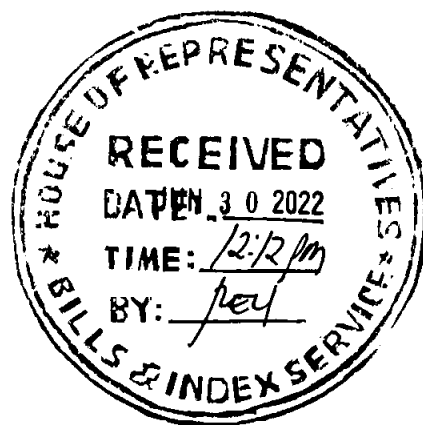




Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Manila

NINETEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 28



Introduced by Honorable Lord Allan Jay Q. Velasco

EXPLANATORY NOTE

Republic Act No. 9136, otherwise known as the Electric Power Industry Reform Act (EPIRA) of 2001, sought to re-structure the electric power industry by privatizing the Generation, Transmission, Distribution, and Supply of the power sector. Distribution and transmission were later declared as public utilities.

In line with the EPIRA, the Energy Regulatory Commission (ERC) was created as an independent, quasi-judicial regulatory body, amending for that purpose the existing Energy Regulatory Board (ERB) created under Executive Order No. 172, as amended.

ERC, as the country's electric power regulator has a crucial role in ensuring consumer protection, and in enhancing the competitive operation of the electricity market. An evaluation of the governance structure of the ERC would show that the powers and functions of the Chairman of the Commission and the Chief Executive Officer is lodged in one person. Experience shows that practice does not foster a balance of power and accountability. Accountability and transparency in the workings of the Commission should also be paramount in order to engender trust and integrity among the industry players and the public. It is in this light that this measure is proposed. This bill aims to enhance and strengthen the existing governance structure of the regulatory body, by providing (1) additional qualifications and requirements for ERC Commissioners to ensure board diversity; (2) prohibitions and disqualifications for ERC Commissioners and their relatives to prevent conflicts of interest; (3) divestment of the CEO functions from the Chairperson and lodging the same to the Executive Director of the ERC; provision for a People's Counsel; and (4) detailing a Code of Ethics for the Commissioners.

In view of the foregoing, this bill seeks to provide a more streamlined and stronger power regulator, amending for that purpose, Republic Act No. 9136, otherwise known as the otherwise known as the Electric Power Industry Reform Act (EPIRA) of 2001. For the foregoing reasons, the passage of this bill is hereby sought.

LORD ALLAN JAY Q. VELASCO



Republic of the Philippines
HOUSE OF REPRESENTATIVES

NINETEENTH CONGRESS

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HOUSE BILL NO. 28

Introduced by Representative Lord Allan Q. Velasco

AN ACT

STRENGTHENING THE ENERGY REGULATORY COMMISSION BY EXPANDING AND STREAMLINING ITS BUREAUCRACY, UPGRADING EMPLOYEE SKILLS, AUGMENTING FOR THE PURPOSE, EMPLOYEE BENEFITS, AND APPROPRIATING FUNDS THEREFOR

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 “*Energy Regulatory Commission Act.*”

SECTION 2. **Declaration of Policy.** - The State recognizes the significant role of the Energy Regulatory Commission in:

- a) Ensuring transparent and reasonable prices of electricity;
- b) Protecting the consumers as they are affected by the rates and services of electric utilities and other providers of electric power; and
- c) Promoting competition, encouraging market development, ensuring customer choice, and penalizing abuse of market power in the restructured power industry.

Towards this end, the State shall:

- a) Establish a strong, independent, transparent, and accountable regulatory body; and
- b) Ensure the efficient and effective performance of the functions and mandates of the regulatory body to enhance competitiveness in the electric power industry.

SECTION 3. **Definition of Terms.** FOR THE PURPOSE OF this Act, the following terms shall have the following meaning unless provided otherwise:

- a) Commission refers to the decision-making body of the Energy Regulatory

Commission under Republic Act No. 9136 composed of one (1) Chairperson and EIGHT (8) Commissioners;

- b) Electric Power Industry Participant refers to any person or entity engaged in the generation, transmission, distribution, or supply of electricity;
- c) Electronic Disclosure and Data Access system (EDDA) repository refers to the system for disclosure of energy industry information for public access to ensure transparency and consumer protection using electronic database and communications system
- d) Joint Congressional ENERGY Commission refers to the Commission created under Republic Act No. 9136, OTHERWISE KNOWN AS THE “ELECTRIC POWER INDUSTRY REFORM ACT OF 2001,” AS AMENDED;
- e) Key ERC Personnel refers to employees who hold executive or managerial positions in the ERC; AND
- f) QUASI-JUDICIAL BODY REFERS TO AN ENTITY, SUCH AS THE ERC, WHICH HAS THE POWERS AND FUNCTIONS TO CONDUCT HEARINGS, FIND FACTS, APPLY GOVERNING LAW AND RESOLVE DISPUTES BETWEEN THE AGENCY AND AN ENTITY.

SECTION 4. Section 38 of Republic Act NO. 9136 is hereby amended, to read as follows:

SEC. 38. STRENGTHENING/RECONSTITUTION of the Energy Regulatory Commission. – THE ENERGY REGULATORY COMMISSION (ERC) IS HEREBY RECONSTITUTED as an independent, quasi-judicial regulatory body, WITH POWERS TO PROMULGATE AND ENFORCE RULES AND REGULATIONS TO EFFECTIVELY IMPLEMENT THE PROVISIONS OF THE EPIRA AND THIS ACT. TOWARDS THIS END, THE ERC SHALL BE EXCLUSIVELY RESPONSIBLE FOR THE REGULATION OF THE ELECTRIC POWER AND ENERGY INDUSTRY AND SHALL ENJOY LIMITED FISCAL AUTONOMY. ITS APPROVED ANNUAL BUDGET SHALL BE AUTOMATICALLY AND REGULARLY RELEASED.

The Commission shall be composed of a CHAIRPERSON and EIGHT (8) members. THE CHAIRPERSON AND THE REST OF THE MEMBERS SHALL be appointed by the President of the Philippines AND SHALL SERVE FOR A TERM OF SEVEN YEARS. *PROVIDED*, THAT THE FIRST TWO (2) APPOINTED MEMBERS SHALL SERVE FOR SEVEN (7) YEARS, THE LAST TWO (2) APPOINTED MEMBERS SHALL SERVE FOR FIVE (5) YEARS, *Provided, finally*, That there shall be no

reappointment and in no case shall any member serve for more than seven (7) years in the Commission.

SEC. 38(A). **QUALIFICATION REQUIREMENTS.** – The CHAIRPERSON and the members of the Commission shall be natural-born citizens and residents of the Philippines, persons of good moral character, at least FORTY (40) years of age, and of recognized competence in any of the following fields: energy, law, economics, finance, commerce, or engineering, with at LEAST FIVE (5) years OF actual and distinguished experience in their respective fields of expertise: *Provided,* That out of the EIGHT (8) members of the Commission, at least THREE (3), INCLUDING THE CHAIRPERSON, shall be MEMBERS of the Philippine Bar with at least ten (10) years OF experience in the active practice of law; AT LEAST TWO (2) MEMBERS shall be a certified public accountantS with at least ten (10) years OF experience in THE active practice OF ACCOUNTING; AND THE REMAINING FOUR (4) MEMBERS SHALL COME FROM ANY OF THE FIELDS OF ENERGY, ECONOMICS, FINANCE OR ENGINEERING.

The members of the Commission shall, upon assumption of office:

- a) Publicly disclose any employment, consultancy, or any connection with, and any pecuniary interest in ANY Electric Power Industry Participant;
- b) Publicly disclose if his or her spouse, partner, and any relative by consanguinity or affinity within the fourth civil degree is employed or has a consultancy or any connection with, or has any pecuniary interest in ANY Electric Power Industry Participant;
- c) Divest through sale or legal disposition any and all interests in ANY Electric Power Industry Participant; and
- d) Terminate employment or consultancy with any Electric Power Industry Participant.

SEC. 38(B). **SECURITY OF TENURE.** – Members of the Commission shall enjoy security of tenure and shall not be suspended or removed from office except for just cause as specified by law.

SEC. 38(C). **PROHIBITIONS.** – The CHAIRPERSON and members of the Commission or any of their relatives within the fourth civil degree of consanguinity or affinity, shall be prohibited from holding any interest whatsoever, either as investor,

stockholder, officer or director, in any company or entity engaged in the business of GENERATING, TRANSMITTING, DISTRIBUTING OR SUPPLYING ELECTRICITY. UPON THE ASSUMPTION BY THE CHAIRPERSON AND THE MEMBERS OF THE ERC OF THEIR RESPECTIVE POSITIONS, THE CHAIRPERSON AND THE MEMBERS OF THE ERC AND THEIR RESPECTIVE RELATIVES WITHIN THE PRESCRIBED DEGREE OF PERSONAL RELATIONS SHALL DIVEST THEMSELVES OF ALL THEIR SAID INTERESTS.

SEC. 38(D). **CREATION OF NEW DIVISIONS.** –THE COMMISSION SHALL BE DIVIDED INTO THREE (3) DIVISIONS, WITH THREE (3) MEMBERS EACH, INCLUDING THE CHAIRPERSON. EACH DIVISION SHALL HAVE AT LEAST ONE (1) MEMBER WHO IS A LAWYER AND ONE (1) MEMBER WHO IS AN ACCOUNTANT OR ECONOMIST. THE PRESENCE OF AT LEAST TWO (2) OF THE (3) MEMBERS OF THE DIVISION SHALL CONSTITUTE A QUORUM, AND THE MAJORITY VOTE AT LEAST TWO (2) MEMBERS OF THE DIVISION IN WHICH A QUORUM WAS PRESENT SHALL BE NECESSARY FOR THE ADOPTION OF ANY RULE, RULING, ORDER, RESOLUTION, DECISION OR OTHER ACTS OF THE COMMISSION. FINAL DECISIONS OF THE DIVISIONS MAY BE APPEALED TO THE COURT OF APPEALS.

SEC. 38(E). **QUORUM.** – AT LEAST FIVE (5) MEMBERS OF THE ERC SHALL CONSTITUTE A QUORUM IN THE COMMISSION *EN BANC*. THE CHAIRPERSON SHALL BE THE PRESIDING OFFICER DURING A COMMISSION *EN BANC* HEARING. IN THE ABSENCE OF THE CHAIRPERSON, THE MEMBERS PRESENT, CONSTITUTING A QUORUM, SHALL SELECT AMONG THEMSELVES A PRESIDING OFFICER. A VALID DECISION OF THE COMMISSION *EN BANC* SHALL BE CONCURRED IN BY THE MAJORITY OF THE MEMBERS CONSTITUTING A QUORUM.

THE COMMISSION *EN BANC* SHALL ACT PRIMARILY ON THE FOLLOWING CASES:

- a) CASES INVOLVING THE ERC’S POWER TO PROMULGATE RULES OR REGULATIONS;
- b) CASES INVOLVING CONTRACTS WORTH MORE THAN FIVE HUNDRED MILLION PESOS (PHP500,000,000.00);
- c) CASES INVOLVING THE NATIONAL TRANSMISSION CORPORATION

(TRANSCO) OR ITS AUTHORIZED CONCESSIONAIRE, WHICH OPERATES THE TRANSMISSION NETWORK;

d) ALL CASES INVOLVING PRIVATE DISTRIBUTION UTILITIES;

e) CASES PREVIOUSLY HANDLED BY THE ERC DIVISION IN WHICH NO VALID DECISION WAS REACHED; AND

f) OTHER CASES AS MAY BE DESIGNATED BY THE COMMISSION EN BANC ITSELF:

PROVIDED, THAT FOR CAPITAL EXPENDITURE APPLICATIONS, THE COMMISSION SHALL RENDER ITS DECISION WITHIN SIXTY (60) CALENDAR DAYS, WITHOUT EXTENSION, AFTER THE FIRST HEARING AT THE PETITIONER'S COVERAGE AREA: *PROVIDED, FURTHER*, THAT APPLICATIONS FOR EMERGENCY CAPITAL EXPENDITURES SHALL BE DECIDED WITHIN FORTY-FIVE (45) DAYS: *PROVIDED, FINALLY*, THAT FOR APPLICATIONS FOR RATE CASES, THE COMMISSION SHALL RENDER ITS PROVISIONAL AUTHORITY WITHIN NINETY (90) CALENDAR DAYS, WITHOUT EXTENSION, RECKONED AFTER THE TERMINATION OF EVIDENTIAL HEARING WHEREIN THE COMMISSION SHALL DECIDE ON THE CASE SUBMITTED FOR RESOLUTION.

SEC. 38(F). ***CODE OF CONDUCT AND ETHICAL STANDARDS.*** – THE CHAIRPERSON AND THE MEMBERS OF THE ERC SHALL CONFORM TO THE CODE OF CONDUCT AND ETHICAL STANDARDS AS SPECIFIED IN REPUBLIC ACT NO. 6713.

ANY VIOLATION OF THE ABOVE-MENTIONED CODE OF CONDUCT AND ETHICAL STANDARDS SHALL CONSTITUTE JUST CAUSE FOR REMOVAL FROM OFFICE BY THE OFFICE OF THE PRESIDENT OF THE PHILIPPINES, WITHOUT PREJUDICE TO ANY OTHER PENALTIES UNDER ALL APPLICABLE LAWS.

AFTER TERMINATING EMPLOYMENT OR SERVICE WITH THE ERC, THE CHAIRPERSON AND MEMBERS OF THE ERC, EXECUTIVE DIRECTOR, SERVICE OR OFFICE DIRECTORS, OR ITS EQUIVALENT, WHO ARE APPOINTED, OR EMPLOYED WITH THE ERC, SHALL BE PROHIBITED FROM ACCEPTING EMPLOYMENT WITH ANY REGULATED ENTITY FOR A PERIOD OF THREE (3) YEARS FOLLOWING SUCH TERMINATION, AND ALL MEMBERS OF THE ERC SHALL BE PROHIBITED FROM APPEARING BEFORE THE ERC ON BEHALF OF ANY REGULATED ENTITY FOR A PERIOD OF THREE (3) YEARS AFTER SAID TERMINATION OF EMPLOYMENT.

SECTION 5. **CREATION OF OVERSIGHT COMMITTEES OR SERVICES.** –

The Commission *en Banc* may create oversight committees or services as may be deemed necessary and consistent with the functions and mandates of the ERC.

To achieve the goals of this Act, the Commission, as an independent regulatory body, is hereby authorized to provide for its reorganization, to streamline its structure and operations, upgrade its human resource compliment and enable the same to perform its functions more efficiently and effectively and exercise its powerS under this Act and under Republic Act No. 9136, otherwise known as THE “Electric Power Industry Reform Act of 2001” (EPIRA), AS AMENDED

SECTION 6. **Commission en Banc** - In addition to the functions enumerated in Republic Act No. 9136, Republic Act No. 9513, otherwise known as the “Renewable Energy Act of 2008,” and other relevant laws, all the members of the Commission shall:

a) Exercise all quasi-judicial functions in furtherance of the ERC’s mandate under Republic Act No. 9136;

b) Act on the selection and appointment of all ERC personnel: *Provided*, That the appointment of ERC personnel with a rank lower than a Division Chief may be delegated to the Chairperson;

c) Approve the internal rules, organizational structure, and operational strategy of the ERC; and

d) Act as the Head of Procuring Entity (HOPE) and exercise all duties and powers as stated in Republic Act No. 9184, otherwise known as the “Government Procurement Reform Act:” *Provided*, That the Commission may delegate its functions under the said Act.

e) Appoint the Executive Director of the ERC, *Provided*, That the requirements, prohibited acts, qualifications, and duties and responsibilities stated in Sections 4, 7, 8, and 19 of this Act are complied with.

f) Review and act on the endorsement of the proposed ERC ANNUAL budget: *Provided*, That such endorsement SHALL come from the Executive Director and SHALL be substantiated with supporting documents;

g) Initiate, *motu propRio* or upon formal complaint, investigations against the Executive Director and act upon [these] SUCH investigations: *Provided*, That such investigation is without prejudice to the filing of administrative or criminal cases against the Executive Director.

SECTION 7. ***Duties and Responsibilities of the Chairperson.*** – The Chairperson as head of the Commission *en Banc* shall have the following duties and responsibilities:

CHAIRPERSON OF THE COMMISSION:

A) DETERMINE THE DATE, TIME AND LOCATION OF THE REGULAR OR SPECIAL EN BANC COMMISSION MEETING AND PREPARE THE AGENDA FOR THE MEETING WITH THE CONSENSUS OF THE MEMBERS OF THE COMMISSION;

B) PRESIDE OVER MEETINGS OF THE COMMISSION: *PROVIDED*, THAT THE CHAIRPERSON SHALL HAVE THE RIGHT TO VOTE ON ALL MATTERS, ISSUES OR CASE PENDING BEFORE THE COMMISSION EN BANC;

CHAIRPERSON ACTING AS CHIEF EXECUTIVE OFFICER (CEO):

a) Lead and oversee the implementation of the Commission’s mandate under the EPIRA in accordance with the Commission approved internal rules, organizational and operational strategy;

b) Ensure THAT good governance policies, practices, rules and procedures that promote the highest standards of integrity, competence, and transparency ARE IN PLACE;

c) EXERCISE ADMINISTRATIVE SUPERVISION OVER THE EXECUTIVE DIRECTOR AND SERVICE DIRECTORS;

d) DELEGATE ADMINISTRATIVE AUTHORITY TO OFFICIALS AND EMPLOYEES OF THE ERC FOR THE PERFORMANCE OF ANY FUNCTION;

e) SUPERVISE THE PREPARATION OF THE ANNUAL AND SUPPLEMENTAL BUDGETS OF THE COMMISSION; AND

f) Perform such other functions as may be provided by law.

SECTION 8. ***Executive Director.*** –THE EXECUTIVE DIRECTOR SHALL BE THE CHIEF OPERATING OFFICER (COO) WHO SHALL ACT UNDER THE SUPERVISION OF THE CHAIRPERSON WHO IS THE CHIEF EXECUTIVE OFFICER (CEO).

THE EXECUTIVE DIRECTOR SHALL PREFERABLY BE A LAWYER WITH AT LEAST TEN (10) YEARS OF ACTIVE PRACTICE OF LAW, CAREER SERVICE EXECUTIVE ELIGIBLE (CSEE) OR CAREER EXECUTIVE SERVICE ELIGIBLE (CESE) WITH AT LEAST FIVE (5) YEARS EXPERIENCE IN MANAGEMENT AND ADMINISTRATION TO BE APPOINTED BY THE COMMISSION EN BANC.

THE DUTIES AND RESPONSIBILITIES OF THE EXECUTIVE DIRECTOR SHALL INCLUDE THE FOLLOWING:

- a) Developing and proposing, for the Commission's approval, the operationalization of the strategies and policies agreed upon by the Commission,
- b) Effectively executing the approved operationalization of the strategies and policies agreed upon by the Commission;
- c) Leading the management of the daily operations of THE ERC in accordance with the plans and within the budget approved by the Commission;
- d) Assuming full responsibility for the overall supervision and control of all divisions, units, and services of the ERC;
- e) Assigning to each division, unit, and service of the ERC such duties that are considered necessary or expedient;
- f) Coordinating the workings of the divisions, units, and services of the ERC.
- g) Establishing a mechanism for capacity building for all employees of the ERC to continuously enhance technical competence: *Provided*, That such mechanism SHALL be based on the principle of meritocracy;
- h) Ensuring compliance with the ERC's Enhanced Merit Selection Plan and/or other plans related to personnel selection duly approved by the Commission when it comes to the hiring and promotion of employees;
- i) Leading the management to ensure effective working relationships with the Commission by regularly communicating with the Chairperson to review key developments, issues, opportunities, and concerns;
- j) Ensuring that the management gives priority to providing documents and reports, which contain relevant, accurate, timely, and clear information necessary for the Commission to fulfill its duties;
- k) Maintaining regular dialogue with the Commission while ensuring that the Commission, especially the Chairperson, is alerted ON forthcoming complex, contentious, sensitive, or strategic issues facing the ERC;
- l) Advising the Commission on any matter referred to the Executive Director;
- m) Managing the affairs of the ERC in accordance with good corporate governance practices and procedures while promoting the highest standards of independence, transparency, integrity and probity;
- n) Initiating investigations and recommending administrative sanctions against erring employees, without prejudice to the filing of any criminal action against the concerned employee;
- o) Regularly submitting to the Commission updates on the operations of the ERC;
- p) Oversee the daily operations of the ERC and ensure the smooth functioning of all

ERC processes;

q) Provide the Commission with periodic updates on the day-to-day operations of the ERC towards the achievement of its target objectives;

r) ENSURE THE ADEQUACY OF ERC'S MANPOWER COMPLEMENT, EQUIPMENT, FACILITIES OR SPACE, MATERIALS, SUPPLIES AND SYSTEMS;

s) DEVELOP, IN COORDINATION WITH THE SERVICE DIRECTORS, THE ERC'S ANNUAL OPERATING PLAN AND INTERNAL RULES TO BE SUBMITTED TO THE COMMISSION FOR ITS APPROVAL;

T) ESTABLISH, IN COORDINATION WITH SERVICE DIRECTORS, PERIODIC PERFORMANCE TARGETS OF ALL SERVICES TO BE SUBMITTED TO THE COMMISSION FOR ITS APPROVAL;

U) EVALUATE AND ENSURE COMPLIANCE OF THE SERVICES AND ALL ERC EMPLOYEES WITH THE COMMISSION APPROVED PERIODIC PERFORMANCE TARGETS, ANNUAL OPERATING PLAN AND INTERNAL RULES;

V) COORDINATE WITH ALL SERVICES ON THE PREPARATION OF THE PROPOSED ANNUAL BUDGET AND PROCUREMENT PLAN TO THE COMMISSION FOR ITS APPROVAL;

W) MONITOR AND ENSURE THE IMPLEMENTATION OF THE COMMISSION APPROVED ANNUAL BUDGET AND PROCUREMENT PLAN IN ACCORDANCE WITH THE DBM'S EXPENDITURE PROGRAM; AND

X) Perform such other functions related to THE foregoing or as may be assigned by the Commission en Banc OR THE CHAIRPERSON.

All decisions of the Executive Director involving budgeting and disbursement of funds shall be subject to the approval of the Commission.

SECTION 9. *Duties and Responsibilities of the Members of the Commission.* – In addition to the functions enumerated in Republic Act NO. 9136, the members of the Commission shall:

a) Regularly attend and actively participate in the meetings of the Commission where any case, issue, or matter within its jurisdiction is under consideration;

b) Recommend to the Chairperson the inclusion in the agenda of any case, issue, or matter deemed appropriate in the performance of the Commission's functions,

c) Thoroughly analyze cases, issues, and matters pending before the Commission;

d) PARTICIPATE in THE continuous education and capacity-building programs of the Commission to enhance technical competence;

e) Abstain from acts which unduly influence, impede, or hamper the Executive Director or any ERC employee from effectively fulfilling his or her duties and responsibilities;

f) Perform in good faith and to the best of HIS OR HER ability, the functions stated in Republic Act NO. 9136 and the duties and responsibilities specified in this Act.

Duties and Responsibilities of the Chairperson of the Second and Third Division –
The Commission Member as head of the Second or Third Division shall have the following duties and responsibilities:

CHAIRPERSON OF THE DIVISION:

A) DETERMINE THE DATE, TIME AND LOCATION OF THE REGULAR OR SPECIAL DIVISION MEETING AND ~~[DEVELOP]~~ PREPARE THE AGENDA FOR THE MEETING WITH THE CONSENSUS OF ~~[ALL]~~ THE MEMBERS OF THE DIVISION;

B) PRESIDE OVER MEETINGS OF THE DIVISION: *PROVIDED*, THAT THE CHAIRPERSON SHALL HAVE THE RIGHT TO VOTE ON ALL MATTERS, ISSUES OR CASE PENDING BEFORE THE DIVISION.

SECTION 10. Section 39 of the Electric Power Industry Reform Act (EPIRA) of 2001 is hereby amended to read as follows:

“SEC. 39. ***ADJUSTED Compensation STRUCTURE and Other Emoluments for THE ERC Personnel.*** – The compensation and other emoluments for the Commission and the ERC personnel shall be exempted from the coverage of Republic Act No. 6758, otherwise known as the “Salary Standardization Act,” AS AMENDED BY EXECUTIVE ORDER NO. 201, SERIES OF 2016.

The CHAIRPERSON and members of the Commission shall be entitled to the same salaries, allowances and benefits as those of the Presiding Justice and Associate Justices of the COURT OF APPEALS, respectively. The CHAIRPERSON and the members of the Commission shall, upon completion of their term or upon becoming eligible for retirement under existing laws, be entitled to the same retirement benefits and the privileges provided for the Presiding Justice and Associate Justices of the COURT OF APPEALS, respectively.

THE COMPENSATION SCHEDULE OF THE ERC PERSONNEL SHALL BE COMPETITIVE WITH THE SALARY RANGE OF OTHER REGULATORY AGENCIES, AND THE ELECTRIC POWER INDUSTRY STAKEHOLDERS. FOR THIS PURPOSE, THE COMMISSION *EN BANC* SHALL, SUBJECT TO THE APPROVAL OF THE

PRESIDENT OF THE PHILIPPINES, ADJUST THE COMPENSATION SCHEDULE AND BENEFITS OF ERC PERSONNEL, INCLUDING ANNUAL MERIT REVIEW OR INCREASES BASED ON PRODUCTIVITY AND EFFICIENCY ONCE EVERY TWO (2) YEARS TO ENSURE THAT THE SAME IS COMPARABLE WITH THE COMPENSATION PACKAGE OF OTHER REGULATORY AGENCIES, AND THE ELECTRIC POWER INDUSTRY STAKEHOLDERS.

SECTION 11. Section 40 of the Electric Power Industry Reform Act (EPIRA) of 2001 is hereby amended to read as follows:

“SEC. 40. *Enhancement of Technical Competence.* - THE ERC SHALL ESTABLISH A RIGOROUS AND SUSTAINABLE TRAINING PROGRAM THAT WILL ALLOW ITS STAFF TO ACQUIRE THE NECESSARY KNOWLEDGE AND SKILLS AT PAR WITH THE PERSONNEL OF REGULATORS FROM OTHER JURISDICTIONS AND ECONOMIES.

FOR THIS PURPOSE, THE ERC SHALL DESIGN A STANDARDIZED TRAINING AND DEVELOPMENT PROGRAM AND FACILITATE THE REGULAR CONDUCT OF NECESSARY TRAINING FOR NEW AND INCUMBENT ERC PERSONNEL.

THE ERC SHALL ALLOT NO LESS THAN FIFTEEN PERCENT (15%) OF ITS TOTAL ANNUAL APPROVED BUDGET FOR THE TRAINING AND UPGRADING OF SKILLS OF ITS PERSONNEL.

THE ERC MAY HIRE A REASONABLE NUMBER OF CONSULTANTS OR EXPERTS AS MAY BE APPROPRIATE AND NECESSARY TO GIVE ADVICE TO AND PERFORM SERVICES FOR THE ERC. THE TERMS AND CONDITIONS OF THE ENGAGEMENT SHALL BE AS DETERMINED BY THE ERC, SUBJECT TO THE PROVISIONS OF REPUBLIC ACT NO. 9184, OTHERWISE KNOWN AS THE “GOVERNMENT PROCUREMENT REFORM ACT.”

SECTION 12. *Seminar and Other Professional Fees.* – Fees for relevant seminars, professional membership, registration fees, including those for mandatory continuing professional education (CPE), and related miscellaneous expenses of ERC employees holding positions for which a professional license is required by the office, shall be borne by the ERC.

SECTION 13. *Benefits and Privileges.* – The ERC shall provide its employees with

the following benefits:

- a) Health care services through a health maintenance organization (HMO). Expenses for mandatory annual executive check-up for all employees shall be for the account of the ERC;
- b) All employees shall be covered by accident insurance policies procured by the ERC at its own expense;
- c) A provident fund, which shall consist of contributions made by both the ERC and its employees to a common fund for the payment of benefits to employees or their heirs;
- d) Performance incentives in accordance with a performance incentive program designed and duly approved by the Commission *en banc*, which shall in no case be less than the incentives provided under existing laws.

SECTION 14. Section 41 of the Electric Power Industry Reform Act (EPIRA) of 2001 is hereby amended to read as follows:

“SEC. 41. ***PROTECTION and Promotion of Consumer Interest.*** – THE ERC SHALL ADDRESS AND PROVIDE TIMELY RESOLUTIONS TO CONSUMER COMPLAINTS AND ENSURE ADEQUATE PROTECTION OF CONSUMER INTERESTS THROUGH THE ADOPTION OF POLICIES THAT FOSTER GOALS SUCH AS PUBLIC ACCESS TO THE ERC AND ITS PROCESSES, CONSUMER EDUCATION, AND EFFICIENT UTILIZATION OF ERC RESOURCES.

FOR THIS PURPOSE, THE ERC SHALL REGULARLY CONDUCT TRAININGS FOR THE EFFICIENT HANDLING OF CONSUMER COMPLAINTS BY THE DISTRIBUTION UTILITIES’ CONSUMER WELFARE DESK (CWD). THE ERC SHALL ALLOCATE AN ANNUAL BUDGET FOR THIS PURPOSE.

SECTION 15. ***Limited Fiscal Autonomy.*** – In addition to its yearly appropriation authorized in the General Appropriations Act (GAA), the Commission shall be allowed to use for the following year thirty percent (30%) of its revenues generated from the collection of fees, assessments, licenses, fines, penalties and other charges.

The said amount shall be utilized in the following manner:

- a) Ten percent (10%) of such income shall be used to augment ERC’s Capital Outlay (CO) Budget;
- b) SIXTY PERCENT (60%) of such income shall be used to augment the ERC’s Maintenance and Other Operating Expenses (MOOE) Budget; and
- c) THIRTY PERCENT (30%) of such income shall be used to augment the ERC’s

Personnel Service (PS) Budget intended to augment the benefits of the ERC Officers, personnel and staff except for the Chairperson and members of the Commission.

In case the ERC fails to fully utilize the revenues mentioned herein, the unutilized amount shall revert to the National Treasury.

SECTION 16. ***Public Disclosure and Transparency.*** – The Commission shall submit and make available to the public, within the prescribed period, reports pertinent to compliance submissions, reports, certificates, orders, or decisions, except those designated as confidential submissions affecting trade secrets or the like, made or issued in relation to industry players in the generation, transmission, distribution, and supply sectors, such as resolutions, orders, decisions, certificates of compliance, certificates of registrations, retail rates of distribution utilities, system loss data of distribution utilities, system and capital infrastructure, consumer complaints, applications, petitions, and other similar public documents to an Electronic Disclosure and Data Access system (EDDA) repository. The EDDA shall start operating within three (3) years from the effectivity of this Act.

SECTION 17. ***Franking Privilege.*** – All official mail matters and telegrams of the ERC addressed for delivery within the Philippines shall be received, transmitted, and delivered free of charge: *Provided*, That such mail matters shall not exceed two (2) kilograms.

SECTION 18. Section 42 of the Electric Power Industry Reform Act (EPIRA) of 2001 is hereby amended to read as follows:

“SEC. 42. ***APPROPRIATIONS.*** – SUCH SUMS AS MAY BE NECESSARY FOR THE EFFECTIVE IMPLEMENTATION OF THIS ACT SHALL BE TAKEN FROM THE CURRENT FISCAL YEAR APPROPRIATION OF THE ERC. THEREAFTER, THE AMOUNT NEEDED FOR THE CONTINUOUS IMPLEMENTATION OF THIS ACT SHALL BE INCLUDED IN THE ANNUAL GENERAL APPROPRIATIONS ACT.”

SECTION 19. ***Prohibited Acts.*** – The members of the Commission, within the duration of their term, SHALL BE prohibited from:

- a) Taking up any employment or consultancy arrangement with any Electric Power Industry Participant;
- b) Holding any connection to and any pecuniary interest in any Electric Power Industry Participant;

- c) Holding any other office or employment; and
- d) Directly or indirectly practicing any profession, participating in any business, or be financially interested in any contract with, or any franchise, or special privileges granted by the government or any subdivision, agency, or instrumentality thereof, including government-owned and controlled corporations or their subsidiaries.

The members of the Commission, after the cessation of their service, SHALL BE prohibited from:

- a) Running for office in the election immediately succeeding their cessation from office; and
- b) Personally appearing or practicing as counsel or agent on any matter pending before the Commission for THREE (3) years following the cessation of their service.

Any spouse, partner, and relative by consanguinity or affinity within the fourth civil degree of the members of the Commission SHALL BE prohibited from:

- a) Taking up any employment or consultancy arrangement with anY Electric Power Industry Participant during the incumbency of the member of the Commission to whom he or she is related to;
- b) Holding any connection to and pecuniary interest in any Electric Power Industry' Participant during the incumbency of the member of the Commission to whom he or she is related to; AND
- c) Appearing as counsel or agent or any matter pending before the Commission or transacting business directly or indirectly therein during the incumbency of the member of the Commission to whom he or she is related to, and within THREE (3) years from cessation of their service.

SECTION 20. ***Transitory Provision.*** – The current members of the Commission shall continue to serve in such capacity until the completion of their term.

The qualifications, requirements, and prohibitions stated in Sections 4, 7 and 19 of this Act shall apply to new members of the Commission.

The current Chairperson shall immediately divest himself OR HERSELF of his OR HER role and powers as the Chief Executive Officer of the Commission upon the effectivity of this Act.

The current Executive Director shall assume the duties and responsibilities laid out in Section 9 of this Act upon the effectivity of this Act: *Provided*, That upon such assumption, the current Executive Director shall immediately comply with the requirements and

prohibitions stated in Sections 4 and 19 of this Act: *Provided, further*, That the current Executive Director shall serve as such until his resignation, retirement or termination for cause.

SECTION 21. ***Oversight Committee***. – Upon the effectivity of this Act, the JCEC established under Republic Act No. 9136, OTHERWISE KNOWN AS the “Electric Power Industry Reform Act of 2001,” AS AMENDED, shall exercise oversight powers over the implementation of this Act.

SECTION 22. ***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 effect.

SECTION 23. ***Repealing Clause***. – Sections 1 and 2 of Executive Order No. 172, “Creating the Energy Regulatory Board” are hereby repealed. Sections 38, 39, 40, 41 and 42 of Republic Act No. 9136, otherwise known as the “Electric Power Industry Reform Act of 2001,” are hereby amended accordingly.

All laws, decrees, orders, rules and regulations or parts thereof which are inconsistent with or contrary to the provisions of this Act are hereby repealed or amended accordingly.

SECTION 24. ***Effectivity***. – This Act shall take effect fifteen (15) days following its publication in the Official Gazette or in a newspaper of general circulation.

Approved,