

Interpellation on Energy Issues

Thursday, 06 September 2007

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CIBAC Rep. Joel Villanueva joined Rep. TG Guingona in opposing the planned amendments to the EPIRA Law and assailing the alleged price-fixing among the players controlled by NPC and PSALM, in the latter's August 28, 2007 privilege speech.

REP. VILLANUEVA. May I know if the distinguished Gentleman from Bukidnon will yield to some clarificatory questions, Mr. Speaker.

REP. GUINGONA. Gladly, okay.

REP. VILALLANUEVA. Mr. Speaker, Your Honor, you made mention that you are not actually against open access and open access means as you mentioned, end-users can choose from any generating plants from which it will buy electricity. Mr. Speaker, may I know what would happen if we go open access with the current situation?

REP. GUINGONA. Well, think of it this way, you are a housewife, for example, you want to buy galunggong fish, and you go to the Farmers' Market. When you go to Farmers' Market, you want the best price then you found out that there are only three sellers of galunggong in Farmers' market. All of the three sellers are owned by NPC and PSALM. You want the lowest price but when you go to seller number one, it's one peso per kilo; when you go to seller number two, it's one peso per kilo; and when you go to seller number three, it's also one peso per kilo. Monopoly by the seller, the consumer will have no meaningful choice.

REP. VILLANUEVA. Which means, Mr. Speaker, Your Honor, the consumer will not be given, actually, a choice on whether or not he or she will be able to buy a lower electricity rates.

REP. GUINGONA. Definitely, and it has been shown by past experiences, because Sual, Pagbilao, and Ilijan were already caught price fixing.

REP. VILLANUEVA. Mr. Speaker., I remember, I think early last week, the President of NAPOCOR, Cyril del Cellar assured the consumers that the application – when they applied – the application of ICERA (Incremental Currency Exchange Rate Adjustment) would not result or would result in rate reduction to consumers. But instead, Mr. Speaker, last Sunday, I remember reading a news article that reported that the energy regulatory Board has actually approved the application of NAPOCOR for increase in the Incremental Currency rate Adjustment or ICERA in Luzon, Visayas and Mindanao. I remember, Mr. Speaker, Your Honor, during typhoon Reming, the 6 steel towers along Tayabas and Naga stretch were also damaged, I do not know, Mr. Speaker, if it has been fixed. But, Mr. Speaker, Your Honor, what does this look like, is the NAPOCOR, deceiving us, because it appears right now that electricity rates will increase. And if the Gentleman from Bukidnon, is saying that as soon as NAPOCOR or PSALM collects P9 billion debts from...

REP. GUINGONA. ...unpaid electric bills.

REP. VILLANUEVA. ...unpaid electric bills, it will increase by at least P2, is that correct, Your Honor.

REP. GUINGONA. Yes, Your Honor, yes, Mr. Speaker, it will increase by P2.60.

REP. VILLANUEVA. Mr. Speaker, Your Honor, you made mention about the privatization. In fact it's in the law, in the EPIRA law, the privatization of 70% of the total capacity of generating assets of National Power Corporation, what do you think, Mr. Speaker, is the reason, why until now only 40% has been privatized?

REP. GUINGONA. Well, as of now we can only speculate. That will be a very, very interesting topic the moment that majority of the House of Representatives are able to organize themselves into proper committees, so we can start the functioning. All we have now are questions but we do not have committees that can function. These are the questions that should be unearthed. These are issues we should get to the bottom of these. Why after 6 years, everything is going very, very slow instead of implementing the law, porke nahhirapan sila pupunta sila sa Congress at sasabihin nila ay mahirap i-implement ang law, palitan nyo na lang. No, no, Mr. Sepaker, the solution to the problem is in implementing the law, not changing the law.

REP. VILLANUEVA. Well, Mr. speaker, I agree with the distinguished Gentleman from Bukidnon, that Congress is about meeting people's needs. May I know, Mr. Sepaker, how can Congress can actually help our people in meeting their need. This is a basic need, Mr. Sepaker, your Honor. Who is in-charge to see to it that the law is being implemented, what are we doing?

REP. GUINGONA. Well, there is...Mr. Speaker, there is a joint power commission that oversees the implementation of EPIRA, and I understand it is a very powerful commission. It can speed things up if they really wish to do so. So, I look forward to the day – to the day when the majority of the house of Representatives will be able to organize themselves.

REP. VILLANUEVA. Well, Mr. Speaker, let me go to another issue that the distinguished gentleman from Bukidnon raised a while ago, may I know, Mr. Speaker, what happened to the investigation on the alleged price fixing among the three players controlled by PSALM and NAPOCOR, namely: Ilijan, Sual, and Pagbilao.

REP. GUINGONA. Ganito ang nangyari, Mr. Sepaker, the Philippine electric market or WESEM had an investigation. This is not government. These are made up of private interests. All of them are stakeholders in the industry and they found the three plants with PSALM – Ilijan, Sual and Pagbilao guilty of price fixing – guilty of price fixing, anti-competitive behavior and abuse of market power.

REP. VILLANUEVA. And because of that they still – they still can continue doing business, your Honor, Mr. Speaker.

REP. GUINGONA. The problem, is, Mr. Speaker, ERC- the Energy Regulatory Commission – fell short of finding them guilty. I have a strong feeling and this is my own, that the Energy Regulatory commission was being very kind to PSALM and NPC. In fact, do you know that this price fixing was a result of a letter by NPC to PSALM. In that letter, in effect, NPC was telling PSALM, “Hoy, ayusin natin ang presyo.” Let us manipulate the prices. And let me read what the ERC – this is the decision of the Energy Regulatory Commission – let me read what they said about NPAC’s letter, “it is highly inappropriate and irregular fro NPC to write such letters to PSALM.

The participants in the market are expected to act judiciously and be circumspect in their dealings with each other to thwart any notion of collusion or any tacit agreement or understanding among them. To the mind of the commission, NPC’s proposal may, in fact, be taken as an invitation to collaborate.” Those are the words of the Energy Regulatory Commission. NPC’s proposal may, in fact, be taken as an invitation to collaborate so as to vary market results – so as to vary market results. Mahaba pa. mahaba pa. but let me stop as that because I deem that sufficient, Mr. Speaker.

REP. VILLANUEVA. Well, Mr. Speaker, with the statements coming from the distinguished Gentleman from Bukidnon, it appears that there are also lapses in the energy regulatory Commission. Don’t you think, Mr. Speaker, your honor, we should revisit the mandate or perhaps strengthen the authority of the Energy regulatory commission and perhaps make them more accountable.

I remember, Mr. Speaker, Your Honor, when we privatized the MWSS, there were dive bids and then we established ion the concession agreement the establishment of a regularity office. And for quite sometime, this regulatory office has been staying in the compound of the two concessionaires, namely: Maynilad and Manila Water. And we are the concessionaires were actually paying their salaries, so how can you police your own bosses, Mr. Speaker, Your Honor. So perhaps, Mr. Speaker, Your Honor, we should do something about this especially in strengthening and making the Energy Regulatory Commission more accountable, Mr. Speaker.

REP. GUINGONA. Definitely, Mr. Speaker, there is always room for improvement anywhere. That being said, the words of the Energy Regulatory Commission, in its order, were very stern towards NPC. And I think, if anybody would file a case against NPC fro attempted or frustrated anti-competitive behavior, ERC would have no recourse but to find NPC guilty.

REP. VILLANUEVA. Well, Mr. Speaker, last point that I wanted to ask the gentleman from Bukidnon is that do you really think that there is a conspiracy here, Mr. Speaker, Your Honor? I remember when the red alert was alarmed a few months ago, the reason given was shortage of coal, Mr. Speaker,. But the people were asking why we not stored enough supply at least so we will not reach the red alert level. May I know, Mr. Speaker,, Your Honor, if the Gentleman would agree with me that NAPOCOR has been deliberately being inefficient at the expense of the people.

REP. GUINGONA. Definitely, Mr. Speaker that is something we have to look into which is the last condition for open access – transfer of management and control of at least 70% of total energy output of power plants under contract with NPC to IPP administrators. What does this mean? This means these are plants under BOT. The generating plants are owned privately. They are run privately but one that owns the contract, ang pagmamay-ari sa kontrata to sell the energy

is owned by NPC and here, in this condition – zero. Wala pang napa-privatize and kontrata. Wala pang nata-transfer. And one peculiar thing is that of all these plants, you know who has the only right to buy the fuel requirements of this plant – lo and behold, only NAPOCOR.

REP. VILLANUEVA. Thank you, Mr. Speaker. And may I just ask the distinguished Gentleman from Bukidon about his thoughts on these last two provisions of the EPIRA law. May I know, Mr. Speaker, Your Honor, if these two provisions will be complied. Do you think, Mr. Speaker, Your Honor open access will be more beneficial and will be more advantageous to the end users of electricity?

REP. GUINGONA. Will open access under of a free, fair, unfettered market conditions on a level-playing field where privately-owned generating plants are free to sell their electricity to consumers – you question is, will it result on lower prices?

REP. VILLANUEVA. Yes.

REP. GUINGONA. I cannot guarantee you that. Why? Because there will be no regulation. That's one. Prices will be dictated by agreements between the buyers and the sellers. Prices – hoy, hoy Mr. Speaker, hoy mga kasama, prices can go up because now it will be market forces – forces of supply and demand will dictate. So there is no guaranty.

REP. VILLANUEVA. Well, Mr. Speaker, Your Honor, I would like to join the distinguished Gentleman from Bukidnon in looking into this very important issue and let me also congratulate him fro raising this alarming issue on the problem of electricity in our beloved country.

Thank you very much, Mr. Speaker, thank you very much, distinguished Gentleman from Bukidnon.