



Republic of the Philippines
House of Representatives
Quezon City



TWENTIETH CONGRESS

First Regular Session

House Bill No. **855**

Introduced by
PhilRECA Party-List Representative Presley C. De Jesus

EXPLANATORY NOTE

The enactment of Republic Act No. 9136, otherwise known as the Electric Power Industry Reform Act of 2001 (EPIRA), marked a significant milestone in the liberalization of the Philippine electric power industry. Among the major reforms introduced by EPIRA is the establishment of the Energy Regulatory Commission (ERC), envisioned to be an independent regulator that ensures fair and transparent competition, protects the interests of consumers, and promotes efficiency and reliability within the energy sector.

Over two decades since the passage of EPIRA, the energy landscape has evolved significantly, marked by increasing demand and a more complex and competitive market structure. However, gaps and challenges persist in the capacity of the ERC as a regulator, including constraints in its organizational structure, resource utilization, technical competence, and safeguards for its independence and accountability.

This proposed measure seeks to address these longstanding challenges by restructuring and reforming the ERC to establish a strong, independent, transparent, and accountable regulatory body capable of fulfilling its critical mandate.

Among the salient features of this bill are:

- The reconstitution of the ERC as an independent, quasi-judicial, and rule-making body with clear safeguards to uphold its accountability and integrity;
- The authority for the ERC to utilize fifty percent (50%) of its revenues generated from fees, assessments, licenses, and other charges to strengthen its institutional capacity and enhance its operational efficiency;

- The expansion of the Commission's composition to eight (8) members and a Chairperson, with clear qualifications, security of tenure, and restrictions to ensure impartiality and prevent conflicts of interest;
- The creation of new divisions and the adoption of an adjusted compensation structure to attract and retain highly competent personnel;
- Provisions for continuous capacity building to enhance the technical competence of ERC staff;
- Clear procedures for the conduct of regular, summary, and administrative proceedings, including the imposition of fines and penalties and the option to enter a plea of nolo contendere; and
- Strong safeguards to protect and promote the interests of electricity consumers.

This bill was filed and deliberated upon in the 19th Congress and was approved by the House of Representatives on Third Reading. This representation is re-filing this measure to continue to push for much-needed institutional reforms to carry out THE reforms to strengthen and make the ERC more effective.

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



REP. PRESLEY C. DE JESUS
PhilRECA Party-List



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AN ACT
RESTRUCTURING THE ENERGY REGULATORY COMMISSION, AMENDING
FOR THE PURPOSE SECTIONS 38, 39, 40, 41, 42, 43, 44, AND 46 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:

1 **SECTION 1. Short Title.** - This Act shall be known as the “ERC Reform
2 Act.”

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

5 (a) Ensuring transparent and reasonable prices of electricity;

6 (b) Protecting the consumers affected by the rates and services of electric
7 utilities and other providers of electric power; and

8 (c) Promoting competition, encouraging market development and ensuring
9 customer choice, and penalizing abuse of market power in the
10 restructured power industry.

11 To this end, the State shall:

12 (a) Establish a strong, independent, transparent, and accountable regulatory
13 body; and

1 (b) Ensure the efficient and effective performance of the functions and
2 mandates of the regulatory body to promote market competition in the
3 electric power industry.

4 **SEC. 3.** Section 38 of Republic Act (RA) No. 9136 is hereby amended, to
5 read as follows:

6 ~~“SEC. 38. [Creation of the Energy Regulatory Commission.] –~~
7 ~~[There is hereby created an independent, quasi-judicial regulatory~~
8 ~~body to be named the Energy Regulatory Commission (ERC). For this~~
9 ~~purpose, the existing Energy Regulatory Board (ERB) created under~~
10 ~~Executive Order No. 172, as amended, is hereby abolished.~~

11 ~~The Commission shall be composed of a Chairman and four (4)~~
12 ~~members to be appointed by the President of the Philippines. The~~
13 ~~Chairman and the members of the Commission shall be natural-born~~
14 ~~citizens and residents of the Philippines, persons of good moral~~
15 ~~character, at least thirty five (35) years of age, and of recognized~~
16 ~~competence in any of the following fields: energy, law, economics,~~
17 ~~finance, commerce, or engineering, with at least three (3) years actual~~
18 ~~and distinguished experience in their respective fields of~~
19 ~~expertise: *Provided*, That out of the four (4) members of the~~
20 ~~Commission, at least one (1) shall be a member of the Philippine Bar~~
21 ~~with at least ten (10) years experience in the active practice of law, and~~
22 ~~one (1) shall be a certified public accountant with at least ten (10) years~~
23 ~~experience in active practice.~~

24 ~~Within three (3) months from the creation of the ERC, the~~
25 ~~Chairman shall submit for the approval by the President of the~~
26 ~~Philippines the new organizational structure and plantilla positions~~
27 ~~necessary to carry out the powers and functions of the ERC.~~

28 ~~The Chairman of the Commission, who shall be a member of the~~
29 ~~Philippine Bar, shall act as the Chief Executive Officer of the~~
30 ~~Commission.~~

31 ~~All members of the Commission shall have a term of seven (7)~~
32 ~~years: *Provided*, That for the first appointees, the Chairman shall hold~~

1 office for seven (7) years, two (2) members shall hold office for five (5)
2 years and the other two (2) members shall hold office for three (3)
3 years: *Provided, further,* That appointment to any future vacancy shall
4 only be for the unexpired term of the predecessor: *Provided,*
5 *finally,* That there shall be no reappointment and in no case shall any
6 member serve for more than seven (7) years in the Commission.

7 The Chairman and members of the Commission shall assume
8 office at the beginning of their terms: *Provided, That,* if upon the
9 effectivity of this Act, the Commission has not been constituted and
10 the new staffing pattern and plantilla positions have not been approved
11 and filled up, the current Board and existing personnel of ERB shall
12 continue to hold office.

13 The existing personnel of the ERB, if qualified, shall be given
14 preference in the filling up of plantilla positions created in the ERC,
15 subject to existing civil service rules and regulations.

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

19 The Chairman and members of the Commission or any of their
20 relatives within the fourth civil degree of consanguinity or affinity,
21 legitimate or common law, shall be prohibited from holding any
22 interest whatsoever, either as investor, stockholder, officer or director,
23 in any company or entity engaged in the business of transmitting,
24 generating, supplying or distributing any form of energy and must,
25 therefore, divest through sale or legal disposition of any and all
26 interests in the energy sector upon assumption of office.

27 The presence of at least three (3) members of the Commission
28 shall constitute a quorum and the majority vote of two (2) members in
29 a meeting where a quorum is present shall be necessary for the
30 adoption of any rule, ruling, order, resolution, decision or other act of
31 the Commission in the exercise of its quasi judicial
32 functions: *Provided, That* in fixing rates and tariffs, an affirmative vote
33 of three (3) members shall be required.]

1 **REFORM AND RESTRUCTURING OF THE ENERGY REGULATORY**
2 **COMMISSION. – THE ENERGY REGULATORY COMMISSION (ERC)**
3 **IS HEREBY RECONSTITUTED AS AN INDEPENDENT,**
4 **ACCOUNTABLE, QUASI-JUDICIAL, AND RULE-MAKING**
5 **REGULATORY BODY, WITH POWERS TO PROMULGATE AND**
6 **ENFORCE RULES AND REGULATIONS TO EFFECTIVELY**
7 **IMPLEMENT THE PROVISIONS OF THE EPIRA. TO THIS END, THE**
8 **ERC SHALL BE EXCLUSIVELY RESPONSIBLE FOR THE**
9 **REGULATION OF THE ELECTRIC POWER INDUSTRY.**

10 **THE COMMISSION SHALL, IN ADDITION TO ITS YEARLY**
11 **APPROPRIATION UNDER THE GENERAL APPROPRIATIONS ACT**
12 **(GAA), BE ALLOWED TO USE FOR THE FOLLOWING YEAR FIFTY**
13 **PERCENT (50%) OF ITS REVENUES GENERATED FROM THE**
14 **COLLECTION OF FEES, ASSESSMENTS, LICENSES, AND OTHER**
15 **CHARGES.**

16 **THE SAID AMOUNT SHALL BE UTILIZED IN THE**
17 **FOLLOWING MANNER:**

18 **A. TEN PERCENT (10%) OF SUCH INCOME SHALL BE USED TO**
19 **AUGMENT THE ERC’S CAPITAL OUTLAY BUDGET;**

20 **B. SIXTY PERCENT (60%) OF SUCH INCOME SHALL BE USED**
21 **TO AUGMENT THE ERC’S MAINTENANCE AND OTHER**
22 **OPERATING EXPENSES (MOOE) BUDGET; AND**

23 **C. THIRTY PERCENT (30%) OF SUCH INCOME SHALL BE USED**
24 **TO AUGMENT THE ERC’S PERSONNEL SERVICE (PS)**
25 **BUDGET, INTENDED TO AUGMENT THE BENEFITS OF THE**
26 **ERC OFFICERS, PERSONNEL AND STAFF EXCEPT FOR THE**
27 **CHAIRPERSON AND MEMBERS OF THE COMMISSION.**

28 **THE ERC MAY, SUBJECT TO THE ISSUANCE OF**
29 **APPROPRIATE RULES AND REGULATIONS, REVIEW AND REVISE**
30 **THE ABOVE ALLOCATION FOR ITEMS (A) AND (B) AS IT MAY**
31 **DEEM NECESSARY IN THE PERFORMANCE OF ITS MANDATE**
32 **UNDER THIS ACT, SUBJECT TO THE EXISTING ACCOUNTING AND**
33 **AUDITING PROCEDURES. IN CASE THE ERC FAILS TO FULLY**

1 UTILIZE THE REVENUES MENTIONED HEREIN, THE UNUTILIZED
2 AMOUNT SHALL REVERT TO THE NATIONAL TREASURY.

3 THE CHAIRPERSON SHALL SUBMIT THE
4 ORGANIZATIONAL STRUCTURE AND STAFFING PATTERN OF
5 THE ERC TO THE DEPARTMENT OF BUDGET AND MANAGEMENT
6 FOR ITS EVALUATION AND RECOMMENDATION FOR THE
7 APPROVAL OF THE PRESIDENT OF THE PHILIPPINES, WITHIN
8 THREE (3) MONTHS FROM THE EFFECTIVITY OF THIS ACT.

9 THE COMMISSION SHALL CONDUCT AN ASSESSMENT OF
10 THE FITNESS OF THE SKILLS AND CAPABILITIES OF EXISTING
11 PERSONNEL. ON THE BASIS OF THE RESULTS OF SUCH
12 ASSESSMENT, THE COMMISSION MAY IMPLEMENT SUCH
13 MOVEMENT IN PERSONNEL TO ESTABLISH THE NEW
14 ORGANIZATIONAL STRUCTURE, IN ACCORDANCE WITH
15 APPLICABLE LAWS, ALIGNED WITH THE PERSONNEL'S
16 CAPACITY AND PERFORMANCE: *PROVIDED*, THAT THE NEW
17 POSITION TO WHICH THEY SHALL BE TRANSFERRED WILL BE
18 OF THE SAME RANK AND SALARY AS THAT OF THEIR PREVIOUS
19 POSITION. AFFECTED EMPLOYEES MAY OPT FOR VOLUNTARY
20 SEPARATION FROM THE SERVICE WITHIN SIX (6) MONTHS FROM
21 THE EFFECTIVITY OF THIS ACT AND SHALL BE ENTITLED TO
22 RECEIVE SEPARATION AND EARLY RETIREMENT BENEFITS AND
23 OTHER BENEFITS UNDER APPLICABLE LAWS AND ISSUANCES
24 WITHIN NINETY (90) DAYS FROM THE DATE OF THE
25 EFFECTIVITY OF THEIR SEPARATION FROM SERVICE.

26 THE ERC SHALL REASSESS ITS ORGANIZATIONAL
27 STRUCTURE EVERY FIVE (5) YEARS FROM THE EFFECTIVITY OF
28 THIS ACT, OR EARLIER AS NECESSARY, TO DETERMINE IF
29 THERE IS A NEED FOR FURTHER RESTRUCTURING OR
30 REORGANIZATION, WHICH MAY INCLUDE ADDITIONAL
31 SERVICES, DIVISIONS OR PERSONNEL."

SEC. 4. New sections 38(A), 38(B), 38(c), 38(D), 38(D-1), 38(D-2), 38(E),
38(F), 38(G) are hereby inserted in RA No. 9136 to read as follows:

1 **“SEC. 38(A). COMPOSITION AND QUALIFICATIONS**
2 **REQUIREMENTS – THE COMMISSION SHALL BE COMPOSED OF**
3 **A CHAIRPERSON AND EIGHT (8) MEMBERS. THE CHAIRPERSON**
4 **AND THE MEMBERS OF THE COMMISSION SHALL BE**
5 **APPOINTED BY THE PRESIDENT OF THE PHILIPPINES AND**
6 **SHALL SERVE A TERM OF SEVEN (7) YEARS: PROVIDED, THAT**
7 **THE CURRENT CHAIRPERSON AND MEMBERS WHO HAVE BEEN**
8 **APPOINTED PRIOR TO THE EFFECTIVITY OF THIS ACT SHALL**
9 **CONTINUE TO PERFORM THEIR FUNCTIONS UNTIL THE**
10 **COMPLETION OF THEIR TERM: PROVIDED, FURTHER, THAT THE**
11 **MEMBERS WHO SHALL BE APPOINTED IN ADDITION TO THE**
12 **CURRENT MEMBERS SHALL SERVE ON A STAGGERED BASIS,**
13 **WITH THE FIRST AND SECOND MEMBERS TO BE APPOINTED**
14 **SERVING FOR A TERM OF SEVEN (7) YEARS, AND THE THIRD**
15 **AND FOURTH MEMBERS TO BE APPOINTED SERVING FOR A**
16 **TERM OF FIVE (5) YEARS: PROVIDED, FURTHERMORE, THAT**
17 **APPOINTMENT TO ANY FUTURE VACANCY SHALL ONLY BE FOR**
18 **THE UNEXPIRED TERM OF THE PREDECESSOR: PROVIDED,**
19 **FINALLY, THAT THERE SHALL BE NO REAPPOINTMENT AND IN**
20 **NO CASE SHALL ANY MEMBER SERVE FOR MORE THAN SEVEN**
21 **(7) YEARS IN THE COMMISSION.**

22 **THE CHAIRPERSON AND THE MEMBERS OF THE**
23 **COMMISSION SHALL BE NATURAL-BORN CITIZENS AND**
24 **RESIDENTS OF THE PHILIPPINES, PERSONS OF GOOD MORAL**
25 **CHARACTER, AT LEAST FORTY-FIVE (45) YEARS OF AGE, OF**
26 **RECOGNIZED PROBITY AND COMPETENCE, IN GOOD STANDING,**
27 **AND WITH EXTENSIVE FAMILIARITY IN ANY OF THE**
28 **FOLLOWING FIELDS: ENERGY, LAW, ECONOMICS, FINANCE,**
29 **COMMERCE, ENGINEERING, WITH AT LEAST TEN (10) YEARS OF**
30 **ACTUAL AND ACTIVE EXPERIENCE IN THEIR RESPECTIVE**
31 **FIELDS OF EXPERTISE, AND IN GENERATION, TRANSMISSION,**
32 **DISTRIBUTION AND/OR RETAIL SUPPLY OPERATIONS OF THE**
33 **PHILIPPINE ELECTRIC POWER INDUSTRY: PROVIDED, THAT: (A)**

1 THE CHAIRPERSON SHALL BE A MEMBER OF THE PHILIPPINE
2 BAR OR A LICENSED ENGINEER; AND (B) AMONG THE EIGHT (8)
3 MEMBERS OF THE COMMISSION, AT LEAST ONE (1) MEMBER
4 SHALL BE A CERTIFIED PUBLIC ACCOUNTANT, ONE (1) MEMBER
5 SHALL BE A LICENSED ENGINEER, AND ONE (1) MEMBER SHALL
6 BE AN ECONOMIST.”

7 “SEC. 38(B). *SECURITY OF TENURE.* - THE CHAIRPERSON
8 AND THE MEMBERS OF THE COMMISSION SHALL ENJOY
9 SECURITY OF TENURE AND SHALL NOT BE SUSPENDED OR
10 REMOVED FROM OFFICE EXCEPT FOR JUST CAUSE AS
11 SPECIFIED BY LAW.”

12 “SEC. 38(C). *PROHIBITIONS.* - THE CHAIRPERSON AND
13 MEMBERS OF THE COMMISSION, WITHIN THE DURATION OF
14 THEIR TERM, ARE HEREBY PROHIBITED FROM: (A) TAKING UP
15 ANY EMPLOYMENT OR CONSULTANCY ARRANGEMENT WITH
16 ANY ELECTRIC POWER INDUSTRY PARTICIPANT; (B) HOLDING
17 ANY COMMERCIAL OR ANY PECUNIARY INTEREST IN ANY
18 ELECTRIC POWER INDUSTRY PARTICIPANT IN ANY CAPACITY;
19 (C) HOLDING ANY OTHER OFFICE OR EMPLOYMENT; AND (D)
20 DIRECTLY OR INDIRECTLY PRACTICING ANY PROFESSION,
21 PARTICIPATING IN ANY BUSINESS, OR BE FINANCIALLY
22 INTERESTED IN ANY CONTRACT WITH, OR ANY FRANCHISE, OR
23 SPECIAL PRIVILEGES GRANTED BY THE GOVERNMENT OR ANY
24 SUBDIVISION, AGENCY, OR INSTRUMENTALITY THEREOF,
25 INCLUDING GOVERNMENT-OWNED AND CONTROLLED
26 CORPORATIONS (GOCCS) OR THEIR SUBSIDIARIES. WITHIN
27 THREE (3) YEARS FROM CESSATION OF THEIR SERVICE, THE
28 CHAIRPERSON AND THE MEMBERS OF THE COMMISSION ARE
29 HEREBY PROHIBITED FROM: (A) RUNNING FOR OFFICE IN THE
30 ELECTION; (B) TAKING UP ANY EMPLOYMENT OR CONSULTANCY
31 ARRANGEMENT WITH ANY ELECTRIC POWER INDUSTRY
32 PARTICIPANT; AND (C) PERSONALLY APPEARING OR
33 PRACTICING AS COUNSEL OR AGENT ON ANY MATTER PENDING
34 BEFORE THE COMMISSION.

1 DURING THE INCUMBENCY OF CHAIRPERSON OR
2 MEMBER OF THE COMMISSION, ANY RELATIVE WITHIN THE
3 FOURTH CIVIL DEGREE OF CONSANGUINITY OR AFFINITY,
4 LEGITIMATE OR COMMON LAW, SHALL BE PROHIBITED FROM:

5 A. TAKING UP ANY EMPLOYMENT OR CONSULTANCY
6 ARRANGEMENT WITH AN ELECTRIC POWER INDUSTRY
7 PARTICIPANT;

8 B. HOLDING ANY COMMERCIAL OR ANY PECUNIARY
9 INTEREST IN ANY ELECTRIC POWER INDUSTRY
10 PARTICIPANT, IN ANY CAPACITY; AND

11 C. APPEARING AS COUNSEL OR AGENT ON ANY MATTER
12 PENDING BEFORE THE COMMISSION OR TRANSACTING
13 BUSINESS DIRECTLY OR INDIRECTLY THEREIN:
14 *PROVIDED*, THAT THIS PROHIBITION SHALL CONTINUE
15 WITHIN THREE (3) YEARS FROM CESSATION OF SERVICE
16 OF THE CONCERNED CHAIRPERSON OR MEMBER OF THE
17 COMMISSION.”

18 “SEC. 38(D). *DUTIES AND RESPONSIBILITIES OF THE*
19 *CHAIRPERSON AND CHIEF EXECUTIVE OFFICER. - THE*
20 *CHAIRPERSON OF THE COMMISSION, ACTING AS THE CHIEF*
21 *EXECUTIVE OFFICER, SHALL HAVE THE FOLLOWING POWERS,*
22 *FUNCTIONS AND DUTIES:*

23 A. TO EXECUTE, ADMINISTER AND IMPLEMENT THE
24 POLICIES AND MEASURES APPROVED AND ADOPTED BY
25 THE COMMISSION;

26 B. TO SERVE AS HEAD OF AGENCY AND DIRECTLY
27 ADMINISTER AND SUPERVISE THE OPERATIONS AND DAY-
28 TO-DAY BUSINESS ACTIVITIES OF THE COMMISSION;

29 C. TO REPRESENT THE COMMISSION IN ALL DEALINGS WITH
30 OFFICES, AGENCIES, AND INSTRUMENTALITIES OF THE
31 GOVERNMENT, AND WITH ALL PERSONS AND ENTITIES,
32 PUBLIC OR PRIVATE, DOMESTIC OR FOREIGN, UNLESS
33 OTHERWISE DIRECTED BY THE COMMISSION;

1 D. TO EXECUTE, ON BEHALF OF THE COMMISSION, ALL
2 CONTRACTS, AGREEMENTS AND OTHER INSTRUMENTS
3 AFFECTING THE INTERESTS OF THE ERC DULY
4 APPROVED BY THE COMMISSION;

5 E. TO DIRECT AND SUPERVISE THE PREPARATION OF THE
6 AGENDA FOR THE MEETINGS OF THE COMMISSION *EN*
7 *BANC*;

8 F. TO PRESIDE AT THE MEETINGS OF THE COMMISSION *EN*
9 *BANC* AND THE DIVISION TO WHICH THEY ARE A
10 MEMBER;

11 G. TO ORDER THE IMPLEMENTATION OF TEMPORARY PRICE
12 MITIGATION MEASURES TO PROTECT CONSUMER
13 INTERESTS, SUCH AS MARKET SUSPENSION, PAYMENT
14 DEFERRAL, SUSPENSION OF DISCONNECTION, AND SUCH
15 OTHER MEASURES THAT MAY BE APPROVED BY THE
16 COMMISSION, DURING THE EXISTENCE OF OR DURATION
17 OF A CALAMITY OR EMERGENCY, AND UNDER SUCH
18 CONDITIONS AS MAY BE DETERMINED BY LAW OR THE
19 GUIDELINES TO BE ISSUED BY THE COMMISSION:
20 *PROVIDED*, THAT A FORMAL DECLARATION OF CALAMITY
21 OR EMERGENCY HAS BEEN ISSUED BY THE RELEVANT
22 NATIONAL GOVERNMENT AGENCY OR LOCAL
23 GOVERNMENT UNIT: *PROVIDED, FURTHER*, THAT THE
24 IMPLEMENTATION OF TEMPORARY PRICE MITIGATION
25 MEASURES SHALL BE SUBJECT TO SUBSEQUENT
26 CONFIRMATION BY THE COMMISSION *EN BANC*.

27 H. TO EXERCISE THE POWER TO APPOINT OFFICIALS WITH
28 THE RANK OF DIVISION CHIEF AND BELOW; AND

29 I. TO EXERCISE SUCH OTHER POWERS, FUNCTIONS AND
30 DUTIES AS MAY BE ASSIGNED TO HIM OR HER BY THE
31 COMMISSION.”

32 “SEC. 38(D-1). *DUTIES AND RESPONSIBILITIES OF THE*
33 *MEMBERS OF THE COMMISSION. – IN ADDITION TO THE*

1 **FUNCTIONS ENUMERATED IN RA NO. 9136, THE MEMBERS OF**
2 **THE COMMISSION SHALL:**

3 **A. REGULARLY ATTEND AND ACTIVELY PARTICIPATE IN THE**
4 **MEETINGS OF THE COMMISSION *EN BANC* OR DIVISION**
5 **WHERE ANY CASE, ISSUE OR MATTER WITHIN ITS**
6 **JURISDICTION IS UNDER CONSIDERATION;**

7 **B. RECOMMEND TO THE CHAIRPERSON OR PRESIDING**
8 **COMMISSIONER THE INCLUSION IN THE AGENDA OF ANY**
9 **CASE, ISSUE OR MATTER DEEMED APPROPRIATE IN THE**
10 **PERFORMANCE OF THE COMMISSION'S FUNCTIONS;**

11 **C. CONDUCT HEARINGS IN THE AFFECTED AREAS, IF**
12 **NECESSARY, AND THOROUGHLY ANALYZE CASES, ISSUES**
13 **AND MATTERS PENDING BEFORE THE COMMISSION *EN***
14 ***BANC* OR DIVISION;**

15 **D. TAKE PART IN CONTINUOUS EDUCATION AND CAPACITY**
16 **BUILDING PROGRAMS OF THE COMMISSION TO ENHANCE**
17 **TECHNICAL COMPETENCE;**

18 **E. REFRAIN FROM ACTS WHICH UNDULY INFLUENCE,**
19 **IMPEDE, OR HAMPER THE EFFECTIVE FULFILMENT OF**
20 **DUTIES AND RESPONSIBILITIES OF ANY OFFICIAL OF THE**
21 **COMMISSION;**

22 **F. REVIEW AND ACT ON THE ENDORSEMENT OF THE**
23 **PROPOSED ERC BUDGET; AND**

24 **G. TIMELY PERFORM IN GOOD FAITH AND TO THE BEST OF**
25 **HIS OR HER ABILITY THE DUTIES AND RESPONSIBILITIES**
26 **PROVIDED HEREIN."**

27 **"SEC. 38(D-2). *FUNCTIONS OF THE PRESIDING***
28 ***COMMISSIONER.* EACH DIVISION SHALL HAVE A PRESIDING**
29 **COMMISSIONER, WHO SHALL BE THE MOST SENIOR**
30 **COMMISSIONER IN ACCORDANCE WITH THEIR DATE OF**
31 **APPOINTMENT: *PROVIDED*, THAT THE CHAIRPERSON SHALL BE**
32 **CONSIDERED AS THE MOST SENIOR IN THE COMMISSION.**

33 **THE POWERS AND DUTIES OF THE PRESIDING**
34 **COMMISSIONER, WHEN DISCHARGING HIS OR HER FUNCTIONS**

1 IN CASES PENDING BEFORE THE DIVISION, SHALL BE AS
2 FOLLOWS:

- 3 A. TO ISSUE CALLS FOR THE SESSIONS OF THE DIVISION;
4 B. TO DIRECT AND SUPERVISE THE PREPARATION OF THE
5 AGENDA FOR THE MEETINGS OF THE DIVISION;
6 C. TO PRESIDE OVER THE SESSIONS OF THE DIVISION;
7 D. TO PRESERVE ORDER AND DECORUM DURING THE
8 SESSIONS OF THE DIVISION;
9 E. TO SIGN INTERLOCUTORY ORDERS IN CASES ALREADY
10 ASSIGNED TO THE DIVISION;
11 F. TO DECIDE ALL QUESTIONS OF ORDER, SUBJECT TO
12 APPEAL TO THE COMMISSION *EN BANC*, AS MAY BE
13 PROVIDED UNDER THIS ACT; AND
14 G. TO TAKE SUCH OTHER MEASURES AS HE OR SHE MAY
15 DEEM PROPER UPON CONSULTATION WITH THE OTHER
16 MEMBERS OF THE DIVISION.”

17 “SEC. 38(E). *CREATION OF NEW DIVISIONS.* – THE
18 COMMISSION SHALL BE DIVIDED INTO THREE (3) DIVISIONS,
19 WITH THREE (3) MEMBERS EACH, INCLUDING THE
20 CHAIRPERSON. THE PRESENCE OF AT LEAST TWO (2) OF THE
21 (3) MEMBERS OF THE DIVISION SHALL CONSTITUTE A QUORUM,
22 AND THE MAJORITY VOTE AT LEAST TWO (2) MEMBERS OF THE
23 DIVISION IN WHICH A QUORUM IS PRESENT SHALL BE
24 NECESSARY FOR THE ADOPTION OF ANY RULING, ORDER,
25 RESOLUTION, DECISION OR OTHER ACTS OF THE
26 COMMISSION.”

27 “SEC. 38(F). *QUORUM.* – AT LEAST FIVE (5) MEMBERS OF
28 THE ERC SHALL CONSTITUTE A QUORUM IN THE COMMISSION
29 *EN BANC*. THE CHAIRPERSON SHALL BE THE PRESIDING
30 OFFICER DURING A COMMISSION *EN BANC* HEARING. IN THE
31 ABSENCE OF THE CHAIRPERSON, THE MOST SENIOR MEMBER
32 AMONG THE COMMISSIONERS PRESENT SHALL SERVE AS THE
33 PRESIDING OFFICER. A VALID DECISION OF THE COMMISSION

1 **EN BANC SHALL BE CONCURRED IN BY THE MAJORITY OF THE**
2 **MEMBERS CONSTITUTING A QUORUM.”**

3 **SUBJECT TO SECTION 44 OF THIS ACT, THE COMMISSION**
4 **EN BANC SHALL ACT PRIMARILY ON THE FOLLOWING CASES:**

5 **A. CASES INVOLVING THE ERC’S POWER TO PROMULGATE**
6 **RULES OR REGULATIONS;**

7 **B. CASES INVOLVING CAPITAL EXPENDITURES WITH A**
8 **GROSS VALUE OF ONE BILLION PESOS (P**
9 **1,000,000,000.00) AND ABOVE;**

10 **C. CASES INVOLVING THE PERFORMANCE AND**
11 **OPERATIONS, AND THE SETTING OF RETAIL RATES OF**
12 **THE NATIONAL TRANSMISSION CORPORATION (TRANSCO)**
13 **OR ITS AUTHORIZED CONCESSIONAIRE, AND OF**
14 **DISTRIBUTION UTILITIES, AS MAY BE APPLICABLE;**

15 **D. REVIEW OF CASES DECIDED BY A DIVISION OF THE ERC**
16 **IN THE EVENT THERE IS A CONFLICTING DECISION BY**
17 **ANOTHER DIVISION;**

18 **E. APPOINTMENTS OF OFFICIALS WITH THE RANK OF**
19 **DIRECTOR AND ABOVE; AND**

20 **F. OTHER CASES AS MAY BE DETERMINED BY THE**
21 **COMMISSION EN BANC ITSELF.”**

22 **“SEC. 38(G). CODE OF CONDUCT AND ETHICAL**
23 **STANDARDS. – THE CHAIRPERSON AND THE MEMBERS OF THE**
24 **ERC SHALL CONFORM TO THE CODE OF CONDUCT AND**
25 **ETHICAL STANDARDS AS SPECIFIED IN RA NO. 6713.”**

26 **SEC. 5.** Section 39 of RA No. 9136 is hereby amended to read as follows:

27 **“Sec. 39. ADJUSTED Compensation STRUCTURE and Other**
28 **Emoluments for ERC Personnel.** – The compensation and other
29 emoluments for the {Chairman} **CHAIRPERSON** and members of the
30 Commission and the ERC personnel shall be exempted from the
31 coverage of Republic Act No. 6758, otherwise known as the “Salary
32 Standardization Act,” **AS AMENDED BY EXECUTIVE ORDER NO.**
33 **201, SERIES OF 2016.**

34 **X X X**

1 The ~~[Chairman]~~ **CHAIRPERSON** and members of the
2 Commission shall ~~[initially]~~ be entitled to the same ~~[salaries,]~~
3 allowances and benefits ~~[as those of the Presiding Justice and~~
4 ~~Associate Justices of the Supreme Court, respectively]~~ **PRESENTLY**
5 **RECEIVED: PROVIDED, THAT UPON SERVING AT LEAST FIVE (5)**
6 **YEARS OF THEIR TERMS AND UPON REACHING THE AGE OF**
7 **SIXTY-FIVE (65) YEARS OLD**, the ~~[Chairman]~~ **CHAIRPERSON** and
8 the members of the Commission shall ~~[upon completion of their term~~
9 ~~or upon becoming]~~ **BE CONSIDERED** eligible for retirement. ~~[under~~
10 ~~existing laws AND be entitled to the same retirement benefits and~~
11 ~~privileges provided for the Presiding Justice and Associate Justices of~~
12 ~~the Supreme Court, respectively].~~

13 **THE COMPENSATION SCHEDULE OF THE PERSONNEL**
14 **SHALL BE COMPETITIVE WITH THE SALARY RANGE OF OTHER**
15 **REGULATORY AGENCIES, AND THE ELECTRIC POWER**
16 **INDUSTRY STAKEHOLDERS. FOR THIS PURPOSE, THE**
17 **COMMISSION *EN BANC* SHALL, SUBJECT TO THE APPROVAL OF**
18 **THE PRESIDENT OF THE PHILIPPINES, ADJUST THE**
19 **COMPENSATION SCHEDULE AND BENEFITS OF ERC PERSONNEL**
20 **ONCE EVERY TWO (2) YEARS TO ENSURE THAT THE SAME IS**
21 **COMPARABLE WITH THE COMPENSATION PACKAGE OF OTHER**
22 **REGULATORY AGENCIES, AND THE ELECTRIC POWER**
23 **INDUSTRY STAKEHOLDERS.**

24 **SEC. 6.** Section 40 of RA No. 9136 is hereby amended to read as follows:

25 **“SEC. 40. *Enhancement of Technical Competence.*** – ~~[The~~
26 ~~ERC shall establish rigorous training programs for its staff for the~~
27 ~~purpose of enhancing the technical competence of the ERC in the~~
28 ~~following areas: evaluation of technical performance and monitoring~~
29 ~~of compliance with service and performance standards, performance-~~
30 ~~based rate-setting reform, environmental standards and such other~~
31 ~~areas as will enable the ERC to adequately perform its duties and~~
32 ~~functions.]~~ **THE TECHNICAL COMPETENCE OF THE ERC**
33 **PERSONNEL SHALL BE BENCHMARKED AGAINST**
34 **INTERNATIONAL BEST PRACTICES. IN VIEW THEREOF, THE**

1 ERC SHALL ESTABLISH A RIGOROUS AND SUSTAINABLE
2 TRAINING PROGRAM THAT WILL ALLOW ITS STAFF TO ACQUIRE
3 THE NECESSARY KNOWLEDGE AND SKILLS AT PAR WITH THE
4 PERSONNEL OF REGULATORS FROM OTHER JURISDICTIONS
5 AND ECONOMIES.

6 FOR THIS PURPOSE, THE ERC SHALL ESTABLISH A UNIT
7 WITHIN ITS STRUCTURE THAT SHALL DESIGN A STANDARDIZED
8 TRAINING AND DEVELOPMENT PROGRAM AND FACILITATE THE
9 REGULAR CONDUCT OF NECESSARY TRAINING FOR NEW AND
10 INCUMBENT ERC PERSONNEL.

11 THE ERC SHALL ALLOT A MAXIMUM OF FIFTEEN
12 PERCENT (15%) OF THE REVENUES IT GENERATED FROM THE
13 COLLECTION OF FEES, ASSESSMENTS, LICENSES, AND OTHER
14 CHARGES FOR THE TRAINING AND UPGRADING OF SKILLS OF
15 ITS PERSONNEL. THE AMOUNT SHALL BE TAKEN FROM ITS
16 REVENUES RESERVED TO AUGMENT ERC'S BUDGET AS
17 PROVIDED UNDER SECTION 38 OF THIS ACT."

18 **SEC. 7.** Section 41 of RA 9136 is hereby amended to read as follows:

19 **"SEC. 41. *PROTECTION AND Promotion of Consumer***
20 ***Interests.*** – [~~The ERC shall handle consumer complaints and ensure~~
21 ~~the adequate promotion of consumer interests.~~] **THE ERC SHALL**
22 **ADDRESS AND PROVIDE TIMELY RESOLUTIONS TO CONSUMER**
23 **COMPLAINTS AND ENSURE ADEQUATE PROTECTION OF**
24 **CONSUMER INTERESTS.**

25 THE ERC SHALL ESTABLISH PROCEDURES FOR
26 DETERMINING LEGITIMATE REPRESENTATION OF CONSUMER
27 ORGANIZATIONS AND THE CONDUCT OF FORUM, WHERE
28 CONSUMERS CAN EXPRESS THEIR CONCERNS ON POLICIES AND
29 REGULATIONS OUTSIDE THE FORMAL RULE-MAKING
30 PROCESSES.

31 THE ERC SHALL ALSO EXERT EFFORTS TO INFORM
32 CONSUMERS OF PENDING PROCEEDINGS. FOR THIS PURPOSE,
33 THE ERC SHALL REGULARLY CONDUCT TRAININGS FOR THE

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

5 A SUPPORT DESK SHALL BE MADE AVAILABLE TO THE
6 PUBLIC TO ASSIST CONSUMERS FOR A BETTER
7 UNDERSTANDING OF ALL PROCEEDINGS AND ISSUANCES OF
8 THE COMMISSION, AS WELL AS ANY AND ALL MATTERS WHICH
9 AFFECT THE ELECTRICITY RATES CHARGED TO CONSUMERS:
10 *PROVIDED*, THAT THE INFORMATION IS NOT CONFIDENTIAL IN
11 NATURE. EVERY CONSUMER HAS THE RIGHT TO ACCESS
12 INFORMATION OF PUBLIC CONCERN, SUBJECT TO THE
13 COMMISSION'S GUIDELINES IN THE GRANT AND LIMITATIONS
14 OF THIS RIGHT: *PROVIDED, FURTHER*, THAT ACCESS TO
15 INFORMATION SHALL NOT BE GRANTED IF:

16 A. THE INFORMATION IS CONSIDERED CONFIDENTIAL
17 UNDER EXISTING LAWS AND REGULATIONS;

18 B. THE INFORMATION IS COVERED BY DELIBERATIVE
19 PROCESS PRIVILEGE, OR EXECUTIVE PRIVILEGE; AND

20 C. THE INFORMATION REQUESTED PERTAINS TO TRADE
21 SECRETS, COMPETITIVELY SENSITIVE, OR OTHER
22 PROPRIETARY INFORMATION, WHENEVER THE
23 REVELATION THEREOF WOULD PREJUDICE THE
24 INTERESTS OF A NATURAL OR JURIDICAL PERSON IN
25 TRADE, INDUSTRIAL, FINANCIAL, OR COMMERCIAL
26 COMPETITION."

27 **SEC. 8.** Sections 43 of RA No. 9136 is hereby amended to read as follows:

28 **"SEC. 43. *Functions of the ERC.*** – The ERC shall promote
29 competition, encourage market development, **AND** ensure customer
30 choice and penalize abuse of market power in the restructured
31 electricity industry. In appropriate cases, the ERC is authorized to issue
32 cease and desist orders after due notice and hearing. Towards this end,
33 it shall be responsible for the following key functions in the
34 restructured industry:

1 x x x

2 (b) [~~Within six (6) months from the effectivity of this Act,~~
3 ~~promulgate~~], **REGULARLY REVIEW AND UPDATE WHEN**
4 **NECESSARY IN COORDINATION WITH THE DOE**, and enforce, in
5 accordance with law, [a] **THE [National] PHILIPPINE** Grid Code and [a]
6 **THE PHILIPPINE** Distribution Code which shall include, but not
7 limited to, the following:

8 x x x

9 (i) Allow the TRANSCO **OR ITS CONCESSIONAIRE** to charge
10 user fees for ancillary services to all electric power industry participants
11 or self-generating entities connected to the grid. Such fees shall be fixed
12 by the ERC after due notice and public hearing;

13 x x x

14 (q) Act on applications for cost recovery and return on demand
15 side management projects. **THE ERC SHALL FOLLOW THE TIMELINE**
16 **PROVIDED IN SECTION 13 OF RA NO. 11234, AND FAILURE OF**
17 **THE ERC TO RELEASE ITS ACTION ON THE APPLICATION WITHIN**
18 **THE PRESCRIBED TIME FRAME SHALL DEEM SUCH APPLICATION**
19 **APPROVED;**

20 (t) x x x; [~~and~~]

21 x x x

22 **(V) SUMMARILY PUNISH FOR CONTEMPT BY A FINE NOT**
23 **LESS THAN FIVE THOUSAND PESOS (P5,000.00) BUT NOT**
24 **EXCEEDING ONE HUNDRED THOUSAND PESOS (P100,000.00) OR**
25 **BY IMPRISONMENT NOT EXCEEDING TEN (10) DAYS, OR BOTH,**
26 **ANY PERSON WHO SHALL OBSTRUCT THE COMMISSION OR ITS**
27 **HEARING OFFICERS WHILE ENGAGED IN THE DISCHARGE OF**
28 **OFFICIAL DUTIES, OR WHO SHALL CONDUCT HIMSELF IN A**
29 **RUDE, DISRESPECTFUL OR DISORDERLY MANNER BEFORE THE**
30 **COMMISSION OR ITS HEARING OFFICERS, WHILE ENGAGED IN**
31 **THE DISCHARGE OF OFFICIAL DUTIES, OR SHALL ORALLY OR IN**
32 **WRITING BE DISRESPECTFUL TO, OFFEND OR INSULT THE**
33 **COMMISSION OR ITS HEARING OFFICERS ON OCCASION OR BY**
34 **REASON OF THE PERFORMANCE OF OFFICIAL DUTIES, GUILTY**

1 OF ANY ACT INTENDED TO INTERRUPT THE HEARING OR
2 SESSION OR ANY PROCEEDING BEFORE THE COMMISSION, OR
3 WHEN A PERSON REFUSES TO BE SWORN IN AS A WITNESS OR
4 TO ANSWER AS SUCH WHEN LAWFULLY REQUIRED TO DO SO IN
5 ANY HEARING, SESSION, OR INVESTIGATION DULY HELD BY THE
6 COMMISSION, ITS MEMBERS OR REPRESENTATIVES. OF
7 MISCONDUCT IN THE PRESENCE OF THE COMMISSION, OR ANY
8 OF ITS MEMBERS OR REPRESENTATIVES.

9 TO ENFORCE THE PROVISIONS OF THIS SECTION, THE ERC
10 MAY, IF NECESSARY, REQUEST THE ASSISTANCE OF THE
11 PHILIPPINE NATIONAL POLICE FOR THE EXECUTION OF ANY
12 ORDER MADE FOR SAID PURPOSE.

13 (W) IN RELATION TO SECTION 6 OF THIS ACT, THE ERC
14 SHALL ISSUE A FIXED LIST OF REQUIREMENTS AND ACT ON
15 APPLICATIONS OF GENERATING COMPANIES FOR THE ISSUANCE
16 OF CERTIFICATES OF COMPLIANCE (COC): *PROVIDED*, THAT THE
17 TIMELINE PROVIDED IN SECTION 13 OF RA NO. 11234 SHALL BE
18 OBSERVED, AND FAILURE OF THE ERC TO RELEASE ITS ACTION
19 ON THE APPLICATION WITHIN THE PRESCRIBED TIME FRAME
20 SHALL DEEM SUCH COC APPLICATION APPROVED;

21 (X) ENCOURAGE AND ACTIVELY PROMOTE THE USE OF
22 ALTERNATIVE DISPUTE RESOLUTION (ADR) IN DEREGULATED
23 AREAS OF THE ELECTRIC POWER INDUSTRY AS AN IMPORTANT
24 MEANS TO ACHIEVE SPEEDY AND IMPARTIAL JUSTICE, AND
25 DECLOG THE DOCKETS OF THE ERC IN ACCORDANCE WITH RA
26 NO. 9285, OTHERWISE KNOWN AS THE "*ALTERNATIVE DISPUTE*
27 *RESOLUTION ACT OF 2004*". TO THIS END, THE ERC SHALL
28 CONDUCT EDUCATIONAL AND INFORMATION ACTIVITIES TO
29 EQUIP ADR PRACTITIONERS TO ADDRESS DEREGULATED
30 ELECTRIC POWER INDUSTRY DISPUTES;

31 (Y) TO ORGANIZE AND ADMINISTER THE TRANSMISSION
32 GRID RELIABILITY MANAGEMENT COMMITTEE, WHICH SHALL BE
33 TASKED TO DEVELOP, IMPROVE AND CONDUCT AUDIT IN

1 COMPLIANCE WITH THE GRID CODE AND OTHER RELATED
2 ISSUANCES, TO MONITOR AND REPORT TO THE ERC ANY
3 VIOLATIONS AGAINST THE TRANSMISSION GRID CODE, TO
4 INVESTIGATE AND PROVIDE RESOLUTIONS ON GRID
5 SIGNIFICANT INCIDENTS, AND TO RECOMMEND PENALTIES FOR
6 NON-CONFORMANCE AND VIOLATIONS THEREOF;

7 (Z) TO ORGANIZE AND ADMINISTER THE DISTRIBUTION
8 GRID RELIABILITY COMMITTEE, WHICH SHALL BE TASKED TO
9 DEVELOP, IMPROVE AND CONDUCT AUDIT IN COMPLIANCE WITH
10 DISTRIBUTION RELIABILITY STANDARDS, TO MONITOR AND
11 REPORT TO THE ERC ANY VIOLATIONS OF THE DISTRIBUTION
12 UTILITIES AGAINST THE DISTRIBUTION GRID CODE, TO
13 INVESTIGATE AND PROVIDE RESOLUTIONS ON GRID
14 SIGNIFICANT INCIDENTS, AND TO RECOMMEND PENALTIES FOR
15 NON-CONFORMANCE AND VIOLATIONS THEREOF.

16 All notices of hearings to be conducted by the ERC for the
17 purpose of fixing rates or fees shall be published **IN** at least [twice for
18 two successive weeks in two (2) newspapers of nationwide circulation]
19 **ONE (1) NEWSPAPER OF GENERAL CIRCULATION, AND/OR POST**
20 **ELECTRONICALLY.”**

21 **SEC. 9.** Section 44 of RA No. 9136 is hereby amended to read as follows:

22 **“SEC. 44. [~~Transfer of Powers and Functions.~~** The powers
23 and functions of the Energy Regulatory Board not inconsistent with the
24 provisions of this Act are hereby transferred to the ERC. The foregoing
25 transfer of powers and functions shall include all applicable funds and
26 appropriations, records, equipment, property and personnel as may be
27 necessary.]

28 **NATURE OF THE REGULATORY POWERS OF THE ERC. – IN**
29 **THE PERFORMANCE OF ITS ROLE AS THE INDEPENDENT**
30 **REGULATOR OF THE ELECTRIC POWER INDUSTRY, THE ERC**
31 **SHALL PERFORM QUASI-JUDICIAL, QUASI-LEGISLATIVE, AND**
32 **ADMINISTRATIVE FUNCTIONS. UNLESS ALREADY PROVIDED IN**

1 THIS ACT, THE ERC SHALL IDENTIFY WHICH AMONG ITS
2 FUNCTIONS SHALL BE PERFORMED AND UNDERTAKEN THROUGH
3 REGULAR, SUMMARY, AND ADMINISTRATIVE PROCEEDINGS. IT
4 SHALL ESTABLISH THE RULES OF PROCEDURE FOR EACH TYPE
5 OF PROCEEDING THAT WILL PROMOTE TRANSPARENCY,
6 EXPEDIENCY, CONSISTENCY, AND EFFICIENCY OF SERVICE.”

7 “SEC. 44(A). *POWER SUPPLY AGREEMENTS.* – THE DOE
8 SHALL ISSUE THE POLICIES ON THE PROCUREMENT PROCESS
9 FOR ANY POWER SUPPLY AGREEMENT WHICH SHALL OBSERVE
10 THE PRINCIPLES OF TRANSPARENCY, COMPETITIVENESS,
11 ACCOUNTABILITY, IMPARTIALITY AND EFFICIENCY. THE
12 RESULTING POWER SUPPLY AGREEMENTS SHALL EMBODY THE
13 PRINCIPLES OF QUALITY, AFFORDABILITY, SUSTAINABILITY AND
14 RELIABILITY OF SUPPLY OF ELECTRIC POWER.

15 THE ERC SHALL REVIEW AND APPROVE THE POWER SUPPLY
16 AGREEMENT IN ACCORDANCE WITH ITS POWERS UNDER
17 SECTION 43 (W) OF THIS ACT.”

18 “SEC. 44(B). *BENCHMARK PRICES AND RATES.* – THE ERC
19 SHALL DETERMINE THE BENCHMARK FOR THE RANGE OF
20 PRICES AND RATES THAT ARE DEEMED REASONABLE FOR BOTH
21 THE END-USERS AND THE OPERATIONS OF GENERATION,
22 TRANSMISSION, AND DISTRIBUTION ENTITIES.

23 LOAD DENSITY, SALES MIX, COST OF SERVICE, DELIVERY
24 VOLTAGE, RESOURCE AND FUEL, LOCATION AND OTHER
25 TECHNICAL FACTORS SHALL BE CONSIDERED IN THE
26 BENCHMARK DETERMINATION.

27 THE ERC SHALL PUBLISH THE BENCHMARK PRICES AND
28 RATES, WHICH SHALL BE REGULARLY UPDATED.”

29 “SEC. 44(C). *REGULAR AND SUMMARY PROCEEDINGS IN THE*
30 *ERC.* - CASES FILED BEFORE THE ERC, THAT REQUIRE THE
31 EXERCISE OF ITS QUASI-JUDICIAL AND ADJUDICATORY, AND
32 QUASI-LEGISLATIVE AND RULE-MAKING FUNCTIONS, SHALL BE

1 DECIDED THROUGH REGULAR PROCEEDINGS: *PROVIDED*,
2 *HOWEVER*, THAT CASES RELATED TO CONTRACTS OR
3 SUBMISSIONS THAT ARE CERTIFIED BY THE DOE PURSUANT TO
4 THIS ACT AND WITHIN THE BENCHMARK DETERMINED BY THE
5 ERC, INCLUDING POWER SUPPLY AGREEMENTS, SHALL BE
6 DECIDED THROUGH SUMMARY PROCEEDINGS, WITHOUT NEED
7 OF A HEARING IN ACCORDANCE WITH THE EXERCISE OF THE
8 ERC OF ITS POWERS UNDER SECTION 43(W) OF THIS ACT:
9 *PROVIDED, FURTHER*, THAT OTHER CONTRACTS OR
10 SUBMISSIONS THAT ARE NOT SUBJECT TO BENCHMARKING MAY
11 BE DECIDED THROUGH SUMMARY PROCEEDINGS UPON
12 DETERMINATION OF THE COMMISSION *EN BANC*.”

13 “SEC. 44(D). *ADMINISTRATIVE PROCEEDINGS IN THE ERC*. –
14 MATTERS THAT REQUIRE THE EXERCISE BY THE ERC OF ITS
15 ADMINISTRATIVE FUNCTIONS, AND DOES NOT REQUIRE THE
16 EXERCISE OF THE ERC’S QUASI-JUDICIAL OR QUASI-
17 LEGISLATIVE FUNCTIONS, SHALL BE SUBJECT TO
18 ADMINISTRATIVE PROCEEDINGS. ADMINISTRATIVE MATTERS
19 SHALL BE DECIDED BY THE CHAIRPERSON OF THE ERC:
20 *PROVIDED*, THAT THE CHAIRPERSON MAY DELEGATE THIS
21 AUTHORITY TO A MEMBER OF THE COMMISSION OR ANY
22 OFFICER NOT LOWER THAN THE LEVEL OF A DIRECTOR.

23 THE GRANT OF PROVISIONAL APPROVAL FOR PERMITS AND
24 LICENSES TO ELECTRIC POWER INDUSTRY PARTICIPANTS SHALL
25 BE CONSIDERED AN ADMINISTRATIVE MATTER AND SHALL BE
26 DECIDED UPON BY THE CHAIRPERSON: *PROVIDED*, THAT THE
27 GRANT OF PROVISIONAL APPROVAL SHALL BE SUBJECT TO
28 SUBSEQUENT CONFIRMATION BY THE COMMISSION *EN BANC*.
29 ADMINISTRATIVE MATTERS SHALL LIKEWISE INCLUDE THE
30 FOLLOWING COMPLIANCE SUBMISSIONS BY ELECTRIC POWER
31 INDUSTRY PARTICIPANTS:

- 32 I. ANNUAL OR REGULAR SUBMISSIONS, WHETHER ON
33 TECHNICAL, LEGAL OR FINANCIAL MATTERS;

1 **II. SUBMISSIONS AND REPORTS INCLUDED IN THE REVIEW**
2 **FOR REGULATORY RESET: PROVIDED, THAT THE**
3 **REGULATORY RATE RESET PROCESS SHALL BE DECIDED**
4 **THROUGH REGULAR PROCEEDINGS IN ACCORDANCE WITH**
5 **THE ERC’S POWERS UNDER SECTION 43(F) OF THIS ACT;**
6 **AND**

7 **III. ANY OTHER CONTRACTS, APPLICATIONS, OR SUBMISSIONS**
8 **MADE BY PARTICIPANTS IN THE ELECTRIC POWER**
9 **INDUSTRY THAT DOES NOT REQUIRE THE EXERCISE OF**
10 **THE ERC’S QUASI-JUDICIAL OR QUASI-LEGISLATIVE**
11 **FUNCTIONS AS MAY BE DETERMINED BY THE COMMISSION**
12 ***EN BANC.*”**

13 **“SEC. 44(E). ISSUANCE OF DECISIONS AND RULE ON APPEALS.**
14 **– THE ERC SHALL ISSUE AN ACTION ON ALL APPLICATIONS AND**
15 **SUBMISSIONS MADE IN REGULAR QUASI-JUDICIAL AND QUASI-**
16 **LEGISLATIVE PROCEEDINGS WITHIN TWO HUNDRED SEVENTY**
17 **(270) CALENDAR DAYS FROM THE SUBMISSION OF A VALID**
18 **APPLICATION AS PROVIDED UNDER SECTION 13 OF RA NO. 11234:**
19 ***PROVIDED, THAT FOR SUMMARY QUASI-JUDICIAL AND QUASI-***
20 ***LEGISLATIVE PROCEEDINGS, THE RELEVANT PERIOD SHALL BE***
21 ***SIXTY (60) CALENDAR DAYS FROM THE SUBMISSION OF A VALID***
22 ***APPLICATION.***

23 **FOR APPLICATIONS AND SUBMISSIONS MADE IN**
24 **ADMINISTRATIVE PROCEEDINGS, THE ERC SHALL ISSUE AN**
25 **ACTION WITHIN SIXTY (60) CALENDAR DAYS FROM THE**
26 **SUBMISSION OF ALL DOCUMENTARY REQUIREMENTS AS**
27 **PROVIDED UNDER SECTION 13 OF RA NO. 11234.**

28 **A DECISION ISSUED BY A DIVISION THROUGH A REGULAR OR**
29 **SUMMARY PROCEEDING, OR BY THE CHAIRPERSON THROUGH AN**
30 **ADMINISTRATIVE PROCEEDING, MAY BE SUBJECT TO A MOTION**
31 **FOR RECONSIDERATION FILED BEFORE THE OFFICE THAT**
32 **ISSUED THE DECISION.**

1 UPON THE RESOLUTION OF THE MOTION FOR
2 RECONSIDERATION, AN APPEAL MAY BE MADE BEFORE THE
3 COMMISSION *EN BANC* SOLELY ON THE GROUND THAT A
4 PREVIOUSLY ISSUED DECISION IS IN CONFLICT WITH THE
5 DECISION SUBJECT OF THE APPEAL. ALL OTHER APPEALS THAT
6 INVOLVE QUESTIONS OF FACT AND LAW SHALL BE MADE BEFORE
7 THE COURT OF APPEALS. APPEALS THAT INVOLVE SOLELY
8 QUESTIONS OF LAW SHALL BE MADE BEFORE THE SUPREME
9 COURT.

10 DECISIONS SHALL BE CONSIDERED FINAL AND EXECUTORY
11 ONLY UPON THE LAPSE OF THE PERIOD TO FILE A MOTION FOR
12 RECONSIDERATION OR AN APPEAL, AS THE CASE MAY BE,
13 WITHOUT SUCH MOTION OR APPEAL BEING FILED WITHIN THE
14 GIVEN PERIOD.

15 WITHIN SIX (6) MONTHS FROM THE EFFECTIVITY OF THIS ACT,
16 THE ERC SHALL ISSUE THE RULES OF PROCEDURE FOR REGULAR
17 AND SUMMARY QUASI-JUDICIAL, AND ADMINISTRATIVE
18 PROCEEDINGS, AS PROVIDED FOR IN THIS ACT.

19 THE RULES OF PROCEDURE TO BE ISSUED BY THE ERC SHALL
20 GOVERN ALL CASES FILED AFTER THE EFFECTIVITY OF SUCH
21 RULES INCLUDING THOSE THAT ARE PENDING AT THE TIME OF
22 THE ISSUANCE OF THE RULES. FOR CASES THAT ARE PENDING
23 AT THE TIME OF ISSUANCE OF THE RULES, THE COMMISSION *EN*
24 *BANC* MAY WAIVE THE APPLICATION OF THE RULES IF IT DEEMS
25 THAT ITS APPLICATION WOULD NOT BE FEASIBLE, CAUSE UNDUE
26 DELAY OR WOULD WORK INJUSTICE, IN WHICH CASE THE RULES
27 EXISTING AT THE TIME THE CASES WERE FILED SHALL
28 GOVERN.”

29 “**SEC. 10.** Section 46 of RA No. 9136 is hereby amended to read as follows:

30 “**SEC. 46. *Fines and Penalties.*** - The **FOLLOWING** fines and
31 penalties [~~that~~] shall be imposed [~~by the ERC~~] for any violation of or non-
32 compliance with this Act or the IRR: x x x

1 (A) **ADMINISTRATIVE FINES AND PENALTIES.** - BY ANY
2 **JURIDICAL ENTITY ENGAGED IN THE GENERATION,**
3 **TRANSMISSION, DISTRIBUTION AND SUPPLY OF ELECTRICITY,**
4 **THE FINE** shall range from a minimum of fifty thousand pesos
5 (₱50,000.00) to a maximum of **FIVE HUNDRED** million pesos
6 (₱500,000,000.00).

7 **THE COMMISSION MAY ORDER THAT SUCH AMOUNT OF**
8 **FINES AND PENALTIES IMPOSED FOR VIOLATION OF THIS ACT BE**
9 **IMMEDIATELY APPLIED AS REFUND IN THE RATES CHARGED BY**
10 **THE OFFENDING ENTITY TO THE END-USERS AFFECTED BY SUCH**
11 **VIOLATION OR NON-COMPLIANCE.**

12 **THE ERC SHALL PROMULGATE THE SCHEDULE OF**
13 **PENALTIES, WITH CONSIDERATION OF THE CIRCUMSTANCES**
14 **SURROUNDING THE VIOLATION OR NONCOMPLIANCE, SUCH AS,**
15 **RECIDIVISM, PERIOD OF NONCOMPLIANCE, OR ABUSE OF**
16 **MARKET POWER, CARTELIZATION, OR ANTI-COMPETITIVE OR**
17 **DISCRIMINATORY BEHAVIOR. THE ERC MAY IMPOSE THESE**
18 **PENALTIES FOR EVERY DAY OF VIOLATION, DELAY, OR**
19 **NONCOMPLIANCE.**

20 (B) **CRIMINAL AND CIVIL LIABILITIES.** - BY ANY PERSON, A
21 **FINE OF NOT LESS THAN FIFTY THOUSAND PESOS (₱50,000.00)**
22 **BUT NOT MORE THAN FIFTY MILLION PESOS (₱50,000,000.00), OR**
23 **BY IMPRISONMENT OF NOT LOWER THAN SIX (6) YEARS AND ONE**
24 **(1) DAY AND NOT HIGHER THAN TWELVE (12) YEARS, OR BOTH, AT**
25 **THE DISCRETION OF THE COURT.**

26 **WHEN THE ENTITIES INVOLVED ARE JURIDICAL PERSONS,**
27 **THE PENALTY OF IMPRISONMENT SHALL BE IMPOSED ON ITS**
28 **OFFICERS, DIRECTORS, OR EMPLOYEES HOLDING MANAGERIAL**
29 **POSITIONS, WHO ARE KNOWINGLY AND WILLFULLY RESPONSIBLE**
30 **FOR SUCH VIOLATION.**

31 (C) **OFFER OF COMPROMISE.** - ANY PERSON OR ENTITY
32 **SUBJECT TO AN ADMINISTRATIVE PROCEEDING IN THE**
33 **COMMISSION THAT MAY RESULT IN THE IMPOSITION OF FINES,**

1 REFUNDS AND/OR PENALTIES, PURSUANT TO THIS SECTION, MAY
2 ENTER A PLEA OF *NOLO CONTENDERE*, IN WHICH SUCH PERSON
3 OR ENTITY DOES NOT ACCEPT NOR DENY RESPONSIBILITY FOR
4 THE CHARGES BUT AGREES TO ACCEPT THE OBLIGATION TO PAY
5 FINES, REFUNDS AND/OR PENALTIES AS IF ALREADY FOUND
6 LIABLE. THE PLEA CANNOT BE USED AGAINST SUCH PERSON OR
7 ENTITY TO PROVE LIABILITY IN A CRIMINAL ACTION NOR IN
8 ANOTHER CAUSE OF ACTION: *PROVIDED*, THAT A PLEA OF *NOLO*
9 *CONTENDERE* MAY BE ENTERED ONLY WITH THE PRIOR
10 APPROVAL OF THE COMMISSION *EN BANC* WHICH SHALL ACCEPT
11 IT ONLY AFTER WEIGHING ITS EFFECT ON THE PARTIES AND THE
12 CONSUMERS: *PROVIDED*, *FURTHER*, THAT SHOULD THE
13 COMMISSION ACCEPT THE PLEA OF *NOLO CONTEDERE*, THE FINE,
14 REFUND AND/OR PENALTY TO BE ADJUDGED FOR PAYMENT
15 SHALL NOT BE LESS THAN FIFTY PERCENT (50%) OF THE
16 CORRESPONDING FINE, REFUND AND/OR PENALTY FOR THE
17 SUBJECT OFFENSE: *PROVIDED*, *FURTHERMORE*, THAT ANY
18 PERSON OR ENTITY CAN NOT ENTER INTO A PLEA OF *NOLO*
19 *CONTENDERE* FOR A VIOLATION OF ITS FRANCHISE OR
20 CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY, AND
21 SUCH OTHER CASES AS DETERMINED BY THE COMMISSION:
22 *PROVIDED*, *FINALLY*, THAT THE COMMISSION SHALL ISSUE
23 GUIDELINES FOR THIS PROVISION, SUBJECT TO PUBLIC
24 CONSULTATION.

25 (D) *ROLE OF THE DEPARTMENT OF JUSTICE*. - CIVIL AND
26 CRIMINAL ACTIONS AND PROCEEDINGS INSTITUTED ON BEHALF
27 OF THE GOVERNMENT UNDER THE AUTHORITY OF THIS ACT OR
28 OTHER LAWS ENFORCED BY THE ERC SHALL BE BROUGHT IN THE
29 NAME OF THE GOVERNMENT OF THE PHILIPPINES AND SHALL BE
30 PROSECUTED AND HANDLED BY THE ERC WITH THE ASSISTANCE
31 OF THE DEPARTMENT OF JUSTICE (DOJ): *PROVIDED*, THAT THE
32 DETERMINATION OF THE EXISTENCE OF PROBABLE CAUSE AND
33 THE SUBSEQUENT FILING OF ANY CRIMINAL OR CIVIL CASE WITH
34 THE PROPER COURT AGAINST VIOLATORS OF THIS ACT SHALL

1 **EXCLUSIVELY BELONG TO THE DOJ: PROVIDED, HOWEVER, THAT**
2 **NO CIVIL OR CRIMINAL ACTION FOR THE RECOVERY OF DUTIES**
3 **OR THE ENFORCEMENT OF ANY FINE, PENALTY OR FORFEITURE**
4 **UNDER THIS ACT SHALL BE FILED IN COURT WITHOUT THE**
5 **APPROVAL OF THE ERC.**

6 **(E) ADJUSTMENT OF FINES AND PENALTIES.** - THE FINES AND
7 PENALTIES MAY BE ADJUSTED TO ITS PRESENT VALUE EVERY FIVE
8 (5) YEARS USING THE CONSUMER PRICE INDEX (CPI) AS PUBLISHED
9 BY THE PHILIPPINE STATISTICS AUTHORITY

10 x x x”

11 **SEC. 11. Appropriations.** - The amount necessary for the initial
12 implementation of this Act shall be charged against the current year’s
13 Appropriations of the ERC. Thereafter, such amount shall be included in the
14 annual General Appropriations Act.

15 **SEC. 12. Congressional Oversight.** - The Joint Congressional Energy
16 Commission shall exercise oversight powers over the implementation of this Act.

17 **SEC. 13. Repealing Clause.** - Sections 1 and 2 of Executive Order No.
18 172, entitled “Creating the Energy Regulatory Board” and Section 42 of RA No.
19 9136, otherwise known as the “Electric Power Industry Reform Act of 2001”, as
20 amended, are hereby repealed.

21 All laws, decrees, orders, rules and regulations or parts thereof which are
22 inconsistent with or contrary to the provisions of this Act are hereby repealed or
23 amended accordingly without prejudice to RA No. 10667, otherwise known as
24 the “Philippine Competition Act”.

25 **SEC. 14. Effectivity.** - This Act shall take effect fifteen (15) days after its
26 publication in the *Official Gazette* or in a newspaper of general circulation.

27 Approved,