

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

FIFTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 4847

**INTRODUCED BY ANAKPAWIS PARTY-LIST REPRESENTATIVE
RAFAEL V. MARIANO**

EXPLANATORY NOTE

June 8, 2011 marks the tenth (10th) year of Republic Act No. 9136 otherwise known as "An Act Ordaining Reforms in the Electric Power Industry, Amending for the Purpose Certain Laws and For Other Purposes" approved by former President Gloria Macapagal-Arroyo. It was enacted into law due to the strong lobbying and imposition of the multilateral financial agencies - the Asian Development Bank (ADB) and World Bank on the Philippine government. Power privatization was used as a crucial condition in the said foreign multilateral agencies' trade and financial agreements with the government.

The enactment into law of Electric Power Industry Act of 2001 was a condition for the release of the second tranche of the \$900 million ADB Power Sector Restructuring loan approved in 1998. The International Monetary Fund (IMF), in the meantime, made the EPIRA's approval as a condition for the release of the \$300 million rehabilitation loan in 1999.

Despite pro-privatization individuals and agencies' assertions that privatizing the power industry will be beneficial for the people and the national economy, developments revealed that EPIRA is not only a dismal failure at serving public interest, it even attacks the welfare of consumers and the rest of the Filipino people.

In 1987, Executive Order No. 280 allowed the private sector to generate electricity, and the Build-Operate-Transfer (BOT) law in infrastructure projects, the government opened the floodgates for contracts with private generation companies, now known as independent power producers or IPPs. Full privatization culminated in the enactment into law of Republic Act No. 9136, or the Electric Power Industry Reform Act (EPIRA) on June 2001. EPIRA mandated the full privatization of the electric power industry in the Philippines following the ADB and World Bank unbundling model.

Ten (10) years after the passage of EPIRA, consumers remain at the mercy of the local electricity monopolies, their independent power producers (IPPs), and foreign independent power producers (IPPs). Consumers are burdened with excessive power rates and various anomalous charges automatically passed on to end-users by IPPs through the National Power Corporations (Napocor) and distributors like Meralco.

Based on an assessment by cause-oriented groups AGHAM, Bagong Alyansang Makabayan, Advocates of Science and Technology for the People, IBON Foundation and Power (People Opposed to Warrantless Electricity Rates), ten (10) years after EPIRA's implementation, electricity rates have doubled due to various pass on and recovery mechanisms.

Among the recovery mechanisms are Generation Rate Adjustment Mechanism (GRAM), Automatic Adjustment of Generation Rates and System Loss Rates (AGRA) and Incremental Currency Exchange Rate Adjustment (ICERA). GRAM and ICERA replaced the Power Purchased Adjustment (PPA) when rates were unbundled in 2003 while AGRA was automatically collected monthly from consumers since 2004.

EPIRA is also responsible for the skyrocketing power rates in the country. In 2001, the rate of power distributor Meralco was at P5.76 per kilowatt-hour (kWh). In 2011, power rates are pegged at more than P10 per kilowatthour. The generation charge of NAPOCOR also increased. In Luzon grid, power rates increased from P2.39 per kWh in 2000 to P4.67 in 2011.

EPIRA concentrated the ownership of the power industry to a few corporations. Contrary to the government's claim that EPIRA will pave way for a competitive industry, few private businesses have benefited well from EPIRA.

Generation power plants across the country are owned and controlled by the following companies - the Lopez -group with 21%; San Miguel Corporation with 20%; and Aboitiz with 15%. Power Sector Assets and Liabilities Management (PSALM) controls 19% while 11% is under NAPOCOR.

Distribution facilities are owned and monopolized by the same companies. San Miguel Corporation controls 27% while the largest distribution utility – Meralco, now owned by the Lopez and Pangilinan groups operates 6.6%. Meralco's franchise covers 31 cities and 80 municipalities including Metro Manila, Bulacan, Rizal, Cavite, some parts of Laguna, Quezon, Batangas, at Pampanga with a total consumer population of 24.7 million.

The Aboitiz group controls seven (7) power distribution companies - Davao Light and Power Co. Inc., Cotabato Light and Power Company, Visayan Electric Co. (Veco), San Fernando Electric Light & Power Co. Inc., Subic Enerzone Corp., Mactan Enerzone Corp., and Balamban Enerzone Corp.

Davao Light and Veco are the second and third largest distribution utilities in the country.

Despite paying billions, National Power Corporation (NAPOCOR) remains indebted. From 2001 to 2010, NAPOCOR shelled out \$18 billion to service its financial obligations. Yet, from \$16.4 billion in 2001, NAPOCOR's debts remained high at \$15.8 billion as of 2010.

These debts known as stranded debts and stranded costs will be passed on to consumers through universal charges. Additional charges may reach up to P1.86 per kilowatt-hour if the Energy Regulatory Commission (ERC) approves the recovery of stranded debts and stranded costs.

Even with EPIRA, energy security is threatened while people are expected to pay more for electricity in the coming years.

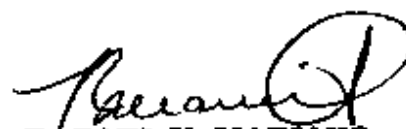
In March 2010, Mindanao suffered a power supply crisis with a shortage of 700 megawatts that resulted to rotating brownouts up to 8 hours per day. The government blamed the power shortage on El Nino phenomenon because majority of Mindanao's electricity comes from hydropower. But the main reason of the shortage is the lack of capacity to generate power in the region. NAPOCOR remissed on its responsibility to ensure power generation.

The transfer of monopoly from the state to a few private corporations exposed the pretense of EPIRA about fostering competition for the benefit of consumers. Due to monopolies over generation and distribution, the so-called unbundling of rates to make the electricity bill transparent has become a meaningless exercise. Free competition through the wholesale electricity spot market (WESM) is also a sham because of virtual monopolies. More than half of total generating capacity is now controlled by just three (3) private corporations and this share is expected to increase upon the full privatization of the industry.

It is evident that the problem of exorbitant electricity rates will never be truly resolved by the neoliberal power reform being peddled by the government and multilateral creditors. EPIRA only institutionalizes private monopoly control and perpetrates foreign domination and exploitation of the national economy and resources at the expense of consumers.

A new law that promotes national energy development and consumer interest should be crafted.

Immediate passage of this bill is earnestly requested.



RAFAEL V. MARIANO

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

FIFTEENTH CONGRESS
First Regular Session

4847

HOUSE BILL NO. _____

**INTRODUCED BY ANAKPAWIS PARTY-LIST REPRESENTATIVE
RAFAEL V. MARIANO**

AN ACT
REPEALING REPUBLIC ACT NO. 9136 OTHERWISE KNOWN AS "AN ACT
ORDAINING REFORMS IN THE POWER INDUSTRY, AMENDING FOR
THE PURPOSE CERTAIN LAWS AND FOR OTHER PURPOSES"

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

SECTION 1. Republic Act No. 9136 otherwise known as "An Act Ordaining Reforms in the Electric Power Industry, Amending for the Purpose Certain Laws and For Other Purposes" is hereby repealed.

SECTION 2. This Act shall take effect fifteen (15) days after its complete publication in at least two (2) national newspapers of general circulation.

Approved.