

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

SEVENTEENTH CONGRESS
First Regular Session

House Bill No. **1222**

HOUSE OF REPRESENTATIVES

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Introduced by Honorable REYNALDO V. UMALI

EXPLANATORY NOTE


The energy sector fuels our country's development and the government is left with a formidable challenge and gigantic task of addressing issues and concerns affecting the sector. We owe it to the people we represent and as consumers ourselves, we are affected by any unfavorable situation.

The Electric Power Industry Reform Act of 2001 or EPIRA vowed to ensure and accelerate the total electrification of the country, to ensure the quality, reliability, security and affordability of the supply of electric power, to ensure transparent and reasonable prices of electricity in a regime of free and fair competition and full public accountability, to enhance the inflow of private capital and broaden ownership base of the power generation, transmission and distribution sectors, to ensure fair and non-discriminatory treatment of public and private sector entities in the process of restructuring the electric power industry, and to protect the public interest as it is affected by the rates and services of electric utilities and other providers of electric power.

However, after fifteen years of implementation of the EPIRA, we note that our country has the highest retail electricity rate in the ASEAN region and about the 9th in the rest of the world today. With this nerve-rocking situation, we may need to take one step backward and assess if EPIRA had indeed achieved its objectives.

So, this bill seeks to amend some provisions of the EPIRA to address and resolve the issues and concerns in the Philippine energy sector.

Hence, the approval of this bill is earnestly sought.


REYNALDO V. UMALI
Representative
Second District, Province of Oriental Mindoro

Republic of the Philippines

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Introduced by Honorable REYNALDO V. UMALI

**AN ACT DECLARING POWER INFRASTRUCTURE PROJECTS AS PROJECTS OF
NATIONAL SIGNIFICANCE, AMENDING FOR THE PURPOSE CERTAIN
PROVISIONS OF REPUBLIC ACT NUMBERED 9136, OTHERWISE KNOWN AS
THE "ELECTRIC POWER INDUSTRY REFORM ACT OF 2001," AND FOR
OTHER PURPOSES**

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

SECTION 1. Section 2 of EPIRA is hereby amended to include a new sub-
paragraph (e) and renumber the succeeding paragraphs to read as follows:

SEC. 2. Declaration of Policy. – It is hereby declared the policy of the State:

- (a) To ensure and accelerate the total electrification of the country;
- (b) To ensure the quality, reliability, security and affordability of the supply of electric power;
- (c) To ensure transparent and reasonable prices of electricity in a regime of free and fair competition and full public accountability to achieve greater operational and economic efficiency and enhance the competitiveness of Philippine products in the global market;
- (d) To enhance the inflow of private capital and broaden the ownership base of the power generation, transmission and distribution sectors;
- (e) To ENSURE TIMELY COMPLETION OF POWER PROJECTS FOR ENERGY SECURITY AND MINIMIZE COSTS BY DECLARING POWER

INFRASTRUCTURES AS PROJECTS OF NATIONAL SIGNIFICANCE, IMBUED WITH PUBLIC INTEREST;

(f)[(e)] To ensure fair and non-discriminatory treatment of public and private sector entities in the process of restructuring the electric power industry;

(g)[(f)] To protect the public interest as it is affected by the rates and services of electric utilities and other providers of electric power;

(h)[(g)] To assure socially and environmentally compatible energy sources and infrastructure;

(i)[(h)] To promote the utilization of indigenous and new and renewable energy resources in power generation in order to reduce dependence on imported energy;

(j)[(i)] To provide for an orderly and transparent privatization of the assets and liabilities of the National Power Corporation (NPC);

(k)[(j)] To establish a strong and purely independent regulatory body and system to ensure consumer protection and enhance the competitive operation of the electricity market; and

(l)[(k)] To encourage the efficient use of energy and other modalities of demand side management.

SECTION 2. A new section to be designated as Section 6-A is hereby added after Section 6, to read as follows:

SEC. 6-A. POWER INFRASTRUCTURE PROJECTS OF NATIONAL SIGNIFICANCE. – THE PRESIDENT MAY, UPON THE CERTIFICATION AND RECOMMENDATION OF THE DOE SECRETARY, CLASSIFY CERTAIN POWER INFRASTRUCTURE PROJECTS, INCLUDING BUT NOT LIMITED TO GENERATION, TRANSMISSION AND DISTRIBUTION FACILITIES, UNDERTAKEN UNDER THIS ACT AS PROJECTS OF NATIONAL SIGNIFICANCE WHICH SHALL BE ENTITLED TO THE FOLLOWING INCENTIVES:

1) ALL REAL PROPERTIES WHICH ARE ACTUALLY AND DIRECTLY USED FOR THE PROJECT SHALL BE EXEMPTED FROM ANY AND ALL REAL

PROPERTY TAXES LEVIED UNDER REPUBLIC ACT NO. 7160, OTHERWISE KNOWN AS THE "LOCAL GOVERNMENT CODE OF 1991," AS AMENDED;

2) THE SUM OF ALL LOCAL TAXES IMPOSED BY A PROVINCE, CITY OR MUNICIPALITY PURSUANT TO REPUBLIC ACT NO. 7160, AS AMENDED, ON THE PROPONENT SHALL NOT EXCEED FIFTY PERCENT (50%) OF ONE PERCENT (1%) OF THE GROSS SALES OR RECEIPTS OF THE PRECEDING CALENDAR YEAR;

3) THE REQUIRED BUSINESS PERMITS, INCLUDING ANY RENEWALS THEREOF, SHALL BE DEEMED TO HAVE BEEN AUTOMATICALLY GRANTED OR ISSUED TO THE WINNING PROJECT PROPONENT UPON TENDER OF THE REQUIRED TAXES AND FEES TO THE APPROPRIATE LOCAL GOVERNMENT UNIT.

SECTION 3. Section 47 of the EPIRA is hereby amended to read as follows:

"SEC. 47. NPC Privatization. Except for the assets of SPUG, THE AGUS AND PULANGUI COMPLEXES, ALL EXISTING IPP CONTRACTS OF NPC AND OTHER POWER PLANTS OWNED AND OPERATED BY THE GOVERNMENT IN MINDANAO, the generation assets, real estate, and other disposable assets [as well as IPP contracts of NPC] shall be privatized in accordance with this Act. Within six (6) months from the effectivity of this Act, the PSALM Corporation shall submit a plan for the endorsement by the Joint Congressional Power Commission and the approval of the President of the Philippines, on the total privatization of the generation assets, real estate, AND other disposable assets [as well as existing IPP contracts of NPC] and thereafter, implement the same in accordance with the following guidelines, except as provided for in paragraph (f) herein:

x x x

(f) The Agus and the Pulangui complexes, ALL REMAINING IPP CONTRACTS OF NPC AND OTHER EXISTING POWER PLANTS OWNED AND OPERATED BY THE GOVERNMENT IN MINDANAO shall be excluded from [among] the generation [companies] ASSETS OF NPC that will be [initially] privatized. Their ownership shall be transferred to the PSALM Corporation and both COMPLEXES AND SUCH POWER PLANTS IN MINDANAO shall continue to be operated, MAINTAINED AND REHABILITATED by PSALM THROUGH THE NPC. [Said complexes may be privatized not earlier than ten (10) years from the effectivity of this Act, and,] [e] Except for Agus III, THE AGUS AND THE PULANGUI

COMPLEXES, ALL REMAINING IPP CONTRACTS OF NPC AND OTHER POWER PLANTS OWNED AND OPERATED BY THE GOVERNMENT IN MINDANAO shall not be subject to Build-Operate-Transfer (BOT), Build-Rehabilitate-Operate-Transfer (B-R-O-T) and other variations thereof pursuant to Republic Act No. 6957, as amended by Republic Act No. 7718. [The privatization of Agus and Pulangui complexes shall be left to the discretion of PSALM Corporation in consultation with Congress;]

SECTION 4. Section 80 of the EPIRA is hereby amended to read as follows:

“SEC. 80. Applicability and Repealing Clause – The applicability provisions of Commonwealth Act No. 146, as amended, otherwise known as the “Public Service Act”; Republic Act 6395, as amended, revising the charter of NPC; Presidential Decree 269, as amended, referred to as the National Electrification Decree; Republic Act 7638, otherwise known as the “Department of Energy Act of 1992”; Executive Order 172, as amended, creating the ERB; Republic Act 7832 otherwise known as the “Anti-Electricity and Electric Transmission Lines / Materials Pilferage Act of 1994”, shall continue to have full force and effect except insofar as they are inconsistent with this Act.

The provision with respect to electric power of Section [11] **12(c)** of Republic Act 7916, as amended, and Section 5(f) of Republic Act 7227, are hereby repealed or modified accordingly.

Presidential Decree No. 40 and all laws, decrees, rules and regulations, or portion thereof, inconsistent with this Act are hereby repealed or modified accordingly.”

SECTION 5. *Implementing Rules and Regulations.* The DOE shall, in consultation with relevant government agencies, electric power industry participants, non-government organizations and end-users, promulgate the implementing rules and regulations of this act within six (6) months from its effectivity, subject to the approval of the Joint Congressional Power Commission (JCPC).

SECTION 6. *Separability Clause.* If for any reason, any provision of this Act is declared unconstitutional or invalid, the other parts or provisions hereof which are not affected thereby shall continue to be in full force and effect.

SECTION 7. *Repealing Clause.* All laws, decrees, orders and rules and regulations which are inconsistent with this Act are hereby amended, repealed, or modified accordingly.

SECTION 8. *Effectivity.* This Act shall take effect on the fifteenth (15th) day following its publication in at least two (2) newspapers of general circulation.

Approved,