



**Republic of the Philippines
House of Representatives
Quezon City, Metro Manila**

**Nineteenth Congress
First Regular Session**

HOUSE BILL NO. 6235



Introduced by Representative Rudys Caesar G. Fariñas I

EXPLANATORY NOTE

There is a need to promote natural gas as an indispensable contributor to grid security by establishing the Philippine downstream natural gas industry (PDNGI) to benefit all segments of the nation's population and all sectors of its economy. Likewise, developing the Philippines as a liquefied natural gas (LNG) trading hub within the Asia-Pacific Region will require a conducive industry environment through the issuance of policies, regulations, safety codes, product quality and facility operational standards, and plans and programs geared towards the promotion and development of the PDNGI.

To this end, this measure provides the following salient features, among others:

The Department of Energy (DOE) shall have the overall responsibility of supervising and monitoring the development of the Philippine downstream natural gas industry. Accordingly, the DOE is authorized to issue a written approval on the assignment or transfer of interest on any permits. Said authority is after finding that the assignee or transferee has met all the legal, technical, and financial qualifications and has committed to assume all existing obligations of the permit holder. Likewise, the DOE will issue the Gas Transmission and Distribution Codes in coordination with the Energy Regulatory Commission (ERC) and in consultation with other concerned government agencies and the PDNGI participants. These Codes shall contain the standards and best practices on safe, high-quality, environmentally responsible operation and service, competitive rules, and reasonable rates of service.

The Philippine Competition Commission (PCC) shall investigate any anti-competitive behavior in any business in the downstream natural gas industry.

Finally, the DOE will also issue directives to qualified government agencies, in their capacities as investing arms, to spearhead the development of the PDNGI value chain as it is imperative to catalyze its development within a given timeline according to the Philippine Energy Plan.

Therefore, this representation seeks the urgent passage of this measure.



RUDYS CAESAR G. FARIÑAS I



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**AN ACT
PROMOTING THE DEVELOPMENT OF THE PHILIPPINE DOWNSTREAM
NATURAL GAS INDUSTRY, CONSOLIDATING FOR THE PURPOSE ALL
LAWS RELATING TO THE TRANSMISSION, DISTRIBUTION AND SUPPLY
OF NATURAL GAS, AND APPROPRIATING FUNDS THEREFOR**

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

CHAPTER I

TITLE AND DECLARATION OF POLICY

SECTION 1. **Short Title.** – This Act shall be known as the "*Philippine
Downstream Natural Gas Industry Development Act*".

SEC. 2. **Declaration of Policy.** – It is hereby declared the policy of the State to:

- (a) Promote natural gas as a safe, environment-friendly, efficient and cost-effective source of energy, and an indispensable contributor to grid security, especially with the entry of more intermittent renewable energy sources by establishing the Philippine downstream natural gas industry (PDNGI) for the benefit of all segments of the nation's population and all sectors of its economy;
- (b) Promote natural gas as the energy fuel, which has tremendous potential to meet the increasing local demand for fuel, and the development of the Philippines as a liquefied natural gas (LNG) trading and transshipment hub within the Asia-Pacific Region. In all cases, the State shall ensure the safe, secure, reliable, transparent, competitive and environmentally responsible operation of the PDNGI value chain;

1 (c) Provide a conducive industry environment through the issuance of
2 policies, regulations, safety code, product quality and facility operational
3 standards, and plans and programs geared towards the promotion and
4 development of the PDNGI;

5 (d) Promote the conversion of existing fossil fuel-operated machines and
6 facilities to natural gas use, provided it is technically and financially feasible;

7 (e) Promote access to and the financial viability of the PDNGI by liberalizing
8 the entry of investors under a system of competition, transparency and fair trade
9 and providing responsive policy support, with the end goal of attaining fair price
10 for all stakeholders;

11 (f) Ensure compliance with International and Philippine health, safety,
12 security, environment (HSSE) standards and best practices under a system of
13 safe, secure, high-quality, environmentally responsible operation and services
14 that afford protection to consumers;

15 (g) Encourage the inflow of private capital through equity participation by the
16 private sector in the downstream natural gas value chain including gas
17 transmission and distribution utilities;

18 (h) Ensure transparent and reasonable price of natural gas and rates for its
19 importation, storage and regasification, transmission and distribution in a
20 regime of open and fair competition and full public accountability that shall
21 promote greater operational and economic efficiency and enhanced
22 competitiveness of the Philippine products in the global market;

23 (i) Develop the necessary trades, technical expertise and skills to support the
24 PDNGI; and

25 (j) Facilitate the development of end-uses of natural gas including the use of
26 natural gas as fuel for power, commercial, industrial, residential and transport
27 that promote fuel diversity and compliance with existing environmental laws.

28 SEC. 3. **Scope.** – This Act shall provide a framework for the development of the
29 PDNGI and its transition from emerging industry into mature industry status
30 within a competitive natural gas market, and define the responsibilities of
31 various government agencies and private entities in furtherance of this national
32 goal.

33 All activities of the Department of Energy (DOE), Energy Regulatory Commission
34 (ERC) and other concerned government agencies relevant to the development and
35 regulation of the PDNGI shall be in accordance with this Act.

36 SEC. 4. **Definition of Terms.** – As used in this Act:

37 (a) *Affiliates* refer to the corporate relationships of two or more persons, one
38 of whom either owns or controls or is being controlled by other persons. As used

1 herein, “control” shall mean the power to direct or cause the direction of
2 management policies as an inherent part of decision-making power;

3 (b) *Anti-Competitive Behavior* refers to the practices and agreements in
4 violation of the provisions of Republic Act No. 10667, otherwise known as the
5 “*Philippine Competition Act*”;

6 (c) *Capacity* refers to the maximum flow expressed in normal cubic meters
7 per time unit or in energy unit per time unit;

8 (d) *Delivery* refers to the transmission or distribution of natural gas and the
9 supply of natural gas at wholesale or retail;

10 (e) *Distribution* refers to the transportation of natural gas through a gas
11 distribution system to end-users;

12 (f) *Distribution system* refers generally to the pipeline and related facilities
13 used to transport natural gas extending between the last delivery point of the
14 transmission system to the last connection point to the end-user;

15 (g) *End-user* refers to any person that will receive delivery of natural gas for
16 resale or final use;

17 (h) *Franchise* refers to the right, privilege and authority issued by Congress
18 authorizing a person to engage in the transmission of natural gas or distribution
19 of natural gas within a specific geographical area;

20 (i) *Gathering facilities* refer to natural gas pipelines and its ancillary facilities
21 used to gather gas in the field and bring it to a location for processing or for
22 delivery at an interconnection with the gas transmission system. The terms
23 “gather” and “gathering” shall be construed accordingly;

24 (j) *Importation* refers to the act of bringing LNG into the Philippines;

25 (k) *Insurance* refers generally to a risk-transfer mechanism that ensures full
26 or partial financial compensation for the loss or damage caused by events beyond
27 the control of the insured party wherein compensation is normally proportionate
28 to the loss incurred;

29 (l) *Liquefied natural gas or LNG* refers to natural gas which has been liquefied
30 by cooling at a cryogenic temperature;

31 (m) *Natural gas* refers to gas obtained from boreholes and wells consisting
32 primarily of a mixture of methane, ethane, propane and butane with small
33 amounts of heavier hydrocarbons and some impurities, consistent with the
34 Philippine National Standards (PNS) or the standards developed by the
35 International Organization for Standardization (ISO);

36 (n) *Natural gas distribution code* refers to the code to be formulated by the
37 DOE pursuant to Section 5(g) of this Act that shall set the technical performance

standards for operating gas distribution utilities and the minimum financial standards for gas distribution systems;

(o) *Natural gas distribution system* refers to the system of conventional pipelines and related facilities extending from the delivery points where the gas distribution system receives the natural gas to the point of connection in the premises of the end-user; and any available virtual pipeline that allows alternative modes of transportation;

(p) *Natural gas distribution utility* refers to any person engaged in the operation of a natural gas distribution system providing services for general public use, which requires a franchise to operate a gas distribution system;

(q) *Natural gas sales and purchase agreement* or *NGSPA* refers to any contract or agreement for the delivery and sale of indigenous or imported natural gas by and between sellers, suppliers, buyers and end-users;

(r) *Natural gas transmission code* refers to the code to be developed by the DOE pursuant to Section 5(g) of this Act that shall set the technical performance standards for operating gas transmission systems and the minimum financial standards for gas transmission utilities;

(s) *Natural gas transmission system* refers to the system of high-pressure pipelines, storage and its ancillary facilities that are used to transport natural gas from the interconnection with gathering facilities, other LNG-related facilities and other gas transmission or distribution systems;

(t) *Natural gas transmission utility* refers to a natural or juridical person that has a franchise to operate or is intending to operate a gas transmission system except own-use pipelines;

(u) *Own-use permit* refers to an authorization granted by the DOE to a permit holder or operator for the exclusive use by the operator or its affiliates in the operation of its natural gas facility;

(v) *Permit* refers to an authorization issued by the DOE for the importation, construction, commercial operation and maintenance of natural gas facilities;

(w) *Permit holder or operator* refers to a natural or juridical person who is granted a permit by the DOE to engage in the importation, construction, commercial operation and maintenance of natural gas facilities;

(x) *Person* refers to a natural or juridical person, as the case may be, including the national and local governments of the Republic of the Philippines, its agencies and instrumentalities, and government-owned and controlled corporations;

(y) *Philippine downstream natural gas industry* or *PDNGI* refers to the sectors of transmission, distribution, supply, and use of natural gas and their related

activities, such as importation, storing, regasification, transmission and distribution of natural gas to end-users;

(z) *Philippine Energy Plan* or *PEP* refers to the overall energy program formulated and updated yearly by the DOE and submitted to Congress pursuant to Republic Act No. 7638, otherwise known as the “*Department of Energy Act of 1992*”, as amended;

(aa) *Rates* refer to the payment on the utilization of the capacity and use of other services offered by the permit holder or operator of the transmission and distribution pipeline;

(bb) *Supplier* refers to any person engaged and registered with the DOE to trade on indigenous or imported LNG and their subsequent supply to end-users;

(cc) *Supply* refers to the trade or sale of indigenous or imported natural gas and their subsequent sale to end-users;

(dd) *Third-party access or TPA* refers to a transparent and non-discriminatory access and utilization by a third-party user of the excess capacity of the LNG terminal and its related facilities;

(ee) *Transmission* refers to the transportation of natural gas through a natural gas transmission system;

(ff) *Virtual Pipeline* refers to alternative methods of transporting natural gas to places where there is no pipeline network available. It is based on a modular system of compression or liquefaction, transport and decompression and regasification of natural gas, which communities, industries, gas stations and others may use.

CHAPTER II

POWERS AND RESPONSIBILITIES OF THE DOE AND THE ERC

SEC. 5. **Powers and Responsibilities of the DOE.** – In addition to its existing powers and functions, the DOE shall have the overall responsibility of supervising and monitoring the development of the Philippine downstream natural gas industry. Towards this end, the DOE shall perform the following powers and functions:

(a) Prepare the Natural Gas Industry Development Plan (NGIDP) within two (2) years from the effectivity of this Act, incorporating therein the plans submitted by public and private stakeholders after open discussions and consultations with them. The NGIDP shall consist of approved regasification, transmission and distribution development plans which shall be integrated into the Philippine Energy Plan (PEP), and reviewed and updated every three (3) years after its adoption;

1 (b) Establish standards on gas quality, facility installation and safety of
2 operation. For this purpose, a Philippine Inter-Agency Technical Committee (PIA-
3 TC) shall be created by the Bureau of Philippine Standards (BPS) to be chaired
4 by the DOE. The PIA-TC shall have as members the representatives of concerned
5 government agencies and private industries. A Philippine Inter-Agency Health,
6 Safety, Security and Environment Inspection and Monitoring Team (PIA-HSSE
7 IMT) shall likewise be created to monitor and enforce compliance with
8 established standards;

9 (c) Evaluate applications and issue permits on the importation, exportation,
10 receipt, unloading, loading, storage, regasification of liquefied natural gas;
11 transmission, distribution, marketing, utilization, aggregation of natural gas;
12 and the safe, secure, reliable and efficient planning, construction, operation,
13 expansion, modification, maintenance, decommissioning and abandonment of
14 the downstream natural gas industry infrastructure and facilities;

15 (d) Evaluate applications for permits or authorities to operate, including a
16 Notice to Proceed (NTP), a Permit to Construct, Expand, Rehabilitate and Modify
17 (PCERM), and a Permit to Operate and Maintain (POM) downstream natural gas
18 projects and facilities, accreditation to import, supply and transport natural gas,
19 Acknowledgement to Import (ATI) LNG and Acknowledgement to Supply and
20 Transport (AST) natural gas;

21 (e) Review, suspend or revoke, after due notice and hearing, permits issued
22 in accordance with the preceding paragraphs (c) and (d) herein, and Section 12
23 of this Act after a finding of non-compliance with the provisions of this Act, rules
24 and regulations that shall be issued to implement it, and related issuances;

25 (f) Issue a written approval on the assignment or transfer of interest on any
26 permits issued in accordance with Section 50 of this Act, after finding that the
27 assignee or transferee has met all the legal, technical, and financial
28 qualifications and has committed itself to assume all existing obligations of the
29 permit holder, and such assignment or transfer is in accordance with existing
30 laws, rules, and regulations: *Provided*, That permits requiring the prior issuance
31 of a legislative franchise shall not be subject to assignment or transfer of interest;

32 (g) Issue, in coordination with the ERC and in consultation with other
33 concerned government agencies and the PDNGI participants, the Gas
34 Transmission and Distribution Codes, which shall contain the standards and
35 best practices on safe, high-quality, environmentally responsible and consumer
36 protected operation and service, competitive practices and reasonable rates of
37 service;

1 (h) Endorse requests for investigation to the Philippine Competition
2 Commission (PCC) of any anti-competitive behavior in the conduct of any
3 business under the downstream natural gas industry;

4 (i) Issue directives to qualified government agencies, in their capacities as
5 investing arms, to spearhead the development of the PDNGI value chain as the
6 DOE may deem imperative to catalyze its development within a given timeline;

7 (j) Determine the qualifications and detailed responsibilities of the Natural
8 Gas Transmission System Operator (NGTSO) and Natural Gas Distribution
9 Utilities (NGDUs) pursuant to their responsibilities provided in this Act;

10 (k) Initiate actions against the NGTSO or NGDUs for failure to comply with
11 the qualifications and detailed responsibilities specified in this Act;

12 (l) Review and approve the natural gas supply and regasification development
13 plan of the regasification terminal owner or operator, natural gas transmission
14 development plan of the NGTSO, and the natural gas distribution development
15 plans of the NGDUs, and integrate the same into the PEP;

16 (m) Require the PDNGI participants to submit the regasification, transmission
17 and distribution development plans, and regular and special reports regarding
18 the organization, business, conduct, practices, and management of any business
19 entity duly registered as part of the downstream natural gas industry, subject to
20 Section 20 hereof; and

21 (n) Exercise such other powers and functions as may be necessary or
22 incidental to attain the objectives of this Act. Subject to existing laws, rules and
23 regulations, the DOE is hereby authorized to create offices and appoint personnel
24 as may be necessary to efficiently and effectively implement this Act.

25 **SEC. 6. Powers and Responsibilities of the ERC.** – In addition to its existing
26 powers and functions, the ERC shall have the sole regulatory responsibility for
27 establishing the rates and related terms and conditions of service for the
28 transmission and distribution, regasification and supply of natural gas to the
29 extent that such activities are regulated pursuant to the requirements set forth
30 in this Act. It shall:

31 (a) In the public interest, establish and enforce a methodology for setting
32 transmission, distribution, and supply rates, taking into account all relevant
33 considerations, including the efficiency or inefficiency of the regulated entities.
34 The rates shall be to allow the recovery of just and reasonable costs and a
35 reasonable return to enable the entity to operate viably. The ERC may, upon due
36 notice and public consultation, adopt internationally accepted rate setting
37 methodology. The rate setting methodology so adopted and applied shall promote
38 efficiency and ensure a reasonable price or tariff, and the rates to be prescribed

1 shall be non-discriminatory. For this purpose, the ERC is hereby authorized to
2 require from all participants in the natural gas supply chain all necessary and
3 appropriate records and documents relevant to the determination of just and
4 reasonable fuel cost used in power generation as recoverable component of
5 electricity cost to end-users;

6 (b) Regasification services and supply services shall be subjected to rate
7 regulation when there is no competing regasification operators;

8 (c) Apply administrative procedures that will ensure the constitutional right
9 to due process;

10 (d) Before the end of April of each year, submit to the Office of the President
11 of the Philippines and Congress, copy furnished the DOE, an annual report
12 containing such matters or cases, which have been filed before or referred to it
13 during the preceding year, the actions and proceedings undertaken thereon and
14 its decision or resolution on each case. The ERC shall make copies of such report
15 available to any interested party upon payment of a charge, which shall reflect
16 the printing costs;

17 (e) Publish in newspapers of general circulation all its cases and decisions
18 involving rates;

19 (f) Create offices and appoint personnel thereto as may be necessary to
20 efficiently and effectively perform its functions as stipulated in this Act, subject
21 to existing laws, rules and regulations; and

22 (g) Exercise such other powers as may be necessary or incidental to attain the
23 objectives of this Act.

24 **CHAPTER III**

25 **POWERS AND RESPONSONSIBILITIES OF GOVERNMENT AGENCIES**

26 **Sec. 7. Powers and Responsibilities of the Department of Environment and**
27 **Natural Resources (DENR).** – In addition to its functions under Executive Order
28 No. 192, otherwise known as the *“Reorganization Act of the Department of*
29 *Environment and Natural Resources”*, the DENR shall, together with the DOE,
30 determine and monitor compliance with the environmental standards for the
31 location, construction, improvement, expansion, operation, rehabilitation,
32 repair, maintenance, decommissioning, and abandonment of LNG terminals,
33 natural gas transmission systems, and all related equipment and facilities.

34 **Sec. 8. Powers and Responsibilities of the Department of Health (DOH).** – In
35 addition to its functions under Executive Order No. 317, Series of 1941, entitled,
36 *“Organizing the Department of Health and Public Welfare”*, as amended, the DOH
37 shall, together with the DOE, determine and monitor compliance with the health
38 standards for the location, construction, improvement, expansion, operation,

1 rehabilitation, repair, maintenance, decommissioning, and abandonment of LNG
2 terminals, natural gas transmission systems, and all related equipment and
3 facilities.

4 **Sec. 9. Powers and Responsibilities of the Department of Trade and**
5 **Industry-Bureau of Philippine Standards (DTI-BPS).** – In addition to its
6 functions under Republic Act No. 4109, entitled, *“An Act to Convert the Division*
7 *of Standards under the Bureau of Commerce into a Bureau of Standards, to*
8 *Provide for the Standardization and/or Inspection of Products and Imports of the*
9 *Philippines and for other Purposes*”, the DTI-BPS shall, together with the DOE,
10 determine, develop, formulate, promulgate, and revise, the Philippine National
11 Standards for natural gas transmission systems, and for natural gas, in its
12 original or liquefied form, LNG terminals, all related equipment and facilities.

13 **SEC. 10. Powers and Responsibilities of the Philippine Competition**
14 **Commission (PCC).** – All matters concerning abuse of market power,
15 cartelization, and any anti-competitive or discriminatory behavior shall be
16 subject to the quasi-judicial powers of the PCC as provided for under Republic
17 Act No. 10667, otherwise known as the *“Philippine Competition Act”*.

18 **CHAPTER IV**

19 **STRUCTURE, OPERATION AND REGULATIONS OF THE** 20 **DOWNSTREAM NATURAL GAS INDUSTRY**

21 **SEC. 11. Structure.** – For purposes of this Act, the structure of the PDNGI value
22 chain shall consist of an LNG terminal and its related facilities, transmission,
23 distribution pipelines and their related facilities, storage and distribution-related
24 facilities, and supply and transport of natural gas.

25 **SEC. 12. Permits.** – The DOE shall have the power to issue, review, suspend
26 and revoke for cause, the permits necessary for the construction, expansion,
27 rehabilitation, modification, operation and maintenance of any PDNGI facility or
28 activity. Own-use permit for natural gas facilities shall be allowed for the
29 exclusive use of the operator and its affiliates in the operation of its facilities. The
30 holder of an own-use permit shall still comply with the requirements in this Act.
31 Transmission and distribution of natural gas shall be exempted from franchise
32 requirement.

33 The owner and operator of an LNG terminal shall have the option to apply for
34 both permits and simultaneously perform the functions of an own-use LNG
35 terminal permit holder, pursuant to Section 35 of this Act, and a third-party
36 access (TPA) LNG terminal permit holder pursuant to Section 26 of this Act, to
37 the extent of the capacity allowed by and during the period specified in each type
38 of permit.

1 SEC. 13. **Rate Regulation.** – The rate of charges and fees for the services of
2 transmission or distribution pipelines and their related facilities shall, when they
3 function as public utilities, be subject to the review and approval by the ERC.
4 The rate methodology to be applied by the ERC shall be based on the principle
5 of full recovery of prudent and reasonable costs incurred, including a reasonable
6 return on rate base, or such other principles that will promote the determination
7 of just and reasonable rates that is consistent with the encouragement of private
8 investments and goal of developing a PDNGI infrastructure.

9 SEC. 14. **Compliance with Philippine Laws, Rules and Regulations.** –
10 Operators or permit holders of PDNGI facilities shall comply with all Philippine
11 laws, rules and regulations implemented by the different agencies of the
12 government.

13 SEC 15. **Compliance with Standards.** – The DOE shall ensure that downstream
14 natural gas products are of high quality, and natural gas facilities provide
15 efficient service, observe stringent safety systems, accord attention to design
16 details and structural integrity and employ operational and maintenance best
17 practices. Regulations shall be consistent with applicable Philippine and
18 internationally-accepted natural gas industry standards.

19 SEC. 16. **Confidential Information.** – The government shall not use confidential
20 or commercially sensitive information for purposes other than those provided
21 herein and shall protect and limit the disclosure of confidential or commercially
22 sensitive information, unless allowed by the operator or when required by laws,
23 rules and regulations.

24 SEC. 17. **Authority to Obtain Information.** – The DOE, ERC and other
25 concerned government agencies may require any downstream natural gas player
26 or permit holder, through a valid order and with due regard to confidential
27 information, proprietary data and trade secrets, to furnish, within a reasonable
28 period specified, all information and documents relating to all such matters as
29 to the permit, rates and operation of business and natural gas facilities, and
30 provide explanations on the information or document submitted, subject to
31 Section 16 of this Act. The failure of a PDNGI participant or permittee to provide
32 the required information or document without valid reason shall be punishable
33 under this Act.

34 SEC. 18. **Supply of Natural Gas.** – Existing laws and rules governing the
35 upstream natural gas sector shall provide the government the option to sell
36 directly or otherwise authorize a service contractor to sell its share of the
37 indigenous production. Accordingly, the Secretary of Energy may, when natural

gas supply conditions so require, direct the supply of such share of indigenous production to the downstream natural gas sector.

The operator of an LNG-related facility shall likewise ensure the accommodation of both indigenous and imported supply of natural gas. The DOE shall support and ensure the implementation of any plan to upgrade an LNG terminal and its ancillary facilities into a hub for international trading and trans-shipment.

Any entity engaged in the distribution of natural gas may engage in the supply of the same.

SEC. 19. Abandonment of Downstream Natural Gas Facility. – No holder of a permit for the construction, installation, operation or maintenance of a downstream natural gas facility shall abandon or withdraw from service any portion of said downstream natural gas facility or project without obtaining prior authorization from the DOE. The DOE shall, in coordination with the DENR, provide the guidelines and regulations for decommissioning and abandonment of natural gas infrastructures and facilities.

SEC. 20. Registration and Reportorial Requirements of Natural Gas Participants, Facilities, Import, Export and Supply. – Holders of permits for the construction, installation, operation or maintenance of a downstream natural gas facility, including importers, exporters and supplier and transporter of natural gas or LNG, shall be registered with the DOE. Appropriate reportorial requirements shall likewise be required for proper supervision and monitoring in accordance with the implementing rules to be issued subsequently.

SEC. 21. Rules of Practice. – All concerned government agencies shall issue the appropriate rules of procedure to serve as guideline for administrative legal proceedings. The Rules of Court shall apply in a suppletory manner.

SEC. 22. Fees. – All concerned government agencies shall have the authority to prescribe and collect fees and charges relating to the issuance or review of permits, and the supervision and regulation of the PDNGI.

CHAPTER V

FRANCHISE REQUIREMENT

SEC. 23. Transmission and Distribution Pipeline and Related Facility as Public Utility. – Operators of transmission and distribution pipelines and their related facilities considered as public utility shall be required to obtain a legislative franchise and a Certificate of Public Convenience and Necessity (CPCN) from the ERC.

Operators of virtual pipelines and their related facilities, which are likewise considered as public utilities, shall no longer be required a legislative franchise.

1 However, such operators shall be required to secure a CPCN from the concerned
2 agency having appropriate jurisdiction over them, in accordance with the
3 provisions of Commonwealth Act. No. 146, otherwise known as the “*Public*
4 *Service Act*”, as amended.

5 SEC. 24. **Philippine Ownership Requirement.** – As required under Article XII,
6 Section 11 of the Constitution, no franchise, certificate, or any other form of
7 authorization of a public utility shall be granted except to citizens of the
8 Philippines or to corporations or associations organized under the laws of the
9 Philippines, at least sixty percent (60%) of whose capital is owned by such
10 citizens.

11 SEC. 25. **LNG Terminals Not a Public Utility.** – The operation of an LNG
12 terminal shall not be considered as a public utility operation. Hence, it shall be
13 exempted from securing a legislative franchise and a Certificate of Public
14 Convenience and Necessity.

15 **CHAPTER VI**
16 **THIRD-PARTY ACCESS**

17 SEC. 26. **Third-party Access (TPA) Obligation.** – Available and uncommitted
18 excess capacity of an LNG terminal, transmission and distribution pipelines and
19 related facilities shall be made accessible to third-party users. The ERC shall, in
20 coordination with the DOE and in consultation with the PDNGI participants,
21 ensure the full implementation of the TPA and shall issue the TPA Code within
22 one (1) year from the effectivity of this Act.

23 The DOE is hereby authorized to synchronize activities to optimize and
24 stabilize the utilization of existing infrastructure for the extraction, storage, and
25 delivery of natural gas, such as the Malampaya natural gas facilities, which shall
26 be subject to the third-party access provision in order to integrate the same with
27 the PDNGI.

28 SEC. 27. **Available Capacity.** – A TPA shall apply only to the available and
29 uncommitted excess capacity of LNG terminal, transmission or distribution
30 pipelines and their related facilities, but excluding those constructed and
31 operated under a dedicated use agreement or for own use. The operators thereof
32 shall conduct an open and sufficient consultation process with both existing and
33 potential third-party users to discuss the available capacity and other available
34 services.

35 To ensure safe and reliable operation, the operator shall determine, subject to
36 the review and recommendation by the DOE, the available and uncommitted
37 excess capacity of the natural gas facilities offered to third parties. The operator

1 shall likewise allocate such excess capacity based on the following criteria as
2 they pertain to the third-party user:

- 3 (a) Proposed contract price and terms;
- 4 (b) Credit-worthiness;
- 5 (c) Availability of a functioning off-take facility;
- 6 (d) Ability to meet fuel specification parameters of the LNG facility; and
- 7 (e) Other relevant factors that may directly affect the allocation.

8 Non-availment by any third-party user of the excess capacity so allocated and
9 offered shall not be a ground for the denial or cancellation of any permit under
10 this Act.

11 **SEC. 28. Third-party Access (TPA) Principles.** – Adherence to the principles of
12 transparency, fair competition, and safe practices is the key to the beneficial
13 participation of third-party users. In line with this, the following guiding
14 principles shall be observed:

- 15 (a) Competition in the downstream natural gas industry must be encouraged
16 because it promotes efficiency and lowers costs and prices to the benefit of
17 end-users;
- 18 (b) Investments in natural gas supply and infrastructure from both local and
19 foreign sources, which are otherwise prevented by actions of incumbent
20 monopolistic companies shall be earnestly pursued and supported;
- 21 (c) Benefits to be derived from the diverse and sustainable use of natural gas
22 make it an ideal tool of development;
- 23 (d) Participation of third parties in the downstream natural gas industry shall be
24 anchored on safe and measurable standards of service and practice;
- 25 (e) Open and sufficient consultation between permit holders or facility operators
26 on the available and excess capacity of natural gas is essential in the
27 formulation of supply agreements between permit holders or facility operators
28 and third-party users;
- 29 (f) Transparency in business activities shall consistently be observed to spur
30 confidence. Pursuant thereto, permit holders or facility operators shall
31 publish their available and uncommitted excess capacity, access terms, and
32 conditions, and allow the review and inspection of their facilities and records
33 to verify the same.

34 **SEC. 29. Congestion Management.** – Whenever the holder of a capacity is no
35 longer able to use or has not released the capacity without justifiable reason, the
36 permit holder or the operator of the facility shall have the authority to release
37 and market the same. The procedure and criteria of the release shall be part of

the TPA Code. The government agency which shall have an oversight function on this matter shall be designated in the TPA Code.

SEC. 30. **Approved Access Conditions and TPA Contracts.** – Prior to the conduct of negotiations with third parties, the permit holder or the facility operator shall request the DOE for the review and recommendation of its access conditions in accordance with the TPA Code. All subsequent access contracts shall be reviewed and approved by the DOE.

SEC 31. **Infrastructure Development Period.** – To develop the TPA, the TPA Code shall provide an infrastructure development period and the TPA shall become obligatory only against the permit holder or facility operator if it can be demonstrated that there is already sufficient demand necessary to justify the investment and sustain the additional operational requirement. For this purpose, the DOE shall review and attest to the validity of supply and demand outlook for natural gas.

CHAPTER VII

STANDARDS ON FACILITIES, PRODUCT AND SAFETY PRACTICE

SEC. 32. **Standards on LNG Ships and LNG Facility.** – All PDNGI facilities shall be predicated to be of high quality and efficient service, observe stringent safety systems, accord attention to design details and structural integrity and employ operational and maintenance best practices. Regulations shall be consistent with both applicable Philippine and internationally-accepted natural gas industry standards. The DOE shall ensure compliance with this requirement.

SEC. 33. **Standards on Product Quality.** – The permit holder or operator shall maintain the quality of gas supply to end-users in accordance with the Philippine and internationally accepted standards and ensure that delivery of indigenous or imported LNG comply with the purification requirements to ensure that associated compounds that are unnecessary or damaging to the LNG regasification facility and other related natural gas facilities used for storage, distribution and transportation of natural gas supply are eliminated. The DOE shall ensure compliance with this requirement.

SEC. 34. **Standards on Safety Practice.** – The permit holder or operator shall implement an acceptable health, safety, security and environment management system in accordance with applicable Philippine and internationally accepted standards. The DOE shall ensure compliance with this requirement.

CHAPTER VIII

RESPONSIBILITIES OF THE PERMIT HOLDER OR OPERATOR

SEC. 35. **Responsibilities of the Permit Holder or Operator.** – A permit holder or operator shall have the following responsibilities:

- 1 (a) Align all its goals and objectives to the accomplishment of the declared
2 policies of this Act;
- 3 (b) Be directly responsible for the construction and operation of LNG facilities by
4 providing the necessary services, technology and financing, either by itself or
5 through its duly authorized subcontractors, without entitlement from the
6 Philippine government to any reimbursement of any expense incurred;
- 7 (c) Comply with applicable Philippine laws and regulations relating to tax, labor
8 and employment, health, safety, indigenous people's rights, environmental
9 protection and ecological preservation;
- 10 (d) Comply with the regulatory obligations, maintenance of complete records and
11 submission of all reportorial requirements and other documents as may be
12 required by the DOE, ERC and other government agencies pursuant to this Act
13 and its implementing rules;
- 14 (e) Implement the natural gas project strictly adhering to the scope and limits of
15 the permit and operate in accordance with Philippine and international
16 standards;
- 17 (f) Allow and facilitate, based on a valid order, the entry to the facility of the
18 examiners of the Bureau of Internal Revenue and the Bureau of Customs and
19 allow them full access to accounts, books, and records for tax and other fiscal
20 purposes;
- 21 (g) Allow, based on a valid order, the entry of personnel of the DOE, ERC, PIA-
22 HSSE IMT and other government agencies to the facility and grant them full
23 access to operational records for inspection and monitoring activities;
- 24 (h) Give preference to qualified local talents for hiring and local companies or
25 agencies in entering into subcontracts on projects or services, which are required
26 in the construction or operation of the LNG facility;
- 27 (i) Hold the DOE, ERC, PIA-HSSE IMT and other government agencies or other
28 affected individuals free from all claims, demands or actions arising out of its
29 failure to comply with laws, regulations, standards, contracts, and permits in
30 connection with accidents, damages, or injuries which are beyond their control;
31 and
- 32 (j) Observe in the regular operational meeting of the DNG-REC and in the
33 development, issuance and review of plans, protocols, standards and codes
34 applicable to the natural gas project.

35 **CHAPTER IX**

36 **INCENTIVES**

37 **SEC. 36. Fiscal Incentives.** – In recognition of the substantial investments
38 needed for the construction of, operation and maintenance of, and conversion to

1 natural gas facilities, the PDNGI value chain projects, as certified by the DOE,
2 shall be included in the Strategic Investment Priorities Plan (SIPP) for the next
3 ten (10) years from the effectivity of this Act. Entities engaged in said projects
4 that are duly registered by any Investment Promotion Agency (IPA) shall be
5 entitled to all the incentives under Title XIII (Tax Incentives) of the National
6 Internal Revenue Code of 1997, as amended.

7 The sale of natural gas to locators inside the ecozone shall be subject to zero
8 percent (0%) Value-Added Tax (VAT), pursuant to the National Internal Revenue
9 Code of 1997, as amended.

10 SEC. 37. **Streamlined Regulatory Process.** – The operation of LNG terminals,
11 natural gas transmission systems, natural gas distribution systems, own-use
12 LNG terminals, own-use natural gas transmission systems, and own-use natural
13 gas distribution systems shall be considered as energy projects of national
14 significance (EPNS) whose implementation shall not be subject to unnecessary
15 administrative processing delays pursuant to Executive Order No. 30, series of
16 2017. To be considered an EPNS, a project has to be endorsed by the DOE.

17 SEC. 38. **Withdrawal of Exemptions.** – To achieve the declared policies of this
18 Act, particularly in relation to the promotion of fair and non-discriminatory
19 treatment of public and private sector entities in the development of the PDNGI
20 infrastructure, all existing tax exemptions applicable to persons engaged in the
21 transmission or the distribution of natural gas, insofar as such exemptions relate
22 to revenues derived from the transmission or the distribution of natural gas,
23 shall be deemed revoked upon the effectivity of this Act, any law to the contrary
24 notwithstanding.

25 CHAPTER X

26 PROMOTION OF COMPETITION

27 SEC. 39. **Anti-Competitive Behavior.** – No gas transmission utility, gas
28 distribution utility or supplier, or affiliate thereof, may engage in any anti-
29 competitive behavior or abuse of market power, specifically the prohibition
30 against monopolies and combinations in restraint of trade under Article 186 of
31 the Revised Penal Code and Chapter III of the Philippine Competition Act.

32 SEC. 40. **Functional and Structural Unbundling.** – All PDNGI participants shall
33 functionally and structurally unbundle their business activities and rates in
34 accordance with the particular sector. The ERC shall, within nine (9) months
35 from the effectivity of this Act, promulgate the unbundling rules and regulations.

36 SEC. 41. **Complaint and Investigation Procedures.** – The ERC shall, within
37 nine (9) months AFTER the effectivity of this Act, promulgate rules and
38 regulations providing for a complaint and investigation procedure that shall,

1 without limitation, provide the party alleged to have engaged in anti-competitive
2 or abusive activities with notice and an opportunity to be heard.

3 SEC. 42. **Affiliated Suppliers.** – In order to prevent anti-competitive conduct,
4 service contractors, gas transmission utilities and gas distribution utilities that
5 own or control affiliates that are suppliers shall conduct their businesses, as
6 follows:
7

8 (a) No preference shall be given to the affiliate supplier over other persons in
9 contracting, scheduling and balancing of available capacity, as well as
10 curtailment, or the imposition of tariffs;

11 (b) Marketing information provided to the affiliate supplier shall be provided
12 to any non-affiliated supplier that is a competitor or potential competitor;

13 (c) Employees of the affiliate supplier shall, to the maximum extent possible,
14 function independently in making business decisions; and

15 (d) Books of accounts and records of the affiliate supplier shall be maintained
separately.

16 CHAPTER XI

17 FINES AND PENALTIES

18 SEC. 43. **Administrative Fines and Penalties.** - The following administrative
19 fines and penalties shall be imposed on any industry participant who violates
20 the provisions of this Act:

21 (a) The permit issued by the DOE under Chapter IV, Section 12 of this Act, may
22 be suspended or revoked and the DOE shall impose upon the operator a fine of
23 Fifty thousand pesos (Php50,000.00) per violation of any provision under
24 Chapter VIII, Section 35 of this Act, without prejudice to other appropriate
25 administrative fines and penalties that other relevant government agencies may
26 impose on the operator: *Provided*, That the schedule of fines provided for in this
27 Section shall be increased by the DOE every five (5) years.

28 (b) The permit issued by the DOE under Chapter IV, Section 12, may be
29 suspended or revoked upon the recommendation by the ERC and the operator
30 may be charged by the ERC a fine of Five hundred thousand pesos
31 (Php500,000.00) per violation of any provision under Chapter IV, Section 13 of
32 this Act. This is without prejudice to other appropriate administrative fines and
33 penalties that other relevant government agencies may impose against the
34 operator.

(c) Congress may, upon the recommendation of the DOE, ERC or other government agencies, as the case may be, revoke such franchise or privilege granted to the party found in violation of the provisions of this Act.

SEC. 44. **Criminal Fines and Penalties.** – Appropriate fines and penalties under existing penal laws shall apply to any criminal violation associated in the implementation of this Act.

CHAPTER XII

TRANSITORY PROVISIONS

SEC. 45. **Existing Systems.** – Natural gas facilities that have been constructed prior to the effectivity of this Act shall continue to be operated under their existing permits and shall comply with additional requirements as may be applicable.

Suppliers who have entered into an NGSPA with end-users and have delivered indigenous or imported natural gas prior to the effectivity of this Act shall continue to operate under the said contracts, subject to compliance with the additional requirements in this Act.

SEC. 46. **Pending Application.** – All applications on any activity in the natural gas value chain pending before the DOE upon the effectivity hereof shall be covered by this Act.

CHAPTER XIII

FINAL PROVISIONS

SEC. 47. **Assignment or Transfer of Interest.** – Assignment or transfer of interest of the permit shall be allowed only upon prior written approval by the DOE based on acceptable reasons and compliance by the operator, the assumption by the assignee of all obligations of the former permit holder, and upon meeting the minimum legal, technical, and financial qualifications of the transferee.

SEC. 48. **Consultation and Arbitration.** – All parties shall make their best efforts to amicably settle any dispute arising from the performance or interpretation of any provision of this Act.

SEC. 49. **Natural Gas Oversight Commission.** - Upon the effectivity of this Act, a congressional commission, hereinafter referred to as the "Natural Gas Oversight Commission", is hereby constituted. The Natural Gas Oversight Commission shall be composed of ten (10) members, with the Chairpersons of the Committee on Energy of the Senate and the House of Representatives, as Co-Chairpersons, and four (4) additional members from each House, to be designated by the Senate President and the Speaker of the House of Representatives, respectively. The minority shall be entitled to pro rata

1 representation but shall have at least one representative in the Natural Gas
2 Oversight Commission.

3 The Natural Gas Oversight Commission shall, in aid of legislation, perform the
4 following functions:

5 (a) Set the guidelines and overall framework to monitor the proper
6 implementation of this Act;

7 (b) Look into the appropriateness of creating a single independent regulatory
8 body when the conditions prevailing so require;

9 (c) Conduct a periodic review of this Act at least once every three (3) years;

10 (d) Determine inherent weaknesses in the law and recommend necessary
11 remedial administrative or legislative measures;

12 (e) Approve the budget for the programs of the natural gas of Oversight
13 Commission and all disbursements therefrom;

14 (f) Submit periodic reports to the President of the Philippines and Congress;
15 and

16 (g) Perform such other powers and functions as may be necessary to attain
17 its objectives.

18 To carry out its powers and functions, expenses incurred by the Natural Gas
19 Commission during the initial implementation of this Act shall be charged
20 against the current appropriations of the Senate and shall thereafter be included
21 in the annual General Appropriations Act.

22 The Natural Gas Oversight Commission shall adopt its internal rules of
23 procedure, conduct hearings and receive testimonies, reports and technical
24 advice, invite or summon by *subpoena ad testificandum* any public official,
25 private individual or any other person to testify before it, or require any person
26 by *subpoena duces tecum* to produce before it such records, reports, documents
27 or other materials as it may require, and generally exercise all the powers
28 necessary to attain the purposes for which it is created.

29 The Natural Gas Oversight Commission shall be assisted by a secretariat to
30 be composed of personnel who may be seconded from the Senate and the House
31 of Representatives and may retain consultants. The secretariat shall be headed
32 by an executive director, who possesses a sufficient background and competence
33 on policies and issues relating to the downstream natural gas industry.

34 SEC. 50. **Appropriations.** – The amount necessary for the implementation of
35 this Act shall be included in the annual General Appropriations Act.

36 SEC. 51. **Implementing Rules and Regulations.** – The DOE shall, in
37 consultation with the ERC, relevant government agencies such as the DENR,
38 DOH, Department of Transportation (DOTr), Philippine Ports Authority (PPA),

DTI and Department of Finance (DOF), the PDNGI participants, non-governmental organizations and end-users, promulgate rules and regulations for the effective implementation of this Act within twelve (12) months AFTER the effectivity of this Act.

SEC. 52. **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.

SEC. 53. **Repealing Clause.** – Any law, presidential decree or issuance, executive order, letter of instruction, rule or regulation inconsistent with the provisions of this Act is hereby repealed or modified accordingly.

SEC. 54. **Effectivity.** – This Act shall take effect fifteen (15) days after its publication in the *Official Gazette* or in a newspaper of general circulation.

Approved,