

# [ **PRESIDENTIAL DECREE No. 1206, October 06, 1977** ]

## **CREATING THE DEPARTMENT OF ENERGY**

WHEREAS, the world-wide energy situation indicates that an adequate supply of energy resources for the country's needs has become of long-term and vital national concern considering that the adequacy of energy resources is indispensable to accelerated economic growth;

WHEREAS, the Philippines has embarked on a multi-dimensional response to the energy crisis, designated to achieve the national objective of self-reliance and independence on the sourcing of energy through intensive exploration and development of indigenous energy resources, and through the judicious conservation and efficient utilization of energy;

WHEREAS, there is critical need to further rationalize the country's total energy resource development program in order to accelerate its self-reliance and conservation program relative to energy resource on an integrated and comprehensive basis; and

WHEREAS, meeting the country's energy requirements has become an integral and regular function of the government, vast enough such that no less than an agency with the departmental status is required which shall serve as the government's primary instrumentality in the formulation and implementation of its energy resource development program on a unified and coordinated approach.

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 the following to be part of the law of the land:

SECTION 1. *Declaration of Policy.* It is declared policy of the state to ensure a continuous and adequate supply of energy with the end in view of ultimately achieving self-reliance in the country's energy requirements, through intensive exploration and development of indigenous energy resources, and through the judicious conservation and efficient utilization of energy consistent with the country's accelerated economic growth and taking into consideration the significant and continuing participation of the private sector in the various areas of energy resource development.

SEC. 2. *Creation of a Department of Energy.* Pursuant to the above mentioned policy, there is hereby created a Department of Energy, hereinafter referred to as the Department, which shall, among others formulate and implement the government's policies, plans and programs on energy resources development.

SEC. 3. *Authority and Responsibility.* The authority and responsibility for the exercise of the powers and the discharge of the functions of the Department shall be vested in a Secretary of Energy, hereinafter referred to as the Secretary. The Secretary shall be assisted by one Undersecretary.

SEC. 4. *Powers and Functions.* The Department shall have the following functions:

- (a) Formulate policies, consistent with Section 1 above and pertinent national guidelines, and coordinate all activities of the government relative to the exploration, exploitation, development, extraction, importation, exportation, transport, marketing, distribution, and storage of energy resources from fossil fuels such as petroleum, coal, natural gas and gas liquids; nuclear fuel resources; geothermal resources; and non-conventional existing and potential forms of energy resources;
- (b) Establish and administer a comprehensive and integrated program for the exploration, exploitation, development, extraction, importation, exportation, transport, marketing, distribution, and storage of fossil, nuclear, geothermal and non-conventional forms of energy resources;
- (c) Encourage, guide and where necessary, regulate such business activity relative to the exploration, exploitation, development, extraction, importation, exportation, transport, marketing, distribution and storage of fossil, nuclear, geothermal, and non-conventional forms of energy resources and prescribe and collect fees in the exercise of such power;
- (d) Assess, review and provide direction to, in coordination with concerned government agencies, energy research and development programs including identification of sources of energy and determination of their commercial feasibility for development;
- (e) Exercise the powers and functions of the abolished Energy Development Board and Power Development Council under Section 11(a) and (b) of this Decree;
- (f) Formulate such rules and regulations as may be necessary to implement the objectives and provisions of this Decree; and
- (g) Exercise all powers necessary or incidental to attain the objectives of this Decree.

SEC. 5. *Department Proper.* The Department shall have an Administrative Service, a Financial and Management Service, and a Planning Service.

The Administrative Service shall be responsible for providing the Department with services relating to personnel, legal assistance, information, records, supplies, equipment, collection and disbursements, security and custodial work.

The Financial and Management Service shall be responsible for providing the Department with staff advice and assistance on budgetary, financial, and management improvement matters.

The Planning Service shall be responsible for providing the Department with services relating to planning, programming and project development, including for the formulation of short and long term energy including power development policies and or international developments. It shall also review and evaluate energy development and utilization of non-conventional forms of energy resources.

SEC. 6. *Bureau of Energy Development.* There is created in the Department a Bureau of Energy Development, hereinafter referred to in this Section as the Bureau, which shall have the following powers and functions, among others:

(a) Administer a national program for the encouragement, guidance, and whenever necessary, regulation of such business activity relative to the exploration, exploitation, development, and extraction of fossil fuels such as petroleum, coal, natural gas and gas liquids; nuclear fuel resources; geothermal energy resources; and non-conventional forms of energy resources:

(b) Undertake by itself or cause the undertaking by other institutions, government or private, of intensive research and development to achieve the country's self-reliance and conservation program relative to energy resources:

(c) Exercise such powers and functions of the Energy Development Board as shall hereafter be transferred to it; and

(d) Promulgate such rules and regulations as may be necessary, subject to the approval of the Secretary, for the efficient, effective and economical exercise of its power and functions.

The decisions, orders, resolutions or actions of the Bureau may be appealed to the Secretary whose decisions are final and executory unless appealed to the President.

SEC. 7. *Bureau of Energy Utilization.* There is created in the Department a Bureau of Energy Utilization, hereafter referred to in this Section as the Bureau, which shall have the following powers and functions, among others:

(a) Administer a national program for the encouragement, guidance and, where necessary, regulation of such business activities as importing, exporting, storing, shipping, transporting, refining, processing, marketing, and distributing of energy resources. Energy resources mean any substance or phenomena which by itself or in a combination with others, or after processing or refining or the application to it of technology, emanates, generates or causes the emanation or generation of energy, such as but not limited to petroleum or petroleum product, coal, marsh gas, methane gas, geothermal and hydroelectric sources of energy, uranium and other similar radioactive minerals, solar energy, tidal power, as well as non-conventional existing and potential sources.

(b) Exercise such powers and functions of the abolished Oil Industry Commission under Republic Act No. 6173, as amended, which are hereafter transferred to it under Section 12 of this Decree.

(c) Promulgate, subject to the approval of the Secretary, such rules and regulations as may be necessary for the efficient, effective and economical exercise of its powers and discharge of its functions.

The decisions, orders, resolutions or actions of the Bureau may be appealed to the Secretary whose decisions are final and executory unless appealed to the President.

SEC. 8. *Transferred Agency.* The Philippine Atomic Energy Commission is transferred from the supervision and control of the Office of the President and placed under the supervision and control of the Department.

SEC. 9. *Board of Energy.* There is hereby created a Board of Energy, hereafter referred to in this Section as the Board, which shall be under the supervision and control of the Office of the President, and shall be composed of a Chairman and two (2) members to be appointed by the President. It shall be assisted by such technical

and supportive staffs as it may appoint for the effective, efficient and economical discharge of its powers and functions.

The Chairman and members of the Board shall be natural born citizens and residents of the Philippines, of good moral character and at least thirty-five (35) years old. The Chairman shall be a lawyer with substantial experience in the practice of law. The members shall be of recognized competence in the field of economics, finance, banking, commerce, industry, agriculture, engineering, management, law or labor.

No person who has worked within three (3) years immediately prior to his appointment or is working in any private firm engaged in the petroleum or electric industry or any other entity whose main business is directly related to or connected with any such firm shall be appointed to the Board.

The term of office of the Chairman and members shall be four (4) years, but the first Chairman appointed shall hold office for four (4) years and of the first two (2) members, one (1) shall hold office for a term of three (3) years, and the other for a term of two (2) years. Unless the President decides otherwise, no person shall be appointed to serve more than two (2) successive terms in the Board.

The Chairman of the Board shall receive a compensation of fifty-four thousand pesos annually, while the members shall each receive an annual compensation of forty-eight thousand pesos, together with such allowances as are presently enjoyed by the Chairman and members of the abolished Oil Industry Commission.

The Board shall, after due notice and hearing, exercise the following powers and functions, among others:

(a) Regulate and fix the rate schedule or prices of piped gas to be charged by duly franchised gas companies which distribute gas by means of underground pipe system;

(b) Regulate and fix the power rates to be charged by electric companies except (1) electric cooperatives which shall continue to be governed by Presidential Decree No. 269, as amended, and (2) the National Power Corporation which shall continue to be governed by Republic Act No. 6395, as amended;

(c) Perform such other powers and functions as may be necessary, including the licensing of refineries and regulation of their capacities; reviewing the importation costs of crude oil and providing appropriate remedies for unreasonable or out of line prices and shipping costs thereof; and taking adequate measures to insure that extraordinary gains arising from an increase in the prices of petroleum products redound to the public interest, including payment by persons or entities engaged in the petroleum business to the special Fund created under Section 8(j) of Republic Act No. 6173, as amended: Provided, That the purposes of such Special Fund are hereby broadened to include its utilization for all energy projects; and

(d) Issue Certificates of Public Convenience for the operation of electric power utilities and services, except electric cooperatives which shall continue to be governed by Presidential Decree No. 269, as amended, including the establishment and regulation of areas of operation of particular operators of public power utilities and services, the fixing of standards and specifications in all cases related to the issued Certificates of Public Convenience, and the promulgation of rules requiring

the operators concerned to install such devices and adopt such procedures as would promote or insure the highest degree of safety and convenience to persons and property.

The provisions of Sections 11 and 12, Republic Act No. 6173, as amended by Presidential Decree No. 1128, shall govern proceedings before the Board, the mode of review of its decisions or orders, including its authority to grant provisional relief.

SEC. 10. *Attached Agencies.* The following government corporations are attached to the Department for purposes of policy coordination and integration with sectoral programs: Philippine National Oil Company, National Power Corporation and National Electrification Administration. Such attachment shall be in accordance with the applicable provisions of Article III, Chapter IV, Part II and of Article III, Chapter I, Part XI of the integrated Reorganization Plan.

The ownership by the National Development Company of shares in the Manila Gas Corporation is hereby transferred to the Philippine National Oil Company, subject to the payment to National Development Company of the corresponding book value of its shareholdings in the said corporation as of date of transfer to the Philippine National Oil Company.

Unless the President directs otherwise the Secretary of the Department shall be ex-officio Chairman of the governing boards of the Philippine National Oil Company, National Power Corporation, and National Electrification Administration. The Secretary of Public Works, Transportation and Communications shall be the ex-officio member of the governing boards of the National Electrification Administration and the National Power Corporation in lieu of one appointive position in the membership of said governing boards.

SEC. 11. *Abolished Agencies.*

(a) The Energy Development board is abolished and its powers and functions are transferred to the Department except those that are specifically transferred to the Bureau of Energy Development under Section 12 of this Decree.

(b) The Power Development Council is abolished and its powers and functions are transferred to the Department.

(c) The Philippine National Petroleum Center is abolished and its functions are transferred to the appropriate units of the Department.

(d) The Oil Industry Commission is abolished and its powers and functions are transferred to the Board of Energy and the Department or the Bureau of Energy Utilization, as provided for in Section 12 of this Decree.

(e) The Board of Power and Waterworks is abolished and its powers and functions relative to power utilities are transferred to the Board of Energy, while its powers and functions relative to waterworks are transferred to the National Water Resources Council.

All the foregoing transfers of powers and functions shall include applicable funds and appropriations, records, equipment, property, and such personnel as may be necessary; Provided, That with particular reference to Paragraph e of this Section, only such amount of the funds of the Specialized Regulatory Boards which pertain to the operation of the Board of Power and Waterworks, as well as only the personnel