



Republic of the Philippines  
DEPARTMENT OF ENERGY  
(Kagawaran ng Enerhiya)

DEPARTMENT CIRCULAR NO. DC2021-02-0002 *JK*

**ADOPTING THE WHOLESALE ELECTRICITY SPOT MARKET (WESM)  
INDUSTRY CODE OF ETHICS**

**WHEREAS**, Sections 30 and 37(f) of the Electric Power Industry Reform Act (EPIRA) provides that the Department of Energy (DOE), jointly with the electric power industry participants, shall, among others, establish the Wholesale Electricity Spot Market (WESM);

**WHEREAS**, on 28 June 2002, the DOE, with the endorsement of the electric power industry participants, promulgated the WESM Rules through Department Circular No. DC2002-06-003;

**WHEREAS**, on 26 June 2006 and 26 December 2010, WESM commenced in Luzon Grid and Visayas Grid, respectively;

**WHEREAS**, on 27 January 2018, Department Circular No. DC2018-01-0002 was promulgated providing for the formation of the Independent Market Operator and establishing for the purpose the Philippine Electricity Market Corporation Board (PEM Board) as the WESM Governing Board with primary obligation to protect the public interest and ensure the transparency and efficiency of the WESM;

**WHEREAS**, the WESM Rules provides that, the PEM Board shall have all powers necessary, convenient and incidental to the performance of its functions and responsibilities in accordance with the WESM Rules;

**WHEREAS**, the WESM Rules provides further that, in performing its functions, the PEM Board shall act in a reasonable, ethical and prudent manner, which facilitates an efficient, competitive, transparent and reliable spot market and is consistent with the WESM objectives;

**WHEREAS**, on 15 June 2020, the PEM Board, in line with its mandates under the WESM Rules, submitted for consideration of the DOE its proposed WESM Industry Code of Ethics, which prescribe general standards of behavior to be observed by the WESM participants, members, the regulators, the System Operator and the Market Operator are enjoined to follow;

**WHEREAS**, on 21 July 2020, the DOE posted the draft Department Circular adopting the proposed Code in the DOE website to solicit comments from the market participants and other interested parties;

**WHEREAS**, on 27 and 29 October 2020, the DOE conducted virtual public consultations on the proposal to solicit further comments from the stakeholders and other interested parties;

**NOW THEREFORE**, after careful review of the proposal and the comments and recommendations received on the same, the DOE, pursuant to its authority under the EPIRA and the WESM Rules, hereby adopts, issues, and promulgates the following:

**Section 1. Observance of the WESM Industry Code of Ethics.** The Wholesale Electricity Spot Market Industry Code of Ethics, hereinafter referred to as the "Code", as provided for in Annex A of this Circular is hereby adopted and shall be observed by all WESM participants and members, the Market Operator, the WESM Governance Arm, the PEM Board and the WESM Governance Committees.

**Section 2. Separability Clause.** If for any reason, any section or provision of this Circular is declared unconstitutional or invalid, such parts not affected shall remain valid and subsisting.

**Section 3. Effectivity.** This Circular shall take effect fifteen (15) days following its publication in two (2) newspapers of general circulation. Copies thereof shall be filed with the University of the Philippines Law Center – Office of National Administrative Register (UPLC-ONAR).

Issued on FEB 24 2021 at the Energy Center, Rizal Drive, Bonifacio Global City, Taguig City.

  
ALFONSO G. CUSI  
Secretary



## ANNEX A

# THE WESM INDUSTRY CODE OF ETHICS

## FOREWORD

The WESM Industry Code of Ethics ("Code") is essential in promoting a culture of compliance to the WESM Rules, WESM Manuals, and other applicable laws and regulations, fairness in dealings amongst WESM participants, WESM members, the Market Operator, the WESM Governance Arm, the PEM Board, and the WESM Governance Committees, and fostering an efficient, transparent and level playing field in the WESM with the end view of promoting consumer welfare. Moreover, fairness promotes healthy and sustainable competition.

This Code intends to promote professionalism and integrity, prescribe general standards of behavior which the abovementioned entities are enjoined to follow. These standards are not meant to supplant or infringe but shall merely complement other regulatory issuances.

Thus, they shall be consciously responsible for maintaining strong public and investors' confidence in the WESM. It is of primary importance that they shall abide by this Code and be aware of its significant provisions.

## I. APPLICABILITY

### SECTION 1

This Code applies uniformly to all parties transacting, operating and/or providing service in the WESM, as follows:

- a. WESM participants;
- b. WESM members;
- c. Market Operator;
- d. WESM Governance Arm
- e. PEM Board; and
- f. WESM Governance Committees.

### SECTION 2

The provisions of this Code shall apply and be suppletory in case the provisions of the WESM Rules, WESM Manuals, and other applicable laws and regulations, does not so provide.

## II. PRINCIPLES

### SECTION 1 - HONESTY AND INTEGRITY

The WESM participants, WESM members, the Market Operator, the WESM Governance Arm, the PEM Board, and the WESM Governance Committees shall:

- a. observe the highest standards, and foster a culture, of honesty, truthfulness, transparency, integrity, sincerity, fairness and competence in all dealings;
- b. not commit anti-competitive, fraudulent, and deceitful practices in any form, and uphold free and fair competition in accordance with the Republic Act 10667 or also known as the Philippine Competition Law, and other related rules that may be adopted by the Philippine Competition Commission and the Energy Regulatory Commission;
- c. not deliberately provide incorrect, misleading, or false information or data to the Department of Energy, the Energy Regulatory Commission, WESM participants, WESM members, the Market Operator, the WESM Governance Arm, the PEM Board, and the WESM Governance Committees for whatever purpose;
- d. aspire to preserve and improve the WESM, including all its instrumentalities and processes, at all times; and
- e. honor and abide by all obligations, financial or otherwise, in the WESM and with other WESM entities mentioned above as a vital element of their participation and responsibilities to the WESM.

## **SECTION 2 - FAIRNESS AND LEVEL PLAYING FIELD**

The WESM participants, WESM members, the Market Operator, the WESM Governance Arm, the PEM Board, and the WESM Governance Committees shall at all times place the common interests of the WESM above their own self-interest.

They shall avoid entering into any kind of agreement and transaction with any party that will be inimical to the interest of WESM or create actual and potential conflicts of interest.

They shall not utilize or take advantage of insider information at the expense of other WESM entities mentioned above and the WESM itself, whether gathered or obtained within or outside of the WESM.

They shall not propose or implement schemes or arrangements that shall frustrate the objective of free and fair competition and level playing field, provided that measures that are required to ensure the security and reliability of the network or system as may be allowed by the WESM Rules shall not be considered as frustrating the said objective.

## **SECTION 3 - ACCOUNTABILITY AND DISCIPLINE**

The WESM participants, WESM members, the Market Operator, the WESM Governance Arm, the PEM Board, and the WESM Governance Committees shall likewise observe proper decorum when dealing with other WESM entities mentioned above, and/or when representing the WESM.

They shall maintain awareness of their corresponding responsibilities and accountabilities.

## **SECTION 4 - REPORTS, INFORMATION DISCLOSURE AND CONFIDENTIALITY**

The WESM participants, WESM members, the Market Operator, the WESM Governance Arm, the PEM Board, and the WESM Governance Committees shall

timely and accurate submit WESM-related reports, data, information and documents as may be required by the Department of Energy, the Energy Regulatory Commission, and the Philippine Competition Commission.

They shall disclose to the WESM all relevant information as required by and in accordance to existing laws, market rules, policy circulars and regulatory edicts as well as any similar future promulgations.

They shall act with prudence in the disclosure of all forms of data and communication that may impact market outcomes.

They shall respect the confidentiality of market information as provided for in the WESM Rules, WESM Manuals, and other applicable laws and regulations.

The WESM participants and WESM members shall also disclose to the Market Operator any information that has come to their knowledge that may have or potentially have an adverse impact on WESM participants, WESM members, and the market at large, subject to existing rules on privileged information and confidentiality.

#### **SECTION 5 – AUDIT**

The WESM participants, WESM members, the Market Operator, the WESM Governance Arm, the PEM Board, and the WESM Governance Committees shall actively participate in all periodic WESM audits that require their cooperation.

#### **SECTION 6 - COMPLIANCE WITH RULES, LAWS, POLICIES, AND REGULATIONS**

The WESM participants, WESM members, the Market Operator, the WESM Governance Arm, the PEM Board, and the WESM Governance Committees shall promote a culture of compliance to the WESM Rules, WESM Manuals, and other applicable laws and regulations.

They shall uphold all the WESM Rules, WESM Manuals, and other applicable laws and regulations including those issued by the Department of Energy, Energy Regulatory Commission and the Philippine Competition Commission.

#### **SECTION 7 - REPORTING OF UNLAWFUL AND UNETHICAL BEHAVIOR**

The WESM participants, WESM members, the Market Operator, the WESM Governance Arm, the PEM Board, and the WESM Governance Committees shall immediately report in writing to the Department of Energy, any and all unlawful and unethical activities committed or about to be committed by other WESM entities mentioned above, including its officers and staff, that may come to their knowledge, so that the same may be investigated or appropriate action may be taken thereon by the Department. The Department may however refer the same to the relevant authorities, if necessary.

#### **SECTION 8 – PROFESSIONALISM**

The WESM participants, WESM members, the Market Operator, the WESM Governance Arm, the PEM Board, and the WESM Governance Committees shall

participate actively in all WESM activities and programs that require cooperation from WESM participants and members.

They shall strive for advancement and excellence within their own corporate or business organization in their respective membership in the WESM through continuing education and trainings either individually or collectively.

### **SECTION 9 – COMPLIANCE WITH THE CODE**

Finally, the WESM participants, WESM members, the Market Operator, the WESM Governance Arm, the PEM Board, and the WESM Governance Committees shall continually be aware and updated, and fully understand the provisions of this Code as may be amended or modified from time to time, and warrant that they shall strictly comply with the Code's provisions as they undertake their daily WESM activities. All of these are being done for a better, fair, transparent and efficient WESM.

### **SECTION 10 – PENALTY**

Any violation on the provisions of the Code shall be non-discriminatory and be subject to the corresponding penalties as may be provided under the WESM Rules, WESM Manuals, other applicable laws and regulations.

### **III. EFFECTIVITY**

This Code shall take effect fifteen (15) days following its publication and shall remain in full force and in effect until otherwise amended or revoked. This Code shall likewise be published in the websites of the WESM Governance Arm and the WESM Market Operator.