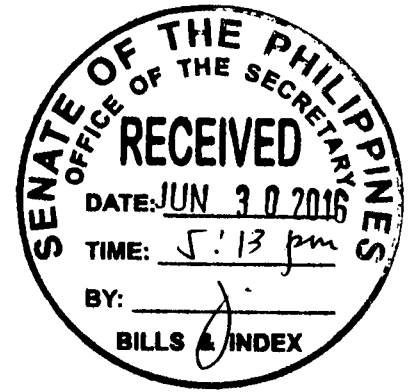


SEVENTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
FIRST REGULAR SESSION)



SENATE

SENATE BILL NO. 156

INTRODUCED BY SENATOR JOSEPH VICTOR G. EJERCITO

AN ACT
AMENDING REPUBLIC ACT No. 9136, OTHERWISE KNOWN AS
THE "ELECTRIC POWER INDUSTRY REFORM ACT OF 2001",
AND FOR OTHER PURPOSES

EXPLANATORY NOTE

Electric power Industry Reform Act of 2001 was enacted for various reasons. Among others, EPIRA was made into law to ensure and accelerate the total electrification of the country, to ensure transparent and reasonable prices of electricity in a regime of free and fair competition and full public accountability to achieve greater operational and economic efficiency and enhance the competitiveness of Philippine products in the global market, to establish a strong and purely independent regulatory body and system to ensure consumer protection and enhance the competitive operation of the electricity market and to protect the public interest as it is affected by the rates and services of electric utilities and other providers of electric power.¹

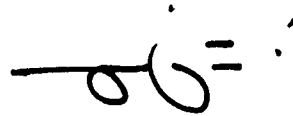
However, over ten years after it was passed the problems with the Energy Industry that should have need addressed and resolved by EPIRA became worse. Most especially, the cost of electricity in the country is at its highest since the enactment of the law. In addition to that, there seems to be no true competition with respect to the players in the Energy Industry in our country.

Based on the effects and observations to the Energy Industry after the enactment of EPIRA, only one conclusion can be drawn. The law is flawed and needs to be amended.

¹ Section 2, Declaration of Policy, Electric Power Industry Reform Act of 2001, R.A. 9136

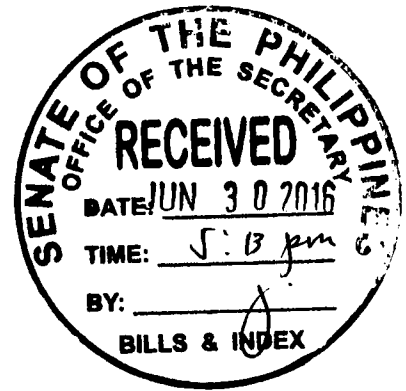
One of the provisions that calls for an amendment is Section 45 which deals with Cross Ownership, Market Power Abuse and Anti-Competitive Behavior. The present provision only prohibits the ownership or having interest of a generation company to a transmission company, and vice versa. Consequently, most of the generation companies also venture to transmission. In effect, there is no true competition within the Energy Industry since they can easily manipulate the price of electricity. The end result is higher cost of electricity for the Filipino people.

This bill seeks to address the said problem. Proscription to Generation Companies to hold interest and/or undertake the business of distributing electricity and the Distribution Companies to directly or indirectly venture to energy generation will result to true competitive energy market. In the end, it will result to a higher inflow of private capital and expansion of energy industry. And in consequence of that, our country will have lower electricity cost than what we have in the present. In view of the foregoing, the passage of this bill is earnestly sought.



JOSEPH VICTOR G. EJERCITO

SEVENTEENTH CONGRESS OF THE)
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AND FOR OTHER PURPOSES

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

1 SECTION 1. Section 45 of Republic Act No. 9136 is hereby amended to read as
2 follows:

3
4 **"Sec. 45. Cross Ownership, Market Power Abuse and Anti-Competitive**
5 **Behavior.** - No participant in the electricity industry or any other person may
6 engage in any anti-competitive behavior including, but not limited to, cross-
7 subsidization, price or market manipulation, or other unfair trade practices
8 detrimental to the encouragement and protection of contestable market.
9

10 NO DISTRIBUTION UTILITY, OR ITS RESPECTIVE SUBSIDIARY OR
11 AFFILIATE OR STOCKHOLDERS OR OFFICIAL OR DIRECTOR OR ANY
12 OF THEIR RELATIVES WITHIN THE FOURTH CIVIL DEGREE OF
13 CONSANGUINITY OR AFFINITY, SHALL BE ALLOWED TO HOLD ANY
14 INTEREST, DIRECTLY OR INDIRECTLY, IN ANY GENERATION
15 COMPANY. LIKEWISE, NO GENERATION COMPANY, OR ITS DIRECTOR
16 OR ANY OF THEIR RELATIVES WITHIN THE FOURTH CIVIL DEGREE OF
17 CONSANGUINITY OR AFFINITY, SHALL BE ALLOWED TO HOLD ANY
18 INTEREST, DIRECTLY OR INDIRECTLY, IN ANY DISTRIBUTION
19 COMPANY: *PROVIDED*, THAT THE DISTRIBUTION UTILITY, ITS
20 RESPECTIVE SUBSIDIARY OR AFFILIATE OR STOCKHOLDER OR
21 OFFICIAL OF A DISTRIBUTION UTILITY HOLDING AN INTEREST IN
22 ANY GENERATION COMPANY, ANOVICE VERSA, AT THE TIME OF THE
23 PASSAGE OF THIS ACT, SHALL BE REQUIRED TO DIVEST THE SAME
24 WITHIN ONE (1) YEAR FROM THE EFFECTIVITY OF THIS ACT.
25

26 No generation company or distribution utility, or its respective
27 subsidiary or affiliate or stockholder or official of a generation company or

1 distribution utility, or other entity engaged in generating and supplying
2 electricity specified by ERC shall be allowed to hold any interest, direct or
3 indirect, in TRANSCO or its concessionaire. Likewise, the TRANSCO, or its
4 concessionaire or any of its stockholders or officials or any of their relatives
5 within the fourth civil degree of consanguinity or affinity, shall not hold any
6 interest, whether direct or indirect, in any generation company or distribution
7 utility. Except for government-appointed representatives, no person who is an
8 officer or director of TRANSCO or its concessionaire shall be an officer or
9 director of any generation company, distribution utility or supplier. A.
10 GENERATION COMPANY MAY BE PERMITTED TO HOLD INTEREST,
11 DIRECTLY OR INDIRECTLY, IN ANOTHER. GENERATION COMPANY:
12 PROVIDED, THAT THE EXTENT OF SUCH INTEREST SHALL BE LESS
13 THAN THE AMOUNT OF SHARES NEEDED TO VOTE ONE MEMBER OF
14 THE BOARD OF DIRECTORS.

15
16 XXX"
17

18 SEC. 2. Repealing Clause. - All laws, Presidential Decrees, Issuances, Executive
19 Orders, Letters of Instructions, rules and regulations inconsistent with the provisions
20 of this Act are hereby repealed or modified accordingly.
21

22 SEC. 3. Effectivity Clause. - This Act shall take effect fifteen (15) days from the date
23 of its publication in at least two (2) newspapers of general circulation.
24
25

26
27 Approved,