

Review of DC2010-08-0010 “Prescribing the Implementing Rules and Procedures for Department Circular No. DC2010-05-0006”

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<p>Section 4 Introduction</p> <p>1.1 Rationale</p> <p>The DOE is mandated under the EPIRA to, among others, ensure the reliability, quality and supply of electric power and ensure the transparent and reasonable prices of electricity in a regime of free and fair competition and full public accountability to achieve greater operational and economic efficiency. Likewise, the DOE is mandated to develop policies and procedures and, as appropriate, promote a system of energy development incentives to enable and encourage electric power industry participants to provide adequate capacity to meet demand including among others, reserve requirements.</p> <p>The DOE, after consultations with the different stakeholders in the industry, finds merit in the request of the National Power Corporation (NPC) and the Power Sector Assets and Liabilities Management (PSALM) Corporation to be relieved of their obligations as Default Wholesale Supplier (DWS) in view of the significant level of privatization of NPC generating assets as well as transfer or management and control of NPC's contracted energy outputs from its independent power producers.</p> <p>Further, the DOE deems it necessary to establish a disconnection policy to ensure that all electric power industry participants comply with the EPIRA; its IRRs, and all other related rules and regulations with the end goal of encouraging new power generation investments in the country. The disconnection policy likewise intends to minimize if not avoid existing leakages in the electric power systems due to unauthorized withdrawal of electricity as well as unmetered and unbilled consumptions of facilities connected to the grid.</p> <p>The membership of all the electric power industry participants especially the distribution utilities in the WESM will promote a level playing field in the industry.</p>		
1.2. Objectives		

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<p>This implementing rules and procedures are issued with the following objectives:</p> <ul style="list-style-type: none"> A. To facilitate further development of market discipline with the end view of fostering competition in the power generation and supply businesses; B. To establish the grounds, conditions or criteria including the processes and protocols as well as the relevant procedures for disconnecting/reconnecting a person or entity from/to the grid. Towards this end, it is envisioned that the electricity end-users/customers comply with their financial obligations to their supply and service providers in a timely manner; C. To establish the authority and responsibilities of each of the concerned person or entity under the EPIRA and the 'MSM Rules and other related rules and regulations; D. To emphasize the need to register with the WESM and understand and comply with the WESM Rules; and E. To formulate the guidelines for the restructuring of outstanding financial obligations and arrearages with PSALM/NPC. 		
<p>Section 2. Definition of Terms</p> <p>2.1 "Connection Agreement" or "CA" refers to the agreement between a User and the NSP, which specifies the terms and conditions pertaining to the connection of the User System or Equipment to a new Connection Point in the Grid (or the Distribution System);</p>		
<p>2.2 "Department of Energy" or "DOE" refers to the government agency created pursuant to Republic Act No. 7638 whose expanded functions are provided in the EPIRA:</p>		

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2.3 "Direct WESM Member" refers to a person or an entity registered with the Market Operator as provided under Clause 2.3. of the WESM Rules;		
2.4 "Distribution Code" refers to a compilation of rules and regulations governing electric utilities in the operation and maintenance of their distribution systems which includes, among others, the standards for service and performance, and defines and establishes the relationship of the distribution systems with the facilities or installations of the parties connected thereto;		
2.5 "Distribution Utility" or "DU" refers to any EC, private corporation, government owned utility or existing local government unit which has an exclusive franchise to operate a distribution system in accordance with the EPIRA;		
2.6 "Economic Zones" or "EZs" refer to selected areas which are being developed into agro-industrial, industrial, tourist, recreational, commercial, banking, investment and financial centers. An EZ may refer to any of the following: Industrial Estates (IEs), Export Processing Zones (EPZs), Free Trade Zones (FTZs), Information Technology Parks and Tourist/Recreational Centers, such as those managed, administered, or operated by the Bases Conversion Development Authority (BCDA), Cagayan Economic Zone Authority (CEZA), Clark Development Corporation (CDC), Philippine Economic Zone Authority (PEZA), Phividec Industrial Authority (PIA), and Zamboanga City Economic Zone Authority (ZCEZA);		
2.7 "Electric Cooperative" or "EC" refers to a DU organized pursuant to Presidential Decree No. 269, as amended, Republic Act 6939, as amended or as otherwise provided in the EPIRA;		
2.8 "Electric Power Customer" or "EPC" is a collective term which refers to any EC, Private DU, EZs, large and other customers directly connected to the grid purchasing electric power from the EPS, for the purpose of supplying the end users' requirements within its franchise area or for its own use;		
2.9 "Electric Power Service Provider" or "EPSP" is a collective term which refers to any service providers such as the SO, MSP, NSP and other service producers in the electric power industry;		

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2.10 "Electric Power Supplier" or "EPS" is a collective term which refers to any Generation Company, IPPA, WA and any person or entity engage in supplying and/or selling electric power;		
2.11 "End-User" refers to any person or entity requiring the supply and delivery of electricity for its own use;		
2.12 "Energy Regulatory Commission" or "ERC" refers to the regulatory agency created under the EPIRA;		
2.13 "Generation Company" refers to any person or entity authorized by the ERC to operate facilities used in the generation of electricity;		
2.14 "Grid Code" refers to the set of rules and regulations governing the safe and reliable operation, maintenance and development of the high voltage backbone transmission system and its related facilities;		
2.15 "Implementation Review Committee" refers to the committee tasked to formulate the implementing rules and regulations of DOE Circular No. DC2010-05-006 and oversee its implementation;		
2.16 "Independent Power Producer" refers to an existing power generating entity which is not owned by NPC/PSALM;		
2.17 "Indirect WESM Member" refers to a person or an entity who wishes to indirectly trade in the spot market through a direct WESM Member;		
2.18 "IPP Administrator" or "IPPA" refers to qualified independent entities appointed by PSALM who shall administer, conserve and manage the contracted energy output of NPC IPPs, including the selling of the contracted energy output of these contracts and offering Ancillary Services, where applicable;		
2.19 "Market Operator" or "MO" refers on the entity, currently the Philippine Electricity Market Corporation (PEMC), responsible for the operation of the WESM governed by the Philippine Electricity Market (PEM) Board in accordance with Clause 1.4 of the WESM Rules;		
2.20 "Metering Service Agreement " or "MSA" refers to the agreement that defines the responsibilities and obligations of the MSP and the Metered Entity in relation to the provision of metering		

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facilities, equipment and service as provided under the OATS Rules, the Grid Code		
2.21 “Metering Service Provider” or “MSA” refers to the agreement that defines the responsibilities and obligations of the MSP and the Metered Entity in relation to the provision of metering facilities, equipment and service as provided under the OATS Rules, the Grid Code and the WESM Rules;		
2.22 “National Electrification Administration” or “NEA” refers to the government agency created under Presidential Decree No. 269, as amended, and those additional mandate is further set forth in the EPIRA;		
2.23 “National Grid Corporation of the Philippines” or “NGCP” refers to the corporation, by virtue of Republic Act 9511, granted a franchise to operate , manage and maintain, and in connection therewith, to engage in the business of conveying or transmitting electricity through high voltage back-bone system of interconnected transmission lines, substations and related facilities, systems operations, and other activities that are necessary to support the safe and reliable operation of a transmission system and to construct, install, finance, manage, improve, expand, operate, maintain, rehabilitate, repair, and refurbish the nationwide transmission system of the Republic of the Philippines;		
2.24 “National Power Corporation” or “NPC” refers to the government corporation created under Republic Act No. 6395 as amended;		
2.25 "National Transmission Corporation" or "TransCo" refers to the corporation organized pursuant to the EPIRA;		
2.26 "Network Service Provider" or "NSP" refers to a person who engages in the activity of owning, controlling, or operating a transmission or distribution system and who is registered with the MO in that capacity under Clause 2.3.4 of the WESM Rules;		
2.27 "Notice of Disconnection" refers to a notice issued by any EPS, EPSP or the MO, as defined in this Implementing Rules and Procedures, informing any of its EPC of its impending disconnection		

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from the grid or network in accordance with the provisions of its contracts and this Implementing Rules and Procedures;		
2.28 "Notice of Reconnection" refers to a notice issued by any EPS, EPSP or the MO, as defined in this Implementing Rules and Procedures, addressed to NGCP or other NSPs, copy furnished the EPC, authorizing the reconnection of any of its EPC to the grid or network in accordance with the provisions of its contract with the EPC and this Implementing Rules and Procedures;		
2.29 "Open Access Transmission Services Rules" or "OATS Rules" refers to regulation that governs the implementation of the Open Access Transmission Services as approved by the ERC;		
2.30 "Power Sector Assets and Liabilities Management Corporation" or "PSALM" refers to the corporation created pursuant to EPIRA Section 49;		
2.31 "Power Supply Agreement" or "PSA" refers to the contract for the supply of electricity between the Generation Company, IPPA, WA, and the EPC. It may be in the form of Transition Supply Contract (TSC), Contract for the Supply of Electric Energy (CSEE) or bilateral contract;		
2.32 "Restructuring Agreement" refers to a contract or agreement entered into by PSALM and EPC wherein the latter agrees to pay its arrearages to PSALM through monthly installments inclusive of interest pursuant to Section 3.2 of the DOE Circular No. 2010-05-0006 and in accordance with Section 4.1(D) of this Implementing Rules and Procedures;		
2.33 "System Operator" or "SO" refers to the party responsible for generation dispatch, the provision of ancillary services, and operation and control to ensure safety, power quality, stability, reliability and security of the grid;		
2.34 "Transmission Service Agreement" or "TSA" refers to the agreement entered into by the Transmission Provider and user of the facility that specifies the terms and conditions of the transmission service by the Transmission Provider and the availment of such service by the Transmission Customer; also serves as the Connection Agreement;		

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2.35 "Wholesale Aggregator" or "WA" refers to a person or entity, engaged in consolidating electric power demand of the DUs and other EPCs, for the purpose of purchasing and reselling electricity on a group basis.		
2.36 "Wholesale Electricity Spot Market" or "WESM" refers to the electricity market established by the DOE in accordance with the EPIRA.		
<p>Section 3.3. Scope of Coverage.</p> <p>The following shall be governed by Implementing Rules and Procedures:</p> <p>A. Electric Power Customer (EPC)</p> <ol style="list-style-type: none"> 1 . ECs directly connected to the grid; 2. Private Investor-Owned utilities (PIOUS) directly connected to the grid; 3. Large and Other Customers directly connected to the grid; 4. Wholesale Aggregator (WA); and 5. "Economic Zones (EZ). <p>B. Electric Power Supplier (EPS)</p> <ol style="list-style-type: none"> 1. Generation Companies; 2. PSALMINPC; 3. IPPAs; and 4. Wholesale Aggregator (WA). <p>C. EPSPs and MO</p> <ol style="list-style-type: none"> 1. The MO, currently PEMC as the AGMO and Independent Market Operator (IMO) upon its appointment by the DOE; 2. NGCP as the SO and MSP; 3. NSP other than the NGCP; 4. Other MSPs; and 5. Other electric power industry stakeholders given special arrangement by the NSP other than the NGCP. 		
D. The Visayas and Mindanao stakeholders are exempted, in so far as WESM registration requirements are concerned. Furthermore, PSALMI/NPC shall not issue any Notice of Disconnection within the ninety		

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(90) day transition period as prescribed in the DOE Circular DC2010-05-0006.		
<p>Section 4. Disconnection Process</p> <p>4.1. Grounds and Conditions for Disconnection The EPS, EPSP or the MO may issue a Notice of Disconnection to an EPC under any of the following circumstances:</p> <p>A. MO</p> <ol style="list-style-type: none"> 1. Failure of the EPC, EPS or EPSP to register in the WESM after the ninety-(90) days transition period in accordance with the registration process under the WESM Rules, the DOE Circular No. DC2010-05-0006 and other DOE issuances. <p>IPPs whose generating capacities are contracted with NPC are deemed WESM registered if its generating facilities are registered under any of the PSALM, NPC or the IPPA;</p> <ol style="list-style-type: none"> 2. Suspension and deregistration as a WESM Member under the WESM Rules; and 3. In the case of the WA, suspension and deregistration from the WESM may result to the disconnection of its EPC. <p>All matters regarding the WESM Registration, Suspension and Deregistration shall be governed by the WESM Rules and Section 6 of this Implementing Rules and Procedures.</p>		
<p>B. NGCP and NSPs Other than NGCP</p> <ol style="list-style-type: none"> 1. Failure of the EPS or EPC to comply with the required financial or technical obligations with the NGCP in accordance with their existing contracts, such as among others the TSA, CA, MSA, and the OATS Rules, Grid Code, and Distribution Code. The NGCP shall furnish the 		

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<p>IRC and the MO a copy of the Notice of Disconnection or Notice of Reconnection issued to the EPS or EPC: and</p> <p>2. In the case of NSPs other than NGCP, failure of the EPS or EPC to satisfy or settle their obligations under their existing contract with the NSP. Such NSP shall furnish the IRC and the MO a copy of the Notice of Disconnection or Notice of Reconnection issued to the EPS or EPC.</p>		
<p>C. Generation Companies, IPPA and WA</p> <p>1. As provided under their existing contracts, failure of the EPC to comply with the required financial and technical obligations to the Generation Company, IPPA or the WA: and</p> <p>2. Termination/Expiration of the existing contract of an EPC that is an Indirect WESM Member EPC unless such EPC has secured a new supply contract with other Generation Company or has renewed its existing supply contract with the Generation Company or has successfully registered in the WESM as Direct Member.</p>		
<p>D. PSALM and NPC</p> <p>1. Failure of the EPC to secure and enter into a Restructuring Agreement within the required period in accordance with DOE Circular No. 2010-05-0006;</p> <p>2. Failure of the EPC to comply with its financial obligations (including non-remittance of Universal Charge) with PSALM and NPC as provided under their PSAs or any existing contracts for the supply of electricity and Restructuring Agreement; and</p> <p>3. Failure of the EPC to secure a Restructuring Agreement and/or fully settle its financial obligations with PSALM and NPC even such EPC is now being assumed and turned over to the NPC successor generation companies or has expired contracts with PSALM and NPC but still continue to draw power from the grid and are still being billed by PSALM and NPC.</p>		

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<p>For the above-cited EPC with outstanding financial obligations with PSALM and IVPC, PSALM shall issue the Notice of Disconnection and shall submit a letter-request to NCGP for the execution of the Notice of Disconnection in accordance with Section 4 of this Implementing Rules and Procedures.</p> <p>All matters regarding the Restructuring Agreement shall be governed by the PSALM'S Restructuring Policy and Section 7 of this Implementing Rules and Procedures.</p>		
<p>Section 4.2 Procedures for and Execution of the Request to Disconnect a Person or Entity from the Grid.</p> <p>The issuance of the Notice of Disconnection by the requesting party shall be the last resort option. Thus, it is encouraged that both the requesting party and the subject person or entity for disconnection have exhausted all remedies available.</p> <p>The Notice of Disconnection and Letter-Request shall follow the formats provided under Appendix A and Appendix B hereof.</p>		
<p>A. Any EPS or EPSP, as the requesting party, shall issue a Notice of Disconnection to the EPC and shall submit a letter-request to NGCP for the execution of the Notice of Disconnection in accordance with Section 4 of this Implementing Rules and Procedures.</p>		
<p>B. The MO, as the requesting party, shall issue a Notice of Disconnection to the EPC, EPS or EPSP and shall submit a letter-request to NGCP for the execution of the Notice of Disconnection in accordance with Section 4 of this Implementing Rules and Procedures</p>		
<p>C. Prior to issuance of any Notice of Disconnection by the requesting party and the letter-request to NGCP for the execution of the Notice of Disconnection, the EPS, EPSP, or the MO, consistent with the provisions under their respective contracts with the subject person or entity proposed for disconnection. shall endeavor to consider and undertake the following:</p>		

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<p>1. The Notice of Disconnection is consistent with the DOE Circular No. DC2010-05-0006, the WESM Rules, the OATS Rules and this Implementing Rules and Procedures; and</p> <p>2. The Notice of Disconnection is consistent with the existing agreements or valid contract with the EPC sought to be disconnected.</p>		
<p>D. Within five (5) days after the receipt of the Notice of the Disconnection by the EPC and the letter-request for the execution of the Notice of Disconnection, the NGCP shall execute the said Notice of Disconnection and prepare a report to the requesting party and the IRC. The NGCP shall advise the requesting party and the EPC of the schedule of the disconnection. For this purpose, the requesting party shall provide NGCP a copy of the proof of receipt of the Notice of Disconnection immediately after the receipt of the Notice of Disconnection by the EPC.</p> <p>In case the 5th day falls on a Friday, weekends or a holiday, the disconnection shall be executed on the next working day.</p>		
<p>E. The NGCP shall prepare a report, taking into consideration the impact of such disconnection in the power system.</p> <p>In case the disconnection cannot be implemented by NGCP within the five (5) day period due to technical reasons, the NGCP shall advise the requesting party prior the end of the five (5) day period, the date on when it can affect the actual disconnection including the specific technical reasons.</p>		
<p>F. The EPS, EPSP or the MO issuing the Notice of Disconnection and the letter-request shall hold NGCP free and harmless from any kinds of suits that may arise or shall indemnify NGCP from any damages NGCP may have suffered in relation to the issuance of the Notice of Disconnection.</p>		
<p>G. NGCP shall only implement the disconnection after all the procedures and mitigating measures have been exhausted and complied with. This Implementing Rules and Procedures is hereby declared to be a notice to all electric power industry stakeholders of NGCP's authority to</p>		

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undertake disconnection pursuant to their respective contracts and to this Implementing Rules and Procedures.		
<p>Section 4.3 Remedial Actions to Stay or Defer the Disconnection</p> <p>A. Conditions and Pre-requisites</p> <p>The implementation of the disconnection may be deferred if any of the following conditions are present:</p> <ol style="list-style-type: none"> 1. Settlement payment of the outstanding amount due and demanded, consistent with the existing agreements or valid contracts with the EPS, EPSP or the MO within five (5) days prior to the scheduled disconnection date. The requesting party shall immediately inform NGCP of the settlement/payment of the outstanding amount due and demanded by the EPC using the pro-forma Request for Disconnection Recall in Appendix C of this Implementing Rules and Procedures prior to the scheduled disconnection date in order for the NGCP to defer the execution of such disconnection. 		
<ol style="list-style-type: none"> 2. In the case of PSALMINPC customers, execution of a Restructuring Agreement within five (5) days prior to the scheduled disconnection date. PSALM/INPC, as the requesting party shall immediately inform NGCP of the execution of a Restructuring Agreement with the EPC using the pro-forma Request for Disconnection Recall in Appendix C prior to the scheduled disconnection date in order for the NGCP to defer the execution of such disconnection; 		
<ol style="list-style-type: none"> 3. Recalled Notice of Disconnection by the requesting person or entity as a result of a Special Payment Agreement entered into by the contracting parties five (5) days prior to the scheduled disconnection date. The requesting party shall immediately inform NGCP of the recall using the pro-forma Request for Disconnection Recall in Appendix C prior to the scheduled disconnection date in order for the NGCP to defer the execution of such disconnection; 		
<ol style="list-style-type: none"> 4. Proof of non-receipt of the Notice of Disconnection. In such case, the execution of the Notice of Disconnection may be deferred for up 		

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to five (5) days from the actual receipt of the Notice of Disconnection; and		
5. In the case of the MO, the subject person or entity have successfully registered with the WESM pursuant to Section 2.2.4.2 of the WESM Rules. The MO, as the requesting party shall immediately inform NGCP of the registration of such person or entity to the WESM using the pro-forma Request for Disconnection Recall in Appendix C prior to the scheduled disconnection date in order for the NGCP to defer the execution of such disconnection.		
6. Private entities may also enter into a Restructuring Agreement, subject to their existing agreements or valid contracts.		
<p>Section 5. Reconnection Process</p> <p>5.1 . Conditions and Requirements for Reconnection</p> <p>Reconnection may be effected if such disconnected person or entity has complied with any of the following:</p> <p>A. MO</p> <ol style="list-style-type: none"> 1. Registration with the WESM in accordance with the registration processes under the WESM Rules; 2. The suspension and deregistration of a WESM Member has been lifted in accordance with the WESM Rules; 3. The suspension and deregistration of the WESF Registered Supplier/Aggregator has been lifted in accordance with the WESM Rules, will constitute a reconnection of its customer. 		
<p>B. NGCP and NSPs other than the NGCP</p> <ol style="list-style-type: none"> 1. Upon full payment of the amount due and demanded from the concerned disconnected person or entity to NGCP; 2. If the disconnected person or entity has remedied its noncompliance, with the service contracts such as the TSA, CA; 		

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MSA; and the OATS Rules, Grid Code, and Distribution Code in a manner acceptable to the NGCP.		
<p>C. Generation Company, IPPA and WA.</p> <p>1. Upon full payment of the amount due to and demanded by the Generation Company, IPPA or the WA;</p> <p>2. If such disconnected customer has secured a new supply contract or a renewal of the existing supply contract or has registered with the WESM as Direct Member.</p>		
<p>D. PSALM and NPC</p> <p>1. If such disconnected customer has secured a Restructuring Agreement in accordance with PSALM'S Restructuring Policy and Section 6 of this Implementing Rules and Procedures; and</p> <p>2. Upon full payment of the amount demanded by PSALM and NPC as provided under their existing contracts and Restructuring Agreement.</p> <p>In all instances, reconnection of electric service shall be in accordance with the existing agreements between the Generation Companies and their buyers or off-takers and shall be subject to payment of the Reconnection Fee to NGCP and/or Other NSPs by the EPC prior to reconnection.</p>		
<p>5.2 Request for Reconnection</p> <p>A. Any EPS, EPSP or MO requesting for a reconnection of person or entity shall submit its Notice of Reconnection and a letter-request to NGCP and IRC for the execution of the Request for Reconnection in Appendix D.</p>		
<p>B. Within two (2) days after the receipt of the Notice of Reconnection, the NGCP shall execute the Notice of Reconnection and prepare a report to the requesting party and the IRC.</p>		

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<p>C. The NGCP shall prepare a report, taking into consideration the impact of such reconnection in the power system.</p> <p>In case the reconnection cannot be implemented by NGCP within the two (2) day period glue to technical reasons, the NGCP shall advise the requesting party prior the end of the two (2) day period, the date on when it can affect the actual reconnection including the specific technical reasons.Towards this end, the EPS, EPSP or the MO issuing the Notice of Reconnection shall hold NGCP free and harmless from any kinds of suits that may arise or shall indemnify NGCP from any damages NGCP may have suffered in relation to the issuance of the Notice of Reconnection.</p>		
<p>D. In all instances, a reconnection fee shall be paid by the disconnected EPC to NGCP or other NSPs prior to reconnection.</p>		
<p>Section 6. WESM Registration, Suspension and Deregistration Guidelines</p> <p>All matters regarding the WESM Registration, Suspension and Deregistration in Section 4.1(A) of this Implementing Rules and Procedures shall be governed by the WESM Rules and the WESM Registration, Suspension, and Deregistration Guidelines.</p> <p>Appendix E of this Implementing Rules and Procedures details the provisions for WESM Registration, Suspension and Deregistration.</p>		
<p>Section 7. Guidelines in Implementing the Restructuring of Outstanding Financial Obligations and Arrearages with PSALM and NPC.</p> <p>All matters relating to the implementation of the restructuring of outstanding financial obligations and arrearages between PSALM and the EPCs under Section 4.1(D) of this Implementing Rules and Procedures shall be governed by the PSALM'S Restructuring Policy and the Guidelines in the Formulation of the Restructuring Plan.</p> <p>Appendix F of this Implementing Rules and Procedures details the procedures and guidelines for negotiations and entering into a Restructuring Agreement with PSALM.</p>		

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Appendix B Pro-Forma Letter Request for Disconnection		
Appendix C Pro-Forma Request For Disconnection Recall		
Appendix D Pro-Forma Request For Reconnection		
Appendix E WESM Registration Suspension and Deregistration Guidelines		
Appendix F Guidelines for the Formulation of the Restructuring Plan		