

APPENDIX D – AUTOMATIC FINANCIAL PENALTY SCHEME FOR DEVIATION BY GENERATION REGISTERED FACILITY

D.1 PURPOSE

D.1.1 This Appendix describes the automatic financial penalty scheme applicable to deviating *generation registered facilities*.

D.1.2 This Appendix describes the procedures that shall be used to calculate and collect the financial penalty to be imposed on *market participants* of deviating *generation registered facilities*, and to return the financial penalty collected through the MEUC. Unless otherwise indicated, the procedures described in this Appendix shall be applied for each *dispatch period*.

D.2 DEFINITIONS & INTERPRETATION

D.2.1 In this Appendix:

D.2.1.1 “automatic financial penalty scheme” means the financial penalty scheme which is described in and provided for under section 3.7.3 of Chapter 5 and this Appendix 5D;

D.2.1.2 “financial penalty” means the financial penalty which is or is to be imposed under the automatic financial penalty scheme;

D.2.1.3 “deviating *generation registered facility*” means the *generation registered facility* which is deemed as such under section 3.7.3 of Chapter 5;

D.2.1.4 “notice of error” means the notice of error submitted by a *market participant* to the *EMC* pursuant to section D.4.3;

D.2.1.5 “preliminary financial penalty statement” or “PFPS” in respect of a *market participant* means the *EMC's* preliminary statement of the financial penalties to be paid by the *market participant* in respect of all its deviating *generation registered facilities*;

D.2.1.6 “final financial penalty statement” or “FFPS” in respect of a *market participant* means the *EMC's* final statement of the financial penalties to be paid by the *market participant* in respect of all its deviating *generation registered facilities*;

- D.2.1.7 “T” refers to a given *trading day*;
- D.2.1.8 “T+X” refers to the Xth *business day* after a given *trading day* T;
- D.2.1.9 “EndGeneration” refers to a *generation registered facility’s* gross generation output (in MW) at the end of a *dispatch period*, as recorded by the PSO’s Energy Management System for that *dispatch period*;
- D.2.1.10 “EndScheduledQty” refers to a *generation registered facility’s* scheduled *energy* output (in MW) for a *dispatch period*, as scheduled in the *real-time dispatch schedule* that is deemed to be *dispatch instructions* for that *dispatch period*, if such *real-time dispatch schedule* is released to the *dispatch coordinator* of the *generation registered facility* on time, in accordance with the *market operations timetable*, or, if such *real-time dispatch schedule* is not released on time as aforesaid, as scheduled in the *short-term schedule* that is issued as *dispatch instructions* for that *dispatch period*;
- D.2.1.11 “HEUC” refers to the hourly *energy* uplift charge which is to be determined as provided in section 3.5.2A of Chapter 7;
- D.2.1.12 “MEUC” refers to the monthly *energy* uplift charge which is to be estimated as provided in section 3.5.3 of Chapter 7;
- D.2.1.13 the use of superscript “m(a)” in respect of any value is a reference to the value for the *generation registered facility* located at *market network node* m and associated with *settlement account* a; and
- D.2.1.14 the use of subscript “h” in respect of any value is a reference to the value for a given *settlement interval* h or its corresponding *dispatch period* h, as the case may be.

D.3 DEVIATIONS & CALCULATION OF FINANCIAL PENALTY

- D.3.1 For the purposes of section 3.7.3 of Chapter 5, a *generation registered facility* shall have deviated from its *real-time dispatch schedule* or its *short-term schedule* (as the case may be) that is deemed to be or issued as *dispatch instructions* for a given *dispatch period*, if its deviation is more than 10 MW, as determined in accordance with the following formula:

$$\frac{1}{2} \times \left| \text{EndScheduledQty}_h^{m(a)} - \text{EndGeneration}_h^{m(a)} \right| \times \frac{1}{2} \text{ hour} > 2.5\text{MWh}$$

D.3.2 The *EMC* shall calculate the financial penalty to be imposed on a *market participant* in respect of each of its deviating *generation registered facilities* for a given *dispatch period* as follows:

$$\text{financial penalty}_h^{m(a)} = \text{Max} \{ 2 \times (USEP_h + HEUC_h) \times [\frac{1}{2} \times | \text{EndScheduledQty}_h^{m(a)} - \text{EndGeneration}_h^{m(a)} | \times \frac{1}{2} \text{ hour} - 2.5 \text{ MWh}], \$5000 \}$$

D.4 CALCULATION & COLLECTION OF FINANCIAL PENALTY

D.4.1 The procedure and timelines for calculation of financial penalties, submission of notices of error, verification and imposition of financial penalties, on the *market participants* of the deviating *generation registered facilities*, are set out in the following table:

Day	Time of Day	Event	Provided By	Provided To	Frequency
By T+4	By 17:00	<p>The <i>PSO</i> to submit the following data to the <i>EMC</i>:</p> <p>(a) identification of all deviating <i>generation registered facilities</i> for each <i>dispatch period</i> for trading day T; and</p> <p>(b) <i>EndScheduledQty</i> and <i>EndGeneration</i> for each such deviating <i>generation registered facility</i> identified in (a) for each <i>dispatch period</i> for trading day T.</p>	<i>PSO</i>	<i>EMC</i>	Once per business day
By T+4	By 20:00	<p>The <i>EMC</i> to release the following data (if such data has been received from the <i>PSO</i>) to each <i>market participant</i> with one or more deviating <i>generation registered facilities</i>:</p> <p>(a) identification of the deviating <i>generation registered facilities</i> for each <i>dispatch period</i> for trading day T; and</p> <p>(b) <i>EndScheduledQty</i> and <i>EndGeneration</i> for each such deviating <i>generation registered facility</i> identified in (a) for each <i>dispatch period</i> for trading day T.</p>	<i>EMC</i>	<i>Market participant</i> with one or more deviating <i>generation registered facilities</i>	Once per business day

Day	Time of Day	Event	Provided By	Provided To	Frequency
By T+6	By 20:00	The <i>EMC</i> to calculate the financial penalty to be imposed on each <i>market participant</i> with one or more deviating <i>generation registered facilities</i> for each <i>dispatch period</i> for <i>trading day T</i> , and to issue the PFPS for <i>trading day T</i> to each such <i>market participant</i> .	<i>EMC</i>	<i>Market participant</i> with one or more deviating <i>generation registered facilities</i>	Once per <i>business day</i>
By T+7	By 17:00	A <i>market participant</i> to whom a PFPS is issued, to submit a notice of error to the <i>EMC</i> if it is of the view that there is an error with any item and/or calculation in any PFPS issued to it for <i>trading day T</i> .	<i>Market participant</i> to which the PFPS is issued	<i>EMC</i>	As required
By T+7	By 20:00	If any data referred to in a duly submitted notice of error had been provided by the <i>PSO</i> for the purposes of the <i>EMC</i> issuing a PFPS, the <i>EMC</i> to request the <i>PSO</i> (and give a copy of such request to the <i>market participant</i> which submitted that notice of error) for confirmation of the accuracy of data.	<i>EMC</i>	<i>PSO</i> (with copy to <i>market participant</i> which submitted the duly submitted notice of error)	As required
By T+9	By 17:00	In respect of each request by the <i>EMC</i> for confirmation of accuracy of data as aforesaid, the <i>PSO</i> to send confirmation to the <i>EMC</i> as required under section D.4.7.2(a) or D.4.7.2(b) as applicable.	<i>PSO</i>	<i>EMC</i>	As required

Day	Time of Day	Event	Provided By	Provided To	Frequency
By T+9	By 20:00	The <i>EMC</i> to notify the <i>market participant</i> which submitted a duly submitted notice of error, of the matters specified in sections D.4.8.1(a), D.4.8.2(a), D.4.9.1(a) and D.4.9.2(a) as applicable.	<i>EMC</i>	<i>Market participant</i> which submitted the duly submitted notice of error (with copy to <i>PSO</i>)	As required
By T+10	By 20:00	The <i>EMC</i> to issue the FFPS for <i>trading day T</i> .	<i>EMC</i>	<i>Market participant</i> upon whom financial penalties are to be imposed	Once per <i>business day</i>
By 20 th day after <i>trading day T</i> (subject to <i>business day convention</i>)	By 17:00	A <i>market participant</i> to pay financial penalty, specified in its FFPS issued for <i>trading day T</i> .	<i>Market participant</i> upon whom penalties are imposed	<i>EMC</i>	Once per <i>business day</i>

- D.4.2 The *EMC* shall issue a preliminary financial penalty statement to each *market participant*, for all its deviating *generation registered facilities* for all relevant *dispatch periods* for a given *trading day*, in accordance with the timeline set forth in section D.4.1.
- D.4.3 A *market participant* who is issued with a preliminary financial penalty statement shall notify the *EMC*, by way of a notice of error, of any error in such preliminary financial penalty statement within the timeline set forth in section D.4.1. A *market participant* shall not raise any error in such preliminary financial penalty statement on the grounds that one or more of the conditions in section 9.6.3 of Chapter 5 apply to its non-compliance with the relevant *dispatch instruction*.
- D.4.4 Each notice of error shall relate to only one preliminary financial penalty statement. Each notice of error shall be submitted together with all relevant supporting material, and shall clearly state at least the following information:
- D.4.4.1 the date of issuance of the relevant preliminary financial penalty statement to which the notice of error relates;
 - D.4.4.2 the *trading day* to which such preliminary financial penalty statement relates;
 - D.4.4.3 the nature and particulars of the error(s);
 - D.4.4.4 the reason(s) the *market participant* is of the view that the preliminary financial penalty statement is erroneous; and
 - D.4.4.5 a proposed correction of the error(s).
- (A notice of error submitted to the *EMC* within the timeline set forth in section D.4.1 and in compliance with all the requirements in sections D.4.3 and D.4.4 is referred to in this Appendix as a “duly submitted notice of error”.)
- D.4.5 The *EMC* shall acknowledge its receipt of a duly submitted notice of error.
- D.4.6 No *market participant* may submit a notice of error, and the *EMC* shall not acknowledge receipt or take any further action in respect of a notice of error, unless the notice of error is a duly submitted notice of error.
- D.4.7 In respect of a duly submitted notice of error, and all in accordance with the timeline set forth in section D.4.1:
- D.4.7.1 if any data alleged therein to be erroneous was provided by the *PSO*, the *EMC* shall send a request for confirmation of the

accuracy of such data to the *PSO* and give a copy of such request to the *market participant* which submitted that notice of error; and

D.4.7.2 if upon such request,

- a. the *PSO* determines that such data is accurate, the *PSO* shall send a confirmation to the *EMC* to that effect and the *PSO* shall not provide any further data to the *EMC* which is different or inconsistent with the data to which such request relates; or
- b. the *PSO* determines that such data is inaccurate, the *PSO* shall send a confirmation to the *EMC* to that effect and the *PSO* shall send the corrected data to the *EMC*.

D.4.8 If any data is alleged to be erroneous in a duly submitted notice of error in relation to a preliminary financial penalty statement, and such data had been provided by the *PSO*, then

D.4.8.1 if the *PSO* has confirmed to the *EMC* that the data is accurate, or if the *PSO* did not respond to the *EMC*, in either case within the timeline set forth in section D.4.1, the *EMC* shall:

- a. so notify the *market participant* of the same and give a copy of such notice to the *PSO*;
- b. not make any correction to such data to be reflected in the corresponding final financial penalty statement; and
- c. not make any correction (save for any correction otherwise required under section D.4.9.2) to the financial penalty to be reflected in the corresponding final financial penalty statement; or

D.4.8.2 if the *PSO* has confirmed to the *EMC* that the data is inaccurate and has provided the corrected data to the *EMC* within the timeline set forth in section D.4.1, the *EMC* shall:

- a. so notify the *market participant* of the same and give a copy of such notice to the *PSO*;
- b. make the appropriate correction to reflect such corrected data in the corresponding final financial penalty statement; and
- c. make the appropriate correction to the financial penalty to be reflected in the corresponding final financial penalty statement, taking into account the corrected data and

together with any other correction as may be required under section D.4.9.2.

D.4.9 If any data, calculation or other information is alleged to be erroneous in a duly submitted notice of error of a *market participant* in relation to a preliminary financial penalty statement, and such data, calculation or other information had been produced by the *EMC*, if the *EMC* determines that:

D.4.9.1 no such error has occurred, the *EMC* shall:

- a. so notify the *market participant* of the same; and
- b. not make any correction (save for any correction otherwise required under section D.4.8.2) to such data, calculation or other information when issuing the corresponding final financial penalty statement; or

D.4.9.2 an error has occurred, the *EMC* shall:

- a. so notify the *market participant* of the same; and
- b. make the appropriate correction to such error when issuing the corresponding final financial penalty statement, taking into account any corrected data provided by the *PSO* and together with any other correction as may be required under section D.4.8.2.

D.4.10 The *EMC* shall issue the final financial penalty statement to each *market participant*, for all its deviating *generation registered facilities* for all relevant *dispatch periods* for a given *trading day* and where applicable, incorporating all appropriate corrections referred to in sections D.4.8 and D.4.9, in accordance with the timeline set forth in section D.4.1. If the corrections referred to in sections D.4.8 and D.4.9 result in no financial penalty to be applied to any *dispatch period* in a given *trading day* for a *market participant* who was previously issued a preliminary financial penalty statement for that given *trading day*, then notwithstanding any provision to the contrary in this Appendix 5D, the *EMC* may issue to that *market participant* a final financial penalty statement with a zero penalty amount for that given *trading day*.

D.4.11 Each *market participant* that receives a final financial penalty statement shall pay the financial penalty as stated therein, in accordance with the timeline set forth in section D.4.1, whether or not any notice of error had been submitted in respect of the corresponding preliminary financial penalty statement, whether or not any *notice of arbitration* had been submitted in respect of the final financial penalty statement and whether or not the *market participant* has made any appeal to the *market surveillance and compliance panel* pursuant to section D.5.1.

- D.4.12 If a *market participant*, after submitting a duly submitted notice of error with respect to its preliminary financial penalty statement, disagrees with the financial penalty stated in its corresponding final financial penalty statement and still wishes to continue to dispute the matter, it shall refer the matter to the *dispute resolution counsellor* by filing a *notice of arbitration* pursuant to section 3.9.2 of Chapter 3. A *market participant* shall not dispute the matter under this section D.4.12 on the grounds that one or more of the conditions in section 9.6.3 of Chapter 5 apply to its non-compliance with the relevant *dispatch instruction*.
- D.4.13 Subject to section D.4.14, no *market participant* may submit, and the *dispute resolution counsellor* shall not accept or take any action with respect to, a *notice of arbitration* filed pursuant to section 3.9.2 of Chapter 3 if more than twenty *business days* has elapsed since the date on which the final financial penalty statement to which the *notice of arbitration* relates was issued.
- D.4.14 A *market participant* may submit the *notice of arbitration* referred to in section D.4.12 after the time limit specified in section D.4.13 only if:
- D.4.14.1 such *market participant* has received the notification referred to in section D.5.4 in respect of one or more *dispatch periods* and it does not wish to appeal to court pursuant to section D.5.6 in respect of one or more of those *dispatch periods*, but it still wishes to dispute the final financial penalty statement in respect of one or more of those *dispatch periods*. In such case, the *market participant* shall submit such *notice of arbitration* in respect of one or more of those *dispatch periods* to the *dispute resolution counsellor* within twenty *business days* from the issuance of the notification referred to in section D.5.4. Such *notice of arbitration* shall be submitted by the *market participant* together with a copy of the notification referred to in section D.5.4; or
 - D.4.14.2 such *market participant* has received the notification referred to in section D.5.4 in respect of one or more *dispatch periods* and has made an appeal to court pursuant to section D.5.6 in respect of those *dispatch periods*, but it still wishes to dispute the final financial penalty statement in respect of one or more of those *dispatch periods*. In such case, the *market participant* shall submit such *notice of arbitration* to the *dispute resolution counsellor* within twenty *business days* from the date that a court order or judgment which is final and conclusive as between the parties is issued by a court of competent jurisdiction in Singapore. Such *notice of arbitration* shall be submitted together with a copy of such court order or judgment.

D.4.15 The *dispute resolution counsellor* shall dismiss a *notice of arbitration* filed under section 3.9.2 of Chapter 3 and shall not take any further action with respect to the *notice of arbitration* if the element of the final financial penalty statement that is the subject-matter of the *notice of arbitration* is identical to the same element in the corresponding preliminary financial penalty statement for which element there is no duly submitted notice of error, unless the *market participant* demonstrates to the satisfaction of the *dispute resolution counsellor* that the *market participant* could not, with the exercise of due diligence, have submitted a duly submitted notice of error in respect of that element in the preliminary financial penalty statement.

Explanatory Note: A market participant is expected to file a notice of error in a timely manner if there is an error in the PFPS. If the market participant fails to file a notice of error in time, which it could have done if it had exercised due diligence, the market participant is not permitted to dispute that same error through the dispute resolution counsellor after the FFPS is issued.

D.5 APPEAL TO THE MARKET SURVEILLANCE AND COMPLIANCE PANEL

D.5.1 The *market participant* of a deviating *generation registered facility* may appeal to the *market surveillance and compliance panel* for a refund of any financial penalties paid or required to be paid by it under the automatic financial penalty scheme detailed in this Appendix 5D if it can demonstrate to the satisfaction of the *market surveillance and compliance panel* that compliance with a *dispatch instruction* was not required pursuant to one or more of the conditions in section 9.6.3 of Chapter 5. Such appeal shall be made in writing in such form and manner as may be prescribed by the *market surveillance and compliance panel* and shall:

- D.5.1.1 contain the name and address of the *market participant* submitting the appeal;
- D.5.1.2 contain the particulars of the appeal;
- D.5.1.3 contain all information, facts and evidence supporting the appeal; and
- D.5.1.4 be accompanied by a copy of the final financial penalty statement setting out the financial penalty which is the subject of the appeal.

A *market participant* shall not submit, and the *market surveillance and compliance panel* may dismiss, an appeal to the *market surveillance and compliance panel* if more than twenty *business days* have elapsed since the date of the issuance of such final financial penalty statement.

D.5.2 The *market surveillance and compliance panel* may request from

D.5.2.1 the *market participant* which submitted an appeal under section D.5.1;

D.5.2.2 the *EMC*; and/or

D.5.2.2 the *PSO*,

further information, facts and evidence relating to the *market participant's* appeal, to be provided in writing in such form and manner and within such time as may be specified by the *market surveillance and compliance panel*. Each recipient of such request shall provide the requested information, facts and evidence in writing in such form and manner and within such time as may be specified by the *market surveillance and compliance panel*.

D.5.3 For the avoidance of doubt, and notwithstanding section D.5.2, it shall remain the responsibility of the *market participant* which submitted an appeal under section D.5.1 to ensure that all information, facts and evidence supporting the *market participant's* appeal are duly and promptly made available to the *market surveillance and compliance panel* in accordance with section D.5.1 (and if applicable section D.5.2), and the *market surveillance and compliance panel* shall not be required to conduct its own investigations to obtain any or further information, facts or evidence in support of such appeal. Nothing in this Appendix 5D shall prevent the *market surveillance and compliance panel* from exercising its investigative powers under the *market rules* in an appropriate case.

D.5.4 If the *market surveillance and compliance panel* determines that the *market participant* referred to in section D.5.1 was not required to comply with a *dispatch instruction* for any given *dispatch period* on the ground that at least one of the conditions in section 9.6.3 of Chapter 5 applies, the *market surveillance and compliance panel* shall:

D.5.4.1 allow the *market participant's* appeal in respect of that *dispatch period* submitted under section D.5.1; and

D.5.4.2 direct the *EMC* to refund such *market participant* of the relevant financial penalty received by the *EMC* from such *market participant* for that *dispatch period*. Such financial penalty shall be refunded to the *market participant* without interest.

If the *market surveillance and compliance panel* determines that none of the conditions in section 9.6.3 of Chapter 5 applies to the non-compliance with a *dispatch instruction* by a *market participant* referred to in section D.5.1, the *market surveillance and compliance panel* shall dismiss the appeal submitted under section D.5.1. The *market surveillance and*

compliance panel shall notify the *EMC* and such *market participant* of its determination under this section D.5.4 and give its reasons for such determination. The *EMC* shall *publish* such determination of the *market surveillance and compliance panel* and its reasons for such determination.

- D.5.5 The *market surveillance and compliance panel* may, in the determination of an appeal submitted by a *market participant* under section D.5.1, allocate the costs associated with the appeal for payment by such *market participant* as the *market surveillance and compliance panel* deems just and reasonable.
- D.5.6 All decisions, directions and orders of the *market surveillance and compliance panel* in respect of an appeal submitted under section D.5.1 shall be final and binding on the *market participant* subjected thereto and shall not be subject to any appeal by the *market participant* except an appeal to a court of competent jurisdiction in Singapore only on issues of law, jurisdiction or natural justice. For the avoidance of doubt, all findings of fact by the *market surveillance and compliance panel* shall not be the subject matter of any appeal to any court of competent jurisdiction in Singapore unless such findings were made in breach of law, jurisdiction or natural justice.
- D.5.7 A *market participant* shall not appeal to any court in the circumstances contemplated in section D.5.6 unless it does so within 14 *business days* after receiving the notification from the *market surveillance and compliance panel* referred to in section D.5.4.
- D.5.8 A *market participant* shall not appeal to any court in Singapore for a refund of any financial penalties paid or required to be paid by it under the automatic financial penalty scheme detailed in this Appendix 5D on the ground that one or more of the conditions in section 9.6.3 of Chapter 5 apply to its non-compliance with the relevant *dispatch instruction*, if the *market participant* had not first submitted an appeal to the *market surveillance and compliance panel* in accordance with this section D.5.
- D.5.9 Neither the *market participant* referred to in section D.5.1 nor the *market surveillance and compliance panel* shall use the dispute resolution procedures set forth in section 3 of Chapter 3 in relation to such *market participant's* appeal for a refund of any financial penalties paid or required to be paid by it under the automatic financial penalty scheme detailed in this Appendix 5D.