



HOUSE OF REPRESENTATIVES

H. No. 78

BY REPRESENTATIVES SALCEDA, YAP (V.), ROMUALDO, VILLAFUERTE, SALO, SUANSING (E.), SUANSING (H.), GARIN (S.), HERRERA-DY, BENITEZ, ALBANO, DEFENSOR (L.), CHATTO, QUIMBO, CABREDO, PADUANO, BUSTOS, NIETO, BOLILIA, ARENAS, VILLANUEVA (N.), CASTRO (F.H.), CHUNGALAO, FARINAS (R.C.), ROBES, ALONTE, BILLONES, DEFENSOR (M.), TAMBUNTING, LACSON, AUMENTADO, CARI, EBCAS, ESPINO, LOPEZ, YU, RODRIGUEZ AND ROMUALDEZ (F.M.)

AN ACT MODERNIZING THE PUBLIC SERVICE ACT, AMENDING FOR THE PURPOSE COMMONWEALTH ACT NO. 146, OTHERWISE KNOWN AS THE "PUBLIC SERVICE ACT", AS AMENDED

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 as the "New Public Service Act".

SEC. 2. *Declaration of Policy.* – It is the State's policy to promote a just and dynamic social order that will alleviate poverty through measures that promote an improved quality of life for all.

It is hereby recognized that public services are necessary to the public and must be regulated, in pursuit of consumer welfare and quality basic services.

These policies are fulfilled by: (a) ensuring effective regulation of public services; (b) providing reasonable rate of return to public services; (c) rationalize foreign equity restrictions by clearly defining the term "public utilities"; and (d) instituting processes for the protection of national security.

SEC. 3. *Definition of Terms.* – For the purposes of this Act, the terms below shall be defined as follows:

(a) *Administrative Agency* refers to existing agencies, as enumerated under Section 4 hereof, to which the powers and duties of the Public Service Commission were transferred;

(b) *Common Carrier* refers to persons, corporations, firms or associations engaged in the business of carrying or transporting passengers or goods or both, by land, water, or air, for compensation, offering their services to the public, as defined by Article 1732 of Republic Act No. 386, otherwise known as the "Civil Code of the Philippines", as amended;

(c) *Concession* refers to a contract granting a private concessionaire the privilege to, among others, finance, construct, manage, operate and/or maintain concession assets;

(d) *Concessionaire* refers to a person, corporation, firm or association awarded a concession;

(e) *Distribution of Electricity* refers to the conveyance of electric power by a distribution utility through its distribution system as defined by Section 4(n) of Republic Act No. 9136, otherwise known as the "Electric Power Industry Reform Act of 2001";

(f) *Philippine National* refers to citizens, partnerships, associations, and corporations defined by Section 3(a) of Republic Act No. 7042, otherwise known as the "Foreign Investments Act of 1991", as amended;

(g) *Telecommunications* refers to any process which enables a telecommunications entity to relay and receive voice, data, electronic messages, written or printed matter, fixed or moving pictures, words, music or visible or audible signals or any control signals of any design and for any purpose by wire, radio or other electromagnetic, spectral, optical or technological means, as defined by Section 3(a) of Republic Act No. 7925, otherwise known as the "Public Telecommunications Policy Act of the Philippines", as amended;

(h) *Transmission of Electricity* refers to the conveyance of electricity through the high voltage backbone system, as defined by Section 4(ccc) of Republic Act No. 9136, otherwise known as the "Electric Power Industry Reform Act of 2001";

(i) *Water Pipeline Distribution Systems* refer to the operation and maintenance of water pipeline distribution systems to ensure an uninterrupted and adequate supply and distribution of potable water for domestic and other purposes, as regulated by Republic Act No. 6234, entitled "An Act Creating the Metropolitan Waterworks and Sewerage System and Dissolving the National Waterworks and Sewerage Authority; and for Other Purposes", as amended, and Presidential Decree No. 198, otherwise known as the "Provincial Water Utilities Act of 1973", as amended; and

(j) *Sewerage Pipeline Systems* refer to the operation and maintenance of sewerage pipeline systems to ensure public health and safety, as regulated by Republic Act No. 6234, entitled "An Act Creating the Metropolitan Waterworks and Sewerage System and Dissolving the National Waterworks and Sewerage Authority; and for Other Purposes", as amended, and Presidential Decree No. 198, otherwise known as the "Provincial Water Utilities Act of 1973", as amended.

SEC. 4. *Recognition of Transfer of Jurisdiction to Various Administrative Agencies.* – All references to the Public Service Commission in Commonwealth Act No. 146, as amended, shall pertain to any Administrative Agency to which the powers and duties of the Public Service Commission were transferred, such as but not limited to:

- (a) Civil Aeronautics Board (CAB);
- (b) Civil Aviation Authority of the Philippines (CAAP);
- (c) Department of Energy (DOE);
- (d) Department of Environment and Natural Resources (DENR);
- (e) Department of Information and Communications Technology (DICT);
- (f) Department of Transportation (DOTr);
- (g) Energy Regulatory Commission (ERC);
- (h) Land Transportation Franchising and Regulatory Board (LTFRB);
- (i) Land Transportation Office (LTO);
- (j) Local Water Utilities Administration (LWUA);

- (k) Maritime Industry Authority (MARINA);
- (l) Metropolitan Waterworks and Sewerage System (MWSS);
- (m) National Telecommunications Commission (NTC);
- (n) National Water Resources Board (NWRB);
- (o) Philippine Ports Authority (PPA); and
- (p) Toll Regulatory Board (TRB).

SEC. 5. Section 13 of Commonwealth Act No. 146, as amended, is hereby further amended to read as follows:

"SEC. 13. (a) The [Commission] ADMINISTRATIVE AGENCY shall have jurisdiction, supervision, and control over all public services and their franchises, equipment, and other properties, and in the exercise of its authority, it shall have the necessary powers and the aid of public force: *Provided*, That public services owned or operated by government entities or government-owned or controlled corporations shall be regulated by the [Commission] ADMINISTRATIVE AGENCY in the same way as privately-owned public services, [but certificates of public convenience or certificates of public convenience and necessity shall not be required of such entities or corporations: *And provided, further*, That it shall have no authority to require steamboats, motorships and steamship lines, whether privately-owned, or owned or operated by any government controlled corporation or instrumentality to obtain certificate of public convenience or to prescribe their definite routes or lines

of service] *PROVIDED, FURTHER, THAT THE REQUIREMENT OF A FRANCHISE, CERTIFICATE, CONCESSION, OR ANY OTHER APPROPRIATE FORM OF AUTHORIZATION FOR THE OPERATION OF A PUBLIC SERVICE SHALL APPLY IN CASE THE CHARTER OR ENABLING LAW OF A PUBLIC SERVICE OWNED OR OPERATED BY A GOVERNMENT ENTITY OR GOVERNMENT-OWNED OR CONTROLLED CORPORATION DOES NOT EXPLICITLY REQUIRE THE SAME.*

"(b) The term 'public service' includes every person that now or hereafter may own, operate, manage, or control in the Philippines, for hire or compensation, with general or limited clientele, whether permanent, occasional or accidental, and done for general use business purposes, SERVICES WHICH ARE NON-RIVALROUS OR IMBUED WITH PUBLIC INTEREST, SUCH AS x x x marine repair shop, wharf or dock, [ice plant, ice-refrigeration plant,] canal, PUBLIC MARKET, irrigation system, gas, electric light, heat and power, water supply and power, petroleum, sewerage system, TELECOMMUNICATIONS SYSTEM, wire or wireless communications system, x x x.

"x x x

"(D)(1) A PUBLIC SERVICE THAT MEETS ALL OF THE FOLLOWING CRITERIA IS DEEMED A PUBLIC UTILITY:

"(i) THE PERSON OR ENTITY REGULARLY SUPPLIES, TRANSMITS AND DISTRIBUTES TO THE PUBLIC

1 THROUGH A NETWORK A COMMODITY OR SERVICE OF
2 PUBLIC CONSEQUENCE;

3 "(II) THE PUBLIC SERVICE IS A NATURAL
4 MONOPOLY THAT NEEDS TO BE REGULATED. FOR THIS
5 PURPOSE, NATURAL MONOPOLY EXISTS WHEN THE
6 MARKET DEMAND FOR A COMMODITY OR SERVICE CAN BE
7 SUPPLIED BY A SINGLE ENTITY AT A LOWER COST THAN
8 BY TWO OR MORE ENTITIES;

9 "(III) THE COMMODITY OR SERVICE IS NECESSARY
10 FOR THE MAINTENANCE OF LIFE AND OCCUPATION OF
11 THE PUBLIC; AND

12 "(IV) THE PERSON OR ENTITY IS OBLIGATED TO
13 PROVIDE ADEQUATE SERVICE TO THE PUBLIC ON
14 DEMAND.

15 "(2) AN ENTITY THAT OPERATES, MANAGES OR
16 CONTROLS FOR PUBLIC USE, ANY OF THE FOLLOWING
17 SYSTEMS IS A PUBLIC UTILITY:

18 (I) DISTRIBUTION OF ELECTRICITY;

19 (II) TRANSMISSION OF ELECTRICITY;

20 (III) WATER PIPELINE DISTRIBUTION; AND

21 (IV) SEWERAGE PIPELINE.

22 "A CONCESSIONAIRE GRANTED A CONCESSION BY A
23 GOVERNMENT AGENCY ENGAGED IN PUBLIC UTILITY
24 OPERATIONS SHALL BE DEEMED A PUBLIC UTILITY FOR
25 THE PURPOSES OF THIS ACT.

26 "(3) IN ADDITION TO SECTION (D)(1) AND (2)
27 ABOVE, THE NATIONAL ECONOMIC AND DEVELOPMENT
28 AUTHORITY (NEDA), IN CONSULTATION WITH THE
29 PHILIPPINE COMPETITION COMMISSION (PCC), SHALL

1 RECOMMEND TO CONGRESS THE CLASSIFICATION OF A
2 PUBLIC SERVICE AS A PUBLIC UTILITY PROVIDED THAT
3 SUCH PUBLIC SERVICE IS ABLE TO MEET ALL THE
4 CRITERIA ENUMMERATED IN SECTION 13(D)(1) OF THIS
5 ACT.

6 "NO OTHER PERSON SHALL BE DEEMED A PUBLIC
7 UTILITY UNDER SECTION 13(D) OF THIS ACT, UNLESS
8 OTHERWISE SUBSEQUENTLY PROVIDED BY LAW."

9 SEC. 6. Section 14 of Commonwealth Act No. 146, as
10 amended, is hereby further amended to read as follows:

11 "SEC. 14. (1) The following are exempted from the
12 provisions of [the preceding section] SECTION 13(A), (B)
13 AND (C) OF THIS ACT:

14 "(a) Warehouses;

15 "(b) Vehicles drawn by animals and bancas moved
16 by oar or sail, and tugboats and lighters[.];

17 "(c) Airships within the Philippines except as
18 regards the fixing of their maximum rates on freight and
19 passengers;

20 "(d) Radio companies except with respect to the
21 fixing of rates; AND

22 "(e) Public services owned or operated by any
23 instrumentality of the National Government or by any
24 government-owned or controlled corporation, except with
25 respect to the fixing of rates.

26 "(2) IN THE INTEREST OF NATIONAL SECURITY,
27 THE PRESIDENT, AFTER REVIEW, EVALUATION AND

RECOMMENDATION OF THE RELEVANT GOVERNMENT DEPARTMENT OR ADMINISTRATIVE AGENCY, MAY SUSPEND OR PROHIBIT ANY PROPOSED MERGER OR ACQUISITION TRANSACTION, OR ANY INVESTMENT IN A PUBLIC SERVICE THAT EFFECTIVELY RESULTS IN THE GRANT OF CONTROL, WHETHER DIRECT OR INDIRECT, TO A FOREIGNER OR A FOREIGN CORPORATION.

"THE PCC SHALL BE CONSULTED ON ALL MATTERS RELATING TO MERGERS AND ACQUISITIONS.

"THE NEDA SHALL PROMULGATE RULES AND REGULATIONS TO IMPLEMENT THE PROVISIONS OF THIS SECTION.

"(3) IN THE INTEREST OF NATIONAL SECURITY, THE RESTRICTION ON FOREIGN OWNERSHIP IMPOSED ON PUBLIC UTILITIES UNDER THE 1987 CONSTITUTION SHALL CONTINUE TO APPLY TO A PERSON THAT MANAGES, OPERATES, AND CONTROLS PUBLIC SERVICES INVOLVING AIR TRANSPORTATION, PHILIPPINE PORTS, AND AIRPORTS."

SEC. 7. Section 15 of Commonwealth Act No. 146, as amended, is hereby further amended to read as follows:

"SEC. 15. With the exception of those enumerated in [the preceding section] SECTION 14(1), no public service shall operate in the Philippines without possessing a valid and subsisting FRANCHISE, certificate, [from the Public Service Commission, known as 'certificate of public convenience,' or 'certificate of public convenience and necessity,'] CONCESSION, OR ANY

OTHER APPROPRIATE FORM OF AUTHORIZATION FOR THE OPERATION OF A PUBLIC SERVICE, FROM CONGRESS, AND/OR THE PROPER ADMINISTRATIVE AGENCY, as the case may be, to the effect that the operation of said service and the authorization to do business will promote the public interests in a proper and suitable manner.

"The [Commission] ADMINISTRATIVE AGENCY [may] SHALL prescribe as a condition for the issuance of the FRANCHISE, certificate, CONCESSION, OR ANY OTHER APPROPRIATE FORM OF AUTHORIZATION FOR THE OPERATION OF A PUBLIC SERVICE provided in the preceding paragraph that the service can be acquired by the [Commonwealth] REPUBLIC of the Philippines or by any instrumentality thereof upon payment of the cost price of its CAPITAL STOCK, useful equipment, INFRASTRUCTURE, OR PROPERTY, less reasonable depreciation; and likewise, that the FRANCHISE, certificate, CONCESSION, OR ANY OTHER APPROPRIATE FORM OF AUTHORIZATION FOR THE OPERATION OF A PUBLIC SERVICE shall be valid only for a definite period of time; and that the violation of any of these conditions shall produce the immediate cancellation of the FRANCHISE, certificate, CONCESSION, OR ANY OTHER APPROPRIATE FORM OF AUTHORIZATION FOR THE OPERATION OF A PUBLIC SERVICE without the necessity of any express action on the part of the [Commission] ADMINISTRATIVE AGENCY.

1 "UNLESS OTHERWISE PROVIDED BY LAW, OR BY
2 ANY INTERNATIONAL AGREEMENT, A PUBLIC SERVICE
3 SHALL EMPLOY A FOREIGN NATIONAL ONLY AFTER THE
4 DETERMINATION OF NONAVAILABILITY OF A PHILIPPINE
5 NATIONAL WHO IS COMPETENT, ABLE AND WILLING TO
6 PERFORM THE SERVICES FOR WHICH THE FOREIGN
7 NATIONAL IS DESIRED: *PROVIDED*, THAT IN NO CASE
8 SHALL THE EMPLOYED FOREIGN NATIONALS COMPRISE
9 MORE THAN TWENTY-FIVE PERCENT (25%) OF THE TOTAL
10 EMPLOYEES OF THE PUBLIC SERVICE.

11 "ANY FOREIGN NATIONAL SEEKING ADMISSION TO
12 THE PHILIPPINES FOR EMPLOYMENT PURPOSES AND ANY
13 PUBLIC SERVICE WHICH DESIRES TO ENGAGE A FOREIGN
14 NATIONAL FOR EMPLOYMENT IN THE PHILIPPINES MUST
15 OBTAIN AN EMPLOYMENT PERMIT PURSUANT TO
16 PRESIDENTIAL DECREE NO. 442, OTHERWISE KNOWN AS
17 THE LABOR CODE OF THE PHILIPPINES, AS AMENDED.

18 "NO FOREIGN NATIONAL SHALL BE ALLOWED TO
19 OWN CAPITAL STOCK OF ANY PUBLIC SERVICE
20 CLASSIFIED AS A PUBLIC UTILITY PRIOR TO THIS ACT,
21 UNLESS THE COUNTRY OF SUCH FOREIGN NATIONAL
22 ACCORDS RECIPROCAL RIGHTS TO PHILIPPINE
23 NATIONALS AS MAY BE PROVIDED BY FOREIGN LAW,
24 TREATY OR INTERNATIONAL AGREEMENT. RECIPROCITY
25 MAY BE SATISFIED BY ACCORDING RIGHTS OF SIMILAR
26 VALUE IN OTHER ECONOMIC SECTORS.

27 "x x x."

28 SEC. 8. Section 16 of Commonwealth Act No. 146, as
29 amended, is hereby further amended to read as follows:

1 "SEC. 16. *Proceedings of the [Commission]*
2 *ADMINISTRATIVE AGENCY, upon notice and hearing. -*
3 The [Commission] ADMINISTRATIVE AGENCY shall have
4 power, upon proper notice and hearing in accordance
5 with the rules and provisions of this Act, subject to the
6 limitations and exceptions mentioned and saving
7 provisions to the contrary:

8 "(a) To issue FRANCHISES, certificates, [which
9 shall be known as Certificates of Public Convenience,]
10 CONCESSIONS, OR ANY OTHER APPROPRIATE FORM OF
11 AUTHORIZATION FOR THE OPERATION OF A PUBLIC
12 SERVICE authorizing the operation of public services
13 within the Philippines whenever the [Commission]
14 ADMINISTRATIVE AGENCY finds that the operation of the
15 public service proposed and the authorization to do
16 business will promote the public interests in proper and
17 suitable manner.[: *Provided*, That hereafter, certificates
18 of public convenience and certificates of public
19 convenience and necessity will be granted only to citizens
20 of the Philippines or of the United States or to
21 corporations, co-partnerships, associations or joint-stock
22 companies constituted and organized under the laws of
23 the Philippines: *Provided*, That sixty per centum of the
24 stock or paid-up capital of any such corporation,
25 co-partnership, association or joint-stock company must
26 belong entirely to citizens of the Philippines or of the

1 United States: *Provided, further,* That no such
2 certificates shall be issued for a period of more than fifty
3 years.]

4 "(b) To approve, subject to constitutional
5 limitations, any franchise or privilege granted [under the
6 provision of Act Numbered Six hundred and sixty-seven,
7 as amended by Act Numbered One thousand and
8 twenty-two,] by any political subdivision of the
9 Philippines when, in the judgment of the [Commission]
10 ADMINISTRATIVE AGENCY, such franchise or privilege
11 will properly conserve the public interests, and the
12 [Commission] ADMINISTRATIVE AGENCY, shall in so
13 approving impose such conditions as to construction,
14 equipment, maintenance, service, or operation as the
15 public interests and convenience may reasonably require,
16 and to issue FRANCHISES, certificates, [of public
17 convenience and necessity] CONCESSIONS, OR ANY
18 OTHER APPROPRIATE FORM OF AUTHORIZATION FOR THE
19 OPERATION OF A PUBLIC SERVICE when such is required
20 or provided by any law or franchise.

21 "(c) To fix and determine individual or joint rates,
22 tolls, charges, classifications, or schedules thereof, as
23 well as commutation, mileage, kilometrage, and other
24 special rates which shall be imposed, observed, and
25 followed thereafter by any public service WHEN THE
26 PUBLIC INTEREST SO REQUIRES: *Provided,* That the

1 [Commission] ADMINISTRATIVE AGENCY may, in its
2 discretion, approve rates proposed by public services
3 provisionally and without necessity of any hearing; but it
4 shall call a hearing thereon within [thirty] FIFTEEN (15)
5 days, thereafter, upon publication and notice to the
6 [concerns operating] AFFECTED PARTIES WITHIN the
7 territory affected: *Provided, further,* That in case the
8 public service equipment of an operator is used
9 principally or secondarily for the promotion of a private
10 business, the net profits of said private business shall be
11 considered in relation with the public service of such
12 operator for the purpose of fixing the rates[.]:
13 *PROVIDED, FINALLY,* THAT WHEN THE PUBLIC INTEREST
14 REQUIRES, THE ADMINISTRATIVE AGENCY MAY
15 ESTABLISH AND ENFORCE A METHODOLOGY FOR SETTING
16 RATES, TAKING INTO ACCOUNT ALL RELEVANT
17 CONSIDERATIONS, INCLUDING THE EFFICIENCY OF THE
18 REGULATED PUBLIC SERVICE. THE RATES MUST BE SUCH
19 AS TO ALLOW THE RECOVERY OF PRUDENT AND
20 EFFICIENT COSTS AND A REASONABLE RATE OF RETURN
21 TO ENABLE THE PUBLIC SERVICE TO OPERATE VIABLY
22 AND EFFICIENTLY. THE ADMINISTRATIVE AGENCY
23 MAY ADOPT ALTERNATIVE FORMS CONSISTENT
24 WITH INTERNATIONALLY ACCEPTED RATE-SETTING
25 METHODOLOGY. THE ADOPTED RATE-SETTING
26 METHODOLOGY SHALL ENSURE A REASONABLE PRICE
27 OF THE COMMODITY OR SERVICE AND THAT THE
28 RATES PRESCRIBED SHALL NOT BE DISCRIMINATORY.

1 "THIS PROVISION SHALL NOT BE INTERPRETED AS
 2 MANDATING RATE REGULATION NOR AMENDING OR
 3 REPEALING: (1) LAWS PROVIDING A DEREGULATION
 4 POLICY, SUCH AS REPUBLIC ACT NO. 7925, OTHERWISE
 5 KNOWN AS THE 'PUBLIC TELECOMMUNICATIONS POLICY
 6 ACT OF THE PHILIPPINES'; REPUBLIC ACT NO. 8479,
 7 OTHERWISE KNOWN AS THE 'DOWNSTREAM OIL
 8 INDUSTRY DEREGULATION ACT OF 1998'; REPUBLIC
 9 ACT NO. 9136, OTHERWISE KNOWN AS THE 'ELECTRIC
 10 POWER INDUSTRY REFORM ACT OF 2001'; AND
 11 REPUBLIC ACT NO. 9295, OTHERWISE KNOWN AS THE
 12 'DOMESTIC SHIPPING DEVELOPMENT ACT OF 2004';
 13 AND (2) REGULATIONS PROMULGATED BY THESE
 14 ADMINISTRATIVE AGENCIES TO DEREGULATE RATES.

15 "x x x

16 "(h) To require any public service to establish,
 17 construct, maintain, and operate any reasonable
 18 extension of its existing facilities, where, in the
 19 judgment of said [Commission] ADMINISTRATIVE
 20 AGENCY, such extension is reasonable and practicable
 21 and will furnish sufficient business to justify the
 22 construction and maintenance of the same, and when
 23 the financial condition of the said public service
 24 reasonably warrants the original expenditure required
 25 in making and operating such extension.

26 "(i) To direct any railroad, street railway or
 27 traction company to establish and maintain at any

1 junction or point of connection or intersection with any
 2 other line of said road or track, or with any other line
 3 of any other railroad, street railway or traction
 4 company, such [just and reasonable] PRUDENT AND
 5 EFFICIENT connection as shall be necessary to promote
 6 the convenience of shippers of property, or of
 7 passengers, and in like manner to direct any railroad,
 8 street railway[,] or traction company engaged in
 9 carrying merchandise, to construct, maintain and
 10 operate, upon reasonable terms, a switch connection
 11 with any private sidetrack which may be constructed
 12 by any shipper to connect with the railroad, street
 13 railway or traction company line where, in the
 14 judgment of the [Commission] ADMINISTRATIVE
 15 AGENCY, such connection is reasonable and
 16 practicable, and can be put in with safety, and will
 17 furnish sufficient business to justify the construction
 18 and maintenance of the same.

19 "x x x

20 "(k) To direct any railroad or street railway
 21 company to install such safety devices or adopt such
 22 other reasonable measures as may in the judgment of
 23 the [Commission] ADMINISTRATIVE AGENCY be
 24 necessary for the protection of the public at passing
 25 grade crossings of (1) public highways and railroads,
 26 (2) public highways and street railways, or (3)
 27 railroads and street railways.

“(l) To fix and determine proper and adequate rates of depreciation of the property of any public service [which will be observed in a proper and adequate depreciation account to be carried for the protection of stockholders, bondholders or creditors,] in accordance with such rules, regulations, and forms of accounts as the [Commission] ADMINISTRATIVE AGENCY may prescribe. Said rates shall be sufficient to provide the amounts required over and above the expense of maintenance to keep such property in a state of efficiency corresponding to the progress of the industry. [Each public service shall conform its depreciation accounts to the rates so determined and fixed, and shall set aside the moneys so provided for out of its earnings and carry the same in a depreciation fund. The income from investments of money in such fund shall likewise be carried in such fund. This fund shall not be expended otherwise than for depreciation, improvements, new constructions, extensions or additions to the property of such public service.]

“x x x

“(n) To suspend or revoke any FRANCHISE, certificate, CONCESSION, OR ANY OTHER APPROPRIATE FORM OF AUTHORIZATION FOR THE OPERATION OF A PUBLIC SERVICE issued under the provisions of this Act whenever the holder thereof has violated or willfully and contumaciously refused to comply with any

order, rule or regulation of the [Commission] ADMINISTRATIVE AGENCY or any provision of this Act: *Provided*, That the [Commission] ADMINISTRATIVE AGENCY for good cause, may prior to the hearing suspend for a period not to exceed thirty days any FRANCHISE, certificate, CONCESSION, OR ANY OTHER APPROPRIATE FORM OF AUTHORIZATION FOR THE OPERATION OF A PUBLIC SERVICE, or the exercise of any right or authority issued or granted under this Act by order of the [Commission] ADMINISTRATIVE AGENCY, whenever such step shall in the judgment of the [Commission] ADMINISTRATIVE AGENCY be necessary to avoid serious and irreparable damage or inconvenience to the public or to private interests.

“x x x.”

SEC. 9. Section 17 of Commonwealth Act No. 146, as amended, is hereby further amended to read as follows:

“SEC. 17. *Proceedings of* [Commission] ADMINISTRATIVE AGENCY *without previous hearing.* — The [Commission] ADMINISTRATIVE AGENCY shall have power, without previous hearing, subject to established limitations and exceptions and saving provisions to the contrary:

“(a) To investigate, upon its own initiative, or upon complaint in writing, any matter concerning any public service as regards matters under its

jurisdiction; to require any public service to furnish safe, adequate, and proper service as the public interest may require and warrant; to enforce compliance with any standard, rule, regulation, order or other requirement of this Act or of the [Commission] ADMINISTRATIVE AGENCY, and to prohibit or prevent any public service as herein defined from operating without having first secured a [certificate of public convenience or public necessity and convenience] FRANCHISE, CERTIFICATE, CONCESSION, OR ANY OTHER APPROPRIATE FORM OF AUTHORIZATION FOR THE OPERATION OF A PUBLIC SERVICE, as the case may be, and require existing public services to pay the fees provided for in this Act for the issuance of the [proper certificate of public convenience or certificate of public necessity and convenience] FRANCHISE, CERTIFICATE, CONCESSION, OR ANY OTHER APPROPRIATE FORM OF AUTHORIZATION FOR THE OPERATION OF A PUBLIC SERVICE, as the case may be, under the penalty, in the discretion of the [Commission] ADMINISTRATIVE AGENCY, of the revocation and cancellation of any acquired right.

“(b) To require any public service to pay the actual expenses incurred by the [Commission] ADMINISTRATIVE AGENCY in any investigation if it shall be found in the same that any rate, toll, charge,

schedule, regulation, practice, act or service thereof is in violation of any provision of this Act or of any FRANCHISE, certificate, CONCESSION, OR ANY OTHER APPROPRIATE FORM OF AUTHORIZATION FOR THE OPERATION OF A PUBLIC SERVICE, order, rule, regulation or requirement issued or established by the [Commission] ADMINISTRATIVE AGENCY. The [Commission] ADMINISTRATIVE AGENCY may also assess against any public service REASONABLE costs [not to exceed twenty-five pesos] with reference to such investigation.

“(c) From time to time appraise and value the property of any public service, whenever in the judgment of the [Commission] ADMINISTRATIVE AGENCY it shall be necessary [so] to do so, for the purpose of carrying out any of the provisions of this Act, and in making such valuation the [Commission] ADMINISTRATIVE AGENCY may have access to and use any books, documents, or records in the possession of any department, bureau, office, or board of the Government of the Philippines or any political subdivision thereof.

“(d) To provide, on motion by or at the request of any consumer or user of a public service, for the examination and test of any appliance used for the measuring of any product or service of a public service,

1 and for that purpose, by its agents, experts, or
 2 examiners to enter upon any premises where said
 3 appliances may be, and other premises of the public
 4 service, for the purpose of setting up and using on said
 5 premises any apparatus necessary therefor, and to fix
 6 the fees to be paid by any consumer or user who may
 7 apply to the [Commission] ADMINISTRATIVE AGENCY
 8 for such examination or test to be made, and if the
 9 appliance be found defective or incorrect to the
 10 disadvantage of the consumer or user, to require the
 11 fees paid to be refunded to the consumer or user by the
 12 public service concerned.

13 “(e) To permit any street railway or traction
 14 company to change its existing gauge to standard
 15 steam railroad gauge, upon such terms and conditions
 16 as the [Commission] ADMINISTRATIVE AGENCY shall
 17 prescribe.

18 “(f) To grant to any public service special
 19 permits to make extra or special trips within the
 20 territory covered by its [certificate of public
 21 convenience] FRANCHISE, CERTIFICATE, CONCESSION,
 22 OR ANY OTHER APPROPRIATE FORM OF
 23 AUTHORIZATION FOR THE OPERATION OF A PUBLIC
 24 SERVICE, and to make special excursion trips outside
 25 of its own territory [if its own territory] if the public
 26 interest or special circumstances require it: *Provided,*
 27 *however,* That in case a public service cannot render

1 such extra service on its own line or in its own
 2 territory, a special permit for such extra service may be
 3 granted to any other public service.

4 “(g) To require any public service to keep its
 5 books, records, and accounts so as to afford an
 6 intelligent understanding of the conduct of its
 7 business and to that end to require every such public
 8 service of the same class to adopt a uniform system of
 9 accounting. Such system shall conform to any system
 10 approved and confirmed by the [Auditor-General]
 11 COMMISSION ON AUDIT.

12 “x x x.”

13 SEC. 10. Section 18 of Commonwealth Act No. 146, as
 14 amended, is hereby further amended to read as follows:

15 “SEC. 18. It shall be unlawful for any individual,
 16 [co]partnership, association, corporation or joint-stock
 17 company, their lessees, trustees, or receivers
 18 appointed by any court whatsoever, or any
 19 municipality, province, or other department of the
 20 Government of the Philippines, to engage in any
 21 public service business without having first secured
 22 from the [Commission] ADMINISTRATIVE AGENCY a
 23 [certificate of public convenience or certificate of
 24 public convenience and necessity] FRANCHISE,
 25 CERTIFICATE, CONCESSION, OR ANY OTHER
 26 APPROPRIATE FORM OF AUTHORIZATION FOR THE
 27 OPERATION OF A PUBLIC SERVICE as provided for in

1 this Act, except grantees of legislative franchises
 2 expressly exempting such grantee from the
 3 requirement of securing a certificate from this
 4 [Commission] ADMINISTRATIVE AGENCY, as well as
 5 concerns at present existing expressly exempted from
 6 the jurisdiction of the [Commission] ADMINISTRATIVE
 7 AGENCY, either totally or in part, by the provisions of
 8 section thirteen of this Act."

9 SEC. 11. Section 19 of Commonwealth Act No. 146, as
 10 amended, is hereby further amended to read as follows:

11 "SEC. 19. *Unlawful acts.* — It shall be unlawful
 12 for any public service:

13 "(a) To provide or maintain any service that is
 14 unsafe, improper, or inadequate, or withhold or refuse
 15 any service which can reasonably be demanded and
 16 furnished, as found and determined by the
 17 [Commission] ADMINISTRATIVE AGENCY in a final
 18 order which shall be conclusive and shall take effect in
 19 accordance with this Act, upon appeal or otherwise.

20 "(b) To make or give, directly or indirectly, by
 21 itself or through its agents, attorneys or brokers, or
 22 any of them, discounts or rebates on authorized rates,
 23 or grant credit for the payment of freight charges, or
 24 any undue or unreasonable preference or advantage to
 25 any person or corporation or to any locality or to any
 26 particular description of traffic or service, or subject
 27 any particular person or corporation or locality or any

1 particular description of traffic to any prejudice or
 2 disadvantage in any respect whatsoever; to adopt,
 3 maintain, or enforce any regulation, practice or
 4 measurement which shall be found or determined by
 5 the [Commission] ADMINISTRATIVE AGENCY to be
 6 unjust, unreasonable, unduly preferential or unjustly
 7 discriminatory, in a final order which shall be
 8 conclusive and shall take effect in accordance with the
 9 provisions of this Act, upon appeal or otherwise.

10 "(c) To refuse or neglect, when requested by the
 11 [Director of Posts] POSTMASTER GENERAL or his
 12 authorized representative, to carry public mail on the
 13 regular trips of any public land transportation service
 14 maintained or operated by any such public service,
 15 upon such terms and conditions and for a
 16 consideration in such amounts as may be agreed upon
 17 between the [Director of Posts] POSTMASTER
 18 GENERAL and the public service carrier [of] OR fixed
 19 by the [Commission] ADMINISTRATIVE AGENCY in the
 20 absence of an agreement between the [Director of
 21 Posts] POSTMASTER GENERAL and the carrier. In case
 22 the [Director of Posts] POSTMASTER GENERAL and the
 23 public service carrier are unable to agree on the amount
 24 of the compensation to be paid for the carriage of the
 25 mail, the [Director of Posts] POSTMASTER GENERAL

1 shall forthwith request the [Commission]
 2 ADMINISTRATIVE AGENCY to fix a [just and reasonable]
 3 PRUDENT AND EFFICIENT compensation for such carriage
 4 and the same shall be promptly fixed by the
 5 [Commission] ADMINISTRATIVE AGENCY in accordance
 6 with section sixteen of this Act.

7 “(D) TO REFUSE OR NEGLECT, WHEN REQUESTED
 8 BY THE ADMINISTRATIVE AGENCY TO URGENTLY USE,
 9 DELIVER OR RENDER THE PUBLIC SERVICE FOR THE
 10 PURPOSE OF AVOIDING FURTHER LOSS ON HUMAN,
 11 MATERIAL, ECONOMIC, OR ENVIRONMENT DURING A
 12 STATE OF CALAMITY.”

13 SEC. 12. Section 20 of Commonwealth Act No. 146, as
 14 amended, is hereby further amended to read as follows:

15 “SEC. 20. *Acts requiring the approval of the*
 16 *[Commission] ADMINISTRATIVE AGENCY.* – Subject to
 17 established limitations and exceptions and saving
 18 provisions to the contrary, it shall be unlawful for any
 19 public service or for the owner, lessee or operator
 20 thereof, without the approval and authorization
 21 of the [Commission] ADMINISTRATIVE AGENCY
 22 previously had[-]:

23 “(a) To adopt, establish, fix, impose, maintain, or
 24 collect or carry into effect any individual or joint rates,
 25 commutation, mileage or other special rate, toll, fare,
 26 charge, classification or itinerary. The [Commission]

1 ADMINISTRATIVE AGENCY shall approve only those
 2 that are [just and reasonable] PRUDENT AND
 3 EFFICIENT and not any that are unjustly
 4 discriminatory or unduly preferential, only upon
 5 reasonable notice to the public services and other
 6 parties concerned, giving them a reasonable
 7 opportunity to be heard, and the burden of the proof to
 8 show that the proposed rates or regulation are [just
 9 and reasonable] PRUDENT AND EFFICIENT shall be
 10 upon the public service proposing the same.

11 “(b) To establish, construct, maintain, or operate
 12 new units or extend existing facilities or make any other
 13 addition to or general extension of the service[.]:
 14 *PROVIDED, THAT SAID APPROVAL SHALL ONLY*
 15 *BE REQUIRED FOR ASSETS USED, USEFUL, AND*
 16 *EFFICIENT IN THE DELIVERY OF PUBLIC SERVICE.*
 17 *THE ADMINISTRATIVE AGENCY MUST COMMENCE*
 18 *PROCEEDINGS ON THE PUBLIC UTILITY’S APPLICATION*
 19 *WITHIN SIXTY (60) CALENDAR DAYS FROM ITS FILING OF*
 20 *COMPLETE DOCUMENTS, SUBJECT TO THE RATE-SETTING*
 21 *METHODOLOGY OF SUCH ADMINISTRATIVE AGENCY.*
 22 *THE ADMINISTRATIVE AGENCY SHALL DECIDE ON THE*
 23 *APPLICATION WITHIN ONE (1) YEAR FROM FILING OF*
 24 *COMPLETE DOCUMENTS. FAILURE TO DECIDE WITHIN*
 25 *THE SAID PERIOD SHALL DEEM THE APPLICATION*
 26 *APPROVED.*

1 "FOR APPLICATIONS WITH COMPLETE
2 DOCUMENTATION PENDING WITH THE ADMINISTRATIVE
3 AGENCY AT THE TIME OF THE EFFECTIVITY OF THIS
4 ACT, THE ADMINISTRATIVE AGENCY SHALL DECIDE
5 ON SUCH APPLICATIONS WITHIN SIX (6) MONTHS
6 FROM THE EFFECTIVITY OF THIS ACT. FAILURE TO
7 DECIDE WITHIN THE SAID PERIOD SHALL DEEM THE
8 APPLICATION APPROVED.

9 "THE ADMINISTRATIVE AGENCY MAY ISSUE
10 REGULATIONS PRESCRIBING A SHORTER PERIOD
11 THAN THAT PROVIDED IN THE PRECEDING PARAGRAPHS
12 ONLY IN CASES OF EMERGENCY, AS MAY BE CERTIFIED
13 BY SUCH ADMINISTRATIVE AGENCY, REQUIRING THE
14 INSTALLATION, CONSTRUCTION OR MAINTENANCE OF
15 UNITS, FACILITIES OR EQUIPMENT.

16 "x x x

17 "(e) [Hereafter to issue any stock or stock
18 certificates representing an increase of capital; or] TO
19 issue any share of stock without par value[; or issue any
20 bonds or other evidence of indebtedness payable in more
21 than one year from the date of issuance thereof,]:
22 [provided that] *PROVIDED, THAT* it shall be the duty of
23 the [Commission] ADMINISTRATIVE AGENCY, after
24 hearing, to approve any such issue [maturing in more
25 than one year from the date thereof,] when satisfied that

1 the same is to be made in accordance with law[, and the
2 purpose of such issue be approved by the Commission].

3 "(f) To capitalize any franchise in excess of the
4 amount, inclusive of any tax or annual charge,
5 actually paid to the Government of the Philippines or
6 any political subdivision thereof as the consideration
7 of said franchise; capitalize any contract for
8 consolidation, merger, or lease, or issue any bonds or
9 other evidence of indebtedness against or as a lien
10 upon any contract for consolidation, merger, or lease:
11 *Provided, however,* That the provisions of this section
12 shall not prevent the issuance of stock, bonds, or other
13 evidence of indebtedness subject to the approval of the
14 [Commission] ADMINISTRATIVE AGENCY by any
15 lawfully merged or consolidated public services not in
16 contravention of the provisions of this section.

17 "(g) To sell, alienate, mortgage, encumber or lease
18 its property, franchises, certificates, privileges, or rights,
19 or any part thereof, or merge or consolidate its property,
20 franchises, privileges or rights, or any part thereof, with
21 those of any other public service. The approval herein
22 required shall be given, after notice to the public and
23 after hearing the persons interested at a public hearing,
24 if it be shown that there are just and reasonable grounds
25 for making the mortgage or encumbrance, for liabilities
26 of more than one year maturity, or the sale, alienation,
27 lease, merger, or consolidation to be approved, and that

the same are not detrimental to the public interest, and in case of a sale, the date on which the same is to be consummated shall be fixed in the order of approval: *Provided, however,* That nothing herein contained shall be construed to prevent the transaction from being negotiated or completed before its approval or to prevent the sale, alienation, or lease by any public service of any of its property in the ordinary course of its business[.]: *PROVIDED, FURTHER, THAT THE NEED FOR APPROVAL OF THE SALE, ALIENATION, MORTGAGE, ENCUMBRANCE OR LEASE WILL BE REQUIRED ONLY FOR PROPERTIES OF THE PUBLIC SERVICE THAT ARE USED AND USEFUL IN THE DELIVERY OF THE REQUIRED PUBLIC SERVICE.*

"x x x

"(i) To sell, alienate or in any manner transfer shares of its capital stock to any alien if the result of that sale, alienation, or transfer in itself or in connection with another previous sale shall be the reduction to less than sixty [per centum] PERCENT (60%) of the capital stock belonging to Philippine [citizens] NATIONALS IN THE OPERATION OF A PUBLIC UTILITY AS REQUIRED BY THE CONSTITUTION. Such sale, alienation or transfer shall be void and of no effect and shall be sufficient cause for ordering the cancellation of the certificate.

"x x x."

SEC. 13. Section 21 of Commonwealth Act No. 146, as amended, is hereby further amended to read as follows:

"SEC. 21. [Every] IN THE ABSENCE OF ANY SPECIFIC FINE OR PENALTY IMPOSED UNDER THE CHARTER OF THE ADMINISTRATIVE AGENCY OR THE SPECIAL LAW GOVERNING THE PARTICULAR PUBLIC SERVICE, EVERY public service violating or failing to comply with the terms and conditions of any certificate or any order[s], decision[s] or regulation[s] of the [Commission] ADMINISTRATIVE AGENCY shall be subject to a fine [of not exceeding two hundred pesos] OF NOT LOWER THAN FIVE THOUSAND PESOS (P5,000.00) BUT NOT EXCEEDING TWO MILLION PESOS (P2,000,000.00) per day for every day during which such default or violation continues[.], OR DIVESTMENT, OR BOTH; and the [Commission] ADMINISTRATIVE AGENCY is hereby authorized and empowered to impose such fine, OR ORDER DIVESTMENT, after due notice and hearing[.]: *PROVIDED, THAT SHOULD A LESSER FINE OR PENALTY BE IMPOSED UNDER THE CHARTER OF THE ADMINISTRATIVE AGENCY OR THE SPECIAL LAW GOVERNING THE PUBLIC SERVICE, THE AMOUNT OF FINE OR PENALTY PROVIDED FOR UNDER THIS SECTION SHALL APPLY.*

"IN CASES WHERE RATES COLLECTED BY THE PUBLIC SERVICE EXCEED THE RATES AUTHORIZED BY THE ADMINISTRATIVE AGENCY, THE ADMINISTRATIVE AGENCY MAY ORDER A REFUND TO CONSUMERS IN LIEU OF OR IN ADDITION TO THE FINE OR PENALTY IMPOSED

1 UNDER THIS ACT OR THE SPECIAL LAW GOVERNING THE
2 PUBLIC SERVICE.

3 "The fines so imposed shall be paid to the
4 Government of the Philippines through the
5 [Commission] ADMINISTRATIVE AGENCY, and failure to
6 pay the fine OR COMPLY WITH THE ORDER TO REFUND OR
7 DIVEST in any case within the time specified in the order
8 or decision of the [Commission] ADMINISTRATIVE
9 AGENCY shall be deemed good and sufficient reason for
10 the suspension of the FRANCHISE, certificate,
11 CONCESSION, OR ANY OTHER APPROPRIATE FORM OF
12 AUTHORIZATION FOR THE OPERATION of said public
13 service until payment shall be made OR THE ORDER IS
14 COMPLIED WITH. Payment may also be enforced by
15 appropriate action brought in a court of competent
16 jurisdiction. The remedy provided in this section shall
17 not be a bar to, or affect any other remedy provided in
18 this Act but shall be cumulative and additional to such
19 remedy or remedies."

20 SEC. 14. Section 22 of Commonwealth Act No. 146, as
21 amended, is hereby further amended to read as follows:

22 "SEC. 22. Observance of the orders, decisions,
23 and regulations of the [Commission] ADMINISTRATIVE
24 AGENCY and of the terms and conditions of
25 any certificate may also be enforced by *mandamus*
26 or injunction in appropriate cases, or by action to
27 compel the specific performance of the orders,

1 decisions, and regulations so made, or of the duties
2 imposed by law upon such public service: *Provided*,
3 That the [Commission] ADMINISTRATIVE AGENCY
4 may compromise any case that may arise under this
5 Act in such manner and for such amount as it may
6 deem just and reasonable."

7 SEC. 15. Section 23 of Commonwealth Act No. 146, as
8 amended, is hereby further amended to read as follows:

9 "SEC. 23. Any public service corporation that shall
10 perform, commit, or do any act or thing herein forbidden
11 or prohibited or shall neglect, fail, or omit to do or
12 perform any act or thing herein required to be done or
13 performed, shall be punished by a fine not exceeding
14 [twenty-five thousand pesos] TWO MILLION PESOS
15 (P2,000,000.00), or by imprisonment [not exceeding five
16 years] OF NOT LOWER THAN SIX (6) YEARS AND ONE (1)
17 DAY TO TWELVE (12) YEARS, or both, [in] AT the
18 discretion of the court."

19 SEC. 16. Section 24 of Commonwealth Act No. 146, as
20 amended, is hereby amended to read as follows:

21 "SEC. 24. Any person who shall knowingly and
22 willfully perform, commit, or do, or participate in
23 performing, committing, or doing, or who shall knowingly
24 and willfully cause, participate, or join with others in
25 causing any public service corporation or company to do,
26 perform, or commit, or who shall advise, solicit,

persuade, or knowingly and willfully instruct, direct, or order any officer, agent, or employee of any public service corporation or company to perform, commit, or do any act or thing forbidden or prohibited by this Act, shall be punished by a fine not exceeding [two thousand pesos] TWO MILLION PESOS (P2,000,000.00), or imprisonment [not exceeding two years] OF NOT LOWER THAN SIX (6) YEARS AND ONE (1) DAY TO TWELVE (12) YEARS, or both, [in] AT the discretion of the court[: *Provided, however,* That for operating a private passenger automobile as a public service without having a certificate of public convenience for the same, the offender shall be subject to the penalties provided for in section sixty-seven (j) of Act Numbered Thirty-nine hundred an ninety-two]."

SEC. 17. Section 25 of Commonwealth Act No. 146, as amended, is hereby amended to read as follows:

"SEC. 25. Any person who shall knowingly and willfully neglect, fail, or omit to do or perform, or who shall knowingly and willfully cause or join or participate with others in causing any public service corporation or company to neglect, fail, or omit to do or perform, or who shall advise, solicit, or persuade, or knowingly and willfully instruct, direct, or order any officer, agent, or employee of any public service corporation or company to neglect, fail, or omit to do any act or thing required to be done by this Act, shall be punished by a fine not

exceeding [two thousand pesos] TWO MILLION PESOS (P2,000,000.00) or by imprisonment [not exceeding two years] OF NOT LOWER THAN SIX (6) YEARS AND ONE (1) DAY TO TWELVE (12) YEARS, or both, [in] AT the discretion of the court."

SEC. 18. Section 26 of Commonwealth Act No. 146, as amended, is hereby amended to read as follows:

"SEC. 26. Any person who shall destroy, injure, or interfere with any apparatus or appliance owned or operated by or in charge of the [Commission] ADMINISTRATIVE AGENCY or its agents, shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine [not exceeding one thousand pesos] OF THE AMOUNT EQUIVALENT TO THE ACTUAL MARKET VALUE OF THE APPARATUS OR APPLIANCE DESTROYED OR INJURED PLUS A FINE NOT EXCEEDING TWO MILLION PESOS (P2,000,000.00) or imprisonment [not exceeding six months] OF NOT LOWER THAN SIX (6) YEARS AND ONE (1) DAY TO TWELVE (12) YEARS, or both, [in] AT the discretion of the court."

[Any public service permitting the destruction, injury to, or interference with, any such apparatus or appliance, shall forfeit a sum not exceeding four thousand pesos for each offense.]

SEC. 19. Section 27 of Commonwealth Act No. 146, as amended, is hereby amended to read as follows:

1 "SEC. 27. This Act shall not have the effect to
2 release or waive any right of action by the
3 [Commission] ADMINISTRATIVE AGENCY or by any
4 person for any right, penalty, or forfeiture which may
5 have arisen or which may arise, under any of the laws
6 of the Philippines, and any penalty or forfeiture
7 enforceable under this Act shall not be a bar to or
8 affect a recovery for a right, or affect or bar any
9 criminal proceedings against any public service or
10 person or persons operating such public service, its
11 officers, directors, agents, or employees."

12 SEC. 20. Section 28 of Commonwealth Act No. 146, as
13 amended, is hereby amended to read as follows:

14 "SEC. 28. Violations of the orders, decisions,
15 and regulations of the [Commission] ADMINISTRATIVE
16 AGENCY and of the terms and conditions of any
17 FRANCHISE, certificate[s], CONCESSION, OR ANY OTHER
18 APPROPRIATE FORM OF AUTHORIZATION FOR THE
19 OPERATION OF A PUBLIC SERVICE issued by the
20 [Commission shall prescribe after sixty days]
21 ADMINISTRATIVE AGENCY, and violations of the
22 provisions of this Act shall prescribe [after one hundred
23 and eighty days.] IN ACCORDANCE WITH ACT NO. 3326,
24 ENTITLED 'AN ACT TO ESTABLISH PERIODS OF
25 PRESCRIPTION FOR VIOLATIONS PENALIZED BY
26 SPECIAL ACTS AND MUNICIPAL ORDINANCES AND TO

1 PROVIDE WHEN PRESCRIPTION SHALL BEGIN TO RUN',
2 AS AMENDED."

3 SEC. 21. Section 29 of Commonwealth Act No. 146, as
4 amended, is hereby amended to read as follows:

5 "SEC. 29. All hearings and investigations before
6 the [Commission] ADMINISTRATIVE AGENCY shall be
7 governed by rules adopted by the [Commission]
8 ADMINISTRATIVE AGENCY, and in the conduct thereof
9 the [Commission] ADMINISTRATIVE AGENCY shall not
10 be bound by the technical rules of legal evidence:
11 *Provided*, That the [Public Service Commissioner or
12 Deputy Commissioner] HEARING OFFICER may
13 summarily punish for contempt by a fine not exceeding
14 [two hundred pesos] TWO THOUSAND PESOS (P2,000.00)
15 or by imprisonment not exceeding ten days, or both,
16 any person guilty of misconduct in the presence of the
17 [Commissioner or Deputy Commissioner] HEARING
18 OFFICER or so near the same as to interrupt the
19 hearing or session or any proceedings before them,
20 including cases in which a person present at a
21 hearing, session, or investigation held by [either of the
22 Commissioner] THE HEARING OFFICER refuses to be
23 sworn as a witness or to answer as such when lawfully
24 required to do so. To enforce the provisions of this
25 section, the [Commission] ADMINISTRATIVE AGENCY

1 may, if necessary, request the assistance of the
2 municipal OR CITY police for the execution of any order
3 made for said purpose."

4 SEC. 22. Section 30 of Commonwealth Act No. 146, as
5 amended, is hereby amended to read as follows:

6 "SEC. 30. (a) The [Commission] ADMINISTRATIVE
7 AGENCY may issue subpoenas and subpoenas *duces*
8 *tecum*, for witnesses in any matter or inquiry pending
9 before the [Commission] ADMINISTRATIVE AGENCY
10 and require the production of all books, papers, tariffs,
11 contracts, agreements, and all other documents, which
12 the [Commission] ADMINISTRATIVE AGENCY may
13 deem necessary in any proceeding. Such process shall
14 be issued under the seal of the [Commission]
15 ADMINISTRATIVE AGENCY, signed by one of the
16 [Commissioners or by the secretary] HEARING
17 OFFICERS, and may be served by any person of
18 full age, or by registered mail. [In case of]
19 [d]Disobedience [to such] TO OR FAILURE TO COMPLY
20 WITH SUCH subpoena, SHALL CONSTITUTE INDIRECT
21 CONTEMPT, AND MAY BE INSTITUTED IN THE MANNER
22 AS PROVIDED IN THE RULES OF COURT BEFORE THE
23 APPROPRIATE COURT. [the Commission may invoke
24 the aid of the Supreme Court, or of any Court of First
25 Instance of the Philippines in requiring the
26 attendance and testimony of witnesses and the

1 production of books, papers, and documents under the
2 provisions of this chapter, and the Supreme Court or
3 any Court of First Instance of the Philippines within
4 the jurisdiction of which such inquiry is carried on,
5 may, in case of contumacy or refusal to obey a
6 subpoena, issue to any public service subject to the
7 provisions of this Act, or to any other person, an order
8 requiring such public service or other person to appear
9 before the Commission and produce books and papers
10 if so ordered and give evidence touching the matter in
11 question; and any failure to obey such order of the
12 Court may be punished by such court as a contempt
13 thereof.]

14 "(b) Any person who shall neglect or refuse
15 to answer any lawful inquiry or produce before
16 the [Commission] ADMINISTRATIVE AGENCY books,
17 papers, tariffs, contracts, agreements, and documents
18 or other things called for by said [Commission]
19 ADMINISTRATIVE AGENCY, if in his power to do so,
20 in obedience to the subpoena or lawful inquiry of
21 the [Commission] ADMINISTRATIVE AGENCY upon
22 conviction thereof by a court of competent jurisdiction,
23 shall be punished by a fine not exceeding [five]
24 THIRTY thousand pesos (P30,000.00) or by
25 imprisonment not exceeding [one year] SIX (6)
26 MONTHS, or both, [in] AT the discretion of the court.

“(c) The [Commissioner and Deputy Commissioner,] OFFICIALS AND HEARING OFFICERS OF THE [the chiefs of divisions, the attorneys of the Commission] ADMINISTRATIVE AGENCY, [and the deputy secretaries] shall have the power to administer oaths in all matters under the jurisdiction of the [Commission] ADMINISTRATIVE AGENCY.

“(d) Any person who shall testify falsely or make any false affidavit or oath before the [Commission] ADMINISTRATIVE AGENCY or before any of its members shall be guilty of perjury, and upon conviction thereof in a court of competent jurisdiction, shall be punished as provided by law.

“(e) Witnesses appearing before the [Commission] ADMINISTRATIVE AGENCY in obedience to subpoena or subpoena *duces tecum*, shall be entitled to receive the same fees and mileage as witnesses attending [Courts of First Instance] REGIONAL TRIAL COURTS in civil cases.

“(f) Any person who shall obstruct the [Commission] ADMINISTRATIVE AGENCY or either of the [Commissioners] HEARING OFFICERS while engaged in the discharge of official duties, or who shall conduct himself in a rude, disrespectful or disorderly manner before the [Commission] ADMINISTRATIVE

AGENCY either of the [Commissioners] HEARING OFFICERS, while engaged in the discharge of official duties, or shall orally or in writing be disrespectful to, offend or insult either of the [Commissioners] HEARING OFFICERS on occasion or by reason of the performance of his official duties, upon conviction thereof by a court of competent jurisdiction, shall be punished for each offense by a fine not exceeding [one thousand pesos] THIRTY THOUSAND PESOS (P30,000.00), or by imprisonment not exceeding six (6) months, or both, [in] AT the discretion of the Court.”

SEC. 23. Section 31 of Commonwealth Act No. 146, as amended, is hereby amended to read as follows:

“SEC. 31. No person shall be excused from testifying or from producing any book, document, or paper in any investigation or inquiry by or upon the hearing before the [Commission] ADMINISTRATIVE AGENCY, when ordered so to do by said [Commission] ADMINISTRATIVE AGENCY, except when the testimony or evidence required of him may tend to incriminate him. Without the consent of the interested party, no member or employee of the [Commission] ADMINISTRATIVE AGENCY shall be compelled or permitted to give testimony in any civil suit to which the [Commission] ADMINISTRATIVE AGENCY is not a

1 party, with regard to secrets obtained by him in the
2 discharge of his official duty."

3 SEC. 24. Section 32 of Commonwealth Act No. 146, as
4 amended, is hereby further amended to read as follows:

5 "SEC. 32. The [Commission] ADMINISTRATIVE
6 AGENCY may, in any investigation or hearing, by its
7 order in writing, cause the deposition of witnesses
8 residing within or without the Philippines to be taken in
9 the manner AND UNDER THE CONDITIONS prescribed
10 by the Rules of Court. Where witnesses reside in
11 places distant from Manila and it would be inconvenient
12 and expensive for them to appear personally before
13 the [Commission.] ADMINISTRATIVE AGENCY, the
14 [Commission] ADMINISTRATIVE AGENCY may, by
15 proper order, commission any clerk of the [Court of First
16 Instance, municipal judge or justice of the peace]
17 REGIONAL TRIAL COURT of the Philippines to take the
18 deposition of witnesses in any case pending before the
19 [Commission] ADMINISTRATIVE AGENCY. It shall be
20 the duty of the official so commissioned, to designate
21 promptly a date or dates for the taking of such
22 deposition, giving timely notice to the parties, and on
23 said date to proceed to take the deposition, reducing it to
24 writing. After the depositions have been taken, the
25 official so commissioned shall certify to the depositions
26 taken and forward them as soon as possible to the

1 [Commission] ADMINISTRATIVE AGENCY. It shall be
2 the duty of the respective parties to furnish
3 stenographers for taking and transcribing the testimony
4 taken. [In case there are no stenographers available, the
5 testimony shall be taken in longhand by such person as
6 the clerk of court, the municipal judge or justice of the
7 peace may designate. The Commission may also
8 commission a notary public to take the depositions in
9 the same manner herein provided.]

10 "The [Commission] ADMINISTRATIVE AGENCY
11 may also, by proper order, authorize any of the
12 attorneys of the legal division or division chiefs of the
13 [Commission] ADMINISTRATIVE AGENCY, if they be
14 lawyers, to hear and investigate any case filed with the
15 [Commission] ADMINISTRATIVE AGENCY and in
16 connection therewith to receive such evidence as may
17 be material thereto. At the conclusion of the hearing
18 or investigation, the attorney or division chief so
19 authorized shall submit the evidence received by him
20 to the [Commission] ADMINISTRATIVE AGENCY to
21 enable the latter to [surrender] RENDER its decision."

22 SEC. 25. Section 33 of Commonwealth Act No. 146, as
23 amended, is hereby amended to read as follows:

24 "SEC. 33. Every order made by the
25 [Commission] ADMINISTRATIVE AGENCY shall be
26 served upon the person or public service affected

thereby, within ten (10) days from the time said order is filed, by personal delivery or by ordinary mail, upon the attorney of record, or in case there be no attorney of record, upon the party interested; and in case such certified copy is sent by registered mail, the registry mail receipt shall be *prima facie* evidence of the receipt of such order by the public service in due course of mail. All orders of the [Commission] ADMINISTRATIVE AGENCY to continue an existing service or prescribing rates to be charged shall be immediately operative; all other orders shall become effective upon the dates specified therein: *Provided, however,* That orders, resolutions or decisions in controverted matters and not referring to the continuance of an existing service or prescribing rates to be charged shall not be effective unless otherwise provided by the [Commission] ADMINISTRATIVE AGENCY, and shall take effect thirty (30) days after notice to the parties."

SEC. 26. Section 34 of Commonwealth Act No. 146, as amended, is hereby amended to read as follows:

"SEC. 34. Any interested party may request the reconsideration of any order, ruling, or decision of the [Commission] ADMINISTRATIVE AGENCY by means of a petition filed not later than fifteen (15) days after the date of the notice of the order, ruling or decision in question. The grounds on which the request for

reconsideration is based shall be clearly and specifically stated in the petition. Copies of said petition shall be served on all parties interested in the matter. It shall be the duty of the [Commission] ADMINISTRATIVE AGENCY to call a hearing on said petition immediately, with notice to the parties, and after hearing to decide the same promptly, either denying the petition or revoking or modifying the order, ruling or decision under consideration."

SEC. 27. Section 35 of Commonwealth Act No. 146, as amended, is hereby amended to read as follows:

"SEC. 35. [The Supreme Court is hereby given jurisdiction to review any order, ruling, or decision of the Commission and to modify or set aside such order, ruling, or decision when it clearly appears that there was no evidence before the Commission to support reasonably such order, ruling, or decision, or that the same is contrary to law, or that it was without the jurisdiction of the Commission. The evidence presented to the Commission, together with the record of the proceedings before the Commission, shall be certified by the secretary of the Commission to the Supreme Court. Any order, ruling, or decision of the Commission may likewise be reviewed by the Supreme Court upon a writ of certiorari in proper cases. The procedure for review, except as herein provided, shall be prescribed by rules of the Supreme Court.] ANY

1 ORDER, RULING, OR DECISION OF THE
2 ADMINISTRATIVE AGENCY MAY BE APPEALED IN THE
3 MANNER AND WITHIN THE PERIOD PRESCRIBED UNDER
4 THE RULES OF COURT AND OTHER PERTINENT LAWS."

5 SEC. 28. Section 36 of Commonwealth Act No. 146, as
6 amended, is hereby amended to read as follows:

7 "SEC. 36. Any order, ruling, or decision of the
8 [Commission] ADMINISTRATIVE AGENCY may be
9 reviewed on the application of any person or public
10 service affected thereby, by certiorari in appropriate
11 cases, or by petition, to be known as Petition for
12 Review, which shall be filed within thirty (30) days
13 from notification of such order, ruling, or decision or,
14 in case a petition for the reconsideration of such order,
15 ruling, or decision is filed in accordance with the
16 preceding section and the same is denied, it shall be
17 filed within fifteen (15) days after notice of the order
18 denying reconsideration. Said petition shall be placed
19 on file in the office of the clerk of the Supreme Court
20 who shall furnish copies thereof to the [Secretary of
21 the Commission] ADMINISTRATIVE AGENCY and other
22 parties interested."

23 SEC. 29. Section 37 of Commonwealth Act No. 146, as
24 amended, is hereby amended to read as follows:

25 "SEC. 37. The institution of a writ of certiorari
26 or other special remedies in the Supreme Court shall
27 in no case supersede or stay any order, ruling, or

1 decision of the [Commission] ADMINISTRATIVE
2 AGENCY, unless the Supreme Court shall so direct, and
3 the appellant may be required by the Supreme Court to
4 give bond in such form and of such amount as may be
5 deemed proper."

6 SEC. 30. Section 38 of Commonwealth Act No. 146, as
7 amended, is hereby amended to read as follows:

8 "SEC. 38. The chief of the legal division
9 or any other attorneys of the [Commission]
10 ADMINISTRATIVE AGENCY shall represent the same
11 in all judicial proceedings. It shall be the duty of
12 the Solicitor General to represent the [Commission]
13 ADMINISTRATIVE AGENCY in any judicial proceeding if,
14 for special reasons, the [Commissioner] HEARING
15 OFFICER shall request his intervention."

16 SEC. 31. Section 39 of Commonwealth Act No. 146, as
17 amended, is hereby amended to read as follows:

18 "SEC. 39. Any proceeding in any court of the
19 Philippines directly affecting an[d] order of the
20 [Commission] ADMINISTRATIVE AGENCY or to which
21 the [Commission] ADMINISTRATIVE AGENCY is a
22 party, shall have preference over all other civil
23 proceedings pending in such court, except election
24 cases."

25 SEC. 32. Section 40 of Commonwealth Act No. 146, as
26 amended, is hereby further amended to read as follows:

1 “SEC. 40. [The Commission is authorized and
2 ordered to charge and collect from any public service or
3 applicant, as the case may be, the following fees as
4 reimbursement of its expenses in the authorization,
5 supervision and/or regulation of the public services:]

6 *ADMINISTRATIVE FEES AND CHARGES. –*
7 ADMINISTRATIVE AGENCIES MAY COLLECT FROM ANY
8 PUBLIC SERVICE OR PUBLIC UTILITY REASONABLE FEES
9 AND CHARGES, AND IMPOSE APPROPRIATE PENALTIES
10 AND FINES AS PROVIDED BY LAW: *PROVIDED, THAT*
11 SUCH FEES, CHARGES, PENALTIES AND FINES MAY BE
12 ADJUSTED TO ITS PRESENT VALUE EVERY FIVE (5) YEARS
13 USING THE CONSUMER PRICE INDEX (CPI) AS
14 PUBLISHED BY THE PHILIPPINE STATISTICS AUTHORITY
15 (PSA).”

16 [(a) The charge of fifty pesos for the registration of:

17 “x x x

18 Aside from the appropriations for the Commission
19 under the annual General Appropriations Act, any
20 unexpended balance of the fees collected by the
21 Commission under this section shall be constituted x x x
22 and other expenses necessary for efficient administration
23 and effective supervision and regulation of public
24 services.]

25 SEC. 33. *Interpretation.* – This Act shall be subject to and
26 consistent with the regulatory powers of the State to promote public

1 interest in Article IX-C, Section 4 and Article XII, Section 17 of the
2 Constitution.

3 A person classified as a public utility prior to the effectivity of
4 this Act and declassified as such under this Act shall be considered
5 a public service and a business affected with public interest for
6 purposes of Article XII, Section 17 of the Constitution. Such person
7 shall continue to be subject to regulation by relevant Administrative
8 Agencies under existing laws. This Act does not redefine the term
9 Common Carrier as defined under Article 1732 of Republic Act
10 No. 386, otherwise known as the “Civil Code of the Philippines”, as
11 amended, or alter its obligation to exercise extraordinary diligence
12 as provided thereunder.

13 No franchise, certificate, concession, or authorization granted
14 by the appropriate Administrative Agencies pursuant to this Act
15 shall be: (a) exclusive in character; (b) for a longer period than fifty
16 (50) years: *Provided, That* if a public service has maintained an
17 exemplary record in the delivery of services, and has made
18 substantial investments on infrastructure, technology or equipment
19 for its operations, such performance and size of investment shall be
20 taken, and the application for renewal of the franchise, certificate,
21 concession or authorization of the public service shall be given
22 priority by the appropriate Administrative Agencies; and (c) granted
23 except under the condition that it shall be subject to amendment,
24 alteration, or repeal by Congress when the public interest so
25 requires.

26 SEC. 34. *Non-Impairment of Existing Agreements.* – The
27 application and implementation of the pertinent provisions of this

1 Act shall not impair vested rights or obligations of contracts.
 2 Current and subsisting concession agreements and other similar
 3 contracts of juridical persons with government agencies or
 4 government-owned and -controlled corporations covering activities
 5 hereunder classified as public utilities shall remain valid and in
 6 force in accordance with the existing terms and conditions the
 7 parties agreed to thereunder until the expiration or termination
 8 thereof.

9 SEC. 35. *Suppletory Application of Commonwealth Act*
 10 *No. 146.* – Commonwealth Act No. 146, as amended, shall
 11 be construed as a general law that shall apply suppletorily to
 12 special laws or existing sector-specific laws governing public
 13 services, except for Section 13(d) of Commonwealth Act No. 146,
 14 as amended, under Section 5 of this Act.

15 SEC. 36. *Conduct of Regular Studies.* – The NEDA shall
 16 conduct regular studies on whether regulatory reform is warranted
 17 in a public service sector to improve consumer welfare and to
 18 submit its recommendation to Congress.

19 SEC. 37. *Congressional Oversight and Periodic Review.* – A
 20 Congressional Oversight Committee shall be created that will
 21 conduct a periodic review commencing from the effectivity of this
 22 Act. The Congressional Oversight Committee shall be composed of
 23 the Chairperson of the Senate Committee on Public Services, the
 24 Chairperson of the House of Representatives Committee on
 25 Economic Affairs, and representatives of other relevant
 26 congressional committees.

1 SEC. 38. *Performance Audit.* – Administrative Agencies
 2 shall conduct a performance audit every three (3) years by an
 3 independent evaluation team to ensure the quality of services
 4 provided to the public and the ability of manpower and system
 5 resources of the public service provider to immediately respond to
 6 emergency cases. Metrics for various types of services must be
 7 established to sustain reliability, security, and safety of the public.

8 SEC. 39. *Implementing Rules and Regulations.* – All
 9 administrative agencies under Section 4 of this Act shall, in
 10 coordination with the NEDA, promulgate rules and regulations to
 11 implement the provisions of this Act, within six (6) months from the
 12 effectivity of this Act.

13 SEC. 40. *Separability Clause.* – Should any portion or
 14 provision of this Act be declared unconstitutional, the remainder of
 15 this Act or any provision not affected thereby shall remain in force
 16 and effect.

17 SEC. 41. *Repealing Clause.* – All laws, decrees, orders, rules
 18 and regulations, or other issuances or parts thereof, including
 19 Commonwealth Act No. 146 or the Public Service Act, as amended,
 20 inconsistent with the provisions of this Act are hereby repealed or
 21 modified accordingly. This includes:

22 (a) Republic Act No. 6957, entitled “An Act Authorizing the
 23 Financing, Construction, Operation and Maintenance of
 24 Infrastructure Projects by the Private Sector, and for Other
 25 Purposes”, as amended, on the limitation of foreign investment in a
 26 facility operator where a public utility franchise is required;

1 (b) Republic Act No. 9295, otherwise known as the "Domestic
2 Shipping Development Act of 2004", as amended, on the limitation
3 of foreign investments in domestic ship operator, domestic ship
4 owner, ship builder, ship repairer, and such other provisions therein
5 inconsistent with this Act;

6 (c) Republic Act No. 9497, otherwise known as the "Civil
7 Aviation Authority Act of 2008", as amended, on the limitation of
8 foreign investments in relation to the registration of aircraft and
9 restriction on the issuance of permits and authority, and such other
10 provisions therein inconsistent with this Act;

11 (d) Republic Act No. 776, otherwise known as "The Civil
12 Aeronautics Act of the Philippines", as amended, on the limitation
13 of foreign investments in relation to the registration of aircraft,
14 issuance of permits and authority, and such other provisions therein
15 inconsistent with this Act;

16 (e) Presidential Decree No. 1112, otherwise known as the
17 "Toll Operation Decree", as amended, on the limitation of contracts
18 for the construction, operation and maintenance of toll facilities only
19 to citizens of the Philippines and such other provisions therein
20 inconsistent with this Act;

21 (f) Republic Act No. 9136, otherwise known as the "Electric
22 Power Industry Reform Act of 2001", as amended, except the
23 provisions and clauses on Cross Ownership, Market Power Abuse,
24 and Anti-Competitive Behavior;

25 (g) Executive Order No. 202, Series of 1987, entitled
26 "Creating the Land Transportation Franchising and Regulatory

1 Board", as amended, and the Administrative Code of 1987, as
2 amended;

3 (h) Presidential Decree No. 857, otherwise known as the
4 "Revised Charter of the Philippine Ports Authority", as amended;

5 (i) Republic Act No. 6234, entitled "An Act Creating the
6 Metropolitan Waterworks and Sewerage System and Dissolving the
7 National Waterworks and Sewerage Authority; and for Other
8 Purposes", as amended;

9 (j) Presidential Decree No. 198, otherwise known as the
10 "Provincial Water Utilities Act of 1973", as amended;

11 (k) Department of Transportation Department Order
12 No. 2018-13 on the classification of the Transport Network
13 Companies and Transportation Network Vehicles Service as public
14 utilities; and

15 (l) Republic Act No. 7925, otherwise known as the "Public
16 Telecommunications Policy Act of the Philippines", on the
17 classification of all telecommunications entities as public utilities.

18 SEC. 42. *Effectivity.* – This Act shall take effect fifteen (15)
19 days after its publication in the *Official Gazette* or in a newspaper of
20 general circulation.

Approved,

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