

**AMENDING PRESIDENTIAL DECREE NO. 40 AND ALLOWING
THE PRIVATE SECTOR TO GENERATIVE ELECTRICITY**

WHEREAS, Presidential Decree No. 40 places the responsibility of setting up transmission line grids and the construction of associated generation facilities in Luzon, Visayas, Mindanao and the major islands of the country to the National Power Corporation (NPC):

WHEREAS, the generation of electricity, unlike the transmission and distribution of electricity, is not a natural monopoly and can be undertaken by more than one entity:

WHEREAS, the government, as a matter of policy, is encouraging the private sector to participate in economic development and has started to disengage in areas which can be adequately handled by the private sector:

WHEREAS, the generation of electricity by the private sector can provide a means of increasing power capacity to meet the projected increase in power demand in the future without in any way requiring financial assistance or guarantee from the government:

WHEREAS, there is, on the other hand, an imperative need to rationalize the development of energy resources and the operation of electric generating facilities in the power grid:

NOW, THEREFORE, I CORAZON C. AQUINO, President of the Philippines, do hereby order:

Section 1. The strategic and rational development of the country's power grids shall be the responsibility of the National Power Corporation. Accordingly, the setting up of transmission line grids and the construction of associated generating facilities in Luzon, Visayas, and Mindanao, including the major islands of the country, to meet the power demand, shall be the responsibility of the National Power Corporation. However, private corporations, cooperatives or similar associations shall be allowed to construct and operate the following types of electric generating plants, subject to the rules and regulations hereinafter adopted in accordance with section 2 hereof:

- a) Cogeneration units, defined as production of electric energy and forms of useful thermal energy (such as heat or steam), used for industrial, commercial, heating or cooling purposes through sequential use of energy;

- b) Electric generating plants, intending to sell their production to the grids consistent with the developmental plans formulated by the National Power Corporation;
- c) Electric generating plants, intended primarily for the internal use of the owner which also plan to sell excess production to the grids; and
- d) Electric generating plants outside the National Power Corporation grids, intending to sell directly or indirectly to end-users.

Section 2. Rules and regulations to govern private sector involvement in power generation shall be formulated by the National Power Corporation for areas within the National Power Corporation grids, and the National Electrification Administration for areas outside the National Power Corporation grids. Such rules and regulations shall be made subject to consultation with concerned agencies including the private sector and the approval of the Office of Energy Affairs. These rules and regulations shall include the following:

- a) Qualification for accrediting private sector generators;
- b) Procedures for applying for accreditation as a private sector generator of electricity;
- c) Obligations of private sector generators which shall include efficiency standards to ensure reliability of power supply and the corresponding penalties for failure to comply with said standards;
- d) Terms and conditions for the purchase or for the transmission distribution, as the case may be of electricity generated by non-National Power Corporation entities; and
- e) Other matters which shall be necessary to implement this Order.

Section 3. The office of Energy Affairs shall take the necessary measures to ensure that the provisions of this Order are made effective.

Section 4. The Department of National Defense shall assist the National Power Corporation, the private utilities and the electric cooperatives in providing security to the generating plants to prevent power black-outs, and in instituting the necessary safeguards in cases of emergencies, including the training of Armed Forces of the Philippines personnel in power generation operations.

Section 5. Numbers 2, 4, 5 and 6 of Presidential Decree No. 40 are hereby amended accordingly. All laws, orders, issuances, rules and regulations or parts thereof inconsistent with this Executive Order are hereby repealed or modified accordingly.

Section 6. This Executive Order shall take effect fifteen (15) days after the issuance of the rules and regulations for the implementation of this Executive Order.

Done in the City of Manila, this 10th day of July in the year of our Lord, nineteen hundred and eighty-seven.