



Republic of the Philippines
House of Representatives
Quezon City



NINETEENTH CONGRESS

First Regular Session

House Bill No. **6423**

Introduced by

APEC Party-List Representative Sergio C. Dagooc

PHILRECA Party-List Representative Presley C. De Jesus

AAMBIS-OWA Party-List Representative Lex Anthony Cris A. Colada

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

Republic Act No. 9136, also known as the Electric Power Industry Reform Act (EPIRA) of 2001, sought to restructure the electric power industry by organizing and dividing the industry into four sectors, namely generation, transmission, distribution and supply.

Under the same law, the Energy Regulatory Commission (ERC) was created and recognized as an independent regulatory body that could exercise quasi-judicial functions.

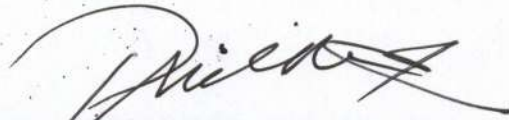
It is the nation's power industry regulator that serves a crucial role in this industry, ensuring that the consumers are protected, but at the same time enhancing competitive operations within the electricity market. However, evaluating the current structure of the ERC it is evident that there is a need to properly specify the functions of powers of the Chairperson and the members of the Commission in exercising Rule-Making and Quasi-Judicial Powers. Further

to properly regulate the nation's energy industry, the bill aims to enhance and strengthen the governance structure of the ERC by providing: 1) For purposes of diversity, additional Qualifications and requirements for ERC Commissioners; 2) Providing prohibitions and disqualifications for ERC commissioners and their relatives to prevent conflicting interests; 3) divesting the functions and duties of the Chief executive officer from the Chairperson and lodging them to the Executive Director of the ERC; and 4) providing for a code of ethics for the Commissioners of the ERC

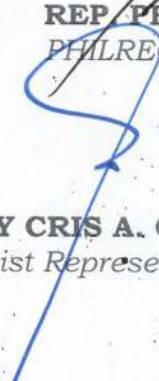
In view of the foregoing, the bill, through amendments of EPIRA aims to strengthen the ERC, allowing the commission and their members to perform their functions more efficiently. For the foregoing reasons, the approval of this bill is earnestly sought.



REP. SERGIO C. DAGOOC
APEC Party-list Representative



REP. PRESLEY C. DE JESUS
PHILRECA Party-list Representative



REP. LEX ANTHONY CRIS A. COLADA
AAMBIS-OWA Party-list Representative



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

1 SECTION 1. **Short Title.** - This Act shall be known as the “*Energy*
2 *Regulatory Commission Act.*”

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

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

1 Towards this end, the State shall:

2 a. Establish a strong, independent, transparent, and accountable
3 regulatory body; and

4 b. Ensure the efficient and effective performance of the functions and
5 mandates of the regulatory body to enhance competitiveness in the electric power
6 industry.

7 c. **ENSURE TIMELY RESOLUTION OF ALL PETITIONS AND CASES**
8 **FILED BEFORE IT BY ANY POWER INDUSTRY PLAYER**

9 d. **ENSURE PROPER PROMULGATION OF RULES AND**
10 **REGULATIONS IN LINE WITH THE PURPOSES OF EPIRA**

11 SECTION 3. *Definition of Terms.* For the purpose of this Act, the
12 following terms shall have the following meanings unless provided otherwise:

13 a. Commission refers to the decision-making body of the Energy
14 Regulatory Commission under Republic Act No. 9136 composed of one (1)
15 Chairperson and **EIGHT (8)** Commissioners;

16 b. Joint Congressional Energy Commission refers to the Commission
17 created under Republic Act No. 9136, as amended;

18 c. Key ERC Personnel refers to employees who hold executive or
19 managerial positions in the ERC;

20 d. Quasi-judicial body refers to an entity, such as the ERC, which has the
21 powers and functions to conduct hearings, find facts, apply governing law and
22 resolve disputes between the agency and an entity; and

23 e. **RULE-MAKING** body refers to an agency or body that exercises and
24 promulgate rules and regulations, **RELATIVE TO THE PERFORMANCE OF**
25 **THE ENERGY SECTOR**

26 SECTION 4. Section 38 of the Republic Act 9136 is hereby amended,
27 to read as follows:

28 SEC. 38. **STRENGTHENING/RECONSTITUTION** of the
29 Energy Regulatory Commission. There is hereby created an
30 independent, quasi-judicial **AND RULE MAKING** regulatory body to
31 be named the Energy Regulatory Commission (ERC). **THE ENERGY**

1 **REGULATORY COMMISSION (ERC) IS HEREBY**
2 **RECONSTITUTED. TOWARDS THIS END, THE ERC SHALL BE**
3 **EXCLUSIVELY RESPONSIBLE FOR THE REGULATION OF THE**
4 **ELECTRIC POWER AND ENERGY INDUSTRY AND SHALL ENJOY**
5 **LIMITED FISCAL AUTONOMY, WHICH SHALL ALLOW THE ERC**
6 **TO INTERNALLY ALLOCATE THE FUNDS GENERATED FROM**
7 **ITS INTERNAL PROJECTS AND FROM AN AMOUNT NOT**
8 **EXCEEDING FIFTY PERCENT (50%) OF THE FEES COLLECTED**
9 **FROM INDUSTRY PLAYERS, IN ADDITION TO APPROPRIATIONS**
10 **RECEIVED FROM THE GENERAL APPROPRIATIONS ACT .**
11 **FURTHER, ITS ANNUAL APPROVED BUDGET SHALL BE**
12 **AUTOMATICALLY AND REGULARLY RELEASED.**

13
14 The Commission shall be composed of a **CHAIRPERSON**
15 and **EIGHT** members. **THE CHAIRPERSON AND THE REST OF**
16 **THE MEMBERS SHALL** be appointed by the President of the
17 Philippines **AND SHALL SERVE A TERM OF SEVEN YEARS:**
18 **PROVIDED, THAT THE FIRST TWO (3) APPOINTED MEMBERS,**
19 **SHALL SERVE FOR SEVEN (7) YEARS, THE NEXT THREE (3)**
20 **APPOINTED MEMBERS SHALL SERVE FOR FIVE (6) YEARS, AND**
21 **THE THREE (3) APPOINTED MEMBERS SHALL SERVE FOR A**
22 **TERM OF THREE (5) YEARS:** *Provided, further, That appointment*
23 *to any future vacancy shall only be for the unexpired term of the*
24 *predecessor: Provided, finally, That there shall be no reappointment*
25 *and in no case shall any member serve for more than seven (7) years*
26 *in the Commission.*

27 The **CHAIRPERSON** and members of the Commission
28 shall assume office at the beginning of their terms: *Provided, That if*
29 *upon the effectivity of this Act, the Commission has not been*
30 *constituted and the new staffing pattern and plantilla positions have*
31 *not been approved and filled-up, the current* **COMMISSION** *and*
32 *existing personnel of* **THE ERC** *shall continue to hold office.*

33 The existing personnel of the ERC, if qualified, shall be
34 given preference in the filling up of plantilla positions created in the
35 ERC, subject to existing civil service rules and regulations.

36 The **CHAIRPERSON** and the members of the

1 Commission shall be natural-born citizens and residents of the
2 Philippines, persons of good moral character, at least **FORTY (40)**
3 years of age, and of recognized competence in any of the following
4 fields: energy, law, economics, finance, commerce, or engineering,
5 with at **LEAST FIVE (5) years OF** actual and distinguished
6 experience in their respective fields of expertise: *Provided*, That out
7 of the **nine (9)** members of the Commission, at least **FOUR (4),**
8 **INCLUDING THE CHAIRPERSON**, shall be **MEMBERS** of the
9 Philippine Bar with at least five (5) years OF experience in the
10 active practice of law, **AT LEAST** one (1) **MEMBER** shall be a
11 certified public accountant with at least five (5) years OF
12 experience in THE active practice OF ACCOUNTING, **AT LEAST**
13 **ONE (1) MEMBER SHALL BE A REPRESENTATIVE FOR THE**
14 **DISTRIBUTION SECTOR AND SHOULD HAVE HAD AT LEAST (5)**
15 **YEARS OF EXPERIENCE IN SAID FIELD, AT LEAST ONE (1)**
16 **MEMBER SHALL BE A REPRESENTATIVE FOR THE**
17 **GENERATION SECTOR AND SHOULD HAVE HAD AT LEAST (5)**
18 **YEARS OF EXPERIENCE IN SAID FIELD, AT LEAST ONE (1)**
19 **MEMBER SHALL BE A REPRESENTATIVE FOR THE PRIVATE**
20 **SECTOR, AND AT LEAST ONE (1) MEMBER SHALL COME FROM**
21 **ANY FIELD OF ENERGY, ECONOMICS OR ENGINEERING WITH**
22 **AT LEAST TEN (10) YEARS OF EXPERIENCE IN SAID FIELD.**
23 **PROVIDED FURTHER, THAT AMONG THE CHAIRPERSON AND**
24 **THE MEMBERS OF THE COMMISSION, ONE (1) MEMBER BE**
25 **FROM LUZON, ONE (1) MEMBER BE FROM VISAYAS, AND ONE**
26 **(1) MEMBER BE FROM MINDANAO**

27 Members of the Commission shall enjoy security of
28 tenure and shall not be suspended or removed from office except for
29 just cause as specified by law.

30 The **CHAIRPERSON** and members of the Commission or
31 any of their relatives within the fourth civil degree of consanguinity
32 or affinity, **WHETHER SUCH PERSONAL RELATIONS ARE**
33 legitimate, [or] common law, **OR OTHERWISE**, shall be prohibited
34 from holding any interest whatsoever, either as investor,
35 stockholder, officer or director, in any company or entity engaged in
36 the business of **GENERATING, TRANSMITTING, DISTRIBUTING**
37 **OR SUPPLYING ELECTRICITY. UPON THE ASSUMPTION BY THE**
38 **CHAIRPERSON AND THE MEMBERS OF THE ERC OF THEIR**

1 RESPECTIVE POSITIONS, THE CHAIRPERSON AND THE
2 MEMBERS OF THE ERC AND THEIR RESPECTIVE RELATIVES
3 WITHIN THE PRESCRIBED DEGREE OF PERSONAL RELATIONS
4 SHALL DIVEST THEMSELVES OF ALL THEIR SAID INTERESTS.

5 THE COMMISSION SHALL BE DIVIDED INTO THREE
6 (3) DIVISIONS, WITH THREE (3) MEMBERS EACH, INCLUDING
7 THE CHAIRPERSON. EACH DIVISION SHALL HAVE AT LEAST
8 ONE (1) MEMBER WHO IS A LAWYER. THE PRESENCE OF AT
9 LEAST TWO (2) OF THE (3) MEMBERS OF THE DIVISION SHALL
10 CONSTITUTE A QUORUM, AND THE MAJORITY VOTE AT LEAST
11 TWO (2) MEMBERS OF THE DIVISION IN WHICH A QUORUM
12 WAS PRESENT SHALL BE NECESSARY FOR THE ADOPTION OF
13 ANY RULE, RULING, ORDER, RESOLUTION, DECISION OR
14 OTHER ACTS OF THE COMMISSION.

15 AT LEAST FIVE (5) MEMBERS OF THE ERC SHALL
16 CONSTITUTE A QUORUM IN THE COMMISSION *EN BANC*. THE
17 CHAIRPERSON SHALL BE THE PRESIDING OFFICER DURING A
18 COMMISSION *EN BANC* HEARING. IN THE ABSENCE OF THE
19 CHAIRPERSON, THE REST OF THE MEMBERS, CONSTITUTING
20 A QUORUM, SHALL SELECT A PRESIDING OFFICER. A VALID
21 DECISION OF THE COMMISSION *EN BANC* SHALL BE
22 CONCURRED IN BY THE MAJORITY OF THE MEMBERS
23 CONSTITUTING A QUORUM.

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

26 a. CASES INVOLVING THE ERC'S RULE MAKING
27 POWERS, RULES, OR REGULATIONS;

28 b. CASES INVOLVING THE NATIONAL TRANSMISSION
29 CORPORATION (TRANSCO) OR ITS AUTHORIZED
30 CONCESSIONAIRE WHICH OPERATES THE TRANSMISSION
31 NETWORK;

32 c. CAPITAL EXPENDITURE APPLICATIONS WITH A
33 PRINCIPAL AMOUNT TO BE DETERMINED BY THE
34 IMPLEMENTING RULES AND REGULATIONS (IRR);

1 d. CONTRACTS BETWEEN INDUSTRY PLAYERS WITH A
2 PRINCIPAL AMOUNT TO BE DETERMINED BY THE IRR;

3 e. CASES PREVIOUSLY HANDLED BY THE ERC
4 DIVISION IN WHICH NO QUORUM OR VALID DECISION WAS
5 ATTAINED; AND

6 f. APPEALS ON DECISIONS RENDERED FROM ANY
7 DIVISION OF THE ERC;

8 g. OTHER CASES AS MAY BE DESIGNATED BY THE
9 COMMISSION EN BANC ITSELF

10 PROVIDED, THAT FOR CAPITAL EXPENDITURE
11 APPLICATIONS, THE COMMISSION SHALL RENDER ITS
12 DECISION WITHIN SIXTY (60) CALENDAR DAYS, WITHOUT
13 EXTENSION, AFTER THE FIRST HEARING AT THE
14 PETITIONER'S COVERAGE AREA: PROVIDED, FURTHER, THAT
15 APPLICATIONS FOR EMERGENCY CAPITAL EXPENDITURES
16 SHALL BE DECIDED WITHIN FORTY-FIVE (45) DAYS.

17 PROVIDED, FINALLY, THAT FOR RATE CASES
18 APPLICATION, THE COMMISSION SHALL RENDER ITS
19 PROVISIONAL AUTHORITY WITHIN NINETY (90) CALENDAR
20 DAYS, WITHOUT EXTENSION, RECKONED AFTER THE
21 TERMINATION OF EVIDENTIAL HEARING WHEREIN THE
22 COMMISSION SHALL DECIDE ON THE CASE SUBMITTED FOR
23 RESOLUTION.

24 THE CHAIRPERSON AND THE MEMBERS OF THE
25 ERC SHALL CONFORM TO THE FOLLOWING CODE OF ETHICS:

26 (1) AVOID IMPROPRIETY AND THE APPEARANCE OF
27 IMPROPRIETY IN ALL ACTIVITIES;

28 (2) PERFORM ALL DUTIES WITH UTMOST
29 IMPARTIALITY AND DILIGENCE;

30 (3) BEHAVE AT ALL TIMES AS TO PROMOTE PUBLIC
31 CONFIDENCE IN THE ERC AND AVOID OFF-THE-RECORD
32 CONVERSATIONS WITH ANY MEMBER OF THE ERC AND
33 PARTIES THERETO, INCLUDING ANY STAFF ACTING AS A

1 PARTY, REGARDING THE MERITS OR ANY FACT IN ISSUE OF
2 ANY MATTER PENDING BEFORE THE ERC;

3 (4) ABSTAIN FROM PUBLICLY EXPRESSING HIS OR HER
4 PERSONAL VIEWS ON THE MERITS OF ANY MATTER PENDING
5 BEFORE THE ERC AND REQUIRE SIMILAR ABSTENTION ON
6 THE PART OF THE ERC PERSONNEL, SUBJECT TO HIS OR HER
7 DIRECTION AND CONTROL;

8 (5) INITIATE APPROPRIATE DISCIPLINARY MEASURES
9 AGAINST ANY ERC PERSONNEL FOR UNPROFESSIONAL
10 CONDUCT;

11 (6) INHIBIT HIMSELF OR HERSELF FROM
12 PROCEEDINGS IN WHICH HIS OR HER IMPARTIALITY MIGHT
13 BE REASONABLY QUESTIONED;

14 (7) DISCLOSE HIS OR HER PERSONAL AND
15 FIDUCIARY INTERESTS AND MAKE REASONABLE EFFORTS TO
16 DISCLOSE THE PERSONAL FINANCIAL INTERESTS OF HIS OR
17 HER SPOUSE AND CHILDREN;

18 (8) ACTIVITIES OUTSIDE WORK SUCH AS ACADEMIC
19 LECTURES WITH HONORARIA SHALL BE DISCLOSED
20 ANNUALLY. SUCH DISCLOSURE STATEMENT SHALL BE FILED
21 WITH THE EXECUTIVE DIRECTOR OF THE ERC AND SHALL BE
22 OPEN TO INSPECTION BY THE PUBLIC DURING NORMAL
23 BUSINESS HOURS DURING THE TENURE OF THE
24 CHAIRPERSON OR MEMBER OF THE ERC. THE CHAIRPERSON
25 OR ANY MEMBER OF THE ERC SHALL NOT RESUME HIS OR
26 HER DUTIES UNTIL HE OR SHE SUBMITS SAID DISCLOSURE
27 STATEMENT TO THE EXECUTIVE DIRECTOR OF THE ERC.

28 (9) REFRAIN FROM SOLICITATION OF FUNDS FOR ANY
29 POLITICAL, EDUCATIONAL, RELIGIOUS, CHARITABLE, OR
30 CIVIC PURPOSES, ALTHOUGH HE OR SHE MAY BE AN OFFICER,
31 DIRECTOR, OR TRUSTEE OF SUCH ORGANIZATIONS;

32 (10) REFRAIN FROM ANY FINANCIAL OR BUSINESS
33 DEALINGS WHICH MAY CAST DOUBT ON THE IMPARTIALITY
34 OF THE ERC CHAIRPERSON OR MEMBERS BY THE PUBLIC;

1 (11) IN EXERCISING THEIR QUASI-JUDICIAL FUNCTION,
2 THE CHAIRPERSON AND MEMBERS OF THE ERC SHALL
3 ADHERE TO THE CANONS OF JUDICIAL CONDUCT; AND

4 (12) CONFORM TO ANY SUCH ADDITIONAL RULES AS
5 THE ERC MAY PRESCRIBE.

6 ANY VIOLATION OF THE ABOVE-MENTIONED CODE OF
7 ETHICS SHALL CONSTITUTE CAUSE FOR REMOVAL FROM
8 OFFICE BY THE OFFICE OF THE PRESIDENT OF THE
9 PHILIPPINES, WITHOUT PREJUDICE TO ANY OTHER
10 PENALTIES UNDER ALL APPLICABLE LAWS.

11 AFTER TERMINATING EMPLOYMENT OR SERVICE WITH
12 THE ERC, THE CHAIRPERSON AND MEMBERS OF THE ERC,
13 EXECUTIVE DIRECTOR, SERVICE OR OFFICE DIRECTORS, OR
14 ITS EQUIVALENT, WHO ARE APPOINTED, OR EMPLOYED
15 UNDER THE ERC, SHALL BE PROHIBITED FROM ACCEPTING
16 EMPLOYMENT WITH ANY REGULATED ENTITY FOR A PERIOD
17 OF THREE (3) YEARS, AND ALL MEMBERS OF THE ERC SHALL
18 BE PROHIBITED FROM APPEARING BEFORE THE ERC ON
19 BEHALF OF ANY REGULATED ENTITY FOR A PERIOD OF
20 THREE (3) YEARS AFTER SAID TERMINATION OF
21 EMPLOYMENT.

22 SECTION 5. **Expansion.** - The existing organizational structure of the
23 Energy Regulatory Commission (ERC) is hereby reorganized by creating the
24 following:

25 a. Office of the General Counsel and Secretariat, directly reporting to the
26 Commission *en Banc*;

27 b. Internal Audit Unit, directly reporting to the Commission *en Banc*;
28 and

29 c. Six (6) line services: (a) Regulatory Operations Service; (b) Market
30 Operations Service; (c) Consumer Affairs Service; (d) Legal Service; (e) Planning
31 and Public Information Service; and (f) Finance and Administrative Service.

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

1 To achieve the goals of this Act, the Commission, as an independent
2 regulatory body, is hereby authorized to provide for its reorganization, to
3 streamline its structure and operations, upgrade its human resource
4 compliment and enable the same to perform its functions more efficiently and
5 effectively and exercise its power under this Act and under Republic Act No.
6 9136, otherwise known as the "Electric Power Industry Reform Act of 2001"
7 (EPIRA).

8 All positions of the ERC shall be governed by a compensation and position
9 classification system and qualification standards approved by the Commission
10 *en Banc* based on comprehensive job analysis and audit of actual duties and
11 personal responsibilities. Towards this end, the Commission shall be exempt
12 from laws, rules, and regulations on compensation, position classification and
13 qualification standards. The Commission shall, however, endeavor to make its
14 system conform as closely as possible with the principles under the
15 Compensation and Position Classification Act of 1989, otherwise known as
16 Republic Act No. 6758, as amended.

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

21 a. Exercise all quasi-judicial and **RULE MAKING** functions in furtherance
22 of the ERC's mandate under Republic Act No. 9136;

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

26 c. Approve the internal rules, organizational structure, and operational
27 strategy of the ERC; and

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

32 SECTION 7. **DIVISION - THE THREE (3) DIVISIONS OF THE**
33 **COMMISSION SHALL HAVE JURISDICTION OVER ALL MATTERS OF ONE**
34 **MAJOR ISLAND. WHEREIN, ONE (1) DIVISION SHALL BE DESIGNATED TO**

1 LUZON, ONE (1) DIVISION SHALL BE DESIGNATED TO VISAYAS, AND ONE
2 (1) DIVISION SHALL BE DESIGNATED TO MINDANAO. THESE DIVISIONS
3 SHALL HAVE JURISDICTION OVER THE FOLLOWING MATTERS;

4 a. COMPLAINTS INVOLVING INDUSTRY PLAYERS WITHIN
5 TERRITORIAL JURISDICTION OF THE DIVISION;

6 b. CAPITAL EXPENDITURE APPLICATIONS WITH A PRINCIPAL
7 AMOUNT TO BE DETERMINED BY THE IRR;

8 c. CONTRACTS BETWEEN INDUSTRY PLAYERS, WITH A
9 PRINCIPAL AMOUNT TO BE DETERMINED BY THE IRR

10 d. OTHER SUBJECT MATTERS THAT SHALL BE DETERMINED
11 AND DELEGATED BY THE COMMISSION EN BANC.

12 SECTION 8. **Requirements.** - The members of the Commission shall, upon
13 assumption of office:

14 a. Publicly disclose any employment, consultancy, or any connection
15 with, and any pecuniary interest in an Electric Power Industry Participant;

16 b. Publicly disclose if his or her spouse, partner, and any relative by
17 consanguinity or affinity within the fourth civil degree is employed or has a
18 consultancy or any connection with, or has a pecuniary interest in an Electric
19 Power Industry Participant;

20 c. Divest through sale or legal disposition any and all interests in an
21 Electric Power Industry Participant; and

22 d. Terminate employment or consultancy with any Electric Power
23 Industry Participant.

24 SECTION 9. **The Chairperson.** The Chairperson shall be from the fields
25 of energy, law, economics, finance, commerce, or engineering with at least ten
26 (10) years of experience in energy and or public utility regulation: *Provided*, That
27 the qualifications and requirements in Section 3 of this Act is complied with.

28 SECTION 10. **Duties and Responsibilities of the Chairperson.** - The
29 Chairperson as head of the Commission *en Banc*, shall have the following duties
30 and responsibilities:

31 **Chairperson of the Commission:**

1 a. Determine the date, time and location of the regular or special
2 commission meeting and develop the agenda for the meeting with the consensus
3 of all the members of the Commission;

4 b. Preside over meetings of the Commission: *provided*, that the
5 chairperson shall have the right to vote on all matters, issues or case pending
6 before the Commission;

7 c. Act as the official representative of the ERC to promote collaborative
8 relationships and open communication between the Commission and the
9 following:

10 i. General public;

11 ii. Executive and Legislative Government Agencies;

12 iii. International Organizations or Agencies; and

13 iv. Industry stakeholders.

14 **Chairperson acting as CEO:**

15 a. Lead and oversee the implementation of the Commission's mandate
16 under the EPIRA in accordance with the Commission approved internal rules,
17 organizational and operational strategy;

18 b. Ensure good governance policies, practices, rules and procedures
19 that promote the highest standards of integrity, competence, and transparency
20 are in place;

21 c. Exercise administrative supervision over the executive director and
22 service directors;

23 d. Oversee quality control throughout the ERC;

24 e. Ensure that members of the Commission undergo capacity building
25 programs to continuously enhance technical competence;

26 f. Delegate administrative authority for the performance of any
27 function to officials and employees of the ERC;

28 g. Supervise the preparation of the annual and supplemental budget
29 of the Commission; and

1 h. Perform such other functions as may be provided by law and/or
2 delegated by the Commission.

3 SECTION 11. **Executive Director.** – The Executive Director shall be the
4 Chief Operating Officer (COO) who shall assist the Chairperson who is the Chief
5 Executive Officer (CEO).

6 The Executive Director shall be a lawyer with at least ten (10) years of
7 active practice of law and Career Executive Service (CES) eligible with at least
8 five (5) years experience in management and administration.

9 The duties and responsibilities of the Executive Director shall include the
10 following:

11 a. Oversee the daily operations of the ERC and ensure the smooth
12 functioning of all ERC processes;

13 b. Provide the Commission with periodic updates on the day-to-day
14 operations of the ERC towards the achievement of its target objectives;

15 c. Ensure the adequacy of ERC's manpower complement, equipment,
16 facilities or space, materials, supplies and systems;

17 d. Develop, in coordination with the service directors, the ERC's annual
18 operating plan and internal rules to be submitted to the Commission for its
19 approval;

20 e. Establish, in coordination with service directors, periodic performance
21 targets of all services to be submitted to the Commission for its approval;

22 f. Evaluate and ensure compliance of the services and all ERC employees
23 to the Commission approved periodic performance targets, annual operating
24 plan and internal rules;

25 g. Coordinate with all services on the preparation of the proposed annual
26 budget and procurement plan to the Commission for its approval;

27 h. Monitor and ensure the implementation of the Commission approved
28 annual budget and procurement plan in accordance with the DBM's expenditure
29 program; and

30 i. Perform such other functions related to the foregoing or as may be
31 assigned by the Commission or the Chairperson.

1 SECTION 12. ***Duties and Responsibilities of the Executive Director.*** –

2 The duties and responsibilities of the Executive Director shall include, but shall
3 not be limited to:

4 a. Developing and proposing, for the Commission's approval, the
5 operationalization of the strategies and policies agreed upon by the Commission;

6 b. Effectively executing the approved operationalization of the strategies
7 and policies agreed upon by the Commission;

8 c. Leading the management of the daily operations of the ERC in
9 accordance with the plans and within the budget approved by the Commission;

10 d. Assuming full responsibility for the overall supervision and control of
11 all divisions, units, and services of the ERC;

12 e. Assigning to each division, unit, and service of the ERC such duties
13 that are considered necessary or expedient;

14 f. Coordinating the workings of the divisions, units, and services of the
15 ERC;

16 g. Establishing a mechanism for capacity building for all employees of the
17 ERC to continuously enhance technical competence: *Provided*, That such
18 mechanism will be based on the principle of meritocracy;

19 h. Ensuring compliance with the ERC's Enhanced Merit Selection Plan
20 and/or other plans related to personnel selection duly approved by the
21 Commission when it comes to the hiring and promotion of employees;

22 i. Leading the management to ensure effective working relationships with
23 the Commission by regularly communicating with the Chairperson to review key
24 developments, issues, opportunities, and concerns;

25 j. Ensuring that the management gives priority to providing documents
26 and reports which contain relevant, accurate, timely, and clear information
27 necessary for the Commission to fulfill its duties;

28 k. Maintaining regular dialogue with the Commission while ensuring that
29 the Commission, especially the Chairperson, is alerted to forthcoming complex,
30 contentious, sensitive, or strategic issues facing the ERC;

31 l. Advising the Commission on any matter referred to the Executive

1 Director;

2 m. Managing the affairs of the ERC in accordance with good corporate
3 governance practices and procedures while promoting the highest standards of
4 independence, transparency, integrity, and probity;

5 n. Initiating investigations and recommending administrative sanctions
6 against erring employees, without prejudice to the filing of any criminal action
7 against the concerned employee;

8 o. Regularly submitting to the Commission updates on the operations of
9 the ERC; and

10 p. Performing such other duties as the Commission may assign.

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

13 **SECTION 13. *Duties and Responsibilities of the Members of the***
14 ***Commission.*** – In addition to the functions enumerated in Republic Act No.
15 9136, the members of the Commission shall:

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

19 b. Recommend to the Chairperson the inclusion in the agenda of any
20 case, issue, or matter deemed appropriate in the performance of the
21 Commission's functions;

22 c. Be properly informed about and thoroughly analyze cases, issues, and
23 matters pending before the Commission;

24 d. Take part in the continuous education and capacity building programs
25 of the Commission to enhance technical competence;

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

29 f. Appoint the Executive Director of the ERC: *Provided, That the*
30 *requirements, prohibited acts, qualifications, and duties and responsibilities*
31 *stated in Sections 7, 8, 12, and 13 of this Act are complied with;*

1 g. Act on the selection and appointment of Key ERC Personnel: *Provided*,
2 That the selection process for Key ERC Personnel shall be in accordance with
3 the ERC's Enhanced Merit Selection Plan and/or other plans related to
4 personnel selection duly approved by the Commission;

5 h. Review and act on the endorsement of the proposed ERC budget:
6 *Provided*, That such endorsement shall come from the Executive Director and
7 shall be substantiated with supporting documents;

8 i. Initiate, motu proprio or upon formal complaint, investigations against
9 the Executive Director and act upon such investigations: *Provided*, That such
10 investigation is without prejudice to the filing of administrative or criminal cases
11 against the Executive Director; and

12 j. Perform in good faith and to the best of its ability, the functions stated
13 in Republic Act No. 9136 and the duties and responsibilities specified in this Act.

14 SECTION 14. Section 39 of the Electric Power Industry Reform Act (EPIRA)
15 of 2001 is hereby amended to read as follows:

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

22 The **CHAIRPERSON** and members of the Commission shall be
23 entitled to the same salaries, allowances and benefits as those of the
24 Presiding Justice and Associate Justices of the **SUPREME COURT**,
25 respectively. The **CHAIRPERSON** and the members of the
26 Commission shall, upon completion of their term or upon becoming
27 eligible for retirement under existing laws, be entitled to the same
28 retirement benefits and the privileges provided for the Presiding
29 Justice and Associate Justices of the **SUPREME COURT**,
30 respectively.

31 **THE COMPENSATION SCHEDULE OF THE ERC PERSONNEL**
32 **SHALL BE COMPETITIVE WITH THE SALARY RANGE OF OTHER**
33 **REGULATORY AGENCIES, AND THE ELECTRIC POWER**
34 **INDUSTRY STAKEHOLDERS. FOR THIS PURPOSE, THE**

1 COMMISSION EN BANC SHALL, SUBJECT TO THE APPROVAL OF
2 THE PRESIDENT OF THE PHILIPPINES, ADJUST THE
3 COMPENSATION SCHEDULE AND BENEFITS OF ERC
4 PERSONNEL ONCE EVERY TWO (2) YEARS TO ENSURE THAT
5 THE SAME IS COMPARABLE WITH THE COMPENSATION
6 PACKAGE OF OTHER REGULATORY AGENCIES, AND THE
7 ELECTRIC POWER INDUSTRY STAKEHOLDERS.

8 EVERY TWO (2) YEARS FROM THE LAST COMPENSATION
9 SCHEDULE ADJUSTMENT, THE ERC SHALL CONDUCT AN
10 ASSESSMENT ON THE COMPETITIVENESS OF THE LEVEL OF
11 COMPENSATION OF THE ERC PERSONNEL AGAINST THOSE OF
12 THE EMPLOYEES OF THE STAKEHOLDERS AND REGULATORS
13 OF OTHER JURISDICTIONS. THE ASSESSMENT SHALL
14 CONSIDER ANNUAL MERIT REVIEW OR INCREASES BASED ON
15 PRODUCTIVITY AND EFFICIENCY.

16 SECTION 15. Section 40 of the Electric Power Industry Reform Act (EPIRA)
17 of 2001 is hereby amended to read as follows:

18 "SEC. 40. *Enhancement of Technical Competence.* - THE
19 TECHNICAL COMPETENCE OF THE ERC PERSONNEL SHALL BE
20 BENCHMARKED AGAINST INTERNATIONAL BEST PRACTICES.
21 IN VIEW THEREOF, THE ERC SHALL ESTABLISH A RIGOROUS
22 AND SUSTAINABLE TRAINING PROGRAM THAT WILL ALLOW ITS
23 STAFF TO ACQUIRE THE NECESSARY KNOWLEDGE AND SKILLS
24 AT PAR WITH THE PERSONNEL OF REGULATORS FROM OTHER
25 JURISDICTIONS AND ECONOMIES.

26 FOR THIS PURPOSE, THE ERC SHALL ESTABLISH A UNIT
27 WITHIN ITS STRUCTURE THAT SHALL DESIGN A
28 STANDARDIZED TRAINING AND DEVELOPMENT PROGRAM AND
29 FACILITATE THE REGULAR CONDUCT OF NECESSARY
30 TRAINING FOR NEW AND INCUMBENT ERC PERSONNEL.

31 THE ERC SHALL ALLOT NO LESS THAN FIFTEEN PERCENT
32 (15%) OF ITS TOTAL ANNUAL APPROVED BUDGET FOR THE
33 TRAINING AND UPGRADING OF SKILLS OF ITS PERSONNEL.

34 THE ERC MAY HIRE A REASONABLE NUMBER OF
35 CONSULTANTS OR EXPERTS AS MAY BE APPROPRIATE AND

1 **NECESSARY TO GIVE ADVICE TO AND PERFORM SERVICES FOR**
2 **THE ERC. THE TERMS AND CONDITIONS OF THE ENGAGEMENT**
3 **SHALL BE AS DETERMINED BY THE ERC, SUBJECT TO THE**
4 **PROVISIONS OF REPUBLIC ACT NO. 9184, OTHERWISE KNOWN**
5 **AS THE "GOVERNMENT PROCUREMENT REFORM ACT."**

6 SECTION 16. ***Seminar and Other Professional Fees.*** – Fees for relevant
7 seminars, professional membership, registration fees, including those for
8 mandatory continuing professional education (CPE), and related miscellaneous
9 expenses of ERC employees holding positions for which a professional license is
10 required by the office, shall be borne by the ERC.

11 SECTION 17. ***Benefits and Privileges.*** – The ERC shall provide its
12 employees with the following benefits:

13 a. Health care services through a health maintenance organization
14 (HMO). Expenses for mandatory annual executive check-up for all employees
15 shall be for the account of the ERC;

16 b. All employees shall be covered by accident insurance policies procured
17 by the ERC at its own expense;

18 c. A provident fund, which shall consist of contributions made by both
19 the ERC and its employees to a common fund for the payment of benefits to
20 employees or their heirs;

21 d. Performance incentives in accordance with a performance incentive
22 program designed and duly approved by the Commission *en banc*, which shall
23 in no case be less than the incentives provided under existing laws.

24 SECTION 18. Section 41 of the Electric Power Industry Reform Act (EPIRA)
25 of 2001 is hereby amended to read as follows:

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

1 **FOR THIS PURPOSE, THE ERC SHALL REGULARLY**
2 **CONDUCT TRAININGS FOR THE EFFICIENT HANDLING OF**
3 **CONSUMER COMPLAINTS BY THE DISTRIBUTION UTILITIES'**
4 **CONSUMER WELFARE DESK (CWD). THE ERC SHALL**
5 **ALLOCATE AN ANNUAL BUDGET FOR THIS PURPOSE.**

6 SECTION 19. **Limited Fiscal Autonomy.** - In addition to its yearly
7 appropriation authorized in the General Appropriations Act (GAA), the
8 Commission shall be allowed to use for the following year thirty percent (30%) of
9 its revenues generated from the collection of fees, assessments, licenses, fines,
10 penalties and other charges.

11 The said amount shall be utilized in the following manner:

12 a. Ten percent (10%) of such income shall be used to augment ERC's
13 Capital Outlay (CO) Budget;

14 b. Sixty percent (60%) of such income shall be used to augment the
15 ERC's Maintenance and Other Operating Expenses (MOOE) Budget; and

16 c. Thirty percent (30%) of such income shall be used to augment the
17 ERC's Personnel Service (PS) Budget intended to augment the benefits of the
18 ERC Officers, personnel and staff except for the Chairperson and members of
19 the Commission.

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

22 SECTION 20. **Public Disclosure and Transparency.** - The Commission
23 shall submit and make available to the public, within the prescribed period,
24 reports pertinent to compliance submissions, reports, certificates, orders, or
25 decisions, except those designated as confidential submissions affecting trade
26 secrets or the like, made or issued in relation to industry players in the
27 generation, transmission, distribution, and supply sectors, such as resolutions,
28 orders, decisions, certificates of compliance, certificates of registrations, retail
29 rates of distribution utilities, system loss data of distribution utilities, system
30 and capital infrastructure, consumer complaints, applications, petitions, and
31 other similar public documents to an Electronic Disclosure and Data Access
32 system (EDDA) repository.

33 As used in this Act, EDDA refers to the system for disclosure of energy
34 industry information for public access to ensure transparency and consumer

1 protection using electronic database and communications system that shall start
2 operating for within three (3) years from the effectivity of this Act.

3 SECTION 21. **People's Counsel.** – There is hereby created an office to be
4 known as the Office of the People's Counsel under the administrative supervision
5 of the Chief of the Public Attorney's Office (PAO). The office of the People's
6 Counsel shall have such number of employees as may be necessary to perform
7 the functions hereinafter specified. The office of the People's Counsel shall be
8 appointed by the President of the Philippines. The employees of the office of the
9 People's Counsel shall be appointed by the PAO chief upon the recommendation
10 of the office of the People's Counsel.

11 The office of the People's Counsel and its employees, shall not,
12 during their continuance in office, intervene directly or indirectly in the
13 management or control of, or be financially interested directly or indirectly in
14 any transmission and distribution utility, generation company, and supplier as
15 defined in Republic Act No. 9136.

16 It shall be the duty of the office of the People's Counsel to represent
17 and appear for the public before the ERC in every case involving consumer
18 interests. In all rate cases initiated before it, the ERC shall direct the applicant
19 or petitioner to furnish the office of the People's Counsel with copies of its
20 application including its annexes. Likewise, the ERC shall furnish the office of
21 the People's Counsel of all its Orders in the said rate cases.

22 SECTION 22. **Franking Privilege.** – All official mail matters and telegrams
23 of the ERC addressed for delivery within the Philippines shall be received,
24 transmitted, and delivered free of charge: *Provided*, That such mail matters shall
25 not exceed two (2) kilograms.

26 SECTION 23. Section 42 of the Electric Power Industry Reform Act (EPIRA)
27 of 2001 is hereby amended to read as follows:

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

1 SECTION 24. **Prohibited Acts.** – The members of the Commission, within
2 the duration of their term, shall be prohibited from:

3 a. Taking up any employment or consultancy arrangement with any
4 Electric Power Industry Participant;

5 b. Holding any connection to and any pecuniary interest in an Electric
6 Power Industry Participant;

7 c. Holding any other office or employment; and

8 d. Directly or indirectly practicing any profession, participating in any
9 business, or be financially interested in any contract with, or any franchise, or
10 special privileges granted by the government or any subdivision, agency, or
11 instrumentality thereof, including government-owned and controlled
12 corporations or their subsidiaries.

13 The members of the Commission, after the cessation of their service, shall
14 be prohibited from:

15 a. Running for office in the election immediately succeeding their
16 cessation from office; and

17 b. Personally appearing or practicing as counsel or agent on any matter
18 pending before the Commission for two (2) years following the cessation of their
19 service.

20 Any spouse, partner, and relative by consanguinity or affinity within the
21 fourth civil degree of the members of the Commission shall be prohibited from:

22 a. Taking up any employment or consultancy arrangement with an
23 Electric Power Industry Participant during the incumbency of the member of the
24 Commission to whom he or she is related to;

25 b. Holding any connection to and pecuniary interest in any Electric Power
26 Industry Participant during the incumbency of the member of the Commission
27 to whom he or she is related to;

28 c. Appearing as counsel or agent or any matter pending before the
29 Commission or transacting business directly or indirectly therein during the
30 incumbency of the member of the Commission to whom he or she is related to,
31 and within two (2) years from cessation of their service.

1 SECTION 25. **Transitory Provision.** – The current members of the
2 Commission shall continue to serve in such capacity until the completion of their
3 term.

4 The qualifications, requirements, and prohibitions stated in Sections 6, 7,
5 and 8 of this Act shall apply to new members of the Commission.

6 The current Chairperson shall immediately divest himself of his role and
7 powers as the Chief Executive Officer of the Commission upon the effectivity of
8 this Act.

9 The current Executive Director shall assume the duties and
10 responsibilities laid out in Section 13 of this Act upon the effectivity of this Act:
11 *Provided*, That upon such assumption, the current Executive Director shall
12 immediately comply with the requirements and prohibitions stated in Sections 7
13 and 8 this Act: *Provided, further*, That the current Executive Director shall serve
14 as such until his resignation, retirement or termination for cause.

15 SECTION 26. **Oversight Committee.** – Upon the effectivity of this Act, the
16 JCEC established under Republic Act No. 9136 or the Electric Power Industry
17 Reform Act of 2001, as amended, shall exercise oversight powers over the
18 implementation of this Act.

19 SECTION 27. **Separability Clause.** – If for any reason, any provision of
20 this Act is declared unconstitutional or invalid, the other parts or provisions
21 hereof which are not affected thereby shall continue to be in full force and effect.

22 SECTION 28. **Repealing Clause.** – Sections 1 and 2 of Executive Order
23 No. 172, "Creating the Energy Regulatory Board" are hereby repealed. Sections
24 38, 39, 40, 41 and 42 of Republic Act No. 9136, otherwise known as the "Electric
25 Power Industry Reform Act of 2001," are hereby amended accordingly.

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

29 SECTION 29. **Effectivity.** – This Act shall take effect fifteen (15) days
30 following its publication in the Official Gazette or in a newspaper of general
31 circulation.

32 Approved,