

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



20 SEP -8 P4:51

SENATE
S.B. No. 1819

RECEIVED BY

Introduced by SEN. WIN GATCHALIAN

**AN ACT
PROVIDING FOR THE NATIONAL ENERGY POLICY AND FRAMEWORK FOR
THE DEVELOPMENT AND REGULATION OF THE PHILIPPINE MIDSTREAM
NATURAL GAS INDUSTRY, AND FOR OTHER PURPOSES**

EXPLANATORY NOTE

The start of commercial operations of the Malampaya-Camago wells in 1998 ushered in the beginning of the Philippine natural gas industry culminating with the Malampaya gas to power project producing its first gas in 2001. Since then, the domestic natural gas industry has provided Filipinos with locally sourced energy. Based on 2019 data from the Department of Energy (DOE), natural gas remains the second biggest source of electric power in the island of Luzon, accounting for 29.3% of its gross power generation.¹ More than 20 years since Malampaya's declaration of commerciality, there is now a looming uncertainty as its production is expected to significantly decline starting 2024.²

In anticipation of the nearing depletion of gas output from Malampaya,³ the absence of a replacement indigenous source,⁴ and the importance of diversifying the

¹ Coal is the biggest source of power for the Island accounting for 53.2% of gross generation. Page 13. Department of Energy 2019 Power Situation Report.

² Malampaya's gas production seen falling to a third by 2024. Manila Standard. 26 April 2018. Available at <https://manilastandard.net/business/power-technology/264185/malampaya-s-gas-production-seen-falling-to-a-third-by-2024.html>. Accessed on 2 June 2020.

³ Page 7. Transcript of Stenographic Notes. Senate Committee on Energy hearing held on 26 April 2018.

⁴ Page 28. Transcript of Stenographic Notes. Senate Committee on Energy hearing held on 18 June 2018.

country's energy sources to ensure energy security,⁵ the DOE promulgated Department Circular No. DC 2017-11-0012⁶ to regulate the importation, trading, and supply of natural gas in the country. However, the DOE's issuance needs a complementary law to cover all aspects of the midstream natural gas industry, which includes transportation, transmission, storage, and marketing of natural gas, in its original or liquefied form. In view of the foregoing, and owing to the intricacy of the midstream natural gas industry, comprehensive legislation is needed to fill in the gaps and strengthen existing bridge policies in order to unlock the potential of natural gas as a vital source of energy for the country.

This proposed measure has three main characteristics to develop the country's midstream natural gas industry: *First*, it allows private sector participation across the entire value chain given the complex nature of the investment; *Second*, it provides flexibility for the government to adapt to evolving market conditions considering the nascency of the industry which has the potential to grow into a mature market; and *Third*, it ensures protection of consumers' interest through a framework that encourages transparency and competition, and disincentivizes anticompetitive behavior.

As such, the immediate passage of this bill is sought.



WIN GATCHALIAN

⁵ LNG Dash. Business Mirror. 4 January 2020. Available at: <https://businessmirror.com.ph/2020/01/04/lng-dash/>. Accessed on 2 June 2020.

⁶ Rules and Regulations Governing the Philippine Downstream Natural Gas Industry. (2017).

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

CHAPTER I
GENERAL PROVISIONS

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SECTION 1. Short Title. – This Act shall be referred to as the "Midstream Natural Gas Industry Development Act."

SECTION 2. Declaration of Policy. – It is hereby declared the policy of the State to:

- (a) Ensure the country's energy security by developing diversification of energy sources to supply the various sectors of the economy;
- (b) Promote the role of natural gas as an additional energy source, a complementary fuel source to variable renewable energy, and a more environmentally-friendly fossil fuel by creating a legal framework that would

1 govern the promotion and development of the natural gas industry in the
2 country;

3 (c) Encourage the inflow of private capital in the development of the midstream
4 natural gas industry by fostering an open and fair competitive market;

5 (d) Ensure a safe, secure, reliable, competitive, and environmentally responsible
6 operation of the midstream natural gas value chain; and

7 (e) Protect consumers by mandating transparent and competitive rates, fees,
8 and charges.

9

10 **SECTION 3. Scope and Application.** – This Act shall apply to the midstream
11 natural gas industry specifically the aggregation, supply, importation, receipt,
12 unloading, loading, processing, storage, regasification, transmission, and
13 transportation of natural gas, in its original or liquified form, from local or foreign
14 sources, and the systems and facilities utilized for such.

15

16 **SECTION 4. Definition of Terms.** – For purposes of this Act, the following terms
17 shall be defined as stated below:

18 (a) *Affiliate* refers to any natural or juridical person who, alone or together with
19 other natural or juridical persons, directly or indirectly, through one or more
20 intermediaries, controls, is controlled by, or is under common control by the
21 owner or operator of a liquefied natural gas terminal or natural gas
22 transmission system. It includes a subsidiary company, a parent company,
23 and the subsidiaries, directly or indirectly, of the owner or operator of an
24 LNG terminal, or a natural gas transmission utility;

25 (b) *Ancillary services* refer to all services necessary to support the transmission
26 of natural gas from resources to end users, while maintaining reliable
27 operation of the transmission system in accordance with good utility practice
28 and the Natural Gas Transmission Code to be promulgated in accordance
29 with this Act. It shall include load balancing and blending and injection of
30 inert gases;

- 1 (c) *Anticompetitive behavior* refers to anticompetitive pricing, output fixing, and
2 any concerted practices or agreements by persons or association of persons
3 that restricts, prevents, or distorts competition;
- 4 (d) *Capacity* refers to the maximum flow, expressed in normal cubic meters per
5 time unit or in energy unit per time;
- 6 (e) *Control* refers to the power to direct or cause the direction of the
7 management policies of a corporation by contract, agency, or otherwise;
- 8 (f) *End user* refers to any natural or juridical person requiring the supply of
9 natural gas, in its original or liquefied form, for resale or its own use. It
10 includes power generation plants, industrial and commercial establishments,
11 ecozones, marine vessels and motor vehicles;
- 12 (g) *Investment Priorities Plan (IPP)* refers to the annual over-all plan prepared
13 by the Board of Investments (BOI) under Article 26 of Executive Order No.
14 226, otherwise known as the Omnibus Investments Code of 1987;
- 15 (h) *Importation* refers to the act of bringing natural gas, in its original or
16 liquefied form, into the Philippines from foreign sources;
- 17 (i) *Gas aggregator* refers to any natural or juridical person which avails of the
18 services of liquefied natural gas terminals and natural gas transmission
19 systems to engage in the activity of pooling together separate demands for
20 natural gas from end users and supplying them with natural gas from one or
21 more sources;
- 22 (j) *Liquefied natural gas (LNG)* refers to natural gas which has been cooled to a
23 cryogenic temperature, converting it to a liquid state;
- 24 (k) *LNG terminal* refers to all facilities located onshore or offshore, that are used
25 to import, receive, unload, load, process, store, regasify, transmit, or
26 transport natural gas, in its original or liquefied form, from local or foreign
27 sources. It shall include berthing ports, unloading and loading arms, line
28 packs, own use pipelines and facilities, regasification facilities, and storage
29 tanks, among others, but excludes marine vessels used to deliver natural
30 gas, in its original or liquefied form, to such terminal;
- 31 (l) *Midstream natural gas industry* refers to the transportation, transmission,
32 storage, and marketing of natural gas, in its original or liquefied form. It

1 utilizes, among others, marine vessels to deliver natural gas to LNG
2 terminals, storage facilities, and natural gas transmission systems;

3 (m) *Midstream Natural Gas Industry Development Plan* refers to the
4 comprehensive plan for ensuring safe, secure, and reliable supply of natural
5 gas, in its original or liquefied form, while establishing the efficient
6 operations of the country's midstream natural gas infrastructure and
7 managing demand for natural gas through specific government programs
8 and policies. It shall include the various Natural Gas Transmission
9 Development Plans of natural gas transmission utilities, and the Natural Gas
10 Transmission System Operator when applicable, and studies on over-all
11 supply and demand, capacity, and other research necessary in achieving a
12 sound demand and supply projection for natural gas in the country;

13 (n) *Natural gas* refers to gas obtained from boreholes and wells consisting
14 primarily of a mixture of methane, ethane, propane, and butane with small
15 amounts of heavier hydrocarbons and some impurities, notably nitrogen and
16 complex sulfur compounds and water, carbon dioxide, and hydrogen sulfide
17 as well as non-conventional gas including gas from bituminous shale;

18 (o) *Natural gas industry participant* refers to the supplier, importer, or
19 aggregator of natural gas; users, owners, or operators of LNG terminals;
20 users of natural gas transmission systems and natural gas transmission
21 utilities; and users, owners, or operators of authorized lorries and other
22 specially equipped motor vehicles, ships, and marine vessels utilized to
23 transport natural gas;

24 (p) *Natural Gas Sales Purchase Agreement* refers to a contract for the supply of
25 natural gas, in its original or liquefied form;

26 (q) *Natural Gas Transmission Code* refers to the compilation of rules,
27 procedures, requirements, regulations, and minimum technical performance
28 standards governing the safe and reliable operation, maintenance,
29 development, decommissioning, and abandonment of all natural gas
30 transmission systems in the country. It also defines and establishes the
31 relationship of transmission systems with facilities and installations of other
32 natural gas industry participants and end users, if applicable;

- 1 (r) *Natural Gas Transmission Development Plan* refers to the plan of each
2 natural gas transmission utility, or the comprehensive plan of the Natural
3 Gas Transmission System Operator when applicable, for managing the
4 country's transmission system through efficient planning for its location,
5 construction, improvement, expansion, operation, rehabilitation, repair, and
6 maintenance;
- 7 (s) *Natural gas transmission system* refers to a network containing pipelines
8 and other related facilities, which convey natural gas, in its original or
9 liquefied form, from an LNG terminal or domestic natural gas supply to a
10 natural gas industry participant or an end user, if applicable ;
- 11 (t) *Natural gas transmission fee* refers to the fee paid by natural gas industry
12 participants, or the end user if applicable, for the use of a natural gas
13 transmission system;
- 14 (u) *Natural Gas Transmission System Operator (NGTSO)* refers to a natural or
15 juridical person responsible for operating, maintaining, and developing the
16 interconnected natural gas transmission system, ensuring the continuous
17 and reliable delivery of gas to natural gas industry participants and end
18 users, and securing the long-term ability of the system to meet demand for
19 the transmission of gas;
- 20 (v) *NGTSO fee* refers to the fee paid by natural gas industry participants, or the
21 end user if applicable, to the NGTSO for its services in operating and
22 managing the interconnected natural gas transmission system;
- 23 (w) *Natural gas transmission utility* refers to a natural or juridical person who
24 has a franchise granted by law to construct and operate a natural gas
25 transmission system within a specified area;
- 26 (x) *Negotiated third party access (nTPA)* refers to a contractual arrangement
27 between an own use LNG terminal permit holder or an own use natural gas
28 transmission system permit holder, and a third party to allow the latter use
29 and access of a specific capacity covered by the own use permit for a fee
30 negotiated between the two entities;
- 31 (y) *Own use LNG terminal permit holder* refers to an LNG terminal whose owner
32 or operator has been issued an own use permit;

- 1 (z) *Own use natural gas transmission system permit holder* refers to a natural
2 gas transmission utility which has been issued an own use permit;
- 3 (aa) *Own use permit* refers to an authorization issued by DOE in the case of the
4 owner and operator of an LNG terminal, and ERC in the case of a natural
5 gas transmission utility, to exclusively use or allow an affiliated party to use
6 a specific capacity of the LNG terminal or natural gas transmission system
7 for a specified period of time;
- 8 (bb) *Permit* refers to an authorization issued by the DOE or ERC, whichever is
9 applicable, for the supply or importation of natural gas, or the construction,
10 operation, utilization, and maintenance of an LNG terminal or natural gas
11 transmission system for a specified period of time;
- 12 (cc) *Permit holder* refers to a natural or juridical person who is granted a permit
13 by the DOE to engage in the supply or importation of natural gas, or
14 construction, operation, utilization, and maintenance of an LNG terminal or
15 natural gas transmission system for a specified period of time;
- 16 (dd) *Regulated third party access (rTPA) permit* refers to an authorization issued
17 by the DOE in the case of the owner and operator of an LNG terminal, and
18 ERC in the case of a natural gas transmission utility, to offer to the public,
19 the non-discriminatory use and access of a specific capacity of the LNG
20 terminal or natural gas transmission system for a fee for a specified period
21 of time;
- 22 (ee) *rTPA LNG terminal permit holder* refers to an LNG terminal whose owner or
23 operator has an rTPA permit;
- 24 (ff) *rTPA natural gas transmission system permit holder* refers to a natural gas
25 transmission utility which has been issued an rTPA permit;
- 26 (gg) *Terminal fee* refers to the rates, charges, and other similar considerations
27 imposed upon third parties in exchange for the use of and other services
28 rendered by an rTPA LNG terminal permit holder;
- 29 (hh) *Third party* refers to a natural gas industry participant or end user who
30 avails of the services of an LNG terminal or natural gas transmission system
31 and is not an affiliate of its owner or operator;

- 1 (ii) *Third party access* refers to a contractual arrangement between the rTPA
2 LNG terminal permit holder or rTPA natural gas transmission system permit
3 holder, and a third party to allow the latter transparent and non-
4 discriminatory utilization and access of the capacity available to the public of
5 the rTPA LNG terminal permit holder or the rTPA natural gas transmission
6 system permit holder, whichever is applicable;
- 7 (jj) *Transmission* refers to the conveyance of natural gas through a natural gas
8 transmission system;
- 9 (kk) *Supplier* refers to any natural or juridical person authorized by the DOE to
10 engage in the business of supply of natural gas as defined in this Act; and
- 11 (ll) *Supply* refers to the trade of indigenous or imported natural gas, in its
12 original or liquefied form, and its subsequent sale to natural gas industry
13 participants, if applicable, and end-users.
- 14

15 CHAPTER II

16 POWERS AND RESPONSIBILITIES OF GOVERNMENT AGENCIES

17

18 **SECTION 5. Powers and Responsibilities of the Department of Energy**
19 **(DOE).** – In addition to its functions under Republic Act No. 7638, otherwise known
20 as the Department of Energy Act of 1992, the DOE shall be the lead implementing
21 agency for this Act. Towards this end, it shall:

- 22 (a) Supervise and monitor the development of the midstream natural gas
23 industry;
- 24 (b) Prepare a Midstream Natural Gas Industry Development Plan within one (1)
25 year from the effectivity of this Act, upon consultation with public and
26 private stakeholders, which shall be integrated into the Philippine Energy
27 Plan, and shall be reviewed and updated annually;
- 28 (c) Promulgate, within six (6) months from the effectivity of this Act's
29 implementing rules and regulations, and determine compliance with the
30 health, safety, security, and environmental standards of the following, in
31 accordance with internationally accepted standards of the natural gas
32 industry and together with the relevant government agencies:

- 1 (i) Natural gas, in its original or liquefied form, and
2 (ii) Facility installation, system of operation, decommissioning, and
3 abandonment of all LNG terminals and natural gas transmission
4 systems;
- 5 (d) Convene, within one (1) month from the effectivity of this Act, a technical
6 working group comprised of relevant government agencies to include the
7 Department of Environment and Natural Resources, Department of Health,
8 Department of Trade and Industry, Maritime Industry Authority, and
9 Department of Transportation to ensure consistent and streamlined
10 standards and regulations in the midstream natural gas industry;
- 11 (e) Evaluate and act on applications for the siting, construction, operation,
12 maintenance, modification, rehabilitation, expansion, decommissioning, and
13 abandonment of all LNG terminals and natural gas transmission systems;
- 14 (f) Issue permits for the supply, aggregation, importation, transportation,
15 transmission of natural gas, in its original or liquefied form in accordance
16 with Sections 5(c) and 5(e) hereto: *Provided*, That in the case of
17 transportation, the permit shall be issued together with the Maritime
18 Industry Authority pursuant to Section 10 of this Act, and the Department of
19 Transportation in accordance with Section 11 hereto;
- 20 (g) Issue own use and rTPA permits to owners and operators of LNG terminals;
- 21 (h) Issue a written approval on the assignment or transfer of interest on any
22 permits issued, after a finding that the assignee or transferee has met all
23 the legal, technical, and financial qualifications and has committed itself to
24 assume all existing obligations of the permit holder, and such assignment or
25 transfer is in accordance with existing laws, rules, and regulations: *Provided*,
26 That permits requiring the prior issuance of a legislative franchise shall not
27 be subject to assignment or transfer of interest;
- 28 (i) Ensure compliance with the publication and unbundling of the terminal fee
29 imposed by an rTPA LNG terminal permit holder in accordance with Section
30 25 of this Act;

- 1 (j) Review and approve the Natural Gas Transmission Development Plans of
2 owners and operators of natural gas transmission systems, and the NGTSO
3 when applicable, and integrate the same into the Philippine Energy Plan;
- 4 (k) Determine the necessity of and then direct the interconnection of natural
5 gas transmission systems based on the Philippine Energy Plan, Midstream
6 Natural Gas Development Plan, and the Natural Gas Transmission
7 Development Plans, and upon consultation with stakeholders;
- 8 (l) Determine the qualifications of and procedure for establishment or selection
9 of an NGTSO taking into consideration Section 24 of this Act;
- 10 (m) Establish or select an NGTSO upon the interconnection of natural gas
11 transmission systems;
- 12 (n) Require from natural gas industry participants the submission of the
13 following subject to Section 32 of this Act:
- 14 (i) Regular reports on the compliance with health, safety, security, and
15 environmental standards, and activities in relation thereto,
- 16 (ii) All contracts entered into, including Natural Gas Sales Purchase
17 Agreements, and regular reports on actions and activities relative to these
18 contracts: *Provided*, That in the case of natural gas transmission utilities and
19 the NGTSO, the contracts and regular reports shall be submitted to the ERC
20 pursuant to Section 6(c) hereto,
- 21 (iii) Mode of selection of third parties who shall utilize the capacity available
22 under an rTPA permits pursuant to Section 18(b) of this Act and reports on
23 selection processes undertaken, and
- 24 (iv) Other documents, information, and data as may be necessary in the
25 exercise of its functions to achieve the overall objectives of this Act.
- 26 (o) Investigate, motu proprio or upon complaint, any failure to comply with this
27 Act, its rules and regulations, and any issuance promulgated pursuant to
28 DOE's powers under this Act;
- 29 (p) Review, and suspend or revoke, after due notice and hearing, permits
30 issued, after a finding of non-compliance with this Act, its implementing
31 rules and regulations, and related issuances promulgated pursuant to DOE's
32 powers under this Act;

- 1 (q) Initiate actions against anticompetitive behavior of an rTPA LNG terminal
2 permit holder and rTPA natural gas transmission system permit holder, and
3 against violations of the provisions of this Act and other applicable laws,
4 rules, and regulations before the ERC, Philippine Competition Commission
5 (PCC), other quasi-judicial agencies, or the courts;
- 6 (r) Initiate actions against the NGTSO for failure to comply with its functions as
7 provided under Section 24 of this Act, and issuances of the DOE and ERC,
8 before the ERC, other quasi-judicial agencies, or the courts; and
- 9 (s) Perform all other acts that are analogous to the aforementioned and in
10 furtherance of the implementation of this Act.

11

12 **SECTION 6. Powers and Responsibilities of the Energy Regulatory**
13 **Commission (ERC).** – In addition to its functions under Republic Act No. 9136,
14 otherwise known as the Electric Power Industry Reform Act of 2001, the ERC shall
15 have the authority to:

- 16 (a) Promulgate the the Natural Gas Transmission Code within one (1) year from
17 this Act's effectivity, which shall be reviewed and updated every three (3)
18 years;
- 19 (b) Issue own use and rTPA permits to natural gas transmission utilities;
- 20 (c) Require from natural gas transmission utilities, and the NGTSO when
21 applicable, the submission of the following subject to Section 32 of this Act:
- 22 (i) All contracts entered into, and regular reports on actions and activities
23 relative to these contracts,
- 24 (ii) Preparations for, conduct of, and results arising from various competitive
25 selection processes undertaken by rTPA natural gas transmission system
26 permit holders, to include the natural gas transmission fee and its
27 determination, and
- 28 (iii) Other documents, information, and data as may be necessary in the
29 exercise of its functions to achieve the overall objectives of this Act;
- 30 (d) Investigate, motu proprio or upon complaint, any failure of natural gas
31 transmission utilities to comply with the Natural Gas Transmission Code, own

1 use permit, rTPA permit, or any other issuance promulgated pursuant to
2 ERC's powers under this Act;

3 (e) Review, penalize, suspend, or revoke, after due notice and hearing, permits
4 issued to natural gas transmission systems, after a finding of non-compliance
5 with the Natural Gas Transmission Code, own use permit, rTPA permit, or any
6 other issuance promulgated pursuant to ERC's powers under this Act:
7 *Provided*, That due notice and hearing shall be required before any order of
8 suspension or revocation;

9 (f) Ensure compliance with the publication and unbundling of the terminal fee
10 imposed by owners and operators of natural gas transmission systems, and
11 the NGTSO when applicable, in accordance with Section 24 of this Act;

12 (g) Determine, set, and regularly review the following:

13 (i) Reserve price for the natural gas transmission fee of rTPA natural gas
14 transmission system permit holders, and

15 (ii) NGTSO fee of the NGTSO;

16 (h) Review regularly the performance of each rTPA natural gas transmission
17 system permit holder, including the quality of its service to third parties;

18 (i) Upon the establishment of the NGTSO, regularly review its performance
19 including the quality of its service and compliance with its powers and
20 functions pursuant to Section 24 of this Act, rules, regulations, and issuances
21 of the DOE and ERC;

22 (j) Exercise primary jurisdiction over disputes that may arise from rules and
23 regulations issued in the exercise of its functions in order to achieve the
24 overall objectives of this Act;

25 (k) Exercise exclusive jurisdiction over all matters pertaining to rate setting in this
26 Act taking into consideration the policy of full recovery of prudent and
27 reasonable costs with a reasonable return on rate base; and

28 (l) Perform all other acts that are analogous to the foregoing and in furtherance
29 of the implementation of this Act.

30

31 **SECTION 7. Powers and Responsibilities of the Department of**
32 **Environment and Natural Resources (DENR).** – In addition to its functions

1 under Executive Order No. 192, otherwise known as the Reorganization Act of the
2 Department of Environment and Natural Resources, the DENR, together with the
3 DOE, shall determine and monitor compliance with the environmental standards for
4 the location, construction, improvement, expansion, operation, rehabilitation, repair,
5 maintenance, decommissioning, and abandonment of LNG terminals, natural gas
6 transmission systems, and all related equipment and facilities.

7
8 **SECTION 8. Powers and Responsibilities of the Department of Health**

9 **(DOH).** – In addition to its functions under Executive Order No. 317, Series of 1941,
10 entitled Organizing the Department of Health and Public Welfare, as amended, the
11 DOH, together with the DOE, shall determine and monitor compliance with the
12 health standards for the location, construction, improvement, expansion, operation,
13 rehabilitation, repair, maintenance, decommissioning, and abandonment of LNG
14 terminals, natural gas transmission systems, and all related equipment and facilities.

15
16 **SECTION 9. Powers and Responsibilities of the Department of Trade and**
17 **Industry – Bureau of Philippine Standards (DTI-BPS).** – In addition to its

18 functions under Republic Act No. 4109, otherwise known as An Act to Convert the
19 Division of Standards Under the Bureau of Commerce into a Bureau of Standards, to
20 Provide for the Standardization and/or Inspection of Products and Imports of the
21 Philippines and for Other Purposes, the DTI-BPS, together with the DOE, shall
22 determine, develop, formulate, promulgate, and revise, the Philippine National
23 Standards for natural gas, in its original or liquefied form, LNG terminals, natural gas
24 transmission systems, and all related equipment and facilities.

25
26 **SECTION 10. Powers and Responsibilities of the Maritime Industry**
27 **Authority (MARINA).** – In addition to its functions under Presidential Decree No.

28 474 series of 1974, otherwise known as Providing for the Reorganization of Maritime
29 Functions in the Philippines, Creating the Maritime Industry Authority, and For Other
30 Purposes, as amended, the MARINA, together with the DOE, shall regulate ships and
31 marine vessels used to import, receive, unload, load, transport, process, or store

1 natural gas, in its original or liquefied form, including those utilized as off-shore LNG
2 terminals.

3
4 **SECTION 11. Powers and Responsibilities of the Department of**
5 **Transportation (DOTr).** – In addition to its functions under Executive Order No.
6 125, series of 1987 otherwise known as the Reorganization Act of the Ministry of
7 Transportation and Communications, as amended, the DOTr, in coordination with
8 the DOE, shall issue and monitor compliance with regulations governing the
9 transport of natural gas, in its original state or liquefied form, through authorized
10 lorries or specially equipped motor vehicles.

11
12 **SECTION 12. Powers and Responsibilities of the Philippine Competition**
13 **Commission (PCC).** – In addition to its functions under Republic Act No. 10667,
14 otherwise known as the Philippine Competition Act, the PCC shall exercise primary
15 jurisdiction over any anticompetitive behavior of natural gas industry participants.

16
17 **CHAPTER III**
18 **NATURAL GAS INDUSTRY PARTICIPANTS**

19
20 **SECTION 13. Responsibilities of Natural Gas Industry Participants.** – All
21 natural gas industry participants shall:

- 22 (a) Adhere to all health, safety, security, and environmental standards and all
23 issuances promulgated pursuant to Chapter II of this Act;
24 (b) Comply with all reportorial requirements and submissions pursuant to
25 Sections 5(n) and 6(c) hereof, whichever is applicable;
26 (c) Unbundle their respective fees, if applicable, pursuant to Sections 5(i), 6(f),
27 and 25 of this Act; and
28 (d) Not engage in any anticompetitive behavior, or any act that curtails market
29 competition or is detrimental to consumers.

30

1 **SECTION 14. Responsibilities of Natural Gas Transmission Utilities.** – In
2 addition to the responsibilities under Section 13 hereof, all natural gas transmission
3 utilities shall:

4 (a) Submit its Natural Gas Transmission Development Plan to DOE for review
5 and approval pursuant to Section 5(j) of this Act prior to the establishment or
6 selection of an NGTSO;

7 (b) When applicable, submits its Natural Gas Transmission Development Plan to
8 the NGTSO pursuant to Section 24(g) hereof; and

9 (c) When applicable, inform and coordinate with the NGTSO for the construction,
10 maintenance, modification, rehabilitation, expansion, decommissioning, and
11 abandonment of any part of the natural gas transmission system to be
12 undertaken in accordance with its submitted National Gas Transmission
13 Development Plan.

14
15 **CHAPTER IV**

16 **TERMINALS**

17
18 **SECTION 15. Importation and Receipt of Natural Gas through LNG**
19 **Terminals.** – Natural gas, in its original or liquefied form, shall only be received,
20 unloaded, loaded, processed, stored, and regasified in, and then transmitted,
21 transported, and conveyed from duly-authorized LNG terminals.

22
23 **SECTION 16. Use and Access of LNG Terminals.** – The DOE shall issue own use
24 and rTPA permits to owners and operators of LNG terminals. The owner and
25 operator of an LNG terminal shall have the option to apply for both permits and
26 simultaneously perform the functions of an own use LNG terminal permit holder
27 pursuant to Section 17 of this Act, and an rTPA LNG terminal permit holder pursuant
28 to Section 18 of this Act, to the extent of the capacity allowed by and during the
29 length of the time specified in each type of permit.

30
31 **SECTION 17. Own Use LNG Terminal.** – An own use LNG terminal permit holder
32 shall:

- 1 (a) Exclusively utilize the capacity allowed by and during the length of time
2 specified in the permit, and may allow its affiliates to do so the same;
- 3 (b) Not enter into an nTPA or any similar arrangement to the extent of the
4 capacity allowed and during the length of time specified in the permit;
- 5 (c) Not grant use and access of its facilities to third parties through an nTPA or
6 any similar arrangement to the extent of the capacity allowed and during the
7 length of time specified in the permit; and
- 8 (d) Comply with all reportorial requirements pursuant to Section 5(n) of this Act.
- 9

10 **SECTION 18. Regulated Third Party Access LNG Terminal.** – The issuance of
11 an rTPA permit to an owner and operator of an LNG terminal shall take into
12 consideration the capacity and utilization of the LNG terminal, current and future end
13 users, existing and future market conditions, and other relevant information with the
14 end in view of enabling competition in the natural gas industry. The use and access
15 of the capacity covered by an rTPA permit shall be open to all natural gas industry
16 participants for a fee. An rTPA LNG terminal permit holder shall:

- 17 (a) Publicly disclose the capacity available to third parties;
- 18 (b) Determine the mode of selection of third parties who shall utilize the capacity
19 available which may include negotiated contracts;
- 20 (c) Provide non-discriminatory use and access to third parties, to the extent of
21 the capacity allowed by and during the length of time specified in its permit;
- 22 (d) Not give any undue preference or advantage to any third party, whether in
23 rates, terms, conditions, or special privileges;
- 24 (e) Comply with all reportorial requirements pursuant to Section 5(n) of this Act;
25 and
- 26 (f) Publish and unbundle its terminal fee pursuant to Section 25 of this Act.
- 27

28 **CHAPTER IV**

29 **TRANSPORT AND TRANSMISSION OF NATURAL GAS**

30

31 **SECTION 19. Transport of Natural Gas.** – Natural gas, in its original or liquefied
32 form, may be transported within the country through authorized lorries and other

1 specially equipped motor vehicles, ships, and vessels in accordance with Sections 5,
2 10, and 11 of this Act.

3
4 **SECTION 20. Transmission of Natural Gas.** – Natural gas may be conveyed
5 through natural gas transmission systems. The ownership and operation of a natural
6 gas transmission system shall be considered a public utility and shall require a
7 legislative franchise. All natural gas transmission utilities shall apply and acquire from
8 the ERC an own use permit, an rTPA permit, or a combination of both pursuant to
9 Sections 21, 22, and 23 of this Act.

10
11 **SECTION 21. Use and Access of Natural Gas Transmission Systems.** – The
12 ERC shall issue own use and rTPA permits to natural gas transmission utilities. The
13 natural gas transmission utility shall have the option to apply for both permits and
14 simultaneously perform the functions of an own use natural gas transmission system
15 permit holder pursuant to Section 22 of this Act, and an rTPA natural gas
16 transmission system permit holder pursuant to Section 23 of this Act, to the extent
17 of the capacity allowed and during the length of the time specified under each type
18 of permit.

19
20 **SECTION 22. Own Use Natural Gas Transmission Systems.** – An own use
21 natural gas transmission system permit holder shall:

- 22 (a) Exclusively utilize the capacity allowed and during the length of time specified
23 in the permit, and may allow its affiliates to do the same: *Provided*, That the
24 fees charged, if any, to affiliates, shall not be subject to the reserve price set
25 by the ERC pursuant to Section 6(g) of this Act;
- 26 (b) Not enter into an nTPA or any similar arrangement to the extent of the
27 capacity allowed and during the length of time specified in the permit;
- 28 (c) Not grant use and access of its facilities to third parties through an nTPA or
29 any similar arrangement to the extent of the capacity allowed and during the
30 length of time specified in the permit; and
- 31 (d) Comply with all reportorial requirements pursuant to Section 6(c) of this Act.

1 **SECTION 23. rTPA Natural Gas Transmission Systems.** –The issuance of an
2 rTPA permit to a natural gas transmission utility shall take into consideration, the
3 capacity and utilization of the natural gas transmission system, current and future
4 end users, existing and future market conditions, and other relevant information
5 with the end in view of enabling competition in the natural gas industry.

6 The use and access of the capacity covered by an rTPA permit shall be open
7 to all natural gas industry participants for a fee, subject to the reserve price of the
8 ERC in accordance with Section 6(g) of this Act. The natural gas transmission fee
9 shall consist of amounts used to defray the costs of planning, constructing,
10 improving, expanding, maintaining, and abandoning the system, as well as the cost
11 of operating and performing the functions of a natural gas transmission system
12 operator. An rTPA natural gas transmission system permit holder shall:

- 13 (a) Publicly disclose the capacity available for third parties;
- 14 (b) Conduct a competitive selection process in awarding the capacity available for
15 third parties;
- 16 (c) Ensure that the winning bid does not go beyond the reserve price determined
17 by ERC pursuant to Section 6(g) of this Act;
- 18 (d) Provide non-discriminatory use and access to third parties, to the extent of
19 the capacity allowed by its permit;
- 20 (e) Not give any undue preference or advantage to any third party, whether in
21 rates, terms, conditions, or special privileges;
- 22 (f) Comply with all reportorial requirements subject to Section 6(c) of this Act;
23 and
- 24 (g) Publish and unbundle its transmission fee pursuant to Section 25 of this Act.

25
26 **SECTION 24. Natural Gas Transmission System Operator.** – The DOE, based
27 on the Philippine Energy Plan, the Midstream Natural Gas Industry Development
28 Plan, and the various Natural Gas Transmission Development Plans shall determine
29 the necessity of and then direct the interconnection of natural gas transmission
30 systems pursuant to Section 5(k) of this Act. The DOE may thereafter establish or
31 select a single NGTSO, which shall:

- 1 (a) Operate and manage the interconnected natural gas transmission system in
2 accordance with the Natural Gas Transmission Code;
- 3 (b) Operate and maintain a secure, reliable, and efficient system for the
4 transmission of natural gas to natural gas industry participants and end
5 users, whichever is applicable;
- 6 (c) Coordinate with natural gas transmission utilities for construction,
7 maintenance, modification, rehabilitation, expansion, decommissioning, and
8 abandonment of any part of the natural gas transmission system in
9 accordance with their submitted Natural Gas Transmission Development
10 Plan;
- 11 (d) Provide third party access and non-discriminatory service among natural gas
12 industry participants based on the results of the competitive selection
13 processes of the natural gas transmission utilities, and to the extent of the
14 capacity allowed by and during the length of time specified in the rTPA
15 permit;
- 16 (e) Furnish natural gas industry participants with sufficient information for
17 efficient access to the interconnected natural gas transmission system, and
18 to ensure that the transmission of natural gas may take place in a manner
19 compatible with the secure and efficient operation of the interconnected
20 natural gas transmission system;
- 21 (f) Secure ancillary services necessary to support the reliable and secure flow of
22 natural gas through the interconnected natural gas transmission system;
- 23 (g) Regularly prepare a comprehensive Natural Gas Transmission Development
24 Plan based on the submitted Natural Gas Transmission Development Plans of
25 natural gas transmission utilities, upon consultation with public and private
26 stakeholders, and submit the same for review and approval of the DOE;
- 27 (h) Collect an NGTSO fee, subject to the approval of the ERC; and
- 28 (i) Other functions and responsibilities determined by the DOE and ERC
29 pursuant to Sections 5 and 6 of this Act.
- 30

31 **CHAPTER VI**

32 **RATES, FEES, AND OTHER CHARGES**

1

2 **SECTION 25. Publication and Unbundling of Fees.** – rTPA LNG terminal permit
3 holders, rTPA natural gas transmission system permit holders, and the NGTSO shall
4 publish on their website their unbundled terminal fees, natural gas transmission
5 fees, NGTSO fee respectively. Each cost component shall be segregated and
6 identified separately.

7

8 **SECTION 26. Other Fees and Charges.** – The DOE, ERC, and other relevant
9 government agencies may impose reasonable fees for processing applications and
10 permits as may be necessary pursuant to the provisions of this Act.

11

12

CHAPTER VII

13

PROHIBITED ACTS AND PENALTIES

14

15 **SECTION 27. Prohibited Acts.** – Without prejudice to civil and criminal liability,
16 the following acts shall be prohibited:

17 (a) For government agencies: failing to comply with the responsibilities and within
18 the timeframe, if applicable, under Chapter II of this Act on Powers and
19 Responsibilities of Government Agencies;

20 (b) For natural gas industry participants:

21 (i) Siting, constructing, operating, maintaining, modifying, rehabilitating,
22 expanding decommissioning, and abandoning of LNG terminals and natural
23 gas transmission systems without the required permits,

24 (ii) Receiving, unloading, loading, storing, regasifying, transmitting,
25 transporting, and conveying natural gas from LNG terminals without the
26 required permits,

27 (iii) Transporting natural gas within the country through lorries, specially
28 equipped motor vehicles, ships, and marine vessels without the required
29 permits,

30 (iv) Engaging in the business of aggregation, supply, and importation of
31 natural gas without the required permits,

- 1 (v) Failing to comply with the health, safety, security, environmental, and
2 other standards as determined by DOE, DENR, DOH, DTI-BPS, MARINA,
3 DOTr, and other relevant government agencies,
- 4 (vi) Failing to comply with documentary and reportorial requirements and
5 submissions,
- 6 (vii) Engaging in any anticompetitive behavior, or any act that curtails market
7 competition, or is detrimental to consumers, and
- 8 (viii) Failing to perform other duties and responsibilities determined by DOE
9 and other government agencies pursuant to their powers under this Act;
- 10 (c) For LNG terminals:
- 11 (i) Operating as an own use LNG terminal without an own use permit,
- 12 (ii) Operating as an rTPA LNG terminal without an rTPA permit,
- 13 (iii) Assigning or transferring the interest of any permits issued without a
14 written approval from DOE,
- 15 (iv) Entering into nTPA agreements or similar arrangements to the extent
16 covered by an own use permit,
- 17 (v) Allowing a third party to use the capacity covered by an rTPA permit
18 through an nTPA agreement or similar arrangement;
- 19 (vi) Utilizing or allowing an affiliated party to utilize the capacity or for the
20 duration of time over and beyond the capacity or duration of time specified in
21 an own use permit;
- 22 (vii) Utilizing or allowing a third party to utilize the capacity or for the duration
23 of time over and beyond the capacity or duration of time specified in an rTPA
24 permit;
- 25 (ix) Failing to publicly disclose the capacity available to third parties to the
26 extent covered by an rTPA permit,
- 27 (x) Giving any undue preference or advantage to any party to the extent
28 covered by an rTPA permit,
- 29 (xi) Failing to provide non-discriminatory use and access to third parties to
30 the extent covered by an rTPA permit,
- 31 (xii) Failing to publish and unbundle the terminal fee for rTPA LNG terminal
32 permit holders, and

1 (xiii) Failing to perform other duties and responsibilities determined by DOE
2 and other government agencies pursuant to their powers under this Act;

3 (d) For natural gas transmission utilities:

4 (i) Constructing, owning, and operating a natural gas transmission system
5 without a legislative franchise,

6 (ii) Operating as an own use natural gas transmission system without an own
7 use permit,

8 (iii) Operating as an rTPA natural gas transmission system without an rTPA
9 permit,

10 (iv) Entering into nTPA agreements or similar arrangements to the extent
11 covered by an own use permit,

12 (v) Allowing a third party to use the capacity covered by an rTPA permit
13 through an nTPA agreement or similar arrangement;

14 (vi) Utilizing or allowing an affiliated party to utilize the capacity or for the
15 duration of time over and beyond the capacity or duration of time specified in
16 an own use permit;

17 (vii) Utilizing or allowing a third party to utilize the capacity or for the duration
18 of time over and beyond the capacity or duration of time specified in an rTPA
19 permit;

20 (viii) Failing to undertake a competitive selection process for the capacity
21 covered by an rTPA permit,

22 (ix) Failing to inform and coordinate with the NGTSO for the construction,
23 maintenance, modification, rehabilitation, expansion, decommissioning, and
24 abandonment of any part of the natural gas transmission system,

25 (x) Failing to publicly disclose the capacity available for third parties to the
26 extent covered by an rTPA permit,

27 (xi) Awarding a winning bid beyond the reserve price determined by ERC,

28 (xii) Failing to provide non-discriminatory use and access to third parties to
29 the extent covered by an rTPA permit,

30 (xiii) Giving undue preference or advantage to any third party to the extent
31 covered by an rTPA permit,

- 1 (xiv) Failing to submit the Natural Gas Transmission Development Plan to the
2 DOE and the NGTSO when applicable,
- 3 (xv) Failing to comply with the Natural Gas Transmission Code, and
4 (xvi) Failing to publish and unbundle the natural gas transmission fee for rTPA
5 natural gas transmission system permit holders;
- 6 (xvii) Failing to perform other duties and responsibilities determined by DOE
7 and other government agencies pursuant to their powers under this Act;
- 8 (e) For the NGTSO:
- 9 (i) Failing to operate and manage the interconnected natural gas transmission
10 system in accordance with the Natural Gas Transmission Code,
- 11 (ii) Failure to operate and maintain a secure, reliable, and efficient system,
12 (iii) Failure to coordinate with natural gas transmission utilities for
13 construction, maintenance, modification, rehabilitation, expansion,
14 decommissioning, and abandonment of any part of the natural gas
15 transmission system,
- 16 (iv) Failure to provide third party access and non-discriminatory service
17 among natural gas industry participants to the extent covered by the rTPA
18 permits of natural gas transmission utilities,
- 19 (v) Failing to furnish natural gas industry participants with sufficient
20 information for efficient access to the interconnected natural gas transmission
21 system,
- 22 (vi) Failure to secure ancillary services,
- 23 (vii) Failing to submit a comprehensive Natural Gas Transmission
24 Development Plan based on the submitted Natural Gas Transmission
25 Development Plans of natural gas transmission utilities,
- 26 (viii) Submitting a comprehensive Natural Gas Transmission Development
27 Plan that is not based on the submitted Natural Gas Transmission
28 Development Plans of natural gas transmission utilities,
- 29 (ix) Collecting an NGTSO fee without the approval of the ERC,
30 (x) Failing to publish and unbundle the NGTSO fee, and
31 (xi) Failing to perform other functions and responsibilities determined by the
32 DOE and ERC pursuant to their powers under this Act.

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SECTION 28. Penalties. – Without prejudice to civil and criminal liability, the following administrative penalties shall be imposed upon any natural or juridical person for every prohibited act enumerated below:

(a) Section 27 (a): Fine not exceeding the equivalent of six (6) months' salary or suspension not exceeding one (1) year, or removal depending on the gravity of the offense;

(b) Section 27 (b), (c), and (d):

(i) First Offense: Fine of not less than Ten million pesos (P10,000,000) for every day of non-compliance, and if applicable, suspension of permits until the violation is corrected,

(ii) Second Offense: Fine of not less than Fifty million pesos (P50,000,000) for every day of non-compliance, and if applicable, suspension of permits until the violation is corrected, and

(iii) Third Offense: Fine of not less than One hundred million pesos (P100,000,000), revocation of permit, and disqualification from applying for future permits. In the case of natural gas transmission utilities, DOE and ERC shall recommend the revocation of their respective franchises to Congress. In the case of the NGTSO, it shall be replaced.

CHAPTER VIII
FINAL PROVISIONS

SECTION 29. Incentives. – LNG terminals and natural gas transmission systems, shall be included in the annual IPP of the BOI and shall be entitled to the incentives provided under Executive Order No. 226 and any other applicable law for six (6) years from the effectivity of this Act: *Provided*, That after the aforementioned period, the inclusion of LNG terminals and natural gas transmission systems in the annual IPP shall be reviewed and may be extended by the BOI: *Provided further*, That LNG terminals shall be exempt from Article 32 (1) of Executive Order No 226.

1 **SECTION 30. Permits and Licenses.** – All government agencies including local
2 government units shall provide for a uniform and streamlined permitting process for
3 the siting, construction, operation, maintenance, modification, rehabilitation,
4 expansion, decommissioning, and abandonment of LNG terminals, natural gas
5 transmission systems, as well as the supply, aggregation, importation,
6 transportation, and transmission, of natural gas, in its original or liquefied form:
7 *Provided*, That the process shall be covered by the provisions of Republic Act No.
8 11234, otherwise known as the Energy Virtual One-Stop Shop Act.

9

10 **SECTION 31. Public Access to Information.** – The DOE, ERC, and other
11 relevant government agencies shall allow public access, through its website, to all
12 data and information submitted in the implementation of this Act: *Provided*, That
13 such access is compliant with Section 32 of this Act.

14

15 **SECTION 32. Confidentiality.** – The DOE, ERC, and other relevant government
16 agencies shall not disclose any proprietary and confidential data to the public and to
17 other natural gas industry participants unless prior consent of the source or owner of
18 such data has been obtained by the requesting party.

19

20 **SECTION 33. Establishment of Dedicated Offices.** – The DOE and ERC shall
21 establish dedicated offices for the effective implementation of this Act. The
22 organizational structure and staffing complement shall be determined by the DOE
23 Secretary and ERC Chairperson respectively, in consultation with the Department of
24 Budget and Management, and in accordance with existing civil service rules and
25 regulations.

26

27 **SECTION 34. Appropriations.** – The amount of Seventy five million pesos
28 (P75,000,000.00) shall be charged against the current year's appropriations of the
29 DOE and the amount of Fifty million pesos (P50,000,000.00) shall be charged
30 against the current year's appropriations of the ERC, all for the initial implementation
31 of this Act. Thereafter, such amounts necessary for the sustainable implementation
32 of this Act shall be included in the annual General Appropriated Act.

1

2 **SECTION 35. Congressional Oversight.** – The Joint Congressional Energy
3 Commission (JCEC) shall exercise oversight powers over the implementation of this
4 Act. The DOE, ERC, and other relevant government agencies shall submit annual
5 reports to the JCEC not later than the fifteenth day of September, which shall
6 include the latest relevant data, implementation review and reports, and policy and
7 regulatory issuances.

8

9 **SECTION 36. Transitory Period.**– The rights and obligations acquired under
10 relevant laws and regulations issued prior to this Act shall remain effective for five
11 (5) years from effectivity of this Act. Thereafter, the DOE shall ensure that all LNG
12 terminals, natural gas transmission systems, specially equipped motor vehicles,
13 ships, and marine vessels are compliant with the provisions of this Act: *Provided,*
14 That natural gas transmission systems operating under an existing franchise at the
15 time of the effectivity of this Act shall be allowed to continue pursuant to the terms
16 and conditions indicated in their franchise and until the lapse of the period accorded
17 to them in the franchise.

18

19 **SECTION 37. Implementing Rules and Regulations.** – The DOE, in
20 consultation with the relevant government agencies and energy industry
21 stakeholders, shall issue the implementing rules and regulations (IRR) of this Act
22 within six (6) months from its promulgation.

23

24 **SECTION 38. Separability Clause.** – Any provision of this Act, which may be
25 declared unconstitutional or invalid shall not have the effect of nullifying other
26 portions or provisions hereof.

27

28 **SECTION 39. Amendatory and Repealing Clause.** – The specific provisions of
29 Republic Act No. 387, otherwise known as the Petroleum Act of 1949, and
30 Presidential Decree No. 334, Creating the Philippine National Oil Company, Defining
31 its Powers and Functions, Providing Funds Therefor, and For Other Purposes, that
32 are inconsistent with this Act are hereby amended or repealed accordingly.

1 All other laws, ordinances, rules, regulations and issuance or parts thereof, that are
2 inconsistent with this Act, are likewise amended or repealed accordingly.

3

4 **SECTION 40. Effectivity Clause.** – This Act shall take effect fifteen (15) days
5 after its publication in the Official Gazette or one (1) newspaper of general
6 circulation.

Approved,