A RESOLUTION
URGING THE COMMITTEE ON ENERGY TO CONDUCT AN INQUIRY IN AID OF LEGISLATION ON THE PROPRIETY OF
THE DEPARTMENT OF ENERGY CIRCULAR ENTITLED "RATIONALIZING THE UTILIZATION OF ER 1-94 FUNDS BY
LGUs IN RESPONSE TO COVID-19 PUBLIC HEALTH EMERGENCY

WHEREAS, Under Section 5(i) of Republic Act No. 7638 or the Department of Energy Act of 1992, the Department of Energy (DOE) is mandated to devise ways and means of giving direct benefit to the province, city, or municipality, especially the community and people affected, and equitable preferential benefit to the region that hosts the energy resource and/or the energy-generating facility;

WHEREAS, the DOE issued Energy Regulation (ER) 1-94, which provides that host communities of energy generating facilities and/or energy resource developers are entitled to a share of one centavo per kilowatt hour (Php0.01/kWh) of the total electricity sales as financial benefit;
WHEREAS, Republic Act No. 9163 or the Electric Power Industry Reform Act (EPIRA), continued the program as provided in Section 66 entitled “Benefits to Host Communities”. The provision mandates the continuing obligation of generation companies and energy resource developers to communities under related issuances to the same effect;

WHEREAS, the Implementing Rules and Regulations (IRR) of the EPIRA specifically mandates the proper allocation of the funds generated for the benefit of the host communities, in non-highly urbanized cities, under Rule 29 A, Section 4(a)(i), as follows:

1. Fifty percent of one centavo per kilowatt-hour (P 0.005/kWh) of the total electricity sales shall be set aside as an electrification fund;
2. Twenty five percent of one centavo per kilowatt-hour (P 0.0025/kWh) of the total electricity sales as a development and livelihood fund
3. Twenty five percent of one centavo per kilowatt-hour (P 0.0025/kWh) of the total electricity sales as a reforestation, watershed management, health and/or environment enhancement fund

WHEREAS, the Implementing Rules and Regulations (IRR) of the EPIRA specifically mandates the proper allocation of the funds generated for the benefit of the host communities, in highly urbanized cities, under Rule 29 A, Section 4(a)(ii), as follows:

1. Seventy percent of one centavo per kilowatt-hour (P 0.0075/kWh) of the total electricity sales shall be set aside as an electrification fund;
2. Twelve and one-half percent of one centavo per kilowatt-hour (P 0.00125/kWh) of the total electricity sales as a development and livelihood fund
3. Twelve and one-half of one centavo per kilowatt-hour (P 0.00125/kWh) of the total electricity sales as a reforestation, watershed management, health and/or environment enhancement fund

WHEREAS, the IRR clearly establishes the specific programs which these funds will be used for such as the electrification fund, the development and livelihood fund, and the reforestation watershed management, health and/or environment enhancement fund;

WHEREAS, DOE issued Department Circular No. 2018-08-0021, amending certain provisions of Rule 29-A of the IRR of EPIRA, which amended the process of utilizing the funds to host communities, particularly making direct remittance of the financial benefits to the said communities;

WHEREAS, On April 6, 2020, DOE issued Department Circular No. 2020-04-0008 to adjust the process of releasing the said funds to the host communities, including provisions which disregards the signing Memorandum of Agreement (MOA) between the host communities and the generation companies and energy resource developers;
WHEREAS, the Memorandum of Agreement is the foundational basis of the rights and obligations between the parties, in relation to financial benefits afforded to host communities;

WHEREAS, the DOE did not consult with the Joint Congressional Energy Committee before issuing the Department Circular 2020-04-0008;

WHEREAS, there is a need to determine whether such Department Circular was issued in violation of the law particularly RA 9163 or the EPIRA and the DOE acted in excess of its authority and delegated legislative power.;

NOW THEREFORE, BE IT RESOLVED THAT, the Committee on Energy conduct an investigation in aid of legislation on whether or not the DOE violated any laws in its issuance of DOE Department Circular 2018-08-0021 and 2020-04-0008 realigning the ER 1-94 Funds to address the COVID-19 Pandemic.

Adopted,

[Signatures]

REP. PRESLEY C. DE JESUS
PHILRECA Partylist

REP. SERGIO C. DAGOOC
APEC Partylist

REP. ADRIANO A. EBCAS
Ako Padayon Pilipino Partylist

REP. GODOFREDO N. GUYA
RECOBODA Partylist