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SENATE
S.B. No. 3389

Prepared by the Committees on Energy, and Cooperatives with Senators Osmeña III and Recto as Authors thereof.

**AN ACT
STRENGTHENING THE NATIONAL ELECTRIFICATION ADMINISTRATION,
FURTHER AMENDING FOR THE PURPOSE PRESIDENTIAL DECREE NO. 269, AS
AMENDED, OTHERWISE KNOWN AS THE "NATIONAL ELECTRIFICATION
ADMINISTRATION DECREE"**

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

CHAPTER I – POLICY AND DEFINITIONS

1 **SECTION 1.** This Act shall be known as the "National Electrification Administration
2 Reform Act of 2012."

3 **SEC. 2.** Section 2 of Presidential Decree No. 269, as amended, is hereby further amended, to
4 read as follows:

5 "SEC. 2. *Declaration of National Policy.*- [The total electrification of the Philippines on an
6 area coverage basis being vital to the welfare of its people and the sound development of the
7 Nation, it is hereby declared to be the policy of the state to pursue and foster, in an orderly and
8 vigorous manner, the attainment of this objective. For this purpose, the State shall promote,
9 encourage and assist all public service entities engaged in supplying electric service, particularly
10 electric cooperatives, which are willing to pursue diligently this objective.

11 Because of their non-profit nature, cooperative character and the heavy financial burdens
12 that they must sustain to become effectively established and operationally viable, electric
13 cooperatives, particularly, shall be given every tenable support and assistance by the National
14 Government, its instrumentalities and agencies to the fullest extent of which they are capable;
15 and, being by their nature substantially self-regulating and Congress, having, by the enactment of

1 this Decree, substantially covered all phases of their organization and operation requiring or
2 justifying regulation, and in order to further encourage and promote their development, they
3 should be subject to minimal regulation by other administrative agencies.

4 Area coverage electrification cannot be achieved unless service to the more thinly settled
5 areas and therefore more costly to electrify is combined with service to the most densely settled
6 areas and therefore less costly to electrify. Every public service entity should hereafter cooperate
7 in a national program of electrification on an area coverage basis, or else surrender its franchise
8 in favor of those public service entities which will. It is hereby found that the total electrification
9 of the Nation requires that the laws and administrative practices relating to franchised electric
10 service areas be revised and made more effective, as herein provided. It is therefore hereby
11 declared to be the policy of the State that franchises for electric service areas shall hereafter be so
12 issued, conditioned, altered or repealed, and shall be subject to such continuing regulatory
13 surveillance, that the same shall conduce to the most expeditious electrification of the entire
14 Nation on an area coverage basis.] **IT IS HEREBY DECLARED THE POLICY OF THE**
15 **STATE TO:**

16 **(A) PROMOTE THE SUSTAINABLE DEVELOPMENT IN THE RURAL**
17 **AREAS THROUGH RURAL ELECTRIFICATION;**

18 **(B) EMPOWER AND STRENGTHEN THE NATIONAL ELECTRIFICATION**
19 **ADMINISTRATION TO PURSUE THE ELECTRIFICATION PROGRAM AND BRING**
20 **ELECTRICITY, THROUGH THE ELECTRIC COOPERATIVES AS ITS**
21 **IMPLEMENTING ARM, TO THE COUNTRYSIDE EVEN IN MISSIONARY OR**
22 **ECONOMICALLY UNVIABLE AREAS;**

23 **(C) EMPOWER AND ENABLE ELECTRIC COOPERATIVES TO COPE**
24 **WITH THE CHANGES BROUGHT ABOUT BY THE RESTRUCTURING OF THE**
25 **ELECTRIC POWER INDUSTRY PURSUANT TO REPUBLIC ACT NO. 9136,**
26 **OTHERWISE KNOWN AS THE ELECTRIC POWER INDUSTRY REFORM ACT OF**
27 **2001.”**

28 **SEC. 3.** A new section is hereby inserted under the same Presidential Decree, as
29 amended, to be designated as Section 2-A, to read as follows:

30 **“SEC. 2-A. SCOPE.— THIS ACT SHALL ESTABLISH A FRAMEWORK FOR**
31 **INTRODUCING STRUCTURAL REFORMS IN THE NATIONAL**

1 **ELECTRIFICATION ADMINISTRATION AND THE ELECTRIC**
2 **COOPERATIVES.”**

3 **SEC. 4.** Five new paragraphs, to be designated as Paragraphs (s), (t), (u), (v) and (w), are
4 hereby inserted under Section 3 of the same Presidential Decree, as amended, to read as follows:

5 **“SEC. 3. *Definitions.*** - As used in this Decree, the following words or terms shall have
6 the following meanings, unless a different meaning clearly appears from the context:

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8 **(S) “CDA” SHALL REFER TO THE COOPERATIVE DEVELOPMENT**
9 **AUTHORITY CREATED UNDER REPUBLIC ACT NO. 6939, AS AMENDED;**

10 **(T) “DOE” SHALL REFER TO THE DEPARTMENT OF ENERGY**
11 **CREATED UNDER REPUBLIC ACT NO. 7638, AS AMENDED;**

12 **(U) “ELECTRIC COOPERATIVE” SHALL REFER TO AN ELECTRIC**
13 **DISTRIBUTION UTILITY ORGANIZED AND REGISTERED PURSUANT TO**
14 **PRESIDENTIAL DECREE NO. 269, AS AMENDED, REPUBLIC ACT NO. 9520, AND**
15 **OTHER RELATED LAWS;**

16 **(V) “EPIRA” SHALL REFER TO REPUBLIC ACT NO. 9136 OR THE**
17 **“ELECTRIC POWER INDUSTRY REFORM ACT OF 2001”; AND**

18 **(W) “ERC” SHALL REFER TO THE ENERGY REGULATORY**
19 **COMMISSION CREATED UNDER SECTION 38 OF REPUBLIC ACT NO. 9136.”**

20 **CHAPTER II**

21 **THE NATIONAL ELECTRIFICATION ADMINISTRATION**

22 **SEC. 5.** Section 4 of Presidential Decree No. 269, as amended, is hereby further amended
23 to read as follows:

24 **“SEC. 4. [*NEA Authorities, Powers and Directives.***The NEA is hereby authorized,
25 empowered and directed to promote, encourage and assist public service entities, particularly
26 cooperatives, to the end of achieving the objective of making service available throughout the
27 nation on an area coverage basis as rapidly as possible; and for such purpose it is hereby, without
28 limiting the generality of the foregoing and in addition to other authorizations, powers and
29 directives established by this Decree, specifically authorized, empowered and directed:

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

3 (b) To prescribe and thereafter to amend and repeal its by-laws not inconsistent with this
4 Decree;

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

6 (d) To sue and to be sued in any court: *Provided*, That NEA shall, unless it consents
7 otherwise, be immune to suits for acts *ex delicti*;

8 (e) To make contract of every name and nature and to execute all instruments necessary
9 or convenient for the carrying on of its business;

10 (f) To make loans to public service entities, with preference to cooperatives, for the
11 construction or acquisition, operation and maintenance of generation, transmission and
12 distribution facilities and all related properties, equipment, machinery, fixtures, and materials for
13 the purpose of supplying area coverage service, and thereafter to make loans for the restoration,
14 improvement or enlargement of such facilities: *Provided*, That the public service entity
15 supplying for a loan, if neither a cooperative nor a local government, must be in operation at the
16 time of application;

17 (g) To promote, encourage and assist public service entities and government agencies and
18 corporations having related functions and purposes, with preference to cooperatives, in planning,
19 developing, coordinating, establishing, operating, maintaining, repairing and renovating facilities
20 and systems to supply area coverage service, and for such purpose to furnish, to the extent
21 possible and without change therefor, technical and professional assistance and guidance,
22 information, data and the results of any investigation, study, or receipt conducted or made by the
23 NEA;

24 (h) To approve or disapprove any loan from other lenders to public service entities which
25 at the time are borrowers from NEA under subparagraphs (f) or (i) of this section, and thereafter,
26 pursuant to Section 10 (b) to disapprove advances of loans from other lenders;

27 (i) To make loans for the purpose of financing the wiring of premises of persons served
28 or to be served as a result of loans made under subparagraph (f) of this Section, and for the
29 acquisition and installation by such persons of electrically-powered appliances, equipment,
30 fixtures and machinery of all kinds for residential, recreational, commercial, agricultural and
31 industrial uses, such loans to be made directly (1) to public service entities which have received
32 loans under sub-paragraph (f) of this section, which entities shall in turn relend such funds to

1 persons served or to be served by them, or (2) to any persons served or to be served by public
2 service entities which have received loans under sub-paragraph (f) of this section: *Provided*, That
3 at no time shall the total loans made under this sub-paragraph (i) to a public service entity and/or
4 to persons served or to be served by such entity exceed twenty-five (25%) per centum of the
5 outstanding loans to such entity made under sub-paragraph (f) of this section;

6 (j) To so cooperate, coordinate and exchange such information, studies and reports with,
7 and to seek such cooperation and coordination from, other departments, agencies and
8 instrumentalities of the National Government, including the NPC, as will most effectively
9 conduce to the achievement of the purposes of this Decree;

10 (k) To borrow funds from any source, private or government, foreign or domestic, and,
11 not inconsistently with section 8, to issue bonds or other evidences of indebtedness therefor and
12 to secure the lenders thereof by pledging, sharing or subordinating one or more of the NEA's
13 own loan securities;

14 (l) To receive from Cooperatives all articles of incorporation, amendments, consolidation,
15 merger, conversion and dissolution, and all certificates of changes in the location of principal
16 offices and of elections to dissolve, and, upon determining that such are in conformity with this
17 Decree, to certify the same, to file them in the records of the NEA, and to maintain a registry of
18 such filings the provisions of Act No. 1459, as amended, to the contrary notwithstanding;

19 (m) To acquire, by purchase or otherwise (including the right of eminent domain, which
20 is hereby granted to the NEA, to be exercised in the manner provided by law for the institution
21 and completion of expropriation proceedings by the National and local governments,) real and
22 physical properties, together with all appurtenant rights, easements, licenses and privileges,
23 whether or not the same be already devoted to the public use of generating, transmitting or
24 distributing electric power and energy, upon NEA's determination that such acquisition is
25 necessary to accomplish the purposes of this Decree and, if such properties be already devoted to
26 the public use described in the foregoing, that such use will be better served and accomplished
27 by such acquisition: *Provided*, That the power herein granted shall be exercised by the NEA
28 solely as agent for and on behalf of one or more public service entities which shall timely
29 receive, own and utilize or replace such properties for the purpose of furnishing adequate and
30 dependable service on an area coverage basis, which entity or entities shall then be, or in
31 connection with the acquisition shall become, borrowers from the NEA under sub-paragraph (f)
32 of this section: *Provided further*, That the costs of such acquisition, including the cost of any
33 eminent domain proceedings, shall be borne, either directly or by reimbursement to the NEA,
34 whichever the NEA shall elect, by the public service entity or entities on whose behalf the
35 acquisition is undertaken; and otherwise to acquire, improve, hold, transfer, sell, lease, rent,

1 mortgage, encumber and otherwise dispose of property incident to, or necessary, convenient or
2 proper to carry out, the purposes for which NEA was created;

3 (n) At least annually, not later than June 30th, to report to the President and when the
4 same comes into existence, the Prime Minister and the National Assembly, on the status of
5 electrification of the Philippines, including a comprehensive reporting of loans made, loan funds
6 advanced, loans secured from other sources and the advances thereof, the names and locations of
7 the borrowers, the number of services contemplated by such loans, the number actually receiving
8 service as a result of such loans, the number of electrified and the remaining number of
9 unelectrified households throughout the Nation, the amounts of usage by consumers, loan and
10 other activities programmed for the ensuing year, and all such other information and data as will
11 accurately reveal the progress being made toward the achievement of the purposes of this
12 Decree; and to publish such report for dissemination to and use by other interested departments,
13 agencies and instrumentalities of the National Government and by borrowers under this Decree;
14 and

15 (o) To exercise such powers and do such things as may be necessary to carry out the
16 business and purposes for which the NEA was established, or which from time to time may be
17 declared by the Board of Administrators to be necessary, useful, incidental or auxiliary to
18 accomplish such purposes; and generally, to exercise all the powers of a corporation under the
19 Corporation Law insofar as they are not inconsistent with the provisions of this Decree.]

20 ***POWERS, FUNCTIONS AND PRIVILEGES OF THE NATIONAL ELECTRIFICATION***
21 ***ADMINISTRATION.- TO STRENGTHEN THE ELECTRIC COOPERATIVES, HELP***
22 ***THEM BECOME ECONOMICALLY VIABLE AND PREPARE THEM FOR THE***
23 ***IMPLEMENTATION OF RETAIL COMPETITION AND OPEN ACCESS PURSUANT***
24 ***TO SECTION 31 OF THE EPIRA, THE NATIONAL ELECTRIFICATION***
25 ***ADMINISTRATION IS AUTHORIZED AND EMPOWERED TO:***

26 (A) HAVE A CONTINUOUS SUCCESSION UNDER ITS CORPORATE
27 NAME UNTIL OTHERWISE PROVIDED BY LAW;

28 (B) ADOPT AND USE A SEAL AND ALTER IT AT ITS PLEASURE;

29 (C) SUE AND BE SUED IN ANY COURT, PROVIDED THAT NEA SHALL
30 UNLESS IT CONSENTS OTHERWISE, BE IMMUNE TO SUITS FOR ACTS EX
31 DELICTI;

32 (D) MAKE CONTRACTS OF EVERY NAME AND NATURE AND EXECUTE
33 ALL INSTRUMENTS NECESSARY OR CONVENIENT FOR THE CARRYING ON OF
34 ITS BUSINESS;

1 (E) SUPERVISE THE MANAGEMENT AND OPERATIONS OF ALL
2 ELECTRIC COOPERATIVES;

3 (F) EXERCISE STEP-IN RIGHTS AS HEREIN DEFINED;

4 (G) PROVIDE INSTITUTIONAL, FINANCIAL AND TECHNICAL
5 ASSISTANCE TO ELECTRIC COOPERATIVES UPON REQUEST OF THE
6 ELECTRIC COOPERATIVES;

7 (H) PURSUE THE TOTAL ELECTRIFICATION OF THE COUNTRY
8 THROUGH THE ELECTRIC COOPERATIVES BY WAY OF ENHANCING
9 DISTRIBUTION DEVELOPMENT AND, IN CASE OF MISSIONARY AREAS, SHALL
10 BE DONE, IN COORDINATION WITH THE NATIONAL POWER CORPORATION –
11 SMALL POWER UTILITIES GROUP (NPC-SPUG) WHICH SHALL BE
12 RESPONSIBLE FOR THE GENERATION AND TRANSMISSION REQUIREMENTS,
13 AS NECESSARY;

14 (I) DEVOTE ALL RETURNS FROM ITS CAPITAL INVESTMENTS TO
15 ATTAIN THE OBJECTIVES OF THIS ACT;

16 (J) ENSURE THE ECONOMIC AND FINANCIAL VIABILITY AND
17 OPERATION OF ALL ELECTRIC COOPERATIVES;

18 (K) RESTRUCTURE AILING ELECTRIC COOPERATIVES WITH THE END
19 IN VIEW OF MAKING THEM ECONOMICALLY AND FINANCIALLY VIABLE;

20 (L) DEVELOP, SET AND ENFORCE INSTITUTIONAL AND GOVERNANCE
21 STANDARDS FOR THE EFFICIENT OPERATION OF ELECTRIC COOPERATIVES
22 SUCH AS, BUT NOT LIMITED TO, THE OBSERVANCE OF APPROPRIATE
23 PROCUREMENT PROCEDURE, INCLUDING TRANSPARENT AND COMPETITIVE
24 BIDDING. SUCH STANDARDS SHALL BE ENFORCED THROUGH A MECHANISM
25 OF INCENTIVES AND DISINCENTIVES TO COMPLYING AND NON-COMPLYING
26 ELECTRIC COOPERATIVES, RESPECTIVELY;

27 (M) FORMULATE AND IMPOSE ADMINISTRATIVE SANCTIONS AND
28 PENALTIES AND WHEN WARRANTED, FILE CRIMINAL CASES AGAINST THOSE
29 WHO ARE FOUND IN VIOLATION OF ANY OF THE PROVISIONS OF THIS ACT
30 AND ITS IMPLEMENTING RULES AND REGULATIONS;

31 (N) SERVE AS GUARANTOR TO QUALIFIED ELECTRIC
32 COOPERATIVES IN THEIR TRANSACTIONS WITH VARIOUS PARTIES SUCH AS,
33 BUT NOT LIMITED TO, CO-SIGNING IN POWER SUPPLY CONTRACTS;

34 (O) GRANT LOANS TO ELECTRIC COOPERATIVES, FOR THE
35 CONSTRUCTION OR ACQUISITION, OPERATION AND MAINTENANCE OF SUB-

1 TRANSMISSION AND DISTRIBUTION FACILITIES AND ALL RELATED
2 PROPERTIES, EQUIPMENT, MACHINERY, FIXTURES, AND MATERIALS FOR
3 THE PURPOSE OF SUPPLYING AREA COVERAGE SERVICE, AND THEREAFTER
4 TO GRANT LOANS FOR THE RESTORATION, IMPROVEMENT OR
5 ENLARGEMENT OF SUCH FACILITIES OR FOR SUCH OTHER PURPOSES AS
6 MAY BE DEEMED NECESSARY;

7 (P) SUBJECT TO THE PRIOR APPROVAL AND/OR OPINION OF THE
8 MONETARY BOARD, BORROW FUNDS FROM ANY SOURCE, PRIVATE OR
9 GOVERNMENT, FOREIGN OR DOMESTIC, AND SECURE THE LENDERS
10 THEREOF BY PLEDGING, SHARING OR SUBORDINATING ONE OR MORE OF
11 THE NEA'S OWN LOAN SECURITIES;

12 (Q) EXERCISE PRIMARY AND EXCLUSIVE JURISDICTION IN THE
13 ADJUDICATION OF COMPLAINTS AGAINST ELECTRIC COOPERATIVE
14 OFFICERS, ELECTION DISPUTES AND ALL MATTERS RELATING TO THE
15 EFFECTIVE IMPLEMENTATION OF THE PROVISIONS OF THIS ACT;

16 (R) AS A QUASI-JUDICIAL AGENCY, DEPUTIZE LOCAL LAW
17 ENFORCEMENT AGENCIES TO ENFORCE OR IMPLEMENT ITS ORDERS OR
18 DECISIONS, WITH THE POWER TO CITE FOR CONTEMPT ANY PARTY OR
19 WITNESS TO ANY CASE BEFORE IT FOR CONTUMACIOUS CONDUCT; AND

20 (S) EXERCISE SUCH POWERS AND DO SUCH THINGS AS MAY BE
21 NECESSARY TO CARRY OUT THE BUSINESS AND PURPOSES FOR WHICH THE
22 NEA WAS ESTABLISHED, OR WHICH FROM TIME TO TIME MAY BE DECLARED
23 BY THE BOARD OF ADMINISTRATORS AS NECESSARY, USEFUL, INCIDENTAL
24 OR AUXILIARY TO ACCOMPLISH SUCH PURPOSES.

25 FOR THIS PURPOSE, THE AUTHORIZED CAPITAL STOCK OF THE NEA IS
26 HEREBY INCREASED TO TWENTY-FIVE BILLION PESOS (P25,000,000,000.00)
27 DIVIDED INTO TWO HUNDRED FIFTY MILLION SHARES WITH A PAR VALUE
28 OF ONE HUNDRED PESOS (P100.00).

29 SEC. 6. A new section, to be designated as Section 4-A, is hereby inserted under the
30 same Presidential Decree, to read as follows:

31 "SEC. 4-A. SUPERVISORY POWERS OF THE NATIONAL ELECTRIFICATION
32 ADMINISTRATION OVER ELECTRIC COOPERATIVES.- IN THE EXERCISE OF ITS

1 POWER OF SUPERVISION OVER ELECTRIC COOPERATIVES, THE NEA SHALL
2 HAVE THE FOLLOWING POWERS:

3 (A) ISSUE ORDERS, RULES AND REGULATIONS, *MOTU PROPRIO* OR
4 UPON PETITION OF THIRD PARTIES, TO CONDUCT INVESTIGATIONS,
5 REFERENDA AND OTHER SIMILAR ACTIONS ON ALL MATTERS AFFECTING
6 THE ELECTRIC COOPERATIVES;

7 (B) ISSUE PREVENTIVE OR DISCIPLINARY MEASURES, INCLUDING
8 BUT NOT LIMITED TO, SUSPENSION OR REMOVAL AND REPLACEMENT OF
9 ANY OR ALL OF THE MEMBERS OF THE BOARD OF DIRECTORS, OFFICERS OR
10 EMPLOYEES OF THE ELECTRIC COOPERATIVE, AS THE NEA MAY DEEM FIT
11 AND NECESSARY AND TO TAKE ANY OTHER REMEDIAL MEASURES AS THE
12 LAW OR ANY AGREEMENT OR ARRANGEMENT WITH NEA MAY PROVIDE, TO
13 ATTAIN THE OBJECTIVES OF THIS ACT; AND

14 (C) APPOINT INDEPENDENT BOARD OF DIRECTORS IN THE ELECTRIC
15 COOPERATIVE.

16 THE NEA SHALL, IN THE EXERCISE OF ITS SUPERVISORY AND
17 DISCIPLINARY POWERS UNDER THIS ACT, STRICTLY OBSERVE DUE PROCESS
18 OF LAW.”

19 SEC. 7. A new section, to be designated as Section 4-B, is hereby inserted under the
20 same Presidential Decree, to read as follows:

21 “SEC. 4-B. *STEP-IN RIGHTS IN CASES OF AILING COOPERATIVES.*— THE
22 NEA SHALL IMMEDIATELY STEP-IN AND TAKE OVER FROM ITS BOARD THE
23 OPERATIONS OF ANY AILING ELECTRIC COOPERATIVE. WITHIN A
24 REASONABLE PERIOD AFTER TAKE-OVER, THE NEA MAY CONVERT THE
25 AILING COOPERATIVE TO EITHER A STOCK COOPERATIVE REGISTERED
26 WITH THE CDA OR A STOCK CORPORATION REGISTERED WITH THE
27 SECURITIES AND EXCHANGE COMMISSION.

28 THE NEA SHALL, IN DETERMINING THE PROPRIETY OF THE
29 CONVERSION, BE GUIDED BY THE ABILITY OF THE MEMBER-CONSUMERS OF
30 SAID ELECTRIC COOPERATIVE TO PAY FOR THEIR SHARES IN THE STOCK
31 COOPERATIVE OR STOCK CORPORATION.

1 THE NEA MAY APPOINT OR ASSIGN THIRD PERSONS TO THE BOARD OF
2 THE ELECTRIC COOPERATIVE UNTIL THE NEA DECIDES THAT THE
3 ELECTION OF A NEW BOARD OF DIRECTORS TO MANAGE THE ELECTRIC
4 COOPERATIVE IS NECESSARY. THE NEA MAY CREATE A MANAGEMENT
5 TEAM FOR THE PURPOSE.

6 THE NEA SHALL, IN THE EXERCISE OF ITS STEP-IN RIGHTS UNDER THIS
7 ACT, STRICTLY OBSERVE DUE PROCESS OF LAW. THE STEP-IN RIGHTS MAY
8 ONLY BE EXERCISED BY THE NEA IN CASE OF FAILURE OF THE ELECTRIC
9 COOPERATIVE TO MEET OPERATIONAL AND FINANCIAL STANDARDS SET BY
10 THE NEA OR IN OTHER ANALOGOUS INSTANCES SET FORTH IN THE
11 IMPLEMENTING RULES AND REGULATIONS OF THIS ACT.”

12 SEC. 8. A new section, to be designated as Section 4-C, is hereby inserted under the
13 same Presidential Decree, to read as follows:

14 “SEC. 4-C. *INJUNCTION OR TEMPORARY RESTRAINING ORDER.* – NO
15 INJUNCTION OR TEMPORARY RESTRAINING ORDER SHALL BE ISSUED
16 AGAINST THE IMPLEMENTATION OF ANY ORDER, RULING OR DECISION OF
17 THE NEA, EXCEPT BY THE COURT OF APPEALS, AND ONLY UPON THE
18 POSTING OF A BOND SUFFICIENT TO COVER THE LIABILITIES AND
19 EXPENDITURES ARISING DURING THE PENDENCY OF THE WRIT OR
20 INJUNCTION OR TEMPORARY RESTRAINING ORDER; *PROVIDED*, THAT THE
21 INJUNCTION SHALL ONLY BE EFFECTIVE FOR A PERIOD NOT EXCEEDING
22 SIXTY (60) DAYS.”

23 CHAPTER III
24 ELECTRIC COOPERATIVES

25 SEC. 9. Section 16, Paragraph (j), of Presidential Decree No. 269, as amended, is hereby
26 further amended, to read as follows:

27 “SEC. 16. *Powers.* A cooperative is hereby vested with all powers necessary or
28 convenient for the accomplishment of its corporate purpose and capable of being delegated by
29 the President or the National Assembly when it comes into existence; and no enumeration of
30 particular powers hereby granted shall be construed to impair any general grant of power herein

1 contained, nor to limit any such grant to a power or powers of the same class as those so
2 enumerated. Such powers shall include but not be limited to, the power:

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4 (j) To construct, [maintain] **ACQUIRE, OWN, [and] operate AND MAINTAIN** electric
5 **SUB-transmission and distribution lines along, upon, under and across publicly owned lands and**
6 **public thoroughfares, including, without limitation, all roads, highways, streets, alleys, bridges**
7 **and causeways[;]. [Provided, That such shall not prevent or unduly impair the primary public**
8 **uses to which such lands and thoroughfares are otherwise devoted] IN THE EVENT OF THE**
9 **NEED OF SUCH LANDS AND THOROUGHFARES FOR THE PRIMARY PURPOSE**
10 **OF THE GOVERNMENT, THE ELECTRIC COOPERATIVE SHALL BE PROPERLY**
11 **COMPENSATED;**

12 (J-1) **TO CONSTRUCT, ACQUIRE, OWN, OPERATE AND MAINTAIN**
13 **GENERATING FACILITIES WITHIN ITS FRANCHISE AREA. IN PURSUANCE**
14 **THEREOF, WHERE AN ELECTRIC COOPERATIVE PARTICIPATES IN A BID ON**
15 **AN EXISTING NPC-SPUG GENERATING FACILITY, ITS QUALIFIED BID SHALL**
16 **BE GIVEN PREFERENCE IN CASE OF A TIE; PROVIDED, HOWEVER, THAT IN**
17 **CASES WHERE THERE IS NO OTHER QUALIFIED BIDDER, THE LONE BID**
18 **SHALL REMAIN AS VALID BASIS FOR THE DETERMINATION OF THE FINAL**
19 **AWARD SUBJECT TO THE FOLLOWING CONDITIONS:**

- 20 **A) BID OFFER IS NOT LOWER THAN THE VALUATION OF THE ASSETS**
21 **USING COMMISSION ON AUDIT (COA) RULES AND REGULATIONS;**
22 **B) ELECTRIC COOPERATIVE IS PREPARED TO FULLY TAKE OVER THE**
23 **GENERATION FUNCTION OF THE AREA FROM THE NPC-SPUG; AND**
24 **C) ELECTRIC COOPERATIVE SUBMITS ITS GRADUATION PROGRAM FROM**
25 **THE UNIVERSAL CHARGE FOR MISSIONARY ELECTRIFICATION (UC-ME)**
26 **SUBSIDY.**

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28 **SEC. 10.** A new section, to be designated as Section 26-A, of the same Presidential
29 Decree is hereby inserted, to read as follows:

30 **"SEC. 26-A. INDEPENDENCE OF THE BOARD OF DIRECTORS AND**
31 **OFFICERS OF ELECTRIC COOPERATIVES.- TO ENSURE THE LONG-TERM**
32 **BUSINESS AND ECONOMIC VIABILITY OF ELECTRIC COOPERATIVES, THE**

1 MANAGEMENT, OPERATIONS AND STRATEGIC PLANNING OF ELECTRIC
2 COOPERATIVES SHALL, AS MUCH AS PRACTICABLE, BE INSULATED FROM
3 LOCAL POLITICS.

4 TOWARDS THIS END, NO PERSON SHALL BE ELECTED OR APPOINTED
5 AS AN OFFICER OR BE ELIGIBLE TO RUN AS A BOARD MEMBER OF AN
6 ELECTRIC COOPERATIVE IF:

7 (A) SUCH PERSON OR HIS OR HER SPOUSE HOLDS ANY PUBLIC
8 OFFICE;

9 (B) SUCH PERSON OR HIS OR HER SPOUSE HAS BEEN A CANDIDATE
10 IN THE LAST PRECEDING LOCAL OR NATIONAL ELECTIONS;

11 (C) SUCH PERSON HAS BEEN CONVICTED BY FINAL JUDGMENT OF A
12 CRIME INVOLVING MORAL TURPITUDE;

13 (D) SUCH PERSON HAS BEEN TERMINATED FOR CAUSE FROM PUBLIC
14 OFFICE OR PRIVATE EMPLOYMENT;

15 (E) SUCH PERSON IS RELATED TO ANY MEMBER OF THE ELECTRIC
16 COOPERATIVE BOARD OF DIRECTORS, GENERAL MANAGER AND
17 DEPARTMENT MANAGERS WITHIN THE FOURTH CIVIL DEGREE OF
18 CONSANGUINITY OR AFFINITY;

19 (F) SUCH PERSON IS A REPRESENTATIVE OF A JURIDICAL PERSON;
20 AND

21 (G) SUCH PERSON IS EMPLOYED BY OR FINANCIALLY INTERESTED
22 IN A COMPETING ENTERPRISE OR A BUSINESS SELLING ELECTRIC
23 ENERGY OR ELECTRICAL HARDWARE TO THE COOPERATIVE OR DOING
24 BUSINESS WITH THE COOPERATIVE, INCLUDING THE USE OR RENTAL OF
25 POLES.”

26 SEC. 11. A new section, to be designated as Section 26-B, is hereby inserted under the
27 same Presidential Decree, to read as follows:

28 “SEC. 26-B. *FIT AND PROPER RULE.*— TO ENSURE THAT THE
29 MANAGEMENT AND OPERATIONS OF ELECTRIC COOPERATIVES ARE
30 CARRIED OUT WITH DUE REGARD TO ITS ECONOMIC VIABILITY, THE NEA
31 SHALL PRESCRIBE, PASS UPON AND REVIEW THE QUALIFICATIONS AND
32 DISQUALIFICATIONS OF INDIVIDUALS APPOINTED OR ELECTED TO
33 ELECTRIC COOPERATIVES AND DISQUALIFY THOSE FOUND UNFIT.

1 A CANDIDATE'S INTEGRITY, EXPERIENCE, EDUCATION,
2 COMPETENCE AND PROBITY SHALL BE CONSIDERED IN DETERMINING
3 WHETHER HE/SHE SHALL BE FIT AND PROPER TO BECOME A DIRECTOR
4 OR OFFICER OF THE ELECTRIC COOPERATIVE.

5 FOR THIS PURPOSE, THE MINIMUM QUALIFICATIONS OF A
6 DIRECTOR OR OFFICER OF THE ELECTRIC COOPERATIVE SHALL BE AS
7 FOLLOWS:

8 (A) HE OR SHE IS A FILIPINO CITIZEN;

9 (B) HE OR SHE IS A GRADUATE OF A 4-YEAR COURSE;

10 (C) HE OR SHE IS BETWEEN TWENTY-ONE (21) AND SEVENTY (70)
11 YEARS OLD, ON THE DATE OF ELECTION;

12 (D) HE OR SHE IS OF GOOD MORAL CHARACTER;

13 (E) HE OR SHE IS A MEMBER OF THE ELECTRIC COOPERATIVE IN
14 GOOD STANDING FOR THE LAST FIVE (5) YEARS IMMEDIATELY
15 PRECEDING THE ELECTION OR APPOINTMENT;

16 (F) HE OR SHE IS AN ACTUAL RESIDENT AND CONSUMER IN THE
17 DISTRICT THAT HE OR SHE SEEKS TO REPRESENT FOR AT LEAST TWO (2)
18 YEARS IMMEDIATELY PRECEDING THE ELECTION; AND

19 (G) HE OR SHE HAS ATTENDED AT LEAST TWO (2) ANNUAL GENERAL
20 MEMBERSHIP ASSEMBLIES (AGMA) FOR THE LAST FIVE (5) YEARS
21 IMMEDIATELY PRECEDING THE ELECTION OR APPOINTMENT.

22 THE NEA MAY, AFTER DUE NOTICE TO THE BOARD OF DIRECTORS AND
23 OFFICERS OF THE ELECTRIC COOPERATIVE, DISQUALIFY, SUSPEND OR
24 REMOVE ANY DIRECTOR OR OFFICER, WHO COMMITS ANY ACT WHICH
25 RENDERS HIM UNFIT FOR THE POSITION."

26 SEC. 12. Section 32 of Presidential Decree No. 269, as amended, is hereby further
27 amended, to read as follows:

28 [Sec. 32. *Conversion of Existing Corporation.* Any corporation heretofore organized or
29 registered under the Philippine Non-Agricultural Cooperative Act and supplying or having the
30 corporate power to supply electric energy may convert itself into a cooperative under this Decree
31 by complying with the following requirements, and shall thereupon become the subject to this
32 Decree with the same effect as if originally organized hereunder:

1 (a) The proposition for the conversion of such corporation and proposed articles of
2 conversion to give effect thereto shall be submitted to a meeting of the members or stockholders
3 of such corporation, the notice of which shall have attached thereto a copy of the proposed
4 articles of conversion or an accurate summary thereof.

5 (b) If the proposition for the conversion and the proposed articles of conversion, with any
6 amendments, are approved by the affirmative vote of not less than two-thirds of the total votes
7 cast thereon by members at such meeting, and/or, if such corporation is a stock corporation or
8 has both members and voting stockholders, by the affirmative vote of the holders of not less than
9 two-thirds of those shares of the capital stock of such corporation represented at such meeting
10 and voting thereon, articles of conversion in the form approved shall be executed and
11 acknowledged on behalf of such corporation by its president or vice-president and its seal shall
12 be affixed thereto and attested by its secretary. The articles of conversion shall recite that they
13 are executed pursuant to this Decree and shall state: (1) the name of the corporation and the
14 address of its principal office prior to the conversion into a cooperative; (2) a statement that such
15 corporation elects to become a cooperative, non-profit, membership corporation subject to this
16 Decree; (3) its name as a cooperative; (4) the addresses of the principal office of the cooperative;
17 and (5) the names and address of the directors of the cooperative, and (6) the manner in which
18 members or stockholders of such corporation may or shall become members of the cooperative;
19 and may contain any other provisions not inconsistent with this Decree that are deemed
20 necessary or advisable for the conduct of the business of the cooperative. The president or vice
21 president executing such articles of conversion shall make and annex thereto an affidavit stating
22 that the provisions of this section were duly complied with in respect to such articles. The
23 articles of conversion shall be deemed to be the articles of incorporation of the cooperative.]

24 **"SEC. 32. REGISTRATION OF ALL ELECTRIC COOPERATIVES.— ALL**
25 **ELECTRIC COOPERATIVES MAY CHOOSE TO REMAIN AS A NON-STOCK, NON-**
26 **PROFIT COOPERATIVE OR CONVERT INTO AND REGISTER AS: (A) A STOCK**
27 **COOPERATIVE UNDER THE COOPERATIVE DEVELOPMENT AUTHORITY**
28 **(CDA); OR (B) A STOCK CORPORATION UNDER THE SECURITIES AND**
29 **EXCHANGE COMMISSION (SEC), IN ACCORDANCE WITH THE GUIDELINES TO**
30 **BE INCLUDED IN THE IMPLEMENTING RULES AND REGULATIONS (IRR) OF**
31 **THIS ACT.**

32 **SUCH CHOICE SHALL CARRY WITH IT THE ATTENDANT**
33 **REQUIREMENTS OF COMPLIANCE WITH THE LAWS AND REGULATORY**

1 GUIDELINES GOVERNING THE RESPECTIVE GOVERNMENT AGENCIES
2 HAVING JURISDICTION OVER THEIR REGISTRATION.

3 REGARDLESS OF THE CHOICE MADE, THE NEA SHALL HAVE THE
4 AUTHORITY OVER ELECTRIC COOPERATIVES, WHETHER STOCK OR NON-
5 STOCK, TO REQUIRE THE SUBMISSION OF REPORTORIAL REQUIREMENTS AS
6 MAY BE NECESSARY RELATIVE TO THEIR OPERATIONS AS ELECTRIC
7 DISTRIBUTION UTILITIES, INCLUDING BUT NOT LIMITED TO:

8 (A) MONTHLY FINANCIAL AND STATISTICAL REPORT (MFSR);

9 (B) MONTHLY SEPARATE MFSR, MONTHLY ENGINEERING REPORT
10 (MER) AND BARANGAY AND SITIO ELECTRIFICATION REPORT FOR ELECTRIC
11 COOPERATIVES ON GRID WITH ISOLATED AREA/S SERVED BY NPC-SPUG;

12 (C) MONTHLY STATUS OF BARANGAY AND SITIO ENERGIZATION
13 AND HOUSE CONNECTIONS;

14 (D) MONTHLY INSTITUTIONAL SERVICES DEPARTMENT (ISD)
15 REPORT;

16 (E) MONTHLY PERFORMANCE STANDARD MONITORING REPORT
17 (PSMR);

18 (F) MONTHLY SUMMARY OF COMPLAINTS RECEIVED AND ACTED
19 UPON;

20 (G) MONTHLY REPORT ON COMPLIANCE WITH THE GRID AND
21 DISTRIBUTION CODE;

22 (H) MONTHLY ENGINEERING REPORT (MER);

23 (I) QUARTERLY REPORT ON POWER SUPPLY CONTRACTS;

24 (J) ANNUAL WORK PLAN;

25 (K) ANNUAL DISTRIBUTION DEVELOPMENT PLAN (DDP);

26 (L) 5-YEAR INVESTMENT PLAN SUBMITTED ANNUALLY;

27 (M) ANNUAL CASH OPERATING BUDGET (COB);

28 (N) AUDITED FINANCIAL STATEMENTS;

29 (O) ANNUAL COLLECTIVE BARGAINING AGREEMENT (CBA) OR
30 COLLECTIVE NEGOTIATION AGREEMENT (CNA);

31 (P) COPY OF CAPITAL EXPENDITURE (CAPEX) AND OPERATING
32 EXPENDITURE (OPEX) PLANS.

33 LIKewise, THE SUPERVISORY AND OVERSIGHT FUNCTIONS OF THE
34 NEA, AS MAY BE DETAILED IN THIS ACT AND ITS IRR, SHALL BE APPLICABLE
35 TO BOTH STOCK AND NON-STOCK COOPERATIVES.

1 ELECTRIC COOPERATIVES WHICH REGISTER WITH THE CDA SHALL
2 CONTINUE TO ENJOY THE BENEFITS UNDER THIS ACT.

3 EXISTING ELECTRIC COOPERATIVES MAY LIKEWISE OPT TO
4 REGISTER AS STOCK CORPORATIONS WITH THE SECURITIES AND
5 EXCHANGE COMMISSION; *PROVIDED, HOWEVER,* THAT ELECTRIC
6 COOPERATIVES REGISTERED WITH THE SECURITIES AND EXCHANGE
7 COMMISSION SHALL NO LONGER ENJOY THE INCENTIVES PROVIDED FOR IN
8 THIS ACT.

9 DESPITE THE REGISTRATION OF THE ELECTRIC COOPERATIVES
10 UNDER THE CDA OR SEC, THE NEA SHALL RETAIN ITS SUPERVISORY AND
11 DISCIPLINARY POWER OVER THEM IN THE CONDUCT OF ITS OPERATION AS
12 ELECTRIC DISTRIBUTION UTILITIES.”

13 SEC. 13. A new section, to be designated as Section 32-A, of the same Presidential
14 Decree is hereby inserted to read as follows:

15 “SEC. 32-A. *INCENTIVES OF ELECTRIC COOPERATIVES.*— CONSISTENT
16 WITH THE DECLARED POLICY OF THIS ACT, ELECTRIC COOPERATIVES
17 WHICH COMPLY WITH THE FINANCIAL AND OPERATIONAL STANDARDS
18 SET BY THE NEA SHALL ENJOY THE FOLLOWING INCENTIVES:

19 (A) TO BE ENTITLED TO CONGRESSIONAL ALLOCATIONS, GRANTS,
20 SUBSIDIES AND OTHER FINANCIAL ASSISTANCE FOR RURAL
21 ELECTRIFICATION;

22 (B) TO RECEIVE ALL SUBSIDIES, GRANTS, AND OTHER ASSISTANCE
23 WHICH SHALL FORM PART OF THE DONATED CAPITAL AND FUNDS OF
24 THE ELECTRIC COOPERATIVES, AND AS SUCH, IT SHALL NOT BE SOLD,
25 TRADED NOR DIVIDED INTO SHARE HOLDINGS AT ANY TIME. THESE
26 DONATED CAPITAL AND FUNDS SHALL BE APPRAISED AND VALUED FOR
27 THE SOLE PURPOSE OF DETERMINING THE EQUITY PARTICIPATION OF
28 THE MEMBERS; *PROVIDED,* THAT IN CASE OF DISSOLUTION OR
29 CONVERSION OF THE ELECTRIC COOPERATIVE, SAID DONATED CAPITAL
30 AND FUNDS SHALL BE SUBJECT TO ESCHEAT; AND

31 (C) TO AVAIL OF THE PREFERENTIAL RIGHTS GRANTED TO
32 COOPERATIVES UNDER REPUBLIC ACT NO. 7160, OTHERWISE KNOWN AS
33 THE “LOCAL GOVERNMENT CODE”, AND OTHER RELATED LAWS.

1 AS A FURTHER INCENTIVE, THE NEA MAY PRIORITIZE THE GRANT
2 OF INCENTIVES IN FAVOR OF ELECTRIC COOPERATIVES THAT ARE
3 MANAGED EFFECTIVELY AND EFFICIENTLY AND COMPLY CONSISTENTLY
4 WITH ITS MANDATES AND DIRECTIVES.”

5 CHAPTER IV
6 FINAL PROVISIONS

7 SEC. 14. A new section, to be designated as Section 64-A, of the same Presidential
8 Decree is hereby inserted, to read as follows:

9 “SEC. 64-A. *PENALTIES.* – ANY PERSON WHO WILLFULLY VIOLATES ANY
10 RULE OR REGULATION PROMULGATED PURSUANT TO THE AUTHORITY
11 GRANTED IN THIS ACT SHALL, UPON CONVICTION, BE PUNISHED BY A
12 FINE OF NOT LESS THAN FIFTY THOUSAND PESOS (P50,000.00) BUT NOT
13 MORE THAN FIVE HUNDRED THOUSAND PESOS (P500,000.00) OR BY
14 IMPRISONMENT OF NOT LESS THAN SIX (6) MONTHS BUT NOT MORE THAN
15 ONE (1) YEAR, OR BOTH, AT THE DISCRETION OF THE COURT; *PROVIDED,*
16 THAT IF THE VIOLATION IS COMMITTED BY A JURIDICAL PERSON, THE
17 PENALTY HEREIN PRESCRIBED SHALL BE IMPOSED UPON THE OFFICIAL
18 AND/OR EMPLOYEE THEREOF RESPONSIBLE FOR THE VIOLATION;
19 *PROVIDED, FURTHER,* THAT IF THE VIOLATION IS COMMITTED BY A
20 GOVERNMENT OFFICIAL OR EMPLOYEE, INCLUDING THOSE IN
21 GOVERNMENT-OWNED OR -CONTROLLED CORPORATIONS, SUCH PERSON
22 SHALL, IN ADDITION TO THE PENALTY PROVIDED HEREIN, BE SUBJECTED
23 TO ADMINISTRATIVE DISCIPLINARY ACTION.”

24 SEC. 15. A new section, to be designated as Section 64-B, of the same Presidential
25 Decree is hereby inserted, to read as follows:

26 “SEC. 64-B. *CONGRESSIONAL OVERSIGHT.* – UPON THE EFFECTIVITY
27 OF THIS ACT, THE JOINT CONGRESSIONAL POWER COMMISSION
28 CREATED UNDER SECTION 62 OF REPUBLIC ACT NO. 9136 SHALL
29 EXERCISE OVERSIGHT POWERS OVER THE IMPLEMENTATION OF THIS
30 ACT.”

1 **SEC. 16. *Implementing Rules and Regulations.*** – Within sixty (60) days from the
2 effectivity of this Act, the DOE shall, in coordination with the NEA and the CDA, and in
3 consultation with the electric cooperatives, issue such rules and regulations as may be necessary
4 to implement this Act.

5 **SEC. 17. *Separability Clause.*** – If any provision of this Act is declared invalid or
6 unconstitutional, the other provisions not affected thereby shall remain valid and subsisting.

7 **SEC. 18. *Repealing Clause.***– **ARTICLE 132 (3) OF REPUBLIC ACT 9520 AND**
8 **SECTION 30 OF REPUBLIC ACT 9136 (EPIRA) ON NEA’S AUTHORIZED CAPITAL**
9 **STOCK ARE HEREBY REPEALED.** Any OTHER provision of law, presidential decree,
10 executive order, or rules and regulations inconsistent with the provisions of this Act or with the
11 rules and regulations issued pursuant thereto [is] ARE hereby repealed or modified accordingly.

12 **SEC. 19. *Effectivity.***– This Act shall take effect on the fifteenth day following its
13 publication in at least two (2) newspapers of general circulation.

14 Approved,