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Prepared and submitted jointly by the Committees on Energy; Public Services
and Ways and Means, with **Senators Pacquiao, Gatchalian and Ejercito**, as
authors thereof

**AN ACT REDUCING THE CAP OF RECOVERABLE SYSTEM LOSS RATE AND
FOR OTHER PURPOSES**

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

1 **SECTION 1. Title.** – This Act shall be known as the “Recoverable System Loss
2 Act”.

3
4 **SECTION 2. Declaration of Policy.** – It is hereby declared the policy of the State
5 to ensure the quality, reliability, security, and affordability of supply of electric
6 power while taking into consideration the viability of all distribution utilities and
7 the protection of rights of every consumer. Towards this end, the State shall
8 ensure that the imposition of electricity charges to the public is justifiable,
9 equitable, and reflects the true cost of electricity.

10
11 **SECTION 3. Definition of Terms.** – For purposes of this Act, the following terms
12 shall be defined as stated below: *Provided*, That other terms used in this Act but
13 not defined herein shall be understood to mean the way they are defined in
14 Republic Act No. 9136 or the Electric Power Industry Reform Act of 2001 and its
15 Implementing Rules and Regulations:

16
17 a) **Distribution Utility** (DU) refers to any electric cooperative, private
18 distribution utility, or government-owned or existing local government
19 unit-owned utility, which has a franchise to operate a distribution system
20 including those whose franchise covers economic zones;

21

- 1 b) **Electric Cooperative** (EC) refers to a distribution utility organized
2 pursuant to Presidential Decree No. 269, as amended, or as otherwise
3 provided in Republic Act No. 9136 otherwise known as the “Electric
4 Power Industry Reform Act of 2001”;
5
- 6 c) **Department of Energy** (DOE) refers to the government agency created
7 pursuant to Republic Act No. 7638 otherwise known as the “Department
8 of Energy Act of 1992” whose expanded functions are provided in
9 Republic Act No. 9136 otherwise known as the “Electric Power Industry
10 Reform Act of 2001”;
11
- 12 d) **Energy Regulatory Commission** (ERC) refers to the regulatory body
13 created pursuant to Republic Act No. 9136 otherwise known as the
14 “Electric Power Industry Reform Act of 2001”;
15
- 16 e) **Energy Input** refers to the energy, in kilowatt hour (kWh), delivered into
17 the distribution system by the transmission system, embedded
18 generating plants, other distribution systems, and user systems with
19 generating facilities;
20
- 21 f) **Energy Output** refers to the energy, in kWh, delivered by the DU to its
22 customers’ metering point, including energy for the DU’s own use, and
23 energy sold by retail suppliers to their contestable customers that are
24 connected to the said DU;
25
- 26 g) **National Electrification Administration** (NEA) refers to government
27 agency created under Presidential Decree No. 269, as amended by
28 Republic Act No. 10531 or the “National Electrification Administration
29 Reform Act of 2013”, and whose additional mandates are further set in
30 Republic Act No. 9136 otherwise known as the “Electric Power Industry
31 Reform Act of 2001”
32
- 33 h) **National Power Corporation** (NPC) refers to the government corporation
34 created under Republic Act No. 9136 otherwise known as the “Electric
35 Power Industry Reform Act of 2001”;
36

1 i) **Non-Technical Losses** refer to the component of System Loss that is not
2 related to the physical characteristics and functions of the electrical
3 system, and is caused primarily by human action, whether intentional or
4 not. Non-Technical Loss includes but shall not be limited to the energy
5 lost due to pilferage, tampering of meters, and erroneous meter reading.
6 It shall be calculated in accordance with Section 7 of this Act;

7
8 j) **Private Distribution Utility** (PDU) refers to a distribution utility
9 organized as a private corporation which has a franchise to operate a
10 distribution system including those whose franchise covers economic
11 zones: *Provided*, That for purposes of this Act, government-owned and
12 local government owned utilities as well as those operating within
13 economic zones shall be classified as PDUs;

14
15 k) **Small Power Utilities Group** (SPUG) refers to the functional unit of the
16 NPC created to pursue missionary electrification function;

17
18 l) **System Loss** refers to the difference between the electric energy
19 delivered to the distribution system (Energy Input) and the energy
20 delivered to the end-users and other entities connected to the system
21 (Energy Output): *Provided*, That it shall be calculated in accordance with
22 Section 5 of this Act;

23
24 m) **Technical Losses** refer to the component of System Loss that is inherent
25 in the physical delivery of electric energy. It includes conductor loss,
26 transformer core loss, and metering equipment. It shall be calculated in
27 accordance with Section 6 of this Act;

28
29 **SECTION 4. Recoverable System Loss Rate.** – For purposes of recoverable
30 Systems Loss rate, the following System Loss caps are set:

- 31 a) For PDUs, a maximum of five percent (5%); and
32 b) For ECs, a maximum of ten percent (10%).

33 The ERC shall determine, every three (3) years, whether the caps shall be
34 reduced further on the basis of load density, sales mix, cost of service, delivery
35 voltage, and other technical considerations, as well as international
36 benchmarks, taking into account the viability of PDUs and ECs and the
37 interest of the consumers: *Provided*, That the ERC shall establish a timeframe

1 for the compliance of all the DUs with the System Loss rate caps: *Provided*
2 *further*, That such timeframe for compliance shall coincide with the next
3 regulatory period of PDUs and ECs: *Provided finally*, That for ECs operating in
4 SPUG areas, such timeframe shall concur with their rate filing.

5
6 **SECTION 5. Systems Loss Calculation.** – For purposes of calculating the
7 System Loss as defined in this Act and for any regulation in relation thereto,
8 the following formula for System Loss shall be followed or as determined by the
9 ERC:

$$\text{System Loss, \%} = \frac{(\text{Input Energies} - \text{Output Energies}) \times 100\%}{\text{Input Energies}}$$

12
13 **SECTION 6. Technical Loss Calculation.** – The Technical Loss shall be
14 calculated using the following formula or as determined by the ERC:

$$\text{Technical Loss} = \text{Feeder Technical Loss} + (\text{Sub-transmission Line Loss} + \text{Substation Technical Loss})$$

17 *Provided*, That the Technical Loss shall be calculated using the following
18 method or as determined by the ERC:

- 19 a) By conducting a power flow simulation to segregate the various
20 components of the Technical Loss using a reliable software application
21 acceptable to the ERC; and
22 b) By using the Coefficient and Network Parameters as well as the Sub-
23 transmission and Substation losses.

24
25 **SECTION 7. Non-Technical Loss Calculation.** – The Non-Technical Loss
26 shall be calculated using the following formula or as determined by the ERC:

$$\text{Non-Technical Loss} = \text{Total System Loss} - \text{Technical Loss}$$

28
29 **SECTION 8. Annual Review of System Loss Charges.** – DUs shall quarterly
30 submit to the ERC a sworn statement containing their segregated System
31 Losses indicating their Technical and Non-Technical Losses, and all documents
32 pertinent to System Loss Charges. The ERC shall annually review and strictly
33 verify the System Loss Charges to ensure that only allowable costs within the
34 System Loss caps are recovered. Failure to comply with this Section shall
35 subject the DUs to administrative penalties, including but not limited to
36 suspension or revocation of licenses or permits to operate, to be determined by
37 the ERC.

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SECTION 9. Performance Incentive Scheme (PIS). – The ERC shall devise a Performance Incentive Scheme for DUs to encourage System Loss reduction in furtherance of the objectives stated in this Act.

SECTION 10. Individualized System Loss Cap. – A DU, in exceptional circumstances, may be allowed to use an an individualized System Loss cap: *Provided*, That the details and procedures on the individualized System Loss cap such as but not limited to rules and guidelines to qualify for its use, the method for determination of the cap, and the data requirements to be submitted shall be determined by the ERC: *Provided further*, That in determining the reasonable level of an individualized System Loss cap, a cost and benefit analysis must be provided and analyzed from the viewpoint of the consumer: *Provided finally*, That the no individualized System Loss cap shall be higher than the existing System Loss cap at the time of the effectivity of this Act.

SECTION 11. Timeline on Individualized System Loss Cap. – The ERC shall issue a final decision on a DU’s application for the use of an individualized System Loss cap within one hundred and twenty calendar days (120) from submission of such application: *Provided*, That failure of ERC to comply with the time stated herein shall subject the persons concerned to the administrative penalties stated in Section 12 of this Act.

SECTION 12. Administrative Offenses and Penalties. – The following acts shall be considered administrative offenses:

- a) Failure to discharge the responsibilities stated in Sections 4, 8, 9, 10, and 11 of this Act; and
- b) Failure to comply with the mandated timeframes in Sections 4, 8, and 11 of this Act.

Any person found guilty of the offenses mentioned above shall be penalized as follows:

- a) First offense – Thirty days suspension without pay and mandatory attendance in Values Orientation Program;
- b) Second offense – Six (6) months suspension without pay; and

1 c) Third offense – Dismissal that shall carry with it perpetual
2 disqualification from holding public office, and forfeiture of retirement
3 benefits.

4
5 **SECTION 13. Implementing Rules and Regulations.** – Within ninety (90)
6 days from the effectivity of this Act, the ERC, in coordination with the
7 Department of Energy and the National Electrification Administration and in
8 consultation with stakeholders, shall promulgate the necessary rules and
9 regulations to implement the provisions of this Act.

10
11 **SECTION 14. Separability Clause.** – If, for any reason, any provision of this
12 Act is declared to be unconstitutional or invalid, the other sections or
13 provisions hereof which are not affected thereby shall continue to be in full
14 force or effect.

15
16 **SECTION 15. Repealing Clause.** – All other laws, decrees, orders, rules and
17 regulations or parts thereof which are inconsistent with or contrary to the
18 provisions of this Act are hereby repealed, amended or modified accordingly.

19
20 **SECTION 16. Effectivity.** – This Act shall take effect fifteen (15) days after its
21 publication in at least two (2) national newspapers of general circulation.

Approved,