


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

7 JUL 23 1 15

SENATE

RECEIVED BY: S. B. NO. 1303

 Introduced by Senator JUAN MIGUEL F. ZUBIRI

Explanatory Note

The spiraling and unpredictable prices of imported fossil fuels have continuously affected the stability of our economy. The increase in prices of crude oil and other fossil fuels in the world market would always result to a drain in our dollar reserves and increase in the prices of fuels and other basic commodities in the country. This would sometimes even result to a volatile political scenario, thus affecting the stability of the economy even more.

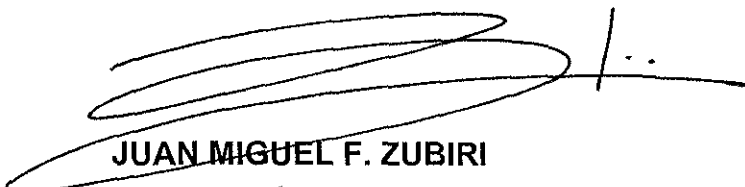
That does not include the harmful effects of fossil fuels consumption to the environment and the populace. Carbon dioxide emissions, through the burning of fossil fuels, is a great contributory factor to global warming. Climatic changes and abnormal weather patterns are just some of the effects of global warming. The Philippines was not spared from the harmful effects of global warming and climatic changes. In recent years, we have seen the destructive powers of climatic changes and abnormal weather patterns which brought-in strong typhoons in the country and heavy rains that resulted to floodings and landslides.

The aftermath of typhoons *Milenyo* in Luzon and *Reming* in Bicol, both occurred in 2006, as well as the landslides in Southern Leyte and Payatas brought about by heavy rains, which resulted to massive destructions and loss of lives are forever etched in our memories.

To avoid these scenarios, the country's dependence on fossil fuels should be dramatically decreased. Fortunately, the Philippines has a great potential in developing and utilization of other energy resources which would decrease our dependence on imported fossil fuels. These are our renewable energy resources. These include, among others, biomass, solar, wind, hydropower, geothermal, and ocean energy, and other emerging energy sources.

It is comforting to note that the 2005 Power Development Program envisions the increase in the generation and utilization of renewable energy in the country. With the government's thrust to develop these renewable energy resources, which would positively affect our economy and environment, it is incumbent upon us in Congress to lay down the policy framework in this emerging industry in the energy sector. By providing the rules of the game, so to speak, we will encourage and help develop the generation and utilization of renewable energy in the country. Thus, benefiting our economy and environment in the long run.

It is in this light that immediate passage of this bill is earnestly sought.




JUAN MIGUEL F. ZUBIRI

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AN ACT
PROMOTING THE DEVELOPMENT, UTILIZATION AND COMMERCIALIZATION OF
RENEWABLE ENERGY RESOURCES AND FOR OTHER PURPOSES

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

CHAPTER I

TITLE AND DECLARATION OF POLICIES

SECTION 1. **Short Title.** - This Act shall be known as the "Renewable Energy Act
of 2007". It shall hereinafter be referred to as the "Act".

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

- a) Accelerate the development and increase the share of renewable energy resources in the country's energy consumption to achieve energy self-reliance through the exploration, development and utilization of renewable energy resources such as, but not limited to, biomass, solar, wind, hydro, geothermal, and ocean energy sources or hybrid systems;
- b) Increase the utilization of renewable energy *with due regard to gender-sensitive approaches* by institutionalizing its use, developing national and local capabilities in the use of renewable energy systems, and promoting its efficient utilization and widespread application by providing fiscal and non-fiscal incentives;
- c) Establish the necessary infrastructure to carry out the mandates specified in this Act and other relevant existing laws; and
- d) Promote sustainable development of energy supply, with due regard to protecting the climate, nature, and environment..

SEC. 3. **Scope.** - This Act shall establish the framework for the accelerated development and advancement of renewable energy resources, through the grant of fiscal and non-fiscal incentives to all Renewable Energy activities; and the development of a strategic program to increase its share and utilization.

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SEC. 4. **Definition of Terms.** – As used in this Act, the following terms are herein defined:

- (a) **“Biofuels”** refers to bioethanol, biodiesel and other fuels made from biomass and primarily used for thermal and power generation;
- (b) **“Biomass Energy Systems”** refers to energy systems which use biomass resources to produce heat, steam, mechanical power or electricity;
- (c) **“Biomass Resources”** refers to non-fossilized, biodegradable, organic material originating from plants, animals, and micro-organisms. Also products, by-products, residues from agriculture such as but not limited to biofuels, bagasse, rice hulls, coconut husks and shells, corn stovers, non-fossilized and biodegradable organic fractions of industrial and municipal wastes, as well as gases and liquids recovered from the decomposition and/or extraction of non-fossilized and biodegradable organic material.
- (d) **“Board of Investments”** or **“BOI”** refers to an attached agency of the Department of Trade and Industry created under Republic Act No. 5186, as amended;
- (e) **“Cogeneration systems”** refers to facilities which produce electrical and/or mechanical energy and forms of useful thermal energy such as heat or steam which are used for heating or cooling purposes through the sequential use of energy;
- (f) **“Department of Energy”** or **“DOE”** refers to the government agency created pursuant to Republic Act No. 7638 whose functions were expanded in R.A. 9136 and further expanded in this Act;
- (g) **“Department of Environment and Natural Resources or DENR”** refers to the government agency created pursuant to Executive Order No. 192;
- (h) **“Department of Finance”** or **“DOF”** refers to the government agency created pursuant to Executive Order No. 127, as amended;
- (i) **“Department of Science and Technology”** or **“DOST”** refers to the government agency created pursuant to Executive Order No. 128;
- (j) **“Department of Trade and Industry”** or **“DTI”** refers to the government agency created pursuant to Executive Order No. 133;
- (k) **“Distribution of Electricity”** refers to the conveyance of electric power by a Distribution Utility through its distribution system pursuant to the provision of Republic Act No. 9136 and its implementing rules and regulations;
- (l) **“Distribution Utility”** refers to any electric cooperative, private corporation, government-owned utility or existing local government unit which has an

- 1 exclusive franchise to operate a distribution system in accordance with its
2 franchise and Republic Act No. 9136;
- 3 (m) **“Energy Regulatory Commission”** or **“ERC”** refers to the independent
4 quasi-judicial regulatory agency created pursuant to Republic Act No. 9136;
- 5 (n) **“Generation Company”** refers to any person or entity authorized by the
6 Energy Regulatory Commission (ERC) to operate facilities used in the
7 generation of electricity;
- 8 (o) **“Generation Facility”** refers to a facility for the production of electricity and/or
9 thermal energy such as, but not limited to, steam, hot or cold water;
- 10 (p) **“Geothermal Energy”** refers to all geothermal fluids whether existing naturally
11 or formed by the artificial introduction of fluids into naturally hot formation, heat
12 energy in the earth, and any by-product derived from them;
- 13 (q) **“Geothermal Energy Systems”** refer to machines or other equipment that
14 converts geothermal energy into useful power;
- 15 (r) **“Geothermal Resources”** refers to mineral resources, classified as renewable
16 energy resource, in the form of: (1) all products of geothermal processes,
17 embracing indigenous steam, hot water and hot brines; (2) steam and other
18 gases, hot water and hot brines resulting from water, gas, or other fluids
19 artificially introduced into geothermal formations; (3) heat or associated energy
20 found in geothermal formations; and (4) any by-product derived from them;
- 21 (s) **“Government Share”** refers to the amount due the National Government and
22 Local Government Units from the exploitation, development and utilization of
23 naturally-occurring renewable energy resources;
- 24 (t) **“Grid”** refers to the high voltage backbone system of interconnected
25 transmission lines, substations and related facilities, located in each of Luzon,
26 Visayas, and Mindanao, or as may otherwise be determined by the ERC in
27 accordance with the implementing rules and regulations of Republic Act No.
28 9136;
- 29 (u) **“Hybrid System”** refers to any power or energy generation facility which
30 makes use of two or more types of technologies utilizing both conventional
31 and/or renewable fuel sources such as, but not limited to, integrated
32 wind/diesel systems, integrated solar/wind systems, biomass/fossil fuel
33 systems, hydro/fossil fuel systems, integrated solar/biomass systems,
34 integrated wind/fossil fuel systems, based on *ten percent (10%)* of the annual
35 energy output provided by the RES components of the hybrid systems;
- 36 (v) **“Hydroelectric Power Systems”** or **“Hydropower Systems”** refers to water-
37 based energy systems which produce electricity by utilizing the kinetic energy

- 1 of falling or running water to turn a turbine generator, compliant with World
2 Commission on Dams standards;
- 3 (w) **“Hydroelectric Power Development”** or **“Hydropower Development”** refers
4 to the construction and installation of a hydroelectric power-generating plant
5 and its auxiliary facilities, such as diversion structure, headrace, penstock,
6 substation, transmission, and machine shop, among others;
- 7 (x) **“Hydroelectric Power Resources”** or **“Hydropower Resources”** refers to
8 water resources found technically feasible for development of hydropower
9 projects which include rivers, lakes, waterfalls, irrigation canals, springs, ponds
10 and other water bodies;
- 11 (y) **“Market Operator”** refers to an autonomous group, constituted by the DOE,
12 with equitable representation from electric power industry participants, that
13 undertake the preparatory work and initial operation of the wholesale electricity
14 spot market;
- 15 (z) **“Missionary Electrification”** refers to the provision of basic electricity service
16 in unviable areas with the aim of bringing the operations in these areas to
17 viability levels;
- 18 (aa) **“National Power Corporation”** or **“NPC”** refers to the government
19 corporation created under Republic Act No. 6395, as amended;
- 20 (bb) **“National Transmission Corporation”** or **“TRANSCO”** refers to the
21 corporation created pursuant to Republic Act No. 9136 responsible for the
22 planning, construction, and centralized operation and maintenance of high-
23 voltage transmission facilities, including grid interconnection and ancillary
24 services;
- 25 (cc) **“Net Metering”** refers to a system, , in which grid user has a two-way
26 connection to the grid and is only charged for his net electricity consumption
27 and is credited for any overall contribution to the electricity grid;
- 28 (dd) **“Ocean Energy Systems”** refers to energy systems which convert ocean
29 or tidal current, ocean thermal gradient or wave energy into electrical or
30 mechanical energy;
- 31 (ee) **“Off-Grid Systems”** refers to electrical systems not connected to the wires
32 and related facilities of any Mini-Grid System or the On-Grid Systems of the
33 Philippines;
- 34 (ff) **“On-Grid System”** refers to electrical systems composed of interconnected
35 transmission lines, distribution lines, substations and related facilities for the
36 purpose of conveyance of bulk power on the Grid of the Philippines;
- 37 (gg) **“Renewable Energy (Systems) Developers”** or **“RE Developers”** refers
38 to individual/s or a group of individuals formed in accordance with existing

1 Philippine Laws and duly registered with the DOE engaged in the exploration,
2 production, development and utilization of renewable energy resources and/or
3 actual operation of renewable energy systems/facilities;

4 (hh) **“Renewable Energy Policy Framework”** or **“REPF”** refers to the long-
5 term policy developed by the DOE which identifies among others, the goals
6 and targets for the development and utilization of renewable energy in the
7 country;

8 (ii) **“Renewable Energy Service (Operating) Contract or RE Contract”** refers
9 to the service agreement between the Government, thru the Department of
10 Energy, and RE Developer and/or the RE Developer and other private entity
11 over a period in which the RE Developer has the exclusive right to a particular
12 RE area for exploration and development. The RE Contract shall be divided
13 into two (2) stages, the pre-development stage and the
14 development/commercial stage. The preliminary assessment and feasibility
15 study up to financial costing shall refer to the pre-development stage. The
16 construction and installation of facilities up to operation phase shall refer to the
17 development stage;

18 (jj) **“Renewable Energy Resources”** or **“RE Resources”** refers to energy
19 resources that do not have an upper limit on the total quantity to be used. Such
20 resources are renewable on a regular basis, and whose renewal rate is
21 relatively rapid to consider availability over an indefinite period of time. These
22 include, among others, biomass, solar, wind, hydropower, geothermal, and
23 ocean energy, and other emerging energy sources;

24 (kk) **“Renewable Energy Systems”** or **“RES”** refers to energy systems which
25 convert renewable energy resources into useful energy forms, like electrical,
26 mechanical, etc.;

27 (ll) **“Republic Act No. 9136”** or **“Electric Power Industry Reform Act of 2001”**
28 refers to the law mandating the restructuring of the electric power sector and
29 the privatization of the NPC;

30 (mm) **“Rural Electrification”** refers to the delivery of basic electricity services,
31 consisting of power generation, subtransmission, and/or extension of
32 associated power delivery system that would bring about important social and
33 economic benefits to the countryside;

34 (nn) **“Small-Scale Distributed Generation”** refers to a system of small
35 generation entities supplying directly to the distribution grid, any one of which
36 shall not exceed 100 kW in capacity;

37 (oo) **“Solar Energy”** refers to the energy derived from solar radiation that can
38 be converted into useful thermal or electrical energy;

- 1 (pp) **“Solar Energy Systems”** refers to energy systems which convert solar
2 energy into thermal or electrical energy;
- 3 (qq) **“Small Power Utilities Group”** or **“SPUG”** refers to the functional unit of
4 the National Power Corporation mandated under Republic Act No. 9136 to
5 pursue missionary electrification function;
- 6 (rr) **“Transmission of Electricity”** refers to the conveyance of electricity through
7 the high-voltage backbone system;
- 8 (ss) **“Wind Energy”** refers to the energy that can be derived from wind that is
9 converted into useful electrical or mechanical energy;
- 10 (tt) **“Wind Energy Systems”** refers to the machines or other related equipment
11 that convert wind energy into useful electrical or mechanical energy;
- 12 (uu) **“Wholesale Electricity Spot Market”** or **“WESM”** refers to the wholesale
13 electricity spot market created pursuant to Republic Act No. 9136;
- 14

15 CHAPTER II
16 ORGANIZATION

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18 SEC. 5. *Lead Agency.* - The DOE shall be the lead agency mandated to
19 implement the provisions of this Act.

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21 CHAPTER III
22 ON-GRID RENEWABLE ENERGY DEVELOPMENT

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24 SEC. 6 *Feed-In System* – To stimulate the economic development of renewable
25 energy, a Feed-In System for electricity produced for each type of renewable energy
26 technology is hereby mandated. Towards this end, the NREB created under Section 19
27 of this Act, shall:

- 28 a) Prioritize connections to the grid for general electricity supply of power
29 plants generating electricity from renewable energy sources within
30 territory of the Philippines;
- 31 b) Prioritize the purchase and transmission of and payment for, such
32 electricity by grid market operators;
- 33 c) Determine the fixed tariff to be paid to electricity produced from each
34 type of renewable energy and mandated number of years within a
35 minimum of twelve (12) years;
- 36 d) Formulate the tariff that will allow the economic operation of the
37 renewable energy sources;

- 1 e) Establish the Feed-In System to be unbureaucratic as possible to allow
2 efficient use of financial resources and to attract RE industry investors
3 for the development of manufacturing facilities; and
4 f) Implement a nationwide equalization scheme for the quantity of
5 electricity purchased and paid for.
6

7 SEC. 7. *Renewable Portfolio Standard (RPS)*. - All stakeholders in the electric
8 power industry shall contribute to the growth of the renewable energy market of the
9 country. Towards this end, the National Renewable Energy Board (NREB), created under
10 Section 19 of this Act, shall set the minimum percentage of power sourced from eligible
11 Renewable Energy by distribution utilities to be imposed on a per grid basis within two (2)
12 years from the effectivity of this Act, subject to the approval of the Joint Congressional
13 Power Commission under Section 23 of this Act. Provided that such minimum
14 percentage shall not be less than the average share of power from renewable energy
15 sources three (3) years prior to the effectivity of this Act.

16 Thereafter, the DOE shall, in consultation with the sector concerned, set the
17 minimum increase per year but shall, in no case, be less than one percent (1%) per year
18 over the next ten (10) years.

19 The mandate may be complied with by directly generating from renewable
20 sources, contracting for energy sourced from renewable energy facilities, or trading for
21 Renewable Energy in the Wholesale Electricity Spot Market (WESM).

22 SEC. 8. *Green Energy Option*. - A Green Energy Option Program, which shall
23 provide end-users the option to choose renewable energy resources, shall be made
24 available to all end-users. Towards this end, the ERC shall, in collaboration with the
25 National Renewable Energy Board, the PEMC and the industry players, cause the
26 necessary modification of the Implementing Rules and Regulations, WESM Rules or any
27 relevant Rules or Regulations.

28 End users with a monthly average peak demand of at least 100kW may directly
29 contract for RE-based energy with the power generator. Provided that end-users with a
30 monthly average peak demand of less than 100kW may contract for RE-based energy
31 with the distribution utility.

32 Consistent herewith, the National Transmission Corporation, the Distribution
33 Utilities, the PEMC, and all relevant parties are hereby mandated to provide the
34 appropriate mechanisms for the physical connection and commercial arrangements
35 necessary to ensure the success of the Green Energy Option.

36 SEC. 9. *Net-metering and Distributed Generation for Renewable Energy*. - The
37 distribution utilities shall, upon request and subject to technical considerations and
38 without discrimination, enter into net-metering agreements with distribution grid users.

1 The distribution utility shall charge qualified users their net energy consumption at
2 the standard retail rate and shall credit net contributors of energy from renewable
3 sources at the prevailing average bulk generation rate.

4 The distribution utility shall be entitled to any renewable energy production
5 certificate resulting from distributed RE generation for sale or use in the RPS.

6 Consistent herewith, the National Transmission Corporation, the Distribution
7 Utilities, PEMC and all relevant parties are hereby mandated to provide the mechanisms
8 for the physical connection and commercial arrangements necessary to ensure the
9 success of the Net-metering and Distributed Generation for Renewable Energy program.

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CHAPTER IV

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OFF-GRID RENEWABLE ENERGY DEVELOPMENT

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SEC. 10. *Off-Grid Areas.* - In the performance of its mandate to provide
15 missionary electrification, the SPUG, successors-in-interest and/or qualified third party in
16 off-grid areas shall, within two (2) years from the effectivity of this Act, source a minimum
17 percentage of its total annual generation from available RE resources in the area
18 concerned, as may be determined by the DOE through its Renewable Energy Policy
19 Framework.

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As used in this Act, successors-in-interest refers to an entity deemed technically
21 and financially capable to serve/take over existing NPC-SPUG areas, through open and
22 competitive bidding.

23

CHAPTER V

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GOVERNMENT SHARE

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SEC. 11. *Government Share.* - The government share on RE development
27 projects shall be equal to at least one and one-half percent (1.5%) of the gross proceeds
28 for all RE resources except for geothermal which shall be at least two percent (2%) of the
29 gross proceeds. Provided further that the government share shall be collected ten (10)
30 years from the commencement of commercial operations of the RE development
31 projects.

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CHAPTER VI

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ENVIRONMENTAL COMPLIANCE

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SEC. 12. *Compliance with Environmental Regulations.* - All renewable energy
37 explorations, development, utilization, and RES operations shall be conducted in

1 accordance with existing environmental regulations as prescribed by the DENR and/or
2 any other government agency.

3 CHAPTER VII
4 GENERAL INCENTIVES

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6 SEC. 13. *Incentives for Renewable Energy Projects and Activities.* – RE
7 developers of renewable energy facilities, including hybrid systems, in proportion to their
8 RE component, for both power and non-power applications, as duly certified by the DOE,
9 shall be entitled to the following privileges:

10 (a) *Tax and Duty-free Importation of RE Machinery, Equipment and Materials.* –

11 Within the first ten (10) years upon issuance of a certification of an RE
12 developer by the DOE, the importation of machinery and equipment, and
13 materials and parts thereof, including control and communication equipment,
14 shall not be subject to tariff duties and value-added tax: *Provided, however,*
15 That the said machinery, equipment, materials and parts are:

- 16 (1) not manufactured domestically nor locally available in reasonable
17 quantity and quality;
18 (2) directly and actually needed and used exclusively in the RE developer's
19 facilities for transformation into energy, and transmission of electric
20 energy to the point of use; and
21 (3) covered by shipping documents in the name of the duly registered RE
22 developer to whom the shipment will be directly delivered by customs
23 authorities:

24 *Provided further,* That the above-mentioned certification is obtained before the
25 importation of such machinery, equipment, materials and parts are made;
26 Such certification by the DOE must be secured before any sale, transfer or
27 disposition of the imported capital equipment, machinery or spare parts is
28 made: *Provided,* That if such sale, transfer or disposition is made within the
29 first five (5) years from date of importation, any of the following conditions must
30 be present:

- 31 (i) If made to another RE developer enjoying tax and duty exemption on
32 imported capital equipment;
33 (ii) If made to another RE developer, upon payment of any taxes and
34 duties due on the net book value of the capital equipment to be sold;
35 (iii) Exportation of the capital equipment, machinery, spare parts or
36 source documents or those required for RE development; and
37 (iv) For reasons of proven technical obsolescence.

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

15 (b) *Tax Credit on Domestic Capital Equipment and Services.* – A tax credit
16 equivalent to one hundred percent (100%) of the value of the value-added tax
17 and custom duties that were paid on the RE machinery, equipment, materials
18 and parts had these items been imported shall be given to a duly registered RE
19 developer who purchases machinery, equipment, materials and parts from a
20 domestic manufacturer for purposes set forth in this Act: *Provided*, That prior
21 approval by the DOE was obtained by the local manufacturer: *Provided*
22 *further*, That the acquisition of such machinery, equipment, materials, and
23 parts shall be made within the validity of the DOE certification;

24 (c) *Special Real Property Tax Rates on Machinery, Equipment and Other*
25 *Improvements.* – Any law or local ordinance to the contrary notwithstanding,
26 real property tax on machinery, equipment and other improvements of a
27 registered RE developer actually and exclusively used for RES facilities shall
28 not exceed two and a half percent (2.5%) of their original cost;

29 (d) *Income Tax Holiday and Exemption.* – For the first six (6) years of its
30 commercial operations, the duly registered RE developer shall be exempt from
31 income taxes levied by the National Government.

32 Additional investments in the project shall be entitled to income tax holiday
33 equivalent to such investments and may be entitled to additional income tax
34 holiday for as long as investment is made in the same project; *Provided*, That
35 the entitlement period for additional investments shall not exceed three times
36 the period of the initial availment of the ITH.

1 An RE developer availing of the ITH or NOLCO shall be required to secure a
2 certificate of eligibility from the DOE before filing an official copy of its Income
3 Tax Return (ITR) with the Bureau of Internal Revenue (BIR).

4 Failure to secure certification and/or file the ITH or NOLCO availment for
5 validation by the DOE within forty-five (45) days from the last day of statutory
6 filing date for ITR shall cause the forfeiture of the availment for the taxable
7 period.

8 (e) *Net Operating Loss Carryover (NOLCO)*. – The net operating loss of the RE
9 developer during the first three (3) years from the start of commercial operation
10 which had not been previously offset as deduction from gross income shall be
11 carried over as a deduction from gross income for the next five (5) consecutive
12 taxable years immediately following the year of such loss: *Provided, however,*
13 That operating loss resulting from the availment of incentives provided for in
14 this Act shall not be entitled to NOLCO.

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

17 (f) *Accelerated Depreciation*. - Accelerated depreciation of plant, machinery, and
18 equipment that are reasonably needed and actually used for the exploration,
19 development and utilization of renewable energy resources may be
20 depreciated using a rate not exceeding twice the rate which would have been
21 used had the annual allowance been computed in accordance with the rules
22 and regulations prescribed by the Secretary of Finance and the provisions of
23 the National Internal Revenue Code (NIRC) of 1997, as amended.

24 (g) *Exemption from the Universal Charge*. – Power and electricity generated
25 through the RES for the generator's own consumption and/or for distribution in
26 the off-grid areas shall be exempted from the payment of the Universal Charge
27 provided for under Section 34 of Republic Act No. 9136.

28 (h) *VAT Zero-Rated*. - The sale of power or fuel generated from renewable
29 sources of energy such as, but not limited to, biomass, solar, wind,
30 hydropower, geothermal, ocean energy, and other emerging energy sources
31 using technologies such as fuel cells and hydrogen fuels, shall be VAT zero-
32 rated, pursuant to Section 6, paragraph B, sub-paragraph 7 of Republic Act
33 No. 9337: *Provided*. That the sale of such renewable sources of energy as fuel
34 shall likewise be VAT zero-rated.

35 (i) *Exemption from TRANSCO'S Wheeling Charge*. – Power and electricity
36 generated through the RES for the generator's own consumption and/or for
37 distribution in the grid areas shall be exempted from the payment of the

1 relevant transmission and sub-transmission wheeling charges as provided for
2 under Sections 19 and 24 of Republic Act No. 9136.

3 SEC. 14. *Hybrid and Cogeneration Systems.* - The tax exemptions and/or
4 incentives provided for in Section 13 of this Act shall be availed of by duly registered RE
5 developers of hybrid and cogeneration systems, utilizing both RE sources and
6 conventional energy: *Provided, however,* That the tax exemptions and incentives shall
7 apply only to the equipment, machinery and/or devices utilizing renewable energy
8 resources.

9 SEC. 15. *Carbon Monoxide Emission Standard for Biomass Fuels.* - Any law to
10 the contrary notwithstanding, the processes, fuel burning equipment and/or industrial
11 plants that use biomass shall comply with the carbon monoxide emission standard to be
12 set by the DENR upon prior consultation with various stakeholders.

13 SEC. 16. *Intermittent RE Resources.* - As used in this Act, RE generating unit with
14 intermittent RE resources refers to a renewable energy generating unit or group of units
15 connected to a common connection point whose energy resource is location-specific and
16 has a natural variability which renders the output unpredictable and the availability of the
17 resource inherently uncontrollable, which include plants utilizing runoff river hydro, wind,
18 ocean energy.

19 Subject to technical and financial feasibility considerations, qualified RE
20 generating units with intermittent RE resources shall enjoy the benefit of priority dispatch
21 in accordance with the rules and regulations to be promulgated by the DOE, in
22 consultation with the RE developers.

23 SEC. 17. *Incentives for RE Commercialization.* - All manufacturers, fabricators
24 and suppliers of locally-produced RE equipment, components and materials duly
25 recognized and accredited by the DOE, in consultation with DOST, DOF and DTI, shall
26 be entitled to the following privileges:

- 27 (a) *Tax and Duty-free Importation of Components, Parts and Materials.* - All
28 shipments necessary for the manufacture and/or fabrication of RE
29 equipment and components shall be exempted from customs duties and
30 value added tax: *Provided, however,* That the said components, parts and
31 materials are: (a) not manufactured domestically in reasonable quantity and
32 quality at competitive prices; (b) directly and actually needed and shall be
33 used exclusively in the manufacture/fabrication of RE equipment; and (c)
34 covered by shipping documents in the name of the duly registered
35 manufacturer/fabricator to whom the shipment will be directly delivered by
36 customs authorities: *Provided further,* That prior approval of the DOE was
37 obtained before the importation of such components, parts and materials
38 were made;

1 (b) *Tax Credit on Domestic Capital Components, Parts and Materials.* – A tax
2 credit equivalent to one hundred percent (100%) of the amount of the
3 value-added tax and custom duties that were paid on the components,
4 parts and materials, had these items been imported shall be given to a RE
5 equipment manufacturer, fabricator, and supplier duly recognized and
6 accredited by the DOE, who purchases RE components, parts and
7 materials from a domestic manufacturer: *Provided*, That such components,
8 materials and parts are directly needed and shall be used exclusively by the
9 RE manufacturer, fabricator and supplier for the manufacture, fabrication
10 and sale of RE equipment. *Provided further*, That prior approval by the
11 DOE was obtained by the local manufacturer;

12 (c) *Income Tax Holiday and Exemption.* – For six (6) years starting from the
13 date of recognition/accreditation, an RE manufacturer, fabricator and
14 supplier of RE equipment shall be fully exempt from income tax levied by
15 the National Government.

16 SEC. 18. *Application of Fiscal Incentives.* - Renewable energy shall be
17 automatically included in the list of industries under the Investment Priorities Plan (IPP)
18 upon the effectivity of this Act.

19
20 CHAPTER VIII
21 GENERAL PROVISIONS
22

23 SEC. 19. *Creation of the National Renewable Energy Board (NREB).* – The
24 National Renewable Energy Board is hereby created. It shall be composed of the
25 Secretary of the Department of Energy or his designated Undersecretary as chairman
26 and the Secretaries or the designated undersecretaries or assistant secretaries of the
27 Department of Trade and Industry (DTI), Department of Finance (DOF) and Department
28 of Environment and Natural Resources (DENR); the Presidents or the duly designated
29 representatives of the National Power Corporation (NPC), National Transmission
30 Corporation (TRANSCO), and PEMC; and one (1) representative each from the
31 renewable energy developers, Government Financial Institutions (GFIs), and non-
32 governmental organizations, duly endorsed by their respective industry associations and
33 appointed by the President of the Republic of the Philippines, as members.

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

36 The NREB shall be assisted by a Technical Secretariat from the Energy Utilization
37 Management Bureau of the DOE, thru the Renewable Energy Management Division, and
38 shall directly report to the Office of the Secretary or the Undersecretary of the

1 Department, as the case maybe, on matters pertaining to the activities of the NREB. The
2 number of staff of the Technical Secretariat and the creation of corresponding positions
3 necessary, to complement and/or augment the existing plantilla of the Renewable Energy
4 Management Division shall be determined by the Board, subject to approval by the
5 Department of Budget and Management (DBM) and existing civil service rules and
6 regulations.

7 The NREB shall have the following powers and functions:

- 8 a) Approve the National Renewable Energy Program, as formulated by the
9 DOE;
- 10 b) Formulate and promulgate the Fixed Tariff System Rules within one (1)
11 year upon the effectivity of this Act;
- 12 c) Recommend specific actions in facilitating the implementation of the
13 National Renewable Energy Program to be executed by the DOE and other
14 appropriate agencies of government;
- 15 d) Monitor and review the implementation of the National Renewable Energy
16 Program, including the compliance with the Renewable Portfolio Standards
17 and minimum RE generation capacities in off-grid areas;
- 18 e) Oversee and monitor the collection and utilization of the Renewable Energy
19 Trust Fund as administered by the Department;
- 20 f) Formulate and oversee the implementation of a program which shall fast-
21 track investments in Renewable Energy;
- 22 f) Perform such other functions, as may be necessary, for the effective
23 implementation of this Act.

24 SEC. 20. *Renewable Energy Trust Fund (RETF)*. – A Renewable Energy Trust
25 Fund is hereby established to enhance the development and greater utilization of
26 Renewable Energy. It shall be administered by the DOE as a special account in any of
27 the GFI. The RETF shall be exclusively used to:

- 28 (a) Finance the research, development, demonstration and promotion of the
29 widespread and productive use of renewable energy systems for power and
30 non-power applications;
- 31 (b) Support the development and operation of new RE resources to improve
32 their competitiveness in the market: *Provided*, That the grant thereof shall
33 be done through a competitive and transparent manner;
- 34 (c) Conduct nationwide resource and market assessment studies for biomass,
35 solar, wind, hydro, tidal current, and ocean energy;
- 36 (d) Propagate RE knowledge by accrediting, tapping, training, and providing
37 benefits to institutions, entities and organizations which can extend the

1 promotion and dissemination of RE benefits to the national and local levels;
2 and

3 (e) Fund such other activities necessary or incidental to the attainment of the
4 objectives of this Act.

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

9 The RETF shall be funded from:

10 (a) Proceeds from the emission fees collected from all generating facilities
11 consistent with Republic Act No. 8749 or the Philippine Clean Air Act;

12 (b) Fifty percent (50%) of the national government share from geothermal
13 operations;

14 (c) Contributions, grants and donations: *Provided*, That all contributions, grants
15 and donations made to the RETF shall be tax deductible subject to the
16 provisions of the National Internal Revenue Code. Towards this end, the
17 Bureau of Internal Revenue shall assist the DOE in formulating the Rules
18 and Regulations to implement this provision;

19 (d) One and one half percent (1.5%) of the proceeds of the national
20 government share collected from the development and use of indigenous
21 non-renewable energy resources;

22 (e) Any revenue generated from the utilization of the RETF; and

23 (f) Proceeds from the fines and penalties imposed under this Act.

24 SEC. 21. *Financial Assistance Program.* – Government financial institutions such
25 as the Development Bank of the Philippines (DBP), Land Bank of the Philippines (LBP),
26 Phil-Exim Bank and other government financial institutions shall, in accordance with and
27 to the extent allowed by the enabling provisions of their respective charters or applicable
28 laws, provide preferential packages for the development, utilization and
29 commercialization of RE projects as duly recommended and endorsed by the DOE.

30

31

CHAPTER IX

32

FINAL PROVISIONS

33

34 SEC. 23. *Implementing Rules and Regulations.* - Within six (6) months from the
35 effectivity of this Act, the DOE shall, in collaboration with relevant government agencies
36 and all RE developers, promulgate the Implementing Rules and Regulations (IRR) of this
37 Act, subject to the approval by the Joint Congressional Power Commission.

38

1 SEC. 24. *Congressional Oversight.* – Upon the effectivity of this Act, the Joint
2 Congressional Power Commission created under Section 62 of R.A. No. 9136, otherwise
3 known as the “Electric Power Industry Reform Act of 2001” shall, in addition to its existing
4 functions, oversee the implementation of this Act.

5 SEC. 25. *Penalty Clause.* – Any person found in violation, through an act of
6 commission or omission, of the provisions of this Act shall pay a minimum penalty of One
7 Hundred Thousand Pesos (P100,000.00) or twice the amount of damages or costs
8 avoided for non-compliance, whichever is higher.

9 SEC. 26. *Official Development Assistance.* – The provision of Executive Order No.
10 230 of 1986 and the rules and regulations governing the evaluation and authorization for
11 the availment of Official Development Assistance notwithstanding, the privatization of
12 renewable energy facilities as provided for in this Act shall be eligible for foreign loans
13 and grants without further evaluation by the NEDA Board, subject to Section 21, Article
14 XII of the Constitution.

15 SEC. 27. *Separability Clause.* – If for any reason, any provision of this Act or any
16 part thereof shall be held unconstitutional or invalid, the other parts or provisions of this
17 Act, which are not affected thereby, shall remain in force and effect.

18 SEC. 28. *Repealing Clause.* – All laws, decrees, orders, rules and regulations or
19 parts thereof, inconsistent with any of the provisions of this Act are hereby repealed,
20 amended or modified accordingly.

21 SEC. 29. *Effectivity Clause.* – This Act shall take effect fifteen (15) days after its
22 complete publication in at least two (2) newspapers of general circulation.

23 APPROVED,