

Republic of the Philippines
Congress of the Philippines
Quezon City

Seventeenth Congress
First Regular Session

House Bill No. **3353**

HOUSE OF REPRESENTATIVES	
RECEIVED	
DATE:	25 AUG 2016
TIME:	5:20 PM
BY:	REN
REGISTRATION UNIT BILLS AND INDEX SERVICE	

Introduced by: Representative Carlos Roman L. Uybarreta, 1-Care Partylist

EXPLANATORY NOTE

The total electrification of the country has been the ultimate goal of the government since the organization of the electric cooperatives. To attain such objective, the electric cooperatives were mandated to provide electric service to every home on an area coverage concept. This allows the electrification of the financially unviable and thinly populated areas despite the fact that they are more costly to energize. However, because of their non-profit nature, electric cooperatives incur heavy financial burdens that they have to bear to become operationally viable. The electric cooperatives, therefore, need every tenable support and assistance from the National Government, its instrumentalities and agencies to the fullest extent they are capable.

With the Philippines located in what is known as the "Typhoon Belt", an average of twenty (20) typhoons visit the country each year. In the last decade, the Philippines has been consistently ranked in the top five (5) most disaster-prone countries in the world. Taking off from the experience with "Typhoon Yolanda," which was recorded as the strongest typhoon ever to landfall anywhere in the world, almost all sectors and stakeholders were focused in the "Rescue and Relief Operations" in order to protect life and property. And while the government has established a National Disaster Risk Reduction and Management Framework that provides for a comprehensive hazards evaluation and a multi-sectoral, inter-agency and community-based approach to disaster risk reduction and management, it had been recognized that without electricity:

- Very little, if any, meaningful rescue and relief efforts can take place;
- Health conditions quickly deteriorate without water, health and other basic services; and
- Civil unrest quickly develops as there is no effective communication that will monitor and coordinate law enforcement.

For these reasons, ensuring the supply of electric service after a force majeure or fortuitous event has become a national security concern and recognized as a high priority by the government. For the same reason, the government, through the

National Electrification Administration has embarked on a Sitio Electrification Program, which resulted in the energization of 32,688 sitios from 2011 to 2015.

The electric cooperatives, however, are non-profit entities whose electric rates are regulated by the Energy Regulatory Commission under a rate setting methodology which does not allocate funds to cover the reconstruction or rehabilitation of the electric cooperatives' damaged infrastructure after a force majeure or fortuitous event. Based on historical data from 2004 to 2014, the extent of the cost of damaged infrastructure suffered by an individual electric cooperative ranges from as low as .09% to as high as 169.92% of the total Net Utility Plant In Service and Construction In Progress. The cost of damaged infrastructure is largely dependent on the intensity or magnitude of the force majeure or fortuitous event. Without the financial assistance provided through grants or subsidies from the national government, the electric cooperatives are forced to secure calamity loans which are often converted to long-term loans for the reconstruction or rehabilitation of the their damaged facilities. The total cost to amortize these calamity loans are then passed on to the member-consumers. While the ever-increasing incidence of calamities is oftentimes regional, it creates high recurring costs for the electric cooperatives and their member-consumers and if the costs are not nationalized, it will result in financially distressed electric cooperatives and communities. This situation negates the very intent of the electric cooperatives creation which is to provide affordable electric rates to the member-consumers and to promote economic development, and prosperity in the local communities.

While historically, the government has provided grant funds or subsidies for the rehabilitation or restoration of their calamity damaged infrastructure, such funding is not guaranteed and generally the release of which is significantly delayed. Over the past 11 years (2004-2014) the national government has provided a total of Php 6.3 billion to around 75 electric cooperatives which were damaged by calamities, but in each case the decision to provide the funding was made after the fact and only upon the approval of the President.

Recognizing that restoration of electric service following a major calamity is truly a matter of national security and of the highest priority, the National Electrification Administration initiated the development of a policy which now requires all electric cooperatives to prepare a Vulnerability and Risk Assessment and to develop an Emergency Response Plan. The Vulnerability and Risk Assessment requires the development and implementation of action plans to protect, strengthen and/or mitigate damages to the electric cooperatives' critical assets from possible calamities. On the other hand, the Emergency Response Plan requires a disaster plan which includes defining the organization structure, establishing the delegation of authority, assigning the responsible individuals to carry out detailed plans for the restoration of the electric cooperatives' facilities, ensuring business continuity, and identifying options to provide for alternative headquarter facilities, information and technology loss, and setting-up the priority of service restoration efforts following a force majeure or fortuitous event.

With the completion of the Vulnerability and Risk Assessment and development of the Emergency Response Plan, the electric cooperatives under the direction of the National Electrification Agency are expected to take every reasonable measure to be prepared for an onslaught of a force majeure or fortuitous event. Unfortunately, the availability of funds necessary to nationalize the cost associated with disaster prevention, preparedness, mitigation measures and rehabilitation or restoration efforts remains uncertain. These financially cripple the electric cooperatives and local communities and will further burden families already devastated both emotionally and financially.

Cognizant of the effects of climate change which can no longer be avoided and with increasing intensity and magnitude now termed as "New Normal" the approval of Congress is hereby sought for the creation of an Electric Cooperatives Disaster Management Fund, for the purpose of allocating grant or subsidy funds from the national government thereof, and streamlining the processes of availment of such funds for the implementation of mitigation measures defined in the electric cooperatives' Vulnerability and Risk Assessments as well as for the immediate restoration or rehabilitation of their damaged infrastructure when the extent of such damages are beyond its financial capability and that of the member-consumers.

In view thereof, the passage of this measure is earnestly sought.


CARLOS ROMAN L. UYBARRETA
Representative, I-CARE Party List

1 Republic of the Philippines
2 Congress of the Philippines
3 Quezon City

4
5 Seventeenth Congress
6 First Regular Session
7

8 House Bill No. **3353**
9

10 **Introduced by: Representative Carlos Roman L. Uybarreta, 1-Care Partylist**
11

12 *Be it enacted by the Senate and the House of Representatives of the Philippines in Congress*
13 *assembled:*
14

15 **AN ACT INSTITUTIONALIZING THE ELECTRIC COOPERATIVES DISASTER**
16 **MANAGEMENT FUND AND PROVIDING FUNDS THEREFOR, AMENDING FOR**
17 **THE PURPOSE CERTAIN LAWS**
18

19 **CHAPTER I**
20 **TITLE, POLICY AND DEFINITIONS**
21

22 **SECTION 1.** *Title.* This Act shall be known as the “Electric Cooperatives Disaster
23 **Management Fund”.**
24

25 **SECTION 2.** *Declaration of Policy.* It is hereby declared the policy of the State to:
26

- 27 a) Support and assist, to the fullest extent, Electric Cooperatives adversely
28 affected by Force Majeure or Fortuitous Event in order to immediately
29 restore electric service, recognizing that the absence of electric service after a
30 Force Majeure or Fortuitous Event is a national security issue, thereby:
31
- 32 1) Facilitating the rescue and relief operations, availability of basic
33 services such as food, water, medicine and hospitals and mitigation of
34 civil unrest;
 - 35 2) Aiding the normal functioning of local governments and
36 communities, and easing the recovery of the adversely affected
37 individuals and families;
 - 38 3) Assisting efforts of the affected Local Government Units in
39 expediting the rendering of aid, assistance and emergency services, and
40 the reconstruction and rehabilitation of devastated areas.
41
- 42 b) Provide an orderly and continuing means of financial assistance to the
43 Electric Cooperatives in carrying out their responsibilities of providing
44 reliable electric service necessary to alleviate the sufferings and damages
45 brought about by Force Majeure or Fortuitous Event by:
- 46 1) allocating funds in the form of grants for Disaster Mitigation,
47 Disaster Preparedness and Restoration or Rehabilitation of Electric
48 Cooperatives’ damaged facilities that are readily accessible;
 - 49 2) providing a streamlined process for the availment of the fund;
 - 50 3) requiring the Electric Cooperatives to develop and implement
51 comprehensive Vulnerability Risk Assessments which identify Disaster
52 Preparedness and Disaster Mitigation measures to protect and strengthen

critical infrastructure assets and Emergency Response Plans to address immediate Restoration or Rehabilitation efforts.

SECTION 3. Scope. This Act shall be applicable to all Electric Cooperatives throughout the country.

SECTION 4. Definition of Terms. As used in this Act, the following words or terms shall have the following meanings, unless provided otherwise:

- a) *Climate Change* – shall refer to a change in the state of the climate that can be identified by changes in the mean and/or the variability of its properties, and that persists in an extended period, typically decades or longer, whether due to natural internal processes or external forces such as modulation of the solar cycles, volcanic eruptions and persistent anthropogenic changes in the composition of the atmosphere or in land use;
- b) *Disaster* – shall refer to a serious disruption of the functioning of a community or a society involving widespread human, material, economic or environmental losses and impacts, which exceeds the ability of the affected community to cope using its own resources.
- c) *Disaster Mitigation* – shall refer to the reduction or limitation of the adverse impacts of hazards. Mitigation measures encompass engineering techniques and hazard-resistant construction as well as improved environmental, land use planning, climate change and other sectoral policies and public awareness.
- d) *Disaster Preparedness*- shall refer to the knowledge and capacities developed by the Electric Cooperatives in cooperation with the government to effectively anticipate, respond to, and recover from, the impacts of likely, imminent or current hazard events or conditions. It may include preparedness for response such as but not limited to contingency planning, Vulnerability Risk Assessment, Emergency Response Planning, and stockpiling of equipment and materials;
- e) *Disaster Prevention*- shall refer to the avoidance of adverse impacts of hazards. It expresses the concept and intention to completely avoid potential adverse impacts through action taken in advance such as the Reconstruction or Rehabilitation of the distribution lines and facilities of the Electric Cooperatives to make it stronger than the old/damaged structure. This may involve the modification of the specifications of the electrical materials and equipment and the design and construction of the lines with primary consideration on the strength of materials and infrastructure;
- f) *Electric Cooperatives* – shall refer to a distribution utility created and operating pursuant to Presidential Decree No. 269, as amended;
- g) *Emergency Response Plan*- shall refer to the development and preparation of written and formal plan regarding “organizational structure and steps” which will enable the Electric Cooperative to restore its system in a safe and timely manner after a Force Majeure or Fortuitous Event;
- h) *Energy Regulatory Commission* – shall refer to the regulatory agency created under Republic Act No. 9136;
- i) *Force Majeure* – shall refer to an event that is a result of elements of nature that cannot be reasonably anticipated or controlled, such as, but not limited to typhoon, storm, tropical depression, flood, drought, volcanic eruption, earthquake, tidal wave or landslide;
- j) *Fortuitous Event* – shall refer to an act of war (declared or undeclared), sabotage, blockade, revolution, riot, insurrection, civil commotion or any

- 106 violent or threatening action;
- 107 k) *Joint Congressional Power Commission* - shall refer to the Commission created
- 108 under Republic Act No. 9136.
- 109 l) *Malampaya Fund*- shall refer to a Special Fund created under Presidential
- 110 Decree No. 910 intended to finance energy resource development and
- 111 exploitation programs and projects of the government and for such other
- 112 purposes duly approved by the President;
- 113 m) *National Electrification Administration* - shall refer to the government agency
- 114 created under Presidential Decree 269, as amended;
- 115 n) *National Disaster Risk Reduction and Management Fund*- shall refer to the
- 116 calamity fund appropriated under the Annual General Appropriations Act
- 117 which is used for disaster risk reduction or mitigation, prevention and
- 118 preparedness activities as provided under Republic Act No. 10121; and
- 119 o) *Restoration or Rehabilitation*- shall refer to the actions or activities undertaken
- 120 by the Electric Cooperatives to rebuild, replace, or repair the necessary
- 121 facilities to provide reliable electric service to member-consumers after a
- 122 Force Majeure or Fortuitous Event, taking into consideration designs,
- 123 materials, or equipment that will make the infrastructure more resilient.
- 124 p) *Vulnerability and Risk Assessment*- shall refer to the Electric Cooperatives
- 125 identification of critical assets and the development of Disaster Preparedness,
- 126 Disaster Prevention and Mitigation measures to protect, restore or strengthen
- 127 critical assets prior to the onset of a Force Majeure or Fortuitous Event;
- 128

129 CHAPTER II

130 CREATION AND IMPLEMENTATION OF THE ELECTRIC COOPERATIVES 131 DISASTER MANAGEMENT FUND 132

133 **SECTION 5.** *Creation of the Electric Cooperatives Disaster Management Fund.* To
134 implement the aforesaid policy of the State, there is hereby created an Electric
135 Cooperatives Disaster Management Fund, which shall be managed and administered
136 by the National Electrification Administration.

137
138 **SECTION 6.** *Powers and Functions of the National Electrification Administration.* The
139 National Electrification Agency shall have the following additional powers and
140 functions:

- 141
- 142 a) Formulates policies and coordinates the implementation of all activities of
- 143 the Electric Cooperatives relative to disaster management;
- 144 b) Establishes, administers and monitors the implementation of the Electric
- 145 Cooperatives' comprehensive and integrated programs such as but not
- 146 limited to: Vulnerability Risk Assessment and Emergency Response Plan;
- 147 c) Reviews and approves all activities of the Electric Cooperatives relative to
- 148 Disaster Mitigation, Disaster Preparedness and Disaster Prevention Plans as
- 149 a result of the Vulnerability Risk Assessment;
- 150 d) Develops the criteria and requirements to enable the Electric Cooperatives to
- 151 avail of the Electric Cooperatives Disaster Management Fund;
- 152 e) Develops the procedural requirements for program participation and fund
- 153 allocation;
- 154 f) Determines the annual budget of the Electric Cooperatives Disaster
- 155 Management Fund and submits the same for approval by Congress;
- 156 g) Receives all donations (funds, materials, and/or equipment) which are
- 157 intended for the express purpose of addressing the restoration of Electric
- 158 Cooperatives infrastructure damaged by a Force Majeure or Fortuitous

- 159 Event; and
160 h) Promulgates such rules and regulations as may be necessary to implement
161 the objectives and provisions of this Act.
162

163 CHAPTER III
164 RESPONSIBILITIES OF THE ELECTRIC COOPERATIVES
165

166 **SECTION 7. *Responsibilities of the Electric Cooperatives.*** In addition to their primary
167 mandate to implement the rural electrification program of the country under existing
168 laws, the Electric Cooperatives shall be vested with all the powers necessary to ensure
169 the protection, preparedness and mitigation of the adverse impact of any Force Majeure
170 or Fortuitous Event to its infrastructures. Electric Cooperatives shall also ascertain the
171 ability of their manpower to undertake emergency response for the immediate
172 Restoration or Rehabilitation of their damaged infrastructures after a Force Majeure or
173 Fortuitous Event. To accomplish such responsibilities, the Electric Cooperatives shall
174 come up with comprehensive and integrated programs such as but not limited to the
175 following:
176

- 177 a) Undertake a disaster Vulnerability Risk Assessment of all their
178 infrastructures in accordance with the National Electrification Agency
179 approved template;
180 b) Prepare in the order of priority, projects and programs, including the
181 financial requirements necessary to protect and mitigate the disaster
182 vulnerability of all its infrastructures for review and approval by the National
183 Electrification Agency;
184 c) Institutionalize an Emergency Response Plan to be activated immediately
185 before and after the occurrence of a Force Majeure or Fortuitous Event;
186 d) Comply with the National Electrification Agency policies and procedural
187 requirements for the program participation and fund allocation;
188 e) Submit reports as may be required by the National Electrification Agency;
189 and
190 f) Undertake all other activities necessary to implement the objectives and
191 provisions of this Act.
192

193 CHAPTER IV
194 FUND SOURCES AND ALLOCATION
195

196 **SECTION 8. *Fund Sources.*** The Electric Cooperatives Disaster Management Fund shall
197 be funded through, but not limited, to the following sources:
198

- 199 a. National Disaster Risk Reduction and Management Fund;
200 b. Malampaya Fund;
201 c. General Appropriations Act
202

203 **SECTION 9. *Donations.*** All donations (funds, materials, and/or equipment), whether
204 local or international, intended for the express purpose of Restoring or Rehabilitating
205 the Electric Cooperatives infrastructure damaged by a Force Majeure or Fortuitous
206 Event, shall be received directly by the National Electrification Agency. International
207 donations shall be exempt from all duties, fees, taxes and other charges.
208

209 **SECTION 10. *Appropriations.*** The sum of Seven Hundred Fifty Million Pesos
210 (Php750,000,000.00) for the initial implementation of this Act shall be taken out from the
211 National Disaster Risk Reduction and Management Fund and the Malampaya Fund.

Thereafter, such amounts necessary for the sustainable implementation of this Act shall be included in the annual General Appropriations Act.

SECTION 11. *Allocation of the Electric Cooperatives Disaster Management Fund.* The Electric Cooperatives Disaster Management Fund shall be allocated in the following manner:

- a) Fifty percent (50%) for the Electric Cooperatives' Disaster Prevention, Disaster Preparedness and Disaster Mitigation measures duly approved by the National Electrification Agency;
- b) Forty percent (40%) for the Restoration or Rehabilitation of the Electric Cooperatives damaged infrastructures after a Force Majeure or Fortuitous Event; and
- c) Ten percent (10%) for the repayment of outstanding obligations of the Electric Cooperatives incurred for the purpose of financing the Restoration or Rehabilitation of its infrastructures damaged by a Force Majeure or Fortuitous Events.

In case of a deficiency of the fund allocated for the Restoration or Rehabilitation of the Electric Cooperatives damaged infrastructure after a Force Majeure or Fortuitous Event, the amount intended for the Electric Cooperatives Disaster Prevention, Preparedness and Mitigation measures which has not been released by the National Electrification Agency to the Electric Cooperatives shall be immediately re-allocated to cover such shortfall. In case the amount of the initial annual budget is inadequate to cover the Restoration or Rehabilitation costs for the year, the annual budget for the succeeding year shall be increased to an amount equivalent to the previous year's Electric Cooperatives Disaster Management Funds' total expenditures, and such amount shall be maintained unless there is a need to increase pursuant to this Section.

If the Electric Cooperatives Disaster Management Fund for the year is inadequate to cover the Restoration or Rehabilitation costs for Electric Cooperatives infrastructure damaged by Force Majeure or Fortuitous Event, the National Electrification Agency shall seek for the allocation of supplementary budget corresponding to the outstanding balance from the National Disaster Risk Reduction Management Fund or the Malampaya Fund subject to the approval of the President.

SECTION 12. *Outstanding Calamity Loans of Electric Cooperatives.* Upon the effectivity of this Act, all outstanding financial obligations of Electric Cooperatives to the National Electrification Agency and other financing institutions incurred for the purpose of financing the Restoration or Rehabilitation of the Electric Cooperatives' damaged infrastructures by a Force Majeure or Fortuitous Events shall be assumed and paid by the National Electrification Agency from the Electric Cooperatives Disaster Management Fund in accordance with a program duly approved by the Joint Congressional Power Commission within six (6) months from the effectivity of this Act which shall be implemented within three (3) years from its approval. The Energy Regulatory Commission shall ensure the reduction in the electricity rates of the Electric Cooperatives commensurate with the resulting savings due to the removal of the amortization payments of their loans. Within five (5) years from the condonation of calamity loans, any Electric Cooperative which shall transfer ownership or control of its assets, franchise or operations to any individual or entity other than another Electric Cooperative shall repay the national government the total loans including accrued interests thereon.

CHAPTER V
GENERAL PROVISIONS

SECTION 13. *Reportorial Requirements.* The National Electrification Agency shall take the necessary measures to ensure that the provisions of this Act are properly implemented and submit annual reports on the program implementation and fund utilization to the Department of Energy, the Joint Congressional Power Commission and the Office of the President;

SECTION 14. *Congressional Oversight.* Upon the effectivity of this Act, the Joint Congressional Power Commission shall exercise oversight functions over the implementation of this Act.

SECTION 15. *Evaluation.* Within five (5) years after the effectivity of this Act, the Joint Congressional Power Commission shall conduct a systematic evaluation of the accomplishments and impact of this Act for purposes of determining remedial legislation.

SECTION 16. *Implementing Rules and Regulations.* The National Electrification Agency shall, in consultation with relevant government agencies, Electric Cooperatives and end-users, promulgate the Implementing Rules and Regulations within six (6) months from the effectivity of this Act, subject to the approval of the Joint Congressional Power Commission.

SECTION 17. *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 in effect.

SECTION 18. *Repealing Clause.* Any law, presidential decree or issuance,, executive order, letter of instruction, administrative rule or regulation contrary to or inconsistent with the provisions of this Act are hereby repealed, modified or amended accordingly.

SECTION 19. *Effectivity.* This Act shall take effect on the fifteenth day following its publication in at least two (2) national papers of general circulation.

Approved.