

[DOE DEPARTMENT CIRCULAR NO. DC 2010-08-0010, August 23, 2010]

PRESCRIBING THE IMPLEMENTING RULES AND PROCEDURES FOR DEPARTMENT CIRCULAR NO. DC 2010-05-0006, ENTITLED "TERMINATING THE DEFAULT WHOLESALE SUPPLIER ARRANGEMENT FOR THE PHILIPPINE WHOLESALE ELECTRICITY SPOT MARKET (WESM) AND DECLARING A DISCONNECTION POLICY"

WHEREAS, on 06 May 2010, after various public consultations and meetings with the relevant government agencies and stakeholders in the electric power industry, the Department of Energy (DOE) issued Circular No. 2010-05-0006, entitled "Terminating the Default Wholesale Supplier Arrangement for the Philippine Wholesale Electricity Spot Market (WESM) and Declaring a Disconnection Policy";

WHEREAS, the said DOE Circular was published on 12 May 2010 in two newspapers of general circulation and became effective last 27 May 2010;

WHEREAS, the said DOE Circular states that a disconnection policy shall be enforced within ninety (90) days from the effectivity of the DOE Circular for non-WESM members in areas where Wholesale Electricity Spot Market (WESM) is operational, while prescribing other grounds for disconnection of persons or entities pursuant to the overall intent of the EPIRA;

WHEREAS, the same DOE Circular provides that the DOE shall issue the guidelines for the disconnection of persons or entities who fail to comply with the DOE Circular";

WHEREAS, 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 the National Grid Corporation of the Philippines (NGCP), National Transmission Corporation (TransCo), National Power Corporation (NPC), Power Sector Assets and Liabilities Management Corporation (PSALM), National Electrification Administration (NEA), and Philippine Electricity Market Corporation (PEMC), crafted these implementing rules and procedures to implement DOE Circular DC No. 2010-05-0006;

NOW, THEREFORE, premises considered, the DOE hereby adopts the following implementing rules and procedures for the disconnection of persons or entities who fail to comply with the DOE Circular No. DC2010-05-0006, entitled "Terminating the Default Wholesale Supplier Arrangement for the Philippine Wholesale Electricity Spot Market (WESM) and Declaring a Disconnection Policy."

Section 1. Introduction.

1.1 Rationale

The DOE is mandated under the EPIRA to, among others, ensure the reliability, quality and supply of electric power and ensure transparent and reasonable prices of electricity in a regime of free and fair competition and full public accountability to achieve greater operational and economic efficiency. Likewise, the DOE is mandated to develop policies and procedures and, as appropriate, promote a system of energy development incentives to enable and encourage electric power industry participants to provide adequate capacity to meet demand including, among others, reserve requirements.

The DOE, after consultations with the different stakeholders in the industry, finds merit in the request of the National Power Corporation (NPC) and the Power Sector Assets and Liabilities Management (PSALM) Corporation to be relieved of their obligations as Default Wholesale Supplier (DWS) in view of the significant level of privatization of NPC generating assets as well as transfer or management and control of NPC's contracted energy outputs from its independent power producers.

Further, the DOE deems it necessary to establish a disconnection policy to ensure that all electric power industry participants comply with the EPIRA, its IRRs, and all other related rules and regulations with the end goal of encouraging new power generation investments in the country. The disconnection policy likewise intends to minimize if not avoid existing leakages in the electric power systems due to unauthorized withdrawal of electricity as well as unmetered and unbilled consumptions of facilities connected to the grid.

The membership of all the electric power industry participants especially the distribution utilities in the WESM will promote a level playing field in the industry.

1.2 Objectives

This implementing rules and procedures are issued with the following objectives:

- A. To facilitate further development of market discipline with the end view of fostering competition in the power generation and supply businesses;
- B. To establish the grounds, conditions or criteria including the processes and protocols as well as the relevant procedures for disconnecting/reconnecting a person or entity from/to the grid. Towards this end, it is envisioned that the electricity end-users/ customers comply with their financial obligations to their supply and service providers in a timely manner;
- C. To establish the authority and responsibilities of each of the concerned person or entity under the EPIRA and the WESM Rules and other related rules and regulations;
- D. To emphasize the need to register with the WESM and understand and comply with the WESM Rules;

E. To formulate the guidelines for the restructuring of outstanding financial obligations and arrearages with PSALM/NPC; and

Section 2. Definition of Terms.

2.1 **“Connection Agreement”** or **“CA”** refers to the agreement between a User and the NSP, which specifies the terms and conditions pertaining to the connection of the User System or Equipment to a new Connection Point in the Grid (or the Distribution System);

2.2 **“Department of Energy”** or **“DOE”** refers to the government agency created pursuant to Republic Act No. 7638 whose expanded functions are provided in the EPIRA;

2.3 **“Direct WESM Member”** refers to a person or an entity registered with the Market Operator as provided under Clause 2.3. of the WESM Rules;

2.4 **“Distribution Code”** refers to a compilation of rules and regulations governing electric utilities in the operation and maintenance of their distribution systems which includes, among others, the standards for service and performance, and defines and establishes the relationship of the distribution systems with the facilities or installations of the parties connected thereto;

2.5 **“Distribution Utility”** or **“DU”** refers to any EC, private corporation, government owned utility or existing local government unit which has an exclusive franchise to operate a distribution system in accordance with the EPIRA;

2.6 **“Economic Zones”** or **“EZs”** refer to selected areas which are being developed into agro-industrial, industrial, tourist, recreational, commercial, banking, investment and financial centers. An EZ may refer to any of the following: Industrial Estates (IEs), Export Processing Zones (EPZs), Free Trade Zones (FTZs), Information Technology Parks and Tourist/Recreational Centers, such as those managed, administered, or operated by the Bases Conversion Development Authority (BCDA), Cagayan Economic Zone Authority (CEZA), Clark Development Corporation (CDC), Philippine Economic Zone Authority (PEZA), Phividec Industrial Authority (PIA), and Zamboanga City Economic Zone Authority (ZCEZA);

2.7 **“Electric Cooperative”** or **“EC”** refers to a DU organized pursuant to Presidential Decree No. 269, as amended, Republic Act 6939, as amended or as otherwise provided in the EPIRA;

2.8 **“Electric Power Customer”** or **“EPC”** is a collective term which refers to any EC, Private DU, EZs, large and other customers directly connected to the grid purchasing electric power from the EPS, for the purpose of supplying the end-users’ requirements within its franchise area or for its own use;

2.9 **“Electric Power Service Provider”** or **“EPSP”** is a collective term which refers to any service providers such as the SO, MSP, NSP and other service providers in the electric power industry;

- 2.10 **“Electric Power Supplier”** or **“EPS”** is a collective term which refers to any Generation Company, IPPA, WA and any person or entity engage in supplying and/or selling electric power;
- 2.11 **“End-User”** refers to any person or entity requiring the supply and delivery of electricity for its own use;
- 2.12. **“Energy Regulatory Commission”** or **“ERC”** refers to the regulatory agency created under the EPIRA;
- 2.13 **“Generation Company”** refers to any person or entity authorized by the ERC to operate facilities used in the generation of electricity;
- 2.14 **“Grid Code”** refers to the set of rules and regulations governing the safe and reliable operation, maintenance and development of the high voltage backbone transmission system and its related facilities;
- 2.15 **“Implementation Review Committee”** or **“IRC”** refers to the committee tasked to formulate the implementing rules and regulations of DOE Circular No. DC2010-05-0006 and oversee its implementation;
- 2.16 **“Independent Power Producer”** or **“IPP”** refers to an existing power generating entity which is not owned by NPC/PSALM;
- 2.17 **“Indirect WESM Member”** refers to a person or an entity who wishes to indirectly trade in the spot market through a Direct WESM member;
- 2.18 **“IPP Administrator”** or **“IPPA”** refers to qualified independent entities appointed by PSALM who shall administer, conserve and manage the contracted energy output of NPC IPPs, including the selling of the contracted energy output of these contracts and offering Ancillary Services, where applicable;
- 2.19 **“Market Operator”** or **“MO”** refers on the entity, currently the Philippine Electricity Market Corporation (PEMC), responsible for the operation of the WESM governed by the Philippine Electricity Market (PEM) Board in accordance with Clause 1.4 of the WESM Rules;
- 2.20 **“Metering Service Agreement”** or **“MSA”** refers to the agreement that defines the responsibilities and obligations of the MSP and the Metered Entity in relation to the provision of metering facilities, equipment and service as provided under the OATS Rules, the Grid Code and the WESM Rules;
- 2.21 **“Metering Service Provider”** or **“MSP”** refers to a person or entity authorized by the ERC to provide metering services and registered with the MO in that capacity in accordance with the Clause 2.3.6 of the WESM Rules;
- 2.22 **“National Electrification Administration”** or **“NEA”** refers to the government agency created under Presidential Decree No. 269, as amended, and whose additional mandate is further set forth in the EPIRA;

2.23 **“National Grid Corporation of the Philippines”** or **“NGCP”** refers to the corporation, by virtue of Republic Act No. 9511, granted a franchise to operate, manage and maintain, and in connection therewith, to engage in the business of conveying or transmitting electricity through high voltage back-bone system of interconnected transmission lines, substations and related facilities, systems operations, and other activities that are necessary to support the safe and reliable operation of a transmission system and to construct, install, finance, manage, improve, expand, operate, maintain, rehabilitate, repair and refurbish the nationwide transmission system of the Republic of the Philippines;

2.24 **“National Power Corporation”** or **“NPC”** refers to the government corporation created under Republic Act No. 6395, as amended;

2.25 **“National Transmission Corporation”** or **“TransCo”** refers to the corporation organized pursuant to the EPIRA;

2.2.6 **“Network Service Provider”** or **“NSP”** refers to a person who engages in the activity of owning, controlling, or operating a transmission or distribution system and who is registered with the MO in that capacity under Clause 2.3.4 of the WESM Rules;

2.27 **“Notice of Disconnection”** refers to a notice issued by any EPS, EPSP or the MO, as defined in this Implementing Rules and Procedures, informing any of its EPC of its impending disconnection from the grid or network in accordance with the provisions of its contracts and this Implementing Rules and Procedures;

2.28 **“Notice of Reconnection”** refers to a notice issued by any EPS, EPSP or the MO, as defined in this Implementing Rules and Procedures, addressed to NGCP or other NSPs, copy furnished the EPC, authorizing the reconnection of any of its EPC to the grid or network in accordance with the provisions of its contract with the EPC and this Implementing Rules and Procedures;

2.29 **“Open Access Transmission Services Rules”** or **“OATS Rules”** refers to regulation that governs the implementation of the Open Access Transmission Services as approved by the ERC;

2.30 **“Power Sector Assets and Liabilities Management Corporation”** or **“PSALM”** refers to the corporation created pursuant to EPIRA Section 49;

2.31 **“Power Supply Agreement”** or **“PSA”** refers to the contract for the supply of electricity between the Generation Company, IPPA, WA, and the EPC. It may be in the form of Transition Supply Contract (TSC), Contract for the Supply of Electric Energy (CSEE) or bilateral contract;

2.32 **“Restructuring Agreement”** refers to a contract or agreement entered into by PSALM and EPC wherein the latter agrees to pay its arrearages to PSALM through monthly installments inclusive of interest pursuant to Section 3.2 of the DOE Circular No. 2010-05-0006 and in