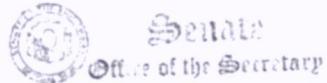


EIGHTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)



19 DEC 19 P5:22

SENATE
S.B. No. 1257

RECEIVED

A handwritten signature in black ink, appearing to read "I. R. Marcos".

Introduced by **SENATOR IMEE R. MARCOS**

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

EXPLANATORY NOTE

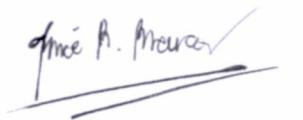
Article XII Section 11 of the 1987 Constitution states that "*no franchise, certificate, or any other form of authorization for the operation of a public utility shall be granted except to citizens of the Philippines or to corporations or associations organized under the laws of the Philippines at least sixty per centum of whose capital is owned by such citizens, nor shall such franchise, certificate, or authorization be exclusive in character or for a longer period than fifty years.*" In the absence of law defining what public utilities are, Commonwealth Act 146, also known as the Public Service Act (PSA), was used as the basis for the definition of public utilities, which is considered as a subset of public services. This ambiguity has resulted in the need for the Supreme Court to decide on whether on whether a public service is a public utility or not.

This bill seeks to amend the PSA by clarifying the definition of public services and public utilities. Doing so will remove the process of defining public utilities from the Supreme Court, addressing the ambiguity associated with public utilities while facilitating investment in public services by removing them from the restrictions of the Constitution. The increase in foreign investment, competition, and participation in public services will lead to improvements in both price and quality of service.

The bill also recognizes the transfer of the functions of the Public Service Commission to the relevant administrative agencies. It also enhances the regulation of the relevant government agencies in the operation of public utilities. The bill institutes the rate-fixing mechanism to be followed by public utilities and public services. This is important as most public services are natural monopolies which must be regulated by law.

Lastly, the bill increases the applicable fines and penalties for violations of the law. Given the potential for abuse in the regulation, management, and operation of public services, there is a need to increase the penalties in the law in order to deter possible violations of the law.

Given the abovementioned circumstances, the immediate passage of this bill is necessary.


IMEE R. MARCOS

EIGHTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)



*19 DEC 19 P5 :23

SENATE
S.B. No. 1257

RECEIVED

A handwritten signature in black ink, appearing to read "Imee R. Marcos".

Introduced by **SENATOR IMEE R. MARCOS**

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

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

1 SECTION 1. *Short Title.* -This Act shall be known as "The New Public Service
2 Law of the Philippines."

3
4 Section 2. *Declaration of Policy.* - It is a Constitutionally enshrined policy of the
5 State to recognize the role of the private sector as the main engine for national growth
6 and development. It is hereby declared the policy of the State to encourage private
7 enterprise and expand the base of investment in the country, with the goal of
8 providing efficient, reliable and affordable basic services to all. The State recognizes
9 that economic liberalization promotes the free flow of capital, efficiently allocates
10 scarce resources, allows the transfer of advanced technology and facilitates market
11 competition, for the benefit of the consumers who are given the right to choose
12 between service providers. The State recognizes that public utilities are necessary to
13 the public and are natural monopolies that must be regulated as required by public
14 interest.

15
16 Section 3. *Definition of Terms.* - For the purposes of this Act, the following
17 terms shall mean:

18 (a) Administrative Agency - refers to existing agencies to which the powers and duties
19 of the Public Service Commission were transferred;

- 1 (b) Common Carrier- refers to persons, corporations, firms or associations engaged in
2 the business of carrying or transporting passengers or goods or both, by land, water,
3 or air, for compensation, offering their services to the public, as defined by Article
4 1732 of Republic Act No. 386, as amended;
- 5 (c) Cost-of-Living Adjustment - refers to the percentage by which the Philippine
6 Statistics Authority (PSA) Consumer Price Index for the month of June of the calendar
7 year preceding the adjustment exceeds the PSA Consumer Price Index for the month
8 of June of the calendar year in which the maximum amount of the fine was last set or
9 adjusted pursuant to law;
- 10 (d) Disgorgement of Profits - refers to the giving up or recapturing of profits traceable
11 to a certain transaction or wrongdoing upon demand or by legal compulsion;
- 12 (e) Distribution of Electricity - refers to the conveyance of electric power by a
13 distribution utility through its distribution system as defined by Section 4 (n) of
14 Republic Act No. 9136;
- 15 (f) Philippine National - refers to citizens, partnerships, associations, and corporations
16 defined by Section 3(a) of Republic Act No. 7042, as amended;
- 17 (g) Telecommunications - refers to any process which enables a telecommunications
18 entity to relay and receive voice, data, electronic messages, written or printed matter,
19 fixed or moving pictures, words, music or visible or audible signals or any control
20 signals of any design and for any purpose by wire, radio or other electromagnetic,
21 spectral, optical or technological means, as defined by Section 3(a) of Republic Act
22 No. 7925, as amended
- 23 (h) Transmission of Electricity - refers to the conveyance of electricity through the
24 high voltage backbone system, as defined by Section 4 (ccc) of Republic Act No. 9136;
- 25 (i) Treble Damages - refers to an additional sum, depending on the discretion of the
26 agency or court involved, which is thrice the amount of the monetary award granted;
27 and
- 28 (j) Water Pipeline Distribution Systems and Sewerage Pipeline Systems - refers to the
29 operation and maintenance of water pipeline distribution systems to ensure an
30 uninterrupted and adequate supply and distribution of potable water for domestic and
31 other purposes and the operation and maintenance of sewerage pipeline systems to

1 ensure public health and safety, as regulated by Republic Act No. 6234, as amended,
2 and Presidential Decree No. 198, as amended.

3

4 Section 4. *Recognition of Previous Transfer of Jurisdiction to Various*
5 *Administrative Agencies.* - All references to the Public Service Commission in
6 Commonwealth Act No. 146, as amended, shall mean any administrative agency to
7 which the powers and duties of the Public Service Commission were transferred in
8 accordance with their respective charters and related statutes.

9

10 Section 5. *Public Utility.* Section 13 of the Commonwealth Act of 1946, as
11 amended, is hereby further amended to read as follows:

12

13 "Section 13. x x x

14

15 "(b) The term 'public service' includes every person that now or hereafter may own,
16 operate, manage, or control in the Philippines, for hire or compensation, with general
17 or limited clientele, whether permanent, occasional, or accidental, and done for
18 general business purpose, x x x canal, **PUBLIC MARKET**, irrigation system x x x.
19 "xxx

20 **"(D) PUBLIC UTILITY – REFERS TO A PERSON THAT OPERATES, MANAGES**
21 **AND CONTROLS FOR PUBLIC USE ANY OF THE FOLLOWING:**

22

23 **1) DISTRIBUTION OF ELECTRICITY (AS DEFINED BY SECTION 4(N) OF**
24 **REPUBLIC ACT NO. 9136, OTHERWISE KNOWN AS THE ELECTRIC POWER**
25 **INDUSTRY REFORM ACT OF 2001);**

26

27 **2) TRANSMISSION OF ELECTRICITY (AS DEFINED BY SECTION 4(CCC) OF**
28 **REPUBLIC ACT NO. 9136) SYSTEM; AND**

29

30 **3) WATER PIPELINE DISTRIBUTION SYSTEM OR SEWERAGE PIPELINE**
31 **SYSTEM. (AS DEFINED BY REPUBLIC ACT NO. 6234, ENTITLED 'AN ACT**
32 **CREATING THE METROPOLITAN WATERWORKS AND SEWERAGE SYSTEM**

1 AND DISSOLVING THE NATIONAL WATERWORKS AND SEWERAGE
2 AUTHORITY; AND FOR OTHER PURPOSES', AS AMENDED, AND
3 PRESIDENTIAL DECREE NO. 198, KNOWN AND REFERRED TO AS
4 'PROVINCIAL WATER UTILITIES ACT OF 1973', AS AMENDED).

5

6 NO OTHER PERSON SHALL BE DEEMED A PUBLIC UTILITY UNLESS
7 SUBSEQUENTLY PROVIDED BY LAW. THE NATIONAL ECONOMIC AND
8 DEVELOPMENT AUTHORITY (NEDA), THROUGH ITS BOARD, IN
9 CONSULTATION WITH THE PHILIPPINE COMPETITION COMMISSION
10 (PCC) AND THE CONCERNED ADMINISTRATIVE AGENCIES, SHALL
11 RECOMMEND TO CONGRESS THE CLASSIFICATION OF A PUBLIC SERVICE
12 AS A PUBLIC UTILITY ON THE BASIS OF THE FOLLOWING CRITERIA:

13 1) THE PERSON OR JURIDICAL ENTITY REGULARLY SUPPLIES AND
14 DIRECTLY TRANSMITS AND DISTRIBUTES TO THE PUBLIC THROUGH
15 A NETWORK, A COMMODITY OR SERVICE OF PUBLIC CONSEQUENCE;
16 2) THE COMMODITY OR SERVICE IS NECESSARY TO THE PUBLIC AND
17 IS A NATURAL MONOPOLY THAT NEEDS TO BE REGULATED WHEN
18 THE COMMON GOOD SO REQUIRES;
19 3) THE COMMODITY OR SERVICE IS NECESSARY FOR THE
20 MAINTENANCE OF THE LIFE AND OCCUPATION OF RESIDENTS; AND
21 4) THE COMMODITY OR SERVICE IS OBLIGATED TO PROVIDE
22 ADEQUATE SERVICE TO THE PUBLIC ON DEMAND.

23

24 Section 6. *Authority to Operate.* –

25 The first paragraph of Section 15 of Commonwealth Act No. 146, as amended, is
26 hereby amended to read as follows:

27

28 "With the exception of those enumerated in the preceding section, no public service
29 shall operate in the Philippines without possessing a valid and subsisting
30 **FRANCHISE**, certificate, **OR ANY OTHER APPROPRIATE FORM OF**
31 **AUTHORIZATION FOR THE OPERATION OF A PUBLIC SERVICE** [from the
32 Public Service Commission known as certificate of public convenience," or "certificate

1 of public convenience and necessity"] as the case may be, **FROM THE CONGRESS,**
2 **THE SECURITIES AND EXCHANGE COMMISSION AND/OR THE PROPER**
3 **ADMINISTRATIVE AGENCY** to the effect that the operation of said service and the
4 authorization to do business will promote the public interest in a proper and suitable
5 manner."

6

7 "The [Commission] **ADMINISTRATIVE AGENCY** may prescribe a condition for the
8 issuance of the certificate provided in the preceding paragraph that the service can
9 be acquired by the Republic of the Philippines or any instrumentality thereof upon a
10 payment of the cost price of its **CAPITAL STOCK OR** useful equipment, less
11 reasonable depreciation; and likewise, that the certificate shall be valid only for a
12 definite period of time; and that the violation of any of these conditions shall produce
13 the immediate cancellation of the certificate without the necessity of any express
14 action on the part of the [Commission] **ADMINISTRATIVE AGENCY.**

15

16 "x x x"

17

18 Section 7. *Proceedings of the Administrative Agency.* - Section 16 paragraphs
19 (a) and (c) of Commonwealth Act No. 146, as amended, is hereby further amended
20 to read as follows:

21

22 "Section 16. Proceedings of the [Commission] **ADMINISTRATIVE AGENCY**, upon
23 notice and hearing. - The [Commission] **ADMINISTRATIVE AGENCY** shall have
24 **THE** power, upon proper notice and hearing in accordance with the rules and
25 provisions of this Act, ~~[subject to the limitations and exceptions mentioned and~~
26 ~~saving provisions to the contrary]~~:

27

28 (a) To issue certificates ~~[which should be known as certificates of public
convenience,]~~ authorizing the operation of public service within the
29 Philippines whenever the [Commission] **ADMINISTRATIVE AGENCY** finds
30 that the operation of the public service proposed and the authorization to do
31 business will promote the public interest in a proper and suitable manner.

1 [Provided, That thereafter, certificates of certificate of public convenience, or
2 certificate of public convenience and necessity will be granted only to citizens
3 of the Philippines or of the United States or to corporations co-partnerships,
4 associations of joint stock companies constituted and organized under the
5 laws of the Philippines; Provided, That sixty per centum of the stock or paid-
6 up capital of any such corporations, co-partnership, association or joint stock
7 company must belong entirely to citizens of the Philippines or of the United
8 States: Provided, further. That no such certificates shall be issued for a period
9 of more than fifty years.]

10 XXX XXX XXXX

11
12 (c) To fix and determine **THE MAXIMUM** individual or joint rates, tolls, charges,
13 classifications, **REVENUES** or schedules thereof, as well as commutation, mileage,
14 kilometrage, and other special rates which shall be imposed, observed, and followed
15 thereafter by any public service **WHEN THE PUBLIC INTEREST SO REQUIRES:**
16 Provided, That the [Commission] **ADMINISTRATIVE AGENCY** may, in its discretion.
17 approve rates proposed by public services provisionally and without necessity of any
18 hearing; but it shall call a hearing thereon within thirty days, thereafter, upon
19 publication and notice to the concerns operating in the territory affected, **TO RATIFY**
20 **ITS PRIOR PROVISIONAL APPROVAL OR CHANGE, MODIFY OR ALTER THE**
21 **APPROVED RATE BASED ON PUBLIC INTEREST:** Provided, further, That in case
22 the public service equipment of an operator is used principally or secondarily for the
23 promotion of a private business, the net profits of said private business shall be
24 considered in relation with the public service of such operator for the purpose of fixing
25 the rates. **IN THE PUBLIC INTEREST, THE ADMINISTRATIVE AGENCY MAY**
26 **ESTABLISH AND ENFORCE A METHODOLOGY FOR SETTING RATES, TAKING**
27 **INTO ACCOUNT ALL RELEVANT CONSIDERATIONS, INCLUDING THE**
28 **EFFICIENCY OF THE REGULATED PUBLIC SERVICE. THE RATES MUST BE**
29 **SUCH AS TO ALLOW THE RECOVERY OF JUST AND REASONABLE COSTS AND**
30 **A REASONABLE RATE OF RETURN. INCOME TAX SHALL BE ALLOWED AS A**
31 **CASH OUTFLOW FOR RATE-DETERMINATION PURPOSES. THIS PROVISION**

1 **SHALL NOT BAR THE APPLICATION OF PERFORMANCE-BASED RATE**
2 **REGULATION SHOULD THE ADMINISTRATIVE AGENCY REGULATING SUCH**
3 **PUBLIC SERVICE DEEM IT EFFICIENT AND IN THE PUBLIC INTEREST.**
4 **THE PHILIPPINE COMPETITION COMMISSION IS HEREBY MANDATED TO**
5 **CONDUCT REGULAR STUDIES ON WHETHER DEREGULATION IS**
6 **WARRANTED IN A SECTOR AND SHALL SUBMIT ITS RECOMMENDATION TO**
7 **CONGRESS.**

8

9 Section 8. *Reasonable Costs.* - Section 17 (b) of Commonwealth Act No. 146,
10 as amended, is amended to read as follows:

11

12 "(b) To require any public service to pay the actual expenses incurred by the [
13 Commission] **ADMINISTRATIVE AGENCY** in any investigation if it shall be found in
14 the same that any rate, toll, charge, schedule, regulation, practice, act or service
15 thereof is in violation of any provision of this Act or any certificate, order, rule,
16 regulation or requirement issued or established by the [Commission]
17 **ADMINISTRATIVE AGENCY.** The [Commission] **ADMINISTRATIVE AGENCY**
18 may also assess against any public service **REASONABLE** costs [~~not to exceed~~
19 twenty five pesos] with reference to such investigation."

20

21 Section 9. *Acts Requiring Approval.* - Section 20 (i) of Commonwealth Act No.
22 146, as amended is further amended to read as follows:

23

24 "(i) To sell, alienate or in any manner transfer shares of its capital stock to any alien
25 if the result of that sale, alienation, or transfer in itself or in connection with another
26 previous sale shall be the reduction to less than sixty per centum of the capital stock
27 belonging to Philippine citizens **IN THE OPERATION, MANAGEMENT, AND**
28 **CONTROL OF A PUBLIC UTILITY AS REQUIRED BY THE CONSTITUTION.** Such
29 sale, alienation or transfer shall be void and of no effect and shall be sufficient cause
30 for ordering the cancellation of the certificate."

31

1 Section 10. *Treble Damages.* - Section 21 of Commonwealth No. 146 or the
2 Public Service Act, as amended, is hereby amended to read as follows:

3

4 "Every public service violating or failing to comply with the terms and conditions of
5 any certificate or any orders, decisions or regulations of the Commission shall be
6 subject to **DISGORGEMENT OF PROFITS, TREBLE DAMAGES**, a fine [of not
7 exceeding two hundred pesos per day for every day] **OF UP TO TEN MILLION**
8 **PESOS** per day for every day during which such default or violation continues,
9 **DIVESTMENT, OR ALL OR ANY COMBINATION THEREOF**; and the [Commission]
10 **ADMINISTRATIVE AGENCY** is hereby authorized and empowered to impose such
11 fine, after due notice and hearing.

12

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

22

23 Section 11. *Prohibition to Corporations.* - Section 23 of Commonwealth Act No.
24 146, as amended, is hereby amended to read as follows:

25

26 "Any public service corporation that shall perform, commit, or do any act or thing
27 forbidden or prohibited or shall neglect, fail or omit to do or perform any act or thing
28 herein to be done or performed, shall be punished by a fine not [exceeding twenty-
29 five thousand pesos] **LOWER THAN FIVE MILLION PESOS (PHP5,000,000.00)**,
30 or by imprisonment [not exceeding five years] **OF NOT LOWER THAN SIX (6)**
31 **YEARS AND NOT HIGHER THAN TWELVE (12) YEARS**, or both, in the discretion
32 of the court."

1 Section 12. *Prohibition to Individuals*. Section 24 of Commonwealth Act No.
2 146, as amended, is hereby amended to read as follows:

3
4 "Any person who shall knowingly and willfully perform, commit, or do, or participate
5 in performing, committing, or doing, or who shall knowingly and willfully cause,
6 participate, or join with others in causing any public service corporation or company
7 to do, perform or commit, or who shall advise, solicit, persuade, or knowingly and
8 willfully instruct, direct, or order any officer, agent, or employee of any public service
9 corporation or company to perform, commit, or do any act or thing forbidden or
10 prohibited by this Act, shall be punished by a fine not [exceeding two thousand pesos]
11 **LOWER THAN FIVE MILLION PESOS (PHP5,000,000.00)**, or imprisonment [~~not~~
12 exceeding two years] **OF NOT LOWER THAN SIX (6) YEARS AND NOT HIGHER**
13 **THAN TWELVE (12) YEARS**, or both, in the discretion of the court [~~Provided,~~
14 however, that for operating a private passenger automobile as a public service without
15 having a certificate of public convenience for the same the offender shall be subject
16 to the penalties provided for in section sixty seven (j) of Act numbered thirty nine
17 hundred and ninety two]."

18
19 Section 13. *Neglect of Duty*. Section 25 of Commonwealth Act No. 146, as
20 amended, is hereby amended to read as follows:

21
22 "Any person who shall knowingly and willfully neglect, fail, or omit to do or perform,
23 or who shall knowingly and willfully cause or join or participate with others in causing
24 any public service corporation or company to neglect, fail or omit to do or perform, or
25 who shall advise, solicit, or persuade, or knowingly and willfully instruct, direct, or
26 order any officer, agent, or employee of any public service corporation or company to
27 neglect, fail, or omit to do any act or thing required to be done by this Act, shall be
28 published by a fine not [exceeding two thousand pesos] **LOWER THAN FIVE**
29 **MILLION PESOS (PHP 5,000,000.00)** or by imprisonment [~~not exceeding two~~
30 years] **OF NOT LOWER THAN SIX (6) YEARS AND NOT HIGHER THAN TWELVE**
31 **(12) YEARS**, or both, in the discretion of the court."

32

1 Section 14. *Destruction of Property*. Section 26 of Commonwealth Act No. 146,
2 as amended, is hereby amended to read as follows:

3
4 "Any person who shall destroy, injure, or interfere with any apparatus or appliance
5 owned or operated by the [Commission] **ADMINISTRATIVE AGENCIES** or its
6 agents, shall be deemed guilty of a misdemeanor and upon conviction shall be
7 punished by a fine **OF THE AMOUNT EQUIVALENT TO THE ACTUAL MARKET**
8 **VALUE OF THE APPARATUS OR APPLIANCE DESTROYED OR INJURED PLUS**
9 **A FINE NOT EXCEEDING ONE MILLION PESOS (PHP 1,000,000.00)** [not
10 exceeding one thousand pesos] or imprisonment [not exceeding six months] **OF NOT**
11 **LOWER THAN SIX (6) YEARS AND NOT HIGHER THAN TWELVE (12) YEARS**,
12 or both in the discretion of the court. [Any public service permitting the destruction,
13 injury to, or interference with, any such apparatus or appliances shall forfeit a sum
14 not exceeding four thousand pesos for each offense.]"

15
16 Section 15. *Decision of Administrative Agencies*. Section 28 of Commonwealth
17 Act No. 146, as amended, is hereby amended to read as follows:

18
19 "Violations of the orders, decisions, and regulations of the [Commission]
20 **ADMINISTRATIVE AGENCIES** and of the terms and conditions of any certificate
21 issued by the [Commission] **ADMINISTRATIVE AGENCIES** [shall prescribe after
22 sixty days,] and violations of the provisions of this Act shall [prescribe after one
23 hundred and eighty days.] **BE IMPREScriptible.**"

24
25 Section 16. *Reasonable Fees*. - Section 40 of Commonwealth No. 146 of the
26 Public Service Act, as amended, is hereby amended to read as follows:

27
28 "Section 40. The [Commission] **ADMINISTRATIVE AGENCY** is authorized and
29 ordered to charge and collect from any public service or applicant, as the case may
30 be, [the following] **REASONABLE** fees as reimbursement of its expenses in the
31 authorization, supervision and/or regulation of public services[+], **AND TO IMPOSE**
32 **APPROPRIATE PENALTIES AND FINES AS PROVIDED BY LAW.**

1 { (a)xxx
2 xxx
3 (i)xxx
4 This section shall not be applicable to the Republic of the Philippines, nor to its
5 instrumentalities.
6 Aside from the appropriations for the Commission under the annual General
7 Appropriation Act, any unexpended balance of the fees collected by the Commission
8 under this section shall be constituted receipts automatically appropriated each year,
9 and together with any surplus in the standardizing meter laboratory revolving fund
10 under Commonwealth Act Numbered Three hundred forty-nine, shall be disbursed
11 by the Public Service Commissioner in accordance with special budgets to be
12 approved by the Department of Justice, the Budget Commission and the Office of
13 the President of the Philippines for additional needed personal services, maintenance
14 and operating expenses, acquisition of urgently needed vehicles, furniture and
15 equipment, maintenance of an adequate reference library, acquisition of a lot and
16 building for the Commission, and other expenses necessary for efficient
17 administration and effective supervision and regulation of public services.]
18

19 *Section 17. Adjustment of Fines.* - The maximum amounts of fines imposed
20 under Commonwealth Act No. 146 as further amended by this Act, shall be adjusted
21 by the head of each administrative agency under Section 4 of this Act by a Cost of
22 Living Adjustment on January 1 of the year immediately following the date of
23 enactment of this Act and every fifth calendar year thereafter. Each head of the
24 administrative agency shall file copies of the adjustment with the University of the
25 Philippines Law Center in accordance with Executive Order No. 292 (1987), as
26 amended. Any increase shall apply only to fines, including those whose associated
27 violation predicated such increase, which are assessed after the date the increase takes
28 effect.

29
30 *Section 18. Non-impairment of Existing Agreements.* - The application and
31 implementation of the pertinent provisions of this Act shall not impair vested rights or
32 obligations of contracts. Current and subsisting concession agreements and other

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

5

6 Section 19. *Supplementary Application of Commonwealth Act No. 146.* -
7 Commonwealth Act. No. 146 or the Public Service Act, as amended, shall be
8 interpreted to apply suppletorily to existing sector-specific laws governing public
9 services and public utilities, unless otherwise expressly provided.

10

11 Section 20. *Interpretation.* This Act shall be subject to and consistent with the
12 regulatory powers of the State to promote public interest under Article IX-C, Section
13 27 and Article XII, Section 17 of the Constitution. Unless otherwise included in the
14 definition of public utility under this Act, persons classified as public utilities under
15 Commonwealth Act No. 146 are hereby considered as public services which shall
16 continue to be subject to regulation by relevant administrative agencies under existing
17 laws.

18

19 Section 21. *Comprehensive Baseline Survey.* - The University of the Philippines
20 Law Center shall conduct a comprehensive baseline survey of public services
21 governance within six (6) months from the effectivity of this Act. Copies of the results
22 of said survey shall be furnished to the Congress, the NEDA and PCC. The PCC, in
23 coordination with NEDA, shall conduct regular studies to determine whether or not
24 deregulation in a sector is warranted to improve consumer welfare and shall submit
25 its recommendation to Congress.

26

27 Section 22. *Performance Audit.* Administrative agencies must ensure the annual
28 conduct of performance audit by an independent evaluation team to monitor cost, the
29 quality of services provided to the public, the ability of the public service provider to
30 immediately and adequately respond to emergency cases. Metrics for various types of
31 services must be established to sustain reliability, security, and safety of the public.

32

1 Section 23. *Implementing Rules and Regulations.* All administrative agencies
2 under Section 3 of this Act shall, in coordination with NEDA, PCC and the University
3 of the Philippines Law Center, promulgate rules and regulations to implement the
4 provisions of this Act within ninety (90) days from the effectivity of this Act, including
5 the criteria for the determination of imposable fines, as provided for in this Act, to be
6 based on the capitalization of a public service provider and peculiarities of the public
7 service concerned.

8

9 Section 24. *Repealing Clause.* All laws, including Commonwealth Act No. 146,
10 as amended, decrees, orders, rules and regulations, or other issuances or parts
11 thereof inconsistent with the provisions of this Act are hereby repealed or modified
12 accordingly. This includes:

- 13 (a) Section 2(a) of Republic Act No. 6957, as amended, insofar as the clause limiting
14 investment in a facility operator where a public utility franchise is required;
15 (b) Section 3(c) of Republic Act No. 9295, as amended, insofar as the clause limiting
16 investment in a Domestic Ship Operator or Domestic Ship Owner; and
17 (c) Section 44 of Republic Act No. 9497, as amended, insofar as the clause limiting
18 registration of aircraft which are owned or leased by non-Philippine nationals.

19

20 Section 25. *Appropriation Clause.* The initial funding to carry out the provisions
21 of this Act shall be charged against the current year's appropriation. Thereafter, such
22 sums as may be necessary shall be included in the General Appropriations Act.

23

24 Section 26. *Separability Clause.* - If any portion or provision of this Act is
25 declared unconstitutional, the remainder of this Act or any provision not affected
26 thereby shall remain in force and effect.

27

28 Section 27. *Effectivity.* - This Act shall take effect after fifteen (15) days
29 following the completion of its publication either in the Official Gazette or in a
30 newspaper of general circulation in the Philippines.

31

32 Approved,