

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

EIGHTEENTH CONGRESS
Second Regular Session

HOUSE BILL NO. 7186



INTRODUCED BY:
HONORABLE CHERYL P. DELOSO-MONTALLA
Representative, 2nd District, Zambales

AN ACT
INSTITUTIONALIZING THE ELECTRICITY SUB-METERING SYSTEM
IN APARTMENT HOUSES AND FOR OTHER PURPOSES

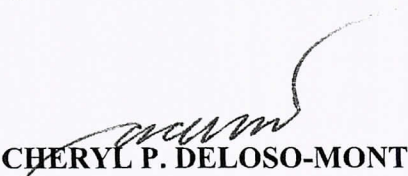
EXPLANATORY NOTE

The pandemic caused by CoViD19 has been slowly revealing the flaws in our organized living arrangements as a civilized society. In the energy sector, the unanticipated lockdown by the national government of the entire island of Luzon has resulted in the unacceptable surge in the electricity charges to consumers. Also, there are a lot of complaints by tenants that their landlords charge them with amounts over and above the actual cost of electricity consumed.

Several building owners have already installed electric sub-meters to the units occupied by tenants to determine their electric bills every month. Some dwellers, however, complain that an incremental charge of varying amounts are added to their electric bills which make the cost of electricity service higher than that normally charged by the electric utility operating in the franchise area. The additional charge is different from the dues being paid by tenants for the use of common areas.

This is a serious matter that must be forthwith addressed considering the financial strain that this pandemic has caused us. We cannot allow any person or entity to take advantage of consumers by making them pay more for their electricity service. In order to protect public interest as it is affected by the rates and services of electric utilities and other providers of electric power, there must be set guidelines on electricity consumption by tenants. It is in this light that this bill is being filed.

Immediate passage of this bill is earnestly sought.


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

Section 1. *Short Title.* – This Act shall be known as the “Electricity Sub-metering System Act of 2020”

Section 2. *Declaration of Policy.* – It is hereby declared the mandatory policy of the State to provide for an orderly and transparent re-distribution of electricity to tenants by ensuring a fair, non-discriminatory and reasonable pricing of their electricity consumption.

Section 3. *Definition of Terms.* - The following words and terms, shall have the following meanings, unless the context clearly indicates otherwise.

- a. Apartment house refers to one or more buildings containing more than one dwelling unit, each of which is rented primarily for non-transient use with rent paid at intervals of one week or longer. The term includes a rented or owner-occupied residential condominium;
- b. Dwelling unit refers to one or more rooms suitable for occupancy as a residence and that which may contain common or individual kitchen and bathroom facilities;
- c. Master meter refers to a meter used to measure, for billing purposes, all electric usage of an apartment house or mobile home park, including common areas, common facilities, and dwelling units;
- d. Month or monthly refers to the period between any two consecutive meter readings by the utility, either actual or estimated, at approximately 30-day intervals;
- e. Owner refers to any owner, operator, or manager of any apartment house or condominium who engages in electric sub-metering.
- f. Electric sub-metering refers to individual dwelling unit metering of electric service performed by the owner.

Section 4. *Use and Installation of sub-meters.* - All electrical energy sold by an owner shall be charged for by meter measurements. Each owner shall be responsible for providing, installing, and maintaining all sub-meters necessary for the measurement of electrical energy to its tenants. The installation of a sub-meter shall be done by the distribution utility having jurisdiction over the franchise area within twenty-four (24) hours of the request of the owner.

Section 5. Sub-meter records. Each owner shall keep the following records:

- a. *Sub-meter equipment record.* Each owner shall keep a record of all of its sub-meters, showing the tenant's address and date of the last test.
- b. *Records of sub-meter tests.* All sub-meter tests shall be properly referenced to the sub-meter record provided in this section. The record of each test made shall show the identifying number of the sub-meter, the standard meter and other measuring devices used, the date and kind of test made, by whom made, the error (or percentage of accuracy), and sufficient data to permit verification of all calculations.
- c. *Sub-meter unit indication.* Each meter shall indicate clearly the kilowatt-hours consumed by the tenant.
- d. *Sub-meter tests on request of tenant.* Each owner shall, upon the request of a tenant, and if the tenant so desires, in the tenant's or the tenant's authorized representative's presence, make a test of the accuracy of the tenant's sub-meter. The test shall be made during reasonable business hours at a time convenient to the tenant desiring to observe the test. If the sub-meter tests within the accuracy standards for self-contained watt-hour meters as established by the Energy Regulatory Commission (ERC, hereinafter referred to as the Commission), an appropriate fee may be charged the tenant for making the test. However, if the sub-meter has not been tested within a period of one year, or if the sub-meter's accuracy is not within the appropriate accuracy standards, no charge shall be made to the tenant for making the test. Following completion of any requested test, the owner shall promptly advise the tenant of the results of the test.
- e. *Bill adjustment due to sub-meter error.* If any sub-meter is found not to be within the accuracy standards in subsection (d) of this section, proper correction shall be made of previous readings. An adjusted bill shall be rendered in accordance with this. If a sub-meter is found not to register for any period, unless bypassed or tampered with, the owner may make a charge for units used, but not metered, for a period not to exceed one month based on amounts used under similar conditions during periods preceding or subsequent thereto, or during the corresponding period in previous years.
- f. *Bill adjustment due to conversion.* If, during the 90-day period preceding the installation of meters or sub-meters, an owner increases rental rates, and such increase is attributable to increased costs of electric service, then such owner shall immediately reduce the rental rate by the amount of such increase and shall refund all of the increase that has previously been collected within the 90-day period.
- g. *Location of sub-meters.* Sub-meters, service switches, or cut-off valves in conjunction with the sub-meters shall be installed in accordance with the guidelines issued by the ERC and will be readily accessible for reading, testing, and inspection, with minimum interference and inconvenience to the tenant.

Section 7. Sub-meter testing facilities and equipment.-

- a. *Qualified expert.* Each owner engaged in electric sub-metering shall engage an independent qualified expert certified by the ERC to provide such instruments and other equipment and facilities as may be necessary to make the sub-meter tests required by this section. Such equipment and facilities shall generally conform to the standards set by the ERC and shall be available at all reasonable times for the inspection by its authorized representatives.
- b. *Portable standards.* Each owner engaged in electrical sub-metering shall, unless specifically excused by the commission, provide or utilize a testing firm which provides portable test instruments as necessary for testing billing sub-meters.
- c. *Reference standards.* Each owner shall provide or have access to suitable

indicating instruments as reference standards for insuring the accuracy of shop and portable instruments used for testing billing sub-meters.

d. *Testing of reference standards.* All reference standards shall be submitted once each year or on a scheduled basis approved by the commission to a standardizing laboratory of recognized standing, for the purpose of testing and adjustment.

e. *Calibration of test equipment.* All shop and portable instruments used for testing billing sub-meters shall be calibrated by comparing them with a reference standard at least every 120 days during the time such test instruments are being regularly used. Test equipment shall at all times be accompanied by a certified calibration card signed by the proper authority, giving the date when it was last certified and adjusted. Records of certifications and calibrations shall be kept on file in the office of the owner.

Section 8. Accuracy requirements for sub-meters. - No sub-meter that exceeds the test calibration limits for self-contained watt-hour meters as set by the ERC, shall be placed in service or left in service. All electrical current transformers, potential transformers, or other such devices used in conjunction with an electric sub-meter shall be considered part of the sub-meter and must also meet test calibration and phase angle limits set by the ERC for taxation purposes. A nameplate shall be attached to each transformer and shall include or refer to calibration and phase angle data and other information required by the ERC for taxation purposes. Whenever on installation, periodic, or other tests, an electric sub-meter or transformer is found to exceed these limits, it shall be adjusted, repaired, or replaced.

Section 9. Sub-meter adjustments. - Sub-meters shall be adjusted as closely as possible to the condition of zero error. The tolerances are specified only to allow for necessary variations.

a. *Sub-meter tests prior to installation.* No sub-meter shall be placed in service unless its accuracy has been established. If any sub-meter is removed from actual service and replaced by another sub-meter for any purpose whatsoever, it shall be properly tested and adjusted before being placed in service again.

b. *Testing of electric sub-meters in service.* Standard electromechanical single stator watt-hour meters with permanent braking magnets shall be tested in accordance with the rules set by the ERC for periodic, variable interval, or statistical sampling testing programs. All other types of sub-meters shall be tested at least annually unless specified otherwise by the Commission.

c. *Restriction.* Unless otherwise provided by the Commission, no dwelling unit in an apartment house or condominium may be sub-metered unless all dwelling units are sub-metered.

d. *Same type meters required.* All sub-meters which are served by the same master meter shall be of the same type, such as induction or electronic.

Section 10. Records and reports. - The owner shall maintain and make available for inspection by the tenant the following records:

a. the billing from the utility or retail electricity provider to the apartment/condominium owner for the current month and the 12 preceding months;

b. the calculation of the average cost per billing unit, *i.e.*, kilowatt-hour for the current month and the 12 preceding months;

c. all sub-meter readings and tenant billings for the current month and the 12 preceding months;

d. all sub-meter test results for the current month and the 12 preceding months.

Records shall be made available at the resident manager's office during reasonable business hours or, if there is no resident manager, at the dwelling unit of the tenant at the convenience of both the apartment owner and tenant.

All records shall be made available to the commission upon request.

Section 11. *Billing.* - All rental agreements between the owner and the tenants shall clearly state that the dwelling unit is sub-metered, that the bills will be issued thereon, that electrical consumption charges for all common areas and common facilities will be the responsibility of the owner and not of the tenant, and that any disputes relating to the computation of the tenant's bill and the accuracy of the sub-metering device will be between the tenant and the owner. Each owner shall provide a tenant, at the time the lease is signed, a copy of this section or a narrative summary as approved by the Commission to assure that the tenant is informed of his rights and the owner's responsibilities under this section.

Section 12. *Rendering and form of bill.* -

a. Bills shall be rendered for the same billing period as that of the electric utility, generally monthly, unless service is rendered for less than that period. Bills shall be rendered as promptly as possible following the reading of the sub-meters. The sub-meters shall be read within three days of the scheduled reading date of the electric utility's master meter.

b. The billing unit shall be that used by the electric utility in its billing to the owner.

c. The owner shall be responsible for determining that the energy billed to any dwelling unit shall be only for that sub-metered and consumed within that unit.

d. Sub-metered billings shall not be included as part of the rental payment or as part of billings for any other service to the tenant. A separate billing must be issued or, if issued on a multi-item bill, sub-metered billing information must be separate and distinct from any other charges on the bill and conform to information required in subparagraph (H) of this paragraph. The sub-metered bill must clearly state "sub-metered electricity."

e. The bill shall reflect only sub-metered usage. Utility consumption at all common facilities will be the responsibility of the owner and not of the tenant. Allocation of central systems for air conditioning, heating and hot water is not prohibited by this section.

f. The owner shall not impose any extra charges on the tenant over and above those charges which are billed by the retail electric provider or utility to the owner. The bill may not include a deposit, late penalty, reconnection fee, or any other charges unless otherwise provided for by following:

1. A one-time penalty not to exceed 5.0% may be made on delinquent accounts. If the penalty is applied, the bill shall indicate the amount due if paid by the due date and the amount due if the late penalty is incurred. No late penalty may be applied unless agreed to by the tenant in a written lease which states the exact dollar or percentage amount of the late penalty.

2. Reconnect fee shall be calculated based on the average actual cost to the owner for the expenses associated with the reconnection. No reconnection charge may be applied unless agreed to by the tenant in a written lease which states the exact amount of such reconnection charge.

g. The tenant's sub-meter bills shall be calculated in the following manner: after the electricity bill is received from the utility or retail electric provider, the owner shall divide the net total charges for electrical consumption, plus applicable tax, by the total number of kilowatt-hours to obtain an average cost per kilowatt-hour. The average kilowatt-hour cost shall then be multiplied

by each tenant's kilowatt-hour consumption to obtain the charge to the tenant. The computation of the average cost per kilowatt-hour shall not include any penalties charged by the utility or the retail electric provider to the owner for disconnect, reconnect, late payment, or other similar service charges.

- h. The tenant's electric sub-meter bill shall show all of the following information:
1. the date and reading of the submeter at the beginning and at the end of the period for which the bill is rendered;
 2. the number of billing units metered;
 3. the computed rate per billing unit;
 4. the total amount due for electricity used;
 5. a clear and unambiguous statement that the bill is not from the utility or retail electric provider, which shall be named in the statement;
 6. the name and address of the tenant to whom the bill is applicable;
 7. the name of the firm rendering the submetering bill and the name or title, address, and telephone number of the person or persons to be contacted in case of a billing dispute;
 8. the date by which the tenant must pay the bill; and
 9. the name, address, and telephone number of the party to whom payment is to be made.

Section. 13. Due date. - The due date of the bill shall not be less than seven days after issuance. A bill for sub-metered service is delinquent if not received by the party indicated on the bill by the due date. The postmark date, if any, on the envelope of the bill or on the bill itself shall constitute proof of the date of issuance. An issuance date on the bill shall constitute proof of the date of issuance if there is no postmark on the envelope or bill. If the due date falls on a holiday or weekend, the due date for payment purposes shall be the next work day after the due date.

Section 14. Disputed bills. - In the event of a dispute between the tenant and the owner regarding any bill, the owner shall promptly make an investigation as shall be required by the particular case, and report the results to the tenant. The investigation and report shall be completed within 30 days from the date the tenant notified the owner of the dispute.

Section 15. Tenant access to records. - The tenants of any dwelling unit whose electrical consumption is sub-metered shall be allowed by the owner to review and copy the master billing for the current month's billing period and for the 12 preceding months, and all sub-meter readings of the entire apartment house or mobile home park for the current month and for the 12 preceding months.

Section 16. Estimated bills. - Estimated bills shall not be rendered unless the meter has been tampered with or is out of order, and shall be distinctly marked "estimated bill".

Section 17. Over-billing and under-billing. - If sub-metered billings are found to be in error, the owner shall calculate a billing adjustment. If the tenant is due a refund, an adjustment shall be made for the entire period of the overcharges. If the tenant was undercharged, the owner may back-bill the tenant for the amount which was under-billed. The back-billing is not to exceed six months unless the owner can produce records to identify and justify the additional amount of back-billing. If the under-billing is five (5) hundred pesos or more, the owner shall offer to the

tenant a deferred payment plan option, for the same length of time as that of the under-billing. Furthermore, adjustments for usage by a previous tenant shall not be back-billed to the current tenant.

An owner may offer a level payment plan or average payment plan consistent with this paragraph. The payment plan may be one of the following methods:

a. A level payment plan allowing eligible tenants to pay on a monthly basis a fixed billing rate of one-twelfth of that tenant's estimated annual consumption at the appropriate rates, with provisions for quarterly adjustments as may be determined based on actual usage.

b. An average payment plan allowing tenants to pay on a monthly basis one-twelfth of the sum of that tenant's current month's consumption plus the previous 11 month's consumption (or an estimate thereof, for a new customer) at the appropriate customer class rates, plus a portion of any unbilled balance. Provisions for annual adjustments as may be determined based on actual usage shall be provided. If, at the end of a year, the owner determines that he has collected an amount different than he has been charged by the utility or retail electricity provider, the owner must refund any over-collection and may surcharge any under-collection over the next year.

c. Under either of the plans outlined in subparagraph (a) of this paragraph the owner is prohibited from charging the tenant any interest that may accrue. Any seasonal overcharges or undercharges will be carried by the owner of the complex.

d. The owner may collect a deposit from all tenants entering into level payment plans or average payment plans; the deposit will not exceed an amount equivalent to one-sixth of the estimated annual billing. Notwithstanding any other provision in these sections, the owner may retain said deposit for the duration of the level or average payment plan; however, the owner shall pay interest on the said deposit.

Section 18. *Transition.* – Owners of existing apartment houses shall comply with all the provisions of this Act within six (6) months of its effectivity. The ERC, in coordination with public and private distribution utilities, shall form a monitoring team to ensure compliance of the provisions of this Act.

Section 18. *Penalties.* – In addition to acts or omissions already penalized by existing laws, violation of any of the provisions of this Act shall be punishable by imprisonment of at least one (1) month and 1 day to six (6) months (*arresto mayor*) or a fine of not less than fifty thousand thousand pesos (P50,000.00) but not more than five hundred thousand pesos (P500,000.00), or both, such imprisonment and fine, at the discretion of the court.

Section 19. *Joint Penalty.* – Where a representative of a corporation, or an agent or an employee of, or any other person employed by, a corporation or individual commits any violation of the provisions of this Act in connection with the business of the corporation or individual, in addition to the punishment of such violator, the corporation or individual shall be punished by a fine under the respective provisions of Section 18.

Section 20. *Administrative Penalty.* – In addition to acts or omissions already penalized by existing laws, the any government official or employee who, by fault or omission, violates any provision of this Act shall also be perpetually disqualified from holding public office with forfeiture of benefits in favour of the State.

Section 21. *Congressional Overnight Committee on the Virology Science and Technology Institute of the Philippines.* – To monitor the implementation of this Act, there shall be a Congressional Oversight Committee on the Electricity Sub-Metering, composed of the Chair and four (4) members of the House Committee on Energy and four (4) members of the Senate Committee on Energy, and the Chair of the Committees on Trade and Industry. No part of this Act shall be construed as to limit the oversight powers inherently or actually possessed by the same

committees.

Section 22. *Implementing Rules and Regulations* - The Secretary of Science and Technology shall promulgate the necessary rules and regulations within ninety (90) working days from the effectivity of this Act.

Section 23. *Separability Clause*. - If any portion or provision of this Act is subsequently declared invalid or unconstitutional, other provisions hereof which are not affected thereby shall remain in full force and effect.

Section 24. *Repealing Clause*. - All other laws, acts, presidential decrees, executive orders, presidential proclamations, issuances, rules and regulations, or parts thereof which are contrary to or inconsistent with any of the provisions of this Act are hereby repealed, amended, or modified accordingly.

Section 25. *Effectivity*. - This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in a newspaper of general circulation.

Approved,