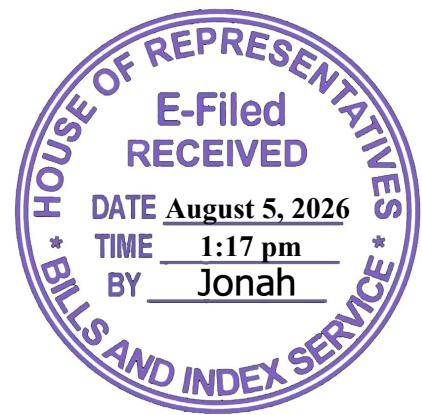


Republic of the Philippines
HOUSE OF REPRESENTATIVES
Constitution Hills, Quezon City

TWENTIETH CONGRESS
Second Regular Session

House Bill No. 10629



Introduced by: **REPRESENTATIVE ERIC L. OLIVAREZ**

EXPLANATORY NOTE

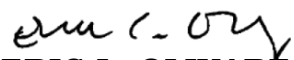
Electricity rates in the Philippines remain among the highest in Southeast Asia, imposing a substantial financial burden on Filipino households. Apart from the cost of electricity actually consumed, consumers are billed for various regulated charges, including the system loss charge, which represents the cost of recovering electricity lost during transmission and distribution due to technical losses and other causes recognized under Republic Act No. 9136, otherwise known as the "Electric Power Industry Reform Act of 2001."

Although system loss is a regulatory cost recovery mechanism authorized under existing law, it does not represent electricity actually consumed by residential customers. Nevertheless, the amount collected for system loss forms part of the electricity bill and is presently subjected to the Value-Added Tax (VAT), thereby increasing the financial burden borne by consumers.

It is the policy of the State to protect consumers and promote equitable taxation. While VAT is generally imposed on the sale of goods and services, Congress may, in the exercise of its constitutional power to grant tax exemptions, exempt specific transactions or components thereof whenever public interest so requires. Considering the continuing increase in electricity costs, it is imperative to provide targeted tax relief to residential household consumers by exempting the system loss component from VAT.

This measure likewise ensures that the tax relief granted under this Act directly benefits consumers by requiring the Energy Regulatory Commission (ERC) to prevent distribution utilities and electric cooperatives from recovering the exempted VAT through other regulated charges or billing adjustments. To promote transparency and accountability, electricity bills shall separately reflect the system loss charge and the corresponding VAT savings resulting from this Act.

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


ERIC L. OLIVAREZ

Republic of the Philippines
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“AN ACT
EXEMPTING THE SYSTEM LOSS COMPONENT OF ELECTRICITY
BILLED TO RESIDENTIAL HOUSEHOLD CONSUMERS FROM
THE VALUE-ADDED TAX, AMENDING FOR THE PURPOSE
SECTION 109 OF THE NATIONAL INTERNAL REVENUE CODE
OF 1997, AS AMENDED, PROVIDING SAFEGUARDS TO ENSURE
THAT THE BENEFITS THEREOF ARE FULLY PASSED ON TO
CONSUMERS, 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 "*VAT Exemption
on Systems Loss Charges for Residential Household Consumers Act.*"

SECTION 2. Declaration of Policy. - It is hereby declared the policy of the State to protect the welfare of electricity consumers by promoting affordability, transparency, and fairness in electricity pricing while ensuring that tax measures intended to reduce electricity costs directly benefit residential household consumers.

Toward this end, the State shall exempt the system loss component from the Value-Added Tax (VAT) in the sale of electricity to residential household consumers and ensure that the resulting savings are fully reflected in their electricity bills.

SECTION 3. Section 109 of the National Internal Revenue Code of 1997, as amended, is hereby further amended by inserting a new subsection 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:

XXX

"(EE) THE SYSTEM LOSS COMPONENT IN THE SALE OF ELECTRICITY BY DISTRIBUTION UTILITIES INCLUDING PRIVATE DISTRIBUTION UTILITIES AND ELECTRIC COOPERATIVES TO RESIDENTIAL HOUSEHOLD CONSUMERS SHALL BE EXEMPT FROM THE VALUE-ADDED TAX.

FOR PURPOSES OF THIS SUBSECTION, THE SYSTEM LOSS COMPONENT SHALL REFER TO THE COST RECOVERY REPRESENTING THE DIFFERENCE BETWEEN THE ELECTRIC ENERGY DELIVERED TO THE DISTRIBUTION SYSTEM (ENERGY INPUT) AND THE ELECTRIC ENERGY DELIVERED TO END-USERS (ENERGY OUTPUT), AS DETERMINED UNDER REPUBLIC ACT NO. 9136, OTHERWISE KNOWN AS THE 'ELECTRIC POWER INDUSTRY REFORM ACT OF 2001,' AND THE PERTINENT RULES AND REGULATIONS OF THE ENERGY REGULATORY COMMISSION (ERC).

THE EXEMPTION PROVIDED UNDER THIS SUBSECTION SHALL APPLY EXCLUSIVELY TO THE SYSTEM LOSS COMPONENT AND SHALL NOT BE CONSTRUED TO EXEMPT THE ACTUAL SALE OF ELECTRICITY OR ANY OTHER CHARGE THAT CONSTITUTES CONSIDERATION FOR THE GENERATION, TRANSMISSION, DISTRIBUTION, OR SUPPLY OF ELECTRICITY.

THE ENERGY REGULATORY COMMISSION SHALL ENSURE THAT THE FULL BENEFIT OF THIS VAT EXEMPTION IS DIRECTLY PASSED ON TO RESIDENTIAL HOUSEHOLD CONSUMERS AND SHALL NOT BE OFFSET, RECOVERED, OR RECOUPED THROUGH DISTRIBUTION WHEELING CHARGES, PASS-THROUGH CHARGES, RATE ADJUSTMENTS, OR ANY OTHER REGULATED BILLING COMPONENT.

EVERY DISTRIBUTION UTILITY AND ELECTRIC COOPERATIVE SHALL SEPARATELY INDICATE IN ITS MONTHLY BILLING STATEMENT THE SYSTEM LOSS CHARGE, THE VAT EXEMPTION APPLIED THERETO, AND THE CORRESPONDING AMOUNT OF SAVINGS ACCRUING TO THE RESIDENTIAL HOUSEHOLD CONSUMER, IN SUCH FORM AS MAY BE PRESCRIBED BY THE ENERGY REGULATORY COMMISSION."

SECTION 4. Non-Circumvention. - No distribution utility, electric cooperative, or any other entity engaged in the distribution of electricity shall directly or indirectly recover the value of the VAT exemption granted under this Act through increases in distribution wheeling charges, pass-through charges, administrative fees, or any other regulated billing component.

The Energy Regulatory Commission shall exercise its regulatory authority under Republic Act No. 9136 to ensure compliance with this provision and may impose the appropriate administrative sanctions in accordance with existing laws, rules, and regulations.

SECTION 5. Implementing Rules and Regulations. - Within sixty (60) days from the effectivity of this Act, the Department of Finance (DOF) through the Bureau of Internal Revenue (BIR), and the Energy Regulatory Commission (ERC) shall jointly promulgate the necessary rules and regulations for the effective implementation of this Act after consultation with distribution utilities, electric cooperatives, consumer groups, and other relevant stakeholders.

SECTION 6. Reportorial Requirement. - Within one (1) year from the effectivity of this Act, and annually thereafter, the ERC shall submit to Congress a report on the implementation of this Act, including the aggregate amount of VAT savings realized by residential household consumers, the compliance of distribution utilities and electric cooperatives with this Act, and any recommendations for further legislative or regulatory action.

SECTION 7. 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 8. Repealing Clause. - All laws, decrees, executive orders, rules and regulations, or parts thereof inconsistent with the provisions of this Act are hereby repealed, amended, or modified accordingly.

SECTION 9. Effectivity. - This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in a newspaper of general circulation.

Approved.