

## REPUBLIC ACT NO. 7832

### AN ACT PENALIZING THE PILFERAGE OF ELECTRICITY AND THEFT OF ELECTRIC POWER TRANSMISSION LINES/MATERIALS, RATIONALIZING SYSTEM LOSSES BY PHASING OUT PILFERAGE LOSSES AS A COMPONENT THEREOF AND FOR OTHER PURPOSES

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

SECTION 1. **Short Title.** - This act shall be referred to as the “Anti-electricity and Electric Transmission Lines/Materials Pilferage Act of 1994”

SEC. 2. **Illegal Use of Electricity.** - It is hereby declared unlawful for any person, whether natural or juridical, public or private, to:

a) Tap, make or cause to be made any connection with overhead lines, service drops, or other electric service wires, without previous authority or consent of the private electric utility or rural electric cooperative concerned;

b) Tap, make or cause to be made any connection to the existing electric service facilities of any duly registered consumer without the latter’s or the electric utility’s consent or authority;

c) Tamper, install or use a tampered electrical meter, jumper, current reversing transformer, shorting or shunting wire, loop connection or any other device which interferes with the proper or accurate registry or metering of electric current or otherwise results in its diversion in a manner whereby electricity is stolen or wasted;

d) Damage or destroy an electric meter, equipment, wire or conduit or allow any of them to be so damaged or destroyed as to interfere with the proper or accurate metering of electric current; and

e) Knowingly use or receive the direct benefit of electric service obtained through any of the acts mentioned in subsections (a), (b), (c), and (d) above

SEC. 3. **Theft of Electric Power Transmission Lines and Materials.** - (a) It is hereby declared unlawful for any reason to:

(1) Cut, saw, slice, separate, split, sever, smelt, or remove any electric power transmission line/material or meter from a tower, pole, any other installation or place of installation or any other place or site where it may be rightfully or lawfully stored, deposited, kept, stocked, inventoried, situated or located, without the consent of the owner, whether or not the act is done for profit or gain;

(2) Take, carry away or remove or transfer, with or without the use of a motor vehicle or other means of conveyance, any electric power transmission line/ material or meter from a tower, pole, any other installation or place of installation, or any place or site where it may be rightfully or lawfully stored, deposited, kept, stocked, inventoried, situated or located, without the consent of the owner, whether or not the act is done for profit or gain;

(3) Store, possess or otherwise keep in his premises, custody or control, any electrical power transmission line/material or meter without the consent of the owner, whether or not the act is done for profit or gain; and

(4) Load, carry, ship or move from one place to another, whether by land, air or sea any electrical power transmission line/material, whether or not the act is done for profit or gain, without first securing a clearance/permit for the said purpose from its owner or the National Power Corporation (NPC) or its regional office concerned, as the case may be.

(b) For purposes of this section, “electrical power transmission line/material” refers to electric power transmission steel towers, woodpoles, cables, wires, insulators, line hardwares, electrical conductors and other related items with a minimum voltage of sixty-nine kilovolts (69 kv), such as the following:

(1) Steel transmission line towers made of galvanized steel angular members and plates or creosoted and/or tannelized woodpoles/concrete poles and designed to carry and support the conductors;

(2) Aluminum conductor steel reinforced (ACSR) in excess of one hundred (100) MCM;

(3) Overhead ground wires made of 7 strands of galvanized steel wires, 3.08 millimeters in diameter and designed to protect the electrical conductors from lightning strikes;

(4) Insulators made of porcelain or glass shell and designed to insulate the electrical conductors from steel towers or woodpoles; and

(5) Various transmission line hardwares and materials made of aluminum alloy or malleable steel and designed to interconnect the towers, conductors, ground wires, and insulators mentioned in subparagraphs (1), (2), (3) and (4) above for the safe and reliable operation of the transmission lines.

SEC. 4. ***Prima Facie Evidence.*** - (a) The presence of any of the following circumstances shall constitute *prima facie* evidence of illegal use of electricity, as defined in this Act, by the person benefited thereby, and shall be the basis for: (1) the immediate disconnection by the electric utility to such person after due notice, (2) the holding of preliminary investigation by the prosecutor and the subsequent filing in court of the pertinent information, and (3) the lifting of any temporary restraining order or injunction which may have been issued against a private electric utility or rural electric cooperative:

(i) The presence of the bored hole on the glass cover of the electric meter, or at the back or any other part of said meter,

(ii) The presence inside the electric meter of salt, sugar and other elements that could result in the inaccurate registration of the meter’s internal parts to prevent its accurate registration of consumption of electricity;

(iii) The existence of any wiring connection which affects the normal operation or registration of the electric meter;

(iv) The presence of a tampered, broken, or fake seal on the meter, or mutilated, altered, or tampered meter recording chart or graph or computerized chart, graph or log.

(v) The presence in any part of a building or its premises which is subject to the control of the consumer or on the electric meter, of a current reversing transformer, jumper, shorting and/or shunting wire, and/or loop connection or any other similar device;

(vi) The mutilation, alteration, reconnection, disconnection, bypassing or tampering of instruments, transformers, and accessories;

(vii) The destruction of, or attempt to destroy, any integral accessory of the metering device box which encases an electric meter, or its metering accessories; and

(viii) The acceptance of money and/or other valuable consideration by any officer or employee of the electric utility concerned or the making of such an offer to any such officer or employee for not reporting the presence of any of the circumstances enumerated in subparagraphs (i), (ii), (iii), (iv), (v), (vi), or (vii) hereof: *Provided, however,* That the discovery of any of the fore-going circumstances, in order to constitute prima facie evidence, must be personally witnessed and attested to by an officer of the law or a duly authorized representative of the Energy Regulatory Board (ERB).

(b) The possession, control or custody of electric power transmission line/ material by any person, natural or juridical, not engaged in the transformation, transmission or distribution of electric power, or in the manufacture of such electric power transmission line/material shall be prima facie evidence that such line/material is the fruit of the offense defined in Section 3 hereof and therefore such line/material may be confiscated from the person in possession, control or custody thereof.

SEC. 5. ***Incentives.*** - An incentive scheme by way of a monetary reward in the minimum amount of Five thousand Pesos (P5,000) shall be given to any person who shall report to the NPC or police authorities any act which may constitute a violation of Section 3 hereof. The department of Energy (DOE), in consultation with the NPC, shall issue the necessary guidelines for the proper implementation of this incentive scheme within thirty (30) days from the effectivity of this Act.

SEC. 6. ***Disconnection of Electric Service.*** - The private electric utility or rural electric cooperative concerned shall have the right and authority to disconnect immediately the electric service after serving the written notice or warning to the effect, without the need of a court or administrative order, and deny restoration of the same, when the owner of the house or establishment concerned or someone acting in his behalf shall have been caught *en flagrante delicto* doing any of the acts enumerated in section 4 (a) hereof, or when any of the circumstances so enumerated shall have been discovered for the second time: *Provided,* That in the second case, a written notice or warning shall have been issued upon the first discovery: *Provided, further,* That the electric service shall not be immediately disconnected or shall not be immediately restored upon the deposit of the amount representing the differential billing by the person denied the service, with the private electric utility or the rural cooperative concerned or with the competent court as the case may be: *Provided, furthermore,* That if the court finds that illegal use of electricity has not been committed by the same person, the amount deposited shall be credited against future billings, with legal interest thereon chargeable against the private utility or rural electric cooperative, and the utility or cooperative shall be made to immediately pay such person double the value of the payment or deposit with legal interest, which amount shall likewise be creditable against immediate future billings, without prejudice to any criminal, civil or administrative action that such person may be entitled to file under existing laws, rules and regulations : *Provided, finally,* That if the court finds the same person guilty of such illegal use of electricity, he shall, upon final judgment, be made to pay the electric utility or the rural electric cooperative concerned double the value of the estimated electricity illegally used which is referred to in this section as differential billing.

For purposes of this Act, “differential billing” shall refer to the amount to be charged to the person concerned for the unbilled electricity illegally consumed by him as determined through the use of methodologies which utilize, among other, as basis for determining the amount of monthly electric consumption in kilowatt-hours to be billed either : (a) the highest recorded monthly consumption within the five-year billing period preceding the time of the discovery, (b) the estimated monthly consumption as per the report of load inspection conducted during the time of the discovery, (c) the higher consumption between the average consumption before or after the highest drastic drop in consumption within the five-year billing period preceding the discovery, (d) the highest recorded monthly consumption within four (4) months after the time of discovery, or (e) the result of the ERB test during the time of discovery and, as basis for determining the period to be recovered by the differential billing, either: (1) the time when the electric service of the person concerned recorded an abrupt or abnormal drop in consumption, or (2) when there was change in his service connection such as a change in his service connection such as a change of meter, change of seal or reconnection, or in the absence thereof, a maximum of sixty (60) billing months, up to the time of discovery: *Provided, however,* That such period shall, in no case, be less than one (1) year preceding the date of discovery of the illegal use of electricity.

**SEC. 7. Penalties.** - (a) Violation of Section 2 - The penalty of *prision mayor* or a fine ranging from Ten thousand pesos (P10,000) to Twenty thousand pesos (P20,000) or both, at the discretion of the court, shall be imposed on any person found guilty of violating Section 2 hereof.

b) violation of Section 3 - The penalty of *reclusion temporal* or a fine ranging from Fifty thousand pesos (P50,000) to One hundred thousand pesos (P100,000) or both, at the discretion of the court, shall be imposed on any person found guilty of violating Section 3 hereof.

c) Provision common to violations of Section 2 and Section 3 hereof-If the offense is committed by, or in connivance with, an officer or employee of the power company, private electric utility or rural electric cooperative concerned, such officer or employee shall, upon conviction, be punished with a penalty one (1) degree higher than the penalty provided herein, and forthwith be dismissed and perpetually disqualified from employment in any public or private utility or service company and from holding any public office.

If, in committing any of the acts enumerated in Section 4 hereof, any of the other acts enumerated is also committed, then the penalty next higher in degree as provided herein shall be imposed.

If the offense is committed by, or in connivance with an officer or employee of an electric utility concerned, such officer or employee shall, upon conviction, be punished with a penalty of one (1) degree higher than the penalty provided herein, and forthwith be dismissed and perpetually disqualified from employment in any public or private utility or service company. Likewise the electric utility concerned which shall have knowingly permitted or having knowledge of its commission shall have failed to prevent the same, or was otherwise guilty of negligence in connection with the commission thereof, shall be made to pay a fine not exceeding triple the amount of the “differential billing” subject to the discretion of the courts.

If the violation is committed by a partnership, firm, corporation, association, or any other legal entity, including a government-owned or controlled corporation, the penalty shall be imposed on the president, manager, and each of the officers thereof who shall have knowingly permitted, failed to prevent or was otherwise responsible for the commission of the offense.

**SEC. 8. *Authority to Impose Violation of Contract Surcharges.*** - A private electric utility or rural electric cooperative may impose surcharges, in addition to the value of electricity pilfered, on the bills of any consumer apprehended for tampering with his electric meter/metering facility installed on his premises, as well as other violations of contract like direct connection, use of jumper, and other means of illicit usage of electricity found installed in the premises of the consumer. The surcharge for the violation of contract shall be collected from and paid by the consumer concerned as follows:

- (a) First apprehension - Twenty-five percent (25%) of the current bill as surcharge;
- (b) Second apprehension - Fifty percent (50%) of the current bill as surcharge; and
- (c) Third and subsequent apprehensions - One hundred percent (100%) of the current bill as surcharge.

The private electric utility or rural electric cooperative is authorized to discontinue the electric service in case the consumer is in arrears in the payment of the above imposed surcharges.

The term “apprehension” as used herein shall be understood to mean the discovery of the presence of any of circumstances enumerated in Section 4 hereof in the establishment or outfit of the consumer concerned.

**SEC. 9. *Restriction on the Issuance of Restraining Orders or Writs of Injunction*** - No writ of injunction or restraining order shall be issued by any court against any private electric utility or rural electric cooperative exercising the right and authority to disconnect electric service as provided in this Act, unless there is *a prima facie* evidence that the disconnection was made with evident bad faith or grave abuse of authority.

If, notwithstanding the provisions, a court issues an injunction or restraining order, such injunction or restraining order shall be effective only upon the filing of a bond with the court which shall be in the form of cash or cashier’s check equivalent to the “differential billing”, penalties and other charges, or to the total value of the subject matter of the action: *Provided, however,* That such injunction or restraining order shall automatically be refused or, if granted, shall be dissolved upon filing by the public utility of a counterbond similar in form and amount as the above required: *Provided, finally,* That whenever such injunction is granted, the court issuing it shall, within ten (10) days from its issuance, submit a report to the Supreme Court setting forth in detail the grounds or reasons for its order.

**SEC. 10. *Rationalization of System Losses by Phasing out Pilferage Losses as a Component Thereof.*** - There is hereby established a cap on the recoverable rate of system losses as follows:

- (a) For private electric utilities;
  - (i) Fourteen and a half percent (14 1/2%) at the end of the first year following the effectivity of this Act; and
  - (ii) Thirteen and one-fourth percent (13 1/4%) at the end of the second year following the effectivity of this Act;

(iii) Eleven and three-fourth percent (11 3/4%) at the end of the third year following the effectivity of this Act;

(iv) Nine and a half percent (9 1/2%) at the end of the fourth year following the effectivity of this Act.

*Provided*, That the ERB is hereby authorized to determine at the end of the fourth year following the effectivity of this Act, and as often as necessary taking into the account the viability of private electric utilities and the interest of the consumers, whether the caps herein or therefor established shall be reduced further which shall, in no case, be lower than nine percent (9%) and according accordingly fix the date of the effectivity of the new caps: *Provided, further*, That in the calculation of the system loss, power sold by the NPC or any other entity that supplies power directly to a consumer and not through the distribution system of the private electric utility shall not be counted even if the billing for the said power used is through the private electric utility.

The term “power sold by NPC or any other entity that supplies power directly to a consumer” as used in the preceding paragraph shall for purposes of this section be deemed to be sale directly to the consumer if : (1) the point of metering by the NPC or any other utility is less than one thousand (1,000) meters from the consumer, or (2) the consumer’s electric consumption is three (3%) or more of the total load consumption of all the customers of the utility, or (3) there is no other consumer connected to the distribution line of the utility which connects to the NPC or any other utility point of metering to the consumer meter.

(b) For rural electric cooperatives:

(i) Twenty-two percent (22%) at the end of the first year following the effectivity of this Act;

(ii) Twenty percent (20%) at the end of the second year following the effectivity of this Act;

(iii) Eighteen percent (18%) at the end of the third year following the effectivity of this Act;

(iv) Sixteen percent (16%) at the end of the fourth year following the effectivity of this Act; and

(v) Fourteen percent (14%) at the end of the fifth year following the effectivity of this Act.

*Provided*, that the ERB is hereby authorized to determine at the end of the fifth year following the effectivity of this Act, and as often as is necessary, taking into account the viability of rural electric cooperatives and the interest of the consumers, whether the caps herein or theretofore established shall be reduced further which shall in no case, be lower than nine percent (9%) and accordingly fix the date of the effectivity of the new caps.

*Provided, finally*, That in any case nothing in this Act shall impair the authority of the ERB to reduce or phase out technical or design losses as a component of system losses.

**SEC.11. Area of Coverage.** - The caps provided in Section 10 of this Act shall apply only to area of coverage of private electric utilities and the rural electric cooperatives as of the date of the effectivity of this Act.

The permissible levels of recovery for system losses in areas of coverage that may be added on by either a private electric utility or a rural cooperative shall be determined by the ERB.

SEC. 12. **Recovery of Pilferage Losses.** - Any private electric utility or rural electric cooperative which recovers any amount of pilferage losses, shall, within thirty (30) days from said recovery, report in writing and under oath to the ERB: (a) the fact of recovery, (b) the date thereof, (c) the name of the consumer concerned, (d) the amount recovered, (e) the amount of pilferage loss claimed, (f) the explanation for the failure to recover the whole amount claimed, and (g) such other particulars as may be required by ERB. If there is a case pending in court for the recovery of a pilferage loss, no private electric utility or rural electric cooperative shall accept payment from the consumer unless so provided in a compromise agreement duly executed by the parties and approved by the Court.

SEC. 13. **Information Dissemination.** - The private electric utilities, the rural electric cooperatives, the NPC, and the National Electrification Administration (NEA) shall, in cooperation with each other, undertake a vigorous campaign to inform their consumers of the provisions of this Act especially sections 2,3,4,5,6,7 and 8 hereof, within sixty (60) days from the effectivity of this Act and at least once a year thereafter, and to incorporate a faithful condensation of said provisions in the contracts with new consumers.

Sec. 14. **Rules and Regulations.** - The ERB shall, within thirty (30) working days after the conduct of due hearings which must commence within thirty (30) working days upon the effectivity of this Act, issue the rules and regulations as may be necessary to ensure the efficient and effective implementation of the provisions of this Act, to include but not limited to, the development of methodologies for computing the amount of electricity illegally used and the amount of payment deposit contemplated in Section 7 hereof, as a result of the presence of the *prima facie* evidence discovered.

The ERB shall, within the same period, also issue rules and regulations on the submission of the reports required under Section 12 hereof and the procedure for the distribution to or crediting of consumers for recovered pilferage losses.

SEC. 15. **Separability Clause.** - Any portion or provision of this Act which may be declared unconstitutional or invalid shall not have the effect of nullifying other portions or provisions hereof.

SEC. 16. **Repealing Clause.** - The provisions in Presidential Decree No. 401, as amended by Batas Pambansa Blg. 876, penalizing the unauthorized installation of electrical connections, tampering and or/or knowing use of tampered electrical meters or other devices, and the theft of electricity are hereby expressly repealed. All other laws, ordinances, rules, regulations, and other issuances or parts thereof, which are inconsistent with this Act, are hereby repealed or modified accordingly.

SEC. 17. **Effectivity Clause.** - This Act shall take effect thirty (30) days after its publication in the Official Gazette or in any two (2) national newspapers of general circulation.

Approved: December 08, 1994

(Sgd.) FIDEL V. RAMOS

President of the Philippines