

**[ DOE DEPARTMENT CIRCULAR NO. DC 2010-05-0006, May 06, 2010 ]**

**TERMINATING THE DEFAULT WHOLESALE SUPPLIER  
ARRANGEMENT FOR THE PHILIPPINE WHOLESALE ELECTRICITY  
SPOT MARKET (WESM) AND DECLARING A DISCONNECTION  
POLICY**

**WHEREAS**, the Department of Energy (the "DOE") is mandated under Section 30 of Republic Act No. 9136, otherwise known as the "Electric Power Industry Reform Act of 2001" or "EPIRA", to establish the Wholesale Electricity Spot Market (WESM) that will facilitate a transparent, competitive, and reliable electricity market in the country;

**WHEREAS**, on 21 June 2006, the DOE issued Department Circular No. 2006-06-008 declaring the launching of the WESM in the Luzon Grid and the terms and conditions for the commencement of the full commercial operations of the WESM;

**WHEREAS**, at the start of the commercial operation of WESM, not all electric industry participants, particularly the Distribution Utilities (DUs), were able to meet the technical and commercial requirements to directly trade in the WESM;

**WHEREAS**, on 22 June 2006, the DOE issued Department Circular No. 2006-06-0009 designating the National Power Corporation (NPC) and Power Sector Assets and Liabilities Management Corporation (PSALM) as the Default Wholesale Suppliers (DWS) to supply the electric power supply imbalances of customers in the WESM;

**WHEREAS**, Section 3 of Department Circular No. 2006-06-0009 states that the DWS Arrangement shall be implemented for a period not longer than one (1) year from the start of commercial operations of the WESM in Luzon;

**WHEREAS**, Section 4 of Department Circular No. 2006-06-0009 states that the designation of NPC and PSALM as the DWS is an interim measure to ensure the smooth transition from the current supply arrangements to the implementation of the WESM;

**WHEREAS**, commercial operations of the WESM commenced on 26 June 2006;

**WHEREAS**, as of 28 April 2010, PSALM has successfully bid out an aggregate rated capacity of 3,318.23 MW which accounts for the 87.82% of the total 3,778.23 MW rated capacity of PSALM/NPC owned generating assets in the Luzon and Visayas grids; also, PSALM has bid out 68.22% or 3,345.75 MW of the total 4,904.55 MW capacity of NPC-IPP contracts in the Luzon and Visayas grids;

**WHEREAS**, the privatization of the significant portion of NPC generating plants and other power assets of PSALM, since the effectivity of the DWS, has significantly affected the ability of PSALM and NPC to supply the energy requirements of its customers;

**WHEREAS,** there is a need to terminate the DWS since NPC and PSALM can no longer economically and effectively perform their duties as the default wholesale supplier;

**WHEREAS,** the termination of the DWS arrangement will cause distribution utilities (DUs) to have no default supplier of electricity for the imbalances of their contract and shall likewise leave them without any supplier, in case they fail to enter into a supply contract with a generator or other service providers;

**WHEREAS,** to ensure continuous supply of electricity within its franchise area, a DU is encouraged to enter into a bilateral contract with a generator or other service provider, in a least cost manner, to cover its energy requirements;

**WHEREAS,** DUs can withdraw electricity from the grid, provided they are WESM Members, either as a Direct or Indirect, pursuant to WESM Rules Section 2.2.4.2, which states that “no person or entity shall be allowed to inject or withdraw electricity from the grid unless that person or entity is a registered member of the WESM”;

**WHEREAS,** it therefore necessarily follows that DUs who are not WESM members do not have the right to withdraw electricity from the grid and should therefore be disconnected from the grid;

**WHEREAS,** the Open Access and Transmission Services (OATS) Rules provides that the Transmission Provider shall not be held liable for failure to deliver the services described in Modules B, C, and D of the OATS Rules in case the Transmission Customer fails to comply with its obligations under the OATS Rules, the Grid Code, and the WESM Rules;

**NOW THEREFORE,** premises considered the DOE hereby declares the following:

*SECTION 1. Termination of the DWS Arrangement.* In view of the inability of NPC and PSALM to economically and effectively perform their duties as DWS considering the privatization level to-date, the DWS arrangement provided in DOE Circular No. 2006-06-009 is hereby terminated. Accordingly, NPC and PSALM are thereby relieved from their designation as the DWS. All other rules, resolutions, or circulars issued in relation to the DWS are hereby declared repealed.

In accordance with Section 2 of DOE Circular No. 2006-06-009, the termination of the DWS arrangement shall apply to the grid where WESM is operational.

*SECTION 2. Disconnection Policy.*

2.1 Disconnection of Non-WESM Members. Pursuant to Section 2.2.4.2 of the WESM Rules, all persons or entities who fail to register with the WESM within ninety (90) days from the effectivity of this Circular shall be disconnected from the grid. This condition shall initially apply to the Luzon grid where there is WESM operation.

2.2 Other grounds for disconnection. The DOE shall provide other grounds for disconnection of persons or entities in the guidelines as it may deem proper pursuant to the overall intent of the EPIRA.

Pursuant to Section 4.1. below, the DOE shall formulate the necessary guidelines for the disconnection of persons or entities who fail to comply with this Circular, taking