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SENATE

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COMMITTEE REPORT NO. 301

Submitted jointly by the Committees on Public Services; on Economic Affairs; and on Finance
on MAR 19 2018.

Re: Senate Bill no. 1754

Recommending its approval in substitution of Senate Bill No. 695, 1261, 1291, 1441, 1594
taking into consideration House Bill No. 5828.

Sponsor: Senator Grace Poe

MR. PRESIDENT:

The Committees on Public Services; Finance; and Economic Affairs to which were
referred Senate Bill 695, introduced by Senator Paolo Benigno "Bam" Aquino IV and Senator
Joel Villanueva entitled:

**"AN ACT
AMENDING SECTION 13(B) OF COMMONWEALTH ACT NO. 146,
AS AMENDED AND FOR OTHER PURPOSES"**

Senate Bill No. 1261, introduced by Senator Richard J. Gordon entitled"

**"AN ACT
FURTHER AMENDING COMMONWEALTH ACT NO. 146
OR THE PUBLIC SERVICE ACT, AS AMENDED"**

Senate Bill No. 1291, introduced by Senator Juan Miguel F. Zubiri entitled:

**"AN ACT
FURTHER AMENDING COMMONWEALTH ACT NO. 146
OTHERWISE KNOWN AS THE PUBLIC SERVICE ACT, AS AMENDED"**

Senate Bill No. 1441, introduced by Senator Poe, entitled:

**"AN ACT
FURTHER AMENDING COMMONWEALTH ACT NO. 146
OR THE PUBLIC SERVICE ACT, AS AMENDED"**

Senate Bill No. 1594, introduced by Senator Win Gatchalian entitled:

**“AN ACT
PROVIDING FOR THE DEFINITION OF PUBLIC UTILITY, FURTHER AMENDING FOR
THE PURPOSE COMMONWEALTH ACT NO. 146, OTHERWISE
KNOWN AS THE ‘PUBLIC SERVICE ACT’, AS AMENDED”**

taking into consideration House Bill No. 5828, introduced by Representatives. Macapagal-Arroyo, Salceda, Yap, Belmonte, et. al. entitled:

**“AN ACT
PROVIDING FOR THE DEFINITION OF PUBLIC UTILITY,
FURTHER AMENDING FOR THE PURPOSE COMMONWEALTH ACT NO. 146,
OTHERWISE KNOWN AS THE ‘PUBLIC SERVICE ACT”**

have considered the same and have the honor to report them back to the Senate with the recommendation that the attached Senate Bill No. 1754, prepared by the Committees entitled:

**“AN ACT
AMENDING COMMONWEALTH ACT NO. 146, OTHERWISE
KNOWN AS THE PUBLIC SERVICE ACT, AS AMENDED,
AND FOR OTHER PURPOSES”**

be approved in substitution of Senate Bill No. 695, 1261, 1291, 1441, 1594 taking into consideration House Bill No. 5828, with Senators Aquino, Villanueva, Gordon, Zubiri, Poe, Gatchalian and Legarda, as authors thereof.

RESPECTFULLY SUBMITTED:



GRACE POE
Chairperson
Committee on Public Services
Member, Committee on Finance



LOREN B. LEGARDA
Chairperson
Committee on Finance
Member, Committee on Public Services



WIN GATCHALIAN
Chairperson
Committee on Economic Affairs
Member, Committee on Finance

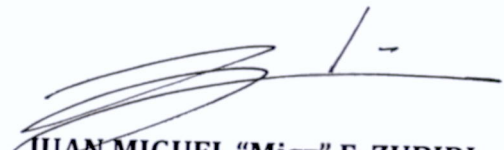
VICE-CHAIRPERSONS



JOSEPH VICTOR G. EJERCITO
Vice-Chairperson
Committee on Public Services; and Finance
Member, Committee on Economic Affairs



FRANCIS "Chiz" G. ESCUDERO
Vice-Chairperson
Committee on Public Services
Member, Committees on Finance; and
Economic Affairs



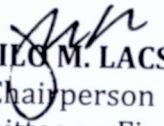
JUAN MIGUEL "Migz" F. ZUBIRI
Vice-Chairperson
Committee on Economic Affairs
Member, Committees on Finance; and
Public Services



JOEL VILLANUEVA
Vice-Chairperson
Committee on Economic Affairs
Member, Committee on Public Services;
and Finance



CYNTHIA A. VILLAR
Vice Chairperson
Committee on Finance



PANFILO M. LACSON
Vice-Chairperson
Committee on Finance
Member, Committee on Public Services



PAOLO BENIGNO "Bam" AQUINO IV
Vice-Chairperson
Committee on Finance
Member, Committee on Public Services



SONNY ANGARA
Vice-Chairperson
Committee on Finance

MEMBERS:

will interpellate & propose amendments.
RISA HONTIVEROS
Committees on Finance; and
Public Services

ANTONIO "Sonny" F. TRILLANES IV
Committees on Finance; Public Services;
and Economic Affairs

RICHARD J. GORDON
Committees on Finance; Public Services
and Economic Affairs

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MARIA LOURDES NANCY S. BINAY
Committees on Economic Affairs; and
Finaance

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GREGORIO B. HONASAN
Committee on Finance

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FRANCIS "Kiko" PANGILINAN
Committees on Economic Affairs; and
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Ex-Officio Members:

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RALPH G. RECTO
Senate President Pro-Tempore

[Signature]
VICENTE C. SOTTO III
Majority Floor Leader

[Signature]
FRANKLIN M. DRILON
Minority Floor Leader

HON. AQUILINO "Koko" PIMENTEL III
President
Senate of the Philippines

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



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SENATE

S. No. 1754

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Prepared jointly by the Committees on Public Services; Economic Affairs; and Finance with Senators Paolo Benigno "Bam" Aquino IV, Joel Villaneva Richard J. Gordon, Juan Miguel "Migz" Zubiri, Grace Poe, Win Gatchalian, and Loren Legarda as authors thereof.

AN ACT AMENDING COMMONWEALTH ACT NO.146, OTHERWISE KNOWN AS THE PUBLIC SERVICE ACT, AS AMENDED, AND FOR OTHER PURPOSES

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

1 Section 1. *Short Title* – This Act shall be known as "The New Public Service
2 *Law of the Philippines.*"

3 Sec. 2. *Declaration of Policy* – It is a Constitutionally enshrined policy of the
4 State to promote a just and dynamic social order that will free the people from
5 poverty through measures that promote an improved quality of life for all.

6 The State recognizes that public utilities are necessary to the public and are
7 natural monopolies that must be regulated as required by public interest. It is the
8 policy of the State to ensure that the consuming public's satisfaction and quality of
9 life shall be the yardsticks for an effective regulation of public utility providers
10 without compromising the reasonable rate of return of the latter. It is likewise the
11 policy of the State to encourage private enterprise and provide incentives for needed
12 investments.

13 The above policies are fulfilled by ensuring: (a) effective regulation of public
14 utilities and public services; (b) a reasonable rate of return to public utilities and
15 public services; and (c) the lifting of foreign equity restrictions by clearly defining
16 what are considered to be public utilities.

17

1 Sec. 3. – *Definition of Terms.* – For the purposes of this Act, the terms below
2 shall be defined as follows:

3 a. *Cost-of-Living Adjustment* - refers to the percentage by
4 which the Philippine Statistics Authority (PSA) Consumer Price Index
5 for the month of June of the calendar year preceding the adjustment
6 exceeds the PSA Consumer Price Index for the month of June of the
7 calendar year in which the maximum amount of the fine was last set
8 or adjusted pursuant to law;

9 b. *Disgorgement of Profits* - refers to the giving up or
10 recapturing of profits traceable to a certain transaction or wrongdoing
11 upon demand or by legal compulsion;

12 c. *Distribution of Electricity* - refers to the conveyance of
13 electric power by a distribution utility through its distribution system
14 pursuant to the provisions of RA 9136, pursuant to Section 4 (n) of
15 said law;

16 d. *Transmission of Electricity* - refers to the conveyance of
17 electricity through the high voltage backbone system, pursuant to
18 Section 4 (ccc) of RA 9136;

19 e. *Treble Damages* - refers to an additional sum, depending
20 on the discretion of the agency or court involved, which is thrice the
21 amount of the monetary award granted; and

22 f. *Water Works and Sewerage Systems* - refers to the
23 entire water systems to ensure an uninterrupted and adequate supply
24 and distribution of portable water for domestic and other purposes and
25 the proper operation and maintenance of sewerage systems as defined
26 and referred to in RA 6234, as amended, and PD 198, as amended.

27 Sec. 4. – *Recognition of Previous Transfer of Jurisdiction to Various*
28 *Administrative Agencies.* – Since the enactment of Commonwealth Act No. 146, the
29 jurisdiction over several public services had been transferred to various
30 administrative agencies such as, but not limited to, the following:

31 a. Department of Transportation (DOTr);

32 b. Land Transportation Franchising Regulatory Board (LTFRB);

- 1 c. Land Transportation Office (LTO);
- 2 d. Civil Aeronautics Board (CAB);
- 3 e. Civil Aviation Authority of the Philippines (CAAP);
- 4 f. Philippine Ports Authority (PPA);
- 5 g. Maritime Industry Authority (MARINA);
- 6 h. Philippine Coast Guard;
- 7 i. Department of Information and Communications Technology (DICT);
- 8 j. National Telecommunications Commission (NTC);
- 9 k. Department of Energy (DOE);
- 10 l. Energy Regulatory Commission (ERC);
- 11 m. Department of Environment and Natural Resources (DENR);
- 12 n. League of Cities;
- 13 o. National Water Resources Board;
- 14 p. Local Water Utilities Administration;
- 15 q. Philippine Competition Commission (PCC).

16 For purposes of this act, the term "Administrative Agencies "shall refer to
17 existing agencies with which the powers and duties of the Public Service Commission
18 were transferred, are hereby authorized and ordered to charge and collect from any
19 public service or public utility or applicant, as the case may be, reasonable fees as
20 reimbursement of its expenses in the exercise of its authorization, supervision, and
21 regulation duties, and to impose appropriate penalties and fines as provided by law.
22 These Administrative Agencies are govern by their respective charters and related
23 statutes.

24 Sec. 5. *Public Utility.* – A new Section 13 (d) of Commonwealth Act No. 146,
25 as amended, is hereby inserted to read as follows:

26 **"(D) PUBLIC UTILITY. – A SUBSET OF PUBLIC SERVICE,**
27 **IT REFERS TO THE DIRECT TRANSMISSION DISTRIBUTION,**
28 **AND DELIVERING THROUGH A NETWORK, A COMMODITY OR**
29 **SERVICE OF PUBLIC CONSEQUENCE AND IS A NATURAL**
30 **MONOPOLY THE OPERATION OF WHICH MUST BE**
31 **RESTRICTED PURSUANT TO SECTION 11, ARTICLE XII OF THE**
32 **1987 CONSTITUTION.**

1 THE FOLLOWING SHALL BE AN EXCLUSIVE LIST OF
2 PUBLIC UTILITIES:

- 3 (1) TRANSMISSION OF ELECTRICITY;
- 4 (2) DISTRIBUTION OF ELECTRICITY; AND
- 5 (3) WATER WORKS AND SEWERAGE SYSTEMS.

6 NO OTHER BUSINESS OR SERVICE SHALL BE DEEMED A
7 PUBLIC UTILITY OTHER THAN THOSE LISTED IN THIS
8 SECTION UNLESS OTHERWISE SUBSEQUENTLY PROVIDED BY
9 LAW UPON RECOMMENDATION BY THE NATIONAL ECONOMIC
10 AND DEVELOPMENT AUTHORITY (NEDA), THROUGH ITS
11 BOARD, IN CONSULTATION WITH THE PHILIPPINE
12 COMPETITION COMMISSION (PCC) AND THE CONCERNED
13 ADMINISTRATIVE AGENCIES, TAKING INTO CONSIDERATION
14 SECTIONS 2 AND 4 OF THIS ACT AND THE FOLLOWING
15 CRITERIA:

- 16 1. THE PERSON OR JURIDICAL ENTITY REGULARLY SUPPLIES
17 AND DIRECTLY TRANSMITS AND DISTRIBUTES TO THE
18 PUBLIC THROUGH A NETWORK A COMMODITY OR SERVICE
19 OF PUBLIC CONSEQUENCE;
- 20 2. THE COMMODITY OR SERVICE IS NECESSARY TO THE
21 PUBLIC AND A NATURAL MONOPOLY THAT NEEDS TO BE
22 REGULATED WHEN THE COMMON GOOD SO REQUIRES;
- 23 3. THE COMMODITY OR SERVICE IS NECESSARY FOR THE
24 MAINTENANCE OF LIFE AND OCCUPATION OF RESIDENTS;
25 AND
- 26 4. THE COMMODITY OR SERVICE IS OBLIGATED TO PROVIDE
27 ADEQUATE SERVICE TO THE PUBLIC ON DEMAND."

28 THIS SECTION AND THIS ACT DO NOT HAVE ANY
29 EFFECT ON THE EXISTING REGULATIONS OF PUBLIC
30 SERVICES AND DO NOT, IN ANY WAY, DIMINISH THE
31 CONSTITUTIONAL RESTRICTIONS PROVIDED UNDER
32 SECTIONS 11 AND 17, ARTICLE XII AND SECTION 4, ARTICLE

1 **IX (PART C) OF THE CONSTITUTION. NEITHER DOES THIS**
2 **SECTION NOR THIS ACT REDEFINE "COMMON CARRIERS"**
3 **AND ALTER THE EXISTING HIGH STANDARDS ACCORDED TO**
4 **IT."**

5 Sec. 6. *Authorization to Operate.* – The first paragraph of Section 15 of
6 Commonwealth Act No. 146, as amended, is hereby amended to read as follows:

7 "With the exception of those enumerated in the preceding section, no
8 public service shall operate in the Philippines without possessing a
9 valid and subsisting **FRANCHISE**, certificate, **OR ANY OTHER**
10 **APPROPRIATE FORM OF AUTHORIZATION FOR THE**
11 **OPERATION OF A PUBLIC SERVICE** [~~from the Public Service~~
12 ~~Commission known as "certificate of public convenience," or~~
13 ~~"certificate of public convenience and necessity,"~~] as the case may be,
14 **FROM THE CONGRESS, THE SECURITIES EXCHANGE**
15 **COMMISSION (SEC) AND/OR THE PROPER ADMINISTRATIVE**
16 **AGENCY** to the effect that the operation of said service and the
17 authorization to do business will promote the public interest in a
18 proper and suitable manner."

19 Sec. 7. *Issuance of Authorizations and Fixing of Rates, Tolls and the like and*
20 *the Reasonable Rate of Return.* – Section 16 (a) and (c) of Commonwealth Act No.
21 146, as amended, are hereby amended to read as follows:

22 "(a) To issue certificates [~~which shall be known as certificates of public~~
23 ~~convenience;~~] authorizing the operation of public service within the
24 Philippines whenever the [~~Commission~~] **ADMINISTRATIVE AGENCY**
25 finds that the operation of the public service proposed and the
26 authorization to do business will promote the public interest in a
27 proper and suitable manner. [~~Provided, That thereafter, certificates of~~
28 ~~public convenience and certificates of public convenience and necessity~~
29 ~~will be granted only to citizens of the Philippines or of the United~~
30 ~~States or to corporations, co-partnerships, associations or joint-stock~~
31 ~~companies constituted and organized under the laws of the~~
32 ~~Philippines; Provided, That sixty per centum of the stock or paid-up~~