

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

TWENTIETH CONGRESS
Second Regular Session
House Bill No. **10258**



Introduced by: Congressman **BIENVENIDO M. ABANTE, JR.**

AN ACT
STRENGTHENING REGULATION IN THE ELECTRIC POWER INDUSTRY,
AMENDING FOR THE PURPOSE SECTIONS 6, 43, 45 AND 71 OF REPUBLIC
ACT NO. 9136, AND FOR OTHER PURPOSES

EXPLANATORY NOTE

Republic Act No. 9136, otherwise known as the Electric Power Industry Reform Act of 2001 (EPIRA), restructured the electric power industry by dividing it into four (4) sectors—generation, transmission, distribution, and supply—and by adopting a regulatory framework intended to promote competition, market development, consumer protection, and the penalization of market power abuse.¹

EPIRA likewise declared that the generation sector, while a “business affected with public interest,” “shall **not** be considered a public utility operation,” and that entities engaged in power generation and supply of electricity “shall **not** be required to secure a national franchise.”² The Supreme Court has acknowledged that this legislative classification produces concrete legal consequences, including the removal of power generation from the ambit of local franchise taxes that may be imposed only on businesses “enjoying a franchise.”³ At the same time, jurisprudence addressing constitutional challenges to EPIRA’s design recognizes that EPIRA continues to treat the generation and supply sectors as businesses affected with public interest and subjects industry participants to rules against market power abuse, cartelization, and other anti-competitive or discriminatory behavior.⁴

While EPIRA contains safeguards against harmful monopoly and market power abuse, including ERC authority to monitor and take measures against cartelization and other anti-competitive conduct, continued sector experience has underscored the need for stronger structural safeguards, transparency requirements,

¹ Sec. 4 of RA 9136.

² Id. At Sec 6.

³ G.R. No. 180654, *National Power Corporation v. Provincial Government of Bataan, et al*, March 6, 2017

⁴ G.R. No. 210245 *Colmenares, et al. v. Energy Regulatory Commission, et al.* August 3, 2021

and more effective enforcement tools to protect consumers from abuse and to promote fair competition.

Further, EPIRA's design places policy formulation and rulemaking within the Department of Energy (DOE) while the Energy Regulatory Commission (ERC) enforces the implementing framework within its delegated regulatory and quasi-judicial powers; administrative issuances must remain germane to EPIRA's objectives and cannot contradict the statute.

Accordingly, this bill seeks to: (1) strengthen the legal framework governing the generation sector by treating generation as a public utility operation while implementing a workable authorization regime, and by enhancing transparency and enforcement against market power abuse; (2) strengthen safeguards against structural self-dealing and cross-ownership between generation and distribution, and prohibit prohibited affiliate supply arrangements subject to due process and a clear transition; (3) reinforce ERC powers and disclosure requirements in relation to pass-through items and consumer protection, including clearer accountability for system losses; and (4) provide transitory provisions to ensure uninterrupted service and orderly compliance.

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



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

SECTION 1. Short Title. This Act shall be known as the “EPIRA Public Utility, Anti-Cartel, System Loss Accountability, and Power Crisis Response Amendments.”

“SEC. 6. Generation Sector. – Generation of electric power, a business affected with public interest, shall be competitive and open.

Upon the effectivity of this Act, any new generation company shall, before it operates, secure from the Energy Regulatory Commission (ERC) a certificate of compliance pursuant to the standards set forth in this Act, as well as health, safety and environmental clearances from the appropriate government agencies under existing laws.

Any law to the contrary notwithstanding, power generation shall ~~[not]~~ be considered a public utility operation. For this purpose, any person or entity engaged or which shall engage in power generation and supply of electricity shall ~~[not]~~ be required to secure a ~~[national]~~ franchise, **CERTIFICATE, OR OTHER FORM OF AUTHORIZATION AS MAY BE PROVIDED BY LAW, IN ADDITION TO THE CERTIFICATE OF COMPLIANCE AND OTHER PERMITS REQUIRED BY LAW.**

Upon implementation of retail competition and open access, the prices charged by a generation company for the supply of electricity shall ~~[not be subject to regulation by the ERC except as otherwise provided in this Act]~~ **GENERALLY NOT BE SUBJECT TO RATE REGULATION BY THE ERC; PROVIDED, THAT THE ERC MAY, AFTER DUE NOTICE AND HEARING, IMPOSE PRICE CONTROLS OR OTHER**

REMEDIAL MEASURES AS MAY BE NECESSARY TO ENSURE JUST AND REASONABLE RATES AND TO PREVENT OR ADDRESS MARKET POWER ABUSE, CARTELIZATION, OR OTHER ANTI-COMPETITIVE OR DISCRIMINATORY BEHAVIOR, CONSISTENT WITH THIS ACT.

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

The ERC shall, in determining the existence of market power abuse or anti-competitive behavior, require from generation companies the submission of their financial statements **AND SUCH OTHER COST, REVENUE, CONTRACTING, BIDDING, OUTAGE, FUEL-SUPPLY, AND AFFILIATE-TRANSACTION INFORMATION AS MAY BE NECESSARY TO ENSURE TRANSPARENCY AND EFFECTIVE REGULATION, SUBJECT TO APPROPRIATE CONFIDENTIALITY PROTECTIONS."**

SEC. 2. Amendment of Section 43 (Functions of the ERC) is hereby amended by inserting additional paragraphs immediately after paragraph (f), to read as follows:

"SEC. 43. Functions of the ERC. -The ERC shall promote competition, encourage market development, ensure customer choice, and penalize abuse of market power in the restructured electricity industry. In appropriate cases, the ERC is authorized to issue a cease and desist order after due notice and hearing. Towards this end, it shall be responsible for the following key functions in the restructured industry:

- (a) Enforce the implementing rules and regulations of this Act;
- (b) Within six (6) months from the effectivity of this Act, promulgate and enforce, in accordance with law, a National Grid Code and a Distribution Code which shall include, but not be limited to, the following:
 - (i) Performance standards for TRANSCO O & M Concessionaire, distribution utilities and suppliers: Provided, that in the establishment of the performance standards, the nature and function of the entities shall be considered; and
 - (ii) Financial capability standards for the generating companies, the TRANSCO, distribution utilities and suppliers: Provided, further, that such standards are set to ensure that the electric power

industry participants meet the minimum financial standards to protect the public interest. Determine, fix, and approve, after due notice and public hearings, the universal charge to be imposed on all electricity end-users pursuant to Section 34 hereof.

- (c) Enforce the rules and regulations governing the operations of the electricity spot market and the activities of the spot market operator and other participants in the spot market, for the purpose of ensuring a greater supply and rational pricing of electricity;
- (d) Determine the level of cross subsidies in the existing retail rate until the same is removed pursuant to Section 74 hereof;
- (e) Amend or revoke, after due notice and hearing, the authority to operate of any person or entity which fails to comply with the provisions hereof, the IRR or any order or resolution of the ERC. In the event a divestment is required, the ERC shall allow the affected party sufficient time to remedy the infraction or for an orderly disposal, but in no case exceed twelve (12) months from the issuance of the order;
- (f) In the public interest, establish and enforce a methodology for setting transmission and distribution wheeling rates and retail rates for the captive market of a distribution utility, taking into account all relevant considerations, including the efficiency or inefficiency of the regulated entities. The rates must be such as to allow the recovery of just and reasonable costs and a reasonable return on rate base (RORB) to enable the entity to operate viably. The ERC may adopt alternative forms of internationally-accepted rate-setting methodology as it may deem appropriate. The rate-setting methodology so adopted and applied must ensure a reasonable price of electricity. The rates prescribed shall be non-discriminatory. To achieve this objective and to ensure the complete removal of cross-subsidies, the cap on the recoverable rate of system losses prescribed in Section 10 of Republic Act No. 7832 is hereby amended and shall be replaced by caps which shall be determined by the ERC based on load density, sales mix, cost of service, delivery voltage and other technical considerations it may promulgate. The ERC shall determine such form or rate-setting methodology, which shall promote efficiency. In case the rate-setting methodology used is RORB, it shall be subject to the following guidelines:
 - (i) For purposes of determining the rate base, the TRANSCO or any distribution utility may be allowed to revalue its eligible assets not more than once every three (3) years by an independent appraisal company: Provided, however, That

ERC may give an exemption in case of unusual devaluation: Provided, further, That the ERC shall exert efforts to minimize price shocks in order to protect the consumers;

- (ii) Interest expenses are not allowable deductions from permissible return on rate base;
- (iii) In determining eligible cost of services that will be passed on to the end-users, the ERC shall establish minimum efficiency performance standards for the TRANSCO and distribution utilities including systems losses, interruption frequency rates, and collection efficiency;
- (iv) Further, in determining rate base, the TRANSCO or any distribution utility shall not be allowed to include management inefficiencies like cost of project delays not excused by force majeure, penalties and related interest during construction applicable to these unexcused delays; and
- (v) Any significant operating costs or project investments of the TRANSCO and distribution utilities which shall become part of the rate base shall be subject to verification by the ERC to ensure that the contracting and procurement of the equipment, assets and services have been subjected to transparent and accepted industry procurement and purchasing practices to protect the public interest.

IN DETERMINING ELIGIBLE COST OF SERVICES AND APPROVING PASS-THROUGH ITEMS, THE ERC SHALL ENSURE THAT SYSTEM LOSS RECOVERIES ARE LIMITED TO REASONABLE AND EFFICIENTLY INCURRED LOSSES. THE ERC SHALL DISALLOW THE RECOVERY FROM END-USERS OF SYSTEM LOSS ATTRIBUTABLE TO NEGLIGENCE, FAILURE TO MAINTAIN FACILITIES, UNREASONABLE TECHNICAL INEFFICIENCIES, INADEQUATE METERING, OR FAILURE TO IMPLEMENT ANTI-PILFERAGE MEASURES.

SHALL ADOPT PERFORMANCE-BASED LOSS-REDUCTION TARGETS AND REQUIRE TIME-BOUND LOSS-REDUCTION PROGRAMS WITH MEASURABLE TARGETS. THE ERC MAY IMPOSE PENALTIES, DISALLOWANCES, OR OTHER REGULATORY MEASURES FOR FAILURE TO MEET SUCH TARGETS, CONSISTENT WITH ITS AUTHORITY TO PENALIZE NON-COMPLIANCE AND TO ENSURE EFFICIENCY STANDARDS.

SHALL REQUIRE THE CLEAR ITEMIZATION AND DISCLOSURE OF ALL PASS-THROUGH CHARGES, INCLUDING SYSTEM LOSS COMPONENTS, IN CONSUMER BILLS TO ENSURE TRANSPARENCY AND NON-DISCRIMINATION IN THE ALLOCATION OR PASS-THROUGH OF BULK PURCHASE COST.

NO VALUE-ADDED TAX SHALL BE IMPOSED, COLLECTED, OR PASSED ON TO END-USERS ON CHARGES REPRESENTING SYSTEM LOSS OR ELECTRICITY NOT ACTUALLY DELIVERED TO AND CONSUMED BY THE END-USER.

- (g) Three (3) years after the imposition of the universal charge, ensure that the charges of the TRANSCO or any distribution utility shall bear no cross subsidies between grids, within grids, or between classes of customers, except as provided herein;
- (h) Review and approve any changes to the terms and conditions of service of the TRANSCO or any distribution utility;
- (i) Allow the TRANSCO to charge user fees for ancillary services to all electric power industry participants or self-generating entities connected to the grid. Such fees shall be fixed by the ERC after due notice and public hearing;
- (j) Set a lifeline rate for the marginalized end-users;
- (k) Monitor and take measures in accordance with this Act to penalize abuse of market power, cartelization, and anti-competitive or discriminatory behavior by any electric power industry participant;
- (l) Impose fines or penalties for any non-compliance with or breach of this Act, the IRR of this Act and the rules and regulations which it promulgates or administers;
- (m) Take any other action delegated to it pursuant to this Act;
- (n) Before the end of April of each year, submit to the Office of the President of the Philippines and Congress, copy furnished the DOE, an annual report xxx;
- (o) Monitor the activities in the generation and supply of the electric power industry with the end in view of promoting free market competition and ensuring that the allocation or pass-through of bulk purchase cost by distributors is transparent, non-discriminatory and that any existing subsidies shall be divided pro-rata among all retail suppliers;

- (p) Act on applications for or modifications of certificates of public convenience and/or necessity, licenses or permits of franchised electric utilities xxx;
- (q) Act on applications for cost recovery and return on demand side management projects;
- (r) In the exercise of its investigative and quasi-judicial powers, act against any participant or player in the energy sector for violations xxx and require any person or entity to submit any report or data relative to any investigation or hearing conducted pursuant to this Act;
- (s) Inspect, on its own or through duly authorized representatives, the premises, books of accounts and records of any person or entity at any time, in the exercise of its quasi-judicial power for purposes of determining the existence of any anti-competitive behavior and/or market power abuse xxx;
- (t) Perform such other regulatory functions as are appropriate and necessary xxx; and
- (u) The ERC shall have the original and exclusive jurisdiction over all cases contesting rates xxx.

SEC. 3. Amendment of Section 45 (Cross Ownership, Market Power Abuse and Anti-Competitive Behavior) is hereby amended to read as follows:

“SEC. 45. Cross Ownership, Market Power Abuse and Anti-Competitive Behavior. ~~No~~ participant in the electricity industry or any other person may engage in any anti-competitive behavior including, but not limited to, cross-subsidization, price or market manipulation, or other unfair trade practices detrimental to the encouragement and protection of contestable markets.

No generation company, distribution utility, or its respective subsidiary or affiliate or stockholder or official of a generation company or distribution utility, or other entity engaged in generating and supplying electricity specified by **THE** ERC within the fourth civil degree of consanguinity or affinity, shall be allowed to hold any interest, directly or indirectly, in TRANSCO or its concessionaire. Likewise, TRANSCO, or its concessionaire, or any of its stockholders or officials, or any of their relatives within the fourth civil degree of consanguinity or affinity, shall not hold any interest, whether directly or indirectly, in any generation company or distribution utility. Except for ex officio government-appointed representatives, no person who is an officer or director of the

TRANSCO or its concessionaire shall be an officer or director of any generation company, distribution utility or supplier.

An "affiliate" means any person which, alone or together with any other person, directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with another person. As used herein, "control" shall mean the power to direct or cause the direction of the management policies of a person by contract, agency or otherwise.

To promote true market competition and prevent harmful monopoly and market power abuse, the ERC shall enforce the following safeguards:

- (a) No company or related group can own, operate or control more than thirty percent (30%) of the installed generating capacity of a grid and/or twenty-five percent (25%) of the national installed generating capacity. "Related group" includes a ~~[persons]~~ **PERSON'S** business interests, including its subsidiaries, affiliates, directors or officers or any of their relatives by consanguinity or affinity, legitimate or common law, within the fourth civil degree;
- (b) Distribution utilities may enter into bilateral power supply contracts subject to review by the ERC: Provided that such review shall only be required for distribution utilities whose markets have not reached household demand level. For the purpose of preventing market power abuse between associated firms engaged in generation and distribution, no distribution utility shall be allowed to source from bilateral power supply contracts more than fifty percent (50%) of its total demand from an associated firm engaged in generation, but such limitation, however, shall not prejudice contracts entered into prior to the effectivity of this Act. An associated firm with respect to another entity refers to any person which, alone or together with any other person, directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such entity; ~~[and]~~ **PROVIDED, FURTHER, THAT NO DISTRIBUTION UTILITY SHALL BE ALLOWED TO SOURCE ANY PORTION OF ITS TOTAL DEMAND FROM ANY GENERATION COMPANY THAT IS AN ASSOCIATED FIRM, AN AFFILIATE, UNDER COMMON CONTROL WITH, OR PART OF THE SAME RELATED GROUP AS THE DISTRIBUTION UTILITY, SUBJECT TO THE TRANSITORY PROVISIONS OF THIS AMENDATORY ACT; AND**

- (c) For the first five (5) years from the establishment of the wholesale electricity spot market, no distribution utility shall source more than ninety percent (90%) of its total demand from bilateral power supply contracts.

For purposes of this Section, the grid basis shall consist of three (3) separate grids, namely Luzon, Visayas and Mindanao. The ERC shall have the authority to modify or amend this definition of a grid when two or more of the three separate grids become sufficiently interconnected to constitute a single grid or as conditions may otherwise permit.

Exceptions from these limitations shall be allowed for isolated grids that are not

connected to the high voltage transmission system. Except as otherwise provided for in this Section, any restriction on ownership and/or control between or within sectors of the electricity industry may be imposed by THE ERC only insofar as the enforcement of the provisions of this Section is concerned.

- (d) **TO PREVENT STRUCTURAL SELF-DEALING AND MARKET COLLUSION, NO GENERATION COMPANY, ITS SUBSIDIARIES OR AFFILIATES, RELATED GROUP, STOCKHOLDER, BENEFICIAL OWNER, DIRECTOR, OFFICER, OR ANY PERSON ACTING IN CONCERT THEREWITH, SHALL OWN, CONTROL, OR HOLD ANY INTEREST, DIRECTLY OR INDIRECTLY, IN ANY DISTRIBUTION UTILITY; AND NO DISTRIBUTION UTILITY, ITS SUBSIDIARIES OR AFFILIATES, RELATED GROUP, STOCKHOLDER, BENEFICIAL OWNER, DIRECTOR, OFFICER, OR ANY PERSON ACTING IN CONCERT THEREWITH, SHALL OWN, CONTROL, OR HOLD ANY INTEREST, DIRECTLY OR INDIRECTLY, IN ANY GENERATION COMPANY, SUBJECT TO THE TRANSITORY PROVISIONS OF THIS AMENDATORY ACT.**
- (e) **ANY POWER SUPPLY AGREEMENT, BILATERAL POWER SUPPLY CONTRACT, CAPACITY AGREEMENT, TOLLING AGREEMENT, OR SIMILAR ARRANGEMENT BETWEEN A DISTRIBUTION UTILITY AND A GENERATION COMPANY THAT ARE AFFILIATES, UNDER COMMON CONTROL, OR PART OF THE SAME RELATED GROUP SHALL BE PROHIBITED. A CONTRACT EXECUTED IN VIOLATION OF THIS SUBSECTION SHALL BE VOIDABLE AND SUBJECT TO DISALLOWANCE, RESTRUCTURING, OR OTHER REMEDIAL ACTION BY THE ERC, AFTER DUE NOTICE AND HEARING: PROVIDED, THAT THE ERC MAY ALLOW A STRICTLY TIME-**

BOUND INTERIM SUPPLY ARRANGEMENT SOLELY TO PREVENT SERVICE INTERRUPTION TO CAPTIVE CUSTOMERS, UNDER TRANSPARENT AND LEAST-COST TERMS AND SUBJECT TO ERC REVIEW AND MONITORING.

- (F) UPON FINDING A VIOLATION OF SUBSECTIONS (B), (D), OR (E), OR UPON A FINDING OF MARKET POWER ABUSE, CARTELIZATION, OR OTHER ANTI-COMPETITIVE OR DISCRIMINATORY BEHAVIOR, THE ERC SHALL STOP AND REDRESS THE SAME. REMEDIES SHALL, WITHOUT LIMITATION, INCLUDE THE IMPOSITION OF PRICE CONTROLS, ISSUANCE OF INJUNCTIONS, REQUIREMENT OF DIVESTMENT OR DISGORGEMENT OF EXCESS PROFITS, AND IMPOSITION OF FINES AND PENALTIES PURSUANT TO THIS ACT. WHERE DIVESTMENT IS REQUIRED, THE ERC SHALL ALLOW THE AFFECTED PARTY SUFFICIENT TIME FOR AN ORDERLY DISPOSAL, BUT IN NO CASE EXCEED TWELVE (12) MONTHS FROM THE ISSUANCE OF THE ORDER, SUBJECT TO THE TRANSITORY PROVISIONS OF THIS AMENDATORY ACT.

The ERC shall, within one (1) year from the effectivity of this Act, promulgate rules and regulations to ensure and promote competition, encourage market development and customer choice, and discourage/penalize abuse of market power, cartelization and any anti-competitive or discriminatory behavior, in order to further the intent of this Act and protect the public interest. Such rules and regulations shall define the ~~following: (a) the~~ relevant markets for purposes of establishing abuse or misuse of monopoly or market position ~~;~~ ~~(b)~~, areas of isolated grids~~;~~, and ~~[(e)]~~ the periodic reportorial requirements of electric power industry participants as may be necessary to enforce the provisions of this Section.

The ERC shall, motu proprio, monitor and penalize any market power abuse or anti-competitive or discriminatory act or behavior by any participant in the electric power industry. Upon finding **OF A PRIMA FACIE CASE** that a market participant has engaged in such act or behavior, the ERC shall, **AFTER DUE NOTICE AND HEARING**, stop and redress the same. Such remedies shall, without limitation, include the imposition of **BID OR** price controls, issuance of injunctions, ~~[requirement of]~~ divestment or disgorgement of excess profits, and imposition of fines and penalties pursuant to this Act.

The ERC shall, within one (1) year from the effectivity of this Act, promulgate rules and regulations providing for a complaint procedure that, without limitation, provides the accused party with notice and an opportunity to be heard."

SEC. 4. Amendment of Section 71 is hereby amended by inserting additional paragraphs immediately after

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

UPON RECOMMENDATION OF THE DEPARTMENT OF ENERGY (DOE), THE PRESIDENT MAY, FOR A PERIOD NOT EXCEEDING SIX (6) MONTHS, RENEWABLE ONCE, DIRECT THE DOE, THE ENERGY REGULATORY COMMISSION (ERC), AND OTHER CONCERNED AGENCIES TO IMPLEMENT TIME-BOUND EMERGENCY MEASURES TO PROTECT CONSUMERS AND ENSURE RELIABILITY OF SUPPLY, INCLUDING ENHANCED MONITORING AND MANDATORY DISCLOSURES BY INDUSTRY PARTICIPANTS, EXPEDITED ERC INVESTIGATIONS AND INTERIM RELIEF WITHIN ITS EXISTING AUTHORITY, AND ACCELERATED PROCESSING OF PERMITS FOR REPAIRS, UPRATING, REHABILITATION, ANCILLARY SERVICES, AND OTHER NON-CAPACITY INTERVENTIONS.

NOTHING IN THIS SECTION SHALL BE CONSTRUED AS AUTHORITY TO ESTABLISH ADDITIONAL GENERATING CAPACITY WITHOUT CONGRESSIONAL AUTHORIZATION THROUGH A JOINT RESOLUTION.”

SEC. 6. TRANSITORY PROVISIONS.

- (A) ALL GENERATION FACILITIES AND GENERATION COMPANIES HOLDING A VALID CERTIFICATE OF COMPLIANCE (COC) OR OTHER AUTHORITY TO OPERATE ISSUED BY THE ENERGY REGULATORY COMMISSION (ERC) PRIOR TO THE EFFECTIVITY OF THIS ACT SHALL BE ALLOWED TO CONTINUE OPERATING DURING THE TRANSITION PERIOD PROVIDED IN THIS SECTION, SUBJECT TO CONTINUED COMPLIANCE WITH EXISTING ERC RULES AND THE PROVISIONS OF REPUBLIC ACT NO. 9136, AS AMENDED.**
- (B) ANY GENERATION COMPANY COVERED BY PARAGRAPH (A) SHALL, WITHIN TWELVE (12) MONTHS FROM THE EFFECTIVITY OF THIS ACT, SECURE THE REQUIRED NATIONAL FRANCHISE OR OTHER LEGISLATIVE AUTHORITY FOR THE OPERATION OF A PUBLIC UTILITY, WITHOUT PREJUDICE TO THE CONTINUED VALIDITY OF ITS COC DURING THE TRANSITION PERIOD. FOR PURPOSES OF ENSURING UNINTERRUPTED ELECTRICITY SUPPLY, THE ERC SHALL, UPON COMPLIANCE WITH ITS RULES, ISSUE SUCH INTERIM OR PROVISIONAL AUTHORITY AS MAY BE NECESSARY TO GOVERN CONTINUED OPERATIONS AND**

COMPLIANCE MONITORING DURING THE TRANSITION PERIOD.

- (C) POWER SUPPLY AGREEMENTS, BILATERAL POWER SUPPLY CONTRACTS, AND OTHER SUPPLY ARRANGEMENTS EXECUTED AND EFFECTIVE PRIOR TO THE EFFECTIVITY OF THIS ACT SHALL NOT BE DEEMED TERMINATED SOLELY BY REASON OF THE RECLASSIFICATION OF POWER GENERATION AS A PUBLIC UTILITY. HOWEVER, CONTRACTS THAT BECOME PROHIBITED UNDER SECTION 45 OF REPUBLIC ACT NO. 9136, AS AMENDED, SHALL BE SUBMITTED TO THE ERC FOR REVIEW WITHIN NINETY (90) DAYS FROM THE EFFECTIVITY OF THIS ACT AND SHALL BE RESTRUCTURED, ASSIGNED, OR OTHERWISE BROUGHT INTO COMPLIANCE WITHIN THE TRANSITION PERIOD, SUBJECT TO THE ERC'S AUTHORITY TO APPROVE STRICTLY TIME-BOUND INTERIM SUPPLY ARRANGEMENTS SOLELY TO PREVENT INTERRUPTION OF SERVICE TO CAPTIVE CUSTOMERS.**
- (D) WHERE DIVESTMENT IS REQUIRED UNDER SECTION 45 OF REPUBLIC ACT NO. 9136, AS AMENDED, THE ERC SHALL DIRECT AN ORDERLY DIVESTMENT PLAN AND FIX COMPLIANCE MILESTONES. UNLESS EXTENDED FOR COMPELLING REASONS TO PREVENT SERVICE INTERRUPTION AND UPON SUCH CONDITIONS AS THE ERC MAY IMPOSE, FULL COMPLIANCE SHALL BE COMPLETED WITHIN TWELVE (12) MONTHS FROM THE ISSUANCE OF THE ERC DIVESTMENT ORDER.**
- (E) NOTHING IN THIS ACT SHALL BE INTERPRETED TO AUTHORIZE THE INTERRUPTION OF ELECTRICITY SERVICE TO END-USERS BY REASON SOLELY OF THE PENDENCY OF FRANCHISE APPLICATIONS, CONTRACT RESTRUCTURING, OR DIVESTMENT COMPLIANCE, PROVIDED THAT THE CONCERNED ENTITIES ARE ACTING IN GOOD FAITH AND IN ACCORDANCE WITH ERC-DIRECTED INTERIM MEASURES.**

SEC. 5. *Implementing Rules and Regulations.* Within ninety (90) days from the effectivity of this Act, the DOE and the ERC shall promulgate the necessary implementing rules and regulations to carry out this Act.

SEC. 6. *Separability Clause.* If any provision of this Act is declared unconstitutional or invalid, the other provisions not affected thereby shall remain in full force and effect.

SEC. 7. *Repealing Clause.* All laws, decrees, executive orders, rules and regulations, and other issuances or parts thereof inconsistent with this Act are hereby repealed, amended, or modified accordingly.

SEC. 8. *Effectivity.* This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in a newspaper of general circulation.

Approved.