


**NINETEENTH CONGRESS OF THE  
REPUBLIC OF THE PHILIPPINES**  
*First Regular Session*



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**SENATE**  
**P.S. RES. No. 48**

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**Introduced by Senator WIN GATCHALIAN**

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**A RESOLUTION DIRECTING THE APPROPRIATE SENATE COMMITTEE TO  
CONDUCT AN INQUIRY IN AID OF LEGISLATION ON THE ELECTRIC POWER  
OPERATIONS OF UNDERPERFORMING DISTRIBUTION UTILITIES, ITS  
EFFECT ON QUALITY AND PRICE OF ELECTRICITY, AND THE REMEDIES TO  
HOLD THESE ENTITIES ACCOUNTABLE**

1           WHEREAS, in the restructured power industry under Republic Act No. 9136,  
2 otherwise known as the Electric Power Industry Reform Act of 2001 (EPIRA), the  
3 distribution of electricity is a regulated common carrier business requiring a franchise  
4 from Congress.<sup>1</sup> distribution utilities (DUs), which may be investor-owned utilities or  
5 electric cooperatives (ECs), have the obligation to supply electricity in the least cost  
6 to its captive market as well as the obligation to provide distribution services and  
7 connection to its system for any end-user within its franchise area.<sup>2</sup> Department of  
8 Energy (DOE) is mandated to facilitate and encourage reforms in the structure and  
9 operations of distribution utilities (DUs) for greater efficiency and lower costs,<sup>3</sup> the  
10 Energy Regulatory Commission (ERC) is mandated to promulgate standards for and  
11 regulate rates of distribution utilities (DU),<sup>4</sup> while the National Electrification  
12 Administration exercises supervision and control over ECs and has the duty to  
13 strengthen the technical capability and financial viability of ECs;<sup>5</sup>

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<sup>1</sup> Sec. 22 and Sec. 27 of Republic Act No. 9136 otherwise known as the Electric Power Industry Reform Act of 2001. (8 June 2001)

<sup>2</sup> Sec. 23 of Republic Act No. 9136 otherwise known as the Electric Power Industry Reform Act of 2001. (8 June 2001)

<sup>3</sup> Sec. 5(e)(ii) of Republic Act No. 7638 otherwise known as the Department of Energy Act of 1992. (9 December 1992)

<sup>4</sup> Sec. 43 of Republic Act No. 9136 otherwise known as the Electric Power Industry Reform Act of 2001. (8 June 2001)

<sup>5</sup> Sec. 58 of Republic Act No. 9136 otherwise known as the Electric Power Industry Reform Act of 2001. (8 June 2001) cf. Sec. 4 of Presidential Decree No. 269 otherwise known as the National Electrification Administration Decree as amended by Republic Act No. 10531 (7 May 2013)

14 WHEREAS, DUs have the primary responsibility to provide distribution services  
15 and connections to their systems for any end-user within their franchise area, as well  
16 as pursue structural or operational reforms which will result to improved efficiencies,  
17 reliability of service, reduction of costs, and compliance with performance standards  
18 issued by the DOE and the ERC;<sup>6</sup>

19 WHEREAS, in the discharge of these mandates DOE has issued department  
20 circulars promoting competition,<sup>7</sup> transparency,<sup>8</sup> and resiliency,<sup>9</sup> while the ERC has  
21 established distribution system reliability performance indices such as the system  
22 average interruption frequency index (SAIFI), the system average interruption  
23 duration index (SAIDI), and the allowable system loss caps.<sup>10</sup> In addition, both of  
24 these agencies may recommend the revocation of any DU's franchise for violation of  
25 any of the provisions of the EPIRA;<sup>11</sup>

26 WHEREAS, the National Electrification Administration (NEA) supervises the  
27 management and operations of all electric cooperatives (ECs) nationwide to pursue  
28 the total electrification program,<sup>12</sup> exercises the power of both supervision and control  
29 over ECs,<sup>13</sup> and has the right to step-in and assume management of ailing ECs.<sup>14</sup>

30 WHEREAS, various hearings of the Senate Committee on Energy during the 17<sup>th</sup>  
31 Congress held on 25 September 2017, 16 April 2018, and 13 August 2018 have  
32 brought to light the issues surrounding DUs such as non-compliance with system loss  
33 caps,<sup>15</sup> failure to meet SAIDI and SAIFI,<sup>16</sup> financial liabilities in the case of electric

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<sup>6</sup> Sec. 23 of Republic Act No. 9136 otherwise known as the Electric Power Industry Reform Act of 2001. (8 June 2001)

<sup>7</sup> Such as Department of Energy (DOE) Department Circular No. DC2018-02-003 "Adopting and Prescribing the Policy for the Competitive Selection Process in the Procurement by the Distribution Utilities of Power Supply Agreement for the Captive Market" (1 February 2018)

<sup>8</sup> Such as DOE Department Circular No. DC2018-09-0026 "Adopting Framework for Uniform Monthly Electricity Bill Format" (24 August 2018)

<sup>9</sup> Such as DOE Department Circular No. DC2018-01-001 "Adoption of Energy Resiliency in the Planning and Programming of the Energy Sector to Mitigate Potential Impacts of Disasters" (27 January 2018)

<sup>10</sup> Sec. 3.3, Philippine Distribution Code (2016)

<sup>11</sup> Sec. 46 of Republic Act No. 9136 otherwise known as the Electric Power Industry Reform Act of 2001. (8 June 2001)

<sup>12</sup> Sec. 2 and 4 of Presidential Decree No. 269 or the "National Electrification Administration Decree" as amended by Republic Act No. 10531 (7 May 2013)

<sup>13</sup> Sec. 10 of Presidential Decree No. 269 or the "National Electrification Administration Decree" as amended by Republic Act No. 10531 (7 May 2013)

<sup>14</sup> Sec. 4(f) and Sec. 4-B of Presidential Decree No. 269 or the "National Electrification Administration Decree" as amended by Republic Act No. 10531 (7 May 2013)

<sup>15</sup> Submission by the ERC to the Senate Committee on Energy on the Systems Loss Bills. (11 November 2016)

<sup>16</sup> Senate Committee on Energy Hearing (25 September 2017) pp. 8, 11, 16, 27, and 99.

34 cooperatives,<sup>17</sup> and failure to electrify areas within their respective franchises<sup>18</sup> -  
35 thereby resulting to the prejudice of consumers;

36 WHEREAS, as a result of the foregoing, consumers have experienced increased  
37 rates, prolonged power outages which contribute negatively to businesses and their  
38 outputs, or even property damage during preventable power fluctuations. Also, end-  
39 users which remain unconnected to the distribution systems of the franchised DU are  
40 prevented to experience the benefits and comforts which electrification can bring;

41 WHEREAS, there has been no policy or procedure for DOE or ERC to determine  
42 underperforming DUs whose franchise may be recommended for revocation;

43 WHEREAS, as of 31 December 2021, there are seven (7) ailing ECs<sup>19</sup> in the  
44 country.<sup>20</sup> Based on NEA Memorandum No. 2020-049, an EC may be declared as an  
45 ailing EC when it (1) has negative net worth for the last 3 years, (2) has accumulated  
46 90 days arrearages in power supply purchases, (3) unable to provide electric service  
47 due to technical and/or financial inefficiencies, (4) unable to efficiently perform  
48 obligations or to continue business due to organizational, external and internal factors,  
49 (5) fails to meet other NEA operational standards, and (6) unable to set up or  
50 continually support Wholesale Electricity Spot Market prudential requirements.  
51 Meanwhile, as of November 2019, there are at least eight (8) private DUs which  
52 exceeded the standard interruption frequency (SAIFI),<sup>21</sup> and there are four (4) private  
53 DUs which had longer outages compared to the standard average duration (SAIDI).<sup>22</sup>  
54 All these result to high electricity prices and low quality of service received by  
55 electricity consumers which expose them to losses;

56 WHEREAS, all of these highlight the necessity for a clear policy and procedure  
57 on how DUs should be held accountable for their mandated duties and responsibilities  
58 under the EPIRA and their respective franchises, through the recommendation of DOE

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<sup>17</sup> NEA presentation on "Status of Underperforming, Financially and Technically Distressed Electric Cooperatives" given to the DOE. (10 December 2018)

<sup>18</sup> Hearings of the Committee on Energy on Senate Resolution No. 695 on Rural Electrification. (16 April 2018 and 13 August 2018)

<sup>19</sup> Abra Electric Cooperative Inc. (ABRECO), Albay Electric Cooperative Inc. (ALECO) or Albay Power and Energy Corp (APEC), Masbate Electric Cooperative Inc. (MASELCO), Tawi-tawi Electric Cooperative Inc.(TAWELCO), Sulu Electric Cooperative Inc. (SULECO), Basilan Electric Cooperative Inc.(BASELCO) and Lanao del Sure Electric Cooperative Inc. (LASURECO).

<sup>20</sup> NEA(2022).

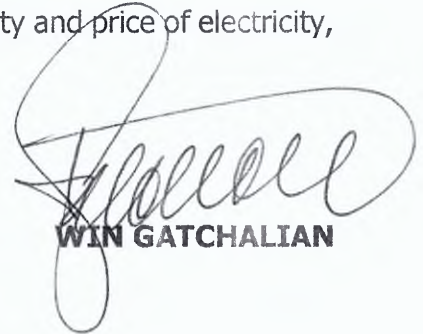
<sup>21</sup> Submitted by the Energy Regulatory Commission (ERC) to the Senate Energy Committee on 18 November 2019 distribution utilities' (DUs) compliance with standards as of June 2019.

<sup>22</sup> Submitted by the Energy Regulatory Commission (ERC) to the Senate Energy Committee on 18 November 2019 distribution utilities' (DUs) compliance with standards as of June 2019

59 or ERC for the revocation of their franchise, all towards the promotion and protection  
60 of consumers' interest;

61 NOW THEREFORE BE IT RESOLVED, as it is hereby resolved, to direct the  
62 appropriate Senate Committee to conduct an inquiry in aid of legislation on the electric  
63 power operations of underperforming DUs, its effect on quality and price of electricity,  
64 and the remedies to hold these entities accountable.

Adopted,



**WIN GATCHALIAN**