

SENATE

'21 MAY 17 P2:18

COMMITTEE REPORT NO. 255 RECEIVED

Submitted jointly by the Committee on Energy and the Committee on Finance
MAY 17 2021

Re: Senate Bill No. 2203

Recommending its approval in substitution of **Senate Bill No 1819**.

Sponsor: **Senator Sherwin T. Gatchalian**

MR. PRESIDENT:

The Committee on Energy and the Committee on Finance to which was referred **Senate Bill No. 1819**, introduced by Senator Sherwin T. Gatchalian, entitled:

"AN ACT PROVIDING FOR THE NATIONAL ENERGY POLICY AND FRAMEWORK FOR THE DEVELOPMENT AND REGULATION OF THE PHILIPPINE MIDSTREAM NATURAL GAS INDUSTRY, AND FOR OTHER PURPOSES"

have considered the same and have the honor to report it back to the Senate with the recommendation that the attached bill, **Senate Bill No. 2203** entitled:

"AN ACT PROVIDING FOR THE NATIONAL ENERGY POLICY AND FRAMEWORK FOR THE DEVELOPMENT AND REGULATION OF THE PHILIPPINE MIDSTREAM NATURAL GAS INDUSTRY, AND FOR OTHER PURPOSES"

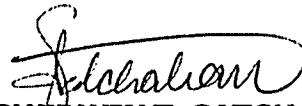
be approved in substitution of **Senate Bill No. 1819**, with **Senator Gatchalian** as author thereof.

Respectfully submitted:

Chairpersons:



SEN. JUAN EDGARDO "Sonny" ANGARA
Committee on Finance;
Member, Committee on Energy



SEN. SHERWIN T. GATCHALIAN
Committee on Energy;
Vice Chairperson, Committee on Finance

VICE CHAIRPERSONS:

SEN. RICHARD J. GORDON
Committee on Finance;
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Committee on Finance;
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SEN. CHRISTOPHER "Bong" GO
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SEN. GRACE POE
Committee on Finance;
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MEMBERS:



SEN. MARIA LOURDES NANCY BINAY
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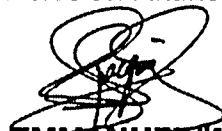


SEN. RONALD "Bato" DELA ROSA
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SEN. AQUILINO "Koko" PIMENTEL III
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SEN. FRANCIS "Tol" TOLENTINO
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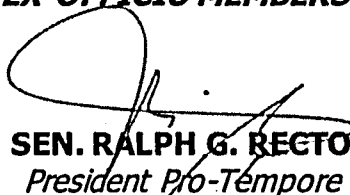


SEN. RAMON "Bong" REVILLA JR.
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SEN. FRANCIS "Kiko" PANGILINAN
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SEN. LEILA M. DE LIMA
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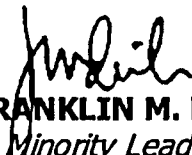
EX-OFFICIO MEMBERS:



SEN. RALPH G. RECTO
President Pro-Tempore



SEN. JUAN MIGUEL "Migz" F. ZUBIRI
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
Office of the Secretary

'21 MAY 17 P2:18

SENATE

S.B. No. 2203

RECEIVED

In substitution of Senate Bill 1819

*Prepared by the Committee on Energy joint with the Committee on Finance with
Senator Gatchalian as author thereof*

AN ACT
PROVIDING FOR THE NATIONAL ENERGY POLICY AND FRAMEWORK FOR
THE DEVELOPMENT AND REGULATION OF THE PHILIPPINE MIDSTREAM
NATURAL GAS INDUSTRY, AND FOR OTHER PURPOSES

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

CHAPTER I
GENERAL PROVISIONS

SECTION 1. Short Title. – This Act shall be referred to as the "Midstream Natural
Gas Industry Development Act."

SECTION 2. Declaration of Policy. – It is hereby declared the policy of the State
to:

- (a) Ensure the country's energy security by developing diversification of sources
of primary energy supply to various sectors of the economy;
- (b) Promote the role of natural gas as an additional energy source and
complementary fuel to variable renewable energy by creating a legal and

1 regulatory framework that would govern the promotion and development of
2 the natural gas industry in the country;

3 (c) Create a regulatory environment that will foster a competitive market for
4 natural gas;

5 (d) Encourage the inflow of private capital in the development of the midstream
6 natural gas industry;

7 (e) Ensure a safe, secure, reliable, and environmentally responsible operation of
8 the midstream natural gas value chain to include personnel and user
9 protection, through the formulation and adoption of local or international
10 standards on health, safety, security and the environment; and

11 (f) Protect midstream end users by mandating transparent and fair rates, fees,
12 and charges.

13
14 **SECTION 3. Scope and Application.** – This Act shall apply to the midstream natural
15 gas industry specifically the aggregation, supply, importation, exportation, receipt,
16 unloading, loading, processing, storage, regasification, transmission, bunkering, and
17 transportation of natural gas, in its original or liquefied form, from local or foreign
18 sources, and the systems and facilities utilized for such. It shall also apply to the
19 location, construction, improvement, operation, utilization, expansion, modification,
20 rehabilitation, repair, maintenance, decommissioning, and abandonment of such
21 systems and facilities.

22
23 **SECTION 4. Definition of Terms.** – For purposes of this Act, the following terms
24 shall be defined as stated below:

25 (a) *Affiliate* refers to any natural or juridical person who, singly or jointly with
26 other natural or juridical persons, directly or indirectly, through one or more
27 intermediaries, controls, is controlled by, or is under common control with
28 another natural or juridical person. It includes a subsidiary company, a parent
29 company, and the subsidiaries, directly or indirectly, of a common parent;

30 (b) *Ancillary reserve* refers to the natural gas procured by the natural gas
31 transmission utility or the NGTSO, whichever is applicable, necessary in the
32 operation of the natural gas transmission system to regulate fluctuations in

1 its operating pressure and maintain system stability, safety, and efficiency to
2 ensure the continuous transmission of natural gas to midstream end-users in
3 accordance with the Natural Gas Transmission Code. It shall be included in
4 the natural gas transmission fee or the NGTSO fee, whichever is applicable;

5 (c) *Anticompetitive behavior* refers to any act enumerated under Section 14 and
6 Section 15 of Republic Act No. 10667, otherwise known as the Philippine
7 Competition Act;

8 (d) *LNG Bunkering* refers to the selling of natural gas for use of domestic or
9 foreign marine vessels;

10 (e) *LNG Bunkering Facilities* refers to all infrastructure built and designed for LNG
11 bunkering;

12 (f) *Capacity* refers to the handling design of a system used in the context of its
13 functionality, expressed in a specific measurement such as volume in cubic
14 meters or flow rate in normal cubic meters per time unit;

15 (g) *Control* refers to the power to determine the financial and operating policies
16 of an entity to benefit from its activities. It is presumed to exist when the
17 parent entity owns, directly or through subsidiaries or associates, more than
18 fifty percent (50%) of the voting power of an entity. It also exists when the
19 parent entity owns fifty percent (50%) or less of the voting power of an entity,
20 but has any of the following powers:

21 (1) Power over more than fifty percent (50%) of the voting rights by virtue
22 of an agreement with other investors,

23 (2) Power to govern the financial and operating policies of the entity under
24 a statute or agreement,

25 (3) Power to appoint or remove the majority of the members of the board
26 of directors or equivalent governing body, or

27 (4) Power to cast the majority of votes at meetings of the board of directors
28 or equivalent governing body;

29 (h) *Dedicated natural gas pipeline* refers to a pipeline exclusively utilized by a
30 midstream natural gas industry participant or its affiliate for the conveyance
31 of natural gas from an LNG terminal or a local natural gas production facility
32 to the said midstream natural gas industry participant or its affiliate;

- 1 (i) *Emergency reserve* refers to the amount of natural gas, in its original or
2 liquefied form, which may be contracted by midstream end users based on
3 public interest, sufficient to ensure a continuous, adequate, and stable supply
4 of natural gas for a period in the event of a supply disruption. The period
5 shall be determined in this Act's implementing rules and regulations;
- 6 (j) *Importation* refers to the bringing of natural gas, in its original or liquefied
7 form, into the Philippines from foreign sources;
- 8 (k) *Gas aggregation* refers to the activity of pooling together various demands
9 for natural gas from midstream end users and supplying them with natural
10 gas from one or more sources;
- 11 (l) *Gas aggregator* refers to any natural or juridical person who engages in gas
12 aggregation;
- 13 (m) *Liquefied natural gas (LNG)* refers to natural gas which has been cooled to a
14 cryogenic temperature, converting it to a liquid state;
- 15 (n) *LNG terminal* refers to all facilities located onshore or offshore, that are used
16 to import, receive, unload, load, process, store, and regasify natural gas, in
17 its original or liquefied form, from local or foreign sources. It shall include
18 berthing ports, unloading and loading arms, line packs, cryogenic pipelines,
19 regasification facilities, and storage tanks, among others;
- 20 (o) *LNG Terminal Development Plan* refers to a comprehensive plan prepared by
21 each LNG terminal owner and operator relating to the location, construction,
22 improvement, operation, utilization, expansion, modification, rehabilitation,
23 repair, maintenance, decommissioning, and abandonment of each of its LNG
24 terminals and all its required facilities and equipment, taking into
25 consideration, among others, existing and projected demand and supply of
26 natural gas;
- 27 (p) *LNG Terminal Regulated Third Party Access Code* refers to the compendium
28 of responsibilities, qualifications, standards, and rules promulgated by the
29 Department of Energy (DOE) for regulated third party access by one or more
30 third parties to a portion, the entire, or the unutilized capacity of an rTPA LNG
31 terminal permit holder, and the evaluation of performance of an LNG terminal
32 with respect thereto;

- 1 (q) *Midstream end user* refers to any natural or juridical person, requiring the
2 supply of natural gas, in its original or liquefied form, for resale or own use
3 but excluding the retail use of natural gas. It includes power generation
4 plants, industrial and commercial establishments, ecozones, storage facilities,
5 bunkering facilities, virtual pipelines, and motor vehicles and marine vessels
6 transporting natural gas;
- 7 (r) *Midstream natural gas industry* refers to the aggregation, supply, importation,
8 exportation, receipt, unloading, loading, processing, storage, regasification,
9 transmission, bunkering, and transportation of natural gas, in its original or
10 liquefied form, but shall exclude the retail of natural gas. It utilizes, among
11 others, LNG terminals, dedicated natural gas pipelines, natural gas
12 transmission systems, storage facilities, bunkering facilities, virtual pipelines,
13 and motor vehicles and marine vessels transporting natural gas;
- 14 (s) *Midstream Natural Gas Industry Development Plan* refers to the
15 comprehensive plan for ensuring safe, secure, and reliable supply of natural
16 gas, in its original or liquefied form, while establishing the efficient operations
17 of the country's midstream natural gas infrastructure and managing demand
18 for natural gas through specific government programs and policies. It shall
19 include the various LNG Terminal Development Plans and Natural Gas
20 Transmission Development Plans, and studies on over-all supply and demand,
21 capacity, and other research necessary in achieving a sound demand and
22 supply projection for natural gas in the country;
- 23 (t) *Midstream natural gas industry participants* refer to the supplier or importer
24 of natural gas; gas aggregator; owner and operator of LNG terminal,
25 dedicated natural gas pipeline, natural gas transmission system, storage and
26 bunkering facilities, virtual pipelines, and motor vehicles and marine vessels
27 utilized to transport natural gas; the Natural Gas Transmission System
28 Operator; third parties; and midstream end users;
- 29 (u) *Natural gas* refers to gas obtained from boreholes and wells consisting
30 primarily of a mixture of methane, ethane, propane, and butane with small
31 amounts of heavier hydrocarbons and some impurities, notably nitrogen and

1 complex sulfur compounds and water, carbon dioxide, and hydrogen sulfide
2 as well as non-conventional gas including gas from bituminous shale;

3 (v) *Natural Gas Transmission Code* refers to the compendium of rules,
4 procedures, requirements, regulations, and minimum technical performance
5 standards governing the safe and reliable location, construction,
6 improvement, operation, utilization, expansion, modification, rehabilitation,
7 repair, maintenance, decommissioning, and abandonment of all dedicated
8 natural gas pipelines and natural gas transmission systems in the country. It
9 also defines and establishes the relationship of dedicated natural gas pipelines
10 and natural gas transmission systems with facilities and installations of other
11 midstream natural gas industry participants, if applicable;

12 (w) *Natural Gas Transmission Development Plan* refers to the plan of each
13 dedicated own use pipeline owner and operator, natural gas transmission
14 utility, or the Natural Gas Transmission System Operator when applicable, for
15 managing dedicated own use pipelines, natural gas transmission systems or
16 the interconnected natural gas transmission system, whichever is applicable,
17 through efficient planning for its location, construction, improvement,
18 operation, utilization, expansion, modification, rehabilitation, repair,
19 maintenance, decommissioning, and abandonment;

20 (x) *Natural gas transmission system* refers to a network containing pipelines and
21 other related facilities, owned and operated by a natural gas transmission
22 utility, which convey natural gas, in its original or liquefied form, from an LNG
23 terminal or a local natural gas production facility to a midstream natural gas
24 industry participant;

25 (y) *Natural gas transmission fee* refers to the amount paid by midstream natural
26 gas industry participants for the use of a natural gas transmission system. It
27 shall consist of amounts used to defray the costs of location, construction,
28 improvement, operation, utilization, expansion, modification, rehabilitation,
29 repair, maintenance, decommissioning, and abandonment of the system, and
30 provide a reasonable rate of return. It also includes the cost of operating the
31 system while there is no Natural Gas Transmission System Operator;

- 1 (z) *Natural Gas Transmission System Operator (NGTSO)* refers to a natural or
2 juridical person responsible for operating and maintaining the interconnected
3 natural gas transmission system, ensuring the continuous and reliable delivery
4 of natural gas to midstream natural gas industry participants, and securing
5 the long-term ability of the system to meet demand for the transmission of
6 natural gas;
- 7 (aa) *Natural gas transmission utility* refers to a natural or juridical person who has
8 a franchise granted by law to construct, own, and operate a natural gas
9 transmission system within a specified area;
- 10 (bb) *Negotiated third party access (nTPA)* refers to a contractual arrangement
11 between the owner and operator of a dedicated natural gas pipeline or an
12 own use LNG terminal permit holder and a third party to allow the use and
13 access to such third party of a specific capacity of a dedicated natural gas
14 pipeline or an LNG terminal with an own use permit for a fee agreed upon
15 between the two entities. It does not include contractual arrangements
16 entered into by an own use LNG terminal permit holder and a third party
17 pursuant to a declaration of unutilized capacity by the DOE in accordance with
18 the LNG Terminal Regulated Third Party Access Code;
- 19 (cc) *NGTSO fee* refers to the amount paid by midstream natural gas industry
20 participants to the NGTSO for its services in operating and maintaining the
21 interconnected natural gas transmission system;
- 22 (dd) *Own use LNG terminal permit holder* refers to an LNG terminal whose owner
23 and operator has been issued an own use permit;
- 24 (ee) *Own use permit* refers to an authorization issued by DOE to the owner and
25 operator of an LNG terminal to exclusively use or allow its affiliate to use a
26 specific capacity of the LNG terminal for a specified period of time, subject to
27 LNG Terminal Regulated Third Party Access Code;
- 28 (ff) *Permit* refers to an authorization issued by the DOE, the Energy Regulatory
29 Commission (ERC), or the Department of Transportation (DOTr) or its
30 attached agencies, whichever is applicable, for the aggregation, supply,
31 importation, exportation, receipt, unloading, loading, processing, storage,
32 regasification, and bunkering of natural gas, or the location, construction,

1 improvement, operation, utilization, expansion, modification, rehabilitation,
2 repair, maintenance, decommissioning, and abandonment of an LNG
3 terminal, natural gas transmission system, dedicated natural gas pipeline,
4 storage facilities, bunkering facilities, virtual pipelines, and motor vehicles and
5 marines vessels transporting natural gas for a specified period of time;

6 (gg) *Permit holder* refers to a natural or juridical person who is granted a permit
7 by the DOE, ERC, or DOTr or its attached agencies whichever is applicable,
8 to engage in the aggregation, supply, importation, exportation, receipt,
9 unloading, loading, processing, storage, regasification, and bunkering of
10 natural gas, or the location, construction, improvement, operation, utilization,
11 expansion, modification, rehabilitation, repair, maintenance,
12 decommissioning, and abandonment of an LNG terminal, natural gas
13 transmission system, dedicated natural gas pipeline, storage facilities,
14 bunkering facilities, virtual pipelines, and motor vehicles and marine vessels
15 transporting natural gas for a specified period of time;

16 (hh) *Philippine National Standard (PNS)* refers to the standards promulgated by
17 the Department of Trade and Industry (DTI) – Bureau of Philippine Standards
18 (BPS) pertaining to product specifications, test methods, terminologies,
19 procedures, or practices pursuant to Republic Act No. 4109, otherwise known
20 as the Standards Act, and other applicable laws, rules and regulations;

21 (ii) *Regulated third party access* refers to a contractual arrangement between the
22 following:

23 (1) An rTPA LNG terminal permit holder or a natural gas transmission utility
24 and a third party to allow the latter transparent, fair, reasonable, and
25 non-discriminatory use and access of the capacity available to third
26 parties of the LNG terminal or the natural gas transmission system,

27 (2) An own use LNG terminal permit holder and a third party pursuant to a
28 declaration of unutilized capacity by the DOE in accordance with the LNG
29 Terminal Regulated Third Party Access Code, or

30 (3) A natural gas transmission utility and a third party pursuant to a
31 declaration of unutilized capacity by the DOE in accordance with the
32 Transmission Regulated Third Party Access Code;

- (jj) *Regulated third party access (rTPA) permit* refers to an authorization issued by the DOE to the owner and operator of an LNG terminal to offer to third parties, the fair, reasonable, and non-discriminatory use and access of a specific capacity of its LNG terminal for a specified period of time, subject to the LNG Terminal Regulated Third Party Access Code;
- (kk) *Reserve price* refers to the undisclosed rate determined by ERC using a methodology pursuant to Section 6 of this Act that serves as the price ceiling for the natural gas transmission fee;
- (ll) *Retail* refers to the sale of natural gas to the general public in relatively small quantities for consumption such as the sale of natural gas to motor vehicles and to households;
- (mm) *rTPA LNG terminal permit holder* refers to an LNG terminal whose owner or operator has been issued an rTPA permit;
- (nn) *Storage* refers to the stocking of natural gas for the purpose of regasification, bunkering, reserve, any combination thereof, or any other purpose consistent with this Act;
- (oo) *Storage facilities* refer to any equipment or infrastructure used for storage;
- (pp) *Supplier* refers to a natural or juridical person authorized by the DOE to engage in supply as defined in this Act;
- (qq) *Supply* refers to the trade of indigenous or imported natural gas, in its original or liquefied form, and its subsequent sale or transfer to midstream natural gas industry participants;
- (rr) *Terminal fee* refers to the rates, charges, and other similar considerations imposed upon third parties for the use and services of any of the following:
- (1) The capacity or a portion thereof covered by an rTPA permit of an LNG terminal, or
 - (2) The unutilized capacity or a portion thereof covered by an own use permit of an LNG terminal;
- (ss) *Third party* refers to a midstream natural gas industry participant who is not the owner, operator, or affiliate of the owner and operator of an LNG terminal, dedicated natural gas pipeline, or natural gas transmission system;

- 1 (tt) *Transmission* refers to the conveyance of natural gas either through a
2 dedicated natural gas pipeline or a natural gas transmission system;
- 3 (uu) *Transmission Regulated Third Party Access Code* refers to the compendium
4 of responsibilities, qualifications, standards, and rules promulgated by the
5 ERC for regulated third party access by one or more third parties to a portion,
6 the entire, or the unutilized capacity of a natural gas transmission system,
7 and the evaluation of performance of a natural gas transmission utility with
8 respect thereto;
- 9 (vv) *Unutilized capacity* refers to a portion of the capacity of an LNG terminal, with
10 an own use permit, an rTPA permit or both, or a natural gas transmission
11 system, set apart for the use of the LNG terminal owner and operator or a
12 third party with regulated third party access to the LNG terminal or the natural
13 gas transmission system, which remains unused after a reasonable period of
14 time and declared as such by the DOE or the ERC pursuant to Sections 5 and
15 6 of this Act and the LNG Terminal Regulated Third Party Access Code and
16 the Transmission Regulated Third Party Access Code, whichever is applicable;
17 and
- 18 (ww) *Virtual pipelines* refer to alternative methods of transporting natural gas using
19 modules coupled to mobile platforms such as motor vehicles, marine vessels,
20 or rail platforms.

21 22 **CHAPTER II**

23 **POWERS AND RESPONSIBILITIES OF GOVERNMENT AGENCIES**

24
25 **SECTION 5. Powers and Responsibilities of the Department of Energy**
26 **(DOE).** – In addition to its functions under Republic Act No. 7638, otherwise known
27 as the Department of Energy Act of 1992, the DOE shall be the lead implementing
28 agency for this Act. Towards this end, it shall:

- 29 (a) Supervise and monitor the development of the midstream natural gas
30 industry, and ensure the security and sufficiency of the supply of natural gas
31 for local demand;

- 1 (b) Require the annual submission of, review, and approve LNG Terminal
2 Development Plans and Natural Gas Transmission Development Plans:
3 *Provided, That* the specific guidelines and timeline for the approval of these
4 plans shall be determined in this Act's implementing rules and regulations
5 taking into consideration the policy declarations of this Act and upon
6 consultation with other relevant government agencies, midstream natural gas
7 industry participants, and other public and private stakeholders;
- 8 (c) Prepare a Midstream Natural Gas Industry Development Plan based on the
9 various LNG Terminal Development Plans and Natural Gas Transmission
10 Development Plans within two (2) years from the effectivity of this Act's
11 implementing rules and regulations, upon consultation with other relevant
12 government agencies, midstream natural gas industry participants, and other
13 public and private stakeholders. The Midstream Natural Gas Industry
14 Development Plan shall be reviewed and updated annually, and integrated
15 into the Philippine Energy Plan;
- 16 (d) Promulgate the PNS or identify and adopt other international standards
17 adopted as PNS by the DTI-BPS, together with relevant government agencies
18 and upon consultation with midstream natural gas industry participants and
19 other public and private stakeholders, within eighteen (18) months from the
20 effectivity of this Act's implementing rules and regulations, for the following:
- 21 (i) Natural gas, in its original or liquefied form,
22 (ii) Location, construction, improvement, operation, utilization, expansion,
23 modification, rehabilitation, repair, maintenance, decommissioning, and
24 abandonment of all LNG terminals,
25 (iii) Storage and bunkering of natural gas and its respective facilities,
26 (iv) Virtual pipelines, and
27 (v) Motor vehicles and marine vessels transporting natural gas;
- 28 (e) Ensure compliance with the health, safety, security, and environmental
29 standards of the following, together with the Department of Environment and
30 Natural Resources (DENR), Department of Health (DOH), and other relevant
31 government agencies:
32 (i) Natural gas, in its original or liquefied form,

- 1 (ii) Location, construction, improvement, operation, utilization, expansion,
2 modification, rehabilitation, repair, maintenance, decommissioning, and
3 abandonment of all LNG terminals, and
4 (iii) Storage and bunkering of natural gas and its respective facilities;
- 5 (f) Convene and co-chair with DTI-BPS, within two (2) months from the
6 effectivity of this Act, a technical working group comprised of relevant
7 government agencies to include the ERC, DTI, DOTr, DENR, DOH,
8 Department of Labor and Employment (DOLE), Department of Interior and
9 Local Government (DILG), their respective attached agencies, midstream
10 natural gas industry participants, and other relevant public and private
11 stakeholders to ensure consistent and streamlined standards and regulations
12 in the midstream natural gas industry. The members of the technical working
13 group shall fully cooperate and collaborate in the creation, promulgation, and
14 streamlining of standards and regulations;
- 15 (g) Promulgate the guidelines for the establishment of safety and exclusion zones
16 of LNG terminals, and determine such safety and exclusion zone for every
17 LNG terminal, in consultation with the technical working group, relevant
18 government agencies, local government units, and public and private
19 stakeholders;
- 20 (h) Evaluate and act on applications for the location, construction, improvement,
21 operation, utilization, expansion, modification, rehabilitation, repair,
22 maintenance, decommissioning, and abandonment of all LNG terminals as
23 well as storage facilities and bunkering facilities;
- 24 (i) Issue the following:
- 25 (i) Permits for the aggregation, supply, importation, exportation, receipt,
26 unloading, loading, processing, storage, regasification, and bunkering of
27 natural gas, in its original or liquefied form in accordance with this
28 Section, and
- 29 (ii) Own use and rTPA permits to owners and operators of LNG terminals;
- 30 (j) Establish a methodology and timeframe for the determination of the unutilized
31 capacity of LNG terminals, which shall be integrated in the LNG Terminal
32 Regulated Third Party Access Code, taking into consideration the following:

- 1 (i) Reasonable period to use the capacity,
- 2 (ii) Existing market demand, and
- 3 (iii) Existing contracts;
- 4 (k) Promulgate the LNG Terminal Regulated Third Party Access Code, within one
- 5 (1) year from the effectivity of this Act's implementing rules and regulations,
- 6 and upon consultation with other relevant government agencies, midstream
- 7 natural gas industry participants, and other public and private stakeholders,
- 8 and ensure compliance therewith. The LNG Terminal Regulated Third Party
- 9 Access Code shall be reviewed and updated regularly. The following
- 10 principles shall govern the creation of this code:
- 11 (i) Reliable and continuous supply of natural gas, and
- 12 (ii) Transparent, fair, reasonable, and non-discriminatory use and access;
- 13 (l) Declare the unutilized capacity of an LNG terminal and mandate regulated
- 14 third party access for such in accordance with the LNG Terminal Regulated
- 15 Third Party Access Code;
- 16 (m) Determine minimum guidelines to ensure the transparent, fair, reasonable,
- 17 and non-discriminatory conduct of competitive selection processes by owners
- 18 and operators of LNG terminal: *Provided*, That these minimum guidelines shall
- 19 not include the mode of competitive selection process;
- 20 (n) Approve or disapprove any sale, assignment, or transfer of control to another
- 21 entity by a midstream natural gas industry participant with a DOE issued
- 22 permit within ninety (90) calendar days from submission of complete
- 23 documentary requirements. Concomitantly, the DOE may require from any
- 24 midstream natural gas industry participant with a DOE issued permit the prior
- 25 disclosure of any sale, assignment, or transfer of ownership or direct or
- 26 indirect interests, rights, or participation not amounting to control to another
- 27 entity. In both these cases, the DOE may review, modify, cancel, approve,
- 28 or disapprove any permit it has issued taking into consideration the legal,
- 29 technical, and financial qualifications of the purchaser, assignee, or transferee
- 30 and its compliance with its own use or rTPA permit or other DOE issued
- 31 permits under this Act and existing laws, rules and regulations;

- 1 (o) Determine the qualifications of and procedure for the competitive selection of
2 a single independent NGTSO taking into consideration Section 22 of this Act,
3 upon consultation with relevant government agencies, midstream natural gas
4 industry participants, and other public and private stakeholders, and
5 undertake its selection upon the interconnection of natural gas transmission
6 systems;
- 7 (p) Require the submission of the following information from suppliers, importers,
8 aggregators, and owners and operators of LNG terminals, storage facilities,
9 and bunkering facilities, whichever is applicable, subject to Section 32 of this
10 Act:
- 11 (i) Progress and status reports on location, construction, improvement,
12 operation, expansion, modification, rehabilitation, repair, maintenance,
13 decommissioning, and abandonment of LNG terminals and storage and
14 bunkering facilities,
- 15 (ii) Regular reports on the following:
- 16 i. Compliance with health, safety, security, and environmental
17 standards,
- 18 ii. Utilization of the LNG terminal by its owner and operator, the
19 owner and operator's affiliates, and third parties, whichever is
20 applicable,
- 21 iii. Compliance with the LNG Terminal Regulated Third Party Access
22 Code to include compliance with DOE directive to subject an
23 unutilized capacity to regulated third party access;
- 24 (iii) Supply and demand of natural gas with respect to their own facilities or
25 operations,
- 26 (iv) Volumes of specific inventories to include levels of importation and
27 emergency reserve,
- 28 (v) Progress and status reports on mitigation measures and responses in
29 relation to accidents and other emergency incidents,
- 30 (vi) Mode of competitive selection of third parties for rTPA LNG terminal
31 permit holders, reports on competitive selection processes undertaken,
32 and status of utilization by third parties of the LNG terminal with an rTPA

- 1 permit: *Provided*, That the mode for each competitive selection process
2 shall be determined by each rTPA LNG terminal permit holder: *Provided*
3 *further*, That each competitive selection process shall be transparent,
4 fair, reasonable, and non-discriminatory, and
- 5 (vii) Other data and information necessary to the performance of the duties
6 and functions of DOE;
- 7 (q) Determine the necessity of and then direct the interconnection of natural gas
8 transmission systems based on the Philippine Energy Plan, Midstream Natural
9 Gas Development Plan, and the Natural Gas Transmission Development Plans,
10 taking into consideration the maturity of the industry, the existing natural gas
11 transmission systems' infrastructure, and the cost efficiency of
12 interconnection, and upon consultation with the ERC, other relevant
13 government agencies, midstream natural gas industry participants, and other
14 public and private stakeholders;
- 15 (r) Ensure compliance with the publication and unbundling of the terminal fee in
16 accordance with Section 25 of this Act;
- 17 (s) Ensure and review compliance with, and investigate, *motu proprio* or upon
18 complaint, any non-compliance with this Act including any permit DOE has
19 issued in relation hereto, its rules and regulations, the LNG Terminal
20 Regulated Third Party Access Code, and any other issuance promulgated
21 pursuant to the DOE's powers under this Act, except those under the
22 jurisdiction of the ERC as provided under Section 6 herein. Thereafter, the
23 DOE may penalize, suspend, or revoke, after due notice and hearing any
24 permit it has issued;
- 25 (t) Endorse the findings of investigations against midstream natural gas industry
26 participants, for any of the following:
- 27 (i) Anticompetitive behavior before the Philippine Competition Commission
28 (PCC), or
- 29 (ii) Violations of the provisions of this Act and other applicable laws, rules,
30 and regulations before the ERC, other quasi-judicial agencies, or the
31 courts; and

- 1 (u) Perform all other acts that are analogous to the aforementioned and in
2 furtherance of the implementation of this Act.

3
4 **SECTION 6. Powers and Responsibilities of the Energy Regulatory**
5 **Commission (ERC).** – In addition to its functions under Republic Act No. 9136,
6 otherwise known as the Electric Power Industry Reform Act of 2001, the ERC shall
7 have the authority to:

- 8 (a) Promulgate the PNS or identify and adopt other international standards adopted
9 as PNS by the DTI-BPS, together with relevant government agencies and upon
10 consultation with midstream natural gas industry participants and other public
11 and private stakeholders, within eighteen (18) months from the effectivity of
12 this Act's implementing rules and regulations, for the following:

- 13 (i) Dedicated natural gas pipelines, and
14 (ii) Natural gas transmission systems;

- 15 (b) Ensure compliance with the health, safety, security, and environmental
16 standards of the following, together with the Department of Environment and
17 Natural Resources (DENR), Department of Health (DOH), and other relevant
18 government agencies:

- 19 (i) Dedicated natural gas pipelines, and
20 (ii) Natural gas transmission systems;

- 21 (c) Participate in the technical working group convened by DOE pursuant to Section
22 5 of this Act;

- 23 (d) Evaluate and act on applications for the location, construction, improvement,
24 operation, utilization, expansion, modification, rehabilitation, repair,
25 maintenance, decommissioning, and abandonment of dedicated natural gas
26 pipelines and natural gas transmission systems;

- 27 (e) Issue permits for the transmission of natural gas to include certificates of public
28 convenience and necessity (CPCN) to natural gas transmission utilities;

- 29 (f) Establish a methodology and timeframe for the determination of the unutilized
30 capacity of natural gas transmission systems, which shall be integrated in the
31 Transmission Regulated Third Party Access Code, taking into consideration the
32 following:

- 1 (i) Reasonable period to use the capacity,
- 2 (ii) Existing market demand, and
- 3 (iii) Existing contracts;
- 4 (g) Promulgate the Transmission Regulated Third Party Access Code, within one
- 5 (1) year from the effectivity of this Act's implementing rules and regulations,
- 6 and upon consultation with other relevant government agencies, midstream
- 7 natural gas industry participants, and other public and private stakeholders,
- 8 and ensure compliance therewith;
- 9 (h) Promulgate the Natural Gas Transmission Code and Transmission Regulated
- 10 Third Party Access Code, within one (1) year from the effectivity of this Act's
- 11 implementing rules and regulations, and upon consultation with other relevant
- 12 agencies, midstream natural gas industry participants, and other public and
- 13 private stakeholders, and ensure compliance therewith. The Natural Gas
- 14 Transmission Code and the Transmission Regulated Third Party Access Code
- 15 which shall be reviewed and updated regularly. The following principles shall
- 16 govern the creation of these codes:
- 17 (i) Reliable and continuous supply of natural gas, and
- 18 (ii) Transparent, fair, reasonable, and non-discriminatory use and access;
- 19 (i) Declare the unutilized capacity of a natural gas transmission system and
- 20 mandate regulated third party access for such in accordance with the
- 21 Transmission Regulated Third Party Access Code;
- 22 (j) Determine minimum guidelines to ensure the transparent, fair, reasonable, and
- 23 non-discriminatory conduct of competitive selection processes by natural gas
- 24 transmission utilities: *Provided*, That these minimum guidelines shall not
- 25 include the mode of competitive selection process;
- 26 (k) Approve or disapprove any plan of a natural gas transmission utility, an owner
- 27 and operator of a dedicated natural gas pipeline, and the NGTSO to sell, assign,
- 28 or transfer control to another entity. Concomitantly, the ERC may require from
- 29 a natural gas transmission utility, an owner and operator of a dedicated natural
- 30 gas pipeline, and the NGTSO the prior disclosure of any sale, assignment, or
- 31 transfer of ownership or direct or indirect interests, rights, or participation to
- 32 another entity. In both these cases, the ERC may review, modify, cancel,

1 approve, or disapprove any permit it has issued taking into consideration the
2 legal, technical, and financial qualifications of the purchaser, assignee, or
3 transferee and its compliance with its ERC issued permits under this Act and
4 existing laws, rules and regulations;

5 (I) Require the submission of the following information from the owner and
6 operator of dedicated natural gas pipelines, the natural gas transmission utility,
7 and the NGTSO, whichever is applicable, subject to Section 32 of this Act:

8 (I) Progress and status reports on location, construction, improvement,
9 operation, expansion, modification, rehabilitation, repair, maintenance,
10 decommissioning, and abandonment of dedicated natural gas pipelines,
11 natural gas transmission systems, and the interconnected natural gas
12 transmission system,

13 (ii) Regular reports on the following:

14 i. Compliance with health, safety, security, and environmental
15 standards,

16 ii. Utilization of the dedicated natural gas pipeline and natural gas
17 transmission system by its owner and operator, the owner and
18 operator's affiliates, and third parties, whichever is applicable,

19 iii. Compliance with the Transmission Regulated Third Party Access
20 Code to include compliance with DOE directive to subject an
21 unutilized capacity to regulated third party access;

22 (iii) Supply and demand of natural gas with respect to their own facilities or
23 operations,

24 (iv) Volumes of specific inventories to include levels of ancillary reserve,
25 when applicable,

26 (v) Compliance with health, safety, security, and environmental standards,
27 and activities in relation thereto,

28 (vi) Progress and status reports on mitigation measures and responses in
29 relation to accidents and other significant or emergency incidents;

30 (vii) Mode of competitive selection of third parties for natural gas
31 transmission utilities, reports on competitive selection processes
32 undertaken to include the natural gas transmission fee, and status of

- utilization by third parties: *Provided*, That the mode for each competitive selection process shall be determined by each natural gas transmission utility: *Provided further*, That each competitive selection process shall be transparent, fair, reasonable, and non-discriminatory,
- (viii) Billed and collected amounts of the natural gas transmission fee and NTSSO fee, whichever is applicable, and
 - (ix) Other documents, data, and information necessary to the performance by ERC of its functions under this Act;
 - (m) Ensure and review compliance with, and investigate, *motu proprio*, upon complaint, or upon endorsement of any government agency, any non-compliance with this Act including any permit ERC has issued in relation hereto, its rules and regulations, the Natural Gas Transmission Code, the Transmission Regulated Third Party Access Code, and any other issuance promulgated pursuant to the ERC's powers under this Act, except those under the jurisdiction of the DOE as provided under Section 5 herein. Thereafter, the ERC may penalize, suspend, or revoke, after due notice and hearing any permit it has issued;
 - (n) Endorse the findings of investigations on any anticompetitive behavior of an owner and operator of a dedicated natural gas pipeline, the natural gas transmission utility, and the NGTSSO to the PCC;
 - (o) Exercise its rate-setting power through the determination and regular review of the following:
 - (i) Reserve price for the natural gas transmission fee. It shall remain undisclosed until the winning bidder is declared, and
 - (ii) NGTSSO fee.
- The ERC shall notify and afford relevant stakeholders the opportunity to be heard in the following:
- (i) Methodology for the determination of the reserve price, and
 - (ii) Determination of the NGTSSO fee;
- (p) Ensure compliance with the publication and unbundling of the natural gas transmission fee and the NGTSSO fee imposed by the natural gas transmission utilities, and the NGTSSO respectively, in accordance with Section 25 of this Act;

- (q) Review regularly the performance of natural gas transmission utilities and the NGTSO, when applicable, including the quality of its service and compliance with its approved Natural Gas Transmission Development Plan and its powers and functions pursuant to Chapter V of this Act;
- (r) Exercise exclusive jurisdiction over all matters pertaining to rate setting in this Act taking into consideration the policy of full recovery of prudent and reasonable economic costs with a reasonable rate of return or such other principles that promote efficiency and other internationally accepted rate setting methodology;
- (s) Exercise overall regulatory supervision over dedicated natural gas pipelines, natural gas transmission systems, and the NGTSO; and
- (t) Perform all other acts that are analogous to the foregoing and in furtherance of the implementation of this Act.

SECTION 7. Powers and Responsibilities of the Department of Environment and Natural Resources. – In addition to its functions under Executive Order No. 192, otherwise known as the Reorganization Act of the Department of Environment and Natural Resources, and other applicable laws, the DENR, together with the DOE, the ERC, or the DOTr, shall ensure and monitor compliance with the environmental standards for the location, construction, improvement, operation, utilization, expansion, modification, rehabilitation, repair, maintenance, decommissioning, and abandonment of LNG terminals, natural gas transmission systems, dedicated natural gas pipelines, storage facilities, bunkering facilities, virtual pipelines, and motor vehicles and marine vessels transporting, storing or processing natural gas, in its original state or liquefied form, and all related equipment and facilities.

SECTION 8. Powers and Responsibilities of the Department of Health. – In addition to its functions under Executive Order No. 317, Series of 1941, entitled Organizing the Department of Health and Public Welfare, as amended, and Republic Act No. 11223, otherwise known as the Universal Health Care Act, the DOH, together with the DOE, the ERC or the DOTr, shall:

- 1 (a) Ensure and monitor compliance with the health standards for the location,
2 construction, improvement, operation, utilization, expansion, modification,
3 rehabilitation, repair, maintenance, decommissioning, and abandonment of
4 LNG terminals, natural gas transmission systems, dedicated natural gas
5 pipelines, storage facilities, bunkering facilities, virtual pipelines, and motor
6 vehicles and marine vessels transporting, storing, or processing natural gas, in
7 its original state or liquefied form, and all related equipment and facilities;
8 (b) Recommend standards, rules, and regulations in the conduct of health risk
9 assessment studies in cases of natural gas accidents;
10 (c) Develop guidelines, policies, and health standards on the treatment and
11 management of patients affected by natural gas accidents; and
12 (d) Require health data and information from LNG terminals, natural gas
13 transmission systems, dedicated natural gas pipelines, storage facilities, and
14 bunkering facilities, virtual pipelines, and motor vehicles and marine vessels
15 transporting, storing, or processing natural gas, in its original state or liquefied
16 form, and all related equipment and facilities.

17
18 **SECTION 9. Powers and Responsibilities of the Department of Trade and**
19 **Industry – Bureau of Philippine Standards.** – In addition to its functions under
20 Republic Act No. 4109, otherwise known as the Standards Act, the DTI-BPS, shall act
21 as the Co-Chairperson of the technical working group created pursuant to Section 5
22 of this Act, and together with the DOE, the ERC, or the DOTR, determine, develop,
23 formulate, promulgate, and revise the Philippine National Standards, or identify and
24 adopt international standards as PNS, for natural gas, in its original or liquefied form,
25 LNG terminals, dedicated natural gas pipelines, natural gas transmission systems,
26 storage facilities, bunkering facilities, virtual pipelines, and motor vehicles and marine
27 vessels transporting, storing, or processing natural gas, in its original state or liquefied
28 form, and all related equipment and facilities.

29
30 **SECTION 11. Powers and Responsibilities of the Department of**
31 **Transportation and its Attached Agencies.** – In addition to its functions under
32 Executive Order No. 125, series of 1987 otherwise known as the Reorganization Act

1 of the Ministry of Transportation and Communications, as amended, and other
2 applicable laws, the DOTr or its attached agencies such as the Land Transportation
3 Office, Land Transportation Franchising and Regulatory Board, and Maritime Industry
4 Authority, in coordination with the DOE, DENR, DOH, DTI-BPS, and other relevant
5 government agencies, shall issue the appropriate guidelines and regulations and the
6 applicable permits, licenses, certificates, or authorizations to virtual pipelines, motor
7 vehicles and marine vessels transporting, storing or processing natural gas, in its
8 original state or liquefied form, as well as marine facilities used to import, receive,
9 unload, load, transport, process, and store natural gas in its original or liquefied form,
10 including those utilized as offshore LNG terminals. The DOTr shall monitor and ensure
11 compliance therewith.

12
13 **SECTION 12. Powers and Responsibilities of the Philippine Competition**
14 **Commission (PCC).** – In addition to its functions under Republic Act No. 10667,
15 otherwise known as the Philippine Competition Act, the PCC shall exercise primary and
16 exclusive jurisdiction over any anticompetitive behavior of midstream natural gas
17 industry participants.

18 19 20 **CHAPTER III**

21 **MIDSTREAM NATURAL GAS INDUSTRY PARTICIPANTS**

22
23 **SECTION 13. Responsibilities of Midstream Natural Gas Industry**
24 **Participants.** – All midstream natural gas industry participants shall:

- 25 (a) Adhere to all health, safety, security, and environmental standards and all
26 codes, rules, regulations, and issuances promulgated pursuant to Chapter II
27 of this Act;
- 28 (b) Comply with all obligations and responsibilities under this Act to include
29 reportorial requirements and submissions pursuant to Chapter II of this Act;
- 30 (c) Participate as a member of the technical working group pursuant to Section 5
31 of this Act;

- 1 (d) Unbundle their respective fees, if applicable, pursuant to Sections 5, 6, and 25
2 of this Act; and
3 (e) Not engage in any anticompetitive behavior.
4

5 **CHAPTER IV**
6 **LNG TERMINALS**
7

8 **SECTION 14. Importation and Receipt of Natural Gas through LNG**
9 **Terminals.** – Imported natural gas, in its liquefied form, shall only be received,
10 unloaded, loaded, processed, stored, and regasified in, and then transmitted,
11 transported, and conveyed in accordance with this Act.
12

13 **SECTION 15. Safety and Exclusion Zone.** – All LNG terminals shall have a safety
14 and exclusion zone to be determined by the DOE in consultation with the technical
15 working group created under Section 5 of this Act, relevant government agencies,
16 local government units, and public and private stakeholders.
17

18 **SECTION 16. LNG Terminal Owner and Operator.** – An LNG terminal may have
19 a separate owner and operator. The LNG terminal owner and operator, should they
20 be separate entities, shall be treated as one and the same entity insofar as permits,
21 licenses, certificates, and authorizations are concerned, as well as in the exercise of
22 rights and compliance with obligations, standards, regulations, guidelines, and codes
23 imposed by this Act, its implementing rules and regulations, and other relevant laws
24 and issuances.
25

26 **SECTION 17. Use and Access of LNG Terminals.** – The use and access of LNG
27 terminals shall be regulated pursuant to this Act, while the terminal fee shall be
28 unbundled in accordance with Section 25 herein and unregulated. All owners and
29 operators of LNG terminals shall annually submit their LNG Terminal Development Plan
30 to DOE pursuant to Section 5 of this Act.

31 The DOE shall issue own use and rTPA permits to owners and operators of LNG
32 terminals. The owner and operator of an LNG terminal shall have the option to apply

1 for and hold an own use permit, an rTPA permit, or both permits simultaneously for
2 each LNG terminal, and perform the functions of an own use LNG terminal permit
3 holder pursuant to Section 18 of this Act and an rTPA LNG terminal permit holder
4 pursuant to Section 19 of this Act, to the extent of the capacity allowed by and during
5 the length of the time specified in each type of permit, and in accordance with the
6 LNG Terminal Regulated Third Party Access Code.

7 Each type of permit shall specify the capacity and length of time covered by
8 the permit: *Provided*, That the total capacity of all permits held by an owner and
9 operator of an LNG terminal for each LNG terminal shall not exceed the maximum
10 capacity of such LNG terminal. The unutilized capacity of an owner and operator or
11 its affiliate covered by an own use LNG terminal permit shall be opened to third parties
12 through the issuance of an rTPA permit and pursuant to the LNG Terminal Regulated
13 Third Party Access Code. The unutilized capacity by a third party covered by an rTPA
14 LNG terminal permit shall be opened to other third parties pursuant to the LNG
15 Terminal Regulated Third Party Access Code.

16
17 **SECTION 18. Own Use LNG Terminal.** – An own use LNG terminal permit holder
18 shall:

19 (a) Exclusively utilize the capacity allowed by and during the length of time
20 specified in the own use permit, and may allow its affiliates to do the same;
21 and

22 (b) Not enter into an nTPA or any similar arrangement with third parties or
23 otherwise grant use and access of its facilities to such third parties to the extent
24 of the capacity allowed and during the length of time specified in the own use
25 permit, subject to Section 17 of this Act and the LNG Terminal Regulated Third
26 Party Access Code.

27
28 **SECTION 19. Regulated Third Party Access LNG Terminal.** – The issuance of
29 an rTPA permit to an owner and operator of an LNG terminal shall take into
30 consideration the capacity and utilization of the LNG terminal, current midstream end
31 users, existing market conditions, and other relevant information with the end in view
32 of enabling competition in the natural gas industry. The use and access of the capacity

covered by an rTPA permit shall be open to all third parties subject to the payment of a terminal fee. An rTPA LNG terminal permit holder shall:

(a) Publicly disclose the capacity available to and utilization by third parties in accordance with the reportorial requirements under this Act and the LNG Terminal Regulated Third Party Access Code;

(b) Determine the mode of competitive selection of third parties: *Provided*, That each LNG terminal shall determine its own competitive selection process which shall be transparent, fair, reasonable, and non-discriminatory subject to the reportorial requirements under this Act;

(c) Provide regulated third party access to the extent of the capacity allowed by and during the length of time specified in its rTPA permit; and

(d) Not give any undue preference or advantage to any third party, whether in rates, terms, conditions, or special privileges.

CHAPTER V

TRANSPORT AND TRANSMISSION OF NATURAL GAS

SECTION 20. Transport of Natural Gas. – Natural gas, in its original or liquefied form, may be transported within the country through virtual pipelines, motor vehicles, and marine vessels in accordance with this Act. The use, access, and fees for the transportation of natural gas shall be unregulated but shall be subject to the permits, licenses, certificates, authorizations, standards, regulations, and guidelines promulgated pursuant to Chapter II of this Act.

SECTION 21. Transmission of Natural Gas. – Natural gas may be transmitted through dedicated natural gas pipelines or natural gas transmission systems either from an LNG terminal or a local natural gas production facility.

SECTION 22. Dedicated Natural Gas Pipelines. – The ownership and operation of a dedicated natural gas pipeline shall not be considered a public utility and shall not require a legislative franchise, but shall require a permit in accordance with Section 6 of this Act. Its use, access, and fee for use shall be unregulated, but shall be subject

1 to permits, licenses, certificates, authorizations, standards, regulations, guidelines,
2 codes, and reportorial requirements as provided in this Act. The owner and operator
3 of a dedicated natural gas pipeline shall:

4 (a) Exclusively utilize the capacity of its dedicated natural gas pipeline or allow its
5 affiliates to do the same;

6 (b) Not enter into an nTPA or any similar arrangement with third parties or
7 otherwise grant use and access of its facilities to such third parties; and

8 (c) Inform the ERC of its intent to convert its facilities to a natural gas transmission
9 system simultaneous with its application for a legislative franchise as a natural
10 gas transmission utility.

11
12 **SECTION 23. Natural Gas Transmission Systems.** – The use, access, and
13 terminal fee of a natural gas transmission system shall be regulated. The ownership
14 and operation of a natural gas transmission system shall be considered a public utility
15 and shall require a legislative franchise. The issuance of a CPCN to a natural gas
16 transmission utility shall take into consideration its legal, technical, and financial
17 capability.

18 The use and access to the entire capacity of a natural gas transmission system
19 shall be open to all third parties for a natural gas transmission fee, subject to the
20 reserve price of the ERC in accordance with Section 6 of this Act: *Provided*, That in
21 the case of a dedicated natural gas pipeline that converts its facilities into a natural
22 gas transmission system, existing contracts with affiliates for the use of the pipeline
23 at the time of the effectivity of such franchise shall be allowed to continue until the
24 end of the contract, which shall not be subject to any extension.

25 A natural gas transmission utility shall:

26 (a) Regularly disclose to the public the capacity available for and utilization by third
27 parties in accordance with the reportorial requirements under this Act and the
28 Transmission Regulated Third Party Access Code;

29 (b) Determine the mode of and conduct a competitive selection of third parties.
30 *Provided*, That each natural gas transmission utility shall determine its own
31 competitive selection process which shall be transparent, fair, reasonable, and
32 non-discriminatory, subject to the reportorial requirements under this Act;

- (c) Ensure that the winning bid does not go beyond the reserve price determined by ERC pursuant to Section 6 of this Act;
- (d) Provide transparent, fair, reasonable, and non-discriminatory use and access to third parties;
- (e) Not give any undue preference or advantage to any third party, whether in rates, terms, conditions, or special privileges;
- (f) Submit annually its Natural Gas Transmission Development Plan to DOE for review and approval, or the NGTSO, whichever is applicable, pursuant to Sections 5 and 24 of this Act;
- (g) Assign to the NGTSO the operation and maintenance of its natural gas transmission system upon direction of the ERC after the interconnection of natural gas transmission systems and the selection of the NGTSO; and
- (h) When applicable, inform and coordinate with the NGTSO for the location, construction, improvement, operation, utilization, expansion, modification, rehabilitation, repair, maintenance, decommissioning, and abandonment of any part of the natural gas transmission system to be undertaken in accordance with its submitted National Gas Transmission Development Plan.

SECTION 24. Natural Gas Transmission System Operator. – The DOE, based on the Philippine Energy Plan, the Midstream Natural Gas Industry Development Plan, and the various Natural Gas Transmission Development Plans shall determine the necessity of and then direct the interconnection of natural gas transmission systems pursuant to Section 5 of this Act. The DOE shall thereafter select a single independent NGTSO. The NGTSO shall not be an affiliate of any LNG terminal owner and operator, natural gas transmission utility, or any midstream end-user. The NGTSO shall:

- (a) Operate and manage the interconnected natural gas transmission system in accordance with the Natural Gas Transmission Code and Transmission Regulated Third Party Access Code;
- (b) Coordinate with natural gas transmission utilities for the location, construction, improvement, operation, utilization, expansion, modification, rehabilitation, repair, maintenance, decommissioning, and abandonment of any part of the

- 1 natural gas transmission system in accordance with their submitted Natural
2 Gas Transmission Development Plan;
- 3 (c) Furnish midstream natural gas industry participants with sufficient information
4 for efficient access to the interconnected natural gas transmission system;
- 5 (d) Procure ancillary services necessary to support the reliable and continuous
6 flow of natural gas through the interconnected natural gas transmission
7 system;
- 8 (e) Annually prepare a comprehensive Natural Gas Transmission Development
9 Plan based on the submitted Natural Gas Transmission Development Plans of
10 natural gas transmission utilities, upon consultation with public and private
11 stakeholders, and submit the same for review and approval of the DOE;
- 12 (f) Collect an NGTSO fee, subject to the approval of the ERC; and
- 13 (g) Perform other functions and responsibilities determined by the DOE and ERC
14 pursuant to Sections 5 and 6 of this Act.

15

16 **CHAPTER VI**

17 **RATES, FEES, AND OTHER CHARGES**

18

19 **SECTION 25. Publication and Unbundling of Fees.** – LNG terminals with
20 regulated third party access, whether through an rTPA permit or a DOE declaration of
21 an unutilized capacity, natural gas transmission utilities, and the NGTSO shall identify
22 and segregate in their bills to midstream end-users the components of their terminal
23 fees, natural gas transmission fees, and NGTSO fee, respectively, and publish the
24 same on their website.

25

26 **SECTION 26. Other Fees and Charges.** – The DOE, ERC, and other relevant
27 government agencies may impose reasonable fees for processing applications and
28 permits as may be necessary in this Act pursuant to Executive Order No. 292,
29 otherwise known as the Administrative Code of 1987, and Republic Act No. 9136
30 otherwise known as the Electric Power Industry Reform Act of 2001.

31

32 **CHAPTER VII**

PROHIBITED ACTS AND PENALTIES

SECTION 27. Prohibited Acts.— Without prejudice to civil and criminal liability, the following acts shall be prohibited:

(a) For government agencies: failing to comply with the responsibilities under Chapter II of this Act, and within the timeframes specified in Sections 5, 6, and 37 of this Act;

(b) For midstream natural gas industry participants:

(i) Engaging in activities without the required permits, licenses, certificates, and authorizations under this Act, specifically:

1. Engaging in the aggregation, supply, importation, exportation, receipt, unloading, loading, processing, storage, regasification, transmission, bunkering, and transportation of natural gas, or the location, construction, improvement, operation, utilization, expansion, modification, rehabilitation, repair, maintenance, decommissioning, and abandonment of an LNG terminal, natural gas transmission system, dedicated natural gas pipeline, virtual pipeline, and motor vehicles and marine vessels transporting natural gas without a permit as defined in this Act from DOE, ERC, or DOTR or its attached agencies,
2. Engaging in any activity as a midstream natural gas industry participant without a license, certificate, and authorization from DENR, DOH, Department of Interior and Local Government or its attached agencies, local government units, and other relevant government agencies,
3. Operating as an own use terminal without an own use permit,
4. Operating as an rTPA terminal without an rTPA permit, and
5. Operating a natural gas transmission system without a legislative franchise and a CPCN;

1 (ii) Failure to comply with health, safety, security, and environmental
2 standards, requirements, and guidelines as well as codes under this Act,
3 whichever is applicable, specifically:

4 1. Failure to comply with the PNS or other international
5 standards adopted as PNS of the following:

- 6 a. Natural gas, in its original or liquefied form,
- 7 b. Location, construction, improvement, operation,
8 utilization, expansion, modification, rehabilitation, repair,
9 maintenance, decommissioning, and abandonment of all
10 LNG terminals,
- 11 c. Storage and bunkering of natural gas and its respective
12 facilities,
- 13 d. Virtual pipelines,
- 14 e. Motor vehicles and marine vessels transporting natural
15 gas,
- 16 f. Dedicated natural gas pipelines, and
17 g. Natural gas transmission systems

18 2. Failure to comply with standards, rules, and regulations in
19 the conduct of health risk assessment studies in cases of natural
20 gas accidents,

21 3. Failure to comply with the Natural Gas Transmission Code,

22 4. Failure to comply with the LNG Terminal Regulated Third
23 Party Access Code, and

24 5. Failure to comply with the Transmission Regulated Third
25 Party Access Code,

26 6. Failure to comply with the safety and exclusion zone;

27 (iii) Failure to submit or disclose required data, information, and documents,
28 whichever is applicable, specifically:

29 1. Failure to submit an LNG Terminal Development Plan,

30 2. Failure to submit a Natural Gas Transmission Development
31 Plan,

3. Refusal or failure to submit the required data and information to the DOE pursuant to Section 5 of this Act,
 4. Refusal or failure to submit the required documents, data, and information to the ERC pursuant to Section 6 of this Act,
 5. Refusal or failure to submit health data and information to the DOH pursuant to Section 8 of this Act,
 6. Refusal or failure to publicly disclose the following:
 - a. Capacity available to third parties,
 - b. Utilization of capacities by third parties,
 7. Failure to furnish midstream natural gas industry participants with sufficient information for efficient access to the interconnected natural gas transmission system, and
 8. Failure to inform the ERC of its intent to convert a dedicated natural gas pipeline to a natural gas transmission system simultaneous with its application for a legislative franchise;
- (iv) Failure to comply with the requirements on fees, whichever is applicable, specifically:
1. Failure to comply with the publication and unbundling requirement for the terminal fee, natural gas transmission fee, and NGTSO fee, whichever is applicable,
 2. Collecting an NGTSO fee without the approval of ERC,
 3. Awarding a winning bid beyond the reserve price determined by ERC,
 4. Collecting a natural gas transmission fee higher than the winning bid, and
 5. Disclosing the reserve price before the determined time by ERC;
- (v) Failure to comply with the requirements on own use and regulated third party access, whichever is applicable, specifically:
1. Allowing a third party to use a portion or the entire capacity of a dedicated natural gas pipeline,

2. Entering into an rTPA or similar arrangement with third parties or granting use and access to third parties to the extent of the capacity covered by an own use permit for LNG terminals,
 3. Refusal or failure to conduct a transparent, fair, reasonable, and non-discriminatory competitive selection of third parties for the capacity covered by an rTPA permit for LNG terminals, or the entire capacity of a natural gas transmission system,
 4. Using or allowing an affiliate to use the capacity covered by an rTPA permit for LNG terminals or a portion or the entire capacity of a natural gas transmission system without undergoing a competitive selection process,
 5. Giving any undue preference or advantage to any third party, whether in rates, terms, conditions, or special privileges,
 6. Failure to provide transparent, fair, reasonable, and non-discriminatory use and access to third parties,
 7. Failure to comply with mandated regulated third party access for unutilized capacity;
- (vi) Failure to comply with other responsibilities as midstream natural gas industry participants, whichever is applicable, specifically:
1. Refusal to participate as an identified member of the technical working group,
 2. Failure to cooperate in any investigation conducted by DOE, ERC, or PCC pursuant to their powers under this Act,
 3. Failure to comply with the prior approval requirement of any sale, assignment, or transfer of control of a midstream natural gas industry participant with a DOE issued permit to another entity;
 4. Failure to comply with the directive of DOE for prior disclosure of any sale, assignment, or transfer of ownership or direct or indirect interests, rights, or participation of a midstream

1 natural gas industry participant with a DOE issued permit to
2 another entity;

3 5. Engaging in anti-competitive behavior,

4 6. Refusal or failure to assign to the NGTSO the operation
5 and maintenance of its natural gas transmission system upon
6 directive of the ERC,

7 7. Refusal or failure to inform and coordinate with the NGTSO
8 or the natural gas transmission utilities, whichever is applicable,
9 for the location, construction, improvement, operation, utilization,
10 expansion, modification, rehabilitation, repair, maintenance,
11 decommissioning, and abandonment of any part of the natural
12 gas transmission system,

13 8. Failure to secure ancillary services necessary to support
14 the reliable and secure flow of natural gas through the
15 interconnected natural gas transmission system, and

16 9. Failure to comply with other responsibilities not otherwise
17 stated in this Section.
18

19 **SECTION 28. Penalties.** – Without prejudice to civil and criminal liability, the
20 following administrative penalties shall be imposed upon any natural or juridical person
21 for every prohibited act enumerated below:

22 (a) Section 27 (a): Fine not exceeding the equivalent of six (6) months' salary or
23 suspension not exceeding one (1) year, or removal depending on the gravity
24 of the offense;

25 (b) Section 27 (b):

26 i. First Offense: Fine of not less than Five hundred thousand pesos
27 (P500,000) for every day of non-compliance, and if applicable,
28 suspension of permits, licenses, certificates, or authorizations until the
29 violation is corrected,

30 ii. Second Offense: Fine of not less than One million pesos (P1,000,000)
31 for every day of non-compliance, and if applicable, suspension of

permits, licenses, certificates, or authorizations until the violation is corrected, and

- iii. Third Offense: Fine of not less than Five million pesos (P5,000,000), revocation of permits, licenses, certificates, or authorizations, and disqualification from applying for future permits, licenses, certificates, or authorizations. In the case of natural gas transmission utilities, DOE and ERC shall recommend the revocation of their respective franchises to Congress. In the case of the NGTSO, it shall be replaced.

Provided, That the administrative penalty for Section 27(b)(vi)(5) shall be pursuant to Section 29 of the Philippine Competition Act.

CHAPTER VIII

FINAL PROVISIONS

SECTION 29. Incentives. – LNG terminals, storage facilities, bunkering facilities, dedicated own use natural gas pipelines, and natural gas transmission systems, shall be included in the Strategic Investment Priority Plan subject to an evaluation process and shall be entitled to the incentives and for the length of time provided under Executive Order No. 226, otherwise known as the Omnibus Investments Code of 1987, as amended by Republic Act No. 11534, otherwise known as the Corporate Recovery and Tax Incentives for Enterprises Act, and other applicable laws.

SECTION 30. Permits and Licenses. – All permits, licenses, certificates, and authorizations issued pursuant to this Act shall be streamlined and shall be covered by Republic Act No. 11234, otherwise known as the Energy Virtual One-Stop Shop Act, except for those whose time frames are expressly provided herein.

SECTION 31. Public Access to Information. – The DOE, ERC, and other relevant government agencies shall allow public access, through its website, to all data and information submitted in the implementation of this Act: *Provided,* That such access is compliant with Section 32 hereto.

1 **SECTION 32. Treatment of Confidential Information.** – The DOE, ERC, and
2 other relevant government agencies shall not disclose any proprietary and confidential
3 information to the public and to other midstream natural gas industry participants
4 unless prior consent of the source or owner of such information has been obtained by
5 the requesting party: *Provided*, That prior consent shall not be required if the
6 proprietary and confidential information is requested by a government agency and the
7 request is made in performance of its functions: *Provided further*, That the requesting
8 government agency shall not disclose the proprietary and confidential information to
9 the public and to other midstream natural gas industry participants.

10
11 **SECTION 33. Establishment of Dedicated Offices.** – The DOE and the ERC shall
12 establish dedicated bureaus or offices for the effective implementation of this Act. The
13 organizational structure and staffing complement shall be determined by the DOE
14 Secretary and ERC Chairperson respectively, with approval of the Department of
15 Budget and Management or the Office of the President, whichever is applicable, and
16 in accordance with existing civil service rules and regulations.

17
18 **SECTION 34. Appropriations.** – The amount of Seventy-five million pesos
19 (P75,000,000.00) shall be charged against the current year's appropriations of the
20 DOE and the amount of Seventy million pesos (P70,000,000.00) shall be charged
21 against the current year's appropriations of the ERC, all for the initial implementation
22 of this Act. Thereafter, such amounts necessary for the sustainable implementation
23 of this Act shall be included in the annual General Appropriations Act.

24
25 **SECTION 35. Congressional Oversight.** – The Joint Congressional Energy
26 Commission (JCEC) shall exercise oversight powers over the implementation of this
27 Act. The DOE, ERC, and other relevant government agencies shall submit annual
28 reports to the JCEC not later than the fifteenth day of September, which shall include
29 the latest relevant data, implementation review and reports, and policy and regulatory
30 issuances.

1 **SECTION 36. Transitory Period.** – All midstream natural gas industry participants
2 shall comply with the provisions of this Act within five (5) years from its effectivity:
3 *Provided,* That health, safety, security, environmental, construction, operation and
4 other permits, licenses, certificates, and authorizations issued prior to the effectivity
5 of this which are not inconsistent herewith shall remain valid.

6 Natural gas transmission systems existing at the time of the effectivity of this
7 Act shall be allowed to continue pursuant to the terms and conditions indicated in their
8 franchise and until the lapse of the period accorded to them in the franchise.
9

10 **SECTION 37. Implementing Rules and Regulations.** – The DOE and ERC, in
11 consultation with the relevant government agencies, and public and private
12 stakeholders, shall issue the implementing rules and regulations (IRR) of this Act
13 within six (6) months from its promulgation.
14

15 **SECTION 38. Separability Clause.** – Any provision of this Act, which may be
16 declared unconstitutional or invalid shall not have the effect of nullifying other portions
17 or provisions hereof.
18

19 **SECTION 39. Amendatory and Repealing Clause.** – The specific provisions of
20 Republic Act No. 387, otherwise known as the Petroleum Act of 1949, and Presidential
21 Decree No. 334, Creating the Philippine National Oil Company, Defining its Powers and
22 Functions, Providing Funds Therefor, and For Other Purposes, that are inconsistent
23 with this Act are hereby amended or repealed accordingly.

24 All other laws, ordinances, rules, regulations and issuance or parts thereof, that
25 are inconsistent with this Act, are likewise amended or repealed accordingly.
26

27 **SECTION 40. Effectivity Clause.** – This Act shall take effect fifteen (15) days after
28 its publication in the Official Gazette or one (1) newspaper of general circulation.

Approved,