

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City



SIXTEENTH CONGRESS
Second Regular Session

HOUSE BILL NO. **4761**

Introduced by Honorable Alfredo "Albee" B. Benitez

EXPLANATORY NOTE

The passage of the Electric Power Industry Reform Act in 2001 generated hopes not only for a more accessible power supply over the all the regions of the country but also for more affordable power rates. The law supposedly promotes "transparent and reasonable prices of electricity in a regime of free and fair competition".

Unfortunately, thirteen years after the approval of EPIRA, its intention of bringing down the rates through the cultivation of market competition remains elusive. Electricity rates in the Philippines are among the highest in the region (NSCB, 2013). The Trade Union Congress of the Philippines reports that 11 to 15 percent of Filipino workers' take home pay goes to the cost of electricity alone.

While the EPIRA included safeguards against the monopolistic control of the local power industry by introducing the Wholesale Electricity Spot Market and prohibited cross-ownership, some private corporations have still found ways to circumvent the law through the loopholes in the approved policy. For instance, even with the introduction of WESM, distribution utilities are still allowed to enter into bilateral supply contracts. The 2013 USAID study reported that majority of the energy sales in WESM are not spot sales. Some 90 percent of the power purchases are instead bilateral agreements. Possible collusion seems to occur when currently some companies that have interests in both a distribution and generation utility become participants in bilateral agreement, and thus negate the intention of the EPIRA.

This bill seeks to amend the provision in EPIRA allowing Distribution Utilities (DUs) to enter into bilateral power supply agreements and which the role of ERC is only to evaluate Power Supply Agreements (PSAs). The bill mandates ERC to conduct the transparent and competitive selection process in power supply contracts between Distribution Utilities and generation companies. Such amendment to EPIRA will provide for a closer scrutiny of power contracts and will make DOE accountable for questionable transactions between the distribution and generation sectors.

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



ALFREDO "ALBEE" B. BENITEZ

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**AN ACT REQUIRING THE ENERGY REGULATORY COMMISSION TO CONDUCT A
TRANSPARENT BIDDING PROCESS FOR POWER SUPPLY, AMENDING FOR THE
PURPOSE SECTION 45, B OF REPUBLIC ACT NO. 9136, OTHERWISE KNOWN AS THE
"ELECTRIC POWER INDUSTRY REFORM ACT OF 2001"**

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

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

"Section 45. Cross Ownership, Market Power Abuse and Anti-Competitive Behavior. -x xx

x xx

x xx

(a) x xx

(b) [Distribution utilities may enter into bilateral power supply contracts subject to review by ERC.] THE ENERGY REGULATORY COMMISSION (ERC) SHALL UNDERTAKE A TRANSPARENT AND COMPETITIVE BIDDING PROCESS FOR THE SUPPLY OF ELECTRICITY TO BE PARTICIPATED BY DISTRIBUTION UTILITIES (DUs). THE DU AWARDED WITH THE WINNING BID SHALL ENTER INTO A

BILATERAL POWER SUPPLY AGREEMENT WITH THE GENERATION COMPANY WHERE THE POWER WAS SOURCED. THE POWER SUPPLY AGREEMENT SHALL BE SUBMITTED TO ERC, WITHIN THIRTY DAYS AFTER THE BIDDING, FOR FINAL APPROVAL.

THE ERC SHALL CREATE AN OFFICE WITHIN THE COMMISSION WHICH SHALL BE TASKED TO CONDUCT THE BIDDING FOR POWER SUPPLY AGREEMENTS AND SHALL REVIEW FINAL AGREEMENT DOCUMENTS OF THE DU AND GENERATION COMPANY, AS WELL AS MONITOR THE EXECUTION AND IMPLEMENTATION OF CONTRACTS.

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,