Executive Order No. 577, s. 1980

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MALACAÑANG
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

EXECUTIVE ORDER NO. 577

CREATING THE RURAL WATERWORKS DEVELOPMENT CORPORATION, PRESCRIBING ITS POWERS AND ACTIVITIES, APPROPRIATING THE NECESSARY FUNDS THEREFOR, AND FOR OTHER PURPOSES

WHEREAS, it is a declared policy of the State to provide a complete coverage of water supply services for the whole country;

WHEREAS, the provision of water supply in Metropolitan Manila and in the larger municipalities and cities has been assigned to the Metropolitan Waterworks and Sewerage System (MWSS) and the Local Water Utilities Administration (LWUA), respectively;

WHEREAS, the other areas not covered by the MWSS and the LWUA are predominantly rural areas and the efforts of providing the water supply needs of the residents therein are fragmented among many different agencies; and

WHEREAS, under Presidential Decree No. 1416, the President is empowered to undertake such organizational and related improvements as may be appropriate in the light of changing circumstances and new developments;

NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Philippines, by virtue of the powers vested in me by the Constitution and the authority vested in me by Presidential Decree No. 1416, do hereby order and ordain:

CHAPTER I

DECLARATION OF POLICY; CREATION OF RWDC

SECTION 1. Declaration of Policy. – It is hereby declared to be the policy of the State to pursue in an orderly and vigorous manner the attainment of complete coverage of water supply services for the whole country. Complete coverage cannot be achieved unless service to the urban and densely populated areas is combined with service to the thinly settled rural areas. The rationalization of the water supply sector structure, shall, therefore, be pursued in accordance with the following strategies:

a) The National Water Resources Council shall be responsible for formulating policies and framework plans for water supply. Consistent with these policies and framework plans, the Ministry of Public Works shall be responsible for developing integrated national water supply plans and programs covering all sectors and agencies concerned;

b) The MWSS shall concentrate its operations in Metropolitan Manila and such contiguous areas as may be added to its area of jurisdiction in accordance with the provisions of its charter;

c) The LWUA shall promote water districts in cities and municipalities with a population of at least 20,000 each; and

d) A separate and permanent institution shall handle the rural water supply sector and areas not serviced by the abovementioned agencies.

To attain the objectives of water supply service coverage of rural areas, the Government shall encourage self-help and self-reliant water supply projects and promote the organization of non-profit, non-stock rural waterworks associations, or cooperatives hereinafter to be referred to as RWA's.

The heavy financial burdens that RWA's must sustain to become effectively established and operationally stable indispensably necessitate every tenable support and assistance by the National Government, its instrumentalities and agencies to the fullest extent possible.

SEC. 2. Creation of Rural Waterworks Development Corporation. To implement the foregoing policy, there is hereby created a public corporation to be known as the Rural Waterworks Development Corporation hereinafter referred to as the Corporation, which shall be primarily responsible for the formation of RWA's that will construct, operate and maintain water supply systems in the rural areas. It shall likewise, provide technical, institutional and financial assistance to the RWA's. The Corporation shall be directly under the Office of the President.

SEC. 3. Relationship with the Ministry of Public Works. – The Ministry of Public Works shall serve as the principal implementing agency of the Corporation for engineering and construction of water supply projects.

CORPORATE POWERS

SEC. 4. General Powers. – The Corporation shall have the following general powers:

a) To have continuous succession under its corporate name until otherwise provided by law;

b) To adopt, amend and/or repeal its by-laws;

c) To adopt and use a seal and alter it at its pleasure;

d) To sue and be sued;

e) To enter into relevant contracts of every name and nature and to execute all pertinent instruments for their execution and implementation;

f) To borrow funds from any source, private or public, foreign or domestic, and to issue bonds and other evidence of indebtedness, the payment of which shall be guaranteed by the National Government;

g) To receive, take and hold by bequest, devise, gift, purchase or lease, either absolutely or in trust for any of its purposes, from foreign and domestic sources, any asset, grant or property, real or personal, subject to such limitations as are provided in existing laws and regulations; and to convey such assets, grants or properties; invest and reinvest the same under this provision and deal with and expand its assets and income in such manner as will best promote its objectives;

h) To exercise the right of eminent domain whenever the Corporation deems it necessary for the attainment of its objectives;

i) To prescribe rules and regulations in the conduct of its general business as well as to fix and implement the terms and conditions of its related activities;

j) To establish, operate and maintain branch or field offices when required by the exigencies of its business subject to the provisions of Section 24;

k) To determine its organizational structure and the number, positions and salaries of its personnel; and

l) To exercise such powers and do such things as may be necessary to carry out the business and purposes for which the Corporation was established or which from time to time may be declared by the Board of Directors to be necessary, useful, incidental or auxiliary to accomplish such purposes; and generally, to exercise all powers of a Corporation under the Corporation Law that are not inconsistent with the provisions of this Executive Order.

SEC. 5. Specific Powers. – The Corporation is hereby authorized and empowered to promote, encourage and assist RWA's to the end of making adequate water supply services available to residents of the rural areas not served nor covered by the LWUA and the MWSS and for this purpose it is hereby specifically authorized and directed:

a) To prepare feasibility studies and development plans for water system development including the procurement of necessary facilities, devises and accessory equipment;

b) To cooperate, coordinate and exchange such information, studies and reports with and to seek the cooperation of other agencies and instrumentalities of the National Government including government-owned or controlled corporations, as will be most effectively conducive to the achievement of the purposes of this Executive Order;

c) To provide managerial or administrative expertise including the rendering of professional and training services for the development of the staff and employees of the RWA's;

d) To have exclusive jurisdiction to receive from RWA's all articles of incorporation and by-laws and amendments thereof, consolidations, merger, conversion, dissolution, annual financial statements, changes in the location of principal offices, annual elections and other related documents and, upon determining that such are in conformity with this Executive Order and the pertinent provisions of related legislation, to certify the same, to file them in its records and maintain a registry of such filing;

e) To make loans to RWA's for the construction and acquisition of facilities, related properties, and equipment for supplying water services and for the restoration, improvement or expansion of such facilities;

f) To provide or arrange for grants to RWA's for point source development, under such terms and conditions as the Board may determine;

g) To approve or disapprove any request for permission to acquire loans from other lenders to RWA's which at the time are borrowers of the Corporation; and

h) To report annually to the President of the Philippines on the status of its operations, including a comprehensive report of loans extended, areas serviced as a result of such loans, and other activities.

CHAPTER III

CAPITALIZATION AND FINANCING

SEC. 6. Capitalization. – The authorized capital stock of the Corporation is one billion pesos divided into ten million shares with a par value of one hundred pesos per share which shall be wholly subscribed by the National Government and shall be appropriated, programmed and released upon consultation with the Minister of the Budget and in accordance with Presidential Decree No. 1177.

A standing annual sum of P20 million is hereby authorized to be appropriated out of any funds in the National Treasury not otherwise appropriated to cover grants, institutional development, manpower developmental training and technical assistance of the Corporation.

SEC. 7. Loan Standards. – Only RWA's shall be entitled to loans from the Corporation. In extending the loans authorized under Section 5 (e) hereof, the Board is hereby authorized, empowered and directed:

a) Prior to approving such loan to determine that:

1) The project is financially feasible for the purpose for which the loan is applied for;

2) Funds are or will be imminently available for the total advancement of such loan to the borrower on the schedule contemplated under the loan agreement;

3) The borrower is financially capable of complying with the terms and conditions of the loan;

b) To require that the loan be self-liquidating within the terms and conditions specified;

c) To require that the amount of loan applied for does not exceed ninety (90) per cent of the total cost of the project;

d) To impose reasonable interest rates;

e) To fix schedules for repayment; and

f) To require compliance with the pertinent procedures, rules and regulations promulgated by the Board of Directors of the Corporation to assure that the purposes of such loan will be timely achieved and that the loan agreement and the provisions of this Act shall be complied with.

SEC. 8. Enforcement Powers. – If any RWA with an outstanding loan(s) with the Corporation shall default in the payment of its principal and/or interest or shall fail to comply with any of the terms and conditions of the loan agreement or any rule or regulations promulgated in implementation of this Executive Order, the Board of Directors of the Corporation is hereby authorized to do any or any combination of the following:

a) Refuse approval of any new loan to the borrower;

b) Withhold without limitation the Corporation's advancement, or withhold its approval for any other lender with respect to which the Corporation has such approval power to make advancement of any funds pursuant to any loan already made to the borrower;

c) Withhold any technical or professional assistance being furnished or that might be furnished to the borrower;

d) Foreclose any mortgage or deed or trust or other security held by the Corporation on the properties of the borrower. In this connection, the Corporate may, subject to any superior or co-equal rights in such lien held by any other lender;

1) Bid for and purchase or otherwise acquire such property(ies);

2) Pay the purchase price thereof and any cost and expenses incurred in connection therewith out of the revolving fund;

3) Accept title to such properties in the name of the Republic; and

4) Even prior to the institution of foreclosure proceedings, operate or lease such properties for such period and in such manner as may be deemed necessary or advisable to protect the investment therein, including the improvement, maintenance and rehabilitation of facilities and systems to be foreclosed, but the Corporation shall, within three years from acquiring such properties in foreclosure proceedings, sell the same for such consideration as it determine most conducive to the purpose of this Executive Order; or

e) Take any other remedial measures which the loan agreement may provide.

In addition to the foregoing, the Corporation may petition any court having jurisdiction for such purpose or any administrative agency possessing regulatory powers for such purpose to issue such order and afford such lawful relief as may be necessary.

SEC. 9. General Conditions of Loans. – All loans extended by the Corporation shall be subject to the following general conditions:

a) No borrower shall, without the prior approval of the Board and of any other lender holding and sharing a lien on such borrower's properties, sell or dispose of the whole or any part of the property, rights, franchise, permits or any other assets acquired and/or mortgaged pursuant to the provisions of this Executive Order until all the outstanding indebtedness including interest thereon to the Corporation and any other such lender shall have been fully paid; Provided, That the Corporation may be appropriate rule or regulation grant general permission to borrowers to dispose of incidental real and/or personal properties, rights, franchise, permits or other assets no longer deemed necessary or useful in conducting the borrower's operation.

b) No association with an outstanding loan with the Corporation shall borrow money from any source without the prior written approval of the Corporation; Provided, That the Board of Directors of the Corporation may, by appropriate rules or regulations, grant general permission to such associations to secure short term loans not requiring the encumbering of their real properties or a substantial portion of other properties or assets.

The foregoing conditions shall be included by reference or incorporation in all loans approved by the Corporation.

SEC. 10. Foreign/Local Loans. – With the prior approval of the President, upon recommendation of the Minister of Finance, the Corporation may borrow from local or foreign private or public institutions such amount as may from time to time be required by its operations or to issue bonds and other evidences of indebtedness. Notwithstanding the provisions of any law to the contrary, the Central Bank is hereby authorized to extend loans and advances to the Corporation, subject to such terms and conditions as may be prescribed by the Monetary Board. The bonds, promissory notes and other debt instruments shall be at such interest rates, maturities and other terms and conditions as the Corporation may determine and shall be secured by the assets of the Corporation. Such debt instruments shall be fully exempt both as to principal and interest, from any and all taxes imposed by the government or any of its branches. They shall be fully negotiable and unconditionally guaranteed by the National Government. No part of the proceeds of the loans provided in this Section shall be used for the operation of the Corporation.

SEC. 11. Sinking Fund. – A sinking fund shall be established for the payment of the Corporation's bonds in such manner that the total contribution thereto accrued at such rate of interest as may be determined by the Minister of Finance in consultation with the Monetary Board shall be sufficient to redeem the bonds at maturity. Said fund shall be under the custody of the Central Bank which shall invest the same, subject to the approval of the Monetary Board, provided that the proceeds thereof shall accrue to the Corporation.

A standing annual appropriation is hereby made out of any general funds in the National Treasury in such amount as may be necessary to provide for the sinking fund created herein and for the interest on bonds which may be issued by the Corporation by virtue hereof.

SEC. 12. Earnings of the Corporation. – Earnings which may be realized from the operations of the Corporation shall accrue to and be automatically appropriated as part of the corporate earnings of the Corporation, any provision of law to the contrary notwithstanding.

SEC. 13. Expenditures and Disbursements. – The Corporation, the Commission on Audit, and the Ministry of the Budget shall adopt special procedures on expenditures and disbursements of the Corporation, which procedures shall be most responsive to the needs and operation of the Corporation.

SEC. 14. Auditor. – The Commission on Audit shall appoint, a representative who shall be the auditor of the Corporation.

CHAPTER IV

MANAGEMENT AND PERSONNEL

SEC. 15. Board of Directors. – All powers of the Corporation shall be vested in and exercised by the Board of Directors hereinafter referred to as the Board, which shall be composed of the Minister of Human Settlement as Chairman and as members, the Minister of Public Works, the Minister of Local Government and Community Development, the Minister of Health, the Executive Director of the National Water Resources Council, the General Manager of the Local Water Utilities Administration and the General Manager of the Corporation.

The General Manager shall be the Vice-Chairman of the Board. In the absence of the Chairman, he shall act as Chairman.

SEC. 16. Vacancies. – Board vacancies may be temporarily filled by appointment by the President from senior responsible officials of the Ministries/agencies concerned.

SEC. 17. Meetings, Per Diems, Allowances. – The Board shall meet regularly at least twice a month. Upon call of the Chairman, special meetings of the Board shall be held as often as exigencies demand.

The Chairman and Members of the Board shall be entitled to a per diem per actual meeting attended at such amount as may be fixed by the Board but not exceed P1,500 a month.

The Board may provide for travelling and representation allowances for the Chairman and members of the Board in such amount as it may determine.

SEC. 18. Notice. – Notice of meetings shall be served on Board Members either personally or by mail at least twenty-four (24) hours prior to the date of the meeting.

SEC. 19. Quorum. – The presence of at least four (4) members shall constitute a quorum to do business. Unless otherwise provided by law, the affirmative vote of the majority of the quorum shall be sufficient for the approval of any resolution, decision or order.

SEC. 20. Powers and Duties of the Board. – The Board shall have the following powers and duties:

a) To formulate and adopt policies and plans for the management, operation and conduct of the affairs of the Corporation;

b) To implement the provisions of this Executive Order and for this purpose to formulate and promulgate rules and regulations;

c) To adopt or amend the annual budget of the Corporation;

d) To approve the organizational structure of the Corporation its staffing pattern and to determine the powers, duties, and salaries of its personnel;

e) To determine the powers and duties of duly designated personnel from other government agencies called upon to assist the Corporation in the exercise of its powers and to grant honoraria and/or allowance to such personnel;

f) To exercise all the general and specific powers of the Corporation unless otherwise provided in this Executive Order; and

g) To delegate any of its powers to a duly designated representative.

SEC. 21. Secretary of the Board. – The Corporate Legal Counsel shall act as the Secretary of the Board and shall have such additional duties and functions as the Board may determine.

SEC. 22. General Manager. – The management of the Corporation shall be vested in the General Manager who shall be a person of known integrity, competence and experience in technical and executive fields related to the objectives of this Executive Order. He shall be appointed by the President of the Philippines.

SEC. 23. Powers and Duties of the General Manager. – The powers and duties of the General Manager shall be as follows:

a) To execute, administer and implement policies, measures, rules and regulations promulgated by the Board;

b) To direct and supervise the operation and general administration of the Corporation;

c) To represent the Corporation in all its dealings;

d) To pass upon and approve the corporate papers submitted under Section 5 (d) hereof;

e) Subject to the guidelines established by the Board, to appoint and fix the number and compensation of subordinate officials and employees of the Corporation; and

f) To exercise such other powers and duties as may be provided in the By-Laws or delegated by the Board.

SEC. 24. Organization and Personnel. – The Board shall create such departments, divisions, sections, units and positions as may be conducive to the attainment of the objectives of this Executive Order and shall define their functions. Additional personnel may be hired on contract basis as the exigencies of the services may require. The Corporation shall not establish its own regional and local organizations staffed with personnel of the Corporation but shall instead make full use of existing regional, provincial and/or local organizations of the Ministry of Public Works, the Ministry of Local Government and Community Development, the National Electrification Administration and such other government agencies as the Board may designate, provide that the supervision and control of such functions and responsibilities as may be delegated to these organizations shall remain with the Corporation.

SEC. 25. Merit System. – All officials and employees shall be selected, transferred, promoted and dismissed on the basis of merit and fitness in accordance with a comprehensive and progressive merit system to be established by the Board in conformity with the Civil Service Law.

SEC. 26. Positions and Compensations. – The positions and compensations of the officers and employees of the Corporation shall be in line with those of comparable positions in government corporations under the infrastructure and utilities sector.

SEC. 27. Conflict of Interest. – No member of the Board, officer, agent or employee of the Corporation shall in any manner directly or indirectly participate in the determination of any question affecting any entity in which he or any of his relatives within the third degree of consanguinity or affinity is directly or indirectly interested nor shall such member, officer, agent or employee become the guarantor or surety of any loans extended by the Corporation.

CHAPTER V

RURAL WATERWORKS ASSOCIATION

SEC. 28. Organization. – Cooperative, non-profit, non-stock associations to be known as Rural Waterworks Association (RWA) may be organized for the purpose of supplying water services in the rural areas.

SEC. 29. Powers and Functions. – Rural Waterworks Association, shall be vested with all the powers and functions provided for non-profit, non-stock corporations and cooperatives under the Corporation Law and other related laws, rules and regulations and such other powers and functions as may be provided in their Articles of Incorporation and By-Laws as approved by the Corporation.

SEC. 30. Registration. – Any provision of law to the contrary notwithstanding RWA's organized under this Executive Order shall be under the exclusive jurisdiction of the Corporation. Articles of Incorporations and other corporate papers enumerated in Section 5 (d) herein shall be in effect on the date of the issuance of the certification by the Corporation that the same conform to the requirements of this Executive Order.

RWA's and the like already existing at the time of the effectivity of this Executive Order shall register with the Corporation to be entitled to the benefits extended by the Corporation to RWA's and be endowed with the powers, rights, and privileges accorded by this Executive Order to regular RWA's.

SEC. 31. Rules and Regulations. – The Corporation shall promulgate rules and regulations governing the registration of RWA's their management, operation and resolution of conflicts fifteen (15) days after publication in the Official Gazette.

SEC. 32. Conflicts Between RWA's. – In case of conflict between two or more RWA's the Corporation shall have the jurisdiction to settle such conflicts subject to such rules and regulations as the Board may promulgate.

CHAPTER VI

FRANCHISE

SEC. 33. Applicability. – This Chapter shall apply only to franchise to supply water in areas outside the coverage of the LWUA and the MWSS, with any question of jurisdiction to be settled by the National Water Resources Council in case of dispute.

SEC. 34. Areas Within LWUA or MWSS Coverage. — Areas within a water district or falling within the coverage of the LWUA or the MWSS may avail themselves of the benefits under this Executive Order; Provided, That a written waiver shall first be secured from the LWUA or the MWSS, as the case may be; and Provided, further, That for purposes of this Executive Order, the MWSS shall have jurisdiction over water supply provisions in Metropolitan Manila; and the LWUA in larger municipalities and cities as well as in areas having a population of at least 20,000.

The RWDC shall have jurisdiction over areas with a population of less than 20,000. The identification of the areas of jurisdiction of the LWUA and the RWDC shall be done by mutual agreement. However, notwithstanding the provisions of this Section, they may, by mutual arrangement allow the entry of one into the territory of the other for purposes of pursuing their objectives.

SEC. 35. Franchising Power. – The power to grant and thereafter to repeal or alter franchises to supply water is hereby vested exclusively in the Corporation; Provided, That this Section shall not invalidate any franchise heretofore lawfully granted. The Corporation is hereby authorized to notify and require every person holding a water franchise to report to its, within 120 days after such notice, an accurate description of the area encompassed, the number of households wherein serviced, the date the franchise was granted and such other information the Corporation may require.

SEC. 36. Authority to Grant Certificates of Public Convenience (CPC) and/or Certificate of Public Convenience and Necessity (CPCN). – Notwithstanding any provision of law to the contrary, the Corporation shall have the authority to grant Certificates of Public Convenience (CPC) or Certificates of Public Convenience and Necessity (CPCN), as the case may be, to persons or entities other than RWA's that with to operate and maintain waterworks systems in areas within the territorial jurisdiction of the Corporation.

SEC. 37. Preference to RWA's. – Whenever two or more public service entities have competing interests with respect to the granting, repeal, alteration or conditioning of the same water franchise and one is a RWA duly organized under Chapter V herein, the Corporation shall accord preference to the latter over any other type of public service entity, unless the other one type of public service entity will, as found by the Corporation, result to the immediate furnishing of water supply service to (1) a greater number of households, and (2) over a larger geographic area, on the comparative basis of same or lower rates and charges.

SEC. 38. Compliance with Presidential Decree No. 1067. – Any form of authorization granted under the provisions of these Chapter shall not exempt its holder from the provisions of Presidential Decree No. 1067, otherwise known as the Philippine Water Code, on water permits and registration.

SEC. 39. Furnishing Service Without a Valid CPC , CPCN or Franchise Prohibited. – No person or entity shall extend and charge for water supply service within any area for which such person or entity has not been granted a valid franchise, CPC, CPCN, or after such franchise, CPC, CPCN has been cancelled or altered so as to prohibit service therein.

CHAPTER VII

FINAL PROVISIONS

SEC. 40. Existing Agencies. – The Task Force on Rural Water Supply of the National Water Resources Council is hereby abolished and its personnel shall constitute the nucleus of the Corporation. All other agencies of the government may undertake projects on rural water supply provided they are in accordance with the policies and guidelines of the Corporation.

SEC. 41. Separability of Provisions. – If any provision of this Executive Order or the application of such provision to any person or circumstances is declared invalid, the remainder of the Executive Order or the application of such provision to other persons or circumstances shall not be affected by such declaration.

SEC. 42. Repealing Clause. – All laws, decrees, executive orders, rules and regulations, inconsistent herewith are hereby repealed or modified accordingly.

SEC. 43. Effectivity. – This Executive Order shall take effect immediately.

DONE in the City of Manila, this 12th day of January, in the year of Our Lord, Nineteen Hundred and Eighty.

(Sgd.) **FERDINAND E. MARCOS**
President of the Philippines

By the President:

(Sgd.) **JACOBO C. CLAVE**
Presidential Executive Assistant

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RESOURCES

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