



Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila



Eighteenth Congress
First Regular Session

HOUSE RESOLUTION NO. 307

Introduced by
Honorable DAVID C. SUAREZ and
Honorable ANNA MARIE VILLARAZA-SUAREZ

A RESOLUTION
DIRECTING THE APPROPRIATE COMMITTEE/S TO UNDERTAKE A REVIEW
OF REPUBLIC ACT NUMBERED 9511, ALSO KNOWN AS THE LEGISLATIVE
FRANCHISE OF THE NATIONAL GRID CORPORATION OF THE PHILIPPINES
(NGCP), AS WELL AS ITS 2008 CONCESSION AGREEMENT WITH THE POWER
SECTOR ASSETS AND LIABILITIES MANAGEMENT CORPORATION (PSALM),
NATIONAL TRANSMISSION CORPORATION (TRANSCO), AND RELATED
TRANSACTION AGREEMENTS AND CONTRACTS, AND INVESTIGATE
THEREON, IN AID OF LEGISLATION, THE ALLEGEDLY ILLEGAL,
ANOMALOUS, AND UNAUTHORIZED ACTS OF THE NATIONAL GRID
CORPORATION OF THE PHILIPPINES CONTRARY TO OR IN VIOLATION OF
THE LAW AND AGREEMENTS HEREIN REFERRED TO, AND TO
RECOMMEND APPROPRIATE CONGRESSIONAL ACTION

WHEREAS, the Power Sector Assets & Liabilities Management Corporation (PSALM) and National Transmission Corporation (TRANSCO) entered into a Concession Agreement with NGCP, a privately-held company as Concessionaire to operate the country's electricity grid and to continue to operate and maintain the sub-transmission system which have not been disposed by TRANSCO. Pursuant to the aforesaid Concession Agreement, the NGCP, in December 2008, was granted a legislative franchise (Republic Act No. 9511) to engage in the business of conveying or transmitting electricity through high-voltage backbone system of interconnected transmission lines, sub-stations and related facilities;

WHEREAS, the NGCP was established by the Monte Oro Grid Corporation, the Calaca High Power Corporation and the State Grid Corporation of China as investors thereof;

WHEREAS, there are allegations that NGCP has violated Commonwealth Act Numbered 108 or the 'Anti-Dummy Law', when it allowed Chinese nationals, as technical experts, to actively participate in the management of the System Operation (SO) of the NGCP, among others, without authorization from the Secretary of Justice, thereby raising national security concerns. Also, certain documents reveal that even minor administrative / personnel actions go through the approval of the Chinese officials, thus showing that Chinese officials exercise control and supervision of the management, operation, and administration of NGCP over their Filipino partners;

WHEREAS, there are also allegations that the NGCP had engaged in 'other business activities' without consent from the Energy Regulatory Commission, TRANSCO, and PSALM, in violation of the EPIRA Law (Section 26), as well as the Concession Agreement (Sec. 8.03, 10.04, among others), thus effectively depriving the public of its share (in the form of reduction in transmission charges) from the said NGCP's 'other business activities'. Specifically, without TRANSCO's consent, NGCP allowed TRANSCO/NGCP substations, High Voltage Towers (HVTs), and High Voltage Poles (HVPs) to be used as telecommunication sites / backbone by VEGA TELECOMS, a holding company of BellTel. Recently, deinstallation/dismantling activities on these telecommunication sites have been made, again without TRANSCO's and PSALM's knowledge and consent;

WHEREAS, there are further allegations that NGCP allowed a conflict of interest situation to exist with respect to the reinsurance of transmission assets of TRANSCO. Since the transmission assets are government assets, the Government Social Insurance System (GSIS) was mandated to provide for their insurance coverage. However, given the high risks for these assets with a total value of assets covered estimated at US\$ 2.66-Billion, GSIS bidded out for a reinsurer to limit its liability. As a result, the Prudential Guarantee and Assurance, Inc. was selected as the reinsurer of the Industrial all Risk Insurance Policy the NGCP acquired for the November 2015-November 2016 period. Yet, Prudential Guarantee and Assurance, Inc. has Mr. Robert Coyuito, Jr. as its Chairman of the Board and CEO and who also sits in the NGCP Board representing 30% of the Calaca High Power Corporation investment in NGCP. Hence, a conflict of interest;

WHEREAS, it is high time to review the tax exemptions of NGCP given under Republic Act No. 9511 considering that the National Government seemed to forego about P 7 – 10 billion in annual tax revenues because of the tax exemption granted. In 2007 and 2008 alone, when TRANSCO was operating the transmission grid, it paid the National Government P 19 billion as total amount of taxes. When NGCP took over, it paid only P 4.45 billion for taxes covering 2010-2011, or a difference of P 14.55 billion. By 2016, the cash dividend declared and paid to NGCP shareholders amounted to P151 billion. Given that the amount of the whole Concession Agreement is P 167.884 billion, this will be fully realized for dividend payments this 2017. Thus, income from 2018-2034 will be full returns for NGCP, with a conservative average of 1 P 23 billion annual tax-free income;

WHEREAS, there are also allegations that NGCP did not observe the 'least cost mandate' in implementing transmission development projects to the prejudice of the Filipino people, because everything NGCP invested is passed on to the consumers. These investments were not subjected to the scrutiny of the Government Procurement Policy Board (GPPB), COA and/or the Ombudsman. Hence, NGCP has no incentive in producing its services in the least cost manner, since the higher it spends, the greater it profits.

WHEREAS, it is incumbent upon Congress, in the exercise of its oversight functions, to check on the activities of concession grantees, such as the NGCP, considering that their business and/or activity is imbued with public interest.

NOW THEREFORE, BE IT RESOLVED, AS IT IS HEREBY RESOLVED, to **DIRECT** to appropriate Committee/s to undertake a review on Republic Act Number 9511, also known as the Legislative Franchise of the National Grid Corporation of the Philippines (NGCP) as well as its February 2008 Concession Agreement with the PSALM and TRANSCO, as well as related transaction agreements and contracts, and investigate thereon, in aid of legislation, the allegedly illegal, anomalous and unauthorized acts of the National Grid Corporation of the Philippines, contrary to Republic Act Number 9511, Concession Agreement, and related laws and agreements or contracts, and to recommend the appropriate congressional action.

Adopted,


DAVID "Jay-Jay" C. SUAREZ
2nd District, Quezon


ANNA MARIE VILLARAZA-SUAREZ
ALONA Partylist


ALETA C. SUAREZ
3rd District, Quezon