

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

FIFTEENTH CONGRESS
Second Regular Session

HOUSE BILL NO. 5155

Introduced by Hon. Giorgidi B. Aggabao

EXPLANATORY NOTE

Contrary to expectations, the Electric Power Industry Act of 2001 has not served to lower the cost of electricity countrywide. Today, the Philippines has acquired the dubious distinction of having the highest power rate in the region, even surpassing Japan.

One chief reason for this is the tax component of the power rate. The VAT, collected pursuant to R.A. 9337, has demonstrably increased power rate by 12%, with the tax being borne wholly by the consumer. This is lawfully permissible because VAT, by its nature, is a pass-on indirect tax. Thus the Vat on generation, transmission and distribution charges are shifted to consumers as a matter of course.

Reverting to the original regime of imposing a franchise tax on electric distribution utilities may lessen the power cost to consumers. This is because a franchise tax is a direct tax the burden of which cannot be transferred to consumers. The tax incident lies exclusively on the distribution utilities that cannot be devolved.

A tax rate of 3% of gross receipts is reasonable. It should be adequate to compensate for the revenue loss of the government, as a result of foregoing the VAT on distribution charges.

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


GIORGIDI B. AGGABAO

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**AN ACT IMPOSING A UNIFORM FRANCHISE TAX ON DISTRIBUTION
UTILITIES IN LIEU OF ANY AND ALL TAXES COLLECTED BY THE
NATIONAL AND LOCAL GOVERNMENT**

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

Section 1. Declaration of Policy. - It is hereby declared the policy of the State to promote the public interest by ensuring the affordability and steady supply of electricity to the end-users.

Section 2. Franchise Tax On Distribution Utility Game. - Distribution utilities shall pay a franchise tax equivalent to three (3%) of a distribution utility's Gross Receipt derived from the distribution business granted under the Utility's legislative franchise. Said tax shall be in lieu of all taxes, such as income tax, value added tax, business taxes, licenses, and any and all taxes, duties, fees and charges of any kind, nature or description levied, established or collected by any government authority whatsoever, whether local or national, on its franchise, rights, privileges, receipts wheeling charges, revenues and profits and upon its machineries, equipment, supplies, meters, poles, wires, transformers, insulators, capacitors, transportation equipment, substations, facilities, and all other real and personal property actually used or intended for use by the Distribution Utility to provide electric power distribution services to the consumers: *Provided*, that the Distribution Utility Grantee, its successor or assigns, shall be liable to pay the same taxes on its real estate, buildings and other real property not actually used nor intended to provide distribution services under its franchise to distribute electric power, as other persons or corporations are now or hereafter may be required by law to pay.

Section 3. Gross Receipt. – Gross Receipt means the total amount of money or its equivalent representing the amount of distribution charge billed to the consumer, including any service fees in connection therewith, and deposits and advanced payments actually or constructively received during the taxable quarter for the services performed or to be performed for another person: *provided*, that the following shall not form part of the gross receipts in the computation of the franchise tax:

1. Systems loss being charged on the sale of electricity by generation, transmission, and distribution companies;
2. Sale of electricity by distribution utilities to marginalized consumers whose monthly electric consumption does not exceed one hundred kilowatt hours (100 kwh);
3. Lifeline subsidy charge paid by non-lifeline consumers on the sale of electricity by distribution utilities;
4. The generation charge;
5. The transmission charge;
6. The universal charge; and
7. The distribution charge on the sale of electricity by electric cooperatives duly registered with the Cooperative Development Authority or the National Electrification Administration

Section 4. Repealing Clause. – All laws, acts, decrees, executive orders, including the relevant provisions of the National Internal Revenue Code, as amended, the Local Government Code, as amended or parts thereof which are contrary to and inconsistent with this Act are hereby repealed, amended or modifies accordingly.

Section 5. Implementing Rules and Regulations. – The secretary of Finance, in consultation with the secretary of Energy, shall promulgate and publish the necessary rules and regulations within thirty (30) days for the effective enforcement of the provisions of this Act.

Section 6. Effectivity. – This Act shall take effect within fifteen (15) days after its publication in at least two (2) newspapers of general circulation.

Approved,