



SEVENTEENTH CONGRESS OF THE
REPUBLIC OF THE PHILIPPINES
Third Regular Session

'19 FEB 14 P2 :20

SENATE

P.S. Res. No. 1022

RECEIVED BY: _____

Introduced by SEN. WIN GATCHALIAN

**A RESOLUTION DIRECTING THE APPROPRIATE SENATE
COMMITTEE TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION,
ON THE OPERATIONS OF UNDERPERFORMING DISTRIBUTION
UTILITIES AND THE REMEDIES TO HOLD THEM ACCOUNTABLE**

WHEREAS, in the restructured power industry under Republic Act No. 9136, otherwise known as the Electric Power Industry Reform Act of 2001 (EPIRA), the Department of Energy (DOE) is mandated to facilitate and encourage reforms in the structure and operations of distribution utilities (DUs) for greater efficiency and lower costs,¹ while the Energy Regulatory Commission (ERC) is mandated to promulgate standards for and regulate rates of distribution utilities (DU);²

WHEREAS, the DOE, in the discharge of its functions, has issued department circulars promoting competition,³ transparency,⁴ and resiliency,⁵ while ERC, pursuant to its mandate, has established distribution system reliability performance indices such as the system average interruption frequency index (SAIFI), the system average interruption duration index (SAIDI), and the allowable system loss caps;⁶

WHEREAS, both agencies may recommend the revocation of any DU's franchise for violation of any of the provisions of the EPIRA;⁷

WHEREAS, various hearings of the Senate Committee on Energy has brought to light the issues surrounding DUs such as non-compliance with system loss caps,⁸ SAIDI, and SAIFI;⁹ financial liabilities, in the case of electric cooperatives;¹⁰ and failure to electrify areas within their respective franchises¹¹ – thereby resulting to the prejudice of consumers;

¹ Sec. 5(e)(ii), Republic Act No. 7638 (1992)

² Sec. 43, Republic Act No. 9136 (2001)

³ Department of Energy (DOE) Department Circular No. DC2018-02-003 "Adopting and Prescribing the Policy for the Competitive Selection Process in the Procurement by the Distribution Utilities of Power Supply Agreement for the Captive Market".

⁴ DOE Department Circular No. DC2018-08-0026 "Adopting Framework for Uniform Monthly Electricity Bill Format".

⁵ DOE Department Circular No. DC2018-01-001 "Adoption of Energy Resiliency in the Planning and Programming of the Energy Sector to Mitigate Potential Impacts of Disasters".

⁶ Sec. 3.3, Philippine Distribution Code (2016)

⁷ Sec. 46, Republic Act No. 9136 (2001)

⁸ Submission by the ERC to the Senate Committee on Energy on the Systems Loss Bills dated 11 November 2016.

⁹ Senate Committee on Energy Hearing (25 September 2017) pp. 8, 11, 16, 27, and 99.

¹⁰ NEA presentation on "STATUS OF UNDERPERFORMING, FINANCIALLY AND TECHNICALLY DISTRESSED ELECTRIC COOPERATIVES" given to the DOE on 10 December 2018.

¹¹ 16 April 2018 and 13 August 2018 Hearings of the Committee on Energy on Senate Resolution No. 695 (Rural Electrification).

WHEREAS, given the foregoing shortcomings of DUs, there has been no policy or procedure for DOE or ERC to determine underperforming DUs whose franchise will be recommended for revocation;

WHEREAS, despite this, the DOE on 11 January 2019 submitted a letter to the Speaker of the House of Representatives with the subject “Recommendation for the Cancellation of the Franchise of Ailing Cooperatives Under Section 48 of Republic Act No. 9136” which enumerates seventeen (17) ECs identified by the National Electrification Administration as underperforming, financially, and technically distressed;¹²

WHEREAS, the DOE on 30 January 2019 recalled the letter it submitted to the Speaker dated 11 January 2019 citing as reason that “the DOE received reports from and information from these electric cooperatives that they have already addressed the issues against them” therefore deeming it “prudent to hold, in the meantime, [their] recommendation”;¹³

WHEREAS, the situation above highlights the necessity for a clear policy and procedure on how DUs can be held accountable for their duties and responsibilities under the EPIRA, through the recommendation of DOE or ERC for the revocation of their franchise, all towards the promotion and protection of consumers’ interest;

NOW THEREFORE BE IT RESOLVED, as it is hereby resolved, to direct the appropriate Senate Committee to conduct an inquiry, in aid of legislation, on the operations of underperforming DUs and the remedies of government to hold them accountable.

Adopted,



WIN GATCHALIAN

¹² Letter of Sec. Alfonso G. Cusi to Speaker Gloria Macapagal-Arroyo with subject “Recommendation for the Cancellation of the Franchise of Ailing Cooperatives Under Section 48 of Republic Act No. 9136” dated 11 January 2019.

¹³ Letter of Sec. Alfonso G. Cusi to Speaker Gloria Macapagal-Arroyo recalling DOE’s letter dated 11 January 2019 dated 30 January 2019.