

Republic of the Philippines

Department of Environment and Natural Resources

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MEMORANDUM

FOR

The Directors

Legal Affairs Service

Policy and Planning Service Climate Change Service

The Bureau Directors

Environmental Management Bureau Biodiversity Management Bureau

Land Management Bureau

Ecosystems Research and Development Bureau

FROM

The Director

Legislative Liaison Office

SUBJECT

REQUEST FOR COMMENTS RE: DOE DRAFT BILL ON THE

DOWNSTREAM NATURAL GAS INDUSTRY FROM THE

PRESIDENTIAL LEGISLATIVE LIAISON OFFICE

DATE

20 April 2023

In reference to the Focus Group Discussion conducted on 09 March 2023 on the proposed bill entitled "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," we are requesting comments/recommendations on the Draft bill. Kindly send them on or before April 28, 2023, at 5 PM via email at denr.gov.ph for submission to the Department of Energy (DOE).

Attached herewith are the letter and the Draft Bill for your reference.

ROMIROSE B. PADIN



Republic of the Philippines Office of the President PRESIDENTIAL LEGISLATIVE LIAISON OFFICE

MEMORANDUM

FOR

CONCERNED HEADS OF DEPARTMENTS/AGENCIES

ATTENTION

DEPARMENT/AGENCY LEGISLATIVE LIAISON OFFICER

SUBJECT

REQUEST FOR COMMENTS ON THE CONSOLIDATED COMMON DRAFT ON THE DEVELOPMENT OF THE PHILIPPINE DOWNSTREAM NATURAL GAS INDUSTRY

DATE

13 March 2023

With reference to the recently concluded Focused Group Discussion held last 9 March 2023 on the proposed bill entitled "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 have the honor to request for your intercession and kind intervention on your agency's submission of its comments to the DOE on or before 17 March 2023 (Friday), through the following email addresses:

DOE

sgarin@doe.gov.ph / mfroa@doe.gov.ph

PLLO (copy furnished):

pllo hrep@pllo.gov.ph / rmbrosales@pllo.gov.ph

Should you have any queries, your Office may reach Mr. Raymond Rosales at phone number (+63) 917 841 8673.

I hope for your preferential attention regarding this matter, and look forward to the continued cooperation of our offices.

With the assurances of my highest consideration.

ITO H. GUANLAO Undersegretary

Presidential Legislative Assistant PLL0/- House of Representatives

Copy:

Undersecretary SHARON S. GARIN

Department of Energy Energy Center, 34th St., Rizal Drive Bonifacio Global City, Taguig City, Philippines



Republic of the Philippines HOUSE OF REPRESENTATIVES Quezon City

NINETEENTH CONGRESS

First Regular Session

House	BIII No.	
Introduced by	REP	·

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

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

- SEC. 2. Declaration of Policy. It is hereby declared the policy of the State to:
 - (a) Promote the use of natural gas as a safe, environment-friendly, efficient, cost-effective and transitionary energy source that shall bridge the gap in transitioning from fossil fuel to renewable energy, and a complementary fuel source to variable renewable energy sources by establishing the Philippine Downstream Natural Gas Industry (PDNGI) for the benefit of all segments of the nation's population and all sectors of its economy;
 - (b) Promote natural gas as the bridge fuel, which has tremendous potential to displace coal and oil use, and meet the increasing local demand for fuel, and the development of the Philippines as a Liquefied Natural Gas (LNG) trading and transshipment hub within the Asia-Pacific Region, while the renewable

;

- (i) Ensure transparent and reasonable price of natural gas and rates for its importation, storage and regasification, transmission and distribution in a regime of open and fair competition and full public accountability that shall promote greater operational and economic efficiency and enhanced competitiveness of the Philippine products in the global market;
- (j) Develop the necessary trades, technical expertise and skills to support the PDNGI; and
- (k) Facilitate the development of power and non-power end-uses of natural gas including the use of natural gas as fuel for power, commercial, industrial, residential and transport applications that promote fuel diversity and compliance with existing environmental laws.
- **SEC. 3. Scope**. This Act shall provide a framework for the development of the PDNGI and its transition from emerging industry into mature industry status within a competitive natural gas market, and define the responsibilities of various government agencies and private entities in furtherance of this national goal.

It shall likewise apply to the permitting, securing of location, construction, operation, improvement, expansion, modification, maintenance, repair, rehabilitation, decommissioning and abandonment of downstream natural gas facilities.

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

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

- (a) Affiliates refer to the corporate relationships of two or more persons, one of whom either owns or controls or is being controlled by other persons. As used herein, "control" shall mean the power to direct or cause the direction of management policies as an inherent part of decision-making power;
- (b) Anti-Competitive Behavior refers to the practices and agreements in violation of the provisions of Republic Act No. 10667, otherwise known as the "Philippine Competition Act";

- (PNS) or the standards developed by the International Organization for Standardization (ISO);
- (n) Natural Gas Supply This activity refers to the procurement and delivery of Natural gas from indigenous production facility or from LNG importation to the Philippine Downstream Natural Gas Industry;
- (o) Natural gas distribution utility refers to any person engaged in the operation of a natural gas distribution system providing services for general public use;
- (p) Natural gas sales and purchase agreement or NGSPA refers to any contract or agreement for the delivery and sale of indigenous or imported natural gas by and between sellers, suppliers, buyers and end-users;
- (q) Natural gas transmission utility refers to a natural or juridical person operating or is intending to operate a gas transmission system except own-use pipelines;
- (r) Participant refers to a natural or juridical person who engages in any of the activities, operation and management of Downstream Natural Gas Industry. A Participant may refer to a Supplier, Bunker Trader, Regasification Operator, Transmission System Utility Operator, Distribution System Utility Operator, own-user and an end-user:
- (s) Permit refers to an authorization issued by the DOE for the importation, construction, commercial operation and maintenance of natural gas facilities;
- (t) Permit holder or operator refers to a natural or juridical person who is granted a permit by the DOE to engage in the importation, construction, commercial operation and maintenance of natural gas facilities;
- (u) Permit refers to an authorization issued by the DOE for the importation, construction, commercial operation and maintenance of natural gas facilities;
- (v) Philippine Downstream Natural Gas Industry or PDNGI refers to all Downstream Natural Gas Industry participants and their affiliates involved in activities pertaining to natural gas supply for bunkering or domestic storage and regasification, transmission, distribution, and use. It shall likewise refer to the operation and management of all downstream natural gas facilities which include, among others,

modification, maintenance, repair, or rehabilitation, decommissioning and abandonment, whichever is applicable. the plan shall likewise include all studies, programs and policies for the promotion and development of the distribution sector;

- (bb) Philippine Downstream Natural Gas Transmission Code or PDNGTC refers to the code formulated by the DOE which shall set the technical performance standards for operating a conventional transmission system and the minimum financial standards for such service;
- (cc) Philippine Downstream Natural Gas Transmission System or PDNGTS refers to a system of conventional pipelines and their ancillary facilities extending from the delivery points where the system receives the natural gas from the indigenous upstream source or from LNG storage and regasification terminal to the point of connection where the downstream natural gas distribution system receives the gas;
- (dd) *Philippine Energy Plan* or *PEP* refers to the overall energy program formulated and updated yearly by the DOE and submitted to Congress pursuant to Republic Act No. 7638, otherwise known as the "Department of Energy Act of 1992", as amended;
- (ee) Philippine LNG Storage and Regasification Terminal Code or PLSRTC refers to the code formulated by the DOE which shall set the technical performance standards for operating an LNG Storage and Regasification Terminal and the minimum financial standards for such service;
- (ff) Philippine LNG Storage and Regasification Terminal Development Plan refers to a comprehensive plan prepared and submitted to the DOE by owner/operator of all existing, committed, and indicative LNG storage and regasification terminal projects containing, among others, information on their locations, construction, operation, improvement, expansion, modification, maintenance, repair, or rehabilitation, decommissioning and abandonment, whichever is applicable, the plan shall likewise include all studies, programs and policies for the promotion and development of the regasification sector;
- (gg) Rates refer to the payment on the utilization of the capacity and use of other services offered by the permit holder or operator of the storage, regasification, transmission and distribution pipeline;

Philippine Standards of the Department of Trade and Industry. For this purpose, a Philippine Inter-Agency Technical Committee (PIA-TC) shall be created by the Bureau of Philippine Standards (BPS) to be chaired by the DOE and co-chaired by the DTI-BPS. The other permanent members of the PIA-TC shall be comprised of representatives from MARINA, PPA, PCG, DENR, DOLE, BFP, DOH, Downstream Natural Gas Industry Participants and academe;

A Philippine Inter-Agency Health, Safety, Security and Environment Inspection and Monitoring Team (PIA-HSSE IMT) shall likewise be created to monitor and enforce compliance with established standards to be chaired by the DOE and co-chaired by the DENR. The other permanent members of the PIA-TC shall be comprised of representatives from MARINA, PPA, PCG, DENR, DOLE, BFP, DOH and DILG;

- (c) Evaluate applications and approve permits for the construction, operation, improvement, expansion, modification, maintenance, repair, rehabilitation, decommissioning and abandonment of downstream natural gas facilities. Further, evaluate and approve supplier accreditation. For this purpose, the DOE shall issue the corresponding guideline within six (6) months from the effectivity of the Implementing Rules and Regulations of this Act;
- (d) Review, suspend or revoke, after due notice and hearing, permits issued in accordance with the preceding paragraphs (c) herein, and Section 13 of this Act after a finding of non-compliance with the provisions of this Act, rules and regulations that shall be issued to implement it, and related issuances;
- (e) Issue a written approval on the assignment or transfer of interest on any permits issued in accordance with Section 42 of this Act, after finding that the assignee or transferee has met all the legal, technical, and financial qualifications and has committed itself to assume all existing obligations of the permit holder, and such assignment or transfer is in accordance with existing laws, rules, and regulations;
- (f) Issue in consultation with other concerned government agencies and the PDNGI participants, the Natural Gas Transmission and Distribution Codes, the LNG Storage and Regasification Terminal Code, and the TPA Code, which shall

- SEC. 6. Powers and Responsibilities of the ERC. The powers of the ERC shall be limited to its rate regulatory function under Chapter IV of Republic Act No. 9136, otherwise known as "The Electric Power Industry Reform Act of 2001", as amended, in the generation, transmission and distribution of power generated from natural gas resources. It shall create offices and appoint personnel thereto as may be necessary to efficiently and effectively perform its functions as stipulated in this Act, subject to existing laws, rules and regulations.
- Sec. 7. Powers and Responsibilities of the Department of Environment and Natural Resources (DENR). In addition to its functions under Executive Order No. 192, otherwise known as the "Reorganization Act of the Department of Environment and Natural Resources", the DENR shall, together with the DOE and the Philippine Coast Guard (PCG), determine and monitor compliance with the environmental standards for the location, construction, improvement, expansion, operation, rehabilitation, repair, maintenance, decommissioning, and abandonment of LNG terminals, natural gas transmission and distribution systems, and all related equipment and facilities; Provided, That all of the natural gas projects covered in this Act shall not be allowed in the following:
 - (a) Protected areas categorized and established under the National Integrated Protected Areas System (NIPAS) under R.A. No. 7586, as amended by the Expanded National Integrated Protected Areas System (E-NIPAS) under R.A. No. 11038;
 - (b) Globally significant marine biodiversity hotspots, not yet included in the such as the Verde Island Passage;
 - (c) Prime agricultural lands, in addition to lands covered by R.A. No. 6657, or the Comprehensive Agrarian Reform Law of 1988, as amended, including plantations and areas devoted to valuable crops, and strategic agriculture and fisheries development zones and fish refuge and sanctuaries declared as such by the Secretary of the Department of Agriculture (DA);
 - (d) Tourism development areas, as identified in the National Tourism Development Plan (NTDP); and

SEC. 11. Referral to the Philippine Competition Commission (PCC). – All matters involving or suspected by ERC to involve anti-competitive agreements or abuse of market power shall be referred to the PCC for investigation and adjudication. Where the act or acts to be referred to the PCC are highly technical in nature, the ERC shall assist the PCC in its inquiry and analysis of the facts.

CHAPTER III

STRUCTURE, OPERATION AND REGULATIONS OF THE DOWNSTREAM NATURAL GAS INDUSTRY

- **SEC. 12. Structure**. For purposes of this Act, the PDNGI shall consist of the following sectors: Natural Gas Supply, LNG Bunkering, LNG Storage and Regasification, Conventional Transmission and Distribution Systems, Virtual Transport Systems, ancillary facilities, and end-users.
- **SEC. 13**. **DOE Permits**. The DOE shall have the power and responsibility to evaluate applications and approve the permits necessary for the construction, expansion, rehabilitation, modification, operation and maintenance, improvement, repair, decommissioning and abandonment of any PDNGI facility or activity. Further, the DOE shall evaluate and approve supplier accreditation. Own-use permit for natural gas facilities shall be allowed for the exclusive use of the operator and its affiliates in the operation of its facilities the holder of an own-use permit shall still comply with the requirements in this Act.

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

- **SEC. 14. Compliance with Philippine Laws, Rules and Regulations.** Operators or permit holders of PDNGI facilities shall comply with all Philippine laws, rules and regulations implemented by the different agencies of the government.
- SEC 15. Compliance with Standards. The DOE shall ensure that downstream natural gas products are of high quality, and natural gas facilities provide efficient service, observe stringent safety systems, accord attention to design details and

- SEC. 19. Abandonment of Downstream Natural Gas Facility. No holder of a permit for the construction, installation, operation or maintenance of a downstream natural gas facility shall abandon or withdraw from service any portion of said downstream natural gas facility or project without obtaining prior authorization from the DOE. The DOE shall, in coordination with the DENR, provide the guidelines and regulations for decommissioning and abandonment of natural gas infrastructures and facilities.
- **SEC. 20.** Administrative Rules and Procedures. The DOE shall issue the administrative rules and procedure for the discharge of administrative cases and imposition of administrative fines and penalties. The Rules of Court shall apply in a suppletory manner.
- **SEC. 21**. **Fees**. All concerned government agencies shall have the authority to prescribe and collect fees and charges relating to the issuance or review of permits, and the supervision and regulation of the PDNGI.

CHAPTER IV

CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

- SEC. 22. Transmission and Distribution System and Related Facility as Public Utility. Operators of Conventional Transmission and Distribution Systems operating as public utilities shall be required to obtain a Certificate of Public Convenience and Necessity (CPCN) from the DOE. The rate of charges and fees for their services shall only be subject to the principles of transparency and competitiveness to ensure that the access by the general public is non-discriminatory.
- SEC. 23. LNG Terminals Not a Public Utility. The operation of an LNG terminal shall not be considered as a public utility operation. Hence, it shall be exempted from securing a legislative franchise and a Certificate of Public Convenience and Necessity.

CHAPTER V THIRD-PARTY ACCESS

SEC. 24. Third-party Access (TPA). – Access to available and uncommitted excess capacity of an LNG storage and regasification terminal, transmission and distribution

;

(d) The TPA shall be anchored on a safe, secure, reliable and efficient operation for both the Participant and the third-party users; and

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- (e) The determination of available and excess capacity shall be subject to a transparent and sufficient consultation among the Participant and the prospective third-party users and DOE's verification and confirmation.
- (f) Transparency in business activities shall consistently be observed to spur confidence. Pursuant thereto, permit holders or facility operators shall publish their available and uncommitted excess capacity, access terms, and conditions, and allow the review and inspection of their facilities and records to verify the same.
- **SEC. 27**. **Congestion Management.** Whenever the holder of a capacity is no longer able to use or has not released the capacity without justifiable reason, the permit holder or the operator of the facility shall have the authority to release and market the same. The procedure and criteria of the release shall be part of the TPA Code. The government agency which shall have an oversight function on this matter shall be designated in the TPA Code.

CHAPTER VI

STANDARDS ON PRODUCT QUALITY, FACILITY, AND SAFETY PRACTICE

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

Applications for the issuance of DOE permits and continued conduct of any Downstream Natural Gas activity and operation of facility shall be subject to continuous compliance to standards.

SEC. 29. Standards on Product Quality. – The permit holder or operator shall maintain the quality of gas supply to end-users in accordance with the Philippine and internationally accepted standards and ensure that delivery of indigenous or imported LNG comply with the purification requirements to ensure that associated 17

- (g) Allow, based on a valid order, the entry of personnel of the DOE, ERC, PIA-HSSE IMT and other government agencies to the facility and grant them full access to operational records for inspection and monitoring activities;
- (h) Give preference to qualified local talents for hiring and local companies or agencies in entering into subcontracts on projects or services, which are required in the construction or operation of the LNG facility;
- (i) Hold the DOE, ERC, PIA-HSSE IMT and other government agencies or other affected individuals free from all claims, demands or actions arising out of its failure to comply with laws, regulations, standards, contracts, and permits in connection with accidents, damages, or injuries which are beyond their control; and
- (j) Participate in the development, issuance and review of plans, protocols, standards and codes applicable to the Downstream Natural Gas Industry.

CHAPTER VIII INCENTIVES

SEC. 32. Fiscal Incentives. – In recognition of the substantial investments needed for the development, construction of, operation and maintenance of, and conversion to natural gas facilities, all other activities in relation to the PDNGI value chain projects, as certified by the DOE may be included in the Strategic Investment Priority Plan (SIPP), subject to Section 300 of the National Internal Revenue Code of 1997, as amended, in accordance to a timeline that is aligned to the Philippines' energy transition and based on the latest climate science. Entities engaged in said projects that are duly registered by any Investment Promotion Agency (IPA) shall be entitled to the incentives provided under Title XIII (Tax and Duty Incentives) of the National Internal Revenue Code of 1997 (NIRC), as amended by RA No. 11534, otherwise known as the "Corporate Recovery and Tax Incentives for Enterprises (CREATE) Act". However, the registered projects shall also be entitled to VAT and duty exemptions as provided under Section 294 of the NIRC during the construction period.

SEC. 33. Withdrawal of Exemptions. – To achieve the declared policies of this Act, particularly in relation to the promotion of fair and non-discriminatory treatment of public and private sector entities in the development of the PDNGI infrastructure, all

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CHAPTER X

FINES AND PENALTIES

- **SEC. 38. Administrative Fines and Penalties.** The following administrative fines and penalties shall be imposed on any industry participant who violates the provisions of this Act:
- (a) The permit issued by the DOE under Chapter III, Section 13 of this Act, may be suspended or revoked and the DOE shall impose upon the operator a fine ranging from Ten Thousand Pesos (Php10,000.00) to Three Hundred Thousand Pesos (Php300,000.00) without prejudice to other appropriate administrative fines and penalties that other relevant government agencies may impose on the operator: *Provided*, That the schedule of fines provided for in this Section shall be increased by the DOE every five (5) years for violation of:
 - i. Standards on LNG ships and LNG facility issued pursuant to Section 28
 - ii. Standards on product quality issued pursuant to Section 29
 - iii. Standards on safety practice issued pursuant to Section 30
 - iv. Responsibilities of the Permit Holder or Operator pursuant to Section 31
 - v. Downstream Natural Gas Transmission and Distribution Codes, LNG Storage and Regasification Terminal Code, and TPA Code
 - vi. Orders or directives of the doe in the implementation of this Act.
- (b) The administrative penalty for Section 34 shall be pursuant to Section 29 of the PCA.
- SEC. 39. Criminal Fines and Penalties. Appropriate fines and penalties under existing penal laws shall apply to any criminal violation associated in the implementation of this Act.

CHAPTER XI

TRANSITORY PROVISIONS

SEC. 40. Existing Systems. – Downstream Natural gas facilities that have been constructed prior to the effectivity of this Act shall continue to be operated under their existing permits and shall comply with additional requirements as may be applicable.

Suppliers who have entered into an NGSPA with end-users and have delivered indigenous or imported natural gas prior to the effectivity of this Act shall continue to

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- **SEC. 45. Appropriations.** The amount necessary for the implementation of this Act shall be included in the annual General Appropriations Act.
- **SEC. 46. Implementing Rules and Regulations.** The DOE shall, in consultation with relevant government agencies, the PDNGI participants, non-governmental organizations and end-users, promulgate rules and regulations for the effective implementation of this Act within twelve (12) months after the effectivity of this Act.
- **SEC. 47. Separability Clause.** If for any reason, any provision of this Act is declared unconstitutional or invalid, the other parts or provisions hereof, which are not affected thereby, shall continue to be in full force and effect.
- **SEC. 48. Repealing Clause.** Any law, presidential decree or issuance, executive order, letter of instruction, rule or regulation inconsistent with the provisions of this Act is hereby repealed or modified accordingly.
- **SEC. 49. Effectivity.** This Act shall take effect fifteen (15) days after its publication in the *Official Gazette* or in a newspaper of general circulation.

Approved,



Republic of the Philippines Department of Environment and Natural Resources

Document Action Tracking System Document Routing Slip

Document No:

LLO-2023-000393-A

Print Date:

Tuesday, April 25, 2023

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ROMIROSE B. PADIN

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DENR

Subject

MEMO DTD 04/25/2023 MEMO DATED 4-20-2023 REQUEST FOR COMMENTS RE DOE DRAFT BILL ON THE DOWNSTREAM NATURAL GAS INDUSTRY FROM THE PRESIDENTIAL LEGISLATIVE LIAISON OFFICE

Addressee(s):

AS - Records Management Division (DENRCO - AS RMD), CCS - Office of the Director (DENRCO-CCS), LAS - Office of the Director (DENRCO - LAS OD), PPS - Office of the Director (DENRCO - PPS OD)

CC Addressee(s):

Date/Time Received: 04/25/2023 09:39:00 AM Memo 335

	ROUTING AND ACTION INFORMATION				D ACTION INFORMATION
	FROM	DATE/TIME RECEIVED	FOR/TO	DATE/TIME RELEASED	ACCEPTANCE REMARKS/ACTION REQUIRED/TAKEN REMARKS/STATUS
		04/25/2023 09:37:38 AM	LLO		Date: 04/25/2023 09:39:51 AM To: From: Guerrero, Everly J. Message: MEMO FOR DIR. LEGAL/PLANNING/CLIMATE CHANGE/EMB/BMB/LMB AND ERDB DATED 4-20-2023 SGD DIR. PADIN EMAIL SENT - 4-25-2023
L	LO		DENRCO - AS RMD	04/25/2023 09:40:02 AM	

Red 2'n Means No. 2003 -