



Republic of the Philippines
House of Representatives
Quezon City

NINETEENTH CONGRESS

First Regular Session

House Bill Number 4544



Introduced by:

APEC Party-List Representative **Sergio C. Dagooc**
PHILRECA Party-List Representative **Presley C. De Jesus**

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 Agus 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 Agus-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.


Rep. PRESLEY C. DE JESUS
PHILRECA Party-List


Rep. SERGIO C. DAGOOC
APEC Party-List



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AN ACT
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1 Be it enacted by the Senate and House of Representatives of the Philippines
2 in Congress assembled:

3 SECTION 1. **Short Title.** — This Act shall be known as the "Charter of
4 the Mindanao Power Corporation. "

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

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

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

1 SECTION 3. **Creation, Name, Domicile.** — To carry out the above
2 policy, there is hereby created a body corporate to be known as the
3 Mindanao Power Corporation, hereinafter referred to as “the Corporation”.

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

8 SECTION 4. **Corporate Term.** — The Corporation shall exist perpetually
9 subject to the conditions prescribed by Law.

10 SECTION 5. **Corporate purpose and powers.** — The Mindanao Power
11 Corporation, upon its organization, shall be a body corporate and shall have
12 the following purposes and power:

13 a. To acquire the Agus- Pulangui Hydropower Complexes from the Power
14 Sector Assets and Liabilities Management (PSALM) on terms that is not
15 more onerous than Twenty-five (25%) initial down payment with
16 seventy-five (75%) to be amortized for Twenty-five (25) years.

17 b. To extend the benefits of the Agus-Pulangui Hydropower Complexes to
18 the greatest number of the population as possible, with preferential
19 right to benefit accorded to energy consumers and host communities
20 where such energy or water resources originate.

21 c. To undertake and implement faithfully such projects and operations as
22 will promote the total electrification of all provinces, cities,
23 municipalities, and barangays existing in the various regions of
24 Mindanao.

25 d. To exercise complete jurisdiction and control over watersheds
26 surrounding the reservoirs of the Agus-Pulangui Hydro complexes and
27 other plants and/or projects constructed or proposed to be constructed
28 by the Corporation The National Power Corporation (NAPOCOR) and the
29 PSALM shall, upon written advice by the Corporation, forthwith
30 surrender jurisdiction to the Corporation of all areas embraced within
31 the watersheds the NAPOCOR currently holds in Mindanao, subject to
32 existing private rights, the needs of waterworks systems, and the
33 requirements of domestic water supply. For new projects and upon
34 determination by the Corporation of the areas required for watersheds
35 for specific projects in Mindanao, the relevant government agencies,
36 institutions, and/or entities shall, upon written advice, surrender
37 jurisdiction to the Corporation of all areas embraced within the said

1 watershed, subject to existing private rights, the needs of waterworks
2 systems, and the requirements of domestic power supply;

3 e. To invest in the power industry, as well as, in any activity related to
4 energy resources development, and to set up or form business
5 subsidiaries under the Batas Pambansa Blg. 68, or through the
6 acquisition of the controlling interests of existing corporations which
7 may be necessary or contributory to the economic development of the
8 Mindanao region, or important in the public interest, or deemed
9 convenient or incidental to the carrying on of any of the purposes of the
10 Corporation, or which will promote the well-being of the Corporation;

11 f. To provide and maintain an adequate or increased supply at all times
12 of energy resources at competitive cost for electric consumers,
13 especially in Mindanao;

14 g. To foster conditions of power industry development conducive to a
15 balanced and sustainable growth of the economy;

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

18 a. To have continuous succession under its corporate name until
19 otherwise provided by law;

20 b. To adopt a code of by-laws to complement this Act;

21 c. To adopt and use a corporate seal and alter the same, which shall be
22 judicially noticed;

23 d. To sue and to be sued in its corporate name;

24 e. To conduct investigations and surveys for the development of water
25 power in the Mindanao region;

26 f. To take water from any public stream, river, creek, lake, spring or
27 waterfall in the Philippines, for the purposes specified in this Act; to
28 intercept and divert the flow of waters from lands of riparian owners
29 and from persons owning or interested in waters which are or may be
30 necessary for said purposes, upon payment of just compensation
31 therefor; to alter, straighten, obstruct or increase the flow of water in
32 streams or water channels intersecting or connecting therewith or
33 contiguous to its works or any part thereof: Provided, That just
34 compensation shall be paid to any person or persons whose property
35 is, directly or indirectly, adversely affected or damaged thereby;

- 1 g. To operate, maintain, repair, rehabilitate, expand and/or improve the
2 Agus Pulangui Hydropower Complexes acquired from the Power
3 Sector Assets and Liabilities Management Corporation (PSALM) under
4 terms and conditions provided in this Act with authority to sell electric
5 power in bulk to electric cooperatives, distribution utilities, and other
6 entities in accordance with this Act.
- 7 h. To adopt measures necessary and desirable to ensure sufficiency of
8 power it committed to electric cooperatives and distribution utilities,
9 and to supply power in Mindanao in general including the expansion
10 of existing powerplants, establishment of new plants, and contracting
11 of ancillary or support services with other power generators;
- 12 i. To acquire by way of negotiation or in the exercise of the right of
13 eminent domain for the purpose of this Act in the manner provided by
14 law for instituting condemnation proceedings by the national,
15 provincial, city and municipal governments;
- 16 j. To promote, hold, transfer, sell, lease, rent, mortgage, encumber and
17 otherwise dispose of property incident to, or necessary, convenient or
18 proper to carry out the purposes for which the Corporation was
19 created;
- 20 k. Subject to Constitutional requirements and with mandate from the
21 President, the Corporation shall have authority to operate idle power
22 plants whether temporarily or permanently to prevent, control, avoid
23 or curb any imminent and actual power shortages;
- 24 l. To construct works across, or otherwise, any stream, watercourse,
25 canal, ditch, flume, street, avenue, highway or railway of private and
26 public ownership, as the location of said works may require: Provided,
27 That said works be constructed in such a manner as not to endanger
28 life or property: And provided, further, That the stream, watercourse,
29 canal ditch, flume, street, avenue, highway or railway so crossed or
30 intersected be restored as near as possible to their former state, or in
31 a manner not to impair unnecessarily their usefulness. Every person
32 or entity whose right of way or property is lawfully crossed or
33 intersected by said works shall not obstruct any such crossings or
34 intersection and shall grant the Board or its representative, the proper
35 authority for the execution of such work. The Corporation is hereby
36 given the right of way to locate, construct and maintain such works
37 over and throughout the lands owned by the Republic of the
38 Philippines or any of its branches and political subdivisions. The

1 Corporation or its representative may also enter upon private property
2 in the lawful performance or prosecution. of its business and
3 purposes, including the construction of the transmission lines
4 thereon: Provided, That the owner of such private property shall be
5 indemnified for any actual damage caused thereby: Provided, further,
6 That said action for damages is filed within five years after the rights
7 of way, transmission lines, substations, plants or other facilities shall
8 have been established: Provided, finally, That after the said period, no
9 suit shall be brought to question the said rights of way, transmission
10 lines, substations, plants or other facilities;

- 11 m. When essential to the proper administration of its corporate affairs or
12 necessary for the proper transaction of its business or to carry out the
13 purposes for which it was organized, to contract indebtedness and
14 issue bonds subject to approval of the President upon
15 recommendation of the Secretary of Finance;

16 To exercise such powers and do such things as may be reasonably
17 necessary to carry out the business and purposes for which it was
18 organized, or which, from time to time, may be declared by the Board
19 to be necessary, useful, incidental or auxiliary to accomplish the said
20 purpose;

- 21 n. To cooperate with, and to coordinate its operations with those of the
22 National Electrification Administration and public service entities;

- 23 o. In the prosecution and maintenance of its projects, the Corporation
24 shall adopt measures to prevent environmental pollution and promote
25 the conservation, development, and maximum utilization of natural
26 resources; and,

- 27 p. Generally, to exercise all the powers of a corporation under the
28 Corporation Law insofar as they are not inconsistent with the
29 provisions of this Act.

30 SECTION 6. ***Disposition of Hydroelectric Power.*** — The
31 Corporation shall have authority to sell the hydroelectricity pursuant to
32 the following parameters:

- 33 a. The existing capacity of the Agus-Pulangui Hydropower Complexes
34 shall be allocated pro-rata primarily to electric cooperatives and
35 distribution utilities, majority of whose customers are residential
36 ratepayers in Mindanao. However, Electric Cooperatives where the
37 Agus and Pulangui Hydropower Complexes are located or sourced shall

1 have the right of first or priority dispatch of up to 25% of the generated
2 capacities.

3 b. Consumers other than electric cooperatives and distribution utilities
4 may contract for direct supply of electricity that has been unsold or
5 uncommitted to Mindanao electric cooperatives and distribution
6 utilities.

7 c. If and when possible, the Corporation is allowed to participate in the
8 Wholesale Electric Spot Market (WESM) provided that any and all its
9 income shall be utilized solely for operating, maintaining, expanding
10 and improving the hydropower complexes and/or its other assets, and
11 as part of the Mindanao Power Fund, created under this Act.

12 Existing power supply agreements involving the Agus-Pulangi
13 Hydropower Complexes shall within a period of one year from the effectivity
14 of this Act, be reviewed and renegotiated to comply with the foregoing
15 parameters. Noncommitted power generated by the Agus-Pulangi Hydro
16 power complexes shall immediately be allocated to electric cooperatives and
17 distribution utilities that cater mainly to residential ratepayers.

18 SECTION 7. **Mindanao Power Fund.** — A Mindanao Power Fund is
19 hereby constituted which shall be taken from the rate fixed by the
20 Corporation and from royalties paid by electric power industry players for
21 energy resources in Mindanao.

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

25 a. By preventing idleness of power plants through:

- 26 i. Contracting electricity from readily available power plants in
27 Mindanao; provided, the price shall be the best available price
28 reasonably comparable to prices offered by similar plants in
29 Luzon and the Visayas;
- 30 ii. Operating idle power plants, whether owned by the private
31 sector or by government, but subject to constitutional and legal
32 requirements.

33 b. By contracting power plants that can generate electricity within thirty
34 (30) days; provided, the price shall be the best available price
35 reasonably comparable to prices offered by similar plants in Luzon and
36 the Visayas.

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

4 SECTION 8. **Rate-fixing.** — The rates charged by the Corporation
5 shall be subject to approval by the Energy Regulatory Commission as
6 follows:

7 a. Rates shall allow the recovery of just and reasonable costs and a
8 reasonable return on the rate base (RORB) or other internationally
9 accepted methodology to enable the Corporation to operate viably. In
10 case the rate setting methodology used is RORB, it shall be subject to
11 the following guidelines:

- 12 i. For purposes of determining the rate base, the Corporation
13 may be allowed to revalue its eligible assets not more than once
14 every three (3) years by an independent appraisal company:
15 Provided, however, that ERC may give an exemption in case of
16 unusual devaluation: Provided, further, that the ERC shall
17 exert efforts to minimize price shocks order to protect the
18 consumers;
- 19 ii. Interest expenses are not allowable deductions from
20 permissible return on rate base;
- 21 iii. In determining eligible cost of services that will be passed on
22 to the end-users, the ERC shall establish minimum efficiency
23 performance standards for the Corporation including systems
24 losses, interruption frequency rates, and collection efficiency;
- 25 iv. Further, in determining rate base, the Corporation shall not
26 be allowed to include management inefficiencies like cost of
27 project delays not excused by force majeure, penalties and
28 related interest during construction applicable to these
29 unexcused delays; and
- 30 v. Any significant operating costs or project investments of the
31 Corporation which shall become part of the rate base shall be
32 subject to verification by the ERC to ensure that the
33 contracting and procurement of the equipment, assets and
34 services have been subjected to transparent and accepted
35 industry procurement and purchasing practices to protect the
36 public interest.

37 b. The rate shall ensure that the Corporation would be able to service the
38 acquisition cost of the Agus-Pulangui Hydropower Complexes;

39 c. The rate shall be sufficient for operating and maintenance expenses,
40 as well as capital expenditures projected to be necessary within the
41 next ten (10) years pursuant to a development plan; provided that
42 interest on loans and other debts shall not be included as expenses.

- 1 d. The rate allows for systems losses subject to the caps determined by
2 the ERC based on the load density, sales mix, cost of service, delivery
3 voltage and other technical considerations it may promulgate.
- 4 e. The rate shall include Thirty Centavos (Php 0.30) per kWh allocated to
5 the Mindanao Power Fund as created by this Act and administered by
6 the Corporation.

7 SECTION 9. **Capital Stock of the Corporation.** - The authorized
8 capital stock of the Corporation shall be Two Billion Pesos divided into Twenty
9 Million shares having a par value of hundred pesos each, which shares are
10 not to be transferred, negotiated, pledged, mortgaged, or otherwise given as
11 security for the payment of any obligation, unless approved by the ratepayers
12 in Mindanao in a plebiscite conducted for the purpose, with the help of the
13 Mindanao Electric Cooperatives.

14 SECTION 10. **The Mindanao Power Board of Directors; Its**
15 **Composition; Compensation of Members; Qualifications; Powers and**
16 **Duties.** - The corporate powers of the Corporation shall be vested in and
17 exercised by the Board of Directors, which shall be composed of **seven (7)**
18 **members**, consisting of a Chairman, Vice-Chairman and five (5) directors.
19 The Chairman and the five (5) directors shall be appointed by the President
20 of the Philippines.

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

23 At any time, there must be one (1) lawyer, one (1) Certified Public
24 Accountant, and one (1) Electrical Engineer sitting in the Board of the
25 Corporation.

26 The six (6) Directors of the Corporation, appointed by the President of
27 the Philippines shall be composed of the following representatives:

- 28 a. Two (2) Directors shall represent the Electric Cooperatives
29 b. One (1) Director shall represent private Distribution Utilities
30 c. One (1) Director shall represent the Mindanao consumer
31 /ratepayers
32 d. One (1) Director shall represent labor, and,
33 e. One (1) Director shall represent the business sector

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

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

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

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

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

16 SECTION 11. **Powers and Functions of the Board.** — The Board shall
17 have the following specific powers and duties:

- 18 a. To formulate and adopt policies and measures for the management
19 and operation of the Corporation; provided that policies and
20 measures for the management and operation of the Corporation, that
21 has any rate impact or otherwise affects the prices of electricity sold
22 to residential consumers shall be subject to approval by the ERC;
- 23 b. to adopt an annual and supplemental budget of receipts and
24 expenditures of the Corporation according to its requirements, which
25 may include financial assistance to Provinces, Cities/municipalities,
26 and/or Barangays which are the site of or contiguous to watersheds,
27 lakes or natural sources of hydroelectric power being utilized by the
28 Corporation, subject to the approval of the Energy Regulatory
29 Commission (ERC): Provided, that copies of the budgets or receipts
30 and expenditures herein referred to shall be disclosed to and shall
31 be subject of audit and verification by the ERC during rate fixing;
- 32 c. Subject to the provisions of existing laws and regulations and upon
33 the recommendation of the General Manager, to organize, reorganize
34 and determine the Corporation's staffing pattern and the number of
35 personnel, to fix their salaries and to define their powers and duties;
- 36 d. To appoint and fix the compensation of the General Manager, subject
37 to the approval of the President of the Philippines, and to appoint

1 and fix the compensation of the Assistant General Manager, regional
2 managers, and department chiefs;

- 3 e. For cause, to suspend, or remove, by a majority vote of all members,
4 the General Manager, with the approval of the President of the
5 Philippines, and the Assistant General Manager, regional managers
6 and department chiefs; and,
- 7 f. To adopt and set down guidelines for the employment of personnel
8 on the basis of merit, technical competence and moral character.

9 SECTION 12. ***The General Manager; His Powers and Duties;***
10 ***Regional Managers and Other Officers and Employees of the***
11 ***Corporation.*** — The management of the Corporation shall be vested in the
12 General Manager, assisted by the Assistant General Manager, a department
13 chief for finance, a department chief for engineering and construction, a
14 department chief for administration, and such additional officers and
15 employees as the said Board may provide. For this purpose, the General
16 Manager shall have the following powers and duties:

17 a. To execute and administer the policies and measures approved by the
18 Board, and have the responsibility for the efficient discharge of management
19 functions;

20 b. To submit for the consideration of the Board such other policies and
21 measures which he deems necessary to carry out the purposes and
22 provisions of this Act;

23 c. To direct and supervise the operation and internal administration of the
24 Corporation and, for this purpose, may delegate some or any of his
25 administrative responsibilities and duties to other officers of the
26 Corporation;

27 d. To appoint and fix the number and compensation of subordinate
28 officials and employees of the Corporation; and, for cause, to remove,
29 suspend or otherwise discipline, any subordinate employee, subject to the
30 guidelines and policies set up by the Board, and with the further approval of
31 the same;

32 e. To prepare an annual report on the activities of the Corporation at the
33 close of each fiscal year and submit a copy thereof to the Board for
34 transmittal to the President of the Philippines, President of the Senate, and
35 Speaker of the House of Representatives, the Joint Congressional Power
36 Corporation (JCPC), and to the chairman of the committee concerned in the
37 Senate and in the House of Representatives: Provided That the Corporation

1 shall similarly submit to the respective chairman of the said committees of
2 Congress a report of its operations and financial statements within fifteen
3 (15) days from the end of every quarter: And provided, further, That said
4 committees, either motu proprio or upon the request of any of their
5 members, or of any Member of Congress, as the case may be, shall have the
6 authority to look into all the matters relative to the financial and business
7 operations and expenditures of the Corporation;

8 f. To exercise such other powers and duties as may be vested in him by
9 the Board from time to time. In the case of absence or disability of the
10 General Manager, the Assistant General Manager shall act in his place.

11 g. Under the supervision and control of the General Manager, relevant
12 officers of the Corporation shall take charge of the operations of the
13 Corporation as well as its power development program.

14 SECTION 13. ***Authority to Incur Indebtedness and Issue Bonds;***
15 ***Their Conditions, Privileges and Exemptions, Sinking Funds;***
16 ***Guarantee.***

17 a. Domestic Indebtedness - Whenever the Board deems it necessary
18 for the Corporation to incur indebtedness or to issue bonds to carry out the
19 purpose for which the Corporation has been organized, it shall, by
20 resolution, declare and state the purpose for which the proposed debt is to
21 be incurred and the conditions of the bonds. In order that such resolution
22 be valid, it shall be passed by the affirmative vote of at least four members
23 of the Board and approved by the President of the Philippines upon
24 recommendation of the Secretary of Finance.

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

36 The bonds issued under the authority of this subsection shall be
37 exempt from the payment of all taxes by the Republic of the Philippines, or
38 by any authority, branch, division or political subdivision thereof which facts

1 shall be stated upon the face of said bonds. Said bonds shall be receivable
2 as security in any transaction with the Government in which such security
3 is required.

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

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

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

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

34 b. Foreign Loans. - The Corporation is hereby authorized to contract
35 loans, credits, any convertible foreign currency or capital goods, and
36 indebtedness from time to time from foreign governments, or any
37 international financial institutions or fund sources the total outstanding
38 amount of which, exclusive of interests, shall not exceed One Billion United
39 States dollars or the equivalent thereof in other currencies, on such terms

1 and conditions as it shall deem appropriate for the accomplishment of its
2 purposes and to enter into and execute agreements and other documents
3 specifying such terms and conditions.

4 The President of the Philippines, by himself, or through the Secretary
5 of Finance or the Governor of the Central Bank, is hereby authorized to
6 negotiate and contract with foreign governments or any international
7 financial institutions, in the name and on behalf of the Corporation, one or
8 several loans, for the purpose of assisting in the reconstruction, or promoting
9 the development, of the economy of the country.

10 The President of the Philippines, by himself, or through the Secretary
11 of Finance or the Governor of the Central Bank, is hereby further authorized
12 to guarantee, absolutely and unconditionally, as primary obligor and not as
13 surety merely, in the name and on behalf of the Republic of the Philippines,
14 the payment of the loan or loans herein authorized as well as the
15 performance of all or any of the obligations undertaken by the Corporation
16 in the territory of the Republic of the Philippines pursuant to loan
17 agreements entered into with foreign governments or any international
18 financial institutions.

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

21 The loans, credits and indebtedness contracted under this subsection
22 and the payment of the principal, interest and other charges thereon, as well
23 as the importation of machinery, equipment, materials and supplies by the
24 Corporation, paid from the proceeds of any loan, credit or indebtedness
25 incurred under this Act, shall also be exempt from all taxes, fees, imposts,
26 other charges and restrictions, including import restrictions, by the Republic
27 of the Philippines, or any of its agencies and political subdivisions.

28 SECTION 14. **Rehabilitation, Expansion, or Construction of the**
29 **Agus-Pulangui Hydropower Plant and other Power Projects**
30 **Recommended by the General Manager.** — Upon determination by the
31 General Manager, on his own initiative or on recommendation by any
32 interested party, that the construction of any project by the Corporation is
33 advisable, a report to the Board, on the engineering and economic feasibility
34 of the project together with preliminary plans and estimates of the cost of the
35 proposed development and the estimated income to be derived therefrom
36 shall be submitted by the General Manager.

37 The Board may thereupon, at its discretion, designate a consulting
38 board composed of two competent and impartial engineers and one

1 competent economist to pass upon the different aspects of the project and
2 comment on the report of the General Manager. The Board shall, with the
3 said report and comment in view, decide whether or not the project shall be
4 constructed, and what changes, if any, shall be made in the scheme proposed
5 by the General Manager.

6 SECTION 15. **Construction or Repair Work Awarded upon Public**
7 **Bidding; Exceptions.** — All work of construction or repair of the
8 Corporation involving an estimated cost of One Million Pesos or more shall
9 be let by the General Manager, with the approval of the Board, to the
10 responsible bidder who made the lowest or most advantageous bid. Notice to
11 bidders shall be published as provided by law. In case no satisfactory bid is
12 received, the General Manager may proceed to advertise anew, or with the
13 approval of the Board, do the work by administration. Before award of
14 contract is made, the General Manager shall require the contractor to give
15 an adequate bond to secure the proper accomplishment of the work under
16 contract and to satisfy all obligations for materials used and labor employed
17 upon the same: Provided, That any repair, reconstruction or other work of
18 an emergency nature may be authorized by the Board to be undertaken by
19 administration or by contract: And, provided, further, That any single work
20 of construction or repair involving an estimated total cost of less than One
21 Million Pesos may, at the option of the General Manager, be authorized by
22 him to be undertaken by administration or by other advantageous means
23 after a canvass of the market to determine the lowest or most advantageous
24 price.

25 SECTION 16. **Penalty for Destroying, Injuring, or Interfering with**
26 **any project of the Corporation, or maliciously Interfering with any**
27 **Person in the Discharge of his Duties Connected therewith.** — Any
28 person or persons who shall maliciously destroy, injure, or interfere with any
29 canal, raceway, ditch, lock, pier, inlet, crib, bulkhead, dam, gate, sluice,
30 reservoir, aqueduct, conduit, pipes, culvert, post, abutment, conductor,
31 cable-wire, insulator, weir, benchmark, monument, or other works,
32 appliance, machinery, building or property of the Corporation, or who shall
33 maliciously do any act which shall injuriously affect the quantity or quality
34 of the water or electrical energy of the Corporation or the supply,
35 transmission, measurement, or regulation thereof, or who shall maliciously
36 interfere with any person engaged in the discharge of duties connected
37 therewith, or who shall maliciously prevent, obstruct and interfere with the
38 survey, works and the construction of access road and transmission lines or
39 any related works of the Corporation, shall be guilty of felony and punished
40 with a fine ranging from one to five thousand pesos or with imprisonment
41 ranging from one to five years, or both such fine and imprisonment, at the

1 discretion of the Court, and any injured party shall have the right to recover
2 all damages suffered and cost of suit in a separate civil action in any court
3 of competent jurisdiction.

4 SECTION 17. ***Appropriation of Public Waters.*** — Subject to existing
5 rights, all unappropriated public waters which may be used and developed
6 for hydraulic power purposes shall be granted to the Corporation:

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

9 SECTION 18. ***Non-profit Character of the Corporation; Exemption***
10 ***from all Taxes, Duties, Fees, Imposts and other Charges by Government***
11 ***and Governmental Instrumentalities.*** — The Corporation shall be non-
12 profit and shall devote all its returns from its capital investment, as well as
13 excess revenues from its operation, for operating, maintaining, expanding,
14 and improving the hydropower complexes and/or its other assets, and as
15 part of the Mindanao Power Fund. It shall be subject to audit by the
16 Commission on Audit.

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

20 a. From the payment of all taxes, duties, fees, impost, charges,
21 costs and service fees in any court or administrative proceedings in
22 which it may be a party, restrictions and duties to the Republic of the
23 Philippines, its provinces, cities, municipalities and other government
24 agencies and instrumentalities;

25 b. From all income taxes, franchise taxes and realty taxes to be paid
26 to the National Government, its provinces, cities, municipalities and
27 other government agencies and instrumentalities;

28 c. From all import duties, compensating taxes and advanced sales
29 tax, and wharfage fees on import of foreign goods required for its
30 operations and projects; and

31 d. From all taxes, duties, fees, impost, and all other charges
32 imposed by the Republic of the Philippines, its provinces, cities,
33 municipalities and other government agencies and instrumentalities,
34 on all petroleum products used by the Corporation in the generation,
35 transmission, utilization, and sale of electric power.

1 SECTION 19. **Separability Clause.** — The provisions of this Act are
2 hereby declared to be separable, and in the event any one or more of such
3 provisions are held unconstitutional, they shall not affect the validity of other
4 provisions.

5 SECTION 20. **Repealing Clause.** — All laws, executive and
6 administrative orders, or parts thereof, inconsistent with any provision of
7 this Act are hereby repealed or modified accordingly."

8 SECTION 21. **Effectivity Date.** — This Act shall take effect fifteen (15)
9 days after its publication in a newspaper of general circulation.

10 APPROVED,