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**HON. ZENAIDA CRUZ-DUCUT**  
*Chairperson, Energy Regulatory Commission*  
16<sup>th</sup> Floor Pacific Center Bldg.  
San Miguel Avenue, Pasig City

**Dear Chairperson Ducut,**

**Subjects: LOANS**

Greetings!

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This refers to Nasecore's on going study of how it can prove and establish electricity consumers' equity in the operations of their respective distribution utilities, which are regulated corporations/entities, through their rate payments as part of its mission of empowering consumers.

Nasecore painstakingly went through the ERC decision on Meralco's rate unbundling application under ERC Case Nos. 2001-900 and 2001-646 and one of the items which caught our attention was the percentage of return given to Meralco's loans together with its common and preferred stocks and customers deposits. These loans lumped into one was given a return of 11.34% out of the 15.5% return on rate base (RORB) the Commission granted Meralco in May 2003. We view the Commission's decision as a form of guarantee that the rates it approved would allow Meralco to recover the amount and cost of its loans from the consumers monthly rate payments together with all the other costs determined as reasonable.

Considering that these Meralco's loans were primarily used to acquire new equipments in order to maintain, upgrade, and expand its distribution system under its capital expenditures program, these new acquisitions have become part of Meralco's **rate/ asset base**. And like all their current assets which form the rate/asset base upon which the return on rate base (RORB) is applied, the costs of these new acquisitions are recovered

through the annual depreciation which is treated as part of its operating expense and passed on to the consumers' rate payments.

Further, since the Commission approves the electricity rate on a per kilowatt-hour basis to achieve the monthly revenues that it believes would allow the utility to recover their reasonable costs of operation plus a return on their investment, the Commission's approval, therefore, comes as a form of guarantee to ensure and guarantee the viable operation of the utility in providing electricity to its customers, thus making its operation risk-free.

This is not the case on regular and non-regulated corporation which is subject to and faces all forms of risks that may lead to its bankruptcy. It is because of these risks that may lead to huge losses or bankruptcy that loans used to finance asset acquisitions eventually become part of the owner's assets. This is not the case with regulated power utilities such as Meralco.

This being so, we find it logical and proper to claim these amounts of loans as consumers equity in Meralco. Failure to recognize these assets that were acquired through loans as consumers' equity would establish the fallacy that these assets are actual and direct investments by Meralco stockholders, which certainly are not. It is unfortunate that the amounts of these loans have, as a practice and through the Commission's inadvertent acquiescence, been treated as additional stockholders' equity in Meralco's balance sheets.

The table below shows the Meralco capital expenditures from 1987 to 2007 with a total of P105.8-billion.

	<b>MERALCO ANNUAL CAPITAL EXPENDITURE (CAPEX)</b>
<b>Year</b>	<b>AMOUNT</b>
1987	702,000,000.00
1988	821,000,000.50
1989	1,149,000,000.40
1990	1,843,000,000.20
1991	2,974,000,000.30
1992	3,615,000,000.10
1993	3,799,000,000.60
1994	5,313,000,000.70
1995	4,530,000,000.90
1996	5,739,000,000.80
1997	10,634,000,000.50
1998	7,881,000,000.70
1999	7,920,000,000.60
2000	5,385,000,000.70
2001	7,232,000,000.00
2002	6,505,000,000.00
2003	6,435,000,000.00

2004	5,319,000,000.00
2005	5,191,000,000.00
2006	6,099,000,000.00
2007	6,795,000,000.00
<b>TOTAL</b>	<b>105,888,000,000.00</b>

Source: MERALCO ANNUAL REPORTS 1987-2007

We believe that part of the Commission's mandate of protecting the consumers from unreasonable power rates is to audit these capital expenditures from 1987 to 2007 so as to determine the portion which was sourced from loans and to have this treated as consumers' equity.

In view of this, we implore the Honorable Commission to determine the amount representing the portion which came from loans from year 1987 to 2007 of the capital expenditures amounting to a total of P105,888,000,000.00 and the amount representing the difference between the 15.5% RORB and the 11% return given the loans under ERC Case Nos. 2001-646 and 2001-900 and to recognize and treat both as Consumers Equity.

This request is anchored on the fact that loans of Meralco are externally generated funds and the cost of its amortization and interest are directly passed-on to the consumers on a per kilowatt-hour basis based on the depreciation expense and return on rate base mechanisms. The Commission's failure to act and treat these loans as consumers equity will be tantamount to allowing the unjust enrichment of Meralco at the expense of its customers.

We fervently hope the Commission would support the consumers' clamor for the recognition of these amounts as consumers' equity.

Very truly yours,

**PETE L. ILAGAN**  
*President*