

Republic of the Philippines
DEPARTMENT OF ENERGY

DEPARTMENT ORDER No. 2003-12-017

**AUTHORIZING THE NATIONAL POWER CORPORATION
TO RATIONALIZE THE PROCUREMENT AND SUPPLY OF
COAL, AND FOR OTHER PURPOSES**

WHEREAS, Section 2 of Republic Act No. 7638 declares the policy of the State, among others, "to ensure a continuous, adequate, and economic supply of energy with end in view of ultimately achieving self-reliance in the country's energy requirements;"

WHEREAS, Section 2 of Republic Act No. 9136, also known as the "Electric Power Industry Reform Act of 2001" or "EPIRA," declares as a policy of the State, among others, "[t]o ensure the quality, reliability, security and affordability of the supply of electric power; and, [t]o ensure transparent and reasonable prices of electricity in a regime of free and fair competition and full public accountability to achieve greater operational and economic efficiency and enhance the competitiveness of Philippine products in the global market;"

WHEREAS, pursuant to Sections 4 (nn) and 37 (c) of EPIRA, the Department of Energy ("DOE") has formulated, prepared and updated the ten-year Power Development Program ("PDP"), in coordination with generation, transmission and distribution utility companies, which indicated the utilization of coal-fired thermal power plants of the National Power Corporation (NPC) as one of the primary sources of base load power in the national grid;

WHEREAS, pursuant to NPC's management report dated 10 November 2003 on the DOE-NPC delegation sent to China from 23 October through 30 October 2003, the Philippines is competing with the markets in Europe and in the Asia Pacific Region for the limited coal resources available in the world market which resulted to the tightness in world coal supply and to an upward trend in coal price and demand;

WHEREAS, the requirements of environmental laws, rules and regulations, and the specifications of NPC coal-fired power plants on the quality of coal limit the sources of coal to a narrow field of coal suppliers and/or producers in the world market;

WHEREAS, there is a continuing need to secure the country's energy supply and to review and re-evaluate coal quality, coal diversification and coal availability from foreign and local sources, development and trends of international coal trade parameters, such as coal prices and freight costs, as well as the international coal demand and supply market;

NOW, THEREFORE, the Department of Energy hereby directs and orders the NPC:

SECTION 1. Declaration of Policy. - It is the policy of the State to ensure energy security, as well as least-cost and environment- friendly power generation to support the country's economic development. The government, through the NPC, shall adopt various measures to ensure the reliability, diversification, competitiveness, availability and affordability of coal supply to the NPC.

SEC. 2. Procurement. - Consistent with the provisions of Republic Act No. 9184, otherwise known as the Procurement Reform Act, NPC is hereby authorized to come up with ways and means to ensure security, stability and diversification of coal requirements of its coal-fired thermal power plants and those of independent power producers ("IPPs"), and to require as part of its rules for open, competitive and public bidding, and for negotiated contracts, when applicable, nondiscriminatory provisions for annual or quarterly volume limits by country or region based on supply contract volumes for the preceding periods, with the end in view of assuring that the country or NPC shall not be dependent on any single country for more than fifty percent (50%) of its coal supply requirements.

SEC. 3. Utilization of Local Coal. - Pursuant to Department Circular 95-05-004 dated 25 May 1995, NPC is enjoined to comply with the utilization of local coal for at least ten percent (10%) of its coal supply requirements.

SEC. 4. Approval of the Department of Energy. - NPC shall formulate and adopt such rules and procedures necessary for the implementation of this Department Order. Such rules and procedures shall conform to international norms and practices and shall take into consideration pertinent local laws on the subject.

SEC. 5. Repealing Clause. - All Department orders, issuances, rules and regulations or parts thereof inconsistent with this Department Order are hereby repealed or modified accordingly.

SEC. 6. Effectivity. - This Order shall take effect immediately a day after its complete publication in at least one (1) newspaper of general circulation in the country.

DONE in Fort Bonifacio, Taguig, Metro Manila this 5th day of December 2003.

(sgd.)

VINCENT S. PEREZ

Secretary