

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

TWENTIETH CONGRESS

First Regular Session

House Bill No. 750



INTRODUCED BY REPRESENTATIVE JURDIN JESUS M. ROMUALDO

EXPLANATORY NOTE

This is a refiled bill from the 19th Congress which originated from the late Representative Pedro P. Romualdo which originally filed a version of this bill in the 14th and 15th Congresses. In the 14th Congress, the Committee on Energy deliberated upon this bill exhaustively. During the 14th Congress the bill was passed on Third Reading and was transmitted to the Senate on September 24, 2009 but failed to be acted by the Senate. This was refiled again in the 15th, 16th, 17th and 18th Congresses by Representative Xavier Jesus D. Romualdo, and again was not passed.

Last Congress, a technical working group, with the participation of electric power industry stakeholders, ironed out the issues and concerns of the electric power industry and the consuming public regarding the pilferage of electricity and electric power lines, equipment, and materials. It remained with the Committee on Energy for final reporting out by the Technical Working Group.

Portions of the Explanatory Note of the late Representative Romualdo is herein reproduced and updated to reflect new policies:

"Republic Act (RA) No. 7832 was passed into law in 1994 during the 9th Congress with the legislative intent to curb the illegal use of electricity and theft of electric power transmission lines and materials as well as provide penalties to discourage perpetrators from committing these offenses. Nearly three decades from the implementation of this law, the problem on illegal use of electricity and theft of electric power transmission lines and materials has not dissipated and has remained unabated. (Emphasis and updating supplied)

Industry players have estimated their losses to reach billions of pesos prior to the passage of RA No. 7832. Therefore, it is only appropriate that we review this law to respond to the needs of the time. This has become a huge concern of government, the industry players and the general consumers due to its impact on the total cost of electricity on their monthly basic needs budget.

This proposed measure would bring better benefits to the Filipino consumers and also protect the property of industry players such as generation companies, transmission companies, and distribution utilities, including electric cooperatives and private utilities, from pilferage and destruction."

The new provisions would provide the judicial and executive departments a better description of the true intent of the legislature. This will avoid what we call executive or judicial legislation in the interpretation of the law.

Through the years, the Department of Energy has already come up with updated policies to assist consumers with the issuance and implementation of the Magna Carta for Residential Electricity Consumers and the issue on the maximum cap for the recoverable system loss. The electric providers also provided certain incentives to reward its consumers and distribution utilities with system losses way below the prevailing approved cap. A separate mechanism was also provided on how to treat system loss reduction. (Updates supplied)

Still, even when certain safeguards are in place the violations are very rampant nationwide and people tend to ignore the existence of a law that will go after them. Many nefarious individuals are unmindful of their illegal acts which directly affects the reliability of the power supply. The abrupt power interruptions and long power outages due to pilferage activities are perceived to amount to millions of losses and consumers are pressed to spend more for alternative sources of power to sustain their businesses and important activities especially hospital institutions and manufacturing firms thus aggravating their budgets. (Updates supplied)

The Filipino consumers will truly benefit and reap the fruits of this updated legislation. Let us continue to push for the passage of legislative measures that will alleviate the plight of our consumers.

In view of the foregoing, the support of the Members of Congress for the passage of this measure is earnestly requested.


JURDIN JESUS M. ROMUALDO

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INTRODUCED BY REPRESENTATIVE JURDIN JESUS M. ROMUALDO

AN ACT

**PENALIZING THE ILLEGAL USE OF ELECTRICITY, THE THEFT AND
DESTRUCTION OF ELECTRIC POWER LINES, EQUIPMENT, AND MATERIALS,
RATIONALIZING SYSTEM LOSS, REPEALING REPUBLIC ACT NO. 7832,
OTHERWISE KNOWN AS THE ANTI-ELECTRICITY AND ELECTRIC
TRANSMISSION LINES/MATERIALS PILFERAGE ACT OF 1994, AND FOR OTHER
PURPOSES**

*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 and as the “*Anti-Electricity, Electric Power*
2 *Lines, Equipment, and Materials Pilferage Act*”.

3 SEC. 2. *Definitions.* - As used in this Act, the following terms are hereby defined as follows:

4 a. Electric power line, equipment, or material - refer to facilities, assets, and infrastructure used
5 in electric power generation, transmission, and distribution such as, but not limited to:

6 (1) Generation, transmission, and distribution equipment and line structures and poles of any
7 make or design;

8 (2) All types of wires and cables used to generate, transmit, and distribute electricity,
9 including those used for grounding, control, measurement, and communication purposes;

10 (3) All overhead ground and neutral wires designed to protect electrical conductors from
11 lightning strikes and provide voltage stability;

12 (4) Insulators of any other material used to attach the electrical conductors from steel towers
13 or poles; and

14 (5) Generation, transmission, and distribution line hardware and materials of any make or
15 kind used for the delivery of electricity.

16 b. Differential billing - refers to the amount to be charged to the person concerned for the
17 unbilled electricity illegally consumed by him or her as determined through the use of
18 methodologies which utilize, among others, as basis for determining the amount of monthly

electric consumption in kilowatt-hours to be billed, either: the highest recorded monthly consumption within the thirty (30) month billing period preceding the time of the discovery, the higher consumption between the average consumptions before or after the highest drastic drop in consumption within the thirty (30) month billing period preceding the discovery, the estimated monthly consumption as per the report of load inspection conducted during the time of discovery, and the result of the Energy Regulatory Commission (ERC) test during the time of discovery and, as basis for determining the period to be recovered by the differential billing, either: the time when the electric service of the person concerned recorded an abrupt or abnormal drop in consumption, or when there was a change in his service connection or a change in meter, or in the absence thereof, a maximum of twenty-four (24) billing months, up to the time of discovery; *Provided*, however, that such period shall, in no case, be less than one (1) year preceding the date of discovery of the illegal use of electricity regardless of any prior change of seal, meter, or service connection, or reconnection or inspection occurring within one (1) year before the date of discovery or apprehension.

SEC. 3. *Illegal Use of Electricity.* -It shall be unlawful for any person to:

- a. Tap, make, or cause to be made any connection with overhead lines, service drops, or other electric service wires, without previous authority or consent of the private electric utility (PEU) or rural electric cooperative (REC) concerned.
- b. Tap, make, or cause to be made any connection to the existing electric service facilities of any duly registered consumer without the consent or authority of both the concerned PEU and REC and such duly registered consumer.
- c. Tamper, install, or use a tampered electrical meter, instrument transformer and associated equipment, jumper, current reversing transformer, shorting or shunting wire, loop connection, or any other device or any other method, which interferes with the proper or accurate registry or metering of electric current or otherwise results in its diversion in a manner whereby electricity is stolen or wasted.
- d. Damage or destroy an electric meter, equipment, wire, or conduit or allow any of them to be so damaged or destroyed as to interfere with the proper or accurate metering of electric current.
- e. Knowingly use or receive the direct benefit of electric service obtained through any of the abovementioned acts.

SEC. 4. *Theft or Destruction of Electric Power Line, Equipment, or Material.* - It shall be unlawful for any person to:

- a. Cut, saw, slice, separate, split, sever, smelt, or remove any electric power line, equipment, or material from a tower, pole, any other installation or place of installation, or any other place or site where it may be rightfully or lawfully stored, deposited, kept, stocked, inventoried, situated, or located, without the consent of the owner.
- b. Take, carry away, remove, or transfer any electric power line, equipment, or material from a

1 tower, pole, any other installation or place of installation, or any place or site where it may be
2 rightfully or lawfully stored, deposited, kept, stocked, inventoried, situated or located,
3 without the consent of the owner.

4 c. Store, possess, or otherwise keep in one's premises, custody, or control any electric power
5 line, equipment, or material without the consent of the owner thereof.

6 d. Load, carry, ship, or move from one place to another, whether by land, air or sea, any electric
7 power line, equipment, or material without first securing a clearance or permit for the said
8 purpose from its owner.³

9 e. Destroy, damage, or attempt to destroy or damage, by bombs, explosives, or any other means
10 or device, any electric power line, equipment, or material.

11
12 SEC. 5. *Prima Facie Evidence.* - (a) The presence of any of the following circumstances shall
13 constitute prima facie evidence of the commission of illegal use of electricity and shall be the
14 basis for the outright disconnection of electric service immediately upon the discovery thereof to
15 prevent further pilferage or loss of electricity and for safety purposes, the institution of criminal
16 action, and the lifting of any temporary restraining order or injunction which may have been
17 issued against the PEU or REC concerned:

18 1. The presence of a bored hole on the glass cover of the electric meter, or at the back or any
19 other part of said meter.

20 2. The presence inside the electric meter of salt, sugar, and other material that could result
21 in the inaccurate registration of the meter's internal parts to prevent its accurate
22 registration of consumption of electricity.

23 3. The existence of any wiring connection that affects the normal operation or registration
24 of the electric meter.

25 4. The presence of a tampered, broken, or fake seal on the meter, or mutilated, altered, or
26 tampered meter recording chart or graph, or computerized chart, graph, or log.

27 5. The presence in any part of the building or its premises which is subject to the control of
28 the consumer or on the electric meter, of a current reversing transformer, jumper, shorting
29 and/or shunting wire, and/or loop connection or any other similar device.

30 6. The mutilation, alteration, reconnection, disconnection, bypassing, or tampering of
31 instruments, transformers, and accessories.

32 7. The destruction of, or attempt to destroy, any integral accessory of the metering device
33 box that encases an electric meter, or its metering accessories.

34 8. The presence of a hole in a conduit that contains the wires leading to the electric meter.

35 9. The presence of error or alarm codes in an electronic or digital electric meter indicating
36 an unauthorized manipulation.

37 10. The presence of a discrepancy in the readings of a consumer's meter with a check meter

1 installed by the electric utility; *Provided*, that the installation of such check meter is
2 witnessed by a duly authorized representative of the ERC, a person in authority, or an
3 agent of a person in authority.

4 11. The acceptance of money or other valuable consideration by any officer or employee of
5 the PEU or REC concerned or the making of such an offer to any such officer or
6 employee for not reporting the presence of any of the abovementioned circumstances;
7 *Provided*, however, that the discovery of any of the foregoing circumstances, in order to
8 constitute prima facie evidence, must be personally witnessed by and attested to by a duly
9 authorized representative of the ERC, a person in authority, or an agent of a person in
10 authority.

11
12 (b) The possession, control, or custody of an electric power line, equipment, or material by any
13 person, natural or juridical, not engaged in the generation, transmission, or distribution of electric
14 power, or in the manufacture of such electric power line, equipment, or material shall be *prima*
15 *facie* evidence that such is the fruit of the offense defined in Section 4 hereof. Thus, such electric
16 power line, equipment, or material may be confiscated from the person in possession, control, or
17 custody thereof.

18
19 SEC. 6. *Incentive Scheme*. - An incentive scheme by way of a monetary reward in an amount
20 equivalent to twenty percent (20%) of the value of the recovered stolen line, equipment, or
21 material shall be given to any person who shall report to the electric power producer or
22 generation company, transmission company, PEU, REC, police or other law enforcement
23 authority any act which constitutes an offense under Section 4 of this Act. The incentive scheme
24 shall also be made available to persons who participate in the apprehension or conviction of
25 persons who violate this Act.

1 The Department of Energy (DOE), in consultation with electric power producers or generation
2 companies, transmission companies, private electric utilities, rural electric cooperatives, and
3 consumers, shall promulgate the necessary rules and regulations for the effective implementation
4 of this incentive scheme within sixty (60) days from the effectivity of this Act.

5
6 SEC. 7. *Inspection of Electric Service.* '- Duly authorized personnel of PEUs or RECs shall, after
7 presentation of valid identification cards and inspection report forms, be allowed entry into the
8 premises of any dwelling or building, including commercial and government establishments, to
9 conduct an inspection of electric service connections in the presence of the owner concerned or,
10 in his or her absence, to be witnessed by a person u1 authority or an agent of a person in
11 authority with jurisdiction over such dwelling, building, or establishment, in order to determine if
12 any violation of this act is being committed.

13
14 SEC. 8. *Disconnection of Electric Service.* -The PEU or REC concerned shall have the right and
15 authority to disconnect outright electric service without the need of a court or administrative
16 order, and deny restoration of the same, when the customer or someone acting in his behalf shall
17 have been caught *in flagrante delicto* committing any of the acts enumerated in Section 5(a)
18 hereof, or when any pilfering device or scheme is found or attached to the electric service
19 connection or is being used by the consumer at the time an inspection of electric service is being
20 conducted; *Provided*, that the electric service shall not be restored unless the customer deposits
21 the amount representu1g the differential billing with the PEU or REC concerned or with the
22 competent court, as the case may be; *Provided*, further, that if the court finds that illegal use of
23 electricity was not committed by the same person, the amount deposited shall be credited against
24 fi.1hrre billings, with legal interest thereon chargeable against the private utility or rural electric
25 cooperative, and the utility or cooperative shall be made to immediately pay such person double
26 the value of the payment or deposit with legal interest, which amount shall likewise be creditable
27 against immediate future billings, without prejudice to any criminal, civil, or administrative
28 action that such person may file under existing laws, rules, and regulations; *Provided*, finally,
29 that if the court finds the same person guilty of illegal use of electricity, he or she shall, upon
30 final judgment, be made to pay the electric utility or rural electric cooperative concerned double
31 the value of the differential billing.

SEC. 9. *Penalties.* - The following penalties shall be imposed upon those found to have violated this Act:

- a. Where the total amount involved does not exceed One Hundred thousand Pesos (P100,000.00), the penalty shall be *prision correccional* in its maximum period to *prision mayor* in its minimum period or a fine of twice the value of the illegal electricity usage, or both. In the case of theft or destruction of electric power lines, equipment, or materials, the fine shall be five (5) times the value of the line, equipment, or material taken or destroyed.
- b. Where the total amount involved is more than One Hundred Thousand Pesos (P100,000.00) but does not exceed Five Hundred Thousand Pesos (P500,000.00), the penalty shall be *prision mayor* in its maximum period to *reclusion temporal* or a fine of thrice the value of the illegal electricity usage, or both. In the case of theft or destruction of electric power lines, equipment, and materials, the fine shall be six (6) times the value of the line, equipment, or material taken or destroyed.
- c. Where the total amount involved is more than Five Hundred Thousand Pesos (P500,000.00), the penalty shall be *reclusion temporal* to *reclusion perpetua* or a fine of five (5) times the value of the illegal electricity usage, or both. In the case of theft or destruction of electric power lines, equipment, and materials, the applicable fine shall be ten (10) times the value of the line, equipment, or material taken or destroyed.

If the offense is committed by a juridical entity, the penalty shall be imposed on the president, officer, director, board member, partner, manager, or other officer or employee who knowingly permitted, knowingly failed to prevent, or was otherwise responsible for the commission of the offense.

If the offense is committed by, or in connivance with, an officer or employee of the PEU or REU concerned, such officer or employee shall be punished with the penalty of imprisonment two (2) degrees higher than the penalties provided herein and shall be perpetually disqualified from employment in any PEU or REC and from holding any public office.

If the offender has been previously convicted for violating Republic Act No. 7832, otherwise

known as the *Anti-Electricity and Electric Transmission Lines/Materials Pilferage Act of 1994*, or for violating this Act, or has committed more than two (2) of the unlawful acts enumerated in Sections 3 and 4 of this Act, he or she shall be punished with the penalty of imprisonment two (2) degrees higher than the penalties provided herein.

SEC. 10. *Authority to Impose Violation of Contract Surcharges.* - A PEU or REC may impose surcharges, in addition to the value of the electricity pilfered, on the bills of any consumer apprehended for tampering with his electric meter or metering facility installed on his or her premises, as well as other violations of contract, such as direct connection, use of jumper, and other means of illicit usage of electricity found installed in the premises of the consumer. The surcharge for the violation of contract shall be collected from and paid by the consumer concerned as follows:

- a. First apprehension - Twenty-five percent (25%) of the current bill as surcharge.
- b. Second apprehension - Fifty percent (50%) of the current bill as surcharge.
- c. Third and subsequent apprehensions - One hundred percent (100%) of the current bill as surcharge.

The PEU or REC is authorized to discontinue the electric service in case the consumer is in arrears in the payment of the surcharges.

SEC. 11. *Restriction on the Issuance of Temporary Restraining Orders or Writs of Preliminary Injunction.* - No temporary restraining order (TRO) or writ of preliminary injunction shall be issued by any court against any PEU or REC exercising the right and authority to disconnect electric service pursuant to Section 8 of this Act; *Provided*, that a TRO or writ of preliminary injunction may be issued upon the filing of a bond with the court, which shall be in the form of cash or cashier's check equivalent to the differential billing, penalties, and other charges, or to the total value of the subject matter of the action; *Provided*, however, that such TRO or writ of preliminary injunction shall not be issued or, if already issued, shall be dissolved upon the filing by the PEU or REC with the court of a counter bond in the same form and amount.

1 SEC. 12. *Exclusive Jurisdiction of Courts.* - The Regional Trial Court shall have original and
2 exclusive jurisdiction over all disputes and controversies arising from the exercise of the rights
3 and prerogatives provided under this Act. Neither the ERC nor the National Electrification
4 Administration (NEA) shall take cognizance of any complaint or action against a PEU or REC
5 exercising its rights under this act.

6
7 SEC. 13. *Recoverable System Loss Caps.* - The ERC shall, within one (1) year from the
8 effectivity of this Act, determine the recoverable system loss caps of electric transmission and
9 distribution utilities taking into account technical considerations, such as load density, sales mix,
10 cost of service, delivery voltage, as well as the viability of PEUs and RECs and the interest of the
11 consuming public.

12
13 The maximum rate of system loss that a distribution utility may pass on to its customers shall be
14 the actual system loss but not exceeding eight and one-half percent (8.5%) of the total kilowatt-
15 hours (kWh) generated and purchased for public distribution utilities and thirteen percent (13%)
16 for electric cooperatives.

17
18 The actual company use not exceeding one percent (1%) of the total kWh generated and
19 purchased shall be treated as an expense of distribution utilities in the following manner:

- 20 a. For private distribution utilities that are under performance-based regulation, it shall be
21 treated as operation and maintenance expense on its next reset.
- 22 b. For private distribution utilities that are not yet under performance-based regulation, it shall
23 be treated as operation and maintenance expense on its performance-based regulation
24 application.
- 25 c. For electric cooperatives, it shall be treated as operation and maintenance expense in the
26 benchmarking methodology.

27
28 All distribution utilities and electric cooperatives shall submit to the ERC, through a sworn
29 statement, the results of their updated segregated system losses together with their annual
30 reports.

1 SEC. 14. *System Loss Reduction Program and Incentives.* -The ERC shall develop an incentive
2 mechanism to reward consumers and distribution utilities whose actual system losses are below
3 the prevailing approved caps. The incentive mechanism so adopted may be incorporated by the
4 ERC in the performance incentive scheme wider the performance-based regulation for private
5 distribution utilities and in the benchmarking methodology for electric cooperatives. Towards
6 this end, expenses associated with any system loss reduction program duly approved by the ERC
7 shall be considered part of the capital or operating costs of distribution utilities.

8
9 SEC. 15. *Area of Coverage.* - The caps provided in Section 13 of this Act shall apply only to the
10 area of coverage of PEUs and RECs as of the date of the effectivity of this Act.

11
12 SEC. 16. *Recovery of Pilferage Losses.* - Any PEU or REC which recovers any amount of
13 pilferage losses shall, within thirty (30) days from said recovery, report in writing and under oath
14 to the ERC the fact of recovery, the date thereof, the name of the consumer concerned, the
15 amount recovered, the amount of pilferage loss claimed, the explanation for the failure to recover
16 the whole amount claimed, and such other particulars as may be required by the ERC. If there is
17 a case pending in court for the recovery of a pilferage loss, no PEU or REC shall accept payment
18 from the consumer unless so provided in a compromise agreement duly executed by the parties
19 and approved by the court.

20
21 SEC. 17. *Information Dissemination.* - PEUs, RECs, the ERC, and the NEA shall, in cooperation
22 with each other, undertake a vigorous campaign to inform consumers of the provisions of this
23 Act. PEUs and RECs shall incorporate a faithful condensation of the provisions of this Act in its
24 contracts with new consumers.

25
26 SEC. 18. *Implementing Rules and Regulations.* - The ERC shall, within sixty (60) days from the
27 effectivity of this Act, after consultation with the National Transmission Corporation or its
28 concessionaire, distribution utilities, electric cooperatives, generation companies, and consumers,
29 promulgate the rules and regulations for the effective implementation of this Act.

30
31 SEC. 19. *Separability Clause.* - If any provision of this Act is declared w\constitutional or

1 invalid, the other parts or provisions hereof which are not affected thereby shall continue to be in
2 full force and effect.

3
4 SEC. 20. *Repealing Clause.* - Republic Act No. 7832, otherwise known as the *Anti-Electricity*
5 *and Electric Transmission Lines/Materials Pilferage Act of 1994*, is hereby repealed. All other
6 laws, decrees, executive orders and issuances, rules and regulations, and other issuances, or parts
7 thereof, that are inconsistent with the provisions of this Act are hereby repealed or modified
8 accordingly.

9
10 SEC. 21. *Effectivity Clause.* - This Act shall take effect fifteen (15) days after its publication in
11 the Official Gazette or in a newspaper of general circulation.

12
13 Approved,