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HON. RODOLFO B. ALBANO, JR.

Chairman, Energy Regulatory Commission
Pacific Center Building, San Miguel Avenue
Ortigas Center, Pasig City

Dear Chairman Albano:

This refers to the consolidated Supreme Court cases, decided *en banc*, entitled *Manila Electric Company, Inc. vs. Genaro Lualhati, et al.*, G.R. No. 166769 and *Energy Regulatory Commission vs. Genaro Lualhati, et al.*, G. R. no. 166818, promulgated on December 6, 2006.

The said cases nullified the 22 July 2004 Decision and 24 January 2005 Resolution of the Court of Appeals in CA SP No. 77559, which, in turn, annulled the ERC Decision dated 20 March 2003 and its Order dated 30 May 2003 in ERC Case Nos. 2001-646 and 2001-900.

The ERC consolidated Decision ruled, among others, the approval of the unbundled schedule of rates of MERALCO as provided in Annex A of the Decision effective on the next billing cycle after date of the Decision and the approval of MERALCO's net utility plant in service at sound value as of December 31, 2000 amounting to P61,649,407,957.

The Supreme Court, however, in affirming the ruling of ERC on the unbundled rates, which effectively increased the electricity cost to the consumer, and the sound value of Meralco's net utility plant, was not unmindful of the deleterious effect upon the poor. The Court showed its apprehension when it stressed:

"The concern for the poor is recognized as a public duty, and the protection of those marginalized members of society have always been dutifully pursued by the Court as a sacred mission. Consistent with this duty and mission, the Court deems it proper to approve the rate increases applied for by MERALCO provisionally, i.e., MERALCO to impose provisional rate increases while directing the ERC, at the same time, to seek the assistance of COA in conducting a complete audit on the books, records and accounts of MERALCO to see to it that the rate increases that MERALCO has asked for are justified. Stated otherwise, the provisional rate increases will

continue to be subject to its being reasonable and just until after the ERC has taken the appropriate action on the COA Report."

Accordingly, the dispositive portion of the Decision categorically stated that *"The Energy Regulatory Commission is, thus, directed to request the COA to undertake a complete audit on the books, records and accounts of MERALCO relative to its provisionally-approved rates."*

The reinstatement therefore of the ERC consolidated Decision is provisional or subject to a resolutive condition in that the approved increased rates may be amended or totally disapproved by the ERC upon a showing from the COA report that such rate increases are inappropriate.

Since, on all indications, the Supreme Court Decision has become final and executory, there is now urgent need for the Commission on Audit to undertake a complete audit on the books, records, and accounts of MERALCO to comply with and give flesh and bones to the said decision.

In this connection, may we inform in the interest of the more than four (4) million MERALCO customers whether the Honorable Commission has already requested the COA to undertake such audit, In the event that such request has not been made, we respectfully suggest that ERC make such request as soon as practicable.

Thank you and more power.

Very truly yours,

PETE L. ILAGAN
President

Cc: ERC Commissioners