

MINUTES OF THE 64TH MEETING OF THE RULES CHANGE COMMITTEE

Date : 18 July 2012
Time : 9:00 A.M.
Venue : Training Room 2
9th Floor, Robinsons-Equitable Tower
Ortigas Center, Pasig City

MEMBERS PRESENT:

Rowena Cristina L. Guevara	-	Chairperson/Independent – UP
Epictetus E. Patalinghug	-	Independent – UP
Francisco L.R. Castro, Jr.	-	Independent – Tensaiken Consulting
Maila Lourdes G. de Castro	-	Independent – Unitel Productions, Inc.
Cherry Aquino-Javier	-	Generation Sector – AES
Ralph T. Crisologo	-	Generation Sector – SNAP
Liberty Z. Dumlao	-	Generation Sector – PSALM
Cynthia R. Encarnacion	-	Generation Sector – NPC
Ciprinilo C. Meneses	-	Distribution Sector – MERALCO
Augusto D. Sarmiento	-	Distribution Sector – DECORP
Jose P. Santos	-	Distribution Sector – INEC
Sulpicio C. Lagarde Jr.	-	Distribution Sector – CENECO
Conrado D. Pecjo	-	Supply Sector – Angeles Power, Inc.

MEMBERS NOT PRESENT:

Raul Joseph G. Seludo	-	System Operator – NGCP
Robinson P. Descanzo	-	Market Operator – PEMC

ALTERNATE MEMBERS PRESENT:

Isidro E. Cacho	-	Market Operator – PEMC
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OBSERVERS PRESENT:

Isabelo Joseph P. Tomas, II	-	ERC
Rodel Meris	-	ERC (<i>alternate</i>)
Ferdinand B. Binondo	-	DOE (<i>alternate</i>)

OTHERS PRESENT:

Jesusito G. Morillos	-	WESM Dispute Resolution Administrator
Meleusipo Fonollera	-	Technical Committee
Phillip C. Adviento	-	PEMC – Legal
Senen D. Fenomeno	-	SNAP

SECRETARIAT

Elaine D. Gonzales	-	PEMC – MAG
Rheinhardt O. Banogon	-	PEMC – MAG
Hiyasminh Aleia C. Dagum	-	PEMC – MAG

After determining the presence of a quorum, the 64th RCC meeting was called to order by Chairperson Dr. Rowena Guevara at 9:20 A.M.

1. Adoption of the Proposed Agenda

Ms. Cherry Javier requested that the discussion of Item V. (3) Update on the Review of the Must-Offer Rule be moved and discussed later.

Taking note of the above suggestion, the RCC approved the Proposed Agenda for the 64th RCC Meeting as presented.

2. Review, Correction and Approval of the RCC Minutes

a. Approval of the Minutes of the 62nd RCC Meeting

Noting that the minutes of the 62nd RCC Meeting has been emailed and corrections have been submitted beforehand, the RCC finalized the same for approval of the Committee. Further corrections were made on the minutes as follows (in bold letters):

- On page 4, line 52

*'He commented that even under ~~causers~~ **causer's** pay, the price to be paid by the one which caused the MRU...'*

- On page 5, line 16

*'...Dr. Epictetus Patalinghug asked what **is** the probability of the occurrences and its financial effect...'*

- On page 16, line 39

*'...The prudential requirement required by WESM is too much compared to the security deposits required by the DUs' bilateral contract ~~party~~ **counterparty** and the NGCP...'*

b. Review, Correction and Approval of the Minutes of the 63rd RCC Meeting

Corrections were made on the minutes as follows (in bold letters):

- On page 4, line 54

*'...the ECs were requested to study the proposal of shortening the prudential requirement ~~into~~ **to** 30 days. ...'*

- On page 6, line 26-27

*'Mr. Meneses commented that the second proposed option for Pmin, i.e. ~~Status quo~~ **status quo** plus the right to file claim...'*

- On page 7, line 32

*'Atty. Mateo explained further that the MSC can design a manual, and if ~~ECO~~ **Enforcement and Compliance Office (ECO)** finds a breach and proposed a penalty ...'*

- On page 7, line 46 and 50

*'...Ms. Javier commented that she would go with the ~~Status-quo~~ **status quo** but proposed...'*

*'...Mr. Meneses stated that it would in turn be the fourth option, i.e. ~~Status-quo~~ **status quo** plus cancellation...'*

- On page 8, line 2

*'...Ms. Javier explained that with the current provision, the **only** plants that can ~~only~~ cancel are those plants...'*

- On page 8, line 29

*'Dr. Guevara reiterated the agreement that Pmin would be ~~Status-quo~~ **status quo** with the consideration...'*

On motion duly made and seconded, the Minutes of the 62nd and 63rd RCC Meetings were approved, as amended.

3. Business Arising from the Previous Meeting

a. Proposed Amendments to the WESM Dispute Resolution Market Manual

The Secretariat informed the Committee that the latest draft of the Proposed Amendments to the WESM Dispute Resolution Market Manual will be taken from the revised draft submitted by Atty. Maila de Castro, which the RCC noted.

The RCC continued to review the remaining pages of the 92-page proposal of the DRA page by page and accordingly made some revisions on the manual.

- ✓ On Section 9.10, the RCC noted the agreement of DRA Jesusito G. Morillos on the proposal submitted by Atty. de Castro to change the section title from 'Effect of Resolution' to 'Effect of Award'.
- ✓ For further clarification, the RCC completed Section 9.10.2, as also suggested by DRA Morillos, stating as follows:

"Failure to comply with a decision an Award of the Arbitral Tribunal to settle payments shall be considered a breach of the WESM Rules."

Dr. Guevara raised her clarification on the definition of breach in the above provision. DRA Morillos stated that the breach in the statement is used in general terms. Atty. Liberty Z. Dumlao suggested capitalizing the word "breach" as defined to make it more specific and relate it to the WESM Rules.

In response to the above suggestion of Atty. Dumlao, DRA Morillos explained that breach is not included in the definition and that defining "breach" in the definition would still be necessary if the word is to be capitalized. He further explained that the use of the term "Award" is limited to the application of the WESM Rules, referring to it as an element or implementation of a system.

Mr. Ralph T. Crisologo commented that the use of the term "Award" leads to certain ramifications (e.g. disputes about the Award and not necessarily the decision) thus, suggesting separate treatment of the WESM Rules and Award should be made. He added that once Award is included under the WESM Rules, there are many issues in the decision that may not be part of the dispute or the body that made that decision.

DRA Morillos provided clarification on the concerns raised through the following:

- Review 7.3 of the WESM Rules to be clarified on the use of language
- Referred to arbitration as "arbitration of the WESM Rules"
- The WESM Rules covers only the administrative and not the criminal part of a case, the arbitrators being a creation of WESM which aim to resolve issues at that level without resorting to the Court. The objective is to encourage the party to respect the Award and comply with it. While the parties are not prevented from going to court, administratively, this is discouraged. The language in 7.2 of the Rules can be consulted to understand that this is just an implementation of the language provided therein.

The RCC continued the discussion and review of the proposed amendments to the DRMM and accordingly made some revisions to the same, in consultation with the Dispute Resolution Administrator. With the discussions and clarifications made, the RCC finalized the revision of the proposed amendments to the WESM DRMM that was presented.

In connection with the discussion on mediation costs and arbitration costs and fees, the RCC Chair requested that DRA Morillos discuss with PEMC-MAG the details on supplementary rules about all aspects of handling/management of administrative fees/expenses.

RCC requested the Secretariat to send DRA Morillos a copy of Atty. De Castro's revisions to the proposed amendments to the WESM Dispute Resolution Manual, which will be incorporated in the final document.

Furthermore, RCC Chair requested DRA Morillos to provide RCC a copy of the final document after discussions with MAG and incorporating all revisions made with the submission of the document to the RCC to be made before the PEM Board meeting.

b. Update on the Review of Prudential Requirements

With the information from the Secretariat that no comments were submitted yet on the proposal on Prudential Requirements, the RCC deferred the discussion for the next RCC meeting and instructed the Secretariat to follow-up the actions done on the matter.

c. Update on the Review of Pmin Rules and Procedures and Review of the Must-Offer Rule

The RCC Generator Sector presented its proposed amendments to *Appendix A.1 – Bids & Offers Submission & Processing* with the guiding principles as follows:

- a) Self-commitment of generators;
- b) Strengthened monitoring from MSC.

Mr. Fenomeno explained that the proposed revisions will allow the generators to cancel their offers after the results of 1200H Day-Ahead Market Projections (DAP)

run have been published. Further, the aggregate Pmin as basis for cancellation was removed since it proved to be ineffective.

The DUs however raised reservations on the proposed amendments submitted by the Generator Sector considering that the proposal would allow self-cancellation by the Generators without any qualification. With the discussions that followed, Dr. Guevara suggested that the Generator Sector revise its proposal based on 'founded and unfounded fears' raised during the discussions.

In this connection, the RCC Chair requested the Generator Sector to submit guidelines/rules to be followed by MO in approving request for cancellation of offers before the RCC meeting on 1 August 2012. It was likewise suggested that MO be represented during the Generator Sector's meeting on the same.

d. SNAP's Proposed Amendments to the WESM Dispatch Protocol Manual regarding Re-Dispatch Procedures based on Merit Order Table (MOT)

As a backgrounder, Dr. Guevara mentioned that the above proposal was initially submitted via email by Mr. Crisologo which the RCC then requested to be formalized by Mr. Senen Fenomeno. Initially, the proposed amendments were for inclusion as proposed amendments to the MRU Manual as an appendix but which the RCC later agreed would be more appropriate to be included in the DPM.

Mr. Crisologo made some clarifications before proceeding with the discussion of this item. He pointed out that Mr. Fenomeno's comments relating to the MO's operations should be taken as his own opinions based on his understanding of the operations of the MO having been previously employed by PEMC and should not be taken as factual statements on MO's operations as these concerns should be more appropriately answered by MO. The RCC noted the disclaimer made.

Noting that SO has not yet submitted comments on SNAP's proposed amendments, the RCC postponed discussion on the matter for the next RCC meeting.

In addition, the RCC Chair instructed the Secretariat to make sure that Mr. Seludo or an SO representative would be present in the next RCC meeting or that comments from SO be available prior to the next RCC meeting.

4. New Business

a. CENECO's Rules Change Proposal regarding Line Rental

Mr. Lagarde presented to the RCC his proposal regarding line rental which the RCC has noted.

He raised the following two main points:

- (a) Bilateral Contract Quantities (BCQs) should not be subject to line rental since the ECs' BCQs have been approved by the ERC, which went through a series of public consultations with its customers; and
- (b) Visayas ECs must not bear the costs of congestion which are primarily due to transmission system inefficiency (which is in turn the responsibility of NGCP).

He explained further that the computation of line rental be simplified by considering only the actual system loss that was incurred through the transmission on a regular basis referring to the amount of energy that was dissipated from the metering point of the IPP to the substation.

He proposed that the above points be incorporated in the rules.

- Mr. Meneses commented and explained that Nodal Pricing and Line Rental costing are inseparable, because dissociating the two will result in the unbalancing of the fundamental cash flow (from loads to generators) in the WESM.
- Mr. Cacho confirmed that the proposal is not feasible since line rental is part of nodal pricing mechanism. He added that Visayas grid is inherently different from Luzon grid.
- Ms. Javier opined that CENECO's proposal to suppress the line rental using the same MMS will cause imbalance which will result in losses that could not be accounted for.

She thus suggested for the Visayas ECs to propose zonal pricing mechanism (applicable to the Visayas grid only) instead of amending the existing line rental formulation. She viewed that zonal pricing will eliminate the problems encountered by Visayas ECs on line rental.

- In view of the discussions above, RCC Chair requested Mr. Lagarde to rewrite the proposal considering the RCC comments/suggestions.
- In addition, on the problem on Power Delivery, Mr. Sarmiento suggested reviewing the NGCP provision on billing adjustments in TSA (Transmission Service Agreement) of DUs, pointing out that TSAs are utility specific, which the RCC noted.

b. Review of the WESM Manual of Procedures for Changes to the WESM Rules

Atty. Dumlao informed the Committee of the Audit observation, i.e. the incomplete or not updated publication of amendments, and the IAD's recommendations on the same as follows:

- a) To clarify what needs to be published in the WESM Website;
- b) To determine who shall be in charge of the publication;
- c) To officially request the DOE to furnish the Committee with pertinent Circulars; and
- d) To check whether the publication requirement of DOE Circulars is met in so far as the previous amendments are concerned.

In view of the above recommendations, Atty. Dumlao informed the Committee about the relevant provisions, specifically Sections 2, 7.4, 9 and 10 of the Rules Change Manual which she reviewed in response to the suggested action plan to revise the same.

Subsequent to the review of the provisions relating to RCM's policy on publication rules, Atty. Dumlao presented the following summary:

- ✓ *Rules changes/amendments have to be published through market information on the WESM website (Section 2) except (a) as may be deemed necessary by the PEM Board, amendments will have to be published in at least two (2) newspapers of general circulation. (Sec. 2); and (b) advisories on amendments which shall be published on a regular basis in one (1) newspaper of general circulation. (Sec. 10)*

Atty. Dumlao concluded that there seems to be no conflict between Sec. 2 and Sec. 10 and both provisions provide for instances when publication in newspaper/s is required.

Also, she presented the following suggestions for the RCC's consideration:

- a) To clarify what kind of amendments need to be published in the newspaper/s, and be more specific on the period or time of publication;
- b) To clarify that only advisories on final amendments which would have a legal and binding effect need to be published in a newspaper of general circulation;
- c) To revise Section 10. Publication for clarity of the term 'regular', as follows:

"Subject to Section 7.4, consolidated amendments shall be published on a monthly basis in the WESM website. Advisories on amendments **as embodied in DOE Circulars** shall be published on the **regular basis first week of every calendar quarter** in one (1) newspaper of general circulation."

However, the RCC suggested removing the timeframe in recognition of Ms. Elaine D. Gonzales' comment that the instruction for publication would still have to come from the DOE, thus including a timeframe may not be applicable. The RCC thus agreed to revise Section 10 to read as follows:

"Subject to Section 7.4, consolidated amendments shall be published on a monthly basis in the WESM website. Advisories on amendments as embodied in DOE Circulars shall be published **on the first week of every calendar quarter** in one (1) newspaper of general circulation **upon instruction by the DOE.**"

c. Revised Proposed Technical Committee Market Manual

- Dr. Guevara informed the Committee that the Board referred back the Revised Proposed TC Market Manual to RCC and instructed the TC to address the points raised by the Board.

Dr. Guevara presented the changes made by the TC on the proposal. The RCC reviewed the matrix of proposal and consequently made revisions on the same.

- The RCC noted that the TC has reservations on the suggestion of the PEM Board to include a provision for Board's approval of the results of the TC review or study.

The RCC agreed with the TC's position that the result of the TC study that the Board can only accept/reject the results of the study and it is not for the Board to change and approve the result itself.

On RCC Chair's concern on how to follow the Board's directive, Ms. Gonzales commented that the RCC can discuss further with the Board and explain clearly the TC Study.

- On Section 4.3.6, the RCC requested the TC Chair to clarify the phrase '*in case the study falls within the Coverage and Scope as defined in Section 4.1 of this Manual for TC Studies*'.

TC Chair Meleusipo Fonollera explained that in the event that the study is within their scope, the TC would immediately respond. However, Dr. Guevara pointed out the downside of the clause is that the TC might be compelled to accept the study even if it is outside of the scope if the TC does not respond immediately.

In consultation with Chair Fonollera, the RCC thus agreed and approved the revised Sec. 4.3.6 as follows:

*'...If the TC does not communicate its non-acceptance in writing within said time, then the TC is deemed to have accepted the request **provided it is within the Coverage and Scope as defined in Section 4.1 of this Manual for TC Studies**.'*

- On the use of the word "Annex" in reference to attachments in the proposed TC Manual, Atty. de Castro commented that the Manual was not consistent as it used Appendix in the title of the attachments instead of Annex. She proposed the consistent use of Annex in the Manual. She also proposed to correct the first line in Annexes A and B as follows: "**Only** Requests made ~~only~~ under the prescribed form shall be accepted and considered as submitted." She also suggested the use of "shall" instead of "can" in reference to the submission of the said forms to the appropriate party as stated in the second sentence in the said Annexes. Dr. Guevara also noted that under Clause 4.3.5, Annex B should have been referred to instead of Annex C.
- The RCC also agreed on the revisions of the following TC provisions as follows:

On Clause 4.3.7, "In instances when a report cannot be finished within the estimated time, the TC shall advise the requesting party in writing **prior** to the revised target date, the revised target of completion of the study explaining the reason for the revised target date."

On Clause 4.3.10, "The completed technical study or review of the TC, shall be submitted to the PEM Board **within a week after its completion**, for its information and necessary actions."

On Clause 4.3.11, "A copy of the completed technical study or review as requested by the trading participants shall be furnished to the trading participant **within one week after its completion** and the same shall be posted on the WESM website."

The RCC approved the proposed changes to the TC Manual subject to the incorporation of revisions as agreed upon by the RCC during its deliberation of the same. The Secretariat was instructed by Dr. Guevara to note the said changes for incorporation in the revised TC Manual.

d. Memo from CorSec re Review of the Procedures around Pricing Errors and Market Reruns

Dr. Guevara presented to the Committee the memo from PEMC Office of the Corporate Secretary requesting clarification on the '*directive of the board*' mentioned in the RCC letter, for the Committee's review.

As a background, Dr. Guevara informed the Committee that the letter of the Corporate (CorSec) is in response to the RCC's letter addressed to the PEM Board informing the Board of the RCC's action on the PEM Board directive to address the audit finding relating to pricing errors and market re-runs and at the same time following up action of the PEM Board to the RCC-approved amendments on the WESM Manual on the Criteria and Guidelines for the Issuance of Pricing Error Notices and Conduct of Market Reruns. The CorSec reminded the Committee that there was no directive from the Board regarding this audit finding and instead asked for the Committee's output on the instructions of the Board with regard to Rules Change for Pmin, Must Offer Rule (MOR), Must Run Units (MRUs) and Prudential Requirements.

Dr. Guevara informed the Committee that upon the Secretariat's review of its documents, it gathered that there was indeed no PEM Board directive relating to the said audit finding and that the directive actually came from Usec. Asirir of the DOE during the RCC Planning Workshop conducted early this year. The RCC noted that there was indeed no directive nor instruction from the Board to the RCC regarding procedures on Pricing Errors and Market Reruns.

As a resolution of the issue, the RCC agreed to update the CorSec on the status of the following Board directives: possible rules change in Prudential Requirements and review of provisions on Pmin Rules, MRU and MOR. Dr. Guevara thus instructed the Secretariat to draft the letter informing CorSec that the matter on MRU has already been submitted to the PEM Board and that the RCC is currently waiting for the results of the simulation on Pmin and PEMC-BSMD's comments on Prudential Requirements.

e. APC-Trading Counterparties Meeting on 20 July 2012

Dr. Guevara informed the RCC about the invitation from the APC for a presentation on RCC-approved and proposed rules. The RCC noted the information provided on the memo to RCC re APC-Trading Counterparties Meeting on 20 July 2012. Dr. Guevara informed the RCC that none among the independent RCC members is available for the said meeting with APC.

In reaction, Mr. Crisologo raised several important points regarding the letter from APC. First, the letter indicated a request to PEMC for a presentation concerning approved and proposed rules. The intention was to ask PEMC to interpret these rules. As such, he said, the invitation was directed to the people who are implementing the rules in their own operations. Secondly, while according to him, the RCC's independent member may present the same, it would be inappropriate for him as an RCC member to present and represent both RCC and PEMC as a spokesperson in the meeting since he is at the same time a member of APC.

The concerns raised by Mr. Crisologo were noted by the Committee members. Dr. Guevara, however, expressed that the intent as articulated by Mr. Crisologo was not clear in the letter of APC.

Noting that the request for a presentation on the proposed and approved rules has been accepted by the RCC, Dr. Guevara asked for volunteers from the RCC to present before the APC but none was available.

Since no RCC member is available to join the said meeting, RCC Chair instructed the Secretariat to draft a letter to President Ocampo informing her of the RCC's unavailability.

f. Reporting by RCC Sectoral Representatives (In compliance with the RCC Internal Rules and IAD's Audit Findings)

Dr. Guevara referred the Committee to the next item regarding the reporting by RCC Sectoral Representatives. Dr. Guevara remembered receiving an email from an RCC member asking for the email addresses of co-members in the sector. The Secretariat responded and provided the email addresses being requested, with the expectation that the intent was to report to his/her sector. Dr. Guevara inquired who among the RCC members do the same sectoral reporting,

Mr. Lagarde reported to the Committee that from his end, the finalized resolutions and approved minutes of the Committee are sent to concerned sectoral members to continuously update them.

The RCC Chair inquired from the other Committee members whether they are complying with the RCC Internal Rules and IAD's Audit Findings. The RCC Sectoral representatives affirmed their compliance with the said policy, which the RCC Chair noted.

5. Other Matters

Mr. Crisologo informed the Committee of the PEMC-MO's letter to ERC about the reserve market. Per Mr. Crisologo, the letter of PEMC-MO to ERC states that MO cannot fulfill some of the requirements of ERC with regard to the reserve market as a portion of the requirements should be done by NGCP-SO. He informed the Committee that in the final resolution, ERC says that it already instructed NGCP to create a coordination committee with a list of names that shall compose it.

Dr. Guevara noted that the RCC has yet to receive a copy of the resolution. According to Mr. Crisologo, this document has already been published.

Mr. Crisologo suggested that RCC be represented in the meetings of the coordination committee as a participant considering that the output of the said committee will be the formulation and/or amendment of rules for the creation of WESM reserve market.

Atty. Adviento informed the RCC that the output of the coordination committee will not necessarily be for the reserve market only. The output of the said committee if requiring rules changes will still subsequently be subject to RCC deliberation and approval. Noting the above information, RCC Chair decided to defer to the decision of the Board instructing RCC's participation on the same.

6. Next Meeting

The RCC was reminded of the schedule of its succeeding meetings: (65th RCC Meeting) on 01 August 2012 and (66th RCC meeting) on 05 September, 2012.

7. Adjournment

There being no other matter to be discussed, the meeting was adjourned at 1:30 P.M.

Prepared by:


Hiyasminh Alicia C. Dagum

Reviewed by:


Geraldine A. Rodriguez

Noted by:


Elaine D. Gonzales

Approved by:
RULES CHANGE COMMITTEE

Rowena Cristina L. Guevara
Chairperson
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University of the Philippines
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Members:

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Francisco L.R. Castro, Jr.
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Liberty Z. Dumanog
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Power Sector Assets and Liabilities Management
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Ralph M. Crisologo
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SN Aboitiz Power
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Augusto D. Samiento
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Dagupan Electric Corporation
(DECORP)

Ciprinilo C. Meneses
Distribution Sector (PDU)
Manila Electric Company
(MERALCO)

Jose P. Santos
Distribution Sector (EC)
Ilocos Norte Electric Cooperative, Inc.
(INEC)

Sulpicio C. Lagarde Jr.
Distribution Sector (EC)
Central Negros Electric Cooperative, Inc.
(CENECO)

Conrado D. Pecjo
Supply Sector
Angeles Power, Inc.

Raul Joseph G. Seludo
Transmission Sector
National Grid Corporation of the Philippines
(NGCP)

Robinson P. Descanzo
Market Operator
Philippine Electricity Market Corporation
(PEMC)