

PUBLIC

REM Enforcement and Compliance Manual

REM Investigation Procedures and Penalty Manual Issue 1.0

Abstract	This document provides for the procedures to be observed in the initiation, conduct, and reporting of investigations of breaches of the Renewable Energy Market (<i>REM</i>) Rules, as well as, in the imposition of sanctions and penalties.
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Document Identity: REM-IPM-001

Issue: 1.0

Reason for Issue: Original

Effective Date:

Document Approval

Author:	PEMC	Date:	February 2018
Technical Review:		Date:	
Quality Review:		Date:	
Approval:	Issue 1.0	Date:	

Document Change History

Issue No.	Modifier	Date	Synopsis/Reason for Change
1.0	PEMC	February 2018	Original Document

Related Documents

Document ID	Document Title
	Renewable Energy Market Rules (<i>REM Rules</i>)

Distribution List

Copy Number	Organization	Name of Recipient
	PUBLIC	

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SECTION 1 INTRODUCTION

1.1 OVERVIEW

- 1.1.1 Pursuant to Clause 6.1.3.9 of the *Renewable Energy Market (REM) Rules*, the *Enforcement and Compliance Office* shall develop and publish an investigation procedure for the guidance of *REM Members*.
- 1.1.2 Pursuant to Clause 6.1.3 of the *REM Rules*, the *Wholesale Electricity Spot Market Enforcement and Compliance Office (WESM ECO)* shall be designated as *REM ECO*.
- 1.1.3 As such, this Manual sets forth:
- a) The investigation procedures to be used by the *Enforcement and Compliance Office* in investigating breaches of the *REM Rules* under Clause 6.1.3 of the *REM Rules*; and
 - b) The sanctions and penalties to be applied by the *PEM Board* in accordance with Clause 6.1.2.1 of the *REM Rules*.
- 1.1.4 All terms and abbreviations used in this Manual that are defined in the *REM Rules* are italicized and shall have the same meaning as defined in the latter, unless the context otherwise provides or the said term or abbreviation is otherwise defined in this Manual.

1.2 RESPONSIBILITIES

- 1.2.1 Renewable Energy Registrar (“Registrar”)
- The *Registrar* shall be responsible for:
- a) Administering the operation of the *REM* in accordance with the *REM Rules* and *REM Manuals*;
 - b) Submitting a report to the *Enforcement and Compliance Office* of a possible non-compliance of a *REM Member* with any of the obligations specified in Clause 6.1.1.1 of the *REM Rules*;
 - c) Administering the sanctions imposed by the *PEM Board*, including the suspension or deregistration of a *REM Member*; and
 - d) Providing the required information or data and cooperation to the *Enforcement and Compliance Office* or other entities, as may be authorized under the *REM Rules*.

1.2.2 Enforcement and Compliance Office

The *Enforcement and Compliance Office* shall be responsible for conducting investigations of the non-compliances as may be referred to it by the *Registrar* under Section 1.2.1 (b) and in accordance with the procedures prescribed in Section 3 of this Manual.

1.2.3 REM Governance Committee

The *REM Governance Committee (RGC)* shall be responsible for:

- a) Determining whether the relevant *REM Member* has been non-compliant with the *REM Rules* upon the completion of the investigation by the *Enforcement and Compliance Office*; and
- b) Recommending the penalties after due investigation pursuant to Section 4 of this Manual in relation to Clause 6.1.2.1 of the *REM Rules*.

1.2.4 REM Members

REM Members shall be responsible for:

- a) Providing the required information or data to the *Enforcement and Compliance Office, Registrar* or other entities, as may be authorized under the *REM Rules*; and
- b) Cooperating with and providing assistance to the *RGC, Enforcement and Compliance Office* and *Registrar* in the course of investigation which may involve their participation.

1.2.5 PEM Board

The *PEM Board* shall be responsible for imposing penalties, sanctions or remedial measures. Such authority of PEM Board is, however, limited to deciding on the sanctions and not on the findings of the investigation.

SECTION 2 PRINCIPLES AND GUIDELINES

2.1 SCOPE

This Section sets out the general principles which the *RGC, Enforcement and Compliance Office* and other relevant parties shall apply when making decisions, giving notices, maintaining records, and reporting the results of investigations.

2.2 PROCESSES OF THE RGC

2.2.1 Action either by referendum or meetings

2.2.1.1 The *RGC* shall act on:

- a) The results of investigation by the *Enforcement and Compliance Office*;
- b) The imposition of sanctions or penalties or exemptions on the imposition of the same; and
- c) Such other matters brought to its attention pursuant to the provisions of the *REM Rules*.

2.2.1.2 Action by referendum means that Members of the *RGC* may give their consent, or cast their votes in regard to matters that are presented to them without necessarily having face-to-face interaction with all *RGC* members. The *RGC* may, thus, resolve matters without formally holding a meeting provided that all *RGC* members are given written notice of the actions to be acted upon. The *RGC* shall cast their votes through written assent.

2.2.1.3 The Chairperson of the *RGC* may, however, call for an assembly or a face-to-face meeting, whenever the circumstances would warrant a more collaborative thinking, sharing of ideas, interpersonal exchanges of information, knowledge, and expertise of all *RGC* members to arrive at a more meaningful decision. Should a face-to-face meeting become impossible due to distance or other impediments and/or limitations, the Chairperson of the *RGC* may also consider holding a virtual meeting or tele-conferencing, or video-conferencing subject to the voting requirements set forth in Section 0 of this Manual.

2.2.2 Voting requirements

2.2.2.1 *Referendum.* A resolution on any action or matter brought to the *RGC* through referendum has to be passed by majority votes of the *RGC* members.

2.2.2.2 *Meetings.* Every decision of at least a majority of votes of members present, constituting a quorum, at any face-to-face meeting or assembly, virtual meeting, or video-conferencing, shall be valid as an *RGC* act. If voting is equal, the *RGC* Chairperson has a casting vote.

2.2.3 *Signing of decisions and resolutions.* Any actions, motions, or resolutions voted on by the majority of the members of the *RGC* shall be confirmed by the Chairperson of the *RGC* and the voting members by signing the appropriate resolution or decision.

2.2.4 *Records of processes.* The *RGC* shall keep complete and accurate records of the processes undertaken, such as, the details of correspondence, reports, notices, and other relevant documents, date, time, and place of meeting, if any, the date of notice, the motion or resolution voted on, and the number of votes for and against said motion or resolution.

2.3 GIVING OF NOTICES

A notice is properly given or treated to be given to a person if made according to Clause 8.1.4 of the *REM Rules*. In addition, all notices, requests, reports, or communications relative to investigation procedures set forth in this Manual shall be in writing and shall be signed by the head, Chairperson, or the authorized representatives of the party giving notices, requests, reports, or communications. These shall be sent by the secretariat, if any and applicable, or by any authorized person through personal service, private courier, or postal mail. The secretariat shall ensure that all notices are received or acknowledged by the intended recipients. Advanced copies may be sent by email or such other acceptable, speedy, and effective form of communication which shall likewise be acknowledged. Notices required to be published shall be published in the *Market Information Website*.

2.4 DOCUMENT MANAGEMENT

The *Enforcement and Compliance Office* shall create and maintain a database for all the market data, document files and records gathered in the course of investigation, working files, and investigation reports, and other pertinent records or documents.

2.5 CONFIDENTIALITY

The *Enforcement and Compliance Office* shall treat and use the information obtained in the course of investigation in strict confidentiality. As such, all reports that are required to be published or disseminated through the *Market Information Website* shall, as far as practicable, exclude portions which are classified as confidential or commercially-sensitive information. The *Enforcement and Compliance Office* or the *RGC*, as the case may be, shall prepare a version of its reports, whenever required, omitting *Confidential Information*, to enable its dissemination and publication.

2.6 REPORTS AND PUBLICATION

Within five (5) *Working Days* from the end of each calendar month, the *Enforcement and Compliance Office* shall prepare a monthly report on the status of investigations for such calendar month, publish the report in the *Market Information Website*, and transmit a copy of the report to the *RGC*, the *PEM Board*, and *Department of Energy (DOE)*.

SECTION 3 FORMAL INVESTIGATION PROCEDURES

3.1 SCOPE

This Section sets out the investigation procedures to be followed by the *Enforcement and Compliance Office* and other relevant parties when conducting investigations under *REM Rules* Clause 6.1.3.

3.2 SCOPE OF INVESTIGATION

The *Enforcement and Compliance Office* shall investigate a probable breach under Clause 6.1.3 of the *REM Rules* when:

- a) The act or omission involves a probable breach of a provision of the *REM Rules* or any *REM Manual*;
- b) The act or omission is committed by a *REM Member*, and
- c) The act or omission is not subject of an automatic sanction or adjustment in settlement amounts, imposed by the *Registrar* or *RGC* according to the *REM Rules*.

3.3 INITIATION OF INVESTIGATION

3.3.1 If the *Registrar* has reasonable grounds to believe that a breach has been committed by a *REM Member*, the *Registrar* shall submit a report of the probable breach to the *Enforcement and Compliance Office*.

3.3.2 The report shall be submitted no later than thirty (30) *Working Days* from the occurrence of the probable breach. The report may, however, cover probable breaches of the same nature that occurred repetitively within one *Billing Period* and shall be submitted no later than thirty (30) days from the end of the covered *Billing Period*.

3.4 ISSUANCE OF NOTICE OF INVESTIGATION

3.4.1 Within five (5) *Working Days* from receiving the report of the *Registrar*, the *Enforcement and Compliance Office* shall issue a notice of investigation to the *REM Member* to be investigated.

3.4.2 The notice of investigation shall be in writing and shall be transmitted to the *REM Member*.

3.4.3 The notice of investigation shall clearly set out the name of the *REM Member* to be investigated, the details of the acts or omission constituting the probable breach, the date and, if applicable, the relevant *Renewable Energy Certificates (RECs)*, the provision of the *REM Rules* or *REM Manual* alleged to have been breached, and the data or information that may be needed from the *REM Member* in the conduct of investigation.

3.5 REPLY BY PARTY INVESTIGATED

- 3.5.1 Within fifteen (15) *Working Days* from receipt of the notice of investigation, the *REM Member* shall submit its reply to the allegations set out in the notice of investigation issued under Section 3.4 of this Manual.
- 3.5.2 The reply shall be in writing and shall include affidavits and certified copies of documents to support the explanations.
- 3.5.3 Failure of the party subject of the investigation to provide information requested by the *Enforcement and Compliance Office* within the period set in Section 3.5.1 of this Manual shall constitute a breach without need for further investigation and shall be subject to an applicable penalty. The failure of the party subject of the investigation to provide material information within the same period shall render the party *prima facie* liable for the breach subject of the investigation.

3.6 CONDUCT OF INVESTIGATION

- 3.6.1 *Nature of investigation.* The investigation to be conducted by the *Enforcement and Compliance Office* shall be inquisitorial in nature. For this purpose, the *Enforcement and Compliance Office* is authorized to obtain data from the *REM Member* being investigated, other *REM Members* or the *Registrar* any information and report that will aid in the investigation according to the procedures set out in Section 3.6 of this Manual.
- 3.6.2 Clarification Questions
- 3.6.2.1 The *Enforcement and Compliance Office* may request clarifications from the *REM Member* being investigated, the *Registrar* or other *REM Members* it seeks to consult.
- 3.6.2.2 The *Enforcement and Compliance Office* shall make the request to provide clarifications in writing and shall specify the deadline for the submission of the same.
- 3.6.2.3 The responses to the clarifications requested shall be in writing and shall be submitted to *Enforcement and Compliance Office* within five (5) working days from the date of receipt of the *REM Member* of the clarificatory questions .
- 3.6.2.4 If the clarificatory questions are posed to a party other than the *REM Member* being investigated, the *Enforcement and Compliance Office* shall provide the *REM Member* being investigated a copy of the questions.

3.6.3 Conference

3.6.3.1 A conference may be called by the *Enforcement and Compliance Office* at its own discretion or upon request of any party being consulted.

3.6.3.2 If a conference is called, the *Enforcement and Compliance Office* shall, no later than five (5) *Working Days* before the scheduled date of the conference, issue a written notice of conference to all parties that will be consulted and the *REM Member* being investigated setting out clearly the date, time and venue of the conference. The notice shall likewise be published in the *Market Information Website* no later than three (3) *Working Days* before the scheduled date of the conference.

3.6.3.3 The conference will be conducted in a venue set by the *Enforcement and Compliance Office*.

3.6.4 *Ocular inspection.* The *Enforcement and Compliance Office* may, at its discretion or upon request of the *REM Member* being investigated, or any of the parties being consulted, conduct an ocular inspection of the facilities of the *REM Member* being investigated.

3.6.5 *Request for data and documents.* The *Enforcement and Compliance Office* is authorized to obtain data, information, documents and reports that will aid in its investigation from the *Registrar* and other *REM Members* within ten (10) working days from the receipt of the *REM Member* of such request. Any request for data shall be in writing and shall state the date within which the data, information, document or report requested shall be submitted.

3.6.6 *Completion of investigation.* The investigation shall be completed within forty (40) *Working Days* from receiving the report of the *Registrar* set out in Clause **Error! Reference source not found.** of this Manual. The *Enforcement and Compliance Office* may, subject to the approval of the *RGC*, extend the period of time to complete the investigation if the *Enforcement and Compliance Office* has had, during the investigation, difficulty in obtaining sufficient data or information, or where unforeseen events render impossible the completion of investigation within the period prescribed in this Manual. The *Enforcement and Compliance Office* shall notify the party investigated in writing that it has concluded its formal investigation and that no further submission is expected or required or will be accepted from the party being investigated.

3.7 PRELIMINARY INVESTIGATION REPORT

3.7.1 *Preparation and contents of the report.* Upon conclusion of its formal investigation, the *Enforcement and Compliance Office* shall prepare its investigation report, which shall set out the following –

- a) Statement of the Case
- b) Preliminary Matters and Material Dates
- c) Data and Documents considered
- d) Issues for Investigation/Statement of Relevant Rules or Manual Provisions
- e) Findings
- f) Assessment and Opinion
- g) Conclusions

3.7.2 *Timetable.* The Preliminary Investigation Report shall be completed and submitted as required in Section 3.8 of this Manual within twenty (20) *Working Days* from completion of the investigation.

3.8 SUBMISSION TO RGC

The *Enforcement and Compliance Office* shall submit the Preliminary Investigation Report to the *RGC*, furnishing each *RGC* member a copy thereof.

3.9 ACTION BY THE RGC

3.9.1 Within fifteen (15) *Working Days* from submission of the Preliminary Investigation Report by the *Enforcement and Compliance Office*, the *RGC* shall render its decision.

3.9.1.1 *Approval.* If the *RGC* agrees with the findings of the *Enforcement and Compliance Office*, it shall approve the Preliminary Investigation Report. A Final Investigation Report shall then be prepared by *Enforcement and Compliance Office* as set forth in Section 3.11 of this Manual.

3.9.1.2 *Disapproval.* If the *RGC* disagrees with the findings of the *Enforcement and Compliance Office*, it shall disapprove the report and shall either make its decision based on the data, reports, and documents submitted by *Enforcement and Compliance Office*, or return the case to *Enforcement and Compliance Office* for further investigation in accordance with Section 3.10 of this Manual.

3.9.2 In either case, if the *RGC* decides whether –

3.9.2.1 A breach has been committed, in which case, it shall recommend the appropriate penalty to be imposed according to Section 4 of this Manual.

3.9.2.2 No breach has been committed, in which case, it shall recommend the closure of the investigation.

3.10 CONDUCT OF FURTHER INVESTIGATION

3.10.1 If the *RGC* decides to return the case for further investigation, it shall clearly set out the issues that need further investigation.

3.10.2 If the issue entails further investigation which requires the *REM Member* to submit additional documents or respond to clarificatory question/s, the concerned *REM Member*, upon the receipt of written notice of *Enforcement and Compliance Office*, shall submit the necessary response within the period enunciated in Clause 3.6.2.3 or 3.6.5, whichever is applicable.

The *Enforcement and Compliance Office* shall complete the re-investigation of the case returned for investigation and submit its revised investigation report to the *RGC* no later than ten (10) *Working Days* from the date the case was returned by the *RGC* or after the receipt of the documents or answers to the clarificatory questions from the *REM Member*, whichever is applicable.

3.10.3 The *RGC* shall act on the revised investigation report no later than ten (10) *Working Days* from submission by *Enforcement and Compliance Office*.

3.10.4 The *RGC* shall render its decision either approving or disapproving the revised report of the *Enforcement and Compliance Office* in accordance with Section 3.9.1 of this Manual, but may not return the case for further investigation.

3.11 FINAL INVESTIGATION REPORT

3.11.1 Within the period set out in Section 3.9.1 or 3.10.3 of this Manual, the *RGC* shall notify the *Enforcement and Compliance Office* of its decision and direct the preparation of the Final Investigation Report.

3.11.2 The Final Investigation Report shall have the same contents as the *Enforcement and Compliance Office's* preliminary or revised investigation report as set out in Sections 3.7.1 and 3.10.2, except that it will contain a definitive finding of whether or not a breach has been committed, and if a breach is committed, a statement of the penalty that will be recommended.

- 3.11.3 The Final Investigation Report shall be approved in a manner prescribed by Section 0 of this Manual, and shall be signed by the *RGC* Chairperson, or in his/her absence, by the *RGC* member delegated to sign on his/her behalf.
- 3.11.4 The Final Investigation Report shall be provided to the PEM Board for appropriate action, or for imposition of penalty or sanctions, as the case may be. The PEM Board shall issue the appropriate resolution within thirty (30) *Working Days* from receipt of the Final Investigation Report.
- 3.11.5 The Notice of the PEM Board Resolution referred to in the preceding paragraph including the copy of the final investigation report shall be provided to the *REM Member* investigated, the *Registrar* and the *DOE*.

3.12 REQUEST FOR RECONSIDERATION

- 3.12.1 *Grounds and period for filing a request for reconsideration.* The concerned *REM Member* may request for reconsideration of the decision or resolution within ten (10) *Working Days* from the receipt of the Final Investigation Report, upon the grounds that the data and information upon which the decision is made is insufficient to justify the decision or resolution or that the decision or resolution is contrary to the provisions of the *REM Rules* and/or *REM Manuals*.
- 3.12.2 *Contents of the Request for Reconsideration and Notice thereof.* The request shall be made in writing stating the ground or grounds thereof. It shall point out specifically the findings or conclusions which are not supported by the evidence or which are contrary to *REM Rules* and/or *REM Manuals*, making express reference to the specific evidence alleged to be insufficient or to such findings or conclusions alleged to be contrary to the *REM Rules* and/or *REM Manuals*.
- 3.12.3 *Endorsement to the RGC.* The *PEM Board* may refer or endorse the Request for Reconsideration to the *RGC* for review and recommendation. The *RGC* shall prepare and file the Case Review Report to the *PEM Board* for its resolution within fifteen (15) *Working Days* from receipt of the endorsement of the *PEM Board*.
- 3.12.4 *Resolution on the Request.* A request for reconsideration shall be resolved by the *PEM Board* within thirty (30) *Working Days* from the time it is submitted for resolution. Copies of the resolution shall be provided to the *REM Member*, the *Registrar* and the *DOE*.

SECTION 4 PENALTY GUIDELINES

4.1 SCOPE

This section sets out guidelines for determining and imposing penalties on *REM Members* under Clause 6.1.2 of the *REM Rules*.

4.2 DETERMINING THE NUMBER OF BREACHES

For purposes of determining the penalty that can be imposed -

- 4.2.1 Where a clause of the *REM Rules* or a *REM Manual* requires that an obligation be performed on a particular timeline, a breach shall be determined every hour, day, week, month or instance that the obligation is not performed in accordance with the relevant clause.
- 4.2.2 Where a clause of the *REM Rules* or a *REM Manual* requires that an obligation be performed in relation to a membership category as provided in Section 2.2 of the *REM Rules*, a breach is counted for each obligation that is not performed as required under a specific membership category in accordance with the relevant clause.
- 4.2.3 If a REM Member is registered under two or more membership categories specified under Section 2.2 of the REM Rules and the penalty to be imposed is suspension or deregistration, the category in which the *REM Member* is found to be in breach shall be the subject of such suspension or deregistration. Thus, any other membership category for which the *REM Member* is registered shall not be affected.

4.3 PENALTIES AND SANCTIONS

- 4.3.1 The *penalty* level to be imposed will depend on the severity and frequency of the breach determined after due investigation, as follows:
- a) Level 1: Reprimand or Written Warning. It is a notice to the *REM Member* that a *breach* has been committed, and enjoins the *REM Member* from doing the same or similar act or omission that constituted the *breach*.
 - b) Level 2: Financial Penalty with Escalation. *Financial penalties* are the pre-set amounts as stated under Section 4.5 of this Manual.
- 4.3.2 Notwithstanding the penalty levels provided under preceding section, suspension and de-registration may also be imposed as penalty for breaches explicitly specified under the *REM Rules* or in this Manual.

- a) Suspension. A *REM Member* found in *breach* may be suspended from participating or from providing service in the REM until the suspension is lifted.
- b) Deregistration. A *REM Member* that has already been suspended for breach may be ordered deregistered from the REM.

4.4 FORMAL WARNING OR REPRIMAND

- 4.4.1 The *RGC* shall recommend the issuance of a formal warning or reprimand when the *REM Member* is being penalized for breaching a Clause of the *REM Rules* or a *REM Manual* for the first time.
- 4.4.2 Upon approval of the recommendations of the *RGC*, the *PEM Board* shall cause the issuance of a formal warning or reprimand to the erring *REM Member* stating the following:
 - a) The reason for the written warning or reprimand;
 - b) The consequences of failure to take immediate and corrective actions and/or repetition and continuance of similar violations of the *REM Rules* or the relevant *REM Manual*; and
 - c) A recommendation to the erring *REM Member* to, among others, promptly cooperate or coordinate with the *Registrar* within a specified timeframe in relation to its actions, measures, or efforts to be undertaken to correct the breach or violation and to prevent future similar breaches.
- 4.4.3 The formal warning or reprimand shall be administered by the *Registrar* pursuant to Section 1.2.1 (c) of this Manual. It shall be addressed to the person identified by the *REM Member* as its authorized representative. If no such person is identified, subsequent notices shall continue to be sent to the head or main contact person at the *REM Member's* organization and to its own compliance officer, if any.

4.5 FINANCIAL PENALTY

- 4.5.1 The minimum financial penalty for a *REM Member* who has previously been penalized for breaching the same clause of the *REM Rules* or the relevant *REM Manual* is Five Thousand Pesos (PhP 5,000.00) per count of breach pursuant to Clause 6.1.2.2 of the *REM Rules*. The financial amounts are pre-set according to each type of breach and may be escalated depending on the frequency of occurrence, as stated in the Schedule of Breach and Penalties found in Appendix A of this Manual.

- 4.5.2 Upon approval of the recommendation of the RGC to impose financial penalty, the *PEM Board* shall cause the issuance of a notice of collection. The *Registrar* shall issue a Notice of Collection within five (5) *Working Days* from the issuance of the resolution of the *PEM Board* of this Manual or from the lapse of the period to file request for reconsideration.
- 4.5.3 Collection and Payment
- 4.5.3.1 The *Registrar* shall issue a statement of account or a bill and a penalty notification to the erring *REM Member* immediately upon receipt of the resolution of the *PEM Board* under Section 4.5.2.
- 4.5.3.2 The penalty notification in Clause 4.5.3.1 shall indicate that the amount of the financial penalty as indicated in the statement of account or bill shall be deducted by the *Registrar* from the amount due to the *REM Member*, if any, without need of authorization.
- 4.5.3.3 The erring *REM Member* may, in lieu of automatic deduction or collection from its receivables, pay the financial penalty within thirty (30) calendar days from receipt of the statement of account or bill through fund transfer of the amount of financial penalty to the *Registrar's* account or through an Electronic Fund Transfer (EFT) facility.
- 4.5.3.4 If the collection and payment of financial penalty is to be made through means other than the deduction from amounts payable, the *REM Member* shall immediately notify the *Registrar* of:
- a) The means or mode of payment;
 - b) The date of payment, which shall not be later than thirty (30) calendar days from receipt of the statement of account or bill issued under Clause 4.5.3.1 of this Manual;
 - c) The said notice shall be signed by the head or authorized representative of the erring *REM Member*.
- 4.5.3.5 The *Registrar* shall deposit the money collected from financial penalties in a special account of the *Registrar* to be utilized for the market-related training activities of *REM Members*, or such other type of activities for *REM Members* that facilitate and promote capacity building and the efficient development of the *REM*. The *Registrar* shall submit an annual report to all *REM Members* regarding the amount of penalties collected, interest earned, and the amount utilized out of said funds.

4.6 SUSPENSION

- 4.6.1 In addition to or in lieu of financial penalties provided under Section 4.5, the erring *REM Member* shall be suspended from participation in the *REM*, when applicable, under Clause 2.7.3 of the *REM Rules* if the following conditions concur:
- 4.6.1.1 The *REM Member* has previously been investigated and penalized for breaching the clause of the *REM Rules* or a *REM Manual*;
 - 4.6.1.2 The breach is continuing;
 - 4.6.1.3 The breach has caused and continues to pose a threat to the integrity and competition in the market; and
 - 4.6.1.4 The situation can be remedied by the *REM Member* through implementation of appropriate mitigation measures.
- 4.6.2 The *RGC* may recommend the penalty of suspension and deregistration even without exhausting the financial penalty escalation provided in the Schedule of Breaches and Penalties, provided that the conditions set forth in the Section 4.6.1 are all met.
- 4.6.3 The erring *REM Member* shall also be suspended from participation in the *REM* if, notwithstanding the agreement and/or undertaking to pay the financial penalty in a manner set forth in Sections 4.5.3.3 and 4.5.3.4 and 4.5.3.4, the *REM Member* fails to comply or fulfill its financial obligation.
- 4.6.4 Issuance of notice of suspension and disconnection
- 4.6.4.1 Upon approval of the recommendation of the *RGC* to impose the penalty of suspension and disconnection, the *PEM Board* shall cause the issuance of a notice thereof.
 - 4.6.4.2 Within five (5) *Working Days* from the resolution of the *PEM Board* or from the lapse of the period to file a request for reconsideration, the *Registrar* shall impose the suspension by:
 - a) Providing a *Suspension Notice* to the *REM Member* of its suspension, stating the reasons thereof and the effective date and hour of the suspension; and
 - b) Publishing a *Suspension Notice* in the *Market Information Website*.
 - 4.6.4.3 Under Clause 2.7.4.2 of the *REM Rules*, within ninety (90) calendar days from the committed date of payment of the financial penalty, and where no payment has been made by the

erring *REM Member*, the *Registrar* shall, pursuant to Section 4.6.2 of this Manual, impose the suspension in a manner set forth in the preceding paragraph.

4.6.5 Lifting of suspension

4.6.5.1 The suspension will be lifted if the *RGC* is satisfied that the appropriate corrective measures have been put in place by the *REM Member* sufficient to ensure that the breach will not recur, or when the obligation to pay the financial penalty referred to in Section 4.6.2 of this Manual has been fully satisfied. Immediately upon receipt of the notice and proof that the grounds for suspension have been remedied or rectified by the *REM Member*, the *RGC* shall recommend to the *PEM Board* the order the lifting of suspension by the *Registrar*.

4.6.5.2 Upon approval of the *PEM Board*, the *Registrar* shall thereafter lift the suspension by providing a written notice to the suspended *REM Member*, the same indicating the date and hour it will take effect. A copy of the notice shall be furnished to the *PEM Board* and the *RGC*.

4.7 DEREGISTRATION

4.7.1 The erring *REM Member* shall be deregistered from the *REM* under Clause 2.7.2 of the *REM Rules* if the following conditions concur:

4.7.1.1 The *REM Member* has previously been investigated, suspended and disconnected for breaching the clause of the *REM Rules* or a *REM Manual*;

4.7.1.2 The breach is continuing;

4.7.1.3 The breach has caused and continues to pose a threat to the integrity and competition in the market;

4.7.1.4 The situation cannot be remedied by the *REM Member*, and

4.7.1.5 The *REM Member* has been suspended for sixty (60) calendar days for the same breach.

4.7.2 Issuance of notice of deregistration

4.7.2.1 Upon the expiration of the 60-day period from the time the *REM Member* has been suspended, the *Registrar* shall notify the *REM Member*, the *PEM Board*, and the *RGC* that the suspension has not been lifted.

- 4.7.2.2 The *Registrar* shall immediately initiate the deregistration of the suspended *REM Member* from the *REM* according to the *REM Registration Manual*. The *REM Member*, the *RGC* and the *PEM Board* shall be notified of the effective date of the deregistration.

4.8 REAPPLICATION

- 4.8.1 A deregistered entity may re-register or reapply for membership in the *REM*, provided that, in addition to complying with the usual requirements for registration, it must satisfy the *RGC* that the breach will not recur.
- 4.8.2 Upon approval of the *PEM Board* of recommendation of the *RGC* to allow the reapplication, the *Registrar* shall proceed with the registration of the concerned *REM Member* following the usual registration process.

APPENDIX I: SCHEDULE OF BREACHES AND PENALTY

REM Rules/ Manuals Breached	Type	Obligation Breached	Determination of Breach/ Count	Party Involved	Applicable Penalties					
					Reprimand	Financial/ Escalated Penalty Per Breach			Suspension	Deregistration
						P5,000	P10,000	P20,000		
REM Registration Manual 4.3, in relation to 5.3.1 and 5.3.2	Continuing Compliance	As a condition to continuing membership in the <i>REM</i> , all registered <i>REM Members</i> shall ensure their continuing compliance with the membership criteria and technical and commercial requirements set forth in the <i>REM Rules</i> and this <i>REM Manual</i> .	For every change in membership data in relation to criteria and requirements	REM Member						
REM Rules 2.5 (d)	Continuing Compliance	Each REM Member: (a) Shall ensure that, any information or data it is required to submit to the <i>Registrar</i> or any other entity or to maintain, as required by virtue of being an <i>REM Member</i> , shall, to the best of its knowledge and belief, be true, valid, correct, complete and accurate at the time it is given and, while it is maintained and where appropriate, it shall keep the <i>Registrar</i> informed of any	For every change in membership data in relation to criteria and requirements	REM Member	1 st Offense	2 nd Offense	3 rd Offense	4 th Offense and succeeding offenses ¹	Breach is continuing and the conditions set forth in Section 4.6 of the Manual have been met	Breach is continuing and the conditions set forth in Section 4.7 of the Manual have been met

¹ This last escalation of Financial Penalty will apply for the 4th time and succeeding offenses, unless the offense is of such nature would warrant the application of penalty of Suspension and Deregistration under Sections 4.6 and 4.7 of the Manual, in which case the penalty of Suspension/ Deregistration shall apply. This condition applies to all succeeding obligations stated in this Appendix.

ANNEX A: REM Investigation Procedures and Penalty Manual

REM Rules/ Manuals Breached	Type	Obligation Breached	Determination of Breach/ Count	Party Involved	Applicable Penalties					
					Reprimand	Financial/ Escalated Penalty Per Breach			Suspension	Deregistration
						P5,000	P10,000	P20,000		
		mistakes or omissions in and corrections or updates to any information or data which it has submitted to the <i>Registrar</i> or any other entity under the <i>REM Rules</i> ;								
REM Rules 3.1.3.3	REC Issuance	If a REM Trading Participant determines that there is an error or a discrepancy in respect of RECs issued under Clause 3.1.6 then it shall notify the Registrar no later than Fifteen (15) calendar days after the date on which the REC was issued.	Monthly	REM Trading Participant	1 st Offense	2 nd Offense	3 rd Offense	4 th Offense and succeeding offenses	N/A	N/A
REM Rules 3.1.3.4	REC Issuance Timetable	On-Grid Mandated Participants and Off-Grid Mandated Participants shall apply to the Registrar for RECs created in respect of Renewable Electricity generated by Embedded Non-WESM RE Generators and Off-Grid RE Generators that are not Multi-Fuel Hybrid Systems and with whom they have Power Supply Agreements no later than Ten (10) Working Days after the end of a REM Quarter in accordance with the REC calculations provided Clause 3.1.8.	Quarterly	On-Grid Mandated Participants Off-Grid Mandated Participants	1 st Offense	2 nd Offense	3 rd Offense	4 th Offense and succeeding offenses	N/A	N/A

REM Rules/ Manuals Breached	Type	Obligation Breached	Determination of Breach/ Count	Party Involved	Applicable Penalties					
					Reprimand	Financial/ Escalated Penalty Per Breach			Suspension	Deregistration
						P5,000	P10,000	P20,000		
REM Rules 3.1.3.7	REC Issuance Timetable	On-Grid Mandated Participants who are also the host Distribution Utilities for registered Net-Metered RE Generators and entities with RE Generation Facilities for own-use in their Franchise Areas or for the GEOP, shall apply to the Registrar for RECs created through Renewable Electricity generated by such entities no later than the twentieth (20th) day of the month following the applicable REM quarter in accordance with Clause 3.1.8.	Quarterly	On-Grid Mandated Participants Entities with RE Generation Facilities	1 st Offense	2 nd Offense	3 rd Offense	4 th Offense and succeeding offenses	N/A	N/A
REM Rules 3.1.3.10	REC Issuance Timetable	If a Mandated Participant determines that there is an error or a discrepancy in respect of RECs issued under Clause 3.1.9 then it shall notify the Registrar no later than Fifteen (15) calendar days after the date on which the REC was issued.	Quarterly	Mandated Participants	1 st Offense	2 nd Offense	3 rd Offense	4 th Offense and succeeding offenses	Breach is continuing and the conditions set forth in Section 4.6 of the Manual have been met	Breach is continuing and the conditions set forth in Section 4.7 of the Manual have been met

REM Rules/ Manuals Breached	Type	Obligation Breached	Determination of Breach/ Count	Party Involved	Applicable Penalties					
					Reprimand	Financial/ Escalated Penalty Per Breach			Suspension	Deregistration
						P5,000	P10,000	P20,000		
REM Rules 3.1.3.11	REC Issuance Timetable	REM Trading Participants shall apply to the Registrar for RECs created in respect of Renewable Electricity generated by REM Generators that are Multi-Fuel Hybrid Systems by submitting the information set out in Clause 3.1.5.2 or Clause 3.1.8.1(b), as applicable, no later than Ten (10) Working Days after the end of a REM Quarter.	Quarterly	REM Trading Participant	1 st Offense	2 nd Offense	3 rd Offense	4 th Offense and succeeding offenses	Breach is continuing and the conditions set forth in Section 4.6 of the Manual have been met	Breach is continuing and the conditions set forth in Section 4.7 of the Manual have been met
REM Rules 3.1.3.15	REC Issuance Timetable	If a REM Trading Participant determines that there is an error or a discrepancy in respect of RECs issued under Clause 3.1.6 or 3.1.9 in respect of Renewable Electricity generated from a Multi-Fuel Hybrid System then it shall notify the Registrar no later than Fifteen (15) calendar days after the date on which the REC was issued.	Monthly for the obligation under Clause 3.1.6; Quarterly for the obligation under Clause 3.1.9	REM Trading Participant	1 st Offense	2 nd Offense	3 rd Offense	4 th Offense and succeeding offenses	Breach is continuing and the conditions set forth in Section 4.6 of the Manual have been met	Breach is continuing and the conditions set forth in Section 4.7 of the Manual have been met

REM Rules/ Manuals Breached	Type	Obligation Breached	Determination of Breach/ Count	Party Involved	Applicable Penalties					
					Reprimand	Financial/ Escalated Penalty Per Breach			Suspension	Deregistration
						P5,000	P10,000	P20,000		
REM Rules 3.1.5.2	Data Provisions REC Calculations	<p><i>Generation Companies</i> shall submit the following data in respect of each of their <i>WESM</i> registered <i>Multi-Fuel Hybrid Systems</i> within the timeframe specified in Clause 3.1.3.11:</p> <p>a) The total monthly MWH Metered Quantity for all <i>WESM</i> Billing Periods in the relevant REM Quarter;</p> <p>b) The total monthly Renewable Metered Quantity which represents the renewable component of the total monthly MWH Metered Quantity submitted under paragraph (a) for all <i>WESM</i> Billing Periods in the relevant REM Quarter;</p> <p>c) Certification that the Renewable Metered Quantity submitted under paragraph (b) has been calculated in accordance with the requirements prescribed by the DOE pursuant to Clause 9.2.1.</p>	Quarterly	Generation Companies	1 st Offense	2 nd Offense	3 rd Offense	4 th Offense and succeeding offenses	N/A	N/A

REM Rules/ Manuals Breached	Type	Obligation Breached	Determination of Breach/ Count	Party Involved	Applicable Penalties					
					Reprimand	Financial/ Escalated Penalty Per Breach			Suspension	Deregistration
						P5,000	P10,000	P20,000		
REM Rules 3.1.8.1	Data Provision REC Calculations	<p><i>On-Grid Mandated Participants and Off-Grid Mandated Participants shall submit the following data to the Registrar in respect of Embedded Non-WESM RE Generators and Off-Grid RE Generators and with whom they have Power Supply Agreements for each REM Quarter within the period specified in Clause 3.1.3.4 or Clause 3.1.3.11 (as applicable):</i></p> <p>(a) <i>If the Embedded Non-WESM RE Generator is a Separately Metered Hybrid System:</i></p> <p>(i) <i>The monthly MWH Metered Quantities in respect of only the Renewable Electricity generated by the facility in that REM Quarter,</i></p> <p>(ii) <i>The total monthly MWH Metered Quantities pertaining to that REM Quarter,</i></p> <p>(b) <i>If the Embedded Non-WESM RE Generator is a Multi-Fuel Hybrid System:</i></p>	Quarterly	On-Grid Mandated Participants Off-Grid Mandated Participants	1 st Offense	2 nd Offense	3 rd Offense	4 th Offense and succeeding offenses	Breach is continuing and the conditions set forth in Section 4.6 of the Manual have been met	Breach is continuing and the conditions set forth in Section 4.7 of the Manual have been met

REM Rules/ Manuals Breached	Type	Obligation Breached	Determination of Breach/ Count	Party Involved	Applicable Penalties					
					Reprimand	Financial/ Escalated Penalty Per Breach			Suspension	Deregistration
						P5,000	P10,000	P20,000		
		<p>(i) The total monthly MWH <i>Metered Quantities</i> for the relevant <i>REM Quarter</i>,</p> <p>(ii) The total monthly <i>Renewable Metered Quantities</i> which represents the renewable component of the total monthly MWH <i>Metered Quantity</i> submitted under paragraph (i) for the relevant <i>REM Quarter</i>,</p> <p>(iii) Certification that the <i>Renewable Metered Quantities</i> submitted under paragraph (ii) has been calculated in accordance with the requirements prescribed by the <i>DOE</i> pursuant to Clause Error! Reference source not found.</p> <p>(c) Otherwise, the monthly MWH <i>Metered Quantities pertaining to that REM Quarter</i>.</p>								

REM Rules/ Manuals Breached	Type	Obligation Breached	Determination of Breach/ Count	Party Involved	Applicable Penalties					
					Reprimand	Financial/ Escalated Penalty Per Breach			Suspension	Deregistration
						P5,000	P10,000	P20,000		
REM Rules 3.1.8.2.	Data Provision	<i>On-Grid Mandated Participants who are also the host Distribution Utilities for registered Net-Metered RE Generators and entities with RE Generation Facilities for own-use in their Franchise Areas or for the GEOP shall submit the monthly MWH Metered Quantity pertaining to that REM Quarter to the Registrar in respect of each Net Metered RE Generators with whom they have a Net-Metering Agreement, and entity with RE Generation Facilities for own-use within the period specified in Clause 3.1.3.7. The data submitted under this Clause 3.1.8.2 shall represent the Net Metered RE Generator's net injection into the distribution network.</i>	Quarterly	On-Grid Mandated Participants Entities with RE Generation Facilities	1 st Offense	2 nd Offense	3 rd Offense	4 th Offense and succeeding offenses	Breach is continuing and the conditions set forth in Section 4.6 of the Manual have been met	Breach is continuing and the conditions set forth in Section 4.7 of the Manual have been met
REM Rules 3.1.8.3	Data Provision REC Calculations	<i>Mandated Participants submitting data under Clause 3.1.8.1 or Clause 3.1.8.2 shall ensure that the data is validated, accurate and uncorrupted.</i>	Quarterly	Mandated Participants	1 st Offense	2 nd Offense	3 rd Offense	4 th Offense and succeeding offenses	N/A	N/A

REM Rules/ Manuals Breached	Type	Obligation Breached	Determination of Breach/ Count	Party Involved	Applicable Penalties					
					Reprimand	Financial/ Escalated Penalty Per Breach			Suspension	Deregistration
						P5,000	P10,000	P20,000		
REM Rules 3.1.8.4	Data Provision	If the <i>Registrar</i> notifies a <i>Mandated Participant</i> that there is an error in the data submitted under Clause 3.1.8.1 or Clause 3.1.8.2, the <i>Mandated Participant</i> shall submit the corrected data within five (5) <i>Working Days</i> of the notification or forfeit any <i>RECs</i> that would have been issued in respect of that submission.	For each notification by the Registrar related to data error	Mandated Participants	1 st Offense	2 nd Offense	3 rd Offense	4 th Offense and succeeding offenses	N/A	N/A
REM Rules 3.1.10.2	Data Provision Adjustments to RECs	If the relevant <i>Mandated Participant</i> determines that there is an error in the <i>Metered Quantity</i> submitted under Clause 3.1.8.1 or Clause 3.1.8.2, then that <i>Mandated Participant</i> shall: a) Immediately notify the Registrar; and b) Submit the corrected Metered Quantity as soon as practicably possible, but no later than 30 days after the REC issuance deadline under Clause 3.1.3.9 for the REM Quarter to which the erroneous data pertains.	Quarterly	Mandated Participants	1 st Offense	2 nd Offense	3 rd Offense	4 th – 5 th Offense	N/A	N/A

REM Rules/ Manuals Breached	Type	Obligation Breached	Determination of Breach/ Count	Party Involved	Applicable Penalties					
					Reprimand	Financial/ Escalated Penalty Per Breach			Suspension	Deregistration
						P5,000	P10,000	P20,000		
REM Rules 3.3.1.5	Disclosure Certificate Transfers	<i>REM Trading Participants</i> shall disclose the price and volume of each <i>REC</i> transfer executed under Clause 3.3.1.1 in accordance with the relevant <i>REM Manual</i> .	For every transfer transaction	REM Trading Participant	1 st Offense	2 nd Offense	3 rd Offense	4 th – 5 th Offense	Breach is continuing and the conditions set forth in Section 4.6 of the Manual have been met	Breach is continuing and the conditions set forth in Section 4.7 of the Manual have been met
REM Rules 3.3.1.6	Disclosure Certificate Transfers	<i>REM Trading Participants</i> shall follow the procedures set forth in the relevant <i>REM Manual</i> when transferring <i>RECs</i> .	For every transfer transaction	REM Trading Participant	1 st Offense	2 nd Offense	3 rd Offense	4 th – 5 th Offense	Breach is continuing and the conditions set forth in Section 4.6 of the Manual have been met	Breach is continuing and the conditions set forth in Section 4.7 of the Manual have been met
REM Rules 5.2.1	Confidentiality	All <i>REM Members</i> and the <i>Registrar</i> . a) Shall not disclose or permit to be disclosed, directly or indirectly, Confidential Information to any person or entity except as permitted in the REM Rules, and shall not permit unauthorized persons to have access to Confidential Information.	For each unauthorized disclosure	REM Member	1 st Offense	2 nd Offense	3 rd Offense	4 th – 5 th Offense	Breach is continuing and the conditions set forth in Section 4.6 of the Manual have been met	Breach is continuing and the conditions set forth in Section 4.7 of the Manual have been met

REM Rules/ Manuals Breached	Type	Obligation Breached	Determination of Breach/ Count	Party Involved	Applicable Penalties					
					Reprimand	Financial/ Escalated Penalty Per Breach			Suspension	Deregistration
						P5,000	P10,000	P20,000		
		b) Shall only use or reproduce Confidential Information for the purpose for which it was disclosed or for a purpose consistent with the REM Rules. c) Shall only allow access to Confidential Information to those persons for whom access is necessary. Particularly, they shall: (i) Disclose Confidential Information to their respective directors, officers, employees, representatives or agents only on a “need to know” basis, and (ii) Shall inform their directors, officers, employees, representatives and agents that the information requested to be disclosed is confidential, and of their obligations under the REM Rules. (ii) Shall inform their directors, officers, employees, representatives and agents that the information requested to be disclosed is confidential,								

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REM Rules/ Manuals Breached	Type	Obligation Breached	Determination of Breach/ Count	Party Involved	Applicable Penalties					
					Reprimand	Financial/ Escalated Penalty Per Breach			Suspension	Deregistration
						P5,000	P10,000	P20,000		
		and of their obligations under the REM Rules. d) Shall use all responsible endeavors to prevent unauthorized access to Confidential Information which is in its possession or control. If reasonably practicable, they shall mark as confidential all copies of Confidential Information and any other material derived from such information, whether in printed or electronic format, or other format in the hands of the recipient, or to properly identify information that is confidential. e) Shall ensure that any person or entity to whom it discloses Confidential Information observes the provisions of this Clause 7.2 in relation to that information.								
REM Rules 5.2.2.1	Confidentiality	Any entity who receives information disclosed in accordance with Clause 5.2.2.1: a) Shall not disclose the information to any person,	For each unauthorized disclosure	Any Entity Receiving Information	1 st Offense	2 nd Offense	3 rd Offense	4 th – 5 th Offense	Breach is continuing and the conditions set forth in	Breach is continuing and the conditions set forth in Section 4.7 of

REM Rules/ Manuals Breached	Type	Obligation Breached	Determination of Breach/ Count	Party Involved	Applicable Penalties					
					Reprimand	Financial/ Escalated Penalty Per Breach			Suspension	Deregistration
						P5,000	P10,000	P20,000		
		except as provided by the REM Rules; and b) Shall only use the information for the purposes for which it was disclosed under Clause 5.2.2.1.							Section 4.6 of the Manual have been met	the Manual have been met
REM Rules and REM Manuals	Others	Failure to comply with express mandatory provisions of the REM Rules and REM Manuals, that are not otherwise covered in other identified breach but which expressly provide for imposition of penalties.	As provided in the relevant rules/manual	REM Member	1 st Offense	2 nd Offense	3 rd Offense	4 th – 5 th Offense	Breach is continuing and the conditions set forth in Section 4.6 of the Manual have been met	Breach is continuing and the conditions set forth in Section 4.7 of the Manual have been met