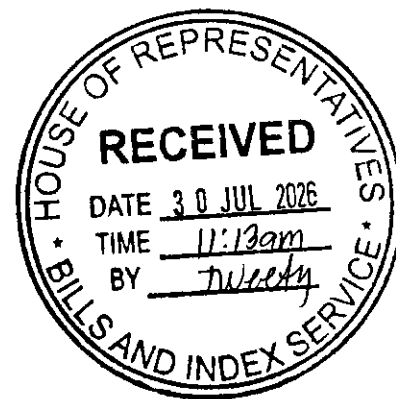


Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

20th Congress
Second Regular Session

House Bill No. 10442



Introduced by Rep. Maria Vanessa C. Aumentado

EXPLANATORY NOTE

Twenty-five years since the passage of Republic Act No. 9136, or the Electric Power Industry Reform Act of 2001 (EPIRA), the promise of affordable electricity remains elusive for the ordinary Filipino. The Philippines continues to suffer from one of the highest power rates in Asia, burdening households and stifling economic and industrial growth.

Among the most unjust components of the monthly electricity bill is the "System Loss Charge." Currently, under existing laws and regulations of the Energy Regulatory Commission (ERC), Distribution Utilities (DUs), Electric Cooperatives (ECs), and the transmission concessionaire are allowed to pass on to consumers the costs of electricity lost during transmission and distribution. These losses are categorized as either "technical" (natural dissipation of power in wires and transformers) or "non-technical" (administrative errors and electricity theft or pilferage).

It is fundamentally unfair for consumers to shoulder the burden of inefficiencies and theft. The current regulatory framework incentivizes complacency. Because DUs and ECs can simply pass these losses on to the consumers up to a certain cap, there is a lack of aggressive capital expenditure to modernize grid infrastructure, upgrade aging transformers, and strictly enforce anti-pilferage measures. Private corporations and cooperatives must bear the risks of their own business operations, including shrinkage and operational losses, just like any other enterprise in the country.

This bill seeks to amend RA 9136 and repeal pertinent provisions of RA 7832 to completely prohibit the passing on of both technical and non-technical system losses to electricity consumers. By forcing power utilities to absorb these costs as part of their

operational expenses, we will incentivize them to improve their infrastructure, operate more efficiently, and aggressively curb electricity theft, ultimately lowering the monthly electricity bills of millions of Filipinos.

During the recent State of the Nation Address of Pres. Ferdinand Marcos Jr., he heightened the need to amend the EPIRA law and abolish charging system loss and the Value Added Tax (VAT) thereon against consumers with the objecting of lowering electricity rates.

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

A handwritten signature in black ink, consisting of a stylized 'M' and 'A' followed by a checkmark-like flourish.

MARIA VANESSA C. AUMENTADO

Republic of the Philippines
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AN ACT

PROHIBITING THE PASS-ON OF SYSTEM LOSS CHARGES TO CONSUMERS, AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 9136, OTHERWISE KNOWN AS THE ELECTRIC POWER INDUSTRY REFORM ACT OF 2001, AND FOR OTHER PURPOSES

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 "Anti-System Loss Pass-On Act."

SEC. 2. Declaration of Policy. – It is hereby declared the policy of the State to protect the public interest by ensuring the affordability of electricity and protecting consumers from unjust and unreasonable charges. The State recognizes that operational inefficiencies, infrastructural wear-and-tear, and electricity pilferage are inherent risks and responsibilities of the business of power transmission and distribution. Therefore, the costs associated with such inefficiencies shall be borne by the utility providers and shall not be passed on to the consuming public.

SEC. 3. Definition of Terms. – For purposes of this Act:

(a) *Distribution Utility (DU)* refers to any electric cooperative, private corporation, government-owned utility, or existing local government unit which has an exclusive

franchise to operate a distribution system in accordance with its franchise and RA 9136.

(b) *System Loss* refers to unbilled power or the difference between the amount of electricity generated or purchased by a utility and the amount of electricity sold to consumers. It encompasses both:

1. *Technical Loss* – losses inherent in the physical delivery of electric energy, including conductor loss, transformer core loss, and other technical inefficiencies.

2. *Non-Technical Loss* – losses due to electricity theft, pilferage, meter tampering, administrative billing errors, and unread meters.

SEC. 4. Prohibition on the Pass-On of System Loss. – The imposition and collection of System Loss charges, whether technical or non-technical, by any transmission concessionaire, Distribution Utility, or Electric Cooperative on end-users are hereby prohibited. All power transmission and distribution losses shall be strictly treated as part of the operational expenses of the utility companies and shall not, in any manner, be recovered from the consumers.

SEC. 5. Amendment of Section 43 of Republic Act No. 9136. – Section 43, paragraph (f) of Republic Act No. 9136, otherwise known as the EPIRA, is hereby amended 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 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:

x x x

(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. **PROVIDED, THAT IN NO CASE SHALL THE RECOVERY OF BOTH TECHNICAL AND NON-TECHNICAL SYSTEM LOSSES BE ALLOWED, AND SUCH LOSSES SHALL NOT BE INCLUDED IN THE DETERMINATION OF WHEELING RATES AND RETAIL RATES.** 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 from a free market, the cap on the recoverable rate of system losses prescribed in Section 10 of Republic Act No. 7832, is hereby **REPEALED**. x x x"

SEC. 6. Repeal of Section 10 of Republic Act No. 7832. – Section 10 of Republic Act No. 7832, otherwise known as the "Anti-electricity and Electric Transmission Lines/Materials Pilferage Act of 1994," which sets the caps on the recoverable rate of system losses, is hereby expressly repealed.

SEC. 7. Penal Provisions. – Any person, distribution utility, electric cooperative, or transmission concessionaire who willfully violates the provisions of Section 4 of this Act shall be punished by a fine of not less than One Million Pesos (P1,000,000.00) but not more than Five Million Pesos (P5,000,000.00).

In case the offender is a juridical person, the penalty shall be imposed upon the corporate officers, directors, general managers, or members of the board who knowingly permitted or failed to prevent the violation. Furthermore, repeated violations shall be a ground for the immediate revocation of the utility's congressional franchise.

SEC. 8. Implementing Rules and Regulations. – Within sixty (60) days from the effectivity of this Act, the Department of Energy (DOE) and the Energy Regulatory Commission (ERC) shall promulgate the necessary rules and regulations for the effective implementation of this Act.

SEC. 9. 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. 10. Repealing Clause. – All laws, presidential decrees, executive orders, rules and regulations, or parts thereof, including pertinent provisions of Republic Act No. 9136 and Republic Act No. 7832, which are inconsistent with this Act, are hereby repealed, amended, or modified accordingly.

SEC. 11. Effectivity. – This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in at least two (2) newspapers of general circulation.

Approved,