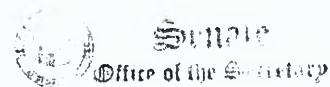


NINETEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)



'22 JUL -7 P3:54

SENATE
S.B. No. 152

RECEIVED BY: _____

Introduced by SEN. WIN GATCHALIAN

AN ACT
PROVIDING FOR THE NATIONAL ENERGY POLICY AND FRAMEWORK FOR
THE DEVELOPMENT AND REGULATION OF THE PHILIPPINE MIDSTREAM
NATURAL GAS INDUSTRY, AND FOR OTHER PURPOSES

EXPLANATORY NOTE

The start of commercial operations of the Malampaya-Camago wells in 1998 ushered in the beginning of the Philippine natural gas industry culminating with the Malampaya gas to power project producing its first gas in 2001. Since then, the domestic natural gas industry has provided Filipinos with locally sourced energy. Based on 2020 data from the Department of Energy (DOE), natural gas remains the second biggest source of electric power in the island of Luzon, accounting for 26.9% of its gross power generation.¹ More than 20 years since Malampaya's declaration of commerciality, there is now a looming uncertainty as its production is expected to significantly decline starting 2024.²

In anticipation of the nearing depletion of gas output from Malampaya,³ the absence of a replacement indigenous source,⁴ and the importance of diversifying the

¹ Coal is the biggest source of power for the island accounting for 56% of gross generation. Page 15. Department of Energy 2020 Power Situation Report.

² Malampaya's gas production seen falling to a third by 2024. Manila Standard. 26 April 2018. Available at <https://manilastandard.net/business/power-technology/264185/malampaya-s-gas-production-seen-falling-to-a-third-by-2024.html>. Accessed on 2 June 2020.

³ Page 7. Transcript of Stenographic Notes. Senate Committee on Energy hearing held on 26 April 2018.

⁴ Page 28. Transcript of Stenographic Notes. Senate Committee on Energy hearing held on 18 June 2018.

country's energy sources to ensure energy security,⁵ the DOE promulgated Department Circular No. DC 2017-11-0012⁶ to regulate the importation, trading, and supply of natural gas in the country. However, the DOE's issuance needs a complementary law to cover all aspects of the midstream natural gas industry, which includes transportation, transmission, storage, and marketing of natural gas, in its original or liquefied form. In view of the foregoing, and owing to the intricacy of the midstream natural gas industry, comprehensive legislation is needed to fill in the gaps and strengthen existing bridge policies in order to unlock the potential of natural gas as a vital source of energy for the country.

This proposed measure has three main characteristics to develop the country's midstream natural gas industry: *First*, it allows private sector participation across the entire value chain given the complex nature of the investment; *Second*, it provides flexibility for the government to adapt to evolving market conditions considering the nascency of the industry which has the potential to grow into a mature market; and *Third*, it ensures protection of consumers' interest through a framework that encourages transparency and competition, and disincentivizes anticompetitive behavior.

As such, the immediate passage of this bill is sought.



WIN GATCHALIAN

⁵ LNG Dash. Business Mirror. 4 January 2020. Available at: <https://businessmirror.com.ph/2020/01/04/lng-dash/>. Accessed on 2 June 2020.

⁶ Rules and Regulations Governing the Philippine Downstream Natural Gas Industry. (2017).

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

CHAPTER I
GENERAL PROVISIONS

1
2
3
4 **SECTION 1. Short Title.** – This Act shall be referred to as the “Midstream Natural
5 Gas Industry Development Act.”
6

7 **SECTION 2. Declaration of Policy.** – It is hereby declared the policy of the State
8 to:

9 (a) Ensure the country’s energy security by developing diversification of sources
10 of primary energy supply to various sectors of the economy;

11 (b) Promote the role of natural gas as an additional energy source and
12 complementary fuel to variable renewable energy by creating a legal and
13 regulatory framework that would govern the promotion and development of
14 the natural gas industry in the country;

- 1 (c) Create a regulatory environment that will foster a competitive market for
2 natural gas;
- 3 (d) Encourage the inflow of private capital in the development of the midstream
4 natural gas industry;
- 5 (e) Ensure a safe, secure, reliable, and environmentally responsible operation of
6 the midstream natural gas value chain to include personnel and user
7 protection, through the formulation and adoption of local or international
8 standards on health, safety, security and the environment; and
- 9 (f) Protect midstream end users by mandating transparent and fair rates, fees,
10 and charges.

11

12 **SECTION 3. Scope and Application.** – This Act shall apply to the midstream natural
13 gas industry specifically the aggregation, supply, importation, exportation, receipt,
14 unloading, loading, processing, storage, regasification, transmission, bunkering, and
15 transportation of natural gas, in its original or liquefied form, from local or foreign
16 sources, and the systems and facilities utilized for such. It shall also apply to the
17 location, construction, improvement, operation, utilization, expansion, modification,
18 rehabilitation, repair, maintenance, decommissioning, and abandonment of such
19 systems and facilities.

20

21 **SECTION 4. Definition of Terms.** – For purposes of this Act, the following terms
22 shall be defined as stated below:

- 23 (a) *Affiliate* refers to any natural or juridical person who, singly or jointly with
24 other natural or juridical persons, directly or indirectly, through one or more
25 intermediaries, controls, is controlled by, or is under common control with
26 another natural or juridical person. It includes a subsidiary company, a parent
27 company, and the subsidiaries, directly or indirectly, of a common parent;
- 28 (b) *Ancillary reserve* refers to the natural gas procured by the natural gas
29 transmission utility or the NGTSO, whichever is applicable, necessary in the
30 operation of the natural gas transmission system to regulate fluctuations in
31 its operating pressure and maintain system stability, safety, and efficiency to
32 ensure the continuous transmission of natural gas to midstream end-users in

1 accordance with the Natural Gas Transmission Code. It shall be included in
2 the natural gas transmission fee or the NGTSO fee, whichever is applicable;

3 (c) *Anticompetitive behavior* refers to any act enumerated under Section 14 and
4 Section 15 of Republic Act No. 10667, otherwise known as the Philippine
5 Competition Act;

6 (d) *LNG Bunkering* refers to the selling of natural gas for use of domestic or
7 foreign marine vessels;

8 (e) *LNG Bunkering Facilities* refers to all infrastructure built and designed for LNG
9 bunkering;

10 (f) *Capacity* refers to the handling design of a system used in the context of its
11 functionality, expressed in a specific measurement such as volume in cubic
12 meters or flow rate in normal cubic meters per time unit;

13 (g) *Control* refers to the power to determine the financial and operating policies
14 of an entity to benefit from its activities. It is presumed to exist when the
15 parent entity owns, directly or through subsidiaries or associates, more than
16 fifty percent (50%) of the voting power of an entity. It also exists when the
17 parent entity owns fifty percent (50%) or less of the voting power of an entity,
18 but has any of the following powers:

19 (1) Power over more than fifty percent (50%) of the voting rights by virtue
20 of an agreement with other investors,

21 (2) Power to govern the financial and operating policies of the entity under
22 a statute or agreement,

23 (3) Power to appoint or remove the majority of the members of the board
24 of directors or equivalent governing body, or

25 (4) Power to cast the majority of votes at meetings of the board of directors
26 or equivalent governing body;

27 (h) *Dedicated natural gas pipeline* refers to a pipeline exclusively utilized by a
28 midstream natural gas industry participant or its affiliate for the conveyance
29 of natural gas from an LNG terminal or a local natural gas production facility
30 to the said midstream natural gas industry participant or its affiliate;

31 (i) *Emergency reserve* refers to the amount of natural gas, in its original or
32 liquefied form, which may be contracted by midstream end users based on

1 public interest, sufficient to ensure a continuous, adequate, and stable supply
2 of natural gas for a period in the event of a supply disruption. The period
3 shall be determined in this Act's implementing rules and regulations;

- 4 (j) *Importation* refers to the bringing of natural gas, in its original or liquefied
5 form, into the Philippines from foreign sources;
- 6 (k) *Gas aggregation* refers to the activity of pooling together various demands
7 for natural gas from midstream end users and supplying them with natural
8 gas from one or more sources;
- 9 (l) *Gas aggregator* refers to any natural or juridical person who engages in gas
10 aggregation;
- 11 (m) *Liquefied natural gas (LNG)* refers to natural gas which has been cooled to a
12 cryogenic temperature, converting it to a liquid state;
- 13 (n) *LNG terminal* refers to all facilities located onshore or offshore, that are used
14 to import, receive, unload, load, process, store, and regasify natural gas, in
15 its original or liquefied form, from local or foreign sources. It shall include
16 berthing ports, unloading and loading arms, line packs, cryogenic pipelines,
17 regasification facilities, and storage tanks, among others;
- 18 (o) *LNG Terminal Development Plan* refers to a comprehensive plan prepared by
19 each LNG terminal owner and operator relating to the location, construction,
20 improvement, operation, utilization, expansion, modification, rehabilitation,
21 repair, maintenance, decommissioning, and abandonment of each of its LNG
22 terminals and all its required facilities and equipment, taking into
23 consideration, among others, existing and projected demand and supply of
24 natural gas;
- 25 (p) *LNG Terminal Regulated Third Party Access Code* refers to the compendium
26 of responsibilities, qualifications, standards, and rules promulgated by the
27 Department of Energy (DOE) for regulated third party access by one or more
28 third parties to a portion, the entire, or the unutilized capacity of an rTPA LNG
29 terminal permit holder, and the evaluation of performance of an LNG terminal
30 with respect thereto;
- 31 (q) *Midstream end user* refers to any natural or juridical person, requiring the
32 supply of natural gas, in its original or liquefied form, for resale or own use

1 but excluding the retail use of natural gas. It includes power generation
2 plants, industrial and commercial establishments, ecozones, storage facilities,
3 bunkering facilities, virtual pipelines, and motor vehicles and marine vessels
4 transporting natural gas;

5 (r) *Midstream natural gas industry* refers to the aggregation, supply, importation,
6 exportation, receipt, unloading, loading, processing, storage, regasification,
7 transmission, bunkering, and transportation of natural gas, in its original or
8 liquefied form, but shall exclude the retail of natural gas. It utilizes, among
9 others, LNG terminals, dedicated natural gas pipelines, natural gas
10 transmission systems, storage facilities, bunkering facilities, virtual pipelines,
11 and motor vehicles and marine vessels transporting natural gas;

12 (s) *Midstream Natural Gas Industry Development Plan* refers to the
13 comprehensive plan for ensuring safe, secure, and reliable supply of natural
14 gas, in its original or liquefied form, while establishing the efficient operations
15 of the country's midstream natural gas infrastructure and managing demand
16 for natural gas through specific government programs and policies. It shall
17 include the various LNG Terminal Development Plans and Natural Gas
18 Transmission Development Plans, and studies on over-all supply and demand,
19 capacity, and other research necessary in achieving a sound demand and
20 supply projection for natural gas in the country;

21 (t) *Midstream natural gas industry participants* refer to the supplier or importer
22 of natural gas; gas aggregator; owner and operator of LNG terminal,
23 dedicated natural gas pipeline, natural gas transmission system, storage and
24 bunkering facilities, virtual pipelines, and motor vehicles and marine vessels
25 utilized to transport natural gas; the Natural Gas Transmission System
26 Operator; third parties; and midstream end users;

27 (u) *Natural gas* refers to gas obtained from boreholes and wells consisting
28 primarily of a mixture of methane, ethane, propane, and butane with small
29 amounts of heavier hydrocarbons and some impurities, notably nitrogen and
30 complex sulfur compounds and water, carbon dioxide, and hydrogen sulfide
31 as well as non-conventional gas including gas from bituminous shale;

- 1 (v) *Natural Gas Transmission Code* refers to the compendium of rules,
2 procedures, requirements, regulations, and minimum technical performance
3 standards governing the safe and reliable location, construction,
4 improvement, operation, utilization, expansion, modification, rehabilitation,
5 repair, maintenance, decommissioning, and abandonment of all dedicated
6 natural gas pipelines and natural gas transmission systems in the country. It
7 also defines and establishes the relationship of dedicated natural gas pipelines
8 and natural gas transmission systems with facilities and installations of other
9 midstream natural gas industry participants, if applicable;
- 10 (w) *Natural Gas Transmission Development Plan* refers to the plan of each
11 dedicated own use pipeline owner and operator, natural gas transmission
12 utility, or the Natural Gas Transmission System Operator when applicable, for
13 managing dedicated own use pipelines, natural gas transmission systems or
14 the interconnected natural gas transmission system, whichever is applicable,
15 through efficient planning for its location, construction, improvement,
16 operation, utilization, expansion, modification, rehabilitation, repair,
17 maintenance, decommissioning, and abandonment;
- 18 (x) *Natural gas transmission system* refers to a network containing pipelines and
19 other related facilities, owned and operated by a natural gas transmission
20 utility, which convey natural gas, in its original or liquefied form, from an LNG
21 terminal or a local natural gas production facility to a midstream natural gas
22 industry participant;
- 23 (y) *Natural gas transmission fee* refers to the amount paid by midstream natural
24 gas industry participants for the use of a natural gas transmission system. It
25 shall consist of amounts used to defray the costs of location, construction,
26 improvement, operation, utilization, expansion, modification, rehabilitation,
27 repair, maintenance, decommissioning, and abandonment of the system, and
28 provide a reasonable rate of return. It also includes the cost of operating the
29 system while there is no Natural Gas Transmission System Operator;
- 30 (z) *Natural Gas Transmission System Operator (NGTSO)* refers to a natural or
31 juridical person responsible for operating and maintaining the interconnected
32 natural gas transmission system, ensuring the continuous and reliable delivery

1 of natural gas to midstream natural gas industry participants, and securing
2 the long-term ability of the system to meet demand for the transmission of
3 natural gas;

4 (aa) *Natural gas transmission utility* refers to a natural or juridical person who has
5 a franchise granted by law to construct, own, and operate a natural gas
6 transmission system within a specified area;

7 (bb) *Negotiated third party access (nTPA)* refers to a contractual arrangement
8 between the owner and operator of a dedicated natural gas pipeline or an
9 own use LNG terminal permit holder and a third party to allow the use and
10 access to such third party of a specific capacity of a dedicated natural gas
11 pipeline or an LNG terminal with an own use permit for a fee agreed upon
12 between the two entities. It does not include contractual arrangements
13 entered into by an own use LNG terminal permit holder and a third party
14 pursuant to a declaration of unutilized capacity by the DOE in accordance with
15 the LNG Terminal Regulated Third Party Access Code;

16 (cc) *NGTSO fee* refers to the amount paid by midstream natural gas industry
17 participants to the NGTSO for its services in operating and maintaining the
18 interconnected natural gas transmission system;

19 (dd) *Own use LNG terminal permit holder* refers to an LNG terminal whose owner
20 and operator has been issued an own use permit;

21 (ee) *Own use permit* refers to an authorization issued by DOE to the owner and
22 operator of an LNG terminal to exclusively use or allow its affiliate to use a
23 specific capacity of the LNG terminal for a specified period of time, subject to
24 LNG Terminal Regulated Third Party Access Code;

25 (ff) *Permit* refers to an authorization issued by the DOE, the Energy Regulatory
26 Commission (ERC), or the Department of Transportation (DOTr) or its
27 attached agencies, whichever is applicable, for the aggregation, supply,
28 importation, exportation, receipt, unloading, loading, processing, storage,
29 regasification, and bunkering of natural gas, or the location, construction,
30 improvement, operation, utilization, expansion, modification, rehabilitation,
31 repair, maintenance, decommissioning, and abandonment of an LNG
32 terminal, natural gas transmission system, dedicated natural gas pipeline,

1 storage facilities, bunkering facilities, virtual pipelines, and motor vehicles and
2 marines vessels transporting natural gas for a specified period of time;

3 (gg) *Permit holder* refers to a natural or juridical person who is granted a permit
4 by the DOE, ERC, or DOTr or its attached agencies whichever is applicable,
5 to engage in the aggregation, supply, importation, exportation, receipt,
6 unloading, loading, processing, storage, regasification, and bunkering of
7 natural gas, or the location, construction, improvement, operation, utilization,
8 expansion, modification, rehabilitation, repair, maintenance,
9 decommissioning, and abandonment of an LNG terminal, natural gas
10 transmission system, dedicated natural gas pipeline, storage facilities,
11 bunkering facilities, virtual pipelines, and motor vehicles and marine vessels
12 transporting natural gas for a specified period of time;

13 (hh) *Philippine National Standard (PNS)* refers to the standards promulgated by
14 the Department of Trade and Industry (DTI) – Bureau of Philippine Standards
15 (BPS) pertaining to product specifications, test methods, terminologies,
16 procedures, or practices pursuant to Republic Act No. 4109, otherwise known
17 as the Standards Act, and other applicable laws, rules and regulations;

18 (ii) *Regulated third party access* refers to a contractual arrangement between the
19 following:

20 (1) An rTPA LNG terminal permit holder or a natural gas transmission utility
21 and a third party to allow the latter transparent, fair, reasonable, and
22 non-discriminatory use and access of the capacity available to third
23 parties of the LNG terminal or the natural gas transmission system,

24 (2) An own use LNG terminal permit holder and a third party pursuant to a
25 declaration of unutilized capacity by the DOE in accordance with the LNG
26 Terminal Regulated Third Party Access Code, or

27 (3) A natural gas transmission utility and a third party pursuant to a
28 declaration of unutilized capacity by the DOE in accordance with the
29 Transmission Regulated Third Party Access Code;

30 (jj) *Regulated third party access (rTPA) permit* refers to an authorization issued by
31 the DOE to the owner and operator of an LNG terminal to offer to third parties,
32 the fair, reasonable, and non-discriminatory use and access of a specific

1 capacity of its LNG terminal for a specified period of time, subject to the LNG
2 Terminal Regulated Third Party Access Code;

3 (kk) *Reserve price* refers to the undisclosed rate determined by ERC using a
4 methodology pursuant to Section 6 of this Act that serves as the price ceiling
5 for the natural gas transmission fee;

6 (ll) *Retail* refers to the sale of natural gas to the general public in relatively small
7 quantities for consumption such as the sale of natural gas to motor vehicles
8 and to households;

9 (mm) *rTPA LNG terminal permit holder* refers to an LNG terminal whose owner
10 or operator has been issued an rTPA permit;

11 (nn) *Storage* refers to the stocking of natural gas for the purpose of regasification,
12 bunkering, reserve, any combination thereof, or any other purpose consistent
13 with this Act;

14 (oo) *Storage facilities* refer to any equipment or infrastructure used for storage;

15 (pp) *Supplier* refers to a natural or juridical person authorized by the DOE to
16 engage in supply as defined in this Act;

17 (qq) *Supply* refers to the trade of indigenous or imported natural gas, in its original
18 or liquefied form, and its subsequent sale or transfer to midstream natural
19 gas industry participants;

20 (rr) *Terminal fee* refers to the rates, charges, and other similar considerations
21 imposed upon third parties for the use and services of any of the following:

22 (1) The capacity or a portion thereof covered by an rTPA permit of an LNG
23 terminal, or

24 (2) The unutilized capacity or a portion thereof covered by an own use
25 permit of an LNG terminal;

26 (ss) *Third party* refers to a midstream natural gas industry participant who is not
27 the owner, operator, or affiliate of the owner and operator of an LNG terminal,
28 dedicated natural gas pipeline, or natural gas transmission system;

29 (tt) *Transmission* refers to the conveyance of natural gas either through a
30 dedicated natural gas pipeline or a natural gas transmission system;

31 (uu) *Transmission Regulated Third Party Access Code* refers to the compendium
32 of responsibilities, qualifications, standards, and rules promulgated by the

1 ERC for regulated third party access by one or more third parties to a portion,
2 the entire, or the unutilized capacity of a natural gas transmission system,
3 and the evaluation of performance of a natural gas transmission utility with
4 respect thereto;

5 (vv) *Unutilized capacity* refers to a portion of the capacity of an LNG terminal, with
6 an own use permit, an rTPA permit or both, or a natural gas transmission
7 system, set apart for the use of the LNG terminal owner and operator or a
8 third party with regulated third party access to the LNG terminal or the natural
9 gas transmission system, which remains unused after a reasonable period of
10 time and declared as such by the DOE or the ERC pursuant to Sections 5 and
11 6 of this Act and the LNG Terminal Regulated Third Party Access Code and
12 the Transmission Regulated Third Party Access Code, whichever is applicable;
13 and

14 (ww) *Virtual pipelines* refer to alternative methods of transporting natural gas using
15 modules coupled to mobile platforms such as motor vehicles, marine vessels,
16 or rail platforms.

17 CHAPTER II

18 POWERS AND RESPONSIBILITIES OF GOVERNMENT AGENCIES

19
20
21 **SECTION 5. Powers and Responsibilities of the Department of Energy**
22 **(DOE).** – In addition to its functions under Republic Act No. 7638, otherwise known
23 as the Department of Energy Act of 1992, the DOE shall be the lead implementing
24 agency for this Act. Towards this end, it shall:

25 (a) Supervise and monitor the development of the midstream natural gas
26 industry, and ensure the security and sufficiency of the supply of natural gas
27 for local demand;

28 (b) Require the annual submission of, review, and approve LNG Terminal
29 Development Plans and Natural Gas Transmission Development Plans:
30 *Provided,* That the specific guidelines and timeline for the approval of these
31 plans shall be determined in this Act's implementing rules and regulations
32 taking into consideration the policy declarations of this Act and upon

1 consultation with other relevant government agencies, midstream natural gas
2 industry participants, and other public and private stakeholders;

3 (c) Prepare a Midstream Natural Gas Industry Development Plan based on the
4 various LNG Terminal Development Plans and Natural Gas Transmission
5 Development Plans within two (2) years from the effectivity of this Act's
6 implementing rules and regulations, upon consultation with other relevant
7 government agencies, midstream natural gas industry participants, and other
8 public and private stakeholders. The Midstream Natural Gas Industry
9 Development Plan shall be reviewed and updated annually, and integrated
10 into the Philippine Energy Plan;

11 (d) Promulgate the PNS or identify and adopt other international standards
12 adopted as PNS by the DTI-BPS, together with relevant government agencies
13 and upon consultation with midstream natural gas industry participants and
14 other public and private stakeholders, within eighteen (18) months from the
15 effectivity of this Act's implementing rules and regulations, for the following:

- 16 (i) Natural gas, in its original or liquefied form,
- 17 (ii) Location, construction, improvement, operation, utilization, expansion,
18 modification, rehabilitation, repair, maintenance, decommissioning, and
19 abandonment of all LNG terminals,
- 20 (iii) Storage and bunkering of natural gas and its respective facilities,
- 21 (iv) Virtual pipelines, and
- 22 (v) Motor vehicles and marine vessels transporting natural gas;

23 (e) Ensure compliance with the health, safety, security, and environmental
24 standards of the following, together with the Department of Environment and
25 Natural Resources (DENR), Department of Health (DOH), and other relevant
26 government agencies:

- 27 (i) Natural gas, in its original or liquefied form,
- 28 (ii) Location, construction, improvement, operation, utilization, expansion,
29 modification, rehabilitation, repair, maintenance, decommissioning, and
30 abandonment of all LNG terminals, and
- 31 (iii) Storage and bunkering of natural gas and its respective facilities;

- 1 (f) Convene and co-chair with DTI-BPS, within two (2) months from the
2 effectivity of this Act, a technical working group comprised of relevant
3 government agencies to include the ERC, DTI, DOTr, DENR, DOH,
4 Department of Labor and Employment (DOLE), Department of Interior and
5 Local Government (DILG), their respective attached agencies, midstream
6 natural gas industry participants, and other relevant public and private
7 stakeholders to ensure consistent and streamlined standards and regulations
8 in the midstream natural gas industry. The members of the technical working
9 group shall fully cooperate and collaborate in the creation, promulgation, and
10 streamlining of standards and regulations;
- 11 (g) Promulgate the guidelines for the establishment of safety and exclusion zones
12 of LNG terminals, and determine such safety and exclusion zone for every
13 LNG terminal, in consultation with the technical working group, relevant
14 government agencies, local government units, and public and private
15 stakeholders;
- 16 (h) Evaluate and act on applications for the location, construction, improvement,
17 operation, utilization, expansion, modification, rehabilitation, repair,
18 maintenance, decommissioning, and abandonment of all LNG terminals as
19 well as storage facilities and bunkering facilities;
- 20 (i) Issue the following:
- 21 (i) Permits for the aggregation, supply, importation, exportation, receipt,
22 unloading, loading, processing, storage, regasification, and bunkering of
23 natural gas, in its original or liquefied form in accordance with this
24 Section, and
- 25 (ii) Own use and rTPA permits to owners and operators of LNG terminals;
- 26 (j) Establish a methodology and timeframe for the determination of the unutilized
27 capacity of LNG terminals, which shall be integrated in the LNG Terminal
28 Regulated Third Party Access Code, taking into consideration the following:
- 29 (i) Reasonable period to use the capacity,
30 (ii) Existing market demand, and
31 (iii) Existing contracts;

- 1 (k) Promulgate the LNG Terminal Regulated Third Party Access Code, within one
2 (1) year from the effectivity of this Act's implementing rules and regulations,
3 and upon consultation with other relevant government agencies, midstream
4 natural gas industry participants, and other public and private stakeholders,
5 and ensure compliance therewith. The LNG Terminal Regulated Third Party
6 Access Code shall be reviewed and updated regularly. The following
7 principles shall govern the creation of this code:
- 8 (i) Reliable and continuous supply of natural gas, and
 - 9 (ii) Transparent, fair, reasonable, and non-discriminatory use and access;
- 10 (l) Declare the unutilized capacity of an LNG terminal and mandate regulated
11 third party access for such in accordance with the LNG Terminal Regulated
12 Third Party Access Code;
- 13 (m) Determine minimum guidelines to ensure the transparent, fair, reasonable,
14 and non-discriminatory conduct of competitive selection processes by owners
15 and operators of LNG terminal: *Provided*, That these minimum guidelines shall
16 not include the mode of competitive selection process;
- 17 (n) Approve or disapprove any sale, assignment, or transfer of control to another
18 entity by a midstream natural gas industry participant with a DOE issued
19 permit within ninety (90) calendar days from submission of complete
20 documentary requirements. Concomitantly, the DOE may require from any
21 midstream natural gas industry participant with a DOE issued permit the prior
22 disclosure of any sale, assignment, or transfer of ownership or direct or
23 indirect interests, rights, or participation not amounting to control to another
24 entity. In both these cases, the DOE may review, modify, cancel, approve,
25 or disapprove any permit it has issued taking into consideration the legal,
26 technical, and financial qualifications of the purchaser, assignee, or transferee
27 and its compliance with its own use or rTPA permit or other DOE issued
28 permits under this Act and existing laws, rules and regulations;
- 29 (o) Determine the qualifications of and procedure for the competitive selection of
30 a single independent NGTSO taking into consideration Section 22 of this Act,
31 upon consultation with relevant government agencies, midstream natural gas
32 industry participants, and other public and private stakeholders, and

1 undertake its selection upon the interconnection of natural gas transmission
2 systems;

3 (p) Require the submission of the following information from suppliers, importers,
4 aggregators, and owners and operators of LNG terminals, storage facilities,
5 and bunkering facilities, whichever is applicable, subject to Section 32 of this
6 Act:

7 (i) Progress and status reports on location, construction, improvement,
8 operation, expansion, modification, rehabilitation, repair, maintenance,
9 decommissioning, and abandonment of LNG terminals and storage and
10 bunkering facilities,

11 (ii) Regular reports on the following:

12 i. Compliance with health, safety, security, and environmental
13 standards,

14 ii. Utilization of the LNG terminal by its owner and operator, the
15 owner and operator's affiliates, and third parties, whichever is
16 applicable,

17 iii. Compliance with the LNG Terminal Regulated Third Party Access
18 Code to include compliance with DOE directive to subject an
19 unutilized capacity to regulated third party access;

20 (iii) Supply and demand of natural gas with respect to their own facilities or
21 operations,

22 (iv) Volumes of specific inventories to include levels of importation and
23 emergency reserve,

24 (v) Progress and status reports on mitigation measures and responses in
25 relation to accidents and other emergency incidents,

26 (vi) Mode of competitive selection of third parties for rTPA LNG terminal
27 permit holders, reports on competitive selection processes undertaken,
28 and status of utilization by third parties of the LNG terminal with an rTPA
29 permit: *Provided*, That the mode for each competitive selection process
30 shall be determined by each rTPA LNG terminal permit holder: *Provided*
31 *further*, That each competitive selection process shall be transparent,
32 fair, reasonable, and non-discriminatory, and

- 1 (vii) Other data and information necessary to the performance of the duties
2 and functions of DOE;
- 3 (q) Determine the necessity of and then direct the interconnection of natural gas
4 transmission systems based on the Philippine Energy Plan, Midstream Natural
5 Gas Development Plan, and the Natural Gas Transmission Development Plans,
6 taking into consideration the maturity of the industry, the existing natural gas
7 transmission systems' infrastructure, and the cost efficiency of
8 interconnection, and upon consultation with the ERC, other relevant
9 government agencies, midstream natural gas industry participants, and other
10 public and private stakeholders;
- 11 (r) Ensure compliance with the publication and unbundling of the terminal fee in
12 accordance with Section 25 of this Act;
- 13 (s) Ensure and review compliance with, and investigate, *motu proprio* or upon
14 complaint, any non-compliance with this Act including any permit DOE has
15 issued in relation hereto, its rules and regulations, the LNG Terminal
16 Regulated Third Party Access Code, and any other issuance promulgated
17 pursuant to the DOE's powers under this Act, except those under the
18 jurisdiction of the ERC as provided under Section 6 herein. Thereafter, the
19 DOE may penalize, suspend, or revoke, after due notice and hearing any
20 permit it has issued;
- 21 (t) Endorse the findings of investigations against midstream natural gas industry
22 participants, for any of the following:
- 23 (i) Anticompetitive behavior before the Philippine Competition Commission
24 (PCC), or
- 25 (ii) Violations of the provisions of this Act and other applicable laws, rules,
26 and regulations before the ERC, other quasi-judicial agencies, or the
27 courts; and
- 28 (u) Perform all other acts that are analogous to the aforementioned and in
29 furtherance of the implementation of this Act.
- 30

31 **SECTION 6. Powers and Responsibilities of the Energy Regulatory**
32 **Commission (ERC).** – In addition to its functions under Republic Act No. 9136,

1 otherwise known as the Electric Power Industry Reform Act of 2001, the ERC shall
2 have the authority to:

3 (a) Promulgate the PNS or identify and adopt other international standards adopted
4 as PNS by the DTI-BPS, together with relevant government agencies and upon
5 consultation with midstream natural gas industry participants and other public
6 and private stakeholders, within eighteen (18) months from the effectivity of
7 this Act's implementing rules and regulations, for the following:

- 8 (i) Dedicated natural gas pipelines, and
- 9 (ii) Natural gas transmission systems;

10 (b) Ensure compliance with the health, safety, security, and environmental
11 standards of the following, together with the Department of Environment and
12 Natural Resources (DENR), Department of Health (DOH), and other relevant
13 government agencies:

- 14 (i) Dedicated natural gas pipelines, and
- 15 (ii) Natural gas transmission systems;

16 (c) Participate in the technical working group convened by DOE pursuant to Section
17 5 of this Act;

18 (d) Evaluate and act on applications for the location, construction, improvement,
19 operation, utilization, expansion, modification, rehabilitation, repair,
20 maintenance, decommissioning, and abandonment of dedicated natural gas
21 pipelines and natural gas transmission systems;

22 (e) Issue permits for the transmission of natural gas to include certificates of public
23 convenience and necessity (CPCN) to natural gas transmission utilities;

24 (f) Establish a methodology and timeframe for the determination of the unutilized
25 capacity of natural gas transmission systems, which shall be integrated in the
26 Transmission Regulated Third Party Access Code, taking into consideration the
27 following:

- 28 (i) Reasonable period to use the capacity,
- 29 (ii) Existing market demand, and
- 30 (iii) Existing contracts;

31 (g) Promulgate the Transmission Regulated Third Party Access Code, within one
32 (1) year from the effectivity of this Act's implementing rules and regulations,

1 and upon consultation with other relevant government agencies, midstream
2 natural gas industry participants, and other public and private stakeholders,
3 and ensure compliance therewith;

4 (h) Promulgate the Natural Gas Transmission Code and Transmission Regulated
5 Third Party Access Code, within one (1) year from the effectivity of this Act's
6 implementing rules and regulations, and upon consultation with other relevant
7 agencies, midstream natural gas industry participants, and other public and
8 private stakeholders, and ensure compliance therewith. The Natural Gas
9 Transmission Code and the Transmission Regulated Third Party Access Code
10 which shall be reviewed and updated regularly. The following principles shall
11 govern the creation of these codes:

12 (i) Reliable and continuous supply of natural gas, and

13 (ii) Transparent, fair, reasonable, and non-discriminatory use and access;

14 (i) Declare the unutilized capacity of a natural gas transmission system and
15 mandate regulated third party access for such in accordance with the
16 Transmission Regulated Third Party Access Code;

17 (j) Determine minimum guidelines to ensure the transparent, fair, reasonable, and
18 non-discriminatory conduct of competitive selection processes by natural gas
19 transmission utilities: *Provided*, That these minimum guidelines shall not
20 include the mode of competitive selection process;

21 (k) Approve or disapprove any plan of a natural gas transmission utility, an owner
22 and operator of a dedicated natural gas pipeline, and the NGTSO to sell, assign,
23 or transfer control to another entity. Concomitantly, the ERC may require from
24 a natural gas transmission utility, an owner and operator of a dedicated natural
25 gas pipeline, and the NGTSO the prior disclosure of any sale, assignment, or
26 transfer of ownership or direct or indirect interests, rights, or participation to
27 another entity. In both these cases, the ERC may review, modify, cancel,
28 approve, or disapprove any permit it has issued taking into consideration the
29 legal, technical, and financial qualifications of the purchaser, assignee, or
30 transferee and its compliance with its ERC issued permits under this Act and
31 existing laws, rules and regulations;

1 (I) Require the submission of the following information from the owner and
2 operator of dedicated natural gas pipelines, the natural gas transmission utility,
3 and the NGTSO, whichever is applicable, subject to Section 32 of this Act:

4 (i) Progress and status reports on location, construction, improvement,
5 operation, expansion, modification, rehabilitation, repair, maintenance,
6 decommissioning, and abandonment of dedicated natural gas pipelines,
7 natural gas transmission systems, and the interconnected natural gas
8 transmission system,

9 (ii) Regular reports on the following:

10 i. Compliance with health, safety, security, and environmental
11 standards,

12 ii. Utilization of the dedicated natural gas pipeline and natural gas
13 transmission system by its owner and operator, the owner and
14 operator's affiliates, and third parties, whichever is applicable,

15 iii. Compliance with the Transmission Regulated Third Party Access
16 Code to include compliance with DOE directive to subject an
17 unutilized capacity to regulated third party access;

18 (iii) Supply and demand of natural gas with respect to their own facilities or
19 operations,

20 (iv) Volumes of specific inventories to include levels of ancillary reserve,
21 when applicable,

22 (v) Compliance with health, safety, security, and environmental standards,
23 and activities in relation thereto,

24 (vi) Progress and status reports on mitigation measures and responses in
25 relation to accidents and other significant or emergency incidents;

26 (vii) Mode of competitive selection of third parties for natural gas
27 transmission utilities, reports on competitive selection processes
28 undertaken to include the natural gas transmission fee, and status of
29 utilization by third parties: *Provided*, That the mode for each competitive
30 selection process shall be determined by each natural gas transmission
31 utility: *Provided further*, That each competitive selection process shall be
32 transparent, fair, reasonable, and non-discriminatory,

- 1 (viii) Billed and collected amounts of the natural gas transmission fee and
2 NTSO fee, whichever is applicable, and
- 3 (ix) Other documents, data, and information necessary to the performance
4 by ERC of its functions under this Act;
- 5 (m) Ensure and review compliance with, and investigate, *motu proprio*, upon
6 complaint, or upon endorsement of any government agency, any non-
7 compliance with this Act including any permit ERC has issued in relation hereto,
8 its rules and regulations, the Natural Gas Transmission Code, the Transmission
9 Regulated Third Party Access Code, and any other issuance promulgated
10 pursuant to the ERC's powers under this Act, except those under the jurisdiction
11 of the DOE as provided under Section 5 herein. Thereafter, the ERC may
12 penalize, suspend, or revoke, after due notice and hearing any permit it has
13 issued;
- 14 (n) Endorse the findings of investigations on any anticompetitive behavior of an
15 owner and operator of a dedicated natural gas pipeline, the natural gas
16 transmission utility, and the NGTSO to the PCC;
- 17 (o) Exercise its rate-setting power through the determination and regular review
18 of the following:
- 19 (i) Reserve price for the natural gas transmission fee. It shall remain
20 undisclosed until the winning bidder is declared, and
- 21 (ii) NGTSO fee.
- 22 The ERC shall notify and afford relevant stakeholders the opportunity to be
23 heard in the following:
- 24 (i) Methodology for the determination of the reserve price, and
25 (ii) Determination of the NGTSO fee;
- 26 (p) Ensure compliance with the publication and unbundling of the natural gas
27 transmission fee and the NGTSO fee imposed by the natural gas transmission
28 utilities, and the NGTSO respectively, in accordance with Section 25 of this Act;
- 29 (q) Review regularly the performance of natural gas transmission utilities and the
30 NGTSO, when applicable, including the quality of its service and compliance
31 with its approved Natural Gas Transmission Development Plan and its powers
32 and functions pursuant to Chapter V of this Act;

- 1 (r) Exercise exclusive jurisdiction over all matters pertaining to rate setting in this
2 Act taking into consideration the policy of full recovery of prudent and
3 reasonable economic costs with a reasonable rate of return or such other
4 principles that promote efficiency and other internationally accepted rate
5 setting methodology;
- 6 (s) Exercise overall regulatory supervision over dedicated natural gas pipelines,
7 natural gas transmission systems, and the NGTSO; and
- 8 (t) Perform all other acts that are analogous to the foregoing and in furtherance
9 of the implementation of this Act.
- 10

11 **SECTION 7. Powers and Responsibilities of the Department of Environment**

12 **and Natural Resources.** – In addition to its functions under Executive Order No.
13 192, otherwise known as the Reorganization Act of the Department of Environment
14 and Natural Resources, and other applicable laws, the DENR, together with the DOE,
15 the ERC, or the DOTr, shall ensure and monitor compliance with the environmental
16 standards for the location, construction, improvement, operation, utilization,
17 expansion, modification, rehabilitation, repair, maintenance, decommissioning, and
18 abandonment of LNG terminals, natural gas transmission systems, dedicated natural
19 gas pipelines, storage facilities, bunkering facilities, virtual pipelines, and motor
20 vehicles and marine vessels transporting, storing or processing natural gas, in its
21 original state or liquefied form, and all related equipment and facilities.

22

23 **SECTION 8. Powers and Responsibilities of the Department of Health.** – In

24 addition to its functions under Executive Order No. 317, Series of 1941, entitled
25 Organizing the Department of Health and Public Welfare, as amended, and Republic
26 Act No. 11223, otherwise known as the Universal Health Care Act, the DOH, together
27 with the DOE, the ERC or the DOTr, shall:

- 28 (a) Ensure and monitor compliance with the health standards for the location,
29 construction, improvement, operation, utilization, expansion, modification,
30 rehabilitation, repair, maintenance, decommissioning, and abandonment of
31 LNG terminals, natural gas transmission systems, dedicated natural gas
32 pipelines, storage facilities, bunkering facilities, virtual pipelines, and motor

1 vehicles and marine vessels transporting, storing, or processing natural gas, in
2 its original state or liquefied form, and all related equipment and facilities;

3 (b) Recommend standards, rules, and regulations in the conduct of health risk
4 assessment studies in cases of natural gas accidents;

5 (c) Develop guidelines, policies, and health standards on the treatment and
6 management of patients affected by natural gas accidents; and

7 (d) Require health data and information from LNG terminals, natural gas
8 transmission systems, dedicated natural gas pipelines, storage facilities, and
9 bunkering facilities, virtual pipelines, and motor vehicles and marine vessels
10 transporting, storing, or processing natural gas, in its original state or liquefied
11 form, and all related equipment and facilities.

12
13 **SECTION 9. Powers and Responsibilities of the Department of Trade and
14 Industry – Bureau of Philippine Standards.** – In addition to its functions under

15 Republic Act No. 4109, otherwise known as the Standards Act, the DTI-BPS, shall act
16 as the Co-Chairperson of the technical working group created pursuant to Section 5
17 of this Act, and together with the DOE, the ERC, or the DOTR, determine, develop,
18 formulate, promulgate, and revise the Philippine National Standards, or identify and
19 adopt international standards as PNS, for natural gas, in its original or liquefied form,
20 LNG terminals, dedicated natural gas pipelines, natural gas transmission systems,
21 storage facilities, bunkering facilities, virtual pipelines, and motor vehicles and marine
22 vessels transporting, storing, or processing natural gas, in its original state or liquefied
23 form, and all related equipment and facilities.

24
25 **SECTION 11. Powers and Responsibilities of the Department of
26 Transportation and its Attached Agencies.** – In addition to its functions under

27 Executive Order No. 125, series of 1987 otherwise known as the Reorganization Act
28 of the Ministry of Transportation and Communications, as amended, and other
29 applicable laws, the DOTr or its attached agencies such as the Land Transportation
30 Office, Land Transportation Franchising and Regulatory Board, and Maritime Industry
31 Authority, in coordination with the DOE, DENR, DOH, DTI-BPS, and other relevant
32 government agencies, shall issue the appropriate guidelines and regulations and the

1 applicable permits, licenses, certificates, or authorizations to virtual pipelines, motor
2 vehicles and marine vessels transporting, storing or processing natural gas, in its
3 original state or liquefied form, as well as marine facilities used to import, receive,
4 unload, load, transport, process, and store natural gas in its original or liquefied form,
5 including those utilized as offshore LNG terminals. The DOTr shall monitor and ensure
6 compliance therewith.

7
8 **SECTION 12. Powers and Responsibilities of the Philippine Competition**
9 **Commission (PCC).** – In addition to its functions under Republic Act No. 10667,
10 otherwise known as the Philippine Competition Act, the PCC shall exercise primary and
11 exclusive jurisdiction over any anticompetitive behavior of midstream natural gas
12 industry participants.

13
14
15 **CHAPTER III**
16 **MIDSTREAM NATURAL GAS INDUSTRY PARTICIPANTS**

17
18 **SECTION 13. Responsibilities of Midstream Natural Gas Industry**
19 **Participants.** – All midstream natural gas industry participants shall:

- 20 (a) Adhere to all health, safety, security, and environmental standards and all
21 codes, rules, regulations, and issuances promulgated pursuant to Chapter II
22 of this Act;
- 23 (b) Comply with all obligations and responsibilities under this Act to include
24 reportorial requirements and submissions pursuant to Chapter II of this Act;
- 25 (c) Participate as a member of the technical working group pursuant to Section 5
26 of this Act;
- 27 (d) Unbundle their respective fees, if applicable, pursuant to Sections 5, 6, and 25
28 of this Act; and
- 29 (e) Not engage in any anticompetitive behavior.

30
31 **CHAPTER IV**
32 **LNG TERMINALS**

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SECTION 14. Importation and Receipt of Natural Gas through LNG Terminals. – Imported natural gas, in its liquefied form, shall only be received, unloaded, loaded, processed, stored, and regasified in, and then transmitted, transported, and conveyed in accordance with this Act.

SECTION 15. Safety and Exclusion Zone. – All LNG terminals shall have a safety and exclusion zone to be determined by the DOE in consultation with the technical working group created under Section 5 of this Act, relevant government agencies, local government units, and public and private stakeholders.

SECTION 16. LNG Terminal Owner and Operator. – An LNG terminal may have a separate owner and operator. The LNG terminal owner and operator, should they be separate entities, shall be treated as one and the same entity insofar as permits, licenses, certificates, and authorizations are concerned, as well as in the exercise of rights and compliance with obligations, standards, regulations, guidelines, and codes imposed by this Act, its implementing rules and regulations, and other relevant laws and issuances.

SECTION 17. Use and Access of LNG Terminals. – The use and access of LNG terminals shall be regulated pursuant to this Act, while the terminal fee shall be unbundled in accordance with Section 25 herein and unregulated. All owners and operators of LNG terminals shall annually submit their LNG Terminal Development Plan to DOE pursuant to Section 5 of this Act.

The DOE shall issue own use and rTPA permits to owners and operators of LNG terminals. The owner and operator of an LNG terminal shall have the option to apply for and hold an own use permit, an rTPA permit, or both permits simultaneously for each LNG terminal, and perform the functions of an own use LNG terminal permit holder pursuant to Section 18 of this Act and an rTPA LNG terminal permit holder pursuant to Section 19 of this Act, to the extent of the capacity allowed by and during the length of the time specified in each type of permit, and in accordance with the LNG Terminal Regulated Third Party Access Code.

1 Each type of permit shall specify the capacity and length of time covered by
2 the permit: *Provided*, That the total capacity of all permits held by an owner and
3 operator of an LNG terminal for each LNG terminal shall not exceed the maximum
4 capacity of such LNG terminal. The unutilized capacity of an owner and operator or
5 its affiliate covered by an own use LNG terminal permit shall be opened to third parties
6 through the issuance of an rTPA permit and pursuant to the LNG Terminal Regulated
7 Third Party Access Code. The unutilized capacity by a third party covered by an rTPA
8 LNG terminal permit shall be opened to other third parties pursuant to the LNG
9 Terminal Regulated Third Party Access Code.

10
11 **SECTION 18. Own Use LNG Terminal.** – An own use LNG terminal permit holder
12 shall:

13 (a) Exclusively utilize the capacity allowed by and during the length of time
14 specified in the own use permit, and may allow its affiliates to do the same;
15 and

16 (b) Not enter into an nTPA or any similar arrangement with third parties or
17 otherwise grant use and access of its facilities to such third parties to the extent
18 of the capacity allowed and during the length of time specified in the own use
19 permit, subject to Section 17 of this Act and the LNG Terminal Regulated Third
20 Party Access Code.

21
22 **SECTION 19. Regulated Third Party Access LNG Terminal.** – The issuance of
23 an rTPA permit to an owner and operator of an LNG terminal shall take into
24 consideration the capacity and utilization of the LNG terminal, current midstream end
25 users, existing market conditions, and other relevant information with the end in view
26 of enabling competition in the natural gas industry. The use and access of the capacity
27 covered by an rTPA permit shall be open to all third parties subject to the payment of
28 a terminal fee. An rTPA LNG terminal permit holder shall:

29 (a) Publicly disclose the capacity available to and utilization by third parties in
30 accordance with the reportorial requirements under this Act and the LNG
31 Terminal Regulated Third Party Access Code;

1 (b) Determine the mode of competitive selection of third parties: *Provided*, That
2 each LNG terminal shall determine its own competitive selection process which
3 shall be transparent, fair, reasonable, and non-discriminatory subject to the
4 reportorial requirements under this Act;

5 (c) Provide regulated third party access to the extent of the capacity allowed by
6 and during the length of time specified in its rTPA permit; and

7 (d) Not give any undue preference or advantage to any third party, whether in
8 rates, terms, conditions, or special privileges.

9
10 **CHAPTER V**

11 **TRANSPORT AND TRANSMISSION OF NATURAL GAS**

12
13 **SECTION 20. Transport of Natural Gas.** – Natural gas, in its original or liquefied
14 form, may be transported within the country through virtual pipelines, motor vehicles,
15 and marine vessels in accordance with this Act. The use, access, and fees for the
16 transportation of natural gas shall be unregulated but shall be subject to the permits,
17 licenses, certificates, authorizations, standards, regulations, and guidelines
18 promulgated pursuant to Chapter II of this Act.

19
20 **SECTION 21. Transmission of Natural Gas.** – Natural gas may be transmitted
21 through dedicated natural gas pipelines or natural gas transmission systems either
22 from an LNG terminal or a local natural gas production facility.

23
24 **SECTION 22. Dedicated Natural Gas Pipelines.** – The ownership and operation
25 of a dedicated natural gas pipeline shall not be considered a public utility and shall not
26 require a legislative franchise, but shall require a permit in accordance with Section 6
27 of this Act. Its use, access, and fee for use shall be unregulated, but shall be subject
28 to permits, licenses, certificates, authorizations, standards, regulations, guidelines,
29 codes, and reportorial requirements as provided in this Act. The owner and operator
30 of a dedicated natural gas pipeline shall:

31 (a) Exclusively utilize the capacity of its dedicated natural gas pipeline or allow its
32 affiliates to do the same;

- 1 (b) Not enter into an nTPA or any similar arrangement with third parties or
2 otherwise grant use and access of its facilities to such third parties; and
3 (c) Inform the ERC of its intent to convert its facilities to a natural gas transmission
4 system simultaneous with its application for a legislative franchise as a natural
5 gas transmission utility.

6
7 **SECTION 23. Natural Gas Transmission Systems.** – The use, access, and
8 terminal fee of a natural gas transmission system shall be regulated. The ownership
9 and operation of a natural gas transmission system shall be considered a public utility
10 and shall require a legislative franchise. The issuance of a CPCN to a natural gas
11 transmission utility shall take into consideration its legal, technical, and financial
12 capability.

13 The use and access to the entire capacity of a natural gas transmission system
14 shall be open to all third parties for a natural gas transmission fee, subject to the
15 reserve price of the ERC in accordance with Section 6 of this Act: *Provided*, That in
16 the case of a dedicated natural gas pipeline that converts its facilities into a natural
17 gas transmission system, existing contracts with affiliates for the use of the pipeline
18 at the time of the effectivity of such franchise shall be allowed to continue until the
19 end of the contract, which shall not be subject to any extension.

20 A natural gas transmission utility shall:

- 21 (a) Regularly disclose to the public the capacity available for and utilization by third
22 parties in accordance with the reportorial requirements under this Act and the
23 Transmission Regulated Third Party Access Code;
24 (b) Determine the mode of and conduct a competitive selection of third parties.
25 *Provided*, That each natural gas transmission utility shall determine its own
26 competitive selection process which shall be transparent, fair, reasonable, and
27 non-discriminatory, subject to the reportorial requirements under this Act;
28 (c) Ensure that the winning bid does not go beyond the reserve price determined
29 by ERC pursuant to Section 6 of this Act;
30 (d) Provide transparent, fair, reasonable, and non-discriminatory use and access
31 to third parties;

- 1 (e) Not give any undue preference or advantage to any third party, whether in
2 rates, terms, conditions, or special privileges;
- 3 (f) Submit annually its Natural Gas Transmission Development Plan to DOE for
4 review and approval, or the NGTSO, whichever is applicable, pursuant to
5 Sections 5 and 24 of this Act;
- 6 (g) Assign to the NGTSO the operation and maintenance of its natural gas
7 transmission system upon direction of the ERC after the interconnection of
8 natural gas transmission systems and the selection of the NGTSO; and
- 9 (h) When applicable, inform and coordinate with the NGTSO for the location,
10 construction, improvement, operation, utilization, expansion, modification,
11 rehabilitation, repair, maintenance, decommissioning, and abandonment of any
12 part of the natural gas transmission system to be undertaken in accordance
13 with its submitted National Gas Transmission Development Plan.

14

15 **SECTION 24. Natural Gas Transmission System Operator.** – The DOE, based
16 on the Philippine Energy Plan, the Midstream Natural Gas Industry Development Plan,
17 and the various Natural Gas Transmission Development Plans shall determine the
18 necessity of and then direct the interconnection of natural gas transmission systems
19 pursuant to Section 5 of this Act. The DOE shall thereafter select a single independent
20 NGTSO. The NGTSO shall not be an affiliate of any LNG terminal owner and operator,
21 natural gas transmission utility, or any midstream end-user. The NGTSO shall:

- 22 (a) Operate and manage the interconnected natural gas transmission system in
23 accordance with the Natural Gas Transmission Code and Transmission
24 Regulated Third Party Access Code;
- 25 (b) Coordinate with natural gas transmission utilities for the location, construction,
26 improvement, operation, utilization, expansion, modification, rehabilitation,
27 repair, maintenance, decommissioning, and abandonment of any part of the
28 natural gas transmission system in accordance with their submitted Natural
29 Gas Transmission Development Plan;
- 30 (c) Furnish midstream natural gas industry participants with sufficient information
31 for efficient access to the interconnected natural gas transmission system;

- 1 (d) Procure ancillary services necessary to support the reliable and continuous
2 flow of natural gas through the interconnected natural gas transmission
3 system;
- 4 (e) Annually prepare a comprehensive Natural Gas Transmission Development
5 Plan based on the submitted Natural Gas Transmission Development Plans of
6 natural gas transmission utilities, upon consultation with public and private
7 stakeholders, and submit the same for review and approval of the DOE;
- 8 (f) Collect an NGTSO fee, subject to the approval of the ERC; and
- 9 (g) Perform other functions and responsibilities determined by the DOE and ERC
10 pursuant to Sections 5 and 6 of this Act.

11
12 **CHAPTER VI**

13 **RATES, FEES, AND OTHER CHARGES**

14
15 **SECTION 25. Publication and Unbundling of Fees.** – LNG terminals with
16 regulated third party access, whether through an rTPA permit or a DOE declaration of
17 an unutilized capacity, natural gas transmission utilities, and the NGTSO shall identify
18 and segregate in their bills to midstream end-users the components of their terminal
19 fees, natural gas transmission fees, and NGTSO fee, respectively, and publish the
20 same on their website.

21
22 **SECTION 26. Other Fees and Charges.** – The DOE, ERC, and other relevant
23 government agencies may impose reasonable fees for processing applications and
24 permits as may be necessary in this Act pursuant to Executive Order No. 292,
25 otherwise known as the Administrative Code of 1987, and Republic Act No. 9136
26 otherwise known as the Electric Power Industry Reform Act of 2001.

27
28
29 **CHAPTER VII**

30 **PROHIBITED ACTS AND PENALTIES**

1 **SECTION 27. Prohibited Acts.**— Without prejudice to civil and criminal liability, the
2 following acts shall be prohibited:

3 (a) For government agencies: failing to comply with the responsibilities under
4 Chapter II of this Act, and within the timeframes specified in Sections 5, 6, and
5 37 of this Act;

6 (b) For midstream natural gas industry participants:

7 (i) Engaging in activities without the required permits, licenses, certificates,
8 and authorizations under this Act, specifically:

9 1. Engaging in the aggregation, supply, importation,
10 exportation, receipt, unloading, loading, processing, storage,
11 regasification, transmission, bunkering, and transportation of
12 natural gas, or the location, construction, improvement,
13 operation, utilization, expansion, modification, rehabilitation,
14 repair, maintenance, decommissioning, and abandonment of an
15 LNG terminal, natural gas transmission system, dedicated natural
16 gas pipeline, virtual pipeline, and motor vehicles and marine
17 vessels transporting natural gas without a permit as defined in
18 this Act from DOE, ERC, or DOTR or its attached agencies,

19 2. Engaging in any activity as a midstream natural gas
20 industry participant without a license, certificate, and
21 authorization from DENR, DOH, Department of Interior and Local
22 Government or its attached agencies, local government units, and
23 other relevant government agencies,

24 3. Operating as an own use terminal without an own use
25 permit,

26 4. Operating as an rTPA terminal without an rTPA permit, and

27 5. Operating a natural gas transmission system without a
28 legislative franchise and a CPCN;

29 (ii) Failure to comply with health, safety, security, and environmental
30 standards, requirements, and guidelines as well as codes under this Act,
31 whichever is applicable, specifically:

1. Failure to comply with the PNS or other international standards adopted as PNS of the following:
 - a. Natural gas, in its original or liquefied form,
 - b. Location, construction, improvement, operation, utilization, expansion, modification, rehabilitation, repair, maintenance, decommissioning, and abandonment of all LNG terminals,
 - c. Storage and bunkering of natural gas and its respective facilities,
 - d. Virtual pipelines,
 - e. Motor vehicles and marine vessels transporting natural gas,
 - f. Dedicated natural gas pipelines, and
 - g. Natural gas transmission systems
 2. Failure to comply with standards, rules, and regulations in the conduct of health risk assessment studies in cases of natural gas accidents,
 3. Failure to comply with the Natural Gas Transmission Code,
 4. Failure to comply with the LNG Terminal Regulated Third Party Access Code, and
 5. Failure to comply with the Transmission Regulated Third Party Access Code,
 6. Failure to comply with the safety and exclusion zone;
- (iii) Failure to submit or disclose required data, information, and documents, whichever is applicable, specifically:
1. Failure to submit an LNG Terminal Development Plan,
 2. Failure to submit a Natural Gas Transmission Development Plan,
 3. Refusal or failure to submit the required data and information to the DOE pursuant to Section 5 of this Act,
 4. Refusal or failure to submit the required documents, data, and information to the ERC pursuant to Section 6 of this Act,

- 1 5. Refusal or failure to submit health data and information to
- 2 the DOH pursuant to Section 8 of this Act,
- 3 6. Refusal or failure to publicly disclose the following:
- 4 a. Capacity available to third parties,
- 5 b. Utilization of capacities by third parties,
- 6 7. Failure to furnish midstream natural gas industry
- 7 participants with sufficient information for efficient access to the
- 8 interconnected natural gas transmission system, and
- 9 8. Failure to inform the ERC of its intent to convert a
- 10 dedicated natural gas pipeline to a natural gas transmission
- 11 system simultaneous with its application for a legislative
- 12 franchise;

13 (iv) Failure to comply with the requirements on fees, whichever is
14 applicable, specifically:

- 15 1. Failure to comply with the publication and unbundling
- 16 requirement for the terminal fee, natural gas transmission fee,
- 17 and NGTSO fee, whichever is applicable,
- 18 2. Collecting an NGTSO fee without the approval of ERC,
- 19 3. Awarding a winning bid beyond the reserve price
- 20 determined by ERC,
- 21 4. Collecting a natural gas transmission fee higher than the
- 22 winning bid, and
- 23 5. Disclosing the reserve price before the determined time by
- 24 ERC;

25 (v) Failure to comply with the requirements on own use and regulated third
26 party access, whichever is applicable, specifically:

- 27 1. Allowing a third party to use a portion or the entire capacity
- 28 of a dedicated natural gas pipeline,
- 29 2. Entering into an nTPA or similar arrangement with third
- 30 parties or granting use and access to third parties to the extent
- 31 of the capacity covered by an own use permit for LNG terminals,

- 1 3. Refusal or failure to conduct a transparent, fair,
2 reasonable, and non-discriminatory competitive selection of third
3 parties for the capacity covered by an rTPA permit for LNG
4 terminals, or the entire capacity of a natural gas transmission
5 system,
- 6 4. Using or allowing an affiliate to use the capacity covered
7 by an rTPA permit for LNG terminals or a portion or the entire
8 capacity of a natural gas transmission system without undergoing
9 a competitive selection process,
- 10 5. Giving any undue preference or advantage to any third
11 party, whether in rates, terms, conditions, or special privileges,
- 12 6. Failure to provide transparent, fair, reasonable, and non-
13 discriminatory use and access to third parties,
- 14 7. Failure to comply with mandated regulated third party
15 access for unutilized capacity;

16 (vi) Failure to comply with other responsibilities as midstream natural gas
17 industry participants, whichever is applicable, specifically:

- 18 1. Refusal to participate as an identified member of the
19 technical working group,
- 20 2. Failure to cooperate in any investigation conducted by
21 DOE, ERC, or PCC pursuant to their powers under this Act,
- 22 3. Failure to comply with the prior approval requirement of
23 any sale, assignment, or transfer of control of a midstream
24 natural gas industry participant with a DOE issued permit to
25 another entity;
- 26 4. Failure to comply with the directive of DOE for prior
27 disclosure of any sale, assignment, or transfer of ownership or
28 direct or indirect interests, rights, or participation of a midstream
29 natural gas industry participant with a DOE issued permit to
30 another entity;
- 31 5. Engaging in anti-competitive behavior,

- 1 6. Refusal or failure to assign to the NGTSO the operation
2 and maintenance of its natural gas transmission system upon
3 directive of the ERC,
- 4 7. Refusal or failure to inform and coordinate with the NGTSO
5 or the natural gas transmission utilities, whichever is applicable,
6 for the location, construction, improvement, operation, utilization,
7 expansion, modification, rehabilitation, repair, maintenance,
8 decommissioning, and abandonment of any part of the natural
9 gas transmission system,
- 10 8. Failure to secure ancillary services necessary to support
11 the reliable and secure flow of natural gas through the
12 interconnected natural gas transmission system, and
- 13 9. Failure to comply with other responsibilities not otherwise
14 stated in this Section.

15
16 **SECTION 28. Penalties.** – Without prejudice to civil and criminal liability, the
17 following administrative penalties shall be imposed upon any natural or juridical person
18 for every prohibited act enumerated below:

19 (a) Section 27 (a): Fine not exceeding the equivalent of six (6) months' salary or
20 suspension not exceeding one (1) year, or removal depending on the gravity
21 of the offense;

22 (b) Section 27 (b):

- 23 i. First Offense: Fine of not less than Five hundred thousand pesos
24 (P500,000) for every day of non-compliance, and if applicable,
25 suspension of permits, licenses, certificates, or authorizations until the
26 violation is corrected,
- 27 ii. Second Offense: Fine of not less than One million pesos (P1,000,000)
28 for every day of non-compliance, and if applicable, suspension of
29 permits, licenses, certificates, or authorizations until the violation is
30 corrected, and
- 31 iii. Third Offense: Fine of not less than Five million pesos (P5,000,000),
32 revocation of permits, licenses, certificates, or authorizations, and

1 disqualification from applying for future permits, licenses, certificates, or
2 authorizations. In the case of natural gas transmission utilities, DOE and
3 ERC shall recommend the revocation of their respective franchises to
4 Congress. In the case of the NGTSO, it shall be replaced.

5 *Provided*, That the administrative penalty for Section 27(b)(vi)(5) shall be
6 pursuant to Section 29 of the Philippine Competition Act.

7
8 **CHAPTER VIII**
9 **FINAL PROVISIONS**

10
11 **SECTION 29. Incentives.** – LNG terminals, storage facilities, bunkering facilities,
12 dedicated own use natural gas pipelines, and natural gas transmission systems, shall
13 be included in the Strategic Investment Priority Plan subject to an evaluation process
14 and shall be entitled to the incentives and for the length of time provided under
15 Executive Order No. 226, otherwise known as the Omnibus Investments Code of 1987,
16 as amended by Republic Act No. 11534, otherwise known as the Corporate Recovery
17 and Tax Incentives for Enterprises Act, and other applicable laws.

18
19 **SECTION 30. Permits and Licenses.** – All permits, licenses, certificates, and
20 authorizations issued pursuant to this Act shall be streamlined and shall be covered
21 by Republic Act No. 11234, otherwise known as the Energy Virtual One-Stop Shop Act,
22 except for those whose time frames are expressly provided herein.

23
24 **SECTION 31. Public Access to Information.** – The DOE, ERC, and other relevant
25 government agencies shall allow public access, through its website, to all data and
26 information submitted in the implementation of this Act: *Provided*, That such access
27 is compliant with Section 32 hereto.

28
29 **SECTION 32. Treatment of Confidential Information.** – The DOE, ERC, and
30 other relevant government agencies shall not disclose any proprietary and confidential
31 information to the public and to other midstream natural gas industry participants
32 unless prior consent of the source or owner of such information has been obtained by

1 the requesting party: *Provided*, That prior consent shall not be required if the
2 proprietary and confidential information is requested by a government agency and the
3 request is made in performance of its functions: *Provided further*, That the requesting
4 government agency shall not disclose the proprietary and confidential information to
5 the public and to other midstream natural gas industry participants.

6
7 **SECTION 33. Establishment of Dedicated Offices.** – The DOE and the ERC shall
8 establish dedicated bureaus or offices for the effective implementation of this Act. The
9 organizational structure and staffing complement shall be determined by the DOE
10 Secretary and ERC Chairperson respectively, with approval of the Department of
11 Budget and Management or the Office of the President, whichever is applicable, and
12 in accordance with existing civil service rules and regulations.

13
14 **SECTION 34. Appropriations.** – The amount of Seventy-five million pesos
15 (P75,000,000.00) shall be charged against the current year’s appropriations of the
16 DOE and the amount of Seventy million pesos (P70,000,000.00) shall be charged
17 against the current year’s appropriations of the ERC, all for the initial implementation
18 of this Act. Thereafter, such amounts necessary for the sustainable implementation
19 of this Act shall be included in the annual General Appropriations Act.

20
21 **SECTION 35. Congressional Oversight.** – The Joint Congressional Energy
22 Commission (JCEC) shall exercise oversight powers over the implementation of this
23 Act. The DOE, ERC, and other relevant government agencies shall submit annual
24 reports to the JCEC not later than the fifteenth day of September, which shall include
25 the latest relevant data, implementation review and reports, and policy and regulatory
26 issuances.

27
28 **SECTION 36. Transitory Period.** – All midstream natural gas industry participants
29 shall comply with the provisions of this Act within five (5) years from its effectivity:
30 *Provided*, That health, safety, security, environmental, construction, operation and
31 other permits, licenses, certificates, and authorizations issued prior to the effectivity
32 of this which are not inconsistent herewith shall remain valid.

1 Natural gas transmission systems existing at the time of the effectivity of this
2 Act shall be allowed to continue pursuant to the terms and conditions indicated in their
3 franchise and until the lapse of the period accorded to them in the franchise.

4
5 **SECTION 37. Implementing Rules and Regulations.** – The DOE and ERC, in
6 consultation with the relevant government agencies, and public and private
7 stakeholders, shall issue the implementing rules and regulations (IRR) of this Act
8 within six (6) months from its promulgation.

9
10 **SECTION 38. Separability Clause.** – Any provision of this Act, which may be
11 declared unconstitutional or invalid shall not have the effect of nullifying other portions
12 or provisions hereof.

13
14 **SECTION 39. Amendatory and Repealing Clause.** – The specific provisions of
15 Republic Act No. 387, otherwise known as the Petroleum Act of 1949, and Presidential
16 Decree No. 334, Creating the Philippine National Oil Company, Defining its Powers and
17 Functions, Providing Funds Therefor, and For Other Purposes, that are inconsistent
18 with this Act are hereby amended or repealed accordingly.

19 All other laws, ordinances, rules, regulations and issuance or parts thereof, that
20 are inconsistent with this Act, are likewise amended or repealed accordingly.

21
22 **SECTION 40. Effectivity Clause.** – This Act shall take effect fifteen (15) days after
23 its publication in the Official Gazette or one (1) newspaper of general circulation.

Approved,