



EXCERPTS FROM THE MINUTES OF THE REGULAR SESSION OF THE HONORABLE  
8<sup>TH</sup> SANGGUNIANG PANLALAWIGAN, PROVINCE OF GUIMARAS HELD AT THE SP  
SESSION HALL, PROVINCIAL CAPITOL ON FEBRUARY 7, 2017.

PRESENT:

Atty. John Edward G. Gando	-	Vice Governor/Presiding Officer
Hon. Cyril C. Beltran	-	SP Member/Majority Floor Leader
Hon David G. Gano	-	SP Member/Deputy Majority Floor Leader
Hon. Cresente P. Chavez, Jr.	-	SP Member
Hon. Diosdado G. Gonzaga	-	SP Member
Hon. Josefina G. de la Cruz	-	SP Member
Hon. Aurelio G. Tionado	-	SP Member
Hon. Dan Elby C. Habaña	-	SP Member
Hon. Ma. Sheila G. Gange	-	Ex-Officio Member (PCL Fed. President)
Hon. Ramon N. Ortiz	-	Ex-Officio Member (ABC Fed. President)

ABSENT:

Hon. Rex G. Fernandez	-	SP Member
-----------------------	---	-----------

**RESOLUTION NO. 30**

**RESOLUTION APPEALING TO THE KIND AND JUST SENSE OF PHINMA ENERGY CORPORATION (FORMERLY TRANS-ASIA OIL AND ENERGY DEVELOPMENT CORPORATION) FOR THE REFUND OF THE AMOUNT REPRESENTING THE CAPACITY FEE OF Php 48,000,000.00 MORE OR LESS TO THE CONSUMERS OF GUIMELCO AND TO FORTHWITH CEASE AND DESIST FROM FURTHER COLLECTING CAPACITY FEE**

WHEREAS, sometime in 2003, Guimaras Electric Cooperative entered into an Electricity Supply Agreement (ESA) which has a duration of 10 years with Trans-Asia Oil and Energy Development Corporation (Trans-Asia Oil), which aims primarily to augment the supply of electricity in the province more particularly during peak hours and to thwart and/or prevent any possibility of "black outs" from happening again due to damaged sub-marine cables;

WHEREAS, the Trans-Asia Oil agreed to construct, operate and maintain a 3.4 MW bunker C-fired diesel generator power station as a baseload plant and to supply GUIMELCO with electricity under the terms and conditions set out in ESA, which GUIMELCO agreed to purchase up to 1.8 MW from the Trans-Asia Oil based on the original agreement;

WHEREAS, one of the impositions in the said Agreement is the capacity fee intended for the recovery of investment which is to be passed-on to the consumers which, based on the ruling of the Energy Regulatory Commission, is in the periphery of P 115,000,000.00, more or less;

WHEREAS, consumers have indeed shouldered the said impositions from 2005-2015 which total amount being shared by the consumers amounted to Php 293,718,503.47 (June 2005-June 2015) which is more than the amount sought to be recovered;

WHEREAS, after the expiration, however, of the said agreement in June of 2015, and without having been renewed nor approved by the ERC until this time, such capacity fee is continuously passed-on and imposed upon the consumers to the tune of TWO MILLION EIGHT HUNDRED FORTY-EIGHT THOUSAND PESOS (Php 2,848,000.00) a month, collected and remitted by GUIMELCO to Trans Asia Oil, which had totalled to FORTY-EIGHT MILLION FOUR HUNDRED SIXTEEN THOUSAND PESOS (Php 48,416,000.00) as of December of 2016 and counting;

WHEREAS, while it may be argued that it was no less than the then General Manager of GUIMELCO who requested for the extension of the agreement beyond its expiration in June of 2015, such is at the behest of the then General Manager, hence, unauthorized and baseless, which Trans-Asia is presumed to know;

WHEREAS, despite the patently unauthorized and illegal act of the then General Manager in arrogating upon herself the authority which the Board of Directors can only exercise, the terms and conditions of the expired Agreement, specifically on the capacity fee, were still imposed;

WHEREAS, the imposition is evidently unjust, unreasonable and unfounded as there is no basis whatsoever in the imposition of the same;

WHEREAS, the August Body has also noticed the inordinate delay in the filing of the Contract of Supply of Electricity (CSE) that shall take the place of the expired ESA entered into in March of 2015 but only filed with the ERC only on April of 2016, thus, appearing clearly to the members of the 8<sup>th</sup> Sangguniang Panlalawigan that the same is tainted with bad faith and malice, all the more that this CSE does not impose any capacity fee;

WHEREAS, Article 22 of the New Civil Code provides in no uncertain language: "Every person who through an act of performance by another, or any other means, acquires or comes into possession of something at the expense of the latter without just or legal ground, shall return the same to him";

WHEREAS, it is therefore imperative to appeal to the just and kind sense of the TRANS-ASIA OIL AND ENERGY DEVELOPMENT CORPORATION (PHINMA ENERGY CORPORATION) FOR THE REFUND OF THE AMOUNT REPRESENTING THE CAPACITY FEE OF Php 48,000,000.00 MORE OR LESS TO THE CONSUMERS AND TO FORTHWITH CEASE AND DESIST FROM FURTHER COLLECTING CAPACITY FEE;

NOW, THEREFORE, on motion of Vice Governor Atty. John Edward G. Gando, unanimously seconded;

THE 8<sup>th</sup> SANGGUNIANG PANLALAWIGAN IN SESSION DULY ASSEMBLED:

RESOLVED, to appeal to the kind and just sense of PHINMA Energy Corporation (formerly Trans-Asia Oil and Energy Development Corporation) for the refund of the amount representing the capacity fee of Php 48,000,000.00 more or less to the consumers of GUIMELCO and to forthwith cease and desist from further collecting capacity fee


RESOLVED FURTHER, to send a copy of this resolution to PHINMA Energy Corporation, Energy Regulatory Commission (ERC), Department of Energy (DOE), GUIMELCO, Municipal Mayors, Sangguniang Bayan and all other concerned offices for information and appropriate action.

APPROVED. February 7, 2017.


I hereby certify that the foregoing is a true and accurate copy of the resolution which was duly adopted by the 8<sup>th</sup> Sangguniang Panlalawigan of the Province of Guimaras during its regular session held on February 7, 2017.

  
**LORENA MINIERVA-ITUCAS**  
Secretary to the Sangguniang Panlalawigan

Attested:

  
**CRESENTE P. CHAVEZ, JR.**  
SP Member  
Temporary Presiding Officer

Approved:

  
**SAMUEL T. GUMARIN, MD, MPH**  
Governor