

SIXTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
First Regular Session)



Senate
Office of the Secretary

73 JUL -8 AM 59

SENATE
S. No. 580

RECEIVED BY: *ja*

Introduced by Senator Miriam Defensor Santiago

EXPLANATORY NOTE

Nuclear energy has been proven by world experience to be reliable, sustainable, efficient, environment-friendly, and cost-effective. It can also be a tool to address the country's electric generating capacity shortfall. It can address the worsening problem of global warming due to carbon emissions; and bring about a cleaner environment by eliminating the spread of heavy metals, toxic substances, and radioactive elements which occur through the continued use of the conventional and the traditional fossil fuel power generating technologies.

Other countries have begun to see the benefits of nuclear power. Despite some opponents who retained old fears, especially the issue of storing radioactive spent fuel pellets, the Minnesota Senate has recently voted to lift the state's ban on consideration of new nuclear plants. Nuclear advocates point to the pollution-free, around-the-clock operation of nuclear plants vs. the harmful emissions from coal-fueled facilities that nuclear has the power to replace.

This bill seeks to ascertain the operability of the Bataan Nuclear Power Plant (BNPP), and ascertain whether it can be made, if it is not already so, mechanically, structurally, and electronically in conformity with its original specifications and at par with its three physical sister plants existing and operating in the world today, most especially the KORI II Nuclear Power Plant in the Republic of Korea.

The validation of its operability shall enable the Department of Energy to proceed accordingly, either towards the rehabilitation, repair, and reconstruction of the BNPP or its permanent closure.

This bill was originally filed in the House of Representatives by the Hon. Mark Conjuangco in the 14th Congress, and by the Hon. Kimi S. Conjuangco in the 15th Congress. This

bill contains the distilled essence of what was discussed during the period of interpellation and debate during the 14th Congress.

Miriam Defensor Santiago
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1 AN ACT
2 MANDATING AN IMMEDIATE VALIDATION PROCESS WHICH SATISFIES
3 INTERNATIONALLY ACCEPTED NUCLEAR POWER INDUSTRY NORMS TO
4 DETERMINE THE BATAAN NUCLEAR POWER PLANT'S OPERABILITY
5 CULMINATING IN EITHER THE IMMEDIATE REHABILITATION, CERTIFICATION,
6 AND COMMERCIAL OPERATION, OR THE IMMEDIATE PERMANENT CLOSURE AND
7 SALVAGE VALUE RECOVERY OF THE BATAAN NUCLEAR POWER PLANT

Be it enacted by the Senate and the House of Representatives of the Philippines in Congress assembled:

8 SECTION 1. *Short Title.* – This Act shall be known as the, “Bataan Nuclear Power Plant
9 Operability Act.”

10 SECTION 2. *Declaration of Policy* - The 1987 Constitution, Article 2, Section 16,
11 provides that the State shall protect and advance the right of the people to a balanced and
12 healthful ecology in accord with the rhythm and harmony of nature. Section 8 further provides
13 that the Philippines, consistent with the national interest, adopts and pursues a policy of freedom
14 from nuclear weapons in its territory.

15 In pursuance of Section 16, and there being no bar against the use of nuclear energy for
16 power generation in accordance with Section 8, it is hereby declared the policy of the State to
17 develop nuclear energy as a distinct and substantial part of the country's energy mix.

18 Nuclear energy shall serve as proactive action against the possible imposition of an
19 international tax and sanctions against the use of carbon-based fuels, resulting from a public
20 backlash against the supposed global warming and climate change.

21 The State shall promote the use of nuclear energy as an alternative energy source,
22 necessary for the ushering in of a clean hydrogen or electric transportation economy.

1 SECTION 3. *Mandate and Authority to Validate.* - The National Power Corporation
2 (NAPOCOR) is hereby mandated and authorized to undertake the immediate validation of the
3 Bataan Nuclear Power Plant (BNPP). This vested mandate and authority shall be under the
4 direct supervision and control of the Department of Energy (DOE).

5 For purposes of this Act, "validation" is defined as a two-stage process to ascertain
6 whether or not the Bataan Nuclear Power Plant (BNPP) can in fact be made, if it is not already
7 so, mechanically, structurally, and electronically in conformity with its original specifications,
8 and/or the functional equivalent of its three physical sister plants existing and operating in the
9 world today, most especially the KORI II Nuclear Power Plant in the Republic of Korea,
10 whose physical example will serve as the preferred baseline model guiding the validation of the
11 BNPP.

12 The first stage of validation is to ascertain if the Bataan Nuclear Power Plant can be
13 brought to the required specification for certification and operation within the allocated One
14 Billion US Dollars (US \$1,000,000,000.00) maximum expenditure allowed by this Act, resulting
15 in a "GO" or "NO GO" finding. It involves a step-by-step review of the original plans and
16 specifications, build documentation, inspection, re-inspection, and comparison with standards
17 such as those of the operating KORI II Nuclear Power Plant.

18 The second stage may come into force upon a GO result of the first stage. It involves the
19 immediate rehabilitation, repair, reconstruction, and other activities, including any and all
20 necessary works, guided by the step-by-step review process mandated in the first stage,
21 culminating in a hot function test for a duration equal to one-and-a-half (1 1/2) times
22 internationally recognized standards and resulting in the receipt of the required operating
23 certificates from the regulatory authority. Only thereafter may the facility be loaded with nuclear
24 fuel and the plant activated.

25 The second stage may also come into force upon a NO GO result of the first stage. It
26 involves a declaration of permanent BNPP closure, the rendering of the plant permanently
27 inoperable as a nuclear plant, and the immediate cessation of public funding for the further
28 maintenance of BNPP.

1 SECTION 4. *Rehabilitation, Commission, and Operation.* – The NAPOCOR, after a GO
2 finding pursuant to Section 3 of this Act, is hereby mandated and authorized to undertake the
3 immediate rehabilitation, certification, commissioning, and commercial operation of the BNPP.
4 This vested mandate and authority shall be under the direct supervision and control of the DOE.
5 The NAPOCOR shall spin-off portions of its organization which are presently overseeing the
6 preservation and maintenance of BNPP, its engineering, technical, and administrative staff to
7 form a government-owned corporation to be known as the Philippine Nuclear Power Corporation
8 or PNPC, to further hasten and streamline the rehabilitation, commissioning process, and
9 operation of the BNPP. The Philippine Nuclear Research Institute (PNRI), which is mandated to
10 oversee the licensing and regulation of nuclear facilities, shall continue to regulate the
11 rehabilitation, commissioning, and operation of the BNPP.

12 For purposes of the BNPP rehabilitation plan, the physical example of the KORI II
13 Nuclear Power Plant, aside from and in further preference to its physical sister plants, Angra I
14 and KRSKO, will serve as the preferred baseline model.

15 For purposes of the BNPP commercial operation, the physical example of the KORI II
16 Nuclear Power Plant will serve as the preferred baseline model as to BNPP's performance both
17 technically and financially.

18 SECTION 5. *Permanent Closure of the BNPP.* – The NAPOCOR, after a NO GO finding
19 pursuant to Section 3 of this Act, is hereby mandated and authorized to declare the permanent
20 closure of the BNPP. This vested mandate and authority shall be under the direct supervision and
21 control of the DOE.

22 Within one (1) year after the declaration of permanent closure, the BNPP shall be
23 subjected to such disposition as the NAPOCOR may find feasible. Disposition plan may include
24 converting the site into an eco-tourism, industrial park, or that the BNPP will form part of the
25 Nuclear Training Center of NAPOCOR for its future nuclear power plant operators and
26 employees.

1 At the very least, in the interregnum between declaration and the implementation of the
2 above provision, the immediate cessation of public funding for the further maintenance of BNPP
3 is mandated.

4 SECTION 6. *Warranty Over Mechanical and Civil Portions Including the Nuclear Steam*
5 *Supply System and Balance of Plant Equipment.* - The PNPC shall, after a GO finding pursuant
6 to Section 3 of this Act and during the subsequent rehabilitation and certification, warrant that
7 the Mechanical and Civil Portions, including the Balance of Plant Equipment but most especially
8 the Nuclear Steam Supply System of the BNPP conforms with internationally recognized
9 nuclear power industry standards to which applies the BNPP's series of plants; provided, that
10 the subsequent applicable international operating guideline revisions covering the series or
11 model of nuclear plants to which the BNPP belongs are likewise complied with.

12 For purposes of the warranty over mechanical and civil portions, the physical example of
13 the KORI II Nuclear Power Plant, aside from and in further preference to its physical sister
14 plants, Angra I and KRSKO, will serve as the preferred baseline model or reference.

15 SECTION 7. *Warranty Over Instrumentation and Control (I AND C) Equipment.* - After
16 a GO finding pursuant to Section 3 of this Act and during the subsequent rehabilitation and
17 certification, the existing main instrument and control equipment of the BNPP may be retained in
18 whole or in part as needed. The PNPC shall also ensure that the Instrumentation and Control (I
19 and C) portions, including electronic controls, sensors, and data communication systems, such as
20 non-mechanical servo drives and actuators are modernized according to the technology currently
21 employed by existing nuclear power plants operating in the world. Digital systems may likewise
22 be employed similar to the upgrades being implemented by other existing nuclear power plants
23 implementing improvements of their I and C systems.

24 Such upgrades in the I and C equipment shall, as may be applicable, include all revisions
25 and guidelines pertinent to the Three Mile Island incident and Chernobyl accident.

26 For purposes of the warranty over instrumentation and control equipment, the physical
27 example of the KORI II Nuclear Power Plant, aside from and in further preference to its physical
28 sister plants; Angra I and KRSKO, will serve as the preferred baseline model or reference.

1 Nothing in this section shall be interpreted as giving the NAPOCOR/PNPC the blanket
2 authority to implement, apply or institute physical and/or design changes or other operating
3 guidelines not otherwise proven in the running physical sister plants of BNPP, namely, Angra I
4 or KRSKO or KORI II, with preference for KORI II as the baseline model or reference.

5 SECTION 8. *Hiring of Technical Personnel.* – Upon a GO finding of the BNPP, the
6 PNPC shall recruit, hire, and engage the services of the skilled manpower for the management
7 and operation of all the technical aspects of the plant. For this purpose, the technical personnel
8 involved in and possessing institutional memory on the construction and maintenance of the
9 BNPP shall be given priority and be deemed acceptable, subject to requalification, as deemed
10 applicable and necessary, but regardless of their age for those that will be involved in the
11 rehabilitation and re-commissioning process only.

12 Non-resident aliens who shall be employed as technical personnel by the BNPP must first
13 secure an employment permit from the Department of Labor and Employment: *Provided*, that
14 such permit shall be issued only upon determination of the non-availability of persons in the
15 Philippines who are competent, able and willing at the time of the application to perform the
16 services of the alien personnel.

17 The KORI II Nuclear Power Plant Manpower Plantilla shall be used as the preferred
18 baseline model in determining the manpower complement of the BNPP.

19 SECTION 9. *Development of Local Skilled Manpower.* – The PNPC shall implement a
20 program for training, cultivating, and developing a pool of local skilled manpower necessary for
21 the management and operation of all the technical aspects of the plant and for a future nuclear
22 power industry including a nuclear power manpower export industry.

23 Towards this end, the University of the Philippines is hereby mandated to augment its
24 college of conventional power engineering by creating a nuclear power engineering department
25 which shall be considered a higher level of academic attainment. The courses will only be
26 offered for enrollment to the top twenty percent (20%) of engineering graduates which include
27 power, mechanical, civil, electrical and other engineering fields which are applicable to the

1 nuclear power industry, or the equivalent academic prerequisites as may be determined by the
2 Dean of the College of Engineering of the University of the Philippines in consultation with the
3 PNPC.

4 A separate course may be offered by the University of the Philippines which will
5 specialize in nuclear power industry regulation. Again, with the courses only offered for
6 enrollment to the top twenty percent (20%) of engineering graduates which include power,
7 mechanical, civil, electrical and other engineering fields which are applicable to the nuclear
8 power industry, or the equivalent academic prerequisites as may be determined by the Dean of
9 the College of Engineering of the University of the Philippines in consultation with the
10 Philippine Nuclear Research Institute.

11 Other state universities and colleges are hereby encouraged to offer courses in nuclear
12 engineering and nuclear plant operation including nuclear power plant regulation.

13 As a jump starter for the creation of continuing nuclear power expertise, a separate
14 budget for hands-on training, simulator training and further academic training abroad of
15 operating personnel and/or outstanding nuclear engineering graduates shall be allocated,
16 chargeable against any excess in the One Billion US Dollar (\$1,000,000,000.00) BNPP
17 rehabilitation cost ceiling as mandated by this Act. This may also include the establishment of
18 simulator training facilities which shall be located at a distinct facility which includes adequate
19 land area (at least two hectares) on the grounds of the University of the Philippines, to eventually
20 emulate the functions of KHNP Nuclear Power Education Institute of the Republic of Korea.

21 SECTION 10. *Compensation; Salary Rates.* - The PNPC is hereby authorized to pay
22 internationally competitive rates for all personnel especially those working within battery limits
23 or controlled areas within the nuclear facility: *Provided,* That the manpower complement shall
24 not exceed the average number of personnel utilized per unit of the same type of plant in other
25 countries.

26 As used in this Act, battery limits shall refer to the controlled area as defined in nuclear
27 facilities.

1 SECTION 11. *Tenure of Employment.* -- For purposes of this Act, the provisions of the
2 Civil Service rules and regulations shall apply to personnel recruited under Section 10 of this
3 Act; *Provided*, that a single act of proven negligence, demonstrated incompetence or
4 irresponsibility shall be ground for termination: *Provided*, further, that plant personnel, as may be
5 required by the nuclear regulatory body, should pass the proficiency examination, as befits their
6 job description. The proficiency examination shall be conducted every two years as a condition
7 for continued employment.

8 The proficiency testing for KORI II personnel shall be used as the preferred guideline in
9 establishing the proficiency testing standards for BNPP.

10 Should it be determined that these KORI II proficiency testing guidelines provide for a
11 more frequent testing interval than the two year interval as provided above, then the more severe
12 condition shall apply.

13 SECTION 12. *Allocations for Disposal of Spent Fuel and Decommissioning of the BNPP*
14 *including Penalty.* -- In the operation of the plant, the PNPC shall allocate a sinking fund to cover
15 the expenses for the future decommissioning of the plant at the end of its operational life. PNPC
16 shall also allocate for the costs of radioactive waste disposal and spent fuel disposal program of
17 BNPP.

18 Upon collection of the fees for its product namely the generated and sold electricity, the
19 BNPP/PNPC shall forthwith (on a daily basis) and without exceptions turn over the said funds to
20 the National Treasury. The said funds shall then be converted into thirty three and one third
21 percent (33 1/3%), thirty three and one third percent (33 1/3%) and thirty three and one third
22 percent (33 1/3%) mix of U.S. Dollar, Euro and gold strictly on the subsequent working day
23 from the receipt of the funds. The purpose of the conversion of the funds into these instruments
24 of value is to ensure that the value of the total fund is not eroded, and is preserved for its future
25 and exclusive use in financing the ULTIMATE disposal (ISOLATION) of spent fuel/high level
26 nuclear waste, plant decommissioning, as the case may be.

27 The purchase of these instruments of value should be for a price which is at the most, the
28 average price for the relevant trading day. For gold, the commodity exchange which shall be

1 used is the London Bullion Market. For the US dollar and the Euro, they are to be supplied by
2 the Bangko Sentral ng Pilipinas, at a price which is the average price for the total trade of the
3 relevant day, at the Philippine Dealing System.

4 The Bangko Sentral ng Pilipinas (BSP) together with the National Treasury shall be
5 responsible for the purchase of these instruments in compliance with the above provision. Once
6 these instruments are purchased they may not be traded.

7 Disbursement and management of the fund shall be governed by the implementing
8 guidelines to be agreed upon and promulgated by DOE, NAPOCOR, PNPC, PNRI and the
9 Department of Finance. The primordial responsibility of these institutions will be to assure the
10 non-erosion of the value of these funds, in real terms.

11 Any officer and/or personnel of the Bangko Sentral ng Pilipinas or of the National
12 Treasury who violates the provision of this Section or of the rules and regulations issued
13 pursuant thereto shall, upon conviction by a competent court, be sentenced to imprisonment for a
14 period of not less than three years but not more than ten years or a fine of not more than One
15 Hundred Thousand Pesos (P100,000.00) or both, upon the discretion of the court, without
16 prejudice to such other liabilities under any other existing laws.

17 The account for the final disposition of spent fuel shall be called the "BNPP Spent Fuel
18 Disposal Fund."

19 The account for decommissioning the plant and making the then former plant site safe at
20 the end of BNPP's operating or physical lifetime shall be called the, "BNPP End of Life
21 Decommissioning Fund."

22 SECTION 13. *Waste Management and Disposal.* - Management and disposal of low-
23 level and intermediate level waste similar to those generated in the medical and industrial sector
24 shall be handled in accordance with the regulatory requirements of the PNRI. In no case shall the
25 BNPP Spent Fuel Disposal Fund be used to dispose of low and intermediate level nuclear waste.
26 As in the practice of the medical and industrial sectors, low and intermediate level waste disposal
27 shall be funded as part of the BNPP's normal operating expenses.

1 SECTION 14. *Recovered Fissionable Materials.* - Recovered fissionable materials from
2 spent fuel may be reused by the BNPP: *Provided*, that the technology is first proven to be
3 economically viable by a working and commercial example. In such a case, the BNPP Spent
4 Fuel Disposal Fund shall not be utilized. Instead, the funding for such shall be treated as a
5 separate commercial investment, justified by an appropriate economic model and feasibility
6 study which indicates clear economic advantage to society, the government and the PNPC. Ten
7 percent (10%) of the funds emanating from Section 12 may be used as capital for this purpose:
8 *Provided*, That the original capital for BNPP's rehabilitation has already been fully paid back,
9 and: *Provided* finally, that BNPP has fully paid back all of its loan obligations relating to its
10 rehabilitation and that this investment or activity is profitable to the entity created under Section
11 4.

12 SECTION 15. *Definition & Extension of Operational Lifetime.* - The operational lifetime
13 of the BNPP shall be defined as forty (40) years from the date of its commercial operation.

14 Extension of the operational lifetime of the BNPP may be granted by the PNRI:
15 *Provided*, That the duration of the extended operational lifetime shall not exceed twenty (20)
16 years per extension.

17 SECTION 16. *Emergency Preparedness and Response Plan.* - The PNPC shall,
18 preferably within two (2) years but in no case later than one year before the BNPP is put into
19 operation, present a draft emergency preparedness and response plan in accordance with the
20 regulatory requirements of PNRI. It shall use the original "BNPP emergency and preparedness
21 response plan" as an initial working document culminating in a plan which is comparable in
22 scope to that which is in place either at KORI II, or KRSKO or, Angra I nuclear power plants .

23 SECTION 17. *Cost of Rehabilitation.* - The PNPC shall endeavor to complete the
24 rehabilitation of the BNPP at a cost that is substantially below the cost of a greenfield and brand
25 new coal-fired power plant equipped with sulfur scrubbing equipment, of equivalent power

1 generating capacity. In no case shall the rehabilitation cost exceed One Billion US Dollars
2 (US\$1,000,000,000.00).

3 SECTION 18. *Housing and Training Facilities.* -- All original facilities related to the
4 BNPP which are located in Morong and Bagac, Bataan such as the Nuclear Power Village and
5 Training Center and the one hundred sixty eight housing facilities, including those which were
6 constituted as necessary, indispensable and an integral part of the BNPP's infrastructure, and
7 covered by the \$2.118 Billion which the Department of Finance has already paid for as full
8 settlement of the BNPP debts shall be deemed as inalienable to BNPP and not subject to sale.

9 SECTION 19. *Commercial Mode of Commissioning.* -- The President, upon the
10 recommendation of the Secretary of Energy, is hereby given the authority to determine and
11 decide the commercial mode of commissioning the BNPP in accordance with the provisions of
12 this Act. Such mode may be by administration, or by contract.

13 SECTION 20. *Commercial Mode of Operation.* -- The President, upon the
14 recommendation of the Secretary of Energy, is hereby given the authority to determine and
15 decide the final mode of commercial plant operation. The President will endeavor to assure that
16 the Filipino people will be the ultimate beneficiaries of the economic cost advantages offered by
17 nuclear power generation.

18 In the event that the President determines that it is more publicly acceptable or more in
19 the public interest to involve private sector participation in the operation of the plant, the
20 maximum limit for such participation shall be twenty percent (20%) of the total beneficial
21 ownership. Such private ownership must be acquired through a transparent public bidding
22 process.

23 SECTION 21. *Compliance with Environmental Regulations.* -- As far as the environment
24 is concerned, all aspects nuclear shall be subject to the PNRI rulings and standards. With respect

1 to all other non-radiological emissions or hazards, the DENR shall exercise its authority as
2 mandated by law.

3 SECTION 22. *Benefits to Host Communities.* – The amount of PhP 0.01/ Kwh shall be
4 given as a direct benefit to the province, city, or municipality especially the community and
5 people in the direct proximity of the plant, and equitable preferential benefit to the region that
6 hosts the nuclear power plant: *Provided,* That the benefits to host communities under Rep. Act
7 No. 9136, also known as the EPIRA Law, are not duplicated nor diminished.

8 The Municipalities of Morong and Bagac, Bataan wherein the plant is physically located
9 will be supplied with electric power produced by BNPP for the duration of BNPP's operating
10 lifetime for up to two times their 2009 annual electric consumption, free of charge. Provided, that
11 such amount of power will be supplied as per the actual demand of the moment. Meaning power
12 in excess of the current need up to two times the 2009 base year consumption level, is non-
13 tradable.

14 SECTION 23. *Implementing Rules and Regulations.* – The Secretary of Energy shall, in
15 coordination with the President of the NAPOCOR, PNPC, and the Director of the Philippine
16 Nuclear Research Institute, within ninety (90) days from the effectivity of this Act, promulgate
17 any additional rules and regulations for the effective implementation of this Act.

18 SECTION 24. *Congressional Oversight Committee.* – There is hereby created a
19 Congressional Oversight Committee which shall be composed of Chairmen of the Committees
20 on Energy of the Senate and the House of Representatives and four (4) additional members from
21 each House to be designated by the Senate President and the Speaker of the House of
22 Representatives, respectively.

23 The Congressional Oversight Committee shall monitor and make public its findings and
24 any information which it may gather regarding the implementation of this Act.

1 The secretariat of the oversight committee shall be drawn from the existing secretariat
2 personnel of the committees of the Senate and the House of Representatives and the funding for
3 its operations shall be taken from the existing budget of the (concerned) committees.

4 SECTION 25. *Appropriations.* – The amount of One Hundred Million Pesos
5 (Php100,000,000.00) is hereby appropriated chargeable against the appropriations of the
6 Department of Energy under the current General Appropriations Act and/or supplemented or
7 augmented by the National Power Corporation and/or the Philippine National Oil Corporation
8 and/or the Office of the President for the conduct and completion of validation to determine the
9 viability of rehabilitating, commissioning and commercially operating the Bataan Nuclear Power
10 Plant as a nuclear facility taking into consideration technical, safety, economic, financial and
11 ecological concerns.

12 SECTION 26. *Options for Sources of Funding.* -- For the citizen to benefit fully from the
13 cost advantages of nuclear power generation, in particular the BNPP, because it has already
14 been paid for as of April 2007, the citizen must maintain his ownership of BNPP.

15 The State may therefore raise the necessary equity to preserve this ownership preferably
16 at one hundred percent (100%) or optionally down to the minimum of eighty percent (80%) as
17 provided for in Sec. 19 of this Act, through the collection of a surcharge of Php 0.15/ kwh of the
18 total electric power sold in the country which passes through the power transmission and
19 distribution grid except; from generating capacities which have qualified for incentives under
20 Republic Act No. 9513 or the Renewable Energy Act of 2008: *Provided*, that such collection of a
21 surcharge shall not be imposed for more than five (5) years from the date of its initial imposition,
22 nor should it exceed One Billion US Dollars (US\$1,000,000,000.00). The funds collected shall
23 be reimbursed to the electric consumers commencing immediately upon the commercial
24 operations of the BNPP. The time frame for such reimbursement which shall be on a monthly
25 basis shall not exceed four (4) years.

26 The state is also authorized to enter into international or domestic loan agreements to
27 fund the implementation of this Act: *Provided*, that the total funds raised from the loan and/or

1 the surcharge combined shall not exceed One Billion US Dollars (US\$1,000,000,000.00) net of
2 interest and other charges.

3 SECTION 27. *Utilization of Profits Generated from Plant's Operation.* – Power sold
4 from BNPP into the grid shall be priced at the 30 day average wholesale price of all wholesale
5 power sold in the country prior to the billing date.

6 The purpose for this is so that employees of PNPC will not need to engage in trading
7 operations and/or speculation. Hence, they are not subject to the influence of external forces and
8 thus not subject to corruption in the pricing of power. With the selling price determined by
9 historical data the PNPC will be able to concentrate on running the plant to its full efficiency.
10 Profits then generated from the operation of the plant may be utilized in either of two ways or a
11 combination of both, as follows:

12 (a) For political reasons, the President of the Philippines may order PNPC to provide
13 dividends in the form of a monthly check, the proceeds of which are payable to the electric
14 consumers on the month after each electric bill or;

15 (b) To fund the construction of future nuclear power plants which the entity under
16 Section 4 may undertake. Provided, that if option one is not chosen by the President, surplus
17 funds or profits shall be deposited with the National Treasury in a fund to be named Philippine
18 Nuclear Industry Development Fund.

19 The application of the above uses or a combination of the above uses at whatever
20 proportion, of profits or operating margins, shall be at the discretion of the President of the
21 Philippines, but shall be decided upon by the President on a monthly basis.

22 SECTION 28. *Pumped Storage.* - Supplying power to pumped storage facilities is a
23 losing proposition to the PNPC because pumped storage facilities buy power at the lowest price
24 available during the day.

25 The Board of Directors of PNPC have the discretion to provide or not to provide such
26 power. Provided; that, for political reasons, the President may overrule the Board of Directors of

1 PNPC and force the supply of such power which is in effect an indirect way of exercising item 1
2 of Section 26.

3 Should PNPC supply power to pumped storage facilities and incur opportunity losses
4 from selling lower prices than those prices provided for under Section 26 then, the public must
5 be informed.

6 Thus, the PNPC is obligated to post quarter page ads in at least the three leading
7 newspapers of general circulation the opportunity losses incurred at the first of every month.
8 Such posting should read "BNPP HAS INCURRED OPPORTUNITY LOSSES ON DATE
9 _____, IN THE AMOUNT OF _____ PESOS AS A CONSEQUENCE OF
10 BNPP'S SUPPLY TO _____ PUMP STORAGE FACILITY.

11 THESE LOSSES ARE IN EFFECT A SUBSIDY TO WHOLE SALE ELECTRIC
12 PRICES AND HELP TO LOWER THE PRICE OF ELECTRICITY TO THE GENERAL
13 PUBLIC."

14 In effect, Section 27 is an indirect way and alternative method of achieving item 1 of
15 Section 26.

16 SECTION 29. *Separability Clause.* – If any provision or part hereof is held invalid or
17 unconstitutional, the remainder of the law or the provision not otherwise affected shall remain
18 valid and subsisting.

19 SECTION 30. *Repealing Clause.* – Any law, presidential decree or issuance, executive
20 order, letter of instruction, administrative order, rule or regulation contrary to or is inconsistent
21 with the provision of this Act is hereby repealed, modified, or amended accordingly.

22 SECTION 31. *Effectivity Clause.* – This Act shall take effect fifteen (15) days after its
23 publication in at least two (2) newspapers of general circulation.

Approved,