

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

16th Congress
2nd Regular Session

HOUSE BILL NO. **4819**



Introduced by **HON. BENHUR L. SALIMBANGON**

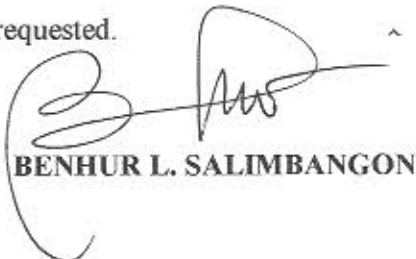
EXPLANATORY NOTE

The energy sector is vital in the progress of our nation. One of the laws that govern the energy industry is the electric power industry reform act of 2001. Certain provisions of the said law have become obsolete due to the changing times. The law is not responsive anymore to the varying needs of the stakeholders in the energy sector. Therefore, there is a need to amend certain provisions of the said law. Moreover, the proposed amendments are in answer to the many complaints from stakeholders that some cases lodged before the ERC takes forever. Identified as major culprits for the delay are as follows:

- 1) The very technical nature of the cases entertained by the Commission and the associated voluminous documents
- 2) The fact that there are more than a hundred utilities regulated by the Commission that are required to file periodic applications/petitions, not to mention force majeure and capex applications that are dependent on occurrence or when the necessity arises.
- 3) The highly-centralized organizational structure of the ERC
- 4) The very limited budget allocation
- 5) Other logistical issues due to the mandate of EPIRA, albeit necessary, that the Commission shall hold at least one hearing in the municipality or locality that will be affected by the Commission
- 6) The fact that issues may not be the same or common among the three geographical subdivisions which are made even more distinct because they are served by different grids, despite the interconnection of Luzon and the Visayas.
- 7) The fact that the ERC is undermanned, a fact that even the USAID recognized.

As recommended by the ADB, the ERC needs reorganization due to the myriad of changes that the industry has undergone since the enactment of the EPIRA. The proposed amendments are designed to decentralize the Commission by increasing the number of Commissioners and dedicate one division each for Luzon, Visayas and Mindanao.

Hence, the approval of this bill is earnestly requested.


BENHUR L. SALIMBANGON

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**A BILL AMENDING REPUBLIC ACT 9136, OTHERWISE KNOWN AS "THE
ELECTRIC POWER INDUSTRY REFORM ACT OF 2001" AND EXPANDING AND
ENHANCING THE ENERGY REGULATORY COMMISSION**

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

Chapter IV of R.A. 9136 is hereby amended to read as follows:

CHAPTER IV

REGULATION OF THE POWER INDUSTRY

Sec. 38. Creation of the Energy Regulatory Commission. x x x

The Commission shall be composed of a **Chairman and eight (8) members to be
appointed by the President of the Philippines.**

The Chairman and the members of the Commission shall be natural-born citizens and residents of the Philippines, persons of good moral character, at least thirty-five (35) years of age, and of recognized competence in any of the following fields: energy, law, economics, finance, commerce, or engineering, with at least (3) years actual and distinguished experience in their respective fields of expertise: Provided, that out of the **eight (8) members of the Commission, at least two (2) shall be a member of the Philippine Bar** with at least ten (10) years experience in the active practice law, and **three (3) shall be a certified public accountant** with at least ten (10) years experience in active practice.

Of the eight (8) members of the Commission, two (2) shall be assigned to the Luzon Division, three (3) to the Visayas Division and the remaining three (3) to the Mindanao Division.

The Chairman of the Commission shall be Presiding Commissioner of the Luzon Division. The Presiding Commissioners of the Visayas and Mindanao Divisions shall be members of the Philippine Bar.

Within three (3) months from the time this law take effect, the Chairman shall submit for the approval of the President of the Philippines the new organizational structure and plantilla positions necessary to carry out the powers and functions of the ERC **which shall take into account the technical and administrative support of the Visayas and Mindanao Divisions.**

The Chairman of the Commission, who shall be a member of the Philippine Bar, shall act as the Chief Executive Officer of the Commission.

All members of the Commission shall have a term of seven (7) years: **Provided, That those members of the Commission when these amendments take effect shall continue to hold office until the expiration of their term under the original R.A. 9136;** Provided, further, that for the purpose of determining who would be assigned to which Division, the members prior to this amendment shall agree among themselves their respective assignments; Provided, furthermore, That appointment to any future vacancy shall only be for the unexpired term of the predecessor: Provided, finally, That there shall be no reappointment to any vacancy in the Commission either in the same Division or to another Division and in no case shall any member serve for more than seven (7) years in the Commission.

The Chairman and members of the Commission shall enjoy security of tenure and shall not be suspended or removed from office except for just cause as specified by law.

The Chairman and members of the Commission or any of their relatives within the fourth civil degree of consanguinity or affinity, legitimate or common law, shall be prohibited from holding any interest whatsoever, either as investor, stockholder, officer or director, in any company or entity engaged in the business of transmitting, generating, supplying or distributing any form of energy and must, therefore, divest through sale or legal disposition of any and all interest in the energy sector upon assumption of office.

The Commission meeting en banc is necessary for the adoption of any rule, resolution or decision of national application. Likewise, cases before the Commission that have no precedence or necessitating policy decisions shall be heard by the Commission en banc.

The Commission en banc shall be composed of all members of the Commission. The Chairman shall preside the sessions of the Commission en banc where two-thirds (2/3) majority shall constitute a quorum.

The presence of at all three (3) members of **Division** shall be necessary for the adoption of any ruling, order, decision, or other act of the Commission in the exercise of its quasi-judicial functions: Provided, That in fixing rates and tariffs, an affirmative vote of three (3) members shall be required.

SEC.39. Compensation and other Emoluments for ERC Personnel. – The compensation and other emoluments for the Chairman and members of the Commission and the ERC personnel shall be exempted from the coverage of Republic Act No. 6758, otherwise known as the “Salary Standardization Act”.

The Chairman and members of the Commission shall initially be entitled to the same salaries, allowances and benefits as those of the Presiding Justice and Associate Justices of the Supreme Court, respectively. The Chairman and the members of the Commission shall, upon completion of their term or upon becoming eligible for retirement under existing laws, be entitled to the same retirement benefits and the privileges provided for the Presiding Justice and **Associate Justices of the Supreme Court**, respectively.

The salary and benefits of the ERC personnel shall be equivalent to those of the personnel of the Supreme Court. For this purpose, the ERC shall be allowed to retain a portion of its revenues adequate for the performance of its functions.

SEC.40. *Enhancement of technical Competence.* – The ERC shall establish rigorous training programs for its staff for the purpose of enhancing the technical competence of the ERC in the following areas: evaluation of technical performance and monitoring of compliance with service and performance standards, performance-based rate-setting reform, environmental standards and such other areas as will enable the ERC to adequately perform its duties and functions.

SEC. 41. *Promotion of Consumer Interest,* - The ERC shall handle consumer complaints and ensure the adequate promotion of consumer interests.

SEC. 42. *Budget of the ERC.* – The amount of **Five Hundred million pesos (P500,000,000.00)** is hereby allocated for the **ERC**. Any balance shall initially be sourced from the Office of the President of the Philippines. Thereafter, the annual budget of the **ERC** shall be determined by the Commission.

Approved,