

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

'04 JUN 30 P12:01

SENATE  
S.B. No. 8

RECEIVED BY: 

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Introduced by SENATOR JUAN M. FLAVIER

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**Explanatory Note**

The discovery of natural gas in the country has raised hopes about a brighter future for all of us. As an alternative to crude oil, natural gas may hold the key to the current energy crisis and our over dependence on petroleum products.

However, this can only happen if we allow the natural gas industry to flourish and be fully developed. It is therefore imperative that we create conditions favorable to the establishment of a downstream Natural Gas Industry that will, among others, accelerate the expansion of natural gas service for the benefit of the populace. Likewise, it is also important that we lay down a regulatory framework that will ensure the quality, regularity, security and reasonableness of charges for the transmission, distribution and supply of natural gas.

It is about time that we develop the downstream natural gas industry and transform it from an emerging industry to one that is mature and competitive. This, ultimately, will redound to the benefit of the country and will help ensure that power will always be available.

For these reasons, I urge the immediate passage of the bill.

  
JUAN M. FLAVIER, MD, M.P.H.

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**AN ACT  
ORDAINING THE DEVELOPMENT OF THE DOWNSTREAM NATURAL GAS  
INDUSTRY AND CONSOLIDATING FOR THAT PURPOSE ALL LAWS  
RELATING TO THE TRANSMISSION, DISTRIBUTION AND SUPPLY OF  
NATURAL GAS AND FOR OTHER PURPOSES**

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

**CHAPTER I**

**TITLE AND DECLARATION OF POLICY**

1  
2  
3       **SEC. 1. Short Title.** – This Act shall be known as the “Downstream  
4 Natural Gas Industry Act of 2004”. It shall hereinafter be referred to as the  
5 Act.

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

8 (a) To promote the role of Natural Gas as an environment- friendly and  
9 economically efficient source of energy by creating favorable conditions for  
10 establishing a Downstream Natural Gas Industry that will accelerate the  
11 expansion of Natural Gas service for the benefit of all segments of the  
12 nation’s population and all sectors of its economy;

- 1 (b) To ensure the safety, quality, reliability, security and affordability of  
2 the Transmission, Distribution and Supply of Natural Gas;
- 3 (c) To ensure transparent and reasonable rates and prices of Natural Gas  
4 Transmission, Distribution and Supply in a regime of free and fair  
5 competition and full public accountability that will promote greater  
6 operational and economic efficiency and the enhanced competitiveness of  
7 Philippine products in the global market;
- 8 (d) To encourage the inflow of private capital in providing the  
9 infrastructure and services necessary to develop new gas supplies and  
10 increase the utilization of Natural Gas;
- 11 (e) To ensure fair and non-discriminatory treatment of public and private  
12 sector entities in the development of the Downstream Natural Gas Industry;
- 13 (f) To protect the public interest as it is affected by the quality of, and the  
14 rates charged for, the Transmission, Distribution and Supply of Natural Gas  
15 and related services;
- 16 (g) To assure the development of a Downstream Natural Gas Industry  
17 infrastructure that is socially acceptable and compliant with existing  
18 environmental laws;
- 19 (h) To ensure that the Downstream Natural Gas Industry shall be  
20 regulated in a manner that will ensure the quality, reliability, security and  
21 reasonableness of charges for the Transmission, Distribution and Supply of  
22 Natural Gas, encourage private investment in the Downstream Natural Gas  
23 Industry and promote the efficient and competitive operation thereof ;

- 1 (i) To develop the necessary trades, technical expertise and skills to  
2 support the development of the Downstream Natural Gas Industry;
- 3 (j) To facilitate the development of end-uses of Natural Gas that promotes  
4 fuel diversity and compliance with existing environmental laws including,  
5 but not limited to, the use of Natural Gas as a vehicular fuel; and
- 6 (k) To encourage equity participation in Gas Transmission Utilities and  
7 Gas Distribution Utilities by the general public.

8 **SEC. 3. Scope.** – This Act shall provide a framework for the  
9 development of a Downstream Natural Gas Industry and its transition from  
10 an emerging to a mature industry status and competitive Natural Gas  
11 market, and define the responsibilities of various government agencies and  
12 private entities in furtherance of this national goal.

13 All activities of the DOE and the ERC relevant to the development and  
14 regulation of the Downstream Natural Gas Industry shall be in accordance  
15 with this Act.

16 **SEC. 4. Definition of Terms.** – As used in this Act, the following  
17 terms shall have the following meanings:

- 18 (a) **“Captive Market”** refers to Natural Gas End-users who do not have  
19 the choice of a transporter or distributor, or Supplier of Natural Gas or other  
20 economically competitive energy substitute, as may be determined by the  
21 ERC in accordance with this Act;
- 22 (b) **“Congress”** refers to the Congress of the Philippines;
- 23 (c) **“Contestable Market”** is a market which is not a Captive Market;

- 1 (d) **“Delivery”** refers to the Transportation Transmission or Distribution  
2 of Natural Gas and the Supply of Natural Gas, at wholesale or retail;
- 3 (e) **“Department of Energy”** or **“DOE”** refers to the government agency  
4 created pursuant to Republic Act No. 7638, as amended;
- 5 (f) **“Department of Environment and Natural Resources”** or **“DENR”**  
6 refers to the government agency created pursuant to Executive Orders Nos.  
7 192 and 292, as amended;
- 8 (g) **“Distribution”** refers to the conveyance of Natural Gas by a Gas  
9 Distribution Utility through its Gas Distribution System;
- 10 (h) **“Downstream Natural Gas Industry”** refers to the Transmission,  
11 Distribution and Supply of Natural Gas and related activities, such as but  
12 not limited to processing, storing, regassification, interconnection,  
13 measurement and/or metering;
- 14 (i) **“End-user”** refers to any person that receives delivery of Natural Gas  
15 for its own use;
- 16 (j) **“Energy Regulatory Commission”** or **“ERC”** refers to the regulatory  
17 agency created pursuant to Republic Act No. 9136 or the Electric Power  
18 Industry Reform Act of 2001 whose expanded functions are provided in this  
19 Act;
- 20 (k) **“Franchise”** refers to the right, privilege and authority issued by  
21 Congress authorizing a person to engage in the Transmission and/or  
22 Distribution of Natural Gas within a specific geographical area;;
- 23 (l) **“Franchise Area”** refers to a geographical area assigned or granted  
24 under a Franchise;

- 1 (m) **“Gas Distribution Code”** refers to the code to be formulated by the  
2 DOE as required by the Act that sets the technical performance standards  
3 for operating Gas Distribution Utilities and the minimum financial  
4 standards for Gas Distribution Utilities;
- 5 (n) **“Gas Distribution System”** refers to the system of pipelines, storage  
6 and related facilities extending from the delivery points where the Gas  
7 Distribution System receives the Natural Gas to the point of connection to  
8 the premises of the End-User;
- 9 (o) **“Gas Distribution Utility”** refers to any Person that has a Franchise  
10 granted by Congress to operate a Gas Distribution System;
- 11 (p) **“Gas Permit”** refers to an authorization issued by the DOE for the  
12 construction, operation, expansion and modification of Gas Transmission  
13 Systems and Gas Distribution Systems and for the Supply of Natural Gas.
- 14 (q) **“Gas Supply Contract”** refers to a contract for the Supply of Natural  
15 Gas between a Supplier and a purchaser;
- 16 (r) **“Gas Transmission Code”** refers to the code to be developed by the  
17 DOE as required by the Act that sets the technical performance standards  
18 for operating Gas Transmission Systems and the minimum financial  
19 standards for Gas Transmission Utilities;
- 20 (s) **“Gas Transmission System”** refers generally to the system of  
21 pipelines, storage and related facilities that are used to transport Natural  
22 Gas from the interconnection with Gathering Facilities, LNG regassification  
23 facilities or other Gas Transmission Systems to the interconnections with  
24 Gas Distribution Systems, other Gas Transmission Systems, or End-users;

- 1 (t) "**Gas Transmission Utility**" refers to any Person that has a  
2 Franchise to operate a Gas Transmission System and does not include those  
3 who operate own-use pipelines, storage and related facilities operated  
4 independently of the pipeline or those intending to operate a Gas  
5 Transmission System;
- 6 (u) "**Gathering Facilities**" refers to Natural Gas pipelines and related  
7 facilities used to gather gas in the field and bring it to a location for  
8 processing or for delivery at an interconnection with the Gas Transmission  
9 System; the terms "Gather" and "Gathering" shall be construed accordingly;
- 10 (v) "**Joule**" refers to the unit of energy or work done when the point of  
11 application of a force of one Newton is displaced a distance of one meter in  
12 the direction of the force. It is also equal to one watt-second;
- 13 (w) "**LNG**" refers to Liquefied Natural Gas";
- 14 (x) "**Natural Gas**" refers to hydrocarbons, primarily methane, which, at  
15 atmospheric temperature and pressure, are in a gaseous phase. For  
16 purposes of this Act, the term "Natural Gas" shall be inclusive of LNG;
- 17 (y) "**Person**" refers to a natural or juridical person, as the case may be,  
18 including the national and local government of the Republic of the  
19 Philippines, its agencies and instrumentalities, and government-owned and  
20 -controlled corporations;
- 21 (z) "**Petroleum Operations**" as defined in PD 87, refers to searching for  
22 and obtaining petroleum within the Philippines through drilling and  
23 pressure or suction or the like, and all other operations incidental thereto. It  
24 includes the transportation, storage, handling and sale (whether for export

1 or for domestic consumption) of petroleum so obtained but does not include  
2 any: (1) transportation of petroleum outside the Philippines; (2) processing  
3 or refining at a refinery; or (3) any transactions in the products so refined;

4 (aa) "**Philippine Energy Plan**" or "**PEP**" refers to the overall energy  
5 program formulated and updated yearly by the DOE and submitted to  
6 Congress pursuant to Republic Act No. 7638, as amended;

7 (bb) "**Service Contract**" refers to the award granted by the Philippine  
8 government to a qualified Person to engage in the exploration, development  
9 and utilization of natural resources through joint venture, co-production,  
10 production-sharing or other similar arrangement with the State pursuant to  
11 Article XII, Section 2, of the Constitution, including, Service Contracts  
12 under Presidential Decree No. 87, as amended;

13 (cc) "**Supplier**" refers to any Person authorized by the DOE to engage in  
14 the Supply of Natural Gas;

15 (dd) "**Supply**" means refers to the domestic trading and/or sale of Natural  
16 Gas for wholesale or retail;

17 (ee) "**Third Party Access**" refers to the system of allowing any qualified  
18 Person access to the Gas Transmission Systems and Gas Distribution  
19 Systems under the conditions prescribed in Chapter II Sec. 10 hereof;

20 (ff) "**Transmission**" refers to the transportation of Natural Gas through a  
21 Gas Transmission System;

22 (gg) "**Unbundled Service**" refers to the pricing of the energy value of  
23 Natural Gas separately from the rates charged for natural gas Transmission  
24 or Distribution; and



1 (hh) **“Vehicular Natural Gas”** means Natural Gas that is used as a fuel in  
2 a self-propelled vehicle.

3 **CHAPTER II**

4 **ORGANIZATION AND OPERATION OF THE**  
5 **DOWNSTREAM NATURAL GAS INDUSTRY**

6  
7 **SEC. 5. Organization.** – For purposes of this Act, the Downstream  
8 Natural Gas Industry shall be divided into three (3) sectors, namely:  
9 Transmission, Distribution and Supply of Natural Gas.

10 **SEC. 6. Regulation of Transmission, Distribution and Supply**  
11 **Sectors.** – The Transmission, Distribution and Supply of Natural Gas are  
12 businesses affected with public interest and the regulation of these  
13 businesses as provided for in this Act is hereby deemed necessary in the  
14 public interest.

15 **SEC. 7. Franchise Requirement.** -

16 (a) *Transmission and Distribution of Natural Gas declared public utilities.*  
17 The Transmission and Distribution of Natural Gas as provided for in this Act  
18 are hereby declared to be public utility operations, requiring a Franchise or  
19 similar legislative authorization;

20 (b) *Congressional Franchise and similar legislative authorization.* Any  
21 person that seeks to operate for commercial purposes a Gas Transmission  
22 System or Gas Distribution System shall first be required to hold or obtain a  
23 Franchise, any law to the contrary notwithstanding. The Franchise  
24 requirement shall apply with respect to all Gas Transmission Systems and  
25 Gas Distribution Systems, regardless of the size or pressure of the pipeline.  
26 The foregoing, notwithstanding, this Franchise requirement does not apply

1 to operators of facilities for the Transmission and Distribution of Natural  
2 Gas for Own-use and related facilities that are operated independently from  
3 the pipeline;

4 (c) *Prior regulatory approvals.* The grantee of such Franchise shall also be  
5 required to secure from the DOE a Gas Permit as provided herein, and to  
6 secure from the appropriate government agencies all other regulatory  
7 approvals, licenses, permits and authorizations applicable to such grantee  
8 under existing laws. The DOE shall not unreasonably withhold or delay the  
9 grant of any Gas Permit, and may not reopen any legislative determination  
10 in the review and grant of any Franchise.

11 **SEC. 8. Philippine Ownership Requirement.** - As required under  
12 Article XII, Section 11, of the Constitution of the Republic of the Philippines,  
13 no Franchise, certificate, or any other form of authorization of a public  
14 utility shall be granted except to citizens of the Philippines or to  
15 corporations or associations organized under the laws of the Philippines at  
16 least sixty *per centum* (60%) of whose capital is owned by such citizens.

17 **SEC. 9. Gas Transmission Systems of Service Contract Holders.** -  
18 Any Person who is a holder of a Service Contract that authorizes the  
19 construction and operation of facilities for the Transmission or Distribution  
20 of Natural Gas shall not be required to obtain a Franchise or other  
21 legislative authorizations under this Act only to the extent such facilities are:  
22 (a) located in the production area and upstream of gas processing or refining  
23 facilities and are not used to serve End-users; or (b) used exclusively to  
24 provide service to existing customers or such Person under a Gas Supply

1 Contract entered into prior to the effectivity of this Act, which Gas Supply  
2 Contract shall not be affected by the enactment of this Act. In all other  
3 cases, Service Contract holders shall be subject to the Franchise and other  
4 regulatory approval requirements set forth in this Act.

5 **SEC. 10. *Third Party Access.*** - Gas Transmission Systems and Gas  
6 Distribution Systems excluding those constructed and operated for own use  
7 shall be available for non-discriminatory access by third party users which  
8 may include parties to a Service Contract. Suppliers and End-users, with  
9 due regard to the economic viability of the operation of such facilities. Such  
10 operators shall negotiate in good faith with third-party users the provision  
11 and terms of access in accordance with guidelines to be promulgated by the  
12 DOE.

13 a) *Available Capacity.* Third Party Access obligations shall apply only to the  
14 available capacity of the Gas Transmission Systems and Gas Distribution  
15 Systems as determined by subtracting the volume of capacity that is:

16 (i) Used by the owner or operator to serve his own customer;  
17 and/or

18 (ii) Allocated by the owner or operator to third parties under  
19 transportation contracts

20 from the design capacity of the Gas Transmission Systems and Gas  
21 Distribution Systems.

22 Nondiscriminatory third-party access shall be available to users by  
23 contract with the Gas Transmission or Gas Distribution Utility. If the Gas  
24 Transmission or Gas Distribution Utility with available capacity refuses

1 service to a user or offers discriminatory service, the affected party may  
2 request the DOE's intervention. The Gas Transmission or Distribution Utility  
3 shall be required to file proof that capacity was not available when service  
4 was denied.

5 b) *Deferment of Third Party Access Obligation.* As a condition imposed by a  
6 Permit, the DOE may determine that implementation of Third Party Access  
7 to Gas Transmission Systems and Gas Distribution Systems may be  
8 deferred where:

9 (i) It can be demonstrated that such deferment is necessary to  
10 enable the efficient planning of the infrastructure and  
11 aggregation of the initial demand necessary to justify  
12 investments in the Gas Transmission Systems and Gas  
13 Distribution Systems ; or

14 (ii) It is in the interest of the End-users served by the Gas  
15 Transmission System and Gas Distribution System to ensure  
16 stability of supply.

17 In either case, the DOE shall not defer implementation of Third Party  
18 Access for a period longer than three (3) years after completion of  
19 construction in the case of Gas Transmission Systems and five (5) years  
20 after completion or construction in the case of Gas Distribution Systems.  
21 Provided, however, that the deferment period can be extended on reasonable  
22 grounds.

23 (c) *Approved Access Conditions for Gas Transmission Utilities and Gas*  
24 *Distribution Utilities.* Prior to conducting negotiations with third parties, a

1 Gas Transmission Utility and a Gas Distribution Utility shall request the  
2 DOE to approve its access conditions. The DOE shall approve access  
3 conditions after it has determined that they are consistent with the  
4 guidelines which it shall promulgate pursuant to this Act

5 **SEC. 11. *Environmental Protection.*** – Gas Transmission Utilities,  
6 Gas Distribution Utilities and Suppliers shall comply with all environmental  
7 laws, rules, regulations and standards promulgated by the DENR and other  
8 appropriate governmental agencies.

### 9 **CHAPTER III**

#### 10 **POWERS AND FUNCTIONS OF THE DOE**

11 **SEC. 12. *Powers and Functions of the DOE.*** In addition to its  
12 existing powers and functions, the DOE shall have the overall responsibility  
13 of supervising and monitoring the development of the Natural Gas Industry  
14 and regulation of the construction and operation of Natural Gas pipelines  
15 and related facilities for the Transmission, Distribution and Supply of  
16 Natural Gas. Towards this end, the DOE shall have the following powers and  
17 functions:

18 (a) Issue permits for the construction of pipelines and related facilities  
19 for the Transmission, Distribution and Supply of Natural Gas;

20 (b) Establish standards setting forth the characteristics for classifying  
21 pipeline and related facilities either as Gas Transmission Systems, Gas  
22 Distribution Systems, or Gathering Facilities. These standards may include  
23 both the physical characteristics related to the diameter, size and pressure  
24 of pipeline facilities, and the functional characteristics of such facilities;

1 (c) Prepare and periodically update a five-year Natural Gas Development  
2 Plan and integrate the same into the PEP. The DOE shall consider and  
3 integrate the individual or joint development plans prepared and submitted  
4 to it by the Downstream Natural Gas industry participants pursuant to this  
5 Act. Appropriate mechanisms shall be provided to protect the confidentiality  
6 of any information that is commercially sensitive. The DOE shall publish an  
7 initial draft of the plan and undertake public consultations thereon prior to  
8 its adoption;

9 (d) Before the end of April of each year, submit to the Office of the  
10 President and Congress an annual report;

11 (e) Ensure the safety, reliability, quality and security of supply of Natural  
12 Gas. Consistent with the development of the Downstream Natural Gas  
13 Industry, the DOE shall, among others:

14 (i) Encourage private sector investments in delivery infrastructure  
15 and promote the development of domestic markets for Natural  
16 Gas;

17 (ii) In consultation with the Downstream Natural Gas Industry  
18 participants and other government agencies, promote a system  
19 of incentives to encourage industry participants, including new  
20 producers and End-users to provide adequate and reliable  
21 supply of Natural Gas; and

22 (iii) Undertake, in coordination with other governmental agencies,  
23 as appropriate, an information campaign to educate the public

1 on the benefits of developing the Natural Gas Industry and the  
2 potential for utilizing Natural Gas as a source of energy.

3 (f) Within one (1) year from the effectivity of this Act, promulgate rules  
4 and regulations to promote competition, encourage market development and  
5 customer choice and prohibit/penalize abuse of market power, cartelization  
6 and any anti-competitive or discriminatory behavior, in order to further the  
7 intent of this Act and protect the public interest.

8 Such rules and regulations shall:

9 (i) define the relevant product and geographic markets for  
10 purposes of establishing anti-competitive conduct;

11 (ii) provide criteria to determine the relevant market structure; and

12 (iii) establish the periodic reportorial requirements of Natural Gas  
13 Industry participants as may be necessary to enforce the  
14 provisions of this Section.

15 (g) Within six (6) months from the effectivity of this Act, the DOE shall,  
16 preparatory to the holding of public consultations with Natural Gas industry  
17 participants, issue draft Gas Transmission and Distribution Codes which  
18 shall contain, among others, the following:

19 (i) Technical performance standards for Gas Transmission and  
20 Distribution Utilities; provided, that in the establishment of the  
21 performance standards, the nature and function of the entities  
22 shall be considered; and

23 (ii) Minimum financial capability standards for Gas Transmission  
24 and Distribution Utilities: *provided*, that such standards are set

1 to ensure that the Natural Gas Industry participants meet the  
2 minimum financial standards to protect the public interest.

3 In consultation with Natural Gas industry participants, the DOE shall issue  
4 final Gas Transmission and Distribution Codes within twelve (12) months  
5 from the effectivity of this Act.

6 (h) By order, revoke, after due notice and hearing, the Gas Permit of any  
7 Person that fails to comply with the rules and regulations promulgated  
8 pursuant to this Act, the Gas Transmission Code, the Gas Distribution  
9 Code, or any requirement of this Act. The DOE shall allow such Person  
10 sufficient time to remedy the violation for an orderly disgorgement, when  
11 applicable, but in no case shall such remediation period exceed twelve (12)  
12 months from the date of issuance of the order.

13 (i) Encourage private enterprises in the Downstream Natural Gas Industry  
14 to broaden the base of their ownership and thereby encourage the widest  
15 public ownership thereof;

16 (j) Formulate, in consultation with the Downstream Natural Gas Industry  
17 Participants, rules and regulations as may be necessary to implement the  
18 objectives of this Act;

19 (k) Exercise such other powers as may be necessary or incidental to  
20 attain the objectives of this Act; and

21 (l) Exercise original and exclusive jurisdiction over all cases dealing with  
22 issuance of Permits, non-price regulatory measures, fees, fines and penalties  
23 imposed by the DOE in the exercise of the above-mentioned powers.

24



1 **CHAPTER IV**

2 **POWERS AND FUNCTIONS OF THE ERC**

3 **SEC. 13. Powers and Functions of the ERC.** - In addition to its

4 existing powers and functions, ERC shall assume sole regulatory  
5 responsibility for establishing the rates and related terms and conditions of  
6 service for the Transmission, Distribution, and Supply of Natural Gas to the  
7 extent that each such activity is regulated pursuant to the requirements set  
8 forth in this Act. Towards this end, the ERC shall have the following powers  
9 and functions;

10 (a) In the public interest, establish and enforce a methodology for setting  
11 Transmission, Distribution, and Supply rates taking into account all  
12 relevant considerations, including the efficiency or inefficiency of the  
13 regulated entities. The rates must be such as to allow the recovery of the  
14 just and reasonable costs and a reasonable return on rate base (RORB) to  
15 enable the entity to operate viably. The ERC may adopt alternative forms or  
16 internationally-accepted rate-setting methodology as it may deem  
17 appropriate. The rate-setting methodology so adopted and applied must  
18 ensure a reasonable price or tariff. The rates prescribed shall be non-  
19 discriminatory. The ERC shall determine such form of rate-setting  
20 methodology which shall promote efficiency.

21 (b) Determine whether take-or-pay charges, minimum bill payments or  
22 similar fixed obligations contained in Gas Sales and Purchase Contracts or  
23 pipeline Transmission contracts entered into by Gas Transmission and

1 Distribution Utilities and electric power industry participants can be  
2 recovered from their tariffs to their own customers;

3 (c) Apply administrative procedures that will ensure the Constitutional  
4 right to due process.

## 5 CHAPTER V

### 6 NATURAL GAS TRANSMISSION SECTOR

7 **SEC. 14. Gas Permit Requirement** – Any Person that holds a  
8 Franchise granted by Congress authorizing it to serve as a Gas  
9 Transmission Utility shall, before it operates, maintains or constructs Gas  
10 Transmission Systems, secure from the DOE a Gas Permit issued pursuant  
11 to the standards set forth in this Act and the rules and regulations  
12 promulgated by the DOE. The DOE shall issue a public notice of all Gas  
13 Permit applications and afford interested parties reasonable opportunity to  
14 comment upon such applications. The DOE shall issue a Gas Permit upon  
15 its determination that the construction, control, installation, operation and  
16 maintenance of the Gas Transmission System would be consistent with the  
17 policy declarations contained in this Act. Provided, however, that if a Gas  
18 Permit is sought for new service that would be provided within the Franchise  
19 area of Gas Transmission Utility, the DOE shall consider the economic  
20 effects of granting such a Gas Permit upon that Gas Transmission Utility  
21 and its End-users.

22 **SEC. 15. Terms and Conditions of Permits.** – In issuing a Gas  
23 Permit, the DOE shall have the power to impose such reasonable terms and  
24 conditions as the public interest may require.

1           Among such conditions shall be the requirement that the Permit  
2 holder complies in full with the Gas Transmission Code promulgated by the  
3 DOE pursuant to Section 17 hereof.

4           Gas Transmission Utilities shall not be obligated to undertake, nor  
5 may DOE require, the expansion of an existing Gas Transmission System to  
6 serve additional customers or the sizing of a Gas Transmission System for  
7 the purpose of increasing capacity to serve load in excess of the maximum  
8 design capacity of the pipeline proposed by the Gas Transmission Utility;

9           **SEC. 16. *Functions/Obligations of Gas Transmission Utilities.*** -

10 A Gas Transmission Utility shall have the obligation to provide Transmission  
11 services and connections to its Gas Transmission System for any End-user  
12 subject to economic viability. Any Gas Transmission Utility engaged therein  
13 shall provide nondiscriminatory access to its Gas Transmission System to  
14 any Supplier and eligible End-users under Section 10, Chapter II of this Act.

15           **SEC. 17. *Gas Transmission Code Compliance.*** - All Gas

16 Transmission Utilities shall be required to ensure and maintain the safety,  
17 reliability, adequacy, security, stability and integrity of their Gas  
18 Transmission Systems in accordance with the performance standards set  
19 forth in Gas Transmission Code to be promulgated by the DOE. Each Gas  
20 Transmission Utility shall submit to the DOE a statement of its compliance  
21 with the technical specifications prescribed in the Gas Transmission Code  
22 and the performance standards prescribed in the rules and regulations  
23 implementing this Act. A Gas Transmission Utility that does not comply  
24 with a prescribed technical specification or performance standard shall

1 include within such statement of compliance a plan for achieving  
2 compliance with said technical specifications and performance standards  
3 within three (3) years or such lesser period as may be necessary to prevent  
4 safety, reliability, or environmental harm. The DOE shall, within sixty (60)  
5 days upon receipt of such plan, evaluate the same and notify the Gas  
6 Transmission Utility concerned whether its plan is accepted. Failure to  
7 submit a feasible and credible plan and/or failure to implement the same  
8 shall serve as grounds for the imposition of appropriate sanctions, fines or  
9 penalties.

10 **SEC. 18. *Abandonment of Gas Transmission Systems.*** – No holder  
11 of a Permit for the construction, installation, operation or maintenance of a  
12 Gas Transmission System shall abandon or withdraw from service any  
13 portion of such Gas Transmission System without obtaining prior  
14 authorization from the DOE, which determination shall be made within one  
15 hundred eighty (180) days from the filing of the application for  
16 abandonment. Such abandonment shall be done in accordance with existing  
17 laws.

18 **SEC. 19. *Fees.*** – The DOE shall have the authority to prescribe and  
19 collect fees and charges relating to the issuance and/or review of Permits,  
20 and other services related to the supervision and regulation of Gas  
21 Transmission Systems.

22 **CHAPTER VI**

23 **NATURAL GAS DISTRIBUTION SECTOR**

1           **SEC. 20. Gas Permit Requirement** – Any Person that holds a  
2 Franchise granted by Congress authorizing it to serve as a Gas Distribution  
3 Utility shall, before it operates, maintains or constructs Distribution  
4 Systems, secure from the DOE a Gas Permit issued pursuant to the  
5 standards set forth in this Act and the rules and regulations promulgated by  
6 the DOE. The DOE shall issue a public notice of all Gas Permit applications  
7 and afford interested parties reasonable opportunity to comment upon such  
8 applications. The DOE shall issue a Gas Permit upon its determination that  
9 the construction, control, installation, operation and maintenance of the  
10 Gas Distribution System would be consistent with the policy declarations  
11 contained in this Act. Provided, however, that if a Gas Permit is sought for  
12 new service that would be provided within the Franchise area of Gas  
13 Distribution Utility, the DOE shall consider the economic effects of granting  
14 such a Gas Permit upon that Gas Distribution Utility and its End-users.

15           **SEC. 21. Terms and Conditions of Permits.** – In issuing a Permit,  
16 the DOE shall have the power to impose such reasonable terms and  
17 conditions as the public interest may require. Among such conditions shall  
18 be the requirement that the Permit holder complies in full with the Gas  
19 Distribution Code promulgated by the DOE pursuant to Section 23 hereof.

20           **SEC. 22. Functions of Gas Distribution Utilities.** –

21 (a) A Gas Distribution Utility shall have the obligation to provide  
22 Distribution services and connections to its Gas Distribution System for any  
23 End-user within the area covered by its Gas Permit consistent with the Gas  
24 Distribution Code. Any Gas Distribution Utility engaged therein shall

1 provide nondiscriminatory access to its Gas Distribution System to eligible  
2 End-users under Section 10, Chapter II of this Act;

3 (b) Any Gas Distribution Utility shall be entitled to impose and collect  
4 Distribution charges and connection fees from such End-users as approved  
5 by the ERC;

6 (c) A Gas Distribution Utility shall submit to the DOE annually its plan  
7 for maintaining and developing its Gas Distribution System in compliance  
8 with the obligations imposed by this Act;

9 (d) A Gas Distribution Utility shall provide universal service within the  
10 area covered by its Gas Permit except as provided herein. A Gas  
11 Distribution Utility shall be obliged to develop and maintain an efficient  
12 system for the Supply of Natural Gas at the reasonable request of End-users  
13 within its Franchise Area including:

14 (i) The installation of pipes where the connection to the End-user  
15 is within twenty (20) meters of the Gas Distribution System; or

16 (ii) Increasing the capacity of existing Gas Distribution Systems;  
17 *provided, however,* that no new service shall be required if such  
18 service would not be economically viable. A determination by a  
19 Gas Distribution Utility that it cannot viably serve a portion of  
20 its Franchise Area shall be subject to review by the DOE upon  
21 filing of a complaint by the requesting End-user.

22 The obligation of the Gas Distribution Utility to provide universal access  
23 involves both an obligation to connect End-users within twenty-five (25)  
24 meters from the main pipeline and an obligation to supply such End-users,

1 to the extent that the Gas Distribution Utility is the sole gas Supplier. Upon  
2 implementation of Third Party Access, the utility shall be relieved of his  
3 obligation to supply End-users eligible for retail access as defined in the  
4 guidelines to be promulgated by the DOE, but not his obligation to provide  
5 connection to his distribution system to such End-users. Whether or not  
6 the Gas Distribution Utility is the sole gas supplier in the area, prices  
7 charged by the utility for the supply of gas will be negotiated for Contestable  
8 Market and regulated by the ERC for the Captive Market.

9 (e) A Gas Distribution Utility shall submit annually to the DOE its plan  
10 for maintaining and developing its Gas Distribution System in compliance  
11 with the obligations prescribed in this Act.

12 **SEC. 23. Gas Distribution Code Compliance.** All Gas Distribution  
13 Utilities shall be required to ensure and maintain the safety, reliability,  
14 adequacy, security, stability and integrity of their Gas Distribution Systems  
15 in accordance with the performance standards set forth in Gas Distribution  
16 Code to be promulgated by the DOE. Each Gas Distribution Utility shall  
17 submit to the DOE a statement of its compliance with the technical  
18 specifications prescribed in the Gas Distribution Code and the performance  
19 standards prescribed in the rules and regulations implementing this Act. A  
20 Gas Distribution Utility that does not comply with a prescribed technical  
21 specification or performance standard shall include within such statement  
22 of compliance a plan for achieving compliance with said technical  
23 specifications and performance standards within three (3) years or such  
24 lesser period as may be necessary to prevent safety, reliability, or

1 environmental harm. The DOE shall, within sixty (60) days upon receipt of  
2 such plan, evaluate the same and notify the Gas Distribution Utility  
3 concerned whether its plan is accepted. Failure to submit a feasible and  
4 credible plan and/or failure to implement the same shall serve as grounds  
5 for the imposition of appropriate sanctions, fines or penalties.

6 **SEC. 24. Abandonment of Gas Distribution Systems.** – No holder of  
7 a Permit for the construction, installation, operation or maintenance of a  
8 Gas System shall abandon or withdraw from service any portion of such Gas  
9 Distribution System without obtaining prior authorization from the DOE,  
10 which determination shall be made within one hundred eighty (180) days  
11 from the filing of the application for abandonment. Such abandonment shall  
12 be done in accordance with existing laws.

13 **SEC. 25. Fees.** – The DOE shall have the authority to prescribe and  
14 collect fees and charges relating to the issuance and/or review of Permits,  
15 and other services related to the supervision and regulation of Gas  
16 Distribution Systems.

## 17 **CHAPTER VII**

### 18 **SUPPLY SECTOR**

19 **SEC. 26. Gas Permit Requirement.** – Any law to the contrary  
20 notwithstanding, no Person may engage in any Supply activity unless it has  
21 obtained a Permit, as appropriate, from the DOE. For this purpose, the  
22 DOE shall promulgate rules and regulations prescribing the qualifications of  
23 Suppliers which shall include, among other requirements, a demonstration  
24 of their technical capability, financial capability, and creditworthiness. The



1 DOE shall have authority to require Suppliers to furnish a bond or other  
2 evidence of the ability of a Supplier to withstand market disturbances or  
3 other events that may increase the cost of providing service.

4 **SEC. 27. Condition for Suppliers' Access to Customers of Gas**  
5 **Distribution Systems.** – Upon the implementation of Third Party Access as  
6 stipulated in the Gas Permit for a particular Gas Distribution System, large  
7 end-users in the geographic area served by that Gas Distribution System  
8 which meet the criteria set forth in the guidelines promulgated by the DOE  
9 pursuant to this Act may enter into Gas Supply Contracts with any  
10 Supplier. The DOE shall determine End-users or classes of End-users that  
11 are eligible for direct access by Suppliers, giving consideration to relevant  
12 factors including whether such End-users or class of End-users constitute a  
13 Contestable Market and the financial consequences of any assets potentially  
14 stranded by expanding Supply competition.

## 15 **CHAPTER VIII**

### 16 **OWN-USE FACILITIES**

17 **SEC. 28. Own-Use Permits.** Permits for the Transmission and/or  
18 Distribution of Natural Gas for own-use shall be granted for a specific  
19 capacity and defined route, and only final users may be the holders of such  
20 permits. In issuing a Permit, the DOE shall have the power to attach such  
21 reasonable terms and conditions to the Permit as the public interest may  
22 require. Among such conditions shall be the requirement that the Permit  
23 holder comply in full with the Gas Transmission or Distribution Code

1 promulgated by the DOE, as such may be amended from time to time, and  
2 to ongoing regulation by the DOE as provided herein.

### 3 **CHAPTER IX**

#### 4 **RATES AND CHARGES**

5 **SEC. 29. Regulation of Rates and Charges.** The ERC shall review  
6 and approve the rates, charges and other amounts proposed to be charged  
7 by Gas Transmission and Distribution Utilities and Suppliers. Where such  
8 rates are applicable to products and services provided to Captive Markets,  
9 the ratemaking methodology to be applied by the ERC shall be based on  
10 the principle of full recovery of prudent and reasonable costs incurred,  
11 including a reasonable return on rate base that is equal to the rate of  
12 return on investments of comparable risk, or such other principles that  
13 will promote the determination of just and reasonable rates. Rates and  
14 charges for products and/or services in Contestable Markets shall be  
15 deregulated. Rates and charges shall be calculated on the basis of  
16 Unbundled Service.

17 **SEC. 30. Prohibition of Discriminatory and Unreasonable Rates**  
18 **and Charges.** - No Gas Transmission Utility, Gas Distribution Utility or  
19 Supplier shall, with respect to the Transmission, Distribution, or Supply of  
20 Natural Gas (1) make or grant any undue preference or advantage or (2)  
21 maintain any unreasonable difference in rates, charges, service, facilities,  
22 or in any other respect, between locations , or between classes of service;  
23 or types of customers.

1           **SEC. 31. Prohibition of Cross Subsidies.** Gas Transmission and  
2 Distribution Utilities shall not, directly or indirectly, subsidize the  
3 provision of service with rates for other service or for the marketing of gas,  
4 or subsidize the marketing of gas with rates for other service.

5           **SEC. 32. Separate Accounting Systems.** For purposes of the  
6 preceding section, Gas Transmission and Distribution Utilities must  
7 separate, if applicable the financial information relevant to the provision of  
8 Transmission, storage and Distribution services, as well as the marketing  
9 of gas, in such a way as to clearly identify income, costs and operational  
10 expenses of each item.

11           **SEC. 33. Take-or-Pay Obligations.** For the purpose of determining  
12 their eligibility for a passthrough to End-users, take-or-pay provisions in  
13 Gas Sales and Purchase Contract shall

- 14           (i) Index the contract price to the price of competing alternative  
15 fuels such as heavy fuel oil and/or gas oil based on  
16 internationally accepted reference standards;
- 17           (ii) Include re-opener mechanisms to allow for the adjustment of  
18 the price and/or volume commitments under extraordinary  
19 circumstances causing severe economic hardship to either party  
20 such as price movements in competing alternative fuel market  
21 or changes in the gas purchaser's market such as substantial  
22 contraction in forecast demand levels;
- 23           (iii) Provide for a reasonable period for recovery of take-or-pay  
24 payments.

1 Potential parties to a Gas Sales and Purchase Contract may, at their  
2 option, and prior to the execution of such contract, request that the DOE  
3 review their take-or-pay provisions for their consistency with a(i) and a(ii)  
4 above;

5 No party to a Gas Sales and Purchase Contract may be compelled to  
6 renegotiate any term or condition of a duly executed Gas Sales and  
7 Purchase Contract or to incorporate terms or conditions in such contract  
8 which are not commercially acceptable to it or its counterparty, it being  
9 sufficient that the terms and conditions of the contract as a whole mitigate  
10 the potential impact upon End-users of take-or-pay provisions.

## 11 CHAPTER X

### 12 RATEMAKING PROCEDURES OF THE ERC

13 **SEC. 34. *Filing of Rate Schedules.*** - Under such rules and  
14 regulations as the ERC may prescribe, the ERC may require reports or  
15 documents from Gas Transmission Utilities, Gas Distribution Utilities or  
16 Suppliers showing all rates and charges for the Transmission, Distribution,  
17 or Supply of Natural Gas and the classifications, practice, and regulations  
18 affecting such rates, charges, and classifications and services, provided that  
19 the ERC shall, in the implementing rules and regulations of this Act, provide  
20 appropriate mechanisms to protect the confidentiality of any information  
21 that is commercially or competitively sensitive;

22 **SEC. 35. *Changes in Rate and Charges.*** - Within thirty (30) days  
23 of filing for a change in rates, the ERC shall issue an order accepting,  
24 rejecting, or setting for hearing such change. The ERC may, upon the filing

1 of an application therefore or at any stage thereafter with or without prior  
2 hearing, on the basis of supporting papers duly verified or authenticated,  
3 and with such notice to the affected parties and opportunity for such parties  
4 to make such submissions as the ERC determines to be appropriate in the  
5 circumstances, grant provisional relief fixing interim rates for the  
6 Transmission, Distribution or Supply of Natural Gas applicable during the  
7 pendency of the hearing on the application, on motion of a party in the case  
8 or on its own initiative, without prejudice to a final decision after hearing,  
9 should the ERC find that the pleadings, together with such affidavits,  
10 documents and other evidences which may be submitted in support of the  
11 motion, substantially support the provisional order. The final order fixing  
12 the applicable rates shall provide for over- or under-recovery of costs  
13 occasioned by the application of ERC-approved interim rates. At any  
14 hearing involving rates adjustment, the burden of proof to show that the  
15 increased rates are just and reasonable shall be upon the Gas Transmission  
16 Utility, Gas Distribution Utility or Supplier.

## 17 **CHAPTER XI**

### 18 **PROMOTION OF COMPETITION**

#### 19 **SEC. 36. *Market Power Abuse and Anti-Competitive Behavior.* –**

20 [a] No Gas Transmission Utility, Gas Distribution Utility or Supplier, or  
21 affiliate thereof may abuse its market power. Such abuse may include, but  
22 shall not be limited to, agreeing with competitors to fix prices, fix output of  
23 products or services, or divide markets or customers; tying arrangements;

1 unduly discriminatory or preferential practices; or misrepresentation or false  
2 advertising;

3 [b] The DOE shall monitor and, after due notice and hearing upon  
4 complaint or on its own initiative, penalize any such market power abuse or  
5 anti-competitive or discriminatory act or behavior. Upon finding that a  
6 natural gas industry participant has engaged in such act or behavior, the  
7 DOE shall stop and redress the same. Such remedies shall, without  
8 limitation, include the imposition of price controls, issuance of injunctions,  
9 or disgorgement of excess profits and imposition of administrative fines and  
10 penalties pursuant to this Act;

11 [c] The DOE shall, within one (1) year from the effective date of this Act,  
12 promulgate rules and regulations providing for a complaint procedure that,  
13 without limitation, provides the party alleged to have engaged in anti-  
14 competitive or abusive activities with notice and an opportunity to be heard.

15 **SEC. 37. *Affiliated Suppliers.*** - In order to prevent Anti-  
16 Competitive Conduct, Service Contractors, Gas Transmission Utilities and  
17 Gas Distribution Utilities that own or control Affiliates that are Suppliers  
18 shall conduct their business as follows:

19 (a) No preference will be given to the Affiliated Supplier over other  
20 Persons through contracting for available capacity, scheduling, balancing,  
21 curtailment priority or Tariffs;

22 (b) Marketing information provided to the Affiliated Supplier will be  
23 provided to any non-Affiliated Supplier that is a competitor or potential  
24 competitor;

- 1 (c) Employees of the Affiliated Supplier shall, to the maximum extent  
2 possible, function independently in making business decisions; and  
3 (d) Books of accounts and records of the Affiliated Supplier shall be  
4 maintained separately.

5 **CHAPTER XII**

6 **TAXES**

7 **SEC. 38. Franchise Taxes.** - Gas Transmission Utilities and Gas  
8 Distribution Utilities shall pay a Franchise tax equivalent to two percent  
9 (2%) of gross revenues obtained from the rendering of Natural Gas  
10 Transmission or Distribution services, as appropriate, pursuant to Republic  
11 Act No. 8424, otherwise known as the Comprehensive Tax Reform Law, as  
12 the same may be amended from time to time. Franchise taxes imposed shall  
13 be in lieu of all other taxes imposed under existing law.

14 **SEC. 39. Excise Tax.** - The Supply of Natural Gas to the Contestable  
15 Market shall be the only component of the gas retail rate which shall be  
16 subject to excise taxes under the Republic Act No. 8424, otherwise known  
17 as the Comprehensive Tax Reform Law, as the same may be amended from  
18 time to time.

19 **SEC. 40. Withdrawal of Exemptions.** - In order to achieve the  
20 declared policies of this Act, including the promotion of fair and  
21 nondiscriminatory treatment of public and private sector entities in the  
22 development of the domestic natural gas delivery infrastructure, all existing  
23 tax exemptions applicable to Persons engaged in the Transmission or the  
24 Distribution of Natural Gas, insofar as such exemptions relate to revenues

1 derived from the Transmission or the Distribution of Natural Gas, shall, any  
2 law to the contrary notwithstanding, be deemed revoked as of the effectivity  
3 of this Act.

#### 4 **CHAPTER XIII**

#### 5 **ADMINISTRATIVE FINES AND PENALTIES**

#### 6 **SEC. 41. *Administrative Fines and Penalties.* -**

7 (a) The administrative fines and penalties that shall be imposed by the  
8 DOE for Sec. 36 and any violation of or non-compliance with this Act or the  
9 implementing rules and regulations for this Act shall range from a minimum  
10 of fifty thousand pesos (P50,000.00) to a maximum of fifty million pesos  
11 (P50,000,000.00);

12 (b) Any Person who is found to have engaged in any of the prohibited acts  
13 pursuant to Section x hereof shall suffer the administrative penalty or fine  
14 ranging from ten thousand pesos (P10,000.00) to ten million pesos  
15 (P10,000,000.00), at the discretion of the DOE;

16 (c) The members of the Board of Directors of any Person that violates the  
17 provisions of this Act may be fined by an amount not exceeding double the  
18 amount of damages caused by the offender at the discretion of the DOE.  
19 This rule shall apply to the members of the Board who knowingly or by  
20 neglect allow the commission or omission under the law;

21 (d) Any party to an administrative proceeding may, at any time, make an  
22 offer to the DOE, conditionally or otherwise, for a consent decree, voluntary  
23 compliance or desistance and other settlement of the case. The offer and  
24 any or all of the ultimate facts upon which the offer is based shall be



1 considered for settlement purposes only and shall not constitute an  
2 admission by the party making the offer of any violation of the laws, rules,  
3 regulations, orders and resolutions of the DOE, nor as a waiver to file any  
4 warranted criminal actions;

5 (e) In addition Congress may, upon recommendation of the DOE, revoke  
6 such Franchise or privilege granted to the party who violated the provisions  
7 of this Act.

#### 8 **CHAPTER XIV**

#### 9 **ANTI-PILFERAGE PROVISIONS**

10 **SEC. 42. *Pilferage.*** - It is hereby declared unlawful for any Person  
11 to:

12 (a) Tap, make or cause to be made any connection with any Gas  
13 Transmission System or Gas Distribution System without previous authority  
14 or consent of the Gas Transmission Utility or Gas Distribution Utility  
15 concerned;

16 (b) Tamper, install or use tampered meters or any other device which  
17 interferes with proper or accurate registry or metering of Natural Gas flows  
18 or otherwise results in its diversion in a manner whereby Natural Gas is  
19 stolen or wasted;

20 (c) Damage or destroy any Natural Gas meter, equipment, pipeline or  
21 conduit or any part of a Gas Transmission System or Gas Distribution  
22 System or allow any of them to be so damaged or destroyed as to interfere  
23 with the proper or accurate metering of Natural Gas flows; and

1 (d) Knowingly use or receive the direct benefit of Natural Gas delivery  
2 service obtained through any of the acts mentioned in subsections (a), (b),  
3 and (c) above.

4 **SEC. 43. *Theft of Equipment and Materials.*** - It is hereby declared  
5 unlawful for any person to:

6 (a) Cut, saw, slice separate, split, severe, smelt, or remove any portion of  
7 a Gas Transmission System or Gas Distribution System, including pipeline  
8 materials and meters, from any installation or place of installation or any  
9 other place or site where it may be rightfully or lawfully stored, deposited,  
10 kept, stocked, inventoried, situated or located, without the consent of the  
11 Gas Transmission Utility or Gas Distribution Utility concerned, whether or  
12 not the act is done for profit or gain;

13 (b) Take, carry away or remove or transfer, with or without the use of a  
14 motor vehicle or other means of conveyance, load, carry, ship or move from  
15 one place to another, whether by land, air or sea, any portion of a Gas  
16 Transmission System or Gas Distribution System, including pipeline  
17 materials or meters, from any installation or place of installation, or any  
18 place or site where it may be rightfully or lawfully stored, deposited, kept,  
19 stocked, inventoried, situated or located without the consent of the Gas  
20 Transmission Utility or Gas Distribution Utility concerned, whether or not  
21 the act is done for profit or gain; and

22 (c) Store, possess or otherwise keep in his premises, custody or control,  
23 without lawful purpose, any portion of a Gas Transmission System or Gas  
24 Distribution System, including pipeline materials or meters, without the

1 consent of the Gas Transmission Utility or Gas Distribution Utility  
2 concerned, whether or not the act is done for profit or gain.

3 **SEC. 44. Penalties. -**

4 (a) Violation of Section 42. The penalty of *prision mayor* or a fine ranging  
5 from Ten thousand pesos (P10,000.00) to Twenty thousand pesos  
6 (P20,000.00) or both, at the discretion of the court, shall be imposed on any  
7 Person found guilty of violating Section 42 hereof.

8 (b) Violation of Section 43. The penalty of *reclusion temporal* or a fine  
9 ranging from Fifty thousand pesos (P50, 000.00) to One hundred thousand  
10 pesos (P100, 000.00) or both at the discretion of the court, shall be imposed  
11 on any person found guilty of violating Section 42 hereof.

12 (c) Provision common to violations of Sections 42 and 43 hereof. If the  
13 violation of Section 42 and Section 43 hereof is committed by, or in  
14 connivance with, an officer or employee of the Gas Transmission Utility or  
15 Gas Distribution Utility concerned, such officer or employee than the  
16 penalty provided herein, and forthwith be dismissed and perpetually  
17 disqualified from employment in any public or private utility or service  
18 company and from holding any public office.

19 If the violation of Section 42 and Section 43 hereof is committed by a  
20 partnership, firm, corporation, association or any other legal entity,  
21 including a government-owned or controlled corporation, the penalty shall  
22 be imposed on the president, manager and each of the officers thereof who  
23 shall have knowingly permitted, failed to prevent or was otherwise  
24 responsible for the commission of the offense.

1 **CHAPTER XV**

2 **FINAL PROVISIONS**

3 **SEC. 45. *Implementing Rules and Regulations.*** - The DOE shall, in  
4 consultation with relevant government agencies, the Natural Gas Industry  
5 participants, non-government organizations and end-users, promulgate  
6 Implementing Rules and Regulations of this Act within six (6) months from  
7 its date of effectivity.

8 **SEC. 46. *Separability Clause.*** - If for any reason, any provision of  
9 this Act is declared unconstitutional or invalid, the other parts or provisions  
10 hereof which are not affected thereby shall continue to be in full force and  
11 effect.

12 **SEC. 47. *Non-Retroactivity Applicability and Repealing Clause.*** -  
13 The provisions of Republic Act No. 387, otherwise known as the Petroleum  
14 Act of 1949, as amended, insofar as said provisions relate to the  
15 Transmission and Distribution of Natural Gas by pipeline concessionaires or  
16 other concessionaires, as such terms are defined in the Petroleum Act of  
17 1949, Section 11(b) thereof obligating the Philippine government to grant  
18 pipeline concessions for the Transmission and Distribution of Natural Gas  
19 under specified circumstances, are hereby repealed or amended. The  
20 provisions of Presidential Decree No. 87, as amended, insofar as the  
21 provisions thereof relate to the Transmission and Distribution of Natural  
22 Gas by Service Contractors, as such term is defined in Presidential Decree  
23 No. 87, as amended, are hereby amended. All other laws, decrees, executive  
24 orders, rules and regulations, circulars or other governmental issuances

1 referring to the Transmission, Distribution, or Supply of Natural Gas, or  
2 otherwise authorizing any governmental or other entity to issue licenses,  
3 permits, certificates or other authorizations for the Transmission,  
4 Distribution, or Supply of Natural Gas, are hereby repealed or amended  
5 accordingly. Further, all other laws, decrees, executive orders, rules,  
6 regulations, circulars or other governmental issuances defining the term  
7 "Natural Gas" are hereby amended such that the definition of Natural Gas in  
8 this Act shall be deemed the definition of "Natural Gas" for purposes of the  
9 said laws, decrees, executive orders, rules, regulations, circulars or other  
10 governmental issuances. Notwithstanding the foregoing, nothing in this Act  
11 shall be deemed to revoke or otherwise modify any existing concession  
12 granted under the Petroleum Act of 1949, as amended, certificate of public  
13 convenience or certificate of public convenience and necessity granted  
14 pursuant to the Public Service Law, as amended, specific congressional  
15 Franchise for the Transmission, Distribution or Supply of Natural Gas or  
16 other administrative or regulatory permit or contract, with concession,  
17 certificate, Franchise, permit or contract shall be allowed to its full term but  
18 may not be renewed except pursuant to the provisions of this Act.

19       **SEC. 48. Effectivity Clause.** - This Act shall take effect on the  
20 fifteenth (15<sup>th</sup>) day following its publication in at least two (2) national  
21 newspapers of general circulation.

22       Approved,