

SIXTEENTH CONGRESS
OF THE REPUBLIC OF THE PHILIPPINES
First Regular Session



HOUSE OF REPRESENTATIVES

House Bill No. **3743**

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

EXPLANATORY NOTE

Since the assumption of His Excellency President Benigno Aquino III, production and service sectors of our economy posted an unprecedented growth.

In the industry sector, particularly in manufacturing, NSCB data showed an increase in almost all industry manufacturing groups based on Gross Value Added in Manufacturing as of the 3rd Quarter of 2013. The service sector has also done its part in expanding the economy, notably the BPO industry that, in 2012, earned around \$12 Billion. By 2016, it will hit revenues up to \$25Billion, approximately 10% of Philippine GDP. By that time, the industry would be directly employing some 1.3 million Filipinos and some 3.2 million in indirect employment.

Note that the manufacturing companies' and BPOs' gains happened at a time when electricity rates were the highest or the second highest in Asia. In fact, the Philippines posted more than 7% GDP growth in 2013.

This 7% GDP growth was a shout-out for the Department of Energy (DOE) to double their efforts to provide sufficient and affordable electricity. Indeed, DOE recognizes this rule of thumb: "the higher the economic growth, the higher the demand for electricity, and vice versa."¹

In mid-2013, DOE presented this power situation²: The Philippines 2013 total capacity in MegaWatts (MW) was 17,025MW³, shared by Luzon (12,528MW⁴), Visayas (2,448MW⁵), and Mindanao (2,049MW⁶). However, the currently available capacity for Luzon is only about 10,500MW, Visayas has 2,000 more or less, and Mindanao has around 1,600MW.

DOE is uneasy. Its supply-demand projections from 2013-2020 do not look good for Luzon, Visayas and Mindanao. Based on DOE's estimates, there is already an energy crisis in Mindanao, which will get worse before it gets better (provided that all the committed and indicative power

¹ <http://www.gmanetwork.com/news/story/293312/economy/business/higher-demand-for-electricity-to-grow-as-phl-economy-expands-energy-dept>

² Source: DOE List of existing power plants as of May 2013, includes embedded generators, excludes off-grid generators

³ broken down into: Coal (5,568MW), Oil-based (3,074MW), Natural Gas (2,862MW), Geothermal (1,848MW), Hydro (3,521MW), Wind (33MW), Biomass (119MW), and Solar (1MW)

⁴ comprised of: Coal (4,531MW), Oil-based (1,778MW), Natural Gas (2,861MW), Geothermal (824MW), Hydro (2,462MW), Wind (33), Biomass (38MW)

⁵ Coal (806MW), Oil-based (670MW), Natural Gas (1MW), Geothermal (915MW), Hydro (11MW), and Biomass (44MW)

⁶ coming from: Coal (232MW), Oil-based (625MW), Geothermal (108MW), Hydro (1,047MW), Biomass (36MW), and Solar (1MW)

which will get worse before it gets better (provided that all the committed and indicative power projects are realized), while an energy crisis looms in Luzon and Visayas, following this scenario —

Luzon's committed capacity (based on committed power projects for Luzon) is only 767.4MW of which 550MW must all be available by March 2015, or else Luzon grid will have a supply deficit of 184MW, when peak demand between March and May 2015 reaches around 10,700MW. All of the 767.4MW must be available by March 2016, or else Luzon grid will have a supply deficit of 339MW from March to July 2017 when peak demand reaches around 11,606MW. Worst, if no new generation plant is constructed after March 2016, a supply deficit of 833MW will occur between March and May 2018, when peak demand reaches around 12,500MW, and which will reach 13,000MW by March 2020. Now, DOE is praying harder for the realization of Luzon Grid's Indicative Power Projects with a total rated capacity of 10,152.5MW.

Visayas and Mindanao grids sing a similar tune: Unless the committed power projects (with 429.6MW total rated capacity) in Visayas become available by September 2016 when peak demand reaches 2,400MW, Visayas will feel the effects of the supply deficit as early as November 2014.⁷ On the other hand, Mindanao, already suffering from a 119MW-supply deficit as of August 2013, is seen to suffer even more in 2014 with supply deficit increasing to 191MW, and in 2015 when the supply deficit reaches 377MW.⁸

While everyone recognizes the vital role of electricity in our day-to-day life, the energy market players seemed not to care.

After the latest suspiciously simultaneous power plants' 'maintenance' shutdowns, power rates soared, compelling the Supreme Court to restrain the hike. Afterwards, MERALCO warned of rotating blackouts in the country's prime business region, Metro Manila, and Luzon.

This warning—which some dismissed as a 'veiled'⁹ threat while others see it as a 'blackmail' or 'strangulation'—surely brought chills to the country's manufacturing and 'sunshine' industry (BPO), among others. At the same time, it encouraged the drafting of this proposal.

This bill hopes to neutralize Meralco's threat and prevent the recurrence of similar ones in the future. It seeks to avoid a no-win situation for the Filipino electricity consumers, who have been left to the mercy of energy providers the moment EPIRA took effect.

Under this bill, the President of the Republic is authorized:

1. To enter into a negotiated contract for the immediate construction of new government-owned and controlled power plants, under TRANSCO, which shall serve as standby and ancillary generators/power plants for Luzon, Visayas and Mindanao. Under the EPIRA, the Government and TRANSCO are not allowed to undertake the construction of generation plants.
2. To enter into a negotiated contract for the repair, rehabilitation, improvement, and maintenance of existing government-owned or controlled power plants, projects and facilities.

⁷ Visayas grid Indicative Power Projects have a total of 718MW rated capacity.

⁸ Mindanao grid's Committed Power Projects is around 515MW rated capacity which must all be available by March 2015; its Indicative Power Projects have a total of 2,534.6MW rated capacity which must be realized through 2020.

⁹ <http://newsinfo.inquirer.net/561553/senators-unfazed-by-rotating-blackouts>

3. To further promote the development and utilization of renewable energy sources by granting additional incentives to power generators producing electricity through renewable energy systems;
4. To suspend the imposition and collection of VAT, whenever necessary to lower the cost of electricity.

Hence, it is on this score that its immediate passage is earnestly sought.



Rep. BEN P. EVARDONE
Lone District, Eastern Samar

HOUSE OF REPRESENTATIVES

House Bill No. 3743

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

1 AN ACT
2 PRESCRIBING URGENT RELATED MEASURES NECESSARY AND PROPER TO
3 EFFECTIVELY ADDRESS THE IMPENDING ELECTRIC POWER CRISIS AND
4 FOR OTHER PURPOSES
5

6 Section 1. Short Title. — This act shall be known as the "*Electric Power Crisis*
7 *Prevention Act of 2014.*"
8

9 Section 2. Declaration of Policy. — It is hereby declared the policy of the State to
10 adopt adequate and cost effective measures to address the impending electric power crisis
11 that threatens to disrupt the country's economic and social life that could assume the nature of
12 a catastrophic calamity.
13

14 Section 3. Ancillary Generators. — The President is authorized to enter into a
15 negotiated contract for the immediate construction of new government-owned and –
16 controlled power plants, under the National Transmission Corporation (TRANSCO), which
17 shall serve as standby and ancillary generators/power plants for Luzon, Visayas, and
18 Mindanao. For this purpose, the President is hereby authorized to utilize all available
19 government resources including the Malampaya Fund referred to in Presidential Decree No.
20 910.
21

22 All earnings derived from the operation of such standby and ancillary
23 generators/power plants shall be retained by the National Transmission Corporation for its
24 use in the operation and maintenance of the same.
25

1 **Section 4. Negotiated Contracts.** — Pursuant to the above declared policy and in the
2 public interest and whenever it is advantageous to the Government, the President may enter
3 into negotiated contracts for the repair, rehabilitation, improvement or maintenance of
4 existing government-owned or –controlled power plants, projects, and facilities, subject to the
5 following requirements:
6

7 **(a)** In order to inform competitive contractors, the list of projects to be undertaken this
8 Act, together with their description, the budgetary estimates involved and other salient
9 features, shall be published in a newspaper of general circulation thirty (30) days after the
10 effectivity of this Act;
11

12 **(b)** Upon perfection of the contract, the terms and conditions of the same, with the
13 name and qualifications of the contractor, shall likewise be published in a newspaper of
14 general circulation two (2) weeks before the signing of the contract;
15

16 **(c)** The contracts shall be awarded only to contractors with:

- 17 **(i)** proven competence and experience in similar projects;
18 **(ii)** competent key personnel and sufficient and reliable equipment; and
19 **(iii)** sound financial capacity; and
20

21 **(d)** All the awarded projects shall be subject to existing government auditing rules and
22 regulations governing negotiated contracts.
23

24 **Section 5. Other Powers.** — The President is authorized to suspend, whenever
25 necessary to lower the cost of electricity, the imposition and collection of value added tax
26 (VAT) on electric power.
27

28 **Section 6. Prohibitions.** — The President is prohibited to grant Sovereign Guarantee
29 Payments or any other form of guarantee for purposes of this Act.
30

31 **Section 7. Incentives.** – To further encourage the development and utilization of
32 renewable energy resources such as but not limited to solar, wind, hydro, geothermal and
33 biomass, the President is authorized to grant incentives to power generators producing

1 electricity through renewable energy systems in addition to those provided under existing
2 laws, rules and regulations.

3

4 **Section 8. Exemption** — All actions as may be invoked by the President under this
5 Act shall be exempt from the provisions of Republic Act 9184.

6

7 **Section 9. Duration of Grant of Powers.** — The authority granted to the President
8 under this Act shall subsist, be valid and effective for a period of one (1) year from the
9 effectivity of this Act, unless sooner withdrawn by a resolution of Congress, without
10 prejudice to rights and benefits that may have been vested, and culpabilities and liabilities
11 that may have been incurred.

12

13 **Section 10. Oversight Committee.** — There is hereby created an Oversight
14 Committee in each House of Congress to be composed of five (5) members of each, as may
15 be designated by the Senate President and the Speaker of the House of Representatives, to
16 monitor the implementation of this Act and the exercise of the authority granted thereunder.

17

18 The Oversight Committee shall submit periodic reports, evaluations and
19 recommendations to the Senate and the House of Representatives.

20

21 **Section 11. Reportorial Requirement.** — The President shall submit a quarterly
22 report to Congress on the Implementation of this Act.

23

24 **Section 12. Separability Clause.** — If for any reason any provision of this Act is
25 declared unconstitutional or invalid, other parts or provisions hereof which are not affected
26 thereby shall continue to be in full force and effect.

27

28 **Section 13. Repealing Clause.** — All laws, decrees, orders, rules and regulations, or
29 portions thereof, inconsistent with this Act are hereby repealed or modified accordingly.

30

31 **Section 14. Effectivity Clause.** — This Act shall take effect on the day following its
32 publication in at least two (2) national newspapers of general circulation.

33

34 *Approved*