Republic of the Philippines

HOUSE OF REPRESENTATIVES
Quezon City, Manila

EIGHTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 2099

Introduced by Honorable Lord Allan Jay Q. Velasco

EXPLANATORY NOTE

Republic Act No. 9136, otherwise known as the Electric Power Industry Reform Act (EPIRA) of 2001, sought to re-structure the electric power industry by privatizing the Generation, Transmission, Distribution, and Supply of the power sector. Distribution and transmission were later declared as public utilities.

In line with the EPIRA, the Energy Regulatory Commission (ERC) was created as an independent, quasi-judicial regulatory body, amending for that purpose the existing Energy Regulatory Board (ERB) created under Executive Order No. 172, as amended.

ERC, as the country’s electric power regulator has a crucial role in ensuring consumer protection, and in enhancing the competitive operation of the electricity market. An evaluation of the governance structure of the ERC would show that the powers and functions of the Chairman of the Commission and the Chief Executive Officer is lodged in one person. Experience shows that practice does not foster a balance of power and accountability. Accountability and transparency in the workings of the Commission should also be paramount in order to engender trust and integrity among the industry players and the public.

It is in this light that this measure is proposed. This bill aims to enhance and strengthen the existing governance structure of the regulatory body, by providing (1) additional number, qualifications and requirements for ERC Commissioners to ensure board efficiency and diversity; (2) creation of three [3] Commission divisions, aside from the Commission en Banc, to ensure faster resolutions of cases, applications, and promulgation of rules; (3) prohibitions and disqualifications for ERC Commissioners and their relatives to prevent conflicts of interest; (4) divestment of the CEO functions from the Chairperson and lodging the same to the Executive Director of the ERC; (5) provision for a People’s Counsel; (6) limited fiscal autonomy to augment the benefits of ERC officers and staff; and (7) detailing a Code of Ethics for the Commissioners.

In view of the foregoing, this bill seeks to provide a more streamlined and stronger power regulator, amending for that purpose, Republic Act No. 9136, otherwise known as the otherwise known as the Electric Power Industry Reform Act (EPIRA) of 2001. For the foregoing reasons, the passage of this bill is hereby sought.

HON. LORD ALLAN JAY Q. VELASCO
AN ACT
STRENGTHENING THE ENERGY REGULATORY COMMISSION BY EXPANDING AND STREAMLINING ITS BUREAUCRACY, UPGRADING EMPLOYEE SKILLS, AUGMENTING BENEFITS, AND APPROPRIATING FUNDS THEREFOR

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

CHAPTER I
GENERAL PROVISIONS

SECTION 1. Short Title. - This Act shall be known as the “Energy Regulatory Commission Act.”

SEC. 2. Declaration of Policy. - The State recognizes the significant role of the Energy Regulatory Commission in:

a) Ensuring transparent and reasonable prices of electricity;
b) Protecting the consumers as they are affected by the rates and services of electric utilities and other providers of electric power; and
c) Promoting competition, encouraging market development, ensuring customer choice, and penalizing abuse of market power in the restructured power industry.

Towards this end, the State shall:

a) Establish a strong, independent, transparent, and accountable regulatory body; and
b) Ensure the efficient and effective performance of the functions and mandates of the regulatory body to enhance competitiveness in the electric power industry.

CHAPTER II
ORGANIZATIONAL STRUCTURE
SEC. 3. Section 38 of the Republic Act 9136 is hereby amended, to read as follows:

SEC. 38. [Creation] STRENGTHENING/RECONSTITUTION of the Energy Regulatory Commission. There is hereby created an independent, quasi-judicial regulatory body to be named the Energy Regulatory Commission (ERC). [For this purpose, the existing Energy Regulatory Board (ERB) created under Executive Order No. 172, as amended, is hereby abolished.] THE ENERGY REGULATORY COMMISSION (ERC) IS HEREBY RECONSTITUTED. TOWARDS THIS END, THE ERC SHALL BE EXCLUSIVELY RESPONSIBLE FOR THE REGULATION OF THE ELECTRIC POWER AND ENERGY INDUSTRY AND SHALL ENJOY LIMITED FISCAL AUTONOMY. ITS ANNUAL APPROVED BUDGET SHALL BE AUTOMATICALLY AND REGULARLY RELEASED.

The Commission shall be composed of a [Chairman] CHAIRPERSON and [four-(4)] EIGHT (8) members. [to] THE CHAIRPERSON SHALL be appointed by the President of the Philippines AND SHALL SERVE A TERM CO-TERMINOUS WITH THAT OF THE PRESIDENT. THE REST OF THE MEMBERS OF THE COMMISSION SHALL BE APPOINTED BY THE PRESIDENT OF THE PHILIPPINES FROM A SHORTLIST PROVIDED BY THE JOINT CONGRESSIONAL ENERGY COMMISSION (JCEC). A SHORTLIST OF THREE (3) NOMINEES PER POSITION SHALL BE CHOSEN BY THE PRESIDENT ONLY FROM AMONG THOSE NOMINATED BY THE JCEC. The [Chairman] CHAIRPERSON and the members of the Commission shall be natural-born citizens and residents of the Philippines, persons of good moral character, at least [thirty-five-(35)] FORTY-FIVE (45) years of age, and of recognized competence in any of the following fields: energy, law, economics, finance, commerce, or engineering, with at LEAST [three-(3)] FIVE (5) years OF actual and distinguished experience in their respective fields of expertise: Provided, That out of the [four-(4)] EIGHT (8) members of the Commission, at least [one-(1)] THREE (3) shall be [a member] MEMBERS of the Philippine Bar INCLUDING THE CHAIRPERSON with at least ten (10) years experience in the active practice of law, [and] AT LEAST [one-(1)] TWO (2) MEMBERS shall be a certified public [accountant] ACCOUNTANTS with at least ten (10) years OF experience in THE active practice OF ACCOUNTING; AT LEAST TWO (2) MEMBERS SHALL BE ENGINEERS WITH AT LEAST FIVE (5) YEARS OF EXPERIENCE PREFERABLY IN POWER SYSTEM ENGINEERING; AND AT LEAST ONE (1) MEMBER SHALL BE AN ECONOMIST WITH AT LEAST FIVE (5) YEARS OF EXPERIENCE PREFERABLY IN UTILITY ECONOMICS; PROVIDED, FURTHER, THAT AT LEAST ONE (1) OF THE MEMBERS SHALL COME FROM THE CONSUMER SECTOR.
[Within three (3) months from the creation of the ERC, the Chairman shall submit for the approval by the President of the Philippines the new organizational structure and plantilla positions necessary to carry out the powers and functions of the ERC.]

[The Chairman of the Commission, who shall be a member of the Philippine Bar, shall act as the Chief Executive Officer of the Commission.]

All members of the Commission shall have a term of seven (7) years: Provided, That for the first appointees, THE CHAIRPERSON SHALL HAVE A CONTEMPORARY TERM WITH THE PRESIDENT OF THE PHILIPPINES; PROVIDED, THAT FOR THE FIRST TWO (2) APPOINTED MEMBERS, WHO SHALL SERVE FOR SEVEN (7) YEARS, THE NEXT THREE (3) APPOINTED MEMBERS SHALL SERVE FOR FIVE (5) YEARS, AND THE LAST THREE (3) APPOINTED MEMBERS SHALL SERVE FOR A TERM OF THREE (3) YEARS, [the-Chairman shall hold office for seven (7) years, two (2) members shall hold office for five (5) years and the other two (2) members shall hold office for three (3) years; Provided, further, That appointment to any future vacancy shall only be for the unexpired term of the predecessor: Provided, finally, That there shall be no reappointment and in no case shall any member serve for more than seven (7) years in the Commission.

The Chairman CHAIRPERSON and members of the Commission shall assume office of the beginning of their terms: Provided, That, if upon the effectivity of this Act, the Commission has not been constituted and the new staffing pattern and plantilla positions have not been approved and filled-up, the current Board and existing personnel of [ERB] ERC shall continue to hold office.

The existing personnel of the [ERB] ERC, if qualified, shall be given preference in the filling up of plantilla positions created in the ERC, subject to existing civil service rules and regulations.

Members of the Commission shall enjoy security of tenure and shall not be suspended or removed from office except for just cause as specified by law.

The Chairman CHAIRPERSON and members of the Commission or any of their relatives within the fourth civil degree of consanguinity or affinity, WHETHER SUCH PERSONAL RELATIONS ARE legitimate, [or] common law, OR OTHERWISE, shall be prohibited from holding any interest whatsoever, either as investor, stockholder, officer or director, in any company or entity engaged in the business of [transmitting, generating, supplying or distributing any form of energy and must, therefore, divest through sale or legal disposition of any and all interests in the energy sector upon assumption of office.] GENERATING, TRANSMITTING, DISTRIBUTING OR SUPPLYING ELECTRICITY. UPON THE ASSUMPTION BY THE CHAIRPERSON AND THE MEMBERS OF THE ERC OF THEIR
RESPECTIVE POSITIONS, THE CHAIRMAN AND THE MEMBERS OF THE ERC
AND THEIR RESPECTIVE RELATIVES WITHIN THE PRESCRIBED DEGREE
OF PERSONAL RELATIONS SHALL DIVEST THEMSELVES OF ALL THEIR
SAID INTERESTS.

[The presence of at least three (3) members of the Commission shall constitute
a quorum and the majority vote of two (2) members in a meeting where a quorum
is present shall be necessary for the adoption of any rule, ruling, order, resolution,
decision, or other act of the Commission in the exercise of its quasi-judicial
functions. Provided, That in fixing rates and tariffs, an affirmative vote of three (3)
members shall be required.]

THE COMMISSION SHALL BE DIVIDED INTO THREE (3) DIVISIONS,
WITH THREE (3) MEMBERS EACH, INCLUDING THE CHAIRPERSON. EACH
DIVISION MUST HAVE AT LEAST ONE (1) MEMBER WHO IS A LAWYER AND
ONE (1) MEMBER WHO IS AN ENGINEER OR ECONOMIST. THE PRESENCE
OF AT LEAST TWO (2) OF THE (3) MEMBERS OF THE DIVISION SHALL
CONSTITUTE A QUORUM, AND THE MAJORITY VOTE AT LEAST TWO (2)
MEMBERS OF THE DIVISION IN WHICH A QUORUM WAS PRESENT SHALL
BE NECESSARY FOR THE ADOPTION OF ANY RULE, RULING, ORDER,
RESOLUTION, DECISION OR OTHER ACTS OF THE COMMISSION.

AT LEAST FIVE (5) MEMBERS OF THE ERC SHALL CONSTITUTE A
QUORUM IN THE COMMISSION EN BANC. THE CHAIRPERSON SHALL BE
THE PRESIDING OFFICER DURING A COMMISSION EN BANC HEARING. IN
THE ABSENCE OF THE CHAIRPERSON, THE REST OF THE MEMBERS,
CONSTITUTING A QUORUM, SHALL SELECT A PRESIDING OFFICER. A
VALID DECISION OF THE COMMISSION EN BANC SHALL BE CONCURRED IN
BY THE MAJORITY OF THE MEMBERS CONSTITUTING A QUORUM. THE
COMMISSION EN BANC SHALL ACT PRIMARILY ON THE FOLLOWING
CASES:

a) CASES INVOLVING THE ERC’S QUASI-LEGISLATIVE POWER,
RULES, OR REGULATIONS;

b) CASES INVOLVING THE NATIONAL TRANSMISSION CORPORATION
(TRANSCO) OR ITS AUTHORIZED CONCESSIONAIRE WHICH
OPERATES THE TRANSMISSION NETWORK;

c) CASES INVOLVING CONTRACTS WORTH MORE THAN FIVE
HUNDRED MILLION PESOS (PHP500,000,000.00);

d) PRIVATE DISTRIBUTION UTILITIES;

e) CASES PREVIOUSLY HANDLED BY THE ERC DIVISION IN WHICH NO
QUORUM OR VALID DECISION WAS REACHED; AND
f) OTHER CASES AS MAY BE DESIGNATED BY THE COMMISSION EN
BANC ITSELF.

THE CHAIRMAN AND THE MEMBERS OF THE ERC SHALL CONFORM TO THE
FOLLOWING CODE OF ETHICS:

(1) AVOID IMPROPERITY AND THE APPEARANCE OF
IMPROPRIETY IN ALL ACTIVITIES;

(2) PERFORM ALL DUTIES WITH UTMOST IMPARTIALITY AND
DILIGENCE;

(3) MUST BEHAVE AT ALL TIMES AS TO PROMOTE PUBLIC
CONFIDENCE IN THE ERC AND AVOID OFF-THE-RECORD
CONVERSATIONS BETWEEN ANY MEMBER OF THE ERC AND PARTIES
THERETO, INCLUDING ANY STAFF ACTING AS A PARTY, REGARDING
THE MERITS OR ANY FACT IN ISSUE OF ANY MATTER PENDING
BEFORE THE ERC;

(4) ABSTAIN FROM PUBLICLY EXPRESSING HIS OR HER
PERSONAL VIEWS ON THE MERITS OF A MATTER PENDING BEFORE
THE ERC AND REQUIRE SIMILAR ABSTENTION ON THE PART OF ERC
PERSONNEL SUBJECT TO HIS OR HER DIRECTION AND CONTROL;

(5) INITIATE APPROPRIATE DISCIPLINARY MEASURES AGAINST
ERC PERSONNEL FOR UNPROFESSIONAL CONDUCT;

(6) INHIBIT HIMSELF OR HERSELF FROM PROCEEDINGS IN
WHICH HIS OR HER IMPARTIALITY MIGHT BE REASONABLY
QUESTIONED;

(7) DISCLOSE HIS OR HER PERSONAL AND FIDUCIARY
INTERESTS AND MAKE REASONABLE EFFORTS TO DISCLOSE THE
PERSONAL FINANCIAL INTERESTS OF HIS OR HER SPOUSE AND
CHILDREN;

(8) ACTIVITIES OUTSIDE WORK SUCH AS ACADEMIC LECTURES
WITH HONORARIA SHALL BE DISCLOSED ANNUALLY. SUCH
DISCLOSURE STATEMENT SHALL BE FILED WITH THE EXECUTIVE
DIRECTOR OF THE ERC AND SHALL BE OPEN TO INSPECTION BY THE
PUBLIC DURING THE NORMAL BUSINESS HOURS DURING THE
TENURE OF THE CHAIRMAN OR MEMBER OF THE ERC. THE
CHAIRMAN OR ANY MEMBER OF THE PPRC SHALL NOT RESUME
THEIR DUTIES UNTIL HE OR SHE SUBMITS SAID DISCLOSURE
STATEMENT TO THE EXECUTIVE DIRECTOR OF THE ERC.

(9) REFRAIN FROM SOLICITATION OF FUNDS FOR ANY
POLITICAL, EDUCATIONAL, RELIGIOUS, CHARITABLE, OR CIVIC
PURPOSES, ALTHOUGH HE OR SHE MAY BE AN OFFICER, DIRECTOR,
OR TRUSTEE OF SUCH ORGANIZATIONS;

(10) REFRAIN FROM ANY FINANCIAL OR BUSINESS DEALINGS
WHICH MAY CAST DOUBT ON THE IMPARTIALITY OF THE PPRC
CHAIRMAN OR MEMBERS BY THE PUBLIC;

(11) IN EXERCISING THEIR QUASI-JUDICIAL FUNCTION, THE
CHAIRMAN AND MEMBERS OF THE ERC SHALL ADHERE TO THE
CANONS OF JUDICIAL CONDUCT; AND

(12) CONFORM TO ANY SUCH ADDITIONAL RULES AS THE ERC
MAY PRESCRIBE.

ANY VIOLATION OF THE ABOVE-MENTIONED CODE OF ETHICS SHALL
CONSTITUTE CAUSE FOR REMOVAL FROM OFFICE BY THE OFFICE OF
THE PRESIDENT OF THE PHILIPPINES, WITHOUT PREJUDICE TO ANY
OTHER PENALITIES UNDER ALL APPLICABLE LAWS.

AFTER TERMINATING EMPLOYMENT OR SERVICE WITH ERC, THE
CHAIRMAN AND MEMBERS OF THE PPRC, EXECUTIVE DIRECTOR,
SERVICE OR OFFICE DIRECTORS, OR ITS EQUIVALENT, WHO ARE
APPOINTED, OR EMPLOYED UNDER ERC, IS PROHIBITED FROM
ACCEPTING EMPLOYMENT WITH ANY REGULATED ENTITY FOR A
PERIOD OF THREE (3) YEARS, AND ALL MEMBERS OF THE ERC ARE
PROHIBITED FROM APPEARING BEFORE THE ERC ON BEHALF OF ANY
REGULATED ENTITY FOR A PERIOD OF THREE (3) YEARS AFTER SAID
TERMINATION OF EMPLOYMENT.”

SEC. 4. Expansion. – The existing organizational structure of the Energy
Regulatory Commission (ERC) is hereby reorganized by creating the following:
a) Office of the General Counsel and Secretariat, directly reporting to the Commission en Banc;

b) Internal Audit Unit, directly reporting to the Commission en Banc and;
c) Six (6) line services: (a) Regulatory Operations Service; (b) Market Operations Service; (c) Consumer Affairs Service; (d) Legal Service; (e) Planning and Public Information Service; and (f) Finance and Administrative Service.

The Commission en Banc may create oversight committees or services as may be deemed necessary and consistent with the functions and mandates of the ERC.

To achieve the goals of this Act, the Commission, as an independent regulatory body, is hereby authorized to provide for its reorganization, to streamline its structure and operations, upgrade its human resource compliment and enable the same to perform its functions more efficiently and effectively and exercise its power under this Act and under Republic Act No. 9136, otherwise known as “Electric Power Industry Reform Act of 2001” (EPIRA).

All positions of the ERC shall be governed by a compensation and position classification system and qualification standards approved by the Commission en Banc based on comprehensive job analysis and audit of actual duties and personal responsibilities. Towards this end, the Commission shall be exempt from laws, rules, and regulations on compensation, position classification and qualification standards. The Commission shall, however, endeavor to make its system conform as closely as possible with the principles under the Compensation and Position Classification Act of 1989 otherwise known as Republic Act No. 6758, as amended.

SEC. 5. Commission en Banc. — In addition to the functions enumerated in Republic Act No. 9136, Republic Act No. 9513, otherwise known as the “Renewable Energy Act of 2008,” and other relevant laws, all the members of the Commission shall:

a) Exercise all quasi-judicial and quasi-legislative functions in furtherance of the ERC’s mandate under Republic Act No. 9136;

b) Act on the selection and appointment of all ERC personnel: Provided, That the appointment of ERC personnel with a rank lower than a Division Chief may be delegated to the Chairperson;

c) Approve the internal rules, organizational structure, and operational strategy of the ERC; and

d) Act as the Head of Procuring Entity (HOPE) and exercise all duties and powers as stated in Republic Act No. 9184, otherwise known as the “Government Procurement Reform Act.” Provided, That the Commission may delegate its functions under the said Act.
SEC. 6. **Duties and Responsibilities of the Chairperson.** – The Chairperson as head of the Commission en Banc shall have the following duties and responsibilities:

a) Lead and oversee the implementation of the Commission’s mandate under the EPIRA in accordance with the Commission approved internal rules, organizational and operational strategy;

b) Ensure good governance policies, practices, rules and procedures that promote the highest standards of integrity, competence, and transparency;

c) Enforce adherence to the Commission’s approved internal rules;

d) Act on the appointment of ERC personnel with the rank of Division Chief and below;

e) Act as the official representative of the ERC to promote collaborative relationships and open communication between the Commission and the following: (1) general public, (2) executive and legislative government agencies, (3) international organizations or agencies; and (4) industry stakeholders.

f) Preside over meetings of the Commission: **Provided,** That the Chairperson shall have the right to vote on all matters, issues or cases pending before the Commission;

g) Determine the date, time and location of the regular and special Commission meetings and prepare the agenda for the meeting with the consensus of all the members of the Commission;

h) Perform such other functions as may be provided by law.

SEC. 7. **Executive Director.** – The Executive Director shall be a lawyer with at least ten (10) years of active practice of law with at least five (5)-year experience in management and administration.

The Executive Director shall act as the Commission’s Chief Executive Officer (CEO) with the following duties and responsibilities:

a) Oversee the daily operations of the ERC and ensure the smooth functioning of all ERC processes;

b) Provide the Commission with periodic updates on the day-to-day operations of the ERC towards the achievement of its target objectives;

c) Evaluate and ensure compliance of the line services and all ERC employees to the Commission approved periodic performance targets, annual operating plan and internal rules; and

d) Perform such other functions related to foregoing or as may be assigned by the Commission *en Banc.*

**CHAPTER III**
COMPENSATION STRUCTURE AND OTHER EMOLUMENTS

SEC. 8. Section 39 of the Electric Power Industry Reform Act (EPIRA) of 2001 is hereby amended to read as follows:

"SEC. 39. ADJUSTED Compensation STRUCTURE and Other Emoluments for ERC Personnel. - The compensation and other emoluments for the [Chairman and members of the] Commission and [the] ERC personnel shall be exempted from the coverage of Republic Act No. 6758, otherwise known as the "Salary Standardization Act", AS AMENDED BY EXECUTIVE ORDER NO. 201, SERIES OF 2016. [For this purpose, the schedule of compensation of the ERC personnel, except for the initial salaries and compensation of the Chairman and members of the Commission, shall be submitted for approval by the President of the Philippines. The new schedule of compensation shall be implemented within six (6) months from the effectivity of this Act and may be upgraded by the President of the Philippines as the need arises. Provided, That in no case shall the rate be upgraded more than once a year.]

The [Chairman] CHAIRPERSON and members of the Commission shall [initially] be entitled to the same salaries, allowances and benefits as those of the Presiding Justice and Associate Justices of the [Supreme-Court] COURT OF APPEALS, respectively. The [Chairman] CHAIRPERSON and the members of the Commission shall, upon completion of their term or upon becoming eligible for retirement under existing laws, be entitled to the same retirement benefits and the privileges provided for the Presiding Justice and Associate Justices of the [Supreme-Court] COURT OF APPEALS, respectively."


EVERY TWO (2) YEARS FROM THE LAST COMPENSATION SCHEDULE ADJUSTMENT, THE ERC SHALL CONDUCT AN ASSESSMENT ON THE COMPETITIVENESS OF THE LEVEL OF COMPENSATION OF THE ERC PERSONNEL AGAINST THOSE OF THE EMPLOYEES OF THE STAKEHOLDERS AND REGULATORS OF OTHER JURISDICTIONS. THE ASSESSMENT SHALL CONSIDER ANNUAL MERIT REVIEW OR INCREASES BASED ON PRODUCTIVITY AND EFFICIENCY.
SEC. 9. Section 40 of the Electric Power Industry Reform Act (EPIRA) of 2001 is hereby amended to read as follows:

"SEC. 40. Enhancement of Technical Competence. – [The ERC shall establish rigorous training programs for its staff for the purpose of enhancing the technical competence of the ERC in the following areas: evaluation of technical performance and monitoring of compliance with service and performance standards, performance-based rate-setting reform, environmental standards and such other areas as will enable the ERC to adequately perform its duties and functions.] THE TECHNICAL COMPETENCE OF THE ERC PERSONNEL SHALL BE BENCHMARKED AGAINST INTERNATIONAL BEST PRACTICES. IN VIEW THEREOF, THE ERC SHALL ESTABLISH A RIGOROUS AND SUSTAINABLE TRAINING PROGRAM THAT WILL ALLOW ITS STAFF TO ACQUIRE THE NECESSARY KNOWLEDGE AND SKILLS AT PAR WITH THE PERSONNEL OF REGULATORS FROM OTHER JURISDICTIONS AND ECONOMIES.

FOR THIS PURPOSE, THE ERC SHALL ESTABLISH A UNIT WITHIN ITS STRUCTURE THAT SHALL DESIGN A STANDARDIZED TRAINING AND DEVELOPMENT PROGRAM AND FACILITATE THE REGULAR CONDUCT OF NECESSARY TRAINING FOR NEW AND INCUMBENT ERC PERSONNEL.

THE ERC SHALL ALLOT NO LESS THAN FIFTEEN PERCENT (15%) OF ITS TOTAL ANNUAL APPROVED BUDGET FOR THE TRAINING AND UPGRADING OF SKILLS OF ITS PERSONNEL.

THE ERC MAY HIRE A REASONABLE NUMBER OF CONSULTANTS OR EXPERTS AS MAY BE APPROPRIATE AND NECESSARY TO GIVE ADVICE TO AND PERFORM SERVICES FOR THE ERC. THE TERMS AND CONDITIONS OF THE ENGAGEMENT SHALL BE AS DETERMINED BY THE ERC, SUBJECT TO THE PROVISIONS OF REPUBLIC ACT NO. 9184, OTHERWISE KNOWN AS THE "GOVERNMENT PROCUREMENT REFORM ACT."

SEC. 10. Seminar and Other Professional Fees. – Fees for relevant seminars, professional membership, registration fees, including those for mandatory continuing professional education (CPE), and related miscellaneous expenses of ERC employees holding positions for which a professional license is required by the office, shall be borne by the ERC.

SEC. 11. Benefits and Privileges. - The ERC shall provide its employees with the following benefits:

a) Health care services through a health maintenance organization (HMO). Expenses for mandatory annual executive check-up for all employees shall be for the account of the ERC;

b) All employees shall be covered by accident insurance policies procured by the ERC at its own expense;
c) A provident fund, which shall consist of contributions made by both the ERC and by its employees to a common fund for the payment of benefits to employees or their heirs; and

d) Performance incentives in accordance with a performance incentive program designed and duly approved by the Commission en banc, which shall in no case be less than the incentives provided under existing laws.

CHAPTER IV
MISCELLANEOUS PROVISIONS

SEC. 12. Section 41 of the Electric Power Industry Reform Act (EPIRA) of 2001 is hereby amended to read as follows:

"SEC. 41. PROTECTION AND Promotion of Consumer Interests. – [The ERC shall handle consumer complaints and ensure the adequate promotion of consumer interests.] THE ERC SHALL ADDRESS AND PROVIDE TIMELY RESOLUTIONS TO CONSUMER COMPLAINTS AND ENSURE ADEQUATE PROTECTION OF CONSUMER INTERESTS THROUGH THE ADOPTION OF POLICIES THAT FOSTER GOALS SUCH AS PUBLIC ACCESS TO THE ERC AND ITS PROCESSES, CONSUMER EDUCATION, AND EFFICIENT UTILIZATION OF ERC RESOURCES.

FOR THIS PURPOSE, THE ERC SHALL REGULARLY CONDUCT TRAININGS FOR THE EFFICIENT HANDLING OF CONSUMER COMPLAINTS BY THE DISTRIBUTION UTILITIES’ CONSUMER WELFARE DESK (CWD). THE ERC SHALL ALLOCATE AN ANNUAL BUDGET FOR THIS PURPOSE.

SEC. 13. Limited Fiscal Autonomy. - In addition to its yearly appropriation authorized in the General Appropriations Act (GAA), the Commission shall be allowed to use for the following year thirty percent (30%) of its revenues generated from the collection of fees, assessments, licenses, fines, penalties and other charges.

The said amount shall be utilized in the following manner:

a) Ten percent (10%) of such income shall be used to augment ERC’s Capital Outlay (CO) Budget;

b) Fifteen percent (15%) of such income shall be used to augment the ERC’s Maintenance and Other Operating Expenses (MOOE) Budget; and

c) Seventy-five percent (75%) of such income shall be used to augment the ERC’s Personnel Service (PS) Budget intended to augment the benefits of the ERC Officers, personnel and staff except for the Chairperson and members of the Commission.

In case the ERC fails to fully utilize the revenues mentioned herein, the unutilized amount shall revert to the National Treasury.
SEC. 14. **Public Disclosure and Transparency.** – The Commission shall submit and make available to the public, within the prescribed period, reports pertinent to compliance submissions, reports, certificates, orders, or decisions, except those designated as confidential submissions affecting trade secrets or the like, made or issued in relation to industry players in the generation, transmission, distribution, and supply sectors, such as resolutions, orders, decisions, certificates of compliance, certificates of registrations, retail rates of distribution utilities, system loss data of distribution utilities, system and capital infrastructure, consumer complaints, applications, petitions, and other similar public documents to an Electronic Disclosure and Data Access system (EDDA) repository. As used in this Act, EDDA refers to the system for disclosure of energy industry information for public access to ensure transparency and consumer protection using electronic database and communications system that shall start operating for within three (3) years from the effectivity of this Act.

SEC. 15. **People’s Counsel.** – There is hereby created an office to be known as the Office of the People’s Counsel under the administrative supervision of the Secretary of Trade and Industry. The office of the People’s Counsel shall have such number of employees as may be necessary to perform the functions hereinafter specified. The office of the People’s Counsel shall be appointed by the President of the Philippines. The employees of the office of the People’s Counsel shall be appointed by the Secretary of Trade and Industry upon recommendation of the office of the People’s Counsel.

The office of the People’s Counsel and its employees, shall not, during their continuance in office, intervene directly or indirectly in the management or control of, or be financially interested directly or indirectly in any transmission and distribution utility, generation company, and supplier as defined in Republic Act No. 9136.

It shall be the duty of the office of the People’s Counsel to represent and appear for the public before the ERC in every case involving consumer interests. In all rate cases initiated before it, the ERC shall direct the applicant or petitioner to furnish the office of the People’s Counsel with copies of its application including its annexes. Likewise, the ERC shall furnish the office of the People’s Counsel of all its Orders in the said rate cases.

SEC. 16. **Franking Privilege.** – All official mail matters and telegrams of the ERC addressed for delivery within the Philippines shall be received, transmitted, and delivered free of charge: Provided, That such mail matters shall not exceed two (2) kilograms.

**CHAPTER V**

**FINAL PROVISIONS**

SEC. 17. Section 42 of the Electric Power Industry Reform Act (EPIRA) of 2001 is hereby amended to read as follows:

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“SEC. 42. [Budget of the ERC.—The amount of One hundred fifty million pesos
(P150,000,000.00) is hereby allocated from the existing budget of the ERC for the initial
operation of the ERC. Any balance shall initially be sourced from the Office of the
President of the Philippines. Thereafter, the annual budget of the ERC shall be included
in the regular or special appropriations.] APPROPRIATIONS. — SUCH SUMS AS MAY
BE NECESSARY FOR THE SUCCESSFUL IMPLEMENTATION OF THIS ACT SHALL
BE TAKEN FROM THE CURRENT FISCAL YEAR APPROPRIATION OF THE ERC.
 THEREAFTER, THE AMOUNT NEEDED FOR THE CONTINUOUS
IMPLEMENTATION OF THIS ACT SHALL BE INCLUDED IN THE ANNUAL GENERAL
APPROPRIATIONS ACT.”

SEC. 18. Separability Clause. — If for any reason, any provision of this Act is
declared unconstitutional or invalid, the other parts or provisions hereof which are not
affected thereby shall continue to be in full force and effect.

SEC. 19. Repealing Clause. — Sections 1 and 2 of Executive Order No. 172,
“Creating the Energy Regulatory Board” are hereby repealed. Sections 38, 39, 40, 41
and 42 of Republic Act No. 9136, otherwise known as the “Electric Power Industry
Reform Act of 2001,” are hereby amended accordingly.

All laws, decrees, orders, rules and regulations or parts thereof which are
inconsistent with or contrary to the provisions of this Act are hereby repealed or
amended accordingly.

SEC. 20. Effectivity. — This Act shall take effect fifteen (15) days following its
publication in the Official Gazette or in a newspaper of general circulation.

Approved,