

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



23 JUL 12 P3:10

**SENATE**

S. No 2304

RECEIVED BY: 

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Introduced by Senator Francis G. Escudero

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**AN ACT  
PROVIDING FOR THE NATIONAL POLICY AND FRAMEWORK FOR ENERGY  
ADVOCACY, CREATING THE ENERGY ADVOCACY COUNSEL OFFICE AND  
APPROPRIATING FUNDS THEREFOR**

EXPLANATORY NOTE

The passage of Republic Act No. 9136 or the Electric Power Industry Reform Act (EPIRA) of 2001 provided for a liberalized, private sector-driven energy sector in the Philippines. While the EPIRA law directs the Energy Regulatory Commission to promote consumer interest, consumers and end-user representation remains limited particularly on matters involving performance standards and retail rates, among other.

Hence this bill, inspired by House Bill No. 2152 filed by Representatives Dagooc and De Jesus and Senate Bill No. 156 filed by Senator Gatchalian, seeks to create and organize the Energy Advocacy Counsel Office (EACO) to represent end-users in energy-related cases and proceedings before any government agency. It is submitted that through the powers and functions to be exercised by the EACO, the welfare and interest of energy consumers would be advanced, well-represented and upheld.

Given the above premises, consideration and approval of this bill is respectfully requested.

  
**FRANCIS G. ESCUDERO** 

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

1 Section 1. *Short Title.* – This Act shall be known as the “*Energy Advocacy*  
2 *Counsel Act*”.

3 Sec. 2. *Declaration of Policy.* – It is hereby declared the policy of the State to  
4 recognize the right of end-users to reasonable rates, adequate and reliable electricity  
5 services, and transparent processes involving such rates and services. Towards this  
6 end, there shall be established an independent end-user representation in rate-setting,  
7 rule-making, and other energy-related cases and proceedings before government  
8 agencies, including administrative, judicial and quasi-judicial bodies.

9 The State shall also encourage the active participation of non-profit, non-stock  
10 and non-political associations or entities or individuals in the rate-setting processes of  
11 the energy regulator and recognize the need for active participation of the said  
12 organizations.

13 Sec. 3. *Energy Advocacy Counsel Office.* – The Energy Advocacy Counsel Office  
14 (EACO) is hereby created as an independent and autonomous office attached to the  
15 Department of Justice (DOJ) for purposes solely of policy direction and coordination  
16 in accordance with Section 38(3), Chapter 7, Book IV of Executive Order No. 292,  
17 otherwise known as the “Administrative Code of 1987”, as amended.

1           Sec. 4. *Powers and Functions.* – The EACO shall be a public legal office  
2 mandated to represent all captive market electricity end-users in the energy sector in  
3 all matters affecting the public interest before any department, commission, agency,  
4 quasi-judicial body or court requiring the services of a lawyer. It shall independently  
5 discharge its mandate towards the best interest of all end-users, ensuring least cost  
6 without compromising safety, reliability, efficiency and accessibility of electricity. As  
7 used in this Act, an end-user shall refer to any captive individual, natural or juridical,  
8 requiring the supply and delivery of electricity for his, her or its own use.

9           Towards this end, the EACO shall exercise the following powers and functions:

10          (1)   Initiate, intervene, and represent all end-users, in the following:

11           (a)   Rate-setting, rule-making, and other energy-related cases,  
12 complaints, proceedings, and consultations regarding, but not limited to,  
13 electric generation, transmission and distribution projects, as well as power  
14 supply agreement applications, before the Department of Energy (DOE),  
15 Energy Regulatory Commission (ERC), National Electrification Administration  
16 (NEA), Philippine Competition Commission (PCC), and other judicial and quasi-  
17 judicial bodies.

18           Nothing in this section shall mean to diminish the primary and exclusive  
19 jurisdiction of the NEA in the exercise of its disciplinary authority over erring  
20 officers of electric cooperatives under PD No. 269, as amended by Republic Act  
21 No. 10531, otherwise known as the "NEA Reform Act of 2013"; and

22           (b)   Actions before any trial or appellate court, including the Supreme  
23 Court, which involve the validity of any decision, memoranda, rule, regulation,  
24 circular, or order of the DOB, ERC, NEA, PCC, and other departments,  
25 commissions, and agencies insofar as such decisions and policy issuances  
26 affecting electricity rates and services;

27          (2)   Monitor all issuances, acts and omissions of the DOE, ERC, NEA, PCC,  
28 and other departments, commissions, and agencies, and formulate and issue the  
29 necessary comments or legal memoranda insofar as such decisions affect electricity  
30 rates and electric services;

1 (3) Evaluate and act upon a valid request and complaint from end-users  
2 concerning the matters set forth in items (1) and (2). The initiation or continuation of  
3 any proceedings shall be in the sole discretion of the EACO;

4 (4) Conduct investigations, initiate studies, undertake researches, present  
5 comments and testimonies before governmental bodies, issue reports, and engage in  
6 regular information, education, and communication programs for all end-users on  
7 laws, rules, regulations, decisions, circulars, and orders that affect electricity rates and  
8 services, including end-user rights and remedies;

9 (5) Consult directly with end-users on a regular basis in order to determine  
10 the concerns of end-users with respect to electricity rates;

11 (6) Be furnished or served, as the case may be, by departments,  
12 commissions, and agencies with all pertinent documents, notices, petitions,  
13 applications, complaints, answers, motions, and other pleadings in all related cases,  
14 complaints, proceedings, and consultations involving rate-settings and electric  
15 services;

16 (7) Have the right to access, free of charge, all files, records, and documents  
17 in the DOE, ERC, NEA, PCC and other departments, commissions, and agencies  
18 pertaining to energy-related cases, complaints, proceedings, and consultations:  
19 *Provided*, That the files, records, and documents do not pertain to the following:

20 (a) Personnel information or any information that may violate  
21 Republic Act No. 10173, otherwise known as the "Data Privacy Act of 2012";

22 (b) Confidential communication between commissioners, judges, or  
23 justices and general counsels on records relating to proceedings in which the  
24 EACO is a party to; and

25 (c) Confidential information and privileged communication declared  
26 as such by the ERC, the PCC and other relevant departments, commissions and  
27 agencies.

28 EACO lawyers shall have the authority to administer oaths in connection with  
29 the performance of their duties in accordance with the Rules of Notarial Practice and  
30 other relevant issuances.

1           Sec. 5. *Free Legal Representation.* – The EACO shall, in the independent and  
2 autonomous discharge of its mandate, render, free of charge, legal representation,  
3 assistance, and counselling to all end-users in cases falling under Section 4(1) of this  
4 Act.

5           Sec. 6. *Composition of Energy Advocacy Counsel Office.* – The EACO shall be  
6 headed by the Energy Advocacy Counsel (EAC), who shall have the primary authority  
7 and responsibility for the effective exercise of its mandate and the discharge of its  
8 powers and functions, and shall be assisted by three (3) Deputy Energy Advocacy  
9 Counsels. In case of temporary absence of the EAC, a Deputy EAC shall be designated  
10 as the Officer-in-Charge of the EACO.

11           The EAC shall be a natural-born citizen of the Philippines, at least thirty-five  
12 (35) years of age, with at least seven (7) years of practice in law, energy or finance,  
13 and with proven competence, integrity, probity, and independence.

14           The Deputy EACs shall be natural-born citizens of the Philippines, at least thirty-  
15 five (35) years of age, with at least four (4) years of practice in law, energy, or finance  
16 and with proven competence, integrity, probity, and independence.

17           No person, who has been a board member, officer, employee, consultant or an  
18 affiliate of any energy company in any manner or capacity for at least two (2) years  
19 prior to appointment, shall be appointed as EAC or Deputy EAC.

20           Sec. 7. *Appointment, Term and Rank.* – The EAC and Deputy EACs shall be  
21 appointed by the President. The EAC shall be co-terminus with the President, while  
22 the Deputy EACs shall serve for a term of six (6) years and may be reappointed.

23           The EAC and Deputy EACs shall have the same rank, salaries, allowances, and  
24 retirement benefits as the Prosecutor General and Senior Deputy State Prosecutor of  
25 the National Prosecution Service, respectively: *Provided*, That their retirement benefits  
26 shall be pro-rated in accordance with Section 21 of Republic Act No. 10071, otherwise  
27 known as the "Prosecution Service Act of 2010".

28           Sec 8. *Prohibitions.* – The EAC and Deputy EACs shall be prohibited from:

29           (1) Serving as a member of the Board, officer, employee, or consultant of  
30 any energy company in the course of their respective terms of office: *Provided*, That

1 such prohibition shall also apply to their relatives up to the third civil degree of  
2 consanguinity or affinity;

3 (2) Having any interest, ownership, or stake in any energy company in the  
4 course of their respective terms of office: *Provided*, That such prohibition shall also  
5 apply to their relatives up to the third civil degree of consanguinity or affinity;

6 (3) Being members of a political party or committee, or engaging in any  
7 partisan political activity in the course of their respective terms of office; and

8 (4) Engaging in any energy-related businesses within two (2) years after  
9 relinquishing the post from any reason thereof.

10 In cases where any of the foregoing acts is done in collusion with private  
11 individuals or corporations, the private individuals or corporations shall likewise be  
12 liable for the offense.

13 In addition, the public officer and private individual or corporation involved shall  
14 suffer the penalty of temporary disqualification from public office for a period of three  
15 (3) years upon conviction and permanently disqualified from transacting in any  
16 energy-related business with the government, respectively.

17 Private individuals, including public officers, who commit any of the  
18 aforementioned acts, or conspires with them, shall suffer the penalty of prisión mayor  
19 as defined under Chapter Three, Section One, Article 27, of Republic Act No. 3815,  
20 otherwise known as "The Revised Penal Code", as amended.

21 *Sec. 9. Organizational Structure and Plantilla Position.* – The DOJ shall submit  
22 the EACO's temporary organizational structure and plantilla positions to the  
23 Department of Budget and Management (DBM) not later than six (6) months from the  
24 effectivity of this Act.

25 The EACO may, in consultation with the DOJ, request the DBM for any changes  
26 in the organizational structure and plantilla positions after a comprehensive review  
27 resulting to a finding that such alteration shall improve the discharge of the EACOs  
28 powers and functions: *Provided*, That the DBM shall render a decision on such request  
29 within six (6) months from its submission.

1           The EACO shall have legal, technical, and administrative personnel in its  
2 organizational structure and staffing complement, and may hire consultants as expert  
3 witnesses or technical advisors as it may find necessary for the full and efficient  
4 discharge of its powers and functions. All employees and consultants shall be subject  
5 to civil service laws, rules, and regulations: *Provided*, That the salaries of all employees  
6 shall be subject to Republic Act No. 11466, otherwise known as the "Salary  
7 Standardization Law of 2019".

8           Sec. 10. *Removal and Vacancy.* – The EAC and Deputy EACs shall not be  
9 removed or suspended, except for cause provided by law. The President may remove  
10 the EAC or Deputy EACs for malfeasance, misfeasance, or nonfeasance in office, or  
11 for any reason which renders any of them ineligible for appointment, incapable, or  
12 unfit to discharge the mandate, powers, and functions of the EACO.

13           In case of death, permanent incapacity, removal, or resignation of the  
14 incumbent EAC or Deputy EACs, the President may appoint or designate one, as the  
15 case may be, in an acting capacity until a new EAC or Deputy EAC has been appointed:  
16 *Provided*, That the new appointment shall only be for the unexpired term of the  
17 predecessor.

18           Sec. 11. *Exemption from Fees and Costs of Suit.* – The EACO shall be exempt  
19 from the payment of docket and other fees to court and other quasi-judicial bodies.

20           Sec. 12. *Contingent Fees and Costs of Suit.* – Contingent fees such as the award  
21 of the costs of the suit, attorney's fees, and other similar fees imposed against  
22 adversarial parties of the EACO after a successful litigation shall be deposited in the  
23 National Treasury.

24           Sec. 13. *Franking Privileges.* – The EACO is hereby granted the franking  
25 privilege: *Provided*, That such privilege shall only be used to assist and expedite the  
26 conduct of official businesses, activities and duties of the EACO, and shall not be  
27 utilized for personal other non-official purposes.

28           Sec. 14. *Appropriations.* – The amount necessary for the effective  
29 implementation of the provisions of this Act shall be included in the annual General  
30 Appropriations Act.

1           Sec. 15. *Implementing Rules and Regulations.* – Within ninety (90) calendar  
2 days from the approval of this Act, the DOJ shall, in consultation with the DBM,  
3 government energy agencies, and private energy stakeholders, adopt and issue the  
4 rules and regulations for the effective implementation of this Act.

5           Sec. 16. *Separability Clause.* – If any provision or part hereof is declared  
6 unconstitutional, the remainder of this Act or any provision not affected thereby shall  
7 remain in full force and effect.

8           Sec. 17. *Repealing Clause.* – All laws, acts, decrees, executive orders,  
9 issuances, and rules and regulations or parts thereof which are contrary to and  
10 inconsistent with this Act are hereby repealed, amended or modified accordingly.

11           Sec. 18. *Effectivity.* – This Act shall take effect immediately following its  
12 publication in the *Official Gazette* or in at least two (2) newspapers of general  
13 circulation.

Approved,