



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

Sixteenth Congress
First Regular Session

HOUSE BILL NO. 3633

Introduced by REP. TERRY L. RIDON, REP. MARCELINO R. TEODORO &
REP. JOSE CHRISTOPHER Y. BELMONTE

EXPLANATORY NOTE

The impending P4.15 per kilowatt-hour (kWh) energy price hike is threatening to further cripple the people of this already-battered nation. For years, Filipinos have been enslaved by power generators and distributors, who have been raking in exorbitant profits from what should be a public service.

The current rate per kilowatt-hour in the Philippines rivals that of wealthy, developed nations. Prior to the enactment of Republic Act 9136, also known as the Electric Power Industry Reform Act of 2001, our people were able to consume power at the average price of five pesos. It has since ballooned to 11 pesos. With the power rate increase looming, we will not have to bear an almost 15 pesos per kilowatt-hour, a 200% increase after the passage of the bill which was supposed to alleviate the people from paying high power rates.

With Filipinos having to spend a considerable amount of their income on electricity bills, they are forced to forego of other basic necessities that they need to provide for their families. In essence, it is a violation of their constitutional right to the life, which includes the enjoyment thereof.

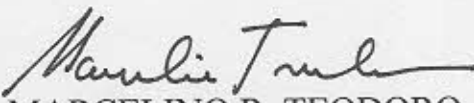
This bill aims to correct a fatal flaw in Section 6 of Republic Act 9136, also known as the Electric Power Industry Reform Act of 2001, which states that power generation shall not be considered as public utility operation. With

this error left uncorrected for more than a decade, the government has been left shackled, unable to ensure that the energy players receive a rate of return that is fair and reasonable to consumers.

The passage of this amendment will allow the government to implement the 12% rate of return that has been standard for public utilities. With the current return on rate base of power generation companies ranging from 29% to 40%, this will translate to a maximum of 28% decrease in the generation charge consumers can benefit from.

The declaration of power generation companies as public utilities will also require the security of legislative franchises.


TERRY L. RIDON
Kabataan Party List


MARCELINO R. TEODORO
District 1, Marikina City


JOSE CHRISTOPHER Y. BELMONTE
District 6, Quezon City



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AN ACT
DECLARING ANY ELECTRIC POWER GENERATION COMPANY AS
PUBLIC UTILITY, AMENDING FOR THE PURPOSE SECTION SIX (6) OF
REPUBLIC ACT NO. 9136 OTHERWISE KNOWN AS THE "ELECTRIC
POWER INDUSTRY REFORM ACT OF 2001"

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

SECTION 1. Section 6 of Republic Act No. 9136, otherwise known as the
Electric Power Industry Reform Act (EPIRA) of 2001, is hereby amended to
read as follows:

"SECTION 6. *Generation Sector.* – Generation of electric power, a
business imbued with public interest, **IS HEREBY DECLARED
A PUBLIC UTILITY.**

Upon the effectivity of this Act, before the commencement of
operations, any new generation company shall secure:

1) From **THE CONGRESS OF THE PHILIPPINES A NATIONAL FRANCHISE**,

2) From the Energy Regulatory Commission (ERC) a certificate of compliance pursuant to the standards set forth in this Act,

3) Health, safety and environmental clearances from the appropriate government agencies **AND LOCAL GOVERNMENT UNITS** under existing laws.

ALL EXISTING POWER GENERATION COMPANIES ARE HEREBY ORDERED TO SECURE A NATIONAL FRANCHISE FROM THE CONGRESS OF THE PHILIPPINES.

[Any law to the contrary notwithstanding, power generation shall not be considered a public utility operation. For this purpose, any person or entity engaged or which shall engage in power generation and supply of electricity shall not be required to secure a national franchise.]

Upon implementation of retail competition and open access, the prices charged by a generation company for the supply of electricity **MUST NOT EXCEED THE TWELVE (12) PERCENT RETURN ON RATE BASE (RORB) UNDER THE PUBLIC UTILITY LAW AND** shall [not] be subject to regulation by the ERC [except as otherwise provided in this Act].

Pursuant to the objective of lowering electricity rates to end-users, sales of generated power by generation companies shall be value added tax zero-rated.

The ERC shall [, in determining the existence of market power abuse or anti-competitive behavior,] require from generation companies the **ANNUAL** submission of [their] **INDEPENDENTLY AUDITED** financial statements."

SEC. 2. Transitory Provision. - All existing electric power generation companies are given one (1) year to secure a national franchise from the Congress of the Philippines after the effectivity of this Act.

All power generation companies shall likewise comply with the constitutional and statutory limitations on the ownership of public utilities.

SEC. 3. *Repealing Clause.* - All laws, decrees, orders, rules and regulations and other issuances or parts thereof which are inconsistent with this Act is hereby repealed, amended or modified accordingly.

SEC. 4. *Separability Clause.* - If any provision or part of this Act is declared unconstitutional or invalid, the remaining parts or provisions not affected shall remain in full force and effect.

SEC. 5. *Effectivity.* - This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in two (2) national newspapers of general circulation.

Approved,