

# The Nation

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## Business group opposes Bautista's nomination to Comelec

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BAUTISTA

Chairman Andres Bautista as the Commission on Elections (Comelec) head.

In an eight-page opposition letter dated June 2, the Philippine Overseas Telecommunications Corp. (POTC) asked the Commission on Appointments (CA) to reconsider the appointment of Bautista by “determining his integrity, ability and fitness to lead a government agency and constitutional body such as the Comelec.”

The letter was signed by Lin I. Bildner, president and CEO of Philippine Communications Satellite Inc. and vice chairman of POTC; and Jose Maria Ozamiz, former director and chairman of the audit committee,

Philippine Communication Satellite Holdings Corp. (PHC).

The letter said that Bautista, as chairman of the PCGG from April 2010 to May 2015, demonstrated “egregious misconduct” against the 35-percent government-owned POTC, its 100-percent-owned subsidiary Philcomsat, and Philcomsat’s 80-percent-owned subsidiary PHC that “casts serious doubt, as to his integrity and ability to lead a government agency such as the Comelec.”

The letter also said that “Bautista’s misconduct, beginning with deliberate illegal machinations to obtain his position as director and chairman of POTC, began with his refusal to comply with prior PCGG resolution and directives from the Department of Justice (DOJ), the PCGG’s administrative superior, Bautista, without any justifiable basis, chose to ignore PCGG resolution 2007-024 dated September 4, 2007, that relinquished to the Department of Finance (DOF) that share certificate for the RP-owned 4,727 shares POTC, or 35 percent of its total shareholdings.”

The said PCGG resolution resulted from a final decision issued

by the Supreme Court (SC) in 2005 that upheld the validity of the 1996 Compromise Agreement executed by POTC private shareholder, Potenciano Ilusorio, on behalf of his group’s shareholdings in POTC and Philcomsat, on one hand, and the PCGG, on behalf of the republic.

Moreover, the letter said that the 2007 PCGG resolution requiring the PCGG to turn over to the DOF custody of the 4,727 POTC shares owned by the republic, was not implemented by the old PCGG under Camilo Sabio and, likewise, the “new” PCGG under Bautista’s direction, also refused to surrender its long-held jurisdiction over POTC-Philcomsat.

“[But] it was not until the PCGG was chastised in a memorandum in 2010, signed by Justice Secretary Leila de Lima, specifically ordering Bautista to immediately implement its own Resolution 2007-024, by ceasing transferring POTC Stock Certificate 131 to the DOF, that Bautista reluctantly complied,” it added.

The letter also said, “Bautista has refused to accept the reality of this situation and instead has acted in contradiction to past PCGG resolutions, the DOJ memorandum,

which was sustained and reinforced by a subsequent DOJ opinion letter dated February 25, 2015 and the SC decisions.”

The opposition letter also said that Bautista used the DOF in order to get himself elected as a director on the POTC board.

It added that in September 2011, the POTC called for its annual stockholders’ meeting to elect the new set of directors and officers and the DOF, being the undisputed government agency tasked to represent the republic’s 35-percent shareholdings in both companies, was duly notified of the scheduled meeting.

“The DOF then issued a proxy nominating and appointing two persons as the DOF’s attorney in fact and proxy to vote the shares of the republic. The nominees were Karen Singson, then-DOF’s chief privatization officer and Bautista [who was then already chairman of the PCGG, but without his PCGG designation on the DOF proxy letter],” the letter said.

It also said that Singson and Bautista represent the Republic of the Philippines as the owner of the POTC shares was signed by then-Undersecretary John Sevilla, purportedly

as DOF’s officer in charge, although apparently, Finance Secretary Cesar V. Purisima was not on official leave.

The letter said that the considering the proxy issued by the DOF and with the rest of the POTC shareholders “believing that all were acting in good faith, Bautista was consequently elected and installed as one of the members of the POTC board of directors during the said meeting and as chairman of the board during the organizational meeting that followed.”

The letter added that “the day POTC meeting was conducted, Bautista’s cohort PCGG Commissioner Richard Amurao, recently named PCGG chairman to succeed Bautista in an apparently surreptitious and deceptive manner, suddenly submitted a PCGG resolution dated September 26, 2011, to the legal counsel of POTC, instead of giving it to the corporate secretary then present.”

Because of this, “the DOF undersecretary’s nomination of Bautista to the POTC board; the failure to disclose Bautista’s concurrent position as PCGG chairman; Bautista’s subsequent election as POTC director and his election as chairman of the POTC’s board—clearly render the intentions

of Bautista highly questionable.”

The letter said that Bautista election to the board of POTC directly contravened the Article 7 of the Constitution, which prohibits dual or multiple positions in the government.

“The position of Comelec chairman indeed entails crucial and serious responsibilities. Integrity and high morals of conduct are virtues that a person in this position should possess. However, based in how the new PCGG under Bautista has allowed the continuing damage to Philcomsat, while Bautista under-handedly got himself elected POTC director chairman, it would seem that this Comelec-chairman designate may be lacking in these qualities,” it said.

The letter also urged the CA to ask Bautista about “misconduct and the reasons which led him to insist in getting to our board, in the process twisting and disregarding previously issued PCGG resolutions, executive orders and SC decisions defying the laws and the Constitution. Surely, we all wish to be assured of Bautista’s competence and probity before his chairmanship in the Comelec is confirmed.”