



National Association of Electricity Consumers for Reforms
No. 10, Bayside Court Compound, 680 Quirino Avenue Tambo
Parañaque City 1700 Philippines
Phone No.: +63.2.8530731
TeleFax No.: +63.2.8530732
<http://www.nasecore.org>
eMail: nasecore2003@yahoo.com

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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 refers to the franchise granted the National Grid Corporation of the Philippines (NGCP) or Republic Act 9511. Section 9, specifically states:

“Tax Provisions. -In consideration of the franchise and rights hereby granted, the Grantee, its successors or assigns, shall pay a franchise tax equivalent to three percent (3%) of all gross receipts derived by the Grantee from its operation under this franchise. Said tax shall be in lieu of income tax and any and all taxes, duties, fees and charges of any kind, nature or description levied, established or collected by any authority whatsoever, local or national, on its franchise, rights, privileges, receipts, revenues and profits, and on properties used in connection with its franchise, from which taxes, duties and charges, the Grantee is hereby expressly exempted: Provided, That the Grantee, its successors or assigns, shall be liable to pay the same taxes on their real estate, buildings and personal property, exclusive of this franchise, as other corporations are now or hereby may be required by law to pay: Provided, further, That payment by Grantee of ,the concession fees due to PSALM under the concession agreement shall not be subject to income tax and value-added tax (VAQ).

This provision has the effect of a significant reduction in the tax passed on to the electricity consumers starting on the effectivity of the said law in January of this year.

However, we have noticed that there had been no adjustment in the Transco rate charged to the customers since then up to now. This could only mean that NGCP has not filed with the ERC the necessary application for the adjustment of its rates in order to reflect the mandate of RA 9511 but continues to collect all the taxes which is a lot higher than the 3% franchise tax. This also means that consumers are being overcharged by the new Transco Concessionaire.

If we are right in our observation, may we ask ERC to furnish us with total running amount of this overcharges and immediately direct NGCP to stop collecting the old tax rate and to refund its overcharges?

If we are right in our observation, this is another instance of the Commission's oversight which we saw in the case of MERALCO's overcharges in its transmission charge recoveries in the amount of P6.39 billion from April 2008 to April 2009. We can only surmise that this overcharges will not be less than P5 billion.

We hope the Commission will not apply the same convenient solution of "offsetting" that it applied in the case of the MERALCO overcharges as this does not reflect an image of a responsible and conscientious regulator mandated by law to protect consumers from the high cost of power especially in the light of the numerous reforms being implemented in the power industry.

In the interest of the hapless electricity consumers nationwide, we humbly ask the Honorable Commission to favorably and promptly act on our request.

Thank you and God bless.

Very truly yours,

PETE L. ILAGAN