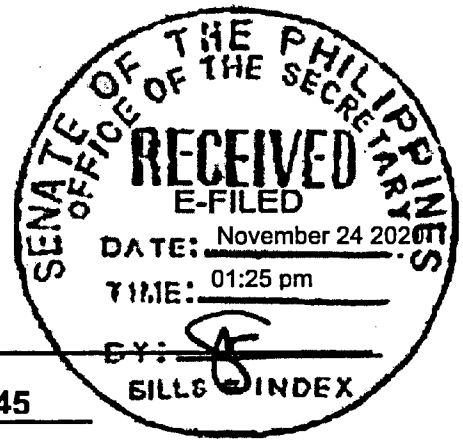


EIGHTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
Second Regular Session)

SENATE



COMMITTEE REPORT NO. 145

Submitted by the Committee on Energy on November 24 2020

Re: Senate Bill No. 1928

Recommending its approval in substitution of **Senate Bill No. 175**

Sponsor: **Senator Sherwin T. Gatchalian**

MR. PRESIDENT:

The Committee on Energy to which was referred **Senate Bill No. 175**, introduced by Senator Sherwin T. Gatchalian, entitled:

"AN ACT PROMOTING THE USE OF MICROGRID SYSTEMS FOR THE TOTAL ELECTRIFICATION OF UNSERVED AND UNDERSERVED AREAS"

has considered the same and has the honor to report it back to the Senate with the recommendation that the attached bill, **Senate Bill No. 1928** entitled:

"AN ACT PROMOTING THE USE OF MICROGRID SYSTEMS FOR THE TOTAL ELECTRIFICATION OF UNSERVED AND UNDERSERVED AREAS"

be approved in substitution of **Senate Bill No. 175**, with **Senator Gatchalian** as author thereof.

Respectfully submitted:

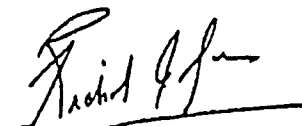
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Committee on Energy

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Committee on Energy

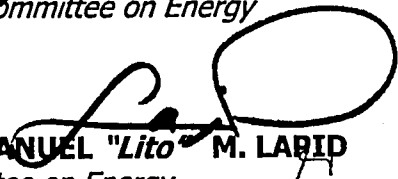

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Committee on Energy

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Committee on Energy


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President Pro-Tempore



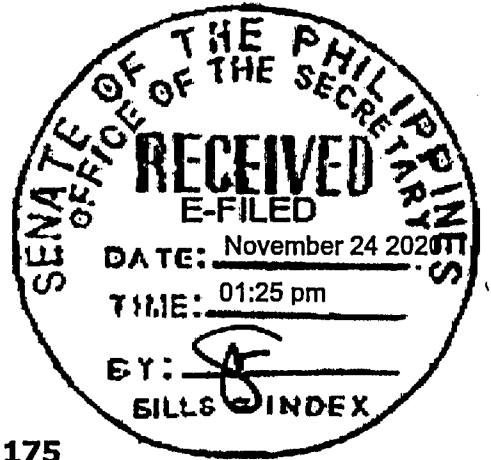
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Majority Leader



SEN. FRANKLIN M. DRILON
Minority Leader

HON. VICENTE C. SOTTO III
Senate President

EIGHTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
Second Regular Session)



SENATE
Senate Bill No. 1928
In substitution of Senate Bill No. 175

Prepared by the Committee on Energy with Senator Gatchalian as author

AN ACT
PROMOTING THE USE OF MICROGRID SYSTEMS FOR THE TOTAL
ELECTRIFICATION OF UNSERVED AND UNDERSERVED AREAS

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

- 1 Section 1. *Title.* – This Act shall be referred to as the "Microgrid Systems Act."
- 2 Sec. 2. *Declaration of Policy.* – It is hereby declared the policy of the State to:
- 3 a) Pursue rural development and poverty reduction towards nation building
- 4 through energy access;
- 5 b) Accelerate total electrification and ensure the provision of quality, reliable,
- 6 secure, and affordable supply of electric power in unserved and underserved
- 7 areas;
- 8 c) Promote private sector participation in electrification of unserved and
- 9 underserved areas;
- 10 d) Provide a competitive environment and level playing field for different kinds of
- 11 energy sources with a preference for low-cost, indigenous, renewable, and
- 12 environment-friendly sources of energy; and
- 13 e) Ensure the adoption of a dynamic regulatory environment that allows end users
- 14 to benefit from technologies and innovations in the electric power industry.
- 15 Sec. 3. *Scope and Application.* – This Act shall apply to the development of
- 16 microgrid systems in unserved and underserved areas nationwide.

1 **Sec. 4. Definition of Terms.** – For purposes of this Act, the following terms shall
2 be defined as stated below:

3 a) *Authority to operate (ATO)* refers to the document issued by the Energy
4 Regulatory Commission (ERC) to the microgrid system provider, which shall
5 constitute as the latter's license to provide integrated power generation and
6 distribution services to unserved or underserved areas;

7 b) *Competitive selection process for microgrid system provider (CSP)* refers to the
8 procedure wherein an entity is awarded the contract to provide integrated
9 power generation and distribution services to an unserved or underserved area
10 through a transparent and competitive procedure, such as an auction or Swiss
11 challenge, taking into consideration the requirements of this Act and other
12 applicable laws;

13 c) *Decentralized power generation (DPG)* refers to small-scale power generation
14 facilities which operate locally and are connected to the distribution system of
15 the microgrid or end user that could be aggregated to provide power necessary
16 to meet demand such as mini-wind turbines connected to a microgrid and solar
17 photovoltaic rooftop of an end user;

18 d) *Distribution system* refers to the system of wires and associated facilities
19 extending between the delivery points on the transmission, subtransmission
20 system, or power generation facility connection and the point of connection to
21 the premises of the end user, whichever is applicable;

22 e) *Distribution utility (DU)* refers to any electric cooperative, private corporation,
23 government-owned utility, or existing local government unit which has a
24 franchise to operate a distribution system including those whose franchise
25 covers economic zones;

26 f) *End user* refers to any natural or juridical person requiring the supply and
27 delivery of electricity for its own use;

28 g) *Grid-tied microgrid system* refers to a microgrid system that is electrically
29 connected to the distribution system of a DU and can operate in synchronized
30 mode or in island mode;

- 1 h) *Island mode* refers to a grid-tied microgrid system operating as a stand-alone
2 system in supplying and delivering electric power to connected end users;
- 3 i) *Isolated microgrid system* refers to a microgrid system that is not electrically
4 connected to a distribution system of a DU and is operating as a stand-alone
5 system in supplying and delivering electric power to connected end users;
- 6 j) *Grid* refers to the high voltage backbone system of interconnected transmission
7 lines, substations, and related facilities, located in each of Luzon, Visayas, and
8 Mindanao;
- 9 k) *Local total electrification roadmap (LTER)* refers to a DU's comprehensive
10 strategic plan with an annual work plan to accelerate total electrification in its
11 franchise area;
- 12 l) *Microgrid system* refers to a group of interconnected loads and DPG with clearly
13 defined electrical boundaries that acts as a single controllable entity with
14 respect to the distribution, subtransmission, or transmission grid, whichever is
15 applicable;
- 16 m) *Microgrid system provider service contract (MSC)* refers to the contract between
17 the microgrid system provider and the National Power Corporation (NPC) to
18 provide integrated power generation and distribution services in an unserved
19 or underserved area, and to receive subsidy whenever applicable;
- 20 n) *Microgrid system provider (MGSP)* refers to a natural or juridical person whose
21 business includes the installation, operation, and maintenance of microgrid
22 systems in unserved or underserved areas nationwide;
- 23 o) *National total electrification roadmap (NTER)* refers to a comprehensive
24 national strategic plan with an annual work plan to accelerate total
25 electrification in the country taking into account the various LTERs. It shall
26 include the Missionary Electrification Development Plan, and shall be
27 incorporated in the Philippine Energy Plan;
- 28 p) *Synchronized mode* refers to the operation of grid-tied microgrid systems
29 whose DPG is able to operate in the same frequency at its connection point to
30 the distribution system of a DU, and allows the grid-tied microgrid system to
31 supply to or draw power from the grid;

- 1 q) *Universal charge for missionary electrification (UCME)* refers to the portion of
2 the non-bypassable charge passed on and collected from all end users on a
3 monthly basis by the DUs pursuant to Republic Act No. 9136, otherwise known
4 as the Electric Power Industry Reform Act of 2001, a portion of which is
5 designated for the provision of integrated power generation and distribution
6 services in unserved areas and underserved areas not connected to the grid;
- 7 r) *Underserved area* refers to an area currently served by home power systems,
8 microgrid systems, or DUs whose supply of electricity are less than twenty-four
9 (24) hours daily because of the non-implementation of approved capital
10 expenditure projects, non-compliance with the service parameters of the
11 Philippine Distribution Code, or any other reason resulting to an overall failing
12 mark based on ERC's latest annual technical evaluation of performance of
13 distribution systems; and
- 14 s) *Unserved area* refers to an area with no electricity access, no distribution
15 system lines, no home power systems, or no connection to any microgrid
16 system.

17 *Sec. 5. Microgrid Systems in Unserved and Underserved Areas.* – MGSPs shall
18 provide integrated power generation and distribution services in unserved and
19 underserved areas after the conduct of a CSP for MGSP in accordance with Sections
20 8, 10, and 11 of this Act: *Provided*, That only isolated microgrid systems and grid-tied
21 microgrid system operating in island mode shall be allowed.

22 *Sec. 6. Microgrid Systems Providers.* – The ownership and operation of a
23 microgrid shall not be a public utility operation. For this purpose, any MGSP shall not
24 be required to secure a franchise from Congress, but shall secure an ATO from the
25 ERC prior to its operation. All qualified third parties providing alternative electric
26 service pursuant to Section 59 of Republic Act No. 9136 are hereby renamed and shall
27 hereafter be known as MGSPs.

28 The business of an MGSP shall be open to any party including private
29 corporations, local government units, cooperatives, non-government organizations,
30 generation companies and their subsidiaries, and DUs and their subsidiaries who have
31 demonstrated the capability and willingness to comply with the relevant technical,

1 financial, and other requirements through a CSP: *Provided*, That these entities shall
2 not subsidize their respective MGSPs and shall maintain a separate account for such
3 business undertaking pursuant to ERC's applicable rules and guidelines on business
4 separation and unbundling, whenever applicable.

5 *Sec. 7. Waiver of Obligation to Provide Distribution Services and Connections*
6 *and to Supply Electricity.* – Areas declared by DOE as unserved or underserved areas
7 in accordance with Section 11 of this Act shall be deemed automatically waived by the
8 DU insofar as its obligation to provide distribution services and connections to end
9 users and supply electricity to the area concerned. The automatic waiver shall not
10 transfer, abandon, or modify the DU's franchise but shall bestow upon the MGSP the
11 obligation to provide integrated power generation and distribution services to the
12 declared unserved or underserved area during the period of the MSC.

13 *Sec. 8. Competitive Selection Process for Microgrid System Providers.* – All CSPs
14 shall:

- 15 a) Give preference to low-cost, indigenous, renewable, and environment-friendly
16 sources of energy;
- 17 b) Be conducted based on the list of declared unserved and underserved areas,
18 taking into account each DU's LTER and Distribution Development Plan (DDP)
19 in relation to the NTER: *Provided*, That the schedule shall be published and
20 posted on the ERC and DOE websites not later than September of every year;
21 and
- 22 c) Be simple, uniform, streamlined, and transparent: *Provided*, That the entire
23 procedure from pre-qualification of MGSPs until the submission to ERC of the
24 awarded contract shall be no longer than ninety (90) calendar days after all the
25 published requirements are completely submitted: *Provided further*, That the
26 CSP may be conducted using a secure electronic portal.

27 In the event that there are no participants or there is no awarded MGSP in the
28 CSP for a particular unserved or underserved area, the NPC shall perform its
29 missionary electrification mandate in the said area until an MGSP takes part or is
30 awarded in the next CSP.

1 **Sec. 9. Availment of the UCME.** – Only MGSPs that operate in unserved areas
2 and underserved areas not connected to the grid shall be entitled to avail of the UCME
3 as determined by the ERC. The availment of the UCME shall be rationalized by DOE
4 taking into consideration equity and continued economic progress in these areas.

5 **Sec. 10. Powers, Functions, and Responsibilities of the Energy Regulatory**
6 **Commission.** – In addition to its functions under Republic Act No. 9136, the ERC shall:

- 7 a) Issue an ATO to an MGSP, and provide for a simplified and streamlined
8 permitting process of MGSPs in accordance with the time frame specified in
9 Section 17 of this Act;
- 10 b) Develop, establish, and promulgate in consultation with the DOE, the NPC, the
11 National Electrification Administration (NEA), and other relevant government
12 agencies and private stakeholders in the electric power industry, the minimum
13 technical and service performance standards for microgrid systems within one
14 hundred twenty (120) calendar days from the effectivity of this Act: *Provided,*
15 That these standards shall be compliant with the Philippine Distribution Code,
16 Philippine Small Grid Code, Philippine Grid Code, and other relevant rules and
17 regulations;
- 18 c) Review and act on all MSCs entered into as a result of the CSP within the time
19 frame provided under Section 17 of this Act;
- 20 d) Exercise its rate-making power through the evaluation and determination of the
21 following, within the time frame provided under Section 17 of this Act:
- 22 i) An MGSP's full cost, approved subsidy if applicable, and retail rate
23 imposed on end users; and
- 24 ii) An equitable compensation and recovery mechanism, if applicable, for
25 an MGSP's assets at the expiration of the MSC pursuant to Section 16 of
26 this Act;
- 27 e) Monitor the operations of all awarded MGSPs and their respective MSCs:
28 *Provided,* That the ERC, motu proprio or upon complaint, can conduct a review
29 of an MGSP's operations and its corresponding MSC should it find reasonable
30 grounds for non-compliance with the minimum technical and service
31 performance standards and other provisions of the MSC; and

- 1 f) Exercise original and exclusive jurisdiction over all cases involving the exercise
2 of the abovementioned powers, functions, and responsibilities, and over all
3 cases involving disputes arising from this Act, except in competition cases under
4 Republic Act No. 10667, otherwise known as the Philippine Competition Act.

5 *Sec. 11. Powers, Functions, and Responsibilities of the Department of Energy.*

6 – In addition to its functions under Republic Act No. 7638, otherwise known as the
7 Department of Energy Act of 1992 as amended, the DOE shall:

- 8 a) Provide for a simplified and streamlined permitting process of MGSPs within the
9 time frame specified in Section 17 of this Act;
- 10 b) Regularly identify and declare unserved and underserved areas based on the
11 NTER and a DU's LTER and DDP and its compliance therewith, through the
12 issuance of a list of such areas not later than September of every year, with
13 the assistance of NPC and NEA and in consultation with DUs in accordance with
14 Section 8 of this Act: *Provided*, That the list shall also indicate the target date
15 of grid extension by the DU for the declared unserved and underserved areas,
16 if any;
- 17 c) Prepare, in consultation with ERC, a standard template for MSCs to be utilized
18 in all CSPs;
- 19 d) Conduct all CSPs with the assistance of NPC and NEA in accordance with Section
20 8 of this Act: *Provided*, That DOE can authorize NPC to conduct CSPs on its
21 behalf;
- 22 e) Determine a detailed procedure for the transition of service from NPC or a DU
23 to an MGSP, or from an MGSP to a DU or another MGSP, whichever is
24 applicable: *Provided*, That such transition shall not exceed ninety (90) calendar
25 days from the completion of the competitive selection process; and
- 26 f) Perform such other powers and functions as may be necessary to attain the
27 objectives of this Act.

28 *Sec. 12. Functions and Responsibilities of the National Electrification*
29 *Administration.* – The NEA shall:

- 1 a) Assist electric cooperatives (ECs) in the preparation of their respective
2 LTERs; and
3 b) Evaluate and verify the unserved and underserved areas submitted by ECs
4 as part of its LTER and submit its recommendations to the DOE not later
5 than the 15th of March of every year.

6 **Sec. 13. *Functions and Responsibilities of the National Power Corporation.* –**

7 The NPC shall:

- 8 a) Continue to perform its missionary electrification mandate, to include areas
9 with no participating or awarded MGSP during a CSP;
10 b) Conduct a CSP whenever authorized by DOE pursuant to Section 11 of this
11 Act; and
12 c) Execute the MSC with the awarded MGSP pursuant to the template
13 determined by DOE in Section 11 of this Act.

14 **Sec. 14. *Functions and Responsibilities of Distribution Utilities.* –** The DU
15 pursuant to the directive to pursue the total electrification of their franchise areas shall
16 prepare and submit its LTER which shall contain a detailed inventory of all unserved
17 and underserved areas within its franchise. The DU shall integrate the LTER in its DDP.

18 **Sec. 15. *Functions and Responsibilities of Microgrid Service Providers.* –** An
19 MSGP shall:

- 20 a) Build, control, operate, and maintain its microgrid system in accordance with
21 its MSC, this Act, and other applicable laws, rules, regulations, and codes;
22 b) Supply the load requirements of its operation area, faithfully implement its
23 electrification work program, and comply with all its obligations under its MSC;
24 c) Prepare and submit any report required by the ERC and DOE pursuant to their
25 powers under Sections 10 and 11 of this Act;
26 d) Ensure end user safety and protection at all times; and
27 e) Be exempt from the following:
28 i. The public listing requirement under Section 28 of Republic Act No.
29 9136, and

1 ii. The market share limitation requirement under Section 45(a) of Republic
2 Act No. 9136.

3 *Sec. 16. Expiration of Microgrid System Provider Service Contract.* – In the
4 event of a grid extension upon the expiration of an MSC, the DU shall have the option
5 to acquire the microgrid system of the MGSP, and resume its obligation to provide
6 distribution services and connection, and supply electricity to the said area subject to
7 the approval of the ERC and pursuant to the detailed transition procedure of the DOE
8 in Sections 10 and 11 of this Act. If a DU's distribution system is connected to the
9 grid, the resumption of the DU's obligation over the area shall no longer entitle the
10 end users in the said area to the UCME.

11 Should the DU choose not to exercise its option, or should there be no grid
12 extension upon the expiration of an MSC, a CSP shall be conducted pursuant to
13 Sections 8 and 11 of this Act to determine who shall provide integrated power
14 generation and distribution services in the area. The ERC shall determine whether the
15 awarded MGSP shall be entitled to subsidy in accordance with Section 9 of this Act.

16 *Sec. 17. Permitting Process.* – Republic Act No. 11234, otherwise known as the
17 Energy Virtual One-Stop Shop Act, shall apply to the permitting process of all MGSPs:
18 *Provided,* That the applicable time frames shall be reduced to half of the time frames
19 indicated in Sections 13, 14, 15, and 16 of Republic Act No. 11234.

20 *Sec. 18. Prohibited Acts.* – Any person, natural or juridical, is prohibited from
21 the following acts:

- 22 a) Refusal to allow the installation of any microgrid system by an MGSP: *Provided,*
23 That the requirements under Sections 5, 6, 7, and 8 of this Act are complied
24 with;
- 25 b) Refusal to turn over the provision of integrated power generation and
26 distribution services to an MGSP, or distribution services and connection and
27 supply of electricity to a DU, whichever is applicable;
- 28 c) Imposition of new contractual terms and charges on the end user which are
29 not part of the MSC or not approved by the ERC, whichever is applicable; and

1 d) Failure to comply with the functions, responsibilities, and time frames in
2 Sections 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, and 17 of this Act.

3 **Sec. 19. *Criminal and Administrative Penalties.*** – The responsible officers and
4 employees of any private corporation or government agency who commit the following
5 prohibited acts shall, upon conviction, suffer the following penalties:

6 a) Violation of Section 18 (a) and (b) - Imprisonment of six (6) years to eight (8)
7 years, or a fine ranging from a minimum of Seventy five million pesos
8 (P75,000,000.00) to One hundred million pesos (P100,000,000.00), upon the
9 discretion of the court;

10 b) Violation of Section 18(c) - Imprisonment of four (4) years to six (6) years, or
11 a fine ranging from a minimum of Fifty million pesos (P50,000,000.00) to
12 Seventy five million pesos (P75,000,000.00), upon the discretion of the court;
13 and

14 c) Violation of Section 18(d) - Imprisonment of two (2) years to four (4) years, or
15 a fine ranging from a minimum of Twenty five million pesos (P25,000,000.00)
16 to Fifty million pesos (P50,000,000.00), upon the discretion of the court.

17 Any person who willfully aids or abets the commission of these prohibited acts
18 or who causes the commission of any such act by another shall be liable in the same
19 manner as the principal. In cases of an association, partnership, or corporation, the
20 penalty shall be imposed on the member, partner, president, chief operating officer,
21 chief executive officer, director, or officer responsible for the violation.

22 Any government officer or employee who violates Section 18(d) of this Act shall
23 be held administratively liable as follows:

24 a) First offense - Thirty (30) days suspension without pay and mandatory
25 attendance in Values Orientation Program;

26 b) Second offense -Three (3) months suspension without pay; and

27 c) Third offense - Dismissal and perpetual disqualification from public service, and
28 forfeiture of retirement benefits.

1 Sec. 20. *Congressional Oversight.* – The Joint Congressional Energy
2 Commission shall exercise oversight powers over the implementation of this Act. The
3 DOE and ERC shall submit annually to the Joint Congressional Energy Commission a
4 thorough report on the implementation of this Act not later than 15 March of every
5 year: *Provided*, That the report shall include identification of legislative gaps, if any,
6 and recommended ways forward.

7 Sec. 21. *Implementing Rules and Regulations.* – The DOE, in consultation with
8 the appropriate government agencies mentioned herein and electric power industry
9 stakeholders, shall issue the implementing rules and regulations of this Act within sixty
10 (60) working days upon its effectivity.

11 Sec. 22. *Amendatory Clause.* – This Act amends Section 28, 45(a), 59, and 70
12 of Republic Act No. 9136 and Sections 13, 14, 15, and 16 of Republic Act No. 11234.

13 Sec. 23. *Separability Clause.* – If any portion or provision of this Act is declared
14 unconstitutional, the remainder of this Act or any provisions not affected thereby shall
15 remain in force and effect.

16 Sec. 24. *Repealing Clause.* – Any law, presidential decree or issuance, executive
17 order, letter of instruction, rules and regulations, and legislative or administrative
18 franchises inconsistent with the provisions of this Act is hereby repealed or modified
19 accordingly.

20 Sec. 25. *Effectivity Clause.* - This Act shall take effect fifteen (15) days following
21 its complete publication in the Official Gazette or a newspaper of general circulation.
22

23 Approved,