

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Philippines

Thirteenth Congress
First Regular Session

4423

House Bill No. _____



Introduced by Hon. Herminio G. Teves

Explanatory Note

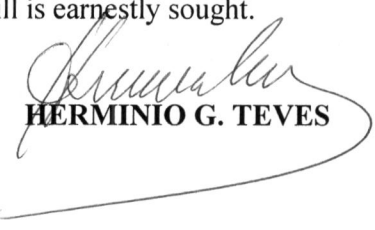
The prevailing market conditions have removed from the public and the consumers adequate and truthful information regarding the veracity and soundness of every public utility's demand for continued increase in rates and charges for its goods and services. The same thing goes for entities that are not classified as public utilities but, nonetheless, engage in the delivery of vital goods and services to the public.

In fact, it is not only the public and the consumers that are actually deprived of these material information but also the appropriate government regulatory agencies and even the lawmaking body. The latter, at times, is even forced to use its contempt powers if only to extract the overly guarded secrets of these public utilities vis-à-vis their operations and financial activities and conditions. But even if the lawmaking body is furnished of this needed information, they are still beyond availability for the consuming public.

Thus, the proposed bill seeks to institutionalize, as a matter of right, the availability of this important information to all the sectors concerned. This way, the public cannot charge that the government is abetting public utilities in fooling the public about their conditions supporting their claims for increased rates and charges. On the other hand, the government and its regulatory agencies shall be guided by this information in dealing with petitions for increased rates way ahead for the actual demand by these public utilities. And finally, these public utilities can honestly show to the public and the government their actual and real conditions without the usual suspicion heaped on them as soon as the demand for increased rates is publicized.

This bill therefore mandates full transparency and disclosure in as much as the providers of public utilities' operations are deeply imbued with public interest.

In the light of the foregoing, the approval of this bill is earnestly sought.


HERMINIO G. TEVES

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Philippines

Thirteenth Congress
Second Regular Session

House Bill No. **4423**

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**AN ACT INSTITUTING FULL TRANSPARENCY AND DISCLOSURE AMONG
PUBLIC UTILITIES**

Section 1. This Act shall be known as “**The Public Utilities Transparency and Disclosure Act of 2005**”.

Section 2. **Declaration of Policies.** (a) It is the policy of the State to closely monitor and regulate the operation, maintenance and sustainability of all forms of public utilities and business or industries deeply imbued with public interest.

(b) In accordance with this policy and to complement the constitutional recognition of the people’s right to information on matters of public concern, certain privileges and confidentialities in favor of public utilities and similar entities are hereby removed in favor of full transparency and disclosure to the public.

(c) As such, they are therefore required and mandated to observe full transparency and disclosure on matters heretofore decreed in this Act.

Section 3. **Coverage.** (a) This Act shall cover all public utilities whose operation is either local or national in scope, regardless of the nature or kind of services being rendered. Aside from public utilities, this Act shall also cover entities that engage in the operation of expressways, tollways, mass railway transit, telecommunications and the importation and/or distribution of oil and petroleum products.

(b) This Act shall also cover government owned or controlled corporations, including those with special charters, whose operations are within the ambit of this Act.

Section 4. **Reportorial Requirements.** (a) At the start of every calendar year or fiscal year, whichever is applicable, all public utilities and other entities covered by this Act shall submit the following:

1. An audited financial statement which, among others, shall specifically indicate the amount of dividends or profits retained by the company or given to its owners or stockholders or remitted to its parent company. The audited financial statement shall be accompanied by all of its latest tax returns duly filed and received by the Bureau of Internal Revenue.

2. The names of the owners and stockholders, including the extent of their stockholdings and the dividends, allowances and remunerations of whatever kind paid or given to them.

2.1 If the stockholder is a company, the names of the owners and stockholders, including the extent of their stockholdings and the dividends, allowances and remunerations paid or given to them.

3. A certified true copy of all contracts and similar documents whereby it is a joint or principal debtor, creditor or guarantor.

4. An itemized list of all its capital expenditures and similar expenses allocated for the improvement, expansion, maintenance or repair of its equipments and machineries used in its operation. The list shall include the amount involved and the entity and its address where the same amount is paid.

5. (a) A monthly breakdown for the previous calendar or fiscal year, whichever is applicable, of its collections and revenues arising from its goods sold or services rendered to the public.

(b) The above-indicated documents, which shall be duly subscribed under oath by its president, chief executive officer or similar officer, or other responsible officer in their absence, shall be submitted to the Departments of Finance, Budget and Management, Trade and Industry, NEDA, Bureau of Internal Revenue, the respective chairmen of the Senate and House of Representatives committees on public utilities and ways and means and the appropriate regulatory agency having jurisdiction on the concerned public utility or entity.

(c) They shall also furnish the three (3) largest newspapers of general circulation in the country without need of demand.

(d) Private individuals has the right to have a copy of these documents within ten (10) working days from written request, subject to the payment of reasonable fees for the reproduction of these documents.

(e) These documents shall be submitted and released within thirty (30) days from the end of their calendar or fiscal year, whichever is applicable.

Section 5. **Penalties.** (a) Notwithstanding the existing laws, rules, policies and regulations of regulatory agencies having jurisdiction on them, the rates being charged to the public shall not be allowed to increase until full compliance of the provisions of this Act are satisfied.

(b) Further, their legislative franchise or appropriate licenses or permits shall be suspended for first offense and revoked on second offense in so far as public utilities and other entities whose operations or scope is nationwide.

(c) The president, chief executive officer or similar officer responsible in their absence for the submission of these documents shall be subject to a penalty of Fifty Thousand Pesos (P50,000) as fine and imprisonment of one (1) year for the first offense. Further, the said individual shall be barred from holding any position in other public utilities and entities covered by this Act, whether it is privately owned or government owned.

(d) Inaccurate, untruthful, or any material omission of any data required under this Act shall also constitute non-compliance of the provisions of this Act and shall be subject to the same penalties above-indicated, in addition to perjury and other applicable laws.

Section 6. **Local Application.** (a) For public utilities and other entities whose operations and scope are not nationwide, the reportorial requirements above-indicated shall be submitted to the appropriate Sangguniang panlalawigan, Sangguniang panglunsod, Provincial Governor and City Mayor.

(b) The penal provisions of this Act, however, shall not be applicable to public utilities and other entities which does not operate nationwide. Nonetheless, their respective Sangguniang Panlalawigan or Sangguniang Panglunsod may legislate appropriate ordinances in pursuance of this Act.

Section 7. **Repealing Clause.** All laws, regulations, issuances and policies inconsistent with this Act are hereby repealed accordingly.

Section 8. **Separability Clause.** In the event that a portion or section of this Act is considered unconstitutional, the remaining sections shall remain subsisting.

Section 9. **Effectivity.** This Act shall take effect immediately after publication in at least three (3) newspapers of general circulation.

APPROVED.