



*14 NOV -6 P5:02

Senate
P.S. Resolution No. **997**

RECEIVED BY: *[Signature]*

Introduced by: **Senator Sergio Osmeña III**

RESOLUTION DIRECTING THE SENATE COMMITTEE ON ENERGY TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, INTO THE P 62 BILLION PAYABLES OWED BY THE NATIONAL POWER CORPORATION (NPC) AND POWER SECTOR ASSETS AND LIABILITIES MANAGEMENT CORPORATION (PSALM) TO DISPLACED OR SEPARATED NPC EMPLOYEES PURPORTEDLY BASED ON THE SUPREME COURT'S DECISION AND RESOLUTIONS IN NPC DRIVERS AND MECHANICS ASSOCIATION (NPC DAMA), ET AL. VS. NPC, ET AL. (G.R. NO. 156208) WITH THE END IN VIEW OF FORMULATING MEASURES TO ADDRESS THE SAME

WHEREAS, on June 30, 2014, the Supreme Court issued a Resolution affirming its September 26, 2006 Decision and December 2, 2009 Resolution in NPC DAMA, et al. vs. NPC, et al.¹ (G.R. No. 156208), which declared, among other things, that NPC's reorganization in 2003 pursuant to Republic Act No. 9136 or the Electric Power Industry Reform Act of 2001 (EPIRA) that resulted in the displacement or separation of several of its employees, was null and void for having been approved by mere alternates of the members of the NPC Board of Directors;

WHEREAS, purportedly in pursuance of this Resolution, the Sheriffs of the Regional Trial Court, Quezon City (RTC-QC), issued a Demand for Immediate Payment to NPC and PSALM, for the following amounts:

- a) P 60,244,316,841.00 - representing separation pay, back wages, and other benefits of the affected employees plus 12% interest, (less 10% corresponding to attorney's fees);

¹The complete title of the case is "NPC DRIVERS AND MECHANICS ASSOCIATION (NPC DAMA), represented by its President ROGER S. SAN JUAN, SR., NPC EMPLOYEES & WORKERS UNION (NEWU) - NORTHERN LUZON, REGIONAL CENTER, represented by its Regional President JIMMY D. SALMAN, in their own individual capacities and in behalf of the members of the associations and all affected officers and employees of National Power Corporation (NPC), ZOL D. MEDINA, NARCISO M. MAGANTE, VICENTE B. CIRIO, JR., and NECITAS B. CAMAMA, in their individual capacities as employees of National Power Corporation, Petitioners, - versus - THE NATIONAL POWER CORPORATION (NPC), NATIONAL POWER BOARD OF DIRECTORS (NPB), JOSE ISIDRO N. CAMACHO as Chairman of the National Power Board of Directors (NPB), ROLANDO S. QUILALA, as President - Officer-in-charge/CEO of National Power Corporation and Member of National Power Board, and VINCENT S. PEREZ, JR., EMILIA T. BONCODIN, MARIUS P. CORPUS, RUBEN S. REINOSO, JR., GREGORY L. DOMINGO, NIEVES L. OSORIO and POWER SECTOR ASSETS and LIABILITIES MANAGEMENT (PSALM), Respondents".

b) ₱ 6,024,316,841.00 - representing attorney's fees for the two (2) lawyers of the petitioners; and

c) ₱ 1,807,329,725.25 - representing lawful fees and costs for execution by the RTC-QC of the aforesaid Supreme Court's Decision and Resolution.

WHEREAS, a perusal of the Supreme Court's Resolution dated June 30, 2014 would reveal that said Resolution has not specifically indicated the above-stated amounts; neither did the Sheriffs' Demand for Immediate Payment provide details on how they arrived at the aforesaid amounts;

WHEREAS, notices of garnishment were issued by the Sheriffs upon depository banks (i.e., Land Bank and DBP) and power customers (i.e., Manila Electric Company (MERALCO) and electric cooperatives) of NPC and PSALM, as well as corporations which have monthly payment obligations to PSALM (i.e., Independent Power Producers Administrators (IPPAs), National Grid Corporation of the Philippines (NGCP), National Transmission Corporation (TRANSCO) and the winning bidder for the Angat Hydroelectric Power Plant);

WHEREAS, on September 9, 2014, the Supreme Court, acting on several pleadings filed by various parties, including NPC's Manifestation and Motion and PSALM's Omnibus Motion both dated August 22, 2014, issued a Resolution deferring the implementation of its Decision and Resolutions in the aforesaid NPC DAMA case and ordered the lifting of the notices of garnishment issued by the Sheriffs;

WHEREAS, NPC and PSALM have claimed that the magnitude of their liability and the possibility of immediate execution upon their assets and funds once the Supreme Court lifts the order deferring the implementation of its Decision, would have the following consequences, with disastrous effects on the economy and the power sector, namely: (1) Garnishment of PSALM assets is an event of default in certain loan obligations of NPC and PSALM that could trigger cross-default provisions under other loan covenants resulting in its ₱ 329 Billion outstanding loans as of June 2014 becoming immediately due and demandable; (2) Defaults by PSALM in the payment of loans and other indebtedness it assumed from NPC as a consequence of said garnishment, necessarily results in the National Government, as guarantor of said loans, having to step in to perform the obligations transferred to PSALM pursuant to the EPIRA; (3) The operations of PSALM, NPC, and other privately owned plants would be

adversely affected resulting in power supply shortages, or worse, the inability of PSALM and NPC to perform their mandates under the EPIRA; and (4) Increase in the Universal Charge (UC) with corresponding increase in power rates;

WHEREAS, Section 63 of the EPIRA, in relation to Section 3, Rule 33 of its Implementing Rules and Regulations (IRR), grants employees, who are displaced or separated from the service as a result of the restructuring of the power industry and the privatization of NPC assets, the option of receiving either *"a separation pay and other benefits in accordance with existing laws, rules and regulations"* or *"a separation plan which shall be one and one-half month[s]'salary for every year of service in the government"*;

WHEREAS, according to NPC and PSALM, most of the petitioners in the NPC DAMA case have previously received separation pay and are currently receiving pension from the Government Service Insurance System (GSIS); in addition, many have been immediately rehired by NPC, PSALM, TRANSCO, and other government agencies and are receiving salaries and other benefits corresponding to their current positions in these organizations.

NOW, THEREFORE, BE IT RESOLVED, AS IT IS HEREBY RESOLVED, to direct the Senate Committee on Energy to conduct an inquiry, in aid of legislation, into the P 62 Billion payables owed by the National Power Corporation (NPC) and Power Sector Assets and Liabilities Management Corporation (PSALM) to displaced or separated NPC employees purportedly based on the Supreme Court's Decision and Resolutions in NPC Drivers and Mechanics Association (NPC DAMA), et al. vs. NPC, et al. (G.R. No. 156208) with the end in view of formulating measures to address the same.

Adopted,


SERGIO OSMEÑA III
Senator