



Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

NINETEENTH CONGRESS
First Regular Session

House Bill No. 7742



Introduced by Rep. LEX ANTHONY CRIS A. COLADA

EXPLANATORY NOTE

The State shall always ensure a quality, reliability, security and affordable supply of electric power in the country for the recovery, development and sustainability of the economy and ultimately for the protection of public interest.

It has been said that the Philippines' energy sector continues to be driven by its large population and rapidly growing economy. Primary energy supply comprises indigenous energy sources followed by net imported oil and coal. However, the self-sufficiency ratio remains at 50% , showing gaps in the country's ability to fulfill its energy needs despite the passage of the Republic Act No. 9136, otherwise known as the Electric Power Industry Reform Act of 2001.

It is then high time to revisit the EPIRA law to fill in the gaps on power energy requirement of the economy and of the consumers. This bill seeks to, among others, widen the sources of energy, encourage investors in the power industry, modernize the distribution sector that will ultimately increase the supply of energy and lower the electricity price in the Philippines. Specifically, the bill features for the:

1. Inclusion of the Energy Storage System depending on its primary purpose;
2. Pursuant to the objective of lowering electricity rates to end-users, sales of generated power by generation companies shall be value added tax zero-rated;
3. Alignment of the transmission sector with the provisions of Republic Act No. 11659, otherwise known as the *Public Service Act, as amended*;
4. Strengthening the power of eminent domain of National Transmission Corporation (Transco) and its concessionaires, mandating that the ownership of transmission shall solely lie to Transco and stipulating the immediate processing and approval of permits, licenses and other requirements in the implementation of transmission projects;

5. Allowing Transco to act as System Operator in specific small off-grid areas and allowing its concessionaire to prepare the Transmission Development Plan (TDP);
6. Fixing into 50% of the net income derived from Transco's related business undertaking will be used to reduce transmission wheeling charges;
7. Allowing to assign the transmission project to a competent and qualified entity in case of failure of Transco or its concessionaire to substantially comply with the ERC-approved projects in the TDP for unjustifiable reasons;
8. Mandating the full automation of the distribution network;
9. Fixing into 50% of the net income derived from related business of the distribution sector's undertakings will be used to reduce distribution wheeling charges;
10. Subjecting to zero-rated VAT the goods sold through and services rendered by the market operator, the adoption of a Wholesale Electricity Spot Market (WESM) Governance Arm and an Independent Market Operator – both private in nature, and the institution of other energy-related markets;
11. Alignment of the Universal Charge with the *Murang Kuryente Act*;
12. Granting the power to the President of the Philippines to temporarily suspend the imposition of royalties, returns, and tax rates collected from exploitation of all indigenous sources of energy;
13. The privatization of Agus and Pulangui complexes shall be left to the discretion of Power Sector Assets and Liabilities Management Corporation (PSALM Corp.) in consultation with DOE;
14. The NPC may incur any new obligations to purchase power through bilateral contracts with generation companies or other suppliers for providing power generation and its associated power delivery systems in areas that are not connected to the transmission system;
15. Extension of PSALM Corp.'s corporate life for another thirty (30) years from the expiration of its original term on 26 June 2026;
16. PSALM Corp. may undergo restructuring, reorganization or rightsizing, pursuant to existing rules and regulations;
17. PSALM Corp. may be abolished upon the approval of the President of the Philippines of the recommendation of the GCG, in consideration of specific standards;
18. Issuance of the guidelines for the creation of an efficient, streamlined and expeditious mechanism for the conversion of electric cooperatives;
19. Electric Cooperatives (ECs) may enter into merger, consolidation, joint venture and any other investment agreement with other ECs and/or private entities for the purpose of improving the service of the franchise area;
20. In case the EC is unable to fulfill its obligations to its creditors due to insolvency or bankruptcy, such EC or any interested party may apply for any remedies it may deem appropriate pursuant to RA no. 10142, otherwise known as the "*Financial Rehabilitation and Insolvency Act of 2010*";
21. The National Power Corporation (NPC) to adopt alternative and cost-effective technologies towards the cessation of provision of UC-ME;

22. The DOE and NPC to issue guidelines for the graduation of Off-Grid Areas from UC-ME; and

23. In case of critically low electricity supply or unusually high electricity prices, the President may, upon the determination and recommendation of the DOE Secretary, issue a declaration of electric power crisis.

The DOE shall issue temporary measures to mitigate the impact on the consumers and other initiatives for the efficient allocation and conservation of energy. The effectivity of such issuances shall continue until the lifting of the declaration of the electric power crisis by the President.

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



LEX ANTHONY CHRIS A. COLADA
Representative, AAMBIS-OWA PARTYLIST



Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

NINETEENTH CONGRESS
First Regular Session

House Bill No. 7742

Introduced by Rep. LEX ANTHONY CRIS A. COLADA

AN ACT
STRENGTHENING FURTHER THE ELECTRIC POWER INDUSTRY AMENDING FOR
THE PURPOSE SECTIONS 1, 5, 6, 7, 8, 9, 20, 21, 22, 23, 26, 30, 34, 35 AND 37 OF
REPUBLIC ACT NO. 9136, OTHERWISE KNOWN AS THE “ELECTRIC POWER
INDUSTRY REFORM ACT OF 2001”

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

SECTION 1. Section 1 of Republic Act No. 9136, otherwise known as the “Electric Power Industry Reform Act of 2001” is amended to read as follows:

“SECTION 1. *Title.* – This Act shall be known as the “**New Electric Power Industry Reform Act** ~~[of 2001]~~.”

SEC. 2. Section 5 of Republic Act No. 9136 is hereby amended to read as follows:

“SEC. 5. Organization. - The electric power industry shall be divided into four (4) sectors, namely: generation, transmission, distribution, and supply.

THE NATURE OF AN ENERGY STORAGE SYSTEM SHALL BE CLASSIFIED BASED ON ITS PRIMARY PURPOSE, SUBJECT TO THE RULES AND REGULATIONS TO BE ISSUED BY THE DOE IN ACCORDANCE WITH THE PROVISIONS OF THIS ACT.”

SEC. 3. Section 6 of Republic Act No. 9136 is hereby amended to read as follows:

“SEC. 6. Generation Sector. – x x x

Pursuant to the objective of lowering electricity rates to end-users, sales of generated power by generation companies shall be value added tax zero-rated.

The ERC shall, in determining the existence of market power abuse or anti-competitive behavior, require from generation companies the submission of their financial statements **AND ANY OTHER RELEVANT DOCUMENTS AS MAY BE REQUIRED.**"

SEC. 4 Section 7 of Republic Act No. 9136 is hereby amended to read as follows:

"SEC. 7 Transmission Sector.- The transmission of electric power shall be **A REGULATED PUBLIC UTILITY, AS DEFINED UNDER RA NO. 11659 OR THE PUBLIC SERVICE ACT AS AMENDED** ~~[common electricity carries business,]~~ subject to the **RELEVANT POLICIES ISSUED BY THE DOE AND THE** ~~[ratemaking -]~~ **RATE-SETTING** powers of the ERC.

PROVIDED FURTHER THAT AN ENTITY CONTROLLED BY OR ACTING ON BEHALF OF THE FOREIGN GOVERNMENT OR FOREIGN STATE-OWNED ENTERPRISES SHALL BE PROHIBITED FROM OWNING CAPITAL IN ANY ENTITY ENGAGED IN THE TRANSMISSION OF ELECTRICITY. PROVIDED FURTHER, THAT FOREIGN STATE-OWNED ENTERPRISES WHICH OWN CAPITAL PRIOR TO THE EFFECTIVITY OF THIS LAW ARE PROHIBITED FROM INVESTING IN ADDITIONAL CAPITAL UPON THE EFFECTIVITY OF THIS ACT AND SHALL DIVEST ITS INVESTMENT WITHIN TEN (10) YEARS FROM THE DATE OF THE EFFECTIVITY OF THIS ACT.

IN THE INTEREST OF NATIONAL SECURITY, AN ENTITY CONTROLLED BY OR ACTING ON BEHALF OF THE FOREIGN GOVERNMENT OR FOREIGN-OWNED ENTERPRISES SHALL NOT MAKE ANY DATA OR INFORMATION DISCLOSURE, NOR EXTEND ASSISTANCE, SUPPORT OR COOPERATION TO ANY FOREIGN GOVERNMENT, INSTRUMENTALITIES OR AGENTS.

The ERC shall set the standards of the voltage transmission that shall distinguish the transmission from the subtransmission assets. x x x"

SEC. 5. Section 8 of Republic Act No. 9136 is hereby amended to read as follows:

"SEC. 8. Creation of the National Transmission ~~[Company]~~ **CORPORATION.**- x x x

The sub-transmission functions and assets, **FACILITIES, AND LIABILITIES, IF ANY**, shall be segregated from the transmission functions, assets, **FACILITIES**, and liabilities for transparency and disposal: Provided, That the sub-transmission **FUNCTIONS**, assets, **AND FACILITIES** shall be **PERFORMED**, operated and maintained by **TRANSCO, OR ITS CONCESSIONAIRE**, until **SUCH FUNCTIONS, ASSETS, AND FACILITIES ARE SOLD OR OTHERWISE DISPOSED AND TRANSFERRED** to qualified distribution utilities which are in a position to take over the responsibility for operating, maintaining, upgrading, and expanding said assets. All transmission and sub-transmission related liabilities of NPC shall be transferred to and **SHALL BE** assumed by the PSALM Corp.

~~[The TRANSCO may exercise the power of eminent domain subject to the requirements of the Constitution and existing laws. Except as provided herein, no person, company or entity other than the TRANSCO shall own any transmission facilities.]~~

THE TRANSCO AND ITS CONCESSIONAIRE MAY EXERCISE THE POWER OF EMINENT DOMAIN SUBJECT TO THE REQUIREMENTS OF THE CONSTITUTION AND EXISTING LAWS. PROVIDED, THAT THE EXERCISE OF THE RIGHT OF EMINENT DOMAIN SHALL BE NECESSARY FOR THE CONSTRUCTION, EXPANSION, AND EFFICIENT MAINTENANCE AND OPERATION OF THE TRANSMISSION SYSTEM AND GRID, AS WELL AS THE EFFICIENT OPERATION AND MAINTENANCE OF THE SUBTRANSMISSION SYSTEMS. PROVIDED FURTHER, THAT TRANSCO AND ITS CONCESSIONAIRE MAY ACQUIRE SUCH PRIVATE PROPERTIES NECESSARY FOR THE GRID DEVELOPMENT OF THE COUNTRY.

EXCEPT AS PROVIDED IN THIS ACT AND ANY OTHER LAWS, NO PERSON, COMPANY, OR ENTITY OTHER THAN THE TRANSCO SHALL OWN ANY TRANSMISSION FACILITIES.

CONSIDERING THAT TRANSMISSION SYSTEMS ARE PROJECTS OF NATIONAL SIGNIFICANCE, THE LOCAL GOVERNMENT UNITS, COURTS OF LAW AND OTHER RELEVANT GOVERNMENT AGENCIES SHALL IMMEDIATELY PROCESS AND APPROVE THE PERMITS, LICENSES, AND OTHER REQUIREMENTS NECESSARY FOR THE IMPLEMENTATION OF THIS SECTION.

THE DOE, WITHIN SIXTY (60) DAYS UPON THE EFFECTIVITY OF THIS ACT, SHALL ISSUE THE IMPLEMENTING RULES AND REGULATIONS FOR THE IMPLEMENTATION OF THIS SECTION.”

SEC. 6. Section 9 of Republic Act No. 9136 is hereby amended to read as follows:

“SEC. 9. Functions and Responsibilities. - xxx

(a) x x x

x x x

(d) Improve and expand its transmission facilities, consistent with the Grid Code and **DOE APPROVED** Transmission Development Plan (TDP) to be ~~[promulgated]~~ **PUBLISHED** pursuant to this Act, to adequately serve generation companies, distribution utilities and suppliers requiring transmission service and/or ancillary services through the transmission system: Provided, That TRANSCO **OR ITS CONCESSIONAIRE** shall submit any plan for expansion or improvement of its facilities for approval by the ERC;

(e) x x x

(f) x x x

(g) **ACT AS THE SMALL GRID SYSTEM OPERATOR IN SPECIFIC OFF-GRID AREAS AS DETERMINED BY THE DOE AND, UPON APPROVAL OF THE DOE, MAY ENTER INTO CONCESSION AGREEMENTS FOR THIS PURPOSE.**

~~[In the preparation of the TDP, TRANSCO shall consult the other participants of the electric power industry such as the generation companies, distribution utilities, and the~~

~~electricity end-users. The TDP shall be submitted to the DOE for integration with the Power Development Program and the Philippine Energy Plan, provided for in Republic Act No. 7638 otherwise known as 'the Department of Energy Act of 1992.]~~

THE PREPARATION AND FORMULATION OF THE TDP SHALL BE UNDERTAKEN BY TRANSCO AND/OR ITS CONCESSIONAIRE IN CONSULTATION WITH OTHER PARTICIPANTS OF THE ELECTRIC POWER INDUSTRY: *PROVIDED*, THAT THE TRANSCO MAY DELEGATE TO ITS CONCESSIONAIRE THE PREPARATION AND FORMULATION OF THE TDP: *PROVIDED, FURTHER*, THAT THE TDP SHALL BE SUBJECT TO THE REVIEW AND APPROVAL OF THE DOE: *PROVIDED, FINALLY*, THAT UPON SUBMISSION OF THE TDP, THE DOE MAY SEEK THE ASSISTANCE OF TRANSCO IN THE REVIEW OF THE TDP PRIOR TO ITS APPROVAL.

A generation company may develop and own or operate dedicated point-to-point limited transmission facilities that are consistent with the TDP: x x x."

SEC. 7. Section 20 of Republic Act No. 9136 is hereby amended to read as follows:

"SEC. 20. TRANSCO Related Businesses. - TRANSCO may engage in any related business which maximizes utilization of its assets: Provided, That a portion of the net income derived from such undertaking utilizing assets which form part of the rate base shall be used to reduce transmission wheeling rates as determined by the ERC. [~~Such portion of net income used to reduce the transmission wheeling rates shall not exceed fifty percent (50%) of the net income derived from such undertaking.~~] **A MINIMUM OF FIFTY PERCENT (50%) OF THE NET INCOME DERIVED FROM SUCH UNDERTAKING SHALL BE USED TO REDUCE THE TRANSMISSION WHEELING RATES.**

Separate accounts shall be maintained for each business undertaking to ensure that the transmission business shall neither subsidize in any way such business undertaking nor encounter its transmission assets in any way to support such business."

SEC. 8. Section 21 of Republic Act No. 9136 is hereby amended to read as follows:

"SEC. 21. TRANSCO Privatization. – Within six (6) months from the effectivity of this Act, x x x.

In any case, the awardee shall comply with the Grid code and the TDP as approved. x x x"

TRANSCO AND ITS CONCESSIONAIRE SHALL COMPLY WITH THE APPROVED TDP AND SHALL NOT CHANGE THE TDP WITHOUT PRIOR APPROVAL OF THE DOE. TRANSCO AND ITS CONCESSIONAIRE SHALL EXERCISE DUE DILIGENCE IN THE COMPLETION OF THE ERC-APPROVED PROJECTS IN THE TDP. FAILURE TO COMPLETE THE PROJECTS IN THE TDP DUE TO, BUT NOT LIMITED TO, GROSS NEGLIGENCE, UNREASONABLE DELAY AND/ OR ANY OTHER REASONS ATTRIBUTABLE TO THE CONCESSIONAIRE SHALL BE DEEMED NON-COMPLIANCE OF THE TDP.

IN THE EVENT OF NON-COMPLIANCE OF THE TDP, THE DOE SHALL RECOMMEND TO THE PRESIDENT OF THE PHILIPPINES THE ASSIGNMENT OR DELEGATION OF SUCH ERC-APPROVED PROJECT TO A COMPETENT AND QUALIFIED ENTITY THROUGH AN EXECUTIVE ORDER. ANY RIGHTS OR RESPONSIBILITIES OF THE ASSIGNEE SHALL BE LIMITED TO THE TRANSMISSION PROJECT ASSIGNED. UPON ITS COMPLETION, THE ASSIGNEE SHALL BE ENTITLED TO RECOVERY OR JUST COMPENSATION, SUBJECT TO THE TERMS, CONDITIONS AND ARRANGEMENTS THAT THE PRESIDENT OF THE PHILIPPINES SHALL DIRECT. THEREAFTER, THE PROJECT SHALL BE TRANSFERRED TO THE TRANSCO OR ITS CONCESSIONAIRE, AS PART OF ITS TRANSMISSION ASSETS.

THE DOE AND ERC SHALL ISSUE THE NECESSARY GUIDELINES FOR THE IMPLEMENTATION OF THIS PROVISION.

The awardee shall be financially and technically capable, with proven domestic and/or international experience and expertise as a leading transmission system operator. Such experience must be with a transmission system of comparable capacity and coverage as the Philippines.”

SEC. 9. Section 22 of Republic Act No. 9136 is hereby amended to read as follows:

“SEC. 22. Distribution Sector. - The distribution of electricity to end-users **IS A PUBLIC UTILITY OPERATION, AS DEFINED UNDER RA NO. 11659 OR THE PUBLIC SERVICE ACT, AS AMENDED,** ~~[shall be a regulated common carrier business]~~ **WHICH REQUIRES** ~~[requiring]~~ a national franchise. Distribution of electric power to all end-users may be undertaken by private distribution utilities, cooperatives, local government units presently undertaking this function and other duly authorized entities, subject to regulation by the ERC.”

SEC. 10. Section 23 of Republic Act No. 9136 is hereby amended to read as follows:

“SEC. 23. Functions of Distribution Utilities. - A distribution utility shall have the obligation to provide distribution services and connections to its system for any end-user within its franchise area consistent with the **PHILIPPINE** ~~[d]~~**Distribution** ~~[e]~~**Code.**

Any entity engaged **IN THE DISTRIBUTION OF ELECTRICITY** ~~therein~~ shall provide open and non-discriminatory access to its distribution system to all users.

Any distribution utility shall be entitled to impose and collect distribution wheeling charges and connection fees from such end-users as approved by the ERC.

DISTRIBUTION UTILITIES SHALL ENDEAVOR TO HAVE A FULLY AUTOMATED DISTRIBUTION NETWORK WITH THE SUPERVISION AND GUIDANCE OF THE DOE AND ERC.

A distribution utility shall have the obligation to supply electricity in the least cost manner to its captive market, subject to the collection of retail rate duly approved by the ERC.

To achieve economies of scale x x x”

SEC. 11. Section 26 of Republic Act No. 9136 is hereby amended to read as follows:

“SEC. 26. Distribution Related Businesses. - Distribution utilities may, directly or indirectly, engage in any related business undertaking which maximizes the utilization of their assets: *Provided*, That a [portion] **MINIMUM OF FIFTY PERCENT (50%)** of the net income derived from such undertaking ~~[utilizing assets which form part of the rate base]~~ shall be used to reduce the distribution wheeling ~~[charges as determined by the ERC]~~ **RATES.** ~~[Provided, further, That such portion of net income used to reduce their distribution wheeling charges shall not exceed fifty percent (50%) of the net income derived from such undertaking:]~~ *Provided, [finally,]* **FURTHER**, That separate accounts are maintained for each business undertaking to ensure that the distribution business shall neither subsidize in any way such business undertaking nor encumber its distribution assets in any way to support such business.”

SEC. 12. Section 28 of Republic Act No. 9136 is hereby amended to read as follows:

“SEC. 28. De-Monopolization and Shareholding Dispersal. - In compliance with the constitutional mandate for dispersal of ownership and de-monopolization of public utilities, the holdings of persons, natural or juridical, including directors, officers, stockholders and related interests, in a distribution utility and their respective holding companies shall not exceed **twenty-five (25%) FIFTEEN (15%)** percent of the voting shares of stock unless the utility or the company holding the shares or its controlling stockholders are already listed in the Philippine Stock Exchange (PSE): *Provided*, **HOWEVER THAT SMALL DISTRIBUTION COMPANIES AND ELECTRIC COOPERATIVES SHALL BE EXEMPT FROM THIS REQUIREMENT.** That controlling stockholders of small distribution utilities are hereby required to list in the PSE within five (5) years from the enactment of this Act if they already own the stocks. New controlling stockholders shall undertake such listing within five (5) years from the time they acquire ownership and control.

A small distribution company is one whose peak demand **DOES NOT EXCEED ONE-HALF OF ONE PERCENT (0.5%) OF THE COUNTRY’S PEAK DEMAND. HOWEVER, THE ERC MAY LOWER THE THRESHOLD AFTER REVIEW AND CONSULTATION.** is equal to or less than Ten megawatts (10MW).

The ERC shall, **within sixty (60) days from the effectivity of this Act**, promulgate the rules and regulations to implement and effect this provision. **This Section shall not apply to electric cooperatives.**

SEC. 13. Section 30 of Republic Act No. 9136 is hereby amended to read as follows:

“SEC. 30. Wholesale Electricity Spot Market. – Within one (1) year from the effectivity of this Act, x x x”

Jointly with the electric power industry participants, x x x

The wholesale electricity spot market shall be implemented by a market operator in accordance with the wholesale electricity spot market rules. **AS AUTHORIZED TO**

BE ESTABLISHED UNDER THIS ACT, THE WHOLESALE ELECTRICITY SPOT MARKET SHALL CONTINUE ITS INDEPENDENT AND PRIVATE NATURE. THE DOE, IN CONSULTATION WITH THE STAKEHOLDERS, SHALL DETERMINE THE ORGANIZATIONAL STRUCTURE OF THE WHOLESALE ELECTRICITY SPOT MARKET, AND THE INSTITUTION OF OTHER ENERGY-RELATED MARKETS. The market operator shall be an autonomous **AND PRIVATE** group, to be constituted by DOE, with equitable representation from electric power industry participants, initially under the administrative supervision of the TRANSCO. The market operator shall undertake the preparatory work and initial operation of the wholesale electricity spot market. Not later than one (1) year from the implementation of the wholesale electricity spot market, an independent **AND PRIVATE** entity shall be formed, and the functions, assets, and liabilities of the market operator shall be transferred to such entity with the joint endorsement of the DOE and the electric power industry participants. Thereafter, the administrative supervision of the TRANSCO over such entity shall cease. **THE DOE SHALL ENSURE THE INDEPENDENCE AND PRIVATE NATURE OF THE MARKET OPERATOR BY INSTITUTING MEASURES THAT WILL MINIMIZE OR PREVENT UNNECESSARY GOVERNMENT AND ELECTRIC POWER INDUSTRY PARTICIPANT INTERVENTION IN THE MARKET OPERATIONS AND GOVERNANCE FUNCTIONS.**

SUBJECT TO DOE EVALUATION, THE WHOLESALE ELECTRICITY SPOT MARKET MAY ADOPT A SEPARATE WESM GOVERNANCE BODY AND MARKET OPERATOR, PROVIDED THAT BOTH ENTITIES REMAIN INDEPENDENT FROM ELECTRIC POWER INDUSTRY PARTICIPANTS. PROVIDED FURTHER, THAT THE ELECTRIC POWER INDUSTRY PARTICIPANTS SHALL CONTINUE TO PROVIDE ADVISORY FUNCTIONS ON WESM GOVERNANCE, OPERATIONS AND RULEMAKING.

Subject to the compliance with the membership criteria, all generating companies, distribution utilities, suppliers, bulk consumers/end-users and other similar entities authorized by the ERC shall be eligible to become members of the wholesale electricity spot market.

The ERC may authorize other similar entities to become eligible as members, either directly or indirectly, of the wholesale electricity spot market. x x x”

SEC. 14. Section 34 of Republic Act No. 9136 is hereby amended to read as follows:

~~“**SEC. 34. Universal Charge.** – Within one (1) year from the effectivity of this Act, a universal charge to be determined, fixed and approved by the ERC, shall be imposed on all electricity end-users for the following purposes:]~~

“SEC. 34. UNIVERSAL CHARGE. - THE UNIVERSAL CHARGE SHALL BE NON-BYPASSABLE CHARGE TO BE DETERMINED BY THE ERC WHICH SHALL BE PASSED ON AND COLLECTED FROM ALL END-USERS ON A MONTHLY BASIS BY THE DISTRIBUTION UTILITIES. COLLECTIONS BY THE DISTRIBUTION UTILITIES AND THE TRANSCO IN ANY GIVEN MONTH SHALL BE REMITTED

TO THE PSALM CORP. ON OR BEFORE THE FIFTEENTH (15TH) OF THE SUCCEEDING MONTH, NET OF ANY AMOUNT DUE TO THE DISTRIBUTION UTILITY. Any end-user ~~[or self-generating entity]~~ not connected to a distribution utility shall remit its corresponding universal charge directly to the Transco.

THE UNIVERSAL CHARGE SHALL BE FOR THE FOLLOWING PURPOSES:

- (a) Payment for the stranded debts and stranded contract costs of NPC in excess of the amount assumed by the National Government and as well as qualified stranded contract costs of distribution utilities resulting from the restructuring of the industry
- (b) **PAYMENT FOR THE STRANDED DEBTS AND STRANDED CONTRACT COSTS OF NPC IN EXCESS OF THE AMOUNT ASSUMED BY THE NATIONAL GOVERNMENT PURSUANT TO MURANG KURYENTE ACT;**
- (c) Missionary electrification;
- (d) The equalization of the taxes and royalties applied to indigenous or renewable sources of energy vis-a-vis imported energy fuels;
- (e) An environmental charge equivalent to one-fourth of one centavo per kilowatt-hour (P0.0025/kWh), which shall accrue to an environmental fund to be used solely for watershed rehabilitation and management. Said fund shall be managed by NPC under existing arrangements; and
- (f) A charge to account for all forms of cross-subsidies for a period not exceeding three (3) years.

~~[The universal charge shall be non-bypassable charge which shall be passed on and collected from all end-users on a monthly basis by the distribution utilities. Collections by the distribution utilities and the Transco in any given month shall be remitted to the psalm corp. On or before the fifteenth (15th) of the succeeding month, net of any amount due to the distribution utility.]~~ Any end-user ~~[or self-generating entity]~~ not connected to a distribution utility shall remit its corresponding universal charge directly to the Transco.

The PSALM Corp., as administrator of the fund, **EXCEPT FOR MISSIONARY ELECTRIFICATION**, shall create a Special Trust Fund which shall be disbursed only for the purposes specified herein in an open and transparent manner. All amounts collected for the universal charge shall be distributed to the respective beneficiaries within a reasonable period to be provided by the ERC.”

SEC. 15. Section 35 of Republic Act No. 9136 is hereby amended to read as follows:

“SEC. 35. Royalties, Returns and Tax Rates for Indigenous Energy Resources. –

~~[The provisions of Section 79 of Commonwealth Act No. 137 (c.a. no. 137) and any law to the contrary notwithstanding, the president of the Philippines may shall reduce temporarily suspend or reduce, for a period of less than six (6) months, the~~

~~imposition of the royalties, returns and taxes collected for the exploitation of all indigenous sources of energy, including but not limited to, natural gas and geothermal steam, so as to effect parity of tax treatment with the existing rates for imported coal, crude oil, bunker fuel and other imported fuels. To ensure lower rates for end-users, the ERC shall forthwith reduce the rates of power from all indigenous sources of energy.]~~

UPON RECOMMENDATION OF THE DOE AND NEDA, THE PRESIDENT OF THE PHILIPPINES MAY TEMPORARILY SUSPEND OR REDUCE, FOR A PERIOD OF LESS THAN SIX (6) MONTHS, THE IMPOSITION OF THE ROYALTIES, RETURNS AND TAXES COLLECTED FOR THE EXPLOITATION OF ALL INDIGENOUS SOURCES OF ENERGY TO ENSURE LOWER RATES FOR END-USERS.

x x x”

SEC. 16. Section 36 of Republic Act No. 9136 is hereby amended to read as follows:

“Section 36. *Unbundling of Rates and Functions.* – x x x

Any electric power industry participant shall functionally and structurally unbundle its business activities and rates in accordance with the sectors as identified in Section 5 hereof. The ERC shall ensure full compliance with this provision.

FOR THIS PURPOSE, THE DISTRIBUTION UTILITY SHALL PUBLISH ONLINE AND/ OR ANY CONSPICUOUS PLACE, ITS MONTHLY UNBUNDLED RATES, INCLUDING THE COST OF EACH GENERATION SUPPLY.”

SEC. 17. Section 37 of Republic Act No. 9136 is hereby amended to read as follows:

“SEC. 37. Powers and Functions of the DOE. - In addition to its existing powers and functions, the DOE is hereby mandated to supervise the restructuring of the electricity industry. In pursuance thereof, Section 5 of RA 7638 otherwise known as “The Department of Energy Act of 1992” is hereby amended to read as follows:

(a) x x x

(b) Develop ~~and update annually~~ **ONCE EVERY THREE (3) YEARS AND UPDATED ANNUALLY** the existing Philippine Energy Plan, hereinafter referred to as ‘The Plan’, which shall provide for an integrated and comprehensive exploration, development, utilization, distribution, and conservation of energy resources, with preferential bias for environment-friendly, indigenous, and low-cost sources of energy. The plan shall include a policy direction towards the privatization of government agencies related to energy, deregulation of the power and energy industry, and reduction of dependency on oil-fired plants. Said Plan shall be submitted to Congress ~~not later than the fifteenth day of September and every year thereafter~~ **WITHIN THIRTY (30) DAYS FROM ITS APPROVAL.;**

(c) x x x

(d) x x x

- (e) x x x
- x x x
- (l) Formulate and implement a program for the accelerated development of non-conventional **OR RENEWABLE** energy systems and the promotion and commercialization of its applications;
- (m) x x x
- (n) x x x
- (o) Encourage **AND INCENTIVIZE** private enterprises engaged in energy projects, including corporations, cooperatives, and similar collective organizations, to broaden the base of their ownership and thereby encourage the widest public ownership of energy-oriented corporations;
- (p) x x x
- (q) x x x"

SEC. 18. Sec. 47 of Republic Act No. 9136 is hereby amended to read as follows:

"SEC. 47. NPC Privatization. – Except for the assets of SPUG, the generation assets, real estate, and other disposable assets as well as IPP contracts of NPC shall be privatized in accordance with this Act. Within six (6) months from the effectivity of this Act, the PSALM Corp shall submit a plan for the endorsement by the Joint Congressional Power Commission and the approval of the President of the Philippines, on the total privatization of the generation assets, real estate, other disposable assets as well as existing IPP contracts of NPC and thereafter, implement the same, in accordance with the following guidelines, except as provided for in Paragraph (f) herein:

- (a) x x x
- (b) x x x

x x x

- (f) The Agus and the Pulangui complexes in Mindanao shall be excluded from among the generation companies that will be initially privatized. Their ownership shall be transferred to the PSALM Corp. and both shall continue to be operated by the NPC. Said complexes may be privatized not earlier than ten (10) years from the effectivity of this Act, and except for Agus III, shall not be subject to Build-Operate-Transfer (B-O-T), Build-Rehabilitate-Operate-Transfer (B-R-O-T) and other variations thereof pursuant to Republic Act No. 6957, as amended by Republic Act No. 7718. The privatization of Agus and Pulangui complexes shall be left to the discretion of PSALM Corp. in consultation with **DOE Congress**;

x x x

- (j) NPC may generate and sell electricity only from the undisposed generating assets and IPP contracts of PSALM Corp. **NPC** shall not incur any new

obligations to purchase power through bilateral contracts with generation companies or other suppliers **EXCEPT FOR PROVIDING POWER GENERATION AND ITS ASSOCIATED POWER DELIVERY SYSTEMS IN AREAS THAT ARE NOT CONNECTED TO THE TRANSMISSION SYSTEM.**

x x x”

SEC. 19. Sec. 50 of Republic Act No. 9136 is hereby amended to read as follows:

“SEC. 50. Purpose and Objective, Domicile and Term of Existence. – The principal purpose of the PSALM Corp. is to manage the orderly sale, disposition, and privatization of NPC generation assets, real estate and other disposable assets, and IPP contracts, with the objective of liquidating all NPC financial obligations and stranded contract costs in an optimal manner.

The PSALM Corp. shall have its principal office and place of business within Metro Manila.

The PSALM Corp. shall exist for a period of twenty-five (25) years from the effectivity of this Act **AND SHALL BE AUTOMATICALLY EXTENDED FOR ANOTHER THIRTY (30) YEARS FROM THE EXPIRATION OF ITS ORIGINAL TERM ON 26 JUNE 2026**, unless otherwise provided by law. **THE PSALM CORP. MAY UNDERGO RESTRUCTURING, REORGANIZATION OR RIGHTSIZING, AS IT MAY DEEM PROPER, PURSUANT TO EXISTING RULES AND REGULATIONS.**

THE PSALM CORP. MAY BE ABOLISHED BEFORE THE EXPIRATION OF ITS TERM OF EXISTENCE SHOULD BOTH OF THE FOLLOWING CONDITIONS BE PRESENT:

- 1. THE SALE, DISPOSITION, AND PRIVATIZATION OF ALL THE NPC GENERATION ASSETS, AND IPP CONTRACTS; AND**
- 2. LIQUIDATION OF ALL THE NPC FINANCIAL OBLIGATIONS, STRANDED DEBTS AND STRANDED CONTRACT COSTS OR ABSORPTION OF SUCH BY THE NATIONAL GOVERNMENT WITH THE CORRESPONDING PRIVATIZATION PROCEEDS RECEIVABLE.**

THE GCG SHALL RECOMMEND TO THE PRESIDENT OF THE PHILIPPINES THE ABOLITION OF PSALM CORP. PURSUANT TO SECTION 5 OF RA NO. 10149, OTHERWISE KNOWN AS “GOCC GOVERNANCE ACT OF 2011”. THE ABOLITION OF PSALM CORP. SHALL TAKE EFFECT UPON THE APPROVAL OF THE PRESIDENT OF THE PHILIPPINES THROUGH AN EXECUTIVE ORDER.

All assets held by it, all moneys and properties belonging to it, and all its liabilities outstanding upon **ITS ABOLITION OR** the expiration of its term of existence shall revert to and be assumed by the National Government.”

SEC. 20. Sec. 57 of Republic Act No. 9136 is hereby amended to read as follows:

“SEC. 57. Conversion of Electric Cooperatives. -Electric cooperatives are hereby given the option to convert into either stock cooperative under the Cooperatives Development Act or stock corporation under the **REVISED** Corporation Code. Nothing contained in this Act shall deprive electric cooperatives of any privilege or right granted to them under Presidential Decree No. 269, as amended, and other existing laws.

THE DOE, IN CONSULTATION WITH THE NEA, THE COOPERATIVE DEVELOPMENT AUTHORITY, AND THE SECURITIES AND EXCHANGE COMMISSION, SHALL ISSUE THE GUIDELINES FOR THE CREATION OF AN EFFICIENT, STREAMLINED AND EXPEDITIOUS MECHANISM FOR THE CONVERSION OF ELECTRIC COOPERATIVES. THE NEA, CDA OR THE SEC, AS THE CASE MAY BE, SHALL SUFFICIENTLY INFORM THE ELECTRIC COOPERATIVE OF THE PRIVILEGES, RIGHTS, BENEFITS AND OBLIGATIONS RELATIVE TO ITS DESIRED CONVERSION.

THE ECS MAY ENTER INTO MERGER, CONSOLIDATION, JOINT VENTURE AND ANY OTHER INVESTMENT AGREEMENT WITH OTHER ECS AND/OR PRIVATE ENTITIES FOR THE PURPOSE OF IMPROVING THE SERVICE OF THE FRANCHISE AREA. THE DOE, IN CONSULTATION WITH NEA AND ERC, SHALL ISSUE GUIDELINES FOR THE IMPLEMENTATION OF THIS SECTION, INCLUDING THE RULES ON BUSINESS SEPARATION AND UNBUNDLING.”

SEC. 21. Sec. 60 of Republic Act No. 9136 is hereby amended to read as follows:

“SEC. 60. Debts of Electric Cooperatives. – x x x

x x x

IN CASE THE ELECTRIC COOPERATIVE IS UNABLE TO FULFILL ITS OBLIGATIONS TO ITS CREDITORS DUE TO INSOLVENCY OR BANKRUPTCY, SUCH ELECTRIC COOPERATIVE OR ANY INTERESTED PARTY MAY APPLY FOR ANY REMEDIES IT MAY DEEM APPROPRIATE PURSUANT TO RA NO. 10142, OTHERWISE KNOWN AS THE ‘FINANCIAL REHABILITATION AND INSOLVENCY ACT OF 2010.’”

SEC. 22. Sec. 61 of Republic Act No. 9136 is hereby amended to read as follows:

“SEC. 61. Reportorial Requirements. -The DOE shall take the necessary measures to ensure that the provisions of this Act are properly implemented and shall submit to the **JOINT CONGRESSIONAL ENERGY Power** Commission a semi-annual report on the implementation of this Act, on or before the last week of April and October of each year.”

SEC. 23. Sec. 62 of Republic Act No. 9136 is hereby amended to read as follows:

~~“SEC. 62. Joint Congressional **ENERGY** Power Commission. - Upon the effectivity of this Act, a THIS congressional commission, hereinafter referred to as the “JCEC Power Commission”, **RENAMED PURSUANT TO REPUBLIC ACT NO. 11285 AND FURTHER AMENDED BY REPUBLIC ACT NO. 11571 is hereby constituted. The Power Commission** shall be composed of fourteen (14) members the chairmen of the Committee on Energy of the Senate and the House of Representatives and six (6) 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 representation but shall have at least one (1) representative in the ~~Power~~ **ENERGY** Commission. The Commission shall, in aid of legislation, perform the following functions **PROVIDED IN SECTION 2 OF RA NO. 11571. among others:**”~~

SEC. 24. Sec. 63 of Republic Act No. 9136 is hereby amended to read as follows:

“SEC. 63. Separation Benefits of Officials and Employees of Affected Agencies.
- National government employees displaced or separated from the service as a result of the restructuring of the electricity industry, ~~AND~~ privatization of NPC assets, **OR THE END OF THE CORPORATE EXISTENCE OF ANY AFFECTED AGENCY CREATED** pursuant to this Act, shall be entitled to either a separation pay and other benefits in accordance with existing laws, rules or regulations or be entitled to avail of the privileges provided under a separation plan which shall be one and one-half month salary for every year of service in the government: Provided, however, That those who avail of such privilege shall start their government service anew if absorbed by any government-owned successor company. In no case shall there be any diminution of benefits under the separation plan until the full implementation of the restructuring and privatization.

x x x”

SEC. 25. Sec. 70 of Republic Act No. 9136 is hereby amended to read as follows:

“SEC. 70. Missionary Electrification. - xxx

THE NPC IN PERFORMING THIS MANDATE SHALL ADOPT ALTERNATIVE AND COST-EFFECTIVE TECHNOLOGIES, INCLUDING RENEWABLE ENERGY, TOWARDS THE CESSATION OF SUBSIDY FOR MISSIONARY ELECTRIFICATION. FURTHER, THE DOE AND NPC SHALL ISSUE THE NECESSARY POLICIES FOR THE GRADUATION OF AN OFF-GRID AREA FROM THE UC-ME, WITH DUE CONSIDERATION OF THE COMMERCIAL VIABILITY AND/OR INTERCONNECTION TO THE GRID OF SUCH AREA IN A SOCIALLY ACCEPTABLE MANNER.

COMMERCIAL VIABILITY SHALL REFER TO A SITUATION WHEN THE TRUE COST OF GENERATION RATE IS EQUAL OR LESS THAN THE SUBSIDIZED APPROVED GENERATION RATE OF SUCH OFF-GRID AREA.”

SEC. 25. Sec. 71 of Republic Act No. 9136 is hereby amended to read as follows:

“SEC. 71. Electric Power Crisis Provision - Upon the determination by the President of the Philippines of an imminent shortage of the supply of electricity, Congress may authorize, through a joint resolution, the establishment of additional generating capacity under such terms and conditions as it may approve.

THE PRESIDENT MAY, UPON THE RECOMMENDATION OF THE DOE, ISSUE A DECLARATION OF ELECTRIC POWER CRISIS IN TIMES OF CRITICALLY LOW ELECTRICITY SUPPLY OR UNUSUALLY HIGH ELECTRICITY PRICES. DURING AN ELECTRIC POWER CRISIS, THE DOE SHALL ISSUE TEMPORARY MEASURES TO MITIGATE THE IMPACT ON THE CONSUMERS AND OTHER INITIATIVES FOR THE EFFICIENT ALLOCATION AND CONSERVATION OF ENERGY; PROVIDED, THAT THE EFFECTIVITY OF SUCH ISSUANCES SHALL CONTINUE UNTIL THE LIFTING OF THE DECLARATION OF THE ELECTRIC POWER CRISIS BY THE PRESIDENT.”

SEC. 26. *Implementing Rules and Regulations.* – The DOE shall, in consultation with relevant government agencies, promulgate the Implementing Rules and Regulation (IRR) of the Act within six (6) months from the effectivity of this Act.

SEC. 27. *Effectivity.* – This Act shall take effect fifteen (15) days after its publication in the *Official Gazette* or in a newspaper of general circulation.”

Approved,