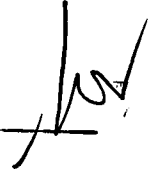




Senate
Office of the Secretary

SEVENTEENTH CONGRESS OF THE]
REPUBLIC OF THE PHILIPPINES]
First Regular Session]

'16 OCT -4 P5:26

RECEIVED BY: 

SENATE

S.B. No. 1188

Introduced by SEN. WIN GATCHALIAN

**AN ACT REDUCING THE CAP OF
RECOVERABLE SYSTEM LOSS CHARGES PASSED ON TO THE CONSUMERS
BY PRIVATE DISTRIBUTION UTILITIES AND ELECTRIC COOPERATIVES AND
EXEMPTING THE SYSTEM LOSS CHARGE COMPONENT
FROM THE COVERAGE OF VALUE ADDED TAX**

Explanatory Note

Despite being a third world nation, the Philippines has been reported to have one of the most expensive electricity rates in the world and the highest in Asia. A perusal of a household's electricity bill shows that consumers are paying for a number of components such as charges for generation, transmission, and distribution; taxes, subsidies, and universal charges; and system loss charges.

System loss charges represent the cost of electricity lost in the distribution system from the receiving point of private distribution utilities and electric cooperatives to the consumer's metering point. It may be further classified into 'technical' (when electricity dissipates over power lines) or 'non-technical' (pilferage, theft, administrative inefficiencies and costs). However, despite being electricity not actually used by the consumer, this charge has been integrated in electricity bills by virtue of Republic Act No. 7832 or the "Anti-Electricity and Electric Transmission Lines/Materials Pilferage Act of 1994". Furthermore, the implementing rules and regulations of the said law allowed private distribution utilities and rural cooperatives to retrieve their own electricity costs as part of system loss.

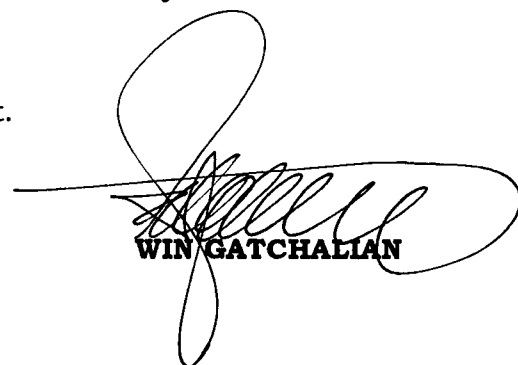
It makes no sense to let consumers pay for what should be the responsibility of the private distribution utilities and electric cooperatives. Thus, this measure seeks to lower the current cap of system loss charges set by the Energy Regulatory Commission in accordance with R.A. No. 7832 from 8.5% to 5% for private distribution utilities and from 13% to 10% for electric cooperatives and to exclude non-technical system losses and electricity used by the private distribution utilities and electrical cooperatives from what may be passed on to consumers as system loss charges.

This bill also seeks to exempt system loss charges from value-added tax (VAT). VAT is a form of sales tax and is a tax on consumption levied on the sale, barter, exchange or lease of goods or properties and services and on importation of goods into the Philippines. It is an indirect tax, which may be shifted or passed on to the buyer, transferee or lessee of goods, properties or services. System loss charges represent electricity which is lost and not actually used or consumed and yet the burden of paying for the VAT is passed on to the consumers.

Lowering the system loss cap from the current 8.5% to 5%, with Meralco currently at 6.5%, will possibly lower the cost of electricity by 9.55 centavos per kWh. Furthermore, removing the VAT on system loss charges will lower the cost of electricity by 4.12 centavos per kWh. Given that Meralco is able to sell 2,824.2 GWh for the month of August, removing the VAT will save consumers a total of Php 116,473,510.01 per month and lowering the cap will save consumers a total of Php 269,756,020.22 per month or a total of Php 386,229,530.23 per month.

Electricity is an integral part of contemporary Filipino life. With the rising costs of food, education, and other necessities, making reliable electricity more affordable will improve the lives of millions of Filipinos.

Hence, the immediate passage of this bill is sought.



WIN GATCHALIAN



SEVENTEENTH CONGRESS OF THE]
REPUBLIC OF THE PHILIPPINES]
First Regular Session]

'16 OCT -4 P5:26

RECEIVED BY: *[Signature]*

SENATE
S.B. No. 1188

Introduced by SEN. WIN GATCHALIAN

**AN ACT REDUCING THE CAP OF
RECOVERABLE SYSTEM LOSS CHARGES PASSED ON TO THE CONSUMERS
BY PRIVATE DISTRIBUTION UTILITIES AND ELECTRIC COOPERATIVES AND
EXEMPTING THE SYSTEM LOSS CHARGE COMPONENT
FROM THE COVERAGE OF VALUE ADDED TAX**

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

- 1 **SECTION 1. Title.** – This Act shall be known as the “Recoverable System Loss Act”.
- 2 **SEC 2. Declaration of Policy.** – It is hereby declared the policy of the State to ensure
- 3 the affordability of supply of electric power while taking into consideration the viability
- 4 of private electric distributors. Towards this end, the State shall ensure that the
- 5 imposition of distribution expenses to the public is justifiable and equitable.
- 6 **SEC 3. Definition of Terms.** – For purposes of this Act, the following shall be defined
- 7 as:
- 8 **(a) System Loss** refers to the amount of electricity purchased by the distribution
- 9 utility and the amount of electricity paid for by the users;

1 **(b) Technical Losses** refer to power dissipation in the components of the electricity
2 system such as transmission and distribution lines, transformers, and measurement
3 systems;

4 **(c) Non-Technical Losses** refer to electricity lost through causes external to the power
5 system such as pilferage, theft, administrative inefficiencies and costs, and other
6 analagous causes;

7 **SEC 4. Recoverable System Loss Charges.** – For purposes of recoverable systems
8 loss charges, the following caps are set:

9 (a) For Distribution Utilities (DUs), a maximum of five percent (5%).

10 (b) For Electric Cooperatives (ECs), a maximum of ten percent (10%).

11 The Energy Regulatory Commission (ERC) shall determine, as often as is
12 necessary, whether the caps shall be reduced further on the basis of load density,
13 sales mix, cost of service, delivery voltage, and other technical considerations, as well
14 as international benchmarks, taking into account the viability of DUs and ECs and the
15 interest of the consumers.

16 **SEC 5. Exclusion From Computation of System Loss Charges.** – The following shall
17 be excluded from the computation of recoverable system loss charges:

18 (a) Non-technical losses: *Provided*, That the DUs and ECs shall be given two (2)
19 years within the effectivity of this Act to exclude non-technical losses: *Provided*,
20 *further*, That the ERC shall formulate a gradual phase out system of non-
21 technical losses from recoverable system loss charges within the said period;

22 (b) Actual use of electricity by DUs or ECs: *Provided*, That actual use of
23 electricity shall be treated as operating and maintenance expenses of the DU or
24 EC; and

25 (c) Such other components which may be determined by the Energy Regulatory
26 Commission (ERC).

27 **SEC 6. Annual Review of System Loss Charges.** – DUs and ECs shall annually
28 submit to the ERC a sworn statement containing their segregated system losses and
29 all documents pertinent to system loss charges. The ERC shall strictly verify the

1 system loss charges determined by the DUs and ECs to ensure that only legitimate
2 costs are borne by the consumers. Failure to comply with this Section shall subject
3 the DU or EC to administrative penalties, including but not limited to suspension or
4 revocation of licenses, permits, or franchise to operate, to be determined by the ERC.

5 **SEC 7. Exemption from Value Added Tax (VAT).** – System loss charges shall be
6 exempt from VAT hereby amending Section 109 of the National Internal Revenue Code
7 of 1997, as amended.

8 **SEC 8. Performance Incentive Scheme (PIS).** – The ERC shall devise a Performance
9 Incentive Scheme (PIS) under the Performance Based Regulation for DUs and the
10 Benchmarking Methodology for ECs to encourage system loss charge reduction and
11 compliance with the provisions of this Act.

12 **SEC 9. Implementing Rules and Regulations.** – Within ninety (90) days from the
13 effectivity of this Act, the Department of Energy, in coordination with the ERC and
14 National Electrification Administration (NEA), shall promulgate the necessary rules
15 and regulations to implement the provisions of this Act.

16 **SEC. 10. Separability Clause.** – If, for any reason, any provision of this Act is
17 declared to be unconstitutional or invalid, the other sections or provisions hereof
18 which are not affected thereby shall continue to be in full force or effect.

19 **SEC. 11. Repealing Clause.** – All laws, decrees, orders, rules and regulations or parts
20 thereof which are inconsistent with or contrary to the provisions of this Act are hereby
21 repealed, amended or modified accordingly.

22 **SEC. 12. Effectivity.** – This Act shall take effect fifteen (15) days after its publication
23 in at least two (2) national newspapers of general circulation.

Approved,