



Sixteenth Congress
First Regular Session

HOUSE BILL NO. **4763**

Introduced by Hon. Henry S. Oaminal

EXPLANATORY NOTE

This bill seeks to address the lingering power crisis by amending certain provisions of Republic Act (RA) No. 9136, otherwise known as the "*Electric Power Industry Reform Act of 2001*" (EPIRA).

RA 9136 otherwise known as the EPIRA Law is designed to ensure and accelerate the total electrification of the country, ensure the quality, reliability, security and affordability of the supply of electric power, ensure transparent and reasonable prices of electricity in a regime of free and fair competition and full public accountability.

However, in more than a decade after the EPIRA Law's enactment, this Law has failed to ordain reforms in the electric power industry. Instead, higher electricity rates (estimated as one of the highest in Asia) and lingering power outages, especially in Mindanao, have become a burden to the detriment of the consumers and the country's economy. The high cost of electricity hinders the flow of investments to the country which we severely need to generate more job opportunities.

One of the issues that needs to be addressed is the lingering power crisis in Mindanao. Unless the EPIRA Law is amended, this problem will always continue to haunt the people of Mindanao. One possible amendment is to exclude the Agus and Pulangui hydropower complexes, all existing IPP contracts of NPC and other power plants owned and operated by the Government in Mindanao from privatization. The Government should retain control of these facilities because they supply half of Mindanao's energy needs. It should also endeavour to rehabilitate, maintain and develop these power

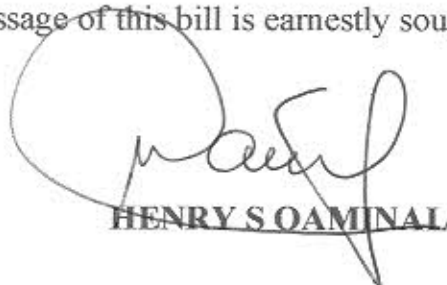
plants as hydropower is still the cheapest. The continuous ownership by the government of these facilities will help in establishing a reliable, efficient, transparent and competitive market for bulk supply of electricity in Mindanao. Further, it will keep the price of electricity at affordable levels as a means of ensuring a more efficient delivery of electricity supply in Southern Philippines.

Another amendment is to exclude the existing IPP contracts of NPC from privatization so that it could continue to provide cheaper electricity to the consumers under the supervision of NPC.

Thirdly, Section 47(j) of the same Law which only allows the NPC to generate power from "undisposed generating assets and IPP contracts of PSALM Corp.", shall likewise be amended by authorizing the "President of the Philippines during in times of extreme necessity to engage in contracts for additional generating capacity to address the power supply deficiency in the affected area".

Lastly, to complement the amendment in Section 47(j), Section 71 of the same Law on electric power crisis provision is hereby deleted in order to authorize the President of the Philippines during emergency situation to engage in contracts for additional generating capacity without Congress approval. It will take time for the establishment of additional generating capacity if the President needs the authorization of Congress because we have to contend with the practice of having approvals, deliberations, debates in Congress just to come up with a policy as Law to solve the problem. The President should be given this power because the timeframe to make decisions during emergency situations is very short. Hence, this bill.

In view of the foregoing, immediate passage of this bill is earnestly sought.



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**AN ACT
ADDRESSING THE LINGERING POWER CRISIS, AMENDING FOR
THE PURPOSE 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 47 of the same Act is hereby amended to
read as follows:

“SEC. 47. *NPC Privatization.* – Except for the assets of
SPUG, THE AGUS AND PULANGUI COMPLEXES, ALL
EXISTING IPP CONTRACTS OF NPC AND OTHER POWER
PLANTS OWNED AND OPERATED BY THE GOVERNMENT IN
MINDANAO, the generation assets, real estate, and other disposable
assets [as well as IPP contracts of NPC] shall be privatized in
accordance with this Act. Within six (6) months from the effectivity

of this Act, the PSALM Corp. shall submit a plan for the endorsement by the Joint Congressional Power Commission and the approval of the President of the Philippines, on the total privatization of the generation assets, real estate, AND other disposable assets [as well as existing IPP contracts of NPC]and thereafter, implement the same in accordance with the following guidelines, except as provided for in Paragraph (f) herein:

(a) The privatization value to the National Government of the NPC generation assets, real estate, AND other disposable assets [as well as IPP contracts] shall be optimized;

(b) xxx

xxx xxx xxx;

(f) The Agus and the Pulangui complexes, ALL EXISTING IPP CONTRACTS OF NPC AND OTHER EXISTING POWER PLANTS OWNED AND OPERATED BY THE GOVERNMENT IN MINDANAO shall be excluded from [among] the generation [companies] ASSETS OF NPC that will be [initially] privatized. Their ownership shall be transferred to the PSALM Corp. and both COMPLEXES AND SUCH POWER PLANTS IN MINDANAO shall continue to be operated, MAINTAINED AND REHABILITATED by

PSALM THRU the NPC. [Said complexes may be privatized not earlier than ten (10) years from the effectivity of this Act, and,] [e] Except for Agus III, THE AGUS AND THE PULANGUI COMPLEXES, ALL EXISTING IPP CONTRACTS OF NPC AND OTHER POWER PLANTS OWNED AND OPERATED BY THE GOVERNMENT IN MINDANAO shall not be subject to Build-Operate-Transfer (BOT), Build-Rehabilitate-Operate-Transfer (B-R-O-T) and other variations thereof pursuant to Republic Act No. 6957, as amended by Republic Act No. 7718. [The privatization of Agus and Pulangui complexes shall be left to the discretion of PSALM Corp. in consultation with Congress;]

(g) xxx

xxx

xxx

xxx.”

(j) NPC may generate and sell electricity only from the undisposed generating assets and IPP contracts of PSALM Corp. HOWEVER, DURING IN TIME OF EXTREME NECESSITY, THE PRESIDENT OF THE PHILIPPINES SHALL BE AUTHORIZED TO ENGAGE IN CONTRACTS FOR ADDITIONAL GENERATING CAPACITY TO ADDRESS THE POWER SUPPLY DEFICIENCY IN THE AFFECTED AREA.[and shall not incur any

new obligations to purchase power through bilateral contracts with generation companies or other suppliers.]”

SEC. 2. Section 71 of the same Act shall is hereby deleted to read as follows:

“[SEC. 71. *Electric Power Crisis Provision.* – Upon the determination by the President of an imminent shortage of the supply of electricity, Congress may authorize, through a joint resolution , the establishment of additional generating capacity under the terms and conditions as it may approve.]”

SEC. 3. Sections 72, 73, 74, 75, 76, 77, 78, 79, 80, and 81 of the same Act are hereby renumbered accordingly

SEC. 4. 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,