



Senate

Office of the Secretary

SEVENTEENTH CONGRESS OF THE
REPUBLIC OF THE PHILIPPINES
FIRST REGULAR SESSION

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SENATE

RECEIVED BY: _____

Senate Bill No. 1303

Introduced by Sen. Win Gatchalian

**AN ACT
PROVIDING A FINANCIAL BENEFIT TO HOST COMMUNITIES
OF ENERGY GENERATING FACILITIES**

EXPLANATORY NOTE

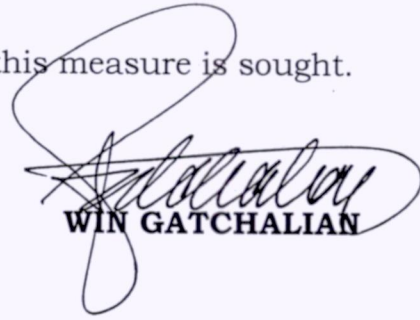
The Department of Energy was empowered to devise ways to give direct benefits to host communities of energy resources and energy generating facilities through Republic Act No. 7638. Energy Regulations (ER) 1-94 implemented the said law and provided both financial and non-financial benefits. The financial benefit to host communities of energy generating facilities is Php 0.01 per kWh of total electricity sales. It is used for electrification, development and livelihood, and reforestation, watershed, health and/or environment.

An assessment of ER 1-94 two decades after its implementation shows areas for improvement. *First*, local governments have to wait for the fund to accumulate to pursue projects that will redound to the benefit of consumers; *Second*, communities experience delay in receiving goods and services arising from the benefit due to lengthy procedural policy; *Third and last*, the monetary amount indicated failed to take into account inflation.

This bill seeks to improve ER 1-94 by (1) using the financial benefit as an electricity bill subsidy; (2) streamlining the process such that the power producers directly give the benefit to the distribution utilities which will then apply the subsidy; and (3) adjusting the monetary amount to its current value and indexing it to the Consumer Price Index. All these ensures that communities speedily experience

the benefits arising from hosting energy generating facilities in their areas.

As such, the immediate passage of this measure is sought.




WIN GATCHALIAN



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S.B. No. 1303

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AN ACT
PROVIDING A FINANCIAL BENEFIT TO HOST COMMUNITIES
OF ENERGY GENERATING FACILITIES

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

CHAPTER I
GENERAL PROVISIONS

1 SECTION 1. Title. – This Act shall be known as the “Benefits to Host
2 Communities Act of 2016.”

3
4 SECTION 2. Declaration of Policy. – It is hereby declared the policy of the
5 State to recognize the contribution made by pertinent local government units
6 (LGUs) in hosting, within their respective territorial jurisdiction, Energy
7 Generating Facilities through which the rest of the country is energized.

1 Further, it is also a policy of the State to promote harmony and cooperation
2 among the host LGUs and the power producers whereby the host LGUs are
3 provided with benefits under a coordinated and participative process while
4 power producers are accorded community and LGU support.

5

6 **SECTION 3. Scope.** – This Act shall apply to all Energy Generating Facilities,
7 except those expressly mentioned under Section 7 of this Act, located in all
8 municipalities, cities and provinces, except those falling within Metropolitan
9 Manila, Metropolitan Cebu, Metropolitan Davao, and other highly urbanized
10 cities as defined under Section 452 of Republic Act 7160 or the Local
11 Government Code of 1991.

12

13 **SECTION 4. Definition of Terms.** – As used in this Act, the following words
14 or terms shall have the following meaning, unless provided otherwise:

- 15 a) City – refers to the LGU defined in Republic Act No. 7610 or the
16 Local Government Code of 1991;
- 17 b) Department of Energy (DOE) – refers to the government agency
18 created pursuant to Republic Act. No. 7638;
- 19 c) Distribution Utility – refers to an electric cooperative, a private
20 corporation, a government-owned utility, or an existing LGU,
21 that has an exclusive franchise to operate a distribution system;
- 22 d) Electricity Sales – refer to the sales proceeds derived by the
23 power producer from the actual generation of the energy
24 generating facility net of station own use and losses;
- 25 e) Energy Generating Facility – refers to any power plant
26 constructed or operated to supply electricity;

- 1 f) Host Communities – refers to host cities, host municipalities,
2 and host provinces where the Energy Generating Facility is
3 located as determined under Section 6 of this Act;
4 g) Municipality - refers to the LGU defined in Republic Act No.
5 7610 or the Local Government Code of 1991.
6 h) Power Producer – refers to any person, natural or juridical, who
7 is engaged in the construction and/or operation of an Energy
8 Generating Facility; and
9 i) Province – refers to the LGU defined in Republic Act No. 7610 or
10 the Local Government Code of 1991.
11

12 **CHAPTER II**
13 **FINANCIAL BENEFIT TO HOST COMMUNITES**
14

15 **SECTION 5. Financial Benefit.** – Host Communities of Energy Generating
16 Facilities shall only enjoy a financial benefit of Php 0.0269 per kilowatt-hour of
17 an Energy Generating Facility’s total Electricity Sales. This financial benefit
18 shall be applied exclusively to subsidize the electricity bill of the Host
19 Communities. The manner of application shall be determined by the
20 Department of Energy (DOE): *Provided*, That fifty percent (50%) shall be allotted
21 for the Host Municipality or Host City, and fifty percent (50%) shall be allotted
22 for the Host Province.

23 Every three (3) years after the implementation of this Act, the DOE shall
24 adjust the amount to its present value using the consumer price index
25 published by the Philippine Statistical Authority.
26

27 **SECTION 6. Recipients.** – The recipients of the financial benefit shall be:

- 1 a) In case of power barges, the Host Municipality/City and Host Province is
2 that where the power barge is moored;
- 3 b) The Host Municipality/City and Host Province is that where the Energy
4 Generating Facility is physically located.
- 5

6 **SECTION 7. Exemptions.** – The following Energy Generating Facilities shall
7 be exempted from providing the financial benefit required under this Act:

- 8 a) An Energy Generating Facility with an aggregate installed capacity or
9 operating generating capacity that is less than ten (10) megawatts (MW);
- 10 b) An Energy Generating Facility located in a special economic zone which
11 sells or exports less than ten (10) MW of its surplus power output outside
12 of the special economic zone where it is located;
- 13 c) An Energy Generating Facility for the exclusive internal use of the owner;
14 and
- 15 d) An on-going energy generating project with a negotiated benefits package
16 which is better than or at least substantially equal to the benefits
17 provided hereunder, as determined and certified by the DOE.

18 In any case of two or more proximate Energy Generating Facilities
19 owned or operated directly or indirectly by the same person or entity, each of
20 which was split to meet the criteria for exemption under Section 7 (a) and (b),
21 the DOE Secretary shall consider said facilities as one.

22

23 **SECTION 8. Financial Benefit Administrator.** – The financial benefit
24 from the total Electricity Sales of Energy Generating Facilities shall be
25 administered and held in trust by each Power Producer acting individually as
26 financial benefit administrators for the recipients.

27

1 **SECTION 9. Responsibilities of the Financial Benefit Administrator.**

2 – The duties and responsibilities of a Power Producer acting as a financial
3 benefit administrator shall include the following:

- 4 a) Open, keep, and maintain a separate account for the financial benefit
5 fund which shall not be co-mingled with its general fund;
- 6 b) Deposit the financial benefit fund in interest bearing accounts;
- 7 c) Directly disburse the fund to Distribution Utilities as a subsidy in the
8 electricity bill of the Host Communities, following the manner prescribed
9 by the DOE;
- 10 d) Maintain complete and comprehensive records of its monthly total
11 electricity sales, total amount of the financial benefit fund held in trust,
12 total amount disbursed from the financial benefit fund, the
13 corresponding Distribution Utilities to whom the fund was disbursed to,
14 and other information required by DOE;
- 15 e) Submit to DOE every six (6) months a detailed statement of the status
16 and use of the fund as well as other information required;
- 17 f) Allow duly authorized representatives of the DOE full access to its
18 accounts, books, and records; and
- 19 g) Post a bond, should it be required by DOE, in an amount to be
20 determined by the same government agency.

21

22 **SECTION 10. Responsibilities of Concerned Distribution Utilities. –**
23 Concerned Distribution Utilities are those whose franchise area includes Host
24 Communities. These concerned Distribution Utilities shall:

- 25 a) Provide DOE and Power Producers with a list of Host Communities
26 within its franchise area as well as other information required;
- 27 b) Apply as a subsidy to the electricity bill of Host Communities, in the
28 manner prescribed by DOE, the amount directly received from the
29 Power Producers;

- 1 c) Maintain complete and comprehensive records of the total amount
2 received from the Power Producers, the list of Host Communities who
3 benefited from the subsidy to the electricity bill, the amount of the
4 subsidy, and other information required by DOE;
- 5 d) Submit to DOE every six (6) months a detailed statement of the amount
6 and use of the subsidy as well as other information required; and
- 7 e) Allow duly authorized representatives of the DOE full access to its
8 accounts, books, and records.

9

10 **SECTION 11. Review and Audit.** – Every six (6) months, each Power
11 Producer shall submit to the DOE a detailed statement of the sources and use
12 of the Financial Benefit given to Host Communities.

13 With respect to said funds, the DOE shall have the right to inspect,
14 review, and audit the books of accounts of the Power Producers and the
15 Distribution Utilities to ascertain and ensure compliance with this Act,
16 particularly that the funds had been and are being expended in accordance
17 herewith. Should the DOE determine that the funds are not being spent by the
18 Power Producers and Distribution Utilities in accordance with this Act, the
19 DOE may assign the funds to another entity to enable the fund purpose to be
20 duly accomplished.

21

22 **SECTION 12. Implementation and Enforcement Measures.** – The DOE
23 shall take all necessary reasonable measures to ensure the proper enforcement
24 of this Act, which shall not be limited to those specified under this Section.

25 In the event of violation or non-compliance of the Power Producer and/or
26 the Distribution Utility with the provisions of this Act, the DOE, upon prior
27 notice and hearing and without prejudice to civil and criminal cases, shall
28 impose a penalty twice the amount of the financial benefit not disbursed by the

1 Power Producer to the Distribution Utility, and/or not applied by the
2 Distribution Utility as a subsidy: *Provided*, That in the case of willful violation
3 of or willful failure to comply with this Act, the DOE may, without prior notice
4 and hearing, but after proper investigation or verification, *motu proprio*, or upon
5 verified complaint by an aggrieved party, proceed with the penalty stated in this
6 Act.

7
8 **CHAPTER IV**
9 **GENERAL PROVISIONS**
10

11 **SECTION 13. Implementing Rules and Regulations.** – Within fifteen
12 (15) days from the effectivity of this Act, the DOE, in consultation with the
13 stakeholders, shall formulate the rules and regulations necessary to implement
14 the provisions of this Act.

15
16 **SECTION 14. Transition Period.** – All existing funds considered as
17 benefits to Host Communities, except those expressly provided for by law, shall
18 be kept in trust by the Power Producer pending the issuance of the
19 implementing rules and regulations of this Act by the DOE. Interest earned
20 during the transition period shall be for the benefit of the trust.

21
22 **SECTION 15. Separability Clause.** – If for any reason, any provision of
23 this Act is declared unconstitutional or invalid, the other parts or provisions
24 hereof which are not affected thereby shall continue to be in full force and in
25 effect.

1 SECTION 16. Repealing Clause. – The obligations of Power Producers to
2 Host Communities under Section 5(i) of Republic Act No. 7638 and its
3 implementing rules and regulations, applicable orders, and circulars are
4 hereby amended. Furthermore, all other laws, decrees, orders, rules and
5 regulations or parts thereof which are inconsistent with or contrary to the
6 provisions of this Act are hereby repealed, amended, or modified accordingly.

7

8 SECTION 17. Effectivity. – This Act shall take effect fifteen (15) days after
9 its publication in at least two (2) national newspapers of general circulation.

Approved.