**Name of Stakeholder:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

1. **Proposed Amendments to the WESM Rules Regarding Dispute Resolution**

| **Title** | **Section** | **Provision** | **Proposed Amendment** | **Rationale** | **Comment /**  **Proposed Revision** | **Rationale** |
| --- | --- | --- | --- | --- | --- | --- |
| DISPUTE RESOLUTION  Application and Guiding Principles | 7.3.1.1 | The dispute resolution procedures set out in this clause 7.3 apply to all disputes relating to or in connection with transactions in the *WESM* which may arise between or among any of the following:  (a) The *Market Operator*;  (b) The *System Operator*;  (c) The *PEM Board* and its Working Groups except the *Dispute Resolution Administrator;*  (d) *WESM member*s;  (e) Intending *WESM member*s; | The dispute resolution procedures set out in this clause 7.3 apply to all disputes relating to or in connection with transactions in the *WESM* which may arise between or among any of the following:  (a) The *Market Operator*;  (b) The *System Operator*;  (c) **~~The~~ *~~PEM Board~~* ~~and its Working Groups except the~~ *~~Dispute Resolution Administrator;~~ Governance Arm;***  (d) *WESM Member*s;  (e) Intending *WESM Member*s; | To make the list of possible parties consistent with framework of dispute resolution per DOE DC 2020-10-0021 dated 22 October 2020 (Provisions for the Implementation of Independent Market Operator). It amended references to PEM Board and PEMC as Governance Arm. |  |  |

1. **Proposed Amendments to the Dispute Resolution Manual Issue No. 6**

| **Title** | **Section** | **Provision** | **Proposed Amendment** | **Rationale** | **Comment /**  **Proposed Revision** | **Rationale** |
| --- | --- | --- | --- | --- | --- | --- |
| Definitions, Interpretation and Construction | Section 2.1. Definitions  Sub-sections (kk) to (qq) | 1. Rules denote the WESM Rules.      1. Rules Change Committee refers to xxx 2. WESM-Accredited Arbitrator, WESM-Accredited Mediator and WESM-Accredited ADR Support Service Center have the meaning ascribed to them, respectively, in Sections 6 of this Manual. 3. WESM dispute means xxx 4. WESM Objectives refers to xxx 5. WESM Member means xxx 6. WESM Participant means xxx | 1. **Retail Rules refer to the rules promulgated by the Department of Energy governing the integration of retail competition in the operations and governance processes of the WESM and the management of the transactions of the Suppliers and Contestable Customers in the WESM, and the operations of the Central Registration Body as defined in Department Circular No. DC2013-01-0002.**   **(ll)** ~~(kk)~~ Rules denote the WESM Rules.    **(mm)** ~~(ll)~~ Rules Change Committee refers to xxx  **(nn)** ~~(mm)~~ WESM-Accredited Arbitrator, WESM-Accredited Mediator and WESM-Accredited ADR Support Service Center have the meaning ascribed to them, respectively, in Sections 6 of this Manual.  **(oo)** ~~(nn)~~ WESM dispute means xxx  **(pp)** ~~(oo)~~ WESM Objectives refers to xxx  **(qq)** ~~(pp)~~ WESM Member means xxx   1. ~~(qq)~~ WESM Participant means xxx | * To include Retail Rules in the Definitions and refer to them as the rules under DOE Department Circular No. DC2013-01-0002. * Renumbering of subsequent provisions |  |  |
| **Title** | Section | **Provision** | **Proposed Amendment** | **Rationale** |  |  |
| General Procedural Provisions | Section 7.1. Disputes Between WESM Members and the System Operator and the Market OperatorSection 7.1.1. | 7.1.1. When a dispute regarding one of the matters described in this Manual arises between and/or among WESM Members including the System Operator and Market Operator, the parties must go through the following steps:Subject to Section 8.3, the parties in dispute should make good faith efforts to amicably settle their dispute between and/or among themselves pursuant to their respective Dispute Management Protocols.Should the negotiation fail, any of the parties may refer the matter in dispute to the DRA in accordance with Section 8.4. Such submission shall set in motion the WESM dispute resolution process established in this Manual. If the DRA determines that the dispute is a *WESM dispute* under Section 2.1(nn) of this Manual, he shall initiate the selection of a mediator under Section 8.5 of this Manual.Should mediation efforts fail, the Claimant(s) may file with the DRA a Request under Section 9 to resolve the dispute by arbitration.Should the parties decide to dispense with mediation and, provided that there has been a determination by the *Dispute Resolution Administrator* within ninety (90) calendar days from receipt of the dispute that the same is a WESM dispute under Section 2.1(oo) of this Manual, directly proceed to arbitration, the parties may elect to do so subject to the issuance by the *Dispute Resolution Administrator* of a certification stating that mediation is no longer a viable option for the parties. | 7.1.1. When a dispute regarding one of the matters described in this Manual arises between and/or among WESM Members including the System Operator and Market Operator, the parties must go through the following steps:Subject to Section 8.3, the parties in dispute should make good faith efforts to amicably settle their dispute between and/or among themselves pursuant to their respective Dispute Management Protocols.Should the negotiation fail, any of the parties may refer the matter in dispute to the DRA in accordance with Section 8.4. Such submission shall set in motion the WESM dispute resolution process established in this Manual. If the DRA determines that the dispute is a *WESM dispute* under Section 2.1 ~~(nn)~~ **(oo)** of this Manual, he shall initiate the selection of a mediator under Section 8.5 of this Manual.Should mediation efforts fail, the Claimant(s) may file with the DRA a Request under Section 9 to resolve the dispute by arbitration.Should the parties decide to dispense with mediation and, provided that there has been a determination by the *Dispute Resolution Administrator* within ninety (90) calendar days from receipt of the dispute that the same is a WESM dispute under Section 2.1(oo) of this Manual, directly proceed to arbitration, the parties may elect to do so subject to the issuance by the *Dispute Resolution Administrator* of a certification stating that mediation is no longer a viable option for the parties.**Should the parties determine that their particular dispute would be better or more expeditiously resolved by Final Offer Arbitration, they may elect to be bound by the Final Offer Arbitration Supplementary Rules set forth in Annex H hereto subject to the issuance by the *Dispute Resolution Administrator* of a certification of the parties such agreement.** | The additional provision lays the foundation for the use of the Final Offer Arbitration or the Pendulum Rules for parties who agree to be bound by said Supplementary Rules subject to the issuance by the *Dispute Resolution Administrator* of a certification of the parties to such agreement.The certification by the DRA as to the parties’ election will avoid future contests and refusal to recognize the arbitral award on the ground that the mode of arbitration was not mutually agreed upon by the parties. |  |  |
| New provision | New provision |  | **7.3. Disputes Between Supplier and Customer under the Retail Rules**  **7.3.1. Unless the parties agree otherwise, resolution of disputes on:**   1. **fees for early/pre-termination of a Retail Supply Contract;** 2. **Retail Supply Contract price; and** 3. **Retail Supply Contract period, within the contemplation of the Retail Rules shall be subject to the Final Offer Arbitration Supplementary Rules set forth in Annex H hereto.** | The additional provision defines the disputes specific to those between the Supplier and Customer under the Retail Rules and makes the Final Offer Arbitration under the Supplementary Rules in Annex H the default mode for these types of disputes. To give primacy to the agreement of the parties, the proposed provision retained the caveat, *“unless the parties agree otherwise”* to give them the option to choose the conventional mode of arbitration instead. |  |  |
| New Annex | New Annex |  | **Please see attached ANNEX H - FINAL OFFER ARBITATION SUPPLEMENTARY RULES** (also referred to as PENDULUM ARBITRATION SUPPLEMENTARY RULES) | To outline the rule and processes applicable to Dispute Resolution for Retail Rules |  |  |
| New Annex | New Annex |  | **Please see attached ANNEX I – GUIDELINE FOR VIRTUAL HEARINGS** | To provide for the guidelines for the conduct of virtual hearings |  |  |