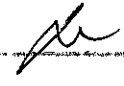


FOURTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
First Regular Session)

7 11-5 P427

SENATE
S.B. No. 1221

VED BY: 

Introduced by Senator Miriam Defensor Santiago

EXPLANATORY NOTE

One of the most critical problems besetting the Philippine energy sector is the high cost of energy, which is directly caused by the country's need to source its energy from "traditional" sources such as imported fuel. The meteoric rise of the price per barrel of crude oil is caused by the growing global demand for energy and the vagaries of geopolitics within the oil producing region. Thus, importers such as the Philippines have no control over the fluctuation of these prices.

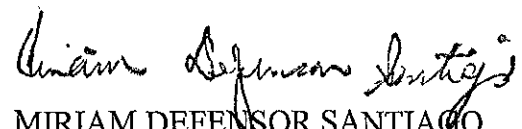

Undoubtedly, the high cost of energy has a negative effect on the economy. The escalating cost of imported fuel dampens trade and investments which in turn, depress employment levels. Foreign exchange spent on imported fuel adds a fiscal strain on government and lessens funds available for public services.

Financial costs, however, are not the only problem brought about by overdependence on fuel. Air pollution caused by these traditional sources of energy has a negative impact on the environment and public health.

It is therefore necessary for us to develop alternative sources of energy. In this respect, renewable energy presents itself as a solution. Renewable energy includes resources such as biomass, solar, wind and other indigenous, inexhaustible and cleaner energy sources. With the country's ratification of the Kyoto Protocol by the Philippine Senate last 22 October 2003, the prioritization of the use of renewable energy resources becomes more urgent.

In order to build our capabilities in the use of these resources, it is vital that a Renewable Energy Bill is passed which will promote the development, utilization and commercialization of renewable energy. This bill proposes to introduce *fiscal and non-fiscal incentives* that will encourage private sector participation in this area, establish a renewable energy market, and institutionalize the use of renewable energy systems.

This Renewable Energy Bill is a timely strategic initiative that will foster sustainable growth, energy independence, and economic security for the country.*



MIRIAM DEFENSOR SANTIAGO


* This is the substitute bill for the various renewable energy bills filed during the Thirteenth Congress (SBN 2562, under Committee Report No. 208 filed on 20 December 2006).

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

7 JUL -5 P4:27

SENATE
S.B. No. 1221

FILED BY: 

Introduced by Senator Miriam Defensor Santiago

AN ACT
PROMOTING AND ENHANCING THE DEVELOPMENT, UTILIZATION
AND COMMERCIALIZATION OF RENEWABLE ENERGY RESOURCES

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

CHAPTER I

TITLE AND DECLARATION OF POLICIES

1 SECTION 1. *Short Title.* - This Act shall be known as the "Renewable Energy Act of
2 2007".

3 SECTION 2. *Declaration of Policies.* - It is hereby declared the policy of the State to:

4 a) Promote the development of renewable energy resources to further reduce the
5 country's reliance on generation systems powered by imported fuels to minimize exposure of
6 the economy to price fluctuations in the international markets, the effects of which spiral
7 down to almost all sectors of the economy;

8 b) Increase the utilization of renewable energy by institutionalizing its use, including
9 the development of national and local capabilities in the use of renewable energy systems, by
10 providing fiscal and non-fiscal incentives; and,

11 c) Establish the necessary infrastructure and mechanism to carry out the mandates
12 specified in this Act and other existing laws.

13 SECTION 3. *Scope.* - This Act shall establish the framework for the advancement and
14 accelerated development of renewable energy resources, including the grant of fiscal and non-
15 fiscal incentives to all renewable energy activities; and the program to increase its utilization.

16 SECTION 4. *Definition of Terms.* - The following terms as used in this Act shall be
17 defined as follows:

- 1 a. "Biomass Energy Systems" refer to energy systems which use biomass resources
2 to produce heat, steam, mechanical power or electricity through either
3 thermochemical, biochemical or physico-chemical processes;
- 4 b. "Biomass Resources" refer to natural or processed plants and plant materials, trees,
5 crop residues, wood and bark residues, and animal manure or any organic or
6 biodegradable matter that can be used in bioconversion process;
- 7 c. "Board of Investments (BOI)" refers to an attached agency of the Department of
8 Trade and Industry created under Republic Act No. 5186, as amended;
- 9 d. "Co-generation systems" refer to facilities which produce electrical and/or
10 mechanical energy and forms of useful thermal energy such as heat or steam which
11 are used for industrial, commercial heating or cooling purposes through the
12 sequential use of energy;
- 13 e. "Department of Energy (DOE)" refers to the government agency created pursuant
14 to Republic Act No. 7638 whose functions are expanded in Republic Act No. 9136
15 and further expanded in this Act, which shall be the lead agency mandated to
16 implement the provisions of this Act;
- 17 f. "Department of Environment and Natural Resources (DENR)" refers to the
18 government agency created pursuant to Executive Order No. 192
- 19 g. "Department of Finance (DOF)" refers to the government agency created pursuant
20 to Executive Order No. 127, as amended;
- 21 h. "Department of Science and Technology (DOST)" refers to the government
22 agency created pursuant to Executive Order No. 128;
- 23 i. "Department of Trade and Industry (DTI)" refers to the government agency
24 created pursuant to Executive Order No. 133;
- 25 j. "Distributed generation" refers to a system of small generation entities supplying
26 directly to the distribution grid, any one of which shall not exceed 100 kW in
27 capacity;

- 1 k. "Distribution of Electricity" refers to the conveyance of electricity by a
2 Distribution Utility through its distribution system pursuant to the provision of
3 Republic Act No. 9136 and its implementing rules and regulations;
- 4 l. "Distribution Utility (DU)" refers to any electric cooperative, private corporation,
5 government-owned utility or existing local government unit which has an
6 exclusive franchise to operate a distribution system in accordance with its
7 franchise and Republic Act No. 9136;
- 8 m. "Energy Regulatory Commission (ERC)" refers to the independent quasi-judicial
9 regulatory agency created pursuant to Republic Act No. 9136;
- 10 n. "Generation Company" refers to any person or entity authorized by the ERC to
11 operate facilities used in the generation of electricity;
- 12 o. "Generation Facility" refers to a facility for the production of electricity and/or
13 thermal energy such as but not limited to steam, hot or cold water;
- 14 p. "Geothermal Energy" refers to all geothermal fluids whether existing naturally or
15 formed by the artificial introduction of fluids into naturally hot formation, heat
16 energy in the earth, and any by-product derived from them;
- 17 q. "Geothermal Energy Systems" refers to machines or other equipment that converts
18 geothermal energy into useful power;
- 19 r. "Geothermal Resources" refers to mineral resources, classified as renewable
20 energy resource, in the form of: (i) all products of geothermal processes,
21 embracing indigenous steam, hot water, and hot brines; (ii) steam and other gases,
22 hot water, and hot brines resulting from water, gas, or other fluids artificially
23 introduced into geothermal formations; (iii) heat or associated energy found in
24 geothermal formations; and (iv) any by-product derived from them;
- 25 s. "Government Share" refers to the amount due the National Government and Local
26 Government Units from the exploitation, development, and utilization of naturally-
27 occurring renewable energy resources;
- 28 t. "Green Energy Option" refers to the mechanism to empower end-users to choose
29 renewable energy in meeting their energy requirements;

- 1 u. "Grid" refers to the high voltage backbone system of interconnected transmission
2 lines, substations, and related facilities, located in each of Luzon, Visayas, and
3 Mindanao, or as may otherwise be determined by the ERC in accordance with the
4 implementing rules and regulations of Republic Act No. 9136;
- 5 v. "Hybrid Systems" refer to any power or energy generation facility which makes
6 use of two or more types of technologies utilizing both conventional and/or
7 renewable fuel sources, such as, but not limited to, integrated solar/wind systems,
8 biomass/fossil fuel systems, hydro/fossil fuel systems, integrated solar/biomass
9 systems, integrated wind/fossil fuel systems, with a minimum of ten (10)
10 megawatts or ten percent (10%) of the annual energy output provided by the RE
11 component;
- 12 w. "Hydroelectric Power Systems or Hydropower Systems" refer to water-based
13 energy systems which produce electricity by utilizing the kinetic energy of falling
14 or running water to turn a turbine generator;
- 15 x. "Hydroelectric Power Development or Hydropower Development" refers to the
16 construction and installation of a hydroelectric power-generating plant and its
17 auxiliary facilities, such as diversion structure, headrace, penstock, substation,
18 transmission, and machine shop, among others;
- 19 y. "Hydroelectric Power Resources or Hydropower Resources" refer to water
20 resources found technically feasible for development of hydropower projects
21 which include rivers, lakes, waterfalls, irrigation canals, springs, ponds, and other
22 water bodies;
- 23 z. "Micro-scale Project" refers to an RE project with capacity not exceeding one
24 hundred (100) kilowatts;
- 25 aa. "Missionary Electrification" refers to the provision of basic electricity service in
26 unviable areas with the aim of bringing the operations in these areas to viability
27 levels;
- 28 bb. "National Power Corporation (NPC)" refers to the government corporation created
29 under Republic Act No. 6395, as amended by Republic Act No. 9136;

- 1 cc. "National Transmission Corporation (TRANSCO)" refers to the corporation
2 created pursuant to Republic Act No. 9136 responsible for the planning,
3 construction, and centralized operation and maintenance of high voltage
4 transmission facilities, including grid interconnection and ancillary services;
- 5 dd. "Net Metering" refers to a system, appropriate for distributed generation, in which
6 a distribution grid user has a two-way connection to the grid and is only charged
7 for his net electricity consumption and is credited for any overall contribution to
8 the electricity grid;
- 9 ee. "Ocean Energy Systems" refer to energy systems which convert ocean or tidal
10 current, ocean thermal gradient or wave energy into electrical or mechanical
11 energy;
- 12 ff. "Off-Grid Systems" refer to electrical systems not connected to the wires and
13 related facilities of the On-Grid Systems of the Philippines;
- 14 gg. "On-Grid System" refers to electrical systems composed of interconnected
15 transmission lines, distribution lines, substations, and related facilities for the
16 purpose of conveyance of bulk power on the Grid of the Philippines;
- 17 hh. "Philippine Electricity Market Corporation (PEMC)" refers to the Corporation
18 incorporated upon the initiative of the DOE composed of all WESM Members and
19 whose Board of Directors will be the PEM Board;
- 20 ii. "Renewable Energy (Systems) Developers or RE Developers" refer to individual/s
21 or a group of individuals formed in accordance with existing Philippine Laws
22 engaged in the exploration, development and utilization of RE resources and actual
23 operation of RE systems/facilities;
- 24 jj. "Renewable Energy Market (REM)" refers to the market where the trading of the
25 RE certificates equivalent to an amount of power generated from RE resources is
26 made;
- 27 kk. "Renewable Energy Policy Framework (REPF)" refers to the long-term policy
28 developed by the DOE which identifies among others, the goals and targets for the
29 development and utilization of renewable energy in the country;

- 1 ii. “Renewable Portfolio Standards” refer to a market-based policy that requires
2 electricity suppliers to source an agreed portion of their energy supply from
3 eligible RE resources;
- 4 mm. “Renewable Energy Service (Operating) Contract (RE Contract)” refers to the
5 service agreement between the Government, thru the DOE, and RE Developer
6 over a period in which the RE Developer has the exclusive right to a particular RE
7 area for exploration and development. The RE Contract shall be divided into two
8 (2) stages: the pre-development stage and the development/commercial stage. The
9 preliminary assessment and feasibility study up to financial closing shall refer to
10 the pre-development stage. The construction and installation of facilities up to
11 operation phase shall refer to the development stage;
- 12 nn. “Renewable Energy Resources (RE Resources)” refer to energy resources that do
13 not have an upper limit on the total quantity to be used. Such resources are
14 renewable on a regular basis, and whose renewal rate is relatively rapid to consider
15 availability over an indefinite period of time. These include, among others,
16 biomass, solar, wind, geothermal, ocean energy, and run-of-river hydropower
17 conforming with internationally-accepted norms and standards on dams, and other
18 emerging energy technologies;
- 19 oo. “Renewable Energy Systems (RE Systems)” refer to energy systems which
20 convert RE resources into useful energy forms, like electrical, mechanical, etc.;
- 21 pp. “Republic Act No. 9136 or Electric Power Industry Reform Act of 2001” refers to
22 the law mandating the restructuring of the electric power sector and the
23 privatization of the NPC;
- 24 qq. “Rural Electrification” refers to the delivery of basic electricity services, consisting
25 of power generation, sub-transmission, and/or extension of associated power
26 delivery system that would bring about important social and economic benefits to
27 the countryside;
- 28 rr. “Solar Energy” refers to the energy derived from solar radiation that can be
29 converted into useful thermal or electrical energy;

- 1 ss. "Solar Energy Systems" refer to energy systems which convert solar energy into
2 thermal or electrical energy;
- 3 tt. "Small Power Utilities Group (SPUG)" refers to the functional unit of the NPC
4 mandated under Republic Act No. 9136 to pursue missionary electrification
5 function;
- 6 uu. "Supplier" refers to any person or entity authorized by the ERC to sell, broker,
7 market or aggregate electricity to the end-users;
- 8 vv. "Transmission of Electricity" refers to the conveyance of electric power by
9 TRANSCO or its buyer/concessionaire in accordance with its franchise and
10 Republic Act No. 9136;
- 11 ww. "Wind Energy" refers to the energy that can be derived from wind that is
12 converted into useful electrical or mechanical energy;
- 13 xx. "Wind Energy Systems" refer to the machines or other related equipment that
14 convert wind energy into useful electrical or mechanical energy;
- 15 yy. "Wholesale Electricity Spot Market (WESM)" refers to the wholesale electricity
16 spot market to be created pursuant to Republic Act No. 9136;

17 CHAPTER II

18 ON-GRID RENEWABLE ENERGY DEVELOPMENT

19 SECTION 5. *Renewable Portfolio Standard (RPS)*. - All stakeholders in the electric
20 power industry shall contribute to the growth of the REM of the country. To provide impetus
21 in the acknowledged market-driven electric power industry, an RPS is hereby imposed on all
22 suppliers of electricity. Towards this end, the DOE shall, upon the recommendation of the
23 National Renewable Energy Board (NREB) created under Section 18 of this Act, formulate
24 and promulgate the RPS Rules on a per grid basis within three (3) years upon the effectivity
25 of this Act which shall include, but not be limited to, the following:

- 26 a) Types of RE resources and identification and certification of generating facilities
27 using said resources that shall be required to comply with the RPS obligation;
- 28 b) Yearly minimum RPS requirements upon the establishment of the RPS Rules;

- 1 c) Annual minimum incremental percentage of electricity sold by each electricity
2 supplier which is required to be sourced from eligible RE resources and which
3 shall not be less than one percent (1%) per year over the next ten (10) years; and,
4 d) Means of compliance by mandated electricity suppliers of the minimum
5 percentage set by the government to meet the RPS requirements including direct
6 generation from eligible RE resources, contracting for energy sourced from
7 eligible RE facilities, or trading in the REM under Section 6 of this Act.

8 Immediately upon effectivity of this Act, DOE shall, jointly with electric power
9 industry participants, likewise develop and implement a preparedness program to inform,
10 educate and prepare all stakeholders in the industry.

11 The ERC shall enforce the implementation of the RPS Rules by undertaking necessary
12 activities such as certifying generating facilities using eligible RE resources, prescribing
13 reportorial obligations related to RPS compliance and administration of penalties for non-
14 compliance or violation of RPS Rules, among others. Further, ERC shall be responsible for
15 the handling of complaints that may arise between and among parties from any transactions
16 related to RPS compliance by electricity suppliers.

17 The RPS shall apply only to newly-installed capacity upon the effectivity of this Act
18 and may be complied with by either directly generating from renewable sources, contracting
19 for energy sourced from RE facilities or trading for renewable energy in the REM.

20 SECTION 6. *Renewable Energy Market (REM)*. - To facilitate compliance with
21 Section 5 of this Act, the DOE shall establish the REM and shall direct PEMC to implement
22 changes to the WESM Rules in order to incorporate the rules specific to the operation of the
23 REM under the WESM.

24 The PEMC shall, under the supervision of the DOE, establish a Renewable Energy
25 Registrar that shall issue, keep and verify RE Certificates corresponding to energy generated
26 from eligible RE resources. Such certificates will be used for compliance with the RPS. For
27 this purpose, a transaction fee, agreed upon by the industry participants, may be imposed by
28 PEMC.

1 SECTION 7. *Green Energy Option.* - The DOE shall establish a Green Energy Option
2 program which provides end-users the option to choose RE resources. In consultation with the
3 NREB, the DOE shall promulgate the appropriate implementing rules and regulations which
4 are necessary, incidental or convenient to achieve the objectives set forth herein.

5 Upon the determination of the DOE of its technical viability, end users with a monthly
6 average of at least 100kW may directly contract for RE based energy.

7 Consistent herewith, TRANSCO, DUs, PEMC and all relevant parties are hereby
8 mandated to provide the mechanisms for the physical connection and commercial
9 arrangements necessary to ensure the success of the Green Energy Option.

10 SECTION 8. *Net-metering for Renewable Energy.* -- Subject to technical
11 considerations and without discrimination and upon request by distribution end-users, the
12 distribution utilities shall enter into net-metering agreements with qualified distribution grid
13 users up to a distributed generation market share of one percent (1%) of peak distribution grid
14 demand.

15 The ERC, in consultation with electric power industry participants, shall establish net
16 metering interconnection standards and pricing methodology within six (6) months upon the
17 effectivity of this Act.

18 The distribution utility shall be entitled to any Renewable Energy Certificate resulting
19 from RE distributed generation for sale or use in the RPS.

20 The DOE, ERC, TRANSCO, DUs, PEMC and all relevant parties are hereby
21 mandated to provide the mechanisms for the physical connection and commercial
22 arrangements necessary to ensure the success of the Net-metering for Renewable Energy
23 program, consistent with the Grid and Distribution Codes.

24 SECTION 9. *Transmission and Distribution System Development.* – TRANSCO or its
25 buyer/concessionaire and all DUs, shall include the required connection facilities for RE-
26 based power facilities in the Transmission and Distribution Development Plans, provided that
27 such facilities are economically-viable, subject to the approval of the DOE. The connection
28 facilities of RE power plants, including the extension of transmission and distribution lines,
29 shall not be subject to deep-connection charging policies in rate-making.

1 CHAPTER III

2 OFF-GRID RENEWABLE ENERGY DEVELOPMENT

3 SECTION 10. *Off-Grid Areas.* - Within two (2) years from the effectivity of this Act,
4 NPC-SPUG or its successors-in-interest and/or qualified third parties in off-grid areas shall, in
5 the performance of its mandate to provide missionary electrification, source a minimum
6 percentage of its total annual generation upon recommendation of the NREB from available
7 RE resources in the area concerned, as may be determined by the DOE.

8 As used in this Act, successors-in-interest refer to entities deemed technically and
9 financially capable to serve/take over existing NPC-SPUG areas.

10 Eligible RE generation in missionary areas shall be eligible for the provision of RE
11 Certificates defined in Section 6 of the Act.

12 CHAPTER IV

13 GOVERNMENT SHARE

14 SECTION 11. *Government Share.* - The government share on RE development
15 projects shall be equal to at least one and one-half percent (1.5%) of the gross proceeds for all
16 RE resources except for geothermal which shall be at least two percent (2%) of the gross
17 proceeds.

18 To further promote the development of RE projects, the government hereby waives its
19 share from the proceeds of micro-scale projects for communal purposes and non-commercial
20 operations, which are not greater than one hundred (100) kilowatts.

21 CHAPTER V

22 ENVIRONMENTAL COMPLIANCE

23 SECTION 12. *Compliance with Environmental Regulations.* - All RE explorations,
24 development, utilization, and RE systems operations shall be conducted in accordance with
25 existing environmental regulations as prescribed by the DENR and/or any other concerned
26 government agency.

27 CHAPTER VI

28 GENERAL INCENTIVES

1 SECTION 13. *Incentives for Renewable Energy Projects and Activities.* – As duly
2 certified by the DOE, RE developers of renewable energy facilities, including hybrid systems,
3 for both power and non-power applications, shall be entitled to the following incentives in
4 proportion to their RE components:

5 a. *Value-Added Tax, Duty-free Importation and Subsequent Sale of RE*
6 *Machinery, Equipment and Materials.* – Within the first ten (10) years of an
7 RE operating contract, importation of machinery and equipment, and materials
8 and parts thereof, including its control and communication equipment, shall
9 not be subject to tariff duties and value-added tax; *Provided*, however, That the
10 said machinery, equipment, materials and parts are:

- 11 (i) not manufactured domestically nor locally available in reasonable
12 quantity and quality;
- 13 (ii) *directly and actually needed and used exclusively in the RE facilities*
14 for transformation into energy, and transmission of electric energy to
15 the point of use; and,
- 16 (iii) covered by shipping documents in the name of the duly registered
17 Operator to whom the shipment will be directly delivered by customs
18 authorities:

19 *Provided further*, That approval by the DOE is obtained before the importation
20 of such machinery, equipment, materials and parts are made.

21 Approval of the DOE must be secured before any sale, transfer or disposition
22 of the imported capital equipment, machinery or spare parts is made; *Provided*,
23 *however*, That if such sale, transfer or disposition is made within the first five
24 years from the date of importation, any of the following conditions must be
25 present:

- 26 (1) If made to another RE developer enjoying tax and duty exemption on
27 imported capital equipment;
- 28 (2) If made to another RE developer, upon payment of any taxes and duties
29 due on the net book value of the capital equipment to be sold;

- 1 (3) Exportation of the capital equipment, machinery, spare parts or source
2 document or those required for RE development; and
3 (4) For reasons of proven technical obsolescence.

4 When the aforementioned sale, transfer or disposition is made under any of the
5 conditions provided for in the foregoing paragraphs other than paragraph (2),
6 the RE developer shall not pay the taxes and duties waived on such items;
7 *Provided further*, That if the RE developer sells, transfers or disposes the
8 aforementioned imported items without prior approval within five (5) years
9 from the date of importation, the RE developer and the vendee, transferee, or
10 assignee shall be solidarily liable to pay twice the amount of tax and duty
11 exemption given it: *Provided, finally*, That even if the sale, transfer or
12 disposition of the capital equipment, machinery or spare parts is approved after
13 five (5) years from the date of importation, the RE developer is still liable to
14 pay the taxes and duties based on the net book value of the capital equipment,
15 machinery or spare parts if it has violated any of its registration terms and
16 conditions. Otherwise, it shall no longer be subject to the payment of the taxes
17 and duties waived thereon.

- 18 b. *Tax Credit on Domestic Capital Equipment and Services.* – A tax credit
19 equivalent to one hundred percent (100%) of the value of the value-added tax
20 and custom duties that would have been paid on the RE machinery, equipment,
21 materials and parts had these items been imported shall be given to an RE
22 operating contract holder who purchases machinery, equipment, materials, and
23 parts from a domestic manufacturer for purposes set forth in this Act;
24 *Provided*, That prior approval by the DOE was obtained by the local
25 manufacturer; *Provided further*, That the acquisition of such machinery,
26 equipment, materials, and parts shall be made within the validity of the RE
27 operating contract.
- 28 c. *Special Realty Tax Rates on Equipment and Machinery.* – Any law to the
29 contrary notwithstanding, realty and other taxes on civil works, equipment,

1 machinery, and other improvements of a registered RE developer actually and
2 exclusively used for RES facilities shall not exceed two and a half percent
3 (2.5%) of their original cost.

4 d. *Income Tax Holiday (ITH) and Exemption.* – For the first six (6) years of its
5 commercial operations, the RE operating contract holder shall be exempt from
6 income taxes levied by the National Government; *Provided,* That the RE
7 developer complies with the following: (1) large capital investments or
8 sizeable employment generation, or (2) use high level of technology, or (3)
9 located in less developed areas as defined by the NREB.

10 Additional investments in the project shall be entitled to ITH equivalent to
11 such investments and may be entitled to additional income tax holiday for as
12 long as investment is made in the same project, upon approval by the DOE:
13 *Provided,* That the entitlement period for additional investments shall not
14 exceed three times the period of the initial availment of the ITH.

15 The Bureau of Internal Revenue (BIR) shall require an RE developer availing
16 of the ITH or Net Operating Loss Carry-Over (NOLCO) to secure a certificate
17 of eligibility from the DOE before filing an official copy of its Income Tax
18 Return (ITR) with the BOI.

19 Failure to secure certification and/or file the ITH or NOLCO availment for
20 validation by the BOI within forty-five (45) days from the last day of statutory
21 filing date for ITR shall cause the forfeiture of the availment for the taxable
22 period.

23 e. *Net Operating Loss Carry-Over (NOLCO).* – The NOLCO of the RE
24 developer during the first three (3) years from the start of commercial
25 operation which had not been previously offset as deduction from gross
26 income shall be carried over as a deduction from gross income for the next five
27 (5) consecutive taxable years immediately following the year of such loss:
28 *Provided, however,* That operating loss resulting from the availment of
29 incentives provided for in this Act shall not be entitled to NOLCO.

1 RE developers availing of the ITH as in this Act provided shall not be entitled
2 to avail of the NOLCO.

3 f. *Accelerated Depreciation.* - If, and only if, an RE project fails to receive an
4 ITH before full operation, may it apply for Accelerated Depreciation in its tax
5 books and be taxed based on such; Provided, That if it applies for Accelerated
6 Depreciation, the project or its expansions shall no longer be eligible for an
7 ITH. Accelerated depreciation of plant, machinery, and equipment that are
8 reasonably needed and actually used for the exploration, development and
9 utilization of RE resources may be depreciated using a rate not exceeding
10 twice the rate which would have been used had the annual allowance been
11 computed in accordance with the rules and regulations prescribed by the
12 Secretary of the Department of Finance and the provisions of the National
13 Internal Revenue Code (NIRC) of 1997, as amended.

14 SECTION 14. *Hybrid and Cogeneration Systems.* - The tax exemptions and/or
15 incentives provided for in Section 13 of this Act shall be availed of by RE operating contract
16 holders of hybrid and cogeneration systems utilizing both RE sources and conventional
17 energy; *Provided, however,* That the tax exemptions and incentives shall apply only to the
18 equipment, machinery and/or devices utilizing RE resources.

19 SECTION 15. *Intermittent RE resources.* - TRANSCO, in consultation with
20 stakeholders, shall determine the maximum penetration limit of the Intermittent RE-based
21 power plants to the Grid, through technical and economic analysis. Subject to limitations
22 imposed by the need to ensure reliability and safety of the grid and taking into account any
23 economic impact, qualified RE generating units with intermittent RE resources shall enjoy the
24 benefit of priority dispatch in accordance with the WESM Rules, as amended.

25 As used in this Act, RE generating unit with intermittent RE resources refers to a RE
26 generating unit or group of units connected to a common connection point whose energy
27 resource is location-specific and has a natural variability which renders the output
28 unpredictable and the availability of the resource inherently uncontrollable, which include
29 plants utilizing wind or ocean energy.

1 SECTION 16. *Incentives for RE Commercialization.* – All manufacturers, fabricators
2 and suppliers of locally-produced RE equipment and components duly recognized and
3 accredited by the DOE, in consultation with DOST, DOF and DTI, shall be entitled to the
4 following privileges:

5 a. *Tax and Duty-free Importation of Components, Parts and Materials.* – All
6 shipments necessary for the manufacture and/or fabrication of RE equipment
7 and components shall be exempted from importation tariff and duties and value
8 added tax: *Provided, however,* That the said components, parts and materials
9 are: (i) not manufactured domestically in reasonable quantity and quality at
10 competitive prices; (ii) directly and actually needed and shall be used
11 exclusively in the manufacture/fabrication of RE equipment; and (iii) covered
12 by shipping documents in the name of the duly registered
13 manufacturer/fabricator to whom the shipment will be directly delivered by
14 customs authorities; *Provided further,* That prior approval of the DOE was
15 obtained before the importation of such components, parts and materials;

16 b. *Tax Credit on Domestic Capital Components, Parts and Materials.* – A tax
17 credit equivalent to one hundred percent (100%) of the amount of the value-
18 added tax and custom duties that would have been paid on the components,
19 parts and materials had these items been imported shall be given to an RE
20 equipment manufacturer, fabricator, and supplier duly recognized and
21 accredited by the DOE who purchases RE components, parts and materials
22 from a domestic manufacturer; *Provided,* That such components, and parts are
23 directly needed and shall be used exclusively by the RE manufacturer,
24 fabricator and supplier for the manufacture, fabrication and sale of the RE
25 equipment. *Provided further,* That prior approval by the DOE was obtained by
26 the local manufacturer,

27 c. *Income Tax Holiday and Exemption.* – For six (6) years starting from the date
28 of recognition/accreditation, an RE manufacturer, fabricator and supplier of RE

1 equipment shall be fully exempt from income taxes levied by the National
2 Government.

3 SECTION 17. *Period of Grant of Fiscal Incentives.* – The fiscal incentives granted
4 under this Act shall apply only to the first 2,500 MW of new RE capacity upon the effectivity
5 of this Act or within twenty (20) years from the effectivity of this Act, whichever comes first.
6 Thereafter, the tax treatment applicable on the parties concerned prior to the passage of this
7 Act shall apply.

8 CHAPTER VII

9 GENERAL PROVISIONS

10 SECTION 18. *Creation of the National Renewable Energy Board (NREB).* – The
11 NREB is hereby created. It shall be composed of the Secretary of the DOE or his designated
12 Undersecretary as chairman and the Secretaries or the designated Undersecretaries or
13 Assistant Secretaries of the DTI, DOF and DENR; the Presidents or the duly designated
14 representatives of the NPC, TRANSCO and PEMC; and one (1) representative each from the
15 following sectors: RE developers, Government Financial Institutions (GFIs), private
16 distribution utilities, electric cooperatives, suppliers, and non-governmental organizations,
17 duly endorsed by their respective industry associations and appointed by the President of the
18 Republic of the Philippines.

19 The DOE Secretary or his designated Undersecretary, in his capacity as Chairman,
20 shall, within one (1) month from the effectivity of this Act, convene the NREB.

21 The NREB shall be assisted by a Technical Secretariat from the Energy Utilization
22 Management Bureau of the DOE, thru the Renewable Energy Management Division
23 (REMD), and shall directly report to the Office of the Secretary or the Undersecretary of the
24 Department, as the case maybe, on matters pertaining to the activities of the NREB. The
25 number of staff of the Technical Secretariat and the creation of corresponding positions
26 necessary to complement and/or augment the existing plantilla of the REMD shall be
27 determined by the Board, subject to approval by the Department of Budget and Management
28 (DBM) and to existing civil service rules and regulations.

29 The NREB shall have the following powers and functions:

- 1 (a) Evaluate and recommend to the DOE the mandated RPS and minimum RE
2 generation capacities in off-grid areas, as it deems appropriate;
- 3 (b) Recommend specific actions to facilitate the implementation of the National
4 Renewable Energy Program (NREP) to be executed by the DOE and other
5 appropriate agencies of government;
- 6 (c) Monitor and review the implementation of the NREP, including compliance with
7 the RPS and minimum RE generation capacities in off-grid areas;
- 8 (d) Oversee and monitor the utilization of the Renewable Energy Trust Fund created
9 pursuant to Section 19 of this Act and administered by the DOE; and,
- 10 (e) Perform such other functions, as may be necessary, to attain the objectives of this
11 Act.

12 SECTION 19. *Renewable Energy Trust Fund (RETF)*. – A Renewable Energy Trust
13 Fund is hereby established to enhance the development and greater utilization of renewable
14 energy. It shall be administered by the DOE as a special account in any of the GFIs. The
15 RETF shall be exclusively used to:

- 16 a) Finance the research, development, demonstration, and promotion of the
17 widespread and productive use of RE systems for power and non-power
18 applications;
- 19 b) Support the development and operation of new RE resources to improve their
20 competitiveness in the market; *Provided*, That the grant thereof shall be done
21 through a competitive and transparent manner;
- 22 c) Conduct nationwide resource and market assessment studies for the power and
23 non-power applications of renewable energy systems;
- 24 d) Propagate RE knowledge by accrediting, tapping, training, and providing benefits
25 to institutions, entities and organizations which can extend the promotion and
26 dissemination of RE benefits to the national and local levels; and,
- 27 e) Fund such other activities necessary or incidental to the attainment of the
28 objectives of this Act.

1 Use of the fund may be through grants, loans, equity investments, loan guarantees,
2 insurance, counterpart fund or such other financial arrangements necessary for the attainment
3 of the objectives of this Act; *Provided*, That the use or allocation thereof shall, as far as
4 practicable, be done through in a competitive and transparent manner.

5 The RETF shall be funded from:

- 6 a) Proceeds from the emission fees collected from all generating facilities consistent
7 with Republic Act No. 8749 or the Philippine Clean Air Act;
- 8 b) One and ½ percent (1.5%) of the net annual income of the Philippine Charity
9 Sweepstakes Office;
- 10 c) One and ½ percent (1.5%) of the net annual income of the Philippine Amusement
11 and Gaming Corporation;
- 12 d) One and ½ percent (1.5%) of the net annual dividends remitted to the National
13 Treasury of the Philippine National Oil Company and its subsidiaries;
- 14 e) Contributions, grants and donations: *Provided*, That all contributions, grants and
15 donations made to the RETF shall be tax deductible subject to the provisions of the
16 National Internal Revenue Code. Towards this end, the BIR shall assist the DOE in
17 formulating the Rules and Regulations to implement this provision;
- 18 f) One and ½ percent (1.5%) of the proceeds of the Government share collected from
19 the development and use of indigenous non-renewable energy resources;
- 20 g) Any revenue generated from the utilization of the RETF; and,
- 21 h) Proceeds from the fines and penalties imposed under this Act.

22 SECTION 20. *Financial Assistance Program.* – Government financial institutions
23 such as the Development Bank of the Philippines (DBP), Land Bank of the Philippines (LBP),
24 Phil-Exim Bank and other government financial institutions shall, in accordance with and to
25 the extent allowed by the enabling provisions of their respective charters or applicable laws,
26 provide preferential packages for the development, utilization and commercialization of RE
27 projects as duly recommended and endorsed by the DOE.

1 CHAPTER VIII

2 FINAL PROVISIONS

3 SECTION 21. *Implementing Rules and Regulations (IRR)*. - Within six (6) months
4 from the effectivity of this Act, the DOE shall, in consultation with the Senate and House
5 Committees on Energy, relevant government agencies and RE stakeholders, promulgate the
6 IRR of this Act.

7 SECTION 22. *Prohibited Acts*. – The following acts shall be prohibited:

- 8 a) Non-compliance or violation of the RPS rules;
- 9 b) Willful refusal to undertake net metering arrangements with qualified
10 distribution grid users;
- 11 c) Falsification or tampering of public documents or official records to avail of
12 the fiscal and non-fiscal incentives provided under this Act; and
- 13 d) Non-compliance with the established guidelines that DOE will adopt for the
14 implementation of this Act.

15 SECTION 23. *Penalty Clause*. – Any person, who willfully aids or abets the
16 commission of a crime prohibited herein or who causes the commission of any such act by
17 another shall be liable in the same manner as the principal.

18 In the case of association, partnership or corporations, the penalty shall be imposed on
19 the partner, president, chief operating officer, chief executive officer, directors or officers
20 responsible for the violation.

21 The commission of any prohibited acts provided for under Section 22, upon conviction
22 thereof, shall suffer the penalty of imprisonment of from one (1) year to five (5) years, or a
23 fine ranging from a minimum of One Hundred Thousand Pesos (₱100,000.00) to One
24 Hundred Million Pesos (₱100,000,000.00), or twice the amount of damages caused or costs
25 avoided for non-compliance, whichever is higher, or both upon the discretion of the court.

26 The DOE is further empowered to impose administrative fines and penalties for any
27 violation of the provisions of this Act, its IRR and other issuances relative to this Act.

28 This is without prejudice to the penalties provided for under existing environmental
29 regulations prescribed by the DENR and/or any other concerned government agency.

1 SECTION 24. *Official Development Assistance (ODA)*. – The provision of Executive
2 Order No. 230 of 1986 and the rules and regulations governing the evaluation and
3 authorization for the availment of ODA notwithstanding the privatization of RE facilities as
4 provided for in this Act, shall be eligible for foreign loans and grants without further
5 evaluation by the NEDA Board, subject to Section 21, Article XII of the Constitution.

6 SECTION 25. *Separability Clause*. – If any provision of this Act is held invalid or
7 unconstitutional, the remainder of the Act or the provision not otherwise affected shall remain
8 valid and subsisting.

9 SECTION 26. *Repealing Clause*. – Any law, presidential decree or issuance, executive
10 order, letter of instruction, administrative rule or regulation contrary to or inconsistent with
11 the provisions of this Act is hereby repealed, modified or amended accordingly.

12 SECTION 27. *Effectivity Clause*. – This Act shall take effect fifteen (15) days after its
13 publication in at least two (2) newspapers of general circulation.

14 Approved,