Republic of the Philippines
DEPARTMENT OF ENERGY

DEPARTMENT CIRCULAR NO. DC2021-08-0025

PROVIDING POLICIES FOR THE ADOPTION OF THE WHOLESALE ELECTRICITY SPOT MARKET (WESM) PENALTY MANUAL FOR THE IMPLEMENTATION OF ENHANCEMENTS TO WESM DESIGN AND OPERATIONS

WHEREAS, Sections 30 and 37(f) of the Electric Power Industry Reform Act (EPIRA) provides that the DOE, jointly with the electric power industry participants, shall establish the Wholesale Electricity Spot Market (WESM) and formulate the detailed rules governing the operations thereof;

WHEREAS, on 28 June 2002, the DOE, with the endorsement of the electric power industry participants, promulgated the WESM Rules through Department Circular No. DC2002-06-003;

WHEREAS, WESM Rules, as amended, mandates the Market Surveillance Committee (MSC) to design and regularly review penalty levels and appropriate ranges of penalties for breach of the WESM Rules;

WHEREAS, on 20 March 2017, the Enforcement and Compliance Office (ECO) submitted to the MSC its recommendations for the amendment of the WESM Financial Penalty Manual;

WHEREAS, on 24 May 2017 and 13 July 2017, the MSC and ECO discussed the proposed WESM Penalty Manual, which shall be in lieu of the WESM Financial Penalty Manual;

WHEREAS, the proposed WESM Penalty Manual aims to:

(a) Enhance the process in determining applicable penalties by specifying the categories or types of breaches and the corresponding applicable penalty levels;
(b) Establish penalty levels that take into consideration the nature of the breach and that are commensurate to the probable impact of the breach on the operations of the market;
(c) Consolidate in a single document and harmonize all applicable guidelines for determining penalties to avoid confusion; and
(d) Establish the procedures and respective obligations of responsible persons or entities with regard to the issuance of notice of penalty, remedies available to the WESM Members in case there is a finding of breach, and utilization of penalties collected;

WHEREAS, on 19 May 2017, the MSC reviewed the proposed WESM Penalty Manual and conducted consultation to solicit comments and recommendations from stakeholders and interested parties;

WHEREAS, the MSC presented and discussed the proposal to the Philippine Electricity Market Corporation (PEMC) Transition Committee on 14 August 2017, 14 February 2018 and 17 May 2018, respectively;

WHEREAS, the MSC published the proposal in the WESM website on 22 May 2018 for comments of stakeholders and interested parties;

WHEREAS, the MSC presented and discussed the proposal to the Board Review Committee on 22 May 2018;

WHEREAS, the MSC presented and discussed the proposal to the PEM Board on 30 May 2018;

WHEREAS, the MSC presented and discussed the proposal to the Rules Change Committee on 01 June 2018;

WHEREAS, the ECO presented and discussed the proposal to the PIPPA, upon request, on 05 July 2018;

WHEREAS, the ECO and Market Assessment Group presented and discussed the proposal to the DOE on 30 July 2018;

WHEREAS, on 01 August 2018, the MSC reviewed and deliberated on the proposal giving due course to the comments and recommendations received from the stakeholders and the DOE;

WHEREAS, on 10 September 2018, the MSC finalized the proposed WESM Penalty Manual, and thereafter approved for endorsement to the DOE;

WHEREAS, on 11 September 2018, the MSC-approved proposed WESM Penalty Manual was submitted to the DOE for final approval;

WHEREAS, on 15, 17 and 24 January 2019, the DOE conducted various public consultations on the said proposed WESM Penalty Manual to ensure transparency and consistency with the objectives of the EPIRA and the WESM;

WHEREAS, on 14 March 2019, the DOE reverted the said proposal to the PEMC to seek their appropriate response, considering the comments received from the stakeholders;

WHEREAS, on 07 June 2019, the MSC, after due deliberation of the comments of the stakeholders, sent a letter to the DOE formally submitting their respective response;

WHEREAS, on 27 August 2019, with respect to the comments of the stakeholders and the response of the MSC, the DOE conducted another public consultation on the revised version of the WESM Penalty Manual to ensure transparency and consistency with the objectives of the EPIRA and the WESM;

WHEREAS, on 09 October 2019, the MSC sent a letter to the DOE, providing further comments and recommendations to the proposed WESM Penalty Manual;

WHEREAS, the DOE reviewed the said MSC-approved proposal and the comments and recommendations from the public consultation and MSC recommendations, made further revisions on the proposed amendments for consistency with the objectives of the WESM such as transparency and efficiency;

NOW THEREFORE, pursuant to its authority under the EPIRA and the WESM Rules, the DOE hereby adopts, issues, and promulgates the following:

Section 1. WESM Penalty Manual Issue No. 1.0. The WESM Penalty Manual Issue No. 1.0 (referred to as WPM) hereto attached as Annex A is hereby adopted to govern the penalty system to be applied in cases of breach of the WESM Rules and the Retail Rules and their implementing Market Manuals. This Market Manual also provides for the procedures for imposition of penalties and the responsibilities of concerned persons or entities.

Section 2. Applicability and Transition. The WPM shall be applied upon the commercial operations of the Enhanced WESM design particularly the implementation of five (5) minute dispatch interval and its associated changes to the WESM operations. Until such time, the WESM Financial Penalty Manual adopted by the Market Surveillance Committee shall continue to be in effect.

Section 3. Separability. If for any reason, any section or provision of this Circular is declared unconstitutional or invalid, such parts not affected shall remain valid and subsisting.

Section 4. Effectivity. This Circular shall take effect immediately following its complete publication in at least two (2) newspapers of general circulation and shall remain in effect until otherwise revoked. Copies thereof shall be filed with the University of the Philippines Law Center – Office of National Administrative Register (UPLC-ONAR).

Issued this _____ 2021 at the DOE, Energy Center, Rizal Drive, Bonifacio Global City, Taguig City, Metro Manila.

ALFONSO G. CUSI
Secretary

Republic of the Philippines
DEPARTMENT OF ENERGY
IN REPLYING PLS. CITE:
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PUBLIC

WESM Market Manual

Penalty Manual Issue No. 1.0

Abstract	This Manual sets out the *penalty* system that is applied in cases of *breach* of the WESM Rules and the Retail Rules and their implementing *Market Manuals*. This Manual also provides for the procedures for imposition of *penalties* and the responsibilities of concerned persons or entities.

Document Identity: WESM-PM
Issue No.: Issue No. 1
Reason for Issue: Revision
Approval Date:
Publication Date:
Effective Date:

DOCUMENT CHANGE HISTORY			
Issue No.	**Proponent**	**Date of Effectivity**	**Reason for Amendment**
1.0	PEMC		Original *This Manual was developed and adopted in reference with the WESM Financial Penalty Manual Issue 1.0 promulgated by the Market Surveillance Committee.* *The Manual was promulgated by the DOE in line with its mandate pursuant to the WESM Rules and in line with the following objectives:* The amendment was made for the following reasons – 1) To rationalize the process of determining applicable *penalties* for *breach*; 2) To specify the acts or omissions that can constitute a *breach* which is subject to *penalties*; 3) To include *breach* of the Retail Rules and *Market Manuals* in the scope of the WESM *penalty* system; and 4) To further clarify the responsibilities of various parties in implementing the WESM *penalty* system; and *5)* To align the *penalty* system in accordance with changes to the enforcement and compliance processes in the WESM.

DOCUMENT APPROVAL				
Issue No.	**MSC Approval**	**MSC Resolution No.**	**RCC Consultation**	**PEM Board Consultation**
1.0				

REFERENCE DOCUMENTS	
Document ID	**Document Title**
	Wholesale Electricity Spot Market Rules (WESM Rules)
	Rules for the Integration of Retail Competition in the Wholesale Electricity Spot Market (Retail Rules)
	WESM Enforcement and Compliance Manual
	WESM Dispatch Protocol
	WESM Price Determination Methodology
	WESM Manual on Management of Must Run and Must Stop Units
	WESM Registration Manual

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SECTION 1 INTRODUCTION

1.1 LEGAL FRAMEWORK

1.1.1 The WESM Rules authorize the imposition of *penalties* for *breach* of the rules and supporting *Market Manuals*. The inclusion of such authority in the WESM Rules is pursuant to Section 30 of Republic Act No. 9136 (otherwise known as the Electric Power Industry Reform Act of 2001 or EPIRA) and its implementing rules and regulations (EPIRA-IRR).

1.1.2 Section 30 of Republic Act No. 9136 expressly provides that the WESM Rules shall provide for, among other things, the surveillance and assurance of compliance of the participants with the rules. This is reiterated in Rule 9, Section 5 (c) of the EPIRA-IRR. The WESM Rules shall be formulated to provide adequate *penalties* in cases of *breaches* of the WESM Rules (Section 5 [b] (iv), Rule 9).

1.1.3 Pursuant to this legal mandate, WESM Rules Clause 1.6.3 (Chapter 1)[1], provides that the *Market Surveillance Committee* shall design the *penalty* levels and appropriate range of *penalties* that will be applied for *breaches* of the WESM Rules. This is to be done in consultation with the Rules Change Committee and the PEM Board. The *penalty* levels and ranges are to be reviewed by the *Market Surveillance Committee* from time to time and as may be necessary.

1.1.4 Clause 7.2 (Chapter 7) of the WESM Rules, meanwhile, provides for the manner of enforcement of the WESM Rules, particularly the requirements and procedures that are to be followed before *penalties* can be imposed for *breach* of the WESM Rules, and the manner by which the *financial penalties* collected shall be managed and utilized.

1.1.5 Meanwhile, the *Rules for the Integration of Retail Competition in the Wholesale Electricity Spot Market* (otherwise known as the Retail Rules) expressly provide in its Clause 1.5.1 that the provisions of Chapter 1 of the WESM Rules shall apply with respect to the governance of the integration of retail competition, the operations of the Central Registration Body and the transactions in the WESM of contestable customers and retail electricity suppliers. Furthermore, Clause 1.7 of the Retail Rules expressly provide that Chapter 7 of the WESM Rules shall apply in respect to the enforcement of the Retail Rules.

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[1] WESM Rules clauses 1.6.3 is being amended and transferred to WESM Rules Section 7.2.

1.1.6 The authority to impose *penalties* under the WESM Rules is without prejudice to the original jurisdiction of the Energy Regulatory Commission to enforce the WESM Rules and to impose fines and *penalties* in case of violations of the EPIRA.

1.2 Purpose and Scope

1.2.1 This Manual, and the *penalty* system set out, applies to *breach* of the *Market Rules*.

1.2.2 This Manual sets out the following –

a) Provisions of the WESM Rules, the Retail Rules and their implementing *Market Manuals* (collectively referred to as *Market Rules*) which, if not complied with, will constitute a *breach* and correspondingly, the types of *breach* that are subject to *penalties* under this Manual;
b) Categories and levels of *penalties* that will be applied for each type of *breach*, and qualifying circumstances that will be considered in determining the *penalty* that will apply in case of *breach*;
c) Procedures for and respective obligations of responsible persons or entities in implementing *penalties* imposed under this Manual and remedies available to the *WESM Members* in case there is a finding of *breach*; and

1.2.3 This Manual, including the penalty system, applies to and is binding to all *WESM Members* in all grids where the WESM is in operation. By having registered in the WESM, a *WESM Member* is bound to comply with the *Market Rules*.

1.2.4 This Manual covers only the *penalty* system, the manner of assessment and implementation of *penalties*, the remedies available to the *WESM Members* in case there is a finding of *breach*, and the utilization of the *financial penalties* collected for *breach* of the *Market Rules*. The rules, guidelines and procedures pertaining to enforcement of the *Market Rules*, and investigations of *breaches* are not covered by this Manual.

SECTION 2 DEFINITIONS, REFERENCES AND INTERPRETATION

2.1 DEFINITIONS

2.1.1 All terms and abbreviations used in this Manual that are defined in the *Market Rules* shall have the same meaning as defined in the said rules.

2.1.2 Where italicized the term or abbreviation shall have the definition given in the Glossary of this Manual.

2.2 REFERENCES

This Manual shall be read in conjunction with the *Market Rules* approved for use in the WESM and for the integration of retail competition in the WESM, including but not limited to the documents listed in the Reference Documents table of this Manual.

2.3 INTERPRETATION

Unless otherwise stated in this Manual, the rules of interpretation set out in Chapter 9 of the WESM Rules shall also apply to this Manual.

SECTION 3 RESPONSIBILITIES

3.1 PHILIPPINE ELECTRICITY MARKET CORPORATION

The PEMC shall oversee the administration and implementation of this Manual. This responsibility is subject only to the limitations set out in this Manual.

3.2 PEMC PRESIDENT

The *PEMC President* shall sign all notices pertaining to penalties that are required to be issued under this Manual and shall exercise this authority on behalf of the PEM Board, except those notices that are authorized to be issued by the *Market Operator* under Section 4.8.4 of this Manual.

3.3 MARKET SURVEILLANCE COMMITTEE

The *Market Surveillance Committee* shall annually review the levels and range of penalties as set out in this Manual. From time to time and as may be necessary, the *Market Surveillance Committee* shall submit to the *Department of Energy* its proposed amendments thereto, in consultation with the *WESM Members*, *Rules Change Committee* and the *PEM Board*.

3.4 COMPLIANCE COMMITTEE

The *Compliance Committee* shall have the following responsibilities:

3.4.1 Review reports of investigations and decide on the outcome of each case based on the findings of facts and the recommendations of the *Enforcement and Compliance Office* in accordance with the relevant provisions of the Enforcement and Compliance Manual and the Market Surveillance Manual.

3.4.2 Recommend to the *PEM Board* the imposition of penalties for *breaches* other than those arising from, and determined through the compliance monitoring and assessment by the *Enforcement and Compliance Office;*

3.4.3 Review and recommend to the *PEM Board* action on appeals filed by any concerned *WESM Member* in accordance with the Section 4.12 of this Manual.

3.5 Enforcement and Compliance Office

The *Enforcement and Compliance Office* shall –

3.5.1 Monitor the compliance of *WESM Members* and, based on the result of its own monitoring and assessment, impose the specified penalties therefor in accordance with the *Market Rules* and the *WESM Penalty Manual,* and issue a resolution on a request for reconsideration if any is filed by any *WESM Member.* The *Notice of Specified Penalty* to be issued for this purpose shall be signed by the PEMC President in accordance with Section 3.2 of this Manual.

3.5.2 Conduct investigation of probable breach or as endorsed to it by the *PEM Board* through request for investigation by any *WESM Member,* the *Market Operator,* or the *System Operator*, and issue a report thereon to be submitted to the *Compliance Committee* for review.

3.5.3 Submit the reports required under this Manual to the *PEM Board*, the *Energy Regulatory Commission*, and the *Department of Energy*.

3.5.4 Implement all other notices, resolutions or decisions, as the case may be, pursuant to this Manual, and shall have custody of all notices, reports and records created and issued pursuant to this Manual.

3.6 Market Operator

The Market Operator shall implement the *Notice of Specified Penalties* served on it and the distribution of the collected financial penalties in accordance with the guidelines it shall develop pursuant to Section 6 of this Manual, and shall carry out any other action required of it under any notice that is issued and served pursuant to this Manual.

3.7 System Operator

The *System Operator* shall faithfully and timely implement any action or measure required of it under any notice that is issued and served pursuant to this Manual.

3.8 Other Service Providers

Other service providers in the WESM, including but not limited to the Network Service Providers and the Metering Service Providers, shall faithfully and timely implement any action or measure required of them under any notice that is issued and served pursuant to this Manual.

3.9 WESM Members

A *WESM Member* that is served a notice, resolution or decision pursuant to this Manual shall faithfully and timely comply with the requirements or directives thereunder, including but not limited to the payment of *financial penalties*, taking of remedial actions or measures and compliance with other directives. Failure to comply with such requirements or directives shall be subject to additional *penalties* pursuant to Section 4.1.2.2 and Section 5 of this Manual.

SECTION 4 PENALTY SYSTEM

4.1 PRINCIPLES

4.1.1 **Enforcement Proceedings.** The WESM enforcement proceedings upon which the imposition of penalty or any other form of enforcement actions is based, include:

4.1.1.1. **Compliance monitoring and assessment.** This shall be carried out by the *Enforcement and Compliance Office* by determining the occurrence of breach of the *Market Rules and Market Manuals,* validating or verifying the circumstances related to such occurrences, and assessing whether a breach is committed.

4.1.1.2. **Investigation of the WESM Members.** This shall likewise be conducted by the *Enforcement and Compliance Office* upon the endorsement by the *PEM Board* to determine the occurrence of breach of the *Market Rules* upon the request of any *WESM Member,* the *Market Operator,* or the *System Operator*, or upon its own initiative, as may be necessary.

4.1.1.3. **Investigation of the Market Operator and the *System Operator*.** The investigation of the *Market Operator* and the *System Operator* by the *Enforcement and Compliance Office* for probable breach of the *Market Rules* shall be in accordance with the relevant provisions of the Enforcement and Compliance Manual. The *PEM Board*, as it may deem necessary, may thereafter file a formal complaint with the Energy Regulatory Commission and the Department of Energy.

4.1.2 **Imposition of Penalties by the Enforcement and Compliance Office.** The *Enforcement and Compliance Office* shall advise the *PEMC President* and the *Compliance Committee* of the specified *penalty* to be imposed upon the WESM Member concerned based on the results of the compliance monitoring and assessment conducted by the *Enforcement and Compliance Office* in accordance with Clause 7.2 of the WESM Rules and the WESM Enforcement and Compliance Manual. The PEM Board, the *Energy Regulatory Commission* and the *Department of Energy* shall be provided with the monthly status or summary report of the compliance monitoring and assessment activities of the *Enforcement and Compliance Office*.

4.1.2.1 The specified *penalty* to be imposed shall be in accordance with Sections 3, 4, and 5 of this Manual.

4.1.2.2 The following *penalties* shall be additionally imposed upon the *WESM Member* concerned in case of failure to comply with the requirements and directives of the notice, resolution or decision, as the case may be:

a) Penalty interest in case of non-payment by a *WESM Member* of the *financial penalties* imposed on it as a consequence of a *breach*; and/or

b) Penalties in case of non-compliance by a *WESM Member* with the remedial measures required to be implemented by it under a *Notice of Specified Penalty* issued under this Manual or a notice issued pursuant to the WESM Enforcement and Compliance Manual.

4.1.3 **Imposition of Penalties by the PEM Board.** These penalties are imposed by the PEM Board on cases arising from the request for investigation by the *WESM Member, Market Operator,* or *System Operator.* The imposition is based on the results of investigation by the *Enforcement and Compliance Office* and the review and recommendations of the *Compliance Committee.*

4.1.4 **Imposition of Penalties on the *Market Operator* and the *System Operator.*** The penalty for breach of the *Market Rules* by the *Market Operator* or the *System Operator* shall be determined and imposed by the Energy Regulatory Commission upon finding of breach of the *Market Rules* initiated through complaints or reports by the PEM Board in accordance with Section 4.1.1.3 of this Manual and pertinent provisions of the *Enforcement and Compliance Manual.*

4.1.5 **Non-compliance or *breach* subject of *penalties.*** Penalties under this Manual may be imposed only in case of any *Breach* of the *Market Rules* that are specified as such under the Schedule of Breach and Penalties of this Manual.

4.1.6 **Persons or entities subject of *penalties.*** *Penalties* are imposed on the persons or entities that are registered as *WESM Members* and not on the individuals or entities that act on behalf of the *WESM Members.* This is pursuant to WESM Rules Clause 7.2.6 which recognizes that the act or omission of any partner, agent, officer, employee or any person acting for or in behalf of a *WESM Member*, constituting a *breach* of the WESM Rules, shall be considered an act or omission of the *WESM Member.* By having been registered as *WESM Members*, these

persons or entities are expected to comply with the WESM Rules and be subject of *penalties* in case of *breach*. Where the *Market Rules* provide for solidary liability, the *penalty* shall be imposed on all *WESM Members* that have such solidary liability.

4.1.7 **Exemption.** Exemption from sanctions and penalties shall only be granted under the following circumstances and periods –

a) Within the first one (1) month of membership in the WESM, with respect to any obligation under the *Market Rules* which amounts to a *breach* if not complied with; or
b) Within the first one (1) month of the issuance of a new provision of the *Market Rules* or of an amendment thereto, with respect to such new rule, manual or amendment if non-compliance with the same amounts to a *breach.* No exemption shall be applied for or approved, however, if a transition period during which no sanctions or *penalties* for *breach* can be imposed has been expressly directed.

Notwithstanding, the Department of Energy may issue a longer exemption period as it may deem necessary, to ensure the readiness of the WESM Members and in the implementation of a new policy or program that directly impacts the enforcement of the WESM Rules and its Market Manuals. For this purpose, the DOE shall issue an advisory to the Governance Arm providing such details of exemption as necessary.

4.1.8 **No dispute resolution**. The imposition of *penalties* under this Manual cannot be subject to dispute resolution under the provisions of the *Market Rules* and other relevant laws, rules and regulations on alternative dispute resolution. However, a *WESM Member* may avail of the remedies for seeking a reconsideration and appeal under Section 4.12 of this Manual.

4.2 Penalty Assessment

4.2.1 *Penalty* is assessed for each count of *breach*.

4.2.2 A single *Notice of Specified Penalty* may refer to more than one count of *breach* as determined for a particular monitoring period.

4.2.3 **By registered facility.** Where an obligation is required to be performed for each registered facility, such as a generating unit or customer facility, one count of

breach is committed for each facility for which an obligation is not performed. For generating units and customer facilities, the identification of the facility shall be in accordance with how such is represented in the market network model prevailing at the time the *breach* occurred. Thus, for a generating plant that is represented by its component units or by blocks or by aggregated units, a *breach* is determined for each unit, or block, or aggregated units that is found in *breach*.

4.2.4 **By occurrence**. Where an obligation is required to be performed on a periodic basis, e.g., by dispatch interval, or hourly, or weekly, etc., one count of *breach* is determined for each period that an obligation is not performed, except when the relevant implementing Market Manuals provide a different manner of determining the number of breach/es. To illustrate, where an obligation is required to be performed for each dispatch interval and a failure to perform that obligation occurs in five (5) successive intervals, then there will be five (5) separate counts of *breach* as the non-compliance in each interval to be considered as separate acts and not a single continuous act.

4.2.5 Notwithstanding the provisions set forth in Section 4.2.3 and 4.2.4, the *Enforcement and Compliance Office* shall not be precluded to make assessment of the non-compliances or breaches of any *WESM Member* with respect to a particular facility in relation to other registered facilities or plants, and/or related occurrences or incidents if such assessment is necessary in determining the breach of the *Market Rules* and the extent thereof.

4.3 Description of *Penalty* Levels

4.3.1 The WESM *penalty* system consists of three (3) *penalty* levels. The *penalty* level to be imposed will depend on the nature of the *breach* and the circumstances surrounding the *breach*. The specific *penalty* levels to be imposed for each type of *breach* are provided for in the Schedule of Breach and Penalties of this Manual.

4.3.2 **Level 1 - Reprimand** is a notice to the *WESM Member* that a *breach* has been committed, and enjoins the *WESM Member* from doing the same or similar act or omission that constituted the *breach*. This shall be embodied in a *Notice of Reprimand*.

4.3.3 **Level 2 - Financial Penalties**. *Financial penalties* are pre-set amounts according to each type of *breach,* and are as stated in the Schedule of Breach and Penalties of this Manual. The *financial penalty* may be a fixed amount or formula-based. A

Notice of Financial Penalty is issued stating the amount of *penalty* that is being imposed.

4.3.4 **Level 3 – Escalated Financial Penalties**. Under certain *breaches*, a higher *financial penalty* shall be imposed. The higher *financial penalty* amounts and the conditions under which they may be imposed are as stated in the Schedule of Breach and Penalties of this Manual. A *Notice of Escalated Financial Penalty* is issued stating the amount of *financial penalty* being imposed and reason for applying the escalated amount.

4.4 Suspension & Deregistration

In addition to the penalty levels provided under Section 4.3 of this Manual, suspension and de-registration may also be imposed as penalty for breaches explicitly specified under the *Market Rules* or in this Manual.

4.4.1. **Suspension.** A *WESM Member* found in *breach* may be suspended from participating or from providing service in the WESM, and if applicable, be disconnected from the grid until the suspension is lifted. A *Notice of Suspension* is issued.

4.4.2. **Deregistration.** A *WESM Member* that has already been suspended for *breach*, may be ordered deregistered from the WESM, and, if applicable, be disconnected from the grid. A *Notice of Deregistration* is issued.

4.4.3. Where the *breach* giving rise to suspension or deregistration pertains to a facility, i.e., generating unit or customer facility, the suspension or deregistration shall pertain only to that facility, and not to other registered facilities of the *WESM Member* found in *breach*.

4.4.4. If the *WESM Member* being suspended or deregistered is registered in the WESM under multiple membership categories, the suspension or deregistration shall pertain only to the membership category under which the *breach* was committed. Take, for example, a generation company registered as a generation company trading participant with one registered generation facility and as a retail electricity supplier. If the company *breaches* its obligation to submit generation offers, which is an obligation pertaining to generation companies, it shall be suspended or deregistered as a generation company trading participant but not as a registered retail electricity supplier.

4.5 Qualifying Circumstances

4.5.1 Each type of *breach* may warrant imposition of different *penalty* levels depending on the qualifying circumstances surrounding the *breach*. Such circumstances can determine whether or not a higher or lower *penalty* level will be applied. The presence of the qualifying circumstances will be considered for each occurrence of *breach*. The qualifying circumstances that will apply to each type of *breach* is presented in the Schedule of Breach and Penalties of this Manual. The qualifying circumstances that will be considered are as described in this section.

4.5.2 **Frequency of occurrence**. This indicates persistence of the non-compliance by a *WESM Member* as reckoned with a reference period as specified in Table 1. Where a *WESM Member* has more than one (1) facility registered in the WESM, frequency of occurrence shall be determined for each registered facility. The frequency level, reference period and corresponding penalty level for each type of circumstance are set out in the Frequency of Occurrence Matrix in Table 1 of this Manual.

4.5.2.1. **First-time occurrence.** A *breach* is considered as having occurred for the first time –

a) if the *WESM Member* has not been found to have previously committed the same type of *breach* in respect to the facility involved in the *breach* reckoned from the date of its registration in the WESM; or

b) If the type of *breach* pertains to a new provision of the *Market Rules,* or a substantial amendment of an existing provision, and the *WESM Member* has committed that type of *breach* for the first time since the promulgation of the new provision or amendments of the *Market Rules.* For this purpose, there is substantial amendment if the amendment resulted in a change in the nature or elements of the *breach*. It is provided, however, that the *breach* is not considered as having occurred for the first time if an earlier breach occurs during an exemption period that is granted to the *WESM Member*, or during a moratorium period from imposition of *penalties* that has been allowed to all *WESM Members* pertaining to that type of *breach*.

4.5.2.2. **Isolated occurrence**. The act or omission constituting the *breach* is an isolated occurrence incident if the breach is committed in such frequency as indicated in the Frequency of Occurrence Matrix. Non-compliances occurring during periods when a *WESM Member* has been granted exemption under prevailing *Market Rules* will not be considered.

4.5.2.3. **Recurring or repetitive occurrence**. The occurrence of a *breach* is considered repetitive or recurring if the same type of *breach* is committed more often than the frequency level set to qualify for isolated occurrence within a reference period. That is, the occurrence must not qualify as an isolated occurrence before it can be considered as repetitive or recurring. The frequency and reference period to qualify an occurrence as repetitive or recurring are set out in the Frequency of Occurrence Matrix. Non-compliances occurring during periods when a *WESM Member* has been granted exemption under prevailing *Market Rules* will not be considered.

4.5.2.4. **Reference Period**. The frequency and reference period for each type of circumstance, and corresponding *penalty* level are presented in the following table. The reference period for a particular *breach* is reckoned from the date or hour/interval of occurrence of the *breach* and shall include the date or hour/interval in which the subject *breach* occurred. For obligations that is determined on hourly or per dispatch interval basis, the frequency or number of occurrence as presented in the table below shall be counted for every one billing period. For example, if the breach of the Offered Capacity Compliance standards is committed two (2) times or less in August billing month (26 July – 25 August), the occurrence is classified as "isolated" and if it exceeds such number, the same shall be "repetitive or recurring". If the same breach is again committed for two (2) times or less in September billing month (26 August– 25 September), the occurrence is reset to being "isolated" for purposes of penalty imposition.

Table 1 -FREQUENCY OF OCCURENCE MATRIX

Frequency	Isolated Occurrence	Repetitive or Recurring Occurrence	
	Level 1	**Level 2**	**Level 3**
By dispatch interval (*i.e., 5-minute interval)*	24x or less over the billing month	25x to 50x over the billing month	51x or more over the billing month
Hourly (*i.e., settlement interval)*	2x or less over the billing month	3x to 5x over the billing month	6x or more over the billing month
Daily	3x over the previous 30-day period	More than 2x over the previous 7-day period 2x or less over the previous 7-day period and more than 3x over the previous 30-day period	More than 2x over the previous 7-day period and more than 3x over the previous 30-day period
Weekly	1x over the previous 12-month period	1x over a 4-week period and more than 1x over the previous 12-month period	More than 1x over a 4-week period
Annual, semestral, quarterly, or monthly	First time occurrence	Every occurrence after the first time (since registration of the *WESM Member* or effectivity of the new Market Rule or Market Manual)	*Breach* occurs for more than two (2) successive periods. Level 3 *penalty* applies starting from the third consecutive occurrence.
Occasional (no prescribed period)	6x or less over the previous 12-month period	More than 6x over the previous 12-month period	N/A

4.5.3 **Extent of deviation from requirement**. This applies to *breaches* where the degree of deviation from the requirement can vary and is quantifiable. For such type of *breach*, the *penalty* level shall depend on the extent of the deviation from

the requirement. The types of *breaches* for which this qualifying circumstance will be applied and the extent of deviation that will warrant a different *penalty level* are presented in the Schedule of Breaches and Penalties of this Manual.

4.5.4 **Non-compliance during emergency condition, suspension or intervention, or excess generation.** Where an obligation is required to be carried out while the system is under an emergency state as declared by the *System Operator*, or the WESM is suspended by the *Energy Regulatory Commission* or placed under intervention by the *System Operator*, or the relevant market run indicates the occurrence of excess generation, a higher *penalty* level shall be imposed. This qualifying circumstance is given priority over frequency of occurrence.

4.5.5 **Self-reporting of *breach*.** If a *WESM Member* has voluntary reported the occurrence of the *breach* prior to the conduct of compliance monitoring and assessment or investigation to be undertaken pursuant to the WESM Enforcement and Compliance Manual, the *penalty* level next lower to the applicable level may be imposed taking into account the other qualifying circumstances surrounding the *breach*. A *breach* is considered to have been voluntarily reported under the following conditions –

a) If any provision of the *Market Rules* requires submission of significant events or non-compliances related to the *breach,* the *WESM Member* has complied with the reportorial requirement and its report includes a categorical or express admission of the occurrence of the *breach*.

b) If there is no reportorial requirement pertaining to the *breach*, the *WESM Member* had submitted to the *Enforcement and Compliance Office* a non-compliance report that includes a categorical or express admission of the occurrence of the *breach*.

c) In either case, the report must have been submitted prior to the issuance of a *Notice of Non-compliance* pertaining to the *breach*.

The *WESM Member* that has voluntarily reported under the above conditions shall be allowed negotiation of financial penalty on the first instance it has reported the breach.

4.6 Penalty Levels Application

4.6.1 Notwithstanding the classification set out in Table 1 –

4.6.2.1. If the frequency of occurrence of a type of *breach* within a reference period would already warrant the application of Level 2 *penalty,* the *financial penalty* shall be applied to all counts of *breach* within a reference period. To illustrate, as shown in Table 1 above, *breach* of an obligation required to be performed by the hour qualifies for Level 1 penalty if it occurs two (2) times or less in a given billing month, for Level 2 if it occurs more than two (2) times. If, for a billing month, the number of breach is more than two (2), Level 2 penalty shall apply to all counts of breach within a billing month.

4.6.2.2. If the frequency of occurrence of a type of breach within a reference period would already warrant the application of Level 3 penalty, the escalated financial penalty shall be applied only to the counts of breach in excess of the number of breach that would have warranted application of Level 2 penalty. To illustrate, as shown in Table 1 above, breach of an obligation required to be performed by the hour qualifies for Level 2 penalty if it occurs between three (3) and five (5) times in a given billing month, and for Level 3 penalty if it occurs more than five (5) times. If, for a billing month, the number of breach is more than five (5), Level 3 penalty level shall apply only to the counts of breaches in excess of five (5). The first five (5) counts will be meted the Level 2 penalty level.

4.7 Level 1 - Reprimand

If a *reprimand* is meted out, a *Notice of Reprimand* containing the reprimand is issued and shall further states the following –

a) Name of the *WESM Member* subject of the reprimand;
b) The name of the registered facility, if applicable, associated with the *breach*;
c) The *breach* committed and pertinent rules that were *breach*ed;
d) The relevant date/s and dispatch interval/s that the *breach* occurred; and
e) Remedial measures required of the *WESM Member*, if any, and the manner of compliance.

4.8 Level 2 - Financial Penalties

4.8.1 The *financial penalty* may be a fixed rate amount or formula based. The amount of *penalty* for each type of *breach* is set out in the Schedule of *Breach* and Penalties of this Manual.

4.8.2 A *Notice of Financial Penalty* shall be issued to the *WESM Member* specifying the following –

a) Name of the *WESM Member*;
b) The name of the registered facility to which the *breach* pertains, if applicable;
c) The *breach* committed and pertinent rules that were *breach*ed;
d) The relevant date/s and dispatch interval/s that the *breach* occurred;
e) The amount of *financial penalty* imposed for each count of *breach*; and
f) Remedial measures required of the *WESM Member*, if any, and the manner of monitoring compliance.

4.8.3 A copy of the notice shall also be served on the *Market Operator* and shall serve as the authority of the latter to collect the assessed *financial penalties.* Upon receipt of a copy of the notice, the *Market Operator* shall cause the billing and collection of the amount due within three (3) *Business Days* from receipt of the notice. The concerned WESM Member shall pay the penalty amount within twelve (12) *Business Days* from receipt of the billing from the *Market Operator.*

4.8.4 The *Market Operator* shall notify the *WESM Member* of the penalty amount including interest if applicable and the due date for payment of the same. In case of failure of the *WESM Member* to fully pay for the financial penalties on specified due date, a penalty interest in the sum specified in the Schedule of Breach and Penalties of this Manual shall be billed and collected from the *WESM Member* until the amount is fully paid.

4.8.5 The amount shall be paid through issuance of a check payable to the *Market Operator.* However, collection from settlement amounts through offsetting or debit arrangements may be done as follows:

a) If the concerned *WESM Member* authorizes the *Market Operator* to collect the penalty amounts from the settlement amounts for the billing period during which the notice was issued; and

b) If the concerned *WESM Member* fails to pay the penalty amounts within the specified due date, despite the finality of the decision and receipt of the *Notice of Specified Penalty/ies* from the *Market Operator*, then the *Market Operator* shall collect the penalty from the settlement amounts of the said

WESM Member for the immediately succeeding billing period computed as follows:

(i) The penalty amounts shall be deducted from the settlement amounts after deductions from the same of the tax payments, interest payments, and market fees. The *Market Operator* shall ensure that the penalty amount is properly labelled as such in the billing statement or equivalent as would distinguish it from other items or deductions that may be charged against the settlement amount.

(ii) If the collection of penalty cannot be made in full due to inadequacy of the settlement amount from which the penalty amounts will be deducted, the *Market Operator* shall issue a notice or demand to pay the deficiency to the concerned *WESM Member*.

4.8.6 The *Market Operator* shall notify the *PEMC President* of the status of the penalty collection indicating the amount collected, *penalty* interest imposed and the reason for non-payment by the concerned *WESM Member* as applicable on a monthly basis.

4.8.7 Penalty interest shall be reckoned from the date the *penalty* becomes due up to the time the same is actually settled.

4.9 Level 3 – Escalated Financial Penalties

4.9.1 The amount of the escalated *financial penalty* for each type of *breach* is set out in the Schedule of Breach and Penalties of this Manual, and, unless otherwise specified, is twice the amount of the Level 2 *financial penalty*.

4.9.2 A *Notice of Escalated Financial Penalties* is issued on the *WESM Member* stating the following –

a) The name of the *WESM Member*;
b) The name of the registered facility for which the *breach* was found;
c) The *breach* committed, specifying the rules that were *breach*ed;
d) The relevant date/s and dispatch interval/s that the *breach* occurred;
e) The reason/s for imposition of escalated *financial penalty,* particularly the occurrence of the qualifying circumstance that warranted application of the escalated *financial penalty*;
f) The amount of *financial penalty*; and

g) Remedial measures, if any, required of the *WESM Member* and manner of monitoring compliance.

4.9.3 A copy of the notice will also be served on the *Market Operator* and shall serve as its authority to collect the amount due. Failure to pay the *financial penalty* amount on due date will result in imposition of *penalty* interest until fully paid. The *Market Operator* shall cause the billing and collection of the *penalty* amount, and shall notify the *PEMC President* of the status of collection in the same manner as required for Level 2 Financial Penalty under Sections 4.8.3, 4.8.4, and 4.8.5 of this Manual with a copy thereof furnished to the *Enforcement and Compliance Office*.

4.10 SUSPENSION

4.10.1 Suspension as a *penalty* may be resorted to only in extreme circumstances and under the following conditions -

a) The acts or omission constituting the *breach* continue to occur even after the periods that the *breach* subject of a *penalty* has occurred; and
b) The continuing acts or omissions have significant probability of causing an adverse impact on the security and reliability of the power system or grid.

4.10.2 If the acts or omissions have significant probability of causing an adverse impact as stated in the foregoing Clause 4.10.1, the *System Operator* or the *Market Operator*, as applicable, shall notify the *Enforcement and Compliance Office* and the PEM Board through the Board Secretary, of the same.

4.10.3 A *WESM Member* registered in the WESM under multiple categories shall be suspended in respect only to the membership category in which it was found in *breach*. If the *WESM Member* has multiple facilities registered in the WESM, the suspension shall extend only to the facility for which the *breach* was confirmed.

4.10.4 The *Notice of Suspension* issued to the *WESM Member* and shall specify the following –

a) Name of the *WESM Member* and the registration or membership category under which it will be suspended;
b) The name of the registered facility to which the *breach* pertains and which is covered by the suspension, if applicable;
c) The *breach* committed and pertinent rules that were *breach*ed;

d) The relevant date/s and dispatch interval/s that the *breach* occurred;
e) The duration of the suspension and its effective date; and
f) Remedial measures required of the *WESM Member* to remedy the *breach*, and the manner of compliance.

4.10.5 The suspension shall be carried out in the manner set out and shall have the same consequences as stated in WESM Rules Clause 2.7 and in the WESM Registration Manual.[2] The *Notice of Suspension* is also served upon the *Market Operator* and the service of such *Notice of Suspension* on the latter shall serve as its authority to act on the same in accordance with the requirements and procedures set out in the WESM Registration Manual.

4.10.6 The *Enforcement and Compliance Office* in conjunction with the *System Operator* or the *Market Operator*, as applicable, shall monitor the compliance by the suspended *WESM Member* of the remedial measures required of it. If they determine that the *breach* has been rectified or that the remedial measures have been successfully implemented, they shall jointly notify the PEM Board and recommend revocation of the suspension. If approved by the PEM Board, the revocation of the suspension shall be implemented in accordance with the requirements and procedures set out in the WESM Registration Manual.

4.11 DEREGISTRATION

4.11.1 The *WESM Member* suspended in accordance with the foregoing paragraphs may be deregistered from the WESM in accordance with the provisions set forth in WESM Registration Manual[3] and if it is established that the causes of the *breach* have not been resolved and that the *WESM Member* is unable or refuses to rectify the same.

4.11.2 The *Enforcement and Compliance Office* in conjunction with the *Market Operator* or the *System Operator*, as applicable, shall jointly submit their recommendation to the PEM Board for the deregistration of the suspended *WESM Member* based on the results of their monitoring under Clause 4. 10.6.

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[2] See WESM Manual on Registration, Suspension and Deregistration: Procedures and Criteria,
[3] *See WESM Manual on Registration, Suspension and Deregistration: Procedures and Criteria, or its subsequent amendments.*

4.11.3 A *WESM Member* registered in the WESM under multiple categories shall be deregistered only in respect to the membership category in which it was found in *breach*. If the *WESM Member* has multiple facilities registered in the WESM and the *breach* is found in respect to one or more facilities, the deregistration shall extend only to the facility/ies for which the *breach* was confirmed.

4.11.4 A *Notice of Deregistration* is issued on the *WESM Member* which shall specify the following –

a) As applicable, the facility being deregistered or the membership category under which it is being deregistered;
b) The date on which the deregistration will take effect; and
c) The reasons for the deregistration.

4.11.5 The deregistration shall be carried out in the manner set out in the WESM Registration Manual and shall have the same consequences as stated therein. The *Notice of Deregistration* shall also be served on the *Market Operator* and this shall serve as its authority to act on the same in accordance with the requirements and procedures set out in the WESM Registration Manual.

4.11.6 Any deregistered member or facility/ies may apply for revocation of its deregistration and renew its membership in the WESM provided that it has rectified the *breach* and complied with the requirements and procedures set out in the WESM Registration Manual.

4.12 Request for Reconsideration and Appeal Proceedings

4.12.1 Under the Compliance Monitoring and Assessment Proceedings

4.12.1.1. *Period and Ground for Filing a Request for Reconsideration.* The concerned WESM Member may request for reconsideration of the *results of the compliance monitoring and assessment*, subject to the following conditions:

a. The request shall be filed within fifteen (15) *Business Days* from the receipt of the said notice;

b. A request for reconsideration shall be based on the ground that the finding of breach is not supported by substantial evidence;

and/or the computation is incorrect or the penalties imposed are not in accordance with the *Penalty Manual* and *Market Rules*;

c. The request for reconsideration shall be filed with the *Enforcement and Compliance Office.*

4.12.1.2. *Form and Contents of the Request for Reconsideration and Notice thereof.* The request shall:

a. Be made in writing and signed by the WESM Compliance Officer of the *WESM Member* concerned, and shall be made under oath;

b. State the date when the compliance monitoring and assessment report sought to be considered was received by the *WESM Member*;

c. State that the findings of breach by the *Enforcement and Compliance Office* is not supported by substantial evidence, and/or the computation is incorrect or the penalties imposed are not in accordance with the *Penalty Manual* and *Market Rules*; and

d. Contain the evidence to support the reversal of the findings of breach by the *Enforcement and Compliance Office*.

Failure to provide the complete requirements pursuant to this clause shall cause the *Enforcement and Compliance Office* to immediately deny the request for reconsideration.

4.12.1.3. *Resolution on the Request for Reconsideration.*

a. A request for reconsideration shall be resolved by the *Enforcement and Compliance Office* within fifteen (15) *Business Days* from receipt thereof. This shall be done through a Resolution which shall clearly state the facts of the case and the reasons supporting its findings and conclusions. The *Resolution* shall be signed by the *Enforcement and Compliance Office*. A copy of the *Resolution* shall be served on the concerned *WESM Member* and appropriate persons or entities.

b. Copies of the Resolution will be furnished to the PEM Board, the *Compliance Committee, and the Market Operator.* Should this Resolution require implementation of a directive on the part of the

System Operator, a copy of said notice shall likewise be sent to the *System Operator and/or Market Operator* for appropriate action.

4.12.1.4. *Appeal to the Compliance Committee and Period of Appeal.*

The Resolution issued by the *Enforcement and Compliance Office* may be appealed by the concerned *WESM Member* by filing an Appeal Memorandum with the *Compliance Committee* within ten (10) *Business Days* from receipt of the Resolution.

4.12.1.5. *Ground for Appeal.* The appeal shall be based only on the ground that the *Enforcement and Compliance Office* has committed abuse of discretion in issuing the Resolution, or the *penalty/ies* the *Enforcement and Compliance Office* had imposed is not in accordance with this Manual.

4.12.1.6. *Form and Contents of the Appeal.* The appeal shall:

a. Be made in writing and signed by the WESM Compliance Officer of the *WESM Member* concerned, and shall be made under oath;

b. State the date when the Resolution being appealed was received by the *WESM Member*; and

c. Explain how the *Enforcement and Compliance Office* committed an abuse of discretion in issuing the Resolution or that the penalty/ies imposed by the *Enforcement and Compliance Office* is not in accordance with this Manual.

Failure on the part of the *WESM Member* concerned to provide the foregoing requirements shall cause outright dismissal of the appeal by the *Compliance Committee*.

4.12.1.7. *Decision on the Appealed Case.*

a. The *Compliance Committee* shall resolve the appealed case within thirty (30) working days from receipt of the Original Records of the Case by issuing a Decision duly signed by its Chairperson. A copy of the Decision shall be served on the concerned *WESM Member* and appropriate persons or entities, the *Enforcement and Compliance Office*, PEMC President and the *Market Operator.*

b. The *Compliance Committee*'s Decision on the Appeal shall be final and executory upon receipt by the *WESM Member* concerned of the said Decision.

c. Copies of the Decision rendered by the *Compliance Committee* will be furnished to the *PEM Board* and the *Market Operator.* Should this Notice require implementation of a directive on the part of the *System Operator*, a copy of said Decision shall likewise be sent to the *System Operator* for appropriate action.

4.12.2 Under Investigation Proceedings

4.12.2.1 *Ground for Filing a Request for Reconsideration.* A WESM Member that is penalized under Section 4.1.3 of this Manual may submit a request for reconsideration of the PEM Board decision on the investigation on the following grounds –

a. Review of the findings of facts of the *Enforcement and Compliance Office* or for consideration of additional data that was already existing at the time of the original investigation but was not presented during such investigation due to justifiable reasons; or

b. Legal issues, including but not limited to issues on the conclusions of the *Enforcement and Compliance Office* or the *Compliance Committee*, but does not require review of factual findings, or the propriety of the penalty or other measures approved to be imposed by the *PEM Board*.

4.12.2.2 *Form and Contents.* The request for reconsideration shall:

a. clearly state the grounds for the request for reconsideration and the findings of facts or the conclusions or resolution that are sought to be reviewed and reconsidered. The request shall be accompanied by supporting data and affidavits; and

b. be submitted at PEMC Office within fifteen (15) *Business Days* from receipt of the notice of the PEM Board action. The request shall be in writing and shall be submitted to the PEM Board, through the Office of the Corporate Secretary. No submission by email shall be allowed.

All requests that were timely filed will be immediately endorsed to the *Enforcement and Compliance Office* for further investigation.

4.12.2.3 *Reconsideration Proceedings.*

a. The *Enforcement and Compliance Office* shall evaluate the endorsed request and carry out further investigations. In conducting further investigations, the *Enforcement and Compliance Office* may require submission of additional information or obtain information from parties other than the requesting party, or conduct a conference with the requesting party or other relevant parties, or carry out ocular inspections of relevant facilities.

b. Within thirty (30) *Business Days* from endorsement of the request for reconsideration, the *Enforcement and Compliance Office* shall

submit a report to the PEM Board containing the additional findings of fact, assessment and recommendations.

4.12.2.4 *Resolution on the Request for Reconsideration.*

a. The PEM Board shall decide on the request for reconsideration within thirty (30) business days from receipt of the case review report submitted by the *Enforcement and Compliance Office.*

b. Where penalties and other mitigation measures are approved, the *Enforcement and Compliance Office* shall cause the issuance of the appropriate notices.

4.12.2.5 *Effect of PEM Board Decision.* The decision of the PEM Board on the request for reconsideration shall be final and executory upon receipt of the same by the concerned trading participant. No further request for reconsideration shall be allowed.

4.13 SERVICE OF NOTICE OF SPECIFIED PENALTY/IES

4.13.1 A *Notice of Specified Penalty/ies* required to be issued in accordance with this Manual shall be issued and signed by the *PEMC President in accordance with Section 3.2 of this Manual,* and served on the concerned WESM Member upon the issuance of the compliance monitoring and assessment report or investigation report by the *Enforcement and Compliance Office*. The said Notice shall become executory upon issuance thereof.

4.13.2 If a Request for Reconsideration or Appeal is filed, and resolution is made thereon, a separate *Notice of Specified Penalty* or revocation of said Notice, as the case may be, shall be issued by the *Enforcement and Compliance Office* or the *Compliance Committee*, as applicable, which either confirms the *Notice of Specified Penalty* previously issued or revokes the said notice in whole or in part. Similarly, the subsequent notices as a result of the reconsideration or appeal process shall become executory upon issuance thereof and shall supersede all other notices which may have been previously issued. In all cases, the *Notice of Specified Penalty* or revocation thereof shall be accompanied by:

4.13.3.1 A copy of the compliance monitoring and assessment report; or

4.13.3.2 A copy of resolution on the request for reconsideration or decision on the Appeal, as the case may be.

4.13.3 This remedy of Request for Reconsideration or Appeal, notwithstanding, shall not stay the execution adverted to in Section 4.13.1 above.

4.13.4 A *Notice of Specified Penalty/ies* or any related notices shall be served on the *WESM Member* through its *WESM Compliance Officer* as appearing in the records of the *Enforcement and Compliance Office*, or if none is designated, to the president or chief executive officer of the *WESM Member* as appearing in the records of the *Market Operator*. *WESM Members* have the obligation to ensure that the information on the contact persons provided to the *Enforcement and Compliance Office* and to the *Market Operator* is updated at all times.

4.13.5 All notices required to be served on the *Market Operator* shall be served through its *WESM Compliance Officer*.

4.13.6 The *Compliance Committee* shall also be furnished of the *Notice of Specified Penalty* or revocation of said notice, as the case may be. Should this Notice require implementation of a directive on the part of the *System Operator*, a copy of said notice shall likewise be sent to the *System Operator* for appropriate action.

4.14 Effect of Notice of Specified Penalties or Revocation Thereof

4.14.1 Imposition of *financial* and non-*financial penalties* shall become executory upon issuance of the *Notice of Specified Penalty*.

4.14.2 The *Notice of Specified Penalty/ies* or the revocation thereof as a result of the reconsideration and/or appeal process shall serve as the authority of the *Market Operator* to immediately collect or refund the amount of the financial penalty/ies or such other amounts adverted to in the notice, to or from, the concerned *WESM Member's* account, as the case may be.

4.15 Submission of Reports

The *Enforcement and Compliance Office* shall submit a monthly summary report of all Notices of Specified *Penalty/ies* and Resolutions on the requests for reconsideration made by the *Enforcement and Compliance Office*, and decisions of the *Compliance Committee* on appeals, that have been issued during the month, and the status of their implementation to the PEM Board, through the PEMC President, *the Department of Energy*, the *Energy Regulatory Commission*, the *Market Surveillance Committee and the Market Operator*. Such report may be included in any monthly report that the *Enforcement and Compliance* is required to prepare, publish and disseminate in accordance with the WESM Enforcement and Compliance Manual.

SECTION 5 SCHEDULE OF BREACH AND PENALTIES[4]

No.	Breach	Market Rule Breached & Associated Market Manual	Applicable Penalty	Level 2 - Financial Penalty	Level 3 - Escalated Financial Penalty
1	Failure of generation company to submit valid generation and/or reserve offers, or failure to submit valid generation and/or reserve offers that is equivalent to the registered maximum available capacity of their generating units at any dispatch interval; Valid generation or reserve offer refers to the offer that is considered in the real time dispatch optimization run for the relevant dispatch interval.	WESM Rules • 3.5.5.1; 3.5.5.2; Appendix A1.1 • 3.5.7.2 *In relation to 3.5.12.1& the WESM Dispatch Protocol*	• Level 1 - Reprimand • Level 2 - Financial Penalties • Level 3 – Escalated Financial Penalties • Suspension & Deregistration	PhP10,000.00/ *breach*	PhP20,000.00/ *breach*

[4] This is a non-exhaustive list

No.	Breach	Market Rule & Market Breached Associated Manual	Applicable Penalty	Level 2 - Financial Penalty	Level 3 - Escalated Financial Penalty
	There is failure to submit valid offer if there is no offer that is considered in the real time dispatch market run for the relevant dispatch interval because of any of the following conditions – a) The offer submitted has zero (0) MW value, or b) The offer submitted did not pass the validation as provided for in the WESM Dispatch Protocol and/or other relevant Market Manual or WESM Rules provision, so that, effectively, there are no offers considered in the market run; or c) The offer submitted was cancelled so that, effectively, there are no offers considered in the relevant market run,				

No.	Breach	Market Rule Breached & Associated Market Manual	Applicable Penalty	Level 2 - Financial Penalty	Level 3 - Escalated Financial Penalty
	Breach is counted as follows – a) One *breach* is counted for each trading hour, i.e., settlement interval, during the trading day that the failure occurs in three or more dispatch intervals; or b) If the failure occurs in three or more successive dispatch intervals over two successive trading hours, i.e., settlement intervals, one *breach* is counted for each trading hour that the failure occurs, regardless that the failure for that hour occurred in less than three dispatch intervals. *The obligation is to submit offers equivalent to maximum available capacity, as defined in the WESM*				

No.	Breach	Market Rule & Breached Associated Market Manual	Applicable Penalty	Level 2 - Financial Penalty	Level 3 - Escalated Financial Penalty
	Dispatch Protocol. For purposes of determining breach, the constraints considered in determining maximum available capacity are considered as exempting circumstances.				
2	Failure of a generation company to submit a valid nomination of the target loading levels of its non-scheduled generating units at any dispatch interval. There is failure to submit a valid nomination if there is no nomination that is considered in the relevant real time dispatch market run for the relevant trading interval because of any of the following conditions –	WESM Rules • 3.5.5.4 • 3.5.11.2	• Level 1 - Reprimand • Level 2 - Financial Penalties • Level 3 – Escalated Financial Penalties • Suspension & Deregistration	PhP1,000.00/ *breach*	PhP2,000.00/ *breach*

No.	Breach	Market Rule & Market Breached Associated Manual	Applicable Penalty	Level 2 - Financial Penalty	Level 3 - Escalated Financial Penalty
	a) The nomination submitted has zero (0) MW value, or b) The nomination submitted did not pass the validation as provided for in the WESM Dispatch Protocol and/or other relevant Market Manual or WESM Rules provision, so that, effectively, there are no offers considered in the market run; or c) The nomination submitted was cancelled so that, effectively, there are no offers considered in the relevant market run, Breach is counted as follows – a) One *breach* is counted for each trading hour, i.e., settlement interval, during the trading day that the failure occurs in three or more dispatch intervals; or				

No.	Breach	Market Rule & Breached Associated Market Manual	Applicable Penalty	Level 2 - Financial Penalty	Level 3 - Escalated Financial Penalty
	b) If the failure occurs in three or more successive dispatch intervals over two successive trading hours, i.e., settlement intervals, one *breach* is counted for each trading hour that the failure occurs, regardless that the failure for that hour occurred in less than three dispatch intervals.				
3	Failure of generation company to submit a valid nomination of the projected output of its must dispatch generating unit or priority dispatch generating unit at any dispatch interval; There is failure to submit a valid nomination if there is no nomination that is considered in the relevant real time	WESM Rules 3.5.5.5	• Level 1 - Reprimand • Level 2 - Financial Penalties • Level 3 – Escalated Financial Penalties • Suspension & Deregistration	PhP1,000.00// *breach*	PhP2,000.00/ *breach*

No.	Breach	Market Rule Breached & Associated Market Manual	Applicable Penalty	Level 2 - Financial Penalty	Level 3 - Escalated Financial Penalty
	dispatch market run for the relevant trading interval because of any of the following conditions – a) The nomination submitted has zero (0) MW value, or b) The nomination submitted did not pass the validation as provided for in the WESM Dispatch Protocol and/or other relevant Market Manual or WESM Rules provision, so that, effectively, there are no offers considered in the market run; or c) The nomination submitted was cancelled so that, effectively, there are no offers considered in the relevant market run, Breach is counted as follows –				

No.	Breach	Market Rule Breached & Associated Market Manual	Applicable Penalty	Level 2 - Financial Penalty	Level 3 - Escalated Financial Penalty
	a) One *breach* is counted for each trading hour, i.e., settlement interval, during the trading day that the failure occurs in three or more dispatch intervals; or b) If the failure occurs in three or more successive dispatch intervals over two successive trading hours, i.e., settlement intervals, one *breach* is counted for each trading hour that the failure occurs, regardless that the failure for that hour occurred in less than three dispatch intervals.				

No.	Breach	Market Rule Breached & Associated Market Manual	Applicable Penalty	Level 2 - Financial Penalty	Level 3 - Escalated Financial Penalty
4	Failure to comply with forecast accuracy standards in respect to projected output submitted for a must dispatch generating unit. One *breach* is counted for each year that the failure occurs. One *breach* is counted for each category of forecast accuracy standard that was not complied with. That is, failure to comply with the prescribed mean absolute percentage error (MAPE) and failure to meet the prescribed percentile 95 of the forecasting error (Perc95) are counted as separate *breaches* even if they occur on the same periods.	WESM Rules • 3.5.5.5. • 3.5.5.8 • 3.5.5.10 *in relation to the WESM Manual on Procedures for the Monitoring of Forecast Accuracy Standards for Must Dispatch Generating Units*	**Breach of MAPE with deviation ≤ 30%:** • Level 1 - Reprimand • Level 2 - Financial Penalties • Level 3 – Escalated Financial Penalties • Suspension & Deregistration **Breach of MAPE with deviation > 30%:** • Level 2 - Financial Penalties (*first time occurrence)* • Level 3 – Escalated Financial Penalties	PhP500,000/ *Breach of MAPE* PhP 500,000/ Breach of PERC95	PhP1,000,000/ Breach of MAPE PhP1,000,000/ Breach of PERC95

No.	Breach	Market Rule Breached & Associated Market Manual	Applicable Penalty	Level 2 - Financial Penalty	Level 3 - Escalated Financial Penalty
	Non-compliance shall be determined based on the report of the Market Operator on annual compliance, required under WESM Rules clause 3.5.5.11.		• Suspension & Deregistration **Breach of Per95:** • Level 1 - Reprimand • Level 2 - Financial Penalties • Level 3 – Escalated Financial Penalties • Suspension & Deregistration		
5	Failure of a scheduled generating unit or priority dispatch generating unit to comply with its dispatch schedule in accordance with the dispatch conformance standards.	WESM Rules • 3.8.6 in relation to 3.8.4 • *In relation to the WESM Dispatch Protocol*	• Level 1 - Reprimand • Level 2 - Financial Penalties • Level 3 – Escalated Financial Penalties • Suspension & Deregistration	For each *breach*: Absolute Value [Nodal price, PhP x (Deviation, MW – Dispatch Threshold, MW)]	For each *breach*: Absolute value [Nodal price, PhP x (Deviation, MW – Dispatch

No.	Breach	Market Rule Breached & Associated Market Manual	Applicable Penalty	Level 2 - Financial Penalty	Level 3 - Escalated Financial Penalty
		Excess Generation • WESM Rules Clause 3.9.8.3 • WESM Dispatch Protocol (Issue 13) Section 12.5.2 (g), and Section 18.3	Breach occurred in dispatch intervals with impending excess generation: • Level 3 – Escalated Financial Penalties • Suspension & Deregistration	❑ **Nodal price** is the price at the generator node, PhP/MWh. For this purpose, the nodal price per MWH must be converted to the MW to consider consistency in the calculation of penalty. ❑ **Deviation** is the difference between the target schedule and actual	Threshold, MW)] x 2 ❑ **Nodal price** is the price at the generator node, PhP/MWh. ❑ **Deviation** is the difference between the target schedule and actual generation, in MW. ❑ **Dispatch threshold** is

No.	Breach	Market Rule Breached & Associated Market Manual	Applicable Penalty	Level 2 - Financial Penalty	Level 3 - Escalated Financial Penalty
				generation, in MW. ❑ **Dispatch threshold** is the MW equivalent of the allowed deviation tolerance.	the MW equivalent of the allowed deviation tolerance.
6	Failure to comply with dispatch instructions issued by the *System Operator*, including re-dispatch instructions for a generating unit to be constrained on/off, or to dispatch as must run unit, or to emergency directions issued under emergency conditions or during market intervention or suspension.	WESM Rules • 3.8.8, 3.8.3 and 3.8.4 in relation to 2.3.1.7 (for generators) or 2.3.2.3 (for customers) In relation to relevant WESM manuals	• Level 1 - Reprimand • Level 2 - Financial Penalties • Level 3 – Escalated Financial Penalties • Suspension & Deregistration	PhP10,000.00/ *breach*	PhP20,000.00/ *breach*

No.	Breach	Market Rule Breached & Associated Market Manual	Applicable Penalty	Level 2 - Financial Penalty	Level 3 - Escalated Financial Penalty
		setting out procedures for re-dispatch, management of must-run units, and emergency procedures Market intervention or suspension, or emergency conditions • 6.3.2.6 and 6.2.2.1 • In relation to relevant WESM manuals setting out emergency procedures, and procedures during market intervention or suspension	Under emergency conditions, or during market intervention or suspension • Level 3 – Escalated Financial Penalties • – Suspension & Deregistration		

No.	Breach	Market Rule Breached & Associated Market Manual	Applicable Penalty	Level 2 - Financial Penalty	Level 3 - Escalated Financial Penalty
		➢ Emergency Procedures ➢ WESM Dispatch Protocol			
7	Failure of a must dispatch generating unit to strictly comply with its dispatch schedule in intervals when its output was restricted pursuant to WESM Rules Clause 3.6.1.7 and communicated pursuant to Clause 3.8.1 (g & h). *There is breach if the actual output for the relevant interval exceeds the dispatch schedule.*	WESM Rules • 3.6.1.7, 3.8.1 (g & h) • 3.8.4.3 • 3.8.8.1	• Level 1 - Reprimand • Level 2 - Financial Penalties • Level 3 – Escalated Financial Penalties Suspension & Deregistration	PhP10,000.00/ *breach*	PhP20,000.00/ *breach*

No.	Breach	Market Rule Breached & Associated Market Manual	Applicable Penalty	Level 2 - Financial Penalty	Level 3 - Escalated Financial Penalty
8	Failure of a must dispatch generating unit or priority dispatch generating unit to comply with dispatch instructions to restrict its output or constrain its ramp rate to a level specified by the *System Operator*, when the grid is in emergency state.	WESM Rules • 3.8.3.4 • 3.8.8.1	• Level 3 – Escalated Financial Penalties Suspension & Deregistration	N/A	PhP20,000.00/ *breach*
9	Non-submission of data, report or information under the following circumstances –				
(a)	Failure of network service provider to submit to the *System Operator* or update standing network data	WESM Rules 3.5.2.1 to 3.5.2.4, Appendix A.2	• Level 1 - Reprimand • Level 2 - Financial Penalties • Level 3 – Escalated Financial Penalties	PhP5,000.00/ *breach*	PhP10,000.00/ *breach*

No.	Breach	Market Rule & Associated Market Manual Breached	Applicable Penalty	Level 2 - Financial Penalty	Level 3 - Escalated Financial Penalty
(b)	Failure of network service provider to immediately notify the *System Operator* of any circumstance which threaten significant probability of material adverse change in the state of its network	WESM Rules 3.5.2.5	• Level 1 - Reprimand • Level 2 - Financial Penalties Level 3 – Escalated Financial Penalties	PhP5,000.00/ *breach*	PhP10,000.00/ *breach*
(c)	Failure of a Trading Participant to immediately advise the *System Operator* and the *Market Operator* of any circumstance which threaten significant probability of material change in state of facilities	WESM Rules 3.5.11.6	• Level 1 - Reprimand • Level 2 - Financial Penalties Level 3 – Escalated Financial Penalties	PhP5,000.00/ *breach*	PhP10,000.00/ *breach*
(d)	Failure of a WESM Participant to advise the *Market Operator* of a metering installation malfunction or other defect within three (3) hours from the time the	WESM Rules 4.5.7.3	• Level 1 - Reprimand • Level 2 - Financial Penalties	PhP5,000.00/ *breach*	PhP10,000.00/ *breach*

No.	Breach	Market Rule & Market Breached Associated Manual	Applicable Penalty	Level 2 - Financial Penalty	Level 3 - Escalated Financial Penalty
	malfunction or defect was detected by the participant		Level 3 – Escalated Financial Penalties		
(e)	Failure of a Distribution Utility to notify the Central Registration Body of any end user within its franchise area that has met the requirements to be certified as a contestable customer and to provide customer information required under the Clause 2.3 of the Retail Rules. *Registration by the Contestable Customer in the WESM is not an exempting circumstance*	Retail Rules • 2.2.2 & • 2.3.1.1	• Level 1 - Reprimand • Level 2 - Financial Penalties Level 3 – Escalated Financial Penalties	PhP5,000.00/ *breach*	PhP10,000.00/ *breach*

No.	Breach	Market Rule & Market Breached Associated Manual	Applicable Penalty	Level 2 - Financial Penalty	Level 3 - Escalated Financial Penalty
(f)	Failure of the Supplier/s to notify and enroll with the Central Registration Body their bilateral power supply contracts with Generation Companies that they wish to be accounted for in the WESM settlements within thirty days before effectivity of the contract. *Compliance by either party is deemed a compliance by the other. Likewise, either party is also deemed compliant if the Generation Company counterparty has complied with enrolment procedures set in relevant Market Manual in respect to the relevant bilateral contract.*	Retail Rules • 2.3.3.1 & • 2.3.3.3	• Level 1 - Reprimand • Level 2 - Financial Penalties Level 3 – Escalated Financial Penalties	PhP5,000.00/ *breach*	PhP10,000.00/ *breach*

No.	Breach	Market Rule Breached & Associated Market Manual	Applicable Penalty	Level 2 - Financial Penalty	Level 3 - Escalated Financial Penalty
(g)	Failure of the Suppliers to notify the Central Registration Body of their retail electricity supply contracts and provide required information, within thirty days before the effectivity of the contract. *The compliance by either the Customer or the Supplier shall be considered as compliance of the other party.*	Retail Rules • 2.3.3.2 & • 2.3.3.3	• Level 1 - Reprimand • Level 2 - Financial Penalties Level 3 – Escalated Financial Penalties	PhP5,000.00/ *breach*	PhP10,000.00/ *breach*
10	Failure to implement remedial measures required as a consequence of a *breach,* which failure was established in accordance with *Market Rules* and implementing Market Manual.	WESM Enforcement and Compliance Manual Penalty Manual	• Level 1 - Reprimand • Level 2 - Financial Penalties • Level 3 – Escalated Financial Penalties • Suspension & Deregistration	PhP5,000.00/ *breach*	PhP10,000.00/ *breach*

No.	Breach	Market Rule Breached & Associated Market Manual	Applicable Penalty	Level 2 - Financial Penalty	Level 3 - Escalated Financial Penalty
	This is an automatic penalty and shall be imposed at the instance of the Enforcement and Compliance Office.				
11	Failure to pay *financial penalty* amounts imposed as a consequence of *breach.* *This is a penalty interest that shall be imposed automatically by the Market Operator upon failure to pay the financial penalty on due date.*	WESM Penalty Manual	Prevailing legal interest rate for WESM settlement obligations set in the WESM Rules or in the applicable WESM Market Manuals	N/A	N/A
12	Failure to satisfy margin call	Section 4.2.2 of the Registration Manual	Suspension & Deregistration	N/A	N/A

No.	Breach	Market Rule Breached & Associated Market Manual	Applicable Penalty	Level 2 - Financial Penalty	Level 3 - Escalated Financial Penalty
13	Failure to comply with express mandatory provisions of the *Market Rules*, that are not otherwise covered in other identified *breach* but which expressly provide for imposition of *penalties*.	• WESM Rules • Retail Rules • *Market Manuals*	• Level 1 - Reprimand • Level 2 - Financial Penalties • Level 3 – Escalated Financial Penalties • Suspension & Deregistration	PhP5,000.00/ *breach*	PhP10,000.00/ *breach*

SECTION 6 UTILIZATION OF FINANCIAL PENALTY

The financial penalties and interest amounts collected by the *Market Operator* pursuant to this Manual shall be distributed to the electricity end-users.

For this purpose, the *Market Operator* shall formulate the guidelines and procedures for distribution of the penalties and interest collected. Such guidelines and procedures shall be subject to the approval of the *Department of Energy* and the *Energy Regulatory Commission* in respect to the formula for distribution to electricity end users.

SECTION 7 AMENDMENT, REPEALING CLAUSE, PUBLICATION AND EFFECTIVITY

7.1 AMENDMENTS

7.1.1 Amendments to this Manual may be initiated by the *Market Surveillance Committee*, the *Compliance Committee*, the *Enforcement and Compliance Office*, the *Market Operator*, the *System Operator* or any other *WESM Member*. Amendments initiated by parties other than the *Market Surveillance Committee* shall be done by submitting formal proposals for amendment to the *Market Surveillance Committee*.

7.1.2 Without limiting the grounds upon which this Manual may be amended, amendments to this Manual shall be made to make this Manual consistent with –

a) Amendments to the EPIRA and its Implementing Rules and Regulations affecting enforcement and compliance in the WESM;
b) Amendments to the *Market Rules* affecting enforcement and compliance in the WESM;
c) Issuances of the *Energy Regulatory Commission* concerning enforcement of the WESM Rules; or
d) Issuances of the *Department of Energy* affecting enforcement and compliance in the WESM.

7.1.3 The *Market Surveillance Committee* shall conduct consultations on the proposed changes with the *WESM Members*, Rules Change Committee and the PEM Board, in accordance with the WESM Rules.

7.1.4 Amendments to this Manual shall be approved and promulgated by the Department of Energy.

7.2 Effectivity and Publication

This Penalty Manual shall become effective upon approval of the Department of Energy and fifteen (15) days following its publication in at least two (2) newspapers of general circulation and shall remain in effect until otherwise revoked.

This Penalty Manual shall likewise be published in the market information website.

SECTION 8 GLOSSARY

Unless the context indicates otherwise, the following terms shall have the meaning set out in this Section.

Term/ Abbreviation	Definition
Breach	Failure to comply with the provisions of the *Market Rules* that is subject of a *penalty* under the WESM Penalty Manual. For purposes of this Manual, *breach* is not synonymous with non-compliance.
Compliance Monitoring and Assessment	An integral part of enforcement proceedings in the WESM that is initiated and carried out by the *Enforcement and Compliance Office,* primarily for the purpose of determining the occurrence of *breach* of the *Market Rules.* Assessment is done by taking into consideration all the relevant and verified market data and information from the *Market Operator,* the *System Operator,* the *WESM Members,* among others, with the end in view of determining the appropriate enforcement actions, if warranted.
Financial penalty	An amount in Philippine pesos imposed on a *WESM Member* as a consequence of *breach* pursuant to the *Market Rules* and this Manual, excluding the cost of investigation of an actual *breach* by a WESM Member.
Market fees	Refers to the revenue requirements of the *Market Operator* for a specified period, approved by the Energy Regulatory Commission.
Market Rules	Collectively refers to the *WESM Rules, Retail Rules*, their implementing manuals, and amendments thereto.
Notice of Specified Penalty	Notice issued to a *WESM Member* found in *breach* which directs the payment of a *financial penalty* and or a non-*financial penalty* and or additional *penalties.*
Investigation	An integral part of enforcement proceedings in the WESM that may be initiated by the *Enforcement and Compliance Office*, from a *notice of probable breach* by the *Market Operator* or the *System Operator*, or by *request for investigation* from other *WESM Members* or WESM Committees.
PEMC	Philippine Electricity Market Corporation is the governance arm of the WESM.
Penalty Interest	Penalty Interest shall mean the prevailing legal rate of interest.

ACRONYMS

NMMS-CMON	New Market Management System – Compliance Monitoring Module
CPEMS	Compliance Post-Evaluation Monitoring System
AMS	Accounts Management System
FTP	File Transfer Protocol
TP	Trading Participant
MSC	Market Surveillance Committee
IEMOP	Independent Electricity Market Operator of the Philippines
ECO	*Enforcement and Compliance Office*
EC Manual	Enforcement and Compliance Manual
MS Manual	Market Surveillance Manual