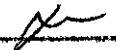


THIRTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
Second Regular Session)

6 MAR 13 P5:26

SENATE

RECEIVED BY: 

S. No. 2225

Introduced by Senator Manuel "Lito" M. Lapid

EXPLANATORY NOTE

After the Electric Power Industry Reform Act (EPIRA) was passed into law, every electric consumer became optimistic that the cost of power will go down in a manageable level. Five years have passed since its enactment into law, and yet, charges made by distribution companies continue to escalate.

It has been claimed by one of the largest distribution utility, MERALCO, that it is just following the provisions of EPIRA, when it passed on to the consumers the cost of generating power, its stranded cost as well as that NAPOCOR, transmission, system loss, distribution, metering, supply, lifeline rate subsidy, interclass subsidy, currency exchange rate adjustment, franchise tax and other costs of the company which form part of its so-called universal charge.

Sec. 34 of the EPIRA Law explicitly institutionalized the passing of every cost of utility companies even if it is a result of a faulty business decision on the part of the company, their own operating costs, and other costs not even related to power actually consumed by the end-users.

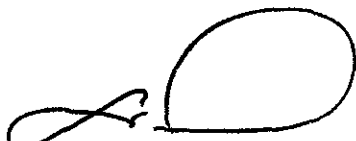
Moreover, Sec. 45 of the same law prohibited the existence of Cross Ownership in the Power utility providers but only to the extent of preventing generation and distribution companies to have stakes in transmission companies. However, cross ownership by and between generation and distribution utilities, which will in fact have more hurting effects as this can create sweetheart deals to the detriment of the end-consumers, was not prohibited in the law.

The supposed 12-centavo per kilowatt-hour (kWh) provisional rate increase granted by the Energy Regulatory Commission (ERC) to Meralco for its distribution charges in January 2004, was overruled by the Supreme Court last June 2004 for being "illegal". The increase is actually on top of the quarterly per kwh rate increase that Meralco has been charging its customers which is a result of an approval of another component in its billing called Generation Rate Adjustment Mechanism (GRAM). In the same manner, the Court of Appeals, in its decision dated July 22, 2004 annulled and set aside the 17 centavos per kwh rate increase granted by ERC to said electric distribution company as a result of unbundling of its rates.


This amendatory bill which seeks to correct some of the evident shortcomings of EPIRA may not totally get rid of the continuing surge in the price of electric power consumption, but, it will definitely prevent the unreasonable passing of the power utility companies' business costs to their consumers.

This measure is consonant to the call of the President during her State of the Nation Address to make electricity affordable to the consumers.

The immediate passage of this measure is earnestly sought.




MANUEL "LITO" M. LAPID
SENATOR



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AN ACT
PROVIDING FOR A DEVISE TO DECREASE THE COST OF ELECTRIC
POWER CONSUMPTION OF END CONSUMERS, BY WAY OF LIMITING THE
PASS ON CHARGES OF DISTRIBUTION UTILITIES TO CONSUMERS AS
WELL AS COMPLETELY BANNING CROSS-OWNERSHIP FROM AND
AMONG POWER UTILITY COMPANIES, AMENDING FOR THE PURPOSE
CERTAIN PROVISIONS OF REPUBLIC ACT NO. 9136 OTHERWISE KNOWN
AS THE "ELECTRIC POWER INDUSTRY REFORM ACT OF 2001", AND FOR
OTHER PURPOSES

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

SECTION. 1. – In order to avoid the expected increase in the price of
electricity brought about by the impending removal of Cross Subsidy, Sec. 31 (c)
of RA 9136 is hereby amended to read as follows:

"Sec. 31. – xxx

(a) xxx

(b) xxx

[(c) Initial Implementation of the cross subsidy removal scheme;]

SECTION. 2. – In order to eliminate the unjust passing of the cost of
electricity not actually consumed by the end consumers by the power distributors,
Sec. 33 (b) (4) of RA 9136 is hereby amended to read as follows:

"Sec. 33. xxx

(a) xxx

(b) xxx

*"Within three (3) months from the submission of the application for
stranded cost recovery by the relevant distribution utilities, the ERC shall verify
the reasonable amounts and determine the manner and duration for the full*

recovery of stranded contract costs as defined herein: Provided, That the duration for such recovery shall not be shorter than fifteen (15) years nor longer than twenty-five (25) years. **PROVIDED FURTHER, THAT NO AMOUNT OF STRANDED COST TO BE PASSED ON TO END CONSUMERS SHALL INCLUDE THE COST OF POWER GENERATED BY IPPs THAT HAS NOT BEEN ACTUALLY CONSUMED AND DISTRIBUTED.** Any amount to be included for stranded cost recovery shall be reflected as a separate item in the consumer billing statement.”

SEC. 3. – In order to ease-up the heavy burden of paying high cost of electric power by the consumers, some components in the Universal Charge not directly related to the service of providing electricity to the actual paying subscriber should be removed, thereby amending Sec. 34 of RA 9136 to read as follows:

“Sec. 34. Universal Charge. – Within one (1) year from the effectivity of this Act, a universal charge to be determined, fixed and approved by the ERC, shall be imposed on all electricity end-users **EXCLUSIVELY** for the following purposes:

(a) Payment for the stranded debts in excess of the amount assumed by the National Government and stranded contract costs of NPC [and as well as qualified stranded contract costs of distribution utilities] resulting from the restructuring of the industry;

[(b) Missionary electrification;]

[(c) The equalization of the taxes and royalties applied to indigenous or renewable sources of energy vis-à-vis imported energy fuels;]

[(d) An environment charge equivalent to one-fourth of one centavo per kilowatt-hour (P0.0025/kWh), which shall accrue to an environmental fund to be used solely for watershed rehabilitation and management. Said fund shall be managed by NPC under existing arrangement; and]

[(e)] (b) x x x

SEC. 4. – In order to avoid possible sweetheart deals from happening in the power industry, cross-ownership among corporations in generation, transmission and distribution should be banned completely. For the effective implementation of this provision, Sec. 45 of RA 9136 is hereby amended to read as follows:

“Sec. 45. Cross Ownership, Market Power Abuse and Anti-Competitive Behavior. – x x x

x x x

NO DISTRIBUTION UTILITY, OR ITS RESPECTIVE SUBSIDIARY OR AFFILIATE OR STOCKHOLDER OR OFFICIALS OR ANY OF THEIR RELATIVES WITHIN THE FOURTH CIVIL DEGREE OF AFFINITY AND CONSANGUINITY SHALL HOLD ANY INTEREST, WHETHER DIRECTLY OR INDIRECTLY, IN ANY GENERATION COMPANY AND VISE VERSA.

x x x

SEC. 5. *Repealing Clause.* - All laws, Presidential Decrees, Issuances, Executive Orders, Letters of Instruction, rules or regulations inconsistent with the provision of this Act are hereby repealed or modified accordingly.

SEC. 6. *Effectivity Clause.* – This Act shall take effect fifteen (15) days from the date of its publication in at least two (2) newspapers of general circulation.

Approved,