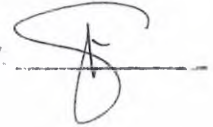


NINETEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
First Regular Session)

'22 JUL -7 P5 :48

SENATE
Senate Bill No. 217

RECEIVED BY: _____



Introduced by: **SENATOR RAFFY T. TULFO**

**AN ACT REMOVING THE PUBLIC OFFERING REQUIREMENT OF
GENERATION COMPANIES, AMENDING FOR THE PURPOSE SECTION 43(T)
OF REPUBLIC ACT NO. 9136, OTHERWISE KNOWN AS THE ELECTRIC
POWER INDUSTRY REFORM ACT OF 2001**

EXPLANATORY NOTE

Republic Act No. 9136, or the Electric Power Industry Reform Act of 2001 ("EPIRA"), requires generation companies which are not publicly listed to offer and sell to the public at least 15% of their common shares of stock "to ensure the successful restructuring and modernization of the electric power industry" ("Public Offering Requirement").

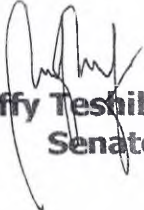
EPIRA, however, also provides that the generation sector shall be competitive and open, considering that power generation is not considered as a public utility operation. Likewise, EPIRA aims to broaden the ownership base of the power generation sector. In furtherance of these objectives, any unnecessary barriers to entry must be removed.

The aforementioned Public Offering Requirement is an institutional barrier to entry that no longer serves its purpose inasmuch as the electric power industry has already been restructured and modernized in light of recent regulatory developments in the energy sector. The Public Offering Requirement has proved to be an impediment to small and medium sized companies due to the costs involved in, and the cumbersome process of, public offering.

To encourage and lure the much needed investments in the generation sector, particularly in the space of renewable energy, it is crucial to eliminate the Public Offering Requirement. The removal thereof will serve to promote competition and encourage market development by allowing new entrants in the market, in line with EPIRA's purpose of having a competitive and open generation sector. Moreover, the new entrants in the market will definitely broaden the ownership base of the power generation sector.

Considering the irrelevance of the Public Offering Requirement and the need for a more open and competitive generation sector, the Public Offering Requirement which has become an unnecessary institutional barrier to entry must therefore be eliminated.

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



Raffy Teshiba Tulfo
Senator

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POWER INDUSTRY REFORM ACT OF 2001**

1 *Be It enacted by the Senate and the House of Representatives of the Philippines in*
2 *Congress assembled:*

3
4 **SECTION 1.** Removal of Public Offering Requirement of Generation Companies. -
5 Section 43(t) of Republic Act No. 9136, otherwise known as the Electric Power Industry
6 Reform Act of 2001, is hereby amended to read as follows:

7
8 "SEC. 43. Functions of the ERC - The ERC shall promote competition, encourage
9 market development, ensure customer choice and penalize abuse of market
10 power in the restructured electricity industry. In appropriate cases, the ERC is
11 authorized to issue cease and desist order after due notice and hearing.
12 Towards this end, it shall be responsible for the following key functions in the
13 restructured
14 industry:

15
16 X X X

17
18 (t) Perform such other regulatory functions as are appropriate and necessary
19 in order to ensure the successful restructuring and modernization of the electric
20 power industry, such as, but not limited to, the rules and guidelines under
21 which [~~generation companies~~] distribution utilities which are not publicly
22 listed shall offer and sell to the public a portion not less than fifteen percent
23 (15%) of their common share of stocks: Provided, however, That
24 [~~generation companies~~] distribution utilities or their respective holding
25 companies that are already listed in the PSE are deemed in compliance. For

1 existing [~~companies~~]**DISTRIBUTION UTILITIES**, such public offering shall
2 be implemented not later than five (5) years from the effectivity of this Act.

3 New [~~companies~~] **DISTRIBUTION UTILITIES** shall implement their
4 respective public offerings not later than five (5) years from the issuance of
5 their certificate [~~of compliance~~] **OF PUBLIC CONVENIENCE AND**
6 **NECESSITY**; and
7
8
9

10 X X X."
11

12 **SECTION 2.** Implementing Rules and Regulations. - The Energy Regulatory
13 Commission shall, in consultation with the Department of Energy, other relevant
14 government agencies, the electric power industry participants, consumers, and other
15 public and private stakeholders, promulgate the Implementing Rules and Regulations
16 of the Act within ninety (90) calendar days from its effectivity.
17

18 **SECTION 3.** Separability Clause. - If, for any reason, any provision of this Act is
19 declared to be unconstitutional or invalid, the other sections or provisions hereof which
20 are not affected thereby shall continue to be in full force or effect.
21

22 **SECTION 4.** Repealing Clause. - All laws; decrees, orders, rules and regulations or
23 parts thereof which are inconsistent With or contrary to the provisions of this Act are
24 hereby repealed, amended or modified accordingly.
25
26

27 **SECTION 5.** Effectivity. - This Act shall take effect fifteen (15) days after its complete
28 publication in the Official Gazette or in national newspaper of general circulation.
29

30 Approved,