

Chapter 4

National Power Corporation

COMMONWEALTH ACT NO. 120

AN ACT CREATING THE "NATIONAL POWER CORPORATION," PRESCRIBING ITS POWERS AND ACTIVITIES, APPROPRIATING THE NECESSARY FUNDS THEREFOR, AND RESERVING THE UNAPPROPRIATED PUBLIC WATERS FOR ITS USE

SECTION 1. For the purpose of undertaking the development of hydraulic power and the production of power from other sources and for other purposes specified in this Act, there is hereby created a public corporation which shall be known as the "National Power Corporation." The words "Corporation" and "Board" appearing in this Act shall respectively refer to the National Power Corporation and the National Power Board, hereinafter provided.

SECTION 2. The powers, functions, rights and activities of the said corporation shall be the following:

- (a) To have continuous succession under its corporate name until otherwise provided by law;
- (b) To prescribe its by-laws;
- (c) To adopt and use a seal and alter it at its pleasure;
- (d) To sue and be sued in any court;
- (e) To conduct investigations and surveys for the development of water power in any part of the Philippines;
- (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 due compensation therefore; 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;

- (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 other 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 use of the Government and the general public; to sell electric power and to fix the rates and provide for the collection of the charges for any service

rendered: *Provided*, That the rates of charges shall not be subject to revision by the Public Service Commission;

- (h) To acquire, promote, hold, transfer, sell, lease, rent, mortgage, encumber and otherwise dispose of anything incident to, or necessary, convenient or proper to carry out the purposes for which the corporation was created;
- (i) 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 may be to their former state, or in a manner not to impair unnecessarily their usefulness. Every person or entity whose right-of-way is crossed or intersected by said works shall not obstruct any such crossings or intersections 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 Commonwealth 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: *Provided*, That the owner of such private property shall be indemnified for any actual damage caused thereby;
- (j) To exercise the right of eminent domain for the purposes of this Act in the manner provided by law for instituting condemnation proceedings by the national, provincial, and municipal governments;

- (k) 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 the approval of the President of the Philippines upon the recommendation of the Secretary of Finance. The bonded indebtedness of the Corporation, of all classes, shall not at any time exceed twenty million pesos and the issue thereof shall be subject to the conditions set forth in section four of this Act; and
- (l) 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 purposes.

SECTION 3. All corporate powers of the National Power Corporation shall be vested in a board to be known as the National Power Board, composed of five members who shall all be appointed by the President of the Philippines with the consent of the Commission of Appointments of the National Assembly. The members of the Board shall hold office for a term of three years.

The Board shall immediately organized by electing a chairman from among its members and by adopting its rules of procedure and fixing the time and place for holding regular meetings.

The members of said Board who are not in the employ of the Government of the Commonwealth of the Philippines shall receive a *per diem* of not to exceed twenty-five pesos for each day of meeting of the Board actually attended by them.

It shall appoint its secretary and fix his salary which shall not exceed four thousand pesos per annum.

The Board shall render reports to the President of the Philippines and the National Assembly as provided in section five hundred and seventy-four to five hundred and seventy-seven, inclusive, of act Numbered Twenty-seven hundred and eleven.

SECTION 4. Whenever the Board may deem it necessary for the Corporation to incur an indebtedness or to issue bonds to carry out the purposes for which the Corporation has been organized, it shall, by resolution, so 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 three members of the Board and approved by the President of the Philippines upon the recommendation of the Secretary of Finance.

The bonds shall be issued under the following conditions: (a) they shall be in registered form and transferable at the Office of the Treasurer of the Philippines in Manila or at the Registry Office of the Department of the Treasury of the United States at Washington, District of Columbia; (b) they shall not be sold at less than par; (c) they shall be payable thirty years after the date of issue but may be redeemable at the pleasure of the Board, after ten years from the date of issue; (d) they shall bear interest at an annual rate to be determined before their issuance by the Secretary of Finance; (e) the interest may be determined by the Secretary of Finance before the issuance of the bonds; and (f) both principal and interest shall be payable in gold coin or its equivalent, in the discretion of the Secretary of Finance, in Manila, if the bonds are sold in the Philippines or in the United States Treasury if they are sold in the United States.

The bonds issued under the authority of this Act shall be exempt from the payment of all taxes by the Commonwealth of the Philippines, or by any authority, branch, division or political subdivision thereof and

subject to the provisions of the Act of Congress, approved March 24, 1934, otherwise known as the *Tydings-McDuffie Law*, 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 funds shall be created, the total whereof at each annual due date of the bonds shall be equal to the total of an annuity of nineteen thousand three hundred seventy-one pesos and thirty-three centavos for each one million pesos of bonds outstanding, with interest at the rate of three and one-half per centum per annum. The sinking funds 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 Commonwealth of the Philippines hereby guarantees the payment of the National Power 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 National Power Corporation fails to do so, and there are hereby appropriated, out of the general funds in the Philippine Treasury not otherwise appropriated, the sums necessary to make the payments guaranteed by this Act: *Provided*, That the sums so paid by the Commonwealth of the Philippines shall be refunded by the National Power Corporation.

SECTION 5. The affairs and current business of the Corporation shall be conducted, and its rights and property shall be kept and preserved, under the direction of the National Power Board, by the Manager, Assistant Manager, Treasurer and such additional officers and employees as the said Board may provide. The Auditor General shall be *ex-officio* Auditor of the Corporation.

The duties and powers as well as the compensation of the said officers and employees shall be such as may be defined

and prescribed or fixed by the National Power Board: *Provided*, That no additional compensation shall be given to any officer or employee of the Commonwealth or any of its political subdivisions or of any public or semi-public corporation, who may be designated to perform additional duties in the Corporation.

The Manager, Assistant Manager and Treasurer shall be appointed by the President of the Philippines, with the consent of the Commission on Appointments of the National Assembly.

SECTION 6. Upon determination by the Manager that the construction of any waterpower project by the Corporation is advisable, he shall submit a report 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 there from.

The National Power 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 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 Manager. The decision of the Board shall be final.

SECTION 7. All work of construction or repair of the Corporation involving an estimated cost of three thousand pesos or more shall be let by the Manager, with the approval of the National Power Board, to the responsible bidder who made the lowest and most advantageous bid. Notice to bidders shall be published in the *Official Gazette* as provided by law. In case no satisfactory bid is received, the Manager may proceed to advertise anew, or with the approval of the Board, proceed to do the work by administration. Before award of contract is made, the 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.

SECTION 8. Any person or persons who shall willfully or maliciously destroy, injure or interfere with any canal, raceway, ditch, lock, pier, inlet, crib, bulkhead, dam, gate, sluice, reservoir, aqueduct, conduit, pipe, culvert, post, abutment, conductor, cable-wire, insulator, weir, benchmark, monument, or other work, appliance, machinery, building or property of the Corporation, or who shall willfully or maliciously do any act which shall injuriously affect the quantity 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, shall be guilty of a felony and punished with a fine not to exceed five thousand pesos or with imprisonment for a term not to exceed two 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 9. Subject to all existing rights, all unappropriated public waters which may be used and developed for waterpower purposes shall be, and hereby are, reserved from appropriation by any person, firm or corporation under any general or special law relating to the appropriation of public waters, for the use of the National Power Corporation created by this Act: *Provided, however*, That the President, upon the recommendation of the Secretary of Public Works and Communications, concurred in by the National Power Board, may, from time to time, release from this reservation any

unappropriated public waters which may not be necessary for the use of the National Power Corporation.

SECTION 10. At any time that the Board certifies that the Corporation is able to furnish electric power for lighting and other purposes to any office, shop, or establishment operated and/or owned or controlled by the National Government or by any city, province, municipality or other political subdivision of the Commonwealth of the Philippines, the National Government and the government of said city, province, municipality or other political subdivision shall be compelled to secure from the Corporation as soon as practicable such electric power as it may need for lighting and the operation of its offices, shops or establishments or for any work undertaken by it.

The provisions of this section shall also apply to firms or business owned or controlled by the National Government or by the government of any city, province, municipality or other political subdivision.

SECTION 11. There is hereby appropriated, out of any funds in the Philippine Treasury not otherwise appropriated, the sum of two hundred and fifty thousand pesos, for the purpose of organizing the Corporation and conducting the preliminary work: *Provided*, That the said amount shall be reimbursed to the Philippine Treasury upon the certification of the Auditor General that the Corporation is in a financial condition to do so, and by virtue of such certification, the National Power Board shall approve a resolution authorizing the Treasury of the Corporation to make the necessary payment.

As soon as the construction of any project is decided upon, the Corporation may issue bonds for financing the project in accordance with the provisions of section four of this Act.

SECTION 12. This Act shall take effect upon its approval.

Approved, November 3, 1936

REPUBLIC ACT NO. 6395

AN ACT REVISING THE CHARTER OF THE NATIONAL POWER CORPORATION

SECTION 1. The Charter of the National Power Corporation is hereby revised, and shall henceforth read as follows:

“SECTION 1. *Declaration of Policy.* – Congress hereby declares 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.

“SEC. 2. *The National Power Corporation; Its Corporate Life; ‘Corporation’ and ‘Board’ Defined.* – To carry out the above-stated policy, specifically to undertake the development of hydroelectric generation of power and the production of electricity from nuclear, geothermal and other sources, as well as the transmission of electric power on a nationwide basis, the public corporation