

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SIXTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. **3676**



Introduced by **REP. BEN EVARDONE**
Lone District, Eastern Samar

EXPLANATORY NOTE

Republic Act 9136, otherwise known as the EPIRA Law, was passed in 2001 to ensure that reliable and affordable electricity is enjoyed by every consumer in a regime of fair competition and free enterprise. For this reason, the law mandated the privatization of the generation and distribution sectors.

After more than a decade of EPIRA experience, Filipinos have yet to see and feel the promised outcomes of this law. In fact, as many might have rightly observed, what was being avoided by the law still happened—sky high power rate. Seemingly, the very purpose upon which EPIRA was enacted has been ignored and defeated.

In the 2011 review on EPIRA by IBON Foundation and other development organizations, it was found out that power rates have doubled since EPIRA's implementation. In that same year, the Philippines was reported to have had the highest electricity rates in Asia in 2010, according to a study by Australia-based International Energy Consultants. Further, more than half of the total generation capacity, the entire transmission system and a large part of the distribution are now controlled by a few large companies, such that after privatization, only three groups control 52 percent of generation capacity.

Now, under EPIRA, only a few corporations dominate in both the generation and distribution sectors, to the detriment of the Filipino power consumers. This set-up has recently fueled allegations of collusion among players in the generation sector and/or with those in the distribution chain.

Carefully looking at the EPIRA law, there is a ban on cross-ownership of any distribution or generation company to own a share in the National Transmission Corporation (TRANSCO) and vice-versa. There is no such ban between the generation companies and distribution utilities. This failure to provide a ban on cross-ownership between generation companies and distribution utilities would later on become a key factor to the soaring electricity rates in the country, as the only safeguard EPIRA provided was to prevent distribution utilities from sourcing more than 50 percent of its total power demand from bilateral contracts with its related generation companies.

This proves inadequate as seen in the current situation in the power sector.

This bill proposes to amend R.A. 9136 so as to address and prevent vertical integration in generation and distribution subsector leading to blatant monopolistic control of the country's electricity sector.

Specifically, the bill seeks to prohibit cross-ownership between generation companies and distribution utilities. If enacted, this measure would mandate distribution companies holding ownership shares in generation companies to divest assets and vice versa.

Through these amendments, it is anticipated that genuine competition would take place with the possible emergence of small players who will have a fighting chance to survive a de-monopolized industry, avoid a few companies to dictate prices of electricity and for more importantly, to avoid soaring electricity prices in the future.

In view of the foregoing, the immediate enactment of this measure is earnestly sought.



BEN EVARDONE

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SIXTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. **3676**

Introduced by **REP. BEN EVARDONE**
Lone District, Eastern Samar

AN ACT
AMENDING REPUBLIC ACT No. 9136, OTHERWISE KNOWN AS THE
"ELECTRIC POWER INDUSTRY REFORM ACT OF 2001",
AND FOR OTHER PURPOSES

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

SECTION 1. Section 45 of Republic Act No. 9136 is hereby amended to read as follows:

"Sec. 45. Cross Ownership, Market Power Abuse and Anti-Competitive Behavior. – No participant in the electricity industry or any other person may engage in any anti-competitive behavior including, but not limited to, cross-subsidization, price or market manipulation, or other unfair trade practices detrimental to the encouragement and protection of contestable market.

NO DISTRIBUTION UTILITY, OR ITS RESPECTIVE SUBSIDIARY OR AFFILIATE OR STOCKHOLDERS OR OFFICIAL OR DIRECTOR OR ANY OF THEIR RELATIVES WITHIN THE FOURTH CIVIL DEGREE OF CONSANGUINITY OR AFFINITY, SHALL BE ALLOWED TO HOLD ANY INTEREST, DIRECTLY OR INDIRECTLY, IN ANY GENERATION COMPANY. LIKEWISE, NO GENERATION COMPANY, OR ITS RESPECTIVE SUBSIDIARY OR AFFILIATE OR STOCKHOLDERS OR OFFICIAL OR DIRECTOR OR ANY OF THEIR RELATIVES WITHIN THE FOURTH CIVIL DEGREE OF CONSANGUINITY OR AFFINITY, SHALL BE ALLOWED TO HOLD ANY INTEREST, DIRECTLY OR INDIRECTLY, IN ANY DISTRIBUTION COMPANY: *PROVIDED*, THAT THE DISTRIBUTION UTILITY, ITS RESPECTIVE SUBSIDIARY OR AFFILIATE OR STOCKHOLDER OR OFFICIAL OF A DISTRIBUTION UTILITY HOLDING AN INTEREST IN ANY GENERATION COMPANY, AND VICE VERSA, AT THE TIME OF THE PASSAGE OF THIS ACT, SHALL BE REQUIRED TO DIVEST THE SAME WITHIN ONE (1) YEAR FROM THE EFFECTIVITY OF THIS ACT.

No generation company or distribution utility, or its respective subsidiary or affiliate or stockholder or official of a generation company or distribution utility, or other entity engaged in generating and supplying electricity specified by ERC shall be allowed to hold any interest, direct or indirect, in TRANSCO or its concessionaire. Likewise, the TRANSCO, or its

concessionaire or any of its stockholders or officials or any of their relatives within the fourth civil degree of consanguinity or affinity, shall not hold any interest, whether direct or indirect, in any generation company or distribution utility. Except for government-appointed representatives, no person who is an officer or director of TRANSCO or its concessionaire shall be an officer or director of any generation company, distribution utility or supplier. A GENERATION COMPANY MAY BE PERMITTED TO HOLD INTEREST, DIRECTLY OR INDIRECTLY, IN ANOTHER GENERATION COMPANY: *PROVIDED*, THAT THE EXTENT OF SUCH INTEREST SHALL BE LESS THAN THE AMOUNT OF SHARES NEEDED TO VOTE ONE MEMBER OF THE BOARD OF DIRECTORS.

X X X"

SEC. 2. Repealing Clause. - All laws, Presidential Decrees, Issuances, Executive Orders, Letters of Instruction, rules and regulations inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SEC. 3. Effectivity Clause. - This Act shall take effect fifteen (15) days from the date of its publication in at least two (2) newspapers of general circulation.

Approved,