



Republic of the Philippines
House of Representatives
Quezon City



TWENTIETH CONGRESS

First Regular Session

House Bill No. **854**

Introduced by
PhilRECA Party-List Representative Presley C. De Jesus

EXPLANATORY NOTE

The enactment of Republic Act No. 9136 or the Electric Power Industry Reform Act of 2001 (EPIRA) marked the era of paradigm shift from a government monopolized energy sector towards a liberated and private sector-driven industry. Corollarily, the said law mandates the Energy Regulatory Commission (ERC) to eponymously regulate matters to balance the interests of the entire energy industry players. However, the herculean tasks bestowed upon ERC makes it hard for them to balance these battling interests from the entire energy spectrum—especially for the captive market end-user consumers.

Despite the presence of ERC, the captive market end-users do not have an office of public interest lawyers that will represent their grievances against the incessant demands of energy players—from generation to distribution utilities—who have always a group of legal gladiators at their disposal to fight for their corporate interest.

Thus, it is imperative to create an institution to represent solely the interest of end-users in rate-setting, rule-making, and other energy-related cases and proceedings before all government agencies including its judicial and quasi-judicial organs: the Tribune of the End-User Consumers.

This bill seeks to create an Energy Counsel Office (ECO) as an institution tasked to realize the aforementioned premises and ensure a low and

reasonable electricity rates for the end-user consumers who are held captive in a private sector dominated power industry. A similar measure was filed during both the 18th and 19th Congresses, where it was approved at the committee level. This bill is refiled to build upon that progress and ensure its enactment into law.

In view of the foregoing, the immediate passage of this bill is earnestly sought.



REP. PRESLEY C. DE JESUS
PhilRECA Party-List



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AN ACT
PROVIDING FOR THE NATIONAL POLICY AND FRAMEWORK FOR
ENERGY ADVOCACY, CREATING FOR THE PURPOSE
THE ENERGY ADVOCACY COUNSEL OFFICE, AND
APPROPRIATING FUNDS THEREFOR

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

1 SECTION. 1. **Short Title.** -This Act shall be referred to as the "Energy
2 Advocacy Counsel Act."

3 SECTION 2. **Declaration of Policy.** - It is hereby declared the policy of
4 the State to recognize the right of end-users to reasonable rates, adequate and
5 reliable electric services, and transparent processes involving such rates and
6 services. Towards this end, there shall be established an institutionalized and
7 independent end-user representation in rate-setting, rule-making, and other
8 energy-related cases and proceedings before government agencies, including
9 administrative, judicial and quasi-judicial bodies.

10 The State shall also encourage the active participation of non-profit,
11 non-stock and non-political associations or entities or individuals in the rate-
12 making processes of the energy regulator and recognize the need for active
13 participation of the said organizations.

1 SECTION 3. **The Energy Advocacy Counsel Office (EACO).** - The
2 EACO is hereby created, which shall be an independent and autonomous
3 office attached to the Department of Justice (DOJ) for purposes of policy
4 direction and coordination in accordance with Section 38(3), Chapter 7, Book
5 IV of Executive Order No. 292, "Administrative Code of 1987", as amended.

6 SECTION 4. **Powers and Functions.** - The EACO shall be a public legal
7 office that shall represent all captive market electricity end-users in the energy
8 sector, and matters affecting the public interest before any department,
9 commission, agency, quasi-judicial body or court requiring the services of a
10 lawyer. It shall independently discharge its mandate towards the best interest
11 of all captive end-users, ensuring least cost without compromising safety,
12 reliability, efficiency and accessibility of electricity. As used in this Act, end-
13 user shall refer to any captive customer or entity requiring the supply and
14 delivery of electricity for its own use.

15 Towards this end, the EACO shall, upon request:

16 (1) Initiate, intervene, and represent all end-users, in the following:

17 (a) Rate-setting, rule-making, and other energy-related cases,
18 complaints, proceedings, and consultations regarding, but not limited
19 to, electric generation, transmission and distribution projects, as well
20 as power supply agreement applications, before the Department of
21 Energy (DOE), Energy Regulatory Commission (ERC), National
22 Electrification Administration (NEA), Philippine Competition
23 Commission (PCC), and other judicial and quasi-judicial bodies.

24 Nothing in this section shall mean to diminish the primary and
25 exclusive jurisdiction of the NEA in the exercise of its disciplinary
26 authority over erring officers of electric cooperatives under PD No. 269,
27 as amended by Republic Act No. 10531, the "NEA Reform Act of 2013";
28 and

29 (b) Actions before any trial or appellate court, including the
30 Supreme Court, which involve the validity of any decision, memoranda,
31 rule, regulation, circular, or order of the DOB, BRC, NEA, PCC, and
32 other departments, commissions, and agencies insofar as such
33 decisions and policy issuances affecting electricity rates and services;

34 (2) Monitor all issuances, acts and omissions of the DOE, ERC, NEA,
35 PCC, and other departments, commissions, and agencies and formulate and
36 issue the necessary comments or legal memoranda insofar as such decisions
37 affect electricity rates and electric services;

1 (3) Evaluate and act upon request and complaint from end-users
2 concerning the matters set forth in items (1) and (2), except that any court
3 proceedings initiated by the EACO shall be brought on behalf of the
4 complainant, intervenor or petitioner and not on behalf of the captive market
5 end-user. The initiation or continuation of any proceedings shall be in the sole
6 discretion of the EACO;

7 (4) Conduct investigations, initiate studies, undertake researches,
8 present comments and testimonies before governmental bodies, issue reports,
9 and engage in regular information, education, and communication programs
10 for all captive market end-users on laws, rules, regulations, decisions,
11 circulars, and orders that affect electricity rates and services, including end-
12 user rights and remedies;

13 (5) Consult directly with end-users on a regular basis in order to
14 determine the concerns of end-users with respect to electricity rates;

15 (6) Be furnished or served, as the case may be, by departments,
16 commissions, and agencies with all pertinent documents, notices, petitions,
17 applications, complaints, answers, motions, and other pleadings in all related
18 cases, complaints, proceedings, and consultations involving rate-settings and
19 electric services;

20 (7) Have the right to access, free of charge, all files, records, and
21 documents in the DOE, ERC, NEA, PCC and other departments, commissions,
22 and agencies pertaining to energy-related cases, complaints, proceedings, and
23 consultations: Provided, That the files, records, and documents do not pertain
24 to the following:

25 (a) Personnel information or any information that may violate
26 Republic Act No. 10173, otherwise known as the "Data Privacy Act of
27 2012";

28 (b) Confidential communication between commissioners, judges,
29 or justices and general counsels on records relating to proceedings in
30 which the EACO is a party to; and

31 (c) Confidential information and privileged communication
32 declared as such by the ERC, the PCC and other relevant departments,
33 commissions and agencies.

34 EACO lawyers shall have the authority to administer oaths in
35 connection with the performance of their duties in accordance with the Rules
36 of Notarial Practice and other relevant issuances.

1 SECTION 5. **Representation of Indigent Litigants.** - The EACO shall
2 independently discharge its mandate to render, free of charge, legal
3 representation, assistance, and counselling to indigent persons in cases
4 falling under Sec. 4(1) of this Act: Provided, That the prescribed administrative
5 remedies have been exhausted.

6 SECTION 6. **The Energy Advocacy Counsel and Deputy Energy**
7 **Advocacy Counsels.** - The Energy Advocacy Counsel (EAC), who shall head
8 the EACO, shall have the primary authority and responsibility for the effective
9 exercise of its mandate and the discharge of its powers and functions, and
10 shall be assisted by three (3) Deputy Energy Advocacy Counsels. In case of
11 temporary absence of the EAC, a Deputy EAC shall be designated as the
12 Officer-in-Charge of the EACO.

13 The EAC shall be a natural-born citizen of the Philippines, at least
14 thirty-five (35) years of age, with at least seven (7) years of practice in law, and
15 with proven competence, integrity, probity, and independence.

16 The Deputy EACs shall be natural-born citizens of the Philippines, at
17 least thirty-five (35) years of age, with at least four (4) years of practice in law,
18 energy, or finance and with proven competence, integrity, probity, and
19 independence: Provided, That the Deputy EACs shall not be affiliated with any
20 energy company, member of the Board, officer, employee, or consultant, for
21 at least one (1) year prior to their respective appointments.

22 SECTION 7. **Appointment, Term, and Rank.** - The EAC and Deputy
23 EACs shall be appointed by the President. The AC shall be co-terminus with
24 the President, while the Deputy EACs shall serve for a term of six (6) years
25 and may be reappointed.

26 The EAC and Deputy EACs shall have the same rank, salaries,
27 allowances, and retirement benefits as the Prosecutor General and Senior
28 Deputy State Prosecutor of the National Prosecution Service, respectively:
29 Provided, That their retirement benefits shall be pro-rated in accordance with
30 Section 21 of Republic Act No. 10071, otherwise known as the "Prosecution
31 Services Act".

32 SECTION 8. **Prohibitions.** - The EAC and Deputy EACs shall be
33 prohibited from:

34 (1) Serving as a member of the Board, officer, employee, or consultant
35 of any energy company in the course of their respective terms of office:
36 Provided, That such prohibition shall also apply to their relatives up to the
37 third civil degree of consanguinity or affinity;

1 (2) Having any interest, ownership, or stake in any energy company in
2 the course of their respective terms of office: *Provided*, That such prohibition
3 shall also apply to their relatives up to the third civil degree of consanguinity
4 or affinity;

5 (3) Being members of a political party or committee, or engaging in any
6 partisan political activity in the course of their respective terms of office; and

7 (4) Engaging in any energy-related businesses within two (2) years after
8 relinquishing the post from any reason thereof.

9 In cases where any of the foregoing acts is done in collusion with private
10 individuals or corporations, the private individuals or corporations shall
11 likewise be liable for the offense.

12 In addition, the public officer and private individual or corporation
13 involved shall suffer the penalty of temporary disqualification from public
14 office for a period of three (3) years upon conviction and permanently
15 disqualified from transacting in any energy-related business with the
16 government, respectively,

17 Private individuals, including public officers, who commit any of the
18 aforementioned acts, or conspires with them, shall suffer the penalty of
19 prison mayor as defined under Chapter Three, Section One, Article 27, of
20 Republic Act No. 3815, otherwise known as "The Revised Penal Code, as
21 amended"

22 SECTION 9. **Organizational Structure and Plantilla Positions.** -
23 The DOJ shall submit its temporary organizational structure and plantilla
24 positions to the Department of Budget and Management (DBM) not later than
25 six (6) months from the effectivity of this Act

26 The EACO may, upon approval by the DOJ, request the DBM for any
27 change in the organizational structure and plantilla positions after a
28 comprehensive review resulting to a finding that such alteration will improve
29 the discharge of the EACOs powers and functions: *Provided*, That the DBM
30 shall render a decision on such request within six (6) months from its
31 submission.

32 The EACO shall have legal, technical, and administrative personnel in
33 its organizational structure and staffing complement, and may hire
34 consultants as expert witnesses or technical advisors as it may find necessary
35 for the full and efficient discharge of its powers and functions. All employees
36 and consultants shall be subject to civil service laws, rules, and regulations:

1 Provided, That the salaries of all employees shall be subject to Republic Act
2 No. 11466, otherwise known as the "Salary Standardization Law of 2019".

3 SECTION 10. **Removal and Vacancy.** - The EAC and Deputy EACs
4 shall not be removed or suspended, except for cause provided by law. The
5 President may remove the EAC or Deputy EACs for malfeasance, misfeasance,
6 or nonfeasance in office, or for any reason which renders any of them ineligible
7 for appointment, incapable, or unfit to discharge the mandate, powers, and
8 functions of the EACO.

9 In case of death, permanent incapacity, removal, or resignation of the
10 incumbent EAC or Deputy EACs, the President may appoint or designate one,
11 as the case may be, in an acting capacity until a new EAC or Deputy EAC has
12 been appointed: Provided, That the new appointment shall only be for the
13 unexpired term of the predecessor.

14 SECTION 11. **Exemption from Fees and Costs of Suits.** - The EACO
15 shall be exempt from the payment of docket and other fees incidental to
16 instituting an action in court and other quasi-judicial bodies, as an original
17 proceeding or on appeal.

18 SECTION 12. **Costs of Suit.** - The costs of the suit, attorney's fees, and
19 contingent fees imposed upon adversarial parties of the EACO after a
20 successful litigation shall be deposited in the National Treasury.

21 SECTION 13. **Franking Privileges.** - The EACO may transmit, free of
22 charge, through registered mail or courier service, all official communications
23 and papers directly connected with the conduct of its powers, functions, or
24 exercise of administrative supervision over its personnel.

25 SECTION 14. **Appropriations.** - The amount necessary for the effective
26 implementation of the provisions of this Act shall be included in the annual
27 General Appropriations Act.

28 SECTION 15. **Congressional Oversight.** - The Joint Congressional
29 Energy Commission shall exercise oversight powers over the implementation
30 of this Act.

31 SECTION 16. **Implementing Rules and Regulations.** - Within ninety
32 (90) calendar days from the approval of this Act, the DOJ shall, in
33 consultation with the DBM, government energy agencies, and private energy
34 stakeholders, adopt and issue the rules and regulations for the effective
35 implementation of this Act.

1 SECTION 17. **Separability Clause.** - Any portion or provision of this
2 Act, which may be declared unconstitutional or invalid by any court of
3 competent jurisdiction shall not have the effect of nullifying other portions or
4 provisions hereof.

5 SECTION 18. **Repealing Clause.** - All laws, ordinances, rules,
6 regulations and other issuance or parts thereof, which are inconsistent with
7 the provisions of this Act, are hereby amended, modified, or repealed
8 accordingly.

9 SECTION 19. **Effectivity Clause.** - This Act shall take effect fifteen (15)
10 days after its publication in the Official Gazette or at least two (2) newspapers
11 of general circulation.

12 Approved,