

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



Senate
Office of the Secretary

'14 MAR 10 P1:42

SENATE

S. B. No. 2167

RECEIVED BY: *ji*

Introduced by Senator FRANCIS G. ESCUDERO

AN ACT AMENDING
SECTION 47 OF REPUBLIC ACT NO. 9136, OTHERWISE KNOWN AS
THE ELECTRIC POWER INDUSTRY REFORM ACT

EXPLANATORY NOTE

Republic Act 9136, otherwise known as the Electric Power Industry Reform Act (EPIRA) realized the liberalization and privatization of the power industry to promote greater competition and efficiency in the sector. It was hoped that the reformed business environment shall result in better service thru improved delivery of supply and lower power rates for the consumer.

However, in more than a decade after the law's enactment, higher electricity rates (estimated as one of the highest in Asia) and power outages, especially in Mindanao, have become a burden. It is apparent that the EPIRA was not able to provide the promised reform to ensure long term security of power supply and the benefits of liberalization such as lower prices.

EPIRA was intended to be the solution to the country's electricity problems. Instead, it has caused the government to lose control of the power industry, allowing private businesses to raise power rates with impunity.

Unless the EPIRA is amended, it will be difficult - if at all possible - to maintain control of the power industry to the government in order to temper the profit-oriented practices in the power industry.

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

1
2 SECTION. 1. Section 47 of Republic Act No. 9136, otherwise known as the Electric
3 Power Industry Reform Act of 2001, is hereby amended to read as follows:
4

5 “SEC. 47. *NPC Privatization.* –

6 “(a) xxx

7 “(b) xxx

8 “xxx

9 “(c) xxx

10 “(d) All **REMAINING** assets of NPC shall be [sold in an open and transparent
11 manner through public bidding, and the same shall apply to the disposition of IPP
12 contracts] **RETAINED BY THE NATIONAL GOVERNMENT**;

13 “(e) In cases of transfer of possession, control, operation or privatization of multi-
14 purpose hydro facilities, safeguards shall be prescribed to ensure that the national
15 government [may] **IS ALWAYS EMPOWERED TO** direct water usage **IN**
16 **ALL CASES IT MAY DEEM APPROPRIATE TO SATISFY ALL WATER**
17 [in cases of shortage to protect potable water, irrigation, and all other]
18 requirements imbued with public interest;

19 “(f) The Agus and the Pulangui complexes in Mindanao shall be excluded from
20 among the generation companies that will be [initially] privatized. [Their
21 ownership shall be transferred to the PSALM Corp. and both shall continue to be
22 operated by the NPC. Said complexes may be privatized not earlier than ten (10)
23 years from the effectivity of this Act, and except for Agus III, shall not be subject
24 to Build-Operate-Transfer (B-O-T), Build-Rehabilitate-Operate-Transfer (B-R-O-
25 T) and other variations thereof pursuant to Republic Act No. 6957, as amended by
26 Republic Act No. 7718. The privatization of Agus and Pulangui complexes shall
27 be left to the discretion of PSALM Corp. in consultation with Congress];

28 “(g) **THE STATE SHALL ENDEAVOR TO DEVELOP THE**
29 **GEOTHERMAL RESOURCES OF THE COUNTRY AND BUILD NEW**

1 **GEOTHERMAL PLANTS.** The steamfield assets and generating plants of each
2 EXISTING geothermal complex shall not be **PRIVATIZED** [sold separately.
3 They shall be combined and each geothermal complex shall be sold as one
4 package through public bidding]. The geothermal complexes covered by this
5 requirement include, but are not limited to, Tiwi-Makban, Leyte A and B
6 (Tongonan), Palinpinon, and Mt. Apo;

7 xxx.”

8
9 SEC. 2. Repealing Clause. - All laws, decrees, executive orders and rules and
10 regulations inconsistent with the provisions of this Act are hereby repealed and modified
11 accordingly.

12
13 SEC. 3. Separability Clause. – If any provision of this Act is subsequently declared
14 unconstitutional, the validity of the remaining provisions hereof shall remain in full force and
15 effect.

16
17 SEC. 4. This Act shall take effect fifteen (15) days after its complete publication in
18 the Official Gazette or in at least two (2) national newspaper of general circulation, whichever
19 comes first.

20
21 *Approved,*