

WESM COMPLIANCE BULLETIN

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5.00	22 January 2016	Guidelines and Procedures for Disposition of Requests for Reconsideration of PEM Board Action on Investigations for Breach of the WESM Rules and Manuals

**Enforcement and Compliance Office
Philippine Electricity Market Corporation
22 January 2016**

This Wholesale Electricity Spot Market (WESM) Compliance Bulletin is an occasional publication that is prepared and published by the Enforcement and Compliance Office of the Philippine Electricity Market Corporation. The purpose of the WESM Compliance Bulletin is only to provide information and guidance to the participants of the WESM on their obligations in the WESM as well as on various matters relating to enforcement and compliance. This document is not intended as a source of obligation or as authority on relevant WESM Rules and market manuals, and as such, is not binding on the WESM participants or any other person or entity. While the ECO strives to make this document complete and accurate, the actual contents may be incomplete or inaccurate. WESM participants and other readers are encouraged to refer to the official issuance of the WESM Rules, and its amendments, and manuals for details.

Questions on this WESM Compliance Bulletin may be addressed to the Enforcement and Compliance Office, Philippine Electricity Market Corporation, 18th Floor Robinsons Equitable Tower, ADB Avenue, Ortigas Center, Pasig City or by email at compliance@wesm.ph.

This issue of the WESM Compliance Bulletin sets out the interim guidelines and procedures for disposition of request for reconsideration of decisions of the PEM Board on any investigation conducted by the Enforcement and Compliance Office for breach of the WESM Rules and market manuals. These interim guidelines were approved by the PEM Board, through PEM Board Resolution No. 2015-42 passed during its meeting held on 03 November 2015, and shall apply starting with all investigations acted upon by the PEM Board after said date. These guidelines and procedures shall be followed until the WESM Market Surveillance, Enforcement and Compliance Market Manual (MSCEM Manual) is amended or a new market manual is adopted containing the relevant rules and procedures for disposition of requests for reconsideration.

Guidelines and Procedures

1. **Coverage.** These guidelines and procedures cover the disposition of requests for reconsideration of decisions of the Philippine Electricity Market Board (PEM Board) on investigations conducted by the Enforcement and Compliance Office (ECO) of the Philippine Electricity Market Corporation (PEMC) on WESM Members for breach of the WESM Rules and manuals.
2. **Grounds for Request.** A WESM Member that was subject of an investigation 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 Officer (ECO) or for consideration of additional data that was already existing at the time of the original investigation but was not presented during such investigation; and/or
 - b. Legal issues, including but not limited to issues on the conclusions of the ECO or the Market Surveillance Committee (MSC), 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.
3. **Format and Supporting Documents.** The request shall 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.
4. **Period for Submission.** The request shall be submitted within thirty (30) calendar days from receipt from PEMC by the party 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. All submissions shall be made at any of the PEMC offices in Pasig City or Cebu City. No submission by email shall be allowed.
5. **Late Submission.** A request that is submitted after the lapse of the allowable thirty-day period may only be allowed upon prior approval by the PEM Board which shall decide on whether or not to allow the request at its regular meeting. The PEM Board shall have the sole discretion to decide on whether to allow the request, and its decision on this matter shall be final and cannot be subject of a request for reconsideration.
6. **Effect of Submission.** If the request is submitted within the allowable thirty-day period, the implementation of the PEM Board's decision on the original investigation shall be deferred. PEMC shall not issue the notice of penalty or collect financial penalties. Notices already made shall be recalled. No deferment shall, however, be made upon a request for reconsideration that was submitted beyond the thirty-day period even if the same was eventually allowed by the PEM Board.

7. **Endorsement to the ECO.** All requests that were timely filed will be immediately endorsed to the ECO for further investigation. Late requests shall be endorsed to the ECO only if allowed by the PEM Board.
8. **Disposition by the ECO.** The ECO shall evaluate the endorsed request and carry out further investigations. In conducting further investigations, the ECO 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. If a conference or ocular inspection is to be conducted, the notice shall be issued and published in the same manner as provided for in the MSCEMM. Thereafter, the ECO shall submit a report to the PEM Board containing the additional findings of fact, assessment and recommendations.
9. **PEM Board Action.**
 - a. The PEM Board may decide on the request based on the findings, assessment and recommendations of the ECO and may deny, grant or partially grant the request. The PEM Board may also decide to refer the ECO's findings and recommendations for further review by a Review Panel which shall be constituted for this purpose.
 - b. **Disposition by the Review Panel.** If the request is referred to a Review Panel, the latter shall review the findings and assessment of the ECO. The Panel may direct submission of additional information by the ECO or the requesting party. It may also call a conference. It shall thereafter submit its recommendations to the PEM Board which shall then decide to deny, grant or partially grant the request.
10. **Notice and Implementation of PEM Board Action.** The ECO shall notify the requesting party of the final action of the PEM Board. The notice to the party shall include, as appropriate, a copy of the case review report submitted by the ECO or a summary of the recommendations of the Review Panel to the PEM Board. Where penalties and other mitigation measures are approved, the ECO shall cause the issuance of the appropriate notice of penalty. Where a financial penalty is required, PEMC shall proceed to collect the approved penalties through the WESM settlement process. If the request for reconsideration is granted and notice of penalties have already been issued, the said notices shall be recalled and financial penalties collected shall be returned.
11. **No Further Reconsideration.** No further request for reconsideration shall be allowed.

This Non-Compliance Bulletin may be viewed or downloaded from the market information website at www.wesm.ph. Click on the Enforcement and Compliance page at the Downloads section of the website.