

HOUSE OF REPRESENTATIVES

H. No. 8203

BY REPRESENTATIVES DAGOOC, DE JESUS, EBCAS, GUYA, TAMBUNTING, FUENTEBELLA, CHIPECO,
MARIANO-HERNANDEZ, MATUGAS, VELASCO, MACAPAGAL ARROYO, VERGARA, BORDADO AND SIAO,
PER COMMITTEE REPORT NO. 656

AN ACT
PROMOTING THE USE OF MICROGRID SYSTEMS TO ACCELERATE THE
TOTAL ELECTRIFICATION OF UNSERVED AND UNDERSERVED AREAS
NATIONWIDE

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

- 1 SECTION 1. **Title.** -This Act shall be referred to as the "*Microgrid Systems*
2 *Act.*"
- 3 SEC. 2. **Declaration of Policy.** - It is hereby declared the policy of the
4 State to:
- 5 a) Pursue sustainable rural development and poverty reduction plans
6 towards nation building by providing access to electricity for all;
- 7 b) Accelerate the total electrification of the countryside and the
8 provision of reliable electricity service in unserved and underserved areas;
- 9 c) Promote private sector participation in the electrification of, not
10 only remote and unviable areas but also unserved and underserved areas;
- 11 d) Provide a competitive environment and level-playing field for
12 various energy sources and technology; and
- 13 e) Ensure that electricity consumers will benefit from new and
14 emerging technologies and innovations in the electric power industry.

1 SEC. 3. **Scope.** This Act shall apply to the development of microgrid
2 systems in unserved and underserved areas nationwide.

3 SEC. 4. **Definition of Terms.** As used in this Act:

4 a) **Annual penetration limit** refers to the maximum total capacity of
5 grid-tied microgrid systems that can electrically connect to a specific system of
6 a distribution utility (DU), in case of exporting power as a result of a buy and
7 sell agreement, considering the DU's existing power supply agreements, the
8 Distribution and Transmission Development Plan, distribution and
9 transmission system, and other technical considerations as may be determined
10 by the Energy Regulatory Commission (ERC), in cases where the said microgrid
11 system can be viably interconnected to the main distribution system of the
12 distribution utility;

13 b) **Benchmark rate** refers to the maximum effective retail rate
14 consisting of all components like generation and wheeling rates, whenever
15 applicable, that a Microgrid System Provider (MGSP) may charge and collect
16 from end-users, considering the specific technology used in the microgrid
17 systems, capacity, number of off-takers, and other technical, financial, and
18 economic considerations as may be determined by the ERC;

19 c) **Distributed Energy Resource** refers to smaller power sources that
20 could be aggregated to provide the power necessary to meet regular demand. It
21 is a demand and supply side resource deployable throughout the system of a
22 network provider to meet energy reliability needs of customers served by the
23 system, including renewable energy facilities, energy storage and other system
24 components necessary to incorporate renewable generation resources;

25 d) **Distribution system** refers to the system of wires and associated
26 facilities belonging to a franchised distribution utility, extending between the
27 delivery points on the transmission, sub-transmission system, or generating
28 plant connection and the point of connection to the premises of the end-user;

29 e) **Distribution Utility** refers to any electric cooperative, private
30 corporation, or government-owned utility, which has a franchise to operate a
31 distribution system, including those whose franchise covers economic zones;

1 f) **Electric Cooperative** refers to a distribution utility organized
2 pursuant to Presidential Decree No. 269, as amended, or as otherwise provided
3 in this Act;

4 g) **End-user** refers to any natural or juridical person requiring the
5 supply and delivery of electricity for its own use;

6 h) **Grid-tied** refers to a situation in which a microgrid system is
7 connected to the main distribution system of the franchise holder distribution
8 utility to serve as a backup or main power source;

9 i) **Hosting Capacity** refers to the maximum total capacity addition
10 that a microgrid provider may install based on the forecasted demand in its
11 area of operation, in case the same is operating in island mode or has no
12 possibility of connecting the supply to the main distribution system of the DU
13 having a franchise in the area. Annual capacity addition based on forecast
14 shall be reported to the ERC for purposes of rate-tariff and technical standard
15 determination;

16 j) **Island mode** refers to a situation in which a microgrid system is
17 electrically isolated from the grid/main distribution system and the isolated
18 system is energized by embedded generation or the Distributed Energy
19 Resource (DER), subject to the maximum capacity allowed by the ERC of the
20 host area;

21 k) **Microgrid system** refers to a group of interconnected loads and
22 DER with clearly defined electrical boundaries that acts as a single controllable
23 entity with respect to the distribution, sub-transmission, or transmission grid,
24 whichever is applicable, and can connect and disconnect from the grid to
25 enable it to operate in both grid-tied or island mode;

26 l) **Microgrid System Provider** refers to a natural or juridical person
27 whose business includes the installation of renewable or hybrid technology
28 microgrid systems, power generation assets, or other associated power delivery
29 systems in unserved or underserved areas nationwide;

30 m) **National Power Corporation-Small Power Utilities Group**
31 **areas** refer to a geographical area currently being served by the NPC-SPUG or
32 by a new power provider, and may be an underserved area;

1 n) **New Power Provider** refers to an MGSP who has taken over the
2 function of the NPC-SPUG through the mechanism of privatization provided by
3 the Department of Energy (DOE) consistent with Republic Act No. 9136,
4 otherwise known as the "*Electric Power Industry Reform Act of 2001*," and
5 whose functions are further defined under this Act;

6 o) **Qualified Third Party** refers to an MGSP which serves as the
7 alternative electric service provider authorized to serve remote and unviable
8 areas under RA 9136, and whose functions are further defined under this Act;

9 p) **Remote and unviable area** refers to a geographical area within
10 the franchise of a DU where immediate extension of distribution lines is not
11 feasible, and may be classified as an unserved or underserved area;

12 q) **Universal Charge** refers to a non-by-passable charge which shall
13 be passed on and collected from all electricity end-users on a monthly basis by
14 the distribution utilities pursuant to RA No. 9136;

15 r) **Underserved area** refers to an area consisting either of sitios,
16 barangays, or municipalities currently served by home power systems,
17 microgrids, or DUs whose duration of electricity services is less than twenty-
18 four (24) hours daily; and

19 s) **Unserved area** refers to a sitio, barangay, or municipality with no
20 electricity access due to the absence of distribution systems or even home
21 power systems or no electricity connection at all;

22 **SEC. 5. Microgrid Systems in Unserved or Underserved Areas. -**

23 Microgrid systems shall be installed in unserved or underserved areas by
24 accredited MGSPs after the conduct of a Competitive Selection Process (CSP) by
25 the ERC and NEA in accordance with Sections 6 and 7 of this Act: *Provided*;
26 That the installation shall require a waiver of rights and obligations to provide
27 electric service from the DU concerned and shall not revoke the DU's franchise
28 over the said area: *Provided, further*, That the installation of grid-tied MGSPs
29 shall be within the annual penetration limit determined by the ERC in
30 accordance with Section 6 of this Act: *Provided, furthermore*, That the
31 permitting process of all MGSPs shall comply with the time frames specified in
32 this Act and with the provisions of Republic Act No. 11234, otherwise known as
33 the "*Energy Virtual One Stop Shop Act*": *Provided, finally*, That a separate

1 account shall be maintained as provided under Section 9 hereof, and that it is
2 without prejudice to the right of first refusal given to the DUs under Section 10.

3 Accredited MGSPs that operate in off-grid areas, remote or unviable
4 areas shall be subsidized through the Universal Charge for Missionary
5 Electrification (UC-ME) pursuant to Section 34(b) and Section 70 of RA No.
6 9136. However, accredited MGSPs that operate in off-grid areas, which are not
7 NPC- SPUG areas or remote or unviable areas, shall not be subsidized, without
8 prejudice to the provisions of Section 8 of this Act. The NPC shall file the
9 necessary application for the UC-ME of concerned MGSPs upon approval by
10 the ERC: *Provided, however,* That the National Electrification Administration
11 (NEA) shall provide all the necessary data: *Provided, further,* that the
12 administration of the approved UC-ME shall be undertaken by the NEA.

13 All rates charged by accredited MGSPs, whether subsidized or
14 unsubsidized, shall be equal to or lower than the applicable benchmark rate as
15 may be determined by the ERC in accordance with Section 6 of this Act:
16 *Provided,* That transmission, distribution, wheeling, and universal charges
17 imposed on end-users shall, whenever applicable, continue to be regulated by
18 the ERC.

19 **SEC. 6. *Functional Responsibilities of the Energy Regulatory***
20 ***Commission (ERC).*** - In addition to its functions under RA No. 9136, the ERC
21 shall:

22 a) Within six (6) months from the effectivity of this Act, in
23 consultation with the DOE, the National Transmission Corporation, the
24 transmission concessionaire, the NEA, the National Power Corporation, and
25 other relevant government agencies and private stakeholders in the electric
26 power industry, develop, establish, and promulgate the following:

- 27 i. Parameters for the determination of individual DU's annual penetration
28 and hosting capacity limit: *Provided,* That the DUs shall be necessary
29 parties in the determination of their respective annual penetration limits.
30 The ERC shall conduct a regular review of such parameters, and shall
31 release all the annual penetration limits not later than December 15 of
32 each preceding year;

1 ii. Technical and service standards for microgrid systems, whether grid-tied
2 or island mode, both operating in unserved and underserved areas:
3 *Provided*, That such standards shall be compliant with the Philippine
4 Distribution Code, Philippine Grid Code, and other relevant rules and
5 regulations;

6 iii. Rules for grid-tied microgrid systems to buy and sell from the grid,
7 whenever applicable: *Provided*, That the same shall not result to
8 increased retail rates for other end users, or compromise grid or
9 distribution system stability or reliability; and

10 iv. An accreditation criteria and mechanism for MGSPs within one hundred
11 eighty (180) days from the effectivity of this Act: *Provided*, That the list of
12 accredited MGSPs shall be updated, published, and posted on the ERC
13 and DOE websites not later than January 15 of every year;

14 b) Monitor the operations of all awarded accredited MGSPs and their
15 respective contracts with the DU having franchise in the area: *Provided*, That
16 the ERC may, upon complaint or *motu proprio*, conduct a review of an awarded
17 MGSP's operations and the corresponding contract should it find reasonable
18 grounds for non-compliance with the benchmark rate and other provisions of
19 the standardized contract; and

20 c) Exercise its rate-making power through the determination of
21 benchmark rates for different microgrid systems and standardized contracts
22 based on technology, capacity, and other pertinent considerations: *Provided*,
23 That the list of benchmark rates shall be updated, published, and posted on
24 the ERC and DOE websites not later than December 15 of each preceding year:
25 *Provided, further*, That for the purpose of facility and proper determination of
26 the rates, a threshold should be set based on the capacity of the microgrid
27 system and as determined by the Commission. The rates for microgrid systems
28 beyond the threshold shall be subject to the regular rate making process, with
29 those within the threshold, subject to a benchmark rate to be determined by
30 the Commission: *Provided, finally*, That the initial benchmark rates for those
31 within the threshold shall be determined by the ERC within a period of one
32 hundred eighty (180) days from the effectivity of this Act.

1 **SEC. 7. Functional Responsibilities of the Department of Energy**
2 **(DOE).** - In addition to its functions under Republic Act No. 7638, otherwise
3 known as the "*Department of Energy Act of 1992*", the DOE shall:

4 a) In coordination with NEA in case of areas within the franchise area
5 of electric cooperatives, release and update a list of unserved and underserved
6 areas as well as NPC-SPUG areas and remote or unviable areas: *Provided*, That
7 the list shall be updated, published, and posted on the NEA, ERC and DOE
8 websites not later than January 15 of each preceding year;

9 b) In coordination with the privately-owned DU affected, prepare
10 annually the list of unserved and underserved areas waived by the privately-
11 owned DUs: *Provided*, That the said list shall be updated, published and posted
12 on the NEA, ERC and DOE websites not later than January 15 of the current
13 year;

14 c) Establish and conduct a uniform, simple, and streamlined process
15 for competitive selection of MGSPs, whether subsidized or unsubsidized,
16 consistent and harmonized with the existing DOE policy guidelines for the
17 purpose: *Provided*, That the entire procedure from commencement to
18 submission to the ERC of the awarded contract shall be no longer than ninety
19 (90) days: *Provided, further*, That information on interested MGSPs and their
20 respective proposed systems and rates shall be made available to end users in
21 the area concerned within thirty (30) days from the MGSP's submission of the
22 intent to participate; and

23 d) Determine the detailed procedure for the transition of electricity
24 service from DUs to awarded MGSPs in underserved areas: *Provided*, That such
25 transition shall not exceed ninety (90) days from the award of the contract
26 through no fault of the awarded MGSP: *Provided, further*, That MGSPs may
27 enter as NPPs only and that the distribution services shall remain under the
28 operation of the franchised DUs. For NPC-SPUG areas and in instances where
29 the existing power supply contract is expired or expiring and the CSP is not yet
30 completed, the NPC-SPUG or existing power provider shall remain as the power
31 provider until such time as the CSP has been completed and the new provider
32 has assumed responsibility.

1 **Sec. 8. Functional Responsibilities of the National Electrification**
2 **Administration (NEA).** - In addition to its functions under Presidential Decree
3 No. 269 as amended, and pursuant to its mandate of total rural electrification,
4 the NEA shall:

5 a) Prepare an annual schedule of CSP based on the list of unserved
6 and underserved areas within the franchise area of ECs: *Provided*, That the
7 NEA shall, in coordination with the ECs concerned, consolidate the said annual
8 schedule: *Provided, further*, That the schedule shall be published and posted on
9 the NEA, ERC and DOE websites not later than January 15 of the current year;

10 b) Administer subsidies as provided in Section 5, Paragraph 2, of this
11 Act to qualified ECs that are accredited as MGSPs after the conduct of a CSP in
12 accordance with Section 6 and Section 7 of this Act; and

13 c) Determine the detailed procedure and qualifications for the
14 application and grant of subsidies to accredited MGSPs of qualified ECs.

15 **SEC. 9. Microgrid Systems of Electric Power Industry Participants.** -
16 Generation companies, DUs, retail electricity suppliers, and their respective
17 subsidiaries or affiliates may engage in the business of MGSPs in unserved and
18 underserved areas, subject to the conditions set forth under Section 45 of RA
19 No. 9136: *Provided*, That a separate account shall be maintained for such
20 business undertaking. The Microgrid System Providers shall be exempt from
21 securing the Certificate of Compliance (COC) required under Section 6 of
22 Republic Act No. 9136: *Provided, however*, That all other necessary health,
23 safety and environmental clearances are obtained from the appropriate
24 government agencies.

25 **SEC. 10. Preferential Right for Distribution Utilities.** - A DU shall, on
26 its own or in partnership or joint venture with other entities, be given
27 preferential right of first refusal to engage in the business of MGSPs in
28 unserved and underserved areas within their franchise area for a maximum
29 period of eighteen (18) months from notice of the inclusion of the said area in
30 the list of unserved and underserved areas as well as NPC-SPUG areas and
31 remote or unviable areas released, updated, published, and posted yearly on
32 the websites of the DOE, the NEA, and the ERC pursuant to Section 7 of this
33 Act: *Provided*, That they shall provide an electricity rate lower than or equal to

1 the prevailing electricity rate: *Provided, further,* That they shall be allowed to
2 impose a separate rate in the identified underserved or unserved area:
3 *Provided, furthermore,* That in such case, a CSP shall no longer be required:
4 *Provided, finally,* That the cost of the microgrid systems of DU-MGSPs shall not
5 form part of the DUs capital expenditure projects allowed to be passed on to
6 their consumers located in their respective franchise areas. Such cost shall be
7 recovered instead from the rate to be charged to the DU-MGSPs' consumers
8 connected to the microgrid system.

9 **SEC. 11. *Effect of Grid Extension.*** - If the grid is extended to previously
10 underserved, unserved, NPP, or Qualified Third Party (QTP) areas served by a
11 MGSP, the DU shall have the Preferential Right of First Refusal to acquire the
12 distribution system of the MGSP upon the expiration or termination of the
13 MGSP contract by virtue of their contractual agreement. In case the DU having
14 the franchise over the affected area opts to acquire the same, the acquisition
15 cost of the microgrid system shall consider its asset life, extent of recovered
16 costs from the consumers connected to the said microgrid system and other
17 parameters to be determined by the ERC. Such acquisition shall likewise be
18 approved by the Commission.

19 Following its acquisition, the DU shall be allowed to include the
20 operating costs thereon as part of its Allowable Operating Expenditures
21 (OPEX).

22 **SEC. 12. - *Non- Disqualification from Extension of Franchise.*** - The
23 presence of an MGSP in the franchise area of a DU shall not disqualify the said
24 DU from seeking an extension of the term of its franchise from Congress or
25 from any appropriate government agency.

26 **SEC. 13. *Prohibited Acts.*** - Any person, natural or juridical, shall be
27 prohibited from the following acts:

28 a) Refusal to allow the installation of any microgrid system: *Provided,*
29 That the requirements under Sections 5, 6, 7, and 8 of this Act shall be
30 complied with;

31 b) Imposition of new charges and contractual terms on the end user
32 which shall not be part of the benchmark rate and awarded MGSP contract;

1 c) Refusal to allow a DU to acquire an MGSP distribution system:
2 *Provided*, That the DU shall have a franchise over the area and the acquisition
3 shall be in accordance with Section 9 of this Act; and

4 d) Non-compliance with the duties, obligations, and time frames
5 specified in Sections 6 and 7 of this Act.

6 SEC. 14. **Penalties.** - The responsible officers and employees of any
7 establishment or organization, who commits the prohibited acts provided under
8 Section 13, paragraphs (a), (b) and (c) of this Act shall, upon conviction, pay a
9 fine ranging from a minimum of One million pesos (P1,000,000.00) to Five
10 million pesos (5,000,000.00), upon the discretion of the Court.

11 Any person who willfully aids or abets the commission of the prohibited
12 acts or causes the commission of any such act by another shall be liable in the
13 same manner as the principal. In cases of an association, partnership, or
14 corporation, the penalty shall be imposed on the member, partner, president,
15 chief operating officer, chief executive officer, director or officer responsible for
16 the violation.

17 Any person found guilty of violating Section 13(d) of this Act shall be
18 penalized as follows:

19 a) *First offense* - Thirty (30) days suspension without pay and
20 mandatory attendance in Values Orientation Program;

21 b) *Second offense* - Three (3) months suspension without pay; and

22 c) *Third offense* - Dismissal and perpetual disqualification from
23 public service, and forfeiture of retirement benefits.

24 SEC. 15. **Congressional Oversight.** - The Joint Congressional Energy
25 Commission (JCEC) shall exercise oversight powers over the implementation of
26 this Act. The DOE and ERC shall submit annually to the JCEC a thorough
27 report on the implementation of this Act not later than March 15 of every year:
28 *Provided*, That the report shall include the identification of legislative gaps, if
29 any, and recommended ways forward.

30 SEC. 16. **Implementing Rules and Regulations (IRR).** - The DOE shall,
31 in consultation with the appropriate government agencies mentioned herein
32 and electric power industry stakeholders, issue the IRR of this Act within sixty
33 (60) days upon its effectivity.

1 **SEC. 17. *Amendatory Clause.*** - This Act modifies Section 43 of RA No.
2 9136, insofar as the rights, obligations, and powers of the ERC are concerned.
3 The ERC's functions under the said Section shall remain in force and effect:
4 *Provided*, That the same are not inconsistent with this Act.

5 **SEC. 18. *Separability Clause.*** - If, for any reason, any provision of this
6 Act is declared unconstitutional or invalid, the other provisions hereof, which
7 are not affected thereby, shall continue to be in full force and effect.

8 **SEC. 19. *Repealing Clause.*** - All laws, decrees, orders, rules and
9 regulations or parts thereof, which are inconsistent with or contrary to the
10 provisions of this Act, are hereby repealed, amended or modified accordingly.

11 **SEC. 20. *Effectivity.*** - This Act shall take effect fifteen (15) days after its
12 publication in the Official Gazette or in a newspaper of general circulation.

13 Approved,