

SIXTEENTH CONGRESS OF THE )  
REPUBLIC OF THE PHILIPPINES )  
*Second Regular Session* )



Senate  
Office of the Secretary

'15 FEB 25 P3:30

SENATE

S. No. 2668

RECEIVED BY:     

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Introduced by Senator FRANCIS G. ESCUDERO

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AN ACT

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

**EXPLANATORY NOTE**

Natural gas is considered by many modern economies as the fuel of choice because of its abundance, clean-burning properties and versatility as a fuel source. With the successful launching of the Malampaya Deep Water Gas-to-Power Project on October 16, 2001 marked the birth of the country's natural gas industry. The Malampaya gas field discovery signaled a significant leap towards energy self-reliance as it now fuels about one-third of the country's total power generation. A total of 2700 MW of installed capacity of gas-fired power plants make use of the natural gas produced from Malampaya.

Aside from the use of natural gas for power generation, alternative applications in the transport sector is also being pursued. The launching of the Natural Gas Vehicle Program for Public Transport (NGVPPT) on October 16, 2002 served as a banner program for the use of natural gas in the transport sector.

Following the inauguration of the Malampaya Deep Water Gas-to- Power Project, government advocacy has been initiated to create an impetus to the development of the country's downstream natural gas industry. These are the (i) signing on January 18, 2002 by President Gloria Macapagal-Arroyo of Executive Order No. 66 designating the Department of Energy (DOE) as the lead agency for the development of the country's natural gas industry; and (ii) issuance on August 27, 2002 by the DOE of the interim rules and regulations governing the transmission, distribution and supply sub-sectors of the natural gas industry.

However, both issuances are not sufficient to impart a clear, comprehensive and integrated regulatory framework that will provide direction and to accelerate the development of the country's nascent downstream natural gas sector.

As dynamic developments are taking place in this very young sector, it is imperative that conditions favorable to the establishment of the critical infrastructure and natural gas market are put in place to optimize economic efficiency and returns from the downstream natural gas industry.

The foregoing premises thus necessitate the immediate passage of the Natural Gas Bill, which proposal has remained pending for a considerable time to date.

A handwritten signature in black ink, appearing to read 'Francis G. Escudero', written over a horizontal line.

**FRANCIS G. ESCUDERO**

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**AN ACT**  
**ORDAINING THE DEVELOPMENT OF THE DOWNSTREAM NATURAL**  
**GAS INDUSTRY, CONSOLIDATING FOR THE 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 Republic of the Philippines in Congress assembled:*

**CHAPTER I**  
**TITLE AND DECLARATION OF POLICY**

1  
2  
3 SECTION 1. *Short Title.* – This Act shall be known as the “*Downstream*  
4 *Natural Gas Industry Development Act*”.

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

7 (a) To promote the role of natural gas as a socially-acceptable,  
8 environment-friendly and economically efficient source of energy  
9 by creating favorable conditions for establishing a Downstream  
10 Natural Gas Industry for the benefit of all segments of the nation’s  
11 population and all sectors of its economy;

12 (b) To ensure the safety, quality, reliability and security of the  
13 transmission, distribution and supply of natural gas;

14 (c) To ensure transparent and reasonable rates and prices of natural  
15 gas transmission, distribution and supply in a regime of open and  
16 fair competition and full public accountability that will promote  
17 greater operational and economic efficiency and the enhanced  
18 competitiveness of the Philippine products in the global market;

- 1 (d) To encourage the inflow of private capital in providing the  
2 infrastructure and services necessary to support an expanded role  
3 of natural gas in the nation's energy supply;
- 4 (e) To protect the public interest as it is affected by the quality of, and  
5 rates charged for, the transmission, distribution and supply of  
6 natural gas and related services;
- 7 (f) To assure the development of a Downstream Natural Gas Industry  
8 infrastructure that is socially-acceptable and compliant with  
9 existing environmental laws;
- 10 (g) To ensure that the Downstream Natural Gas Industry shall be  
11 regulated in a manner that will ensure the quality, reliability,  
12 security and reasonableness of charges for the transmission,  
13 distribution and supply of natural gas, encourage private  
14 investment in the Downstream Natural Gas Industry and promote  
15 the efficient and competitive operation thereof;
- 16 (h) To develop the necessary trades, technical expertise and skills to  
17 support the Downstream Natural Gas Industry;
- 18 (i) To facilitate the development of end-uses of natural gas that  
19 promotes fuel diversity and compliance with existing  
20 environmental laws including, but not limited to, the use of natural  
21 gas as a motor vehicle fuel; and
- 22 (j) To encourage equity participation in gas transmission utilities and  
23 gas distribution utilities by the private sector.

24 SEC. 3. *Scope.* - This Act shall provide a framework for the  
25 development of a Downstream Natural Gas Industry and its transition from  
26 an emerging to a mature industry status and competitive natural gas market,  
27 and define the responsibilities of various government agencies and private  
28 entities in furtherance of this national goal.

29 All activities of the Department of Energy (DOE) and the Energy  
30 Regulatory Commission (ERC) relevant to the development and regulation of  
31 the Downstream Natural Gas Industry shall be in accordance with this Act.

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

3           (a) “Captive market”:

- 4           • with respect to the transmission of natural gas, refers to natural  
5           gas end-users who do not have a choice of a gas transmission  
6           utility;
- 7           • with respect to the distribution of natural gas, refers to natural  
8           gas end-users who do not have a choice of a gas distribution  
9           utility;
- 10          • with respect to the supply of natural gas, refers to natural gas  
11          end-users who do not have a choice of supplier of natural gas or  
12          other economically competitive energy substitute;

13          (b) “Congress” refers to the Congress of the Republic of the  
14          Philippines;

15          (c) “Contestable market” is a market that is not a captive market;

16          (d) “Delivery” refers to the transmission or distribution of natural gas  
17          and the supply of natural gas, at wholesale or retail;

18          (e) “Department of Energy” or “DOE” refers to the government agency  
19          created pursuant to Republic Act No. 7638, as amended

20          (f) “Department of Environment and Natural Resources” or “DENR”  
21          refers to the government agency created pursuant to Executive  
22          Order Nos. 192 and 292, as amended;

23          (g) “Distribution” refers to the conveyance of natural gas by a gas  
24          distribution utility through its gas distribution system;

25          (h) “Downstream Natural Gas Industry” refers to the transmission,  
26          distribution and supply of natural gas and related activities, such  
27          as, but not limited to, processing, storing, regasification,  
28          interconnection, measurement and/or metering;

29          (i) “End-user” refers to any person that will receive delivery of natural  
30          gas for its own use;

- 1 (j) "Energy Regulatory Commission" or "ERC" refers to the  
2 independent quasi-judicial regulatory agency created pursuant to  
3 Republic Act No. 9136, otherwise known as the "Electric Power  
4 Industry Reform Act of 2001", whose expanded functions are  
5 provided in this Act;
- 6 (k) "Franchise" refers to the right, privilege and authority issued by  
7 Congress authorizing a person to engage in the transmission of  
8 natural gas and/or distribution of natural gas within a specific  
9 geographical area;
- 10 (l) "Franchise area" refers to a geographical area assigned or granted  
11 under a franchise;
- 12 (m) "Gas Distribution Code" refers to the code to be formulated by the  
13 DOE pursuant to Section 5(g) of this Act that sets the technical  
14 performance standards for operating gas distribution utilities and  
15 the minimum financial standards for gas distribution systems;
- 16 (n) "Gas distribution system" refers to the system of pipelines and  
17 related facilities extending from the delivery points where the gas  
18 distribution system receives the natural gas to the point of  
19 connection to the premises of the end-user;
- 20 (o) "Gas distribution utility" refers to any person that has a franchise  
21 to operate a gas distribution system;
- 22 (p) "Gas supply contract" refers to a contract between a supplier and a  
23 purchaser for the supply of natural gas;
- 24 (q) "Gas Transmission Code" refers to the code to be developed by the  
25 DOE pursuant to Section 5(g) of this Act that sets the technical  
26 performance standards for operating gas transmission systems and  
27 the minimum financial standards for gas transmission utilities;
- 28 (r) "Gas transmission system" refers to the system to the system of  
29 high pressure pipelines, storage and related facilities that are used  
30 to transport natural gas from the interconnection with gathering  
31 facilities, liquefied natural gas (LNG) regasification facilities or  
32 other gas transmission systems to gas distribution systems, other  
33 gas transmission systems or end-users;

- 1 (s) "Gas transmission utility" refers to any person that has a franchise  
2 to operate or intending to operate a gas transmission system except  
3 own-use pipelines;
- 4 (t) "Gathering facilities" refers to natural gas pipelines and related  
5 facilities used to gather gas in the field and bring it to a location for  
6 processing or for delivery at an interconnection with the gas  
7 transmission system. The terms "gather" and "gathering" shall be  
8 construed accordingly;
- 9 (u) "Infrastructure development period" refers to the period prescribed  
10 in Chapter IV of this Act;
- 11 (v) "Joule" refers to the unit of energy or work done when the point of  
12 application of a force of one Newton is displaced a distance of one  
13 meter in the direction of the force. It is also equal to one watt-  
14 second;
- 15 (w) "Large end-user" refers to an end-user whose aggregate annual  
16 natural gas consumption is one thousand (1,000) gigajoules (gross  
17 heating value) or greater, as may be determined by the ERC;
- 18 (x) "LNG" refers to liquefied natural gas";
- 19 (y) "Natural gas" refers to hydrocarbons, obtained initially from sub-  
20 surface reservoirs, primarily methane, which, at atmospheric  
21 temperature and pressure, is in a gaseous phase. The term "natural  
22 gas" shall include LNG;
- 23 (z) "Permit" refers to an authorization issued by the DOE, initially, for  
24 the construction, operation, expansion and modification of gas  
25 transmission systems, gas distribution systems and for the supply  
26 of natural gas;
- 27 (aa) "Person" refers to a natural or juridical person, as the case may be,  
28 including the national and local government of the Republic of  
29 the Philippines, its agencies and instrumentalities, and  
30 government-owned and -controlled corporations;
- 31 (bb) "Petroleum operations" refers to searching for and obtaining  
32 petroleum within the Philippines through drilling and pressure or

1 suction or the like, and all other operations incidental thereto. It  
2 includes the transportation, storage, handling and sale (whether  
3 for export or for domestic consumption) of petroleum so obtained  
4 but does not include any: (1) transportation of petroleum outside  
5 the Philippines; (2) processing or refining at a refinery; or (3) any  
6 transaction in the products so refined;

7 (cc) "Philippine Energy Plan" or "PEP" refers to the overall energy  
8 program formulated and updated yearly by the DOE and  
9 submitted to Congress pursuant to Republic Act No. 7638, as  
10 amended;

11 (dd) "Service contract" refers to the award granted by the Philippine  
12 government to a qualified person to engage in the exploration,  
13 development and utilization of natural resources \*rough joint  
14 venture, co-production, production-sharing or other similar  
15 arrangement with the State pursuant to Article XII, Section 2 of  
16 the Constitution, including service contracts under Presidential  
17 Decree No. 87, as amended;

18 (ee) "Supplier" refers to any person authorized by the DOE, initially,  
19 to engage in the supply of natural gas;

20 (ff) "Supply" refers to the domestic trading and/or sale of natural gas  
21 for wholesale or retail;

22 (gg) "Transmission" refers to the transportation of natural gas through  
23 a gas transmission system; and

24 (hh) "Unbundled service" refers to the pricing of the energy value of  
25 natural gas separately from the rates charged for natural gas  
26 transmission or distribution

27 **CHAPTER II**  
28 **POWERS AND FUNCTIONS OF THE DOE AND THE ERC**

29 *SEC. 5. Powers and Functions of the DOE.* - In addition to its existing  
30 powers and functions, the DOE shall have the overall responsibility of  
31 supervising and monitoring the development of the Downstream Natural Gas  
32 Industry and regulation of the construction and operation of natural gas  
33 pipelines and related facilities for the transmission, distribution and supply of



1 natural gas. Towards this end, the DOE shall have the following-powers and  
2 functions:

3 (a) Prepare and periodically update a Downstream Natural Gas  
4 Industry Development Plan (DNGIDP) and integrate the same into  
5 the PEP. The DNGIDP shall consider and integrate the individual  
6 or joint development plans of the Downstream Natural Gas  
7 Industry participants pursuant to this Act, which are submitted to  
8 the DOE. Appropriate mechanisms shall be provided to protect the  
9 confidentiality of any information that is commercially or  
10 competitively sensitive. The DOE shall publish an initial draft of the  
11 plan and undertake public consultations thereon prior to its  
12 adoption;

13 (b) Issue permits for the construction, operation and maintenance of  
14 pipelines and related facilities for the transmission, distribution  
15 and/or supply of natural gas;

16 (c) Establish standards setting forth the characteristics for classifying  
17 pipeline and pipeline-related facilities either as gas transmission  
18 systems or gas distribution systems. These characteristics may  
19 include both the physical characteristics related to the diameter,  
20 size and pressure of pipeline facilities, and the functional  
21 characteristics of such facilities;

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

24 (e) Ensure the safety, reliability, quality and security of supply of  
25 natural gas. Consistent with the development of the Downstream  
26 Natural Gas Industry, the DOE shall, among others:

27 (i) Encourage private sector investments in the Downstream  
28 Natural Gas Industry and promote the development of  
29 domestic markets for natural gas;

30 (ii) In consultation with the Downstream Natural Gas Industry  
31 participants and other government agencies, promote a  
32 system of incentives to encourage industry participants,  
33 including new producers and end-users, to provide adequate  
34 and reliable supply of natural gas; and

1 (iii) Undertake, in coordination with other governmental  
2 agencies, as appropriate, an information campaign to  
3 educate the public on the benefits of developing the  
4 Downstream Natural Gas Industry and the potential for  
5 utilizing natural gas as a source of energy.

6 (f) Within six months from the effectivity of this Act, develop plans  
7 and programs to encourage market development and customer  
8 choice;

9 (g) Within twelve (12) months from the effectivity of this Act, the DOE  
10 shall, preparatory to the holding of public consultations with the  
11 Downstream Natural Gas Industry participants, draft *the* Gas  
12 Transmission and Distribution Codes which shall contain, among  
13 others, the following:

14 (i) Technical performance standards for gas transmission and  
15 distribution utilities: *Provided*, That in the establishment of  
16 the performance standards, the nature and function of the  
17 entities shall be considered; and

18 (ii) Minimum financial capability standards for gas transmission  
19 and distribution utilities: *Provided*, That such standards are  
20 set to ensure that the Downstream Natural Gas Industry  
21 participants meet the minimum financial standards to  
22 protect the public interest.

23 Within eighteen (18) months from the effectivity of this  
24 Act, the DOE shall, in consultation with the Downstream  
25 Natural Gas Industry participants, issue the final Gas  
26 Transmission and Distribution Codes.

27 (h) By order, revoke, after due notice and hearing, the permit of any  
28 person that fails to comply with the rules and regulations  
29 promulgated pursuant to this Act, the Gas Transmission Code, *the*  
30 Gas Distribution Code, or any requirement of this Act. The DOE  
31 shall allow such persons sufficient time to remedy the violation of  
32 or for an orderly disgorgement, when applicable, but in no case  
33 shall such remediation period exceed twelve (12) months from the  
34 date of issuance of the order;

- 1 (i) Encourage private enterprises in the Downstream Natural Gas  
2 Industry to broaden their ownership base and promote widest  
3 public ownership thereof;
- 4 (j) Formulate, in consultation with the Downstream Natural Gas  
5 Industry participants, the rules and regulations as may be necessary  
6 to implement the objectives of this Act;
- 7 (k) Exercise original and exclusive jurisdiction over all cases contesting  
8 permits, nonprice regulation, fees, fines and penalties imposed by it  
9 in the exercise of the abovementioned powers and functions; and
- 10 (l) Exercise such other powers and functions as may be necessary or  
11 incidental to attain the objectives of this Act. Subject to existing  
12 rules and regulations, the DOE is hereby authorized to create  
13 offices and appoint personnel thereto as may be necessary to  
14 efficiently and effectively perform its functions as stipulated in this  
15 Act.

16 SEC. 6. *Powers and Functions of the ERC.* - In addition to its existing  
17 powers and functions, the ERC shall have the sole regulatory responsibility  
18 for establishing the rates and related terms and conditions of service for the  
19 transmission, distribution and supply of natural gas to the extent that such  
20 activities are regulated pursuant to the requirements set forth in this Act. It  
21 shall:

22 (a) Within one year from the effectivity of this Act, promulgate, upon  
23 due notice and public consultation, rules and regulations to  
24 promote competition and prohibit/penalize abuse of market  
25 power, cartelization and any anti-competitive or discriminatory  
26 behavior, in order to further the intent of this Act and protect the  
27 public interest. Such rules and regulations shall:

28 (i) Define the relevant product and geographic markets for  
29 purposes of establishing anti-competitive conduct;

30 (ii) Provide criteria to determine the relevant market structure;  
31 and

1 (iii) Establish the periodic reportorial requirements of the  
2 Downstream Natural Gas Industry participants as may be  
3 necessary to enforce the provisions of this section.

4 (b) In the public interest, establish and enforce a methodology for  
5 setting transmission, distribution and supply rates, taking into  
6 account all relevant Considerations, including the efficiency or  
7 inefficiency of the regulated entities. The rates must be such as to  
8 allow the recovery of just and reasonable costs and a reasonable  
9 return to enable the entity to operate viably. The ERC may, upon  
10 due notice and public consultation, adopt internationally accepted  
11 rate setting methodology. The rate setting methodology so adopted  
12 and applied shall promote efficiency and ensure a reasonable price  
13 or tariff. The rates prescribed shall be nondiscriminatory;

14 (c) Apply administrative procedures that will ensure the constitutional  
15 right to due process;

16 (d) Before the end of April of each year, submit to the Office of the  
17 President of the Philippines and Congress, copy furnished the DOE,  
18 an annual report containing such matters or cases which have been  
19 filed before or referred to it during the preceding year, the actions  
20 and proceedings undertaken and its decision or resolution in each  
21 case. The ERC shall make copies of such report available to any  
22 interested party upon payment of a charge which reflects the  
23 printing costs;

24 (e) Publish in newspapers of general circulation all its decisions  
25 involving rates and anticompetitive cases; and

26 (f) Exercise such other powers as may be necessary or incidental to  
27 attain the objectives of this Act.

28 Subject to existing rules and regulations, the ERC is hereby  
29 authorized to create offices and appoint personnel thereto as may  
30 be necessary to efficiently and effectively perform its functions as  
31 stipulated in this Act.

32

1 CHAPTER III  
2 ORGANIZATION AND OPERATION OF THE DOWNSTREAM  
3 NATURAL GAS INDUSTRY

4 SEC. 7. *Organization.* - For purposes of this Act, the Downstream  
5 Natural Gas Industry shall be divided into three sectors, namely: transmission  
6 of natural gas, distribution of natural gas and supply of natural gas.

7 SEC. 8. *Regulation of Transmission, Distribution and Supply Sectors.* - The  
8 transmission, distribution and supply of natural gas are businesses affected  
9 with public interest and the regulation of these businesses as provided for in  
10 this Act is hereby deemed necessary in the public interest.

11 SEC. 9. *Franchise Requirement.* -

12 (a) Transmission and distribution of natural gas declared public utility  
13 operations. - The transmission and distribution of natural gas as  
14 provided for in this Act are hereby declared to be public utility  
15 operations, requiring a franchise;

16 (b) Franchise. - Any person that seeks to operate for commercial  
17 purposes a gas transmission system or gas distribution system shall  
18 be required to obtain a franchise, any law to the contrary  
19 notwithstanding. The franchise requirement shall apply with  
20 respect to all gas transmission systems and gas distribution  
21 systems, regardless of the size or pressure of the pipeline. The  
22 foregoing, notwithstanding, this franchise requirement shall not  
23 apply to:

24 (i) Holders of service contracts which authorizes the  
25 construction and operation of facilities for the transmission  
26 of natural gas only to the extent that such facilities are: (1)  
27 for own use; (2) used to transport natural gas from the point  
28 of extraction or production to the processing or gathering  
29 facility; and (3) used to provide service to existing  
30 customers or such person under a gas supply contract  
31 entered into prior to the effectivity of this Act, which gas  
32 supply contract shall not be affected by &e enactment of this  
33 Act.

34 However, the operation of any pipeline facility used to  
35 serve or deliver natural gas to third persons, whether or not

1 such facility was, prior to such operation, previously  
2 utilized only as a gathering facility, shall require a franchise.

3 (ii) Operators of pipeline facilities to transport natural gas for  
4 their own use: Provided, however, That such operators shall  
5 secure a permit from the DOE as provided herein; and

6 (iii) Operators of related facilities that are operated  
7 independently from the pipeline.

8 The franchise so granted shall include a provision  
9 that shall honor and protect the forty percent (40%) share of  
10 local government units (LGUs) from the proceeds of the  
11 gross collection derived by the national government from its  
12 share in any coproduction, joint venture or production-  
13 sharing agreement in the utilization and development of the  
14 national wealth within their territorial jurisdiction, pursuant  
15 to Article X, Section 7 of the Constitution and Section 290 of  
16 Republic Act No. 7160, otherwise known as the Local  
17 Government Code of 1991, as amended. The share of the  
18 LGU concerned shall be included automatically in the  
19 General Appropriations Act following the year the revenue  
20 was generated.

21 (c) Prior regulatory approvals. - The grantee of such franchise shall also be  
22 required to secure from the DOE a permit as provided herein, and to  
23 secure from the appropriate government agencies all other regulatory  
24 approvals, licenses, permits and authorizations applicable to such  
25 grantee under existing laws. The DOE shall not unreasonably withhold  
26 or delay the grant of any permit, and may not reopen any legislative  
27 determination in the review and grant of any franchise.

28 SEC. 10. *Philippine Ownership Requirement.* - As required under Article  
29 XII, Section 11 of the Constitution of the Republic of the Philippines, no  
30 franchise, certificate, or any other form of authorization of a public utility  
31 shall be granted except to citizens of the Philippines or to corporations or  
32 associations organized under the laws of the Philippines at least sixty percent  
33 (60%) of whose capital is owned by such citizens.

34

1           SEC. 11. *Third Party Access.* –

2           (a) *Third Party Access Obligation.* - Gas transmission systems and gas  
3           distribution systems excluding those constructed and operated for own  
4           use or as part of gathering facilities of service contractors shall be  
5           available for nondiscriminatory access by third party users which may  
6           include parties to a service contract, suppliers and customers, with due  
7           regard to the economic viability of the operation of such facilities. Such  
8           operators shall negotiate in good faith with third party users the  
9           provisions and terms of access in accordance with the guidelines to be  
10          promulgated by the DOE;

11          (b) *Available Capacity.* - Third party access obligations shall apply only to  
12          the available capacity of the gas transmission systems and gas  
13          distribution systems as determined by subtracting from the design  
14          capacity of the gas transmission systems and gas distribution systems  
15          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 to third parties under transportation contracts.  
19                   Nondiscriminatory third party access shall be available to  
20                   users by contract with the gas transmission or gas  
21                   distribution utility. If the gas transmission or gas  
22                   distribution utility with available capacity refuses service to  
23                   a user or offers discriminatory service, the affected party  
24                   may request for the intervention of the ERC. The gas  
25                   transmission or gas distribution utility shall be required to  
26                   file proof that capacity was not available when service was  
27                   denied.

28                   Gas transmission utilities shall not be obligated to  
29                   undertake, nor may the DOE require, the expansion of an  
30                   existing gas transmission system to serve additional  
31                   customers or the sizing of a gas transmission system for the  
32                   purpose of increasing capacity to serve load in excess of the  
33                   load proposed to be served by the gas transmission utility.  
34                   However, in situations where no entity is interested to build

1 additional transmission capacity in any franchise area, the  
2 DOE may conduct a public bidding and award the same to  
3 the lowest bidder.

4 (c) Deferment of Third Party Access Obligation. - As may be provided in  
5 the permit, the implementation of third party access to gas  
6 transmission systems and gas distribution systems may be deferred  
7 where, upon the determination by the DOE:.

8 (i) It can be demonstrated that such deferment is necessary to  
9 enable the efficient planning of the infrastructure and  
10 aggregation of the initial demand necessary to justify  
11 investments in the gas transmission systems and gas  
12 distribution systems; or

13 (ii) It is in the interest of the customers served by the gas  
14 transmission system and gas distribution system to ensure  
15 stability of supply.

16 In either case, the DOE may not defer  
17 implementation of third party access for a period longer  
18 than three years after completion of construction in the case  
19 of gas transmission systems and five years after completion  
20 of construction in the case of gas distribution systems:  
21 *Provided, however,* That the deferment period may be  
22 extended on reasonable grounds.

23 (d) Approved Access Conditions for Gas Transmission Utilities and Gas  
24 Distribution Utilities. - Prior to the conduct of negotiations with third  
25 parties, a gas transmission utility and a gas distribution utility shall  
26 request the DOE to approve its access conditions in accordance with  
27 the third party access guidelines to be promulgated by the DOE in  
28 consultation with the industry participants.

29 SEC. 12. *Environmental Protection.* - Gas transmission utilities, gas  
30 distribution utilities and suppliers shall comply with all environmental laws,  
31 rules, regulations and standards promulgated by the Department of  
32 Environment and Natural Resources (DENR) and other appropriate  
33 governmental agencies.



1 **CHAPTER IV**  
2 **NATURAL GAS TRANSMISSION SECTOR**

3 SEC. 13. *Permit.* - No person or entity shall undertake the construction,  
4 operation and maintenance of a natural gas transmission system unless it has  
5 secured a franchise: *Provided, however,* That for a period not exceeding five  
6 years after the effectivity of this Act, the DOE may issue a provisional permit  
7 with a maximum term of two years, renewable twice for a maximum  
8 cumulative term not exceeding six years for the continued operation of a gas  
9 transmission system constructed prior to and in operation as of the date of  
10 effectivity of this Act: *Provided, further,* That during the same period, the  
11 DOE may issue a permit for the expansion, extension or modification of a  
12 natural gas transmission system.

13 The DOE shall issue a public notice of all permit applications and  
14 afford interested parties reasonable opportunity to comment upon such  
15 applications. The DOE shall issue a permit upon its determination that the  
16 construction, ownership, control, installation, operation and maintenance of  
17 the gas transmission system would be consistent with ;the policy declarations  
18 contained in this Act: *Provided, however,* That if a permit is sought for new  
19 service that would be provided within the franchise area of a gas distribution  
20 utility, the DOE shall consider the economic effects of granting such a permit  
21 upon the gas distribution utility and its customers.

22 SEC. 14. *Terms and Conditions of Permits.* - In issuing a permit, the DOE  
23 shall have the power to impose such reasonable terms and conditions as the  
24 public interest may require. Among such conditions shall be the requirement  
25 that the permit holder complies in full with the Gas Transmission Code  
26 promulgated by the DOE pursuant to Section 5(g) of this Act.

27 SEC. 15. *Fees.* - The DOE shall have the authority to prescribe and  
28 collect fees and charges relating to the issuance and/or review of permits,  
29 supervision and regulation of gas transmission systems.

30 SEC. 16. *Abandonment of Gas Transmission Systems.* - No holder of a  
31 permit for the construction, installation, operation or maintenance of a gas  
32 transmission system shall abandon or withdraw from service any portion of  
33 such gas transmission system without obtaining prior authorization from the  
34 DOE, which determination shall be made within one hundred eighty (180)

1 days from the filing of the application for abandonment. Such abandonment  
2 shall be done in accordance with existing laws.

3       SEC. 17. *Gas Transmission Code Compliance.* - All gas transmission  
4 utilities shall ensure the safety,- reliability, adequacy, security, stability and  
5 integrity of their gas transmission systems in accordance with the technical  
6 specifications and performance standards set forth in the Gas Transmission  
7 Code to be promulgated by the DOE. Each gas transmission utility shall  
8 submit to the DOE a statement of its compliance with such technical  
9 specifications and performance standards prescribed in the Gas Transmission  
10 Code. Any gas transmission utility that does not comply with any of the  
11 prescribed technical specifications or performance standards shall include in  
12 such statement of compliance an undertaking to comply with said technical  
13 specifications and performance standards within a reasonable time as may be  
14 necessary to ensure safety and reliability, or prevent environmental harm. The  
15 DOE shall, within sixty (60) days upon receipt of such plan, evaluate the same  
16 and notify the gas transmission utility concerned of its decision thereon.  
17 Failure to submit a feasible and credible plan and/or failure to implement the  
18 same shall serve as grounds for the imposition of appropriate sanctions, fines  
19 or penalties pursuant to Section 39 of this Act.

20       SEC. 18. *ERC Rate Regulation of Gas Transmission Utilities.* - Gas  
21 Transmission Rate. Except as otherwise provided during the infrastructure  
22 development period, the ERC shall review and approve the rates, charges and  
23 other amounts proposed to be charged by the gas transmission utilities as  
24 provided under Section 33 of this Act. Where such rates are applicable to  
25 services provided to captive markets, the ratemaking methodology to be  
26 applied by the ERC shall be based on the principle of full recovery of prudent  
27 and reasonable costs incurred, including a reasonable return on rate base that  
28 is consistent with the encouragement of private investment and goal of  
29 developing a Downstream Natural Gas Industry infrastructure, or such other  
30 principles that will promote the determination of just and reasonable rates.  
31 Where a rate applicant successfully demonstrates that its rates will be applicable  
32 to contestable markets, the ERC shall have the authority to permit negotiated rates.

33

CHAPTER V  
DISTRIBUTION SECTOR

SEC. 19. *Permit.* - No person or entity shall undertake the construction, operation and maintenance of a natural gas distribution system unless it has secured a franchise: Provided, however, That for a period not exceeding five years after the effectivity of this Act, the DOE may issue a provisional permit with a maximum term of two years, renewable twice for a maximum cumulative term not exceeding six years for the continued operation of a gas distribution system constructed prior to and in operation as of the date of effectivity of this Act: Provided, further, That during the same period, the DOE may issue a permit for the expansion, extension or modification of a natural gas distribution system.

The DOE shall issue a public notice of all permit applications and afford interested parties an opportunity to comment on such applications. The DOE shall issue a permit upon its determination that the construction, ownership, control, installation, operation and maintenance of the gas distribution systems would be consistent with the policy declarations contained in this Act: Provided, however, That if a permit is sought for new service that would be provided within the franchise area of another gas distribution utility, the DOE shall consider the economic effects of granting such a permit upon the gas distribution utility and its customers.

SEC. 20. *Terms and Conditions of Permits.* - In issuing a permit, the DOE shall have the power to impose such reasonable term and conditions to a permit as the public interest may require. Among such conditions shall be the requirement that the permit holder comply in full with the Gas Distribution Code promulgated by the DOE pursuant to Section 5(g) of this Act.

SEC. 21. *Fees.* - The DOE shall have the authority to prescribe and collect fees and charges relating to the issuance and/or review of permits, supervision and regulation of gas distribution systems.

SEC. 22. *Abandonment of Gas Distribution Systems.* - No holder of a permit for the construction, installation, operation or maintenance of a gas distribution system shall abandon or withdraw from service any portion of such gas distribution system without obtaining prior authorization from the DOE, which determination shall be made within one hundred eighty (180) days

1 from the filing of the application for abandonment. Such abandonment shall be done  
2 in accordance with existing laws.

3       SEC. 23. *Gas Distribution Code Compliance.* - All gas distribution utilities  
4 shall be required to ensure and maintain the safety, reliability, adequacy,  
5 security, stability and integrity of their gas distribution systems in accordance  
6 with the performance standards set forth in the Gas Distribution Code to be  
7 promulgated by the DOE. Each gas distribution utility shall submit to the  
8 DOE a statement of its compliance with the technical specifications prescribed  
9 in the Gas Distribution Code and the performance standards prescribed in the  
10 implementing rules and regulations promulgated by the DOE pursuant to  
11 Section 43 of this Act. A gas distribution utility that fails to comply with any  
12 of the prescribed technical specifications or performance standards shall  
13 include within such statement of compliance a plan for achieving compliance  
14 with the said technical specifications and performance standards within a  
15 reasonable time as may be necessary to ensure safety and reliability, or  
16 prevent environmental harm. The DOE shall, within sixty (60) days from  
17 receipt of such plan, evaluate the same and notify the gas distribution utility  
18 concerned of its decision thereon. Failure to submit a feasible and credible  
19 plan and/or failure to implement the same shall serve as grounds for the  
20 imposition of appropriate sanctions, fines or penalties pursuant to Section 39  
21 of this Act.

22       SEC. 24. *Gas Distribution Rate.* - Except as provided for during the  
23 infrastructure development period, the distribution rates charged by gas  
24 distribution utilities shall be subject to regulation by the ERC based on the  
25 principle of full recovery of prudent and reasonable economic costs incurred,  
26 including a reasonable return on rate base that is consistent with the  
27 encouragement of private investment and goal of developing the  
28 Downstream Natural Gas Industry infrastructure, or such other principles  
29 that will promote the determination of just and reasonable rates by the ERC.  
30 Where a rate applicant successfully demonstrates that its rates will be  
31 applicable to contestable markets, the ERC shall have the authority to permit  
32 negotiated rates.

33       SEC. 25. *Functions of Gas Distribution Utilities.* - All gas distribution  
34 utilities shall have the following functions:

1 (a) Obligation to provide distribution services and connections to its gas  
2 distribution system for any end-user within the area covered by its  
3 permit consistent with the Gas Distribution Code. Any gas distribution  
4 utility engaged therein shall provide nondiscriminatory access to its  
5 gas distribution system to suppliers and/or end-users entitled to retail  
6 access under Section 30 of Chapter VII of this Act. Any gas distribution  
7 utility shall be entitled to impose and collect from such suppliers  
8 and/or end-users distribution charges and connection fees as  
9 approved by the ERC after due notice and hearing;

10 (b) Ensure the safety, reliability, adequacy, security, stability and integrity  
11 of their gas distribution systems in accordance with the technical  
12 specifications and performance standards set forth in the Gas  
13 Distribution Code to be promulgated by the DOE pursuant to Section  
14 5(g) of this Act. Each gas distribution utility shall submit to the ERC a  
15 statement of its compliance with such technical specifications and  
16 performance standards. Any gas distribution utility that fails to comply  
17 with any of the prescribed technical specifications or performance  
18 standards shall include in such statement of, compliance an  
19 undertaking to comply with said technical specifications and  
20 performance standards within a reasonable time as may be necessary  
21 to ensure safety and reliability, or prevent environmental harm. The  
22 ERC shall, within sixty (60) days upon receipt of such plan, evaluate  
23 the same and notify the gas distribution utility concerned of its  
24 decision thereon. Failure to submit a feasible and credible plan and/or  
25 failure to implement the same shall serve as grounds for the imposition  
26 of appropriate sanctions, fines or penalties pursuant to Section 39 of  
27 this Act;

28 (c) Provide universal service within the area covered by its permit except  
29 as provided herein. Compliance with the universal service obligation  
30 shall be addressed as part of the annual development and maintenance  
31 plan of a gas distribution utility. A gas distribution utility shall be  
32 obliged to develop and maintain an efficient system for the distribution  
33 of natural gas at the reasonable request of end-users within its  
34 franchise area including:

1 (i) The installation of pipes where the connection to the end-  
2 user is within twenty-five (25) meters of the gas distribution  
3 system; or

4 (ii) Increasing the capacity of existing gas distribution systems:  
5 Provided, however, That no new service shall be required if  
6 such service would not be economically viable. A  
7 determination by a gas distribution utility that it cannot  
8 viably serve a portion of its franchise area shall be subject to  
9 review by the ERC upon filing of a complaint by the  
10 requesting end-user.

11 The obligation of the gas distribution utility to  
12 provide universal access involves both an obligation to  
13 connect end-users within twenty-five (25) meters from the  
14 main pipeline and an obligation to supply such end-users,  
15 to the extent the distribution utility is the sole gas supplier.  
16 Upon implementation of third party access, the utility shall  
17 be relieved of its obligation to supply end-users eligible for  
18 retail access as defined in the guidelines to be promulgated  
19 by the DOE, but not its obligation to provide connection to  
20 its distribution system to such end-users. Whether or not  
21 the gas distribution utility is the sole gas supplier in the  
22 area, prices charged by the said utility for the supply of gas  
23 shall be negotiated for the contestable market and regulated  
24 by the ERC for the captive market; and

25 (d) Submit annually to the ERC its plan for maintaining and developing its  
26 gas distribution system in compliance with the obligations prescribed  
27 in this Act.

28 **CHAPTER VI**  
29 **SUPPLY SECTOR**

30 *SEC. 26. Permit Requirement.* - Any law to the contrary notwithstanding,  
31 no person may engage in any supply activity unless it has obtained a permit  
32 from the DOE, initially: Provided, however, That a gas transmission utility or  
33 gas distribution utility that has secured a permit as such pursuant to Section  
34 9(c) of this Act and that supplies natural gas to its own customers shall not be  
35 required to secure a separate permit to engage in its supply activity. For this

1 purpose, the DOE shall promulgate rules and regulations prescribing the  
2 qualifications of suppliers which shall include, among other requirements, a  
3 demonstration of their technical capability, financial capability,  
4 creditworthiness and compliance with safety standards. The DOE shall have  
5 the authority to require suppliers to furnish a bond or other evidence of their  
6 ability to withstand market disturbances or other events that may increase the  
7 cost of providing service.

8 *SEC. 27. Supplier Rate and Service Regulation. -*

9 (a) The rates and service of suppliers to captive markets shall be regulated  
10 by the ERC; and

11 (b) The rates and service of suppliers to contestable markets shall not be  
12 subject to regulation by the ERC Provided, however, That suppliers  
13 shall be subject to the rules and regulations concerning abuse of market  
14 power, cartelization and other anti-competitive or discriminatory  
15 behavior promulgated by the ERC.

16 (c) The supply of natural gas for electric generation and large end-users is  
17 hereby deemed to be a contestable market. In all other cases, suppliers  
18 shall bear the burden of demonstrating that a market is contestable.

19 *SEC. 28. Conditions for Retail Access to Gas Distribution Systems. -*

20 Following the infrastructure development period, retail access to gas  
21 distribution systems shall be available to large end-users meeting criteria set  
22 forth in the rules and regulations promulgated by the ERC pursuant to this  
23 Act. The ERC shall determine when retail access may Be available to other  
24 end-users or classes of end-users, giving consideration to relevant factors  
25 including whether such end-users or class of end-users constitute a contestable  
26 market-end the financial consequences of any assets potentially stranded by  
27 expanding retail access.

28 **CHAPTER VII**  
29 **TAXATION**

30 *SEC. 29. Taxes. -* Gas transmission utilities, gas distribution utilities and  
31 suppliers of natural gas shall be subject to the payment of all taxes, duties,  
32 fees or charges and other impositions under the National Internal Revenue  
33 Code (NIRC) of 1997, as amended, and other applicable laws: Provided,  
34 however, That, in recognition of the substantial investments needed for the

1 construction, operation and maintenance of gas transmission and gas  
2 distribution systems, gas transmission utilities and gas distribution utilities  
3 shall, upon prior endorsement by the DOE and approval by the Board of  
4 Investments, be entitled to income tax holiday and such other incentives  
5 granted to pioneer enterprises under the Omnibus Investment Code, as  
6 amended. The commodity price of gas shall be the only component of the gas  
7 retail rate which shall be subject to excise taxes under Republic Act No. 8424,  
8 otherwise known as the Comprehensive Tax Reform Law.

9  
10 SEC. 30. *Withdrawal of Exemptions.* - Any law to the contrary  
11 notwithstanding, to achieve the declared policies of this Act, particularly in  
12 relation to the promotion of fair and nondiscriminatory treatment of public  
13 and private sector entities in the development of the Downstream Natural  
14 Gas Industry infrastructure, all existing tax exemptions applicable to persons  
15 engaged in the transmission or the distribution of natural gas; insofar as such  
16 exemptions relate to revenues derived from the transmission or the  
17 distribution of natural gas, shall be deemed revoked upon the effectivity of  
18 this Act.

19 **CHAPTER VIII**  
20 **RATEMAKING REQUIREMENTS AND PROCEDURES**

21 SEC. 31. *Ratemaking Requirements and Procedures of the ERC.* - (a) Just  
22 and reasonable rates and charges. - All rates and charges for transmission,  
23 distribution or supply of natural gas to the captive market and all rules and  
24 regulations affecting or pertaining to such rates or charges shall be just and  
25 reasonable. Any such rate or charge that is not just and reasonable is hereby  
26 declared to be unlawful;

27 (b) Undue preferences and unreasonable rates and charges are prohibited.

28 - No gas transmission utility, gas distribution utility or supplier shall,  
29 with respect to the transmission, distribution or supply of natural gas  
30 to the captive market: (1) make or grant any undue preference or  
31 advantage, or (2) maintain any unreasonable difference in rates,  
32 charges, service, facilities, or in any other respect, between locations or  
33 between classes of service;

34 (c) Filing of rate schedules. - Under such rules and regulations as the ERC  
35 may prescribe, after due notice and public consultation, the ERC may  
36 require reports or documents from gas transmission utilities, gas



1 distribution utilities or suppliers to the captive market showing all  
2 rates and charges for the transmission, distribution or supply of natural  
3 gas to the captive market and the classifications, practice and  
4 regulations affecting such rates, charges, and classifications and  
5 services: Provided, That the ERC shall provide appropriate  
6 mechanisms to protect the confidential& of any information that is  
7 commercially or competitively sensitive; and

8 (d) Changes in rate and charges. - Within thirty (30) days upon filing for  
9 an adjustment in rates, the ERC shall issue an order accepting, rejecting  
10 or setting for hearing such adjustment. The ERC may, upon the filing  
11 of an application therefor or at any stage thereafter, with or without  
12 prior hearing, on the basis of supporting papers duly verified or  
13 authenticated, and with such notice to the affected parties and  
14 opportunity for such parties to make such submissions as the ERC  
15 determines to be appropriate in the circumstances, grant provisional  
16 relief fixing interim rates for the transmission of natural gas or  
17 distribution of natural gas or supply of natural gas to the captive  
18 market applicable during the pendency of the hearing on the  
19 application, on motion of a party in the case or on its own initiative,  
20 without prejudice to a final decision after hearing, should the ERC find  
21 that the pleadings, together with such affidavits, documents and other  
22 evidences which may be submitted in support of the motion,  
23 substantially support the provisional order. The final order fixing the  
24 applicable rates shall provide for over- or under-recovery of costs  
25 occasioned by the application of ERC-approved interim rates. At any  
26 hearing involving rates adjustment, the burden of proof to show that  
27 the increased rates are just and reasonable shall be upon the gas  
28 transmission utility, gas distribution utility or supplier to the captive  
29 market.

30 **CHAPTER IX**  
31 **PROMOTION OF COMEPTITION**

32 SEC. 32. *Anti-Competitive Behavior.* - No gas transmission utility, gas  
33 distribution utility or supplier, or affiliate thereof, may engage in any anti-  
34 competitive behavior or abuse of market power including, but not limited to:

35 (a) Agreements, decisions and concerted practices of persons or  
36 associations of persons to fix prices and/or fix output; and

1 (b) Other practices and/or conduct by a person or groups of persons that  
2 restrict, prevent or distort competition such as, but not limited to,  
3 predatory pricing and practices, excessive pricing, bundling and other  
4 vertical restraints, denial of access to essential facilities on fair terms,  
5 discriminatory conditions on transactions that restrict, prevent or  
6 distort competition.

7 SEC. 33. *Measures to Promote Competition.* - Subject to the provisions of  
8 relevant laws, the ERC shall adopt measures and/or corresponding remedies  
9 to promote competition following an investigation of the relevant  
10 circumstances and a definitive finding of:

11 (a) Price and/or output fixing; or

12 (b) Other practices/conduct that are the subject of investigation restrict  
13 and/or prevent and/or distort competition.

14 Such remedies shall, without limitation, include the imposition of price  
15 controls, issuance of injunctions or disgorgement of excess profits and  
16 imposition of administrative fines and penalties pursuant to this Act.

17 SEC. 34. *Functional and Structural Unbundling.* - When prevailing  
18 market conditions so require, any Downstream Natural Gas Industry  
19 participant shall functionally and structurally unbundle its business activities  
20 and rates in accordance with the sectors as identified in Section 7 hereof. The  
21 ERC shall ensure full compliance with this provision.

22 SEC. 35. *Complaint Procedures.* - The ERC shall, within one year from  
23 the effectivity of this Act, promulgate rules and regulations providing for a  
24 complaint procedure that, without limitation provides the party alleged to  
25 have engaged in anti-competitive or abusive activities with notice and an  
26 opportunity to be heard.

27 SEC. 36. *Affiliated Suppliers.* - In order to prevent anti-competitive  
28 conduct, service contractors, gas transmission utilities and gas distribution  
29 utilities that own or control affiliates that are suppliers shall conduct their  
30 business as follows:

31 (a) No preference will be given to the affiliated supplier over other  
32 persons through contracting for available capacity, scheduling,  
33 balancing, curtailment priority or tariffs;

1 (b) Marketing information provided to the affiliated supplier will be  
2 provided to any nonaffiliated supplier that is a competitor or potential  
3 competitor;

4 (c) Employees of the affiliated supplier shall, to the maximum extent  
5 possible, function independently in making business decisions; and

6 (d) Books of accounts and records of the affiliated supplier shall be  
7 maintained separately.

8 As used herein, "affiliate" refers to any person or entity which,  
9 alone or together with any other person or entity, directly or indirectly,  
10 through one or more intermediaries, controls, or is controlled by  
11 another person or entity. As used herein, "control" shall mean the  
12 power to direct or cause the direction of the management policies of a  
13 person by contract, agency or otherwise.

14 *SEC. 37. Administrative Fines and Penalties. –*

15 (a) The administrative fines and penalties that may be imposed by the  
16 ERC or the DOE, as the case may be, for any violation of or  
17 noncompliance with this Act or its implementing rules and regulations  
18 shall range from a minimum of Fifty thousand pesos (P50,000.00) to a  
19 maximum of Fifty million pesos (P50,000,000.00);

20 (b) Any person who is found to have engaged in any of the prohibited acts  
21 pursuant to Section 34 *of* this Act shall suffer the administrative  
22 penalty or fine ranging from Ten thousand pesos (P10,000.00) to Ten  
23 million pesos (P10,000,000.00), at the discretion of the ERC or the DOE,  
24 as the case may be;

25 (c) The members of the board of directors or any person that violates the  
26 provisions of this Act may be fined by an amount not exceeding double  
27 the amount of damages caused by the offender at the discretion of the  
28 ERC or the DOE, as the case may be. This rule shall apply to the  
29 members of the Board who, knowingly or by neglect, allow the  
30 commission or omission under the law;

31 (d) Any party to an administrative proceeding may, at any time, make an  
32 offer to the ERC or the DOE, as the case may be, conditionally or  
33 otherwise, for a consent decree, voluntary compliance or desistance

1 and other settlement of the case. The offer and any or all of the ultimate  
2 facts upon which the offer is based shall be considered for settlement  
3 purposes only and shall not constitute an admission by the party  
4 making the offer of any violation of the laws, rules, regulations, orders  
5 and resolutions of the ERC or the DOE, as the case may be, nor as a  
6 waiver to file any warranted criminal actions; and

- 7 (e) Congress may, upon recommendation of the ERC or the DOE, as the  
8 case may be, revoke such franchise or privilege granted to the party  
9 found in violation of the provisions of this Act.

10 **CHAPTER X**  
11 **ANTI-PILFERAGE AND ANTI-THEFT PROVISIONS**

12 SEC. 38. Pilferage. - It is hereby declared unlawful for any person to:

- 13 (a) Tap, make or cause to be made any connection with any gas  
14 transmission system or gas distribution system without previous  
15 authority or consent of the gas transmission utility or gas distribution  
16 utility concerned;
- 17 (b) Tamper, install or use tampered meters or any other device which  
18 interferes with proper or accurate registry or metering of natural gas  
19 flows or otherwise results in its diversion in a manner whereby natural  
20 gas is stolen or wasted;
- 21 (c) Damage or destroy any natural gas meter, equipment, pipeline or  
22 conduit or any part of a gas transmission system or gas distribution  
23 system or allow any of them to be so damaged or destroyed as to  
24 interfere with the proper or accurate metering of natural gas flows; and
- 25 (d) Knowingly use or receive the direct benefit of natural gas delivery  
26 service obtained through any of the acts mentioned in paragraphs (a),  
27 (b) and (c) above.

28 SEC. 39. *Theft of Equipment and Materials.* - It is hereby declared  
29 unlawful for any person to:

- 30 (a) Cut, saw, slice, separate, split, severe, smelt or remove any portion of a  
31 gas transmission system or gas distribution system, including pipeline  
32 materials and meters, from any installation or place of installation or  
33 any other place or site where it may be rightfully or lawfully stored,

1 deposited, kept, stocked, inventoried, situated or located, without the  
2 consent of the gas transmission utility or gas distribution utility  
3 concerned, whether or not the act is done for profit or gain;

4 (b) Take, carry away or remove or transfer, with or without the use of a  
5 motor vehicle or other means of conveyance, load, carry, ship or move  
6 from one place to another, whether by land, air or sea, any portion of a  
7 gas transmission system or gas distribution system, including pipeline  
8 materials or meters, from any installation or place of installation, or  
9 any place or site where it may be rightfully or lawfully stored,  
10 deposited, kept, stocked, inventoried, situated or located without the  
11 consent of the gas transmission utility or gas distribution utility  
12 concerned, whether or not the act is done for profit or gain; and

13 (c) Store, possess or otherwise keep in his premises, custody or control,  
14 without lawful purpose, any portion of a gas transmission system or  
15 gas distribution system, including pipeline materials or meters,  
16 without the consent of the gas transmission utility or gas distribution  
17 utility concerned, whether or not the act is done for profit or gain.

18 *SEC. 40. Penalties. -*

19 (a) Violation of Section 40. - The penalty of prison mayor or a fine ranging  
20 from Ten thousand pesos (P10,000.00) to Twenty thousand pesos  
21 (P20,000.00) or both, at the discretion of the court, shall be imposed on  
22 any person found guilty of violating Section 40 of this Act.

23 (b) Violation of Section 41. - The penalty of reclusion temporal or a fine  
24 ranging from Fifty thousand pesos (P50,000.00) to One hundred  
25 thousand pesos (P100,000.00) or both, at the discretion of the court,  
26 shall be imposed on any person found guilty of violating Section 41 of  
27 this Act.

28 (c) Provision common to violations of Sections 40 and 41 hereof. - If the  
29 violation of Section 40 or Section 41 of this Act is committed by, or in  
30 connivance with, an officer or employee of the gas transmission utility  
31 or gas distribution utility concerned, such officer or employee shall,  
32 upon conviction, be punished with a penalty one degree higher than  
33 the penalty provided herein, and forthwith be dismissed and

1 perpetually disqualified from employment in any public or private  
2 utility or service company and from holding any public office.

3 If the violation of Section 40 or Section 41 of this Act is  
4 committed by a partnership, firm, corporation, association or any other  
5 legal entity, including a government-owned or -controlled corporation,  
6 the penalty shall be imposed on the president, manager and each of the  
7 officers thereof who shall have knowingly permitted, failed to prevent  
8 or was otherwise responsible for the commission of the offense.

9 **CHAPTER XI**  
10 **FINAL PROVISIONS**

11 SEC. 41. *Implementing Rules and Regulations.* - The DOE shall, in  
12 consultation with the ERC, appropriate government agencies, the  
13 Downstream Natural Gas Industry participants, nongovernmental  
14 organizations and end-users, promulgate implementing rules and regulations  
15 (IRR) within six months from the effectivity of this Act.

16 SEC. 42. *Natural Gas Oversight Commission.* - Upon the effectivity of this  
17 Act, a congressional commission, hereinafter referred to as the "Natural Gas  
18 Oversight Commission", is hereby constituted. The Natural Gas Oversight  
19 Commission shall be composed of ten (10) members, with the chairmen of the  
20 Committee on Energy of the Senate and the House of Representatives and  
21 four additional members from each House, to be designated by the Senate  
22 President and the Speaker of the House of Representatives, respectively. The  
23 minority shall be entitled to pro rata representation but shall have at least one  
24 representative in the Natural Gas Oversight Commission.

25 (a) The Natural Gas Oversight Commission shall, in aid of legislation,  
26 perform the following functions, among others:

27 (b) Set the guidelines and overall framework to monitor the proper  
28 implementation of this Act;

29 (c) Look into the appropriateness of creating a single independent  
30 regulatory body when the conditions prevailing so require;

31 (d) Conduct a periodic review of this Act at least once every three years;

32 (e) Determine inherent weaknesses in the law and recommend necessary  
33 remedial legislation or executive measures;

- 1 (f) Approve the budget for the programs of the Natural Gas
- 2 (g) Oversight Commission and all disbursements therefrom, including
- 3 compensation of all personnel;
- 4 (h) Submit periodic reports to the President of the Philippines and
- 5 Congress; and
- 6 (i) Perform such other powers and functions as may be necessary to attain
- 7 its objectives.

8 To carry out its powers and functions, the initial sum of Fifteen million

9 pesos (P15,000,000.00) shall be charged against the current appropriations of

10 the Senate. Thereafter, such amount necessary for its continued operation

11 shall be included in the annual General Appropriations Act.

12 The Natural Gas Oversight Commission shall adopt its internal rules of

13 procedure; conduct hearings and receive testimonies, reports and technical

14 advice; invite or summon by subpoena *ad testificandum* any public official,

15 private individual or any other person to testify before it, or require any

16 person by subpoena *duces tecum* to produce before it such records, reports,

17 documents or other materials as it may require; and generally require all the

18 powers necessary to attain the purposes for which it is created. The Natural

19 Gas Oversight Commission shall be assisted by a secretariat to be composed

20 of personnel who may be seconded from the Senate and the House of

21 Representatives and may retain consultants. The secretariat shall be headed

22 by an executive director who has sufficient background and competence on

23 the policies and issues relating to the Downstream Natural Gas Industry

24 reforms as provided in this Act.

25 SEC. 43. *Separability Clause.* - If, for any reason, any provision of this

26 Act is declared unconstitutional or invalid, the other parts or provisions

27 hereof which are not affected thereby shall continue to be in full force and

28 effect.

29 SEC. 44. *Nonretroactivity, Applicability and Repealing Clause.* - The

30 provisions of Republic Act No. 387, otherwise known as the "Petroleum Act of

31 1949", as amended, Presidential Decree No. 87, Republic Act No. 8997, and all

32 other laws, decrees, executive orders, rules and regulations, circulars and

1 other issuances inconsistent with the provisions of this Act are hereby  
2 repealed or modified accordingly.

3       SEC. 45. *Transitory Provision.* - Gas transmission systems and gas  
4 distribution systems that have been constructed and have commenced  
5 operation prior to the date of effectivity of this Act shall continue to operate  
6 under their existing authorities: Provided, That they have complied with  
7 existing laws, rules and regulations prior to the effectivity of this Act and  
8 have secured a provisional permit from the DOE as provided in Sections 15  
9 and 21 of this Act. Suppliers who have entered into gas sales and purchase  
10 contracts with customers and have delivered indigenous or imported natural  
11 gas under said contracts prior to the date of effectivity of this Act shall  
12 continue to sell natural gas under their existing authorities provided they  
13 have complied with existing laws, rules and regulations prior to the effectivity  
14 of this Act.

15       Nothing in this Act shall be deemed to revoke or otherwise modify the  
16 powers and functions of the Philippine National Oil Company and its  
17 subsidiaries under Presidential Decree No. 334, as amended, any existing  
18 concession granted under the Petroleum Act of 1949, as amended, certificate  
19 of public convenience or certificate of public convenience and necessity  
20 granted pursuant to the Public Service Law, as amended, specific franchise for  
21 the transmission, distribution or supply of natural gas or other administrative  
22 or regulatory permit or contract, which concession, certificate, franchise,  
23 permit or contract shall be allowed to its full term but may not be renewed  
24 except pursuant to the provisions of this Act.

25       For a period not exceeding five years after the effectivity of this Act, the  
26 DOE may issue provisional permits, with a maximum term of two years,  
27 renewable twice for a maximum cumulative term not exceeding six years, for  
28 the construction, operation and maintenance of pipelines and related facilities  
29 for the transmission, distribution and supply of natural gas.

30       SEC. 46. *Effectivity Clause.* - This Act shall take effect on the fifteenth  
31 (15th) day following its publication in the Official Gazette and in at least two  
32 national newspapers of general circulation.

33       *Approved,*