



MALACAÑANG
Manila

PRESIDENTIAL DECREE No. 380 January 22, 1974

AMENDING CERTAIN SECTIONS OF REPUBLIC ACT NUMBERED SIXTY-THREE HUNDRED NINETY-FIVE, ENTITLED "AN ACT REVISING THE CHARTER OF THE NATIONAL POWER CORPORATION"

WHEREAS, under Republic Act No. 6395, it has been declared that: (1) the comprehensive development, utilization and conservation of Philippine water resources for all beneficial uses, including power generation, and (2) the total electrification of the Philippines through the development of power from all sources to meet the needs of industrial development and dispersal and the needs of rural electrification are primary objectives of the nation which shall be pursued coordinately and supported by all instrumentalities and agencies of the government, including its financial institutions;

WHEREAS, under Presidential Decree No. 40, dated November 7, 1972, certain basic policies for the attainment of the objectives for the speedy electrification of the country more particularly the rural areas, have been established;

WHEREAS, under the basic policies for the electric power industry established under Presidential Decree No. 40, the National Power Corporation (NPC) is also given the responsibility for the setting up of transmission line grids and the construction of associated generation facilities in Luzon, Mindanao, and major islands of the country, including the Visayas and to own and operate as a single integrated system all generating facilities supplying electric power to the entire area embraced by any grid set up by the NPC;

WHEREAS, the additional responsibilities and expanded activities of NPC under Presidential Decree No. 40 will more than treble the capital requirements needed for the expansion of generation and transmission facilities, in addition to the funds necessary for the acquisition of existing generation facilities in areas embraced by grids set up by NPC;

WHEREAS, in order to attain expeditiously the declared objective of total electrification of the country and to implement the basic policies established under Presidential Decree No. 40, certain sections of Republic Act Numbered Sixty-Three Hundred Ninety-Five should be amended;

NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Philippines, by virtue of the powers vested in me by the Constitution as Commander-in-Chief of the Armed Forces of the Philippines, and pursuant to Proclamation No. 1081, dated September 21, 1972, and General Order No. 1, dated September 22, 1972, do hereby amend certain sections or provisions of the Charter of the National Power Corporation, Republic Act Numbered Sixty-Three Hundred Ninety-Five, to wit:

Section 1. Section 3 (g) of the Charter of the National Power Corporation, Republic Act Numbered Sixty-Three Hundred Ninety-Five, is hereby amended to read as follows:

"(g) To construct, operate and maintain power plants, auxiliary plants, dams, reservoirs, pipes, mains, transmission lines, power stations and substations, and other works for the purpose of developing hydraulic power from any river, creek, lake, spring and waterfall in the Philippines and supplying such power to the inhabitants thereof; to acquire, construct, install, maintain, operate, and improve gas, oil or steam engines, and/or other prime movers, generators and machinery in plants and/or auxiliary plants for the production of electric power; to establish, develop, operate, maintain and administer power and lighting system for the transmission and utilization of its power generation; to sell electric power in bulk to (1) industrial enterprises, (2) city, municipal or provincial systems and other government institutions, (3) electric cooperatives, (4) franchise holders, and (5) real estate subdivisions; Provided, That the sale of power in bulk to industrial enterprises and real estate subdivisions may be undertaken by the Corporation when the power requirement of such enterprises or real estate subdivisions is not less than 100 kilowatts, when in the judgment of the Board of Power and Waterworks the cooperative supplying electric power or franchise holder of the area is not in a position by itself, or fails or refuses to adequately supply such power requirement, unless the electric cooperative or franchise holder consents thereto; Provided, further, That no restriction shall apply to sale of power in bulk to enterprises registered with the Board of Investment, wherein the cost of power, based on the Corporation's then prevail-tariffs, is more than ten per cent (10%) of the total production cost of the goods or commodities produced; Provided, finally, That the Corporation shall continue to sell electricity to industrial enterprises under existing contracts, and provide for the collection of charges for any service rendered;"

Section 2. Section 3 (i) of the Charter of the National Power Corporation, Republic Act Numbered Sixty-Three Hundred Ninety-Five, is hereby amended to read as follows:

"(i) To construct works across, or otherwise, any steam, watercourse, canal, ditch, flume, street, avenue, highway or railway of private and public ownership, as the location of said works may require; Provided, That said works be constructed in such a manner as not to endanger life or property; and Provided, further, That the stream, watercourse, canal, ditch, flume, street, avenue, highway or railway so crossed or intersected be restored as near as possible to their former state, or in a manner not to impair unnecessarily their usefulness. Every person or entity whose right of way or property is lawfully crossed or intersected by said works shall not obstruct any such crossings or intersections and shall grant the Corporation or its representative, the proper authority for the execution of such work. The Corporation is hereby given the right of way to locate, construct, and maintain such works over and throughout the lands owned by the Republic of the Philippines or any of its branches and political subdivisions. The Corporation or its representatives may also enter upon private property in the lawful performance or prosecution of its business or purposes, including the construction of the transmission lines thereon; Provided, That the owner of such private property shall be compensated as follows:

"(a) In case only an easement of right of way for a transmission line is required, then only a nominal easement fee shall be paid which shall be in an amount equivalent to not more than ten per cent of the value of the land or portion thereof required for the right of way of the line, based on the tax declaration that is valid and effective at the time of the filing of the complaint for eminent domain or actual entry into the property by the corporation, whichever is earlier;

"(b) In case the land shall be acquired by purchase, the fair market value thereof, which shall be the value of the land based on the tax declaration that is valid and effective at the time of the filing of the complaint for eminent domain, or the taking of said land by the Corporation, whichever is earlier; and

"(c) In addition, the owner shall be compensated for the improvements such as houses, buildings,

structures, and/or agricultural crops and the like, actually damaged during the construction, operation and maintenance of such works on the land, in amounts based on the value of such improvements appearing on the tax declaration that is valid and effective and/or the prevailing valuation of such agricultural crops and the like made by the appropriate appraisal body authorized by law at the time of filing of the complaint for eminent domain or taking of said improvements by the Corporation, whichever is earlier;

Provided, further, That any action for compensation and/or damages under (a), (b), and (c) above, is filed within five years after the rights of way, transmission lines, substations, plant or other facilities shall have been established; provided, finally, That after the said period no suit shall be brought to question the said rights of way, transmission lines, substations, plants or other facilities, nor the amounts of compensation and/or damages involved."

Section 3. Section 3, paragraphs (1), (m) and (o) of the Charter of the National Power Corporation, Republic Act Numbered Sixty-Three Hundred Ninety-Five, is hereby amended to read as follows:

"(1) To exercise such powers and do such things as may be reasonably necessary to carry out the business and purposes for which it was organized, or which, from time to time, may be declared by the Board to be necessary, useful, incidental or auxiliary to accomplish the said purpose, including the establishment of subsidiaries;

"(m) To cooperate with, and to coordinate its operations with those of the Power Development Council, the National Electrification Administration and public service entities;

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"(o) In the prosecution and maintenance of its projects and plants, the Corporation shall adopt measures to prevent environmental pollution and enhance the conservation, development and maximum utilization of natural resources, including the improvement and beautification of its reservoirs and other areas to promote tourism and related purposes, and to provide for the necessary corporate funds therefor; and"

Section 4. Section 4, fourth paragraph of the Charter of the National Power Corporation, Republic Act Numbered Sixty-Three Hundred Ninety-Five, is hereby amended to read as follows:

"The Corporation shall charge in any interconnected system a uniform schedule of rates for all its customers that fall within the same classification. Towards this end, the Corporation shall prescribe a standard form of contract and appropriate rules and regulations for the sale of electricity, which shall be uniformly applied and become effective on all power customers after they are duly notified or fifteen days after their publication in newspapers of general circulation. All subsisting power contracts are hereby considered revised to give immediate effectivity to the provisions."

Section 5. Section 5 of the Charter of the National Power Corporation, Republic Act Numbered Sixty-Three Hundred Ninety-Five, is hereby amended to read as follows:

"Sec. 5. Capital Stock of the Corporation. The authorized capital stock of the Corporation is two billion pesos divided into twenty million shares having a par value of one hundred pesos each, which shares are not to be transferred, negotiated, pledged, mortgaged or otherwise given as security for the payment of any obligation. The sum of three hundred million pesos of said capital stock has been subscribed and paid wholly by the Government of the Philippines in accordance with the provisions of Republic Act Numbered Four Thousand Eight Hundred Ninety-Seven.

"The remaining one billion seven hundred million shall be subscribed by the Government of the Philippines and shall be paid as follows:

"(a) The sum of twenty-nine million two hundred sixty-seven thousand six hundred pesos representing outstanding cost and interest of reparation goods procured by the Corporation pursuant to the provisions of Republic Act Numbered Seventeen Hundred Eighty-Nine, shall be additional paid-in subscription of the Government of the Philippines for two hundred ninety-two thousand six hundred seventy-six shares of stock of said capital stock;

"(b) The balance of said subscription shall be paid by the conversion into equity capital of the existing bonded indebtedness, cost of reparations goods that may be allocated to the Corporation in the future, and surpluses of the Corporation, and in the absence thereof, from bond issue upon request of the Corporation for specific projects duly approved from time to time by the President of the Philippines."

Section 6. Section 6, sixth paragraph of the Charter of the National Power Corporation, Republic Act Numbered Sixty-Three Hundred Ninety-Five, is hereby amended to read as follows:

"The members of said Board shall receive a per diem of not to exceed three hundred pesos for each special meeting actually attended by them; Provided, That such per diems shall not exceed one thousand five hundred pesos during any month for each member."

Section 7. Section 6, paragraphs (b), (c), (d), and (e) of the National Power Corporation, Republic Act Numbered Sixty-Three Hundred Ninety-Five, is hereby amended to read as follows:

"(b) To adopt an annual and supplemental budget of receipts and expenditures of the Corporation according to its requirements, which may include financial assistance of not more than ten thousand pesos each to municipalities that are contiguous to watersheds, lakes or natural sources which are proven to have suffered material damages due to the harnessing of hydroelectric power being utilized by the Corporation, subject to the approval of the Office of the President; Provided, That copies of the budgets of receipts and expenditures herein referred to shall be submitted to the National Assembly within fifteen (15) days from the transmission thereof to the Office of the President;

"(c) Subject to the provisions of existing laws and regulations and upon the recommendation of the General Manager, to organize, reorganize in a manner other than what is provided for under this Act and Section 3 of Republic Act No. 4177 and determine the Corporation's staffing pattern and the number of personnel, to fix their salaries and to define their power and duties subject to approval of higher authorities;

"(d) To appoint and fix the compensation of the General Manager, Assistant General Manager, regional managers and department chiefs subject to the approval of the President of the Philippines;

"(e) For cause to suspend or remove by a majority vote of all members, with the approval of the President of the Philippines, the General Manager, Assistant General Manager, regional managers and department chiefs;"

Section 8. Section 8 (a), last paragraph, of the Charter of the National Power Corporation, Republic Act Numbered Sixty-Three Hundred Ninety-Five, is hereby amended to read as follows:

"The total principal indebtedness of the Corporation under this subsection, exclusive of interest, shall not at any time exceed three billion pesos."

Section 9. Section 8 (b) of the Charter of the National Power Corporation, Republic Act Numbered Sixty-Three Hundred Ninety-Five is hereby amended to read as follows:

"(b) Foreign Loans. The Corporation is hereby authorized to contract loans, credits, any convertible foreign currency or capital goods, and indebtedness from time to time from foreign governments, or any international financial institutions or funds sources, or to issue bonds, the total outstanding amount of which, exclusive of interests, shall not exceed one billion United States dollars of the equivalent thereof in other currencies, on such terms and conditions as it shall deem appropriate for the accomplishment of its purposes and to enter into and execute agreements and other documents specifying such terms and conditions as it shall deem appropriate for the accomplishment of its purposes and to enter into and execute agreements and other documents specifying such terms and conditions.

"The President of the Philippines, by himself, or through his duly authorized representative, is hereby authorized to negotiate and contract with foreign governments or any international financing institution or fund sources in the name and on behalf of the Corporation, one or several loans, for the purpose of assisting in the reconstruction, or promoting the development of the economy of the country.

"The President of the Philippines, by himself, or through his duly authorized representative, is hereby further authorized to guarantee, absolutely and unconditionally, as primary obligor and not as surety merely, in the name and on behalf of the Republic of the Philippines, the payment of the loans, credits, indebtedness and bonds issued up to the amount herein authorized, which shall be over and above the amount which the President of the Philippines is authorized to guarantee under Republic Act Numbered Sixty-One Hundred Forty-Two, as amended, as well as the performance of all or any of the obligations undertaken by the Corporation in the territory of the Republic of the Philippines pursuant to loan agreements entered into with foreign governments or any international financial institutions or fund sources.

"The loans, credits and indebtedness contracted under this subsection and the payment of the principal, interest and other charges thereon, as well as the importation of machinery, equipment, materials, supplies and services, by the Corporation, paid from the proceeds of any loan, credit or indebtedness incurred under this Act, shall also be exempt from all direct and indirect taxes, fees, imposts, other charges and restrictions, including import restrictions previously and presently imposed, and to be imposed by the Republic of the Philippines, or any of its agencies and political subdivisions."

Section 10. Section 13, paragraphs (a) and (d), of the Charter of the National Power Corporation, Republic Act Numbered Sixty-Three Hundred Ninety-Five, is hereby amended to read as follows:

"(a) From the payment of all taxes, duties, fees, imposts, charges and restrictions to the Republic of the Philippines, its provinces, cities, municipalities and other government agencies and instrumentalities, including the taxes, duties, fees, imposts, and other charges provided for under Tariff and Customs Code of the Philippines, Republic Act Numbered Nineteen Hundred Thirty-Seven, as amended, and as further amended by Presidential Decree No. 34, dated October 27, 1972, and Presidential Decree No. 69, dated November 24, 1972, and costs and service fees in any court or administrative proceedings in which it may be a party;

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"(d) From all taxes, duties, fees, imposts, and all other charges imposed directly or indirectly by the Republic of the Philippines, its provinces, cities, municipalities and other government agencies and instrumentalities, on all petroleum products used by the Corporation in the generation, transmission, utilization and sale of electric power."

Section 11. A new section shall be inserted to be known as Section 15-A of the Charter of the National Power Corporation, Republic Act Numbered Sixty-Three Hundred Ninety-Five, which provides as follows:

"Sec. 15-A. The Corporation shall be under the direct supervision of the Office of the President and all legal matters shall be handled by the Chief Legal Counsel of the Corporation, provided that the Solicitor General's Office shall have supervision in the handling of court cases only of the Corporation.

"Considering that the operation of the business of the Corporation affects public convenience and welfare, all industrial disputes in the Corporation shall be settled by the compulsory arbitration."

Section 12. This Decree is hereby made part of the law of the land and provisions of existing laws, executive and administrative orders, or parts thereof, in conflict with this Decree are hereby modified and repealed.

Section 13. This Decree shall take effect immediately.

Done in the City of Manila, this 22nd day of January, in the year of Our Lord, nineteen hundred and seventy-four.