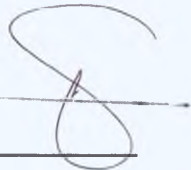


NINETEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)



23 MAY 24 P 6 :25

SENATE
S. No. 2247

RECEIVED BY: 

Introduced by: Senator Raffy T. Tulfo

AN ACT
PROMOTING THE DEVELOPMENT OF THE PHILIPPINE DOWNSTREAM
NATURAL GAS INDUSTRY, CONSOLIDATING FOR THE PURPOSE ALL LAWS
RELATING TO THE TRANSMISSION, DISTRIBUTION, AND SUPPLY OF
NATURAL GAS, AND APPROPRIATING FUNDS THEREFOR

Explanatory Note

Since 2001, the Malampaya offshore gas field has been the Philippines' primary source of natural gas. At its peak, it had been able to supply approximately 40% of the country's energy requirements. At present, there are five (5) existing natural gas-fired power plants with a combined installed capacity of 3,200 Megawatts (MW).

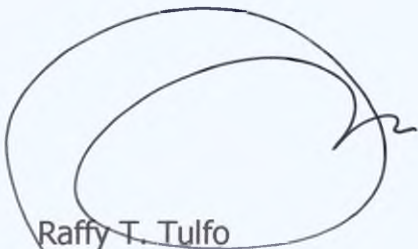
There have been several government policies that aimed to regulate and optimize the use of natural gas, such as Executive Order No. 66, signed by former President Gloria Macapagal-Arroyo, which designated the Department of Energy (DOE) as the primary agency that would push for the development of the natural gas industry of the Philippines, as well as the issuance of the DOE interim rules and regulations governing the transmission, distribution, and supply sub-sectors of the natural gas industry.

At present, Malampaya's natural gas supply has been slowly dwindling with its remaining reserves expected to be depleted by 2027. Without an indigenous replacement for the natural gas supply of Malampaya, the DOE has then focused on

the importation of liquified natural gas (LNG) through the expansion and continued operation of LNG-receiving facilities.

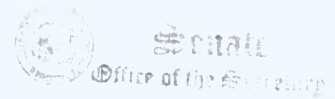
Despite the DOE issuance, it is necessary to have a harmonious law that covers all aspects of the downstream natural gas industry. There is a need for clear, comprehensive, and integrated legislative policies that aid in the rapid development of the Philippines' natural gas sector.

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



Raffy T. Tulfo
Senator

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

CHAPTER I

TITLE AND DECLARATION OF POLICY

1
2
3
4 Section 1. *Title*– This Act shall be known as the "*Philippine Downstream Natural*
5 *Gas Industry Development Act*".

6 Sec. 2. *Declaration of Policy*. – It is hereby declared the policy of the State to:

7 (a) Promote natural gas as a safe, environment-friendly, efficient and cost-
8 effective source of energy and an indispensable contributor to grid
9 security, especially with the entry of more intermittent renewable energy
10 sources by establishing the Philippine Downstream Natural Gas Industry
11 (PDNGI) for the benefit of all segments of the nation's population and
12 all sectors of its economy;

13 (b) Promote natural gas as the energy fuel, which has tremendous potential
14 to meet the increasing local demand for fuel, and the development of
15 the Philippines as a Liquefied Natural Gas (LNG) trading and

1 transshipment hub within the Asia-Pacific Region. In all cases, the State
2 shall ensure the safe, secure, reliable, transparent, competitive and
3 environmentally responsible operation of the PDNGI value chain;

4 (c) Provide a conducive industry environment through the issuance of
5 regulatory policies based on the Philippine Downstream Natural Gas
6 Industry Regulations (PDNGR), the localized codes and standards for
7 products, facilities and its operations based on the Philippine National
8 Standards (PNS), and plans and programs geared towards the promotion
9 and development of the PDNGI;

10 (d) Promote the conversion of existing fossil fuel-operated equipment and
11 facilities to natural gas use, provided it is technically and financially
12 feasible;

13 (e) Promote and hasten the exploration and development of indigenous
14 natural gas resources and facilities, and to prioritize the use of
15 indigenous natural gas to help attain greater energy security;

16 (f) Promote access to and the financial viability of the PDNGI by liberalizing
17 the entry of investors under a system of competition, transparency and
18 fair trade and providing responsive policy support, with the end goal of
19 attaining fair prices for all stakeholders;

20 (g) Promote the role of natural gas as an additional energy source and
21 complementary fuel to variable renewable energy by creating a legal and
22 regulatory framework that would govern the promotion and
23 development of the natural gas industry in the country;

24 (h) Ensure compliance with the PDNGI standards on health, safety, security,
25 and environment (HSSE) standards and best practices under a system
26 of safe, secure, high-quality, environmentally responsible operations and
27 services that afford protection to consumers;

28 (i) Encourage the inflow of private capital through equity participation by
29 the private sector in the PDNGI value chain including gas transmission
30 and distribution utilities;

31 (j) Ensure transparent and reasonable price of natural gas and rates for its
32 importation, storage and regasification, transmission, and distribution in

1 a regime of open and fair competition and full public accountability that
2 shall promote greater operational and economic efficiency and enhanced
3 competitiveness of the Philippine products in the global market;

4 (k) Develop the necessary trades, technical expertise, and skills to support
5 the PDNGI; and

6 (l) Facilitate the development of power and non-power end-uses of natural
7 gas including the use of natural gas as fuel for power, commercial,
8 industrial, residential, and transport applications that promote fuel
9 diversity and compliance with existing environmental laws.

10 Sec. 3. *Scope.* – This Act shall provide a framework for the development of the
11 PDNGI and its transition from emerging industry into mature industry status within a
12 competitive natural gas market and define the responsibilities of various government
13 agencies and private entities in furtherance of this national goal.

14 It shall apply to the permitting, securing of location, construction, operation,
15 improvement, expansion, modification, maintenance, repair, rehabilitation,
16 decommissioning, and abandonment of downstream natural gas facilities. It shall
17 likewise apply to the permitting of own-use or commercial activities in the PDNGI value
18 chain including but not limited to the purchase, supply, aggregation, blending, storage,
19 trading, transshipment, sale, import and/or export of natural gas and LNG, and any
20 other activities related to the PDNGI.

21 All activities of the Department of Energy (DOE), Energy Regulatory
22 Commission (ERC), and other concerned government agencies relevant to the
23 development and regulation of the PDNGI shall be in accordance with this Act.

24 Sec. 4. *Definition of Terms.* – For the purposes of this Act, the following terms
25 shall be defined as follows:

26 (a) *Affiliate* refers to a person who directly or indirectly, through one or more
27 intermediaries, controls or is controlled by, or is under common control
28 with the person specified, through the ownership of voting shares or
29 other means such as contractual agreements. As used herein, “control”

1 shall mean the power to direct or cause the direction of management
2 policies as an inherent part of decision-making power;

3 (b) *Aggregation* refers to the activity of having a single buyer or aggregator
4 that procures LNG volumes from multiple suppliers, including indigenous
5 natural gas, and sells the blended and consolidated gas to gas buyers in
6 the Philippines;

7 (c) *Anti-Competitive Behavior* refers to the practices and agreements in
8 violation of the provisions of Republic Act No. 10667, otherwise known
9 as the "*Philippine Competition Act*"(PCA);

10 (d) *Bunkering* refers to the activity of selling natural gas for use of domestic
11 or foreign marine vessels by a participant known as a bunker trader;

12 (e) *Capacity* refers to the handling design of a system used in the context
13 of its functionality and expressed in a specific measurement such as
14 volume or flow per time unit or designated measurement unit;

15 (f) *Conventional Transportation System* refers to a network of fixed facilities
16 made up, among others, of wellheads, compressor stations, pipelines,
17 and metering for the purpose of delivering natural gas. This includes
18 both the PDNG Transmission System and PDNG Distribution System;

19 (g) *Delivery* refers to the transmission or distribution of natural gas and the
20 supply of natural gas at wholesale or retail;

21 (h) *Distribution* refers to the transportation of natural gas through a PDNG
22 Distribution System;

23 (i) *End-user* refers to any person that will receive delivery of natural gas for
24 resale or final use;

25 (j) *Importation* refers to the act of bringing LNG into the Philippines;

26 (k) *Liquefied natural gas or LNG* refers to natural gas which has been
27 liquefied by cooling at a cryogenic temperature;

28 (l) *LNG Storage and Regasification Terminal* refer to all component facilities
29 used to receive, unload, load, store, and regasify LNG. It shall include,
30 among others, jetty and unloading/loading arms, cryogenic pipelines,
31 storage tanks, boil-off gas compressors and condensers, vaporizers,
32 control facilities, metering, and other relevant components;

- 1 (m) *Natural gas* refers to gas obtained from boreholes and wells
2 consisting primarily of a mixture of methane, ethane, propane, and
3 butane with small amounts of heavier hydrocarbons and some
4 impurities, consistent with PNS or the standards developed by the
5 International Organization for Standardization (ISO);
- 6 (n) *Natural Gas Distribution System Utility Operator or NGDSUO* refers to
7 any person engaged in the operation of a PDNGDS providing services for
8 general public use;
- 9 (o) *Natural Gas Sales and Purchase Agreement or NGSPA* refers to any
10 contract or agreement for the delivery and sale of indigenous or
11 imported natural gas by and between sellers, suppliers, buyers, and End-
12 users;
- 13 (p) *Natural Gas Transmission System Utility Operator or NGTSUO* refers to
14 any person engaged in the operation of a PDNGTS providing services for
15 general public use;
- 16 (q) *Own-use PDNGI Participant* refers to any natural or juridical entity
17 engaged in the exclusive use of PDNGI facilities by an Operator or its
18 affiliates;
- 19 (r) *Own-use Permit* refers to an authorization granted by the DOE to an
20 Own-use PDNGI Participant;
- 21
- 22 (s) *Participant* refers to a natural or juridical person who engages in any of
23 the activities, operations, and management of PDNGI. A participant may
24 refer to a supplier, aggregator, bunker trader, regasification operator,
25 NGTSUO, NGDSUO, own-user, and an End-user;
- 26 (t) *Permit* refers to an authorization issued by the DOE for the importation,
27 exportation, aggregation, construction, commercial operation, own-use,
28 maintenance of natural gas facilities, and any other PNDGI activities;
- 29 (u) *Permit Holder or Operator* refers to a natural or juridical person who is
30 granted a Permit by the DOE to engage in the importation, exportation

1 aggregation, construction, commercial operation, own-use, maintenance
2 of natural gas facilities and any other PNDGI activities;

3 (v) *Philippine Downstream Natural Gas Development Plan or PDNG DevPlan*
4 refers to the comprehensive plan for ensuring a safe, secure, and reliable
5 supply of natural gas and establishing the efficient operations of the
6 country's downstream natural gas infrastructure and proper
7 management of natural gas demand through appropriate government
8 programs and policies. It shall include the various LNG supply plans, LNG
9 storage, and regasification terminal development plans, and
10 downstream natural gas transmission and distribution development
11 plans. This plan shall be incorporated into the PEP;

12 (w) *Philippine Downstream Natural Gas Distribution Code or PDNG*
13 *Distribution Code* refers to the code formulated by the DOE which shall
14 set the technical performance standards for operating a conventional
15 distribution system and the minimum financial standards for such
16 service;

17 (x) *Philippine Downstream Natural Gas Distribution Development Plan or*
18 *PDNG Distribution DevPlan* refers to a comprehensive plan prepared and
19 submitted to the DOE by the owner or operator of all existing,
20 committed, and indicative conventional and virtual distribution systems
21 whether dedicated or utility-containing, among others, information on
22 their locations, construction, operation, improvement, expansion,
23 modification, maintenance, repair, or rehabilitation, decommissioning
24 and abandonment, whichever is applicable. The plan shall likewise
25 include all studies, programs, and policies for the promotion and
26 development of the distribution sector;

27 (y) *Philippine Downstream Natural Gas Distribution System or PDNG*
28 *Distribution System* refers to a Conventional and Virtual Transportation
29 System extending from the delivery points where the gas distribution
30 system receives the natural gas to the point of connection in the
31 premises of the End-user;

1 (z) *Philippine Downstream Natural Gas Industry or PDNG Industry* refers to
2 all downstream natural gas industry participants and their affiliates
3 involved in activities pertaining to natural gas supply for bunkering or
4 domestic storage and regasification, transmission, distribution, and use.
5 It shall likewise refer to the operation and management of all
6 downstream natural gas facilities which include, among others, LNG
7 carrier and support ships, LNG Storage and Regasification Terminals,
8 PDNG Transmission System and PDNG Distribution System and their
9 ancillary components;

10 (aa) *Philippine Downstream Natural Gas Transmission Code or PDNG*
11 *Transmission Code* refers to the code formulated by the DOE which shall
12 set the technical performance standards for operating a conventional
13 transmission system and the minimum financial standards for such
14 service;

15 (bb) *Philippine Downstream Natural Gas Transmission Development*
16 *Plan or PDNG-TDP* refers to a comprehensive plan prepared and
17 submitted to the DOE by the owner or operator of all existing,
18 committed, and indicative conventional and virtual transmission systems
19 whether dedicated or utility-containing, among others, information on
20 their locations, construction, operation, improvement, expansion,
21 modification, maintenance, repair, or rehabilitation, decommissioning
22 and abandonment, whichever is applicable. The plan shall likewise
23 include all studies, programs, and policies for the promotion and
24 development of the distribution sector;

25 (cc) *Philippine Downstream Natural Gas Transmission System or*
26 *PDNG Transmission System* refers to a system of conventional pipelines
27 and their ancillary facilities extending from the delivery points where the
28 system receives the natural gas from the indigenous upstream source or
29 from LNG Storage and Regasification Terminal to the point of connection
30 where the PDNG Distribution System receives the gas;

31 (dd) *Philippine Energy Plan or PEP* refers to the overall energy program
32 formulated and updated yearly by the DOE and submitted to Congress

1 pursuant to Republic Act No. 7638, otherwise known as the "*Department*
2 *of Energy Act of 1992*", as amended;

3 (ee) *Philippine LNG Storage and Regasification Terminal Code or PLSR*
4 *Terminal Code* refers to the code formulated by the DOE which shall set
5 the technical performance standards for operating an LNG Storage and
6 Regasification Terminal and the minimum financial standards for such
7 service;

8 (ff) *Philippine LNG Storage and Regasification Terminal Development Plan*
9 refer to a comprehensive plan prepared and submitted to the DOE by
10 the owner/operator of all existing, committed, and indicative LNG
11 storage and regasification terminal projects containing, among others,
12 information on their locations, construction, operation, improvement,
13 expansion, modification, maintenance, repair, or rehabilitation,
14 decommissioning and abandonment, whichever is applicable. The plan
15 shall likewise include all studies, programs, and policies for the
16 promotion and development of the regasification sector;

17 (gg) *Rates* refer to the payment on the utilization of the capacity and
18 use of other services offered by the Permit Holder or Operator of the
19 storage, regasification, transmission, and distribution pipeline;

20 (hh) *Supplier* refers to any person engaged and registered with the
21 DOE to trade on indigenous or imported LNG and their subsequent
22 supply to End-users;

23 (ii) *Supply* refers to the trade or sale of indigenous or imported natural gas
24 and their subsequent sale to End-users;

25 (jj) *Third-party access or TPA* refers to transparent and non-discriminatory
26 access and utilization by a third-party user of the excess capacity of the
27 LNG Storage and Regasification Terminal, PDNG Transmission System,
28 and PDNG Distribution System, and their related facilities;

29 (kk) *TPA Permit* refers to an authorization granted by the DOE to a
30 Permit Holder or Operator that allows third-party access and utilization
31 of the natural gas facilities' entire capacity or excess uncommitted
32 capacity over those allocated for own-use by a third-party user in a

1 transparent and non-discriminatory manner, in accordance with the
2 provisions under Chapter V of this Act;

3 (II) *Transmission* refers to the transportation of natural gas through a PDNG
4 Transmission System; and

5 (mm) *Virtual Transportation System* refers to any alternative methods
6 of transporting natural gas other than through the conventional
7 transportation system such as the use of land vehicles or sea vessels,
8 with or without an on-site modular regasification unit.

9 CHAPTER II

10 POWERS AND RESPONSIBILITIES OF GOVERNMENT AGENCIES

11
12 Sec. 5. *Powers and Responsibilities of the Department of Energy (DOE)*. – In
13 addition to its existing powers and functions, the DOE shall have the overall
14 responsibility of supervising and monitoring the development of the PDNGI. Toward
15 this end, the DOE shall perform the following powers and functions:

16 (a) Prepare the PDNG DevPlan, incorporating therein the plans submitted by public
17 and private stakeholders after open discussions and consultations with them,
18 within two (2) years from the effectivity of this Act. The PDNG DevPlan shall be
19 reviewed and updated every three (3) years after its adoption;

20 (b) Establish standards on gas quality, facility installation and safety and security
21 of operation, and environmental preservation, in coordination with the
22 Department of Trade and Industry-Bureau of Philippine Standards (DTI-BPS).
23 For this purpose, a Philippine Inter-Agency Technical Committee (PIA-TC) shall
24 be created by the DTI-BPS to be chaired by the DOE and co-chaired by the
25 DTI-BPS. The other permanent members of the PIA-TC shall be comprised of
26 representatives from the Maritime Industry Authority (MARINA), the Philippine
27 Ports Authority (PPA), the Philippine Coast Guard (PCG), the Department of
28 Environment and Natural Resources (DENR), the Department of Labor and
29 Employment (DOLE), Bureau of Fire Protection (BFP), Department of Health
30 (DOH), PDNGI Participants and academe.

1 A Philippine Inter-Agency Health, Safety, Security and Environment
2 Inspection and Monitoring Team (PIA-HSSE IMT) shall likewise be created to
3 monitor and enforce compliance with established standards to be chaired by
4 the DOE and co-chaired by the DENR. The other permanent members of the
5 PIA-TC shall be comprised of representatives from MARINA, PPA, PCG, DENR,
6 DOLE, BFP, DOH, Department of Interior and Local Government (DILG), and
7 Department of Science and Technology (DOST);

8 (c) Approve or issue:

- 9 (i) Permits for the construction, operation, improvement, expansion,
10 modification, maintenance, repair, rehabilitation, decommissioning, and
11 abandonment of downstream natural gas facilities;
- 12 (ii) Accreditation as PDNGI Participant; and
- 13 (iii) Acknowledgment of notification of commercial activities in the PDNGI
14 value chain such as the supply, aggregation, blending, storage, trading,
15 transshipment, sale, import and/or export of natural gas and/or LNG.

16 The procedure for processing and issuance of all Permits and other clearances
17 pursuant to this Act shall be governed by Republic Act No. 11234, otherwise known
18 as the "Energy Virtual One Stop Shop Act". The EVOSS Steering Committee shall
19 streamline the permitting process for the LNG industry and shall continue its
20 mandate under Republic Act No. 11234.

21 For this purpose, the DOE shall issue the corresponding guideline within six (6)
22 months from the effectivity of the Implementing Rules and Regulations of this Act;

23 (d) Review, suspend, or revoke, after due notice and hearing, permits issued in
24 accordance with the preceding paragraph (c) herein, and Section 13 of this Act
25 after a finding of non-compliance with the provisions of this Act, rules, and
26 regulations that shall be issued to implement it, and related issuances;

27 (e) Issue a written approval on the assignment or transfer of interest on any
28 permits issued in accordance with Section 39 of this Act, after finding that the
29 assignee or transferee has met all the legal, technical, and financial
30 qualifications and has committed itself to assume all existing obligations of the

- 1 Permit Holder, and such assignment or transfer is in accordance with existing
2 laws, rules, and regulations;
- 3 (f) Within one (1) year from the effectivity of the Implementing Rules and
4 Regulations of this Act, issue in consultation with other concerned government
5 agencies and the PDNGI Participants, the PDNG Transmission Code and PDNG
6 Distribution Code, the PLSR Terminal Code, and the TPA Code, which shall
7 contain the standards and best practices on safe, high-quality, environmentally
8 responsible and consumer protected operation and service, competitive
9 practices and reasonable rates of service;
- 10 (g) Notify the Philippine Competition Commission (PCC) and endorse requests for
11 investigation on any Anti-Competitive Behavior in the conduct of any business
12 under the downstream natural gas industry;
- 13 (h) Issue directives to qualified government agencies, in their capacities as
14 investing arms, to spearhead the development of the PDNGI value chain as the
15 DOE may deem imperative to catalyze its development within a given timeline;
- 16 (i) Determine the qualifications and detailed responsibilities of the NGTSUO and
17 NGDSUO pursuant to their responsibilities provided in this Act;
- 18 (j) Initiate actions against the NGTSUOs or NGDSUOs for failure to comply with
19 the qualifications and detailed responsibilities specified in this Act;
- 20 (k) Enforce the submission of regular and special reports of all Participants
21 regarding, among others, PDNGI activities as defined in this Act, progress
22 reports on infrastructure development, organization, business conduct and
23 practices, natural gas supply-demand procurement and delivery, the utilization
24 rate of the downstream natural gas facilities and compliance with HSSE
25 standards. Confidentiality of information shall not be applicable for the
26 compliance of the Participants in the submission of the above-mentioned
27 reports;
- 28 (l) Publish on the DOE website the list of PDNGI Participants with the status of
29 their projects;
- 30 (m) In times of national emergency, upon the recommendation of the NEDA
31 and DOE, when the public interest so requires, during the emergency and under
32 reasonable terms, may temporarily take over or direct the operation of any

1 person or entity engaged in the PDNGI for a period of six (6) months unless
2 otherwise extended; and

3 (n) Exercise such other powers and functions as may be necessary or incidental to
4 attain the objectives of this Act. Subject to existing laws, rules, and regulations,
5 the DOE is hereby authorized to create offices and appoint personnel as may
6 be necessary to efficiently and effectively implement this Act.

7 *Sec. 6. Powers and Responsibilities of the Energy Regulatory Commission*
8 *(ERC).* – The powers of the ERC shall be limited to its regulatory function under
9 Chapter IV of Republic Act No. 9136, otherwise known as “The Electric Power Industry
10 Reform Act of 2001”, as amended. It shall create offices and appoint personnel thereto
11 as may be necessary to efficiently and effectively perform its functions in regulating
12 power generated from natural gas resources, subject to existing laws, rules and
13 regulations.

14 *Sec. 7. Powers and Responsibilities of the Department of Environment and*
15 *Natural Resources (DENR).* – In addition to its functions under Executive Order No.
16 192, otherwise known as the “*Reorganization Act of the Department of Environment*
17 *and Natural Resources*”, the DENR shall, together with the DOE and the PCG,
18 determine and monitor compliance with the environmental standards for the location,
19 construction, improvement, expansion, operation, rehabilitation, repair, maintenance,
20 decommissioning, and abandonment of LNG Storage and Regasification Terminals,
21 PDNG Transmission System and PDNG Distribution System, and all related equipment
22 and facilities pursuant to the Clean Air Act or Republic Act No. 8749, as amended,
23 National Integrated Protected Areas System (NIPAS) under Republic Act No. 7586, as
24 amended by the Expanded National Integrated Protected Areas System (E-NIPAS)
25 under Republic Act No. 11038, Republic Act No. 6657, or the Comprehensive Agrarian
26 Reform Law of 1988, as amended, and other existing environmental laws, rules, and
27 regulations; *Provided, further,* That, within six (6) months from the effectivity of this
28 Act, the DENR shall establish national standards for methane emissions and other
29 pollutants from natural gas industries not otherwise regulated by existing laws.

30 *Sec. 8. Powers and Responsibilities of the Department of Transportation (DOTr)*
31 *through the Philippine Coast Guard (PCG).* – In addition to its functions under Republic

1 Act No. 9993, otherwise known as the "Philippine Coast Guard Law of 2009", the PCG
2 shall, together with the DENR, determine and monitor compliance with the Marine
3 Environmental Protection standards for the location, construction, improvement,
4 expansion, operation, rehabilitation, repair, maintenance, decommissioning, and
5 abandonment of LNG Storage and Regasification Terminals, PDNG Transmission
6 System and PDNG Distribution System, and all related equipment and facilities.

7 *Sec. 9. Powers and Responsibilities of the Department of Trade and Industry-*
8 *Bureau of Philippine Standards (DTI-BPS).* – In addition to its functions under Republic
9 Act No. 4109, entitled, "*An Act to Convert the Division of Standards under the Bureau*
10 *of Commerce into a Bureau of Standards, to Provide for the Standardization and/or*
11 *Inspection of Products and Imports of the Philippines and for other Purposes*", the
12 DTI-BPS shall, together with the DOE, determine, develop, formulate, promulgate,
13 and revise, the PNS for natural gas transmission and distribution systems, and for
14 natural gas, in its original or liquefied form, LNG Storage and Regasification Terminals,
15 all related equipment and facilities.

16 *Sec. 10. Powers and Responsibilities of the Department of Science and*
17 *Technology (DOST).* – In addition to its functions under Executive Order No. 128,
18 otherwise known as the "*Reorganizing the National Science and Technology*
19 *Authority*", the DOST shall undertake scientific and technological research and
20 development for the improvement of new technologies in the PDNGI.

21 *Sec. 11. Referral to the Philippine Competition Commission (PCC).* – All matters
22 involving or suspected by ERC and/or DOE to involve anti-competitive agreements or
23 abuse of market power shall be referred to the PCC for investigation and adjudication.
24 Where the act or acts to be referred to by the PCC are highly technical in nature, the
25 ERC and/or DOE shall assist the PCC in its inquiry and analysis of the facts.

26

27

CHAPTER III

28

STRUCTURE, OPERATION, AND REGULATION OF THE DOWNSTREAM

29

NATURAL GAS INDUSTRY

1 Sec. 12. *Structure.* – For purposes of this Act, the PDNGI shall consist of the
2 following sectors: natural gas supply and Aggregation, LNG bunkering, LNG Storage
3 and Regasification Terminals, Conventional and Virtual Transportation Systems,
4 ancillary facilities, and End-users.

5 Sec. 13. *DOE Permits and Issuances.* – The DOE shall have the power and
6 responsibility to evaluate, approve, and issue the Permits necessary for the
7 construction, operation, improvement, expansion, modification, maintenance, repair,
8 rehabilitation, decommissioning, and abandonment of any PDNGI facility or activity.
9 Further, the DOE shall accredit PDNGI Participants and acknowledge notification of
10 commercial activities in the PDNGI value chain. Moreover, Permits issued to natural
11 gas facilities may vary depending on the intended use such as Own-use Permit and
12 TPA Permit.

13 An Own-use PDNGI Participant whose facility has available and uncommitted
14 excess capacity may apply for a TPA Permit with the DOE, subject to the provisions of
15 Chapter V of this Act.

16 Sec. 14. *Compliance with Philippine Laws, Rules, and Regulations.* – Operators
17 or Permit Holders of PDNGI facilities shall comply with all Philippine laws, rules, and
18 regulations implemented by the different agencies of the government.

19 Sec 15. *Compliance with Standards.* – The DOE shall ensure that downstream
20 natural gas products are of high quality, and natural gas facilities provide efficient
21 service, observe stringent safety systems, accord attention to design details and
22 structural integrity, and employ operational and maintenance best practices.
23 Regulations shall be consistent with applicable Philippine and internationally-accepted
24 natural gas industry standards.

25 Sec. 16. *Confidential Information.* – The government shall not use confidential
26 or commercially sensitive information for purposes other than those provided herein
27 and shall protect and limit the disclosure of confidential or commercially sensitive
28 information, unless allowed by the operator or when required by laws, rules, and
29 regulations.

1 *Sec. 17. Authority to Obtain Information.* – The DOE and other concerned
2 government agencies may require any downstream natural gas player or Permit
3 Holder, through a valid order to furnish, within a reasonable period specified, all
4 information and documents relating to all such matters as to the permit, rates, and
5 operation of the business and natural gas facilities, and provide explanations on the
6 information or document submitted, subject to Section 16 of this Act. The failure of a
7 PDNGI Participant or Permit Holder to provide the required information or document
8 without valid reason shall be punishable under this Act.

9 *Sec. 18. Natural Gas Supply.* – The procurement, delivery, and pricing of natural
10 gas from indigenous production facilities or from LNG importation to the PDNGI shall
11 be transparent, competitive, and secure. The DOE may require the suppliers to submit
12 relevant information pertaining to supply contracting, procurement, pricing, and
13 distribution scheme to users for the purpose of monitoring.

14 The LNG-related facilities, PDNG Transmission System, and PDNG Distribution System
15 shall be designed and constructed to ensure the accommodation of both the
16 indigenous and imported supply of natural gas pursuant to measures to be issued by
17 the DOE. The DOE shall provide measures to support the supply and use of indigenous
18 natural gas to the domestic downstream natural gas sector, and if necessary, including
19 the dispatch of indigenous gas.

20 Any entity engaged in the distribution of natural gas may engage in the supply of the
21 same.

22 *Sec. 19. Abandonment of Downstream Natural Gas Facility.* – No holder of a
23 permit for the construction, installation, operation, or maintenance of a downstream
24 natural gas facility shall abandon or withdraw from service any portion of said
25 downstream natural gas facility or project without obtaining prior authorization from
26 the DOE. The DOE shall, in coordination with the DENR, provide the guidelines and
27 regulations for decommissioning and abandonment of natural gas infrastructures and
28 facilities.

29 *Sec. 20. Administrative Rules and Procedures.* – The DOE shall issue the
30 administrative rules and procedure for the discharge of administrative cases and

1 imposition of administrative fines and penalties. The Rules of Court shall apply in a
2 suppletory manner.

3 Sec. 21. *Fees*. – All concerned government agencies shall have the authority to
4 prescribe and collect fees and charges relating to the issuance or review of Permits,
5 and the supervision and regulation of the PDNGI.

6 **CHAPTER IV**

7 **PUBLIC OPERATION OF LNG FACILITIES**

8
9 Sec. 22. *Transmission and Distribution System and Related Facility*. – The DOE
10 shall issue a license or authorization to operators of Conventional Transportation
11 Systems (as defined under Section 4(f) of this Act) operating as public utilities if: (1)
12 the operator is fit, willing, and able to perform such service properly in conformity with
13 the provisions of this Act and its Implementing Rules and Regulations; and (2) such
14 service is required by the public convenience and necessity. The rate of charges and
15 fees for their services shall only be subject to the principles of transparency and
16 competitiveness to ensure that access by the general public is non-discriminatory.

17 Sec. 23. *LNG Storage and Regasification Terminals*. – The operation of an LNG
18 Storage and Regasification Terminal shall not be considered as a public utility
19 operation.

20 **CHAPTER V**

21 **THIRD-PARTY ACCESS**

22
23 Sec. 24. *Third-Party Access (TPA)*. – Participation of any Permit Holder or
24 Operator of an LNG Storage and Regasification Terminal, PDNG Transmission System,
25 PDNG Distribution System, and related facilities to TPA shall be voluntary and subject
26 to the sole discretion of the Permit Holder or Operator.

27 The rates and the terms and conditions of the service under the TPA shall be
28 transparent and non-discriminatory and in accordance with the TPA Code.

1 Sec. 25. *Available and Uncommitted Excess Capacity.* – Any available and
2 uncommitted capacity in excess of an Operator’s own-use requirement may be offered
3 at its discretion for TPA. The Operator under the TPA shall submit a regular report on
4 the total, committed and available, and uncommitted excess capacity to the DOE for
5 monitoring.

6 The operators hereof shall conduct an open and sufficient consultation process
7 with both existing and potential third-party users to discuss the available and
8 uncommitted capacity.

9 To ensure safe and reliable operation, the Operator under the TPA and DOE
10 shall ensure that the allocation of such available and uncommitted excess capacity
11 shall not endanger the safe, secure, reliable, and efficient operation of its own-use
12 requirement and that of the third-party user.

13 Sec. 26. *Third-Party Access (TPA) Principles.* – Adherence to the principles of
14 transparency, non-discrimination, and safe practices is the key to the beneficial
15 participation of third-party users. In line with this, the following guiding principles shall
16 be observed:

- 17 (a) The TPA shall be transparent and non-discriminatory with regard to the
18 rates and services for the purpose of enhancing efficiency and
19 optimization of capacity which shall further encourage investments in
20 the PDNGI;
- 21 (b) The TPA is seen likewise as a driver to encourage a diverse and
22 sustainable market for natural gas beyond the power sector;
- 23 (c) The TPA shall be anchored on a safe, secure, reliable, and efficient
24 operation for both the participant and the third-party users;
- 25 (d) The determination of available and excess capacity shall be subject to a
26 transparent and sufficient consultation among the participant and the
27 prospective third-party users and DOE’s verification and confirmation;
- 28 (e) Transparency in business activities shall consistently be observed to spur
29 confidence. Pursuant thereto, permit holders or facility operators shall
30 publish their available and uncommitted excess capacity, access terms,

1 and conditions, and allow the review and inspection of their facilities and
2 records to verify the same; and

3 (f) The TPA shall not apply to facilities subject to Own-use Permits. Should
4 the Own-use Permit Holder opt to participate in TPA activities, it shall
5 obtain a TPA Permit from DOE.

6 *Sec. 27. Congestion Management.* – Whenever the holder of a capacity is no
7 longer able to use or has not released the capacity without justifiable reason, the
8 Permit Holder or the Operator of the facility shall have the authority to release and
9 market the same. The procedure and criteria of the release shall be part of the TPA
10 Code. The government agency which shall have an oversight function on this matter
11 shall be designated in the TPA Code.

12 **CHAPTER VI**

13 **STANDARDS ON PRODUCT QUALITY, FACILITY, AND SAFETY PRACTICE**

14
15 *Sec. 28. Standards on LNG Ships and LNG Facility.* – All PDNGI facilities shall
16 be predicated to be of high quality and efficient service, observe stringent safety
17 systems, accord attention to design details and structural integrity and employ
18 operational and maintenance best practices. Regulations shall be consistent with both
19 applicable Philippine and internationally-accepted natural gas industry standards. The
20 DOE shall ensure compliance with this requirement.

21 Applications for the issuance of DOE Permits and continued conduct of any PDNGI
22 activity and operation of the facility shall be subject to continuous compliance with
23 standards.

24 *Sec. 29. Standards on Product Quality.* – The Permit Holder or Operator shall
25 maintain the quality of gas supply to End-users in accordance with the Philippine and
26 internationally accepted standards and ensure that delivery of indigenous or imported
27 LNG comply with the purification requirements to ensure that associated compounds
28 that are unnecessary or damaging to the LNG regasification facility and other related
29 natural gas facilities used for storage, distribution, and transportation of natural gas
30 supply are eliminated. The DOE shall ensure compliance with this requirement.

1 Sec. 30. *Standards on Safety Practice.* – The Permit Holder or Operator shall
2 implement an acceptable health, safety, security, and environment management
3 system in accordance with applicable Philippine and internationally accepted
4 standards. The DOE, DENR, DOH, and other concerned agencies shall ensure
5 compliance with this requirement.

6 **CHAPTER VII**

7 **RESPONSIBILITIES OF THE PERMIT HOLDER OR OPERATOR**

8 Sec. 31. *Responsibilities of the Permit Holder or Operator.* – A Permit Holder or
9 Operator shall have the following responsibilities:

- 10 (a) Align all its goals and objectives to the accomplishment of the declared
11 policies of this Act;
- 12 (b) Be directly responsible for the construction and/or operation of LNG
13 facilities by providing the necessary services, technology and financing,
14 either by itself or through its duly authorized subcontractors, without
15 entitlement from the Philippine government to any reimbursement of
16 any expenses incurred;
- 17 (c) Comply with applicable Philippine laws and regulations to attain energy
18 security and common welfare;
- 19 (d) Comply with the regulatory obligations, maintenance of complete
20 records, and submission of all reportorial requirements and other
21 documents as may be required by the DOE and other government
22 agencies pursuant to this Act and its Implementing Rules and
23 Regulations;
- 24 (e) Implement the natural gas project strictly adhering to the scope and
25 limits of the Permit and operate in accordance with Philippine and
26 international standards;
- 27 (f) Allow and facilitate, based on a valid order, the entry to the facility of
28 the examiners of the Bureau of Internal Revenue and the Bureau of
29 Customs and allow them full access to accounts, books, and records for
30 tax and other fiscal purposes;

- 1 (g) Allow, based on a valid order, the entry of personnel of the DOE, ERC,
2 PIA-HSSE IMT, and other government agencies to the facility and grant
3 them full access to operational records for inspection and monitoring
4 activities;
- 5 (h) Give preference to qualified local talents for hiring and local companies
6 or agencies in entering into subcontracts on projects or services, which
7 are required in the construction or operation of the LNG facility;
- 8 (i) Hold the DOE, ERC, PIA-HSSE IMT, and other government agencies or
9 other affected individuals free from all claims, demands, or actions
10 arising out of its failure to comply with laws, regulations, standards,
11 contracts, and permits in connection with accidents, damages, or injuries
12 which are beyond their control; and
- 13 (j) Participate in the development, issuance, and review of plans, protocols,
14 standards, and codes applicable to the PDNGI.

15 The specific responsibilities of the PDNGI Participants shall be further defined in the
16 Implementing Rules and Regulations of this Act.

17
18 **CHAPTER VIII**
19 **INCENTIVES**

20 *Sec. 32. Fiscal Incentives.* – In recognition of the substantial investments
21 needed for the development, construction of, lease, operation and/or maintenance of,
22 and conversion to natural gas facilities, all other activities in relation to the PDNGI
23 value chain projects, as certified by the DOE shall be included in Tier III of the
24 Strategic Investment Priority Plan (SIPP), subject to the incentives provided under
25 Title XIII (Tax Incentives) of the National Internal Revenue Code of 1997 (NIRC), as
26 amended by Republic Act No. 11534, otherwise known as the "*Corporate Recovery*
27 *and Tax Incentives for Enterprises (CREATE) Act*". Moreover, the registered projects
28 shall also be entitled to value-added tax (VAT) and duty exemptions as provided under
29 Section 294 of the NIRC during the construction and expansion periods.

30

1 **CHAPTER IX**
2 **PROMOTION OF COMPETITION**
3

4 Sec. 33. *Anti-Competitive Behavior.* – No PDNGI Participant, or any Affiliates
5 thereof, may engage in any anti-competitive behavior or abuse of its dominant position
6 by engaging in any conduct or behavior in accordance with Republic Act No. 10667 or
7 the Philippine Competition Act.

8 Sec. 34. *Fair Access to Capital and Off-Taker Market.* – The DOE shall issue
9 applicable policies that promote the financial viability of the PDNGI and competitive
10 access to both capital and off-taker markets for natural gas.

11 **CHAPTER X**
12 **FINES AND PENALTIES**
13

14 Sec. 35. *Administrative Fines and Penalties.* – The following administrative fines
15 and penalties shall be imposed on any industry Participant who violates the provisions
16 of this Act:

17 (a) The permit, accreditation or other approvals issued by the DOE under Chapter
18 III, Section 13 of this Act, may be suspended or revoked and the DOE shall
19 impose upon the Operator a fine ranging from Fifty Thousand Pesos
20 (Php50,000.00) to Five Million Pesos (Php5,000,000.00) per violation without
21 prejudice to other appropriate administrative fines and penalties that other
22 relevant government agencies may impose on the operator: *Provided,* That the
23 schedule of fines provided for in this Section shall be increased by the DOE
24 every five (5) years, for violation of:

- 25 (i) Standards on LNG ships and LNG facilities issued pursuant to Section 28;
26 (ii) Standards on product quality issued pursuant to Section 29;
27 (iii) Standards on safety practice issued pursuant to Section 30;
28 (iv) Responsibilities of the Permit Holder or Operator pursuant to Section 31;
29 (v) PDNG Transmission Code and PDNG Distribution Code, PLSR Terminal
30 Code, and TPA Code; and
31 (vi) Orders or directives of the DOE in the implementation of this Act;

1 (b) The applicable administrative penalty for Section 33 shall be pursuant to the
2 PCA.

3 Sec. 36. *Criminal Fines and Penalties.* – Appropriate fines and penalties under
4 existing penal laws shall apply to any criminal violation associated in the
5 implementation of this Act.

6 **CHAPTER XI**
7 **TRANSITORY PROVISIONS**

8 Sec. 37. *Existing Systems.* – Downstream natural gas facilities that have been
9 constructed prior to the effectivity of this Act shall continue to be operated under their
10 existing permits and shall comply with additional requirements as may be applicable.

11 Suppliers who have entered into an NGSPA with End-users and have delivered
12 indigenous or imported natural gas prior to the effectivity of this Act shall continue to
13 operate under the said contracts, subject to compliance with the additional
14 requirements in this Act.

15 All PDNGI Participants shall comply with the provisions of this Act within two
16 (2) years from the effectivity of the Implementing Rules and Regulations of this Act:
17 Provided, That health, safety, security, environmental, construction, operation, and
18 other permits, licenses, certificates, and authorizations issued prior to the effectivity
19 of this Act which are not inconsistent herewith shall remain valid.

20 PDNG Transmission Systems and PDNG Distribution Systems existing at the
21 time of the effectivity of this Act shall be allowed to continue pursuant to the terms
22 and conditions indicated in their franchise and until the lapse of the period accorded
23 to them in the franchise.

24 Sec. 38. *Pending Application.* – All applications for any activity in the PDNGI
25 pending before the DOE upon the effectivity hereof shall be covered by this Act.

26 **CHAPTER XII**
27 **FINAL PROVISIONS**

1 Sec. 39. *Assignment or Transfer of Interest.* – Assignment of the Permit or
2 change of operatorship shall be allowed only upon prior written approval by the DOE
3 based on acceptable reasons and compliance by the existing Permit Holder, the
4 assumption by the assignee of all obligations of the existing Permit Holder, and upon
5 meeting the minimum legal, technical, and financial qualifications by the assignee.

6 In case of a transfer of more than fifty percent (50%) of the shares of the Permit
7 Holder or Operator, without assignment of the Permit or change of operatorship, the
8 Permit Holder or Operator shall notify the DOE within seven (7) days from the date of
9 transfer.

10 Sec. 40. *Amicable Settlement.* – All parties shall make their best efforts to
11 amicably settle any dispute arising from the performance or interpretation of any
12 provision of this Act.

13 Sec. 41. *Congressional Oversight.* – The Joint Congressional Energy
14 Commission (JCEC) shall exercise oversight powers over the implementation of this
15 Act. The DOE, ERC, and other relevant government agencies shall submit annual
16 reports to the JCEC no later than the fifteenth day of September each year, which
17 shall include the latest relevant data, implementation review and reports, and policy
18 and regulatory issues.

19 Sec. 42. *Appropriations.* – The amount necessary for the implementation of this
20 Act shall be included in the annual General Appropriations Act.

21 Sec. 43. *Implementing Rules and Regulations.* – The DOE shall promulgate the
22 rules and regulations for the effective implementation of this Act within twelve (12)
23 months after the effectivity of this Act.

24 Sec. 44. *Separability Clause.* – If for any reason, any provision of this Act is
25 declared unconstitutional or invalid, the other parts or provisions hereof, which are
26 not affected thereby, shall continue to be in full force and effect.

27 Sec. 45. *Repealing Clause.* – Any law, presidential decree or issuance, executive
28 order, letter of instruction, rule or regulation inconsistent with the provisions of this
29 Act is hereby repealed or modified accordingly.

1 Sec. 46. *Effectivity.* – This Act shall take effect fifteen (15) days after its
2 publication in the *Official Gazette* or in a newspaper of general circulation.

Approved,