

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

8 FEB 4 2008

SENATE

RECEIVED

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COMMITTEE REPORT NO. 36

Submitted jointly by the Committees on Energy, Environment and Natural Resources,  
Ways and Means, Finance, and Public Services on FEB 04 2008.

Re: Senate Bill No. 2046, prepared by the Committees.

Recommending its approval in substitution of Senate Bill Nos. 211, 485, 588, 803, 1058,  
1221, 1303, 1423, 1608, 1711 and 1821, taking into consideration P.S. Resolution Nos.7  
and 68.

Sponsors: Senators Defensor Santiago, Angara, Pia Cayetano, Legarda and Roxas.

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**Mr. President:**

The Committees on Energy, Environment and Natural Resources, Ways and  
Means, Finance and Public Services, to which were referred Senate Bill No. 211,  
introduced by Sen. Angara, entitled:

**“AN ACT  
STRENGTHENING THE PHILIPPINE ENERGY PLAN FOR THE  
EXPLORATION, DEVELOPMENT, AND UTILIZATION OF NEW AND  
RENEWABLE ENERGY SYSTEMS USING INDIGENOUS RESOURCES AND  
FOR OTHER PURPOSES”**

Senate Bill No. 485, introduced by Sen. Estrada, entitled:

**“AN ACT  
ESTABLISHING A NATIONAL NON-CONVENTIONAL ENERGY PROGRAM,  
PROVIDING INCENTIVES FOR DEVELOPERS, MANUFACTURERS AND  
USERS OF NON-CONVENTIONAL ENERGY SYSTEM, AND FOR OTHER  
PURPOSES”**

Senate Bill No. 588, introduced by Sen. Estrada, entitled:

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

Senate Bill No. 803, introduced by Sen. Revilla Jr., entitled:

**“AN ACT  
GRANTING TO RESIDENTS OF THE REGION WHERE A GEOTHERMAL  
ENERGY PLANT IS LOCATED A THIRTY PERCENT (30%) DISCOUNT ON  
THEIR POWER RATE CONSUMPTION”**

Senate Bill No. 1058, introduced by Sen. Defensor Santiago, entitled:

**“AN ACT  
PROMOTING THE DEVELOPMENT AND USE OF MARINE AND  
HYDROKINETIC RENEWABLE ENERGY TECHNOLOGIES”**

Senate Bill No. 1221, introduced by Sen. Defensor Santiago, entitled:

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

Senate Bill No. 1303, introduced by Sen. Zubiri, entitled:

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

Senate Bill No. 1423, introduced by Sen. Legarda, entitled:

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

Senate Bill No. 1608, introduced by Sen. Gordon, entitled:

**“AN ACT  
PROMOTING AND ENHANCING THE EXPLORATION, DEVELOPMENT,  
UTILIZATION AND COMMERCIALIZATION OF RENEWABLE ENERGY  
RESOURCES”**

Senate Bill No. 1711, introduced by Sen. Pia Cayetano, entitled:

**“AN ACT  
PROMOTING THE DEVELOPMENT, UTILIZATION AND  
COMMERCIALIZATION OF RENEWABLE ENERGY SOURCES AND FOR  
OTHER PURPOSES”**

Senate Bill No. 1821, introduced by Sen. Lapid, entitled:

**“AN ACT  
TO FURTHER PROMOTE THE DEVELOPMENT, UTILIZATION AND  
COMMERCIALIZATION OF RENEWABLE ENERGY RESOURCES AND FOR  
OTHER PURPOSES”**

taking into consideration P. Senate Resolution No. 7, *Philippine* introduced by Sen. Estrada, entitled:

**“RESOLUTION  
DIRECTING THE SENATE COMMITTEE ON ENERGY TO CONDUCT A  
COMPREHENSIVE STUDY ON THE UTILIZATION AND PROMOTION OF  
THE WIND ENERGY SYSTEM IN THE PHILIPPINES”**

P. Senate Resolution No. 68, introduced by Sen. Defensor Santiago, entitled:

**“RESOLUTION  
DIRECTING THE PROPER SENATE COMMITTEE TO CONDUCT AN  
INQUIRY, IN AID OF LEGISLATION, ON THE DEVELOPMENT OF  
HYDROGEN ENERGY TECHNOLOGIES CONSISTENT WITH  
ENVIRONMENTAL PROTECTION, SUSTAINABLE DEVELOPMENT, AND  
ECONOMIC PROSPERITY”**

have considered the same and have the honor to report them back to the Senate with the recommendation that the attached S.B. No. 2046, prepared by the Committees, entitled:

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

be approved in substitution of S.B. Nos. 211, 485, 588, 803, 1058, 1221, 1303, 1423, 1608, 1711 and 1821, taking into consideration P.S.R. Nos. 7 and 68, with Senators Angara, Estrada, Revilla Jr., Defensor Santiago, Zubiri, Legarda, Gordon, Pia Cayetano and Lapid, as authors.

**RESPECTFULLY SUBMITTED:**

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**MIRIAM DEFENSOR SANTIAGO**  
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Vice-Chair, Committee on Finance

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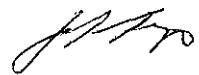
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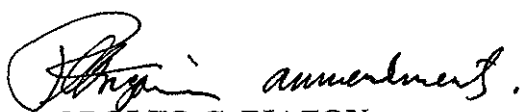
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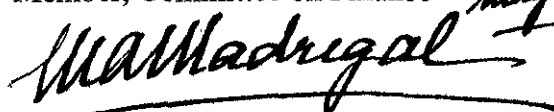
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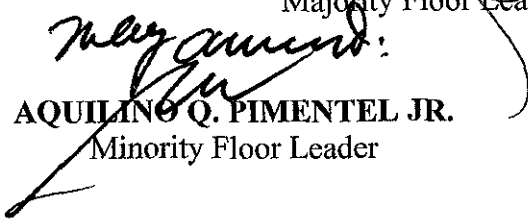
**EX-OFFICIO MEMBERS:**



**JINGCOY EJERCITO ESTRADA**  
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Prepared jointly by the Committees on Energy, Environment and Natural Resources, Ways and Means, Finance and Public Services with Senators Angara, Estrada, Revilla Jr., Defensor Santiago, Zubiri, Legarda, Gordon, Pia Cayetano and Lapid, as authors.

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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.

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

4 SECTION 4. *Definition of Terms.* – As used in this Act, the term:

- 5 a. **Biomass Energy Systems** refer to energy systems which use biomass resources to  
6 produce heat, steam, mechanical power or electricity through either  
7 thermochemical, biochemical or physico-chemical processes;
- 8 b. **Biomass Resources** refer to natural or processed plants and plant materials, trees,  
9 crop residues, wood and bark residues, and animal manure or any organic or  
10 biodegradable matter that can be used in bioconversion process;
- 11 c. **Board of Investments (BOI)** refers to an attached agency of the Department of  
12 Trade and Industry created under Republic Act No. 5186, as amended;
- 13 d. **Co-generation systems** refer to facilities which produce electrical and/or  
14 mechanical energy and forms of useful thermal energy such as heat or steam which  
15 are used for industrial, commercial heating or cooling purposes through the  
16 sequential use of energy;
- 17 e. **Department of Energy (DOE)** refers to the government agency created pursuant  
18 to Republic Act No. 7638 whose functions are expanded in Republic Act No. 9136  
19 and further expanded in this Act, which shall be the lead agency mandated to  
20 implement the provisions of this Act;
- 21 f. **Department of Environment and Natural Resources (DENR)** refers to the  
22 government agency created pursuant to Executive Order No. 192
- 23 g. **Department of Finance (DOF)** refers to the government agency created pursuant  
24 to Executive Order No. 127, as amended;
- 25 h. **Department of Science and Technology (DOST)** refers to the government  
26 agency created pursuant to Executive Order No. 128;
- 27 i. **Department of Trade and Industry (DTI)** refers to the government agency  
28 created pursuant to Executive Order No. 133;

- 1       j. **Distributed generation** refers to a system of small generation entities supplying  
2       directly to the distribution grid, any one of which shall not exceed 100 kW in  
3       capacity;
- 4       k. **Distribution of Electricity** refers to the conveyance of electricity by a  
5       Distribution Utility through its distribution system pursuant to the provision of  
6       Republic Act No. 9136 and its implementing rules and regulations;
- 7       l. **Distribution Utility (DU)** refers to any electric cooperative, private corporation,  
8       government-owned utility or existing local government unit which has an  
9       exclusive franchise to operate a distribution system in accordance with its  
10      franchise and Republic Act No. 9136;
- 11      m. **Energy Regulatory Commission (ERC)** refers to the independent quasi-judicial  
12      regulatory agency created pursuant to Republic Act No. 9136;
- 13      n. **Generation Company** refers to any person or entity authorized by the ERC to  
14      operate facilities used in the generation of electricity;
- 15      o. **Generation Facility** refers to a facility for the production of electricity and/or  
16      thermal energy such as but not limited to steam, hot or cold water;
- 17      p. **Geothermal Energy** refers to all geothermal fluids whether existing naturally or  
18      formed by the artificial introduction of fluids into naturally hot formation, heat  
19      energy in the earth, and any by-product derived from them;
- 20      q. **Geothermal Energy Systems** refers to machines or other equipment that converts  
21      geothermal energy into useful power;
- 22      r. **Geothermal Resources** refers to mineral resources, classified as renewable energy  
23      resource, in the form of: (i) all products of geothermal processes, embracing  
24      indigenous steam, hot water, and hot brines; (ii) steam and other gases, hot water,  
25      and hot brines resulting from water, gas, or other fluids artificially introduced into  
26      geothermal formations; (iii) heat or associated energy found in geothermal  
27      formations; and (iv) any by-product derived from them;



- 1 s. **Government Share** refers to the amount due the National Government and Local  
2 Government Units from the exploitation, development, and utilization of naturally-  
3 occurring renewable energy resources;
- 4 t. **Green Energy Option** refers to the mechanism to empower end-users to choose  
5 renewable energy in meeting their energy requirements;
- 6 u. **Grid** refers to the high voltage backbone system of interconnected transmission  
7 lines, substations, and related facilities, located in each of Luzon, Visayas, and  
8 Mindanao, or as may otherwise be determined by the ERC in accordance with the  
9 implementing rules and regulations of Republic Act No. 9136;
- 10 v. **Hybrid Systems** refer to any power or energy generation facility which makes use  
11 of two or more types of technologies utilizing both conventional and/or renewable  
12 fuel sources, such as, but not limited to, integrated solar/wind systems,  
13 biomass/fossil fuel systems, hydro/fossil fuel systems, integrated solar/biomass  
14 systems, integrated wind/fossil fuel systems, with a minimum of ten (10)  
15 megawatts or ten percent (10%) of the annual energy output provided by the RE  
16 component;
- 17 w. **Hydroelectric Power Systems or Hydropower Systems** refer to water-based  
18 energy systems which produce electricity by utilizing the kinetic energy of falling  
19 or running water to turn a turbine generator;
- 20 x. **Hydroelectric Power Development or Hydropower Development** refers to the  
21 construction and installation of a hydroelectric power-generating plant and its  
22 *auxiliary facilities*, such as diversion structure, headrace, penstock, substation,  
23 transmission, and machine shop, among others;
- 24 y. **Hydroelectric Power Resources or Hydropower Resources** refer to water  
25 resources found technically feasible for development of hydropower projects  
26 which include rivers, lakes, waterfalls, irrigation canals, springs, ponds, and other  
27 *water bodies*;
- 28 z. **Micro-scale Project** refers to an RE project with capacity not exceeding one  
29 hundred (100) kilowatts;

- 1       aa. **Missionary Electrification** refers to the provision of basic electricity service in  
2             unviable areas with the aim of bringing the operations in these areas to viability  
3             levels;
- 4       bb. **National Power Corporation (NPC)** refers to the government corporation created  
5             under Republic Act No. 6395, as amended by Republic Act No. 9136;
- 6       cc. **National Transmission Corporation (TRANSCO)** refers to the corporation  
7             created pursuant to Republic Act No. 9136 responsible for the planning,  
8             construction, and centralized operation and maintenance of high voltage  
9             transmission facilities, including grid interconnection and ancillary services;
- 10       dd. **Net Metering** refers to a system, appropriate for distributed generation, in which a  
11            distribution grid user has a two-way connection to the grid and is only charged for  
12            his net electricity consumption and is credited for any overall contribution to the  
13            electricity grid;
- 14       ee. **Ocean Energy Systems** refer to energy systems which convert ocean or tidal  
15            current, ocean thermal gradient or wave energy into electrical or mechanical  
16            energy;
- 17       ff. **Off-Grid Systems** refer to electrical systems not connected to the wires and  
18            related facilities of the On-Grid Systems of the Philippines;
- 19       gg. **On-Grid System** refers to electrical systems composed of interconnected  
20            transmission lines, distribution lines, substations, and related facilities for the  
21            purpose of conveyance of bulk power on the Grid of the Philippines;
- 22       hh. **Philippine Electricity Market Corporation (PEMC)** refers to the Corporation  
23            incorporated upon the initiative of the DOE composed of all WESM Members and  
24            whose Board of Directors will be the PEM Board;
- 25       ii. **Renewable Energy (Systems) Developers or RE Developers** refer to individual/s  
26            or a group of individuals formed in accordance with existing Philippine Laws  
27            engaged in the exploration, development and utilization of RE resources and actual  
28            operation of RE systems/facilities;

- 1        **jj. Renewable Energy Market (REM)** refers to the market where the trading of the  
2        RE certificates equivalent to an amount of power generated from RE resources is  
3        made;
- 4        **kk. Renewable Energy Policy Framework (REPF)** refers to the long-term policy  
5        developed by the DOE which identifies among others, the goals and targets for the  
6        development and utilization of renewable energy in the country;
- 7        **ll. Renewable Portfolio Standards** refer to a market-based policy that requires  
8        electricity suppliers to source an agreed portion of their energy supply from  
9        eligible RE resources;
- 10       **mm. Renewable Energy Service (Operating) Contract (RE Contract)** refers to the  
11       service agreement between the Government, thru the DOE, and RE Developer  
12       over a period in which the RE Developer has the exclusive right to a particular RE  
13       area for exploration and development. The RE Contract shall be divided into two  
14       (2) stages: the pre-development stage and the development/commercial stage. The  
15       preliminary assessment and feasibility study up to financial closing shall refer to  
16       the pre-development stage. The construction and installation of facilities up to  
17       operation phase shall refer to the development stage;
- 18       **nn. Renewable Energy Resources (RE Resources)** refer to energy resources that do  
19       not have an upper limit on the total quantity to be used. Such resources are  
20       renewable on a regular basis, and whose renewal rate is relatively rapid to consider  
21       availability over an indefinite period of time. These include, among others,  
22       biomass, solar, wind, geothermal, ocean energy, and run-of-river hydropower  
23       conforming with internationally-accepted norms and standards on dams, and other  
24       emerging energy technologies;
- 25       **oo. Renewable Energy Systems (RE Systems)** refer to energy systems which  
26       convert RE resources into useful energy forms, like electrical, mechanical, etc.;
- 27       **pp. Republic Act No. 9136 or Electric Power Industry Reform Act of 2001** refers  
28       to the law mandating the restructuring of the electric power sector and the  
29       privatization of the NPC;



1 National Renewable Energy Board (NREB) created under Section 18 of this Act, formulate  
2 and promulgate the RPS Rules on a per grid basis within three (3) years upon the effectivity  
3 of this Act which shall include, but not be limited to, the following:

- 4 a) Types of RE resources and identification and certification of generating facilities  
5 using said resources that shall be required to comply with the RPS obligation;
- 6 b) Yearly minimum RPS requirements upon the establishment of the RPS Rules;
- 7 c) Annual minimum incremental percentage of electricity sold by each electricity  
8 supplier which is required to be sourced from eligible RE resources and which  
9 shall not be less than one percent (1%) per year over the next ten (10) years; and,
- 10 d) Means of compliance by mandated electricity suppliers of the minimum  
11 percentage set by the government to meet the RPS requirements including direct  
12 generation from eligible RE resources, contracting for energy sourced from  
13 eligible RE facilities, or trading in the REM under Section 6 of this Act.

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

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

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

26 SECTION 6. *Renewable Energy Market (REM)*. – To facilitate compliance with  
27 Section 5 of this Act, the DOE shall establish the REM and shall direct PEMC to implement

1 changes to the WESM Rules in order to incorporate the rules specific to the operation of the  
2 REM under the WESM.

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

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

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

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

17 SECTION 8. *Net-metering for Renewable Energy.* – Subject to technical  
18 considerations and without discrimination and upon request by distribution end-users, the  
19 distribution utilities shall enter into net-metering agreements with qualified distribution grid  
20 users.

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

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

26 The DOE, ERC, TRANSCO, DUs, PEMC and all relevant parties are hereby  
27 mandated to provide the mechanisms for the physical connection and commercial

1 arrangements necessary to ensure the success of the Net-metering for Renewable Energy  
2 program, consistent with the Grid and Distribution Codes.

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

### 9 CHAPTER III

#### 10 OFF-GRID RENEWABLE ENERGY DEVELOPMENT

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

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

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

### 20 CHAPTER IV

#### 21 GOVERNMENT SHARE

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

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

#### 4 CHAPTER V

#### 5 ENVIRONMENTAL COMPLIANCE

6 SECTION 12. *Compliance with Environmental Regulations.* – All RE explorations,  
7 development, utilization, and RE systems operations shall be conducted in accordance with  
8 existing environmental regulations as prescribed by the DENR and/or any other concerned  
9 government agency.

#### 10 CHAPTER VI

#### 11 GENERAL INCENTIVES

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

- 16 a. *Value-Added Tax, Duty-free Importation and Subsequent Sale of RE*  
17 *Machinery, Equipment and Materials.* – Within the first ten (10) years of an  
18 RE operating contract, importation of machinery and equipment, and materials  
19 and parts thereof, including its control and communication equipment, shall  
20 not be subject to tariff duties and value-added tax; *Provided*, however, That the  
21 said machinery, equipment, materials and parts are:
- 22 (i) not manufactured domestically nor locally available in reasonable  
23 quantity and quality;
  - 24 (ii) directly and actually needed and used exclusively in the RE facilities  
25 for transformation into energy, and transmission of electric energy to  
26 the point of use; and,



1 (iii) covered by shipping documents in the name of the duly registered  
2 Operator to whom the shipment will be directly delivered by customs  
3 authorities:

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

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

11 (1) If made to another RE developer enjoying tax and duty exemption on  
12 imported capital equipment;

13 (2) If made to another RE developer, upon payment of any taxes and duties  
14 due on the net book value of the capital equipment to be sold;

15 (3) Exportation of the capital equipment, machinery, spare parts or source  
16 document or those required for RE development; and

17 (4) For reasons of proven technical obsolescence.

18 When the aforementioned sale, transfer or disposition is made under any of the  
19 conditions provided for in the foregoing paragraphs other than paragraph (2),  
20 the RE developer shall not pay the taxes and duties waived on such items;

21 *Provided further*, That if the RE developer sells, transfers or disposes the  
22 aforementioned imported items without prior approval within five (5) years  
23 from the date of importation, the RE developer and the vendee, transferee, or  
24 assignee shall be solidarily liable to pay twice the amount of tax and duty  
25 exemption given it: *Provided, finally*, That even if the sale, transfer or  
26 disposition of the capital equipment, machinery or spare parts is approved after  
27 five (5) years from the date of importation, the RE developer is still liable to  
28 pay the taxes and duties based on the net book value of the capital equipment,  
29 machinery or spare parts if it has violated any of its registration terms and

1 conditions. Otherwise, it shall no longer be subject to the payment of the taxes  
2 and duties waived thereon.

3 b. *Tax Credit on Domestic Capital Equipment and Services.* – A tax credit  
4 equivalent to one hundred percent (100%) of the value of the value-added tax  
5 and custom duties that would have been paid on the RE machinery, equipment,  
6 materials and parts had these items been imported shall be given to an RE  
7 operating contract holder who purchases machinery, equipment, materials, and  
8 parts from a domestic manufacturer for purposes set forth in this Act;  
9 *Provided, That* prior approval by the DOE was obtained by the local  
10 manufacturer; *Provided further, That* the acquisition of such machinery,  
11 equipment, materials, and parts shall be made within the validity of the RE  
12 operating contract.

13 c. *Special Realty Tax Rates on Equipment and Machinery.* – Any law to the  
14 contrary notwithstanding, realty and other taxes on civil works, equipment,  
15 machinery, and other improvements of a registered RE developer actually and  
16 exclusively used for RES facilities shall not exceed two and a half percent  
17 (2.5%) of their original cost.

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

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

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

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

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

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

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

1 g. *Exemption from the Universal Charge.* – Power and electricity generated  
2 through the RES for the generator’s own consumption and/or for free  
3 distribution in the off-grid areas shall be exempted from the payment of the  
4 Universal Charge provided for under Section 34 of Republic Act No. 9136;  
5 and

6 h. *Exemption from TRANSCO’s Wheeling Charge.* – Power and electricity  
7 generated through the RES for the generator’s own consumption and/or for  
8 free distribution in the grid areas shall be exempted from the payment of the  
9 relevant transmission and sub transmission wheeling charges as provided for  
10 under Section 34 of Republic Act No. 9136.

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

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

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

27 SECTION 16. *Incentives for RE Commercialization.* – All manufacturers, fabricators  
28 and suppliers of locally-produced RE equipment and components duly recognized and

1 accredited by the DOE, in consultation with DOST, DOF and DTI, shall be entitled to the  
2 following privileges:

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

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

25 c. *Income Tax Holiday and Exemption.* – For six (6) years starting from the date  
26 of recognition/accreditation, an RE manufacturer, fabricator and supplier of RE  
27 equipment shall be fully exempt from income taxes levied by the National  
28 Government.

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

6 CHAPTER VII

7 GENERAL PROVISIONS

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

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

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

27 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 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.

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

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

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

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

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

17           Approved,