

## **ADDITIONAL COMMENTS ON THE ERC STRENGTHENING BILL (UNNUMBERED SENATE BILL – VERSION JANUARY 23, 2025)**

Adoracion M. Navarro, Ph.D.<sup>1</sup>

26 February 2025

1. On **Section 44. Review by the ERC**, we propose, as part of the introductory paragraph and after the statement "In the exercise of its quasi-judicial functions, the ERC shall implement regular, summary and administrative proceedings, and other processes that shall promote transparency, expediency and consistency", the addition of the following statement:

**"It shall employ principles of deregulation, light-handed regulation, or re-regulation in adjusting its rules in response to the dynamic needs of the energy sector."**

Including these economic principles in the law would facilitate the adoption of specific implementing rules or ERC resolutions for the currently pending provisions on competitive selection process (CSP), where light-handed regulation could mean that the results of the CSP could just be noted rather than fully reviewed by the ERC when certain conditions are complied with, and benchmarking, where light-handed regulation is employed through comparisons in terms of key performance indicators. Moreover, allowing the ERC to adjust its rules between two extremes of deregulation and re-regulation, with light-handed regulation in between, would help ensure flexibility in regulatory practices in response to changes in technology, needs, and other factors affecting the energy sector. Stating that the ERC shall apply these economic principles only in its implementing rules ensures that it will not go beyond what are permissible under existing laws.

For additional clarifications on these economic principles, please refer to the following definitions:

Deregulation - Removal of controls in a particular market to improve its economic efficiency; generally considered a supply side policy.<sup>2</sup>

Light-Handed Regulation - Allows the firm discretion in how it meets regulatory targets. Regulation that is not intrusive, in contrast to command and control or even

---

<sup>1</sup> Dr. Adoracion M. Navarro is a Senior Research Fellow at the Philippine Institute for Development Studies (PIDS)

DISCLAIMER: The views expressed herein do not necessarily reflect those of the PIDS.

<sup>2</sup> Body of Knowledge on Infrastructure Regulation. n.d. Deregulation (Glossary).

<https://regulationbodyofknowledge.org/glossary/d/deregulation/>.

cost of service regulation. This process is designed to reduce information requirements and high compliance costs, while introducing clear incentives for good performance.<sup>3</sup>

Re-regulation - Regulation applied after the restructuring of a previously vertically integrated utility. The term could also be applied to a situation where a reduction of regulatory oversight (and an increase in competition) was deemed to weaken industry performance. Such an outcome often leads to calls for either new regulations (reflecting an understanding of the factors responsible for regulatory failure) or a return to the previous regulatory regime.<sup>4</sup>

2. On **Section 44 (B). Benchmark Prices and Rates**, we propose the addition of "key performance indicators" in the section title and selected provisions. The proposed revisions are as underlined below:

**"Sec. 44 (B). Benchmark Prices, Rates, and Key Performance Indicators. The ERC shall determine the benchmark for the range of prices, rates, and key performance indicators that are deemed reasonable for both the end-users and the operations of generation, transmission, and distribution entities.**

xxx

**The ERC shall publish the benchmark prices, rates, and key performance indicators, which shall be regularly updated."**

3. On Section 46. Fines and Penalties, last paragraph, we propose revising "may be adjusted" to "shall be adjusted". Thus, the proposed revised revision should read as:

**"The fines and penalties shall be adjusted to its present value every five (5) years using the consumer price index (CPI) as published by the Philippine Statistics Authority."**

4. On the enumeration of acts of economic sabotage and the penalties for such, we propose that these be taken up in a separate legislation since economic sabotage affects not only the electric power industry but also other parts of the energy sector, such as natural gas pipelines, in-land distribution routes, and off-shore trading routes.

5. We also propose that the following be made part of the transitory provision in the bill:

**"The ERC shall be forward-looking and formulate multi-year strategic plans that aim to, among others, implement staff-capacity building programs, enforce the**

---

<sup>3</sup> Body of Knowledge on Infrastructure Regulation. n.d. Light-handed Regulation (Glossary). <https://regulationbodyofknowledge.org/glossary/l/light-handed-regulation/>.

<sup>4</sup> Body of Knowledge on Infrastructure Regulation. n.d. Re-regulation (Glossary). <https://regulationbodyofknowledge.org/glossary/r/re-regulation/>.

**adoption of needed technologies such as those necessary for smart grids<sup>5</sup> and the clean energy transition, anticipate the tariff implications of such technologies, determine how to achieve balance between affordability and sustainability, and assess what rules adjustments are needed after a rigorous scanning of the regulatory environment. In the first period plan, the ERC shall endeavor to eliminate its backlogs in regulatory decision-making, establish the regular release of historical data on broad categories of tariffs and key performance indicators, and significantly upgrade the capacity of its staff."**

---

<sup>5</sup> The Body of Knowledge on Infrastructure Regulation defines smart grid as follows:

"Smart grid refers to a class of technology people are using to bring utility electricity delivery systems into the 21st century, using computer-based remote control and automation. These systems are made possible by two-way communication technology and computer processing that has been used for decades in other industries. They are beginning to be used on electricity networks, from the power plants and wind farms all the way to the consumers of electricity in homes and businesses. They offer many benefits to utilities and consumers — mostly seen in big improvements in energy efficiency on the electricity grid and in the energy users' homes and offices."

Source: Body of Knowledge on Infrastructure Regulation. n.d. Smart Grid (Glossary).  
<https://regulationbodyofknowledge.org/glossary/s/smart-grid/>.