



SENATE

S. No. 1623

PREPARED AND SUBMITTED BY THE COMMITTEES ON
ENERGY; PUBLIC SERVICES; AND WAYS AND MEANS
WITH SENATORS PACQUIAO, GATCHALIAN, EJERCITO
AND VILLAR AS AUTHORS THEREOF

AN ACT REDUCING THE CAP OF RECOVERABLE
SYSTEM LOSS RATE AND FOR OTHER
PURPOSES

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

1 SECTION 1. *Title.* – This Act shall be known as the
2 “Recoverable System Loss Act”.

3 SEC. 2. *Declaration of Policy.* – It is hereby declared
4 the policy of the State to protect and enhance the right of
5 all the people to human dignity and reduce social,
6 economic, and political inequality by equitably diffusing
7 wealth and political power for the common good. Thus, the
8 State shall ensure the quality, reliability, security, and

1 affordability of supply of electric power while taking into
2 consideration the viability of all distribution utilities and
3 the protection of rights of every consumer. Towards this
4 end, the State shall ensure that the imposition of
5 electricity charges to the public is justifiable, equitable,
6 and reflects the true cost of electricity.

7 SEC. 3. *Definition of Terms.* – For purposes of this
8 Act, the following terms shall be defined as stated below:
9 *Provided,* That other terms used in this Act but not defined
10 herein shall be understood to mean the way they are
11 defined in Republic Act No. 9136 otherwise known as the
12 “Electric Power Industry Reform Act of 2001” and its
13 Implementing Rules and Regulations:

14 (a) *Distribution Utility (DU)* refers to any electric
15 cooperative, private distribution utility, or government-
16 owned or existing local government unit-owned utility,
17 which has a franchise to operate a distribution system
18 including those whose franchise covers economic zones;

1 (b) *Electric Cooperative (EC)* refers to a distribution
2 utility organized pursuant to Presidential Decree No. 269,
3 as amended, or as otherwise provided in Republic Act
4 No. 9136 otherwise known as the “Electric Power Industry
5 Reform Act of 2001”;

6 (c) *Department of Energy (DOE)* refers to the
7 government agency created pursuant to Republic Act
8 No. 7638 otherwise known as the “Department of Energy
9 Act of 1992” whose expanded functions are provided in
10 Republic Act No. 9136 otherwise known as the “Electric
11 Power Industry Reform Act of 2001”;

12 (d) *Energy Regulatory Commission (ERC)* refers to
13 the regulatory body created pursuant to Republic Act
14 No. 9136 otherwise known as the “Electric Power Industry
15 Reform Act of 2001”;

16 (e) *Energy Input* refers to the energy, in kilowatt hour
17 (kWh), delivered into the distribution system by the
18 transmission system, embedded generating plants, other

1 distribution systems, and user systems with generating
2 facilities;

3 (f) *Energy Output* refers to the energy, in kWh,
4 delivered by the DU to its customers' metering point,
5 including energy for the DU's own use, and energy sold by
6 retail suppliers to their contestable customers that are
7 connected to the said DU;

8 (g) *National Electrification Administration (NEA)*
9 refers to the government agency created under
10 Presidential Decree No. 269, as amended by Republic Act
11 No. 10531 otherwise known as the "National Electrification
12 Administration Reform Act of 2013", and whose additional
13 mandates are further set in Republic Act No. 9136
14 otherwise known as the "Electric Power Industry Reform
15 Act of 2001";

16 (h) *National Power Corporation (NPC)* refers to the
17 government corporation created under Republic Act
18 No. 9136 otherwise known as the "Electric Power Industry
19 Reform Act of 2001";

1 (i) *Non-Technical Losses* refer to the component of
2 system loss that is not related to the physical
3 characteristics and functions of the electrical system, and
4 is caused primarily by human action, whether intentional
5 or not. Non-Technical Loss includes but shall not be
6 limited to the energy lost due to pilferage, tampering of
7 meters, and erroneous meter reading. It shall be calculated
8 in accordance with Section 7 of this Act;

9 (j) *Private Distribution Utility (PDU)* refers to a
10 distribution utility organized as a private corporation
11 which has a franchise to operate a distribution system
12 including those whose franchise covers economic zones:
13 *Provided, That* for purposes of this Act, government-owned
14 and local government-owned utilities as well as those
15 operating within economic zones shall be classified as
16 PDUs;

17 (k) *Small Power Utilities Group (SPUG)* refers to the
18 functional unit of the NPC created to pursue missionary
19 electrification function;

1 (l) *System Loss* refers to the difference between
2 the electric energy delivered to the distribution system
3 (energy input) and the energy delivered to the end-users
4 and other entities connected to the system (energy output):
5 *Provided*, That it shall be calculated in accordance with
6 Section 5 of this Act; and

7 (m) *Technical Losses* refer to the component of system
8 loss that is inherent in the physical delivery of electric
9 energy. It includes conductor loss, transformer core loss,
10 and metering equipment. It shall be calculated in
11 accordance with Section 6 of this Act.

12 SEC. 4. *Recoverable System Loss Rate*. – For purposes
13 of recoverable systems loss rate, the following system loss
14 caps are set:

15 (a) For PDUs, a maximum of five percent (5%); and

16 (b) For ECs, a maximum of ten percent (10%).

17 The ERC shall determine, every three (3) years,
18 whether the caps shall be reduced further on the basis of
19 load density, sales mix, cost of service, delivery voltage,

1 and other technical considerations, as well as international
2 benchmarks, taking into account the viability of PDUs
3 and ECs and the interest of the consumers: *Provided, That*
4 the ERC shall establish a timeframe for the compliance
5 of all DUs with the system loss rate caps: *Provided,*
6 *further,* That such timeframe for compliance shall coincide
7 with the next regulatory period of PDUs and ECs:
8 *Provided, finally,* That for ECs operating in SPUG areas,
9 such timeframe shall concur with their rate filing.

10 SEC. 5. *Systems Loss Calculation.* – For purposes of
11 calculating the system loss as defined in this Act and
12 for any regulation in relation thereto, the following
13 formula for system loss shall be followed or as determined
14 by the ERC:

$$15 \quad \text{System Loss, \%} = \frac{(\text{Input Energies} - \text{Output Energies}) \times 100\%}{16 \quad \text{Input Energies}}$$

17 SEC. 6. *Technical Loss Calculation.* – The technical
18 loss shall be calculated using the following formula or as

1 determined by the ERC:

2 $\text{Technical Loss} = \text{Feeder Technical Loss} + (\text{Sub-transmission Line Loss} +$
3 $\text{Substation Technical Loss})$

4 *Provided*, That the technical loss shall be calculated using
5 the following method or as determined by the ERC:

6 (a) By conducting a power flow simulation to
7 segregate the various components of the technical loss
8 using a reliable software application acceptable to the
9 ERC; and

10 (b) By using the coefficient and network parameters
11 as well as the sub-transmission and substation losses.

12 *SEC. 7. Non-Technical Loss Calculation.* – The non-
13 technical loss shall be calculated using the following
14 formula or as determined by the ERC:

15 $\text{Non-Technical Loss} = \text{Total System Loss} - \text{Technical Loss}$

16 *SEC. 8. Annual Review of System Loss Charges.* – DUs
17 shall quarterly submit to the ERC a sworn statement
18 containing their segregated system losses indicating their
19 technical and non-technical losses, and all documents

1 pertinent to system loss charges. The ERC shall annually
2 review and strictly verify the system loss charges to ensure
3 that only allowable costs within the system loss caps are
4 recovered. Failure to comply with this section shall subject
5 the DUs to the following administrative penalties: A fine of
6 Three hundred thousand pesos (P300,000.00) on the first
7 violation, a fine of Four hundred thousand pesos
8 (P400,000.00) on the second violation, and a fine of Five
9 hundred thousand pesos (P500,000.00) on the third and
10 subsequent violations: *Provided*, That ERC after notice,
11 hearing, and publication may provide for a new schedule of
12 penalties: *Provided, further*, That on the third and
13 succeeding violations, a DU shall be disqualified from
14 applying for an individualized system loss cap until it has
15 complied with all the documentary requirements in this
16 section.

17 Any DU that submits false and/or fraudulent
18 information and/or document shall pay One million pesos
19 (P1,000,000.00) on the first violation, Two million pesos
20 (P2,000,000.00) on the second violation, and Three million

1 pesos (P3,000,000.00) on the third violation as well as
2 ERC's automatic recommendation to the Joint
3 Congressional Power Commission to revoke the DU's
4 franchise: *Provided*, That ERC after notice, hearing, and
5 publication may provide for a new schedule of penalties:
6 *Provided, further*, That this is without prejudice to
7 administrative, civil, and criminal liabilities against
8 individual/s responsible for the submission of false and/or
9 fraudulent information and/or documents.

10 SEC. 9. *Performance Incentive Scheme (PIS)*. – The
11 ERC shall devise a Performance Incentive Scheme for DUs
12 to encourage system loss reduction in furtherance of the
13 objectives stated in this Act.

14 SEC. 10. *Individualized System Loss Cap*. – A DU, in
15 exceptional circumstances, may be allowed to use an
16 individualized system loss cap: *Provided*, That the details
17 and procedures on the individualized system loss cap
18 such as, but not limited to, rules and guidelines to
19 qualify for its use, the method for determination of the

1 cap, and the data requirements to be submitted shall be
2 determined by the ERC: *Provided, further,* That in
3 determining the reasonable level of an individualized
4 system loss cap, a cost and benefit analysis must be
5 provided and analyzed from the viewpoint of the consumer:
6 *Provided, finally,* That no individualized system loss cap
7 shall be higher than the existing system loss cap at
8 the time of the effectivity of this Act.

9 SEC. 11. *Timeline on Individualized System Loss*
10 *Cap.* – The ERC shall issue a final decision on a DU's
11 application for the use of an individualized system loss cap
12 within one hundred twenty (120) calendar days from
13 submission of such application: *Provided,* That failure of
14 ERC to comply with the time stated herein shall subject
15 the persons concerned to the administrative penalties
16 stated in Section 12 of this Act.

17 SEC. 12. *Administrative Offenses and Penalties.* – The
18 following acts shall be considered administrative offenses:

1 (a) Failure to discharge the responsibilities stated in
2 Sections 4, 8, 9, 10 and 11 of this Act; and

3 (b) Failure to comply with the mandated timeframes
4 in Sections 4, 8 and 11 of this Act.

5 Any person found guilty of the offenses mentioned
6 above shall be penalized as follows:

7 (a) First offense – Thirty (30) days suspension
8 without pay and mandatory attendance in Values
9 Orientation Program;

10 (b) Second offense – Six (6) months suspension
11 without pay; and

12 (c) Third offense – Dismissal that shall carry with it
13 perpetual disqualification from holding public office, and
14 forfeiture of retirement benefits.

15 SEC. 13. *Implementing Rules and Regulations.* –
16 Within ninety (90) days from the effectivity of this Act,
17 the ERC, in coordination with the DOE and the NEA and
18 in consultation with stakeholders, shall promulgate the

1 necessary rules and regulations to implement the
2 provisions of this Act.

3 SEC. 14. *Separability Clause.* – If, for any reason,
4 any provision of this Act is declared to be unconstitutional
5 or invalid, the other sections or provisions hereof which
6 are not affected thereby shall continue to be in full force or
7 effect.

8 SEC. 15. *Repealing Clause.* – All other laws, decrees,
9 orders, rules and regulations or parts thereof which are
10 inconsistent with or contrary to the provisions of this Act
11 are hereby repealed, amended or modified accordingly.

12 SEC. 16. *Effectivity.* – This Act shall take effect fifteen
13 (15) days after its publication in at least two (2) national
14 newspapers of general circulation.

Approved,