



National Association of Electricity Consumers for Reforms

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THE HONORABLE COMMISSIONERS

Energy Regulatory Commission

Pacific Center Bldg.

San Miguel Avenue, Ortigas Center

Pasig City

Attention: MADAM ZENaida C. DUCUT, Chairperson

Dear ERC Commissioners,

Greetings!

This pertains to our letter dated 26 April 2010 where we requested the Honorable Commission to look into the dispatch levels of MERALCO's three (3) independent power producers (IPPs), (Quezon Power Phil. Ltd, Sta. Rita, and San Lorenzo) based on their "take or pay" features under their power purchase agreements (PPA) as these govern the generation rates of these three (3) IPPs.

We made such request knowing that the operation of generation utilities are still regulated and in light of the shocking increases in MERALCO's generation charge which started in February 2010 so as to find out whether the 3 IPPs comply with the terms of their PPA.

To date, the generation charge of MERALCO, which went as high as P6.7699/kWh in April 2010, is being kept to a level never seen in 2008 and 2009 and we have not been favored with an acceptable explanation based on our expectation as stated in our letter of 26 April 2010 and I quote:

"Since MERALCO makes monthly submission of these data and its generation rate adjustment to ERC, does ERC have an explanation for this and the other inconsistencies in the pricing of MERALCO generation charges?"

The consumers can only be comforted with a plausible explanation from ERC based on its supposed regular review of MERALCO's monthly submission of its adjustment in its generation charge that should justify the same."

The continued inaction of the Commission to protect consumers from this atrociously high generation charges of MERALCO is lamentable and unless the Honorable Commission can show that it has evaluated, reviewed, and approved the generation charge increases of MERALCO from February 2010 to the present based on the PPA approved by its predecessor, the former ERB,, we can only interpret it as clearly giving undue advantage to the three (3) IPPs of MERALCO. This is aggravated by the fact that MERALCO is partly-owned by First Philippine Holding Corporation (FPHC) while the Sta. Rita and San Lorenzo IPPs are both controlled by FPHC and FPHC is a Lopez controlled company. The Commission is well aware of this which should make it doubly watchful on the transactions between MERALCO and these IPPs.

Likewise, the Commission is well aware of the provision of Section 23 of the EPIRA which states:

"A distribution utility shall have the obligation to supply electricity in the least cost manner to its captive market, subject to the collection of retail rate duly approved by the ERC."

Further, Section 43 (o, r, & s) grants ERC sufficient powers to ensure consumer protection from anti-competitive practices, abuse of power and violations of rules and regulations issued by ERC against any industry player.

If the Honorable Commission would only care, as it is its duty to do so, to look at the generation charge of each of the distribution utilities located also in Luzon, it will not be hard to see that MERALCO's generation rate is the highest which is clearly a violation of the law.

It becomes very disturbing then that under this situation, we see the Honorable Commission grossly failing in exercising its "motu proprio" to determine the liability of MERALCO for violating the above-quoted provision of the law. Thus, the continued failure of the Commission gives MERALCO the undue advantage of enriching its IPPs, which are controlled by FPHC, at the expense of the hapless consumers.

In this regard, may we request for copy of the Commission's monthly evaluation, review and approval of the monthly automatic increase in the generation charge of MERALCO from February 2010 to August 2010? Further, may we ask the Commission to exercise its "motu proprio" powers to determine

the liability of MERALCO after which to render the necessary penalties as warranted?

Should the Honorable Commission ignore these requests, we shall be constrained to seek relief from other government agencies.

We hope the Honorable Commission will live up to its mandate of protecting electricity from unreasonable generation rates coming from the IPPs of MERALCO by exercising its powers under the EPIR as mentioned above.

Thank you.

Very truly yours,

PETE L. ILAGAN
President