



MALACAÑANG
Manila

PRESIDENTIAL DECREE No. 1645

AMENDING PRESIDENTIAL DECREE NO. 269, INCREASING THE CAPITALIZATION AND BROADENING THE LENDING AND REGULATORY POWERS OF THE NATIONAL ELECTRIFICATION ADMINISTRATION AND FOR OTHER PURPOSES

WHEREAS, under Presidential Decree No. 269, the National Electrification Administration (NEA) is charged with the responsibility of organizing, financing and regulating electric cooperatives throughout the country;

WHEREAS, the total electrification of all municipalities by the year 1987 is a declared goal of the government;

WHEREAS, the international energy crisis may seriously delay the attainment of electrification goals unless indigenous and renewable energy resources are immediately developed to supplement existing power systems;

WHEREAS, the development of systems powered by indigenous and renewable energy resources will require funding support beyond the capability of existing NEA capitalization and may require NEA equity investments in the said systems;

WHEREAS, there is a distinct need to provide NEA with additional authority to take measures that will better safeguard government inputs in electric cooperatives and other entities that are or will be related to the total electrification effort;

NOW, THEREFORE, I, FERDINAND E. MARCOS, President and Prime Minister of the Republic of the Philippines, by virtue of the powers vested in me by the Constitution, do hereby order and decree:

Section 1. Section 6 of Presidential Decree No. 269 (as amended) is hereby further amended to read as follows:

"Sec. 6. Capital Stock. The authorized capital of NEA shall be five billion pesos, divided into fifty (50) million shares with a par value of one hundred pesos (P100.00) each, which shares shall not be transferred, negotiated, pledged, mortgaged, or otherwise given as security for the payment of any obligation.

The sum of not less than five hundred million pesos shall be earmarked out of the corporate equity investment funds contained in Batas Pambansa Blg. 40 and the same amount is hereby appropriated out of the funds in the National Treasury not otherwise appropriated, for the payment of subscriptions to NEA capital stock, for each year beginning with fiscal year 1981 until the unpaid subscription of the government to the capital stock of the corporation shall have been paid in full: Provided, That additional amounts as may be needed shall be included in the annual General Appropriations Acts."

Section 2. Section 4, Chapter II of Presidential Decree No. 269 is hereby amended by deleting the word "and" at the end of subsection "(n)", modifying subsection (1) and adding new subsections (p), (q) and (r) to read as follows:

"(1) To require the submission of Articles of Incorporation, by-laws, and documents relating to consolidation merger, conversion, dissolution, change in the location of principal offices, and election to dissolve, from all recipients of loans and/or equity investments and upon determination that such are in conformity with this Decree, to certify the same, to file them in the records of the NEA and to maintain a registry of such filings the provisions of Act No. 1458, as amended, to be contrary notwithstanding."

"(p) To invest and/or grant loans for the development of power generation industries or companies, including dendro-thermal and mini-hydro-power plants and associated facilities such as alcogas and tree plantations, water impounding reservoirs and feeder roads: Provided, That such investments and loans shall be limited to a specific percentage of total requirements as may be determined by the NEA Board of Administrators."

"(q) To organize wholly or partly owned companies and subsidiaries for the purpose of operating power generating and distribution systems and other related activities; and"

"(r) To organize wholly or partly owned subsidiaries for the purpose of manufacturing materials and equipment for power generating systems."

Section 3. Section 5(a), Chapter II of Presidential Decree No. 269 is hereby amended by adding sub-paragraph (6) to read as follows:

"(6) To authorize the NEA Administrator to designate, subject to the confirmation of the Board Administrators, an Acting General Manager and/or Project Supervisor for a Cooperative where vacancies in the said positions occur and/or when the interest of the Cooperative and the program so requires, and to prescribe the functions of said Acting General Manager and/or Project Supervisor, which powers shall not be nullified, altered or diminished by any policy or resolution of the Board of Directors of the Cooperative concerned."

Section 4. Section 8(b), Chapter II of Presidential Decree No. 269 is hereby amended to read as follows:

"(b) With respect to foreign indebtedness to be incurred by the NEA, such may be contracted, in the form of loans, credits convertible to foreign currencies, or other forms of indebtedness, from foreign governments or any international financial institution or fund source, including foreign private lenders. The total outstanding amount of such indebtedness exclusive of interest, shall not exceed eight hundred million United States dollars or the equivalent thereof in other currencies. The President of the Philippines by himself or through his duly authorized representative is hereby authorized to negotiate and to contract with foreign governments or any international financial institution or fund source in the name and on behalf of NEA and is further authorized to guarantee, absolutely and unconditionally, as primary obligor and not merely as a surety, in the name and on behalf of the Republic of the Philippines, the repayment of any indebtedness thereby contracted and the payment thereof of any due interest charge, up to the limited amount authorized by the foregoing, which shall be over and above the amounts which the President is authorized to guarantee under R.A. 6142, as amended and also to guarantee the performance of all or any of the obligations undertaken by the NEA in the territory of the Republic of the Philippines pursuant to this sub-paragraph (b). Any indebtedness contracted under this sub-paragraph (b) and the payment of the principal thereof and of any interest charges thereon, as well as the importation by the NEA, paid from the proceeds of any such contracted interest charges thereon, as well as the importation of machinery, equipment, materials, supplies and services by the NEA, paid from the proceeds of any such contracted indebtedness, shall also be exempt from all direct and indirect taxes, fees, imposts, other charges and restrictions, including import restrictions, by the Republic of the Philippines or by any authority, branch, division or political subdivision thereof."

Section 5. Section 10, chapter II of Presidential Decree No. 269 is hereby amended to read as follows:

"Section 10. Enforcement Powers and Remedies. In the exercise of its power of supervision and control over electric cooperatives and other borrower, supervised or controlled entities, the NEA is empowered to issue orders, rules and regulations and motu-proprio or upon petition of third parties, to conduct investigations, referenda and other similar actions in all matters affecting said electric cooperatives and other borrower, or supervised or controlled entities.

If the electric cooperative concerned or other similar entity fails after due notice to comply with NEA orders, rules and regulations and/or decisions, or with any of the terms of the Loan Agreement, the NEA Board of Administrators may avail of any or all of the following remedies:

- (a) Refuse to make or approve any loan to the borrower or to release funds to implement loans that are otherwise already approved;
- (b) Withhold NEA advances, or withhold approval of advances or fund releases in behalf of any other lender with respect to which the NEA has such power relative to loans made;
- (c) Withhold any technical or professional assistance otherwise being furnished or that might be furnished to the borrower;
- (d) Foreclosure any mortgage or deed of trust or other security hold by the NEA on the properties of such borrower, in connection with which the NEA may subject to any superior or co-equal rights in such lien held by any other lender, (1) bid for and purchase or otherwise acquire such properties; (2) pay the purchase price thereof and any costs and expenses incurred in connection therewith out of the revolving fund; (3) accept title to such properties in the name of the Republic of the Philippines; and (4) even prior to the institution of foreclosure proceedings, operate or lease such properties for such period, and in such manner as may be deemed necessary or advisable to protect the investment therein, including the improvement, maintenance and rehabilitation of systems to be foreclosed, but the NEA may, within five years after acquiring such properties in foreclosure proceedings; sell the same for such consideration as it determines to be reasonable and upon such terms and conditions as it determines most conducive to the achievement of the purposes of this Decree; or
- (e) Take preventive and/or disciplinary measures including suspension and/or removal and replacement of any or all of the members of the Board of Directors, officers or employees of the Cooperative, other borrower institutions or supervised or controlled entities as the NEA Board of Administrators may deem fit and necessary and to take any other remedial measures as the law or the Loan Agreement may provide. "

No Cooperative shall borrow money from any source without the Board of Administrator's prior approval: Provided, That the NEA Board of Administrators, may, by appropriate rule or regulation, grant general permission to Cooperative to secure short-term loans not requiring the encumbrance of their real properties or of a substantial portion of their other properties or assets.

Section 6. The provisions of Section 15 to 40, Chapter III of Presidential Decree No. 269, governing cooperatives shall be also applicable to mini-hydro and cendro-thermal power plants, alcogas and tree plantation and other power generating entities supported by NEA.

Section 7. Subsection (a), Section 24, Chapter III of Presidential Decree No. 269 is hereby amended to read as follows:

"Section 24. Board of Directors. (a) The Management of a Cooperative shall be vested in its Board, subject to the supervision and control of NEA which shall have the right to be represented and to participate in all Board meetings and deliberations and to approve all policies and resolutions.

The composition, qualifications, the manner of elections and filing of vacancies, the procedures for holding meetings and other similar provisions shall be defined in the by-laws of the Cooperative subject to NEA policies, rules and regulations.

No member of the Board shall receive any salary for his service as Director nor for services rendered in any other capacity. However, reasonable per diems for every Board meeting actually attended and reimbursement of actual expenses incurred in the performance of the duties of a member of the Board may be allowed as specified in NEA policies, rules and regulations."

Section 8. Section 26, Chapter III of Presidential Decree No. 269 hereby amended to read as follows:

"Section 26. Officers. The officers of a cooperative shall consist of a President, Vice-President, Secretary and Treasurer, who shall be elected annually by and from the Board. When a person holding such office ceases to be a director, he shall ipso facto cease to hold such office. The offices of Secretary and of Treasurer may be hold concurrently by one person. The Board may also elect or appoint such other officers, agents or employees as it deems necessary or advisable and shall prescribe their powers and duties, subject to the pertinent provisions of this Decree, the Loan Agreement, and NEA policies, rules and regulation."

Section 9. Effectivity. This Decree shall take effect immediately.

Done in the City of Manila, this 8th day of October, in the year of Our Lord, nineteen hundred and seventy-nine.