



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

TWENTIETH CONGRESS
SECOND REGULAR SESSION

HOUSE BILL NO. **10572**



Introduced by Representatives ZIAUR-RAHMAN "ZIA" ALONTO ADIONG

AN ACT

PROHIBITING THE CHARGING OR RECOVERY OF SYSTEM LOSS CHARGES FROM ELECTRICITY END-USERS, AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 9136, OTHERWISE KNOWN AS THE "ELECTRIC POWER INDUSTRY REFORM ACT OF 2001," REPEALING SECTIONS 10 AND 11 OF REPUBLIC ACT NO. 7832, AND FOR OTHER PURPOSES

EXPLANATORY NOTE

Republic Act No. 9136, otherwise known as the "Electric Power Industry Reform Act of 2001" or EPIRA, declares it a policy of the State to ensure the affordability of electricity, promote transparent and reasonable electricity prices, protect the public interest, and encourage greater operational and economic efficiency in the electric power industry.

Notwithstanding these declared policies, electricity consumers continue to bear system loss charges representing electricity that was generated or purchased but was not actually delivered to or consumed by them. These losses may arise from the physical characteristics of transmission and distribution systems, defective or inaccurate metering, administrative deficiencies, pilferage, and other operational causes.

Under the existing regulatory framework, electric power industry participants are permitted to recover system losses from consumers up to limits prescribed by the Energy Regulatory Commission. Thus, consumers are required to pay not only for electricity actually delivered to their premises, but also for electricity lost before it reaches them.

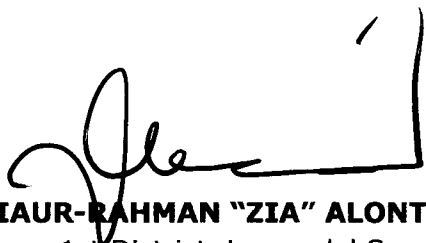
The cost of inefficiency, defective infrastructure, inadequate metering, and electricity theft should not be socialized and imposed upon consumers who neither caused nor benefited from such losses. The continued recovery of system loss charges also weakens the economic incentive of electric power industry participants to modernize their facilities, improve metering systems, prevent pilferage, and operate their networks efficiently.

This bill therefore prohibits the direct or indirect recovery of system losses from electricity end-users. It places the cost of system losses upon the entity in whose transmission, subtransmission, or distribution system the loss occurs. It nevertheless allows the recovery of prudent and reasonable investments made to modernize electricity networks, improve

metering, prevent pilferage, and reduce system losses, subject to the review and approval of the Energy Regulatory Commission.

The measure likewise preserves the right of electric utilities to recover the value of illegally consumed electricity directly from persons responsible for electricity pilferage. Innocent consumers, however, shall no longer be made to collectively shoulder losses attributable to such unlawful acts.

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



REP. ZIAUR-RAHMAN "ZIA" ALONTO ADIONG
1st District, Lanao del Sur



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SECTION 1. Short Title.- This Act shall be known as the "System Loss Charge Prohibition Act."

SECTION 2. Declaration of Policy.- It is hereby declared the policy of the State to protect electricity consumers from charges for electricity that is not actually delivered to or consumed by them.

Towards this end, the State shall:

- (a) Ensure that electricity rates are transparent, reasonable, and reflective only of electricity and services actually delivered to end-users;
- (b) Require electric power industry participants to bear responsibility for losses occurring within their respective systems;
- (c) Encourage the modernization, rehabilitation, and efficient operation of transmission, subtransmission, and distribution facilities;
- (d) Strengthen measures against electricity pilferage, meter tampering, inaccurate metering, and other causes of nontechnical losses; and
- (e) Prohibit the socialization of technical, nontechnical, administrative, and other system losses among electricity consumers.

SECTION 3. Definition of System Loss. - Section 4 of Republic Act No. 9136 is hereby amended by inserting a **new** paragraph after paragraph (ddd), to be designated as paragraph (eee), to read as follows:

“(eee) ‘System Loss’ refers to the difference between the total electrical energy entering a transmission, subtransmission, or distribution system and the total electrical energy delivered and properly metered at all lawful points of withdrawal from such system.

“It includes, regardless of how denominated, classified, allocated, or accounted for:

“(1) Technical losses arising from the physical characteristics, design, operation, or condition of electrical lines, transformers, substations, meters, and other facilities;

“(2) Nontechnical losses arising from pilferage, meter tampering, inaccurate or erroneous meter readings, defective meters, unmetered consumption, administrative errors, or unaccounted-for electricity;

“(3) Electricity used by an electric power industry participant in the operation of its own transmission, subtransmission, or distribution facilities, except electricity expressly authorized by law to be supplied without charge; and

“(4) Any other quantity or cost of electricity that is received, purchased, generated, or injected into an electrical system but is not delivered and properly billed to a lawful end-user or other authorized point of withdrawal.”

SECTION 4. Non-Recoverability of System Losses.- Section 25 of Republic Act No. 9136 is hereby amended to read as follows:

“SEC. 25. Retail Rate. — The retail rates charged by distribution utilities for the supply of electricity in their captive markets shall be subject to regulation by the ERC based on the principle of full recovery of prudent and reasonable economic costs incurred, or such other principles that promote efficiency as may be determined by the ERC.

“System losses and the cost or value of electricity constituting system losses shall not be considered prudent and reasonable economic costs recoverable from end-users.

“No generation company, transmission utility or concessionaire, distribution utility, electric cooperative, supplier, retail electricity supplier, market operator, or other electric power industry participant shall impose, collect, recover, allocate, or pass on any system loss or system loss charge to an end-user, whether directly or indirectly.

“The prohibition shall apply regardless of whether the system loss is imposed, collected, recovered, allocated, or passed on as:

“(a) A separate item in an electricity bill;

“(b) A component of the generation, transmission, distribution, supply, metering, wheeling, ancillary service, universal, missionary electrification, or other charge;

“(c) An automatic cost adjustment, rate adjustment, true-up, under-recovery, deferred charge, or similar adjustment mechanism;

“(d) An operating expense, purchased power cost, market settlement charge, regulatory asset, or addition to the rate base; or

“(e) Any other charge or cost, regardless of its name, classification, or accounting treatment.

“The entity in whose transmission, subtransmission, or distribution system the system loss occurs shall bear the cost or value of the electricity lost.

“Nothing in this Section shall prevent the ERC from allowing the recovery of prudent and reasonable capital investments or operating expenditures specifically undertaken to prevent, detect, measure, or reduce system losses: Provided, That the cost or value of the electricity lost shall not itself be recoverable from end-users: Provided, further, That such investments or expenditures shall be subject to prior verification and approval by the ERC after due notice and hearing.

“Additionally no Value-Added Taxes shall be levied on any systems losses properly identified and approved by the ERC.”

“Every distribution utility shall identify and segregate in its bills to end-users all components of the retail rate. No electricity bill shall contain a system loss charge or any charge having the same purpose or effect.”

SECTION 5. Amendment of the Rate-Setting Powers of the Energy Regulatory Commission. - Paragraph (f) of Section 43 of Republic Act No. 9136 is hereby amended to read as follows:

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“(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 regulated entities.

“The rates shall allow the recovery of just and reasonable costs and a reasonable return on rate base sufficient to enable the regulated entity to operate viably: Provided, That system losses and the cost or value of electricity constituting system losses shall not be recoverable from end-users.

“The ERC may adopt alternative forms of internationally accepted rate-setting methodology as it may deem appropriate. The rate-setting methodology adopted and applied must ensure reasonable and nondiscriminatory electricity prices and promote operational efficiency.

“Notwithstanding any law, franchise, contract, rule, regulation, order, resolution, rate methodology, or regulatory approval to the contrary, the ERC shall not establish, approve, authorize, or recognize any recoverable system loss cap or any mechanism

allowing the direct or indirect recovery of system losses from end-users.

"The ERC shall establish and enforce progressively stricter minimum efficiency and system-loss reduction standards for transmission utilities, concessionaires, distribution utilities, and electric cooperatives. Compliance with such standards shall be a condition for the approval or continued effectivity of their respective rates, permits, licenses, certificates, concessions, and authorities to operate.

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SECTION 6. System-Loss Reporting and Public Disclosure.- Every transmission utility or concessionaire, distribution utility, and electric cooperative shall submit to the ERC and publish on its official website a monthly report stating:

- (a) The total electricity entering its system;
- (b) The total electricity delivered and metered at lawful withdrawal points;
- (c) The amount and percentage of technical losses;
- (d) The amount and percentage of nontechnical losses;
- (e) Electricity used for the entity's own operations;
- (f) Amounts recovered from persons responsible for electricity pilferage or illegal use; and
- (g) Measures undertaken to reduce system losses.

The ERC shall maintain and publish a centralized, searchable, and utility-specific database of system-loss information. The reports required under this Section shall be certified under oath by the president, chief executive officer, chief operating officer, and chief financial officer of the reporting entity.

SECTION 7. Repeal of Recoverable System-Loss Caps. - Sections 10 and 11 of Republic Act No. 7832, otherwise known as the "Anti-Electricity and Electric Transmission Lines/Materials Pilferage Act of 1994," are hereby expressly repealed.

All rules, resolutions, orders, methodologies, and regulatory approvals issued pursuant to or implementing the recoverable system-loss caps under Sections 10 and 11 of Republic Act No. 7832 or Section 43(f) of Republic Act No. 9136 shall cease to have force and effect upon the implementation of this Act.

SECTION 8. Recovery from Persons Responsible for Pilferage. - Nothing in this Act shall prohibit an electric utility or electric cooperative from recovering, directly from the person responsible, the value of electricity illegally consumed, pilfered, diverted, or obtained through meter tampering or any other unlawful means, in accordance with Republic Act No. 7832 and other applicable laws.

Electricity lost through pilferage, meter tampering, or other unlawful acts shall not be charged, allocated, or passed on to consumers who did not participate in or benefit from such unlawful acts.

Any amount recovered from the person responsible shall accrue solely to the entity that bore the corresponding loss: Provided, That no entity shall be permitted to recover more than the actual value of the electricity unlawfully consumed, together with such penalties, surcharges, damages, and costs as may be authorized by law.

SECTION 9. Treatment of Existing System-Loss Recoveries.- Beginning with the first billing cycle occurring ninety (90) days after the effectivity of this Act:

- (a) No system loss charge shall be imposed or collected from any end-user;
- (b) No new system-loss under-recovery, deferred system-loss charge, or regulatory asset shall be recognized or approved;
- (c) All uncollected system-loss under-recoveries shall be disallowed and written off and shall not be subsequently recovered through any other charge or rate adjustment; and
- (d) All verified system-loss over-recoveries shall be refunded or credited to affected end-users within a period not exceeding twelve (12) months, with applicable legal interest, under a refund mechanism approved and supervised by the ERC.

Collections lawfully billed and collected before the transition date shall not be reopened solely by reason of this Act, without prejudice to the refund of over-recoveries, unauthorized collections, erroneous billings, or amounts otherwise subject to refund under existing laws and ERC orders.

SECTION 10. Prohibited Circumvention. - It shall be unlawful for any electric power industry participant to circumvent the prohibition under this Act by renaming, reclassifying, transferring, capitalizing, grossing up, embedding, allocating, or recovering a system loss through another rate component, affiliated entity, contract, market settlement, or adjustment mechanism.

Any amount collected in violation of this Act shall be refunded or credited to affected end-users, with applicable legal interest, without prejudice to the fines, penalties, administrative sanctions, civil liabilities, and criminal liabilities provided under Republic Act No. 9136 and other applicable laws.

SECTION 11. Congressional Oversight. - The Joint Congressional Energy Commission shall exercise oversight over the implementation of this Act.

Within April of every year, the ERC shall submit to the President of the Philippines and Congress a report containing:

- (a) The system-loss performance of every transmission utility or concessionaire, distribution utility, and electric cooperative;
- (b) Violations investigated and penalties imposed;
- (c) Amounts refunded or credited to end-users; and
- (d) Recommendations for further reducing electricity rates and improving system efficiency.

SECTION 12. Implementing Rules and Regulations. - Within ninety (90) days from the effectivity of this Act, the ERC, in coordination with the Department of Energy, the

National Electrification Administration, the National Transmission Corporation, the Philippine Electricity Market Corporation or its successor market operator, and other concerned agencies, shall promulgate the rules and regulations necessary to implement this Act.

Failure to promulgate the implementing rules and regulations within the prescribed period shall not suspend or defer the prohibition against the imposition or recovery of system loss charges.

SECTION 13. Separability Clause. - If any provision of this Act is declared unconstitutional or invalid, the remaining provisions not affected thereby shall remain in full force and effect.

SECTION 14. Repealing Clause. - Sections 10 and 11 of Republic Act No. 7832 are hereby expressly repealed. All laws, presidential decrees, executive orders, administrative orders, rules, regulations, resolutions, franchises, contracts, and other issuances, or parts thereof, inconsistent with this Act are hereby repealed, amended, or modified accordingly.

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

Approved,