



National Association of Electricity Consumers for Reforms, Inc. (NASECORE)

No. 10 Bayside Court Compound, 680 Quirino Ave., Tambo,

Parañaque City 1700 Philippines

Phone No.: +63.2.8530731

TeleFax No.: +63.2.8530732

<http://www.nasecore.org>

eMail: nasecore2003@yahoo.com

13 September 2010

THE HONORABLE COMMISSIONERS
The Energy Regulatory Commission
16th floor, Pacific Center Building
San Miguel Avenue
Pasig City

THRU: The Honorable Chairperson, Zenaida C. Ducut

Dear ERC Commissioners,

Greetings!

This refers to our letter of 11 May 2010 reiterating our request (in our letter dated 26 April 2010) for the recall of the MERALCO increase in its generation charges for the months of February, March and April 2010 pending conclusion of the alleged ERC investigation and for copy of MERALCO's monthly reportorial submissions to the Commission from February to April 2010.

On 14 May 2010, we received the Commission's reply through a letter from Executive Director Juan informing that whatever relief NASECORE is seeking should be addressed to the ERC (Commission) and not only to the Commission's chairperson which could be done through the filing of an appropriate petition in accordance with ERC Rules of Practice and Procedure.

And as to our request for the MERALCO's reportorial submissions relative to the automatic increases in their generation charge, we were referred to the Commission's Investigation and Enforcement Division who furnished us our requested documents. The said documents, however, do not show the IPP billings to MERALCO and their official receipts as proof that, indeed, MERALCO have already paid their IPPs and were just recovering what they already have paid them.

It is unfortunate, that to date, ERC has failed to furnish us a single copy of its monthly verification and approval of MERALCO's monthly automatic increases in its generation charge since July 2007 despite our formal request dated 11 August 2008.

While we replied to the Commission's letter of 14 May 2010 through a letter dated 20 July 2010 advising that we will take the Commission's advise of filing the appropriate petition in accordance with ERC Rules of Practice and Procedures, we are reminded of the numerous functions of the Energy Regulatory Commission that enables it to effectively act both as a Regulator and as a quasi-judicial body with immense powers that should save consumers from their voluntary work of protecting themselves through the information they provide the Commission and from their participation in public hearings through the filing of petitions for Intervention which should render as unnecessary our filing of an "appropriate petition".

Stated simply, these consumer efforts only amounts to doing what the Commission is mandated to do. As a Regulator, ERC is mandated, among others, under Section 43 (k, o & s), of the EPIRA which states, respectively:

"Monitor and take measures in accordance with this Act to penalize abuse of market power, cartelization, and anti-competitive or discriminatory behavior by any electric power industry participant;

"Monitor the activities in the generation and supply of the electric power industry with the end in view of promoting free market competition and ensuring that the allocation or pass through of bulk purchase cost by distributors is transparent, non-discriminatory and that any existing subsidies shall be divided pro-rata among all retail suppliers."

"Inspect on its own or through duly authorized representatives, the premises, books of accounts and records of any person or entity at any time, in the exercise of its quasi-judicial power for purposes of determining the existence of any-anti-competitive behavior and/or market power abuse and any violation of rules and regulations issues by ERC;" (emphasis supplied)"

If these monitoring activities and quasi-judicial powers of the Commission are only being diligently exercised, we believe it's attention should have been easily drawn to the said upward price fluctuations in the price of the MERALCO independent power producers (IPPs), unduly allowing them to increase their revenues, and the Commission, upon review and evaluation of the said MERALCO submissions, would

have easily determined whether the said increase in the generation charges were just and reasonable.

To emphasize our point, we are showing below the price of MERALCO's three (3) IPPs in the months of January and February 2010 alone as sourced from MERALCO's website, to wit:

QPPL	2010	Increase
January	Price = P5.6695/kWh	
February	Price = P6.0865/kWh	P0.417/kWh
STA. RITA	2010	
January	Price = P 3.2489/kWh	
February	Price = P 4.5310/kWh	P1.2821/kWh
SAN LORENZO	2010	
January	Price = P3.5516/kWh	
February	Price = P4.5426/kWh	<u>P0.9910/kWh</u>
TOTAL INCREASE		<u>P2.6901/kWh</u>

MERALCO'S IPP sales in February was 1.046 B kWh and if we multiply this with P2.6901/kWh (aggregate generation charge increase in February 2010), it will show that these three (3) MERALCO IPPs unduly enjoyed an additional revenue of **P2.81 Billion** due to lack of review and evaluation.

It is worth mentioning that aside from being "automatic increases/adjustment", these generation charges from these individual IPPs are governed by the ERB- approved "power purchase agreement (PPA) between MERALCO and them.

Therefore, the least that the Commission can do to protect consumers from these automatic increases is by exercising its regulatory powers to determine whether such increase was justified and reasonable based on the ERB-approved generation rate/kWh for each MERALCO of these MERALCO IPPs.

In this regard, may we request that we be furnished the Commission's official review and evaluation of the said monthly increases/adjustment from July 2007 to July 2010 in the generation charges of the three (3) Meralco IPPs which have been collected already from the MERALCO consumers?

Should the Commission fail to furnish us these requested documents, we will only interpret it as the Commission's abdication of its functions under the EPIRA and we shall be constrained to seek redress from the proper government agencies and other venues.

We look forward to the Commission's favorable action.

Thank you so much.

Very truly yours,

PETE L. ILAGAN
President