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SENATE

S.B. No. 3148

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Introduced by **Senator Juan Ponce Enrile**

EXPLANATORY NOTE

Our country is endowed with energy resources that are relatively abundant. Our Constitution promises that the development of these energy resources shall inure to the benefit of the Filipino people. Unfortunately, the promise remained as such – a promise - until substantial reforms began recently when this Congress enacted Republic Act No. 9513 otherwise known as the Renewable Energy Act of 2008.

However, much is left to be desired with respect to other indigenous sources of energy. Government impositions associated with making available such resources for electricity generation are more burdensome than those applied on imported fuels such that rates of electricity generated using indigenous energy resources are rendered artificially high.

For instance, as of May 2007, government royalties (or government share) on indigenous natural gas was around P1.46/kWh, which was 5 to 8 times more than the taxes imposed on imported fuels such as coal (P0.17/kWh), oil (P0.20/kWh) and liquefied natural gas (P0.29/kWh). If taxes and royalties were to be removed on both indigenous and imported fuels, the rates of electricity generated using indigenous energy resources would be substantially lower. Moreover, between indigenous petroleum which is intensively used for generating electricity and other local extractive industries such as mining, the former is being subjected to royalties of about 60% while the latter enjoys a much lower tax rate of 3%.

Thus, instead of enjoying lower electricity rates, the Filipino is effectively being penalized for utilizing its own energy resources. In addition, because of the disparities, the country's energy self-sufficiency is being held on a tight leash of its own making – a regrettable stance in the face of volatile energy prices in the international markets.

These policy anomalies are not present in our Asian neighbors similarly endowed with natural resources such as Thailand, Indonesia, Malaysia and Vietnam. While royalties/taxes on oil and gas in these countries are comparable with those in our country, domestic use of these indigenous natural resources are afforded substantially lower prices unlike in our case.

It's about time that the Filipino people should fully benefit from its energy resources by removing the disparities in the tax/royalty treatment of indigenous resources not covered by the Renewable Energy Act of 2008. This will directly result in reducing the commodity prices of these energy resources as they are utilized for electricity generation, which reduction will translate into lower electricity rates to the Filipino consumers. In the Meralco franchise area alone, a reduction of government royalties will mean a reduction of electricity rates to as much as P0.50/kWh for all customers.

In a study conducted in early 2008 by University of the Philippines Professor Dante B. Canlas, former Director General at the National Economic Development Authority, it is shown

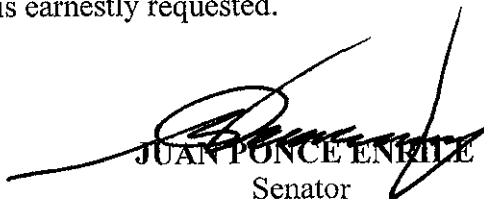
that a reduction of the natural gas royalties to lower the cost of electricity to industrial loads would induce economic output growth on account of greater competitiveness and productivity of the Philippine industries. Incidentally, the study also concludes that the reduction of the royalties provide government additional tax and non-tax revenues that would be more than sufficient to offset the foregone royalties collection in less than 2 years from implementation.

There is more need for competitiveness and greater productivity now when Philippine industries, including the millions of Filipinos whose livelihood depend on them, are being threatened or already reeling from the effects of the global financial crisis and the recessions in the largest economies of the world. Recent newspaper reports reveal that associations of industrial establishments such as the Semiconductor and Electronics Industries in the Philippines Inc., an organization of semiconductor and electronics companies which account for about 70% of Philippine exports, is already making a call for lower royalties and lower electricity rates to help the Philippine export industry brace for the effects of the global crisis.

Needless to say, the ordinary Filipino, especially the marginal end-user of electricity, has long been in need of respite from high electricity rates.

In consideration of the foregoing, this bill seeks to lower the government share in the exploration, development and production of indigenous energy resources other than those already covered by the Renewable Energy Act of 2008; set such government share at the level that maintains the relative preference to indigenous renewable energy resources and still provide for a substantial revenue for the government; and remove the disparities in tax/royalty treatment between indigenous energy resources and imported fuels. These are sought to ultimately lower electricity rates to the Filipino consumers in a significant and sustainable manner.


The immediate passage of this bill is earnestly requested.


JUAN PONCE ENRILE
Senator

FOURTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
Second Regular Session)

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AN ACT

DIRECTING THE REDUCTION OF ELECTRICITY RATES THROUGH THE UTILIZATION OF THE GOVERNMENT SHARE IN THE DISCOVERY, EXPLORATION, DEVELOPMENT AND/OR PRODUCTION OF INDIGENOUS SOURCES OF ENERGY FOR THE PURPOSE OF LOWERING THE COST OF ELECTRICITY

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

1 **SECTION 1.** This Act shall be known as the “Electricity Rate Reduction Act of 2009”.

2 **SEC. 2. Declaration of Policy** - It is hereby declared the policy of the State that, to the
3 end-users of electricity: (i) the government impositions relating to indigenous sources of energy
4 shall be effectively at par with or more favorable than analogous impositions on imported fuels
5 in keeping with the Constitutional precept of preserving the benefits of the national patrimony to
6 the Filipino people; (ii) the competitiveness of indigenous sources of energy vis-à-vis imported
7 fuels shall be ensured thereby increasing the country’s energy self-sufficiency; and (iii) the true
8 and lower cost of electricity generated from indigenous sources of energy shall be reflected in
9 view of the economic goal under the Constitution of increasing the amount of goods and services
10 produced by the nation for the benefit of the people.

11 **SEC. 3. Definition of Terms** - As used in this Act:

12 (a) “Department of Energy” or “DOE” refers to the government agency created
13 pursuant to Republic Act No. 7638.

14 (b) “Energy Regulatory Commission” or “Commission” refers to the independent
15 quasi-judicial regulatory agency created pursuant to Republic Act No. 9136.

16 (c) “Government Share” refers to the amount due the national government and local
17 government units from the discovery, exploration, development and/or production of indigenous
18 energy resources under new and existing service contracts pursuant to relevant laws.

1 (d) "Indigenous sources of energy" refers to energy sources that are native to the
2 Philippines except those that are subject of or covered by Republic Act No. 9513 or the
3 Renewable Energy Act of 2008;

4 (e) "Net proceeds from the sale of the energy resource" refers to the difference
5 between the gross proceeds from the sale of such energy resource and the sum of expenses
6 allowed to be recovered under the relevant service contract.

7 **SEC. 4. Government Share** - Notwithstanding any law to the contrary, the Government
8 Share shall henceforth be utilized and applied to reduce the commodity price of the indigenous
9 energy resources sold by a service contractor for generation of electricity such that the
10 Government Share is effectively reduced, as it is hereby reduced, to three percent (3%) of the net
11 proceeds from the sale of the energy resource over the life of the relevant service contract.

12 The commodity price reduction under the preceding section shall be fully reflected as a
13 reduction in the price of electricity produced by generation companies utilizing the indigenous
14 energy resource. The commodity price reduction shall be subject to annual adjustment or
15 reconciliation to ensure that such reduction shall be revenue-neutral to the service contractor.

16 **SEC. 5. Utilization of the Reduction in the Electricity Price** - In order that end-users
17 will fully benefit from the reduction in the electricity price of any generation company utilizing
18 the indigenous energy resource:

19 (a) Any distribution utility obtaining supply from said generation company shall pass
20 on the full reduction in electricity price to its end-user customers, thereby lowering the retail
21 rates of electricity; and

22 (b) Any end-user which said generation company may serve during the
23 implementation of retail competition and open access as provided for under Section 31 of
24 Republic Act No. 9136 shall also be included among those to which the reduction in electricity
25 price shall be passed on.

26 The Commission shall determine the reduction in electricity rates to end-users across end-
27 user classifications, giving priority to efficient end-users such as industrial loads for maximum
28 multiplier effect on the national economy and marginalized end-users for more meaningful
29 benefits.

30 **SEC. 6. Implementing Rules and Regulations** - Within three (3) months from the
31 effectivity of this Act, the DOE, in consultation with the Commission, shall issue the rules and
32 regulations implementing the same: *Provided, That the provisions on the utilization of the*
33 *Government Share for the reduction of the commodity price of the indigenous energy shall take*
34 *effect immediately.*

35 For ease of implementation, the Department of Energy shall pursue amendments to the
36 relevant existing service contracts to provide for the reduced Government Share under Section 4
37 above: *Provided, That the rights of the concerned service contractors shall not be impaired*
38 *thereby; and Provided, further, That the DOE shall ensure that reduction of Government Share*

1 shall be fully reflected in the reduction of electricity rates to end-users in accordance with
2 Sections 4, 5 and 6 herein. In any event, the implementation of this Act shall not be dependent
3 upon such amendments being adopted by the parties.

4 **SEC. 7. Separability Clause** - If for any reason, any provision of this Act or any part
5 thereof shall be held unconstitutional or invalid, the other parts or provisions of this Act, which
6 are not affected thereby, shall remain in force and effect.

7 **SEC. 8. Repealing Clause** - All laws, decrees, orders, rules and regulations including
8 Presidential Decree No. 87, or parts thereof, which are inconsistent with any of the provisions of
9 this Act are hereby repealed, amended or modified accordingly.

10 **SEC. 9. Effectivity Clause** - This Act shall take effect fifteen (15) days after its
11 complete publication in at least two newspapers of general circulation.

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13 *Approved,*

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