



HOUSE OF REPRESENTATIVES

H. No. 6320

BY REPRESENTATIVES MACAPAGAL-ARROYO, VALDEZ, ROMUALDO, SINGSON (E.), AGGABAO, BAGATSING, SUAREZ, GOLEZ, MAGSAYSAY, LOPEZ, GO, ABAYON, LEONEN-PIZARRO, LAZATIN, CODILLA, SUSANO, SANTIAGO (N.), BICHARA, VILLAROSA AND SIVERIO, PER COMMITTEE REPORT NO. 2002

AN ACT AMENDING CERTAIN SECTIONS OF REPUBLIC ACT NUMBERED SEVENTY-EIGHT THIRTY-TWO, AS AMENDED, OTHERWISE KNOWN AS THE "ANTI-ELECTRICITY AND ELECTRIC TRANSMISSION LINES/MATERIALS PILFERAGE ACT OF 1994"

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

1 SECTION 1. Section 1 of Republic Act No. 7832, otherwise known as
2 the "Anti-electricity and Electric Transmission Lines/Materials Pilferage Act
3 of 1994", as amended, is hereby further amended to read as follows:

4 "SECTION 1. *Short Title.* – This Act shall be referred to as
5 the "[Anti-electricity and Electric Transmission Lines/Materials
6 Pilferage Act of 1994] ANTI-ELECTRICITY, ELECTRIC POWER
7 LINES, EQUIPMENT AND MATERIALS PILFERAGE ACT OF
8 2009."

1 SEC. 2. Insert a new section after Section 1 of the same Act, to be
2 designated as Section 2 to read as follows:

3 **“SEC. 2. DEFINITION OF TERMS. – AS USED IN THIS**
4 **ACT, THE FOLLOWING TERMS ARE HEREIN DEFINED:**

5 **“(A) ‘ELECTRIC POWER LINES, EQUIPMENT AND**
6 **MATERIALS’ REFERS TO FACILITIES, ASSETS AND**
7 **INFRASTRUCTURE USED IN ELECTRIC POWER GENERATION,**
8 **TRANSMISSION AND DISTRIBUTION SUCH AS, BUT NOT LIMITED**
9 **TO, THE FOLLOWING:**

10 **“(1) GENERATION, TRANSMISSION AND DISTRIBUTION**
11 **EQUIPMENT AND LINE STRUCTURES AND POLES OF ANY MAKE**
12 **OR DESIGN;**

13 **“(2) ALL TYPES OF WIRES AND CABLES USED TO**
14 **GENERATE, TRANSMIT AND DISTRIBUTE ELECTRICITY,**
15 **INCLUDING THOSE USED FOR GROUNDING, CONTROL,**
16 **MEASUREMENT AND COMMUNICATION PURPOSES;**

17 **“(3) ALL OVERHEAD GROUND AND NEUTRAL WIRES**
18 **DESIGNED TO PROTECT THE ELECTRICAL CONDUCTORS FROM**
19 **LIGHTNING STRIKES AND TO PROVIDE VOLTAGE STABILITY;**

20 **“(4) INSULATORS OF ANY OTHER MATERIAL USED TO**
21 **ATTACH THE ELECTRICAL CONDUCTORS FROM STEEL TOWERS**
22 **OR POLES; AND**

23 **“(5) GENERATION, TRANSMISSION AND DISTRIBUTION**
24 **LINE HARDWARES AND MATERIALS OF ANY MAKE OR KIND**
25 **USED FOR THE DELIVERY OF ELECTRICITY.”**

26 Then, renumber Sections 2 through 17 as Sections 3 through 18,
27 respectively.

28 SEC. 3. Section 2, paragraphs (b) and (c) of the same Act is hereby
29 amended to read as follows:

1 “SEC. [2]3. *Illegal Use of Electricity.* – It is hereby
2 declared unlawful for any person, whether natural or juridical,
3 public or private, to:

4 “x x x

5 “(b) Tap, make or cause to be made any connection to the
6 existing electric service facilities of any duly registered
7 consumer without the latter’s [or] AND the electric utility’s
8 consent or authority;

9 “(c) Tamper, install or use a tampered electrical meter,
10 INSTRUMENT TRANSFORMER AND ASSOCIATED EQUIPMENT,
11 jumper, current reversing transformer, shorting or shunting wire,
12 loop connection or any other device OR ANY OTHER METHOD,
13 which interferes with the proper or accurate registry or metering
14 of electric current or otherwise results in its diversion in a
15 manner whereby electricity is stolen or wasted;

16 “x x x.”

17 SEC. 4. Section 3 of the same Act is hereby amended to read as
18 follows:

19 “SEC. [3]4. *Theft OR DESTRUCTION of Electric Power*
20 *[Transmission] Lines, EQUIPMENT and Materials.* – (a) It is
21 hereby declared unlawful for any person to:

22 “(1) Cut, saw, slice, separate, split, severe, smelt, or
23 remove any electric power [transmission line/material or meter]
24 LINES, EQUIPMENT AND MATERIALS from a tower, pole, any
25 other installation or place of installation or any other place or site
26 where it may be rightfully or lawfully stored, deposited, kept,

1 stocked, inventoried, situated or located, without the consent of
2 the owner[, whether or not the act is done for profit or gain];

3 “(2) Take, carry away or remove or transfer, with or
4 without the use of a motor vehicle or other means of conveyance,
5 any electric power [transmission line/material or meter] LINES,
6 EQUIPMENT AND MATERIALS from a tower, pole, any other
7 installation or place of installation, or any place or site where it
8 may be rightfully or lawfully stored, deposited, kept, stocked,
9 inventoried, situated or located, without the consent of the owner
10 [, whether or not the act is done for profit or gain];

11 “(3) Store, possess or otherwise keep in his premises,
12 custody or control, any electric power [transmission line/material
13 or meter] LINE, EQUIPMENT AND MATERIAL without the consent
14 of the owner [, whether or not the act is done for profit or gain];
15 and

16 “(4) Load, carry, ship or move from one place to another,
17 whether by land, air or sea, any electric[al] power [transmission
18 line/material] LINE, EQUIPMENT AND MATERIAL [, whether or
19 not the act is done for profit or gain,] without first securing a
20 clearance/permit for the said purpose from its owner [or the
21 National Power Corporation (NPC) or its regional office
22 concerned, as the case may be.]; AND

23 “(5) DESTROY OR DAMAGE BY BOMB, EXPLOSIVE OR
24 ANY OTHER MEANS OR DEVICE, ANY ELECTRIC POWER LINE,
25 EQUIPMENT AND MATERIAL, OR ANY ATTEMPT THEREOF. ”

26 SEC. 5. Delete Section 3, paragraph (b) of the same Act.

1 SEC. 6. Section 4, paragraphs (a) and (b) of the same Act is hereby
2 amended to read as follows:

3 “SEC. [4]5. *Prima Facie Evidence.* – (a) The presence of
4 any of the following circumstances shall constitute *prima facie*
5 *evidence of illegal use of electricity*, as defined in this Act[, by
6 the person benefitted thereby,] and shall be the basis for: (1) the
7 [immediate] **OUTRIGHT** disconnection by the electric utility OF
8 **THE ELECTRIC SERVICE** to such person [after due notice,]
9 **IMMEDIATELY UPON THE DISCOVERY THEREOF TO PREVENT**
10 **FURTHER PILFERAGE OR LOSS OF ELECTRICITY AND FOR**
11 **SAFETY PURPOSES**, (2) the holding of a preliminary investigation
12 by the prosecutor and the subsequent *filing in court* of the
13 pertinent **COMPLAINT/information**, and

14 “x x x

15 “(VIII) **THE PRESENCE OF A HOLE IN A CONDUIT WHICH**
16 **CONTAINS THE WIRES LEADING TO THE ELECTRIC METER;**

17 “(IX) **THE PRESENCE OF ERROR OR ALARM CODES IN**
18 **AN ELECTRONIC OR DIGITAL ELECTRIC METER INDICATING AN**
19 **UNAUTHORIZED MANIPULATION;**

20 “(X) **THE PRESENCE OF DISCREPANCY IN THE**
21 **READINGS OF A CONSUMER'S METER WITH A CHECK METER**
22 **INSTALLED BY THE ELECTRIC UTILITY: PROVIDED, THAT THE**
23 **INSTALLATION OF THE SAID CHECK METER WAS ATTESTED BY**
24 **A DULY AUTHORIZED REPRESENTATIVE OF THE ERC OR ANY**
25 **OTHER AUTHORIZED OFFICER OR AGENT OF THE LAW; and**

26 “([viii]XI) The acceptance of money and/or other
27 valuable consideration by any officer or employee of the
28 electric utility concerned or the making of such an offer to any

1 such officer or employee for not reporting the presence of any
2 of the circumstances enumerated in subparagraphs (i), (ii),
3 (iii), (iv), (v), (vi), (vii), (VIII), (IX), or (X) hereof: *Provided,*
4 *however,* That the discovery of any of the foregoing
5 circumstances, in order to constitute *prima facie* evidence,
6 must be personally witnessed and attested to by an officer of
7 the law or a duly authorized representative of the Energy
8 Regulatory Board (ERB).

9 “(b) The possession, control or custody of electric power
10 [transmission line/material] **LINE, EQUIPMENT AND MATERIAL**
11 by any person, natural or juridical, not engaged in the
12 [transformation] **GENERATION**, transmission or distribution of
13 electric power, or in the manufacture of such electric power
14 [transmission line/material] **LINE, EQUIPMENT AND MATERIAL**
15 shall be *prima facie* evidence that such [line/material] **LINE,**
16 **EQUIPMENT AND MATERIAL** is the fruit of the offense defined in
17 Section [3]4 hereof and therefore such [line/material] **LINE,**
18 **EQUIPMENT AND MATERIAL** may be confiscated from the person
19 in possession, control or custody thereof.”

20 SEC. 7. Section 5 of the same Act is hereby amended to read as
21 follows:

22 “SEC. [5]6. *Incentives.* – An incentive scheme by way of
23 a monetary reward in [the] **AN [minimum] amount [of Five**
24 **thousand pesos (P5,000.00)] EQUIVALENT TO TWENTY**
25 **PERCENT (20%) OF THE VALUE OF THE RECOVERED STOLEN**
26 **LINES OR MATERIALS** shall be given to any person who shall

1 report to the [NPC] TRANSCO, IPP/GENERATION COMPANY,
2 PRIVATE ELECTRIC UTILITY, RURAL ELECTRIC COOPERATIVE
3 or police authorities any act which may constitute a violation of
4 Section [3]4 hereof. THE INCENTIVE SCHEME SHALL ALSO BE
5 MADE AVAILABLE TO PERSONS WHO PARTICIPATED IN THE
6 APPREHENSION AND CONVICTION OF PERSON/S VIOLATING
7 THIS ACT. The Department of Energy (DOE)[,] SHALL, in
8 consultation with the [NPC] TRANSCO, DISTRIBUTION
9 UTILITIES (DUs), ELECTRIC COOPERATIVES (ECs) AND END-
10 USERS, [shall] issue the necessary guidelines for the proper
11 implementation of this incentive scheme within thirty (30) days
12 from the effectivity of this Act.”

13 SEC. 8. Insert a new section after Section 5 of the same Act, to be
14 designated as Section 7, to read as follows:

15 “SEC. 7. *INSPECTION OF ELECTRIC SERVICE.* – THE
16 DULY AUTHORIZED PERSONNEL OF PRIVATE ELECTRIC
17 UTILITIES OR RURAL ELECTRIC COOPERATIVES SHALL, AFTER
18 PRESENTATION OF VALID IDENTIFICATION CARDS AND
19 INSPECTION REPORT FORMS, BE ALLOWED ENTRY TO THE
20 PREMISES OF ANY DWELLING OR BUILDING, INCLUDING
21 COMMERCIAL AND GOVERNMENT ESTABLISHMENTS, TO
22 CONDUCT INSPECTION OF ELECTRIC SERVICE CONNECTIONS IN
23 THE PRESENCE OF THE OWNER CONCERNED OR IN HIS
24 ABSENCE, TO BE WITNESSED BY A PERSON IN AUTHORITY AND
25 OF LEGAL AGE IN SAID PLACE OR ESTABLISHMENT TO
26 DETERMINE IF THE OWNER OR USER OF SAID SERVICE
27 CONNECTION IS LIABLE FOR VIOLATION OF THIS ACT.”

28 Then, renumber Sections 6 through 17 as Sections 8 through 19,
29 respectively.

1 SEC. 9. Section 6 of the same Act is hereby amended to read as
2 follows:

3 “SEC. [6]8. *Disconnection of Electric Service.* -- The
4 private electric utility or rural electric cooperative concerned
5 shall have the right and authority to disconnect [immediately]
6 **OUTRIGHTLY** the electric service [after serving a written notice
7 or warning to that effect,] without the need of a court or
8 administrative order, and deny restoration of the same, [when the
9 owner of the house or establishment concerned] **WHEN THE**
10 **CUSTOMER** or someone acting in his behalf shall have been
11 caught *en flagrante delicto* [doing] **COMMITTING** any of the acts
12 enumerated in Section [4]5(a) hereof, or when [any of the
13 circumstances so enumerated shall have been discovered for the
14 second time: *Provided*, That in the second case, a written notice
15 or warning shall have been issued upon the first discovery] **ANY**
16 **PILFERING DEVICE OR SCHEME IS FOUND OR ATTACHED TO**
17 **THE ELECTRIC SERVICE CONNECTION OR IS BEING USED BY**
18 **THE CONSUMER AT THE TIME WHEN THE ACTUAL INSPECTION**
19 **WAS BEING CONDUCTED: *Provided*, [further] **HOWEVER**,** That
20 the electric service shall [not] be immediately disconnected [or]
21 **AND shall NOT** be immediately restored [upon] **UNLESS** the
22 **CUSTOMER** deposits [of] the amount representing the differential
23 billing [by the person denied the service,] with the private
24 electric utility or rural electric cooperative concerned or with the
25 competent court, as the case may be: *Provided, further*[*more*],
26 That if the court finds that illegal use of electricity has not been

1 committed by the same person, the amount deposited shall be
2 credited against future billings, with legal interest thereon
3 chargeable against the private utility or rural electric cooperative,
4 and the utility or cooperative shall be made to immediately pay
5 such person double the value of the payment or deposit with
6 legal interest, which amount shall likewise be creditable against
7 immediate future billings, without prejudice to any criminal, civil
8 or administrative action that such person may be entitled to file
9 under existing laws, rules and regulations: *Provided, [finally,]*
10 **FURTHERMORE**, That if the court finds the same person guilty of
11 such illegal use of electricity, he shall, upon final judgment, be
12 made to pay the electric utility or rural electric cooperative
13 concerned double the value of the estimated electricity illegally
14 used which is referred to in this section as differential billing.

15 For purposes of this Act, "differential billing" shall refer
16 to the amount to be charged to the person concerned for the
17 unbilled electricity illegally consumed by him as determined
18 through the use of methodologies which utilize, among others, as
19 basis for determining the amount of monthly electric
20 consumption in kilowatt-hours to be billed, either: (a) the highest
21 recorded monthly consumption within the [five-year]
22 **THIRTY-MONTH** billing period preceding the time of the
23 discovery, (b) [the estimated monthly consumption as per the
24 report of load inspection conducted during the time of discovery]
25 **THE HIGHER CONSUMPTION BETWEEN THE AVERAGE**
26 **CONSUMPTIONS BEFORE OR AFTER THE HIGHEST DRASTIC**
27 **DROP IN CONSUMPTION WITHIN THE THIRTY-MONTH BILLING**
28 **PERIOD PRECEDING THE DISCOVERY, (c) [the higher**

1 consumption between the average consumptions before or after
2 the highest drastic drop in consumption within the five-year
3 billing period preceding the discovery] THE ESTIMATED
4 MONTHLY CONSUMPTION AS PER THE REPORT OF LOAD
5 INSPECTION CONDUCTED DURING THE TIME OF DISCOVERY,
6 [(d) the highest recorded monthly consumption within four (4)
7 months after the time of discovery, or] AND ([e]D) the result of
8 the [ERB]ERC test during the time of discovery and, as basis
9 for determining the period to be recovered by the differential
10 billing, either: (1) the time when the electric service of the person
11 concerned recorded an abrupt or abnormal drop in consumption,
12 or (2) when there was a change in his service connection [such as
13 a] OR A change [of]IN meter, [change of seal or reconnection,]
14 or in the absence thereof, a maximum of [sixty (60)] TWENTY-
15 FOUR (24) billing months, up to the time of discovery: *Provided,*
16 *however,* That such period shall, in no case, be less than one (1)
17 year preceding the date of discovery of the illegal use of
18 electricity REGARDLESS OF ANY PRIOR CHANGE OF SEAL,
19 METER OR SERVICE CONNECTION, OR RECONNECTION OR
20 INSPECTION OCCURRING WITHIN ONE (1) YEAR BEFORE THE
21 DATE OF DISCOVERY OR APPREHENSION.”

22 SEC. 10. Section 7 of the same Act is hereby deleted and in lieu
23 thereof insert a new provision, to be designated Section 9, to read as follows:

24 [SEC. 7. *Penalties.* – (a) Violation of Section 2 – The
25 penalty of *prision mayor* or a fine ranging from Ten thousand
26 pesos (P10,000) to Twenty thousand pesos (P20,000) or both, at

1 the discretion of the court, shall be imposed on any person found
2 guilty of violating Section 2 hereof.

3 (b) Violation of Section 3 – The penalty of *reclusion*
4 *temporal* or a fine ranging from Fifty thousand pesos (P50,000)
5 to One hundred thousand pesos (P100,000) or both, at the
6 discretion of the court, shall be imposed on any person found
7 guilty of violating Section 3 hereof.

8 (c) Provision common to violations of Section 2 and
9 Section 3 hereof – If the offense is committed by, or in
10 *connivance* with, an officer or employee of the power company,
11 private electric utility or rural electric cooperative concerned,
12 such officer or employee shall, upon conviction, be punished
13 with a penalty one (1) degree higher than the penalty provided
14 herein, and forthwith be dismissed and perpetually disqualified
15 from employment in any public or private utility or service
16 company and from holding any public office.

17 If, in committing any of the acts enumerated in Section 4
18 *hereof*, any of the other acts as enumerated is also committed,
19 then the penalty next higher in degree as provided herein shall be
20 imposed.

21 If the offense is committed by, or in *connivance* with an
22 officer or employee of the electric utility concerned, such officer
23 or employee shall, upon conviction, be punished with a penalty
24 one (1) degree higher than the penalty provided therein, and
25 forthwith be dismissed and perpetually disqualified from
26 employment in any public or private utility or service company.
27 Likewise, the electric utility concerned which shall have
28 knowingly permitted or having knowledge of its commission

1 shall have failed to prevent the same, or was otherwise guilty of
2 negligence in connection with the commission thereof, shall be
3 made to pay a fine not exceeding triple the amount of the
4 “differential billing” subject to the discretion of the courts.

5 If the violation is committed by a partnership, firm,
6 corporation, association or any other legal entity, including a
7 government-owned or -controlled corporation, the penalty shall
8 be imposed on the president, manager and each of the officers
9 thereof who shall have knowingly permitted, failed to prevent or
10 was otherwise responsible for the commission of the offense.]

11 “SEC. 9. *PENALTIES.* – ANY PERSON WHO IS FOUND TO
12 HAVE VIOLATED ANY PROVISION OF THIS ACT SHALL BE
13 PUNISHED BY:

14 “(A) THE PENALTY OF *PRISION CORRECCIONAL* IN ITS
15 MAXIMUM PERIOD TO *PRISION MAYOR* IN ITS MINIMUM PERIOD,
16 IN VIOLATION OF SECTION 3 OF THIS ACT AND THE TOTAL
17 AMOUNT INVOLVED DOES NOT EXCEED ONE HUNDRED
18 THOUSAND PESOS (P100,000.00), OR A FINE OF TWO (2) TIMES
19 THE VALUE OF THE ILLEGAL ELECTRICITY USAGE OF THE
20 APPREHENDED PERSON, OR BOTH, AT THE DISCRETION OF THE
21 COURT.

22 “IN THE CASE OF THEFT OF ELECTRIC POWER LINES,
23 EQUIPMENT AND MATERIALS, THE APPLICABLE FINE IS FIVE (5)
24 TIMES THE VALUE OF THE MATERIALS UNLAWFULLY OR
25 ILLEGALLY TAKEN.

26 “(B) THE PENALTY OF *PRISION MAYOR* IN ITS MAXIMUM
27 PERIOD TO *RECLUSION TEMPORAL*, IF THE TOTAL AMOUNT
28 INVOLVED IS OVER ONE HUNDRED THOUSAND PESOS
29 (P100,000.00) BUT DOES NOT EXCEED FIVE HUNDRED

1 THOUSAND PESOS (P500,000.00), OR A FINE OF THREE (3)
2 TIMES THE VALUE OF THE ILLEGAL ELECTRICITY USAGE OF
3 THE APPREHENDED PERSON, OR BOTH, AT THE DISCRETION OF
4 THE COURT.

5 "IN THE CASE OF THEFT OF ELECTRIC POWER LINES,
6 EQUIPMENT AND MATERIALS, THE APPLICABLE FINE IS SIX (6)
7 TIMES THE VALUE OF THE MATERIALS UNLAWFULLY OR
8 ILLEGALLY TAKEN.

9 "(C) THE PENALTY OF *RECLUSION TEMPORAL* TO
10 *RECLUSION PERPETUA*, IF THE TOTAL AMOUNT INVOLVED IS
11 OVER FIVE HUNDRED THOUSAND PESOS (P500,000.00), OR A
12 FINE OF FIVE (5) TIMES THE VALUE OF THE ILLEGAL
13 ELECTRICITY USAGE, OR BOTH, AT THE DISCRETION OF THE
14 COURT.

15 "IN CASE OF THEFT OF ELECTRIC POWER LINES,
16 EQUIPMENT AND MATERIALS, THE APPLICABLE FINE IS TEN
17 (10) TIMES THE VALUE OF THE MATERIALS UNLAWFULLY OR
18 ILLEGALLY TAKEN.

19 "(D) IF THE OFFENSE COMMITTED BY, OR IN
20 CONNIVANCE WITH, AN OFFICER OR EMPLOYEE OF THE POWER
21 COMPANY, PRIVATE ELECTRIC UTILITY OR RURAL ELECTRIC
22 COOPERATIVE CONCERNED, SUCH OFFICER OR EMPLOYEE
23 SHALL, UPON CONVICTION, BE PUNISHED WITH A PENALTY
24 TWO (2) DEGREES HIGHER THAN THE PENALTY PROVIDED
25 HEREIN, AND FORTHWITH BE DISMISSED AND PERPETUALLY
26 DISQUALIFIED FROM EMPLOYMENT IN ANY PUBLIC OR
27 PRIVATE UTILITY OR SERVICE COMPANY AND FROM HOLDING
28 ANY PUBLIC OFFICE.

29 "IF THE OFFENDER IS A RECIDIVIST OR COMMITS MORE
30 THAN TWO (2) ACTS MENTIONED IN SECTIONS 3, 4 OR 5 OF

1 THIS ACT, THE PENALTY APPLICABLE WILL BE INCREASED TO
2 TWO (2) DEGREES HIGHER THAN THE IMPOSED PENALTY.

3 “(E) IF THE ELECTRIC PRIVATE OR PUBLIC UTILITY
4 SHALL KNOWINGLY PERMIT OR HAVE KNOWLEDGE OF THE
5 COMMISSIONS OF THE ACTS MENTIONED IN SECTIONS 3, 4 OR 5
6 AND SHALL HAVE FAILED TO PREVENT THE SAME OR
7 OTHERWISE GUILTY OF NEGLIGENCE IN CONNECTION WITH
8 THE COMMISSION THEREOF, IT SHALL BE MADE TO PAY A FINE
9 NOT EXCEEDING FIVE (5) TIMES THE AMOUNT OF THE
10 “DIFFERENTIAL BILLING” SUBJECT TO THE DISCRETION OF
11 THE COURTS.

12 “IF THE VIOLATION IS COMMITTED BY ANY JURIDICAL
13 ENTITY, THE PENALTY SHALL BE IMPOSED ON THE PRESIDENT,
14 CHIEF EXECUTIVE OFFICER OR CHIEF OPERATIONS OFFICER
15 OR MANAGER AND SUCH OFFICERS, INCLUDING THE MEMBERS
16 OF THE BOARD, WHO SHALL HAVE KNOWINGLY PERMITTED,
17 FAILED TO PREVENT OR WAS OTHERWISE RESPONSIBLE FOR
18 THE COMMISSION OF THE OFFENSE.”

19 SEC. 11. Section 9 of the same Act is hereby amended to read as
20 follows:

21 “SEC. [9]11. *Restriction on the Issuance of Restraining*
22 *Orders or Writs of Injunction.* – No writ of injunction or
23 restraining order shall be issued by any court against any private
24 electric utility or rural electric cooperative exercising the right
25 and authority to disconnect electric service as provided in this
26 Act[, unless there is *prima facie* evidence that the disconnection
27 was made with evident bad faith or grave abuse of authority]
28 WHEN THE UNLAWFUL OR ILLEGAL ACT WAS COMMITTED
29 EN FLAGRANTE DELICTO AND THE EVIDENCE AGAINST THE
30 PERSON OR PERSONS IS STRONG.

1 “x x x.”

2 SEC. 12. Insert a new section after Section 9 of the same Act, to be
3 designated as Section 12, to read as follows:

4 “SEC. 12. *EXCLUSIVE JURISDICTION OF THE COURTS.* –

5 THE COURTS SHALL HAVE ORIGINAL AND EXCLUSIVE
6 JURISDICTION ON DISPUTES INVOLVING ACTS SPECIFIED
7 UNDER THIS ACT. THE ENERGY REGULATORY COMMISSION
8 (ERC) SHALL NOT TAKE COGNIZANCE OF ANY COMPLAINT
9 AGAINST ANY ELECTRIC GENERATION, TRANSMISSION AND
10 DISTRIBUTION UTILITY FILED BY ANY CONSUMER IN
11 VIOLATION OF ANY PROVISIONS OF THIS ACT.”

12 Then, renumber Sections 10 through 17 as Sections 13 through 20,
13 respectively.

14 SEC. 13. Delete Section 10 of the same Act and in lieu thereof insert a
15 new section, to be designated as Section 13, to read as follows:

16 “SEC. 13. *RECOVERABLE SYSTEM LOSS CAPS.* – THE
17 ERC SHALL, WITHIN ONE (1) YEAR FROM THE EFFECTIVITY OF
18 THIS ACT, DETERMINE THE RECOVERABLE SYSTEM LOSS CAPS
19 OF ELECTRIC TRANSMISSION AND DISTRIBUTION UTILITIES
20 TAKING INTO ACCOUNT SUCH TECHNICAL CONSIDERATIONS
21 INCLUDING, BUT NOT LIMITED TO, LOAD DENSITY, SALES MIX,
22 COST OF SERVICE, DELIVERY VOLTAGE AS IT MAY DETERMINE
23 AS WELL AS THE VIABILITY OF THE PRIVATE ELECTRIC
24 UTILITIES AND ELECTRIC COOPERATIVES AND THE INTEREST
25 OF THE CONSUMING PUBLIC.

26 “THE MAXIMUM RATE OF SYSTEM LOSS THAT A
27 DISTRIBUTION UTILITY MAY PASS ON TO ITS CUSTOMERS
28 SHALL BE THE ACTUAL BUT NOT EXCEEDING EIGHT AND
29 ONE-HALF PERCENT (8.5%) OF THE TOTAL KILOWATT-HOURS
30 (KWH) GENERATED AND PURCHASED FOR PUBLIC

1 DISTRIBUTION UTILITIES (PDUs) AND THIRTEEN PERCENT
2 (13%) FOR ELECTRIC COOPERATIVES (ECs).

3 "THE ACTUAL COMPANY USE NOT EXCEEDING ONE
4 PERCENT (1%) OF THE TOTAL KWH GENERATED AND
5 PURCHASED SHALL BE TREATED AS AN EXPENSE OF
6 DISTRIBUTION UTILITIES IN THE FOLLOWING MANNER:

7 "(A) FOR PRIVATE DISTRIBUTION UTILITIES (PDUs)
8 THAT ARE UNDER PERFORMANCE-BASED REGULATION (PBR),
9 IT SHALL BE TREATED AS OPERATION AND MAINTENANCE
10 EXPENSE IN ITS NEXT RESET;

11 "(B) FOR PDUS THAT ARE NOT YET UNDER THE PBR,
12 IT SHALL BE TREATED AS OPERATION AND MAINTENANCE
13 EXPENSE IN ITS PBR APPLICATION; AND

14 "(C) FOR ECs, IT SHALL BE TREATED AS OPERATION
15 AND MAINTENANCE EXPENSE IN THE BENCHMARKING
16 METHODOLOGY.

17 "ALL DUS AND ECs SHALL SUBMIT TO THE ERC
18 THROUGH A SWORN STATEMENT THE RESULTS OF THEIR
19 UPDATED SEGREGATED SYSTEM LOSSES TOGETHER WITH
20 THEIR ANNUAL REPORTS."

21 SEC. 14. Insert a new section after Section 10 of the same Act, to be
22 designated as Section 14, to read as follows:

23 "SEC. 14. *SYSTEM LOSS REDUCTION PROGRAM AND*
24 *INCENTIVES.* - THE ERC SHALL DEVELOP AN INCENTIVE
25 MECHANISM TO REWARD CONSUMERS AND DISTRIBUTION
26 UTILITIES WHOSE ACTUAL SYSTEM LOSSES ARE BELOW THE
27 PREVAILING APPROVED CAPS. THE INCENTIVE MECHANISM SO
28 ADOPTED MAY BE INCORPORATED BY THE ERC IN THE
29 PERFORMANCE INCENTIVE SCHEME (PIS) UNDER THE PBR
30 FOR PDUS AND IN THE BENCHMARKING METHODOLOGY FOR

1 **ECs. TOWARDS THIS END, EXPENSES ASSOCIATED WITH ANY**
2 **SYSTEM LOSS REDUCTION PROGRAM DULY APPROVED BY THE**
3 **ERC SHALL BE CONSIDERED PART OF THE CAPITAL OR**
4 **OPERATING COSTS OF THE DISTRIBUTION UTILITIES.”**

5 Then, renumber Sections 11 through 17 as Sections 15 through 21,
6 respectively.

7 **SEC. 15. *Implementing Rules and Regulations.*** – The ERC shall,
8 within sixty (60) days upon the effectivity of this Act, in consultation with the
9 National Transmission Corporation (TRANSCO) or its concessionaire, DUs,
10 ECs, RES, GENCOs and the consumers, formulate the rules and regulations
11 for the effective implementation of this Act.

12 **SEC. 16. *Separability Clause*** – If for any reason, any provision of this
13 Act is declared unconstitutional or invalid, the other parts or provisions hereof
14 which are not affected thereby shall continue to be in full force and effect.

15 **SEC. 17. *Repealing Clause.*** – Any law, presidential decree or issuance,
16 executive order, letter of instruction, administrative rule or regulation contrary
17 to or inconsistent with the provisions of this Act is hereby repealed, modified
18 or amended accordingly.

19 **SEC. 18. *Effectivity.*** – This Act shall take effect fifteen (15) days after
20 its publication in two (2) newspapers of general circulation.

 Approved,