

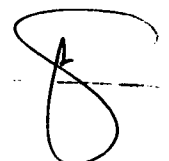
NINETEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
Third Regular Session)

Office of the Secretary

25 JAN 22 P 6:32

SENATE
S.B. No. ~~2943~~

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Introduced by SEN. WIN GATCHALIAN

**AN ACT AMENDING REPUBLIC ACT NO. 9511, ENTITLED "AN ACT
GRANTING THE NATIONAL GRID CORPORATION OF THE PHILIPPINES A
FRANCHISE TO ENGAGE IN THE BUSINESS OF CONVEYING OR
TRANSMITTING ELECTRICITY THROUGH HIGH VOLTAGE BACK-BONE
SYSTEM OF INTERCONNECTED TRANSMISSION LINES, SUBSTATIONS AND
RELATED FACILITIES, AND FOR OTHER PURPOSES"**

EXPLANATORY NOTE

On December 1, 2008, Republic Act No. 9511, otherwise known as "An Act Granting the National Grid Corporation of the Philippines (NGCP) a Franchise to Engage in the Business of Conveying or Transmitting Electricity through High Voltage Backbone System of Interconnection Transmission Lines, Substations and Related Facilities and for Other Purposes" (RA 9511) was enacted, granting the NGCP the franchise "to operate, manage and maintain, and in connection therewith, to engage in the business of conveying or transmitting electricity through high voltage back-bone system of interconnected transmission lines, substations and related facilities, system operations, and other activities that are necessary to support the safe and reliable operation of the transmission system and to construct, install, finance, manage, improve, expand, operate, maintain, rehabilitate repair and refurbish the present nationwide transmission system of the Republic of the Philippines."

To date, there has been a number of incidents which put to question NGCP's capability to comply with its obligations under Republic Act No. (RA) 9136, otherwise known as the Electric Power Industry Reform Act of 2001, RA 9511, and other related orders, rules and regulations. In addition, the NGCP's dividend policy remains questionable amid its struggle to complete some transmission projects, including potential threats to national security.

In a Senate hearing, the NGCP stated that the bulk – or 75% to 99% of its net income made in 2014, 2015, 2017, and 2019 – were paid out as dividends to shareholders. In 2014, NGCP's dividends exceeded its net income with P24 billion issued to shareholders even though it only earned P22 billion. Since 2009, NGCP has earned P286 billion. Of this amount, P208 billion had been distributed as dividends to shareholders.¹

In 2019, it was reported that China's State Grid Corporation has a 40% stake in the NGCP. The same report claimed that Chinese engineers had access to "key elements of the system, and that power could in theory be deactivated remotely on Beijing's orders."²

In 2022, the Energy Regulatory Commission (ERC) has asked the NGCP to explain why it should not be penalized for its failure to comply with existing policies designed to ensure enough power reserves when power plant capacities decline. In its order dated September 15, 2022, the ERC asked the NGCP to explain why no administrative penalty should be imposed for its failure to comply with a Department of Energy circular on contracting ancillary services. Such services are necessary to support the uninterrupted transmission of electricity from power plants to end users.³

On April 27, 2023, the NGCP reported a system disturbance in the Visayas grid, causing a loss of 322.3 MW and power interruptions that persisted until April 30 and lasting

¹ Ralf Rivas. *EXPLAINER: How China got into the Philippines' power grid*. Rappler. May 29, 2023. <<https://www.rappler.com/business/explainer-ngcp-how-china-got-philippines-power-grid/>>

² James Griffiths. *China can shut off the Philippines' power grid at any time, leaked report warns*. CNN. November 26, 2019. <<https://edition.cnn.com/2019/11/25/asia/philippines-china-power-grid-intl-hnk/index.html>>

³ Jordeene B. Lagare. *NGCP ordered to explain lack of power reserve deals*. Philippine Daily Inquirer. September 19, 2022 <<https://newsinfo.inquirer.net/1666482/ngcp-ordered-to-explain-lack-of-power-reserve-deals>>

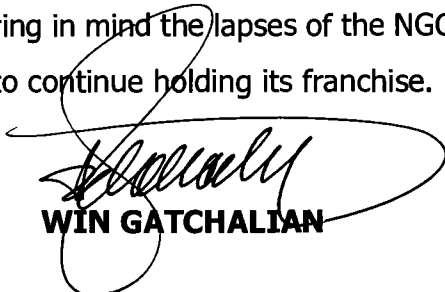
up to 12 hours in the islands of Panay, Guimaras, and Negros, affecting over 1.5 million households.⁴

On May 8, 2023, the NGCP reported red and yellow alerts in the Luzon grid due to a tripping of the Bolo-Masinloc 230kV Line 2, leading to the tripping of 2 units of the Masinloc Coal Power Plant which, in turn, caused power loss of 659 megawatts (MW) in the Luzon grid. The following day, the Manila Electric Co. (Meralco) reported power supply cuts due to a temporary system imbalance caused by a sudden plant outage.⁵

On January 2, 2024, a massive blackout hit Panay Island, and Iloilo City is estimated to have lost around between P400 million to P500 million daily – or P 1.5 billion in three days – following the blackout.⁶ The prolonged power outages in Panay Island have forced the suspension of classes in at least 733 public schools.⁷

Despite the delay of NGCP transmission projects, the costs of such infrastructure buildup are already being passed-on in the monthly electric bills of consumers, which aggravate their financial burden.⁸

As a measure to penalize the NGCP, to curb its bloated dividends despite its failure to maintain a “brownout-free” operation of the grid, and to instill discipline in its present and future leadership, this measure seeks to remove the system operation function from the franchise of the NGCP along with its special tax privilege of a franchise tax of 3% in lieu of other taxes, as well as to introduce provisions to strengthen government and congressional oversight, bearing in mind the lapses of the NGCP and pending further review of NGCP’s worthiness to continue holding its franchise.



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⁴ Wilnard Bacerlona. *Senate panel eyes review of NGCP franchise amid frequent outages*. Philippine News Agency. May 15, 2023. <<https://www.pna.gov.ph/articles/1201519>>

⁵ *Ibid.*

⁶ Jennifer Rendon. *Blackout: Iloilo losing up to P500 million daily*. The Philippine Star. 5 January 2024. <<https://www.philstar.com/headlines/2024/01/05/2323533/blackout-iloilo-losing-p500-million-daily>>

⁷ *Ibid.*

⁸ Myma M. Velasco. *ERC vows sanctions vs NGCP on over 70 delayed projects*. Manila Bulletin. May 25, 2023. <https://mb.com.ph/2023/5/25/erc-vows-sanctions-vs-ngcp-on-more-than-70-delayed-projects#google_vignette>

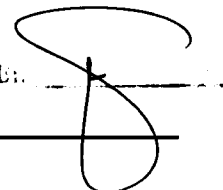
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Introduced by Senator Sherwin Gatchalian

**AN ACT AMENDING REPUBLIC ACT NO. 9511, ENTITLED "AN ACT
GRANTING THE NATIONAL GRID CORPORATION OF THE PHILIPPINES A
FRANCHISE TO ENGAGE IN THE BUSINESS OF CONVEYING OR
TRANSMITTING ELECTRICITY THROUGH HIGH VOLTAGE BACK-BONE
SYSTEM OF INTERCONNECTED TRANSMISSION LINES, SUBSTATIONS
AND RELATED FACILITIES, AND FOR OTHER PURPOSES"**

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

1 **SECTION 1.** Section 1 of Republic Act No. 9511 is hereby amended to read as
2 follows:

3

4 SECTION 1. *Nature and Scope of Franchise.* — Subject to the provisions of the
5 Constitution and applicable laws, rules and regulations, and subject to the
6 terms and conditions of the concession agreement and other documents
7 executed with the National Transmission Corporation (TransCo) and the Power
8 Sector Assets and Liabilities Management Corporation (PSALM) pursuant to
9 Section 21 of Republic Act No. 9136, which are not inconsistent herewith, there
10 is hereby granted to the National Grid Corporation of the Philippines,
11 hereunder referred to as the Grantee, its successors or assigns, a franchise to
12 operate, manage and maintain, and in connection therewith, to engage in the

1 business of conveying or transmitting electricity through high voltage back-
2 bone system of interconnected transmission lines, substations and related
3 facilities, ~~[systems-operations,]~~ and other activities that are necessary to
4 support the safe and reliable operation of a transmission system and to
5 construct, install, finance, manage, improve, expand, operate, maintain,
6 rehabilitate, repair and refurbish the present nationwide transmission system
7 of the Republic of the Philippines: **PROVIDED, THAT THE PRIVILEGE TO**
8 **OPERATE THE TRANSMISSION SYSTEM GRANTED HEREWITH TO**
9 **THE GRANTEE SHALL EXCLUDE SYSTEM OPERATION.** The Grantee shall
10 continue to operate and maintain the subtransmission systems which have not
11 been disposed by TRANSCO. Likewise, the Grantee is authorized to engage in
12 ~~[ancillary business and]~~ any related business which maximizes utilization
13 of its assets such as, but not limited to, telecommunications system, pursuant
14 to Section 20 of Republic Act No. 9136. The scope of the franchise shall be
15 nationwide in accordance with the Transmission Development Plan **(TDP)**,
16 subject to amendments or modifications of the said Plan, as may be approved
17 by the Department of Energy **(DOE)** of the Republic of the Philippines;
18 **PROVIDED, THAT TRANSMISSION ASSETS TO BE CONSTRUCTED**
19 **AND MAINTAINED BY THE GRANTEE SHALL BE DETERMINED AND**
20 **SPECIFIED BY THE DOE IN THE TDP; PROVIDED FURTHER, THAT**
21 **CRITICAL INFRASTRUCTURE PROJECTS IN THE TDP, AS MAY BE**
22 **DETERMINED BY DOE, MAY BE CONSTRUCTED BY ANOTHER PARTY**
23 **AND THEN TURNED OVER TO THE GRANTEE FOR MANAGEMENT,**
24 **IMPROVEMENT, EXPANSION, MAINTENANCE, REHABILITATION,**
25 **REPAIR, AND REFURBISHMENT. THE GRANTEE SHALL NOT,**
26 **WHETHER DIRECTLY OR INDIRECTLY, ENGAGE IN SYSTEMS**
27 **OPERATION OF THE TRANSMISSION GRID. "SYSTEM OPERATION"**
28 **SHALL BE DEFINED AS THE REAL-TIME CONTROL, MANAGEMENT,**
29 **AND COORDINATION OF THE ELECTRICAL POWER GRID,**
30 **INCLUDING BUT NOT LIMITED TO LOAD DISPATCH, GRID**

1 **BALANCING, VOLTAGE CONTROL, FREQUENCY REGULATION, AND**
2 **ALL ACTIVITIES NECESSARY TO ENSURE THE SAFE, RELIABLE, AND**
3 **EFFICIENT OPERATION OF THE TRANSMISSION SYSTEM.**

4 **SECTION 2.** Section 9 of Republic Act No. 9511 is hereby amended to read as
5 follows:

6
7 SECTION 9. *Tax Provisions.* — ~~[In consideration of the franchise and~~
8 ~~rights hereby granted, the]~~ **THE** Grantee, its successors or assigns, shall
9 pay ~~[a franchise tax equivalent to three percent (3%) of all gross~~
10 ~~receipts derived by the Grantee from its operation under this~~
11 ~~franchise. Said tax shall be in lieu of]~~ income tax and any and all taxes,
12 duties, fees and charges of any kind, nature or description levied, established
13 or collected by any authority whatsoever, local or national, on its franchise,
14 rights, privileges, receipts, revenues and profits, and on properties used in
15 connection with its franchise ~~[, from which taxes, duties and charges, the~~
16 ~~Grantee is hereby expressly exempted]~~: *Provided*, That the Grantee, its
17 successors or assigns, shall be liable to pay the same taxes on their real estate,
18 buildings and personal property, exclusive of this franchise, as other
19 corporations are now or hereby may be required by law to pay: *Provided*,
20 *further*, That payment by Grantee of the concession fees due to PSALM under
21 the concession agreement shall not be subject to income tax and value-added
22 tax (VAT): **PROVIDED FINALLY, THAT THE GRANTEE SHALL NOT BE**
23 **ALLOWED TO PASS-ON TAXES TO CONSUMERS.**

24 **SECTION 3.** Section 15 of Republic Act No. 9511 is hereby amended to read as
25 follows:

26
27 SECTION 15. *Reportorial Requirement.* - The Grantee shall submit,
28 **INCLUDING BUT NOT LIMITED TO**, an annual report of finances and
29 operations to the Congress of the Philippines~~[,]~~, **THROUGH THE JOINT**

1 **CONGRESSIONAL ENERGY COMMISSION (JCEC), ON ITS**
2 **COMPLIANCE WITH THE TERMS AND CONDITIONS OF THE**
3 **FRANCHISE AND ON ITS OPERATIONS ON OR BEFORE APRIL 30**
4 **EVERY YEAR AFTER THE EFFECTIVITY OF THIS ACT, AND SUCH**
5 **OTHER DOCUMENTS OR INFORMATION AS MAY BE REQUIRED BY**
6 **THE JCEC.**

7

8 **THE ANNUAL REPORT SHALL INCLUDE AN UPDATE ON THE ROLLOUT,**
9 **DEVELOPMENT, OPERATION AND/OR EXPANSION OF THE**
10 **BUSINESS; COMPLIANCE WITH THE TDP; AUDITED FINANCIAL**
11 **STATEMENTS; LATEST GIS OFFICIALLY SUBMITTED TO THE SEC (IF**
12 **AVAILABLE OR APPLICABLE); AND CERTIFICATION FROM THE ERC**
13 **ON THE STATUS OF ITS PERMITS AND OPERATIONS.**

14

15 **IN ADDITION TO THEIR EXISTING POWERS AND FUNCTIONS UNDER**
16 **REPUBLIC ACT NO. 7638, REPUBLIC ACT NO. 9136, AND OTHER**
17 **APPLICABLE LAWS, THE DOE AND THE ERC SHALL REGULATE THE**
18 **COMPLIANCE OF THE GRANTEE WITH THE TDP, AND ITS OTHER**
19 **OBLIGATIONS UNDER THIS FRANCHISE, ITS CONCESSION**
20 **AGREEMENT, AND OTHER APPLICABLE LAWS, RULES AND**
21 **REGULATIONS.**

22 **SECTION 4. *Repealing Clause.*** – All laws, decrees, orders, issuances, rules and
23 regulations or parts thereof which are inconsistent with this Act are hereby repealed
24 or modified accordingly.

25 **SECTION 5. *Effectivity.*** – This Act shall take effect fifteen (15) days after its
26 publication in the *Official Gazette* or in at least two (2) newspapers of general
27 circulation.

Approved,