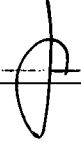


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SENATE
P.S. Resolution No. **832**

RECEIVED BY: 

Introduced by **SENATOR IMEE R. MARCOS**

A RESOLUTION
DIRECTING THE APPROPRIATE SENATE COMMITTEE TO CONDUCT AN
INQUIRY, IN AID OF LEGISLATION, INTO THE POSSIBLE REVOCATION OF
THE FRANCHISE OF THE NATIONAL GRID CORPORATION OF THE
PHILIPPINES

WHEREAS, Section 19, Article II of the 1987 Constitution, requires the State to develop a self-reliant and independent national economy effectively controlled by Filipinos;

WHEREAS, Section 11, Article XII of the Constitution mandates that:

1. No franchise, certificate, or any other form of authorization for the operation of a public utility shall be granted except to citizens of the Philippines or to corporations or associations organized under the laws of the Philippines, at least sixty per centum of whose capital is owned by such citizens and that the participation of foreign investors in the governing body of any public utility enterprise shall be limited to their proportionate share in its capital;
2. Neither shall any such franchise or right be granted except under the condition that it shall be subject to amendment, alteration, or repeal by the Congress when the common good so requires; and
3. All the executive and managing officers of such corporation or association must be citizens of the Philippines.

WHEREAS, Section 2 of R.A. No. 9511, otherwise known as An Act Granting the National Grid Corporation of the Philippines a Franchise to Engage in the Business of Conveying or Transmitting Electricity through High Voltage Back Bone System of Interconnected Transmission Lines, Substations and

Related Facilities, and for other Purposes expressly provides that the franchise of the National Grid Corporation of the Philippines (NGCP) is “granted under the condition that it shall be subject to amendment, alteration, or repeal by Congress when the common good so requires”;

WHEREAS, it has been the consistent ruling of the Supreme Court that the non-impairment clause of the Constitution must yield to the State’s police power;¹

WHEREAS, the increased risk to national security necessitates decisive actions to secure the country not only against conventional armed attacks but also against unconventional threats, economic sabotage, and collapse of critical infrastructure;

WHEREAS, the national grid is one of the most critical infrastructure of the county and its safe and smooth operations is vital for the defense of the nation;

WHEREAS, the NGCP is not only the transmission service provider but it is also the systems operator of the national grid;

WHEREAS, during the hearing jointly held by the Senate Committee on Energy and the Senate Committee on Trade, Commerce and Entrepreneurship on May 24, 2023, it was revealed that NGCP, as the system operator, has the capability to remotely switch on or off any transmission line or power plant through the Supervisory Control and Data Acquisition (SCADA) system of the power grid;

WHEREAS, during the hearing jointly held by the Senate Committee on Energy and the Senate Committee on Trade, Commerce and Entrepreneurship on July 12, 2023, it was revealed that there is an internal arrangement among the shareholders of NGCP that its board may only conduct business during board meetings if at least one representative of the China State Grid is present. This is the case even though the representatives of the Filipino shareholders, which hold a total of sixty percent (60%) of the outstanding shares, are sufficient in number to constitute a quorum. It is only after the absence of the

¹ Kilusang Magbubukid ng Pilipinas, et al. vs. Aurora Pacific Economic Zone and Freeport Authority, G.R. No. 198688 (November 24, 2020); Goldenway Merchandising Corporation vs. Equitable PCI Bank, 706 Phil. 427 (2013); Philippine Association of Service Exporters, Inc. vs. Drilon, 246 Phil. 393 (1988); JMM Promotion Management, Inc. vs. Court of Appeals, 329 Phil. 87 (1996);

representative of the State Grid Corporation of China for two meetings that the NGCP board may finally conduct business;

WHEREAS, as pointed out during said hearings, such internal arrangement is a circumvention of Section 11, Article XII of the Constitution, which, in capping the foreign equity participation to forty-percent, requires that the control of public utilities is in the hands of Filipinos;

WHEREAS, from the corporation's inception up until 2018, only Chinese citizens were appointed as the Chief Technical Officer of NGCP even though Section 11, Article XII of the Constitution requires that all of the executive and managing officers of public utilities must be citizens of the Philippines;

WHEREAS, another circumstance which further shows that the alleged control by Filipino shareholders of NGCP is more illusory than real is the fact that there has never been a Filipino chairperson of the NGCP even though the Filipino shareholders supposedly have the numbers to elect one;

WHEREAS, aside from the circumventing Constitutional safeguards, the following circumstances show that NGCP likewise violated Section 3 R.A. 9511 by failing to improve adequately improve the grid system and related facilities and to operate and maintain the same in accordance with industry standards:

1. Failure of the grid to comply with the Single Outage Contingency Criterion as shown by the numerous automatic load dropping incidents and grid-level outages during the past several years;
2. Inadequate procurement of ancillary services to prevent outages;
3. Significant delays in the completion of grid projects, with some projects incurring delays of up to seven (7) years;

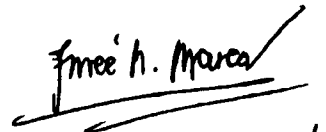
WHEREAS, while the Visayas-Mindanao Interconnection Project, the Bataan-Hermosa line, and the Cebu-Negros-Panay Interconnection projects, all of which are supposed to be completed by 2020, remain uncompleted;

WHEREAS, NGCP continues to pay dividends amounting to 77% of its net income, or a total of Php 238.8 billion from 2009 to 2022. The amount paid by NGCP in dividends are consistently higher than its capital expenditure;

WHEREAS, such actions and behavior of NGCP are not in line with its commitments under the Transmission Development Plan and R.A. No. 9511;

NOW, THEREFORE, BE IT RESOLVED AS IT IS HEREBY RESOLVED BY THE PHILIPPINE SENATE, that the appropriate Senate Committee be directed to conduct an inquiry, in aid of legislation, into the possible revocation of the franchise of the National Grid Corporation of The Philippines.

Adopted,


IMEE R. MARCOS