

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Manila

EIGHTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 2099



Introduced by Honorable Lord Allan Jay Q. Velasco

EXPLANATORY NOTE

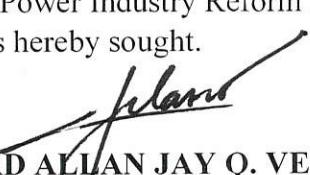
Republic Act No. 9136, otherwise known as the Electric Power Industry Reform Act (EPIRA) of 2001, sought to re-structure the electric power industry by privatizing the Generation, Transmission, Distribution, and Supply of the power sector. Distribution and transmission were later declared as public utilities.

In line with the EPIRA, the Energy Regulatory Commission (ERC) was created as an independent, quasi-judicial regulatory body, amending for that purpose the existing Energy Regulatory Board (ERB) created under Executive Order No. 172, as amended.

ERC, as the country's electric power regulator has a crucial role in ensuring consumer protection, and in enhancing the competitive operation of the electricity market. An evaluation of the governance structure of the ERC would show that the powers and functions of the Chairman of the Commission and the Chief Executive Officer is lodged in one person. Experience shows that practice does not foster a balance of power and accountability. Accountability and transparency in the workings of the Commission should also be paramount in order to engender trust and integrity among the industry players and the public.

It is in this light that this measure is proposed. This bill aims to enhance and strengthen the existing governance structure of the regulatory body, by providing (1) additional number, qualifications and requirements for ERC Commissioners to ensure board efficiency and diversity; (2) creation of three [3] Commission divisions, aside from the Commission *en Banc*, to ensure faster resolutions of cases, applications, and promulgation of rules; (3) prohibitions and disqualifications for ERC Commissioners and their relatives to prevent conflicts of interest; (4) divestment of the CEO functions from the Chairperson and lodging the same to the Executive Director of the ERC; (5) provision for a People's Counsel; (6) limited fiscal autonomy to augment the benefits of ERC officers and staff; and (7) detailing a Code of Ethics for the Commissioners.

In view of the foregoing, this bill seeks to provide a more streamlined and stronger power regulator, amending for that purpose, Republic Act No. 9136, otherwise known as the otherwise known as the Electric Power Industry Reform Act (EPIRA) of 2001. For the foregoing reasons, the passage of this bill is hereby sought.


HON. LORD ALLAN JAY Q. VELASCO

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

EIGHTEENTH CONGRESS
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House Bill No. 2099

Introduced by Representative Lord Allan Jay Q. Velasco

**AN ACT
STRENGTHENING THE ENERGY REGULATORY COMMISSION BY EXPANDING
AND STREAMLINING ITS BUREAUCRACY, UPGRADING EMPLOYEE SKILLS,
AUGMENTING BENEFITS, AND APPROPRIATING FUNDS THEREFOR**

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

CHAPTER I

GENERAL PROVISIONS

SECTION 1. *Short Title.* - This Act shall be known as the “*Energy Regulatory Commission Act.*”

SEC. 2. *Declaration of Policy.* - The State recognizes the significant role of the Energy Regulatory Commission in:

- a) Ensuring transparent and reasonable prices of electricity;
 - b) Protecting the consumers as they are affected by the rates and services of electric utilities and other providers of electric power; and
 - c) Promoting competition, encouraging market development, ensuring customer choice, and penalizing abuse of market power in the restructured power industry.

Towards this end, the State shall:

- a) Establish a strong, independent, transparent, and accountable regulatory body; and
 - b) Ensure the efficient and effective performance of the functions and mandates of the regulatory body to enhance competitiveness in the electric power industry.

CHAPTER II

ORGANIZATIONAL STRUCTURE

1 SEC. 3. Section 38 of the Republic Act 9136 is hereby amended, to read as
2 follows:

3 SEC. 38. [Creation] *STRENGTHENING/RECONSTITUTION of the Energy*
4 *Regulatory Commission.* There is hereby created an independent, quasi-judicial
5 regulatory body to be named the Energy Regulatory Commission (ERC). [~~For this~~
6 ~~purpose, the existing Energy Regulatory Board (ERB) created under Executive~~
7 ~~Order No. 172, as amended, is hereby abolished.~~] THE ENERGY REGULATORY
8 COMMISSION (ERC) IS HEREBY RECONSTITUTED. TOWARDS THIS END,
9 THE ERC SHALL BE EXCLUSIVELY RESPONSIBLE FOR THE REGULATION
10 OF THE ELECTRIC POWER AND ENERGY INDUSTRY AND SHALL ENJOY
11 LIMITED FISCAL AUTONOMY. ITS ANNUAL APPROVED BUDGET SHALL BE
12 AUTOMATICALLY AND REGULARLY RELEASED.

13 The Commission shall be composed of a [Chairman] CHAIRPERSON and
14 [four (4)] EIGHT (8) members. [~~to~~] THE CHAIRPERSON SHALL be appointed by
15 the President of the Philippines AND SHALL SERVE A TERM CO-TERMINOUS
16 WITH THAT OF THE PRESIDENT. THE REST OF THE MEMBERS OF THE
17 COMMISSION SHALL BE APPOINTED BY THE PRESIDENT OF THE
18 PHILIPPINES FROM A SHORTLIST PROVIDED BY THE JOINT
19 CONGRESSIONAL ENERGY COMMISSION (JCEC). A SHORTLIST OF THREE
20 (3) NOMINEES PER POSITION SHALL BE CHOSEN BY THE PRESIDENT
21 ONLY FROM AMONG THOSE NOMINATED BY THE JCEC. The [Chairman]
22 CHAIRPERSON and the members of the Commission shall be natural-born
23 citizens and residents of the Philippines, persons of good moral character, at least
24 [~~thirty-five (35)~~] FORTY-FIVE (45) years of age, and of recognized competence in
25 any of the following fields: energy, law, economics, finance, commerce, or
26 engineering, with at LEAST [~~three (3)~~] FIVE (5) years OF actual and distinguished
27 experience in their respective fields of expertise: *Provided*, That out of the [four (4)]
28 EIGHT (8) members of the Commission, at least [~~one (1)~~] THREE (3) shall be [a
29 member] MEMBERS of the Philippine Bar INCLUDING THE CHAIRPERSON with
30 at least ten (10) years experience in the active practice of law, [~~and~~] AT LEAST
31 [~~one (1)~~] TWO (2) MEMBERS shall be a certified public [accountant]
32 ACCOUNTANTS with at least ten (10) years OF experience in THE active practice
33 OF ACCOUNTING; AT LEAST TWO (2) MEMBERS SHALL BE ENGINEERS
34 WITH AT LEAST FIVE (5) YEARS OF EXPERIENCE PREFERABLY IN POWER
35 SYSTEM ENGINEERING; AND AT LEAST ONE (1) MEMBER SHALL BE AN
36 ECONOMIST WITH AT LEAST FIVE (5) YEARS OF EXPERIENCE
37 PREFERABLY IN UTILITY ECONOMICS; *PROVIDED*, *FURTHER*, THAT AT
38 LEAST ONE (1) OF THE MEMBERS SHALL COME FROM THE CONSUMER
39 SECTOR.

1 [Within three (3) months from the creation of the ERC, the Chairman shall
2 submit for the approval by the President of the Philippines the new organizational
3 structure and plantilla positions necessary to carry out the powers and functions of
4 the ERC.]

5 [The Chairman of the Commission, who shall be a member of the Philippine Bar,
6 shall act as the Chief Executive Officer of the Commission.

7 All members of the Commission shall have a term of seven (7) years: *Provided*,
8 That for the first appointees, THE CHAIRPERSON SHALL HAVE A CO-
9 TERMINOUS TERM WITH THE PRESIDENT OF THE PHILIPPINES; *PROVIDED*,
10 THAT FOR THE FIRST TWO (2) APPOINTED MEMBERS, WHO SHALL SERVE
11 FOR SEVEN (7) YEARS, THE NEXT THREE (3) APPOINTED MEMBERS SHALL
12 SERVE FOR FIVE (5) YEARS, AND THE LAST THREE (3) APPOINTED
13 MEMBERS SHALL SERVE FOR A TERM OF THREE (3) YEARS, [the Chairman
14 shall hold office for seven (7) years, two (2) members shall hold office for five (5)
15 years and the other two (2) members shall hold office for three (3) years; *Provided*,
16 *further*, That appointment to any future vacancy shall only be for the unexpired
17 term of the predecessor: *Provided, finally*, That there shall be no reappointment
18 and in no case shall any member serve for more than seven (7) years in the
19 Commission.

20 The [Chairman] CHAIRPERSON and members of the Commission shall
21 assume office of the beginning of their terms: *Provided, That*, if upon the effectivity
22 of this Act, the Commission has not been constituted and the new staffing pattern
23 and plantilla positions have not been approved and filled-up, the current Board and
24 existing personnel of [ERB] ERC shall continue to hold office.

25 The existing personnel of the [ERB] ERC, if qualified, shall be given preference
26 in the filling up of plantilla positions created in the ERC, subject to existing civil
27 service rules and regulations.

28 Members of the Commission shall enjoy security of tenure and shall not be
29 suspended or removed from office except for just cause as specified by law.

30 The [Chairman] CHAIRPERSON and members of the Commission or any of
31 their relatives within the fourth civil degree of consanguinity or affinity, WHETHER
32 SUCH PERSONAL RELATIONS ARE legitimate, [or] common law, OR
33 OTHERWISE, shall be prohibited from holding any interest whatsoever, either as
34 investor, stockholder, officer or director, in any company or entity engaged in the
35 business of [transmitting, generating, supplying or distributing any form of energy
36 and must, therefore, divest through sale or legal disposition of any and all interests
37 in the energy sector upon assumption of office.] GENERATING, TRANSMITTING,
38 DISTRIBUTING OR SUPPLYING ELECTRICITY. UPON THE ASSUMPTION BY
39 THE CHAIRPERSON AND THE MEMBERS OF THE ERC OF THEIR

1 RESPECTIVE POSITIONS, THE CHAIRMAN AND THE MEMBERS OF THE ERC
2 AND THEIR RESPECTIVE RELATIVES WITHIN THE PRESCRIBED DEGREE
3 OF PERSONAL RELATIONS SHALL DIVEST THEMSELVES OF ALL THEIR
4 SAID INTERESTS.

5 [The presence of at least three (3) members of the Commission shall constitute
6 a quorum and the majority vote of two (2) members in a meeting where a quorum
7 is present shall be necessary for the adoption of any rule, ruling, order, resolution,
8 decision, or other act of the Commission in the exercise of its quasi judicial
9 functions: *Provided*, That in fixing rates and tariffs, an affirmative vote of three (3)
10 members shall be required.]

11 THE COMMISSION SHALL BE DIVIDED INTO THREE (3) DIVISIONS,
12 WITH THREE (3) MEMBERS EACH, INCLUDING THE CHAIRPERSON. EACH
13 DIVISION MUST HAVE AT LEAST ONE (1) MEMBER WHO IS A LAWYER AND
14 ONE (1) MEMBER WHO IS AN ENGINEER OR ECONOMIST. THE PRESENCE
15 OF AT LEAST TWO (2) OF THE (3) MEMBERS OF THE DIVISION SHALL
16 CONSTITUTE A QUORUM, AND THE MAJORITY VOTE AT LEAST TWO (2)
17 MEMBERS OF THE DIVISION IN WHICH A QUORUM WAS PRESENT SHALL
18 BE NECESSARY FOR THE ADOPTION OF ANY RULE, RULING, ORDER,
19 RESOLUTION, DECISION OR OTHER ACTS OF THE COMMISSION.

20 AT LEAST FIVE (5) MEMBERS OF THE ERC SHALL CONSTITUTE A
21 QUORUM IN THE COMMISSION *EN BANC*. THE CHAIRPERSON SHALL BE
22 THE PRESIDING OFFICER DURING A COMMISSION *EN BANC* HEARING. IN
23 THE ABSENCE OF THE CHAIRPERSON, THE REST OF THE MEMBERS,
24 CONSTITUTING A QUORUM, SHALL SELECT A PRESIDING OFFICER. A
25 VALID DECISION OF THE COMMISSION *EN BANC* SHALL BE CONCURRED IN
26 BY THE MAJORITY OF THE MEMBERS CONSTITUTING A QUORUM. THE
27 COMMISSION *EN BANC* SHALL ACT PRIMARILY ON THE FOLLOWING
28 CASES:

- 29 a) CASES INVOLVING THE ERC'S QUASI-LEGISLATIVE POWER,
30 RULES, OR REGULATIONS;
- 31 b) CASES INVOLVING THE NATIONAL TRANSMISSION CORPORATION
32 (TRANSCO) OR ITS AUTHORIZED CONCESSIONAIRE WHICH
33 OPERATES THE TRANSMISSION NETWORK;
- 34 c) CASES INVOLVING CONTRACTS WORTH MORE THAN FIVE
35 HUNDRED MILLION PESOS (PHP500,000,000.00);
- 36 d) PRIVATE DISTRIBUTION UTILITIES;
- 37 e) CASES PREVIOUSLY HANDLED BY THE ERC DIVISION IN WHICH NO
38 QUORUM OR VALID DECISION WAS REACHED; AND

1 f) OTHER CASES AS MAY BE DESIGNATED BY THE COMMISSION EN
2 BANC ITSELF.

3
4 THE CHAIRMAN AND THE MEMBERS OF THE ERC SHALL CONFORM TO THE
5 FOLLOWING CODE OF ETHICS:

6
7 (1) AVOID IMPROPRIETY AND THE APPEARANCE OF
8 IMPROPRIETY IN ALL ACTIVITIES;

9
10 (2) PERFORM ALL DUTIES WITH UTMOST IMPARTIALITY AND
11 DILIGENCE;

12
13 (3) MUST BEHAVE AT ALL TIMES AS TO PROMOTE PUBLIC
14 CONFIDENCE IN THE ERC AND AVOID OFF-THE-RECORD
15 CONVERSATIONS BETWEEN ANY MEMBER OF THE ERC AND PARTIES
16 THERETO, INCLUDING ANY STAFF ACTING AS A PARTY, REGARDING
17 THE MERITS OR ANY FACT IN ISSUE OF ANY MATTER PENDING
18 BEFORE THE ERC;

19
20 (4) ABSTAIN FROM PUBLICLY EXPRESSING HIS OR HER
21 PERSONAL VIEWS ON THE MERITS OF A MATTER PENDING BEFORE
22 THE ERC AND REQUIRE SIMILAR ABSTENTION ON THE PART OF ERC
23 PERSONNEL SUBJECT TO HIS OR HER DIRECTION AND CONTROL;

24
25 (5) INITIATE APPROPRIATE DISCIPLINARY MEASURES AGAINST
26 ERC PERSONNEL FOR UNPROFESSIONAL CONDUCT;

27
28 (6) INHIBIT HIMSELF OR HERSELF FROM PROCEEDINGS IN
29 WHICH HIS OR HER IMPARTIALITY MIGHT BE REASONABLY
30 QUESTIONED;

31
32 (7) DISCLOSE HIS OR HER PERSONAL AND FIDUCIARY
33 INTERESTS AND MAKE REASONABLE EFFORTS TO DISCLOSE THE
34 PERSONAL FINANCIAL INTERESTS OF HIS OR HER SPOUSE AND
35 CHILDREN;

36
37 (8) ACTIVITIES OUTSIDE WORK SUCH AS ACADEMIC LECTURES
38 WITH HONORARIA SHALL BE DISCLOSED ANNUALLY. SUCH
39 DISCLOSURE STATEMENT SHALL BE FILED WITH THE EXECUTIVE

1 DIRECTOR OF THE ERC AND SHALL BE OPEN TO INSPECTION BY THE
2 PUBLIC DURING THE NORMAL BUSINESS HOURS DURING THE
3 TENURE OF THE CHAIRMAN OR MEMBER OF THE ERC. THE
4 CHAIRMAN OR ANY MEMBER OF THE PPRC SHALL NOT RESUME
5 THEIR DUTIES UNTIL HE OR SHE SUBMITS SAID DISCLOSURE
6 STATEMENT TO THE EXECUTIVE DIRECTOR OF THE ERC.

7

8 (9) REFRAIN FROM SOLICITATION OF FUNDS FOR ANY
9 POLITICAL, EDUCATIONAL, RELIGIOUS, CHARITABLE, OR CIVIC
10 PURPOSES, ALTHOUGH HE OR SHE MAY BE AN OFFICER, DIRECTOR,
11 OR TRUSTEE OF SUCH ORGANIZATIONS;

12

13 (10) REFRAIN FROM ANY FINANCIAL OR BUSINESS DEALINGS
14 WHICH MAY CAST DOUBT ON THE IMPARTIALITY OF THE PPRC
15 CHAIRMAN OR MEMBERS BY THE PUBLIC;

16

17 (11) IN EXERCISING THEIR QUASI-JUDICIAL FUNCTION, THE
18 CHAIRMAN AND MEMBERS OF THE ERC SHALL ADHERE TO THE
19 CANONS OF JUDICIAL CONDUCT; AND

20

21 (12) CONFORM TO ANY SUCH ADDITIONAL RULES AS THE ERC
22 MAY PRESCRIBE.

23

24 ANY VIOLATION OF THE ABOVE-MENTIONED CODE OF ETHICS SHALL
25 CONSTITUTE CAUSE FOR REMOVAL FROM OFFICE BY THE OFFICE OF
26 THE PRESIDENT OF THE PHILIPPINES, WITHOUT PREJUDICE TO ANY
27 OTHER PENALITIES UNDER ALL APPLICABLE LAWS.

28

29 AFTER TERMINATING EMPLOYMENT OR SERVICE WITH ERC, THE
30 CHAIRMAN AND MEMBERS OF THE PPRC, EXECUTIVE DIRECTOR,
31 SERVICE OR OFFICE DIRECTORS, OR ITS EQUIVALENT, WHO ARE
32 APPOINTED, OR EMPLOYED UNDER ERC, IS PROHIBITED FROM
33 ACCEPTING EMPLOYMENT WITH ANY REGULATED ENTITY FOR A
34 PERIOD OF THREE (3) YEARS, AND ALL MEMBERS OF THE ERC ARE
35 PROHIBITED FROM APPEARING BEFORE THE ERC ON BEHALF OF ANY
36 REGULATED ENTITY FOR A PERIOD OF THREE (3) YEARS AFTER SAID
37 TERMINATION OF EMPLOYMENT."

38 SEC. 4. *Expansion.* – The existing organizational structure of the Energy
39 Regulatory Commission (ERC) is hereby reorganized by creating the following:

- 1 a) Office of the General Counsel and Secretariat, directly reporting to the
2 Commission *en Banc*;
3 b) Internal Audit Unit, directly reporting to the Commission *en Banc*; and
4 c) Six (6) line services: (a) Regulatory Operations Service; (b) Market
5 Operations Service; (c) Consumer Affairs Service; (d) Legal Service; (e)
6 Planning and Public Information Service; and (f) Finance and Administrative
7 Service.

8

9 The Commission *en Banc* may create oversight committees or services as may
10 be deemed necessary and consistent with the functions and mandates of the ERC.

11 To achieve the goals of this Act, the Commission, as an independent regulatory
12 body, is hereby authorized to provide for its reorganization, to streamline its structure
13 and operations, upgrade its human resource compliment and enable the same to
14 perform its functions more efficiently and effectively and exercise its power under this
15 Act and under Republic Act No. 9136, otherwise known as "*Electric Power Industry*
16 *Reform Act of 2001*" (EPIRA).

17 All positions of the ERC shall be governed by a compensation and position
18 classification system and qualification standards approved by the Commission *en Banc*
19 based on comprehensive job analysis and audit of actual duties and personal
20 responsibilities. Towards this end, the Commission shall be exempt from laws, rules,
21 and regulations on compensation, position classification and qualification standards.
22 The Commission shall, however, endeavor to make its system conform as closely as
23 possible with the principles under the Compensation and Position Classification Act of
24 1989 otherwise known as Republic Act No. 6758, as amended.

25 SEC. 5. ***Commission en Banc***. – In addition to the functions enumerated in
26 Republic Act No. 9136, Republic Act No. 9513, otherwise known as the "*Renewable*
27 *Energy Act of 2008*," and other relevant laws, all the members of the Commission shall:

- 28 a) Exercise all quasi-judicial and quasi-legislative functions in furtherance of the
29 ERC's mandate under Republic Act No. 9136;
30 b) Act on the selection and appointment of all ERC personnel: *Provided*, That
31 the appointment of ERC personnel with a rank lower than a Division Chief
32 may be delegated to the Chairperson;
33 c) Approve the internal rules, organizational structure, and operational strategy
34 of the ERC; and
35 d) Act as the Head of Procuring Entity (HOPE) and exercise all duties and
36 powers as stated in Republic Act No. 9184, otherwise known as the
37 "*Government Procurement Reform Act*:" *Provided*, That the Commission may
38 delegate its functions under the said Act.

1 SEC. 6. **Duties and Responsibilities of the Chairperson.** – The Chairperson
2 as head of the Commission en Banc shall have the following duties and responsibilities:
3 a) Lead and oversee the implementation of the Commission's mandate
4 under the EPIRA in accordance with the Commission approved internal
5 rules, organizational and operational strategy;
6 b) Ensure good governance policies, practices, rules and procedures that
7 promote the highest standards of integrity, competence, and
8 transparency;
9 c) Enforce adherence to the Commission's approved internal rules;
10 d) Act on the appointment of ERC personnel with the rank of Division Chief
11 and below;
12 e) Act as the official representative of the ERC to promote collaborative
13 relationships and open communication between the Commission and the
14 following: (1) general public, (2) executive and legislative government
15 agencies, (3) international organizations or agencies; and (4) industry
16 stakeholders.
17 f) Preside over meetings of the Commission: *Provided*, That the
18 Chairperson shall have the right to vote on all matters, issues or case
19 pending before the Commission;
20 g) Determine the date, time and location of the regular and special
21 Commission meetings and prepare the agenda for the meeting with the
22 consensus of all the members of the Commission;
23 h) Perform such other functions as may be provided by law.

24
25 SEC. 7. **Executive Director.** – The Executive Director shall be a lawyer with at
26 least ten (10) years of active practice of law with at least five (5)-year experience in
27 management and administration.

28 The Executive Director shall act as the Commission's Chief Executive Officer
29 (CEO) with the following duties and responsibilities:

- 30 a) Oversee the daily operations of the ERC and ensure the smooth functioning
31 of all ERC processes;
32 b) Provide the Commission with periodic updates on the day-to-day operations
33 of the ERC towards the achievement of its target objectives;
34 c) Evaluate and ensure compliance of the line services and all ERC employees
35 to the Commission approved periodic performance targets, annual operating
36 plan and internal rules; and
37 d) Perform such other functions related to foregoing or as may be assigned by
38 the Commission *en Banc*.

39 CHAPTER III

1 **COMPENSATION STRUCTURE AND OTHER EMOLUMENTS**

2 SEC. 8. Section 39 of the Electric Power Industry Reform Act (EPIRA) of 2001 is
3 hereby amended to read as follows:

4 “*SEC. 39. ADJUSTED Compensation STRUCTURE and Other Emoluments for*
5 *ERC Personnel.* - The compensation and other emoluments for the [Chairman and
6 members of the] Commission and [the] ERC personnel shall be exempted from the
7 coverage of Republic Act No. 6758, otherwise known as the “Salary Standardization
8 Act”, AS AMENDED BY EXECUTIVE ORDER NO. 201, SERIES OF 2016. [For this
9 purpose, the schedule of compensation of the ERC personnel, except for the initial
10 salaries and compensation of the Chairman and members of the Commission, shall be
11 submitted for approval by the President of the Philippines. The new schedule of
12 compensation shall be implemented within six (6) months from the effectivity of this Act
13 and may be upgraded by the President of the Philippines as the need arises: *Provided,*
14 *That in no case shall the rate be upgraded more than once a year.]*

15 The [Chairman] CHAIRPERSON and members of the Commission shall [initially]
16 be entitled to the same salaries, allowances and benefits as those of the Presiding
17 Justice and Associate Justices of the [Supreme Court] COURT OF APPEALS,
18 respectively. The [Chairman] CHAIRPERSON and the members of the Commission
19 shall, upon completion of their term or upon becoming eligible for retirement under
20 existing laws, be entitled to the same retirement benefits and the privileges provided for
21 the Presiding Justice and Associate Justices of the [Supreme Court] COURT OF
22 APPEALS, respectively.”

23 THE COMPENSATION SCHEDULE OF THE ERC PERSONNEL SHALL BE
24 COMPETITIVE WITH THE SALARY RANGE OF OTHER REGULATORY AGENCIES,
25 AND THE ELECTRIC POWER INDUSTRY STAKEHOLDERS. FOR THIS PURPOSE,
26 THE COMMISSION *EN BANC* SHALL, SUBJECT TO THE APPROVAL OF THE
27 PRESIDENT OF THE PHILIPPINES, ADJUST THE COMPENSATION SCHEDULE
28 AND BENEFITS OF ERC PERSONNEL ONCE EVERY TWO (2) YEARS TO ENSURE
29 THAT THE SAME IS COMPARABLE WITH THE COMPENSATION PACKAGE OF
30 OTHER REGULATORY AGENCIES, AND THE ELECTRIC POWER INDUSTRY
31 STAKEHOLDERS.

32 EVERY TWO (2) YEARS FROM THE LAST COMPENSATION SCHEDULE
33 ADJUSTMENT, THE ERC SHALL CONDUCT AN ASSESSMENT ON THE
34 COMPETITIVENESS OF THE LEVEL OF COMPENSATION OF THE ERC
35 PERSONNEL AGAINST THOSE OF THE EMPLOYEES OF THE STAKEHOLDERS
36 AND REGULATORS OF OTHER JURISDICTIONS. THE ASSESSMENT SHALL
37 CONSIDER ANNUAL MERIT REVIEW OR INCREASES BASED ON PRODUCTIVITY
38 AND EFFICIENCY.

1 SEC. 9. Section 40 of the Electric Power Industry Reform Act (EPIRA) of 2001 is
2 hereby amended to read as follows:

3 "SEC. 40. ***Enhancement of Technical Competence.*** – [The ERC shall establish
4 rigorous training programs for its staff for the purpose of enhancing the technical
5 competence of the ERC in the following areas: evaluation of technical performance and
6 monitoring of compliance with service and performance standards, performance-based
7 rate-setting reform, environmental standards and such other areas as will enable the
8 ERC to adequately perform its duties and functions.] THE TECHNICAL COMPETENCE
9 OF THE ERC PERSONNEL SHALL BE BENCHMARKED AGAINST INTERNATIONAL
10 BEST PRACTICES. IN VIEW THEREOF, THE ERC SHALL ESTABLISH A RIGOROUS
11 AND SUSTAINABLE TRAINING PROGRAM THAT WILL ALLOW ITS STAFF TO
12 ACQUIRE THE NECESSARY KNOWLEDGE AND SKILLS AT PAR WITH THE
13 PERSONNEL OF REGULATORS FROM OTHER JURISDICTIONS AND
14 ECONOMIES.

15 FOR THIS PURPOSE, THE ERC SHALL ESTABLISH A UNIT WITHIN ITS
16 STRUCTURE THAT SHALL DESIGN A STANDARDIZED TRAINING AND
17 DEVELOPMENT PROGRAM AND FACILITATE THE REGULAR CONDUCT OF
18 NECESSARY TRAINING FOR NEW AND INCUMBENT ERC PERSONNEL.

19 THE ERC SHALL ALLOT NO LESS THAN FIFTEEN PERCENT (15%) OF ITS
20 TOTAL ANNUAL APPROVED BUDGET FOR THE TRAINING AND UPGRADING OF
21 SKILLS OF ITS PERSONNEL.

22 THE ERC MAY HIRE A REASONABLE NUMBER OF CONSULTANTS OR
23 EXPERTS AS MAY BE APPROPRIATE AND NECESSARY TO GIVE ADVICE TO AND
24 PERFORM SERVICES FOR THE ERC. THE TERMS AND CONDITIONS OF THE
25 ENGAGEMENT SHALL BE AS DETERMINED BY THE ERC, SUBJECT TO THE
26 PROVISIONS OF REPUBLIC ACT NO. 9184, OTHERWISE KNOWN AS THE
27 "GOVERNMENT PROCUREMENT REFORM ACT."

28 SEC. 10. ***Seminar and Other Professional Fees.*** – Fees for relevant seminars,
29 professional membership, registration fees, including those for mandatory continuing
30 professional education (CPE), and related miscellaneous expenses of ERC employees
31 holding positions for which a professional license is required by the office, shall be
32 borne by the ERC.

33 SEC. 11. ***Benefits and Privileges.*** - The ERC shall provide its employees with
34 the following benefits:

- 35 a) Health care services through a health maintenance organization (HMO).
36 Expenses for mandatory annual executive check-up for all employees shall
37 be for the account of the ERC;
- 38 b) All employees shall be covered by accident insurance policies procured by
39 the ERC at its own expense;

- 1 c) A provident fund, which shall consist of contributions made by both the ERC
2 and by its employees to a common fund for the payment of benefits to
3 employees or their heirs; and
4 d) Performance incentives in accordance with a performance incentive program
5 designed and duly approved by the Commission *en banc*, which shall in no
6 case be less than the incentives provided under existing laws.

7 **CHAPTER IV**

8 **MISCELLANEOUS PROVISIONS**

9 SEC. 12. Section 41 of the Electric Power Industry Reform Act (EPIRA) of 2001
10 is hereby amended to read as follows:

11 “SEC. 41. **PROTECTION AND Promotion of Consumer Interests.** – [The
12 ERC shall handle consumer complaints and ensure the adequate promotion of
13 consumer interests.] THE ERC SHALL ADDRESS AND PROVIDE TIMELY
14 RESOLUTIONS TO CONSUMER COMPLAINTS AND ENSURE ADEQUATE
15 PROTECTION OF CONSUMER INTERESTS THROUGH THE ADOPTION OF
16 POLICIES THAT FOSTER GOALS SUCH AS PUBLIC ACCESS TO THE ERC AND
17 ITS PROCESSES, CONSUMER EDUCATION, AND EFFICIENT UTILIZATION OF
18 ERC RESOURCES.

19 FOR THIS PURPOSE, THE ERC SHALL REGULARLY CONDUCT
20 TRAININGS FOR THE EFFICIENT HANDLING OF CONSUMER COMPLAINTS BY
21 THE DISTRIBUTION UTILITIES’ CONSUMER WELFARE DESK (CWD). THE ERC
22 SHALL ALLOCATE AN ANNUAL BUDGET FOR THIS PURPOSE.

23 SEC. 13. **Limited Fiscal Autonomy.** - In addition to its yearly appropriation
24 authorized in the General Appropriations Act (GAA), the Commission shall be allowed
25 to use for the following year thirty percent (30%) of its revenues generated from the
26 collection of fees, assessments, licenses, fines, penalties and other charges.

27 The said amount shall be utilized in the following manner:

- 28 a) Ten percent (10%) of such income shall be used to augment ERC’s
29 Capital Outlay (CO) Budget;
30 b) Fifteen percent (15%) of such income shall be used to augment the
31 ERC’s Maintenance and Other Operating Expenses (MOOE) Budget;
32 and
33 c) Seventy-five percent (75%) of such income shall be used to augment the
34 ERC’s Personnel Service (PS) Budget intended to augment the benefits
35 of the ERC Officers, personnel and staff except for the Chairperson and
36 members of the Commission.

37 In case the ERC fails to fully utilize the revenues mentioned herein, the
38 unutilized amount shall revert to the National Treasury.

1 SEC. 14. ***Public Disclosure and Transparency.*** – The Commission shall
2 submit and make available to the public, within the prescribed period, reports pertinent
3 to compliance submissions, reports, certificates, orders, or decisions, except those
4 designated as confidential submissions affecting trade secrets or the like, made or
5 issued in relation to industry players in the generation, transmission, distribution, and
6 supply sectors, such as resolutions, orders, decisions, certificates of compliance,
7 certificates of registrations, retail rates of distribution utilities, system loss data of
8 distribution utilities, system and capital infrastructure, consumer complaints,
9 applications, petitions, and other similar public documents to an Electronic Disclosure
10 and Data Access system (EDDA) repository. As used in this Act, EDDA refers to the
11 system for disclosure of energy industry information for public access to ensure
12 transparency and consumer protection using electronic database and communications
13 system that shall start operating for within three (3) years from the effectivity of this Act.

14 SEC. 15. ***People's Counsel.*** – There is hereby created an office to be known as
15 the Office of the People's Counsel under the administrative supervision of the Secretary
16 of Trade and Industry. The office of the People's Counsel shall have such number of
17 employees as may be necessary to perform the functions hereinafter specified. The
18 office of the People's Counsel shall be appointed by the President of the Philippines.
19 The employees of the office of the People's Counsel shall be appointed by the
20 Secretary of Trade and Industry upon recommendation of the office of the People's
21 Counsel.

22 The office of the People's Counsel and its employees, shall not, during their
23 continuance in office, intervene directly or indirectly in the management or control of, or
24 be financially interested directly or indirectly in any transmission and distribution utility,
25 generation company, and supplier as defined in Republic Act No. 9136.

26 It shall be the duty of the office of the People's Counsel to represent and appear
27 for the public before the ERC in every case involving consumer interests. In all rate
28 cases initiated before it, the ERC shall direct the applicant or petitioner to furnish the
29 office of the People's Counsel with copies of its application including its annexes.
30 Likewise, the ERC shall furnish the office of the People's Counsel of all its Orders in the
31 said rate cases.

32 SEC. 16. ***Franking Privilege.*** – All official mail matters and telegrams of the
33 ERC addressed for delivery within the Philippines shall be received, transmitted, and
34 delivered free of charge: *Provided*, That such mail matters shall not exceed two (2)
35 kilograms.

36 CHAPTER V

37 FINAL PROVISIONS

38 SEC. 17. Section 42 of the Electric Power Industry Reform Act (EPIRA) of 2001
39 is hereby amended to read as follows:

1 “SEC. 42. [Budget of the ERC. – The amount of One hundred fifty million pesos
2 (P150,000,000.00) is hereby allocated from the existing budget of the ERB for the initial
3 operation of the ERC. Any balance shall initially be sourced from the Office of the
4 President of the Philippines. Thereafter, the annual budget of the ERC shall be included
5 in the regular or special appropriations.] **APPROPRIATIONS.** – SUCH SUMS AS MAY
6 BE NECESSARY FOR THE SUCCESSFUL IMPLEMENTATION OF THIS ACT SHALL
7 BE TAKEN FROM THE CURRENT FISCAL YEAR APPROPRIATION OF THE ERC.
8 THEREAFTER, THE AMOUNT NEEDED FOR THE CONTINUOUS
9 IMPLEMENTATION OF THIS ACT SHALL BE INCLUDED IN THE ANNUAL GENERAL
10 APPROPRIATIONS ACT.”

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

14 SEC. 19. **Repealing Clause.** – Sections 1 and 2 of Executive Order No. 172,
15 “Creating the Energy Regulatory Board” are hereby repealed. Sections 38, 39, 40, 41
16 and 42 of Republic Act No. 9136, otherwise known as the “Electric Power Industry
17 Reform Act of 2001,” are hereby amended accordingly.

18 All laws, decrees, orders, rules and regulations or parts thereof which are
19 inconsistent with or contrary to the provisions of this Act are hereby repealed or
20 amended accordingly.

21 SEC. 20. **Effectivity.** — This Act shall take effect fifteen (15) days following its
22 publication in the Official Gazette or in a newspaper of general circulation.

23 Approved,