



Republic of the Philippines
Department of Environment and Natural Resources
Visayas Avenue, Diliman, Quezon City
Tel Nos. (632) 929-66-26/28; 929-6635/929-3618/929-4028
IP Phone Trunkline No. 988-3367
Website: <http://www.denr.gov.ph/> E-mail: web@denrgov.ph



MEMORANDUM

FOR : **The Bureau Director**
Environmental Management Bureau
Biodiversity Management Bureau
Mines and Geosciences Bureau
Land Management Bureau

The Directors
Legal Affairs Service
Policy and Planning Service
Climate Change Service

FROM : **The Director**
Legislative Liaison Office

SUBJECT : **INVITATION TO ATTEND THE FACE-TO-FACE TECHNICAL WORKING GROUP (TWG) MEETING OF THE COMMITTEE ON ENERGY OF THE HOUSE OF REPRESENTATIVES**

DATE : 29 November 2022

The Committee on Energy of the House of Representatives shall have a face-to-face meeting on December 1, 2022 (Thursday), 9:00 AM at the Speaker Aquino-Makalintal Hall, South Wing Annex, House of Representatives for the initial Technical Working Group (TWG) deliberation on the bills pertaining to the Natural Gas Industry as follows:

1. **House Bill No. 17**, "An Act Promoting the Development of the Philippine Downstream Natural Gas Industry, Consolidating for the Purpose All Laws Relating to the Transmission, Distribution, and Supply of Natural Gas, and Appropriating Funds Therefor," introduced by Hon. Ferdinand G. Romualdez, Hon. Yedda Marie K. Romualdez and Hon. Jude A. Acidre
2. **House Bill No. 29**, "An Act Promoting the Development of the Philippine Downstream Natural Gas Industry, Consolidating for the Purpose All Laws Relating to the Transmission, Distribution, and Supply of Natural Gas, and Appropriating Funds Therefor," introduced by Hon. Lord Allan Jay Q. Velasco
3. **House Bill No. 173**, "An Act Developing the Philippines' Natural Gas Industry and Appropriating Funds for this purpose," introduced by Hon. Caroline L. Tanchay and Hon. Rodante D. Marcoleta
4. **House Bill No. 3015**, "An Act Providing for the National Energy Policy and Framework for the Development and Regulation of the Philippine Midstream Natural Gas Industry, and For Other Purposes," introduced by Hon. Joey Sarte Salceda
5. **House Bill No. 4097**, "An Act Promoting the Development of the Philippine Downstream Natural Gas Industry, Consolidating for the Purpose All Laws Relating to the Transmission, Distribution, and Supply of Natural Gas, and Appropriating Funds Therefor," introduced

- by Hon. Eric G. Yap, Hon. Paolo Z. Duterte, Hon. Edvic G. Yap, Hon. Jocelyn P. Tulfo, Hon. Jeffrey Soriano, and Hon. Ralph Tulfo
6. **House Bill No. 4267**, "An Act Developing the Philippines' Natural Gas Industry and Appropriating Funds for this purpose," introduced by Hon. Gus S. Tambunting
 7. **House Bill No. 4615**, "An Act Promoting the Development of the Philippine Downstream Natural Gas Industry, Consolidating for the Purpose All Laws Relating to the Transmission, Distribution, and Supply of Natural Gas, and Appropriating Funds Therefor," introduced by Hon. Michael L. Romero
 8. **House Bill No. 5811**, "An Act Promoting the Development of the Philippine Downstream Natural Gas Industry, Consolidating for the Purpose All Laws Relating To The Transmission, Distribution And Supply Of Natural Gas, And Appropriating Funds Therefor," introduced by Hon. Gerville "Jinky Bitrics" R. Luistro
 9. **House Bill No. 6235**, "An Act Promoting the Development of the Philippine Downstream Natural Gas Industry, Consolidating for the Purpose All Laws Relating to the Transmission, Distribution and Supply of Natural Gas, and Appropriating Funds Therefor." introduced by Hon. Rudys Caesar G. Fariñas I
 10. **House Bill No. 6247**, "An Act Providing for the National Energy Policy and Framework for the Development and Regulation of the Philippine Midstream Natural Gas Industry, and for Other Purposes," introduced by Hon. Rudys Caesar G. Fariñas I

In this regard, may we **request your comments and recommendations specifically on House Bill Nos. 6235 and 6247 as it is newly included in the agenda.** Kindly submit it **on or before November 30, 2022, 5 PM through email at denrlegislative@yahoo.com,** in preparation for the TWG meeting. Further, your or your representative's attendance at the mentioned meeting is requested as the agenda will deliberate on a bill that is of significance to your mandates.

Attached herewith are the invitation letter, agenda, Working Draft and comments of stakeholders for your reference. The copies of the bills could be accessed through this link <https://bit.ly/3Wyl6T0>.

Your attendance is highly encouraged.


ROMIROSE B. PADIN

cc: Undersecretary for Legal, Administration, Human Resources, and Legislative Affairs
Undersecretary for Policy, Planning, and International Affairs
Assistant Secretary for Administration and Legislative Affairs



Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City
19th Congress

COMMITTEE ON ENERGY

INVITATION TO THE TECHNICAL WORKING GROUP MEETING

November 28, 2022

To the **Concerned Stakeholders (Government and Private Sectors)**

Sir/Madam,

Please be informed that the Committee on Energy will hold a Technical Working Group (TWG) meeting on the date and time indicated hereunder:

DATE/TIME	December 01, 2022 (Thursday) 9:00 A.M., Speaker Aquino-Makalintal Hall, South Wing Annex
AGENDA	<ul style="list-style-type: none">• Initial TWG deliberation on the Natural Gas Industry bills:<ul style="list-style-type: none">➤ House Bill No. 17, “<i>An Act Promoting the Development of the Philippine Downstream Natural Gas Industry, Consolidating for the Purpose All Laws Relating to the Transmission, Distribution and Supply of Natural Gas, and Appropriating Funds Therefor,</i>” introduced by Hon. Ferdinand M. Romualdez, Hon. Yedda Marie K. Romualdez and Hon. Jude A. Acidre➤ House Bill No. 29, “<i>An Act Promoting the Development of the Philippine Downstream Natural Gas Industry, Consolidating for the Purpose All Laws Relating to the Transmission, Distribution and Supply of Natural Gas, and Appropriating Funds Therefor,</i>” introduced by Hon. Lord Allan Jay Q. Velasco➤ House Bill No. 173, “<i>An Act Developing the Philippines’ Natural Gas Industry and Appropriating Funds for this Purpose,</i>” introduced by Hon. Caroline L. Tanchay and Hon. Rodante D. Marcoleta➤ House Bill No. 3015, “<i>An Act Providing for the National Energy Policy and Framework for the Development and Regulation of the Philippine Midstream Natural Gas Industry, and For Other Purposes,</i>” introduced by Hon. Joey Sarte Salceda➤ House Bill No. 4097, “<i>An Act Promoting the Development of the Philippine Downstream Natural Gas Industry, Consolidating for the Purpose All Laws Relating to the Transmission, Distribution and Supply of Natural Gas, and Appropriating Funds Therefor,</i>” introduced by Hon. Eric G. Yap, Hon. Paolo Z. Duterte, Hon. Edvic G. Yap, Hon. Jocelyn P. Tulfo, Hon. Jeffrey Soriano, and Hon. Ralph Tulfo

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Attached are the Agenda, working draft bill and the summary of stakeholders’ comments on the Natural Gas Industry bill, for your reference.

Your active participation on the said TWG meeting is highly appreciated.

The Committee Secretariat appreciates your confirmation of attendance on or before November 29, 2022 through email address: committee.energy@house.gov.ph or at telephone number 8931-3593. You may also contact our Committee Staff, Mr. Lorenzo Nestor G. Cortes – 09189193698 or Ms. Joy Mariano – 09176265190 for the confirmation of your attendees.

As an office protocol, may we request the attendee/s from your good office to bring negative antigen test result taken within 24 hours together with the filled-up Health Declaration Form (HDF). Attached is the HDF for your perusal.

Thank you very much.

Very truly yours,

RODANTE D. MARCOLETA
TWG Chairperson

FOR THE CHAIRPERSON:


MELANIE T. AÑAIN
Committee Secretary



COMMITTEE ON ENERGY

TECHNICAL WORKING GROUP MEETING

December 01, 2022 (Thursday), 9:00 A.M.

Speaker Aquino-Makalintal Hall, South Wing Annex

A G E N D A

- I. Call to Order/Roll Call
- II. Remarks of TWG Chairperson Rodante D. Marcoleta
- III. Acknowledgement of TWG Members and Participants
- IV. Initial TWG deliberation on the following Natural Gas Industry measures:
 - **House Bill No. 17**, *“An Act Promoting the Development of the Philippine Downstream Natural Gas Industry, Consolidating for the Purpose All Laws Relating to the Transmission, Distribution and Supply of Natural Gas, and Appropriating Funds Therefor,”* introduced by Hon. Ferdinand Martin G. Romualdez, Hon. Yedda Marie K. Romualdez and Hon. Jude A. Acidre
 - **House Bill No. 29**, *“An Act Promoting the Development of the Philippine Downstream Natural Gas Industry, Consolidating for the Purpose All Laws Relating to the Transmission, Distribution and Supply of Natural Gas, and Appropriating Funds Therefor,”* introduced by Hon. Lord Allan Jay Q. Velasco
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- **House Bill No. 6247**, *“An Act Providing for the National Energy Policy and Framework for the Development and Regulation of the Philippine Midstream Natural Gas Industry, and for Other Purposes,”* introduced by Hon. Rudys Caesar G. Fariñas I

V. Other Matters

VI. Adjournment

Invited Resource Persons/Guests:

1. Department of Energy (DOE)
2. Department of Finance (DOF)
3. Department of Trade and Industry (DTI)
4. Department of Environment and Natural Resources (DENR)
5. Department of Trade and Industry–Board of Investments (DTI–BOI)
6. Department of Trade and Industry–Bureau of Philippine Standards (DTI–BPS)
7. Department of Health (DOH)
8. Department of Transportation (DOTR)
9. Department of the Interior and Local Government (DILG)
10. National Economic and Development Authority (NEDA)
11. Philippine Coast Guard (PCG)
12. Energy Regulatory Commission (ERC)
13. Philippine National Oil Company-Exploration Corporation (PNOC–EC)
14. Philippine Competition Commission (PCC)
15. Philippine Independent Power Producers Association (PIPPA)
16. Shell Philippines Exploration B.V (SPEX)
17. First Gen Corporation
18. Energy World Corporation (EWC)
19. SMC Global Power (SMCGP)
20. Center for Energy, Ecology and Development (CEED)



Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

NINETEENTH CONGRESS
First Regular Session

HOUSE BILL NO. _____

Introduced by Representatives Ferdinand Martin G. Romualdez, Yedda Marie K. Romualdez, Jude A. Acidre, Wilter Y. Palma, Jurdin Jesus M. Romualdo, Harris Christopher M. Ongchuan, Maria Carmen S. Zamora, Shernee A. Tan-Tambut, Noel “Bong” N. Rivera, Jonathan Keith T. Flores, Ralph G. Recto, Carl Nicolas C. Cari, Emigdio P. Tanjuatco III, Francisco Paolo P. Ortega V, Ramon Jolo B. Revilla III, Lord Allan Jay Q. Velasco, Princess Rihan M. Sakaluran, Kristine Singson-Meehan, Rodante D. Marcoleta, Caroline L. Tanchay, Joey Sarte Salceda, Ambrosio A. Cruz, Eric G. Yap, Paolo Z. Duterte, Edvic G. Yap, Jeffrey Soriano, Gus S. Tambunting, Michael L. Romero, Ph.D.

AN ACT
PROMOTING THE DEVELOPMENT OF THE PHILIPPINE DOWNSTREAM
NATURAL GAS INDUSTRY, CONSOLIDATING FOR THE PURPOSE ALL LAWS
RELATING TO THE TRANSMISSION, DISTRIBUTION AND SUPPLY OF
NATURAL GAS, AND APPROPRIATING FUNDS THEREFOR

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

CHAPTER I

TITLE AND DECLARATION OF POLICY

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3 SECTION 1. **Short Title.** – This Act shall be known as the *"Philippine Downstream Natural*
4 *Gas Industry Development Act"*.

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

6 (a) Promote natural gas as a safe, environment-friendly, efficient and cost-effective source
7 of energy, and an indispensable contributor to grid security, especially with the entry of more
8 intermittent renewable energy sources by establishing the Philippine downstream natural gas
9 industry (PDNGI) for the benefit of all segments of the nation’s population and all sectors of
10 its economy;

11 (b) Promote natural gas as the energy fuel, which has tremendous potential to meet the
12 increasing local demand for fuel, and the development of the Philippines as a liquefied natural
13 gas (LNG) trading and transshipment hub within the Asia-Pacific Region. In all cases, the State

1 shall ensure the safe, secure, reliable, transparent, competitive and environmentally responsible
2 operation of the PDNGI value chain;

3 (c) Provide a conducive industry environment through the issuance of policies, regulations,
4 safety code, product quality and facility operational standards, and plans and programs geared
5 towards the promotion and development of the PDNGI;

6 (d) Promote the conversion of existing fossil fuel-operated machines and facilities to
7 natural gas use, provided it is technically and financially feasible;

8 (e) Promote access to and the financial viability of the PDNGI by liberalizing the entry of
9 investors under a system of competition, transparency and fair trade and providing responsive
10 policy support, with the end goal of attaining fair price for all stakeholders;

11 (f) Ensure compliance with International and Philippine health, safety, security,
12 environment (HSSE) standards and best practices under a system of safe, secure, high-quality,
13 environmentally responsible operation and services that afford protection to consumers;

14 (g) Encourage the inflow of private capital through equity participation by the private
15 sector in the downstream natural gas value chain including gas transmission and distribution
16 utilities;

17 (h) Ensure transparent and reasonable price of natural gas and rates for its importation,
18 storage and regasification, transmission and distribution in a regime of open and fair
19 competition and full public accountability that shall promote greater operational and economic
20 efficiency and enhanced competitiveness of the Philippine products in the global market;

21 (i) Develop the necessary trades, technical expertise and skills to support the PDNGI; and

22 (j) Facilitate the development of end-uses of natural gas including the use of natural gas as
23 fuel for power, commercial, industrial, residential and transport that promote fuel diversity and
24 compliance with existing environmental laws.

25 **SEC. 3. Scope.** – This Act shall provide a framework for the development of the PDNGI and
26 its transition from emerging industry into mature industry status within a competitive natural
27 gas market, and define the responsibilities of various government agencies and private entities
28 in furtherance of this national goal.

29 All activities of the Department of Energy (DOE), Energy Regulatory Commission (ERC) and
30 other concerned government agencies relevant to the development and regulation of the
31 PDNGI shall be in accordance with this Act.

32 **SEC. 4. Definition of Terms.** – As used in this Act:

33 (a) *Affiliates* refer to the corporate relationships of two or more persons, one of whom either
34 owns or controls or is being controlled by other persons. As used herein, “control” shall mean

- 1 the power to direct or cause the direction of management policies as an inherent part of
2 decision-making power;
- 3 (b) *Anti-Competitive Behavior* refers to the practices and agreements in violation of the
4 provisions of Republic Act No. 10667, otherwise known as the "*Philippine Competition Act*";
- 5 (c) *Capacity* refers to the maximum flow expressed in normal cubic meters per time unit
6 or in energy unit per time unit;
- 7 (d) *Delivery* refers to the transmission or distribution of natural gas and the supply of
8 natural gas at wholesale or retail;
- 9 (e) *Distribution* refers to the transportation of natural gas through a gas distribution system
10 to end-users;
- 11 (f) *Distribution system* refers generally to the pipeline and related facilities used to
12 transport natural gas extending between the last delivery point of the transmission system to
13 the last connection point to the end-user;
- 14 (g) *End-user* refers to any person that will receive delivery of natural gas for resale or final
15 use;
- 16 (h) *Franchise* refers to the right, privilege and authority issued by Congress authorizing a
17 person to engage in the transmission of natural gas or distribution of natural gas within a
18 specific geographical area;
- 19 (i) *Gathering facilities* refer to natural gas pipelines and its ancillary facilities used to
20 gather gas in the field and bring it to a location for processing or for delivery at an
21 interconnection with the gas transmission system. The terms "gather" and "gathering" shall be
22 construed accordingly;
- 23 (j) *Importation* refers to the act of bringing LNG into the Philippines;
- 24 (k) *Insurance* refers generally to a risk-transfer mechanism that ensures full or partial
25 financial compensation for the loss or damage caused by events beyond the control of the
26 insured party wherein compensation is normally proportionate to the loss incurred;
- 27 (l) *Liquefied natural gas or LNG* refers to natural gas which has been liquefied by cooling
28 at a cryogenic temperature;
- 29 (m) *Natural gas* refers to gas obtained from boreholes and wells consisting primarily of a
30 mixture of methane, ethane, propane and butane with small amounts of heavier hydrocarbons
31 and some impurities, consistent with the Philippine National Standards (PNS) or the standards
32 developed by the International Organization for Standardization (ISO);
- 33 (n) *Natural gas distribution code* refers to the code to be formulated by the DOE pursuant
34 to Section 5(g) of this Act that shall set the technical performance standards for operating gas
35 distribution utilities and the minimum financial standards for gas distribution systems;

- 1 (o) *Natural gas distribution system* refers to the system of conventional pipelines and
2 related facilities extending from the delivery points where the gas distribution system receives
3 the natural gas to the point of connection in the premises of the end-user; and any available
4 virtual pipeline that allows alternative modes of transportation;
- 5 (p) *Natural gas distribution utility* refers to any person engaged in the operation of a natural
6 gas distribution system providing services for general public use, which requires a franchise to
7 operate a gas distribution system;
- 8 (q) *Natural gas sales and purchase agreement* or *NGSPA* refers to any contract or
9 agreement for the delivery and sale of indigenous or imported natural gas by and between
10 sellers, suppliers, buyers and end-users;
- 11 (r) *Natural gas transmission code* refers to the code to be developed by the DOE pursuant
12 to Section 5(g) of this Act that shall set the technical performance standards for operating gas
13 transmission systems and the minimum financial standards for gas transmission utilities;
- 14 (s) *Natural gas transmission system* refers to the system of high-pressure pipelines, storage
15 and its ancillary facilities that are used to transport natural gas from the interconnection with
16 gathering facilities, other LNG-related facilities and other gas transmission or distribution
17 systems;
- 18 (t) *Natural gas transmission utility* refers to a natural or juridical person that has a franchise
19 to operate or is intending to operate a gas transmission system except own-use pipelines;
- 20 (u) *Own-use permit* refers to an authorization granted by the DOE to a permit holder or
21 operator for the exclusive use by the operator or its affiliates in the operation of its natural gas
22 facility;
- 23 (v) *Permit* refers to an authorization issued by the DOE for the importation, construction,
24 commercial operation and maintenance of natural gas facilities;
- 25 (w) *Permit holder or operator* refers to a natural or juridical person who is granted a permit
26 by the DOE to engage in the importation, construction, commercial operation and maintenance
27 of natural gas facilities;
- 28 (x) *Person* refers to a natural or juridical person, as the case may be, including the national
29 and local governments of the Republic of the Philippines, its agencies and instrumentalities,
30 and government-owned and controlled corporations;
- 31 (y) *Philippine downstream natural gas industry* or *PDNGI* refers to the sectors of
32 transmission, distribution, supply, and use of natural gas and their related activities, such as
33 importation, storing, regasification, transmission and distribution of natural gas to end-users;

- 1 (z) *Philippine Energy Plan* or *PEP* refers to the overall energy program formulated and
2 updated yearly by the DOE and submitted to Congress pursuant to Republic Act No. 7638,
3 otherwise known as the “*Department of Energy Act of 1992*”, as amended;
- 4 (aa) *Rates* refer to the payment on the utilization of the capacity and use of other services
5 offered by the permit holder or operator of the transmission and distribution pipeline;
- 6 (bb) *Supplier* refers to any person engaged and registered with the DOE to trade on
7 indigenous or imported LNG and their subsequent supply to end-users;
- 8 (cc) *Supply* refers to the trade or sale of indigenous or imported natural gas and their
9 subsequent sale to end-users;
- 10 (dd) *Third-party access* or *TPA* refers to a transparent and non-discriminatory access and
11 utilization by a third-party user of the excess capacity of the LNG terminal and its related
12 facilities;
- 13 (ee) *Transmission* refers to the transportation of natural gas through a natural gas
14 transmission system;
- 15 (ff) *Virtual Pipeline* refers to alternative methods of transporting natural gas to places where
16 there is no pipeline network available. It is based on a modular system of compression or
17 liquefaction, transport and decompression and regasification of natural gas, which
18 communities, industries, gas stations and others may use.

19 CHAPTER II

20 POWERS AND RESPONSIBILITIES OF THE DOE AND THE ERC

21 SEC. 5. **Powers and Responsibilities of the DOE.** – In addition to its existing powers and
22 functions, the DOE shall have the overall responsibility of supervising and monitoring the
23 development of the Philippine downstream natural gas industry. Towards this end, the DOE
24 shall perform the following powers and functions:

25 (a) Prepare the Natural Gas Industry Development Plan (NGIDP) within two (2) years from
26 the effectivity of this Act, incorporating therein the plans submitted by public and private
27 stakeholders after open discussions and consultations with them. The NGIDP shall consist of
28 approved regasification, transmission and distribution development plans which shall be
29 integrated into the Philippine Energy Plan (PEP), and reviewed and updated every three (3)
30 years after its adoption;

31 (b) Establish standards on gas quality, facility installation and safety of operation. For this
32 purpose, a Philippine Inter-Agency Technical Committee (PIA-TC) shall be created by the
33 Bureau of Philippine Standards (BPS) to be chaired by the DOE. The PIA-TC shall have as
34 members the representatives of concerned government agencies and private industries. A
35 Philippine Inter-Agency Health, Safety, Security and Environment Inspection and Monitoring

1 Team (PIA-HSSE IMT) shall likewise be created to monitor and enforce compliance with
2 established standards;

3 (c) Evaluate applications and issue permits on the importation, exportation, receipt,
4 unloading, loading, storage, regasification of liquefied natural gas; transmission, distribution,
5 marketing, utilization, aggregation of natural gas; and the safe, secure, reliable and efficient
6 planning, construction, operation, expansion, modification, maintenance, decommissioning
7 and abandonment of the downstream natural gas industry infrastructure and facilities;

8 (d) Evaluate applications for permits or authorities to operate, including a Notice to
9 Proceed (NTP), a Permit to Construct, Expand, Rehabilitate and Modify (PCERM), and a
10 Permit to Operate and Maintain (POM) downstream natural gas projects and facilities,
11 accreditation to import, supply and transport natural gas, Acknowledgement to Import (ATI)
12 LNG and Acknowledgement to Supply and Transport (AST) natural gas;

13 (e) Review, suspend or revoke, after due notice and hearing, permits issued in accordance
14 with the preceding paragraphs (c) and (d) herein, and Section 12 of this Act after a finding of
15 non-compliance with the provisions of this Act, rules and regulations that shall be issued to
16 implement it, and related issuances;

17 (f) Issue a written approval on the assignment or transfer of interest on any permits issued
18 in accordance with Section 50 of this Act, after finding that the assignee or transferee has met
19 all the legal, technical, and financial qualifications and has committed itself to assume all
20 existing obligations of the permit holder, and such assignment or transfer is in accordance with
21 existing laws, rules, and regulations: *Provided*, That permits requiring the prior issuance of a
22 legislative franchise shall not be subject to assignment or transfer of interest;

23 (g) Issue, in coordination with the ERC and in consultation with other concerned
24 government agencies and the PDNGI participants, the Gas Transmission and Distribution
25 Codes, which shall contain the standards and best practices on safe, high-quality,
26 environmentally responsible and consumer protected operation and service, competitive
27 practices and reasonable rates of service;

28 (h) Endorse requests for investigation to the Philippine Competition Commission (PCC) of
29 any anti-competitive behavior in the conduct of any business under the downstream natural gas
30 industry;

31 (i) Issue directives to qualified government agencies, in their capacities as investing arms,
32 to spearhead the development of the PDNGI value chain as the DOE may deem imperative to
33 catalyze its development within a given timeline;

- 1 (j) Determine the qualifications and detailed responsibilities of the Natural Gas
2 Transmission System Operator (NGTSO) and Natural Gas Distribution Utilities (NGDUs)
3 pursuant to their responsibilities provided in this Act;
- 4 (k) Initiate actions against the NGTSO or NGDUs for failure to comply with the
5 qualifications and detailed responsibilities specified in this Act;
- 6 (l) Review and approve the natural gas supply and regasification development plan of the
7 regasification terminal owner or operator, natural gas transmission development plan of the
8 NGTSO, and the natural gas distribution development plans of the NGDUs, and integrate the
9 same into the PEP;
- 10 (m) Require the PDNGI participants to submit the regasification, transmission and
11 distribution development plans, and regular and special reports regarding the organization,
12 business, conduct, practices, and management of any business entity duly registered as part of
13 the downstream natural gas industry, subject to Section 20 hereof; and
- 14 (n) Exercise such other powers and functions as may be necessary or incidental to attain
15 the objectives of this Act. Subject to existing laws, rules and regulations, the DOE is hereby
16 authorized to create offices and appoint personnel as may be necessary to efficiently and
17 effectively implement this Act.

18 **SEC. 6. Powers and Responsibilities of the ERC.** – In addition to its existing powers and
19 functions, the ERC shall have the sole regulatory responsibility for establishing the rates and
20 related terms and conditions of service for the transmission and distribution, regasification and
21 supply of natural gas to the extent that such activities are regulated pursuant to the requirements
22 set forth in this Act. It shall:

- 23 (a) In the public interest, establish and enforce a methodology for setting transmission,
24 distribution, and supply rates, taking into account all relevant considerations, including the
25 efficiency or inefficiency of the regulated entities. The rates shall be to allow the recovery of
26 just and reasonable costs and a reasonable return to enable the entity to operate viably. The
27 ERC may, upon due notice and public consultation, adopt internationally accepted rate setting
28 methodology. The rate setting methodology so adopted and applied shall promote efficiency
29 and ensure a reasonable price or tariff, and the rates to be prescribed shall be non-
30 discriminatory. For this purpose, the ERC is hereby authorized to require from all participants
31 in the natural gas supply chain all necessary and appropriate records and documents relevant
32 to the determination of just and reasonable fuel cost used in power generation as recoverable
33 component of electricity cost to end-users;
- 34 (b) Regasification services and supply services shall be subjected to rate regulation when
35 there is no competing regasification operators;

- 1 (c) Apply administrative procedures that will ensure the constitutional right to due process;
- 2 (d) Before the end of April of each year, submit to the Office of the President of the
3 Philippines and Congress, copy furnished the DOE, an annual report containing such matters
4 or cases, which have been filed before or referred to it during the preceding year, the actions
5 and proceedings undertaken thereon and its decision or resolution on each case. The ERC shall
6 make copies of such report available to any interested party upon payment of a charge, which
7 shall reflect the printing costs;
- 8 (e) Publish in newspapers of general circulation all its cases and decisions involving rates;
- 9 (f) Create offices and appoint personnel thereto as may be necessary to efficiently and
10 effectively perform its functions as stipulated in this Act, subject to existing laws, rules and
11 regulations; and
- 12 (g) Exercise such other powers as may be necessary or incidental to attain the objectives of
13 this Act.

14 CHAPTER III

15 POWERS AND RESPONSONSIBILITIES OF GOVERNMENT AGENCIES

16 **Sec. 7. Powers and Responsibilities of the Department of Environment and Natural**
17 **Resources (DENR).** – In addition to its functions under Executive Order No. 192, otherwise
18 known as the “*Reorganization Act of the Department of Environment and Natural Resources*”,
19 the DENR shall, together with the DOE, determine and monitor compliance with the
20 environmental standards for the location, construction, improvement, expansion, operation,
21 rehabilitation, repair, maintenance, decommissioning, and abandonment of LNG terminals,
22 natural gas transmission systems, and all related equipment and facilities.

23 **Sec. 8. Powers and Responsibilities of the Department of Health (DOH).** – In addition to
24 its functions under Executive Order No. 317, Series of 1941, entitled, “*Organizing the*
25 *Department of Health and Public Welfare*”, as amended, the DOH shall, together with the
26 DOE, determine and monitor compliance with the health standards for the location,
27 construction, improvement, expansion, operation, rehabilitation, repair, maintenance,
28 decommissioning, and abandonment of LNG terminals, natural gas transmission systems, and
29 all related equipment and facilities.

30 **Sec. 9. Powers and Responsibilities of the Department of Trade and Industry-Bureau of**
31 **Philippine Standards (DTI-BPS).** – In addition to its functions under Republic Act No. 4109,
32 entitled, “*An Act to Convert the Division of Standards under the Bureau of Commerce into a*
33 *Bureau of Standards, to Provide for the Standardization and/or Inspection of Products and*
34 *Imports of the Philippines and for other Purposes*”, the DTI-BPS shall, together with the DOE,
35 determine, develop, formulate, promulgate, and revise, the Philippine National Standards for

1 natural gas transmission systems, and for natural gas, in its original or liquefied form, LNG
2 terminals, all related equipment and facilities.

3 **SEC. 10. Powers and Responsibilities of the Philippine Competition Commission (PCC).**

4 – All matters concerning abuse of market power, cartelization, and any anti-competitive or
5 discriminatory behavior shall be subject to the quasi-judicial powers of the PCC as provided
6 for under Republic Act No. 10667, otherwise known as the “*Philippine Competition Act*”.

7 **CHAPTER IV**

8 **STRUCTURE, OPERATION AND REGULATIONS OF THE**
9 **DOWNSTREAM NATURAL GAS INDUSTRY**

10 **SEC. 11. Structure.** – For purposes of this Act, the structure of the PDNGI value chain shall
11 consist of an LNG terminal and its related facilities, transmission, distribution pipelines and
12 their related facilities, storage and distribution-related facilities, and supply and transport of
13 natural gas.

14 **SEC. 12. Permits.** – The DOE shall have the power to issue, review, suspend and revoke for
15 cause, the permits necessary for the construction, expansion, rehabilitation, modification,
16 operation and maintenance of any PDNGI facility or activity. Own-use permit for natural gas
17 facilities shall be allowed for the exclusive use of the operator and its affiliates in the operation
18 of its facilities. The holder of an own-use permit shall still comply with the requirements in this
19 Act. Transmission and distribution of natural gas shall be exempted from franchise
20 requirement.

21 The owner and operator of an LNG terminal shall have the option to apply for both permits
22 and simultaneously perform the functions of an own-use LNG terminal permit holder, pursuant
23 to Section 35 of this Act, and a third-party access (TPA) LNG terminal permit holder pursuant
24 to Section 26 of this Act, to the extent of the capacity allowed by and during the period specified
25 in each type of permit.

26 **SEC. 13. Rate Regulation.** – The rate of charges and fees for the services of transmission or
27 distribution pipelines and their related facilities shall, when they function as public utilities, be
28 subject to the review and approval by the ERC. The rate methodology to be applied by the ERC
29 shall be based on the principle of full recovery of prudent and reasonable costs incurred,
30 including a reasonable return on rate base, or such other principles that will promote the
31 determination of just and reasonable rates that is consistent with the encouragement of private
32 investments and goal of developing a PDNGI infrastructure.

33 **SEC. 14. Compliance with Philippine Laws, Rules and Regulations.** – Operators or permit
34 holders of PDNGI facilities shall comply with all Philippine laws, rules and regulations
35 implemented by the different agencies of the government.

1 **SEC 15. Compliance with Standards.** – The DOE shall ensure that downstream natural gas
2 products are of high quality, and natural gas facilities provide efficient service, observe
3 stringent safety systems, accord attention to design details and structural integrity and employ
4 operational and maintenance best practices. Regulations shall be consistent with applicable
5 Philippine and internationally-accepted natural gas industry standards.

6 **SEC. 16. Confidential Information.** – The government shall not use confidential or
7 commercially sensitive information for purposes other than those provided herein and shall
8 protect and limit the disclosure of confidential or commercially sensitive information, unless
9 allowed by the operator or when required by laws, rules and regulations.

10 **SEC. 17. Authority to Obtain Information.** – The DOE, ERC and other concerned
11 government agencies may require any downstream natural gas player or permit holder, through
12 a valid order and with due regard to confidential information, proprietary data and trade secrets,
13 to furnish, within a reasonable period specified, all information and documents relating to all
14 such matters as to the permit, rates and operation of business and natural gas facilities, and
15 provide explanations on the information or document submitted, subject to Section 16 of this
16 Act. The failure of a PDNGI participant or permittee to provide the required information or
17 document without valid reason shall be punishable under this Act.

18 **SEC. 18. Supply of Natural Gas.** – Existing laws and rules governing the upstream natural
19 gas sector shall provide the government the option to sell directly or otherwise authorize a
20 service contractor to sell its share of the indigenous production. Accordingly, the Secretary of
21 Energy may, when natural gas supply conditions so require, direct the supply of such share of
22 indigenous production to the downstream natural gas sector.

23 The operator of an LNG-related facility shall likewise ensure the accommodation of both
24 indigenous and imported supply of natural gas. The DOE shall support and ensure the
25 implementation of any plan to upgrade an LNG terminal and its ancillary facilities into a hub
26 for international trading and trans-shipment.

27 Any entity engaged in the distribution of natural gas may engage in the supply of the same.

28 **SEC. 19. Abandonment of Downstream Natural Gas Facility.** – No holder of a permit for
29 the construction, installation, operation or maintenance of a downstream natural gas facility
30 shall abandon or withdraw from service any portion of said downstream natural gas facility or
31 project without obtaining prior authorization from the DOE. The DOE shall, in coordination
32 with the DENR, provide the guidelines and regulations for decommissioning and abandonment
33 of natural gas infrastructures and facilities.

34 **SEC. 20. Registration and Reportorial Requirements of Natural Gas Participants,**
35 **Facilities, Import, Export and Supply.** – Holders of permits for the construction, installation,

1 operation or maintenance of a downstream natural gas facility, including importers, exporters
2 and supplier and transporter of natural gas or LNG, shall be registered with the DOE.
3 Appropriate reportorial requirements shall likewise be required for proper supervision and
4 monitoring in accordance with the implementing rules to be issued subsequently.

5 **SEC. 21. Rules of Practice.** – All concerned government agencies shall issue the appropriate
6 rules of procedure to serve as guideline for administrative legal proceedings. The Rules of
7 Court shall apply in a suppletory manner.

8 **SEC. 22. Fees.** – All concerned government agencies shall have the authority to prescribe and
9 collect fees and charges relating to the issuance or review of permits, and the supervision and
10 regulation of the PDNGI.

11 **CHAPTER V**

12 **FRANCHISE REQUIREMENT**

13 **SEC. 23. Transmission and Distribution Pipeline and Related Facility as Public Utility.** –
14 Operators of transmission and distribution pipelines and their related facilities considered as
15 public utility shall be required to obtain a legislative franchise and a Certificate of Public
16 Convenience and Necessity (CPCN) from the ERC.

17 Operators of virtual pipelines and their related facilities, which are likewise considered as
18 public utilities, shall no longer be required a legislative franchise. However, such operators
19 shall be required to secure a CPCN from the concerned agency having appropriate jurisdiction
20 over them, in accordance with the provisions of Commonwealth Act. No. 146, otherwise
21 known as the “*Public Service Act*”, as amended.

22 **SEC. 24. Philippine Ownership Requirement.** – As required under Article XII, Section 11
23 of the Constitution, no franchise, certificate, or any other form of authorization of a public
24 utility shall be granted except to citizens of the Philippines or to corporations or associations
25 organized under the laws of the Philippines, at least sixty percent (60%) of whose capital is
26 owned by such citizens.

27 **SEC. 25. LNG Terminals Not a Public Utility.** – The operation of an LNG terminal shall not
28 be considered as a public utility operation. Hence, it shall be exempted from securing a
29 legislative franchise and a Certificate of Public Convenience and Necessity.

30 **CHAPTER VI**

31 **THIRD-PARTY ACCESS**

32 **SEC. 26. Third-party Access (TPA) Obligation.** – Available and uncommitted excess
33 capacity of an LNG terminal, transmission and distribution pipelines and related facilities shall
34 be made accessible to third-party users. The ERC shall, in coordination with the DOE and in

1 consultation with the PDNGI participants, ensure the full implementation of the TPA and shall
2 issue the TPA Code within one (1) year from the effectivity of this Act.

3 The DOE is hereby authorized to synchronize activities to optimize and stabilize the
4 utilization of existing infrastructure for the extraction, storage, and delivery of natural gas, such
5 as the Malampaya natural gas facilities, which shall be subject to the third-party access
6 provision in order to integrate the same with the PDNGI.

7 **SEC. 27. Available Capacity.** – A TPA shall apply only to the available and uncommitted
8 excess capacity of LNG terminal, transmission or distribution pipelines and their related
9 facilities, but excluding those constructed and operated under a dedicated use agreement or for
10 own use. The operators thereof shall conduct an open and sufficient consultation process with
11 both existing and potential third-party users to discuss the available capacity and other available
12 services.

13 To ensure safe and reliable operation, the operator shall determine, subject to the review and
14 recommendation by the DOE, the available and uncommitted excess capacity of the natural gas
15 facilities offered to third parties. The operator shall likewise allocate such excess capacity based
16 on the following criteria as they pertain to the third-party user:

- 17 (a) Proposed contract price and terms;
- 18 (b) Credit-worthiness;
- 19 (c) Availability of a functioning off-take facility;
- 20 (d) Ability to meet fuel specification parameters of the LNG facility; and
- 21 (e) Other relevant factors that may directly affect the allocation.

22 Non-availment by any third-party user of the excess capacity so allocated and offered shall
23 not be a ground for the denial or cancellation of any permit under this Act.

24 **SEC. 28. Third-party Access (TPA) Principles.** – Adherence to the principles of
25 transparency, fair competition, and safe practices is the key to the beneficial participation of
26 third-party users. In line with this, the following guiding principles shall be observed:

- 27 (a) Competition in the downstream natural gas industry must be encouraged because it
28 promotes efficiency and lowers costs and prices to the benefit of end-users;
- 29 (b) Investments in natural gas supply and infrastructure from both local and foreign sources,
30 which are otherwise prevented by actions of incumbent monopolistic companies shall be
31 earnestly pursued and supported;
- 32 (c) Benefits to be derived from the diverse and sustainable use of natural gas make it an ideal
33 tool of development;
- 34 (d) Participation of third parties in the downstream natural gas industry shall be anchored on
35 safe and measurable standards of service and practice;

1 (e) Open and sufficient consultation between permit holders or facility operators on the
2 available and excess capacity of natural gas is essential in the formulation of supply
3 agreements between permit holders or facility operators and third-party users;

4 (f) Transparency in business activities shall consistently be observed to spur confidence.
5 Pursuant thereto, permit holders or facility operators shall publish their available and
6 uncommitted excess capacity, access terms, and conditions, and allow the review and
7 inspection of their facilities and records to verify the same.

8 **SEC. 29. Congestion Management.** – Whenever the holder of a capacity is no longer able to
9 use or has not released the capacity without justifiable reason, the permit holder or the operator
10 of the facility shall have the authority to release and market the same. The procedure and
11 criteria of the release shall be part of the TPA Code. The government agency which shall have
12 an oversight function on this matter shall be designated in the TPA Code.

13 **SEC. 30. Approved Access Conditions and TPA Contracts.** – Prior to the conduct of
14 negotiations with third parties, the permit holder or the facility operator shall request the DOE
15 for the review and recommendation of its access conditions in accordance with the TPA Code.
16 All subsequent access contracts shall be reviewed and approved by the DOE.

17 **SEC 31. Infrastructure Development Period.** – To develop the TPA, the TPA Code shall
18 provide an infrastructure development period and the TPA shall become obligatory only
19 against the permit holder or facility operator if it can be demonstrated that there is already
20 sufficient demand necessary to justify the investment and sustain the additional operational
21 requirement. For this purpose, the DOE shall review and attest to the validity of supply and
22 demand outlook for natural gas.

23 **CHAPTER VII**

24 **STANDARDS ON FACILITIES, PRODUCT AND SAFETY PRACTICE**

25 **SEC. 32. Standards on LNG Ships and LNG Facility.** – All PDNGI facilities shall be
26 predicated to be of high quality and efficient service, observe stringent safety systems, accord
27 attention to design details and structural integrity and employ operational and maintenance best
28 practices. Regulations shall be consistent with both applicable Philippine and internationally-
29 accepted natural gas industry standards. The DOE shall ensure compliance with this
30 requirement.

31 **SEC. 33. Standards on Product Quality.** – The permit holder or operator shall maintain the
32 quality of gas supply to end-users in accordance with the Philippine and internationally
33 accepted standards and ensure that delivery of indigenous or imported LNG comply with the
34 purification requirements to ensure that associated compounds that are unnecessary or
35 damaging to the LNG regasification facility and other related natural gas facilities used for

1 storage, distribution and transportation of natural gas supply are eliminated. The DOE shall
2 ensure compliance with this requirement.

3 **SEC. 34. Standards on Safety Practice.** – The permit holder or operator shall implement an
4 acceptable health, safety, security and environment management system in accordance with
5 applicable Philippine and internationally accepted standards. The DOE shall ensure compliance
6 with this requirement.

7 **CHAPTER VIII**

8 **RESPONSIBILITIES OF THE PERMIT HOLDER OR OPERATOR**

9 **SEC. 35. Responsibilities of the Permit Holder or Operator.** – A permit holder or operator
10 shall have the following responsibilities:

11 (a) Align all its goals and objectives to the accomplishment of the declared policies of this
12 Act;

13 (b) Be directly responsible for the construction and operation of LNG facilities by providing
14 the necessary services, technology and financing, either by itself or through its duly authorized
15 subcontractors, without entitlement from the Philippine government to any reimbursement of
16 any expense incurred;

17 (c) Comply with applicable Philippine laws and regulations relating to tax, labor and
18 employment, health, safety, indigenous people's rights, environmental protection and
19 ecological preservation;

20 (d) Comply with the regulatory obligations, maintenance of complete records and submission
21 of all reportorial requirements and other documents as may be required by the DOE, ERC and
22 other government agencies pursuant to this Act and its implementing rules;

23 (e) Implement the natural gas project strictly adhering to the scope and limits of the permit and
24 operate in accordance with Philippine and international standards;

25 (f) Allow and facilitate, based on a valid order, the entry to the facility of the examiners of the
26 Bureau of Internal Revenue and the Bureau of Customs and allow them full access to accounts,
27 books, and records for tax and other fiscal purposes;

28 (g) Allow, based on a valid order, the entry of personnel of the DOE, ERC, PIA-HSSE IMT
29 and other government agencies to the facility and grant them full access to operational records
30 for inspection and monitoring activities;

31 (h) Give preference to qualified local talents for hiring and local companies or agencies in
32 entering into subcontracts on projects or services, which are required in the construction or
33 operation of the LNG facility;

34 (i) Hold the DOE, ERC, PIA-HSSE IMT and other government agencies or other affected
35 individuals free from all claims, demands or actions arising out of its failure to comply with

1 laws, regulations, standards, contracts, and permits in connection with accidents, damages, or
2 injuries which are beyond their control; and
3 (j) Observe in the regular operational meeting of the DNG-REC and in the development,
4 issuance and review of plans, protocols, standards and codes applicable to the natural gas
5 project.

6 **CHAPTER IX**
7 **INCENTIVES**

8 **SEC. 36. Fiscal Incentives.** – In recognition of the substantial investments needed for the
9 construction of, operation and maintenance of, and conversion to natural gas facilities, the
10 PDNGI value chain projects, as certified by the DOE, shall be included in the Strategic
11 Investment Priorities Plan (SIPP) for the next ten (10) years from the effectivity of this Act.
12 Entities engaged in said projects that are duly registered by any Investment Promotion Agency
13 (IPA) shall be entitled to all the incentives under Title XIII (Tax Incentives) of the National
14 Internal Revenue Code of 1997, as amended.

15 The sale of natural gas to locators inside the ecozone shall be subject to zero percent (0%)
16 Value-Added Tax (VAT), pursuant to the National Internal Revenue Code of 1997, as
17 amended.

18 **SEC. 37. Streamlined Regulatory Process.** – The operation of LNG terminals, natural gas
19 transmission systems, natural gas distribution systems, own-use LNG terminals, own-use
20 natural gas transmission systems, and own-use natural gas distribution systems shall be
21 considered as energy projects of national significance (EPNS) whose implementation shall not
22 be subject to unnecessary administrative processing delays pursuant to Executive Order No.
23 30, series of 2017. To be considered an EPNS, a project has to be endorsed by the DOE.

24 **SEC. 38. Withdrawal of Exemptions.** – To achieve the declared policies of this Act,
25 particularly in relation to the promotion of fair and non-discriminatory treatment of public and
26 private sector entities in the development of the PDNGI infrastructure, all existing tax
27 exemptions applicable to persons engaged in the transmission or the distribution of natural gas,
28 insofar as such exemptions relate to revenues derived from the transmission or the distribution
29 of natural gas, shall be deemed revoked upon the effectivity of this Act, any law to the contrary
30 notwithstanding.

31 **CHAPTER X**
32 **PROMOTION OF COMPETITION**

33 **SEC. 39. Anti-Competitive Behavior.** – No gas transmission utility, gas distribution utility or
34 supplier, or affiliate thereof, may engage in any anti-competitive behavior or abuse of market
35 power, specifically the prohibition against monopolies and combinations in restraint of trade

1 under Article 186 of the Revised Penal Code and Chapter III of the Philippine Competition
2 Act.

3 **SEC. 40. Functional and Structural Unbundling.** – All PDNGI participants shall
4 functionally and structurally unbundle their business activities and rates in accordance with the
5 particular sector. The ERC shall, within nine (9) months from the effectivity of this Act,
6 promulgate the unbundling rules and regulations.

7 **SEC. 41. Complaint and Investigation Procedures.** – The ERC shall, within nine (9) months
8 AFTER the effectivity of this Act, promulgate rules and regulations providing for a complaint
9 and investigation procedure that shall, without limitation, provide the party alleged to have
10 engaged in anti-competitive or abusive activities with notice and an opportunity to be heard.

11 **SEC. 42. Affiliated Suppliers.** – In order to prevent anti-competitive conduct, service
12 contractors, gas transmission utilities and gas distribution utilities that own or control affiliates
13 that are suppliers shall conduct their businesses, as follows:

14 (a) No preference shall be given to the affiliate supplier over other persons in contracting,
15 scheduling and balancing of available capacity, as well as curtailment, or the imposition of
16 tariffs;

17 (b) Marketing information provided to the affiliate supplier shall be provided to any non-
18 affiliated supplier that is a competitor or potential competitor;

19 (c) Employees of the affiliate supplier shall, to the maximum extent possible, function
20 independently in making business decisions; and

21 (d) Books of accounts and records of the affiliate supplier shall be maintained separately.

22 **CHAPTER XI**

23 **FINES AND PENALTIES**

24 **SEC. 43. Administrative Fines and Penalties.** - The following administrative fines and
25 penalties shall be imposed on any industry participant who violates the provisions of this Act:

26 (a) The permit issued by the DOE under Chapter IV, Section 12 of this Act, may be suspended
27 or revoked and the DOE shall impose upon the operator a fine of Fifty thousand pesos
28 (Php50,000.00) per violation of any provision under Chapter VIII, Section 35 of this Act,
29 without prejudice to other appropriate administrative fines and penalties that other relevant
30 government agencies may impose on the operator: *Provided*, That the schedule of fines
31 provided for in this Section shall be increased by the DOE every five (5) years.

32 (b) The permit issued by the DOE under Chapter IV, Section 12, may be suspended or revoked
33 upon the recommendation by the ERC and the operator may be charged by the ERC a fine of
34 Five hundred thousand pesos (Php500,000.00) per violation of any provision under Chapter

1 IV, Section 13 of this Act. This is without prejudice to other appropriate administrative fines
2 and penalties that other relevant government agencies may impose against the operator.

3 (c) Congress may, upon the recommendation of the DOE, ERC or other government agencies,
4 as the case may be, revoke such franchise or privilege granted to the party found in violation
5 of the provisions of this Act.

6 **SEC. 44. Criminal Fines and Penalties.** – Appropriate fines and penalties under existing penal
7 laws shall apply to any criminal violation associated in the implementation of this Act.

8 **CHAPTER XII**

9 **TRANSITORY PROVISIONS**

10 **SEC. 45. Existing Systems.** – Natural gas facilities that have been constructed prior to the
11 effectivity of this Act shall continue to be operated under their existing permits and shall
12 comply with additional requirements as may be applicable.

13 Suppliers who have entered into an NGSPA with end-users and have delivered indigenous
14 or imported natural gas prior to the effectivity of this Act shall continue to operate under the
15 said contracts, subject to compliance with the additional requirements in this Act.

16 **SEC. 46. Pending Application.** – All applications on any activity in the natural gas value chain
17 pending before the DOE upon the effectivity hereof shall be covered by this Act.

18 **CHAPTER XIII**

19 **FINAL PROVISIONS**

20 **SEC. 47. Assignment or Transfer of Interest.** – Assignment or transfer of interest of the
21 permit shall be allowed only upon prior written approval by the DOE based on acceptable
22 reasons and compliance by the operator, the assumption by the assignee of all obligations of
23 the former permit holder, and upon meeting the minimum legal, technical, and financial
24 qualifications of the transferee.

25 **SEC. 48. Consultation and Arbitration.** – All parties shall make their best efforts to amicably
26 settle any dispute arising from the performance or interpretation of any provision of this Act.

27 **SEC. 49. Natural Gas Oversight Commission.** - Upon the effectivity of this Act, a
28 congressional commission, hereinafter referred to as the "Natural Gas Oversight Commission",
29 is hereby constituted. The Natural Gas Oversight Commission shall be composed of ten (10)
30 members, with the Chairpersons of the Committee on Energy of the Senate and the House of
31 Representatives, as Co-Chairpersons, and four (4) additional members from each House, to be
32 designated by the Senate President and the Speaker of the House of Representatives,
33 respectively. The minority shall be entitled to pro rata representation but shall have at least one
34 representative in the Natural Gas Oversight Commission.

1 The Natural Gas Oversight Commission shall, in aid of legislation, perform the following
2 functions:

3 (a) Set the guidelines and overall framework to monitor the proper implementation of this
4 Act;

5 (b) Look into the appropriateness of creating a single independent regulatory body when
6 the conditions prevailing so require;

7 (c) Conduct a periodic review of this Act at least once every three (3) years;

8 (d) Determine inherent weaknesses in the law and recommend necessary remedial
9 administrative or legislative measures;

10 (e) Approve the budget for the programs of the natural gas of Oversight Commission and
11 all disbursements therefrom;

12 (f) Submit periodic reports to the President of the Philippines and Congress; and

13 (g) Perform such other powers and functions as may be necessary to attain its objectives.

14 To carry out its powers and functions, expenses incurred by the Natural Gas Commission
15 during the initial implementation of this Act shall be charged against the current appropriations
16 of the Senate and shall thereafter be included in the annual General Appropriations Act.

17 The Natural Gas Oversight Commission shall adopt its internal rules of procedure, conduct
18 hearings and receive testimonies, reports and technical advice, invite or summon by *subpoena*
19 *ad testificandum* any public official, private individual or any other person to testify before it,
20 or require any person by *subpoena duces tecum* to produce before it such records, reports,
21 documents or other materials as it may require, and generally exercise all the powers necessary
22 to attain the purposes for which it is created.

23 The Natural Gas Oversight Commission shall be assisted by a secretariat to be composed of
24 personnel who may be seconded from the Senate and the House of Representatives and may
25 retain consultants. The secretariat shall be headed by an executive director, who possesses a
26 sufficient background and competence on policies and issues relating to the downstream
27 natural gas industry.

28 **SEC. 50. Appropriations.** – The amount necessary for the implementation of this Act shall be
29 included in the annual General Appropriations Act.

30 **SEC. 51. Implementing Rules and Regulations.** – The DOE shall, in consultation with the
31 ERC, relevant government agencies such as the DENR, DOH, Department of Transportation
32 (DOTr), Philippine Ports Authority (PPA), DTI and Department of Finance (DOF), the PDNGI
33 participants, non-governmental organizations and end-users, promulgate rules and regulations
34 for the effective implementation of this Act within twelve (12) months AFTER the effectivity
35 of this Act.

1 SEC. 52. **Separability Clause.** – If for any reason, any provision of this Act is declared
2 unconstitutional or invalid, the other parts or provisions hereof, which are not affected thereby,
3 shall continue to be in full force and effect.

4 SEC. 53. **Repealing Clause.** – Any law, presidential decree or issuance, executive order, letter
5 of instruction, rule or regulation inconsistent with the provisions of this Act is hereby repealed
6 or modified accordingly.

7 SEC. 54. **Effectivity.** – This Act shall take effect fifteen (15) days after its publication in the
8 *Official Gazette* or in a newspaper of general circulation.

9 Approved,



19th Congress

COMMITTEE ON ENERGY

SUMMARY OF STAKEHOLDERS' COMMENTS ON THE HOUSE BILLS PERTAINING TO THE NATURAL GAS INDUSTRY

Department of Energy on HB Nos. 17, 29, 173, 3015, 4097, 4267, and 4615

- Delineation of Powers and Responsibilities between DOE and ERC: The DOE fully concurs with such a dichotomy of regulatory powers and responsibilities between the ERC and the DOE as reflected in HB No 17 and 29 with the DOE assuming entry and non-pricing regulation and ERC taking charge of price regulation.
- Structure, Operations and Regulations: For the downstream sector, a liberalized entry shall be encouraged to increase the supply of natural gas and promote competition, subject to the permitting requirement for all storage and distribution-related facilities, LNG terminal and other related ancillary facilities, gas suppliers, gas importers and supply and transport of natural gas and LNG of the DOE which includes the requirement to prove that the applicant is legally, financially and technically capable to operate such businesses. Nevertheless, the DOE should ensure that its permitting authority will not prove to be a barrier to the entry of players who wish to set up natural gas facilities and infrastructure in the country. On the other hand, for all transmission and distribution pipelines and related facilities shall be subject to the permitting requirement of the ERC.
In order to promote competition and the entry of new players, structural and functional unbundling and other similar mechanisms shall be adopted, if necessary.
- The DOE concurs to the provisions for LNG Terminals not be considered as a public utility operation and be exempted from securing a legislative franchise and a Certificate of Public Convenience and Necessity.
- Third Party Access: There is also a need to implement pro-competitive regulation which will include liberalizing entry into the industry, requiring non-discriminatory Third Party Access (TPA) to the available and uncommitted excess capacity of LNG terminal, transmission and distribution pipelines and their related facilities, but excluding those natural gas facilities constructed and operated under a dedicated use agreement or for own use to prohibit cartels and punishing abuse of market power and other practices that restrict, distort or prevent competition.
- Standard on Facilities, Product and Safety Practice: All Philippine Downstream Natural Gas Industry (PDNGI) operators and facilities shall be expected to observe stringent safety system and implement best practices and acceptable health, safety, security and environment (HSSE) program and management system from construction, operation and maintenance activities of the natural gas facilities including safety program and measures on property, workforce and the communities proximate to the location of the natural gas facilities. Regulations shall be consistent with both applicable Philippine National Standard (PNS) and internationally accepted natural gas industry standards.
- Incentives: Rules and regulations appropriate to the industry's present stage of development which allow for vertical integration to enable investors to secure their respective anchor loads and guarantee the stability and security of gas supply shall

be implemented. Moreover, these regulations should provide incentives for efficiency and facilitate the creation of a competitive gas market where prices are market driven.

- **Promotion of Competition:** Consistent with the objective of attaining economic efficiency, the regulatory framework shall include rules to promote competition and prevent anti-competitive conduct.

Department of Finance

- The proposed inclusion of the PDNGI chain in the SIPP for 10 years undermines the periodic review process on the grant of fiscal incentives enshrined in the Tax Code, as amended.
- The proposed zero percent VAT on the sale of natural gas to locators inside ecozones is inconsistent with the thrust of the government to broaden the tax base.
- The proposal to grant DOE authority to establish a set of fiscal incentives runs counter to the reforms instituted by the CREATE Act.
- Under RA No. 11659 or the Amendments to the Public Service Act, natural gas transmission system is not a public utility, hence, excluded from the constitutional restrictions on foreign investment.
- The rate regulation should provide sufficient safeguards to avoid passing on to consumers.

Department of Environment and Natural Resources

- **Biodiversity Management Bureau (BMB)**
 - On HBs No. 17, 29, and 3015:
 - There are no protected areas covered concerning the bills. Emphasized that the surrounding biodiversity of any areas which will be affected by the transmission and distribution of natural gas should be considered and assessed pursuant to relevant rules and regulations of the DENR. To consider DAO 2019-09 for updated list of threatened fauna and DAO 2017-11 for the threatened list of flora; and for BMB issued policies and guidelines on biodiversity such as the Biodiversity Assessment and Monitoring System (BAMS) Technical Bulletin 2016-05, Technical Bulletin 2017-09 and Technical Bulletin 2019-04.
 - On HB No. 173
 - Suggests the inclusion of environmental mitigating measures under Section 7 on the Exploration of Natural Gas side from the discussion of fund appropriation. Also suggests to provide a section on the role of the DENR and other concerned government agencies involving the extraction of natural gases.
- **Environmental Management Bureau (EMB)**
 - Suggests for inclusion in the consolidated version of the bills, a provision to the effect that compliance to applicable environmental laws being enforced by other government agencies shall be required of the covered establishments.
- **Legal Affairs Service (LAS)**
 - This office opines that the constitution of the Natural Gas Oversight Commission will be in conflict with the existing JCEC which exercises the same functions. Thus, it is submitted that the passage of HB No. 17 would effectively amend the function currently exercised by the JCEC.
- **Land Management Bureau (LMB)**
 - On HB No. 4615: Aside from the powers and responsibilities of the DENR, suggests that another provision be included requiring the owners or operators

of LNG terminal, transmission and distribution systems to secure an Environmental Compliance Certificate (ECC) from the DENR.

- **Policy, Planning and Foreign Assisted and Special Projects (PPFASP)**
 - On HB No. 4615, Section 7: On Powers and Responsibilities of the DENR, recommends that the Environmental Management Bureau (EMB) and Mines and Geosciences Bureau (MGB) can assist in determining the environmental standards that need to be observed.
 - On HB No. 4615, Section 19: On Abandonment of Downstream Natural Gas Facility, in relation to the guidelines and regulations, this Department will provide assistance, thus, suggests discussing this with the MGB as they may be able to share some best practices that could also be applicable in this industry.

Department of Trade and Industry

- Functions of the DOE/ERC: Revise to include the DTI – BPS in establishing standards on gas quality, facility and safety of operation.
- Incentives: The DTI recognizes the provisions which incentivize the construction, operation, maintenance and conversion of natural gas facilities as they aim to attract substantive investments to the sector. We are of the view, however, that the scope of the provisions on fiscal incentives is already addressed by R.A. No. 11534 or the CREATE Act. Notes that Section 300 of said law provides the requirements for sectors/industries that will qualify as priority sectors under the Strategic Investment Priority Plan (SIPP). As an alternative, provisions on fiscal incentives in the bills should refer to or be guided by R.A. No. 11534.
 - On HB Nos. 173 and 4267, Sec. 4(i): Notes that the fiscal incentives specified pertain to the exploration of natural gas only. We view that downstream activities should also be mentioned to fully achieve the objectives of the bill.
- Market Manipulation and Anti-Competitive Practices: Recommends a mechanism to monitor these activities, which can be clarified under the Implementing Rules and Regulations (IRR), once the bill is passed into law, to ensure compliance with the policy. Suggests that the Philippine Competition Commission (PCC) be included as an independent body to monitor anti-competitive behavior. As HB Nos. 17, 29, 4097, and 4615 propose the creation of a Natural Gas Oversight Committee (Sec. 49), recommends the following as one of its functions: to oversee anti-competitive behavior in the natural gas industry.

Department of Transportation on HB No. 3015, Sec. 4(t), (ff), and (gg), Sec. 5(d)(5), Sec. 7, Sec. 8(a) and (d), Sec. 9, Sec. 10, Sec. 19, Sec. 43

- Propose the addition of railways as one of the indicated means of transporting natural gas in anticipation of the future revitalization of our railway systems to accommodate national freight transportation operations.
- Additional comment on Sec. 10: Propose inclusion of the Philippine Coast Guard (PCG) as one of the expressly named attached agencies of the Department tasked with the issuance of appropriate guidelines, rules, permits, authorizations, etc. for marine vessels and facilities transporting, storing or processing the subject natural gas. Such inclusion is in line with the lawful function of the PCG as an enforcer of rules and regulations for the promotion of maritime safety, and local and international marine pollution regulations, including those expressed under the MARPOL conventions.

Department of Transportation on HB No. 3015, Sec. 4(t), (ff), and (gg), Sec. 5(d)(5), Sec. 7, Sec. 8(a) and (d), Sec. 9, Sec. 10, Sec. 19, Sec. 43

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Department of Transportation on HB No. 4267

- Propose that the provision on issuance of a permit to transport (Sec. 4(d)) liquefied natural Gas (LNG) and the determination of service areas (Sec. 9), may benefit from consultation and coordination with the Maritime Industry Authority (MARINA), Philippine Coast Guard (PCG), Land Transportation and Franchising Board, and Land Transportation Office, as these agencies are tasked with registration and licensing of vehicles, determination of routes to be used, and enforcement of respective maritime and road rules and regulations, among others.
- With regard to issuance of permits to construct natural gas facilities which may be located on shore and offshore, we likewise recommend consultation and coordination with the MARINA, PCG and Philippine Ports Authority (PPA) as they formulate and enforce rules and regulations with regards to natural gas facilities in marine areas.

Department of Transportation on HB No. 4615

- Propose inclusion of the PCG: (a) in Section 7, to assist in the determination and monitoring of compliance with environmental standards for the location, construction, improvement, expansion, operation, rehabilitation, repair, maintenance, decommissioning, and abandonment of LNG terminals, natural gas transmission systems, and all related equipment and facilities; and (b) as one of the expressly-named agencies to participate in the promulgation of Implementing Rules and Regulations (IRR) of the proposed bill.

The foregoing is based on PCG's mandate under MARPOL Conventions and existing laws to enforce, promulgate and administer rules and regulations for the protection of marine environment and resources.

- Similarly, the bill may benefit from consultation with the MARINA and PCG with regard to compliance with rules and standards concerning LNG transported by ships, and contained in floating plants, barges, storage and regasification units; and inclusion of the MARINA as one of the expressly-named agencies participating in the promulgation of IRR of the proposed bill.

National Economic and Development Authority on HBs No. 17 and 29

- On Sec. 37: Given the agreement of the EICC, the EVOSS Act may be considered in lieu of EO 30 in the processing of permits and other administrative requirements for natural gas projects.

National Economic and Development Authority on HB No. 17, 29 and 173

- Provide a clear distinction between the midstream and downstream segments of the natural gas industry.
- Suggest including the Department of Science and Technology (DOST) in the pool of government agencies to be vested with powers and responsibilities to ensure local development of new technologies and provide research and development (R&D) based solutions. In addition, we suggest adopting the provisions of Chapter III of HB No. 29 in the consolidated bill to ensure accountability of government agencies in the exercise of their mandates relative to the development of the Philippine Natural Gas Industry.
- **On Chapter IV: Consistent with the identified legislative priorities of the President, suggest including the development of midstream natural gas industry in the consolidated version of the HBs. The consolidated HB should clearly define and differentiate the different segments of the natural gas supply chain since they may require different regulatory frameworks and standards given the differences in their market structures.**
- **On Chapter X: Suggest defining levels of maturity for the natural gas industry by which the proposed law will use to determine acceptable competitive behavior in the industry. The nature of competition in an industry changes based on the prevailing structure and maturity of the market.**
- The proposed law should provide provisions setting the rules of competition within the industry at various levels of maturity. At the most mature level of the industry where the market is structured similar to the electric power industry, we recommend adopting applicable provisions under Section 45 (Cross Ownership, Market Power Abuse, and Anti-Competitive Behavior) of RA No. 9136 or the Electric Power Industry Reform Act of 2001 (EPIRA). Applicable provisions may include limitations on the following, among others:
 - Cross-ownership between the sub-segment of natural gas industry (e.g., between natural gas distribution and transmission utilities);
 - Capacity to be sourced by gas distribution utilities from their respective affiliated companies; and
 - Capacity that a company or related group can own, operate, or control considering the total natural gas capacity in the country.
- **On Chapter XII: The HBs provide a framework for the transition of the natural gas industry in the Philippines (i.e., specifically the downstream segment) from emerging into a mature industry within a competitive natural gas market. As filed, it appears that entering into bilateral contracts is the only trading method covered by the HBs. We deem that a mature natural gas market will be more competitive with the establishment of a wholesale natural gas spot market to encourage greater transparency and more competitive prices. Correspondingly, we recommend including provisions thereon in the consolidated HB.**

National Economic and Development Authority on HB Nos. 17, 29, 173, and 2317

- The charges and fees for the services of transmission or distribution pipelines and their related facilities shall be subject to the review and approval by the Energy Regulatory Commission (ERC) when they function as public utilities. The ERC will then apply the principle of full recovery of prudent and reasonable costs incurred as rate methodology to encourage private investments in the said facilities. To ensure reasonableness of the charges and fees, we suggest the law to require periodic review and recalibration thereof annually or as may be deemed necessary by the ERC and the Department of Energy (DOE).

Energy Regulatory Commission on HB Nos. 17, 29, 173, 3015, 4079, 4267, and 4615

- There must be a clear delineation of functions between the DOE and ERC. This is to provide further clarity for both agencies in order for them to properly exercise its respective functions.

- Consider granting an additional initial budget to the ERC. This will be utilized for the establishment of a new Liquefied Natural Gas (LNG) Operations Service, the creation of new plantilla positions, and the hiring of additional staff complement, if necessary. This is so the ERC can perform the additional functions given to it under the proposed bills.

- On HB No. 17, Sec. 49 and HB No. 4615, Sec. 49: It is the opinion of the ERC that there is no necessity in the establishment of another congressional commission, specifically the “Natural Gas Oversight Commission”, which shall perform essentially similar oversight functions as the Joint Congressional Energy Commission which has the jurisdiction to exercise oversight functions in the implementation of all existing energy laws.

- On HB Nos. 17, 29, 4097, and 4615:

- The Commission proposes the deletion of the term Distribution system since there is a separate definition for Natural gas distribution system.
- The Commission would like to respectfully point out that Sec. 26. Third-Party Access (TPA) Obligation states that “Available and uncommitted excess capacity of an LNG terminal, transmission and distribution pipelines and related facilities shall be made accessible to third-party users while the definition limits the TPA to LNG Terminal and its related facilities.
- The Commission suggests that the following be defined:
 - Natural gas supply and regasification development plan
 - Terminal owner or operator
 - Natural gas transmission development plan
 - Natural gas distribution development plan
- On Sec. 6: The Commission would like to seek clarification on the process of determining if there are competing regasification operators.
- On Sec. 10: The Commission would like to seek clarification on the delineation of functions between ERC and PCC in determining matters concerning abuse of market power, cartelization, and any anti-competitive or discriminatory behavior, as this is also a mandate of ERC by virtue of the EPIRA. The Commission suggests that the above-enumerated matters be under the sole jurisdiction of PCC.
- On Sec. 12: The Commission would like to clarify the following matters:
 - Is an own-use permit required for construction, expansion, rehabilitation, modification, operation and maintenance of LNG terminal, transmission system and distribution system or is the same applicable to LNG terminal only?
 - Is the TPA only applicable to LNG terminal or is it also applicable to transmission and distribution system?
 - Would the TPA rate for LNG terminal be subjected to regulations by the ERC?
- On Sec. 13: The Commission would like to point out that under Sec. 6. of the Bills, it states that, “*xxx ERC shall have the sole regulatory responsibility for establishing the rates and related terms and conditions of service for the transmission and distribution, regasification and supply of natural gas to the extent that such activities are regulated pursuant to the requirements set forth in this Act.*” However, in this section, only the charges and fees for the services of

transmission or distribution pipelines and their related facilities shall be subject to the review and approval by the ERC.

- On Sec. 19: The Commission would like to clarify if decommissioning equates to abandonment? If not, the Commission would like to suggest the addition of “Decommissioning” in the title of Section 19 to separate the meaning of decommissioning from abandonment.

As such, the Commission suggests that decommissioning and abandonment be defined or differentiated, whichever is applicable.

- On Sec. 23: The Commission would like to confirm if the transmission and distribution system with TPA needs legislative franchise and CPCN.
- On Sec. 25: The Commission would like to confirm if the LNG Terminal with TPA needs legislative franchise and CPCN.
- On Sec. 34: The Commission respectfully suggests the inclusion of other government agencies in the monitoring of the compliance on Safety Practices.
- On Sec. 41: The Commission respectfully submits that complaints to be lodged with the ERC shall be limited to those covered by the power and responsibilities attached to it as indicated in the proposed bills.
- On HB Nos. 173 and 4267:
 - Title: The Commission notes that the Natural Gas Industry has three major components: upstream, midstream, and downstream. If the subject of these Acts is the transmission, distribution, and supply of natural gas, which is the downstream natural industry, it is respectfully suggested that the same be reflected in the title.
 - On Sec. 3(e): The Commission respectfully suggests that the Committee consider the inclusion of a scientific or technical definition of Liquefied Natural Gas, such as the one provided under HB No. 3015.
 - On Sec. 4: The Commission notes that Natural Gas Terminals are classified as falling under the midstream natural gas industry, therefore, the ERC suggests that the Committee consider focusing on the transmission, distribution, and supply of the natural gas.
 - On Sec. 4(b): The Commission respectfully suggests that the Committee reconsider providing a mechanism to determine the price of electricity covered by bilateral contracts between sellers and purchasers of natural gas being implemented by the Commission

The Commission notes that bilateral contracts pertaining to the supply of electricity, regardless of the technology of the power plant and fuel, are already subject to the Commission’s approval under the EPIRA Law.

With regards to the price determination methodology being referred to in Sec. 4(b), the Commission would like to clarify if the same pertains to the methodology of determining market prices for the supply of natural gas in the future or to the supply of electricity using natural gas. If this pertains to the supply of electricity from the market, the Wholesale Electricity Market (WESM) already provides for the supply of electricity to electric distribution utilities and large load customers, which uses its own ERC-approved price determination methodology.

○ On Sec. 5(a): The Commission respectfully seeks clarification on whether or not natural gas per se is considered a regulated product, and consequently, requires that the Commission establish a rate-setting methodology for its supply?

Secondly, as to the proposed standards on gas quality, facility installation, and safety of operation, the Commission seeks clarification as to whether it is being mandated to establish separate rules to govern the same.

As a general comment, the Commission respectfully requests for further clarity on the delineation of functions between the DOE and the ERC, to ensure performance of the same.

With the regulatory function of rate-setting for the supply, transmission and distribution of natural gas being expressly given to the ERC, there should also be a corresponding provision allowing ERC to create a new service specifically for natural gas, and new plantilla positions to perform the functions as required. Similarly, the bills must likewise provide for the corresponding budget for the operation of the said new service.

○ On Sec. 6(a): The Commission respectfully requests for clarification as to the intention of the said provision, if the intention is to regulate imported natural gas per se.

The Commission also respectfully requests for clarification if the intention is for the owner of the LNG terminal to be separate from the importer of LNG or user of such LNG terminal? The Commission notes that this may create a barrier to entry of investment and may be considered a disincentive to invest in these facilities. The same clarification is sought for own use LNG terminals.

○ On Sec. 6(b): The Commission respectfully seeks clarification on whether the proposed bills seek to bestow upon the DOE quasi-judicial powers to conduct public hearings. The Commission respectfully suggests that setting applications or petitions for hearing be included under the powers and functions of ERC considering that it already has quasi-judicial powers under the EPIRA.

○ On Sec. 9: The Commission respectfully seeks clarification whether the service area mentioned in Section 9 of the proposed bills is equivalent to a franchise area, which can be given authority by the DOE

Considering that the intent is for both authorizations for the service area (franchise area) and Certificate of Public Convenience and Necessity (CPCN) to be granted by a single entity (DOE), the Commission respectfully suggests to combine the authorizations/certificates by just issuing a single service area authorization.

○ On Sec. 10: The Commission would like to seek clarification on the delineation of functions between the ERC and PCC in determining matters concerning abuse of market power, cartelization, and any anti-competitive or discriminatory behavior, as this is also a mandate of ERC by virtue of the EPIRA. The Commission suggests that the above-enumerated matters be under the sole jurisdiction of PCC.

○ On Sec. 11(b): The Commission respectfully notes that before it may be empowered or authorized to conduct an audit/inspection or examination of all accounts, records, and memoranda of natural gas companies, the latter must first submit to the Commission's jurisdiction via the filing of an application or petition involving the matters or information subject of the same.

- On HB No. 3015:
 - On Sec. 2(b): The Commission respectfully suggests for the Committee to delete the phrase “and complementary fuel to variable renewable energy” since natural gas cannot be a complementary fuel for variable RE.
 - On Sec 3: Revisions are proposed to recognize the need to distinguish the industry component for midstream and downstream natural gas – all offshore activities will be for midstream industry players and onshore activities will be for downstream industry players. This distinction shall likewise apply to all similarly worded provisions in this bill such as Section 4(r).
 - On Sec. 4(b): The Commission respectfully suggests this provision to distinguish the same from the concept of Ancillary Service in the electric power industry.
 - On Sec. 4(f): The Commission respectfully suggests for the Committee to define a separate capacity term for LNG Terminal (in volume) and for Natural Gas Transmission System.
 - The Commission respectfully suggests for the Committee to consider delete the word “cubic” for the flow rate since flow rate measurement is based on flow of natural gas in meter per second.
 - On Sec. 4(p): The Commission notes that the LNG Terminal Regulated Third Party Access Code is not only applicable to a rTPA LNG Terminal Holder but also to an own use LNG Terminal Permit holder with a third party based on paragraph (ii) of the same provision or regulated third party access under the contractual arrangement between the following:
 - (a) An own use LNG terminal permit holder and a third party pursuant to a declaration of unutilized capacity by the DOE in accordance with the LNG Terminal Regulated Third Party Access Code; and
 - (b) An own use LNG terminal permit holder and its affiliate, under paragraph (ee).
 - On Sec. 4(q): The Commission respectfully seeks clarification on who is considered as a midstream end-user.
 - On Sec. 4(t): The Commission likewise respectfully seeks clarification on the following points:
 1. How is the resale of natural gas operationalized? Does resale of natural gas pertain to reselling of natural gas in its original or liquefied form to retail customers, similar to LPG Refillers?
 2. Is the end-user who utilizes natural gas as input to create or produce another commodity considered as an end-user of natural gas for own use?
 3. What kind of end-users requiring retail quantities of natural gas are contemplated or considered by the proposed bill to be exclusions from the definition of midstream end-user?
 - On Sec. 4(w): The Commission respectfully seeks clarification as to the intent behind the inclusion of the costs of decommissioning and abandonment of the system in the natural gas transmission fee. The Commission notes that the costs of decommissioned assets are excluded from the asset base of the transmission utility, and therefore, the same should no longer be part of the transmission fee.
 - On Sec. 4(bb): The Commission observed that under paragraph (p), the LNG Terminal Regulated Third Party Access Code is only applicable to an rTPA LNG Terminal Permit holder, however, in paragraph (bb), it is provided that the LNG Terminal Regulated Third Party access code is also applicable to an own use LNG Terminal permit holder.

○ On Sec. 4(kk): The Commission respectfully seeks clarification on the intent behind the reserve price for the natural gas transmission fee. Why is there a bidding process for the Transmission Fee, when the transmission utility's rates are supposed to be regulated, hence, it must be determined based on the allowable revenue requirement to be determined by the regulator, to keep them whole and viable, just like in the case of the regulated utilities in the power industry like NGCP and electric distribution utilities?

○ On Sec. 6(k): The Commission respectfully seeks clarification on why is there a bidding for the Transmission Fee, when it should be determined based on its revenue requirement.

○ On Sec. 6(l)(2)(ii): Please see previous comment/clarification on Reserve Price (Sec.2[kk]).

○ On Sec. 22: Please see previous comment/clarification on Reserve Price (Sec.2[kk]).

○ On Sec. 26: The Commission respectfully seeks clarification on the following points:

1. How will Sections 26 (a) and 27 (a) be operationalized and who will be liable?

2. Will this be different from the current civil service rules?

○ On Sec. 33: Please see general comment on the need for additional initial budget for the proposed establishment of the ERC – LNG Operations Service and consequently, creation of new plantilla positions in relation to the same.

PNOC Exploration Corporation on HB No. 17

- On Sec. 12: Is the DOE's decision with regard to its power to issue, suspend, and revoke for cause, the permits necessary for the construction, expansion, rehabilitation, modification, operation and maintenance of any PDNGI facility or activity, appealable?

- On Sec. 13: Is the ERC the sole rate-fixing authority? Will ERC's decisions be appealable to the DOE?

PNOC Exploration Corporation on HBs No. 17 and 29:

- On Sec. 18: Rephrase, *"The operator of an LNG – related facility shall likewise ensure the accommodation of both indigenous and imported natural gas"* to *"Operators of LNG-related facilities, and natural gas transmission and distribution pipelines, shall likewise ensure the accommodation of both indigenous and imported natural gas."*

Philippine Coast Guard on HB No. 4097

- Recommends the inclusion of the PCG by reason of its mandate to protect marine environment. It has, by law, functions on maritime safety and marine environmental protection. Presently, it is responsible for inspecting vessels for MARPOL (MARPOL Convention) requirement compliance as well as being the agency that sets the waste management of vessels especially those carrying materials or chemicals that may pollute the seas and ocean. Furthermore, it inspects chemical and fuel companies and the like that are situated along coasts or large bodies of water like the Pasig River. These are conducted to see that any installation the stores chemicals or substances along large river banks or along coasts have equipment needed to respond to any leak and basic clean up apparatus. Compliance is necessary to ensure that the marine environment is protected in any eventuality. It is also the duty of the PCG to check that such industries when located along coasts or beside large rivers or lakes to have their own contingency plan for containment,

clean up and immediate response leaks or spills. It is important that these industries possess plans that will protect and maintain a sustainable marine environment. To this extent, the PCG issues permits and clearances for those who are compliant to the requirements set forth by the PCG.

Gas Policy Development Project 2 on HB No. 17

- Include also that “natural gas” is transitional energy source from fossil fuel to renewable energy, and it will bridge the gap in transitioning to renewable energy.”
- On Sec. 2(a), rephrase “...promote natural gas as...” as “...promote the use of natural gas as...”, recognizing the benefits of natural gas are contingent on its proper utilization.
- On Sec. 2(c), include the existence of PDNGR and mention the PDNGI value chain through a rephrasing (i.e. “...through the issuance of regulatory policies based on PDNGR, the localized codes and standards for products, facilities and its operations based on Philippine National Standards (PNS), and plans and programs geared towards...”
- On Sec. 2(d), change “machines” to “equipment” in “...promote the conversion of existing fossil-fuel operated machines...”
- On Sec. 2(f), change “...with international and Philippine health, safety, security, environment (HSSE) standards...” to “...with the Philippine Downstream Natural Gas standards on health, safety, security, and environment...”
- On Sec. 2(j), rephrase “development of end-uses of” and “...and transport that...” as “...development of power and non-power end-uses of...” and “...and transport applications...”, respectively, to emphasize the power and non-power applications of natural gas.
- (If not yet done), definition of terms be reviewed and confirmed by DOE for purpose of consistency in defining technical terms and its use.
- Include the official definition from the DOE for Philippine Downstream Natural Regulation or PDNGR.
- On Sec. 5(b), rephrase “...facility installation and safety of operation...” to “...facility installation, safety and security of operation, and environmental preservation...” to codify alignment with (health, safety, security, and environment) HSSE principles.
- Suggest to include the following critical agencies which GPDP identified during the project:
 - BFP (Bureau of Fire Protection)
 - Marina, PCG, and PPA
 - DOLE – BWC
 - Also, to define the role of LGU as they play a big role in the permitting and monitoring process.
- On Sec. 11: Include regasification which should be defined as a major part of the terminal on the PDNGI value chain.
- On Sec. 11: As defined by PDNGR DC2017-11-0012, the PDNGI value chain includes regasifiers/vaporizers under LNG Terminal.

Gas Policy Development Project 2 on HB No. 29

- On Sec. 2(a), rephrase “...promote natural gas...” as “...promote the use of natural gas as...”, recognizing the benefits of natural gas are contingent on its proper utilization.
- On Sec. 2(j), rephrase “development of end-uses of” and “...and transport that...” as “...development of power and non-power end-uses of...” and “...and transport applications...”, respectively, to emphasize the power and non-power applications of natural gas.
- On Sec. 5(b), indicate clearly if the PIA – HSSE IMT will also be by the DOE.
- On Sec. 5(b), add “notify” or a similar word to make DOE’s role in deterring anti-competitive behavior more proactive and not just waiting for requests to come from a 3rd party

(i.e. “Notify the Philippine Competition Commission and endorse requests for investigations of any anti-competitive behavior...”)

- On Sec. 5(b), rephrase, “...facility installation and safety operation...” to “...facility installation, safety and security of operation, and environmental preservation...” to codify alignment with (health, safety, security, and environment) HSSE principles.
- On Sec. 43(a): On Sec. 43(a), increase Php 50,000 fine to further compel compliance.
- Does this mean the Act will have a retroactive application? If not, clarify to say that the Act will be applicable to them moving forward with their application.
- On Sec. 49(j), define “periodic reports” further to make it specific. How often will this be submitted? What will it contain? Differentiate from periodic review mentioned in Sec. 49(c).
- On Sec. 51, before the “PDNGI participants,” include Local Government Units.

Gas Policy Development Project 2 on HBs No. 17 and 29

- On Chapter IX: Consider also incentives for the utilization of natural gas in accordance with Sec. 2(a-b) such as provision of grid security to enable more intermittent RE resources in the power grid, and other power end-uses that fulfill the energy trilemma of energy security, equity, and environmental sustainability.

Gas Policy Development Project 2 on HB No. 173

- Part of the policies and objectives should be to ensure the public health, safety, security, and environmental protection in the implementation of natural gas projects.
- Consider aligning objectives with the energy trilemma of energy security, energy equity, and environmental sustainability.
- On Sec. 4(a), the DOE will also need to spearhead along with the BPS, DENR, and other government agencies the adoption of global codes and standards to ensure health, safety, security, and protection of the environment in the construction, operation, and decommissioning of LNG facilities in the country.
- On Sec. 4(c), the DOE will need to establish the rules of procedure for permit applications in consideration of encouraging Ease of Doing Business by streamlining the application process.

Philippine IPP Association on HB No. 3015

- On Sec. 3: PIPPA suggests that the midstream natural gas be a defined term. What is the delineation of the midstream vis-à-vis with the upstream and downstream.
- On Sec. 4(y): Is the Natural Gas Transmission System Operator part of the Midstream Gas Industry or Upstream Gas Industry?
- On Sec. 4(bb): Are Generating Companies utilizing Natural Gas, prohibited from owning the storage facility?
- On Sec. 5(c): PIPPA suggests to include also the Power Development Plan.
- On Sec. 21: Will there be an Open Access for the said pipeline? Can the said pipeline be reclassified for competitive purposes? What happens if the NGTSO acquires such pipeline for transmission?
- On Sec. 23: Can a GenCo be an affiliate of the NGTSO?
- On Sec. 28: The grant of incentives has been commercially proven time and again to be an effective means to attract investments especially in sectors that are nascent, inherently risky, capital-intensive and/or technology-heavy. Furthermore, savings realized from incentives directly translate to cheaper prices for end-users and consumers. In this regard, authors of the Bill could consider including direct and indirect incentives as enumerated in the next column.

- A. PDNGI projects, as certified by the DOE, shall also be entitled to the following incentives provided by other relevant agencies:
 - (i) Investments to convert facilities from oil to gas shall be deemed tax deductible;
 - (ii) Foreign and Philippine-flag vessels calling ports in the Philippines for the purposes of delivery, transshipment, reloading and fueling shall be exempted from port fees, including arrastre, wharfage, terminal handling charges, customs clearance, processing, handling, and documentation fees;
 - (iii) Zero Percent Value-Added Tax Rate – the sale of natural gas shall be subject to zero percent (0%) Value-Added Tax (VAT), pursuant to the National Internal Revenue Code of 1997, as amended;
 - (iv) LNG terminals, natural gas transmission systems, natural gas distribution systems, own use LNG terminals, own use natural gas transmission systems, and own use natural gas distribution systems shall be entitled to zero-rated value added tax on their purchases of local supply of goods, properties and services needed for the development, construction and installation of their facilities;
- B. Other indirect incentives are as follows:
 - (i) Streamlined Regulatory Process. – LNG terminals, natural gas transmission systems, natural gas distribution systems, own use LNG terminals, own use natural gas transmission systems, and own use natural gas distribution systems shall be considered as Energy Projects of National Significance (EPNS) to be endorsed by the DOE, which enjoy a streamlined regulatory process under Executive Order No. 30, series of 2017.

First Gen Corporation

- In Sec. 4, Definition of Terms of Capacity: Suggests for the definition of “*Capacity*” to refer to a more common unit of measurement, such as “standard cubic meter per time or in energy unit per time unit”.
- Incentives for Natural Gas Industry: Suggests the consideration of provisions such as a Fuel Mix Policy or other measures to help ensure that a relevant share of natural gas is achieved, consistent with the goals and plans of the Philippine Energy Plan (PEP).
- Clarifying 0% VAT for the sale of natural gas to locators inside ecozones: Sec. 36 would be supportive of developing the use of a new fuel source within important ecozones. We wish to clarify if this incentive would also apply to electricity generated using natural gas and used within ecozones, as well.

Energy World Corporation Ltd. on HB No. 17 and 29, Section 49

- The EWCL preferred the commission’s name indicated in HB No. 17, Section 49: Natural Gas Oversight Commission because it specifically determined the industry, which is natural gas, compared to HB No. 29, Section 49: Joint Congressional Energy Commission which is vague and broad in scope. Moreover, the former has provided the specific composition of its members. The oversight commission is necessary to ensure the proper implementation of this act since there are various government departments/agencies involved.

Energy World Corporation Ltd. on HB No. 17, 29, and 173

- EWCL respectfully submits that the role of PIA-TC be clarified on whether it has the rule-making authority or purely for monitoring purposes. Also, since there is an immediate need for new energy sources, the creation of a unified system for the purpose of permitting compliance will fast-track all natural gas power plant projects as there are several government departments involved.

Energy World Corporation Ltd. on HB No. 173

- EWCL recommends the inclusion of a section about the appropriation of funds for developing the Philippine Natural Gas Industry as enunciated in the titles of HB No. 4267 and HB No. 4615.

There is no provision in these bills that stated the appropriation of government funds, hence, it is recommended that it must be included.

Energy World Corporation Ltd. on HB No. 4097

- EWCL respectfully submits that the provisions contained in Chapter III were broad and subject to different interpretations. Hence, it is ideal if the powers and responsibilities of these supporting government agencies were more detailed to specify whether they have rule making authority of for monitoring purposes only. It is inconvenient for the private sector to look beyond the law and check several administrative orders for compliance with various government agencies involved in the development and production of the natural gas industry. The One-Stop Shop just like the Energy Virtual One-Stop Shop (EVOSS) for the power industry streamlining the permitting process shall be adopted in order to speed up the process.

Also, in HB No. 3015, it was proposed that the DOE shall convene and co-chair with DTI – BPS a technical working group composed of relevant government agencies and private stakeholders. The said proposal shall be duly noted and be included in the duties of DTI – BPS to assist with quality control and consistency in policy making.

- On Sec. 21: The word “guideline” by definition is the information intended to advise people on how something is done or what something should be (Cambridge Dictionary). The guideline is never mandatory.

If there is a dispute and the guideline is not strictly enforceable, the Rules of Court shall apply in a suppletory manner. Thus, EWCL recommends that the rules of procedure for administrative legal proceedings shall be created specifically for the natural gas industry to avoid vagueness in the application of the law.

Furthermore, in its comment on HB No. 4097 dated 13 September 2022, EWCL recommends that a specific procedure to address reliefs and grievances be promulgated and that an appropriate government unit be given jurisdiction to hear and try cases for administrative matters in the natural gas industry. A sole administrative agency that shall resolve potential disputes involving the upstream, midstream, and downstream natural gas is ideal as it will lessen the load on various government agencies involved so the private sector will not be misguided if rules of procedure be specifically provided. Moreover, this will avoid conflicting memorandums and orders from different government agencies involved in monitoring and development of the energy sector.

Aboitiz Power

- The Substitute Bill should be entitled “Natural Gas Industry Act” to prevent confusion between the technical definition of “Downstream” and “Midstream”.

- On Definition of Terms:

HB Nos. 17 and 4615; 29 and 4097; and 3015:

- Definition of Anti-Competitive Behavior – add reference to Implementing Rules and Regulations of the PCA.

- Definition of Permits/Permit Holder – to clarify that activities may be done separately, replace “and” with “or”.

- On Powers and Responsibilities of DOE: Notes that the question as to which government agency has jurisdiction to hear and decide on anti-competitive behavior has not been decided by the Supreme Court. The EPIRA and the Philippine Competition Act granted the ERC and the PCC, respectively, such jurisdiction. Until the jurisdiction issue has been finally settled, both the ERC and PCC may hear cases involving anti-competitive behavior. For purposes of the LNG bills, we wish to clarify if the preference is to specify which agency will have jurisdiction. If there is no such preference, then it may be better to include reference to both agencies or to the "relevant government agency" could be reflected.

Furthermore, both the PCC and ERC already have extensive rules on what constitutes anti-competitive behavior, so it is better to let the government agencies make their own determinations, applying their own rules instead of incorporating LNG-specific rules. We propose to delete items (1) and (2).

- On Powers and Responsibilities of ERC:

- o On HB Nos. 17, 29, 4097, and 4615, Sec. 6: There is a need to understand how the market of regasification and supply services will be defined to understand parameters when the government agencies will consider there is no competitor.

- o On HB No. 3015, Sec. 6: We believe that both the PCC and ERC already have extensive rules on investigations on any anti-competitive behavior so the inclusion of this item (Sec. 6(n)) is unnecessary.

- On importation of natural gas:

- o On HB Nos. 173 and 4267, Sec. 6, and HB No. 3015, Sec. 13: For terminals and imports conducted prior to the enactment of the law, transitory provisions should be included to ensure that necessary permits, etc. will be processed.

- On LNG Terminal Owner and Operator:

- o On HB No. 3015, Sec. 15: From a legal perspective, it is not advisable that the separate entities with different roles (i.e., operator, owner) be treated as a single entity. This poses a risk, among others, that the liabilities of one of the entities could be enforced against the other entity, who is not at fault.

- On Authority to Obtain Information:

- o HB Nos. 17, 29, 4097, and 4615, Sec. 17: The Authority to Obtain Information, while subject to confidentiality obligations, is too broad, and disregards a party’s right to invoke privilege or confidentiality. The right of government to request information from parties should not extend to ability of the government agencies to disregard confidentiality restrictions. In fact, depending on the assessment of the relevant party and upon advice of counsel, disclosure of certain information may be considered as self-incriminating. Clearly, government agencies, through requests for information, should not be able to compel parties from disclosing such information, as this act is unconstitutional.

- On Constructions, Extension or Abandonment:

- o HB Nos. 173 and 4267: For the “construction” – should this be qualified with “without the approval of the DOE who shall have the exclusive authority to approve or deny an application thereof.”

- On Prohibition of Market Manipulation:

- o HB Nos. 173 and 4267, Sec. 10: This determination of market manipulation has been lodged by relevant laws with PCC or ERC. Suggests deleting this provision and have the PCA or EPIRA apply accordingly.

- On Access to Accounts, Records, and Other Data:
 - o HB No. 173 and 4267, Sec. 11: Similar to the other HBs, it is advised that any confidential and proprietary information shared with ERC under this provision should remain and be kept confidential by the ERC.
- On Transmission and Distribution Pipeline and Related Facility as Public Utility:
 - o HB Nos. 17, 29, 4615 and 4097, Sec. 23: This provision may be in conflict with the recent amendment of the Public Service Act, since it excluded petroleum distribution pipelines from the enumeration of public utilities. With the passage of R.A. No. 11659, the term "public utility" has been limited to public service that operates, manages, or controls for public use any of the following: (a) Distribution of Electricity; (b) Transmission of Electricity; (c) Petroleum and Petroleum Products Pipeline Transmission Systems; (d) Water Pipeline Distribution Systems and Wastewater Pipeline Systems, Including Sewerage Pipeline Systems; (e) Seaports; and (f) Public Utility Vehicles.

However, we understand that R.A. No. 11659 also provides mechanisms for inclusion of certain services as Public Utilities. All concessionaires, joint ventures, and other similar entities that wholly operate, manage, or control for public use the aforementioned sectors shall be treated as public utilities as well.

- On Natural Gas Transmission Systems:
 - o HB No. 3015, Sec. 22: Revise to refer to arms' length transactions to avoid arbitrary determinations by regulators. Arm's length principle requires that a transaction with a related party be made under comparable conditions and circumstances as a transaction with an independent party.
- On Public Access Information:
 - o HB No. 3015, Sec. 30: It is advised that this provision be qualified also by Sec. 31 (Treatment of Confidential Information) to ensure the protection of any confidential and proprietary information.
- On Promotion of Competition:
 - o HB Nos. 17, 29, 4097, and 4615, Sec. 39: A proviso should be included to the effect that when a franchise is provided by the government agencies, then such business should not be considered an act in violation of the relevant laws.
- On Functional and Structural Unbundling:
 - o HB Nos. 17, 29, 4097, and 4615: What does functionally and structurally unbundle mean? Being involved, having interests in each segment of the business should not be prohibited so long as no anti-competitive behavior is committed.
- On Oversight Commission:
 - o For the Congressional Oversight to be with JCEC than to create a new Commission.