

[PRESIDENTIAL DECREE NO. 1894, December 22, 1983]

AMENDING THE FRANCHISE OF THE PHILIPPINE NATIONAL CONSTRUCTION CORPORATION TO CONSTRUCT, MAINTAIN AND OPERATE TOLL FACILITIES IN THE NORTH LUZON AND SOUTH LUZON EXPRESSWAYS TO INCLUDE THE METRO MANILA EXPRESSWAY TO SERVE AS AN ADDITIONAL ARTERY IN THE TRANSPORTATION OF TRADE AND COMMERCE IN THE METRO MANILA AREA.

WHEREAS, the Government's developmental goals have been assisted by the construction, maintenance and operation of infrastructure toll facilities as envisioned by Presidential Decree Nos. 1112 and 1113;

WHEREAS, the Philippine National Construction Corporation (formerly the Construction and Development Corporation of the Philippines) is presently substantially owned by various Government financial institutions and has played a major role in the success of its endeavor through its efficient construction, maintenance and operation of the toll facilities in the North Luzon and South Luzon expressways as mandated by Presidential Decree Nos. 1112 and 1113 and its Toll Operation Agreement with the Toll Regulatory Board;

WHEREAS, for the continued efficiency and viability of the toll facilities in the North Luzon and South Luzon Expressways, it is essential that the Philippine National Construction Corporation be granted such powers and authority necessary to enable it to promote the convenience of the monitoring public in the expressways;

WHEREAS, there is an urgent need to link the North Luzon and North Luzon Expressways through the construction, maintenance and operation of the Metro Manila Expressway which will serve as an additional route and thereby decongest traffic and facilitate the movement of trade and commerce in and around Metro Manila;

NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Philippines, by virtue of the powers vested in me by the Constitution, do hereby order and decree:

SECTION 1. Any provision of law to the contrary notwithstanding, there is hereby granted to the Philippine National Construction Corporation, a corporation duly organized and existing under and by virtue of Philippine laws (hereinafter called the "GRANTEE"), the right, privilege and authority to construct, maintain and operate the following expressways (hereinafter collectively called "the Expressways"), together with the toll facilities appurtenant thereto:

(a) the North Luzon Expressway
from Balintawak (Station 9 + 563)
to Carmen, Rosales, Pangasinan;

(b) the South Luzon Expressway
from Nichols, Pasay City (Station 10 + 540)
to Lucena, Quezon;

(c) the Metro Manila Expressway from Bicutan, Parañaque, Metro Manila (Station 18 +720) to Meycauayan, Bulacan (approximate Station 63 + 290) with an approximate length of 44.570 km., to serve as an artery in the transportation of trade and commerce in the Metropolitan Manila area.

The GRANTEE is hereby further granted the right, privilege and authority to construct, maintain and operate any and all such extensions, linkages or stretches, together with the toll facilities appurtenant thereto, from any part of the North Luzon Expressway, South Luzon Expressway and/or Metro Manila Expressway and/or to divert the original route and change the original end-points of the North Luzon Expressway and/or South Luzon Expressway as may be approved by the Toll Regulatory Board (any and all such extensions, linkages, stretches and diversions hereinafter deemed included in the term "Expressways").

SECTION 2. The term of the franchise provided under Presidential Decree No. 1113 for the North Luzon Expressway and the South Luzon Expressway which is thirty (30) years from 1 May 1977 shall remain the same; provided that, the franchise granted for the Metro Manila Expressway and all extensions linkages, stretches and diversions that may be constructed after the date of approval of this decree shall likewise have a term of thirty (30) years commencing from the date of completion of the project.

SECTION 3. Subject to the limitations and procedure prescribed by law, the GRANTEE is empowered and authorized to exercise the right of eminent domain insofar as may be reasonably necessary for, in furtherance of, the right, privilege and authority granted under its franchise; provided, however, that it shall continue to be the litigation of the Toll Regulatory Board to acquire the necessary land and/or rights of way pursuant to its power under Presidential Decree No. 1112 and cede the same to the GRANTEE at no cost.

SECTION 4. The Toll Regulatory Board is hereby given jurisdiction and supervision over the GRANTEE with respect to the Expressways, the toll facilities necessarily appurtenant thereto and, subject to the provisions of Sections 8 and 9 hereof, the toll that the GRANTEE will charge the users thereof.

SECTION 5. In consideration of this franchise, the GRANTEE shall:

- (a) Construct, operate and maintain at its own expense the Expressways; and
- (b) Turn over, without cost, the toll facilities and all equipment directly related thereto to the Government upon expiration of the franchise period.

SECTION 6. This franchise is granted subject to such conditions, consistent with the provisions of this Decree, as may be imposed by the Toll Regulatory Board in the Toll Operation Agreement and such other modifications or amendments that may be made thereto, and with the understanding and upon the condition that it shall be subject to amendment or alteration when public interest so dictates.

SECTION 7. In cases of force majeure rendering Expressways totally or partially inoperable, the annual concession fee due the government shall be proportionately reduced or the authorized toll rate increased to the extent determined by the Toll Regulatory Board in order to allow the GRANTEE to recover such losses in revenue incurred due to such calamities.

In cases of force majeure attributable to acts of Government or man, such as but not limited to, war, rebellion, insurrection, sedition, riot or public peril when public safety so requires, the government shall have the right to cause the closing of the Expressways totally or partially or to take over the use and operation thereof subject to the payment of just compensation to the GRANTEE.

SECTION 8. (a) For the North Luzon Expressway and South Luzon Expressway, the GRANTEE shall collect toll at such rates as are currently in effect, subject to the provisions of Section 9.

(b) For the Metro Manila Expressway and such extensions, linkages, stretches and diversions of the Expressways which may henceforth be constructed, maintained and operated by the GRANTEE, the GRANTEE shall collect toll at such rates as shall initially be approved by the Toll Regulatory Board. The Toll Regulatory Board shall have the authority to approve such initial toll rates without the necessity of any notice and hearing, except as provided in the immediately succeeding paragraph of this Section. For such purpose, the GRANTEE shall submit for the approval of the Toll Regulatory Board the toll proposed to be charged the users. After approval of the toll rate(s) by the Toll Regulatory Board and publication thereof by the GRANTEE once in a newspaper of general circulation, the toll shall immediately be enforceable and collectible upon opening of the expressway to traffic use.

Any interested Expressways user shall have the right to file, within a period of ninety (90) days after the date of publication of the initial toll rate, a petition with the Toll Regulatory Board for a review of the initial toll rate; provided, however, that the filing of such petition and the pendency of the resolution thereof shall not suspend the enforceability and collection of the toll in question. The Toll Regulatory Board, at a public hearing called for the purpose after due notice, shall then conduct a review of the initial toll to determine the propriety and basis thereof. Decisions of the Toll Regulatory Board on petitions for review of the initial toll shall be appealable to the Office of the President within ten (10) days from the promulgation thereof. The GRANTEE may be required to post a bond in such amount and from such surety or sureties and under such terms and conditions as the Toll Regulatory Board shall fix in case of any petition for review of, or appeal from, decisions of the Toll Regulatory Board.

In case it is finally determined, after a review by the Toll Regulatory Board or appeal therefrom, that the GRANTEE is not entitled, in whole or in part, to the initial toll, the GRANTEE shall deposit in an escrow account the amount collected under the approved initial toll rate and such amount shall be refunded to Expressways users who had paid said toll in accordance with the procedure as may be prescribed or promulgated by the Toll Regulatory Board.

SECTION 9. The GRANTEE shall have the right and authority to adjust any existing toll being charged the users of the Expressways under the following guidelines:

a) Adjustments may be made not more than once a year.