



Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

TWENTIETH CONGRESS
Second Regular Session

HOUSE BILL NO. 10357



Introduced by Rep. ROBERT NAZAL

AN ACT
PROHIBITING THE DIRECT OR INDIRECT RECOVERY OF DISTRIBUTION
SYSTEM LOSS CHARGES, INCLUDING ANY VALUE-ADDED TAX
ATTRIBUTABLE THERETO, FROM ELECTRICITY CONSUMERS, AMENDING
FOR THE PURPOSE REPUBLIC ACT NO. 7832, AS AMENDED, AND REPUBLIC
ACT NO. 9136, OTHERWISE KNOWN AS THE “ELECTRIC POWER INDUSTRY
REFORM ACT OF 2001,” AND FOR OTHER PURPOSES

EXPLANATORY NOTE

Electricity is an essential public service that powers homes, schools, hospitals, businesses, industries, and government institutions. Reliable electricity at a just and reasonable cost is indispensable to economic development, social welfare, and the daily life of every Filipino.

Electricity consumers, however, continue to be charged for “system losses” — electricity lost before it reaches the end-user. These losses may arise from the technical characteristics of transmission and distribution networks or from non-technical causes such as electricity pilferage, illegal connections, defective metering, inadequate maintenance, and operational inefficiency.

At its core, this measure asks a simple question: Should consumers bear the cost of electricity that never reaches them, or should that remain a business risk of the entities that own and operate the distribution system? This bill adopts the latter policy, consistent with the principle that financial responsibility should follow operational control. Consumers cannot design distribution networks, replace aging facilities, upgrade transformers, maintain meters, prevent electricity theft, or determine the capital and operational investments of electric utilities. These matters remain within the responsibility and control of distribution utilities.

This concern stems from House Resolution No. 976, introduced by Representatives Robert Nazal and Paolo Henry Marcoleta, which called for a congressional inquiry by the Energy Regulatory Commission and the Commission on Audit into Meralco's electricity rates, pass-through charges, and rate methodologies to evaluate if system-loss charges are necessary and transparent.

While House Resolution No. 976 offers oversight, this bill provides substantive reform. It ensures that electricity lost before delivery is no longer automatically billed to consumers who cannot prevent these losses.

State-franchised distribution utilities and electric cooperatives are obligated to maintain efficient systems, modernize infrastructure, and reduce technical and non-technical losses. Passing these costs to consumers weakens utility accountability for operational risks.

Article XII of the 1987 Constitution subjects public utilities to State regulation in the public interest. Congress may therefore determine which costs may lawfully form part of regulated electricity rates and which costs must be absorbed as operating expenses and business risks of the regulated entity.

This measure prohibits the charging, billing, collection, or recovery of technical and non-technical system losses from electricity end-users. It treats such losses as operating expenses and business risks of the concerned electric power industry participant and withdraws the authority of the Energy Regulatory Commission to approve their direct or indirect recovery through tariffs, riders, adjustment mechanisms, surcharges, or other rate components.

Ang konsumer ay dapat magbayad para sa kuryenteng aktuwal na naihatid sa kaniya — hindi para sa kuryenteng nawala dahil sa pagnanakaw, kakulangan sa pagpapanatili, o kahinaan ng sistema. The entities that control the system must bear responsibility for improving it.

This measure advances consumer protection, strengthens accountability, and creates a direct incentive for electric utilities and other industry participants to invest in efficient, secure, and reliable power systems.

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



ROBERT NAZAL
Representative

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17 **SYSTEM LOSS CHARGES, INCLUDING ANY VALUE-ADDED TAX**
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22

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

25
26 Section 1. **Short Title.** — This Act shall be known as the “System Loss Charge
27 Abolition Act.”
28

29 Sec. 2. **Declaration of Policy.** — It is hereby declared the policy of the State
30 to protect electricity consumers from unreasonable and avoidable charges; promote
31 transparent, just, and reasonable electricity rates; require distribution utilities to
32 operate efficiently and accountably; encourage continuing investment in safe, modern,
33 and reliable distribution systems; and place responsibility for distribution system loss
34 upon the entity that owns, operates, manages, or controls the distribution network.
35

36 Sec. 3. **Definition of Terms.** — For purposes of this Act:
37

38 (a) “Distribution system loss” means the difference between the total electrical
39 energy received by a distribution utility at its points of delivery and the total electrical
40 energy delivered and properly metered to end-users and other authorized recipients,
41 including technical and non-technical losses;
42

43 (b) “Technical system loss” means electricity lost because of the physical
44 characteristics, design, condition, operation, or maintenance of distribution lines,
45 transformers, substations, meters, and other distribution facilities;

1
2 (c) "Non-technical system loss" means electricity lost because of pilferage,
3 illegal connections, meter tampering, inaccurate metering, billing or administrative
4 errors, unregistered consumption, fraud, or other causes not arising solely from the
5 physical delivery of electricity;
6

7 (d) "Distribution utility" or "DU" means any electric cooperative, private
8 corporation, government-owned utility, local government unit, or other entity
9 authorized to distribute electricity to end-users;
10

11 (e) "End-user" means any person or entity requiring the supply and delivery of
12 electricity for its own use;
13

14 (f) "Direct or indirect recovery" means the billing, collection, allocation,
15 embedding, capitalization, deferral, reimbursement, reclassification, imputation, or
16 recovery of any amount from an end-user, regardless of the name, rate component,
17 account, formula, methodology, or mechanism used; and
18

19 (g) "Prohibition Date" means the date established under Sec. 15 of this Act upon
20 which the complete prohibition against the recovery of distribution system loss shall
21 commence.
22

23 Sec. 4. **Allocation of Distribution-System Risk.** — Technical and non-
24 technical distribution system losses shall be considered inherent operational and
25 business risks of the distribution utility that owns, operates, manages, or controls the
26 distribution system in which the losses occurred.
27

28 The physical unavoidability of a portion of technical system loss shall not
29 constitute legal or regulatory authority to recover its cost from an end-user.
30

31 Distribution system loss shall be for the sole account of the distribution utility
32 concerned and shall not constitute a prudent, reasonable, eligible, or recoverable cost
33 for purposes of determining any retail rate, distribution wheeling charge, revenue
34 requirement, rate base, regulatory asset, deferred account, true-up adjustment,
35 surcharge, rider, or other amount payable by an end-user.
36

37 Sec. 5. **Prohibition Against Direct or Indirect Recovery.** — Beginning on the
38 Prohibition Date, no distribution utility, electric cooperative, retail electricity supplier,
39 local retail electricity supplier, supplier of last resort, billing agent, or other person or
40 entity billing electricity end-users shall directly or indirectly charge, bill, allocate, collect,
41 or otherwise recover any distribution system loss from an end-user.
42

1 The prohibition shall apply to technical and non-technical system losses
2 regardless of the name, description, account, tariff, adjustment mechanism, regulatory
3 methodology, or billing arrangement used.

4
5 Sec. 6. ***Prohibition Against Circumvention and Offset.*** — No regulated
6 entity shall recover or offset distribution system loss by:

- 7 (a) changing the name or description of the charge;
8 (b) incorporating or embedding the cost in another rate or billing component;
9 (c) creating or modifying a rider, surcharge, adjustment mechanism, regulatory
10 asset, deferred account, true-up mechanism, or similar device;
11 (d) increasing another regulated charge for the purpose of recovering,
12 replacing, or offsetting prohibited system-loss revenue;
13 (e) transferring the cost through an affiliate, subsidiary, contractor, supplier, or
14 related entity; or
15 (f) adopting any other arrangement that has the purpose or effect of transferring
16 distribution system loss to end-users.

17
18 In reviewing any rate application filed after the effectivity of this Act, the Energy
19 Regulatory Commission shall determine whether the requested rate or revenue
20 requirement directly or indirectly restores, replaces, or offsets any prohibited system-
21 loss recovery. Any amount determined to have such purpose or effect shall be
22 disallowed.

23
24 Sec. 7. ***Consequential Treatment of Value-Added Tax.*** — No value-added
25 tax attributable to any distribution system-loss amount prohibited under this Act shall
26 be billed, collected, allocated, or passed on to an electricity end-user.
27 This section shall not be construed as granting a tax exemption for an otherwise lawful
28 charge. It recognizes that no taxable consumer charge exists with respect to a
29 distribution system-loss amount whose recovery is prohibited by law.
30 The Bureau of Internal Revenue shall issue the necessary conforming rules on
31 invoicing, accounting, tax adjustment, credit, and refund treatment consistent with this
32 Act.

33
34 Sec. 8. ***Amendment of Section 10 of Republic Act No. 7832.*** — Section 10
35 of Republic Act No. 7832, as amended, is hereby amended to read as follows:

36
37 “Sec. 10. *Distribution System Losses.* — No private electric utility, electric
38 cooperative, government-owned utility, local government unit, or other
39 distribution utility shall directly or indirectly recover any technical or non-
40 technical distribution system loss from an electricity end-user.

41
42 All distribution system losses shall be for the sole account of the distribution
43 utility concerned and shall not constitute a recoverable operating expense,

1 *pass-through cost, regulatory asset, or component of any rate or charge*
2 *imposed upon an end-user.*

3
4 *The Energy Regulatory Commission shall establish, monitor, and enforce*
5 *progressively improving system-loss performance standards. Such standards*
6 *shall be used exclusively for benchmarking, regulatory supervision, corrective*
7 *action, incentives, and sanctions and shall not constitute authority to recover*
8 *any portion of distribution system loss from consumers.*

9
10 *Nothing in this section shall prevent a distribution utility from recovering directly*
11 *from a person responsible for electricity pilferage, illegal connection, meter*
12 *tampering, fraud, or other unlawful acts in accordance with this Act and other*
13 *applicable laws.”*

14
15 **Sec. 9. Amendment of Section 11 of Republic Act No. 7832.** — Section 11
16 of Republic Act No. 7832, as amended, is hereby amended to read as follows:

17
18 *“Sec. 11. Area of Coverage. — The prohibition established under Section 10*
19 *shall apply to all existing and subsequently added franchise, service, or*
20 *distribution areas of every private electric utility, electric cooperative,*
21 *government-owned utility, local government unit, and other distribution utility.”*

22
23 **Sec. 10. Amendment of Section 25 of Republic Act No. 9136.** — Section 25
24 of Republic Act No. 9136 is hereby amended to read as follows:

25
26 *“Sec. 25. Retail Rate. — The retail rates charged by distribution utilities for the*
27 *supply of electricity in their captive markets shall be subject to regulation by the*
28 *ERC based on the recovery of prudent and reasonable economic costs actually*
29 *incurred in providing electricity and distribution services, or such other*
30 *principles that promote efficiency, affordability, reliability, and consumer*
31 *protection.*

32
33 *Distribution system loss shall not be considered a prudent, reasonable, eligible,*
34 *or recoverable economic cost and shall not be directly or indirectly included in*
35 *any retail rate, distribution charge, revenue requirement, rate base, regulatory*
36 *asset, adjustment mechanism, or other amount imposed upon an end-user.*

37
38 *Every distribution utility shall identify and segregate in its bills to end-users all*
39 *components of the retail rate. No charge shall be imposed or collected unless*
40 *expressly authorized by law and approved by the ERC.”*

41
42 **Sec. 11. Amendment of Section 43(f) of Republic Act No. 9136.** — The
43 paragraph of Section 43(f) of Republic Act No. 9136 beginning with the words “To

1 achieve this objective and to ensure the complete removal of cross subsidies” is
2 hereby amended to read as follows:

3
4 *“To achieve this objective and ensure the efficiency of regulated entities, the*
5 *ERC shall establish, monitor, and enforce system-loss performance standards*
6 *based on load density, sales mix, cost of service, delivery voltage, network*
7 *configuration, geographic conditions, and other relevant technical*
8 *considerations.*

9
10 *Such standards shall be used solely for benchmarking, regulatory supervision,*
11 *corrective action, incentives, and sanctions. Under no circumstance shall such*
12 *standards authorize the recovery or pass-through of distribution system loss to*
13 *an end-user.”*

14
15 Item (iii) of the same subsection is hereby amended to read as follows:

16
17 *“(iii) In determining eligible costs of services that may be passed on to end-*
18 *users, the ERC shall establish minimum efficiency performance standards for*
19 *transmission entities and distribution utilities, including system-loss*
20 *performance, interruption-frequency rates, and collection efficiency: Provided,*
21 *That distribution system loss shall be excluded from all eligible or recoverable*
22 *costs and shall not be included in any rate, rate base, revenue requirement,*
23 *regulatory asset, or adjustment mechanism.”*

24
25 **Sec. 12. Authorized Distribution-System Modernization Investments. —**
26 Nothing in this Act shall prevent a distribution utility from applying for the recovery of
27 prudent and reasonable capital expenditures actually incurred for the rehabilitation,
28 modernization, safety, reliability, efficiency, automation, digitalization, or expansion of
29 its distribution system.

30
31 No expenditure shall be recoverable unless the ERC determines, after notice
32 and hearing, that it:

- 33 (a) is necessary and directly related to the provision of distribution service;
34 (b) is technically and economically reasonable;
35 (c) has been procured through a transparent and competitive process, except
36 when another mode is permitted and justified under applicable law;
37 (d) is used and useful in providing service to consumers;
38 (e) does not arise from negligence, mismanagement, regulatory
39 noncompliance, or unjustified delay; and
40 (f) has not been recovered through another rate, subsidy, grant, insurance
41 payment, or other source.

42
43 The cost of electricity already lost within the distribution system shall not be
44 treated as a capital investment or modernization expenditure.

1
2 Sec. 13. ***Distribution Efficiency Plans and Independent Audits.*** — Within
3 one hundred eighty (180) days from the effectivity of this Act, every distribution utility
4 shall submit to the ERC a five-year Distribution Efficiency and System Loss Reduction
5 Plan containing:

- 6 (a) its historical technical and non-technical system losses;
7 (b) the identified causes of such losses;
8 (c) an assessment of the condition of its distribution facilities;
9 (d) annual reduction targets and performance indicators;
10 (e) proposed rehabilitation, modernization, metering, and anti-pilferage
11 measures; and
12 (f) the corresponding implementation schedule.

13
14 Each distribution utility shall undergo an independent energy and system-loss
15 audit at least once every three (3) years. The audit shall verify energy input, metered
16 sales, technical and non-technical losses, billing and accounting practices, metering
17 accuracy, and compliance with this Act.

18
19 Sec. 14. ***Electric-Cooperative Modernization and Transition Assistance.*** —
20 The Department of Energy and the National Electrification Administration shall
21 establish a program providing qualified electric cooperatives with appropriate
22 technical, institutional, and financial assistance for:

- 23 (a) rehabilitation and modernization of distribution facilities;
24 (b) replacement of obsolete conductors, transformers, meters, and other
25 equipment;
26 (c) installation of advanced metering, automation, and loss-detection systems;
27 (d) system planning, network reconfiguration, and load management;
28 (e) anti-pilferage and meter-integrity programs;
29 (f) personnel training and institutional-capacity development; and
30 (g) preparation and implementation of Distribution Efficiency and System Loss
31 Reduction Plans.

32
33 Priority shall be given to electric cooperatives serving geographically isolated,
34 disaster-prone, low-density, underserved, or economically disadvantaged areas.
35 Assistance under this section shall not authorize the recovery of distribution system
36 loss from consumers.

37
38 Sec. 15. ***Transition and Existing Rate Orders.*** — The complete prohibition
39 against billing or collecting distribution system loss and the value-added tax
40 attributable thereto shall begin with the first billing cycle commencing ninety (90) days
41 after the effectivity of this Act.

1 Within the same period, the ERC shall:

2 (a) identify and remove all system-loss factors from approved retail rates,
3 distribution wheeling charges, revenue requirements, rate bases, adjustment
4 mechanisms, and regulatory accounts;

5 (b) require the revision of billing, accounting, and information systems;

6 (c) prescribe uniform accounting rules separating distribution system loss from
7 recoverable costs; and

8 (d) issue the provisional or final rate adjustments necessary to implement this
9 Act.

10 During the transition period, no existing system-loss cap may be increased, and
11 no new or expanded system-loss recovery mechanism may be approved.

12
13 All existing tariffs, rate orders, methodologies, and regulatory issuances shall
14 be deemed modified on the Prohibition Date to the extent necessary to conform with
15 this Act.

16
17 **Sec. 16. *Billing Transparency, Refunds, and Bill Credits.*** — Every electricity
18 bill shall contain a certification, in a form prescribed by the ERC, that no distribution
19 system-loss charge or value-added tax attributable thereto has been billed,
20 embedded, allocated, or collected from the consumer.

21
22 Any amount collected in violation of this Act after the Prohibition Date shall be
23 refunded to the affected consumer or credited against succeeding electricity bills.

24
25 The refund or bill credit shall include:

26 (a) the unlawfully collected principal amount;

27 (b) any value-added tax or other amount collected thereon; and

28 (c) interest at the legal rate from the date of collection until full refund or credit.

29
30 No refund, bill credit, administrative fine, litigation expense, or other liability
31 arising from a violation of this Act shall be included in any regulated rate or passed on
32 to consumers.

33
34 **Sec. 17. *Public Distribution-Utility Performance Scorecards.*** — The ERC
35 shall prepare and publish annually, in an accessible and machine-readable format, a
36 performance scorecard for every distribution utility and electric cooperative.

37
38 Each scorecard shall contain:

39 (a) the utility's technical, non-technical, and total distribution system-loss
40 percentages;

41 (b) the national average and the average for utilities with comparable operating
42 conditions;

43 (c) the applicable statutory prohibition and regulatory performance standard;

44 (d) the reduction or increase in system loss from the preceding year;

- (e) the amount of refunds or bill credits ordered and implemented;
- (f) interruption-frequency, interruption-duration, service-quality, and other relevant reliability indicators;
- (g) the status of approved modernization and loss-reduction projects;
- (h) enforcement actions and penalties imposed; and
- (i) the utility's comparative ranking among similarly situated distribution utilities.

The ERC shall ensure that differences in customer density, geography, voltage level, sales mix, network configuration, and other material operating conditions are clearly disclosed when making comparative rankings.

Sec. 18. ***Prohibited Acts and Penalties.*** — It shall be unlawful for any person or entity to:

- (a) bill, collect, allocate, embed, or recover distribution system loss from an end-user;
- (b) conceal, rename, or misclassify distribution system loss as another rate or billing component;
- (c) increase another charge for the purpose of replacing or offsetting prohibited system-loss recovery;
- (d) bill or collect value-added tax attributable to a prohibited system-loss amount;
- (e) submit false, incomplete, or misleading system-loss, metering, energy-input, sales, or billing information;
- (f) obstruct an audit, inspection, investigation, or lawful order of the ERC; or
- (g) knowingly authorize, assist, tolerate, or conceal any violation of this Act.

After notice and hearing, the ERC may order refunds, bill credits, disgorgement, cost disallowance, corrective action, suspension or revocation proceedings, cease-and-desist measures, and the fines or penalties authorized under Section 46 of Republic Act No. 9136 and other applicable laws.

Each billing cycle containing a prohibited charge may be treated as a separate violation.

Sec. 19. ***Annual Report to Congress.*** — The ERC, in coordination with the Department of Energy and the National Electrification Administration, shall submit an annual report to the appropriate committees of the Senate and the House of Representatives containing:

- (a) nationwide and utility-specific system-loss performance;
- (b) the amounts removed from approved electricity rates pursuant to this Act;
- (c) refunds and bill credits ordered and implemented;
- (d) enforcement actions and penalties imposed;
- (e) modernization investments approved by the ERC;
- (f) assistance extended to electric cooperatives; and
- (g) recommendations for further legislative or administrative action.

1
2 Sec. 20. **Implementing Rules and Regulations.** — Within ninety (90) days
3 from the effectivity of this Act, the ERC, in consultation with the Department of Energy,
4 National Electrification Administration, Bureau of Internal Revenue, distribution
5 utilities, electric cooperatives, consumer organizations, and other concerned
6 stakeholders, shall promulgate the rules and regulations necessary for its
7 implementation.

8
9 The implementing rules shall prescribe the procedures and standards for
10 detecting indirect recovery or offset through future rate applications.
11 Failure to issue the implementing rules within the prescribed period shall not delay the
12 Prohibition Date or suspend the enforceability of this Act.

13
14 Sec. 21. **Separability Clause.** — If any provision of this Act is declared
15 unconstitutional or invalid, the remaining provisions not affected thereby shall remain
16 in full force and effect.

17
18 Sec. 22. **Repealing Clause.** — All laws, presidential decrees, executive orders,
19 franchises, rules, regulations, rate orders, tariffs, methodologies, and other issuances
20 inconsistent with this Act are hereby repealed, amended, or modified accordingly.

21
22 Sec. 23. **Effectivity.** — This Act shall take effect fifteen (15) days after its
23 publication in the Official Gazette or in at least one (1) newspaper of general
24 circulation.

25
26 *Approved.*