



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

EIGHTEENTH CONGRESS

First Regular Session

House Bill No. 0414

INTRODUCED BY REPRESENTATIVE XAVIER JESUS D. ROMUALDO

EXPLANATORY NOTE

The late Representative Pedro P. Romualdo originally filed a version of this bill in the 14th and 15th Congresses. In the 14th Congress, the Committee on Energy deliberated upon this bill exhaustively. A technical working group, with the participation of electric power industry stakeholders, ironed out the issues and concerns of the electric power industry and the consuming public regarding the pilferage of electricity and electric power lines, equipment, and materials. Unfortunately, the 14th Congress was unable to pass the measure. This was re-filed in the 15th Congress but was unfortunately not passed. It was likewise filed in the 16th Congress and again was not passed.

The Explanatory Note of the late Representative Romualdo is herein reproduced and adopted as part of the explanation for the filing of this bill:

Republic Act (RA) No. 7832 was passed into law in 1994 during the 9th Congress with the legislative intent to curb the illegal use of electricity and theft of electric power transmission lines and materials as well as provide penalties to discourage perpetrators from committing these offenses. Nearly two (2) decades from the implementation of this law, the problem on illegal use of electricity and theft of electric power transmission lines and materials has not dissipated and has remained unabated.

Industry players have estimated their losses to reach billions of pesos prior to the passage of RA No. 7832. Therefore, it is only appropriate that we review this law to respond to the needs of the time. This has become a huge concern for the

government, the industry players and the general consumers due to its impact on the total cost of electricity.

This proposed measure would bring better benefits to the Filipino consumers and also protect the property of industry players such as generation companies, transmission companies, and distribution utilities, including electric cooperatives and private utilities, from pilferage and destruction.

The new provisions would provide the judicial and executive departments a better description of the true intent of the legislature. This will avoid what we call executive or judicial legislation in the interpretation of the law.

The issue on maximum cap for recoverable system loss was also ironed out with the inputs of industry players taken into account. The electric providers will also provide certain incentives to reward its consumers and distribution utilities with system losses way below the prevailing approved cap. A separate mechanism is also provided on how to treat system loss reduction. Under this new provision, it will be treated either as part of capital or operating costs of the distribution utilities.

The Filipino consumers will truly benefit and reap the fruits of this legislation. Let us continue to push for the passage of legislative measures that will alleviate the plight of our consumers.

In view of the foregoing, the support of the Members of Congress for the passage of this measure is earnestly requested.



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AN ACT
PENALIZING THE ILLEGAL USE OF ELECTRICITY, THE THEFT AND
DESTRUCTION OF ELECTRIC POWER LINES, EQUIPMENT, AND MATERIALS,
RATIONALIZING SYSTEM LOSS, REPEALING REPUBLIC ACT NO. 7832,
OTHERWISE KNOWN AS THE ANTI-ELECTRICITY AND ELECTRIC
TRANSMISSION LINES/MATERIALS PILFERAGE ACT OF 1994, AND FOR OTHER
PURPOSES

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

SECTION 1. *Short Title.* – This Act shall be known and may be cited as the *Anti-Electricity, Electric Power Lines, Equipment, and Materials Pilferage Act*.

SEC. 2. *Definitions.* – As used in this Act, the following terms are hereby defined as follows:

- a. Electric power line, equipment, or material – refer to facilities, assets, and infrastructure used in electric power generation, transmission, and distribution such as, but not limited to:
- (1) Generation, transmission, and distribution equipment and line structures and poles of any make or design;
 - (2) All types of wires and cables used to generate, transmit, and distribute electricity, including those used for grounding, control, measurement, and communication purposes;
 - (3) All overhead ground and neutral wires designed to protect electrical conductors from lightning strikes and provide voltage stability;

- (4) Insulators of any other material used to attach the electrical conductors from steel towers or poles; and
 - (5) Generation, transmission, and distribution line hardware and materials of any make or kind used for the delivery of electricity.
- b. Differential billing – refers to the amount to be charged to the person concerned for the unbilled electricity illegally consumed by him or her as determined through the use of methodologies which utilize, among others, as basis for determining the amount of monthly electric consumption in kilowatt-hours to be billed, either: the highest recorded monthly consumption within the thirty (30) month billing period preceding the time of the discovery, the higher consumption between the average consumptions before or after the highest drastic drop in consumption within the thirty (30) month billing period preceding the discovery, the estimated monthly consumption as per the report of load inspection conducted during the time of discovery, and the result of the Energy Regulatory Commission (ERC) test during the time of discovery and, as basis for determining the period to be recovered by the differential billing, either: the time when the electric service of the person concerned recorded an abrupt or abnormal drop in consumption, or when there was a change in his service connection or a change in meter, or in the absence thereof, a maximum of twenty-four (24) billing months, up to the time of discovery; *Provided*, however, that such period shall, in no case, be less than one (1) year preceding the date of discovery of the illegal use of electricity regardless of any prior change of seal, meter, or service connection, or reconnection or inspection occurring within one (1) year before the date of discovery or apprehension.

SEC. 3. *Illegal Use of Electricity.* – It shall be unlawful for any person to:

- a. Tap, make, or cause to be made any connection with overhead lines, service drops, or other electric service wires, without previous authority or consent of the private electric utility (PEU) or rural electric cooperative (REC) concerned.
- b. Tap, make, or cause to be made any connection to the existing electric service facilities of any duly registered consumer without the consent or authority of both the concerned PEU or REC and such duly registered consumer.
- c. Tamper, install, or use a tampered electrical meter, instrument transformer and associated equipment, jumper, current reversing transformer, shorting or shunting wire, loop connection, or any other device or any other method, which interferes with the proper or accurate registry or metering of electric current or otherwise results in its diversion in a manner whereby electricity is stolen or wasted.
- d. Damage or destroy an electric meter, equipment, wire, or conduit or allow any of them to be so damaged or destroyed as to interfere with the proper or accurate metering of electric current.

- e. Knowingly use or receive the direct benefit of electric service obtained through any of the abovementioned acts.

SEC. 4. *Theft or Destruction of Electric Power Line, Equipment, or Material.* – It shall be unlawful for any person to:

- a. Cut, saw, slice, separate, split, severe, smelt, or remove any electric power line, equipment, or material from a tower, pole, any other installation or place of installation, or any other place or site where it may be rightfully or lawfully stored, deposited, kept, stocked, inventoried, situated, or located, without the consent of the owner.
- b. Take, carry away, remove, or transfer any electric power line, equipment, or material from a tower, pole, any other installation or place of installation, or any place or site where it may be rightfully or lawfully stored, deposited, kept, stocked, inventoried, situated or located, without the consent of the owner.
- c. Store, possess, or otherwise keep in one's premises, custody, or control any electric power line, equipment, or material without the consent of the owner thereof.
- d. Load, carry, ship, or move from one place to another, whether by land, air or sea, any electric power line, equipment, or material without first securing a clearance or permit for the said purpose from its owner.
- e. Destroy, damage, or attempt to destroy or damage, by bombs, explosives, or any other means or device, any electric power line, equipment, or material.

SEC. 5. *Prima Facie Evidence.* – (a) The presence of any of the following circumstances shall constitute *prima facie* evidence of the commission of illegal use of electricity and shall be the basis for the outright disconnection of electric service immediately upon the discovery thereof to prevent further pilferage or loss of electricity and for safety purposes, the institution of criminal action, and the lifting of any temporary restraining order or injunction which may have been issued against the PEU or REC concerned:

- 1. The presence of a bored hole on the glass cover of the electric meter, or at the back or any other part of said meter.
- 2. The presence inside the electric meter of salt, sugar, and other material that could result in the inaccurate registration of the meter's internal parts to prevent its accurate registration of consumption of electricity.
- 3. The existence of any wiring connection that affects the normal operation or registration of the electric meter.

4. The presence of a tampered, broken, or fake seal on the meter, or mutilated, altered, or tampered meter recording chart or graph, or computerized chart, graph, or log.
 5. The presence in any part of the building or its premises which is subject to the control of the consumer or on the electric meter, of a current reversing transformer, jumper, shorting and/or shunting wire, and/or loop connection or any other similar device.
 6. The mutilation, alteration, reconnection, disconnection, bypassing, or tampering of instruments, transformers, and accessories.
 7. The destruction of, or attempt to destroy, any integral accessory of the metering device box that encases an electric meter, or its metering accessories.
 8. The presence of a hole in a conduit that contains the wires leading to the electric meter.
 9. The presence of error or alarm codes in an electronic or digital electric meter indicating an unauthorized manipulation.
 10. The presence of a discrepancy in the readings of a consumer's meter with a check meter installed by the electric utility; *Provided*, that the installation of the such check meter is witnessed by a duly authorized representative of the ERC, a person in authority, or an agent of a person in authority.
 11. The acceptance of money or other valuable consideration by any officer or employee of the PEU or REC concerned or the making of such an offer to any such officer or employee for not reporting the presence of any of the abovementioned circumstances; *Provided*, however, that the discovery of any of the foregoing circumstances, in order to constitute prima facie evidence, must be personally witnessed by and attested to by a duly authorized representative of the ERC, a person in authority, or an agent of a person in authority.
- (b) The possession, control, or custody of an electric power line, equipment, or material by any person, natural or juridical, not engaged in the generation, transmission, or distribution of electric power, or in the manufacture of such electric power line, equipment, or material shall be *prima facie* evidence that such is the fruit of the offense defined in Section 4 hereof. Thus, such electric power line, equipment, or material may be confiscated from the person in possession, control, or custody thereof.

SEC. 6. *Incentive Scheme.* – An incentive scheme by way of a monetary reward in an amount equivalent to twenty percent (20%) of the value of the recovered stolen line, equipment, or material shall be given to any person who shall report to the electric power producer or generation company, transmission company, PEU, REC, police or other law enforcement authority any act which constitutes an offense under Section 4 of this Act. The incentive scheme

shall also be made available to persons who participate in the apprehension or conviction of persons who violate this Act.

The Department of Energy (DOE), in consultation with electric power producers or generation companies, transmission companies, private electric utilities, rural electric cooperatives, and consumers, shall promulgate the necessary rules and regulations for the effective implementation of this incentive scheme within sixty (60) days from the effectivity of this Act.

SEC. 7. *Inspection of Electric Service.* – Duly authorized personnel of PEUs or RECs shall, after presentation of valid identification cards and inspection report forms, be allowed entry into the premises of any dwelling or building, including commercial and government establishments, to conduct an inspection of electric service connections in the presence of the owner concerned or, in his or her absence, to be witnessed by a person in authority or an agent of a person in authority with jurisdiction over such dwelling, building, or establishment, in order to determine if any violation of this act is being committed.

SEC. 8. *Disconnection of Electric Service.* – The PEU or REC concerned shall have the right and authority to disconnect outright electric service without the need of a court or administrative order, and deny restoration of the same, when the customer or someone acting in his behalf shall have been caught *in flagrante delicto* committing any of the acts enumerated in Section 5(a) hereof, or when any pilfering device or scheme is found or attached to the electric service connection or is being used by the consumer at the time an inspection of electric service is being conducted; *Provided*, that the electric service shall not be restored unless the customer deposits the amount representing the differential billing with the PEU or REC concerned or with the competent court, as the case may be; *Provided*, further, that if the court finds that illegal use of electricity was not committed by the same person, the amount deposited shall be credited against future billings, with legal interest thereon chargeable against the private utility or rural electric cooperative, and the utility or cooperative shall be made to immediately pay such person double the value of the payment or deposit with legal interest, which amount shall likewise be creditable against immediate future billings, without prejudice to any criminal, civil, or administrative action that such person may file under existing laws, rules, and regulations; *Provided*, finally, that if the court finds the same person guilty of illegal use of electricity, he or she shall, upon final judgment, be made to pay the electric utility or rural electric cooperative concerned double the value of the differential billing.

SEC. 9. *Penalties.* – The following penalties shall be imposed upon those found to have violated this Act:

- a. Where the total amount involved does not exceed One Hundred thousand Pesos (P100,000.00), the penalty shall be *prision correccional* in its maximum period to *prision mayor* in its minimum period or a fine of twice the value of the illegal electricity usage, or both. In the case of theft or destruction of electric power lines, equipment, or materials, the fine shall be five (5) times the value of the line, equipment, or material taken or destroyed.

- b. Where the total amount involved is more than One Hundred Thousand Pesos (P100,000.00) but does not exceed Five Hundred Thousand Pesos (P500,000.00), the penalty shall be *prision mayor* in its maximum period to *reclusion temporal* or a fine of thrice the value of the illegal electricity usage, or both. In the case of theft or destruction of electric power lines, equipment, and materials, the fine shall be six (6) times the value of the line, equipment, or material taken or destroyed.
- c. Where the total amount involved is more than Five Hundred Thousand Pesos (P500,000.00), the penalty shall be *reclusion temporal* to *reclusion perpetua* or a fine of five (5) times the value of the illegal electricity usage, or both. In the case of theft or destruction of electric power lines, equipment, and materials, the applicable fine shall be ten (10) times the value of the line, equipment, or material taken or destroyed.

If the offense is committed by a juridical entity, the penalty shall be imposed on the president, officer, director, board member, partner, manager, or other officer or employee who knowingly permitted, knowingly failed to prevent, or was otherwise responsible for the commission of the offense.

If the offense is committed by, or in connivance with, an officer or employee of the PEU or REU concerned, such officer or employee shall be punished with the penalty of imprisonment two (2) degrees higher than the penalties provided herein and shall be perpetually disqualified from employment in any PEU or REC and from holding any public office.

If the offender has been previously convicted for violating Republic Act No. 7832, otherwise known as the *Anti-Electricity and Electric Transmission Lines/Materials Pilferage Act of 1994*, or for violating this Act, or has committed more than two (2) of the unlawful acts enumerated in Sections 3 and 4 of this Act, he or she shall be punished with the penalty of imprisonment two (2) degrees higher than the penalties provided herein.

SEC. 10. *Authority to Impose Violation of Contract Surcharges.* – A PEU or REC may impose surcharges, in addition to the value of the electricity pilfered, on the bills of any consumer apprehended for tampering with his electric meter or metering facility installed on his or her premises, as well as other violations of contract, such as direct connection, use of jumper, and other means of illicit usage of electricity found installed in the premises of the consumer. The surcharge for the violation of contract shall be collected from and paid by the consumer concerned as follows:

- a. First apprehension – Twenty-five percent (25%) of the current bill as surcharge.
- b. Second apprehension – Fifty percent (50%) of the current bill as surcharge.

- c. Third and subsequent apprehensions – One hundred percent (100%) of the current bill as surcharge.

The PEU or REC is authorized to discontinue the electric service in case the consumer is in arrears in the payment of the surcharges

SEC. 11. *Restriction on the Issuance of Temporary Restraining Orders or Writs of Preliminary Injunction.* – No temporary restraining order (TRO) or writ of preliminary injunction shall be issued by any court against any PEU or REC exercising the right and authority to disconnect electric service pursuant to Section 8 of this Act; *Provided*, that a TRO or writ of preliminary injunction may be issued upon the filing of a bond with the court, which shall be in the form of cash or cashier's check equivalent to the differential billing, penalties, and other charges, or to the total value of the subject matter of the action; *Provided*, however, that such TRO or writ of preliminary injunction shall not be issued or, if already issued, shall be dissolved upon the filing by the PEU or REC with the court of a counter bond in the same form and amount.

SEC. 12. *Exclusive Jurisdiction of Courts.* – The Regional Trial Court shall have original and exclusive jurisdiction over all disputes and controversies arising from the exercise of the rights and prerogatives provided under this Act. Neither the ERC nor the National Electrification Administration (NEA) shall take cognizance of any complaint or action against a PEU or REC exercising its rights under this act.

SEC. 13. *Recoverable System Loss Caps.* – The ERC shall, within one (1) year from the effectivity of this Act, determine the recoverable system loss caps of electric transmission and distribution utilities taking into account technical considerations, such as load density, sales mix, cost of service, delivery voltage, as well as the viability of PEUs and RECs and the interest of the consuming public.

The maximum rate of system loss that a distribution utility may pass on to its customers shall be the actual system loss but not exceeding eight and one-half percent (8.5%) of the total kilowatt-hours (kWh) generated and purchased for public distribution utilities and thirteen percent (13%) for electric cooperatives.

The actual company use not exceeding one percent (1%) of the total kWh generated and purchased shall be treated as an expense of distribution utilities in the following manner:

- a. For private distribution utilities that are under performance-based regulation, it shall be treated as operation and maintenance expense on its next reset.
- b. For private distribution utilities that are not yet under performance-based regulation, it shall be treated as operation and maintenance expense on its performance-based regulation application.

- c. For electric cooperatives, it shall be treated as operation and maintenance expense in the benchmarking methodology.

All distribution utilities and electric cooperatives shall submit to the ERC, through a sworn statement, the results of their updated segregated system losses together with their annual reports.

SEC. 14. *System Loss Reduction Program and Incentives.* – The ERC shall develop an incentive mechanism to reward consumers and distribution utilities whose actual system losses are below the prevailing approved caps. The incentive mechanism so adopted may be incorporated by the ERC in the performance incentive scheme under the performance-based regulation for private distribution utilities and in the benchmarking methodology for electric cooperatives. Towards this end, expenses associated with any system loss reduction program duly approved by the ERC shall be considered part of the capital or operating costs of distribution utilities.

SEC. 15. *Area of Coverage.* – The caps provided in Section 13 of this Act shall apply only to the area of coverage of PEUs and RECs as of the date of the effectivity of this Act.

SEC. 16. *Recovery of Pilferage Losses.* – Any PEU or REC which recovers any amount of pilferage losses shall, within thirty (30) days from said recovery, report in writing and under oath to the ERC the fact of recovery, the date thereof, the name of the consumer concerned, the amount recovered, the amount of pilferage loss claimed, the explanation for the failure to recover the whole amount claimed, and such other particulars as may be required by the ERC. If there is a case pending in court for the recovery of a pilferage loss, no PEU or REC shall accept payment from the consumer unless so provided in a compromise agreement duly executed by the parties and approved by the court.

SEC. 17. *Information Dissemination.* – PEUs, RECs, the ERC, and the NEA shall, in cooperation with each other, undertake a vigorous campaign to inform consumers of the provisions of this Act. PEUs and RECs shall incorporate a faithful condensation of the provisions of this Act in its contracts with new consumers.

SEC. 18. *Implementing Rules and Regulations.* – The ERC shall, within sixty (60) days from the effectivity of this Act, after consultation with the National Transmission Corporation or its concessionaire, distribution utilities, electric cooperatives, generation companies, and consumers, promulgate the rules and regulations for the effective implementation of this Act.

SEC. 19. *Separability Clause.* – If any provision of this Act is declared unconstitutional or invalid, the other parts or provisions hereof which are not affected thereby shall continue to be in full force and effect.

SEC. 20. *Repealing Clause.* – Republic Act No. 7832, otherwise known as the *Anti-Electricity and Electric Transmission Lines/Materials Pilferage Act of 1994*, is hereby repealed. All other

laws, decrees, executive orders and issuances, rules and regulations, and other issuances, or parts thereof, that are inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SEC. 21. *Effectivity Clause.* – This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in a newspaper of general circulation.

Approved,