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HON. ZENAIDA CRUZ-DUCUT
Chairperson, Energy Regulatory Commission
16th Floor Pacific Center Bldg.
San Miguel Avenue, Pasig City

Dear Chairperson Ducut,

Greetings!

This concerns the ongoing refund by MERALCO of the amount of P30.2 billion representing its overcharges as directed by the Supreme Court under G.R. No. 141314 on 09 April 2003.

By all means of understanding, the refund of these overcharges will have a tremendous negative impact on the financial statements of MERALCO considering the huge amount involved so that a capital call among its stockholders or a fresh loan to address this liability would have been the most logical thing to do. But neither of the two (2) possible options was reported to have been availed of by MERALCO.

A look at MERALCO's financial statements from 2004-2007 show the yearly ending balance on this refund, as follows:

2003	2004	2005	2006	2007
P25.608B	P20.551B	P19.757B	P17.08B	P14.396B

This explains that MERALCO was able to refund the following amounts:

2003	2004	2005	2006	2007
P4.59B	P5.05B	P.794B	P2.677B	P2.68B

However, even as the said amounts stated above have been refunded, MERALCO's financial statements show that it has maintained its profitability with a yearly viable Return On Rate Base (RORB), as shown below:

	2004	2005	2006	2007
RORB	13%	10%	12%	6.9%

It surprises us then how a utility like MERALCO could still realize a yearly RORB that would negate the fact that it is refunding an average amount of P3B a year.

Clearly, MERALCO is not refunding what it has overcollected and put to use in its operations from 1995 to 2003.

Clearly, MERALCO, is sourcing its refund starting in 2003 from the rate payments of its customers based on the increased rate under the ERC-approved unbundled rate of May 2003.

Clearly, the ERC has given MERALCO a rate in May 2003 that allows MERALCO not to suffer from the consequence of its illegal collection of P30.2B from its customers.

Clearly, this is not in accordance with the directive of the Supreme Court.

It may help to remind that his liability was incurred not due to its inherent operations but because of its refusal to comply with the Order of the former Energy Regulatory Board for it to refund the excess in the provisional rate increase it gave MERALCO in 1994.

We hope that with the concern we raised and the figures backing it up, the Honorable Commission, upon whom we look up to as the protector of the consumers, will seriously look into our concerns based on its "motu proprio" powers under the Electric Power Industry Reform Act (EPIRA) and conduct the necessary public hearings on the matter.

We hope to hear from the Commission soon.

Thank you and may God grant the Honorable Commission the strength and wisdom as it resolves to carry on its noble and very important role.

Very truly yours,

PETE L. ILAGAN

President