

REPORT ON THE DISPUTE RESOLUTION
DRA Case No: WESM-ARB-18-02

In compliance with Clause 7.3.12.2 of the WESM Rules and Section 5.6 of the Dispute Resolution Market Manual, the DRA shall publish in the Market Information Website a Dispute Report, which shall contain the following:

- A. A summarized description of the dispute, identifying the parties and the nature of the dispute, with such details as the DRA may deem necessary to prevent future recurrence of similar disputes without necessarily causing any undue prejudice that may occur as a result of any extensive publication.
- B. The description of the dispute resolution process utilized; and
- C. The results of the award.

NATURE OF THE DISPUTE

Settlement of Undeclared Must-Run Unit (MRU) for the Period Covering June 2016 to July 2017

DESCRIPTION OF THE DISPUTE

The Claimant sought additional compensation for complying with the dispatch instruction as Must-Run Unit (MRU) covering the period from June 2016 to July 2017. The claim arose from the Claimant's review of the National Grid Corporation of the Philippines-Visayas System Operator's Dispatch Deviation Report and System Operator Report of *MRU*, which it found several discrepancies for the affected billing periods. Based on the validated discrepancies, the Claimant submitted to the Respondent claims or additional compensation for the undeclared MRUs in March 2017, but the latter informed that the notices of discrepancy were filed beyond the prescribed two-week period, hence the claims were denied. However, the Claimant likewise argued that the Respondent did not inform the Complainant of the approval or disapproval of its claim within fourteen (14) working days from receipt of its filing, rendering its claim to be deemed approved per Section 9.3.2 of the WESM Manual for Management of Must-Run Unit and Must-Stop Unit Issue 7.0 and 8.0.

PARTIES TO THE DISPUTE

The following are the parties to the dispute:

Claimant : SPC Island Power Corporation and SPC Power Corporation

Respondent : Philippine Electricity Market Corporation (PEMC) ; and
Independent Electricity Market Operator of the Philippines (IEMOP)

COMPOSITION OF THE ARBITRAL TRIBUNAL

The following are the composition of the Arbitral Tribunal:

Chairperson : Atty. Teodoro Kalaw IV
Members : Atty. Eduardo Ceniza
: Atty. Dranyl Jared Amoroso

The appointment of the Arbitral Tribunal was pursuant to Section 9.4 of the WESM Dispute Resolution Manual.

DISPUTE MANAGEMENT PROCESS UTILIZED

The request for arbitration was filed pursuant to Section 9.2.1 of the WESM Dispute Resolution Manual (“DRMM”) Issue 6 in relation to Section 8.5.12(b) of the WESM Rules following the agreement of the Parties to dispense with mediation and commence arbitration. The DRA issued a certification stating that mediation is no longer a viable option for the parties on 5 September 2018.

RESULTS OF THE AWARD

The Arbitral Tribunal made the following findings:

- The core controversy in this Matter is founded upon the admission by the Claimant that they did not in fact comply with the two (2) week period for reporting discrepancies in the dispatch deviation report and system operator report of MRU events as required by Sections 9.2.1 and 9.2.2 of the WESM Manual on the Management of Must-Run and Must-Stop Units 7.0.
- Claimants present no evidence actually demonstrating that the rule cannot be complied in practice, other than mere allegations that it is difficult to fulfill.
- The data contained in the reports that they seek to correct are already deemed to be final pursuant to WESM Rules Clause 3.14.8.2; and
- Claimants have not proven that they are entitled to the claims for alleged undeclared MRU, and therefore correspondingly holds that Claimants are not entitled to any compensation for such alleged undeclared MRUs

COSTS IN THIS MATTER

In view of the Arbitral Tribunal’s prior findings and rulings as explained above, particularly

given the good faith belief of both parties with regard to the vigorous assertion of their contractual and legal rights, the Arbitral Tribunal believes that such constitutes sufficient justification for the parties to each bear their own costs. The Arbitral Tribunal therefore holds that the parties shall bear their own respective costs for this arbitration.

FINAL AWARD

The Arbitral Tribunal accordingly decides and awards in full and final disposition of the arbitration, as follows:

1. For lack of merit, the Arbitral Tribunal denies all claims of Claimants.
2. The Claimants have been assessed the costs of the arbitration, as provided in the Terms of Reference and already billed and fully collected by the Dispute Resolution Administrator. Each party shall bear its own costs.
3. All other requests for relief not otherwise disposed of above were denied.

Submitted by:



JESUSITO G. MORALLOS, C.E.,J.D.,MCIArb
Dispute Resolution Administrator