

SIXTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
SECOND REGULAR SESSION)

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SENATE

JOINT RESOLUTION NO. 12

Introduced by Senator Sergio Osmeña III and Senate President Franklin M. Drilon

JOINT RESOLUTION

**AUTHORIZING THE PRESIDENT OF THE PHILIPPINES, HIS EXCELLENCY BENIGNO S. AQUINO III,
TO ADDRESS THE PROJECTED ELECTRICITY IMBALANCE IN THE LUZON GRID
AND PROVIDING THE TERMS AND CONDITIONS THEREFOR**

WHEREAS, it is the policy of the State to ensure the quality, reliability, security and affordability of the supply of electricity in the country;

WHEREAS, on September 12, 2014, His Excellency President Benigno S. Aquino III requested the House of Representatives and the Senate for authority to establish additional generating capacity citing that the Department of Energy ("DOE") projects a critical electricity situation in the summer of 2015 in Luzon because not enough new generating plants had been commissioned from 2010 to 2014 to meet the historical annual growth in demand of about four percent (4%);

WHEREAS, additional power that would be deliverable in six (6) to twelve (12) months could be supplied through the lease of diesel-fed generating sets; however, the cost of this option, (including mobilization, demobilization, fuel, operation and maintenance), if utilized for 400 hours a year to cover peak hours during summer, would be in the neighborhood of Thirty-five Pesos per kilowatt-hour (₱35.00/kWh);

WHEREAS, there are existing generating sets owned by the private sector which may be harnessed to address probable shortages during peak hours at a much lower cost of Seven to Nine Pesos per kilowatt-hour (₱7-9/kWh);

WHEREAS, the generation sector raised concerns over delays of new projects which may be addressed by ensuring executive support for the fast-tracking of necessary certifications, permits, licenses, consents, and other authorizations, as well as facilitating the connection, interconnection or transmission of such projects to the grid;

WHEREAS, the electricity end-users with self-generating capability may be tapped through the Interruptible Load Program ("ILP") to provide additional relief to the grid in case: (i) the supply above regulating reserve ("Net Reserve") is below Three Hundred Fifty megawatts (350 MW) ("Orange Alert"); or (ii) there is critical loading or imminent overloading of transmission lines or equipment, where projected demand is higher than available supply critical to ensure system security;

WHEREAS, the ILP is a voluntary program implemented in Luzon, Visayas and Mindanao by distribution utilities ("DUs") with participating captive customers under existing guidelines issued by the Energy Regulatory Commission ("ERC");

1 **WHEREAS**, the ILP is designed to ensure that demand from the grid is diminished so that
2 existing supply will be sufficient;

3 **WHEREAS**, the ILP should be expanded to cover: (i) contestable customers of Retail
4 Electricity Suppliers (“RES”); (ii) end-users in Economic or Freeport Zone Operators; and (iii)
5 customers directly connected to the grid (collectively, the “potential ILP participants”);

6 **WHEREAS**, the ILP should also be implemented through a tripartite agreement to be
7 executed: (i) among the DUs, RES and participating Contestable Customers; or (ii) among
8 customers directly connected to the grid, generators/RES and the National Grid Corporation of
9 the Philippines (“NGCP”);

10 **WHEREAS**, pursuant to Section 71 of Republic Act No. 9136, also known as the “Electric
11 Power Industry Reform Act (EPIRA)”, the Congress may authorize, through a joint resolution,
12 the augmentation of generating capacity or reduction of demand from the grid under such
13 terms and conditions as Congress may approve; Now, therefore, be it:

14 **RESOLVED BY THE HOUSE OF REPRESENTATIVES AND THE SENATE IN CONGRESS**
15 **ASSEMBLED**, To authorize the President of the Philippines, His Excellency Benigno S. Aquino III,
16 to address the projected imbalance of the supply of and demand for electricity in the Luzon grid
17 especially in 2015 and 2016, under the terms and conditions embodied in this Joint Resolution:

18 1. The Department of Energy (the “DOE”) is hereby directed to:

19 a. Issue the necessary department orders and coordinate with other government
20 agencies including, but not limited to, the ERC, the Bureau of Customs, the National
21 Irrigation Authority, PSALM and the relevant local government units, to facilitate the
22 issuance of or suspend the application of necessary certifications, permits, licenses,
23 consents, and other authorizations, thereby ensuring that existing committed
24 projects and plants for connection, interconnection or transmission and
25 rehabilitation of existing generating units will be able to provide additional capacity
26 from March 1, 2015 to July 31, 2015: Provided, That after July 31, 2015, all such
27 projects, power plants or generating units shall secure the required permits,
28 licenses, consents, endorsements and other authorizations;

29 b. Direct the NGCP and/or concerned DU to facilitate and expedite the connection and
30 interconnection of existing committed projects and of plants for rehabilitation which
31 will provide additional capacity available from March 1, 2015 to July 31, 2015;

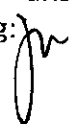
32 c. Instruct the system operator to not utilize existing hydroelectric plants as must run
33 units under clause 3.8.2.1 (d) of the WESM Rules and WESM Manual on “Must Run”
34 units and encourage hydroelectric plants to conserve water during off-peak hours
35 from March 1, 2015 to July 31, 2015;

36 d. Issue the necessary policies and systems of incentives to allow private facilities with
37 self-generating facilities (“SGFs”) an option to voluntarily connect and inject electric
38 power to the grid or to the DU system for contingency purposes, including the
39 exemption of such SGFs from the “Must-Offer” rule of the WESM Rules;

40 e. Cause the temporary suspension of Clause 3.13.1 of WESM Rules and such other
41 provisions to allow generation companies to re-declare bilateral contract quantities
42 under the ILP up to five (5) days after the trading day

- 1 f. Declare all Caliraya-Botocan-Kalayaan Pump Storage Power Plant (CBKPSPP) units in
2 Laguna province as "Must Load" units (as pump) from 8PM to 8AM on Mondays
3 through Saturdays and the whole day of Sunday, if and when requested by PSALM,
4 and as "Must Run" units (as generator) during peak period hours to achieve the
5 desired water elevation of the Caliraya Lake and optimize the existing output of the
6 said units; and
- 7 g. Enforce the contingency powers granted to the DOE pursuant to Sec. 25 of Republic
8 Act No. 7638, otherwise known as the Department of Energy Act of 1992, to
9 formulate and implement energy conservation measures and a fuel and energy
10 allocation plan, including open and competitive bidding for the natural gas volume
11 owned by the government, such as may be needed to further ensure that
12 committed power plant projects will be able to provide additional capacity within
13 March 1, 2015 to July 31, 2015.
- 14 h. Improve further the implementation of energy efficiency and conservation programs
15 to successfully achieve its goals through the active participation of the public and
16 private sectors in its various programs and activities. To this end, the DOE shall
17 establish the following strategies, among other things:
- 18 i. Enhance closer coordination between the national government and local
19 government units to maximize energy saving across the various regions in the
20 country;
- 21 ii. Integrate energy efficiency plans and policies across the government;
- 22 iii. Set individual sector goals and develop a more robust energy consumption data
23 base;
- 24 iv. Create an energy efficiency framework that is focused on the low-income
25 families and/or rural communities of the country;
- 26 v. Enhance its data analysis function through the establishment of a data centre
27 and information of energy conservation and improve its data collection and
28 monitoring through different data collection system.
- 29 vi. Develop a feedback mechanism after an information and education campaign
30 (IEC) and energy audit is conducted (e.g. poll exit during iec; feedback/callback
31 on audits);
- 32 vii. Encourage the supply-side (generation, IPPs and Retail Electricity Suppliers) to
33 improve the average efficiency of existing thermal power units and to adopt the
34 best available technologies for new generation units; and
- 35 viii. Develop and implement a national action plan for energy efficiency and
36 conservation.
- 37 2. The ERC is hereby directed to:
- 38 a. Issue the requisite regulation which shall suspend or amend, for the period covered
39 by this Joint Resolution, the N-1 Criterion under the Grid and Distribution Codes;
- 40 b. Amend the existing Rules to Govern the Interruptible Load Program of Distribution
41 Utilities, as amended ("ILP Rules") to cover voluntary participation of the potential
42 ILP participants, and in particular to:
- 43 i. Cover ILP for (a) Contestable Customers of RES; (b) end-users in Economic or
44 Freeport Zone Operators; and (c) customers directly connected to the grid;
- 45 ii. Allow the activation of the ILP whenever the net operating reserve of the Luzon
46 grid is less than 350 MW ("Orange Alert");

- 1 iii. Provide for maintenance cost of at least PhP 0.32/kWh in the De-Loading
2 Compensation formula; and
- 3 iv. Provide for a mechanism allowing generation companies and/or Retail Electricity
4 Suppliers with bilateral contracts with ILP participants to settle the cost
5 differentials resulting from the latter's participation in the ILP;
- 6 c. Without prejudice to the issuance of the implementing rules and regulations to be
7 issued by the Secretary of Energy, issue the necessary amendments to the ILP Rules,
8 Grid and Distribution Codes, in consultation with the industry stakeholders, which
9 shall be effective no later than seven (7) days from the approval of this Joint
10 Resolution.
- 11 d. Develop and adopt appropriate regulatory mechanisms for electric utilities to
12 encourage them to participate in supporting and carrying out energy efficiency and
13 conservation programs and enhance their capacity to deliver such programs,
14 including but not limited to, decoupling a utility's profits from its sales of energy to
15 make the utility indifferent to selling less product and allowing a utility to earn a
16 return on its investment equal to that which it receives for supplying energy.
- 17 e. Pursue regulatory means to enhance supply through competition such as by
18 lowering the threshold of retail open access to the household demand level; and
- 19 f. Review its rules and regulations that may be inconsistent with the competitive
20 nature of the electric supply industry and discourage investments in additional
21 capacities, in view of concerns over undue regulation of the generation price, over-
22 regulation of generator connection assets, secondary WESM price cap and
23 restrictions on sourcing by Retail Electricity Suppliers, among others;
- 24 3. The NGCP shall:
- 25 a. Administer the ilp for directly connected customers (dccs);
- 26 b. Recover the cost of ILP; and
- 27 c. Coordinate with and inform power industry participants the maintenance
28 schedules of generating facilities. For this purpose, the NGCP and DOE shall
29 make publicly available, through their websites, the updated maintenance
30 schedule of all power plants;
- 31 4. To incentivize and encourage participation in the ILP, the De-Loading Compensation
32 given to the ILP participant shall be considered a discount or reimbursement for cost
33 and shall not form part of gross receipts, and shall not be subject to income, value-
34 added, and/or local business taxes: Provided, That the De-Loading Compensation for
35 entities enjoying VAT zero-rate on purchases shall not be subject to VAT: Provided
36 Further, That this provision shall not be rendered ineffective or inoperative by the
37 absence of an implementing Department of Finance ("DOF") or Bureau of Internal
38 Revenue ("BIR") regulation;
- 39 5. The Special Fund created under Section 8 of Presidential Decree No. 910 (the
40 "Malampaya Fund") shall be the designated authorized funding source of extraordinary
41 expenses arising from the implementation of this Joint Resolution, particularly the
42 following:



- 1 a. Compensation to entities enjoying, under pertinent Executive Orders, discounted
2 generation, transmission and distribution rates for the incremental increase in
3 electricity rates arising from recovery of the De-Loading Compensation;
- 4 b. Payment to customers which are allowed an option to recover their De-Loading
5 Compensation from the Government as may be provided in the ILP Rules;
- 6 c. Extraordinary expenses incurred by the Power Sector Assets & Liabilities
7 Management Corporation ("PSALM") by virtue of the increased pumping operations
8 of CBKPSPP to achieve the desired water levels of Caliraya Lake and optimize the
9 generating capacity of CBKPSPP, differential cost of diesel and natural gas fuel for
10 the Ilijan Combined Cycle Power Plant and dispatch of Malaya Thermal Plant;
- 11 d. Extraordinary expenses incurred by PSALM in supplying fuel to and expanding the
12 fuel storage facilities of the Malaya Thermal Plant;
- 13 e. Expenses by the National Power Corporation (NPC) for disturbance and/or
14 displacement compensation to affected households and resort owners within the
15 Caliraya Lake for actual damages incurred as a result of raising the water elevation of
16 Caliraya Lake; and
- 17 f. Expenses incurred by entities in increasing the storage facilities of diesel for use by
18 natural gas plants as certified by the DOE;
- 19 8. Within seven (7) days from the approval of this Joint Resolution, the Secretary of Energy
20 shall, in coordination with industry stakeholders, promulgate the rules and regulations
21 to implement this Joint Resolution which shall take effect immediately upon its
22 complete publication in at least two (2) newspapers of general circulation in the
23 Philippines.
- 24 9. The President shall submit a monthly report to Congress on the efficiency and
25 effectiveness of measures undertaken to implement this Joint Resolution. The DOE, ERC,
26 PSALM, NGCP and the Philippine Electricity Market Corporation shall issue bi-weekly
27 progress reports to the Committee on Energy of the House of Representatives and the
28 Committee on Energy of the Senate.

29 **RESOLVED, FURTHER,** That if any provision of this Joint Resolution is declared invalid, all other
30 provisions not affected thereby shall remain valid and effective.

31 **RESOLVED, FINALLY,** That this Joint Resolution shall take effect immediately upon publication in
32 two (2) newspapers of general circulation.

33 Approved.

