

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SIXTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 256



INTRODUCED BY REPRESENTATIVES
FERNANDO L. HICAP, NERI JAVIER COLMENARES,
LUZVIMINDA C. ILAGAN, EMMI DE JESUS, ANTONIO TINIO
AND JAMES MARK TERRY RIDON

EXPLANATORY NOTE

In 2001, Republic Act 9136 or the Electric Power Industry Reform Act of 2001 (EPIRA) was signed into law by former President Gloria Macapagal-Arroyo.

EPIRA privatized the entire electric power industry and effectively removed the ownership, management and control of the State in the power industry sector. President Benigno Aquino III, then Tarlac district representative voted against the passage of the said law.

According to the World Bank, EPIRA was one of the first Public-Private Partnership (PPP) implemented by the national government.

EPIRA comprehensively restructured and privatized the power generation, transmission and distribution of electric power in the country. It established a liberalized and market-based power industry and promised to deliver a quality, reliable, secure and affordable supply of electricity for the public. But the exact opposite happened under EPIRA, now proved as an 'anti-people, pro-corporation' law.

For the past twelve (12) years that EPIRA had been in effect, electric power consumers and businesses throughout the country endured high power rates. Without any public hearings or consultations, automatic monthly adjustments in power rates were imposed by private power distribution firms.

Private power distributor Manila Electric Co. (Meralco), the National Power Corporation (Napocor), National Grid Corporation of the Philippines (NGCP), National Transmission Company (Transco), independent power producers (IPPs) and suppliers imposed frequent automatic rate adjustments and passed-on charges to consumers.

Power rates have doubled since EPIRA was implemented. The Philippines now has one of the most expensive power rates in Asia-Pacific. Out of forty-four (44) power distributors surveyed by Dr. John C. Morris of the International Energy Consultants (IEC) in 2011, power rates in Metro Manila ranked as the 9th most expensive. Based on the study "Regional/Global Comparison of Electricity Tariff," the ten(10) countries with the highest electricity rates are

Hawaii, Italy, Malta, Japan, Cyprus, Germany, Denmark, Netherlands, Philippines (Meralco) and Singapore.

In 2012, power consumers paid an average of P9.14 per kilowatt hour (kWh) per month.

Electricity bills reflect the following components and percentages, respectively: generation charges, transmission charges, distribution charges, systems losses, universal charges or various costs passed on to consumers, subsidies and government taxes.

As a result of the restructuring and privatization, the National Power Corporation's (Napocor) stranded debts were passed on to consumers through universal charges spread over 25 years. "Stranded debts" refer to any unpaid financial obligation of Napocor which have not been liquidated by the proceeds from the sales and privatization of government power assets.

The EPIRA legitimized the burdensome and unjust contracts and financial obligations of the Napocor. Through EPIRA, the government unjustly obliged all electricity end-users to cover payment of Napocor's stranded debts and stranded contract costs.

In 2001, Napocor's debts stood at \$16.39 billion or some P834.29 billion. The Public Sector Assets and Liabilities Management (PSALM) paid \$18 billion to settle the obligations of Napocor from 2001 to 2010. Of the said amount, \$6.7 billion went to principal amortization; \$4.3 billion for interest payments; and \$7 billion for obligations to independent power producers (IPPs).

But after more than a decade of paying billions, EPIRA failed to trim Napocor's debts. By November 2011, Napocor's debts remained at a staggering \$16.63 billion, higher than the \$16.39 billion when EPIRA was passed.

The EPIRA also paved the way for rampant price manipulation and price rigging in the wholesale electricity spot market (WESM). It also resulted to the proliferation of dubious bilateral price contracts between related power distributors and generating companies.

The EPIRA also liberalized and privatized the government's power assets. It allowed the takeover of private companies over the said assets for profit generation.

Despite the current high cost of power, consumers are expected to pay more for electricity in the coming years.

To encourage investments, the government guaranteed the profit margins of private power producers. These companies impose charges through various mechanisms. To offset foreign exchange fluctuation, EPIRA allowed power companies to recover through the Incremental Currency Exchange Rate Adjustment (ICERA) mechanism. Power plants formerly owned by the National Power Corporation (Napocor) can also recover profits through the Generation Rate Adjustment Mechanism (GRAM) which increases the generation charges. The National Transmission Corporation (Transco) can recover through the Transmission Rate Adjustment Mechanism (TRAM) while Napocor can pass on the cost of Small Power Utilities Group or SPUG.

The EPIRA also strengthened the monopoly and control of a handful of private companies on the power industry sector.

More than half of the total generation capacity, the entire transmission system, and a major part of distribution, are controlled by large companies. More than 93.2% of the total gross power generated in the country is produced by private power companies and independent power producers (IPPs). Close to eighty percent (80%) of Napocor's generating plants have been privatized.

At present, only three private groups control fifty-two percent (52%) of generation capacity in the country – San Miguel Corporation's Global Power, Aboitiz Power Corporation, and the Lopez Group-led First Philippines Holdings Inc.

Among those who benefited from the public-private partnership infrastructure in the power sector include the Aboitiz Group, the Lopez Group and the DMCI Suritomo. From 2001 to 2010, there had been 42 PPP power projects in the country.

To show EPIRA's 'pro-corporation' nature, since 2010, the average growth of the Manila Electric Co. (Meralco) stood at 6% or 4% higher than from 2007 to 2009. In 2011, Meralco posted a consolidated core net income of P14.9 billion, up by 22% compared to 2010. The said company's consolidated electric revenues reached P254 billion for 2011 or a 6% year-on-year increase. In 2012, Meralco posted a 9% increase on its consolidated core net income to P16.3 billion.

Despite high power rates, power supply and capacity have been severely inadequate, especially in Mindanao where millions of consumers have experienced prolonged, daily rotational brownouts.

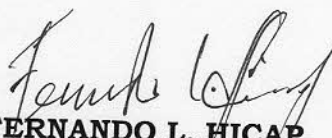
Instead of resolving the precarious energy situation in Mindanao, the Department of Energy (DoE) and Malacanang allowed private power generators and electric cooperatives to take advantage of the power crisis at the expense of consumers who will have to pay more for electricity.

As a result of the government's pro-business and pro-foreign policy on electric power, consumers across the country are forever bearing the brunt of high electricity costs while suffering from unsteady power supply.

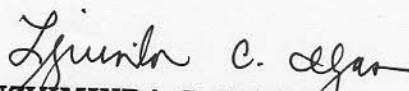
An urgent policy reversal is in order to give concrete resolution to the nationwide problem of high power rates. After more than a decade of implementation, all indicators show that EPIRA failed to genuinely reform the power industry sector. It only strengthened the private sector's control and oligopoly in the power industry.

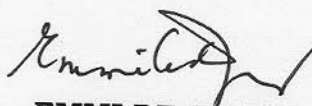
To rectify these grave injustices to the Filipino people, the immediate repeal of Republic Act 9136 or EPIRA is strongly recommended.

In view of the foregoing, the urgent deliberation and approval of this bill is earnestly sought.

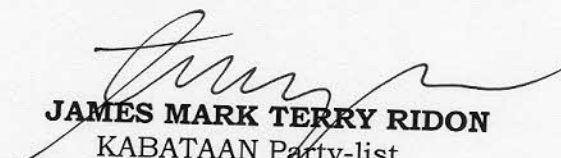

FERNANDO L. HICAP
ANAKPAWIS Party-list


NERI JAVIER COLMENARES
BAYAN MUNA Party-list


LUZVIMINDA C. ILAGAN
GABRIELA Women's Party


EMMI DE JESUS
GABRIELA Women's Party


ANTONIO TINIO
ACT Teachers Party


JAMES MARK TERRY RIDON
KABATAAN Party-list

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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 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. All previous or existing laws, decrees, executive orders, rules and regulations or parts thereof inconsistent with this Act are hereby repealed or amended accordingly.

SECTION 3. This Act shall take effect within fifteen (15) days after its publication in the Official Gazette or in at least two (2) newspapers of general circulation, whichever comes earlier.

Approved.