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SENATE

P.S. Res. No. 1290

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Introduced by Senate President JUAN PONCE ENRILE

A RESOLUTION


DIRECTING THE SENATE COMMITTEES ON ENERGY AND FINANCE TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE UTILIZATION OF ROYALTY PAYMENTS COLLECTED BY THE GOVERNMENT FROM THE EXPLORATION OF THE MALAMPAYA-CAMAGO NATURAL GAS FIELD, AND TO ACCOUNT FOR THE SAME WITH THE END IN VIEW OF ENSURING THAT SUCH ROYALTY PAYMENTS ARE UTILIZED TO THE MAXIMUM AND DIRECT BENEFIT OF THE CONSUMING PUBLIC AND THE PEOPLE OF PALAWAN

WHEREAS, all petroleum, crude oil, and natural gas belong to the State and their disposition, exploration, development, exploitation and utilization are governed by Presidential Decree 87, as amended, otherwise known as the Oil Exploration and Development Act of 1972;

WHEREAS, Presidential Decree 87, as amended, declares it to be the policy of the State to hasten the discovery and production of indigenous petroleum through the utilization of government and/or private resources, local and foreign;

WHEREAS, Section 2, Article XII of the 1987 Constitution also provides that the President of the Republic of the Philippines "*may enter into agreements with foreign-owned corporations involving either technical or financial assistance for large-scale exploration, development and utilization of minerals, petroleum and other mineral oils according to the general terms and conditions provided by law, based on real contributions to the economic growth and general welfare of the country*";

WHEREAS, Pursuant to the above-stated policies, the government may explore for and produce indigenous petroleum under a Service Contract as provided by law, subject to the requirements prescribed by the Constitution;

WHEREAS, on December 1990, the government, acting through the Office of Energy Affairs, now known as the Department of Energy, entered into Service Contract No. 38 with Occidental Philippines, Inc. and Shell Exploration (known as the "Contractor") where all the necessary technology and financing were provided by the Contractor in undertaking the petroleum operations under the full control and supervision of the Department of Energy (DOE); 

WHEREAS, under the Service Contract, the Contractor is allowed to recover from the gross proceeds resulting from the sale of all petroleum produced under this Contract an amount equal to all operating expenses, provided, that the amount recovered shall not be more than seventy percent (70%) of the gross proceeds from production. In addition, the government and the contractor agreed to a sixty percent (60%) – forty percent (40%) sharing of the net proceeds from the petroleum operations. Other expenses, such as the corporate income tax, branch profit remittance tax and assistance to the local government units, are likewise deducted from the government share;

WHEREAS, royalty payments are generally levied on natural resources that under Philippine laws are owned by the government. Natural gas is classified as belonging to this category of natural resources, the extraction of which calls for production sharing from eligible exploration companies;

WHEREAS, the Malampaya natural gas to power plant was developed by the Philippine National Oil Company, Shell Philippines Exploration and Texaco, Inc. and the 2,700-megawatt capacity project has been fully operational since 2001;

WHEREAS, the said project has provided the country with unparalleled revenue generation with the government realizing billions of pesos over the years being administered by the national government and the province of Palawan;

WHEREAS, figures provided by the Department of Energy (DOE) show that from 2001-2005, the Contractor has recovered its capital investments through at most 70% portion of the yearly gross proceeds. By 2008, its cost recovery percentage was down to 11% providing the government with a revenue collection of US\$ 1,050.3B which represents 60% of net proceeds;

WHEREAS, Palawan's legal claims over its forty percent (40%) share of gross collection derived by the national government from the Malampaya gas proceeds is still pending with the Supreme Court but through an interim agreement with the national government and an executive order issued by Malacanang, both the provincial government and national government agreed to jointly utilize a portion of the disputed amount, allowing the province of Palawan to receive an initial amount of \$2.6B to be spent for local projects;

WHEREAS, during the public hearing conducted by the Committee on Energy held last April 21, 2009, DOE explained that the funds collected by the government go to the National Treasury, of which twenty percent (20%) is appropriated to DOE for energy-related projects while eighty percent (80%) goes to Special Fund 151 created under Presidential Decree 910 by President Marcos, an off-budget item and is spent by the DOE and by other departments upon approval by the President;

WHEREAS, these funds should be properly utilized and fully accounted for in order to help support the economic development programs of the national government to help foster financial and economic growth that will redound to the benefit especially of those in the grassroots level;

THEREFORE, be it resolved, as it is hereby resolved by the Philippine Senate, that the Committees on Energy and Finance are directed to conduct an inquiry, in aid of legislation, on the utilization of royalty payments collected by the government from the exploration of the Malampaya-Camago natural gas field, and to account for the same with the end in view of ensuring that such royalty payments are utilized to the maximum and direct benefit of the consuming public and the people of Palawan.

Adopted,


JUAN PONCE ENRILE
Senator