

ESTABLISHING THE INDUSTRY COMPETITIVENESS FUND (ICF) TO SUPPORT POWER-INTENSIVE INDUSTRIES

OP EXECUTIVE ORDER NO. 796, May 21, 2009

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WHEREAS, it is a declared national policy to attract foreign investment in the country to promote economic growth, generate employment, upgrade technology and accelerate national development;

WHEREAS, the uncertainties in the global economic situation and the volatility in the prices of electricity brought about by confluence of factors have affected the operation of large industries particularly those who generate substantial foreign exchange earnings, tax earnings and employment for the country;

WHEREAS, the government recognizes the necessity to intervene in order to maintain and encourage existing and potential investors with substantial investment, income and employment provided by these large industries, in a manner that will be beneficial to both the government and investors;

WHEREAS, the establishment of an Industry Competitiveness Fund (ICF) may not only keep existing investments but shall make the country more attractive to foreign direct investments, thereby generating further employment to boost exports, thereby enhancing the country's economic growth;

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. Establishment of the Industry Competitiveness Fund - An Industry Competitiveness Fund (ICF) is hereby established to support and incentivize qualified power-intensive industries which contribute significantly to the economy by granting special power rates based on the criteria and guidelines that will be developed for this purpose. The ICF will be utilized to recover any financial impact that PSALM/NPC, TRANSCO and PEZA have incurred in the grant of special power rate through a reimbursement mechanism that will be developed by an inter-agency committee created herein.

SECTION 2. Coverage of the Industry Competitiveness Fund (ICF) - The ICF shall cover existing and future eligible preferred combined generation, transmission and distribution rates granted by PSALM/NPC, TRANSCO and PEZA in accordance with their respective policies, rules and regulations, subject to the ICF criteria and guidelines developed for this purpose.

SECTION 3. Creation of the Inter-Agency Committee on ICF - An Inter-Agency Committee on ICF to be chaired by the Department of Finance (DOF) and co-chaired by the Department of Energy (DOE) is hereby created with the Department of Trade and Industry (DTI), Department of Budget and Management (DBM), Philippine Economic Zone Authority (PEZA), Power Sector Assets and Liabilities Management Corporation (PSALM), National Power Corporation (NPC) and National Transmission Corporation- Government (TRANSCO) as members.

SECTION 4. Responsibilities of the ICF Inter-Agency Committee - The Inter-Agency Committee shall have the following mandate:

1. Establish the criteria and guidelines for eligibility to the ICF including determination of the ICF entitlement

2. Identify responsibilities of each member agencies in the implementation of the ICF.
3. Create a Technical Working Group which will evaluate and recommend applications for ICF entitlement for approval of the ICF Inter-Agency Committee.
4. Develop the approval process for ICF applicants and/or potential beneficiaries of the ICF which will be the basis of the TWG for evaluation and recommendation.

SECTION 5. Source of Funds - An initial amount of One Billion Six Hundred Million Pesos (Php 1,600,000,000.00) from the government's collections of the Value Added Tax is hereby allocated for the initial beneficiaries of the ICF. The Inter-Agency Committee shall identify fund sources to sustain the ICF Program.

SECTION 6. Role of the Departments, Bureaus, Offices, Agencies, Instrumentalities of the Government - All heads of departments, bureaus, offices, agencies and instrumentalities of the government are hereby directed to give full support and assistance to PEZA, NPC, and TRANSCO in the implementation of this Executive Order.

SECTION 7. Implementing Guidelines - the Inter-Agency Committee on ICF shall promulgate the rules and regulations as may be necessary to ensure the implementation of this Executive Order.

SECTION 8. Repealing Clause - All issuances, rules and regulations inconsistent herewith are deemed modified or repealed accordingly.

SECTION 9. Separability Clause - If for any reason, any part or provision of this Order shall be held unconstitutional or declared contrary to law, other parts or provisions hereof which are not affected shall continue to be in full force and effect.

SECTION 10. Effectivity - This Executive Order shall take effect fifteen (15) days after its publication in a national newspaper of general circulation.

Adopted: 21 May 2009

(SGD.) GLORIA M. ARROYO
President of the Philippines

BY THE PRESIDENT:

(SGD.) EDUARDO R. ERMITA
Executive Secretary

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