



Republic of the Philippines
House of Representatives
Quezon City, Metro Manila

SIXTEENTH CONGRESS

First Regular Session

House Bill **3847**



Introduced by ABAKADA Representative Jonathan A. de la Cruz

EXPLANATORY NOTE

This bill seeks to protect the rights and promote the welfare of powerconsumers and address the increasingly deleterious effects of theElectric Power Industry Reform Act (EPIRA) on our people and thecountry as a whole.

It aims to provide a more balanced, pro-active and equitable guide forthe development of the power industry and spare the country from the'blame game', zigzagging practices and increasingly inequitable andhighly politicized framework now governing this vital sector.

The recent controversy over the questionable spike in power rates hasbrought to the fore the flaws in the EPIRA. Instead of bringing about sustainable, accessible and affordable electricity to consumers and propel the country's development, the law has resulted in thePhilippines having the highest power rate in Asia with an averageretail price of US18.1 cents/kwh. This rate has surpassed Japan'sUS17.9 US cents , the highest in Asia in 2011. With the latest ERCapproved rate we should now have an even higher price bringing furtherwoes not only to ordinary households but to big consumers as well.

And, of course, deterring the country's development no end.

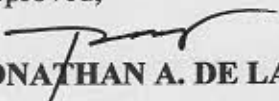
In the case of Mindanao "The Land of Promise", for example, latestreports show that except for the CARAGA region, all other regions inthe island have more expensive residential rates than those inHongkong SAR belying the off repeated claim that Mindanaoenjoys'cheaper' power rates owing to its hydro electric plants. Mostof Mindanao including Iligan City where the Maria Cristina NAPOCORplant is located have higher residential rates than major Asian citieslike Bangkok, Shanghai, Kuala Lumpur, Jakarta and Taipei. In fact,residential consumers in Cagayan de Oro City, the gateway to NorthernMindanao and a major commercial and manufacturing hub, together withthose in another major metropolis, Davao City, have more expensiveelectricity than consumers in Seoul and Beijing. To think thatMindanao already enjoys the lowest residential electric rate in thecountry with an effective rate of P6.69/kwh compared with Luzon'sP9.84/kwh and the Visayas' P8.19/kwh.

With such stratospheric rates in place, is it any wonder why amajority of Filipinos consider themselves worse off today than threeyears ago with almost 70% of our people indicating that they arepoorer now than previous years. After all, in most cases electricitypayments constitute at least 25 to 30 percent of the average Filipino family's monthly budget. Such high power rates has also decidedlydragged our development down even as we trumpet our growth rates asone of the highest in the region.

This bill seeks to relieve consumers of the seemingly unending burdenof increased power rates, provide a way forward for truly sustainable,accessible and affordable electricity and propel the country'sdevelopment to even greater heights.

In view of the foregoing, approval of this bill is earnestly requested.

Approved,


JONATHAN A. DE LA CRUZ



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AN ACT TO PROTECT THE RIGHTS AND PROMOTE THE WELFARE OF POWER CONSUMERS, AMENDING FOR THE PURPOSE SECTIONS 6, 28, 31 AND 71 OF REPUBLIC ACT NO. 9136, AND FOR OTHER PURPOSES

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

Section 1. Short Title - This Act shall be known as the "**Power Consumers Protection and Welfare Act of 2014**"

Section 2. Amendments - Sections 6, 28, 29, 30, 31, 70 and 71 of Republic Act No. 9136 otherwise known as the Electric Power Industry Reform Act of 2001 are hereby amended to read as follows:

"SEC. 6. **Generation Sector.** -Generation of electric power shall be competitive and open.

Upon the effectivity of this Act, any new generation company shall, before it operates, secure from the Energy Regulatory Commission a certificate of compliance pursuant to the standards set forth in this Act, as well as health, safety and environmental clearances from the appropriate government agencies under existing laws

"...Any law to the contrary notwithstanding, power generation SHALL BE considered a public utility WHOSE operation SHALL BE SUBJECT TO THE PROVISIONS OF THE PUBLIC SERVICE ACT (Commonwealth Act No. 146) "

"xxx EVEN UNDER A REGIME OF RETAIL COMPETITION AND OPEN ACCESS, THE EXISTENCE OF WHICH SHALL BE DETERMINED BY THE DEPARTMENT OF ENERGY (DOE) AND THE ENERGY REGULATION COMMISSION (ERC) AND CONCURRED TO BY THE CONGRESSIONAL POWER COMMISSION, THE PRICES CHARGED BY A GENERATION COMPANY FOR THE SUPPLY OF ELECTRICITY SHALL REMAIN THE SUBJECT OF REGULATION UNDER SUCH TERMS AND CONDITIONS AS MAY BE PROMULGATED BY THE ERC..."

"xxx...."

"...The ERC shall, in determining the existence of market power abuse or anti-competitive behavior, require from generation companies the submission of their financial statements, OPERATIONAL PLANS AND SUCH OTHER NECESSARY DOCUMENTS TO MAKE SUCH DETERMINATION IN AS FACTUAL AND PROPER A MANNER AS POSSIBLE..."

SEC. 28. De-Monopolization and Shareholding Dispersal. - In compliance with the constitutional mandate for dispersal of ownership and de-monopolization of public utilities, the holdings of persons, natural or juridical, including directors, officers, stockholders and related interests, in a distribution utility and their respective holding companies shall not EXCEED TEN PERCENT (10%) of the voting shares of stock.

..XXXXX..IF THE UTILITY OR THE COMPANY HOLDING THE SHARES OR ITS CONTROLLING STOCKHOLDERS ARE ALREADY LISTED IN THE PHILIPPINE STOCK EXCHANGE (PSE) THEIR HOLDINGS SHOULD NOT EXCEED TWENTY FIVE PERCENT (25%) OF THE VOTING SHARES OF STOCK..."

SEC. 29. Supply Sector. - The supply sector is a business affected with public interest..AS SUCH THE OPERATIONS OF ALL SUPPLIERS OF ELECTRICITY INCLUDING THOSE SUPPLYING TO THE CONTESTABLE MARKET SHALL BE SUBJECT TO THE PUBLIC SERVICE LAW (Commonwealth Act No. 146)....

SEC. 30. Wholesale Electricity Spot Market. - "...XXXXX.....The DOE shall establish a wholesale electricity spot market composed of the wholesale electricity spot market participants...WHICH SHALL SERVE AS A CLEARING HOUSE AND... provide the mechanism for identifying and setting the price of actual variations from the quantities transacted under contracts between sellers and purchasers of electricity.

".....XXXXX ...The wholesale electricity spot market shall be implemented by a market operator in accordance with the wholesale electricity spot market rules. The market operator shall be an autonomous group, to be constituted by DOE, XXX... with "...THE ACTIVE PARTICIPATION OF DULY RECOGNIZED CONSUMER GROUPS and ...xxx REPRESENTATIVES FROM ELECTRIC POWER INDUSTRY PARTICIPANTS...."

".....XXX..AT ALL TIMES, DULY ACCREDITED REPRESENTATIVES OF CONSUMERS SPECIALLY THOSE CATEGORIZED AS RESIDENTIAL, MICRO AND SMALL ENTERPRISES, SHOULD BE REPRESENTED IN THE BOARD OF THE MARKET OPERATOR....XXX"

"...In cases of national and international security emergencies or natural calamities OR IF WITHIN A THREE DAY TRADING PERIOD THERE IS AN EXTRAORDINARY SPIKE IN POWER RATES, the ERC is hereby empowered to suspend the operation of the wholesale electricity spot market or declare a temporary wholesale electricity spot market failure....

SEC. 31. Retail Competition and Open Access. - "...Any law to the contrary notwithstanding.... WITHIN A PERIOD OF SIX (6) MONTHS FROM THE EFFECTIVITY OF THIS ACT, THE ERC IS MANDATED TO EVALUATE THE PERFORMANCE OF THE WHOLESALE ELECTRICITY MARKET TAKING INTO CONSIDERATION THE EXPERIENCE OF ALL CONSUMERS SPECIALLY RESIDENTIAL, MICRO AND SMALL ENTERPRISES FROM THE TIME THE SAME WAS DECLARED OPEN AND IN PLACE TO DETERMINE ITS EFFECTIVENESS AS A VEHICLE FOR THE PROVISION OF SUSTAINABLE, ACCESSIBLE AND AFFORDABLE POWER..."

SEC. 70. "POWER SECURITY AND MISSIONARY FUNCTIONS. - Notwithstanding the divestment and/or privatization of NPC assets, IPP contracts and spun-off corporations, NPC shall remain as a National Government-owned and -controlled corporation ..RESPONSIBLE IN PROVIDING THE NEEDED POWER SECURITY and perform other related missionary FUNCTIONS through,. AMONG OTHERS, the Small Power Utilities Group (SPUG) and shall be responsible for providing THE MEANS TO ENSURE power generation and its associated power delivery systems in TIMES OF EMERGENCY OR MARKET FAILURE and in areas that are not connected to the transmission system. The POWER SECURITY and missionary electrification function shall be funded from AN INCREASE IN THE CAPITALIZATION OF



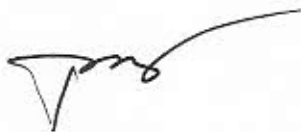
THE NPC, ANNUAL APPROPRIATIONS, SALE OF BONDS AND OTHER GOVERNMENT SECURITIES AND the revenues from sales in missionary areas and from the universal charge to be collected from all general electricity end-users as determined by the ERC.

SEC. 71. Electric Power Crisis Provision - "...THE DEPARTMENT OF ENERGY (DOE) AND THE ENERGY REGULATORY COMMISSION (ERC) ARE MANDATED TO SUBMIT TO CONGRESS AN ANNUAL REPORT ON THE ENERGY SITUATION WHICH SHALL FORM THE BASIS FOR THE DECLARATION OF A POSSIBLE POWER CRISIS AS NECESSARY. Upon the determination by the President of the Philippines of an imminent shortage of the supply of electricity, Congress may authorize, through a joint resolution, the establishment of additional generating capacity OF THENAPOCOR under such terms and conditions as it may approve....

Section 3. Separability Clause – If, for any reason, any section or provision of this Act shall be held unconstitutional or invalid by a competent authority, no other section, provision or part hereof shall be affected and the same shall remain in full force and effect.

Section 4. Repealing Clause - All other laws, executive orders, issuances or parts thereof inconsistent with the provisions of this Act are hereby amended, repealed and modified accordingly.

Section 5. Effectivity Clause – This Act shall take effect fifteen (15) days following its publication in the Official Gazette or in at least two (2) newspapers of general circulation.

A handwritten signature in black ink, appearing to be a stylized name, possibly "M. S. ...", with a long horizontal line extending to the right.