

**[ DOE DEPARTMENT CIRCULAR NO. DC 2004-07-008, July 07, 2004 ]**

**AMENDMENTS TO THE WESM RULES**

WHEREAS, Republic Act No. 9136, otherwise known as the "Electric Power Industry Privatization Act of 2001" (the "Act"), which became effective on 26 June 2001, provides for the framework for the restructuring of the electric power industry to bring about a free and fair competition on the pricing of electricity;

WHEREAS, the Act mandates the establishment of a wholesale electricity spot market (the "WESM") where the trading of electricity can be made;

WHEREAS, the Act enjoined the Department of Energy (the "DOE") to establish the WESM and to jointly formulate with the electric power industry participants the detailed rules thereof, within one (1) year from the effectivity thereof; provided, that the price determination methodology shall be subject to the approval of the Energy Regulatory Commission (the "ERC");

WHEREAS, in accordance with and in compliance with the Act, the DOE promulgated the WESM Rules under Department Circular No. 2002-06-003 dated 28 June 2002;

WHEREAS, in compliance with the Act, the pertinent application for approval of the Price Determination Methodology (the "PDM") for the WESM was submitted to the ERC for approval;

WHEREAS, the ERC, through its Order dated 15 March 2004 in ERC Case No. 2003-356, required compliance with certain directives before the said price determination methodology may be approved, which directives requires, in turn, the amendment of the WESM Rules;

WHEREAS, in compliance with the ERC directives, the DOE jointly with the electric industry participants through the Philippine Electricity Market Corporation and its technical working group and sub-committees, and in accordance with the provisions of the WESM Rules on Rules Change, formulated the pertinent amendments to the WESM Rules;

NOW THEREFORE, pursuant to its mandate under the Act and in accordance with the WESM Rules, the DOE, hereby issues, adopts and promulgates the following amendments to the WESM Rules:

A. Amendments to the WESM Rules

1. Rule 3.2.2 is amended to insert Rule 3.2.2.3(A) before Rule 3.2.2.4

"Nodal Prices at Market Trading Nodes shall be used for the settlement of energy for both generators and customers."

2. Rule 3.2.3.1 is amended to read as follows -

"Customer nodes may be grouped into customer pricing zones in accordance with the procedures to be developed by the Market Operator and subject to the approval of the PEM Board. The Market Operator shall maintain and publish the customer pricing zones to be used for the settlement of energy for customers."

3. Rule 3.2.3.2 is amended to read as follows -

"All customers within a customer pricing zone shall face the same price for electricity consumed."

4. Rule 3.5.4.1 is amended to read:

"Each Customer may submit a forecast in respect of each trading interval for each of its registered load facilities for each trading day of week in accordance with the timetable. The forecast submitted by the Customer shall be used by the Market Operator in the preparation of Net Load Forecast.

If the Customer fails to submit a forecast of his load facilities in accordance with the timetable, the forecast prepared by the Market Operator at the node where the customer is located shall be used."

5. Rule 3.13.1.1 (b) is amended to read -

"(b) Identify the counter party to the bilateral contract and the party that will pay the line rental trading amount associated with the bilateral contract quantity submitted; and"

6. Rule 3.13.15 is hereby deleted.

7. Rule 3.13.16.2 is amended to read -

"The net settlement surplus:

(a) May be retained by the Market Operator to fund deficit as a result of transactions required in clauses 3.13.14, or may be flowed back to the Market Participants in accordance with the procedures to be developed under clause 3.13.16.3, or, may be used by the Market Operator to establish and support the market for Financial Transmission Rights subject to the approval of the PEM Board; and,

(b) Shall be clearly accounted for and taken into account when setting the allowable charges under any regulatory instruments applying to the Market Operator."

8. Rule 3.13.16.3 is amended to read -

"The Market Operator shall:

(a) publish regular summary reports on the amount of any net settlement surplus being generated;

(b) within one year from spot market commencement date, and every year thereafter, publish a review of the underlying factors giving rise to any net settlement surplus, and attempt to identify any binding constraints which may have caused or contributed to such net settlement surplus;

(c) determine, in consultation with Trading Participants and Network Service Providers, and subject to approval by the PEM Board, whether the net settlement surplus generated by any particular set of constraints is of such magnitude as to justify development of a regime similar to that implemented in