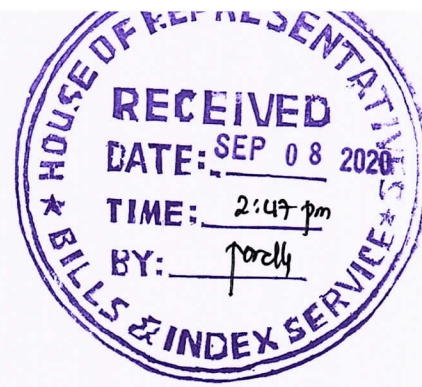


Republic of the Philippines
HOUSE OF REPRESENTATIVES

EIGHTEENTH CONGRESS
Second Regular Session

HOUSE BILL NO. 7608



Introduced by HONORABLE WES GATCHALIAN

**AN ACT
PROVIDING FOR THE NATIONAL ENERGY POLICY
AND FRAMEWORK FOR ELECTRIC POWER ADVOCACY**

EXPLANATORY NOTE

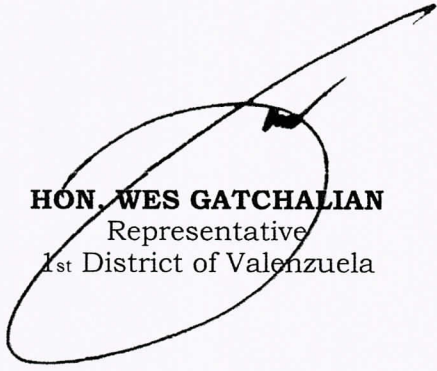
The existence of Republic Act No. 9136 or the Electric Power Industry Reform Act of 2001 (EPIRA), and the consequential creation of the Energy Regulatory Commission (ERC) helped the Philippines transition from a public sector vertically-integrated monopoly to a private sector led competitive but regulated industry. However, despite these innovative measures, gaps, which impede the acceleration of the total electrification of the country are still found in the energy regulation sector. One of such gaps is the lack of end-user representation in the ERC.

End-users have the right to reasonable rates, adequate and reliable services, and to transparent processes involving these rates and services. The ERC is responsible for setting performance standards and retail rates, allowing recovery of just and reasonable costs as well as reasonable return, and ensuring end-user protection. Without proper representation end-users will more likely be left in the dark and prejudiced in the actions and decisions of the ERC. Hence, there is a need for institutionalized and independent end-user representation in rate-setting, rule-making, and other energy related cases and proceedings before government agencies including judicial and quasi-judicial bodies.

This bill seeks to create an Energy Advocate Office (EAO), led by the Energy Advocate. The EAO acts as the independent end-user representative in all rate-setting, rule-making, and other energy related cases and proceedings before government agencies including judicial and quasi-judicial bodies. The creation of the EAO aims to attain what jurisdictions with an institutionalized consumer advocate have, such as the

postponement of utilities' rate increase applications, a decrease in the income of utilities, and lower electricity retail prices.

In view of the foregoing, immediate passage of this bill is earnestly sought.



HON. WES GATCHALIAN
Representative
1st District of Valenzuela

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

1 **SECTION 1. Short Title.** – This Act shall be referred to as the “Energy Advocate
2 Act.”

3
4 **SEC. 2. Declaration of Policy.** – It is hereby declared the policy of the State to
5 recognize the right of energy end-users to reasonable rates, adequate and reliable
6 services, and to transparent processes involving these rates and services. Towards
7 this end, there is a need for institutionalized and independent end-user
8 representation in rate-setting, rule-making, and other energy related cases and
9 proceedings before government agencies including judicial and quasi-judicial bodies.

10
11 **SEC. 3. The Energy Advocate Office (EAO).** – The EAO is hereby created which
12 shall be an independent and autonomous office attached to the Department of
13 Justice (DOJ) in accordance with Section 38(3), Chapter 7, Book IV of Executive
14 Order No. 292, otherwise known as the Administrative Code of 1987, as amended.

15
16 **SEC. 4. Powers and Functions.** - The EAO shall be the representative of all
17 end-users in energy sector matters affecting the public interest before any
18 department, commission, agency, or court. It shall independently discharge its
19 mandate towards the best interest of all end-users, ensuring least cost without
20 compromising safety, reliability, and sufficient service. Towards this end, the EAO
21 shall:

22 (1) Initiate, intervene, and represent all end-users, in the following:

- a. Rate-setting, rule-making, and other energy related cases, complaints, proceedings, and consultations before the Department of Energy (DOE), Energy Regulatory Commission (ERC), National Electrification Administration (NEA), Philippine Competition Commission (PCC), and other judicial and quasi-judicial bodies; and
 - b. Actions before any trial or appellate court, including the Supreme Court, which involve the validity of any decision, memoranda, rule, regulation, circular, or order of the DOE, ERC, NEA, PCC, and other departments, commissions, and agencies insofar as these decisions and policy issuances affect energy rates and services;
- (2) Monitor all issuances of the DOE, ERC, NEA, PCC, and other departments, commissions, and agencies insofar as these affect energy rates and services;
 - (3) Engage in regular information, education, and communication programs for all end-users on laws, rules, regulations, decisions, circulars, and orders that affect energy rates and services, including end-users rights and remedies;
 - (4) Be furnished or served, as the case may be, by departments, commissions, and agencies with all documents, notices, petitions, applications, complaints, answers, motions, and other pleadings in all energy related cases, complaints, proceedings, and consultations;
 - (5) Have the right to access, free of charge, all files, records, and documents in the DOE, ERC, NEA, PCC and other departments, commissions, and agencies pertaining to energy related cases, complaints, proceedings, and consultations: *Provided*, That the files, records, and documents do not pertain to the following:
 - (a) Personnel information;
 - (b) Confidential communications between commissioners, judges, or justices and general counsels on records relating to proceedings in which the EAO is a party to; or
 - (c) Confidential information declared as such by the ERC; and
 - (6) Be free of charge in its use of ordinary mail, registered mail, or courier service for the transmittal of official communications and papers directly connected with the conduct of its powers, functions, or exercise of administrative supervision over its personnel.

EAO lawyers shall have the authority to administer oaths in connection with the performance of their duty.

SEC. 5. *The Energy Advocate and Deputy Energy Advocate.* – The Energy Advocate (EA) shall head the EAO, shall have the primary authority and

1 responsibility for the effective exercise of its mandate and the discharge of its powers
2 and functions, and shall be assisted by a Deputy EA. In case of temporary absence
3 of the EA, the Deputy EA shall be designated as the Officer-in-Charge of the EAO.
4

5 The EA and Deputy EA shall be natural-born citizens of the Philippines, at least forty
6 (40) years of age, with at least fifteen (15) years of practice in law, and with proven
7 competence, integrity, probity, and independence: *Provided*, That the EA shall have
8 at least six (6) years of practice in the field of energy, and the Deputy EA shall have
9 at least four (4) years of practice in the field of energy. Both of them shall not be
10 affiliated with any energy company, as member of the board, officer, employee, or
11 consultant, at least one (1) year before their respective appointments.
12

13 **SEC. 6. Appointment, Term, and Rank.** – The EA and Deputy EA shall be
14 appointed by the President: *Provided*, That the appointment of the Deputy EA shall
15 be upon the recommendation of the EA. They shall both serve for a term of six (6)
16 years and may be reappointed: *Provided*, That for the first appointees, the EA and
17 Deputy EA shall hold office until the end of term of the appointing President.
18

19 The EA and Deputy EA shall have the same rank, salaries, allowances, and
20 retirement benefits as the Prosecutor General and Senior Deputy State Prosecutor of
21 the National Prosecution Service respectively: *Provided*, That their retirement
22 benefits shall be prorated in accordance with Section 21 of Republic Act No. 10071,
23 otherwise known as the Prosecution Services Act.
24

25 **SEC. 7. Prohibitions.** – The EA and Deputy EA shall be prohibited from:

- 26 (1) Serving as a member of the board, officer, employee, or consultant of any
27 energy company in the course of their respective terms of office: *Provided*, That
28 this prohibition shall also apply to their family members up to the fourth
29 degree of consanguinity or affinity;
- 30 (2) Having any interest, ownership, or stake in any energy company in the course
31 of their respective terms of office: *Provided*, That this prohibition shall also
32 apply to their family members up to the fourth degree of consanguinity or
33 affinity;
- 34 (3) Representing any government agency, government –owned or –controlled
35 corporation, or private company in any energy related case, proceeding, or
36 consultation before any department, commission, agency, or court, in the
37 course of one (1) year after the end of their respective terms of office; and

1 (4) Being members of a political party and committee, or engaging in any partisan
2 political activity in the course of their respective terms of office.
3

4 **SEC. 8. *Organizational Structure and Plantilla Positions.*** – The EAO, upon
5 approval of the DOJ, shall submit its organizational structure and plantilla positions
6 to the Department of Budget and Management (DBM) not later than six (6) months
7 from the effectivity of this Act: *Provided*, That the DBM shall approve the final
8 organizational structure and plantilla positions of the ECAO not later than three (3)
9 months from submission.
10

11 The EAO, upon approval of the DOJ, may request the DBM for any change in
12 the organizational structure and plantilla positions after a comprehensive review
13 resulting to a finding that any alteration will improve the discharge of the EAO's
14 powers and functions: *Provided*, That the DBM shall render a decision on such
15 request within three (3) months from submission.
16

17 The EAO shall have legal, technical, and administrative personnel in its
18 organizational structure and staffing complement, and may hire consultants as
19 expert witnesses or technical advisors as it finds necessary for the full and efficient
20 discharge of its powers and functions. All employees and consultants shall be subject
21 to civil service laws, rules, and regulations: *Provided*, That all employees shall be
22 subject to Republic Act No. 6758, otherwise known as the Salary Standardization
23 Act.
24

25 **SEC. 9. *Removal and Vacancy.*** – The EA and Deputy EA shall not be removed
26 or suspended, except for cause provided by law. The President may remove the EA
27 or the Deputy EA for malfeasance, misfeasance, or nonfeasance in office, or for any
28 cause which renders any of them ineligible for appointment, incapable, or unfit to
29 discharge the mandate, powers, and functions of the EAO.
30

31 In case of death, permanent incapacity, removal, or resignation of the
32 incumbent EA or Deputy EA, the President may appoint or designate one, as the case
33 may be, in an acting capacity until a new EA or Deputy EA has been appointed:
34 *Provided*, That the new appointment shall only be for the unexpired term of the
35 predecessor.
36

1 **SEC. 10. *Exemption from Fees and Costs of Suits.*** – The EAO shall be exempt
2 from payment of docket and other fees incidental to instituting an action in court
3 and other quasi-judicial bodies, as an original proceeding or on appeal.
4

5 **SEC. 11. *Costs of Suit.*** – The costs of the suit, attorney's fees, and contingent
6 fees imposed upon adversarial parties of the EAO after a successful litigation shall
7 be deposited in the National Treasury.
8

9 **SEC. 12. *Grant of Special Allowances.*** – The EA, Deputy EA, service or division
10 heads, and lawyers shall be granted special allowances in amounts to be determined
11 by the DBM: *Provided*, That the grant of said special allowances shall not exceed one
12 hundred percent (100%) of the basic salary of the EAO officials and lawyers: *Provided*
13 *further*, That special allowances shall be paid from costs of suit, attorney's fees and
14 contingent fees deposited in the National Treasury pursuant to Section 11 of this
15 Act: *Provided finally*, That whenever the funding source is insufficient, the special
16 allowance shall be paid through the General Appropriations Act.
17

18 **SEC. 13. *Appropriations.*** – The amount necessary for the initial
19 implementation of this Act in the amount of two hundred million pesos
20 (P200,000,000.00) shall be taken from the budget of the DOJ. Thereafter, the amount
21 of two hundred million pesos (P200,000,000.00) shall be automatically appropriated
22 and included in the annual General Appropriations Act every year which may be
23 increased as may be necessary for the continued implementation of this Act.
24

25 **SEC. 14. *Amendatory Clause.*** – Republic Act No. 7638, otherwise known as
26 the Department of Energy Act of 1992, as amended, is hereby further amended.
27

28 **SEC. 15. *Implementing Rules and Regulations.*** – Within ninety (90) calendar
29 days from the approval of this Act, the DOJ, in consultation with the DBM,
30 government energy agencies, and private energy stakeholders, shall adopt and issue
31 the rules and regulations for the effective implementation of this Act.

32 **SEC. 16. *Congressional Oversight.*** – The Joint Congressional Energy
33 Commission shall exercise oversight powers over the implementation of this Act.
34

1 **SEC. 17. *Separability Clause.*** – Any portion or provision of this Act, which
2 may be declared unconstitutional or invalid shall not have the effect of nullifying
3 other portions or provisions hereof.
4

5 **SEC. 18. *Repealing Clauses.*** – All laws, ordinances, rules, regulations and
6 other issuance or parts thereof, which are inconsistent with this Act, are hereby
7 amended, modified, or repealed accordingly.
8

9 **SEC. 19. *Effectivity Clause.*** – This Act shall take effect fifteen (15) days after
10 its publication in the Official Gazette or at least two (2) newspapers of general
11 circulation.
12

13 *Approved,*