

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

SIXTEENTH CONGRESS
First Regular Session

HOUSE BILL No. 4751



Introduced By: HON. HENRY S. OAMINAL

EXPLANATORY NOTE

The National Grid Corporation of the Philippines (NGCP) is a private corporation, which has a legislative franchise to engage in the business of conveying or transmitting electricity through high back-bone system of interconnected transmission lines by virtue of Republic Act No. 9511. It has taken over the tasks from the National Transmission Corporation (TRANSCO) to operate, maintain and manage the country's transmission system.

It is sad to note however, that while TRANSCO, a government-owned and controlled corporation was required to pay all types of taxes relative to the operation, maintenance and management of our transmission system, the NGCP, a private entity, is exempted from paying all types of taxes, except the three percent (3%) franchise tax.

With the special privileges granted to the NGCP, its incomes grow significantly over the years depriving our cash-strapped government of the much needed revenues in billions of pesos that could have helped finance health programs, construction of school buildings, road projects and other worthy undertakings. In fact, NGCP placed in the 25th spot in the latest Securities and Exchange Commission's (SEC) list of Top 500 corporations in the Philippines but nowhere to be found in the Bureau of Internal Revenue's (BIR) list of top paying corporations. Records reveal that for the years 2007 and 2008 just before its privatization, TRANSCO paid income and other taxes of P6,650,915,050.00 and P7,294,156,060 respectively while NGCP, for the years 2009 and 2010, just two after the turn-over from TRANSCO, paid measly sums of franchise tax of P1,055,214,574.00 and P1,344,956,518.00 respectively. Even in the event that the government will impose taxes to the NGCP, the same will just be passed on to the consumers as provided under the Concession Agreement.

This bill therefore seeks to amend Section 9 of Republic Act No. 9511 in order to provide a legal remedy for the common good as the franchise is grossly disadvantageous to the government. Otherwise, the government will continue to lose billions of pesos of tax receivables from NGCP alone. After all, Section 2 of this law, which contains the terms and conditions of the franchise, explicitly provides that the franchise was granted "under the condition that it shall be subject to amendment, alteration, or repeal by Congress when common good so requires."

In view of the foregoing reasons, the approval of this important piece of legislation is earnestly sought.


ATTY. HENRY S. OAMINAL
Representative
Second District, Misamis Occidental

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AN ACT

WITHDRAWING CERTAIN TAX EXEMPTION PRIVILEGES GRANTED TO THE NATIONAL GRID CORPORATION OF THE PHILIPPINES (NGCP), AMENDING FOR THE PURPOSE SECTION 9 OF REPUBLIC ACT NO. 9511

Be it enacted by the Senate and the House of Representatives of the Philippines in Congress assembled:

SECTION 1. Section 9 of Republic Act No. 9511 is hereby amended to read as follows:

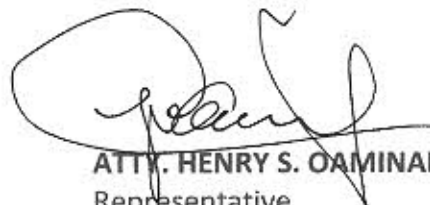
"Section 9. Tax Provisions. In consideration of the franchise and rights hereby granted, the Grantee, its successors or assigns, shall pay [a franchise equivalent to three percent (3%) of all gross receipts derived by the Grantee from its operation under this franchise. Said tax, in lieu of] income tax and any and all taxes, duties, fees and charges of any kind, nature or description levied, established or collected by any authority whatsoever, local or national, on its franchise, rights, privileges, receipts, revenues and profits, and on properties used in connection with its franchise. [, from which taxes, duties and charges, the Grantee is hereby expressly exempted: Provided, That the] THE Grantee, its successors or assigns, shall be liable to pay [the same] taxes on their real estate, buildings and personal property, exclusive of this franchise, as other corporations are now or hereby may be required by law to pay: Provided, [further,] That payment by the Grantee of the concession fees due to PSALM under the concession agreement shall not be subject to income tax and value-added tax (VAT)."

NOTHING HEREIN CONTAINED SHALL ALLOW THE GRANTEE TO PASS-THROUGH CHARGES TO THE CONSUMERS.

SEC. 2. All laws, decrees, executive orders, rules and regulations and the Concession Agreement which are inconsistent with this Act, are hereby amended, repealed or modified accordingly.

SEC. 3. This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in any newspaper of general circulation.

Approved,


ATTY. HENRY S. OAMINAL
Representative
Second District, Misamis Occidental