

EXECUTIVE ORDER NO. 370

AUTHORIZING AND APPROVING THE DIRECT ASSUMPTION BY THE NATIONAL GOVERNMENT OF A PORTION OF THE FINANCIAL OBLIGATIONS OF THE NATIONAL POWER CORPORATION IN ACCORDANCE WITH SECTION 32 OF REPUBLIC ACT NO. 9136, OTHERWISE KNOWN AS THE "ELECTRIC POWER INDUSTRY REFORM ACT OF 2001"

WHEREAS, pursuant to Section 32 of Republic Act No. 9136 approved on 8 June 2001 otherwise known as the "*Electric Power Industry Reform Act*" (EPIRA), the National Government was mandated to assume directly a portion of the financial obligations of the National Power Corporation (NPC) in an amount not to exceed Two Hundred Billion Pesos (P200,000,000,000.00);

WHEREAS, Section 49 of the EPIRA likewise mandated that all existing generation assets, real estate and all other disposable assets, as well as the outstanding liabilities of NPC arising from loans, issuances of bonds, securities and other instruments of indebtedness, shall be transferred to and assumed by the Power Sector Assets and Liabilities Management Corporation (PSALM Corp.);

WHEREAS, the consent of NPC's creditors under various loan and financial agreements is required for the formal transfer of NPC's assets and liabilities to PSALM Corp.;

WHEREAS, obtaining the consent of NPC's creditors would be facilitated by the direct assumption by the National Government of Two Hundred Billion Pesos (P200,000,000,000.00) of NPC's financial obligations as contemplated under Section 32 of the EPIRA;

WHEREAS, the Development Budget Coordination Committee under the National Economic and Development Authority (NEDA) Board, which is tasked, among others, with the determination of the fiscal program of the National Government, has recommended that the National Government, pursuant to the EPIRA, directly assume a portion of the financial obligations of NPC in an amount not to exceed Two Hundred Billion Pesos (P200,000,000,000.00) beginning on 31 December 2004;



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WHEREAS, pursuant to Executive Order No. 292 dated 25 July 1987, otherwise known as the "*Administrative Code of 1987*", the Department of Finance shall be primarily responsible for the sound and efficient management of the financial resources of the National Government, its subdivisions, agencies and instrumentalities and for the review, approval and management of all public sector debt, whether foreign or domestic, with the end in view of ensuring that all borrowed funds are effectively utilized and all such obligations are promptly serviced by the government;

NOW, THEREFORE, I, GLORIA MACAPAGAL-ARROYO, President of the Republic of the Philippines, by virtue of the powers vested in me by law, do hereby order:

SECTION 1. *Assumption of NPC's Financial Obligations by the National Government.* – Pursuant to Section 32 of the EPIRA, the National Government shall directly assume a portion of the financial obligations of the NPC in an amount not to exceed Two Hundred Billion Pesos (P200,000,000,000.00) beginning on 31 December 2004, in accordance with a schedule to be approved by the Development Budget Coordination Committee.

SECTION 2. *Lead Agency.* – The Department of Finance (DOF), in consultation with the Department of Budget and Management (DBM) and the Commission on Audit (COA), shall address and resolve all issues relating to the assumption by the National Government of NPC's financial obligations as provided in Section 1 hereof, including, but not limited to:

- a. identification of specific debts to be assumed and determining the levels of annual debt absorption;
- b. the arrangements between PSALM Corp., NPC and the National Government;
- c. the proper treatment and recording of the transactions in the books of account of the National Government and NPC; and
- d. the implementation of the assumption by the National Government of NPC's financial obligations.

For this purpose, the DOF may call upon the DBM, the Department of Energy, the NEDA, and any other agency of the Government for such assistance as may be necessary in the performance of its functions as provided herein. All heads of departments, agencies, bureaus and offices, including government-owned or controlled corporations, are hereby enjoined to render full assistance and cooperation to the Secretary of Finance and provide such information and data as may be required to carry out and implement the provisions of this Order.



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SECTION 3. Signing Authority. - The Secretary of Finance is hereby authorized to enter into, conclude and sign, for and on behalf of the National Government, such agreements, deeds, and any and all other documents necessary to implement, and to render valid and enforceable, the assumption by the National Government of NPC's financial obligations in accordance with this Order.

In relation to any financial obligation of NPC directly assumed by the National Government, the DOF shall have full authority and discretion to determine in each instance the specific modality for giving legal effect to the assumption of liability by the National Government, so long as the ultimate financial responsibility for the payment of such financial obligation of NPC rests with the National Government.

SECTION 4. This Executive Order shall take effect immediately after its publication in a newspaper of general circulation.

DONE in the City of Manila, this **12th** day of October, in the year of our Lord, Two Thousand and Four.



Gloria Arroyo



By the President:

Eduardo R. Ermita
EDUARDO R. ERMITA
Executive Secretary



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