

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

FIFTEENTH CONGRESS

First Regular Session

House Bill No. 115

INTRODUCED BY CONGRESSMAN PEDRO P. ROMUALDO

EXPLANATORY NOTE

This proposed measure was tackled by the Committee on Energy exhaustively through a Technical Working Group participated by industry players and stakeholders to iron out the issued and concerns of the industry as well as of the general public.

Republic Act NO. 7832 was passed into law in 1994 during the 9th Congress with the legislative intent to curb the illegal use of electricity and theft of electric power transmission lines and materials as well as provide penalties to discourage perpetrators from committing these offenses. After sixteen (16) years from the implementation of this law, the problem on illegal use of electricity and theft of electric power transmission lines and materials have not yet dissipated and have remained unabated.

Industry players have estimated their losses to reach billions of pesos prior to the passage of R.A. 7832. Therefore, it is only appropriate that we review this law to respond to the needs of the time. This has become a huge concern for the government, the industry players and the general consumers due to its impact on the total cost of electricity.

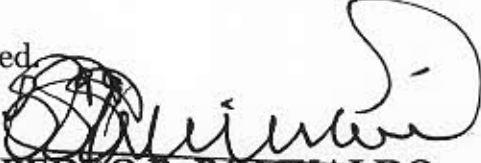
This proposed measure would bring better benefits to the Filipino consumers and also protect the properties of industry players such as Genco's, Transco's, and Distribution Utilities including Electric Cooperatives and Private Utilities from pilferage activities and destruction of properties.

The new provisions would provide the judiciary and executive departments a better description of the true intent of the legislature. This will avoid what we call as executive or judicial legislation in the interpretation of the law.

The issue on maximum cap for recoverable system loss was also ironed out and industry players are given an incentive mechanism to reward its consumers and distribution utilities with system losses way below the prevailing approved cap. A separate mechanism is also provided on how to treat system loss reduction. Under this new provision, it will be treated either as part of capital or operating costs of the distribution utilities.

The Filipino consumers will truly benefit and reap the fruits of this legislation. Let us continue to push for the passage of legislative measures that will alleviate the plight of our consumers.

Early passage of this bill is hereby enjoined



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AN ACT
AMENDING CERTAIN SECTIONS OF REPUBLIC ACT NUMBERED SEVENTY-
EIGHT THIRTY-TWO, AS AMENDED, OTHERWISE KNOWN AS THE "ANTI-
ELECTRICITY AND ELECTRIC TRANSMISSION LINES/MATERIALS PILFERAGE
ACT OF 1994"

*Be it enacted by the Senate and House of Representatives of the Philippines in
Congress assembled:*

SECTION 1. Section 1 of Republic Act No. 7832, otherwise known as the
"Anti-Electricity and Electric Transmission Lines/Materials Pilferage Act of
1994", as amended, is hereby further amended to read as follows:

"SECTION 1. Short Title. - This Act shall be referred to as the "[Anti-
electricity and Electric Transmission Lines/Materials Pilferage Act of 1994]
ANTI-ELECTRICITY, ELECTRIC POWER LINES, EQUIPMENT AND MATERIALS
PILFERAGE ACT OF 2010."

SEC. 2. Insert a new section after Section 1 of the same Act, to be
designated as Section 2 to read as follows:

"SEC. 2. DEFINITION OF TERMS. - AS USED IN THIS ACT, THE
FOLLOWING TERMS ARE HEREIN DEFINED:

"(A) 'ELECTRIC POWER LINES, EQUIPMENT AND MATERIALS' REFERS
TO FACILITIES, ASSETS AND INFRASTRUCTURE USED IN ELECTRIC POWER
GENERATION, TRANSMISSION AND DISTRIBUTION SUCH AS, BUT NOT
LIMITED TO, THE FOLLOWING:

"(1) GENERATION, TRANSMISSION AND DISTRIBUTION EQUIPMENT
AND LINE STRUCTURES AND POLES OF ANY MAKE OR DESIGN;

"(2) ALL TYPES OF WIRES AND CABLES USED TO GENERATE,
TRANSMIT AND DISTRIBUTE ELECTRICITY, INCLUDING THOSE USED FOR
GROUNDING, CONTROL, MEASUREMENT AND COMMUNICATION PURPOSES;

"(3) ALL OVERHEAD GROUND AND NEUTRAL WIRES DESIGNED TO
PROTECT THE ELECTRICAL CONDUCTORS FROM LIGHTNING STRIKES AND
TO PROVIDE VOLTAGE STABILITY;

"(4) INSULATORS OF ANY OTHER MATERIAL USED TO ATTACH THE
ELECTRICAL CONDUCTORS FROM STEEL TOWERS OR POLES; AND

"(5) GENERATION, TRANSMISSION AND DISTRIBUTION LINE
HARDWARES AND MATERIALS OF ANY MAKE OR KIND USED FOR THE
DELIVERY OF ELECTRICITY."

Then, renumber Sections 2 through 17 as Sections 3 through 18, respectively.

SEC. 3. Section 2, paragraphs (b) and (c) of the same Act is hereby amended to read as follows:

"SECT [2] 3. Illegal Use of Electricity. - It is hereby declared unlawful for any person, whether natural or juridical, public or private, to:

"x x x

"(b) Tap, make or cause to be made any connection to the existing electric service facilities of any duly registered consumer without the latter's [or] AND the electric utility's consent or authority;

"(c) Tamper, install or use a tampered electrical meter, INSTRUMENT TRANSFORMER AND ASSOCIATED EQUIPMENT, jumper, current reversing transformer, shorting or shunting wire, loop connection or any other device OR ANY OTHER METHOD, which interferes with the proper or accurate registry or metering of electric current or otherwise results in its diversion in a manner whereby electricity is stolen or waster;

"x x x."

SEC. 4. Section 3 of the same Act is hereby amended to read as follows:

"SEC. [3] 4. Theft OR DESTRUCTION OF ELECTRIC POWER [Transmission] Lines, EQUIPMENT and Materials. - (a) It is hereby declared unlawful for any person to:

"(1.) Cut, saw, slice, separate, split, severe, smelt, or remove any electric power [transmission line/material or meter] LINES, EQUIPMENT AND MATERIALS from a tower, pole, any other installation or place of installation or any other place or site where it may be rightfully or lawfully stored, deposited, kept, stocked, inventoried, situated or located, without the consent of the owner [, whether or not the act is done for profit or gain];

"(2.) Take, carry away or remove or transfer, with or without the use of a motor vehicle or other means of conveyance, any electric power [transmission line/material or meter] LINES, EQUIPMENT AND MATERIALS from a tower, pole, any other installation or place of installation, or any place or site where it may be rightfully or lawfully stored, deposited, kept, stocked, inventoried, situated or located, without the consent of the owner [, whether or not the act is done for profit or gain];

"(3.) Store, possess or otherwise keep in his premises, custody or control, any electric power [transmission line/material or meter], whether or not the act is done for profit or gain]; and

"(4.) Load, carry, ship or move from one place to another, whether by land, air or sea, any electric [al] power [transmission line/material] LINE, EQUIPMENT AND MATERIAL [, whether or not the act is done for profit or

gain,] without first securing a clearance/permit for the said purpose from its owner [or the National Power Corporation (NPC) or its regional office concerned, as the case may be]; AND

“(5.) DESTROY OR DAMAGE BY BOMB, EXPLOSIVE OR ANY OTHER MEANS OR DEVICE, ANY ELECTRIC POWER LINE, EQUIPMENT AND MATERIAL, OR ANY ATTEMPT THEREOF.”

SEC. 5. Delete Section 3, paragraph (b) of the same Act.

SEC. 6. Section 4, paragraphs (1) and (b) of the same Act is hereby amended to read as follows:

“SEC. [4]5. Prima Facie Evidence. – (a) The presence of any of the following circumstances shall constitute prima facie evidence of illegal use of electricity, as defined in this Act[, by the person benefited thereby,] and shall be the basis for: (1) the [immediate] OUTRIGHT disconnection by the electric utility OF THE ELECTRIC SERVICE to such person [after due notice,] IMMEDIATELY UPON THE DISCOVERY THEREOF TO PREVENT FURTHER PILFERAGE OR LOSS OF ELECTRICITY AND FOR SAFETY PURPOSES, (2) the holding of a preliminary investigation by the prosecutor and the subsequent filing in court of the pertinent COMPLAINT/information, and

“x x x

“(VIII) THE PRESENCE OF A HOLE IN A CONDUIT WHICH CONTAINS THE WIRES LEADING TO THE ELECTRIC METER;

“(IX) THE PRESENCE OF ERROR OR ALARM CODES IN AN ELECTRONIC OR DIGITAL ELECTRIC METER INDICATING AN UNAUTHORIZED MANUPULATION;

“(X) THE PRESENCE OF DISCREPANCY IN THE READINGS OF A CONSUMER’S METER WITH A CHECK METER INSTALLED BY THE ELECTRIC UTILITY: PROVIDED, THAT THE INSTALLATION OF THE SAID CHECK METER WAS ATTESTED BY A DULY AUTHORIZED REPRESENTATIVE OF THE ERC OR ANY OTHER AUTHORIZED OFFICER OR AGENT OF THE LAW; and

“([viii]) The acceptance of money and/or other valuable consideration by any officer or employee of the electric utility concerned or the making of such an offer to any such officer or employee for not reporting the presence of any of the circumstances enumerated in subparagraphs (i), (ii), (iii), (iv), (v), (vii), (VIII), (IX) OR (X) hereof: Provided, however, That the discovery of any of the foregoing circumstances, in order to constitute prima facie evidence, must be personally witnessed and attested to by an officer of the law or a duly authorized representative of the Energy Regulatory Board.

“b) The possession, control or custody of electric power [transmission line/material] LINE, EQUIPMENT AND MATERIAL by any person, natural or juridical, not engaged in the [transformation] GENERATION, transmission or distribution of electric power, or in the manufacture of such electric power [transmission line/material] is the fruit of the offense defined in Section [3] 4 hereof and therefore such [line/material] LINE, EQUIPMENT AND MATERIAL may be confiscated from the person in possession, control or custody thereof.”

SEC. 7. Section 5 of the same Act is hereby amended to read as follows:

"SEC. [5] 6. Incentives. - An incentive scheme by way of a monetary reward in [the] AN [minimum] amount [of Five thousand pesos (PW 5,000.00) EQUIVALENT TO TWENTY PERCENT (20%) OF THE VALUE OF THE RECOVERED STOLEN LINES OR MATERIALS shall be given to any person who shall report to the [NPC] TRANSCO, IPP/GENERATION COMPANY, PRIVATE ELECTRIC UTILITY, RURAL ELECTRIC COOPERATIVE or police authorities any act which may constitute a violation of Section [3] 4 hereof. THE INCENTIVE SCHEME SHALL ALSO BE MADE AVAILABLE TO PERSONS WHO PARTICIPATED IN THE APPREHENSION AND CONVICTION OF PERSONS VIOLATING THIS ACT. The Department of Energy {DOE}{,} SHALL, in consultation with the [NPC] TRANSCO, DISTRIBUTION UTILITIES (DUs), ELECTRIC COOPERATIVES (ECs) AND END-USERS, [shall] issued the necessary guidelines for the proper implementation of this incentive scheme within thirty (30) days from the effectivity of this Act."

SEC. 8. Insert a new section after Section 5 of the same Act, to be designated as Section 7, to read as follows:

"SEC. 7. INSPECTION OF ELECTRIC SERVICE. - THE DULY AUTHORIZED PERSONNEL OF PRIVATE ELECTRIC UTILITIES OR RURAL ELECTRIC COOPERATIVES SHALL, AFTER PRESENTATION OF VALID IDENTIFICATION CARDS AND INSPECTION REPORT FORMS, BE ALLOWED ENTRY TO THE PREMISES OF ANY DWELLING OR BUILDING, INCLUDING COMMERCIAL AND GOVERNMENT ESTABLISHMENTS, TO CONDUCT INSPECTION OF ELECTRIC SERVICE CONNECTIONS IN THE PRESENCE OF THE OWNER CONCERNED OR IN HIS ABSENCE, TO BE WITNESSED BY A PERSON IN AUTHORITY AND OF LEGAL AGE IN SAID PLACE OR ESTABLISHMENT TO DETERMINE IF THE OWNER OR USER OF SAID SERVICE CONNECTION IS LIABLE FOR VIOLATION OF THIS ACT."

Then, renumber Section 6 through 17 as Sections 8 through 19, respectively.

SEC. 9. Section 6 of the same Act is hereby amended to read as follows:

"SEC [6] 8. Disconnection of Electric Service. - The private electric utility or rural electric cooperative concerned shall have the right and authority to disconnect [immediately] OUTRIGHTLY the electric service [after serving a written notice or warning to that effect,] without the need of a court or administrative order, and deny restoration of the same, [when the owner of the house or establishment concerned][WHEN THE CUSTOMER or someone acting in his behalf shall have been caught en flagrante delicto [doing] COMMITTING any of the acts enumerated in Section [4]5(a) hereof, or when [any of the circumstances so enumerated shall have been discovered for the second time: Provided, That in the second case, a written notice or warning shall have been issued upon the first discovery] ANY PILFERING DEVICE OR SCHEME IS FOUND OR ATTACHED TO THE ELECTRIC SERVICE CONNECTION OR IS BEING USED BY THE CONSUMER AT THE TIME WHEN THE ACTUAL INSPECTION WAS BEING CONDUCTED: Provided, [further] HOWEVER, That the electric service shall [not] be immediately disconnected [or] AND shall NOT be immediately restored [upon] UNLESS the CUSTOMER deposits [of] the amount representing the differential billing [by the person denied the service,]

with the private electric utility or rural electric cooperative concerned or with the competent court, as the case may be: Provided, further[more], That if the court finds that illegal use of electricity has not been committed by the same person, the amount deposited shall be credited against future billings, with legal interest thereon chargeable against the private utility or rural electric cooperative, and the utility or cooperative shall be made to immediately pay such person double the value of the payment or deposit with legal interest, which amount shall likewise be creditable against immediate future billings, without prejudice to any criminal, civil or administrative action that such person may be entitled to file under existing laws, rules and regulations: Provided, [finally,] FURTHERMORE, That if the court finds the same person guilty of such illegal use of electricity, he shall, upon final judgment, be made to pay the electric utility or rural electric cooperative concerned double the value of the estimated electricity illegally used which is referred to in this section as differential billing.

For purposes of this Act, "differential billing" shall refer to the amount to be charged to the person concerned for the unbilled electricity illegally consumed by him as determined through the use of methodologies which utilize, among others, as basis for determining the amount of monthly electric consumption in kilowatt-hours to be billed, either: (1) the highest recorded monthly consumption within the [five-year] THIRTY-MONTH billing period preceding the time of the discovery, (b) [the estimated monthly consumption as per the report of load inspection conducted during the time of discovery] THE HIGHER CONSUMPTION BETWEEN THE AVERAGE CONSUMPTIONS BEFORE OR AFTER THE HIGHEST DRASTIC DROP IN CONSUMPTION WITHIN THE THIRTY-MONTH BILLING PERIOD PRECEDING THE DISCOVERY, (c) [the higher consumption between the average consumptions before or after the highest drastic drop in consumption within the five-year billing period preceding the discovery] THE ESTIMATED MONTHLY CONSUMPTION AS PER THE REPORT OF LOAD INSPECTION CONDUCTED DURING THE TIME OF DISCOVERY, [(d) the highest recorded monthly consumption within four (4) months after the time of discovery, or] AND ([e]D) the result of the [ERB] ERC test during the time of discovery and, as basis for determining the period to be recovered by the differential billing, either: (1) the time when the electric service of the person concerned recorded an abrupt or abnormal drop in consumption, or (2) when there was a change in his service connection [such as a] OR a change [of] IN meter, [change of seal or reconnection,] or in the absence thereof, a maximum of [sixty 60] TWENTY-FOUR (24) billing months, up to the time of discovery: Provided, however, That such period shall, in no case, be less than one (1) year preceding the date of discovery of the illegal use of electricity REGARDLESS OF ANY PRIOR CHANGE OF SEAL, METER OR SERVICE CONNECTION, OR RECONNECTION OR INSPECTION OCCURING WITHIN ONE (1) YEAR BEFORE THE DATE OF DISCOVERY OR APPREHENSION."

Sec. 10. Section 7 of the same Act is hereby deleted and in lieu thereof insert a new provision, to be designated Section 9, to read as follows:

[SEC. 7. Penalties. - (a) Violation of Section 2 - The penalty of prison mayor or a fine ranging from Ten thousand pesos (Pw 10,000.00) to Twenty thousand pesos (Pw 20,000) or both, at the discretion of the court, shall be imposed on any person found guilty of violating Section 2 hereof.

"IN THE CASE OF THEFT OF ELECTRIC POWER LINES, EQUIPMENT AND MATERIALS, THE APPLICABLE FINE IS SIX (6) TIMES THE VALUE OF THE MATERIALS UNLAWFULLY OR ILLEGALLY TAKEN.

"(C) THE PENALTY OF RECLUSION TEMPORAL TO RECLUSION PERPETUA, IF THE TOAL AMOUNT INVOLVED IS OVER FIVE HUNDRED THOUSAND PESOS (PW500,000.00), OR A FINE OF FIVE (5) TIMES THE VALUE OF THE ILLEGAL ELECTRICITY USAGE, OR BOTH, AT THE DISCRETION OF THE COURT.

"IN CASE OF THEFT OF ELECTRIC POWER LINES, EQUIPMENT AND MATERIALS, THE APPLICABLE FINE IS TEN (10) TIMES THE VALUE OF THE MATERIALS UNLAWFULLY OR ILLEGALLY TAKEN.

"(D) IF THE OFFENSE COMMITTED BY, OR IN CONNIVANCE WITH, AN OFFICER OR EMPLOYEE OF THE POWER COMPANY, PRIVATE ELECTRIC UTILITY OR RURAL ELECTRIC COOPERATIVE CONCERNED, SUCH OFFICER OR EMPLOYEE SHALL, UPON CONVICTION BE PUNISHED WITH A PENALTY TWO (2) DEGREES HIGHER THAN THE PENALTY PROVIDED HEREIN, AND FORTHWITH BE . DISMISSED AND PERPETUALLY DISQUALIFIED FROM EMPLOYMENT IN ANY PUBLIC OR PRIVATE UTILITY OR SERVICE COMPANY AND FROM HOLDING ANY PUBLIC OFFICE.

"IF THE OFFENDER IS A RECIDIVIST OR COMMITS MORE THAN TWO (2) ACTS MENTIONED IN SECTIONS 3, 4 OR 5 OF THIS ACT, THE PENALTY APPLICABLE WILL BE INCREASED TO TWO (2) DEGREES HIGHER THAN THE IMPOSED PENALTY.

"(E) IF THE ELECTRIC PRIVATE OR PUBLIC UTILITY SHALL KNOWINGLY PERMIT OR HAVE KNOWLEDGE OF THE COMMISSIONS OF THE ACTS MENTIONED IN SECTIONS 3,4 OR 5 AND SHALL HAVE FAILED TO PREVENT THE SAME OR OTHERWISE GUILTY OF NEGLIGENCE IN CONNECTION WITH THE COMMISSION THEREOF, IT SHALL BE MADE TO PAY A FINE NOT EXCEEDING FIVE (5) TIMES THE AMOUNT OF THE "DIFFERENTIAL BILLING" SUBJECT TO THE DISCRETION OF THE COURTS.

"IF THE VIOLATION IS COMMITTED BY ANY JURIDICAL ENTITY, THE PENALTY SHALL BE IMPOSED ON THE PRESIDENT, CHIEF EXECUTIVE OFFICER OR CHIEF OPERATIONS OFFICER OR MANAGER AND SUCH OFFICERS, INCLUDING THE MEMBERS OF THE BOARD, WHO SHALL HAVE KNOWINGLY PERMITTED, FAILED TO PREVENT OR WAS OTHERWISE RESPONSIBLE FOR THE COMMISSION OF THE OFFENSE."

SEC. 11. Section 9 of the same Act is hereby amended to read as follows:

"SEC. [9] 11. Restriction on the Issuance of Restraining Orders or Writs of Injunction. - No writ of injunction or restraining order shall be issued by any court against any private electric utility or rural electric cooperative exercising the right and authority to disconnect electric service as provided in this Act [, unless there is prima facie evidence that the disconnection was made with evident bad faith or grave abuse of authority] WHEN THE UNLAWFUL OR

(b) Violation of Section 3 – The penalty of reclusion temporal or a fine ranging from Fifty thousand pesos (PW50,000) to One hundred thousand pesos (PW100,000) or both, at the discretion of the court, shall be imposed on any person found guilty of violating Section 3 hereof.

(c) Provision common to violations of Section 2 and Section 3 hereof – If the offense is committed by, or in connivance with, an officer or employee of the power company, private electric utility or rural electric cooperative concerned, such officer or employee shall, upon conviction, be punished with a penalty one (1) degree higher than the penalty provided herein, and forthwith be dismissed and perpetually disqualified from employment in any public or private utility or service company and from holding any public office.

If, in committing any of the acts enumerated in Section 4 hereof, any of the other acts as enumerated is also committed, then the penalty next higher in degree as provided herein shall be imposed.

If the offense is committed by, or in connivance with an officer or employee of the electric utility concerned, such officer or employee shall, upon conviction, be punished with a penalty one (1) degree higher than the penalty provided therein, and forthwith be dismissed and perpetually disqualified from employment in any public or private utility or service company. Likewise, the electric utility concerned which shall have knowingly permitted or having knowledge of its commission shall have failed to prevent the same, or was otherwise guilty of negligence in connection with the commission thereof, shall be made to pay a fine not exceeding triple the amount of the "differential billing" subject to the discretion of the courts.

If the violation is committed by a partnership, firm, corporation, association or any other legal entity, including a government-owned or -controlled corporation, the penalty shall be imposed on the president, manager and each of the officers thereof who shall knowingly permitted, failed to prevent or was otherwise responsible for the commission of the offense.]

"SEC. 9. PENALTIES. – ANY PERSON WHO IS FOUND TO HAVE VIOLATED ANY PROVISION OF THIS ACT SHALL BE PUNISHED BY:

"(A) THE PENALTY OF PRISION CORRECCIONALIN ITS MAXIMUM PERIOD TO PRISION MAYOR IN ITS MINIMUM PERIOD, IN VIOLATION OF SECTION 3 OF THIS ACT AND THE TOTAL AMOUNT INVOLVED DOES NOT EXCEED ONE HUNDRED THOUSAND PESOS (PW100,000), OR A FINE OF TWO (2) TIMES THE VALUE OF THE ILLEGAL ELECTRICITY USAGE OF THE APPREHENDED PERSON, OR BOTH, AT THE DISCRETION OF THE COURT.

"IN THE CASE OF THEFT OF ELECTRIC POWER LINES, EQUIPMENT AND MATERIALS, THE APPLICABLE FINE IS FIVE (5) TIMES THE VALUE OF THE MATERIALS UNLAWFULLY OR ILLEGALLY TAKEN.

"(B) THE PENALTY OF PRISION MAYOR IN ITS MAXIMUM PERIOD TO RECLUSION TEMPORAL, IF THE TOTAL AMOUNT INVOLVED IS OVER ONE HUNDRED THOUSAND PESOS {PW100,000.00} BUT DOES NOT EXCEED FIVE HUNDRED THOUSAND PESOS (PW 500,000.00), OR A FINE OF THREE (3) TIMES THE VALUE OF THE ILLEGAL ELECTRICITY USAGE OF THE APPREHENDED PERSON, OR BOTH, AT THE DISCRETION OF THE COURT.

ILLEGAL ACT WAS COMMITTED *EN FLAGRANTE DELICTO* AND THE EVIDENCE AGAINST THE PERSON OR PERSONS IS STRONG.

"x x x"

"SEC. 12. EXCLUSIVE JURISDICTION OF THE COURTS. - THE COURTS SHALL HAVE ORIGINAL AND EXCLUSIVE JURISDICTION ON DISPUTES INVOLVING ACTS SPECIFIED UNDER THIS ACT. THE ENERGY REGULATORY COMMISSION (ERC) SHALL NOT TAKE COGNIZANCE OF ANY COMPLAINT AGAINST ANY ELECTRIC GENERATION, TRANSMISSION AND DISTRIBUTION UTILITY FILED BY ANY CONSUMER IN VIOLATION OF THE PROVISIONS OF THIS ACT."

Then, renumber Sections 10 through 17 as Sections 13 through 20, respectively.

Sec. 13. Delete Section 10 of the same Act and in lieu thereof insert a new section, to be designated as Section 13, to read as follows:

"SEC. 13. RECOVERABLE SYSTEM LOSS CAPS. - THE ERC SHALL, WITHIN ONE (1) YEAR FROM THE EFFECTIVITY OF THIS ACT, DETERMINE THE RECOVERABLE SYSTEM LOSS CAPS OF ELECTRIC TRANSMISSION AND DISTRIBUTION UTILITIES TAKING INTO ACCOUNT SUCH TECHNICAL CONSIDERATIONS INCLUDING, BUT NOT LIMITED TO, LOAD DENSITY, SALES MIX, COST OF SERVICE, DELIVERY VOLTAGE AS IT MAY DETERMINE AS WELL AS THE VIABILITY OF THE PRIVATE ELECTRIC UTILITIES AND ELECTRIC COOPERATIVES AND THE INTEREST OF THE CONSUMING PUBLIC.

"THE MAXIMUM RATE OF SYSTEM LOSS THAT A DISTRIBUTION UTILITY MAY PASS ON TO ITS CUSTOMERS SHALL BE THE ACTUAL BUT NOT EXCEEDING EIGHT AND ONE-HALF PERCENT (8.5%) OF THE TOTAL KILOWATT-HOURS (KWH) GENERATED AND PURCHASED FOR PUBLIC DISTRIBUTION UTILITIES (PDUs) AND THIRTEEN PERCENT (13%) FOR ELECTRIC COOPERATIVES (ECs).

"THE ACTUAL COMPANY USE NOT EXCEEDING ONE PERCENT (1%) OF THE TOTAL KWH GENERATED AND PURCHASED SHALL BE TREATED AS AN EXPENSE OF DISTRIBUTION UTILITIES IN THE FOLLOWING MANNER:

"(A) FOR PRIVATE DISTRIBUTION UTILITIES (PDUs) THAT ARE UNDER PERFORMANCE-BASED REGULATION (PBR), IT SHALL BE TREATED AS OPERATION AND MAINTENANCE EXPENSE IN ITS NEXT RESET;

"(B) FOR PDUs THAT ARE NOT YET UNDER THE PBR, IT SHALL BE TREATED AS OPERATION AND MAINTENANCE EXPENSE IN ITS PBR APPLICATION; AND

"(C) FOR EC's, IT SHALL BE TREATED AS OPERATION AND MAINTENANCE EXPENSE IN THE BENCHMARKING METHODOLOGY.

"ALL DUs and EC's SHALL SUBMIT TO THE ERC THROUGH A SWORN STATEMENT THE RESULTS OF THEIR UPDATED SEGREGATED SYSTEM LOSSES TOGETHER WITH THEIR ANNUAL REPORTS."

SEC. 14. Insert a new section after Section 10 of the same Act, to be designated as Section 14, to read as follows:

"SEC. 14. SYSTEM LOSS REDUCTION PROGRAM AND INCENTIVES. - THE ERC SHALL DEVELOP AN INCENTIVE MECHANISM TO REWARD CONSUMERS AND DISTRIBUTION UTILITIES WHOSE ACTUAL SYSTEM LOSSES ARE BELOW THE PREVAILING APPROVED CAPS. THE INCENTIVE MECHANISM SO ADOPTED MAY BE INCORPORATED BY THE ERC IN THE PERFORMANCE INCENTIVE SCHEME (PIS) UNDER THE PBR FOR PDU's AND IN THE BENCHMARKING METHODOLOGY FOR EC's. TOWARDS THIS END, EXPENSES ASSOCIATED WITH ANY SYSTEM LOSS REDUCTION PROGRAM DULY APPROVED BY THE ERC SHALL BE CONSIDERED PART OF THE CAPITAL OR OPERATING COSTS OF THE DISTRIBUTION UTILITIES."

Then, renumber Sections 11 through 17 as Sections 15 through 21, respectively.

SEC. 15. Implementing Rules and Regulations. - The ERC shall, within sixty (60) days upon the effectivity of this Act, in consultation with the National Transmission Corporation (TRANSCO) or its concessionaire, DUs, ECs, RES, GENCOs and the consumers, formulate the rules and regulations for the effective implementation of this Act.

Sec. 16. Separability Clause. - If for any reason, any provision of this Act is declared unconstitutional or invalid, the other parts or provisions hereof which are not affected thereby shall continue to be in full force and effect.

Sec. 17. Repealing Clause. - Any law, presidential decree or issuance, executive order, letter of instruction, administrative rule or regulation contrary to or inconsistent with the provisions of this Act is hereby repealed, modified or amended accordingly.

Sec. 18. Effectivity. - This Act shall take effect fifteen (15) days after its publication in two (2) newspapers of general circulation.

Approved,