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HOUSE OF REPRESENTATIVES

Introduced by Representative Maximo B. Rodriguez

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House Bill No. 357

EXPLANATORY NOTE

The most concrete effect of the Electric Power Industry Reform Act of 2001 (EPIRA) specific to Mindanao is the special treatment extended to the Agus-Pulangui Hydropower Complex. The EPIRA deferred the privatization of Agus-Pulangui for 10 years. Today, its privatization is in limbo after the lapse of the 10-year period, and government has not come up with a definite policy whether or not to privatize these assets. The problem is that there are investors who are holding back their investments in power generation because they are waiting for the possible privatization of the Agus-Pulangui dams, which are the crown jewels of NAPOCOR/PSALM assets. In foreign electricity markets, hydropower assets are prized possessions because they usually earn windfall profits; thus, investors are probably holding back and saving their resources to bid and win such lucrative assets. If government says it will no longer be privatizing Agus-Pulangui, the speculation would stop and investors would be more definite in their business decisions. Given the shortage in Mindanao, there is always incentive for new players to come in.

This bill seeks to make definite the national policy for the Agus-Pulangui Hydropower Complexes not to privatize the crown jewels of the Mindanao power industry, and to formulate a viable way to operate and maintain these assets that provide majority of the electricity in Mindanao.

Non-privatization is the wise policy decision because government should not hand over possible windfall profits to any private entity when these resources could be used to alleviate the power situation in Mindanao. Remember that under the Electric Power Industry Reform Act of 2001 (EPIRA) generation plants now are deregulated and government has less control at how much a private power plant can charge. If privatized, the new owner may be able to sell electricity at around PhP 14.00 per kw/hr compared to how much NAPOCOR sells hydropower electricity at around PhP 3.00 per kw/hr. Give the insufficiency of power capacity in Mindanao, electric cooperatives, distribution utilities, and other consumers have no choice but to accept the prices imposed upon them. Why hand over clean windfall profits to the private sector when the lucrativeness of hydropower plants can be used to directly benefit Mindanao? If these assets are left with government, hydropower can blend power rates and mitigate spikes in power prices.

This bill seeks to cure the problem with the present set-up of the Agus-Pulangui Hydropower Complexes, which is not viable. Under the present EPIRA, the NAPOCOR is supposed to turn over all its income to the Power Sector Assets and Liabilities Management (PSALM) to service NAPOCOR debts. PSALM has the discretion how much it would return for the operation and maintenance of the Agus-Pulangui complexes. Remember that PSALM and NAPOCOR have responsibility over and have to worry about the entire Philippine electric power industry, and the Agus-Pulangui is just one of a myriad of their concerns. Under, this set-up, NAPOCOR barely has any resources to operate and maintain, much less improve these assets. There has to be a revision of the structure how Agus-Pulangui is operated and treated overall. A power corporation specifically for Mindanao would be able to focus and safeguard the power situation in the region.

My proposal is to set-up a Mindanao Power Corporation (MinPow) that will operate and maintain the Agus-Pulangui Hydroelectric Complexes. MinPow can acquire the Agus-Pulangui dams from NAPOCOR/PSALM under similar terms and conditions as in a privatization context. For example, NGCP paid for Transco's transmission system at around 25% down payment with amortizations for 25 years. Why not have the same terms and conditions for the transfer between NAPOCOR/PSALM and MinPow? This way, the Agus-Pulangui Complex remains part of the equation in paying the power industry's debts pursuant to the policy of the EPIRA. Considering the lucrative nature of hydropower plants, MinPow would easily be able to pay for the transfer price by simply imputing such transfer price (along with other provisions for rehabilitating and improving the assets) in its power rates as approved by the ERC.

A Mindanao Power Fund is also established to address any impending power crises instead of waiting for the National Government to act and dole out taxpayers' money. This fund can be raised as part of the power rates that can be charged by MinPow. This is also more equitable because the fund is borne by ratepayers who benefit from the Mindanao assets instead of being paid for by taxpayers nationwide. The rate of Php .30 per kw/hr is exactly the same as the mandatory rate reduction under the EPIRA, and can be utilized by the corporation to safeguard the power supply situation in Mindanao. The Mindanao Power Fund can also be utilized to lower residential power rates.

Indeed, there are sectors who believe that the Agus-Pulangui complexes should be privatized simply because government (particularly NAPOCOR), by experience, has been inefficient and terrible at running the power industry. According to them, the private sector should be allowed to operate the plants better and more efficiently. This is mainly due to the distrust surrounding the NAPOCOR.

First, as already mentioned, the Agus-Pulangui hydropower complexes are the crown jewels of the NAPOCOR/PSALM assets. The main reason why it appears to be neglected is because of the setup wherein NAPOCOR has to turn over all its income to PSALM to service NAPOCOR's debts. Considering how lucrative hydropower plants are, the Agus-Pulangui plants are likely subsidizing the rest of NAPOCOR operations nationwide and unfortunately, without provisions for rehabilitating and improving the plants. I do not see any good reason to hand such assets over to the private sector. I think it is better to tailor fit how the plants should be treated to avoid sacrificing efficiency and economy.

Secondly, an argument for privatization is that continued government ownership of the hydroelectricity would discourage private investors because they will not be able to compete with its low prices. This can be addressed by rationing the hydropower to electric cooperatives and distribution utilities pro rata. This way, all these electric cooperatives and distribution utilities have the benefit of blending their rates with cheap hydropower. Rationing the cheap hydropower would also avoid allegations of favoritism and ensure that cheap power benefits individual ratepayers rather than large consumers. On the other hand, competition among power generators is not sacrificed because there is not sacrificed because there is still the same number of customers with sufficient demand to whom they can sell their electricity. Actually, a stronger argument against privatization is that in a privatization context, the feared lack of competition is still present but instead of government, a private industry player is holding market power with high incentive to earn profits at the expense of the rest of the population.

Thirdly, there are allegations that Mindanao electric cooperatives and consumers are spoiled and refuse to share the burden in the costs of power. My proposal addresses this concern by having a Mindanao Power Company with regulated rates that enable it to raise (a) sufficient funds for buying Agus-Pulangui from NAPOCOR/PSALM; (b) sufficient funds

for operating and maintaining such assets efficiently, and even; (c) sufficient funds for improving such assets. It also provides for the Mindanao Power Fund, which ensures lessening subsidy by the National Government in any power crisis situation.

This bill should also be supported by non-Mindanaoans because the creation- of the Mindanao Power Corporation rationalizes costs and promotes economic efficiency because any future Mindanao Power Situation shall be borne by Mindanao ratepayers, instead of being borne by taxpayers nationwide. Let Mindanaoans be responsible and bear costs for the upkeep of the Agus-Pulangui complexes, and their power situation.



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