

PROPOSALS FOR THE EPIRA LAW (RA 9136) REVIEW

NEA

January 15, 2014 DOE Audio Visual Room, Fort Bonifacio, Taguig City

PROPONENT/SUMMARY OF PROPOSED AMENDMENTS	RATIONALE/DISCUSSION	SPECIFIC PROVISION(S) AFFECTED	PROPOSED REWORDINGS OF PROVISION
<p>A review of Section 32 of the law that mandates the government (and ultimately, the taxpayers) to automatically assume P200 billion in financial obligations of NAPOCOR should be reconsidered.</p>		<p>Chapter II. Organization and Operation of the Electric Power Industry</p> <p>Section 32. <i>NPC Stranded Debt and Contract Cost Recovery</i></p> <p>Stranded debt of NPC shall refer to any unpaid financial obligations of NPC.</p> <p>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.</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) xxx</p>	

<p>Chapter II. Organization and Operation of the Electric Power Industry</p> <p>Section 34 of the law states that “a universal charge to be determined, fixed, and approved by the ERC shall be imposed on all electricity end-users”. This should be reviewed to minimize the impact on electricity rates that add to consumers’ burden.</p>		<p>Chapter II. Organization and Operation of the Electric Power Industry</p> <p>Section 34 (e). Universal Charge</p> <p>Xxx</p> <p>(e) A charge to account for all forms of cross-subsidies for a period not exceeding three (3) years.</p> <p>Xxx</p> <p>Chapter !! Organization and Operation of the Electric Power Industry</p> <p>Section 34. Universal Charge</p>	
<p>EPIRA bars cross-ownership between generation/distribution and transmission, but not between generation, distribution and supply. Safeguards should therefore be strengthened against co-ownership and abuse of market power.</p>		<p>Chapter IV Regulation of the Electric Power Industry</p> <p>Section 45. <i>Cross Ownership, Market Power Abuse and Anti-Competitive Behavior.</i></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</p>	

		<p>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 <i>ex officio</i> 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>Xxx</p>	
<p>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.</p>		<p>Chapter VIII General Provisions Section 68. Review of IPP Contracts</p> <p>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</p>	

		<p>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 said contracts or initiate any appropriate action under Philippine laws. The PSALM Corporation shall diligently seek to reduce stranded costs, if any.</p>	
<ol style="list-style-type: none"> 1. Possible restriction on firms with vertical market power from further acquisition of NPC generation assets to avoid “cartel”. 2. Clearer guidelines on the regional generation capacity share limits to curb horizontal market power. 3. Setting of lower limit on the amount of supply that maybe sourced through bilateral contracts. Generation should be placed as close at average cost as possible and allow agreements to span life of generation plants. 	<p>Enforce better regulation of bilateral contracts. Generation should be placed as close at average cost as possible and allow agreements to span life of generation plants.</p>	<p>Chapter IV Regulation of the Electric Power Industry</p> <p>Section 45 Cross Ownerships, Market Power Abuse and Anti-Competitive Behaviour</p> <p>Section 46. Fines and Penalties</p>	