

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SIXTEENTH CONGRESS
First Regular Session



HOUSE BILL NO. **3336**

AN ACT
AMENDING REPUBLIC ACT 7394 ENTITLED
THE CONSUMER ACT OF THE PHILIPPINES OF 1992,
CREATING THE OFFICE FOR THE PROTECTION
OF ELECTRICITY CONSUMERS AND APPROPRIATING FUNDS
THEREFOR AND FOR OTHER PURPOSES

Introduced by **REP. HENEDINA RAZON- ABAD**

EXPLANATORY NOTE

The foundation of a ratepayers' advocate office is consumer protection.

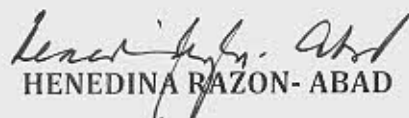
In the Philippines, the Office of the People's Counsel created under Republic Act No. 178 way back in 1950 had the duty to protect consumers from unjust, unreasonable and discriminatory rates and charges for public services. However, it was abolished in 1951 when the government was reorganized by virtue of Executive Order No. 392.

Under the current state of the Philippine Electric Power Industry, neither the EPIRA nor any other law has provided for an office to protect the interest of the consumers.

A ratepayers' advocate office will ensure that consumers' rights are properly and timely protected by promoting transparency of the ERC proceedings and hold it as well as the utilities, accountable to all the stakeholders in the electric power industry.

As an attached office under the Department of Trade and Industry, the Office for the Protection of Electricity Consumers (OPEC) will allow the government to deliver and implement its mandate of providing affordable, reasonable, as well as reliable power rates of electricity to drive economic growth and progress.

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


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

1 SEC. 1. ARTICLE 2 ON DECLARATION OF BASIC POLICY OF REPUBLIC ACT 7394,
2 IS HEREBY AMENDED AS FOLLOWS: - [Article 2. *Declaration of Basic Policy.* – It is the
3 policy of the State to protect the interests of the consumer, promote his general welfare
4 and to establish standards of conduct for business and industry. Towards this end, the
5 State shall implement measures to achieve the following objectives:

6 a) protection against hazards to health and safety;

7 b) protection against deceptive, unfair and unconscionable sales acts and
8 practices;

9 c) provision of information and education to facilitate sound choice and the
10 proper exercise of rights by the consumer;

11 d) provision of adequate rights and means of redress; and

12 e) involvement of consumer representatives in the formulation of social and
13 economic policies.]

1 IT IS THE POLICY OF THE STATE TO PROTECT PUBLIC INTEREST AS IT IS
2 AFFECTED BY THE RATES FOR ELECTRIC POWER AND SERVICES OF ELECTRIC
3 UTILITIES AND OTHER PROVIDERS OF ELECTRIC POWER AND TO ESTABLISH A
4 STRONG AND PURELY INDEPENDENT ADVOCATE BODY AND SYSTEM TO ENSURE
5 CONSUMER PROTECTION AND ENHANCE THE COMPETITIVE OPERATION OF THE
6 ELECTRICITY MARKET. THERE IS A NEED FOR GOVERNMENT TO INSTITUTIONALIZE
7 ELECTRICITY CONSUMER PROTECTION THROUGH THE CREATION OF AN OFFICE OR
8 AGENCY TO ACT AS THE CONSUMERS' REPRESENTATIVE IN ALL PETITIONS AND
9 APPLICATIONS OF ELECTRICITY POWER SECTORS PARTICULARLY IN THE AREAS OF
10 TARIFF AND RATE SETTING AND ELECTRICITY SERVICE AND PERFORMANCE
11 STANDARDS BEFORE THE ENERGY REGULATORY COMMISSION AND SUCH OTHER
12 AGENCIES AND BODIES REQUIRING ELECTRICITY CONSUMER PROTECTION.
13 ACCORDINGLY, IT SHALL BE THE RIGHT OF ELECTRICITY CONSUMERS TO:

- 14 a) BE CHARGED ONLY FAIR AND REASONABLE GENERATION,
15 TRANSMISSION, SUPPLY AND DISTRIBUTION RATES AFTER AN OPEN,
16 TRANSPARENT AND PUBLIC HEARING WITH THE PRESENCE OF A
17 CONSUMER ADVOCATE;
- 18 b) A STABLE AND RELIABLE ELECTRIC POWER SERVICE OPERATED IN
19 ACCORDANCE WITH GOOD INDUSTRY PRACTICE AND STANDARDS OF
20 SERVICE ESTABLISHED AFTER AN OPEN, TRANSPARENT AND PUBLIC
21 HEARING WITH THE PRESENCE OF A CONSUMER ADVOCATE; AND
- 22 c) APPEAL OR CONTEST ANY DECISION OR RESOLUTION ISSUED BY THE
23 ENERGY REGULATORY COMMISSION UNDER ITS ADJUDICATIVE OR RULE
24 MAKING POWERS TO THE COURT OF APPEALS OR THE SUPREME COURT
25 IN ACCORDANCE WITH APPLICABLE RULES OF PROCEDURE.

1 SEC. 2. A NEW CHAPTER ENTITLED AND NUMBERED CHAPTER IV
2 ELECTRICITY CONSUMPTION, RATES, COMPLAINTS AND OTHER MATTERS, SHALL BE
3 INSERTED AFTER ARTICLE 166. THE REST OF THE ARTICLES SHALL BE
4 RENUMBERED APPROPRIATELY. CHAPTER IV SHALL READ AS FOLLOWS:

5 "Article 167. OFFICE FOR THE PROTECTION OF ELECTRICITY
6 CONSUMERS (OPEC). – THERE IS HEREBY CREATED AN OFFICE FOR THE
7 PROTECTION OF ELECTRICITY CONSUMERS, HEREINAFTER REFERRED TO AS
8 OPEC, WHICH SHALL BE AN INDEPENDENT BODY ATTACHED TO THE
9 DEPARTMENT OF TRADE AND INDUSTRY FOR PURPOSES OF COGNATE
10 EXPERTISE, AVAILABLE DATA BASE, SPECIAL AND DEDICATED MANPOWER
11 SERVICES, AND EASE OF TRANSITION."

12 "ARTICLE 168. COMPOSITION. – THE OFFICE FOR THE PROTECTION OF
13 ELECTRICITY CONSUMERS SHALL BE HEADED BY AN EXECUTIVE DIRECTOR
14 WITH THE RANK OF AN UNDERSECRETARY, WHO SHALL HAVE THE
15 AUTHORITY TO CREATE SUCH POSITIONS NECESSARY FOR THE ATTAINMENT
16 OF THE PURPOSES THIS ACT. PROVIDED THAT, THERE SHOULD BE AN
17 ELECTRICITY PRICING AND RATE DESIGN DIVISION, AS WELL AS AN
18 ELECTRICITY SERVICE AND STANDARDS DIVISION, FOR THE GENERATION,
19 TRANSMISSION, DISTRIBUTION, AND SUPPLY SECTORS."

20 ARTICLE 169. APPOINTMENTS, TENURE AND QUALIFICATIONS. – THE
21 EXECUTIVE DIRECTOR SHALL BE APPOINTED BY THE PRESIDENT OF THE
22 PHILIPPINES. THE EXECUTIVE DIRECTOR SHALL HAVE A TERM OF 6 YEARS,
23 UNLESS OTHERWISE REMOVED FROM OFFICE FOR CAUSE. ALL OTHER
24 OFFICERS SHALL BE SELECTED AND APPOINTED BY THE EXECUTIVE
25 DIRECTOR, PROVIDED THAT THE ELECTRICITY, PRICING AND RATE DESIGN
26 DIVISION AND THE ELECTRICITY SERVICE AND STANDARDS DIVISION SHALL

1 EMPLOY AT LEAST ONE ELECTRICAL ENGINEER, ONE CERTIFIED PUBLIC
2 ACCOUNTANT, ONE ECONOMIST AND ONE MEMBER OF THE PHILIPPINE BAR
3 ALL WITH SUFFICIENT EXPERIENCE IN THE INDUSTRY.

4 ARTICLE 170. COMPENSATION. - THE EXECUTIVE DIRECTOR AS WELL
5 AS ALL OFFICERS AND EMPLOYEES OF THE OFFICE FOR THE PROTECTION OF
6 ELECTRICITY CONSUMERS SHALL NOT BE COVERED BY THE SALARY
7 STANDARDIZATION LAW WITH RESPECT TO THE SALARY CAP BUT SHALL
8 COMPLY WITH THE BENEFITS AND EMOLUMENTS AS MAY BE PROVIDED BY
9 CIVIL SERVICE LAWS.

10 ARTICLE 171. POWERS AND FUNCTIONS. - THE OPEC SHALL HAVE THE
11 FOLLOWING POWERS AND FUNCTIONS:

12 a) IT SHALL BE THE DEFAULT INTERVENOR AND OPPOSITOR ON
13 BEHALF OF THE ELECTRICITY CONSUMERS IN ANY AND ALL
14 PETITIONS AND APPLICATIONS AFFECTING THE ELECTRICITY
15 RATES TO BE CHARGED TO ELECTRICITY CONSUMERS. THE OPEC
16 SHALL ENSURE THAT IT COMPLIES WITH THE REQUIREMENTS OF
17 THE RULES OF PRACTICE AND PROCEDURE OF THE ENERGY
18 REGULATORY COMMISSION IN ENTERING ITS APPEARANCE AS
19 PARTY-INTERVENOR OR OPPOSITOR;

20 b) IN ADVOCATING IN BEHALF OF THE CONSUMERS, THE OPEC
21 SHALL ENSURE THE LOWEST POSSIBLE RATES IN ANY AND ALL
22 ERC PROCEEDINGS INVOLVING PETITIONS AND APPLICATIONS BY
23 ALL ELECTRICITY PROVIDERS FOR RATE RECOVERY, RATE FIXING,
24 CAPEX APPLICATIONS, OR ANY OTHER FILINGS WHICH WILL
25 IMPACT ON THE FINAL RETAIL RATE TO BE CHARGED TO THE
26 ELECTRICITY END USER;

1 c) IT SHALL CONDUCT AN INDEPENDENT TECHNICAL REVIEW OF
2 UTILITY PETITIONS AND APPLICATIONS FOR RATE REVISIONS TO
3 ENSURE PROTECTION OF CONSUMER RIGHTS TO RECEIVE
4 SERVICES CONSISTENT WITH REQUIRED LEVELS OF SERVICE
5 QUALITY, SAFETY AND RELIABILITY; PRESENT FINDINGS AND
6 EXPERT TESTIMONIES IN ERC HEARINGS; OUTSIDE ERC,
7 REPRESENT CONSUMER INTEREST IN ANY AND ALL
8 PROCEEDINGS; AND ADVOCATE IN POLICY MAKING TO INCREASE
9 ENERGY EFFICIENCY, SYSTEM RELIABILITY AND USE OF
10 RENEWABLE ENERGY IN WAYS THAT DO NOT UNNECESSARILY
11 BURDEN THE END USERS;

12 d) IT SHALL HAVE THE AUTHORITY TO ENGAGE THE SERVICES OF
13 CONSULTANTS AND EXPERTS IN CONNECTION WITH THE
14 EVALUATION AND ANALYSIS OF PETITIONS OR APPLICATIONS
15 FILED BEFORE THE ERC AND TO FIX AND APPROVE THE
16 COMPENSATION OF THESE CONSULTANTS IN ACCORDANCE WITH
17 INDUSTRY PRACTICE AND SUBJECT TO EXISTING GOVERNMENTAL
18 GUIDELINES IN THE ENGAGEMENT OF CONSULTANTS;

19 e) TO INVESTIGATE THE SERVICE GIVEN BY, THE RATES CHARGED
20 BY, AND THE VALUATION OF THE PROPERTIES OF, THE
21 ELECTRICITY PROVIDERS UNDER THE JURISDICTION OF THE
22 COMMISSION, AND SUCH OTHER MATTERS AS AFFECT THE
23 INTERESTS OF THE ELECTRICITY CONSUMERS, AND TO TAKE ALL
24 THE STEPS NECESSARY FOR THE PROTECTION OF THE INTERESTS
25 OF THE ELECTRICITY CONSUMERS. IN CONNECTION WITH ANY
26 INVESTIGATION CONDUCTED PURSUANT UNDER THE PROVISIONS

1 OF THIS ACT, THE OFFICE SHALL HAVE THE POWER TO ISSUE
2 *SUBPOENA AD TESTIFICANDUM* OR *SUBPOENA DUCES TECUM*.

3 f) TO INSTITUTE PROCEEDINGS BEFORE THE ENERGY REGULATORY
4 COMMISSION, IN BEHALF OF THE PUBLIC, FOR THE PURPOSE OF
5 FIXING JUST AND REASONABLE RATES OR CHARGES BY
6 ELECTRICITY PROVIDERS, WHENEVER IT HAS REASON TO
7 BELIEVE THAT THE EXISTING RATES OR CHARGES ARE UNJUST
8 AND UNREASONABLE OR UNJUSTLY DISCRIMINATORY;

9 g) TO PROVIDE RELIABLE AND TRUSTWORTHY INFORMATION BY
10 UNDERTAKING EXTENSIVE RESEARCH, ANALYSIS AND
11 VALIDATION OF RATE DESIGN AND MECHANISMS; AS WELL AS TO
12 ACT AS RESOURCE PERSONS FOR DECISION MAKERS IN
13 LEGISLATIVE AND OVERSIGHT COMMITTEE PROCEEDINGS;

14 h) IT SHALL, FROM TIME TO TIME, CONDUCT ITS OWN PUBLIC
15 CONSULTATIONS ON ELECTRIC REGULATORY ISSUES AFFECTING
16 CONSUMERS AS WELL AS ACTING AS CONDUIT FOR CONSUMERS
17 TO PRESENT THEIR POSITIONS ON PENDING PETITIONS AND
18 APPLICATIONS;

19 i) TO APPEAL OR CONTEST BEFORE HIGHER COURTS THE DECISIONS
20 OF THE ERC UNDER ITS QUASI-JUDICIAL OR RULE-MAKING POWER
21 IF NECESSARY; AND

22 j) TO PERFORM SUCH OTHER FUNCTIONS NECESSARY AND
23 ESSENTIAL TO ACCOMPLISH ITS PURPOSE.

24 ARTICLE 172. FUNDING. - THERE IS HEREBY APPROPRIATED THE
25 AMOUNT OF FIFTY MILLION PESOS (P50,000,000) PER ANNUM TO BE TAKEN
26 FROM THE MALAMPAYA FUND, AND RELEASED BY THE DEPARTMENT OF

1 BUDGET AND MANAGEMENT IN ACCORDANCE WITH SUCH REQUIREMENTS
2 AND PROCEDURES, INCLUDING CERTIFICATION FOR THE AVAILABILITY OF
3 FUNDS FROM THE APPROPRIATE GOVERNMENT AGENCY OR AUTHORITY. THE
4 OPEC MAY REQUEST FOR SUCH ADDITIONAL OR SUPPLEMENTAL FUNDING
5 FROM CONGRESS, AS MAY BE NECESSARY, TO ENSURE THE IMPLEMENTATION
6 OF THE OBJECTIVES OF THIS ACT.

7 ARTICLE 173. ASSISTANCE FROM OTHER GOVERNMENT AGENCIES AND
8 INSTRUMENTALITIES. - THE OPEC IS AUTHORIZED TO CALL UPON AND
9 OBTAIN SUCH ASSISTANCE AS IT MAY DEEM NECESSARY IN THE
10 PERFORMANCE OF ITS DUTIES FROM ANY OFFICER OR EMPLOYEE OF ANY
11 DEPARTMENT, BUREAU, OFFICE, AGENCY, OR INSTRUMENTALITY OF THE
12 GOVERNMENT, INCLUDING CORPORATIONS OWNED, CONTROLLED OR
13 OPERATED BY THE GOVERNMENT. IN THIS REGARD, ALL GOVERNMENT
14 AGENCIES AND INSTRUMENTALITIES, UPON WRITTEN REQUEST OF THE OPEC,
15 SHALL PROVIDE ANY AND ALL ASSISTANCE AS WELL AS ANY AND ALL
16 NECESSARY INFORMATION TO ENABLE THE OPEC TO PERFORM ITS
17 FUNCTIONS AND RESPONSIBILITIES PROVIDED IN THIS ACT.

18 ARTICLE 174. AUTHORITY TO APPEAL OR FILE PETITIONS FOR
19 REVIEW. - THE OPEC SHALL HAVE THE AUTHORITY TO APPEAR, PARTICIPATE,
20 APPEAL AND CONTEST RATE AND RULE-MAKING DECISIONS OR RESOLUTIONS
21 OF THE ERC IN ACCORDANCE WITH THE PROVISIONS OF THE RULES OF COURT
22 AND APPLICABLE LAWS.

23 SEC. 3. SEPARABILITY CLAUSE. - IF ANY SECTION OR PROVISION OF THIS LAW
24 SHALL BE DECLARED UNCONSTITUTIONAL OR INVALID, THE OTHER SECTIONS OR
25 PROVISIONS NOT AFFECTED THEREBY SHALL REMAIN IN FULL FORCE AND EFFECT.

1 SEC. 4. REPEALING CLAUSE. – ALL STATUTES, EXECUTIVE ISSUANCES, ORDERS,
2 RULES AND REGULATIONS OR PARTS THEREOF INCONSISTENT WITH THE
3 PROVISIONS OF THIS ACT ARE HEREBY REPEALED OR MODIFIED ACCORDINGLY.

4 SEC. 5. EFFECTIVITY. – THIS ACT SHALL TAKE EFFECT FIFTEEN (15) DAYS
5 AFTER ITS PUBLICATION IN A NEWSPAPER OF GENERAL CIRCULATION IN THE
6 COUNTRY.

7 APPROVED.