

S E N A T E

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S. B. No. 3282  
(In Substitution of S. B. No. 3148)

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Introduced by Senators Juan Ponce Enrile and Gregorio B. Honasan II

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AN ACT

DIRECTING THE REDUCTION OF THE GOVERNMENT SHARE FROM INDIGENOUS ENERGY RESOURCES IN ORDER TO ACHIEVE PARITY OF TAX TREATMENT, LOWER COMMODITY PRICE, REDUCE THE COST OF ELECTRICITY, AND FOR OTHER PURPOSES

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

1 SECTION 1. Title. - This Act shall be known as the "Electricity Rate Reduction Act  
2 of 2009".

3 SEC. 2. Declaration of Policy. - It is hereby declared the policy of the State that, to  
4 the end-users of electricity: (i) the government impositions relating to indigenous sources of  
5 energy shall be effectively at par with or more favorable than analogous impositions on  
6 imported fuels in keeping with the Constitutional precept of preserving the benefits of the  
7 national patrimony to the Filipino people; (ii) the competitiveness of indigenous sources of  
8 energy vis-à-vis imported fuels shall be ensured thereby increasing the country's energy self-  
9 sufficiency; and (iii) the true and lower cost of electricity generated from indigenous sources  
10 of energy shall be reflected in view of the economic goal under the Constitution of  
11 increasing the amount of goods and services produced by the nation for the benefit of the  
12 people and consistent with the elimination of all inter-class cross subsidies as mandated by  
13 Republic Act No. 9136.

14 SEC. 3. Definition of Terms. - As used in this Act:

15 (a) "Department of Energy" or "DOE" refers to the government agency created  
16 pursuant to Republic Act No. 7638;

1 (b) "Energy Regulatory Commission" or "Commission" refers to the independent  
2 quasi-judicial regulatory agency created pursuant to Republic Act No. 9136;

3 (c) "Government Share" refers to the amount due the national government and  
4 local government units in the form of royalty payments by service contractors from the  
5 discovery, exploration, development and/or production of indigenous energy resources  
6 under new and existing service contracts pursuant to relevant laws;

7 (d) "Indigenous energy sources" refers to energy sources including, but not limited  
8 to, natural gas, that are drawn, mined or extracted from and within Philippines territory,  
9 except those that are subject of or covered by Republic Act No. 9513 or the Renewable  
10 Energy Act of 2008;

11 (e) "Marginalized End-users" refers to the low-income, captive, household  
12 electricity consumers who cannot afford to pay at full cost and have levels of electricity  
13 consumption below a threshold level determined by the Commission in accordance with  
14 Republic Act No. 9136; and

15 (f) "Net proceeds" refers to the difference between the gross proceeds derived by  
16 service contractors from the sale of the energy resource and the sum of expenses explicitly  
17 allowed to be recovered under the respective service contracts.

18 SEC. 4. Reduction of Government Share. – With a view to achieving parity of tax  
19 treatment, the Government Share from the net proceeds from the sale of the indigenous  
20 energy resource is hereby reduced from sixty percent (60%) to three percent (3%) over the  
21 remaining life of the respective service contracts. The foregoing shall be remitted by the  
22 service contractor to the national government through the Bureau of Treasury, in accordance  
23 with the time and manner stipulated in their respective service contracts. The 3%  
24 Government Share shall be maintained at the current 60/40 sharing scheme between the  
25 national government and the local government units concerned.

26 Notwithstanding any law to the contrary, the service contractor shall earmark the  
27 fifty seven percent (57%) reduction for commodity price reduction in accordance with the  
28 manner provided in this Act: *Provided*, That the amount to be earmarked shall be net of the  
29 corporate income tax deduction allowed under its service contract.

30 In the specific case of indigenous energy sources that are used for electrical power  
31 generation, the commodity price reduction under the preceding section shall be reflected  
32 and passed on to eligible consumers as a reduction in power generation charges. The  
33 commodity price reduction shall be subject to periodic review by the Commission in order to

1 ensure that such reduction shall be revenue-neutral to the service contractor, the power  
2 generation company and the distribution utility.

3       **SEC. 5. Reduction in Commodity Price.** – The amount contemplated in the second  
4 paragraph of the preceding section shall automatically be applied by the service contractor as  
5 a reduction of its commodity price.

6       In the specific case of indigenous energy resource sold for electrical power generation,  
7 the service contractor shall, upon the effectivity of this Act, reduce its commodity price by  
8 thirty two percent (32%), which amount shall be subject to quarterly review, setting and  
9 reconciliation by the Commission. At any point in time where the amount available for  
10 commodity price reduction exceeds the total funding requirement, such excess amount shall  
11 be remitted to and held by the Department of Energy in a separate account and shall be  
12 earmarked and used by it solely and exclusively for the purpose of lowering power  
13 generation cost.

14       To ensure a faithful implementation of this Act, the DOE shall make a quarterly  
15 review of the production levels and proceeds of sales and recovery costs of the service  
16 contractor in order to see to it that the amount available for commodity price reduction shall  
17 not be impaired. The DOE shall, likewise, submit quarterly reports to the Joint  
18 Congressional Power Commission of the results of its periodic review as herein required.

19       **SEC. 6. Reduction in the Price of Electricity.** – In the exercise of its regulatory  
20 mandate, the Commission shall ensure that consumers benefit from the lower power  
21 generation cost arising from the foregoing commodity price reduction, by verifying that such  
22 lower costs are automatically passed on to the full extent to eligible customers of Distribution  
23 Utilities and also in the case of power generation companies, once the regime of retail  
24 competition and open access is declared and implemented pursuant to Section 31 of Republic  
25 Act No. 9136.

26       For this purpose “Eligible customers” shall comprise of: (a) Marginalized End-users,  
27 actually classified as such by the affected Distribution Utilities, and subject to periodic  
28 review and confirmation by the Commission; and, (b) all other electric consumers with an  
29 average load factor of seventy percent (70%) for each particular month.

30       **SEC. 7. Implementing Rules and Regulations.** – Not later than forty-five (45) days from  
31 the effectivity of this Act, the Commission shall formulate and adopt rules and regulations  
32 consistent with the provisions of this Act to carry out its intent and objective: *Provided*, That the

1 provisions on the utilization of the Government Share for the reduction of the commodity  
2 price of the indigenous energy shall take effect immediately.

3         **SEC. 8. Separability Clause.** –In the event that any provision of this Act is rendered or  
4 declared by a competent court as void or invalid, the other parts of this Act, which are not  
5 affected thereby, shall remain in full force and effect.

6         **SEC. 9. Repealing Clause.** – All laws, decrees, orders, rules and regulations including  
7 Presidential Decree No. 87, or parts thereof, which are inconsistent with any of the  
8 provisions of this Act are hereby repealed, amended or modified accordingly.

9         **SEC. 10. Effectivity Clause** – This Act shall take effect fifteen (15) days after its  
10 publication in the Official Gazette.

11         *Approved,*