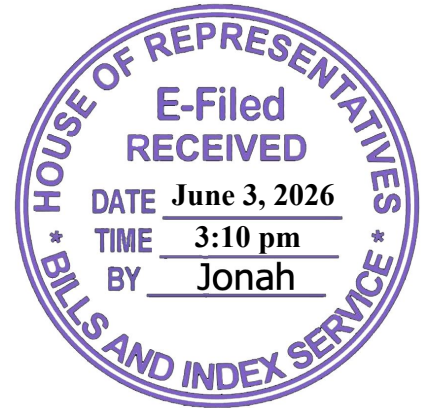


Republic of the Philippines
House of Representatives
Quezon City, Metro Manila

TWENTIETH CONGRESS
First Regular Session

HOUSE BILL NO. 9721



Introduced by Representative Kenneth T. Gatchalian

EXPLANATORY NOTE

Republic Act No. 9136, or the Electric Power Industry Reform Act of 2001 (EPIRA), restructured the power sector into a competitive but regulated industry and established the Energy Regulatory Commission (ERC) to ensure consumer protection and fair market operations. While the ERC performs a critical balancing role in rate-setting and regulation, there remains a clear gap in the representation of end-users in its proceedings.

This bill seeks to address this gap by creating an Energy Advocate Office (EAO), led by an Energy Advocate, to serve as the independent representative of consumers in all rate-setting, rule-making, and other energy-related proceedings before government, judicial, and quasi-judicial bodies.

By institutionalizing consumer representation, the measure aims to strengthen regulatory oversight, promote fairness in decision-making, and help ensure more reasonable electricity rates.

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


KENNETH T. GATCHALIAN

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

TWENTIETH CONGRESS
First Regular Session

HOUSE BILL NO. 9721

Introduced by Representative Kenneth T. Gatchalian

AN ACT
PROVIDING FOR A NATIONAL POLICY AND FRAMEWORK FOR
ENERGY ADVOCACY

*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 referred to as the “Energy
2 Advocate Act.”

3 **SEC. 2.** *Declaration of Policy.* – It is hereby declared the policy of the
4 State to recognize the right of energy end-users to reasonable rates, adequate and
5 reliable services, and to transparent processes involving these rates and services.
6 Towards this end, there is a need for institutionalized and independent end-user
7 representation in rate-setting, rule-making, and other energy related cases and
8 proceedings before government agencies including judicial and quasi-judicial
9 bodies.

10 **SEC. 3.** *The Energy Advocate Office (EAO).* – The EAO is hereby created
11 which shall be an independent and autonomous office attached to the Department
12 of Justice (DOJ) in accordance with Section 38(3), Chapter 7, Book IV of

1 Executive Order No. 292, otherwise known as the Administrative Code of 1987, as
2 amended.

3 **SEC. 4. *Powers and Functions.*** - The EAO shall be the representative of
4 all end-users in energy sector matters affecting public interest before any
5 department, commission, agency, or court. It shall independently discharge its
6 mandate towards the best interest of all end-users, ensuring least cost without
7 compromising safety, reliability, and sufficient service. Towards this end, the
8 EAO shall:

9 (1) Initiate, intervene, and represent all end-users, in the following:

- 10 a. Rate-setting, rule-making, and other energy related cases,
11 complaints, proceedings, and consultations before the Department of
12 Energy (DOE), Energy Regulatory Commission (ERC), National
13 Electrification Administration (NEA), Philippine Competition
14 Commission (PCC), and other judicial and quasi-judicial bodies; and
15 b. Actions before any trial or appellate court, including the Supreme
16 Court, which involve the validity of any decision, memoranda, rule,
17 regulation, circular, or order of the DOE, ERC, NEA, PCC, and
18 other departments, commissions, and agencies insofar as these
19 decisions and policy issuances affect energy rates and services;

20 (2) Monitor all issuances of the DOE, ERC, NEA, PCC, and other departments,
21 commissions, and agencies insofar as these affect energy rates and services;

22 (3) Engage in regular information, education, and communication programs for
23 all end-users on laws, rules, regulations, decisions, circulars, and orders that
24 affect energy rates and services, including end-users' rights and remedies;

25 (4) Be furnished or served, as the case may be, by departments, commissions,
26 and agencies with all documents, notices, petitions, applications,
27 complaints, answers, motions, and other pleadings in all energy related
28 cases, complaints, proceedings, and consultations;

1 (5) Have the right to access, free of charge, all files, records, and documents in
2 the DOE, ERC, NEA, PCC and other departments, commissions, and
3 agencies pertaining to energy related cases, complaints, proceedings, and
4 consultations: *Provided*, That the files, records, and documents do not
5 pertain to the following:

6 (a) Personnel information;

7 (b) Confidential communications between commissioners, judges, or
8 justices and general counsels on records relating to proceedings in
9 which the EAO is a party to; or

10 (c) Confidential information declared as such by the ERC; and

11 (6) Be free of charge in its use of ordinary mail, registered mail, or courier
12 service for the transmittal of official communications and papers directly
13 connected with the conduct of its powers, functions, or exercise of
14 administrative supervision over its personnel.

15 EAO lawyers shall have the authority to administer oaths in connection with the performance

16 **SEC. 5.** *The Energy Advocate and Deputy Energy Advocate.* – The
17 Energy Advocate (EA) shall head the EAO, shall have the primary authority and
18 responsibility for the effective exercise of its mandate and the discharge of its
19 powers and functions, and shall be assisted by a Deputy EA. In case of temporary
20 absence of the EA, the Deputy EA shall be designated as the Officer-in-Charge of
21 the EAO.

22 The EA and Deputy EA shall be natural-born citizens of the Philippines, at
23 least forty (40) years of age, with at least fifteen (15) years of practice in law, and
24 with proven competence, integrity, probity, and independence: *Provided*, That the
25 EA shall have at least six (6) years of practice in the field of energy, and the
26 Deputy EA shall have at least four (4) years of practice in the field of energy. Both
27 of them shall not be affiliated with any energy company, as member of the board,

1 officer, employee, or consultant, at least one (1) year before their respective
2 appointments.

3 **SEC. 6. *Appointment, Term, and Rank.*** – The EA and Deputy EA shall
4 be appointed by the President: *Provided*, That the appointment of the Deputy EA
5 shall be upon the recommendation of the EA. They shall both serve for a term of
6 six (6) years and may be reappointed: *Provided*, That for the first appointees, the
7 EA and Deputy EA shall hold office until the end of term of the appointing
8 President.

9 The EA and Deputy EA shall have the same rank, salaries, allowances, and
10 retirement benefits as the Prosecutor General and Senior Deputy State Prosecutor
11 of the National Prosecution Service respectively: *Provided*, That their retirement
12 benefits shall be prorated in accordance with Section 21 of Republic Act No.
13 10071, otherwise known as the Prosecution Services Act.

14 **SEC. 7. *Prohibitions.*** – The EA and Deputy EA shall be prohibited from:
15 (1) Serving as a member of the board, officer, employee, or consultant of any
16 energy company in the course of their respective terms of office: *Provided*,
17 That this prohibition shall also apply to their family members up to the
18 fourth degree of consanguinity or affinity;
19 (2) Having any interest, ownership, or stake in any energy company in the
20 course of their respective terms of office: *Provided*, That this prohibition
21 shall also apply to their family members up to the fourth degree of
22 consanguinity or affinity;
23 (3) Representing any government agency, government –owned or –controlled
24 corporation, or private company in any energy related case, proceeding, or
25 consultation before any department, commission, agency, or court, in the
26 course of one (1) year after the end of their respective terms of office; and
27 (4) Being members of a political party and committee, or engaging in any
28 partisan political activity in the course of their respective terms of office.

1 **SEC. 8. *Organizational Structure and Plantilla Positions.*** – The EAO,
2 upon approval of the DOJ, shall submit its organizational structure and plantilla
3 positions to the Department of Budget and Management (DBM) not later than six
4 (6) months from the effectivity of this Act: *Provided*, That the DBM shall approve
5 the final organizational structure and plantilla positions of the ECAO not later than
6 three (3) months from submission.

7 The EAO, upon approval of the DOJ, may request the DBM for any change
8 in the organizational structure and plantilla positions after a comprehensive review
9 resulting to a finding that any alteration will improve the discharge of the EAO's
10 powers and functions: *Provided*, That the DBM shall render a decision on such
11 request within three (3) months from submission.

12 The EAO shall have legal, technical, and administrative personnel in its
13 organizational structure and staffing complement, and may hire consultants as
14 expert witnesses or technical advisors as it finds necessary for the full and efficient
15 discharge of its powers and functions. All employees and consultants shall be
16 subject to civil service laws, rules, and regulations: *Provided*, That all employees
17 shall be subject to Republic Act No. 6758, otherwise known as the Salary
18 Standardization Act.

19
20 **SEC. 9. *Removal and Vacancy.*** – The EA and Deputy EA shall not be
21 removed or suspended, except for cause provided by law. The President may
22 remove the EA or the Deputy EA for malfeasance, misfeasance, or nonfeasance in
23 office, or for any cause which renders any of them ineligible for appointment,
24 incapable, or unfit to discharge the mandate, powers, and functions of the EAO.

25 In case of death, permanent incapacity, removal, or resignation of the
26 incumbent EA or Deputy EA, the President may appoint or designate one, as the
27 case may be, in an acting capacity until a new EA or Deputy EA has been

1 appointed: *Provided*, That the new appointment shall only be for the unexpired
2 term of the predecessor.

3 **SEC. 10. *Exemption from Fees and Costs of Suits.*** – The EAO shall be
4 exempt from payment of docket and other fees incidental to instituting an action in
5 court and other quasi-judicial bodies, as an original proceeding or on appeal.

6 **SEC. 11. *Costs of Suit.*** – The costs of the suit, attorney’s fees, and
7 contingent fees imposed upon adversarial parties of the EAO after a successful
8 litigation shall be deposited in the National Treasury.

9 **SEC. 12. *Grant of Special Allowances.*** – The EA, Deputy EA, service or
10 division heads, and lawyers shall be granted special allowances in amounts to be
11 determined by the DBM: *Provided*, That the grant of said special allowances shall
12 not exceed one hundred percent (100%) of the basic salary of the EAO officials
13 and lawyers: *Provided further*, That special allowances shall be paid from costs of
14 suit, attorney’s fees and contingent fees deposited in the National Treasury
15 pursuant to Section 11 of this Act: *Provided finally*, That whenever the funding
16 source is insufficient, the special allowance shall be paid through the General
17 Appropriations Act.

18 **SEC. 13. *Appropriations.*** – The amount needed for the initial
19 implementation of this Act in the amount of two hundred million pesos
20 (P200,000,000.00) shall be taken from the budget of the DOJ. Thereafter, such
21 sums as may be necessary for its continued implementation shall be included in the
22 annual General Appropriations Act.

23 **SEC. 14. *Amendatory Clause.*** – Republic Act No. 7638, otherwise known
24 as the Department of Energy Act of 1992, as amended, is hereby further amended.

25 **SEC. 15. *Implementing Rules and Regulations.*** – Within ninety (90)
26 calendar days from the approval of this Act, the DOJ, in consultation with the
27 DBM, government energy agencies, and private energy stakeholders, shall adopt
28 and issue the rules and regulations for the effective implementation of this Act.

1 **SEC. 16. *Congressional Oversight.*** – The Joint Congressional Energy
2 Commission shall exercise oversight powers over implementation of this Act.

3 **SEC. 17. *Separability Clause.*** – If any portion or provision of this Act is
4 declared unconstitutional, the remainder of this Act or any provisions not affected
5 thereby shall remain in force and effect.

6 **SEC. 18. *Repealing Clauses.*** – Any law, presidential decree or issuance,
7 executive order, letter of instruction, rule or regulation inconsistent with the
8 provisions of this Act is hereby amended, modified, or repealed accordingly.

9 **SEC. 19. *Effectivity Clause.*** – This Act shall take effect fifteen (15) days
10 after its complete publication in the Official Gazette or a newspaper of general
11 circulation.

12
13 *Approved,*