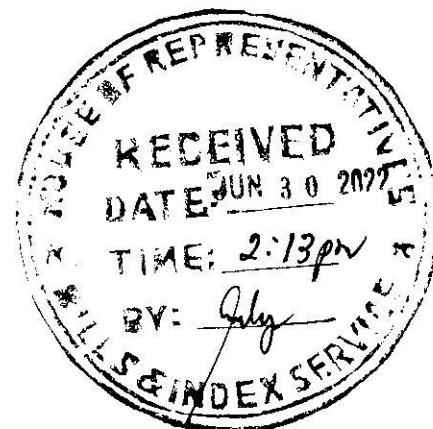


Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

NINETEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 162



Introduced by Rep. Rodante D. Marcoleta and Rep. Caroline L. Tanchay

EXPLANATORY NOTE

It has long been the policy of the State to ensure a secure, reliable, quality and affordable supply of energy through the integrated and intensive exploration, production, management, and development of the country's indigenous energy resources, among others.

To this end, the Renewable Energy Act of 2008 or Republic Act (RA) No. 9513 ("RE Act") was enacted to accelerate the exploration and development of renewable energy resources such as, but not limited to, biomass, solar, wind, hydro, geothermal, and ocean energy sources, including hybrid systems, to achieve energy self-reliance, through the adoption of sustainable energy development strategies to reduce the country's dependence on fossil fuels and thereby minimize the country's exposure to price fluctuations in the international markets, not to mention the nation's commitment to sustainable environment. To implement this policy, the RE Act granted fiscal and non-fiscal incentives to promote the efficient and cost-effective commercial application of the RE System. Part of these incentives is the Feed-In-Tariff (FIT) System.

According to the International Renewable Energy Agency (IRENA), the Philippines had 6.84GW of renewable energy capacity in 2020, which accounted for 27% of its total power generation capacity.¹ The Department of Energy (DOE) seeks to increase this share to 35% by 2030. The fiscal and non-fiscal incentives offered by the State received an overwhelming response from the investors. The DOE issued a large number of service contracts for both solar and wind, in excess of the FIT limit. To date, the installation caps for solar and wind have been met, while the caps for run-off-river hydropower have not yet been fulfilled.

Hence, in 2021, the DOE initiated the auction program for the FIT participants through the establishment of the *Green Energy Auction Program* ("GEAP") which aims to promote RE as one of the country's primary sources of energy through the competitive selection of RE facilities.

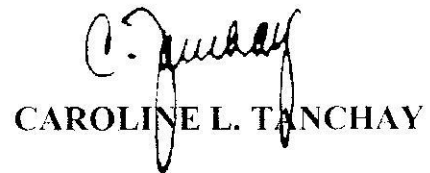
¹ Renewable Capacity Statistics, <https://irena.org/publications/2020/Mar/Renewable-Capacity-Statistics-2020>.

Ultimately, this bill seeks to strengthen the policies of the DOE and the implementation of the GEAP.

In view of the foregoing, the immediate approval of this measure is earnestly sought.



RODANTE D. MARCOLETA



CAROLINE L. TANCHAY

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AN ACT
ENHANCING THE RENEWABLE ENERGY INDUSTRY THROUGH THE
GREEN ENERGY AUCTION PROGRAM

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

SECTION 1. This Act shall be known as “*Green Energy Auction Act*”.

SECTION 2. *Declaration of Policies and Objectives* – It is hereby declared as the policy of the State to ensure reliable and environmentally responsible sources of energy by providing an established regulatory framework to provide for a sound basis for the future growth and development of renewable energy. Towards this end, this Act is implemented to:

- (a) Establish and strengthen the implementation of the framework of the Green Energy Auction Program (GEAP) of the Department of Energy (DOE);
- (b) Acquire competitive rates of electricity in the country by balancing the need to develop Renewable Energy (RE) sources and provide equitable rates of electricity;
- (c) Institutionalize GEAP as a means to address the minimum Renewable Portfolio Standards requirements, to source out and provide for the minimum annual requirement from renewable energy resources.

SECTION 3. *Definition of Terms*

- (a) *Green Energy Auction (GEA)* refers to the competitive selection process for procuring RE supply;

- (b) *Green Energy Auction Reserve Price or "GEAR Price"* refers to the maximum price offers in PhP/kWh set by the ERC pursuant to applicable laws which shall be used in an auction round factoring other RE technologies, such as Floating Solar Projects and Offshore Wind Projects;
- (c) *Market Operator* refers to the market operator of the Wholesale Electricity Spot Market ("WESM");
- (d) *Qualified Suppliers* refer to RE Developers/Generators registered with the DOE pursuant to the Omnibus RE Guidelines, eligible to participate in the GEA;
- (e) *Qualified Bidders* refer to Qualified Suppliers who have been notified of their qualifications and have been furnished user-specific electronic identification (ID) by the Green Energy Auction Commission (GEAC) to be used for the auction;
- (f) *Renewable Energy Registrar* shall mean the composition assigned by the Philippine Electricity Market Corporation ("PEMC") designated to manage the RE Market;
- (g) *Renewable Portfolio Standards or "RPS"* refer to a market-based policy that requires electricity suppliers to source an agreed portion of their energy supply from eligible RE resources;
- (h) *RPS Composite Team* – shall mean the composite team chaired by a DOE Undersecretary or a DOE Assistant Secretary duly designated by the DOE Secretary. The members of the RPS Composite team are composed of the DOE Renewable Energy Management Bureau (REMB) Director, DOE Electric Power Industry Management Bureau (EPIMB) Director, National Renewable Energy Board Chairman, and a representative from the RE Registrar, or their respective representatives;
- (i) *System Operator* refers to the National Transmission Corporation as the designated grid system operator;
- (j) *Winning bidder* refers to the Qualified Bidders that are determined to have the most responsive bid or offer in a particular auction bid round.

SECTION 4. *Establishment of the Green Energy Auction* – The DOE shall provide for the framework of the GEAP and to establish a mechanism to facilitate the selection of eligible RE plants through a competitive selection process. The framework and mechanism of the GEAP shall include the following:

- (a) Guiding principles for the GEAP;
- (b) Auction capacity requirement;
- (c) Procedure for each auction round including the terms of reference.

The DOE, in coordination with the RE Registrar, shall determine the allowable offer for the GEAP, which should be in line with the RPS, and which may include any or all of the new and existing RE Capacities. Notwithstanding the foregoing, each auction round shall have at least ten (10) qualified bidders from existing plants and at least ten (10) qualified bidders from RE facilities that will be built under the RE Act.

The DOE shall review and revise accordingly the current RPS requirements in order to achieve its objective of increasing the share of the renewable energy capacity to 35% by year 2030.

The Energy Regulatory Commission (ERC) is tasked to determine the Green Energy Auction Reserve Price (“Gear Price”). The Gear Price will be the Feed-in-Tariff (FIT) ceiling for each round of the GEAP. Qualified participants may offer capacity generation for a rate not higher than the GEAR Price.

SECTION 5. *Qualified Suppliers* – Participants of the GEAP should have the following qualifications:

- (a) Suppliers must register using the Energy Virtual One Stop Shop (“EVOSS”) and submit requirements as mandated by DOE;
- (b) New or existing RE facilities without any legal impediment, such as the existence of a power purchase agreement/power supply agreement with any Distribution Utility (DU) or other off-takers at the time of the agreed delivery date/s;
- (c) The RE facility must offer the entire capacity of its RE capacity to the bid;
- (d) Capacities of RE Facilities, which are already existing and commercially operating prior to the RE Act but have undergone expansion or upgrading.

may be offered, provided that such capacity is independent of the facilities' existing units and shall therefore be separately installed with its metering facility:

SECTION 6. *Qualified Bidders* – Upon the determination of the GEAC of the qualifications of the qualified suppliers, they shall be notified and provided with user-specific electronic identification (ID). Thereafter, they shall be referred to as qualified bidders.

SECTION 7. *Creation of the Green Energy Auction Commission (GEAC)* – A commission is hereby created to ensure the implementation of this Act. The GEAC shall be composed of the members of the RPS Composite Team, a designated representative of the Market Operator, and a designated representative of the System Operator.

The GEAC shall lead and ensure compliance with the GEAP policies set by the DOE. The GEAC shall be the sole authority to declare the pool of winning bidders which shall consist of qualified bidders with the lowest and most responsive bids in accordance with their committed capacity in a particular auction round.

SECTION 8. *Primary obligation of the winning bidders* – the Winning Bidder shall deliver the committed capacity to the WESM on the date of the commencement of supply as provided for under the GEA contract.

SECTION 9. *Prohibition on bid manipulation and anti-competitive conduct* – Agreements among qualified suppliers/bidders which constitute as bid manipulation and/or anti-competitive behavior, such as bid suppression, bid rotation, illegal market allocation, or any conduct which tends to substantially prevent, restrict, or lessen competition shall be prohibited.

SECTION 10. *Penal Clause* – The following acts shall be penalized under this Act:

- (a) Failure of the winning bidders to deliver the committed capacity to the WESM on the date of the commencement of supply as provided for under the GEA contract shall be penalized per day of delay to be determined by the GEAC;
- (b) Violation of the prohibition on bid manipulation and anti-competitive conduct shall be subject to a fine of not less than Five Million Pesos (PhP5,000,000.00) but shall not be more than One Hundred Million Pesos

(PhP100,000,000.00). Further, the erring persons, natural or juridical, shall be prohibited from participating in any auction under the GEAP;

- (c) This shall be without prejudice to other liabilities and higher penalties that may be imposed in the Revised Penal Code and other special laws.

SECTION 11. *Separability Clause* - If, for any reason, any provision of this Act or any part thereof shall be held unconstitutional and invalid, the other parts or provisions of this Act, which are not affected thereby, shall remain in full force and effect.

SECTION 12. *Repealing Clause* - All laws, decrees, issuances, orders, letters of instructions, administrative orders, rules, and regulations, or parts thereof contrary to or inconsistent with any of the provisions of this Act are hereby repealed, amended, or modified accordingly.

SECTION 13. *Effectivity* - This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in a newspaper of general circulation.

Approved,