

PROPOSALS FOR THE EPIRA LAW (RA 9136) REVIEW

Consumer

February 6, 2014 Waterfront Insular Hotel, Davao City

PROPONENT/SUMMARY OF PROPOSED AMENDMENTS	RATIONALE/DISCUSSION	SPECIFIC PROVISION(S) AFFECTED	PROPOSED REWORDINGS OF PROVISION
	<p>Secretary General – Freedom from Debt Coalition, General Santos City If we try to analyze the whole set-up of Section 47, one of the main reasons for privatization is to sell the assets of NPC in order to pay its debts, which the national government cannot shoulder. However, only a portion of the debt had been covered/paid, which only goes to show that this plan is a flop. In fact, the debt just keeps on increasing. The consumers are the ones paying its stranded debt, thereby explaining the additional cost in our electricity bills. Moreover, as we all know, privatization results to the deregulation of the industry. How would the electricity cost go down if power is deregulated and private companies are the ones who would set the price?</p> <p>Representative – FDC EPIRA was envisioned not to bring down electricity cost right away, but until the 15th year.</p> <p>Fr. Emie – Urban Poor Communities If we are going to scrap the Section pertaining to the privatization of NPC, would the government agencies be efficient enough in giving their service to the people? Consequently, if private companies are indeed efficient, what about the issue of greed?</p>	<p>CHAPTER V <i>Privatization of the Assets of the National Power Corporation</i> SECTION 47 <i>NPC Privatization</i></p>	To repel or abolish the whole section
	<p>TUCP ALU The Palace has just made a statement about against the blackmail of MERALCO. The palace reminded the distribution utility that MERALCO, as a business, is affected with public interest, together with other subsectors in the power industry such as generation, transmission and supply.</p>	<p>CHAPTER II <i>Organization and Operation of the Electric Power Industry</i> SECTION 6 <i>Generation Sector</i></p>	The Generation Sector must be defined as a public utility.
	<p>TUCP ALU One of the objectives of EPIRA is to broaden ownership base in the industry.</p>	<p>CHAPTER II <i>Organization and Operation of the</i></p>	To reduce this limit to 15% and to publicly list all public

	<p>However, there are some conflicts in the laws of monopoly and concentration of ownership that hinder the broadening of ownership.</p>	<p><i>Electric Power Industry</i> SECTION 28 (first paragraph) <i>De-Monopolization and Shareholding Dispersal</i></p> <p><i>De-Monopolization and Shareholding Dispersal</i> – In compliance with the constitutional mandate for dispersal of ownership and de-monopolization of public utilities, the holdings of persons, natural or juridical, including directors, officers, stockholders and related interests, in twenty-five (25%) percent of the voting shares of stock unless the utility or the company holding the shares or its controlling stockholders are already listed in the Philippine Stock Exchange (PSE): Provided, that controlling PSE within five (5) years from the enactment of this Act if they already own the stocks. New controlling stockholders shall undertake such listing within five (5) years from the time they acquire ownership and control. A small distribution company is one whose peak demand is equal to or less than ten megawatts (10MW).</p>	<p>utilities/companies without exemption.</p>
	<p>TUCP ALU There must be an effective prohibition of cross-ownership. Cross-ownership should not just be between the different subsectors and transmission</p>	<p>CHAPTER IV <i>Regulation of the Electric Power Industry</i></p>	<p>Instead of specifying up to what extent distribution utilities may enter into bilateral power supply contracts,</p>

	<p>companies but also between and among the different subsectors as well. That would prevent sister companies from emerging, just like what's happening at present. Thus, if you have shares in a certain sector, you are no longer allowed to have shares in another sector.</p>	<p>SECTION 45 (b) <i>Cross Ownerships, Market Power Abuse and Anti-Competitive Behaviour</i></p> <p>Distribution utilities may enter into bilateral power supply contracts subject to review by the ERC: Provided, that such review shall only be required for distribution utilities whose markets have not reached household demand level. For the purpose of preventing market power abuse between associated firms engaged in generation and distribution, no distribution utility shall be allowed to source from bilateral power supply contracts more than fifty percent (50%) of its total demand from an associated firm engaged in generation but such limitation, however shall not prejudice contracts entered into prior to the effectivity of this Act. An associated firm with respect to another entity refers to any person which, alone or together with any other person, directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such entity.</p>	<p>we should get rid of Section 45 (b) entirely and replace it with a new provision stating the prohibition of bilateral contracts between sister companies.</p>
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	<p>TUCP ALU This proposed amendment could broaden ownership base and prevent not only cartel but monoxomy as well. This needs further study but our main objective is to bring the figures down in such a way that it could not be controlled by very few families or companies.</p>	<p>CHAPTER IV <i>Regulation of the Electric Power Industry</i> SECTION 45 (a) <i>Cross Ownerships, Market Power Abuse and Anti-Competitive Behaviour</i></p> <p>No company or related group can own, operate or control more than thirty percent (30%) of the installed generating capacity of a grid and/or twenty-five percent (25%) of the national installed generating capacity. "Related group" includes a person's business interests, including its subsidiaries, affiliates, directors or officers or any of their relatives by consanguinity or affinity, legitimate or common law, within the fourth civil degree.</p>	<p>To reduce a company's operation or control of installed generating capacity of a grid from 30% to 15%.</p>
	<p>TUCP ALU We are disappointed with the Energy Regulatory Commission. It was given vast powers and authority over this whole industry but obviously did not perform its functions. Now the government is looking into other resources that could have been put to good use in other ways.</p>	<p>CHAPTER IV <i>Regulation of the Electric Power Industry</i> SECTION 38 <i>Creation of the Energy Regulatory Commission</i></p>	<p>In the Energy Regulatory Commission, there must be representatives from labor and consumer groups.</p>
	<p>TUCP ALU The rate methodology that has been implemented now has only benifited the power companies. Power companies, such as MERALCO, has a very generous profit of 12% and charges high cost to consumers.</p>		<p>We must put a limit on the profit margins of power companies or public utilities.</p>
	<p>TUCP ALU Agus and Pulangui hydro plants play a very crucial role in ensuring the</p>	<p>CHAPTER V <i>Privatization of the Assets of the</i></p>	<p>The Agus and Pulangui complexes should not be privatized and must</p>

	<p>stability of power supply in Mindanao. It should not be privatized and must remain in the public under government control. There has been a series of discussions among different sectors for the non-privatization of these facilities.</p>	<p><i>National Power Corporation</i> SECTION 47 (f) <i>NPC Privatization</i></p> <p>The Agus and Pulangui complexes in Mindanao shall be excluded from among the generation companies that will be initially privatized. The ownership shall be transferred to the PSALM Corp. and both shall continue to be operated by the NPC. Said complexes 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) and other variations thereof pursuant to Republic Act No. 6957, as amended by Republic Act No. 7718. The privatization of Agus and Pulangui complexes shall be left to the discretion of PSALM Corp. in consultation with Congress.</p>	<p>remain under government control, notwithstanding the grace period of ten (10) years from the effectivity of EPIRA as provided in Section 47 (f).</p>
	<p>TUCP ALU Under the law, electric cooperatives have the option of whether to register under CDA or as a stock corporation, but unfortunately there have been some efforts to discourage some electric cooperatives from registering under CDA.</p> <p>EFREN T. CORTEZ, Secretary – Committee of Energy in the House of</p>		<p>Electric cooperatives must be allowed to register under CDA and there must be no hindrances to it. The government must facilitate in the implementation of this registration.</p>

	<p>Representatives</p> <p>I would just like to inform our representative from the TUCP-ALU and the body that there is a recent enactment of an amendment to P.D. 269. This is R.A. 10531, which also includes the amendment of Section 4 of P.D. 269. The new provision, Section 4 (a), which effectively puts all electric cooperatives under the supervision of NEA.</p> <p>VIC LAO, Mindanao Business Council</p> <p>The electric coops are not real cooperatives. That's the reason why they cannot even make a loan on their own. They are not bankable and cannot improve their services and facilities. As long as they lack funds, they would be dependent on NEA.</p> <p>EFREN T. CORTEZ, Secretary – Committee of Energy in the House of Representatives</p> <p>The option to convert or to remain under NEA is still there, but as to the corporate structure, they may convert into being a stock cooperative or remain as a non-stock cooperative.</p>		
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