| **WESM Rules (As of 15 August 2023)** | | | | | | |
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| **Title** | **Clause** | **Original Provision** | **Proposed Amendment** | **Rationale** | **Comments/Proposed Revision** | **Rationale** |
| Chapter 7 – ENFORCEMENT AND DISPUTES  7.2 ENFORCEMENT  7.2.4 Enforcement Proceedings | 7.2.4.2 (2nd paragraph) | 7.2.4.1 x x x  7.2.4.2 x x x  The Enforcement and Compliance Office shall ensure that the necessary verification or assessment of compliance or non-compliance is performed and that due process is observed in the conduct of compliance monitoring and assessment. Upon finding of breach by the Enforcement and Compliance Office, penalties shall immediately be imposed by the Enforcement and Compliance Office on the concerned WESM Member through issuance of notice of specified penalty by the PEMC pursuant to Clause 7.2.5.2. Provided, however, that the WESM Member may file a request for reconsideration with the Enforcement and Compliance Office. | 7.2.4.1 x x x  7.2.4.2 x x x  The *Enforcement and Compliance Office* shall ensure that the necessary verification or assessment of compliance or non-compliance is performed**,** and that due process is observed in the conduct of compliance monitoring and assessment. Upon finding of *breach* by the *Enforcement and Compliance Office*, penalties shall ~~immediately~~ be imposed by the *Enforcement and Compliance Office* on the concerned *WESM Member* **pursuant to Clause 7.2.5.2** through issuance of notice of specified penalty by the *~~PEMC~~***President of the *WESM Governance Arm;***~~pursuant to Clause 7.2.5.2~~. **p**rovided~~, however,~~ that **it shall be issued to** the **said** *WESM Member* ~~may file a request for reconsideration with the~~ *~~Enforcement and Compliance Office~~*~~.~~ **after it has been afforded the adequate opportunity to avail of the enforcement remedies provided by the relevant *Market Manual.*** | * Changed PEMC to President of the WESM Governance Arm for consistency in the use of terminology. * Revised to provide basis for the rule on exhaustion of available remedies before a penalty is issued/implemented. (Remedies such as Request for Reconsideration and Appeal is proposed to be included in the implementing Market Manual, i.e., Enforcement and Compliance Manual) * Clerical revisions |  |  |
| Chapter 7 – ENFORCEMENT AND DISPUTES  7.2 ENFORCEMENT  7.2.4 Enforcement Proceedings | 7.2.4.11 | 7.2.4.11 If the decision of the *PEM Board* is to penalize the *WESM Member,* the *Enforcement and Compliance Office*, shall issue a notice of penalty to the *WESM Member* in accordance with the *WESM Penalty Manual* adopted pursuant to Clause 7.2.5.5. Provided, however, that the *WESM Member* may file a request for reconsideration to the *PEM Board.* | 7.2.4.11 If the decision of the *PEM Board* is to penalize the *WESM Member,* the *~~Enforcement and Compliance Office~~*~~,~~ **President of the *WESM Governance Arm*** shall issue a notice of penalty to the *WESM Member* in accordance with the *WESM Penalty Manual* adopted pursuant to Clause 7.2.5.5~~.~~**; p**~~P~~rovided~~, however,~~ that **it shall be issued to** the **said** *WESM Member* ~~may file a request for reconsideration to the~~ *~~PEM Board.~~* **after it has been afforded the adequate opportunity to avail of the enforcement remedies provided by the relevant *Market Manual.*** | * President of the WESM Governance Arm to issue the Notice of Specified Penalty after findings of breach by ECO - for consistency with the related provisions on issuance of Notice of Specified Penalty in the Penalty Manual. * Revised to provide basis for the rule on exhaustion of available remedies before a penalty is issued/implemented. (Remedies such as Request for Reconsideration and Appeal is proposed to be included in the implementing Market Manual, *i.e.,* Enforcement and Compliance Manual) |  |  |
| CHAPTER 7 - ENFORCEMENT AND DISPUTES    7.2 ENFORCEMENT  7.2.5 Enforcement Actions | 7.2.5.4 | If the breach is of such a nature that payment of compensation to affected parties is required, the *Market Operator* on behalf of the affected party may make a demand for payment under the *WESM Rules* without prejudice to the sanctions and penalties that the *ERC* may impose. | If the breach is of such a nature that payment of compensation to affected parties is required, the *~~Market Operator~~* ***WESM Governance Arm*** on behalf of the affected party may make a demand for payment under the *WESM Rules* without prejudice to the sanctions and penalties that the *ERC* may impose. | Collection of penalty is proposed to be transferred to WESM Governance Arm. |  |  |
| CHAPTER 7 - ENFORCEMENT AND DISPUTES    7.2 ENFORCEMENT  7.2.5 Enforcement Actions | 7.2.5.5 | 7.2.5.5 A *WESM Penalty Manual* shall be adopted and promulgated by the *DOE* which shall specify the:  (a) Acts or omissions constituting *breach* of the *WESM Rules* or *Market Manuals* for which penalties can be imposed;  (b) Penalties, financial and non-financial, that can be imposed for each type of breach, which should be commensurate to the nature and gravity of the breach; and  (c) Procedures for and respective obligations of responsible persons or entities in implementing penalties. | 7.2.5.5 A *WESM Penalty Manual* shall be adopted and promulgated by the *DOE* which shall specify the:  (a) Acts or omissions constituting *breach* of the *WESM Rules* or *Market Manuals* for which penalties can be imposed;  (b) Penalties, financial and non-financial, that can be imposed for each type of breach, which should be commensurate to the nature and gravity of the breach; ~~and~~  **(c) Utilization of financial penalty collected; and**  ~~(c)~~ **(d)** Procedures for and respective obligations of responsible persons or entities in implementing penalties. | Revised to add basis for including a provision on penalty utilization in the Penalty Manual. |  |  |
| CHAPTER 11 – Glossary |  | Enforcement proceeding. This is the activity carried out to establish and determine the occurrence of breach and the corresponding enforcement action that will be carried out as a consequence of the breach, and includes monitoring, assessment, investigation and imposing enforcement actions. | Enforcement proceeding - This is the activity **or series of activities** carried out to establish and determine the occurrence of *breach* and the corresponding enforcement action that will be carried out as a consequence of the *breach*, and includes monitoring, assessment, investigation**, reconsideration and appeal proceedings,** and ~~imposing~~ **imposition of** enforcement actions. | To add reconsideration and appeal proceedings as essential enforcement activities in determining breach of the Rules. |  |  |

| **WESM Manual on Enforcement and Compliance, Issue 1.0** | | | | | | |
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| **Title** | **Section** | **Original Provision** | **Proposed Amendment** | **Rationale** | **Comments/Proposed Revision** | **Rationale** |
| SECTION 3 LEGAL AND REGULATORY FRAMEWORK | 3.1.3 | Pursuant to the legal mandate discussed above, the *WESM Rules* provide for the manner by which they are to be enforced, including particularly the imposition of sanctions for *breach* and the requirements and procedures before sanctions can be imposed.[3] The *WESM Rules* likewise provide for the design and promulgation of a penalty scheme that will be applied in case of *breach*.[4]  Footnote:  [3] *WESM Rules*, Clause 1.8.1 and Section 7.2  [4] *WESM Rules*, Clause 1.6.3 | Pursuant to the legal mandate discussed above, the *WESM Rules* provide for the manner by which they are to be enforced, including particularly the imposition of sanctions for *breach* and the requirements and procedures before sanctions can be imposed.[3] The *WESM Rules* likewise provide for the design and promulgation of a penalty scheme that will be applied in case of *breach*.[4]  Footnote:  [3] *WESM Rules*, Clause**s** ~~1.8.1~~ **7.1** and Section 7.2  [4] *WESM Rules*, Clause ~~1.6.3~~ **7.2.5.5** | Minor – Change in Rule Reference (Footnote) – as may be affected by previous amendments to the WESM Rules. |  |  |
| SECTION 3 LEGAL AND REGULATORY FRAMEWORK  3.2 Enforcement of The Market Rules | 3.2.2 | In line with this, the *WESM Rules* prescribe the respective mandates of the Philippine Electricity Market Board and the *Compliance Committee* in respect to enforcement and compliance. The *WESM Rules* also provide for the creation of an *Enforcement and Compliance Office* to assist the Board in carrying out its enforcement and compliance functions. The *Enforcement and Compliance Office* is a unit within the Philippine Electricity Market Corporation. | In line with this, the *WESM Rules* prescribe the respective mandates of the ~~Philippine Electricity Market~~ ***PEM*** *Board* and the *Compliance Committee* in respect to enforcement and compliance. The *WESM Rules* also provide for the creation of an *Enforcement and Compliance Office* to assist the Board in carrying out its enforcement and compliance functions. The *Enforcement and Compliance Office* is a unit within the ~~Philippine Electricity Market Corporation (PEMC)~~ ***WESM Governance Arm*.** | For consistency with the terminology used in the Market Rules and Market Manuals. |  |  |
| SECTION 3 LEGAL AND REGULATORY FRAMEWORK  3.2. Enforcement of the Market Rules | 3.2.1 | The *WESM Rules* establish a governance structure for the *WESM* which includes, among other things, a structure for carrying out enforcement and compliance functions. The establishment of such governance structure is pursuant to the EPIRA which, provides that the procedures for administering the market which are to be set out in the *WESM Rules* include the formation of a governing body.[8]  Footnote:  [8] WESM Manual on Registration, Suspension and De-registration Criteria and Procedures | The *WESM Rules* establish a governance structure for the *WESM* which includes, among other things, a structure for carrying out enforcement and compliance functions. The establishment of such governance structure is pursuant to the EPIRA which, provides that the procedures for administering the market which are to be set out in the *WESM Rules* include the formation of a governing body.[8]  Footnote:  [8] ~~WESM Manual on Registration, Suspension and De-registration Criteria and Procedures~~ **Section 30 (c) of R.A 9136 otherwise known as the “Electric Power Industry Reform Act of 2001”** | Minor – correction in the rule reference. |  |  |
| SECTION 3 LEGAL AND REGULATORY FRAMEWORK  3.4 Enforcement Actions Under the WESM Rules | 3.4.1 | *WESM Rules* Clause 1.8.1 provides that the Rules are to be enforceable in accordance with its Chapter 7. | *WESM Rules* Clause ~~1.8.1~~ **1.9.1** provides that the Rules are to be enforceable in accordance with its Chapter 7. | Minor – Change in Rule Reference – as may be affected by previous amendments to the WESM Rules. |  |  |
| SECTION 4 RESPONSIBILITIES  4.2. Compliance Committee | 4.2.1 | Within the limits set out in this Manual and in addition to its functions as set out in the *Market Rules* and the *Compliance Committee Manual*, the *Compliance Committee* has the following authority and obligation in respect to enforcement of the Market Rules. Its enforcement authority includes the authority to:  a) Review reports of investigations of breaches to the *WESM Rules* and *Market Manuals* carried out by the *Enforcement and Compliance Office* and, based on the results of such investigation, decide on the outcomes of the investigation and recommend imposition of sanctions or penalties if warranted;  b) Review and monitor the compliance of the *Enforcement and Compliance Office* with the reportorial requirements pursuant to the WESM Rules, Market Manuals, and other applicable laws, rules, regulations, or issuances;  c) Review and monitor the compliance by the *Market Operator* and the *System Operator* with their obligations pursuant to the *WESM Rules* and *Market Manuals*, or any coordinating or operating agreements, or protocols which may be established governing the performance of their functions and obligations under the *WESM Rules* and *Market Manuals*.  d) Propose amendments to the WESM Rules or Market Manuals in accordance with chapter 8 with a view to:  (i) Improving the efficiency and the effectiveness of the operation of the WESM; and  (ii) Improving or enhancing the prospects for the achievement of the WESM objectives;  e) Assist the *Rules Change Committee* in relation to its assessment of proposals to amend the WESM Rules or Market Manuals under Chapter 8; and  f) Recommend to the *PEM Board* the imposition of penalties for *breaches* other than those arising from and determined through the compliance monitoring and assessment by *Enforcement and Compliance Office*, and implementation of remedial measures as a consequence of such *breach*, based on outcomes of investigation carried out by the *Enforcement and Compliance Office*. | Within the limits set out in this Manual and in addition to its functions as set out in the *Market Rules* and the *Compliance Committee Manual*, the *Compliance Committee* has the following authority and obligation in respect to enforcement of the Market Rules. Its enforcement authority includes the authority to:  a) Review reports of investigations of breaches to the *WESM Rules* and *Market Manuals* carried out by the *Enforcement and Compliance Office* and, based on the results of such investigation, decide on the outcomes of the investigation and recommend imposition of sanctions or penalties if warranted;  b) Review and monitor the compliance of the *Enforcement and Compliance Office* with the reportorial requirements pursuant to the WESM Rules, Market Manuals, and other applicable laws, rules, regulations, or issuances;  c) Review and monitor the compliance by the *Market Operator* and the *System Operator* with their obligations pursuant to the *WESM Rules* and *Market Manuals*, or any coordinating or operating agreements, or protocols which may be established governing the performance of their functions and obligations under the *WESM Rules* and *Market Manuals****;***~~.~~  **d) Review and approve the guidelines for the *WESM Compliance Officers*’ competence standards and certification program;**  ~~d)~~ **e)** Propose amendments to the WESM Rules or Market Manuals in accordance with chapter 8 with a view to:  (i) Improving the efficiency and the effectiveness of the operation of the WESM; and  (ii) Improving or enhancing the prospects for the achievement of the WESM objectives;  ~~e)~~ **(f)** Assist the *Rules Change Committee* in relation to its assessment of proposals to amend the WESM Rules or Market Manuals under Chapter 8; and  ~~f)~~ **(g)** Recommend to the *PEM Board* the imposition of penalties for *breaches* other than those arising from and determined through the compliance monitoring and assessment by *Enforcement and Compliance Office*, and implementation of remedial measures as a consequence of such *breach*, based on outcomes of investigation carried out by the *Enforcement and Compliance Office*. | * Added another item - for consistency with the WESM Rules * Renumbered the succeeding/affected sub-items under Section 4.2.1 * Clerical revisions |  |  |
| SECTION 4 RESPONSIBILITIES 4.4 PEMC President | 4.4  4.4.1 | 4.4. PEMC President  4.4.1 The PEMC President shall have the following functions in respect to enforcement and compliance in the market –  a) Appoint the *Enforcement and Compliance Office* staff;  b) Exercise administrative supervision over the *Enforcement and Compliance Office* and its performance of the duties and responsibilities under this Manual; and  c) Issue notices and receive notices or authorize receiving of notices required in this Manual to be issued by or to the *Market Operator* in accordance with internal business processes of PEMC. | 4.4. ~~PEMC~~ President **of the *WESM Governance Arm***  4.4.1 The ~~PEMC~~ President **of the *WESM Governance Arm*** shall have the following functions in respect to enforcement and compliance in the market –  a) Appoint the *Enforcement and Compliance Office* staff;  b) Exercise administrative supervision over the *Enforcement and Compliance Office* and its performance of the duties and responsibilities under this Manual; and  c) Issue ~~notices~~ and receive notices or authorize receiving of notices required in this Manual **and the *WESM Penalty Manual*** ~~to be issued by or~~ to the *Market Operator* ***or the System Operator***in accordance with internal business processes of ~~PEMC~~ **the *WESM Governance Arm***. | For consistency with the terminology used in the Market Rules and Market Manuals |  |  |
| SECTION 5 WESM ENFORCEMENT PROCEEDINGS AND ACTIONS 5.2 Enforcement Proceedings | 5.2.1 | WESM *enforcement proceedings* refer to the activities or processes that are carried out to establish and determine the occurrence of *breach* and the corresponding *enforcement action* that will be carried out as a consequence of the *breach*. These include the processes for compliance monitoring and assessment, investigation for *breach* and imposition of *enforcement actions.* The timeline and the entities responsible and/or accountable for the *enforcement proceedings* are summarized in Appendices I and II of this Manual. | WESM *enforcement proceedings* refer to the activities or processes that are carried out to establish and determine the occurrence of *breach* and the corresponding *enforcement action* that will be carried out as a consequence of the *breach*. These include the processes for compliance monitoring and assessment, investigation for *breach,* **proceedings relating to reconsideration and appeal** and imposition of *enforcement actions.* The timeline and the entities responsible and/or accountable for the *enforcement proceedings* are summarized in Appendi~~ces~~**x** I ~~and II~~ of this Manual. | * Currently, the provisions for reconsideration and appeal are found in WESM Penalty Manual.   The remedies available like Request for Reconsideration and Appeal are proposed to be transferred from Penalty Manual to a new section of EC Manual (Sec. 9) as would form part of the enforcement proceedings (monitoring and investigation > results > request for reconsideration > appeal).  The WESM Penalty Manual will then be limited to provisions pertaining to penalty amounts, penalty level, implementation, and utilization thereof.   * The summary timeline (in tabular form) will be replaced by a process flowchart as Appendix I |  |  |
| SECTION 5 WESM ENFORCEMENT PROCEEDINGS AND ACTIONS  5.2 Enforcement Proceedings | 5.2.3 | Investigations for breach committed by WESM Members may be initiated by the *Enforcement and Compliance Office*, from a notice of probable breach by the *Market Operator* or the *System Operator*, or by request for investigation from other *WESM Members* or W*ESM Governance Committees*. Investigation may also be initiated from the directive of the *PEM Board*, *DOE* or *ERC*. This is carried out by the *Enforcement and Compliance Office* which shall afford the party being investigated sufficient opportunities to respond to the investigation. Investigation reports of the *Enforcement and Compliance Office* are reviewed by the *Compliance Committee*. The results of the investigation, as reviewed, are then submitted to the *PEM Board*, which has the authority to impose sanctions and penalties, and to require that remedial measures be carried out. | Investigations for breach committed by WESM Members may be initiated by the *Enforcement and Compliance Office*, from a ~~notice~~ **report** of probable breach by the *Market Operator* or the *System Operator*, or by request for investigation from other *WESM Members* or *WESM Governance Committees*. Investigation may also be initiated from the directive of the *PEM Board*, *DOE* or *ERC*. This is carried out by the Enforcement and *Compliance Office* which shall afford the party being investigated sufficient opportunities to respond to the investigation. Investigation reports of the *Enforcement and Compliance Office* are reviewed by the *Compliance Committee*. The results of the investigation, as reviewed, are then submitted to the *PEM Board*, which has the authority to impose sanctions and penalties, and to require that remedial measures be carried out. | Minor – correction of terms  “Notice of Probable Breach” and “Report of Probable Breach” are two (2) different terms that are separately defined in the Glossary of the EC Manual.   * Notice of Probable Breach – report by any WESM Member/WGC to the PEM Board about a probable breach of MO or SO (for consistency with the term used in Section 7.2.3 of the WESM Rules) * Report of Probable Breach – is the report of MO or SO about a possible breach by WESM Member.   Terms are NOT interchangeable |  |  |
| SECTION 5 WESM ENFORCEMENT PROCEEDINGS AND ACTIONS  5.2 Enforcement Proceedings | 5.2.4 | Investigation of the *Market Operator* and the *System Operator*. The investigation of the *Market Operator* and the *System Operator* by the *Enforcement and Compliance Office* shall be in accordance with the relevant provisions of the *Enforcement and Compliance Manual*. The *PEM Board*, as it may deem necessary, may thereafter file a formal complaint with the *ERC* and the *DOE*. | Investigation of the Market Operator and the System Operator. The investigation of the *Market Operator* and the *System Operator* by the *Enforcement and Compliance Office* shall be in accordance with **Clause 7.2.3 of the *WESM Rules* and** the relevant provisions of the *Enforcement and Compliance Manual*. The *PEM Board*, as it may deem necessary, may thereafter file a formal complaint with the *ERC* and the *DOE*. | Inserted a reference to WR Clause 7.2.3 which provided a different set of enforcement proceedings when the party to be investigated is MO or SO. |  |  |
| SECTION 5 WESM ENFORCEMENT PROCEEDINGS AND ACTIONS 5.2 Enforcement Proceedings | 5.2.6 | Imposition of sanctions and penalties by the *PEM Board* is carried out in the accordance with the *WESM Penalty Manual* and is based on the recommendations of the *Compliance Committee*. The latter submits recommendations based on its findings of facts on an investigation which, in turn, is based on its review of the results of the investigations by the *Enforcement and Compliance Office*. The investigations referred to herein are those initiated in accordance with Section 7.3.1 of this Manual. | Imposition of sanctions and penalties by the *PEM Board* is carried out in ~~the~~ accordance with the *WESM Penalty Manual* and is based on the recommendations of the *Compliance Committee*. The latter submits recommendations based on its findings of facts on an investigation which, in turn, is based on its review of the results of the investigations by the *Enforcement and Compliance Office*. The investigations referred to herein are those initiated in accordance with Section ~~7.3.1~~ **7.2.1** of this Manual. | Minor – typo correction and correction of rule reference |  |  |
| SECTION 5 WESM ENFORCEMENT PROCEEDINGS AND ACTIONS 5.2 Enforcement Proceedings |  | (NEW) | **5.2.9 Reconsideration or Appeal. A request for reconsideration or appeal may be filed by a *WESM Member* upon receipt of the compliance report or resolution finding or confirming a finding of *breach* of the *Market Rules* and/or *Manuals*. This shall be filed within the prescribed timeline and in accordance with the requirements and procedures provided in Section 9 of this Manual.** | * Currently, the provisions for reconsideration and appeal are found in WESM Penalty Manual. * Added as part of the enforcement proceedings (monitoring and investigation >> results >> request for reconsideration >> appeal). * The WESM Penalty Manual will then be limited to provisions pertaining to penalty amounts, penalty level, implementation and utilization thereof. |  |  |
| SECTION 6 – PROCEDURES FOR COMPLIANCE MONITORING AND ASSESSMENT 6.1 – GUIDING PRINCIPLES | 6.1.4 | If, as a result of its compliance monitoring and assessment, and after taking into account all the market data and information cited in Section 6.4.1, the reasons provided by the concerned *WESM Member* and all the supporting documents submitted in relation thereto under Section 6.3.2*,* the *Enforcement and Compliance Office* determines that there is a *breach* committed by a *WESM Member*, and shall issue the *Notice of Specified Penalty* through the PEMC President in accordance with the *WESM Penalty Manual*. Where remedial measures are required, it shall cause the implementation of the same in accordance with Section 7.1.5. | If, as a result of its compliance monitoring and assessment, and after taking into account all the market data and information cited in Section 6.4.1, the reasons provided by the concerned *WESM Member* and all the supporting documents submitted in relation thereto under Section 6.3.2*,* the *Enforcement and Compliance Office* determines that there is a *breach* committed by a *WESM Member*, ~~and~~ **it** shall issue ~~the~~ *~~Notice of Specified Penalty~~* ~~through the PEMC President in accordance with the~~ *~~WESM Penalty Manual~~* **a compliance report and notify the WESM Member of its findings and the corresponding penalty**. Where remedial measures are required, it shall cause the implementation of the same in accordance with Section ~~7.1.5~~**7.14**. | * Revised for consistency with the rule on exhaustion of remedies. The Notice of Specified Penalty will be issued only when the finding, resolution or decision becomes final and executory. * Current: Compliance Report and Notice of Specified Penalty – simultaneously issued * Proposed Revision: Compliance Report >> RR and/or Appeal >> Final and Executory >> Implementation of Enforcement Action (through Notice of Specified Penalty) * Correction of rule reference. |  |  |
| SECTION 6 – PROCEDURES FOR COMPLIANCE MONITORING AND ASSESSMENT 6.1 – GUIDING PRINCIPLES | 6.1.5 | A *WESM Member* may seek a reconsideration or appeal of the findings contained in the compliance monitoring and assessment report in accordance with the procedures and subject to the requirements provided in the *WESM Penalty Manual*. | A *WESM Member* may seek a reconsideration or appeal of the findings contained in the compliance monitoring and assessment report in accordance with the procedures and subject to the requirements provided in ~~the~~ *~~WESM Penalty Manual~~* **Section 9 of this Manual.**. | The remedies available like Request for Reconsideration and Appeal are proposed to be transferred to a new section of EC Manual (Sec. 9) |  |  |
| SECTION 6 – PROCEDURES FOR COMPLIANCE MONITORING AND ASSESSMENT 6.3 – Submission of Reply and Supporting Documents | 6.3.1 | T**h**e *WESM Member* shall have three (3) business days from receipt of the non-compliance notice or flagging of probable breach to respond thereto. | The *WESM Member* shall have ~~three (3)~~ **five (5)** *business days* from receipt of the non-compliance notice or flagging of probable breach to respond thereto **unless a different period is prescribed in the relevant *Market Manual*.** | To afford the *WESM Member* more time to respond in consideration of the time to gather information from the person or unit in charge (*e.g.,* incident report from the power plant which may take a while to obtain for submission to ECO) |  |  |
| SECTION 6 – PROCEDURES FOR COMPLIANCE MONITORING AND ASSESSMENT 6.4 – Validation and Assessment | 6.4.2 | The *Enforcement and Compliance Office* may, from time to time, require the *WESM Member* to submit additional documents or information to clarify the reasons or explanations provided by the latter. | The *Enforcement and Compliance Office* may, from time to time, require the *WESM Member* to submit additional documents or information**, conduct conferences or plant visits** to clarify **or validate** the reasons or explanations provided by the latter. | For due process. |  |  |
| SECTION 6 – PROCEDURES FOR COMPLIANCE MONITORING AND ASSESSMENT 6.4 – Validation and Assessment | 6.4.3 | The *Enforcement and Compliance Office* shall complete its validation and assessment of a specific billing or monitoring period by the 15th of the month following the month subject of the monitoring unless a different period of monitoring and assessment is hereafter set by the *Market Manuals* or due to unforeseen events or incidents which are beyond the control of the *Enforcement and Compliance Office*. | The *Enforcement and Compliance Office* shall complete its validation and assessment of a specific billing or monitoring period ~~by the 15th of the month following the month subject of the monitoring~~ **within forty-five (45) *business days* from the end of the calendar month covered in the monitoring** unless a different period ~~of monitoring and assessment is hereafter set by the~~ **is prescribed for validation and assessment in the relevant** *Market Manuals* or due to unforeseen events or incidents which are beyond the control of the *Enforcement and Compliance Office*.**For instance, the validation and assessment for September billing period shall be completed not later than the 15th day of November.** Such a period may, however, be extended due to *force majeure* or any unforeseen events or incidents that are beyond the control of the *Enforcement and Compliance Office*. | To extend period for assessment in consideration of the following:   * Based on the timeline of IEMOP in providing data provision (re: nodal price that is part of the penalty calculation in the system), it is not possible to complete the CMA within the existing 15-day period. * Volume of daily assessment (around 420 resources from Luzon, Visayas, and Mindanao) for several types of monitoring *(Offered Capacity Compliance, Dispatch Conformance Standards, Look-Ahead Submission Compliance, etc.)* * Subject to other provisions relating to a different period of monitoring (e.g. FAS monitoring or ancillary services monitoring)   To allow extended period in case of force majeure. |  |  |
| SECTION 6 – PROCEDURES FOR COMPLIANCE MONITORING AND ASSESSMENT 6.4 – Validation and Assessment |  | (NEW) | **6.4.4 If during or after the conduct of compliance monitoring, validation, and assessment, the *Enforcement and Compliance Office* or the *Compliance Committee* finds that a certain act or omission needs to be addressed immediately through remedial measures to mitigate or avoid its potential adverse effect in the WESM, the provision of Section 7.14 shall apply.** | Incorporated in compliance monitoring proceedings section the provision on remedial measures in (under investigation proceedings) *by reference* to Section 7.14. |  |  |
| SECTION 6 – PROCEDURES FOR COMPLIANCE MONITORING AND ASSESSMENT 6.4 – Validation and Assessment | 6.4.4 | 6.4.4 The *Enforcement and Compliance Office* shall maintain a compliance database that contain all the files and documents used in relation to its monitoring and assessment activity. | ~~6.4.4~~ **6.4.5** The *Enforcement and Compliance Office* shall maintain a compliance database that contains all the files and documents used in relation to its monitoring and assessment activity. | * Minor - typo correction * Renumbered as 6.4.5 (due to inserted provision above) |  |  |
| SECTION 6 – PROCEDURES FOR COMPLIANCE MONITORING AND ASSESSMENT 6.5 – Issuance of Report | 6.5.1 | The *Enforcement and Compliance Office* shall, based on the available market data at the time of the assessment, prepare the compliance monitoring and assessment report which shall:  a) contain or provide, among others, a finding whether the concerned *WESM Member* is compliant with the *Market Rules*;  b) contain or provide the penalty amounts, if any, as a result of the finding of breach;  c) cover one billing month unless a different period or duration is set by other *Market Manuals*;  d) be issued to the concerned *WESM Member* with respect to each facility or plant that is subject of monitoring, as applicable; and  e) be issued not later than the 15th day of the month following the month subject of the monitoring. For instance, the monitoring covers the September billing month, the report shall be issued not later than 15 October. | The *Enforcement and Compliance Office* shall, based on the available market data at the time of the assessment, prepare the compliance monitoring and assessment report which shall:  a) contain or provide, among others, a finding whether the concerned *WESM Member* is compliant with the *Market Rules*;  b) contain or provide the penalty amounts, if any, as a result of the finding of breach;  c) cover one billing month unless a different period or duration is set by other *Market Manuals*;  d) be issued to the concerned *WESM Member* with respect to each facility or plant that is subject of monitoring, as applicable; and  e) be issued ~~not later than the 15th day of the month following the month subject of the monitoring. For instance, the monitoring covers the September billing month, the report shall be issued not later than 15 October~~ **within the period stated in Section 6.4.3 of this Manual.** | For consistency with Section 6.4.3, i.e., within 45 days from the end of the calendar month covered in the monitoring |  |  |
| SECTION 6 – PROCEDURES FOR COMPLIANCE MONITORING AND ASSESSMENT 6.5 – Issuance of Report | 6.5.2 | If there is a finding of breach by the *Enforcement and Compliance Office* based on its validation and assessment, the report shall likewise be accompanied by a *Notice of Specified Penalty*. The service of *Notice of the Specified Penalty* and the effect thereof, including the collection of penalties, are provided in the *WESM Penalty Manual.* | ~~If there is a finding of breach by the~~ *~~Enforcement and Compliance Office~~* ~~based on its validation and assessment, the report shall likewise be accompanied by a~~ *~~Notice of Specified Penalty~~*~~. The service of~~ *~~Notice of the Specified Penalty~~* ~~and the effect thereof, including the collection of penalties, are provided in the~~ *~~WESM Penalty Manual.~~* **The penalty or sanction stated in the report shall be implemented following the procedures set forth in Section 9.5 of this Manual.** | For consistency with the rule on exhaustion of remedies. The Notice of Specified Penalty will be issued only when the finding, resolution or decision becomes final and executory.   * Current: Compliance Report and Notice of Specified Penalty – simultaneously issued * Proposed Revision: Compliance Report >> RR and/or Appeal >> Final and Executory >> Implementation of Enforcement Action (through Notice of Specified Penalty) |  |  |
| SECTION 6 – PROCEDURES FOR COMPLIANCE MONITORING AND ASSESSMENT | 6.6 | Reconsideration and/or Appeal | Reconsideration and/or Appeal **of the Compliance Monitoring Findings** | For clarity and clear distinction between Reconsideration under compliance monitoring and under investigation proceedings. |  |  |
| SECTION 6 – PROCEDURES FOR COMPLIANCE MONITORING AND ASSESSMENT 6.6 Reconsideration and/or Appeal | 6.6.1 | The filing of Request for Reconsideration or Appeal, the grounds, formal requirements, and resolution or decision thereon are set forth in the *WESM Penalty Manual.* | The filing of Request for Reconsideration or Appeal, the grounds, formal requirements, and resolution or decision thereon are set ~~forth in the~~ *~~WESM Penalty Manual.~~* **out in Section 9 of this Manual**. | The remedies available like Request for Reconsideration and Appeal are proposed to be transferred from Penalty Manual to a new section of EC Manual (Sec. 9) |  |  |
| SECTION 6 – PROCEDURES FOR COMPLIANCE MONITORING AND ASSESSMENT | 6.7 | Issuance of the Notice of Specified Penalty | ~~Issuance of the Notice of Specified Penalty~~ | * Deleted for consistency with the proposed rule on exhaustion of remedies. The Notice of Specified Penalty will be issued only when the finding, resolution or decision becomes final and executory. * A provision relating to this is added as new section under Section 9.5 – Implementation of Enforcement Actions |  |  |
| 6.7 Issuance of the Notice of Specified Penalty | 6.7.1 | The *Notice of Penalty* shall be issued by the *Enforcement and Compliance Office* through PEMC President in accordance with the *WESM Penalty Manual.* | ~~The~~ *~~Notice of Penalty~~* ~~shall be issued by the~~ *~~Enforcement and Compliance Office~~* ~~through PEMC President in accordance with the~~ *~~WESM Penalty Manual.~~* |  |  |
| SECTION 7 – PROCEDURES FOR INVESTIGATION AND REVIEW 7.1 Guiding Principles | 7.1.1 | Investigations under this Manual refer to investigations which emanate from the request for investigations or notice of probable breach filed by the Market Operator, the System Operator, or other WESM Members. These do not include any monitoring activities initiated by the Enforcement and Compliance itself which are already being dealt with under the preceding Section of this Manual. | Investigations under this Manual refer to investigations which emanate from the request for investigations ~~or notice of probable breach filed~~ **by *WESM Members* or *WESM Governance Committee,* or *report of probable breach* filed by** the Market Operator, or the System Operator~~, or other WESM Members~~. These do not include any monitoring activities initiated by the Enforcement and Compliance itself which are already being dealt with under the preceding Section of this Manual. | * Minor – for clarity and for correction of terms   “Notice of Probable Breach” and “Report of Probable Breach” are two (2) different terms that are separately defined in the Glossary of the EC Manual.   * Notice of Probable Breach – report by any WESM Member/WGC to the PEM Board about a probable breach of MO or SO (for consistency with the term used in Section 7.2.3 of the WESM Rules) * Report of Probable Breach – is the report of MO or SO about a possible breach by WESM Member.   Terms are NOT interchangeable |  |  |
| SECTION 7 – PROCEDURES FOR INVESTIGATION AND REVIEW 7.1 Guiding Principles | 7.1.2 | Notwithstanding the provision of Sections 5.2.3 and 7.1.1, the *Enforcement and Compliance Office* may, *motu proprio,* initiate investigation if it has reasonable grounds to believe that a particular act or omission by any *WESM Member, Market Operator,* or *System Operator* constitutes a probable breach of the *Market Rules*, and which is not otherwise included or covered by the compliance monitoring activities referred to in Chapter 6 of this Manual. | Notwithstanding the provision of Sections 5.2.3 and 7.1.1, the *Enforcement and Compliance Office* may, *motu proprio,* initiate investigation if it has reasonable grounds to believe that a particular act or omission by any WESM Member~~, Market Operator, or System Operator~~ constitutes a probable breach of the Market Rules **or Market Manuals,** and which is not otherwise included or covered by the compliance monitoring activities referred to in Chapter 6 of this Manual. | For consistency with Section 7.2.3 of the WESM Rules, *i.e.,* investigation of MO and SO shall be made upon endorsement or directive of the PEM Board. *Motu proprio* investigation will not apply to MO and SO. |  |  |
| SECTION 7 – PROCEDURES FOR INVESTIGATION AND REVIEW 7.1 Guiding Principles |  | (New) | **7.1.8 Investigations may be initiated against an entity which had become a *WESM Member* of record at any time within the two-year prescriptive period regardless of the status of its membership at the time of the filing of the *request for investigation* or *report of probable breach*. For example, Company A was a WESM Member which committed a possible breach of the *Market Rules* or *Market Manual*. A case may nonetheless be filed against Company A despite cessation of its membership in the WESM provided that the act or omission constituting a breach was committed within the two-year prescriptive period and while it was still a member thereof.** | Added to establish jurisdiction over a company who may have committed a probable breach within the prescriptive period but ceased membership in the WESM; thus, no longer a WESM Member at that time of filing of Request for Investigation (RFI). |  |  |
| SECTION 7 – PROCEDURES FOR INVESTIGATION AND REVIEW 7.1 Guiding Principles | 7.1.8 | Unless the *PEM Board* authorizes a longer period, the *Enforcement and Compliance Office* shall complete an investigation of a case and submit its investigation report as set out in Section 7.7 not later than twenty-four (24) months from the issuance of the *notice investigation*. The *PEM Board*, at its discretion and on written request by the *Enforcement and Compliance Office*, may allow a longer period for an investigation to be completed if it is satisfied that the right of the parties investigated to due process will be prejudiced if a longer period is not allowed. Where a case is remanded pursuant to Section 7.10 and, for this reason, the *Enforcement and Compliance Office* is unable to complete the investigation within the twenty-four-month period, the *PEM Board* shall, upon request of the latter, allow a longer period for the investigation to be completed. | **7.1.9** Unless the *PEM Board* authorizes a longer period, the *Enforcement and Compliance Office* shall complete an investigation of a case and submit its investigation report ~~as set out in Section 7.7 not later than twenty-four (24) months from the issuance of the~~ *~~notice investigation~~* **within the period prescribed in Section 7.8.** The *PEM Board*, at its discretion and on written request by the *Enforcement and Compliance Office*, may allow a longer period for an investigation to be completed if it is satisfied that the right of the parties investigated to due process will be prejudiced if a longer period is not allowed. Where a case is remanded pursuant to Section 7.10 and, for this reason, the *Enforcement and Compliance Office* is unable to complete the investigation within the ~~twenty-four-month~~ **prescribed** period, the *PEM Board* shall, upon request of the ~~latter~~ **former**, allow a longer period for the investigation to be completed. | * Renumbered as 7.1.9 (due to inserted provision) * Revised to correct the period for issuance of the Investigation Report, *i.e.,* 150 days (not 2 years) |  |  |
| SECTION 7 – PROCEDURES FOR INVESTIGATION AND REVIEW 7.2 Initiation of Investigation | 7.2.1 | An investigation is initiated upon the endorsement to the *Enforcement and Compliance Office* of a report of probable breach or a *request for investigation* on the WESM Member that is subject of the investigation or upon a directive from the *PEM Board*, the *DOE* or *ERC*. The related procedures on investigation, such as, issuance of notice of investigation, submission by the parties, conduct of ocular inspections, and implementation of the decisions, set forth in Sections 7.3 to 7.12 of this Manual shall apply. | ~~An investigation is initiated upon the endorsement to the~~ *~~Enforcement and Compliance Office~~* ~~of a report of probable breach or a~~ *~~request for investigation~~* ~~on the WESM Member that is subject of the investigation or upon a directive from the~~ *~~PEM Board~~*~~, the~~ *~~DOE~~* ~~or~~ *~~ERC~~*~~. The related procedures on investigation, such as, issuance of notice of investigation, submission by the parties, conduct of ocular inspections, and implementation of the decisions, set forth in Sections 7.3 to 7.12 of this Manual shall apply.~~ | * Removed – redundant with Section 7.2.2 which enumerates the trigger for investigation. * Replaced - 7.2.2 is proposed to be transferred as 1st sub-section under Section 7.2, with modification. |  |  |
| SECTION 7 – PROCEDURES FOR INVESTIGATION AND REVIEW 7.2 Initiation of Investigation | 7.2.2 | A *notice of investigation* shall be issued upon either one of the following –  a) A *report of probable breach* submitted by the *System Operator* or the *Market Operator*; or  b) A *request for investigation* submitted by any *WESM Governance Committee* or any *WESM Member*; or  c) A directive from the *PEM Board, DOE* or *ERC* specifically directing investigation for *breach* for possible imposition of sanctions under the *WESM Rules* or the *WESM Penalty Manual*; or  d) Initiation of investigation by the *Enforcement and Compliance Office* in accordance with Section 7.1.2 of this Manual*.* | ~~7.2.2~~**7.2.1** ~~A~~ *~~notice of investigation~~* ~~shall be issued~~ **An investigation may be initiated** upon either one of the following –  a) A *report of probable breach* submitted by the *System Operator* or the *Market Operator*; or  b) A *request for investigation* submitted by any *WESM Governance Committee* or any *WESM Member*; or  c) A directive from the *PEM Board, DOE* or *ERC* specifically directing investigation for *breach* for possible imposition of sanctions under the *WESM Rules* or the *WESM Penalty Manual*; or  d) Initiation of investigation by the *Enforcement and Compliance Office* in accordance with Section 7.1.2 of this Manual*.* | * Renumbered as Section 7.2.1 * Revised to distinguish two (2) different processes, namely, (1) initiation of investigation and (2) issuance of notice of investigation. * Initiation to refer to trigger for investigation (Section 7.2 and 7.2.4)   Note: Sections 7.2.5 to 7.2.11 – pertain to verification of RFI/report of probable breach/ directive or order to investigate   * Notice of investigation – issued to formally start investigation (after due verification and after giving due course to the filing for investigation) (Section 7.3) |  |  |
| SECTION 7 – PROCEDURES FOR INVESTIGATION AND REVIEW 7.2 Initiation of Investigation | 7.2.3 | 7.2.3. If the *Market Operator* or the *System Operator* monitors the occurrence of probable *breach* by a *WESM Member*, it may submit to the *Enforcement and Compliance Office* a *report of probable breach*. This shall be in writing and shall clearly specify, at the minimum, -  x x x | ~~7.2.3.~~ **7.2.2** If the *Market Operator* or the *System Operator* monitors the occurrence of probable *breach* by a *WESM Member*, it may submit to the *Enforcement and Compliance Office* a *report of probable breach*. This shall be in writing and shall clearly specify, at the minimum, – x x x | Minor - Renumbered as 7.2.2 |  |  |
| SECTION 7 – PROCEDURES FOR INVESTIGATION AND REVIEW 7.2 Initiation of Investigation | 7.2.4 | 7.2.4. If a *WESM Governance Committee, WESM Member* or any party believes that a *breach* may have been committed by any *WESM Member*, it may submit a *request for investigation* to the *Enforcement and Compliance Office*. This shall be in writing and shall clearly specify, at the minimum – x x x | ~~7.2.4.~~ **7.2.3** If a *WESM Governance Committee~~,~~* **or a** *WESM Member* ~~or any party~~ believes that a *breach* may have been committed by any *WESM Member*, it may submit a *request for investigation* to the *Enforcement and Compliance Office*. This shall be in writing and shall clearly specify, at the minimum – x x x | * Revised for consistency as to who can file a request for investigation. * Deleted “any party” from the list – to limit the filing to WESM Members and WGCs only and to exclude Non-WESM Members. * Renumbered due to proposed deletion of 7.2.1 |  |  |
| SECTION 76 – PROCEDURES FOR INVESTIGATION AND REVIEW 7.2 Initiation of Investigation | 7.2.5 | 7.2.5 A request *for investigation* or *report of probable breach* may cover more than one occurrence of the same type of *breach*.  x x x | ~~7.2.5~~  **7.2.4** A request *for investigation* or *report of probable breach* may cover more than one occurrence of the same type of *breach*.  x x x | Minor – renumbered as Section 7.2.4 |  |  |
| SECTION 7 – PROCEDURES FOR INVESTIGATION AND REVIEW 7.2 Initiation of Investigation | 7.2.6 | Immediately upon receipt of the *report of probable breach* or *request for investigation*, the *Enforcement and Compliance Office* shall determine whether the specific acts or omissions referred to are already covered in a formal investigation it has or intends to initiate as a result of its compliance monitoring under Section 6.2. If so included, it shall notify the party submitting the *report of probable breach* or *request for investigation* that an investigation has been or will be initiated and that no separate investigation shall thus be initiated. | ~~7.2.6~~ **7.2.5** ~~Immediately u~~**U**pon receipt of the *report of probable breach* or *request for investigation*, the *Enforcement and Compliance Office* shall **–** a) Determine whether the alleged act or omission pertains to a possible violation of the *Market Rules* and/or *Market Manuals*. If it pertains to a possible violation of the *Philippine Grid Code*, the *Philippine Distribution Code*, other rules and regulations which likewise govern or regulate the WESM or the *WESM Member,* it shall notify the party submitting the *report of probable breach* or *request for investigation* that the request investigation is beyond the scope and authority of the *Enforcement and Compliance Office* and that no investigation shall thus be initiated.b) ~~d~~Determine whether the ~~specific~~ alleged acts or omissions referred to are already covered in a formal investigation it has or intends to initiate as a result of its compliance monitoring under Section 6.2. If so included, it shall notify the party submitting the *report of probable breach* or *request for investigation* that an investigation has been or will be initiated and that no separate investigation shall thus be initiated. | * Renumbered as Section 7.2.5 * Added a sub-section (a) – to ensure that what is being filed is for a possible violation of Market Rules/Market Manuals only. This would prevent unnecessary efforts and time to investigate. * 2nd item – renumbered as (b) under this Section. |  |  |
| SECTION 7 – PROCEDURES FOR INVESTIGATION AND REVIEW 7.2 Initiation of Investigation | 7.2.7 | 7.2.7 If the *request for investigation* or *report of probable breach* is not covered by a formal investigation initiated or intended to be initiated, the *Enforcement and Compliance Office* shall verify if the same substantially contains the information required in Section 7.2.4 or 7.2.5. If not, it shall return the same to the requesting party which shall then rectify the identified shortcomings and submit a new *request for investigation* or *report of probable breach* no later than five (5) business days from receipt of the notice from the *Enforcement and Compliance Office.* If no revision is received within the five-day period, the matter shall be deemed abandoned and no investigation shall be initiated upon such request or report. | ~~7.2.7~~ **7.2.6** If the *request for investigation* or *report of probable breach*~~is not covered by a formal investigation initiated or intended to be initiated,~~ **is determined to be within the scope of authority and there is no separate or ongoing investigation being conducted for the same subject matter and involving the same parties,** the *Enforcement and Compliance Office* shall verify **further** if the same substantially contains the information required in Section 7.2~~.4 or 7.2.~~5. If not, it shall return the same to the requesting party which shall then rectify the identified shortcomings and submit a new *request for investigation* or *report of probable breach* no later than five (5) business days from receipt of the notice from the *Enforcement and Compliance Office.* If no revision is received within the five-day period, the matter shall be deemed abandoned and no investigation shall be initiated upon such request or report. | * Renumbered as 7.2.6 * Revised – for consistency with the preceding section. |  |  |
| SECTION 7 – PROCEDURES FOR INVESTIGATION AND REVIEW 7.2 Initiation of Investigation | 7.2.8 | 7.2.8 If the *Enforcement and Compliance Office* determines that the *request for investigation* or *report of probable breach* is complete, it shall immediately initiate a formal investigation in accordance with this *Manual*. The *Enforcement and Compliance Office* shall not unreasonably withhold confirmation or delay any action required in this paragraph. | ~~7.2.8.~~ **7.2.7** If the *Enforcement and Compliance Office* determines that the *request for investigation* or *report of probable breach* is complete, it shall ~~immediately initiate a~~ **proceed with the** formal investigation in accordance with this *Manual*. The *Enforcement and Compliance Office* shall not unreasonably withhold confirmation or delay any action required in this paragraph. | * Renumbered as 7.2.7 * Removed “immediately” as there is a period prescribed for issuing a notice of investigation. |  |  |
| SECTION 7 – PROCEDURES FOR INVESTIGATION AND REVIEW 7.2 Initiation of Investigation | 7.2.9 | 7.2.9 Where the conduct of an investigation is directed by the *PEM Board*, *DOE* or *ERC*, the *Enforcement and Compliance Office* shall initiate formal investigation in accordance with this Manual no later than ten (10) working days from receipt of the order, resolution, decision or any such other document containing the directive, unless a different period is directed. | ~~7.2.9 Where the conduct of an investigation is directed by the~~ *~~PEM Board~~*~~,~~ *~~DOE~~* ~~or~~ *~~ERC~~*~~, the~~ *~~Enforcement and Compliance Office~~* ~~shall initiate formal investigation in accordance with this Manual no later than ten (10) working days from receipt of the order, resolution, decision or any such other document containing the directive, unless a different period is directed.~~ | Removed and transferred (with modification) as last item (7.2.12) of sub-section on initiation of investigation for coherence. |  |  |
| SECTION 7 – PROCEDURES FOR INVESTIGATION AND REVIEW 7.2 Initiation of Investigation | 7.2.10 | 7.2.10 The directive from the *PEM Board*, *DOE* or *ERC* to conduct an investigation will be carried out in accordance with this Manual only if the directive clearly specifies that the investigation is for the purpose of a possible imposition by the *PEM Board* of sanctions and penalties pursuant to the *WESM Penalty Manual* or the *WESM Rules*. Where the investigation directed is not for such purpose or is for fact-finding purposes only, the investigation shall be carried out in accordance with the directive. In such case, the procedures set out in this Manual shall only have suppletory effect. | ~~7.2.10~~ **7.2.8** The directive from the *PEM Board*, *DOE* or *ERC* to conduct an investigation will be carried out in accordance with this Manual only if the directive clearly specifies that the investigation is for the purpose of a possible imposition by the *PEM Board* of sanctions and penalties pursuant to the *WESM Penalty Manual* or the *WESM Rules*. Where the investigation directed is not for such purpose or is for fact-finding purposes only, the investigation shall be carried out in accordance with the directive. In such case, the procedures set out in this Manual shall only have suppletory effect. | Renumbered as 7.2.8 |  |  |
| SECTION 7 – PROCEDURES FOR INVESTIGATION AND REVIEW 7.2 Initiation of Investigation | 7.2.11 | 7.2.11 Where the *Enforcement and Compliance Office* is uncertain as to whether or not the *PEM Board*, *DOE* or *ERC* directive is clearly for the conduct of an investigation under this Manual, it shall seek clarification of the same and the period stated in Section 7.2.8 shall be reckoned from the date that the clarification has been received by *Enforcement and Compliance Office*. | ~~7.2.11~~ **7.2.9** Where the *Enforcement and Compliance Office* is uncertain as to whether or not the *PEM Board*, *DOE* or *ERC* directive is clearly for the conduct of an investigation under this Manual, it shall seek clarification of the same and the period stated in Section ~~7.2.8~~ **7.3.1** shall be reckoned from the date that the clarification has been received by *Enforcement and Compliance Office*. | * Renumbered as Section 7.2.9 * Minor – correction in the rule reference. |  |  |
| SECTION 7 – PROCEDURES FOR INVESTIGATION AND REVIEW 7.2 Initiation of Investigation | 7.2.12 | 7.2.12 If the acts or omissions required to be investigated by the *PEM Board*, *DOE* or *ERC* are already covered, in whole or in part, by an investigation or by the compliance monitoring and assessment activity already initiated or intended to be initiated by the *Enforcement and Compliance Office*, it may, if appropriate, consolidate or integrate the data or information used in the compliance monitoring, or the results thereof, in the investigation so that no overlapping investigations or monitoring activities shall be carried out, and shall notify the agency directing the investigation and the parties being investigated of such consolidation or the results of the previous compliance monitoring and assessment. If necessary, an amended *Preliminary Notice of Investigation* shall be issued. | ~~7.2.12~~ **7.2.10** If the acts or omissions required to be investigated by the *PEM Board*, *DOE* or *ERC* are already covered, in whole or in part, by an investigation or by the compliance monitoring and assessment activity already initiated or intended to be initiated by the *Enforcement and Compliance Office*, it may, if appropriate, consolidate or integrate the data or information used in the compliance monitoring, or the results thereof, in the investigation so that no overlapping investigations or monitoring activities shall be carried out, and shall notify the agency directing the investigation and the parties being investigated of such consolidation or the results of the previous compliance monitoring and assessment. If necessary, an amended *~~Preliminary~~ Notice of investigation* shall be issued. | * Renumbered as Section 7.2.10. * Removed the word preliminary. For clarity – to avoid misconception that the notice of investigation to be issued after due verification is not yet the formal notice of investigation. * Also, for consistency – notice of investigation – term used to refer to the formal notice of investigation, as defined in the Glossary of the EC Manual. |  |  |
| SECTION 7 – PROCEDURES FOR INVESTIGATION AND REVIEW 7.2 Initiation of Investigation |  | (New) | **7.2.11 The foregoing verification process shall be completed within five (5) *business days* from receipt of request for investigation, *report of probable breach*, directive, or order to investigate, or clarification to investigate under Section 7.2.9.** | Added to provide timeline within which the RFI verification is made. |  |  |
| SECTION 7 – PROCEDURES FOR INVESTIGATION AND REVIEW 7.2 Initiation of Investigation |  | 7.2.9 Where the conduct of an investigation is directed by the *PEM Board*, *DOE* or *ERC*, the *Enforcement and Compliance Office* shall initiate formal investigation in accordance with this Manual no later than ten (10) working days from receipt of the order, resolution, decision or any such other document containing the directive, unless a different period is directed. | ~~7.2.9~~ **7.2.12** ~~Where the conduct of an investigation is directed by the~~ *~~PEM Board~~*~~,~~ *~~DOE~~* ~~or~~ *~~ERC~~*~~, the~~ **If after due verification, the** *Enforcement and Compliance Office* **determines that the request for investigation, *report of probable breach,* directive or order to investigate is in accordance with the requirements set out in this Manual, it** shall ~~initiate~~ **give due course thereto and proceed with the** formal investigation **by issuing a *notice of investigation*** in accordance with **Section 7.3.**~~this Manual no later than ten (10) working days from receipt of the order, resolution, decision or any such other document containing the directive, unless a different period is directed~~. | * For coherence, this Section is proposed to be transferred as last item under this sub-section. * Renumbered as Section 7.1.12. * Revised to refer to the succeeding sections on issuance of a notice of investigation (which already includes timeline and procedures) – to avoid redundancy. |  |  |
| SECTION 7 – PROCEDURES FOR INVESTIGATION AND REVIEW 7.3 Notice of Investigation | 7.3.1 | The *Preliminary Notice of Investigation* shall be issued to and served on the *WESM Member* that will be investigated within five (5) business days from receipt of the endorsement of request for investigation or directive from the *PEM Board*, | The *~~Preliminary~~ Notice of investigation* shall be issued to and served on the *WESM Member* that will be investigated within five (5) business days from ~~receipt of the endorsement of request for investigation or directive from the~~ *~~PEM Board~~* the completion of the verification process as set out in Section 7.2.11. | To set the reckoning of the 5-day period to issue Notice of Investigation from the completion of the RFI verification process. For clarity |  |  |
| SECTION 7 – PROCEDURES FOR INVESTIGATION AND REVIEW 7.7 Completion of Formal Investigation | 7.7.1 | The formal investigation shall be completed not later than one hundred fifty (150) business days from the receipt of the request for investigation as endorsed by the requesting party. | The formal investigation shall be completed not later than one hundred fifty (150) business days from the ~~receipt of the request for investigation as endorsed by the requesting party~~ **issuance of a *notice of investigation* under Section 7.3 of this Manual.** | To set the reckoning of the 150-day period to conclude the report, *i.e.,* from issuance of notice of investigation (as this officially starts the investigation); instead of counting it from receipt of RFI which, based on the RFI verification process, may not necessarily ripen to an investigation) |  |  |
| SECTION 7 – PROCEDURES FOR INVESTIGATION AND REVIEW 7.8 Review of Investigation | 7.8.1 | The *Compliance Committee* shall review all investigation reports submitted by the *Enforcement and Compliance Office* on its next scheduled meeting after the receipt of the investigation report. The review report of the *Compliance Committee* shall be submitted to *the PEM Board* together with the investigation report of the *Enforcement and Compliance Office* within thirty (30) business days upon receipt of the investigation report. | The *Compliance Committee* shall review all investigation reports submitted by the *Enforcement and Compliance Office* ~~on~~ **in** its next scheduled meeting after the receipt of the investigation report. The ~~review report~~ **resolution** of the *Compliance Committee* shall be submitted to *the PEM Board* together with the investigation report of the *Enforcement and Compliance Office* within thirty (30) business days upon receipt of the investigation report. | Minor – correction of terms; and for consistency in the use of terminologies throughout the Manual.  Note: ECO issues the **report**, *i.e.,* investigation report (or case review report after RR). CC, on the other hand, issues a **resolution** (not a report) adopting/ not adopting the report of ECO. |  |  |
| SECTION 7 – PROCEDURES FOR INVESTIGATION AND REVIEW 7.8 Review of Investigation | 7.8.2 | The review report of the *Compliance Committee* shall clearly state whether it agrees or disagrees with the investigation report of the *Enforcement and Compliance Office* and the basis therefor. The *Compliance Committee* may likewise recommend to the *PEM Board* that the case be remanded to the *Enforcement and Compliance Office* for further investigations. | The ~~review report~~ **resolution** of the *Compliance Committee* shall clearly state whether it agrees or disagrees with the investigation report of the *Enforcement and Compliance Office* and the basis therefor. The *Compliance Committee* may likewise recommend to the *PEM Board* that the case be remanded to the *Enforcement and Compliance Office* for further investigations. | Minor – correction of terms; same as above comment. |  |  |
| SECTION 7 – PROCEDURES FOR INVESTIGATION AND REVIEW 7.9 Decision | 7.9.1 | The *PEM Board* shall, within thirty (30) working days from receipt of the review report of the *Compliance Committee*, render a decision approving, disapproving or modifying the sanctions, remedial measures, and other recommendations or remanding the case to the *Enforcement and Compliance Office* for further investigation. | The *PEM Board* shall, within thirty (30) working days from receipt of the ~~review report~~ **resolution** of the *Compliance Committee*, render a decision approving, disapproving or modifying the sanctions, remedial measures, and other recommendations or remanding the case to the *Enforcement and Compliance Office* for further investigation. | Minor – correction of terms; same as above comment. |  |  |
| SECTION 7 – PROCEDURES FOR INVESTIGATION AND REVIEW 7.9 Decision | (New) |  | **7.9.2 If the case is remanded by the *PEM Board* to the *Enforcement and Compliance Office* and the latter, after further investigation, submits its revised investigation report, the *PEM Board* shall render its final decision within the same period specified in the preceding Section.** | For clarity – the PEM Board, if it decides to remand the case, shall deliberate on it again after the revised investigation report is submitted to it by ECO. |  |  |
| SECTION 7 – PROCEDURES FOR INVESTIGATION AND REVIEW 7.9 Decision | 7.9.2 | 7.9.2 The copy of the *PEM Board* decision on the investigation, accompanied by a copy of the Investigation Report of the *Enforcement and Compliance Office,* and the Review Report of the *Compliance Committee,* upon which the decision is based, shall be provided to the concerned trading participant or the party being investigated. | ~~7.9.2~~ **7.9.3** The copy of the *PEM Board’*s**final** decision on the investigation, accompanied by a copy of the Investigation Report of the *Enforcement and Compliance Office,* and the ~~Review Report~~ **Resolution** of the *Compliance Committee,* upon which the decision is based, shall be provided to the concerned trading participant or the party being investigated. | For clarity – those copies of IR (that has been finally decided by PEM Board) shall be issued to the party investigated. |  |  |
| SECTION 7 – PROCEDURES FOR INVESTIGATION AND REVIEW 7.10 Remand of Cases | 7.10.2 | Within five (5) working days from receipt of the notice of the remand, the *Enforcement and Compliance Office* shall notify the party investigated of the remand and the reasons therefor. If the investigation was initiated upon a *request for investigation* or a *notice of probable breach*, the parties that submitted the same shall likewise be notified of the remand. | ~~Within five (5) working days from receipt of the notice of the remand, the~~ *~~Enforcement and Compliance Office~~* ~~shall notify the party investigated of the remand and the reasons therefor. If the investigation was initiated upon a~~ *~~request for investigation~~* ~~or a~~ *~~notice of probable breach~~*~~, the parties that submitted the same shall likewise be notified of the remand.~~ | Removed the obligation of ECO to notify the party being investigated that the case was remanded to ECO.  Note that at this stage of the proceedings (where there is remand), the party being investigated has not received the IR or has not been notified yet of the PEM Board action. Thus, it would be premature for the party to be informed of the remand. Furthermore, remand should be internal between or among the PEM Board, the CC, and ECO as there is no finality yet as regards the decision. |  |  |
| SECTION 7 – PROCEDURES FOR INVESTIGATION AND REVIEW 7.12 Notice and Implementation of the PEM Board Decision | 7.12.1 | The decision or resolution of the *PEM Board* becomes final and executory, and is binding on the parties to the investigation –   * 1. upon the lapse of the period within which to file a request for reconsideration as set forth in the *WESM Penalty Manual*, and no request for reconsideration was filed*;* or   2. upon issuance of the resolution on the Request for Reconsideration by the PEM Board. | ~~The decision or resolution of the~~ *~~PEM Board~~* ~~becomes final and executory, and is binding on the parties to the investigation –~~  ~~a. upon the lapse of the period within which to file a request for reconsideration as set forth in the~~ *~~WESM Penalty Manual~~*~~, and no request for reconsideration was filed~~*~~;~~* ~~or~~ ~~b. upon issuance of the resolution on the Request for Reconsideration by the PEM Board.~~ | Removed here – To be placed under one section (Sec. 9.5) – to combine similar provision on “when to consider the case final and executory” - applicable to (a) compliance monitoring findings; (b) PEM Board findings |  |  |
| SECTION 7 – PROCEDURES FOR INVESTIGATION AND REVIEW 7.12 Notice and Implementation of the PEM Board Decision | 7.12.2 | 7.12.2 Upon finality of the decision or resolution of the PEM Board Decision, the *PEM Board*, through its Corporate Secretary, shall immediately notify the *Enforcement and Compliance Office,* the *Compliance Committee and* the concerned parties of its decision or resolution. The Corporate Secretary of the *PEM Board* shall issue a certification of the relevant resolution or the excerpt of the minutes of the meeting of *PEM Board*. | ~~7.12.2 Upon finality of the decision or resolution of the PEM Board Decision, the~~ 7**.12.1 The** *PEM Board*, through its Corporate Secretary, shall ~~immediately~~ notify the *Enforcement and Compliance Office~~,~~* ~~the~~ *~~Compliance Committee and~~* ~~the concerned parties of its decision or resolution. The Corporate Secretary of the~~ *~~PEM Board~~* ~~shall issue a certification of the relevant resolution or the excerpt of the minutes of the meeting of~~ *~~PEM Board~~*~~.~~**of its decision or the action takenby PEM Board on a particular investigation case by issuing a certification in relation thereto within five (5) *business days* from the ratification of the *PEM Board* resolution.** | Revised to include timeline within which to issue the Secretary’s Certificate relative to the decision of the Board.  Renumbered as 7.12.1 |  |  |
| SECTION 7 – PROCEDURES FOR INVESTIGATION AND REVIEW 7.12 Notice and Implementation of the PEM Board Decision | 7.12.3 | 7.12.3 The *Enforcement and Compliance Office* shall thereafter take the following actions –  a) Issue a notice of penalty to the party investigated in accordance with the requirements provided in the *WESM Penalty Manual.*  b) Provide a copy of the notice to the Market Operator to cause the billing and collection of the amount due.  c) Where remedial measures are required, cause the implementation of the same in accordance with Section 7.14. d) Notify the *Compliance Committee,* ERC, and DOE of the action taken on the investigation. The notification submitted shall serve as a compliance with the obligation of the *PEM Board* set out in *WESM Rules* Clause 1.4.5.1 (e). | ~~7.12.3~~ **7.12.2 Within ten (10) *business days* from the receipt of the certification of *PEM Board* resolution on investigation,** ~~T~~**t**he *Enforcement and Compliance Office***in support to the *PEM Board’*s responsibility under the *WESM Rules****,* shall ~~thereafter take the following actions~~ –  ~~a) Issue a notice of penalty to the party investigated in accordance with the requirements provided in the~~ *~~WESM Penalty Manual.~~*  ~~b) Provide a copy of the notice to the Market Operator to cause the billing and collection of the amount due.~~  **a. Issue the notice of action taken by the *PEM Board* to the concerned *WESM Member,* which notice shall be accompanied by the Investigation Report and all its appendices. Said notice shall be signed by the President of the *WESM Governance Arm.***  ~~c)~~ **b.** Where remedial measures are required, cause the implementation of the same in accordance with Section 7.14. ~~d)~~ c. Notify the *Compliance Committee,* ERC, and DOE of the action taken on the investigation. The notification submitted under this Section shall serve as ~~a~~ the compliance ~~with the obligation~~ of the *PEM Board* with the obligationset out in *WESM Rules* Clause 1.4.5.1 (~~e~~f). | * Provided timeline for the issuance of the Notice of PEM Board Action to the WESM Member * Deleted item (a) – in line with the proposal on exhaustion of remedies. NSP to be issued only when finding or decision becomes final and executory. * Deleted item (b) – in line with the proposal to transfer the collection responsibility from IEMOP to PEMC * Added provision requiring the transmittal of the copy of IR – together with the Notice of PEM Board Action – as this will serve as the basis for filing a request for reconsideration, in case the WESM Member decides to file one. * Others – minor – correction in rule reference. |  |  |
| SECTION 7 – PROCEDURES FOR INVESTIGATION AND REVIEW 7.13 Investigation of the Market Operator and/or the System Operator | 7.13.12 | The copy of the decision of the *PEM Board* shall be provided to the concerned parties, and implemented in the same manner as that set out in Section 7.9. | The copy of the decision of the *PEM Board* shall be provided to the concerned parties, and implemented in the same manner as that set out in Section**s** 7.9 and **7.12**. | Minor –added a rule reference.   * Section 7.9 – copies of decision * Section 7.12 (Notice and Implementation of the PEM Board Decision) |  |  |
| SECTION 7 – PROCEDURES FOR INVESTIGATION AND REVIEW 7.14 Remedial Measures | 7.14.1 | Remedial measures are tasks or actions that are required of a *WESM Member* being investigated or found in *breach* for the purpose of mitigating or preventing the adverse impact of breach or to prevent recurrence of the *breach*. They may be required when the act or omission subject of the investigation may –  a) Negatively impact trading in the *WESM* and would likely prevent orderly and efficient trading or settlement;  b) Lead to unfair or unreasonable *WESM* prices;  c) Cause material negative impact on the viability and sustainability of the WESM or the functions of the *Market Operator* if not immediately remedied; or  d) Cause material negative impact on the system or the functions of the *System Operator* if not immediately remedied. | Remedial measures are tasks or actions that are required of a *WESM Member* being investigated or found in *breach* for the purpose of mitigating or preventing the adverse impact of breach or to prevent recurrence of the *breach*. They may be required when the act or omission subject of the investigation may –  a) Negatively impact trading in the *WESM* and would likely prevent orderly and efficient trading or settlement;  b) Lead to unfair or unreasonable *WESM* prices;  c) Cause material negative impact on the viability and sustainability of the WESM or the functions of the *Market Operator* if not immediately remedied; or  d) Cause material negative impact on the system or the functions of the *System Operator* if not immediately remedied. If the remedial measures are of such nature that would require participation or implementation on the part of another *WESM Member* or the *Market Operator,* the same shall likewise be governed by the succeeding provisions of this Manual. | Revised to extend the imposition of remedial measures to a party other than the WESM Member that is being monitored or investigated, as may be appropriate. |  |  |
| SECTION 7 – PROCEDURES FOR INVESTIGATION AND REVIEW 7.14 Remedial Measures | 7.14.3 | A *WESM Member* may be required to implement remedial measures by the *Enforcement and Compliance Office*, the *Compliance Committee* or the *PEM Board*. | A WESM *Member* **or the *Market Operator*** may be required to implement remedial measures by the *Enforcement and Compliance Office*, the *Compliance Committee* or the *PEM Board*. | Revised to cover instances where MO plays an integral part in addressing a concern. Same for SO but SO is already a WESM Member. |  |  |
| SECTION 7 – PROCEDURES FOR INVESTIGATION AND REVIEW 7.15 Costs | 7.15.2 | Notwithstanding the foregoing, the costs associated with the day-to-day operations of the *Enforcement and Compliance Office*, the Market Assessment Group, and the *Compliance Committee* shall not be passed on to a *WESM Member* as cost associated with any investigation, decision or remedial measure. These shall instead be included in the annual revenue requirements of the PEMC which shall be defrayed through the market fees. | Notwithstanding the foregoing, the costs associated with the day-to-day operations of the *Enforcement and Compliance Office*, the Market Assessment Group, and the *Compliance Committee* shall not be passed on to a *WESM Member* as cost associated with any investigation, decision or remedial measure. These shall instead be included in the annual revenue requirements of the ~~PEMC~~ ***WESM Governance Arm*** which shall be defrayed through the market fees. | Minor – for consistency with the terminology used in the Market Rules and Market Manuals |  |  |
| (NEW) |  |  | **SECTION 9 - RECONSIDERATION AND APPEAL PROCEEDINGS AND IMPLEMENTATION OF ENFORCEMENT ACTIONS** | Currently, the provisions for reconsideration and appeal are found in WESM Penalty Manual.  The remedies available like Request for Reconsideration and Appeal are proposed to be transferred from Penalty Manual to a new section of EC Manual (Sec. 9) as would form part of the enforcement proceedings (monitoring and investigation > results > request for reconsideration > appeal).  The WEM Penalty Manual will then be limited to provisions pertaining to penalty amounts, penalty level, implementation and utilization thereof. |  |  |
| (NEW)  SECTION 9 - RECONSIDERATION AND APPEAL PROCEEDINGS AND IMPLEMENTATION OF ENFORCEMENT ACTIONS |  |  | **9.1. Reconsideration Under the Compliance Monitoring and Assessment Proceedings**  **9.1.1 Period and Ground for Filing a Request for Reconsideration. The concerned *WESM Member* may request for reconsideration of the results of the compliance monitoring and assessment, subject to the following conditions:** The request shall be filed within fifteen (15) *Business Days* from the receipt of the said compliance monitoring and assessment report;A request for reconsideration shall be based on the ground that the finding of *breach* is not supported by substantial evidence; and/or the computation is incorrect, or the penalties imposed are not in accordance with the *Penalty Manual* and *Market Rules*;The request for reconsideration shall be filed with the *Enforcement and Compliance Office.* | To provide guidelines as to –   * When RR should be filed * Where it should be filed * Reason or ground for filing |  |  |
| (NEW)  SECTION 9 - RECONSIDERATION AND APPEAL PROCEEDINGS AND IMPLEMENTATION OF ENFORCEMENT ACTIONS |  |  | **9.1.2 *Form and Contents of the Request for Reconsideration and Notice thereof.*  The request shall:** Be made in writing and signed by the *WESM Compliance Officer* of the *WESM Member* concerned, and shall be made under oath;State the date when the compliance monitoring and assessment report sought to be considered was received by the *WESM Member*;State that the findings of breach by the *Enforcement and Compliance Office* is not supported by substantial evidence, and/or the computation is incorrect, or the penalties imposed are not in accordance with the *Penalty Manual* and *Market Rules*; andContain the evidence to support the reversal of the findings of breach by the Enforcement and Compliance Office. **Failure to provide the complete requirements pursuant to this clause shall cause the *Enforcement and Compliance Office* to immediately deny the request for reconsideration.** | To provide guidelines as to form and contents of RR |  |  |
| (NEW)  SECTION 9 - RECONSIDERATION AND APPEAL PROCEEDINGS AND IMPLEMENTATION OF ENFORCEMENT ACTIONS |  |  | **9.1.3. *Resolution on the Request for Reconsideration.*** A request for reconsideration shall be resolved by the *Enforcement and Compliance Office* within sixty (60) *Business Days* from receipt thereof. This shall be done through a Resolution which shall clearly state the facts of the case and the reasons supporting its findings and conclusions. The *Resolution* shall be signed by the Head of the *Enforcement and Compliance Office*. A copy of the *Resolution* shall be served on the concerned *WESM Member.*Copies of the Resolution will be furnished to the *PEM Board* and the *Compliance Committee.* Should this Resolution require implementation of a directive on the part of the *Market Operator* and/or the *System Operator*, a copy of said notice shall likewise be sent to the *System Operator and/or Market Operator* for appropriate action. | To provide guidelines as to –   * + Timeline to resolve   + Notification of the results |  |  |
| (NEW)  SECTION 9 - RECONSIDERATION AND APPEAL PROCEEDINGS AND IMPLEMENTATION OF ENFORCEMENT ACTIONS |  |  | **9.2 Reconsideration Under the Investigation Proceedings**  **9.2.1 *Ground for Filing a Request for Reconsideration.* A *WESM Member* that is penalized under Section 7.9 of this Manual may submit a request for reconsideration of the *PEM Board* decision on the investigation on the following grounds –** Review of the findings of facts of the Enforcement and Compliance Office or for consideration of additional data that was already existing at the time of the original investigation but was not presented during such investigation due to justifiable reasons; orLegal issues, including but not limited to issues on the conclusions of the Enforcement *and Compliance Office* or the *Compliance Committee*, but does not require review of factual findings, or the propriety of the penalty or other measures approved to be imposed by the *PEM Board*. | To provide guidelines as to ground for filing RR with the PEM Board *(in case the subject case emanated from the request for investigation, report of probable breach, directive or order to investigate)* |  |  |
| (NEW)  SECTION 9 - RECONSIDERATION AND APPEAL PROCEEDINGS AND IMPLEMENTATION OF ENFORCEMENT ACTIONS |  |  | **9.2.2 *Form and Contents.* The request for reconsideration shall:** Be made in writing and signed by the WESM Compliance Officer of the WESM Member concerned, and shall be made under oath;Clearly state the grounds for the request for reconsideration and the findings of facts or the conclusions or resolution that are sought to be reviewed and reconsidered. The request shall be accompanied by supporting data and affidavits;Contain the evidence to support the request for reconsideration; andBe submitted to the PEM Board, through the Office of the Corporate Secretary within fifteen (15) *Business Days* from receipt of the notice of the *PEM Board* action. **All requests that were timely filed will be immediately endorsed to the *Enforcement and Compliance Office* for further investigation.** | To provide guidelines as to the form and content of the RR |  |  |
| (NEW)  SECTION 9 - RECONSIDERATION AND APPEAL PROCEEDINGS AND IMPLEMENTATION OF ENFORCEMENT ACTIONS |  |  | **9.2.3 *Reconsideration Proceedings.*** The *Enforcement and Compliance Office* shall evaluate the endorsed request and carry out further investigations. In conducting further investigations, the *Enforcement and Compliance Office* may require submission of additional information or obtain information from parties other than the requesting party or conduct an ocular inspection of relevant facilities or conference with the requesting party or other relevant parties.Within sixty (60) *Business Days* from endorsement of the request for reconsideration, the *Enforcement and Compliance Office* shall submit a case review report to the *Compliance Committee* containing the additional findings of fact, assessment, and recommendations.The *Compliance Committee* shall review the report submitted by the *Enforcement and Compliance Committee* and shall submit its resolution and recommendations to the *PEM Board* within thirty (30) *business days* from receipt of the case review report. | To provide guidelines as to –   * + How the reinvestigation should be conducted   + Timeline to complete the reinvestigation.   + Timeline for review of the report and submission to the Board |  |  |
|  |  |  | **9.2.4 *Resolution on the Request for Reconsideration****.* The *PEM Board* shall decide on the request for reconsideration within thirty (30) *Business Days* from receipt of the case review report and resolution submitted by the *Compliance Committee*.The decision of the *PEM Board* on the request for reconsideration shall be served upon the concerned *WESM Member* and the party filing the request for investigation. No further request for reconsideration or appeal shall be allowed. | To provide guidelines as to –   * Timeline to decide on the RR * Notification of the results |  |  |
| (NEW)  SECTION 9 - RECONSIDERATION AND APPEAL PROCEEDINGS AND IMPLEMENTATION OF ENFORCEMENT ACTIONS |  |  | **9.3 Appeal** 9.3.1 The Resolution issued by the *Enforcement and Compliance Office* under Section 9.1.3 may be appealed by the concerned *WESM Member* by filing an Appeal Memorandum with the *Compliance Committee* within fifteen (15) *Business Days* from receipt of the resolution on the Request for Reconsideration. | To provide guidelines as to –   * + When Appeal can be filed.   + How it is filed   + When it should be filed |  |  |
| (NEW)  SECTION 9 - RECONSIDERATION AND APPEAL PROCEEDINGS AND IMPLEMENTATION OF ENFORCEMENT ACTIONS |  |  | **9.3.2 *Ground for Appeal.* The appeal shall be based only on the ground that the *Enforcement and Compliance Office* has committed abuse of discretion in issuing the resolution, or the *penalty/ies* the *Enforcement and Compliance Office* had imposed is not in accordance with this Manual.** | To provide guidelines as to the ground for appeal. |  |  |
| (NEW)  SECTION 9 - RECONSIDERATION AND APPEAL PROCEEDINGS AND IMPLEMENTATION OF ENFORCEMENT ACTIONS |  |  | **9.3.3 Form *and Contents of the Appeal***   1. **Be made in writing and signed by the WESM Compliance Officer of the *WESM Member* concerned, and shall be made under oath;** 2. **State the date when the resolution being appealed was received by the *WESM Member*; and** 3. **Explain how the *Enforcement and Compliance Office* committed an abuse of discretion in issuing the Resolution or that the penalty/ies imposed by the *Enforcement and Compliance Office* is not in accordance with this Manual.**   **Failure on the part of the *WESM Member* concerned to provide the foregoing requirements shall cause outright dismissal of the appeal by the *Compliance Committee*.** | To provide guidelines as to the form and content of appeal. |  |  |
| (NEW)  SECTION 9 - RECONSIDERATION AND APPEAL PROCEEDINGS AND IMPLEMENTATION OF ENFORCEMENT ACTIONS |  |  | **9.3.4 *Decision on the Appealed Case*.**  **The *Compliance Committee* shall resolve the appealed case within thirty (30) *business days* from receipt of the original records of the case by issuing a decision duly signed by its Chairperson.** A copy of the decision shall be served on the concerned *WESM Member*, the *Enforcement and Compliance Office* and the *PEM Board.* If the decision requires implementation of a directive on the part of the *Market Operator* or the *System Operator*, a copy of said Decision shall likewise be sent to the *System Operator* for appropriate action. | To provide guidelines as to –   * + Timeline to decide on appealed case.   + Notification of decision |  |  |
| (NEW)  SECTION 9 - RECONSIDERATION AND APPEAL PROCEEDINGS AND IMPLEMENTATION OF ENFORCEMENT ACTIONS |  |  | **9.4 Service of Request for Reconsideration, Appeal, and Decision** The filing or service of Request for Reconsideration, Appeal, and the resolutions or decisions made in relation thereto, may be made by personal service, postal mail, or by electronic mail. | To provide guidelines as to the form of transmittal, submission, or service of the documents relative to RR and Appeal. |  |  |
| (NEW)  SECTION 9 - RECONSIDERATION AND APPEAL PROCEEDINGS AND IMPLEMENTATION OF ENFORCEMENT ACTIONS |  |  | **9.5. Implementation of the Enforcement Actions** 9.5.1 Subject to the provisions set out in Sections 9.5.2 and 9.5.3, the appropriate enforcement action relative to a finding of breach shall be implemented through the issuance of a *Notice of Specified Penalty.* The penalty or sanction for breach of the *Market Rules* or *Market Manuals* may nonetheless be enforced against a former *WESM Member* despite cessation of, or change in, its membership in the WESM provided that the act or omission constituting a breach was committed within the two-year prescriptive period and while it was still a member thereof. | * To clarify that implementation of enforcement action is done through issuance of NSP. * To add provision on jurisdictional matter in terms of enforcement of action involving a former WESM Member which committed breach during the time that it was still a member of the WESM. This will also address the provisions under Section 4.11 and 4.12 of the DOE Circular DC2023-07-0022.   "4.11 Within sixty (60) calendar days from receipt and evaluation of the complete documentary requirements as provided in Section 4.8 of this Circular, the DOE shall issue the LOC to the applicant. The issuance of the LOC shall not preclude the ERC and other government agencies or instrumentalities from exercising their authority and mandate over the GenCo. It shall also not absolve the GenCo from any claims of any entity.  4.12 Upon the effective date of the mothballing period, the following COC terms and WESM deregistration shall apply:  4.12.1 Automatic termination of the COC and outright deregistration from the WESM for Total Generating Plant Mothballing; or  4.12.2 For Partial Generating Unit Mothballing, the GenCo shall apply for the amendment of the COC with the ERC and the corresponding changes to its WESM registration with the MO.” |  |  |
| (NEW)  SECTION 9 - RECONSIDERATION AND APPEAL PROCEEDINGS AND IMPLEMENTATION OF ENFORCEMENT ACTIONS |  |  | **9.5.2 The *Notice of Specified Penalty* shall be issued by the *WESM Governance Arm* to the concerned WESM Member within five (5) business days from the date that the finding of breach or the resolution or decision on a case becomes final and executory.** | To clarify that NSP shall be issued only after a finding, decision, or resolution has become final and executory. |  |  |
| (NEW)  SECTION 9 - RECONSIDERATION AND APPEAL PROCEEDINGS AND IMPLEMENTATION OF ENFORCEMENT ACTIONS |  |  | **9.5.3 The finding, resolution or decision relating to compliance monitoring or investigation case becomes final and executory –**   1. **Upon the lapse of the period to file the *Request for Reconsideration* and no *Request for Reconsideration* is perfected.** 2. **Upon issuance of the resolution on *Request for Reconsideration* by the *Enforcement and Compliance Office* relative to a case emanating from compliance monitoring and assessment activity, and no *Appeal* is perfected;**      1. **Upon issuance of the resolution on *Appeal* by the *Compliance Committee* relative to a case emanating from compliance monitoring and assessment activity.** 2. **Upon issuance of the resolution on the Request for Reconsideration by the *PEM Board r*elative to a case emanating from request for investigation or report of probable breach filed by any WESM Member, the Market Operator, or the System Operator.** | To provide guidelines as to when a finding, decision or resolution is considered final and executory. |  |  |
| (NEW)  SECTION 9 - RECONSIDERATION AND APPEAL PROCEEDINGS AND IMPLEMENTATION OF ENFORCEMENT ACTIONS |  |  | **9.5.4 The provisions relating to the service of *Notice of Specified Penalty* as well as the impact of non-payment of penalties and/or interest are provided in the *WESM Penalty Manual.*** | To provide reference to the provisions of the Penalty Manual on the service of NSP and the impact of non-payment of penalty and interest |  |  |
| SECTION 9 - WESM MEMBER INTERNAL COMPLIANCE |  | SECTION 9 - WESM MEMBER INTERNAL COMPLIANCE 9.1 xxx  9.1.1 xxx  x | SECTION ~~9~~**10** - WESM MEMBER INTERNAL COMPLIANCE  ~~9.1~~ **10.1** xxx  ~~9.1.1~~ **10.1.1** xxx  ~~9.1.2~~ **10.1.2** xxx  ~~9.1.3~~ **10.1.3** xxx  ~~9.2~~ **10.2** xxx  ~~9.2.1~~ **10.2.1** xxx  ~~9.2.2~~ **10.2.2** xxx  ~~9.2.3~~ **10.2.3** xxx  ~~9.3~~ **10.3** xxx  ~~9.3.1~~ **10.3.1** xxx  ~~9.3.2~~ **10.3.2** xxx  ~~9.3.3~~ **10.3.3** xxx  ~~9.4~~ **10.4** xxx  ~~9.4.1~~ **10.4.1** xxx  ~~9.5~~ **10.5** xxx  ~~9.5.1~~ **10.5.1** xxx  ~~9.5.2~~ **10.5.2** xxx  ~~9.5.3~~ **10.5.3** xxx | Renumbered Section 9 (including its sub-sections) as **Section 10** |  |  |
| SECTION 10 - INFORMATION DISCLOSURE AND RECORDS MANAGEMENT |  | SECTION 10 - INFORMATION DISCLOSURE AND RECORDS MANAGEMENT 10.1 xxx  10.1.1 xxx  x | SECTION ~~10~~**11** - INFORMATION DISCLOSURE AND RECORDS MANAGEMENT  ~~10.1~~ **11.1** xxx  ~~10.1.1~~ **11.1.1** xxx  ~~10.2~~ **11.2** xxx  ~~10.2.1~~ **11.2.1** xxx  ~~10.2.2~~ **11.2.2** xxx  ~~10.2.3~~ **11.2.3** xxx  ~~10.3~~ **11.3** xxx  ~~10.3.1~~ **11.3.1** xxx  ~~10.3.2~~ **11.3.2** xxx  ~~10.4~~ **11.4** xxx  ~~10.4.1~~ **11.4.1** xxx  ~~10.4.2~~ **11.4.2** xxx  ~~10.4.3~~ **11.4.3** xxx | Renumbered Section 10 (including its sub-sections) as **Section 11** |  |  |
| SECTION 11 – LIMITATION OF LIABILITY AND INDEMNIFICATION |  | SECTION 11 – LIMITATION OF LIABILITY AND INDEMNIFICATION 11.1 xxx  11.1.1 xxx  x | SECTION ~~11~~**12** - LIMITATION OF LIABILITY AND INDEMNIFICATION  ~~11.1~~ **12.1** xxx  ~~11.1.1~~ **12.1.1** xxx | Renumbered Section 11 (including its sub-sections) as **Section 12** |  |  |
| SECTION 12 – AMENDMENT, PUBLICATION AND EFFECTIVITY |  | SECTION 12 – AMENDMENT, PUBLICATION AND EFFECTIVITY 12.1 xxx  12.1.1 xxx  x | SECTION ~~12~~**13** - AMENDMENT, PUBLICATION AND EFFECTIVITY  ~~12.1~~ **13.1** xxx  ~~12.1.1~~ **13.1.1** xxx  ~~12.2~~ **13.2** xxx  ~~12.2.1~~ **13.2.1** xxx  ~~12.2.2~~ **13.2.2** xxx | Renumbered Section 12 (including its sub-sections) as **Section 13** |  |  |
| SECTION 13 GLOSSARY |  | SECTION 13 GLOSSARY | SECTION ~~13~~**14** - GLOSSARY | Renumbered Section 13 (including its sub-sections) as **Section 14** |  |  |
| SECTION 13 GLOSSARY |  | Enforcement and Compliance Office -The unit created within PEMC pursuant to *WESM Rules* Clause 1.4.8, which is primarily responsible for the administration of the enforcement and compliance which shall include monitoring, assessment and investigation of the *WESM Members* in relation to their compliance with the *WESM Rules*. | ~~Enforcement and Compliance Office -The unit created within PEMC~~ ~~pursuant to~~ *~~WESM Rules~~* ~~Clause 1.4.8, which is primarily responsible for the administration of the enforcement and compliance which shall include monitoring, assessment and investigation of the~~ *~~WESM Members~~* ~~in relation to their compliance with the~~ *~~WESM Rules~~*~~.~~ | Deletion - Already defined in the WESM Rules |  |  |
| SECTION 13 GLOSSARY |  | Enforcement proceeding - This is the activity or series of activities carried out to establish and determine the occurrence of *breach* and the corresponding enforcement action that will be carried out as a consequence of the *breach*, and includes monitoring, assessment, investigation and imposing enforcement actions. | ~~Enforcement proceeding - This is the activity or series of activities carried out to establish and determine the occurrence of~~ *~~breach~~* ~~and the corresponding enforcement action that will be carried out as a consequence of the~~ *~~breach~~*~~, and includes monitoring, assessment, investigation and imposing enforcement actions.~~ | Deletion – Already defined in the WESM Rules |  |  |
| SECTION 13 GLOSSARY |  | Notice of investigation- Formal notice issued by the Enforcement and Compliance Office to a WESM Member to initiate investigation for possible breach. | Notice of ~~i~~**I**nvestigation – ~~Formal~~ **A** notice issued by the *Enforcement and Compliance Office* to a *WESM Member* to initiate ~~an~~ **a formal** investigation for possible *breach*. | For clarity |  |  |
| SECTION 13 GLOSSARY |  | (NEW) | **Notice of Probable Breach - Written report submitted by any *WESM Member* or *WESM Governance Committees* to notify the *PEM Board* of a probable breach by the *Market Operato*r or *System Operator.*** | To provide clear definition of Notice of Probable Breach in reference to Section 7.2.3 of the WESM Rules; and to have clear distinction from “Report of Probable Breach” which is also defined in the EC Manual.   * Notice of Probable Breach – report by any WESM Member/WGC to the PEM Board about a probable breach of MO or SO (for consistency with the term used in Section 7.2.3 of the WESM Rules) * Report of Probable Breach – is the report of MO or SO about a possible breach by WESM Member.   Terms are NOT interchangeable. |  |  |
| APPENDICES I and II |  | (Table Form) | *(See attached Process Flowcharts)*  Appendix I –  Compliance Monitoring and Assessment Process   * I-A: CMA – MONITORING, VALIDATION, AND REPORTING PROCESS FLOWCHART * I-B: CMA-RECONSIDERATION PROCESS FLOWCHART * I-C: CMA-APPEAL PROCESS FLOWCHART * I-D: CMA-IMPLEMENTATION OF ENFORCEMENT ACTION PROCESS FLOWCHART   Appendix II-Investigation Process   * II-A: INVESTIGATION-RFI VERIFICATION PROCESS FLOWCHART * II-B: FORMAL INVESTIGATION PROCESS FLOWCHART * II-C: RECONSIDERATION PROCESS FLOWCHART  II-D: IMPLEMENTATION OF ENFORCEMENT ACTION PROCESS FLOWCHART | Replaced with Process Flowcharts – to align with the revised processes |  |  |

| **WESM Penalty Manual Issue 1.0** | | | | | | |
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| **Title** | **Section** | **Provision** | **Proposed Amendment** | **Rationale** | **Comments/Proposed Revision** | **Rationale** |
| Introduction  1.1. Legal Framework | 1.1.3 | Pursuant to this legal mandate, WESM Rules Clause 1.6.3 (Chapter 1), provides that the *Market Surveillance Committee* shall design the *penalty* levels and appropriate range of *penalties* that will be applied for *breaches* of the WESM Rules.  This is to be done in consultation with the Rules Change Committee and the PEM Board. The *penalty* levels and ranges are to be reviewed by the *Market Surveillance Committee* from time to time and as may be necessary. | Pursuant to this legal mandate, WESM Rules Clause ~~1.6.3 (Chapter 1)~~ **7.2.5.5**, provides that the *Market Surveillance Committee* shall ~~design~~ **review** the *penalty* levels and appropriate range of *penalties* that will be applied for *breaches* of the *WESM Rules*. This is to be done in consultation with the *Rules Change Committee****, Compliance Committee,*** and the *PEM Board*. ~~The~~ *~~penalty~~* ~~levels and~~ ~~ranges are to be reviewed by the~~ *~~Market~~ ~~Surveillance Committee~~* ~~from time to time~~ ~~and as may be necessary.~~ **The amendment to the *WESM Penalty Manual* shall be approved and promulgated by the *Department of***  ***Energy*.** | * Updated the rule reference based on the current WESM Rules, as amended. * Revised for consistency with Clause 7.2.2.5 of the WESM Rules where MSC reviews the Penalty Manual but DOE approves and promulgates the same. * Added Compliance Committee – for consistency with Clause 7.2.2.5 of the WESM Rules |  |  |
| Introduction  1.1. Legal Framework | 1.1.5 | Meanwhile, the *Rules for the Integration of Retail Competition in the Wholesale Electricity Spot Market* (otherwise known as the Retail Rules) expressly provide in its Clause 1.5.1 that the provisions of Chapter 1 of the  WESM Rules shall apply with respect to the governance of the integration of retail competition, the operations of the Central Registration Body and the transactions in the WESM of contestable customers and retail electricity suppliers. Furthermore, Clause 1.7 of the Retail Rules expressly provide that Chapter 7  of the WESM Rules shall apply in respect to the enforcement of the  Retail Rules. | Meanwhile, the *Rules for the Integration of Retail Competition in the Wholesale Electricity Spot Market* (otherwise known as the *Retail Rules*) expressly provide in its Clause 1.5.1 that the provisions of Chapter  1 of the *WESM Rules* shall apply with respect to the governance of the integration of retail competition, the operations of the ***Central Registration Body*** and the transactions in the WESM of contestable customers and retail electricity suppliers. Furthermore, Clause 1.7 of the *Retail Rules* expressly provide**s** that Chapter 7 of the *WESM Rules* shall apply in respect to the enforcement of the ***Retail Rules****.* | Typo correction |  |  |
| 1.2. Purpose and Scope | 1.2.2 | This Manual sets out the following –   1. Provisions of the WESM Rules, the Retail Rules and their implementing *Market Manuals* (collectively referred to as *Market Rules*) which, if not complied with, will constitute a *breach* and correspondingly, the types of *breach* that are subject to *penalties* under this Manual; 2. Categories and levels of *penalties* that will be applied for each type of *breach*, and qualifying circumstances that will be considered in determining the *penalty* that will apply in case of *breach*; 3. Procedures for and respective obligations of responsible persons or entities in implementing *penalties* imposed under this Manual and remedies available to the *WESM Members* in case there is a finding of *breach*; and | This Manual sets out the following –   1. Provisions of the WESM Rules, the Retail Rules and their implementing *Market Manuals* (collectively referred to as *Market Rules*) which, if not complied with, will constitute a *breach* and correspondingly, the types of *breach* that are subject to *penalties* under this Manual; 2. Categories and levels of *penalties* that will be applied for each type of *breach*, and qualifying circumstances that will be considered in determining the *penalty* that will apply in case of *breach*; 3. Procedures for and respective obligations of responsible persons or entities in implementing *penalties* imposed under this Manual ~~and remedies available to the~~ *~~WESM~~ ~~Members~~* ~~in case there is a finding of~~ *~~breach~~*~~;~~ and 4. **Procedures and conditions for the utilization of the *financial penalties* collected for breach of the *Market Rules.*** | * Revised to remove from the scope the remedies of trading participants (item c, 2nd phrase)   The remedies available like Request for Reconsideration and Appeal are proposed to be transferred to *Enforcement and Compliance Manual* as they form part of the enforcement proceedings (monitoring and investigation > results > request for reconsideration > appeal).  The WESM Penalty Manual will then be limited to provisions pertaining to penalty amounts, penalty level, implementation, and utilization thereof.   * Added to the scope – the procedures and conditions for utilization of penalty. |  |  |
| 1.2. Purpose and Scope | 1.2.3 | This Manual, including the penalty system, applies to and is binding to all *WESM Members* in all grids where the WESM is in operation.  By having registered in the WESM, a *WESM Member* is  bound to comply with the *Market Rules*. | This Manual, including the penalty system, applies to and is binding ~~to~~ **on** all *WESM Members* in all grids where the WESM is in operation. By having registered in the WESM, a *WESM Member* is bound to comply with the  *Market Rules*. | Minor - typo correction |  |  |
| 1.2. Purpose and Scope | 1.2.4 | This Manual covers only the *penalty* system, the manner of assessment and implementation of *penalties*, the remedies available to the *WESM Members* in case there is a finding of *breach*, and the utilization of the *financial penalties* collected for *breach* of the *Market Rules*. The rules, guidelines and procedures pertaining to enforcement of the *Market Rules*, and investigations of *breaches* are not covered by this Manual. | ~~This Manual covers only the~~ *~~penalty~~* ~~system, the manner of assessment and implementation of~~ *~~penalties~~*~~, the remedies~~ ~~available to the~~ *~~WESM Members~~* ~~in case~~ ~~there is a finding of~~ *~~breach~~*~~, and the~~ ~~utilization of the~~ *~~financial penalties~~* ~~collected for~~ *~~breach~~* ~~of the~~ *~~Market Rules~~*~~.~~ The rules, guidelines and procedures pertaining to enforcement of the *Market Rules*, **compliance monitoring** and investigations of *breaches,* **and the remedies that are available to the concerned *WESM Members*** are not covered by this Manual. | * Removed redundant provisions (1st sentence covered in Section 1.2.2 above) * For clarity - Retained 2nd sentence to provide exclusion from scope of Penalty Manual.   The remedies available like Request for Reconsideration and Appeal are proposed to be transferred to *Enforcement and Compliance Manual* as they form part of the enforcement proceedings (monitoring and investigation > results > request for reconsideration > appeal). |  |  |
| Section 3 – Responsibilities | 3.1 | **Philippine Electricity Market Corporation**  The PEMC shall oversee the administration and implementation of this Manual. This responsibility is subject only to the limitations set out in this  Manual. | **~~Philippine Electricity Market Corporation~~ WESM Governance Arm**  The ***WESM Governance Arm*** shall oversee the administration and implementation of this Manual. This responsibility is subject only to the limitations set out in this Manual. | For consistency with the terminology used in the Market Rules and Market Manuals. |  |  |
| Section 3 – Responsibilities | 3.2 | **PEMC PRESIDENT**  The *PEMC President* shall sign all notices pertaining to penalties that are required to be issued under this Manual and shall exercise this authority on behalf of the *PEM Board*, except those notices that are authorized to be issued by the *Market Operator* under Section 4.8.4 of this Manual. | **~~PEMC~~ PRESIDENT OF THE WESM GOVERNANCE ARM**  The *~~PEMC~~* President of the ***WESM Governance Arm*** shall sign all notices pertaining to penalties that are required to be issued under this Manual and shall exercise this authority on behalf of the *PEM Board*, except those notices that are authorized to be issued by the *Market Operator* **under** ~~Section 4.8.4~~ **the relevant provisions of this Manual**. | * For consistency with the terminology used in the Market Rules and Market Manuals. * Generic reference to certain provisions instead specific section – Provisions relating to the other notices that may be issued by MO are scattered throughout the Manual. |  |  |
| Section 3 – Responsibilities | 3.3 | **Market Surveillance Committee**  The *Market Surveillance Committee* shall annually review the levels and range of *penalties* as set out in this Manual. From time to time and as may be necessary, the *Market Surveillance Committee* shall submit to the *Department of Energy* its proposed amendments thereto, in consultation with the *WESM Members, Rules Change Committee* and the *PEM Board*. | **Market Surveillance Committee**  The *Market Surveillance Committee* shall annually review the levels and range of *penalties* as set out in this Manual. From time to time and as may be necessary, the *Market Surveillance Committee* shall submit to the *Department of Energy* its proposed amendments thereto, in consultation with the *WESM Members, Rules Change Committee,* ***Compliance Committee,*** and the *PEM Board*. | Added Compliance Committee – for consistency with Clause 7.2.5.5 of the WESM Rules |  |  |
| Section 3 – Responsibilities | 3.5 | **Enforcement and Compliance Office**  The *Enforcement and Compliance Office* shall –  3.5.1 Monitor the compliance of *WESM Members* and, based on the result of its own monitoring and assessment, impose the specified penalties therefor in accordance with the *Market Rules* and the *WESM Penalty Manual,* and issue a resolution on a request for reconsideration if any is filed by any *WESM Member*. The *Notice of Specified Penalty* to be issued for this purpose shall be signed by the *PEMC President* in accordance with Section 3.2 of this Manual.  x x x | **Enforcement and Compliance Office**  The *Enforcement and Compliance Office*  shall –  3.5.1 Monitor the compliance of *WESM Members* and, based on the result of its own monitoring and assessment, impose the specified penalties therefor in accordance with the *Market Rules* and the *WESM Penalty Manual,* and issue a resolution on a request for reconsideration if any is filed by any *WESM Member*. The *Notice of Specified Penalty* to be issued for this purpose shall be signed by the *~~PEMC~~ President* ***of the WESM Governance Arm*** in accordance with Section 3.2 of this Manual.  x x x | For consistency with the terminology used in the Market Rules and Market Manuals. |  |  |
| Section 3 – Responsibilities | 3.6 | The *Market Operator* shall implement the *Notice of Specified Penalties* served on it and the distribution of the collected financial penalties in accordance with the guidelines it shall develop pursuant to Section 6 of this Manual, and shall carry out any other action required of it under any notice that is issued and served pursuant to this Manual. | ~~The~~ *~~Market Operator~~* ~~shall implement the~~ *~~Notice of Specified Penalties~~* ~~served on it~~ ~~and the distribution of the collected~~ ~~financial penalties in accordance with the~~ ~~guidelines it shall develop pursuant to~~ ~~Section 6 of this Manual, and shall carry~~ ~~out any other action required of it under~~ ~~any notice that is issued and served~~ ~~pursuant to this Manual.~~  **The *Market Operator* shall, faithfully and timely implement any action or measure required under any notice that is issued to and served upon it in relation to or in connection with the *enforcement proceedings* and *enforcement actions* made pursuant to this Manual or relevant Market Manuals.** | * Collection of penalty is proposed to be transferred to WESM Governance Arm. * With respect to other measures that needs to be implemented by the Market Operator – the same may be covered in this provision (*e.g.,* implementation of suspension or deregistration, etc.) |  |  |
| Section 3 – Responsibilities | 3.7 | The *System Operator* shall faithfully and timely implement any action or measure required of it under any notice that is issued and served pursuant to this Manual. | The *System Operator* shall, faithfully and timely implement any action or measure required ~~of it~~ under any notice that is issued **to** and served **upon it in relation to or in connection with the *enforcement proceedings* and *enforcement actions* made** pursuant to  this Manual **or relevant Market Manuals**. | To strengthen enforcement |  |  |
| Section 3 – Responsibilities  3.9 WESM Members | No sub-section | A *WESM Member* that is served a notice, resolution or decision pursuant to this Manual shall faithfully and timely comply with the requirements or directives thereunder, including but not limited to the payment of *financial penalties*, taking of remedial actions or measures and compliance with other directives. Failure to comply with such  requirements or directives shall | **3.9.1** A *WESM Member* that is served a notice, resolution or decision pursuant to this Manual shall faithfully and timely comply with the requirements or directives thereunder, including but not limited to the payment of *financial penalties*, taking of remedial actions or measures and compliance with other directives. Failure to comply with such requirements or directives shall be subject to additional *penalties* pursuant to Section 4.1.2.2**, Section 4.14,** and Section 5 of this Manual. | * Added sub-section 3.9.1 because a new provision will also be added as Section 3.9.2   Updated the reference (due to renumbering) |  |  |
|  | 3.9.2 (new) | Related provision (transferred here) –  4.13.4 A *Notice of Specified Penalty/ies* or any related notices shall be served on the *WESM Member* through its *WESM Compliance Officer* as appearing in the records of the *Enforcement and Compliance Office*, or if none is designated, to the president or chief executive officer of the  *WESM Member* as appearing in the records of the *Market Operator*. *WESM Members* have the obligation to ensure that the information on the contact persons provided to the *Enforcement and Compliance Office* and to the *Market Operator*  is updated at all times. | **3.9.2** ~~4.13.4 A~~ *~~Notice of Specified~~ ~~Penalty/ies~~* ~~or any related notices shall be~~ ~~served on the~~ *~~WESM Member~~* ~~through its~~ *~~WESM Compliance Officer~~* ~~as appearing~~ ~~in the records of the~~ *~~Enforcement and~~ ~~Compliance Office~~*~~, or if none is~~ ~~designated, to the president or chief~~ ~~executive officer of the~~ *~~WESM Member~~* ~~as~~ ~~appearing in the records of the~~ *~~Market~~ ~~Operator~~*~~.~~ *WESM Members* ~~have the obligation to~~ **shall** ensure that the information on the contact persons provided to the *Enforcement and Compliance Office* and to the *Market Operator* is updated at all times. | Added Section 3.9.2 as WESM Member Responsibility (transferred from 2nd sentence of Section 4.13.4) |  |  |
| Section 4 – Penalty System  4.1.1. –  Enforcement Proceedings | 4.1.1.3 | **Investigation of the Market Operator and the *System Operator*.** The investigation of the *Market Operator* and the *System Operator* by the *Enforcement and Compliance Office* for probable breach of the *Market Rules* shall be in accordance with the relevant provisions of the *Enforcement and Compliance Manual.* The *PEM Board*, as it may deem necessary, may thereafter file a formal complaint with the *Energy Regulatory Commission* and the  *Department of Energy.* | **Investigation of the Market Operator and the *System Operator*.** The investigation of the *Market Operator* and the *System Operator* by the *Enforcement and Compliance Office* for probable breach of the *Market Rules* shall be in accordance with **Section 7.2.3 of the *WESM Rules* and** the relevant provisions of the *Enforcement and Compliance Manual.* The *PEM Board*, as it may deem necessary, may thereafter file a formal complaint with the *Energy Regulatory Commission* and the *Department of*  *Energy.* | Added reference to the provisions of the WESM Rules re: investigation of MO or SO. |  |  |
| Section 4 – Penalty System | 4.1.2 | **Imposition of Penalties by the Enforcement and Compliance Office.** The *Enforcement and Compliance Office* shall advise the *PEMC President* and the *Compliance Committee* of the specified *penalty* to be imposed upon the WESM Member concerned based on the results of the compliance monitoring and assessment conducted by the *Enforcement and Compliance Office* in accordance with Clause 7.2 of the WESM Rules and the WESM Enforcement and Compliance Manual. The PEM Board, the *Energy Regulatory Commission* and the *Department of Energy* shall be provided with the monthly status or summary report of the compliance monitoring and assessment activities of the *Enforcement and*  *Compliance Office*. | **Imposition of Penalties by the Enforcement and Compliance Office.** The *Enforcement and Compliance Office* shall advise the *~~PEMC~~ President* **of the *WESM Governance Arm*** and the *Compliance Committee* of the specified *penalty* to be imposed upon the *WESM Member* concerned based on the results of the compliance monitoring and assessment conducted by the *Enforcement and Compliance Office* in accordance with Clause 7.2 of the *WESM Rules* and the WESM Enforcement and Compliance Manual. The *PEM Board*, the *Energy Regulatory Commission* and the *Department of Energy* shall be provided with the monthly status or summary report of the compliance monitoring and assessment activities of the *Enforcement and Compliance Office*. | For consistency with the terminology used in the Market Rules and Market Manuals. |  |  |
| Section 4 – Penalty System | 4.1.4 | **Imposition of Penalties on the *Market Operator* and the *System Operator*.** The penalty for breach of the *Market Rules* by the *Market Operator* or the *System Operator* shall be determined and imposed by the Energy Regulatory Commission  upon finding of breach of the *Market Rules* initiated through complaints or reports by the PEM Board in accordance with Section  4.1.1.3 of this Manual and pertinent provisions of the *Enforcement and Compliance*  *Manual*. | **Imposition of Penalties on the *Market Operator* and the *System Operator*.** The penalty for breach of the *Market Rules* by the *Market Operator* or the *System Operator* shall be determined and imposed by the *Energy Regulatory Commission* upon finding of breach of the *Market Rules* initiated through complaints  or reports by the *PEM Board* in accordance with **Section 7.2.3 of the *WESM Rules*,** Section 4.1.1.3 of this Manual and pertinent provisions of the *Enforcement and Compliance Manual*. | Added reference to the provisions of the WESM Rules re: investigation of MO or SO. |  |  |
| Sectio 4 – Penalty System  4.3 Description of Penalty Levels | 4.3.1 | The WESM *penalty* system consists of three (3) *penalty* levels. The *penalty* level to be imposed will depend on the nature of the *breach* and the circumstances surrounding the *breach*. The specific *penalty* levels to be imposed for each type of *breach* are provided for in the Schedule of Breach and Penalties  of this Manual. | **Unless otherwise provided by the WESM Rules and/or Market Manuals**, **t**~~T~~he WESM *penalty* system **under this Manual shall** consist~~s~~ of three (3) *penalty* levels. The *penalty* level to be imposed will depend on the nature of the *breach* and the circumstances surrounding the *breach*. The specific *penalty* levels to be imposed for each type of *breach* are provided for in the Schedule of Breach and Penalties of this Manual. | Added a non-restrictive clause as would allow other practicable penalty level/design (*e.g.,* different penalty level for reserve market compliance) |  |  |
| Section 4 – Penalty System | 4.6.2 | [NEW] | **4.6.2 The penalty imposed, regardless of its level, shall be clearly stated in the *Notice of Specified Penalty.* It shall, at the minimum, state the following –**   1. **Name of the *WESM Member* subject of the notice;** 2. **The name of the registered facility, if applicable, associated with the *breach*;** 3. **The *breach* committed and pertinent rules that were *breach*ed;** 4. **The relevant date/s and dispatch interval/s that the breach occurred; and** 5. **Remedial measures required of the *WESM Member,* if any, and the manner of compliance.** | In reference to the comment of MSC on Sec. 4.7 (content of NSP). Instead of repeating the same provision under each level of penalty, this section is proposed to be placed under Section 4.6 which is intended to be applicable to all penalty levels as may be imposed. |  |  |
| Section 4 – Penalty System | 4.7 – Level 1 – Reprimand | **Level 1 - Reprimand**  If a *reprimand* is meted out, a *Notice of Reprimand* containing the reprimand is issued and shall further state the following –   1. Name of the *WESM Member* subject of the reprimand; 2. The name of the registered facility, if applicable, associated with the *breach*; 3. The *breach* committed and pertinent rules that were *breach*ed; 4. The relevant date/s and dispatch interval/s that the *breach* occurred; and 5. Remedial measures required of the *WESM Member*, if any, and the manner of compliance. | ~~If a~~ *~~reprimand~~* ~~is meted out, a~~ *~~Notice of~~ ~~Reprimand~~* ~~containing the reprimand is~~ ~~issued and shall further state the following~~ ~~–~~   1. ~~Name of the~~ *~~WESM Member~~* ~~subject of the reprimand;~~ 2. ~~The name of the registered facility, if~~ ~~applicable, associated with the~~ *~~breach~~*~~;~~ 3. ~~The~~ *~~breach~~* ~~committed and pertinent rules that were~~ *~~breach~~*~~ed;~~ 4. ~~The relevant date/s and dispatch interval/s that the~~ *~~breach~~* ~~occurred; and~~ 5. ~~Remedial measures required of the~~ *~~WESM Member~~*~~, if any, and the~~ ~~manner of compliance.~~   **4.7.1 A Letter of Reprimand or Non- Compliance Letter shall be signed by President of the *WESM Governance Arm* and shall enjoin the concerned *WESM Member* from committing the same *breach* which shall be dealt with more severely. To the extent applicable, the Letter of Reprimand or Non-Compliance Letter shall also include remedial measures required of the concerned *WESM Member* and the manner of compliance.** | The original provision will be transferred to Sec. 4.6 as a separate section. (See above Section 4.6.2)  For clarity that the letter of Reprimand / Financial Penalty / Suspension is the penalty itself. |  |  |
| Section 4 – Penalty System  4.8. Level 2 – Financial Penalties | 4.8.2 | 4.8.2 A *Notice of Financial Penalty* shall be issued to the *WESM Member* specifying the following –   1. Name of the *WESM Member*; 2. The name of the registered facility to which the *breach* pertains, if applicable; 3. The *breach* committed and pertinent rules that were *breach*ed; 4. The relevant date/s and dispatch interval/s that the *breach* occurred; 5. The amount of *financial penalty* imposed for each count of *breach*; and 6. Remedial measures required of the *WESM Member*, if any, and the manner of monitoring compliance. | ~~A~~ *~~Notice of Financial Penalty~~* ~~shall be issued to the~~ *~~WESM Member~~* ~~specifying the following –~~   1. ~~Name of the~~ *~~WESM Member~~*~~;~~ 2. ~~The name of the registered facility to which the~~ *~~breach~~* ~~pertains, if applicable;~~ 3. ~~The~~ *~~breach~~* ~~committed and pertinent rules that were~~ *~~breach~~*~~ed;~~ 4. ~~The relevant date/s and dispatch interval/s that the~~ *~~breach~~* ~~occurred;~~ 5. ~~The amount of~~ *~~financial penalty~~* ~~imposed for each count of~~ *~~breach~~*~~; and~~ 6. ~~Remedial measures required of the~~ *~~WESM Member~~*~~, if any, and the manner of monitoring compliance.~~ | Remove Sec. 4.8.2 – already covered in Sec. 4.6.2 (See above) |  |  |
| Section 4 – Penalty System  4.8. Level 2 – Financial Penalties | 4.8.3 | 4.8.3. A copy of the notice shall also be served on the *Market Operator* and shall serve as the authority of the latter to collect the assessed *financial penalties*. Upon receipt of a copy of the notice, the *Market Operator* shall cause the billing and collection of the amount due within three (3) *Business Days* from receipt of the notice. The concerned WESM Member shall pay the penalty amount within twelve (12) *Business Days* from receipt of the  billing from the *Market Operator.* | ~~4.8.3. A copy of the notice shall also be served on the~~ *~~Market Operator~~* ~~and shall serve as the authority of the latter to collect the assessed~~ *~~financial penalties~~*~~. Upon receipt of a copy of the notice, the~~ *~~Market Operator~~* ~~shall cause the billing and collection of the amount due within three (3)~~ *~~Business Days~~* ~~from receipt of the notice. The concerned WESM Member shall pay the penalty amount within twelve (12)~~ *~~Business Days~~* ~~from receipt of the billing from the~~ *~~Market Operator.~~* | * Transferred to Section 4.13 (Service of Notice of Specified Penalty) with modification (PEMC to collect instead of IEMOP)   Renumbered as Sections 4.13.3 and 4.13.4 |  |  |
| Section 4 – Penalty System  4.8. Level 2 – Financial Penalties | 4.8.4 | 4.8.4 The *Market Operator* shall notify the *WESM Member* of the penalty amount including interest if applicable and the due date for payment of the same. In case of failure of the *WESM Member* to fully pay for the financial penalties on specified due date, a penalty interest in the sum specified in the Schedule of Breach and Penalties of this Manual shall be billed and collected from the *WESM Member* until the amount is fully paid. | ~~4.8.4 The~~ *~~Market Operator~~* ~~shall notify the~~ *~~WESM Member~~* ~~of the penalty amount including interest if applicable and the due date for payment of the same. In case of failure of the~~ *~~WESM Member~~* ~~to fully pay for the financial penalties on specified due date, a penalty interest in the sum specified in the Schedule of Breach and Penalties of this Manual shall be billed and collected from the~~ *~~WESM Member~~* ~~until the amount is fully paid.~~ | * Transferred to Section 4.13 (Service of Notice of Specified Penalty) with modification (PEMC to notify the WESM Member of the consequence of non-payment)   Renumbered as Sections 4.13.5 |  |  |
| Section 4 – Penalty System  4.8. Level 2 – Financial Penalties | 4.8.5 | 4.8.5 The amount shall be paid through issuance of a check payable to the *Market Operator*. However, collection from settlement amounts through offsetting or debit arrangements may be done as follows:   1. If the concerned *WESM Member* authorizes the *Market Operator* to collect the penalty amounts from the settlement amounts for the billing period during which the notice was issued; and 2. If the concerned *WESM Member* fails to pay the penalty amounts within the specified due date, despite the finality of the decision and receipt of the *Notice of Specified Penalty/ies* from the *Market Operator*, then the *Market Operator* shall collect the penalty from the settlement amounts of the said *WESM Member* for the immediately succeeding billing period computed as follows: 3. The penalty amounts shall be deducted from the settlement amounts after deductions from the same of the tax payments, interest payments, and market fees. The *Market Operator* shall ensure that the penalty amount is properly labelled as such in the billing statement or equivalent as would distinguish it from other items or deductions that may be charged against the settlement amount. 4. If the collection of penalty cannot be made in full due to inadequacy of the settlement amount from which the penalty amounts will be deducted, the Market Operator shall issue a notice or demand to pay the deficiency to the concerned WESM Member. | ~~4.8.5 The amount shall be paid through issuance of a check payable to the~~ *~~Market Operator~~*~~. However, collection from settlement amounts through offsetting or debit arrangements may be done as follows:~~   1. ~~If the concerned~~ *~~WESM Member~~* ~~authorizes the~~ *~~Market Operator~~* ~~to collect the penalty amounts from the settlement amounts for the billing period during which the notice was issued; and~~ 2. ~~If the concerned~~ *~~WESM Member~~* ~~fails to pay the penalty amounts within the specified due date, despite the finality of the decision and receipt of the~~ *~~Notice of Specified Penalty/ies~~* ~~from the~~ *~~Market Operator~~*~~, then the~~ *~~Market Operator~~* ~~shall collect the penalty from the settlement amounts of the said~~ *~~WESM Member~~* ~~for the immediately succeeding billing period computed as follows:~~ 3. ~~The penalty amounts shall be deducted from the settlement amounts after deductions from the same of the tax payments, interest payments, and market fees. The~~ *~~Market Operator~~* ~~shall ensure that the penalty amount is properly labelled as such in the billing statement or equivalent as would distinguish it from other items or deductions that may be charged against the settlement amount.~~   ~~If the collection of penalty cannot be made in full due to inadequacy of the settlement amount from which the penalty amounts will be deducted, the Market Operator shall issue a notice or demand to pay the deficiency to the concerned WESM Member.~~ | * Transferred to Section 4.13 (Service of Notice of Specified Penalty) with modification (direct payment to PEMC; no more offsetting against trading receivables)   Renumbered as Sections 4.13.6 |  |  |
| Section 4 – Penalty System  4.8. Level 2 – Financial Penalties | 4.8.6 | 4.8.6 The *Market Operator* shall notify the *PEMC President* of the status of the penalty collection indicating the amount collected, *penalty* interest imposed and the reason for non-payment by the concerned *WESM Member* as applicable on a monthly basis. | ~~4.8.6 The~~ *~~Market Operator~~* ~~shall notify the~~ *~~PEMC President~~* ~~of the status of the penalty collection indicating the amount collected,~~ *~~penalty~~* ~~interest imposed and the reason for non-payment by the concerned~~ *~~WESM Member~~* ~~as applicable on a monthly basis.~~ | * Transferred to Section 4.15 (Submission of Reports) with modification.   Renumbered as Section 4.15 |  |  |
| Section 4 – Penalty System  4.8. Level 2 – Financial Penalties | 4.8.7 | 4.8.7 Penalty interest shall be reckoned from the date the *penalty* becomes due up to the time the same is actually settled. | ~~4.8.7 Penalty interest shall be reckoned~~ ~~from the date the~~ *~~penalty~~* ~~becomes due up~~ ~~to the time the same is actually settled.~~ | * Transferred to Section 4.13 (Service of Notice of Specified Penalty) with modification (provision is merged with Section 4.8.4 [on non-payment of penalties])   Renumbered as Sections 4.13.5 |  |  |
| Section 4 – Penalty System  4.9. Level 3 – Escalated Financial Penalties | 4.9.2 | 4.9.2 A Notice of Escalated Financial Penalties is issued on the WESM Member stating the  following –   1. The name of the *WESM Member*; 2. The name of the registered facility for which the *breach* was found; 3. The *breach* committed, specifying the rules that were *breached*; 4. The relevant date/s and dispatch interval/s that the *breach* occurred; 5. The reason/s for imposition of escalated *financial penalty,* particularly the occurrence of the qualifying circumstance that warranted application of the escalated *financial penalty*; 6. The amount of *financial penalty*; and 7. Remedial measures, if any, required of the *WESM Member* and manner of monitoring compliance. | ~~4.9.2 A Notice of Escalated Financial Penalties is issued on the WESM Member stating the~~  ~~following –~~   1. ~~The name of the~~ *~~WESM Member~~*~~;~~ 2. ~~The name of the registered facility for which the~~ *~~breach~~* ~~was found;~~ 3. ~~The~~ *~~breach~~* ~~committed, specifying the rules that were~~ *~~breached~~*~~;~~ 4. ~~The relevant date/s and dispatch interval/s that the~~ *~~breach~~* ~~occurred;~~ 5. ~~The reason/s for imposition of escalated~~ *~~financial penalty,~~* ~~particularly the occurrence of the qualifying circumstance that warranted application of the escalated~~ *~~financial penalty~~*~~;~~ 6. ~~The amount of~~ *~~financial penalty~~*~~; and~~ 7. ~~Remedial measures, if any, required of the~~ *~~WESM Member~~* ~~and manner of monitoring compliance.~~ | **Remove Section 4.9.2 (content of NSP) – already covered in Section 4.6.2 (see above)** |  |  |
| Section 4 – Penalty System | 4.9 Level 3 – Escalated Financial Penalties | 4.9.3. A copy of the notice will also be served on the *Market Operator* and shall serve as its authority to collect the amount due. Failure to pay the *financial penalty* amount on due date will result in imposition of *penalty* interest until fully paid. The *Market Operator* shall cause the billing and collection of the *penalty* amount, and shall notify the *PEMC President* of the status of collection in the same manner as required for Level 2 Financial Penalty under Sections 4.8.3, 4.8.4, and 4.8.5 of this Manual with a copy thereof furnished to the *Enforcement and Compliance*  *Office*. | ~~4.9.3. A copy of the notice will also be served on the~~ *~~Market Operator~~* ~~and shall serve as its authority to collect the amount due. Failure to pay the~~ *~~financial penalty~~* ~~amount on due date will result in imposition of~~ *~~penalty~~* ~~interest until fully paid. The~~ *~~Market Operator~~* ~~shall cause the billing and collection of the~~ *~~penalty~~* ~~amount, and shall notify the~~ *~~PEMC President~~* ~~of the status of collection in the same manner as required for Level 2 Financial Penalty under Sections 4.8.3, 4.8.4, and 4.8.5 of this Manual with a copy thereof furnished to the~~ *~~Enforcement and Compliance~~*  *~~Office~~*~~.~~ | * Transferred to Section 4.13 (Service of Notice of Specified Penalty) with modification.   Covered by the provisions of Section 4.13.1 to 4.13.9, as renumbered. |  |  |
| Section 4 – Penalty System | 4.12 Request for Recon-  Sideration and Appeal Procee-  dings | Under the Compliance Monitoring and Assessment Proceedings  *Period and Ground for Filing a Request for Reconsideration.*  *x x x*  4.12.1.2. *Form and Contents of the Request for Reconsideration and Notice thereof.*  *x x x*  4.12.1.3. *Resolution on the Request for Reconsideration.*  *x x x*  4.12.1.4. *Appeal to the Compliance Committee and Period of Appeal*.  x x x  *Ground for Appeal. x x x*  *Form and Contents of the Appeal.*  x x x  4.12.1.7. *Decision on the Appealed Case*  x x x  4.12.2 **Under Investigation Proceedings**  4.12.2.1 *Ground for Filing a Request for Reconsideration.*  *x x x*  4.12.2.2 *Form and Contents. x x x*  4.12.2.3 *Reconsideration Proceedings.*  *x x x*  4.12.2.4 *Resolution on the Request for Reconsideration.*  *x x x*  4.12.2.5 *Effect of PEM Board Decision.*  x x x | ~~Under the Compliance Monitoring and Assessment Proceedings~~  *~~Period and Ground for Filing a Request for Reconsideration.~~*  *~~x x x~~*  ~~4.12.1.2.~~ *~~Form and Contents of the Request for Reconsideration and Notice thereof.~~*  *~~x x x~~*  ~~4.12.1.3.~~ *~~Resolution on the Request for Reconsideration.~~*  *~~x x x~~*  ~~4.12.1.4.~~ *~~Appeal to the Compliance Committee and Period of Appeal~~*~~.~~  ~~x x x~~  *~~Ground for Appeal. x x x~~*  *~~Form and Contents of the Appeal.~~*  ~~x x x~~  ~~4.12.1.7.~~ *~~Decision on the Appealed Case~~*  ~~x x x~~  ~~4.12.2~~ **~~Under Investigation Proceedings~~**  ~~4.12.2.1~~ *~~Ground for Filing a Request for Reconsideration.~~*  *~~x x x~~*  ~~4.12.2.2~~ *~~Form and Contents. x x x~~*  ~~4.12.2.3~~ *~~Reconsideration Proceedings.~~*  *~~x x x~~*  ~~4.12.2.4~~ *~~Resolution on the Request for Reconsideration.~~*  *~~x x x~~*  ~~4.12.2.5~~ *~~Effect of PEM Board Decision.~~*  ~~x x x~~  (new)  **4.12.1 The filing of any request for reconsideration of compliance monitoring and investigation results or reports and appeal of the resolution on request for reconsideration shall be governed by the relevant provisions of the *WESM Enforcement and Compliance Manual.*** |  |  |  |
| Section 4 – Penalty System  4.13 – Service of Notice of Specified Penalties | 4.13.1 | ~~A~~ *~~Notice of Specified Penalty/ies~~* ~~required to be issued in accordance with this Manual shall be issued and signed by the~~ *~~PEMC President in accordance with Section 3.2 of this Manual,~~* ~~and served on the concerned WESM Member upon the issuance of the compliance monitoring and assessment report or investigation report by the~~ *~~Enforcement and Compliance Office~~*~~. The said Notice shall become executory upon issuance thereof.~~  Related provision (to be transferred here) –  4.13.4 A *Notice of Specified*  *Penalty/ies* or any related notices shall be served on the *WESM Member* through its *WESM Compliance Officer* as appearing in the records of the *Enforcement and Compliance Office*, or if none is designated, to the president or chief executive officer of the  *WESM Member* as appearing in the records of the *Market Operator*. *WESM Members* have the obligation to ensure that the information on the contact persons provided to the *Enforcement and Compliance Office* and to the *Market Operator* is updated at all times. | ~~4.13.4~~ **4.13.1** A *Notice of Specified Penalty~~/ies~~* or any related notices **and the Letter of Reprimand** shall be served on the *WESM Member* through its *WESM Compliance Officer* as appearing in the records of the *Enforcement and Compliance Office*, or if none is designated, to the president or chief executive officer of the *WESM Member* as appearing in the records of the *~~Market~~ ~~Operator~~* ***WESM Governance Arm***. *~~WESM Members~~* ~~have the obligation to~~ ~~ensure that the information on the contact~~ ~~persons provided to the~~ *~~Enforcement and~~ ~~Compliance Office~~* ~~and to the~~ *~~Market~~ ~~Operator~~* ~~is updated at all times.~~ | * Removed redundant provision (NSP to be signed by PEMC President – mentioned twice already in the Manual) * Replaced it with the provision **as to whom the NSP/Letter of Reprimand/other notices shall be served** (previously Section 4.13.4) with modification. * Last sentence is transferred to Section on Responsibilities of the WESM Member under Section 3.9 of the WESM Penalty Manual. * For coherence, the provisions under Section 4.13 shall be arranged as follows: * 4.13.1 – Upon whom the NSP is served. * 4.13.2 – When NSP is served. * 4.13.3 – Who shall implement NSP * 4.13.4 - When shall penalty be paid. |  |  |
|  | 4.13.2 | ~~If a Request for Reconsideration or Appeal is filed, and resolution is made thereon, a separate~~ *~~Notice of Specified Penalty~~* ~~or revocation of said Notice, as the case may be, shall be issued by the~~ *~~Enforcement and Compliance Office~~* ~~or the~~ *~~Compliance Committee~~*~~, as applicable, which either confirms the~~ *~~Notice of Specified Penalty~~* ~~previously issued or revokes the said notice in whole or in part. Similarly, the subsequent notices as a result of the reconsideration or appeal process shall become executory upon issuance thereof and shall supersede all other notices which may have been previously issued. In all cases, the~~ *~~Notice of Specified Penalty~~* ~~or revocation thereof shall be accompanied by:~~  ~~4.13.2.1 A copy of the compliance monitoring and assessment report; or~~  ~~4.13.2.2 A copy of resolution on the request for reconsideration or decision on the Appeal, as the case may be.~~ | **(new)**  **4.13.2 A *Notice of Specified Penalty* and the Letter of Reprimand shall be issued within five (5) *business days* from the date that the compliance monitoring and assessment report or the decision on investigation case, as the case may be, becomes final and executory, as determined under the relevant provisions of the *Enforcement and Compliance Manual.* If applicable, the *Notice of Specified Penalty* and the Letter of Reprimand shall be issued simultaneously.** | * Removed provisions relating to remedies, as discussed above. * Replaced it with a provision as to when an NSP should be issued (new provision) * NSP and Letter of Reprimand (if applicable) shall be issued simultaneously. * The provision as to when a result, report, or decision becomes “final and executory” (as reckoning period for issuance of NSP) shall be included in the Remedies under the EC Manual. * For cross-reference (as proposed in EC Manual, Sec. 9.5.3):   “9.5.3 The finding, resolution, or decision relating to compliance monitoring or investigation case becomes final and executory –   * 1. Upon the lapse of the period to file the *Request for Reconsideration* and no *Request for Reconsideration* is perfected.   2. Upon issuance of the resolution on *Request for Reconsideration* by the *Enforcement and Compliance Office* relative to a case emanating from compliance monitoring and assessment activity, and no *Appeal* is perfected;   3. Upon issuance of the resolution on *Appeal* by the *Compliance Committee* relative to a case emanating from compliance monitoring and assessment activity.   4. Upon issuance of the resolution on the *Request for Reconsideration* by the *PEM Board* relative to a case emanating from request for investigation or report of probable *breach* filed by any *WESM*   *Member,* the *Market Operator,* or the *System Operator.* |  |  |
| Section 4 – Penalty System  4.13 – Service of Notice of Specified Penalties | 4.13.3 | This remedy of Request for Reconsideration or Appeal, notwithstanding, shall not stay the execution adverted to in Section 4.13.1 above.  Related provision (to be transferred here) –  4.8.3. A copy of the notice shall also be served on the *Market Operator* and shall serve as the authority of the latter to collect the assessed *financial penalties*. Upon receipt of a copy of the notice, the *Market Operator* shall cause the billing and collection of the amount due within three (3) *Business Days* from receipt of the notice. The concerned WESM Member shall pay the penalty amount within twelve (12) *Business Days* from receipt of the billing from the *Market Operator.* | ~~This~~ remedy ~~of Request for~~ Reconsideration or Appeal, ~~notwithstanding, shall not stay the~~ ~~execution adverted to in Section 4.13.1~~  ~~above.~~  ~~4.8.3.~~ **4.13.3** A copy of the ***N****~~n~~otice* ***of Specified Penalty with financial penalty*** shall also be served on ~~the~~ *~~Market~~ ~~Operator~~***the finance unit of the *WESM Governance Arm*** and shall serve as the authority of the latter to collect the assessed *financial penalties*. Upon receipt of a copy of the notice, ~~the~~ *~~Market~~ ~~Operator~~* **it** shall cause the billing and collection of the amount due within three (3) *Business Days* from receipt of the notice. ~~The concerned WESM Member~~ ~~shall pay the penalty amount within twelve (12)~~ *~~Business Days~~* ~~from receipt of the~~ ~~billing from the~~ *~~Market Operator.~~* | * Removed provisions relating to remedies, as discussed above. * The provision on “exhaustion or remedies” before the NSP is issued/implemented shall be included in the Remedies under the EC Manual. * Replaced with Section **on who shall implement NSP and collect** penalty (originally placed under Section 4.8.3, 1st sentence). Modified – PEMC (instead of IEMOP) to collect penalty. * Last sentence removed and transferred to Section 4.13.4   For coherence, the provisions under Section 4.13 shall be arranged as follows:   * 4.13.1 – Upon whom the NSP is served. * 4.13.2 – When NSP is served. * 4.13.3 – Who shall implement NSP * 4.13.4 – When shall penalty be paid. |  |  |
| Section 4 – Penalty System  4.13 – Service of Notice of Specified Penalties | 4.13.4 | A *Notice of Specified Penalty/ies* or any related notices shall be served on the *WESM Member* through its *WESM Compliance Officer* as appearing in the records of the *Enforcement and Compliance Office*, or if none is designated, to the president or chief executive officer of the *WESM Member* as appearing in the records of the *Market Operator*. *WESM Members* have the obligation to ensure that the information on the contact persons provided to the *Enforcement and Compliance Office* and to the *Market Operator* is updated at all times.  Related provision –  4.8.3 A copy of the notice shall also be served on the *Market Operator* and shall serve as the authority of the latter to collect the assessed *financial penalties*. Upon receipt of a copy of the notice, the *Market Operator* shall cause the billing and collection of the amount due within three (3) *Business Days* from receipt of the notice. The concerned WESM Member shall pay the penalty amount within twelve (12) *Business Days* from receipt of the billing from the *Market Operator.* | ~~A~~ *~~Notice of Specified Penalty/ies~~* ~~or any related notices shall be served on the~~ *~~WESM Member~~* ~~through its~~ *~~WESM Compliance Officer~~* ~~as appearing in the records of the~~ *~~Enforcement and Compliance Office~~*~~, or if none is designated, to the president or chief executive officer of the~~ *~~WESM Member~~* ~~as appearing in the records of the~~ *~~Market Operator~~*~~.~~ *~~WESM Members~~* ~~have the obligation to ensure that the information on the contact persons provided to the~~ *~~Enforcement and Compliance Office~~* ~~and to the~~ *~~Market Operator~~* ~~is updated at all times.~~  ~~4.8.3~~ **4.13.4** ~~4.8.3 A copy of the notice~~ ~~shall also be served on the~~ *~~Market~~ ~~Operator~~* ~~and shall serve as the authority~~ ~~of the latter to collect the assessed~~ *~~financial penalties~~*~~. Upon receipt of a copy~~ ~~of the notice, the~~ *~~Market Operator~~* ~~shall~~ ~~cause the billing and collection of the~~ ~~amount due within three (3)~~ *~~Business~~ ~~Days~~* ~~from receipt of the notice.~~ The concerned *WESM Member* shall pay the penalty amount **to the *WESM Governance Arm*** within ~~twelve (12)~~ **fifteen (15)** *Business Days* from receipt of the billing from the *~~Market Operator~~* **the latter**. | * Transferred to Section 4.13.1 with modification. * Replaced with Section **as to when the WESM Member shall pay the** penalty (originally placed under Section 4.8.3, 2nd sentence). Modified – from 12 to 15 business days – to allow more time for approval and processing of payment. * For coherence, the provisions under Section 4.13 shall be arranged as follows: * 4.13.1 – Upon whom the NSP is served. * 4.13.2 – When NSP is served. * 4.13.3 – Who shall implement NSP * 4.13.4 – When shall penalty be paid. |  |  |
| Section 4 – Penalty System  4.13 – Service of Notice of Specified Penalties | 4.13.5 | All notices required to be served on the *Market Operator* shall be served through its *WESM Compliance Officer*.  Related provision –  4.8.4 The *Market Operator* shall notify the *WESM Member* of the penalty amount including interest if applicable and the due date for payment of the same. In case of failure of the *WESM Member* to fully pay for the financial penalties on specified due date, a penalty interest in the sum specified in the Schedule of Breach and Penalties of this Manual shall be billed and collected from the *WESM Member* until the amount is fully paid. | ~~All notices required to be served on the~~ *~~Market Operator~~* ~~shall be served through~~ ~~its~~ *~~WESM Compliance Officer~~*~~.~~  ~~4.8.4~~ **4.13.5** The *~~Market Operator~~* ***WESM Governance Arm*** shall notify the *WESM Member* of the penalty amount including interest if applicable and the due date for payment of the same. In case of failure of the *WESM Member* to fully pay for the financial penalties on specified due date, a penalty interest in the sum specified in the Schedule of Breach and Penalties of this Manual shall be billed and collected from the *WESM Member* until the amount is fully paid.  **For purposes of this section, penalty interest shall be reckoned from the date the *penalty* becomes due up to the time the same is fully settled.** | * Transferred to Section 4.13.6 * Replaced this with Section on notification about the possible consequence/s in case penalty is not paid (originally 4.8.4).   Added here the provision on where to reckon the computation of penalty interest (originally part of 4.8.7) |  |  |
| Section 4 – Penalty System  4.13 – Service of Notice of Specified Penalties | 4.13.6 | The *Compliance Committee* shall also be furnished of the *Notice of Specified Penalty* or revocation of said notice, as the case may be*.* Should this Notice require implementation of a directive on the part of the *System Operator*, a copy of said notice shall likewise be sent to the *System Operator* for appropriate action.  Related provisions (transferred here):  4.13.5 All notices required to be served on the *Market Operator* shall be served through its *WESM*  *Compliance Officer*. | ~~The~~ *~~Compliance Committee~~* ~~shall also be furnished of the~~ *~~Notice of Specified Penalty~~* ~~or revocation of said notice, as the case may be~~*~~.~~* ~~Should this Notice require implementation of a directive on the part of the~~ *~~System Operator~~*~~, a copy of said notice shall likewise be sent to the~~ *~~System Operator~~* ~~for appropriate action.~~  ~~4.13.5~~ **4.13.6** All notices required to be served on the *Market Operator* **or the *System Operator*** shall be served through its ***respective*** *WESM Compliance Officer*. | * Removed and transferred to Section 4.15 (Submission of Reports) * Replaced it with Section on service of notices to MO (originally under Section 4.13.5)   Added SO as possible recipient of any notice/s. |  |  |
| Section 4 – Penalty System  4.14 – Effect of Notice of Specified Penalties or Revocation  Thereof | 4.14.1 | Imposition of *financial* and non- *financial penalties* shall become executory upon issuance of the *Notice of Specified Penalty*. | ~~Imposition of~~ *~~financial~~* ~~and non-~~ *~~financial penalties~~* ~~shall become executory upon issuance of the~~ *~~Notice of Specified Penalty~~*. | Removed provision - in line with the proposed amendments in EC Manual where “exhaustion or remedies” shall be observed first before the NSP is issued. |  |  |
| Section 4 – Penalty System  4.14 – Effect of Notice of Specified Penalties or Revocation Thereof | 4.14.2 | The *Notice of Specified Penalty/ies* or the revocation thereof as a result of the reconsideration and/or appeal process shall serve as the authority of the *Market Operator* to immediately collect or refund the amount of the financial penalty/ies or such other amounts adverted to in the notice, to or from, the concerned *WESM Member’s* account, as the case may be. | ~~The~~ *~~Notice of Specified Penalty/ies~~* ~~or the revocation thereof as a result of the reconsideration and/or appeal process shall serve as the authority of the~~ *~~Market Operator~~* ~~to immediately collect or refund the amount of the financial penalty/ies or such other amounts adverted to in the notice, to or from, the concerned~~ *~~WESM Member’s~~* ~~account, as the case may be.~~ | Removed provision -in line with the proposed amendments in EC Manual where “exhaustion or remedies” shall be observed first before the NSP is issued. |  |  |
| Section 4 – Penalty System | 4.14 – Effect of Notice of Specified | 4.14 – Effect of Notice of Specified Penalties or Revocation Thereof | 4.14 – Effect of ~~Notice of Specified Penalties or Revocation Thereof~~ **Non- Payment of Penalties / Non-Compliance with the Remedial Measures** | * Removed provision - in line with the proposed amendments in EC Manual where “exhaustion or remedies” shall be observed first before the NSP is issued.   Replace this Section with the provisions on the impact or consequences in case of non-payment of penalties/sanctions/  and interest |  |  |
|  | (New) |  | **4.14.1 In case of non-payment of penalty amount, a *penalty interest* shall accrue on the unpaid balance to be additionally paid by the concerned**  ***WESM Member*.**  **For this purpose, the prevailing legal interest rate shall apply in computing the amount and shall be computed from the date the payment becomes due up to the actual payment of penalty*.*** | Added a provision on payment of legal interest in case of non-payment of penalties. |  |  |
|  | (New) |  | **4.14.2 A penalty, as specified in the Section 5, shall likewise be imposed in case of non-compliance by a *WESM Member* with the remedial measures required to be implemented by it as specified in the *Notice of Specified Penalty* or other notices issued in relation to a finding of breach.** | Added a provision on payment of legal interest in case of non-fulfilment of remedial measures |  |  |
|  | (New) |  | **4.14.3 The aforesaid penalty interest and penalty amount referred to in the immediately preceding sections shall be imposed automatically by the *WESM Governance Arm* upon failure to pay the financial penalty on due date or to comply with the required remedial measures.** | Added a provision on automatic imposition of interest in case of non- payment or non-compliance with the agreed remedial measures, *i.e.,* without need of investigation. |  |  |
|  | (New) |  | **4.14.4 If the concerned *WESM Member* fails or refuses to pay the penalty amount and/or the penalty interest despite due notice and demand, the issue shall be elevated to the *PEM***  ***Board* for appropriate action to enforce collection.** | Added a provision that would authorize PEM Board in taking legal steps to enforce the rule. *(e.g., for PEM Board to direct Legal to take action, like issuance of demand letter, or filing a legal case for collection)* |  |  |
| Section 4 – Penalty System | 4.15  Submission of Reports | The *Enforcement and Compliance Office* shall submit a monthly summary report of all Notices of Specified *Penalty/ies* and Resolutions on the requests for reconsideration made by the *Enforcement and Compliance Office*, and decisions of the *Compliance Committee* on appeals, that have been issued during the month, and the status of their implementation to the PEM Board, through the PEMC President*, the Department of Energy*, the *Energy Regulatory Commission*, the *Market Surveillance Committee and the Market Operator*. Such report may be included in any monthly report that the *Enforcement and Compliance* is required to prepare, publish and disseminate in accordance with the WESM Enforcement and Compliance Manual. | The *Enforcement and Compliance Office* shall submit ~~a monthly summary report of~~ ~~all Notices of Specified~~ *~~Penalty/ies~~* ~~and~~ ~~Resolutions on the requests for~~ ~~reconsideration made by the~~ *~~Enforcement~~ ~~and Compliance Office~~*~~, and decisions of~~ ~~the~~ *~~Compliance Committee~~* ~~on appeals,~~ ~~that have been issued during the month,~~ ~~and the status of their implementation to~~ ~~the PEM Board, through the PEMC~~ ~~President~~*~~, the Department of Energy~~*~~, and~~ ~~the~~ *~~Energy Regulatory Commission~~*~~, the~~ *~~Market Surveillance Committee and the~~ ~~Market Operator~~*~~. Such report may be~~ ~~included in any monthly report that the~~ *~~Enforcement and Compliance~~* ~~is required~~ ~~to prepare, publish and disseminate in~~ ~~accordance with the WESM Enforcement~~ ~~and Compliance Manual.~~ **to the *Compliance Committee, PEM Board, Department of Energy*, and the *Energy Regulatory Commission* an annual summary penalty report, covering the period January to December of the previous year, that contains status or updates on the penalty imposed, collected, and utilized. It shall be reported on or before the 30th day of June of the year following the covered annual period.**  **The *Compliance Committee, PEM Board, Department of Energy,* and *Energy Regulatory Commission* may, however, request a status update on penalty-related matters from the *Enforcement and Compliance Office,* at any time, as may be necessary.** | * Removed redundant provision, i.e., the requirement to submit monthly summary report on the status of compliance monitoring and investigation including the request for reconsideration / appeal are already provided in the EC Manual. * Replaced it instead with the requirement to submit annual report on penalty imposed, collected, and utilized. * Included timeline for submission. The record pertaining to penalty collection from Jan to Dec billing period is expected to be completed by June 30 of the following year. * June 30 – to consider timeline for collection (including the post- investigation proceedings like request for recon and appeal, if any) for the whole year (Jan to Dec)   Included additional provision on periodic reporting, as may be required by DOE, ERC, PEM Board or CC. |  |  |
| Section 5 – Schedule of Breach and Penalties | No.9 Non- submission of data, report or information under the following circums-tances – | (e) Failure of a Distribution Utility to notify the Central Registration Body of any end user within its franchise area that has met the requirements to be certified as a contestable customer and to provide customer information required under the Clause 2.3 of the Retail Rules.  Registration by the Contestable Customer in the WESM is not an exempting circumstance | (e) Failure of a Distribution Utility to notify the Central Registration Body of any end user within its franchise area that has met the requirements to be certified as a contestable customer and/**or as *End-User* under the *Green Energy Option Program*** to provide customer information required under the Clause 2.3 of the Retail Rules.  Registration by the Contestable Customer  in the WESM is not an exempting circumstance | Revised to reflect the amendments for the implementation of the Green Energy Option Program. |  |  |
| Section 5 – Schedule of Breach and Penalties | No.9 Non- submission of data, report or information under the following circums-tances – | (f) Failure of the Supplier/s to notify and enroll with the Central Registration Body their bilateral power supply contracts with Generation Companies that they wish to be accounted for in the WESM settlements within thirty days before effectivity of the contract. *Compliance by either party is deemed a compliance by the other. Likewise, either party is also deemed compliant if the Generation Company counterparty has complied with enrolment procedures set in relevant Market Manual in respect to the relevant bilateral contract.* | ~~(f) Failure of the Supplier/s to notify and~~ ~~enroll with the Central Registration Body~~ ~~their bilateral power supply contracts with~~ ~~Generation Companies that they wish to~~ ~~be accounted for in the WESM~~ ~~settlements within thirty days before~~ ~~effectivity of the contract.~~ *~~Compliance by~~ ~~either party is deemed a compliance by~~ ~~the other. Likewise, either party is also~~ ~~deemed compliant if the Generation~~ ~~Company counterparty has complied with~~ ~~enrolment procedures set in relevant~~ ~~Market Manual in respect to the relevant~~ ~~bilateral contract.~~* | Removed – due to deletion of Clause (Contestable Customer Supply Contract Information) and its sub-clauses to 2.3.3.3 (per DC-2021-06-0012) |  |  |
| Section 5 – Schedule of Breach and  Penalties | No.9 Non- submission of data, report or  Information under the following circums-tances – | (g) Failure of the Suppliers to notify the Central Registration Body of their retail electricity supply contracts and provide required information, within thirty days before the effectivity of the contract.  *The compliance by either the Customer or the Supplier shall be considered as compliance of the other party.* | ~~(g) Failure of the Suppliers to notify the Central Registration Body of their retail electricity supply contracts and provide required information, within thirty days before the effectivity of the contract.~~  *~~The compliance by either the Customer or the Supplier shall be considered as compliance of the other party.~~* | Removed – due to deletion of Clause (Contestable Customer Supply Contract Information) and its sub-clauses to 2.3.3.3 (per DC-2021-06-0012) |  |  |
| Section 6 – Utilization of Financial Penalty |  | The financial penalties and interest amounts collected by the *Market Operator* pursuant to this Manual shall be distributed to the electricity end-users.  For this purpose, the *Market Operator* shall formulate the guidelines and procedures for distribution of the penalties and interest collected. Such guidelines and procedures shall be subject to the approval of the *Department of Energy* and the *Energy Regulatory Commission* in respect to the formula for distribution to electricity end users. | ~~The financial penalties and interest amounts collected by the~~ *~~Market Operator~~* ~~pursuant to this Manual shall be distributed to the electricity end-users.~~  ~~For this purpose, the~~ *~~Market Operator~~* ~~shall formulate the guidelines and procedures for distribution of the penalties and interest collected. Such guidelines and procedures shall be subject to the approval of the~~ *~~Department of Energy~~* ~~and the~~ *~~Energy Regulatory Commission~~* ~~in respect to the formula for distribution to electricity end users.~~ | * Removed to be replaced by provisions that would give effect to the transfer of responsibility to collect penalties from the Market Operator to WESM Governance Arm consistent with the mandate of the latter to enforce rules and sanctions in the WESM.   Removed to be replaced by other purpose/uses of penalty fund. Related provisions under Section 6 of the Penalty Manual provide for the: (a) specific use of the penalty collected which shall be limited to emergency/urgent or unforeseen needs of the Market Operator or the WESM Governance Arm and is considered vital in the exercise of its functions; and (b) procedures that would safeguard the penalty fund against abuse, misuse, or mishandling of amounts, duplication or overlapping of activities or double charging of costs against the market fees and penalty fund. |  |  |
|  | (New) |  | **6.1. A *Penalty Fund* is hereby created where all the financial penalties collected under this Manual shall be lodged. The said fund which shall be administered by the *WESM Governance Arm* shall not be commingled with other funds or amounts that come into the possession of the *WESM Governance Arm*.** | Introduced a provision on the treatment of penalty collected as a fund which is intended to be allocated to meet the specific objectives as set out in Section 6 of the Penalty Manual |  |  |
|  | (New) |  | **6.2 Subject to the conditions set out in Section 6.4, the Penalty Fund may be used only for any of the following purposes:**   1. **To address an emergency need arising from a calamity or disaster such as the need of the *WESM Governance Arm* or the *Market Operator* for construction, development, replacement, or rehabilitation of its infrastructure or assets that may have been damaged or affected by said calamity or disaster; or** 2. **To address an urgent, unforeseen, and necessary need of the *WESM Governance Arm* or the *Market Operator* to implement information technology systems for the support and sustainability of the market operations and/or governance activities.** | * Added the purposes:   In general – for the emergency/urgent or unforeseen need only of the market.  Related Section 6.4.1 – criteria and conditions   * On the comment of PEM Board to change the word “emergency” to “immediate, urgent, and necessary use of the market”, the MSC adopts the recommendation with modification. * On the comment of PEM Board to add “the need will be “subject to the approval of the PEM Board,” the MSC noted that this is already addressed by the provision set out in Section 6.6. (Pls. see proposed provision below on the approval of the Utilization Plan by the PEM Board) |  |  |
|  | (New) |  | **6.3 Uses Not Permitted**  **The *Penalty Fund* shall not be used for any the following uses –**   1. **Compensation of or grant of monetary or other benefits for the *PEM Board*, the organic units and employees of the *WESM Governance Arm* and the *Market Operator* for carrying out their obligations pertaining to the operations, administration, and governance of the WESM as set out in the *Market Rules* and relevant *Market Manuals;*** 2. **Revenue requirements of the *Market Operator or WESM Governance Arm* for the operation and governance of the WESM which are to be defrayed from the *Market Fees*;** 3. **Cost of investigation of a breach by a *WESM Member;*** 4. **Compensation of *WESM Members* and other parties disadvantaged by a *breach* committed by another *WESM Member;*** 5. **Charitable works or donations to a specific group of *WESM Members*, electricity end‐users or consumers, government agencies, or other entities and individuals; and**   **Commercial purposes or to fund or provide capital for any business activity.** | * Excluded items such as – * Covered by regular expenditures of the entity (e.g., salary, compensation, benefits, etc.) * Legal and professional fees / costs * Compensation for the breach committed by WESM Members (e.g., compensation by Generator A which was bumped off by Generator B during the dispatch implementation) * Donations * Commercial uses * The foregoing items are not intended to address emergency/urgent needs. These are primarily covered in the Market Fees application already. |  |  |
|  | (New) |  | **6.4 Request for Disbursement of Penalty Fund**  **6.4.1 The Request for Disbursement of the Penalty Fund may be made by the WESM Governance Arm or the Market Operator. Such request shall be accompanied by a proposed Utilization Plan, subject to the following conditions:**   1. **The activities or projects to be included in the *Utilization Plan* shall not overlap with: (a) planned or existing activities or projects of the *WESM Governance Arm* or *Market Operator*; and (b) items, projects, or activities covered by the *Market Fees* approved by the *Energy Regulatory Commission*.** 2. **The non-implementation of the projects or activities intended to be covered by such *Utilization Plan* may either cause delay, business disruption, inefficiency, non-compliance, or non- performance of the services that are mandated to be carried out by the *WESM Governance Arm* or the *Market Operator*.**   **In the event that a certain item, project, or activity was already funded by the *Penalty Fund* although was earlier covered by a pending *Market Fees* application with the *Energy Regulatory Commission,* the *WESM Governance Arm* or the *Market Operato*r shall cause the amendment of such application by withdrawing such item, project, or activity therefrom.** | Provided provisions that would ensure:   * (a) Non-duplication of activities * (b) Non-overlapping of charges (against market fees and penalty fund) * (c) and (d) Emergency nature of the project or activities * (e) Immediate response to the urgent needs of the market (while awaiting ERC’s decision on market fees) * Note: Item (e) must be read in relation to Section 6.7.3 |  |  |
|  | (New) |  | **6.4.2 The *Utilization Plan* to be submitted in support of the *Request for Disbursement* shall be in accordance with the preceding section and shall ~~include~~ state the following:**   1. **Description and purpose of the activities or projects to be undertaken including the possible impact on WESM operations or governance functions in case of non-implementation thereof;** 2. **Duration of each activity or project, and expected milestones;** 3. **Estimated cost of each activity or project;** 4. **Estimated date/time of its utilization; and**   **Other matters relevant to the item, project, or activity covered in the *Utilization Plan.*** | * Provided a section on the content of the Utilization Plan |  |  |
|  | (New) |  | **6.4.3 The *Request for Disbursement* or the *Utilization Plan* may be revised or modified to take into account the priority projects or activities in the**  **WESM, as may be determined by the *WESM Governance Arm* or the *Market Operator,* provided that the conditions set out in Section 6.4 are fully met**  **and/or complied with.** | * Provided a section that would allow revision based on priority activities. |  |  |
|  | (New) |  | * 1. **Consultation with the *WESM Members* and *WESM Governance Committees***      1. **The *Utilization Plan* shall be prepared in consultation with the *WESM Members* and the *WESM Governance Committees.***   **The *WESM Governance Arm* shall initiate the consultation process by publishing a notice on its website calling for comments on the *Utilization Plan* for a period not more than five (5) business days from the date of the publication.**   * + 1. **The *WESM Members* and the *WESM Governance Committees* shall submit their comments and inputs to the *WESM Governance Arm* within the period stated in the notice.**     2. **The *WESM Governance Arm* may, if it deems necessary, conduct a public consultation with the *WESM Members* and *WESM Governance Committees* for discussion or deliberation of the *Utilization Plan*, suggestions, and comments thereon.**   **6.5.5. The *WESM Governance Arm* shall finalize the *Utilization Plan* after due consideration of the comments and inputs from the *WESM Members***  **and *WESM Governance Committees.*** | * Provided a section on checks and balances. |  |  |
|  | (New) |  | * 1. **Approval and Publication of *Request for Disbursement* and *Utilization Plan***      1. **The PEM Board shall, at its sole determination, approve a *Request* for *Disbursement* and the *Utilization Plan*. In approving the same, the *PEM Board* shall ensure that –**  1. **The activities and projects included therein fall under any of the permitted uses specified in Section 6.2 and do not fall under any of the uses not permitted as specified in Section 6.3.** 2. **The formal requirements, publications, and consultations required under Sections 6.4 and 6.5 were complied with.**   **6.6.2 Upon approval by the *PEM Board,* the approved *Request for Disbursement* and *Utilization Plan* shall be published by the *WESM Governance Arm* on its website. Copies of the same may also be provided to the *Department of Energy* or the *Energy Regulatory Commission,* upon request.** | * Provided a section that would ensure alignment of the plan with the intent and purpose of the rule. |  |  |
|  | (New) |  | * 1. **Implementation, Evaluation, and Revision of *Request for Disbursement* / Utilization Plan**      1. **The *WESM Governance Arm* shall be responsible for administering or implementing the approved *Request for Disbursement* and *Utilization Plan* and the projects and activities covered therein. It shall immediately coordinate with the *Market Operator* relative to the latter’s activities or projects that are included therein for implementation.**      2. **If, in the course of the implementation of the approved *Utilization Plan*, the *WESM Governance Arm* or the *Market Operator* finds it necessary to revise the same or any part thereof, the following shall apply:**  1. **The *WESM Governance Arm* or *Market Operator* shall submit a revised *Request for Disbursement* and *Utilization Plan* including the reason/s for the revision for approval by the *PEM Board*. It shall be published by the *WESM Governance Arm* on its website upon its approval.** 2. **If the revision involves the inclusion of additional projects or activities that are not originally included in the scope of the *Utilization Plan* sought to be approved, a supplemental request for disbursement and the proposed revision in the *Utilization Plan* shall be submitted for consultation and approval following procedures and requirements set out in Sections 6.4, 6.5 and 6.6 of this Manual.** 3. **In case of deferral of the implementation or non- implementation of the projects or activities included in the approved *Request for Disbursement* and *Utilization Plan*, the reasons for such deferral or non- implementation shall be included in the report to the *PEM Board* as required under Section 6.7.4 of this Manual.**   **6.7.3 The *WESM Governance Arm* shall submit to the *PEM Board*, *Department of Energy*, and *Energy Regulatory Commission* a report on the implementation of the approved *Request for Disbursement* and *Utilization Plan* which should form part of the annual report as referred to in Section 4.15 of this Manual.** | * Provided a section on transparency and accountability with regard to penalty utilization. |  |  |
|  | (New) |  | * 1. **Audit**   **From time to time, the *Penalty Fund* and its utilization shall be subject to external financial and compliance audit, that shall be engaged by the *PEM Audit Committee.*** | Added a section for checks and balances that help ensure that utilization plans are carried out in accordance with: (a) the generally accepted accounting principles; and (b) the requirements set out in the Penalty Manual. |  |  |
| Section 8 – Glossary | (NEW) |  | **Penalty Fund – amount collected as a consequence of a *breach* of the *Market Rules* and/or *Market Manuals* and is set aside for purposes specified in the**  ***WESM Penalty Manual.*** | Added – to provide for a clear definition of Penalty Fund as to the: (a) source of fund, i.e., imposed amount as consequence of a breach; and (b) its purpose or uses. |  |  |
| Section 8 – Glossary | (NEW) |  | **Request for Disbursement – a formal request by the *WESM Governance Arm* or the *Market Operator* addressed to the PEM Board for the utilization or disbursement of *Penalty Fund* or a portion thereof, based on a *Utilization***  ***Plan.*** | * Added a new term based on MSC’s proposed modifications in some sections above |  |  |
| Section 8 – Glossary | (NEW) |  | **Utilization Plan – refers to a set of actions, activities, or items intended to be conducted or implemented out of the *Penalty Fund* in furtherance of the WESM operations and/or governance for a particular period or year based on**  **established criteria and conditions as set in the *WESM Penalty Manual.*** | * Added – to provide for a clear definition of plan that needs to be accomplished by the proponent (MO or WGA) for the intended utilization of penalty fund. |  |  |

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