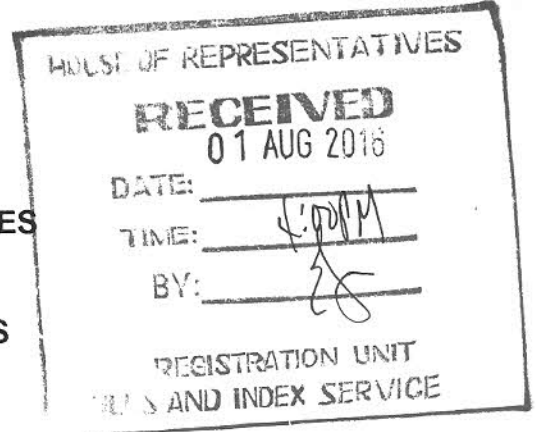


Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

SEVENTEENTH CONGRESS

First Regular Session

House Bill No. 2190



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.

A handwritten signature in black ink, consisting of a stylized 'X' followed by a series of loops and a long horizontal stroke.

XAVIER JESUS D. ROMUALDO

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INTRODUCED BY REPRESENTATIVE XAVIER JESUS D. ROMUALDO

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:

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

3
4 SEC. 2. *Definitions.* – As used in this Act, the following terms are hereby defined as
5 follows:

6
7 a. Electric power line, equipment, or material – refer to facilities, assets, and
8 infrastructure used in electric power generation, transmission, and distribution
9 such as, but not limited to:

10
11 (1) Generation, transmission, and distribution equipment and line
12 structures and poles of any make or design;

13
14 (2) All types of wires and cables used to generate, transmit, and distribute
15 electricity, including those used for grounding, control, measurement,
16 and communication purposes;

- 1
- 2 (3) All overhead ground and neutral wires designed to protect electrical
- 3 conductors from lightning strikes and provide voltage stability;
- 4
- 5 (4) Insulators of any other material used to attach the electrical conductors
- 6 from steel towers or poles; and
- 7
- 8 (5) Generation, transmission, and distribution line hardware and materials
- 9 of any make or kind used for the delivery of electricity.
- 10

11 b. Differential billing – refers to the amount to be charged to the person

12 concerned for the unbilled electricity illegally consumed by him or her as

13 determined through the use of methodologies which utilize, among others, as

14 basis for determining the amount of monthly electric consumption in kilowatt-

15 hours to be billed, either: the highest recorded monthly consumption within

16 the thirty (30) month billing period preceding the time of the discovery, the

17 higher consumption between the average consumptions before or after the

18 highest drastic drop in consumption within the thirty (30) month billing period

19 preceding the discovery, the estimated monthly consumption as per the report

20 of load inspection conducted during the time of discovery, and the result of

21 the Energy Regulatory Commission (ERC) test during the time of discovery

22 and, as basis for determining the period to be recovered by the differential

23 billing, either: the time when the electric service of the person concerned

24 recorded an abrupt or abnormal drop in consumption, or when there was a

25 change in his service connection or a change in meter, or in the absence

26 thereof, a maximum of twenty-four (24) billing months, up to the time of

27 discovery; *Provided*, however, that such period shall, in no case, be less than

28 one (1) year preceding the date of discovery of the illegal use of electricity

29 regardless of any prior change of seal, meter, or service connection, or

1 reconnection or inspection occurring within one (1) year before the date of
2 discovery or apprehension.

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

- 5
- 6 a. Tap, make, or cause to be made any connection with overhead lines, service
7 drops, or other electric service wires, without previous authority or consent of
8 the private electric utility (PEU) or rural electric cooperative (REC) concerned.
9
- 10 b. Tap, make, or cause to be made any connection to the existing electric
11 service facilities of any duly registered consumer without the consent or
12 authority of both the concerned PEU or REC and such duly registered
13 consumer.
14
- 15 c. Tamper, install, or use a tampered electrical meter, instrument transformer
16 and associated equipment, jumper, current reversing transformer, shorting or
17 shunting wire, loop connection, or any other device or any other method,
18 which interferes with the proper or accurate registry or metering of electric
19 current or otherwise results in its diversion in a manner whereby electricity is
20 stolen or wasted.
21
- 22 d. Damage or destroy an electric meter, equipment, wire, or conduit or allow any
23 of them to be so damaged or destroyed as to interfere with the proper or
24 accurate metering of electric current.
25
- 26 e. Knowingly use or receive the direct benefit of electric service obtained
27 through any of the abovementioned acts.
28

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

1 a. Cut, saw, slice, separate, split, severe, smelt, or remove any electric power
2 line, equipment, or material from a tower, pole, any other installation or place
3 of installation, or any other place or site where it may be rightfully or lawfully
4 stored, deposited, kept, stocked, inventoried, situated, or located, without the
5 consent of the owner.

6
7 b. Take, carry away, remove, or transfer any electric power line, equipment, or
8 material from a tower, pole, any other installation or place of installation, or
9 any place or site where it may be rightfully or lawfully stored, deposited, kept,
10 stocked, inventoried, situated or located, without the consent of the owner.

11
12 c. Store, possess, or otherwise keep in one's premises, custody, or control any
13 electric power line, equipment, or material without the consent of the owner
14 thereof.

15
16 d. Load, carry, ship, or move from one place to another, whether by land, air or
17 sea, any electric power line, equipment, or material without first securing a
18 clearance or permit for the said purpose from its owner.

19
20 e. Destroy, damage, or attempt to destroy or damage, by bombs, explosives, or
21 any other means or device, any electric power line, equipment, or material.

22
23 SEC. 5. *Prima Facie Evidence*. – (a) The presence of any of the following
24 circumstances shall constitute *prima facie* evidence of the commission of illegal use of
25 electricity and shall be the basis for the outright disconnection of electric service
26 immediately upon the discovery thereof to prevent further pilferage or loss of electricity
27 and for safety purposes, the institution of criminal action, and the lifting of any temporary
28 restraining order or injunction which may have been issued against the PEU or REC
29 concerned:

- 1 1. The presence of a bored hole on the glass cover of the electric meter, or at the
2 back or any other part of said meter.
3
- 4 2. The presence inside the electric meter of salt, sugar, and other material that
5 could result in the inaccurate registration of the meter's internal parts to prevent
6 its accurate registration of consumption of electricity.
7
- 8 3. The existence of any wiring connection that affects the normal operation or
9 registration of the electric meter.
10
- 11 4. The presence of a tampered, broken, or fake seal on the meter, or mutilated,
12 altered, or tampered meter recording chart or graph, or computerized chart,
13 graph, or log.
14
- 15 5. The presence in any part of the building or its premises which is subject to the
16 control of the consumer or on the electric meter, of a current reversing
17 transformer, jumper, shorting and/or shunting wire, and/or loop connection or any
18 other similar device.
19
- 20 6. The mutilation, alteration, reconnection, disconnection, bypassing, or tampering
21 of instruments, transformers, and accessories.
22
- 23 7. The destruction of, or attempt to destroy, any integral accessory of the metering
24 device box that encases an electric meter, or its metering accessories.
25
- 26 8. The presence of a hole in a conduit that contains the wires leading to the electric
27 meter.
28
- 29 9. The presence of error or alarm codes in an electronic or digital electric meter
30 indicating an unauthorized manipulation.

1 10. The presence of a discrepancy in the readings of a consumer's meter with a
2 check meter installed by the electric utility; *Provided*, that the installation of the
3 such check meter is witnessed by a duly authorized representative of the ERC, a
4 person in authority, or an agent of a person in authority.

5
6 11. The acceptance of money or other valuable consideration by any officer or
7 employee of the PEU or REC concerned or the making of such an offer to any
8 such officer or employee for not reporting the presence of any of the
9 abovementioned circumstances; *Provided*, however, that the discovery of any of
10 the foregoing circumstances, in order to constitute prima facie evidence, must be
11 personally witnessed by and attested to by a duly authorized representative of
12 the ERC, a person in authority, or an agent of a person in authority.

13
14 (b) The possession, control, or custody of an electric power line, equipment, or
15 material by any person, natural or juridical, not engaged in the generation, transmission,
16 or distribution of electric power, or in the manufacture of such electric power line,
17 equipment, or material shall be *prima facie* evidence that such is the fruit of the offense
18 defined in Section 4 hereof. Thus, such electric power line, equipment, or material may
19 be confiscated from the person in possession, control, or custody thereof.

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

28
29 The Department of Energy (DOE), in consultation with electric power producers or
30 generation companies, transmission companies, private electric utilities, rural electric

1 cooperatives, and consumers, shall promulgate the necessary rules and regulations for
2 the effective implementation of this incentive scheme within sixty (60) days from the
3 effectivity of this Act.
4

5 SEC. 7. *Inspection of Electric Service.* – Duly authorized personnel of PEUs or
6 RECs shall, after presentation of valid identification cards and inspection report forms,
7 be allowed entry into the premises of any dwelling or building, including commercial and
8 government establishments, to conduct an inspection of electric service connections in
9 the presence of the owner concerned or, in his or her absence, to be witnessed by a
10 person in authority or an agent of a person in authority with jurisdiction over such
11 dwelling, building, or establishment, in order to determine if any violation of this act is
12 being committed.
13

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

1 guilty of illegal use of electricity, he or she shall, upon final judgment, be made to pay
2 the electric utility or rural electric cooperative concerned double the value of the
3 differential billing.
4

5 SEC. 9. *Penalties.* – The following penalties shall be imposed upon those found to
6 have violated this Act:
7

8 a. Where the total amount involved does not exceed One Hundred thousand
9 Pesos (P100,000.00), the penalty shall be *prision correccional* in its maximum
10 period to *prision mayor* in its minimum period or a fine of twice the value of
11 the illegal electricity usage, or both. In the case of theft or destruction of
12 electric power lines, equipment, or materials, the fine shall be five (5) times
13 the value of the line, equipment, or material taken or destroyed.
14

15 b. Where the total amount involved is more than One Hundred Thousand Pesos
16 (P100,000.00) but does not exceed Five Hundred Thousand Pesos
17 (P500,000.00), the penalty shall be *prision mayor* in its maximum period to
18 *reclusion temporal* or a fine of thrice the value of the illegal electricity usage,
19 or both. In the case of theft or destruction of electric power lines, equipment,
20 and materials, the fine shall be six (6) times the value of the line, equipment,
21 or material taken or destroyed.
22

23 c. Where the total amount involved is more than Five Hundred Thousand Pesos
24 (P500,000.00), the penalty shall be *reclusion temporal* to *reclusion perpetua*
25 or a fine of five (5) times the value of the illegal electricity usage, or both. In
26 the case of theft or destruction of electric power lines, equipment, and
27 materials, the applicable fine shall be ten (10) times the value of the line,
28 equipment, or material taken or destroyed.
29

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

5
6 If the offense is committed by, or in connivance with, an officer or
7 employee of the PEU or REU concerned, such officer or employee shall be
8 punished with the penalty of imprisonment two (2) degrees higher than the
9 penalties provided herein and shall be perpetually disqualified from employment
10 in any PEU or REC and from holding any public office.

11
12 If the offender has been previously convicted for violating Republic Act No.
13 7832, otherwise known as the *Anti-Electricity and Electric Transmission*
14 *Lines/Materials Pilferage Act of 1994*, or for violating this Act, or has committed
15 more than two (2) of the unlawful acts enumerated in Sections 3 and 4 of this
16 Act, he or she shall punished with the penalty of imprisonment two (2) degrees
17 higher than the penalties provided herein.

18
19 SEC. 10. *Authority to Impose Violation of Contract Surcharges.* – A PEU or REC
20 may impose surcharges, in addition to the value of the electricity pilfered, on the bills of
21 any consumer apprehended for tampering with his electric meter or metering facility
22 installed on his or her premises, as well as other violations of contract, such as direct
23 connection, use of jumper, and other means of illicit usage of electricity found installed
24 in the premises of the consumer. The surcharge for the violation of contract shall be
25 collected from and paid by the consumer concerned as follows:

26
27 a. First apprehension – Twenty-five percent (25%) of the current bill as surcharge.

28
29 b. Second apprehension – Fifty percent (50%) of the current bill as surcharge.
30

1 c. Third and subsequent apprehensions – One hundred percent (100%) of the
2 current bill as surcharge.
3

4 The PEU or REC is authorized to discontinue the electric service in case the consumer
5 is in arrears in the payment of the surcharges
6

7 SEC. 11. *Restriction on the Issuance of Temporary Restraining Orders or Writs*
8 *of Preliminary Injunction.* – No temporary restraining order (TRO) or writ of preliminary
9 injunction shall be issued by any court against any PEU or REC exercising the right and
10 authority to disconnect electric service pursuant to Section 8 of this Act; *Provided*, that a
11 TRO or writ of preliminary injunction may be issued upon the filing of a bond with the
12 court, which shall be in the form of cash or cashier's check equivalent to the differential
13 billing, penalties, and other charges, or to the total value of the subject matter of the
14 action; *Provided*, however, that such TRO or writ of preliminary injunction shall not be
15 issued or, if already issued, shall be dissolved upon the filing by the PEU or REC with
16 the court of a counter bond in the same form and amount.
17

18 SEC. 12. *Exclusive Jurisdiction of Courts.* – The Regional Trial Court shall have
19 original and exclusive jurisdiction over all disputes and controversies arising from the
20 exercise of the rights and prerogatives provided under this Act. Neither the ERC nor the
21 National Electrification Administration (NEA) shall take cognizance of any complaint or
22 action against a PEU or REC exercising its rights under this act.
23

24 SEC. 13. *Recoverable System Loss Caps.* – The ERC shall, within one (1) year
25 from the effectivity of this Act, determine the recoverable system loss caps of electric
26 transmission and distribution utilities taking into account technical considerations, such
27 as load density, sales mix, cost of service, delivery voltage, as well as the viability of
28 PEUs and RECs and the interest of the consuming public.
29

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

5
6 The actual company use not exceeding one percent (1%) of the total kWh generated
7 and purchased shall be treated as an expense of distribution utilities in the following
8 manner:

9
10 a. For private distribution utilities that are under performance-based regulation, it
11 shall be treated as operation and maintenance expense on its next reset.

12
13 b. For private distribution utilities that are not yet under performance-based
14 regulation, it shall be treated as operation and maintenance expense on its
15 performance-based regulation application.

16
17 c. For electric cooperatives, it shall be treated as operation and maintenance
18 expense in the benchmarking methodology.

19
20 All distribution utilities and electric cooperatives shall submit to the ERC, through a
21 sworn statement, the results of their updated segregated system losses together with
22 their annual reports.

23
24 SEC. 14. *System Loss Reduction Program and Incentives.* – The ERC shall
25 develop an incentive mechanism to reward consumers and distribution utilities whose
26 actual system losses are below the prevailing approved caps. The incentive mechanism
27 so adopted may be incorporated by the ERC in the performance incentive scheme
28 under the performance-based regulation for private distribution utilities and in the
29 benchmarking methodology for electric cooperatives. Towards this end, expenses

1 associated with any system loss reduction program duly approved by the ERC shall be
2 considered part of the capital or operating costs of distribution utilities.

3
4 SEC. 15. *Area of Coverage.* – The caps provided in Section 13 of this Act shall
5 apply only to the area of coverage of PEUs and RECs as of the date of the effectivity of
6 this Act.

7
8 SEC. 16. *Recovery of Pilferage Losses.* - Any PEU or REC which recovers any
9 amount of pilferage losses shall, within thirty (30) days from said recovery, report in
10 writing and under oath to the ERC the fact of recovery, the date thereof, the name of the
11 consumer concerned, the amount recovered, the amount of pilferage loss claimed, the
12 explanation for the failure to recover the whole amount claimed, and such other
13 particulars as may be required by the ERC. If there is a case pending in court for the
14 recovery of a pilferage loss, no PEU or REC shall accept payment from the consumer
15 unless so provided in a compromise agreement duly executed by the parties and
16 approved by the court.

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

22
23 SEC. 18. *Implementing Rules and Regulations.* – The ERC shall, within sixty (60)
24 days from the effectivity of this Act, after consultation with the National Transmission
25 Corporation or its concessionaire, distribution utilities, electric cooperatives, generation
26 companies, and consumers, promulgate the rules and regulations for the effective
27 implementation of this Act.

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

4
5 SEC. 20. *Repealing Clause.* – Republic Act No. 7832, otherwise known as the
6 *Anti-Electricity and Electric Transmission Lines/Materials Pilferage Act of 1994*, is
7 hereby repealed. All other laws, decrees, executive orders and issuances, rules and
8 regulations, and other issuances, or parts thereof, that are inconsistent with the
9 provisions of this Act are hereby repealed or modified accordingly.

10
11 SEC. 21. *Effectivity Clause.* – This Act shall take effect fifteen (15) days after its
12 publication in the Official Gazette or in a newspaper of general circulation.

13
14 Approved,