

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

SENATE
OFFICE OF THE SECRETARY

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SENATE
S. No. 2164

RECEIVED BY: 

Introduced by Senator FRANCIS G. ESCUDERO

EXPLANATORY NOTE

Natural gas is considered by many modern economies as the fuel of choice because of its abundance, clean-burning properties and versatility as a fuel source. With the successful launching of the Malampaya Deep Water Gas-to-Power Project on October 16, 2001 marked the birth of the country's natural gas industry. The Malampaya gas field discovery signaled a significant leap towards energy self-reliance as it now fuels about one-third of the country's total power generation. A total of 2700 MW of installed capacity of gas-fired power plants make use of the natural gas produced from Malampaya.

Aside from the use of natural gas for power generation, alternative applications in the transport sector is also being pursued. The launching by President Gloria Macapagal-Arroyo of the Natural Gas Vehicle Program for Public Transport (NGVPP1) on October 16, 2002 served as a banner program for the use of natural gas in the transport sector.

Following the inauguration of the Malampaya Deep Water Gas-to-Power Project, government advocacy has been initiated to create an impetus to the development of the country's downstream natural gas industry. These are the (i) signing on January 18, 2002 by President Gloria Macapagal-Arroyo of Executive Order No. 66 designating the Department of Energy (DOE) as the lead agency for the development of the country's natural gas industry; and (ii) issuance on August 27, 2002 by the DOE of the interim rules and regulations governing the transmission, distribution and supply sub-sectors of the natural gas industry.

However, both issuances are not sufficient to impart a clear, comprehensive and integrated regulatory framework that will provide direction and to accelerate the development of the country's nascent downstream natural gas sector.

As dynamic developments are taking place in this very young sector, it is imperative that conditions favorable to the establishment of the critical infrastructure and natural gas market are put in place to optimize economic efficiency and returns from the downstream natural gas industry.

The foregoing premises thus necessitate the immediate passage of the Natural Gas Bill.



FRANCIS G. ESCUDERO


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AN ACT
ORDAINING THE DEVELOPMENT OF THE DOWNSTREAM NATURAL
GAS INDUSTRY, CONSOLIDATING FOR THE PURPOSE ALL LAWS
RELATING TO THE TRANSMISSION, DISTRIBUTION AND SUPPLY
OF NATURAL GAS AN FOR OTHER PURPOSES

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

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CHAPTER I
TITLE AND DECLARATION OF POLICY

SECTION 1. *Short Title.* - This Act shall be known as the "*Downstream
Natural Gas Industry Development Act*".

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

- (a) To promote the role of natural gas as a socially-acceptable,
environment-friendly and economically efficient source of energy
by creating favorable conditions for establishing a Downstream
Natural Gas Industry for the benefit of all segments of the nation's
population and all sectors of its economy;
- (b) To ensure the safety, quality, reliability and security of the
transmission, distribution and supply of natural gas;
- (c) To ensure transparent and reasonable rates and prices of natural
gas transmission, distribution and supply in a regime of open and
fair competition and full public accountability that will promote
greater operational and economic efficiency and the enhanced
competitiveness of the Philippine products in the global market;

- 1 (d) To encourage the inflow of private capital in providing the
2 infrastructure and services necessary to support an expanded role
3 of natural gas in the nation's energy supply;
- 4 (e) To protect the public interest as it is affected by the quality of, and
5 rates charged for, the transmission, distribution and supply of
6 natural gas and related services;
- 7 (f) To assure the development of a Downstream Natural Gas Industry
8 infrastructure that is socially-acceptable and compliant with
9 existing environmental laws;
- 10 (g) To ensure that the Downstream Natural Gas Industry shall be
11 regulated in a manner that will ensure the quality, reliability,
12 security and reasonableness of charges for the transmission,
13 distribution and supply of natural gas, encourage private
14 investment in the Downstream Natural Gas Industry and promote
15 the efficient and competitive operation thereof;
- 16 (h) To develop the necessary trades, technical expertise and skills to
17 support the Downstream Natural Gas Industry;
- 18 (i) To facilitate the development of end-uses of natural gas that
19 promotes fuel diversity and compliance with existing
20 environmental laws including, but not limited to, the use of natural
21 gas as a motor vehicle fuel; and
- 22 (j) To encourage equity participation in gas transmission utilities and
23 gas distribution utilities by the private sector.

24 SEC. 3. *Scope.* - This Act shall provide a framework for the
25 development of a Downstream Natural Gas Industry and its transition from
26 an emerging to a mature industry status and competitive natural gas market,
27 and define the responsibilities of various government agencies and private
28 entities in furtherance of this national goal.

29 All activities of the Department of Energy (DOE) and the Energy
30 Regulatory Commission (ERC) relevant to the development and regulation of
31 the Downstream Natural Gas Industry shall be in accordance with this Act.

1 SEC. 4. *Definition of Terms.* – As used in this Act, the following terms
2 shall have the following meanings:

3 (a) “Captive market”:

- 4 • with respect to the transmission of natural gas, refers to natural
5 gas end-users who do not have a choice of a gas transmission
6 utility;
- 7 • with respect to the distribution of natural gas, refers to natural
8 gas end-users who do not have a choice of a gas distribution
9 utility;
- 10 • with respect to the supply of natural gas, refers to natural gas
11 end-users who do not have a choice of supplier of natural gas or
12 other economically competitive energy substitute;

13 (b) “Congress” refers to the Congress of the Republic of the
14 Philippines;

15 (c) “Contestable market” is a market that is not a captive market;

16 (d) “Delivery” refers to the transmission or distribution of natural gas
17 and the supply of natural gas, at wholesale or retail;

18 (e) “Department of Energy” or “DOE” refers to the government agency
19 created pursuant to Republic Act No. 7638, as amended

20 (f) “Department of Environment and Natural Resources” or “DENR”
21 refers to the government agency created pursuant to Executive
22 Order Nos. 192 and 292, as amended;

23 (g) “Distribution” refers to the conveyance of natural gas by a gas
24 distribution utility through its gas distribution system;

25 (h) “Downstream Natural Gas Industry” refers to the transmission,
26 distribution and supply of natural gas and related activities, such
27 as, but not limited to, processing, storing, regasification,
28 interconnection, measurement and/or metering;

29 (i) “End-user” refers to any person that will receive delivery of natural
30 gas for its own use;

- 1 (j) "Energy Regulatory Commission" or "ERC" refers to the
2 independent quasi-judicial regulatory agency created pursuant to
3 Republic Act No. 9136, otherwise known as the "Electric Power
4 Industry Reform Act of 2001", whose expanded functions are
5 provided in this Act;
- 6 (k) "Franchise" refers to the right, privilege and authority issued by
7 Congress authorizing a person to engage in the transmission of
8 natural gas and/or distribution of natural gas within a specific
9 geographical area;
- 10 (l) "Franchise area" refers to a geographical area assigned or granted
11 under a franchise;
- 12 (m) "Gas Distribution Code" refers to the code to be formulated by the
13 DOE pursuant to Section 5(g) of this Act that sets the technical
14 performance standards for operating gas distribution utilities and
15 the minimum financial standards for gas distribution systems;
- 16 (n) "Gas distribution system" refers to the system of pipelines and
17 related facilities extending from the delivery points where the gas
18 distribution system receives the natural gas to the point of
19 connection to the premises of the end-user;
- 20 (o) "Gas distribution utility" refers to any person that has a franchise
21 to operate a gas distribution system;
- 22 (p) "Gas supply contract" refers to a contract between a supplier and a
23 purchaser for the supply of natural gas;
- 24 (q) "Gas Transmission Code" refers to the code to be developed by the
25 DOE pursuant to Section 5(g) of this Act that sets the technical
26 performance standards for operating gas transmission systems and
27 the minimum financial standards for gas transmission utilities;
- 28 (r) "Gas transmission system" refers to the system to the system of
29 high pressure pipelines, storage and related facilities that are used
30 to transport natural gas from the interconnection with gathering
31 facilities, liquefied natural gas (LNG) regasification facilities or
32 other gas transmission systems to gas distribution systems, other
33 gas transmission systems or end-users;

- 1 (s) "Gas transmission utility" refers to any person that has a franchise
2 to operate or intending to operate a gas transmission system except
3 own-use pipelines;
- 4 (t) "Gathering facilities" refers to natural gas pipelines and related
5 facilities used to gather gas in the field and bring it to a location for
6 processing or for delivery at an interconnection with the gas
7 transmission system. The terms "gather" and "gathering" shall be
8 construed accordingly;
- 9 (u) "Infrastructure development period" refers to the period prescribed
10 in Chapter IV of this Act;
- 11 (v) "Joule" refers to the unit of energy or work done when the point of
12 application of a force of one Newton is displaced a distance of one
13 meter in the direction of the force. It is also equal to one watt-
14 second;
- 15 (w) "Large end-user" refers to an end-user whose aggregate annual
16 natural gas consumption is one thousand (1,000) gigajoules (gross
17 heating value) or greater, as may be determined by the ERC;
- 18 (x) "LNG" refers to liquefied natural gas";
- 19 (y) "Natural gas" refers to hydrocarbons, obtained initially from sub-
20 surface reservoirs, primarily methane, which, at atmospheric
21 temperature and pressure, is in a gaseous phase. The term "natural
22 gas" shall include LNG;
- 23 (z) "Permit" refers to an authorization issued by the DOE, initially, for
24 the construction, operation, expansion and modification of gas
25 transmission systems, gas distribution systems and for the supply
26 of natural gas;
- 27 (aa) "Person" refers to a natural or juridical person, as the case may be,
28 including the national and local government of the Republic of
29 the Philippines, its agencies and instrumentalities, and
30 government-owned and -controlled corporations;
- 31 (bb) "Petroleum operations" refers to searching for and obtaining
32 petroleum within the Philippines through drilling and pressure or

1 suction or the like, and all other operations incidental thereto. It
2 includes the transportation, storage, handling and sale (whether
3 for export or for domestic consumption) of petroleum so obtained
4 but does not include any: (1) transportation of petroleum outside
5 the Philippines; (2) processing or refining at a refinery; or (3) any
6 transaction in the products so refined;

7 (cc) "Philippine Energy Plan" or "PEP" refers to the overall energy
8 program formulated and updated yearly by the DOE and
9 submitted to Congress pursuant to Republic Act No. 7638, as
10 amended;

11 (dd) "Service contract" refers to the award granted by the Philippine
12 government to a qualified person to engage in the exploration,
13 development and utilization of natural resources *rough joint
14 venture, co-production, production-sharing or other similar
15 arrangement with the State pursuant to Article XII, Section 2 of
16 the Constitution, including service contracts under Presidential
17 Decree No. 87, as amended;

18 (ee) "Supplier" refers to any person authorized by the DOE, initially,
19 to engage in the supply of natural gas;

20 (ff) "Supply" refers to the domestic trading and/or sale of natural gas
21 for wholesale or retail;

22 (gg) "Transmission" refers to the transportation of natural gas through
23 a gas transmission system; and

24 (hh) "Unbundled service" refers to the pricing of the energy value of
25 natural gas separately from the rates charged for natural gas
26 transmission or distribution

27 **CHAPTER II**
28 **POWERS AND FUNCTIONS OF THE DOE AND THE ERC**

29 SEC. 5. *Powers and Functions of the DOE.* - In addition to its existing
30 powers and functions, the DOE shall have the overall responsibility of
31 supervising and monitoring the development of the Downstream Natural Gas
32 Industry and regulation of the construction and operation of natural gas
33 pipelines and related facilities for the transmission, distribution and supply of

1 natural gas. Towards this end, the DOE shall have the following-powers and
2 functions:

3 (a) Prepare and periodically update a Downstream Natural Gas
4 Industry Development Plan (DNGIDP) and integrate the same into
5 the PEP. The DNGIDP shall consider and integrate the individual
6 or joint development plans of the Downstream Natural Gas
7 Industry participants pursuant to this Act, which are submitted to
8 the DOE. Appropriate mechanisms shall be provided to protect the
9 confidentiality of any information that is commercially or
10 competitively sensitive. The DOE shall publish an initial draft of the
11 plan and undertake public consultations thereon prior to its
12 adoption;

13 (b) Issue permits for the construction, operation and maintenance of
14 pipelines and related facilities for the transmission, distribution
15 and/or supply of natural gas;

16 (c) Establish standards setting forth the characteristics for classifying
17 pipeline and pipeline-related facilities either as gas transmission
18 systems or gas distribution systems. These characteristics may
19 include both the physical characteristics related to the diameter,
20 size and pressure of pipeline facilities, and the functional
21 characteristics of such facilities;

22 (d) Before the end of April of each year, submit to the Office of the
23 President and Congress an annual report;

24 (e) Ensure the safety, reliability, quality and security of supply of
25 natural gas. Consistent with the development of the Downstream
26 Natural Gas Industry, the DOE shall, among others:

27 (i) Encourage private sector investments in the Downstream
28 Natural Gas Industry and promote the development of
29 domestic markets for natural gas;

30 (ii) In consultation with the Downstream Natural Gas Industry
31 participants and other government agencies, promote a
32 system of incentives to encourage industry participants,
33 including new producers and end-users, to provide adequate
34 and reliable supply of natural gas; and

1 (iii) Undertake, in coordination with other governmental
2 agencies, as appropriate, an information campaign to
3 educate the public on the benefits of developing the
4 Downstream Natural Gas Industry and the potential for
5 utilizing natural gas as a source of energy.

6 (f) Within six months from the effectivity of this Act, develop plans
7 and programs to encourage market development and customer
8 choice;

9 (g) Within twelve (12) months from the effectivity of this Act, the DOE
10 shall, preparatory to the holding of public consultations with the
11 Downstream Natural Gas Industry participants, draft *the* Gas
12 Transmission and Distribution Codes which shall contain, among
13 others, the following:

14 (i) Technical performance standards for gas transmission and
15 distribution utilities: *Provided*, That in the establishment of
16 the performance standards, the nature and function of the
17 entities shall be considered; and

18 (ii) Minimum financial capability standards for gas transmission
19 and distribution utilities: *Provided*, That such standards are
20 set to ensure that the Downstream Natural Gas Industry
21 participants meet the minimum financial standards to
22 protect the public interest.

23 Within eighteen (18) months from the effectivity of this
24 Act, the DOE shall, in consultation with the Downstream
25 Natural Gas Industry participants, issue the final Gas
26 Transmission and Distribution Codes.

27 (h) By order, revoke, after due notice and hearing, the permit of any
28 person that fails to comply with the rules and regulations
29 promulgated pursuant to this Act, the Gas Transmission Code, *the*
30 Gas Distribution Code, or any requirement of this Act. The DOE
31 shall allow such persons sufficient time to remedy the violation of
32 or for an orderly disgorgement, when applicable, but in no case
33 shall such remediation period exceed twelve (12) months from the
34 date of issuance of the order;

- 1 (i) Encourage private enterprises in the Downstream Natural Gas
2 Industry to broaden their ownership base and promote widest
3 public ownership thereof;
- 4 (j) Formulate, in consultation with the Downstream Natural Gas
5 Industry participants, the rules and regulations as may be necessary
6 to implement the objectives of this Act;
- 7 (k) Exercise original and exclusive jurisdiction over all cases contesting
8 permits, nonprice regulation, fees, fines and penalties imposed by it
9 in the exercise of the abovementioned powers and functions; and
- 10 (l) Exercise such other powers and functions as may be necessary or
11 incidental to attain the objectives of this Act. Subject to existing
12 rules and regulations, the DOE is hereby authorized to create
13 offices and appoint personnel thereto as may be necessary to
14 efficiently and effectively perform its functions as stipulated in this
15 Act.

16 SEC. 6. *Powers and Functions of the ERC.* - In addition to its existing
17 powers and functions, the ERC shall have the sole regulatory responsibility
18 for establishing the rates and related terms and conditions of service for the
19 transmission, distribution and supply of natural gas to the extent that such
20 activities are regulated pursuant to the requirements set forth in this Act. It
21 shall:

22 (a) Within one year from the effectivity of this Act, promulgate, upon
23 due notice and public consultation, rules and regulations to
24 promote competition and prohibit/penalize abuse of market
25 power, cartelization and any anti-competitive or discriminatory
26 behavior, in order to further the intent of this Act and protect the
27 public interest. Such rules and regulations shall:

28 (i) Define the relevant product and geographic markets for
29 purposes of establishing anti-competitive conduct;

30 (ii) Provide criteria to determine the relevant market structure;
31 and

1 (iii) Establish the periodic reportorial requirements of the
2 Downstream Natural Gas Industry participants as may be
3 necessary to enforce the provisions of this section.

4 (b) In the public interest, establish and enforce a methodology for
5 setting transmission, distribution and supply rates, taking into
6 account all relevant Considerations, including the efficiency or
7 inefficiency of the regulated entities. The rates must be such as to
8 allow the recovery of just and reasonable costs and a reasonable
9 return to enable the entity to operate viably. The ERC may, upon
10 due notice and public consultation, adopt internationally accepted
11 rate setting methodology. The rate setting methodology so adopted
12 and applied shall promote efficiency and ensure a reasonable price
13 or tariff. The rates prescribed shall be nondiscriminatory;

14 (c) Apply administrative procedures that will ensure the constitutional
15 right to due process;

16 (d) Before the end of April of each year, submit to the Office of the
17 President of the Philippines and Congress, copy furnished the DOE,
18 an annual report containing such matters or cases which have been
19 filed before or referred to it during the preceding year, the actions
20 and proceedings undertaken and its decision or resolution in each
21 case. The ERC shall make copies of such report available to any
22 interested party upon payment of a charge which reflects the
23 printing costs;

24 (e) Publish in newspapers of general circulation all its decisions
25 involving rates and anticompetitive cases; and

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

28 Subject to existing rules and regulations, the ERC is hereby
29 authorized to create offices and appoint personnel thereto as may
30 be necessary to efficiently and effectively perform its functions as
31 stipulated in this Act.

1 such facility was, prior to such operation, previously
2 utilized only as a gathering facility, shall require a franchise.

3 (ii) Operators of pipeline facilities to transport natural gas for
4 their own use: Provided, however, That such operators shall
5 secure a permit from the DOE as provided herein; and

6 (iii) Operators of related facilities that are operated
7 independently from the pipeline.

8 The franchise so granted shall include a provision
9 that shall honor and protect the forty percent (40%) share of
10 local government units (LGUs) from the proceeds of the
11 gross collection derived by the national government from its
12 share in any coproduction, joint venture or production-
13 sharing agreement in the utilization and development of the
14 national wealth within their territorial jurisdiction, pursuant
15 to Article X, Section 7 of the Constitution and Section 290 of
16 Republic Act No. 7160, otherwise known as the Local
17 Government Code of 1991, as amended. The share of the
18 LGU concerned shall be included automatically in the
19 General Appropriations Act following the year the revenue
20 was generated.

21 (c) Prior regulatory approvals. - The grantee of such franchise shall also be
22 required to secure from the DOE a permit as provided herein, and to
23 secure from the appropriate government agencies all other regulatory
24 approvals, licenses, permits and authorizations applicable to such
25 grantee under existing laws. The DOE shall not unreasonably withhold
26 or delay the grant of any permit, and may not reopen any legislative
27 determination in the review and grant of any franchise.

28 SEC. 10. *Philippine Ownership Requirement.* - As required under Article XII,
29 Section 11 of the Constitution of the Republic of the Philippines, no franchise,
30 certificate, or any other form of authorization of a public utility shall be
31 granted except to citizens of the Philippines or to corporations or associations
32 organized under the laws of the Philippines at least sixty percent (60%) of
33 whose capital is owned by such citizens.

1 SEC. 11. *Third Party Access.* -

2 (a) *Third Party Access Obligation.* - Gas transmission systems and gas
3 distribution systems excluding those constructed and operated for own
4 use or as part of gathering facilities of service contractors shall be
5 available for nondiscriminatory access by third party users which may
6 include parties to a service contract, suppliers and customers, with due
7 regard to the economic viability of the operation of such facilities. Such
8 operators shall negotiate in good faith with third party users the
9 provisions and terms of access in accordance with the guidelines to be
10 promulgated by the DOE;

11 (b) *Available Capacity.* - Third party access obligations shall apply only to
12 the available capacity of the gas transmission systems and gas
13 distribution systems as determined by subtracting from the design
14 capacity of the gas transmission systems and gas distribution systems
15 the volume of capacity that is:

16 (i) Used by the owner or operator to serve his own customer;
17 and/ or

18 (ii) Allocated to third parties under transportation contracts.
19 Nondiscriminatory third party access shall be available to
20 users by contract with the gas transmission or gas
21 distribution utility. If the gas transmission or gas
22 distribution utility with available capacity refuses service to
23 a user or offers discriminatory service, the affected party
24 may request for the intervention of the ERC. The gas
25 transmission or gas distribution utility shall be required to
26 file proof that capacity was not available when service was
27 denied.

28 Gas transmission utilities shall not be obligated to
29 undertake, nor may the DOE require, the expansion of an
30 existing gas transmission system to serve additional
31 customers or the sizing of a gas transmission system for the
32 purpose of increasing capacity to serve load in excess of the
33 load proposed to be served by the gas transmission utility.
34 However, in situations where no entity is interested to build

1 additional transmission capacity in any franchise area, the
2 DOE may conduct a public bidding and award the same to
3 the lowest bidder.

4 (c) Deferment of Third Party Access Obligation. - As may be provided in
5 the permit, the implementation of third party access to gas
6 transmission systems and gas distribution systems may be deferred
7 where, upon the determination by the DOE:.

8 (i) It can be demonstrated that such deferment is necessary to
9 enable the efficient planning of the infrastructure and
10 aggregation of the initial demand necessary to justify
11 investments in the gas transmission systems and gas
12 distribution systems; or

13 (ii) It is in the interest of the customers served by the gas
14 transmission system and gas distribution system to ensure
15 stability of supply.

16 In either case, the DOE may not defer
17 implementation of third party access for a period longer
18 than three years after completion of construction in the case
19 of gas transmission systems and five years after completion
20 of construction in the case of gas distribution systems:
21 *Provided, however,* That the deferment period may be
22 extended on reasonable grounds.

23 (d) Approved Access Conditions for Gas Transmission Utilities and Gas
24 Distribution Utilities. - Prior to the conduct of negotiations with third
25 parties, a gas transmission utility and a gas distribution utility shall
26 request the DOE to approve its access conditions in accordance with
27 the third party access guidelines to be promulgated by the DOE in
28 consultation with the industry participants.

29 *SEC. 12. Environmental Protection.* - Gas transmission utilities, gas distribution
30 utilities and suppliers shall comply with all environmental laws, rules,
31 regulations and standards promulgated by the Department of Environment
32 and Natural Resources (DENR) and other appropriate governmental agencies.

1 from the filing of the application for abandonment. Such abandonment shall
2 be done in accordance with existing laws.

3 SEC. 19. *Gas Transmission Code Compliance.* - All gas transmission utilities
4 shall ensure the safety,- reliability, adequacy, security, stability and integrity
5 of their gas transmission systems in accordance with the technical
6 specifications and performance standards set forth in the Gas Transmission
7 Code to be promulgated by the DOE. Each gas transmission utility shall
8 submit to the DOE a statement of its compliance with such technical
9 specifications and performance standards prescribed in the Gas Transmission
10 Code. Any gas transmission utility that does not comply with any of the
11 prescribed technical specifications or performance standards shall include in
12 such statement of compliance an undertaking to comply with said technical
13 specifications and performance standards within a reasonable time as may be
14 necessary to ensure safety and reliability, or prevent environmental harm. The
15 DOE shall, within sixty (60) days upon receipt of such plan, evaluate the same
16 and notify the gas transmission utility concerned of its decision thereon.
17 Failure to submit a feasible and credible plan and/or failure to implement the
18 same shall serve as grounds for the imposition of appropriate sanctions, fines
19 or penalties pursuant to Section 39 of this Act.

20 SEC. 20. *ERC Rate Regulation of Gas Transmission Utilities.* - Gas
21 Transmission Rate. Except as otherwise provided during the infrastructure
22 development period, the ERC shall review and approve the rates, charges and
23 other amounts proposed to be charged by the gas transmission utilities as
24 provided under Section 33 of this Act. Where such rates are applicable to
25 services provided to captive markets, the ratemaking methodology to be
26 applied by the ERC shall be based on the principle of full recovery of prudent
27 and reasonable costs incurred, including a reasonable return on rate base that
28 is consistent with the encouragement of private investment and goal of
29 developing a Downstream Natural Gas Industry infrastructure, or such other
30 principles that will promote the determination of just and reasonable rates.
31 Where a rate applicant successfully demonstrates that its rates will be applicable
32 to contestable markets, the ERC shall have the authority to permit negotiated rates.

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**CHAPTER VI
DISTRIBUTION SECTOR**

3 SEC. 21. *Permit.* - No person or entity shall undertake the construction,
4 operation and maintenance of a natural gas distribution system unless it has
5 secured a franchise: Provided, however, That for a period not exceeding five
6 years after the effectivity of this Act, the DOE may issue a provisional permit
7 with a maximum term of two years, renewable twice for a maximum
8 cumulative term not exceeding six years for the continued operation of a gas
9 distribution system constructed prior to and in operation as of the date of
10 effectivity of this Act: Provided, further, That during the same period, the
11 DOE may issue a permit for the expansion, extension or modification of a
12 natural gas distribution system.

13 The DOE shall issue a public notice of all permit applications and
14 afford interested parties an opportunity to comment on such applications. The
15 DOE shall issue a permit upon its determination that the construction,
16 ownership, control, installation, operation and maintenance of the gas
17 distribution systems would be consistent with the policy declarations
18 contained in this Act: Provided, however, That if a permit is sought for new
19 service that would be provided within the franchise area of another gas
20 distribution utility, the DOE shall consider the economic effects of granting
21 such a permit upon the gas distribution utility and its customers.

22 SEC. 22. *Terms and Conditions of Permits.* - In issuing a permit, the DOE shall
23 have the power to impose such reasonable term and conditions to a permit as
24 the public interest may require. Among such conditions shall be the
25 requirement that the permit holder comply in full with the Gas Distribution
26 Code promulgated by the DOE pursuant to Section 5(g) of this Act.

27 SEC. 23. *Fees.* - The DOE shall have the authority to prescribe and collect fees
28 and charges relating to the issuance and/or review of permits, supervision
29 and regulation of gas distribution systems.

30 SEC. 24. *Abandonment of Gas Distribution Systems.* - No holder of a permit for
31 the construction, installation, operation or maintenance of a gas distribution
32 system shall abandon or withdraw from service any portion of such gas
33 distribution system without obtaining prior authorization from the DOE,
34 which determination shall be made within one hundred eighty (180) days from

1 the filing of the application for abandonment. Such abandonment shall be done in
2 accordance with existing laws.

3 SEC. 25. *Gas Distribution Code Compliance.* - All gas distribution utilities shall
4 be required to ensure and maintain the safety, reliability, adequacy, security,
5 stability and integrity of their gas distribution systems in accordance with the
6 performance standards set forth in the Gas Distribution Code to be
7 promulgated by the DOE. Each gas distribution utility shall submit to the
8 DOE a statement of its compliance with the technical specifications prescribed
9 in the Gas Distribution Code and the performance standards prescribed in the
10 implementing rules and regulations promulgated by the DOE pursuant to
11 Section 43 of this Act. A gas distribution utility that fails to comply with any
12 of the prescribed technical specifications or performance standards shall
13 include within such statement of compliance a plan for achieving compliance
14 with the said technical specifications and performance standards within a
15 reasonable time as may be necessary to ensure safety and reliability, or
16 prevent environmental harm. The DOE shall, within sixty (60) days from
17 receipt of such plan, evaluate the same and notify the gas distribution utility
18 concerned of its decision thereon. Failure to submit a feasible and credible
19 plan and/or failure to implement the same shall serve as grounds for the
20 imposition of appropriate sanctions, fines or penalties pursuant to Section 39
21 of this Act.

22 SEC. 26. *Gas Distribution Rate.* - Except as provided for during the
23 infrastructure development period, the distribution rates charged by gas
24 distribution utilities shall be subject to regulation by the ERC based on the
25 principle of full recovery of prudent and reasonable economic costs incurred,
26 including a reasonable return on rate base that is consistent with the
27 encouragement of private investment and goal of developing the
28 Downstream Natural Gas Industry infrastructure, or such other principles
29 that will promote the determination of just and reasonable rates by the ERC.
30 Where a rate applicant successfully demonstrates that its rates will be
31 applicable to contestable markets, the ERC shall have the authority to permit
32 negotiated rates.

33 SEC. 27. *Functions of Gas Distribution Utilities.* - All gas distribution utilities
34 shall have the following functions:

- 1 (a) Obligation to provide distribution services and connections to its gas
2 distribution system for any end-user within the area covered by its
3 permit consistent with the Gas Distribution Code. Any gas distribution
4 utility engaged therein shall provide nondiscriminatory access to its
5 gas distribution system to suppliers and/or end-users entitled to retail
6 access under Section 30 of Chapter VII of this Act. Any gas distribution
7 utility shall be entitled to impose and collect from such suppliers
8 and/or end-users distribution charges and connection fees as
9 approved by the ERC after due notice and hearing;
- 10 (b) Ensure the safety, reliability, adequacy, security, stability and integrity
11 of their gas distribution systems in accordance with the technical
12 specifications and performance standards set forth in the Gas
13 Distribution Code to be promulgated by the DOE pursuant to Section
14 5(g) of this Act. Each gas distribution utility shall submit to the ERC a
15 statement of its compliance with such technical specifications and
16 performance standards. Any gas distribution utility that fails to comply
17 with any of the prescribed technical specifications or performance
18 standards shall include in such statement of, compliance an
19 undertaking to comply with said technical specifications and
20 performance standards within a reasonable time as may be necessary
21 to ensure safety and reliability, or prevent environmental harm. The
22 ERC shall, within sixty (60) days upon receipt of such plan, evaluate
23 the same and notify the gas distribution utility concerned of its
24 decision thereon. Failure to submit a feasible and credible plan and/or
25 failure to implement the same shall serve as grounds for the imposition
26 of appropriate sanctions, fines or penalties pursuant to Section 39 of
27 this Act;
- 28 (c) Provide universal service within the area covered by its permit except
29 as provided herein. Compliance with the universal service obligation
30 shall be addressed as part of the annual development and maintenance
31 plan of a gas distribution utility. A gas distribution utility shall be
32 obliged to develop and maintain an efficient system for the distribution
33 of natural gas at the reasonable request of end-users within its
34 franchise area including:

1 (i) The installation of pipes where the connection to the end-
2 user is within twenty-five (25) meters of the gas distribution
3 system; or

4 (ii) Increasing the capacity of existing gas distribution systems:
5 Provided, however, That no new service shall be required if
6 such service would not be economically viable. A
7 determination by a gas distribution utility that it cannot
8 viably serve a portion of its franchise area shall be subject to
9 review by the ERC upon filing of a complaint by the
10 requesting end-user.

11 The obligation of the gas distribution utility to
12 provide universal access involves both an obligation to
13 connect end-users within twenty-five (25) meters from the
14 main pipeline and an obligation to supply such end-users,
15 to the extent the distribution utility is the sole gas supplier.
16 Upon implementation of third party access, the utility shall
17 be relieved of its obligation to supply end-users eligible for
18 retail access as defined in the guidelines to be promulgated
19 by the DOE, but not its obligation to provide connection to
20 its distribution system to such end-users. Whether or not
21 the gas distribution utility is the sole gas supplier in the
22 area, prices charged by the said utility for the supply of gas
23 shall be negotiated for the contestable market and regulated
24 by the ERC for the captive market; and

25 (d) Submit annually to the ERC its plan for maintaining and developing its
26 gas distribution system in compliance with the obligations prescribed
27 in this Act.

28 **CHAPTER VII**
29 **SUPPLY SECTOR**

30 SEC. 28. *Permit Requirement.* - Any law to the contrary notwithstanding, no
31 person may engage in any supply activity unless it has obtained a permit
32 from the DOE, initially: Provided, however, That a gas transmission utility or
33 gas distribution utility that has secured a permit as such pursuant to Section
34 9(c) of this Act and that supplies natural gas to its own customers shall not be
35 required to secure a separate permit to engage in its supply activity. For this

1 purpose, the DOE shall promulgate rules and regulations prescribing the
2 qualifications of suppliers which shall include, among other requirements, a
3 demonstration of their technical capability, financial capability,
4 creditworthiness and compliance with safety standards. The DOE shall have
5 the authority to require suppliers to furnish a bond or other evidence of their
6 ability to withstand market disturbances or other events that may increase the
7 cost of providing service.

8 *SEC. 29. Supplier Rate and Service Regulation. -*

9 (a) The rates and service of suppliers to captive markets shall be regulated
10 by the ERC; and

11 (b) The rates and service of suppliers to contestable markets shall not be
12 subject to regulation by the ERC Provided, however, That suppliers
13 shall be subject to the rules and regulations concerning abuse of market
14 power, cartelization and other anti-competitive or discriminatory
15 behavior promulgated by the ERC.

16 (c) The supply of natural gas for electric generation and large end-users is
17 hereby deemed to be a contestable market. In all other cases, suppliers
18 shall bear the burden of demonstrating that a market is contestable.

19 *SEC. 30. Conditions for Retail Access to Gas Distribution Systems. -* Following the
20 infrastructure development period, retail access to gas distribution systems
21 shall be available to large end-users meeting criteria set forth in the rules and
22 regulations promulgated by the ERC pursuant to this Act. The ERC shall
23 determine when retail access may be available to other end-users or classes of
24 end-users, giving consideration to relevant factors including whether such
25 end-users or class of end-users constitute a contestable market-end the financial
26 consequences of any assets potentially stranded by expanding retail access.

27 **CHAPTER VIII**
28 **TAXATION**

29 *SEC. 31. Taxes. -* Gas transmission utilities, gas distribution utilities and
30 suppliers of natural gas shall be subject to the payment of all taxes, duties,
31 fees or charges and other impositions under the National Internal Revenue
32 Code (NIRC) of 1997, as amended, and other applicable laws: Provided,
33 however, That, in recognition of the substantial investments needed for the
34 construction, operation and maintenance of gas transmission and gas

1 distribution systems, gas transmission utilities and gas distribution utilities
2 shall, upon prior endorsement by the DOE and approval by the Board of
3 Investments, be entitled to income tax holiday and such other incentives
4 granted to pioneer enterprises under the Omnibus Investment Code, as
5 amended. The commodity price of gas shall be the only component of the gas
6 retail rate which shall be subject to excise taxes under Republic Act No. 8424,
7 otherwise known as the Comprehensive Tax Reform Law.

8 SEC. 32. *Withdrawal of Exemptions.* - Any law to the contrary notwithstanding,
9 to achieve the declared policies of this Act, particularly in relation to the
10 promotion of fair and nondiscriminatory treatment of public and private
11 sector entities in the development of the Downstream Natural Gas Industry
12 infrastructure, all existing tax exemptions applicable to persons engaged in
13 the transmission or the distribution of natural gas; insofar as such exemptions
14 relate to revenues derived from the transmission or the distribution of natural
15 gas, shall be deemed revoked upon the effectivity of this Act.

16 **CHAPTER IX**
17 **RATEMAKING REQUIREMENTS AND PROCEDURES**

18 SEC. 33. *Ratemaking Requirements and Procedures of the ERC.* - (a) Just and
19 reasonable rates and charges. - All rates and charges for transmission,
20 distribution or supply of natural gas to the captive market and all rules and
21 regulations affecting or pertaining to such rates or charges shall be just and
22 reasonable. Any such rate or charge that is not just and reasonable is hereby
23 declared to be unlawful;

24 (b) Undue preferences and unreasonable rates and charges are prohibited.

25 - No gas transmission utility, gas distribution utility or supplier shall,
26 with respect to the transmission, distribution or supply of natural gas
27 to the captive market: (1) make or grant any undue preference or
28 advantage, or (2) maintain any unreasonable difference in rates,
29 charges, service, facilities, or in any other respect, between locations or
30 between classes of service;

31 (c) Filing of rate schedules. - Under such rules and regulations as the ERC
32 may prescribe, after due notice and public consultation, the ERC may
33 require reports or documents from gas transmission utilities, gas
34 distribution utilities or suppliers to the captive market showing all
35 rates and charges for the transmission, distribution or supply of natural
36 gas to the captive market and the classifications, practice and

1 regulations affecting such rates, charges, and classifications and
2 services: Provided, That the ERC shall provide appropriate
3 mechanisms to protect the confidential& of any information that is
4 commercially or competitively sensitive; and

5 (d) Changes in rate and charges. - Within thirty (30) days upon filing for
6 an adjustment in rates, the ERC shall issue an order accepting, rejecting
7 or setting for hearing such adjustment. The ERC may, upon the filing
8 of an application therefor or at any stage thereafter, with or without
9 prior hearing, on the basis of supporting papers duly verified or
10 authenticated, and with such notice to the affected parties and
11 opportunity for such parties to make such submissions as the ERC
12 determines to be appropriate in the circumstances, grant provisional
13 relief fixing interim rates for the transmission of natural gas or
14 distribution of natural gas or supply of natural gas to the captive
15 market applicable during the pendency of the hearing on the
16 application, on motion of a party in the case or on its own initiative,
17 without prejudice to a final decision after hearing, should the ERC find
18 that the pleadings, together with such affidavits, documents and other
19 evidences which may be submitted in support of the motion,
20 substantially support the provisional order. The final order fixing the
21 applicable rates shall provide for over- or under-recovery of costs
22 occasioned by the application of ERC-approved interim rates. At any
23 hearing involving rates adjustment, the burden of proof to show that
24 the increased rates are just and reasonable shall be upon the gas
25 transmission utility, gas distribution utility or supplier to the captive
26 market.

27 **CHAPTER X**
28 **PROMOTION OF COMEPTITION**

29 SEC. 34. *Anti-Competitive Behavior.* - No gas transmission utility, gas
30 distribution utility or supplier, or affiliate thereof, may engage in any anti-
31 competitive behavior or abuse of market power including, but not limited to:

32 (a) Agreements, decisions and concerted practices of persons or
33 associations of persons to fix prices and/or fix output; and

34 (b) Other practices and/or conduct by a person or groups of persons that
35 restrict, prevent or distort competition such as, but not limited to,
36 predatory pricing and practices, excessive pricing, bundling and other

1 vertical restraints, denial of access to essential facilities on fair terms,
2 discriminatory conditions on transactions that restrict, prevent or
3 distort competition.

4 SEC. 35. *Measures to Promote Competition.* - Subject to the provisions of relevant
5 laws, the ERC shall adopt measures and/or corresponding remedies to
6 promote competition following an investigation of the relevant circumstances
7 and a definitive finding of:

8 (a) Price and/or output fixing; or

9 (b) Other practices/conduct that are the subject of investigation restrict
10 and/or prevent and/or distort competition.

11 Such remedies shall, without limitation, include the imposition of price
12 controls, issuance of injunctions or disgorgement of excess profits and
13 imposition of administrative fines and penalties pursuant to this Act.

14 SEC. 36. *Functional and Structural Unbundling.* - When prevailing market
15 conditions so require, any Downstream Natural Gas Industry participant shall
16 functionally and structurally unbundle its business activities and rates in
17 accordance with the sectors as identified in Section 7 hereof. The ERC shall
18 ensure full compliance with this provision.

19 SEC. 37. *Complaint Procedures.* - The ERC shall, within one year from the
20 effectivity of this Act, promulgate rules and regulations providing for a
21 complaint procedure that, without limitation provides the party alleged to
22 have engaged in anti-competitive or abusive activities with notice and an
23 opportunity to be heard.

24 SEC. 38. *Affiliated Suppliers.* - In order to prevent anti-competitive conduct,
25 service contractors, gas transmission utilities and gas distribution utilities that
26 own or control affiliates that are suppliers shall conduct their business as
27 follows:

28 (a) No preference will be given to the affiliated supplier over other
29 persons through contracting for available capacity, scheduling,
30 balancing, curtailment priority or tariffs;

1 (b) Marketing information provided to the affiliated supplier will be
2 provided to any nonaffiliated supplier that is a competitor or potential
3 competitor;

4 (c) Employees of the affiliated supplier shall, to the maximum extent
5 possible, function independently in making business decisions; and

6 (d) Books of accounts and records of the affiliated supplier shall be
7 maintained separately.

8 As used herein, "affiliate" refers to any person or entity which,
9 alone or together with any other person or entity, directly or indirectly,
10 through one or more intermediaries, controls, or is controlled by
11 another person or entity. As used herein, "control" shall mean the
12 power to direct or cause the direction of the management policies of a
13 person by contract, agency or otherwise.

14 SEC. 39. *Administrative Fines and Penalties.* --

15 (a) The administrative fines and penalties that may be imposed by the
16 ERC or the DOE, as the case may be, for any violation of or
17 noncompliance with this Act or its implementing rules and regulations
18 shall range from a minimum of Fifty thousand pesos (P50,000.00) to a
19 maximum of Fifty million pesos (P50,000,000.00);

20 (b) Any person who is found to have engaged in any of the prohibited acts
21 pursuant to Section 34 of this Act shall suffer the administrative
22 penalty or fine ranging from Ten thousand pesos (P10,000.00) to Ten
23 million pesos (P10,000,000.00), at the discretion of the ERC or the DOE,
24 as the case may be;

25 (c) The members of the board of directors or any person that violates the
26 provisions of this Act may be fined by an amount not exceeding double
27 the amount of damages caused by the offender at the discretion of the
28 ERC or the DOE, as the case may be. This rule shall apply to the
29 members of the Board who, knowingly or by neglect, allow the
30 commission or omission under the law;

31 (d) Any party to an administrative proceeding may, at any time, make an
32 offer to the ERC or the DOE, as the case may be, conditionally or
33 otherwise, for a consent decree, voluntary compliance or desistance

1 and other settlement of the case. The offer and any or all of the ultimate
2 facts upon which the offer is based shall be considered for settlement
3 purposes only and shall not constitute an admission by the party
4 making the offer of any violation of the laws, rules, regulations, orders
5 and resolutions of the ERC or the DOE, as the case may be, nor as a
6 waiver to file any warranted criminal actions; and

7 (e) Congress may, upon recommendation of the ERC or the DOE, as the
8 case may be, revoke such franchise or privilege granted to the party
9 found in violation of the provisions of this Act.

10 **CHAPTER XI**
11 **ANTI-PILFERAGE AND ANTI-THEFT PROVISIONS**

12 **SEC. 40. Pilferage.** - It is hereby declared unlawful for any person to:

13 (a) Tap, make or cause to be made any connection with any gas
14 transmission system or gas distribution system without previous
15 authority or consent of the gas transmission utility or gas distribution
16 utility concerned;

17 (b) Tamper, install or use tampered meters or any other device which
18 interferes with proper or accurate registry or metering of natural gas
19 flows or otherwise results in its diversion in a manner whereby natural
20 gas is stolen or wasted;

21 (c) Damage or destroy any natural gas meter, equipment, pipeline or
22 conduit or any part of a gas transmission system or gas distribution
23 system or allow any of them to be so damaged or destroyed as to
24 interfere with the proper or accurate metering of natural gas flows; and

25 (d) Knowingly use or receive the direct benefit of natural gas delivery
26 service obtained through any of the acts mentioned in paragraphs (a),
27 (b) and (c) above.

28 **SEC. 41. Theft of Equipment and Materials.** - It is hereby declared unlawful for
29 any person to:

30 (a) Cut, saw, slice, separate, split, severe, smelt or remove any portion of a
31 gas transmission system or gas distribution system, including pipeline
32 materials and meters, from any installation or place of installation or
33 any other place or site where it may be rightfully or lawfully stored,

1 deposited, kept, stocked, inventoried, situated or located, without the
2 consent of the gas transmission utility or gas distribution utility
3 concerned, whether or not the act is done for profit or gain;

4 (b) Take, carry away or remove or transfer, with or without the use of a
5 motor vehicle or other means of conveyance, load, carry, ship or move
6 from one place to another, whether by land, air or sea, any portion of a
7 gas transmission system or gas distribution system, including pipeline
8 materials or meters, from any installation or place of installation, or
9 any place or site where it may be rightfully or lawfully stored,
10 deposited, kept, stocked, inventoried, situated or located without the
11 consent of the gas transmission utility or gas distribution utility
12 concerned, whether or not the act is done for profit or gain; and

13 (c) Store, possess or otherwise keep in his premises, custody or control,
14 without lawful purpose, any portion of a gas transmission system or
15 gas distribution system, including pipeline materials or meters,
16 without the consent of the gas transmission utility or gas distribution
17 utility concerned, whether or not the act is done for profit or gain.

18 SEC. 42. *Penalties.* -

19 (a) Violation of Section 40. - The penalty of prison mayor or a fine ranging
20 from Ten thousand pesos (P10,000.00) to Twenty thousand pesos
21 (P20,000.00) or both, at the discretion of the court, shall be imposed on
22 any person found guilty of violating Section 40 of this Act.

23 (b) Violation of Section 41. - The penalty of reclusion temporal or a fine
24 ranging from Fifty thousand pesos (P50,000.00) to One hundred
25 thousand pesos (P100,000.00) or both, at the discretion of the court,
26 shall be imposed on any person found guilty of violating Section 41 of
27 this Act.

28 (c) Provision common to violations of Sections 40 and 41 hereof. - If the
29 violation of Section 40 or Section 41 of this Act is committed by, or in
30 connivance with, an officer or employee of the gas transmission utility
31 or gas distribution utility concerned, such officer or employee shall,
32 upon conviction, be punished with a penalty one degree higher than
33 the penalty provided herein, and forthwith be dismissed and

1 perpetually disqualified from employment in any public or private
2 utility or service company and from holding any public office.

3 If the violation of Section 40 or Section 41 of this Act is
4 committed by a partnership, firm, corporation, association or any other
5 legal entity, including a government-owned or -controlled corporation,
6 the penalty shall be imposed on the president, manager and each of the
7 officers thereof who shall have knowingly permitted, failed to prevent
8 or was otherwise responsible for the commission of the offense.

9 **CHAPTER XII**
10 **FINAL PROVISIONS**

11 *SEC. 43. Implementing Rules and Regulations.* - The DOE shall, in consultation
12 with the ERC, appropriate government agencies, the Downstream Natural
13 Gas Industry participants, nongovernmental organizations and end-users,
14 promulgate implementing rules and regulations (IRR) within six months from
15 the effectivity of this Act.

16 *SEC. 44. Natural Gas Oversight Commission.* - Upon the effectivity of this Act, a
17 congressional commission, hereinafter referred to as the "Natural Gas
18 Oversight Commission", is hereby constituted. The Natural Gas Oversight
19 Commission shall be composed of ten (10) members, with the chairmen of the
20 Committee on Energy of the Senate and the House of Representatives and
21 four additional members from each House, to be designated by the Senate
22 President and the Speaker of the House of Representatives, respectively. The
23 minority shall be entitled to pro rata representation but shall have at least one
24 representative in the Natural Gas Oversight Commission.

25 (a) The Natural Gas Oversight Commission shall, in aid of legislation,
26 perform the following functions, among others:

27 (b) Set the guidelines and overall framework to monitor the proper
28 implementation of this Act;

29 (c) Look into the appropriateness of creating a single independent
30 regulatory body when the conditions prevailing so require;

31 (d) Conduct a periodic review of this Act at least once every three years;

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

- 1 (f) Approve the budget for the programs of the Natural Gas
- 2 (g) Oversight Commission and all disbursements therefrom, including
- 3 compensation of all personnel;
- 4 (h) Submit periodic reports to the President of the Philippines and
- 5 Congress; and
- 6 (i) Perform such other powers and functions as may be necessary to attain
- 7 its objectives.

8 To carry out its powers and functions, the initial sum of Fifteen million

9 pesos (P15,000,000.00) shall be charged against the current appropriations of

10 the Senate. Thereafter, such amount necessary for its continued operation

11 shall be included in the annual General Appropriations Act.

12 The Natural Gas Oversight Commission shall adopt its internal rules of

13 procedure; conduct hearings and receive testimonies, reports and technical

14 advice; invite or summon by subpoena *ad testificandum* any public official,

15 private individual or any other person to testify before it, or require any

16 person by subpoena *duces tecum* to produce before it such records, reports,

17 documents or other materials as it may require; and generally require all the

18 powers necessary to attain the purposes for which it is created. The Natural

19 Gas Oversight Commission shall be assisted by a secretariat to be composed

20 of personnel who may be seconded from the Senate and the House of

21 Representatives and may retain consultants. The secretariat shall be headed

22 by an executive director who has sufficient background and competence on

23 the policies and issues relating to the Downstream Natural Gas Industry

24 reforms as provided in this Act.

25 SEC. 45. *Separability Clause.* - If, for any reason, any provision of this Act is

26 declared unconstitutional or invalid, the other parts or provisions hereof

27 which are not affected thereby shall continue to be in full force and effect.

28 SEC. 46. *Nonretroactivity, Applicability and Repealing Clause.* - The provisions of

29 Republic Act No. 387, otherwise known as the "Petroleum Act of 1949", as

30 amended, Presidential Decree No. 87, Republic Act No. 8997, and all other

31 laws, decrees, executive orders, rules and regulations, circulars and other

32 issuances inconsistent with the provisions of this Act are hereby repealed or

33 modified accordingly.

1 SEC. 47. *Transitory Provision.* - Gas transmission systems and gas distribution
2 systems that have been constructed and have commenced operation prior to
3 the date of effectivity of this Act shall continue to operate under their existing
4 authorities: Provided, That they have complied with existing laws, rules and
5 regulations prior to the effectivity of this Act and have secured a provisional
6 permit from the DOE as provided in Sections 15 and 21 of this Act. Suppliers
7 who have entered into gas sales and purchase contracts with customers and
8 have delivered indigenous or imported natural gas under said contracts prior
9 to the date of effectivity of this Act shall continue to sell natural gas under
10 their existing authorities provided they have complied with existing laws,
11 rules and regulations prior to the effectivity of this Act.

12 Nothing in this Act shall be deemed to revoke or otherwise modify the
13 powers and functions of the Philippine National Oil Company and its
14 subsidiaries under Presidential Decree No. 334, as amended, any existing
15 concession granted under the Petroleum Act of 1949, as amended, certificate
16 of public convenience or certificate of public convenience and necessity
17 granted pursuant to the Public Service Law, as amended, specific franchise for
18 the transmission, distribution or supply of natural gas or other administrative
19 or regulatory permit or contract, which concession, certificate, franchise,
20 permit or contract shall be allowed to its full term but may not be renewed
21 except pursuant to the provisions of this Act.

22 For a period not exceeding five years after the effectivity of this Act, the
23 DOE may issue provisional permits, with a maximum term of two years,
24 renewable twice for a maximum cumulative term not exceeding six years, for
25 the construction, operation and maintenance of pipelines and related facilities
26 for the transmission, distribution and supply of natural gas.

27 SEC. 48. *Effectivity Clause.* - This Act shall take effect on the fifteenth (15th)
28 day following its publication in the Official Gazette and in at least two
29 national newspapers of general circulation.

30 Approved,