Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

EIGHTEENTH CONGRESS
Third Regular Session

House Resolution No. 2076

Introduced by Honorable Alfredo A. Garbin, Jr.

RESOLUTION
DIRECTING THE COMMITTEE ON ENERGY OR SUCH OTHER APPROPRIATE COMMITTEE TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE PROPRIETY OF THE INCREASE IN CHARGES OF ALBAY POWER AND ENERGY CORP. STARTING APRIL 2021 ONWARDS.

WHEREAS, on 27 May 2021, the Department of Energy (DOE) denied the application of Albay Power and Energy Corp. (APEC) for Certificate of Exemption (COE) or the Emergency Power Supply Agreement (EPSA) with independent power providers;

WHEREAS, On 22 June 2021, APEC released a press statement informing its member consumers of the following:

1. That there will be an increase in the electricity bill for the month of June 2021 that was brought about by sourcing its FULL DEMAND from Wholesale Electricity Spot Market (WESM) due to DOE’s 27 May 2021 Decision denying APEC’s request for COE that will lead to a conduct of EPSA without Competitive Selection Process (CSP) with independent bilateral contractors for the period 26 December 2020 to 25 December 2021;

2. That if the COE be approved and APEC will be sourcing its 40MW demand from independent contractors, the electricity rates will be lower;

3. That the generation charge increased by Php2.7338 per KWh (from Php5.9375 per kWh last May 2021 billing period to Php8.6712 per kWh this June 2021).

WHEREAS, On 26 June 2021, APEC released again a press statement reiterating the reason of Albay’s power rate increase and expressing its gratitude to Cong. Joey S. Salceda for the support of raising their predicament to Malacañang and DOE, asking for the reversal of the said 27 May 2021 Decision.
WHEREAS, APEC apparently made use of WESM's higher power rate to increase by 100%, more or less, the generation rate charged to its consumers for the months covering the period from April 2021 onwards;

WHEREAS, the Independent Electricity Market Operator of the Philippines (IEMOP) issued a certification that APEC's energy requirements were actually sourced from WESM and through bilateral contracts with independent power providers.

Based on a WESM Settlement Data provided by the IEMOP, APEC is not sourcing its full demand in WESM. Thus, it is misleading to inform the public that the only source of APEC's electricity is the WESM at a time where there was a high demand (summer months) and insufficient supply (outage of large generators) in Luzon. As it happens, the WESM price from April to June 2021 has increased significantly and had affected the rates of APEC due to its minimal exposure to independent electricity market operators by way of bilateral contracts.

WHEREAS, APEC claims that by pursuing the EPSA, its member consumers will be ensured of a stable supply of electricity from independent contractors at a very affordable and stable power rate of Php5.4750/KWh compared to the average WESM price of Php 6.8513/KWh.

However, in the recent IEMOP Market Participants Update, the said agency presented the operational highlights of 2020 that showcased the monthly average market price. From January to November 15, 2020, the market prices have always been lower compared to the average EPSA rate of independent contractors. It has also been verified that the January to March 2021 market prices recorded by APEC in its regulatory submissions are lower compared to the rate of independent contractors.\(^1\);

WHEREAS, Section 45 (b) of the Republic Act No. 9136 otherwise known as the Electric Power Industry Regulation Act (EPIRA), provides that:

\[ X \times x. \text{For the purpose of preventing market power abuse between associated firms engaged in generation and distribution, no distribution utility shall be allowed to source from bilateral power supply contracts more than fifty percent (50\%) of its total demand from an associated firm engaged in generation but such limitation, however, shall not prejudice contracts entered into prior to the effectivity of this Act. An associated firm with respect to another entity refers to any person which, alone or together with any other person, directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such entity; } \]

\(^1\) URR submission to ERC
WHEREAS, there are news that APEC is securing bilateral contracts with affiliate firms;

WHEREAS securing 100% supply from affiliated firms may lead to market power abuse between the associated firms. The contracting, whether temporary or final, should be investigated by a regulatory body if it is in violation of Section 45 (b) of Republic Act 9136;

WHEREAS, in the interest of consumer protection, in order to avoid or prevent market manipulation of prices, there is a need to investigate whether APEC is guilty of misrepresentation in its June pronouncements resulting to higher consumer charge. There is also a need to determine whether the individual bilateral contracts entered into by APEC with independent market operators were made in accordance with applicable laws, rules and regulations.

NOW THEREFORE, IT IS HEREBY RESOLVED BY THE HOUSE OF REPRESENTATIVES, to direct the Committee on Energy or such other appropriate Committee to conduct an inquiry, in aid of legislation, on the propriety of APEC’s increase in its power rates to consumers for the covered period, whether APEC was guilty of misinformation and market price manipulation and to determine whether the individual bilateral contracts entered into by APEC with independent market operators were in accordance with law, rules and regulations.

Adopted,

ALFREDO A. GARBIN JR.
Representative
Ako Bicol Party List

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