



Republic of the Philippines
House of Representatives
Quezon City



TWENTIETH CONGRESS

First Regular Session

House Bill No. **859**

Introduced by

PhilRECA Party-List Representative Presley C. De Jesus

EXPLANATORY NOTE

The passage of Republic Act No. 9136 or the Electric Power Reform Act (EPIRA) of 2001 liberalized and privatized the power industry. Its main objectives were to secure the power supply and to reduce the cost of electricity through competition and efficiency. Through EPIRA, the government should have been freed from subsidizing capital-intensive power projects. The private sector is expected to be aggressive in putting up new power plants.

Different sectors have strongly manifested the need to review EPIRA expressing discontent on its supposed rationale and objectives. It is generally found out that EPIRA has even resulted to the opposite of its objectives and instead unjustifiably gave way to rising costs of electricity.

The reality is that the transition to market operations is not paved well; that rising costs are not avoided; and the liberalization of the industry promoted by EPIRA pre-supposing competition to lower the costs was not realized. The policy of the State to promote the economic development of the country and ensure availability of electricity at reasonable cost as a catalyst for economic growth and progress must be recognized.

Unfortunately, the hope that the private sector would be aggressive to put up power plants to provide ancillary support and buffer to the ever-expanding energy requirements of the economy did not materialize. The private capitalist needed to wait, contract, and accumulate enough power requirement before they even start building the power plants. Or in other words, they needed a

“bigger problem” before they can propose a solution. And by the time the solution is proposed and accomplished, the energy requirement has ballooned already.

And with such new energy situation comes burden to consumers because with bigger demand and same supply comes increases in power rates. The generation companies cannot be faulted on this problem. They simply would not put up plants without assurance of enough contracts or distribution utilities who would purchase the power they will generate – to the detriment of the consumers.

The only way to solve the problem is for the government to intervene and provide the gap. The government needs to provide the necessary generating assets so that the consumers would not suffer either from high prices of electricity or no electricity at all.

The passage of this bill is earnestly sought.



REP. PRESLEY C. DE JESUS

PhilRECA Party-List



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AN ACT

MANDATING THE GOVERNMENT TO CONSTRUCT, OPERATE, AND MAINTAIN POWER GENERATING ASSETS TO ENSURE GRID STABILITY AND SUPPLY RELIABILITY FOR ANCILLARY AND OTHER PURPOSES, AMENDING FOR THE PURPOSE SECTION 47 OF REPUBLIC ACT NO. 9136, OTHERWISE KNOWN AS THE ELECTRIC POWER INDUSTRY REFORM ACT OF 2001

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

1 SECTION 1. ***Participation of Government in Power Generation.*** -
2 The Government is hereby allowed to participate in power generation to help
3 provide stability of the grid and in securing reserve capacity for the country.
4 *Provided*, that the generated capacity of these government power plants will
5 be used primarily as ancillary services. *Provided further*, that the cost of
6 construction or capital investment of all government-owned power plants
7 shall not form part as component of the generation cost or capital recovery
8 fee (CRF) of all the power generated in its operation regardless of its utilization,
9 except interest of loans or borrowings by government, if any, incurred in the
10 construction of said facilities. *Provided finally*, that only the actual cost of
11 operations and maintenance shall be recovered as part of the generation cost
12 of all power generated from the government-owned power plants.

1 SECTION 2. **Ownership and Operation of the Agus and Pulangui**
2 **Hydro Electric Plants Complexes.** - To continue the provision of low power
3 rates in Mindanao, Agus and Pulangui hydroelectric power complexes in
4 Lanao Del Sur and Bukidnon provinces, respectively, will be permanently
5 exempted from privatization. For this purpose, Section 47 of the EPIRA is
6 hereby amended as follows:

7 “SEC. 47. *NPC Privatization.* – Except for **THE AGUS AND PULANGUI**
8 **HYDRO ELECTRIC PLANTS COMPLEXES**, the generation assets, real
9 estate, and other disposable assets as well as IPP contracts of NPC shall
10 be privatized in accordance with this Act **AND** the following guidelines,
11 except as provided for in Paragraph (f) herein:

12 a) Xxx...

13 b) Xxx...

14 c) Xxx...

15 d) Xxx...

16 e) Xxx...

17 f) The Agus and the Pulangui complexes in Mindanao shall be
18 excluded from among the generation companies that will be
19 privatized. Their ownership shall be transferred to the PSALM
20 Corp. and both shall continue to be operated by the NPC. Said
21 complexes **SHALL BE RETAINED TO GENERATE POWER**
22 **WHICH WILL SERVE AS BUFFER SUPPLY TO AVERT**
23 **POWER CRISES. ELECTRIC COOPERATIVES SHALL BE**
24 **PRIORITIZED IN CONTRACTING THESE COMPLEXES’**
25 **CAPACITY TO SERVE THE NEED OF THE RESIDENTIAL**
26 **CONSUMERS.**

27 g) XXX

28 h) XXX

29 i) XXX

30 SECTION 3. **Construction and Maintenance of Additional Power**
31 **Plants.** - To ensure dependable reserve across the different grids without the
32 energy-consuming public suffering the cost of such ancillary services, the
33 government is mandated to construct, operate, and maintain its own power
34 plants outside of the market competition for power supply. For this purpose,
35 Section 47 (j) of EPIRA is hereby amended as follows:

1 “(j) NPC **SHALL** generate and sell electricity **AND SHALL**
2 **CONSTRUCT AND MAINTAIN ADDITIONAL CAPACITY**
3 **EQUIVALENT TO THE CAPACITY OF THE BIGGEST POWER**
4 **PLANT IN EVERY GRID, FOR ANCILLARY PURPOSES AND TO**
5 **STABILIZE THE GRID IN ANY GIVEN TIME THAT A BASE**
6 **PLANT EXPERIENCE OUTAGE.”**

7 SECTION 4. ***Non-impairment Clause.*** - Nothing in this Act shall be
8 construed as to diminish, impair or repeal rights recognized, granted, or made
9 available to disadvantaged, marginalized, or specific sectors under existing
10 laws.

11 SECTION 5. ***Implementing Rules and Regulations (IRR).*** - The
12 Department of Energy shall, in consultation with the concerned government
13 agencies and stakeholders, promulgate the implementing rules and
14 regulations to carry out the provisions of this Act.

15 SECTION 6. ***Separability.*** - Any portion or provision of this Act that
16 may be declared unconstitutional shall not have the effect of nullifying other
17 portions or provisions hereof as long as such remaining portions or provisions
18 can still subsist and be given effect in their entirety.

19 SECTION 7. ***Repealing Clause.*** - Sections and provisions of any laws,
20 rules, and regulations inconsistent with the provisions of this Act are hereby
21 repealed, amended, or modified accordingly.

22 SECTION 8. ***Effectivity.*** - This Act take effect fifteen (15) days after its
23 publication in the Official Gazette or in two (2) newspapers of general
24 circulation in the Philippines.

25 Approved,