

**[ REPUBLIC ACT NO. 9136, June 08, 2001 ]**

**AN ACT ORDAINING REFORMS IN THE ELECTRIC POWER  
INDUSTRY, AMENDING FOR THE PURPOSE CERTAIN LAWS AND  
FOR OTHER PURPOSES**

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

**CHAPTER I**

**TITLE AND DECLARATION OF POLICY**

SECTION 1. *Short Title.* — This Act shall be known as the "Electric Power Industry Reform Act of 2001." It shall hereinafter be referred to as the Act.

SEC. 2. *Declaration of Policy.* — It is hereby declared the policy of the State:

- a. To ensure and accelerate the total electrification of the country;
- b. To ensure the quality, reliability, security and affordability of the supply of electric power;
- c. To ensure transparent and reasonable prices of electricity in a regime of free and fair competition and full public accountability to achieve greater operational and economic efficiency and enhance the competitiveness of Philippine products in the global market;
- d. To enhance the inflow of private capital and broaden the ownership base of the power generation, transmission and distribution sectors;
- e. To ensure fair and non-discriminatory treatment of public and private sector entities in the process of restructuring the electric power industry;
- f. To protect the public interest as it is affected by the rates and services of electric utilities and other providers of electric power;
- g. To assure socially and environmentally compatible energy sources and infrastructure;
- h. To promote the utilization of indigenous and new and renewable energy resources in power generation in order to reduce dependence on imported energy;
- i. To provide for an orderly and transparent privatization of the assets and liabilities of the National Power Corporation (NPC);
- j. To establish a strong and purely independent regulatory body and system to ensure consumer protection and enhance the competitive operation of the electricity market; and
- k. To encourage the efficient use of energy and other modalities of demand side management.

SEC. 3. *Scope.* — This Act shall provide a framework for the restructuring of the electric power industry, including the privatization of the assets of NPC, the transition to the desired competitive structure, and the definition of the responsibilities of the various government agencies and private entities.

SEC. 4. *Definition of Terms.* —

- a "Aggregator" refers to a person or entity, engaged in consolidating electric power demand of end-users in the contestable market, for the purpose of purchasing and reselling electricity on a group basis;
- b "Ancillary Services" refer to those services that are necessary to support the transmission of capacity and energy from resources to loads while maintaining reliable operation of the transmission system in accordance with good utility practice and the Grid Code to be adopted in accordance with this Act;
- c "Captive Market" refers to electricity end-users who do not have the choice of a supplier of electricity, as may be determined by the Energy Regulatory Commission (ERC) in accordance with this Act;
- d "Central Dispatch" refers to the process of issuing direct instructions to electric power industry participants by the grid operator to achieve the economic operation and maintenance of quality, stability, reliability and security of the transmission system;
- e "Co-Generation Facility" refers to a facility which produces electrical and/or mechanical energy and forms of useful thermal energy such as heat or steam which are used for industrial commercial heating or cooling purposes through the sequential use of energy;
- f "Commission" refers to the decision-making body of the ERC composed of a Chairman and four (4) members as provided under Section 38 hereof;
- g "Concession Contract" refers to the award by the government to a qualified private entity of the responsibility for financing, operating, expanding, maintaining and managing specific Government-owned assets;
- h "Contestable Market" refers to the electricity end-users who have a choice of a supplier of electricity, as may be determined by the ERC in accordance with this Act;
- i "Customer Service Charge" refers to the component in the retail rate intended for the cost recovery of customer-related services including, but not limited to, meter reading, billing administration and collection;
- j "Demand Side Management" refers to measures undertaken by distribution utilities to encourage end-users in the proper management of their load to achieve efficiency in the utilization of fixed infrastructures in the system;
- k "Department of Energy" or "DOE" refers to the government agency created pursuant to Republic Act No. 7638 whose expanded functions are provided herein;
- l "Department of Finance" or "DOF" refers to the government agency created pursuant to Executive Order No. 127;
- m "Distribution Code" refers to a compilation of rules and regulations governing electric utilities in the operation and maintenance of their distribution systems which includes, among others, the standards for service and performance, and defines and establishes the relationship of the distribution systems with the facilities or installations of the parties connected thereto;

- n "Distribution of Electricity" refers to the conveyance of electric power by a distribution utility through its distribution system pursuant to the provisions of this Act;
- o "Distribution System" refers to the system of wires and associated facilities belonging to a franchised distribution utility extending between the delivery points on the transmission or sub-transmission system or generator connection and the point of connection to the premises of the end-user;
- p "Distribution Wheeling Charge" refers to the cost or charge regulated by the ERC for the use of a distribution system and/or the availment of related services;
- q "Distribution Utility" refers to any electric cooperative, private corporation, government-owned utility or existing local government unit which has an exclusive franchise to operate a distribution system in accordance with this Act;
- r "Electric Cooperative" refers to a distribution utility organized pursuant to Presidential Decree No. 269, as amended, or as otherwise provided in this Act;
- s "Electric Power Industry Participant" refers to any person or entity engaged in the generation, transmission, distribution or supply of electricity;
- t "End-user" refers to any person or entity requiring the supply and delivery of electricity for its own use;
- u "Energy Regulatory Board" or "ERB" refers to the independent, quasi-judicial regulatory body created under Executive Order No. 172, as amended;
- v "Energy Regulatory Commission" or "ERC" refers to the regulatory agency created herein;
- w "Franchise Area" refers to a geographical area exclusively assigned or granted to a distribution utility for distribution of electricity;
- x "Generation Company" refers to any person or entity authorized by the ERC to operate facilities used in the generation of electricity;
- y "Generation of Electricity" refers to the production of electricity by a generation company or a co-generation facility pursuant to the provisions of this Act;
- z "Grid" refers to the high voltage backbone system of interconnected transmission lines, substations and related facilities;
- aa "Grid Code" refers to the set of rules and regulations governing the safe and reliable operation, maintenance and development of the high voltage backbone transmission system and its related facilities;
- bb "Independent Power Producer" or "IPP" refers to an existing power generating entity which is not owned by NPC;
- cc "Inter-Class Cross Subsidy" refers to an amount charged by distribution utilities to industrial and commercial end-users as well as to other subsidizing customer sectors in order to reduce electricity rates of other customer sectors such as the residential end-users, hospitals, and streetlights;
- dd "Inter-Regional Grid Cross Subsidy" refers to an amount embedded in the electricity rates of NPC charged to its customers located in a viable regional grid in order to reduce the electricity rates in a less viable regional grid;
- ee "Intra-Regional Grid Cross Subsidy" refers to an amount embedded in the electricity rates of NPC charged to distribution utilities and non-utilities with higher load factor and/ or delivery voltage in order to

- reduce the electricity rates charged to distribution utilities with lower load factor and/or delivery voltage located in the same regional grid;
- ff "IPP Administrator" refers to qualified independent entities appointed by PSALM Corporation who shall administer, conserve and manage the contracted energy output of NPC IPP contracts;
- gg "Isolated Distribution System" refers to the backbone system of wires and associated facilities not directly connected to the national transmission system;
- hh "Lifeline Rate" refers to the subsidized rate given to low-income captive market end-users who cannot afford to pay at full cost;
- ii "National Electrification Administration" or "NEA" refers to the government agency created under Presidential Decree No. 269, as amended, and whose additional mandate is further set forth herein;
- jj "National Power Corporation" or "NPC" refers to the government corporation created under Republic Act No. 6395, as amended;
- kk "National Transmission Corporation" or "TRANSCO" refers to the corporation organized pursuant to this Act to acquire all the transmission assets of the NPC;
- ll "Open Access" refers to the system of allowing any qualified person the use of transmission, and/or distribution system and associated facilities subject to the payment of transmission and/or distribution retail wheeling rates duly approved by the ERC;
- mm "Philippine Energy Plan" or "PEP" refers to the overall energy program formulated and updated yearly by the DOE and submitted to Congress pursuant to Republic Act No. 7638;
- nn "Power Development Program" or "PDP" refers to the indicative plan for managing electricity demand through energy-efficient programs and for the upgrading, expansion, rehabilitation, repair and maintenance of power generation and transmission facilities, formulated and updated yearly by the DOE in coordination with the generation, transmission and distribution utility companies;
- oo "Power Sector Assets and Liabilities Management Corporation" or "PSALM Corp." refers to the corporation created pursuant to Section 49 hereof;
- pp "Privatization" refers to the sale, disposition, change and transfer of ownership and control of assets and IPP contracts from the Government or a government corporation to a private person or entity;
- qq "Renewable Energy Resources" refer to energy resources that do not have an upper limit on the total quantity to be used. Such resources are renewable on a regular basis and the renewable rate is rapid enough to consider availability over an indefinite time. These include, among others, biomass, solar, wind, hydro and ocean energy;
- rr "Restructuring" refers to the process of reorganizing the electric power industry in order to introduce higher efficiency, greater innovation and end-user choice. It shall be understood as covering a range of alternatives enhancing exposure of the industry to competitive market forces;
- ss "Retail Rate" refers to the total price paid by end-users consisting of the charges for generation, transmission and related ancillary services, distribution, supply and other related charges for electric service;
- tt "Small Power Utilities Group" or "SPUG" refers to the functional unit of NPC created to pursue missionary electrification function;
- uu "Stranded contract costs of NPC or distribution utility" refer to the excess of the contracted cost of electricity under eligible contracts over the actual selling price of the contracted energy output of such

- contracts in the market. Such contracts shall have been approved by the ERB as of December 31, 2000;
- vv "Stranded Debts of NPC" refer to any unpaid financial obligations of NPC which have not been liquidated by the proceeds from the sales and privatization of NPC assets;
  - ww "Subtransmission Assets" refer to the facilities related to the power delivery service below the transmission voltages and based on the functional assignment of assets including, but not limited to step-down transformers used solely by load customers, associated switchyard/substation, control and protective equipment, reactive compensation equipment to improve customer power factor, overhead lines, and the land where such facilities/ equipment are located. These include NPC assets linking the transmission system and the distribution system which are neither classified as generation nor transmission;
  - xx "Supplier" refers to any person or entity authorized by the ERC to sell, broker, market or aggregate electricity to the end-users;
  - yy "Supplier's Charge" refers to the charge imposed by electricity suppliers for the sale of electricity to end-users, excluding the charges for generation, transmission and distribution wheeling;
  - zz "Supply of Electricity" means the sale of electricity by a party other than a generator or a distributor in the franchise area of a distribution utility using the wires of the distribution utility concerned;
  - aaa "Transmission Charge" refers to the regulated cost or charges for the use of a transmission system which may include the availment of ancillary services;
  - bbb "Transmission Development Plan" or "TDP" refers to the program for managing the transmission system through efficient planning for the expansion, upgrading, rehabilitation, repair and maintenance, to be formulated by DOE and implemented by the TRANSCO pursuant to this Act;
  - ccc "Transmission of Electricity" refers to the conveyance of electricity through the high voltage backbone system; and
  - ddd "Universal Charge" refers to the charge, if any, imposed for the recovery of the stranded cost and other purposes pursuant to Section 34 hereof.

## **CHAPTER II**

### **ORGANIZATION AND OPERATION OF THE ELECTRIC POWER INDUSTRY**

SEC. 5. *Organization.* — The electric power industry shall be divided into four (4) sectors, namely: generation, transmission, distribution and supply.

SEC. 6. *Generation Sector.* — Generation of electric power, a business affected with public interest, shall be competitive and open.

Upon the effectivity of this Act, any new generation company shall, before it operates, secure from the Energy Regulatory Commission (ERC) a certificate of compliance pursuant to the standards set forth in this Act, as well as health, safety and environmental clearances from the appropriate government agencies under existing laws.

Any law to the contrary notwithstanding, power generation shall not be considered a public utility operation. For this purpose, any person or entity engaged or which