

SIXTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
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SENATE
P. S. R. No. 910

RECEIVED BY: *J*

Introduced by Senator Miriam Defensor Santiago

RESOLUTION

DIRECTING THE PROPER COMMITTEE TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE RECENT COA AUDIT REPORT THAT THE ERC WAS NEGLIGENT IN PROTECTING CONSUMERS BY FAILING TO OBTAIN THE COMPLIANCE OF 125 OUT OF THE 139 DISTRIBUTION UTILITIES (DUS) NATIONWIDE WITH THE PERIODIC TESTING OF IN-SERVICE ELECTRIC METERS, WHILE LAVISHING ITS OFFICERS WITH EXPENSIVE COMPUTERS AND EQUIPMENT

WHEREAS, the Constitution, Article 2, Section 27 provides: "The State shall maintain honesty and integrity in the public service and take positive and effective measures against graft and corruption";

WHEREAS, the Constitution, Article 12, Section 6 provides: "The use of property bears a social function, and all economic agents shall contribute to the common good. Individuals and private groups, including corporations, cooperatives, and similar collective organizations, shall have the right to own, establish, and operate economic enterprises, subject to the duty of the State to promote distributive justice and to intervene when the common good so demands";

WHEREAS, Republic Act No. 9136, otherwise known as the Electric Power Industry Reform Act (EPIRA) was enacted in 2001;

WHEREAS, the EPIRA abolished the Energy Regulatory Board and created in its place the Energy Regulatory Commission (ERC) which is a purely independent regulatory body performing the combined quasi-judicial, quasi-legislative and administrative functions in the electric industry;

WHEREAS, under R.A. 9136, Section 22, the distribution of electricity to end-users shall be a regulated common carrier business requiring a national franchise;

WHEREAS, the above section also states that the distribution of electric power to all end-users may be undertaken by private distribution utilities, cooperatives, local government units presently undertaking this function and other duly authorized entities, subject to regulation by the ERC;

WHEREAS, under Sec. 41 of R.A. 9136, the ERC is obligated to ensure the adequate promotion of consumer interests; hence, it is incumbent upon ERC to closely monitor the performance of Distribution Utilities (DUs);

WHEREAS, the *Philippine Daily Inquirer*, in its 8 September 2014 issue, reported that according to the Commission on Audit (COA), in its latest annual audit report, the Energy Regulatory Commission (ERC), chaired by former Pampanga Rep. Zenaida Ducut, failed to protect consumers, while it lavished its officers with MacBooks and iPads and deployed government vehicles without "For Official Use Only" markings;

WHEREAS, the COA audit report said that the ERC failed to obtain the compliance of 125 out of the 139 DUs nationwide with the periodic testing of in-service electric meters as

required under Sections 1.2 and 6.1 of the Rules and Procedures For the Test and Maintenance of Electric Meters of Distribution Utilities; hence, concerned consumers are not assured of the accuracy of their billing meters;

WHEREAS, the COA reportedly noted how the ERC went soft on power distributors in checking whether they were cheating consumers with the use of faulty electric meters and how it was unable to justify the provision of multiple laptops and tablets to its officers last year;

WHEREAS, the *Inquirer* reported that Ducut has refused to heed calls for her resignation even after she was charged along with scores of former and current government officials in the P10-billion pork barrel scam for allegedly taking a 5-percent commission for every pork barrel project she brought to accused pork plunderer Janet Lim-Napoles;

WHEREAS, the news report also alleged that lawmakers have likewise asked for Ducut's head for approving Manila Electric Co.'s huge rate increase of P4.15 per kilowatt-hour in December last year amid the Department of Energy's suspicion of collusion among power generators to make a killing from the monthlong shutdown of the Malampaya gas pipeline;

WHEREAS, according to the *Inquirer*, from July 2012 (when the mandatory testing started) to December 2013, the ERC reported that only 14—or just 10.07 percent of the 139 DUs nationwide—had their in-service meters retested every two years;

WHEREAS, the ERC reportedly said that of the handful of distributors that complied, only five had actually done periodic testing while nine decided to replace their two-year-old meters with new ones;

WHEREAS, in explaining their low compliance rate, the DUs reportedly told the ERC that they preferred to buy new meters or that they could not afford to buy the testing equipment (so they hired third-party testers) or asked for a time extension;

WHEREAS, the *Inquirer* reported that the ERC did not fine the erring DUs as it found their reasons or comments “meritorious”;

WHEREAS, it was also reported that the regulatory body argued that the meters were not tested because most of them were less than two years old; some meters were tested but did not have stickers pending the DU's final report; some meters were replaced; and the DUs were not ready to implement the testing program;

WHEREAS, the COA maintained that the ERC should strictly enforce its policies on the conduct of periodic in-service meter testing and to impose administrative sanctions to the DUs that continuously failed to comply thereto;

WHEREAS, the COA report also stated that Supervision and Regulation fees and the related penalties aggregating P10,091,629.42 remained uncollected for one to five years despite written demands to the Distribution Utilities and Electric Cooperatives;

WHEREAS, COA recommended that the ERC should consider more stringent sanctions or adopt other strategies to enforce the payment of the long overdue obligations of the DUs/ECs, and if warranted, institute legal actions/remedies;

WHEREAS, it was reported that the audit agency also branded as “excessive and unnecessary expenditures” the grant of the latest laptops and tablets to 27 ERC officers and employees and cell phones (worth P8,500 each) to five ERC drivers;

WHEREAS, the COA has reportedly ordered the ERC officials to just keep one gadget and return all laptops or tablets while the drivers were asked to pay for the mobile phones or return them;

WHEREAS, the according to the COA report, the ERC should determine the real need before purchasing and issuing additional computers or other IT equipment, and observe prudence in the disbursement of government funds;

WHEREAS, the *Inquirer* reported that among the top ERC officers who each received roughly P250,000 worth of high-tech freebies from 2009 to 2013 were:

- Executive Director Francis Saturnino C. Juan (Lenovo ThinkPad, Apple MacBook Air 2 and iPad from 2010 to 2012);
- Director Isabel Joseph P. Tomas II (MacBook Pro, Lenovo ThinkPad and iPad from 2009 to 2011);
- Director Noel J. Salvanera (MacBook, HP EliteBook and iPad 64GB from 2009 to 2011);
- Director Corazon C. Gines (Samsung laptop, MacBook Air, HP EliteBook and iPad from 2009 to 2012); and
- Director Floresinda Digal (Samsung laptop, MacBook Air, HP laptop, Lenovo laptop and two iPads from 2008 to 2014);

WHEREAS, the COA noted that such number of equipment with similar functions issued to an individual is excessive; the COA also questioned the need to buy new equipment when all IT equipment were functional upon inspection last year;

WHEREAS, the audit agency also found that ERC officials were using unmarked government vehicles and were unable to submit vouchers to support fuel purchases of P1.23 million last year;

WHEREAS, according to the COA report, all of the 22 ERC vehicles were not marked 'For Official Use Only' nor the name of the agency written on the sides of the motor vehicles; payment of gasoline expenses was also not supported with approved requisition and issue voucher (RIV) or its equivalent, making it difficult to monitor travels and the related gasoline usage;

WHEREAS, the COA reportedly said that the nonmarking of the agency vehicles could also lead to the use of the same for "personal/unauthorized purposes";

WHEREAS, it is imperative for Congress to investigate these erring public officials to determine if there is a need to review and revise existing laws to penalize underperforming ERC officials and deter future violations;

WHEREFORE, BE IT RESOLVED AS IT IS HEREBY RESOLVED to direct the proper Senate committee to conduct an inquiry, in aid of legislation, on the recent COA audit report that the ERC was negligent in protecting consumers by failing to obtain the compliance of 125 out of the 139 distribution utilities (DUs) nationwide with the periodic testing of in-service electric meters, while lavishing its officers with expensive computers and equipment.

Adopted,

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