

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



**IN THE MATTER OF THE
RESOLUTION ADOPTING
AMENDMENTS TO THE
RULES FOR THE
DISTRIBUTION OF NET
SETTELEMENT SURPLUS
(NSS)**

ERC CASE NO. 2017-⁰⁰⁹RM

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D O C K E T E D
Date: NOV 10 2017
By: [Signature]

NOTICE

Notice is hereby given that the draft "*Resolution Adopting Amendments to the Rules for the Distribution of Net Settlement Surplus*" is posted on the Energy Regulatory Commission (ERC) website www.erc.gov.ph for comments from the industry stakeholders.

All interested parties may submit their comments and inputs to spotmarket@erc.gov.ph on or before 17 November 2017. The said Resolution may be downloaded from the ERC Website or may be photocopied, at cost, during regular office hours at the ERC Main Office.

The Commission will determine the need for a conduct of a Public Consultation upon review and evaluation of all submitted comments from the industry stakeholders.

Pasig City, 06 November 2017.

FOR AND BY THE AUTHORITY
OF THE COMMISSION:

[Handwritten Signature]
GLORIA VICTORIA C. YAP-TARUC
Commissioner

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eyg/jld/DTL

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

Resolution No. _____, Series of 2017

**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, 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;

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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 Wholesale Aggregators (WA)¹;
- 2.4 End-users of electricity;
- 2.5 Retail Electricity Suppliers (RES), including the Local RES and the Supplier of Last Resort (SoLR), and other suppliers of electricity;
- 2.6 Philippine Electricity Market Corporation (PEMC); and
- 2.7 Relevant industry participants, as applicable.

Section 3. Definition of Terms

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

Act Republic Act No. 9136 also known as the “Electric Power Industry Reform Act of 2001 (EPIRA)

Bilateral Power Supply Contracts 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.

¹ Applies to existing WA License approved by the Commission which is valid up to CY 2018 only. Thereafter, pursuant to ERC Resolution No. 12, Series of 2015 which provides for the discontinuance of the WA scheme, the applicability of these Rules for WA cease to exist.

Direct WESM Member	A person or an entity who is registered with the Market Operator under Section 2.3 of the WESM Rules.
Distribution Utility (DU)	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.
End-user	Any person or entity requiring the supply and delivery of electricity for its own use.
Energy Regulatory Commission (ERC)	The independent and quasi-judicial regulatory agency created under Section 38 of the Act.
Generation Company	Any person or entity authorized by the ERC to operate facilities used in the generation of electricity.
Independent Power Producer (IPP)	An existing power generating entity which is not owned by NPC.
Indirect WESM Member	A person or an entity who is allowed to indirectly trade in the WESM through a Direct WESM Member.
IPP Administrator	A qualified independent entity appointed by PSALM Corporation who shall administer, conserve and manage the contracted energy output of NPC IPP contracts.
Local Retail Electricity Supplier (RES)	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.

Market Operator

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.

Non-WESM Member

A person or entity who is not registered with the Market Operator either as a Direct WESM Member or an Indirect WESM Member but continues to withdraw/inject power and energy from/into the grid through the WESM.

**NPC-Successor
Generating
Company/Assignee**

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. As such, said assignee shall have complied with all the deliverables as provided in the Asset Purchase Agreement including the required up-front payment generally amounting to forty percent (40%) of the bid price.

Participant

WESM customer or generator for which the total net settlement surplus/deficit allocation is calculated and redistributed.

**Philippine Electricity
Market Corporation
(PEMC)**

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.

**Power Sector Assets
and Liabilities
Management (PSALM)
Corporation**

The corporation created pursuant to Section 49 of the Act.

Resource	Customer or generator for which Line Loss, Congestion Cost and Net Settlement Surplus are computed
Retail Electricity Supplier (RES)	Any person or entity licensed by ERC to sell, broker, market or aggregate electricity to End-users.
Supplier of Last Resort (SoLR)	A regulated entity designated by the ERC to serve End-users in the Contestable Market following a Last Resort Supply Event.
Trading Nodes	Connection points in a network, or junction points within a network model, whether physical or notional.
Wholesale Electricity Spot Market (WESM)	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.

$$\mathbf{NSS_k = Collectibles_k - Payables_k}$$

Where:

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 and distributed at the wholesale level by PEMC to the following WESM participants:

- 1.1 Distribution Utilities (DUs) which are Direct WESM Members;
- 1.2 Retail Electricity Suppliers (RES), including the Local RES and the Supplier of Last Resort (SoLR), and other electricity suppliers that are Direct WESM Members;
- 1.3 Power Sector Assets and Liabilities Management (PSALM) Corporation as the Default Wholesale Suppliers (DWS) of Indirect WESM Members;
- 1.4 Generation Companies which are Direct WESM Members that acted as end-users or made withdrawal from the grid;

- 1.5 NPC Successor Generating Companies who have agreed to act as the DWS for the assigned Transition Supply Contracts with Indirect WESM Members and Non-WESM Members;
 - 1.6 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
 - 1.7 Other parties which have acted as end-users and paid line loss and congestion charges.
- Section 2 Any NSS distributed at the wholesale level to the DUs directly by PEMC or indirectly through the DWS, shall be subject to immediate re-distribution to the corresponding End-users at the retail level.
- Section 3 Generation units that have been designated as Must Run-Units (MRUs) are not settled in accordance with the usual settlement formula, and as such, do not share in the costs of congestion and losses. Hence, generation units are not entitled to allocation of the NSS or deficit during the trading intervals that they are designated as MRUs.
- Section 4 When prices in the WESM are administered *i.e.*, upon the occurrence of Market Intervention, Market Suspension, and/or Implementation of Secondary Price Cap (GWAP), there will be no NSS allocation and distribution for the affected trading intervals.

ARTICLE IV DISTRIBUTION AND RE-DISTRIBUTION PERIOD OF NET SETTLEMENT SURPLUS

- Section 1 Upon effectivity of these Rules, PEMC shall immediately include the NSS for distribution 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 End-users are deemed to have received the re-

distribution by virtue of the deduction in the billed amount for the DUs and DWS, if applicable.

Section 2 The distribution shall be in the form of an immediate deduction from or adjustment of the total settlement amount to be paid by or due the recipients of the NSS for their WESM transactions.

ARTICLE V
FLOW BACK COMPUTATION OF NET SETTLEMENT
SURPLUS

Section 1 Subject to the distribution period under Article IV hereof, PEMC shall distribute 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 distributed to each recipient shall be equal to the sum of the NSS amounts computed per trading interval, which in turn 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 distribution 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 the *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 paying resources for the *trading interval k*

J = any WESM Participant paying line loss and congestion charges through any of its resource's energy withdrawal from the grid to which a pro-rated amount of NSS will be returned or allocated

j = any resource of *Participant J* paying line loss and congestion charges through energy withdrawal from the grid to which a line loss and congestion charge payment will be computed

k = trading interval

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

$$LLC_{RTD/X,j,k} = LMP_{RTD/X,j,k} - MCP_{Lowest,k}$$

Where:

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

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

$LMP_{RTD/X,j,k}$ = 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*

$MQ_{j,k}$ = metered quantity of *resource j* for *trading interval k*

Line Rental $_{j,c,k}$ = 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 through energy withdrawal from the grid to 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 is not computed.

Section 3 Re-distribution of monthly NSS to the Generators acting as Net Load:

The resulting monthly NSS allocation or monthly $R_{J,k}$, shall be re-distributed by PEMC to the generator participants that have withdrawn from the grid by adding the computed monthly NSS $_k$ to the monthly payment to the generators for the current billing month.

ARTICLE VI 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 being generated and distributed and the corresponding final metered quantities, MLCL and MCC. Regular monthly summary reports on the amount of NSS or deficit being generated and distributed, 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 interest earned in all billing periods, if any; and

- 1.2 Annual report on the monthly levels of the NSS and review of the underlying factors giving rise to any NSS identifying, if possible, any binding constraints which may have caused or contributed to the NSS. This report shall be made available to the market participants and will be submitted to the PEM Board of 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 which are 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, i.e. Indirect and Non-WESM Members and End-users for DUs.

ARTICLE VII 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, the retained amount shall be imposed an interest at the rate of the prevailing 91-day T-bill rate plus 300 basis points.

Section 2 The DUs which are recipients of the NSS and 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 5 hereof.

Section 3 The undistributed part of the NSS through the course of the DU's redistribution of NSS to its End-users shall also incur interests at the rate of the prevailing 91-day T-bill rate plus 300 basis points.

ARTICLE VIII PERIOD OF EFFECTIVITY

Section 1 These Rules shall be implemented accordingly in Luzon, Visayas and Mindanao² and will take effect immediately following its publication 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 the allocation and manner of distribution of the NSS as contained in the approved new PDM, shall supersede the NSS formula as contained in these Rules, without need of further amendment.

ARTICLE IX 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 X SANCTIONS

Section 1 The ERC shall impose the appropriate fines and penalties for any violation or non-compliance with these Rules, pursuant to the "Guidelines to Govern the Imposition of Administrative Sanctions in the Form of Fines and Penalties Pursuant to Section 46 of R.A. 9136".

² Upon the declaration of the commercial operations of WESM in Mindanao Grid.

Pasig City, ____ November 2017

GLORIA VICTORIA C. YAP-TARUC
Commissioner

ALFREDO J. NON
OIC, Chairman and CEO of ERC

JOSEFINA PATRICIA A. MAGPALE-ASIRIT **GERONIMO J. STA. ANA**
Commissioner Commissioner

eyg/jlh/DTL

Copy furnished:

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