

## PSALM PROPOSED EPIRA AMENDMENTS AND PROVISIONS

ISSUES	SPECIFIC PROVISION AFFECTED	PROPOSED AMENDMENT ON THE PROVISION AFFECTED	DISCUSSION OF THE PROPOSED REVISIONS
<p><b>Classification and regulation of PSALM as a generation company</b></p>	<p><b>CHAPTER II: Organization and Operation of the Electric Power Industry</b></p> <p><b>SECTION 6. Generation Sector.</b> Generation of electric power, a business affected with public interest, shall be competitive and open.</p> <p style="text-align: center;">xxx xxx xxx</p> <p>Upon implementation of retail competition and open access, the prices charged by a generation company for the supply of electricity shall not be subject to regulation by the ERC except as otherwise provided in this Act.</p> <p style="text-align: center;">xxx xxx xxx</p>	<p><b>SECTION 6. Generation Sector.</b> Generation of electric power, a business affected with public interest, shall be competitive and open.</p> <p style="text-align: center;">xxx xxx xxx</p> <p>Upon implementation of retail competition and open access, the prices charged by a generation company for the supply of electricity shall not be subject to regulation by the ERC except as otherwise provided in this Act. <b><u>This provision shall also apply to the undisposed NPC generating assets owned by PSALM and IPP contracts that have yet to be privatized.</u></b></p> <p style="text-align: center;">xxx xxx xxx</p>	<p>The justification for the inclusion of the provision is to allow PSALM and NPC to impose rates without regulation. That will level the playing field for PSALM where it exists in competition with other generators.</p> <p>To emphasize that PSALM shall no longer be regulated by the ERC.</p>
<p><b>Need for PSALM representation in the TransCo Board</b></p>	<p><b>SECTION 11. TRANSOCO Board of Directors.</b> - All the powers of the TransCo shall be vested in and exercised by a Board of</p>	<p><b>SECTION 11. TRANSOCO Board of Directors.</b> - All the powers of the TransCo shall be vested in and</p>	<p>As owner of TRANSOCO, PSALM is entitled to a seat in the TRANSOCO Board.</p>

## PSALM PROPOSED EPIRA AMENDMENTS AND PROVISIONS

ISSUES	SPECIFIC PROVISION AFFECTED	PROPOSED AMENDMENT ON THE PROVISION AFFECTED	DISCUSSION OF THE PROPOSED REVISIONS
	<p>Directors. The Board shall be composed of a Chairman and six (6) members. The Secretary of the Department of Finance (DOF) shall be the ex-officio Chairman of the Board. The other members of the TRANSCO Board shall include the Secretary of the Department of Energy (DOE), the Secretary of the Department of Environment and Natural Resources (DENR), the President of TransCo, one member each representing Luzon, Visayas and Mindanao. x x x</p>	<p>exercised by a Board of Directors. The Board shall be composed of a Chairman and <b><u>seven (7)</u></b> members. The Secretary of the Department of Finance (DOF) shall be the ex-officio Chairman of the Board. The other members of the TransCo Board shall include the Secretary of the Department of Energy (DOE), the Secretary of the Department of Environment and Natural Resources (DENR), <b><u>the President and CEO of PSALM,</u></b> the President of TRANSCO, <b><u>and</u></b> one member each representing Luzon, Visayas and Mindanao.</p>	
<p><b>Clarity and consistency in the provisions of the law pertaining to Retail Competition and Open Access</b></p>	<p><b><u>SECTION 31.</u></b> <i>Retail Competition and Open Access.</i> — Any law to the contrary notwithstanding, retail competition and open access on distribution wires shall be implemented not later than three (3) years upon the effectivity of this Act, subject to the following conditions:</p> <p style="text-align: center;">xxx xxx xxx</p>	<p><b><u>SECTION 31.</u></b> <i>Retail Competition and Open Access.</i> — Any law to the contrary notwithstanding, retail competition and open access on distribution wires shall be implemented not later than three (3) years upon the effectivity of this Act, subject to the following conditions:</p> <p style="text-align: center;">xxx xxx xxx</p>	

## PSALM PROPOSED EPIRA AMENDMENTS AND PROVISIONS

ISSUES	SPECIFIC PROVISION AFFECTED	PROPOSED AMENDMENT ON THE PROVISION AFFECTED	DISCUSSION OF THE PROPOSED REVISIONS
	(e) Transfer of the management and control of at least seventy percent (70%) of the total energy output of power plants under contract with NPC to the IPP Administrators.	(e) Transfer of the management and control of at least seventy percent (70%) of the total energy output of power plants under contract with NPC to the IPP Administrators <b><u>in Luzon and Visayas.</u></b>	Proposed revision aims to ensure consistency with Sec. 47 (i) of the EPIRA.
<b>Duration of UC SD/SCC recovery Recovery Period</b>	<b>Sec. 32 NPC Stranded Debt and Contract Cost Recovery</b>  The ERC shall verify the reasonable amounts and determine the manner and duration for the full recovery of stranded debt and stranded contract costs as defined herein; Provided, That the duration for such recovery shall not be shorter than fifteen (15) years nor longer than twenty-five (25) years. x x x	The ERC shall verify the reasonable amounts and determine the manner and duration for the full recovery of stranded debt and stranded contract costs as defined herein;. x x x	To provide ERC the flexibility to cushion the impact of UC to the end-users, and coincide with the corporate life of PSALM.
<b>Inclusion of Cash Incentive for RE Developers in the UC-ME</b>	<b><u>SECTION 34. Universal Charge</u></b>  Within one (1) year from the effectivity of this Act, a universal charge to be determined, fixed and approved by the ERC, shall be imposed on all electricity end-users for the following purposes:	<b><u>SECTION 34. Universal Charge</u></b>  Within one (1) year from the effectivity of this Act, a universal charge to be determined, fixed and approved by the ERC, shall be imposed on all electricity end-users for the following purposes:	

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<p><b>Exemption of self-generating facilities in the UC</b></p>	<p style="text-align: center;">xxx xxx xxx</p> <p>The universal charge shall be a non-bypassable charge which shall be passed on and collected from all end-users on a monthly basis by the distribution utilities. Collections by the distribution utilities and the TRANSCO in any given month shall be remitted to the PSALM Corp. on or before the fifteenth (15th) of the succeeding month, net of any amount due to the distribution utility. Any end-user or self-generating entity not connected to a distribution utility shall remit its corresponding universal charge directly to the TRANSCO.</p>	<p>a) Payment for the stranded debts x x x</p> <p>b) Missionary electrification <b><u>which includes cash incentive for renewable energy developers pursuant to Section 15 (h) of the RA 9513, also known as RE Act of 2008</u></b></p> <p style="text-align: center;">xxx xxx xxx</p> <p>The universal charge shall be a non-bypassable charge which shall be passed on and collected from all end-users on a monthly basis by the distribution <b><u>utilities and by TRANSCO or its concessionaire.</u></b> Collections by the distribution utilities and the TRANSCO <b><u>or its concessionaire</u></b> in any given month shall be remitted to the PSALM Corp. on or before the fifteenth (15th) of the succeeding month, <b><u>or the next business day if the 15<sup>th</sup> day of</u></b></p>	<p>This provision intends to harmonize EPIRA and Section 15 (h) of RA 9513 or the RE Act of 2008</p> <p>The proposed revisions aim to:</p> <p>Ensure consistency with the existing practice;</p> <p>Clarify the amount that can be retained by the DU in case ERC's approval of the concerned DU's</p>

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		<p><b><u>the month falls on a week-end or a holiday, net of any amount collected corresponding to the stranded costs and UC-ME</u></b> due to the distribution utility <b><u>as approved by the ERC.</u></b> Any end-user not connected to a distribution utility <b><u>and self-generating entity not connected to the grid or any distribution utility, but sell power to the end users in the area,</u></b> shall remit the universal charge directly to TRANSCO <b><u>or its concessionaire.</u></b> <b><u>Entities that own generation facilities for their own consumption during emergency and/or shortfall in system capacity shall be exempted from paying the universal charge, provided the generation facilities are not connected to the transmission and distribution line, and the entity does not sell power to third parties.</u></b></p>	<p>SCC and UC-ME (assuming that the proposed amendment to Sec. 70 includes DU's availment from the UC-ME); and</p> <p>Clarify and qualify "self-generating entity" (SGE) not connected to a distribution utility.</p> <p>PSALM supports the exemption of all Self-Generation Facilities (SGFs) used by the Entities for its own use, in case of emergency or shortfall from the system, from the payment of UC.</p> <p>It may be noted that during PSALM's consultations with the SGEs/SGFs, these groups expressly opposed the imposition of UC due to potential adverse impact on the operating</p>

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			<p>costs, competitiveness and viability of energy-intensive industries like the semiconductor industry, paper mill, cement and sintering plants, which have purposely put up SGFs to preserve the quality of their products.</p> <p>PSALM has likewise observed that majority of the SGEs/SGFs have no metering facilities. Thus, there is no accurate way to measure the energy generation that should be subject to UC. Further, most of the SGEs/SGFs' kwh generation were due to the monthly maintenance testing.</p> <p>Thus, relevant provisions in the IRR should be amended particularly Section 7, Rule 18 which reads:</p> <p><u><i>"All Self-Generation Facilities</i></u> whether new, existing</p>

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			<p>or under construction shall not be covered by the imposition of Universal Charge for a period of four (4) years from its imposition: Provided, that such Self-Generation Facilities shall register with the ERC and PSALM.”</p> <p>The exemption was extended until June 2010 by the Department of Energy when it issued on 21 June 2007 the Amendments to Section 4(e) of Rule 3 and Section 7 of Rule 18 of the EPIRA IRR.</p> <p>It may be noted that the EPIRA used the term <b><u>self-generating entity (SGE)</u></b> while its IRR, specifically Rule 4 thereof, utilized the term <b><u>self-generation facility (SGF)</u></b> to refer to “a power Generation Facility <b><u>owned and constructed by an End-user for such End-user’s own</u></b></p>

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			<p><b><u>consumption or internal use</u></b> excluding Generation Facilities for use by household, clinics, hospitals and other medical facilities.”</p> <p>Given that the EPIRA made reference to SGE while the EPIRA IRR utilized SGF, it should be clarified whether SGE and SGF are one and the same, as contemplated in Section 34 of the EPIRA.</p> <p><b><u>Self-Generation Entities</u></b> owning self-generation facilities can be:</p> <ul style="list-style-type: none"> <li>a) Large industries that are directly connected to the grid which sells their excess capacity through the grid to another entity during capacity shortfall in the system;</li> <li>b) SGEs that are connected to the DU and are required to</li> </ul>



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			<p>sell its excess power through the grid during capacity shortfall in the system; and</p> <p>c) An entity with self-generation facility located in an isolated/remote area/s that has no access to the distribution or transmission system but is capable of generating power for its own consumption and selling electricity to consumers in said area;</p> <p>Foregoing considered, UC should not be imposed on SGEs that sell excess power to the grid since the output are sold to the end-users is already subject to imposition of UC.</p>
<p><b>Inclusion of the cut-off date for the disbursement of UC funds to the beneficiaries</b></p>	<p><b><u>Section 34, last par.</u></b></p> <p>The PSALM Corp. as administrator of the fund, shall create a Special Trust Fund which shall be disbursed only for the purposes specified herein in an open and transparent manner. All amounts collected for the universal charge</p>	<p>The PSALM Corp. as administrator of the fund, shall create a Special Trust Fund which shall be disbursed only for the purposes specified herein in an open and transparent manner. All</p>	<p>Sec. 6, Rule 18 of the IRR provides that disbursement of UC funds shall be on or before the 20<sup>th</sup> of each month.</p>

## PSALM PROPOSED EPIRA AMENDMENTS AND PROVISIONS

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	<p>shall be distributed to the respective beneficiaries within a reasonable period to be provided by the ERC.</p>	<p>amounts collected for the universal charge shall be distributed to the respective beneficiaries <b><u>on or before the 25<sup>th</sup> of each month, or the following business day, if the 25<sup>th</sup> falls on a week-end or holiday, except for the cash incentive which shall be disbursed to the RE Developers within a reasonable period to be provided by the ERC in a separate Guidelines for the purpose.</u></b></p>	<p>To integrate in the law the date of disbursement of UC funds per EPIRA, and cash incentive for RE Developers per RE Act. The proposed disbursement date is 25<sup>th</sup> day of the month. This will allow PSALM sufficient time to validate/verify UC remittances from the CEs, prepare monthly remittance report, update fund balance, transfer fund from MTF to respective STF, and release the fund to beneficiaries.</p>
<p><b>Need for PSALM representation in the NPC Board</b></p>	<p><b><u>Section 48. National Power Board of Directors.</u></b></p> <p>Upon the passage of this Act, the provisions of R.A. 6395, otherwise known as the NPC Charter, referring to the composition of the National Power Board of Directors, are hereby repealed and a new Board shall be immediately organized. The new Board shall be composed of the Secretary of Finance as Chairman, with the following as members: the</p>	<p><b><u>Section 48. National Power Board of Directors.</u></b></p> <p>Upon the passage of this Act, the provisions of R.A. 6395, otherwise known as the NPC Charter, referring to the composition of the National Power Board of Directors, are hereby repealed and a new Board shall be immediately organized. The new Board shall be composed of the</p>	<p>As owner of NPC assets, PSALM is entitled to a seat in the NPC Board.</p>

## PSALM PROPOSED EPIRA AMENDMENTS AND PROVISIONS

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	Secretary of Energy, the Secretary of Budget and Management, the Secretary of Agriculture, the Director-General of the National Economic and Development Authority, the Secretary of Environment and Natural Resources, the Secretary of Interior and Local Government, the Secretary of the Department of Trade and Industry, and the President of the National Power Corporation.	Secretary of Finance as Chairman, with the following as members: the Secretary of Energy, the Secretary of Budget and Management, the Secretary of Agriculture, the Director-General of the National Economic and Development Authority, the Secretary of Environment and Natural Resources, the Secretary of Interior and Local Government, the Secretary of the Department of Trade and Industry, <b><u>the President and CEO of PSALM</u></b> , and the President of the National Power Corporation.	
Tax exemption for privatization proceeds	<p><b>Chapter V : Privatization of Assets of the NPC</b></p> <p><b>NEW SECTION AFTER SECTION 47</b></p>	<p><b><u>SECTION ( ). Exemption from national and local taxes, fees, and other charges – The provisions of any law to the contrary notwithstanding, the PSALM Corp., TransCo, and the subsidiaries that each may create or acquire in the performance of their functions and responsibilities under this Act as vehicles to privatize the transferred NPC assets shall be exempt from all forms of national</u></b></p>	<p>This will address the uncertainty of the pronouncements of the Bureau of Internal Revenue (BIR Ruling) on tax implications of the privatization of NPC assets.</p> <p>By exempting the sale of the NPC assets to the winning bidders from tax, government can maximize its privatization proceeds to be used for liquidating existing NPC liabilities.</p>

### PSALM PROPOSED EPIRA AMENDMENTS AND PROVISIONS

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		<p><u>and local taxes, duties, fees, charges, imposts, and assessments, as well as costs and service fees such as filing fees, appeal bonds, and supersedeas bonds, in any court or administrative proceedings arising from or occasioned by the privatization of the assets, real estate and other disposable assets, contracted capacities under the IPP contracts and obligations of NPC to PSALM Corp. and TransCo and, as applicable, from PSALM and TransCo to a private buyer or concessionaire.</u></p> <p><u>The proceeds from the privatization of the generation assets, IPP contracts, real estate and other disposable assets shall not be subject to any form of national and local taxes, levies, duties, fees, charges, imposts and assessments.</u></p>	

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		<p><u>Prior to the privatization of the assets mentioned in the preceding paragraph, no national or local tax of any kind or form, income or otherwise, as well as fees, charges, or levies of whatever nature, shall be assessed and collected from the following:</u></p> <p>(a) <u>the transfer to PSALM Corp. of NPC generation assets, real estate and other disposable assets, and IPP contracts;</u></p> <p>(b) <u>the transfer to TransCo of the transmission assets, subtransmission assets and other facilities;</u></p> <p>(c) <u>gross revenues or earnings realized or arising from the operation and</u></p>	

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		<p><u>management of the transferred NPC assets by PSALM Corp., TransCo and subsidiaries created by them under this Act;</u></p> <p>(d) <u>the assumption by PSALM Corp. of the outstanding financial obligations of electric cooperatives to National Electrification Administration (NEA) and other government agencies incurred for the purpose of financing the rural electrification program. The electric cooperatives, on the other hand, will not be assessed of any form of national and local tax, income or otherwise, fees, charges and assessments to the</u></p>	

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		<u>extent of the benefit they will derive from such cancellation of debt.</u>	
Exemption from all forms of withholding of assets	NEW SECTION AFTER SECTION 47	<u>SECTION ( ). Exemption from garnishment, attachment, forfeiture, seizure, and other modes of enforcement of judgment - The proceeds from the privatization of TRANSCO, the PSALM generation assets, IPP contracts, real estate and other disposable assets, the accounts receivables and bank deposits of PSALM Corp., as well as all other assets of the Corporation, shall be exempt from garnishment, attachment, forfeiture, seizure and other modes of enforcement of judgment.</u>	This provision protects the privatization proceeds from being withheld in connection with legal claims or being used as payment or compensation as a result of such claims.
Payment of dividends to the National	New Section after Section 47	<u>SECTION ( ). Payment of Dividends – PSALM shall be exempt from the payment of</u>	PSALM is not in a position to pay dividends. The proposed exemption from the payment of

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Government		<u>dividends to the National Government as required under Republic Act No. 7656.</u>	<p>dividends to the National Government will ensure that the mandated purpose and objective for which PSALM was created will not be impaired and is based on the following:</p> <ol style="list-style-type: none"> <li>1. Since its creation, PSALM has not received any government equity as this was not provided under R.A. 9136.</li> <li>2. The utilization of the privatization proceeds is restricted to the liquidation of NPC's financial obligations and stranded contract costs pursuant to Sec. 50 of the EPIRA.</li> <li>3. Under the EPIRA, PSALM is tasked as the administrator of the UC proceeds, which cannot be utilized for PSALM's operations and are directly remitted to the designated beneficiaries for its intended purposes.</li> </ol>



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			<p>PSALM has assumed the payment of the rural electrification program (REP) loans (about P18 billion) of electric cooperatives from the National Electrification Administration and other government agencies without funding from the national government.</p>
<p><b>Clarity of financial obligations definition</b></p>	<p><b>SECTION 50. Purpose and Objective, Domicile and Term of Existence</b> – The principal purpose of the PSALM Corp. is to manage the orderly sale, disposition, and privatization of NPC generation assets, real estate and other disposable assets, and IPP contracts with the objective of liquidating all NPC financial obligations and stranded contract costs in an optimal manner.</p> <p style="text-align: center;">xxx    xxx    xxx</p>	<p><b>SECTION 50. Purpose and Objective, Domicile and Term of Existence</b> – The principal purpose of the PSALM Corp. is to manage the orderly sale, disposition, and privatization of <b><u>TRANSCO’s transmission facilities</u></b> and NPC generation assets, real estate and other disposable assets, and IPP contracts with the objective of liquidating <b><u>all outstanding obligations of the NPC arising from loans, issuances of bonds, securities, other instruments of indebtedness and IPP contracts in an optimal manner.</u></b></p>	<p>The proposed revision intends to clearly define NPC’s financial obligations.</p>

## PSALM PROPOSED EPIRA AMENDMENTS AND PROVISIONS

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		xxx xxx xxx	
<p><b>Exemption from guarantee ceiling for PSALM borrowings and payment of taxes</b></p>	<p><b>SECTION 51. Powers of PSALM Corporation -</b></p> <p style="text-align: center;">xxx xxx xxx</p> <p>(a) To formulate and implement a program for the sale and privatization of the NPC assets and IPP contracts and the liquidation of NPC debts and stranded contract costs, such liquidation to be completed within the Corporation's term of existence;</p> <p style="text-align: center;">xxx xxx xxx</p> <p>(b) To borrow money and incur such liabilities, including the issuance of bonds, securities or other evidences of indebtedness utilizing its assets as collateral and/or through the guarantees of the National</p>	<p><b>SECTION 51. Powers of PSALM Corporation -</b></p> <p style="text-align: center;">xxx xxx xxx</p> <p>(a) To formulate and implement a program for the <b><u>disposition</u></b>, sale, and privatization of the <b><u>generation assets, transmission assets, real estate, other disposable assets and IPP contracts of NPC</u></b>, and the liquidation of NPC debts and stranded contract costs, such liquidation to be completed within the Corporation's term of existence;</p> <p style="text-align: center;">xxx xxx xxx</p> <p>(j) To borrow money and incur such liabilities, including the issuance of bonds, securities,</p>	<p>Refinancing of NPC liabilities with NG guarantee is undertaken with NPC as the borrower on</p>

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	<p>Government: Provided, however, That all such debts or borrowings shall have been paid off before the end of its corporate life;</p> <p style="text-align: center;">xxx xxx xxx</p> <p>(c) To borrow money and incur such liabilities, including the issuance of bonds, securities or other evidences of indebtedness utilizing its assets as collateral and/or through the guarantees of the National Government: Provided, however, That all such debts or borrowings shall have been paid off before the end of its corporate life;</p> <p style="text-align: center;">xxx xxx xxx</p>	<p>or other evidences of indebtedness utilizing its assets as collateral and/or through the guarantees of the National Government:</p> <p><b><u>Provided, that the President of the Philippines, by himself, or through his duly authorized representative, is hereby authorized to guarantee, absolutely and unconditionally as primary obligor and not merely as surety, in the name and on behalf of the Republic of the Philippines, the payment of the loans, bonds, credits, indebtedness, performance of project obligations under contracts, and obligations assumed by PSALM Corp. from NPC, including any refinancing thereof,</u></b></p>	<p>record and PSALM as co-obligor because of NPC's exemption from the foreign debt and NG guarantee ceiling. As stated in the EPIRA, - PSALM shall liquidate the financial obligations of NPC in an optimal manner. PSALM bonds/loans with guarantee shall have lower borrowing costs than the unguaranteed loans/bonds. This would also enable PSALM to take advantage of the market conditions.</p> <p>Once the NPC liabilities are fully transferred to and assumed by PSALM, the latter becomes the sole borrower on record for refinancing or restructuring for liability management. Without this exemption from guarantee ceiling, PSALM's refinancing for any given year is limited to the ceiling imposed for public sector borrowings, giving it no flexibility</p>

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	New provision	<p><u>incurred in furtherance of the purpose for which PSALM Corp. was created, all of which shall be over and above the amount which the President of the Philippines is authorized to guarantee under existing laws, including, but not limited to, Republic Acts 4860, as amended, and 6142, as amended, as well as the performance of all or any of the obligations undertaken by PSALM Corp. in the territory of the Republic of the Philippines pursuant to loan agreements entered into with foreign governments or any international financial institutions or fund sources.</u> Provided, however, that all such debts or borrowings shall have been</p>	<p>to borrow above the ceiling (if necessary).</p> <p>With this provision, creditors will also be assured that PSALM has the capacity to effectively manage the transferred liabilities of NPC during its corporate life. The loans contracted by NPC prior to EPIRA were exempted from all taxes, fees, imposts, other charges and restrictions. These loans were transferred and assumed by PSALM under the EPIRA. Thus, it is only proper and equitable that the same exemption be likewise granted by law to PSALM since it is mandated under the EPIRA to manage the liabilities of NPC arising from loans, etc.</p>

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	<p style="text-align: center;"><b>New provision</b></p>	<p>paid off before the end of its corporate life</p> <p><b><u>The loans, credits and indebtedness contracted under this subsection and subsection (k), and the payment of principal, interest and other charges thereon, as well as the importation of machinery, equipment, materials and supplies by the Corporation, paid from the proceeds of any loan, credit or indebtedness incurred under this Act, shall be exempt from all taxes, fees, imposts, other charges and restrictions, including import restrictions, by the Republic of the Philippines, or any of its agencies and political subdivisions;</u></b></p>	<p>The tax exemption will reduce PSALM's financial expenses and increase its financial capability to pay these loans as funds for payment of taxes will be channelled to the payment of the principal, interests and other charges on the transferred loans. In 2009 alone, payment of documentary stamp tax on the US\$1.0 Billion global bond issuance amounted to PhP 236.57 Million.</p>

## PSALM PROPOSED EPIRA AMENDMENTS AND PROVISIONS

ISSUES	SPECIFIC PROVISION AFFECTED	PROPOSED AMENDMENT ON THE PROVISION AFFECTED	DISCUSSION OF THE PROPOSED REVISIONS
		xxx xxx xxx	
<p><b>Extension of PSALM’s Corporate life</b></p>	<p>Section 50. Purpose and Objective, Domicile and Term of Existence. – The principal purpose of the PSALM Corp. is to manage the orderly sale, disposition, and privatization of NPC generation assets, real estate and other disposable assets, and IPP contracts with the objective of liquidating all NPC financial obligations and stranded contract costs in an optimal manner.</p> <p style="text-align: center;">xxx xxx xxx</p> <p>The PSALM Corp. shall exist for a period of twenty-five (25) years from the effectivity of this Act, unless otherwise provided by law, and all assets held by it, all moneys and properties belonging to it, and all its liabilities outstanding upon the expiration of its term of existence shall revert to and be assumed by the National Government.</p>	<p>Section 50. Purpose and Objective, Domicile and Term of Existence. – The principal purpose of the PSALM Corp. is to manage the orderly sale, disposition, and privatization of NPC generation assets, real estate and other disposable assets, and IPP contracts with the objective of liquidating all NPC financial obligations and stranded contract costs in an optimal manner.</p> <p style="text-align: center;">xxx xxx xxx</p> <p>The PSALM Corp. shall exist for a period of twenty-five (25) years to <b><u>thirty five (35) years or until the year 2036</u></b> from the effectivity of this Act, unless otherwise provided by law, and all assets held by it, all moneys and properties belonging to it, and all its liabilities outstanding upon the expiration of its term of existence shall revert to and be</p>	<p>House Bill No. 2922 proposes to extend the corporate life of PSALM from twenty-five (25) years or until the year 2026 (Section 50, Electric Power Industry Reform Act or EPIRA) to thirty-five (35) years or until the year 2036.</p> <p>PSALM supports the proposal to extend its corporate life in order to fully liquidate the outstanding FOs of the Corporation and to soften the impact of the UC that will be collected from the electricity consumers, through the implementation of a longer UC recovery period. Likewise, PSALM supports a similar proposal filed in the Senate, specifically Senate Bill (SB) No. 3250 or <i>“An Act Extending the Life of, Strengthening and Reorganizing the Power Sector</i></p>

**PSALM PROPOSED EPIRA AMENDMENTS AND PROVISIONS**

ISSUES	SPECIFIC PROVISION AFFECTED	PROPOSED AMENDMENT ON THE PROVISION AFFECTED	DISCUSSION OF THE PROPOSED REVISIONS
		assumed by the National Government.	<i>Assets and Liabilities Management Corporation, Amending for the Purpose Republic Act No. 9136, and for Other Purposes" authored by Senator Sergio R. Osmeña III.</i>
Grant of power to reorganize the Corporation	<p>Sec. 51. Powers – The Corporation shall, in the performance of its functions and for the attainment of its objective, have the following powers:</p> <p align="center">xxx xxx xxx</p> <p>(h) To appoint or hire, transfer, remove and fix the compensation of its personnel: Provided, however, that the Corporation shall hire its own personnel only if absolutely necessary, and as far as practicable, shall avail itself of the services of personnel detailed from other government agencies;"</p>	<p>Sec. 51. Powers – The Corporation shall, in the performance of its functions and for the attainment of its objective, have the following powers:</p> <p><b><u>(h) To appoint or hire, transfer, remove and fix the compensation of its personnel in accordance with its functions and applicable rules and regulations, and to reorganize the corporation or reassign officials and employees, as it may deem proper.</u></b> Provided, however, that the Corporation shall hire its own personnel only if absolutely necessary, and as far as practicable, shall avail itself of the services of personnel detailed from other</p>	<p>PSALM recommends the amendment of Section 51 of the EPIRA, to include PSALM's power to reorganize as it may deem appropriate to promote efficiency by right sizing the PSALM organization in proportion to the scale, scope and nature of its corporate programs and priorities. The exercise of such power, based on several Civil Service Commission (CSC) rulings on the implementation of government reorganization, must be expressly granted/ authorized by law.</p> <p>Further, the power to reassign officials and employees in accordance with the changes in</p>

### PSALM PROPOSED EPIRA AMENDMENTS AND PROVISIONS

ISSUES	SPECIFIC PROVISION AFFECTED	PROPOSED AMENDMENT ON THE PROVISION AFFECTED	DISCUSSION OF THE PROPOSED REVISIONS
		government agencies;"	PSALM's existing functions is also proposed as an amendment. This power shall provide PSALM the basis to implement job rotation, which is the sequential or reciprocal movement of an employee from one government office to another, or from one division to another within the same agency, as a means of developing and enhancing the potentials of personnel by exposing them to the other functions of the Corporation.
<p><b>PSALM Board's authority to approve reorganizational plan</b></p>	<p>Sec. 53. Powers of the President of PSALM Corp. – The President of PSALM Corp. shall be appointed by the President of the Philippines. In the absence of the Chairman, the President shall preside over Board meetings.</p> <p>The President of the PSALM Corp. shall be the Chief Executive Officer of PSALM Corp. and shall have the following powers and duties:</p>	<p>Sec. 53. Powers of the President of PSALM Corp. – The President of PSALM Corp. shall be appointed by the President of the Philippines. In the absence of the Chairman, the President shall preside over Board meetings.</p> <p>The President of the PSALM Corp. shall be the Chief Executive Officer of PSALM Corp. and shall have the</p>	<p>PSALM recommends the amendment of Section 53 (Powers of the President of PSALM) of the EPIRA, to include the power to submit a reorganization plan to the PSALM Board for approval and to implement the said plan, consistent with the proposed power of the Corporation to reorganize.</p>



### PSALM PROPOSED EPIRA AMENDMENTS AND PROVISIONS

ISSUES	SPECIFIC PROVISION AFFECTED	PROPOSED AMENDMENT ON THE PROVISION AFFECTED	DISCUSSION OF THE PROPOSED REVISIONS
		<p>following powers and duties:</p> <p style="text-align: center;">XXX    XXX    XXX</p> <p><b><u>(g) To submit a reorganizational plan to the Board for the PSALM Corp. Consistent with its mandate under this Act and upon approval thereof, to implement the said plan subject to the guidelines and policies set by the board. The plan shall be implemented within six (6) months from the Board's approval; and,</u></b></p> <p>(h) To exercise such other powers and duties as may be vested in him by the Board from time to time."</p>	
<p><b>Grant to exercise power of eminent domain</b></p>		<p><b><u>( ) To exercise the power of eminent domain subject to the requirements of the constitution and existing laws.</u></b></p>	<p>The proposed provisions aim to address the contentious issues affecting lands underlying the NPC generation assets and related assets surrounding the power plants.</p>

### PSALM PROPOSED EPIRA AMENDMENTS AND PROVISIONS

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		<p><u>( ) to do any act necessary or proper to carry out the purpose for which it is created, or which, from time to time, may be declared by the PSALM Board as necessary, useful, incidental or auxiliary to accomplish its purposes and objectives; and</u></p> <p><u>( ) generally, to exercise all the powers of a corporation under the corporation law insofar as they are not inconsistent with this Act.</u></p> <p><u>( ) The power to bring or defend actions for the protection, preservation, recovery of the Special Trust Fund established for the Universal Charge or for the allocations/disbursements</u></p>	

## PSALM PROPOSED EPIRA AMENDMENTS AND PROVISIONS

ISSUES	SPECIFIC PROVISION AFFECTED	PROPOSED AMENDMENT ON THE PROVISION AFFECTED	DISCUSSION OF THE PROPOSED REVISIONS
		<u>of the Fund to the beneficiaries of the Universal Charge, and to do and perform whatever is required, necessary and proper to fully carry out its mandate as Administrator of the fund.</u>	
<b>Separation benefits of Officials and Employees of PSALM</b>	Sec. 63. Separation Benefits of Officials and Employees of Affected Agencies – National government employees displaced or separated from the service as a result of the restructuring of the electricity industry and privatization of NPC assets pursuant to this Act, shall be entitled to either a separation pay and other benefits in accordance with existing laws, rules or regulations or be entitled to avail of the privileges provided under a separation plan which shall be one and one-half month salary for every year of service in the government; Provided, however, that those who avail of such privilege shall start their government service anew if absorbed by any government-owned successor company. In no case shall there be any diminution of benefits under the separation	<b><u>Section ( ). Separation Benefits</u></b> Sec. 63. Separation Benefits of Officials and Employees of Affected Agencies – National government employees displaced or separated from the service as a result of the restructuring of the electricity industry and privatization of NPC assets pursuant to this Act, <b><u>AS WELL AS EMPLOYEES OF PSALM CORP. SEPARATED AS A RESULT OF THE IMPLEMENTATION OF THE APPROVED REORGANIZATION PLAN</u></b> , shall be entitled to either a separation pay and other benefits in accordance with existing laws, rules or regulations or be entitled to avail of the privileges provided	Given that the implementation of the proposed reorganization may result in the displacement or separation of officials and employees from government service, PSALM further recommends the inclusion of a provision that will provide the displaced and separated employees with entitlement to privileges provided under a separation plan, as well as all other benefits, consistent with Section 63 (Separation Benefits of Officials and Employees of Affected Agencies) of the EPIRA, and in accordance with existing laws, rules and regulations.

### PSALM PROPOSED EPIRA AMENDMENTS AND PROVISIONS

ISSUES	SPECIFIC PROVISION AFFECTED	PROPOSED AMENDMENT ON THE PROVISION AFFECTED	DISCUSSION OF THE PROPOSED REVISIONS
	<p>plan until the full implementation of the restructuring and privatization.</p> <p style="text-align: center;">xxx xxx xxx</p> <p>With respect to employees who are retained by NPC, the Government, through the Department of Labor and Employment, shall endeavor to implement re-training, job counseling, and job placement programs.</p>	<p>under a separation plan which shall be one and one-half month salary for every year of service in the government; Provided, however, that those who avail of such privilege shall start their government service anew if absorbed by any government-owned successor company. In no case shall there be any diminution of benefits under the separation plan until the full implementation of the restructuring and privatization <b><u>OF NPC ASSETS, AND THE APPROVED REORGANIZATION PLAN FOR PSALM.</u></b></p> <p style="text-align: center;">xxx xxx xxx</p> <p>With respect to <b><u>SEPARATED employees OF THE NATIONAL GOVERNMENT, NPC OR PSALM CORP.,</u></b> the Government, through the Department of Labor and Employment, shall endeavor to implement re-training, job</p>	

## PSALM PROPOSED EPIRA AMENDMENTS AND PROVISIONS

ISSUES	SPECIFIC PROVISION AFFECTED	PROPOSED AMENDMENT ON THE PROVISION AFFECTED	DISCUSSION OF THE PROPOSED REVISIONS
		counseling, and job placement programs."	
PSALM Provident Fund		<p><b><u>"Sec. () PSALM Provident Fund – To establish a provident fund consisting of the contributions of PSALM Corp. in the amount equivalent to ten percent (10%) of each member-employee's basic salary and correspondingly, the member-employees' contributions equivalent to five percent (5%) of their respective monthly basic salaries. The earnings from the provident fund shall be distributed solely for the benefit of the member-employees or their heirs, subject to the implementing guidelines prescribed by the PSALM President; Provided, that the PSALM contributions may be increased subject to the attainment of certain corporate performance targets that would be set for the purpose; Provided, further, that PSALM</u></b></p>	<p>PSALM recommends the inclusion of a provision for the PSALM Provident Fund, with the objective of encouraging frugality among PSALM officials and employees, and to provide immediate source of assistance in case of emergency or urgent needs, or all other important financial needs. A Provident Fund is already being implemented in other agencies within the energy sector, such as TransCo (as provided under Section 10.f of the EPIRA) and NPC under its charter, and DBM circular.</p>

## PSALM PROPOSED EPIRA AMENDMENTS AND PROVISIONS

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		<p><u>Corp. shall allocate the amount of Ten Million Pesos (PhP10,000,000.00) from its Corporate Operating Budget as seed money of the fund."</u></p>	
<p><b>Provision to address the implementation of PSALM compensation and benefits</b></p>	<p>Chapter VIII: General Provisions</p> <p>Sec. 64. Fiscal Prudence – To promote the prudent management of government resources the creation of new positions and the levels of or increase in salaries and all other emoluments and benefits of TRANSCO and PSALM Corp. personnel shall be subject to the approval of the President of the Philippines. The compensation and all other emoluments and benefits of the officials and members of the Board of TRANSCO and PSALM Corp. Shall be subject to the approval of the President of the Philippines.</p>	<p>Chapter VIII: General Provisions</p> <p>Sec. 64. Fiscal Prudence – To promote the prudent management of government resources, the creation of new positions and benefits of TransCo and PSALM Corporation for their respective including the compensation and all other emoluments and benefits of the officials and members of the Board of TRANSCO and PSALM Corp. <u>shall be fixed by their respective Boards.</u></p>	<p>This proposed revision is consistent with the proposal of TransCo.</p>
<p><b>Beneficiary to the UC fund for Missionary Electrification.</b></p>	<p><b>EPIRA Section 70. Missionary Electrification</b></p> <p>Notwithstanding the divestment and/or privatization of NPC assets, IPP contracts and spun-off corporations, NPC shall remain as a National Government-owned and -controlled corporation to perform the missionary</p>	<p><b>EPIRA Section 70. Missionary Electrification</b></p> <p>Notwithstanding the divestment and/or privatization of NPC assets, IPP contracts and spun-off corporations, NPC shall remain as a National Government-owned and -</p>	<p>Clarification on the coverage of Section 70 of the EPIRA regarding the beneficiaries of the UC-ME fund should be made. This is to ascertain whether the NPC-SPUG is the exclusive beneficiary of the UC-ME fund or beneficiaries can be</p>

## PSALM PROPOSED EPIRA AMENDMENTS AND PROVISIONS

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	<p>electrification function through the Small Power Utilities Group (SPUG) and shall be responsible for providing power generation and its associated power delivery systems in areas that are not connected to the transmission system. The missionary electrification function shall be funded from the revenues from sales in missionary areas and from the universal charge to be collected from all electricity end-users as determined by the ERC.</p>	<p>controlled corporation to perform the missionary electrification function through the Small Power Utilities Group (SPUG) xxx xxx xxx</p> <p><b><u>Any Distribution Utility responsible for providing power generation and its associated power delivery systems in areas that are not connected to the transmission system, thus, performing missionary electrification function, shall be funded from the revenues from sales in missionary areas in its franchised area, and may be funded from the universal charge to be collected from all electricity end-users as determined by the ERC.</u></b></p> <p><b><u>The ERC shall ensure the reasonableness of the UC-ME that shall be collected from the end-users.</u></b></p>	<p>any entity that performs missionary electrification function in the missionary areas not connected to the transmission system within the franchised distribution utilities, as determined by the DOE.</p> <p>To further clarify, the provision should be specific as to who are required to file a petition before the ERC to avail of the UC-ME.</p> <p>To date, only NPC-SPUG files a petition and avails from the UC-ME fund.</p> <p>Clarification on the following may be made:</p> <p>a) Whether NPC-SPUG is the exclusive beneficiary of the UC-ME fund, or beneficiaries include missionary areas not connected to the transmission system within the franchised distribution utilities; and</p>

### PSALM PROPOSED EPIRA AMENDMENTS AND PROVISIONS

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			<p>b) The personality of the petitioner who shall file/avail from the UC-ME fund.</p> <p>PSALM agrees that the MEDP prepared by DOE as part of its policy formulation function, should serve as the basis of ERC's determination of UC-ME. However, clarification must be made whether DOE is contemplating that big ticket projects in missionary areas that require NEDA's approval, should be funded by the UC-ME. If yes, the proposed amendment should be introduced with caution as it may substantially increase the subsidy (UC-ME) that will be borne by the end-users nationwide.</p> <p>It should also be clarified whether in addition to the policy formulation and oversight function of DOE, it will include in the proposed amendment to</p>



**PSALM PROPOSED EPIRA AMENDMENTS AND PROVISIONS**

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			Sec. 37 the program implementation, which is part of NPC-SPUG and DUs' operations.