



Republic of the Philippines
Department of Environment and Natural Resources
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03 March 2022

MEMORANDUM

FOR : All Bureau Directors

The Directors
Legal Affairs Service
Policy and Planning Service

FROM : The Director
Legislative Liaison Office

SUBJECT : **REQUEST FOR COMMENTS ON HOUSE BILL NO. 78 /
SENATE BILL NO. 2094**

This pertains to a letter dated 28 February 2022, from the Office of the President requesting the Department to provide comments and recommendations on House Bill No. 78 / Senate Bill No. 2094, entitled: **“AN ACT AMENDING COMMONWEALTH ACT NO. 146, OTHERWISE KNOWN AS THE PUBLIC SERVICE ACT, AS AMENDED.”**

In this regard, kindly submit your comments and recommendations on the said bill on or before **7 March 2022**, in hard or soft copies to the Legislative Liaison Office, number 8920-1761, at the e-mail address denrlegislative@yahoo.com

For your information and compliance.


ROMIROSE B. PADIN

Request for comments on Enrolled House Bill No. 78 / Senate Bill No. 2094 "An Act amending Commonwealth Act No. 146, otherwise known as the Public Service Act, as amended

From: legis lative (denrlegislative@yahoo.com)

To: od@emb.gov.ph; oad.emb@gmail.com; fatima_millan@emb.gov.ph; recordsco@emb.gov.ph; denrlmb@yahoo.com; lmb.oad@yahoo.com; lmblegaldivision@gmail.com; director@bmb.gov.ph; adirector@bmb.gov.ph; t_tenazas@yahoo.com; fmb@denr.gov.ph; denrfmb.ad@gmail.com; fmbpolicysection@gmail.com; central@mgb.gov.ph; legal@mgb.gov.ph; odir.erdb@gmail.com; erdb.legal.office@gmail.com; mayumiquintos@gmail.com; las.denr@gmail.com; odpps@yahoo.com; odpps@denr.gov.ph

Date: Thursday, March 3, 2022, 11:11 AM GMT+8

Dear Sir/Mam,

Good Day!

Please see attached letter-request from the Office of the President for your perusal.

Kindly acknowledge upon receipt of this email.

Thank you.

Department of Environment and Natural Resources
Legislative Liaison Office

Visayas Avenue, Diliman, 1100 Quezon City, Philippines
denr.gov.ph
Tel: 9201761



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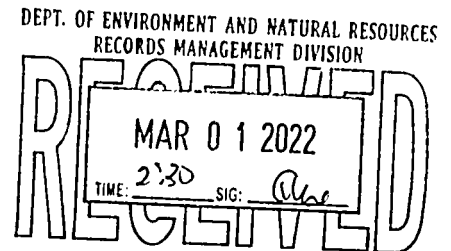
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Office of the President
of the Philippines
Malacañang

28 February 2022

MR. JIM O. SAMPULNA
OIC-Secretary
Department of Environment
and Natural Resources (DENR)
4/F DENR Bldg., Visayas Avenue
Diliman, Quezon City

Thru: **ASEC. JOAN A. LAGUNDA, PhD**
Legislative Affairs and Strategic Partnerships



Sir:

We respectfully request your comments and recommendation on the attached consolidated enrolled **House Bill No. 78 / Senate Bill No. 2094**, entitled:

“AN ACT AMENDING COMMONWEALTH ACT NO. 146, OTHERWISE KNOWN AS THE PUBLIC SERVICE ACT, AS AMENDED,”

presented by Congress on 28 February 2022 for the President's approval.

Kindly include in your recommendation, for approval or otherwise, the justification and/or legal basis for such recommendation. The subject bill will **lapse into law on 31 March 2022** if not vetoed or acted upon by the President, pursuant to Art. VI, Sec. 27 (1) of the Constitution.

We will appreciate if you could submit your comments and recommendation on the said bill on or before **8 March 2022**, either to our office at Room 357, 3rd Floor, Mabini Hall or thru our Telefax Nos. 8-733-39-20/8-736-14-43. Please acknowledge receipt of this letter by email or phone at op_legis@yahoo.com or 8-736-10-14, and designate the responsible/handling officer with whom we can follow-up to facilitate coordination.

Thank you and best regards.

Very truly yours,

f. Sabban
ATTY. EULOGIO A.M. SABBAN
Director IV
Legislative Office, Office of the Deputy
Executive Secretary for Legal Affairs

SEC. 2. *Definition of Terms.* – For the purposes of this Act, the terms below shall be defined as follows:

- (a) *Administrative Agency or Administrative Agencies*, as the case may be, refers to relevant government agencies, to which the powers and duties of the Public Service Commission were transferred pursuant to existing laws. All mention of the word “Commission” in this Act shall now refer to this term;
- (b) *Certificates* refer to any franchise, certificate of public convenience, certificate of public convenience and necessity, concession, or any other appropriate form of authorization for the operation of a public service, including a public utility, as may be applicable;
- (c) *Concession* refers to a contract granting a private concessionaire the privilege to, among others, finance, construct, manage, operate and/or maintain concession assets;
- (d) *Concessionaire* refers to a person, corporation, firm or association awarded a concession;
- (e) *Critical Infrastructure* refers to any public service which owns, uses, or operates systems and assets, whether physical or virtual, so vital to the Republic of the Philippines that the incapacity or destruction of such systems or assets would have a detrimental impact on national security, including telecommunications and other such vital services as may be declared by the President of the Philippines;
- (f) *Distribution of Electricity* refers to the conveyance of electric power by a distribution utility through its distribution system as defined by Section 4(n) of Republic Act No. 9136, otherwise known as the “Electric Power Industry Reform Act of 2001”, as amended;
- (g) *Foreign State-owned Enterprise* refers to an entity in which a foreign State:
- (i) directly or indirectly owns more than fifty percent (50%) of the capital taking into account both the voting rights and beneficial ownership;

- (ii) controls, through ownership interests, the exercise of more than fifty percent (50%) of the voting rights; or
- (iii) holds the power to appoint a majority of members of the board of directors or any other equivalent management body;
- (h) *National Security* refers to the requirements and conditions necessary to ensure the territorial integrity of the country and the safety, security, and well-being of Filipino citizens;
- (i) *Petroleum and Petroleum Products Pipeline Transmission Systems* refer to the operation and maintenance of pipeline transmission systems to ensure an uninterrupted and adequate supply and transmission of petroleum and petroleum products to the public; and excludes petroleum pipeline systems operated exclusively for private or own use, or incidental to the operations of a distinct business;
- (j) *Philippine National* refers to citizens, partnerships, associations, and corporations defined by Section 3(a) of Republic Act No. 7042, otherwise known as the “Foreign Investments Act of 1991”, as amended;
- (k) *Public Utility Vehicles (PUVs)* refer to internal combustion engine vehicles that carry passengers and/or domestic cargo for a fee, offering services to the public, namely trucks-for-hire, UV express service, public utility buses (PUBs), public utility jeepneys (PUJs), tricycles, filcabs, and taxis: *Provided*, That transport vehicles accredited with and operating through transport network corporations shall not be considered as public utility vehicles;
- (l) *Seaport* refers to a place where ships may anchor or tie up for the purpose of shelter, repair, loading or discharge of passengers or cargo, or for other such activities connected with water-borne commerce, and including all the land and water areas and the structures, equipment and facilities related to these functions, as defined by the charters of relevant authorities or agencies, such as the Philippine Ports Authority, Subic Bay Metropolitan Authority, PHIVIDEC Industrial Estate Authority, Cebu Port Authority, local government units, and other similar agencies or government bodies;

(m) *Telecommunications* refers to any process which enables a telecommunications entity to relay and receive voice, data, electronic messages, written or printed matter, fixed or moving pictures, words, music or visible or audible signals or any control signals of any design and for any purpose by wire, radio or other electromagnetic, spectral, optical or technological means, as defined by Section 3(a) of Republic Act No. 7925, otherwise known as the "Public Telecommunications Policy Act of the Philippines", as amended, except passive telecommunications tower infrastructure and components, such as, but not limited to, poles, fiber ducts, dark fiber cables, and passive telecommunications tower infrastructure, as defined by the Department of Information and Communications Technology (DICT), and value-added services, as defined in Section 3(h) of Republic Act No. 7925, as amended;

(n) *Transmission of Electricity* refers to the conveyance of electricity through the high voltage backbone system, as defined by Section 4(ccc) of Republic Act No. 9136, as amended;

(o) *Water Pipeline Distribution Systems and Wastewater Pipeline Systems* refer to the operation and maintenance of water pipeline distribution systems to ensure an uninterrupted and adequate supply and distribution of potable water for domestic and other purposes and the operation and maintenance of wastewater pipeline systems, except desludging companies and septic tanks, to ensure public health and safety, as regulated by Republic Act No. 6234, entitled "An Act Creating the Metropolitan Waterworks and Sewerage System and Dissolving the National Waterworks and Sewerage Authority; and for Other Purposes", as amended, and Presidential Decree No. 198, otherwise known as the "Provincial Water Utilities Act of 1973", as amended; and

(p) *Sewerage Pipeline Systems* refer to the operation and maintenance of sewerage pipeline systems to ensure public health and safety, as regulated by Republic Act No. 6234, as amended, and Presidential Decree No. 198, as amended.

SEC. 3. *Recognition of Transfer of Jurisdiction to Various Administrative Agencies.* – All references to the Public Service Commission in Commonwealth Act No. 146, as amended, shall pertain to any Administrative Agency to which the powers and

duties of the Public Service Commission were transferred by subsequent laws, such as but not limited to:

- (a) Civil Aeronautics Board (CAB);
- (b) Civil Aviation Authority of the Philippines (CAAP);
- (c) Department of Energy (DOE);
- (d) Department of Environment and Natural Resources (DENR);
- (e) DICT;
- (f) Department of Transportation (DOTr);
- (g) Energy Regulatory Commission (ERC);
- (h) Land Transportation Franchising and Regulatory Board (LTFRB);
- (i) Land Transportation Office (LTO);
- (j) Local Water Utilities Administration (LWUA);
- (k) Maritime Industry Authority (MARINA);
- (l) Metropolitan Waterworks and Sewerage System (MWSS);
- (m) National Telecommunications Commission (NTC);
- (n) National Water Resources Board (NWRB);
- (o) Philippine National Railways (PNR);
- (p) Philippine Ports Authority (PPA); and
- (q) Toll Regulatory Board (TRB).

SEC. 4. Section 13 of Commonwealth Act No. 146, as amended, is hereby further amended to read as follows:

"SEC. 13. (a) The Commission shall have jurisdiction and supervision over all public services, including public utilities, and their franchises, equipment, and other properties, and in the exercise of its authority, it shall have the necessary powers and the aid of public force: *Provided*, That public services, including public utilities, owned or operated by government entities or government-owned or -controlled corporations shall be regulated by the Commission in the same way as privately-owned public services.

"Nothing in this Act shall be interpreted to diminish, limit, or restrict the authority of Congress from granting franchises to public services, including public utilities, and other activities, as may be provided by law. Any franchise or certificate necessary for the operation of a public service shall be granted by Congress unless otherwise previously delegated by law to the relevant Administrative Agencies.

"x x x

"(d) *Public Utility*. – Public utility refers to a public service that operates, manages or controls for public use any of the following:

"(1) Distribution of Electricity;

"(2) Transmission of Electricity;

"(3) Petroleum and Petroleum Products Pipeline Transmission Systems;

"(4) Water Pipeline Distribution Systems and Wastewater Pipeline Systems, including sewerage pipeline systems;

"(5) Seaports; and

"(6) Public Utility Vehicles.

"All concessionaires, joint ventures and other similar entities that wholly operate, manage or control for public use the sectors above are public utilities.

"Nothing in this Act shall be interpreted as a requirement for legislative franchise where the law does not require any. No other person shall be deemed a public utility unless otherwise subsequently provided by law.

"(e) Upon the recommendation of the National Economic and Development Authority (NEDA), the President may recommend to Congress the classification of a public service as a public utility on the basis of the following criteria:

"(1) The person or juridical entity regularly supplies and transmits and distributes to the public through a network a commodity or service of public consequence;

"(2) The commodity or service is a natural monopoly that needs to be regulated when the common good so requires. For this purpose, natural monopoly exists when the market demand for a commodity or service can be supplied by a single entity at a lower cost than by two or more entities;

"(3) The commodity or service is necessary for the maintenance of life and occupation of the public; and

"(4) The commodity or service is obligated to provide adequate service to the public on demand.

"All public services, including those classified as public utilities under this Act, shall continue to

be regulated and supervised by the relevant Administrative Agencies under existing laws.

"A public service which is not classified as a public utility under this Act shall be considered a business affected with public interest for purposes of Sections 17 and 18 of Article XII of the Constitution.

"Notwithstanding any law to the contrary, nationality requirements shall not be imposed by the relevant Administrative Agencies on any public service not classified as a public utility.

"The NEDA shall provide periodic advice to Administrative Agencies on the proper application of the constitutional and other legal restrictions to local and foreign-owned subcontractors, without putting operational resiliency at risk."

SEC. 5. Section 15 of Commonwealth Act No. 146, as amended, is hereby further amended to read as follows:

"SEC. 15. x x x

"The Commission shall prescribe as a condition for the issuance of the certificate or authorization provided in the preceding paragraph that the service can be acquired by the Republic of the Philippines or any instrumentality thereof, or the issuing local government unit, upon payment of just compensation in accordance with the pertinent laws, rules, and regulations on expropriation; and likewise, that the certificate or authorization shall be valid only for a definite period of time and that the violation of any of these conditions shall, after hearing, result in the immediate cancellation of the certificate or authorization without the necessity of any express action on the part of the issuing authority.

"x x x."

SEC. 6. Section 16 of Commonwealth Act No. 146, as amended, is hereby further amended to read as follows:

"SEC. 16. *Proceedings of the Commission, upon notice and hearing.* – The Commission shall have the power, upon proper notice and hearing in accordance with the rules and provisions of this Act:

"(a) To issue certificates authorizing the operation of public service within the Philippines whenever the Commission finds that the operation of the public service proposed and the authorization to do business will promote the public interest in a proper and suitable manner: *Provided*, That any certificate authorizing the operation, management or control of a public service shall only be issued to corporations, partnerships, associations or joint stock companies that are constituted and organized under the laws of the Philippines.

"x x x

"(c) To fix and determine the fair and reasonable individual or joint rates, tolls, charges, classifications, tariffs or schedules thereof, as well as commutation, mileage, kilometrage, and other special rates which shall be imposed, observed, and followed thereafter by any public service when the public interest so requires: *Provided*, That the Commission may, in its discretion, approve rates proposed by public services provisionally and without necessity of any hearing; but it shall call a hearing thereon within fifteen (15) days, thereafter, upon publication and notice to the affected parties in the territory affected, to ratify its prior provisional approval or change, modify or alter the approved rate based on public interest: *Provided, further*, That in case the public service equipment of an operator is used principally or secondarily for the promotion of a private business, the net profits of said private business shall be considered in relation with the public service of such operator for the purpose of

fixing the rates: *Provided, finally*, That when the public interest requires, the Administrative Agency may establish and enforce a methodology for setting rates, taking into account all relevant considerations, including the efficiency of the regulated public service. The rates must be such as to allow the recovery of prudent and efficient costs and a reasonable rate of return to enable the public service to operate viably and efficiently. The Administrative Agency may adopt alternative forms consistent with internationally accepted rate-setting methodology. The adopted rate-setting methodology shall ensure a reasonable price of the commodity or service and that the rates prescribed shall not be discriminatory.

"This provision shall not be interpreted as mandating rate regulation nor amending or repealing: (1) laws providing a deregulation policy, such as Republic Act No. 7925, otherwise known as the 'Public Telecommunications Policy Act of the Philippines', as amended; Republic Act No. 8479, otherwise known as the 'Downstream Oil Industry Deregulation Act of 1998', as amended; Republic Act No. 9136, otherwise known as the 'Electric Power Industry Reform Act of 2001', as amended; Republic Act No. 9295, otherwise known as the 'Domestic Shipping Development Act of 2004', as amended; and Republic Act No. 6957, otherwise known as the 'BOT Law', as amended; and (2) regulations promulgated by these Administrative Agencies to deregulate rates.

"x x x

"(1) To fix and determine proper and adequate rates of depreciation of the property of any public service which will be observed in a proper and adequate depreciation account to be carried for the protection of stockholders, bondholders or creditors, in accordance with such rules, regulations, and forms of accounts as the Commission may prescribe. Said rates shall be sufficient to provide the amounts required over and above the expense of maintenance to keep such property in a state of efficiency

corresponding to the progress of the industry. Each public service shall conform its depreciation accounts to the rates so determined and fixed, and, as may be required by the proper Administrative Agency, shall set aside the moneys so provided for out of its earnings and carry the same in a depreciation fund. The income from investments of money in such fund shall likewise be carried in such fund. This fund shall not be expended otherwise than for depreciation, improvements, new constructions, extensions or additions to the property of such public service.

"x x x

"(p) To suspend or revoke any certificate issued under the provisions of this Act when the holder thereof has failed for three (3) consecutive years the annual performance audit conducted by an independent evaluation team in accordance with the metrics to be set by the Administrative Agency."

SEC. 7. Section 17 of Commonwealth Act No. 146, as amended, is hereby further amended to read as follows:

"SEC. 17. *Proceedings of Commission without previous hearing.* – The Commission shall have power, without previous hearing, subject to established limitations and exceptions and saving provisions to the contrary:

"(a) To investigate, upon its own initiative, or upon complaint in writing, any matter concerning any public service as regards matters under its jurisdiction; to require any public service to furnish safe, adequate, and proper service as the public interest may require and warrant; to enforce compliance with any standard, rule, regulation, order or other requirement of this Act or of the Commission, and to prohibit or prevent any public service as herein defined from operating without having first secured a certificate and require existing public services to pay the fees provided for in this Act for the issuance of the certificate, under the penalty, at the discretion

of the Commission, of the revocation and cancellation of any acquired right.

“(b) To require any public service to pay the actual expenses incurred by the Commission in any investigation if it shall be found in the same that any rate, toll, charge, schedule, regulation, practice, act or service thereof is in violation of any provision of this Act or any certificate, order, rule, regulation or requirement issued or established by the Commission. The Commission may also assess against any public service reasonable costs with reference to such investigation.

“x x x

“(g) To require any public service to keep its books, records, and accounts so as to afford an intelligent understanding of the conduct of its business and to that end to require every such public service of the same class to adopt a uniform system of accounting. Such system shall conform to any system approved and confirmed by the Commission on Audit.

“x x x.”

SEC. 8. Section 18 of Commonwealth Act No. 146, as amended, is hereby further amended to read as follows:

“SEC. 18. It shall be unlawful for any individual, partnership, association, corporation or joint-stock company, their lessees, trustees, or receivers appointed by any court whatsoever, or any municipality, province, or other department of the Government of the Philippines, to engage in any public service business without having first secured from the Commission a certificate as provided for in this Act, except grantees of legislative franchises expressly exempting such grantee from the requirement of securing a certificate from this Commission, as well as concerns at present existing expressly exempted from the jurisdiction of the Commission, either totally

or in part, by the provisions of section thirteen of this Act.”

SEC. 9. Section 19 of Commonwealth Act No. 146, as amended, is hereby further amended to read as follows:

“SEC. 19. *Unlawful acts.* – It shall be unlawful for any public service:

“x x x

“(c) To refuse or neglect, when requested by the Postmaster General or his authorized representative, to carry public mail on the regular trips of any public land transportation service maintained or operated by any such public service, upon such terms and conditions and for a consideration in such amounts as may be agreed upon between the Postmaster General and the public service carrier or fixed by the Commission in the absence of an agreement between the Postmaster General and the carrier. In case the Postmaster General and the public service carrier are unable to agree on the amount of the compensation to be paid for the carriage of the mail, the Postmaster General shall forthwith request the Commission to fix a just and reasonable compensation for such carriage and the same shall be promptly fixed by the Commission in accordance with section sixteen of this Act.

“(d) To refuse or neglect, when requested by the Administrative Agency to urgently use, deliver or render the public service for the purpose of avoiding further loss on human, material, economic, or environment during a state of calamity.”

SEC. 10. Section 20 of Commonwealth Act No. 146, as amended, is hereby further amended to read as follows:

“SEC. 20. *Acts requiring the approval of the Commission.* – Subject to established limitations and exceptions and saving provisions to the contrary,

it shall be unlawful for any public service or for the owner, lessee or operator thereof, without the approval and authorization of the Commission previously had:

“(a) To adopt, establish, fix, impose, maintain, or collect or carry into effect any individual or joint rates, commutation, mileage or other special rate, toll, fare, charge, classification or itinerary. The Commission shall approve only those that are prudent and efficient and not any that are unjustly discriminatory or unduly preferential, only upon reasonable notice to the public services and other parties concerned, giving them a reasonable opportunity to be heard, and the burden of the proof to show that the proposed rates or regulation are prudent and efficient shall be upon the public service proposing the same.

“(b) To establish, construct, maintain, or operate new units or extend existing facilities or make any other addition to or general extension of the service: *Provided*, That only assets that are useful and necessary for the provision of the public service shall form part of the rate base as determined and approved by the Administrative Agency: *Provided, further*, That construction of such asset and implementation of such project may be allowed for emergency and other extraordinary cases: *Provided, finally*, That the public service provider files for approval of such extension or construction of facilities within sixty (60) days from implementation of the project, and without prejudice to the final determination by the Administrative Agency if the said asset is useful and necessary for inclusion in the rate base.

“The Administrative Agency may issue regulations prescribing a shorter period than that provided in the preceding paragraphs only in cases of emergency, as may be certified by such Administrative Agency, requiring the installation, construction or maintenance of units, facilities or equipment.

“x x x

“(e) To issue any share of stock without par value: *Provided*, That it shall be the duty of the Commission, after hearing, to approve any such issue when satisfied that the same is to be made in accordance with law.

“x x x

“(g) To sell, alienate, mortgage, encumber or lease its property, franchises, certificates, privileges, or rights, or any part thereof, or merge or consolidate its property, franchises, privileges or rights, or any part thereof, with those of any other public service. The approval herein required shall be given, after notice to the public and after hearing the persons interested at a public hearing, if it be shown that there are just and reasonable grounds for making the mortgage or encumbrance, for liabilities of more than one year maturity, or the sale, alienation, lease, merger, or consolidation to be approved, and that the same are not detrimental to the public interest, and in case of a sale, the date on which the same is to be consummated shall be fixed in the order of approval: *Provided, however*, That nothing herein contained shall be construed to prevent the transaction from being negotiated or completed before its approval or to prevent the sale, alienation, or lease by any public service of any of its property in the ordinary course of its business: *Provided, finally*, That the need for approval of the sale, alienation, mortgage, encumbrance or lease will be required only for properties of the public service that are used and useful in the delivery of the required public service.

“x x x

“(i) To sell, alienate or in any manner transfer shares of its capital stock to any alien if the result of that sale, alienation, or transfer in itself or in connection with another previous sale shall be the reduction to less than sixty percent (60%) of the

capital stock belonging to Philippine Nationals in the operation of a public utility as required by the Constitution. Such sale, alienation or transfer shall be void and of no effect and shall be sufficient cause for ordering the cancellation of the certificate.

“x x x.”

SEC. 11. Section 21 of Commonwealth Act No. 146, as amended, is hereby further amended to read as follows:

“SEC. 21. In the absence of any specific fine or penalty imposed under the Charter of the Administrative Agency or the special law governing the particular public service, any public service violating or failing to comply with the terms and conditions of any certificate or any order, decision or regulation of the Commission shall be subject to a fine of not lower than Five thousand pesos (P5,000.00) but not exceeding Two million pesos (P2,000,000.00) per day for every day during which such default or violation continues; and the Commission is hereby authorized and empowered to impose such fine, after due notice and hearing: *Provided*, That should a lesser fine or penalty be imposed under the Charter of the Administrative Agency or the special law governing the public service, the amount of fine or penalty provided for under this section shall apply.

“In cases where rates collected by the public service exceed the rates authorized by the Administrative Agency, the Administrative Agency may order a refund to consumers in lieu of or in addition to the fine or penalty imposed under this Act or the special law governing the public service.

“The fines so imposed shall be paid to the Government of the Philippines through the Commission, and failure to pay the fine or comply with the order to refund in any case within the time specified in the order or decision of the Commission shall be deemed good and sufficient reason for the

suspension of the certificate of said public service until payment shall be made or the order is complied with. Payment may also be enforced by appropriate action brought in a court of competent jurisdiction. The remedy provided in this section shall not be a bar to, or affect any other remedy provided in this Act but shall be cumulative and additional to such remedy or remedies.”

SEC. 12. Section 23 of Commonwealth Act No. 146, as amended, is hereby further amended to read as follows:

“SEC. 23. Any public service corporation that shall perform, commit, or do any act or thing herein forbidden or prohibited or shall neglect, fail, or omit to do or perform any act or thing herein required to be done or performed, shall be punished, after notice and hearing, by a fine not exceeding Two million pesos (P2,000,000.00), or by imprisonment of not lower than six (6) years and one (1) day and not higher than twelve (12) years, or both, at the discretion of the court.

“In case the services of any entity engaged in the operation and management of critical infrastructure are interrupted, it shall act on customer complaints within ten (10) days, or provide an action plan to be accomplished within a reasonable period, from the date the complaint, written or otherwise, was received. For this purpose, entities engaged in the operation and management of critical infrastructure shall file a monthly report to the appropriate regulatory agency detailing the service interruptions that occurred during the covered period, the complaints lodged before it, and the actions taken on each complaint.”

SEC. 13. Section 24 of Commonwealth Act No. 146, as amended, is hereby amended to read as follows:

“SEC. 24. Any person, including juridical persons whether foreign or domestic, who shall knowingly and willfully perform, commit, or do, or

participate in performing, committing, or doing, or who shall knowingly and willfully cause, participate, or join with others in causing any public service corporation or company to do, perform, or commit, or who shall advise, solicit, persuade, or knowingly and willfully instruct, direct, or order any officer, agent, or employee of any public service corporation or company to perform, commit, or do any act or thing forbidden or prohibited by this Act, shall be punished, after notice and hearing, by a fine not exceeding Two million pesos (P2,000,000.00), or imprisonment of not lower than six (6) years and one (1) day and not higher than twelve (12) years, or both, at the discretion of the court.

“When the entities involved are juridical persons, the penalty of imprisonment shall be imposed on its officers, directors, or employees holding managerial positions, who are knowingly and willfully responsible for such violation.”

SEC. 14. Section 25 of Commonwealth Act No. 146, as amended, is hereby amended to read as follows:

“SEC. 25. Any person, including juridical persons whether foreign or domestic, who shall knowingly and willfully neglect, fail, or omit to do or perform, or who shall knowingly and willfully cause or join or participate with others in causing any public service corporation or company to neglect, fail, or omit to do or perform, or who shall advise, solicit, or persuade, or knowingly and willfully instruct, direct, or order any officer, agent, or employee of any public service corporation or company to neglect, fail, or omit to do any act or thing required to be done by this Act, shall be punished, after notice and hearing, by a fine not exceeding Two million pesos (P2,000,000.00) or by imprisonment of not lower than six (6) years and one (1) day and not higher than twelve (12) years, or both, at the discretion of the court. When the entities involved are juridical persons, the penalty of imprisonment shall be imposed on its officers, directors, or employees holding

managerial positions, who are knowingly and willfully responsible for such violation.”

SEC. 15. Section 26 of Commonwealth Act No. 146, as amended, is hereby amended to read as follows:

“SEC. 26. Any person who shall destroy, injure, or interfere with any apparatus or appliance owned or operated by or in charge of the Commission or its agents, shall be deemed guilty of a misdemeanor and upon conviction shall be punished, after notice and hearing, by a fine of the amount equivalent to the actual market value of the apparatus or appliance destroyed or injured plus a fine not exceeding Two million pesos (P2,000,000.00) or imprisonment of not lower than six (6) years and one (1) day and not higher than twelve (12) years, or both, at the discretion of the court.”

SEC. 16. Section 28 of Commonwealth Act No. 146, as amended, is hereby amended to read as follows:

“SEC. 28. Violations of the orders, decisions, and regulations of the Commission and of the terms and conditions of any certificate issued by the Commission and violations of the provisions of this Act shall prescribe in accordance with Act No. 3326, entitled ‘An Act to Establish Periods of Prescription for Violations Penalized by Special Acts and Municipal Ordinances and to Provide When Prescription Shall Begin to Run’, as amended.”

SEC. 17. Section 29 of Commonwealth Act No. 146, as amended, is hereby amended to read as follows:

“SEC. 29. All hearings and investigations before the Commission shall be governed by rules adopted by the Commission, and in the conduct thereof the Commission shall not be bound by the technical rules of legal evidence: *Provided*, That the Hearing Officer may summarily punish for contempt by a fine not exceeding Two thousand pesos (P2,000.00) or by

imprisonment not exceeding ten days, or both, any person guilty of misconduct in the presence of the Hearing Officer or so near the same as to interrupt the hearing or session or any proceedings before them, including cases in which a person present at a hearing, session, or investigation held by the Hearing Officer refuses to be sworn as a witness or to answer as such when lawfully required to do so. To enforce the provisions of this section, the Commission may, if necessary, request the assistance of the municipal or city police for the execution of any order made for said purpose."

SEC. 18. Section 30 of Commonwealth Act No. 146, as amended, is hereby amended to read as follows:

"SEC. 30. (a) The Commission may issue subpoenas and subpoenas *duces tecum*, for witnesses in any matter or inquiry pending before the Commission and require the production of all books, papers, tariffs, contracts, agreements, and all other documents, which the Commission may deem necessary in any proceeding. Such process shall be issued under the seal of the Commission, signed by one of the Hearing Officers, and may be served by any person of full age, or by registered mail. Disobedience to or failure to comply with such subpoena, shall constitute indirect contempt, and may be instituted in the manner as provided in the Rules of Court before the appropriate court.

"(b) Any person who shall neglect or refuse to answer any lawful inquiry or produce before the Commission, books, papers, tariffs, contracts, agreements, and documents or other things called for by said Commission, if in his power to do so, in obedience to the subpoena or lawful inquiry of the Commission upon conviction thereof by a court of competent jurisdiction, shall be punished by a fine not exceeding Thirty thousand pesos (P30,000.00) or by imprisonment not exceeding six (6) months, or both, at the discretion of the court.

"(c) The officials and Hearing Officers of the Commission shall have the power to administer oaths in all matters under the jurisdiction of the Commission.

"x x x

"(e) Witnesses appearing before the Commission in obedience to subpoena or subpoena *duces tecum* shall be entitled to receive the same fees and mileage as witnesses attending regional trial courts in civil cases.

"(f) Any person who shall obstruct the Commission or either of the Hearing Officers while engaged in the discharge of official duties, or who shall conduct himself in a rude, disrespectful or disorderly manner before the Commission or either of the Hearing Officers, while engaged in the discharge of official duties, or shall orally or in writing be disrespectful to, offend or insult either of the Hearing Officers on occasion or by reason of the performance of his official duties, upon conviction thereof by a court of competent jurisdiction, shall be punished for each offense by a fine not exceeding Thirty thousand pesos (P30,000.00), or by imprisonment not exceeding six (6) months, or both, at the discretion of the Court."

SEC. 19. Section 32 of Commonwealth Act No. 146, as amended, is hereby further amended to read as follows:

"SEC. 32. The Commission may, in any investigation or hearing, by its order in writing, cause the deposition of witnesses residing within or without the Philippines to be taken in the manner and under the conditions prescribed by the Rules of Court. Where witnesses reside in places distant from Manila and it would be inconvenient and expensive for them to appear personally before the Commission, the Commission may, by proper order, commission any clerk of the Regional Trial Court of the Philippines to

take the deposition of witnesses in any case pending before the Commission. It shall be the duty of the official so commissioned, to designate promptly a date or dates for the taking of such deposition, giving timely notice to the parties, and on said date to proceed to take the deposition, reducing it to writing. After the depositions have been taken, the official so commissioned shall certify to the depositions taken and forward them as soon as possible to the Commission. It shall be the duty of the respective parties to furnish stenographers for taking and transcribing the testimony taken.

“The Commission may also, by proper order, authorize any of the attorneys of the legal division or division chiefs of the Commission, if they be lawyers, to hear and investigate any case filed with the Commission and in connection therewith to receive such evidence as may be material thereto. At the conclusion of the hearing or investigation, the attorney or division chief so authorized shall submit the evidence received by him to the Commission to enable the latter to render its decision.”

SEC. 20. Section 35 of Commonwealth Act No. 146, as amended, is hereby amended to read as follows:

“SEC. 35. Any order, ruling, or decision of the Administrative Agency may be appealed in the manner and within the period prescribed under the Rules of Court and other pertinent laws.”

SEC. 21. Section 38 of Commonwealth Act No. 146, as amended, is hereby amended to read as follows:

“SEC. 38. The chief of the legal division or any other attorneys of the Commission shall represent the same in all judicial proceedings. It shall be the duty of the Solicitor General to represent the Commission in any judicial proceeding if, for special reasons, the Hearing Officer shall request his intervention.”

SEC. 22. Section 40 of Commonwealth Act No. 146, as amended, is hereby further amended to read as follows:

“SEC. 40. *Administrative Fees and Charges.* – Administrative Agencies may collect from any public service, including any public utility, reasonable fees and charges, and impose appropriate penalties and fines as provided by law: *Provided*, That such fees, charges, penalties and fines may be adjusted to its present value every five (5) years using the Consumer Price Index (CPI) as published by the Philippine Statistics Authority (PSA).”

SEC. 23. *Powers of the President to Suspend or Prohibit Transaction or Investment.* – In the interest of national security, the President, after review, evaluation and recommendation of the relevant government department or Administrative Agency, may, within sixty (60) days from the receipt of such recommendation, suspend or prohibit any proposed merger or acquisition transaction, or any investment in a public service that effectively results in the grant of control, whether direct or indirect, to a foreigner or a foreign corporation.

The Philippine Competition Commission (PCC) may be consulted on all matters relating to mergers and acquisitions.

The NEDA shall promulgate rules and regulations to implement the provisions of this section.

SEC. 24. *Investments by an Entity Controlled by or Acting on Behalf of the Foreign Government, or Foreign State-owned Enterprises.* – An entity controlled by or acting on behalf of the foreign government or foreign state-owned enterprises shall be prohibited from owning capital in any public service classified as public utility or critical infrastructure: *Provided*, That the prohibition shall apply only to investments made after the effectivity of this Act: *Provided, further*, That foreign state-owned enterprises which own capital prior to the effectivity of this law are prohibited from investing in additional capital upon the effectivity of this Act: *Provided, finally*, That notwithstanding the immediately preceding clause, the sovereign wealth funds

and independent pension funds of each state may collectively own up to thirty percent (30%) of the capital of such public services.

In the interest of national security, an entity controlled by or acting on behalf of the foreign government or foreign-owned enterprises shall not make any data or information disclosure, nor extend assistance, support or cooperation to any foreign government, instrumentalities or agents.

The NEDA shall promulgate rules and regulations to implement the provisions of this section.

SEC. 25. Reciprocity Clause. – Foreign nationals shall not be allowed to own more than fifty percent (50%) of the capital of entities engaged in the operation and management of critical infrastructure unless the country of such foreign national accords reciprocity to Philippine Nationals as may be provided by foreign law, treaty or international agreement. Reciprocity may be satisfied by according rights of similar value in other economic sectors. The NEDA shall promulgate rules and regulations for this purpose.

Unless otherwise provided by law, or by any international agreement, a public service shall employ a foreign national only after the determination of non-availability of a Philippine National who is competent, able and willing to perform the services for which the foreign national is desired.

Any foreign national seeking admission to the Philippines for employment purposes and any public service which desires to engage a foreign national for employment in the Philippines must obtain an employment permit pursuant to Presidential Decree No. 442, otherwise known as the “Labor Code of the Philippines”, as amended.

Public services employing foreign nationals issued employment permits in industries to be determined by the Department of Labor and Employment (DOLE) shall implement an understudy/skills development program to ensure the transfer of technology/skills to Filipinos, whether next-in-rank or otherwise, with the potential of succeeding the foreign national in the same establishment or its subsidiary, within a specific period as may be determined by the DOLE, upon consultation with relevant government agencies and industry experts.

SEC. 26. Information Security. – Persons and companies engaged in the telecommunications business shall obtain and maintain certifications from an accredited certification body attesting to compliance with relevant ISO standards on information security, as prescribed by the DICT: *Provided*, That the maintenance of these certifications shall be a continuing qualification for retention of franchise or other authority to operate: *Provided, further*, That this section shall not apply to micro, small and medium enterprises under Republic Act No. 6977, otherwise known as the “Magna Carta for Micro, Small and Medium Enterprises (MSMEs)”, as amended.

SEC. 27. Conduct of Regular Studies and Comprehensive Baseline Survey. – The NEDA shall conduct regular studies on whether regulatory reform is warranted in a public service sector to improve consumer welfare and to submit its recommendation to Congress.

The NEDA, in coordination with the relevant government agencies and local government units, shall conduct a comprehensive baseline survey of public services governance within six (6) months from the effectivity of this Act. Copies of the results of said survey shall be furnished to the Congress, the NEDA and the PCC.

SEC. 28. Congressional Oversight and Periodic Review. – A Congressional Oversight Committee shall be created that will monitor and evaluate the implementation of this Act every five (5) years commencing from the effectivity of this Act. The Congressional Oversight Committee shall be composed of the Chairperson of the Senate Committee on Public Services, the Chairperson of the House of Representatives Committee on Economic Affairs, and representatives of other relevant congressional committees.

SEC. 29. Performance Audit. – Administrative agencies must ensure the annual conduct of performance audit by an independent evaluation team to monitor cost, the quality of services provided to the public, and the ability of the public service provider to immediately and adequately respond to emergency cases: *Provided*, That in the case of critical infrastructure and public utilities, the performance audit shall include risk assessment, emergency response, and cybersecurity, among others. Metrics

for various types of services must be established to sustain reliability, security, and safety of the public.

SEC. 30. *Implementing Rules and Regulations.* – All Administrative Agencies under Section 3 of this Act shall, in coordination with the NEDA, promulgate rules and regulations to implement the provisions of this Act within six (6) months from the effectivity of this Act.

SEC. 31. *Interpretation.* – This Act shall be subject to and consistent with the regulatory powers of the State to promote public interest in Article IX-C, Section 4 and Article XII, Section 17 of the Constitution.

No franchise, certificate, concession, or authorization granted by the appropriate Administrative Agencies pursuant to this Act shall be: (a) exclusive in character; (b) for a longer period than fifty (50) years: *Provided*, That if a public service has maintained an exemplary record in the delivery of services, and has made substantial investments on infrastructure, technology or equipment for its operations, such performance and size of investment shall be taken into consideration, and the application for renewal of the franchise, certificate, concession or authorization of the public service shall be given priority by the appropriate Administrative Agencies; and (c) granted except under the condition that it shall be subject to amendment, alteration, or repeal by Congress when the public interest so requires.

SEC. 32. *Non-Impairment of Existing Agreements.* – The application and implementation of the pertinent provisions of this Act shall not impair vested rights or obligations of contracts. Current and subsisting concession agreements and other similar contracts of juridical persons with government agencies or government-owned and -controlled corporations covering activities hereunder classified as public utilities shall remain valid and in force in accordance with the existing terms and conditions the parties agreed to thereunder until the expiration or termination thereof.

SEC. 33. *Separability Clause.* – Should any portion or provision of this Act be declared unconstitutional, the remainder

of this Act or any provision not affected thereby shall remain in force and effect.

SEC. 34. *Repealing Clause.* – All laws, decrees, orders, rules and regulations, or other issuances or parts thereof, inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

The provisions on limitation on foreign ownership in the following laws are hereby amended or modified:

(a) Republic Act No. 6957, entitled, “An Act Authorizing the Financing, Construction, Operation and Maintenance of Infrastructure Projects by the Private Sector, and for Other Purposes”, as amended;

(b) Republic Act No. 9295, otherwise known as the “Domestic Shipping Development Act of 2004”, as amended;

(c) Republic Act No. 9497, otherwise known as the “Civil Aviation Authority Act of 2008”, as amended;

(d) Republic Act No. 776, otherwise known as “The Civil Aeronautics Act of the Philippines”, as amended;

(e) Presidential Decree No. 1112, otherwise known as the “Toll Operation Decree”, as amended;

(f) Department of Transportation Department Order No. 2018-13, as amended, on the classification of the Transport Network Companies and Transportation Network Vehicles Service as public utilities; and

(g) Republic Act No. 7925, otherwise known as the “Public Telecommunications Policy Act of the Philippines”, as amended, on the classification of all telecommunications entities as public utilities.

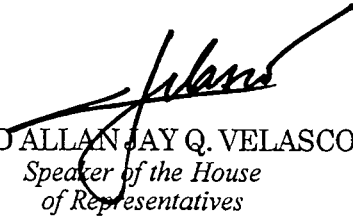
Nothing herein shall be construed as amending or repealing laws and administrative regulations deregulating or delisting services, industries and/or rates.

SEC. 35. *Effectivity.* – This Act shall take effect fifteen (15) days after its publication in the *Official Gazette* or in a newspaper of general circulation.

Approved,



VICENTE C. SOTTO III
President of the Senate

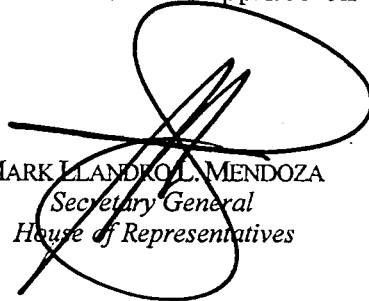


LORD ALLAN JAY Q. VELASCO
*Speaker of the House
of Representatives*

This Act which is a consolidation of House Bill No. 78 and Senate Bill No. 2094 was passed by the House of Representatives and the Senate of the Philippines on February 2, 2022.



MYRA MARIE D. VILLARICA
Secretary of the Senate



MARK LLANDOKOL L. MENDOZA
*Secretary General
House of Representatives*

Approved:

RODRIGO ROA DUTERTE
President of the Philippines