

SIXTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
Third Regular Session)



15 OCT -7 P6:05

SENATE
S.B. No. 2988

RECEIVED BY: 

Introduced by: Senator Paolo Benigno "Bam" A. Aquino IV

**AN ACT CREATING THE OFFICE FOR THE PROTECTION OF ELECTRICITY CONSUMERS AND
APPROPRIATING FUNDS THEREFOR AND FOR OTHER PURPOSES**

Explanatory Note

In a growing economy like the Philippines, accessible and inexpensive energy is crucial in the sustained progress of every home and industry. Electricity makes our daily routines possible and ensures our productivity at home, in school and at work. Without it, we will cease to move forward as a nation.

Unfortunately, the Philippines has one of the highest electricity prices in the region, deterring foreign investors and burdening consumers. As we see it as an essential commodity and necessity, energy consumers may have fallen at the mercy of providers.

It is imperative to safeguard the rights of energy consumers and guarantee they are properly represented in proceedings regarding rules and rates in the field of energy.

Thus, the Office for the Protection of Energy Consumers (OPEC) Bill aims to establish an institution with the sole responsibility of vehemently protecting the rights of our energy consumers and ensuring they are properly informed.

It shall act as the default intervenor on behalf of the electricity consumers in any and all petitions and applications affecting the electricity rates to be charged to electricity consumers.

It shall advocate in behalf of the consumers the lowest possible rates, conduct independent reviews of service quality, safety and reliability, and represent consumer interest in energy policy making.

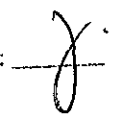
We can hope that, with a collective voice and a resolute body in the form of the Office for the Protection of Energy Consumers, we can push for the improvement in reliability and cost of power in the country.

In view of the foregoing, the approval of the bill is earnestly sought.


Senator Paolo Benigno "Bam" Aquino IV

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

1 **SECTION 1. Short Title.** This Act shall be known as the "Energy Consumer Protection Act".

2 **SECTION 2. Declaration of Principles and Policies.** - It is the policy of the State to protect public
3 interest as it is affected by the rates for electric power and services of electric utilities and other
4 providers of electric power and to establish a strong and purely independent advocate body
5 and system to ensure consumer protection and enhance the competitive operation of the
6 electricity market. There is a need for government to institutionalize electricity consumer
7 protection through the creation of an office or agency to act as the consumers' representative
8 in all petitions and applications of electricity power sectors particularly in the areas of tariff and
9 rate setting and electricity service and performance standards before the Energy Regulatory
10 Commission (ERC) and such other agencies and bodies requiring electricity consumer
11 protection.

12 **SECTION 3. Electricity Consumer Rights.** - It shall be the right of electricity consumers to:

- 13
14 a) be charged only fair and reasonable generation, transmission, supply and distribution
15 rates after an open, transparent and public hearing with the presence of a consumer
16 advocate;
- 17 b) a stable and reliable electric power service operated in accordance with good industry
18 practice and standards of service established after an open, transparent and public
19 hearing with the presence of a consumer advocate; and
- 20 c) appeal or contest any decision or resolution issued by the energy regulatory commission
21 under its adjudicative or rule making powers to the court of appeals or the supreme
22 court in accordance with applicable rules of procedure.
23

24 **SECTION 4. Office for the Protection of Electricity Consumers (OPEC).** - There is hereby
25 created an office for the protection of electricity consumers, hereinafter referred to as OPEC. It
26 shall be organized within sixty (60) days after the effectivity of this Act. It shall be an
27 independent body attached to the Department of Trade and Industry (DTI) for purposes of
28 cognate expertise, available database, special and dedicated manpower services, and ease of
29 transition.

30 **SECTION 5. Composition.** - The OPEC shall be headed by an Executive Director with the rank of
31 an Undersecretary, who shall have the authority to create such positions necessary for the
32 attainment of the purposes of this Act: *Provided*, That there shall be an Electricity Pricing and

1 Rate Design Division and an Electricity Service and Standards Division for the generation,
2 transmission, distribution, and supply sectors.

3 **SECTION 6. Appointments, Tenure, and Qualifications.** – The Executive Director shall be
4 appointed by the President of the Philippines, and shall have a term of six (6) years, unless
5 otherwise removed from office for cause. All other officers shall be selected and appointed by
6 the Executive Director, provided that the Electricity, Pricing, and Rate Design Division, and the
7 Electricity Service and Standards Division shall employ at least one Electrical Engineer, one
8 Certified Public Accountant, one Economist, and one member of the Philippine Bar, all with
9 sufficient experience in the industry.

10 **SECTION 7. Compensation.** – The Executive Director, as well as all officers and employees of
11 the OPEC, shall not be covered by the Salary Standardization Law with respect to the salary cap,
12 but shall comply with the benefits and emoluments, as may be provided by Civil Service laws.

13 **SECTION 8. Powers and Functions.** – The OPEC shall:

- 14 a) Act as the default intervenor and oppositor on behalf of the electricity consumers in any
15 and all petitions and applications affecting the electricity rates to be charged to
16 electricity consumers. The OPEC shall ensure that it complies with the requirements of
17 the rules of practice and procedures of the ERC in entering its appearance as party-
18 intervenor of oppositor;
- 19 b) Advocate in behalf of the consumers, the OPEC shall ensure the lowest possible rates in
20 any and all ERC proceedings involving petitions and applications by all electricity
21 providers for rate recovery, rate fixing, CAPEX applications, or any other filings which
22 will impact on the final retail rate to be charged to the electricity end user;
- 23 c) Conduct an independent technical review of utility petitions and applications for rate
24 revisions to ensure protection of consumer rights to receive services consistent with
25 required levels of service quality, safety and reliability; present findings and expert
26 testimonies in ERC hearings; outside ERC, represent consumer interest in any and all
27 proceedings; and advocate in policy making to increase energy efficiency, system
28 reliability and use of renewable energy in ways that do not unnecessarily burden the
29 end users;
- 30 d) Have the authority to engage the services of consultants and experts in connection
31 with the evaluation and analysis of petitions or applications filed before the ERC and to
32 fix and approve the compensation of these consultants in accordance with industry
33 practice and subject to existing governmental guidelines in the engagement of
34 consultants;
- 35 e) Investigate the service given by, the rates charged by, and the valuation of the
36 properties of, the electricity providers under the jurisdiction of the Commission, and
37 such other matters as affect the interests of the electricity consumers, and to take all
38 the steps necessary for the protection of the interests of the electricity consumers. In
39 connection with any investigation conducted pursuant under the provisions of this Act,
40 the OPEC shall have the power to issue *subpoena ad testificandum* or *subpoena duces*
41 *tecum*;
- 42 f) Institute proceedings before the Energy Regulatory Commission, in behalf of the public,
43 for the purpose of fixing just and reasonable rates or charges by electricity providers,
44 whenever it has reason to believe that the existing rates or charges are unjust and
45 unreasonable or unjustly discriminatory;
- 46 g) Provide reliable and trustworthy information by undertaking extensive research,
47 analysis and validation of rate design and mechanisms; as well as to act as resource
48 persons for decision makers in legislative and oversight committee proceedings;

- 1 h) From time to time, conduct its own public consultations on electric regulatory issues
2 affecting consumers as well as acting as conduit for consumers to present their positions
3 on pending petitions and applications;
4 i) Appeal or contest before higher courts the decisions of the ERC under its quasi-judicial
5 or rule-making power if necessary; and
6 j) Perform such other functions necessary and essential to accomplish its purpose.

7 **SECTION 9. *Funding.*** – There is hereby appropriated the amount of Fifty Million Pesos (Php
8 50,000,000.00) per annum to be taken from the Malampaya Fund, and released by the
9 Department of Budget and Management in accordance with such requirements and
10 procedures, including certification for the availability of funds from the appropriate
11 government agency or authority. The OPEC may request for such additional or supplemental
12 funding from Congress, as may be necessary, to ensure the implementation of the objectives of
13 this Act.

14 **SECTION 10. *Assistance from Other Government Agencies and Instrumentalities.*** – The OPEC
15 is authorized to call upon and obtain such assistance as it may deem necessary in the
16 performance of its duties from any officer or employee of any department, bureau, office,
17 agency, or instrumentality of the government, including corporations owned, controlled or
18 operated by the government. In this regard, all government agencies and instrumentalities,
19 upon written request of the OPEC, shall provide any and all assistance as well as any and all
20 necessary information to enable the OPEC to perform its functions and responsibilities provided
21 in this Act.

22 **SECTION 11. *Authority to Appeal or File Petitions for Review.*** – The OPEC shall have the
23 authority to appear, participate, appeal and contest rate and rule-making decisions or
24 resolutions of the ERC in accordance with the provisions of the rules of court and applicable
25 laws.

26 **SECTION 12. *Implementing Rules and Regulations.*** - Within one hundred eighty (180) days
27 from the effectivity of this Act, the OPEC, in consultation with other relevant government
28 agencies, shall promulgate the necessary implementing rules and regulations for the
29 implementation of this Act.

30 **SECTION 13. *Separability Clause.*** – If any provision of this Act is declared unconstitutional, the
31 same shall not affect the validity and effectivity of the other provisions hereof.

32 **SECTION 14. *Repealing Clause.*** – All laws, executive orders, presidential decrees, presidential
33 proclamations, rules and regulations or parts thereof inconsistent with the provisions of this Act
34 are hereby repealed or modified accordingly.

35 **SECTION 15. *Effectivity Clause.*** – This Act shall take effect fifteen (15) days from its publication
36 in the Official Gazette or any two (2) national newspapers of general circulation.

Approved.