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Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila



EIGHTEENTH CONGRESS
First Regular Session

House Bill Number 470

Introduced by:

REP. PRESLEY C. DE JESUS (PHILRECA PARTYLIST), REP. SERGIO C. DAGOOC (APEC PARTY-LIST), REP. GODOFREDO N. GUYA (RECOBODA PARTYLIST), AND REP. ADRIANO A. EBCAS (AKO PADAYON PARTY-LIST)

AN ACT CREATING THE MINDANAO POWER CORPORATION

AND PROVIDING FUNDS THEREFOR

EXPLANATORY NOTE

Republic Act No. 9136 or the Electric Power Reform Act (EPIRA) of 2001 which liberalized and privatized the power industry was aimed to secure the power supply and reduce the cost of electricity through greater competition and efficiency. It was intended to free the government from subsidizing capital-intensive power projects and allow instead the private sector to put up the same. Thus, the law directed the government to privatize or sell its power generation assets and the capacities it contracted with Independent Power Producers (IPPs).

In Mindanao, National Power Corporation's (NPC) Agus and Pulangui hydroelectric power complexes, located in Lanao Del Sur and Bukidnon provinces, respectively, has been exempted from privatization and were given ten (10)-year reprieve from the passage of EPIRA; they continue to bring low power rates in Mindanao.

The EPIRA provided that the ownership of the Agus and Pulangui power complexes was to be transferred to the Power Sector Assets and Liabilities Management Corp. (PSALM), the state agency which handles the privatization of National Power Corporation's (NPC) assets. They will continue to be, however, operated by the NPC. After the lapse of ten (10) years, the privatization of the Agus and Pulangui complexes is left to the discretion of PSALM, in consultation with Congress.

It has been foreseen that the takeover by private sector groups or Independent Power Producers (IPP) of the Agus and Pulangui power complexes will increase the price of power in Mindanao as private investors are profit oriented and are propelled by business interests and profits, hence, an increase in the price of power is inevitable if they should acquire the power plants and take over its management and operations. Keeping the hydro plants in government will certainly moderate any price adjustments of power as the Pulangui and Angus plants will give a mix to the price of power that will keep it lower.

The policy of the State to promote the economic development of the country, particularly the Mindanao region, and the availability of electricity at reasonable cost as a catalyst for economic growth and progress must be recognized.

It is, therefore, imperative for the National Government to promote development in Mindanao by the establishment of the dependable and reliable supply of electric power through the acquisition of generation assets of PSALM located in Agus and Pulangui Hydropower Complexes by the direct stakeholders from the Mindanao region to assure that the electricity rates are reflective of the true cost of power.

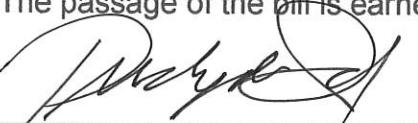
To attain these ends, it becomes necessary for an organized corporate entity in Mindanao to be created. And this is what this bill seeks to achieve. The proposed Mindanao Power Corporation, which is a standalone government-owned and controlled corporation, shall be empowered to acquire the Angus-Pulangui hydro complexes for its rehabilitation, operation, management and maintenance.

Acquisition by the Mindanao Power Corporation of the Agus-Pulangui Hydro Complexes would give beneficial resolution to the Mindanao stakeholders as it would potentially gain all the benefits derived from privatization, that is, effective and efficient administration of the power industry in the region; and, security against the skyrocketing of electric power rates.

Furthermore, the creation of Mindanao Power Corporation as an organized corporate entity in Mindanao is necessary to assure the full development and maximized

utilization of the power resources of the region, ensure transparent and reasonable prices of electricity in a regime of free and fair competition, protect the public interest, and provide full public accountability to achieve greater operational and economic efficiency in Mindanao.

The passage of the bill is earnestly sought.



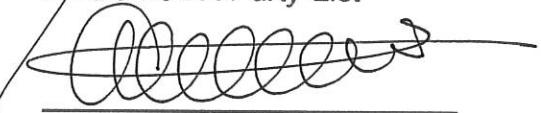
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**AN ACT CREATING THE MINDANAO POWER CORPORATION
AND PROVIDING FUNDS THEREFOR**

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. Short Title. – This Act shall be known as the "Charter of the Mindanao Power Corporation."

SECTION 2. Declaration of National Policy. – It is hereby declared to be the policy of the State to promote the economic development of the country, particularly in the Mindanao region, through effective and efficient management of the power industry and the availability of electricity at reasonable cost as a catalyst for economic growth and progress of the region.

Towards this end, the National Government must promote development in Mindanao by the establishment of the dependable and reliable supply of electric power through the acquisition of generation assets of PSALM located in Agus and Pulangui Hydropower Complexes by the direct stakeholders from the Mindanao region to assure that the electricity rates are reflective of the true cost of power.

Accordingly, the creation of an organized corporate entity in Mindanao is necessary to attain these ends.

SECTION 3. Creation, Name, Domicile and Term. – To carry out the above policy, there is hereby created a body corporate to be known as the Mindanao Power Corporation, hereinafter referred to as the "Corporation".

The principal office of the Corporation shall be determined by its Board of Directors. It may also establish such offices, branches, agencies or correspondents or other units in Mindanao or in other parts of the Philippines as its business operations may require.

The Corporation shall have a term of fifty years from its creation hereof, which shall be deemed renewed for an equal period unless sooner dissolved by law.

SECTION 4. Corporate purpose and powers. – The Mindanao Power Corporation, upon its organization, shall be a body corporate and shall have the following purposes and power:

- a. To acquire the Agus-Pulangui Hydropower Complexes from the Power Sector Assets and Liabilities Management (PSALM) on terms that is not more onerous than Twenty-five (25%) initial downpayment with seventy-five (75%) to be amortized for Twenty-five (25) years.
- b. To extend the benefits of the Agus-Pulangui Hydropower Complexes to the greatest number of the population as possible, with preferential right to benefit accorded to energy consumers and host communities where such energy or water resources originate.
- c. To undertake and implement faithfully such projects and operations as will promote the total electrification of all provinces, cities, municipalities and barangays existing in the various regions of Mindanao.
- d. To exercise complete jurisdiction and control over watersheds surrounding the reservoirs of the Agus-Pulangui Hydrocomplexes and other plants and/or projects constructed or proposed to be constructed by the Corporation. The National Power Corporation (NAPOCOR) and the PSALM shall, upon written advice by the Corporation, forthwith surrender jurisdiction to the Corporation of all areas embraced within the watersheds the NAPOCOR currently holds in Mindanao, subject to existing private rights, the needs of waterworks systems, and the requirements of domestic water supply. For new projects and upon determination by the Corporation of the areas required for watersheds for specific projects in Mindanao, the relevant government agencies, institutions, and/or entities shall, upon written advice, surrender jurisdiction to the Corporation of all areas embraced within the said watershed, subject to existing private rights, the needs of waterworks systems, and the requirements of domestic power supply;
- e. To invest in the power industry, as well as, in any activity related to energy resources development, and to set up or form business subsidiaries under the Batas Pambansa Blg. 68, or through the acquisition of the controlling interests of existing corporations which may be necessary or contributory to the economic development of the Mindanao region, or important in the public interest, or deemed convenient or incidental to the carrying on of any of the purposes of the Corporation, or which will promote the well-being of the Corporation;
- f. To provide and maintain an adequate or increased supply at all times of energy resources at competitive cost for electric consumers, especially in Mindanao;
- g. To foster conditions of power industry development conducive to a balanced and sustainable growth of the economy;

Subject to government policy, the Corporation shall also have the following purposes, powers, functions, rights and activities:

- a. To have continuous succession under its corporate name until otherwise provided by law;
- b. To adopt a code of by-laws to complement this Act;
- c. To adopt and use a corporate seal and alter the same, which shall be judicially noticed;
- d. To sue and to be sued in its corporate name;
- e. To conduct investigations and surveys for the development of water power in the Mindanao region;
- f. To take water from any public stream, river, creek, lake, spring or waterfall in the Philippines, for the purposes specified in this Act; to intercept and divert the flow of waters from lands of riparian owners and from persons owning or interested in waters which are or may be necessary for said purposes, upon payment of just compensation therefor; to alter, straighten, obstruct or increase the flow of water in streams or water channels intersecting or connecting therewith or contiguous to its works or any part thereof: *Provided*, That just compensation shall be paid to any person or persons whose property is, directly or indirectly, adversely affected or damaged thereby;
- g. To operate, maintain, repair, rehabilitate, expand and/or improve the AgusPulangui Hydropower Complexes acquired from the Power Sector Assets and Liabilities Management Corporation (PSALM) under terms and conditions provided in this Act with authority to sell electric power in bulk to electric cooperatives, distribution utilities, and other entities in accordance with this Act;
- h. To adopt measures necessary and desirable to ensure sufficiency of power it committed to electric cooperatives and distribution utilities, and to supply power in Mindanao in general including the expansion of existing powerplants, establishment of new plants, and contracting of ancillary or support services with other power generators;
- i. To acquire by way of negotiation or in the exercise of the right of eminent domain for the purpose of this Act in the manner provided by law for instituting condemnation proceedings by the national, provincial, city and municipal governments;
- j. To promote, hold, transfer, sell, lease, rent, mortgage, encumber and otherwise dispose of property incident to, or necessary, convenient or proper to carry out the purposes for which the Corporation was created;
- k. Subject to Constitutional requirements and with mandate from the President, the Corporation shall have authority to operate idle power plants whether temporarily or permanently to prevent, control, avoid or curb any imminent and actual power shortages;
- l. To construct works across, or otherwise, any stream, 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 intersection and shall grant the Board 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 representative may also enter upon private property in the lawful performance or prosecution, of its business and purposes, including the construction of the transmission lines thereon: *Provided*, That the owner of such private property shall be indemnified for any actual damage caused thereby: *Provided, further*, That said action for damages is filed within five years after the rights of way, transmission lines, substations, plants 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;
- m. When essential to the proper administration of its corporate affairs or necessary for the proper transaction of its business or to carry out the purposes for which it was organized, to contract indebtedness and issue bonds subject to approval of the President upon recommendation of the Secretary of Finance;
- 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;
- n. To cooperate with, and to coordinate its operations with those of the National Electrification Administration and public service entities;
 - o. In the prosecution and maintenance of its projects, the Corporation shall adopt measures to prevent environmental pollution and promote the conservation, development and maximum utilization of natural resources; and,
 - p. Generally, to exercise all the powers of a corporation under the Corporation Law insofar as they are not inconsistent with the provisions of this Act.

SECTION 5. Disposition of Hydroelectric Power. – The Corporation shall have authority to sell the hydroelectricity pursuant to the following parameters:

- a. The existing capacity of the Agus-Pulangui Hydropower Complexes shall be allocated pro-rata primarily to electric cooperatives and distribution utilities, the majority of whose customers are residential ratepayers in Mindanao. However, Electric Cooperatives where the Agus and Pulangui Hydropower Complexes are located or sourced shall have the right of first or priority dispatch of up to 25% of the generated capacities.
- b. Consumers other than electric cooperatives and distribution utilities may contract for direct supply of electricity that has been unsold or uncommitted to Mindanao electric cooperatives and distribution utilities.
- c. If and when possible, the Corporation is allowed to participate in the Wholesale Electric Spot Market (WESM) provided that any and all its income shall be utilized solely for operating, maintaining, expanding and improving the hydropower complexes and/or its other assets, and as part of the Mindanao Power Fund, created under this Act.

Existing power supply agreements involving the Agus-Pulangui Hydropower Complexes shall within a period of one year from the effectivity of this Act, be reviewed and renegotiated to comply with the foregoing parameters. Non-committed power generated by the Agus-Pulangui Hydrocomplexes shall immediately be allocated to electric cooperatives and distribution utilities that cater mainly to residential ratepayers.

SECTION 6. Mindanao Power Fund. – A Mindanao Power Fund is hereby constituted which shall be taken from the rate fixed by the Corporation and from royalties paid by electric power industry players for energy resources in Mindanao.

The Mindanao Power Fund shall be administered by the Corporation to improve the Mindanao power situation and to help avert any possible power shortage:

- a. By preventing idleness of power plants through:
 - i. Contracting electricity from readily available power plants in Mindanao; provided, the price shall be the best available price reasonably comparable to prices offered by similar plants in Luzon and the Visayas;
 - ii. Operating idle power plants, whether owned by the private sector or by government, but subject to constitutional and legal requirements;
- b. By contracting power plants that can generate electricity within thirty (30) days; provided, the price shall be the best available price reasonably comparable to prices offered by similar plants in Luzon and the Visayas.

The Mindanao Power Fund shall be utilized to lower residential rates in such manner as may be determined by the Corporation and as approved by the ERC; provided it does not sacrifice energy security in the region.

SECTION 7: Rate-fixing. – The rates charged by the Corporation shall be subject to approval by the Energy Regulatory Commission as follows:

- a. Rates shall allow the recovery of just and reasonable costs and a reasonable return on the rate base (RORB) or other internationally accepted methodology to enable the Corporation to operate viably. In case the rate setting methodology used is RORB, it shall be subject to the following guidelines:
 - (i) For purposes of determining the rate base, the Corporation may be allowed to revalue its eligible assets not more than once every three (3) years by an independent appraisal company: Provided, however, that ERC may give an exemption in case of unusual devaluation: Provided, further, that the ERC shall exert efforts to minimize price shocks order to protect the consumers;
 - (ii) Interest expenses are not allowable deductions from permissible return on rate base;
 - (iii) In determining eligible cost of services that will be passed on to the end-users, the ERC shall establish minimum efficiency performance standards for the Corporation including systems losses, interruption frequency rates, and collection efficiency;
 - (iv) Further, in determining rate base, the Corporation shall not be allowed to include management inefficiencies like cost of project delays not excused by force majeure, penalties and related interest during construction applicable to these unexcused delays; and
 - (v) Any significant operating costs or project investments of the Corporation which shall become part of the rate base shall be subject to verification by the ERC to ensure that the contracting and procurement of the equipment, assets and services have been subjected to transparent and accepted industry procurement and

- purchasing practices to protect the public interest.
- b. The rate shall ensure that the Corporation would be able to service the acquisition cost of the Agus-Pulangui Hydropower Complexes;
 - c. The rate is sufficient for operating and maintenance expenses, as well as capital expenditures projected to be necessary within the next ten (10) years pursuant to a development plan; provided that interest on loans and other debts shall not be included as expenses.
 - d. The rate allows for systems losses subject to the caps determined by the ERC based on the load density, sales mix, cost of service, delivery voltage and other technical considerations it may promulgate.
 - e. The rate shall include Thirty Centavos (PhP.30) per kWh allocated to the Mindanao Power Fund as created by this Act and administered by the Corporation.

SECTION 8. Capital Stock of the Corporation. – The authorized capital stock of the Corporation shall be Two Billion Pesos divided into Twenty Million shares having a par value of hundred pesos each, which shares are not to be transferred, negotiated, pledged, mortgaged, or otherwise given as security for the payment of any obligation, unless approved by the ratepayers in Mindanao in a plebiscite conducted for the purpose, with the help of the Mindanao Electric Cooperatives.

SECTION 9. The Mindanao Power Board; Its Composition; Compensation of Members; Qualifications; Powers and Duties. – The corporate powers of the Corporation shall be vested in and exercised by the Board composed of seven (7) members consisting of a chairman, vice-chairman and five directors who shall be appointed by the President of the Philippines. At any time, there must be one (1) lawyer, one (1) Certified Public Accountant, and one (1) Electrical Engineer in the Board of the Corporation.

The Directors of the Corporation shall be composed of the following representatives:

Three (3) shall represent the Electric Cooperatives
 One (1) shall represent private Distribution Utilities
 One (1) shall represent the Mindanao consumer/ratepayers
 One (1) shall represent labor, and,
 One (1) shall represent the business sector

The General Manager shall be chosen by majority vote of the Board of Directors and shall be the ex-officio Vice-Chairman of the Board.

The members of the Board shall each serve a term of three years, except that any person appointed to fill a vacancy shall serve only for the unexpired term of the member whom he succeeds.

Every member of the Board shall possess any one or a combination of the following qualifications: A duly licensed professional of recognized competence in engineering, in business management and finance, or in law, particularly in the field of corporate practice, with at least ten years actual and distinguished experience in their respective fields of expertise, and of good moral character. In the case of the labor representative: a recognized labor leader with sufficient training, particularly in labor-management relations, and of good moral character.

All appointees by the President of the Philippines shall be residents of Mindanao.

The members of the said Board shall receive a per diem and allowances for actual meetings attended or actual work done in such amounts as generally practiced by other government-owned and controlled corporations.

Majority of the members of the Board shall constitute a quorum for the transaction of the business of the Board.

SECTION 10. Powers and Functions of the Board. – The Board shall have the following specific powers and duties:

- (a) To formulate and adopt policies and measures for the management and operation of the Corporation; provided that policies and measures for the management and operation of the Corporation, that has any rate impact or otherwise affects the prices of electricity sold to residential consumers shall be subject to approval by the ERC;
- (b) to adopt an annual and supplemental budget of receipts and expenditures of the Corporation according to its requirements, which may include financial assistance to Provinces, Cities/municipalities, and/or Barangays which are the site of or contiguous to watersheds, lakes or natural sources of hydroelectric power being utilized by the Corporation, subject to the approval of the Energy Regulatory Commission (ERC); Provided, that copies of the budgets or receipts and expenditures herein referred to shall be disclosed to and shall be subject of audit and verification by the ERC during ratefixing;
- (c) Subject to the provisions of existing laws and regulations and upon the recommendation of the General Manager, to organize, reorganize and determine the Corporation's staffing pattern and the number of personnel, to fix their salaries and to define their powers and duties;
- (d) To appoint and fix the compensation of the General Manager, subject to the approval of the President of the Philippines, and to appoint and fix the compensation of the Assistant General Manager, regional managers, and department chiefs;
- (e) For cause, to suspend, or remove, by a majority vote of all members, the General Manager, with the approval of the President of the Philippines, and the Assistant General Manager, regional managers and department chiefs; and,
- (f) To adopt and set down guidelines for the employment of personnel on the basis of merit, technical competence arid moral character.

SECTION 11. The General Manager; His Powers and Duties; Regional Managers and Other Officers and Employees of the Corporation. – The management of the Corporation shall be vested in the General Manager, assisted by the Assistant General Manager, a department chief for finance, a department chief for engineering and construction, a department chief for administration, and such additional

officers and employees as the said Board may provide. For this purpose, the General Manager shall have the following powers and duties:

- (a) To execute and administer the policies and measures approved by the Board, and have the responsibility for the efficient discharge of management functions;
- (b) To submit for the consideration of the Board such other policies and measures which he deems necessary to carry out the purposes and provisions of this Act;
- (c) To direct and supervise the operation and internal administration of the Corporation and, for this purpose, may delegate some or any of his administrative responsibilities and duties to other officers of the Corporation;
- (d) Subject to the guidelines and policies set up by the Board, to appoint and fix the number and compensation of subordinate officials and employees of the Corporation; and, for cause, to remove, suspend or otherwise discipline, any subordinate employee with the approval of the Board;
- (e) To prepare an annual report on the activities of the Corporation at the close of each fiscal year and submit a copy thereof to the Board for transmittal to the President of the Philippines, President of the Senate, and Speaker of the House of Representatives, the Joint Congressional Power Corporation (JCPC), and to the chairman of the committee concerned in the Senate and in the House of Representatives: Provided That the Corporation shall similarly submit to the respective chairman of the said committees of Congress a report of its operations and financial statements within fifteen (15) days from the end of every quarter: And provided, further, That said committees, either motu proprio or upon the request of any of their members, or of any Member of Congress, as the case may be, shall have the authority to look into all the matters relative to the financial and business operations and expenditures of the Corporation;
- (f) To exercise such other powers and duties as may be vested in him by the Board from time to time. In the case of absence or disability of the General Manager, the Assistant General Manager shall act in his place.
- (g) Under the supervision and control of the General Manager, relevant officers of the Corporation shall take charge of the operations of the Corporation as well as its power development program.

SECTION 11. Authority to Incur Indebtedness and Issue Bonds; Their Conditions, Privileges and Exemptions, Sinking Funds; Guarantee.

- a) Domestic Indebtedness. - Whenever the Board deems it necessary for the Corporation to incur indebtedness or to issue bonds to carry out the purpose for which the Corporation has been organized, it shall, by resolution, declare and state the purpose for which the

proposed debt is to be incurred and the conditions of the bonds. In order that such resolution be valid, it shall be passed by the affirmative vote of at least four members of the Board and approved by the President of the Philippines upon recommendation of the Secretary of Finance.

The bonds shall be issued under the following conditions: (1) they shall be in registered form and transferable at the Office of the Treasurer of the Philippines; (2) they shall not be sold at less than par; (3) they shall be payable ten years or more from date of issue as may be determined by the Secretary of Finance before their issuance but may be redeemable, at the pleasure of the Board, after five years from such date of issue; (4) they shall bear interest at an annual rate to be determined before their issuance by the Secretary of Finance; (5) the interest maybe payable quarterly, semi-annually or annually as may be determined by the Secretary of Finance before the issuance of the bonds; and (6) both principal and interest shall be payable in legal tender of the Philippines.

The bonds issued under the authority of this subsection shall be exempt from the payment of all taxes by the Republic of the Philippines, or by any authority, branch, division or political subdivision thereof which facts shall be stated upon the face of said bonds. Said bonds shall be receivable as security in any transaction with the Government in which such security is required.

A sinking fund shall be created, the total thereof at each annual due date of the bonds shall be equal to an amount of annuity earning an annual interest of nine-tenths of the rate of interest of the bonds as fixed by the Secretary of Finance. The sinking fund shall be under the custody of the Treasurer of the Philippines, who shall invest the same subject to the approval of the Board and the Secretary of Finance.

The Republic of the Philippines or any of its agencies, instrumentalities, organized for the purpose of issuing guarantees shall guarantee the payment by the Corporation of both the principal and the interest of the bonds issued by said Corporation by virtue of this Act, and shall pay such principal and interest in case the Corporation fails to do so, and there are hereby appropriated, out of the general funds in the National Treasury not otherwise appropriated, the sums necessary to make the payments guaranteed by this Act: *Provided*, That the sums so paid by the Republic of the Philippines shall be refunded by the Corporation: *Provided, further*,

That the Corporation shall set aside ten (10) per centum of its annual net operating revenues before interests as a reserve or sinking fund to answer for amounts advanced to it by the National Government for any loan, credit and indebtedness contracted by the former for which the latter shall be held answerable as primary obligor or guarantor under the provisions of this Act: *Provided, furthermore*, That the setting aside of the amounts mentioned herein shall automatically cease the moment the accumulated sinking fund or reserve exceeds the amounts advanced to the Corporation by the National Government under this Act: *And, provided, finally*, That the Corporation may periodically make partial payments to the National Government out of the said reserves.

The total principal indebtedness of the Corporation under this subsection, exclusive of interest, shall not at any time exceed Ten (10) Billion pesos.

(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 fund sources the total outstanding amount of which, exclusive of interests, shall not exceed One Billion United States dollars or 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.

The President of the Philippines, by himself, or through the Secretary of Finance or the Governor of the Central Bank, is hereby authorized to negotiate and contract with foreign governments or any international financial institutions, 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 the Secretary of Finance or the Governor of the Central Bank, 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 loan or loans herein authorized 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.

The negotiation and contracting of any loan, credit or indebtedness under this subsection shall be subject to applicable laws.

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 and supplies by the Corporation, paid from the proceeds of any loan, credit or indebtedness incurred under this Act, shall also be exempt from all taxes, fees, imposts, other charges and restrictions, including import restrictions, by the Republic of the Philippines, or any of its agencies and political subdivisions.

SECTION 12, Rehabilitation, Expansion, or Construction of the Agus-Pulangui Hydropower Plant and other Power Projects Recommended by the General Manager. – Upon determination by the General Manager, on his own initiative or on recommendation by any interested party, that the construction of any project by the Corporation is advisable, a report to the Board, on the engineering and economic feasibility of the project together with preliminary plans and estimates of the cost of the proposed development and the estimated income to be derived therefrom shall be submitted by the General Manager.

The Board may thereupon, at its discretion, designate a consulting board composed of two competent and impartial engineers and one competent economist to pass upon the different aspects of the project and comment on the report of the General Manager. The Board shall, with the said report and comment in view, decide whether or not the project shall be constructed, and what changes, if any, shall be made in the scheme proposed by the General Manager.

SECTION 13. Construction or Repair Work Awarded upon Public Bidding; Exceptions.

– All work of construction or repair of the Corporation involving an estimated cost of One Million Pesos or more shall be let by the General Manager, with the approval of the Board, to the responsible bidder who made the lowest or most advantageous bid. Notice to bidders shall be published as provided by law. In case no satisfactory bid is received, the General Manager may proceed to advertise anew, or with the approval of the Board, do the work by administration. Before award of contract is made, the General Manager shall require the contractor to give an adequate bond to secure the proper accomplishment of the work under contract and to satisfy all obligations for materials used and labor employed upon the same: *Provided*, That any repair, reconstruction or other work of an emergency nature may be authorized by the Board to be undertaken by administration or by contract: And, *provided, further*, That any single work of construction or repair involving an estimated total cost of less than One Million Pesos may, at the option of the General Manager, be authorized by him to be undertaken by administration or by other advantageous means after a canvass of the market to determine the lowest or most advantageous price.

SECTION 14. Penalty for Destroying, Injuring or Interfering with any project of the Corporation, or maliciously Interfering with any Person in the Discharge of his Duties Connected therewith. – Any person or persons who shall maliciously destroy, injure, or interfere with any canal, raceway, ditch, lock, pier, inlet, crib, bulkhead, dam, gate, sluice, reservoir, aqueduct, conduit, pipes, culvert, post, abutment, conductor, cable-wire, insulator, weir, benchmark, monument, or other works, appliance, machinery, building or property of the Corporation, or who shall maliciously do any act which shall injuriously affect the quantity or quality of the water or electrical energy of the Corporation or the supply, transmission, measurement, or regulation thereof, or who shall maliciously interfere with any person engaged in the discharge of duties connected therewith, or who shall maliciously prevent, obstruct and interfere with the survey, works and the construction of access road and transmission lines or any related works of the Corporation, shall be guilty of felony and punished with a fine ranging from one to five thousand pesos or with imprisonment ranging from one to five years, or both such fine and imprisonment, at the discretion of the Court, and any injured party shall have the right to recover all damages suffered and cost of suit in a separate civil action in any court of competent jurisdiction.**SECTION 15. Appropriation of Public Waters.** – Subject to existing rights, all unappropriated public waters which may be used and developed for hydraulic power purposes shall be granted to the Corporation:

Provided, that in case of conflict with the needs for domestic water supply, the latter shall prevail.

SECTION 16. Non-profit Character of the Corporation; Exemption from all Taxes, Duties, Fees, Imposts and other Charges by Government and Governmental Instrumentalities. – The Corporation shall be non-profit and shall devote all its returns from its capital investment, as well as excess revenues from its operation, for operating, maintaining, expanding and improving the hydropower complexes and/or its other assets, and as part of the Mindanao Power Fund. It shall be subject to audit by the Commission on Audit.

To enable the Corporation to pay its indebtedness and obligations and in furtherance and effective implementation of the policy enunciated in Section one of this Act, the Corporation is hereby declared exempt:

- (a) From the payment of all taxes, duties, fees, imposts, charges, costs and service fees in any court or administrative proceedings in which it may be a party, restrictions and duties to the Republic of the Philippines, its provinces, cities, municipalities and other government agencies and instrumentalities;
- (b) From all income taxes, franchise taxes and realty taxes to be paid to the National Government, its provinces, cities, municipalities and other government agencies and instrumentalities;
- (c) From all import duties, compensating taxes and advanced sales tax, and wharfage fees on import of foreign goods required for its operations and projects; and
- (d) From all taxes, duties, fees, imposts, and all other charges imposed 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 17. Separability Clause. – The provisions of this Act are hereby declared to be separable, and in the event any one or more of such provisions are held unconstitutional, they shall not affect the validity of other provisions.

SECTION 18. Repealing Clause. – All laws, executive and administrative orders, or parts thereof, inconsistent with any provision of this Act are hereby repealed or modified accordingly."

SECTION 19. Effective Date. – This Act shall take effect fifteen (15) days after its publication in a newspaper of general circulation.

APPROVED,