



INTRODUCED BY REPRESENTATIVES CARLOS ROMAN L. UYBARRETA and RODEL M. BATOCABE

EXPLANATORY NOTE

Electricity is one of the most important blessings that science has given to mankind. It has also become part of modern life and one cannot think of a world without it. Through time, the importance of electricity to people's life has only increased. On this ground, more efficient and reliable provision of electricity is desirable for peace and security. Our government has taken full gear in the provision of electricity for all and to the farthest and poorest sector of our society...thus PD 269 was signed into law in August 1973. Presidential Decree 269 created the National Electrification Administration (NEA) declaring as a national policy objective the total electrification of the Philippines and the development of electric cooperatives to uplift the standard of living in the rural areas.

The fact that the Philippines contain several small islands makes electricity distribution difficult. It is also located in the "typhoon belt" which makes it more challenging as an average of twenty (20) typhoons visit each year. The effects of the 2013 thru 2016 Pacific typhoon season were considered some of the worst in decades. Through the years, series of typhoons impacted the country with Typhoon Yolanda bringing the worst damage in terms of death toll and damage to properties. Typhoon Yolanda made its first landfall in the Easter Visayas with winds recorded at 315 km/hr (195 mph). The storm produced a large storm surge which brought the death of around 7,000 people. Damages are estimated at 89.6 billion. Transmission and distribution lines of electricity were damaged. It took the government weeks and even months to fully rehabilitate the metropolis of Leyte.

Data from the Department of Budget and Management (DBM) shows the actual cost of damages from destructive typhoons from 2010 to 2016: 2010 - Typhoon Juan-11 billion; 2011 - Typhoon Pedring - 15 billion; 2012 - Typhoon Pablo - 42.2 billion; 2013 - Typhoon Yolanda - 89.6 billion; 2014 - Typhoon Glenda - 38.6 billion; 2015 - Typhoon Lando and Onyok - 6.2 billion; and 2016 - Typhoon Ferdie - 365 million.

Without electricity, no meaningful relief and rescue efforts can take place, health conditions deteriorate in the absence of basic services and peace and order condition quickly degenerates.

There is therefore a need for the government to act fast enough to respond to the needs of the electric cooperatives especially after the Force Majeure and Fortuitous Events. And the need to infuse funds to quickly respond to put back electricity ---relocate, rehabilitate, repair transmission and distribution lines and other assets of electric cooperatives with out the long procedure to wait for funds to be released by the national government. From 2004-2014, the national government has provided a total of Php 6.3 billion to 75 electric cooperatives which were damaged by calamities. The release of the funds was significantly delayed due to the completion of facts/reports of damages and finally, approval of the President upon completion of the required reports on the extent of damages.

The time lapse provides opportunity for lawless elements to bring more uncertainty and further burden families already devastated emotionally and financially. The economy is at a stand still, no production of goods and services and no means of communication.

For 2015, data from the Department of Energy (DOE) shows 79.9% or 17.4 million households are electrified and this figure translates to 87 million Filipinos who are dependent for electricity from 120

electric cooperatives nation-wide. DOE is working to achieve 86.20% household electrification by end of this year and 90% by 2017.

The creation of a readily available TRUST FUND will certainly streamline the process of fund sourcing and will allow for the fast restoration and rehabilitation of transmission and distribution lines and other assets of electric cooperatives.

In view of all the foregoing, the kind and favourable support of the members of Congress for the prompt and timely passage of this measure is earnestly sought.



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Republic of the Philippines
Congress of the Philippines
Quezon City

Seventeenth Congress
First Regular Session

House Bill No. **4408**

Introduced by Representatives **Carlos Roman L. Uybarreta**, 1-CARE Party List and
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**AN ACT CREATING AN ENERGY DISASTER TRUST FUND FOR ELECTRIC
COOPERATIVES AND PROVIDING FUNDS THEREFOR**

CHAPTER 1
TITLE, POLICY AND DEFINITIONS

SECTION 1. Title. This Act shall be known as the “**Energy Disaster Trust Fund For Electric Cooperatives.**”

SECTION 2. Declaration of Policy. The total electrification of the Philippines on an area coverage basis being vital to the welfare of its people and the sound development of the Nation, it is hereby declared to be the policy of the state to pursue and foster, in an orderly and vigorous manner, the attainment of this objective. For this purpose, the State shall:

- a) Give every tenable support and assistance, to the fullest extent of which the State is capable, the electric cooperatives because of their non-profit nature, cooperative character and the heavy financial burdens that they must sustain to become effectively established and operationally viable;
- b) Uphold the people’s constitutional rights to life and property by providing immediate assistance to electric cooperatives adversely affected by force majeure or fortuitous events and restore electricity to the fullest extent;
- c) Adopt and implement a coherent, comprehensive and efficient means of financial assistance to electric cooperatives and promote involvement and participation of all sectors and stakeholders to restore electric service in the earliest time to lessen the socio-economic and environmental impacts brought about by force majeure or fortuitous events;
- d) Allocate funds in the form of a trust fund for the immediate restoration of electric cooperatives’ damaged facilities;
- e) Require electric cooperatives to develop a comprehensive vulnerability risk assessments that identifies disaster preparedness and mitigation measures and emergency response plans to protect, strengthen, restore and rehabilitate damaged infrastructure assets and facilities.

SECTION 3. Scope. This Act shall be applicable to all Electric Cooperatives throughout the country.

SECTION 4. Definition of Terms. As used in this Act, the following words or terms shall have the following meanings, unless provided otherwise:

- a) Disaster - shall refer to a serious disruption of the functioning of a community or a society involving widespread human, material, economic or environmental losses and impacts which exceeds the ability of the affected community to cope using its own resources.
- b) Electric Cooperatives - shall refer to distribution utility created and operating pursuant to Presidential Decree No. 269, as amended;
- c) Emergency Response Plan - shall refer to the development and preparation of written and formal plan regarding "organizational structure and steps" which will enable the Electric Cooperative to restore its system in a safe and timely manner after a Force Majeure or Fortuitous Event;
- d) Energy Regulatory Commission - shall refer to the regulatory agency created under Republic Act No. 9136;
- e) Force Majeure- shall refer to an event that is a result of elements of nature that cannot be reasonably anticipated or controlled, such as, but not limited to typhoon, storm, tropical depression, flood drought, volcanic eruption, earthquake, tidal wave or landslide;
- f) Fortuitous Event- shall refer to an act of war (declared or undeclared), sabotage, blockade, revolution, riot, insurrection, civil commotion or any violent or threatening action;
- g) Government Agency- or "agency of the government" or "agency" refers to any department, bureau or office of the national government, or any of its branches or instrumentalities, or any political subdivision, as well as any government controlled corporations including its subdivisions, or other self-governing board or commission of the government.
- h) Joint Congressional Power - shall refer to the Commission created under Republic Act No. 9136;
- i) Malampaya Fund - shall refer to a Special Fund created under Presidential Decree No. 910 intended to finance energy resource development and exploration programs and projects of the government and for such other purposes duly approved by the President;
- j) National Electrification Administration - shall refer to the government agency created under Presidential Decree No. 269, as amended;
- k) Restoration and Rehabilitation - shall refer to the actions or activities undertaken by the Electric Cooperatives to rebuild, replace or repair the necessary facilities to provide reliable electric service to member-consumers after a Force majeure or fortuitous event, taking into consideration designs, materials or equipment that will make the infrastructure more resilient;
- l) Trust Fund - refers to a fund which have come officially into the possession of any agency of government or of a public officer or trustee, agent of administrator or which have been received for the fulfilment of some obligation (P.D. No. 1445, s. 1978).
- m) Vulnerability and Risk Assessment - shall refer to the Electric Cooperatives identification of critical assets and the development of Disaster Preparedness, Disaster Prevention and Mitigation Measures to protect,

restore or strengthen critical assets prior to the onset of a Force Majeure or Fortuitous Event.

CHAPTER II

CREATION AND IMPLEMENTATION OF THE TRUST FUND FOR ELECTRIC COOPERATIVES

SECTION 5. Creation of the Trust Fund for Electric Cooperatives. To implement the aforesaid policy of the State, there is hereby created a Trust Fund for Electric Cooperatives, which shall be managed and administered by the National Electrification Administration. Resources appropriated for this fund shall not be returned to the Treasury, but shall remain within the Fund affected and shall continue destined to its objective for the following years.

SECTION 6. Powers and Functions of the National Electrification Administration. The National Electrification Administration shall have the following additional powers and functions:

- a) Formulate policies and coordinates the implementation of all activities of the Electric Cooperatives relative to disaster management;
- b) Establishes, administers and monitors the implementation of the Electric Cooperatives' comprehensive and integrated programs such as but not limited to Vulnerability Risk Assessment and emergency Response Plan;
- c) Reviews and approves all activities of the Electric Cooperatives relative to Disaster Mitigation, Disaster Preparedness and Disaster Prevention Plans as a result of the Vulnerability Risk Assessment;
- d) Develops the criteria and requirements to enable Electric cooperatives to avail of the Trust Fund for Electric Cooperatives;
- e) Develops the procedural requirements for program participation and fund allocation;
- f) Determines the annual budget of the Electric Cooperatives' Trust Fund and submits the same for approval of Congress;
- g) Receives all donations (funds, materials and/or equipment) which are intended for the express purpose of addressing the restoration of Electric Cooperatives' infrastructure damaged by a Force Majeure or Fortuitous Event; and
- h) Promulgates such rules and regulations as may be necessary to implement the provisions of this Act.

CHAPTER III

RESPONSIBILITIES OF THE ELECTRIC COOPERATIVES

SECTION 7. Responsibilities of the Electric Cooperatives. In addition to its mandate to implement the rural electrification program nation-wide under existing laws, Electric Cooperatives shall be vested with all the powers necessary to ensure the protection, preparedness and mitigation of the adverse impact of any Force Majeure or Fortuitous Event to its infrastructures. It shall ascertain the ability of its manpower to undertake emergency response for the immediate restoration and rehabilitation of its damaged infrastructures. It shall undertake the following activities:

- a) Undertake a disaster Vulnerability Risk assessment of all their infrastructures in accordance with the national electrification administration approved template;
- b) Prepare projects and programs including the financial requirements necessary to protect and mitigate the disaster vulnerability of all its infrastructures to review and approval of the National Electrification Administration;
- c) Institutionalize an Emergency Response Plan to be activate immediately before and after the occurrence if a Force Majeure or Fortuitous Event;
- d) Comply with the National Electrification Administration policies and procedural requirements for the program participation and fund allocation;
- e) Undertake all other activities necessary to implement the objectives of the provisions of this Act.

CHAPTER IV FUND SOURCES AND ALLOCATION

Section 8. Fund Sources. The Energy Disaster Trust Fund of Electric Cooperatives shall be funded through the following sources:

- a) Malampaya Fund
- b) General Appropriations Act

Section 9. Donations. All donations (fund, materials, and or equipment), whether local or international, intended for the express purpose of restoring or rehabilitating the Electric Cooperatives infrastructure damaged by a Force Majeure or Fortuitous Event, shall be received directly by the National Electrification Administration. International donations shall be exempt from all duties, fees, taxes and other charges.

Section 10. Appropriations. The sum of Seven Hundred Fifty Million Pesos (Php 750,000,000.00) for the initial implementation of this Act shall be taken out from the Malampaya Fund and shall be included in the annual General Appropriation Act (GAA).

Section 11. Allocation of the Trust Fund for Electric Cooperatives. The Trust Fund for Electric Cooperatives shall be allocated in the following manner:

- a) One Hundred Percent (100%) for Electric Cooperatives which incurred 75%-100% damages through Force Majeure or Fortuitous Events duly approved by the National Electrification Administration;
- b) Fifty Percent (50%) for Electric Cooperatives which incurred 50%-74% through Force Majeure or Fortuitous Events duly approved by the National Electrification Administration ;
- c) Twenty Five Percent (25%) for Electric Cooperatives which incurred 49% and below damages through Fortuitous Event duly approved by the National Electrification Administration;
- d) Ten Percent (10%) for the repayment of outstanding obligations of the Electric Cooperatives incurred for the purpose of financing the restoration or rehabilitation of its infrastructures damaged by Force Majeure or Fortuitous Events.

The Energy Disaster Trust Fund for Electric Cooperatives shall be administered by the National Electrification Administration (NEA). NEA shall regularly submit an annual disbursement report on the utilization of the Trust Fund to Commission on Audit (COA) Auditor within the 1st quarter of the succeeding year.

If the Energy Disaster Trust Fund for the year is inadequate to cover the restoration, rehabilitation of damaged facilities due to Force Majeure or Fortuitous Events, the NEA shall seek for the allocation of supplementary budget corresponding to the outstanding balance from the Malampaya Fund subject to the approval of the President.

Section 12. Outstanding Calamity Loans for Electric Cooperatives. Upon the effectivity of this Act, all outstanding obligations of Electric Cooperatives to the NEA and other financing institutions incurred for the purpose of financing the restoration or rehabilitation of the Electric Cooperatives damaged by Force Majeure or Fortuitous Events shall be assumed by the NEA from the Energy Disaster Trust Fund in accordance with the program duly approved by the Joint Congressional Power commission within six (6) months from the effectivity of this Act. The Energy Regulatory Commission (ERC) shall ensure the reduction in the electricity rates of the Electric Cooperatives commensurate with the resulting savings due to the removal of the amortization payments of their loans. Within five (5) years from the condonation of calamity loans, any Electric Cooperative which shall transfer ownership or control of its assets, franchise or operations to any individual or entity other than another electric Cooperative shall repay the national government the total loans including accrued interest thereon.

CHAPTER V GENERAL PROVISIONS

Section 13. Reportorial Requirements. The National Electrification Administration shall take the necessary measures to ensure that the provisions of this Act are properly implemented and submit annual reports on the program implementation and fund utilization to the Department of Energy, the Joint Congressional Power Commission and the Office of the President.

Section 14. Congressional Oversight. Upon the effectivity of this Act, the **Joint Congressional Power Commission** shall exercise oversight function over the implementation of this Act.

Section 15. Evaluation. Within five (5) years after the effectivity of this Act, the **Joint Congressional Power Commission** shall conduct a systematic evaluation of the accomplishments and impact of this Act for purposes of determining remedial legislation.

Section 16. Implementing Rules and Regulations. The National Electrification Administration shall, in consultation with relevant government agencies, electric cooperatives and end-users, promulgate the Implementing Rules and Regulations within six (6) months from the effectivity of this Act, subject to the approval of the Joint Congressional Power Commission.

Section 17. Separability Clause. If for any reason, any provision of this Act is declared unconstitutional or invalid, the other parts or provisions hereof which are not affected thereby shall continue to be in full force and in effect

Section 18. *Repealing Clause.* Any law, presidential decree or issuance, executive order, letter of instruction, administrative rule or regulation contrary to or inconsistent with the provisions of this Act are hereby repealed, modified or amended accordingly.

Section 19. *Effectivity.* This Act shall take effect on the fifteenth day following its publication in at least two (2) papers of general circulation.

Approved.


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