

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

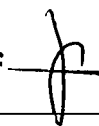


Senate  
Office of the Secretary

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SENATE

S. B. No. 762

RECEIVED BY: 

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Introduced by Senator FRANCIS G. ESCUDERO

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AN ACT AMENDING  
SECTION 47 OF REPUBLIC ACT NO. 9136, OTHERWISE KNOWN AS  
THE ELECTRIC POWER INDUSTRY REFORM ACT

EXPLANATORY NOTE

Republic Act 9136, otherwise known as the Electric Power Industry Reform Act (EPIRA) realized the liberalization and privatization of the power industry to promote greater competition and efficiency in the sector. It was hoped that the reformed business environment shall result in better service thru improved delivery of supply and lower power rates for the consumer.

However, in more than a decade after the law's enactment, higher electricity rates (estimated as one of the highest in Asia) and power outages, especially in Mindanao, have become a burden. It is apparent that the EPIRA was not able to provide the promised reform to ensure long term security of power supply and the benefits of liberalization such as lower prices.

EPIRA was intended to be the solution to the country's electricity problems. Instead, it has caused the government to lose control of the power industry, allowing private businesses to raise power rates with impunity.


Unless the EPIRA is amended, it will be difficult - if at all possible - to maintain control of the power industry to the government in order to temper the profit-oriented practices in the power industry.

FRANCIS G. ESCUDERO

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SENATE

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SECTION 47 OF REPUBLIC ACT NO. 9136, OTHERWISE KNOWN AS  
THE ELECTRIC POWER INDUSTRY REFORM ACT

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

1 SECTION. 1. Section 47 of Republic Act No. 9136, otherwise known as the  
2 Electric Power Industry Reform Act of 2001, is hereby amended to read as follows:  
3

4 "SEC. 47. NPC Privatization. -

5 "(a) xxx

6 "(b) xxx

7 "xxx

8 "(c) xxx

9 "(d) All **REMAINING** assets of NPC shall be [sold in an open and  
10 transparent manner through public bidding, and the same shall apply to  
11 the disposition of IPP contracts] **RETAINED BY THE NATIONAL**  
12 **GOVERNMENT**;

13 "(e) In cases of transfer of possession, control, operation or privatization of  
14 multi-purpose hydro facilities, safeguards shall be prescribed to ensure  
15 that the national government [may] **IS ALWAYS EMPOWERED TO**  
16 direct water usage **IN ALL CASES IT MAY DEEM APPROPRIATE TO**  
17 **SATISFY ALL WATER** [in cases of shortage to protect potable water,  
18 irrigation, and all other] requirements imbued with public interest;

19 "(f) The Agus and the Pulangui complexes in Mindanao shall be excluded  
20 from among the generation companies that will be [initially] privatized.  
21 [Their ownership shall be transferred to the PSALM Corp. and both shall  
22 continue to be operated by the NPC. Said complexes may be privatized  
23 not earlier than ten (10) years from the effectivity of this Act, and except  
24 for Agus III, shall not be subject to Build-Operate-Transfer (B-O-T), Build-  
25 Rehabilitate-Operate-Transfer (B-R-O-T) and other variations thereof

1 pursuant to Republic Act No. 6957, as amended by Republic Act No. 7718.  
2 The privatization of Agus and Pulangui complexes shall be left to the  
3 discretion of PSALM Corp. in consultation with Congress];

4 **“(g) THE STATE SHALL ENDEAVOR TO DEVELOP THE**  
5 **GEOHERMAL RESOURCES OF THE COUNTRY AND BUILD NEW**  
6 **GEOHERMAL PLANTS.** The steamfield assets and generating plants of  
7 each EXISTING geothermal complex shall not be **PRIVATIZED** [sold  
8 separately. They shall be combined and each geothermal complex shall be  
9 sold as one package through public bidding]. The geothermal complexes  
10 covered by this requirement include, but are not limited to, Tiwi-Makban,  
11 Leyte A and B (Tongonan), Palinpinon, and Mt. Apo;

12 xxx.”

13  
14 SEC. 2. Repealing Clause. - All laws, decrees, executive orders and rules  
15 and regulations inconsistent with the provisions of this Act are hereby repealed and  
16 modified accordingly.

17  
18 SEC. 3. Separability Clause. - If any provision of this Act is subsequently  
19 declared unconstitutional, the validity of the remaining provisions hereof shall remain  
20 in full force and effect.

21  
22 SEC. 4. This Act shall take effect fifteen (15) days after its complete  
23 publication in the Official Gazette or in at least two (2) national newspaper of general  
24 circulation, whichever comes first.

25  
26 *Approved,*