

# [ PRESIDENTIAL DECREE NO. 938, May 27, 1976 ]

## **FURTHER AMENDING CERTAIN SECTIONS OF REPUBLIC ACT NUMBERED SIXTY-THREE HUNDRED NINETY-FIVE ENTITLED "AN ACT REVISING THE CHARTER OF THE NATIONAL POWER CORPORATION", AS AMENDED BY PRESIDENTIAL DECREES NOS. 380, 395 and 758.**

**WHEREAS**, in view of the accelerated expansion program for generation and transmission facilities which includes nuclear power generation, the present capitalization of National Power Corporation (NPC) and the ceilings for domestic and foreign borrowings are deemed insufficient;

**WHEREAS**, in the implementation of the power expansion program, NPC is encountering difficulties in the acquisition of land and land rights which unnecessarily stall and delay the prosecution of the works to the prejudice of the projects;

**WHEREAS**, corollary to such right-of-way problems, a definitive declaration of the just compensation for the land and land rights acquired by NPC for its projects should be effected;

**WHEREAS**, in the application of the tax exemption provisions of the Revised Charter, the non-profit character of NPC has not been fully utilized because of restrictive interpretations of the taxing agencies of the government on said provisions;

**WHEREAS**, in view of the changing economic condition obtaining in the country, the ceilings provided for in the award of contracts for construction and furnishing of supplies, materials and equipment have been rendered inadequate;

**WHEREAS**, in order to effect the accelerated expansion program and attain the declared objective of total electrification of the country, further amendments of certain sections of Republic Act No. 6395, as amended by Presidential Decrees Nos. 380, 395 and 758, have become imperative;

**WHEREAS**, the substantial expansion of the power development program to be implemented by NPC requires revitalization of the organization and flexibility in responding to the dynamic changes in its program;

**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 as follows: SECTION 1. Section 3 (h) of Republic Act No. 6395 as amended, is hereby deleted. The new section shall read as follows:

"(h) To acquire, 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."

**SEC. 2.** Section 3 (i) of the same Act is further amended by deleting paragraphs (a), (b) and (c) thereof. A new section is hereby inserted to read as follows:

"(i) To construct works across, or otherwise, any stream, water-course, 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 any such crossings or intersections and shall grant the Corporation or its representatives, the pro-per 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 representatives may also enter upon private property in the lawful performance or prosecution of its business or purposes, including the construction of the transmission lines thereon; *Provided*, that the owner of such private property shall be paid the just compensation therefor in accordance with the provisions hereinafter provided; *Provided, further*, that any action by any person claiming compensation and/or damages shall be filed within five (5) years after the right-of-way, transmission lines, sub-stations, 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 nor the amounts of compensation and, or damages involved."

**SEC. 3.** Section 3 (j) of the same Act is hereby amended to read as follows:

"(j) To exercise 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, and municipal government as modified or amended by Presidential Decree No. 42."

**SEC. 4.** A new section shall be inserted to be known as Section 3-A of the same Act to read as follows:

**"SEC. 3-A.** In acquiring private property or private property rights through expropriation proceedings where the land or portion thereof will be traversed by the transmission lines, only a right-of-way easement thereon shall be acquired when the principal purpose for which such land is actually devoted will not be impaired, and where the land itself or portion thereof will be needed for the projects or works, such land or portion thereof as necessary shall be acquired.

In determining the just compensation of the property or property sought to be acquired through expropriation proceedings, the same shall—

"(a) With respect to the acquired land or portion thereof, not exceed the market value declared by the owner or administrator or anyone having legal interest in the property, or such market value as determined by the assessor, whichever is lower.