



DISPUTE RESOLUTION ADMINISTRATOR 2022 ANNUAL REPORT

January 2022 to December 2022

JANUARY 2023

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I. 2022 ACCOMPLISHMENTS

The Dispute Resolution Administrator (DRA) submits this Annual Report covering the activities undertaken and accomplished by the DRA for the year 2022.

A. Appointment of Emergency Arbitrators for 2022

In accordance with the WESM Dispute Resolution Manual¹ (DRMM), the DRA has appointed Emergency Arbitrators for each month for the year 2022.

The Emergency Arbitrators come from the pool of WESM-accredited Arbitrators and were assigned as stand-by emergency arbitrators for each month. This was done to present an alternative but temporary remedy to parties who seek urgent relief and could no longer await the constitution of the arbitral tribunal. They are tasked to handle the disputes and / or resolve the urgent relief prayed for during the specific month they were assigned to.

B. Updated List of Dispute Management Protocol Focal Persons and Alternates

Pursuant to Section 8.2 of the WESM Dispute Resolution Manual, the DRA requested the Market Participants to submit or update their designated Dispute Management Protocol (DMP) Focal Persons and Alternates who will serve as the first point of contact for the notification of WESM-related disputes.

An updated list as of December 2022 of the DMP Focal Persons and Alternates together with their respective contact information was published in the market information website.

C. Participation in PEMC Events

The DRA, along with the members of the other WESM Governance Committees, participated in the 2022 Annual General Membership Meeting by presenting the accomplishments of the DRA for the past years as well as its goals and visions for the coming years with respect to the continued improvement and enforcement of the WESM Dispute Resolution mechanism.

The DRA likewise participated in the 2022 WESM Compliance Officers' Summit by presenting an informational video on the fundamentals of WESM Dispute Resolution.

¹ ANNEX C. EMERGENCY ARBITRATORS; Article. 2 Appointment of the Emergency Arbitrator

D. Participation in the REM Governance Trainings on Dispute Resolution

The DRA participated in the REM Governance Trainings by giving lectures on the fundamentals of the REM Dispute Resolution Framework, in coordination with the Renewable Energy Registrar. This is in line with the DRA's mandate under the Renewable Energy Market (REM) Dispute Resolution Manual to provide trainings to the REM Dispute Management Protocol (DMP) Focal Persons and improve awareness among the REM Participants.

E. Creation of Guidelines for the Continuous Professional Education of the WESM Accredited Mediators and Arbitrators

The DRA issued guidelines for the Mandatory Continuous Professional Education of the WESM Accredited and Arbitrators. The guidelines provide for requirements for the WESM Accredited Mediators and Arbitrators to attend annual seminars conducted by the DRA, as a condition for their continued.

F. Virtual Seminars for the Mandatory Continuous Professional Education of the WESM Accredited Mediators and Arbitrators

The DRA conducted a seminar for the WESM Accredited Mediators and Arbitrators last 06 July 2022. The DRA discussed relevant updates on the WESM Dispute Resolution including the newly issued Guidelines for the Continuous Professional Education of the WESM Accredited Mediators and Arbitrators, recent rules changes and amendments to the Dispute Resolution Manual such as the guidelines for virtual hearings and the new mode of dispute resolution introduced for the Retail Rules. Key resource persons from PEMC were also requested to present other topics such as updates on WESM Governance and an overview of the Renewable Energy Market.

G. Trainings for Dispute Management Focal Persons

The DRA conducted trainings for DMP Focal Persons last 22 August 2022 for the WESM DMP Focal Persons and on 26 September 2022 for the Renewable Energy Market (REM) DMP Focal Persons. The trainings were separated into topics relevant to the WESM Dispute Resolution and on the other hand, those relevant to the Renewable Energy Market (REM) Dispute Resolution Framework.

II. ONGOING ACTIVITIES

A. DRA Proposals for Amendments to the WESM Rules and Dispute Resolution Manual

Since the fourth (4th) quarter of 2020, the DRA has continuously worked on the proposed amendments to the WESM Rules and the Dispute Resolution Manual Issue No. 6. These proposed amendments are as follows:

1. Dispute Resolution for the Retail Rules

The first proposal for amendment of the Dispute Resolution Manual (DRM) Issue No. 6 introduces a variant mode of arbitration that is specific to the types of disputes that are contemplated within the “Rules for the Integration of Retail Competition in the Wholesale Electricity Spot Market,” otherwise known as the “Retail Rules.” They are consistent with the goal to integrate retail competition into the WESM and apply the provisions of the WESM Rules to effectively govern the enforcement and dispute resolution under the Retail Rules.

2. Guidelines for Virtual Hearings

The second proposal for amendment of the DRM seeks to streamline the procedures for the conduct of WESM Dispute Resolution proceedings and provide guidelines for virtual hearings and conferences during arbitration. The guidelines are being made available with reference to any dealings during a circumstance that prevents physical meetings between the participants and provide procedural measures that can mitigate the effect of delays to the arbitral process, including delays caused by the COVID-19 pandemic.

3. Final Settlement of WESM Disputes and its Binding Effect

The third proposal seeks to amend provisions of the WESM Rules and the DRM to make them consistent with the provisions of Republic Act No. 9285 and the Special Rules of Court on ADR which recognize the nature of an arbitral award being final and binding among the participants. The objective of the proposal is to harmonize the provisions of the WESM Rules and the DRM with Republic Act No. 9285 and the Special Rules of Court on ADR to be consistent with the principles of an agreement-based arbitration and give primacy to party autonomy.

4. Removal of the PEM Board and the WESM Governance Committees as Impleadable Entities under Clause 7.3.1.1 (c) of the WESM Rules

Similar to the third proposal, this last proposal also intends to align the relevant provisions of the WESM Rules related to WESM Dispute Resolution with the agreement-based or commercial arbitration framework

as it was contemplated to be. The proposal seeks to remove the PEM Board and all the WESM Governance Committees from the list enumerating the parties to a WESM dispute under Clause 7.3.1.1 of the WESM Rules. This is under the principle that the actions of the PEM Board and the WESM Governance Committees are mostly, if not all, in performance of their ERC-delegated regulatory or "police" powers therefore, disputes filed against them would question or undermine the enforcement of the regulatory policies of the market.

III. DRA WORK PLAN

Annex A provides details of the DRA's program of activities for 2023 consistent with PEMC's Corporate Strategic Plan for 2023 to 2025 which was approved by the PEM Board on 25 January 2023.

IV. THE DISPUTE RESOLUTION ADMINISTRATOR

The Dispute Resolution Administrator is tasked to facilitate the resolution of disputes between or among the parties in accordance with the dispute resolution process approved for the Wholesale Electricity Spot Market (WESM) and the Retail Competition and Open Access (RCOA). Alternative Dispute Resolution is a process which follows the stages of negotiation, mediation and arbitration.

Atty. Teodoro Kalaw IV, C.Arb. was appointed by the PEM Board on 02 November 2022 as the Dispute Resolution Administrator for the WESM.

V. RESPONSIBILITIES

The main role and responsibilities of the DRA as set out in the WESM Dispute Resolution Manual, consistent with the requirements of the WESM and the Retail Market, are as follows:

- i. Administer and ensure the effective implementation and operation of the dispute resolution provisions of the WESM Dispute Resolution Manual;
- ii. Determine preliminarily if a dispute is one which falls under the dispute resolution process of the WESM and the Retail Market;
- iii. Draft and issue standard forms to help expedite the resolution of disputes;
- iv. Facilitate the accreditation process of mediators and arbitrations;
- v. Update the list of Accredited Mediators and Arbitrators published in the market information website; and
- vi. Maintain data, reports and other information regarding the development and results of the disputes referred to the DRA.

Submitted by:



Atty. Teodoro Kalaw IV, C.Arb.
Dispute Resolution Administrator

DISPUTE RESOLUTION ADMINISTRATOR WORK PLAN 2023

DRA WORK PLAN 2023

MISSION: GOVERNANCE

Desired Outcome: Empowered Governance: PEM Board and Governance Committees attain timely, responsive and strategic goals that are consistent with the market objectives and the changing electricity landscape.

GOAL 1: Provide a Reliable and Transparent WESM and REM Through Effective and Efficient Governance Objective 9: Efficient Administration of the WESM and REM Dispute Resolution Processes

No.	Strategy	Output	Timeline
1	Submit the 2022 Annual Report and 2023 Work Plan to the PEM Board	2022 Annual Report and 2023 Work Plan	March 2023
2	Further Study on the Proposed Amendments to the WESM Rules and the WESM Dispute Resolution Manual on the following: A. Dispute Resolution for the Retail Rules B. Removal of the PEM Board and the WESM Governance Committees as Impleadable Entities under Clause 7.3.1.1 (c) of the WESM Rules	Study / Report for the PEM Board	Q1 to Q2 2023

3	Proposed Further Amendments to the WESM Dispute Resolution Manual regarding the inclusion of the ad hoc support services during arbitration.	Discussion Paper and Presentation Materials	Q4 2023
4	Annual Publication of Updated Directory of DMP Focal Persons and Alternates	Published DMP Focal Person and Alternates	Q3 2023
5	Assignment of Emergency Arbitrators	Monthly Assignment of Emergency Arbitrators	Q3 2023
6	Conduct of Seminar for the WESM Pool of Accredited WESM Mediators and Arbitrators	Training/seminar for the WESM Governance Committees, Pool of Arbitrators and Mediators	Q3 2023
7	Conduct of Trainings for the Dispute Management Protocol (DMP) Focal Persons for the WESM and REM	Trainings for the DMP Focal Persons for the WESM and REM	Q4 2023
8	Participation in and dissemination of schedules of ADR-related programs, lectures or events organized by external strategic partners for the continuing education of WESM accredited Mediators/Arbitrators	Email dissemination of available activities to the WESM-accredited Mediators/Arbitrators	as offered/ as scheduled