

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

SEVENTEENTH CONGRESS

Third Regular Session

HOUSE BILL NO 8082



INTRODUCED BY: HON. LORD ALLAN JAY Q. VELASCO and HON.
CARLOS ROMAN L. UYBARRETA

AN ACT

**REDUCING ELECTRICITY RATES BY ALLOCATING THE NET
NATIONAL GOVERNMENT SHARE FROM THE MALAMPAYA
NATURAL GAS PROJECT FOR THE PAYMENT OF THE STRANDED
CONTRACT COSTS AND STRANDED DEBTS OF THE NATIONAL
POWER CORPORATION**

Explanatory Note

The Malampaya Deep Water Gas-to-Power Project is one of the largest and most significant industrial endeavors in Philippine history as it paved the way for the discovery of an alternative and indigenous source of energy. It reduced the country's dependence on imported fuel for the bulk of its domestic and industrial power requirement. The Malampaya Project is a joint undertaking of the national government and the private sector represented by Shell Philippines Exploration B.V. (SPEX) on behalf of joint venture partners Chevron Malampaya LLC and the PNOC Exploration Corporation.

The said project was expected to provide 2,700 megawatts of power or substantial long-term revenue of some US\$10 billion to the Philippine government for a period of 20 years starting June 2002.^[1] ^[2]The Bureau of the Treasury reported that the Malampaya fund posted a total revenue collection of P224.34 billion since 2002 and an outstanding balance of P182.29 billion as of June 22, 2016.^[3] For fiscal year 2016,

¹ Expected life of the Malampaya Gas Project http://www.doe.gov.ph/DNG/malampaya_history.pdf (Accessed 2 April 2013)

² The SC 38 consortium applies for a 15-year extension of its service contract <http://www.doe.gov.ph/News/2011-10-03-Malampaya%20expansion.htm> (Accessed 2 April 2013)

³ Bureau of the Treasury. Status of DOE-Malampaya Special Account in the General Fund 151 as of June 22, 2016.

the revenue estimate from the Malampaya Project is P27.15billion, with a proposed expenditure of only P1.04 billion.^[4]

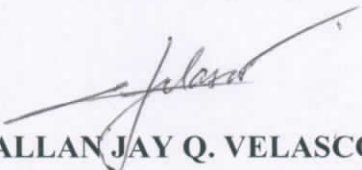
Presidential Decree No. 910 mandates that the government share from service contracts and agreements such as the Malampaya Fund shall be used to finance energy resource development and exploration programs and projects as may be directed by the President. However, over the years, the annual revenue inflow from Malampaya was used to fund non-energy related programs such as rice sufficiency programs, relief operations and AFP Modernization Fund.

The utilization of the Malampaya Fund is currently not under scrutiny in the budget process. To make the disbursement of the Malampaya Fund transparent and free from abuse, this bill seeks to allocate the net national government share from the Malampaya Project to pay the National Power Corporation's (NPC) Stranded Contract Costs (SCC) and Stranded Debts portion of the Universal Charge. Under the Electric Power Industry Reform Act (EPIRA), a Universal Charge (UC) will be imposed on all electricity end-users to cover payment of NPC's stranded debt and stranded contract costs.

This bill would provide substantial relief to power consumers in light of the Decisions promulgated by the Energy Regulatory Commission (ERC) to setting the Universal Charge (UC) for the recovery of National Power Corporation's (NPC) Stranded Contract Costs (SCC).

Instead of using Malampaya Fund to finance non-energy related programs and projects of national government agencies, the said Fund would now directly benefit power consumers. Furthermore, to ensure transparency in the Fund's utilization, the bill also mandates that the allocation of the said Fund to lower power costs should be clearly provided for in the General Appropriations Act.

In view of the foregoing, the approval of the bill is earnestly sought.


LORD ALLAN JAY Q. VELASCO


CARLOS ROMAN L. UYBARRETA

⁴ Department of Budget and Management, "Budget of Expenditures and Sources of Financing (Table B.17): Fiscal Year 2016" (Projected Revenues from the Malampaya Project for FY 2016)

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ROMAN L. UYBARRETA

AN ACT

**REDUCING ELECTRICITY RATES BY ALLOCATING THE NET NATIONAL
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PROJECT FOR THE PAYMENT OF THE STRANDED CONTRACT COSTS
AND STRANDED DEBTS OF THE NATIONAL POWER CORPORATION**

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

1 **Section 1. Short Title.** – This Act shall be known as the “Murang Kuryente
2 Act”.

3
4 **Section 2. Declaration of Policy.** – It is hereby declared the policy of the
5 State to protect public interest by ensuring the provision of reliable, secure,
6 and affordable supply of electric power to consumers. Towards this end, the
7 State shall implement policies and programs to ensure transparent and
8 reasonable prices of electricity to consumers by minimizing the universal
9 charges for stranded contract costs and stranded debts.

10
11 **Section 3. Definition of Terms.** –For purposes of this Act, the following
12 terms shall be defined as stated below:

- 1 a) **Energy Regulatory Board(ERB)** – refers to the independent, quasi-
2 judicial regulatory body created under Executive Order No. 172
3 “Creating the Energy Regulatory Board”;
- 4 b) **Energy Regulatory Commission(ERC)** – refers to the independent
5 quasi-judicial body created under Republic Act No. 9136 otherwise
6 known as the “Electric Power Industry Reform Act of 2001”;
- 7 c) **Department of Budget and Management(DBM)** – refers to the
8 government agency created pursuant to Title XVII, Chapter 1, Section
9 3 of Executive Order No. 292 or the “Administrative Code of 1987”;
- 10 d) **Department of Energy (DOE)** – refers to the government agency
11 created pursuant to Republic Act No. 7638 or the “Department of
12 Energy Act of 1992”, and whose functions were expanded by Republic
13 Act No. 9136 or the “Electric Power Industry Reform Act of 2001”;
- 14 e) **Department of Finance (DOF)** – refers to the government agency
15 created pursuant to Title II, Chapter 1, Section 1 of Executive Order
16 No. 292 or the “Administrative Code of 1987”;
- 17 f) **Joint Congressional Power Commission (JCPC)** – refers to the
18 congressional commission constituted under Section 62 of Republic
19 Act No. 9136 or the “Electric Power Industry Reform Act of 2001”;
- 20 g) **Malampaya Fund** – refers to the existing and future government
21 share from the net production proceeds of the Malampaya Natural
22 Gas Project pursuant to Presidential Decree No. 87 or the “Oil
23 Exploration and Development Act of 1972” and Service Contract 38.
24 This government share forms part of a Special Fund used to finance
25 energy resource development and exploitation programs pursuant to
26 Presidential Decree No. 910 “Creating an Energy Development Board,
27 Defining Its Powers and Functions, Providing Funds, Therefor, and
28 For Other Purposes”;
- 29 h) **Malampaya Natural Gas Project** – refers to Service Contract 38 in
30 offshore northwest Palawan;
- 31 i) **National Power Corporation(NPC)** – refers to the government
32 corporation created under Republic Act No. 6395 otherwise known as
33 “An Act Revising the Charter of the National Power Corporation”, as

1 amended, and whose additional mandate is further set in Republic Act
2 No. 9136 otherwise known as the "Electric Power Industry Reform Act
3 of 2001";

4 j) **Net National Government Share** – refers to the share of the national
5 government from the net production proceeds of Service Contract 38
6 pursuant to Presidential Decree No. 87 and after the deduction of (a)
7 the local government share pursuant to Section 290 of Republic Act
8 No. 7160 otherwise known as the "Local Government Code of 1991",
9 and (b) the DOE share for the discharge of its powers and functions
10 pursuant to Section 21 of Republic Act No. 7638 otherwise known as
11 "the Department of Energy Act of 1992";

12 k) **Power Sector Assets and Liabilities Management**
13 **Corporation(PSALM)** – refers to the government corporation created
14 pursuant to Section 49 of Republic Act No. 9136 otherwise known as
15 the "Electric Power Industry Reform Act of 2001" which assumed all of
16 NPC's obligations and stranded contract costs;

17 l) **Stranded Contract Costs of NPC or Distribution Utility** – refer to
18 the excess of the contracted cost of electricity under eligible
19 independent power producer contracts over the actual selling price of
20 the contracted energy output of such contracts in the market. Such
21 contract shall have been approved by the ERB as of December 31,
22 2000; and

23 m) **Stranded Debts of NPC** – refer to any unpaid financial obligations of
24 the NPC which have not been liquidated by the proceeds from the
25 sales and privatization of NPC assets.

26
27 **Section 4. Use of Malampaya Fund for Payment of Stranded Contract**
28 **Costs and Stranded Debt.** – All proceeds of the Net National Government
29 Share from the Malampaya Fund, shall be allocated solely for the payment
30 of Stranded Contract Costs and Stranded Debts transferred to and assumed
31 by the PSALM pursuant to Section 49 of Republic Act No. 9136 including all
32 anticipated shortfalls in the course of payment of such liabilities after

1 applying the PSALM's collections from privatization of the NPC's assets,
2 independent power producers' contracts, and proceeds from operations of
3 existing assets: *Provided*, That upon final resolution in favor of the National
4 Government of any ongoing dispute over the Net National Government
5 Share, the amount shall be allocated solely for the purpose specified in this
6 Act.

7
8 The Net National Government Share from the Malampaya Fund shall be
9 remitted to a Special Trust Fund to be administered by the PSALM:
10 *Provided*, That the amounts herein allocated shall be included in the
11 General Appropriations Act. The DBM shall provide a timely release of the
12 amounts allocated and appropriated to the PSALM in accordance with its
13 debt and independent power producer payment schedule.

14
15 When the Stranded Contract Costs, Stranded Debts, and anticipated
16 shortfalls in the course of the payment of such liabilities are fully paid
17 before the termination of the corporate life of the PSALM, the Net National
18 Government Share, shall accrue back to the Special Fund used to finance
19 energy resource development and exploitation programs created under
20 Presidential Decree No. 910.

21
22 **Section 5. Regular Reports.** -The PSALM shall submit an annual projected
23 and actual cash flow of the Stranded Contract Costs, Stranded Debts, and
24 anticipated shortfalls as well as its debt payment and independent power
25 producer contract payment schedule to the DOE,ERC, DOF, DBM, and the
26 JCPC; *Provided*, That the submission of the annual projected cashflow shall
27 be on or before June 30 of the preceding year and that of the annual actual
28 cashflow shall be on or before June 30 of the succeeding year. The PSALM
29 shall regularly coordinate with the DOE, DOF, and the DBM to ensure
30 consistent record-keeping of remittances to and disbursements from the
31 Malampaya Fund and the Special Trust Fund created under this Act. The
32 PSALM shall make all reports available to the public through its website.

1 **Section 6. Congressional Oversight.** – Upon the effectivity of this Act, the
2 JCPC shall exercise oversight powers over its implementation.

3
4 **Section 7. Implementing Rules and Regulations.** – Within sixty (60) days
5 from the effectivity of this Act, the DOE, DOF, DBM, and the PSALM shall
6 provide the necessary rules and regulations for the proper disposition of the
7 said funds and the effective implementation of this Act.

8
9 **Section 8. Repealing Clause.**– All laws, decrees, issuances, rules and
10 regulations, or parts thereof inconsistent with the provisions of this Act are
11 hereby repealed, amended or modified accordingly.

12
13 **Section 9. Effectivity.** – This Act shall take effect fifteen (15) days from the
14 date of publication in the Official Gazette or in at least two (2) newspapers of
15 general circulation.

16
17 Approved,