



PHILRECA

PHILIPPINE RURAL ELECTRIC COOPERATIVES ASSOCIATION, INC.
— The Philippines' Electric Cooperatives —

10 February 2023
COMMS-2023-050

HON. GUS S. TAMBUNTING

Chairman Committee on Legislative Franchises – House of Representatives
Batasan Hills, Quezon City

Dear **Hon. Tambunting**:

Greetings of Peace and Solidarity from PHILRECA!

Respectfully forwarding herewith our organization's OPPOSITION to the following House Bills:

1. House Bill No. 5077, entitled: *"AN ACT EXPANDING THE FRANCHISE AREA OF THE DAVAO LIGHT AND POWER COMPANY, INC., AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 11515, ENTITLED "AN ACT EXTENDING FOR ANOTHER TWENTY-FIVE (25) YEARS THE FRANCHISE GRANTED TO THE DAVAO LIGHT AND POWER COMPANY, INC., UNDER REPUBLIC ACT NO. 8960, ENTITLED 'AN ACT FURTHER EXTENDING THE TERM OF THE FRANCHISE GRANTED TO DAVAO LIGHT AND POWER COMPANY, INC. TO CONSTRUCT, OPERATE AND MAINTAIN AN ELECTRIC LIGHT, HEAT AND POWER SYSTEM IN DAVAO CITY AND THE MUNICIPALITIES OF CARMEN, PANABO, DUJALI, AND SANTO TOMAS, PROVINCE OF DAVAO DEL NORTE, FOR A PERIOD OF TWENTY-FIVE (25) YEARS AND FOR OTHER PURPOSES' ", AND ENSURING THE CONTINUOUS AND UNINTERRUPTED SUPPLY OF ELECTRICITY IN THE FRANCHISE AREA" and,*
2. House Bill No. 6740, entitled: *"AN ACT INCLUDING TAGUM CITY, THE ISLAND GARDEN CITY OF SAMAL, AND THE MUNICIPALITIES OF ASUNCION, KAPALONG, NEW CORELLA, SAN ISIDRO AND TALAINGOD, IN THE PROVINCE OF DAVAO DEL NORTE, AND THE MUNICIPALITY OF MACO, IN THE PROVINCE OF DAVAO DE ORO TO THE FRANCHISE AREA OF THE DAVAO LIGHT AND POWER COMPANY, INC., AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 11515, ENTITLED "AN ACT EXTENDING FOR ANOTHER TWENTY-FIVE (25) YEARS THE FRANCHISE GRANTED TO THE DAVAO LIGHT AND POWER COMPANY, INC., UNDER REPUBLIC ACT NO. 8960, ENTITLED 'AN ACT FURTHER EXTENDING THE TERM OF THE FRANCHISE GRANTED TO DAVAO LIGHT AND POWER COMPANY, INC. TO CONSTRUCT, OPERATE AND MAINTAIN AN ELECTRIC LIGHT, HEAT AND POWER SYSTEM IN DAVAO CITY AND THE MUNICIPALITIES OF CARMEN, PANABO, DUJALI AND SANTO TOMAS, PROVINCE OF DAVAO DEL NORTE, FOR A PERIOD OF TWENTY-FIVE (25) YEARS AND FOR OTHER PURPOSES"*



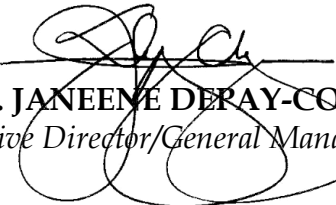
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This position paper includes our research and stand against House Bill No. 5077 and 6740. We sincerely hope that our side will be given the chance to be heard as this proposed measure will not only affect the ECs in Mindanao, but the entire power industry, and ultimately, the Filipino people as a whole.

Thank you and we fervently pray that the institution that you represent will have an open mind in objectively discussing this very important matter.

Respectfully yours,


ATTY. JANEENE DERAY-COLINGAN
Executive Director/General Manager


JOSELITO P. YAP
President



POSITION PAPER

OPPOSITION TO HOUSE BILL 5077 AND 6740 OR THE DAVAO LIGHT AND POWER CORPORATION APPLICATION

PHILRECA, the association of the 121 electric cooperatives operating nationwide, expresses its **strong opposition against the passage of House Bill No. 5077 and House Bill No. 6740** (as refiled, House Bill No. 10554, 18th Congress) which seeks to grant Davao Light and Power Company, Inc. to include Tagum City, the Island Garden City of Samal, and the Municipalities of Asuncion, Kapalong, New Corella, San Isidro and Talaingod, in the Province of Davao Del Norte, and the Municipality of Maco, in the Province of Davao De Oro in their Franchise Area, for a period of twenty-five (25) years.

The Northern Davao Electric Cooperative, Inc., or NORDECO, currently serves the abovementioned areas. The cooperative was formerly known as Davao del Norte Electric Cooperative, Inc. or DANECO, but in 2019, the member-consumer-owners decided to rename the cooperative to NORDECO. Its franchise will expire in **2028, except for the Island Garden City of Samal, which is yet to expire in 2033.**

In July 2022, the President vetoed the legislative measure expanding Davao Light and Power's franchise. The Association would like to echo and emphasize the reasons why the bill was vetoed:

- The bill is susceptible to "legal and constitutional challenge due to the apparent overlap and possible infringement into the subsisting franchise, permits, and contracts previously granted to North Davao Electric Cooperative Inc."
- NORDECO's franchise will only end in 2028 and 2033 and to kill the EC's franchise "runs counter to the provisions of Section 27 of Republic Act No. 9136 or the EPIRA mandating that all existing franchises shall be allowed in its full term."
- Repealing the North Davao Electric Cooperative Inc.'s franchise as an end result of the proposed expanded franchise area of DLPC will violate the non-impairment clause as provided in Section 10, Article III of the 1987 Constitution.
- House Bill 10554 "is a prohibited collateral attack on North Davao Electric Cooperative Inc. franchise" and such bill "is contrary to a jurisprudentially settled doctrine that a franchise cannot be subjected to a 'collateral attack'."

PHILRECA, the association of electric cooperatives operating nationwide, unequivocally opposed House Bill 5077 and 6740 for similar reasons.

NORDECO was granted a franchise by Certificates No. 017 and 103 issued by the National Electrification Administration for fifty (50) years from 1978 and 1983, respectively, which means the existing franchise of NORDECO will only expire in 2028 and 2033, respectively.



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In addition to the protection categorically guaranteed by RA 9136 or the EPIRA and the non-impairment clause of the Constitution, R.A 6038 clearly states that no service franchise shall be granted to any other person within any area or portion for which a cooperative holds a franchise.

For almost 50 years, we relied on electric cooperatives as they risk their lives to energize the countryside, especially the far-flung areas which big, for-profit corporations neglected because there is no potential of profit. The electric cooperatives do not intent to profit or be rewarded on their sacrifices; but allowing them to continue being the government's partner for electrification is not only going to be beneficial to the member-consumer-owners, but more importantly, this is the right thing to do.

The Electric Cooperatives should be for the people it serves and not for the for-profit private-capitalists! Let the people be empowered by letting them own the electric service through electric cooperativism!

**NORDECO SHOULD BE OWNED BY THE PEOPLE, NOT BY THE OLIGARCHS,
NOT BY THE FEW ELITES! NO TO CORPORATE TAKE-OVER OF NORDECO BY
FOR-PROFIT PRIVATE-CAPITALISTS!**