

NINETEENTH CONGRESS OF THE )  
REPUBLIC OF THE PHILIPPINES )  
*Second Regular Session* )



23 JUL 25 P1 :48

**SENATE**  
S. No. 2348

RECEIVED BY: \_\_\_\_\_

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Introduced by: Senator Raffy T. Tulfo

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**AN ACT**  
**STRENGTHENING FURTHER THE ELECTRIC POWER INDUSTRY AMENDING**  
**FOR THE PURPOSE SECTIONS 1, 3, 5, 6, 7, 8, 9, 20, 21, 22, 23, 26, 28, 29,**  
**30, 34, 35, 36, 37, 43, 45, 46, 47, 57, 60, 61, 62, 63, 70, AND 71 OF**  
**REPUBLIC ACT NO. 9136, OTHERWISE KNOWN AS THE ELECTRIC POWER**  
**INDUSTRY REFORM ACT OF 2001**

EXPLANATORY NOTE

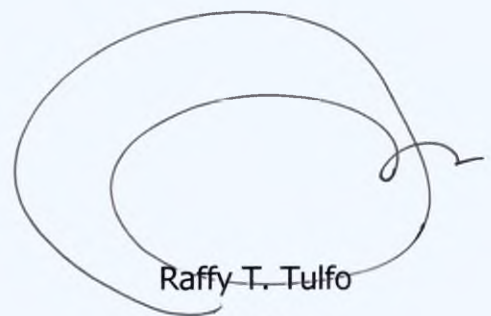
Ensuring a reliable, secure, and affordable supply of electric power is of paramount importance to the State, as it directly impacts the recovery, development, and sustainability of the economy, while safeguarding the public interest.

Currently, the Philippines' energy sector faces challenges due to its large population and rapidly growing economy. Although the country relies primarily on indigenous energy sources, such as oil and coal imports, its self-sufficiency ratio remains at 50%, indicating a need to address the gaps in meeting energy demands. Despite the passage of the Electric Power Industry Reform Act of 2001 (Republic Act No. 9136), it is now crucial to revisit and enhance this legislation to bridge the energy requirements of the economy and consumers.

This bill aims to achieve several objectives, including expanding energy sources, attracting investments in the power industry, modernizing the distribution sector, and ultimately increasing energy supply while lowering electricity prices in the Philippines. The key provisions of the bill are as follows:

1. Inclusion and classification of Energy Storage Systems in the Electric Power Industry based on their primary purpose.
2. Zero-rating value-added tax on sales of power generated by generation companies to lower electricity rates for end-users.
3. Restructuring of the Electric Power Industry to involve the State in the generation sector.
4. Alignment of the transmission sector with the provisions of the Public Service Act.
5. Strengthening and expanding the powers and responsibility of the National Transmission Corporation (TRANSCO) and the Energy Regulatory Commission (ERC).
6. Clarifying and harmonizing the roles of the ERC and the Philippine Competition Commission with respect to competition issues in the energy sector.
7. Increasing fines and penalties for violations and non-compliance with the law.
8. Encouraging the National Power Corporation (NPC) to adopt cost-effective and alternative technologies to discontinue the provision of Universal Charge for Missionary Electrification (UC-ME).
9. Providing guidelines for the graduation of Off-Grid Areas from UC-ME.
10. Granting the President the authority to declare an electric power crisis in cases of critically low electricity supply or unusually high electricity prices, empowering the government to make appropriate actions to resolve such power crisis.

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



Raffy T. Tulfo  
Senator

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**FOR THE PURPOSE SECTIONS 1, 3, 5, 6, 7, 8, 9, 20, 21, 22, 23, 26, 28, 29,**  
**30, 34, 35, 36, 37, 43, 45, 46, 47, 57, 60, 61, 62, 63, 70, AND 71 OF**  
**REPUBLIC ACT NO. 9136, OTHERWISE KNOWN AS THE ELECTRIC POWER**  
**INDUSTRY REFORM ACT OF 2001**

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

1 Section 1. Section 1 of Republic Act No. 9136, otherwise known as the "*Electric*  
2 *Power Industry Reform Act of 2001*" is hereby amended to read as follows:

3 "Section 1. *Title.* — This Act shall be known as the "***New Electric Power***  
4 ***Industry Reform Act [~~of 2001~~].***"

5 Sec. 2. Section 2 of Republic Act No. 9136 is hereby amended to read as  
6 follows:

7 "Sec. 2. *Declaration of Policy.* — It is hereby declared the policy of the  
8 State:

9 (a) x x x;

10 x x x

11 (i) To provide for an orderly and transparent privatization of the  
12 **NON-CRITICAL** assets and **ALL** liabilities of the National  
13 Power Corporation (NPC);

14 x x x"

15 Sec 3. Section 4 of Republic Act No. 9136 is hereby amended to read as follows:

1 "Sec. 4. *Definition of Terms.* –

2 x x x

3 (xx) "Supplier" refers to any person or entity **LICENSED**  
4 **[authorized]** by the ERC to sell, broker, market or  
5 aggregate electricity to the end-users;

6 x x x

7 (zz) "Supply of Electricity" means the sale of electricity **TO**  
8 **THE CONTESTABLE MARKET** by a **SUPPLIER [party**  
9 **other than a generator or a distributor]** in the  
10 franchise area of a distribution utility using the wires of  
11 the distribution utility concerned;

12 x x x

13 (bbb) "Transmission Development Plan" or "TDP" refers to  
14 the **PLANS AND** program for managing **AND**  
15 **OPERATING** the transmission system **NETWORK**  
16 through efficient planning **AND IMPLEMENTATION**  
17 for the expansion, upgrading, rehabilitation, repair and  
18 maintenance **OF SUCH NETWORK AND FACILITIES**  
19 **[, to be formulated by DOE and implemented by**  
20 **the TRANSCO pursuant to this Act];**

21 x x x"

22 Sec 4. Section 5 of Republic Act No. 9136 is hereby amended to read as follows:

23 "Sec. 5. *Organization.* – The electric power industry shall be  
24 divided into four (4) sectors, namely: generation,  
25 transmission, distribution, and supply.

26 **THE NATURE OF AN ENERGY STORAGE SYSTEM**  
27 **SHALL BE CLASSIFIED BASED ON ITS PRIMARY**  
28 **PURPOSE, SUBJECT TO THE RULES AND**  
29 **REGULATIONS TO BE ISSUED BY THE DOE IN**  
30 **ACCORDANCE WITH THE PROVISIONS OF THIS**  
31 **ACT."**

1           Sec 5. Section 6 of Republic Act No. 9136 is hereby amended to read as  
2 follows:

3                           "Sec. 6. *Generation Sector.* – Generation of electric power,  
4 a **SECTOR [business] IMBUED [affected]** with public  
5 interest, shall be competitive **AMONG THE PRIVATE**  
6 **SECTOR**, and open **TO ALL ENTITIES AND THE STATE.**

7                                   **THE STATE MAY CONSTRUCT, ACQUIRE, OWN,**  
8 **OPERATE, EXPAND, INSTALL, AND MAINTAIN**  
9 **GENERATING FACILITIES TO ENSURE THE**  
10 **RELIABILITY, AFFORDABILITY AND SUPPLY OF**  
11 **ELECTRIC POWER.**

12   x x x

13   Pursuant to the objective of lowering electricity rates  
14 to end-users, sales of generated power by generation  
15 companies shall be value-added tax zero-rated.

16   The ERC shall, in determining the existence of market power  
17 abuse or anti-competitive behavior, require from generation  
18 companies the submission of their financial statements **AND**  
19 **ANY OTHER RELEVANT DOCUMENT AS MAY BE**  
20 **DEEMED NECESSARY IN THE EXERCISE OF SUCH**  
21 **FUNCTION."**

22           Sec 6. Section 7 of Republic Act No. 9136 is hereby amended to read as follows:

23                           "Sec. 7. *Transmission Sector.* – The transmission of electric  
24 power shall be **A REGULATED PUBLIC UTILITY, AS**  
25 **DEFINED UNDER RA NO. 11659 OR THE PUBLIC**  
26 **SERVICE ACT AS AMENDED [common–electricity**  
27 **carries–business,]** subject to the **RELEVANT POLICIES**  
28 **ISSUED BY THE DOE AND THE [ratemaking–] RATE-**  
29 **SETTING** powers of the **ERC.**

30                                   **PURSUANT TO THE OBJECTIVE OF LOWERING**  
31 **ELECTRICITY RATES TO END-USERS, TRANSMISSION**  
32 **CHARGES BY THE TRANSMISSION SYSTEM OPERATORS**



1 AND NETWORK PROVIDERS OR ITS CONCESSIONAIRE  
2 SHALL BE VALUE-ADDED TAX ZERO-RATED.

3 **PROVIDED, THAT AN ENTITY CONTROLLED BY**  
4 **OR ACTING ON BEHALF OF THE FOREIGN**  
5 **GOVERNMENT OR FOREIGN STATE-OWNED**  
6 **ENTERPRISES SHALL BE PROHIBITED FROM**  
7 **OWNING CAPITAL IN ANY ENTITY ENGAGED IN THE**  
8 **TRANSMISSION OF ELECTRICITY.**

9 FOREIGN STATE-OWNED ENTERPRISES  
10 WHICH OWN CAPITAL PRIOR TO THE EFFECTIVITY  
11 OF THIS LAW ARE PROHIBITED FROM INVESTING  
12 IN ADDITIONAL CAPITAL UPON THE EFFECTIVITY  
13 OF THIS ACT AND SHALL DIVEST ITS INVESTMENT  
14 WITHIN TEN (10) YEARS FROM THE DATE OF THE  
15 EFFECTIVITY OF THIS ACT.

16 IN THE INTEREST OF NATIONAL SECURITY,  
17 AN ENTITY CONTROLLED BY OR ACTING ON BEHALF  
18 OF THE FOREIGN GOVERNMENT OR FOREIGN-  
19 OWNED ENTERPRISES SHALL NOT MAKE ANY DATA  
20 OR INFORMATION DISCLOSURE, NOR EXTEND  
21 ASSISTANCE, SUPPORT OR COOPERATION TO ANY  
22 FOREIGN GOVERNMENT, INSTRUMENTALITIES OR  
23 AGENTS.

24 The ERC shall set the standards of the voltage  
25 transmission that shall distinguish the transmission from the  
26 subtransmission assets.

27 x x x"

28 Sec 7. Section 8 of Republic Act No. 9136 is hereby amended to read as follows:

29 "Sec. 8. *Creation of the National Transmission* [~~Company~~]  
30 **CORPORATION.** –

31 x x x

1           The sub-transmission functions and assets,  
2           **FACILITIES, AND LIABILITIES, IF ANY**, shall be  
3           segregated from the transmission functions, assets,  
4           **FACILITIES**, and liabilities for transparency and disposal:  
5           *Provided*, That the sub-transmission **FUNCTIONS**, assets,  
6           **AND FACILITIES** shall be **PERFORMED**, operated and  
7           maintained by **TRANSCO, OR ITS CONCESSIONAIRE**,  
8           until **SUCH FUNCTIONS, ASSETS, AND FACILITIES**  
9           **ARE SOLD OR OTHERWISE DISPOSED AND**  
10           **TRANSFERRED** to qualified distribution utilities which are  
11           in a position to take over the responsibility for operating,  
12           maintaining, upgrading, and expanding said assets. All  
13           transmission and sub-transmission-related liabilities of NPC  
14           shall be transferred to and **SHALL BE** assumed by the  
15           PSALM Corp.

16           ~~[The TRANSCO may exercise the power of~~  
17           ~~eminent domain subject to the requirements of the~~  
18           ~~Constitution and existing laws. Except as provided~~  
19           ~~herein, no person, company or entity other than the~~  
20           ~~TRANSCO shall own any transmission facilities.]~~

21           **THE TRANSCO AND ITS CONCESSIONAIRE, ON**  
22           **BEHALF OF TRANSCO, MAY EXERCISE THE POWER**  
23           **OF EMINENT DOMAIN SUBJECT TO THE**  
24           **REQUIREMENTS OF THE CONSTITUTION AND**  
25           **EXISTING LAWS. PROVIDED, THAT THE EXERCISE**  
26           **OF THE RIGHT OF EMINENT DOMAIN SHALL BE**  
27           **NECESSARY FOR THE CONSTRUCTION, EXPANSION,**  
28           **AND EFFICIENT MAINTENANCE AND OPERATION OF**  
29           **THE TRANSMISSION SYSTEM AND GRID, AS WELL**  
30           **AS THE EFFICIENT OPERATION AND MAINTENANCE**  
31           **OF THE SUBTRANSMISSION SYSTEMS. PROVIDED**  
32           **FURTHER, THAT TRANSCO AND ITS**

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**CONCESSIONAIRE MAY ACQUIRE SUCH PRIVATE PROPERTIES NECESSARY FOR THE GRID DEVELOPMENT OF THE COUNTRY.**

**EXCEPT AS PROVIDED IN THIS ACT AND ANY OTHER LAWS, NO PERSON, COMPANY, OR ENTITY OTHER THAN THE TRANSCO SHALL OWN ANY TRANSMISSION FACILITIES.**

**CONSIDERING THAT TRANSMISSION SYSTEMS ARE PROJECTS OF NATIONAL SIGNIFICANCE, THE LOCAL GOVERNMENT UNITS, COURTS OF LAW AND OTHER RELEVANT GOVERNMENT AGENCIES SHALL IMMEDIATELY PROCESS AND APPROVE THE PERMITS, LICENSES, AND OTHER REQUIREMENTS NECESSARY FOR THE IMPLEMENTATION OF THIS SECTION.**

**THE DOE, WITHIN SIXTY (60) DAYS UPON THE EFFECTIVITY OF THIS ACT, SHALL ISSUE THE IMPLEMENTING RULES AND REGULATIONS FOR THE IMPLEMENTATION OF THIS SECTION."**

Sec. 8. Section 9 of Republic Act No. 9136 is hereby amended to read as follows:

*"Sec. 9. Functions and Responsibilities. – x x x*

(a) x x x

x x x

(c) Ensure and maintain the reliability, adequacy, security, stability and integrity of the nationwide electrical grid in accordance with the performance standards for the operations and maintenance of the grid, as set forth in **THE PHILIPPINE [a] Grid Code to be adopted[,]** **[and] promulgated AND AMENDED** by the ERC, **IN COORDINATION WITH THE DOE,** within six (6) months from the effectivity of this Act;



1 (d) Improve and expand its transmission facilities,  
2 consistent with the Grid Code and **DOE APPROVED**  
3 Transmission Development Plan (TDP) to be  
4 **[promulgated] PUBLISHED** pursuant to this Act, to  
5 adequately serve generation companies, distribution  
6 utilities and suppliers requiring transmission service  
7 and/or ancillary services through the transmission  
8 system: Provided, That TRANSCO **OR ITS**  
9 **CONCESSIONAIRE** shall submit any plan for  
10 expansion or improvement of its facilities for approval by  
11 the ERC;

12 (e) x x x

13 (f) x x x

14 (g) **ACT AS THE SMALL GRID SYSTEM OPERATOR IN**  
15 **SPECIFIC OFF-GRID AREAS AS DETERMINED BY**  
16 **THE DOE AND, UPON APPROVAL OF THE DOE,**  
17 **MAY ENTER INTO CONCESSION AGREEMENTS**  
18 **FOR THIS PURPOSE.**

19 ~~[In the preparation of the TDP, TRANSCO shall~~  
20 ~~consult the other participants of the electric power~~  
21 ~~industry such as the generation companies,~~  
22 ~~distribution utilities, and the electricity end users.~~  
23 ~~The TDP shall be submitted to the DOE for~~  
24 ~~integration with the Power Development Program~~  
25 ~~and the Philippine Energy Plan, provided for in~~  
26 ~~Republic Act No. 7638 otherwise known as 'the~~  
27 ~~Department of Energy Act of 1992.]~~

28 **THE PREPARATION AND FORMULATION OF**  
29 **THE TDP SHALL BE UNDERTAKEN BY TRANSCO**  
30 **AND/OR ITS CONCESSIONAIRE IN CONSULTATION**  
31 **WITH OTHER PARTICIPANTS OF THE ELECTRIC**

1                   **POWER INDUSTRY: *PROVIDED*, THAT THE TRANSCO**  
2                   **MAY TRANSFER OR ASSIGN TO, OR BE**  
3                   **SUBSTITUTED BY ITS CONCESSIONAIRE IN THE**  
4                   **PREPARATION AND FORMULATION OF THE TDP:**  
5                   ***PROVIDED FURTHER*, THAT THE TDP SHALL BE**  
6                   **SUBJECT TO THE REVIEW AND APPROVAL OF THE**  
7                   **DOE: *PROVIDED FINALLY*, THAT UPON SUBMISSION**  
8                   **OF THE TDP, THE DOE MAY SEEK THE ASSISTANCE**  
9                   **OF TRANSCO IN THE REVIEW OF THE TDP PRIOR TO**  
10                   **ITS APPROVAL.**

11                   A generation company may develop and own or  
12                   operate dedicated point-to-point limited transmission  
13                   facilities that are consistent with the TDP: x x x.”

14                   Sec. 9. Section 20 of Republic Act No. 9136 is hereby amended to read as  
15 follows:

16                   “Sec. 20. *TRANSCO Related Businesses.* – TRANSCO **OR**  
17                   **ITS SUCCESSOR-IN-INTEREST** may engage in any  
18                   related business which maximizes utilization of its assets:  
19                   Provided, That a portion of the net income derived from  
20                   such undertaking utilizing assets which form part of the rate  
21                   base shall be used to reduce transmission wheeling rates as  
22                   determined by the ERC. [~~Such portion of net income~~  
23                   ~~used to reduce the transmission wheeling rates shall~~  
24                   ~~not exceed fifty percent (50%) of the net income~~  
25                   ~~derived from such undertaking.] **A MINIMUM OF**  
26                   **FIFTY PERCENT (50%) OF THE NET INCOME**  
27                   **DERIVED FROM SUCH UNDERTAKING SHALL BE**  
28                   **USED TO REDUCE THE TRANSMISSION WHEELING**  
29                   **RATES.**~~

30                   Separate accounts shall be maintained for each  
31                   business undertaking to ensure that the transmission  
32                   business shall neither subsidize in any way such business

1                   undertaking nor encounter its transmission assets in any  
2                   way to support such business.”

3           Sec. 10. Section 21 of Republic Act No. 9136 is hereby amended to read  
4 as follows:

5                   “Sec. 21. *TRANSCO Privatization.* – Within six (6) months  
6 from the effectivity of this Act, x x x.

7                   In any case, the awardee shall comply with the Grid  
8 code and the TDP as approved. x x x”

9                   **TRANSCO AND ITS CONCESSIONAIRE SHALL**  
10 **STRICTLY COMPLY WITH THE APPROVED TDP AND**  
11 **SHALL NOT CHANGE THE TDP WITHOUT PRIOR**  
12 **APPROVAL OF THE DOE. FAILURE TO COMPLETE THE**  
13 **ERC-APPROVED PROJECTS WITHIN THE TIMELINE**  
14 **PRESCRIBED IN THE TDP SHALL BE DEEMED NON-**  
15 **COMPLIANCE THEREOF, SUBJECT TO FINES AND**  
16 **PENALTIES PRESCRIBED IN THIS ACT.**

17                   **IN THE EVENT OF NON-COMPLIANCE OF THE**  
18 **TDP, THE DOE SHALL RECOMMEND TO THE**  
19 **PRESIDENT OF THE PHILIPPINES THE ASSIGNMENT**  
20 **OR DELEGATION OF SUCH ERC-APPROVED PROJECT**  
21 **TO A COMPETENT AND QUALIFIED ENTITY**  
22 **THROUGH AN EXECUTIVE ORDER. ANY RIGHTS OR**  
23 **RESPONSIBILITIES OF THE ASSIGNEE SHALL BE**  
24 **LIMITED TO THE TRANSMISSION PROJECT**  
25 **ASSIGNED. UPON ITS COMPLETION, THE ASSIGNEE**  
26 **SHALL BE ENTITLED TO RECOVERY OR JUST**  
27 **COMPENSATION, SUBJECT TO THE TERMS AND**  
28 **CONDITIONS INDICATED IN THE EXECUTIVE**  
29 **ORDER. THEREAFTER, THE PROJECT SHALL BE**  
30 **TRANSFERRED TO THE TRANSCO OR ITS**  
31 **CONCESSIONAIRE, AS PART OF ITS TRANSMISSION**  
32 **ASSETS.**

1                   **THE DOE AND ERC SHALL ISSUE THE**  
2                   **NECESSARY           GUIDELINES           FOR           THE**  
3                   **IMPLEMENTATION OF THIS PROVISION.**

4                   The awardee shall be financially and technically  
5                   capable, with proven domestic and/or international  
6                   experience and expertise as a leading transmission system  
7                   operator. Such experience must be with a transmission  
8                   system of comparable capacity and coverage as the  
9                   Philippines.”

10                  Sec. 11. Section 22 of Republic Act No. 9136 is hereby amended to read as  
11 follows:

12                   “Sec. 22. *Distribution Sector.* – The distribution of electricity  
13 to end-users **IS A PUBLIC UTILITY OPERATION, AS**  
14 **DEFINED UNDER RA NO. 11659 OR THE PUBLIC**  
15 **SERVICE ACT, AS AMENDED, [~~shall be a regulated~~**  
16 **~~common carrier business~~] WHICH REQUIRES**  
17 **[requiring]** a national franchise. Distribution of electric  
18 power to all end-users may be undertaken by private  
19 distribution utilities, cooperatives, local government units  
20 presently undertaking this function and other duly  
21 authorized entities, subject to regulation by the ERC.”

22                  Sec. 12. Section 23 of Republic Act No. 9136 is hereby amended to read as  
23 follows:

24                   “Sec. 23. *Functions of Distribution Utilities.* – A distribution  
25 utility shall have the obligation to provide distribution  
26 services and connections to its system for any end-user  
27 within its franchise area consistent with **THE TECHNICAL,**  
28 **FINANCIAL, INSTITUTIONAL AND ALL OTHER**  
29 **STANDARDS SET BY the PHILIPPINE [d]Distribution**  
30 **[e]Code AND PHILIPPINE GRID CODE.**

1 Any entity engaged **IN THE DISTRIBUTION OF**  
2 **ELECTRICITY** [~~therein~~] shall provide open and non-  
3 discriminatory access to its distribution system to all users.

4 Any distribution utility shall be entitled to impose and  
5 collect distribution wheeling charges and connection fees  
6 from such end-users as approved by the ERC.

7 **DISTRIBUTION UTILITIES SHALL ENDEAVOR**  
8 **TO HAVE A FULLY AUTOMATED DISTRIBUTION**  
9 **NETWORK WITH THE SUPERVISION AND GUIDANCE**  
10 **OF THE DOE AND ERC.**

11 A distribution utility shall have the obligation to  
12 supply **REASONABLY PRICED** electricity [~~in the least~~  
13 ~~cost manner~~] to its captive market, subject to the  
14 collection of retail rate duly approved by the ERC[.],  
15 **TAKING INTO CONSIDERATION THE QUALITY,**  
16 **AFFORDABILITY, SUSTAINABILITY AND**  
17 **RELIABILITY OF SUPPLY OF ELECTRIC POWER.**

18 **ALL DISTRIBUTION UTILITIES, EXCEPT FOR**  
19 **OFF-GRID UTILITIES, SHALL COMPLY WITH GRID**  
20 **RELIABILITY AND WESM REQUIREMENTS.**  
21 **TOWARDS THIS END, THE DU SHALL MAKE**  
22 **AVAILABLE ALL INFORMATION NEEDED BY THE**  
23 **SYSTEM OPERATOR AND MARKET OPERATOR TO**  
24 **ACHIEVE OPTIMAL DISPATCH AND UTILIZATION OF**  
25 **ENERGY IN THE GRID, WHICH MAY INCLUDE REAL-**  
26 **TIME DATA. NON-COMPLIANCE WITH THIS**  
27 **SECTION SHALL BE SUBJECT TO FINES AND**  
28 **PENALTIES PRESCRIBED IN THIS ACT.**

29 To achieve economies of scale x x x"

30 Sec. 13. Section 26 of Republic Act No. 9136 is hereby amended to read as  
31 follows:



1 "Sec. 26. *Distribution Related Businesses.* – Distribution  
2 utilities may, directly or indirectly, engage in any related  
3 business undertaking which maximizes the utilization of  
4 their assets: *Provided,* That a ~~[portion]~~ **MINIMUM OF**  
5 **FIFTY PERCENT (50%)** of the net income derived from  
6 such undertaking ~~[utilizing assets which form part of~~  
7 ~~the rate base]~~ shall be used to reduce the distribution  
8 wheeling ~~[charges as determined by the ERC]~~ **RATES.**  
9 ~~[Provided, further, That such portion of net income~~  
10 ~~used to reduce their distribution wheeling charges~~  
11 ~~shall not exceed fifty percent (50%) of the net~~  
12 ~~income derived from such undertaking:]~~ *Provided,*  
13 ~~[finally,]~~ **FURTHER,** That separate accounts are  
14 maintained for each business undertaking to ensure that the  
15 distribution business shall neither subsidize in any way such  
16 business undertaking nor encumber its distribution assets in  
17 any way to support such business."

18 Sec. 14. Section 29 of Republic Act No. 9136 is hereby amended to read  
19 as follows:

20 "Sec. 29. *Supply Sector.* – The supply sector is a business affected  
21 with public interest. ~~[Except for distribution utilities and~~  
22 ~~electric cooperatives with respect to their existing~~  
23 ~~franchise areas,]~~ **ALL [all]** suppliers of electricity to the  
24 contestable market shall require a license from the ERC.

25 X X X

26 Electricity suppliers shall be subject to the rules and regulations  
27 concerning abuse of market power, cartelization, and other anti-  
28 competitive or discriminatory behavior to be promulgated by the  
29 ERC. In its billings to end-users, every supplier shall identify and  
30 segregate the components of its supplier's charge, as defined  
31 herein."

1           Sec. 15. Section 30 of Republic Act No. 9136 is hereby amended to read  
2 as follows:

3           "Sec. 30. *Wholesale Electricity Spot Market.* – Within one (1) year  
4 from the effectivity of this Act, x x x"

5                   **ALL GOODS SOLD THROUGH THE MARKET OPERATOR**  
6 **SHALL BE VALUE-ADDED TAX ZERO-RATED. PROVIDED THAT**  
7 **ALL SERVICES RENDERED BY THE MARKET OPERATOR IN THE**  
8 **EXERCISE OF ITS FUNCTIONS UNDER THIS ACT SHALL**  
9 **LIKEWISE BE VALUE-ADDED TAX ZERO-RATED.**

10                   **AFTER CONSULTATION [~~Jointly~~]** with the electric power  
11 industry participants, x x x

12                   The wholesale electricity spot market shall be implemented  
13 by a market operator in accordance with the wholesale electricity  
14 spot market rules. **AS AUTHORIZED TO BE ESTABLISHED**  
15 **UNDER THIS ACT, THE WHOLESALE ELECTRICITY SPOT**  
16 **MARKET SHALL CONTINUE ITS INDEPENDENT AND**  
17 **PRIVATE NATURE. THE DOE, IN CONSULTATION WITH**  
18 **THE STAKEHOLDERS, SHALL DETERMINE THE**  
19 **ORGANIZATIONAL STRUCTURE OF THE WHOLESALE**  
20 **ELECTRICITY SPOT MARKET, AND THE INSTITUTION OF**  
21 **OTHER ENERGY-RELATED MARKETS.** The market operator  
22 shall be an autonomous **AND PRIVATE** group, to be constituted  
23 by DOE, with equitable representation from electric power industry  
24 participants, initially under the administrative supervision of the  
25 TRANSCO. The market operator shall undertake the preparatory  
26 work and initial operation of the wholesale electricity spot market.  
27 Not later than one (1) year from the implementation of the  
28 wholesale electricity spot market, an independent **AND PRIVATE**  
29 entity shall be formed, and the functions, assets, and liabilities of  
30 the market operator shall be transferred to such entity with the  
31 joint endorsement of the DOE and the electric power industry  
32 participants. Thereafter, the administrative supervision of the

1 TRANSCO over such entity shall cease. **THE DOE SHALL ENSURE**  
2 **THE INDEPENDENCE AND PRIVATE NATURE OF THE**  
3 **MARKET OPERATOR BY INSTITUTING MEASURES THAT**  
4 **WILL MINIMIZE OR PREVENT UNNECESSARY**  
5 **GOVERNMENT AND ELECTRIC POWER INDUSTRY**  
6 **PARTICIPANT INTERVENTION IN THE MARKET**  
7 **OPERATIONS AND GOVERNANCE FUNCTIONS.**

8 **SUBJECT TO DOE EVALUATION, THE WHOLESALE**  
9 **ELECTRICITY SPOT MARKET MAY ADOPT A SEPARATE**  
10 **WESM GOVERNANCE BODY AND MARKET OPERATOR,**  
11 **PROVIDED THAT BOTH ENTITIES REMAIN INDEPENDENT**  
12 **FROM ELECTRIC POWER INDUSTRY PARTICIPANTS.**  
13 **PROVIDED FURTHER, THAT THE ELECTRIC POWER**  
14 **INDUSTRY PARTICIPANTS SHALL CONTINUE TO PROVIDE**  
15 **ADVISORY FUNCTIONS ON WESM GOVERNANCE,**  
16 **OPERATIONS AND RULEMAKING.**

17 Subject to the compliance with the membership criteria, all  
18 generating companies, distribution utilities, suppliers, bulk  
19 consumers/end-users and other similar entities authorized by the  
20 ERC shall be eligible to become members of the wholesale  
21 electricity spot market.

22 The ERC may authorize other similar entities to become  
23 eligible as members, either directly or indirectly, of the wholesale  
24 electricity spot market. x x x"

25 Sec. 16. Section 34 of Republic Act No. 9136 is hereby amended to read  
26 as follows:

27 "*Sec. 34. Universal Charge.* - ~~[The universal charge shall be~~  
28 ~~non-bypassable charge which shall be passed on and~~  
29 ~~collected from all end users on a monthly basis by the~~  
30 ~~distribution utilities. Collections by the distribution~~  
31 ~~utilities and the Transco in any given month shall be~~  
32 ~~remitted to the psalm corp. On or before the fifteenth~~

1 ~~(15th) of the succeeding month, net of any amount due to~~  
2 ~~the distribution utility.] THE UNIVERSAL CHARGE (UC)~~  
3 **SHALL BE A NON-BYPASSABLE CHARGE TO BE**  
4 **DETERMINED BY THE ERC WHICH SHALL BE PASSED ON**  
5 **AND COLLECTED FROM ALL END-USERS ON A MONTHLY**  
6 **BASIS BY THE DISTRIBUTION UTILITIES, AND FROM**  
7 **DIRECTLY CONNECTED CUSTOMERS BY TRANSCO OR ITS**  
8 **SUCCESSOR-IN-INTEREST.** Any end-user [~~or self-~~  
9 ~~generating entity~~] not connected to a distribution utility shall  
10 remit its corresponding universal charge directly to the TRANSCO.

11 **THE UNIVERSAL CHARGE SHALL BE FOR THE FOLLOWING**  
12 **PURPOSES:**

- 13 (a) Payment for the stranded debts and stranded contract costs of  
14 NPC in excess of the amount assumed by the National  
15 Government, **PURSUANT TO SECTION 32 OF THE EPIRA,**  
16 and as well as qualified stranded contract costs of distribution  
17 utilities resulting from the restructuring of the industry;
- 18 (b) **PAYMENT FOR THE STRANDED DEBTS AND STRANDED**  
19 **CONTRACT COSTS OF NPC IN EXCESS OF THE AMOUNT**  
20 **ASSUMED BY THE NATIONAL GOVERNMENT,**  
21 **PURSUANT TO *MURANG KURYENTE ACT*;**
- 22 (c) Missionary electrification;
- 23 (d) The equalization of the taxes and royalties applied to  
24 indigenous or renewable sources of energy vis-a-vis imported  
25 energy fuels;
- 26 (e) An environmental charge equivalent to one-fourth of one  
27 centavo per kilowatt-hour (P0.0025/kWh), which shall accrue  
28 to an environmental fund to be used solely for watershed  
29 rehabilitation and management. Said fund shall be managed by  
30 NPC under existing arrangements; and
- 31 (f) A charge to account for all forms of cross-subsidies for a period  
32 not exceeding three (3) years.



1                   **THE UC COLLECTIONS FOR STRANDED DEBTS AND**  
2 **THE STRANDED CONTRACT COSTS OF NPC (UC-SD AND**  
3 **SCC) SHALL BE COLLECTED BY THE DISTRIBUTION**  
4 **UTILITIES AND THE TRANSCO OR ITS SUCCESSOR-IN-**  
5 **INTERST IN ANY GIVEN MONTH AND SHALL BE REMITTED**  
6 **TO THE PSALM CORP. OR ITS SUCCESSOR-IN-INTEREST**  
7 **BEFORE THE FIFTEENTH (15TH) OF THE SUCCEEDING**  
8 **MONTH, NET OF ANY AMOUNT DUE TO THE DISTRIBUTION**  
9 **UTILITY.**

10                   **THE AMOUNT COLLECTED FOR MISSIONARY**  
11 **ELECTRIFICATION (UC-ME) AND ENVIRONMENTAL**  
12 **CHARGE (UC-EC) BY DISTRIBUTION UTILITIES AND**  
13 **TRANSCO OR ITS SUCCESSOR-IN-INTEREST IN ANY**  
14 **GIVEN MONTH SHALL BE REMITTED TO THE NPC BEFORE**  
15 **THE FIFTEENTH (15TH) OF THE SUCCEEDING MONTH, NET**  
16 **OF ANY AMOUNT DUE TO THE DISTRIBUTION UTILITY.**

17                   **THE NPC SHALL BE THE ADMINISTRATOR OF THE**  
18 **UC-ME AND UC-EC FUND, INCLUDING THE CASH**  
19 **INCENTIVE FUND FOR RENEWABLE ENERGY DEVELOPERS**  
20 **IN THE MISSIONARY AREAS PURSUANT TO SECTION 15**  
21 **(H) OF REPUBLIC ACT NO. 9513 OTHERWISE KNOWN AS**  
22 **THE RENEWABLE ACT OF 2008. AS ADMINISTRATOR OF**  
23 **THE FUND, THE NPC SHALL CREATE A SPECIAL TRUST**  
24 **FUND WHICH SHALL BE DISBURSED ONLY FOR THE**  
25 **PURPOSES SPECIFIED HEREIN IN AN OPEN AND**  
26 **TRANSPARENT MANNER.**

27                   The PSALM Corp. **OR ITS SUCCESSOR-IN-INTEREST**, as  
28 administrator of the fund **FROM UC-SC AND SDD**  
29 **COLLECTIONS**, shall create a Special Trust Fund which shall be  
30 disbursed only for the purposes specified herein in an open and  
31 transparent manner.



1 All amounts collected for the universal charge shall be  
2 distributed to the respective beneficiaries within a reasonable  
3 period to be provided by the ERC.”

4 **RELEVANT RECORDS PERTAINING TO THE UC-ME**  
5 **AND EC SHALL BE TRANSFERRED BY PSALM TO THE NPC**  
6 **WITHIN SIX (6) MONTHS FROM THE EFFECTIVITY OF THE**  
7 **IMPLEMENTING RULES AND REGULATIONS.”**

8 Sec. 17. Section 35 of Republic Act No. 9136 is hereby amended to read as  
9 follows:

10 “Sec. 35. *Royalties, Returns and Tax Rates for Indigenous Energy*  
11 *Resources.* –

12 ~~[The provisions of Section 79 of Commonwealth Act No.~~  
13 ~~137 (c.a. no. 137) and any law to the contrary~~  
14 ~~notwithstanding, the president of the Philippines may shall~~  
15 ~~reduce temporarily suspend or reduce, for a period of less~~  
16 ~~than six (6) months, the imposition of the royalties,~~  
17 ~~returns and taxes collected for the exploitation of all~~  
18 ~~indigenous sources of energy, including but not limited to,~~  
19 ~~natural gas and geothermal steam, so as to effect parity of~~  
20 ~~tax treatment with the existing rates for imported coal,~~  
21 ~~crude oil, bunker fuel and other imported fuels. To ensure~~  
22 ~~lower rates for end-users, the ERC shall forthwith reduce~~  
23 ~~the rates of power from all indigenous sources of energy.]~~

24 **UPON RECOMMENDATION OF THE DOE AND NEDA,**  
25 **THE PRESIDENT OF THE PHILIPPINES MAY TEMPORARILY**  
26 **SUSPEND OR REDUCE, FOR A PERIOD OF LESS THAN SIX**  
27 **(6) MONTHS, THE IMPOSITION OF THE ROYALTIES,**  
28 **RETURNS AND TAXES COLLECTED FOR THE**  
29 **EXPLOITATION OF ALL INDIGENOUS SOURCES OF**  
30 **ENERGY TO ENSURE LOWER RATES FOR END-USERS.**

31 x x x”

1           Sec. 18. Section 36 of Republic Act No. 9136 is hereby amended to read as  
2 follows:       “Sec. 36. *Unbundling of Rates and Functions.* – x x x

3                       Any electric power industry participant shall functionally and  
4 structurally unbundle its business activities and rates in accordance  
5 with the sectors as identified in Section 5 hereof. The ERC shall  
6 ensure full compliance with this provision.

7                       **FOR THIS PURPOSE, THE DISTRIBUTION UTILITY**  
8 **SHALL PUBLISH ONLINE AND/ OR ANY CONSPICUOUS**  
9 **PLACE, ITS MONTHLY UNBUNDLED RATES, INCLUDING**  
10 **THE COST OF EACH GENERATION SUPPLY.”**

11           Sec. 19. Section 37 of Republic Act No. 9136 is hereby amended to read  
12 as follows:

13                       “Sec. 37. *Powers and Functions of the DOE.* – In addition to its existing  
14 powers and functions, the DOE is hereby mandated to supervise the  
15 restructuring of the electricity industry. In pursuance thereof, Section  
16 5 of RA 7638 otherwise known as “The Department of Energy Act of  
17 1992” is hereby amended to read as follows:

18                       (a) x x x

19                       (b) Develop ~~[and update annually]~~ **ONCE EVERY THREE (3)**  
20 **YEARS AND UPDATED ANNUALLY** the existing Philippine  
21 Energy Plan, hereinafter referred to as ‘The Plan’, which shall  
22 provide for an integrated and comprehensive exploration,  
23 development, utilization, distribution, and conservation of  
24 energy resources, with preferential bias for environment-  
25 friendly, indigenous, and low-cost sources of energy. The plan  
26 shall include a policy direction towards the privatization of  
27 government agencies related to energy, deregulation of the  
28 power and energy industry, and reduction of dependency on  
29 oil-fired plants. Said Plan shall be submitted to Congress [~~not~~  
30 ~~later than the fifteenth day of September and every~~  
31 ~~year thereafter]~~ **WITHIN THIRTY (30) DAYS FROM ITS**  
32 **APPROVAL;**

1 (c) x x x  
2 (d) x x x  
3 (e) Following the restructuring of the electricity sector, the DOE  
4 shall, among others:

5 (i) Encourage AND SUPERVISE private sector investments  
6 in the electricity sector and promote development of  
7 indigenous and renewable energy sources;

8 x x x

9 (h) Exercise supervision and control over all government  
10 **AND PRIVATE** activities relative to energy projects in  
11 order to attain the goals embodied in Section 2 of RA  
12 7638;

13 x x x

14 (l) Formulate and implement a program for the accelerated  
15 development of non-conventional **OR RENEWABLE** energy  
16 systems and the promotion and commercialization of its  
17 applications;

18 (m) x x x

19 (n) x x x

20 (o) Encourage **AND INCENTIVIZE** private enterprises  
21 engaged in energy projects, including corporations,  
22 cooperatives, and similar collective organizations, to  
23 broaden the base of their ownership and thereby encourage  
24 the widest public ownership of energy-oriented  
25 corporations;

26 (p) **COORDINATE WITH THE ERC IN THE**  
27 **PROMULGATION AND AMENDMENT OF THE**  
28 **PHILIPPINE GRID CODE AND PHILIPPINE**  
29 **DISTRIBUTION CODE;**

30 (q) **RECOMMEND THE IMPOSITION OF FINES AND**  
31 **PENALTIES TO THE ERC FOR ANY VIOLATION OF THE**  
32 **EPIRA BY ANY ELECTRIC POWER INDUSTRY**

1                   **PARTICIPANTS       IN       THE       GENERATION,**  
2                   **TRANSMISSION,   DISTRIBUTION   AND   RETAIL**  
3                   **SUPPLY SECTOR;**

- 4                   (r) ~~[(p)]~~ Formulate such rules and regulations as may be  
5                   necessary to implement the objectives of this Act; and  
6                   (s) ~~[(q)]~~ Exercise such other powers as may be necessary or  
7                   incidental to attain the objectives of this Act.

8                   *Sec. 20. Expansion of the Energy Regulatory Commission.* — The present  
9                   organizational structure of the ERC shall be expanded in the following manner:

- 10                  (1) From the present seven (7) services of the ERC, there shall be at least  
11                  fourteen (14) services;
- 12                  (2) The four services shall be divided into operations services and support  
13                  services;
- 14                  (3) The Operation Services shall be composed of the following:
- 15                       (a) Transmission Operations Service;
- 16                       (b) Distribution Operations Service;
- 17                       (c) Generation Operations Service;
- 18                       (d) Standards And Compliance Monitoring Service;
- 19                       (e) Investigation And Enforcement Service;
- 20                       (f) Market Operations Service;
- 21                       (g) Licensing And Registration Service;
- 22                       (h) Legal Service;
- 23                       (i) Consumer Affairs Service; and
- 24                       (j) Natural Gas Service;
- 25                  (4) The Support Services shall be composed of the following:
- 26                       (a) Finance and Administration Service;
- 27                       (b) Office of the General Counsel And Secretariat;
- 28                       (c) Planning and Public Information Service; and
- 29                       (d) Information Technology and Management Services.
- 30                  (5) Each Operation Service shall consist of at least four (4) divisions. Each  
31                  division shall consist of at least ten (10) personnel. The number of

1 divisions and personnel per division may be increased upon  
2 determination of the commission.

3 (6) Each of the Support Service shall be composed of not less than two (2)  
4 divisions. The number of divisions and personnel per division may be  
5 increased upon determination of the commission.

6 (7) The Commission may later on increase the number of services if  
7 necessary after its assessment of its workload, power and functions.

8 The Commission may choose either to keep an existing personnel of  
9 the ERC in his/her current position, or transfer them to any position  
10 depending on the Commission's assessment of such personnel's capacity  
11 and performance; *Provided*, That the new position to which he/she was  
12 transferred to will be of the same rank and salary from its previous position  
13 without the necessity of reappointment.

14 The ERC shall submit to the Department of Budget and Management  
15 (DBM) the proposed organizational expansion provided herein within three  
16 (3) months from the effectivity of this Act.

17 The DBM shall approve the submitted proposed organizational  
18 expansion within one month from its receipt. The DBM shall not approve  
19 less than the minimum required in this Act.

20 Every after five (5) years from the effectivity of this Act, the ERC shall  
21 reassess its then organizational structure to determine if there is a need for  
22 further expansion or reorganization, which may include additional services,  
23 divisions or personnel per division. The DBM shall approve any proposed  
24 organizational expansion or restructuring within one month from its receipt  
25 thereof.

26 Sec. 21. Section 43 of Republic Act No. 9136 is hereby amended to read as  
27 follows:

28 "Sec. 43. *Functions of the ERC.* – The ERC shall promote  
29 competition, encourage market development, ensure customer  
30 choice and **INVESTIGATE [penalize]** abuse of market power in  
31 the restructured electricity industry. In appropriate cases, the ERC  
32 is authorized to issue cease and desist order after due notice and



1 hearing. Towards this end, it shall be responsible for the following  
2 key functions in the restructured industry:

3 (a) x x x

4 (b) Within six (6) months from the effectivity of this Act,  
5 promulgate **OR AMEND, IN COORDINATION WITH THE DOE,**  
6 and enforce, in accordance with law, **THE [a] PHILIPPINE**  
7 **[National]** Grid Code and **THE PHILIPPINE [a]** Distribution  
8 Code which shall include, but not limited to, the following:

9 x x x

10 (k) **[Monitor] ENDORSE THE FINDINGS, BASED ON ITS**  
11 **INVESTIGATION, TO THE PHILIPPINE COMPETITION**  
12 **COMMISSION [~~and take measures in accordance with~~**  
13 **~~this Act to penalize]~~ WITH REGARD TO ANY ACTS OF** abuse  
14 of market power, cartelization, and anti-competitive or  
15 discriminatory behavior by any electric power industry participant;

16 x x x

17 (r) In the exercise of its investigative and quasi-judicial powers, act  
18 against any participant or player in the energy sector for violations  
19 of any law, rule and regulation governing the same, including the  
20 rules on cross-ownership, anti-competitive practices, abuse of  
21 market positions and similar or related acts by any participant in  
22 the energy sector or by any person, as may be provided by law,  
23 and require any person or entity to submit any report or data  
24 relative to any investigation or hearing conducted pursuant to this  
25 Act;

26 (s) Inspect, on its own or through duly authorized representatives, the  
27 premises, books of accounts and records of any person or entity at  
28 any time, in the exercise of its **INVESTIGATORY [quasi-**  
29 **judicial]** power, **UPON DETERMINATION OF A PROBABLE**  
30 **CAUSE THAT AN ACT OR SERIES OF ACTS OF [for purposes**  
31 **of determining the existence of]** anti-competitive behavior  
32 and/or market power abuse and any violation of **THE EPIRA,**

1           **THIS ACT, AND OTHER PERTINENT LAWS,** rules and  
2 regulations [~~issued by the ERC~~] **HAS BEEN COMMITTED;**

3           x x x”

4           Sec. 22. Section 45 of Republic Act No. 9136 is hereby amended to read as  
5 follows:

6           “Sec. 45. *Cross Ownership, Market Power Abuse and Anti-*  
7 *Competitive Behavior.* – No participant in the electricity industry or  
8 any other person may engage in any anti-competitive behavior  
9 including, but not limited to, cross-subsidization, price or market  
10 manipulation, or other unfair trade practices detrimental to the  
11 encouragement and protection of contestable markets.

12           **THE ENERGY REGULATORY COMMISSION SHALL**  
13 **INVESTIGATE ANY POSSIBLE VIOLATION OR NON-**  
14 **COMPLIANCE OF THIS SECTION. BASED ON THE FINDINGS**  
15 **AND RECOMMENDATIONS OF THE ENERGY REGULATORY**  
16 **COMMISSION, THE PHILIPPINE COMPETITION**  
17 **COMMISSION SHALL DETERMINE WHETHER SUCH**  
18 **VIOLATION OR NON-COMPLIANCE WAS COMMITTED AND**  
19 **IMPOSE THE CORRESPONDING FINES AND PENALTIES.**

20           To promote true market competition and prevent harmful  
21 monopoly and market power abuse, the ERC shall enforce the  
22 following safeguards:

- 23           (a) No company or related group can own, operate or control  
24 more than **TWENTY** [~~thirty~~] percent (~~[3]~~**20**%) of the  
25 installed generating capacity of a grid and/or **FIFTEEN**  
26 [~~twenty-five~~] percent (~~[25]~~**15**%) of the national installed  
27 generating capacity. “Related group” includes a person’s  
28 business interests, including its subsidiaries, affiliates,  
29 directors or officers or any of their relatives by consanguinity  
30 or affinity, legitimate or common law, within the fourth civil  
31 degree;

1 (b) Distribution utilities may enter into bilateral power supply  
2 contracts subject to review by the ERC: *Provided*, That such  
3 review shall only be required for distribution utilities whose  
4 markets have not reached household demand level. For the  
5 purpose of preventing market power abuse between  
6 associated firms engaged in generation and distribution, no  
7 distribution utility shall be allowed to source from bilateral  
8 power supply contracts more than **THIRTY [~~fifty~~]** percent  
9 (~~[5]~~**30%**) of its total demand from an associated firm  
10 engaged in generation but such limitation, however, shall  
11 not prejudice contracts entered into prior to the effectivity  
12 of this Act. An associated firm with respect to another entity  
13 refers to any person which, alone or together with any other  
14 person, directly or indirectly, through one or more  
15 intermediaries, controls, is controlled by, or is under  
16 common control with, such entity; ~~[and]~~

17 **(c) NO DISTRIBUTION UTILITY SHALL BE ALLOWED TO**  
18 **HOLD ANY INTEREST, DIRECTLY OR INDIRECTLY,**  
19 **IN SUPPLY OF ELECTRICITY. LIKEWISE, THE**  
20 **SUPPLIER SHALL NOT HOLD ANY INTEREST,**  
21 **WHETHER DIRECTLY OR INDIRECTLY, IN ANY**  
22 **DISTRIBUTION UTILITY.**

23 **THE ABOVE PROHIBITION SHALL EXTEND TO ANY**  
24 **OF THE DISTRIBUTION UTILITY'S STOCKHOLDERS OR**  
25 **OFFICIALS OR ANY OF THEIR RELATIVES WITHIN THE**  
26 **FOURTH CIVIL DEGREE OF CONSANGUINITY OR**  
27 **AFFINITY, AND THAT OF A DISTRIBUTION UTILITY'S,**  
28 **AGENTS AND SUBSIDIARIES.**

29 **A RETAIL ELECTRICITY SUPPLIER (RES) SHALL NOT**  
30 **BE ALLOWED TO HOLD ANY SHARES OF STOCK IN**

1                   **TRANSCO OR ITS CONCESSIONAIRE OR SUCCESSOR-**  
2                   **IN-INTEREST.**

3                   **THIS PROHIBITION ON CROSS-OWNERSHIP SHALL**  
4                   **NOT APPLY TO:**

5                   **(A) A RELATIVE OF ANY STOCKHOLDER, DIRECTOR OR**  
6                   **OFFICER OF TRANSCO OR ITS CONCESSIONAIRE OR**  
7                   **SUCCESSOR-IN-INTEREST WHO HAS NO**  
8                   **PROFESSIONAL ENGAGEMENT OR OTHER ECONOMIC**  
9                   **RELATIONSHIP OR INTEREST IN TRANSCO OR ITS**  
10                   **SUCCESSOR-IN-INTEREST, AND VICE-VERSA; AND**

11                   **(B) OWNERSHIP OF SHARES OF STOCK IN A COMPANY**  
12                   **LISTED IN THE PHILIPPINE STOCK EXCHANGE (PSE)**  
13                   **EVEN IF SUCH LISTED COMPANY IS A RES, SUBJECT TO**  
14                   **THE CAP THAT THE ERC SHALL DETERMINE; AND**

15                   (d) ~~[(e)]~~ For the first five (5) years from the establishment of the  
16                   wholesale electricity spot market, no distribution utility shall source  
17                   more than ninety percent (90%) of its total demand from bilateral  
18                   power supply contracts.

19                   **ANY GENERATION COMPANY, DISTRIBUTION**  
20                   **UTILITY OR SUPPLIER OF ELECTRICITY THAT HAS**  
21                   **EXCEEDED THESE LIMITATIONS UPON THE EFFECTIVITY**  
22                   **OF THIS ACT SHALL HAVE FIVE (5) YEARS FROM THE**  
23                   **PROMULGATION OF THE IMPLEMENTING RULES AND**  
24                   **REGULATIONS OF THIS ACT TO COMPLY WITH THE**  
25                   **SAFEGUARDS MENTIONED IN THIS SECTION.**

26                   x x x

27                   The ERC, **IN COORDINATION WITH THE PHILIPPINE**  
28                   **COMPETITION COMMISSION**, shall, within one (1) year from the  
29                   effectivity of this Act, promulgate rules and regulations to ensure and  
30                   promote competition, encourage market development and customer

1 choice and discourage/penalize abuse of market power, cartelization  
2 and any anti-competitive or discriminatory behavior, in order to further  
3 the intent of this Act and protect the public interest. Such rules and  
4 regulations shall define the following:

5 (a) the relevant markets for purposes of establishing abuse or misuse  
6 of monopoly or market position;

7 (b) areas of isolated grids; and

8 (c) the periodic reportorial requirements of electric power industry  
9 participants as may be necessary to enforce the provisions of this  
10 Section.

11 The ERC shall, *motu proprio*, monitor ~~[and penalize]~~ any  
12 market power abuse or anti-competitive or discriminatory act or  
13 behavior by any participant in the electric power industry. Upon finding  
14 **BY THE ERC** that a market participant has engaged in **ANY ANTI-**  
15 **COMPETITIVE [such]** act or behavior, the ERC shall stop and  
16 redress the same **AND SUBMIT ITS FINDINGS TO THE PCC**. Such  
17 remedies shall, without limitation, include the imposition of price  
18 controls, issuance of injunctions, requirement of divestment or  
19 disgorgement of excess profits and imposition of fines and penalties  
20 pursuant to this Act."

21 Sec. 23. Section 46 of Republic Act No. 9136 is hereby amended to read  
22 as follows:

23 "Sec. 46. *Fines and Penalties*. — **THE FOLLOWING** fines and penalties  
24 **[that]** shall be imposed ~~[by the ERC]~~ for any violation of or non-  
25 compliance with this Act or the IRR:

26  
27 **A. BY ANY JURIDICAL ENTITIES ENGAGED IN THE**  
28 **GENERATION, TRANSMISSION, DISTRIBUTION AND**  
29 **SUPPLY OF ELECTRICITY, THE FINE** shall range from a  
30 minimum of **FIVE HUNDRED [fifty]** thousand pesos  
31 **(P500,000.00)—[(-P50,000.00)]** to a maximum of **FIVE**



1           **HUNDRED [~~Fifty~~] million pesos (P500,000,000.00)**  
2           **[~~(P50,000,000.00)~~].**

3  
4           **ANY MONETARY FINE AND PENALTY ADJUDGED BY THE ERC**  
5           **BY VIRTUE OF THIS PROVISION SHALL BE IMMEDIATELY**  
6           **APPLIED BY THE REGULATED ENTITY TO REDUCE THE RATES**  
7           **OF ITS END-USERS.**

8  
9           **B. BY ANY PERSON, A FINE OF NOT LESS THAN FIFTY**  
10           **THOUSAND PESOS (P50,000.00) BUT NOT MORE THAN**  
11           **FIFTY MILLION PESOS (P50,000,000.00), OR BY**  
12           **IMPRISONMENT OF NOT LOWER THAN SIX (6) YEARS AND**  
13           **ONE (1) DAY AND NOT HIGHER THAN TWELVE (12) YEARS,**  
14           **OR BOTH, AT THE DISCRETION OF THE COURT.**

15           **WHEN THE ENTITIES INVOLVED ARE JURIDICAL PERSONS,**  
16           **THE PENALTY OF IMPRISONMENT SHALL BE IMPOSED ON ITS**  
17           **OFFICERS, DIRECTORS, OR EMPLOYEES HOLDING MANAGERIAL**  
18           **POSITIONS, WHO ARE KNOWINGLY AND WILLFULLY**  
19           **RESPONSIBLE FOR SUCH VIOLATION.**

20           **THE FINES AND PENALTIES MAY BE ADJUSTED TO ITS**  
21           **PRESENT VALUE EVERY FIVE (5) YEARS USING THE CONSUMER**  
22           **PRICE INDEX (CPI) AS PUBLISHED BY THE PHILIPPINE**  
23           **STATISTICS AUTHORITY.**

24           x x x

25           Sec. 24. Sec. 47 of Republic Act No. 9136 is hereby amended to read as follows:

26           "Sec. 47. *NPC Privatization.* – Except for the assets of SPUG **AND**  
27           **THOSE THAT ARE CRITICAL FOR THE RELIABLE,**  
28           **ECONOMICAL AND SUSTAINABLE OPERATION OF THE GRID**  
29           **OR NETWORK,** the generation assets, real estate, and other  
30           disposable assets as well as IPP contracts of NPC shall be privatized  
31           in accordance with this Act. Within six (6) months from the effectivity  
32           of this Act, the PSALM Corp shall submit a plan for the endorsement

1 by the Joint Congressional Power Commission and the approval of  
2 the President of the Philippines, on the **[total]** privatization of the  
3 **NON-CRITICAL** generation assets, real estate, other disposable  
4 assets as well as existing IPP contracts of NPC and thereafter,  
5 implement the same, in accordance with the following guidelines,  
6 except as provided for in Paragraph (f) herein:

7 (a) The privatization value to the National Government of the  
8 NPC **NON-CRITICAL** generation assets, real estate, other  
9 disposable assets as well as IPP contracts shall be optimized

10 x x x

11 (f) The Agus and the Pulangui complexes in Mindanao shall be  
12 excluded from among the generation companies that will be  
13 initially privatized. Their ownership shall be transferred to  
14 the PSALM Corp. and both shall continue to be operated by  
15 the NPC **OR ANY QUALIFIED THIRD-PARTY AS MAY**  
16 **BE DETERMINED BY PSALM CORP. OR ITS**  
17 **SUCCESSOR-IN-INTEREST.** Said complexes may be  
18 privatized not earlier than ten (10) years from the effectivity  
19 of this Act, and except for Agus III, shall not be subject to  
20 Build-Operate-Transfer (B-O-T), Build-Rehabilitate-  
21 Operate-Transfer (B-R-O-T) and other variations thereof  
22 pursuant to Republic Act No. 6957, as amended by Republic  
23 Act No. 7718. The privatization of Agus and Pulangui  
24 complexes shall be left to the discretion of PSALM Corp. in  
25 consultation with **DOE [Congress];**

26 x x x

27 (j) NPC may generate and sell electricity **[only]** from the  
28 undisposed generating assets and IPP contracts of PSALM  
29 Corp., **AMONG OTHER GENERATING FACILITIES, NPC**  
30 **MAY [shall not] incur [any] new obligations to purchase**  
31 **power through bilateral contracts with generation**  
32 **companies or other suppliers AND SELL POWER**

1                   **THROUGH SUPPLY AGREEMENTS WITH**  
2                   **DISTRIBUTION UTILITIES, EXCEPT FOR**  
3                   **PROVIDING POWER GENERATION AND ITS**  
4                   **ASSOCIATED POWER DELIVERY SYSTEMS IN AREAS**  
5                   **THAT ARE NOT CONNECTED TO THE TRANSMISSION**  
6                   **SYSTEM;**

7                   x x x"

8                   Sec. 25. Section 57 of Republic Act No. 9136 is hereby amended to read as  
9 follows:

10                   "Sec. 57. *Conversion of Electric Cooperatives.* – Electric  
11 cooperatives are hereby given the option to convert into either  
12 stock cooperative under the Cooperatives Development Act or  
13 stock corporation under the **REVISED** Corporation Code. Nothing  
14 contained in this Act shall deprive electric cooperatives of any  
15 privilege or right granted to them under Presidential Decree No.  
16 269, as amended, and other existing laws.

17                   **THE DOE, IN CONSULTATION WITH THE NEA, THE**  
18 **COOPERATIVE DEVELOPMENT AUTHORITY, AND THE**  
19 **SECURITIES AND EXCHANGE COMMISSION, SHALL ISSUE**  
20 **THE GUIDELINES FOR THE CREATION OF AN EFFICIENT,**  
21 **STREAMLINED AND EXPEDITIOUS MECHANISM FOR THE**  
22 **CONVERSION OF ELECTRIC COOPERATIVES. THE NEA,**  
23 **CDA OR THE SEC, AS THE CASE MAY BE, SHALL**  
24 **SUFFICIENTLY INFORM THE ELECTRIC COOPERATIVE OF**  
25 **THE PRIVILEGES, RIGHTS, BENEFITS AND OBLIGATIONS**  
26 **RELATIVE TO ITS DESIRED CONVERSION.**

27                   **THE ECS MAY ENTER INTO MERGER,**  
28 **CONSOLIDATION, OR ANY OTHER INVESTMENT**  
29 **AGREEMENT WITH OTHER ECS AND/OR PRIVATE**  
30 **ENTITIES FOR THE PURPOSE OF IMPROVING THE**  
31 **SERVICE OF THE FRANCHISE AREA. THE DOE, IN**  
32 **CONSULTATION WITH NEA AND ERC, SHALL ISSUE**

1 **GUIDELINES FOR THE IMPLEMENTATION OF THIS**  
2 **SECTION, INCLUDING THE RULES ON BUSINESS**  
3 **SEPARATION AND UNBUNDLING."**

4 Sec. 26. Section 60 of Republic Act No. 9136 is hereby amended to read as  
5 follows:

6 "*Sec. 60. Debts of Electric Cooperatives. – x x x*

7 x x x

8 **IN CASE THE ELECTRIC COOPERATIVE IS UNABLE TO**  
9 **FULFILL ITS OBLIGATIONS TO ITS CREDITORS DUE TO**  
10 **INSOLVENCY OR BANKRUPTCY, SUCH ELECTRIC**  
11 **COOPERATIVE OR ANY INTERESTED PARTY MAY APPLY**  
12 **FOR ANY REMEDIES IT MAY DEEM APPROPRIATE**  
13 **PURSUANT TO RA NO. 10142, OTHERWISE KNOWN AS THE**  
14 **'FINANCIAL REHABILITATION AND INSOLVENCY ACT OF**  
15 **2010.'**"

16 Sec. 27. Section 61 of Republic Act No. 9136 is hereby amended to read as  
17 follows:

18 "*Sec. 61. Reportorial Requirements. – The DOE shall take the*  
19 *necessary measures to ensure that the provisions of this Act are*  
20 *properly implemented and shall submit to the* **JOINT**  
21 **CONGRESSIONAL ENERGY [Power]** *Commission a semi-*  
22 *annual report on the implementation of this Act, on or before the*  
23 *last week of April and October of each year."*

24 Sec. 28. Section 62 of Republic Act No. 9136 is hereby amended to read as  
25 follows:

26 "*Sec. 62. Joint Congressional* **ENERGY [Power]** *Commission. -*  
27 **[Upon the effectivity of this Act, a] THIS** *congressional*  
28 *commission, hereinafter referred to as the* **"JCEC [Power**  
29 **Commission]"**, **RENAMED PURSUANT TO REPUBLIC ACT**  
30 **NO. 11285 AND FURTHER AMENDED BY REPUBLIC ACT NO.**  
31 **11571 [is hereby constituted. The Power Commission]**  
32 shall be composed of fourteen (14) members the chairmen of the

1 Committee on Energy of the Senate and the House of  
2 Representatives and six (6) additional members from each House,  
3 to be designated by the Senate President and the Speaker of the  
4 House of Representatives, respectively. The minority shall be  
5 entitled to *pro rata* representation but shall have at least one (1)  
6 representative in the **[Power] ENERGY** Commission. The  
7 Commission shall, in aid of legislation, perform the **[following]**  
8 functions, **IN ADDITION TO THOSE PROVIDED BY RA NO.**  
9 **11571**, among others:

10 x x x

11 (c) To ensure transparency, require the submission of reports from  
12 government agencies concerned on the conduct of public bidding  
13 procedures regarding privatization of NPC **NON-CRITICAL**  
14 generation and transmission assets;"

15 x x x

16 (g) x x x; **[and]**

17 (h) **TO ENSURE THE SOUND, SUSTAINABLE AND EFFICIENT**  
18 **EXECUTION OF THE PLANS, PROGRAMS AND PROJECTS IN**  
19 **THE CONSTRUCTION, ACQUISITION, OWNERSHIP,**  
20 **OPERATION, EXPANSION, INSTALLATION AND**  
21 **MAINTENANCE OF THE GENERATING ASSETS AND**  
22 **FACILITIES OF THE STATE; AND**

23 (i) **(h)** Perform such other duties and functions as may be necessary  
24 to attain its objectives.

25 x x x"

26 Sec. 29. Section 63 of Republic Act No. 9136 is hereby amended to read as  
27 follows:

28 "Sec. 63. *Separation Benefits of Officials and Employees of Affected*  
29 *Agencies.* – National government employees displaced or  
30 separated from the service as a result of the restructuring of the



1 electricity industry, **[AND]** privatization of NPC assets, **OR THE**  
2 **END OF THE CORPORATE EXISTENCE OF ANY AFFECTED**  
3 **AGENCY CREATED** pursuant to this Act, shall be entitled to either  
4 a separation pay and other benefits in accordance with existing  
5 laws, rules or regulations or be entitled to avail of the privileges  
6 provided under a separation plan which shall be one and one-half  
7 month salary for every year of service in the government: Provided,  
8 however, That those who avail of such privilege shall start their  
9 government service anew if absorbed by any government-owned  
10 successor company. In no case shall there be any diminution of  
11 benefits under the separation plan until the full implementation of  
12 the restructuring and privatization.

13 x x x"

14 Sec. 30. Section 70 of Republic Act No. 9136 is hereby amended to read  
15 as follows:

16 "Sec. 70. *Missionary Electrification.* – x x x

17 **THE NPC IN PERFORMING THIS MANDATE SHALL**  
18 **ADOPT ALTERNATIVE AND COST-EFFECTIVE**  
19 **TECHNOLOGIES, INCLUDING RENEWABLE ENERGY,**  
20 **TOWARDS THE CESSATION OF SUBSIDY FOR**  
21 **MISSIONARY ELECTRIFICATION. FURTHER, THE**  
22 **DOE AND NPC SHALL ISSUE THE NECESSARY**  
23 **POLICIES FOR THE GRADUATION OF AN OFF-GRID**  
24 **AREA FROM THE UC-ME, WITH DUE**  
25 **CONSIDERATION OF THE COMMERCIAL VIABILITY**  
26 **AND/OR INTERCONNECTION TO THE GRID OF SUCH**  
27 **AREA IN A SOCIALLY ACCEPTABLE MANNER.**

28 **COMMERCIAL VIABILITY SHALL REFER TO A**  
29 **SITUATION WHEN THE TRUE COST OF GENERATION**  
30 **RATE IS EQUAL OR LESS THAN THE SUBSIDIZED**  
31 **APPROVED GENERATION RATE OF SUCH OFF-GRID**  
32 **AREA."**

1           Sec. 31. Section 71 of Republic Act No. 9136 is hereby amended to read as  
2 follows:

3           "Sec. 71. *Electric Power Crisis Provision.* – Upon the  
4 determination by the President of the Philippines of an  
5 imminent shortage of the supply of electricity, Congress  
6 may authorize, through a joint resolution, the establishment  
7 of additional generating capacity under such terms and  
8 conditions as it may approve.

9           **IN TIMES OF CRITICALLY LOW ELECTRICITY**  
10 **SUPPLY OR UNUSUALLY HIGH ELECTRICITY**  
11 **PRICES, THE PRESIDENT MAY, UPON THE**  
12 **RECOMMENDATION OF THE DOE AND FOR A PERIOD**  
13 **NOT EXCEEDING SIX (6) MONTHS, PLACE THE**  
14 **WHOLE PHILIPPINES OR ANY PART THEREOF**  
15 **UNDER A STATE OF ELECTRIC POWER CRISIS.**  
16 **DURING AN ELECTRIC POWER CRISIS, THE**  
17 **PRESIDENT IS EMPOWERED TO:**

- 18           **(A) ISSUE TEMPORARY MEASURES TO**  
19           **MITIGATE THE IMPACT ON THE**  
20           **CONSUMERS;**
- 21           **(B) INITIATE THE EFFICIENT ALLOCATION**  
22           **AND CONSERVATION OF ENERGY; AND**
- 23           **(C) WHEN THE PUBLIC INTEREST SO**  
24           **REQUIRES, TEMPORARILY TAKE OVER**  
25           **THE OWNERSHIP AND/OR DIRECT THE**  
26           **OPERATIONS OF ESSENTIAL**  
27           **GENERATION, TRANSMISSION OR**  
28           **DISTRIBUTION ASSETS AND**  
29           **FACILITIES, DURING THE ELECTRIC**  
30           **POWER CRISIS AND UNDER**  
31           **REASONABLE TERMS PRESCRIBED BY**  
32           **THE PRESIDENT; AND/OR**

1 (D) ANY OTHER NECESSARY AND  
2 APPROPRIATE ACTIONS TO RESOLVE  
3 THE ELECTRIC POWER CRISIS.

4 ***PROVIDED,*** THAT THE EFFECTIVITY OF SUCH  
5 **ISSUANCES SHALL CONTINUE UNTIL THE LIFTING OF THE**  
6 **DECLARATION OF THE STATE OF ELECTRIC POWER CRISIS**  
7 **BY THE PRESIDENT.**

8 **WITHIN SEVEN (7) DAYS FROM THE DECLARATION**  
9 **OF THE ELECTRIC POWER CRISIS, THE PRESIDENT SHALL**  
10 **SUBMIT A REPORT TO THE JCEC. THE JCEC MAY REVOKE**  
11 **SUCH PROCLAMATION OR SUSPENSION, WHICH**  
12 **REVOCATION SHALL NOT BE SET ASIDE BY THE**  
13 **PRESIDENT. UPON RECOMMENDATION OF THE DOE, THE**  
14 **JCEC MAY EXTEND SUCH DECLARATION FOR A PERIOD TO**  
15 **BE DETERMINED BY THE JCEC, IF THE ELECTRIC POWER**  
16 **CRISIS SHALL PERSIST AND PUBLIC INTEREST REQUIRES**  
17 **IT.”**

18 Sec. 32. Section 78 of Republic Act No. 9136 is hereby amended to read as  
19 follows:

20 “Sec. 78. *Injunction and Restraining Order.* – The implementation  
21 of the provisions of the Act, **INCLUDING THE IMPOSITION OF**  
22 **THE FINES AND PENALTIES PRESCRIBED IN THIS ACT,**  
23 shall not be restrained or enjoined except by an order issued by  
24 the Supreme Court of the Philippines.”

25 Sec. 33. *Transitory Clause.* – All Retail Supply Contracts existing during  
26 the effectivity of this Act shall be recognized until their expiration. All RES shall  
27 renew their licenses based on the guidelines to be issued by the ERC pursuant  
28 to this Act.

29 Sec. 34. *Repealing Clause.* – Sections 28 and 72 of the EPIRA are hereby  
30 repealed.

31 All laws, decrees, rules and regulations, or portion thereof, inconsistent with  
32 this Act are hereby repealed or modified accordingly.

1           Sec. 35. *Implementing Rules and Regulations.* –The DOE shall, in consultation  
2 with relevant government agencies and all stakeholders, promulgate the  
3 Implementing Rules and Regulation (IRR) of the Act within six (6) months from the  
4 effectivity of this Act.

5           Sec. 36. *Effectivity.* – This Act shall take effect fifteen (15) days after its  
6 publication in the *Official Gazette* or in a newspaper of general circulation.

*Approved,*