

**TWENTIETH CONGRESS OF THE
REPUBLIC OF THE PHILIPPINES**
First Regular Session



Senate

Office of the Secretary

25 AUG -7 P1:14

SENATE
S.B. No. 1081

RECEIVED BY: _____

Introduced by SEN. WIN GATCHALIAN

**AN ACT ENHANCING THE COMPETITIVE SELECTION PROCESS FOR POWER
SUPPLY AGREEMENTS IN THE ELECTRIC POWER SECTOR**

EXPLANATORY NOTE

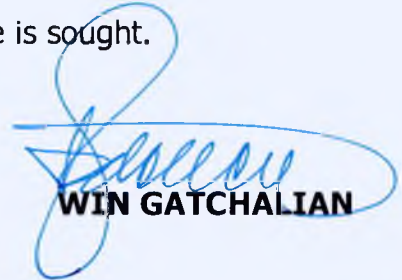
Republic Act No. 9136, otherwise known as the Electric Power Industry Reform Act of 2001, declares it the policy of the State to ensure the quality, reliability, security, and affordability of supply of electric power, to ensure transparent and reasonable prices of electricity in the regime of free and fair competition and full public accountability, and to protect the public interest as it is effected by the rates and services of electric utilities and other providers of electric power.

The use of a competitive process to cultivate private sector participation in the generation sector has long been recognized by the Department of Energy (DOE) in order to ensure that the distribution utilities (DUs) are able to meet the demand for its Captive Market at the least cost manner. The DOE have released various policy issuances mandating a Competitive Selection Process (CSP) for the procurement of power supply agreements. Under these issuances, only the DU can initiate the conduct the CSP. Moreover, the government is not allowed to administer or conduct the CSP. However, there are instances when a DU fails to meet its demand because the DU failed to initiate the conduct of the CSP or because of the delays in the CSP process.

In order to ensure that a CSP is conducted in a timely manner, this measure grants the government through the power to initiate the conduct of CSP for the DU either by itself or by designating the same to a third party auctioneer or the National Power

Corporation under specific instances. This measure also allows the DU to designate the government through the DOE to conduct the CSP.

Given the foregoing, the immediate passage of this measure is sought.



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

1 SECTION 1. *Short Title.* – This Act shall be known as the “Enhanced CSP Act”.

2
3 SEC. 2. *Declaration of Policy.* – It is hereby declared the policy of the State to:

- 4 (a) Ensure the quality, reliability, security, and affordability of electric power
5 supply;
6 (b) Make certain that procurement of power supply agreements by distribution
7 utilities engenders transparency, enhances certainty of supply, and guarantees
8 stability of electricity prices to captive consumers; and
9 (c) Protect public interest by ensuring least cost rates and quality of service to
10 captive customers while the country has not yet transitioned to full retail
11 competition.

12
13 SEC. 3. *Scope and Application.* – This Act shall apply to all distribution utilities
14 in the procurement of supply for their captive market including those in the off-grid
15 areas.
16

1 SEC. 4. *Definition of Terms.* – For purposes of this Act, the following terms shall
2 be defined as stated below: *Provided*, That other terms used in this Act but not defined
3 herein shall be understood to mean the way they are defined in Republic Act No. 9136,
4 otherwise known as the Electric Power Industry Reform Act of 2001, and its
5 implementing rules and regulations:

6 (a) *Captive market* refers to the electricity end-users who do not have the choice
7 of a supplier of electricity, as determined by the ERC in accordance with
8 Republic Act No. 9136;

9 (b) *Competitive selection process (CSP)* refers to a procedure wherein a distribution
10 utility or a group of distribution utilities, on their own or through a demand
11 aggregator, undertake a transparent and competitive procurement of power
12 supply agreements, in accordance with the provisions of this Act;

13 (c) *Distribution utility (DU)* refers to any electric cooperative, private corporation,
14 government-owned utility, or existing local government unit which has a
15 franchise to operate a distribution system in accordance with its franchise and
16 Republic Act No. 9136, including those whose franchise area covers economic
17 zones;

18 (d) *Electric cooperative (EC)* refers to a DU organized pursuant to Presidential
19 Decree No. 269, otherwise known as the National Electrification Administration
20 Decree as amended;

21 (e) *Off-grid* refers to areas that are not connected to the main high voltage
22 backbone system;

23 (f) *Power Supply Agreement (PSA)* refers to a contract between a generation
24 company and a supply aggregator or a DU whereby the latter purchases
25 electricity from the former;

26 (g) *Third party auctioneer (TPA)* refers to a natural or juridical person designated
27 by the DU or by the DOE to coordinate and administer the conduct of a CSP;

28
29 Sec. 5. *Conduct of CSP by the Government* – At the option of the DU, it may
30 designate the DOE to conduct the CSP for the procurement of its PSAs. *Provided*
31 *that*, in the following instances, the DOE may, motu proprio, decide that a CSP shall
32 be conducted for a DU:

1 (a) When a DU experiences power outages beyond the allowable standard to be
2 determined by ERC and such outages are attributable to shortage of power
3 supply for the past year, and the DU has failed to undertake measures to
4 resolve these issues despite notices from the DOE or the ERC; or

5 (b) When DOE anticipates that the DU shall be unable to meet its demand due to
6 an increase in demand in the franchise area covered by DU and the DU has
7 failed to undertake measures to procure additional supply despite notices from
8 the DOE.

9 In the event that the DOE decides that a CSP shall be conducted for a DU, the DOE
10 may conduct the CSP or delegate the conduct of the CSP to a Third Party Auctioneer
11 (TPA) or the National Power Corporation (NPC), in the case of off-grid DUs, to conduct
12 the CSP.

13
14 SEC. 6. *The Department of Energy.* – In addition to its powers and functions
15 under Republic Act No. 7638, otherwise known as the Department of Energy Act of
16 1992, as amended, the DOE:

17 (a) May conduct the CSP upon the designation of the DU or motu proprio pursuant
18 to Section 5 of this Act;

19 (b) Shall exercise its supervisory power over the CSP by ensuring that the general
20 principles provided in this Act are complied with.

21
22 SEC. 6. *The Energy Regulatory Commission.* – In addition to its powers and
23 functions in Republic Act No. 9136, the ERC shall determine the allowable standards
24 for power outages pursuant to Section 4 of this Act;

25
26 SEC. 7. *Implementing Rules and Regulations.* – The DOE, in consultation with
27 ERC, National Electrification Administration, National Power Corporation, and public
28 and private stakeholders shall formulate the implementing rules and regulations of
29 this Act within thirty days (30) from its effectivity.

1 SEC. 8. *Separability Clause.* – If any portion or provision of this Act is declared
2 to be unconstitutional, the remainder of this Act or any provisions not affected thereby
3 shall remain in force and effect.

4
5 SEC. 9. *Repealing Clause.* – Any law, presidential decree or issuance, executive
6 order, letter of instruction, rule or regulation inconsistent with the provisions of this
7 Act is hereby repealed or modified accordingly.

8
9 SEC. 10. *Effectivity.* – This Act shall take effect fifteen (15) days following its
10 complete publication in the Official Gazette or a national newspaper of general
11 circulation.

12
13 *Approved,*