Republic of the Philippines  
House of Representatives  
Quezon City  

EIGHTEENTH CONGRESS  
Third Regular Session  

HOUSE BILL No. 9733  

Introduced by:  
REP. PRESLEY C. DE JESUS, PHILRECA Party-List  
REP. SERGIO C. DAGOOCC, APEC Party-List  
REP. GODOFREDO N. GUYA, RECOBODA Party-List  
REP. ADRIANO N. EBCAS, Ako Pilipino Party-List  

AN ACT  
MANDATING THE GOVERNMENT TO CONSTRUCT, OPERATE, AND MAINTAIN POWER GENERATING ASSETS TO ENSURE GRID STABILITY AND SUPPLY RELIABILITY FOR ANCILLARY AND OTHER PURPOSES, AMENDING FOR THE PURPOSE SECTION 47 OF REPUBLIC ACT NO. 9136, OTHERWISE KNOWN AS THE ELECTRIC POWER INDUSTRY REFORM ACT OF 2001

EXPLANATORY NOTE

The passage of Republic Act No. 9136 or the Electric Power Reform Act (EPIRA) of 2001 liberalized and privatized the power industry. Its main objectives were to secure the power supply and to reduce the cost of electricity through competition and efficiency. Through EPIRA, the government should have been freed from subsidizing capital-intensive power projects. The private sector is expected to be aggressive in putting up new power plants.

Different sectors have strongly manifested the need to review EPIRA expressing discontent on its supposed rationale and objectives. It is generally found out that EPIRA has even resulted to the opposite of its objectives and instead unjustifiably gave way to rising costs of electricity.
The reality is that the transition to market operations is not paved well; that rising costs are not avoided; and the liberalization of the industry promoted by EPIRA pre-supposing competition to lower the costs was not realized.

The policy of the State to promote the economic development of the country and ensure availability of electricity at reasonable cost as a catalyst for economic growth and progress must be recognized.

Unfortunately, the hope that the private sector would be aggressive to put up power plants to provide ancillary support and buffer to the ever-expanding energy requirements of the economy did not materialize. The private capitalist needed to wait, contract, and accumulate enough power requirement before they even start building the power plants. Or in other words, they needed a “bigger problem” before they can propose a solution. And by the time the solution is proposed and accomplished, the energy requirement has ballooned already.

And with such new energy situation comes burden to consumers because with bigger demand and same supply comes increases in power rates. The generation companies cannot be faulted on this problem. They simply would not put up plants without assurance of enough contracts or distribution utilities who would purchase the power they will generate – to the detriment of the consumers.

The only way to solve the problem is for the government to intervene and provide the gap. The government needs to provide the necessary generating assets so that the consumers would not suffer either from high prices of electricity or no electricity at all.

The passage of this bill is earnestly sought.

PRESLEY C. DE JESUS  
Representative  
PHILRECA Party-List

SERGIO C. DAGOOC  
Representative  
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GODOFREDO N. GUYA  
Representative  
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Be it enacted by the Senate and the House of Representatives of the Philippines in Congress assembled:

SECTION 1. Participation of Government in Power Generation. The Government is hereby allowed to participate in power generation to help provide stability of the grid and in securing reserve capacity for the country.

Provided, that the generated capacity of these government power plants will be used primarily as ancillary services.

Provided further, that the cost of construction or capital investment of all government-owned power plants shall not form part as component of the generation cost or capital recovery fee (CRF) of all the power generated in its operation regardless of its utilization, except interest of loans or borrowings by government, if any, incurred in the construction of said facilities.
Provided finally, that only the actual cost of operations and maintenance shall be recovered as part of the generation cost of all power generated from the government-owned power plants.

SEC. 2. Ownership and Operation of the Agus and Pulangui Hydro Electric Plants Complexes. To continue the provision of low power rates in Mindanao, Agus and Pulangui hydroelectric power complexes in Lanao Del Sur and Bukidnon provinces, respectively, will be permanently exempted from privatization.

For this purpose, Section 47 of the EPIRA is hereby amended as follows:

“SEC. 47. NPC Privatization. – Except for THE AGUS AND PULANGUI HYDRO ELECTRIC PLANTS COMPLEXES, the generation assets, real estate, and other disposable assets as well as IPP contracts of NPC shall be privatized in accordance with this Act AND the following guidelines, except as provided for in Paragraph (f) herein:

a) Xx...
b) Xx...
c) Xx...
d) Xx...
e) Xx...
f) The Agus and the Pulangui complexes in Mindanao shall be excluded from among the generation companies that will be privatized. Their ownership shall be transferred to the PSALM Corp. and both shall continue to be operated by the NPC. Said complexes SHALL BE RETAINED TO GENERATE POWER WHICH WILL SERVE AS BUFFER SUPPLY TO AVERT POWER CRISES. ELECTRIC COOPERATIVES SHALL BE PRIORITIZED IN CONTRACTING THESE COMPLEXES' CAPACITY TO SERVE THE NEED OF THE RESIDENTIAL CONSUMERS.

(g) XXX
(h) XXX
(i) XXX

SEC. 4. Construction and Maintenance of Additional Power Plants. To ensure dependable reserve across the different grids without the energy-consuming public suffering the cost of such ancillary services, the government is mandated to construct, operate, and maintain its own power plants outside of the market competition for power supply.
For this purpose, letter “j” of Section 47 of the EPIRA is hereby amended as follows:

(j) NPC SHALL generate and sell electricity AND SHALL CONSTRUCT AND MAINTAIN ADDITIONAL CAPACITY EQUIVALENT TO THE CAPACITY OF THE BIGGEST POWER PLANT IN EVERY GRID, FOR ANCILLARY PURPOSES AND TO STABILIZE THE GRID IN ANY GIVEN TIME THAT A BASE PLANT EXPERIENCE OUTAGE.

SEC. 5. Separability. Any portion or provision of this Act that may be declared unconstitutional shall not have the effect of nullifying other portions or provisions hereof as long as such remaining portions or provisions can still subsist and be given effect in their entirety.

SEC. 6. Non-impairment Clause. Nothing in this Act shall be construed as to diminish, impair or repeal rights recognized, granted, or made available to disadvantaged, marginalized, or specific sectors under existing laws.

SEC. 7. Repealing Clause. Sections and provisions of any laws, rules, and regulations inconsistent with the provisions of this Act are hereby repealed, amended, or modified accordingly.

SEC. 18. Effectivity. This Act take effect fifteen (15) days after its publication in the Official Gazette or in two (2) newspapers of general circulation in the Philippines.

Approved,