

VICE MAYOR'S OFFICE  
RECEIVED  
DATE: AUG 18 2006

REPUBLIKA NG PILIPINAS  
SANGGUNIANG PANLUNGSOD  
Lungsod ng Ormoc

DATE OUT  
DATE: 8-18-06  
LUNGSOD NG ORMOC

EXCERPT FROM THE MINUTES OF THE REGULAR SESSION OF THE TENTH  
SANGGUNIANG PANLUNGSOD NG ORMOC HELD AT THE HONORABLE  
PLACIDO ENECIO HALL, SANGGUNIANG PANLUNGSOD  
BUILDING ON AUGUST 17, 2006

RECEIVED  
DATE: 8-25-06  
BY: [Signature]  
LUNGSOD NG ORMOC

PRESENT:

Hon. Nepomuceno P. Aparis I, Vice Mayor & Presiding Officer  
Hon. Manuel T. Fiel, City Councilor, Assist. Minority Floor Leader  
Hon. Eduardo P. Tan, City Councilor  
Hon. Claudio P. Larrazabal, City Councilor, Majority Floor Leader  
Hon. Mariano Y. Corro, City Councilor  
Hon. Fe S. Lladoc, City Councilor  
Hon. Gregorio A. Yrastorza, Jr., City Councilor  
Hon. Sotero M. Pepito, City Councilor  
Hon. Jose C. Alfaro, Jr., City Councilor  
Hon. Ruben R. Capahi, City Councilor  
Hon. Emeterio Y. Larrazabal, Jr., Ex-Officio City Councilor,  
Chapter President, Liga ng mga Barangay ng Ormoc  
Hon. Cheryl A. Arcuino, Ex-Officio City Councilor,  
SK Federation President

ABSENT:

Hon. Jose S. Serafica, (Sick Leave), City Councilor,  
Minority Floor Leader

RESOLUTION NO. 2006-182

A RESOLUTION RESPECTFULLY RECOMMENDING TO THE  
HONORABLE CITY MAYOR ERIC C. CODILLA TO GIVE DUE COURSE  
TO THE REQUEST OF MR. PAUL A. AQUINO, PRESIDENT & CEO,  
PNOC-EDC AS CONTAINED IN HIS LETTERS DATED JULY 20,  
2006 AND AUGUST 11, 2006, THAT PNOC-EDC, FOR AND IN  
BEHALF OF CAL-EN, "THAT ANY SURCHARGE IMPOSABLE ON THE  
REMAINING BALANCE OF CAL-EN'S LOCAL BUSINESS TAX  
LIABILITY BE CONDONED AND THAT THE PAYMENT OF INTEREST  
THEREON BE LIMITED TO AN AMOUNT NOT EXCEEDING TO TWO  
(2) MONTHS EQUIVALENT TO TWO MILLION THIRTY ONE  
THOUSAND EIGHT HUNDRED FIFTY THREE PESOS  
(P2,031,853.00)".

WHEREAS, on December 15, 2005, this august Body enacted Ordinance  
No. 126, entitled: "AN ORDINANCE GRANTING TAX RELIEF ON SURCHARGES,  
INTEREST AND PENALTIES ON THE LOCAL BUSINESS TAXES OF POWER GENERATING  
COMPANIES OPERATING WITHIN THE TERRITORIAL JURISDICTION OF ORMOC CITY  
WHO WILL PAY ALL OVER DUE LOCAL BUSINESS TAXES ON OR BEFORE MARCH 31,  
2006" that the reason for the enactment of the aforementioned Ordinance was  
that "this power generating companies belong to an industry that is  
vital to both National interest and security, and that the generation  
and delivery of electricity is so vital to the country that it is quite  
imperative not only for the National Government but also to the City to  
ensure that they continue to operate and generate electricity to serve  
the requirements of the nation"; and moreover, "over the last five (5)  
years the City has not been able to collect taxes from power generating



companies due to legal issues that pertains to the obligation of government owned or controlled corporations which have made it difficult for the city to effectively apply administrative remedies";

WHEREAS, Cal-En through PNOC-EDC have paid the business taxes from 2001-2006 based on the schedule as "processor". However, the City maintained that the business tax that they should pay, fall under the schedule as "Contractor". In view thereof, the issue as to the classification of the business tax which Cal-En should pay whether as "processor or contractor" was referred to BLGF for determination.

WHEREAS, per letter of Mr. Aquino to the Honorable Eric C. Codilla that PNOC-EDC was able to secure the final ruling of the BLGF only on June 16, 2006, classifying the business tax obligation of Cal-En as "Contractor";

WHEREAS, in view of the opinion of BLGF that Cal-En's tax business liability shall be that as of a "Contractor" there is still a deficiency business tax due the City Government of Ormoc;

WHEREAS, PNOC-EDC has manifested to pay the deficiency business tax sans surcharges but to pay interest limited to an amount not exceeding two (2) months equivalent to TWO MILLION THIRTY ONE THOUSAND EIGHT HUNDRED FIFTY THREE PESOS (P2,031,853.00);

WHEREAS, this august Body finds the request of President and CEO of PNOC-EDC, Mr. Paul A. Aquino, to be fair, valid, reasonable and equitable considering that the ruling of BLGF was only received by them on June 16, 2006;

WHEREFORE, foregoing premises considered, on motion of City Councilor Mariano Y. Corro, Chairman, Committee on Ways and Means, severally seconded by City Councilors Jose C. Alfaro, Jr., Manuel T. Fiel, Sotero M. Pepito, Fe S. Lladoc, Gregorio A. Yrastorza, Jr. and Eduardo P. Tan; be it.

RESOLVED, AS IT IS HEREBY RESOLVED, to pass a resolution RECOMMENDING TO THE HONORABLE CITY MAYOR ERIC C. CODILLA TO GIVE DUE COURSE TO THE REQUEST OF MR. PAUL A. AQUINO, PRESIDENT & CEO, PNOC-EDC AS CONTAINED IN HIS LETTERS DATED JULY 20, 2006 AND AUGUST 11, 2006, THAT PNOC-EDC, FOR AND IN BEHALF OF CAL-EN, "THAT ANY SURCHARGE IMPOSABLE ON THE REMAINING BALANCE OF CAL-EN'S LOCAL BUSINESS TAX LIABILITY BE CONDONED AND THAT THE PAYMENT OF INTEREST THEREON BE LIMITED TO AN AMOUNT NOT EXCEEDING TO TWO (2) MONTHS EQUIVALENT TO TWO MILLION THIRTY ONE THOUSAND EIGHT HUNDRED FIFTY THREE PESOS (P2,031,853.00)";

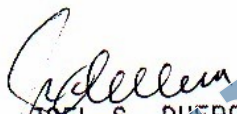
ADOPTED, August 17, 2006.

RESOLVED, FURTHER, to furnish copies of this resolution each to His Honor, the City Mayor; Mr. Paul A. Aquino, President & CEO, PNOC-EDC, the City Administrator, the City Treasurer, the City Budget Officer, the City Accountant, the Commission on Audit and others concerned, -all in Ormoc City


Res. No. 2006-182

CARRIED UNANIMOUSLY.

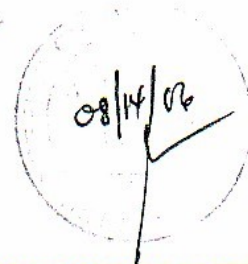
I HEREBY CERTIFY to the correctness of the foregoing resolution.

  
JOEL S. DUERO  
Secretary to the  
Sangguniang Panlungsod

ATTESTED:

  
NEPOMUCENO P. APARIS, Jr.  
Vice Mayor & Presiding Officer





## PNOC ENERGY DEVELOPMENT CORPORATION

Merritt Road, Fort Bonifacio, 1200 Taguig City, Philippines  
P.O. Box 2102 MCPO, Tel. Nos. 893-6001 to 47/893-1320 Fax No. 840-1575

August 11, 2006

**HONORABLE ERIC C. CODILLA**

Mayor  
City Capitol Building  
Ormoc City, Leyte

**Re: Surcharge and Interest on Remaining Business Tax Liability on  
CalEn/PNOC- EDC**

Dear Mayor Codilla,

Further to our letter dated July 20, 2006, we would like to request that any surcharge imposable on the remaining balance of CalEn's local business tax liability be condoned and that the payment of interest thereon be limited to an amount not exceeding two (2) months equivalent to P 2,031,853.00.

As we have earlier related, the delay in the payment of the balance of CalEn's local business tax was brought about by the filing of the necessary request for reconsideration of the BLGF ruling which classified CalEn as a "contractor". Moreover, if you will recall, you have earlier advised us to hold payment of the said tax in view of certain issues regarding the location of the principal office of CalEn.

We hope that the foregoing request shall merit your favorable approval. Should our request be granted by the Ormoc City Government, we commit to immediately pay the tax liability.

Thank you and best regards.

Very truly yours,

  
**PAUL A. AQUINO**  
President/CEO

**PNOC ENERGY DEVELOPMENT CORPORATION**

Admiral Road, Fort Bonifacio, 1200 Taguig City, Philippines  
P.O. Box 2102 MCPD, Tel Nos: (02) 6001 to 4 / 893-1320 Fax No. 840-1575

July 20, 2006

**HONORABLE ERIC C. CODILLA**

*Mayor*

City Capitol Building  
Ormoc City, Leyte

**Re: Surcharge and Interest on Remaining Business Tax Liability of CalEn/PNOC EDC**

Dear Mayor Codilla,

This refers to the balance of CalEn's business tax obligation resulting from the BLGF ruling dated May 10, 2006 declaring that CalEn should be assessed business taxes as a contractor.

We would like to seek for a reconsideration of the position of the city that the remaining balance of CalEn's business tax liability should be subject to surcharge and interest from March 31, 2006. As you are aware, PNOC-EDC was able to secure the final ruling of the BLGF only on June 16, 2006. This referral of the issue with the BLGF was merely consistent with our Memorandum of Agreement dated January 20, 2006 and was pursued in a manner that will ensure that we exhaust all administrative remedies. Needless to state, there was never any intent on the part of CalEn or PNOC-EDC to deliberately withhold or delay the payment of any tax obligation so as to warrant the imposition of penalties.

In view of the foregoing, we would like to request that we be given the necessary relief from the payment of penalties relative to the unpaid tax obligations. As soon as we receive your conformity, we shall be effecting the payment of the said tax.

Thank you and best regards.

Very truly yours,

  
PAUL A. AQUINO