



HOUSE OF REPRESENTATIVES

H. No. 6540

BY REPRESENTATIVES DE JESUS, MARCOS, SALCEDA, VILLAFUERTE (M.L.), VILLAFUERTE (V.R.L.), HORIBATA, RIDON, FUENTEBELLA, SINGSON-MEEHAN, CRUZ (R.), ALVAREZ (J.), VERGARA, MATIBAG, VILLA, SALVACION, RODRIGUEZ (R.), NAVA, LUMAYAG, DALOG, BAUTISTA (J.M.), COLLANTES, ROMAN, SAGARBARRIA, ACOSTA, RODRIGUEZ (E.), DAGOOC, DE LIMA, SUANSING (M.A.), HERNANDEZ (C.A.), LUISTRO, ROMUALDO, PUNO, GLEPA, YU (J.K.), YU (J.V.), DEFENSOR, BALINDONG, CASTRO, LABADLABAD, SUANSING (B.V.), GONZALES (A.M.), CENIZA, CORVERA, SANTOS (M.A.S.), ZAMORA (Y.M.), ARBISON (M. JR.), VILLARICA, RECTO, BARONDA, CO-PILAR, ROMULO, MENDOZA, GARIN, LEGARDA, PASCUAL, ANG, EMANO AND FLORES

AN ACT
RESTRUCTURING THE ENERGY REGULATORY COMMISSION,
AMENDING FOR THE PURPOSE SECTIONS 38, 39, 40, 41, 43, 44, AND
46 AND REPEALING SECTION 42 OF REPUBLIC ACT NO. 9136,
OTHERWISE KNOWN AS THE "ELECTRIC POWER INDUSTRY
REFORM ACT OF 2001"

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

1 **SECTION 1. *Short Title.*** – This Act shall be known as the "ERC Reform
2 Act."

3 **SEC. 2. *Declaration of Policy.*** – The State recognizes the significant role
4 of the Energy Regulatory Commission in:

- 5 (a) Ensuring transparent and reasonable prices of electricity;
6 (b) Protecting the consumers affected by the rates and services of electric
7 utilities and other providers of electric power; and

1 (c) Promoting competition, encouraging market development and
2 safeguarding customer choice, and penalizing abuse of market power
3 in the restructured power industry.

4 To this end, the State shall:

5 (a) Establish a strong, independent, transparent, and accountable
6 regulatory body; and

7 (b) Ensure that the regulatory body performs its functions effectively and
8 efficiently to promote competition in the electric power industry.

9 **SEC. 3.** Section 38 of Republic Act (RA) No. 9136, otherwise known as the
10 “Electric Power Industry Reform Act (EPIRA) of 2001” is hereby amended to read
11 as follows:

12 ~~“SEC. 38. [Creation of the Energy Regulatory Commission. There~~
13 ~~is hereby created an independent, quasi-judicial regulatory body to be~~
14 ~~named the Energy Regulatory Commissions (ERC). For this purpose,~~
15 ~~the existing Energy Regulatory Board (ERB) created under Executive~~
16 ~~Order No. 172, as amended, is hereby abolished.~~

17 ~~The Commission shall be composed of a Chairman and four (4)~~
18 ~~members to be appointed by the President of the Philippines. The~~
19 ~~Chairman and the members of the Commission shall be natural-born~~
20 ~~citizens and residents of the Philippines, persons of good moral~~
21 ~~character, at least thirty five (35) years of age, and of recognized~~
22 ~~competence in any of the following fields: energy, law, economics,~~
23 ~~finance, commerce, or engineering, with at least three (3) years actual~~
24 ~~and distinguished experience in their respective fields of expertise:~~
25 ~~*Provided,* That out of the four (4) members of the Commission, at least~~
26 ~~one (1) shall be a member of the Philippine Bar with at least ten (10)~~
27 ~~years experience in the active practice of law, and one (1) shall be a~~

1 ~~certified public accountant with at least ten (10) years experience in~~
2 ~~active practice.~~

3 ~~Within three (3) months from the creation of the ERC, the~~
4 ~~Chairman shall submit for the approval by the President of the~~
5 ~~Philippines the new organizational structure and plantilla positions~~
6 ~~necessary to carry out the powers and functions of the ERC.~~

7 ~~The Chairman of the Commission, who shall be a member of the~~
8 ~~Philippine Bar, shall act as the Chief Executive Officer of the~~
9 ~~Commission.~~

10 ~~All members of the Commission shall have a term of seven (7)~~
11 ~~years: *Provided*, That for the first appointees, the Chairman shall hold~~
12 ~~office for seven (7) years, two (2) members shall hold office for five (5)~~
13 ~~years and the other two (2) members shall hold office for three (3) years;~~
14 ~~*Provided, further*, That appointment to any future vacancy shall only be~~
15 ~~for the unexpired term of the predecessor: *Provided*, finally, That there~~
16 ~~shall be no reappointment and in no case shall any member serve for~~
17 ~~more than seven (7) years in the Commission.~~

18 ~~The Chairman and members of the Commission shall assume office~~
19 ~~of the beginning of their terms: *Provided*, That, if upon the effectivity of~~
20 ~~this Act, the Commission has not been constituted and the new staffing~~
21 ~~pattern and plantilla positions have not been approved and filled up, the~~
22 ~~current Board and existing personnel of ERB shall continue to hold~~
23 ~~office.~~

24 ~~The existing personnel of the ERB, if qualified, shall be given~~
25 ~~preference in the filling up of plantilla positions created in the ERC,~~
26 ~~subject to existing civil service rules and regulations.~~

27 ~~Members of the Commission shall enjoy security of tenure and~~
28 ~~shall not be suspended or removed from office except for just cause as~~
29 ~~specified by law.~~

30 ~~The Chairman and members of the Commission or any of their~~
31 ~~relatives within the fourth civil degree of consanguinity or affinity,~~

1 legitimate or common law, shall be prohibited from holding any interest
2 whatsoever, either as investor, stockholder, officer or director, in any
3 company or entity engaged in the business of transmitting, generating,
4 supplying or distributing any form of energy and must, therefore, divest
5 through sale or legal disposition of any and all interests in the energy
6 sector upon assumption of office.

7 The presence of at least three (3) members of the Commission shall
8 constitute a quorum and the majority vote of two (2) members in a
9 meeting where a quorum is present shall be necessary for the adoption
10 of any rule, ruling, order, resolution, decision, or other act of the
11 Commission in the exercise of its quasi-judicial functions: *Provided,*
12 *That in fixing rates and tariffs, an affirmative vote of three (3) members*
13 *shall be required.] REFORM AND RESTRUCTURING OF THE*
14 **ENERGY REGULATORY COMMISSION. – THE ENERGY**
15 **REGULATORY COMMISSION (ERC) IS HEREBY**
16 **RECONSTITUTED AS AN INDEPENDENT, ACCOUNTABLE,**
17 **QUASI-JUDICIAL, AND RULE-MAKING REGULATORY BODY,**
18 **WITH POWERS TO PROMULGATE AND ENFORCE RULES**
19 **AND REGULATIONS TO EFFECTIVELY IMPLEMENT THE**
20 **PROVISIONS OF THE EPIRA. TO THIS END, THE ERC SHALL**
21 **BE EXCLUSIVELY RESPONSIBLE FOR THE REGULATION OF**
22 **THE ELECTRIC POWER INDUSTRY.**

23 “THE COMMISSION SHALL, IN ADDITION TO ITS YEARLY
24 APPROPRIATION UNDER THE GENERAL APPROPRIATIONS
25 ACT (GAA), BE ALLOWED TO USE FOR THE FOLLOWING
26 YEAR FIFTY PERCENT (50%) OF ITS REVENUES GENERATED
27 FROM THE COLLECTION OF FEES, ASSESSMENTS,
28 LICENSES, AND OTHER CHARGES: *PROVIDED,* THAT THE
29 AMOUNT SHALL NOT EXCEED SEVEN HUNDRED FIFTY
30 MILLION PESOS (P750,000,000.00) ANNUALLY.

1 **“THE SAID AMOUNT SHALL BE UTILIZED TO AUGMENT**
2 **ERC’S EXPENDITURE AS FOLLOWS:**

3 **(a) TEN PERCENT (10%) FOR CAPITAL OUTLAY;**

4 **(b) SIXTY PERCENT (60%) FOR MAINTENANCE AND**
5 **OTHER OPERATING EXPENSES (MOOE); AND**

6 **(c) THIRTY PERCENT (30%) FOR PERSONNEL SERVICE**
7 **(PS), TO ENHANCE THE BENEFITS OF OFFICERS,**
8 **PERSONNEL AND STAFF EXCLUDING THE**
9 **CHAIRPERSON AND COMMISSION MEMBERS.**

10 **“THE ERC MAY, SUBJECT TO THE ISSUANCE OF**
11 **APPROPRIATE RULES AND REGULATIONS, REVIEW AND**
12 **REVISE THE ABOVE ALLOCATION FOR ITEMS A AND B AS IT**
13 **MAY DEEM NECESSARY IN THE PERFORMANCE OF ITS**
14 **MANDATE UNDER THIS ACT, SUBJECT TO THE EXISTING**
15 **ACCOUNTING AND AUDITING PROCEDURES. IN CASE THE**
16 **ERC FAILS TO FULLY UTILIZE THE REVENUES MENTIONED**
17 **HEREIN, THE UNUTILIZED AMOUNT SHALL REVERT TO THE**
18 **NATIONAL TREASURY.**

19 **“THE CHAIRPERSON SHALL SUBMIT THE**
20 **ORGANIZATIONAL STRUCTURE AND STAFFING PATTERN**
21 **OF THE ERC TO THE DEPARTMENT OF BUDGET AND**
22 **MANAGEMENT FOR ITS EVALUATION AND**
23 **RECOMMENDATION FOR THE APPROVAL OF THE**
24 **PRESIDENT OF THE PHILIPPINES, WITHIN THREE (3)**
25 **MONTHS FROM THE EFFECTIVITY OF THIS ACT.**

26 **“THE COMMISSION SHALL CONDUCT AN ASSESSMENT**
27 **OF THE FITNESS OF THE SKILLS AND CAPABILITIES OF**
28 **EXISTING PERSONNEL. BASED ON THE RESULTS OF THE**
29 **ASSESSMENT, THE COMMISSION MAY IMPLEMENT SUCH**
30 **MOVEMENT IN PERSONNEL TO ESTABLISH THE NEW**

1 ORGANIZATIONAL STRUCTURE, IN ACCORDANCE WITH
2 APPLICABLE LAWS, ALIGNED WITH THE PERSONNEL'S
3 CAPACITY AND PERFORMANCE: *PROVIDED*, THAT THE NEW
4 POSITION TO WHICH THEY SHALL BE TRANSFERRED
5 SHALL BE OF THE SAME RANK AND SALARY AS THAT OF
6 THEIR PREVIOUS POSITIONS AFFECTED EMPLOYEES MAY
7 OPT FOR VOLUNTARY SEPARATION FROM SERVICE WITHIN
8 SIX (6) MONTHS FROM THE EFFECTIVITY OF THIS ACT AND
9 SHALL BE ENTITLED TO RECEIVE SEPARATION AND EARLY
10 RETIREMENT AND OTHER BENEFITS UNDER APPLICABLE
11 LAWS AND ISSUANCES WITHIN NINETY (90) DAYS FROM THE
12 DATE OF THE EFFECTIVITY OF THEIR SEPARATION FROM
13 SERVICE.

14 "THE ERC SHALL REASSESS ITS ORGANIZATIONAL
15 STRUCTURE EVERY FIVE (5) YEARS FROM THE
16 EFFECTIVITY OF THIS ACT, OR SOONER AS NECESSARY, TO
17 DETERMINE WHETHER FURTHER RESTRUCTURING,
18 INCLUDING ADDITIONAL SERVICES, DIVISIONS, OR
19 PERSONNEL, IS NEEDED.

20 SEC. 4. New sections 38A, 38B, 38C, 38D, 38E, 38F, and 38G are hereby
21 inserted in Republic Act (RA) No. 9136 to read as follows:

22 "SEC. 38(A). *COMPOSITION OF THE COMMISSION AND*
23 *QUALIFICATIONS REQUIREMENTS.* – THE COMMISSION
24 SHALL BE COMPOSED OF A CHAIRPERSON AND EIGHT (8)
25 MEMBERS. THE CHAIRPERSON AND THE MEMBERS OF THE
26 COMMISSION SHALL BE APPOINTED BY THE PRESIDENT OF
27 THE PHILIPPINES AND SHALL SERVE A TERM OF SEVEN (7)
28 YEARS: *PROVIDED*, THAT THE CURRENT CHAIRPERSON
29 AND MEMBERS WHO HAVE BEEN APPOINTED PRIOR TO
30 THE EFFECTIVITY OF THIS ACT SHALL CONTINUE TO
31 PERFORM THEIR FUNCTIONS UNTIL THE COMPLETION OF

1 **THEIR TERM: *PROVIDED, FURTHER,* THAT THE MEMBERS**
2 **WHO SHALL BE APPOINTED IN ADDITION TO THE CURRENT**
3 **MEMBERS SHALL SERVE ON A STAGGERED BASIS, WITH**
4 **THE FIRST AND SECOND MEMBERS TO BE APPOINTED**
5 **SERVING FOR A TERM OF SEVEN (7) YEARS, AND THE THIRD**
6 **AND FOURTH MEMBERS TO BE APPOINTED SERVING FOR A**
7 **TERM OF FIVE (5) YEARS: *PROVIDED, FURTHER,* THAT**
8 **APPOINTMENT TO ANY FUTURE VACANCY SHALL ONLY BE**
9 **FOR THE UNEXPIRED TERM OF THE PREDECESSOR:**
10 ***PROVIDED, FINALLY,* THAT THERE SHALL BE NO**
11 **REAPPOINTMENT AND IN NO CASE SHALL ANY MEMBER**
12 **SERVE FOR MORE THAN SEVEN (7) YEARS IN THE**
13 **COMMISSION.**

14 **“THE CHAIRPERSON AND THE MEMBERS OF THE**
15 **COMMISSION SHALL BE NATURAL-BORN CITIZENS AND**
16 **RESIDENTS OF THE PHILIPPINES, PERSONS OF GOOD**
17 **MORAL CHARACTER, AT LEAST FORTY-FIVE (45) YEARS OF**
18 **AGE, OF RECOGNIZED PROBITY, COMPETENCE, IN GOOD**
19 **STANDING, AND WITH EXTENSIVE FAMILIARITY IN ANY OF**
20 **THE FOLLOWING FIELDS: ENERGY, LAW, ECONOMICS,**
21 **FINANCE, COMMERCE, ENGINEERING, WITH AT LEAST TEN**
22 **(10) YEARS OF ACTUAL AND ACTIVE EXPERIENCE IN THEIR**
23 **RESPECTIVE FIELDS OF EXPERTISE, AND IN GENERATION,**
24 **TRANSMISSION, DISTRIBUTION AND/OR RETAIL SUPPLY**
25 **OPERATIONS OF THE PHILIPPINE ELECTRIC POWER**
26 **INDUSTRY: *PROVIDED,* THAT: (A) THE CHAIRPERSON SHALL**
27 **BE A MEMBER OF THE PHILIPPINE BAR OR A LICENSED**
28 **ENGINEER; AND (B) AMONG THE EIGHT (8) MEMBERS OF**
29 **THE COMMISSION, AND AT LEAST ONE (1) MEMBER SHALL**
30 **BE A CERTIFIED PUBLIC ACCOUNTANT, ONE (1) MEMBER**
31 **SHALL BE A LICENSED ENGINEER, AND ONE (1) MEMBER**
32 **SHALL BE AN ECONOMIST.**

1 **“SEC. 38(B). SECURITY OF TENURE. – THE CHAIRPERSON**
2 **AND THE MEMBERS OF THE COMMISSION SHALL ENJOY**
3 **SECURITY OF TENURE AND SHALL NOT BE SUSPENDED OR**
4 **REMOVED FROM OFFICE EXCEPT FOR JUST CAUSE AS**
5 **SPECIFIED BY LAW.**

6 **“SEC. 38(C). PROHIBITIONS. – THE CHAIRPERSON AND**
7 **MEMBERS OF THE COMMISSION, WITHIN THE DURATION**
8 **OF THEIR TERMS, ARE HEREBY PROHIBITED FROM: (A)**
9 **TAKING UP ANY EMPLOYMENT OR CONSULTANCY**
10 **ARRANGEMENT WITH ANY ELECTRIC POWER INDUSTRY**
11 **PARTICIPANT; (B) HOLDING ANY COMMERCIAL OR ANY**
12 **PECUNIARY INTEREST IN ANY ELECTRIC POWER**
13 **INDUSTRY PARTICIPANT, IN ANY CAPACITY; (C) HOLDING**
14 **ANY OTHER OFFICE OR EMPLOYMENT; AND (D) DIRECTLY**
15 **OR INDIRECTLY PRACTICING ANY PROFESSION,**
16 **PARTICIPATING IN ANY BUSINESS, OR BE FINANCIALLY**
17 **INTERESTED IN ANY CONTRACT WITH, OR ANY FRANCHISE,**
18 **OR SPECIAL PRIVILEGES GRANTED BY THE GOVERNMENT**
19 **OR ANY SUBDIVISION, AGENCY, OR INSTRUMENTALITY**
20 **THEREOF, INCLUDING GOVERNMENT-OWNED AND**
21 **CONTROLLED CORPORATIONS OR THEIR SUBSIDIARIES.**
22 **WITHIN THREE (3) YEARS FROM CESSATION OF THEIR**
23 **SERVICE, THE CHAIRPERSON AND THE MEMBERS OF THE**
24 **COMMISSION ARE HEREBY PROHIBITED FROM: (A)**
25 **RUNNING FOR OFFICE IN THE ELECTION; (B) TAKING UP**
26 **ANY EMPLOYMENT OR CONSULTANCY ARRANGEMENT**
27 **WITH ANY ELECTRIC POWER INDUSTRY PARTICIPANT; AND**
28 **(C) PERSONALLY APPEARING OR PRACTICING AS COUNSEL**
29 **OR AGENT ON ANY MATTER PENDING BEFORE THE**
30 **COMMISSION.**

31 **“DURING THE INCUMBENCY OF CHAIRPERSON OR**
32 **MEMBER OF THE COMMISSION, ANY RELATIVE WITHIN THE**

1 **FOURTH CIVIL DEGREE OF CONSANGUINITY OR AFFINITY,**
2 **LEGITIMATE OR COMMON LAW, SHALL BE PROHIBITED**
3 **FROM:**

4 **(A) TAKING UP ANY EMPLOYMENT OR CONSULTANCY**
5 **ARRANGEMENT WITH AN ELECTRIC POWER**
6 **INDUSTRY PARTICIPANT;**

7 **(B) HOLDING ANY COMMERCIAL OR ANY PECUNIARY**
8 **INTEREST IN ANY ELECTRIC POWER INDUSTRY**
9 **PARTICIPANT, IN ANY CAPACITY; AND**

10 **(C) APPEARING AS COUNSEL OR AGENT ON ANY**
11 **MATTER PENDING BEFORE THE COMMISSION OR**
12 **TRANSACTING BUSINESS DIRECTLY OR**
13 **INDIRECTLY THEREIN: *PROVIDED*, THAT THIS**
14 **PROHIBITION SHALL CONTINUE WITHIN THREE (3)**
15 **YEARS FROM CESSATION OF SERVICE OF THE**
16 **CONCERNED CHAIRPERSON OR MEMBER OF THE**
17 **COMMISSION.**

18 ***“SEC. 38(D). DUTIES AND RESPONSIBILITIES OF THE***
19 ***CHAIRPERSON AND CHIEF EXECUTIVE OFFICER. – THE***
20 ***CHAIRPERSON OF THE COMMISSION, ACTING AS THE CHIEF***
21 ***EXECUTIVE OFFICER, SHALL HAVE THE FOLLOWING***
22 ***POWERS, FUNCTIONS AND DUTIES:***

23 **(A) EXECUTE, ADMINISTER AND IMPLEMENT THE**
24 **POLICIES AND MEASURES APPROVED AND**
25 **ADOPTED BY THE COMMISSION;**

26 **(B) SERVE AS HEAD OF AGENCY AND DIRECTLY**
27 **ADMINISTER AND SUPERVISE THE OPERATIONS**
28 **AND DAY-TO-DAY BUSINESS ACTIVITIES OF THE**
29 **COMMISSION;**

30 **(C) REPRESENT THE COMMISSION IN ALL**
31 **DEALINGS WITH OFFICES, AGENCIES, AND**
32 **INSTRUMENTALITIES OF THE GOVERNMENT, AND**

1 WITH ALL PERSONS AND ENTITIES, PUBLIC OR
2 PRIVATE, DOMESTIC OR FOREIGN, UNLESS
3 OTHERWISE DIRECTED BY THE COMMISSION;

4 (D) EXECUTE, ON BEHALF OF THE COMMISSION, ALL
5 CONTRACTS, AGREEMENTS AND OTHER
6 INSTRUMENTS AFFECTING THE INTERESTS OF
7 THE ERC DULY APPROVED BY THE COMMISSION;

8 (E) DIRECT AND SUPERVISE THE PREPARATION OF
9 THE AGENDA FOR THE MEETINGS OF THE
10 COMMISSION *EN BANC*;

11 (F) PRESIDE AT THE MEETINGS OF THE COMMISSION
12 *EN BANC* AND THE DIVISION TO WHICH THEY ARE
13 A MEMBER;

14 (G) ORDER THE IMPLEMENTATION OF TEMPORARY
15 PRICE MITIGATION MEASURES TO PROTECT
16 CONSUMER INTERESTS, SUCH AS MARKET
17 SUSPENSION, PAYMENT DEFERRAL, SUSPENSION
18 OF DISCONNECTION, AND SUCH OTHER MEASURES
19 THAT MAY BE APPROVED BY THE COMMISSION,
20 DURING THE EXISTENCE OF OR DURATION OF A
21 CALAMITY OR EMERGENCY, AND UNDER SUCH
22 CONDITIONS AS MAY BE DETERMINED BY LAW OR
23 THE GUIDELINES TO BE ISSUED BY THE
24 COMMISSION: *PROVIDED*, THAT A FORMAL
25 DECLARATION OF CALAMITY OR EMERGENCY HAS
26 BEEN ISSUED BY THE RELEVANT NATIONAL
27 GOVERNMENT AGENCY OR LOCAL GOVERNMENT
28 UNIT: *PROVIDED, FURTHER*, THAT THE
29 IMPLEMENTATION OF TEMPORARY PRICE
30 MITIGATION MEASURES SHALL BE SUBJECT
31 TO SUBSEQUENT CONFIRMATION BY THE
32 COMMISSION *EN BANC*;

1 (H) EXERCISE THE POWER TO APPOINT OFFICIALS
2 WITH THE RANK OF DIVISION CHIEF AND BELOW;
3 AND

4 (I) EXERCISE SUCH OTHER POWERS, FUNCTIONS AND
5 DUTIES AS MAY BE ASSIGNED TO ANY MEMBER BY
6 THE COMMISSION.

7 "SEC. 38(D-1). *DUTIES AND RESPONSIBILITIES OF THE*
8 *MEMBERS OF THE COMMISSION.* – IN ADDITION TO THE
9 FUNCTIONS ENUMERATED IN RA NO. 9136, THE MEMBERS
10 OF THE COMMISSION SHALL:

11 (A) REGULARLY ATTEND AND ACTIVELY PARTICIPATE
12 IN THE MEETINGS OF THE COMMISSION *EN BANC*
13 OR DIVISION WHERE ANY CASE, ISSUE OR MATTER
14 WITHIN ITS JURISDICTION IS UNDER
15 CONSIDERATION;

16 (B) RECOMMEND TO THE CHAIRPERSON OR
17 PRESIDING COMMISSIONER THE INCLUSION IN
18 THE AGENDA OF ANY CASE, ISSUE OR MATTER
19 DEEMED APPROPRIATE IN THE PERFORMANCE OF
20 THE COMMISSION'S FUNCTIONS;

21 (C) CONDUCT HEARINGS IN THE AFFECTED AREAS, IF
22 NECESSARY, AND THOROUGHLY ANALYZE CASES,
23 ISSUES AND MATTERS PENDING BEFORE THE
24 COMMISSION *EN BANC* OR DIVISION;

25 (D) TAKE PART IN CONTINUOUS EDUCATION AND
26 CAPACITY BUILDING PROGRAMS OF THE
27 COMMISSION TO ENHANCE TECHNICAL
28 COMPETENCE;

29 (E) REFRAIN FROM ACTS WHICH UNDULY INFLUENCE,
30 IMPEDE, OR HAMPER THE EFFECTIVE
31 FULFILMENT OF DUTIES AND RESPONSIBILITIES
32 OF ANY OFFICIAL OF THE COMMISSION;

1 (F) REVIEW AND ACT ON THE ENDORSEMENT OF THE
2 PROPOSED ERC BUDGET; AND

3 (G) TIMELY PERFORM IN GOOD FAITH AND TO THE
4 BEST OF ONE'S ABILITY THE DUTIES AND
5 RESPONSIBILITIES PROVIDED HEREIN.

6 "SEC. 38(D-2). *FUNCTIONS OF THE PRESIDING*
7 *COMMISSIONER.* – EACH DIVISION SHALL HAVE A
8 PRESIDING COMMISSIONER, WHO SHALL BE THE MOST
9 SENIOR COMMISSIONER BASED ON THEIR DATES OF
10 APPOINTMENT: *PROVIDED*, THAT THE CHAIRPERSON
11 SHALL BE CONSIDERED AS THE MOST SENIOR IN THE
12 COMMISSION.

13 THE POWERS AND DUTIES OF THE PRESIDING
14 COMMISSIONER, WHEN DISCHARGING FUNCTIONS IN
15 CASES PENDING BEFORE THE DIVISION, SHALL BE AS
16 FOLLOWS:

17 (A) ISSUE CALLS FOR THE SESSIONS OF THE DIVISION;

18 (B) DIRECT AND SUPERVISE THE PREPARATION OF
19 THE AGENDA FOR THE MEETINGS OF THE
20 DIVISION;

21 (C) PRESIDE OVER THE SESSIONS OF THE DIVISION;

22 (D) PRESERVE ORDER AND DECORUM DURING THE
23 SESSIONS OF THE DIVISION;

24 (E) SIGN INTERLOCUTORY ORDERS IN CASES
25 ALREADY ASSIGNED TO THE DIVISION;

26 (F) DECIDE ALL QUESTIONS OF ORDER, SUBJECT TO
27 APPEAL TO THE COMMISSION *EN BANC*, AS MAY BE
28 PROVIDED UNDER THIS ACT; AND

29 (G) TAKE SUCH OTHER MEASURES AS MAY BE DEEMED
30 PROPER UPON CONSULTATION WITH THE OTHER
31 MEMBERS OF THE DIVISION.

1 “SEC. 38(E). *CREATION OF NEW DIVISIONS.* – THE
2 COMMISSION SHALL BE DIVIDED INTO THREE (3) DIVISIONS,
3 WITH THREE (3) MEMBERS EACH, INCLUDING THE
4 CHAIRPERSON. THE PRESENCE OF AT LEAST TWO (2) OF THE
5 THREE (3) MEMBERS OF THE DIVISION SHALL CONSTITUTE
6 A QUORUM, AND THE MAJORITY VOTE AT LEAST TWO (2)
7 MEMBERS OF THE DIVISION IN WHICH A QUORUM IS
8 PRESENT SHALL BE NECESSARY FOR THE ADOPTION OF
9 ANY RULING, ORDER, RESOLUTION, DECISION OR OTHER
10 ACTS OF THE COMMISSION.

11 “SEC. 38(F). *QUORUM.* – AT LEAST FIVE (5) MEMBERS OF
12 THE ERC SHALL CONSTITUTE A QUORUM IN THE
13 COMMISSION *EN BANC*. THE CHAIRPERSON SHALL BE THE
14 PRESIDING OFFICER DURING A COMMISSION *EN BANC*
15 HEARING. IN THE ABSENCE OF THE CHAIRPERSON, THE
16 MOST SENIOR MEMBER AMONG THE COMMISSIONERS
17 PRESENT SHALL SERVE AS THE PRESIDING OFFICER. A
18 VALID DECISION OF THE COMMISSION *EN BANC* SHALL BE
19 CONCURRED IN BY THE MAJORITY OF THE MEMBERS
20 CONSTITUTING A QUORUM.

21 “SUBJECT TO SECTION 44 OF THIS ACT, THE
22 COMMISSION *EN BANC* SHALL ACT PRIMARILY ON THE
23 FOLLOWING CASES:

24 (A) CASES INVOLVING THE ERC’S POWER TO
25 PROMULGATE RULES OR REGULATIONS;

26 (B) CASES INVOLVING CAPITAL EXPENDITURES
27 WITH A GROSS VALUE OF ONE BILLION PESOS
28 (₱1,000,000,000.00) AND ABOVE;

29 (C) CASES INVOLVING THE PERFORMANCE AND
30 OPERATIONS, AND THE SETTING OF RETAIL RATES
31 OF THE NATIONAL TRANSMISSION CORPORATION

1 (TRANSCO) OR ITS AUTHORIZED CONCESSIONAIRE,
2 AND OF DISTRIBUTION UTILITIES, AS MAY BE
3 APPLICABLE;

4 (D) REVIEW OF CASES DECIDED BY A DIVISION OF THE
5 ERC IN THE EVENT THERE IS A CONFLICTING
6 DECISION BY ANOTHER DIVISION;

7 (E) APPOINTMENTS OF OFFICIALS WITH THE RANK OF
8 DIRECTOR AND ABOVE; AND

9 (F) OTHER CASES AS MAY BE DETERMINED BY THE
10 COMMISSION *EN BANC* ITSELF.

11 "SEC. 38(G). *CODE OF CONDUCT AND ETHICAL*
12 *STANDARDS. – THE CHAIRPERSON AND THE MEMBERS OF*
13 *THE ERC SHALL CONFORM TO THE CODE OF CONDUCT AND*
14 *ETHICAL STANDARDS AS SPECIFIED IN REPUBLIC ACT*
15 *NO. 6713, OTHERWISE KNOWN AS THE "CODE OF CONDUCT*
16 *AND ETHICAL STANDARDS FOR PUBLIC OFFICIALS AND*
17 *EMPLOYEES."*

18 SEC. 5. Section 39 of RA No. 9136 is hereby amended to read as follows:

19 "SEC. 39. *ADJUSTED Compensation STRUCTURE and*
20 *Other Emoluments for ERC Personnel. – The compensation and*
21 *other emoluments for the [Chairman] CHAIRPERSON and members*
22 *of the Commission and the ERC personnel shall be exempted from the*
23 *coverage of Republic Act No. 6758, otherwise known as the "Salary*
24 *Standardization Act," AS AMENDED BY EXECUTIVE ORDER*
25 *NO. 201, SERIES OF 2016.*

26 "x x x

27 "The [Chairman] CHAIRPERSON and members of the
28 Commission shall [initially] be entitled to the same [salaries,]
29 allowances and benefits as those of the Presiding Justice and Associate
30 Justices of the ~~[Supreme Court]~~ COURT OF APPEALS, respectively.

1 The [Chairman] CHAIRPERSON and the members of the Commission
2 shall, upon completion of their term or upon becoming eligible for
3 retirement under existing laws, be entitled to the same retirement
4 benefits and privileges provided for the Presiding Justice and Associate
5 Justices of the [Supreme Court] COURT OF APPEALS, respectively.

6 “THE COMPENSATION SCHEDULE OF THE PERSONNEL
7 SHALL BE COMPETITIVE WITH THE SALARY RANGE OF
8 OTHER REGULATORY AGENCIES, AND THE ELECTRIC
9 POWER INDUSTRY STAKEHOLDERS. FOR THIS PURPOSE,
10 THE COMMISSION *EN BANC* SHALL, SUBJECT TO THE
11 APPROVAL OF THE PRESIDENT OF THE PHILIPPINES,
12 ADJUST THE COMPENSATION SCHEDULE AND BENEFITS
13 OF ERC PERSONNEL ONCE EVERY TWO (2) YEARS TO
14 ENSURE THAT THE SAME IS COMPARABLE WITH THE
15 COMPENSATION PACKAGE OF OTHER REGULATORY
16 AGENCIES, AND THE ELECTRIC POWER INDUSTRY
17 STAKEHOLDERS.”

18 SEC. 6. Section 40 of RA No. 9136 is hereby amended to read as follows:

19 “SEC. 40. *Enhancement of Technical Competence.* – [The
20 ERC shall establish rigorous training programs for its staff for the
21 purpose of enhancing the technical competence of the ERC in the
22 following areas: evaluation of technical performance and monitoring of
23 compliance with service and performance standards, performance-based
24 rate-setting reform, environmental standards and such other areas as
25 will enable the ERC to adequately perform its duties and functions.]
26 THE TECHNICAL COMPETENCE OF THE ERC PERSONNEL
27 SHALL BE BENCHMARKED AGAINST INTERNATIONAL BEST
28 PRACTICES. IN VIEW THEREOF, THE ERC SHALL
29 ESTABLISH A RIGOROUS AND SUSTAINABLE TRAINING
30 PROGRAM THAT SHALL ALLOW ITS STAFF TO ACQUIRE THE
31 NECESSARY KNOWLEDGE AND SKILLS AT PAR WITH THE

1 PERSONNEL OF REGULATORS FROM OTHER
2 JURISDICTIONS AND ECONOMIES.

3 "FOR THIS PURPOSE, THE ERC SHALL ESTABLISH A
4 UNIT WITHIN ITS STRUCTURE THAT SHALL DESIGN A
5 STANDARDIZED TRAINING AND DEVELOPMENT PROGRAM
6 AND FACILITATE THE REGULAR CONDUCT OF NECESSARY
7 TRAINING FOR NEW AND INCUMBENT ERC PERSONNEL.

8 "THE ERC SHALL ALLOT A MAXIMUM OF FIFTEEN
9 PERCENT (15%) OF THE REVENUES IT GENERATED FROM
10 THE COLLECTION OF FEES, ASSESSMENTS, LICENSES, AND
11 OTHER CHARGES FOR THE TRAINING AND UPGRADING OF
12 SKILLS OF ITS PERSONNEL. THE AMOUNT SHALL BE TAKEN
13 FROM ITS REVENUES RESERVED TO AUGMENT ERC'S
14 BUDGET AS PROVIDED UNDER SECTION 38 OF THIS ACT."

15 SEC. 7. Section 41 of RA No. 9136 is hereby amended to read as follows:

16 "SEC. 41. *PROTECTION AND Promotion of Consumer Interests.*
17 – [~~The ERC shall handle consumer complaints and ensure the adequate~~
18 ~~promotion of consumer interests.] THE ERC SHALL ADDRESS AND~~
19 **PROVIDE TIMELY RESOLUTIONS TO CONSUMER**
20 **COMPLAINTS AND ENSURE ADEQUATE PROTECTION OF**
21 **CONSUMER INTERESTS.**

22 "THE ERC SHALL ESTABLISH PROCEDURES FOR
23 DETERMINING LEGITIMATE REPRESENTATION OF
24 CONSUMER ORGANIZATIONS AND THE CONDUCT OF
25 FORUM, WHERE CONSUMERS CAN EXPRESS THEIR
26 CONCERNS ON POLICIES AND REGULATIONS OUTSIDE THE
27 FORMAL RULE-MAKING PROCESSES.

28 "THE ERC SHALL ALSO EXERT EFFORTS TO INFORM
29 CONSUMERS OF PENDING PROCEEDINGS. FOR THIS

1 PURPOSE, THE ERC SHALL REGULARLY CONDUCT
2 TRAININGS FOR THE EFFICIENT HANDLING OF CONSUMER
3 COMPLAINTS BY THE DISTRIBUTION UTILITIES'
4 CONSUMER WELFARE DESK (CWD). THE ERC SHALL
5 ALLOCATE AN ANNUAL BUDGET FOR THIS PURPOSE.

6 “A SUPPORT DESK SHALL BE MADE AVAILABLE TO THE
7 PUBLIC TO ASSIST CONSUMERS FOR A BETTER
8 UNDERSTANDING OF ALL PROCEEDINGS AND ISSUANCES
9 OF THE COMMISSION, AS WELL AS ANY AND ALL MATTERS
10 WHICH AFFECT THE ELECTRICITY RATES CHARGED TO
11 CONSUMERS: *PROVIDED*, THAT THE INFORMATION IS NOT
12 CONFIDENTIAL IN NATURE. EVERY CONSUMER HAS THE
13 RIGHT TO ACCESS INFORMATION OF PUBLIC CONCERN,
14 SUBJECT TO THE COMMISSION’S GUIDELINES IN THE
15 GRANT AND LIMITATIONS OF THIS RIGHT: *PROVIDED*,
16 *FURTHER*, THAT ACCESS TO INFORMATION SHALL NOT BE
17 GRANTED IF:

18 (A) THE INFORMATION IS CONSIDERED
19 CONFIDENTIAL UNDER EXISTING LAWS AND
20 REGULATIONS;

21 (B) THE INFORMATION IS COVERED BY DELIBERATIVE
22 PROCESS PRIVILEGE, OR EXECUTIVE PRIVILEGE;
23 AND

24 (C) THE INFORMATION REQUESTED PERTAINS TO
25 TRADE SECRETS, COMPETITIVELY SENSITIVE, OR
26 OTHER PROPRIETARY INFORMATION, WHENEVER
27 THE REVELATION THEREOF WOULD PREJUDICE
28 THE INTERESTS OF A NATURAL OR JURIDICAL
29 PERSON IN TRADE, INDUSTRIAL, FINANCIAL, OR
30 COMMERCIAL COMPETITION.”

1 **SEC. 8.** Sections 43 (b), (i), (k), (q), and (s) of RA No. 9136 are hereby
2 amended to read as follows:

3 **“SEC. 43. *Functions of the ERC.*** – The ERC shall promote
4 competition, encourage market development, ensure customer choice
5 and penalize abuse of market power in the restructured electricity
6 industry. In appropriate cases, the ERC is authorized to issue cease and
7 desist order after due notice and hearing. Towards this end, it shall be
8 responsible for the following key functions in the restructured industry:

9 “x x x

10 “(b) **CONDUCT AN ANNUAL REVIEW AND UPDATE,**
11 **WHENEVER NECESSARY** [~~Within six (6) months from~~
12 ~~the effectivity of this Act, promulgate],~~ **IN**
13 **COORDINATION WITH THE DOE,** and enforce, in
14 accordance with law, **THE [a] PHILIPPINE [National] Grid**
15 **Code and THE PHILIPPINE [a] Distribution Code** which
16 shall include, but not limited to, the following:

17 “x x x

18 “(i) Allow the **TRANSCO OR ITS CONCESSIONAIRE** to
19 charge user fees for ancillary services to all electric power
20 industry participants or self-generating entities connected to
21 the grid. Such fees shall be fixed by the ERC after due notice
22 and public hearing;

23 “x x x

24 “(q) Act on applications for cost recovery and return on demand
25 side management projects. **THE ERC SHALL FOLLOW**
26 **THE TIMELINE PROVIDED IN SECTION 13 OF RA**
27 **NO. 11234, AND FAILURE OF THE ERC TO RELEASE**
28 **ITS ACTION ON THE APPLICATION WITHIN THE**
29 **PRESCRIBED TIME FRAME SHALL DEEM SUCH**
30 **APPLICATION APPROVED;**

1 “(t) x x x; [~~and~~]

2 “x x x

3 “(V) SUMMARILY PUNISH FOR CONTEMPT BY A FINE
4 NOT LESS THAN FIVE THOUSAND PESOS
5 (₱5,000.00) BUT NOT EXCEEDING ONE HUNDRED
6 THOUSAND PESOS (₱100,000.00) OR BY
7 IMPRISONMENT NOT EXCEEDING TEN (10) DAYS,
8 OR BOTH, ANY PERSON WHO SHALL OBSTRUCT
9 THE COMMISSION OR ITS HEARING OFFICERS
10 WHILE ENGAGED IN THE DISCHARGE OF
11 OFFICIAL DUTIES, OR WHO SHALL CONDUCT
12 ONESELF IN A RUDE, DISRESPECTFUL OR
13 DISORDERLY MANNER BEFORE THE
14 COMMISSION OR ITS HEARING OFFICERS, WHILE
15 ENGAGED IN THE DISCHARGE OF OFFICIAL
16 DUTIES, OR SHALL ORALLY OR IN WRITING BE
17 DISRESPECTFUL TO, OFFEND OR INSULT THE
18 COMMISSION OR ITS HEARING OFFICERS ON
19 OCCASION OR BY REASON OF THE PERFORMANCE
20 OF OFFICIAL DUTIES, GUILTY OF ANY ACT
21 INTENDED TO INTERRUPT THE HEARING OR
22 SESSION OR ANY PROCEEDING BEFORE THE
23 COMMISSION, OR WHEN A PERSON REFUSES TO
24 BE SWORN IN AS A WITNESS OR TO ANSWER AS
25 SUCH WHEN LAWFULLY REQUIRED TO DO SO IN
26 ANY HEARING, SESSION, OR INVESTIGATION
27 DULY HELD BY THE COMMISSION, ITS MEMBERS
28 OR REPRESENTATIVES OF MISCONDUCT IN THE
29 PRESENCE OF THE COMMISSION, OR ANY OF ITS
30 MEMBERS OR REPRESENTATIVES;

1 TO ENFORCE THE PROVISIONS OF THIS SECTION,
2 THE ERC MAY, IF NECESSARY, REQUEST THE
3 ASSISTANCE OF THE PHILIPPINE NATIONAL
4 POLICE FOR THE EXECUTION OF ANY ORDER
5 MADE FOR SAID PURPOSE;

6 “(W) IN RELATION TO SECTION 6 OF THIS ACT, THE
7 ERC SHALL ISSUE A FIXED LIST OF
8 REQUIREMENTS AND ACT ON APPLICATIONS OF
9 GENERATING COMPANIES FOR THE ISSUANCE OF
10 CERTIFICATES OF COMPLIANCE (COC):
11 *PROVIDED*, THAT THE TIMELINE PROVIDED IN
12 SECTION 13 OF RA NO. 11234 SHALL BE OBSERVED,
13 AND FAILURE OF THE ERC TO RELEASE ITS
14 ACTION ON THE APPLICATION WITHIN THE
15 PRESCRIBED TIME FRAME SHALL DEEM SUCH
16 COC APPLICATION APPROVED;

17 “(X) ENCOURAGE AND ACTIVELY PROMOTE THE USE
18 OF ALTERNATIVE DISPUTE RESOLUTION (ADR) IN
19 DEREGULATED AREAS OF THE ELECTRIC POWER
20 INDUSTRY AS AN IMPORTANT MEANS TO ACHIEVE
21 SPEEDY AND IMPARTIAL JUSTICE, AND DECLOG
22 THE DOCKETS OF THE ERC IN ACCORDANCE WITH
23 RA NO. 9285, OTHERWISE KNOWN AS THE
24 “ALTERNATIVE DISPUTE RESOLUTION ACT OF
25 2004”. TO THIS END, THE ERC SHALL CONDUCT
26 EDUCATIONAL AND INFORMATION ACTIVITIES
27 TO EQUIP ADR PRACTITIONERS TO ADDRESS
28 DEREGULATED ELECTRIC POWER INDUSTRY
29 DISPUTES;

30 “(Y) TO ORGANIZE AND ADMINISTER THE
31 TRANSMISSION GRID RELIABILITY
32 MANAGEMENT COMMITTEE, WHICH SHALL BE
33 TASKED TO DEVELOP, IMPROVE AND CONDUCT

1 AUDIT IN COMPLIANCE WITH THE GRID CODE
2 AND OTHER RELATED ISSUANCES, TO MONITOR
3 AND REPORT TO THE ERC ANY VIOLATIONS
4 AGAINST THE TRANSMISSION GRID CODE, TO
5 INVESTIGATE AND PROVIDE RESOLUTIONS ON
6 GRID SIGNIFICANT INCIDENTS, AND TO
7 RECOMMEND PENALTIES FOR NON-
8 CONFORMANCE AND VIOLATIONS THEREOF;

9 “(Z) TO ORGANIZE AND ADMINISTER THE
10 DISTRIBUTION GRID RELIABILITY COMMITTEE,
11 WHICH SHALL BE TASKED TO DEVELOP, IMPROVE
12 AND CONDUCT AUDIT IN COMPLIANCE WITH
13 DISTRIBUTION RELIABILITY STANDARDS, TO
14 MONITOR AND REPORT TO THE ERC ANY
15 VIOLATIONS OF THE DISTRIBUTION UTILITIES
16 AGAINST THE DISTRIBUTION GRID CODE,
17 TO INVESTIGATE AND PROVIDE RESOLUTIONS
18 ON GRID SIGNIFICANT INCIDENTS, AND
19 TO RECOMMEND PENALTIES FOR
20 NON-CONFORMANCE AND VIOLATIONS THEREOF;

21 “All notices of hearings to be conducted by the ERC for the purpose
22 of fixing rates or fees shall be published IN at least [~~twice for two~~
23 ~~successive weeks in two (2) newspapers of nationwide circulation]~~
24 ONE (1) NEWSPAPER OF GENERAL CIRCULATION,
25 AND/OR POSTED ELECTRONICALLY.”

26 **SEC. 9.** Section 44 of RA No. 9136 is hereby amended to read as follows:

27 “~~SEC. 44. [Transfer of Powers and Functions.— The powers~~
28 ~~and functions of the Energy Regulatory Board not inconsistent with the~~
29 ~~provisions of this Act are hereby transferred to the ERC. The foregoing~~
30 ~~transfer of powers and functions shall include all applicable funds and~~

1 ~~appropriation, records, equipment, property and personnel as may be~~
2 ~~necessary.]~~

3 ***NATURE OF THE REGULATORY POWERS OF THE ERC. –***
4 **IN THE PERFORMANCE OF ITS ROLE AS THE INDEPENDENT**
5 **REGULATOR OF THE ELECTRIC POWER INDUSTRY, THE**
6 **ERC SHALL PERFORM QUASI-JUDICIAL, QUASI-**
7 **LEGISLATIVE, AND ADMINISTRATIVE FUNCTIONS. UNLESS**
8 **ALREADY PROVIDED IN THIS ACT, THE ERC SHALL**
9 **IDENTIFY WHICH AMONG ITS FUNCTIONS SHALL BE**
10 **PERFORMED AND UNDERTAKEN THROUGH REGULAR,**
11 **SUMMARY, AND ADMINISTRATIVE PROCEEDINGS. IT SHALL**
12 **ESTABLISH THE RULES OF PROCEDURE FOR EACH TYPE OF**
13 **PROCEEDING THAT SHALL PROMOTE TRANSPARENCY,**
14 **EXPEDIENCY, CONSISTENCY, AND EFFICIENCY OF**
15 **SERVICE.”**

16 **SEC. 10.** New Sections 44(A), 44(B), 44(C), 44(D) and 44(E) are hereby
17 inserted in RA No. 9136 to read as follows:

18 **“SEC. 44 (A). *POWER SUPPLY AGREEMENTS.* – THE DOE**
19 **SHALL ISSUE THE POLICIES ON THE PROCUREMENT**
20 **PROCESS FOR ANY POWER SUPPLY AGREEMENT WHICH**
21 **SHALL OBSERVE THE PRINCIPLES OF TRANSPARENCY,**
22 **COMPETITIVENESS, ACCOUNTABILITY, IMPARTIALITY AND**
23 **EFFICIENCY. THE RESULTING POWER SUPPLY**
24 **AGREEMENTS SHALL EMBODY THE PRINCIPLES OF**
25 **QUALITY, AFFORDABILITY, SUSTAINABILITY AND**
26 **RELIABILITY OF SUPPLY OF ELECTRIC POWER.**

27 **“THE ERC SHALL REVIEW AND APPROVE THE POWER**
28 **SUPPLY AGREEMENT IN ACCORDANCE WITH ITS POWERS**
29 **UNDER SECTION 43(W) OF THIS ACT.”**

1 “SEC. 44(B). *BENCHMARK PRICES AND RATES.* – THE
2 ERC SHALL DETERMINE THE BENCHMARK FOR THE RANGE
3 OF PRICES AND RATES THAT ARE DEEMED REASONABLE
4 FOR BOTH THE END-USERS AND THE OPERATIONS OF
5 GENERATION, TRANSMISSION, AND DISTRIBUTION
6 ENTITIES.

7 “LOAD DENSITY, SALES MIX, COST OF SERVICE,
8 DELIVERY VOLTAGE, RESOURCE AND FUEL, LOCATION
9 AND OTHER TECHNICAL FACTORS SHALL BE CONSIDERED
10 IN THE BENCHMARK DETERMINATION.

11 “THE ERC SHALL PUBLISH THE BENCHMARK PRICES
12 AND RATES, WHICH SHALL BE ANNUALLY REVIEWED AND
13 UPDATED WHENEVER NECESSARY.”

14 “SEC. 44(C). *REGULAR AND SUMMARY PROCEEDINGS*
15 *IN THE ERC.* – CASES FILED BEFORE THE ERC, THAT
16 REQUIRE THE EXERCISE OF ITS QUASI-JUDICIAL AND
17 ADJUDICATORY, AND QUASI-LEGISLATIVE AND RULE-
18 MAKING FUNCTIONS, SHALL BE DECIDED THROUGH
19 REGULAR PROCEEDINGS: *PROVIDED, HOWEVER,* THAT
20 CASES RELATED TO CONTRACTS OR SUBMISSIONS THAT
21 ARE CERTIFIED BY THE DOE PURSUANT TO THIS ACT AND
22 WITHIN THE BENCHMARK DETERMINED BY THE ERC,
23 INCLUDING POWER SUPPLY AGREEMENTS, SHALL BE
24 DECIDED THROUGH SUMMARY PROCEEDINGS, WITHOUT
25 NEED OF A HEARING IN ACCORDANCE WITH THE EXERCISE
26 OF THE ERC OF ITS POWERS UNDER SECTION 43(W) OF THIS
27 ACT: *PROVIDED, FURTHER,* THAT OTHER CONTRACTS
28 OR SUBMISSIONS THAT ARE NOT SUBJECT TO
29 BENCHMARKING MAY BE DECIDED THROUGH SUMMARY
30 PROCEEDINGS UPON DETERMINATION OF THE
31 COMMISSION *EN BANC.*”

1 “SEC. 44(D). *ADMINISTRATIVE PROCEEDINGS IN THE*
2 *ERC. – MATTERS THAT REQUIRE THE EXERCISE BY THE ERC*
3 *OF ITS ADMINISTRATIVE FUNCTIONS AND DOES NOT*
4 *REQUIRE THE EXERCISE OF THE ERC’S QUASI-JUDICIAL OR*
5 *QUASI-LEGISLATIVE FUNCTIONS, SHALL BE SUBJECT TO*
6 *ADMINISTRATIVE PROCEEDINGS. ADMINISTRATIVE*
7 *MATTERS SHALL BE DECIDED BY THE CHAIRPERSON OF*
8 *THE ERC: PROVIDED, THAT THE CHAIRPERSON MAY*
9 *DELEGATE THIS AUTHORITY TO A MEMBER OF THE*
10 *COMMISSION OR ANY OFFICER NOT LOWER THAN THE*
11 *LEVEL OF A DIRECTOR.”*

12 “THE GRANT OF PROVISIONAL APPROVAL FOR
13 PERMITS AND LICENSES TO ELECTRIC POWER INDUSTRY
14 PARTICIPANTS SHALL BE CONSIDERED AN
15 ADMINISTRATIVE MATTER AND SHALL BE DECIDED UPON
16 BY THE CHAIRPERSON: *PROVIDED, THAT THE GRANT OF*
17 *PROVISIONAL APPROVAL SHALL BE SUBJECT TO*
18 *SUBSEQUENT CONFIRMATION BY THE COMMISSION EN*
19 *BANC. ADMINISTRATIVE MATTERS SHALL LIKEWISE*
20 *INCLUDE THE FOLLOWING COMPLIANCE SUBMISSIONS BY*
21 *ELECTRIC POWER INDUSTRY PARTICIPANTS:*

- 22 (i) ANNUAL OR REGULAR SUBMISSIONS, WHETHER
23 ON TECHNICAL, LEGAL OR FINANCIAL MATTERS;
24 (ii) SUBMISSIONS AND REPORTS INCLUDED IN THE
25 REVIEW FOR REGULATORY RESET: *PROVIDED,*
26 THAT THE REGULATORY RATE RESET PROCESS
27 SHALL BE DECIDED THROUGH REGULAR
28 PROCEEDINGS IN ACCORDANCE WITH THE ERC’S
29 POWERS UNDER SECTION 43(F) OF THIS ACT; AND
30 (iii) ANY OTHER CONTRACTS, APPLICATIONS, OR
31 SUBMISSIONS MADE BY PARTICIPANTS IN THE
32 ELECTRIC POWER INDUSTRY THAT DOES NOT

1 REQUIRE THE EXERCISE OF THE ERC'S QUASI-
2 JUDICIAL OR QUASI-LEGISLATIVE FUNCTIONS AS
3 MAY BE DETERMINED BY THE COMMISSION *EN*
4 *BANC*."

5 "SEC. 44(E). *ISSUANCE OF DECISIONS AND RULE ON*
6 *APPEALS*. – THE ERC SHALL ISSUE AN ACTION ON ALL
7 APPLICATIONS AND SUBMISSIONS MADE IN REGULAR
8 QUASI-JUDICIAL AND QUASI-LEGISLATIVE PROCEEDINGS
9 WITHIN TWO HUNDRED SEVENTY (270) CALENDAR DAYS
10 FROM THE SUBMISSION OF A VALID APPLICATION AS
11 PROVIDED UNDER SECTION 13 OF REPUBLIC ACT NO. 11234,
12 OTHERWISE KNOWN AS THE "ENERGY VIRTUAL ONE-STOP
13 SHOP ACT": *PROVIDED*, THAT FOR SUMMARY QUASI-
14 JUDICIAL AND QUASI-LEGISLATIVE PROCEEDINGS, THE
15 RELEVANT PERIOD SHALL BE SIXTY (60) CALENDAR DAYS
16 FROM THE SUBMISSION OF A VALID APPLICATION.

17 "FOR APPLICATIONS AND SUBMISSIONS MADE IN
18 ADMINISTRATIVE PROCEEDINGS, THE ERC SHALL ISSUE
19 AN ACTION WITHIN SIXTY (60) CALENDAR DAYS FROM THE
20 SUBMISSION OF ALL DOCUMENTARY REQUIREMENTS AS
21 PROVIDED UNDER SECTION 13 OF REPUBLIC ACT NO. 11234.

22 "A DECISION ISSUED BY A DIVISION THROUGH A
23 REGULAR OR SUMMARY PROCEEDING, OR BY THE
24 CHAIRPERSON THROUGH AN ADMINISTRATIVE
25 PROCEEDING, MAY BE SUBJECT TO A MOTION FOR
26 RECONSIDERATION FILED BEFORE THE OFFICE THAT
27 ISSUED THE DECISION.

28 "UPON THE RESOLUTION OF THE MOTION FOR
29 RECONSIDERATION, AN APPEAL MAY BE MADE BEFORE
30 THE COMMISSION *EN BANC* SOLELY ON THE GROUND THAT
31 A PREVIOUSLY ISSUED DECISION IS IN CONFLICT WITH

1 THE DECISION SUBJECT OF THE APPEAL. ALL OTHER
2 APPEALS THAT INVOLVE QUESTIONS OF FACT AND LAW
3 SHALL BE MADE BEFORE THE COURT OF APPEALS.
4 APPEALS THAT INVOLVE SOLELY QUESTIONS OF LAW
5 SHALL BE MADE BEFORE THE SUPREME COURT.

6 "DECISIONS SHALL BE CONSIDERED FINAL AND
7 EXECUTORY ONLY UPON THE LAPSE OF THE PERIOD TO
8 FILE A MOTION FOR RECONSIDERATION OR AN APPEAL, AS
9 THE CASE MAY BE, WITHOUT SUCH MOTION OR APPEAL
10 BEING FILED WITHIN THE GIVEN PERIOD.

11 "WITHIN SIX (6) MONTHS FROM THE EFFECTIVITY OF
12 THIS ACT, THE ERC SHALL ISSUE THE RULES OF
13 PROCEDURE FOR REGULAR AND SUMMARY
14 QUASI-JUDICIAL, AND ADMINISTRATIVE PROCEEDINGS,
15 AS PROVIDED FOR IN THIS ACT.

16 "THE RULES OF PROCEDURE TO BE ISSUED BY THE ERC
17 SHALL GOVERN ALL CASES FILED AFTER THE EFFECTIVITY
18 OF SUCH RULES INCLUDING THOSE THAT ARE PENDING AT
19 THE TIME OF THE ISSUANCE OF THE RULES. FOR CASES
20 THAT ARE PENDING AT THE TIME OF ISSUANCE OF THE
21 RULES, THE COMMISSION *EN BANC* MAY WAIVE THE
22 APPLICATION OF THE RULES IF IT DEEMS THAT ITS
23 APPLICATION WOULD NOT BE FEASIBLE, CAUSE UNDUE
24 DELAY OR WOULD WORK INJUSTICE, IN WHICH CASE THE
25 RULES EXISTING AT THE TIME THE CASES WERE FILED
26 SHALL GOVERN."

27 SEC. 11. Section 46 of RA No. 9136 is hereby amended to read as follows:

28 "SEC. 46. *Fines and Penalties.* – The FOLLOWING fines and
29 penalties [~~that~~] shall be imposed [~~by the ERC~~] for any violation of or
30 non-compliance with this Act or the IRR: xxx

1 (A) **ADMINISTRATIVE FINES AND PENALTIES.** – BY ANY
2 JURIDICAL ENTITY ENGAGED IN THE
3 GENERATION, TRANSMISSION, DISTRIBUTION AND
4 SUPPLY OF ELECTRICITY, THE FINE shall range from
5 a minimum of Fifty thousand pesos (₱50,000.00) to a
6 maximum of [~~Fifty million pesos (₱50,000,000.00)~~] FIVE
7 HUNDRED million pesos (₱500,000,000.00).

8 “THE COMMISSION MAY ORDER THAT SUCH
9 AMOUNT OF FINES AND PENALTIES IMPOSED FOR
10 VIOLATION OF THIS ACT BE IMMEDIATELY
11 APPLIED AS REFUND IN THE RATES CHARGED BY
12 THE OFFENDING ENTITY TO THE END-USERS
13 AFFECTED BY SUCH VIOLATION OR NON-
14 COMPLIANCE.

15 “THE ERC SHALL PROMULGATE THE SCHEDULE OF
16 PENALTIES, WITH CONSIDERATION OF THE
17 CIRCUMSTANCES SURROUNDING THE VIOLATION
18 OR NONCOMPLIANCE, SUCH AS, RECIDIVISM,
19 PERIOD OF NONCOMPLIANCE, OR ABUSE OF
20 MARKET POWER, CARTELIZATION, OR ANTI-
21 COMPETITIVE OR DISCRIMINATORY BEHAVIOR.
22 THE ERC MAY IMPOSE THESE PENALTIES FOR
23 EVERY DAY OF VIOLATION, DELAY, OR
24 NONCOMPLIANCE.

25 (B) **CRIMINAL AND CIVIL LIABILITIES.** – BY ANY
26 PERSON, A FINE OF NOT LESS THAN FIFTY
27 THOUSAND PESOS (₱50,000.00) BUT NOT MORE
28 THAN ONE HUNDRED MILLION PESOS
29 (₱100,000,000.00), OR BY IMPRISONMENT OF NOT
30 LOWER THAN SIX (6) YEARS AND ONE (1) DAY AND

1 NOT HIGHER THAN TWELVE (12) YEARS, OR BOTH,
2 AT THE DISCRETION OF THE COURT.

3 WHEN THE ENTITIES INVOLVED ARE JURIDICAL
4 PERSONS, THE PENALTY OF IMPRISONMENT
5 SHALL BE IMPOSED ON ITS OFFICERS,
6 DIRECTORS, OR EMPLOYEES HOLDING
7 MANAGERIAL POSITIONS, WHO ARE KNOWINGLY
8 AND WILLFULLY RESPONSIBLE FOR SUCH
9 VIOLATION.

10 (C) *OFFER OF COMPROMISE.* – ANY PERSON OR ENTITY
11 SUBJECT TO AN ADMINISTRATIVE PROCEEDING IN
12 THE COMMISSION THAT MAY RESULT IN THE
13 IMPOSITION OF FINES, REFUNDS AND/OR
14 PENALTIES, PURSUANT TO THIS SECTION, MAY
15 ENTER A PLEA OF *NOLO CONTENDERE*, IN WHICH
16 SUCH PERSON OR ENTITY DOES NOT ACCEPT NOR
17 DENY RESPONSIBILITY FOR THE CHARGES BUT
18 AGREES TO ACCEPT THE OBLIGATION TO PAY
19 FINES, REFUNDS AND/OR PENALTIES AS IF
20 ALREADY FOUND LIABLE. THE PLEA CANNOT BE
21 USED AGAINST SUCH PERSON OR ENTITY TO
22 PROVE LIABILITY IN A CRIMINAL ACTION NOR IN
23 ANOTHER CAUSE OF ACTION: *PROVIDED*, THAT A
24 PLEA OF *NOLO CONTENDERE* MAY BE ENTERED
25 ONLY WITH THE PRIOR APPROVAL OF THE
26 COMMISSION *EN BANC* WHICH SHALL ACCEPT IT
27 ONLY AFTER WEIGHING ITS EFFECT ON THE
28 PARTIES AND THE CONSUMERS: *PROVIDED*,
29 *FURTHER*, THAT SHOULD THE COMMISSION
30 ACCEPT THE PLEA OF *NOLO CONTEDERE*, THE
31 FINE, REFUND AND/OR PENALTY TO BE ADJUDGED
32 FOR PAYMENT SHALL NOT BE LESS THAN FIFTY

1 PERCENT (50%) OF THE CORRESPONDING FINE,
2 REFUND AND/OR PENALTY FOR THE SUBJECT
3 OFFENSE: *PROVIDED, FURTHERMORE*, THAT ANY
4 PERSON OR ENTITY CAN NOT ENTER INTO A PLEA
5 OF *NOLO CONTENDERE* FOR A VIOLATION OF ITS
6 FRANCHISE OR CERTIFICATE OF PUBLIC
7 CONVENIENCE AND NECESSITY, AND SUCH OTHER
8 CASES AS DETERMINED BY THE COMMISSION:
9 *PROVIDED, FINALLY*, THAT THE COMMISSION
10 SHALL ISSUE GUIDELINES FOR THIS PROVISION,
11 SUBJECT TO PUBLIC CONSULTATION.

12 (D) *ROLE OF THE DEPARTMENT OF JUSTICE*. – CIVIL
13 AND CRIMINAL ACTIONS AND PROCEEDINGS
14 INSTITUTED ON BEHALF OF THE GOVERNMENT
15 UNDER THE AUTHORITY OF THIS ACT OR OTHER
16 LAWS ENFORCED BY THE ERC SHALL BE BROUGHT
17 IN THE NAME OF THE GOVERNMENT OF THE
18 PHILIPPINES AND SHALL BE PROSECUTED AND
19 HANDLED BY THE ERC WITH THE ASSISTANCE OF
20 THE DEPARTMENT OF JUSTICE (DOJ): *PROVIDED*,
21 THAT THE DETERMINATION OF THE EXISTENCE
22 OF PROBABLE CAUSE AND THE SUBSEQUENT
23 FILING OF ANY CRIMINAL OR CIVIL CASE WITH
24 THE PROPER COURT AGAINST VIOLATORS OF THIS
25 ACT SHALL EXCLUSIVELY BELONG TO THE DOJ:
26 *PROVIDED, HOWEVER*, THAT NO CIVIL OR
27 CRIMINAL ACTION FOR THE RECOVERY OF DUTIES
28 OR THE ENFORCEMENT OF ANY FINE, PENALTY OR
29 FORFEITURE UNDER THIS ACT SHALL BE FILED IN
30 COURT WITHOUT THE APPROVAL OF THE ERC.

31 (E) *ADJUSTMENT OF FINES AND PENALTIES*. – THE
32 FINES AND PENALTIES MAY BE ADJUSTED TO ITS
33 PRESENT VALUE EVERY FIVE (5) YEARS USING THE

1 **CONSUMER PRICE INDEX (CPI) AS PUBLISHED BY**
2 **THE PHILIPPINE STATISTICS AUTHORITY.”**

3 **SEC. 12. Appropriations.** – The amount necessary for the initial
4 implementation of this Act shall be charged against the current year’s
5 Appropriations of the ERC. Thereafter, such amount shall be included in the
6 annual General Appropriations Act.

7 **SEC. 13. Congressional Oversight.** – The Joint Congressional Energy
8 Commission shall exercise oversight powers over the implementation of this Act
9 and shall convene annually to receive and hear the annual report of the ERC.

10 **SEC. 14. Repealing Clause.** – Sections 1 and 2 of Executive Order
11 No. 172, entitled “*Creating the Energy Regulatory Board,*” **AND** Sections 38 and
12 42 of RA No. 9136 **ARE HEREBY REPEALED.**

13 All laws, decrees, orders, rules and regulations or parts thereof which are
14 inconsistent with or contrary to the provisions of this Act are hereby repealed or
15 amended accordingly without prejudice to Republic Act No. 10667, otherwise
16 known as the “Philippine Competition Act”.

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

Approved,