

Republic of the Philippines
House of Representatives
Quezon City

Eighteenth Congress
First Regular Session



5
COMMITTEE REPORT NO.

Submitted by the Committee on Economic Affairs on AUG 29 2019

Re: House Bill No. 78

Recommending its approval without amendment in consolidation with House Bills Numbered 301, 346, 403, 540, 1781 and 4167

Sponsor: Representative Sharon S. Garin

Mr. Speaker:

The Committee on Economic Affairs to which were referred House Bill No. 78, introduced by Representative Joey Sarte Salceda, entitled:

"AN ACT PROVIDING FOR THE DEFINITION OF PUBLIC UTILITY, FURTHER AMENDING FOR THE PURPOSE COMMONWEALTH ACT NO. 146, OTHERWISE KNOWN AS THE 'PUBLIC SERVICE ACT', AS AMENDED"

House Bill No. 301, introduced by Representative Victor A. Yap, entitled:

"AN ACT PROVIDING FOR THE DEFINITION OF PUBLIC UTILITY, FURTHER AMENDING FOR THE PURPOSE COMMONWEALTH ACT NO. 146, OTHERWISE KNOWN AS THE 'PUBLIC SERVICE ACT', AS AMENDED"

House Bill No. 346, introduced by Representative Xavier Jesus D. Romualdo, entitled:

"AN ACT PROVIDING FOR THE DEFINITION OF PUBLIC UTILITY, FURTHER AMENDING FOR THE PURPOSE COMMONWEALTH ACT NO. 146, OTHERWISE KNOWN AS THE 'PUBLIC SERVICE ACT', AS AMENDED"

House Bill No. 403, introduced by Representatives Luis Raymund "Lray" F. Villafuerte, Jr., entitled:

"AN ACT AMENDING COMMONWEALTH ACT NO. 146, OTHERWISE KNOWN AS THE PUBLIC SERVICE ACT, AS AMENDED, AND FOR OTHER PURPOSES"

House Bill No. 540, introduced by Representative Argel Joseph T. Cabatbat, entitled:

"AN ACT AMENDING COMMONWEALTH ACT NO. 146, OTHERWISE KNOWN AS THE PUBLIC SERVICE ACT, AS AMENDED, AND FOR OTHER PURPOSES"

House Bill No. 1781, introduced by Representative Ron P. Salo, entitled:

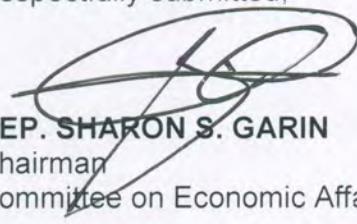
"AN ACT PROVIDING FOR THE DEFINITION OF PUBLIC UTILITY, FURTHER AMENDING FOR PURPOSE COMMONWEALTH NO. 146, OTHERWISE KNOWN AS THE PUBLIC SERVICE ACT, AS AMENDED"

House Bill No. 4167, introduced by Representatives Estrellita B. Suansing and Horacio P. Suansing, entitled:

"AN ACT PROVIDING FOR THE DEFINITION OF PUBLIC UTILITY, FURTHER AMENDING FOR THE PURPOSE COMMONWEALTH ACT NO. 146, OTHERWISE KNOWN AS THE "PUBLIC SERVICE ACT", AS AMENDED"

has considered the same and recommends the approval of House Bill No. 78 without amendment in consolidation with House Bills Numbered 301, 346, 403, 540, 1781 and 4167 with Representatives Joey Sarte-Salceda, Victor A. Yap, Xavier Jesus D. Romualdo, Luis Raymund "Lray" F. Villafuerte, Jr., Argel Joseph T. Cabatbat, Ron P. Salo, Estrellita B. Suansing, Horacio P. Suansing, Sharon S. Garin, Deputy Majority Leader Bernadette Herrera-Dy, Amihilda J. Sangcopan, Francisco "Kiko" B. Benitez, Antonio "Tonypet" T. Albano, Rozzano Rufino B. Biazon, Lorenz R. Defensor, Edgardo M. Chatto and Stella Luz A. Quimbo as authors thereof.

Respectfully submitted,


REP. SHARON S. GARIN
Chairman
Committee on Economic Affairs

THE HONORABLE SPEAKER
HOUSE OF REPRESENTATIVES
Quezon City

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City



Eighteenth Congress
First Regular Session

HOUSE BILL NO. 78

Introduced by Representative JOEY SARTE SALCEDA

**AN ACT
PROVIDING FOR THE DEFINITION OF PUBLIC UTILITY, FURTHER
AMENDING FOR THE PURPOSE COMMONWEALTH ACT NO. 146,
OTHERWISE KNOWN AS THE "PUBLIC SERVICE ACT", AS AMENDED**

EXPLANATORY NOTE

Consumers often experience high prices and poor quality of basic services in the Philippines, because only a few local players or oligarchs effectively control the market. Competition and foreign investment are inhibited, because limitations that should only apply to the operation of a public utility are usually also applied to all public services. This situation is caused by the ambiguity in the definition of public utility that is often used interchangeably with public service under Commonwealth Act No. 146 or the Public Service Act. The key to fixing this problem is to develop a clear statutory definition of a public utility by amending the Public Service Act.

The Public Service Act is a law that was crafted in 1936 to govern public services in the Philippines. Understandably, it no longer sufficiently addresses the changes in the economic framework brought about by globalization and rapid technological innovation. Hence, there is a need to adjust the provisions of the law to bring it to the 21st century and enable it to fulfil its purpose of truly serving the public.

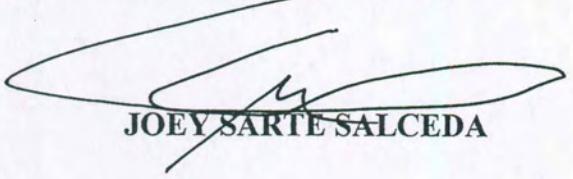
Notwithstanding numerous amendments, this 80-year old law is still a good law in terms of protecting the public interest, albeit outdated in certain aspects, particularly: 1) the transfer of the functions of the Public Service Commission to various administrative agencies; 2) the definition of public service, which is often used as a proxy for public utility in reference to the 1987 Constitution; and 3) the applicable penalties and fees for public services.

This bill proposes to further amend the Public Service Act to effect the necessary changes in the antiquated provisions of the law to increase its relevance to contemporary concerns, in the interest of providing the general public with more choices, better services, and lower prices. This bill also prescribes a 12% cap on rate of return and prohibits income

tax as operating expense for rate-determination purposes for public services, including public utilities, consistent with administrative and judicial pronouncements.

This legislative reform will significantly contribute to increasing competition, as well as protecting the public interest. More competition among providers would result in lower prices and improved quality of basic services in the Philippines creating a more competitive economy towards a better quality of life for all.

In light of the foregoing, the passage of this bill is most earnestly sought



JOEY SARTÉ SALCEDA

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

Eighteenth Congress
First Regular Session

HOUSE BILL NO. 78

Introduced by Representative JOEY SARTE SALCEDA

**AN ACT
PROVIDING FOR THE DEFINITION OF PUBLIC UTILITY, FURTHER
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. *Public Utility.* – Section 13 of Commonwealth Act No. 146, as amended, is hereby further amended to read as follows:

“Section 13. x x x.

“(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 business purpose, x x x canal, **PUBLIC MARKET**, irrigation system x x x.

“x x x

“(D) (1) PUBLIC UTILITY DEFINITION. – ‘PUBLIC UTILITY’ REFERS TO A PERSON THAT OPERATES, MANAGES AND CONTROLS FOR PUBLIC USE ANY OF THE FOLLOWING:

“(I) DISTRIBUTION OF ELECTRICITY (AS DEFINED BY SECTION 4(N) OF REPUBLIC ACT NO. 9136, OTHERWISE KNOWN AS THE ‘ELECTRIC POWER INDUSTRY REFORM ACT OF 2001’) SYSTEM;

“(II) TRANSMISSION OF ELECTRICITY (AS DEFINED BY SECTION 4(CCC) OF REPUBLIC ACT NO. 9136) SYSTEM; AND

"(III) WATER PIPELINE DISTRIBUTION SYSTEM OR SEWERAGE PIPELINE SYSTEM (AS DEFINED 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, KNOWN AND REFERRED TO AS THE 'PROVINCIAL WATER UTILITIES ACT OF 1973', AS AMENDED).

"(2) AMENDMENT OF PUBLIC UTILITY DEFINITION. – NO OTHER PERSON SHALL BE DEEMED A PUBLIC UTILITY UNDER SECTION 13(D)(1) UNLESS OTHERWISE SUBSEQUENTLY PROVIDED BY LAW.

"THE NATIONAL ECONOMIC AND DEVELOPMENT AUTHORITY (NEDA) SECRETARIAT, IN CONSULTATION WITH THE PHILIPPINE COMPETITION COMMISSION (PCC), SHALL RECOMMEND TO CONGRESS THE CLASSIFICATION OF A PUBLIC SERVICE AS A PUBLIC UTILITY ON THE BASIS OF THE FOLLOWING CRITERIA:

"(I) THE PERSON REGULARLY SUPPLIES AND DIRECTLY TRANSMITS AND DISTRIBUTES TO THE PUBLIC THROUGH A NETWORK A COMMODITY OR SERVICE OF PUBLIC CONSEQUENCE;

"(II) THE COMMODITY OR SERVICE IS NECESSARY TO THE PUBLIC AND A NATURAL MONOPOLY THAT NEEDS TO BE REGULATED WHEN THE COMMON GOOD SO REQUIRES;

"(III) THE COMMODITY OR SERVICE IS NECESSARY FOR THE MAINTENANCE OF LIFE AND OCCUPATION OF RESIDENTS; AND

"(IV) THE COMMODITY OR SERVICE IS OBLIGATED TO PROVIDE ADEQUATE SERVICE TO THE PUBLIC ON DEMAND."

SEC. 2. *Certificate of Authority.* – Section 15 of Commonwealth Act No. 146, as amended, is hereby further amended to read as follows:

"Section 15. With the exception of those enumerated in the preceding section, no public service shall operate in the Philippines without possessing a valid and subsisting FRANCHISE, certificate, OR ANY OTHER APPROPRIATE FORM OF AUTHORIZATION FOR THE OPERATION OF A PUBLIC SERVICE [from the Public

Service Commission known as ‘certificate of public convenience’, or ‘certificate of public convenience and necessity’,] 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 prescribe as a condition for the issuance of the certificate provided in the preceding paragraph that the service can be acquired by the Republic of the Philippines or any instrumentality thereof upon payment of the cost price of its **CAPITAL STOCK, OR** useful equipment, less reasonable depreciation; and likewise, that the certificate 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 certificate without the necessity of any express action on the part of the [Commission] **ADMINISTRATIVE AGENCY**.

“X X X.”

SEC. 3. *Proceedings Upon Notice and Hearing.* – Section 16 of Commonwealth Act No. 146, as amended, is hereby further amended to read as follows:

“Section 16. Proceedings of the [Commission] **ADMINISTRATIVE AGENCY**, upon notice and hearing. – The [Commission] **ADMINISTRATIVE AGENCY** shall have power, upon proper notice and hearing in accordance with the rules and provisions of this Act, subject to the limitations and exceptions mentioned and saving provisions to the contrary:

“(a) To issue certificates [which shall be known as certificates of public convenience,] authorizing the operation of public service within the Philippines whenever the [Commission] **ADMINISTRATIVE AGENCY** finds that the operation of the public service proposed and the authorization to do business will promote the public interest in a proper and suitable manner. [Provided, That thereafter, certificates of public convenience and certificates of public convenience and necessity will be granted only to citizens of the Philippines or of the United States or to corporations, co-partnerships, associations or joint-stock companies constituted and organized under the laws of the Philippines; Provided, That sixty per centum of the stock or paid-up capital of any such corporations, co-partnership, association or joint-stock company must belong entirely to citizens of the Philippines or of the United States: Provided, further, That no such certificates shall be issued for a period of more than fifty years.]

“X X X

“(c) To fix and determine **MAXIMUM** individual or joint rates, tolls, charges, classifications, **REVENUES**, or schedules thereof, as well as commutation, mileage, kilometrage, and other special rates which shall be imposed, observed, and followed thereafter by any public service **WHEN THE PUBLIC INTEREST SO REQUIRES**: *Provided*, That the [Commission] **ADMINISTRATIVE AGENCY** may, in its discretion, approve rates proposed by public services provisionally and without necessity of any hearing; but it shall call a hearing thereon within thirty days, thereafter, upon publication and notice to the concerns operating in the territory affected: *Provided, further*, That in case the public service equipment of an operator is used principally or secondarily for the promotion of a private business, the net profits of said private business shall be considered in relation with the public service of such operator for the purpose of fixing the rates.

“IN THE PUBLIC INTEREST, THE ADMINISTRATIVE AGENCY MAY ESTABLISH AND ENFORCE A METHODOLOGY FOR SETTING RATES, TAKING INTO ACCOUNT ALL RELEVANT CONSIDERATIONS, INCLUDING THE EFFICIENCY OF THE REGULATED PUBLIC SERVICE. THE RATES MUST BE SUCH AS TO ALLOW THE RECOVERY OF JUST AND REASONABLE COSTS AND A REASONABLE RATE OF RETURN TO ENABLE THE PUBLIC SERVICE TO OPERATE VIABLY. THE ADMINISTRATIVE AGENCY MAY ADOPT ALTERNATIVE FORMS OF INTERNATIONALLY ACCEPTED RATE-SETTING METHODOLOGY AS IT MAY DEEM APPROPRIATE AND WILL PROMOTE EFFICIENCY. THE RATE-SETTING METHODOLOGY SO ADOPTED AND APPLIED MUST ENSURE A REASONABLE PRICE OF THE COMMODITY OR SERVICE. THE RATES PRESCRIBED SHALL BE NONDISCRIMINATORY.

“THIS PROVISION SHALL NOT BE INTERPRETED AS MANDATING RATE REGULATION AND AMENDING OR REPEALING (1) LAWS PROVIDING A DEREGULATION POLICY, SUCH AS REPUBLIC ACT NOS. 7925, 8479, 9136, AND 9295 AND (2) REGULATIONS PROMULGATED BY THESE ADMINISTRATIVE AGENCIES TO DEREGULATE RATES.

“THE PCC IS HEREBY MANDATED TO CONDUCT REGULAR STUDIES ON WHETHER DEREGULATION IS WARRANTED IN A SECTOR AND SUBMIT ITS RECOMMENDATION TO CONGRESS.

“x x x.”

SEC. 4. *Proceedings Without Hearing.* – Section 17 of Commonwealth Act No. 146, as amended, is hereby further amended to read as follows:

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

“x x x

“(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 any certificate, 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.

“x x x.”

SEC. 5. *Acts Requiring Approval.* – Section 20 of Commonwealth Act No. 146, as amended, is hereby further amended to read as follows:

“Section 20. Acts requiring the approval of the [Commission] **ADMINISTRATIVE AGENCY**. – Subject to established limitations and exceptions and saving provisions to the contrary, it shall be unlawful for any public service or for the owner, lessee or operator thereof, without the approval and authorization of the [Commission] **ADMINISTRATIVE AGENCY** previously had –

“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* of the capital stock belonging to Philippine citizens **IN THE OPERATION, MANAGEMENT AND CONTROL 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. 6. *Penalties for Violations.* – Section 21 of Commonwealth Act No. 146, as amended, is hereby further amended to read as follows:

“Section 21. 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 **DISGORGEMENT OF PROFITS, TREBLE DAMAGES**, a fine [of not exceeding two hundred pesos] **OF UP TO FIVE MILLION PESOS** per day for every day during which such default or violation continues[;], **DIVESTMENT, OR ALL OR ANY COMBINATION THEREOF**; and the [Commission] **ADMINISTRATIVE AGENCY** is hereby authorized and empowered to impose such fine, after due notice and hearing. **THE MAXIMUM DAILY FINE OF FIVE MILLION PESOS SHALL BE INCREASED EVERY FIVE (5) YEARS UPON CERTIFICATION BY THE NEDA ON THE COMPUTATION OF THE COST OF MONEY BASED ON THE CUMULATIVE THREE HUNDRED SIXTY (360)-DAY TREASURY BILL RATE.**

“The **PENALTIES AND** fines so imposed shall be paid to the Government of the Philippines through the [Commission] **ADMINISTRATIVE AGENCY**, and failure to pay the **PENALTY OR** fine in any case within the same specified in the order or decision of the [Commission] **ADMINISTRATIVE AGENCY** shall be deemed good and sufficient reason for the suspension of the certificate of said public service until payment [shall be] **IS** made. Payment may also be enforced by appropriate action brought in a court of competent jurisdiction. The remedy provided in this section shall not be a bar to, or affect any other remedy provided in this Act but shall be cumulative and additional to such remedy or remedies.”

SEC. 7. *Administrative Cost Recovery Mechanism.* – Section 40 of Commonwealth Act No. 146, as amended, is hereby further amended to read as follows:

“Section 40. The [Commission] **ADMINISTRATIVE AGENCY** is authorized and ordered to charge and collect from any public service or applicant, as the case may be, [the following] **REASONABLE** fees as reimbursement of its expenses in the authorization, supervision and/or regulation of public services[;], **AND TO IMPOSE APPROPRIATE PENALTIES AND FINES AS PROVIDED BY LAW.”**

I(a) x x x

x x x

(i) x x x

This section shall not be applicable to the Republic of the Philippines, nor to its instrumentalities.

Aside from the appropriations for the Commission under the annual General Appropriation Act, any unexpended balance of the fees collected by the Commission under this section shall be constituted receipts automatically appropriated each year, and together with any surplus in the standardizing meter laboratory revolving fund under Commonwealth Act Numbered Three hundred forty-nine, shall be disbursed by the Public Service Commissioner in accordance with special budgets to be approved by the Department of Justice, the Budget Commission and the Office of the President of the Philippines for additional needed personal services, maintenance and operating expenses, acquisition of urgently needed vehicles, furniture and equipment, maintenance of an adequate reference library, acquisition of a lot and building for the Commission, and other expenses necessary for efficient administration and effective supervision and regulation of public services. (As amended by Com. Act No. 454 and RA No. 3792, approved June 22, 1963.)]

SEC. 8. *Recognition of Administrative Agencies.* – All references to the Public Service Commission in Commonwealth Act No. 146, as amended, shall mean any administrative agency to which the powers and duties of the Public Service Commission were transferred in accordance with their respective charters and related statutes.

SEC. 9. *Interpretation.* – This Act shall be subject to the regulatory powers of the State to promote public interest in Article IX-C, Section 4 and Article XII, Section 17 of the Constitution. A person classified as a public utility prior to the effectiveness of this Act and declassified as such under this Act shall be considered a public service and a business affected with public interest for the purpose of Article XII, Section 17 of the Constitution. Such person shall continue to be subject to regulation by relevant administrative agencies under existing laws.

No franchise, certificate, or authorization granted by the appropriate administrative agencies shall be (1) exclusive in character, (2) for a longer period than fifty years, and (3)

granted except under the condition that it shall be subject to amendment, alteration, or repeal by Congress when the common good so requires.

SEC. 10. *General Law.* – Commonwealth Act No. 146, as amended, shall be construed as a general law that shall apply suppletorily to special laws or existing sector-specific laws governing public services, except for Section 13(d) of Commonwealth Act No. 146, as amended, as further amended by Section 1 of this Act.

SEC. 11. *Comprehensive Baseline Survey.* – The PCC shall commission the University of the Philippines Law Center (UPLC) or such other institutions to conduct a comprehensive baseline survey of the regulatory governance and regulatory substance of public services within six (6) months from the effectivity of this Act.

SEC. 12. *Performance Audit.* – Administrative agencies must ensure the annual conduct of performance audit by an independent evaluation team to ensure cost-norms and the quality of services provided to the public and the ability of manpower and system resources of the public service provider to immediately respond to emergency cases. Metrics for various types of services must be established to sustain reliability, security, and safety of the public.

SEC. 13. *Rules and Regulations.* – Administrative agencies under Section 8 of this Act shall, in coordination with the UPLC, promulgate rules and regulations to implement the provisions of this Act within ninety (90) days from the effectivity of this Act.

SEC. 14. *Separability Clause.* – If any portion or provision of this Act is declared unconstitutional, the remainder of this Act or any provision not affected thereby shall remain in force and effect.

SEC. 15. *Repealing Clause* – All laws, decrees, orders, rules and regulations or other issuances or parts thereof, including Commonwealth Act No. 146 or the Public Service Act, as amended, inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SEC. 16. *Effectivity.* This Act shall take effect fifteen (15) days after its publication in the *Official Gazette* or in a newspaper of general circulation.

Approved,

FACT SHEET

House Bill 78

(Without Amendment, in consolidation with House Bills Numbered 301, 346, 403, 540, 1781 and 4167)

"AN ACT PROVIDING FOR THE DEFINITION OF PUBLIC UTILITY, FURTHER AMENDING FOR THE PURPOSE COMMONWEALTH ACT NO. 146, OTHERWISE KNOWN AS THE 'PUBLIC SERVICE ACT', AS AMENDED"

*Introduced by: REPRESENTATIVES SALCEDA, V.A. YAP, ROMUALDO, VILLAFUERTE,
CABATBAT, SALO, E.B. SUANSING and H.P. SUANSING*

Committee Referral: COMMITTEE ON ECONOMIC AFFAIRS

Committee Chairperson: REPRESENTATIVE SHARON S. GARIN

OBJECTIVES:

- To limit the term "public utilities" to the electricity distribution and transmission sector and the water pipeline and sewerage pipeline system, thus opening up certain industries to more competition
- To provide a mechanism for rate fixing that allows a reasonable rate of return to attract investments into public utilities

KEY PROVISIONS:

1. Includes public markets in the coverage of the term "public service";
2. Provides a clear definition of "public utility" in the sectors:
 - Distribution of electricity (as defined by section 4 (n) of RA 9136) system;
 - Transmission of electricity (as defined by section 4 (ccc) of RA 9136) system; and
 - Water pipeline distribution system and sewerage pipeline system (as defined by RA 6234, as amended, and PD 198, as amended).
3. Designates the National Economic and Development Authority (NEDA) Secretariat, in consultation with the Philippine Competition Commission (PCC), as the recommendatory authority to Congress in the classification of a person, business or service as a public utility.
4. Recognizes that the powers and duties of the Public Service Commission (PSC) were transferred to other administrative agencies in accordance with their respective charters and related statutes.
5. Provides an appropriate mechanism for fixing rates based on reasonable rate of return.
6. Updates the applicable penalties and fees for public services.
7. Strengthens the enforcement remedies of administrative agencies.

RELATED LAW:

- Commonwealth Act No. 146 or the Public Service Law (1936).

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

Eighteenth Congress
First Regular Session

HOUSE BILL NO. 78

Introduced by Representatives SHARON S. GARIN, JOEY SARTE SALCEDA, VICTOR A. YAP, XAVIER JESUS D. ROMUALDO, LUIS RAYMUND "LRAY" F. VILLAFUERTE, JR., ARGEL JOSEPH T. CABATBAT, RON P. SALO, ESTRELLITA B. SUANSING, HORACIO P. SUANSING, BERNADETTE HERRERA-DY, AMIHILDA J. SANGCOPAN, FRANCISCO "KIKO" B. BENITEZ, ANTONIO "TONYPET" T. ALBANO, ROZZANO RUFINO B. BIAZON, LORENZ R. DEFENSOR, EDGARDO M. CHATTO AND STELLA LUZ A. QUIMBO

**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:*

1 SECTION. 1. Short Title. – This Act shall be known as the “New Public
2 Service Act”.

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

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

8 These policies are fulfilled by: 1) ensuring effective regulation of public
9 services; 2) providing reasonable rate of return to public services; 3) rationalize
10 foreign equity restrictions by clearly defining the term “public utilities”; and 4)
11 instituting processes for the protection of national security.

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

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

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

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

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

16 (e) *Distribution of Electricity* refers to the conveyance of electric power by a
17 distribution utility through its distribution system as defined by Section 4 (n) of
18 Republic Act No. 9136, otherwise known as the “Electric Power Industry Reform
19 Act (EPIRA) of 1991”;

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

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

30 (h) *Transmission of Electricity* refers to the conveyance of electricity
31 through the high voltage backbone system, as defined by Section 4 (ccc) of
32 Republic Act No. 9136, otherwise known as EPIRA;

33 (i) *Water Pipeline Distribution Systems* refer to the operation and
34 maintenance of water pipeline distribution systems to ensure an uninterrupted

1 and adequate supply and distribution of potable water for domestic and other
2 purposes, as regulated by Republic Act No. 6234, entitled "An Act Creating the
3 Metropolitan Waterworks and Sewerage System", as amended, and Presidential
4 Decree No. 198, otherwise known as "The Provincial Water Utilities Act of 1973",
5 as amended; and

6 (j) *Sewerage Pipeline Systems* refer to the operation and maintenance of
7 sewerage pipeline systems to ensure public health and safety, as regulated by
8 Republic Act No. 6234, entitled "An Act Creating the Metropolitan Waterworks
9 and Sewerage System", as amended, and Presidential Decree No. 198, otherwise
10 known as "The Provincial Water Utilities Act of 1973", as amended.

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

- 16 a. Civil Aeronautics Board (CAB);
- 17 b. Civil Aviation Authority of the Philippines (CAAP);
- 18 c. Department of Energy (DOE);
- 19 d. Department of Environment and Natural Resources (DENR);
- 20 e. Department of Information and Communications Technology (DICT);
- 21 f. Department of Transportation (DOTr);
- 22 g. Energy Regulatory Commission (ERC);
- 23 h. Land Transportation Franchising Regulatory Board (LTFRB);
- 24 i. Land Transportation Office (LTO);
- 25 j. Local Water Utilities Administration (LWUA);
- 26 k. Maritime Industry Authority (MARINA);
- 27 l. Metropolitan Waterworks and Sewerage System (MWSS);
- 28 m. National Telecommunications Commission (NTC);
- 29 n. National Water Resources Board (NWRB);
- 30 o. Philippine Ports Authority (PPA); and
- 31 p. Toll Regulatory Board (TRB).

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

3 "SEC. 13. (a) The [Commission] **ADMINISTRATIVE AGENCY** shall
4 have jurisdiction, supervision, and control over all public services and their
5 franchises, equipment, and other properties, and in the exercise of its
6 authority, it shall have the necessary powers and the aid of public force:
7 *Provided*, That public services owned or operated by government entities or
8 government-owned or controlled corporations shall be regulated by the
9 [Commission] **ADMINISTRATIVE AGENCY** in the same way as
10 privately-owned public services, [but certificates of public convenience or
11 certificates of public convenience and necessity shall not be required of such
12 entities or corporations: *And provided, further*, That it shall have no
13 authority to require steamboats, motorships and steamship lines, whether
14 privately-owned, or owned or operated by any government controlled
15 corporation or instrumentality to obtain certificate of public convenience or
16 to prescribe their definite routes or lines of service] **PROVIDED,**
17 **FURTHER, THAT THE REQUIREMENT OF A FRANCHISE,**
18 **CERTIFICATE, CONCESSION, OR ANY OTHER APPROPRIATE**
19 **FORM OF AUTHORIZATION FOR THE OPERATION OF A PUBLIC**
20 **SERVICE SHALL APPLY IN CASE THE CHARTER OR ENABLING**
21 **LAW OF A PUBLIC SERVICE OWNED OR OPERATED BY A**
22 **GOVERNMENT ENTITY OR GOVERNMENT OWNED OR**
23 **CONTROLLED OPERATION DOES NOT EXPLICITLY REQUIRE**
24 **THE SAME.**

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

35 "x x x

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

- (a) THE PERSON REGULARLY SUPPLIES, TRANSMITS AND DISTRIBUTES TO THE PUBLIC THROUGH A NETWORK A COMMODITY OR SERVICE OF PUBLIC CONSEQUENCE;
 - (b) THE PUBLIC SERVICE IS A NATURAL MONOPOLY THAT NEEDS TO BE REGULATED. FOR THIS PURPOSE, NATURAL MONOPOLY EXISTS WHEN THE MARKET DEMAND FOR A COMMODITY OR SERVICE CAN BE SUPPLIED BY A SINGLE ENTITY AT A LOWER COST THAN BY TWO OR MORE ENTITIES;
 - (c) THE COMMODITY OR SERVICE IS NECESSARY FOR THE MAINTENANCE OF LIFE AND OCCUPATION OF THE PUBLIC; AND
 - (d) THE PERSON IS OBLIGATED TO PROVIDE ADEQUATE SERVICE TO THE PUBLIC ON DEMAND.

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

- (a) DISTRIBUTION OF ELECTRICITY;
 - (b) TRANSMISSION OF ELECTRICITY;
 - (c) WATER PIPELINE DISTRIBUTION; AND
 - (d) SEWERAGE PIPELINE.

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

(3) IN ADDITION TO SEC. (d)(1) AND (2) ABOVE, THE NATIONAL ECONOMIC AND DEVELOPMENT AUTHORITY (NEDA), IN CONSULTATION WITH THE PHILIPPINE COMPETITION COMMISSION (PCC), SHALL RECOMMEND TO CONGRESS THE CLASSIFICATION OF A PUBLIC SERVICE AS A

1 PUBLIC UTILITY PROVIDED SUCH PUBLIC SERVICE IS ABLE
2 TO MEET ALL CRITERIA ENUMMERATED IN SEC. 13 (d)(1) OF
3 THIS ACT.

4 NO OTHER PERSON SHALL BE DEEMED A PUBLIC
5 UTILITY UNDER SEC. 13(d) OF THIS ACT, UNLESS OTHERWISE
6 SUBSEQUENTLY PROVIDED BY LAW."

7 SEC. 6. Section 14 of Commonwealth Act No. 146, as amended, is hereby
8 amended to read as follows:

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

- 11 (a) Warehouses;
- 12 (b) Vehicles drawn by animals and bancas moved by oar or sail, and
13 tugboats and lighters[.];
- 14 (c) Airships within the Philippines except as regards the fixing of their
15 maximum rates on freight and passengers;
- 16 (d) Radio companies except with respect to the fixing of rates;
- 17 (e) Public services owned or operated by any instrumentality of the
18 National Government or by any government-owned or controlled
19 corporation, except with respect to the fixing of rates.

20 "**(2) IN THE INTEREST OF NATIONAL SECURITY, THE**
21 **PRESIDENT, AFTER REVIEW, EVALUATION AND**
22 **RECOMMENDATION OF THE RELEVANT GOVERNMENT**
23 **DEPARTMENT OR ADMINISTRATIVE AGENCY, MAY**
24 **SUSPEND OR PROHIBIT ANY PROPOSED MERGER OR**
25 **ACQUISITION TRANSACTION, OR ANY INVESTMENT IN A**
26 **PUBLIC SERVICE THAT EFFECTIVELY RESULTS IN THE**
27 **GRANT OF CONTROL, WHETHER DIRECT OR INDIRECT, TO**
28 **A FOREIGNER OR A FOREIGN CORPORATION.**

29 **THE PHILIPPINE COMPETITION COMMISSION SHALL BE**
30 **CONSULTED ON ALL MATTERS RELATING TO MERGERS**
31 **AND ACQUISITIONS.**

1 THE NEDA SHALL PROMULGATE RULES AND
2 REGULATIONS TO IMPLEMENT THE PROVISIONS OF THIS
3 SECTION.

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

6 “SEC. 15. With the exception of those enumerated in SECTION 14(1)
7 [preceding section], no public service shall operate in the Philippines
8 without possessing a valid and subsisting FRANCHISE, certificate,
9 CONCESSION, OR ANY OTHER APPROPRIATE FORM OF
10 AUTHORIZATION FOR THE OPERATION OF A PUBLIC
11 SERVICE, [from the Public Service Commission known as “certificate
12 of public convenience,” or “certificate of public convenience and
13 necessity,”] FROM CONGRESS, AND/OR THE PROPER
14 ADMINISTRATIVE AGENCY, as the case may be, to the effect that
15 the operation of said service and the authorization to do business will
16 promote the public interest in a proper and suitable manner.

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

35 UNLESS OTHERWISE PROVIDED BY LAW, OR BY ANY
36 INTERNATIONAL AGREEMENT, A PUBLIC SERVICE SHALL
37 EMPLOY A FOREIGN NATIONAL ONLY AFTER THE
38 DETERMINATION OF NON-AVAILABILITY OF A PHILIPPINE

1 NATIONAL WHO IS COMPETENT, ABLE AND WILLING TO
2 PERFORM THE SERVICES FOR WHICH THE FOREIGN
3 NATIONAL IS DESIRED; PROVIDED, THAT IN NO CASE
4 SHALL THE EMPLOYED FOREIGN NATIONALS COMPRIZE
5 MORE THAN TWENTY FIVE PERCENT (25%) OF THE TOTAL
6 EMPLOYEES OF THE PUBLIC SERVICE.

7 ANY FOREIGN NATIONAL SEEKING ADMISSION TO THE
8 PHILIPPINES FOR EMPLOYMENT PURPOSES AND ANY
9 PUBLIC SERVICE WHICH DESIRES TO ENGAGE A FOREIGN
10 NATIONAL FOR EMPLOYMENT IN THE PHILIPPINES MUST
11 OBTAIN AN EMPLOYMENT PERMIT PURSUANT TO P.D. NO.
12 442, OTHERWISE KNOWN AS THE LABOR CODE OF THE
13 PHILIPPINES, AS AMENDED.

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

23 "xxx."

24 SEC. 8. Section 16 of Commonwealth Act No. 146, as amended, are hereby
25 amended to read as follows:

26 "SEC. 16. *Proceedings of the [Commission] ADMINISTRATIVE*
27 *AGENCY, upon notice and hearing.* — The [Commission]

28 ADMINISTRATIVE AGENCY shall have power, upon proper notice
29 and hearing in accordance with the rules and provisions of this Act,
30 subject to the limitations and exceptionS mentioned and saving
31 provisions to the contrary:

32 "(a) To issue FRANCHISES, certificates, CONCESSION, OR ANY
33 OTHER APPROPRIATE FORM OF AUTHORIZATION FOR
34 THE OPERATION OF A PUBLIC SERVICE [which shall be known
35 as Certificates of Public Convenience,] authorizing the operation of
36 public services within the Philippines whenever the [Commission]

1 **ADMINISTRATIVE AGENCY** finds that the operation of the public
2 service proposed and the authorization to do business will promote the
3 public interest in proper and suitable manner: [Provided, That
4 hereafter, certificates of public convenience and certificates of public
5 convenience and necessity will be granted only to citizens of the
6 Philippines or of the United States or to corporations, co-partnerships,
7 associations or joint-stock companies constituted and organized under
8 the laws of the Philippines: Provided, That sixty per centum of the
9 stock or paid-up capital of any such corporation, co-partnership,
10 association or joint-stock company must belong entirely to citizens of
11 the Philippines or of the United States: Provided, further, That no
12 such certificates shall be issued for a period of more than fifty years.]

13 (b) To approve, subject to constitutional limitations any franchise or
14 privilege granted [under the provisions of Act No. Six Hundred and
15 Sixty-seven, as amended by Act No. One Thousand and twenty-two],
16 by any political subdivision of the Philippines when, in the judgment of
17 the [Commission] **ADMINISTRATIVE AGENCY**, such franchise or
18 privilege will properly conserve the public interests, and the
19 [Commission] **ADMINISTRATIVE AGENCY** shall in so approving
20 impose such conditions as to construction, equipment, maintenance,
21 service, or operation as the public interests and convenience may
22 reasonably require, and to issue **FRANCHISE**, certificates, [of public
23 convenience and necessity] **CONCESSION, OR ANY OTHER**
24 **APPROPRIATE FORM OF AUTHORIZATION FOR THE**
25 **OPERATION OF A PUBLIC SERVICE** when such is required or
26 provided by any law or franchise.

27 “(c) To fix and determine individual or joint rates, tollS, charges,
28 classifications, or schedules thereof, as well as commutation, mileage,
29 kilometrage, and other special rates which shall be imposed, observed,
30 and followed thereafter by any public service **WHEN THE PUBLIC**
31 **INTEREST SO REQUIRES:** Provided, That the [Commission]
32 **ADMINISTRATIVE AGENCY** may, in its discretion, approve rates
33 proposed by public services provisionally and without necessity of any
34 hearing; but it shall call a hearing thereon within [thirty] **FIFTEEN**
35 **(15)** days, thereafter, upon publication and notice to the [concerns
36 operating] **AFFECTED PARTIES WITHin** the territory affected:
37 **Provided, further,** That in case the public service equipment of an
38 operator is used principally or secondarily for the promotion of a
39 private business, the net profits of said private business shall be

1 considered in relation with the public service of such operator for the
2 purpose of fixing the rates[;]: **PROVIDED, FINALLY, THAT WHEN**
3 **THE PUBLIC INTEREST REQUIRES, THE ADMINISTRATIVE**
4 **AGENCY MAY ESTABLISH AND ENFORCE A METHODOLOGY**
5 **FOR SETTING RATES, TAKING INTO ACCOUNT ALL**
6 **RELEVANT CONSIDERATIONS, INCLUDING THE**
7 **EFFICIENCY OF THE REGULATED PUBLIC SERVICE. THE**
8 **RATES MUST BE SUCH AS TO ALLOW THE RECOVERY OF**
9 **PRUDENT AND EFFICIENT COSTS AND A REASONABLE**
10 **RATE OF RETURN TO ENABLE THE PUBLIC SERVICE TO**
11 **OPERATE VIABLY AND EFFICIENTLY.** THE
12 ADMINISTRATIVE AGENCY MAY ADOPT ALTERNATIVE
13 FORMS CONSISTENT WITH INTERNATIONALLY ACCEPTED
14 RATE-SETTING METHODOLOGY. THE ADOPTED RATE-
15 SETTING METHODOLOGY SHALL ENSURE A REASONABLE
16 PRICE OF THE COMMODITY OR SERVICE AND THAT THE
17 RATES PRESCRIBED SHALL NOT BE DISCRIMINATORY.

18 "THIS PROVISION SHALL NOT BE INTERPRETED AS
19 MANDATING RATE REGULATION NOR AMENDING OR
20 REPEALING (1) LAWS PROVIDING A DEREGULATION
21 POLICY, SUCH AS R.A. NO. 7925, OTHERWISE KNOWN AS
22 THE "PUBLIC TELECOMMUNICATIONS POLICY ACT", R.A.
23 NO. 8479, OTHERWISE KNOWN AS THE "DOWNSTREAM OIL
24 INDUSTRY DEREGULATION ACT", R.A. NO. 9136,
25 OTHERWISE KNOWN AS THE EPIRA LAW AND R.A. NO. 9295,
26 OTHERWISE KNOWN AS THE "DOMESTIC SHIPPING
27 DEVELOPMENT ACT OF 2004", AND (2) REGULATIONS
28 PROMULGATED BY THESE ADMINISTRATIVE AGENCIES TO
29 DEREGULATE RATES.

30 "xxx

31 (h) To require any public service to establish, construct, maintain,
32 and operate any reasonable extension of its existing facilities,
33 where, in the judgment of said [Commission] **ADMINISTRATIVE**
34 **AGENCY**, such extension is reasonable and practicable and will
35 furnish sufficient business to justify the construction and
36 maintenance of the same, and when the financial condition of the
37 said public service reasonably warrants the original expenditure
38 required in making and operating such extension.

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

17 "xxx

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

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

1 for depreciation, improvements, new construction, extensions or
2 conditions to the property of such public service.]"

3 "x x x

4 (n) To suspend or revoke any **FRANCHISE**, certificate,
5 **CONCESSION**, OR ANY OTHER APPROPRIATE FORM OF
6 **AUTHORIZATION FOR THE OPERATION OF A PUBLIC
SERVICE** issued under the provisions of this Act whenever the
7 holder thereof has violated or willfully and contumaciously refused
8 to comply with any order, rule or regulation of the [Commission]
9 **ADMINISTRATIVE AGENCY** or any provision of this Act:
10 *Provided*, That the [Commission] **ADMINISTRATIVE AGENCY**
11 for good cause, may prior to the hearing suspend for a period not to
12 exceed thirty days any **FRANCHISE**, certificate, **CONCESSION**,
13 OR ANY OTHER APPROPRIATE FORM OF AUTHORIZATION
14 FOR THE OPERATION OF A PUBLIC SERVICE, or the exercise
15 of any right or authority issued or granted under this Act by order
16 of the [Commission] **ADMINISTRATIVE AGENCY**, whenever
17 such step shall in the judgment of the [Commission]
18 **ADMINISTRATIVE AGENCY** be necessary to avoid serious and
19 irreparable damage or inconvenience to the public or to private
20 interests.
21

22 "x x x
23

24 SEC. 9. Section 17 (b) of Commonwealth Act No. 146, as amended, is
25 hereby amended to read as follows:

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

31 (a) To investigate, upon its own initiative, or upon complaint in
32 writing, any matter concerning any public service as regards
33 matters under its jurisdiction; to require any public service to
34 furnish safe, adequate, and proper service as the public interest
35 may require and warrant; to enforce compliance with any standard,
36 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 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 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

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

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

15 (f) To grant to any public service special permits to make extra or
16 special trips within the territory covered by its [certificate of public
17 convenience] FRANCHISE, CERTIFICATE, CONCESSION, OR
18 ANY FORM OF AUTHORIZATION FOR THE OPERATION
19 OF A PUBLIC SERVICE, and to make special excursion trips
20 outside of its own territory if its own territory if the public interest
21 or special circumstances require it: *Provided, however,* That in case
22 a public service cannot render such extra service on its own line or
23 in its own territory, a special permit for such extra service may be
24 granted to any other public service.

25 (g) To require any public service to keep its books, records, and
26 accounts so as to afford an intelligent understanding of the conduct
27 of its business and to that end to require every such public service
28 of the same class to adopt a uniform system of accounting. Such
29 system shall conform to any system approved and confirmed by the
30 [Auditor-General] COMMISSION ON AUDIT.

31 "x x x"

32 SEC. 10. Section 18 of Commonwealth Act No. 146, as amended, is hereby
33 amended to read as follows:

34 "SEC. 18. It shall be unlawful for any individual, [co]partnership,
35 association, corporation or joint-stock company, their lessees,
36 trustees, or receivers appointed by any court whatsoever, or any

1 municipality, province, or other department of the Government of
2 the Philippines, to engage in any public service business without
3 having first secured from the [Commission] **ADMINISTRATIVE**
4 **AGENCY** a [certificate of public convenience or certificate of public
5 convenience and necessity] **FRANCHISE, CERTIFICATE,**
6 **CONCESSION, OR ANY FORM OF AUTHORIZATION FOR**
7 **THE OPERATION OF A PUBLIC SERVICE** as provided for in
8 this Act, except grantees of legislative franchises expressly
9 exempting such grantee from the requirement of securing a
10 certificate from this [Commission] **ADMINISTRATIVE AGENCY**,
11 as well as concerns at present existing expressly exempted from the
12 jurisdiction of the [Commission] **ADMINISTRATIVE AGENCY**,
13 either totally or in part, by the provisions of section thirteen of this
14 Act."

15 SEC. 11. Section 19 of Commonwealth Act No. 146, as amended, is hereby
16 amended to read as follows:

17 "SEC. 19. *Unlawful acts.* – It shall be unlawful for any public service:

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

24 (b) To make or give, directly or indirectly, by itself or through its
25 agents attorneys or brokers, or any of them, discounts or rebates
26 on authorized rates, or grant credit for the payment of freight
27 charges, or any undue or unreasonable preference or advantage to
28 any person or corporation or to any locality or to any particular
29 description of traffic or service, or subject any particular person or
30 corporation or locality or any particular description of traffic to
31 any prejudice or disadvantage in any respect whatsoever; to adopt,
32 maintain, or enforce any regulation, practice or measurement
33 which shall be found or determined by the [Commission]
34 **ADMINISTRATIVE AGENCY** to be unjust, unreasonable,
35 unduly preferential or unjustly discriminatory, in a final order
36 which shall be conclusive and shall take effect in accordance with

1 the provisions of this Act, upon appeal or otherwise.

2 (c) To refuse or neglect, when requested by the [Director of Posts]
3 **POSTMASTER GENERAL** or his authorized representative, to
4 carry public mail on the regular trips of any public land
5 transportation service maintained or operated by any such public
6 service, upon such terms and conditions and for a consideration in
7 such amounts as may be agreed upon between the [Director of Posts]
8 **POSTMASTER GENERAL** and the public service carrier
9 of fixed by the [Commission] **ADMINISTRATIVE AGENCY** in
10 the absence of an agreement between the [Director of Posts]
11 **POSTMASTER GENERAL** and the carrier. In case the [Director
12 of Posts] **POSTMASTER GENERAL** and the public service
13 carrier are unable to agree on the amount of the compensation to be
14 paid for the carriage of the mail, the [Director of Posts]
15 **POSTMASTER GENERAL** shall forthwith request the
16 [Commission] **ADMINISTRATIVE AGENCY** to fix a [just and
17 reasonable] **PRUDENT AND EFFICIENT** compensation for such
18 carriage and the same shall be promptly fixed by the [Commission]
19 **ADMINISTRATIVE AGENCY** in accordance with section sixteen
20 (16) of this Act.

21 “(D) TO REFUSE OR NEGLECT, WHEN REQUESTED BY
22 THE ADMINISTRATIVE AGENCY TO URGENTLY USE,
23 DELIVER OR RENDER THE PUBLIC SERVICE FOR THE
24 PURPOSE OF AVOIDING FURTHER LOSS ON HUMAN,
25 MATERIAL, ECONOMIC, OR ENVIRONMENT DURING A
26 STATE OF CALAMITY.”

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

29 “SEC. 20. *Acts requiring the approval of the [Commission]*
30 **ADMINISTRATIVE AGENCY**. – Subject to established limitations
31 and exceptions and saving provisions to the contrary, it shall be
32 unlawful for any public service or for the owner, lessee or operator
33 thereof, without the approval and authorization of the [Commission]
34 **ADMINISTRATIVE AGENCY** previously had-

35 “(a) To adopt, establish, fix, impose, maintain, or collect or carry

1 into effect any individual or joint rates, commutation, mileage or
2 other special rate, toll, fare, charge, classification or itinerary. The
3 [Commission] ADMINISTRATIVE AGENCY shall approve only
4 those that are [just and reasonable] PRUDENT AND
5 EFFICIENT and not any that are unjustly discriminatory or
6 unduly preferential, only upon reasonable notice to the public
7 services and other parties concerned, giving them a reasonable
8 opportunity to be heard, and the burden of the proof to show that
9 the proposed rates or regulation are [just and reasonable]
10 PRUDENT AND EFFICIENT shall be upon the public service
11 proposing the same.

12 "(b) To establish, construct, maintain, or operate new units or extend
13 existing facilities or make any other addition to or general extension of
14 the service[:]: **PROVIDED, THAT SAID APPROVAL SHALL**
15 **ONLY BE REQUIRED FOR ASSETS USED, USEFUL, AND**
16 **EFFICIENT IN THE DELIVERY OF PUBLIC SERVICE. THE**
17 **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. THE**
22 **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.**

27 FOR APPLICATIONS WITH COMPLETE DOCUMENTATION
28 PENDING WITH THE ADMINISTRATIVE AGENCY AT THE
29 TIME OF THE EFFECTIVITY OF THIS ACT, THE
30 ADMINISTRATIVE AGENCY SHALL DECIDE ON SUCH
31 APPLICATIONS WITHIN SIX (6) MONTHS
32 FROM THE EFFECTIVITY OF THIS ACT. FAILURE TO
33 DECIDE WITHIN THE SAID PERIOD SHALL DEEM THE
34 APPLICATION APPROVED.

35 "THE ADMINISTRATIVE AGENCY MAY ISSUE
36 REGULATIONS PRESCRIBING A SHORTER PERIOD THAN
37 THAT PROVIDED IN THE PRECEDING PARAGRAPHS
38 ONLY IN CASES OF EMERGENCY, AS MAY BE CERTIFIED BY

1 **SUCH ADMINISTRATIVE AGENCY, REQUIRING THE
2 INSTALLATION, CONSTRUCTION OR MAINTENANCE OF
3 UNITS, FACILITIES OR EQUIPMENT.**

4 "xxx

5 "(e) [Hereafter to issue any stock or stock certificates representing an
6 increase of capital; or] TO issue any share of stock without par value[;
7 or issue any bonds or other evidence of indebtedness payable in more
8 than one year from the date of issuance thereof,]: provided that it shall
9 be the duty of the [Commission] **ADMINISTRATIVE AGENCY**, after
10 hearing, to approve any such issue [maturing in more than one year
11 from the date thereof,] when satisfied that the same is to be made in
12 accordance with law [, and the purpose of such issue be approved by
13 the Commission].

14 "(f) To capitalize any franchise in excess of the amount, inclusive of
15 any tax or annual charge, actually paid to the Government of the
16 Philippines or any political subdivision thereof as the consideration
17 of said franchise; capitalize any contract for consolidation, merger,
18 or lease, or issue any bonds or other evidence of indebtedness
19 against or as a lien upon any contract for consolidation, merger, or
20 lease: *Provided, however,* That the provisions of this section shall
21 not prevent the issuance of stock, bonds, or other evidence of
22 indebtedness subject to the approval of the [Commission]
23 **ADMINISTRATIVE AGENCY** by any lawfully merged or
24 consolidated public services not in contravention of the provisions of
25 this section.

26 "(g) To sell, alienate, mortgage, encumber or lease its property,
27 franchises, certificates, privileges, or rights or any part thereof; or
28 merge or consolidate its property, franchises privileges or rights, or
29 any part thereof, with those of any other public service. The approval
30 herein required shall be given, after notice to the public and hearing
31 the persons interested at a public hearing, if it be shown that there are
32 just and reasonable grounds for making the mortgage or encumbrance,
33 for liabilities of more than one year maturity, or the sale, alienation,
34 lease, merger, or consolidation to be approved, and that the same are
35 not detrimental to the public interest, and in case of a sale, the date on
36 which the same is to be consummated shall be fixed in the order of
37 approval: *Provided, however,* That nothing herein contained shall be
38 construed to prevent the transaction from being negotiated or

1 completed before its approval or to prevent the sale, alienation, or
2 lease by any public service of any of its property in the ordinary course
3 of its business[.]: **PROVIDED, FURTHER, THAT THE NEED FOR**
4 **APPROVAL OF THE SALE, ALIENATION, MORTGAGE,**
5 **ENCUMBRANCE OR LEASE WILL BE REQUIRED ONLY FOR**
6 **PROPERTIES OF THE PUBLIC SERVICE THAT ARE USED**
7 **AND USEFUL IN THE DELIVERY OF THE REQUIRED**
8 **PUBLIC SERVICE.”**

9 “x x x

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

18 “x x x”

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

21 “SEC. 21. IN THE ABSENCE OF ANY SPECIFIC FINE OR
22 PENALTY, IMPOSED UNDER THE CHARTER OF THE
23 ADMINISTRATIVE AGENCY OR THE SPECIAL LAWS
24 GOVERNING THE PARTICULAR PUBLIC SERVICE, EVERY
25 [Every] public service violating or failing to comply with the terms and
26 conditions of any certificate or any order[s], decision[s] or regulation[s]
27 of the [Commission] **ADMINISTRATIVE AGENCY** shall be subject
28 to a fine OF NOT LOWER THAN FIVE THOUSAND PESOS
29 (**PHP5,000.00**) BUT NOT EXCEEDING TWO MILLION PESOS
30 (**PHP2,000,000.00**) [of not exceeding two hundred pesos] per day for
31 every day during which such default or violation continues[.], OR
32 **DIVESTMENT, OR BOTH;** and the [Commission]
33 **ADMINISTRATIVE AGENCY** is hereby authorized and empowered
34 to impose such fine, **OR ORDER DIVESTMENT**, after due notice
35 and hearing[.]: **PROVIDED, THAT SHOULD A LESSER FINE OR**
36 **PENALTY BE IMPOSED UNDER THE CHARTER OF THE**
37 **ADMINISTRATIVE AGENCY OR THE SPECIAL LAW**

1 GOVERNING THE PUBLIC SERVICE, THE AMOUNT OF FINE
2 OR PENALTY PROVIDED FOR UNDER THIS SECTION
3 SHALL APPLY.

4
5 IN CASES WHERE RATES COLLECTED BY THE PUBLIC
6 SERVICE EXCEED THE RATES AUTHORIZED BY THE
7 ADMINISTRATIVE AGENCY, THE ADMINISTRATIVE
8 AGENCY MAY ORDER A REFUND TO CONSUMERS IN LIEU
9 OF OR IN ADDITION TO THE FINE OR PENALTY IMPOSED
10 UNDER THIS ACT OR THE SPECIAL LAWS GOVERNING THE
11 PUBLIC SERVICE.

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

27 Sec. 14. Section 22 of Commonwealth Act No. 146, as amended, is hereby
28 amended to read as follows:

29 SEC. 22. Observance of the orders, decisions, and regulations of the
30 [Commission] **ADMINISTRATIVE AGENCY** and of the terms
31 and conditions of any certificate may also be enforced by
32 *mandamus* or injunction in appropriate cases, or by action to
33 compel the specific performance of the orders, decisions, and
34 regulations so made, or of the duties imposed by law upon such
35 public service: *Provided*, That the [Commission]
36 **ADMINISTRATIVE AGENCY** may compromise any case that
37 may arise under this Act in such manner and for such amount as it
38 may deem just and reasonable.

1 Sec. 15. Section 23 of Commonwealth Act No. 146, as amended, is hereby
2 amended to read as follows:

3 "SEC. 23. Any public service corporation that shall perform, commit,
4 or do any act or thing herein forbidden or prohibited or shall neglect,
5 fail or omit to do or perform any act or thing herein required to be done
6 or performed, shall be punished by a fine not exceeding [twenty-five
7 thousand pesos] **TWO MILLION PESOS (PHP2,000,000.00)**, or by
8 imprisonment [not exceeding five years] **OF NOT LOWER THAN**
9 **SIX (6) YEARS AND ONE (1) DAY TO TWELVE (12) YEARS**, or
10 both, at the discretion of the court."

11 Sec. 16. Section 24 of Commonwealth Act No. 146, as amended, is hereby
12 amended to read as follows:

13 "SEC. 24. Any person who shall knowingly and willfully perform,
14 commit, or do, or participate in performing, committing, or doing, or
15 who shall knowingly and willfully cause, participate, or join with
16 others in causing any public service corporation or company to do,
17 perform or commit, or who shall advise, solicit, persuade, or knowingly
18 and willfully instruct, direct, or order any officer, agent, or employee of
19 any public service corporation or company to perform, commit, or do
20 any act or thing forbidden or prohibited by this Act, shall be punished
21 by a fine not exceeding [two thousand pesos] **TWO MILLION PESOS**
22 **(PHP2,000,000.00)**, or imprisonment [not exceeding two years] **OF**
23 **NOT LOWER THAN SIX (6) YEARS AND ONE (1) DAY TO**
24 **TWELVE (12) YEARS**, or both, at the discretion of the court:
25 *Provided, however,* That for operating a private passenger automobile
26 as a public service without having a certificate of public convenience
27 for the same, the offender shall be subject to the penalties provided for
28 in section sixty seven (j) of Act Numbered Thirty-nine hundred and
29 ninety-two]."

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

32 "SEC. 25. Any person who shall knowingly and willfully neglect, fail,
33 or omit to do or perform, or who shall knowingly and willfully cause or
34 join or participate with others in causing any public service
35 corporation or company to neglect, fail, or omit to do or perform, or
36 who shall advise, solicit, or persuade, or knowingly and willfully
37 instruct, direct, or order any officer, agent, or employee of any public

1 service corporation or company to neglect, fail, or omit to do any act or
2 thing required to be done by this Act, shall be punished by a fine not
3 exceeding [two thousand pesos] **TWO MILLION PESOS**
4 (**PHP2,000,000.00**) or by imprisonment [not exceeding two years] **OF**
5 **NOT LOWER THAN SIX (6) YEARS AND ONE (1) DAY TO**
6 **TWELVE (12) YEARS**, or both, at the discretion of the court."

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

9 "SEC. 26. Any person who shall destroy, injure, or interfere with any
10 apparatus or appliance owned or operated by or in charge of the
11 [Commission] **ADMINISTRATIVE AGENCY** or its agents, shall be
12 deemed guilty of a misdemeanor and upon conviction shall be
13 punished by a fine [not exceeding one thousand pesos] **OF THE**
14 **AMOUNT EQUIVALENT TO THE ACTUAL MARKET VALUE**
15 **OF THE APPARATUS OR APPLIANCE DESTROYED OR**
16 **INJURED PLUS A FINE NOT EXCEEDING TWO MILLION**
17 **PESOS (PHP2,000,000.00)** or imprisonment [not exceeding six
18 months] **OF NOT LOWER THAN SIX (6) YEARS AND ONE (1)**
19 **DAY TO TWELVE (12) YEARS**, or both at the discretion of the
20 court.

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

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

26 SEC. 27. This Act shall not have the effect to release or waive any
27 right of action by the [Commission] **ADMINISTRATIVE**
28 **AGENCY** or by any person for any right, penalty, or forfeiture
29 which may have arisen or which may arise, under any of the laws
30 of the Philippines, and any penalty or forfeiture enforceable under
31 this Act shall not be a bar to or affect a recovery for a right, or affect
32 or bar any criminal proceedings against any public service or
33 person or persons operating such public service, its officers,
34 directors, agents, or employees.

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

1 "SEC. 28. Violations of the orders, decisions, and regulations of the
2 **ADMINISTRATIVE AGENCY** [Commission] and of the terms and
3 conditions of any **FRANCHISES**, certificates, **CONCESSIONS**, OR
4 **ANY FORM OF AUTHORIZATION FOR THE OPERATION**
5 **OF A PUBLIC SERVICE** issued by the **ADMINISTRATIVE**
6 **AGENCY** [Commission shall prescribe after sixty days], and violations
7 of the provisions of this Act shall prescribe [after one hundred and
8 eighty days] IN ACCORDANCE WITH ACT NO. 3326, ENTITLED
9 "**AN ACT TO ESTABLISH PERIODS OF PRESCRIPTION FOR**
10 **VIOLATION PENALIZED BY SPECIAL ACTS AND**
11 **MUNICIPAL ORDINANCES AND TO PROVIDE WHEN**
12 **PRESCRIPTION SHALL BEGIN TO RUN**", AS AMENDED."

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

15 "SEC. 29. All hearing and investigations before the [Commission]
16 **ADMINISTRATIVE AGENCY** shall be governed by rules
17 adopted by the [Commission] **ADMINISTRATIVE AGENCY**, and
18 in the conduct thereof the [Commission] **ADMINISTRATIVE**
19 **AGENCY** shall not be bound by the technical rules of legal
20 evidence: *Provided*, That the [Public Service Commissioner or
21 Deputy Commissioner] **HEARING OFFICER** may summarily
22 punish for contempt by a fine not exceeding **TWO THOUSAND**
23 **PESOS (PHP2,000.00)** [two hundred pesos] or by imprisonment not
24 exceeding ten days, or both, any person guilty of misconduct in the
25 presence of the [Commissioner or Deputy Commissioner]
26 **HEARING OFFICER** or so near the same as to interrupt the
27 hearing or session or any proceedings before them, including cases
28 in which a person present at a hearing, session, or investigation
29 held by [either of] the [Commissioner] **THE HEARING OFFICER**
30 refuses to be sworn as a witness or to answer as such when
31 lawfully required to do so. To enforce the provisions of this section,
32 the [Commission] **ADMINISTRATIVE AGENCY** may, if
33 necessary, request the assistance of the municipal or city police for
34 the execution of any order made for said purpose."

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

37 SEC. 30. (a) The [Commission] **ADMINISTRATIVE AGENCY**
38 may issue subpoenas and subpoenas *duces tecum*, for witnesses in

any matter or inquiry pending before the [Commission] ADMINISTRATIVE AGENCY and require the production of all books, papers, tariffs, contracts, agreements, and all other documents, which the [Commission] ADMINISTRATIVE AGENCY may deem necessary in any proceeding. Such process shall be issued under the seal of the [Commission] ADMINISTRATIVE AGENCY, signed by one of the [Commissioners or by the secretary] HEARING OFFICER, and may be served by any person of full age, or by registered mail. [In case of] [d]Disobedience [to such] TO OR FAILURE TO COMPLY WITH SUCH subpoena, SHALL CONSTITUTE INDIRECT CONTEMPT, AND MAY BE INSTITUTED IN THE MANNER AS PROVIDED IN THE RULES OF COURT BEFORE THE APPROPRIATE COURT. [the Commission may invoke the aid of the Supreme Court, or of any Court of First Instance of the Philippines in requiring the attendance and testimony of witnesses and the production of books, papers, and documents under the provisions of this chapter, and the Supreme Court or any Court of First Instance of the Philippines within the jurisdiction of which such inquiry is carried on, may, in case of contumacy or refusal to obey a subpoena, issue to any public service subject to the provisions of this Act, or to any other person, an order requiring such public service or other person to appear before the Commission and produce books and papers if so ordered and give evidence touching the matter in question; and any failure to obey such order of the Court may be punished by such court as a contempt thereof.]

(b) Any person who shall neglect or refuse to answer any lawful inquiry or produce before the [Commission] ADMINISTRATIVE AGENCY books, papers, tariffs, contracts, agreements, and documents or other things called for by said [Commission] ADMINISTRATIVE AGENCY, if in his power to do so, in obedience to the subpoena or lawful inquiry of the [Commission] ADMINISTRATIVE AGENCY upon conviction thereof by a court of competent jurisdiction, shall be punished by a fine not exceeding [five] THIRTY thousand pesos (PHP30,000.00) or by imprisonment not exceeding SIX (6) MONTHS [one year], or both, in the discretion of the court.

(c) The [Commissioner and Deputy Commissioner,] OFFICIALS AND

1 **HEARING OFFICERS OF THE** [the chiefs of divisions, the
2 attorneys of the Commission] **ADMINISTRATIVE AGENCY**, [and
3 the deputy secretaries] shall have the power to administer oaths in all
4 matters under the jurisdiction of the [Commission] **ADMINISTRATIVE AGENCY**.
5

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

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

16 (f) Any person who shall obstruct the [Commission] **ADMINISTRATIVE AGENCY** or either of the [Commissioners]
17 **HEARING OFFICERS** while engaged in the discharge of official
18 duties, or who shall conduct himself in a rude, disrespectful or
19 disorderly manner before the [Commission] **ADMINISTRATIVE AGENCY** either of the [Commissioners] **HEARING OFFICERS**,
20 while engaged in the discharge of official duties, or shall orally or in
21 writing be disrespectful to, offend or insult either of the [Commissioners] **HEARING OFFICERS** on occasion or by reason
22 of the performance of his official duties, upon conviction thereof by
23 a court of competent jurisdiction, shall be punished for each offense
24 by a fine not exceeding **THIRTY THOUSAND PESOS**
25 (**PHP30,000.00**) [one thousand pesos], or by imprisonment not
26 exceeding six (6) months, or both, in the discretion of the Court.
27
28
29

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

32 “SEC. 31. No person shall be excused from testifying or from
33 producing any book, document, or paper in any investigation or
34 inquiry by or upon the hearing before the [Commission] **ADMINISTRATIVE AGENCY**, when ordered so to do by said
35 [Commission] **ADMINISTRATIVE AGENCY**, except when the
36 testimony or evidence required of him may tend to incriminate him.
37

Without the consent of the interested part, 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 party, with regard to secrets obtained by him in the discharge of his official duty.”

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

“SEC. 32. The [Commission] **ADMINISTRATIVE AGENCY** may, in any investigation or hearing, by its order in writing, cause the deposition of witnesses residing within or without the Philippines to be taken in the manner **AND UNDER THE CONDITIONS** prescribed by the Rules of Court. Where witnesses reside in places distant from Manila and it would be inconvenient and expensive for them to appear personally before the [Commission] **ADMINISTRATIVE AGENCY**. [t]The [Commission] **ADMINISTRATIVE AGENCY** may, by proper order, commission any clerk of the **REGIONAL TRIAL COURT** [Court of First Instance, municipal judge or justice of the peace] of the Philippines to take the deposition of witnesses in any case pending before the [Commission] **ADMINISTRATIVE AGENCY**. It shall be the duty of the official so commissioned, to designate promptly a date or dates for the taking of such deposition, giving timely notice to the parties, and on said date to proceed to take the deposition, reducing it to writing. After the depositions have been taken, the official so commissioned shall certify to the depositions taken and forward them as soon as possible to the [Commission] **ADMINISTRATIVE AGENCY**. It shall be the duty of the respective parties to furnish stenographers for taking and transcribing the testimony taken. [In case there are no stenographers available, the testimony shall be taken in longhand by such person as the clerk of court, the municipal judge or justice of the peace may designate. The Commission may also commission a notary public to take the depositions in the same manner herein provided.]

“The [Commission] **ADMINISTRATIVE AGENCY** may also, by proper order, authorize any of the attorneys of the legal division or division chiefs of the [Commission] **ADMINISTRATIVE AGENCY**, if they be lawyers, to hear and investigate any case filed with the [Commission] **ADMINISTRATIVE AGENCY** and in

1 connection therewith to receive such evidence as may be material
2 thereto. At the conclusion of the hearing or investigation, the
3 attorney or division chief so authorized shall submit the evidence
4 received by him to the [Commission] **ADMINISTRATIVE**
5 **AGENCY** to enable the latter to render its decision."

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

8 "SEC. 33. Every order made by the [Commission]
9 **ADMINISTRATIVE AGENCY** shall be served upon the person or
10 public service affected thereby, within ten (10) days from the time
11 said order is filed, by personal delivery or by ordinary mail, upon
12 the attorney of record, or in case there be no attorney of record,
13 upon the party interested; and in case such certified copy is sent by
14 registered mail, the registry mail receipt shall be *prima facie*
15 evidence of the receipt of such order by the public service in due
16 course of mail. All orders of the [Commission] **ADMINISTRATIVE**
17 **AGENCY** to continue an existing service or prescribing rates to be
18 charged shall be immediately operative; all other orders shall
19 become effective upon the dates specified therein: *Provided,*
20 *however,* That orders, resolutions or decisions in controverted
21 matters and not referring to the continuance of an existing service
22 or prescribing rates to be charged shall not be effective unless
23 otherwise provided by the [Commission] **ADMINISTRATIVE**
24 **AGENCY**, and shall take effect thirty (30) days after notice to the
25 parties."

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

28 "SEC. 34. Any interested party may request the reconsideration of
29 any order, ruling, or decision of the [Commission]
30 **ADMINISTRATIVE AGENCY** by the rules by means of a petition
31 filed not later than fifteen (15) days after the date of the notice of
32 the order, ruling or decision in question. The grounds on which the
33 request for reconsideration is based shall be clearly and specifically
34 stated in the petition. Copies of said petition shall be served on all
35 parties interested in the matter. It shall be the duty of the
36 [Commission] **ADMINISTRATIVE AGENCY** to call a hearing on
37 said petition immediately, with notice to the parties, and after
38 hearing to decide the same promptly, either denying the petition or

1 revoking or modifying the order, ruling or decision under
2 consideration."

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

5 **"SEC. 35. ANY ORDER, RULING, OR DECISION OF THE**
6 **ADMINISTRATIVE AGENCY MAY BE APPEALED IN THE**
7 **MANNER AND WITHIN THE PERIOD PRESCRIBED**
8 **UNDER THE RULES OF COURT AND OTHER PERTINENT**
9 **LAWS. [The Supreme Court is hereby given jurisdiction to review**
10 **any order, ruling, or decision of the Commission and to modify or**
11 **set aside such order, ruling, or decision when it clearly appears that**
12 **there was no evidence before the Commission to support reasonably**
13 **such order, ruling, or decision, or that the same is contrary to law,**
14 **or that it was without the jurisdiction of the Commission. The**
15 **evidence presented to the Commission, together with the record of**
16 **the proceedings before the Commission, shall be certified by the**
17 **secretary of the Commission to the Supreme Court. Any order,**
18 **ruling, or decision of the Commission may likewise be reviewed by**
19 **the Supreme Court upon a writ of certiorari in proper cases. The**
20 **procedure for review, except as herein provided, shall be prescribed**
21 **by rules of the Supreme Court.]**

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

24 "SEC. 36. Any order, ruling, or decision of the [Commission]
25 **ADMINISTRATIVE AGENCY** may be reviewed on the
26 application of any person or public service affected thereby, by
27 certiorari in appropriate cases, or by petition, to be known as
28 Petition for Review, which shall be filed within thirty (30) days
29 from notification of such order, ruling, or decision or, in case a
30 petition for the reconsideration of such order, ruling or decision is
31 filed in accordance with the preceding section and the same is
32 denied, it shall be filed within fifteen (15) days after notice of the
33 order denying reconsideration. Said petition shall be placed on file
34 in the office of the clerk of the Supreme Court who shall furnish
35 copies thereof to the [Secretary of the Commission]
36 **ADMINISTRATIVE AGENCY** and other parties interested."

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

3 “SEC. 37 The institution of a writ of certiorari or other special
4 remedies in the Supreme Court shall in no case supersede or stay
5 any order, ruling or decision of the [Commission]
6 **ADMINISTRATIVE AGENCY**, unless the Supreme Court shall so
7 direct, and the appellant may be required by the Supreme Court to
8 give bond in such form and of such amount as may be deemed
9 proper.”

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

12 “SEC 38. The chief of the legal division or any other attorneys of
13 the [Commission] **ADMINISTRATIVE AGENCY** shall represent
14 the same in all judicial proceedings. It shall be the duty of the
15 Solicitor General to represent the [Commission]
16 **ADMINISTRATIVE AGENCY** in any judicial proceeding if, for
17 special reasons, the Commissioner shall request his intervention.”

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

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

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

27 “SEC. 40. [The Commission is authorized and ordered to charge and collect
28 from any public service or applicant, as the case may be, the following fees
29 as reimbursement of its expenses in the authorization, supervision and/or
30 regulation of public services:] **ADMINISTRATIVE FEES AND**
31 **CHARGES.** - ADMINISTRATIVE AGENCIES MAY COLLECT FROM
32 ANY PUBLIC SERVICE OR PUBLIC UTILITY REASONABLE FEES
33 AND CHARGES, AND IMPOSE APPROPRIATE PENALTIES AND
34 FINES AS PROVIDED BY LAW: **PROVIDED**, THAT SUCH FEES,
35 CHARGES, PENALTIES AND FINES MAY BE ADJUSTED TO ITS

1 PRESENT VALUE EVERY FIVE (5) YEARS USING THE
2 CONSUMER PRICE INDEX (CPI) AS PUBLISHED BY THE
3 PHILIPPINE STATISTICS AUTHORITY (PSA).

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

5 "x x x

6 Aside from the appropriations for the Commission under the annual
7 General Appropriation Act, any unexpended balance of the fees collected by
8 the Commission under this section shall be constituted x x x and other
9 expenses necessary for efficient administration and effective supervision
10 and regulation of public services.]

11 SEC. 33. *Interpretation.* - This Act shall be subject to and consistent with
12 the regulatory powers of the State to promote public interest in Article IX-C,
13 Section 4 and Article XII, Section 17 of the Constitution.

14 A person classified as a public utility prior to the effectivity of this Act and
15 declassified as such under this Act shall be considered a public service and a
16 business affected with public interest for purposes of Article XII, Section 17 of
17 the Constitution. Such person shall continue to be subject to regulation by
18 relevant Administrative Agencies under existing laws. This Act does not redefine
19 the term Common Carrier as defined under Article 1732 of Republic Act No. 386,
20 otherwise known as the "Civil Code of the Philippines", as amended, or alter its
21 obligation to exercise extraordinary diligence as provided thereunder.

22 No franchise, certificate, concession, or authorization granted by the
23 appropriate Administrative Agencies under Section 7 of this Act shall be (a)
24 exclusive in character, (b) for a longer period than fifty (50) years: *Provided, That*
25 if a public service has maintained an exemplary record in the delivery of
26 services, and has made substantial investments on infrastructure, technology or
27 equipment for its operations, such performance and size of investment shall be
28 taken , and the application for renewal of the franchise, certificate, concession or
29 authorization of the public service shall be given priority by the appropriate
30 Administrative Agencies; and (c) granted except under the condition that it shall
31 be subject to amendment, alteration, or repeal by Congress when the public
32 interest so requires.

33 SEC. 34. *Non-Impairment of Existing Agreements.* – The application and
34 implementation of the pertinent provisions of this Act shall not impair vested
35 rights or obligations of contracts. Current and subsisting concession agreements

1 and other similar contracts of juridical persons with government agencies or
2 government-owned and -controlled corporations covering activities hereunder
3 classified as public utilities shall remain valid and in force in accordance with
4 the existing terms and conditions the parties agreed to thereunder until the
5 expiration or termination thereof.

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

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

14 SEC. 37. *Congressional Oversight and Periodic Review.* — A Congressional
15 Oversight Committee shall be created that will conduct a periodic review
16 commencing from the effectivity of this Act. The Congressional Oversight
17 Committee shall be composed of the Chairperson of the Senate Committee on
18 Public Services, the Chairperson of the House of Representatives Committee on
19 Economic Affairs, and representatives of other relevant congressional
20 committees.

21 SEC. 38. *Performance Audit.* – Administrative agencies shall conduct a
22 performance audit every three (3) years by an independent evaluation team to
23 ensure the quality of services provided to the public and the ability of manpower
24 and system resources of the public service provider to immediately respond to
25 emergency cases. Metrics for various types of services must be established to
26 sustain reliability, security, and safety of the public.

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

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

34 SEC. 41. *Repealing Clause.* - All laws, decrees, orders, rules and regulations
35 or other issuances or parts thereof, including Commonwealth Act No. 146 or the

1 Public Service Act, as amended, inconsistent with the provisions of this Act are
2 hereby repealed or modified accordingly. This includes:

3 (a) Republic Act No. 6957 entitled "An Act Authorizing the Financing,
4 Construction, Operation, and Maintenance of Infrastructure Projects by the
5 Private Sector, and for other purposes", as amended, on the limitation of foreign
6 investment in a facility operator where a public utility franchise is required;

7 (b) Republic Act No. 9295, otherwise known as the Domestic Shipping
8 Development Act of 2004, as amended, on the limitation of foreign investment in
9 Domestic Ship Operator, Domestic Ship Owner, Ship Builder, Ship Repairer, and
10 such other provisions therein inconsistent with this Act;

11 (c) Republic Act No. 9497, otherwise known as the Civil Aviation Authority
12 of the Philippines Act of 2008, as amended, on the limitation of foreign
13 investment in relation to the registration of aircraft and restriction on the
14 issuance of permits and authority, and such other provisions therein inconsistent
15 with this Act;

16 (d) Republic Act No. 776, otherwise known as the Civil Aeronautics Act of
17 the Philippines, as amended, on the limitation on foreign investments in relation
18 to the registration of the aircraft, issuance of permits and authority, and such
19 other provisions therein inconsistent with this Act;

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

24 (f) Republic Act No. 9136, otherwise known as the EPIRA law, as amended,
25 except the provisions and clauses on Cross Ownership, Market Power Abuse, and
26 Anti-Competitive Behavior;

27 (g) Executive Order No. 202 Series of 1987, entitled "Creating the Land
28 Transportation Franchising and Regulatory Board", as amended and the
29 Administrative Code of 1987, as amended;

30 (h) Presidential Decree No. 857, otherwise known as the "Revised Charter
31 of the Philippine Port Authority", as amended;

32 (i) Republic Act No. 6234, otherwise known as the "Creation of the
33 Metropolitan Waterworks and Sewerage System" (MWSS), as amended;

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

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

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

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

11 *Approved,*