

Republic of the Philippines  
**ENERGY REGULATORY COMMISSION**  
San Miguel Avenue, Pasig City



**Resolution No. 01, Series of 2018**

**A RESOLUTION ADOPTING THE AMENDMENTS TO THE RULES FOR THE DISTRIBUTION OF NET SETTLEMENT SURPLUS (NSS)**

**WHEREAS**, Section 30 of Republic Act No. 9136, otherwise known as the Electric Power Industry Reform Act of 2001 (EPIRA), provides for the establishment of the Philippine Wholesale Electricity Spot Market (WESM);

**WHEREAS**, the Philippine Electricity Market Corporation (PEMC) was incorporated on 18 November 2003 as a non-stock, non-profit corporation and designated as the Autonomous Group Market Operator (AGMO) of the WESM;

**WHEREAS**, the Department of Energy (DOE), on 21 June 2006, issued Department Circular (DC) No. 2006-06-0008 declaring the start of commercial operations of the WESM in the Luzon Grid on 26 June 2006;

**WHEREAS**, the DOE, on 26 November 2010, issued DC No. 2010-11-0012 declaring the start of commercial operations of the WESM in the Visayas Grid and its integration with the Luzon Grid;

**WHEREAS**, there is a surplus or deficit resulting from the aggregate settlement transactions in the WESM termed as the Net Settlement Surplus or Deficit;

**WHEREAS**, the ERC on 23 February 2009 promulgated the set of Rules for the Distribution of Net Settlement Surplus ("NSS Rules") which incorporated the comments of the industry stakeholders;

**WHEREAS**, the NSS Rules establishes, among others, the (i) definition and allocation of Net Settlement Surplus; (ii) distribution period of Net Settlement Surplus; (iii) flow back computation of Net Settlement Surplus; (iv) treatment of interests incurred from the Net Settlement Surplus; and (v) reportorial requirements;

**WHEREAS**, the DOE on 20 April 2017, issued DC No. 2017-04-0005 adopting the WESM Market Manual Issue No. 3 on the Management of Net Settlement Surplus and its further amendments;

**WHEREAS**, in order to be consistent with the principle for the immediate equitable flow back to the party who paid for the line loss and congestion charges enunciated in the NSS Rules, the ERC deems it necessary to amend the existing NSS allocation formula;

**NOW THEREFORE**, after thorough and careful deliberation, the ERC consistent with its mandate under the EPIRA, hereby **RESOLVES**, as it is hereby **RESOLVED**, to **APPROVE** and **ADOPT** the “Amended Rules for the Distribution of Net Settlement Surplus”, herein attached as Annex “A” and made an integral part of this Resolution.

All previous Decisions, Issuances and Directives by the ERC contrary to the instant Resolution are deemed superseded.

This Resolution shall take effect immediately in the next billing month following its publication in the Official Gazette or in a newspaper of general circulation in the Philippines.

Let copies of this Resolution be furnished the University of the Philippines Law Center-Office of the National Administrative Register (UPLC-ONAR).

Pasig City, 20 February 2018.

  
**AGNES VST DEVANADERA**  
Chairperson and CEO

  
**GLORIA VICTORIA C. YAP-TARUC**  
Commissioner

  
**ALFREDO J. NON**  
Commissioner

  
**JOSEFINA PATRICIA A. MAGPALE-ASIRIT**  
Commissioner

  
**GERONIMO D. STA. ANA**  
Commissioner

eyg/jlm

Copy furnished:

**Philippine Electricity Market Corporation,**  
To furnish all Members of the WESM

Republic of the Philippines  
**ENERGY REGULATORY COMMISSION**  
San Miguel Avenue, Pasig City

**Annex "A"**

**AMENDED RULES FOR THE DISTRIBUTION  
OF NET SETTLEMENT SURPLUS (NSS)**

Pursuant to Section 2 (c), (f) and (j) of Republic Act No. 9136, the Price Determination Methodology (PDM) for the Wholesale Electricity Spot market (WESM) and the WESM Rules, the Energy Regulatory Commission (ERC) hereby adopts and promulgates these Rules to establish a suitable process for the immediate and equitable flow-back of the Net Settlement Surplus (NSS) by the Philippine Electricity market Corporation (PEMC) to the party who paid for the same.

**ARTICLE I  
GENERAL PROVISIONS**

Section 1. Objectives

- 1.1 To ensure transparent and reasonable prices of electricity and enhance the competitive operation of the electricity market;
- 1.2 To protect the public interest as it is affected by the rates and services of electric utilities and other providers of electric power;
- 1.3 To provide a mechanism for the just and equitable distribution of the Net Settlement Surplus; and
- 1.4 To flow back the Net Settlement Surplus to End-users in the most immediate and equitable manner.

Section 2. Scope

These Rules shall apply to:

- 2.1 Generation Companies;
- 2.2 Distribution Utilities (DUs);
- 2.3 End-users of electricity;
- 2.4 Retail Electricity Suppliers (RES), including the Local RES and the Supplier of Last Resort (SoLR), and other suppliers of electricity;
- 2.5 Philippine Electricity Market Corporation (PEMC); and
- 2.6 Relevant industry participants, as applicable.

### Section 3. Definition of Terms

For purposes of these Rules, the following terms shall have the respective meanings:

<b>Act</b>	Republic Act No. 9136 also known as the “Electric Power Industry Reform Act of 2001 (EPIRA)
<b>Bilateral Power Supply Contracts</b>	The contracts for the physical supply of electricity as contemplated under Section 45(c) of R.A. 9136, which do not include a financial derivative contract nor a contract for the sale of electricity from a distribution utility to a person who requires the supply and delivery of that electricity for its own consumption nor power supply contracts entered into by PSALM or its Assignee and End-users who are directly connected to the grid.
<b>Direct WESM Member</b>	A person or an entity who is registered with the Market Operator under Section 2.3 of the WESM Rules.

<b>Distribution Utility (DU)</b>	Any electric cooperative, private corporation, government-owned utility or existing local government unit which has an exclusive franchise to operate a distribution system in accordance with the Act.
<b>End-user</b>	Any person or entity requiring the supply and delivery of electricity for its own use.
<b>Energy Regulatory Commission (ERC)</b>	The independent and quasi-judicial regulatory agency created under Section 38 of the Act.
<b>Generation Company</b>	Any person or entity authorized by the ERC to operate facilities used in the generation of electricity.
<b>Independent Power Producer (IPP)</b>	An existing power generating entity which is not owned by NPC.
<b>Indirect WESM Member</b>	A person or an entity who is allowed to indirectly trade in the WESM through a Direct WESM Member.
<b>IPP Administrator</b>	A qualified independent entity appointed by PSALM Corporation who shall administer, conserve and manage the contracted energy output of NPC IPP contracts.
<b>Local Retail Electricity Supplier (RES)</b>	The non-regulated business segment of the DU catering to the contestable market only in its franchise area. As such, a license for a Local RES is not required.
<b>Market Operator</b>	The administrator of the WESM who is responsible for the day-to-day operations of the WESM as well as the registration of WESM members. The MO operates

the WESM in coordination with the System Operator (SO). In simple terms, the MO is responsible for coordinating all the commercial aspects of WESM transactions while the SO takes care of the physical implementation of these market transactions.

**National Power Corporation (NPC)**

The government corporation created under Republic Act No. 6395, as amended.

**Net Settlement Surplus (NSS) or Deficit**

The settlement surplus or deficit remaining after all market transactions have been accounted for, including the assignment of transmission line rentals to Network Service Providers. This surplus or deficit is assumed to be attributable to economic rentals arising from other binding constraints, and accounted for in accordance with the WESM Rules provision on the Treatment of Net Settlement Surplus.

**Network Service Provider**

A person who engages in the activity of owning, controlling, or operating a transmission or distribution system and who is registered with the Market Operator.

<b>Successor Generating Company/Assignee</b>	Otherwise known as the winning bidder, to which PSALM has successfully turned over any NPC-owned power plant privatized in accordance with Section 47 of the Act.
<b>Participant</b>	Generators, Distribution Utilities, Retail Electricity Suppliers, or any other entities that are allowed to register in the WESM as Direct WESM Members for which the total net settlement surplus/deficit allocation is calculated
<b>Philippine Electricity Market Corporation (PEMC)</b>	The entity responsible for governing and administering the operations of the WESM, also referred to in these Rules as the Market Operator, provided, however, that should the market operations functions of the WESM be transferred to an Independent Market Operator (IMO), all references to PEMC or the Market Operator shall refer to such Independent Market Operator without need of amendment of these Rules.
<b>Power Sector Assets and Liabilities Management (PSALM) Corporation</b>	The corporation created pursuant to Section 49 of the Act.
<b>Resource</b>	Customer or generator for which Line Loss, Congestion Cost and Net Settlement Surplus are computed
<b>Retail Electricity Supplier (RES)</b>	Any person or entity licensed by ERC to sell, broker, market or aggregate electricity to End-users.
<b>Supplier of Last Resort (SoLR)</b>	A regulated entity designated by the ERC to serve End-users in the Contestable Market following a Last Resort Supply

Event.

<b>Trading Nodes</b>	Connection points in a network, or junction points within a network model, whether physical or notional.
<b>Wholesale Electricity Spot Market (WESM)</b>	The electricity market established by the Department of Energy (DOE) in accordance with Section 30 of the Act.

## **Article II**

### **DESCRIPTION OF NET SETTLEMENT SURPLUS**

Section 1 The adoption of locational marginal pricing for the WESM under different market trading nodes accounts for congestion and losses in the transmission system. As a result, price differences occur between generator nodes and customer nodes due to these losses and congestion. The surplus resulting from the aggregate WESM settlement transactions is the Net Settlement Surplus. This may also result in a settlement deficit.

Section 2 The Net Settlement Surplus amount shall be calculated based on the total trading amount for every trading interval.

$$\mathbf{NSS}_k = \mathbf{Collectibles}_k - \mathbf{Payables}_k$$

Where:

$\mathbf{NSS}_k$  – Net Settlement Surplus for trading interval k

**Collectibles** – total amount to be collected by the Market Operator from the trading participants for energy transactions in the market (including loss and congestion charges for both spot and bilateral quantities) for all nodes at trading interval k

**Payables** – total amount to be paid by the Market Operator to the trading participants for energy transactions in the market



(including loss and congestion charges) for all nodes at trading interval k

Section 3 The WESM Rules, as amended defines “Net Settlement Surplus (NSS)” as the settlement surplus remaining after all market transactions have been accounted for, including the assignment of transmission line rentals to Network Service Providers. This remainder is assumed to be attributable to economic rentals arising from other binding constraints, and accounted for in accordance with the WESM Rules provision on the Treatment of Remaining Settlement Surplus.

### **ARTICLE III APPLICATION OF THE NET SETTLEMENT SURPLUS**

Section 1 The NSS shall be allocated to Direct WESM Members as follows:

- 1.1 Distribution Utilities (DUs);
- 1.2 Retail Electricity Suppliers (RES), including the Local RES and the Supplier of Last Resort (SoLR), and other electricity suppliers;
- 1.3 Generation Companies that acted as end-users or made withdrawal from the grid;
- 1.4 IPP Administrators who will be assigned Contracts for the Supply of Electric Energy (CSEE) and assume the default wholesale supply functions for the assigned TSC customers; and
- 1.5 Other parties which have acted as end-users and paid line loss and congestion charges.

Section 2 Any NSS allocated to the DUs shall be subject to immediate re-distribution to the corresponding End-users at the retail level.

Section 3 Any NSS allocated to the RES shall be subject to immediate re-distribution to the corresponding End-users in the competitive retail electricity market (CREM).

- Section 4 Any NSS allocated to a Direct WESM Member on behalf of its Indirect WESM Member shall be subject to immediate re-distribution to the corresponding Indirect WESM Member.
- Section 5 When prices in the WESM are administered *i.e.*, upon the occurrence of Market Intervention, Market Suspension, or Implementation of Secondary Price Cap, there shall be no NSS allocation and re-distribution for the affected trading intervals.

**ARTICLE IV**  
**ALLOCATION AND RE-DISTRIBUTION OF NET**  
**SETTLEMENT SURPLUS**

- Section 1 Upon effectivity of these Rules, PEMC shall immediately include the NSS for allocation and reflect the same in the corresponding billing statement on the current billing period, from the time of computation and determination of the NSS amount. The allocation shall be in the form of an immediate deduction from or an adjustment of the total settlement amount of the recipients of the NSS for their WESM transactions.
- Section 2 The DUs serving the captive customers shall be eligible for an NSS Allocation. As such, any NSS Allocation received by the DUs shall be re-distributed back to its End-users respective of their consumption during the same billing period that it received the allocation. Re-distribution of which is deemed to be received by the End-users by virtue of adjustment in the billed amount from the DUs.
- Section 3 The RES, being the direct WESM member, shall be eligible to receive an NSS Allocation. As such, any NSS Allocation received by the RES shall be re-distributed back to its End-users in the CREM, respective of their consumption during the same billing period that it received the allocation.

In the event of a deficit, the RES may collect the amount of deficit payable to PEMC from its End-users in the CREM respective of their consumption.

Section 4 The Generators that have withdrawn from the grid or the generators declared as the paying counterparty of the Line Rental shall be eligible to receive an NSS Allocation from PEMC. Any NSS Allocation received by the Generators shall be an adjustment to the settlement amount of the Generators for the subject billing month.

**ARTICLE V**  
**COMPUTATION OF NET SETTLEMENT SURPLUS**  
**ALLOCATION**

Section 1 Subject to the allocation period under Article IV hereof, PEMC shall allocate the NSS to the trading participants that paid for the loss and congestion charges. The allocation shall be on a pro-rata basis, depending on each recipient's contribution to the total NSS. The monthly amount to be allocated to each recipient shall be equal to the sum of the recipient's NSS allocation amounts computed for all trading intervals in a billing month. A recipient's NSS allocation amount per interval is equal to the total NSS amount per trading interval multiplied by the ratio of the recipient's line loss and congestion charges payments for the trading interval to the total line loss and congestion charges payments for the trading interval of all recipients. This rule shall apply regardless of the allocation method, whether outright deduction or otherwise.

This is represented by the following formula:

$$R_{J,k} = NSS_k \times (\sum LLCC_{jk} / \sum LLCC_k)$$

Where:

$R_{J,k}$  = rebate amount or NSS allocation for *Participant J* for *trading interval k*

$NSS_k$  = Net Settlement Surplus for *trading interval k*

$\sum LLCC_{j,k}$  = sum of line loss and congestion charge payments of *participant J's* resources for *trading interval k*

$\Sigma LLCC_k$  = sum of line loss and congestion charges payments of all eligible resources for *trading interval k*

**J** = any WESM Participant paying line loss and congestion charges for which a pro-rated amount of NSS will be returned or allocated

**j** = any resource of *Participant J* paying line loss and congestion charges for which a line loss and congestion charge payment will be computed

**k** = trading interval

$$LLCC_{j,k} = LLCPRTD_{j,k} \times (EAQ_{j,k} - BCQ_{j,c,k}) + LLCPRTX_{j,k} \times (MQ_{j,k} - EAQ_{j,k}) + \text{Line Rental}_{j,k}$$

$$LLCPRTD/X_{j,k} = LMPRTD/X_{j,k} - MCP_{Lowest,k}$$

Where:

$LLCC_{j,k}$  = line loss and congestion charge payments of *resource j* for *trading interval k*

$LLCPRTD/X_{j,k}$  = line loss and congestion price of *resource j* during ex-ante or ex-post run for *trading interval k*

$LMPRTD/X_{j,k}$  = locational marginal price of *resource j* during ex-ante or ex-post run for *trading interval k*

$MCP_{Lowest,k}$  = lowest marginal clearing price for *trading interval k*

$EAQ_{j,k}$  = ex-ante quantity of *resource j* for *trading interval k*

$BCQ_{j,c,k}$  = bilateral contract quantity of the bilateral contract between *resource j* and *counterparty c* for *trading interval k*

**MQ<sub>j,k</sub>** = metered quantity of *resource j* for *trading interval k*

**Line Rental<sub>j,c,k</sub>** = line rental trading amount associated with the bilateral contract between *resource j* and *counterparty c* for *trading interval k* (this amount may be zero if the resource is not the assigned payer of the line rental trading amount)

**j** = any resource of *Participant J* paying line loss and congestion charges for which a line loss and congestion charge payment will be computed

**k** = trading interval

Section 2 LLCC for a resource is only computed if Metered Quantity (MQ) is negative indicating withdrawal from the grid; otherwise LLCC for the resource shall only be the declared Line Rental if resource is the paying counterparty.

## **ARTICLE VI NET SETTLEMENT DEFICIT**

Section 1 There is Net Settlement Deficit when the Payables exceed the Collectibles. The Application of Net Settlement Deficit, Allocation and Re-distribution of Net Settlement Deficit and Computation of Net Settlement Deficit Allocation shall follow accordingly the stipulations discussed in Articles III, IV and V, respectively.

## **ARTICLE VII SUBMISSION, VERIFICATION AND REPORTORIAL REQUIREMENTS**

Section 1 Upon effectivity of these Rules, PEMC shall comply with the following reportorial requirements:

1.1 Regular monthly summary reports on the amount of NSS or deficit being generated and distributed and the corresponding final metered quantities, Marginal Line Loss and Marginal

Congestion Cost<sup>1</sup>. The corresponding value added tax (VAT) and interest amounts, as well as the date when the interests were earned or credited to PEMC, if any. This report shall be made available to all Market Participants and shall be published in the market information website. A verified copy of the report shall likewise be submitted to the ERC on a monthly basis including contributors to and reasons for the deficit or surplus.

- 1.2 Annual report comparing the subject year and the preceding year's NSS levels and allocations, and analysis of the factors and constraints giving rise to any NSS or deficit. This report shall be made available to the market participants and will be submitted to the PEM Board Directors and the ERC.

Section 2 PEMC Shall contract a qualified external auditor who shall conduct an annual audit of the NSS or deficit, the corresponding value added tax (VAT) and interest amounts as well as the procedure used by PEMC, and submit to the ERC the audit report immediately upon its completion but no later than three (3) months after calendar year end.

Section 3 DUs and RES, which are eligible recipients of any NSS amount shall also submit monthly reports to the ERC of said amount and metered quantities including the corresponding reports on NSS re-distributed to customers. For Indirect WESM Members, the responsibility of submitting reports shall be borne by the corresponding Direct WESM Members representing the former.

## **ARTICLE VIII INTERESTS AND PENALTIES**

Section 1 Should PEMC be unable to return the amount of the NSS due to be flowed back to WESM recipients under these Rules during the period specified, the retained amount shall be imposed an interest at the rate of the prevailing 91-day T-bill rate plus 300 basis points.

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<sup>1</sup> Upon approval and implementation of the new Price Determination Methodology

Section 2 The DUs and RES, which are recipients of the NSS but have not complied with the re-distribution process under these Rules during the period specified shall be subject to the interest at the rate of the prevailing 91-day T-bill rate plus 300 basis points, the return of which shall be in accordance with Article V hereof.

## **ARTICLE IX PERIOD OF EFFECTIVITY**

Section 1 These Rules shall be implemented accordingly in Luzon, Visayas and Mindanao<sup>2</sup> and shall take effect immediately in the next billing month following its publication in the Official Gazette or in a newspaper of general circulation in the Philippines and will continue until otherwise directed by the ERC.

Section 2 Upon the approval of the ERC on the new Price Determination Methodology (PDM) for the WESM which was filed by PEMC in May 2017, the formula for NSS amount, the allocation and manner of re-distribution of the NSS as contained in the approved new PDM, shall supersede the corresponding formula as contained in these Rules, without need of further amendment.

## **ARTICLE X SEPARABILITY**

Section 1 If for any reason any provision of these Rules is declared unconstitutional or invalid by final judgment of a competent court, the other parts or provisions hereof which are not affected thereby shall continue to be in full force and effect.

## **ARTICLE XI SANCTIONS**

Section 1 The ERC shall impose the appropriate fines and penalties for any violation or non-compliance with these Rules, pursuant to

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<sup>2</sup> Upon the declaration of the commercial operations of WESM in Mindanao Grid.

the "Guidelines to Govern the Imposition of Administrative Sanctions in the Form of Fines and Penalties Pursuant to Section 46 of R.A. 9136".

Pasig City, 20 February 2018



**AGNES VST DEVANADERA**  
Chairperson and CEO



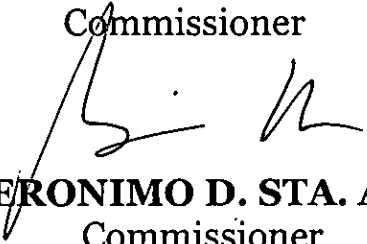
**GLORIA VICTORIA C. YAP-TARUC**  
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