAS, the Open Access and Transmission Services (OATS) Rules provides that the Transmission Provider shall not be held liable for failure to deliver the services described in Modules B, C, and D of the OATS Rules in case the Transmission Customer fails to comply with its obligations under the OATS Rules, the Grid Code, and the WESM Rules;

NOW THEREFORE, premises considered the DOE hereby declares the following:

Section 1. Termination of the DWS Arrangement. In view of the inability of NPC and PSALM to economically and effectively perform their duties as DWS considering the privatization level to-date, the DWS arrangement provided in DOE Circular No. 2006-06-009 is hereby terminated. Accordingly, NPC and PSALM are thereby relieved from their designation as the DWS. All other rules, resolutions, or circulars issued in relation to the DWS are hereby declared repealed.

In accordance with Section 2 of DOE Circular No. 2006-06-009, the termination of the DWS arrangement shall apply to the grid where WESM is operational.

Section 2. Disconnection Policy.

2.1 Disconnection of Non-WESM Members. Pursuant to Section 2.2.4.2 of the WESM Rules, all persons or entities who fail to register with the WESM within ninety (90) days from the effectivity of this Circular shall be disconnected from the grid. This condition shall initially apply to the Luzon grid where there is WESM operation.

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2.2 Other grounds for disconnection. The DOE shall provide other grounds for disconnection of persons or entities in the guidelines as it may deem proper pursuant to the overall intent of the EPIRA.

Pursuant to Section 4.1. below, the DOE shall formulate the necessary guidelines for the disconnection of persons or entities who fail to comply with this Circular, taking into consideration existing laws and procedures.

Section 3. Transition Period. Sections 1 and 2 above are hereby subjected to a transition period of ninety (90) days from the effectivity of this Circular. Within the 90-day period, the following shall take place:

3.1 All DUs, i.e. privately-owned utilities and electric cooperatives, generation companies, and other entities connected to the grid, are hereby directed to register with the WESM. Failure to comply with this requirement shall result in the disconnection of the concerned entity pursuant to Section 2 of this Circular.

3.2. Any DU, i.e. privately-owned utilities and electric cooperatives, which has arrearages with NPC and PSALM at the time of the effectivity of this Circular, shall be allowed to register in the WESM; *Provided*, that such DU shall settle its arrearages or enter into a restructuring agreement with NPC and PSALM within ninety (90) days from the effectivity of this Circular. The failure of any electric power industry participant to comply with this requirement within the prescribed period shall constitute a violation of this Circular and shall result in the disconnection of the participant from the grid. For this purpose, the subsequent settlement or restructuring of the arrearages with NPC and PSALM is hereby considered a condition for the reconnection of the participant.

3.3. In the case of private entities, i.e. generation companies, distribution utilities, transmission service providers and other service providers, settlement arrangements of the outstanding obligations, if any, shall be governed by their existing bilateral contracts.

Section 4: Responsibilities of Entities:

4.1 Pursuant to the mandate of the DOE under Section 37(p) of the EPIRA to formulate rules and regulations as may be necessary to implement the objectives of the EPIRA and the WESM Rules, the DOE, in coordination with NGCP, TRANSCO, NPC, PSALM, NEA, and PEMC shall provide the guidelines within ninety (90) days from the effectivity of this Circular for the disconnection of persons or entities who fail to comply with this Circular.

4.2 In addition, the DOE shall, together with PEMC and NEA, provide the necessary support, including liaison with financial institutions, to the DUs in need in complying with this Circular and the requirements for registration with the WESM.

4.3 Pursuant to the EPIRA and the OATS Rules, NGCP is hereby given the authority to disconnect from the grid persons or entities who fail to comply with their obligations under the OATS Rules, the Grid Code, the WESM Rules, and this Circular in accordance with the guidelines to be issued by the DOE in Section 4.1 of this Circular.

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4.4 PEMC shall continuously monitor and submit regular reports to the DOE on the status of the registration in the WESM.

4.5 PSALM and NPC shall provide the DOE all information on DWS arrangements and assist the DOE in the implementation of the termination of the DWS arrangement. PSALM and NPC are likewise required to submit to the DOE a regular monthly report on the restructuring of the outstanding obligations of its customers.

4.6 NEA is directed to provide assistance to all electric cooperatives for their registration in the WESM, including compliance with the requirement to settle or restructure their outstanding obligations with NPC and PSALM. It shall, together with the DOE, undertake an information and education campaign for the termination of the DWS arrangement and the implementation of the disconnection policy.

4.7 All electric power industry participants are directed to register in the WESM pursuant to WESM Rules 2.2.4.2.

Section 5. Creation of Implementation Review Committee (IRC). An IRC composed of representatives from DOE, PEMC, PSALM, NPC, TRANSCO, NEA, and NGCP is hereby created. The DOE shall chair the IRC.

5.1 The IRC shall be responsible for ensuring the smooth termination of the DWS arrangement and the implementation of the disconnection policy.

5.2 The IRC shall formulate the implementing rules and regulations of this Circular.

Section 6. Separability Clause. If for any reason, any section or provision of this Circular is declared unconstitutional or invalid, the other parts or provisions hereof which are not affected thereby shall continue to be in full force and effect.

Section 7. Effectivity and Publication. This Circular shall be effective fifteen (15) days from its publication in a newspaper of general circulation. PEMC is hereby directed to publish this Circular in the market information website.

This Circular shall remain in effect until otherwise revoked.

Taguig City, Philippines *May* 6, 2010.



JOSE C. IBAZETA
Acting Secretary



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