EPIRA & JUAN DELA CRUZ
Evaluating Republic Act 9136 in relation to the lives of common Filipinos

By

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An Undergraduate Thesis presented to
Dr. Josefina G. Tayag
and the faculty of the Department of Social Sciences

In partial fulfilment
of the requirements for the degree
Bachelor of Arts in Political Science

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This undergraduate thesis entitled “EPIRA and Juan Dela Cruz: Evaluating Republic Act 9136 in relation to the lives of common Filipinos” written by Maria Reggieleene S. Dionisio, in partial fulfilment of the requirements for Political Science 198 of the degree in BA Political Science, is hereby presented for approval.

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This thesis is hereby accepted and approved as partial fulfillment for the requirements for the Degree of Bachelor of Arts in Political Science.

Prof. Carl Marc L. Ramota
Chairperson
Department of Social Sciences
ACKNOWLEDGEMENT

_Sablay_ [n] (For UP students) – A UP trademark; a piece of textile worn like a sash embroidered with Alibata; usually worn on Graduation ceremonies.

Wearing a Sablay on Graduation day is the prize for four gruelling years of undergraduate school. It is what UP students desire most due to various reasons. It is what drives most to deactivate their Facebook accounts in order to make it to crunch time. It is what makes one write a thesis so painstaking that you forget that you have friends other than MS Word. It is the mark of graduating from the University of the Philippines. Unfortunately for me, I won’t get to wear a Sablay this time of the year. Hence, acknowledgements are proper to show my endless gratitude to those who have been my motivation; the patchwork to my rugged, dirty, yet diamond-studded version of the ‘Sablay’.

To Prof. Josefina Tayag, DPA for your guidance, stories, plus the free food every meeting, your comments greatly improved how I write. To the UP Manila Political Science Batch of 2011, to you I owe the best four years of my life. To RAB for being my research assistant and midnight copyreader, To ‘Matsing’ for the spark of inspiration that is EPIRA, To TOM for being the ground in which I continue to firmly stand and grow. To my girls; Single Ladies, for the unconditional love and support – through thick and thin, my sisters for life. To Muff for just being there and yet being everything I could ever want and need. To my family; my rock, and my stronghold, to you I owe who I am and who I will ever become. And to God Almighty, to You I owe every ounce of me; and to You I offer it all. …. So after much gratitude, here I am, proudly wearing the best Sablay one can ever wear. Cheers!
ABSTRACT

Electric power is a basic service that is essential for the operation of household, commercial and everyday life. Electricity however contains several key features that render it prone to market power and potential market power abuse. Researchers identified the following: (1) the need for constant supply and demand of electricity, (2) costly storage and distribution of the product, (3) inelastic property of electricity as a commodity. For this reason, electricity markets are more vulnerable to market power abuse than any other energy markets such as that of gasoline.

Same is the case in the Philippines, several laws and policies have been passed in efforts to regulate the electricity sector and prevent market power abuse and history of regulation of electricity traces a cycle of privatization and nationalization. It has been ten years since the enactment of the Electric Power Industry Reform Act and according to a 2008 JP Morgan Chase Survey, the Philippines has the highest electricity rate in Asia; en more to that of Japan, the world’s third largest economy. This paper examines EPIRA the effects of a privatization policy on a consumer’s standpoint and on aggregate social welfare.
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Energy and its use is a potent and dynamic area of public policy. It fuels our homes, workplaces, industries, economies, and transport systems. At the same time conflicts over energy sources have led to global economic shocks, and even wars. Further, energy crises loom large: affordable sources of fossil fuels are on the decline, while energy demand continues to rise. All this makes contemporary energy governance a complex business. For example, how can governments ensure affordable sources of energy in the future? To what extent do we need to reform existing socio-technical and administrative systems associated with the generation, distribution and use of energy? How are consumers and citizens responding to climate change, and what role might they play in future energy reforms? This paper aims to discuss salient points in accordance to these raised queries.
RESEARCH QUESTION

What was the EPIRA act of 2001? How did it affect the Filipino consumer? Did it produce quality electricity and did it make the power sector of the country stable, dependable, efficient and affordable?

Tentative Answer

EPIRA did not fulfill its goal of restructuring the power sector in the country and it did not make electricity more stable, dependable, efficient and affordable for the Filipino consumer.

OBJECTIVES

- General objective

The main objective of this research is to assess the energy situation of the country and how the EPIRA affects the common Filipino household.
Specific Objectives

- To discuss the significance of energy policy and governance in the country.
- To know what EPIRA is and what are the objectives of the said law.
- To assess the effects of EPIRA in helping to alleviate the energy problem of the country.
- To determine the results of the passing of EPIRA for a common Filipino household or on the grassroots level.
- To determine whether or not EPIRA contributed in making electricity more affordable.
- To make recommendations as to the renouncement or the continued implementation of EPIRA.
REVIEW OF RELATED LITERATURE

*Electricity as a sector*

Electric power is a basic service that is essential for the operation of household, commercial and everyday life (Tapang, et al., n.d.). Electricity however contains several key features that render it prone to market power and potential market power abuse (Wolak, et al, 2003 as cited in Valderama, 2005). Researchers identified the following: (1) the need for constant supply and demand of electricity, (2) costly storage and distribution of the product, (3) inelastic property of electricity as a commodity. These factors taken in combination make the electricity wholesale market substantially less competitive the shorter the time lag there is between date of sale and date of delivery. For this reason, electricity markets are more vulnerable to market power than any other energy markets such as that of gasoline (Borenstein, et al as cited in Diokno-Pascual & Fortaleza, 2009) and its high market power characteristic therefore enables it to maintain higher prices even with reduced output or may be sold at prices significantly above cost (Diokno-Pascual & Fortaleza, 2009).
Several laws and policies therefore have been passed in efforts to regulate the electricity sector and prevent market power abuse and history of regulation of electricity traces a cycle of privatization and nationalization.

During 1900s, the formerly Detroit-based Manila Electric Railroad and Light Company (MERALCO) were founded and had been considered the dominant power company in Luzon. It was only in the 1960s that the company became the first private and Filipino-owned power system in the country. It was also in this era that rural electrification led by MERALCO and the Electricification Administration (EA) was initiated via Republic Act (RA) 2717. In 1969, the National Electrification Administration (NEA) was created by virtue of RA 6038. This act declared the total electrification of the Philippines on an area coverage basis as a national policy objective (Diokno-Pascual & Fortaleza, 2009).

The move towards nationalization began with President Marcos’ regime and declaration of Presidential Decree (PD) 40. The order became the basis of the government expropriation of MERALCO as well as the transfer of electricity and water regulation to the Board of Power and Waterworks. The decree lasted from 1972 until the promulgation of Executive Order (EO) 215 by President Corazon Aquino in 1987. With
the said decree the private sector participation was re-opened and with the need for private capital into generation, RA 7648 was passed which granted emergency powers to President Ramos in 1993 to fast track approval of generation projects needed to end the power crisis. The passage of RA 7648 paved the way for the approval of RA 9136 in 2001 which aimed to full throttle privatization efforts and disengage in ownership, financing and market determination in the power industry from the state (Diokno-Pascual & Fortaleza, 2009).

**EPIRA and its developments**

The Electronic Power Industry Reform Act (EPIRA) in 2001 or RA 9136 was designed primarily to increase efficiency, reliability and supply of electric power for the public. The privatization of the National Power Corporation (NPC) assets was seen as a key to dismantling the monopoly in the electricity industry and bringing in competition in the power sector thereby providing greater efficiency, transmission and distribution of energy. The goals of EPIRA in brief may be summarized into 3 major goals:

1. Market mandating by establishing a strong and purely independent regulatory body and system in the energy market;
(2) Increase in transparency and unbundling in terms of the assets and liabilities of the NPC; and

(3) Push for privatization - ensuring of reasonable prices through a regime of free and fair competition (Diokno-Pascual & Fortaleza, 2009, Mendoza, 2008).

During the EPIRA term, from 2008 to early 2010 alone, EPIRA had been noted to deliver continued privatizing of remaining generating assets and transfer of independent power producer (IPP) to independent administrators despite global financial crisis, success in major reforms for implementation of open access retail competition, and broadening of service as near 100 percent barangay electrification has been reached (DOE 2009a, 2009b, 2010).

Other Effects of EPIRA

Negative effects of EPIRA however, have also been reported such as the loss of jobs of more than 2,000 employees. This is due to the restructuring of the power industry affecting NPC as well several other industrial and commercial establishments leading to its closure. Industrial workers have been reporting that they have not been properly paid due to high maintenance and operation cost of employers and exorbitant increase in
electricity rates upon common households. Reports of negative effects of the program are also reported to be evident in the environment through restructure of natural lands and water supply to accommodate for IPP causing imbalance in the ecosystem. The national government was found to have increased debts remaining and absorbed debts of the national government arising from initial debts of the NPC (Freedom from debt coalition, 2007).

This study therefore aims to explore on the effects of EPIRA to the country particularly to the common Filipino household. Knowledge of how the law affects the common Filipino may provide a better view in the evaluation of the law and assessment of how the law has been implemented.
ANALYTICAL FRAMEWORK

- Theoretical Framework

This paper shall be grounded on the premise that Electricity is a basic commodity, on the economic theory of liberalization; more specifically privatization, and on the notion that private corporations practice corporate social responsibility meaning, they put the welfare and the best interest of its consumers at hand in its policies.

In today’s industrialized world, it is becoming almost unthinkable to live as a modern human being without electricity. It has revolutionized human culture and though some still argue that it has become a basic right, it is elemental that electricity is a basic commodity. This provides the impetus for an argument that prices should stay low and stable, preferably through some regulatory mechanism and it is the duty of the Government to provide measures to make it available and accessible to its citizens (Dunne, 2005)

There are different theories that explain the prevalence of different models of liberalization across countries and across industries. During the early 1980s, a liberalist policy of shifting public responsibilities to private actors emerged. To better describe this
broad tide of liberalization, the term privatization was coined by the London-based publication *The Economist* in the 1930s in covering Nazi German economic policy to include any initiative that increases the role of the market in areas previously considered the province of the state (national or local). This includes not only the sale of state assets, but deregulation and contracting-out of public services to private providers (Feigenbaum & Henig, 1997).

However, the author will focus on the interaction of privatization and corporate social responsibility, the impact of privatization on aggregate social welfare, and on the relevant interest groups particularly the consumers, merging both the income distribution and the production efficiency aspects of the process.

From this point of view, it suggests that the government should prioritize its privatization program by selling subsidized firms. One of which is the Power sector. This premise stands on the notion that reduced role of government in the economy will enhance efficiency and increase revenue, resulting to benefits for the consumers in the form of quality, dependable and affordable electricity rates (Beesley, 1993). Also, under the umbrella term of corporate social responsibility, private companies have a social duty
to fulfill to its customers and that is to provide the best service they can produce and in the end are accountable to them.

This framework allows us to highlight the impact of government's overall public sector policies on the potential benefits of privatization, illustrate the manner in which a government's specific policies concerning electricity before and after privatization affects its price and examine the role of privatization in securing quality and trustworthy electricity that comes with an affordable price. Based on this framework, the paper analyzes the effects of a privatization policy on a consumer's standpoint, on aggregate social welfare and on maximization of political support.

- Conceptual Framework

This conceptual framework illustrates the initial assumption that EPIRA as a policy would enhance efficiency and increase revenue resulting to a quality electric industry for Filipino consumers. A quality electric industry should be stable, dependable, efficient and affordable. There can be two possible outcomes in the course of this research.
The first one is the idealized scenario. On the first part of the diagram, the Electric Power Industry Reform Act of 2001 would yield good results. After privatization, the private sector will provide consumers with stable electricity, dependable and efficient service and affordable electricity rates. When this happens, consumers would be satisfied; investments would increase due to the stability of the power sector which is a basis of a good economy. Hence, this outcome would show that EPIRA has been
effective in meeting its goals in reforming the power sector of the country and would give
President Benigno Aquino III a high satisfaction rating from the people.

The other half of the diagram shows the contrary. EPIRA after privatization shall
produce unstable electricity, inefficient service, and instead of making electricity rates
more affordable, it will make it more costly. In turn, this would result to displeased
consumers and less investments. When this happens, the power sector of the country
shall be unstable and may result to a poor-performing economy. This outcome would
mean that EPIRA; its concept and implementation is ineffective and would reap
President Aquino an unsatisfactory rating from the people that could make him an
unpopular president. This thesis will test which of these hypothesized scenarios prevail.
Definition of Terms

- EPIRA – Electric Power Industry Reform Act of 2001, also known as Republic Act 9136; an act ordaining the reforms in the Electric power industry of the Philippines (www.doe.gov.ph)

- Power Sector – A fundamental factor on economic development and poverty reduction. Regarded as a basic link to development because it deals with basic services (such as piped water supply, lighting, and storage facilities for perishable goods and life-saving drugs), industrial and non-industrial operations, communication and other access to information (www.adb.org)

- Quality (Service) – relates to the nature and quality of customer service provided to the customers by the distribution companies. There should be a set standard for the minimum service level which must be met for each consumer. Companies are expected to deliver predetermined levels of service (CIRED, as cited in Jukka, 2003)

- Quality (Electricity) – Electricity produced in utmost standards of Energy processing (CIRED, as cited in Jukka, 2003)
• Efficiency (Operation) - Efficient operation often means reducing costs. The regulator then has to ensure that despite reducing costs, the quality of electricity improves or at the least, does not decrease (CEER, as cited in Lassila, 2001)

• Stable – Refers to the continuity of the available supply and the ability to supply the customers with electricity that they need. It is generally characterized as the number and duration of interruptions in supply (CEER, as cited in Lassila, 2001)

• Revenue - the gross income returned by an investment; the yield of sources of income that a political unit collects and receives into the treasury for public use (Merriam Webster’s Dictionary)

• Affordable – The characteristic of Electricity to remain available and accessible for public consumption despite generation costs (Koza & Zachary, 2000)
RESEARCH DESIGN

Methodology

- Archival Research

The researcher considered books, journals, news articles, and existing thesis in conducting the research. Most of the materials were journals and Forum notes and comments. The matrix below shows the kind of data needed.

- Key Informant Interview:

Coupled with extensive review of literature and analyses, the researcher interviewed key informants in the person of Nilo Tanchuling, former Secretary General of the Freedom from Debt Coalition, Mutya Cynthia Alabanza the spokesperson of the National Grid Corporation and Mary Rose Toledo, former chairperson of Anakbayan UP Manila. The researcher secured their informed consent prior to the interview.
Focus Group Discussion and Consumer Perception Survey

The researcher also took into account the opinion and perception of various Meralco consumers by facilitating a Focus group discussion and a Consumer Perception Survey. The survey was done using the Random Sampling Method where two streets in Diamond Crest Village San Jose del Monte City, Bulacan were chosen among a list of villages and subdivisions in the municipality using a raffle drum (tambiolo).

<table>
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<tr>
<th>DATA NEEDED</th>
<th>SOURCE</th>
<th>METHOD OF ANALYSIS</th>
<th>QUESTIONS</th>
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<tr>
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<td>Existing Literature (Journals, news articles) and NGO (FDC) and NGCP</td>
<td>Content Analysis and Key Person Interview</td>
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<td>- What are the issues surrounding the Power sector?</td>
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<td>- What are the causes and implications of these issues?</td>
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<td>- How does the government deal with these issues?</td>
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<tr>
<td>EPIRA</td>
<td>Existing Literature (Books, News articles), FGD (UP Manila Students)</td>
<td>Content Analysis</td>
<td>- What is the EPIRA of 2001?</td>
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<td>- What is the inspiration behind it?</td>
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<td>Title</td>
<td>Methods</td>
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<td>The boons and banes of Privatization</td>
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<td>Content Analysis, Secondary analysis of data</td>
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<td>- What is Privatization?</td>
<td>- What is Privatization?</td>
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<td>- What are its benefits?</td>
<td>- What are its benefits?</td>
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<td>- Why do most developing countries engage in Privatization as an economic policy?</td>
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<td>- What are the negative effects of Privatization?</td>
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<td>- Does Privatization have a direct effect on consumers?</td>
<td>- Does Privatization have a direct effect on consumers?</td>
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<td>Evaluating Privatization: the EPIRA Model</td>
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<td>Research Analysis (using the Theoretical Framework), Content Analysis, and Key Person Interview</td>
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<td>- What were the potential benefits of EPIRA during its development?</td>
<td>- What were the potential benefits of EPIRA during its development?</td>
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<td>- How is the structure for implementing EPIRA?</td>
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<td>- What is the current progress of EPIRA?</td>
<td>- What is the current progress of EPIRA?</td>
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<td>- What has been the impact of EPIRA across different sectors?</td>
<td>- What has been the impact of EPIRA across different sectors?</td>
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<td>Filipino Consumer Perspective</td>
<td>Consumer Interview and Survey, Existing Literature (News Articles)</td>
<td>Secondary Analysis of data, FGD, Case Study</td>
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<td></td>
<td>- How much is your monthly electricity bill?</td>
<td>- How much is your monthly electricity bill?</td>
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<td>- Did you notice a difference in the price of Electricity a few years ago to the price of Electricity now?</td>
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<td>- Did it increase in the past months? How about</td>
<td>- Did it increase in the past months? How about</td>
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<td>Collated Data</td>
<td>Analysis using both Theoretical and Conceptual Frameworks</td>
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in the past year?
- If your electric bill has increased, but your usage did not, why do you think there has been an increase in the price of electricity?
- If it did, did you notice a change in the service Distribution companies are giving? Did it improve?
- Are you aware of EPIRA?
- What do you know about it?

**Ethical Aspects of the Research**

The researcher observed ethical considerations in presenting data, asking questions, analyzing facts and formulating propositions. The researcher informed all parties regarding the purpose of the research and their participation in it. The interview and focus group discussion were conducted with integrity, confidentiality, and non-discrimination and all under the principle of voluntary participation where informed
consent was secured. The participants were assured that their privacy would be respected and observed all through out the course of this research.

**SCOPE AND LIMITATION**

This research evaluated the Electric Power Industry Reform Act of 2001 from the perspective that privatization of a public good such as electricity will result to better revenue for firms, a more efficient use of resource, and quality, stable, dependable and affordable electricity for the Filipino consumers. The researcher looked into the provisions and the law’s progress for the past nine years since its enactment. The effects of EPIRA on a consumer level particularly the assessment of whether it has improved the electric power industry of the country or not was the focus of this research. However, this study was based solely on the data gathered by the researcher. The economic and the environmental aspects of the electric power industry were not given too much emphasis since dynamics of political and social systems play a greater role in this study. The limitations of the study are that findings will mostly be done through research rather than through personal observation. Further, sources are limited since key persons such as the representative who advocated for EPIRA has declined the
request for interview. The researcher made up for lost data with other stakeholders’ interview which may not be as adequate as possible. In addition, constitutional provisions were not taken into consideration and variables were not applicable to all cases, all over the country.

RELEVANCE OF THE STUDY

The efficiency of a country’s power sector has a fundamental bearing on political development and poverty reduction. Without adequate power supply, basic services, industrial and non-industrial operations, access to information, communications, and digital connectivity are likely to be adversely affected. Without access to electricity, rural areas are unlikely to maximize income-generating activities that are essential to reducing poverty. Hence, the Electric Power Industry Reform Act of 2001 is a significant piece of legislation.

To the power industry, it is vital to keep the industry afloat in times when electricity generation is costly. This research may shed light on the concept of privatization as a means of making an industry more efficient and self – sustaining to further foster a country’s development.
To consumers, who are the end point stake holder in the issue of electricity and the ones who are directly affected and will carry the heavier weight of a possible expensive electricity rate, this research may serve as a warning or as an affirmation of an effective cost-reducing, pro-people piece of legislation.

To lawmakers, this research may be a testimony of approval or a critique to the pitfalls of EPIRA. It may affirm the concept of privatizing a public good is beneficial and EPIRA is proof, or it could serve as a venue for recognizing the deficiencies of the law and hopefully call for its amendment or the creation of a more effective legislation.
The Philippine Electrical Industry or PEI has undergone drastic changes over the last 7 decades, transforming from a nationalized, two sector organization into a vertically integrated subsector with a fragmented distribution and supply branch (Valderama, 2005 and Mendoza, 2008). With the development of various laws, shift in power plays and formation of new structures and divisions in its history, the Philippine Power sector picture has changed leaps and bounds.

National Power Corporation

Before the 1930s, the PEI was completely private and autonomous apart from the grant by the Commonwealth government of the 50-year franchise to MERALCO for building and operation of an electric railway and light heat system in Manila in 1905. This state of affairs remained largely intact until the Marcos regime in 1970s when RA 6137 was passed in response to the increasing gasoline prices. This move marked the fragmentation and specialization of the regulation of the PEI. Also by virtue of the PD 40 passed in 1972, the National Power Corporation or NPC became the sole player in generation and transmission of power and nationalization of MERALCO was enacted.
The National Electrical Administration (NEA) was also created in this era to support electric cooperatives in 1973 (Fabella, 2002).

Energy Regulatory Board and Department of Energy

Since the Aquino regime by late 1980s, coming out of nationalization, privatization has been the thrust of the government for the PEI. EO 215 was passed in 1987 and the law allowed the entry of independent power producers in the generation activity of electricity in the country. To facilitate the process as well as regulate the energy sector, the administration also passed EO 172 which created the Energy Regulatory Board, composed of a chairman and 4 members appointed by the President. The board was created to consolidate and entrust in one body the regulatory and adjudicatory functions of the now expanding energy sector.

By the turn of the 1990s however, the country was faced with a power crisis and several steps were made by the government to resolve this. In 1992, via the RA 7638, the ERB was expanded to become the Department of Energy or DOE. The powers and function of the regulating body expanded to encompass the integration and coordination of various energy projects and programs of the Government.
And in 1993, the Electrical Power Crisis Act was passed to give the President of the Country emergency powers to address quicker the power crisis in the country. Subsequently in 1994, the amended Build-Operate-Transfer or BOT law was enacted to further encourage entry of the private sector in infrastructure projects. The passage of the abovementioned laws paved the way for the government to fast tract power projects with the IPPs and this move was deemed to help alleviate the power crisis situation (FFDC, 2007).

**PSALM and WESM**

By 2001, the thrust for privatization came to full swing with the passage of EPIRA. The regulating board also expanded with the passage via the development of the PSALM or the Power Sector Assets and Liabilities Management Corporation and the WESM or the Wholesale Electricity Spot Market furthered the business transaction in the power industry by lobbying privatization and providing a venue for free and fair trade of investments (Mendoza, 2008).
A summary of the chronology of laws adopted for the energy industry in the past 70 years can be summarized as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>Law</th>
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<tbody>
<tr>
<td>1936</td>
<td>Commonwealth Act 120&lt;br&gt;Creation of National Power Corporation (NPC)</td>
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<tr>
<td>1936</td>
<td>Commonwealth Act 146&lt;br&gt;Creation of Public Service Commission (PSC)</td>
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<tr>
<td>1971</td>
<td>Republic Act 6173&lt;br&gt;Establishment of Oil Industry Commission (OIC)</td>
</tr>
<tr>
<td>1972</td>
<td>Presidential Decree 40&lt;br&gt; NPC monopoly in generation and transmission&lt;br&gt;Abolition of PSC and transfer of electricity and water regulation to Board of Power and Waterworks (BPW)&lt;br&gt;Government expropriation of MERALCO</td>
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<tr>
<td>1973</td>
<td>Presidential Decree 269&lt;br&gt;Creation of National Electrification Administration (NEA)</td>
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<tr>
<td>1977</td>
<td>Presidential Decree 1200&lt;br&gt;Creation of Department of Energy (DOE)&lt;br&gt;Abolition of OIC and creation of Board of Energy (BOE)</td>
</tr>
<tr>
<td>1979</td>
<td>Executive Order 172&lt;br&gt;Acquisition of MERALCO by NPC</td>
</tr>
<tr>
<td>1986</td>
<td>MERALCO’s return to the Lopez family</td>
</tr>
<tr>
<td>1987</td>
<td>Executive Order 215&lt;br&gt;Reorganization of BOE into Energy Regulatory Board</td>
</tr>
<tr>
<td>1990</td>
<td>Republic Act 6957&lt;br&gt;Build-operate-transfer (BOT) Law</td>
</tr>
<tr>
<td>1992</td>
<td>Republic Act 7638&lt;br&gt;Creation of Department of Energy</td>
</tr>
<tr>
<td>1993</td>
<td>Republic Act 7648&lt;br&gt;Emergency Power Crisis Act</td>
</tr>
<tr>
<td>1994</td>
<td>Republic Act 7718&lt;br&gt;Expanded BOT Law</td>
</tr>
<tr>
<td>2001</td>
<td>Republic Act 9136&lt;br&gt;Electric Power Industry Reform Act (EPIRA)</td>
</tr>
</tbody>
</table>

*Source: Aldaba, 2002 as cited in Fabella, 2002*

The developments of the electrical industry paved the way for the evolution of the private power players – one of the most noted being the MERALCO or the Manila Electric Railroad and Light Company. The private company, first established and ran by Detroit-based American investors in 1903, was acquired in 1961 by Eugenio Lopez and became the first Filipino-owned power system in the country. From the 1960s to the 70s...
the company enjoyed the term “Golden Age”, wherein business boomed and generation capacity increased fivefold as well as customer base and sales grew. And although the company was held down for a while by its nationalization in the Marcos regime, after its reclaim by the Lopezes in 1986, they never looked back. By 2009, the Lopez group’s Benpress Holdings Corporation had taken hold of the majority of control of several companies in the field of power, media, entertainment, construction and business solutions among others. The company took control also of the Philippines’ largest distribution utility and largest exploration company the Philippine National Oil Company-Energy Development Corporation or PNOCEDC (Diokno-Pascual & Fortaleza, 2009).

While the change in the PEI structure over time was deemed to be progressive and beneficial to the common Filipinos, it has also been filled with issues especially in terms of effectiveness. As seen with the case of MERALCO, some groups argue that the real possibility of excesses and market abuses by few dominant players were opened thus further exacerbating the burden to the consumers due to oppressive power rates. The passage of EPIRA, which was a critical point in the PEI timeline, was argued to be a gray area in the history of electrical power industry with both compelling positive and negative notes (Diokno-Pascual & Fortaleza, 2009).
The evolution of the Philippine power sector can be characterized as a tug of war between nationalization and privatization systems. Shifts in power and administration marked changing inclinations in the sector. Being initially privatized since the early 1900’s, the government gained the upper hand when the Marcos regime enacted several laws in response to the increasing gas prices in that era. PD 40 and EO 172 enabled NPC to monopolize the generation and transmission of power and acquire MERALCO.

The fall of the dictator’s regime, in the later part of the 1980’s, marked the start of the re-privatization of the electric industry. Aquino’s reign paved way for the Lopez clan to reacquire MERALCO from the NPC and independent power producers to enter PEI generation activity. To further encourage entry of the private sector in infrastructure projects, the amended BOT Law was passed in 1994. By 2001, privatization efforts of the PEI intensified with the passing of the EPIRA Law and with the foundation of PSALM and WESM.

The development of the power sector gave rise to the private power companies – one of the most noted being MERALCO. MERALCO, originally ran by Detroit-based
American investors, was acquired by the Lopez family; known business tycoons, in 1961 and became the first Filipino-owned power system in the country. The business boomed in the following decades but was halted by its nationalization during the Marcos’ regime and was later reacquired during the Aquino leadership. After these shifts of power over MERALCO, the Lopez clan gained larger economical power over other business sectors in the country including the control over PNOCEDC.
CHAPTER III. REPUBLIC ACT 9136

On the 8th of June, 2001, the Electrical Power Industry Reform Act (EPIRA) or Republic Act 9136 was signed into law to restructure the Philippine electricity industry and bring in competition, innovation, efficiency and end-user choice theorized to bring down electricity rates and improve the delivery of power to end-users.

Subsectors

The EPIRA envisioned 4 distinct subsectors in the electricity industry: generation, transmission, distribution and supply. Generation and supply would be open and competitive and classified as businesses affected by public interest only. It would consist of privatized generating companies (GENCOs) of NPC, its residual GENCO/ Small Power Utilities Group (SPUG), the IPPs and generation plants owned by authorized industries. The transmission and distribution would remain natural monopolies and public service organizations or public utilities, subject to the regulation of the ERC. The transmission shall be the sole responsibility of the National Transmission Company (TRANSCO), which would provide to all electricity users open and non-discriminatory access to its transmission system (Mendoza, 2008).
**Generation** – as declared in section 6, chapter 11 of RA 9136, the generation sector will become “competitive and open” such that prices charged by a generation company for supply of electricity shall not be subject to the regulation of the ERC and generation companies shall not be a public utility operation requiring a local or national franchise.

**Transmission** – in RA 9136, section 7, chapter 11, the transmission sector was described to become “regulated by the common electricity carrier business, subject to the ratemaking powers of the ERC.” The transmission system will be owned wholly by TRANSCO which is in turn owned by a government-owned and operated PSALM corporation.

**Distribution** – Chapter 2, section 22 of RA 9136 mandates the distribution sector to be “a regulated common carrier business requiring a franchise”. Franchises are granted only by the Congress of the Philippines upon approval of the ERC of the retail rates of distribution utilities and unbundling of the rates into components i.e., wires, generation and supply. A distribution utility shall furthermore provide “open and non-
discriminatory access to its distribution system to all end-users including suppliers and aggregators” (Rule 7; Chapter II, section 23, RA 9136).

Supply – via section 29, chapter II of RA 9136 is described as “when serving the contestable market shall not be considered a public utility operation. Prices to be charged by suppliers for the supply of electricity to the contestable market shall not be subject to regulation by ERC.” Whereas “contestable market” is defined as the segment of electricity end-users who have a choice of supplier of electricity as may be determined by ERC in accordance to the Act (Section 4, Rule 12, IRR). Suppliers to contestable markets are further required to: (a) secure a license to operate from ERC, (b) shall not own any interest in TRANSCO or its concessionaire, (c) unbundled its supplier charge into its components, and (d) comply with competition rules and of the rules of the WESM or Wholesale Electricity Spot Market.

EPIRA’s Main Thrust

Following the vision of the formation of the 4 distinct subsectors, the main thrusts of EPIRA were described as follows:
1. Ensure transparent and reasonable prices of electricity in a regime of free and fair competition and full accountability as evidenced by the following sections of the law:

Functions

By Section 36 of RA 9136, every participant in the electric power industry should structurally unbundle its activities, i.e., separate different activities according as they are generation, transmission, distribution and supply, through the creation of separate divisions within the same company or even different juridical entities with clear accounting and auditing separation, especially as between regulated and non-regulated activities (Rule 10, Sec 1, IRR).

Rates

Rule 15 provides for the unbundling of rates. Section 3 says:

“(a) An electric power industry participant shall identify, separate and unbundle its rates, charges and costs…

“(b) In determining the eligible costs of service to be charged to the End-users, the ERC shall establish the minimum efficiency standards…including systems losses, and interruption frequency rates parameters among others.”
Method

“The ERC prescribes the rate unbundling methodology for transmission and distribution wheeling rates and the retail rates of the distribution utility (Role 10, Section 4, 5). The (ERC-approved) rates must be such as to allow the recovery of just and reasonable costs and a reasonable RORB to enable the entity to operate viably.”

2. Provide for an orderly and transparent privatization of the assets and liabilities of the NPC

Privatization of NPC

Chapter V, Section 47 of the Act mandates that: “All assets of NPC shall be sold in an open and transparent manner through public bidding, and the same shall apply to the disposition of IPP contracts.” (Section 47(d)). The privatization of NPC asset will be implemented by the Act-created and government-owned asset management corporation, the “Power Sector Assets and Liabilities Management Corporation” (PSALM Corp.), which shall inherit all the assets and liabilities of NPC, including the transmission assets.

3. Establish a strong and purely independent regulatory body and system and enhance the competitive operation of the electricity market (Section 2 of RA 9136).
Moreover, the law was designed and proposed into Congress to address the following specific problems in the Philippine electricity industry: (1) absence of consumer choice, (2) relatively high electricity end-use rates cites as one of the ten most critical disincentives affecting inflow of foreign investments, (3) highly fragmented state of the distribution sector with evident monopoly of the privately owned Meralco, (4) uncertainty of funding source for long-term investment requirements, and (5) lack of incentives for drive of industry stakeholders to operate more efficiently (Mendoza, 2008).

With the development of EPIRA, the regulation of the EPI was broken down and became more structured. The structure for implementing EPIRA is headed by the regulator ERB, renamed the Energy Regulatory Commission (ERC), and acts to regulate the price of transmitting and distributing electricity. The roles of DOE and NEA was redefined with the DOE regulating the non-pricing activities and supervising the restructuring of the industry, the NEA regulates the franchising of RECs, strengthening the technical capability and financial viability of RECs. A Joint Congressional Power Commission (PowerCom) was created to oversee the implementation of the EPIRA and the PSALM shall manage the privatization of NPC assets and contracts and the
TRANSCO (Mendoza, 2008 and Valderama, 2005). The power industry structure can be illustrated as follows with the passage of EPIRA:

![Power Industry Structure Diagram]

Source: DOE as cited in Fabella, 2002. Also cited in Aldaba, 2002

PSALM whose primary task is the privatization of transmission assets and NPC generation assets has accomplished a lot in the more than 10 year term of EPIRA.

There are 31 power plants in the country, excluding the decommissioned plants, with a total capacity of 4337.2 megawatts (MW). PSALM targeted 70% privatization of NPC’s generation assets by the first quarter of 2006, and this target has been more than surpassed by April 2010 as PSALM marked 91.8% privatization with the sale of the
Angat HEPP (DOE Status Report #7, EPIRA Status Report #16). The proceeds earned by the government from the privatization of the said assets may be briefly summarized in the table below:

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount in million US$</th>
</tr>
</thead>
<tbody>
<tr>
<td>Generating Plants</td>
<td>3,394.78</td>
</tr>
<tr>
<td>Turned-over IPPs</td>
<td>44.51</td>
</tr>
<tr>
<td>Decommissioned Plants</td>
<td>7.31</td>
</tr>
<tr>
<td>TransCo Concession</td>
<td>3,950.00</td>
</tr>
<tr>
<td>Transfer of NPC-IPP contracts to IPPA</td>
<td>3,229.00</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>10,625.60</strong></td>
</tr>
</tbody>
</table>

*Source: PSALM as stated in EPIRA 16th Status Report, DOE, 2010*

TransCo Concession accounts for the largest profit by earning around $3.9 million and the generating plants come in close second earning $3.4 million.

In summary, to improve power delivery and in efforts to lower electricity prices, RA 9136 or the EPIRA Law was passed on June 8, 2001. It envisioned the restructuring of the PEI into 4 subsectors: generation, transmission, distribution and supply. EPIRA's
main thrust would involve privatization of NPC assets and liabilities, the responsibility on ensuring transparent and reasonable prices of electricity in a regime of free and fair competition and full accountability, and to establish a strong and purely independent regulatory board and enhance the competitive operation of the electricity market. It was also designed to address specific problems on the electric industry such as the absence of consumer choice, impacts of high power rates on foreign investment inflow, the highly fragmented state of the power distribution sector, uncertainty of funding source for long term investment requirements, and lastly the lack of incentives for drive of the industry stakeholders to operate more efficiently.
CHAPTER IV. PHILIPPINE ELECTRIC INDUSTRY AND EPIRA

EPIRA mandates that the privatization of the government’s generation assets and transmission systems must be completed not later than three years after the enactment of the law. Ten years has passed since the passing of the Electric Power Industry Reform Act and as of May 2010, privatization efforts hit the 91.73% mark for all its generation assets in Luzon and Visayas. PSALM has targeted to surpass the long-overdue EPIRA target of privatizing 70% of Napocor by this year (psalm.gov.ph, 2010).

*Current Status of Privatization*

The transmission assets of Napocor are said to be where it will generate most of the profit. In 2007, Transco was privatized when the National Grid Corporation of the Philippines (NGCP), won the 25-year concession contract to operate and maintain the transmission system for $3.9 billion.

The government has already sold 20 power plant packages, including power plants which in the past have been operated individually but for privatization purposes have been clustered to attract investors. The biggest Napocor generation asset sold was the Tiwi-Makban geothermal complex in the Bicol region. Last April 28, PSALM sold the
controversial 218 MW Angat Hydroelectric Plant (HEPP). The sale has drawn criticisms from the Commission on Human Rights, the Metropolitan Waterworks and Sewerage System and various people’s organizations because of Angat dam’s strategic importance (Balangue, 2010). The Angat HEPP provides for around 97% of Metro Manila and some parts of Rizal’s water supply. Korea-Water Resources Corp. (K-Water) submitted the highest bid for Angat at US$440.8 million (psalm.gov.ph, 2010).

Aside from selling the plants owned by Napocor, the government has also sold the contracts of Napocor to buy the electricity produced by private independent power producer (IPPs). In doing so, fuel procurement will be handled by the IPP Administrations (IPPA). As of April 16, 2010, PSALM reported that five contracted capacities have been sold to IPPAs as mandated by the EPIRA. The Sual plant in Pangasinan which is the biggest supply contract in terms of installed capacity was bought by First Gen. Corp. of the Lopez group (psalm.gov.ph, 2010)

PSALM will sell the remaining plants not covered by the initial scheduling under the EPIRA; these include the 982.1-MW Agus 1, 2, 4, 5, 6, 7 and Pulangi. The Agus and Pulangi hydropower plants which are critical to the power supply of Mindanao are
planned to be sold next year. The EPIRA excluded the Agus and Pulangi plants in the first phase of privatization supposedly because of its strategic importance but allows their sale 10 years after the passage of the law, which is this year, 2011 psalm.gov.ph, 2010).

Department of Energy Involvement

The Department of Energy (DOE) has continuously harped on building new plants in order to meet the impending power shortage in the next few years. For hydropower projects, the government has already proposed mega dams which have power generation components such as the Balintingon Multipurpose Project in Nueva Ecija. With the privatization of the government’s generation facilities, the EPIRA also forbids government to build more plants and instead focuses on attracting private investments to build new power plants supposedly in order to address power outrages.

Private Sector

The success of EPIRA may also be seen as the success in business of the private companies. Currently, there are nine ongoing private power projects in the country with a combined capacity of 1,354 MW. Sixty percent of these plants aim to
provide electricity to the Visayas grid. These projects are owned by foreign power companies such as Kepco, GN Power, Sithe Global, and Kautschuk Gessel-schaft, and sometimes in partnership with big local companies such as Hedcor Sibulan Inc. (Aboitiz) and First Gen (Lopez) (doe.gov.ph, 2010). On the distribution end, MERALCO reports an increase in sales and improvement of service as stated in their 2009 annual report.

The following figures summarize their reported success in business:

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**Core Net Income.** This measures the run-rate of the Company. The company calculated the core net income as consolidated net income attributable to equity holders of parent company (Meralco) adjusted to exclude the effect of foreign exchange and mark-to-market gains or losses and other one-time, exceptional transactions.

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**EBITDA**

(In Million Pesos)

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**Earnings Before Interest, Taxes, Depreciation and Amortization (EBITDA).** This measures financial performance excluding the effects of capital structure, interest and depreciation. It is a substitute for operating cash flow. The Company calculates EBITDA by deducting interest income, equity in net earnings of associates and joint venture, and foreign exchange gains from consolidated net income and adding back interest expenses, taxes, foreign exchange losses, depreciation and amortization.
In summary, one of the main provisions of EPIRA was to privatize the government's generation and transmission assets. Unfortunately after 10 years since the passing of the law, only 91.73% of generation assets in Luzon and Visayas have been privatized. This includes TransCo via the 25-year concession grant to NGCP, the Tiwi-Makban Geothermal Complex and the Sual Plant in Pangasinan. Through PSALM's efforts the controversial Angat Hydroelectric Plant was also sold to private investors. The
Agus and Pulangi Hydropower Plants are also deemed to be put into market for investors this year. Aside from selling Napocor-owned plants, the government also sold contracts of Napocor to buy electricity produced by IPP's.

The success of EPIRA may also be seen as the success in business of the private companies. It was portrayed by the 9 ongoing power projects in the country handled by foreign power companies such as Kepco, GN Power, Sithe Global and Kaurschuk Gessel-schaft and sometimes with the participation of large local companies such as Hedcor Sibulan Inc (Aboitiz) and First Gen Corp (Lopez). EPIRA also prohibits the government from producing more power plants despite efforts of DOE, which consequently favors the private companies, as exhibited in the Balintingon Multipurpose Project in Nueva Ecija.
The Philippine Electrical Power Industry has evolved from a formerly nationalized or state-owned; two sector organization, composed of a vertically integrated generation/transmission sub-sector and a fragmented distribution/supply, into a vertically integrated industry with “unbundled components of generation, transmission, distribution and supply” (cagelco2.org.ph, 2009). The transformation of the electrical industry was catalyzed with the passage of the EPIRA or RA 9136. Under EPIRA, the generation and supply sectors were opened for the free market. There was also a privatization of the tangible generation assets as well as contracts with independent power producers of the National Power Corporation (NPC) (Valderama, 2005 and Mendoza, 2008). While the change in the structure was deemed to be progressive and beneficial to the common Filipinos, the 10-year reign of EPIRA has been filled with issues especially in terms of effectiveness. The EPIRA’s aim of retail competition in the power industry is therefore unlikely to be realized due to the lack of provision of the law on anti-competitive behavior. According to Diokno-Pascual and Fortaleza, the passage of EPIRA was further argued to shift the electrical power industry from a government-monopolized market to a
private-monopolized market. Moreover, the real possibility of excesses and market abuses by few dominant players were opened thus further exacerbating the burden to the consumers due to oppressive power rates.

The government reacts to these issues by countering that the system that had been passed was designed to address the entire situation effectively. Along with the “unbundling” of the sectors EPIRA has also “unbundled” the monitoring tasks in order to improve overseeing quality over each sector. The creation of the National Transmission Company or TransCo which assumes the electrical transmission functions of the NPC was made a regulated common carrier and was subject to privatization by concession and other efficient modes (Mendoza, 2008).

The government also counters of the following provisions in the act to ensure fair competition and to safeguard the market:

1. *Cross-ownership Prohibition*. “No generation company, distribution utility or stockholder or official thereof shall be allowed to hold ownership in the Transmission Company or its concessionaire and vice versa” (Rule 11, Section 3, IRR of RA 9136)
2. *Concentration of Ownership Limits.* “No company...can own or control more than thirty percent (30%) of the installed generating capacity of a Grid and/or twenty-five percent (25%) of the national installed generating capacity...” (Rule 11, Section 4)

3. *Bilateral Supply Contracts.* “No distribution utility shall be allowed to source from bilateral power supply contracts more than 50% of its total demand from its affiliate engaged in generation...” (Rule 11, Section 5)

**EPIRA**

On the 8th of June, 2001, the Electrical Power Industry Reform Act (EPIRA) or Republic Act 9136 was signed into law to restructure the Philippine electricity industry and bring in competition to bring down electricity rates and improve the delivery of electricity to consumers. The law was inspired by the poor situation of the industry, plagued with over-contracted capacity supported by the take-or-pay commitments from the state owned NPC and some private IPPs. Due to the consistent financial losses and heavy indebtedness which was sheltered from the sovereign guarantees from the national government with widespread allegations of corruption and fraudulent debt and
non-universal access to electricity at the household level, especially among lower income rural families, the government decided to take action against it (Mendoza, 2008).

The main thrust of EPIRA is to provide reasonable prices of electricity, provide an orderly and transparent privatization of the assets and liabilities of the NPC, establish a strong and purely independent regulatory body and system, and to enhance the competitive operation of the electricity market (Section 2 of RA 9136). Moreover, the law was designed and proposed into Congress to address the following specific problems in the Philippine electricity industry: (1) absence of consumer choice, (2) relatively high electricity end-use rates cites as one of the ten most critical disincentives affecting inflow of foreign investments, (3) highly fragmented state of the distribution sector with evident monopoly of the privately owned Meralco, (4) uncertainty of funding source for long-term investment requirements, and (5) lack of incentives for drive of industry stakeholders to operate more efficiently (Mendoza, 2008).

The potential benefits of the passage of EPIRA among others is rationalized electricity prices for industrial consumers and lowered electricity prices for residential consumers resulting from better capital structures, with immediate 5% rate rebate as
mandated by law and estimated welfare benefits accounting to ~1,000Php per household with new jobs brought by additional investments due to lower electricity costs. Also, EPIRA was believed to have enough safeguards to protect consumers through safeguards for competition such as caps on the amount of electricity a private distributor can buy from its affiliates, lower levels for open access, non-automatic recovery of stranded costs of private distribution utilities, additional benefits for electric cooperatives and finally, a stronger power for the regulators to prevent and redress the market power abuse (Mendoza, 2008).

**Boons and banes of Privatization**

In economics, privatization in a nutshell meant turnover of control of an enterprise from government to the private sector. Theoretically, if the enterprise was run inefficiently by the government then the shift into privatization is likely to result in greater production efficiency and lower prices to consumers. For this reason, developing countries engage in privatization especially in times of crises or struggle (Diokno-Pascual & Fortaleza, 2009). In addition, the benefits of privatization lead to privatized firms to be more productive than nationalized firms due to their incentive-driven
investment and labor policies. La Porta and Lopez de Silanes (2009) as cited in Chang (2009), provided a proof of the said trend through the performance of a Mexican State owned enterprise after they are privatized. The group found that the output of the privatized firms rose more than 50%, operating profits also increased by 24% and incentive related productivity gains accounted for 64% of the improvement. Further studies of 230 firms in 32 developing countries solidify the claim that privatization later led to a significant increase in profitability, efficiency, investment and output (Chang, 2009).

In the Philippines, the privatization referred to the sale, disposition, change and transfer of entire ownership and control of assets and IPP contracts from the government to a private person or entity. In privatization, the government corporation, including the assets and the like are sold as a “clean slate” and this make the property more attractive to prospective buyers. The down hand this course however is that this inflates the debts of the national government, offsetting or eroding whatever financial profits which might have been gained from the sale (Mendoza, 2008).
Evaluating privatization: The EPIRA model

The structure for implementing EPIRA is headed by the regulator ERB, renamed the Energy Regulatory Commission (ERC), and acts to regulate the price of transmitting and distributing electricity. The roles of DOE and NEA was redefined with the DOE regulating the non-pricing activities and supervising the restructuring of the industry, the NEA regulates the franchising of RECs, strengthening the technical capability and financial viability of RECs. A Joint Congressional Power Commission (PowerCom) was created to oversee the implementation of the EPIRA and the PSALM shall manage the privatization of NPC assets and contracts and the TRANSCO (Mendoza, 2008 and Valderama, 2005).

The model of the present structure of the Philippine electrical industry under EPIRA is depicted as follows:

10 years after the passage of EPIRA, the following progress has been achieved (1) the establishment of WESM, (2) the unbundling of rates and removal of cross subsidies between and within the grinds or classes of costumers upon establishment of a universal charge, (3) the ERC has been strengthened, (4) 91.80% privatization has
been achieved in the Luzon and Visayas region by 2010 and this sale has profited to
around 3,400M USD, and (5) almost 100% completion of electrification in rural areas has
been achieved (Mendoza, 2008, DOE, 2009b and DOE, 2010).

The passage of EPIRA however has also been reported to have negative impact
across different sectors, such as loss of jobs more than 2,000 NPC employees due to
restructuring and privatization of the NPC generation assets, some workers have lost
jobs due to the closure of some industrial and commercial establishments due to high
electricity rates, and lack of wage increase due to the employers spending more for the
operation and maintenance cost as a result of high industrial electricity rates (Toledo,
2011)

*Consumer Level*

Households and families are reported to suffer the most due to electricity rate
increase, as families try to make ends meet with increasing electricity rates and non-
increasing family incomes. According to the survey conducted by the researcher,
majority of the sample population complains about the continuous increase of electricity
rates.
The Philippines has the highest power rates in the whole of Asia, even surpassing Japan, according to the survey of JP Morgan Chase in 2009. The cost of electricity in the Philippines has reached an equivalent of 14 US cents per kWh compared to Japan’s 11 US cents per kWh. Rates of Meralco, the biggest distribution utility in the country, went up by 315.8% in less than two decades, even peaking at Php 8.05/kWh in 2007. Since the start of EPIRA’s implementation in 2001, average Meralco rates increased by 35 percent (Diaz, 2009)

The national government is also reported to suffer during EPIRA; according to Anakbayan, Php 200 billion NPC debts were assumed by the national government in 2004. This debts and obligations are further reported to have contributed to the national government fiscal crisis in 2004.
Consumer Perception

Central to the study of the effectiveness of EPIRA is a Filipino consumer’s actual experience of the implementation of the law, thus the researcher used statistical survey using the random sampling method to gauge consumer perception. The researcher placed a list of villages and subdivisions in the municipality of San Jose Del Monte City, Bulacan in a raffle drum (tambiolo) and picked one subdivision. After a subdivision was selected, the researcher placed all the street names, a total of thirty four (34) streets of that subdivision inside the raffle drum and two streets were drawn to be surveyed, those were the streets of Lystra and Perga in Diamond Crest Village. There were a total of forty households on the mentioned streets; the researcher gave out forty copies of survey questionnaires and thirty one of which returned. The target population was forty but the sample population was brought down to thirty.

The respondents’ age range was from twenty to sixty years old, the researcher divided them into four categories namely, young adults (20 to 30 years of age), lower middle age (31 to 40 years of age), middle age (41 to 50 years of age), and adults (51 to 60 years of age).
Seven out of the thirty respondents or twenty three percent of the sample population were under the young adults bracket, twenty seven percent or eight out of the thirty respondents were under the lower middle age bracket, and the middle age and adults’ bracket got twenty three percent and twenty seven percent respectively.

**Educational Attainment and Employment**

Majority or forty seven percent of the respondents have College degrees, thirty seven were High School graduates, three percent have vocational training and thirteen percent left the line blank. On the employment category, thirty seven percent were employed by either the government or a private company, thirty percent were self-employed, seventeen percent were business men, thirteen percent were unemployed and three percent left the line blank.
Three out of thirty respondents mentioned that their residence doubles as their business (sari-sari stores) while twenty seven were purely residential. Also, forty percent of the respondents’ homes were fully owned, thirty three percent were under housing amortization and twenty seven percent were renting.
Income and Monthly Electric Bill

The respondents’ monthly bill ranges from Php 500 to 4,000. Thirty three percent say that their electric bill ranges from Php 500 – 1500 monthly, forty percent say their bill ranges from Php 1501 to 2500, twenty three percent claim that their bill is Php 2500 to 4000 monthly and three percent had no answer. On the other hand, their income ranges from Php 7,000 to Php 40,000. To aid analysis, the researcher categorized the range into four: lower income bracket (Php 7,000 to 10,000), middle income bracket (Php 11,000 to 20,000) and High income bracket (Php 20,000 to 40,000). Forty three percent of the respondents were under the low income bracket while thirty eight and nineteen percent were under the middle income and high income brackets respectively.

![Monthly Electric Bill Diagram](image1)

![Monthly Income Diagram](image2)
Interestingly, twenty three percent of the respondents claim that their monthly income is not enough to cover their regular monthly bills; specifically that of electricity, while sixty seven percent said their income is enough and ten percent were undecided.

On EPIRA

The respondents were asked about their knowledge of EPIRA and the results were 17 out of 30 respondents or fifty seven percent said they are aware of the existence of EPIRA while 13 or 43 percent said they were not. Forty three percent of the respondents said that they came to learn about EPIRA through television, thirty four
percent through newspapers, thirteen percent through friends and relatives, three percent through internet and seven percent through the survey conducted.

When asked about what they know about EPIRA, the majority or forty seven percent of respondents knew about the electricity rate reduction, thirteen percent knew about the involvement of the private sector, seventeen percent knew about both the rate reduction and the private sector involvement, while twenty three percent knew nothing about EPIRA. The researcher also asked the respondents what are the common problems they encounter when it comes to electricity, the majority of the respondents claim that electricity rates would be the most common problem garnering seventy percent of the responses, the prevalence of illegal connection is another issue according to twenty percent of the respondents while brownouts and slow service got seven and three percent respectively.
To further determine the respondents’ knowledge and opinion on EPIRA, the researcher asked five open-ended questions (see appendix). The first question was “In the past five to ten years, have you seen a change in your monthly electric bill? Did it increase or did it decrease? Why do you think so?” All of the respondents answered that they have seen an increase; however their answers differ in the reason behind it. Majority of the respondents mentioned that additional charges such as system loss as the main reason, a number based it on the increase in their monthly consumption, while a few did not know why there has been an increase.

The second question was, “In the past five to ten years, have you seen an improvement in the service provided by Meralco?” ten percent of the respondents noted that there has been improvement but it comes with an increase in price, twenty five percent noticed that there have been lesser electricity fluctuations and brownouts and sixty five percent noted that there was none. The third question was, “What do you think about the privatization of Napocor?” the respondents mentioned varying comments and opinions. Some say that it is disadvantageous to people, one respondent even said “The public is on the losing end since it will mean higher prices, poor service and termination of Napocor (2011).” Others mentioned that it will be a source of corruption and that it is
only “Good for short term – rates may decrease but in the long term, companies can dictate the price.” On the other hand, some respondents said that it might improve the services and there is a possibility of rate reduction when it becomes private, one respondent mentioned, “If it aims to provide cheaper electricity, why not?”

“What do you think about the service provided by Meralco?” was the fourth question. Most respondents agreed that it needs improvement, one said “Fast (Meralco) - in disconnection services when your bills are unpaid.” And some went as far as saying “It (Meralco) sucks!” Lastly, respondents were asked, “After ten years of EPIRA’s implementation, do you think it has fulfilled its goal of providing affordable electricity rates?” an overwhelming ninety percent said no, because there have been no improvements. One respondent mentions, “No, the aspiration is good but the problem is allowing cross-partnerships among generators and distributors.” Some also pointed out the price of electricity still being expensive and another respondent mentions, “what was deducted from my bill due to EPIRA was added to other charges in my bill.”
Data Summary

Through the decades, the PEI has progressed from a state-owned system into a vertically integrated industry with unbundled generation, transmission, distribution and supply. In accordance to the EPIRA the generation and supply became open for market and NPC’s generation assets and contracts to IPPs were held by private players.

Unfortunately, running for almost 10 years the EPIRA has been plagued with issues over its effectiveness and was associated as just as a shifting tool for the electrical industry to be privately monopolized. The government counters this issue through establishing TransCo and by arguing that EPIRA has special provision that would ensure fair competitions and safeguard the market. Privatization and restructuring of the industry were key elements of EPIRA. It aimed to stir competition between private investors and improve delivery of electricity to consumers. However, in order to achieve the projected comforts of privatization electrical assets must be marketed as “debt free” to attract investors. The downside of this is that these debts will be shouldered by the government therefore offsetting any profit from these transactions. These debts also
contributed to the government’s fiscal crisis. Due to the efforts for privatization more than 2,000 workers in NPC lost their source of living also.

The EPIRA law was passed in hopes that it would lower power rates and address specific problems on our electric industry. Now 10 years after its enactment the Philippines has the highest power rates in Asia. In effect countless jobs were lost caused by closure of some industrial and commercial establishments due to high electricity rates. Household consumers also complain with the swelling power rates and non-increasing family incomes.

To further gauge the actual effectiveness of EPIRA on the consumer level, the researcher conducted a statistical survey to a group of 30 respondents living in San Jose Del Monte Bulacan determined through random sampling method. A highly diversified in age range household individuals participated in the statistical survey. The respondents were asked about their knowledge on EPIRA and based from the respondent’s replies, 57% of which were aware of the law. Generally television and newspapers were the primary source of their knowledge regarding the existence of the EPIRA law. When asked about what they know about the EPIRA law, majority of the respondents related
EPIRA with electricity rate reduction and a minute number of respondents knew about the role of the private sector in the law. 23% of the population knew nothing about the EPIRA law. Through the conduct of focus group discussions and the use of open-ended questions in the survey, the researcher found out that most respondents are unsatisfied with the service that Meralco provides and that electricity rates remain high. Further, consumers did not find the privatization of NPC to be of benefit to them since it just exacerbates the problem with high electricity prices.
CHAPTER VI. DATA INTEGRATION AND ANALYSIS

The main objective of this research is to assess the energy situation of the country and how the EPIRA affects the common Filipino household. It aims to illustrate the significance of energy policy and governance in the country, to determine the results of the passing of EPIRA for a Filipino household and to find out whether or not EPIRA contributed in making electricity more affordable in the country. The tentative answer is EPIRA did not fulfill its goal of restructuring the power sector of the country and it did not make electricity more stable, dependable, efficient, and affordable for the Filipino consumer.

According to the economic theory of liberalization; more specifically privatization, shifting public responsibilities to private actors or the reduced role of government in the economy will enhance efficiency and increase revenue, resulting to benefits for the consumers in the form of quality, dependable and affordable electricity rates. Coupled with Corporate Social Responsibility; a term in Business Ethics, private companies are given public trust therefore they should put the welfare and the best interest of its consumers at hand.
Focusing on the interaction of privatization and corporate social responsibility and upon ample review of EPIRA and its features, the researcher identified three main flaws in the EPIRA system which may explain the law’s shortcomings:

I. Promotion of privatization in the passage of responsibility to the common Filipino

With the passage of EPIRA, the Philippine electricity industry was transformed such that it now promoted open access, which meant that any qualified person may be allowed to use of transmission, and/or distribution system and associated facilities. These changes encouraged the private market to participate and invest in the electric sector, and the there was an evident change in the electricity generation market (from NPC-IPP power plant contributing 54% to NPC getting only 17% of the national grid market share).

Under the umbrella term of Corporate Social Responsibility, these helped the consumers, hypothetically, for they are said to be able to choose their electricity supplier, distributor or generator and lessen in a sense the “binds” of a captive market. However, what is not known to many is that this restructuring was done at the public consumer’s expense to begin with.
Gearing towards the economic tide of privatization, EPIRA paved the way for the privatization of the NPC. However, in order to sell it, the NPC would have to be made into view as marketable, thus it was mandated to be sold debt-free. This in turn meant that in order to privatize the NPC, the government will absorb some 6.7 billion USD worth of liabilities of NPC (Santos, 2010). In essence therefore, it is each and every individual taxpayer, whether he or she uses electricity or not, that would shoulder and pay for the debts. The common Filipino therefore, would literally have to “pay” for the privatization that they were supposed to benefit from.

The EPIRA has allowed private power corporations to pass on the cost of business to its consumers. It has legitimized the system loss charge which forces consumers to pay for pilfered power, electricity lost because of inefficient connections and even power used by distribution utilities themselves. Consumers are also charged for installing connections in far-flung areas (missionary electrification) which should be the responsibility of the government and for cleaning up the pollution caused by the business of power corporations (environmental charge) (Padilla, 2010).
Moreover, the COA found out that certain operating expenses amounting to Php3.479 billion and P2.916 billion in 2004 and 2007, respectively, should not have been charged by Meralco to its customers. The ERC has compelled Meralco to implement a rollback for its customers. However, the ERC has not pressured Meralco to complete past refund that it still owes to customers worth Php 34.12 billion.

II. Use of the current system to nurture monopoly and market power abuse

It is important to note that privatization in the EPIRA model only turned a previous government monopoly into a private monopoly (Tanchuling, 2010). Another salient feature of EPIRA, aside from pushing for privatization, is allowance for the cross-ownership between generation and distribution companies. The law tries to regulate this provision by mandating no cross-ownership with the transmission sub-sector and/or its concessionaires, and limits supply contracts from generation affiliate companies to the level of only 49%. A good example of this scenario is the case of MERALCO as cited in the Mendoza (2008) study. MERALCO is one of the biggest players in the electric market, with franchise assets covering most of the main island of Luzon. The company has figured in a recent controversy involving high electric rates. And during the peak of
the controversy it has conveniently referred to the unbundled monthly bills of consumers.

MERALCO explains that the reason for the high electric bill is the various charges placed by the generation companies (NPC mainly), systems losses, the taxes and charges by the government, among them the universal charge for missionary electrification and environmental protection, and value added tax among others. The company points out upon breakdown, only a small percentage of the actual bill is Meralco’s own distribution charge.

Upon inspection of one’s electric bill, one may be easily swayed on the given argument by MERALCO because on the average, distribution costs amount only to around 20% of the bill, meanwhile generation and transmission to around 62%. Meralco would hide from the public the fact that it had been generating power from its own sister generation companies (Quezon Power and FirstGen) and NPC-bought generating companies (Pantabangan and Agusan Hydro) to a level that may have breached the 50% cap.
III. Failure to deliver the promised benefits to consumers

On the consumer level, EPIRA has also been unsuccessful in fulfilling its promise of a more accessible and affordable Electricity. “The law was passed in 2001 and it is 2011 already, where are the choices? It’s still Meralco or the local cooperatives.” Nilo Tanchuling, secretary general of Freedom from Debt Coalition said. Another point would be the lack of awareness of the general public regarding EPIRA, based on the Consumer Perception Survey and Focus Group Discussion, 43% and 90% of the respondents know nothing about the law. Also, a substantive 70% of the respondents in the survey mentioned high rates as their primary issue when it comes to electricity. When asked what they think is the reason behind the increase, respondents would immediately cite gasoline prices, VAT and system loss as the main reasons.

On the issue of accessibility of electricity, in the past ten years Meralco has indeed expanded its market base however, this cannot be considered as an increase in the efficiency in service. The expansion of such corporation can be viewed as a marketing strategy in the sense that corporations would naturally want to expand because this translates to more profit. Furthermore, the impact of privatization on aggregate social welfare, and on the consumers, merging both the income distribution
and the production efficiency aspects of the process show that instead of helping, it only augmented the burden on its purported beneficiaries.

In summary, the data presents that EPIRA is flawed due to the problematic concept of the law, structural issues of implementation, failure of private companies to elicit corporate social responsibility, and the misinterpretation of privatization as an economic concept, adding up to the failure of EPIRA to produce its promised results.
VII. CONCLUSION AND RECOMMENDATION

A decade has passed since Republic Act 9136 or EPIRA was enacted. It was intended to introduce a range of alternative mechanisms that will enhance the exposure of the Philippine electrical industry to competitive market forces. The introduced mechanisms contained a combination of market actions, where competition in the generation and supply sector can be introduced through privatization, and effective regulation, promoted in segments that maintain natural monopoly such as the transmission and distribution sector. Advocates of privatization claim that the slowness of implementation and the unattractiveness of the market are the reasons why the promises have not been delivered.

However, through review of the structure and upon assessment of the impact of EPIRA, the study finds that it does not effectively alleviate the electricity problem of the country and it has only led to the shouldering of the Filipino consumer of the bulk of the cost and dues of the electric companies. Under EPIRA, the business of electricity has become a profitable business since a vital service like providing electricity has been marketed like a commodity. As one survey respondent said, “Those who have the money can avail of the service.” In terms of making electricity more stable, dependable
and affordable to the Filipino consumers it has also not succeeded in meeting the promised claims as evidenced by the steady increase of the electricity rates during the term of EPIRA and the slow development in electricity governance and reform.

Although the EPIRA, in its construct and implementation, has been established to be ineffective from the welfare perspective, it is important to note that privatization as a trade concept has not been proven to be ineffective in this paper. The researcher has been able to ascertain though that a commodity as vital as electricity cannot be placed under such liberalistic trade policy due to 2 important factors:

1. Not everyone can provide the service.

2. The resource is limited and is therefore not a traditional commodity.

As had been established in the review of literature, electricity is a different type of merchandise. Electricity has distinct features that make it more prone to power market abuse and therefore renders it difficult to promote healthy competition in its marketing. Electricity is not something that is stable and is readily available meanwhile the demand for the commodity remains constant, therefore the Philippines also need to outsource
and import from the international market as well. These factors working simultaneously render electricity rates prone to inflation.

Electricity cannot be solved or treated akin with the telephone industry, wherein the early 1900s the PLDT had a monopoly of the landline telephone industry. This is because the telephone is a technology while electricity is a resource. Although the two concepts may be similar in a way a few decades ago since it can be considered a luxury, nowadays, electricity has evolved into a service that is vital to our daily lives and may be considered even as a basic necessity. Reform, restructuring, privatization and deregulation of the electricity industry can be seen to have a long way to go. Hopefully however, the focus of these said improvements would shift from favoring the industry players to favoring the Filipino public, the overlooked real key investors in this circumstance and the ones whom these electricity providers must serve.

This current study is limited due to present time and resource constraints of the researcher in its development. Although not all of the initially set objectives have been fulfilled, the basic qualitative process has been met through conduct of interview and
focus group discussion. The main question of the study has also been appropriately answered through collection and collation of available data.

The researcher recommends that for future studies, more key informants may be interviewed and focus group discussion may include other types of Meralco consumers, such as those in the province, or maybe include Meralco affiliated persons as well in order to gather a more expansive data regarding effect of EPIRA on common Filipinos.
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Santos, Jose Bimbo F. “Meralco customers complain as bills soar due to higher power rates, consumption.” Business World, 15 April 2010.


### APPENDICES

<table>
<thead>
<tr>
<th>Question</th>
<th>Response</th>
</tr>
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| 1. In the past five to ten years, have you seen a change in your monthly electric bill? Did it increase or decrease? Why do you think so? | - "my electric bill increases"  
- it’s not constant  
- increased due to our needs.  
- increase  
- increases or decreases depending on our usage.  
- increase (due to) |
| 2. In the past five to ten years, have you seen an improvement in the service provided by Meralco? | - None  
- no  
- yes but it comes with an increase in price  
- there have been improvements, lesser brownouts  
- none so far  
- - Ok to avoid monopoly. |
| 3. What do you think about the privatization of Napocor? | Disadvantageous to the people  
- Our monthly bill would be more expensive  
- The public is on the losing end since it will mean higher prices, poor service and termination of Napocor employees.  
- - it needs improvements  
- - "It sucks!"  
- - needs improvement  
There might be no control in power rates.  
- - It will be a source of corruption.  
Okay, but there’s room for improvement. |
| 4. What do you think about the service provided by Meralco? | - benefits the company only and not the consumers  
- - needs improvements  
- - "It sucks!"  
- - it needs improvements  
- - No.  
- - none  
- - No, the aspiration is good but the problem is allowing cross-partnerships among generators and distributors.  
No because there are no improvements. |
| 5. After ten years of EPIRA’s implementation, do you think it has fulfilled its goal of providing affordable electricity rates? | - no  
- - No  
- - None  
- - None  
- - No because there are no improvements.  
- - NO.  
- - 87  
- - No because it was |
<table>
<thead>
<tr>
<th>Distribution and generation charges</th>
<th>- Yes</th>
<th>- Satisfactory</th>
<th>- Satisfactory</th>
</tr>
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<tbody>
<tr>
<td>- based on our consumption</td>
<td>none, generation charges are getting higher</td>
<td>Good, they respond fast.</td>
<td>Good, reliable, efficient and fast.</td>
</tr>
<tr>
<td>- fluctuates, but more often it increases</td>
<td>yes</td>
<td>- It might improve the services</td>
<td>- Good, they respond fast.</td>
</tr>
<tr>
<td>- increase, high power cost</td>
<td>none</td>
<td>- There is a possibility of rate reduction when they privatize.</td>
<td>Fast – in disconnection services when your bills are unpaid.</td>
</tr>
<tr>
<td>- based on consumer consumption</td>
<td>yes, less fluctuations and brownouts</td>
<td>- should be done ASAP</td>
<td>- Good, reliable, efficient and fast.</td>
</tr>
<tr>
<td>- increased due to changes in billing statement, additional charges</td>
<td>none</td>
<td>- If it aims to provide cheaper electricity, why not?</td>
<td>- no improvement</td>
</tr>
<tr>
<td></td>
<td></td>
<td>- Good for short term – rates may decrease but in the long term, companies can dictate the price.</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>- Yes, improved service. Cheaper distribution/transmission costs</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>- No, what was deducted from my bill due to EPIRA was added to other charges in my bill.</td>
<td></td>
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<tr>
<td></td>
<td></td>
<td>- No, price of electricity is still high.</td>
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<td></td>
<td></td>
<td>- No, because it was not implemented properly</td>
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<tr>
<td></td>
<td></td>
<td>mismanaged.</td>
<td></td>
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