

MALACAÑANG
Manila

Executive Order No. 232

AMENDING EXECUTIVE ORDER NO. 462, SERIES OF 1997, ENABLING PRIVATE SECTOR PARTICIPATION IN THE EXPLORATION, DEVELOPMENT, UTILIZATION AND COMMERCIALIZATION OF OCEAN, SOLAR AND WIND ENERGY RESOURCES FOR POWER GENERATION AND OTHER ENERGY USES.

WHEREAS, Executive Order No. 462, Series of 1997, enables the private sector to participate in the exploration, development, utilization and commercialization of ocean, solar and wind (OSW) energy resources for power generation and other energy uses;

WHEREAS, it is in the national interest to accelerate the development and utilization of OSW energy resources by encouraging greater private sector investment and participation in the implementation of new and renewable energy (NRE) activities and projects;

WHEREAS, in line with the government's property alleviation thrust especially in remote rural areas, the use of NRE resources will be prioritized in electrifying off-grid barangays;

WHEREAS, considering the important role of the private sector, market-driven approach should be adopted in the development and utilization of NRE resources;

WHEREAS, hybrid systems (i.e. using both NRE and conventional) should be pursued for power generation with special consideration to the technical and economic aspects of the project.

NOW, THEREFORE, I, JOSEPH EJERCITO ESTRADA, President of the Republic of the Philippines, by virtue of the powers vested in me by law, do hereby order:

SECTION 1. Section 1, 2, 14 and 16 of **Executive Order No. 462**, Series of 1997, are hereby respectively amended to read as follows:

“Section 1. Exploration, Development and Utilization of OSW Energy Resources. Subject to existing rights, the government, through the Department of Energy (DOE), shall engage in the assessment, field verification, harnessing, development and utilization of ocean, solar and wind (OSW) energy resources through the participation of the private sector under production sharing contracts awarded by the Secretary of the DOE, after due consultation with the host communities and local government units

concerned, through public bidding or negotiation. The production sharing contractor must meet DOE standards for technical and financial capability.”

“Sec. 2. Scope of Production-sharing Contracts. Production-sharing contracts, are herein authorized, shall be applied to projects meeting all of the following criteria:

- a. Harnesses OSW resources in lands of the public domain and/or offshore waters within the Philippine territory, contiguous zone and exclusive economic zone. All lands or offshore waters covered by contracts granted under this \order shall be subject in public easement established or recognized by existing laws;
- b. Has a net electric output of more than 1 MW for sale to an electric utility.

Projects that do not meet all of the above criteria shall be considered as private OSW Projects and shall be subject to Section 3 thereof.

“Sec. 14. Government Share. Considering the prospectivity of generating profit from the operation of the contract, a government share (GS) shall be determined through bidding or negotiation between the DOE and the contractor. The GS shall include a signature bonus and production bonus. The signature bonus shall be given to DOE at the date of signing of the Pre-Negotiated Commercial Contract upon the issuance of a “Letter of Confirmation” of the commercial feasibility of the project by the Secretary of the DOE. The government shall waive the signature bonus on the first project to reduce the pre-operating cost burden on the OSW production-sharing contractor. The production bonus shall be paid to the DOE at the end of each calendar year during the commercial phase of the project and shall be applied only after the project has fully recovered its pre-operating expenditures. Moreover, to protect the welfare of electricity consumers, the GS shall be limited to values that shall not result in electricity prices higher than the contracted selling rates to electric utility in the area where project is located. The production bonus shall not exceed 15% of net proceeds where net proceeds is equal to the sum of gross sales less operating and maintenance costs.”

“Sec. 16. Assistance to OSW Developers. In addition to the incentives and privileges under existing laws, the DOE shall assist OSW developers in the following areas:

- a. Obtain all applicable fiscal and non-fiscal incentives, including registration as pioneer industry under the Board of Investments.
- b. Allow OSW developers to charge the cost of assessment, field verification and feasibility studies of such other sites to its current commercial projects to encourage the development of more OSW resources in other sites.
- c. Secure access to lands and/or offshore areas where OSW energy resources shall be harnessed.

- d. Undertake a regular study that will provide the basis for the proper valuation of intermittent electrical energy generation from OSW resources and reflect future developments, taking into consideration the vast differences in scale and application of OSW energy resources.”

Sec. 2. Implementing Rules and Regulations. The DOE, in coordination with concerned government agencies, shall issue amendments to the existing rules and regulations within sixty (60) days after effectivity of the Order.

Sec. 3. Effectivity. This Executive Order shall take effect fifteen (15) days after its publication in at least two (2) newspapers of general circulation.

Done in the City of Manila, this 23rd day of April in the year of our Lord, Two Thousand.

By the President:

(Sgd)

Ronaldo B. Zamora

Executive Secretary