THIRTEENTH CONGRESS OF THE) REPUBLIC OF THE PHILIPPINES) Third Special Session)		7	FEB 19	P4:28
SENA	SENATE		RECEIVED BY:	
P. S. Res. No	621			
Introduced by Senato	or S. R. Osme	na III		

RESOLUTION

DIRECTING THE COMMITTEE ON ENERGY AND THE COMMITTEE ON FINANCE TO CONDUCT, JOINTLY OR SEPARATELY, AN INQUIRY IN AID OF LEGISLATION INTO THE ALLEGED ILLICIT ACTIVITIES OF NAPOCOR/NAPOCOR OFFICIALS THAT ENDANGER THE GOVERNMENT'S PRIVATIZATION AND RESTRUCTURING REFORMS IN THE ELECTRICITY SUPPLY INDUSTRY

WHEREAS, it had been admitted that the National Power Corporation ("NAPOCOR") has been offering bilateral power supply contracts to distribution utilities in Mindanao, under which NAPOCOR and a certain Lanao Hydro Development Corporation ("LANAO HYDRO") undertake to "jointly supply full power requirements for a minimum of 10 years";

WHEREAS, LANAO HYDRO is reportedly planning to construct, operate and own the Agus III hydroelectric plant with a capacity of 225 MW and, by all indications, NAPOCOR has: [1] recognized LANAO HYDRO's right to do the same without any form of authorization by PSALM Corporation, and [2] assumed the obligation to sell the power to be generated by LANAO HYDRO to its own customers, thus essentially assuring the generation company a lucrative power off-take;

WHEREAS, the scheme, which is being actively peddled by NAPOCOR's President, appears to violate Sec. 47(f) of the Electric Power Industry Reform Act (EPIRA) which mandates that the Agus Complex, including Agus III, shall be owned by PSALM Corporation and "may be privatized not earlier than ten (10) years from the effectivity of this Act, and, except for Agus III, shall not be subject to Build-Operate-Transfer (B-O-T), Build-Rehabilitate-Operate-Transfer (B-R-O-T)" agreements;

WHEREAS, the scheme also appears to circumvent, if not directly violate, the provision of Sec. 47(j) of the EPIRA that NAPOCOR "may generate and sell electricity only from the undisposed generating assets and IPP contracts of PSALM Corp. and shall not incur any new obligations to purchase power through bilateral contracts with generation companies and other suppliers";

WHEREAS, the scheme would undermine the privatization value of the other Agus hydroelectric plants, which are owned by PSALM Corporation and operated by NAPOCOR, insofar as these plants would be deprived of assignable customers once privatization is pursued 10 years after the effectivity of the EPIRA, thereby reducing the privatization proceeds to the national government;

WHEREAS, the scheme would also unduly burden the consumers considering that Agus I, Agus II, Agus IV, Agus V, Agus VI and Agus VII hydroelectric plants presently charge an ERC-approved rate of P2.1030/kWh, while the supply contracts being offered would double this rate at an average of P4.32/kWh;

WHEREAS, aside from the undue favors NAPOCOR has been bestowing upon LUZON HYDRO, telltale signs of fraud abound –the willingness of NAPOCOR officials to have NAPOCOR's customer base eroded, a situation against the interest of NAPOCOR; the involvement of former NAPOCOR officials in LUZON HYDRO, including one who had figured prominently in the notorious CBK-IMPSA scam; and LUZON HYDRO's apparent lack of financial and technical capacity to construct and operate Agus III given that it has an authorized capital stock of only Twenty Million Pesos (P20,000,000.00), of which only Five Million Pesos (P5,000,000.00) had been subscribed, among others;

WHEREAS, it had been reported that NAPOCOR has recently employed and implemented variations of this scheme in connivance with other entities and appears to be further pursuing such activities;

WHEREAS, although NAPOCOR is owned by PSALM Corporation, NAPOCOR did not inform the latter that it intended to undertake or is undertaking such scheme:

WHEREAS, there is a need to investigate these illicit activities, in aid of legislation, in order that legislative measures be taken to address threats that tend to weaken the competitive structure of the electricity supply industry that is still in its infancy, and protect the financial interest of the national government in NAPOCOR's privatization;

NOW THEREFORE, in view of the foregoing, pursuant to the Senate's constitutional prerogatives,

BE IT RESOLVED, as it is hereby resolved, to direct the Committee on Energy and the Committee on Finance to conduct, jointly or separately, an inquiry in aid of legislation into the alleged illicit activities of NAPOCOR/NAPOCOR officials that endanger the government's privatization and restructuring reforms in the electricity supply industry.

Adopted,

SERGIO R. OSMEÑA III

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