

'Kuryente'

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WHAT CAN ONE SAY WHEN A REGULATED public utility, after earning a huge profit, comes around a few days later asking for an increase in its rates? This was precisely what Meralco did on June 18, 2009 when it went to the Energy Regulatory Commission (ERC) to seek approval for its "annual revenue requirement and performance incentive scheme" which would have the effect of raising its distribution, supply and metering charges at least once every year from 2012 up to 2015. Three weeks earlier, it had proudly announced it earned P2 billion in profits during the first quarter of this year, or 135 percent more than its profits for the same period last year. Very few firms in the Philippines can boast of such earnings in three months, or even in a year. And it smacks of greed that the petition comes on the heels of two successive increases (granted in May 2009 and May 2010) as well as another increase next year.

To be sure, as the ERC website shows, Dagupan Electric Corp. and Cagayan Electric Power and Light Co. Inc. have similar applications for what should really be called, in plain and simple terms, upward rate adjustments. And it is not just private distribution utilities that are asking for rate increases. The National Power Corp. and Power Sector Assets and Liabilities Management Corp. also have pending petitions for the "recovery of incremental fuel and independent power costs under the Generation Rate Adjustment Mechanism (GRAM)" and for "the recovery of incremental costs on foreign exchange rate fluctuations under the Incremental Currency Exchange Rate Adjustment (ICERA)." All this comes on top of an approved "revenue requirement" covering the period 2006-2009 of the National Grid Corp. of the Philippines.

Even before all these rate adjustments, we already had the highest electricity rates in Asia after Japan. Now we seem to be entering an era of yearly power rate increases. Which means a progressively heavier burden on the mostly cash-strapped Filipinos even as it adds to the cost of doing business and therefore serves as a disincentive to potential investors, both Filipino and foreign.

Pete Ilagan, president of the National Association of Electricity Consumers for Reforms (Nasecore) which has been opposing questionable electricity charges since the early 1990s, blames the ERC-approved Performance-Based Regulation (PBR) scheme for the increases. The PBR replaced the Rate-of-Return-Base rate-setting methodology that was effectively institutionalized by the Supreme Court in a final

judgment in 2003. In that ruling, the high court clearly defined the parameters by which electricity utilities might earn the maximum return on investments of 12 percent. That decision forced Meralco to pay back P30.2 billion to its consumers.

Under PBR, the power utilities submit to the ERC their “revenue requirements” for a specific regulatory period—say, 2012-2015—detailing in their applications their market assumptions and their planned capital expenditures for expansion, upgrades, repairs and additional infrastructure that they need to maintain adequate, reliable and efficient services. The rates are set on the basis of the approved revenue requirement. Under this scheme, Ilagan says, the utilities could earn a net return on capital higher than 15 percent.

How and why PBR came to be is not clear. And it seems that the ERC is not keen on explaining it to the public. But the shift to PBR as the basis for computing power rates raises a lot of questions. For instance, what was the reason for the shift to PBR? Are the utilities meeting their commitments 100-percent so that they are allowed to proceed with the approved revenue requirement from year to year without any question? What is the ERC’s legal basis for approving revenue requirements? Is revenue-setting within the sphere of the ERC’s rate-setting mandate?

On June 8, 2001, President Macapagal-Arroyo signed into law the Electric Power Industry Reform Act. Its proponents assured the public then that the law would bring down electricity rates and keep them at affordable levels. More than nine years down the road, the law seems only to assure power consumers of yearly rate increases which could continue for many years more. Filipino journalists have a name for this: “kuryente.”