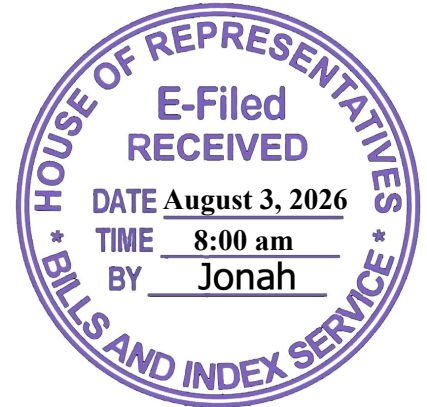




Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

TWENTIETH CONGRESS
Second Regular Session

HOUSE BILL NO. 10465



Introduced by Representative **ANTONINO B. ROMAN III**

EXPLANATORY NOTE

In his State of the Nation Address (SONA), the President issued an urgent and unequivocal directive to lower the country's power rates, declaring: "*At kung pagbawas ng presyo ang usapan, sa aking palagay ay panahon na para tanggalin na natin ang system loss na pinapasa sa consumer.*" Emphasizing that ordinary Filipinos are not at fault for these inefficiencies, the President noted that it is unjust to make them pay for it, ultimately demanding the immediate amendment of the EPIRA to prohibit the charging of system losses and the corresponding Value-Added Tax (VAT) against consumers.

Answering this urgent presidential mandate, this measure addresses the cost of electricity in the Philippines, which remains a significant consideration for both household budgets and the global competitiveness of local industries. As the nation seeks sustainable ways to lower energy costs, a reevaluation of the components that make up the monthly electricity bill, specifically the charging of system losses and its VAT, is necessary and long overdue.

System losses refer to the power lost during the transmission and distribution of electricity due to technical and non-technical factors. Under the current legal framework—specifically Section 10 of Republic Act No. 7832 and Section 43(f) of Republic Act No. 9136 (EPIRA)—distribution utilities and rural electric cooperatives are authorized to recover a certain percentage of these losses from consumers.

However, standard economic principles generally dictate that operational losses—whether due to technical inefficiencies, infrastructure wear and tear, or pilferage—should be absorbed by an enterprise as part of its standard operational risks. Shifting the financial burden of system losses entirely to consumers diminishes the natural financial incentive for distribution utilities to continuously invest in

modernizing their grid infrastructure and improving operational efficiency. Furthermore, applying a consumption tax (VAT) on electricity that was lost before reaching the end-user requires legislative correction.

To align the power sector with best business practices and lower electricity rates for the public, this measure introduces a comprehensive framework to restructure the treatment of system losses:

1. **For Private Distribution Utilities:** It mandates the abolition of the system loss charges. Private utilities are expected to absorb these operational risks as overhead, which will inherently incentivize immediate upgrades to their infrastructure and the adoption of better loss-mitigation technologies.
2. **For Rural Electric Cooperatives (RECs):** Recognizing the distinct financial structures of RECs and the critical importance of continuous rural electrification, this bill institutes an accelerated transition. It initially reduces their recoverable system loss cap to a maximum of five percent (5%), with a scheduled phase-out to zero percent (0%) within one (1) year.
3. **VAT Exemption:** While the system loss charges is slated for abolition, this bill explicitly amends the National Internal Revenue Code to exempt any such charge from VAT. This is a dual strategy: it provides immediate tax relief to consumers in REC franchise areas during the one-year phase-out period, and it establishes a legal safeguard in the tax code against any future attempts to tax embedded operational losses.
4. **Prohibition on Indirect Recovery:** To ensure the intent of this policy is realized, the bill tasks the Energy Regulatory Commission (ERC) to strictly monitor and prevent the indirect recovery of system losses through adjustments to other bill components or new administrative fees.

By internalizing these operational risks, this legislation aims to protect the consuming public, systematically lower energy costs, and foster a more efficient, modern, and reliable power distribution sector.

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



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AN ACT
PROHIBITING THE DIRECT OR INDIRECT RECOVERY OF DISTRIBUTION
SYSTEM LOSS CHARGES FROM ELECTRICITY CONSUMERS, REDUCING
AND EVENTUALLY PHASING OUT THE CAP OF RECOVERABLE SYSTEM
LOSSES OF RURAL ELECTRIC COOPERATIVES, EXEMPTING SYSTEM
LOSSES FROM THE VALUE-ADDED TAX, AMENDING FOR THE PURPOSE
REPUBLIC ACT NO. 7832, AS AMENDED, REPUBLIC ACT NO. 9136,
OTHERWISE KNOWN AS THE "ELECTRIC POWER INDUSTRY REFORM ACT
OF 2001," SECTION 109 OF THE NATIONAL INTERNAL REVENUE CODE OF
1997, AS AMENDED, 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 “System Loss Charges Abolition Act.”

SEC. 2. Declaration of Policy. – It is hereby declared the policy of the State to protect the public interest as it is affected by the rates and services of electric utilities. Towards this end, the State shall ensure transparent, fair, and affordable prices of electricity, protect consumers from unjust charges, and demand full operational and economic efficiency from all distribution utilities and electric cooperatives. The State recognizes that consumers should not be penalized for electricity lost due to inefficiencies, technical failures, or pilferage within the distribution system.

SEC. 3. Abolition of System Loss Charges for Private Distribution Utilities. – The direct or indirect recovery of system loss charges, whether technical or non-technical, by private distribution utilities from their captive and contestable markets is hereby

absolutely prohibited. Private distribution utilities shall bear the costs of their respective system losses as part of their operational risk and business overhead.

SEC. 4. Reduction and Phase-out of System Loss Cap for Rural Electric Cooperatives. – To ensure a just transition and prevent the disruption of rural electrification, the cap of recoverable system losses for Rural Electric Cooperatives (RECs) is hereby reduced to a maximum of five percent (5%) upon the effectivity of this Act.

One (1) year after the effectivity of this Act, the direct or indirect recovery of system loss charges by RECs shall be absolutely prohibited, matching the standard set for private distribution utilities in Section 3 of this Act.

SEC. 5. System Modernization Support for Rural Electric Cooperatives. – To facilitate the accelerated one-year phase-out mandated in Section 4, the National Electrification Administration (NEA) is hereby directed to allocate targeted financial and technical assistance to qualified RECs.

This assistance shall be strictly utilized for capital expenditures aimed at immediately reducing technical system loss, including but not limited to the upgrading of distribution lines, replacement of inefficient transformers, and implementation of smart grid technologies. The initial funding for this support shall be sourced from the unprogrammed funds of the National Treasury and the existing subsidies allocated to the NEA under the General Appropriations Act.

SEC. 6. Prohibition on Circumvention. – Any attempt by a distribution utility or electric cooperative to indirectly recover system loss charges by adjusting other components of the electricity bill, introducing new administrative fees, or utilizing any pass-through mechanisms or cost-recovery schemes that produce the same result as a system loss charge is strictly prohibited. The Energy Regulatory Commission (ERC) shall strictly monitor and ensure compliance with this provision.

SEC. 7. Penalties. – Any distribution utility, rural electric cooperative, or their respective officers or directors found violating the provisions of this Act shall be subject to mandatory refunds to consumers, substantial fines, regulatory sanctions, and potential suspension or revocation of operating authority, as determined by the ERC.

SEC. 8. Amendment to Republic Act No. 9136 (EPIRA). – Section 43, paragraph (f) of Republic Act No. 9136, otherwise known as the *“Electric Power Industry Reform Act of 2001,”* is hereby amended to read as follows:

"(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. x x x 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.]~~ **ABOLISHED FOR PRIVATE DISTRIBUTION UTILITIES. FOR RURAL ELECTRIC COOPERATIVES, THE CAP SHALL BE REDUCED TO A MAXIMUM OF FIVE PERCENT (5%) UPON THE EFFECTIVITY OF THIS ACT, AND SHALL BE FULLY PHASED OUT AND ABOLISHED ONE (1) YEAR THEREAFTER. THE ERC SHALL ENSURE THAT SYSTEM LOSSES ARE NOT INDIRECTLY RECOVERED THROUGH OTHER CHARGES OR FEES.** The ERC shall determine such form or rate-setting methodology, which shall promote efficiency. x x x"

SEC. 9. Value-Added Tax Exemption. – Section 109 of the National Internal Revenue Code of 1997, as amended, is hereby further amended to read as follows:

"SEC. 109. Exempt Transactions. –

(1) Subject to the provisions of Subsection (2) hereof, the following transactions shall be exempt from the value-added tax:

(A) x x x;

(AA) Sale of drugs and medicines prescribed for diabetes, high cholesterol, and hypertension beginning January 1, 2019; ~~[and]~~

(BB) THE CHARGING OF SYSTEM LOSSES OR ANY SIMILAR PASS-THROUGH CHARGES FOR OPERATIONAL LOSSES IN THE SALE OF ELECTRICITY; AND

(CC) Sale or lease of goods or properties or the performance of services other than the transactions mentioned in the preceding paragraphs, the gross annual sales and/or receipts do not exceed the amount of Three million pesos (P3,000,000)."

SEC. 10. Repealing Clause. – Section 10 of Republic Act No. 7832, otherwise known as the "*Anti-Electricity and Electric Transmission Lines/Materials Pilferage Act of 1994*," is hereby expressly repealed.

All other laws, presidential decrees, executive orders, rules, and regulations, or parts thereof, which are inconsistent with the provisions of this Act are hereby repealed, amended, or modified accordingly.

SEC. 11. Implementing Rules and Regulation. – Within thirty (30) days from the effectivity of this Act, the Energy Regulatory Commission (ERC), in coordination with the Department of Energy (DOE), the National Electrification Administration (NEA), and the Bureau of Internal Revenue (BIR), shall promulgate the necessary rules and regulations for the strict and effective implementation of this Act.

SEC. 12. 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. 13. Effectivity. – This Act shall take effect fifteen (15) days after publication in the Official Gazette or in a newspaper of general circulation.

Approved,