COMMITTEE REPORT NO. 656

Submitted by the Committee on Energy on DEC 1, 2020
Re: House Bill No. 8203
Recommend its approval, in substitution of House Bill Numbered 7060
Sponsors: Representatives Juan Miguel M. Arroyo and Sergio C. Dagooc

Mr. Speaker:

The Committee on Energy to which was referred House Bill No. 7060, introduced by Representatives Sergio C. Dagooc, Presley C. de Jesus, Adriano A. Ebcas and Godofredo N. Guya, entitled:

"An Act Promoting the Use of Microgrid Systems for the Total Rural Electrification of Unserved and Underserved Areas"

has considered the same and recommend the approval of House Bill No. 8203, entitled:

AN ACT
PROMOTING THE USE OF MICROGRID SYSTEMS TO ACCELERATE THE TOTAL ELECTRIFICATION OF UNSERVED AND UNDERSERVED AREAS NATIONWIDE


Respectfully submitted,

JUAN MIGUEL "MIKEY" M. ARROYO
Chairperson
Committee on Energy

The HONORABLE SPEAKER
HOUSE OF REPRESENTATIVES
Quezon City
AN ACT
PROMOTING THE USE OF MICROGRID SYSTEMS TO ACCELERATE THE TOTAL ELECTRIFICATION OF UNSERVED AND UNDERSERVED AREAS NATIONWIDE

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

SECTION 1. Title. - This Act shall be referred to as the "Microgrid Systems Act."

SEC. 2. Declaration of Policy. - It is hereby declared the policy of the State to:

a) Pursue sustainable rural development and poverty reduction plans towards nation building by providing access to electricity for all;

b) Accelerate the total electrification of the countryside and the provision of reliable electricity service in unserved and underserved areas;

c) Promote private sector participation in the electrification of, not only remote and unviable areas but also unserved and underserved areas;

d) Provide a competitive environment and level-playing field for various energy sources and technology; and

e) Ensure that electricity consumers will benefit from new and emerging technologies and innovations in the electric power industry.
SEC. 3. Scope. This Act shall apply to the development of microgrid systems in unserved and underserved areas nationwide.

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

a) **Annual penetration limit** refers to the maximum total capacity of grid-tied microgrid systems that can electrically connect to a specific system of a distribution utility (DU), in case of exporting power as a result of a buy and sell agreement, considering the DU’s existing power supply agreements, the Distribution and Transmission Development Plan, distribution and transmission system, and other technical considerations as may be determined by the Energy Regulatory Commission (ERC), in cases where the said microgrid system can be viably interconnected to the main distribution system of the distribution utility;

b) **Benchmark rate** refers to the maximum effective retail rate consisting of all components like generation and wheeling rates, whenever applicable, that a Microgrid System Provider (MGSP) may charge and collect from end-users, considering the specific technology used in the microgrid systems, capacity, number of off-takers, and other technical, financial, and economic considerations as may be determined by the ERC;

c) **Distributed Energy Resource** refers to smaller power sources that could be aggregated to provide the power necessary to meet regular demand. It is a demand and supply side resource deployable throughout the system of a network provider to meet energy reliability needs of customers served by the system, including renewable energy facilities, energy storage and other system components necessary to incorporate renewable generation resources;

d) **Distribution system** refers to the system of wires and associated facilities belonging to a franchised distribution utility, extending between the delivery points on the transmission, sub-transmission system, or generating plant connection and the point of connection to the premises of the end-user;

e) **Distribution Utility** refers to any electric cooperative, private corporation, or government-owned utility, which has a franchise to operate a distribution system, including those whose franchise covers economic zones;
f) Electric Cooperative refers to a distribution utility organized pursuant to Presidential Decree No. 269, as amended, or as otherwise provided in this Act;

g) End-user refers to any natural or juridical person requiring the supply and delivery of electricity for its own use;

h) Grid-tied refers to a situation in which a microgrid system is connected to the main distribution system of the franchise holder distribution utility to serve as a backup or main power source;

i) Hosting Capacity refers to the maximum total capacity addition that a microgrid provider may install based on the forecasted demand in its area of operation, in case the same is operating in island mode or has no possibility of connecting the supply to the main distribution system of the DU having a franchise in the area. Annual capacity addition based on forecast shall be reported to the ERC for purposes of rate–tariff and technical standard determination;

j) Island mode refers to a situation in which a microgrid system is electrically isolated from the grid/main distribution system and the isolated system is energized by embedded generation or the Distributed Energy Resource (DER), subject to the maximum capacity allowed by the ERC of the host area;

k) Microgrid system refers to a group of interconnected loads and DER with clearly defined electrical boundaries that acts as a single controllable entity with respect to the distribution, sub-transmission, or transmission grid, whichever is applicable, and can connect and disconnect from the grid to enable it to operate in both grid-tied or island mode;

l) Microgrid System Provider refers to a natural or juridical person whose business includes the installation of renewable or hybrid technology microgrid systems, power generation assets, or other associated power delivery systems in unserved or underserved areas nationwide;

m) National Power Corporation-Small Power Utilities Group areas refer to a geographical area currently being served by the NPC-SPUG or by a new power provider, and may be an underserved area;
n) **New Power Provider** refers to an MGSP who has taken over the function of the NPC-SPUG through the mechanism of privatization provided by the Department of Energy (DOE) consistent with Republic Act No. 9136, otherwise known as the “Electric Power Industry Reform Act of 2001,” and whose functions are further defined under this Act;

o) **Qualified Third Party** refers to an MGSP which serves as the alternative electric service provider authorized to serve remote and unviable areas under RA 9136, and whose functions are further defined under this Act;

p) **Remote and unviable area** refers to a geographical area within the franchise of a DU where immediate extension of distribution lines is not feasible, and may be classified as an unserved or underserved area;

q) **Universal Charge** refers to a non-by-passable charge which shall be passed on and collected from all electricity end-users on a monthly basis by the distribution utilities pursuant to RA No. 9136;

r) **Underserved area** refers to an area consisting either of sitioos, barangays, or municipalities currently served by home power systems, microgrids, or DUs whose duration of electricity services is less than twenty-four (24) hours daily; and

s) **Unserved area** refers to a sitio, barangay, or municipality with no electricity access due to the absence of distribution systems or even home power systems or no electricity connection at all;

SEC. 5. **Microgrid Systems in Unserved or Underserved Areas.** - Microgrid systems shall be installed in unserved or underserved areas by accredited MGSPs after the conduct of a Competitive Selection Process (CSP) by the ERC and NEA in accordance with Sections 6 and 7 of this Act: Provided, That the installation shall require a waiver of rights and obligations to provide electric service from the DU concerned and shall not revoke the DU’s franchise over the said area: Provided, further, That the installation of grid-tied MGSPs shall be within the annual penetration limit determined by the ERC in accordance with Section 6 of this Act: Provided, furthermore, That the permitting process of all MGSPs shall comply with the time frames specified in this Act and with the provisions of Republic Act No. 11234, otherwise known as the “Energy Virtual One Stop Shop Act”: Provided, finally, That a separate
account shall be maintained as provided under Section 9 hereof, and that it is
without prejudice to the right of first refusal given to the DUs under Section 10.
Accredited MGSPs that operate in off-grid areas, remote or unviable
areas shall be subsidized through the Universal Charge for Missionary
Electrification (UC-ME) pursuant to Section 34(b) and Section 70 of RA No.
9136. However, accredited MGSPs that operate in off-grid areas, which are not
NPC-SPUG areas or remote or unviable areas, shall not be subsidized, without
prejudice to the provisions of Section 8 of this Act. The NPC shall file the
necessary application for the UC-ME of concerned MGSPs upon approval by
the ERC: Provided, however, That the National Electrification Administration
(NEA) shall provide all the necessary data: Provided, further, that the
administration of the approved UC-ME shall be undertaken by the NEA.
All rates charged by accredited MGSPs, whether subsidized or
unsubsidized, shall be equal to or lower than the applicable benchmark rate as
may be determined by the ERC in accordance with Section 6 of this Act:
Provided, That transmission, distribution, wheeling, and universal charges
imposed on end-users shall, whenever applicable, continue to be regulated by
the ERC.
SEC. 6. Functional Responsibilities of the Energy Regulatory
Commission (ERC). - In addition to its functions under RA No. 9136, the ERC
shall:
a) Within six (6) months from the effectivity of this Act, in
consultation with the DOE, the National Transmission Corporation, the
transmission concessionaire, the NEA, the National Power Corporation, and
other relevant government agencies and private stakeholders in the electric
power industry, develop, establish, and promulgate the following:

i. Parameters for the determination of individual DU's annual penetration
and hosting capacity limit: Provided, That the DUs shall be necessary
parties in the determination of their respective annual penetration limits.
The ERC shall conduct a regular review of such parameters, and shall
release all the annual penetration limits not later than December 15 of
each preceding year;
ii. Technical and service standards for microgrid systems, whether grid-tied or island mode, both operating in unserved and underserved areas: Provided, That such standards shall be compliant with the Philippine Distribution Code, Philippine Grid Code, and other relevant rules and regulations;

iii. Rules for grid-tied microgrid systems to buy and sell from the grid, whenever applicable: Provided, That the same shall not result to increased retail rates for other end users, or compromise grid or distribution system stability or reliability; and

iv. An accreditation criteria and mechanism for MGSPs within one hundred eighty (180) days from the effectivity of this Act: Provided, That the list of accredited MGSPs shall be updated, published, and posted on the ERC and DOE websites not later than January 15 of every year;

b) Monitor the operations of all awarded accredited MGSPs and their respective contracts with the DU having franchise in the area: Provided, That the ERC may, upon complaint or motu proprio, conduct a review of an awarded MGSP's operations and the corresponding contract should it find reasonable grounds for non-compliance with the benchmark rate and other provisions of the standardized contract; and

c) Exercise its rate-making power through the determination of benchmark rates for different microgrid systems and standardized contracts based on technology, capacity, and other pertinent considerations: Provided, That the list of benchmark rates shall be updated, published, and posted on the ERC and DOE websites not later than December 15 of each preceding year: Provided, further, That for the purpose of facility and proper determination of the rates, a threshold should be set based on the capacity of the microgrid system and as determined by the Commission. The rates for microgrid systems beyond the threshold shall be subject to the regular rate making process, with those within the threshold, subject to a benchmark rate to be determined by the Commission: Provided, finally, That the initial benchmark rates for those within the threshold shall be determined by the ERC within a period of one hundred eighty (180) days from the effectivity of this Act.
SEC. 7. Functional Responsibilities of the Department of Energy (DOE).—In addition to its functions under Republic Act No. 7638, otherwise known as the "Department of Energy Act of 1992", the DOE shall:

a) In coordination with NEA in case of areas within the franchise area of electric cooperatives, release and update a list of unserved and underserved areas as well as NPC-SPUG areas and remote or unviable areas: Provided, That the list shall be updated, published, and posted on the NEA, ERC and DOE websites not later than January 15 of each preceding year;

b) In coordination with the privately-owned DU affected, prepare annually the list of unserved and underserved areas waived by the privately-owned DUs: Provided, That the said list shall be updated, published and posted on the NEA, ERC and DOE websites not later than January 15 of the current year;

c) Establish and conduct a uniform, simple, and streamlined process for competitive selection of MGSPs, whether subsidized or unsubsidized, consistent and harmonized with the existing DOE policy guidelines for the purpose: Provided, That the entire procedure from commencement to submission to the ERC of the awarded contract shall be no longer than ninety (90) days: Provided, further, That information on interested MGSPs and their respective proposed systems and rates shall be made available to end users in the area concerned within thirty (30) days from the MGSP's submission of the intent to participate; and

d) Determine the detailed procedure for the transition of electricity service from DUs to awarded MGSPs in underserved areas: Provided, That such transition shall not exceed ninety (90) days from the award of the contract through no fault of the awarded MGSP: Provided, further, That MGSPs may enter as NPPs only and that the distribution services shall remain under the operation of the franchised DUs. For NPC-SPUG areas and in instances where the existing power supply contract is expired or expiring and the CSP is not yet completed, the NPC-SPUG or existing power provider shall remain as the power provider until such time as the CSP has been completed and the new provider has assumed responsibility.
Sec. 8. **Functional Responsibilities of the National Electrification Administration (NEA).** - In addition to its functions under Presidential Decree No. 269 as amended, and pursuant to its mandate of total rural electrification, the NEA shall:

a) Prepare an annual schedule of CSP based on the list of unserved and underserved areas within the franchise area of ECs: *Provided*, That the NEA shall, in coordination with the ECs concerned, consolidate the said annual schedule: *Provided, further*, That the schedule shall be published and posted on the NEA, ERC and DOE websites not later than January 15 of the current year;

b) Administer subsidies as provided in Section 5, Paragraph 2, of this Act to qualified ECs that are accredited as MGSPs after the conduct of a CSP in accordance with Section 6 and Section 7 of this Act; and

c) Determine the detailed procedure and qualifications for the application and grant of subsidies to accredited MGSPs of qualified ECs.

SEC. 9. **Microgrid Systems of Electric Power Industry Participants.** - Generation companies, DUs, retail electricity suppliers, and their respective subsidiaries or affiliates may engage in the business of MGSPs in unserved and underserved areas, subject to the conditions set forth under Section 45 of RA No. 9136: *Provided*, That a separate account shall be maintained for such business undertaking. The Microgrid System Providers shall be exempt from securing the Certificate of Compliance (COC) required under Section 6 of Republic Act No. 9136: *Provided, however*, That all other necessary health, safety and environmental clearances are obtained from the appropriate government agencies.

SEC. 10. **Preferential Right for Distribution Utilities.** – A DU shall, on its own or in partnership or joint venture with other entities, be given preferential right of first refusal to engage in the business of MGSPs in unserved and underserved areas within their franchise area for a maximum period of eighteen (18) months from notice of the inclusion of the said area in the list of unserved and underserved areas as well as NPC-SPUG areas and remote or unviable areas released, updated, published, and posted yearly on the websites of the DOE, the NEA, and the ERC pursuant to Section 7 of this Act: *Provided*, That they shall provide an electricity rate lower than or equal to
the prevailing electricity rate: Provided, further, That they shall be allowed to impose a separate rate in the identified underserved or unserved area:
Provided, furthermore, That in such case, a CSP shall no longer be required:
Provided, finally, That the cost of the microgrid systems of DU-MGSPs shall not form part of the DUs capital expenditure projects allowed to be passed on to their consumers located in their respective franchise areas. Such cost shall be recovered instead from the rate to be charged to the DU-MGSPs’ consumers connected to the microgrid system.

SEC. 11. Effect of Grid Extension. - If the grid is extended to previously underserved, unserved, NPP, or Qualified Third Party (QTP) areas served by a MGSP, the DU shall have the Preferential Right of First Refusal to acquire the distribution system of the MGSP upon the expiration or termination of the MGSP contract by virtue of their contractual agreement. In case the DU having the franchise over the affected area opts to acquire the same, the acquisition cost of the microgrid system shall consider its asset life, extent of recovered costs from the consumers connected to the said microgrid system and other parameters to be determined by the ERC. Such acquisition shall likewise be approved by the Commission.

Following its acquisition, the DU shall be allowed to include the operating costs thereon as part of its Allowable Operating Expenditures (OPEX).

SEC. 12. – Non-Disqualification from Extension of Franchise. – The presence of an MGSP in the franchise area of a DU shall not disqualify the said DU from seeking an extension of the term of its franchise from Congress or from any appropriate government agency.

SEC. 13. Prohibited Acts. - Any person, natural or juridical, shall be prohibited from the following acts:

a) Refusal to allow the installation of any microgrid system: Provided, that the requirements under Sections 5, 6, 7, and 8 of this Act shall be complied with;

b) Imposition of new charges and contractual terms on the end user which shall not be part of the benchmark rate and awarded MGSP contract;
c) Refusal to allow a DU to acquire an MGSP distribution system:
Provided, That the DU shall have a franchise over the area and the acquisition
shall be in accordance with Section 9 of this Act; and
d) Non-compliance with the duties, obligations, and time frames
specified in Sections 6 and 7 of this Act.

SEC. 14. **Penalties.** - The responsible officers and employees of any
establishment or organization, who commits the prohibited acts provided under
Section 13, paragraphs (a), (b) and (c) of this Act shall, upon conviction, pay a
fine ranging from a minimum of One million pesos (P1,000,000.00) to Five
million pesos (P,000,000.00), upon the discretion of the Court.

Any person who willfully aids or abets the commission of the prohibited
acts or causes the commission of any such act by another shall be liable in the
same manner as the principal. In cases of an association, partnership, or
corporation, the penalty shall be imposed on the member, partner, president,
chief operating officer, chief executive officer, director or officer responsible for
the violation.

Any person found guilty of violating Section 13(d) of this Act shall be
penalized as follows:

a) **First offense** - Thirty (30) days suspension without pay and
mandatory attendance in Values Orientation Program;

b) **Second offense** - Three (3) months suspension without pay; and

c) **Third offense** - Dismissal and perpetual disqualification from
public service, and forfeiture of retirement benefits.

SEC. 15. **Congressional Oversight.** - The Joint Congressional Energy
Commission (JCEC) shall exercise oversight powers over the implementation of
this Act. The DOE and ERC shall submit annually to the JCEC a thorough
report on the implementation of this Act not later than March 15 of every year:
Provided, That the report shall include the identification of legislative gaps, if
any, and recommended ways forward.

SEC. 16. **Implementing Rules and Regulations (IRR).** - The DOE shall,
in consultation with the appropriate government agencies mentioned herein
and electric power industry stakeholders, issue the IRR of this Act within sixty
(60) days upon its effectivity.
SEC. 17. **Amendatory Clause.** - This Act modifies Section 43 of RA No. 9136, insofar as the rights, obligations, and powers of the ERC are concerned. The ERC’s functions under the said Section shall remain in force and effect: Provided, That the same are not inconsistent with this Act.

SEC. 18. **Separability Clause.** – If, for any reason, any provision of this Act is declared unconstitutional or invalid, the other provisions hereof, which are not affected thereby, shall continue to be in full force and effect.

SEC. 19. **Repealing Clause.** – All laws, decrees, orders, rules and regulations or parts thereof, which are inconsistent with or contrary to the provisions of this Act, are hereby repealed, amended or modified accordingly.

SEC. 20. **Effectivity.** – This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in a newspaper of general circulation.

Approved,
FACT SHEET

House Bill No. 283
(In substitution of House Bill No. 7060)

"AN ACT PROMOTING THE USE OF MICROGRID SYSTEMS TO ACCELERATE THE TOTAL ELECTRIFICATION OF UNSERVED AND UNDERSERVED AREAS NATIONWIDE"


Committee Referral: COMMITTEE ON ENERGY (Primary)
Committee Chairperson: REP. JUAN MIGUEL “MIKEY” M. ARROYO

OBJECTIVES:

➢ To resort to non-traditional means and use of new technology such as the microgrid systems that can potentially provide reliable and sustainable electricity to unserved and underserved areas at a lower cost compared to the traditional grid extension, which requires more resources.

➢ To help accelerate the total electrification that will benefit the lives of the people and stimulate the economy of unserved and underserved areas through the use of the microgrid systems.

KEY PROVISIONS:

➢ Provides that the microgrid systems shall be installed in unserved or underserved areas by accredited Microgrid Systems Providers (MGSPs) after the conduct of a competitive selection process;

➢ Mandates the Energy Regulatory Commission (ERC), in consultation with the Department of Energy (DOE), the National Transmission Corporation (TransCo), the transmission concessionaire, the National Electrification Administration (NEA), the National Power Corporation (NPC), and other relevant government agencies and private stakeholders in the electric power industry, to develop, establish, and promulgate the parameters for the determination of the annual penetration and hosting capacity limit; technical and service standards for microgrid systems, whether grid tied or on island mode both for operations in unserved and underserved areas; rules for grid tied microgrid systems to buy and sell from the grid; and an accreditation mechanism for MGSPs;
Mandates ERC to exercise its rate making power through the determination of benchmark rates for different microgrid systems and standardized contracts based on technology, capacity, and other pertinent considerations;

Directs the DOE, in coordination with the NEA, in cases of areas within the franchise area of electric cooperatives, to release and update a list of unserved and underserved areas as well as NPC-SPUG areas and remote or unviable areas; prepare an annual schedule of competitive selection process based on the list of unserved and underserved areas not falling within the franchise areas of electric cooperatives; establish and conduct a simple, uniform, and streamlined process for competitive selection of MGSPs, whether subsidized or unsubsidized; and determine a detailed procedure for the transition of electricity service from distribution utilities (DUs) to awarded MSPs in underserved areas;

Provides the NEA to prepare an annual schedule of competitive selection process based on the list of unserved and underserved areas within the franchise area of electric cooperatives (ECs); administer subsidies to qualified ECs that are accredited as MGSPs after the conduct of a competitive selection process in accordance with Section 6 and Section 7 of the Act; and determine a detailed procedure and qualifications for the application and grant of subsidies to Accredited MGSPs of qualified ECs;

Provides that the DUs shall, on their own or in partnership or joint venture, be given preferential right of first refusal to engage in the business of MGSPs in unserved and underserved areas within their franchise area;

Allows the generation companies, DUs, retail electricity suppliers, and their respective subsidiaries or affiliates to engage in the business of MGSPs in unserved and underserved areas;

Prohibits any person, natural or juridical, to:

1) Refuse to allow the installation of any microgrid system;
2) Impose new charges and contractual terms on the end user, which are not part of the benchmark rate and awarded MSP contract;
3) Refuse to allow a DU to acquire an MSP distribution system; and
4) Fail to comply with the duties, obligations, and time frames specified in Sections 6 and 7 of the Act.

Mandates the Joint Congressional Energy Commission (JCEC) to exercise oversight powers over the implementation of the Act. The DOE and the ERC shall submit annually to the JCEC a thorough report on the implementation of the Act not later than March 15 of every year; and

Mandates the DOE, in consultation with the appropriate government agencies and electric power industry stakeholders, to issue the implementing rules and regulations of the Act.
RELATED LAWS:

- Republic Act No. 7638 - Department of Energy Act of 1992
- Republic Act No. 11234 - Energy Virtual One Stop Shop Act