

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City



SEVENTEENTH CONGRESS
Second Regular Session

HOUSE BILL NO. **5872**

Introduced by Honorable Dakila Carlo E. Cua

**AN ACT MANDATING ELECTRIC DISTRIBUTION UTILITIES
TO ADOPT, IMPLEMENT AND MAINTAIN ALLOCATION OF AT
LEAST THIRTY PERCENT (30%) OF THEIR ELECTRICITY
SUPPLY REQUIREMENTS FROM RENEWABLE ENERGY
RESOURCES, AND FOR OTHER PURPOSES**

EXPLANATORY NOTE

Extreme weather conditions – long, dry and hot months parching agricultural fields during the *el niño* occurrence and the big floods on the onset of the *habagat* – which causes untold hunger, sufferings and turmoil among the populace; destruction to properties and government infrastructures, and disruption in the economic pursuit of the Nation are reminders of the growing concern on global warming and climate change. Aptly, the United Nations Framework Convention on Climate Change, adopted in New York on 9 May 1992, recognizes the necessity to “strengthen the global response to the threat of climate change, in the context of sustainable development and efforts to eradicate poverty” by, among others, “Holding the increase in the global average temperature to well below 2°C above pre-industrial levels and pursuing efforts to limit the temperature increase to 1.5 °C above pre-industrial levels, recognizing that this would significantly reduce the risks and impacts of climate change” as well as “Increasing the ability to adapt to the adverse impacts of climate change and foster climate resilience and low greenhouse gas emissions development, in a manner that does not threaten food production”.

In signing the Paris Agreement on Climate Change Instrument of Accession, President Rodrigo R. Duterte recognized the urgency of adapting measures that will mitigate the effects of climate and global warming. Having signed the Instrument of Accession, the Philippines signified its ratification of the Agreement, with it the commitment to cooperate and participate, in the widest possible measure, in an effective and appropriate international response, with a view to accelerating the reduction of global greenhouse emissions.

The Philippine Energy Plan 2012-2030 recognized that development and utilization of the Country's indigenous and new RE resources in power generation will contribute to (a) ensuring the quality, reliability, security and affordability of the supply of electric power, (b) promoting the utilization of indigenous and new RE resources in power generation, (c) reduce dependence on imported fossil fuels; and (d) avoid and reduce harmful emissions thereby balancing the goals of economic growth and development with the protection of health and the environment. Pursuant to its Department Circular No. DC2015-07-0014, the Department of Energy established thirty percent of the share of RE resources in the Country's total power generation capacity. However, notwithstanding such policy there are distribution utilities that avoid the requirements by conveniently asserting that their power requirements are fully covered by long term bilateral contracts with power generation companies owning and operating fossil-fired power plants – mostly coal-fired power plants.

There is therefore a need for an enabling legislation prescribing the adoption, implementation and maintenance by electric distribution utilities of an allocation of at least thirty percent (30%) of their electricity requirements. Hence, the immediate passage of this Bill is earnestly sought.



DAKILA CARLO E. CUA
Representative
Lone District, Quirino

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SEVENTEENTH CONGRESS
Second Regular Session

HOUSE BILL NO. **5872**

Introduced by Honorable Dakila Carlo E. Cua

**AN ACT MANDATING ELECTRIC DISTRIBUTION UTILITIES
TO ADOPT, IMPLEMENT AND MAINTAIN ALLOCATION OF AT
LEAST THIRTY PERCENT (30%) OF THEIR ELECTRICITY
SUPPLY REQUIREMENTS FROM RENEWABLE ENERGY
RESOURCES, AND FOR OTHER PURPOSES**

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

**CHAPTER I
TITLE AND DECLARATION OF POLICY**

Section 1. *Short Title.* – This Act shall be known as the “Renewable Energy Allocation Act of 2017”. It shall hereinafter be referred to as the Act.

Section 2. *Declaration of Policy.* – It is hereby declared the policy of the State:

- (a) To cooperate and participate, in the widest possible measure, in an effective and appropriate international response to climate change and global warming, with a view to accelerating the reduction of global greenhouse emissions in the context of the Paris Agreement;
- (b) To ensure the quality, reliability, security and affordability of the supply of electric power;
- (c) To promote the utilization of indigenous and new RE resources in power generation;

- (d) To reduce dependence on imported fossil fuels; and
- (e) To avoid and reduce harmful emissions in order to balance the goals of economic growth and development with the protection of health and the environment.

Section 3. *Scope.* – This Act shall establish the framework for the adoption, implementation, and maintenance of allocation by distribution utilities of at least thirty percent (30%) of their electricity supply requirements from Renewable Energy Resources generation conformably with the Electric Power Industry Reform Act of 2001 and Renewable Energy Act of 2008.

Section 4. *Definition of Terms.* –

- (a) “Climate Change” refers to a change in climate that can be identified by changes in the mean and/or variability of its properties and that persists for an extended period typically decades or longer, whether due to natural variability or as a result of human activity.
- (b) “Competitive Selection Process” or “CSP” refers to a process wherein a generation company is selected through transparent and competitive bidding by a distribution utility to secure supply of electricity at the least cost.
- (c) “Country” refers to the Philippines.
- (d) “Distribution Utility” refers to any electric cooperative (organized pursuant to Presidential Decree No. 269, as amended), private corporation, government-owned utility or existing local government unit which has an exclusive franchise to operate a distribution system in accordance with its enabling law and Republic Act No. 9136.
- (e) “Department of Energy” or “DOE” refers to the government agency created pursuant to Republic Act No. 7638, as amended by Republic No. 9136.
- (f) “Energy Regulatory Commission” or “ERC” refers to the independent quasi-judicial regulatory agency created pursuant to Republic Act No. 9136.

- (g) "Generation Company" refers to any person or entity authorized by the ERC to operate facilities used in the generation of electricity.
- (h) "Global Warming" refers to the increase in the average temperature of the Earth's near-surface air and oceans that is associated with the increased concentration of greenhouse gases in the atmosphere.
- (i) "Greenhouse gases (GHG)" refers to constituents of the atmosphere that contribute to the greenhouse effect including, but not limited to, carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons and sulfur hexafluoride.
- (j) "Host Local Government Unit" or "Host LGU" refers to the local government unit in whose territorial jurisdiction an RE Resources generating facility is located.
- (k) "Local Climate Change Action Plan" refers the climate change action plan of the Host LGU pursuant to Section 14 of Republic Act No. 9729.
- (l) "Paris Agreement" means the Agreement under the United Nations Framework Convention on Climate Change.
- (m) "Power Supply Agreement" (PSA) refers to an agreement for the supply of electricity by a generation company to distribution utility.
- (n) "Renewable Energy Resources" (RE Resources) refer to energy resources, including among others biomass, geothermal, hydropower, ocean energy, solar, and wind, that do not have an upper limit on the total quantity to be used, renewable on a regular basis, and whose renewal rate is relatively rapid to consider availability over an indefinite period of time.

CHAPTER II DEVELOPMENT AND ALLOCATION OF RENEWABLE GENERATION

Section 4. *Development.* The development of the Country's Renewable Energy Resources to the fullest extent possible for electricity generation is:

- (a) an effective measure to increase the ability to adapt to the adverse impacts of climate change and foster climate resilience and low greenhouse gas emissions development in a manner that does not threaten food production; and
- (b) a tool to the Country's compliance with the commitments under the Agreement.

Section 5. *Allocation.* Each distribution utility shall:

- (a) allocate at least thirty percent (30%) of its total electricity requirements from Renewable Energy Resources generation; and
- (b) submit to the DOE its annual distribution development plan; provided that in the case of electric cooperatives such plan shall be submitted to the National Electrification Administration.

provided that the annual distribution plan shall specifically indicate compliance with the required allocation of Renewable Energy Resources generation per clause (a) above.

Section 6. *Selection of Generation Company.* Each distribution utility shall undertake a CSP in the selection of the generation company that shall supply the allocation for Renewable Energy Resources generation as provided in Section 5 (a) herein; provided that the power supply agreement with a generation company shall be subject to approval by the Energy Regulatory Commission.

Section 7. *Priority in the Selection of Generation Company.* The provision of Section 6 notwithstanding, a distribution utility shall, in the award of a PSA, give priority to a generation company whose source RE facility is located within its franchise area.

CHAPTER III CLIMATE CHANGE ADAPTATION

Section 8. *Host LGU.* The Host LGU shall have an oversight function during the development, construction and operation of Renewable Energy Resources generation facility in its jurisdiction. Such oversight function shall be in furtherance of its responsibility under Local Climate Action Plan pursuant to Section 14 of Republic Act No. 9729.

CHAPTER IV FINAL PROVISIONS

Section 9. *Implementing Rules and Regulations.* Within six (6) months from the effectivity of this Act, the DOE shall, in consultation with the Senate and the House Committees on Energy, relevant government agencies and RE stakeholders, promulgate the IRR of this Act.

Section 10. *Prohibited Acts.* The following acts shall be prohibited:

- (a) Non-compliance by a distribution utility with the allocation of at least thirty percent (30%) of its total electricity requirements from Renewable Energy Resources generation;
- (b) Attendant of corrupt practice, fraudulent, practice, collusive practice, and coercive practices during the conduct of the CSP; and
- (c) Non-compliance with the established guidelines that the DOE will adopt for the implementation of this Act.

Section 11. *Penalty Clause.* Any person who willfully commits any of the prohibited acts enumerated under this Act, shall be imposed with the penalties provided herein. Any person, who willfully aids or abets the commission of a crime prohibited herein or who causes the commission of any such act by another shall be liable in the same manner as the principal.

In the case of association, partnership or corporations, the penalty shall be imposed on the partner, president, chief operating officer, chief executive officer, directors or officers responsible for the violation.

The commission of any prohibited acts provided for under Section 10, upon conviction thereof, shall suffer the penalty of imprisonment of from one (1) year to five (5) years, or a fine ranging from a minimum of One Hundred Thousand Pesos (P100,000.00) to One Hundred Million Pesos (P100,000,000.00), or twice the amount of damages caused or costs avoided for non-compliance, whichever is higher, or both upon the discretion of the court.

The DOE is further empowered to impose administrative fines and penalties for any violation of the provisions of this Act, its IRR and other issuances relative to this Act.

This is without prejudice to the penalties provided for under existing environmental regulations prescribed by the DENR and/or any other concerned government agency.

Section 12. *Appropriations.* – Such sums as may be necessary for the initial implementation of this Act shall be taken from the current appropriations of the DOE. Thereafter, the fund necessary to carry out the provisions of this Act shall be included in the annual General Appropriations Act.

Section 13. *Separability Clause.* – If any provision of this Act is held invalid unconstitutional, the remainder of the Act or the provision not otherwise affected shall remain valid and subsisting.

Section 14. *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 is hereby repealed, modified or amended accordingly.

Section 15. *Effectivity Clause.* – This Act shall take effect fifteen (15) days after its publication in at least two (2) newspapers of general circulation.