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

Dear Chairperson Ducut:

Greetings!

This refers to our letter dated 09 August 2010 informing the Honorable Commission of the 955.57MW generating capacity acquired, owned, and operated by the Lopez Group (to Visayas Nameplate) which has already exceeded the limitation set under Section 45(a) of the EPIRA which states:

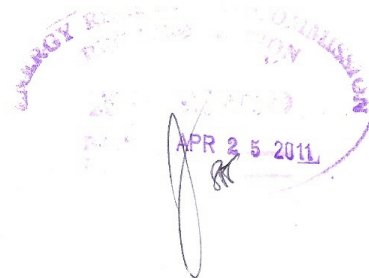
"No company or related group can own, operate or control more than thirty percent (30%) of the installed generating capacity of a grid and/or twenty-five percent (25%) of the national installed generating capacity."

NASECORE also cited in that letter that the installed generating capacity in the Visayas Grid was already 1,715.29MW as per ERC Resolution 04, Series of 2010 dated 10 March 2010. Of this capacity, the Lopez Group's generating capacity was at 55.70%, more than the 30% allowed by law.

Last 24 August 2010, ERC replied to NASECORE's concern on the Lopez group's excess in their generating capacity limit stating that it will be evaluated and it will take time for ERC to fully respond.

Two months, thereafter, ERC issued Resolution 20, Series of 2010 dated October 04, 2010 increasing the installed capacity in the Visayas Grid to 1,954.77MW. This ERC Resolution effectively lowered the percentage share of the Lopez Group to 48.88%, still way above the allowable percentage of 30%.

On 01 April 2011, ERC issued a press release explaining that it has set a new installed generating capacity for the three (3) grids through ERC Resolution No. 04, Series of 2011 dated 14 March 2011 which increased the installed capacity in the Visayas



Grid to 2,051.96MW thus lowering further the share of the Lopez Group to 46.57% but still over and above the cap set under the EPIRA Law.

The last part of the press release states:

"The adjustment of the Installed Generating Capacity and Market Share Limitation will help prevent abuse and misuse of market power and is intended to promote free and fair competition in the generation and supply sectors of electricity industry, ERC Chairperson Zenaida G. Cruz-Ducut stated."

Clearly, even with all these ERC Resolutions which had the effect of lowering the percentage of the Lopez group's share in the installed generating capacity in the Visayas Grid, their generating capacities still exceed the cap which is a violation of the EPIRA law.

It is worth stressing at this point that NASECORE brought this concern to the attention of ERC as early as 09 August 2011 yet ERC has not resolved the said issue.

NASECORE believes that the EPIRA law has provided ERC sufficient powers that will penalize any market power abuse or anti-competitive or discriminatory act or behavior under the EPIRA so as to ensure a level playing field for any industry participant.

We look forward to ERC exercising this power so that we will not be led to suspect that it is giving undue advantage to a particular group.

Should ERC continue to refuse to seriously look into this matter which can be a possible violation of the law by the Lopez group, we will be convinced that ERC is giving undue advantage to a particular group.

We hope ERC will live up to its mandate of protecting consumer interests.

Thank you.

Very truly yours,



PETE L. ILAGAN
President

Cc: Hon. Juan Ponce Enrile, Senate President
Hon. Feliciano Belmonte, Speaker of the House