



Report on the Consultative Dialogue on EPIRA Review 2014

Theme: Ensuring Security of Electricity Supply at Reasonable Price

ELECTRIC POWER INDUSTRY MANAGEMENT BUREAU

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Executive Summary

Republic Act No. 9136 or the “Electric Power Industry Reform Act of 2001” (EPIRA) was enacted into law in June 2001, after more than seven years of Congressional discussions and debates. In recent years, the government was able to comply with all the major reform agenda of power sector restructuring and privatization of the assets of National Power Corporation. However, some sectors – notably the average electricity consumers – have also expressed their disappointment over what they perceived to be the landmark law’s inability to lower power rates and ensure adequate electricity supply.

In response to the public clamor for EPIRA to be reviewed, the Department of Energy (DOE), through its Electric Power Industry Management Bureau (EPIMB), organized and conducted a series of stakeholder consultation on EPIRA review focused on ensuring security of electricity supply at reasonable price. The issues raised during the consultative process revolved around legislative, policy, regulatory and governance matters. Among the widely-discussed issues related to EPIRA were the Value-added Tax, cross-ownership, de-monopolization and shareholding dispersal, open access, WESM rules, and privatization of Agus-Pulangi power plants in Mindanao and granting of authority to the executive branch for immediate action in cases of supply deficiency.

The consumers, labor groups and non-government organizations have taken the extreme stand of calling for the repeal or the abolition of the EPIRA, saying that it has been a complete failure. The business sector, on the other hand, has cautioned against amending the EPIRA, saying that this might send the wrong signals to investors and to financing institutions. The prevailing sentiment among the stakeholders however remains one of sobriety, with majority of them saying that government can still make EPIRA work by amending certain provisions of the law and by improving its implementation. Alongside the legislative reforms, government can also strengthen the roles of concerned implementing agencies like the DOE, and reinforce the regulatory powers of the Energy Regulatory Commission (ERC) to ensure that any forthcoming amendments to the EPIRA will be completely enforced. It is also important to note that the identified priority policy actions to meet the objectives of energy supply security and reasonable price require the full support and cooperation of all concerned government agencies.

The report is divided into three parts: Part I describes the consultative process undertaken by the DOE in connection with the review of the EPIRA; Part II discusses the different issues and proposals that were submitted and/or presented during the series of stakeholder consultations; and Part III deals with the recommendations that can be taken by the government based on the proposals gathered by the DOE following the review. These are classified as either immediate to short-term or medium- to long-term recommendations. Details of the proposals are contained in the Annex 3, “Consolidated Sectoral Issues and Proposals”.

The Consultative Process

Last February 18, 2014, the DOE spearheaded a multi-sector, consultative dialogue on the review of Republic Act 9136, or the Electric Power Industry Reform Act (EPIRA). Anchored on the theme *“Ensuring Security of Electricity Supply at Reasonable Price”*, the Consultative Dialogue aimed to solicit inputs and recommendations from various stakeholders on the EPIRA review. More than 300 participants attended the Dialogue held at the SMX Convention Center, SM Aura, Bonifacio Global City (see Annex 1 Profile of Participants).

The Consultative Dialogue adopted a bottom up approach and targeted four sectoral groups: 1. Generators and suppliers, 2. Distribution utilities; 3. Business sector; and 4. Consumers, labor groups, academia, and NGOs/Peoples Organizations. It was also the culminating activity for the series of eight (8) Focus Group Discussions (FGDs) conducted by the DOE throughout the country in January and February 2014 to sound out different stakeholders on what can be done to further improve the EPIRA and its implementation in order to ensure electricity supply security at reasonable price.

These FGDs were actively participated in by a broad range of interest groups that included private power companies involved in power generation, transmission, distribution and supply; business groups and trade organizations representing power-intensive industries like semi-conductors, construction and flour and sugar milling; consumer groups and labor unions; concerned government agencies as well as members of the academe, among others. The FGDs were replicated in Cebu and Davao on February 6 and 7, 2014 for the benefit of the Visayas- and Mindanao-based stakeholders, respectively. DOE likewise posted the schedule of FGDs as well as all inputs and comments it received in its website, facebook and twitter accounts.

Initially, the participants were divided into four sectoral groups. Each sector was requested to give the proposals a “first pass”, integrate various inputs across organizations all over the country, and to select a representative that will present the group’s inputs before a plenary session. DOE then proceeded to collate and to organize all the issues and proposals it received during the FGDs, and these in turn, were presented to the different sectors during the February 18 consultative dialogue.

The power generators and suppliers were represented by Luis Miguel Aboitiz, President of the Philippine Independent Power Producers Association, and by Raymond Carl Roseus of the Retail Electricity Suppliers Association, while the distribution sector was represented by Atty. Ranulfo Ocampo of the Philippine Electric Power Operators Association; Wendell Ballesteros of the Philippine Rural Electric Cooperatives Association; and Lawrence Fernandez of Meralco. For the business sector, the representatives were Cerael Donggay, Vice President of the ORO Chamber; Dr. Benjamin S. Austria, Chairman of the Committee on Energy of the Philippine Chamber of Commerce and Industry; and Meneleo Carlos, head of the Federation of Philippine Industries and former Presidential Adviser on Energy Affairs. For the consumers, the

representatives were Joshua Mata of the Nagkaisa, Maria Stella Cardenas of the Trade Union Congress of the Philippines, and Ricardo Reyes of the Freedom from Debt Coalition (*see Annex 2 Final Programme*).

Following the presentations of the said representatives, a “second pass” of the proposals was allowed in the form of cross-sectoral reaction, where each of the representatives was requested to comment on the proposals of the other sectors. An open forum ensued where members of the audience were allowed to react to the presentations of the sectoral representatives. The event was capped by a commitment by DOE to continue the consultation process as it pursues the goal of ensuring security of electricity supply at reasonable price.

Stakeholders Issues and Proposals

Due to the wide range of sectors invited to participate in the EPIRA review, the issues and proposals that were brought up during the FGDs were just as varied and numerous (see Annex 3 Consolidated Issues and Proposals). The following were among the most widely- discussed and debated during the consultations:

1. Legislative Issues and Proposals

On High Power Rates

VALUE-ADDED TAX

One of the most frequently-raised comments during the FGDs is for government to explore the possibility of exempting electricity supply from the Value-Added Tax (VAT).

- The Bureau of Internal Revenue should address the VAT on systems loss, which contributes to high power rates (*TUCP*).
- In general, electric cooperatives (ECs) say that power distribution should be exempted from the 12-percent VAT (*as consolidated by PHILRECA*).
- Government should abolish the VAT on electricity altogether (*TUCP*)
- Government should review the EVAT Law to determine whether the said tax can be reduced as far as it applies to a basic service like electricity (*PEPOA*)
- Taxes and duties on fuel being used to run power plants should be removed (*SEIPI*)
- Review and/or remove items that add to escalating electricity tariffs, e.g., VAT, franchise tax, LGU-imposed taxes, systems loss and ICERA in order to lower the entry hurdle to heavy manufacturing investments (*PCCI*).

UNIVERSAL CHARGE

- Further review of the imposition of Universal Charge to minimise the impact that add to consumers burden. (*National Electrification Administration*).

On Ensuring Competitive Market

CROSS-OWNERSHIP

Section 45 on cross-ownership is contained in the EPIRA as a safeguard against the creation of a monopoly in the power sector. Some quarters however feel that the said safeguard is inadequate because it only prohibits cross-ownership between power generation and transmission companies, but not between firms involved in generation and distribution.

- The prohibition on cross-ownership should apply to ALL sectors of the power industry, i.e., generation, transmission, supply and distribution (*Trade Union Congress of the Philippines*)
- Allow DUs to source 100 percent of total demand from its own generating plant or an associated firm engaged in generation (*BENECO*).
- Reduction of Market Share cap from 30 percent to 25 percent per grid (*Kaamulan Chamber*)
- Reduction of bilateral contracting of DUs with affiliate generation companies from 50 percent to 10 percent (*Oro Chamber, Kaamulan Chamber*)
- DUs should be allowed to source from associated firms engaged in generation of power as follows: (*AMRECO*)
 - 50 MW and below – 60 percent
 - 51 – 100 MW – 50 percent
 - 101 – 250 MW – 40 percent
 - 251 to 500 MW – 30 percent
 - 501 MW and above – 25 percent

DE-MONOPOLIZATION AND SHAREHOLDING DISPERSAL

As with the existing policy on cross-ownership, it has been observed that Section 28 on de-monopolization is too liberal and should be made stricter to prevent the creation of a cartel to preclude any incidents of collusion.

- The 25-percent cap on shareholdings should be reduced to 15 percent for distribution utilities that are not listed in the Philippine Stock Exchange (*As consolidated by PHILRECA*)
- Small power plants running on renewable energy should be exempted from the shareholding dispersal requirement pursuant to Section 43 (t). (*Philippine Sugar Millers Association*)

RETAIL COMPETITION AND OPEN ACCESS

Section 31 mandates open access which aims to empower consumers by allowing them to choose their electricity suppliers.

- In the case of industries located within state-owned industrial estates, the *Philippine Economic Zone Authority* has requested exemption from the Retail Competition and Open Access provision of the EPIRA, and wants permission to continue choosing a power distributor on behalf of its ecozone locators. (*PEZA*)
- Ecozones and industrial estates should be allowed to connect directly to the main grids (*Philexport*)
- With the effectivity of open access, direct connection should no longer be allowed (*CASURECO II*)
- Some ECs want the open access threshold – which has been set at one megawatt under the EPIRA – to be raised to four megawatts during the initial implementation of open access, in view of the tight supply situation in Luzon (*as consolidated by PHILRECA*).
- The concept of “Aggregator” should be removed from the EPIRA as it adds another layer of cost (*DECORP*)
- Franchising power of PEZA should be repealed by correcting the typographical error made on Section 80 of the EPIRA (*PEPOA*)
- Clarification on PEZA/economic zones participation in the Retail Market specifically on with respect to coordination of existing PEZA rules and regulations among its contestable customers. There are no clear direction and policies to be applied among its contestable customers to serve its need within the PEZA zone. (*RESA*)

On Supply Security

PRIVATIZATION PROGRAM

Section 47 provides for the eventual privatization of the Agus hydroelectric power plant complex and the Pulangui IV hydroelectric power plant. Except for a few power barges, these are the only generation assets remaining with the National Power Corporation to-date.

- Agus and Pulangui should stay in government hands and should not be privatized (*Kaamulan Chamber, Oro Chamber*)
- At the most, government can offer the Operation & Maintenance contract for the two plants to a private concessionaire, but retain ownership of the said assets (*as consolidated by PEPOA*)
- Create a Mindanao Power Corporation to manage the Agus-Pulangui Complex (*AMRECO*)
- Allow NPC to continue to operate, maintain and expand generation plants dedicated primarily for the provision of long-term Ancillary Services. (*TransCo*)

RE-NATIONALIZATION OF GENERATION/TRANSMISSION

- The role of the State as a key player in both the distribution and generation sectors should be restored, and the re-nationalization of the management and operation of the transmission sector should be pursued to break existing monopolies in the power industry. (*Freedom from Debt Coalition*)

EMERGENCY POWERS FOR THE PRESIDENT

Emergency Powers may be accorded to the President of the Philippines in the event of an energy crisis. These powers may emanate from the Executive Branch instead of from Congress as provided in Section 71. The process may be delayed by lengthy debates in Congress. *(Kaamulan Chamber)*

2. Policy Issues and Proposals

WHOLESALE ELECTRICITY SPOT (WESM) MARKET RULES

Section 30 of the EPIRA pertains to the creation of the WESM, which was envisioned as a venue where electricity may be traded like a commodity by accredited buyers and sellers. The WESM is administered and governed by the Philippine Electricity Market Corporation.

- Modify or remove the must-offer rule. *(PIPPA, European Chamber of Commerce)*
- Revise the WESM design into a day-ahead delivery market *(PIPPA, European Chamber of Commerce)*
- Revise price determination methodology from bid based to pay as bid where generators will be paid based on their offered prices *(Cebu Chamber of Commerce)*
- Workers and consumers should be represented in the oversight body for the WESM *(TUCP)*
- The rules and operations of the WESM should be reviewed, revamped or suspended *(PCCI, NASECORE)*
- WESM should not be implemented in Mindanao *(Kaamulan Chamber)*

ENSURING SUPPLY SECURITY

- Develop an over-all plan of where power plants should be, the size and type to be built and come up with a committed joint public-private leadership and will to communicate the need to the public why this should be implemented with a solid roadmap we shall all support. *(PCCI)*

SECURING PERMITS AND REQUIRED DOCUMENTS (DOE, SEC, BOI, NGCP, NCIP, DENR, ERC, LGUs)

- Streamline process in securing permits from concerned agencies.
 - At present, it takes 150 signatures and 120 permits to build a power plant *(PIPPA)*
 - Government should pursue the creation of a “one-stop shop” at the Board of Investments for power projects, and declare such initiatives as projects “of national interest” to accelerate their implementation. *(Ernesto Pantangco)*
 - Harmonize the approval and permitting requirements and process of various government agencies such as DOE, BOI and BIR in order to fully develop the renewable energy *(Ernesto Pantangco)*

- Allow third party consultancy in the preparation of GIS (*Business Sector-Legend*)

RATIONALIZATION OF TAXES

- Government should address the continued confusion over the different taxes imposed on the power industry (including local taxes) and on specific components of electricity (e.g., systems loss). (*as consolidated by PHILRECA*)
- Sales of generated power through WESM shall be exempted from income tax and Value added tax through the Department of Finance issuance of revenue memorandum circular. (*PEMC*)
- Resolve uncertainty in the collection of E-VAT taxes on Suppliers transaction specifically on how pass through provision would be applied among Suppliers and Distribution Utilities. As required in the collection of VAT, the DUs are required to have a separate account and automatically collect such charges. (*RESA*)

ADDRESS “BARRIERS” TO POWER DEVELOPMENT

- Local government units should be encouraged to do their share in removing perceived “barriers” to power development, including right-of-way issues and permits/licenses issued at the local level. (*Philippine Mining and Exploration Association*)
- Writ of Kalikasan and SAPA (Special Use Agreement on Protected Areas).
 - Several power plant projects have been put on hold because of “Writ of Kalikasan” rulings. Such rulings should be reviewed to allow ongoing and future power projects, including Renewable Energy technologies, Investors have also reported difficulties in securing a SAPA and ASPA. (*PIPPA, MERALCO*)

ALTERNATIVE SOURCES OF POWER

- Government should explore the development of a national policy towards alternative sources of energy, in particular, nuclear power. (*Former Cong. Charlie Cojuangco*)
- Evaluate the merit of mandating solar power for the heating and lighting of commercial and public buildings and establishments in order to release 15% of current capacity to the market. (*PCCI*)

MISSIONARY ELECTRIFICATION

- Review policy of interconnecting SPUG areas to the main grid.
 - Government to fund interconnection projects (e.g. submarine cables). (*Romelco-AIEC*)
- The DOE should issue specific guidelines pertaining to the subsidy that will be given to ECs that will go into power generation in SPUG areas. (*Romelco-AIEC*)

- The administration of the Universal Charge for Missionary Electrification and the Environmental Levy should be transferred from the Power Sector Assets and Liabilities Management Corporation to the National Power Corporation. (NPC)
- Electricity end-users in SPUG areas should not be included anymore in the Mandatory Rate Reduction because their rates are already subsidized. (NPC)

PRIVATIZATION PROGRAM

- A more defined policy on the exercise of “thorough review” of all remaining IPP contracts and provide sanctions for failure to take necessary actions in cases where contracts are found to be grossly disadvantageous or onerous to the government. (NEA)
- Stronger safeguards against cross-ownership and market power abuse should be implemented, and firms with vertical market power should be restricted from acquiring the remaining generation assets of the National Power Corporation. (NEA)

RETAIL COMPETITION AND OPEN ACCESS

- Resolved certain issues and differences between ERC, DOE and PEMC on the issuance of regulations

3. Regulatory Issues and Proposals

On Ensuring Supply Security

- Allow utilities to contract 100% of their projected peak demand for the next three years. However, ECs/DUs should not be penalized if their actual load is less than what they contracted because their projections were not met. (PIPPA)
- Set up an integrated national grid in order to improve the transmission of power between grids and to strengthen the country's existing transmission line network (Allan Ortiz, SMC Power)

On High Power Rates

- Generation as well as supply of electricity should be treated as public utility operations. (TUCP, SORECO II)
- Replace the current non-transparent and complex performance-based rate-setting methodology (PBR) with a simplified and transparent formula like the return-on-rate-base (RORB) that puts a 12% ceiling on profits and net income. (TUCP)
- The ERC must be mandated to conduct a once every 2 years a mandatory regulatory audit of all power utilities that had their annual revenue approved by ERC. This is to ensure that utilities are applying its revenue to costs that are directly related to the service upon which the annual revenue was approved and granted. (NASECORE)
- Revaluation of eligible assets must not be allowed to be part of the rate base because market value is not the actual costs incurred in providing capital investment utilized

in the provision of the public service of transporting and distributing electricity. This is contrary to EPIRA which provides for reflecting the true cost of doing service. (NASECORE)

- The provision of least-cost supply in the EPIRA should be expounded on the safeguards of the captive market (*Manila Water*)

On Ensuring Competitive Market

CROSS-OWNERSHIP

- Clearer guidelines on the determination of regional generation capacity share limits to curb horizontal market power. (*NEA*)

4. Governance Issues and Proposals

- Coordination of grid planning, system operations, and market operations (*MERALCO*)
- Capacity enhancement for both policy makers and line agencies involved in power reform implementation (*PCCI*).
- Strengthen collection capabilities of DUs and ECs to address the problem of unpaid electric bills of LGUs. (*LEYECO III*)
- Implement Chapter II, Section 30, paragraph 12 of EPIRA (*LEYECO III*)
- Pursue consumer representation in the ERC and in the PEMC Board (*TUCP*)
- Strengthen the roles/functions of the DOE and the regulatory powers of the ERC (*PCCI*)
- Electric Cooperatives must be merged by NEA on a regional basis. This will lighten up regulatory pressure and will allow ECs to achieve economies of scale, improve its efficiencies, reliability of service, and reduction of costs. (*NASECORE*)
- Strengthen the market power (power supply buying power) of the electric cooperatives (*PCCI*)

The details of the issues and proposals of various stakeholders on the major EPIRA provisions affecting security of electricity supply at reasonable price are contained in Annex 3.

Recommendations

Given the range of issues discussed during the FGDs and the different interests being pushed by the various stakeholders, no firm commitments were reached by the close of the consultations. Still, it was a good first step by the DOE, which has assured that the exercise was only the beginning of government's continued efforts to improve the overall power situation in the country, insofar as supply and rates are concerned.

The non-government organizations and the militant groups have taken the extreme stand of calling for the repeal or the abolition of the EPIRA, saying that it has been a complete failure. The business sector, on the other hand, has cautioned against amending the EPIRA, saying that this might send the wrong signals to investors and to lending institutions. The prevailing sentiment among the stakeholders however remains one of sobriety, with majority of them saying that government can still make EPIRA work by amending certain provisions of the law and by improving its implementation. Alongside the legislative reforms, government can also strengthen the roles of concerned agencies like the DOE and the National Transmission Corporation, and reinforce the regulatory powers of the Energy Regulatory Commission to ensure that any forthcoming amendments to the EPIRA will be completely enforced.

The government can pursue both short-term and medium-to long-term initiatives to ensure security of electricity supply at reasonable price. **Immediate and short-term recommendations can be done and completed in the next six months to one year while medium- to long-term recommendations range from 1-3 years to year 2030, respectively.** Below is a summary of these recommendations and the proposed mechanism to implement them.

Immediate to Short-Term Recommendations

- Support The Passage Of A Bill Declaring Power Infrastructure As Projects “Of National Interest”
- Create and institutionalize an inter-agency “one-stop shop” (i.e., a coordinating body catering to investors) to accelerate the processing of permits and licenses for energy projects. This may be done through an Executive Order by the President.
- Undertake an in-depth study on WESM design and revise accordingly through a DOE policy issuance.
- Rationalize and streamline power supply contracting through an ERC resolution.
- Rationalize tariff-setting and subsidies in off-grid and missionary areas to reduce the universal charge through an ERC Resolution.
- Review PBR rate-setting methodology through an ERC resolution
- Pursue, as necessary the proposed amendments to relevant provisions of EPIRA and its IRR to ensure security of electricity supply at reasonable price:

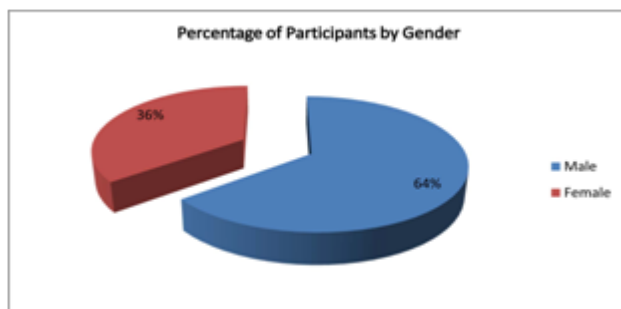
- Market Share Cap and Cross-Ownership
- Power Crisis Provision
- Anti-Competitive and Abuse of Market Power
- On the aspect of ensuring security of electricity supply at reasonable price, there is a need to revisit the roles of ERC, DOE, System and Market Operators, NEA, PSALM, TransCo and NPC-SPUG.
- Provision for replacement power in generator and DU contracts

MEDIUM TO LONG-TERM RECOMMENDATIONS

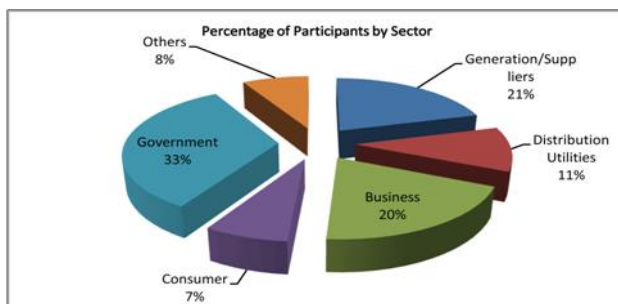
- Revisit the roles of Local government units to encourage investments in power development;
- Pursue the exemption of the power industry from the R-VAT to reduce power rates through a BIR memorandum circular.
- Harmonize EPIRA with provisions in the PEZA Charter governing open access in ecozones through an ERC resolution.

ANNEXES

Annex 1: Profile of Consultative Dialogue Participants



Participants by Gender	
Gender	Total
Female	112
Male	202
Grand Total	314



Participants by Sector	
Generation/Suppliers	65
Distribution Utilities	34
Business	62
Consumer	23
Government	104
DOE & Energy Family	- 44
HOR	- 22
Senate	- 4
Other agencies	- 34
Others	26
ODA	- 5
Media	- 21
Grand Total	314

Profile of FGD Participants

	LUZON						
	Jan. 14 DOE-4/F Conf. Rm.	Jan. 15 DOE- AVR	Jan. 15 DOE-4/F Conf. Rm.	Jan. 17 DOE-AVR	Jan. 21	Jan. 22 DOE-AVR	Jan. 29 Legend Villas
Male	17	26	16	74	9	43	74
Female	21	12	10	26	10	24	15
Grand Total	38	38	26	100	19	67	89
Generation/Suppliers				77			
Distribution Utilities						43	
Business							70
Consumer							
Government DOE & Energy Family HOR Senate Other agencies	38	11 1 26	6 20	23	6 13	24	11 1 1
Others ODA Media							6
Grand Total	38	38	26	100	19	67	89

	Visayas		Mindanao	
	Feb. 6 Cebu Parklane	Feb. 7 Cebu Parklane	Feb. 6 Waterfront Davao	Feb. 7 Waterfront Davao
Male	78	39	71	96
Female	33	9	35	34
Grand Total	111	48	106	130
Generation/Suppliers		33		122
Distribution Utilities				
Business	90		80	
Consumer				
Government DOE & Energy Family HOR Senate Other agencies	18 2	15	16 1 1	8
Others ODA Media	1		8	
Grand Total	111	48	106	130

Annex 2: Final Program of the Consultative Dialogue

CONSULTATIVE DIALOGUE ON EPIRA REVIEW		
<i>SMX Convention Center (SM Aura) Bonifacio Global City, Taguig February 18, 2014</i>		
P R O G R A M		
12:00 NN - 1:30 PM	REGISTRATION	
1:30 PM - 1:45 PM	PRAYER	
	PHILIPPINE NATIONAL ANTHEM	
1:45 PM - 2:15 PM	WELCOME REMARKS Hon. Carlos Jericho L. Petilla Secretary Department of Energy	
2:15 PM - 4:55 PM	SECTORAL PRESENTATION (30 min. each) Generators/Suppliers Sector Mr. Luis Miguel O. Aboitiz Philippine Independent Power Producers Association (PIPPA) Mr. Raymond Carl R. Roseus Retail Electricity Suppliers Association (RESA) Distribution Utilities Sector Atty. Ranulfo M. Ocampo Private Electric Plant Owners Association (PEPOA) Mr. Lawrence S. Fernandez Meralco Mr. Wendell V. Ballesteros Philippine Rural Electric Cooperatives Association (PHILRECA) Business Sector Engr. Cerael Donggay Oro Chamber Dr. Benjamin Austria Philippine Chamber of Commerce and Industry (PCCI) Mr. Meneleo Carlos Consumers Sector Mr. Josua Mata Nagkaisa Ms. Maria Stella Cardenas Trade Union Congress of the Philippines-Associated Labor Unions (TUCP-ALU) Mr. Ricardo B. Reyes Freedom from Debt Coalition (FDC)	
	CROSS SECTOR REACTION (5 min. each)	
	OPEN FORUM	
4:55 PM - 5:00 PM	CLOSING REMARKS Mr. Jose Raymund A. Acol Assistant Secretary Department of Energy	

Annex 3: Details Of Issues And Proposals Of Various Stakeholders

ISSUE/EPIRA PROVISION	BUSINESS	GENERATORS/SUPPLIERS	DISTRIBUTORS	CONSUMERS.LABOR GROUPS/NGOS/POS/ACADEME	GOVERNMENT
Cross-Ownership				Apply prohibition to ALL sectors of the power industry – generation, transmission, distribution and supply	Strengthen safeguards against cross-ownership and market power abuse; Restrict firms with vertical market power from acquiring the remaining power plants of the National Power Corporation
De-monopolization/ Dispersal of shareholdings	Exempt small renewable energy (RE) power plants from the shareholding dispersal requirement		Reduce 25-percent cap to 15 percent for distribution utilities not listed in the Philippine Stock Exchange	Limit allowable voting shares to 15 percent and apply this limit to all power firms, whether listed or not listed in the PSE; Broaden ownership base in the power sector.	
Bilateral supply contracts of DUs	Reduce 50-percent demand limit to only 10 percent		DUs should be allowed to source as much as 100 percent of its demand from an affiliate, PROVIDED that this will result to the least pass-on cost of generation charge	Prohibit bilateral contracts between sister companies in the distribution and generation sectors	Set lower limits on the amount of supply that may be sourced through bilateral contracts (NEA)
Value-Added Tax	Remove taxes/duties on fuel being used to run power plants	Review EVAT Law to determine whether VAT can at least be reduced	Exempt electric cooperatives (ECs) from the 12-percent VAT; Remove 12 percent VAT on coal and other conventional	Abolish 12-percent VAT on power	

			power plants		
Open Access	Open access should be voluntary, and industries should be given the flexibility to connect directly to the main grids or to source their electricity from a DU or from an IPP		The one-megawatt open access threshold should be raised to four megawatts during the initial implementation of open access		Philippine Economic Zone Authority wants exemption from the Retail Competition and Open Access and to continue choosing a power distributor on behalf of its ecozone locators
Wholesale Electricity Spot Market	Remove or at least modify “must-offer” rule; Switch to day-ahead delivery market; Generators should be paid based on the actual price of the electricity that they offered for bidding	Remove or change the “must-offer” rule with a “no-offer” status; Establish a forward market for WESM with a Contract for Differences scheme; Turn on demand bidding at WESM	Abolish PEMC and establish a multiple market operator with a trade limit of only 10 percent of the demand	Abolish WESM; barring that, workers and consumers should be represented in the oversight body for the WESM	
Privatization of Agus/Pulangui	Instead of selling Agus and Pulangui, government may offer O&M for the plants to a private concessionaire	Government should retain ownership of Agus and Pulangui	Government should rehabilitate Agus and Pulangui and create a Mindanao Power Corporation to manage and operate the said plants	Government should not privatize Agus and Pulangui; 10-year grace period for privatization should be scrapped	
Benefits to Host-Communities	Harmonize provisions on host-community benefits in the EPIRA and the Renewable Energy Law	Consider extending power rate discounts to host-communities, which generators can later include in their costs (PIPPA)	Government should ensure that host communities enjoy lower power rates and are given priority in terms of power supply (Philreca)		Local government units want the EPIRA amended so that their share in the benefits can be restored to the original level (Mayor Teves); Delete share of the region and transfer this to host-province

					(DOE)
Provision for Calamity Fund/Emergency Powers for the President	Emergency powers accorded to the President must carry a sense of urgency, and may emanate from the Executive Branch instead of Congress (Kaamulan)		A Calamity Fund should be allocated to DUs, for use during typhoons. The fund can be coursed to the ECs through the NEA, and to private DUs through the DOE (Philreca)		

Annex 4: Consolidated Sectoral Issues and Proposals

PROPONENT/SUMMARY OF PROPOSED AMENDMENTS	RATIONALE/DISCUSSION	SPECIFIC PROVISION(S) AFFECTED	PROPOSED REWORDING OF PROVISION
<p>DOE Energy Utilization Management Bureau: Provision of a Section for Demand Side Management: DSM programs such as energy efficiency and conservation will lower the demand posed on the power system, which in turn will improve power quality and reliability. Consequently, the lower demand will result to a downward pressure on electricity prices at the WESM.</p> <p>Likewise, DSM modalities such as energy storage at the point of use, wherein the end-user stores electricity during the off-peak period and uses this stored electricity during the peak period, will generate immediate economic gains for the end-user, as it will result to a more efficient load profile through “Valley Filling” and “Peak-Shaving”. The energy stored during off-peak hours will increase the base-load capacity, while the use of stored electricity during the peak period will lower the peak demand, which in turn will reduce the demand for increased capacity for infrastructure projects, such as the installation of additional capacity and the uprating of distribution and transmission facilities.</p> <p>(k) To encourage the efficient use of energy and other modalities of demand side</p>	<p>1. Rationale for the Proposed Amendment:</p> <p>a. It is the intention of the EPIRA to include Demand Side Management in the restructuring of the power sector, as provided for under Section 2, Item (k) and more specifically, Section 43 Item (r) which gives the ERC the responsibility of approving applications for cost recovery of DSM projects/programs.</p> <p>b. The existing law does not have an enabling Section that explicitly allows the cost recovery of DSM project/programs, hence, it is recommended that a new Section on DSM is inserted into the law to bridge the said gap.</p> <p>2. Contribution of DSM in attaining the stated goal of the EPIRA:</p> <p>DSM can contribute to the attainment of the following goals of EPIRA under Sec. 2. Declaration of Policy</p> <p>(a) To ensure and accelerate the total electrification of the country- Through DSM modalities like load shedding, the peak load of the power system could be lowered, thereby freeing up capacities that could be made available to unenergized areas and also exert downward pressure on electricity prices at the WESM during peak periods;</p> <p>(b) To ensure the quality, reliability, security and affordability of the supply of electric power;</p>	<p>Chapter I Title and Declaration of Policy. Section 2. (k) To encourage the efficient use of energy and other modalities of demand side management.</p> <p>Chapter IV Regulation of the electric Power Industry Sec. 43. Functions of the ERC. The ERC shall promote competition, encourage market development, ensure customer choice and discourage/penalize abuse of market power in the restructured electricity industry. Towards this end, it shall be responsible for the following key functions in the restructured industry:</p> <p>(r) Act on applications for cost recovery and returns on demand side management projects.</p>	<p>Proposed Draft of Additional Section (Section 33):</p> <p>Demand and Supply Side Management-Any Demand Side Management initiative, including Demand Response programs and projects implemented by the retail electricity supplier or distribution utility (in the case of a captive market) shall be entitled to cost recovery upon endorsement of the DOE and approval of the ERC.</p>

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management, a cost recovery mechanism may be provided to encourage the implementation of DSM programs and projects that result in the efficient utilization of energy.			
DOE EPPB: Provision for the construction of new power plants (including nuclear power plants) and policy direction for the BNPP	This is to ensure the attainment of a policy on ensuring supply security and reliability and addressing environmental concerns (in the case of nuclear power plants)	Chapter VIII General Provisions Section 71 Electric Power Crisis Provision	(blank)
DOE EPPB: Include a provision that will link the passage of demand-side-management projects to the approval of the Energy Efficiency and Conservation Law	To ensure that plans are met and to provide long-term solutions to and address the issues of high energy prices, energy security and independence, air pollution and climate change	Chapter I Title and Declaration of Policy. Section 2. (k)	(blank)
DOE EPPB: Strengthen the role of the DOE in the formulation of policies and plans through the development and updating of the PEP every six (6) years instead of annually to coincide with the MTPDP	To monitor the plans effectively and to ensure that the MTPDP goals are met within the six (6) year term of each administration.	Chapter III Role of the DOE Section 37 Powers and Functions of the DOE	(blank)
DOE EPPB: Strengthen the role of TRANSCO and NGCP to monitor and to strictly implement the scheduling of the maintenance shutdown of power plants Include a provision to strengthen the Role of TRANSCO to oversee and monitor the activities of NGCP in order to protect the security of the country	To protect consumers from the impact of collusion among the generators and distribution utilities To ensure the safety of the facilities of the government, in view of the fact that the grid system is now operated by a foreign entity, making it vulnerable to operational sabotage	Chapter II Organization and Operations of the Electric Power Industry Section 8 Creation of Transco	(blank)
DOE Visayas Field Office: Exemption from RA 6758 of DOE personnel assigned to the power industry	To attract qualified individuals in the effective performance of the duties and responsibilities of the DOE	Chapter III. Role of the DOE Section 37 Powers and Functions of the DOE	Chapter III. Role of the DOE Addendum to Section 37 Powers and Functions of the DOE
DOE Visayas Field Office: Strengthen the imposition of appropriate sanctions and	To ensure adequate transmission capability and to avoid additional electricity costs brought about by	Chapter II. Organization and Operation of the Electric Power Industry Section 21 Transco	Chapter II. Organization and Operation of the Electric Power Industry. Addendum to Section 21

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penalties by the ERC on delays in the completion of transmission projects of the TRANSCO concessionaire as indicated in the approved TDP. These sanctions will be imposed based on the actual evaluation and assessment of the DOE.	transmission line/equipment constraints	Privatization	Transco Privatization
<i>DOE Visayas Field Office:</i> Enhancement of the Technical Competence of DOE personnel assigned to the power industry	To enable concerned DOE personnel to adequately perform their duties and functions	Chapter III. Role of the DOE Section 37 Powers and Functions of the DOE	Chapter III. Role of the DOE Addendum to Section 37 Powers and Functions of the DOE
<i>DOE Visayas Field Office:</i> Strengthen the imposition of appropriate sanctions and penalties by ERC based on the actual evaluation and assessment conducted by the DOE on the delay in the completion of transmission projects of TRANSCO concessionaire as indicated in the approved TDP	To ensure adequate transmission capability and avoid additional electricity costs brought about by transmission line/equipment constraints	Chapter II Organization and Operation of the Electric Power Industry Section 21 Transco Privatization	Addendum to Section 21 Transco Privatization
<i>DOE Visayas Field Office:</i> The amount of the share of the host community shall be increased based on the review and recommendation by the DOE. 1. Will PEZA be comfortable in allowing government to participate in generation? 2. Arrangement in public ecozones be replicated in the private ecozones 3. Will the PEZA proposed amendments help to ensure supply security at reasonable cost for ecozone locators? a. The existing arrangement for supply in PEZA allows lower rates which they hope can be replicated in the private ecozones 4. Does PEZA require	To provide investors with more opportunities to propose and implement relevant projects with greater impact to the community	Chapter VIII General Provisions Section 66 Benefits to Host Communities Other Issues and Concerns	Addendum to Section 66 Benefits to Host Communities

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<p>submission of development plans from utilities?</p> <p>a. Annual submission of rates, 5-year planning</p> <p>b. DOE should consider the competitive market environments and PEZA should not compete with the private sector, it will not achieve greater investments</p> <p>c. What if a locator wants to access lower priced electricity from other suppliers – still allowed as per policy</p>			
<p>DOE Visayas Field Office:</p> <p>Transfer the system operation function from the TRANSCO concessionaire to an independent entity, the structure of which is similar to that of a Market operator .</p>	To ensure independent and objective power dispatch without bias to any party	Chapter II Organization and Operation of the Electric Power Industry Section 21 Transco Privatization	Amendment to Section 21 Transco Privatization
		Chapter II. Organization and Operation of the Electric Power Industry Section 21 Transco Privatization	Chapter II. Organization and Operation of the Electric Power Industry Addendum to Section 21 Transco Privatization
<p>Flour Millers Association of the Philippines:</p> <p>Open access should be accelerated down to the household level as provided under Section 31 (last paragraph) of the EPIRA. Open access is important as it will allow more generating companies to lower electricity cost.</p>	(blank)	Chapter II Organization and Operation of the Electric Power Industry	(blank)
<p>Natural Gas Management Bureau:</p> <p>The licensing of Power Generation Facilities, including the issuance of Certificate of Compliance, performance standards, should be done by the DOE, not the ERC.</p>	<p>One of the mandates of the DOE is to “Ensure the reliability, quality and supply of electric power.”</p> <p>Ensuring the reliability, quality and supply of electric power requires having the final say in determining the appropriate generation mix of incoming Power Generation Facilities. This is a “non-pricing</p>	<p>Chapter II Organization and Operation of the Electric Power Industry Section 6 Generation Sector</p> <p>Section 37 Powers and Functions of the DOE and Section 43 Functions of the ERC</p>	<p>Chapter II Section 6. Generation Sector</p> <p>“Upon the effectivity of this Act, and new generation company shall, before it operates, secure from the Department of Energy (DOE), a certificate of compliance pursuant to the standards set forth in this Act,...</p>

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	<p>regulation function” of the DOE which aims to ensure that new generation capacities and the proper generation mix are able to attain the total efficiency of the power system.</p> <p>Also, in performing its mandate to ensure reliable, quality and adequate supply of power, the DOE should not only adopt a “cost-plus” approach to electricity pricing but also consider the technical feasibility, suitability, social acceptability and economic viability of a power generation company.</p>		
<p>Natural Gas Management Bureau:</p> <p>The ERC should be transformed from a “Pricing-based Regulator” to an “Economic Regulator”</p>	<p>If it were left alone to the ERC, the main basis for allowing incoming Power Generation Facilities would be a “cost-plus” or a “least cost” pricing of electricity generation (PhP/kWh). This approach has a bias towards Coal Plants. It also does not consider the economic viability of certain Power Generation facilities such as Natural Gas and Renewables.</p> <p>For instance, there is an economic argument that Natural Gas Power Plant projects are more economical to use for mid-merit loads of between 600 MW to 800 MW. Compared to coal-fired plants, they are also more economical to operate in islands where the demand is less than 1,000 MW. Apparently, the absence of strong economic regulations is one of the factors that hamper LNG/Natural Gas proponents from coming in. An economic regulator would find it much easier to understand the mid-merit role of gas-fired plants and would not be hamstrung with the</p>	<p>Chapter IV Regulation of the Electric Power Industry Section 45 Cross Ownership, Market Power Abuse, and Anti-Competitive Behaviour</p>	<p>(blank)</p>

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	"cost-plus" focus of current ERC regulations.		
Natural Gas Management Bureau: De-link market rules from EPIRA	Under the current set-up, rules governing the Wholesale Electricity Spot Market is part of the EPIRA, making it also subject to ERC legislation. By carving the market out of EPIRA, the market rules can evolve through normal market mechanisms. This would enable the wholesale spot market to evolve naturally, the way most other spot markets have evolved.	Chapter II Organization and Operation of the Electric Power Industry Sec. 30 Wholesale Electricity Spot Market	Remarks: This would involve putting forward rule change proposals, public consultations and analysis of proposals, before an independent governance body will decide whether to amend the rules or not.
Natural Gas Management Bureau: The distribution business needs to be separated from retail activities	Linkage of distribution and retail business activities in the power sector will hamper open access. Similarly, more restraints on cross-ownership of retail and generation businesses would, in the short term, be beneficial to the development of the market.	Chapter IV Regulation of the Electric Power Industry Section. 45 Cross Ownership, Market Power Abuse and Anti-Competitive Behavior.	Sec 45 (a) remove cap of 30% and 25%, respectively Include a special section dealing exclusively with Meralco-related issues
NEA: Section 32 of the Epira, which mandates the government (and ultimately, the taxpayers) to automatically assume P200 billion in financial obligations of the NAPOCOR, should be reconsidered/reviewed.	Stranded debts of NPC shall refer to any unpaid financial obligations of NPC. Stranded contract costs of NPC shall refer to the excess of the contracted cost of electricity under eligible IPP contracts of NPC 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. The national government shall directly assume a portion of the financial obligations of NPC in an amount not to exceed Two hundred billion pesos (P200,000,000,000.00)	Chapter II Organization and Operation of the Electric Power Industry Section 32. NPC Stranded Debt and Contract Cost Recovery	Reconsideration
NEA: Section 34 of the law states that "a universal charge to be determined, fixed, and approved by the ERC shall be	(blank)	Chapter II Organization and Operation of the Electric Power Industry Section 34. Universal Charge	To be reviewed

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imposed on all electricity end-users". This should be reviewed to minimize the impact of the UC on electricity rates and how it adds to the consumers' burden.			
NEA: A more defined policy on the exercise of a "thorough review" of all remaining IPP contracts and the imposition of sanctions for failure to take the necessary actions in cases where contracts are found to be grossly disadvantageous or onerous to the government.	An inter-agency committee chaired by the Secretary of Finance, with the Secretary of the Department of Justice and the Director General of the National Economic Development Authority as members thereof is hereby created upon the effectivity of this Act. The Committee shall immediately undertake a thorough review of all IPP contracts. In cases where such contracts are found to have provisions which are grossly disadvantageous, or onerous to the Government, the Committee shall cause the appropriate government agency to file an action under the arbitration clauses provided in the said contracts or initiate any appropriate action under Philippine laws. The PSALM Corporation shall diligently seek to reduce stranded costs resulting from these contracts, if any.	Chapter VIII General Provisions Section 68. Review of IPP Contracts	(blank)
Philippine Economic Zone Authority: Aggregation of demand in private special economic zones	<ul style="list-style-type: none"> • An ecozone is "sui generis", which requires special considerations on its power requirements. • An ecozone should be treated as a single contestable customer in order to increase the bargaining power of the locators through their designated RES in securing the best rate from their preferred supplier. This will also result in the non-displacement of captive customers located in the same ecozone because a uniform rate for a common delivery point will be provided by the 	Chapter II Organization and Operation of the Electric Power Industry Section 31 Retail Competition and Open Access	Section 31 x xx Upon the initial implementation of the open access, the ERC shall allow all electricity end-users with a monthly average peak demand of at least one megawatt (1 MW) for the preceding twelve (12) months to be a contestable market. During this stage, ecozone enterprises located inside the PEZA shall be allowed to aggregate their demand.

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	<p>generators.</p> <ul style="list-style-type: none"> Because an ecozone is a contiguous area, it is easier for generators and suppliers to provide the power requirements of locators inside the ecozone. <p>Aggregation of the ecozone load will also promote competition among generation-suppliers as they will find the higher load more attractive than those of contestable customers who negotiate individually.</p>		
<p><i>Philippine Economic Zone Authority:</i></p> <p>Exemption of public ecozones from the coverage of RCOA</p>	<ul style="list-style-type: none"> PEZA is the regulator of utilities, including power utilities inside PEZA-registered ecozones As the DU in public ecozones, PEZA aggregates the entire ecozone load and enters into a power supply contract on behalf of all the ecozone locators with a generator /supplier. This has always been the practice even during the time of EPZA, PEZA's predecessor, in the 1980s. In a survey conducted by the PEZA among its ecozone locators regarding the open access regime, majority said they favoured PEZA as the Local RES and that they wanted to maintain the status quo of PEZA as the distributor and supplier of power in the ecozone. PEZA has existing long-term bilateral contracts with generation companies for the supply of power in public ecozones. The locators have subsequently signed their respective undertaking with PEZA in contracting capacities. Allowing any contestable customers to opt out of the bilateral contract shall result 	<p>Chapter II Organization and Operation of the Electric Power Industry</p> <p>Section 31 Retail Competition and Open Access</p>	<p>Section. 31 Retail Competition and Open Access –Except for ecozone enterprises located inside PEZA public economic zones, retail competition and open access on distribution wires shall be implemented not later than three (3) years upon the effectivity of this Act, subject to the following conditions: x xx</p>

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	in an increase in generation costs because of the reduction in energy levels and load factor rating. Thus, there will be disparity of power rates in the public ecozones, which may lead to higher production costs which in turn will affect the competitiveness of the ecozone locators in the global market.		
<p><i>Trade Union Congress Party (TUCP Party-List) & Associated Labor Unions-TUCP:</i></p> <p>Generation as well as supply of electricity should be treated as public utility operations</p>	<p>Artificially withdrawing power generations or man-made induced shortages of electricity will unduly bring the economy to a standstill and return domestic comforts back to the level of the primitive. They will also unduly bring up the cost of power. As we saw, the combined effects of the scheduled Malampaya outage and the effects of the presumably force majeure simultaneous shutdowns of other plants supposedly placed MERALCO at the mercy of the merchant generation plants selling their power at the spot market. The flaw in competition theory arises in a situation when no cap on return of investments is set and, the players just go thru the motions of pretending to compete or operate as a cartel wherein their unregulated generation costs will just be treated as a “pass-through” charge by the distribution utilities.</p>	<p>Chapter II Organization and Operation of the Electric Power Industry Section 6. Generation Sector</p>	(blank)
<p><i>Trade Union Congress Party (TUCP Party-List) & Associated Labor Unions-TUCP:</i></p> <p>Prohibit cross-ownership among the generation, distribution, supply, and transmission sectors.</p>	<p>Section 45 – Cross Ownership, Market Power Abuse And Anti-Competitive Behavior – states that “ No participant in the electricity industry may engage in any anti-competitive behavior including, but not limited to, cross-subsidization, price or market manipulation, or other unfair trade practices detrimental to the</p>	<p>Chapter IV Regulation of the Electric Power Industry Section 45 Cross Ownerships, Market Power Abuse, and Anti-Competitive Behaviour</p>	(blank)

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	<p>encouragement and protection of contestable markets.”</p> <p>However, the succeeding paragraph under this Section renders the intention weak or generally ineffective, as cross-ownership is only prohibited between a transmission company and any company in the generation and distribution sectors.</p> <p>To truly prevent market power abuse and anti-competitive behaviour, the prohibition on cross-ownership should apply among all the sectors of the power industry. A company and its shareholders should only stick to one business operation – either generation, distribution, supply, or transmission – and should divest of any interest (either through its subsidiary or affiliate) in another business operation in the power sector to avoid collusion and other anti-competitive behaviour. We should learn our lesson from the case of MERALCO and its independent power producers (Sta. Rita, San Lorenzo). There is cross-ownership between MERALCO and the First Gas group, with the Lopez group of companies having a five-percent stake in First Gas while also owning Meralco. We also have the example of the Davao Light and Power distribution company owned by the Aboitiz group, which is also into power generation. This cross-ownership gives the aforementioned companies undue advantage over other players, and gives them control over pricing and market behaviour to the detriment of the consumers.</p>		
Trade Union Congress Party	From the NAPOCOR monopoly,	Chapter IV Regulation of	(blank)

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<p><i>(TUCP Party-List) & Associated Labor Unions-TUCP:</i></p> <p>Prohibit cross-ownership between the generation, distribution, supply, and transmission sectors. (Cont...)</p>	<p>we have moved to a monopsony within each major island grid. 60% of the power generation in each grid are owned by three families providing them with market dominance in the supply sector. In the distribution side, we have a ridiculously large MERALCO franchise which constitutes 70% of the power sales and is the dominant buyer in the Luzon grid. Without ERC regulation, the generation sector could cherry-pick its customers (providing disguised subsidies to preferred customers) or engage in price gouging under the cover of competition. Indeed, while the unbundling of the horizontally structured monopoly of the government-owned National Power Corporation was intended to generate competition and lower the prices, the exact opposite has happened. What was horizontally broken up, is now being vertically reassembled with the generation, transmission, supply and distribution sectors being put together (with cross-ownership being very much the norm) under the smaller franchise areas of MERALCO, Visayan Electric Corporation, and Davao Light and Power. This same model is now being replicated as the 119 electric cooperatives are being gobbled up by the major power players. The EPIRA may have rid us of a supposedly corrupt NAPOCOR, but in its place is a socially unaccountable and financially avaricious private power sector.</p>	<p>the Electric Power Industry Section 45 Cross Ownerships, Market Power Abuse, and Anti-Competitive Behaviour (Cont...)</p>	
<p><i>Trade Union Congress Party (TUCP Party-List) & Associated Labor Unions-TUCP:</i></p>	<p>Section 28 - De-monopolization and Shareholding Dispersal – only</p>	<p>Chapter II Organization and Operation of the Electric Power Industry</p>	<p>(blank)</p>

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<p>Broaden ownership base in the power industry to also include consumers and workers. ensure de-monopolization and dispersal of ownership in the power industry</p>	<p>sets the shareholding limits of persons (including directors, officers, stockholders and related interests) in a generation company, distribution utility and their respective holding companies to a maximum of fifteen (15%) percent of the voting shares of stock to those not listed in the Philippine Stock Exchange. This therefore implies that for companies listed in the PSE, the allowable percentage in the voting shares can be much higher.</p> <p>The 15% shareholding limit must apply to all power companies. Allowing a broader ownership base will also prevent the perpetuation of cartel in the power industry.</p> <p>This section exempts utilities or companies like MERALCO, VECO, and other big and established power companies that are controlled by few families. This runs counter to the policy of the State as described in EPIRA's Declaration of Policy to "enhance the inflow of private capital and broaden the ownership base of the power generation, transmission and distribution sectors in order to minimize the financial risk exposure of the national government."</p>	Section 28 De-Monopolization and Shareholdings Dispersal	
<p><i>Trade Union Congress Party (TUCP Party-List) & Associated Labor Unions-TUCP:</i></p> <p>Generation as well as supply of electricity should be treated as public utility operations</p>	<p>Section 6 entitled Generation Sector states that power generation shall NOT be considered as a public utility operation. As a result of this categorization, a generation company does not have to secure franchise to operate. Another interpretation is that prices charged by a generation company for the supply of</p>	Chapter II Organization and Operation of the Electric Power Industry Section 6. Generation Sector	(blank)

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	<p>electricity is not subject to regulation by the ERC, hence the generation sector is exempted and excluded from the 12% cap on profits and net income imposed on a public utility.</p> <p>A public utility is defined as a business or service engaged in regularly supplying the public with some commodity or service of public consequence, or essential to the general public such as water, electricity, transportation and media services. Public utility operations are subject to a 12% cap on return of investment proceeding from the Public Service Law of 1936.</p> <p>Power generation is not just like any other commodity. It, just like the provision of water and transportation, is imbued with public interest. Power generation is key to the building of nations, to facilitating growth and progress, enhancing the quality of life and increasing the choices available to all Filipinos. It is analogous to being the milk run, the hospital run and the bank run. It is by its very nature a public utility and therefore must be subject to regulation by the ERC.</p> <p>Placing it outside the jurisdiction of the ERC is fraught with dangers. Power generation, transmission, supply and distribution are natural monopolies, with electricity flowing seamlessly through the lines to the individual customer. Unlike other commodities, the laws of physics and the current state</p>		

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	of technology do not allow enormous amounts of electricity to be stored. Power must be used once it is generated.		
<p>Trade Union Congress Party (TUCP Party-List) & Associated Labor Unions-TUCP:</p> <p>Replace the current un-transparent and complex performance-based rate-setting methodology (PBR) with a simplified and transparent formula like the return-on-rate-base (RORB) that puts a 12% ceiling on profits and net income</p>	<p>Sec.43 (Functions of ERC), provides that “In the public interest, (ERC)establish and enforce a methodology for setting transmission and distribution wheeling rates and retail rates for the captive market of a distribution utility, taking into account all relevant considerations, including the efficiency or inefficiency of the regulated entities. The rates must be such as to allow the recovery of just and reasonable costs and a reasonable return on rate base (RORB) to enable the entity to operate viably. The rate-setting methodology so adopted and applied must ensure a reasonable price of electricity. The rates prescribed shall be non-discriminatory....”</p> <p>The ERC must revert to the old RORB formula. The Performance-Based Rate Methodology that it has been using since 2006, replacing RORB, has proven to be beneficial only to power companies like MERALCO, while posing a great disadvantage of their customers. Under the RORB, the power companies pay for the ACTUAL costs of their operations and apply before the ERC for the recovery of these costs plus a profit margin. Under the PBR, the companies present to the ERC their PROJECTED costs including their profits, and based on this, their charges to their customers will be determined and collected.</p>	<p>Chapter IV Regulation of the Electric Power Industry</p> <p>Section 43 Functions of the ERC</p>	<p>Section 43 (b), sub-section (ii) “Financial capability standards as well as economic viability for generating companies,...”</p>

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	After two years, their costs will be reviewed and their over or under-recoveries will be determined In effect, under the PBR, the customers are advancing or paying for all the PROJECTED COSTS declared by the companies in their application to the ERC. Again, this is contrary to EPIRA's Declaration of Principle to ensure transparent and reasonable prices of electricity.		
TRANSCO:	(blank)	Chapter V Privatization of the Assets of NPC Section 47. NPC Privatization – Except for the assets of SPUG, the generation assets, real estate, and other disposable assets as well as IPP contracts of NPC shall be privatized in accordance with this Act.	That the first sentence of Paragraph 1 of Section 47 of the EPIRA be amended to “All generation assets, real estate and other disposable assets as well as IPP contracts of NPC shall be privatized in accordance with this Act except for the assets of SPUG and generation plants dedicated for the provision of long-term Ancillary Services, as shall be determined by the ERC based on the recommendation of the System Operator and in accordance with the Grid Code xxx”
TRANSCO: Additional provision to address the grant of TransCo compensation and benefits	(blank)	Chapter VIII General Provisions Section 64. Fiscal Prudence.- To promote the prudent management of government resources the creation of new positions and benefits of TransCo and PSALM Corporation personnel shall be subject to the approval of the President of the Philippines. The compensation and all other emoluments and benefits of the officials and members of the	That Section 64. Fiscal Prudence be amended to conform with Sec. 12 and should read as follows: “To promote the prudent management of government resources, the creation of new positions and employee benefits for TransCo and PSALM Corporation including the compensation and all other emoluments and benefits of the officials and members of the Board of TransCo and PSALM Corporation, shall be fixed by their respective

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		Board of TransCo and PSALM Corporation shall be subject to the approval of the President of the Philippines.	Boards.”
TRANSCO: Compensation package for TransCo personnel remains unchanged since the corporation’s inception in 2001.	(blank)	Chapter II Organization and Operations of the Electric Power Industry Section 12. Powers and Duties of the TransCo Board. The following are the powers of the Board: (a) xxx (c) to organize, re-organize, and determine the organizational structure and staffing pattern of TransCo; abolish and create offices and positions; fix the number of its officers and employees; transfer and re-align such officers and personnel; fix their compensation, allowance and benefits; (d) To fix the compensation of the President of TransCo and to appoint and fix the compensation of other corporate officers; Xxxx	Provision for an approval process for the adjustment in the compensation of TransCo Personnel inasmuch as no adjustment in compensation has been given to employees since 2001.
TRANSCO: Continuity of management when the Concession Contract expires and legal basis of the Concerned Agency in executing an immediate response during anational emergency	(blank)	Chapter VI PSALM Section 50. Purpose and Objective, Domicile and Term of Existence. The PSALM Corp. shall exist for the period of twenty five (25) years from the effectivity of this Act, unless otherwise provided by law, and all assets held by it, all moneys and properties belonging to it, and all its liabilities	Provision for TransCo’s take-over of the Concession Agreement upon the expiration of PSALM’s term of existence (25 years) and as prescribed in Section 5 of RA 9511 and Section 17 of the 1987 Constitution to be authorized by the President of the Philippines in times of emergency, when the public interest so requires.

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		outstanding upon the expiration of its term of existence shall revert to and be assumed by the National Government.	Provision which specifies that the funding for emergency undertakings shall be authorized/provided by the national government thru the President of the Republic of the Philippines.
TRANSCO: Minor corrections to make the provision consistent with RA 9511	(blank)	Chapter II Organization and Operations of the Electric Power Industry Section 9 Functions and Responsibilities (d)	Suggest to include the word "Concessionaire" or to read as "xxx Provided, that The TransCo AND/OR ITS CONCESSIONAIRE shall submit any plan xxx
		Chapter II Organization and Operations of the Electric Power Industry Section 9 Functions and Responsibilities 9 (e)	Suggest to include the word "Concessionaire" or to read as: "xxx Taking into account any outstanding Bilateral Contracts, the Grid System Operator of the TRANSCO AND/ITS CONCESSIONAIRE SHALL PROVIDE xxx" Provided, however, that such Operator shall be allowed to spin off using TransCo AND/OR ITS CONCESSIONAIRE'S SYSTEM OPERATION CHARGES xxx"
TRANSCO: Options and inputs in addressing Ancillary services issues	(blank)	Chapter II Organization and Operations of the Electric Power Industry Section 8, Sentence 2, Paragraph 1. Creation of the National Transmission Corporation. xxx xxx The TransCo shall assume the authority and responsibility of NPC for the planning, construction and centralized operation and maintenance of its high voltage	That Sentence 2, Paragraph 1, Section 8 of EPIRA be amended to "The TransCo and/or its concessionaire or successor-in-interest shall assume the authority and responsibility of NPC for the planning, construction and centralized operation and maintenance of its high-voltage transmission facilities, including grid interconnections and the provision and/or procurement and dispatch of ancillary services";

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		transmission facilities, including grid interconnections and ancillary services.	
TRANSCO: Separation Benefits of TransCo Residual employees	(blank)	<p>Chapter VIII General Provisions</p> <p>Section 63. Separation Benefits of Officials and Employees of Affected Agencies. National Government employees displaced or separated from the service as a result of the restructuring of the electricity industry and privatization of NPC assets pursuant to this Act, shall be entitled to either a separation pay and other benefits in accordance to existing laws, rules and regulations or be entitled to avail of the privileges provided under a separation plan which shall be one and one-half month salary for every year of the government: Provided, however, That those who avail of such privileges shall start their government service anew if absorbed by any government-owned successor company. In no case shall there be any diminution of benefits under the separation plan until the full implementation of the restructuring and privatization.</p>	Specific provision for the payment of the separation benefits of TransCo Residual employees as a result of reorganization.
TRANSCO: Strengthen the legal basis for assignments which are legally mandated, such as being the	(blank)	Chapter II Organization and Operations of the Electric Power Industry Section 9. Functions and Responsibility	Addition of another function stating, (g) And such other functions and responsibilities that may legally be mandated.

PROPONENT/SUMMARY OF PROPOSED AMENDMENTS	RATIONALE/DISCUSSION	SPECIFIC PROVISION(S) AFFECTED	PROPOSED REWORDING OF PROVISION
FIT ALL Fund Administrator			
TRANSCO: Inclusion of a penalty clause that will allow the DOE to file administrative charges and to impose sanctions on power industry participants for non-submission of reportorial and other requirements under the law	To ensure the timely submission of required reports	Chapter III Role of the DOE Section 37. Powers and Functions	Additional provision Chapter III Role of the DOE Section 37. Powers and Functions
TRANSCO: Strengthen the provision on the imposition of penalties and involve other appropriate agencies which have jurisdiction on the same	(blank)	Chapter II Organization and Operations of the Electric Power Industry Section 21. TransCo Privatization (par. 2 , last sentence)	The imposition of penalties should not be solely with the ERC. The provision should read: "xxx The failure of the awardee to comply with any of such guarantees or covenants shall constitute xxx cancellation of the contract of sale of the concession contract in accordance with the terms and conditions thereof and the imposition of appropriate sanctions, fines or penalties by the Energy Regulatory Commission and/or as recommended by the DOE and other appropriate government agency which may have jurisdiction over the same."
TRANSCO: Minor corrections to make the provision consistent with RA 9511	(blank)	Chapter II Organization and Operations of the Electric Power Industry Section 9 Functions and Responsibilities 9(f)	Suggest to include the word "Concessionaire" or to read as: "(f) The TRANSCO AND/OR ITS CONCESSIONAIRE JOINTLY WITH THE DOE xxx In the preparation AND FORMULATION of the TDP, THE TRANSCO AND/ITS CONCESSIONAIRE AND THE DOE shall xxx"
TRANSCO: Minor corrections to make the provision consistent with	(blank)	Chapter II Organization and Operations of the Electric Power Industry	Suggest to include the word "Concessionaire" or to read as: "xxx Collections by the

PROPONENT/SUMMARY OF PROPOSED AMENDMENTS	RATIONALE/DISCUSSION	SPECIFIC PROVISION(S) AFFECTED	PROPOSED REWORDING OF PROVISION
RA9511			distribution utilities and the TransCo and/or its Concessionaire in any given billing month shall be managed by NPC xxx”
DOE EPPB: Include a provision to strengthen the role of the NEDA in putting up new Power Plants by treating such projects as projects of national significance (i.e., location, facilities and ROW will be protected)	To ensure optimal /least cost in power plant projects, which eventually will redound to lower generation costs. To encourage the private sector to invest in power plants and to ensure that the implementation plans are on schedule. This will protect and address the issues on right of way, location, and facilities of PP projects.	Chapter III Role of the DOE Section 37 Powers and Functions	(blank)
DOE Visayas Field Office: Inclusion of a penalty clause that will allow the DOE to file administrative charges and to impose sanctions against power industry participants for the non-submission of reportorial and other requirements under the law	To ensure the timely submission of required reports	Chapter III Role of the DOE Section 37. Powers and Functions	Additional provision Chapter III Role of the DOE Section 37. Powers and Functions
Trade Union Congress Party (TUCP Party-List) & Associated Labor Unions-TUCP: Add two seats in the ERC to include representatives from the consumer and labor sectors	Section 38 – Creation of the Energy Regulatory Commission – only provides for 5 members of the Commission. These are the Chairman and four other members appointed by the President. Two members from consumers and labor organizations must be included in the Energy Regulatory Commission to ensure the true representation of the said sectors in the decision-making process of the Commission and to protect the interests and welfare of consumers in the power industry. These two new members shall be selected and endorsed by consumers and labor organizations respectively.	Chapter IV Regulation of the Electric Power Industry Section 38 Creation of the ERC	(blank)

PROPONENT/SUMMARY OF PROPOSED AMENDMENTS	RATIONALE/DISCUSSION	SPECIFIC PROVISION(S) AFFECTED	PROPOSED REWORDING OF PROVISION
<p>NEA: EPIRA bars cross-ownership between generation/distribution and transmission, but not between generation, distribution and supply. Safeguards should therefore be strengthened against cross-ownership and abuse of market power.</p>	<p>No participant in the electricity industry or any other person may engage in any anti-competitive behavior including, but not limited to, cross-subsidization, price or market manipulation, or other unfair trade practices detrimental to the encouragement and protection of contestable markets.</p> <p>No generation company, distribution utility, or its respective subsidiary or affiliate or stockholder or official of a generation company or distribution utility, or other entity engaged in generating and supplying electricity specified by ERC within the fourth civil degree of consanguinity or affinity, shall be allowed to hold any interest, directly or indirectly, in TRANSCO or its concessionaire. Likewise, the TRANSCO, or its concessionaire or any of its stockholders or officials or any of their relatives within the fourth civil degree of consanguinity or affinity, shall not hold any interest, whether directly or indirectly, in any generation company or distribution utility. Except for ex-officio government-appointed representatives, no person who is an officer or director of the TRANSCO or its concessionaire shall be an officer or director of any generation company, distribution utility or supplier.</p>	<p>Chapter IV Regulation of the Electric Power Industry</p> <p>Section 45. Cross Ownership, Market Power Abuse and Anti-Competitive Behavior.</p>	<p>Safeguards should therefore be strengthened against cross-ownership and abuse of market power</p>
<p>NEA: 1. Possible restriction on firms with vertical market power from further acquisition of NPC generation assets to avoid the creation of a “cartel”.</p>	<p>(blank)</p>	<p>Chapter IV Regulation of the Electric Power Industry Section 45 Cross Ownerships, Market Power Abuse and Anti-Competitive Behaviour Section 46. Fines and</p>	<p>(blank)</p>

PROPONENT/SUMMARY OF PROPOSED AMENDMENTS	RATIONALE/DISCUSSION	SPECIFIC PROVISION(S) AFFECTED	PROPOSED REWORDING OF PROVISION
<p>2. Clearer guidelines on the regional generation capacity share limits to curb horizontal market power.</p> <p>3. Setting of a lower limit on the amount of supply that may be sourced through bilateral contracts. Generation should be placed as close at average cost as possible and allow agreements to span the economic life of generation plants.</p>		Penalties	
<p>TRANSCO:</p> <p>Options and inputs in addressing Ancillary Services issues</p>	(blank)	<p>Chapter V Privatization of the Assets of NPC</p> <p>Section 47- NPC Privatization (j) NPC may generate and sell electricity only from the undisposed generating assets and IPP contracts of PSALM Corporation and shall not incur any new obligations to purchase power through bilateral contracts with generation companies or other suppliers.</p>	<p>That Section 47 (j) be amended to: “NPC may generate and sell electricity only from the undisposed generating assets and IPP contracts of PSALM Corporation and shall not incur any new obligations to purchase power through bilateral contracts with generation companies or other suppliers except in relation to the provision of long-term Ancillary Services, the level of which shall be determined by the ERC based on the recommendation of the System Operator and in accordance with the Grid Code.”</p> <p>That a new sub-paragraph (k) be added to Section 47 of the EPIRA stating: “NPC shall continue to operate, maintain and expand generation plants dedicated primarily to the provision of long-term Ancillary Services. The long-term Ancillary Services provided by NPC or contracted with generation companies shall be determined by the ERC based on the</p>

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			recommendation of the System Operator and in accordance with the Grid Code. Appropriate Charges for the just recovery of the costs associated with the provision of Ancillary Services shall likewise be determined by the ERC.
<p>PIPPA:</p> <p>Establishment of a forward market for power:</p> <ul style="list-style-type: none"> Based on Contract For Differences or "CFDs", which the WESM was originally designed to have; Encourage utilities to trade in this market to cover any future exposure they may have; Most markets have an active forward and CFD market; Makes contracts quicker to negotiate; only three values to agree on 	<p>PIPPA proposed to establish a forward market for WESM where there will be a generator- to-generator transaction based on Contract for Differences (CFD). It was noted that current practice among most Distribution Utilities is to use a derivative wherein any gains are passed on to consumers, while costs are exclusively charged to utilities. Under the CFD scheme, this can be tied up with financial markets where financing banks can also compete. CFDs are simple in principle and are similar to swot agreements where contracts can be signed within a one-day period.</p>	EPIRA Section 30 Wholesale Electricity Spot Market	(blank)
<p>PIPPA:</p> <p>Turn on demand bidding in WESM:</p> <ul style="list-style-type: none"> Utilities and industries should have the option to curtail themselves when the price of power becomes too high; Most other markets have active demand bidding; Provides utilities with an optional tool to limit customer price volatility; Allows customers to have an indirect method of taming/controlling the prices offered by generators; 	<p>Another proposal that was presented was to consider changing the WESM Rules and consider demand bidding. Under this scheme, utilities and consuming industries can dictate their off-take level in the market. This should be considered as an option which may hurt most generators but result in stable prices.</p>	EPIRA Section 30 Wholesale Electricity Spot Market	(blank)
<p>PIPPA:</p> <p>Further enhancement of Administrative Pricing</p>	<p>PIPPA proposed to consider enhancing the Administrative Pricing Mechanism. The</p>	EPIRA Section 30 Wholesale Electricity Spot Market	(blank)

PROPONENT/SUMMARY OF PROPOSED AMENDMENTS	RATIONALE/DISCUSSION	SPECIFIC PROVISION(S) AFFECTED	PROPOSED REWORDING OF PROVISION
<p>mechanism:</p> <ul style="list-style-type: none"> Revise the (recently-introduced) trigger for the Administrative Pricing to include (in addition to the 4% supply shortfall) the exhaustion of all possible Must Run generators and; A trigger related to Price - the market can be short on reserves but prices might still remain low 	<p>application of this mechanism should further be reviewed.</p>		
<p>PIPPA:</p> <p>Publish and explain methodology for setting the WESM price ceiling:</p> <ul style="list-style-type: none"> Explanation/basis of how the WESM offer cap or price cap was determined; 	<p>There is a need to publish the methodology for setting the WESM price offer cap. This should be done using a more detailed presentation. The DOE is requested to explain this to the public for a clear understanding.</p>	<p>EPIRA Section 30 Wholesale Electricity Spot Market</p>	<p>(blank)</p>
<p>ALLAN GREG BELO (CAPELCO):</p> <p>Line Rental</p>	<p>First and foremost, because of the EPIRA law, all generators, NAPOCOR owned, started to be privatized. So in 2009, Tongonan and Palinpinon were bought by the Lopez group. After that, we started negotiating our power supply contract. Our contract took effect in January 2010. It was the geothermal who was the cheapest source because there was no tax levied on them. During that time, WESM is not yet operational in the Visayas. The line losses was only 3.76% at that time. Unfortunately, WESM came in December 2010, and everything changes. Because of the the substandard infrastructure, there is congestion. Unfortunately, for our lobby that Panay should be exempted from the WESM, it did not happen. Even though there is cheap electricity from the Leyte Geothermal Plants, the electricity cost in the Visayas is still high because of the line rental cost imposed by</p>	<p>EPIRA Chapter II (Organization and Operation of the Electric Power Industry), Section 23. Functions of Distribution Utilities, 3rd paragraph</p> <p>A DU shall have the obligation to supply electricity in the least cost manner to its captive market, subject to the collection of retail rate duly approved by the ERC.</p>	<p>(blank)</p>

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	the WESM.		
ROGER LIM, President (EAUC): Replacement Power in Power Supply Contracts	As an IPP, we have contracts to our offtakers. Perhaps in all our contracts, it may not have been stated there that we have to have replacement power, but it is automatic. In most of our contracts, 1st we always have a vacation leave. Meaning to say, we are allowed a certain number of days that we could not supply. But during the vacation leave, we are supposed to supply power. The cost is already defined, and it is in the bilateral contract. It is on our own risk where I get the replacement power, regardless if I source it from a low or high cost power. Our rate is already fixed in the contract.	EPIRA Chapter II (Organization and Operation of the Electric Power Industry), Section 23.Functions of Distribution Utilities, 3rd paragraph A DU shall have the obligation to supply electricity in the least cost manner to its captive market, subject to the collection of retail rate duly approved by the ERC.	Replacement power doesn't have to be defined in the contract because it is the responsibility of the power supplier to provide. If it is defined in the contract, it should be well and good.
ROGER LIM, President (EAUC): IPPs to connect directly to the grid	In reaction to Ed Orenicia's proposal that all lines connecting generators to the grid should be classified as transmission assets. I just want to add and react to what was being stated. We have a proposal to NGCP asking to directly connect to the grid, but we have not been answered. Free and at no cost to the government, but we have not received any reply from NGCP. The EAUC is fully supportive of proposals to allow IPPs to connect directly to grid.	EPIRA Chapter II (Organization and Operation of the Electric Power Industry) Section 36.Unbundling and Cross –Subsidies	All lines connecting generators to the grid should be classified as transmission assets
EDGARDO M. ORENCIA, Consultant (Palm Concepcion Power Corporation): Unbundling and removal of cross subsidies	In the EPIRA, we have this unbundling and removal of cross subsidies. That's why there is an unbundling because of the removal of cross subsidies. Right now, the classification originally, there was only a classification of transmission, generation and because of the unbundling, there is now the sub-transmission and the connection assets. The	(blank)	All lines connecting generators to the grid should be classified as transmission assets

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	connection assets affected the generators especially if the generator is located to the very remote area. Under the EPIRA, the connection asset is being shouldered by the generators. I think All lines connecting generators to the grid should be classified as transmission assets, so that the cost of that asset will not be added to the cost of the generation. The generators will not also be constrained to place their plant in the remote areas, especially for hydro.		
USEC. RAYMUND ACOL (DOE) : Clarification on replacement power in power supply contracts	The DOE discovered that some power supply agreements contain a replacement power and some do not. As a consumer, I found that without a replacement power, if there is a schedule/planned or forced outage, the distribution utilities will source its power from other sources. And it may or may not be a cause of price spike. My question is, why is it that some power supply agreement contains a replacement power and some do not?	EPIRA Chapter II (Organization and Operation of the Electric Power Industry), Section 23.Functions of Distribution Utilities, 3rd paragraph A DU shall have the obligation to supply electricity in the least cost manner to its captive market, subject to the collection of retail rate duly approved by the ERC.	(blank)
EDGARDO M. ORENCIA, Consultant (Palm Concepcion Power Corporation): Clarification on replacement power in power supply contracts	The replacement power is provided in the contract so that during the maintenance of the plant especially for the thermal there should be a replacement to the regular supply. There are 2 options. 1st is that the generation will provide for the replacement power. 2nd the customer should look for its replacement power. If there is no provision for replacement power, it is understood that the generators will provide. Right now, especially the IPPA, they have a group of generators, they do not need a replacement power because they could source to the	(blank)	(blank)

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	difference generators within the group. That's why there is a contract with or without replacement power.		
	It should be agreed upon by 2 parties. If the customer will look for its replacement power, then they can look at the cost. Likewise with the generators. Normally, the contract is not made to specify the price.	(blank)	(blank)
	If for example there is a replacement power in the PSA, how much is the cost? How much also is the cost if there is no replacement power in the PSA? What is the cost of the replacement power from the generator and what will be the cost if the distribution utilities are the one who will secure of the replacement power?	(blank)	(blank)
	Sa section 26 kasi, yung distribution related business pag merong net income namin, nakalagay dun, 50% ni re-refund namin sa consumers.	EPIRA Chapter II (Organization and Operations of the Electric Power Industry), Section 26. Distribution Related Businesses	Can this provision be applied to transmission and generation to reduce the rates
	Tama yung sinabi ni Atty. Saño na, we can know if EPIRA achieve its objectives by looking at the section mismo yung declaration of the state. Sigoru ditto tayo mag-start so that we will be guided. Nakalagay dito sa Section 2, declaration of policy, kasi ito iyong guide ng batas. Kung hindi natin na-attain iyong declaration of policy, totally EPIRA is non-sense. Kami sa electric coop, while we are challenged to compete in the reformed industry. But in the private utilities, electrify nila kahit non-viable areas as part of their social responsibility. How are we going the measure the affordability of electricity.	EPIRA Chapter I (Title and Declaration of Policy), Section 2. Declaration of Policy	Review the policies if these were attained

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	Nag dedepende iyan iyong kung saan ang cooperative.		
ALLAN LANIBA, General Manager (LEYECO III):	Include a provision for a calamity fund for ECs. If there is no fund, if the ECs incur damages because of natural calamities, these will become part of their capital expenditures. ECs will file with ERC for the recovery of the capex, and thus there will be rate increase.	Section 2(b) Declaration of Policy To ensure the quality, reliability, security and affordability of the supply of electric power	Include a provision to have a calamity fund
WESM	WESM is not applicable in the Philippines because we only have 1 time zone unlike in America wherein there are 3 time zones. WESM is not applicable to us because we are not highly urbanized area.	EPIRA Chapter II (Organization and Operations of the Electric Power Industry), Section 30 (WESM)	(blank)
ALLAN LANIBA, General Manager (LEYECO III): Generation is not regulated	(blank)	EPIRA Chapter II (Organization and	(blank)
EMMANUEL P. SAÑO, General Manager (LEYECO I): High cost of electricity	All assets have been privatized but still high cost of power, so what went wrong?	(blank)	DOE to look/assess what went wrong
EMMANUEL P. SAÑO, General Manager (LEYECO I): Collection of Universal Charge	When will its collection end?	(blank)	(blank)
Cross-Ownership: TUCP ALU	TUCP ALU is proposing to reduce a company's operation or control of the installed generating capacity in a grid from 30% to 15%. This aims to broaden the ownership base and prevent the rise of a cartel. Reducing the limit would also prevent the generation sector from being controlled by a few families or companies.	CHAPTER IV Regulation of the Electric Power Industry SECTION 45 (a) Cross- Ownership, Market Power Abuse and Anti-Competitive Behaviour No company or related group can own, operate or control more than thirty percent (30%) of the installed generating capacity of a grid and/or twenty-five percent (25%) of the	To reduce a company's operation or control of the installed generating capacity of a grid from 30% to 15%.

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		national installed generating capacity. "Related group" includes a person's business interests, including its subsidiaries, affiliates, directors or officers or any of their relatives by consanguinity or affinity, legitimate or common law, within the fourth civil degree.	
Secretary General – Freedom from Debt Coalition, General Santos City: Privatization	<p>Under Section 47 of the EPIRA, one of the main reasons for privatization is to sell the assets of NPC in order to pay its debts, which the national government cannot shoulder. However, only a portion of the debt had been covered/paid, which only goes to show that this plan is a flop. In fact, the debt just keeps on increasing. The consumers are the ones paying its stranded debt, thereby explaining the additional cost in our electricity bills. Moreover, as we all know, privatization results to the deregulation of the industry. How would the electricity cost go down if power is deregulated and private companies are the ones who would set the price?</p> <p>Representative – FDC</p> <p>EPIRA was envisioned not to bring down electricity cost right away, but until the 15th year.</p> <p>Fr. Emie – Urban Poor Communities</p> <p>If we are going to scrap the Section pertaining to the privatization of NPC, would the government agencies be</p>	<p>CHAPTER V</p> <p>Privatization of the Assets of the National Power Corporation</p> <p>SECTION 47</p> <p>NPC Privatization</p>	To repeal or abolish the whole section

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	efficient enough in giving their service to the people? Consequently, if private companies are indeed efficient, what about the issue of greed?		
TUCP ALU: Privatization	The Palace has just made a statement about against the blackmail of MERALCO. The palace reminded the distribution utility that MERALCO, as a business, is affected with public interest, together with other subsectors in the power industry such as generation, transmission and supply.	CHAPTER II Organization and Operation of the Electric Power Industry SECTION 6 Generation Sector	The Generation Sector must be defined as a public utility.
Privatization of Agus and Pulangui	The Agus and Pulangui hydro plants play a very crucial role in ensuring the stability of power supply in Mindanao. It should not be privatized and must remain in the public under government control.	CHAPTER V Privatization of the Assets of the National Power Corporation SECTION 47 (f) NPC Privatization The Agus and Pulangui complexes in Mindanao shall be excluded from among the generation companies that will be initially privatized.	The Agus and Pulangui complexes should not be privatized and must remain under government control, even though the grace period of ten (10) years from the effectivity of EPIRA, as provided in Section 47 (f), has lapsed.
TUCP ALU: De-monopolization	The TUCP-ALU says that one of the objectives of EPIRA is to broaden the ownership base in the industry. However, there are conflicting provisions in the laws of monopoly and concentration of ownership that prevent this from happening	CHAPTER II Organization and Operation of the Electric Power Industry SECTION 28 (first paragraph) De-Monopolization and Shareholding Dispersal	To reduce this limit to 15% and to publicly list all public utilities/companies without exemption.
TUCP ALU: Cross-Ownership	The TUCP ALU wants an effective prohibition of cross-ownership not just be between the different subsectors and transmission companies, but also between and among the different subsectors as well. That would prevent sister companies from emerging, just like what's happening at	CHAPTER IV Regulation of the Electric Power Industry SECTION 45 (b) Cross- Ownership, Market Power Abuse and Anti-Competitive Behaviour	Instead of specifying up to what extent distribution utilities may enter into bilateral power supply contracts, we should get rid of Section 45 (b) entirely and replace it with a new provision prohibiting bilateral contracts between sister -

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	present. Thus, if you have shares in a certain sector, you are no longer allowed to have shares in another sector.	Distribution utilities may enter into bilateral power supply contracts subject to review by the ERC: Provided, that	companies.
TUCP ALU: Composition of ERC	The TUCP ALU claims that despite the vast powers and authority given to the Energy Regulatory Commission, the agency was not able to perform its functions.	CHAPTER IV Regulation of the Electric Power Industry SECTION 38 Creation of the Energy Regulatory Commission	In the Energy Regulatory Commission, there must be representatives from labor and consumer groups.
TUCP ALU: Profit margins	The TUCP ALU says that the rate methodology being implemented at present only benefits the power companies. According to the group power companies like MERALCO enjoy “very generous profit(s)” of 12% and charges a “high cost” to consumers.	(blank)	There must be a limit on the profit margins of power companies or public utilities.
TUCP ALU: ECs option to convert as a CDA Cooperative	Under the law, electric cooperatives have the option of whether to register under CDA or as a stock corporation, but unfortunately there have been some efforts to discourage some electric cooperatives from registering under CDA. EFREN T. CORTEZ, Secretary – Committee of Energy in the House of Representatives I would just like to inform our representative from the TUCP-ALU and the body that there is a recent enactment of an amendment to P.D. 269. This is R.A. 10531, which also includes the amendment of Section 4 of P.D. 269. The new provision, Section 4 (a), which effectively puts all electric cooperatives under the supervision of NEA. VIC LAO, Mindanao Business	(blank)	Electric cooperatives must be allowed to register under CDA and there must be no hindrances to it. The government must facilitate in the implementation of this registration.

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	<p>Council</p> <p>The electric coops are not real cooperatives. That's the reason why they cannot even make a loan on their own. They are not bankable and cannot improve their services and facilities. As long as they lack funds, they would be dependent on NEA.</p> <p>The option to convert or to remain under NEA is still there, but as to the corporate structure, they may convert into being a stock cooperative or remain as a non-stock cooperative.</p>		
<i>Felipe Inong, Freedom from Debt Coalition – General Santos (09155159378)</i> Privatization	(blank)	(blank)	What is the reason for privatization: pay debts of NPC through sale of its assets. But it was not successful because it increased the stranded debts of NPC which consumers have to pay.
<i>Hio Tiao Liu, ENPAP – Davao (09062212168)</i> Reduction of electricity cost	(blank)	(blank)	EPIRA was envisioned to reduce electricity cost not immediately but within 15 years.
<i>Emmanuel Cifra, San Lorenzo Foundation (09328647938):</i> Inefficiency and corruption in government versus privatization	(blank)	(blank)	There may be a need to rethink privatization as a tool to address the inefficiency and corruption in government.
<i>Jesus Quilain, St. Francis Xavier Seminary:</i> Abolition of the ERC	Mr. Quilain says that the ERC should be abolished because it duplicates the work of government agencies like the DTI, DOJ, SEC, BIR, Courts of Justice, DENR and Office of the Ombudsman.	<p>CHAPTER II Organization and Operation of the Electric Power Industry</p> <p>SECTION 36 Unbundling of Rates and Functions</p> <p>CHAPTER III Role of the Department of Energy</p> <p>SECTION 37 Powers and Functions</p>	(blank)

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		<p>CHAPTER IV Regulation of the Electric Power Industry</p> <p>SECTION 38 - 46</p> <p>CHAPTER V Privatization of the Assets of the National Power Corporation</p> <p>SECTION 47 NPC Privatization</p>	
<p><i>Jesus Quilain, St. Francis Xavier Seminary:</i></p> <p>Privatization of Agus and Pulangui complexes</p>	<p>Mr. Quilain says the Mindanao power shortage will continue unless the Agus-Pulangui plants are sold. According to him, the private sector can undertake the immediate improvement/repair of the Agus-Pulangui plants, and that the private sector's skills, funding, and think-tanks are superior to those of the government.</p>	<p>CHAPTER V</p> <p>Privatization of the Assets of the National Power Corporation</p> <p>SECTION 47 (f) NPC Privatization</p>	<p>The Agus and Pulangui complexes in Mindanao MAY BE PRIVATIZED NOT EARLIER THAN TEN YEARS FROM THE EFFECTIVITY OF THIS ACT (2001) OR BEFORE 10 OCTOBER 2014.</p>
<p><i>Jesus Quilain, St. Francis Xavier Seminary:</i></p> <p>Composition of National Power Board of Directors</p>	<p>Mr. Quilain is proposing that the Secretaries of the Departments of Finance, Budget and Management, Agriculture and Interior and Local Government be removed from the NP Board and replaced with one representative each from the labor and consumer sectors. The Secretary of the Department of National Defense and a Presidential Legal Adviser should also be included in the NP Board.</p>	<p>CHAPTER V</p> <p>Privatization of the Assets of the National Power Corporation</p> <p>SECTION 48</p> <p>National Power Board of Directors</p>	<p>The new Board shall be composed of the SECRETARY OF ENERGY as Chairman with the following members: PRIVATE SECTOR REPRESENTATIVE OF LABOR, PRIVATE SECTOR REPRESENTATIVE OF CONSUMERS, SECRETARY OF NATIONAL ECONOMIC AND DEVELOPMENT AUTHORITY, SECRETARY OF DEFENSE AND PRESIDENTIAL LEGAL ADVISER.</p>
<p><i>Jesus Quilain, St. Francis Xavier Seminary:</i></p> <p>Debts of electric cooperatives</p>	<p>Mr. Quilain says that taxpayers/consumers should not be made to assume the debts of electric cooperatives.</p>	<p>CHAPTER VII Promotion of Rural Electrification</p> <p>SECTION 60 Debts of Electric Cooperative</p>	<p>Abolish Sec. 60 of the EPIRA</p>
<p><i>Hio Tiao Liu, ENPAP – Davao:</i></p> <p>Composition of ERC</p>	<p>Mr. Liu says the composition of the ERC should include an electrical or mechanical</p>	<p>CHAPTER IV Regulation of the Electric Power Industry</p>	<p>(blank)</p>

PROPONENT/SUMMARY OF PROPOSED AMENDMENTS	RATIONALE/DISCUSSION	SPECIFIC PROVISION(S) AFFECTED	PROPOSED REWORDING OF PROVISION
	<p>engineer because a commissioner with technical knowledge will help facilitate immediate decisions.</p> <p>According to him, consumers should also be represented in the ERC to promote transparency, and if needed, a representative of the business sector may also be included in the Commission.</p>	<p>SECTION 38 Creation of Energy Regulatory Commission</p>	
<p>NPC Comments: PSALM should not be considered as Generation Company</p>	<p>The NPC says that PSALM should not be considered as Generation Company because of the following reasons:</p> <ul style="list-style-type: none"> Principal purpose of creating PSALM Corp. under the Act was to manage the orderly sale, disposition and privatization of NPC's generating assets. Operation and maintenance of the generation assets while they are not yet privatized should continue to be under NPC's responsibility. This is why only the net profit (of undisposed power plants) was required to be remitted to PSALM under Section 55 of the Act. Hence, PSALM's O&M Agreement with NPC should be based on remitting the net profit only and not the full revenues of the undisposed NPC generating assets. Moreover, the government should be allowed to develop other hydro resources of the country that require huge capital. Nuclear generation should also be considered to reduce electricity prices. 	<p>R. A. 9136 (EPIRA) - Original Chapter II. Organization and Operation of the Electric Power Industry SEC. 6. Generation Sector. Generation of electric power, a business affected with public interest, shall be competitive and open.</p> <p>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.</p> <p>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 shall engage in power generation and supply of electricity shall not be required to secure a national franchise.</p>	<p>(blank)</p>

PROPONENT/SUMMARY OF PROPOSED AMENDMENTS	RATIONALE/DISCUSSION	SPECIFIC PROVISION(S) AFFECTED	PROPOSED REWORDING OF PROVISION
		xxx	
<p>NPC Comments: Administration of the UCME</p>	<p>The NPC wants the administration of the Universal Charge for Missionary Electrification and Environmental Levy to be transferred to it due to the following reasons:</p> <ul style="list-style-type: none"> • NPC-SPUG is the petitioner of the above- mentioned UCME and UCEF • Existing disbursement process for the UCME and UCEF requires another bureaucratic layer. Instead, remittances should be made directly to NPC-SPUG. • Monitoring and auditing of the UCME utilization should be done directly by the ERC instead of PSALM. PSALM should only be the Administrator of the UCSC and UCSD in line with its mandate under the EPIRA Law as the liquidator of NPC generating assets and all its liabilities. 	<p>EPIRA IRR PART II - STRUCTURE AND OPERATION OF THE ELECTRIC POWER INDUSTRY RULE 21. POWER SECTOR ASSETS AND LIABILITIES MANAGEMENT CORPORATION (PSALM) xxx Section 4. Term of Existence. Unless otherwise provided by law, PSALM shall exist for a period of twenty- five (25) years from the effectivity of the Act, and all assets held by it, all moneys and properties belonging to it, and all its liabilities outstanding upon the expiration of its term of existence shall revert to and be assumed by the National Government. Upon expiration of the term of PSALM, the administration of the STF shall be transferred to the DOF or any of the DOF attached agencies as designated by the DOF Secretary.</p>	(blank)
<p>NPC Comment: Missionary Electrification.</p>	(blank)	<p>R. A. 9136 (EPIRA) - Original CHAPTER VIII GENERAL PROVISION SEC. 70. Missionary Electrification. R. A. 9136 (EPIRA) - Original CHAPTER VIII GENERAL PROVISION SEC. 70. Missionary Electrification. - Notwithstanding the divestment and/or</p>	(blank)

PROPONENT/SUMMARY OF PROPOSED AMENDMENTS	RATIONALE/DISCUSSION	SPECIFIC PROVISION(S) AFFECTED	PROPOSED REWORDING OF PROVISION
		privatization of NPC assets, IPP contracts and spun-off corporations, NPC shall remain as a National Government-owned and -controlled corporation to perform the missionary electrification function through the Small Power Utilities Group (SPUG) and shall be responsible for providing power generation and its associated power delivery systems in areas that are not connected to the transmission system. The missionary electrification function shall be funded from the revenues from sales in missionary areas and from the universal charge to be collected from all electricity end-users as determined by the ERC.	
<i>NPC Comment:</i> Mandatory Rate Reduction	1. The NPC says that electricity end-users in missionary areas should be excluded from the MRR because their rates are already subsidized. The rebate only translates to additional subsidy (UCME) to be charged to all electricity end-users.	R. A. 9136 (EPIRA) - Original SEC. 72. Mandated Rate Reduction. – Upon the effectivity of this Act, residential end-users shall be granted a rate reduction from NPC rates of thirty centavos per kilowatt-hour (P0.30/kWh). Such reduction shall be reflected as a separate item in the consumer billing statement.	(blank)
<i>National Irrigation Administration, Mariano G. Dancel:</i> No regulation on the prices charged by Generation company for the supply of	Chapter II. Organization and Operation of the Electric Power Industry Section 6. Generation Sector Upon implementation of retail	(blank)	(blank)

PROPONENT/SUMMARY OF PROPOSED AMENDMENTS	RATIONALE/DISCUSSION	SPECIFIC PROVISION(S) AFFECTED	PROPOSED REWORDING OF PROVISION
electricity by ERC	competition and open access, the prices charged by a generation company for the supply of electricity shall not be subject to regulation by the ERC except as otherwise provided in this Act.		
CEPALCO: Composition of the Energy Regulatory Commission (ERC) a. The Commission should also have an Engineer as one of its members. b. The Chairman should not necessarily be a Lawyer	Cepalco says that engineering expertise is needed in the regulation of the electricity industry. According to the EC, experts in other fields (apart from the legal profession) are equally capable of becoming the Chairman of the Commission.	Section 38	“xxx Provided, That out of the four (4) members of the Commission at least one (1) shall be a member of the Philippine Bar with at least ten (10) years’ experience in the active practice of law, and one (1) shall be a certified public accountant with at least ten (10) years’ experience in active practice, and one (1) shall be a licensed Engineer with at least ten (10) years in active Engineering practice. “xxx” The Chairman of the Commission who shall be a member of the Philippine Bar shall act as the Chief Executive Officer of the Commission.
CEPALCO: The 50% limit on bilateral supply contracts between a Distribution Utility (DU) and its affiliate should be applied only to the DU’s supply to its captive market.	Cepalco says its proposal will make the said limit consistent with Section 23, Paragraph 3 of the EPIRA, which states that: “A distribution utility shall have the obligation to supply in the least cost manner to its captive market, subject to the collection of retail rate duly approved by the ERC.”	Section 45(b)	“xxx For the purpose of preventing market power abuse between associated firms engaged in generation and distribution, no distribution utility shall be allowed to supply more than 50% of the total demand of its Captive Market, as classified even prior to the effectivity of Open Access and Retail Competition, through a bilateral power supply contract from an associated firm engaged in generation xxx”

PROPONENT/SUMMARY OF PROPOSED AMENDMENTS	RATIONALE/DISCUSSION	SPECIFIC PROVISION(S) AFFECTED	PROPOSED REWORDING OF PROVISION
CEPALCO: Definition of Captive and Contestable Markets	Cepalco has suggested that the definition of Captive and Contestable Markets as proposed in Senate Bill 2121 introduced by Senator Enrile, et. al. be adopted for clarity.	Section 4	<p>"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; that market with respect to a distribution utility which, as determined by the Commission in accordance with this act, after due notice to all interested parties and public hearing, consists of end-users of electricity with load requirements that do not meet the threshold of contestability and must then be supplied with electricity exclusively by the distribution utility holding franchise over such area;</p> <p>"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; that market, which shall be determined by the Commission in accordance with this act, after due notice to all interested parties and public hearing, consisting of end-users of electricity within a franchise territory of a distribution utility that can choose their supplier of electricity</p>
CEPALCO:	(blank)	Section 43(t) of the EPIRA. Moreover, distribution utilities that are declared by the SEC as a Public Company shall	Towards this end, it shall be responsible for the following key functions in the restructured industry: Xxx

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		<p>be considered as compliant to the requirement of this Section 43(t)</p> <p>Section 43(t) may also be transferred as another paragraph under Section 28.</p>	<p>(t) Perform such other regulatory functions as are appropriate and necessary in order to ensure the successful restructuring and modernization of the electric power industry, such as, but not limited to, the rules and guidelines under which generation companies, distribution utilities which are not publicly listed shall offer and sell to the public a portion not less than fifteen percent (15%) of their common shares of stock either through public listing with the PSE or through public offering under pertinent laws, including but not limited to the Securities Regulation Code and Omnibus Investments Code: Provided, however, That generation companies, distribution utilities or their respective holding companies that are already listed in the PSE, or declared by the Securities and Exchange Commission as a Public Company, are deemed in compliance. For existing companies, such public offering shall be implemented not later than five (5) years from the effectivity of this Act. New companies shall implement their respective public offerings not later than five (5) years from the issuance of their certificate of compliance."</p>
<p>CEPALCO:</p> <p>The guidelines enumerated in Section 43(f) pertain to the determination of the rate</p>	<p>For clarity</p>	<p>Section 43(f)</p>	<p>xxx In case the rate setting methodology is RORB, it The determination of the rate base shall be subject</p>

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base. With this, the preceding sentence should be revised.			to the following guidelines: (i) For purposes of determining the rate base, TRANSCO or any distribution utility may be allowed to revalue its eligible assets not more than once every three (3) years by an independent appraisal company: Provided, however, That ERC may give an exemption in case of unusual devaluation: Provided, further, That the ERC shall exert efforts to minimize price shocks in order to protect the consumers; (ii) Interest expenses are not allowable deductions from permissible return on rate base; (iii) In determining eligible cost of services that will be passed on to the end-users, the ERC shall establish minimum efficiency performance standards for TRANSCO and distribution utilities including systems losses, interruption frequency rates, and collection efficiency; (iv) Further, in determining rate base, TRANSCO or any distribution utility shall not be allowed to include management inefficiencies like cost of project delays not excused by force majeure, penalties and related interest during construction applicable
CEPALCO: Privatization of Agus and Pulangui	Section 47(f) Cepalco says the Agus and Pulangi Complexes in Mindanao should remain with the government and not be privatized. However, the	(blank)	(blank)

PROPONENT/SUMMARY OF PROPOSED AMENDMENTS	RATIONALE/DISCUSSION	SPECIFIC PROVISION(S) AFFECTED	PROPOSED REWORDING OF PROVISION
	Operation and Maintenance of the said hydropower complexes may be undertaken by the private sector through an O&M concession.		
MERALCO: Disclosure and Confidentiality of Contestable Customer Information Identification of Contestable Customers	(blank)	SEC. 31. Retail Competition and Open Access. – Any law to the contrary notwithstanding, retail competition and open access on distribution wires shall be implemented not later than three (3) years upon the effectivity of this Act, subject to the following conditions: (a) Establishment of the wholesale electricity spot market; (b) Approval of unbundled transmission and distribution wheeling charges; (c) Initial implementation of the cross subsidy removal scheme; (d) Privatization of at least	In the DOE Retail Market Manual for Registration Criteria and Procedure, the CRB requires that a copy of the supply contract be submitted upon registration of the contestable customer in the WESM. Moreover, a third party may request bilateral contract details from the CRB as long as the third party is authorized by the contestable customer. While the Rules on Customer Switching allows the provision of confidential customer data to a prospective RES, this is only limited to basic customer information and historical metering data, which does not include bilateral contract details. The DOE Retail Market Manuals instruct DUs to notify the CRB with fifteen days from validation if a customer has met all requirements for contestability. ERC's Rules for Customer Switching state that the DU shall send monthly reports to the Commission and the Commission shall issue certificates of contestability to these customers if they are indeed contestable.
CERAEL C. DONGGAY, CAGAYAN DE ORO CHAMBER: Privatization of Agus and	Mr. Donggay is concerned that power rates in Mindanao might go up if Agus and Pulangui are privatized.	Section 47, NPC Privatization, EPIRA Law Part (f)	(blank)

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Pulangui	<p>According to him, this will diminish the competitive advantage of Mindanao grid rate.</p> <p>However, Mr. Donngay concedes that the private sector's flexibility and responsiveness can be harnessed to promptly effect the rehabilitation and repair of the said power plants.</p>	<p>(f) "The operating Agus and Pulangui Plant complexes in Mindanao shall not be privatized and may be operated by the private sector under Operation and Maintenance under Concessionaire Contract".</p> <p>Private ownership of hydro plants results to high cost of electricity due to need to recover private investment. O&M contract does not require much investment but only on rehabilitation, repairs & efficiency improvements.</p>	
CERAEL C. DONGGAY, CAGAYAN DE ORO CHAMBER: Optimal Operation of Power System	<p>Mr. Donggay wants the Epira to include a provision governing the operation of the Mindanao Grid based on the Rule Curve of Lake Lanao. According to him, without any regulating capability to conform with the RC operation of Lake Lanao's storage capacity, these scenarios occur:</p> <ul style="list-style-type: none"> - Massive energy wastage or draining of water resources to the sea without being harnessed to useful energy. This is done to prevent flooding around the Lake or downstream. - Massive power deficiency & interruptions when the actual elevation of Lake Lanao is below the RC operating guide. This is to prevent actual elevation below the RC to be ready for next cyclical dry or summer months of succeeding year. <p>The flexibility of Mindanao Systems Operations is lost due to premature selling of the 200 MW Power Barges (PB)</p>	<p>Section 47, NPC Privatization, EPIRA Law Additional Part (k)</p> <p>(k) The unique Mindanao Grid with Energy Storage facility - Lake Lanao - shall be operated based on its Rule Curve (RC) for its optimal operation. Hybrid Economic Dispatch (HED) shall be adopted in this manner: In case of dry months when actual lake elevation is below the RC, the NPC is authorized to "Buy Fossil Energy" to limit water withdrawal and store energy in the lake to be reserved for "Day Peak" operation, thereby making Fossil Energy resources as Based Plants and Hydro Plants as "Peaking" plants.</p> <p>In case of wet months</p>	(blank)

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	<p>that acted as Charger to the island's biggest Battery – the Energy storage facility of Lake Lanao.</p> <p>Without Fossil Oil Plants (PB), the Mindanao Grid is like a Car without a “Charger”, Once, discharged after a halt, the car cannot restart unless its battery is replaced or re-charged again.</p>	<p>when actual Lake elevation is above the RC, Hydro Plants shall be the Based Plants (priority dispatched being the cheapest) and assigning Fossil Energy as “Peaking” Plants (OIL based).</p> <p>Hybrid Economic Dispatch provides flexibility for operations to harness God-given water resources, which is “free” therefore leading to cheaper cost of electricity, reducing energy imports, saving foreign exchange for OIL & COAL imports.</p>	
<p>CERAEL C. DONGGAY, CAGAYAN DE ORO CHAMBER: Scope of Privatization of NPC Assets</p>	<p>Scope of Privatization of NPC assets covers the generation assets (operating), real estates, disposable assets and IPP contracts as provided by EPIRA Law, Section 47.</p> <p>Per Rule 23, IRR of EPIRA, Section 2, Scope of Privatization are: (i) generating assets, machineries & equipment, (ii) real estates and improvements, (iii) facilities & properties. Mr. Donggay says that regardless of whether the Agus & Pulangui Plant complexes are privatized or not, the private sector should still pursue the development of potential hydro projects in Mindanao.</p>	<p>Section 47, NPC Privatization, EPIRA Law Additional Part (I)</p> <p>(I) Non-operating potential projects along Agus and Pulangui rivers can be pursued by any private party on a “first-come-first-served” basis. This includes PRE-DEVELOPMENT Works, namely, Education and Information Drive of surrounding communities and Indigenous People, conducting an Environmental Impact Assessment (EIA), applying for an Environmental Compliance Certificate (ECC) and securing the endorsements by the LGUs involved, like the Barangays, SB Municipal Councils and SP Provincial Councils</p>	(blank)

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		<p>where the potential hydro project is located. Some small, local companies have the flexibility to readily draw local support through Social Engineering. Their initiative to pre-develop entails lower costs than the development of the Project. Big Companies (foreign and local) prefer smaller companies to start the pre-development phase. Eventually, they might form a joint venture with the smaller company as a minority owner. Once the necessary permits and documentary requirements (Water Permit, Environmental Compliance Certificate, Endorsements by the LGUs and Indigenous People, revalidation of Feasibility Studies), it would be easier for BIG Companies to establish Joint Ventures for Project Development, which in turn would lead to the faster development of hydro resources in the Philippines and to the restoration of cheaper, renewable and clean electricity.</p>	
<p>CERAEL C. DONGGAY, CAGAYAN DE ORO CHAMBER: Capacity Addition</p>	<p>Mr Doggay says that in the event of a power crisis, it is expected that there will be prolonged debates in Congress on whether to grant the President with emergency powers. In the meantime, power customers will be reeling from in the effects of a power shortage. The</p>	<p>Section 71, Electric Power Crisis Provision EPIRA</p> <p>Rule 24, Electric Power Crisis Provision IRR</p> <p>Upon the determination by the President of the</p>	(blank)

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	immediate solution to a power crisis might not be the construction of new power plants because it takes two years to develop a diesel plant and six years to put up a less expensive hydro plant.	Philippines of an imminent shortage of the supply of electricity, "the president shall procure additional power supply from operating power plants of Independent Power Producers (IPP)." Security of electricity supply is guaranteed with prompt support by the President of the Philippines.	
CERAEL C. DONGGAY, CAGAYAN DE ORO CHAMBER: Agus and Pulangui Ownership	Mr. Donggay says that WESM cannot be implemented in Mindanao yet because the Agus and Pulangui Plant complexes, which account for about 55 percent of the installed capacity in Mindanao are still owned by the government. Only when private ownership expands to 70% of the grid capacity can WESM be effectively implemented.	Section 31, Retail Competition & Open Access, EPIRA Additional Part (f) (f) WESM shall be applied in Mindanao only when 70% of the installed capacity is privately-owned and total installed capacity is more than adequate to cover demand. There is need to avoid wrong signal of competitive positioning of the national government. Nobody with the right mind can compete against any government entities, which may prefer to loss financially at the expense of lifeblood of the taxpayers. However, at government ownership depleted to 30%, which may happen in medium term given the rapid Load annual growth rate in Mindanao at 5.55% (minimum) and 8.52% (maximum).	(blank)

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CERIEL C. DONGGAY, CAGAYAN DE ORO CHAMBER: Interim Energy Market	Marketing effort is intended to sell excess Capacity at competitive price in the market; Mr. Donggay says that WESM is “illegal” because there is no excess supply capacity in the country, and therefore nothing to trade at the spot market. He says that the Interim Mindanao Energy Market (IMEM) is similarly “illegal”.	Section 31, Retail Competition & Open Access, EPIRA Additional Part (g) (g) WESM or its equivalent shall be applied generally in all grids if the Supply is GREATER than the Demand, otherwise WESM should be suspended. It does not make sense to market a product that is in short supply. WESM is not ideal for implementation if Demand is GREATER than Supply, otherwise, scarce supply will have to be sold at a higher cost.	(blank)
CERIEL C. DONGGAY, CAGAYAN DE ORO CHAMBER: DOE and ERC should be managed by People who have the appropriate knowledge	Mr. Donggay says the DOE should be headed by a professional engineer with a PhD or Masters Degree in Electrical, Mechanical, or Civil Engineering. Key Officials of the ERC should also have adequate and relevant expertise, experience and skills on energy matters to better appreciate how to regulate the power industry effectively and efficiently.	To be inserted wherever appropriate in the amended EPIRA Law Professionalize the appointment of key officers of the DOE, ERC and related agencies by ensuring that their expertise, experience and skills are relevant to the energy sector and will equip the said officials with a better technical understanding of complex energy management, efficient problem- solving and decision- making, and effective implementation and administration of the EPIRA Law.	(blank)
DR. MELCHIE AMBALONG, President – LAPOCOF:	Dr. Ambalong says that government must retain ownership of Agus and	CHAPTER V Privatization of the Assets of The National Power	Hydroelectric power plant facilities like Agus I to Agus VII and Pulangui IV

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Privatization of Agus and Pulangui	Pulangui. The private sector may be given a role in their operation, but the two facilities will not necessarily be privatized.	<p>Corporation SECTION 47 (f) NPC Privatization</p> <p>The Agus and Pulangui complexes in Mindanao shall be excluded from among the generation companies that will be initially privatized. The ownership shall be transferred to the PSALM Corp. and both shall continue to be operated by the NPC. Said complexes may be privatized not earlier than ten (10) years from the effectivity of this Act, and except for Agus III, shall not be subject to Build-Operate-Transfer (B-O-T), Build-Rehabilitate-Operate-Transfer (B-R-O-T) and other variations thereof pursuant to Republic Act No. 6957, as amended by Republic Act No. 7718. The privatization of Agus and Pulangui complexes shall be left to the discretion of PSALM Corp. in consultation with Congress.</p>	may be operated by the private sector through concession, operation and maintenance contract.
<p>CERAEL C. DONGGAY – CDO Chamber of Commerce & Industry:</p> <p>Privatization of Agus and Pulangui</p>	We should take note that in 2016 and 2017 the contracts for WMPC and SPPC are going to end. This (not specified what “this” is) doesn’t need to be solved while we are still having this kind of problem. We have to be careful in answering deficiencies in Mindanao until it is corrected.	<p>CHAPTER V Privatization of the Assets of The National Power Corporation</p> <p>SECTION 47 (first sentence) NPC Privatization – Except for the assets of SPUG, the generation assets, real estate, and other disposable assets as well as IPP contracts of NPC shall be privatized in Accordance</p>	To remove period after the word “Act,” replace it with a comma and add “unless these assets are necessary for the maintenance and security of supplies.”

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		with this Act.	
RODERICO R. BISCO, <i>President – Bukidnon Kaamulan Chamber of Commerce:</i> Emergency Power Crisis	Mr. Bioco says that in the event of a power crisis, we should not wait for the approval of the Congress because it is an emergency situation. The acquisition of additional generating capacity alone would take 3-5 years. The proposed amendment of Section 71, which bestows authority upon the President of the Philippines to automatically procure additional power supply in case of imminent shortage, must suspend or amend Section 47 (j) of the Act, so that NPC, PSALM or DOE could engage in temporary short-term contracts to bridge some of the supply deficiencies in the grid.	CHAPTER VIII General Provisions Section 71 Electric Power Crisis Provision Electric Power Crisis Provision – Upon the determination by the President of the Philippines of an imminent shortage of the supply of electricity, the Congress may authorize, through a joint resolution, the establishment of additional generating capacity under such terms and conditions as it may approve.	Upon the determination of the President of the Philippines of an imminent shortage of the supply of Electricity, he shall automatically procure additional power supply.
		CHAPTER V Privatization of the Assets of The National Power Corporation SECTION 47 (j) NPC Privatization NPC may generate and sell electricity only from the undisposed generating assets and IPP contracts of PSALM Corp. and shall not incur any new obligations to purchase power through bilateral contracts with generation companies or other suppliers.	To be suspended or amended by placing a comma instead of a period after the word “suppliers” and add “except during emergency situations.”
RODERICO R. BISCO, <i>President – Bukidnon Kaamulan Chamber of Commerce:</i> Monopoly and Market Power Abuse	Mr. Bioco says that power generating firms should be allowed to own only a maximum 25% of the total installed capacity of a particular grid instead of 30% as provided for in the Epira. For DUs, the limit should be set at 10% as practiced in other industries.	CHAPTER IV Regulation of the Electric Power Industry SECTION 45 (a) Cross Ownership, Market Power Abuse and Anti-Competitive Behaviour No company or related group can own, operate or control more than	To reduce from 30% to 25% and to specify/indicate that the 25% refers to any of the major grids: Luzon, Visayas and Mindanao.

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		thirty percent (30%) of the installed generating capacity of a grid and/or twenty-five percent (25%) of the national installed generating capacity. “Related group” includes a person’s business interests, including its subsidiaries, affiliates, directors or officers or any of their relatives by consanguinity or affinity, legitimate or common law, within the fourth civil degree.	
RODERICO R. BISCO, <i>President – Bukidnon Kaamulan Chamber of Commerce:</i> Monopoly and Market Power Abuse (Cont...)	Mr. Bioco says that DUs should not be allowed to source electricity from their own affiliates. According to him, the 50% limit allowed through bilateral contracts is “a bit high and might be prone to abuse. If they truly want to be free from political abuse, they should limit cross-ownership to 10%.”	CHAPTER IV Regulation of the Electric Power Industry SECTION 45 (b, 2nd sentence) Cross Ownership, Market Power Abuse and Anti-Competitive Behaviour For the purpose of preventing market power abuse between associated firms engaged in generation and distribution, no distribution utility shall be allowed to source from bilateral power supply contracts more than fifty percent (50%) of its total demand from an associated firm engaged in generation but such limitation, however, shall not prejudice contracts entered into prior to the effectivity of this Act.	To reduce the limit that DUs may source from their affiliates through bilateral power supply contracts from 50% to 10% of its total demand.
	The law was not carefully crafted. The 8th paragraph of Section 45 seems to have just been inserted out of nowhere. Moreover, even if there is a	CHAPTER IV Regulation of the Electric Power Industry SECTION 45 (8th paragraph)	To be removed

PROPONENT/SUMMARY OF PROPOSED AMENDMENTS	RATIONALE/DISCUSSION	SPECIFIC PROVISION(S) AFFECTED	PROPOSED REWORDING OF PROVISION
	<p>merger between two grids, they should be treated separately.</p> <p>BRYAN DIOSME – Mindanao Development Authority</p> <p>The 2nd sentence of the 8th paragraph is the only glitch making the Section inconsistent. We need to clarify that.</p> <p>EFREN T. CORTEZ, Secretary – Committee of Energy in the House of Representatives</p> <p>We should not question the wisdom of the legislators. We want to know your proposition to improve the existing legislation in order to cut the process short.</p>	<p>Cross Ownerships, Market Power Abuse and Anti-Competitive Behaviour</p> <p>For purposes of this Section, the grid basis shall consist of three (3) separate grids, namely Luzon, Visayas and Mindanao. The ERC shall have the authority to modify or amend this definition of a grid when two or more of the three separate grids become sufficiently interconnected to constitute a single grid or as conditions may otherwise permit.</p>	
RODERICO R. BISCO , President – Bukidnon Kaamulan Chamber of Commerce: WESM	Mr. Bioco said that most Mindanao-based businessmen “do not want WESM (to be implemented) in Mindanao, unless government-owned facilities would be limited to 30%” (of the installed capacity in the region).	NONE	Not to allow WESM in Mindanao, unless government-owned facilities would be limited to 30%.
ERLINDA PILAPIL-SUARIO , Chairperson – Mt. Apo – Davao del Sur Chamber of Commerce: NPC Stranded Debt	Ms. Pilapil-Suario says that even before the approval of the EPIRA, the Davao del Sur Chamber of Commerce was already against the provision pertaining to the stranded debts of NPC “since it seemed to kill the end user and demanded additional charges from the consumers”. “As stated in the 3rd paragraph of Section 32, the national government shall assume only a portion of NPC’s financial obligation, which means that any balance would be the consumer’s liability,” she adds.	<p>CHAPTER II</p> <p>Organization and Operation of the Electric Power Industry</p> <p>SECTION 32 (3rd paragraph)</p> <p>NPC Stranded Debt and Contract Cost Recovery</p> <p>The national government shall directly assume a portion of the financial obligations of NPC in an amount not to exceed Two hundred billion pesos (P200,000,000,000.00)</p> <p>.</p>	To amend the 3rd paragraph of Section 32 or to restudy the whole EPIRA and determine whether to repeal or abolish it. The NPC system must be improved by looking for investors.
ERLINDA PILAPIL-SUARIO , Chairperson – Mt. Apo –	Ms. Pilapil-Suario says that the PSALM Board might abuse	CHAPTER VI Power Sector Assets	To be removed or amended by inserting the

PROPONENT/SUMMARY OF PROPOSED AMENDMENTS	RATIONALE/DISCUSSION	SPECIFIC PROVISION(S) AFFECTED	PROPOSED REWORDING OF PROVISION
<p><i>Davao del Sur Chamber of Commerce:</i></p> <p>Power Sector Assets and Liabilities Management</p>	<p>the Corporation's exemption from the Salary Standardization Law " by overfixing the employees' salaries and benefits, which could affect the end users in the long run."</p>	<p>and Liabilities Management</p> <p>SECTION 54</p> <p>Exemption from the Salary Standardization Law</p> <p>Exemption from the Salary Standardization Law – The salaries and benefits of employees in the PSALM Corp. shall be exempt from Republic Act No. 6758 and shall be fixed by the PSALM Corp. Board.</p>	<p>phrase "upon the approval of the President of the Philippines;" "upon the approval of the Department of Energy;" or "upon the approval of the Energy Regulatory Commission."</p>

Annex 4: List of Inputs and Submissions Received by DOE

Sector	No. of Submissions	Proponents
Generation/Supply	5	PIPPA, Aboitiz, RESA, PEMC, Gigawatt Power
Distribution	19	CASURECO II, DECORP, PALECO, BENECO, SOCOTECO II, AMRECO, PEPOA, CAPELCO, NORECO II, CEPALCO, FIBECO, LEYECO II, LEYECO III, MERALCO, OMECO, PALECO, ROMELCO, BLCI, QUEZELCO II
Government Agencies	2	PEZA, NEDA CARAGA
Attached Agencies	5	PSALM, TRANSCO, NEA, PNOC, NPC
Consumer Group	9	NASECORE, NAGKAISA, BMP, TUCP-ALU, VELENCIA LGU, FDC, Dr. Ambalong – Davao, BAYAN, Marcial Ocampo
Donor Agencies	3	JBIC, World Bank, ADB
Business Chambers	6	Phil. Flour Millers, ECCP, PCCI, CCCI, PCCI, Kaamulan Bukidnon
DOE Units	5	EPPB, Nat Gas Office, EUMB, IAS, VFO
TOTAL	54	

Annex 5: Photo Documentation

FGD: Luzon

DOE-AVR • January 17, 2014



PIPPA and Luzon Generators, RESA and Suppliers

Legend Villas Hotel • January 29, 2014



PEPOA, PHILRECA, PHILFECO, NAGMEC, Distribution Utilities



Consumer/NGO/ Labor Groups/ Academe



Business Sector/Chamber of Commerce

FGD: Visayas

Cebu Parklane • February 6, 2014



FGD: Mindanao

Waterfront Davao • February 6-7, 2014



Consultative Dialogue:
SMX Convention Center, BGC, Taguig City
February 18, 2014



Consultative Dialogue:
SMX Convention Center, BGC, Taguig City
February 18, 2014

