

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

5 FEB 23 A9:03

SENATE  
S.B. No. 1929

RECEIVED BY:                     

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Introduced by Senator **JUAN PONCE ENRILE**

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### EXPLANATORY NOTE

The Electric Power Industry Reform Act, also known as the EPIRA law, was enacted into law in 2001 to ensure the quality and reliability of the supply of electric power that would translate to lower consumption costs.

However, the passage of the law was accompanied by increases in electric bills, confusion in the implementation and enforcement of the provisions of the law and inevitably caused a haphazard market behavior in the electric power industry.

The EPIRA law became evidently anti-poor, anti-people, benefiting only a selected number of power generators and distributors. It resulted in electricity cost that is more burdensome on the part of the consumers. At the same time, the issues the law originally intended to resolve were not properly addressed.

It is therefore in our national interest to pass an amendatory bill that will clarify vague and conflicting provisions of the law, afford protection to end-users of electricity and to level the playing field for all the industry players. We need a pragmatic and substantial solution to make the cost of electricity affordable to the consumers while recognizing the right of the electric power industry players to a just and reasonable return on their investments.

This bill seeks to lessen the hardship on electricity consumers by preventing certain industry players to pass on the costs of their inefficiencies, mistakes and questionable onerous contracts or dealings.

In view of the foregoing , approval of this bill is earnestly sought.

  
**JUAN PONCE ENRILE**  
Senator

5 FEB 23 19:03

SENATE  
S. B. No. 1929

RECEIVED BY: \_\_\_\_\_

Introduced by Senator JUAN PONCE ENRILE

AN ACT  
REVISING REPUBLIC ACT NO. 9136 ENTITLED "AN ACT ORDAINING  
REFORMS IN THE ELECTRIC POWER INDUSTRY, AMENDING FOR THE  
PURPOSE CERTAIN LAWS AND FOR OTHER PURPOSES"

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

Section 1. Republic Act No. 9136, otherwise known as the Electric Power Industry  
Reform Act of 2001, is hereby revised to read as follows:

"CHAPTER I

"TITLE AND DECLARATION OF POLICY

"SEC. 1. *Short Title.* — This Act, **HEREINAFTER REFERRED  
TO AS THE ACT**, shall be known as the "Electric Power Industry Reform Act  
of 2001". [It shall hereinafter be referred to as the Act.]

"SEC. 2. *Declaration of Policy.* — It is hereby declared the policy  
of the State:

(a) To ensure and accelerate the [total electrification of] **PROVISION  
OF ELECTRIC SERVICE TO EVERY COMMUNITY IN** the country;

(b) To ensure the quality, reliability, security, and affordability of the  
supply of electric power;

(c) To ensure transparent, **JUST** and reasonable prices of electricity in  
**THE COUNTRY UNDER** a regime of free and fair competition and full [public]  
accountability **TO THE END-USERS OF ELECTRICITY AND, AT THE  
SAME TIME**, to achieve greater operational [and economic] **ECONOMY**,  
efficiency, **AND VIABILITY** and **TO** enhance the competitiveness of Philippine  
products in the [global] **WORLD** market;

(d) To **ENCOURAGE, PROMOTE, AND** enhance, the [inflow]  
**FLOW** of private capital **TO**, and broaden the ownership base of, the power  
generation, transmission, and distribution sectors[;] **OF THE ELECTRIC  
POWER INDUSTRY**;

(e) To **THE EXTENT IT IS LEGALLY ALLOWABLE AND  
JUSTIFIED, TO** ensure A fair and non-discriminatory treatment of **BOTH THE**  
public and private [sector] entities **ENGAGED IN THE ELECTRIC POWER  
INDUSTRY** in **CONNECTION WITH** the process of restructuring the [electric  
power] **SAID** industry;

(f) To protect the [public] interest **OF THE GENERAL PUBLIC AND THE INTEREST OF THE END-USERS OF ELECTRICITY**, as [it is] **THESE INTERESTS ARE** affected by the **WHEELING CHARGES**, rates, and services of **THE** electric **TRANSMISSION, SUB-TRANSMISSION, OR DISTRIBUTION** utilities [and] **OR BY THE PRICES OF THE** other providers of electric power[;] **UNDER THIS ACT**;

(g) To assure socially and environmentally compatible energy sources and **ELECTRIC POWER** infrastructure;

(h) To **SEARCH FOR AND** promote the utilization of indigenous, [and] new, and renewable energy **SOURCES AND** resources in [power] **THE** generation **OF ELECTRIC POWER** in order to reduce **THE** dependence **OF THE COUNTRY** on imported energy[;] **SOURCES AND RESOURCES**;

(i) To provide for [an] **THE MOST ADVANTAGEOUS, BENEFICIAL**, orderly, and transparent **SALE, DISPOSITION, AND** privatization of the **GENERATION ASSETS, TRANSMISSION AND SUB-TRANSMISSION** assets [and], **REAL ESTATE ASSETS, OTHER DISPOSABLE ASSETS, IPP CONTRACTS, AND** liabilities of the National Power Corporation (NPC);


(j) To establish a **TRULY IMPARTIAL, DEPENDABLE**, strong, and [purely] independent regulatory [body] **GOVERNMENT AGENCY** and system [to ensure consumer protection], **WHICH SHALL PROTECT THE GENERAL PUBLIC AND THE END-USERS OF ELECTRICITY AND, AT THE SAME TIME, RECOGNIZE THE RIGHT OF THE ELECTRIC POWER INDUSTRY PARTICIPANTS TO A JUST AND REASONABLE RETURN ON THEIR INVESTMENTS, AND WHICH SHALL PROMOTE, FOSTER, and enhance [the competitive] COMPETITION IN THE** operation of the electricity market[; and] **OF THE COUNTRY; AND**

(k) To encourage [the efficient use of energy and] **AND PROMOTE ECONOMY AND EFFICIENCY IN THE UTILIZATION OF ELECTRIC POWER IN THE COUNTRY BY THE END-USERS OF ELECTRICITY, AND IN THE** other modalities of **THE** [d]Demand [s]Side [m]Management.

"SEC. 3. *Scope.* — This Act shall provide [a] **THE** framework for the **GRADUAL** restructuring of the electric power industry[, including the]; **FOR THE BENEFICIAL SALE, DISPOSITION, AND** privatization of the [assets of NPC, the] **GENERATION ASSETS, TRANSMISSION AND SUB-TRANSMISSION ASSETS, REAL ESTATE ASSETS, OTHER DISPOSABLE ASSETS, IPP CONTRACTS, AND LIABILITIES OF NPC; FOR THE ORDERLY** transition to the desired competitive **MARKET** structure[, and the definition] **IN THE ELECTRIC POWER INDUSTRY; AND FOR THE CLEAR DEFINITION, DIVISION, AND ASSIGNMENT** of the responsibilities of the various **CONCERNED** government agencies and private entities[.] **THAT ARE INVOLVED IN THE ELECTRIC POWER INDUSTRY.**

"SEC. 4. *Definition of Terms.* —

(A) **"AFFILIATE"/"ASSOCIATED ENTITY OR PERSON"** REFERS TO ANY ENTITY OR PERSON WHICH, ALONE OR TOGETHER WITH ANY OTHER ENTITY OR PERSON, DIRECTLY OR INDIRECTLY, THROUGH ONE OR MORE INTERMEDIARIES, CONTROLS, IS CONTROLLED BY, OR IS UNDER COMMON CONTROL WITH ANOTHER ENTITY OR PERSON.



[(a)] (B) "Aggregator" refers to a person or entity[, engaged] **WHICH, WITHOUT A LEGISLATIVE FRANCHISE, IS DULY LICENSED BY THE COMMISSION TO ENGAGE** in consolidating electric power demand of end-users **OF ELECTRICITY** in [the] A contestable market[,] **WITHIN A FRANCHISE TERRITORY OF ANOTHER PARTY** for the purpose of purchasing and reselling electricity **TO SUCH END-USERS** on a group basis;

[(b)] (C) "Ancillary Services" refer to those services that are necessary to support the transmission of capacity and energy from **SOURCES AND** resources to loads while maintaining reliable operation of the transmission system in accordance with good utility [practice] **PRACTICES** and the Grid Code **WHICH IS REQUIRED** to be adopted in accordance with this Act;

[(c)] (D) "Captive Market" refers to [electricity end-users who do not have the choice of a supplier of electricity, as may be determined by the Energy Regulatory Commission (ERC) in accordance with this Act.] **THAT MARKET, WHICH SHALL BE DETERMINED BY THE COMMISSION IN ACCORDANCE WITH THIS ACT, AFTER DUE NOTICE TO ALL INTERESTED PARTIES AND PUBLIC HEARING, CONSISTING OF END-USERS OF ELECTRICITY IN A FRANCHISE TERRITORY OF A DISTRIBUTION UTILITY THAT CANNOT CHOOSE THEIR SUPPLIER OF ELECTRICITY;**

[(d)] (E) "Central Dispatch" refers to the [process of issuing] **ISSUANCE OF** direct instructions **BY THE GRID OPERATOR** to electric power industry participants [by the grid operator] **IN ORDER** to achieve the [economic] **MOST ECONOMICAL** operation, and **THE** maintenance of **THE HIGHEST DEGREE OF** quality, stability, reliability, and security, of the transmission system;

[(e)] (F) "Co-Generation Facility" refers to a facility [which] **THAT** produces electrical [and/or] **AND OR** mechanical energy and **OTHER** forms of useful thermal energy, such as heat or steam, which are used for **RESIDENTIAL**, industrial, **OR** commercial heating or cooling purposes through the sequential use of energy;

[(f)] (G) "Commission" refers to the decision-making body of the [ERC] **ENERGY REGULATORY COMMISSION (ERC)** composed of a Chairman and four (4) members as provided under Section [38 hereof] **37 OF THIS ACT**[;]. **FOR PURPOSES OF CONSTRUING AND INTERPRETING THE RELEVANT PROVISIONS OF THIS ACT, THE TERMS "COMMISSION", "ENERGY REGULATORY COMMISSION", AND "ERC" SHALL, UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE, SHALL REFER TO THE ONE AND THE SAME ENTITY;**

[(g)] (H) "Concession Contract" refers [to the award by the government] **TO A CONTRACT FROM THE NATIONAL GOVERNMENT OR FROM ANY OF ITS AUTHORIZED INSTRUMENTALITIES, WHICH GRANTS** to a qualified private entity [of] the **PRIVILEGE OF AND THE** responsibility for financing, operating, expanding, maintaining, and managing specific [Government-owned assets;] **NATIONAL GOVERNMENT DISPOSABLE ASSETS;**

[(h)] (I) "Contestable Market" refers to [the electricity end-users who have a choice of a supplier of electricity, as may be determined by the ERC in accordance with this Act.] **THAT MARKET, WHICH SHALL BE**

**DETERMINED BY THE COMMISSION IN ACCORDANCE WITH THIS ACT, AFTER DUE NOTICE TO ALL INTERESTED PARTIES AND PUBLIC HEARING, CONSISTING OF END-USERS OF ELECTRICITY WITHIN A FRANCHISE TERRITORY OF A DISTRIBUTION UTILITY THAT CAN CHOOSE THEIR SUPPLIER OF ELECTRICITY;**

**(J) "CONTROL" REFERS TO THE POWER TO DIRECT OR CAUSE THE DIRECTION OF THE MANAGEMENT POLICIES OF AN ENTITY OR PERSON BY CONTRACT, AGENCY, OR OTHERWISE.**

**[(i)] (K) "Customer Service Charge" refers to [the] AN AMOUNT WHICH IS A component [in] OF the retail rate AND WHICH IS intended [for the cost recovery of customer-related services including,] TO RECOVER THE PRUDENT, JUST, AND REASONABLE COST OF ELECTRIC END-USER-RELATED SERVICES SUCH AS, but not limited to, meter reading, billing administration and collection;**

**[(j)] (L) "Demand Side Management" refers to THE measures, DECISIONS, AND ACTIONS undertaken by distribution utilities to encourage end-users OF ELECTRICITY [in the proper management of their load to achieve] TO PROPERLY MANAGE THEIR LOADS IN ORDER TO ACHIEVE ECONOMY AND efficiency in the utilization of fixed infrastructures [in the system;] THAT ARE USED AND USEFUL IN THE ELECTRIC POWER SYSTEM;**

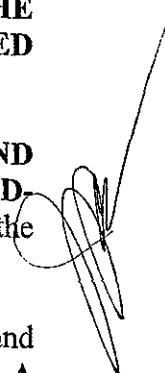
**[(k)] (M) "Department of Energy" or "DOE" refers to the NATIONAL government [agency] INSTRUMENTALITY created [pursuant to Republic Act No. 7638 whose expanded functions are provided herein;] UNDER REPUBLIC ACT NO. 7638;**

**[(l)] (N) "Department of Finance" or "DOF" refers to the NATIONAL government [agency] INSTRUMENTALITY created [pursuant to] UNDER Executive Order No. 127[;], SERIES OF 1987;**

**[(m)] (O) "Distribution Code" refers to a compilation of rules [and regulations governing electric utilities in the] INTENDED TO GOVERN AND GUIDE ELECTRIC DISTRIBUTION UTILITIES IN THE MANAGEMENT, operation, and maintenance of their distribution systems[, which includes, among others, the standards for service and performance, and defines and establishes the relationship of the distribution systems with the facilities or installations of the parties connected thereto;]. IT SHALL INCLUDE, AMONG OTHERS, THE RULES AND STANDARDS TO BE OBSERVED BY DISTRIBUTION UTILITIES IN RENDERING THEIR SERVICES TO THEIR END-USERS OF ELECTRICITY AND IN MEASURING THE EFFICIENCY OF THEIR PERFORMANCE, AND THE RULES AND STANDARDS THAT SHALL GOVERN THE RELATIONSHIP OF THEIR DISTRIBUTION SYSTEMS WITH THE FACILITIES OR INSTALLATIONS OF OTHER PARTIES CONNECTED TO SUCH DISTRIBUTION SYSTEMS;**

**[(n)] (P) "Distribution of Electricity" refers to the conveyance AND OR RETAIL SALE of electric power by a distribution utility TO ITS END-USERS OF ELECTRICITY through its distribution system pursuant to the provisions of this Act;**

**[(o)] (Q) "Distribution System" refers to the system of wires and associated facilities belonging to [a franchised distribution utility, extending] A DISTRIBUTION UTILITY IN ITS FRANCHISE TERRITORY, WHICH EXTENDS between the delivery points [on] OF the transmission or sub-**



transmission system [or generator connection and] **OF THE TRANSCO OR OF A GENERATION COMPANY, AS THE CASE MAY BE, AND** the point of connection **OF SUCH WIRES AND ASSOCIATED FACILITIES** to the premises of the [end-user;] **END-USERS OF ELECTRICITY;**

[(p)] (R) "Distribution Wheeling Charge" refers to the [cost or charge regulated by the ERC] **THE AMOUNT AUTHORIZED BY THE COMMISSION, AFTER DUE NOTICE TO ALL INTERESTED PARTIES AND PUBLIC HEARING, TO BE CHARGED** for the use of [a] **THE** distribution system [and/or the availment of related services;] **OF A DISTRIBUTION UTILITY AND OR FOR THE USE OF OTHER RELATED SERVICES OF A DISTRIBUTION UTILITY;**

[(q)] (S) "Distribution Utility" refers to any electric cooperative, **TO ANY private corporation, TO ANY government-owned DISTRIBUTION utility, or TO ANY existing local government unit, which has an exclusive franchise to operate a distribution system [in accordance with this Act;] IN A SPECIFIC GEOGRAPHICAL AREA UNDER THIS ACT;**

[(r)] (T) "Electric Cooperative" refers to a distribution utility organized pursuant to Presidential Decree No. 269, as amended, or as otherwise provided in this Act;

[(s)] (U) "Electric Power Industry Participant" refers to any person or entity engaged **OR WHO SHALL ENGAGE** in the generation, transmission, distribution, or supply of electricity;

[(t)] (V) ["End-user" refers to any person or entity requiring] **"END-USERS OF ELECTRICITY" REFER TO PERSONS OR ENTITIES THAT REQUIRE OR HAVE ACTUAL ACCESS TO** the supply and delivery of electricity for [its own use;] **THEIR OWN USE. FOR PURPOSES OF CONSTRUING AND INTERPRETING THE RELEVANT PROVISIONS OF THIS ACT, THE TERM "END-USERS OF ELECTRICITY" SHALL BE IDENTICAL IN MEANING TO THE TERM "CONSUMERS OF ELECTRICITY", AND THE PLURAL SHALL INCLUDE THE SINGULAR AND VICE VERSA, UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE;**

[(u)] (W) "Energy Regulatory Board" or "ERB" refers to the [independent,] **NOW DEFUNCT** quasi-judicial regulatory body created under Executive Order No. 172, as amended;

[(v)] (X) "Energy Regulatory Commission" or "ERC" refers to the regulatory agency created [herein;] **UNDER SECTION 37 OF THIS ACT AND ALSO DEFINED IN PARAGRAPH (H) OF THIS SECTION;**

[(w)] (Y) "Franchise [Area] **TERRITORY**" refers to a **SPECIFIC** geographical area [exclusively] assigned or granted **EXCLUSIVELY UNDER A FRANCHISE** to a distribution utility for **THE** distribution of electricity;

[(x)] (Z) "Generation Company" refers to any **NATURAL OR JURIDICAL** person or entity authorized by the [ERC to operate facilities used in the generation of electricity;] **COMMISSION TO OPERATE AND OR OWN ELECTRIC POWER PLANT OR PLANTS AND OTHER RELATED FACILITIES FOR THE GENERATION AND SALE OF ELECTRICITY;**

[(y)] (AA) "Generation of Electricity" refers to the production of [electricity] **ELECTRIC POWER AND ENERGY** by a generation company, or

BY a co-generation facility, [pursuant to] **IN ACCORANCE WITH** the provisions of this Act;

[(z)] **(BB)** "Grid" refers to the high voltage backbone system of interconnected transmission lines, substations, and **OTHER** related facilities;

[(aa)] **(CC)** "Grid Code" refers to [the set] **A COMPILATION** of rules and regulations [governing] **WHICH SHALL GOVERN** the safe, **EFFICIENT**, and reliable operation, **MANAGEMENT**, maintenance, [and] development, **AND EXPANSION** of the high voltage backbone transmission system and its **OTHER** related facilities;

[(bb)] **(DD)** "Independent Power Producer" or "IPP" refers to an existing [power generating entity] **GENERATION COMPANY**, which is not owned by NPC[;] **AND WITH WHOM NPC OR A DISTRIBUTION UTILITY HAS A VALID AND EXISTING PURCHASED POWER CONTRACT**;

[(cc)] **(EE)** "Inter-Class Cross Subsidy" refers to an amount charged by distribution utilities to **RESIDENTIAL**, industrial [and], commercial [end-users as well as to], **AND** other subsidizing [customer sectors] **END-USERS OF ELECTRICITY** in order to [reduce electricity rates of other customer sectors] **COMPENSATE FOR THE REDUCED ELECTRIC RATES CHARGE TO OTHER CLASS OF END-USERS OF ELECTRICITY**, such as [the] **CERTAIN** residential end-users[,] **OF ELECTRICITY**, hospitals, and streetlights;

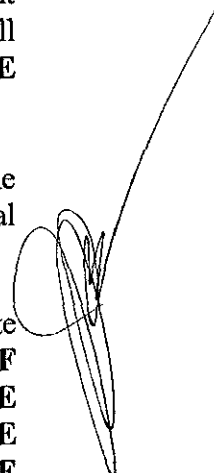
[(dd)] **(FF)** "Inter-Regional Grid Cross Subsidy" refers to [an] **THE** amount embedded in the [electricity rates of NPC charged to its customers] **ELECTRICITY RATES THAT NPC COLLECTS FROM END-USERS OF ELECTRICITY** located in a viable regional grid in order to [reduce the electricity] **COMPENSATE FOR THE REDUCED ELECTRICITY** rates in a less viable regional grid;

[(ee)] **(GG)** "Intra-Regional Grid Cross Subsidy" refers to [an] **THE** amount embedded in the [electricity rates of NPC charged to] **ELECTRICITY RATES THAT NPC COLLECTS FROM** distribution utilities [and non-utilities] with higher load factor [and/or] **AND OR** delivery voltage in order to [reduce the electricity rates charged to] **COMPENSATE FOR THE REDUCED ELECTRICITY RATES THAT NPC COLLECTS FROM** distribution utilities with lower load factor [and/or] **AND OR** delivery voltage located in the same regional grid;

[(ff)] **(HH)** "IPP Administrator" refers to **A** qualified independent **ENTITY OR** entities [appointed by] **THAT** PSALM Corporation [who] shall **APPOINT TO EFFICIENTLY** administer, conserve, and manage the **SALE OF THE** contracted **ELECTRIC** energy output of [NPC] **NPC'S** IPP contracts;

[(gg)] **(II)** "Isolated Distribution System" refers to the backbone system of wires and associated facilities not directly connected to the national transmission system;

[(hh)] **(JJ)** "Lifeline Rate" refers to [the] **A SPECIAL** subsidized rate given to **MARGINALIZED** low-income [captive market] end-users **OF ELECTRICITY IN THE CAPTIVE MARKET OF A FRANCHISE TERRITORY**, **AND** who cannot afford to pay [at full cost;] **THE FULL RATE AUTHORIZED TO BE COLLECTED FROM OTHER END-USERS OF ELECTRICITY IN THE SAME FRANCHISE TERRITORY**;



[(ii)] (KK) "National Electrification Administration" or "NEA" refers to the government agency created under Presidential Decree No. 269, as amended, [and] whose additional mandate is [further set forth herein;] **SET FORTH IN THIS ACT;**

[(jj)] (LL) "National Power Corporation" or "NPC" refers to the government corporation created under Republic Act No. 6395, as amended;

[(kk)] (MM) "National Transmission Corporation" or ["TRANSCO"] **"THE TRANSCO"** refers to the **GOVERNMENT-OWNED-AND-CONTROLLED** corporation [organized pursuant to this Act to acquire all the transmission assets of the NPC;] **CREATED UNDER SECTION 8 OF THIS ACT TO ASSUME THE ELECTRIC TRANSMISSION AND SUB-TRANSMISSION FUNCTIONS OF NPC AND TO ACQUIRE ALL OF NPC'S TRANSMISSION AND SUB-TRANSMISSION ASSETS AND OTHER RELATED FACILITIES AND ASSETS, INCLUDING NPC'S NATIONWIDE FRANCHISE FOR THE OPERATION OF THE TRANSMISSION AND SUB-TRANSMISSION SYSTEMS AND THE GRID;**


[(ll)] (NN) "Open Access" refers to the [system of allowing] **PRIVILEGE GRANTED TO** any qualified person [the use of] **TO USE THE** transmission[, and/or] **AND SUB-TRANSMISSION FACILITIES AND ASSETS AND OR THE** distribution system and associated facilities **OF ANY PUBLIC OR PRIVATE PERSON OR ENTITY**, subject to the payment of **JUST AND REASONABLE** transmission [and/or] **AND OR** distribution [retail] wheeling [rates] **CHARGES** duly approved by the ERC, **AFTER DUE NOTICE TO ALL INTERESTED PARTIES AND PUBLIC HEARING;**

[(mm)] (OO) "Philippine Energy Plan" or "PEP" refers to the overall energy program formulated and updated yearly by the DOE and submitted to Congress pursuant to Republic Act No. 7638;

[(nn)] (PP) "Power Development Program" or "PDP" refers to the indicative plan [for] **TO BE PREPARED AND FORMULATED AND UPDATED YEARLY BY THE DOE, IN COORDINATION WITH THE GENERATION COMPANIES, THE NATIONAL TRANSMISSION CORPORATION, AND THE DISTRIBUTION UTILITIES, FOR THE PURPOSE OF MEETING AND** managing electricity demand through energy-efficient programs and for the **PURPOSE OF** upgrading, [expansion, rehabilitation, repair, and maintenance of power generation and transmission facilities, formulated and updated yearly by the DOE in coordination with the generation, transmission and distribution utility companies;] **EXPANDING, REHABILITATING, REPAIRING, AND MAINTAINING THE ELECTRIC POWER GENERATION FACILITIES AND ASSETS, AND THE TRANSMISSION AND SUB-TRANSMISSION ASSETS AND FACILITIES;**

[(oo)] (QQ) "Power Sector Assets and Liabilities Management Corporation" or "PSALM Corp." refers to the **GOVERNMENT-OWNED-AND-CONTROLLED** corporation created [pursuant to Section 49 hereof;] **IN SECTION 46 OF THIS ACT;**

[(pp)] (RR) "Privatization" refers to the sale, disposition, [change,] and transfer of ownership and control of [assets and IPP contracts, from the Government or a government corporation to a private person or entity;] **THE GENERATION ASSETS AND RELATED FACILITIES, THE TRANSMISSION AND SUB-TRANSMISSION ASSETS AND FACILITIES, REAL ESTATE ASSETS, OTHER DISPOSABLE ASSETS,**





**IPP CONTRACTS, AND LIABILITIES OF NPC TO A PRIVATE PERSON OR PERSONS, OR TO A PRIVATE ENTITY OR ENTITIES;**

[(qq)] (SS) "Renewable Energy Resources" [refers] **REFER** to energy resources, [that do not have an upper limit on the] **THAT ARE REPLENISHABLE, WITHOUT ANY LIMIT AS TO THEIR** total quantity to be used[. Such resources are renewable on a regular basis and the renewable rate is rapid enough to consider], **AND WHOSE RATES OF REPLENISHMENT ARE ALMOST CONSTANT AND RAPID ENOUGH TO ENSURE** availability over an indefinite time[. These include, among others,], **SUCH AS** biomass, solar, wind, hydro, and ocean energy;

[(rr)] (TT) "Restructuring" refers to the [process of reorganizing] **REORGANIZATION OF** the electric power industry in order to introduce [higher efficiency, greater innovation and end-user choice. It shall be understood as covering a range of alternatives enhancing exposure of the industry to competitive market forces;] **AND PROMOTE A HIGHER DEGREE OF EFFICIENCY, GREATER AND USEFUL INNOVATIONS, END-USERS' CHOICE, AND A WIDER RANGE OF ALTERNATIVES THAT WILL ENSURE AND ENHANCE THE EXPOSURE OF THE INDUSTRY TO COMPETITIVE MARKET FORCES;**

[(ss)] (UU) "Retail Rate" refers to the total [price paid by end-users consisting of] **SUM OF THE AMOUNTS OF UNBUNDLED JUST AND REASONABLE CHARGES THAT END-USERS OF ELECTRICITY PAY FOR EACH KILOWATT-HOUR OF ELECTRICITY ACTUALLY CONSUMED BY THEM AND SHALL INCLUDE** the charges for generation, transmission and related ancillary services[,] **AND FOR** distribution, supply, and other related charges for **THE RENDITION OF** electric service[;] **TO THE END-USERS OF ELECTRICITY;**

[(tt)] (VV) "Small Power Utilities Group" or SPUG" refers to the functional [unit of NPC] **AND OPERATING UNIT OF NPC THAT HAS BEEN** created to pursue **AND IMPLEMENT THE** missionary electrification function[;] **AND OPERATION OF NPC;**

[(uu)] (WW) "Stranded contract costs of NPC or **OF A** distribution utility" refer to the excess of the contracted cost of electricity under [eligible contracts] **THE ELIGIBLE INDEPENDENT POWER PRODUCER (IPP) CONTRACTS OF NPC OR OF A DISTRIBUTION UTILITY** over the actual selling price of [the contracted energy output of such contracts in the market. Such contracts shall have been approved by the ERB as of December 31, 2000;] **THAT CONTRACTED ELECTRICITY FROM SUCH IPP CONTRACTS IN THE MARKET: PROVIDED, THAT IPP CONTRACTS, TO BE DEEMED ELIGIBLE, HAD BEEN APPROVED BY THE ERB ON OR BEFORE DECEMBER 31, 2000;**

[(vv)] (XX) "Stranded Debts of NPC" refer to [any] **ITS** unpaid financial obligations [of NPC which have not been liquidated by the proceeds from the sales and privatization of NPC assets;], **WHICH HAVE NOT BEEN LIQUIDATED OR OFFSET BY THE PROCEEDS FROM THE SALE, DISPOSITION, AND OR PRIVATIZATION OF NPC'S GENERATION, TRANSMISSION AND SUB-TRANSMISSION ASSETS AND FACILITIES, REAL ESTATE ASSETS, OTHER DISPOSABLE ASSETS, AND IPP CONTRACTS;**

[(ww)] (YY) "Sub-transmission Assets" refer to [the] **ALL ASSETS AND** facilities related to the power delivery service below the transmission voltages and, based on the functional assignment of assets [including], **SHALL**

**INCLUDE**, but **SHALL** not **BE** limited to, step-down transformers used solely by load customers, associated [switchyard/substation] **SWITCHYARD AND OR SUBSTATION**, control and protective equipment, reactive compensation equipment to improve customer power factor, overhead lines, and the land where such [facilities/equipment are located. These include NPC assets linking the transmission system and the distribution system which are neither classified as generation nor transmission;] **FACILITIES AND OR EQUIPMENT ARE LOCATED, AS WELL AS ASSETS OF NPC LINKING THE TRANSMISSION SYSTEM AND THE DISTRIBUTION SYSTEM, WHICH ARE CLASSIFIED NEITHER AS GENERATION ASSETS NOR AS TRANSMISSION ASSETS;**

[(xx)] **(ZZ)** ["Supplier" refers] **"SUPPLIER OF ELECTRICITY" REFERS, UNLESS THE CONTEXT CLEARLY SUGGESTS OTHERWISE**, to any person or entity authorized by the [ERC] **COMMISSION** to sell, broker, market, or aggregate electricity to the end-users[;], **AND DOES NOT INCLUDE A PERSON OR ENTITY ENGAGED IN THE GENERATION, TRANSMISSION, SUB-TRANSMISSION, AND DISTRIBUTION OF ELECTRICITY;**

[(yy)] **(AAA)** "Supplier's Charge" refers to the charge imposed by **AN** electricity [suppliers] **SUPPLIER** for the sale of electricity to end-users[, excluding] **IN THE CONTESTABLE MARKET, EXCLUDING** the charges for generation **AND THE WHEELING CHARGES FOR** transmission and distribution [wheeling];


[(zz)] **(BBB)** "Supply of Electricity" [means the sale of electricity by a party other than a generator or a distributor in the franchise area of a distribution utility, using the wires of the distribution utility concerned;] **SHALL REFER, UNLESS THE CONTEXT SUGGESTS OTHERWISE, TO THE BUSINESS OF BUYING AND SELLING, BROKERING, MARKETING ELECTRICITY BY A PERSON OR ENTITY, OTHER THAN A GENERATION COMPANY OR A DISTRIBUTION UTILITY, TO END-USERS OF ELECTRICITY, OR OF AGGREGATING DEMANDS FOR SUCH END-USERS OF ELECTRICITY, IN THE FRANCHISE TERRITORY OF A DISTRIBUTION UTILITY, USING FOR THE PURPOSE THE WIRES AND FACILITIES OF THE DISTRIBUTION UTILITY CONCERNED;**

[(aaa)] **(CCC)** "Transmission Charge" refers to the regulated cost or [charges] **CHARGE AUTHORIZED BY THE COMMISSION** for the use of a transmission system which may include the [availment] **USE** of ancillary services;

[(bbb)] **(DDD)** "Transmission Development Plan" or "TDP" refers to the **PART OF THE POWER DEVELOPMENT** program **PREPARED AND FORMULATED BY THE DOE JOINTLY WITH THE TRANSCO AND TO BE IMPLEMENTED BY THE LATTER IN ACCORDANCE WITH THIS ACT** for managing the transmission system [through] **AND FOR THE** efficient planning [for the] **OF ITS** expansion, upgrading, rehabilitation, repair, and maintenance[, to be formulated by DOE and implemented by the TRANSCO pursuant to this Act];

[(ccc)] **(EEE)** "Transmission of Electricity" refers to the conveyance of electricity through the high voltage backbone system; and

[(ddd)] **(FFF)** "Universal Charge" refers to the charge, if any, [imposed for the recovery of the stranded cost and other purposes pursuant to Section 34 hereof.] **TO BE DETERMINED, FIXED, AND APPROVED BY THE**



**COMMISSION, AFTER DUE NOTICE TO ALL INTERESTED PARTIES AND PUBLIC HEARING, IN ACCORDANCE WITH AND FOR THE PURPOSES MENTIONED IN SECTION 33 OF THIS ACT.**

**"CHAPTER II**

**"ORGANIZATION AND OPERATION OF THE ELECTRIC POWER INDUSTRY**

**"SEC. 5. *Organization.* —** The electric power industry shall be divided into four (4) sectors, namely: [g]Generation[;] **SECTOR, [t]Transmission[;] SECTOR, [d]Distribution SECTOR, and [s]Supply SECTOR.**

**"SEC. 6. *Generation Sector.* —** Generation of electric power[,] **IS** a business affected with public interest[,] **AND** shall be competitive and open.

Upon the effectivity of this Act, any new generation company **OR ENTITY** shall, before it operates, secure from the [Energy Regulatory Commission (ERC)] **COMMISSION** a certificate of **ADHERENCE TO AND COMPLIANCE [pursuant to] WITH** the standards set forth in this Act, **WITH THE GRID CODE, WITH THE DISPATCH SYSTEM, AND WITH THE WHOLESALE ELECTRICITY SPOT MARKET RULES,** as well as **WITH** health, safety, and environmental [clearances from the] **STANDARDS AND REQUIREMENTS OF** appropriate government agencies under existing laws.

Any law to the contrary notwithstanding, **IT IS HEREBY DECLARED THAT UPON THE EFFECTIVITY OF THIS ACT** power generation shall not be [considered] **DEEMED** a public utility operation. [For this purpose, any] **ANY** person or entity **WHICH IS NOW** engaged or which shall engage in power generation and supply of electricity shall not be required to secure a national franchise.

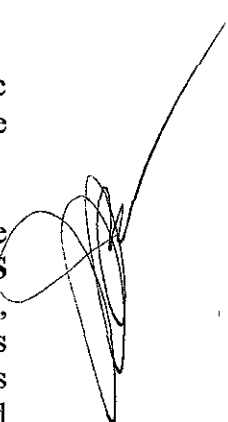
Upon **THE** implementation of retail competition and open access, the prices charged by a generation company for the supply of electricity shall not be subject to **ANY KIND OF** regulation by the [ERC] **COMMISSION,** except as otherwise provided in this Act.

[Pursuant to the objective of lowering] **IN ORDER TO LOWER** electricity rates to end-users, sales of [generated power] **ELECTRICITY** by generation companies shall be value-added tax zero-rated.

The [ERC shall, in determining] **COMMISSION, IN ORDER TO DETERMINE** the existence **OF ABUSE** of market power [abuse] or **OTHER** anti-competitive behavior, **IS HEREBY AUTHORIZED TO** require [from] generation companies [the submission of] **TO SUBMIT** their financial statements[.] **AT ANYTIME.**

**"SEC. 7. *Transmission Sector.* —** The transmission of electric power shall be a regulated common electricity carrier business, subject to the ratemaking [powers of the ERC.] **AUTHORITY OF THE COMMISSION.**

The [ERC] **COMMISSION** shall set the standards of the voltage transmission that shall [distinguish] **SET APART** the transmission **ASSETS** from the sub-transmission assets. Pending the issuance of such [new] standards, the distinction between the transmission **ASSETS** and sub-transmission assets shall be as follows: **THE TRANSMISSION ASSETS SHALL BE** 230 kilovolts and above in the Luzon Grid[.]; 69 kilovolts and above in the Visayas **GRID** and in the isolated distribution systems[.]; and 138 kilovolts and above in the



Mindanao Grid: *Provided*, That for the Visayas and the isolated distribution [system, should] **SYSTEMS, IF** the 69 kilovolt line **DOES** not form part of the main transmission grid and [be] **IS** directly connected to the substation of the distribution utility, it shall form part of the sub-transmission system.


"SEC. 8. *Creation of the National Transmission Company.* — There is hereby created a National Transmission Corporation, hereinafter referred to as **THE TRANSCO**, which shall assume the electrical transmission functions of the National Power Corporation (NPC), and **WHICH SHALL** have the powers and **OTHER** functions hereinafter granted. The TRANSCO shall **ALSO** assume the authority and responsibility of NPC for the planning, construction and centralized operation and maintenance of [its] NPC'S high voltage transmission facilities, including grid interconnections and ancillary services.

Within six (6) months from the effectivity of this Act, the transmission and sub-transmission **ASSETS AND** facilities of NPC and all other assets related to transmission operations, including the nationwide franchise of NPC for the operation of the transmission system and the grid, shall be transferred **IPSO FACTO AND IN TOTO** to the TRANSCO. The TRANSCO shall be wholly owned by the Power Sector Assets and Liabilities Management Corporation (PSALM Corp.)**[.] CREATED IN SECTION 46 OF THIS ACT.**

The sub-transmission functions [and], assets, **FACILITIES, AND LIABILITIES, IF ANY**, shall be segregated from the transmission functions, assets, **FACILITIES**, and liabilities for transparency and [disposal] **DISPOSITION: Provided**, That **IN THE MEANTIME** the sub-transmission **FUNCTIONS, ASSETS, AND FACILITIES** shall be **PERFORMED**, operated, and maintained by **THE TRANSCO** until [their disposal] **SUCH FUNCTIONS, ASSETS, AND FACILITIES ARE SOLD OR OTHERWISE DISPOSED AND TRANSFERRED** to qualified distribution utilities which are [in a position] **CAPABLE** to take over the responsibility for **PERFORMING**, operating, maintaining, upgrading, and expanding said assets $[\.]$  **AND FACILITIES**. All transmission and sub-transmission related liabilities of NPC shall be transferred to and **SHALL BE** assumed by the PSALM Corp.

**THE TRANSCO** shall negotiate with and thereafter, transfer such functions, assets, **FACILITIES**, and associated liabilities to the qualified distribution utility or utilities connected to such subtransmission **ASSETS AND** facilities not later than two (2) years from the effectivity of this Act or **FROM** the start of open access, whichever comes earlier: *Provided*, That in [the] case [of] **THE WINNING BIDDER OR BIDDERS ARE** electric cooperatives, the TRANSCO shall grant **THEM** concessional financing over a period of twenty (20) years: *Provided, however*, That the installment payments to **THE TRANSCO** for the [acquisition of] sub-transmission **ASSETS AND** facilities shall be given [first priority] by the **WINNING** electric cooperatives [out of] **FIRST PREFERENCE TO** the net income derived from such **ASSETS AND** facilities. The TRANSCO shall [determine the disposal value of the subtransmission assets based on the revenue potential of such assets.] **HIRE AT LEAST TWO INDEPENDENT, COMPETENT, AND REPUTABLE APPRAISERS TO ESTABLISH AND DETERMINE, FOR THE PURPOSE OF DISPOSING SAID SUBTRANSMISSION ASSETS AND FACILITIES, THEIR TRUE AND FAIR MARKET VALUE BASED ON THEIR REVENUE POTENTIAL.**

[In case of disagreement in] **DISPUTES OR DISAGREEMENTS IN THE** valuation, procedures, ownership participation, and other issues[, the ERC shall resolve such issues.] **RELATED TO THE DISPOSITION OF THE SUBTRANSMISSION ASSETS AND FACILITIES SHALL BE**



**RESOLVED EXPEDITIOUSLY BY THE COMMISSION, AFTER DUE NOTICE TO ALL INTERESTED PARTIES AND PUBLIC HEARING.**

The **ACQUISITION AND** take over [by a distribution utility] of any subtransmission **FUNCTION, asset [shall not cause], AND FACILITY BY A DISTRIBUTION UTILITY OR BY DISTRIBUTION UTILITIES, AS THE CASE MAY BE, MUST NOT RESULT IN** a diminution of **THE QUALITY AND RELIABILITY OF THE** service [and quality] **BEING RENDERED** to the end-users[. Where there are] **OF ELECTRICITY. IN THE EVENT THAT** two or more [connected] distribution utilities[, the] **ARE CONNECTED TO THE SAME SUBTRANSMISSION ASSET AND FACILITY, A consortium or juridical entity shall be formed [by and] TO ACQUIRE AND TAKE OVER THE SUBTRANSMISSION FUNCTION, ASSET, AND FACILITY, AND THE CONSORTIUM OR JURIDICAL ENTITY SHALL BE** composed [of] **BY** all of [them and] **SUCH DISTRIBUTION UTILITIES. IN SUCH A CASE, THE SUBSCRIPTION RIGHTS OF EACH OF THE DISTRIBUTION UTILITIES INVOLVED SHALL BE PROPORTIONATE TO THEIR RESPECTIVE LOAD REQUIREMENTS, UNLESS THEY AGREE OTHERWISE AMONG THEMSELVES. THE CONSORTIUM OR JURIDICAL ENTITY SHALL,** thereafter [shall], be granted a franchise **BY THE COMMISSION** to **PERFORM AND** operate the subtransmission **FUNCTION, asset, AND FACILITY [by the ERC].**

[The subscription rights of each distribution utility involved shall be proportionate to their load requirements, unless otherwise agreed by the parties].

[Aside from the] **EXCEPT FOR THE PSALM Corp., THE TRANSCO,** and **THE** connected distribution utilities, no [third] **OTHER** party shall be allowed **ANY SHARE IN THE** ownership **AND** or **IN THE** management [participation], in whole or in part, [in such sub-transmission] **OF THE CONSORTIUM OR JURIDICAL** entity[.] **THAT SHALL ACQUIRE AND TAKE OVER THE SUB-TRANSMISSION FUNCTION, ASSET, AND FACILITY.**

The TRANSCO may exercise the power of eminent domain subject to the requirements of the Constitution and existing laws. Except as provided **OTHERWISE [herein] IN THIS ACT,** no person, company, or entity, other than the TRANSCO, shall own any transmission **ASSETS AND** facilities **IN THE COUNTRY.**

[Prior to] **BEFORE** the transfer of the transmission functions by NPC to TRANSCO[.] and before the promulgation of the Grid Code, [ERC] **THE COMMISSION** shall [ensure] **SEE TO IT** that NPC shall provide to all electric power industry participants open and non-discriminatory access to [its] NPC'S transmission system. Any violation [thereof] **OF THE PRECEDING SENTENCE OF THIS PARAGRAPH** shall [be subject] **RENDER THE PARTY RESPONSIBLE FOR SUCH VIOLATION LIABLE** to the **APPROPRIATE** fines and penalties imposed [herein.] **IN SECTION 44 OF THIS ACT.**

"SEC. 9. *Functions and Responsibilities.* — Upon the effectivity of this Act, the TRANSCO shall have the following functions and responsibilities:

(a) [Act] **TO ACT** as the [system] **GRID** operator of the nationwide electrical transmission and subtransmission system, **THAT SHALL** be transferred to it by NPC;

(b) [Provide open and] **TO PROVIDE POWER DELIVERY SERVICE THROUGH** non-discriminatory **OPEN** access to its transmission

system to all [electricity] **QUALIFIED AND AUTHORIZED** users[;], **SUBJECT TO THE PAYMENT OF TRANSMISSION WHEELING CHARGE APPROVED BY THE COMMISSION, AFTER DUE NOTICE TO ALL INTERESTED PARTIES AND PUBLIC HEARING. TRANSCO, SHALL NOT, IN ANY WAY BY VIRTUE OF THIS PROVISION, ENGAGE IN RETAILING OF ELECTRICITY, WHICH IS A FUNCTION OF DISTRIBUTION UTILITIES;**

(c) [Ensure] **TO ENSURE** and maintain the reliability, adequacy, security, stability, and integrity of the nationwide electrical **TRANSMISSION** grid in accordance with the performance standards for the operation and maintenance of the **NATIONWIDE ELECTRICAL TRANSMISSION** grid, as set forth in a Grid Code to be adopted and promulgated by the [ERC] **COMMISSION** within six (6) months from the effectivity of this Act;

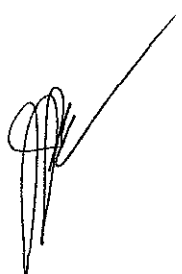
(d) [Improve] **TO IMPROVE** and expand its transmission **ASSETS AND** facilities, consistent with the Grid Code and the Transmission Development Plan (TDP) to be promulgated pursuant to this Act, **IN ORDER** to adequately serve generation companies, distribution utilities, and suppliers [requiring] **THAT REQUIRE** transmission service [and/or] **AND OR** ancillary services through the transmission system: *Provided*, That **THE TRANSCO** shall submit any plan for **THE** expansion or improvement of its **ASSETS AND** facilities for approval by the [ERC;] **COMMISSION, AFTER DUE NOTICE TO ALL INTERESTED PARTIES AND PUBLIC HEARING;**

(e) Subject to **SUCH** technical constraints **THAT MAY EXIST OR ARISE, IF ANY, AND TAKING INTO ACCOUNT ANY OUTSTANDING BILATERAL CONTRACTS**, the [grid] **SYSTEM** operator of the **TRANSCO** shall provide central dispatch of all **ELECTRIC** generation **PLANT** facilities connected, directly or indirectly, to the transmission system in accordance with the dispatch schedule submitted by the market operator[, taking into account outstanding bilateral contracts]; **PROVIDED HOWEVER, THAT SUCH SYSTEM OPERATOR SHALL BE ALLOWED SPIN-OFF USING TRANSCO'S SYSTEM OPERATION CHARGES AS THE OPERATING BUDGET WHEN ITS SCHEDULE AND DISPATCH FUNCTIONS REQUIRE COMPLETE INDEPENDENCE FROM TRANSCO AS THE GRID OWNER;** and

(f) **THE TRANSCO, JOINTLY WITH THE DOE**, shall undertake the preparation **AND FORMULATION** of the TDP, **WHICH SHALL BE APPROVED BY THE DOE.**

In the preparation **AND FORMULATION** of the TDP, **THE TRANSCO AND THE DOE** shall consult the other [participants of the] electric power industry [such as] **PARTICIPANTS, ESPECIALLY** the generation companies, distribution utilities, and the [electricity] end-users[.] **OF ELECTRICITY.** The TDP shall be [submitted to the DOE for integration] **INTEGRATED** with the Power Development Program and the Philippine Energy Plan, **BOTH OF WHICH ARE** provided for in Republic Act No. 7638, otherwise known as "the Department of Energy Act of 1992".

[A] **SUBJECT TO THE PRIOR AUTHORIZATION OF THE COMMISSION, AFTER DUE NOTICE TO ALL INTERESTED PARTIES AND PUBLIC HEARING,** A generation company may develop and own or operate dedicated **AND LIMITED** point-to-point [limited] transmission **ASSETS AND** facilities that are consistent with the TDP[: *Provided*, That], **IF IT IS CLEARLY SHOWN THAT** such **TRANSMISSION ASSETS AND** facilities are required [only for the purpose of connecting] **AND TO BE USED SOLELY BY THE GENERATION COMPANY TO CONNECT ITSELF** to the



transmission system[,and are used solely by the generating facility, subject to prior authorization by the ERC: *Provided, further,* That in] **OF THE TRANSCO. IN** the event that such **LIMITED TRANSMISSION assets AND FACILITIES** are required for competitive purposes, ownership of the same shall be transferred to the TRANSCO at a fair market price[: *Provided, finally,* That in]. **IN** case of **ANY DISPUTE OR** disagreement on the fair market price **OF SUCH TRANSMISSION ASSETS AND FACILITIES,** the [ERC] **COMMISSION** shall determine the fair market [value of the asset.] **PRICE OF SAID LIMITED TRANSMISSION ASSETS AND FACILITIES, AFTER DUE NOTICE TO ALL INTERESTED PARTIES AND PUBLIC HEARING.**

"SEC. 10. *Corporate Powers of the TRANSCO.* — [As a corporate entity,] **THE TRANSCO** shall have the following corporate powers:

(a) To have continuous succession under its corporate name until otherwise provided by law;

(b) To adopt and use a corporate seal and to change, alter or modify the same, if necessary;

(c) To sue and be sued[;] **IN ITS NAME;**

(d) To enter into [a contract] **ANY LAWFUL CONTRACT,** and **TO** execute any **AND ALL** [instrument] **INSTRUMENTS** necessary or convenient for the [purpose] **PURPOSES** for which it is created;

(e) To borrow funds from any source, whether private or public, foreign or domestic, and issue **OR FLOAT** bonds and other evidence of indebtedness: *Provided,* That in the case of [the] bond issues **OR FLOATATIONS,** it shall be subject to the approval of the President of the Philippines, upon **THE** recommendation of the Secretary of Finance: *Provided, further,* That foreign loans shall be obtained in accordance with existing laws, **AND WITH THE** rules and regulations of the Bangko Sentral ng Pilipinas;

(f) To maintain a provident fund which [consists of] **SHALL CONSIST OF THE REGULAR MONTHLY** contributions [made by both the] **OF THE TRANSCO** and **OF** its officials and employees, and [their] **THE earnings OF SUCH REGULAR MONTHLY CONTRIBUTIONS. THE PROVIDENT FUND SHALL BE EARMARKED** for the payment of benefits to such officials and employees or their heirs, under such terms and conditions as [it] **THE BOARD OF DIRECTORS OF THE TRANSCO** may prescribe;

(g) To do any [act] **AND ALL ACTS** necessary or proper to carry out the [purpose] **PURPOSES** for which [it] **THE TRANSCO** is created, or which, from time to time, may be declared by the **BOARD OF DIRECTORS OF THE TRANSCO** [Board as] **TO BE** necessary, **PROPER,** useful, incidental or auxiliary to accomplish [its] **THE TRANSCO'S** purposes and objectives; and

(h) Generally, to **USE AND** exercise **ANY, AND** all **OF** the powers **AND PREROGATIVES** of a corporation under the corporation law **OF THE PHILIPPINES,** insofar as they are not inconsistent with this Act.

"SEC. 11. *THE TRANSCO Board of Directors.* — [All the] **THE** powers of the TRANSCO shall be vested in and **SHALL BE** exercised by a Board of Directors[. The Board], **WHICH** shall be composed of a Chairman and six (6) members. The Secretary of the Department of **ENERGY (DOE)** shall [be] **SERVE AS** the *ex officio* Chairman of the Board. **THE TRANSCO PRESIDENT SHALL SERVE AS THE VICE-CHAIRMAN.** The other

members of the **BOARD OF DIRECTORS OF THE TRANSCO** [Board shall include] **ARE** the **PSALM PRESIDENT**, the Secretary of the Department of **PUBLIC WORKS AND HIGHWAYS**, and three (3) [members to] **PRIVATE INDIVIDUAL CITIZENS OF THE PHILIPPINES, WHO SHALL** be appointed by the President[, each representing] **AND WHO SHALL EACH, RESPECTIVELY, BE DESIGNATED TO REPRESENT** Luzon, **THE** Visayas, and Mindanao.

The **SAID THREE (3) PRIVATE INDIVIDUAL** members of the Board [so] **WHO ARE** appointed by the President of the Philippines shall serve for a **SINGLE, NON-EXTENDIBLE, AND NON-RENEWABLE** term of six (6) years, except that any person appointed to fill-in a vacancy shall serve only **FOR** the **REMAINING** un-expired term of [his/her] **HIS OR HER** predecessor in office. All **THE THREE (3) PRIVATE INDIVIDUAL** members of the Board shall be professionals of **GOOD REPUTE AND WELL-KNOWN INTEGRITY AND** recognized competence and expertise in the fields of engineering, finance, economics, law, or business management. No member of the Board or any of his relatives within the fourth civil degree of consanguinity or affinity shall have any interest, either as investor, officer or director, in any generation company or distribution utility or other entity engaged in [transmitting, generating and supplying electricity specified by ERC.] **THE TRANSMISSION, GENERATION, OR SUPPLY OF ELECTRICITY.**

"SEC. 12. *Powers and Duties of the Board.* — The following [are] **SHALL BE** the powers of the Board:

(a) To provide strategic direction for **THE TRANSCO**, and **TO** formulate medium and long-term **PLANS AND strategies** [pursuant to the vision, mission, and objectives of TRANSCO;] **IN ACCORDANCE WITH THE MISSION, OBJECTIVES, PURPOSES, AND VISION FOR WHICH THE TRANSCO WAS CREATED;**


(b) To **FORMULATE**, develop, and adopt policies and measures for the efficient and effective management and operation of **THE TRANSCO;**

(c) To **DETERMINE**, organize, **AND** re-organize[, and determine] the organizational structure and staffing pattern of **THE TRANSCO; TO CREATE**, abolish, and **OR** [create] **RECREATE** offices and positions; **TO** fix the number of its officers and employees; **TO REMOVE FOR CAUSE OR TO** transfer [and re-align] **OR REASSIGN** such officers and [personnel] **EMPLOYEES; AND TO** fix [their compensation, allowance, and benefits;], **WITHIN JUST AND REASONABLE LIMITS, THE COMPENSATION, ALLOWANCE, AND BENEFITS OF SAID OFFICERS AND EMPLOYEES;**

(d) To fix the compensation of the President of **THE TRANSCO**, and to appoint and fix the compensation of **THE** other corporate officers **OF THE CORPORATION;**

(e) [For cause, to] **TO** suspend or remove **FOR CAUSE** any corporate officer appointed by the Board; **AND**

(f) To adopt [and] **SUCH** set **OF** guidelines [for] **AS MAY BE NEEDED TO GOVERN** the employment of personnel on the basis of merit, technical competence, and moral [character; and] **RECTITUDE.**





[(g) Any provisions of the law to the contrary notwithstanding, to write-off bad debts.]

"SEC. 13. *Board Meetings.* — The Board shall meet [as often as may be] **REGULARLY ONCE EVERY MONTH, WITHOUT ANY NEED OF CALL, ON A DAY FIXED IN A RESOLUTION OF THE BOARD FOR THAT PURPOSE, AND IN A SPECIAL MEETING, WHEN IT IS** necessary, upon the call of the Chairman of the Board or by a majority of the [Board] members[.] **OF THE BOARD. THE MINUTES OF EVERY MEETING OF THE BOARD SHALL INDICATE WHETHER THE MEETING IS A REGULAR OR A SPECIAL MEETING AND THE PRINCIPAL MATTERS TAKEN DURING EVERY SUCH MEETING.**

"SEC. 14. *Board Per Diems and Allowances.* — The members of the Board shall receive **A REASONABLE** per diem for each regular or special meeting of the Board actually attended by them[, and, upon approval of the Secretary of the Department of Finance, such other allowances as the Board may prescribe.]. **THE AMOUNT OF SUCH PER DIEM SHALL BE COMMENSURATE TO THE STATURE AND RESPONSIBILITY OF THE MEMBERS OF THE BOARD AND SHALL BE DETERMINED AND FIXED BY THE PRESIDENT OF THE PHILIPPINES. THE MEMBERS OF THE BOARD MAY ALSO RECEIVE SUCH OTHER JUSTIFIED AND REASONABLE ALLOWANCES AS THE PRESIDENT OF THE PHILIPPINES MAY AUTHORIZE AND PRESCRIBE.**

"SEC. 15. *Quorum.* — The presence of at least four (4) members of the Board shall constitute a quorum[, which shall be necessary] for the transaction of any business[. The], **AND THE** affirmative vote of a majority of **ALL** the members [present in a quorum] **OF THE BOARD** shall be [adequate] **REQUIRED** for the approval of any [resolution, decision or order, except when the Board shall otherwise agree that a greater vote is required.] **DECISION, ORDER, RESOLUTION, CONTRACT, OR PROCUREMENT.**

"SEC. 16. *Powers of the President of TRANSCO.* — The President of **THE TRANSCO** shall be appointed by the President of the Philippines. In the absence of the *EX OFFICIO* Chairman **OF THE BOARD**, the President **OF THE TRANSCO , AS VICE-CHAIRMAN**, shall preside over **THE** [Board] meetings[.] **OF THE BOARD.**

The President of **THE TRANSCO** shall be the Chief Executive Officer of [TRANSCO] **THE CORPORATION** and shall have the following powers and duties:

(a) To execute and administer the **DECISIONS**, policies, and measures approved by the Board, and **TO ASSUME AND** take responsibility for the efficient **AND HONEST** discharge of **THE** management functions[;] **IN THE TRANSCO;**

(b) To oversee the preparation of the budget of **THE TRANSCO;** **AND TO PRESENT IT TO THE BOARD OF DIRECTORS AND OTHER HIGHER AUTHORITIES AND OR OFFICES FOR APPROVAL;**

(c) To direct and supervise the operation and internal administration of **THE TRANSCO** and, for this purpose, **HE** may delegate some or any of his administrative responsibilities and duties to other officers of **THE TRANSCO;**

(d) Subject to [the] **SUCH** guidelines and policies [set up] **AS MAY BE ADOPTED** by the Board, [to] **HE MAY** appoint and fix the number and **THE** compensation, **ALLOWANCE, AND BENEFITS** of subordinate officials

and employees of **THE TRANSCO**]; and **HE MAY**, for cause, [to] remove, suspend, or otherwise discipline any **SUCH** subordinate [employee] **OFFICIALS AND EMPLOYEES** of **THE TRANSCO**;

(e) To submit an annual report to the Board on the activities, **PROBLEMS, PLANS, PROGRAMS**, and achievements of **THE TRANSCO** at the close of each fiscal year, and upon approval thereof, **HE SHALL** submit a copy **OF THE SAME** to the President of the Philippines and to such other agencies as may be required by law;

(f) To represent **THE TRANSCO** in all **ITS** dealings and transactions with other offices, agencies, and instrumentalities of the Government and with all **OTHER** persons and [other] entities, private or public, domestic or foreign; and

(g) To exercise **ALL** such other powers and duties as may be vested in **OR DELEGATED TO** him by the Board from time to time.

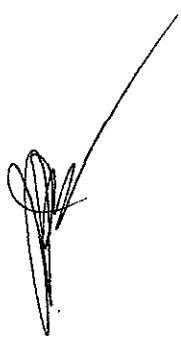
"SEC. 17. *Exemption from the Salary Standardization Law.* — [The salaries] **EXCEPT WHEN DELEGATED BY THE BOARD TO THE PRESIDENT OF THE TRANSCO UNDER PARAGRAPH (D) OF THE PRECEDING SECTION 16 OF THIS ACT, THE COMPENSATION, ALLOWANCE,** and benefits of **ALL OTHER OFFICERS AND** employees [in the TRANSCO] **OF THE TRANSCO SHALL BE FIXED BY THE BOARD AND** shall be [exempt] **EXEMPTED** from Republic Act No. 6758 [and shall be fixed by the TRANSCO Board.].

"SEC. 18. *Profits.* — [The] **UNTIL AND UNLESS THE PSALM CORP. IS DIVESTED OF THE OWNERSHIP OF THE TRANSCO THROUGH AN ABSOLUTE SALE OF THE TRANSCO TO ANOTHER PARTY BY VIRTUE OF SECTION 21 OF THIS ACT, THE** net profit, if any, of **THE TRANSCO** shall be remitted to the PSALM Corp. not later than ninety (90) days **COUNTED FROM THE DAY IMMEDIATELY** after **THE END OF** the immediately preceding quarter.

"SEC. 19. *Transmission Charges.* — The transmission charges of the TRANSCO shall be filed with and approved by the [ERC pursuant to] **COMMISSION, AFTER DUE NOTICE TO ALL INTERESTED PARTIES AND PUBLIC HEARING, IN ACCORDANCE WITH THE APPLICABLE PROVISIONS OF** Paragraph (f) of Section [43 hereof] **42 OF THIS ACT.**

**IMPROVEMENTS OR EXPANSION PROJECTS OF THE TRANSCO THAT WILL RESULT IN ANY INCREASE IN THE PASS-ON CHARGES TO DISTRIBUTION UTILITIES SHALL BE PRESENTED TO THE NATIONAL ECONOMIC DEVELOPMENT AUTHORITY (NEDA) FOR THOROUGH ECONOMIC FEASIBILITY EVALUATION BEFORE SUCH IMPROVEMENTS OR EXPANSION PROJECTS ARE SUBMITTED TO THE COMMISSION FOR APPROVAL.**

"SEC. 20. *THE TRANSCO Related Businesses.* — **THE TRANSCO** [may] **IS HEREBY AUTHORIZED TO** engage, **DIRECTLY OR INDIRECTLY,** in any **BUSINESS** related **TO ITS MAIN** business [which maximizes] **IN ORDER TO MAXIMIZE THE** utilization of its assets[:] **AND RESOURCES:** *Provided,* That **WHERE ASSETS FORMING PART OF THE RATE BASE OF THE TRANSCO ARE UTILIZED IN SUCH RELATED BUSINESS,** a portion of the net income derived from such [undertaking utilizing assets which form part of the rate base] **RELATED BUSINESS, WHICH PORTION SHALL NOT BE LESS THAN FIFTY PERCENT (50%) OF SUCH NET INCOME,** shall be used to reduce **THE** transmission **RATE OR** wheeling [rates as determined by the ERC. Such portion



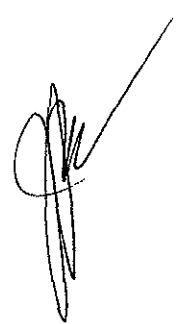
of net income used to reduce the transmission wheeling rates shall not exceed fifty percent (50%) of the net income derived from such undertaking.] **CHARGE PASSED-ON TO THE END-USERS OF ELECTRICITY.**

Separate accounts shall be maintained for each **RELATED** business [undertaking] to ensure that the transmission business shall neither subsidize in any way such **RELATED** business [undertaking] nor encumber [its] **THE TRANSCO'S** transmission assets in any way to support such **RELATED** business.

"SEC. 21. *TRANSCO Privatization.* — Within six (6) months from the effectivity of this Act, the PSALM Corp. shall submit a plan **ON THE PRIVATIZATION OF THE TRANSCO** for the endorsement by the Joint Power Commission **TO**, and **FOR** the approval of, the President of the Philippines. [The] **THEREAFTER, THE** President of the Philippines [thereafter] shall direct **THE PSALM Corp.** to [award, in] **CONDUCT AN** open competitive **PUBLIC** bidding, **AND AWARD THE OWNERSHIP AND CONTROL OF THE TRANSCO THROUGH A CONTRACT OF SALE, OR AWARD THE ADMINISTRATION, MANAGEMENT, OPERATION, AND MAINTENANCE, AS WELL AS THE PRESERVATION, IMPROVEMENT, AND OR EXPANSION OF** the transmission **ASSETS AND** facilities, including **THE** grid interconnections and ancillary services **THROUGH A CONCESSION CONTRACT** to [a] **THE** qualified [party either through an outright sale or a concession contract.] **WINNING BIDDER.** The [buyer/concessionaire] **BUYER OR CONCESSIONAIRE, AS THE CASE MAY BE,** shall be responsible for the **EFFICIENT ADMINISTRATION, MANAGEMENT, OPERATION, AND MAINTENANCE, AS WELL AS FOR THE PRESERVATION,** improvement, **AND OR** expansion[, operation, and/or maintenance of its] **OF THE** transmission assets and [the] **FACILITIES, INCLUDING THE GRID INTERCONNECTIONS AND ANCILLARY SERVICES AND THE ADMINISTRATION, MANAGEMENT, AND FOR THE** operation of any related business[.] **OR BUSINESSES.** The award [shall result in maximum] **TO THE QUALIFIED WINNING BIDDER MUST BE BASED ON THE MOST ADVANTAGEOUS, BENEFICIAL, AND OPTIMAL** present value [of proceeds] to the national government. In case a concession contract is awarded, the concessionaire shall [have a] **BE GIVEN AN INITIAL CONCESSION** contract period of twenty-five (25) years, subject to review and renewal for a maximum period of another twenty-five (25) years.

**IF THE AWARDEE OF THE CONCESSION CONTRACT IS MERELY HIRED UNDER A COMPENSATION SCHEME TO ADMINISTER, MANAGE, OPERATE, MAINTAIN, PRESERVE, AND TO FINANCE AND SUPERVISE THE IMPROVEMENTS AND OR EXPANSIONS OF THE ELECTRIC TRANSMISSION ASSETS AND FACILITIES AND THE GRID INTERCONNECTIONS AND THE ANCILLARY SERVICES FOR THE TRANSCO, THE AWARDEE OF THE CONCESSION CONTRACT SHALL NOT BE REQUIRED TO OBTAIN A NATIONAL FRANCHISE, AND NEITHER SHALL HE OR IT BE REQUIRED TO QUALIFY UNDER THE NATIONALITY REQUIREMENTS OF THE CONSTITUTION FOR PUBLIC UTILITY OPERATORS.**

**HOWEVER, IF THE AWARDEE OF THE CONCESSION CONTRACT TAKES OVER THE POSSESSION AND CONTROL OF THE ELECTRIC TRANSMISSION ASSETS AND FACILITIES AND THE GRID INTERCONNECTIONS AND ANCILLARY SERVICES, AS A LESSEE THEREOF, AND ADMINISTERS, MANAGES, MAINTAINS, OPERATES, IMPROVES, AND EXPANDS THEM AS HIS OR ITS OWN BUSINESS, THEN IN THAT CASE THE AWARDEE OF THE**



**CONCESSION CONTRACT MUST OBTAIN A NATIONAL FRANCHISE THEREFOR, AND HE OR IT MUST QUALIFY UNDER THE NATIONALITY REQUIREMENTS OF THE CONSTITUTION FOR PUBLIC UTILITY OPERATORS.**

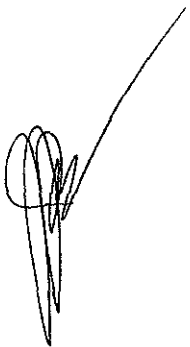
[In any case, the awardee shall] **THE AWARDEE, WHETHER UNDER A CONTRACT OF SALE OR UNDER A CONCESSION CONTRACT, MUST** comply with the Grid Code and the TDP [as approved]. The **CONTRACT OF sale [agreement/concession] OR THE CONCESSION contract, AS THE CASE MAY BE,** shall [include, but not limited to, the provision for] **PROVIDE, AMONG OTHERS, SUCH** performance and financial guarantees or [any] other covenants [which] **THAT** the national government may require. [Failure to comply with such obligations shall result in the imposition of appropriate sanctions or penalties by the ERC.] **THE FAILURE OF THE AWARDEE TO COMPLY WITH ANY OF SUCH GUARANTEES OR COVENANTS SHALL CONSTITUTE A DEFAULT ON THE PART OF THE AWARDEE AND SHALL CAUSE THE IMMEDIATE RESCISSION AND CANCELLATION OF THE CONTRACT OF SALE OR OF THE CONCESSION CONTRACT AND, IN ADDITION, THE IMPOSITION OF APPROPRIATE SANCTIONS, FINES, OR PENALTIES BY THE COMMISSION IN ACCORDANCE WITH SECTION 44 OF THIS ACT.**

The awardee [shall] **MUST** be financially and technically capable **AND SOUND,** with proven domestic [and/or] **AND OR** international experience and expertise as a leading transmission system operator. Such experience must be with a transmission system of comparable capacity and coverage as **THAT OF** the Philippines.

"SEC. 22. *Distribution Sector.* — The distribution of electricity to end-users [shall be] **IS** a regulated common carrier business. [requiring] **IT REQUIRES** a national franchise[.] **AND A COMPLIANCE WITH THE NATIONALITY REQUIREMENTS OF THE CONSTITUTION.** [Distribution] **SUBJECT TO THE REGULATION OF THE COMMISSION, DISTRIBUTION** of electric power to [all] end-users **OF ELECTRICITY** may be undertaken by **QUALIFIED** private distribution utilities, **BY ELECTRIC** cooperatives, **BY** local government units presently undertaking this function [and], **OR BY** other duly authorized **AND QUALIFIED** entities[, subject to regulation by the ERC.]

"SEC. 23. *Functions of Distribution Utilities.* — [A] **EVERY** distribution utility [shall have] **HAS** the obligation **AND RESPONSIBILITY UNDER THIS ACT** to provide, **WITHIN ITS FRANCHISE TERRITORY, ELECTRIC** distribution services and connections to its system, **IN ACCORDANCE WITH THE PROVISIONS OF THE DISTRIBUTION CODE,** for [any] **EVERY** end-user **OF ELECTRICITY** [within its franchise area consistent with the distribution code. Any entity engaged therein] **THAT APPLIES FOR SUCH SERVICES AND CONNECTIONS. THE PROVISIONS OF THE DISTRIBUTION CODE SHALL BE CONSISTENT WITH THE PROVISIONS OF THIS ACT. EVERY SUCH DISTRIBUTION UTILITY** shall provide open and non-discriminatory access to its distribution system to all **QUALIFIED** users[.] **WITHIN ITS FRANCHISE TERRITORY.**

[Any] A distribution utility shall be entitled to impose and collect **JUST AND REASONABLE** distribution wheeling charges and connection fees from such [end-users as approved by the ERC.] **QUALIFIED USERS, AS MAY BE APPROVED BY THE COMMISSION, AFTER DUE NOTICE TO ALL INTERESTED PARTIES AND PUBLIC HEARING.**



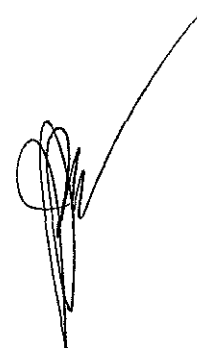
A distribution utility [shall have the] **HAS AN obligation AND RESPONSIBILITY** to supply electricity in the **MOST ECONOMICAL AND** least cost manner to its captive market, subject to the collection of **JUST AND REASONABLE** retail rate, duly approved [by the ERC.] **BY THE COMMISSION, AFTER DUE NOTICE TO ALL INTERESTED PARTIES AND PUBLIC HEARING.**

To achieve economies of scale in utility operations, distribution utilities may, after due notice **TO ALL INTERESTED PARTIES** and public hearing, pursue structural and operational reforms such as, but not limited to, joint actions between or among the distribution utilities, subject to [the] **SUCH** guidelines **AS MAY BE** issued by the [ERC. Such] **COMMISSION, PROVIDED SUCH** joint actions shall result in improved efficiencies, reliability of service, reduction of costs, and compliance [to] **WITH** the performance standards **THAT SHALL BE** prescribed in the [IRR] **IMPLEMENTING RULES AND REGULATIONS (IRR)** of this Act.

Distribution utilities shall submit to the [ERC] **COMMISSION** a statement of their compliance with the technical specifications prescribed in the Distribution Code and **IN** the performance standards prescribed in the [IRR] **IMPLEMENTING RULES AND REGULATIONS** of this Act. Distribution utilities which [do not] **FAIL TO** comply with any of the prescribed technical specifications [and] **IN THE DISTRIBUTION CODE AND IN THE** performance standards shall submit to the [ERC] **COMMISSION** a plan [to comply,] **OF COMPLIANCE**, within three (3) years, with **THE** said prescribed technical specifications [and] **IN THE DISTRIBUTION CODE AND IN THE** performance standards. The [ERC] **COMMISSION** shall, within sixty (60) days upon receipt of such plan, evaluate the same and notify the distribution utility concerned of [its] **THE COMMISSION'S** action. Failure **ON THE PART OF ANY DISTRIBUTION UTILITY** to submit a feasible and credible plan [and/or] **OF COMPLIANCE AND OR** failure to implement the same shall serve as grounds for the imposition of appropriate sanctions, fines, or penalties.

Distribution utilities shall prepare and submit to the DOE their annual distribution development plans. [In the case of] **FOR** electric cooperatives, such plans shall be submitted through the National Electrification Administration.

[Distribution utilities] **A PRIVATE OR GOVERNMENT-OWNED DISTRIBUTION UTILITY** shall provide, **WITHIN A REASONABLE TIME FROM THE REQUIREMENT THEREOF**, universal service [within their franchise, over a reasonable time from the requirement thereof, including unviable areas, as part of their social obligations,] **IN THE VIABLE AREAS OF ITS FRANCHISE TERRITORY, AS WELL AS IN THE NON-VIABLE AREAS AS PART OF ITS SOCIAL OBLIGATIONS**, in a manner that shall sustain [the] **ITS** economic viability [of the utility], subject to the approval by the [ERC in the case of private or government-owned utilities. To this end, distribution utilities] **COMMISSION, AFTER DUE NOTICE TO ALL INTERESTED PARTIES AND PUBLIC HEARING. EVERY DISTRIBUTION UTILITY** shall submit to the DOE [their plans] **ITS PLAN** for serving such areas as part of [their] **ITS** distribution development [plans] **PLAN**. Areas [which a franchised] **IN THE FRANCHISE TERRITORY OF A** distribution utility **WHICH IT** cannot **SERVICE** or does not find viable **ENOUGH TO SERVICE** may be transferred to another distribution utility, if any is available, [who will] **THAT CAN** provide the service, subject to **THE** approval by [ERC.] **THE COMMISSION, AFTER DUE NOTICE TO ALL INTERESTED PARTIES AND PUBLIC HEARING.** In [cases where] **THE EVENT THAT A** franchise [holders fail and/or refuse] **HOLDER FAILS AND OR REFUSES** to service [any] **AN** area within [their] **ITS** franchise territory and [allowed] another



**DISTRIBUTION utility IS AUTHORIZED AND ALLOWED BY THE COMMISSION to service the same, [then] THE FRANCHISE HOLDER OVER THE SAID AREA CANNOT THEREAFTER CLAIM IT BACK AND THEREBY DISTURB the status quo [shall be respected.] IN FAVOR OF THE DISTRIBUTION UTILITY THAT HAS BEEN AUTHORIZED AND ALLOWED BY THE COMMISSION TO SERVICE THE SAID AREA.**

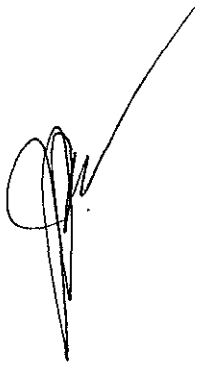
Distribution utilities [may exercise] **ARE HEREBY GRANTED** the power of eminent domain, subject to [the] **SUCH** requirements [of] **AND LIMITATIONS, IF ANY, IMPOSED BY** the Constitution and **ANY** existing [laws] **LAW.**

"SEC. 24. *Distribution Wheeling Charge.* — The distribution wheeling charges of distribution utilities shall be filed with and approved [by the ERC pursuant to] **BY THE COMMISSION, AFTER DUE NOTICE TO ALL INTERESTED PARTIES AND PUBLIC HEARING, IN ACCORDANCE WITH THE APPLICABLE PROVISIONS OF** Paragraph (f) of Section [43 hereof] **42 OF THIS ACT.**

"SEC. 25. *Retail Rate.* — The retail rates [charged by] **THAT** distribution utilities **SHALL CHARGE** for [the supply of electricity] **PROVIDING DISTRIBUTION SERVICES AND CONNECTIONS TO END-USERS OF ELECTRICITY** in [their] **THE** captive market **OF THEIR RESPECTIVE FRANCHISE TERRITORIES** shall be [subject to regulation] **FILED WITH AND APPROVED** by the [ERC] **COMMISSION, AFTER DUE NOTICE TO ALL INTERESTED PARTIES AND PUBLIC HEARING. THE RETAIL RATES SHALL BE** based on the principle of full recovery of prudent, **JUST,** and reasonable economic costs **RESPECTIVELY** incurred[, or such other principles that will promote efficiency as may be determined by the ERC.] **BY THE DISTRIBUTION UTILITIES. IN MAKING OR SETTING THE RETAIL RATES THAT DISTRIBUTION UTILITIES MAY CHARGE FOR PROVIDING DISTRIBUTION SERVICES AND CONNECTIONS TO END-USERS OF ELECTRICITY IN THEIR RESPECTIVE FRANCHISE TERRITORIES, THE COMMISSION MUST OBSERVE AND COMPLY WITH THE APPLICABLE PROVISIONS OF PARAGRAPH (F) OF SECTION 42 OF THIS ACT.**

Every distribution utility shall identify and segregate in its bills to **ITS** end-users **OF ELECTRICITY** the components of [the] **ITS** retail rate, as [defined] **REQUIRED** in this Act.

"SEC. 26. *Distribution Related Businesses.* — [Distribution utilities] **SUBJECT TO THE APPROVAL OF THE COMMISSION, AFTER DUE NOTICE TO ALL INTERESTED PARTIES AND PUBLIC HEARING, A DISTRIBUTION UTILITY** may, directly or indirectly, engage in any **BUSINESS** related **TO ITS MAIN** business [undertaking which maximizes] **IN ORDER TO MAXIMIZE** the utilization of [their] **ITS** assets[:] **AND RESOURCES: Provided,** That **WHERE ASSETS FORMING PART OF THE RATE BASE ARE UTILIZED IN SUCH RELATED BUSINESS,** a portion of the net income derived from such [undertaking utilizing assets which form part of the rate base] **RELATED BUSINESS, WHICH PORTION SHALL NOT BE LESS THAN FIFTY PERCENT (50%) OF SUCH NET INCOME,** shall be used to reduce its distribution wheeling [charges] **CHARGE AND RETAIL RATE [as determined] APPROVED** by the [ERC: *Provided, further,* That such portion of net income used to reduce their distribution wheeling charges shall not exceed fifty percent (50%) of the net income derived from such undertaking: *Provided, finally,* That separate accounts are maintained for each business undertaking to ensure that the distribution business shall neither



subsidize in any way such business undertaking nor encumber its distribution assets in any way to support such business.] **COMMISSION.**

**SEPARATE ACCOUNTS SHALL BE MAINTAINED FOR EACH RELATED BUSINESS TO ENSURE THAT THE DISTRIBUTION BUSINESS SHALL NEITHER SUBSIDIZE, IN ANY WAY, SUCH RELATED BUSINESS NOR ENCUMBER, IN ANY WAY, ITS DISTRIBUTION ASSETS TO SUPPORT SUCH RELATED BUSINESS.**

"SEC. 27. *Franchising Power in the Electric Power Sector.* — [The] **UPON THE EFFECTIVITY OF THIS ACT, THE** power to grant franchises to persons engaged in the transmission and distribution of electricity shall be vested exclusively in the Congress of the Philippines. [and all] **ALL** laws inconsistent with [this Act] **THE PRECEDING SENTENCE OF THIS SECTION** particularly, but not limited to, Section 43 of PD 269, otherwise known as the "National Electrification Decree," are hereby [deemed] repealed or modified accordingly: *Provided,* That all existing franchises shall be allowed to **RUN** their full term: *Provided, further,* That in the case of electric cooperatives, renewals and cancellations shall remain with the National Electrification Commission under the National Electrification Administration for five (5) more years [after] **FROM** the enactment of this Act.

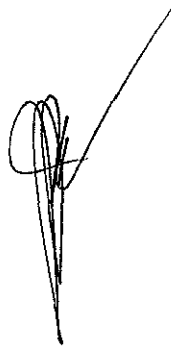
"SEC. 28. *De-Monopolization and Shareholding Dispersal.* — In compliance with the constitutional mandate for dispersal of ownership and de-monopolization of public utilities, the holdings of persons, natural or juridical, including directors, officers, stockholders and related interests, in a distribution utility and their respective holding companies shall not exceed twenty-five (25%) percent of the voting shares of stock unless the utility or the company holding the shares or its controlling stockholders are already listed in the Philippine Stock Exchange (PSE): *Provided,* That controlling stockholders of small distribution utilities are hereby required to list in the PSE within five (5) years from the enactment of this Act if they already own the stocks. New controlling stockholders shall undertake such listing within five (5) years from the time they acquire ownership and control. A small distribution company is one whose peak demand is equal to or less than Ten megawatts (10MW).]

[The ERC shall, within sixty (60) days from the effectivity of this Act, promulgate the rules and regulations to implement and effect this provision.]

[This Section shall not apply to electric cooperatives.]

"SEC. [29] **28.** *Supply Sector.* — The supply sector is a business affected with public interest. Except for distribution utilities and electric cooperatives with respect to their **RESPECTIVE** existing franchise [areas] **TERRITORIES**, all suppliers of electricity to the contestable market [shall require] **MUST HAVE** a license from the [ERC.] **COMMISSION.**

For this purpose, the [ERC] **COMMISSION** shall promulgate **THE NECESSARY** rules and regulations [prescribing], **NOT INCONSISTENT WITH THE PROVISIONS OF THIS ACT, THAT SHALL PRESCRIBE** the qualifications of [electricity] suppliers [which] **OF ELECTRICITY. SUCH QUALIFICATIONS** shall include, among other requirements, a demonstration of their technical [capability,] **AND** financial [capability,] **CAPABILITIES** and creditworthiness: *Provided,* That the [ERC] **COMMISSION** shall have **THE** authority to require [electricity] suppliers **OF ELECTRICITY** to furnish [a] **SURETY** bond **OR BONDS**, or **ANY** other [evidence of the ability of a supplier] **ANALOGOUS GUARANTEE INSTRUMENTS SATISFACTORY TO THE COMMISSION, TO DEMONSTRATE AND ENSURE THEIR ABILITY AND CAPACITY, AS SUPPLIERS OF ELECTRICITY,** to withstand market



disturbances [or other] **AND OTHER RISKS AND** events that may increase [the cost of providing service.] **THEIR COSTS IN FULFILLING THEIR COMMITMENTS, AS SUPPLIERS OF ELECTRICITY, TO PROVIDE THE QUALITY AND LEVEL OF SERVICES THEY OFFER TO THEIR CUSTOMERS.**

Any law to the contrary notwithstanding, supply of electricity to the contestable market shall not be [considered] **DEEMED** a public utility operation. [For this purpose, any] **ANY** person or entity [which shall] **THAT APPLIES TO THE COMMISSION FOR A LICENSE TO** engage in the [supply of electricity] **BUSINESS AS SUPPLIER OF ELECTRICITY** to the contestable market shall not be required **TO HAVE OR** to secure a national franchise.

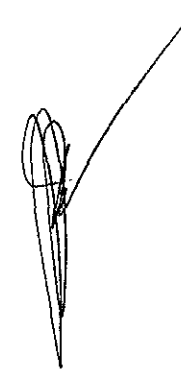
The prices [to be charged by suppliers] **THAT SUPPLIERS OF ELECTRICITY SHALL CHARGE** for the supply of electricity to the contestable market shall not be subject to regulation by the [ERC.] **COMMISSION.**

[Electricity suppliers] **SUPPLIERS OF ELECTRICITY** shall be subject to [the] rules and regulations [concerning] **THAT MAY BE PROMULGATED BY THE COMMISSION GOVERNING** abuse of market power, **CONSPIRACIES IN RESTRAINT OF TRADE**, cartelization, and other anti-competitive or discriminatory behavior [to be promulgated by the ERC.] **THAT ARE INIMICAL TO THE INTEREST OF THE GENERAL PUBLIC AND THE END-USERS OF ELECTRICITY.**

[In its billings to end-users, every supplier] **EVERY SUPPLIER OF ELECTRICITY** shall identify and segregate **IN HIS OR ITS BILLINGS TO HIS OR ITS END-USERS OF ELECTRICITY** the components of **HIS OR** its [supplier's] charge, as defined [herein] **IN THIS ACT.**

"SEC. [30]29. *Wholesale Electricity Spot Market.* — Within one (1) year from the effectivity of this Act, the DOE shall establish a [w]Wholesale [e]Electricity [s]Spot [m]Market, **HEREIN AFTER REFERRED TO AS THE WESM**, composed of the [wholesale electricity spot market] **WESM** participants. The [market] **WESM** shall provide the mechanism for identifying and setting the price of actual variations from the quantities transacted under contracts between **THE** sellers and **THE** purchasers of electricity[.] **IN THE WESM.**

Jointly with **ALL** the electric power industry participants, the DOE shall formulate the detailed rules for the [wholesale electricity spot market.] **WESM**. Said rules shall provide the [mechanism for] **SYSTEM AND MANNER OF** determining the price of electricity not covered by bilateral contracts between **THE** sellers and **THE** purchasers of electricity users. [The price determination methodology contained in said rules] **THE METHOD CONTAINED IN THE SAID RULES FOR DETERMINING THE PRICE OF ELECTRICITY IN THE WESM** shall be subject to the approval of [ERC.] **THE COMMISSION, AFTER DUE NOTICE TO ALL INTERESTED PARTIES AND PUBLIC HEARING.** Said rules shall also **EMBODY AND** reflect accepted economic principles [and] **THAT SHALL** provide a level playing field to all electric power industry participants. The rules shall **FURTHERMORE** provide, among others, procedures for:

- (a) Establishing the merit order dispatch instructions for each time period;
  - (b) Determining the market-clearing price for each time period;
- 



(c) Administering the market, including criteria for admission to [and termination] **OR DISMISSAL** from the market [which includes], **AS WELL AS ANY REQUIRED** security or performance [bond requirements] **BOND**, voting rights of the participants, surveillance, [and] assurance of compliance [of] **BY** the participants with the rules, and the formation of the [wholesale electricity spot market governing body] **GOVERNING BODY OF THE WESM**;

(d) Prescribing guidelines for the market operation in system emergencies; and

(e) Amending the **SAID** rules.

The [wholesale electricity spot market] **WESM** shall be implemented by a market operator in accordance with the [wholesale electricity spot markets] **WESM** rules. The market operator shall be an autonomous group[,] to be constituted by DOE[,] with equitable representation from electric power industry participants[,] **AND** initially under the administrative supervision of the **TRANSCO**. The market operator shall undertake the preparatory work and **THE** initial operation of the [wholesale electricity spot market] **WESM**. Not later than one (1) year after the implementation of the [wholesale electricity spot market] **WESM**, an independent entity shall be formed and the functions, assets and liabilities of the market operator shall be transferred to such **INDEPENDENT** entity with the joint endorsement of the DOE and the electric power industry participants. Thereafter, the administrative supervision of the **TRANSCO** over [such entity shall cease.] **THE WESM AND THE INDEPENDENT MARKET OPERATOR SHALL CEASE AND TERMINATE.**

Subject to the compliance with the membership criteria, all [generating] **GENERATION** companies, distribution utilities, suppliers **OF ELECTRICITY**, bulk [consumers/end-users] **CONSUMERS AND OR END-USERS OF ELECTRICITY** and other similar entities authorized by the [ERC shall be] **COMMISSION ARE** eligible to become members of the [wholesale electricity spot market] **WESM**.

The [ERC] **COMMISSION** may authorize other similar entities to become eligible as members, either directly or indirectly, of the [wholesale electricity spot market] **WESM**. All [generating] **GENERATION** companies, distribution utilities, suppliers **OF ELECTRICITY**, bulk [consumers/end-users] **END-USERS OF ELECTRICITY** and other similar entities authorized by the [ERC] **COMMISSION**, whether direct or indirect members of the [wholesale electricity spot market] **WESM**, shall be bound by the [wholesale electricity spot market] **WESM** rules with respect to transactions in [that market] **THE WESM**.

**NEA** may, in exchange for adequate security and a guarantee fee, act as a guarantor for **THE** purchases of electricity in the [wholesale electricity spot market] **WESM** by any electric cooperative or small distribution utility to support [their] **THE** credit standing **OF THE LATTER**, consistent with the provisions hereof. For this purpose, the authorized capital stock of **NEA** is **INCREASED, AS IT IS** hereby increased, to Fifteen billion pesos (P15,000,000,000.00).

All electric cooperatives [which have] **WITH** outstanding uncollected billings to any local government unit shall report such billings to **NEA** [which] **AND NEA** shall, in turn, report the same to the Department of Budget and Management (**DBM**) for collection pursuant to Executive Order 190, issued on December 21, 1999.

The cost of administering and operating the [wholesale electricity spot market] **WESM** shall be recovered by the market operator through a charge imposed to all market members: *Provided*, That such charge shall be filed with

and approved by the [ERC.] COMMISSION, AFTER DUE NOTICE TO ALL INTERESTED PARTIES AND PUBLIC HEARING.

In cases of national and international security emergencies or natural calamities, the [ERC] COMMISSION is hereby empowered to suspend the operation of the [wholesale electricity spot market] WESM or declare a temporary [wholesale electricity spot market] WESM failure.

**TO ENCOURAGE AND PROMOTE THE DEVELOPMENT OF THE WESM, DISTRIBUTION UTILITIES WITH DEMAND LEVELS OF NOT LESS THAN 100 MEGAWATTS ARE REQUIRED, FOR THE FIRST THREE (3) YEARS IMMEDIATELY FOLLOWING THE ESTABLISHMENT OF THE WESM, TO SOURCE FROM THE WESM AT LEAST TEN PERCENT (10%) OF THEIR SUPPLY OF ELECTRICITY FOR RETAIL TO END-USERS. THEREAFTER, THE SAID TEN PERCENT (10%) SHALL GRADUALLY BE INCREASED AT THE RATE OF TWO PERCENT (2%) EVERY YEAR UP TO THE EIGHTH (8<sup>TH</sup>) YEAR FROM THE ESTABLISHMENT OF THE WESM IN ORDER TO REACH A LEVEL OF TWENTY PERCENT (20%) ON THE SAID EIGHTH (8<sup>TH</sup>) YEAR WHERE IT SHALL REMAIN UNTIL ADJUSTED FURTHER UPWARD BY CONGRESS.**

"SEC. [31]30. *Retail Competition and Open Access.* — Any law to the contrary notwithstanding, retail competition and open access on distribution wires **OF DISTRIBUTION UTILITIES** shall be implemented not later than three (3) years [upon the] **FROM THE DATE OF THE** effectivity of this Act, subject to the following conditions:

(a) [Establishment] **THE ESTABLISHMENT** of the [w]Wholesale [e]Electricity [s]Spot [m]Market (WESM);

(b) [Approval] **THE APPROVAL** of **THE** unbundled transmission and distribution wheeling charges[;] **BY THE COMMISSION;**

(c) [Initial] **THE INITIAL** implementation of the cross subsidy removal scheme;

(d) [Privatization] **THE PRIVATIZATION** of at least [seventy (70%) percent] **FIFTY PERCENT (50%)** of the total capacity of [generating] **THE GENERATION** assets of NPC in Luzon and **THE Visayas;** [and]

(e) [Transfer] **THE TRANSFER** of the management and control of at least [seventy percent (70%)] **FIFTY PERCENT (50%)** of the total energy output of **ALL** power plants under contract with NPC to the IPP Administrators[.]; **AND**

**(F) IN THE FRANCHISE TERRITORIES OF ELECTRIC COOPERATIVES, THE TRANSFER OF THE SUB-TRANSMISSION ASSETS AND FACILITIES IN ACCORDANCE WITH THE APPLICABLE PROVISIONS OF THIS ACT TO THE CONNECTED ELECTRIC COOPERATIVES.**

Upon the initial implementation of open access, the [ERC] COMMISSION shall [allow] **CONSTITUTE IN A FORMAL ORDER TO BE ISSUED AFTER DUE NOTICE TO ALL INTERESTED PARTIES AND PUBLIC HEARING** all [electricity] end-users **OF ELECTRICITY** with a monthly average peak demand of [at least] **NOT LESS THAN** one megawatt (1MW) for the **IMMEDIATELY** preceding twelve (12) **BILLING** months to be

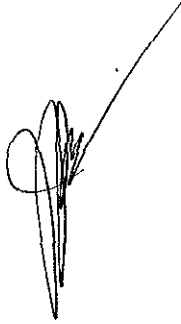
the contestable market. [Two] **AFTER TWO** (2) years [thereafter,] **IMMEDIATELY FOLLOWING THE INITIAL IMPLEMENTATION OF OPEN ACCESS**, the threshold level for the contestable market shall be reduced to seven hundred fifty kilowatts (750kW). At [this] **THAT** level, aggregators shall be allowed to supply electricity to end-users whose aggregate demand within a contiguous area is at least seven hundred fifty kilowatts (750kW). [Subsequently and every] **EVERY** year thereafter, the [ERC] **COMMISSION** shall **REVIEW AND** evaluate the performance of the **CONTESTABLE** market[. On] **AND, ON** the basis of such **YEARLY REVIEW AND** evaluation, [it] **THE COMMISSION** shall gradually reduce the threshold level until [it reaches] **THE CONTESTABLE MARKET SHALL FINALLY COVER** the household [demand level.] **END-USERS OF ELECTRICITY**. In the case of electric cooperatives, retail competition and open access shall be implemented not earlier than five (5) years [upon] **FROM** the effectivity of this Act.

"SEC. [32]31. [*NPC Stranded Debt and Contract Cost Recovery.*] **NPC'S STRANDED DEBTS AND STRANDED CONTRACT COSTS RECOVERY.** — [Stranded debt] **THE STRANDED DEBTS** of NPC [shall] refer to [any] **ITS** unpaid financial obligations [of NPC.], **WHICH ARE NOT LIQUIDATED OR OFFSET BY THE PROCEEDS FROM THE SALE, DISPOSITION, AND OR PRIVATIZATION OF NPC'S GENERATION ASSETS, TRANSMISSION AND SUBTRANSMISSION ASSETS AND FACILITIES, REAL ESTATE ASSETS, OTHER DISPOSABLE ASSETS, AND IPP CONTRACTS.**

[Stranded] **THE STRANDED** contract costs of NPC [shall] refer to the excess of the contracted cost of electricity under **THE** eligible [IPP] **INDEPENDENT POWER PRODUCER (IPP)** contracts of NPC **WITH ITS IPPs** over the actual selling price of [the] **THAT** contracted [energy output of such contracts] **ELECTRICITY FROM SUCH IPP CONTRACTS** in the market. [Such contracts shall] **INDEPENDENT POWER PRODUCER CONTRACTS OF NPC SHALL BE DEEMED ELIGIBLE CONTRACTS TO APPLY FOR STRANDED CONTRACT COSTS RECOVERY ONLY IF SUCH CONTRACTS** have been approved by the ERB [as of] **ON OR BEFORE** December 31, 2000.

The national government shall directly assume a portion of the financial obligations of NPC in an amount not [to exceed] **LESS THAN** Two hundred billion pesos (P200, 000,000,000.00).

The [ERC] **COMMISSION** shall verify the reasonable [amounts and determine the manner and duration for the full recovery of stranded debt and stranded contract costs as defined herein:], **ACTUAL, AND AGGREGATE AMOUNTS OF THE STRANDED DEBTS AS WELL AS THE JUST AND REASONABLE, ACTUAL, AND AGGREGATE AMOUNTS OF THE STRANDED CONTRACT COSTS OF NPC THAT MUST BE RECOVERED, IF ANY, AND SHALL APPROVE AND DETERMINE THE MANNER AND DURATION FOR THE FULL RECOVERY OF BOTH, AFTER DUE NOTICE TO ALL INTERESTED PARTIES AND PUBLIC HEARING: Provided,** That the duration for such **FULL** recovery shall not be [shorter] **LESS** than fifteen (15) years nor [longer] **MORE** than twenty-five (25) years. The [ERC] **COMMISSION** shall, at the end of the first year [of] **FROM** the implementation of [stranded cost recovery] **THE STRANDED DEBTS AND STRANDED CONTRACT COSTS RECOVERY**, and every year thereafter, conduct a review **OF ALL RELEVANT FACTS** to determine whether there [is] **HAS BEEN AN** under-recovery or over-recovery [and adjust (true-up) the level of stranded cost recovery charge accordingly.] **FROM THE STRANDED DEBTS AND THE STRANDED CONTRACT COSTS RECOVERY CHARGE. IN THE EVENT OF UNDER-RECOVERY OR OVER-**



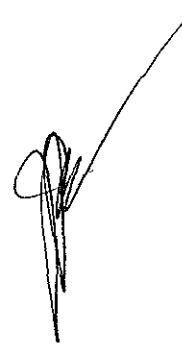
RECOVERY, THE COMMISSION SHALL, AFTER DUE NOTICE TO ALL INTERESTED PARTIES AND PUBLIC HEARING, ADJUST THE RATE OF THE SAID STRANDED DEBTS AND STRANDED CONTRACT COSTS RECOVERY CHARGE ACCORDINGLY. Any amount [to be included for stranded cost recovery] REPRESENTING THE STRANDED DEBTS AND STRANDED CONTRACT COSTS RECOVERY CHARGE shall be reflected as a separate item in the [consumer billing statement.] ELECTRIC END-USER'S MONTHLY BILLING STATEMENTS.

IN CASE OF OVER-RECOVERY, THE AMOUNT OVER-RECOVERED SHALL BE REFUNDED TO THE END-USERS OF ELECTRICITY IN THE AREAS WHERE THE OVER-RECOVERY OCCURRED, WITH INTEREST EQUAL TO THE NATIONAL GOVERNMENT'S NINETY-DAY TREASURY BILL BORROWING RATE, COMPUTED ON THE BASIS OF THE AMOUNT OF EACH MONTHLY BILLING STATEMENT UNTIL THE TOTAL OVER-RECOVERED AMOUNT IS FULLY REFUNDED. THE COMMISSION IS HEREBY AUTHORIZED TO ADOPT SUCH FAIR AND REASONABLE FORMULA AND PROCEDURE TO EFFECT THE SAID REFUND.

"SEC. [33]32. *Distribution [Utilities] UTILITY'S Stranded Contract Costs Recovery.* — [Stranded] THE STRANDED contract costs of A distribution [utilities shall] UTILITY refer to the excess of the contracted cost of electricity under THE eligible INDEPENDENT POWER PRODUCER (IPP) contracts of [such utilities] THE DISTRIBUTION UTILITY WITH ITS IPPs over the actual selling price of [such contracts] THAT CONTRACTED ELECTRICITY FROM SUCH IPP CONTRACTS in the market. [Such contracts shall] INDEPENDENT POWER PRODUCER CONTRACTS OF THE DISTRIBUTION UTILITY SHALL BE DEEMED ELIGIBLE CONTRACTS TO APPLY FOR STRANDED CONTRACT COSTS RECOVERY ONLY IF SUCH CONTRACTS have been approved by the ERB [as of] ON OR BEFORE December 31, 2000.

A distribution utility [shall] WITH ELIGIBLE IPP CONTRACTS MAY BE ALLOWED TO recover ITS stranded contract costs[: *Provided, however, That*] ONLY IF such STRANDED CONTRACT costs [of the IPPs of distribution utilities are subject to] ARE FOUND, AFTER A THOROUGH review by [ERC in order to determine fairness and reasonableness] THE COMMISSION, TO BE FAIR AND REASONABLE in relation to OR IN COMPARISON WITH the average price of SIMILAR OR COMPARABLE land-based [IPP projects] IPP CONTRACTS entered into by NPC, at the time [they were contracted. The ERC] OR AS NEAR A TIME AS THE SAID IPP CONTRACTS OF THE DISTRIBUTION UTILITY WERE CONCLUDED. IN REVIEWING AND COMPARING THE SAID AVERAGE PRICE OF ELIGIBLE IPP CONTRACTS OF THE DISTRIBUTION UTILITY, THE COMMISSION shall take into consideration all RELEVANT factors that affect the total cost of [NPC] NPC'S IPP generation projects, including direct or indirect subsidies or incentives provided by the Government.

Within one (1) year from the start of open access, any distribution utility that [seeks] INTENDS TO SEEK THE recovery of stranded contract costs shall file with the [ERC] COMMISSION A notice of such intent [together with], STATING WITH SUFFICIENT PARTICULARITY an estimate of THE AGGREGATE AMOUNT OF such [obligations, including the] STRANDED CONTRACT COSTS AND ITS present value [thereof] and SUBMITTING AT THE SAME TIME such [other] supporting EVIDENCE AND OR data as may be required by the [ERC.] COMMISSION TO ASSESS AND DETERMINE THE MERIT AND VALIDITY OF THE ALLEGED STRANDED CONTRACT COSTS. Any distribution utility that does not file SUCH



**NOTICE OF INTENT, WITH THE NECESSARY SUPPORTING EVIDENTIAL REQUIREMENTS, within the [date] specified PERIOD OF TIME shall not be [eligible for such recovery.] ENTITLED TO RECOVER ANY STRANDED CONTRACT COSTS.**

Any distribution utility [which seeks] **THAT INTENDS** to recover stranded [cost] **CONTRACT COSTS** shall have a duty to mitigate **BEFOREHAND** its potential stranded contract costs by making [reasonable best] **REAL** efforts [to]:

(a) **TO** reduce the costs of its existing contracts with [IPPs] **ITS INDEPENDENT POWER PRODUCERS (IPPS)** to [a level not exceeding] **THE EXTENT OF AT LEAST EQUAL TO** the average buying price [of] **FROM** other **COMPARABLE** land-based electric power [generators;] **GENERATION COMPANIES; and**

(b) **TO** submit to an annual [earnings] **FINANCIAL** review **AND AUDIT** by the [ERC and use] **COMMISSION UNTIL THE END OF THE STRANDED CONTRACT COSTS RECOVERY PERIOD SO THAT** its earnings above its authorized rate of return, **IF ANY, SHALL BE USED** to reduce the book value of [contracts until the end of the stranded cost recovery period.] **ITS IPP CONTRACTS.**

**BILATERAL CONTRACTS CONCLUDED BY A DISTRIBUTION UTILITY WITHOUT OPEN COMPETITIVE PUBLIC BIDDING, SPECIALLY WITH SISTER OR AFFILIATED GENERATION COMPANY OR COMPANIES, MUST BE SUBJECTED TO STRINGENT MITIGATION EXAMINATION TO ELIMINATE ABOVE MARKET PRICES, INDICES, COST FACTORS, OTHER PREFERRED PROVISIONS, AND ARRANGEMENTS THAT SHALL INCREASE THE PASS-ON COSTS TO THE END-USERS OF ELECTRICITY.**

**THE STRANDED CONTRACT COSTS RECOVERIES ALLOWED AFTER THE ABOVE-MENTIONED MITIGATION EXAMINATION SHALL BE COLLECTED ONLY FROM CUSTOMERS OF THE DISTRIBUTION UTILITY CONCERNED IN ITS OWN FRANCHISE TERRITORY, AFTER THE ELIMINATION OF THE INTER-GRID SUBSIDIES.**

[Other] **IN CONDUCTING THE REVIEW OF THE STRANDED CONTRACT COSTS OF A DISTRIBUTION UTILITY, THE COMMISSION MAY UTILIZE FOR THAT PURPOSE OTHER** mitigating measures which are reasonably known and generally accepted within the electric power industry [shall be utilized]. The [ERC] **COMMISSION** shall not require the distribution utility to take a loss to reduce **ITS** stranded contract costs or **TO** divest **ITSELF OF** assets, unless the divestiture is imposed as a penalty [as provided herein.] **IN ACCORDANCE WITH THE APPLICABLE PROVISIONS OF THIS ACT.**

The [relevant] distribution utility **CONCERNED** shall submit to the [ERC] **COMMISSION** quarterly reports showing the amount of **THE** stranded **CONTRACT** costs **ALREADY** recovered and the **REMAINING** balance [remaining], **IF ANY, YET** to be recovered.

Within three (3) months [from] **IMMEDIATELY FOLLOWING** the submission of the application for **THE** stranded [cost] **CONTRACT COSTS** recovery by the [relevant] distribution [utilities.] **UTILITY CONCERNED,** the [ERC] **COMMISSION** shall verify the **JUST AND** reasonable [amounts] **AMOUNT TO BE RECOVERED, IF ANY, and SHALL APPROVE THE**

**SAME AND** determine the manner and duration for the full recovery of **THE** stranded contract costs [as defined herein:], **AFTER DUE NOTICE TO ALL INTERESTED PARTIES AND PUBLIC HEARING:** *Provided,* That the duration for such recovery shall not be [shorter] **LESS** than fifteen (15) years nor [longer] **MORE** than twenty-five (25) years. Any amount [to be included for stranded cost recovery] **REPRESENTING THE STRANDED CONTRACT COSTS RECOVERY CHARGE** shall be reflected as a separate item in the [consumer billing statement.] **ELECTRIC END-USER'S MONTHLY BILLING STATEMENTS.**

The [ERC] **COMMISSION** shall, at the end of the first year [of] **FROM** the implementation of **THE** stranded [cost] **CONTRACT COSTS** recovery, and every year thereafter, conduct [a] **AN ANALYSIS AND** review **OF ALL RELEVANT FACTS** to determine whether there [is] **HAS BEEN AN** under-recovery or over-recovery **FROM THE STRANDED CONTRACT COSTS RECOVERY CHARGE** and adjust [(true-up) the level of] **THE RATE OF THE SAID** stranded [cost] **CONTRACT COSTS** recovery charge accordingly. In case of an over-recovery, the [ERC] **COMMISSION** shall ensure that any excess amount shall be remitted to the Special Trust Fund created under Section [34 hereof.] **33 OF THIS ACT.** A separate **TRUST** account shall be created for these amounts, which shall be held in trust for any future claims of distribution utilities for stranded [cost] **CONTRACT COSTS** recovery. At the end of the stranded [cost] **CONTRACT COSTS** recovery period, any remaining amount in [this] **THE SAID TRUST** account shall be used to reduce the electricity rates **CHARGED** to the end-users[.] **OF ELECTRICITY.**

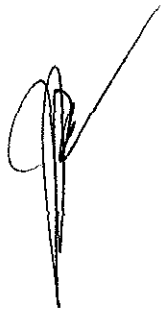
"SEC. [34]33. *Universal Charge.* — Within one (1) year from the effectivity of this Act, a universal charge to be determined, fixed, and approved by the [ERC,] **COMMISSION, AFTER DUE NOTICE TO ALL INTERESTED PARTIES AND PUBLIC HEARING,** shall be imposed on all [electricity] end-users **OF ELECTRICITY, ON THE BASIS OF THE NUMBER OF KILOWATT HOURS OF ELECTRICITY RESPECTIVELY CONSUMED BY THEM,** for the following purposes:

(a) [Payment for] **FOR** the **PAYMENT OF THE AMOUNT OF** stranded debts **OF NPC** in excess of the amount **TO BE** assumed by the National Government [and] **AS PROVIDED UNDER SECTION 31 OF THIS ACT, FOR THE PAYMENT OF JUST AND REASONABLE AMOUNT OF** stranded contract costs of NPC [and as well as qualified] **FROM ITS INDEPENDENT POWER PRODUCER CONTRACTS, AND FOR THE PAYMENT OF JUST AND REASONABLE AMOUNT OF** stranded contract costs of distribution utilities [resulting from] **THAT MAY ARISE FROM THEIR RESPECTIVE ELIGIBLE IPP CONTRACTS BECAUSE OF** the restructuring of the **ELECTRIC POWER** industry;

(b) [Missionary electrification] **FOR THE PAYMENT OF PRUDENT, JUST AND REASONABLE COSTS OF MISSIONARY ELECTRIFICATION PROJECTS;**

(c) [The] **FOR THE PAYMENT OF THE AMOUNT FOR THE** equalization of the taxes and royalties applied to indigenous or renewable sources of energy vis-à-vis imported energy fuels;

(d) [An] **FOR THE PAYMENT OF THE AMOUNT OF AN** environmental charge equivalent to one-fourth of one centavo per kilowatt-hour (P0.0025/kWh), which shall accrue to an environmental fund [to], **AND WHICH SHALL** be used solely for [watershed] **THE** rehabilitation and management[. Said fund shall be managed by NPC under existing arrangements;] **OF THE**



**WATERSHED AREAS. THE SAID ENVIRONMENTAL FUND SHALL BE UNDER THE RESPONSIBILITY, ADMINISTRATION, AND MANAGEMENT OF THE NPC; and**

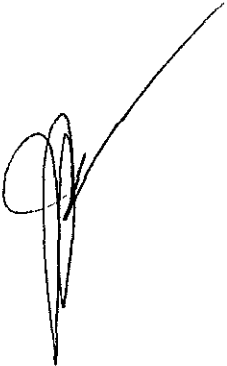
(e) [A charge to account for all forms of] **FOR THE PAYMENT OF THE CHARGE REPRESENTING THE RECOVERY OF THE AGGREGATE AMOUNT OF ALL cross-subsidies AUTHORIZED UNDER THIS ACT, WHICH CROSS-SUBSIDIES SHALL EXIST ONLY for a period not [exceeding] TO EXCEED three (3) years[.] FROM THE DATE OF THE IMPOSITION OF THE UNIVERSAL CHARGE PROVIDED IN THIS SECTION.**

The universal charge [shall be a] **UNDER THIS SECTION IS non-bypassable [charge which] AND shall be passed on and collected PER BILLING MONTH BY THE DISTRIBUTION UTILITIES from all THEIR RESPECTIVE end-users OF ELECTRICITY on [a monthly] THE basis [by the distribution utilities.] OF THE NUMBER OF KILOWATT HOURS OF ELECTRICITY ACTUALLY CONSUMED BY EACH OF SUCH END-USERS OF ELECTRICITY PER BILLING MONTH.** Collections by the distribution utilities and the TRANSCO in any given BILLING month shall be remitted to the PSALM Corp. on or before the fifteenth (15th) DAY of the succeeding month, net of any amount due to the distribution utility. [Any end-user or self-generating entity not connected to a distribution utility shall remit its corresponding universal charge directly to the TRANSCO.]

**THE SELF-GENERATED ELECTRICITY OF AN END-USER WHO OR WHICH IS NOT DIRECTLY CONNECTED TO THE DISTRIBUTION SYSTEM OF A DISTRIBUTION UTILITY OR TO THE TRANSMISSION GRID AND ITS SUBTRANSMISSION FACILITIES SHALL NOT BE SUBJECT TO OR LIABLE FOR THE UNIVERSAL CHARGE IMPOSED IN THIS SECTION.**

**HOWEVER, EVEN IF THE END USER WHO OR WHICH GENERATES ELECTRICITY FOR ITS OWN USE FROM ITS OWN GENERATION FACILITY IS CONNECTED TO THE DISTRIBUTION SYSTEM OF A DISTRIBUTION UTILITY OR TO THE TRANSMISSION SYSTEM OF TRANSCO, THE SAME SHALL NOT BE SUBJECT TO THE UNIVERSAL CHARGE IF THE SELF GENERATED ELECTRICITY DOES NOT PASS THROUGH THE DISTRIBUTION SYSTEM OF A DISTRIBUTION UTILITY OR OF THE TRANSMISSION SYSTEM OF TRANSCO.**

The PSALM Corp., [as] **BEING THE CUSTODIAN AND administrator of the [fund,] UNIVERSAL CHARGE HEREIN PROVIDED,** shall create a Special Trust Fund ACCOUNT, which shall be USED, AND FROM WHICH **SHALL BE** disbursed only **SUCH AMOUNTS AS MAY BE NEEDED STRICTLY,** for the purposes specified [herein] **IN THIS SECTION** in an open and transparent manner. **PSALM SHALL APPOINT A CONSUMER OR A REPRESENTATIVE FROM A CONSUMER GROUP ACTIVE IN THE ELECTRICITY INDUSTRY WHO SHALL MONITOR THE DISBURSEMENT OF FUNDS.** All amounts collected for the universal charge shall be **ALLOCATED AND distributed EXPEDITIOUSLY FOR THE PAYMENT OF THE OBLIGATIONS SPECIFIED IN (A), (B), (C), (D), AND (E) ABOVE AND to [the] THEIR** respective beneficiaries, within [a] **SUCH** reasonable period [to be provided by the ERC.] **OF TIME AS SHALL BE DETERMINED BY THE COMMISSION.**

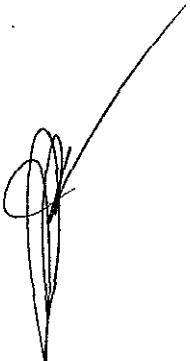


"SEC. [35]34. *Royalties, Returns and Tax Rates for Indigenous Energy Resources.* — The provisions of Section 79 of Commonwealth Act No. 137 (C.A. No. 137) and any law to the contrary notwithstanding, the President of the Philippines [shall] **IS HEREBY DIRECTED TO** reduce the **SHARE**, royalties, returns, and taxes [collected] **OF THE NATIONAL GOVERNMENT** for the exploitation of all indigenous sources of energy, including but not limited to, natural gas and geothermal steam, so as to effect parity of [tax] treatment [with the existing rates for] **FOR TAX PURPOSES BETWEEN** imported coal, crude oil, bunker fuel, [and] other imported fuels[.] **AND INDIGENOUS SOURCES OF ENERGY, ESPECIALLY NATURAL GAS AND GEOTHERMAL STEAM.**

To ensure [lower rates] **CHEAPER ELECTRICITY** for end-users, the [ERC shall] **COMMISSION, AFTER DUE NOTICE TO ALL INTERESTED PARTIES AND PUBLIC HEARING, IS HEREBY DIRECTED TO FIND WAYS AND MEANS AND TO EXERT EVERY EFFORT TO** forthwith reduce the **PRICES AND OR** rates of **ELECTRIC** power from all indigenous sources of energy **AND THE GRID'S GENERATION MIX OR PORTFOLIO OF PLANTS.**

"SEC. [36]35. *Unbundling of Rates and Functions.* — Within **THE** six (6) months [from] **IMMEDIATELY FOLLOWING** the effectivity of this Act, NPC shall file [with the ERC its revised rates.] **A PETITION FOR THE APPROVAL OF ITS REVISED RATES BY THE COMMISSION, AFTER DUE NOTICE TO ALL INTERESTED PARTIES AND PUBLIC HEARING.** The **EXISTING** rates of NPC shall be unbundled between **ITS** transmission **SECTOR** and generation [rates] **SECTOR**, and the rates shall reflect the respective costs of providing each **KIND OF** service[. Inter-grid] **BEING RENDERED. THE INTER-GRID** and intra-grid cross subsidies [for both the transmission and the generation rates] **IN THE EXISTING NPC RATES, IF ANY, BOTH IN THE TRANSMISSION SECTOR AND IN THE GENERATION SECTOR,** shall be removed in accordance with **THE APPLICABLE PROVISIONS OF** this Act.

Within **THE** six (6) months [from] **IMMEDIATELY FOLLOWING** the effectivity of this Act, each distribution utility shall [file its revised rates for the approval by the ERC.] **ALSO FILE A PETITION FOR THE APPROVAL OF ITS REVISED RATES BY THE COMMISSION, AFTER DUE NOTICE TO ALL INTERESTED PARTIES AND PUBLIC HEARING.** The *distribution wheeling charge* **OF A DISTRIBUTION UTILITY TO SUPPLIERS OF ELECTRICITY** shall be unbundled from the **DISTRIBUTION UTILITY'S** retail rate [and the rates] **TO ITS END-USERS OF ELECTRICITY. BOTH THE WHEELING CHARGE AND THE RETAIL RATE OF A DISTRIBUTION UTILITY** shall reflect the respective costs of providing each **AND EVERY KIND OF** service[. For both the distribution retail wheeling and supplier's charges,] **BEING RENDERED, AND BOTH SHALL BE REFLECTED SEPARATELY IN THE DISTRIBUTION UTILITY'S MONTHLY BILLING STATEMENTS TO ITS END-USERS OF ELECTRICITY. THE** inter-class subsidies shall be removed [in accordance with this Act.] **BOTH FROM THE DISTRIBUTION UTILITY'S WHEELING CHARGE TO SUPPLIERS OF ELECTRICITY AND FROM THE DISTRIBUTION UTILITY'S RETAIL RATE TO ITS END-USERS OF ELECTRICITY, IN ACCORDANCE WITH THE APPLICABLE PROVISIONS OF THIS ACT.**



Within **THE** six (6) months [from] **IMMEDIATELY FOLLOWING** the date of [submission of revised rates by NPC and each distribution utility, the ERC shall notify the entities of their approval.] **THE FILING BY NPC OR BY A**



**DISTRIBUTION UTILITY, AS THE CASE MAY BE, OF ITS PETITION FOR THE APPROVAL OF ITS REVISED RATES, THE COMMISSION SHALL FORTHWITH ACT ON THE PETITION, AND THEREAFTER THE COMMISSION SHALL ACCORDINGLY NOTIFY THE INTERESTED PARTIES OF ITS DECISION THEREON.**

Any electric power industry participant shall functionally and structurally unbundle its business activities and **OR ITS** rates in accordance with the [sectors as identified in] **SECTOR TO WHICH IT BELONGS ACCORDING TO** Section 5 [hereof.] **OF THIS ACT.** The [ERC] **COMMISSION** shall ensure **AND ENFORCE** full compliance with this provision.

### "CHAPTER III

#### "ROLE OF THE DEPARTMENT OF ENERGY

"SEC. [37]36. *Powers and Functions of the DOE.* — In addition to its existing powers and functions, the DOE is hereby [mandated] **ASSIGNED AND DIRECTED** to supervise the restructuring of the [electricity] **ELECTRIC POWER** industry. In pursuance thereof, Section 5 of RA 7638 otherwise known as "The Department of Energy Act of 1992" is hereby amended to read as follows:

"(a) Formulate policies for the planning and implementation of a comprehensive program for the efficient supply and economical use of energy, **WHICH WILL BE** consistent with the approved national economic plan, [and] with the policies on environmental protection, [and] conservation, and maintenance of ecological balance, and **WHICH SHALL** provide a mechanism for the integration, rationalization, and coordination of the various energy programs of the Government;

(b) Develop and update annually the existing Philippine Energy Plan, hereinafter referred to as 'The [Plan] **PEP**', which shall provide for an integrated and comprehensive exploration, development, utilization, distribution, and conservation of energy resources, with [preferential bias for] **PREFERENCE IN FAVOR OF** environment-friendly, indigenous, and low-cost sources of energy. The plan shall include [a policy direction towards the privatization of government agencies related to energy, deregulation of the power and energy industry, and] **WAYS AND MEANS TOWARD THE** reduction of dependency **OF THE COUNTRY** on oil-fired plants. Said Plan shall be submitted to Congress not later than the fifteenth day of September and every year thereafter;

(c) Prepare and update annually a Power Development Program (PDP) and integrate the same into the [Philippine Energy Plan.] **PEP.** The PDP shall consider and integrate the individual or joint development plans **FOR** the transmission, generation, and distribution sectors of the electric power industry, which are submitted to the Department: *Provided, however,* That the [ERC] **COMMISSION** shall have exclusive authority [covering] **TO ISSUE AND IMPLEMENT** the Grid Code, **THE DISTRIBUTION CODE**, and [the] **SUCH OTHER** pertinent rules and regulations [it] **THAT THE COMMISSION** may issue;

(d) Ensure the **AVAILABILITY, ADEQUACY**, reliability, quality, and security of **THE** supply of electric power;

(e) Following the restructuring of the [electricity sector] **ELECTRIC POWER INDUSTRY**, the DOE shall, among others:

(i) Encourage **INVESTMENTS FROM THE** private sector [investments] in the [electricity sector] **ELECTRIC POWER INDUSTRY** and promote **THE** development of indigenous and renewable **SOURCES OF** energy [sources];

(ii) Facilitate and encourage reforms in the structure and operations of distribution utilities [for] **IN ORDER TO ATTAIN** greater efficiency and lower costs[;] **OF ELECTRICITY**;

(iii) In consultation with other government agencies, promote a system of incentives to encourage [industry participants, including new generating companies and end-users to provide adequate and reliable electric supply;] **AND ENLARGE NEW PARTICIPANTS IN THE ELECTRIC POWER INDUSTRY, ESPECIALLY TO ENCOURAGE THE ENTRY OF NEW GENERATION COMPANIES AND TO ENLARGE THE NUMBER OF END-USERS OF ELECTRICITY, WHICH WILL IN TURN PROVIDE THE COUNTRY WITH AN ADEQUATE, RELIABLE, AND CHEAPER SUPPLY OF ELECTRICITY**; and

(iv) Undertake, in coordination with the [ERC] **COMMISSION, NPC, PSALM, NEA** and the Philippine Information Agency (PIA), **SUCH** information campaign **THAT MAY BE NEEDED** to educate the public on the restructuring of the [electricity sector] **ELECTRIC POWER INDUSTRY** and **ON THE** privatization of **THE** NPC assets;

(f) Jointly with the electric power industry participants, establish the [wholesale electricity spot market] **WESM** and formulate the detailed rules [governing the operations thereof;] **TO GOVERN ITS OPERATIONS**;

(g) Establish and administer programs for the exploration, transportation, marketing, distribution, utilization, conservation, stockpiling, and storage of energy resources of all forms, whether conventional or non-conventional;

(h) Exercise supervision and control over all government activities [relative to] **THAT HAVE TO DO WITH** energy projects in order to attain **A WELL COORDINATED EFFORT TO ACCOMPLISH** the goals embodied in Section 2 of RA 7638;

(i) Develop policies and procedures and, as appropriate, [promote] a system of energy development incentives to enable and encourage electric power industry participants to provide adequate **SUPPLY** capacity to meet **INCREASED** demand including, among others, reserve requirements[;] **OF THE COUNTRY**;

(j) Monitor **THE ACTIVITIES OF THE** private sector [activities relative to energy projects in order to attain the goals of the restructuring, privatization, and modernization of the electric power sector as provided for under existing laws:] **REGARDING ENERGY PROJECTS IN ORDER TO ACCOMPLISH THE GOALS AND OBJECTIVES OF THE RESTRUCTURING, PRIVATIZING, AND MODERNIZING THE ELECTRIC POWER INDUSTRY IN ACCORDANCE WITH THE MANDATE OF EXISTING LAWS**; *Provided*, That the Department shall endeavor to provide [for] an environment **THAT IS** conducive to **A** free and active private sector **INVOLVEMENT**, participation, and investment in all energy activities[;] **OF THE COUNTRY**;

(k) Assess the requirements of, determine priorities for, provide direction to, and disseminate information resulting from energy research and development programs for the optimal development of various forms of energy production and utilization technologies;

(l) Formulate and implement [programs, including] **A PROGRAM OF PENALTIES FOR THE INJUDICIOUS OR INEFFICIENT USE OF ENERGY IN ALL ENERGY-CONSUMING SECTORS OF THE ECONOMY, AS WELL AS** a system of [providing] incentives [and penalties,] for the judicious and efficient use of energy, **SUCH AS CO-GENERATION SYSTEMS, DISTRIBUTED GENERATION, DEMAND-SIDE MANAGEMENT SYSTEM, AND RENEWABLE ENERGY** [in all energy-consuming sectors of the economy];

(m) Formulate and implement a program for the accelerated development of non-conventional energy [systems] **SOURCES** and the promotion and commercialization of its applications;

(n) Devise ways and means of [giving] **EXTENDING** direct benefit to the **INHABITANTS OF A REGION**, province, city, [or] **AND** municipality[, especially the community, and people affected, and equitable preferential benefit to the region] that hosts the energy resource [and/or the energy-generating] **AND OR THE ENERGY-GENERATION facility[:] OR FACILITIES: Provided, however,** That the **INHABITANTS OF THE** other **REGIONS**, provinces, cities, **AND** municipalities[, or regions] shall not be deprived of their energy requirements;

(o) Encourage private enterprises engaged in energy projects, including corporations, cooperatives, and similar collective organizations, to broaden the base of their ownership and thereby encourage the widest public ownership of energy-oriented [corporations;] **ENTERPRISES;**

(p) Formulate such rules and regulations [as], **NOT INCONSISTENT WITH THE PROVISIONS OF THIS ACT, WHICH** may be necessary to implement the objectives of this Act; and

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

#### "CHAPTER IV

##### "REGULATION OF THE ELECTRIC POWER INDUSTRY

"SEC. [38]37. *Creation of the Energy Regulatory Commission.* — There is hereby created an **IMPARTIAL, TRULY** independent, **AND** quasi-judicial regulatory body to be [named the Energy Regulatory Commission (ERC). For this purpose,] **KNOWN AS "THE COMMISSION". EXECUTIVE ORDER NO. 172, SERIES OF 1987, AS AMENDED, IS HEREBY REPEALED IN TOTO, AND** the [existing] Energy Regulatory Board (ERB) created [under Executive Order No. 172, as amended,] **THEREUNDER** is hereby abolished[.] **AND ALL ITS POWERS ARE FORMALLY AND TOTALLY TERMINATED.**

The Commission shall be composed of a Chairman and four (4) **ASSOCIATE** members to be appointed by the President of the Philippines. The Chairman and the **ASSOCIATE** members of the Commission shall be natural-born citizens **OF THE PHILIPPINES** and **PERMANENT** residents [of the

Philippines,] **THEREOF FOR THE LAST FIVE YEARS IMMEDIATELY PRECEDING THEIR APPOINTMENTS. THEY SHALL BE REPUTABLE INDIVIDUAL** persons of good moral character, at least thirty-five (35) years of age, and [of] **POSSESSING KNOWN AND** recognized **PROFESSIONAL** competence in [any of] the [following] field[s:] **OF EITHER** energy, law, economics, finance, commerce, **OR ACCOUNTANCY**, or engineering[, with]. **EXCEPT FOR THE MEMBERS FROM THE LAW AND ACCOUNTANCY PROFESSIONS, THE THREE OTHER MEMBERS MUST HAVE** at least [three (3)] **FIVE (5)** years **OF** actual, **ACTIVE**, and distinguished **PROFESSIONAL** experience in their respective fields [of expertise: *Provided*, That out of]. **OF** the [four (4)] **FIVE (5)** members of the Commission, at least one (1) **OF THEM** shall be a **REPUTABLE AND RESPECTED** member of the Philippine Bar with at least ten (10) years **OF DISTINGUISHED** experience in the active practice of **THE** law, and **ANOTHER** one (1) shall be a **REPUTABLE AND RESPECTED** certified public accountant, **ALSO** with at least ten (10) years **OF DISTINGUISHED** experience in **THE** active practice[.] **OF THE PROFESSION OF ACCOUNTANCY.**

Within three (3) months from the creation of the [ERC] **COMMISSION**, the Chairman shall submit [for the approval by] **TO** the President of the Philippines **FOR HIS APPROVAL** [the] **A** new organizational structure and **A LIST OR *plantilla* OF** positions necessary to carry out the powers and functions of the [ERC.] **COMMISSION.**

The Chairman of the Commission, who shall be a **RESPECTED, REPUTABLE, AND DISTINGUISHED** member of the Philippine Bar, shall act as the Chief Executive Officer of the Commission.

All members of the Commission shall have a **FIXED, NON-RENEWABLE, AND NON-EXTENDIBLE** term of seven (7) years[: *Provided*, That for]. **FOR** the first appointees, the Chairman shall hold office for seven (7) years[.]; two (2) **ASSOCIATE** members shall hold office for five (5) years; and the [other] **LAST** two (2) **ASSOCIATE** members shall hold office for three (3) years: *Provided*[, *further*], That appointment to any future vacancy shall only be for the unexpired term of the predecessor[: *Provided, finally*, That there shall be no reappointment and in no case shall any member serve for more than seven (7) years in the Commission].

The Chairman and **THE ASSOCIATE** members of the Commission shall assume office at the beginning of their **RESPECTIVE** terms: *Provided*, That, if upon the effectivity of this Act, the Commission has not been constituted, and the new staffing pattern [and] **OR *plantilla* OF** positions [have] **HAS** not been approved and **OR** filled-up, the [current Board and existing personnel of ERB] **MEMBERS AND PERSONNEL OF THE DEFUNCT ENERGY REGULATORY BOARD** shall continue to hold office[.] **UNTIL THEY ARE CORRESPONDINGLY REPLACED.**

[The existing] **ANY OF THE** personnel of the **DEFUNCT ERB**, if **HE OR SHE IS** qualified **AND HAS NOT BEEN THE SUBJECT OF ANY ADMINISTRATIVE OR CRIMINAL CASE OF DERELICTION OF DUTY OR OF MALFEASANCE OR MISFEASANCE IN OFFICE**, shall be given preference in [the] filling [up of] **THE NEW STAFFING PATTERN OR *plantilla* OF** positions created in [the ERC.] **AND FOR THE COMMISSION**, subject to **SUCH REQUIREMENTS OF** existing civil service rules and regulations.

[Members] **ALL THE MEMBERS** of the Commission shall enjoy security of tenure, and **THEY** shall not be suspended or removed from office

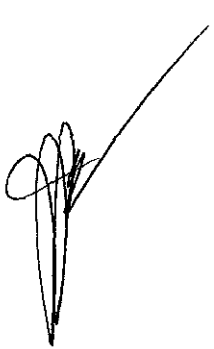
[except] **ON ANY GROUND OTHER THAN** for A just cause as **PROVIDED AND** specified by law.

The Chairman and the **ASSOCIATE** members of the Commission [or any of] **AND** their relatives within the fourth civil degree of consanguinity or affinity, **WHETHER SUCH PERSONAL RELATIONS ARE** legitimate, [or] common law, [shall be] **OR OTHERWISE, ARE** prohibited from holding any interest whatsoever, either as investor, stockholder, officer, or director, in any company or entity engaged in the business of transmitting, generating, supplying, **AGGREGATING**, or distributing [any form of energy and must, therefore, divest through sale or legal disposition of any and all interests in the energy sector upon assumption of office.] **ELECTRICITY. UPON THE ASSUMPTION BY THE CHAIRMAN AND THE ASSOCIATE MEMBERS OF THE COMMISSION OF THEIR RESPECTIVE POSITIONS, THE CHAIRMAN AND THE ASSOCIATE MEMBERS OF THE COMMISSION AND THEIR RESPECTIVE RELATIVES WITHIN THE PROSCRIBED DEGREE OF PERSONAL RELATIONS MUST DIVEST THEMSELVES OF ALL THEIR PROHIBITED INTEREST, THROUGH REAL ARMS LENGTH TRANSACTIONS OR OTHER VALID FORMS OF DISPOSITION, AND OR RESIGN FROM ALL THEIR PROSCRIBED POSITIONS IN THE ELECTRIC POWER INDUSTRY.**

The presence of at least three (3) members of the Commission shall constitute a quorum [and the majority] **IN EVERY OFFICIAL AND FORMAL MEETING AND OR HEARING OF THE COMMISSION.** THE vote of [two (2) members in a meeting where a quorum is present] **A MAJORITY OF THE QUORUM** shall be necessary for the adoption of [any] **A VALID** rule, ruling, order, resolution, decision or other **OFFICIAL AND FORMAL** act of the Commission in the exercise of its quasi-judicial functions: *Provided*, That, in fixing **THE TRANSMISSION, SUBTRANSMISSION, AND DISTRIBUTION WHEELING CHARGES AND THE TRANSMISSION, SUBTRANSMISSION, AND DISTRIBUTION** rates and tariffs[,] **AS WELL AS IN RENDERING ANY ORDER OR DECISION ON ANY ISSUE OR MATTER THAT SHALL RESULT IN AN INCREASE IN THE FINANCIAL BURDEN TO THE END-USERS OF ELECTRICITY,** an affirmative vote of **AT LEAST** three (3) members **OF THE COMMISSION** shall be required.

"SEC.[ 39]38. *Compensation and Other Emoluments for [ERC] THE COMMISSION Personnel.* —The compensation and [other emoluments] **ALLOWANCES** for the Chairman and **THE ASSOCIATE** members of the Commission [and the ERC personnel] **AS WELL AS THE SALARIES AND ALLOWANCES OF THE COMMISSION PERSONNEL** shall be exempted from [the coverage of] Republic Act No. 6758, otherwise known as the "Salary Standardization Act". For this purpose, the schedule of [compensation of the ERC personnel,] **SALARIES AND ALLOWANCES OF THE COMMISSION PERSONNEL,** except for the initial [salaries and] compensation **AND ALLOWANCES** of the Chairman and **THE ASSOCIATE** members of the Commission, shall be submitted for approval by the President of the Philippines. The new schedule of compensation **OR SALARIES AND ALLOWANCES** shall be implemented within six (6) months from the effectivity of this Act, and **SAID COMPENSATION OR SALARIES AND ALLOWANCES** may be upgraded by the President of the Philippines as the need arises: *Provided*, That in no case shall the rate **OF SUCH COMPENSATION OR SALARIES AND ALLOWANCES** be upgraded more than once a year.

The Chairman and **THE ASSOCIATE** members of the Commission shall initially be entitled to the same [salaries] **COMPENSATION**, allowances, and benefits as those of the Presiding Justice and Associate Justices of the Supreme



Court, respectively. The Chairman and the ASSOCIATE members of the Commission shall, upon completion of their term OF OFFICE or upon becoming eligible for retirement under existing laws, be entitled to the same retirement benefits and privileges provided for the Presiding Justice and Associate Justices of the Supreme Court, respectively

"SEC. [40]39. *Enhancement of Technical Competence.* — The [ERC] COMMISSION shall establish rigorous training programs for its staff [for the purpose of enhancing the] AND PERSONNEL TO ENHANCE THEIR technical competence AND THAT of the [ERC in the following areas: evaluation of technical performance and monitoring of] COMMISSION IN ORDER TO STRENGTHEN ITS KNOWLEDGE AND CAPACITY TO MONITOR AND EVALUATE THE TECHNICAL CAPABILITIES AND OVERALL PERFORMANCE OF THE ELECTRIC POWER INDUSTRY PARTICIPANTS, INCLUDING THEIR compliance with THE service [and], performance, [standards, performance-based rate-setting reform, environmental standards, and such other areas as will] AND ENVIRONMENTAL STANDARDS, AS WELL AS WITH THE REFORMS PROVIDED IN THIS ACT, AND ABOVE ALL TO enable the [ERC] COMMISSION to adequately perform its duties and EFFICIENTLY ACCOMPLISH ITS functions.

"SEC. [41]40. *Promotion of Consumer Interests.* — The [ERC] COMMISSION shall [handle] ATTEND AND RESPOND EXPEDITIOUSLY TO THE [consumer] complaints OF END-USERS OF ELECTRICITY, and IT SHALL ensure AND SAFEGUARD the adequate, EFFECTIVE, AND SUSTAINED promotion [of consumer interests.] AND PROTECTION OF THE INTERESTS OF END-USERS OF ELECTRICITY.

"SEC. [42]41. *Budget of the [ERC.] COMMISSION.* — The amount of One Hundred fifty million pesos (P150,000,000.00) is hereby allocated from the existing budget of the DEFUNCT ERB for the initial operation of the [ERC.] COMMISSION. Any balance shall initially be sourced from the Office of the President of the Philippines. Thereafter, the annual budget of the [ERC] COMMISSION shall be included in the [regular] GENERAL or special appropriations[.] OF THE NATIONAL GOVERNMENT.

"SEC. [43]42. *Functions of the [ERC.] COMMISSION.* — The [ERC] COMMISSION shall, AMONG OTHERS: (1) promote competition[.]; (2) encourage market development[.]; (3) PROTECT END-USERS OF ELECTRICITY FROM DISCRIMINATORY, UNFAIR, OR CONFISCATORY RATES; (4) ensure [customer], UPON THE ESTABLISHMENT OF THE CONTESTABLE MARKET, END-USER'S choice; and (5) CONTROL, PREVENT, AND penalize abuse of market power in the restructured [electricity] ELECTRIC POWER industry. [In appropriate cases, the ERC] THE COMMISSION is authorized to issue A cease and desist order, WHENEVER IT IS NEEDED TO SERVE THE INTEREST OF THE PUBLIC OR THE INTEREST OF JUSTICE, after due notice TO ALL INTERESTED PARTIES and PUBLIC hearing. [Towards this end, it shall]-IN ADDITION, THE COMMISSION SHALL PERFORM AND EXERCISE AND be responsible for the following [key] POWERS AND functions [in the restructured industry]:

(a) Enforce the implementing rules and regulations of this Act[.], WHICH ARE NOT INCONSISTENT WITH ANY OF ITS PROVISIONS;

(b) Within six (6) months [from] IMMEDIATELY FOLLOWING the effectivity of this Act, promulgate and enforce, in accordance with [law.]

**THE APPLICABLE PROVISIONS OF THIS ACT**, a National Grid Code and a Distribution Code, which shall include, but not limited to, the following:

(i) Performance standards for TRANSCO O & M Concessionaire, distribution utilities, and suppliers: *Provided*, That in the establishment of the SAID performance standards, the nature and function of the entities shall **CAREFULLY** be considered; [and]

(ii) Financial capability standards for the [generating] **GENERATION** companies, the TRANSCO, **THE** distribution utilities, and **THE** suppliers: *Provided*, That in the formulation of the SAID financial capability standards, the nature and function of the [entity] **ENTITIES** shall **CAREFULLY** be considered: *Provided, further*, That [such] SAID standards are set to ensure that the electric power industry participants meet the minimum financial standards to protect the public interest]. Determine fix, and approve, after due notice and public hearings the universal charge, to be imposed on all electricity end-users pursuant to Section 34 hereof]; **AND**


**(III) DETERMINE, FIX, AND APPROVE, AFTER DUE NOTICE TO ALL INTERESTED PARTIES AND PUBLIC HEARING, THE ITEMIZED AMOUNTS OF THE UNIVERSAL CHARGE TO BE IMPOSED ON ALL END-USERS OF ELECTRICITY PURSUANT TO SECTION 33 OF THIS ACT.**

(c) Enforce the rules and regulations governing the operations of the [electricity spot market] **WESM** and the activities of the spot market operator and other participants in the spot market, for the purpose of ensuring a greater **AND RELIABLE** supply and rational pricing of electricity;

(d) Determine the [level] **AMOUNT AND EXTENT** of cross subsidies in the existing retail rate until the same is **FINALLY** removed pursuant to Section [74 hereof;] **71 OF THIS ACT**;

(e) Amend, **REVISE**, or revoke, after due notice **TO ALL INTERESTED PARTIES** and **PUBLIC** hearing, the authority to operate [of] **GRANTED TO** any person or entity which fails to comply with the **PERTINENT** provisions [hereof, the IRR, or any] **OF THIS ACT, OR WITH ANY OF THE IMPLEMENTING RULES AND REGULATIONS OF THIS ACT, OR WITH ANY DECISION, order, or resolution of the [ERC.] COMMISSION**. In the event a divestment, **CESSATION, OR DESISTANCE** is required, the [ERC] **COMMISSION** shall, **THROUGH A FORMAL ORDER FOR THAT PURPOSE**, allow the affected party [sufficient time] **A REASONABLE TIME** to remedy the infraction, or [for] **TO UNDERTAKE** an orderly disposal **OF THE MATTER, ACTIVITY, OR BUSINESS INVOLVED, AS THE CASE MAY BE**, but [shall] in no case **SHALL THE SAID REASONABLE TIME** exceed twelve (12) months from the issuance of the SAID **FORMAL order[;] OF THE COMMISSION**;

(f) [In the public interest establish] **ESTABLISH** and enforce [a methodology for setting] **IN THE INTEREST OF THE GENERAL PUBLIC AND IN THE INTEREST OF THE END-USERS OF ELECTRICITY, AFTER TAKING INTO ACCOUNT ALL RELEVANT CONSIDERATIONS, INCLUDING THE EFFICIENCY OR INEFFICIENCY OF THE REGULATED ENTITIES, AND AFTER DUE NOTICE TO ALL INTERESTED PARTIES AND PUBLIC HEARING, JUST AND REASONABLE** transmission and distribution **NON-DISCRIMINATORY** wheeling [rates and] **CHARGES, AS WELL AS JUST AND REASONABLE NON-DISCRIMINATORY** retail rates for the captive



market of [a] distribution [utility, taking into account all relevant considerations, including the efficiency or inefficiency of the regulated entities. The rates must be such as to] **UTILITIES, WHICH SHALL** allow the recovery of **ALL** just and reasonable costs[,] and [a] **GIVE A JUST AND** reasonable return on **THE** rate base (**RORB**) **OF THE REGULATED ENTITIES** to enable [the entity] **THEM** to operate viably]. The ERC may adopt alternative forms of internationally-accepted rate-setting methodology as it may deem appropriate. The rate-setting methodology so adopted and applied must ensure a reasonable price of electricity. The rates prescribed shall be non-discriminatory. To achieve this objective and to ensure the complete removal of cross subsidies, the cap on the recoverable rate of system losses prescribed in Section 10 of Republic Act No. 7832, is hereby amended and shall be replaced by caps which shall be determined by the ERC based on load density, sales mix, cost of service, delivery voltage and other technical considerations it may promulgate. The ERC shall determine such form of rate-setting methodology, which shall promote efficiency. In case the rate setting methodology used is RORB, it shall be subject to the following guidelines:], **AND WHICH SHALL ENSURE A JUST AND REASONABLE PRICE OF ELECTRICITY.**

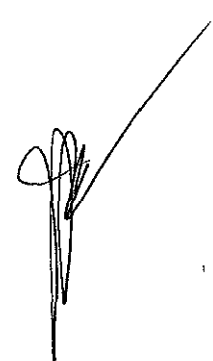
**IN DETERMINING A JUST AND REASONABLE RETURN ON THE RATE BASE OF THE TRANSCO OR OF A DISTRIBUTION UTILITY, THE COMMISSION MUST OBSERVE THE FOLLOWING GUIDELINES:**

**(I) THE RATE BASE SHALL CONSIST OF THE AVERAGE VALUE OF ALL ASSETS, FACILITIES, PROPERTY, AND PERMANENT IMPROVEMENTS OF THE TRANSCO OR OF THE DISTRIBUTION UTILITY, AT THE BEGINNING AND AT THE END OF ITS FISCAL YEAR, AS SHOWN IN THE PROPERTY ACCOUNTS OF THE TRANSCO OR OF THE DISTRIBUTION UTILITY, AS THE CASE MAY BE, WHICH ARE DIRECTLY USED AND USEFUL IN PROVIDING THE SERVICE TO THE END-USERS OF ELECTRICITY, LESS THE ACCRUED ALLOWANCE FOR DEPRECIATION TAKEN FOR THE YEAR ON THE REGULATED ENTITY'S DEPRECIABLE ASSETS, FACILITIES, PROPERTY, AND PERMANENT IMPROVEMENTS, PLUS TWO MONTHS PRUDENT OPERATING CAPITAL.**

**(II) THE VALUE OF THE FRANCHISE OF THE TRANSCO OR OF THE DISTRIBUTION UTILITY SHALL NOT BE INCLUDED IN THE RATE BASE FOR PURPOSES OF RATEMAKING.**

**(III) THE VALUE OF ANY ASSET, FACILITY, PROPERTY, AND PERMANENT IMPROVEMENTS NOT ACTUALLY USED AND USEFUL FOR THE PURPOSE OF RENDERING THE SERVICE OF THE TRANSCO OR OF THE DISTRIBUTION UTILITY SHALL NOT BE INCLUDED IN THE RATE BASE, HOWEVER USEFUL THE ASSET, FACILITY, PROPERTY, AND PERMANENT IMPROVEMENTS MAY HAVE BEEN IN THE PAST OR MAY YET BE IN THE FUTURE.**

**(IV) THE VALUE OF REAL OR PERSONAL PROPERTY PURCHASED AND HELD BY THE TRANSCO OR BY THE DISTRIBUTION UTILITY FOR THE NEEDS OF POSSIBLE FUTURE GROWTH SHALL NOT LIKEWISE BE INCLUDED IN THE RATE BASE.**





(V) THE COST OF OVER-ADEQUATE ASSETS, FACILITIES, PROPERTY, AND PERMANENT IMPROVEMENTS SHALL NOT SIMILARLY BE ALLOWED TO BE INCLUDED IN THE RATE BASE OF THE TRANSCO OR OF THE DISTRIBUTION UTILITY.

(VI) THE TOTAL AMOUNT OF ALL DEPOSITS REQUIRED BY A DISTRIBUTION UTILITY FROM END-USERS OF ELECTRICITY AS A CONDITION OF RENDITION AND CONTINUATION OF SERVICE, INCLUDING THE TOTAL AMOUNT OF ACCUMULATED INTERESTS THEREON, SHALL NOT BE INCLUDED IN THE RATE BASE OF THE DISTRIBUTION UTILITY.

(VII) THE VALUE OF NEWLY CONSTRUCTED OR INSTALLED ASSETS, FACILITIES, PROPERTY, AND PERMANENT IMPROVEMENTS WHICH ARE TO BE INCLUDED IN THE RATE BASE SHALL BE THE PRUDENT ORIGINAL COSTS OF SUCH NEWLY CONSTRUCTED OR INSTALLED ASSETS, FACILITIES, PROPERTY, AND PERMANENT IMPROVEMENTS.

(VIII) FOR ASSETS, FACILITIES, PROPERTY, AND PERMANENT IMPROVEMENTS WHICH ARE NOT NEWLY CONSTRUCTED OR INSTALLED, THEIR VALUE, FOR PURPOSES OF DETERMINING THE RATE BASE, SHALL BE THEIR CURRENT TOTAL REVALUATION VALUE, IN ACCORDANCE WITH THE REVALUATION AUTHORIZED UNDER THIS ACT, AS SHOWN IN THE PROPERTY ACCOUNTS OF THE TRANSCO OR OF THE DISTRIBUTION UTILITY, LESS THE TOTAL ACCUMULATED ALLOWANCES FOR DEPRECIATION TAKEN BY THE REGULATED ENTITIES EVERY FISCAL YEAR ON THEIR DEPRECIABLE ASSETS, FACILITIES, PROPERTY, AND PERMANENT IMPROVEMENTS.

(IX) A REASONABLE ALLOWANCE FOR DEPRECIATION BASED ON A RATE CONSISTENTLY APPLIED IN ACCORDANCE WITH WIDELY ACCEPTED AND RECOGNIZED ACCOUNTING RULES SHALL BE TAKEN EVERY FISCAL YEAR ON EACH OF THE DEPRECIABLE ASSETS, FACILITIES, PROPERTY, AND PERMANENT IMPROVEMENTS OF THE TRANSCO OR OF A DISTRIBUTION UTILITY. SUCH YEARLY ALLOWANCE FOR DEPRECIATION ON EACH OF THE DEPRECIABLE ASSETS, FACILITIES, PROPERTY, AND PERMANENT IMPROVEMENTS SHALL BE DETERMINED, FIXED, AND KEPT IN A PROPER AND ADEQUATE DEPRECIATION ACCOUNTS WHICH SHALL BE CARRIED AND RECORDED IN THE BOOKS OF THE TRANSCO OR OF THE DISTRIBUTION UTILITY, IN ACCORDANCE WITH SUCH RULES, REGULATIONS, AND IN SUCH FORMS OF THE ACCOUNTS AS THE COMMISSION MAY PRESCRIBE FOR THE PROTECTION OF THE STOCKHOLDERS, BONDHOLDERS, CREDITORS, AND THE GENERAL PUBLIC, ESPECIALLY THE END-USERS OF ELECTRICITY.

(X) THE TRANSCO OR THE DISTRIBUTION UTILITY SHALL CONSISTENTLY CONFORM TO ITS DEPRECIATION RATE OR RATES SO DETERMINED AND FIXED, AND SHALL



SET ASIDE THE MONEYS SO ALLOTTED FOR SUCH DEPRECIATION ALLOWANCES OUT OF ITS EARNINGS IN A DEPRECIATION FUND, AND IT SHALL CARRY THE SAME IN A DEPRECIATION FUND ACCOUNT. THE INCOME FROM INVESTMENTS OF THE MONEYS IN SUCH DEPRECIATION FUND ACCOUNT SHALL BE INCLUDED AND RECORDED IN SUCH DEPRECIATION FUND ACCOUNT AND SHALL FORM A PART OF THE DEPRECIATION FUND.

(XI) THE DEPRECIATION FUND SHALL NOT BE EXPENDED OTHERWISE THAN FOR NEW CONSTRUCTIONS, OR FOR THE IMPROVEMENTS, REPLACEMENTS, EXTENSIONS, OR ENHANCEMENT OF THE ASSETS, FACILITIES, PROPERTY, AND PERMANENT IMPROVEMENTS OF THE TRANSCO OR OF THE DISTRIBUTION UTILITY THAT SHALL RAISE AND IMPROVE THE DEGREE OF EFFICIENCY AND QUALITY OF THE SERVICE TO BE RENDERED BY THE TRANSCO OR BY THE DISTRIBUTION UTILITY.

(XII) ANY AMOUNT DRAWN FROM THE DEPRECIATION FUND AND USED FOR THE IMPROVEMENT, REPLACEMENT, EXTENSION, OR ENHANCEMENT OF THE ASSETS, FACILITIES, PROPERTY, AND PERMANENT IMPROVEMENTS OF THE TRANSCO OR OF THE DISTRIBUTION UTILITY, OR FOR THE CONSTRUCTION OF ANY NEW ASSET, FACILITY, PROPERTY, AND PERMANENT IMPROVEMENT OF THE TRANSCO OR OF THE DISTRIBUTION UTILITY, SHALL BECOME PART OF THE RATE BASE.

[(i) (XIII) [For purposes of determining the rate base, the] THE TRANSCO or [any] A distribution utility [may be allowed] IS AUTHORIZED to revalue its [eligible] assets [not more than], FACILITIES, PROPERTY, AND PERMANENT IMPROVEMENTS CONSTITUTING ITS RATE BASE once every three (3) years [by an] THROUGH THE SERVICES OF AN EXPERIENCED, WELL-ESTABLISHED, REPUTABLE, AND independent appraisal company[:], IN ACCORDANCE WITH SOUND AND CONSISTENTLY MAINTAINED METHOD OF VALUATION: *Provided, however,* That [ERC] THE COMMISSION may [give an exemption in case of unusual] TEMPORARILY SUSPEND THE AFORESAID THREE YEAR LIMITATION IN THE EVENT OF EXTRAORDINARY INFLATION OR devaluation[:] OF THE PESO AND ONLY FOR THE PERIOD THAT SUCH EXTRAORDINARY INFLATION OR DEVALUATION LASTS: *Provided, further,* That the [ERC] COMMISSION, IN THAT EVENT, shall exert [efforts to] EVERY EFFORT TO PREVENT AND OR minimize THE STEEP AND RAPID ESCALATION OF THE price [shocks] OF ELECTRICITY in order to protect the [consumers:] END-USERS OF ELECTRICITY.

(XIV) A JUST AND REASONABLE RATE OF RETURN ON THE RATE BASE OF THE TRANSCO OR OF A DISTRIBUTION UTILITY SHALL NOT EXCEED TWELVE PERCENTUM (12%) PER ANNUM OF SUCH RATE BASE.

(XV) THE CAP ON THE RECOVERABLE RATE OF A JUST AND REASONABLE SYSTEMS LOSS PRESCRIBED IN



**SECTION 10 OF REPUBLIC ACT NO. 7832 SHALL BE MAINTAINED IN THE DENSELY POPULATED CITIES, URBAN CENTERS, AND MUNICIPALITIES OF THE COUNTRY: PROVIDED, THAT IT SHALL BE ACCORDINGLY AMENDED AND REPLACED IN AREAS OTHER THAN THE DENSELY POPULATED CITIES, URBAN CENTERS, AND MUNICIPALITIES OF THE COUNTRY BY CAPS WHICH SHALL BE DETERMINED AND FIXED BY THE COMMISSION, AFTER DUE NOTICE TO ALL INTERESTED PARTIES AND PUBLIC HEARING, BASED ON LOAD DENSITY, SALES MIX, COST OF SERVICE, DELIVERY VOLTAGE, AND OTHER TECHNICAL CONSIDERATIONS THAT THE COMMISSION MAY PROMULGATE: PROVIDED FURTHER, THAT ANY NEW CAP FOR RECOVERABLE SYSTEM LOSS IN AREAS OTHER THAN THE DENSELY POPULATED CITIES, URBAN CENTERS, AND MUNICIPALITIES OF THE COUNTRY SHALL ALSO TAKE INTO CONSIDERATION AND PROVIDE FOR A JUST AND REASONABLE SYSTEMS LOSS FOR THE INEFFICIENCIES OF THE SYSTEMS OF ELECTRIC COOPERATIVES IN PERFORMING THEIR MISSIONARY ELECTRIFICATION FUNCTIONS.**

**(XVI) CORPORATE INCOME TAX LEVIED ON THE NET TAXABLE INCOME OF THE TRANSCO OR OF A DISTRIBUTION UTILITY SHALL NOT, DIRECTLY OR INDIRECTLY, BE PASSED ON TO THE END-USERS OF ELECTRICITY.**

**[(ii)] (XVII) Interest expenses [are not allowable] OF THE TRANSCO OR OF A DISTRIBUTION UTILITY SHALL NOT BE ALLOWED AS deductions [from permissible] FOR PURPOSES OF DETERMINING A JUST AND REASONABLE return on rate base[;].**

**(XVIII) NEGLIGENT OR WASTEFUL LOSSES, INCLUDING LOSSES DUE TO UNNECESSARY ERRORS IN CONSTRUCTION OR IN EQUIPMENT PROCUREMENT, AS WELL AS LOSSES DUE TO LACK OF ORDINARY ECONOMY, PRUDENCE, FORESIGHT, AND EFFICIENCY IN MANAGEMENT, INCURRED BY THE TRANSCO OR BY A DISTRIBUTION UTILITY SHALL NOT BE PERMITTED AS OPERATING CHARGES AND, THEREFORE, SHALL NOT BE ALLOWED AS DEDUCTIONS FOR PURPOSES OF RATEMAKING.**

**(XIX) THE AMOUNT OF PENALTIES AND OR COSTS OF REMEDIES ARISING FROM ANY VIOLATION OF CONTRACT BY THE TRANSCO OR BY A DISTRIBUTION UTILITY SHALL NOT BE PASSED ON TO THE END-USERS OF ELECTRICITY.**

**[(iii)] (XX) [In] FOR PURPOSES OF determining [eligible] THE JUST AND REASONABLE cost of services that will be passed on to the end-users[,] OF ELECTRICITY, the [ERC] THE COMMISSION shall establish minimum efficiency performance standards for the TRANSCO and THE distribution utilities, including systems losses, interruption frequency rates, and collection efficiency[;] OF THE REGULATED ENTITIES.**

**[(iv)] (XXI) [Further, in] IN determining THE rate base[,] OF THE TRANSCO OR OF ANY DISTRIBUTION UTILITY, THE**

**COMMISSION SHALL NOT ALLOW** the TRANSCO or any distribution utility [shall not be allowed] to include **THE COSTS OF management inefficiencies [like cost], SUCH AS, BUT NOT LIMITED TO, THE COSTS** of project delays not [excused] **EXCUSABLE** by *force majeure*[.] **OR THE** penalties and related interest **CHARGES ARISING** during construction [applicable to these unexcused delays; and] **PERIOD BECAUSE OF SAID INEXCUSABLE DELAYS.**

[(v)] **(XXII)** Any significant operating costs or project investments of the TRANSCO and **OF A** distribution [utilities] **UTILITY**, which shall become part of the rate base, shall be subject to [verification by the ERC] **THE APPROVAL OF THE COMMISSION, AFTER DUE NOTICE TO ALL INTERESTED PARTIES AND PUBLIC HEARING, IN ORDER** to ensure that the [contracting and] procurement of the equipment, assets, and **OR** services [have been subjected to] **AS WELL AS THE TERMS AND CONDITIONS OF THE CONTRACT OR CONTRACTS COVERING SUCH PROCUREMENT SHALL BE DONE IN ACCORDANCE WITH OPEN COMPETITIVE PUBLIC BIDDING AND IN COMPLIANCE WITH THE REQUIREMENTS OF EXISTING APPLICABLE PROCUREMENT LAWS, AS WELL AS IN ACCORDANCE WITH** transparent and accepted industry procurement and purchasing practices [to protect the public interest.], **SO THAT THE INTEREST OF THE GENERAL PUBLIC AND THAT OF THE END-USERS OF ELECTRICITY SHALL BE PROTECTED.**

**(XXIII)** **IN ASCERTAINING, FOR RATEMAKING PURPOSES, THE COST OF OR INVESTMENT IN ASSETS, FACILITIES, PROPERTY, AND PERMANENT IMPROVEMENTS WHICH SHALL BE USED AND USEFUL IN PROVIDING THE ELECTRIC SERVICE TO END-USERS OF ELECTRICITY, SUCH COST OR INVESTMENT SHALL NOT INCLUDE OUTLAYS OR ALLOWANCES FOR RECKLESS, EXTRAVAGANT, UNNECESSARY, OR INOPPORTUNE EXPENDITURES OR COSTS OF CONSTRUCTION.**

**THE COMMISSION, TO PROMOTE EFFICIENCY AND FAIRNESS IN THE ELECTRIC POWER INDUSTRY AND WHEN JUSTIFIED AND DEMANDED BY THE NATIONAL INTEREST, MAY ADOPT, AFTER DUE NOTICE TO ALL INTERESTED PARTIES AND PUBLIC HEARING, ANY OTHER ALTERNATIVE FORM OF INTERNATIONALLY-ACCEPTED METHOD OF RATEMAKING THAT SHALL BEST SERVE THE MUTUAL INTEREST OF THE GENERAL PUBLIC, THE END-USERS OF ELECTRICITY, AND THE ELECTRIC INDUSTRY PARTICIPANTS.**

**IN EVERY CASE, THE RATEMAKING METHOD SO ADOPTED AND APPLIED MUST BE NEITHER EXTORTIONARY TO THE END-USERS OF ELECTRICITY NOR CONFISCATORY TO THE TRANSCO OR TO THE DISTRIBUTION UTILITIES, AND MUST FURTHERMORE ENSURE THAT THE PRICE OF ELECTRICITY IS JUST AND REASONABLE.**

**THE RATEMAKING POWER HEREIN GRANTED TO THE COMMISSION MUST BE EXERCISED IN SUCH A MANNER THAT EVERY DOUBT MUST BE RESOLVED IN**

**FAVOR OF THE PROTECTION OF THE RIGHTS OF THE GENERAL PUBLIC.**

**THE COMMISSION IS HEREBY AUTHORIZED TO DIVIDE THE FRANCHISE AREA OR AREAS OF A DISTRIBUTION UTILITY INTO SUB-AREA OR SUB-AREAS, IF SUCH DIVISION OR DIVISIONS WILL PROMOTE GREATER EFFICIENCY, LOWER PRICE OF ELECTRICITY TO END-USERS, TRANSPARENCY, AND MORE EFFECTIVE REGULATION OF THE REGULATED ENTITIES IN THE ELECTRIC POWER INDUSTRY.**

**IN ALL CASES OF RATE-MAKING, THE SOLICITOR GENERAL MUST BE NOTIFIED OF AND SHALL APPEAR IN THE PROCEEDINGS BEFORE THE COMMISSION TO REPRESENT THE GOVERNMENT THEREIN SO THAT THE INTEREST OF THE GENERAL PUBLIC AND THE INTEREST OF THE END-USERS OF ELECTRICITY WILL BE PROTECTED.**

**SIMILARLY, THE COMMISSION ON AUDIT (COA) IS HEREBY REQUIRED TO ASSIST THE COMMISSION, WHEN NEEDED BY THE LATTER, TO VERIFY AND VALIDATE THE FACTS AND FIGURES INVOLVED IN ANY RATEMAKING PROCEEDINGS BEFORE THE COMMISSION.**

(g) Three (3) years after the imposition of the universal charge, ensure that the charges of the TRANSCO or **OF** any distribution utility shall [bear] **INCLUDE** no cross subsidies between **THE** grids, within [grids,] **A GRID**, or between classes of [customers] **END-USERS OF ELECTRICITY**, except as provided [herein,] **IN THIS ACT**;

(h) Review and approve any changes [on] **IN** the terms and conditions of service of the TRANSCO or **OF** any distribution utility;

(i) Allow the TRANSCO to charge user fees for ancillary services to all electric power industry participants or self-generating entities connected to the grid. *Such fees shall be fixed by the [ERC] COMMISSION after due notice* **TO ALL INTERESTED PARTIES** and public hearing;

(j) Set a lifeline rate for [the marginalized end-users,] **DESERVING LOW-INCOME END-USERS OF ELECTRICITY**;

(k) Monitor and take **SUCH APPROPRIATE** measures in accordance with this Act to penalize **ANY** abuse of market power, **ANY** cartelization, and **OR ANY** anti-competitive or discriminatory behavior by any electric power industry participant;

(l) Impose fines **AND** or penalties for any non-compliance with or breach of **ANY PROVISION OF** this Act, [the IRR] **OR OF ANY PROVISION OF THE IMPLEMENTING RULES AND REGULATIONS** of this Act, and [the] **OR OF ANY DECISION, ORDERS, RESOLUTIONS, rules, and regulations** which [it] **THE COMMISSION** promulgates or administers;

(m) Take any other action **THAT HAS BEEN** delegated to it [pursuant to] **UNDER** this Act;

(n) [Before the end of] **ON OR BEFORE** April **THIRTY (30)** of each year, submit to the Office of the President of the Philippines and **TO THE**

Congress[.] **OF THE PHILIPPINES, WITH A** copy furnished **TO** the DOE, an annual report containing **ALL** such matters or cases which have been filed before or referred to it during the preceding year, the actions and proceedings undertaken **BY IT IN CONNECTION THEREWITH**, and its decision or resolution in each **AND EVERY** case. The [ERC] **COMMISSION** shall make **SUFFICIENT** copies of such reports **AND MAKE THEM** available to any interested party upon payment of a **REASONABLE** charge which [reflects] **SHALL BE SUFFICIENT TO COVER, AT LEAST**, the printing costs. The [ERC] **COMMISSION** shall publish all its decisions involving rates and **THOSE INVOLVING** anti-competitive cases in at least one (1) newspaper of general circulation, [and/or] **AND OR** post **THE SAME** electronically, and circulate to all interested electric power industry participants copies of its **DECISIONS OR** resolutions to **MAKE KNOWN AND** ensure **A** fair and impartial treatment[.] **OF EVERYONE AFFECTED;**

(o) Monitor **ALL** the activities in the generation and supply **SIDE** of the electric power industry [with the end in view of promoting] **IN ORDER TO PROMOTE** free market competition **THEREIN** and [ensuring] **IN ORDER TO ENSURE** that the allocation or pass through of bulk purchase cost by [distributors] **DISTRIBUTION UTILITIES** is transparent[.] **AND** non-discriminatory and that any existing subsidies, **IF SUCH WERE THE CASE**, shall be divided pro-rata among all retail suppliers;

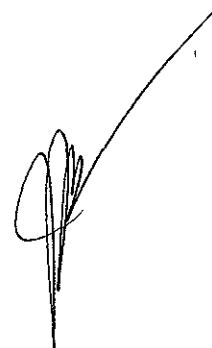
(p) Act on applications for or modifications of certificates of public convenience [and/or] **AND OR** necessity, licenses, or permits of franchised [electric] **DISTRIBUTION** utilities in accordance with law; and revoke, review, and modify such certificates, licenses or permits in appropriate cases, such as **FOR INSTANCE** in cases of violations of the Grid Code, **THE** Distribution Code, and [other] **THE** rules and regulations issued by the [ERC] **COMMISSION** in accordance with [law;] **THE PROVISIONS OF THIS ACT;**

(q) Act on **THE** applications for [cost recovery and] **JUST AND REASONABLE COSTS RECOVERIES AND FOR JUST AND REASONABLE** return on **THE** demand side management projects;

(r) In the exercise of its investigative and quasi-judicial powers, act against any **ELECTRIC POWER INDUSTRY** participant or player [in the energy sector] for violations of any law, rule, and regulation governing the same, including the rules on cross-ownership, anti-competitive practices, abuse of market positions, and **OTHER** similar or related acts by any **ELECTRIC POWER INDUSTRY** participant [in the energy sector] or by any person, as may be provided by law, and require any person or entity to submit any report or data [relative] **THAT MAY BE RELEVANT** to any investigation or hearing **BEING** conducted **BY THE COMMISSION** pursuant to this Act;

(s) [Inspect,] **IN THE EXERCISE OF ITS QUASI-JUDICIAL POWER, INSPECT AT ANY TIME**, on its own **DIRECTLY** or through [duly authorized] representatives[.] **DULY AUTHORIZED BY IT**, the premises, books of accounts, and records of any person or entity [at any time, in the exercise of its quasi-judicial power] for purposes of determining the existence of any anti-competitive behavior [and/or] **AND OR** market power abuse [and] **OR** any violation of rules and regulations issued by the [ERC;] **COMMISSION;**

(t) Perform such other regulatory functions as [are] **MAY BE** appropriate and necessary [in order] to ensure the successful restructuring and modernization of the electric power industry, [such as,] **INCLUDING**, but not limited to, the **ADOPTION AND ENFORCEMENT OF** rules and guidelines, **NOT INCONSISTENT WITH THE PROVISIONS OF THIS ACT**, under



which generation companies, **THE TRANSCO, AND THE** distribution utilities [which], **WHOSE SHARES OF STOCK** are not **YET** publicly listed **IN THE PHILIPPINE STOCK EXCHANGE (PSE)**, shall offer and sell to the **GENERAL** public [a portion], **WITH PRIORITY AND PREFERENCE GIVEN TO END-USERS OF ELECTRICITY**, not less than fifteen percent (15%) of their **RESPECTIVE** common shares of stocks: *Provided, however,* That generation companies[,] **AND** distribution utilities [or their respective holding companies] that are already listed in the PSE **TO THE EXTENT OF AT LEAST FIFTEEN PERCENT OF THEIR RESPECTIVE COMMON SHARES OF STOCK** are deemed [in compliance. For existing companies, such] **TO HAVE COMPLIED WITH THIS REQUIREMENT. GENERATION COMPANIES, THE TRANSCO, AND DISTRIBUTION UTILITIES WHICH ARE NOT YET LISTED IN THE PSE, OR GENERATION COMPANIES AND DISTRIBUTION UTILITIES WHICH, THOUGH ALREADY LISTED IN THE PSE, HAVE NOT YET REACHED THE MINIMUM FIFTEEN PERCENT (15%) LISTING REQUIREMENT, SHALL COMPLY OR COMPLETE WITH THE REQUIRED LISTING AND public offering [shall be implemented] not later than five (5) years from the effectivity of this Act. New GENERATION companies AND DISTRIBUTION UTILITIES shall implement their respective LISTING AND public offerings not later than five (5) years from the issuance of their certificate of compliance[;] OR CONGRESSIONAL FRANCHISE, AS THE CASE MAY BE; and**

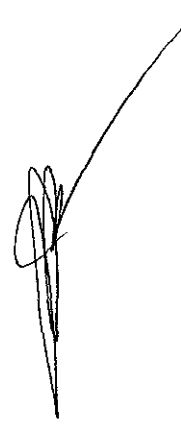
(u) The [ERC] **COMMISSION** shall have [the] original and exclusive jurisdiction over all cases contesting rates, fees, fines, and penalties [imposed by the ERC in] **ARISING FROM OR IMPOSED UNDER THE PROVISIONS OF THIS ACT, AS WELL AS OVER ALL CASES ARISING FROM** the exercise of the above-mentioned powers, functions and responsibilities, and [over all cases] **OR** involving disputes between and among **ELECTRIC POWER INDUSTRY** participants or players [in the energy sector].

All notices of hearings to be conducted by the [ERC] **COMMISSION** for the purpose of fixing rates or fees shall be published at least twice for two successive weeks in two (2) newspapers of nationwide circulation.

"[SEC. 44. *Transfer of Powers and Functions.* — The powers and functions of the Energy Regulatory Board not inconsistent with the provisions of this Act are hereby transferred to the [ERC] **COMMISSION**. The foregoing transfer of powers and functions shall include all applicable funds and appropriations, records, equipment, property and personnel as may be necessary.]

"SEC. [45]43. *Cross Ownership, Market Power Abuse and Anti-Competitive Behavior.* — No participant in the [electricity] **ELECTRIC POWER** industry [or any other person may] **SHALL** engage in any **KIND OF** anti-competitive behavior, including, but not limited to, cross-subsidization, price or market manipulation, or **ANY** other unfair trade practices **THAT ARE** detrimental to the **DEVELOPMENT**, encouragement, and protection of **THE** contestable markets.

No generation company, distribution utility, **A COMPANY SUPPLYING ELECTRICITY**, or **ANY OF** its [respective subsidiary or affiliate or stockholder or official of a generation company or distribution utility, or other entity engaged in generating and supplying electricity specified by ERC] **SUBSIDIARIES, AFFILIATES, STOCKHOLDERS, OFFICIALS, OR DIRECTORS, OR THE OFFICIALS, DIRECTORS, OR OTHER STOCKHOLDERS OF SUCH SUBSIDIARIES OR AFFILIATES, OR ANY RELATIVES OF SUCH STOCKHOLDERS, OFFICIALS, OR DIRECTORS** within the fourth civil degree of consanguinity or affinity, shall be allowed to **HAVE AND** hold, **DIRECTLY OR INDIRECTLY**, any interest[,



directly or indirectly,] in **THE TRANSCO** or [its] **IN THE TRANSCO'S** concessionaire. Likewise, the **TRANSCO**, or its concessionaire, or any of [its] **THE** stockholders, [or] officials, **OR DIRECTORS OF THE TRANSCO OR ITS CONCESSIONAIRE**, or any [of their] relatives **OF SUCH STOCKHOLDERS, OFFICIALS OR DIRECTORS OF THE TRANSCO OR ITS CONCESSIONAIRE** within the fourth civil degree of consanguinity or affinity, shall not **BE ALLOWED TO HAVE AND** hold, **DIRECTLY OR INDIRECTLY**, any interest[, whether directly or indirectly,] in any generation company, [or] distribution utility[.], **OR A COMPANY SUPPLYING ELECTRICITY**. Except for *ex officio* government-appointed representatives, no [person who is an] officer or director, **OR STOCKHOLDER** of the **TRANSCO** or [its] **OFFICER, DIRECTOR, OR STOCKHOLDER OF THE TRANSCO'S** concessionaire shall be an officer or director of any generation company, distribution utility, or [supplier.] **A COMPANY SUPPLYING ELECTRICITY**.

**NO DISTRIBUTION UTILITY OR ANY OF ITS SUBSIDIARIES, AFFILIATES, STOCKHOLDERS, OFFICIALS, OR DIRECTORS, OR THE OFFICIALS, DIRECTORS, OR OTHER STOCKHOLDERS OF SUCH SUBSIDIARIES OR AFFILIATES, INCLUDING THE RELATIVES OF SUCH STOCKHOLDERS, OFFICIALS, OR DIRECTORS WITHIN THE FOURTH CIVIL DEGREE OF CONSANGUINITY OR AFFINITY SHALL BE ALLOWED TO HAVE AND HOLD, DIRECTLY OR INDIRECTLY, ANY INTEREST IN ANY GENERATION COMPANY. NEITHER MAY ANY GENERATION COMPANY OR ANY OF ITS SUBSIDIARIES, AFFILIATES, STOCKHOLDERS, OFFICIALS, OR DIRECTORS, OR THE OFFICIALS, DIRECTORS, OR OTHER STOCKHOLDERS OF SUCH SUBSIDIARIES OR AFFILIATES, INCLUDING THE RELATIVES OF SUCH STOCKHOLDERS, OFFICIALS, OR DIRECTORS WITHIN THE FOURTH CIVIL DEGREE OF CONSANGUINITY OR AFFINITY BE ALLOWED TO HAVE AND HOLD, DIRECTLY OR INDIRECTLY, ANY INTEREST IN ANY DISTRIBUTION UTILITY: PROVIDED, THAT ANY DISTRIBUTION UTILITY OR GENERATION COMPANY, AS THE CASE MAY BE, HOLDING ANY SUCH PROSCRIBED INTEREST IN A GENERATION COMPANY OR DISTRIBUTION UTILITY, AT THE TIME OF THE ENACTMENT OF THIS ACT, SHALL DIVEST ITS PROSCRIBED INTEREST IN SUCH GENERATION COMPANY OR DISTRIBUTION UTILITY NOT LATER THAN THE END OF THE YEAR TWO THOUSAND EIGHT (2008).**

To promote true market competition and prevent harmful monopoly and market power abuse, the [ERC] **COMMISSION** shall enforce the following safeguards:

(a) No company or related group [can] **SHALL BE ALLOWED TO** own, operate or control more than thirty percent (30%) of the installed generating capacity of a grid [and/or] **AND OR** twenty-five (25%) of the [national] installed **NATIONAL** generating capacity. "Related group" includes a person's business interests, including its subsidiaries, affiliates, directors or officers or any of their relatives by consanguinity or affinity, legitimate or common law, within the fourth civil degree;

(b) Distribution utilities may enter into bilateral power supply **CONTRACT OR** contracts subject to review by the [ERC:] **COMMISSION, AFTER DUE NOTICE TO ALL INTERESTED PARTIES AND PUBLIC HEARING: Provided,** That [such review shall only be required for distribution utilities whose markets have not reached household demand level. For the purpose of preventing market power abuse between associated firms engaged in

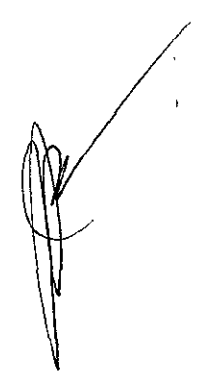


generation and distribution, no distribution utility shall be allowed to source from bilateral power supply contracts more than fifty percent (50%) of its total demand from an associated firm engaged in generation but such limitation, however, shall not prejudice contracts entered into prior to the effectivity of this Act. An associated firm with respect to another entity refers to any person which, alone or together with any other person, directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such entity; and] **FOR THE PROTECTION OF CAPTIVE MARKETS AND IN ORDER TO ENSURE HEALTHY COMPETITION IN THE GENERATION SECTOR OF THE ELECTRIC POWER INDUSTRY, BILATERAL POWER SUPPLY CONTRACT OR CONTRACTS OF SIXTY MEGAWATTS (60 MW) OR MORE SHALL BE SUBJECT TO OPEN COMPETITIVE PUBLIC BIDDING CONDUCTED BY A BID COMMITTEE UNDER THE SUPERVISION OF THE COMMISSION AND COMPOSED OF REPRESENTATIVE EACH FROM THE NATIONAL ECONOMIC DEVELOPMENT AUTHORITY (NEDA), THE DEPARTMENT OF ENERGY (DOE), THE DISTRIBUTION UTILITY CONCERNED, AND AN EXPERIENCED AND REPUTABLE REPRESENTATIVE OF THE ELECTRIC END-USERS GROUPS SELECTED BY THE COMMISSION.**

**IN ORDER TO PREVENT ABUSE OF MARKET POWER AND ANTI-COMPETITIVE BEHAVIOR, NO DISTRIBUTION UTILITY SHALL BE ALLOWED TO SOURCE FROM A BILATERAL ELECTRIC POWER SUPPLY CONTRACT OR CONTRACTS MORE THAN THIRTY THREE PERCENT (33%) OF ITS TOTAL ELECTRIC POWER SUPPLY REQUIREMENTS FROM ANY GENERATION COMPANY OR GROUP OF GENERATING COMPANIES WHOLLY OWNED OR CONTROLLED BY THE SAME INTERESTS. ANY DISTRIBUTION UTILITY THAT HAS, ON THE EFFECTIVITY OF THIS ACT, SUCH CONTRACT OR CONTRACTS WHICH EXCEED THE ALLOWABLE THIRTY THREE PERCENT (33%) LIMIT SET FORTH HEREIN SHALL DESIST FROM FURTHER AWARDED ADDITIONAL ELECTRIC POWER SUPPLY CONTRACT OR CONTRACTS WITH ANY GENERATION COMPANY OR GROUP OF GENERATING COMPANIES WHOLLY OWNED OR CONTROLLED BY THE SAME INTERESTS, UNTIL ITS PRESENT ELECTRIC POWER SUPPLY REQUIREMENTS, WHEN ADDED TO THE PROPOSED ADDITIONAL ELECTRIC POWER SUPPLY CONTRACT OR CONTRACTS WITH ANY GENERATION COMPANY OR GROUP OF GENERATING COMPANIES WHOLLY OWNED OR CONTROLLED BY THE SAME INTERESTS SHALL COMPLY WITH THE THIRTY THREE PERCENT (33%) LIMIT SET FORTH HEREIN: PROVIDED, THAT ANY EXTENSION OR EXPANSION OF EXISTING ELECTRIC POWER SUPPLY CONTRACT OR CONTRACTS SHALL BE DEEMED AS NEW CONTRACT OR CONTRACTS FOR PURPOSES OF THE LIMITATION SET FORTH HEREIN.**

(c) For the first five (5) years from the establishment of the [wholesale electricity spot market] WESM, no distribution utility shall source more than ninety percent (90%) of its total demand from bilateral **ELECTRIC** power supply contracts.

For purposes of this Section, the grid basis shall consist of three (3) separate grids, namely: **THE Luzon GRID, THE Visayas GRID, and THE Mindanao GRID.** [The ERC shall have the authority] **THE COMMISSION IS HEREBY AUTHORIZED** to modify or amend this definition of a grid when two or [more] **ALL** of the three separate grids become sufficiently interconnected to constitute a single grid, or [as] **WHEN** conditions may otherwise [permit.] **REQUIRE SUCH MODIFICATION OR AMENDMENT.**



Exceptions from [these] **THE ABOVE** limitations shall be allowed for isolated grids that are not connected to the high voltage transmission system. [Except as otherwise provided for in this Section, any restriction on ownerships and/or control between or within sectors of the electricity industry may be imposed by ERC only insofar as the enforcement of the provisions of this Section is concerned].

The [ERC] **COMMISSION** shall, within one (1) year from the effectivity of this Act, promulgate rules and regulations, **CONSISTENT WITH THE PROVISIONS OF THIS ACT**, to ensure and promote competition, encourage market development, [and] customer choice, and [discourage/penalize] **DETER AND OR PENALIZE ANY** abuse of market power, cartelization, [and] **OR** any anti-competitive or discriminatory behavior, in order to further the intent of this Act and **IN ORDER TO** protect the [public] interest[.] **OF THE GENERAL PUBLIC AND THE END-USERS OF ELECTRICITY**. Such rules and regulations shall **COVER AND** define the following:

(a) the relevant markets for purposes of establishing **THE PRESENCE OR ABSENCE OF MONOPOLIZATION, CARTELIZATION, ANTI-COMPETITIVE AND OR DISCRIMINATORY ACT OR BEHAVIOR, AND OR** abuse or misuse [of monopoly or] **OF** market [position;] **POWER;**

(b) areas of isolated grids; and

(c) the periodic reportorial requirements [of] **FROM THE** electric power industry participants [as] **THAT** may be necessary to enforce the provisions of this Section.

The [ERC] **COMMISSION** shall, *motu proprio*, monitor and, **WHEN WARRANTED BY THE ATTENDANT FACTS**, penalize any **SUCH MONOPOLIZATION, CARTELIZATION, ABUSE OF** market power [abuse] or anti-competitive **AND** or discriminatory act or behavior by any [participant in the] electric power industry[.] **PARTICIPANT**. Upon finding that [a market] **AN ELECTRIC POWER INDUSTRY** participant has engaged in such **MONOPOLIZATION, CARTELIZATION, ABUSE OF MARKET POWER, OR ANTI-COMPETITIVE AND OR DISCRIMINATORY** act or behavior, the [ERC] **COMMISSION** shall **FORTHWITH ISSUE A CEASE AND DESIST ORDER TO THE ERRING ELECTRIC POWER INDUSTRY PARTICIPANT, AND THEREAFTER PERMANENTLY** stop and redress the same. Such [remedies shall, without limitation, include] **REDRESS SHALL INCLUDE, AMONG OTHER REMEDIES THAT MAY BE APPROPRIATE UNDER THE CIRCUMSTANCES**, the imposition of price [controls,] **CONTROL, THE** issuance of [injunctions, requirement of] **INJUNCTIVE RELIEF, AND THE** divestment or disgorgement of excess profits, and **THE** imposition of fines and penalties pursuant to **THE APPLICABLE PROVISIONS OF** this Act.

The [ERC] **COMMISSION** shall, within one (1) year from the effectivity of this Act, promulgate **SUCH** rules [and regulations providing for a complaint procedure that, without limitation, provides] **AS MAY BE NECESSARY, NOT INCONSISTENT WITH THE PROVISIONS OF THIS ACT, THAT WILL ESTABLISH A PROCEDURE WHEREBY** the accused party, with **DUE** notice [and] **TO ALL INTERESTED PARTIES AND PUBLIC HEARING, SHALL BE GIVEN BY THE COMMISSION** an opportunity to be heard.

"SEC. [46]44. *Fines and Penalties*. — The fines and **OR** penalties that shall be imposed by the [ERC] **COMMISSION** for any violation of or non-

compliance with **ANY PROVISIONS OF** this Act or [the IRR] **ANY RULES AND REGULATIONS IMPLEMENTING THIS ACT** shall, **DEPENDING UPON THE GRAVITY OF THE OFFENSE**, range from a minimum of Fifty thousand pesos (P50,000.00) to a maximum of Fifty million pesos (P50,000,000.00).

Any person who is found guilty of any of the prohibited acts pursuant to Section [45] **43** hereof shall suffer the penalty of *prision mayor* [and] **OR** a fine ranging from Ten thousand pesos (P10,000.00) to Ten million pesos (P10,000,000.00), or both **PENALTY AND FINE**, at the discretion of the **APPROPRIATE TRIAL** court.

The **STOCKHOLDERS, OFFICERS**, members of the Board of Directors of [the juridical companies participating in or covered in the] **A** generation [companies] **COMPANY**, [the] distribution [utilities] **UTILITY COMPANY**, the **TRANSCO** [or its], **THE LATTER'S** concessionaire **COMPANY**, or **A COMPANY THAT ACTS AS A** supplier OF **ELECTRICITY AND THE RELATIVES OF SUCH STOCKHOLDERS, OFFICERS, OR MEMBERS OF THE BOARD OF DIRECTORS WITHIN THE FOURTH CIVIL DEGREE OF CONSANGUINITY OR AFFINITY**, who [violate] **IS FOUND GUILTY FOR ANY VIOLATION OF ANY OF** the provisions of this Act may be fined by an amount not exceeding double the amount of damages caused by the [offender] **OFFENDING COMPANY** or by imprisonment of one (1) year [or] **TO** two (2) years or both **SUCH FINE AND IMPRISONMENT**, at the discretion of the **APPROPRIATE TRIAL** court. [This rule shall apply to the members of the Board who knowingly or by neglect allows the commission or omission under the law.]

If the offender is a government official or employee, he shall, in addition **TO THE PENALTY IMPOSED ON HIM OR HER BY THE TRIAL COURT**, be dismissed from the [government] service [with prejudice to reinstatement and] with perpetual [or temporary] disqualification [from holding] **TO HOLD** any elective or appointive **GOVERNMENT** office.

If the offender is an alien, he [may] **SHALL**, in addition to the penalties prescribed, be deported **SUMMARILY** without further proceedings after **THE PAYMENT OF HIS OR HER FINE OR THE** service of [sentence.] **HIS OR HER IMPRISONMENT**.

[Any case] **CASES** which [involves] **INVOLVE** question of fact shall be appealable to the Court of Appeals [and those]. **THOSE** which involve **PURELY** question of law shall be directly appealable to the Supreme Court.

[The] **ANY** administrative sanction that [may be imposed by the ERC] **THE COMMISSION MAY HAVE IMPOSED** shall [be without prejudice to] **NOT PREVENT OR IMPEDE** the filing of [a] **ANY** criminal action, if warranted.

To ensure compliance with this Act, the penalty of *prision correccional* or a fine ranging from Five thousand pesos (P5,000.00) to Five million pesos (P5,000,000.00), or both, at the discretion of the court, shall be imposed on any person, including but not limited to the president, member of the Board, Chief Executive Officer or Chief Operating Officer of the corporation, partnership, or any other entity involved, found guilty of violating or refusing to comply with any provision of this Act or its IRR, other than those provided herein.

Any party [to] **CHARGED IN** an administrative proceeding **UNDER THE PROVISIONS OF THIS ACT** may, at any time, make an offer to the [ERC,] **COMMISSION, EITHER** conditionally or otherwise, for a [consented]

**CONSENT** decree, **OR** voluntary compliance, or **VOLUNTARY** desistance [and], **OR ANY** other settlement of the case. The offer [and], **INCLUDING** any or all of the ultimate facts upon which the offer is based, shall be [considered] **DEEMED TO HAVE BEEN MADE** for settlement purposes only and shall not be used, **FOR ANY PURPOSE**, as evidence against **THE OFFERING PARTY OR AGAINST** any **OTHER** party for [any other purpose] **THAT MATTER**, and shall not constitute an admission [by the party making the offer] of any violation of the laws, rules, regulations, orders [and], **OR** resolutions of the [ERC, nor] **COMMISSION BY THE PARTY MAKING THE OFFER. NEITHER SHALL THE ACT OF THE COMMISSION, THE GOVERNMENT, OR ANY INTERESTED OR AGGRIEVED PARTY IN ENTERTAINING AND DISCUSSING THE OFFER BE DEEMED AS AN ESTOPPEL NOR** as a waiver **ON THE PART OF THE COMMISSION, THE GOVERNMENT, OR ANY INTERESTED OR AGGRIEVED PARTY** to file any [warranted] criminal [actions.] **ACTION, IF WARRANTED BY THE FACTS.**

In addition, Congress may, upon recommendation of the DOE [and/or ERC,] **AND OR THE COMMISSION**, revoke such franchise or privilege granted to the [party who] **ELECTRIC POWER INDUSTRY PARTICIPANT THAT** violated the provisions of this Act.

#### "CHAPTER V

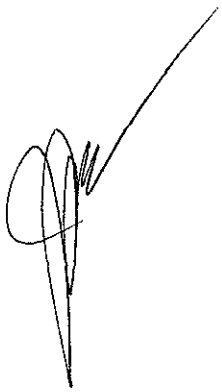
#### "PRIVATIZATION OF THE ASSETS OF THE NATIONAL POWER CORPORATION

"SEC. [47]45. *NPC Privatization.* — Except for the assets of SPUG, the generation assets, real estate, and other disposable assets [as well as] **OF NPC, INCLUDING ITS IPP contracts** [of NPC], shall be privatized in accordance with **THE PROVISIONS OF** this Act. Within six (6) months [from] **IMMEDIATELY FOLLOWING** the effectivity of this Act, the PSALM Corp. shall submit [a plan for the endorsement by] **TO** the Joint Congressional Power Commission **FOR ITS ENDORSEMENT TO** and [the] approval [of] **BY** the President of the Philippines, **A PLAN** on the total privatization of the generation assets, real estate, **AND** other disposable assets [as well as existing] **OF NPC, INCLUDING ITS IPP contracts** [of NPC] and, thereafter, **THE PSALM CORP. SHALL** implement the same, in accordance with the following guidelines, except as provided for in Paragraph (f) herein:

(a) The privatization value to the National Government of the [NPC] generation assets, real estate, **AND** other disposable assets [as well as] **OF NPC, INCLUDING ITS IPP contracts**, shall be [optimized;] **THE MOST ADVANTAGEOUS AND BENEFICIAL TO THE NATIONAL INTEREST;**

(b) The participation by Filipino citizens and **BY** corporations **WHOLLY OWNED OR CONTROLLED BY THEM** in the purchase **AND ACQUISITION** of **THE NPC GENERATION** assets, **REAL ESTATE, OTHER DISPOSABLE ASSETS, AND ITS IPP CONTRACTS** shall be encouraged;

In [the] case [of] **THE PURCHASE AND ACQUISITION IS DONE BY** foreign investors, [at least] **THEY SHALL COMPLY WITH THE NATIONALITY REQUIREMENTS OF THE CONSTITUTION, WHEN APPLICABLE, AND NOT LESS THAN** seventy-five percent (75%) of the funds used to acquire [NPC-generation assets] **THE GENERATION ASSETS OF NPC** and **ITS IPP contracts** shall be **SOURCED OUTSIDE THE**



**PHILIPPINES AND** inwardly remitted and registered with the Bangko Sentral ng Pilipinas.

(c) [The NPC plants and/or] **THE GENERATION ASSETS OF NPC AND OR** its IPP contracts assigned to IPP Administrators, [its] **INCLUDING THEIR** related assets and assigned liabilities, if any, shall be grouped in **SUCH** a manner [which] **THAT** shall promote **NOT ONLY** the viability of the resulting generation companies [(gencos)] (**GENCOS**), **BUT ALSO** ensure **THEIR** economic **AND OPERATIONAL** efficiency, encourage competition, **PROMOTE AND** foster **A JUST AND** reasonable **PRICE OF** electricity [rates], and create market appeal to [optimize] **BRING ABOUT THE MOST ADVANTAGEOUS AND BENEFICIAL** returns to the government from the sale and disposition of [such] **THE GENERATION** assets, **REAL ESTATE, AND OTHER DISPOSABLE ASSETS OF NPC, INCLUDING ITS IPP CONTRACTS**, in a manner consistent with the objectives of this Act. In [the] grouping [of] the generation assets and IPP contracts of NPC, the following criteria shall be considered:

(1) A sufficient scale of operations and balance sheet strength to promote the financial viability of the restructured units;

(2) Broad geographical groupings to ensure efficiency of operations [but] without the formation of regional companies or consolidation of market power;


(3) Portfolio of **GENERATION** plants and IPP contracts to achieve management and operational synergy without dominating any part of the market or of the load curve; and

(4) Such other factors as may be deemed **ADVANTAGEOUS AND** beneficial to the [best] **NATIONAL** interest [of the National Government while] **AND AT THE SAME TIME** ensuring attractiveness to potential investors.

(d) All **GENERATION AND OTHER** assets of NPC shall be sold in [an] **A TRANSPARENT AND** open [and transparent manner through], **COMPETITIVE** public bidding[, and the]. **THE** same **MANNER AND STANDARD OF DISPOSITION** shall [apply to] **BE EMPLOYED IN** the disposition of **THE** IPP contracts[;] **OF NPC**;

(e) In cases of transfer of possession, control, operation, or privatization of multi-purpose hydro facilities, safeguards shall be prescribed to ensure **THAT THE APPLICABLE CONSTITUTIONAL PROSCRIPTION ON THE ALIENATION AND DISPOSITION OF NATURAL RESOURCES OWNED BY THE STATE SHALL BE STRICTLY OBSERVED AND** that the national government may direct water usage in cases of shortage to protect potable water, irrigation, and all other requirements imbued with public interest;

(f) The Agus and the Pulangui complexes in Mindanao shall be excluded from [among] the generation [companies] **ASSETS OF NPC** that will be initially privatized. Their ownership shall be transferred to the PSALM Corp. [and], **BUT** both **COMPLEXES** shall continue to be operated by the NPC. Said complexes may be privatized not earlier than ten (10) years from the effectivity of this Act, and, except for Agus III, shall not be subject to **THE** Build-Operate-Transfer (B-O-T), Build-Rehabilitate-Operate-Transfer (B-R-O-T) and **SUCH** other variations thereof [pursuant to] **AS SET FORTH IN** Republic Act No. 6957, as amended by Republic Act No. 7718. The privatization of **THE** Agus and **THE** Pulangui complexes, **AFTER THE LAPSE OF THE SAID TEN (10) YEARS FROM THE EFFECTIVITY OF THIS ACT**, shall be left to the discretion of PSALM Corp. in consultation with Congress;



(g) The steamfield assets and generating plants of each geothermal complex shall [not be sold separately. They shall be combined and each geothermal complex] **BE COMBINED AND HELD TOGETHER AS A SINGLE UNIT AND** shall be sold as one package [through] **IN A TRANSPARENT AND OPEN, COMPETITIVE** public bidding. The geothermal complexes covered by this [requirement] **PARAGRAPH (G) OF THIS SECTION SHALL** include, but are not limited to, Tiwi-Makban, **BAC-MAN**, Tongonan **AND** Palinpinon;

(h) The ownership of the Caliraya-Botokan-Kalayaan (CBK) pump storage complex shall be transferred **FROM NPC** to the PSALM Corporation;

(i) Not later than three (3) years from the effectivity of this Act, [and] **BUT** in no case later than the initial implementation of open access, at least [seventy percent (70%)] **FIFTY PERCENT (50%) OF THE AGGREGATE SUM** of **BOTH** the total capacity of **THE** generating assets [of] **OWNED DIRECTLY BY NPC** and [of] the total capacity of the power plants under contract with NPC [located] in Luzon and Visayas shall have been privatized: *Provided*, That any unsold capacity **FROM SUCH AGGREGATE SUM** shall be privatized not later than eight (8) years from the effectivity of this Act; and

(j) NPC may generate and sell electricity only from the undisposed [generating] **GENERATION** assets and **FROM THE UNDISPOSED** IPP contracts of PSALM Corp. and shall not incur any new obligations to purchase **ELECTRIC** power through bilateral **CONTRACT OR** contracts with **OTHER** generation companies or [other] **WITH ELECTRIC POWER** suppliers.

["SEC. 48. *National Power Board of Directors.* — Upon the passage of this Act, Section 6 of RA 6395, as amended, and Section 13 of RA 7638, as amended, referring to the composition of the National Power Board of Directors, are hereby repealed and a new Board shall be immediately organized. The new Board shall be composed of the Secretary of Finance as Chairman, with the following as members: the Secretary of Energy, the Secretary of Budget and Management, the Secretary of Agriculture, the Director-General of the National Economic and Development Authority, the Secretary of Environment and Natural Resources, the Secretary of the Interior and Local Government, the Secretary of the Department of Trade and Industry, and the President of the National Power Corporation.]

## "CHAPTER VI

### "POWER SECTOR ASSETS AND LIABILITIES MANAGEMENT

"SEC. [49]46. *Creation of Power Sector Assets and Liabilities Management Corporation.* — There is hereby created a government-owned and -controlled corporation to be known as the "Power Sector Assets and Liabilities Management Corporation", hereinafter referred to as the "PSALM Corp.", which shall take **OVER THE** ownership **AND CONTROL** of all existing [NPC] generation assets, liabilities, IPP contracts, real estate, and all other disposable assets[.], **EXCEPT THE SPUG ASSETS AND THE TRANSMISSION AND SUBTRANSMISSION ASSETS AND FACILITIES, OF NPC.** All outstanding obligations of the NPC arising from loans[, issuances] **TO IT AND FROM FLOTATION BY IT** of bonds, securities, and other instruments of indebtedness shall be transferred to and assumed by the PSALM Corp. within one hundred eighty (180) days from the [approval] **EFFECTIVITY** of this Act.

"SEC. [50]47. *Purpose and Objective, Domicile and Term of Existence.* — The principal purpose of the PSALM Corp. is to **ADMINISTER AND**

manage the orderly sale, disposition, and privatization of [NPC] **THE** generation assets, real estate, [and] other disposable assets, and IPP contracts **OF NPC** with the [objective] **END IN VIEW** of liquidating **AND SETTLING** all **OF [NPC] NPC'S** financial obligations and stranded contract costs in [an optimal manner.] **THE MOST ADVANTAGEOUS AND BENEFICIAL MANNER TO THE GOVERNMENT AND TO THE END-USERS OF ELECTRICITY.**

The PSALM Corp. shall have its principal office and place of business [within] **IN** Metro Manila.

The PSALM Corp. shall exist for a period of twenty five (25) years from the effectivity of this Act, unless otherwise provided by [law,] **THE CONGRESS OF THE PHILIPPINES**, and all assets [held by it, all], moneys, [and] properties, **CONTRACTS, AND RECORDS HELD BY AND** belonging to it, and all its liabilities outstanding upon the expiration of its term of existence shall [revert] **IPSO FACTO BE TRANSFERRED** to and be assumed by the National Government.

"SEC. [51]48. *Powers.* — The PSALM Corp. shall, in the performance of its functions and for the attainment of its objective, have the following powers:

(a) To formulate and implement a program for the **DISPOSITION**, sale, and privatization of the [NPC] **GENERATION** assets, **REAL ESTATE, OTHER DISPOSABLE ASSETS**, and IPP contracts **OF NPC** and the liquidation of [NPC] **ITS** debts and stranded contract costs, such liquidation to be completed **AS SOON AS POSSIBLE** within the term of existence of the PSALM Corp.;

(b) To take title to and possession of, **AND** administer and conserve **WITH THE DILIGENCE OF A GOOD FATHER OF A FAMILY**, the assets **THAT SHALL BE** transferred **AND ENTRUSTED** to it; to sell or dispose [of] the same at such [price] **JUST AND REASONABLE PRICES** and under such terms and conditions as [it] may [deem] **BE DEEMED** necessary [or], proper, **AND MOST ADVANTAGEOUS AND BENEFICIAL TO THE NATIONAL INTEREST, THE NATIONAL GOVERNMENT, AND TO THE END-USERS OF ELECTRICITY**, subject to **SUCH** applicable laws, rules and regulations;

(c) To take title to and possession of the [NPC] IPP contracts **OF NPC** and to appoint, after **A TRANSPARENT AND OPEN COMPETITIVE** public bidding [in transparent and open manner] **FOR THAT PURPOSE, A REPUTABLE, TECHNICALLY** qualified, **AND FINANCIALLY SOUND** independent **ENTITY OR** entities [who] **THAT** shall [act] **SERVE** as the IPP **ADMINISTRATOR OR** Administrators in accordance with **THE PROVISIONS OF** this Act;

(d) To calculate [the] **WITH REASONABLE CERTAINTY AND ESTABLISH THE PRUDENT** amount of the stranded debts and stranded contract costs of NPC, which shall form the basis [for ERC in the determination of the universal charge;] **OF THE COMMISSION IN DETERMINING THE JUST AND REASONABLE AMOUNT OF UNIVERSAL CHARGE FOR STRANDED DEBTS AND STRANDED CONTRACT COSTS;**

(e) To liquidate the NPC stranded contract costs, [utilizing] **USING FOR THAT PURPOSE** the proceeds from [sales and] **THE DISPOSITION, SALE, AND PRIVATIZATION OF THE GENERATION ASSETS, REAL ESTATE, OTHER DISPOSAL ASSETS, AND IPP CONTRACTS OF NPC, AS WELL AS THE VALUE OF SUCH** other property **THAT MAY HAVE BEEN** contributed to it[,] (**PSALM CORP.**), including the proceeds from the

universal charge[;] **IMPOSED TO RECOVER THE STRANDED CONTRACT COSTS OF NPC;**

(f) To adopt rules and regulations, **NOT INCONSISTENT WITH THE PROVISIONS OF THIS ACT**, as may be necessary or proper for the orderly conduct of its business or operations;

(g) To sue and be sued in its **OWN** name;

(h) To appoint or hire, transfer, remove, and fix the compensation of its personnel: *Provided, however,* That the Corporation shall hire its own personnel only if absolutely necessary[, and as]. **AS** far as practicable **AND TO SAVE ON COST, PSALM CORP.** shall avail itself of the services of personnel detailed **TO IT** from other government agencies;

(i) To own, hold, acquire, or lease real and personal properties as may be necessary or required in the discharge of its functions;

(j) To borrow money and **TO** incur such liabilities[, including] **THROUGH** the [issuance] **FLOTATION** of bonds, securities, or other evidences of indebtedness, utilizing **FOR THAT PURPOSE** its assets as collateral [and/or through the guarantees] **AND OR THE GUARANTEE** of the National Government: *Provided, however,* That all such debts or borrowings **OF PSALM CORP.** shall [have been] **BE LIQUIDATED AND** paid off before the end of its corporate life;

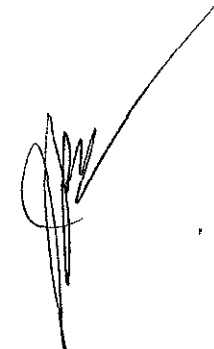
(k) To restructure **THE** existing loans of the NPC;

(l) To collect, administer, and apply **PROPERLY** NPC's [portion] **SHARE** of the universal charge; and

(m) To structure the **DISPOSITION**, sale, **AND** privatization [or disposition of NPC] **OF THE GENERATION** assets and IPP contracts [and/or] **OF NPC AND OR** their **ELECTRIC** energy output, based on such terms and conditions which shall [optimize the value] **PRODUCE THE MOST ADVANTAGEOUS AND BENEFICIAL RESULTS, VALUES,** and [sale] prices [of] **FOR** said **GENERATION** assets[.] **AND IPP CONTRACTS AND THEIR ELECTRIC ENERGY OUTPUT FOR THE NATIONAL INTEREST, FOR THE NATIONAL GOVERNMENT, AND FOR THE END-USERS OF ELECTRICITY.**

"SEC. [52]49. *Power Sector Assets and Liabilities Management Corporation, Meetings, Quorum and Voting.* — The Corporation shall be administered[, and its powers and functions **SHALL BE** exercised[, by a Board of Directors which shall be composed of the Secretary of Finance as the Chairman, the Secretary of Budget and Management, the Secretary of the Department of Energy, the Director-General of the National Economic and Development Authority, the Secretary of the Department of Justice, the Secretary of the Department of Trade and Industry, and the President of the PSALM Corp., **ALL OF WHOM SHALL SERVE** as *ex officio* members thereof.

The Board of Directors **OF THE PSALM CORP.** shall [meet regularly and] **HOLD A REGULAR MEETING ONCE EVERY MONTH WITHOUT NEED OF CALL ON A DAY TO BE DESIGNATED BY THE MEMBERS OF THE BOARD OF DIRECTORS IN A FORMAL RESOLUTION FOR THAT PURPOSE. THE BOARD OF DIRECTORS OF THE PSALM CORP. MAY ALSO HOLD SPECIAL MEETINGS, WHEN DEMANDED BY THE NEEDS OF THE CORPORATION AND** as frequently as may be necessary [to enable it] to discharge [its] **THE** functions and responsibilities[.]





**OF THE MEMBERS OF THE BOARD, UPON WRITTEN NOTICE FROM THE CHAIRMAN, WHICH SHALL STATE, IN EVERY CASE, THE PURPOSE OF THE SPECIAL MEETING BEING CALLED.** The presence [at a meeting] of **AT LEAST** four (4) members **OF THE BOARD IN ANY MEETING** shall constitute a quorum[,] **TO DO BUSINESS**, and the decision of [the majority of three (3)] **AT LEAST FOUR (4)** members present at [a] **THE** meeting [where there is a quorum] shall [be the] **CONSTITUTE A** decision of the Board of Directors.

"SEC. [53]50. *Powers of the President of PSALM Corp.* — The President of the PSALM Corp. shall be appointed by the President of the Philippines. In the absence of the Chairman, the President **OF THE PSALM CORP.** shall preside over **THE** [Board] meetings[.] **OF THE BOARD.**

The President of the PSALM Corp. shall be the Chief Executive Officer of the PSALM Corp., and **HE** shall have the following powers and duties:

(a) [To] **HE SHALL** execute and administer the policies and measures approved by the Board, and **HE SHALL** [take responsibility] **BE RESPONSIBLE** for the efficient discharge of **ALL** management functions;

(b) [To] **HE SHALL DIRECTLY** oversee the preparation of the budget of the PSALM Corp.;

(c) [To] **HE SHALL** direct and supervise the operation and internal administration of the PSALM Corp. and, for this purpose, **HE** may delegate [some or] any **OR SOME** of his administrative responsibilities and duties to other officers of the PSALM Corp.;

(d) Subject to the guidelines and policies set [up] by the Board, [to] **HE SHALL** appoint and fix the number and compensation of subordinate officials and employees of the PSALM Corp.; and, for cause, [to] **HE SHALL** remove, suspend, or otherwise discipline any subordinate employee of the PSALM Corp.;

(e) [To] **HE SHALL** submit an annual report to the Board on the activities, [and] achievements, **AND ACTUAL CONDITION** of the PSALM Corp. at the close of each fiscal year and, upon approval thereof[,] **BY THE BOARD, HE SHALL** submit a copy **OF THE ANNUAL REPORT** to the President of the Philippines, **TO THE CONGRESS OF THE PHILIPPINES**, and to such other agencies as may be required by law;

(f) [To] **HE SHALL** represent the PSALM Corp. in all dealings and transactions with other offices, agencies, and instrumentalities of the Government and with all persons and other entities, private or public, domestic or foreign; and

(g) [To] **HE SHALL** exercise such other powers and **PERFORM SUCH OTHER** duties as may be vested in him by the Board from time to time.

"SEC. [54]51. *Exemption from the Salary Standardization Law.* — The salaries and benefits of employees [in] **OF** the PSALM Corp. shall be [exempt] **FIXED BY ITS BOARD OF DIRECTORS AND SHALL BE EXEMPTED** from **THE PROVISIONS OF** Republic Act No. 6758 [and shall be fixed by the PSALM Corp. Board].

"SEC. [55]52. *Property of the PSALM Corp.* — The following funds, assets, contributions, and other property shall constitute the **CAPITAL, ASSETS, AND** property of the PSALM Corp.:

(a) The generation assets, real estate, [IPP contracts,] other disposable assets [of NPC], **AND IPP CONTRACTS TRANSFERRED TO IT FROM NPC BY VIRTUE OF THE PROVISIONS OF THIS ACT AND THE** proceeds from the sale or disposition of [such] **ANY OR ALL OF SAID** assets [and the], **REAL ESTATE, AND CONTRACTS AS WELL AS ANY** residual assets **HELD BY IT** from B-O-T, R-O-T, and other variations thereof;

(b) [Transfers] **ANY AND ALL TRANSFERS** from the National Government;

(c) [Proceeds] **THE PROCEEDS** from loans incurred to restructure **AND** or refinance [NPC's transferred] **THE liabilities[:]** **OF NPC THAT WERE TRANSFERRED TO IT BY VIRTUE OF THE PROVISIONS OF THIS ACT: Provided, however,** That **ANY AND all SUCH LOANS OR** borrowings shall be fully paid [for by] **AND LIQUIDATED NOT LATER THAN** the end of the life of the PSALM Corp.;

(d) [Proceeds] **THE PROCEEDS** from the universal charge allocated for **THE LIQUIDATION OF THE** stranded contract costs and the stranded debts of NPC;

(e) [Net] **THE ANNUAL** profit of NPC;

(f) [Net] **THE ANNUAL** profit of **THE TRANSCO**;

(g) [Official] **ANY AND ALL KINDS OF OFFICIAL** assistance, grants, and **OR** donations from external sources; and

(h) [Other sources of funds as may be determined] **ANY AND ALL FUNDS DERIVED** by **THE PSALM Corp.** [necessary for the above-mentioned purposes.] **FROM OTHER SOURCES.**

"SEC. [56]53. *Claims Against the PSALM Corp.* — The following shall constitute the claims against the PSALM Corp.:

(a) [NPC] **VALID liabilities OF NPC THAT WERE** transferred to the PSALM Corp.[:] **IN ACCORDANCE WITH THE PROVISIONS OF THIS ACT;**

(b) Transfers from the National Government;

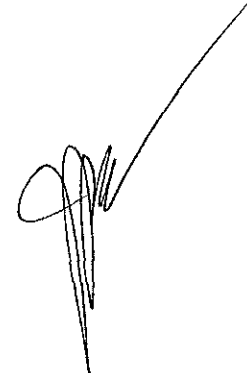
(c) New Loans[:];] **INCURRED BY THE PSALM CORP. IN ACCORDANCE WITH THE PROVISIONS OF THIS ACT;** and

(d) [NPC] **NPC'S** stranded contract costs[.] **ARISING FROM ITS VALIDLY CONCLUDED IPP CONTRACTS.**

## "CHAPTER VII

### "PROMOTION OF RURAL ELECTRIFICATION

"SEC. [57]54. *Conversion of Electric Cooperatives.* — Electric cooperatives are hereby given the option to convert into either stock cooperative under the Cooperatives Development Act or stock corporation under the Corporation Code. Nothing contained in this Act shall deprive electric cooperatives of any privilege or right granted to them under Presidential Decree No. 269, as amended, and other existing laws.] **CONVERSION OF EXISTING ELECTRIC COOPERATIVES INTO**



**GENUINE CONSUMER-OWNED COOPERATIVES.** – WITHIN A PERIOD OF SIX (6) MONTHS, ALL ELECTRIC COOPERATIVES SHALL REGISTER WITH THE COOPERATIVE DEVELOPMENT AUTHORITY (CDA) WHICH SHALL ENSURE THAT IT WILL BE MANAGED BASED ON INTERNATIONALLY ACCEPTED COOPERATIVE PRINCIPLES. NEA'S POWER OF CONTROL AND MARTIAL POWERS OVER ELECTRIC COOPERATIVES GRANTED UNDER PRESIDENTIAL DECREE 269, AS AMENDED BY PRESIDENTIAL DECREE 1645, CEASES UPON REGISTRATION WITH THE CDA.

THE ELECTRIC COOPERATIVE MANAGEMENT SHALL WITHIN A PERIOD OF SIX (6) MONTHS AFTER REGISTRATION WITH THE CDA RECOGNIZE IN ITS BOOK OF ACCOUNTS THE INDIVIDUAL EQUITY OF ITS MEMBER-CONSUMERS IN ITS ASSETS DETERMINED ON THE BASIS OF THEIR PATRONAGE SUBJECT TO GUIDELINES TO BE ISSUED BY THE CDA. THREE (3) MONTHS AFTER THE COMPLETION OF THE RECORDING OF PATRONAGE CAPITAL, THE MANAGEMENT SHALL CALL A GENERAL ASSEMBLY FOR THE CONDUCT OF AN ELECTION FOR A NEW SET OF OFFICERS AND BOARD OF DIRECTORS TO BE SUPERVISED BY THE CDA. NOTHING CONTAINED IN THIS ACT SHALL DEPRIVE ELECTRIC COOPERATIVES OF ANY PRIVILEGE OR RIGHT GRANTED THEM UNDER PRESIDENTIAL DECREE 269, AS AMENDED, AND OTHER EXISTING LAWS.

NOTWITHSTANDING THE REGISTRATION WITH CDA, NEA SHALL CONTINUE TO ENSURE EFFICIENT COLLECTION OF ELECTRIC COOPERATIVES DEBT TO NEA.

"SEC. [58]55. *Additional Mandate of the National Electrification Administration (NEA).* — NEA shall develop and implement programs:

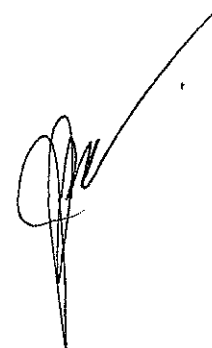
(a) To prepare electric cooperatives in operating and competing under the deregulated electricity market **IN AN OPEN ACCESS AND RETAIL WHEELING ENVIRONMENT, AND COMPLETE THAT PREPARATION** within five (5) years from the effectivity of this Act[, specifically in an environment of open access and retail wheeling];

(b) To strengthen the technical capability and financial viability of rural electric cooperatives; and

(c) To review and upgrade **THE APPLICABLE** regulatory policies with a view to enhancing the viability of **THE** rural electric cooperatives as electric **DISTRIBUTION** utilities.

NEA shall continue to be under the supervision of the DOE and shall exercise its functions under Presidential Decree No. 269, as amended by Presidential Decree No. 1645, insofar as they are consistent with this Act.

"SEC. [59]56. *Alternative Electric Service for Isolated Villages.* — The provision **AND RENDITION** of electric service in **ANY** remote, **SPARSELY POPULATED**, and unviable [villages that the franchised] **AREA WHICH IS COVERED BY THE FRANCHISE OF A DISTRIBUTION** utility **WHICH** is unable to **PROVIDE AND RENDER** service **TO THE SAID AREA** for any reason shall be opened to **ANY** other qualified third parties, **PREFERABLY TO**



**ANY INTERESTED ADJACENT DISTRIBUTION UTILITY IN THE SAME AREA.**

"SEC. [60]57. *Debts of Electric Cooperatives.* — Upon the effectivity of this Act, all outstanding financial obligations of electric cooperatives to NEA and other government agencies, incurred for the purpose of financing the rural electrification program, shall be assumed by the PSALM Corporation in accordance with [the] A program **TO BE** approved by the President of the Philippines within one (1) year from the effectivity of this Act, which **SAID PROGRAM** shall be implemented and completed within three (3) years from the effectivity of this Act. The [ERC] **COMMISSION** shall ensure a reduction in the rates of electric cooperatives commensurate with [the] **THEIR** resulting savings [due to] **ARISING FROM** the removal of the amortization payments [of] **ON** their loans[. Within] **ASSUMED BY THE PSALM CORP. IF WITHIN THE FIRST** five (5) years from the condonation of [debt,] **THE AFORESAID FINANCIAL OBLIGATIONS** any electric cooperative [which shall] **SHOULD** transfer **AND DIVEST ITSELF COMPLETELY AND ABSOLUTELY OF THE** ownership [or] **AND** control of its assets, franchise [or], **AND** operations, **SUCH ELECTRIC COOPERATIVE** shall [repay] **PAY BACK TO THE** PSALM Corp. **AN AMOUNT EQUAL TO THE SHARE OF THE SAID ELECTRIC COOPERATIVE OF** the total **CONDONED** debts, including accrued interests thereon.

"CHAPTER VIII

"GENERAL PROVISIONS

"SEC. [61]58. *Reportorial Requirements.* — The DOE [shall] **MUST** take [the] **ANY AND ALL** necessary measures to ensure that the provisions of this Act are properly implemented, and shall **PERIODICALLY** submit to the **JOINT CONGRESSIONAL** Power Commission, **BEING CREATED IN SECTION 59 OF THIS ACT**, a semi-annual report on the **PROPER AND ACTUAL** implementation of this Act on or before the last week of April and October of each year.

"SEC. [62]59. *Joint Congressional Power Commission.* — Upon the effectivity of this Act, a **JOINT** congressional **POWER** commission, hereinafter referred to as the "Power Commission", is hereby constituted. The Power Commission shall be composed of fourteen (14) members with the chairmen of the Committee on Energy of the Senate and the House of Representatives and six (6) additional members from each House, to be designated by the Senate President and the Speaker of the House of Representatives, respectively. The minority **IN EACH HOUSE OF CONGRESS** shall be entitled to A pro rata representation [but shall have at] **IN THE POWER COMMISSION, OR AT THE VERY** least one (1) representative [in the Power Commission.] **THEREIN.**

The Commission shall, in aid of legislation, perform the following functions, among others:

(a) Set the guidelines and overall framework to **OVERSEE**, monitor, and ensure the proper, **FAITHFUL, AND STRICT** implementation of this Act;

(b) Endorse **TO AND FOR THE APPROVAL OF THE PRESIDENT OF THE PHILIPPINES** the initial privatization plan **OF THE NPC** within one (1) month from **THE** submission of such plan to [the Power Commission by PSALM Corp. for approval by the President of the Philippines;] **IT BY THE PSALM CORP. AS REQUIRED UNDER SECTION 45 OF THIS ACT;**

(c) To ensure transparency, **FAITHFUL, AND STRICT ADHERENCE TO THE PROVISIONS OF THIS ACT REGARDING THE PRIVATIZATION OF NPC**, require the submission of **SUCH PERTINENT DOCUMENTS OR** reports from government agencies concerned on the conduct of public bidding procedures [regarding] **IN CONNECTION WITH THE** privatization of [NPC] **THE** generation [and] **ASSETS**, transmission assets[;], **REAL ESTATE, OTHER DISPOSABLE ASSETS, AND IPP CONTRACTS OF NPC;**

(d) Review and evaluate the performance of the industry participants in relation to the objectives [and], timelines, **AND TIME-SEQUENCES** set forth in this Act;

(e) Approve the budget for the programs of the Power Commission and all disbursements therefrom, including compensation of all personnel;


(f) Submit periodic reports to the President of the Philippines and **TO** Congress;

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

(h) Perform such other duties and functions as may be necessary to attain its objectives.

In furtherance **OF THE DUTIES AND FUNCTIONS OF THE POWER COMMISSION AS SET FORTH** hereof, the Power Commission is hereby empowered to require the DOE, [ERC] **THE COMMISSION**, NEA, TRANSCO, generation companies, distribution utilities, suppliers, and other electric power industry participants to submit reports and all pertinent data and information relating to **THEIR RESPECTIVE ACTIVITIES AND BUSINESSES AS WELL AS RELATING TO** the performance of their respective functions in the industry. Any person who willfully and deliberately refuses without **ANY** just cause to extend the support and assistance required by the Power Commission **IN ORDER** to effectively attain its objectives shall, upon conviction, be punished by imprisonment of not less than one (1) year but not more than six (6) years or a fine of not less than Fifty thousand pesos (P50,000.00) but not more than Five hundred thousand pesos (P500,000.00) or both at the discretion of the court.

The Power Commission shall adopt its **OWN** internal rules of procedures[;] **AND SHALL** conduct **SUCH** hearings, and receive **SUCH** testimonies, reports, and technical advice[;] **AS ARE NEEDED BY IT IN THE PERFORMANCE OF ITS FUNCTIONS. THE POWER COMMISSION IS HEREBY AUTHORIZED TO** invite or summon by *subpoena ad testificandum* any public official, private citizen, or any other person to testify before it, or require any person by *subpoena duces tecum* to produce before it such records, reports, documents, or other materials as it may require[; and]. **AND** generally [require], **THE POWER COMMISSION IS HEREBY GRANTED** all the powers necessary to attain the purposes for which it is created. The Power Commission shall be assisted by a secretariat to be composed of personnel who may be seconded from the Senate and the House of Representatives [and]. **THE POWER COMMISSION, WHEN IT BECOMES NECESSARY IN PERFORMING ITS FUNCTIONS,** may retain consultants. The secretariat shall be headed by an executive director who has sufficient **KNOWLEDGE, EXPERIENCE,** background, and competence on **THE ELECTRIC POWER INDUSTRY AND ON** the policies and issues relating to electricity industry reforms as provided in this Act. To carry out its powers and functions, the initial



sum of Twenty-five million pesos (P25,000,000.00) **IS HEREBY APPROPRIATED FOR THE POWER COMMISSION AND** shall be charged against the current appropriations of the Senate. Thereafter, [such] **ANY** amount necessary for [its] **THE** continued operation **OF THE POWER COMMISSION** shall be included in the annual General Appropriations Act.

The Power Commission shall exist for period of ten (10) years from the effectivity of this Act, and **ITS EXISTENCE** may be extended by a joint concurrent resolution[.] **OF BOTH HOUSES OF CONGRESS.**

"SEC. [63]60. *Separation Benefits of Officials and Employees of Affected Agencies.* — National Government employees displaced or separated from the service as a result of the restructuring of the electricity industry and privatization of NPC assets pursuant to this Act, shall be entitled [to] either **TO** a separation pay and other benefits in accordance with existing laws, rules or regulations or [be entitled] to avail of the privileges provided under a separation plan which shall [be] **GRANT TO THE AVAILING EMPLOYEE** one and one-half month salary for every year of service in the government: *Provided, however,* That those who [avail] **HAVE AVAILED** of [such] **THE** privileges **OF THE SAID SEPARATION PLAN** shall start their government service anew if **THEY ARE** absorbed **THEREAFTER** by any government-owned successor company[.] **OR BY THE NATIONAL GOVERNMENT ITLSEF.** In no case shall there be any diminution of benefits under the separation plan until the full implementation of the restructuring and privatization[.] **OF NPC.**

Displaced or separated personnel **OF NPC** as a result of [the] **ITS** privatization[, if qualified,] shall, **IF QUALIFIED,** be given preference in the hiring of the manpower requirements of the privatized companies[.] **OR EMERGING CORPORATE ENTITIES OF THE PRIVATIZED ASSETS.**

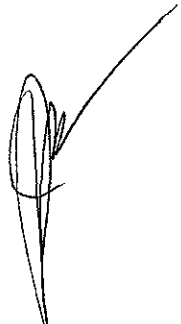
The salaries of employees of NPC shall continue to be [exempt] **EXEMPTED** from [the coverage of] Republic Act No. 6758, otherwise known as "The Salary Standardization Act".

With respect to employees who are not retained by NPC, the Government, through the Department of Labor and Employment, shall endeavor to implement re-training, job counseling, and job placement programs[.] **FOR THEM.**

"SEC. [64]61. *Fiscal Prudence.* — To promote the prudent management of government resources, the creation of new positions and the levels of or increases in salaries and all other emoluments and benefits of **THE TRANSCO** and **THE PSALM Corp.** personnel shall be subject to the approval of the President of the Philippines. The compensation and all other emoluments and benefits of the officials and **THE** members of the Board of **DIRECTORS OF THE TRANSCO** and **OF THE OFFICIALS AND THE MEMBERS OF THE BOARD OF DIRECTORS OF THE PSALM Corp.** shall be subject to the approval of the President of the Philippines.

"SEC. [65]62. *Environmental Protection.* — Participants in the generation, distribution, and transmission [sub-sectors] **SECTORS** of the **ELECTRIC POWER** industry shall comply with all environmental laws, rules, regulations, and standards promulgated by the Department of Environment and Natural Resources including, in appropriate cases, the establishment of an environmental guarantee fund.

"SEC. [66]63. *Benefits to Host Communities.* — The obligations of generation companies and energy **SOURCE AND OR** resource developers to **THE** communities [hosting] **THAT HOST** energy generating facilities [and/or] **AND OR** energy **SOURCE AND OR** resource developers, as defined under



Chapter II, Sections 289 to 294 of the Local Government Code and Section 5(i) of Republic Act No. 7638 and their implementing rules and regulations and applicable orders and circulars **WHICH MUST BE** consistent with this Act, shall continue: *Provided*, That the obligations [mandated] **IMPOSED** under Chapter II, Section 291 of Republic Act No. 7160, shall apply to privately-owned corporations or entities utilizing the national wealth of the locality.

To ensure the effective implementation of the reduction in **THE** cost of electricity in the communities where the source of energy is located, the mechanics and procedures prescribed in the Department of the Interior and Local Government (DILG)-DOE Circulars No. 95-01 and 98-01, dated October 31, 1995 and September 30, 1998, respectively, and **THE** other issuances related thereto shall be pursued.


Towards this end, the fund generated from the eighty percent (80%) of the national wealth tax shall, in no case, be used by any local government unit for any purpose other than those for which it was intended.

In case of any violation or noncompliance by any local government official of any provision thereof, the DILG shall, upon prior notice and hearing, order the project operator, through the DOE, to withhold the remittance of the royalty payment to the host community concerned pending completion of the investigation. The unremitted funds shall be deposited in a government bank under a trust fund[.] **ACCOUNT IN THE NAME OF THE BENEFICIARY LOCAL HOST COMMUNITY.**

"SEC. [67]64. *NPC Offer of Transition Supply Contracts.* — Within six (6) months from the effectivity of this Act, NPC shall file with the [ERC] **COMMISSION** for [its] **THE LATTER'S** approval [a], **AFTER DUE NOTICE TO ALL INTERESTED PARTIES AND PUBLIC HEARING, THE** transition supply contract **OR CONTRACTS** duly negotiated with [the] distribution utilities containing the terms and conditions of **THE** supply **OF ELECTRICITY TO SUCH DISTRIBUTION UTILITIES** and [a] **THE** corresponding schedule of rates, consistent with the provisions [hereof,] **OF THIS ACT**, including adjustments [and/or] **AND OR** indexation formulas [which shall apply to] **APPLICABLE DURING** the term of such **CONTRACT OR** contracts. The term of the transition supply **CONTRACT OR** contracts shall not extend beyond one (1) year from the introduction of open access. Such **CONTRACT OR** contracts shall be based on the projected demand of such **DISTRIBUTION** utilities less any of their currently committed quantities under eligible IPP contracts [as defined] **DESCRIBED** in Section [33 hereof:] **32 OF THIS ACT:** *Provided*, That the total generation capacity of such signed transition supply **CONTRACT OR** contracts shall not exceed the level of [NPC] **NPC'S** owned, controlled, or committed capacity as of the effectivity of this Act. Such transition supply **CONTRACT OR** contracts shall be assignable to **AND BE MADE BINDING ON** [the NPC] **NPC'S** successor [generating] **GENERATION** companies.

Within six (6) months from the date of **THE** submission of the transition supply contract **OR CONTRACTS** by NPC **FOR THE APPROVAL OF THE COMMISSION**, the [ERC] **COMMISSION** shall notify NPC of [their] **ITS** approval of the **SCHEDULE OF** rates contained [therein.] **IN SAID SUPPLY CONTRACT OR CONTRACTS.**

The [ERC] **COMMISSION** shall maintain a record of the [contract] terms and **CONDITIONS OF THE CONTRACT OR CONTRACTS AND THE SCHEDULE OF THE** rates offered by NPC. Likewise, the [ERC] **COMMISSION** shall update monthly[,] the **SAID** rates, **WHEN THERE IS A NECESSITY TO DO SO**, using [the] **SUCH** appropriate, **JUST AND**



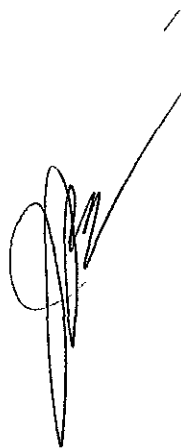
**REASONABLE adjustment [and/or] AND OR indexation formula[.] THAT WILL PROMOTE AND PROTECT THE INTEREST OF THE GENERAL PUBLIC AND THE INTEREST OF THE END-USERS OF ELECTRICITY.**

Notwithstanding the provisions of Section 25 [hereof] **OF THIS ACT**, the rates charged by a distribution utility for the generation component of the supply of electricity in their retail rate shall, for the term of the transition supply **CONTRACT OR** contracts, not exceed the **SCHEDULE OF RATES CONTAINED IN THE SAID** transition supply contract [rates,] **OR CONTRACTS, AS APPROVED BY THE COMMISSION AND** as updated monthly. The recovery of costs incurred by a distribution utility for any generation component in excess of the **SAID** transition supply contract **OR CONTRACTS** rates shall be disallowed by the [ERC] **COMMISSION**, except for eligible contracts as defined [under] **AND DESCRIBED IN** Section [33 hereof] **32 OF THIS ACT: Provided**, That such limitation on the recovery of generation component costs by a distribution utility shall apply only to the equivalent quality and quantity of electricity still available to the distribution utility from NPC[.], **TAKING INTO ACCOUNT THE TOTAL COST OF DELIVERING THE ELECTRIC POWER TO THE DISTRIBUTION UTILITY'S FRANCHISE TERRITORY.**

"**SEC. [68]65. Review of IPP Contracts.** — An [i]Inter-agency [c]Committee **WHICH SHALL BE** chaired by the Secretary of Finance, with the Secretary of the Department of Justice and the Director General of the National Economic and Development Authority as members thereof, is hereby created **IN, AND** upon the effectivity of, this Act. The **INTER-AGENCY** Committee shall immediately undertake a thorough review of all IPP contracts[.] **AND SHALL TAKE EVERY NECESSARY EFFORT AND ACTION TO RENEGOTIATE SUCH IPP CONTRACTS AND ERADICATE AND OR MINIMIZE EVERY ONEROUS PROVISIONS CONTAINED IN THEM.** In cases where such contracts are found to have provisions which are grossly disadvantageous, or onerous to the Government, the **INTER-AGENCY** Committee shall [cause] **REQUIRE** the appropriate government agency [to file an action], **IF IT BECOMES NECESSARY, EITHER TO AVAIL, WITHOUT ANY UNNECESSARY DELAY, OF THE LEGAL REMEDIES** under the arbitration clauses provided in **THE** said contracts or **TO** initiate **PROMPTLY** any **SUCH** appropriate **LEGAL** action **BEFORE A COMPETENT COURT** under [Philippine] **THE** laws[.] **OF THE PHILIPPINES.** The PSALM Corporation shall diligently seek to reduce stranded **CONTRACT** costs, if any.

**ANY REDUCTION IN THE COSTS OF THE SAID IPP CONTRACTS ARISING FROM THEIR RENEGOTIATION, OR FROM ANY REMEDIES TAKEN UNDER THE RELEVANT ARBITRATION CLAUSES IN SUCH CONTRACTS, OR FROM ANY LEGAL ACTION BEFORE A COMPETENT COURT UNDER THE LAWS OF THE PHILIPPINES SHALL BE USED TO REDUCE THE UNIVERSAL CHARGE IMPOSED UNDER SECTION 33 OF THIS ACT.**

**ANY UNJUSTIFIED FAILURE TO PERFORM THE OFFICIAL DUTY IMPOSED UNDER THIS SECTION 65 AND THE SUCCEEDING SECTION 66 OF THIS ACT SHALL BE A GROUND FOR THE FILING OF ANY APPROPRIATE LEGAL ACTION AGAINST, AND THE PUNISHMENT OF, THE RESPONSIBLE PARTY OR PARTIES UNDER THE APPROPRIATE PROVISION OF REPUBLIC ACT NO. 3019, OTHERWISE KNOWN AS THE ANTI-GRAFT AND CORRUPT PRACTICES ACT OF THE PHILIPPINES.**





"SEC. [69]66. *Renegotiation of Power Purchase and Energy Conversion Agreements between Governments Entities.* — Within three (3) months from the effectivity of this Act, all power purchase and energy conversion agreements between the PNOC-Energy Development Corporation (PNOC-EDC) and NPC, including but not limited to the BAC-MAN, Palinpinon, Tongonan, LEYTE A AND B and Mt. Apo Geothermal complexes, shall be reviewed by the [ERC] COMMISSION, and the **ONEROUS terms AND CONDITIONS** thereof, **IF ANY, MUST BE REVISED AND** amended to remove any hidden costs or extraordinary mark-ups in the cost of power or steam above [their true] **JUST AND REASONABLE** costs. All Amended contracts shall be submitted to the Joint Congressional Power Commission for approval. The [ERC] COMMISSION shall ensure that all savings realized from the reduction of [said] **ANY SUCH HIDDEN COSTS OR EXTRAORDINARY** mark-ups shall be passed on to all end-users **OF ELECTRICITY.**

"SEC. [70]67. *Missionary Electrification.* —Notwithstanding the **NATIONAL POWER CORPORATION'S** divestment [and/or] **AND OR** privatization of [NPC assets,] **ITS GENERATION ASSETS, TRANSMISSION AND SUB-TRANSMISSION ASSETS AND FACILITIES, AND IPP** contracts [and spun-off corporations, NPC], **THE NPC** shall [remain as a National Government] **CONTINUE TO EXIST AS A GOVERNMENT-owned** and-controlled corporation to perform [the] A missionary electrification function through the Small Power Utilities Group (SPUG) [and] **AS DEFINED IN THIS ACT. FOR THAT PURPOSE, THE NATIONAL POWER CORPORATION IS HEREBY AUTHORIZED TO EXERCISE ALL ITS CORPORATE POWERS AND ENJOY ALL ITS PREROGATIVES UNDER ITS EXISTING LEGISLATIVE CHARTER, EXCEPT TO THE EXTENT THAT SUCH POWERS AND PREROGATIVES ARE MODIFIED BY AND ARE INCONSISTENT WITH ANY OF THE PROVISIONS OF THIS ACT. THE NATIONAL POWER CORPORATION** shall be responsible for providing power generation [and its] **OR GENERATIONS, INCLUDING ALL NECESSARY AND** associated power delivery systems, in areas that are not connected to the **NATIONAL** transmission system. The missionary electrification function **OF THE NATIONAL POWER CORPORATION** shall be funded: (A) from the revenues from sales in missionary areas; and (B) from the universal charge [to] **THAT SHALL** be collected from all [electricity] end-users [as] **OF ELECTRICITY, WHICH UNIVERSAL CHARGE SHALL BE** determined by the [ERC.] **COMMISSION, AFTER DUE NOTICE TO ALL INTERESTED PARTIES AND PUBLIC HEARING.**

"SEC. [71]68. *Electric Power Crisis Provision.* — [Upon the determination by] **IN CASE OF ANY IMMINENT SHORTAGE OF SUPPLY OF ELECTRICITY, AS DETERMINED AND PROCLAIMED BY** the President of the Philippines [of an imminent shortage of the supply of electricity], Congress may authorize, through a joint resolution, the establishment of additional [generating capacity] **GENERATION CAPACITIES TO SOLVE SUCH SHORTAGE ADEQUATELY,** under such terms and conditions as [it] **CONGRESS** may approve.

"SEC. [72]69. *[Mandated] MANDATORY Rate Reduction.* — Upon the effectivity of this Act, residential end-users **OF ELECTRICITY** shall be granted a [rate] **MANDATORY** reduction from NPC rates **IN AN AMOUNT** of **NOT LESS THAN** thirty centavos per kilowatt-hour (P0.30kWh). Such reduction shall be reflected as a separate item in the [consumer] **MONTHLY** billing statement **OF RESIDENTIAL END-USERS OF ELECTRICITY.**

"SEC. [73]70. *Lifeline Rate.* — A socialized pricing mechanism, called a lifeline rate, for [the] marginalized **RESIDENTIAL** end-users **OF**

**ELECTRICITY** shall be set by the [ERC, which] **COMMISSION**. **THIS LIFELINE RATE** shall be exempted from the cross subsidy phase-out under this Act **AND SHALL REMAIN** for a period of ten (10) years[,] **FROM AND AFTER THE DATE OF ITS ESTABLISHMENT**, unless extended by [law.] **BY CONGRESS**. The [level of] consumption **LEVEL OF THOSE WHICH SHALL BE CONSIDERED MARGINALIZED RESIDENTIAL END-USERS OF ELECTRICITY** and the **LEVEL OF WHAT SHALL BE DEEMED TO BE A JUST AND REASONABLE LIFELINE rate** shall be determined by the [ERC] **COMMISSION**, after due notice **TO ALL INTERESTED PARTIES** and **PUBLIC** hearing.

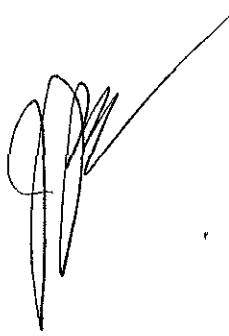
"SEC. [74]71. *Cross Subsidies*. — Cross subsidies within a grid, between grids [and/or], **AND OR BETWEEN** classes of [customers] **END-USERS OF ELECTRICITY** shall be phased out [in] **WITHIN** a period not exceeding three (3) years from the establishment by the [ERC] **COMMISSION** of [a] **THE universal [charge] CHARGE AUTHORIZED UNDER SECTION 33 OF THIS ACT**, which shall be collected from all [electricity] end-users[. Such level of] **OF ELECTRICITY, EXCEPT AS OTHERWISE PROVIDED IN THIS ACT. THE AMOUNT PER KILOWATT HOUR FOR EACH KIND OF SAID cross subsidies shall be made transparent [and] TO THE PUBLIC AND SHALL BE** identified separately in the billing statements [provided to end-users by the suppliers.] **THAT A DISTRIBUTION UTILITY OR SUPPLIER OF ELECTRICITY SENDS MONTHLY TO EACH OF ITS END-USER OF ELECTRICITY.**

The [ERC] **COMMISSION** may extend, **AFTER DUE NOTICE TO ALL INTERESTED PARTIES AND PUBLIC HEARING**, the period for the removal of **SAID** cross subsidies for a maximum period of one (1) year [upon finding], **IF IT FINDS** that **THE** cessation of [such mechanism] **SAID CROSS SUBSIDIES** would have a material adverse effect [upon the public] **ON THE interest[,] OF THE GENERAL PUBLIC**, particularly the **INTEREST OF THE residential end-user[;] OF ELECTRICITY**; or would have an immediate, irreparable, and adverse financial effect on distribution [utility.] **UTILITIES OR ON SUPPLIERS OF ELECTRICITY.**

## "CHAPTER IX

### "FINAL PROVISIONS

"SEC. [75]72. *Statutory Constructions*. — This Act shall, unless the context indicates otherwise, be construed in favor of the establishment, promotion, **AND** preservation of competition [and people] **AS WELL AS IN FAVOR OF THE** empowerment [so that the widest participation of the people] **OF THE PEOPLE TO PARTICIPATE, AS WIDELY AS IS LEGALLY ALLOWED**, whether directly or indirectly, [is ensured.] **ON ANY MATERIAL AND SUBSTANTIAL MATTER OR DECISION AFFECTING THE ELECTRIC POWER INDUSTRY SO THAT THE PEOPLE CAN ENSURE THE PROTECTION OF THEIR RIGHTS AND INTERESTS.** With respect to NPC's debts and IPP [and related] contracts, nothing **CONTAINED** in this Act, **UNLESS THE CONTEXT CLEARLY SAYS OTHERWISE**, shall be construed as: (1) an **EXPRESSED OR** implied waiver of any right, action, or claim[,] **OF NPC OR OF THE PHILIPPINE GOVERNMENT, ARISING FROM OR RELATING TO ANY SUCH CONTRACTS**, against any person or entity[, of NPC or the Philippine Government arising from or relating to any such contracts]; or (2) a [conferment] **GRANT** of new **OR ADDITIONAL** or better **OR SUPERIOR** rights to creditors and IPP contractors [in addition to] **DISTINCT FROM THE ALREADY** subsisting rights granted by the NPC or **BY** the Philippine Government under existing contracts[.] **OR AGREEMENTS.**



"SEC. [76]73. *Education and Protection of End Users.* — [End users] **THE END-USERS OF ELECTRICITY** shall be [educated about the] **INFORMED ABOUT AND MADE FAMILIAR WITH THE CONCEPT AND** implementation of retail **OPEN** access and its impact on end-users **OF ELECTRICITY**, and [on] **WITH** the proper [use], **COST-EFFECTIVE, AND ECONOMICAL UTILILIZATION** of electric power. Such [education] **INFORMATION AND FAMILIARIZATION** shall include, but not limited to, the existence of competitive **GENERATION COMPANIES, COMPETITIVE** electricity suppliers, choice of, competitive electricity services, regulated transmission and distribution services, **RATE BASE, RETURN ON RATE BASE (RORB),** systems **PERFORMANCE STANDARDS AND** reliability, aggregation, [market] **WHOLESALE ELECTRICITY SPOT MARKET (WESM), CAPTIVE AND CONTESTABLE MARKETS,** itemized billing **STATEMENT,** stranded [cost] **DEBT OF NPC, STRANDED CONTRACT COSTS OF NPC AND OF DISTRIBUTION UTILITIES,** uniform disclosure requirements **FROM ALL ELECTRIC POWER INDUSTRY PARTICIPANTS,** low-income bill [payment] **PAYMENTS, AND** energy conservation and safety measures.

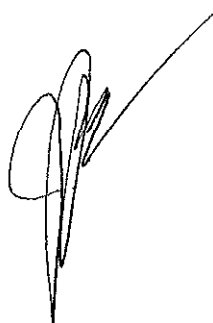
The DOE, in coordination with the NPC, NEA, [ERC] **THE COMMISSION,** and the Office of the Press Secretary-Philippine Information Agency (OPS-PIA), shall **BE RESPONSIBLE FOR AND** undertake, an information campaign to [educate] **INFORM AND FAMILIARIZE** the public on **ALL FACETS OF** the restructuring of the electric power industry and **THE** privatization of NPC.

"SEC. [77]74. *Implementing Rules and Regulations.* — The DOE [shall], in consultation with relevant government agencies, the electric power industry participants, **CONCERNED** non-government organizations, and **WITH** end-users[,] **OF ELECTRICTY GROUPS, SHALL** promulgate, **WITHIN SIX (6) MONTHS FROM THE EFFECTIVITY OF THIS ACT,** the **NECESSARY** Implementing Rules and Regulations (IRR) [of this Act, within six (6) months from the effectivity of this Act, subject to the approval of the Power Commission.], **WHICH MUST BE CONSISTENT WITH THE PROVISIONS OF THIS ACT AND APPROVED BY JOINT CONGRESSIONAL POWER COMMISSION.**

"SEC. [78]75. *Injunction and Restraining Order.* — The implementation of the provisions of this Act, **WITH RESPECT TO THE RESTRUCTURING OF THE ELECTRIC POWER INDUSTRY AND THE PRIVATIZATION OF THE NPC,** shall not be restrained or enjoined except by an order issued by the Supreme Court of the Philippines.

"SEC. [79]76. *Separability Clause.* — If for any reason, any provision of this Act is declared unconstitutional or invalid, the other parts or provisions [hereof] which are not affected thereby shall continue to be in full force and effect.

"SEC. [80]77. *Applicability and Repealing Clause.* — The [applicability] **APPLICABLE** provisions of Commonwealth Act No. 146, as amended, otherwise known as the "Public Services Act"; Republic Act 6395, as amended, revising the charter of NPC; Presidential Decree 269, as amended, referred to as the National Electrification Decree; Republic Act 7638, otherwise known as the ["Department of Energy Act of 1992"]; [Executive Order 172, as amended, creating the ERB;] Republic Act 7832 otherwise known as the ["Anti-Electricity and Electric Transmission Lines/Materials Pilferage Act of 1994"], shall continue to have full force and effect, except insofar as [they] **SUCH ACTS AND**



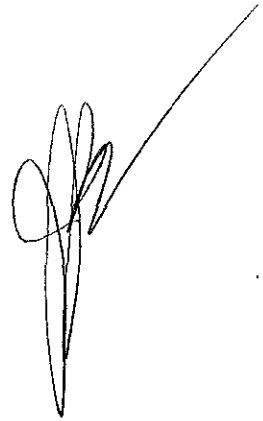
**DECREE, AND ONLY TO THAT EXTENT, are inconsistent with ANY OF THE PROVISIONS OF this Act.**

The provisions with respect to electric power of Section [11(c)] **12(C)** of Republic Act 7916, as amended, and Section 5(f) of Republic Act 7227, are hereby repealed or modified accordingly[.], **IT BEING THE CLEAR INTENT OF CONGRESS THAT HENCEFORTH THE GENERATION, TRANSMISSION, SUBTRANSMISSION, DISTRIBUTION, AND OR SUPPLY OF ELECTRIC POWER SHALL BE GOVERNED ENTIRELY BY THE PROVISIONS OF THIS ACT, AND THAT NO AGENCY OF THE NATIONAL GOVERNMENT, OTHER THAN THE COMMISSION, SHALL BE ALLOWED TO REGULATE THE TRANSMISSION, SUBTRANSMISSION, AND DISTRIBUTION, OR AUTHORIZE THE ESTABLISHMENT OF GENERATION COMPANIES OR SUPPLIERS OF ELECTRICITY.**

Presidential Decree No. 40 and all laws, decrees, rules and regulations, or portions thereof, inconsistent with this Act are hereby repealed or modified accordingly.

"SEC. [81]78. *Effectivity Clause.* — This Act shall take effect on the fifteenth day following its publication in at least two (2) national [papers] **NEWSPAPERS** of general circulation.

*Approved,*

A handwritten signature in black ink, consisting of several loops and a long, thin tail extending upwards and to the right.