

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

FIFTEENTH CONGRESS
First Regular Session

House Bill No. 3253

Introduced by Representative Tobias Reynald M. Tiangco

EXPLANATORY NOTE

Unburden the general public from shouldering the costs of losses it had nothing to do with, this is the intention of this proposal by completely removing the recoverable systems loss allowed to be charged by private electric distribution utilities and restrict recoverable composition of system losses into losses due to design fault and technical loss from fourteen percent (14%) to five percent (5%) for rural electric cooperatives, as well as remove the value added tax being charged on systems loss from VATable items in every electric bill.

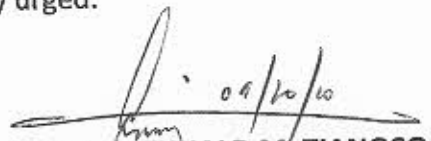
Republic Act No. 7832 otherwise known as an "*Act Penalizing the Pilferage of Electricity and Theft of Electric Power Transmission Lines/Material, Rationalizing system losses by phasing out pilferage losses as a component thereof, and for other purposes*", which was enacted in 8 December 1994. R.A. No. 7832 rationalizes the recoverable system losses of electric distributors by authorizing private utilities and rural electric cooperatives to pass on to consumers their respective system losses subject only to the ceiling rate. Subsequently, Congress enacted Republic Act No. 9136 otherwise known as the Electric Power Industry Reform Act of 2001, which authorized the Energy Regulatory Commission (ERC) to determine the just and reasonable caps on the imposition of systems loss.

Presently, private distribution utilities and rural electric cooperatives are allowed to pass on as much as nine and a half percent (9.5%) and fourteen (14%), respectively, of their total system losses to the consumers. Systems losses may be non-technical (i.e. loss of electricity due to pilferage) or technical (i.e. loss of electricity in the form of heat due to design fault, administration inefficiencies as well as the electric consumption of the distributors for their operation). It comprises not less than five percent (5%) of the monthly electric bill and is likewise subject to the 12% Value-Added Tax (VAT).

In spite of all these measures, electricity prices in the Philippines keep rising, so much so that in Southeast Asia, electricity costs in the Philippines are second highest. Unfortunately, instead of protecting the consumers against continuous increase of electricity prices, this provision of the EPIRA law is being taken advantage of by the big companies in the power industry in the guise of systems loss. In fact, MERALCO has admitted that it had charged consumers 11% or 1.5% higher than the recoverable cap for system loss provided by the ERC for the private distribution utilities.

These kinds of abuses are exactly the evil things sought to be stopped by this proposed measure. It was enshrined in the 1987 Philippine Constitution that the State shall free the people from poverty through policies that provide adequate social services. Hence, legislators are duty bound to help the consuming public.

In view thereof, the passage of this measure is earnestly urged.


04/10/10
TOBIAS REYNALD M. TIANGCO

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House Bill No. **3253**

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

AN ACT REMOVING THE ALLOWABLE SYSTEMS LOSS FROM PRIVATE UTILITY COMPANIES AND REDUCING THE CAP OF RECOVERABLE SYSTEM LOSSES OF RURAL ELECTRIC COOPERATIVES FROM FOURTEEN PERCENT TO FIVE PERCENT (5%), AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 7832, AS AMENDED BY SECTION 43(f) OF REPUBLIC ACT NO. 9136, AND REPUBLIC ACT NO. 8424, AS AMENDED BY REPUBLIC ACT NO. 9337, AND FOR OTHER PURPOSES

Section 1. *Title of the Act* – This Act shall be known as the “*Allowable System Loss Act of 2010*”.

Sec. 2. *Declaration of Policy* – It shall be the policy of the State to protect the rights of every electric consumer without compromising the State’s assistance to the viability of every electric distributors’ operations. Electricity is an indispensable commodity in the economic growth. The supply and demand of the populace must be harmoniously reconciled and considered to attain justifiable and equitable imposition of the electric distribution expenses to the consuming public.

Sec. 3. *Allowable System Loss that may be passed-on to the Consumers.* – Only rural electric cooperatives are hereby allowed to pass-on to the consumers systems losses and limited only to design fault and technical loss as defined by the Energy Regulatory Board (ERC), which in no case shall be more than five percent (5%). A systems loss charge shall be determined annually based on the previous year’s costs and revenues of the distribution utilities which shall be verified by the ERC to ensure that only legitimate costs are borne by the consumers.

For purposes of this Act, systems loss shall mean the difference between (kilowatt-hour) kWh purchased and/or generated and kWh sold by a rural electric cooperative expressed as a percentage of kWh purchased and/or generated excluding costs due to pilferage, administration inefficiencies and administrative cost.

Sec. 4. Exemption from Value-Added Tax (VAT). - The imposition of system loss in the consumer's bill, although forming part of a rural cooperative's operating expenses, shall not be made subject to twelve percent (12%) Value-Added Tax (VAT) as provided in Section 108 of Republic Act No. 9337.

Sec. 5. Implementing Rules and Regulations. - The Department of Energy, in consultation with TRANSCO and the ERC, shall promulgate the Implementing Rules and Regulations that shall be necessary to carry out and implement the provisions of this Act within sixty days (60) from the effectivity of this Act,.

Sec. 6. Repealing Clause. - All laws, acts, decrees, executive orders, issuances, and rules and regulations or parts thereof which are contrary to and inconsistent with any provisions of this Act are hereby repealed, amended, or modified accordingly.

Sec. 7. Separability Clause. - If any provision of this Act is subsequently declared unconstitutional, the validity of the remaining provisions hereof shall remain in full force and effect.

Sec. 8. Effectivity. - This Act shall take effect fifteen days (15 days) after its complete publication either in the Official Gazette or in a newspaper of general circulation in the Philippines.

Approved,