



National Association of Electricity Consumers for Reforms

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ZENAIDA G. CRUZ-DUCUT

Chairperson

Energy Regulatory Commission

Pacific Center Building

San Miguel Avenue

Ortigas Center, Pasig City

Dear Chairperson Ducut,

This refers to our letter of 03 June and 24 June 2010 inquiring for the basis upon which the Commission base its authority in allowing distribution utilities, like MERALCO, to apply “**AUTOMATIC ADJUSTMENT**” in their generation, transmission and system loss charge.

In our letter of 03 June 2010, we mentioned that “MERALCO’s monthly application with the Commission for adjustment in its generation charge have been stopped and since then, MERALCO’s monthly adjustment in its generation charge have been on an automatic basis”.

The Commission, in its reply dated 07 June and 06 July 2010, explained that its authority is based on its own promulgated Guidelines for the Automatic Adjustment of Generation Rates and System Loss Rates by Distribution Utilities; ERC Resolution No.16, series of 2009 dated 13 July 2009 (A Resolution Adopting the Rules Governing the Automatic Cost Adjustment and True-Up Mechanisms and Corresponding Confirmation Process for Distribution Utilities); and Section 4(e), Rule 3 of the Implementing Rules and Regulations of Republic Act No. 9136, as amended.

A reading of Section 4(e), Rule 3 of the IRR of the EPIRA, as amended says that Section 4(e) does not apply to Generation Rate Adjustment Mechanism (GRAM), Incremental Currency Exchange Recovery (ICERA), Transmission Rate Adjustment Mechanism, Transmission True-Up Mechanism, System Loss Rate Adjustment Mechanism, Lifeline Rate Recovery Mechanism, Cross-Subsidy Mechanism, Local Franchise Tax Recovery Mechanism, Business Tax Recovery Mechanism, Automatic Generation Rate Adjustment, VAT Recovery Mechanism, Incremental Generation Cost Adjustment Mechanism, and Recovery of Deferred Accounting Adjustment for Fuel Cost and Power Producers by NPC and NPC-

SPUG, Provided that, such adjustments shall be subject to subsequent verification by the ERC to avoid over/under recovery of charges.”

We do recall that this amendment to Section 4(e), Rule 3 of the IRR of the EPIRA was proposed by the Department of Energy to the Joint Congressional Power Commission (JCPC) which called for a public hearing on the said DOE proposal sometime in June 2007.

Apparently, the proposal was approved by the JCPC as the “AUTOMATIC CHARGE” was effectively restored in the following month of July 2007.

In this regard, may we request for copy of the JCPC Resolution approving the DOE-proposed amendment to Section 4 (e), Rule 3 of the IRR which became the basis of the Commission for restoring the “AUTOMATIC CHARGE” which rendered as unnecessary the filing of an application or petition or for any relief affecting consumers for rate adjustment which required verification and an acknowledgement of receipt of a copy thereof by LGU Legislative Body of the locality where the applicant or petitioner principally operates together with the certification of the notice of publication thereof in a newspaper of general circulation in the same locality?

Further, may we request for the official transmittal of DOE to the Commission (ERC) of the said DOE Amendments to Section 4(e) of the EPIRA IRR?

These requests are of utmost importance as this involves billions of pesos per month which are charged to the consumers without the benefit of “DUE PROCESS” which could have helped establish whether such rate adjustment was just and reasonable or not.

We look forward to the Commission’s prompt and favorable response.

Thank you so much.

Very truly yours,

PETE L. ILAGAN
President

Cc: The Executive Secretary
Hon. Jose rene D. Almendras, DOE Secretary
Hon. Juan Ponce Enrile, Senate President
Hon. Merceditas Gutierrez, Ombudsman