

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

7 JUN 30 P2:48

SENATE
S. B. No. 160

RECEIVED BY: JMM

Introduced by **SENATOR JINGGOY EJERCITO ESTRADA**

EXPLANATORY NOTE

It is the policy of the State to ensure transparent, just, and reasonable prices of electricity in the country under a regime of free and fair competition and full accountability to the end users of electricity. Such was the reason and promise behind the enactment of RA 9136, otherwise known as the EPIRA.

Six (6) years after its enactment, the promise of the EPIRA is now popularly viewed as a broken promise, with the never-ending spiraling cost of power and electricity.

Drastic measures have to be undertaken. In fact, this representation even contemplated the repeal of the entire law. However, after much painstaking deliberations in the committee level and plenary sessions of the Senate in the Thirteenth Congress, this representation is now supportive of a major revision of the EPIRA, with the end in view of ensuring the quality, reliability, security, and affordability of the supply of electric power.

Hence, the immediate approval of this bill is fervently sought.


JINGGOY EJERCITO ESTRADA
Senator

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9
10 Introduced by Senator JINGGOY EJERCITO ESTRADA
11

12
13 AN ACT
14 REVISING REPUBLIC ACT NO. 9136 ENTITLED "AN ACT ORDAINING
15 REFORMS IN THE ELECTRIC POWER INDUSTRY, AMENDING FOR THE
16 PURPOSE CERTAIN LAWS AND FOR OTHER PURPOSES"
17

18 Be it enacted by the Senate and House of Representatives of the Philippines in Congress
19 assembled:
20

21 Section 1. Republic Act No. 9136, otherwise known as the Electric Power Industry
22 Reform Act of 2001, is hereby revised to read as follows:
23

24 "CHAPTER I
25

26 "TITLE AND DECLARATION OF POLICY
27

28 "SEC. 1. *Short Title.* - This Act, **HEREINAFTER REPERRED TO AS**
29 **THE ACT**, shall be known as the "Electric Power Industry Reform Act of 2001".
30 [It shall hereinafter be referred to as the Act.]
31

32 "SEC. 2. *Declaration of Policy.* - It is hereby declared the policy of the
33 State:
34

35 (a) To ensure and accelerate the [total electrification of] **PROVISION OF**
36 **ELECTRIC SERVICE TO EVERY COMMUNITY IN** the country;
37

38 (b) To ensure the quality, reliability, security, and affordability of the
39 supply or electric power;
40

41 (c) To ensure transparent, **JUST** and reasonable prices of electricity in
42 **THE COUNTRY UNDER** a regime of free and fair competition and full [public]
43 accountability **TO THE END-USERS OF ELECTRICITY AND, AT THE**
44 **SAME TIME**, to achieve greater operational [and economic] **ECONOMY**,
45 efficiency, **AND VIABILITY** and **TO** enhance the competitiveness of Philippine
46 products in the [global] **WORLD** market;
47

48 (d) To **ENCOURAGE, PROMOTE, AND** enhance, the [inflow] **FLOW**
49 of private capital **TO**, and broaden the ownership base of, the power generation,
50 transmission, and distribution sectors[;] **OF THE ELECTRIC POWER**
51 **INDUSTRY**;
52

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

1
2 (f) To protect the [public] interest **OF THE GENERAL PUBLIC**
3 **AND THE INTEREST OF THE END-USERS OF ELECTRICITY**, as [it is]
4 **THESE INTERESTS ARE** affected by the **WHEELING CHARGES**, rates,
5 and services of **THE** electric **TRANSMISSION, SUB-TRANSMISSION, OR**
6 **DISTRIBUTION** utilities [and] **OR BY THE PRICES OF THE** other
7 providers of electric power[;] **UNDER THIS ACT**;

8
9 (g) To assure socially and environmentally compatible energy sources
10 and **ELECTRIC POWER** infrastructure;

11
12 (h) To **SEARCH FOR AND** promote the utilization of indigenous,
13 [and] new, and renewable energy **SOURCES AND** resources in [power] **THE**
14 generation **OF ELECTRIC POWER** in order to reduce **THE** dependence **OF**
15 **THE COUNTRY** on imported energy[;] **SOURCES AND RESOURCES**;

16
17 (i) To provide for [an] **THE MOST ADVANTAGEOUS,**
18 **BENEFICIAL**, orderly, and transparent **SALE, DISPOSITION, AND**
19 privatization of the **GENERATION ASSETS, TRANSMISSION AND SUB-**
20 **TRANSMISSION** assets [and], **REAL ESTATE ASSETS, OTHER**
21 **DISPOSABLE ASSETS, IPP CONTRACTS, AND** liabilities of the National
22 Power Corporation (NPC);

23
24 (j) To establish a **TRULY IMPARTIAL, DEPENDABLE**, strong,
25 and [purely] independent regulatory [body] **GOVERNMENT AGENCY** and
26 system [to ensure consumer protection], **WHICH SHALL PROTECT THE**
27 **GENERAL PUBLIC AND THE END-USERS OF ELECTRICITY AND, AT**
28 **THE SAME TIME, RECOGNIZE THE RIGHT OF THE ELECTRIC**
29 **POWER INDUSTRY PARTICIPANTS TO A JUST AND REASONABLE**
30 **RETURN ON THEIR INVESTMENTS, AND WHICH SHALL**
31 **PROMOTE, FOSTER, and enhance [the competitive] COMPETITION IN**
32 **THE** operation of the electricity market[; and] **OF THE COUNTRY; AND**

33
34 (k) To encourage [the efficient use of energy and] **AND PROMOTE**
35 **ECONOMY AND EFFICIENCY IN THE UTILIZATION OF ELECTRIC**
36 **POWER IN THE COUNTRY BY THE END-USERS OF ELECTRICITY,**
37 **AND IN THE** other modalities of **THE [d]Demand [s]Side [m]Management**.

38
39 "SEC. 3. *Scope.* — This Act shall provide [a] **THE** framework for
40 the **GRADUAL** restructuring of the electric power industry[, including the];
41 **FOR THE BENEFICIAL SALE, DISPOSITION, AND** privatization of the
42 [assets of NPC, the] **GENERATION ASSETS, TRANSMISSION AND SUB-**
43 **TRANSMISSION ASSETS, REAL ESTATE ASSETS, OTHER**
44 **DISPOSABLE ASSETS, IPP CONTRACTS, AND LIABILITIES OF NPC;**
45 **FOR THE ORDERLY** transition to the desired competitive **MARKET**
46 structure[, and the definition] **IN THE ELECTRIC POWER INDUSTRY;**
47 **AND FOR THE CLEAR DEFINITION, DIVISION, AND ASSIGNMENT** of
48 the responsibilities of the various **CONCERNED** government agencies and
49 private entities[.] **THAT ARE INVOLVED IN THE ELECTRIC POWER**
50 **INDUSTRY.**

51
52 "SEC. 4. *Definition of Terms.* —

53
54 (A) "**AFFILIATE**" / "**ASSOCIATED ENTITY OR PERSON**"
55 **REFERS TO ANY ENTITY OR PERSON WHICH, ALONE OR**
56 **TOGETHER WITH ANY OTHER ENTITY OR PERSON, DIRECTLY OR**
57 **INDIRECTLY, THROUGH ONE OR MORE INTERMEDIARIES,**
58 **CONTROLS, IS CONTROLLED BY, OR IS UNDER COMMON**
59 **CONTROL WITH ANOTHER ENTITY OR PERSON.**

1
2 [(a)] (B) "Aggregator" refers to a person or entity[, engaged]
3 **WHICH, WITHOUT A LEGISLATIVE FRANCHISE, IS DULY**
4 **LICENSED BY THE COMMISSION TO ENGAGE** in consolidating electric
5 power demand of end-users **OF ELECTRICITY** in [the] A contestable market[.]
6 **WITHIN A FRANCHISE TERRITORY OF ANOTHER PARTY** for the
7 purpose of purchasing and reselling electricity **TO SUCH END-USERS** on a
8 group basis;

9
10 [(b)] (C) "Ancillary Services" refer to those services that are
11 necessary to support the transmission of capacity and energy from **SOURCES**
12 **AND** resources to loads while maintaining reliable operation of the transmission
13 system in accordance with good utility [practice] **PRACTICES** and the Grid
14 Code **WHICH IS REQUIRED** to be adopted in accordance with this Act;

15
16 [(c)] (D) "Captive Market" refers to [electricity end-users who do
17 not have the choice of a supplier of electricity, as may be determined by the
18 Energy Regulatory Commission (ERC) in accordance with this Act;] **THAT**
19 **MARKET, WHICH SHALL BE DETERMINED BY THE COMMISSION**
20 **IN ACCORDANCE WITH THIS ACT, AFTER DUE NOTICE TO ALL**
21 **INTERESTED PARTIES AND PUBLIC HEARING, CONSISTING OF**
22 **END-USERS OF ELECTRICITY IN A FRANCHISE TERRITORY OF A**
23 **DISTRIBUTION UTILITY THAT CANNOT CHOOSE THEIR SUPPLIER**
24 **OF ELECTRICITY;**

25
26 [(d)] (E) "Central Dispatch" refers to the [process of issuing]
27 **ISSUANCE OF** direct instructions **BY THE GRID OPERATOR** to electric
28 power industry participants [by the grid operator] **IN ORDER** to achieve the
29 [economic] **MOST ECONOMICAL** operation, and **THE** maintenance of **THE**
30 **HIGHEST DEGREE OF** quality, stability, reliability, and security, of the
31 transmission system;

32
33 (F) "CENTRAL SCHEDULING" REFERS TO THE
34 **PREPARATION BY THE MARKET OPERATOR OF A DISPATCH**
35 **SCHEDULE TO DETERMINE THE DISPATCH OF GENERATING**
36 **UNITS TO MEET DEMAND AT LEAST COST FOR EACH TRADING**
37 **INTERVAL;**

38
39 [(e)] (G) "Co-Generation Facility" refers to a facility [which] **THAT**
40 produces electrical and/or **[AND OR]** mechanical energy and **OTHER** forms of
41 useful thermal energy, such as heat or steam, which are used for
42 **RESIDENTIAL, industrial, OR** commercial heating or cooling purposes through
43 the sequential use of energy;

44
45 [(f)] (H) "Commission" refers to the decision-making body of the
46 **[ERC] ENERGY REGULATORY COMMISSION (ERC)** composed of a
47 Chairman and four (4) members as provided under Section [38 hereof] **37 OF**
48 **THIS ACT[.]. FOR PURPOSES OF CONSTRUING AND**
49 **INTERPRETING THE RELEVANT PROVISIONS OF THIS ACT, THE**
50 **TERMS "COMMISSION", "ENERGY REGULATORY COMMISSION",**
51 **AND "ERC" SHALL, UNLESS THE CONTEXT CLEARLY INDICATES**
52 **OTHERWISE, SHALL REFER TO THE ONE AND THE SAME ENTITY;**

53
54
55 [(g)] (I) "Concession Contract" refers [to the award by the
56 government] **TO A CONTRACT FROM THE NATIONAL GOVERNMENT**
57 **OR FROM ANY OF ITS AUTHORIZED INSTRUMENTALITIES,**
58 **WHICH GRANTS** to a qualified private entity [of] the **PRIVILEGE OF AND**
59 **THE** responsibility for financing, operating, expanding, maintaining, and

1 managing specific [Government-owned assets;] NATIONAL GOVERNMENT
2 DISPOSABLE ASSETS;

3
4 [(h)] (J) "Contestable Market" refers to [the electricity end-users
5 who have a choice of a supplier of electricity, as may be determined by the ERC
6 in accordance with this Act;] THAT MARKET, WHICH SHALL BE
7 DETERMINED BY THE COMMISSION IN ACCORDANCE WITH THIS
8 ACT, AFTER DUE NOTICE TO ALL INTERESTED PARTIES AND
9 PUBLIC HEARING, CONSISTING OF END-USERS OF ELECTRICITY
10 WITHIN A FRANCHISE TERRITORY OF A DISTRIBUTION UTILITY
11 THAT CAN CHOOSE THEIR SUPPLIER OF ELECTRICITY;

12
13 (K) "CONTROL" REFERS TO THE POWER TO DIRECT OR
14 CAUSE THE DIRECTION OF THE MANAGEMENT POLICIES OF AN
15 ENTITY OR PERSON BY CONTRACT, AGENCY, OR OTHERWISE.

16
17 [(i)] (L) "Customer Service Charge" refers to [the] AN AMOUNT
18 WHICH IS A component [in] OF the retail rate AND WHICH IS intended [for
19 the cost recovery of customer-related services including,] TO RECOVER THE
20 PRUDENT, JUST, AND REASONABLE COST OF ELECTRIC END-
21 USER-RELATED SERVICES SUCH AS, but not limited to, meter reading,
22 billing administration and collection;

23
24 [(j)] (M) "Demand Side Management" refers to THE measures,
25 DECISIONS, AND ACTIONS undertaken by distribution utilities to encourage
26 end-users OF ELECTRICITY [in the proper management of their load to
27 achieve] TO PROPERLY MANAGE THEIR LOADS IN ORDER TO
28 ACHIEVE ECONOMY AND efficiency in the utilization of fixed
29 infrastructures [in the system;] THAT ARE USED AND USEFUL IN THE
30 ELECTRIC POWER SYSTEM;

31
32 [(k)] (N) "Department of Energy" or "DOE" refers to the
33 NATIONAL government [agency] INSTRUMENTALITY created [pursuant to
34 Republic Act No. 7638 whose expanded functions are provided herein;] UNDER
35 REPUBLIC ACT NO. 7638;

36
37 [(l)] (O) "Department of Finance" or "DOF" refers to the
38 NATIONAL government [agency] INSTRUMENTALITY created [pursuant to]
39 UNDER Executive Order No. 127[;], SERIES OF 1987;

40
41 (P) "DISPATCH SCHEDULE" REFERS TO THE TARGET
42 LOADING LEVELS IN MEGAWATT FOR EACH SCHEDULED
43 GENERATING UNIT OR SCHEDULED LOAD AND FOR EACH
44 RESERVE FACILITY FOR THE END OF THAT TRADING INTERVAL,
45 DETERMINED BY THE MARKET OPERATOR.

46
47 [(m)] (Q) "Distribution Code" refers to a compilation of rules [and
48 regulations governing electric utilities in the] INTENDED TO GOVERN AND
49 GUIDE ELECTRIC DISTRIBUTION UTILITIES IN THE
50 MANAGEMENT, operation, and maintenance of their distribution systems[,
51 which includes, among others, the standards for service and performance, and
52 defines and establishes the relationship of the distribution systems with the
53 facilities or installations of the parties connected thereto;]. IT SHALL
54 INCLUDE, AMONG OTHERS, THE RULES AND STANDARDS TO BE
55 OBSERVED BY DISTRIBUTION UTILITIES IN RENDERING THEIR
56 SERVICES TO THEIR END-USERS OF ELECTRICITY AND IN
57 MEASURING THE EFFICIENCY OF THEIR PERFORMANCE, AND
58 THE RULES AND STANDARDS THAT SHALL GOVERN THE
59 RELATIONSHIP OF THEIR DISTRIBUTION SYSTEMS WITH THE

1 **FACILITIES OR INSTALLATIONS OF OTHER PARTIES CONNECTED**
 2 **TO SUCH DISTRIBUTION SYSTEMS;**

3
 4 [(n)] (R) "Distribution of Electricity" refers to the conveyance AND/
 5 **OR RETAIL SALE** of electric power by a distribution utility **TO ITS END-**
 6 **USERS OF ELECTRICITY** through its distribution system pursuant to the
 7 provisions of this Act;

8
 9 [(o)] (S) "Distribution System" refers to the system of wires and
 10 associated facilities belonging to [a franchised distribution utility, extending] **A**
 11 **DISTRIBUTION UTILITY IN ITS FRANCHISE TERRITORY, WHICH**
 12 **EXTENDS** between the delivery points [on] **OF** the transmission or sub-
 13 transmission system [or generator connection and] **OF THE TRANSCO OR OF**
 14 **A GENERATION COMPANY, AS THE CASE MAY BE, AND** the point of
 15 connection **OF SUCH WIRES AND ASSOCIATED FACILITIES** to the
 16 premises of the [end-user;] **END-USERS OF ELECTRICITY;**

17
 18 [(p)] (T) "Distribution Wheeling Charge" refers to the [cost or charge
 19 regulated by the ERC] **THE AMOUNT AUTHORIZED BY THE**
 20 **COMMISSION, AFTER DUE NOTICE TO ALL INTERESTED PARTIES**
 21 **AND PUBLIC HEARING, TO BE CHARGED** for the use of [a] **THE**
 22 distribution system [and/or the availment of related services;] **OF A**
 23 **DISTRIBUTION UTILITY AND/OR FOR THE USE OF OTHER**
 24 **RELATED SERVICES OF A DISTRIBUTION UTILITY;**

25
 26 [(q)] (U) "Distribution Utility" refers to any electric cooperative, **TO**
 27 **ANY** private corporation, **TO ANY** government-owned **DISTRIBUTION** utility,
 28 or **TO ANY** existing local government unit, which has an exclusive franchise to
 29 operate a distribution system [in accordance with this Act;] **IN A SPECIFIC**
 30 **GEOGRAPHICAL AREA UNDER THIS ACT;**

31
 32 [(r)] (V) "Electric Cooperative" refers to a distribution utility
 33 organized pursuant to Presidential Decree No. 269, as amended, or as otherwise
 34 provided in this Act;

35
 36 [(s)] (W) "Electric Power Industry Participant" refers to any person
 37 or entity engaged **OR WHO SHALL ENGAGE** in the generation, transmission,
 38 distribution, or supply of electricity;

39
 40 [(t)] (X) ["End-user" refers to any person or entity requiring]
 41 **"END-USERS OF ELECTRICITY" REFER TO PERSONS OR ENTITIES**
 42 **THAT REQUIRE OR HAVE ACTUAL ACCESS TO** the supply and delivery
 43 of electricity for [its own use;] **THEIR OWN USE. FOR PURPOSES OF**
 44 **CONSTRUING AND INTERPRETING THE RELEVANT PROVISIONS**
 45 **OF THIS ACT, THE TERM "END-USERS OF ELECTRICITY" SHALL**
 46 **BE IDENTICAL IN MEANING TO THE TERM "CONSUMERS OF**
 47 **ELECTRICITY", AND THE PLURAL SHALL INCLUDE THE**
 48 **SINGULAR AND VICE VERSA, UNLESS THE CONTEXT CLEARLY**
 49 **INDICATES OTHERWISE;**

50
 51 [(u)] (Y) "Energy Regulatory Board" or "ERB" refers to the
 52 [independent,] **NOW DEFUNCT** quasi-judicial regulatory body created under
 53 Executive Order No. 172, as amended;

54
 55 [(v)] (Z) "Energy Regulatory Commission" or "ERC" refers to the
 56 regulatory agency created [herein;] **UNDER SECTION 37 OF THIS ACT AND**
 57 **ALSO DEFINED IN PARAGRAPH (H) OF THIS SECTION;**

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

4
 5 [(x)] (BB) "Generation Company" refers to any **NATURAL OR**
 6 **JURIDICAL** person or entity authorized by the [ERC to operate facilities used in
 7 the generation of electricity;] **COMMISSION TO OPERATE AND/OR OWN**
 8 **ELECTRIC POWER PLANT OR PLANTS AND OTHER RELATED**
 9 **FACILITIES FOR THE GENERATION AND SALE OF ELECTRICITY;**

10
 11 [(y)] (CC) "Generation of Electricity" refers to the production of
 12 [electricity] **ELECTRIC POWER AND ENERGY** by a generation company, or
 13 **BY** a co-generation facility, [pursuant to] **IN ACCORANCE WITH** the
 14 provisions of this Act;

15
 16 [(z)] (DD) "Grid" refers to the high voltage backbone system of
 17 interconnected transmission lines, substations, and **OTHER** related facilities;

18
 19 [(aa)] (EE) "Grid Code" refers to [the set] **A COMPILATION** of rules
 20 and regulations [governing] **WHICH SHALL GOVERN** the safe, **EFFICIENT,**
 21 and reliable operation, **MANAGEMENT,** maintenance, [and] development,
 22 **AND EXPANSION** of the high voltage backbone transmission system and its
 23 **OTHER** related facilities;

24
 25 [(bb)] (FF) "Independent Power Producer" or "IPP" refers to an
 26 existing [power generating entity] **GENERATION COMPANY,** which is not
 27 owned by NPC[;] **AND WITH WHOM NPC OR A DISTRIBUTION**
 28 **UTILITY HAS A VALID AND EXISTING PURCHASED POWER**
 29 **CONTRACT;**

30
 31 [(cc)] (GG) "Inter-Class Cross Subsidy" refers to an amount charged by
 32 distribution utilities to **RESIDENTIAL,** industrial [and], commercial [end-users
 33 as well as to], **AND** other subsidizing [customer sectors] **END-USERS OF**
 34 **ELECTRICITY** in order to [reduce electricity rates of other customer sectors]
 35 **COMPENSATE FOR THE REDUCED ELECTRIC RATES CHARGE TO**
 36 **OTHER CLASS OF END-USERS OF ELECTRICITY,** such as [the]
 37 **CERTAIN** residential end-users[,] **OF ELECTRICITY,** hospitals, and
 38 streetlights;

39
 40 [(dd)] (HH) "Inter-Regional Grid Cross Subsidy" refers to [an] **THE**
 41 amount embedded in the [electricity rates of NPC charged to its customers]
 42 **ELECTRICITY RATES THAT NPC COLLECTS FROM END-USERS OF**
 43 **ELECTRICITY** located in a viable regional grid in order to [reduce the
 44 electricity] **COMPENSATE FOR THE REDUCED ELECTRICITY** rates in a
 45 less viable regional grid;

46
 47 [(ee)] (II) "Intra-Regional Grid Cross Subsidy" refers to [an] **THE**
 48 amount embedded in the [electricity rates of NPC charged to] **ELECTRICITY**
 49 **RATES THAT NPC COLLECTS FROM** distribution utilities [and non-
 50 utilities] with higher load factor and/or [AND OR] delivery voltage in order to
 51 [reduce the electricity rates charged to] **COMPENSATE FOR THE REDUCED**
 52 **ELECTRICITY RATES THAT NPC COLLECTS FROM** distribution
 53 utilities with lower load factor and/or [AND OR] delivery voltage located in the
 54 same regional grid;

55
 56 [(ff)] (JJ) "IPP Administrator" refers to **A** qualified independent
 57 **ENTITY OR** entities [appointed by] **THAT** PSALM Corporation [who] shall
 58 **APPOINT TO EFFICIENTLY** administer, conserve, and manage the **SALE**
 59 **OF THE** contracted **ELECTRIC** energy output of [NPC] NPC'S IPP contracts;

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

4
 5 [(hh)] (LL) "Lifeline Rate" refers to [the] A SPECIAL subsidized rate
 6 given to MARGINALIZED [low-income captive market] end-users OF
 7 ELECTRICITY IN THE CAPTIVE MARKET OF A FRANCHISE
 8 TERRITORY, AND who cannot afford to pay [at full cost;] THE FULL RATE
 9 AUTHORIZED TO BE COLLECTED FROM OTHER END-USERS OF
 10 ELECTRICITY IN THE SAME FRANCHISE TERRITORY;

11
 12 (MM) "MARKET OPERATOR" REFERS TO THE ENTITY
 13 RESPONSIBLE FOR THE PREPARATION OF THE DISPATCH
 14 SCHEDULE FOR PURPOSES OF OPERATING THE SPOT MARKET.

15
 16 [(ii)] (NN) "National Electrification Administration" or "NEA" refers
 17 to the government agency created under Presidential Decree No. 269, as amended,
 18 [and] whose additional mandate is [further set forth herein;] SET FORTH IN
 19 THIS ACT;

20
 21 [(jj)] (OO) "National Power Corporation" or "NPC" refers to the
 22 government corporation created under Republic Act No. 6395, as amended;

23
 24 [(kk)] (PP) "National Transmission Corporation" or ["TRANSCO"]
 25 "THE TRANSCO" refers to the GOVERNMENT-OWNED-AND-
 26 CONTROLLED corporation [organized pursuant to this Act to acquire all the
 27 transmission assets of the NPC;] CREATED UNDER SECTION 8 OF THIS
 28 ACT TO ASSUME THE ELECTRIC TRANSMISSION AND SUB-
 29 TRANSMISSION FUNCTIONS OF NPC AND TO ACQUIRE ALL OF
 30 NPC'S TRANSMISSION AND SUB-TRANSMISSION ASSETS AND
 31 OTHER RELATED FACILITIES AND ASSETS, INCLUDING NPC'S
 32 NATIONWIDE FRANCHISE FOR THE OPERATION OF THE
 33 TRANSMISSION AND SUB-TRANSMISSION SYSTEMS AND THE
 34 GRID;

35
 36 [(ll)] (QQ) "Open Access" refers to the [system of allowing]
 37 PRIVILEGE GRANTED TO any qualified person [the use of] TO USE THE
 38 transmission[, and/or] AND SUB-TRANSMISSION FACILITIES AND
 39 ASSETS AND/OR THE distribution system and associated facilities OF ANY
 40 PUBLIC OR PRIVATE PERSON OR ENTITY, subject to the payment of
 41 JUST AND REASONABLE transmission and/or [AND OR] distribution [retail]
 42 wheeling [rates] CHARGES duly approved by the ERC, AFTER DUE
 43 NOTICE TO ALL INTERESTED PARTIES AND PUBLIC HEARING;

44
 45 [(mm)] (RR) "Philippine Energy Plan" or "PEP" refers to the overall
 46 energy program formulated and updated yearly by the DOE and submitted to
 47 Congress pursuant to Republic Act No. 7638;

48
 49 [(nn)] (SS) "Power Development Program" or "PDP" refers to the
 50 indicative plan [for] TO BE PREPARED AND FORMULATED AND
 51 UPDATED YEARLY BY THE DOE, IN COORDINATION WITH THE
 52 GENERATION COMPANIES, THE NATIONAL TRANSMISSION
 53 CORPORATION, AND THE DISTRIBUTION UTILITIES, FOR THE
 54 PURPOSE OF MEETING AND managing electricity demand through energy-
 55 efficient programs and for the PURPOSE OF upgrading, [expansion,
 56 rehabilitation, repair, and maintenance of power generation and transmission
 57 facilities, formulated and updated yearly by the DOE in coordination with the
 58 generation, transmission and distribution utility companies;] EXPANDING,
 59 REHABILITATING, REPAIRING, AND MAINTAINING THE

1 ELECTRIC POWER GENERATION FACILITIES AND ASSETS, AND
 2 THE TRANSMISSION AND SUB-TRANSMISSION ASSETS AND
 3 FACILITIES;

4
 5 [(oo)] (TT) "Power Sector Assets and Liabilities Management
 6 Corporation" or "PSALM Corp." refers to the GOVERNMENT-OWNED-AND-
 7 CONTROLLED corporation created [pursuant to Section 49 hereof;] IN
 8 SECTION 46 OF THIS ACT;

9
 10 [(pp)] (UU) "Privatization" refers to the sale, disposition, [change,] and
 11 transfer of ownership and control of [assets and IPP contracts, from the
 12 Government or a government corporation to a private person or entity;] THE
 13 GENERATION ASSETS AND RELATED FACILITIES, THE
 14 TRANSMISSION AND SUB-TRANSMISSION ASSETS AND
 15 FACILITIES, REAL ESTATE ASSETS, OTHER DISPOSABLE ASSETS,
 16 IPP CONTRACTS, AND LIABILITIES OF NPC TO A PRIVATE PERSON
 17 OR PERSONS, OR TO A PRIVATE ENTITY OR ENTITIES;

18
 19 (VV) "PUBLIC HEARING" REFERS TO A PROCEEDING
 20 CONDUCTED BY THE COMMISSION AFTER ITS MEMBERS ARE
 21 FORMALLY CONVENED TO HEAR, AFTER DUE NOTICE TO ALL
 22 INTERESTED PARTIES, THE TESTIMONY OF WITNESSES UNDER
 23 OATH, SUBJECT TO CROSS-EXAMINATION BY ADVERSE PARTIES,
 24 AND TO FORMALLY RECEIVE DOCUMENTARY EVIDENCE, IN
 25 ORDER TO DISPOSE ANY ISSUE BROUGHT TO THE ATTENTION OF
 26 THE COMMISSION THROUGH MOTIONS, COMPLAINTS OR
 27 PETITION FILED WITH THE COMMISSION.

28
 29 [(qq)] (WW) "Renewable Energy Resources" [refers] REFER to energy
 30 resources, [that do not have an upper limit on the] THAT ARE
 31 REPLENISHABLE, WITHOUT ANY LIMIT AS TO THEIR total quantity
 32 to be used[. Such resources are renewable on a regular basis and the renewable
 33 rate is rapid enough to consider], AND WHOSE RATES OF
 34 REPLENISHMENT ARE ALMOST CONSTANT AND RAPID ENOUGH
 35 TO ENSURE availability over an indefinite time[. These include, among others,],
 36 SUCH AS biomass, solar, wind, hydro, and ocean energy;

37
 38 [(rr)] (XX) "Restructuring" refers to the [process of reorganizing]
 39 REORGANIZATION OF the electric power industry in order to introduce
 40 [higher efficiency, greater innovation and end-user choice. It shall be understood
 41 as covering a range of alternatives enhancing exposure of the industry to
 42 competitive market forces;] AND PROMOTE A HIGHER DEGREE OF
 43 EFFICIENCY, GREATER AND USEFUL INNOVATIONS, END-USERS'
 44 CHOICE, AND A WIDER RANGE OF ALTERNATIVES THAT WILL
 45 ENSURE AND ENHANCE THE EXPOSURE OF THE INDUSTRY TO
 46 COMPETITIVE MARKET FORCES;

47
 48 [(ss)] (YY) "Retail Rate" refers to the total [price paid by end-users
 49 consisting of] SUM OF THE AMOUNTS OF UNBUNDLED JUST AND
 50 REASONABLE CHARGES THAT END-USERS OF ELECTRICITY PAY
 51 FOR EACH KILOWATT-HOUR OF ELECTRICITY ACTUALLY
 52 CONSUMED BY THEM AND SHALL INCLUDE the charges for generation,
 53 transmission and related ancillary services[,] AND FOR distribution, supply, and
 54 other related charges for THE RENDITION OF electric service[;] TO THE
 55 END-USERS OF ELECTRICITY;

56
 57
 58

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

5
 6 [(uu)] (AAA) "Stranded contract costs of NPC or OF A distribution
 7 utility" refer to the excess of the contracted cost of electricity under [eligible
 8 contracts] **THE ELIGIBLE INDEPENDENT POWER PRODUCER (IPP)**
 9 **CONTRACTS OF NPC OR OF A DISTRIBUTION UTILITY** over the actual
 10 selling price of [the contracted energy output of such contracts in the market.
 11 Such contracts shall have been approved by the ERB as of December 31, 2000;]
 12 **THAT CONTRACTED ELECTRICITY FROM SUCH IPP CONTRACTS**
 13 **IN THE MARKET: PROVIDED, THAT IPP CONTRACTS, TO BE**
 14 **DEEMED ELIGIBLE, HAD BEEN APPROVED BY THE ERB ON OR**
 15 **BEFORE DECEMBER 31, 2000;**

16
 17 [(vv)] (BBB) "Stranded Debts of NPC" refer to [any] ITS unpaid
 18 financial obligations [of NPC which have not been liquidated by the proceeds
 19 from the sales and privatization of NPC assets;], **WHICH HAVE NOT BEEN**
 20 **LIQUIDATED OR OFFSET BY THE PROCEEDS FROM THE SALE,**
 21 **DISPOSITION, AND/OR PRIVATIZATION OF NPC'S GENERATION,**
 22 **TRANSMISSION AND SUB-TRANSMISSION ASSETS AND**
 23 **FACILITIES, REAL ESTATE ASSETS, OTHER DISPOSABLE ASSETS,**
 24 **AND IPP CONTRACTS;**

25
 26 [(ww)] (CCC) "Sub-transmission Assets" refer to [the] **ALL**
 27 **ASSETS AND** facilities related to the power delivery service below the
 28 transmission voltages and, based on the functional assignment of assets
 29 [including], **SHALL INCLUDE**, but **SHALL not BE** limited to, step-down
 30 transformers used solely by load customers, associated [switchyard/substation]
 31 **SWITCHYARD AND/OR SUBSTATION**, control and protective equipment,
 32 reactive compensation equipment to improve customer power factor, overhead
 33 lines, and the land where such [facilities/equipment are located. These include
 34 NPC assets linking the transmission system and the distribution system which are
 35 neither classified as generation nor transmission;] **FACILITIES AND/OR**
 36 **EQUIPMENT ARE LOCATED, AS WELL AS ASSETS OF NPC LINKING**
 37 **THE TRANSMISSION SYSTEM AND THE DISTRIBUTION SYSTEM,**
 38 **WHICH ARE CLASSIFIED NEITHER AS GENERATION ASSETS NOR**
 39 **AS TRANSMISSION ASSETS;**

40
 41 [(xx)] (DDD) ["Supplier" refers] **"SUPPLIER OF ELECTRICITY"**
 42 **REFERS, UNLESS THE CONTEXT CLEARLY SUGGESTS**
 43 **OTHERWISE**, to any person or entity authorized by the [ERC] **COMMISSION**
 44 to sell, broker, market, or aggregate electricity to the end-users[;], **AND DOES**
 45 **NOT INCLUDE A PERSON OR ENTITY ENGAGED IN THE**
 46 **GENERATION, TRANSMISSION, SUB-TRANSMISSION, AND**
 47 **DISTRIBUTION OF ELECTRICITY;**

48
 49 [(yy)] (EEE) "Supplier's Charge" refers to the charge imposed by AN
 50 electricity [suppliers] **SUPPLIER** for the sale of electricity to end-users[,
 51 excluding] **IN THE CONTESTABLE MARKET, EXCLUDING** the charges
 52 for generation **AND THE WHEELING CHARGES FOR** transmission and
 53 distribution [wheeling];

54
 55 [(zz)] (FFF) "Supply of Electricity" [means the sale of electricity by a
 56 party other than a generator or a distributor in the franchise area of a distribution
 57 utility, using the wires of the distribution utility concerned;] **SHALL REFER,**
 58 **UNLESS THE CONTEXT SUGGESTS OTHERWISE, TO THE BUSINESS**
 59 **OF BUYING AND SELLING, BROKERING, MARKETING**

1 ELECTRICITY BY A PERSON OR ENTITY, OTHER THAN A
 2 GENERATION COMPANY OR A DISTRIBUTION UTILITY, TO END-
 3 USERS OF ELECTRICITY, OR OF AGGREGATING DEMANDS FOR
 4 SUCH END-USERS OF ELECTRICITY, IN THE FRANCHISE
 5 TERRITORY OF A DISTRIBUTION UTILITY, USING FOR THE
 6 PURPOSE THE WIRES AND FACILITIES OF THE DISTRIBUTION
 7 UTILITY CONCERNED;

8
 9 (GGG) "SYSTEM OPERATOR" REFERS TO THE ENTITY
 10 RESPONSIBLE FOR THE IMPLEMENTATION OF THE DISPATCH
 11 SCHEDULE, THE PROVISION OF ANCILLARY SERVICES, AND
 12 OPERATION AND CONTROL TO ENSURE SAFETY, POWER
 13 QUALITY, STABILITY, RELIABILITY AND SECURITY OF THE GRID
 14 WHICH UPON THE PASSAGE OF THIS ACT REFERS TO TRANSCO.

15
 16 [(aaa)] (HHH) "Transmission Charge" refers to the regulated cost or
 17 [charges] CHARGE AUTHORIZED BY THE COMMISSION for the use of a
 18 transmission system which may include the [availment] USE of ancillary
 19 services;

20
 21 [(bbb)] (III) "Transmission Development Plan" or "TDP" refers to the
 22 PART OF THE POWER DEVELOPMENT program PREPARED AND
 23 FORMULATED BY THE DOE JOINTLY WITH THE TRANSCO AND
 24 TO BE IMPLEMENTED BY THE LATTER IN ACCORDANCE WITH
 25 THIS ACT for managing the transmission system [through] AND FOR THE
 26 efficient planning [for the] OF ITS expansion, upgrading, rehabilitation, repair,
 27 and maintenance[, to be formulated by DOE and implemented by the TRANSCO
 28 pursuant to this Act];

29
 30 [(ccc)] (JJJ) "Transmission of Electricity" refers to the conveyance of
 31 electricity through the high voltage backbone system; and

32
 33 [(ddd)] (KKK) "Universal Charge" refers to the charge, if any,
 34 [imposed for the recovery of the stranded cost and other purposes pursuant to
 35 Section 34 hereof.] TO BE DETERMINED, FIXED, AND APPROVED BY
 36 THE COMMISSION, AFTER DUE NOTICE TO ALL INTERESTED
 37 PARTIES AND PUBLIC HEARING, IN ACCORDANCE WITH AND FOR
 38 THE PURPOSES MENTIONED IN SECTION 33 OF THIS ACT.

39 40 41 "CHAPTER II

42 43 "ORGANIZATION AND OPERATION OF THE ELECTRIC 44 POWER INDUSTRY

45
 46 "SEC. 5. *Organization.* — The electric power industry shall be divided
 47 into four (4) sectors, namely: [g]Generation[;] SECTOR, [t]Transmission[;]
 48 SECTOR, [d]Distribution SECTOR, and [s]Supply SECTOR.

49
 50 "SEC. 6. *Generation Sector.* — THE [G]generation of electric
 51 power[,] IS a business affected with public interest[,] AND shall be competitive
 52 and open.

53
 54 Upon the effectivity of this Act, any new generation company OR
 55 ENTITY shall, before it operates, secure from the [Energy Regulatory
 56 Commission (ERC)] COMMISSION a certificate of ADHERENCE TO AND
 57 compliance [pursuant to] WITH the standards set forth in this Act, WITH THE
 58 GRID CODE, WITH THE DISPATCH SYSTEM, AND WITH THE
 59 WHOLESALE ELECTRICITY SPOT MARKET RULES, as well as WITH

1 health, safety, and environmental [clearances from the] **STANDARDS AND**
 2 **REQUIREMENTS OF** appropriate government agencies under existing laws.

3
 4 Any law to the contrary notwithstanding, **IT IS HEREBY DECLARED**
 5 **THAT UPON THE EFFECTIVITY OF THIS ACT** power generation shall *not*
 6 be [considered] **DEEMED** a public utility operation. [For this purpose, any]
 7 **ANY** person or entity **WHICH IS NOW** engaged or which shall engage in power
 8 generation and supply of electricity shall not be required to secure a national
 9 franchise.

10
 11 Upon **THE** implementation of retail competition and open access, the
 12 prices charged by a generation company for the supply of electricity shall not be
 13 subject to **ANY KIND OF** regulation by the [ERC] **COMMISSION**, except as
 14 otherwise provided in this Act.
 15

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

19
 20 The [ERC shall, in determining] **COMMISSION, IN ORDER TO**
 21 **DETERMINE** the existence **OF ABUSE** of market power [abuse] or **OTHER**
 22 anti-competitive behavior, **IS HEREBY AUTHORIZED TO** require [from]
 23 generation companies [the submission of] **TO SUBMIT** their financial
 24 statements[.] **AT ANYTIME.**

25
 26 "SEC. 7. *Transmission Sector.* — The transmission of electric
 27 power shall be a regulated common electricity carrier business, subject to the
 28 ratemaking [powers of the ERC.] **AUTHORITY OF THE COMMISSION.**

29
 30 The [ERC] **COMMISSION** shall set the standards of the voltage
 31 transmission that shall [distinguish] **SET APART** the transmission **ASSETS**
 32 from the sub-transmission assets. Pending the issuance of such [new] standards,
 33 the distinction between the transmission **ASSETS** and sub-transmission assets
 34 shall be as follows: **THE TRANSMISSION ASSETS SHALL BE** 230 kilovolts
 35 and above in the Luzon Grid[.]; 69 kilovolts and above in the Visayas **GRID** and
 36 in the isolated distribution systems[.]; and 138 kilovolts and above in the
 37 Mindanao Grid: *Provided,* That for the Visayas and the isolated distribution
 38 [system, should] **SYSTEMS, IF** the 69 kilovolt line **DOES** not form part of the
 39 main transmission grid and [be] **IS** directly connected to the substation of the
 40 distribution utility, it shall form part of the sub-transmission system.

41
 42 "SEC. 8. *Creation of the National Transmission Company.* — There
 43 is hereby created a National Transmission Corporation, hereinafter referred to as
 44 **THE TRANSCO**, which shall assume the electrical transmission functions of the
 45 National Power Corporation (NPC), and **WHICH SHALL** have the powers and
 46 **OTHER** functions hereinafter granted. The **TRANSCO** shall **ALSO** assume the
 47 authority and responsibility of NPC for the planning, construction and centralized
 48 operation and maintenance of [its] **NPC'S** high voltage transmission facilities,
 49 including grid interconnections and ancillary services.

50
 51 Within six (6) months from the effectivity of this Act, the transmission
 52 and sub-transmission **ASSETS AND** facilities of NPC and all other assets related
 53 to transmission operations, including the nationwide franchise of NPC for the
 54 operation of the transmission system and the grid, shall be transferred **IPSO**
 55 **FACTO AND IN TOTO** to the **TRANSCO**. The **TRANSCO** shall be wholly
 56 owned by the Power Sector Assets and Liabilities Management Corporation
 57 (PSALM Corp.)[.] **CREATED IN SECTION 46 OF THIS ACT.**
 58

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

13
 14 **THE TRANSCO** shall negotiate with and thereafter, transfer such
 15 functions, assets, **FACILITIES**, and associated liabilities to the qualified
 16 distribution utility or utilities connected to such subtransmission **ASSETS AND**
 17 facilities not later than two (2) years from the effectivity of this Act or **FROM** the
 18 start of open access, whichever comes earlier: *Provided*, That in [the] case [of]
 19 **THE WINNING BIDDER OR BIDDERS ARE** electric cooperatives, the
 20 **TRANSCO** shall grant **THEM** concessional financing over a period of twenty
 21 (20) years: *Provided, however*, That the installment payments to **THE**
 22 **TRANSCO** for the [acquisition of] sub-transmission **ASSETS AND** facilities
 23 shall be given [first priority] by the **WINNING** electric cooperatives [out of]
 24 **FIRST PREFERENCE TO** the net income derived from such **ASSETS AND**
 25 facilities. The **TRANSCO** shall [determine the disposal value of the
 26 subtransmission assets based on the revenue potential of such assets.] **HIRE AT**
 27 **LEAST TWO INDEPENDENT, COMPETENT, AND REPUTABLE**
 28 **APPRAISERS TO ESTABLISH AND DETERMINE, FOR THE PURPOSE**
 29 **OF DISPOSING SAID SUBTRANSMISSION ASSETS AND FACILITIES,**
 30 **THEIR TRUE AND FAIR MARKET VALUE BASED ON THEIR**
 31 **REVENUE POTENTIAL.**

32
 33 [In case of disagreement in] **DISPUTES OR DISAGREEMENTS IN**
 34 **THE** valuation, procedures, ownership participation, and other issues[, the ERC
 35 shall resolve such issues.] **RELATED TO THE DISPOSITION OF THE**
 36 **SUBTRANSMISSION ASSETS AND FACILITIES SHALL BE**
 37 **RESOLVED EXPEDITIOUSLY BY THE COMMISSION, AFTER DUE**
 38 **NOTICE TO ALL INTERESTED PARTIES AND PUBLIC HEARING.**

39
 40 The **ACQUISITION AND** take over [by a distribution utility] of any
 41 subtransmission **FUNCTION, asset [shall not cause], AND FACILITY BY A**
 42 **DISTRIBUTION UTILITY OR BY DISTRIBUTION UTILITIES, AS THE**
 43 **CASE MAY BE, MUST NOT RESULT IN** a diminution of **THE QUALITY**
 44 **AND RELIABILITY OF THE** service [and quality] **BEING RENDERED** to
 45 the end-users[. Where there are] **OF ELECTRICITY. IN THE EVENT THAT**
 46 two or more [connected] distribution utilities[, the] **ARE CONNECTED TO**
 47 **THE SAME SUBTRANSMISSION ASSET AND FACILITY, A consortium**
 48 or juridical entity shall be formed [by and] **TO ACQUIRE AND TAKE OVER**
 49 **THE SUBTRANSMISSION FUNCTION, ASSET, AND FACILITY, AND**
 50 **THE CONSORTIUM OR JURIDICAL ENTITY SHALL BE** composed of
 51 **[BY] all of [them and] SUCH DISTRIBUTION UTILITIES. IN SUCH A**
 52 **CASE, THE SUBSCRIPTION RIGHTS OF EACH OF THE**
 53 **DISTRIBUTION UTILITIES INVOLVED SHALL BE PROPORTIONATE**
 54 **TO THEIR RESPECTIVE LOAD REQUIREMENTS, UNLESS THEY**
 55 **AGREE OTHERWISE AMONG THEMSELVES. THE CONSORTIUM OR**
 56 **JURIDICAL ENTITY SHALL, thereafter [shall], be granted a franchise BY**
 57 **THE COMMISSION to PERFORM AND** operate the subtransmission
 58 **FUNCTION, asset, AND FACILITY [by the ERC].**
 59

1 [The subscription rights of each distribution utility involved shall be
2 proportionate to their load requirements, unless otherwise agreed by the parties].
3

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

11
12 The TRANSCO may exercise the power of eminent domain subject to the
13 requirements of the Constitution and existing laws. Except as provided
14 **OTHERWISE [herein] IN THIS ACT,** no person, company, or entity, other than
15 the TRANSCO, shall own any transmission **ASSETS AND** facilities **IN THE**
16 **COUNTRY.**

17
18 [Prior to] **BEFORE** the transfer of the transmission functions by NPC to
19 TRANSCO[,] and before the promulgation of the Grid Code, [ERC] **THE**
20 **COMMISSION** shall [ensure] **SEE TO IT** that NPC shall provide to all electric
21 power industry participants open and non-discriminatory access to [its] NPC'S
22 transmission system. Any violation [thereof] **HEREOF [OF THE**
23 **PRECEDING SENTENCE OF THIS PARAGRAPH]** shall [be subject]
24 **RENDER THE PARTY RESPONSIBLE FOR SUCH VIOLATION**
25 **LIABLE** to the **APPROPRIATE** fines and penalties imposed [herein.] **IN**
26 **SECTION 44 OF THIS ACT.**

27
28 "SEC. 9. *Functions and Responsibilities.* — Upon the effectivity of this
29 Act, the TRANSCO shall have the following functions and responsibilities:
30

31 (a) [Act] **TO ACT** as the [system] **GRID** operator of the nationwide
32 electrical transmission and subtransmission system, **THAT SHALL** be
33 transferred to it by NPC;
34

35 (b) [Provide open and] **TO PROVIDE POWER DELIVERY**
36 **SERVICE THROUGH** non-discriminatory **OPEN** access to its transmission
37 system to all [electricity] **QUALIFIED AND AUTHORIZED** users[;],
38 **SUBJECT TO THE PAYMENT OF TRANSMISSION WHEELING**
39 **CHARGE APPROVED BY THE COMMISSION, AFTER DUE NOTICE**
40 **TO ALL INTERESTED PARTIES AND PUBLIC HEARING. TRANSCO[,]**
41 **SHALL NOT[,] IN ANY WAY BY VIRTUE OF THIS PROVISION,**
42 **ENGAGE IN RETAILING OF ELECTRICITY, WHICH IS A FUNCTION**
43 **OF DISTRIBUTION UTILITIES;**
44

45 (c) [Ensure] **TO ENSURE** and maintain the reliability, adequacy,
46 security, stability, and integrity of the nationwide electrical **TRANSMISSION**
47 grid in accordance with the performance standards for the operation and
48 maintenance of the **NATIONWIDE ELECTRICAL TRANSMISSION** grid, as
49 set forth in a Grid Code to be adopted and promulgated by the [ERC]
50 **COMMISSION** within six (6) months from the effectivity of this Act;
51

52 (d) [Improve] **TO IMPROVE** and expand its transmission **ASSETS**
53 **AND** facilities, consistent with the Grid Code and the Transmission Development
54 Plan (TDP) to be promulgated pursuant to this Act, **IN ORDER** to adequately
55 serve generation companies, distribution utilities, and suppliers [requiring] **THAT**
56 **REQUIRE** transmission service and/or [AND OR] ancillary services through the
57 transmission system: *Provided,* That **THE TRANSCO** shall submit any plan for
58 **THE** expansion or improvement of its **ASSETS AND** facilities for approval by

1 the [ERC;] COMMISSION, AFTER DUE NOTICE TO ALL INTERESTED
2 PARTIES AND PUBLIC HEARING;

3
4 (e) Subject to SUCH technical constraints THAT MAY EXIST OR
5 ARISE, IF ANY, AND TAKING INTO ACCOUNT ANY OUTSTANDING
6 BILATERAL CONTRACTS, the [grid] SYSTEM operator of the TRANSCO
7 shall provide central dispatch of all ELECTRIC generation PLANT facilities
8 connected, directly or indirectly, to the transmission system in accordance with
9 the dispatch schedule submitted by the market operator[, taking into account
10 outstanding bilateral contracts]; PROVIDED HOWEVER, THAT SUCH
11 SYSTEM OPERATOR SHALL BE ALLOWED TO SPIN-OFF USING
12 TRANSCO'S SYSTEM OPERATION CHARGES AS THE OPERATING
13 BUDGET WHEN ITS SCHEDULE AND DISPATCH FUNCTIONS
14 REQUIRE COMPLETE INDEPENDENCE FROM TRANSCO AS THE
15 GRID OWNER; and

16
17 (f) THE TRANSCO, JOINTLY WITH THE DOE, shall undertake
18 the preparation AND FORMULATION of the TDP, WHICH SHALL BE
19 APPROVED BY THE DOE.

20
21 In the preparation AND FORMULATION of the TDP, THE TRANSCO
22 AND THE DOE shall consult the other [participants of the] electric power
23 industry [such as] PARTICIPANTS, ESPECIALLY the generation companies,
24 distribution utilities, and the [electricity] end-users[.] OF ELECTRICITY. The
25 TDP shall be [submitted to the DOE for integration] INTEGRATED with the
26 Power Development Program and the Philippine Energy Plan, BOTH OF
27 WHICH ARE provided for in Republic Act No. 7638, otherwise known as "the
28 Department of Energy Act of 1992".

29
30 [A] SUBJECT TO THE PRIOR AUTHORIZATION OF THE
31 COMMISSION, AFTER DUE NOTICE TO ALL INTERESTED PARTIES
32 AND PUBLIC HEARING, A generation company may develop and own or
33 operate dedicated AND LIMITED point-to-point [limited] transmission ASSETS
34 AND facilities that are consistent with the TDP[: Provided, That], IF IT IS
35 CLEARLY SHOWN THAT such TRANSMISSION ASSETS AND facilities
36 are required [only for the purpose of connecting] AND TO BE USED SOLELY
37 BY THE GENERATION COMPANY TO CONNECT ITSELF to the
38 transmission system[,and are used solely by the generating facility, subject to
39 prior authorization by the ERC: Provided, further, That in] OF THE
40 TRANSCO. IN the event that such LIMITED TRANSMISSION assets AND
41 FACILITIES are required for competitive purposes, ownership of the same shall
42 be transferred to the TRANSCO at a fair market price[: Provided, finally, That
43 in]. IN case of ANY DISPUTE OR disagreement on the fair market price OF
44 SUCH TRANSMISSION ASSETS AND FACILITIES, the [ERC]
45 COMMISSION shall determine the fair market [value of the asset.] PRICE OF
46 SAID LIMITED TRANSMISSION ASSETS AND FACILITIES, AFTER
47 DUE NOTICE TO ALL INTERESTED PARTIES AND PUBLIC
48 HEARING.

49
50 "SEC. 10. *Corporate Powers of the TRANSCO.* — [As a corporate
51 entity,] THE TRANSCO shall have the following corporate powers:

52
53 (a) To have continuous succession under its corporate name until
54 otherwise provided by law;

55
56 (b) To adopt and use a corporate seal and to change, alter or modify
57 the same, if necessary;

58
59 (c) To sue and be sued[;] IN ITS NAME;

1
2 (d) To enter into [a contract] **ANY LAWFUL CONTRACT**, and TO
3 execute any **AND ALL** [instrument] **INSTRUMENTS** necessary or convenient
4 for the [purpose] **PURPOSES** for which it is created;

5
6 (e) To borrow funds from any source, whether private or public,
7 foreign or domestic, and issue **OR FLOAT** bonds and other evidence of
8 indebtedness: *Provided*, That in the case of [the] bond issues **OR**
9 **FLOTATIONS**, it shall be subject to the approval of the President of the
10 Philippines, upon **THE** recommendation of the Secretary of Finance: *Provided*,
11 *further*, That foreign loans shall be obtained in accordance with existing laws,
12 **AND WITH THE** rules and regulations of the Bangko Sentral ng Pilipinas;

13
14 (f) To maintain a provident fund which [consists of] **SHALL**
15 **CONSIST OF THE REGULAR MONTHLY** contributions [made by both the]
16 **OF THE TRANSCO** and **OF** its officials and employees, and [their] **THE**
17 earnings **OF SUCH REGULAR MONTHLY CONTRIBUTIONS**. **THE**
18 **PROVIDENT FUND SHALL BE EARMARKED** for the payment of benefits
19 to such officials and employees or their heirs, under such terms and conditions as
20 [it] **THE BOARD OF DIRECTORS OF THE TRANSCO** may prescribe;

21
22 (g) To do any [act] **AND ALL ACTS** necessary or proper to carry out
23 the [purpose] **PURPOSES** for which [it] **THE TRANSCO** is created, or which,
24 from time to time, may be declared by the **BOARD OF DIRECTORS OF THE**
25 **TRANSCO** [Board as] **TO BE** necessary, **PROPER**, useful, incidental or
26 auxiliary to accomplish [its] **THE TRANSCO'S** purposes and objectives; and

27
28 (h) Generally, to **USE AND** exercise **ANY, AND** all **OF** the powers
29 **AND PREROGATIVES** of a corporation under the corporation law **OF THE**
30 **PHILIPPINES**, insofar as they are not inconsistent with this Act.

31
32 "SEC. 11. *THE TRANSCO Board of Directors.* — [All the] **THE**
33 powers of the TRANSCO shall be vested in and **SHALL BE** exercised by a
34 Board of Directors[. The Board], **WHICH** shall be composed of a Chairman and
35 six (6) members. The Secretary of the Department of **ENERGY (DOE)** shall
36 [be] **SERVE AS** the *ex officio* Chairman of the Board. **THE TRANSCO**
37 **PRESIDENT SHALL SERVE AS THE VICE-CHAIRMAN**. The other
38 members of the **BOARD OF DIRECTORS OF THE TRANSCO** [Board shall
39 include] **ARE** the **PSALM PRESIDENT**, the Secretary of the Department of
40 **PUBLIC WORKS AND HIGHWAYS**, and three (3) [members to] **PRIVATE**
41 **INDIVIDUAL CITIZENS OF THE PHILIPPINES, WHO SHALL** be
42 appointed by the President[, each representing] **AND WHO SHALL EACH,**
43 **RESPECTIVELY, BE DESIGNATED TO REPRESENT** Luzon, **THE**
44 Visayas, and Mindanao.

45
46
47 The **SAID THREE (3) PRIVATE INDIVIDUAL** members of the Board
48 [so] **WHO ARE** appointed by the President of the Philippines shall serve for a
49 **SINGLE, NON-EXTENDIBLE, AND NON-RENEWABLE** term of six (6)
50 years, except that any person appointed to fill-in a vacancy shall serve only **FOR**
51 the **REMAINING** unexpired term of [his/her] **HIS OR HER** predecessor in
52 office. All **THE THREE (3) PRIVATE INDIVIDUAL** members of the Board
53 shall be professionals of **GOOD REPUTE AND WELL-KNOWN**
54 **INTEGRITY AND** recognized competence and expertise in the fields of
55 engineering, finance, economics, law, or business management. No member of
56 the Board or any of his relatives within the fourth civil degree of consanguinity or
57 affinity shall have any interest, either as investor, officer or director, in any
58 generation company or distribution utility or other entity engaged in [transmitting,

1 generating and supplying electricity specified by ERC.] **THE TRANSMISSION,**
 2 **GENERATION, OR SUPPLY OF ELECTRICITY.**

3
 4
 5 "SEC. 12. *Powers and Duties of the Board.* — The following [are]
 6 **SHALL BE** the powers of the Board:

7
 8 (a) To provide strategic direction for **THE TRANSCO**, and **TO**
 9 formulate medium and long-term **PLANS AND** strategies [pursuant to the vision,
 10 mission, and objectives of **TRANSCO**]; **IN ACCORDANCE WITH THE**
 11 **MISSION, OBJECTIVES, PURPOSES, AND VISION FOR WHICH THE**
 12 **TRANSCO WAS CREATED;**

13
 14 (b) To **FORMULATE**, develop, and adopt policies and measures for
 15 the efficient and effective management and operation of **THE TRANSCO**;

16
 17 (c) To **DETERMINE**, organize, **AND** re-organize[, and determini]
 18 the organizational structure and staffing pattern of **THE TRANSCO**; **TO**
 19 **CREATE**, abolish, and/**OR** [create] **RECREATE** offices and positions; **TO** fix
 20 the number of its officers and employees; **TO REMOVE FOR CAUSE OR TO**
 21 transfer [and re-align] **OR REASSIGN** such officers and [personnel]
 22 **EMPLOYEES; AND TO** fix [their compensation, allowance, and benefits;],
 23 **WITHIN JUST AND REASONABLE LIMITS, THE COMPENSATION,**
 24 **ALLOWANCE, AND BENEFITS OF SAID OFFICERS AND**
 25 **EMPLOYEES;**

26
 27 (d) To fix the compensation of the President of **THE TRANSCO**, and
 28 to appoint and fix the compensation of **THE** other corporate officers **OF THE**
 29 **CORPORATION;**

30
 31 (e) [For cause, to] **TO** suspend or remove **FOR CAUSE** any
 32 corporate officer appointed by the Board; **AND**

33
 34 (f) To adopt [and] **SUCH** set **OF** guidelines [for] **AS MAY BE**
 35 **NEEDED TO GOVERN** the employment of personnel on the basis of merit,
 36 technical competence, and moral [character; and] **RECTITUDE.**

37
 38 [(g) Any provisions of the law to the contrary notwithstanding, to
 39 write-off bad debts.]

40
 41 "SEC. 13. *Board Meetings.* — The Board shall meet [as often as
 42 may be] **REGULARLY ONCE EVERY MONTH, WITHOUT ANY NEED**
 43 **OF CALL, ON A DAY FIXED IN A RESOLUTION OF THE BOARD FOR**
 44 **THAT PURPOSE, AND IN A SPECIAL MEETING, WHEN IT IS** necessary,
 45 upon the call of the Chairman of the Board or by a majority of the [Board]
 46 members[.] **OF THE BOARD. THE MINUTES OF EVERY MEETING OF**
 47 **THE BOARD SHALL INDICATE WHETHER THE MEETING IS A**
 48 **REGULAR OR A SPECIAL MEETING AND THE PRINCIPAL**
 49 **MATTERS TAKEN DURING EVERY SUCH MEETING.**

50
 51 "SEC. 14. *Board Per Diems and Allowances.* — The members of the
 52 Board shall receive **A REASONABLE** per diem for each regular or special
 53 meeting of the Board actually attended by them[, and, upon approval of the
 54 Secretary of the Department of Finance, such other allowances as the Board may
 55 prescribe.]. **THE AMOUNT OF SUCH PER DIEM SHALL BE**
 56 **COMMENSURATE TO THE STATURE AND RESPONSIBILITY OF**
 57 **THE MEMBERS OF THE BOARD AND SHALL BE DETERMINED AND**
 58 **FIXED BY THE PRESIDENT OF THE PHILIPPINES. THE MEMBERS**
 59 **OF THE BOARD MAY ALSO RECEIVE SUCH OTHER JUSTIFIED AND**

1 **REASONABLE ALLOWANCES AS THE PRESIDENT OF THE**
 2 **PHILIPPINES MAY AUTHORIZE AND PRESCRIBE.**

3
 4 "SEC. 15. *Quorum.* — The presence of at least four (4) members of
 5 the Board shall constitute a quorum[, which shall be necessary] for the transaction
 6 of any business[. The], **AND THE** affirmative vote of a majority of **ALL** the
 7 members [present in a quorum] **OF THE BOARD** shall be [adequate]
 8 **REQUIRED** for the approval of any [resolution, decision or order, except when
 9 the Board shall otherwise agree that a greater vote is required.] **DECISION,**
 10 **ORDER, RESOLUTION, CONTRACT, OR PROCUREMENT.**

11
 12 "SEC. 16. *Powers of the President of TRANSCO.* — The President
 13 of **THE TRANSCO** shall be appointed by the President of the Philippines. In the
 14 absence of the *EX OFFICIO* Chairman [**OF THE BOARD**], the President **OF**
 15 **THE TRANSCO , AS VICE-CHAIRMAN,** shall preside over **THE** [Board]
 16 meetings[.] **OF THE BOARD.**

17
 18 The President of **THE TRANSCO** shall be the Chief Executive Officer of
 19 [TRANSCO] **THE CORPORATION** and shall have the following powers and
 20 duties:

21
 22 (a) To execute and administer the **DECISIONS,** policies, and
 23 measures approved by the Board, and **TO ASSUME AND** take responsibility for
 24 the efficient **AND HONEST** discharge of **THE** management functions[;] **IN**
 25 **THE TRANSCO;**

26
 27 (b) To oversee the preparation of the budget of **THE TRANSCO[;]**
 28 **AND TO PRESENT IT TO THE BOARD OF DIRECTORS AND OTHER**
 29 **HIGHER AUTHORITIES AND/OR OFFICES FOR APPROVAL;**

30
 31 (c) To direct and supervise the operation and internal administration of
 32 **THE TRANSCO** and, for this purpose, **HE** may delegate some or any of his
 33 administrative responsibilities and duties to other officers of **THE TRANSCO;**

34
 35 (d) Subject to [the] **SUCH** guidelines and policies [set up] **AS MAY**
 36 **BE ADOPTED** by the Board, [to] **HE MAY** appoint and fix the number and
 37 **THE** compensation, **ALLOWANCE, AND BENEFITS** of subordinate officials
 38 and employees of **THE TRANSCO[;]**, and **HE MAY,** for cause, [to] remove,
 39 suspend, or otherwise discipline any **SUCH** subordinate [employee] **OFFICIALS**
 40 **AND EMPLOYEES** [of **THE TRANSCO**];

41
 42 (e) To submit an annual report to the Board on the activities,
 43 **PROBLEMS, PLANS, PROGRAMS,** and achievements of **THE TRANSCO** at
 44 the close of each fiscal year, and upon approval thereof, **HE SHALL** submit a
 45 copy **OF THE SAME** to the President of the Philippines and to such other
 46 agencies as may be required by law;

47
 48 (f) To represent **THE TRANSCO** in all **ITS** dealings and transactions
 49 with other offices, agencies, and instrumentalities of the Government and with all
 50 **OTHER** persons and [other] entities, private or public, domestic or foreign; and

51
 52 (g) To exercise **ALL** such other powers and duties as may be vested in
 53 **OR DELEGATED TO** him by the Board from time to time.

54
 55 "SEC. 17. *Exemption from the Salary Standardization Law.* — [The
 56 salaries] **EXCEPT WHEN DELEGATED BY THE BOARD TO THE**
 57 **PRESIDENT OF THE TRANSCO UNDER PARAGRAPH (D) OF [THE**
 58 **PRECEDING] SECTION 16 OF THIS ACT, THE COMPENSATION,**
 59 **ALLOWANCE,** and benefits of **ALL OTHER OFFICERS AND** employees [in

1 the TRANSCO] OF THE TRANSCO SHALL BE FIXED BY THE BOARD
 2 AND shall be [exempt] EXEMPTED from Republic Act No. 6758 [and shall be
 3 fixed by the TRANSCO Board.].
 4

5 "SEC. 18. *Profits.* — [The] UNTIL AND UNLESS THE PSALM
 6 CORP. IS DIVESTED OF THE OWNERSHIP OF THE TRANSCO
 7 THROUGH AN ABSOLUTE SALE OF THE TRANSCO TO ANOTHER
 8 PARTY BY VIRTUE OF SECTION 21 OF THIS ACT, THE net profit, if
 9 any, of THE TRANSCO shall be remitted to the PSALM Corp. not later than
 10 ninety (90) days COUNTED FROM THE DAY IMMEDIATELY after THE
 11 END OF the immediately preceding quarter.
 12

13 "SEC. 19. *Transmission Charges.* — The transmission charges of the
 14 TRANSCO shall be filed with and approved by the [ERC pursuant to]
 15 COMMISSION, AFTER DUE NOTICE TO ALL INTERESTED PARTIES
 16 AND PUBLIC HEARING, IN ACCORDANCE WITH THE APPLICABLE
 17 PROVISIONS OF Paragraph (f) of Section [43 hereof] 42 OF THIS ACT.
 18

19 IMPROVEMENTS OR EXPANSION PROJECTS OF THE
 20 TRANSCO THAT WILL RESULT IN ANY INCREASE IN THE PASS-ON
 21 CHARGES TO DISTRIBUTION UTILITIES SHALL BE PRESENTED TO
 22 THE NATIONAL ECONOMIC DEVELOPMENT AUTHORITY (NEDA)
 23 FOR THOROUGH ECONOMIC FEASIBILITY EVALUATION BEFORE
 24 SUCH IMPROVEMENTS OR EXPANSION PROJECTS ARE
 25 SUBMITTED TO THE COMMISSION FOR APPROVAL.
 26

27 "SEC. 20. *[THE] TRANSCO Related Businesses.* -- THE
 28 TRANSCO [may] IS HEREBY AUTHORIZED TO engage, DIRECTLY OR
 29 INDIRECTLY, in any BUSINESS related TO ITS MAIN business [which
 30 maximizes] IN ORDER TO MAXIMIZE THE utilization of its assets[:] AND
 31 RESOURCES: *Provided,* That WHERE ASSETS FORMING PART OF
 32 THE RATE BASE OF THE TRANSCO ARE UTILIZED IN SUCH
 33 RELATED BUSINESS, a portion of the net income derived from such
 34 [undertaking utilizing assets which form part of the rate base] RELATED
 35 BUSINESS, WHICH PORTION SHALL NOT BE LESS THAN FIFTY
 36 PERCENT (50%) OF SUCH NET INCOME, shall be used to reduce THE
 37 transmission RATE OR wheeling [rates as determined by the ERC. Such portion
 38 of net income used to reduce the transmission wheeling rates shall not exceed
 39 fifty percent (50%) of the net income derived from such undertaking.] CHARGE
 40 PASSED-ON TO THE END-USERS OF ELECTRICITY.
 41

42 Separate accounts shall be maintained for each RELATED business
 43 [undertaking] to ensure that the transmission business shall neither subsidize in
 44 any way such RELATED business [undertaking] nor encumber [its] THE
 45 TRANSCO'S transmission assets in any way to support such RELATED
 46 business.
 47

48 "SEC. 21. *TRANSCO Privatization.* — Within six (6) months from
 49 the effectivity of this Act, the PSALM Corp. shall submit a plan ON THE
 50 PRIVATIZATION OF THE TRANSCO for the endorsement by the Joint
 51 CONGRESSIONAL Power Commission TO, and FOR the approval of, the
 52 President of the Philippines. [The] THEREAFTER, THE President of the
 53 Philippines [thereafter] shall direct THE PSALM Corp. to [award, in]
 54 CONDUCT AN open competitive PUBLIC bidding, AND AWARD THE
 55 OWNERSHIP AND CONTROL OF THE TRANSCO THROUGH A
 56 CONTRACT OF SALE, OR AWARD THE ADMINISTRATION,
 57 MANAGEMENT, OPERATION, AND MAINTENANCE, AS WELL AS
 58 THE PRESERVATION, IMPROVEMENT, AND/OR EXPANSION OF the
 59 transmission ASSETS AND facilities, including THE grid interconnections and

1 ancillary services THROUGH A CONCESSION CONTRACT to [a] THE
 2 qualified [party either through an outright sale or a concession contract.]
 3 **WINNING BIDDER.** The [buyer/concessionaire] **BUYER OR**
 4 **CONCESSIONAIRE, AS THE CASE MAY BE,** shall be responsible for the
 5 **EFFICIENT ADMINISTRATION, MANAGEMENT, OPERATION, AND**
 6 **MAINTENANCE, AS WELL AS FOR THE PRESERVATION,**
 7 improvement, **AND/OR** expansion[, operation, and/or maintenance of its] **OF**
 8 **THE** transmission assets and [the] **FACILITIES, INCLUDING THE GRID**
 9 **INTERCONNECTIONS AND ANCILLARY SERVICES AND THE**
 10 **ADMINISTRATION, MANAGEMENT, AND FOR THE** operation of any
 11 related business[.] **OR BUSINESSES.** The award [shall result in maximum] **TO**
 12 **THE QUALIFIED WINNING BIDDER MUST BE BASED ON THE MOST**
 13 **ADVANTAGEOUS, BENEFICIAL, AND OPTIMAL** present value [of
 14 proceeds] to the national government. In case a concession contract is awarded,
 15 the concessionaire shall [have a] **BE GIVEN AN INITIAL CONCESSION**
 16 contract period of twenty-five (25) years, subject to review and renewal for a
 17 maximum period of another twenty-five (25) years.

18
 19 **IF ALL OR A CONTROLLING PORTION OF THE SHARES OF STOCK**
 20 **OF TRANSCO ARE SOLD, THE BUYER OR BUYERS WILL NOT NEED A**
 21 **CONGRESSIONAL FRANCHISE SEPARATE FROM THAT OF TRANSCO TO**
 22 **OPERATE THE BUSINESS OF THE LATTER; PROVIDED HOWEVER, THAT**
 23 **THE NATIONALITY REQUIREMENTS OF THE CONSTITUTION MUST BE**
 24 **COMPLIED WITH.**

25
 26 **IF THE AWARDEE OF THE CONCESSION CONTRACT IS**
 27 **MERELY HIRED UNDER A COMPENSATION SCHEME TO**
 28 **ADMINISTER, MANAGE, OPERATE, MAINTAIN, PRESERVE, AND TO**
 29 **FINANCE AND SUPERVISE THE IMPROVEMENTS AND/OR**
 30 **EXPANSIONS OF THE ELECTRIC TRANSMISSION ASSETS AND**
 31 **FACILITIES AND THE GRID INTERCONNECTIONS AND THE**
 32 **ANCILLARY SERVICES FOR THE TRANSCO, THE AWARDEE OF**
 33 **THE CONCESSION CONTRACT SHALL NOT BE REQUIRED TO**
 34 **OBTAIN A NATIONAL FRANCHISE, AND NEITHER SHALL HE OR IT**
 35 **BE REQUIRED TO QUALIFY UNDER THE NATIONALITY**
 36 **REQUIREMENTS OF THE CONSTITUTION FOR PUBLIC UTILITY**
 37 **OPERATORS.**

38
 39 **HOWEVER, IF THE WINNING BIDDER OR AWARDEE OF THE**
 40 **CONCESSION CONTRACT TAKES OVER THE POSSESSION AND CONTROL**
 41 **OF THE ELECTRIC TRANSMISSION ASSETS AND FACILITIES AND THE**
 42 **GRID INTERCONNECTIONS AND ANCILLARY SERVICES, AS [A] BUYER**
 43 **OR LESSEE THEREOF, AND ADMINISTERS, MANAGES, MAINTAINS,**
 44 **OPERATES, IMPROVES, AND EXPANDS THEM AS HIS OR ITS OWN**
 45 **BUSINESS, THEN IN THAT CASE THE AWARDEE OF THE CONCESSION**
 46 **CONTRACT MUST OBTAIN A NATIONAL FRANCHISE THEREFOR, AND**
 47 **HE OR IT MUST QUALIFY UNDER THE NATIONALITY REQUIREMENTS**
 48 **OF THE CONSTITUTION FOR PUBLIC UTILITY OPERATORS.**

49
 50 [In any case, the awardee shall] **THE AWARDEE, WHETHER**
 51 **UNDER A CONTRACT OF SALE OR UNDER A CONCESSION**
 52 **CONTRACT, MUST** comply with the Grid Code and the TDP [as approved].
 53 The **CONTRACT OF** sale [agreement/concession] **OR THE CONCESSION**
 54 contract, **AS THE CASE MAY BE,** shall [include, but not limited to, the
 55 provision for] **PROVIDE, AMONG OTHERS, SUCH** performance and
 56 financial guarantees or [any] other covenants [which] **THAT** the national
 57 government may require. [Failure to comply with such obligations shall result in
 58 the imposition of appropriate sanctions or penalties by the ERC.] **THE**
 59 **FAILURE OF THE AWARDEE TO COMPLY WITH ANY OF SUCH**
 60 **GUARANTEES OR COVENANTS SHALL CONSTITUTE A DEFAULT**

1 ON THE PART OF THE AWARDEE AND SHALL CAUSE THE
 2 IMMEDIATE RESCISSION AND CANCELLATION OF THE
 3 CONTRACT OF SALE OR OF THE CONCESSION CONTRACT AND, IN
 4 ADDITION, THE IMPOSITION OF APPROPRIATE SANCTIONS,
 5 FINES, OR PENALTIES BY THE COMMISSION IN ACCORDANCE
 6 WITH SECTION 44 OF THIS ACT.
 7

8 The awardee [shall] **MUST** be financially and technically capable AND
 9 **SOUND**, with proven domestic and/or [AND OR] international experience and
 10 expertise as a leading transmission system operator. Such experience must be
 11 with a transmission system of comparable capacity and coverage as **THAT OF**
 12 the Philippines.
 13

14 "SEC. 22. *Distribution Sector.* — The distribution of electricity to
 15 end-users [shall be] **IS** a regulated common carrier business. [requiring] **IT**
 16 **REQUIRES** a national franchise[.] **AND [A] COMPLIANCE WITH THE**
 17 **NATIONALITY REQUIREMENTS OF THE CONSTITUTION.**
 18 [Distribution] **SUBJECT TO THE REGULATION OF THE COMMISSION,**
 19 **DISTRIBUTION** of electric power to [all] end-users **OF ELECTRICITY** may
 20 be undertaken by **QUALIFIED** private distribution utilities, **BY ELECTRIC**
 21 cooperatives, **BY** local government units presently undertaking this function
 22 [and], **OR BY** other duly authorized **AND QUALIFIED** entities[, subject to
 23 regulation by the ERC.]
 24

25 "SEC. 23. *Functions of Distribution Utilities.* — [A] **EVERY**
 26 distribution utility [shall have] **HAS** the obligation **AND RESPONSIBILITY**
 27 **UNDER THIS ACT** to provide, **WITHIN ITS FRANCHISE TERRITORY,**
 28 **ELECTRIC** distribution services and connections to its system, **IN**
 29 **ACCORDANCE WITH THE PROVISIONS OF THE DISTRIBUTION**
 30 **CODE,** for [any] **EVERY** end-user **OF ELECTRICITY** [within its franchise
 31 area consistent with the distribution code. Any entity engaged therein] **THAT**
 32 **APPLIES FOR SUCH SERVICES AND CONNECTIONS. THE**
 33 **PROVISIONS OF THE DISTRIBUTION CODE SHALL BE CONSISTENT**
 34 **WITH THE PROVISIONS OF THIS ACT. EVERY SUCH**
 35 **DISTRIBUTION UTILITY** shall provide open and non-discriminatory access to
 36 its distribution system to all **QUALIFIED** users[.] **WITHIN ITS FRANCHISE**
 37 **TERRITORY.**
 38

39 [Any] A distribution utility shall be entitled to impose and collect **JUST**
 40 **AND REASONABLE** distribution wheeling charges and connection fees from
 41 such [end-users as approved by the ERC.] **QUALIFIED USERS, AS MAY BE**
 42 **APPROVED BY THE COMMISSION, AFTER DUE NOTICE TO ALL**
 43 **INTERESTED PARTIES AND PUBLIC HEARING.**
 44

45 A distribution utility [shall have the] **HAS AN** obligation **AND**
 46 **RESPONSIBILITY** to supply electricity in the **MOST ECONOMICAL AND**
 47 least cost manner to its captive market, subject to the collection of **JUST AND**
 48 **REASONABLE** retail rate, duly approved [by the ERC.] **BY THE**
 49 **COMMISSION, AFTER DUE NOTICE TO ALL INTERESTED PARTIES**
 50 **AND PUBLIC HEARING.**
 51

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

1 BE prescribed in the [IRR] **IMPLEMENTING RULES AND REGULATIONS**
 2 **(IRR)** of this Act.

3
 4 Distribution utilities shall submit to the [ERC] **COMMISSION** a
 5 statement of their compliance with the technical specifications prescribed in the
 6 Distribution Code and **IN** the performance standards prescribed in the [IRR]
 7 **IMPLEMENTING RULES AND REGULATIONS** of this Act. Distribution
 8 utilities which [do not] **FAIL TO** comply with any of the prescribed technical
 9 specifications [and] **IN THE DISTRIBUTION CODE AND IN THE**
 10 performance standards shall submit to the [ERC] **COMMISSION** a plan [to
 11 comply,] **OF COMPLIANCE**, within three (3) years, with **THE** said prescribed
 12 technical specifications [and] **IN THE DISTRIBUTION CODE AND IN THE**
 13 performance standards. The [ERC] **COMMISSION** shall, within sixty (60) days
 14 upon receipt of such plan, evaluate the same and notify the distribution utility
 15 concerned of [its] **THE COMMISSION'S** action. Failure **ON THE PART OF**
 16 **ANY DISTRIBUTION UTILITY** to submit a feasible and credible plan [and/or]
 17 **OF COMPLIANCE AND/OR** failure to implement the same shall serve as
 18 grounds for the imposition of appropriate sanctions, fines, or penalties.
 19

20 Distribution utilities shall prepare and submit to the DOE their annual
 21 distribution development plans. [In the case of] **FOR** electric cooperatives, such
 22 plans shall be submitted through the National Electrification Administration.
 23

24 [Distribution utilities] **A PRIVATE OR GOVERNMENT-OWNED**
 25 **DISTRIBUTION UTILITY** shall provide, **WITHIN A REASONABLE TIME**
 26 **FROM THE REQUIREMENT THEREOF**, universal service [within their
 27 franchise, over a reasonable time from the requirement thereof, including unviable
 28 areas, as part of their social obligations,] **IN THE VIABLE AREAS OF ITS**
 29 **FRANCHISE TERRITORY, AS WELL AS IN THE NON-VIABLE AREAS**
 30 **AS PART OF ITS SOCIAL OBLIGATIONS**, in a manner that shall sustain
 31 [the] **ITS** economic viability [of the utility], subject to the approval by the [ERC
 32 in the case of private or government-owned utilities. To this end, distribution
 33 utilities] **COMMISSION AFTER DUE NOTICE TO ALL INTERESTED**
 34 **PARTIES AND PUBLIC HEARING. EVERY DISTRIBUTION UTILITY**
 35 shall submit to the DOE [their plans] **ITS PLAN** for serving such areas as part of
 36 [their] **ITS** distribution development [plans] **PLAN**. Areas [which a franchised]
 37 **IN THE FRANCHISE TERRITORY OF A** distribution utility **WHICH IT**
 38 cannot **SERVICE** or does not find viable **ENOUGH TO SERVICE** may be
 39 transferred to another distribution utility, if any is available, [who will] **THAT**
 40 **CAN** provide the service, subject to [THE] approval by [ERC.] **THE**
 41 **COMMISSION AFTER DUE NOTICE TO ALL INTERESTED PARTIES**
 42 **AND PUBLIC HEARING.** In [cases where] **THE EVENT THAT A** franchise
 43 [holders fail and/or refuse] **HOLDER FAILS AND/OR REFUSES** to service
 44 [any] **AN** area within [their] **ITS** franchise territory and [allowed] another
 45 **DISTRIBUTION** utility **IS AUTHORIZED AND ALLOWED BY THE**
 46 **COMMISSION** to service the same, [then] **THE FRANCHISE HOLDER**
 47 **OVER THE SAID AREA CANNOT THEREAFTER CLAIM IT BACK**
 48 **AND THEREBY DISTURB** the status quo [shall be respected.] **IN FAVOR OF**
 49 **THE DISTRIBUTION UTILITY THAT HAS BEEN AUTHORIZED AND**
 50 **ALLOWED BY THE COMMISSION TO SERVICE THE SAID AREA.**
 51

52 Distribution utilities [may exercise] **ARE HEREBY GRANTED** the
 53 power of eminent domain, subject to [the] **SUCH** requirements [of] **AND**
 54 **LIMITATIONS[, IF ANY,] IMPOSED BY** the Constitution and **ANY** existing
 55 [laws] **LAW**.
 56

57 "SEC. 24. *Distribution Wheeling Charge.* — The distribution
 58 wheeling charges of distribution utilities shall be filed with and approved [by the
 59 ERC pursuant to] **BY THE COMMISSION, AFTER DUE NOTICE TO ALL**

1 INTERESTED PARTIES AND PUBLIC HEARING, IN ACCORDANCE
 2 WITH THE APPLICABLE PROVISIONS OF Paragraph (f) of Section [43
 3 hereof] 42 OF THIS ACT.
 4

5 "SEC. 25. *Retail Rate.* — The retail rates [charged by] THAT
 6 distribution utilities **SHALL CHARGE** for [the supply of electricity]
 7 **PROVIDING DISTRIBUTION SERVICES AND CONNECTIONS TO**
 8 **END-USERS OF ELECTRICITY** in [their] **THE** captive market **OF THEIR**
 9 **RESPECTIVE FRANCHISE TERRITORIES** shall be [subject to regulation]
 10 **FILED WITH AND APPROVED** by the [ERC] **COMMISSION, AFTER**
 11 **DUE NOTICE TO ALL INTERESTED PARTIES AND PUBLIC**
 12 **HEARING. THE RETAIL RATES SHALL BE** based on the principle of full
 13 recovery of prudent, **JUST**, and reasonable economic costs **RESPECTIVELY**
 14 incurred[, or such other principles that will promote efficiency as may be
 15 determined by the ERC.] **BY THE DISTRIBUTION UTILITIES. IN**
 16 **MAKING OR SETTING THE RETAIL RATES THAT DISTRIBUTION**
 17 **UTILITIES MAY CHARGE FOR PROVIDING DISTRIBUTION**
 18 **SERVICES AND CONNECTIONS TO END-USERS OF ELECTRICITY IN**
 19 **THEIR RESPECTIVE FRANCHISE TERRITORIES, THE COMMISSION**
 20 **MUST OBSERVE AND COMPLY WITH THE APPLICABLE**
 21 **PROVISIONS OF PARAGRAPH (F) OF SECTION 42 OF THIS ACT.**
 22

23 Every distribution utility shall identify and segregate in its bills to ITS
 24 end-users **OF ELECTRICITY** the components of [the] ITS retail rate, as
 25 [defined] **REQUIRED** in this Act.
 26

27 "SEC. 26. *Distribution Related Businesses.* — [Distribution utilities]
 28 **SUBJECT TO THE APPROVAL OF THE COMMISSION, AFTER DUE**
 29 **NOTICE TO ALL INTERESTED PARTIES AND PUBLIC HEARING, A**
 30 **DISTRIBUTION UTILITY** may, directly or indirectly, engage in any
 31 **BUSINESS** related TO ITS MAIN business [undertaking which maximizes] **IN**
 32 **ORDER TO MAXIMIZE** the utilization of [their] ITS assets[.] **AND**
 33 **RESOURCES: Provided, That WHERE ASSETS FORMING PART OF**
 34 **THE RATE BASE ARE UTILIZED IN SUCH RELATED BUSINESS, a**
 35 portion of the net income derived from such [undertaking utilizing assets which
 36 form part of the rate base] **RELATED BUSINESS, WHICH PORTION**
 37 **SHALL NOT BE LESS THAN FIFTY PERCENT (50%) OF SUCH NET**
 38 **INCOME, shall be used to reduce its distribution wheeling [charges] CHARGE**
 39 **AND RETAIL RATE [as determined] APPROVED** by the [ERC: *Provided,*
 40 *further,* That such portion of net income used to reduce their distribution
 41 wheeling charges shall not exceed fifty percent (50%) of the net income derived
 42 from such undertaking: *Provided, finally,* That separate accounts are maintained
 43 for each business undertaking to ensure that the distribution business shall neither
 44 subsidize in any way such business undertaking nor encumber its distribution
 45 assets in any way to support such business.] **COMMISSION.**
 46

47 **SEPARATE ACCOUNTS SHALL BE MAINTAINED FOR EACH**
 48 **RELATED BUSINESS TO ENSURE THAT THE DISTRIBUTION**
 49 **BUSINESS SHALL NEITHER SUBSIDIZE, IN ANY WAY, SUCH**
 50 **RELATED BUSINESS NOR ENCUMBER, IN ANY WAY, ITS**
 51 **DISTRIBUTION ASSETS TO SUPPORT SUCH RELATED BUSINESS.**
 52

53 "SEC. 27. *Franchising Power in the Electric Power Sector.* — [The]
 54 **UPON THE EFFECTIVITY OF THIS ACT, THE** power to grant franchises to
 55 persons engaged in the transmission and distribution of electricity shall be vested
 56 exclusively in the Congress of the Philippines. [and all] **ALL** laws inconsistent
 57 with [this Act] **THE PRECEDING SENTENCE OF THIS SECTION**
 58 particularly, but not limited to, Section 43 of PD 269, otherwise known as the
 59 "National Electrification Decree," are hereby [deemed] repealed or modified

1 accordingly: *Provided*, That all existing franchises shall be allowed to **RUN** their
 2 full term: *Provided, further*, That in the case of electric cooperatives, renewals
 3 and cancellations shall remain with the National Electrification Commission
 4 under the National Electrification Administration for five (5) more years [after]
 5 **FROM** the enactment of this Act.

6
 7 ["SEC. 28. *De-Monopolization and Shareholding Dispersal.* — In
 8 compliance with the constitutional mandate for dispersal of ownership and de-
 9 monopolization of public utilities, the holdings of persons, natural or juridical,
 10 including directors, officers, stockholders and related interests, in a distribution
 11 utility and their respective holding companies shall not exceed twenty-five (25%)
 12 percent of the voting shares of stock unless the utility or the company holding the
 13 shares or its controlling stockholders are already listed in the Philippine Stock
 14 Exchange (PSE): *Provided*, That controlling stockholders of small distribution
 15 utilities are hereby required to list in the PSE within five (5) years from the
 16 enactment of this Act if they already own the stocks. New controlling
 17 stockholders shall undertake such listing within five (5) years from the time they
 18 acquire ownership and control. A small distribution company is one whose peak
 19 demand is equal to or less than Ten megawatts (10MW).]

20
 21 [The ERC shall, within sixty (60) days from the effectivity of this Act,
 22 promulgate the rules and regulations to implement and effect this provision.]

23
 24 [This Section shall not apply to electric cooperatives.]

25
 26 "SEC. [29] 28. *Supply Sector.* — The supply sector is a business affected
 27 with public interest. Except for distribution utilities and electric cooperatives with
 28 respect to their **RESPECTIVE** existing franchise [areas] **TERRITORIES**, all
 29 suppliers of electricity to the contestable market [shall require] **MUST [HAVE]**
 30 **SECURE** a license from the [ERC.] **COMMISSION**.

31
 32 For this purpose, the [ERC] **COMMISSION** shall promulgate **THE**
 33 **NECESSARY** rules and regulations [prescribing], **NOT INCONSISTENT**
 34 **WITH THE PROVISIONS OF THIS ACT, THAT SHALL PRESCRIBE** the
 35 qualifications of [electricity] suppliers [which] **OF ELECTRICITY. SUCH**
 36 **QUALIFICATIONS** shall include, among other requirements, a demonstration
 37 of their technical [capability,] **AND** financial [capability,] **CAPABILITIES** and
 38 creditworthiness: *Provided*, That the [ERC] **COMMISSION** shall have **THE**
 39 authority to require [electricity] suppliers **OF ELECTRICITY** to furnish [a]
 40 **SURETY** bond **OR BONDS**, or **ANY** other [evidence of the ability of a supplier]
 41 **ANALOGOUS GUARANTEE INSTRUMENTS SATISFACTORY TO THE**
 42 **COMMISSION, TO DEMONSTRATE AND ENSURE THEIR ABILITY**
 43 **AND CAPACITY, AS SUPPLIERS OF ELECTRICITY**, to withstand market
 44 disturbances [or other] **AND OTHER RISKS AND** events that may increase [the
 45 cost of providing service.] **THEIR COSTS IN FULFILLING THEIR**
 46 **COMMITMENTS, AS SUPPLIERS OF ELECTRICITY, TO PROVIDE**
 47 **THE QUALITY AND LEVEL OF SERVICES THEY OFFER TO THEIR**
 48 **CUSTOMERS.**

49
 50 Any law to the contrary notwithstanding, supply of electricity to the
 51 contestable market shall not be [considered] **DEEMED** a public utility operation.
 52 [For this purpose, any] **ANY** person or entity [which shall] **THAT APPLIES TO**
 53 **THE COMMISSION FOR A LICENSE TO** engage in the [supply of
 54 electricity] **BUSINESS AS SUPPLIER OF ELECTRICITY** to the contestable
 55 market shall not be required **TO HAVE OR** to secure a national franchise.
 56
 57
 58

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

5
 6 [Electricity suppliers] **SUPPLIERS OF ELECTRICITY** shall be subject
 7 to [the] rules and regulations [concerning] **THAT MAY BE PROMULGATED**
 8 **BY THE COMMISSION GOVERNING** abuse of market power,
 9 **CONSPIRACIES IN RESTRAINT OF TRADE**, cartelization, and other anti-
 10 competitive or discriminatory behavior [to be promulgated by the ERC.] **THAT**
 11 **ARE INIMICAL TO THE INTEREST OF THE GENERAL PUBLIC AND**
 12 **THE END-USERS OF ELECTRICITY.**

13
 14 [In its billings to end-users, every supplier] **EVERY SUPPLIER OF**
 15 **ELECTRICITY** shall identify and segregate **IN HIS OR ITS BILLINGS TO**
 16 **HIS OR ITS END-USERS OF ELECTRICITY** the components of **HIS OR** its
 17 [supplier's] charge, as defined [herein] **IN THIS ACT.**

18
 19 "SEC. [30]29. *Wholesale Electricity Spot Market.* — Within one (1) year
 20 from the effectivity of this Act, the DOE shall establish a [w]Wholesale
 21 [e]Electricity [s]Spot [m]Market, **HEREIN AFTER REFERRED TO AS THE**
 22 **WESM**, composed of the [wholesale electricity spot market] **WESM** participants.
 23 The [market] **WESM** shall provide the mechanism for identifying and setting the
 24 price of actual variations from the quantities transacted under contracts between
 25 **THE** sellers and **THE** purchasers of electricity[.] **IN THE WESM.**

26
 27 Jointly with **ALL** the electric power industry participants, the DOE shall
 28 formulate the detailed rules for the [wholesale electricity spot market.] **WESM.**
 29 Said rules shall provide the [mechanism for] **SYSTEM AND MANNER OF**
 30 determining the price of electricity not covered by bilateral contracts between
 31 **THE** sellers and **THE** purchasers of electricity users. [The price determination
 32 methodology contained in said rules] **THE METHOD CONTAINED IN THE**
 33 **SAID RULES FOR DETERMINING THE PRICE OF ELECTRICITY IN**
 34 **THE WESM** shall be subject to the approval of [ERC.] **THE COMMISSION,**
 35 **AFTER DUE NOTICE TO ALL INTERESTED PARTIES AND PUBLIC**
 36 **HEARING.** Said rules shall also **EMBODY AND** reflect accepted economic
 37 principles [and] **THAT SHALL** provide a level playing field to all electric power
 38 industry participants. The rules shall **FURTHERMORE** provide, among others,
 39 procedures for:

40
 41 (a) Establishing the merit order dispatch instructions for each time
 42 period; **PROVIDED HOWEVER, THAT IN EVERY CASE, AS A**
 43 **GENERAL RULE, THE CHEAPER ELECTRICITY SHALL BE**
 44 **DISPATCHED AHEAD OF THE HIGHER PRICED ELECTRICITY.**

45
 46 (b) Determining the market-clearing price for each time period;

47
 48 (c) Administering the market, including criteria for admission to [and
 49 termination] **OR DISMISSAL** from the market [which includes], **AS WELL AS**
 50 **ANY REQUIRED** security or performance [bond requirements] **BOND**, voting
 51 rights of the participants, surveillance, [and] assurance of compliance [of] **BY** the
 52 participants with the rules, and the formation of the [wholesale electricity spot
 53 market governing body] **GOVERNING BODY OF THE WESM;**

54
 55 (d) Prescribing guidelines for the market operation in system
 56 emergencies; and

57
 58 (e) Amending the **SAID** rules.
 59

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

15
 16 Subject to the compliance with the membership criteria, all [generating]
 17 **GENERATION** companies, distribution utilities, suppliers **OF ELECTRICITY**,
 18 bulk [consumers/end-users] [**CONSUMERS AND/OR**] **END-USERS OF**
 19 **ELECTRICITY** and other similar entities authorized by the [ERC shall be]
 20 **COMMISSION ARE** eligible to become members of the [wholesale
 21 electricity spot market] **WESM**.

22
 23 The [ERC] **COMMISSION** may authorize other similar entities to
 24 become eligible as members, either directly or indirectly, of the [wholesale
 25 electricity spot market] **WESM**. All [generating] **GENERATION** companies,
 26 distribution utilities, suppliers **OF ELECTRICITY**, bulk [consumers/end-users]
 27 **END-USERS OF ELECTRICITY** and other similar entities authorized by the
 28 [ERC] **COMMISSION**, whether direct or indirect members of the [wholesale
 29 electricity spot market] **WESM**, shall be bound by the [wholesale electricity spot
 30 market] **WESM** rules with respect to transactions in [that market] **THE WESM**.

31
 32 **NEA** may, in exchange for adequate security and a guarantee fee, act as a
 33 guarantor for **THE** purchases of electricity in the [wholesale electricity spot
 34 market] **WESM** by any electric cooperative or small distribution utility to support
 35 [their] **THE** credit standing **OF THE LATTER**, consistent with the provisions
 36 hereof. For this purpose, the authorized capital stock of **NEA** is **INCREASED**,
 37 **AS IT IS** hereby increased, to Fifteen billion pesos (P15,000,000,000.00).

38
 39 All electric cooperatives [which have] **WITH** outstanding uncollected
 40 billings to any local government unit shall report such billings to **NEA** [which]
 41 **AND NEA** shall, in turn, report the same to the Department of Budget and
 42 Management (**DBM**) for collection pursuant to Executive Order 190, issued on
 43 December 21, 1999.

44
 45 The cost of administering and operating the [wholesale electricity spot
 46 market] **WESM** shall be recovered by the market operator through a charge
 47 imposed to all market members: *Provided*, That such charge shall be filed with
 48 and approved by the [ERC.] **COMMISSION, AFTER DUE NOTICE TO ALL**
 49 **INTERESTED PARTIES AND PUBLIC HEARING.**

50
 51 In cases of national and international security emergencies or natural
 52 calamities, the [ERC] **COMMISSION** is hereby empowered to suspend the
 53 operation of the [wholesale electricity spot market] **WESM** or declare a
 54 temporary [wholesale electricity spot market] **WESM** failure.

55
 56 **TO ENCOURAGE AND PROMOTE THE DEVELOPMENT OF**
 57 **THE WESM, DISTRIBUTION UTILITIES WITH DEMAND LEVELS OF**
 58 **NOT LESS THAN 100 MEGAWATTS ARE REQUIRED, FOR THE FIRST**
 59 **THREE (3) YEARS IMMEDIATELY FOLLOWING THE**

1 ESTABLISHMENT OF THE WESM, TO SOURCE FROM THE WESM
 2 AT LEAST TEN PERCENT (10%) OF THEIR SUPPLY OF
 3 ELECTRICITY FOR RETAIL TO END-USERS. THE COMMISSION
 4 MAY, FROM TIME TO TIME, REVIEW THE APPROPRIATE LEVEL
 5 OF DEMAND TO BE SOURCED FROM THE WESM AND, IN
 6 MERITORIOUS INSTANCES, WAIVE IMPLEMENTATION OF SUCH
 7 REQUIREMENT, SUBJECT TO A PUBLIC HEARING.

8 [THEREAFTER, THE SAID TEN PERCENT (10%) SHALL
 9 GRADUALLY BE INCREASED AT THE RATE OF TWO PERCENT (2%)
 10 EVERY YEAR UP TO THE EIGHTH (8TH) YEAR FROM THE
 11 ESTABLISHMENT OF THE WESM IN ORDER TO REACH A LEVEL
 12 OF TWENTY PERCENT (20%) ON THE SAID EIGHTH (8TH) YEAR
 13 WHERE IT SHALL REMAIN UNTIL ADJUSTED FURTHER UPWARD
 14 BY CONGRESS.]

15
 16
 17 "SEC. [31]30. *Retail Competition and Open Access.* — Any law to the
 18 contrary notwithstanding, retail competition and open access on distribution wires
 19 OF DISTRIBUTION UTILITIES shall be implemented not later than three (3)
 20 years [upon the] FROM THE DATE OF THE effectivity of this Act, subject to
 21 the following conditions:

22
 23 (a) [Establishment] THE ESTABLISHMENT of the [w]Wholesale
 24 [e]Electricity [s]Spot [m]Market (WESM);

25
 26 (b) [Approval] THE APPROVAL of THE unbundled transmission and
 27 distribution wheeling charges[;] BY THE COMMISSION;

28
 29 (c) [Initial] THE INITIAL implementation of the cross subsidy
 30 removal scheme;

31
 32 (d) [Privatization] THE PRIVATIZATION of at least [seventy
 33 (70%) percent] FIFTY PERCENT (50%) of the total capacity of [generating]
 34 THE GENERATION assets of NPC in Luzon and THE Visayas; [and]

35
 36 (e) [Transfer] THE TRANSFER of the management and control of at
 37 least [seventy percent (70%)] FIFTY PERCENT (50%) of the total energy
 38 output of ALL power plants under contract with NPC to the IPP
 39 Administrators[.]; AND

40
 41 [(F) IN THE FRANCHISE TERRITORIES OF ELECTRIC
 42 COOPERATIVES, THE TRANSFER OF THE SUB-TRANSMISSION
 43 ASSETS AND FACILITIES IN ACCORDANCE WITH THE
 44 APPLICABLE PROVISIONS OF THIS ACT TO THE CONNECTED
 45 ELECTRIC COOPERATIVES.]

46
 47 Upon the initial implementation of open access, the [ERC]
 48 COMMISSION shall [allow] CONSTITUTE IN A FORMAL ORDER TO
 49 BE ISSUED AFTER DUE NOTICE TO ALL INTERESTED PARTIES
 50 AND PUBLIC HEARING all [electricity] end-users OF ELECTRICITY with
 51 a monthly average peak demand of [at least] NOT LESS THAN one megawatt
 52 (1MW) for the IMMEDIATELY preceding twelve (12) BILLING months to be
 53 the contestable market. [Two] AFTER TWO (2) years [thereafter,]
 54 IMMEDIATELY FOLLOWING THE INITIAL IMPLEMENTATION OF
 55 OPEN ACCESS, the threshold level for the contestable market shall be reduced
 56 to seven hundred fifty kilowatts (750kW). At [this] THAT level, aggregators
 57 shall be allowed to supply electricity to end-users whose aggregate demand within

1 a contiguous area is at least seven hundred fifty kilowatts (750kW). [Subsequently
2 and every] **EVERY** year thereafter, the [ERC] **COMMISSION** shall **REVIEW**
3 **AND** evaluate the performance of the **CONTESTABLE** market[. On] **AND, ON**
4 the basis of such **YEARLY REVIEW AND** evaluation, [it] **THE**
5 **COMMISSION** shall gradually reduce the threshold level until [it reaches] **THE**
6 **CONTESTABLE MARKET SHALL FINALLY COVER** the household
7 [demand level.] **END-USERS OF ELECTRICITY**. In the case of electric
8 cooperatives, retail competition and open access shall be implemented not earlier
9 than five (5) years [upon] **FROM** the effectivity of this Act.

10
11 "SEC. [32]31. [*NPC Stranded Debt and Contract Cost Recovery.*] **NPC'S**
12 **STRANDED DEBTS AND STRANDED CONTRACT COSTS RECOVERY**.
13 — [Stranded debt] **THE STRANDED DEBTS** of NPC [shall] refer to [any] **ITS**
14 unpaid financial obligations [of NPC.], **WHICH ARE NOT LIQUIDATED OR**
15 **OFFSET BY THE PROCEEDS FROM THE SALE, DISPOSITION,**
16 **AND/OR PRIVATIZATION OF NPC'S GENERATION ASSETS,**
17 **TRANSMISSION AND SUBTRANSMISSION ASSETS AND FACILITIES,**
18 **REAL ESTATE ASSETS, OTHER DISPOSABLE ASSETS, AND IPP**
19 **CONTRACTS.**

20
21 [Stranded] **THE STRANDED** contract costs of NPC [shall] refer to the
22 excess of the contracted cost of electricity under **THE** eligible [IPP]
23 **INDEPENDENT POWER PRODUCER (IPP)** contracts of NPC **WITH ITS**
24 **IPPs** over the actual selling price of [the] **THAT** contracted [energy output of
25 such contracts] **ELECTRICITY FROM SUCH IPP CONTRACTS** in the
26 market. [Such contracts shall] **INDEPENDENT POWER PRODUCER**
27 **CONTRACTS OF NPC SHALL BE DEEMED ELIGIBLE CONTRACTS**
28 **TO APPLY FOR STRANDED CONTRACT COSTS RECOVERY ONLY**
29 **IF SUCH CONTRACTS** have been approved by the ERB [as of] **ON OR**
30 **BEFORE** December 31, 2000.

31
32 The national government shall directly assume a portion of the financial
33 obligations of NPC in an amount not [to exceed] **LESS THAN** Two hundred
34 billion pesos (P200, 000,000,000.00).

35
36 The [ERC] **COMMISSION** shall verify the reasonable [amounts and
37 determine the manner and duration for the full recovery of stranded debt and
38 stranded contract costs as defined herein:], **ACTUAL, AND AGGREGATE**
39 **AMOUNTS OF THE STRANDED DEBTS AS WELL AS THE JUST AND**
40 **REASONABLE, ACTUAL, AND AGGREGATE AMOUNTS OF THE**
41 **STRANDED CONTRACT COSTS OF NPC THAT MUST BE**
42 **RECOVERED, IF ANY, AND SHALL APPROVE AND DETERMINE THE**
43 **MANNER AND DURATION FOR THE FULL RECOVERY OF BOTH,**
44 **AFTER DUE NOTICE TO ALL INTERESTED PARTIES AND PUBLIC**
45 **HEARING: Provided,** That the duration for such **FULL** recovery shall not be
46 [shorter] **LESS** than fifteen (15) years nor [longer] **MORE** than twenty-five (25)
47 years. The [ERC] **COMMISSION** shall, at the end of the first year [of] **FROM**
48 the implementation of [stranded cost recovery] **THE STRANDED DEBTS AND**
49 **STRANDED CONTRACT COSTS RECOVERY**, and every year thereafter,
50 conduct a review **OF ALL RELEVANT FACTS** to determine whether there [is]
51 **HAS BEEN AN** under-recovery or over-recovery [and adjust (true-up) the level
52 of stranded cost recovery charge accordingly.] **FROM THE STRANDED**
53 **DEBTS AND THE STRANDED CONTRACT COSTS RECOVERY**
54 **CHARGE. IN THE EVENT OF UNDER-RECOVERY OR OVER-**
55 **RECOVERY, THE COMMISSION SHALL, AFTER DUE NOTICE TO**
56 **ALL INTERESTED PARTIES AND PUBLIC HEARING, ADJUST THE**
57 **RATE OF THE SAID STRANDED DEBTS AND STRANDED CONTRACT**
58 **COSTS RECOVERY CHARGE ACCORDINGLY.** Any amount [to be
59 included for stranded cost recovery] **REPRESENTING THE STRANDED**

1 DEBTS AND STRANDED CONTRACT COSTS RECOVERY CHARGE
 2 shall be reflected as a separate item in the [consumer billing statement.]
 3 ELECTRIC END-USER'S MONTHLY BILLING STATEMENTS.
 4

5 IN CASE OF OVER-RECOVERY, THE AMOUNT OVER-
 6 RECOVERED SHALL BE REFUNDED TO THE END-USERS OF
 7 ELECTRICITY IN THE AREAS WHERE THE OVER-RECOVERY
 8 OCCURRED, WITH INTEREST EQUAL TO THE NATIONAL
 9 GOVERNMENT'S NINETY-DAY TREASURY BILL BORROWING
 10 RATE, COMPUTED ON THE BASIS OF THE AMOUNT OF EACH
 11 MONTHLY BILLING STATEMENT UNTIL THE TOTAL OVER-
 12 RECOVERED AMOUNT IS FULLY REFUNDED. THE COMMISSION IS
 13 HEREBY AUTHORIZED TO ADOPT SUCH FAIR AND REASONABLE
 14 FORMULA AND PROCEDURE TO EFFECT THE SAID REFUND.
 15

16 "SEC. [33]32. *Distribution [Utilities] UTILITY'S Stranded Contract*
 17 *Costs Recovery.* — [Stranded] THE STRANDED contract costs of A
 18 distribution [utilities shall] UTILITY refer to the excess of the contracted cost of
 19 electricity under THE eligible INDEPENDENT POWER PRODUCER (IPP)
 20 contracts of [such utilities] THE DISTRIBUTION UTILITY WITH ITS IPPs
 21 over the actual selling price of [such contracts] THAT CONTRACTED
 22 ELECTRICITY FROM SUCH IPP CONTRACTS in the market. [Such
 23 contracts shall] INDEPENDENT POWER PRODUCER CONTRACTS OF
 24 THE DISTRIBUTION UTILITY SHALL BE DEEMED ELIGIBLE
 25 CONTRACTS TO APPLY FOR STRANDED CONTRACT COSTS
 26 RECOVERY ONLY IF SUCH CONTRACTS have been approved by the ERB
 27 [as of] ON OR BEFORE December 31, 2000.
 28

29 A distribution utility [shall] WITH ELIGIBLE IPP CONTRACTS
 30 MAY BE ALLOWED TO recover ITS stranded contract costs[: *Provided,*
 31 *however,*That] ONLY IF such STRANDED CONTRACT costs [of the IPPs of
 32 distribution utilities are subject to] ARE FOUND, AFTER A THOROUGH
 33 review by [ERC in order to determine fairness and reasonableness] THE
 34 COMMISSION, TO BE FAIR AND REASONABLE in relation to OR IN
 35 COMPARISON WITH the average price of SIMILAR OR COMPARABLE
 36 land-based [IPP projects] IPP CONTRACTS entered into by NPC, at the time
 37 [they were contracted. The ERC] OR AS NEAR A TIME AS THE SAID IPP
 38 CONTRACTS OF THE DISTRIBUTION UTILITY WERE CONCLUDED.
 39 IN REVIEWING AND COMPARING THE SAID AVERAGE PRICE OF
 40 ELIGIBLE IPP CONTRACTS OF THE DISTRIBUTION UTILITY, THE
 41 COMMISSION shall take into consideration all RELEVANT factors that affect
 42 the total cost of [NPC] NPC'S IPP generation projects, including direct or indirect
 43 subsidies or incentives provided by the Government.
 44

45 Within one (1) year from the start of open access, any distribution utility
 46 that [seeks] INTENDS TO SEEK THE recovery of stranded contract costs shall
 47 file with the [ERC] COMMISSION A notice of such intent [together with],
 48 STATING WITH SUFFICIENT PARTICULARITY an estimate of THE
 49 AGGREGATE AMOUNT OF such [obligations, including the] STRANDED
 50 CONTRACT COSTS AND ITS present value [thereof] and SUBMITTING AT
 51 THE SAME TIME such [other] supporting EVIDENCE AND/OR data as may
 52 be required by the [ERC.] COMMISSION TO ASSESS AND DETERMINE
 53 THE MERIT AND VALIDITY OF THE ALLEGED STRANDED
 54 CONTRACT COSTS. Any distribution utility that does not file SUCH
 55 NOTICE OF INTENT, WITH THE NECESSARY SUPPORTING
 56 EVIDENTIAL REQUIREMENTS, within the [date] specified PERIOD OF
 57 TIME shall not be [eligible for such recovery.] ENTITLED TO RECOVER
 58 ANY STRANDED CONTRACT COSTS.
 59

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

5
 6 (a) **TO** reduce the costs of its existing contracts with [IPPs] **ITS**
 7 **INDEPENDENT POWER PRODUCERS (IPPS)** to [a level not exceeding]
 8 **[THE] AN EXTENT [OF] AT LEAST EQUAL TO** the average buying price
 9 **[of] FROM** other **COMPARABLE** land-based electric power [generators;]
 10 **GENERATION COMPANIES**; and

11
 12 (b) **TO** submit to an annual [earnings] **FINANCIAL** review **AND**
 13 **AUDIT** by the [ERC and use] **COMMISSION UNTIL THE END OF THE**
 14 **STRANDED CONTRACT COSTS RECOVERY PERIOD SO THAT** its
 15 earnings above its authorized rate of return, **IF ANY, SHALL BE USED** to
 16 reduce the book value of [contracts until the end of the stranded cost recovery
 17 period.] **ITS IPP CONTRACTS.**

18
 19 **BILATERAL CONTRACTS CONCLUDED BY A DISTRIBUTION**
 20 **UTILITY WITHOUT OPEN COMPETITIVE PUBLIC BIDDING,**
 21 **SPECIALY WITH SISTER OR AFFILIATED GENERATION**
 22 **COMPANY OR COMPANIES, MUST BE SUBJECTED TO STRINGENT**
 23 **MITIGATION EXAMINATION TO ELIMINATE ABOVE MARKET**
 24 **PRICES, INDICES, COST FACTORS, OTHER PREFERRED**
 25 **PROVISIONS AND ARRANGEMENTS THAT [SHALL] WILL**
 26 **INCREASE THE PASS-ON COSTS TO THE END-USERS OF**
 27 **ELECTRICITY.**

28
 29 **THE STRANDED CONTRACT COSTS RECOVERIES ALLOWED**
 30 **AFTER THE ABOVE-MENTIONED MITIGATION EXAMINATION**
 31 **SHALL BE COLLECTED ONLY FROM CUSTOMERS OF THE**
 32 **DISTRIBUTION UTILITY CONCERNED IN ITS OWN FRANCHISE**
 33 **TERRITORY, AFTER THE ELIMINATION OF THE INTER-GRID**
 34 **SUBSIDIES.**

35
 36 [Other] **IN CONDUCTING THE REVIEW OF THE STRANDED**
 37 **CONTRACT COSTS OF A DISTRIBUTION UTILITY, THE**
 38 **COMMISSION MAY UTILIZE FOR THAT PURPOSE OTHER** mitigating
 39 measures which are reasonably known and generally accepted within the electric
 40 power industry [shall be utilized]. The [ERC] **COMMISSION** shall not require
 41 the distribution utility to take a loss to reduce **ITS** stranded contract costs or **TO**
 42 **divest ITSELF OF** assets, unless the divestiture is imposed as a penalty [as
 43 provided herein.] **IN ACCORDANCE WITH THE APPLICABLE**
 44 **PROVISIONS OF THIS ACT.**

45
 46 The [relevant] distribution utility **CONCERNED** shall submit to the
 47 [ERC] **COMMISSION** quarterly reports showing the amount of **THE** stranded
 48 **CONTRACT** costs **ALREADY** recovered and the **REMAINING** balance
 49 [remaining], **IF ANY, YET** to be recovered.

50
 51 Within three (3) months [from] **IMMEDIATELY FOLLOWING** the
 52 submission of the application for **THE** stranded [cost] **CONTRACT COSTS**
 53 recovery by the [relevant] distribution [utilities.] **UTILITY CONCERNED,** the
 54 [ERC] **COMMISSION** shall verify the **JUST AND** reasonable [amounts]
 55 **AMOUNT TO BE RECOVERED, IF ANY, and SHALL APPROVE THE**
 56 **SAME AND** determine the manner and duration for the full recovery of **THE**
 57 stranded contract costs [as defined herein:], **AFTER DUE NOTICE TO ALL**
 58 **INTERESTED PARTIES AND PUBLIC HEARING:** *Provided,* That the
 59 duration for such recovery shall not be [shorter] **LESS** than fifteen (15) years nor

1 [longer] **MORE** than twenty-five (25) years. Any amount [to be included for
2 stranded cost recovery] **REPRESENTING THE STRANDED CONTRACT**
3 **COSTS RECOVERY CHARGE** shall be reflected as a separate item in the
4 [consumer billing statement.] **ELECTRIC END-USER'S MONTHLY**
5 **BILLING STATEMENTS.**

6
7 The [ERC] **COMMISSION** shall, at the end of the first year [of] **FROM**
8 the implementation of **THE** stranded [cost] **CONTRACT COSTS** recovery, and
9 every year thereafter, conduct [a] **AN ANALYSIS AND** review **OF ALL**
10 **RELEVANT FACTS** to determine whether there [is] **HAS BEEN AN** under-
11 recovery or over-recovery **FROM THE STRANDED CONTRACT COSTS**
12 **RECOVERY CHARGE** and adjust [(true-up) the level of] **THE RATE OF**
13 **THE SAID** stranded [cost] **CONTRACT COSTS** recovery charge accordingly.
14 In case of an over-recovery, the [ERC] **COMMISSION** shall ensure that any
15 excess amount shall be remitted to the Special Trust Fund created under Section
16 [34 hereof.] **33 OF THIS ACT.** A separate **TRUST** account shall be created for
17 these amounts, which shall be held in trust for any future claims of distribution
18 utilities for stranded [cost] **CONTRACT COSTS** recovery. At the end of the
19 stranded [cost] **CONTRACT COSTS** recovery period, any remaining amount in
20 [this] **THE SAID TRUST** account shall be used to reduce the electricity rates
21 **CHARGED** to the end-users[.] **OF ELECTRICITY.**

22
23
24 "SEC. [34]33. *Universal Charge.* — Within one (1) year from the
25 effectivity of this Act, a universal charge to be determined, fixed, and approved
26 by the [ERC,] **COMMISSION, AFTER DUE NOTICE TO ALL**
27 **INTERESTED PARTIES AND PUBLIC HEARING,** shall be imposed on all
28 [electricity] end-users **OF ELECTRICITY, ON THE BASIS OF THE**
29 **NUMBER OF KILOWATT HOURS OF ELECTRICITY RESPECTIVELY**
30 **CONSUMED BY THEM,** for the following purposes:

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

42
43 (b) [Missionary electrification] **FOR THE PAYMENT OF**
44 **PRUDENT, JUST AND REASONABLE COSTS OF MISSIONARY**
45 **ELECTRIFICATION PROJECTS;**

46
47 (c) [The] **FOR THE PAYMENT OF THE AMOUNT FOR THE**
48 equalization of the taxes and royalties applied to indigenous or renewable sources
49 of energy vis-à-vis imported energy fuels;

50
51 (d) [An] **FOR THE PAYMENT OF THE AMOUNT OF AN**
52 environmental charge equivalent to one-fourth of one centavo per kilowatt-hour
53 (P0.0025/kWh), which shall accrue to an environmental fund [to], **AND WHICH**
54 **SHALL** be used solely for [watershed] **THE** rehabilitation and management[.]
55 Said fund shall be managed by NPC under existing arrangements;] **OF THE**
56 **WATERSHED AREAS. THE SAID ENVIRONMENTAL FUND SHALL**
57 **BE UNDER THE RESPONSIBILITY, ADMINISTRATION, AND**
58 **MANAGEMENT OF THE NPC; and**

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

8
 9 The universal charge [shall be a] **UNDER THIS SECTION IS** non-
 10 bypassable [charge which] **AND** shall be passed on and collected **PER**
 11 **BILLING MONTH BY THE DISTRIBUTION UTILITIES** from all **THEIR**
 12 **RESPECTIVE** end-users **OF ELECTRICITY** on [a monthly] **THE** basis [by
 13 the distribution utilities.] **OF THE NUMBER OF KILOWATT HOURS OF**
 14 **ELECTRICITY ACTUALLY CONSUMED BY EACH OF SUCH END-**
 15 **USERS OF ELECTRICITY PER BILLING MONTH.** Collections by the
 16 distribution utilities and the TRANSCO in any given **BILLING** month shall be
 17 remitted to the PSALM Corp. on or before the fifteenth (15th) **DAY** of the
 18 succeeding month, net of any amount due to the distribution utility. [Any end-user
 19 or self-generating entity not connected to a distribution utility shall remit its
 20 corresponding universal charge directly to the TRANSCO.]

21
 22 **THE SELF-GENERATED ELECTRICITY OF AN END-USER WHO**
 23 **OR WHICH IS NOT DIRECTLY CONNECTED TO THE DISTRIBUTION**
 24 **SYSTEM OF A DISTRIBUTION UTILITY OR TO THE TRANSMISSION**
 25 **GRID AND ITS SUBTRANSMISSION FACILITIES SHALL NOT BE**
 26 **SUBJECT TO OR LIABLE FOR THE UNIVERSAL CHARGE IMPOSED**
 27 **IN THIS SECTION, EXCEPT FOR THE PAYMENT OF THE**
 28 **OBLIGATIONS SPECIFIED IN (b) AND (d) IF THE SELF GENERATED**
 29 **ELECTRICITY OF THE END USER COMES FROM THE UTILIZATION**
 30 **AND EXPLOITATION OF THE NATURAL RESOURCES OF THE**
 31 **COUNTRY.**

32
 33 **HOWEVER, EVEN IF THE END USER WHO OR WHICH**
 34 **GENERATES ELECTRICITY FOR ITS OWN USE FROM ITS OWN**
 35 **GENERATION FACILITY IS CONNECTED TO THE DISTRIBUTION**
 36 **SYSTEM OF A DISTRIBUTION UTILITY OR TO THE TRANSMISSION**
 37 **SYSTEM OF TRANSCO, THE SAME SHALL NOT BE SUBJECT TO**
 38 **THE UNIVERSAL CHARGE IF THE SELF GENERATED**
 39 **ELECTRICITY DOES NOT PASS THROUGH THE DISTRIBUTION**
 40 **SYSTEM OF A DISTRIBUTION UTILITY OR OF THE TRANSMISSION**
 41 **SYSTEM OF TRANSCO, EXCEPT FOR THE PAYMENT OF THE**
 42 **OBLIGATIONS SPECIFIED IN (b) AND (d) IF THE SELF GENERATED**
 43 **ELECTRICITY OF THE END USER COMES FROM THE UTILIZATION**
 44 **AND EXPLOITATION OF THE NATURAL RESOURCES OF THE**
 45 **COUNTRY.**

46
 47
 48 The PSALM Corp., [as] **BEING THE CUSTODIAN AND** administrator
 49 of the [fund,] **UNIVERSAL CHARGE HEREIN PROVIDED,** shall create a
 50 Special Trust Fund **ACCOUNT,** which shall be **USED, AND FROM WHICH**
 51 **SHALL BE** disbursed only **SUCH AMOUNTS AS MAY BE NEEDED**
 52 **STRICTLY,** for the purposes specified [herein] **IN THIS SECTION** in an open
 53 and transparent manner. **PSALM SHALL APPOINT A CONSUMER [OR A]**
 54 **REPRESENTATIVE [FROM A CONSUMER GROUP] ACTIVE IN THE**
 55 **ELECTRICITY INDUSTRY WHO SHALL MONITOR THE**
 56 **DISBURSEMENT OF FUNDS.** All amounts collected for the universal charge
 57 shall be **ALLOCATED AND** distributed **EXPEDITIOUSLY FOR THE**
 58 **PAYMENT OF THE OBLIGATIONS SPECIFIED IN (A), (B), (C), (D),**
 59 **AND (E) ABOVE AND** to [the] **THEIR** respective beneficiaries, within [a]

1 SUCH reasonable period [to be provided by the ERC.] OF TIME AS SHALL
2 BE DETERMINED BY THE COMMISSION.
3
4

5 "SEC. [35]34. *Royalties, Returns and Tax Rates for Indigenous Energy*
6 *Resources.* — The provisions of Section 79 of Commonwealth Act No. 137
7 (C.A. No. 137) and any law to the contrary notwithstanding, the President of the
8 Philippines shall **[IS HEREBY DIRECTED TO]** reduce the SHARE, royalties,
9 returns, and taxes [collected] **OF THE NATIONAL GOVERNMENT** for the
10 exploitation of all indigenous sources of energy, including but not limited to,
11 natural gas and geothermal steam, so as to effect parity of [tax] treatment [with
12 the existing rates for] **FOR TAX PURPOSES BETWEEN** imported coal, crude
13 oil, bunker fuel, [and] other imported fuels.] **AND INDIGENOUS SOURCES**
14 **OF ENERGY, ESPECIALLY NATURAL GAS AND GEOTHERMAL**
15 **STEAM.**
16

17 To ensure [lower rates] **CHEAPER ELECTRICITY** for end-users, the
18 [ERC shall] **COMMISSION, AFTER DUE NOTICE TO ALL INTERESTED**
19 **PARTIES AND PUBLIC HEARING, [IS HEREBY DIRECTED TO]**
20 **SHALL FIND WAYS AND MEANS AND [TO] EXERT EVERY EFFORT**
21 **TO** forthwith reduce the **PRICES AND/OR** rates of **ELECTRIC** power from
22 all indigenous sources of energy **AND IMPROVE THE GRID'S**
23 **GENERATION MIX OR PORTFOLIO OF PLANTS.**
24
25

26 "SEC. [36]35. *Unbundling of Rates and Functions.* — Within **THE** six
27 (6) months [from] **IMMEDIATELY FOLLOWING** the effectivity of this Act,
28 NPC shall file [with the ERC its revised rates.] **A PETITION FOR THE**
29 **APPROVAL OF ITS REVISED RATES BY THE COMMISSION, AFTER**
30 **DUE NOTICE TO ALL INTERESTED PARTIES AND PUBLIC**
31 **HEARING.** The **EXISTING** rates of NPC shall be unbundled between **ITS**
32 **transmission SECTOR** and generation [rates] **SECTOR**, and the rates shall
33 reflect the respective costs of providing each **KIND OF** service[. Inter-grid]
34 **BEING RENDERED. THE INTER-GRID** and intra-grid cross subsidies [for
35 both the transmission and the generation rates] **IN THE EXISTING NPC**
36 **RATES, IF ANY, BOTH IN THE TRANSMISSION SECTOR AND IN**
37 **THE GENERATION SECTOR**, shall be removed in accordance with **THE**
38 **APPLICABLE PROVISIONS OF** this Act.
39

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

1
2 (e) Following the restructuring of the [electricity sector] **ELECTRIC**
3 **POWER INDUSTRY**, the DOE shall, among others:

4
5 (i) Encourage **INVESTMENTS FROM THE** private sector
6 [investments] in the [electricity sector] **ELECTRIC POWER**
7 **INDUSTRY** and promote **THE** development of indigenous and
8 renewable **SOURCES OF** energy [sources];
9

10 (ii) Facilitate and encourage reforms in the structure and
11 operations of distribution utilities [for] **IN ORDER TO ATTAIN** greater
12 **efficiency and lower costs[;] OF ELECTRICITY;**
13

14 (iii) In consultation with other government agencies, promote a
15 system of incentives to encourage [industry participants, including new
16 generating companies and end-users to provide adequate and reliable
17 electric supply;] **[AND ENLARGE] NEW PARTICIPANTS IN THE**
18 **ELECTRIC POWER INDUSTRY, [ESPECIALLY TO**
19 **ENCOURAGE] THE ENTRY OF NEW GENERATION**
20 **COMPANIES AND TO [ENLARGE] BROADEN THE NUMBER**
21 **OF END-USERS OF ELECTRICITY, WHICH WILL IN TURN**
22 **PROVIDE THE COUNTRY WITH AN ADEQUATE, RELIABLE,**
23 **AND CHEAPER SUPPLY OF ELECTRICITY;** and
24

25 (iv) Undertake, in coordination with the [ERC]
26 **COMMISSION, NPC, PSALM, NEA** and the Philippine Information
27 Agency (PIA), **[SUCH] information campaignS [THAT MAY BE**
28 **NEEDED]** to educate the public on the restructuring of the [electricity
29 sector] **ELECTRIC POWER INDUSTRY** and **ON THE** privatization of
30 **THE NPC assets;**
31

32
33 (f) Jointly with the electric power industry participants, establish the
34 [wholesale electricity spot market] **WESM** and formulate the detailed rules
35 [governing the operations thereof;] **TO GOVERN ITS OPERATIONS;**
36

37 (g) Establish and administer programs for the exploration,
38 transportation, marketing, distribution, utilization, conservation, stockpiling, and
39 storage of energy resources of all forms, whether conventional or non-
40 conventional;
41

42 (h) Exercise supervision and control over all government activities
43 [relative to] **[THAT HAVE TO DO WITH] INVOLVING** energy projects in
44 order to attain **A WELL COORDINATED EFFORT TO ACCOMPLISH** the
45 goals embodied in Section 2 of RA 7638;
46

47 (i) Develop policies and procedures and, as appropriate, [promote] a
48 system of energy development incentives to enable and encourage electric power
49 industry participants to provide adequate **SUPPLY** capacity to meet
50 **INCREASED** demand including, among others, reserve requirements[;] **OF**
51 **THE COUNTRY;**
52

53 (j) Monitor **THE ACTIVITIES OF THE** private sector [activities
54 relative to energy projects in order to attain the goals of the restructuring,
55 privatization, and modernization of the electric power sector as provided for under
56 existing laws:] **REGARDING ENERGY PROJECTS IN ORDER TO**
57 **ACCOMPLISH THE GOALS AND OBJECTIVES OF THE**
58 **RESTRUCTURING, PRIVATIZING, AND MODERNIZING THE**
59 **ELECTRIC POWER INDUSTRY IN ACCORDANCE WITH THE**

1 **MANDATE OF EXISTING LAWS;** *Provided,* That the Department shall
 2 endeavor to provide [for] an environment **THAT IS** conducive to A free and
 3 active private sector **INVOLVEMENT,** participation, and investment in all
 4 energy activities[;] **OF THE COUNTRY;**
 5

6 (k) Assess the requirements of, determine priorities for, provide
 7 direction to, and disseminate information resulting from energy research and
 8 development programs for the optimal development of various forms of energy
 9 production and utilization technologies;
 10

11 (l) Formulate and implement [programs, including] **A PROGRAM**
 12 **OF PENALTIES FOR THE INJUDICIOUS OR INEFFICIENT USE OF**
 13 **ENERGY IN ALL ENERGY-CONSUMING SECTORS OF THE**
 14 **ECONOMY, AS WELL AS** a system of [providing] incentives [and penalties,]
 15 for the judicious and efficient use of energy, **SUCH AS CO-GENERATION**
 16 **SYSTEMS, DISTRIBUTED GENERATION, DEMAND-SIDE**
 17 **MANAGEMENT SYSTEM, AND RENEWABLE ENERGY** [in all energy-
 18 consuming sectors of the economy];
 19

20 (m) Formulate and implement a program for the accelerated
 21 development of non-conventional energy [systems] **SOURCES** and the
 22 promotion and commercialization of its applications;
 23

24 (n) Devise ways and means of [giving] **EXTENDING** direct benefit
 25 to the **INHABITANTS OF A REGION,** province, city, [or] **AND** municipality[,
 26 especially the community, and people affected, and equitable preferential benefit
 27 to the region] that hosts the energy resource [and/or the energy-generating]
 28 **AND/OR THE ENERGY-GENERATION** facility[:] **OR FACILITIES:**
 29 *Provided, however,* That the **INHABITANTS OF THE** other **REGIONS,**
 30 provinces, cities, **AND** municipalities[, or regions] shall not be deprived of their
 31 energy requirements;
 32

33 (o) Encourage private enterprises engaged in energy projects,
 34 including corporations, cooperatives, and similar collective organizations, to
 35 broaden the base of their ownership and thereby encourage the widest public
 36 ownership of energy-oriented [corporations;] **ENTERPRISES;**
 37

38 (p) Formulate such rules and regulations [as], **NOT INCONSISTENT**
 39 **WITH THE PROVISIONS OF THIS ACT, WHICH** may be necessary to
 40 implement the objectives of this Act; and
 41

42 (q) Exercise such other powers as may be necessary or incidental to
 43 attain the objectives of this Act."
 44
 45

46 "CHAPTER IV

47 "REGULATION OF THE ELECTRIC POWER INDUSTRY

48
 49
 50 "SEC. [38]37. *Creation of the Energy Regulatory Commission.* — [There
 51 is hereby created an **IMPARTIAL, [TRULY]** independent, **AND** quasi-judicial
 52 regulatory body to be [named the Energy Regulatory Commission (ERC). For
 53 this purpose,] **KNOWN AS "THE COMMISSION". EXECUTIVE ORDER**
 54 **NO. 172, SERIES OF 1987, AS AMENDED, IS HEREBY REPEALED IN**
 55 **TOTO, AND** the [existing] Energy Regulatory Board (ERB) created [under
 56 Executive Order No. 172, as amended,] **THEREUNDER** is hereby abolished[.]
 57 **AND ALL ITS POWERS ARE FORMALLY AND TOTALLY**
 58 **ABOLISHED AND TERMINATED.] THE ENERGY REGULATORY**

1 BOARD (ERB) CREATED UNDER EXECUTIVE ORDER NO. 172, AS
 2 AMENDED, IS HEREBY ABOLISHED. IN LIEU THEREOF, THERE IS
 3 HEREBY CREATED AN IMPARTIAL, INDEPENDENT, AND QUASI-
 4 JUDICIAL REGULATORY BODY TO BE NAMED THE ENERGY
 5 REGULATORY COMMISSION (ERC), WHICH FOR PURPOSES OF
 6 THIS ACT IS REFERRED TO AS THE "COMMISSION". ALL THE
 7 POWERS FORMERLY VESTED IN THE ENERGY REGULATORY
 8 BOARD UNDER EXECUTIVE ORDER NO. 172, AS AMENDED, THAT
 9 ARE CONSISTENT WITH THE PROVISIONS OF THIS ACT MAY BE
 10 EXERCISED BY THE COMMISSION.

11
 12 THE COMMISSION SHALL ENJOY FISCAL AUTONOMY
 13 PROVIDED THAT A SUPPLEMENTAL BUDGET THROUGH THE
 14 DEPARTMENT OF BUDGET AND MANAGEMENT SHALL BE
 15 SUBMITTED TO CONGRESS, WITHOUT PREJUDICE TO THE
 16 POWERS OF THE COMMISSION ON AUDIT OVER THE FINANCIAL
 17 ACTIVITIES OF THE COMMISSION.

18
 19 "SEC. 38. *QUALIFICATIONS OF THE MEMBERS OF THE*
 20 *COMMISSION.* - The Commission shall be composed of a Chairman and four
 21 (4) ASSOCIATE members to be appointed by the President of the Philippines.
 22 The Chairman and the ASSOCIATE members of the Commission shall be
 23 natural-born citizens OF THE PHILIPPINES and PERMANENT residents [of
 24 the Philippines,] THEREOF FOR THE LAST FIVE YEARS
 25 IMMEDIATELY PRECEDING THEIR APPOINTMENTS. THEY SHALL
 26 BE REPUTABLE INDIVIDUALS [persons] of good moral character, at least
 27 thirty-five (35) years of age, and [of] POSSESSING KNOWN AND recognized
 28 PROFESSIONAL competence in any of the following fields: [OF EITHER]
 29 energy, law, economics, finance, commerce, [OR] ACCOUNTANCY, or
 30 engineering[, with]. EXCEPT FOR THE MEMBERS FROM THE LAW
 31 AND ACCOUNTANCY PROFESSIONS, THE THREE OTHER
 32 MEMBERS MUST HAVE at least [three (3)] FIVE (5) years OF actual,
 33 ACTIVE, and distinguished PROFESSIONAL experience in their respective
 34 fields [of expertise: *Provided*, That out of]. OF the [four (4)] FIVE (5) members
 35 of the Commission, at least one (1) OF THEM shall be a REPUTABLE AND
 36 RESPECTED member of the Philippine Bar with at least ten (10) years OF
 37 DISTINGUISHED experience in the active practice of THE law, and
 38 ANOTHER one (1) shall be a REPUTABLE AND RESPECTED certified
 39 public accountant, ALSO with at least ten (10) years OF DISTINGUISHED
 40 experience in THE active practice[.] OF THE PROFESSION OF
 41 ACCOUNTANCY.

42
 43 Within three (3) months from the creation of the [ERC] COMMISSION,
 44 the Chairman shall submit [for the approval by] TO the President of the
 45 Philippines FOR HIS APPROVAL [the] A new organizational structure and A
 46 LIST OR *plantilla* OF positions necessary to carry out the powers and functions
 47 of the [ERC.] COMMISSION.

48
 49 The Chairman of the Commission, who shall be a RESPECTED,
 50 REPUTABLE, AND DISTINGUISHED member of the Philippine Bar, shall
 51 act as the Chief Executive Officer of the Commission.

52
 53 All members of the Commission shall have a FIXED, NON-
 54 RENEWABLE, AND NON-EXTENDIBLE term of seven (7) years[: *Provided*,
 55 That for]. FOR the first appointees, the Chairman shall hold office for seven (7)
 56 years[.]; two (2) ASSOCIATE members shall hold office for five (5) years; and
 57 the [other] LAST two (2) ASSOCIATE members shall hold office for three (3)
 58 years: *Provided*[, further], That appointment to any future vacancy shall only be
 59 for the unexpired term of the predecessor[: *Provided*, finally, That there shall be

1 no reappointment and in no case shall any member serve for more than seven (7)
 2 years in the Commission].

3
 4 The Chairman and **THE ASSOCIATE** members of the Commission shall
 5 assume office at the beginning of their **RESPECTIVE** terms: *Provided*, That, if
 6 upon the effectivity of this Act, the Commission has not been constituted, and the
 7 new staffing pattern [and] **OR** *plantilla* **OF** positions [have] **HAS** not been
 8 approved and/**OR** filled-up, the [current Board and existing personnel of ERB]
 9 **MEMBERS AND PERSONNEL OF THE DEFUNCT ENERGY**
 10 **REGULATORY BOARD** shall continue to hold office[.] **UNTIL THEY ARE**
 11 **CORRESPONDINGLY REPLACED.**

12
 13 [The existing] **ANY OF THE** personnel of the **DEFUNCT** ERB, if **HE**
 14 **OR SHE IS** qualified **AND HAS NOT BEEN THE SUBJECT OF ANY**
 15 **ADMINISTRATIVE OR CRIMINAL CASE OF DERELICTION OF DUTY**
 16 **OR OF MALFEASANCE OR MISFEASANCE IN OFFICE**, shall be given
 17 preference in [the] filling [up of] **THE NEW STAFFING PATTERN OR**
 18 *plantilla* **OF** positions created in [the ERC,] **AND FOR THE COMMISSION,**
 19 subject to **SUCH REQUIREMENTS OF** existing civil service rules and
 20 regulations.

21
 22 [Members] **ALL THE MEMBERS** of the Commission shall enjoy
 23 security of tenure, and **THEY** shall not be suspended or removed from office
 24 [except] **ON ANY GROUND OTHER THAN** for **A** just cause as **PROVIDED**
 25 **AND** specified by law.

26
 27 **"SEC. 39. PROHIBITIONS -** The Chairman and the **ASSOCIATE**
 28 members of the Commission [or any of] **AND** their relatives within the fourth
 29 civil degree of consanguinity or affinity, **WHETHER SUCH PERSONAL**
 30 **RELATIONS ARE** *legitimate*, [or] *common law*, [shall be] **OR OTHERWISE,**
 31 **ARE** prohibited from holding any interest whatsoever, either as investor,
 32 stockholder, officer, or director, in any company or entity engaged in the business
 33 of transmitting, generating, supplying, **AGGREGATING**, or distributing [any
 34 form of energy and must, therefore, divest through sale or legal disposition of any
 35 and all interests in the energy sector upon assumption of office.]
 36 **ELECTRICITY.**

37
 38 **UPON THE ASSUMPTION BY THE CHAIRMAN AND THE**
 39 **ASSOCIATE MEMBERS OF THE COMMISSION OF THEIR**
 40 **RESPECTIVE POSITIONS, THE CHAIRMAN AND THE ASSOCIATE**
 41 **MEMBERS OF THE COMMISSION AND THEIR RESPECTIVE**
 42 **RELATIVES WITHIN THE PROSCRIBED DEGREE OF PERSONAL**
 43 **RELATIONS MUST DIVEST THEMSELVES OF ALL THEIR**
 44 **PROHIBITED INTEREST, THROUGH REAL ARMS LENGTH**
 45 **TRANSACTIONS OR OTHER VALID FORMS OF DISPOSITION, WITH**
 46 **CORRESPONDING PAYMENT OF ALL TAXES DUE, IF ANY, ON**
 47 **SUCH TRANSACTION OR OTHER FORMS OF DISPOSITION AND**
 48 **WITHOUT ANY PROVISION GRANTING A RIGHT TO THE**
 49 **TRANSFEROR OF SUCH PROHIBITED INTEREST TO REPURCHASE**
 50 **SUCH TRANSFERRED OR DISPOSED PROHIBITED INTEREST, AND**
 51 **[OR] MUST RESIGN FROM ALL THEIR PROSCRIBED POSITIONS IN**
 52 **THE ELECTRIC POWER INDUSTRY.**

53
 54 **"SEC. 40. QUORUM -** The presence of at least three (3) members of the
 55 Commission shall constitute a quorum [and the majority] **IN EVERY**
 56 **OFFICIAL AND FORMAL MEETING AND/OR HEARING OF THE**
 57 **COMMISSION. THE** vote of [two (2) members in a meeting where a quorum
 58 is present] **A MAJORITY OF THE QUORUM** shall be necessary for the
 59 adoption of [any] **A VALID** rule, ruling, order, resolution, decision or other

1 OFFICIAL AND FORMAL act of the Commission in the exercise of its quasi-
 2 judicial functions: *Provided*, That in fixing THE TRANSMISSION,
 3 SUBTRANSMISSION, AND DISTRIBUTION WHEELING CHARGES
 4 AND THE TRANSMISSION, SUBTRANSMISSION, AND DISTRIBUTION
 5 rates and tariffs[,] AS WELL AS IN RENDERING ANY ORDER OR
 6 DECISION ON ANY ISSUE OR MATTER THAT SHALL RESULT IN AN
 7 INCREASE IN THE FINANCIAL BURDEN TO THE END-USERS OF
 8 ELECTRICITY, an affirmative vote of AT LEAST three (3) members OF
 9 THE COMMISSION shall be required.

10
 11 "SEC.[39]41. *Compensation and Other Emoluments for [ERC] THE*
 12 *COMMISSION Personnel.* —The compensation and [other emoluments]
 13 ALLOWANCES for the Chairman and THE ASSOCIATE members of the
 14 Commission [and the ERC personnel] AS WELL AS THE SALARIES AND
 15 ALLOWANCES OF THE COMMISSION PERSONNEL shall be exempted
 16 from [the coverage of] Republic Act No. 6758, otherwise known as the "Salary
 17 Standardization Act". For this purpose, the schedule of [compensation of the ERC
 18 personnel,] SALARIES AND ALLOWANCES OF THE COMMISSION
 19 PERSONNEL, except for the initial [salaries and] compensation AND
 20 ALLOWANCES of the Chairman and THE ASSOCIATE members of the
 21 Commission, shall be submitted for approval by the President of the Philippines.
 22 The new schedule of compensation OR SALARIES AND ALLOWANCES
 23 shall be implemented within six (6) months from the effectivity of this Act, and
 24 SAID COMPENSATION OR SALARIES AND ALLOWANCES may be
 25 upgraded by the President of the Philippines as the need arises: *Provided*, That in
 26 no case shall the rate OF SUCH COMPENSATION OR SALARIES AND
 27 ALLOWANCES be upgraded more than once a year.

28
 29 The Chairman and THE ASSOCIATE members of the Commission shall
 30 initially be entitled to the same [salaries] COMPENSATION, allowances, and
 31 benefits as those of the Presiding Justice and Associate Justices of the Supreme
 32 Court, respectively. The Chairman and the ASSOCIATE members of the
 33 Commission shall, upon completion of their term OF OFFICE or upon becoming
 34 eligible for retirement under existing laws, be entitled to the same retirement
 35 benefits and privileges provided for the Presiding Justice and Associate Justices
 36 of the Supreme Court, respectively

37
 38
 39 "SEC. [40]42. *Enhancement of Technical Competence.* — The [ERC]
 40 COMMISSION shall establish rigorous training programs for its staff [for the
 41 purpose of enhancing the] AND PERSONNEL TO ENHANCE THEIR
 42 technical competence AND THAT of the [ERC in the following areas:
 43 evaluation of technical performance and monitoring of] COMMISSION IN
 44 ORDER TO STRENGTHEN ITS KNOWLEDGE AND CAPACITY TO
 45 MONITOR AND EVALUATE THE TECHNICAL CAPABILITIES AND
 46 OVERALL PERFORMANCE OF THE ELECTRIC POWER INDUSTRY
 47 PARTICIPANTS, INCLUDING THEIR compliance with THE service [and],
 48 performance, [standards, performance-based rate-setting reform, environmental
 49 standards, and such other areas as will] AND ENVIRONMENTAL
 50 STANDARDS, AS WELL AS WITH THE REFORMS PROVIDED IN THIS
 51 ACT, AND ABOVE ALL TO enable the [ERC] COMMISSION to adequately
 52 perform its duties and EFFICIENTLY ACCOMPLISH ITS functions.

53
 54 "SEC. [41]43. *PROTECTION AND Promotion of Consumer RIGHTS*
 55 *AND Interests.* — THE COMMISSION SHALL ENSURE THE
 56 ADEQUATE PROTECTION AND PROMOTION OF THE INTERESTS
 57 OF THE ELECTRICITY CONSUMERS AND UPHOLD THEIR BASIC
 58 RIGHTS AS FOLLOWS:

- 1 A) TO HAVE QUALITY, RELIABLE, AFFORDABLE, SAFE,
2 AND REGULAR SUPPLY OF ELECTRIC POWER;
3
- 4 B) TO BE ACCORDED COURTEOUS, PROMPT, AND NON-
5 DISCRIMINATORY SERVICE BY THE ELECTRIC
6 SERVICE PROVIDER;
7
- 8 C) TO BE GIVEN A TRANSPARENT, NON-
9 DISCRIMINATORY AND REASONABLE PRICE OF
10 ELECTRICITY CONSISTENT WITH THE PROVISIONS
11 OF THIS ACT.
12
- 13 D) TO BE AN INFORMED ELECTRIC CONSUMER AND
14 GIVEN ADEQUATE ACCESS TO INFORMATION ON
15 MATTERS AFFECTING THE ELECTRIC SERVICE OF
16 THE CONSUMER CONCERNED;
17
- 18 E) TO BE ACCORDED PROMPT AND SPEEDY
19 RESOLUTION OF COMPLAINTS BY BOTH THE
20 DISTRIBUTION UTILITY AND/OR THE COMMISSION;
21
- 22 F) TO KNOW AND CHOOSE THE ELECTRIC SERVICE
23 RETAILER UPON THE IMPLEMENTATION OF RETAIL
24 COMPETITION; AND
25
- 26 G) TO ORGANIZE THEMSELVES AS A CONSUMER
27 ORGANIZATION IN THE FRANCHISE AREA WHERE
28 THEY BELONG AND WHERE THEY ARE SERVED BY
29 THE DISTRIBUTION UTILITY OR AS A NETWORK OF
30 ORGANIZATION.
31

32 The [ERC] COMMISSION shall [handle] ATTEND AND RESPOND
33 EXPEDITIOUSLY TO THE [consumer] complaints OF END-USERS OF
34 ELECTRICITY, and IT SHALL ensure AND SAFEGUARD the adequate,
35 EFFECTIVE, AND SUSTAINED promotion [of consumer interests.] AND
36 PROTECTION OF THE INTERESTS OF END-USERS OF
37 ELECTRICITY.
38

39 THE COMMISSION SHALL ENSURE THAT DISTRIBUTION
40 UTILITIES SHALL SUPPLY THE LEAST COST ELECTRICITY FOR
41 THEIR CAPTIVE END-USERS;
42
43

44 "SEC. [42]44. *Budget of the [ERC.] COMMISSION.* — The amount of
45 One Hundred fifty million pesos (P150,000,000.00) is hereby allocated from the
46 existing budget of the DEFUNCT ERB for the initial operation of the [ERC.]
47 COMMISSION. Any balance shall initially be sourced from the Office of the
48 President of the Philippines. Thereafter, the annual budget of the [ERC]
49 COMMISSION shall be included in the [regular] GENERAL or special
50 appropriations[.] OF THE NATIONAL GOVERNMENT.
51

52 "SEC. [43]45. *Functions of the [ERC.] COMMISSION.* — The [ERC]
53 COMMISSION shall, AMONG OTHERS, [(1)] promote competition[.];
54 [(2)] encourage market development[.]; [(3)] PROTECT END-USERS OF
55 ELECTRICITY FROM DISCRIMINATORY, UNFAIR, OR
56 CONFISCATORY RATES; [(4)] ensure [customer], UPON THE
57 ESTABLISHMENT OF THE CONTESTABLE MARKET, END-USER'S
58 choice; and [(5)] CONTROL, PREVENT, AND penalize abuse of market power
59 in the restructured [electricity] ELECTRIC POWER industry.

1
2 [In appropriate cases, the ERC] **THE COMMISSION** is authorized to
3 issue A cease and desist order, **WHENEVER IT IS NEEDED TO SERVE THE**
4 **INTEREST OF THE PUBLIC OR THE INTEREST OF JUSTICE**, after due
5 notice **TO ALL INTERESTED PARTIES** and **PUBLIC** hearing.

6
7 **THE COMMISSION, ACTING AS A QUASI-JUDICIAL BODY,**
8 **SHALL CONDUCT PUBLIC HEARINGS ON ALL APPLICATIONS FOR**
9 **RATE INCREASE AND ON ANY ISSUE, THE RESOLUTION OF**
10 **WHICH, WILL AFFECT PRIVATE RIGHTS OR IMPOSE**
11 **OBLIGATIONS OR WILL RESULT IN ANY INCREASE IN THE PRICE**
12 **OF ELECTRICITY TO THE CONSUMERS. HENCEFORTH, NO**
13 **PROVISIONAL AUTHORITY FOR ELECTRICITY RATE INCREASE**
14 **MAY BE ISSUED.**

15
16 [Towards this end, it shall] **IN ADDITION, THE COMMISSION**
17 **SHALL PERFORM AND EXERCISE AND** be responsible for the following
18 [key] **POWERS AND** functions [in the restructured industry]:

19
20 (a) Enforce the implementing rules and regulations of this Act[;],
21 **WHICH ARE NOT INCONSISTENT WITH ANY OF ITS PROVISIONS;**

22
23 (b) Within six (6) months [from] **IMMEDIATELY FOLLOWING**
24 the effectivity of this Act, promulgate and enforce, in accordance with [law,]
25 **THE APPLICABLE PROVISIONS OF THIS ACT**, a National Grid Code and
26 a Distribution Code, which shall include, but not limited to, the following:

27
28 (i) Performance standards for **TRANSCO O & M Concessionaire,**
29 distribution utilities, and suppliers: *Provided*, That in the establishment of
30 the **SAID** performance standards, the nature and function of the entities
31 shall **CAREFULLY** be considered; [and]

32
33 (ii) Financial capability standards for the [generating]
34 **GENERATION** companies, the **TRANSCO, THE** distribution utilities,
35 and **THE** suppliers: *Provided*, That in the formulation of the **SAID**
36 financial capability standards, the nature and function of the [entity]
37 **ENTITIES** shall **CAREFULLY** be considered: *Provided, further*, That
38 [such] **SAID** standards are set to ensure that the electric power industry
39 participants meet the minimum financial standards to protect the public
40 interest[. Determine fix, and approve, after due notice and public hearings
41 the universal charge, to be imposed on all electricity end-users pursuant to
42 Section 34 hereof]; **AND**

43
44 **(III) DETERMINE, FIX, AND APPROVE, AFTER DUE**
45 **NOTICE TO ALL INTERESTED PARTIES AND PUBLIC**
46 **HEARING, THE ITEMIZED AMOUNTS OF THE UNIVERSAL**
47 **CHARGE TO BE IMPOSED ON ALL END-USERS OF**
48 **ELECTRICITY PURSUANT TO SECTION 33 OF THIS ACT.**

49
50 (c) Enforce the rules and regulations governing the operations of the
51 [electricity spot market] **WESM** and the activities of the spot market operator and
52 other participants in the spot market, for the purpose of ensuring a greater **AND**
53 **RELIABLE** supply and rational pricing of electricity;

54
55 (d) Determine the [level] **AMOUNT AND EXTENT** of cross
56 subsidies in the existing retail rate until the same is **FINALLY** removed pursuant
57 to Section [74 hereof;] **71 OF THIS ACT;**

58

1 (e) Amend, **REVISE**, or revoke, after due notice **TO ALL**
 2 **INTERESTED PARTIES** and **PUBLIC** hearing, the authority to operate [of]
 3 **GRANTED TO** any person or entity which fails to comply with the
 4 **PERTINENT** provisions [hereof, the IRR, or any] **OF THIS ACT, OR WITH**
 5 **ANY OF THE IMPLEMENTING RULES AND REGULATIONS OF THIS**
 6 **ACT, OR WITH ANY DECISION**, order, or resolution of the [ERC.]
 7 **COMMISSION**. In the event a divestment, **CESSATION, OR DESISTANCE**
 8 is required, the [ERC] **COMMISSION** shall, **THROUGH A FORMAL**
 9 **ORDER FOR THAT PURPOSE**, allow the affected party [sufficient time] **A**
 10 **REASONABLE TIME** to remedy the infraction, or [for] **TO UNDERTAKE** an
 11 orderly disposal **OF THE MATTER, ACTIVITY, OR BUSINESS**
 12 **INVOLVED, AS THE CASE MAY BE**, but [shall] in no case **SHALL THE**
 13 **SAID REASONABLE TIME** exceed twelve (12) months from the issuance of
 14 the **SAID FORMAL order[;] OF THE COMMISSION;**
 15

16 (f) [In the public interest establish] **ESTABLISH** and enforce [a
 17 methodology for setting] **IN THE INTEREST OF THE GENERAL PUBLIC**
 18 **AND IN THE INTEREST OF THE END-USERS OF ELECTRICITY,**
 19 **AFTER TAKING INTO ACCOUNT ALL RELEVANT**
 20 **CONSIDERATIONS, INCLUDING THE EFFICIENCY OR**
 21 **INEFFICIENCY OF THE REGULATED ENTITIES, AND AFTER DUE**
 22 **NOTICE TO ALL INTERESTED PARTIES AND PUBLIC HEARING,**
 23 **JUST AND REASONABLE** transmission and distribution **NON-**
 24 **DISCRIMINATORY** wheeling [rates and] **CHARGES, AS WELL AS JUST**
 25 **AND REASONABLE NON-DISCRIMINATORY** retail rates for the captive
 26 market of [a] distribution [utility, taking into account all relevant considerations,
 27 including the efficiency or inefficiency of the regulated entities. The rates must be
 28 such as to] **UTILITIES, WHICH SHALL** allow the recovery of **ALL** just and
 29 reasonable costs[,] and [a] **GIVE A JUST AND** reasonable return on **THE** rate
 30 base (RORB) **OF THE REGULATED ENTITIES** to enable [the entity] **THEM**
 31 to operate viably[. The ERC may adopt alternative forms of internationally-
 32 accepted rate-setting methodology as it may deem appropriate. The rate-setting
 33 methodology so adopted and applied must ensure a reasonable price of electricity.
 34 The rates prescribed shall be non-discriminatory. To achieve this objective and to
 35 ensure the complete removal of cross subsidies, the cap on the recoverable rate of
 36 system losses prescribed in Section 10 of Republic Act No. 7832, is hereby
 37 amended and shall be replaced by caps which shall be determined by the ERC
 38 based on load density, sales mix, cost of service, delivery voltage and other
 39 technical considerations it may promulgate. The ERC shall determine such form
 40 of rate-setting methodology, which shall promote efficiency. In case the rate
 41 setting methodology used is RORB, it shall be subject to the following
 42 guidelines:], **AND WHICH SHALL ENSURE A JUST AND REASONABLE**
 43 **PRICE OF ELECTRICITY.**
 44

45 **IN DETERMINING A JUST AND REASONABLE RETURN ON**
 46 **[THE] RATE BASE OF THE TRANSCO OR OF A DISTRIBUTION**
 47 **UTILITY, THE COMMISSION MUST OBSERVE THE FOLLOWING**
 48 **GUIDELINES:**
 49

50 (i) **THE RATE BASE SHALL CONSIST OF THE AVERAGE**
 51 **VALUE OF ALL ASSETS, FACILITIES, PROPERTY, AND**
 52 **PERMANENT IMPROVEMENTS OF THE TRANSCO OR OF THE**
 53 **DISTRIBUTION UTILITY, AT THE BEGINNING AND AT THE**
 54 **END OF ITS FISCAL YEAR, AS SHOWN IN THE PROPERTY**
 55 **ACCOUNTS OF THE TRANSCO OR OF THE DISTRIBUTION**
 56 **UTILITY, AS THE CASE MAY BE, WHICH ARE DIRECTLY**
 57 **USED AND USEFUL IN PROVIDING THE SERVICE TO THE**
 58 **END-USERS OF ELECTRICITY, LESS THE ACCRUED**
 59 **ALLOWANCE FOR DEPRECIATION TAKEN FOR THE YEAR**

1 ON THE REGULATED ENTITY'S DEPRECIABLE ASSETS,
2 FACILITIES, PROPERTY, AND PERMANENT
3 IMPROVEMENTS, PLUS TWO MONTHS PRUDENT
4 OPERATING CAPITAL.
5

6 (II) THE VALUE OF THE FRANCHISE OF THE TRANSCO
7 OR OF THE DISTRIBUTION UTILITY SHALL NOT BE
8 INCLUDED IN THE RATE BASE FOR PURPOSES OF
9 RATEMAKING.
10

11 (III) THE VALUE OF ANY ASSET, FACILITY,
12 PROPERTY, AND PERMANENT IMPROVEMENTS NOT
13 ACTUALLY USED AND USEFUL FOR THE PURPOSE OF
14 RENDERING THE SERVICE OF THE TRANSCO OR OF THE
15 DISTRIBUTION UTILITY SHALL NOT BE INCLUDED IN THE
16 RATE BASE, HOWEVER USEFUL THE ASSET, FACILITY,
17 PROPERTY, AND PERMANENT IMPROVEMENTS MAY HAVE
18 BEEN IN THE PAST OR MAY YET BE IN THE FUTURE.
19

20 (IV) THE VALUE OF REAL OR PERSONAL PROPERTY
21 PURCHASED AND HELD BY THE TRANSCO OR BY THE
22 DISTRIBUTION UTILITY FOR THE NEEDS OF POSSIBLE
23 FUTURE GROWTH SHALL NOT [LIKEWISE] BE INCLUDED IN
24 THE RATE BASE.
25

26 (V) THE COST OF OVER-ADEQUATE ASSETS,
27 FACILITIES, PROPERTY, AND PERMANENT IMPROVEMENTS
28 SHALL NOT [SIMILARLY] BE ALLOWED TO BE INCLUDED IN
29 THE RATE BASE OF THE TRANSCO OR OF THE
30 DISTRIBUTION UTILITY.
31

32 (VI) THE TOTAL AMOUNT OF ALL DEPOSITS
33 REQUIRED BY A DISTRIBUTION UTILITY FROM END-USERS
34 OF ELECTRICITY AS A CONDITION OF RENDITION AND
35 CONTINUATION OF SERVICE, INCLUDING THE TOTAL
36 AMOUNT OF ACCUMULATED INTERESTS THEREON, SHALL
37 NOT BE INCLUDED IN THE RATE BASE OF THE
38 DISTRIBUTION UTILITY.
39

40 (VII) THE VALUE OF NEWLY CONSTRUCTED OR
41 INSTALLED ASSETS, FACILITIES, PROPERTY, AND
42 PERMANENT IMPROVEMENTS WHICH ARE TO BE
43 INCLUDED IN THE RATE BASE SHALL BE THE PRUDENT
44 ORIGINAL COSTS OF SUCH NEWLY CONSTRUCTED OR
45 INSTALLED ASSETS, FACILITIES, PROPERTY, AND
46 PERMANENT IMPROVEMENTS.
47

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

1 FACILITIES, PROPERTY, AND PERMAMENT
2 IMPROVEMENTS.

3
4 (IX) A REASONABLE ALLOWANCE FOR
5 DEPRECIATION BASED ON A RATE CONSISTENTLY APPLIED
6 IN ACCORDANCE WITH WIDELY ACCEPTED AND
7 RECOGNIZED ACCOUNTING RULES SHALL BE TAKEN
8 EVERY FISCAL YEAR ON EACH OF THE DEPRECIABLE
9 ASSETS, FACILITIES, PROPERTY, AND PERMANENT
10 IMPROVEMENTS OF THE TRANSCO OR OF A DISTRIBUTION
11 UTILITY. SUCH YEARLY ALLOWANCE FOR DEPRECIATION
12 ON EACH OF THE DEPRECIABLE ASSETS, FACILITIES,
13 PROPERTY, AND PERMANENT IMPROVEMENTS SHALL BE
14 DETERMINED, FIXED, AND KEPT IN A PROPER AND
15 ADEQUATE DEPRECIATION ACCOUNTS WHICH SHALL BE
16 CARRIED AND RECORDED IN THE BOOKS OF THE TRANSCO
17 OR OF THE DISTRIBUTION UTILITY, IN ACCORDANCE WITH
18 SUCH RULES, REGULATIONS, AND IN SUCH FORMS OF THE
19 ACCOUNTS AS THE COMMISSION MAY PRESCRIBE FOR THE
20 PROTECTION OF THE STOCKHOLDERS, BONDHOLDERS,
21 CREDITORS, AND THE GENERAL PUBLIC, ESPECIALLY THE
22 END-USERS OF ELECTRICITY.
23

24 (X) THE TRANSCO OR THE DISTRIBUTION UTILITY
25 SHALL CONSISTENTLY CONFORM TO ITS DEPRECIATION
26 RATE OR RATES SO DETERMINED AND FIXED, AND SHALL
27 SET ASIDE THE MONEYS SO ALLOTTED FOR SUCH
28 DEPRECIATION ALLOWANCES OUT OF ITS EARNINGS IN A
29 DEPRECIATION FUND, AND IT SHALL CARRY THE SAME IN
30 A DEPRECIATION FUND ACCOUNT. THE INCOME FROM
31 INVESTMENTS OF THE MONEYS IN SUCH DEPRECIATION
32 FUND ACCOUNT SHALL BE INCLUDED AND RECORDED IN
33 SUCH DEPRECIATION FUND ACCOUNT AND SHALL FORM A
34 PART OF THE DEPRECIATION FUND.
35

36 (XI) THE DEPRECIATION FUND SHALL NOT BE
37 EXPENDED OTHER[WISE] THAN FOR NEW
38 CONSTRUCTIONS, OR FOR THE IMPROVEMENTS,
39 REPLACEMENTS, EXTENSIONS, OR ENHANCEMENT OF THE
40 ASSETS, FACILITIES, PROPERTY, AND PERMANENT
41 IMPROVEMENTS OF THE TRANSCO OR OF THE
42 DISTRIBUTION UTILITY THAT SHALL RAISE AND IMPROVE
43 THE DEGREE OF EFFICIENCY AND QUALITY OF THE
44 SERVICE TO BE RENDERED BY THE TRANSCO OR BY THE
45 DISTRIBUTION UTILITY.
46

47 (XII) ANY AMOUNT DRAWN FROM THE
48 DEPRECIATION FUND AND USED FOR THE IMPROVEMENT,
49 REPLACEMENT, EXTENSION, OR ENHANCEMENT OF THE
50 ASSETS, FACILITIES, PROPERTY, AND PERMANENT
51 IMPROVEMENTS OF THE TRANSCO OR OF THE
52 DISTRIBUTION UTILITY, OR FOR THE CONSTRUCTION OF
53 ANY NEW ASSET, FACILITY, PROPERTY, AND PERMANENT
54 IMPROVEMENT OF THE TRANSCO OR OF THE
55 DISTRIBUTION UTILITY, SHALL BECOME PART OF THE
56 RATE BASE.
57

58 [(i)] (XIII) [For purposes of determining the rate base, the]
59 THE TRANSCO or [any] A distribution utility [may be allowed] IS

1 AUTHORIZED to revalue its [eligible] assets [not more than],
 2 FACILITIES, PROPERTY, AND PERMANENT IMPROVEMENTS
 3 CONSTITUTING ITS RATE BASE once every three (3) years [by an]
 4 THROUGH THE SERVICES OF AN EXPERIENCED, WELL-
 5 ESTABLISHED, REPUTABLE, AND independent appraisal
 6 company[:], IN ACCORDANCE WITH SOUND AND
 7 CONSISTENTLY MAINTAINED METHOD OF VALUATION:
 8 *Provided, however,* That [ERC] THE COMMISSION may [give an
 9 exemption in case of unusual] TEMPORARILY SUSPEND THE
 10 AFORESAID THREE YEAR LIMITATION IN THE EVENT OF
 11 EXTRAORDINARY INFLATION OR devaluation[:] OF THE PESO
 12 AND ONLY FOR THE PERIOD THAT SUCH EXTRAORDINARY
 13 INFLATION OR DEVALUATION LASTS: *Provided, further,* That
 14 the [ERC] COMMISSION, IN THAT EVENT, shall exert [efforts to]
 15 EVERY EFFORT TO PREVENT AND/OR minimize THE STEEP
 16 AND RAPID ESCALATION OF THE price [shocks] OF
 17 ELECTRICITY in order to protect the [consumers:] END-USERS OF
 18 ELECTRICITY.

19
 20 (XIV) A JUST AND REASONABLE RATE OF RETURN ON
 21 THE RATE BASE OF THE TRANSCO OR OF A DISTRIBUTION
 22 UTILITY SHALL NOT EXCEED TWELVE PERCENTUM (12%)
 23 PER ANNUM OF SUCH RATE BASE.
 24

25 (XV) THE CAP ON THE RECOVERABLE RATE OF A
 26 JUST AND REASONABLE SYSTEMS LOSS PRESCRIBED IN
 27 SECTION 10 OF REPUBLIC ACT NO. 7832 SHALL BE
 28 MAINTAINED IN THE DENSELY POPULATED CITIES, URBAN
 29 CENTERS, AND MUNICIPALITIES OF THE COUNTRY:
 30 *PROVIDED,* THAT IT SHALL BE ACCORDINGLY AMENDED
 31 AND REPLACED IN AREAS OTHER THAN THE DENSELY
 32 POPULATED CITIES, URBAN CENTERS, AND
 33 MUNICIPALITIES OF THE COUNTRY BY CAPS WHICH SHALL
 34 BE DETERMINED AND FIXED BY THE COMMISSION, AFTER
 35 DUE NOTICE TO ALL INTERESTED PARTIES AND PUBLIC
 36 HEARING, BASED ON LOAD DENSITY, SALES MIX, COST OF
 37 SERVICE, DELIVERY VOLTAGE, AND OTHER TECHNICAL
 38 CONSIDERATIONS THAT THE COMMISSION MAY
 39 PROMULGATE: *PROVIDED FURTHER,* THAT ANY NEW CAP
 40 FOR RECOVERABLE SYSTEMS LOSS IN AREAS OTHER THAN
 41 THE DENSELY POPULATED CITIES, URBAN CENTERS, AND
 42 MUNICIPALITIES OF THE COUNTRY SHALL ALSO TAKE
 43 INTO CONSIDERATION AND PROVIDE FOR A JUST AND
 44 REASONABLE SYSTEMS LOSS FOR THE INEFFICIENCIES OF
 45 THE SYSTEMS OF ELECTRIC COOPERATIVES IN
 46 PERFORMING THEIR MISSIONARY ELECTRIFICATION
 47 FUNCTIONS.
 48

49 (XVI) CORPORATE INCOME TAX LEVIED ON THE NET
 50 TAXABLE INCOME OF THE TRANSCO OR OF A
 51 DISTRIBUTION UTILITY SHALL NOT, DIRECTLY OR
 52 INDIRECTLY, BE PASSED ON TO THE END-USERS OF
 53 ELECTRICITY.
 54

55 [(ii)] (XVII) Interest expenses [are not allowable] OF THE
 56 TRANSCO OR OF A DISTRIBUTION UTILITY SHALL NOT BE
 57 ALLOWED AS deductions [from permissible] FOR PURPOSES OF
 58 DETERMINING A JUST AND REASONABLE return on rate base[:].
 59

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

11
 12 (XIX) THE AMOUNT OF PENALTIES AND/OR COSTS OF
 13 REMEDIES ARISING FROM ANY VIOLATION OF CONTRACT
 14 BY THE TRANSCO OR BY A DISTRIBUTION UTILITY SHALL
 15 NOT BE PASSED ON TO THE END-USERS OF ELECTRICITY.
 16

17 [(iii)] (XX) [In] FOR PURPOSES OF determining [eligible]
 18 THE JUST AND REASONABLE cost of services that will be passed on
 19 to the end-users[,] OF ELECTRICITY, the [FRC] THE
 20 COMMISSION shall establish minimum efficiency performance
 21 standards for the TRANSCO and THE distribution utilities, including
 22 systems losses, interruption frequency rates, and collection efficiency[;]
 23 OF THE REGULATED ENTITIES.
 24

25 [(iv)] (XXI) [Further, in] IN determining THE rate base[,] OF
 26 THE TRANSCO OR OF ANY DISTRIBUTION UTILITY, THE
 27 COMMISSION SHALL NOT ALLOW the TRANSCO or any
 28 distribution utility [shall not be allowed] to include THE COSTS OF
 29 management inefficiencies [like cost], SUCH AS, BUT NOT LIMITED
 30 TO, THE COSTS of project delays not [excused] EXCUSABLE by
 31 *force majeure*[,] OR THE penalties and related interest CHARGES
 32 ARISING during construction [applicable to these unexcused delays; and]
 33 PERIOD BECAUSE OF SAID INEXCUSABLE DELAYS.
 34

35 [(v)] (XXII) Any significant operating costs or project
 36 investments of the TRANSCO and OF A distribution [utilities]
 37 UTILITY, which shall become part of the rate base, shall be subject to
 38 [verification by the ERC] THE APPROVAL OF THE COMMISSION,
 39 AFTER DUE NOTICE TO ALL INTERESTED PARTIES AND
 40 PUBLIC HEARING, IN ORDER to ensure that the [contracting and]
 41 procurement of the equipment, assets, and OR services [have been
 42 subjected to] AS WELL AS THE TERMS AND CONDITIONS OF
 43 THE CONTRACT OR CONTRACTS COVERING SUCH
 44 PROCUREMENT SHALL BE DONE IN ACCORDANCE WITH
 45 OPEN COMPETITIVE PUBLIC BIDDING AND IN COMPLIANCE
 46 WITH THE REQUIREMENTS OF EXISTING APPLICABLE
 47 PROCUREMENT LAWS, AS WELL AS IN ACCORDANCE WITH
 48 transparent and accepted industry procurement and purchasing practices
 49 [to protect the public interest.], SO THAT THE INTEREST OF THE
 50 GENERAL PUBLIC AND THAT OF THE END-USERS OF
 51 ELECTRICITY SHALL BE PROTECTED.
 52

53 (XXIII) IN ASCERTAINING, FOR RATEMAKING
 54 PURPOSES, THE COST OF OR INVESTMENT IN ASSETS,
 55 FACILITIES, PROPERTY, AND PERMANENT IMPROVEMENTS
 56 WHICH SHALL BE USED AND USEFUL IN PROVIDING THE
 57 ELECTRIC SERVICE TO END-USERS OF ELECTRICITY, SUCH
 58 COST OR INVESTMENT SHALL NOT INCLUDE OUTLAYS OR
 59 ALLOWANCES FOR RECKLESS, EXTRAVAGANT,

1 UNNECESSARY, OR INOPPORTUNE EXPENDITURES OR
2 COSTS OF CONSTRUCTION.

3
4 THE COMMISSION, TO PROMOTE EFFICIENCY AND
5 FAIRNESS IN THE ELECTRIC POWER INDUSTRY AND WHEN
6 JUSTIFIED AND DEMANDED BY THE NATIONAL INTEREST,
7 MAY ADOPT, AFTER DUE NOTICE TO ALL INTERESTED
8 PARTIES AND PUBLIC HEARING, ANY OTHER ALTERNATIVE
9 FORM OF INTERNATIONALLY-ACCEPTED METHOD OF
10 RATEMAKING THAT SHALL BEST SERVE THE MUTUAL
11 INTEREST OF THE GENERAL PUBLIC, THE END-USERS OF
12 ELECTRICITY, AND THE ELECTRIC INDUSTRY
13 PARTICIPANTS.

14
15 IN EVERY CASE, THE RATEMAKING METHOD SO
16 ADOPTED AND APPLIED MUST BE NEITHER
17 EXTORTIONARY TO THE END-USERS OF ELECTRICITY NOR
18 CONFISCATORY TO THE TRANSCO OR TO THE
19 DISTRIBUTION UTILITIES, AND MUST FURTHERMORE
20 ENSURE THAT THE PRICE OF ELECTRICITY IS JUST AND
21 REASONABLE.

22
23 THE RATEMAKING POWER HEREIN GRANTED TO
24 THE COMMISSION MUST BE EXERCISED IN SUCH A
25 MANNER THAT EVERY DOUBT MUST BE RESOLVED IN
26 FAVOR OF THE PROTECTION OF THE RIGHTS OF THE
27 GENERAL PUBLIC.

28
29 THE COMMISSION IS HEREBY AUTHORIZED TO
30 DIVIDE THE FRANCHISE AREA OR AREAS OF A
31 DISTRIBUTION UTILITY INTO SUB-AREA OR SUB-AREAS, IF
32 SUCH DIVISION OR DIVISIONS WILL PROMOTE GREATER
33 EFFICIENCY, LOWER PRICE OF ELECTRICITY TO END-
34 USERS, TRANSPARENCY, AND MORE EFFECTIVE
35 REGULATION OF THE REGULATED ENTITIES IN THE
36 ELECTRIC POWER INDUSTRY.

37
38 IN ALL CASES OF RATE-MAKING, THE SOLICITOR
39 GENERAL MUST BE NOTIFIED OF AND SHALL APPEAR IN
40 THE PROCEEDINGS BEFORE THE COMMISSION TO
41 REPRESENT THE GOVERNMENT THEREIN SO THAT THE
42 INTEREST OF THE GENERAL PUBLIC AND THE INTEREST
43 OF THE END-USERS OF ELECTRICITY WILL BE PROTECTED.

44
45 SIMILARLY, THE COMMISSION ON AUDIT (COA) IS
46 HEREBY REQUIRED TO ASSIST THE COMMISSION, WHEN
47 NEEDED BY THE LATTER, TO VERIFY AND VALIDATE THE
48 FACTS AND FIGURES INVOLVED IN ANY RATEMAKING
49 PROCEEDINGS BEFORE THE COMMISSION.

50
51 (g) Three (3) years after the imposition of the universal charge, ensure
52 that the charges of the TRANSCO or OF any distribution utility shall [bear]
53 INCLUDE no cross subsidies between THE grids, within [grids,] A GRID, or
54 between, classes of [customers] END-USERS OF ELECTRICITY, except as
55 provided [herein,] IN THIS ACT;

56
57 (h) Review and approve any changes [on] IN the terms and conditions
58 of service of the TRANSCO or OF any distribution utility;

59

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

5
 6 (j) Set a lifeline rate for [the marginalized end-users;]
 7 [DESERVING] LOW-INCOME END-USERS OF ELECTRICITY;

8
 9 (k) Monitor and take SUCH APPROPRIATE measures in
 10 accordance with this Act to penalize ANY abuse of market power, ANY
 11 cartelization, and/OR ANY anti-competitive or discriminatory behavior by any
 12 electric power industry participant;

13
 14 (l) Impose fines AND/or penalties for any non-compliance with or
 15 breach of ANY PROVISION OF this Act, [the IRR] OR OF ANY
 16 PROVISION OF THE IMPLEMENTING RULES AND REGULATIONS of
 17 this Act, [and the] OR OF ANY DECISION, ORDERS, RESOLUTIONS,
 18 rules, and regulations which [it] THE COMMISSION promulgates or
 19 administers;

20
 21 (m) Take any other action THAT HAS BEEN delegated to it [pursuant
 22 to] UNDER this Act;

23
 24 (n) [Before the end of] ON OR BEFORE THE THIRTIETH (30TH)
 25 OF April [THIRTY (30)] of each year, submit to the Office of the President of
 26 the Philippines and TO THE Congress[,] OF THE PHILIPPINES, WITH A
 27 copy furnished TO the DOE, an annual report containing ALL such matters or
 28 cases which have been filed before or referred to it during the preceding year, the
 29 actions and proceedings undertaken BY IT IN CONNECTION THEREWITH,
 30 and its decision or resolution in each AND EVERY case. The [ERC]
 31 COMMISSION shall make SUFFICIENT copies of such reports AND MAKE
 32 THEM available to any interested party upon payment of a REASONABLE
 33 charge which [reflects] SHALL BE SUFFICIENT TO COVER, AT LEAST,
 34 the printing costs. The [ERC] COMMISSION shall publish all its decisions
 35 involving rates and THOSE INVOLVING anti-competitive cases in at least one
 36 (1) newspaper of general circulation, and/or [AND OR] post THE SAME
 37 electronically, and circulate to all interested electric power industry participants
 38 copies of its DECISIONS OR resolutions to MAKE KNOWN AND ensure A
 39 fair and impartial treatment[;] OF EVERYONE AFFECTED;

40
 41 (o) Monitor ALL the activities in the generation and supply SIDE of
 42 the electric power industry [with the end in view of promoting] IN ORDER TO
 43 PROMOTE free market competition THEREIN and [ensuring] IN ORDER TO
 44 ENSURE that the allocation or pass through of bulk purchase cost by
 45 [distributors] DISTRIBUTION UTILITIES is transparent[,] AND non-
 46 discriminatory and that any existing subsidies, IF SUCH WERE THE CASE,
 47 shall be divided pro-rata among all retail suppliers;

48
 49 (p) Act on applications for or modifications of certificates of public
 50 convenience [and/or] [AND OR] necessity, licenses, or permits of franchised
 51 [electric] DISTRIBUTION utilities in accordance with law; and revoke, review,
 52 and modify such certificates, licenses or permits in appropriate cases, such as
 53 FOR INSTANCE in cases of violations of the Grid Code, THE Distribution
 54 Code, and [other] THE rules and regulations issued by the [ERC]
 55 COMMISSION in accordance with [law;] THE PROVISIONS OF THIS
 56 ACT;

1 (q) Act on **THE** applications for [cost recovery and] **JUST AND**
 2 **REASONABLE COSTS RECOVERIES AND FOR JUST AND**
 3 **REASONABLE** return on **THE** demand side management projects;
 4

5 (r) In the exercise of its investigative and quasi-judicial powers, act
 6 against any **ELECTRIC POWER INDUSTRY** participant or player [in the
 7 energy sector] for violations of any law, rule, and regulation governing the same,
 8 including the rules on cross-ownership, anti-competitive practices, abuse of
 9 market positions, and **OTHER** similar or related acts by any **ELECTRIC**
 10 **POWER INDUSTRY** participant [in the energy sector] or by any person, as may
 11 be provided by law, and require any person or entity to submit any report or data
 12 [relative] **THAT MAY BE RELEVANT** to any investigation or hearing **BEING**
 13 conducted **BY THE COMMISSION** pursuant to this Act;
 14

15 (s) [Inspect,] **IN THE EXERCISE OF ITS QUASI-JUDICIAL**
 16 **POWER, INSPECT AT ANY TIME**, on its own **DIRECTLY** or through [duly
 17 authorized] representatives[,] **DULY AUTHORIZED BY IT**, the premises,
 18 books of accounts, and records of any person or entity [at any time, in the exercise
 19 of its quasi-judicial power] for purposes of determining the existence of any anti-
 20 competitive behavior and/or **[AND OR]** market power abuse [and] **OR** any
 21 violation of rules and regulations issued by the **[ERC;] COMMISSION**;
 22

23 (t) Perform such other regulatory functions as [are] **MAY BE**
 24 appropriate and necessary [in order] to ensure the successful restructuring and
 25 modernization of the electric power industry, [such as,] **INCLUDING**, but not
 26 limited to, the **ADOPTION AND ENFORCEMENT OF** rules and guidelines,
 27 **NOT INCONSISTENT WITH THE PROVISIONS OF THIS ACT**, under
 28 which generation companies, **THE TRANSCO, AND THE** distribution utilities
 29 [which], **WHOSE SHARES OF STOCK** are not **YET** publicly listed **IN THE**
 30 **PHILIPPINE STOCK EXCHANGE (PSE)**, shall offer and sell to the
 31 **GENERAL** public [a portion], **WITH PRIORITY AND PREFERENCE**
 32 **GIVEN TO END-USERS OF ELECTRICITY**, not less than fifteen percent
 33 (15%) of their **RESPECTIVE** common shares of stocks: *Provided, however,*
 34 That generation companies[,] **AND** distribution utilities [or their respective
 35 holding companies] that are already listed in the PSE **TO THE EXTENT OF AT**
 36 **LEAST FIFTEEN PERCENT OF THEIR RESPECTIVE COMMON**
 37 **SHARES OF STOCK** are deemed [in compliance. For existing companies,
 38 such] **TO HAVE COMPLIED WITH THIS REQUIREMENT.**
 39 **GENERATION COMPANIES, THE TRANSCO, AND DISTRIBUTION**
 40 **UTILITIES WHICH ARE NOT YET LISTED IN THE PSE, OR**
 41 **GENERATION COMPANIES AND DISTRIBUTION UTILITIES WHICH,**
 42 **THOUGH ALREADY LISTED IN THE PSE, HAVE NOT YET REACHED**
 43 **THE MINIMUM FIFTEEN PERCENT (15%) LISTING REQUIREMENT,**
 44 **SHALL COMPLY OR COMPLETE WITH THE REQUIRED LISTING**
 45 **AND public offering [shall be implemented] not later than five (5) years from the**
 46 **effectivity of this Act. New GENERATION companies AND DISTRIBUTION**
 47 **UTILITIES shall implement their respective LISTING AND public offerings**
 48 **not later than five (5) years from the issuance of their certificate of compliance[;]**
 49 **OR CONGRESSIONAL FRANCHISE, AS THE CASE MAY BE; and**
 50

51 (u) The **[ERC] COMMISSION** shall have [the] original and exclusive
 52 jurisdiction over all cases contesting rates, fees, fines, and penalties [imposed by
 53 the ERC in] **ARISING FROM OR IMPOSED UNDER THE PROVISIONS**
 54 **OF THIS ACT, AS WELL AS OVER ALL CASES ARISING FROM** the
 55 exercise of the above-mentioned powers, functions and responsibilities, and [over
 56 all cases] **OR** involving disputes between and among **ELECTRIC POWER**
 57 **INDUSTRY** participants or players [in the energy sector].
 58

1 All notices of hearings to be conducted by the [ERC] COMMISSION for
 2 the purpose of fixing rates or fees shall be published at least twice for two
 3 successive weeks in two (2) newspapers of nationwide circulation.
 4

5 "[SEC. 44. *Transfer of Powers and Functions.* — The powers and
 6 functions of the Energy Regulatory Board not inconsistent with the provisions of
 7 this Act are hereby transferred to the [ERC] COMMISSION. The foregoing
 8 transfer of powers and functions shall include all applicable funds and
 9 appropriations, records, equipment, property and personnel as may be necessary.]
 10

11 "SEC. 46. *Cross Ownership, Market Power Abuse and Anti-*
 12 *Competitive Behavior.* — No participant in the [electricity] **ELECTRIC**
 13 **POWER** industry [or any other person may] **SHALL** engage in any **KIND OF**
 14 anti-competitive behavior, including, but not limited to, cross-subsidization, price
 15 or market manipulation, or **ANY** other unfair trade practices **THAT ARE**
 16 detrimental to the **DEVELOPMENT**, encouragement, and protection of **THE**
 17 contestable markets.
 18

19 No generation company, distribution utility, **A COMPANY**
 20 **SUPPLYING ELECTRICITY**, or **ANY OF** its [respective subsidiary or
 21 affiliate or stockholder or official of a generation company or distribution utility,
 22 or other entity engaged in generating and supplying electricity specified by ERC]
 23 **SUBSIDIARIES, AFFILIATES, STOCKHOLDERS, OFFICIALS, OR**
 24 **DIRECTORS, OR THE OFFICIALS, DIRECTORS, OR OTHER**
 25 **STOCKHOLDERS OF SUCH SUBSIDIARIES OR AFFILIATES, OR ANY**
 26 **RELATIVES OF SUCH STOCKHOLDERS, OFFICIALS, OR**
 27 **DIRECTORS** within the fourth civil degree of consanguinity or affinity, shall be
 28 allowed to **HAVE AND** hold, **DIRECTLY OR INDIRECTLY**, any interest[,
 29 directly or indirectly,] in **THE TRANSCO** or [its] **IN THE TRANSCO'S**
 30 **concessionaire**. Likewise, the **TRANSCO**, or its concessionaire, or any of [its]
 31 **THE** stockholders, [or] officials, **OR DIRECTORS OF THE TRANSCO OR**
 32 **ITS CONCESSIONAIRE**, or any [of their] relatives **OF SUCH**
 33 **STOCKHOLDERS, OFFICIALS OR DIRECTORS OF THE TRANSCO**
 34 **OR ITS CONCESSIONAIRE** within the fourth civil degree of consanguinity or
 35 affinity, shall not **BE ALLOWED TO HAVE AND** hold, **DIRECTLY OR**
 36 **INDIRECTLY**, any interest[, whether directly or indirectly,] in any generation
 37 company, [or] distribution utility[.], **OR A COMPANY SUPPLYING**
 38 **ELECTRICITY**. Except for *ex officio* government-appointed representatives, no
 39 [person who is an] officer or director, **OR STOCKHOLDER** of the **TRANSCO**
 40 or [its] **OFFICER, DIRECTOR, OR STOCKHOLDER OF THE**
 41 **TRANSCO'S** concessionaire shall be an officer or director of any generation
 42 company, distribution utility, or [supplier.] **A COMPANY SUPPLYING**
 43 **ELECTRICITY**.
 44

45 **A DISTRIBUTION UTILITY, WHICH IS EXISTING AT THE**
 46 **TIME OF THE EFFECTIVITY OF THIS ACT AND WHICH HOLDS**
 47 **SHARES OF STOCK IN A GENERATION COMPANY AND/OR**
 48 **ANOTHER DISTRIBUTION UTILITY ON OR BEFORE THE**
 49 **EFFECTIVITY OF THIS ACT, MAY CONTINUE TO HOLD SUCH**
 50 **SHARES OF STOCK BUT SHALL NOT BE AUTHORIZED TO**
 51 **INCREASE THE NUMBER OF SUCH SHARES OF STOCK EXCEPT**
 52 **WHEN SUCH INCREASE IS THE RESULT OF A DECLARATION OF**
 53 **CORPORATE STOCK DIVIDENDS**.
 54

55 **AFTER THE EFFECTIVITY OF THIS ACT, NO NEW**
 56 **DISTRIBUTION UTILITY OR ANY OF ITS SUBSIDIARIES,**
 57 **AFFILIATES, STOCKHOLDERS, OFFICIALS, OR DIRECTORS, OR**
 58 **THE OFFICIALS, DIRECTORS, OR OTHER STOCKHOLDERS OF**
 59 **SUCH SUBSIDIARIES OR AFFILIATES, INCLUDING THE RELATIVES**

1 OF SUCH STOCKHOLDERS, OFFICIALS, OR DIRECTORS WITHIN
 2 THE FOURTH CIVIL DEGREE OF CONSANGUINITY OR AFFINITY
 3 SHALL BE ALLOWED TO HAVE AND HOLD, DIRECTLY OR
 4 INDIRECTLY, ANY INTEREST IN ANY NEW OR EXISTING
 5 GENERATION COMPANY.
 6

7 NEITHER MAY A [ANY] NEW GENERATION COMPANY OR
 8 ANY OF ITS SUBSIDIARIES, AFFILIATES, STOCKHOLDERS,
 9 OFFICIALS, OR DIRECTORS, OR THE OFFICIALS, DIRECTORS, OR
 10 OTHER STOCKHOLDERS OF SUCH SUBSIDIARIES OR AFFILIATES,
 11 INCLUDING THE RELATIVES OF SUCH STOCKHOLDERS,
 12 OFFICIALS, OR DIRECTORS WITHIN THE FOURTH CIVIL DEGREE
 13 OF CONSANGUINITY OR AFFINITY BE ALLOWED TO HAVE AND
 14 HOLD, DIRECTLY OR INDIRECTLY, ANY INTEREST IN ANOTHER
 15 GENERATION COMPANY, [ANY] OR IN A NEW OR EXISTING
 16 DISTRIBUTION UTILITY. [PROVIDED, THAT ANY DISTRIBUTION
 17 UTILITY OR GENERATION COMPANY, AS THE CASE MAY BE,
 18 HOLDING ANY SUCH PROSCRIBED INTEREST IN A GENERATION
 19 COMPANY OR DISTRIBUTION UTILITY, AT THE TIME OF THE
 20 ENACTMENT OF THIS ACT, SHALL DIVEST ITS PROSCRIBED
 21 INTEREST IN SUCH GENERATION COMPANY OR DISTRIBUTION
 22 UTILITY NOT LATER THAN THE END OF THE YEAR TWO
 23 THOUSAND EIGHT (2008).]
 24

25 AFTER THE EFFECTIVITY OF THIS ACT AND EXCEPT AS
 26 OTHERWISE AUTHORIZED AND PROVIDED HEREIN, NO HOLDING
 27 COMPANY OR OTHER ENTITY, WHETHER IN THE FORM OF A
 28 CORPORATION OR NOT, SHALL BE ALLOWED TO HAVE AND
 29 HOLD VOTING SHARES OF STOCK SIMULTANEOUSLY IN A
 30 GENERATION COMPANY AND IN A DISTRIBUTION UTILITY IN
 31 SUCH NUMBERS AS TO ENABLE THE HOLDING COMPANY OR
 32 OTHER ENTITY TO ELECT A DIRECTOR IN BOTH THE
 33 GENERATION COMPANY AND THE DISTRIBUTION UTILITY.
 34

35 To promote true market competition and prevent harmful monopoly and
 36 market power abuse, the [ERC] COMMISSION shall enforce the following
 37 safeguards:
 38

39 (a) No company or related group [can] **SHALL BE ALLOWED TO**
 40 own, operate or control more than thirty percent (30%) of the installed generating
 41 capacity of a grid and/or [AND OR] twenty-five (25%) of the [national] installed
 42 NATIONAL generating capacity. "Related group" includes a person's business
 43 interests, including its subsidiaries, affiliates, directors or officers or any of their
 44 relatives by consanguinity or affinity, legitimate or common law, within the
 45 fourth civil degree;
 46

47 (b) Distribution utilities may enter into bilateral power supply
 48 **CONTRACT OR** contracts subject to review **AND APPROVAL** by the [ERC:]
 49 **COMMISSION, AFTER DUE NOTICE TO ALL INTERESTED PARTIES**
 50 **AND PUBLIC HEARING:** *Provided,* That [such review shall only be required
 51 for distribution utilities whose markets have not reached household demand level.
 52 For the purpose of preventing market power abuse between associated firms
 53 engaged in generation and distribution, no distribution utility shall be allowed to
 54 source from bilateral power supply contracts more than fifty percent (50%) of its
 55 total demand from an associated firm engaged in generation but such limitation,
 56 however, shall not prejudice contracts entered into prior to the effectivity of this
 57 Act. An associated firm with respect to another entity refers to any person which,
 58 alone or together with any other person, directly or indirectly, through one or

1 more intermediaries, controls, is controlled by, or is under common control with,
2 such entity; and] **FOR THE PROTECTION OF CAPTIVE MARKETS AND**
3 **IN ORDER TO ENSURE HEALTHY COMPETITION IN THE**
4 **GENERATION SECTOR OF THE ELECTRIC POWER INDUSTRY,**
5 **BILATERAL POWER SUPPLY CONTRACT OR CONTRACTS OF**
6 **SIXTY MEGAWATTS (60 MW) OR MORE SHALL BE SUBJECT TO**
7 **OPEN COMPETITIVE PUBLIC BIDDING CONDUCTED BY A BID**
8 **COMMITTEE UNDER THE SUPERVISION OF THE COMMISSION**
9 **AND COMPOSED OF REPRESENTATIVE EACH FROM THE**
10 **NATIONAL ECONOMIC DEVELOPMENT AUTHORITY (NEDA), THE**
11 **DEPARTMENT OF ENERGY (DOE), THE DISTRIBUTION UTILITY**
12 **CONCERNED, AND AN EXPERIENCED AND REPUTABLE**
13 **REPRESENTATIVE OF THE ELECTRIC END-USERS GROUPS**
14 **SELECTED BY THE COMMISSION.**

15
16 **IN ORDER TO PREVENT ABUSE OF MARKET POWER AND**
17 **ANTI-COMPETITIVE BEHAVIOR, NO DISTRIBUTION UTILITY**
18 **SHALL BE ALLOWED TO SOURCE FROM A BILATERAL ELECTRIC**
19 **POWER SUPPLY CONTRACT OR CONTRACTS MORE THAN THIRTY**
20 **THREE PERCENT (33%) OF ITS TOTAL ELECTRIC POWER SUPPLY**
21 **REQUIREMENTS FROM ANY GENERATION COMPANY OR GROUP**
22 **OF GENERATING COMPANIES WHOLLY OWNED OR CONTROLLED**
23 **BY THE SAME INTERESTS. ANY DISTRIBUTION UTILITY THAT**
24 **HAS, ON THE EFFECTIVITY OF THIS ACT, SUCH CONTRACT OR**
25 **CONTRACTS WHICH EXCEED THE ALLOWABLE THIRTY THREE**
26 **PERCENT (33%) LIMIT SET FORTH HEREIN SHALL DESIST FROM**
27 **FURTHER AWARDED ADDITIONAL ELECTRIC POWER SUPPLY**
28 **CONTRACT OR CONTRACTS WITH ANY GENERATION COMPANY**
29 **OR GROUP OF GENERATING COMPANIES WHOLLY OWNED OR**
30 **CONTROLLED BY THE SAME INTERESTS, UNTIL ITS PRESENT**
31 **ELECTRIC POWER SUPPLY REQUIREMENTS, WHEN ADDED TO**
32 **THE PROPOSED ADDITIONAL ELECTRIC POWER SUPPLY**
33 **CONTRACT OR CONTRACTS WITH ANY GENERATION COMPANY**
34 **OR GROUP OF GENERATING COMPANIES WHOLLY OWNED OR**
35 **CONTROLLED BY THE SAME INTERESTS SHALL COMPLY WITH**
36 **THE THIRTY THREE PERCENT (33%) LIMIT SET FORTH HEREIN:**
37 **PROVIDED, THAT ANY EXTENSION OR EXPANSION OF EXISTING**
38 **ELECTRIC POWER SUPPLY CONTRACT OR CONTRACTS SHALL**
39 **BE DEEMED AS NEW CONTRACT OR CONTRACTS FOR PURPOSES**
40 **OF THE LIMITATION SET FORTH HEREIN.**

41
42 (c) For the first five (5) years from the establishment of the [wholesale
43 electricity spot market] WESM, no distribution utility shall source more than
44 ninety percent (90%) of its total demand from bilateral ELECTRIC power
45 supply contracts. THE COMMISSION MAY, FROM TIME TO TIME,
46 REVIEW THE APPROPRIATE LEVEL OF DEMAND TO BE SOURCED
47 FROM THE WESM AND, IN MERITORIOUS INSTANCES, WAIVE
48 IMPLEMENTATION OF SUCH REQUIREMENT, SUBJECT TO A
49 PUBLIC HEARING.

50
51 For purposes of this Section, the grid basis shall consist of three (3)
52 separate grids, namely: THE Luzon GRID, THE Visayas GRID, and THE
53 Mindanao GRID. [The ERC shall have the authority] THE COMMISSION IS
54 HEREBY AUTHORIZED to modify or amend this definition of a grid when
55 two or [more] ALL of the three separate grids become sufficiently interconnected
56 to constitute a single grid, or [as] WHEN conditions may otherwise [permit.]
57 REQUIRE SUCH MODIFICATION OR AMENDMENT.
58

1 Exceptions from [these] **THE ABOVE** limitations shall be allowed for
 2 isolated grids that are not connected to the high voltage transmission system.
 3 [Except as otherwise provided for in this Section, any restriction on ownerships
 4 and/or control between or within sectors of the electricity industry may be
 5 imposed by ERC only insofar as the enforcement of the provisions of this Section
 6 is concerned].
 7

8 The [ERC] **COMMISSION** shall, within one (1) year from the effectivity
 9 of this Act, promulgate rules and regulations, **CONSISTENT WITH THE**
 10 **PROVISIONS OF THIS ACT**, to ensure and promote competition, encourage
 11 market development, [and] customer choice, and [discourage/penalize] **DETER**
 12 **AND/OR PENALIZE ANY** abuse of market power, cartelization, [and] **OR** any
 13 anti-competitive or discriminatory behavior, in order to further the intent of this
 14 Act and **IN ORDER TO** protect the [public] interest[.] **OF THE GENERAL**
 15 **PUBLIC AND THE END-USERS OF ELECTRICITY**. Such rules and
 16 regulations shall **COVER AND** define the following:
 17

18 (a) the relevant markets for purposes of establishing **THE**
 19 **PRESENCE OR ABSENCE OF MONOPOLIZATION, CARTELIZATION,**
 20 **ANTI-COMPETITIVE AND/OR DISCRIMINATORY ACT OR**
 21 **BEHAVIOR, AND/OR** abuse or misuse [of monopoly or] **OF** market [position;]
 22 **POWER;**
 23

24 (b) areas of isolated grids; and
 25

26 (c) the periodic reportorial requirements [of] **FROM THE** electric
 27 power industry participants [as] **THAT** may be necessary to enforce the
 28 provisions of this Section.
 29

30 The [ERC] **COMMISSION** shall, *motu proprio*, monitor and, **WHEN**
 31 **WARRANTED BY THE ATTENDANT FACTS**, penalize any **SUCH**
 32 **MONOPOLIZATION, CARTELIZATION, ABUSE OF** market power
 33 [abuse] or anti-competitive **AND/or** discriminatory act or behavior by any
 34 [participant in the] electric power industry[.] **PARTICIPANT**. Upon finding that
 35 [a market] **AN ELECTRIC POWER INDUSTRY** participant has engaged in
 36 such **MONOPOLIZATION, CARTELIZATION, ABUSE OF MARKET**
 37 **POWER, OR ANTI-COMPETITIVE AND/OR DISCRIMINATORY** act or
 38 behavior, the [ERC] **COMMISSION** shall **FORTHWITH ISSUE A CEASE**
 39 **AND DESIST ORDER TO THE ERRING ELECTRIC POWER**
 40 **INDUSTRY PARTICIPANT, AND THEREAFTER PERMANENTLY** stop
 41 and redress the same. Such [remedies shall, without limitation, include]
 42 **REDRESS SHALL INCLUDE, AMONG OTHER REMEDIES THAT MAY**
 43 **BE APPROPRIATE UNDER THE CIRCUMSTANCES**, the imposition of
 44 price [controls,] **CONTROL, THE** issuance of [injunctions, requirement of]
 45 **INJUNCTIVE RELIEF, AND THE** divestment or disgorgement of excess
 46 profits, and **THE** imposition of fines and penalties pursuant to **THE**
 47 **APPLICABLE PROVISIONS OF** this Act.
 48

49 The [ERC] **COMMISSION** shall, within one (1) year from the effectivity
 50 of this Act, promulgate **SUCH** rules [and regulations providing for a complaint
 51 procedure that, without limitation, provides] **AS MAY BE NECESSARY, NOT**
 52 **INCONSISTENT WITH THE PROVISIONS OF THIS ACT, THAT WILL**
 53 **ESTABLISH A PROCEDURE WHEREBY** the accused party, with **DUE**
 54 notice [and] **TO ALL INTERESTED PARTIES AND PUBLIC HEARING,**
 55 **SHALL BE GIVEN BY THE COMMISSION** an opportunity to be heard.
 56

57 "SEC. [46]47. *Fines and Penalties*. — The fines and/OR penalties that
 58 shall be imposed by the [ERC] **COMMISSION** for any violation of or non-
 59 compliance with **ANY PROVISIONS OF** this Act or [the IRR] **ANY RULES**

1 **AND REGULATIONS IMPLEMENTING THIS ACT** shall, **DEPENDING**
 2 **UPON THE GRAVITY OF THE OFFENSE**, range from a minimum of Fifty
 3 thousand pesos (P50,000.00) to a maximum of Fifty million pesos
 4 (P50,000,000.00).
 5

6 Any person who is found guilty of any of the prohibited acts pursuant to
 7 Section [45] **43** hereof shall suffer the penalty of *prision mayor* [and] **OR** a fine
 8 ranging from Ten thousand pesos (P10,000.00) to Ten million pesos
 9 (P10,000,000.00), or both [**PENALTY AND FINE**], at the discretion of the
 10 **APPROPRIATE TRIAL** court.
 11

12 The **STOCKHOLDERS, OFFICERS**, members of the Board of
 13 Directors of [the juridical companies participating in or covered in the] A
 14 generation [companies] **COMPANY**, [the] distribution [utilities] **UTILITY**
 15 **COMPANY**, the **TRANSCO** [or its], **THE LATTER'S** concessionaire
 16 **COMPANY**, or **A COMPANY THAT ACTS AS A** supplier **OF**
 17 **ELECTRICITY AND THE RELATIVES OF SUCH STOCKHOLDERS,**
 18 **OFFICERS, OR MEMBERS OF THE BOARD OF DIRECTORS WITHIN**
 19 **THE FOURTH CIVIL DEGREE OF CONSANGUINITY OR AFFINITY,**
 20 who [violate] **IS FOUND GUILTY FOR ANY VIOLATION OF ANY OF** the
 21 provisions of this Act may be fined by an amount not exceeding double the
 22 amount of damages caused by the [offender] **OFFENDING COMPANY** or by
 23 imprisonment of one (1) year [or] **TO** two (2) years or both **SUCH FINE AND**
 24 **IMPRISONMENT**, at the discretion of the **APPROPRIATE TRIAL** court.
 25 [This rule shall apply to the members of the Board who knowingly or by neglect
 26 allows the commission or omission under the law.]
 27

28 If the offender is a government official or employee, he shall, in addition
 29 **TO THE PENALTY IMPOSED ON HIM OR HER BY THE TRIAL**
 30 **COURT**, be dismissed from the [government] service [with prejudice to
 31 reinstatement and] with perpetual [or temporary] disqualification [from holding]
 32 **TO HOLD** any elective or appointive **GOVERNMENT** office.
 33

34 If the offender is an alien, he [may] **SHALL**, in addition to the penalties
 35 prescribed, be deported **SUMMARILY** without further proceedings after **THE**
 36 **PAYMENT OF HIS OR HER FINE OR THE** service of **HIS OR HER**
 37 sentence. [**HIS OR HER IMPRISONMENT.**]
 38

39 [Any case] **CASES** which [involves] **INVOLVE** question of fact shall be
 40 appealable to the Court of Appeals [and those]. **THOSE** which involve
 41 **PURELY** questionS of law shall be directly appealable to the Supreme Court.
 42

43 [The] **ANY** administrative sanction that [may be imposed by the ERC]
 44 **THE COMMISSION MAY HAVE IMPOSED** shall [be without prejudice to]
 45 **NOT PREVENT OR IMPEDE** the filing of [a] **ANY** criminal action, if
 46 warranted.
 47

48 To ensure compliance with this Act, the penalty of *prision correccional* or
 49 a fine ranging from Five thousand pesos (P5,000.00) to Five million pesos
 50 (P5,000,000.00), or both, at the discretion of the court, shall be imposed on any
 51 person, including but not limited to the president, member of the Board, Chief
 52 Executive Officer or Chief Operating Officer of the corporation, partnership, or
 53 any other entity involved, found guilty of violating or refusing to comply with any
 54 provision of this Act or its IRR, other than those provided herein.
 55

56 Any party [to] **CHARGED IN** an administrative proceeding **UNDER**
 57 **THE PROVISIONS OF THIS ACT** may, at any time, make an offer to the
 58 [**ERC,**] **COMMISSION, EITHER** conditionally or otherwise, for a [consented]
 59 **CONSENT** decree, **OR** voluntary compliance, or **VOLUNTARY** desistance

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

15
 16 In addition, Congress may, upon recommendation of the DOE [and/or
 17 ERC,] **AND/OR THE COMMISSION**, revoke such franchise or privilege
 18 granted to the [party who] **ELECTRIC POWER INDUSTRY PARTICIPANT**
 19 **THAT** violated the provisions of this Act.

20
 21
 22
 23 "CHAPTER V

24
 25 "PRIVATIZATION OF THE ASSETS OF THE NATIONAL
 26 POWER CORPORATION
 27

28 "SEC. [47]48. *NPC Privatization*. — Except for the assets of SPUG, the
 29 generation assets, real estate, and other disposable assets [as well as] **OF NPC,**
 30 **INCLUDING ITS** IPP contracts [of NPC], shall be privatized in accordance with
 31 **THE PROVISIONS OF** this Act. Within six (6) months [from]
 32 **IMMEDIATELY FOLLOWING** the effectivity of this Act, the PSALM Corp.
 33 shall submit [a plan for the endorsement by] **TO** the Joint Congressional Power
 34 Commission **FOR ITS ENDORSEMENT TO** and [the] approval [of] **BY** the
 35 President of the Philippines, **A PLAN** on the total privatization of the generation
 36 assets, real estate, **AND** other disposable assets [as well as existing] **OF NPC,**
 37 **INCLUDING ITS** IPP contracts [of NPC] and, thereafter, **THE PSALM CORP.**
 38 **SHALL** implement the same, in accordance with the following guidelines, except
 39 as provided for in Paragraph (f) herein:
 40

41 (a) The privatization value to the National Government of the [NPC]
 42 generation assets, real estate, **AND** other disposable assets [as well as] **OF NPC,**
 43 **INCLUDING ITS** IPP contracts, shall be [optimized;] **THE MOST**
 44 **ADVANTAGEOUS AND BENEFICIAL TO THE NATIONAL INTEREST;**
 45

46 (b) The participation by Filipino citizens and **BY** corporations
 47 **WHOLLY OWNED OR CONTROLLED BY THEM** in the purchase **AND**
 48 **ACQUISITION** of **THE NPC GENERATION** assets, **REAL ESTATE,**
 49 **OTHER DISPOSABLE ASSETS, AND ITS IPP CONTRACTS** shall be
 50 encouraged;
 51

52 In [the] case [of] **THE PURCHASE AND ACQUISITION IS DONE**
 53 **BY** foreign investors, [at least] **THEY SHALL COMPLY WITH THE**
 54 **NATIONALITY REQUIREMENTS OF THE CONSTITUTION, WHEN**
 55 **APPLICABLE, AND NOT LESS THAN** seventy-five percent (75%) of the
 56 funds used to acquire [NPC-generation assets] **THE GENERATION ASSETS**
 57 **OF NPC** and **ITS IPP** contracts shall be **SOURCED OUTSIDE THE**
 58 **PHILIPPINES AND** inwardly remitted and registered with the Bangko Sentral
 59 ng Pilipinas.

1
2 (c) [The NPC plants and/or] **THE GENERATION ASSETS OF**
3 **NPC AND/OR** its IPP contracts assigned to IPP Administrators, [its]
4 **INCLUDING THEIR** related assets and assigned liabilities, if any, shall be
5 grouped in **SUCH** a manner [which] **THAT** shall promote **NOT ONLY** the
6 viability of the resulting generation companies [(gencos)] (**GENCOS**), **BUT**
7 **ALSO** ensure **THEIR** economic **AND OPERATIONAL** efficiency, encourage
8 competition, **PROMOTE AND** foster **A JUST AND** reasonable **PRICE OF**
9 electricity [rates], and create market appeal to [optimize] **BRING ABOUT THE**
10 **MOST ADVANTAGEOUS AND BENEFICIAL** returns to the government
11 from the sale and disposition of [such] **THE GENERATION** assets, **REAL**
12 **ESTATE, AND OTHER DISPOSABLE ASSETS OF NPC, INCLUDING**
13 **ITS IPP CONTRACTS**, in a manner consistent with the objectives of this Act.
14 In [the] grouping [of] the generation assets and IPP contracts of NPC, the
15 following criteria shall be considered:

16
17 (1) A sufficient scale of operations and balance sheet strength to
18 promote the financial viability of the restructured units;

19
20 (2) Broad geographical groupings to ensure efficiency of operations
21 [but] without the formation of regional companies or consolidation of market
22 power;

23
24 (3) Portfolio of **GENERATION** plants and IPP contracts to achieve
25 management and operational synergy without dominating any part of the market
26 or of the load curve; and

27
28 (4) Such other factors as may be deemed **ADVANTAGEOUS AND**
29 beneficial to the [best] **NATIONAL** interest [of the National Government while]
30 **AND AT THE SAME TIME** ensuring attractiveness to potential investors.

31
32 (d) All **GENERATION AND OTHER** assets of NPC shall be sold in
33 [an] **A TRANSPARENT AND** open [and transparent manner through],
34 **COMPETITIVE** public bidding[, and the]. **THE** same **MANNER AND**
35 **STANDARD OF DISPOSITION** shall [apply to] **BE EMPLOYED IN** the
36 disposition of **THE** IPP contracts[;] **OF NPC**;

37
38 (e) In cases of transfer of possession, control, operation, or
39 privatization of multi-purpose hydro facilities, safeguards shall be prescribed to
40 ensure **THAT THE APPLICABLE CONSTITUTIONAL PROSCRIPTION**
41 **ON THE ALIENATION AND DISPOSITION OF NATURAL RESOURCES**
42 **OWNED BY THE STATE SHALL BE STRICTLY OBSERVED AND** that
43 the national government may direct water usage in cases of shortage to protect
44 potable water, irrigation, and all other requirements imbued with public interest;

45
46 (f) The Agus and the Pulangui complexes in Mindanao shall be
47 excluded from [among] the generation [companies] **ASSETS OF NPC** that will
48 be initially privatized. Their ownership shall be transferred to the PSALM Corp.
49 [and], **BUT** both **COMPLEXES** shall continue to be operated by the NPC. Said
50 complexes may be privatized not earlier than ten (10) years from the effectivity of
51 this Act, and, except for Agus III, shall not be subject to **THE** Build-Operate-
52 Transfer (B-O-T), Build-Rehabilitate-Operate-Transfer (B-R-O-T) and **SUCH**
53 other variations thereof [pursuant to] **AS SET FORTH IN** Republic Act No.
54 6957, as amended by Republic Act No. 7718. The privatization of **THE** Agus and
55 **THE** Pulangui complexes, **AFTER THE LAPSE OF THE SAID TEN (10)**
56 **YEARS FROM THE EFFECTIVITY OF THIS ACT**, shall be left to the
57 discretion of PSALM Corp. in consultation with Congress;
58

1 (g) The steamfield assets and generating plants of each geothermal
 2 complex [shall not be sold separately. They shall] **MAY** be combined and [each
 3 geothermal complex] **[BE COMBINED AND HELD TOGETHER AS A**
 4 **SINGLE UNIT AND** shall be] sold as one package [through] **IN A**
 5 **TRANSPARENT AND OPEN, COMPETITIVE** public bidding. **THE**
 6 **CORRESPONDING STEAM SALES AGREEMENTS OF THESE**
 7 **GENERATING PLANTS SHALL BE CARRIED WITH THE SALE AND**
 8 **SHALL CONTINUE TO BE IN EFFECT, WITH THE RIGHTS AND**
 9 **OBLIGATIONS UNDER SUCH STEAM SALES AGREEMENT**
 10 **TRANSFERRED FROM NPC TO THE BUYER OF THE GENERATING**
 11 **PLANTS. PSALM MAY ALSO APPLY ALTERNATIVE SCHEMES FOR**
 12 **THE SALE, PRIVATIZATION OR DISPOSITION OF NPC**
 13 **GENERATING PLANTS IN THE GEOTHERMAL COMPLEXES,**
 14 **PROVIDED SUCH ALTERNATIVE SCHEMES SHALL OPTIMIZE THE**
 15 **VALUE AND SALE PRICES OF SAID GENERATING ASSETS. THE**
 16 **SECRETARY OF THE DEPARTMENT OF FINANCE (DOF), IN**
 17 **CONSULTATION WITH THE PRIVATIZATION COUNCIL, SHALL**
 18 **DETERMINE THE OPTIMUM VALUE OF SUCH ASSETS.** The
 19 geothermal complexes covered by this [requirement] **PARAGRAPH (G) OF**
 20 **THIS SECTION SHALL** include, but are not limited to, Tiwi-Makban, BAC-
 21 **MAN, Tongonan AND Palinpinon;**
 22

23 (h) The ownership of the Caliraya-Botokan-Kalayaan (CBK) pump
 24 storage complex shall be transferred **FROM NPC** to the PSALM Corporation;
 25

26 (i) Not later than three (3) years from the effectivity of this Act, [and]
 27 **BUT** in no case later than the initial implementation of open access, at least
 28 [seventy percent (70%)] **FIFTY PERCENT (50%) OF THE AGGREGATE**
 29 **SUM** of **BOTH** the total capacity of **THE** generating assets [of] **OWNED**
 30 **DIRECTLY BY NPC** and [of] the total capacity of the power plants under
 31 contract with NPC [located] in Luzon and Visayas shall have been privatized:
 32 *Provided,* That any unsold capacity **FROM SUCH AGGREGATE SUM** shall
 33 be privatized not later than eight (8) years from the effectivity of this Act; and
 34

35 (j) NPC may generate and sell electricity only from the undisposed
 36 [generating] **GENERATION** assets and **FROM THE UNDISPOSED IPP**
 37 contracts of PSALM Corp. and shall not incur any new obligations to purchase
 38 **ELECTRIC** power through bilateral **CONTRACT OR** contracts with **OTHER**
 39 generation companies or [other] **WITH ELECTRIC POWER** suppliers.
 40

41 ["SEC. 48. *National Power Board of Directors.* — Upon the passage
 42 of this Act, Section 6 of RA 6395, as amended, and Section 13 of RA 7638, as
 43 amended, referring to the composition of the National Power Board of Directors,
 44 are hereby repealed and a new Board shall be immediately organized. The new
 45 Board shall be composed of the Secretary of Finance as Chairman, with the
 46 following as members: the Secretary of Energy, the Secretary of Budget and
 47 Management, the Secretary of Agriculture, the Director-General of the National
 48 Economic and Development Authority, the Secretary of Environment and Natural
 49 Resources, the Secretary of the Interior and Local Government, the Secretary of
 50 the Department of Trade and Industry, and the President of the National Power
 51 Corporation.]
 52
 53
 54
 55
 56
 57
 58
 59

"CHAPTER VI

"POWER SECTOR ASSETS AND LIABILITIES MANAGEMENT

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

"SEC. 50. *Purpose and Objective, Domicile and Term of Existence.* — The principal purpose of the PSALM Corp. is to **ADMINISTER AND manage the orderly sale, disposition, and privatization of [NPC] THE generation assets, real estate, [and] other disposable assets, and IPP contracts OF NPC with the [objective] END IN VIEW of liquidating AND SETTling all OF [NPC] NPC'S financial obligations and stranded contract costs in [an optimal manner.] THE MOST ADVANTAGEOUS AND BENEFICIAL MANNER TO THE GOVERNMENT AND TO THE END-USERS OF ELECTRICITY.**

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

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

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

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

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

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

8
 9 (d) To calculate [the] **WITH REASONABLE CERTAINTY AND**
 10 **ESTABLISH THE PRUDENT** amount of the stranded debts and stranded
 11 contract costs of NPC, which shall form the basis [for ERC in the determination
 12 of the universal charge;] **OF THE COMMISSION IN DETERMINING THE**
 13 **JUST AND REASONABLE AMOUNT OF UNIVERSAL CHARGE FOR**
 14 **STRANDED DEBTS AND STRANDED CONTRACT COSTS;**

15
 16 (e) To liquidate the NPC stranded contract costs, [utilizing] **USING**
 17 **FOR THAT PURPOSE** the proceeds from [sales and] **THE DISPOSITION,**
 18 **SALE, AND PRIVATIZATION OF THE GENERATION ASSETS, REAL**
 19 **ESTATE, OTHER DISPOSAL ASSETS, AND IPP CONTRACTS OF NPC,**
 20 **AS WELL AS THE VALUE OF SUCH** other property **THAT MAY HAVE**
 21 **BEEN** contributed to it[,] (**PSALM CORP.**), including the proceeds from the
 22 universal charge[;] **IMPOSED TO RECOVER THE STRANDED**
 23 **CONTRACT COSTS OF NPC;**

24
 25 (f) To adopt rules and regulations, **NOT INCONSISTENT WITH**
 26 **THE PROVISIONS OF THIS ACT,** as may be necessary or proper for the
 27 orderly conduct of its business or operations;

28
 29 (g) To sue and be sued in its **OWN** name;

30
 31 (h) To appoint or hire, transfer, remove, and fix the compensation of
 32 its personnel: *Provided, however,* That the Corporation shall hire its own
 33 personnel only if absolutely necessary[, and as], **AS far as practicable AND TO**
 34 **SAVE ON COST, PSALM CORP.** shall avail itself of the services of personnel
 35 detailed **TO IT** from other government agencies;

36
 37 (i) To own, hold, acquire, or lease real and personal properties as may
 38 be necessary or required in the discharge of its functions;

39
 40 (j) To borrow money and **TO** incur such liabilities[, including]
 41 **THROUGH** the [issuance] **FLOTATION** of bonds, securities, or other
 42 evidences of indebtedness, utilizing **FOR THAT PURPOSE** its assets as
 43 collateral [and/or through the guarantees] **AND/OR THE GUARANTEE** of the
 44 National Government: *Provided, however,* That all such debts or borrowings **OF**
 45 **PSALM CORP.** shall [have been] **BE LIQUIDATED AND** paid off before the
 46 end of its corporate life;

47
 48 (k) To restructure **THE** existing loans of the NPC;

49
 50 (l) To collect, administer, and apply **PROPERLY** NPC's [portion]
 51 **SHARE** of the universal charge; and

52
 53 (m) To structure the **DISPOSITION,** sale, **AND** privatization [or
 54 disposition of NPC] **OF THE GENERATION** assets and IPP contracts [and/or]
 55 **OF NPC AND/OR** their **ELECTRIC** energy output, based on such terms and
 56 conditions which shall [optimize the value] **PRODUCE THE MOST**
 57 **ADVANTAGEOUS AND BENEFICIAL RESULTS, VALUES,** and [sale]
 58 prices [of] **FOR** said **GENERATION** assets[.] **AND IPP CONTRACTS AND**
 59 **THEIR ELECTRIC ENERGY OUTPUT FOR THE NATIONAL**

1 INTEREST, FOR THE NATIONAL GOVERNMENT, AND FOR THE
2 END-USERS OF ELECTRICITY.

3
4 "SEC. 52. *Power Sector Assets and Liabilities Management*
5 *Corporation, Meetings, Quorum and Voting.* — The Corporation shall be
6 administered[,] and its powers and functions **SHALL BE** exercised[,] by a Board
7 of Directors which shall be composed of the Secretary of Finance as the
8 Chairman, the Secretary of Budget and Management, the Secretary of the
9 Department of Energy, the Director-General of the National Economic and
10 Development Authority, the Secretary of the Department of Justice, the Secretary
11 of the Department of Trade and Industry, and the President of the PSALM Corp.,
12 **ALL OF WHOM SHALL SERVE** as *ex officio* members thereof.

13
14 The Board of Directors **OF THE PSALM CORP.** shall [meet regularly
15 and] **HOLD A REGULAR MEETING ONCE EVERY MONTH WITHOUT**
16 **NEED OF CALL ON A DAY TO BE DESIGNATED BY THE MEMBERS**
17 **OF THE BOARD OF DIRECTORS IN A FORMAL RESOLUTION FOR**
18 **THAT PURPOSE. THE BOARD OF DIRECTORS OF THE PSALM**
19 **CORP. MAY ALSO HOLD SPECIAL MEETINGS, WHEN DEMANDED**
20 **BY THE NEEDS OF THE CORPORATION AND** as frequently as may be
21 necessary [to enable it] to discharge [its] **THE** functions and responsibilities[.]
22 **OF THE MEMBERS OF THE BOARD, UPON WRITTEN NOTICE FROM**
23 **THE CHAIRMAN, WHICH SHALL STATE, IN EVERY CASE, THE**
24 **PURPOSE OF THE SPECIAL MEETING BEING CALLED.** The presence
25 [at a meeting] of **AT LEAST** four (4) members **OF THE BOARD IN ANY**
26 **MEETING** shall constitute a quorum[,] **TO DO BUSINESS**, and the decision of
27 [the majority of three (3)] **AT LEAST FOUR (4)** members present at [a] **THE**
28 meeting [where there is a quorum] shall [be the] **CONSTITUTE** A decision of
29 the Board of Directors.

30
31 "SEC. 53. *Powers of the President of PSALM Corp.* — The
32 President of the PSALM Corp. shall be appointed by the President of the
33 Philippines. In the absence of the Chairman, the President **OF THE PSALM**
34 **CORP.** shall preside over **THE** [Board] meetings[.] **OF THE BOARD.**

35
36 The President of the PSALM Corp. shall be the Chief Executive Officer of
37 the PSALM Corp., and **HE** shall have the following powers and duties:

38
39 (a) [To] **HE SHALL** execute and administer the policies and
40 measures approved by the Board, and **HE SHALL** [take responsibility] **BE**
41 **RESPONSIBLE** for the efficient discharge of **ALL** management functions;

42
43 (b) [To] **HE SHALL DIRECTLY** oversee the preparation of the
44 budget of the PSALM Corp.;

45
46 (c) [To] **HE SHALL** direct and supervise the operation and internal
47 administration of the PSALM Corp. and, for this purpose, **HE** may delegate
48 [some or] any **OR SOME** of his administrative responsibilities and duties to other
49 officers of the PSALM Corp.;

50
51 (d) Subject to the guidelines and policies set [up] by the Board, [to]
52 **HE, SHALL** appoint and fix the number and compensation of subordinate
53 officials and employees of the PSALM Corp.; and, for cause, [to] **HE SHALL**
54 remove, suspend, or otherwise discipline any subordinate employee of the
55 PSALM Corp.;

56
57 (e) [To] **HE SHALL** submit an annual report to the Board on the
58 activities, [and] achievements, **AND ACTUAL CONDITION** of the PSALM
59 Corp. at the close of each fiscal year and, upon approval thereof[,] **BY THE**

1 **BOARD, HE SHALL** submit a copy **OF THE ANNUAL REPORT** to the
 2 President of the Philippines, **TO THE CONGRESS OF THE PHILIPPINES,**
 3 and to such other agencies as may be required by law;

4
 5 (f) [To] **HE SHALL** represent the PSALM Corp. in all dealings and
 6 transactions with other offices, agencies, and instrumentalities of the Government
 7 and with all persons and other entities, private or public, domestic or foreign; and
 8

9 (g) [To] **HE SHALL** exercise such other powers and **PERFORM**
 10 **SUCH OTHER** duties as may be vested in him by the Board from time to time.
 11

12 "SEC.54. *Exemption from the Salary Standardization Law.* — The
 13 salaries and benefits of employees [in] **OF** the PSALM Corp. shall be [exempt]
 14 **FIXED BY ITS BOARD OF DIRECTORS AND SHALL BE EXEMPTED**
 15 from **THE PROVISIONS OF** Republic Act No. 6758 [and shall be fixed by the
 16 PSALM Corp. Board].
 17

18 "SEC. 55. *Property of the PSALM Corp.* — The following funds,
 19 assets, contributions, and other property shall constitute the **CAPITAL, ASSETS,**
 20 **AND** property of the PSALM Corp.:
 21

22 (a) The generation assets, real estate, [IPP contracts,] other disposable
 23 assets [of NPC], **AND IPP CONTRACTS TRANSFERRED TO IT FROM**
 24 **NPC BY VIRTUE OF THE PROVISIONS OF THIS ACT AND THE**
 25 proceeds from the sale or disposition of [such] **ANY OR ALL OF SAID** assets
 26 [and the], **REAL ESTATE, AND CONTRACTS AS WELL AS ANY** residual
 27 assets **HELD BY IT** from B-O-T, R-O-T, and other variations thereof;
 28

29 (b) [Transfers] **ANY AND ALL TRANSFERS** from the National
 30 Government;
 31

32 (c) [Proceeds] **THE PROCEEDS** from loans incurred to restructure
 33 **AND/or** refinance [NPC's transferred] **THE liabilities[:]** **OF NPC THAT WERE**
 34 **TRANSFERRED TO IT BY VIRTUE OF THE PROVISIONS OF THIS**
 35 **ACT: Provided, however,** That **ANY AND all SUCH LOANS OR** borrowings
 36 shall be fully paid [for by] **AND LIQUIDATED NOT LATER THAN** the end
 37 of the life of the PSALM Corp.;
 38

39 (d) [Proceeds] **THE PROCEEDS** from the universal charge allocated
 40 for **THE LIQUIDATION OF THE** stranded contract costs and the stranded
 41 debts of NPC;
 42

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

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

45 (g) [Official] **ANY AND ALL KINDS OF OFFICIAL** assistance,
 46 grants, and/**OR** donations from external sources; and
 47

48 (h) [Other sources of funds as may be determined] **ANY AND ALL**
 49 **FUNDS DERIVED** by **THE PSALM Corp.** [necessary for the above-mentioned
 50 purposes.] **FROM OTHER SOURCES.**
 51

52 "SEC. 56. *Claims Against the PSALM Corp.* — The following shall
 53 constitute the claims against the PSALM Corp.:
 54

55 (a) [NPC] **VALID** liabilities **OF NPC THAT WERE** transferred to
 56 the PSALM Corp.[:] **IN ACCORDANCE WITH THE PROVISIONS OF**
 57 **THIS ACT;**
 58
 59

1
2 (b) Transfers from the National Government;

3
4 (c) *New Loans*[,] **INCURRED BY THE PSALM CORP. IN**
5 **ACCORDANCE WITH THE PROVISIONS OF THIS ACT**; and

6
7 (d) [NPC] NPC'S stranded contract costs[,] **ARISING FROM ITS**
8 **VALIDLY CONCLUDED IPP CONTRACTS.**

9
10
11 "CHAPTER VII

12
13 "PROMOTION OF RURAL ELECTRIFICATION

14
15
16 "SEC. 57. *Conversion of Electric Cooperatives.* — Electric
17 cooperatives are hereby given the option to convert into either stock
18 cooperative under the Cooperatives Development Act or stock corporation
19 under the Corporation Code. Nothing contained in this Act shall deprive
20 electric cooperatives of any privilege or right granted to them under
21 Presidential Decree No. 269, as amended, and other existing laws.

22
23 "SEC. 58. *Additional Mandate of the National Electrification*
24 *Administration (NEA).* — NEA shall develop and implement programs:

25
26 (a) To prepare electric cooperatives in operating and competing under
27 the deregulated electricity market **IN AN OPEN ACCESS AND RETAIL**
28 **WHEELING ENVIRONMENT, AND COMPLETE THAT PREPARATION**
29 within five (5) years from the effectivity of this Act[, specifically in an
30 environment of open access and retail wheeling];

31
32 (b) To strengthen the technical capability and financial viability of
33 rural electric cooperatives; and

34
35 (c) To review and upgrade **THE APPLICABLE** regulatory policies
36 with a view to enhancing the viability of **THE** rural electric cooperatives as
37 electric **DISTRIBUTION** utilities.

38
39 NEA shall continue to be under the supervision of the DOE and shall
40 exercise its functions under Presidential Decree No. 269, as amended by
41 Presidential Decree No. 1645, insofar as they are consistent with this Act.

42
43 "SEC. 59. *Alternative Electric Service for Isolated Villages.* — The
44 provision **AND RENDITION** of electric service in **ANY** remote, **SPARSELY**
45 **POPULATED**, and unviable [villages that the franchised] **AREA WHICH IS**
46 **COVERED BY THE FRANCHISE OF A DISTRIBUTION** utility **WHICH**
47 is unable to **PROVIDE AND RENDER** service **TO THE SAID AREA** for any
48 reason shall be opened to **ANY** other qualified third parties, **PREFERABLY TO**
49 **ANY INTERESTED ADJACENT DISTRIBUTION UTILITY IN THE**
50 **SAME AREA.**

51
52 "SEC. 60. *Debts of Electric Cooperatives.* — Upon the effectivity of
53 this Act, all outstanding financial obligations of electric cooperatives to NEA and
54 other government agencies, incurred for the purpose of financing the rural
55 electrification program, shall be assumed by the PSALM Corporation in
56 accordance with [the] **A** program **TO BE** approved by the President of the
57 Philippines within one (1) year from the effectivity of this Act, which **SAID**
58 **PROGRAM** shall be implemented and completed within three (3) years from the
59 effectivity of this Act. The [ERC] **COMMISSION** shall ensure a reduction in the

1 rates of electric cooperatives commensurate with [the] **THEIR** resulting savings
 2 [due to] **ARISING FROM** the removal of the amortization payments [of] **ON**
 3 their loans[. Within] **ASSUMED BY THE PSALM CORP. IF WITHIN**
 4 **THE FIRST** five (5) years from the condonation of [debt,] **THE AFORESAID**
 5 **FINANCIAL OBLIGATIONS** any electric cooperative [which shall] **SHOULD**
 6 transfer **AND DIVEST ITSELF COMPLETELY AND ABSOLUTELY OF**
 7 **THE** ownership [or] **AND** control of its assets, franchise [or], **AND** operations,
 8 **SUCH ELECTRIC COOPERATIVE** shall [repay] **PAY BACK TO THE**
 9 **PSALM Corp. AN AMOUNT EQUAL TO THE SHARE OF THE SAID**
 10 **ELECTRIC COOPERATIVE OF** the total **CONDONED** debts, including
 11 accrued interests thereon.
 12
 13
 14

15 "CHAPTER VIII

16 "GENERAL PROVISIONS

17
 18
 19 "SEC. 61. *Reportorial Requirements.* — The DOE [shall] **MUST**
 20 take [the] **ANY AND ALL** necessary measures to ensure that the provisions of
 21 this Act are properly implemented, and shall **PERIODICALLY** submit to the
 22 **JOINT CONGRESSIONAL** Power Commission, **BEING CREATED IN**
 23 **SECTION 59 OF THIS ACT**, a semi-annual report on the **PROPER AND**
 24 **ACTUAL** implementation of this Act on or before the last week of April and
 25 October of each year.
 26

27 "SEC. 62. *Joint Congressional Power Commission.* — Upon the
 28 effectivity of this Act, a **JOINT** congressional **POWER** commission, [hereinafter
 29 referred to as] the "Power Commission", is hereby constituted. The Power
 30 Commission shall be composed of fourteen (14) members with the chairmen of
 31 the Committee on Energy of the Senate and the House of Representatives and six
 32 (6) additional members from each House, to be designated by the Senate
 33 President and the Speaker of the House of Representatives, respectively. The
 34 minority **IN EACH HOUSE OF CONGRESS** shall be entitled to A pro rata
 35 representation [but shall have at] **IN THE POWER COMMISSION, OR AT**
 36 **THE VERY** least one (1) representative [in the Power Commission.] **THEREIN.**
 37

38 The **POWER** Commission shall, in aid of legislation, perform the
 39 following functions, among others:
 40

41 (a) Set the guidelines and overall framework to **OVERSEE**, monitor,
 42 and ensure the proper, **FAITHFUL, AND STRICT** implementation of this Act;
 43

44 (b) Endorse **TO AND FOR THE APPROVAL OF THE**
 45 **PRESIDENT OF THE PHILIPPINES** the initial privatization plan **OF THE**
 46 **NPC** within one (1) month from **THE** submission of such plan to [the Power
 47 Commission by PSALM Corp. for approval by the President of the Philippines;]
 48 **IT BY THE PSALM CORP. AS REQUIRED UNDER SECTION 45 OF**
 49 **THIS ACT;**
 50

51 (c) To ensure transparency, **FAITHFUL, AND STRICT**
 52 **ADHERENCE TO THE PROVISIONS OF THIS ACT REGARDING THE**
 53 **PRIVATIZATION OF NPC**, require the submission of **SUCH PERTINENT**
 54 **DOCUMENTS OR** reports from government agencies concerned on the conduct
 55 of public bidding procedures [regarding] **IN CONNECTION WITH THE**
 56 privatization of [NPC] **THE** generation [and] **ASSETS**, transmission assets[;],
 57 **REAL ESTATE, OTHER DISPOSABLE ASSETS, AND IPP CONTRACTS**
 58 **OF NPC;**
 59

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

4
5 (e) Approve the budget for the programs of the Power Commission
6 and all disbursements therefrom, including compensation of all personnel;

7
8 (f) Submit periodic reports to the President of the Philippines and **TO**
9 Congress;

10
11 (g) Determine inherent weaknesses in the law and recommend
12 necessary remedial legislation or executive measures; and

13
14 (h) Perform such other duties and functions as may be necessary to
15 attain its objectives.

16
17 In furtherance **OF THE DUTIES AND FUNCTIONS OF THE**
18 **POWER COMMISSION AS SET FORTH** hereof, the Power Commission is
19 hereby empowered to require the DOE, [ERC] **THE COMMISSION**, NEA,
20 TRANSCO, generation companies, distribution utilities, suppliers, and other
21 electric power industry participants to submit reports and all pertinent data and
22 information relating to **THEIR RESPECTIVE ACTIVITIES AND**
23 **BUSINESSES AS WELL AS RELATING TO** the performance of their
24 respective functions in the industry. Any person who willfully and deliberately
25 refuses without **ANY** just cause to extend the support and assistance required by
26 the Power Commission **IN ORDER** to effectively attain its objectives shall, upon
27 conviction, be punished by imprisonment of not less than one (1) year but not
28 more than six (6) years or a fine of not less than Fifty thousand pesos
29 (P50,000.00) but not more than Five hundred thousand pesos (P500,000.00) or
30 both at the discretion of the court.

31
32 The Power Commission shall adopt its **OWN** internal rules of
33 procedures[;] **AND SHALL** conduct **SUCH** hearings, and receive **SUCH**
34 testimonies, reports, and technical advice[;] **AS ARE NEEDED BY IT IN THE**
35 **PERFORMANCE OF ITS FUNCTIONS. THE POWER COMMISSION IS**
36 **HEREBY AUTHORIZED TO** invite or summon by *subpoena ad testificandum*
37 any public official, private citizen, or any other person to testify before it, or
38 require any person by *subpoena duces tecum* to produce before it such records,
39 reports, documents, or other materials as it may require[; and]. **AND** generally
40 [require], **THE POWER COMMISSION IS HEREBY GRANTED** all the
41 powers necessary to attain the purposes for which it is created. The Power
42 Commission shall be assisted by a secretariat to be composed of personnel who
43 may be seconded from the Senate and the House of Representatives [and]. **THE**
44 **POWER COMMISSION, WHEN IT BECOMES NECESSARY IN**
45 **PERFORMING ITS FUNCTIONS**, may retain consultants. The secretariat shall
46 be headed by an executive director who has sufficient **KNOWLEDGE,**
47 **EXPERIENCE,** background, and competence on **THE ELECTRIC POWER**
48 **INDUSTRY AND ON** the policies and issues relating to electricity industry
49 reforms as provided in this Act. To carry out its powers and functions, the initial
50 sum of Twenty-five million pesos (P25,000,000.00) **IS HEREBY**
51 **APPROPRIATED FOR THE POWER COMMISSION AND** shall be charged
52 against the current appropriations of the Senate. Thereafter, [such] **ANY** amount
53 necessary for [its] **THE** continued operation **OF THE POWER COMMISSION**
54 shall be included in the annual General Appropriations Act.

55
56 The Power Commission shall exist for period of ten (10) years from the
57 effectivity of this Act, and **ITS EXISTENCE** may be extended by a joint
58 concurrent resolution[.] **OF BOTH HOUSES OF CONGRESS.**

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

15
 16 Displaced or separated personnel **OF NPC** as a result of [the] **ITS**
 17 privatization[, if qualified,] shall, **IF QUALIFIED,** be given preference in the
 18 hiring of the manpower requirements of the privatized companies[.] **OR**
 19 **EMERGING CORPORATE ENTITIES OF THE PRIVATIZED ASSETS.**

20
 21 The salaries of employees of NPC shall continue to be [exempt]
 22 **EXEMPTED** from the coverage of Republic Act No. 6758, otherwise known as
 23 "The Salary Standardization Act".

24
 25 With respect to employees who are not retained by NPC, the Government,
 26 through the Department of Labor and Employment, shall endeavor to implement
 27 re-training, job counseling, and job placement programs[.] **FOR THEM.**

28
 29 "SEC. 64. *Fiscal Prudence.* — To promote the prudent management
 30 of government resources, the creation of new positions and the levels of or
 31 increases in salaries and all other emoluments and benefits of **THE TRANSCO**
 32 and **THE PSALM Corp.** personnel shall be subject to the approval of the
 33 President of the Philippines. The compensation and all other emoluments and
 34 benefits of the officials and **THE** members of the Board of **DIRECTORS OF**
 35 **THE TRANSCO** and **OF THE OFFICIALS AND THE MEMBERS OF THE**
 36 **BOARD OF DIRECTORS OF THE PSALM Corp.** shall be subject to the
 37 approval of the President of the Philippines.

38
 39 "SEC. 65. *Environmental Protection.* — Participants in the
 40 generation, distribution, and transmission [sub-sectors] **SECTORS** of the
 41 **ELECTRIC POWER** industry shall comply with all environmental laws, rules,
 42 regulations, and standards promulgated by the Department of Environment and
 43 Natural Resources including, in appropriate cases, the establishment of an
 44 environmental guarantee fund.

45
 46 "SEC. 66. *Benefits to Host Communities.* — The obligations of
 47 generation companies and energy **SOURCE AND/OR** resource developers to
 48 **THE** communities [hosting] **THAT HOST** energy generating facilities and/or
 49 **[AND OR]** energy **SOURCE AND/OR** resource developers, as defined under
 50 Chapter II, Sections 289 to 294 of the Local Government Code and Section 5(i) of
 51 Republic Act No. 7638 and their implementing rules and regulations and
 52 applicable orders and circulars **WHICH MUST BE** consistent with this Act, shall
 53 continue: *Provided,* That the obligations [mandated] **IMPOSED** under Chapter
 54 II, Section 291 of Republic Act No. 7160, shall apply to privately-owned
 55 corporations or entities utilizing the national wealth of the locality.

56
 57 To ensure the effective implementation of the reduction in **THE** cost of
 58 electricity in the communities where the source of energy is located, the
 59 mechanics and procedures prescribed in the Department of the Interior and Local

1 Government (DILG)-DOE Circulars No. 95-01 and 98-01, dated October 31,
2 1995 and September 30, 1998, respectively, and **THE** other issuances related
3 thereto shall be pursued.

4
5 Towards this end, the fund generated from the eighty percent (80%) of the
6 national wealth tax shall, in no case, be used by any local government unit for any
7 purpose other than those for which it was intended.

8
9 In case of any violation or noncompliance by any local government
10 official of any provision thereof, the DILG shall, upon prior notice and hearing,
11 order the project operator, through the DOE, to withhold the remittance of the
12 royalty payment to the host community concerned pending completion of the
13 investigation. The unremitted funds shall be deposited in a government bank
14 under a trust fund[.] **ACCOUNT IN THE NAME OF THE BENEFICIARY**
15 **LOCAL HOST COMMUNITY.**

16
17 "SEC. 67. *NPC Offer of Transition Supply Contracts.* — Within six
18 (6) months from the effectivity of this Act, NPC shall file with the [ERC]
19 **COMMISSION** for [its] **THE LATTER'S** approval [a], **AFTER DUE**
20 **NOTICE TO ALL INTERESTED PARTIES AND PUBLIC HEARING,**
21 **THE** transition supply contract **OR CONTRACTS** duly negotiated with [the]
22 distribution utilities containing the terms and conditions of **THE** supply **OF**
23 **ELECTRICITY TO SUCH DISTRIBUTION UTILITIES** and [a] **THE**
24 corresponding schedule of rates, consistent with the provisions [hereof,] **OF**
25 **THIS ACT,** including adjustments and/or **[AND OR]** indexation formulas [which
26 shall apply to] **APPLICABLE DURING** the term of such **CONTRACT OR**
27 **contracts.** The term of the transition supply **CONTRACT OR** contracts shall not
28 extend beyond one (1) year from the introduction of open access. Such
29 **CONTRACT OR** contracts shall be based on the projected demand of such
30 **DISTRIBUTION** utilities less any of their currently committed quantities under
31 eligible IPP contracts [as defined] **DESCRIBED** in Section [33 hereof:] **32 OF**
32 **THIS ACT:** *Provided,* That the total generation capacity of such signed
33 transition supply **CONTRACT OR** contracts shall not exceed the level of [NPC]
34 NPC'S owned, controlled, or committed capacity as of the effectivity of this Act.
35 Such transition supply **CONTRACT OR** contracts shall be assignable to **AND**
36 **BE MADE BINDING ON** [the NPC] NPC'S successor [generating]
37 **GENERATION** companies.

38
39 Within six (6) months from the date of **THE** submission of the transition
40 supply contract **OR CONTRACTS** by NPC **FOR THE APPROVAL OF THE**
41 **COMMISSION,** the [ERC] **COMMISSION** shall notify NPC of [their] **ITS**
42 approval of the **SCHEDULE OF** rates contained [therein.] **IN SAID SUPPLY**
43 **CONTRACT OR CONTRACTS.**

44
45 The [ERC] **COMMISSION** shall maintain a record of the [contract] terms
46 and **CONDITIONS OF THE CONTRACT OR CONTRACTS AND THE**
47 **SCHEDULE OF THE** rates offered by NPC. Likewise, the [ERC]
48 **COMMISSION** shall update monthly[,], the **SAID** rates, **WHEN THERE IS A**
49 **NECESSITY TO DO SO,** using [the] **SUCH** appropriate, **JUST AND**
50 **REASONABLE** adjustment and/or **[AND OR]** indexation formula[.] **THAT**
51 **WILL PROMOTE AND PROTECT THE INTEREST OF THE GENERAL**
52 **PUBLIC AND THE INTEREST OF THE END-USERS OF ELECTRICITY.**

53
54 Notwithstanding the provisions of Section 25 [hereof] **OF THIS ACT,** the
55 rates charged by a distribution utility for the generation component of the supply
56 of electricity in their retail rate shall, for the term of the transition supply
57 **CONTRACT OR** contracts, not exceed the **SCHEDULE OF RATES**
58 **CONTAINED IN THE SAID** transition supply contract [rates,] **OR**
59 **CONTRACTS, AS APPROVED BY THE COMMISSION AND** as updated

1 monthly. The recovery of costs incurred by a distribution utility for any
 2 generation component in excess of the SAID transition supply contract OR
 3 **CONTRACTS** rates shall be disallowed by the [ERC] COMMISSION, except
 4 for eligible contracts as defined [under] AND DESCRIBED IN Section [33
 5 hereof] 32 OF THIS ACT: *Provided*, That such limitation on the recovery of
 6 generation component costs by a distribution utility shall apply only to the
 7 equivalent quality and quantity of electricity still available to the distribution
 8 utility from NPC[.], **TAKING INTO ACCOUNT THE TOTAL COST OF**
 9 **DELIVERING THE ELECTRIC POWER TO THE DISTRIBUTION**
 10 **UTILITY'S FRANCHISE TERRITORY.**

11
 12 "SEC.68. *Review of IPP Contracts.* — An [i]Inter-agency
 13 [c]Committee **WHICH SHALL BE** chaired by the Secretary of Finance, with the
 14 Secretary of the Department of Justice and the Director General of the National
 15 Economic and Development Authority as members thereof, is hereby created IN,
 16 **AND** upon the effectivity of, this Act. The **INTER-AGENCY** Committee shall
 17 immediately undertake a thorough review of all IPP contracts[.] **AND SHALL**
 18 **TAKE EVERY NECESSARY EFFORT AND ACTION TO**
 19 **RENEGOTIATE SUCH IPP CONTRACTS [AND] TO ERADICATE**
 20 **AND/OR [MINIMIZE EVERY ONEROUS PROVISIONS CONTAINED IN**
 21 **THEM] MITIGATE THEIR ONEROUS EFFECTS.** In cases where such
 22 contracts are found to have provisions which are grossly disadvantageous, or
 23 onerous to the Government, the **INTER-AGENCY** Committee shall [cause]
 24 **REQUIRE** the appropriate government agency [to file an action], **IF IT**
 25 **BECOMES NECESSARY, EITHER TO AVAIL, WITHOUT ANY**
 26 **UNNECESSARY DELAY, OF THE LEGAL REMEDIES** under the
 27 arbitration clauses provided in **THE** said contracts or **TO** initiate **PROMPTLY**
 28 any **SUCH** appropriate **LEGAL** action **BEFORE A COMPETENT COURT**
 29 under [Philippine] **THE** laws[.] **OF THE PHILIPPINES.** The PSALM
 30 Corporation shall diligently seek to reduce stranded **CONTRACT** costs, if any.

31
 32 **ANY REDUCTION IN THE COSTS OF THE SAID IPP**
 33 **CONTRACTS ARISING FROM THEIR RENEGOTIATION, OR FROM**
 34 **ANY REMEDIES TAKEN UNDER THE RELEVANT ARBITRATION**
 35 **CLAUSES IN SUCH CONTRACTS, OR FROM ANY LEGAL ACTION**
 36 **BEFORE A COMPETENT COURT UNDER THE LAWS OF THE**
 37 **PHILIPPINES SHALL BE USED TO REDUCE THE UNIVERSAL**
 38 **CHARGE IMPOSED UNDER SECTION 33 OF THIS ACT.**

39
 40 **ANY UNJUSTIFIED FAILURE TO PERFORM THE OFFICIAL**
 41 **DUTY IMPOSED UNDER THIS SECTION 65 AND THE SUCCEEDING**
 42 **SECTION 66 OF THIS ACT SHALL BE A GROUND FOR THE FILING**
 43 **OF [ANY] THE APPROPRIATE LEGAL ACTION AGAINST, AND THE**
 44 **PUNISHMENT OF, THE RESPONSIBLE PARTY OR PARTIES UNDER**
 45 **THE APPROPRIATE PROVISION OF REPUBLIC ACT NO. 3019,**
 46 **OTHERWISE KNOWN AS THE ANTI-GRAFT AND CORRUPT**
 47 **PRACTICES ACT OF THE PHILIPPINES.**

48
 49 "SEC. 69. *Renegotiation of Power Purchase and Energy Conversion*
 50 *Agreements between Governments Entities.* — Within three (3) months from the
 51 effectivity of this Act, all power purchase and energy conversion agreements
 52 between the PNOC-Energy Development Corporation (PNOC-EDC) and NPC,
 53 including but not limited to the **BAC-MAN, Palinpinon, Tongonan, LEYTE A**
 54 **AND B and Mt. Apo Geothermal complexes,** shall be reviewed by the [ERC]
 55 **COMMISSION,** and the **ONEROUS** terms **AND CONDITIONS** thereof, **IF**
 56 **ANY, MUST BE REVISED AND** amended to remove any hidden costs or
 57 extraordinary mark-ups in the cost of power or steam above their [true] **JUST**
 58 **AND REASONABLE** costs. All Amended contracts shall be submitted to the
 59 Joint Congressional Power Commission for approval. The [ERC]

1 COMMISSION shall ensure that all savings realized from the reduction of [said]
 2 ANY SUCH HIDDEN COSTS OR EXTRAORDINARY mark-ups shall be
 3 passed on to all end-users OF ELECTRICITY.
 4

5 "SEC. 70 *Missionary Electrification.* —Notwithstanding the
 6 NATIONAL POWER CORPORATION'S divestment and/or [AND OR]
 7 privatization of [NPC assets,] ITS GENERATION ASSETS, TRANSMISSION
 8 AND SUB-TRANSMISSION ASSETS AND FACILITIES, AND IPP
 9 contracts [and spun-off corporations, NPC], THE NPC shall [remain as a
 10 National Government] CONTINUE TO EXIST AS A GOVERNMENT-owned
 11 and-controlled corporation to perform [the] A missionary electrification function
 12 through the Small Power Utilities Group (SPUG) [and] AS DEFINED IN THIS
 13 ACT. FOR THAT PURPOSE, THE NATIONAL POWER
 14 CORPORATION IS HEREBY AUTHORIZED TO EXERCISE ALL ITS
 15 CORPORATE POWERS AND ENJOY ALL ITS PREROGATIVES
 16 UNDER ITS EXISTING LEGISLATIVE CHARTER, EXCEPT TO THE
 17 EXTENT THAT SUCH POWERS AND PREROGATIVES ARE
 18 MODIFIED BY AND ARE INCONSISTENT WITH ANY OF THE
 19 PROVISIONS OF THIS ACT. THE NATIONAL POWER
 20 CORPORATION shall be responsible for providing power generation [and its]
 21 OR GENERATIONS, INCLUDING ALL NECESSARY AND associated
 22 power delivery systems, in areas that are not connected to the NATIONAL
 23 transmission system. The missionary electrification function OF THE
 24 NATIONAL POWER CORPORATION shall be funded: (A) from the
 25 revenues from sales in missionary areas; and (B) from the universal charge [to]
 26 THAT SHALL be collected from all [electricity] end-users [as] OF
 27 ELECTRICITY, WHICH UNIVERSAL CHARGE SHALL BE determined
 28 by the [ERC.] COMMISSION, AFTER DUE NOTICE TO ALL
 29 INTERESTED PARTIES AND PUBLIC HEARING.
 30

31 "SEC. 71. *Electric Power Crisis Provision.* — [Upon the
 32 determination by] IN CASE OF ANY IMMINENT SHORTAGE OF SUPPLY
 33 OF ELECTRICITY, AS DETERMINED AND PROCLAIMED BY the
 34 President of the Philippines [of an imminent shortage of the supply of electricity],
 35 Congress may authorize, through a joint resolution, the establishment of
 36 additional [generating capacity] GENERATION CAPACITIES TO SOLVE
 37 SUCH SHORTAGE ADEQUATELY, under such terms and conditions as [it]
 38 CONGRESS may approve.
 39

40 "SEC. 72. [Mandated] MANDATORY Rate Reduction. — Upon the
 41 effectivity of this Act, residential end-users OF ELECTRICITY shall be granted
 42 a [rate] MANDATORY reduction from NPC rates IN AN AMOUNT of NOT
 43 LESS THAN thirty centavos per kilowatt-hour (P0.30kWh). Such reduction shall
 44 be reflected as a separate item in the [consumer] MONTHLY billing statement
 45 OF RESIDENTIAL END-USERS OF ELECTRICITY.
 46

47 "SEC. 73. *Lifeline Rate.* — A socialized pricing mechanism, called a
 48 lifeline rate, for [the] marginalized RESIDENTIAL end-users OF
 49 ELECTRICITY shall be set by the [ERC, which] COMMISSION. THIS
 50 LIFELINE RATE shall be exempted from the cross subsidy phase-out under this
 51 Act AND SHALL REMAIN for a period of ten (10) years[,] FROM AND
 52 AFTER THE DATE OF ITS ESTABLISHMENT, unless extended by [law.]
 53 BY CONGRESS. The [level of] consumption LEVEL OF THOSE WHICH
 54 SHALL BE CONSIDERED MARGINALIZED RESIDENTIAL END-
 55 USERS OF ELECTRICITY and the LEVEL OF WHAT SHALL BE
 56 DEEMED TO BE A JUST AND REASONABLE LIFELINE rate shall be
 57 determined by the [ERC] COMMISSION, after due notice TO ALL
 58 INTERESTED PARTIES and PUBLIC hearing.
 59

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

14
 15 The [ERC] **COMMISSION** may extend, **AFTER DUE NOTICE TO**
 16 **ALL INTERESTED PARTIES AND PUBLIC HEARING**, the period for the
 17 removal of **SAID** cross subsidies for a maximum period of one (1) year [upon
 18 finding], **IF IT FINDS** that **THE** cessation of [such mechanism] **SAID CROSS**
 19 **SUBSIDIES** would have a material adverse effect [upon the public] **ON THE**
 20 interest[,] **OF THE GENERAL PUBLIC**, particularly the **INTEREST OF THE**
 21 residential end-user[;] **OF ELECTRICITY**; or would have an immediate,
 22 irreparable, and adverse financial effect on distribution [utility.] **UTILITIES OR**
 23 **ON SUPPLIERS OF ELECTRICITY.**

24
 25
 26
 27 "CHAPTER IX

28
 29 "FINAL PROVISIONS

30
 31 "SEC. 75. *Statutory Construction[s].* — This Act shall, unless the
 32 context indicates otherwise, be construed in favor of the establishment,
 33 promotion, **AND** preservation of competition [and people] **AS WELL AS IN**
 34 **FAVOR OF THE** empowerment [so that the widest participation of the people]
 35 **OF THE PEOPLE TO PARTICIPATE, AS WIDELY AS IS LEGALLY**
 36 **ALLOWED**, whether directly or indirectly, [is ensured.] **ON ANY MATERIAL**
 37 **AND SUBSTANTIAL MATTER OR DECISION AFFECTING THE**
 38 **ELECTRIC POWER INDUSTRY SO THAT THE PEOPLE CAN ENSURE**
 39 **THE PROTECTION OF THEIR RIGHTS AND INTERESTS.** With respect
 40 to NPC's debts and IPP [and related] contracts, nothing **CONTAINED** in this
 41 Act, **UNLESS THE CONTEXT CLEARLY SAYS OTHERWISE**, shall be
 42 construed as: (1) an **EXPRESSED OR** implied waiver of any right, action, or
 43 claim[,] **OF NPC OR OF THE PHILIPPINE GOVERNMENT, ARISING**
 44 **FROM OR RELATING TO ANY SUCH CONTRACTS**, against any person
 45 or entity[, of NPC or the Philippine Government arising from or relating to any
 46 such contracts]; or (2) a [conferment] **GRANT** of new **OR ADDITIONAL** or
 47 better **OR SUPERIOR** rights to creditors and IPP contractors [in addition to]
 48 **DISTINCT FROM THE ALREADY** subsisting rights granted by the NPC or
 49 **BY** the Philippine Government under existing contracts[,] **OR AGREEMENTS.**

50
 51 "SEC. 76. *Education and Protection of End Users.* — [End users]
 52 **THE END-USERS OF ELECTRICITY** shall be [educated about the]
 53 **INFORMED ABOUT AND MADE FAMILIAR WITH THE CONCEPT**
 54 **AND** implementation of retail **OPEN** access and its impact on end-users **OF**
 55 **ELECTRICITY**, and [on] **WITH** the proper [use], **COST-EFFECTIVE, AND**
 56 **ECONOMICAL UTILILIZATION** of electric power. Such [education]
 57 **INFORMATION AND FAMILIARIZATION** shall include, but not limited to,
 58 the existence of competitive **GENERATION COMPANIES, COMPETITIVE**
 59 electricity suppliers, choice of competitive electricity services, regulated

1 transmission and distribution services, **RATE BASE, RETURN ON RATE**
 2 **BASE (RORB)**, systems **PERFORMANCE STANDARDS AND** reliability,
 3 aggregation, [market] **WHOLESALE ELECTRICITY SPOT MARKET**
 4 **(WESM), CAPTIVE AND CONTESTABLE MARKETS**, itemized billing
 5 **STATEMENT**, stranded [cost] **DEBT OF NPC, STRANDED CONTRACT**
 6 **COSTS OF NPC AND OF DISTRIBUTION UTILITIES**, uniform disclosure
 7 requirements **FROM ALL ELECTRIC POWER INDUSTRY**
 8 **PARTICIPANTS**, low-income bill [payment] **PAYMENTS**, AND energy
 9 conservation and safety measures.

10
 11 The DOE, in coordination with the NPC, NEA, [ERC] **THE**
 12 **COMMISSION**, and the Office of the Press Secretary-Philippine Information
 13 Agency (OPS-PIA), shall **BE RESPONSIBLE FOR AND** undertake an
 14 information campaign to [educate] **INFORM AND FAMILIARIZE** the public
 15 on **ALL FACETS OF** the restructuring of the electric power industry and **THE**
 16 privatization of NPC.

17
 18 "SEC.77. *Implementing Rules and Regulations.* — The DOE [shall],
 19 in consultation with relevant government agencies, the electric power industry
 20 participants, **CONCERNED** non-government organizations, and **WITH** end-
 21 users[,] **OF ELECTRICITY GROUPS, SHALL** promulgate, **WITHIN SIX (6)**
 22 **MONTHS FROM THE EFFECTIVITY OF THIS ACT**, the **NECESSARY**
 23 **Implementing Rules and Regulations (IRR)** [of this Act, within six (6) months
 24 from the effectivity of this Act, subject to the approval of the Power
 25 Commission.], **WHICH MUST BE CONSISTENT WITH THE**
 26 **PROVISIONS OF THIS ACT AND APPROVED BY JOINT**
 27 **CONGRESSIONAL POWER COMMISSION.**

28
 29 "SEC. 78. *Injunction and Restraining Order.* — The
 30 implementation of the provisions of this Act, **WITH RESPECT TO THE**
 31 **RESTRUCTURING OF THE ELECTRIC POWER INDUSTRY AND THE**
 32 **PRIVATIZATION OF THE NPC**, shall not be restrained or enjoined except by
 33 an order issued by the Supreme Court of the Philippines.

34
 35 "SEC. 79. *Separability Clause.* — If for any reason, any provision of
 36 this Act is declared unconstitutional or invalid, the other parts or provisions
 37 [hereof] which are not affected thereby shall continue to be in full force and
 38 effect.

39
 40 "SEC. 80. *Applicability and Repealing Clause.* — The [applicability]
 41 **APPLICABLE** provisions of Commonwealth Act No. 146, as amended,
 42 otherwise known as the "Public Services Act"; Republic Act 6395, as amended,
 43 revising the charter of NPC; Presidential Decree 269, as amended, referred to as
 44 the National Electrification Decree; Republic Act 7638, otherwise known as the
 45 ["Department of Energy Act of 1992"]; [Executive Order 172, as amended,
 46 creating the ERB;] Republic Act 7832 otherwise known as the ["Anti-Electricity
 47 and Electric Transmission Lines/Materials Pilferage Act of 1994["], shall
 48 continue to have full force and effect, except insofar as [they] **SUCH ACTS AND**
 49 **DECREE, AND ONLY TO THAT EXTENT**, are inconsistent with **ANY OF**
 50 **THE PROVISIONS OF** this Act.

51
 52 The provisions with respect to electric power of Section [11(c)] 12(C) of
 53 Republic Act 7916, as amended, and Section 5(f) of Republic Act 7227, are
 54 hereby repealed or modified accordingly[.], **IT BEING THE CLEAR INTENT**
 55 **OF CONGRESS THAT HENCEFORTH THE GENERATION,**
 56 **TRANSMISSION, SUBTRANSMISSION, DISTRIBUTION, AND/OR**
 57 **SUPPLY OF ELECTRIC POWER SHALL BE GOVERNED ENTIRELY**
 58 **BY THE PROVISIONS OF THIS ACT, AND THAT NO AGENCY OF THE**
 59 **NATIONAL GOVERNMENT, OTHER THAN THE COMMISSION,**

1 SHALL BE ALLOWED TO REGULATE THE TRANSMISSION,
2 SUBTRANSMISSION, AND DISTRIBUTION, OR AUTHORIZE THE
3 ESTABLISHMENT OF GENERATION COMPANIES OR SUPPLIERS
4 OF ELECTRICITY.
5

6 Presidential Decree No. 40 and all laws, decrees, rules and regulations, or
7 portions thereof, inconsistent with this Act are hereby repealed or modified
8 accordingly.
9

10 EXECUTIVE ORDER NO. 172, SERIES OF 1987, AS AMENDED,
11 CREATING THE ENERGY REGULATORY BOARD, IS HEREBY
12 REPEALED EXCEPT AS OTHERWISE PROVIDED IN THIS ACT.
13

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

Approved,